

DRAFT

MINUTES – 14 MAY 2019



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 – 14 May 2019, commencing at 5.58pm.

PRESENT:

Mayor R Palmer, Councillors J Abbott, G Arnott, C. Doohan, G Dunkley, K. Jordan, P. Le Mottee, J Nell, S Smith, S. Tucker, Acting General Manager, Corporate Services Group Manager, Facilities and Services Group Manager, Development Services Group Manager and Governance Section Manager.

	There were no apologies received.
080	Councillor Steve Tucker Councillor Ken Jordan It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 9 April 2019 be confirmed.
	Cr Chris Doohan declared a significant non-pecuniary conflict of interest in Mayoral Minute – Support for Runway Upgrade project at Newcastle Airport. The nature of the interest is Cr Doohan is employed by BAE

MINUTES ORDINARY COUNCIL - 14 MAY 2019

	Systems.
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	Cr Jaimie Abbott declared a pecuniary interest in Mayoral Minute – Support for Runway Upgrade project at Newcastle Airport. The nature of the interest is Cr Abbott works at the RAAF Base who owns the runway.
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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

**FILE NO: 19/122475
EDRMS NO: PSC2015-01024**

AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION'S (ALGA) CAMPAIGN FOR FAIRER FUNDING FOR LOCAL COUNCILS

THAT COUNCIL:

- 1) Acknowledge the importance of Federal funding through the Financial Assistance Grants program for the continued delivery of Council services and infrastructure.
 - 2) Express its concern about the decline in the value of Financial Assistance Grants funding at the national level from an amount equal to around 1% of Commonwealth Taxation Revenue in 1996 to a current figure of around 0.55%.
 - 3) Call on all political parties contesting the 2019 Federal Election and their local candidates to support the Australian Local Government Association's call to restore the national value of Financial Assistance Grants funding to an amount equal to at least 1% of Commonwealth Taxation revenue and therefore to provide a Fairer Share of Federal funding for our local communities.
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**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

081	<p>Mayor Ryan Palmer Councillor Sarah Smith</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Acknowledge the importance of Federal funding through the Financial Assistance Grants program for the continued delivery of Council services and infrastructure.2) Express its concern about the decline in the value of Financial Assistance Grants funding at the national level from an amount equal to around 1% of Commonwealth Taxation Revenue in 1996 to a current figure of around 0.55%.3) Call on all political parties contesting the 2019 Federal Election and their local candidates to support the Australian Local Government Association's call to restore the national value of Financial Assistance Grants funding to an amount equal to at least 1% of Commonwealth Taxation revenue and therefore to provide a Fairer Share of Federal funding for our local communities.
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ORDINARY COUNCIL MEETING - 14 MAY 2019
MATTER ARISING

	<p>Councillor Giacomo Arnott Councillor John Nell</p> <p>That Council notes the decision of the Independent Pricing and Regulatory Tribunal (IPART) to completely reject the Special Rate Variation application.</p>
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ORDINARY COUNCIL MEETING - 14 MAY 2019
AMENDMENT

082	<p>Councillor John Nell Councillor Ken Jordan</p> <p>It was resolved that in view of the IPART decision to reject the Special Rate Variation application, that Council review its priorities and funding options.</p>
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The amendment on being put become the motion, which was carried.

BACKGROUND

Council at its meeting of 25 September 2018, supported the National Advocacy Campaign and in accordance with the resolution, provided a letter of support and Council staff completed the nominated survey as requested by ALGA **(ATTACHMENT 1)**.

Council has now been requested to support a second campaign prior to the Federal Election.

The Financial Assistance Grants (FAGs) are a vital part of the revenue base of all Councils, and this year Councils will receive \$2.4 billion from the Australian Government under this important program.

The value of the FAGs has been declining for more than 20 years. In 1996, the level of funding for the FAGs was equal to around 1% of Commonwealth Taxation Revenue but this has steadily fallen since 1996 under successive Federal Governments until it has reached a level now less than 0.55% of Commonwealth Taxation revenue. This decline was exacerbated by a three year freeze on the indexation of FAGs from 2014-2015 to 2016-2017 which has cost Local Government an estimated \$925m in foregone FAGs funding.

FAGs are essential for many Councils, particularly those in regional and remote areas of Australia which have very limited access to alternative revenue sources such as rates. These councils are dependent on the FAGs for the provision of infrastructure and services for their communities.

At the national level there has been an increasing level of demand from the community for local services and a growing expectation for a higher standard of services. This comes at the same time as cost shifting by state and territory governments onto local government continues to be a problem and State and Territory Governments in several states impose revenue restrictions on Councils through rate capping. Local Government NSW has reported that NSW Councils must manage 33% of the nation's infrastructure with just 3% of total public sector tax receipts.

The Australian Local Government Association has made the restoration of the FAGs and the provision of a Fairer Share for local communities a key election initiative and ALGA and the State and Territory local government associations are seeking the support of Council for the campaign and asking Council to engage directly with local candidates in the Federal Election to seek their support for a Fairer share of Federal funding for our community.

ATTACHMENTS

- 1) Minute No.100, 25 September 2019.

MINUTES ORDINARY COUNCIL - 25 SEPTEMBER 2018**ITEM NO. 6****FILE NO: 18/192147
EDRMS NO: PSC2005-1826****AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION'S (ALGA) NATIONAL
FEDERAL ELECTION ADVOCACY CAMPAIGN****REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Support the ALGAs campaign for 1% partnership programs.
- 2) Endorse the ALGAs campaign for 1% partnership programs by completing the nominated survey.

**ORDINARY COUNCIL MEETING - 25 SEPTEMBER 2018
MOTION**

099	Councillor Ken Jordan Councillor Chris Doohan It was resolved that Council move out of committee.
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**ORDINARY COUNCIL MEETING - 25 SEPTEMBER 2018
MOTION**

100	Councillor Steve Tucker Councillor Glen Dunkley It was resolved that Council: <ol style="list-style-type: none">1) Support the ALGAs campaign for 1% partnership programs.2) Endorse the ALGAs campaign for 1% partnership programs by completing the nominated survey.
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Councillor Steve Tucker left the meeting at 8:22pm.

BACKGROUND

The purpose of this report is to inform the Council of the ALGA's federal election advocacy campaign to advance the national election priorities for the next federal election.

MINUTES ORDINARY COUNCIL - 25 SEPTEMBER 2018

ALGA's headline election advocacy priority will be to secure a better deal on federal funding for local government from the next federal government. ALGA will be campaigning for '1% plus partnership programs' – this calls for the next federal government to restore core local government funding of Financial Assistance Grants to at least 1% of Commonwealth taxation revenue and add funding for partnership programs, where agreed.

Every Council in NSW and nationwide will benefit if the ALGA are successful in confirming a commitment to the 1% plus partnership program. More information from the ALGA President, Mayor David O'Loughlin, is provided at **(ATTACHMENT 1)**.

Councils must demonstrate support for this campaign, which will enable ALGA the best possible chance of success. Support can be provided by completing an online survey at ALGA's website - www.alga.asn.au.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Financial Management	Maximise non-rate revenue and investment to support Council services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial/resource implications.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Port Stephens Council could lose an opportunity for additional funding should the campaign be unsuccessful.	Medium	Accept the recommendations.	Yes

MINUTES ORDINARY COUNCIL - 25 SEPTEMBER 2018

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no sustainability implications.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section.

Internal

The Executive Team have confirmed support for the proposal to be put to Council for determination.

External

Nil.

OPTIONS

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

ATTACHMENTS

- 1) Letter from ALGA President Mayor David O'Loughlin.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 6 - ATTACHMENT 1 LETTER FROM ALGA PRESIDENT MAYOR DAVID O'LOUGHLIN.



9 August 2018

Dear Colleagues,

RE: URGING YOU TO GET BEHIND ALGA'S NATIONAL ADVOCACY

ALGA will soon begin its federal election advocacy. Although we are technically still in a pre-election period, this is the best time for us to advance our priorities while still catching politicians in election mode.

ALGA's headline election advocacy priority will be to secure a better deal on federal funding for local government from the next federal government.

In doing this, ALGA will be calling for '1% plus partnership programs' – this calls for the next federal government to restore core local government funding of Financial Assistance Grants (FAGs) to at least 1% of Commonwealth taxation revenue and add funding for partnership programs where agreed.

In 1996 the funding provided under the FAGs program was equal to around 1% of Commonwealth taxation revenue. Today the figure has fallen to just under 0.55%. Over the same period the demands on councils have increased substantially.

To make matters worse, the financial sustainability of councils is further destabilised by state-imposed constraints such as rate-capping and cost shifting.

While we will always strive to do the very best for our communities with the resources we have, there is no denying that our capacity to raise revenue has never been so compromised. And with our share of the national tax pool eroded by successive governments of both persuasions, it should be no surprise that our sector has a vast and growing infrastructure renewal gap which partnership programs alone cannot fill.

This is why, on your behalf, ALGA will call upon all parties at the next federal election to commit to restoring a more sustainable approach to federal FAGs funding for local government.

For our best chance to get this across the line, it is imperative for us to demonstrate the sector's support for our call to urgently repair this important funding assistance to local government – and we need your help.

All you need to do is confirm your council's support by completing this form, which will take 5 minutes or less: <http://bit.ly/SupportALGAAdvocacy>

Here is why your council should get behind this – <http://bit.ly/ALGAFedElectionInfographic>

Your support via completing this form will be used by ALGA in its advocacy activities to make a strong case to the current Federal Government, Opposition and federal election candidates to regard this as a top priority in the next election.

If we are successful in getting a commitment to '1% plus partnership programs', every single council across the country will benefit so it is worth our while to get behind this 100%.

I have personally completed the form and I hope you do too.

Yours sincerely,

A handwritten signature in black ink, appearing to be "David O'Loughlin", written over a horizontal line.

Mayor David O'Loughlin
President, Australian Local Government Association

8 Geils Court Deakin ACT 2600 PHONE 02 6122 9400 FAX 02 6122 9401 EMAIL alga@alga.asn.au WEB www.alga.asn.au ABN 31 008 613 874

MAYORAL MINUTE**ITEM NO. 1****FILE NO: 19/129410
EDRMS NO: PSC2015-01024****SUPPORT FOR RUNWAY UPGRADE PROJECT AT NEWCASTLE AIRPORT**

THAT COUNCIL:

- 1) Provide its strong support to Newcastle Airport Pty Ltd and advocacy for significant investment to deliver critical runway and airport infrastructure upgrades, to enable further expansion and economic growth for the region.
-

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

083	Mayor Ryan Palmer Councillor John Nell It was resolved that Council provide its strong support to Newcastle Airport Pty Ltd and advocacy for significant investment to deliver critical runway and airport infrastructure upgrades, to enable further expansion and economic growth for the region.
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Councillor Giacomo Arnott left the meeting at 6:35pm, after the item was moved.
Councillor Giacomo Arnott returned to the meeting at 6:35pm, prior to voting on the matter.

Councillor Jaimie Abbott left the meeting at 6:37pm, at which time a declaration of interest was made.

Councillor Chris Doohan left the meeting at 6:37pm, at which time a declaration of interest was made.

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MATTER ARISING**

084	Councillor Ken Jordan Councillor John Nell It was resolved that: 1) Mayor Ryan Palmer be appointed to the vacant positions on the Newcastle Airport Pty Ltd (NAPL) and Greater Newcastle Aerotropolis Pty Ltd (GNAPL) Boards as the shareholder representative.
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MINUTES ORDINARY COUNCIL - 14 MAY 2019

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| | 2) That any remuneration received as part of these roles be returned to Mayoral Funds at Port Stephens Council. |
|--|---|

Councillor Jaimie Abbott returned to the meeting at 6:51pm, prior to voting.
Councillor Chris Doohan returned to the meeting at 6:52pm, prior to voting.

Cr Arnott recorded his vote against the motion.

ORDINARY COUNCIL MEETING - 14 MAY 2019 AMENDMENT

	Councillor Giacomo Arnott
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	That the item be deferred to the next Council meeting for further information.
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The amendment lapsed without a seconder.

Cr Arnott called for division, which lapsed without a seconder.

BACKGROUND

Newcastle Airport is the gateway to Port Stephens, offering domestic and now international travellers easy access to the greater Newcastle and Hunter region from many destinations across Australia and beyond. Aligned with the Greater Newcastle Future Transport Plan, Port Stephens Council recognises the strategic importance of Newcastle Airport to drive growth in tourism, exports and local economies for the future of our region.

To achieve this, upgrades to both the airfield and terminal are not only necessary but critical in providing foundational opportunities to enable the airport to grow. Currently, Newcastle Airport has a once in 15-year opportunity to seek funding for the strengthening of the existing runway to enable larger capacity aircraft to utilise Newcastle Airport.

Whilst this requires significant investment from the Federal Government, proposed runway upgrades support the 2036 Hunter Regional Plan and Greater Newcastle Metropolitan Plan. Both plans point to increasing the airport's capability to service international routes, which will, in turn, drive strong economic outcomes for our area and alleviate existing pressure on Sydney International Airport.

Economic projections point to an overall economic boost of \$12.7Bn over the next 20 years, including \$6.2Bn of regional income to visitor economy and \$6.5Bn in gross regional product through freight opportunities. This translates more than 4000

MINUTES ORDINARY COUNCIL - 14 MAY 2019

potential new jobs for the region and \$80m in savings to Hunter region residents who will no longer need to travel to Sydney Airport.

Council will continue to advocate strongly for these crucial upgrades of Newcastle Airport, expediting critical regional drainage improvements to facilitate additional defence and airport related development within the Williamstown precinct. Council is committed to driving significant and sustained long-term social outcomes and economic benefits for the people of Port Stephens.

ATTACHMENTS

Nil.

MOTIONS TO CLOSE

ITEM NO. 1

**FILE NO: 19/123546
EDRMS NO: PSC2018-00043**

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (d)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 **DEBT RECOVERY**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

085	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (d)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 1 on the Ordinary agenda namely DEBT RECOVERY.2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none">• commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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COUNCIL REPORTS

ITEM NO. 1

**FILE NO: 19/62521
EDRMS NO: 16-2018-720-1**

DEVELOPMENT APPLICATION 16-2018-720-1 FOR TELECOMMUNICATIONS FACILITY (38.4 METRE HIGH MONOPOLE AND ASSOCIATED INFRASTRUCTURE FOR MOBILE PHONE NETWORK) AT 4 LEISURE WAY, RAYMOND TERRACE (LOT: 6 DP: 1006266)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2018-720-1 for a Telecommunications Facility (38.4 metre high monopole and associated infrastructure for mobile phone network) at 4 Leisure Way, Raymond Terrace (LOT: 6 DP: 1006266) subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

086	Councillor Chris Doohan Councillor Giacomo Arnott It was resolved that Council approve Development Application 16-2018-720-1 for a Telecommunications Facility (38.4 metre high monopole and associated infrastructure for mobile phone network) at 4 Leisure Way, Raymond Terrace (LOT: 6 DP: 1006266) subject to the conditions contained in (ATTACHMENT 3) .
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present Development Application (DA) No.16-2018-720-1 to Council for determination. The DA has been reported to Council in accordance with Council's Development Applications to be reported to Council Policy as the land on which the development is to be carried out is owned by Port Stephens Council.

The subject DA relates to land located at 4 Leisure Place, Raymond Terrace legally identified as Lot 6: DP: 1006266 (the subject site). The subject site is located in the RE1 Public Recreation Zone and is Port Stephens Council controlled operational land. A locality plan is provided at **(ATTACHMENT 1)**.

Proposal

The applicant seeks approval for a Telecommunications Facility consisting of a 38.4 metre high monopole and associated infrastructure for mobile phone network. The proposal would provide mobile phone, wireless broadband and data services to Raymond Terrace and the surrounding area. The proposal includes the installation of the following:

- A 35 metre high monopole with antenna mounting frames resulting in a total height of 38.4 metres.
- Telecommunication panel antennas, remote radio units, outdoor equipment cabinets and ancillary equipment associated with the on-going operation and maintenance of the Telecommunications Facility (as outlined in detail within the Planners Assessment Report contained in **(ATTACHMENT 2)**).

Site description and history

The subject site is irregular in shape and measures a total area of 2.3 hectares. The site currently contains an existing car parking area used for the adjoining recreational land uses which include a ten pin bowling alley, sporting field and swimming pool complex. The site adjoins low density residential properties to the southern and western boundaries and Richardson Road located 200 metres to the north.

The subject site has a number of constraints including; Flood Prone Land, Bushfire Prone Land, Acid Sulfate Soils and RAAF Base Williamstown – Height Trigger, which have been considered and addressed in detail within the Planners Assessment Report contained in **(ATTACHMENT 2)**.

Key issues

The key issues that arose during the assessment related to consideration of electromagnetic emissions and the visual impacts of the proposal upon the built environment, as outlined below. A detailed assessment of the development is contained in the Planners Assessment Report **(ATTACHMENT 2)**.

Electromagnetic emissions (EME)

Telecommunications facilities generating Electromagnetic Emissions (EME), such as the proposed development, are required to comply with EME standards mandated by the Australian Communications and Media Authority (ACMA), which includes a maximum exposure limit expressed as percentage value of 100%.

The Environmental EME Report submitted with the application (prepared by Optus and dated 26 October 2018) demonstrates that the maximum predicted EME levels of the proposed development will equate to 0.84% of the maximum exposure limit, which is 99.16% below the allowable exposure limit under the Australian Standard. As such, the proposed development is considered satisfactory.

The nearest residential property is approximately 75 metres from the proposed development.

Impacts on the built environment

The proposed height will result in the structure being visible from a number of locations within the surrounding area. The nature of telecommunications facilities require being located at an elevated position to gain the best coverage possible, which in turn results in potential negative visual impacts.

Notwithstanding, a number of methods have been integrated into the design of the facility, in order to mitigate the visual impacts of the structure, including:

- Use of slim line monopole in a natural grey colour.
- Locating the structure in proximity to existing vertical elements including light poles.
- Use of earthy colours for cabinet structures.

Subject to Recommended Conditions of Consent (**ATTACHMENT 3**) that requires the implementation of vegetation screening for cabinet structures it is considered that the proposed development will not result in unacceptable visual impacts to the surrounding locality or residential amenity.

Conclusion

The proposed development is consistent with the relevant environmental planning instruments applicable to the subject site including:

- Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- State Environmental Planning Policy No 55 - Remediation of Land and State Environmental Planning Policy Infrastructure (2007).
- Port Stephens Local Environmental Plan 2013 (LEP); and
- Port Stephens Development Control Plan 2014 (DCP).

The proposed development will provide an important community benefit by providing access to critical mobile telecommunications services and greatly improved mobile coverage in the area.

The key issues arising through the assessment of the application have been satisfactorily addressed and supported by sufficient mitigation measures as provided within the Recommended Conditions of Consent contained in **(ATTACHMENT 3)**. Accordingly, the proposed development supports and promotes the public interest, and is recommended for approval.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Support the amenity and identity of Port Stephens. Provide land use plans, tools and advice that sustainably support the community. Enhance public safety, health and liveability through use of Council's regulatory controls and services.

FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Fixed Development Contributions (s7.12)	Yes		Development levy to be paid to Council based on a percentage relating to the Capital Investment Value (CIV) of the development.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application, subject to the Recommended Conditions of Consent (**ATTACHMENT 3**) is consistent with the objectives of the applicable environmental planning instruments, being; State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy Infrastructure (2007), Port Stephens Local Environmental Plan 2013 (LEP) and Port Stephens Council Development Control Plan 2014 (DCP). A detailed assessment against these requirements are contained within the Planners Assessment Report contained in (**ATTACHMENT 2**).

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the application may be challenged in the Land and Environment Court.	Low	Approve the application in line with the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed development will result in positive social and economic impacts by enhancing access to critical mobile telecommunications services and mobile coverage. The Electromagnetic Emissions (EME) report submitted with the application shows that the maximum predicted EME levels will equate to 0.84% of the maximum exposure limit under the Australian Standard.

The height of the structure will result in the structure being visible from a number of locations within the surrounding area. However, a number of methods have been integrated into the design of the facility to satisfactorily mitigate the visual impact of the structure as detailed within the Planners Assessment Report (**ATTACHMENT 2**). Subject to the Recommended Conditions of Consent (**ATTACHMENT 3**) it is considered that the proposed development will not result in unacceptable visual impacts to the surrounding locality or residential amenity.

CONSULTATIONInternal

Consultation was undertaken with internal officers, including; Building Surveying and Development Contributions. The referral comments from these officers were considered as a part of the Planners Assessment Report contained in (**ATTACHMENT 2**) and accordingly in the Recommended Conditions of Consent contained in (**ATTACHMENT 3**).

External

Consultation was undertaken with Department of Defence during the assessment of the application as the proposed development penetrates the relevant 15 metre obstacle limitations or operations height trigger map for RAAF Base Williamtown. Upon review, the Department of Defence have concluded that the Obstacle Limitation Surface will not be interfered with and the proposal could be supported subject to Recommended Conditions of Consent (**ATTACHMENT 3**).

Public Exhibition

In accordance with Council's notification requirements the application was publically notified and advertised for a period of 14 days between 22 November 2018 and 6 December 2018. During the exhibition period no submissions were received.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan - 4 Leisure Way Raymond Terrace.
- 2) Planners Assessment Report.
- 3) Recommended Conditions of Consent.

COUNCILLORS ROOM

- 1) Development Plans.
- 2) Environmental EME Report.

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

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 LOCALITY PLAN - 4 LEISURE WAY RAYMOND TERRACE.



ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.



DEVELOPMENT ASSESSMENT REPORT

APPLICATION DETAILS

Application Number	16-2018-720-1
Development Description	Telecommunications facility (38.4m high monopole and associated infrastructure for mobile phone network)
Applicant	MR M BYRNES
Date of Lodgement	07/11/2018
Value of Works	\$190,000.00

Development Proposal

The application proposes a mobile phone base station facility to provide mobile phone, wireless broadband and data services to Raymond Terrace and the surrounding area (**see Figure 1**). The proposal includes the following equipment which are both Optus and Telstra facilities:

- Installation of a 35m high monopole with antenna mounting frames resulting in a total height of 38.4m;
- Installation of 3 Optus panel antennas (2.8m in length), turret mounted on the proposed monopole at a height of 37m (antenna centreline);
- Installation of 3 Telstra panel antennas (2.8m in length), collar mounted to the proposed monopole at a height of 30m (antenna centreline);
- Installation of 15 remote radio units (RRU), strap mounted to the proposed monopole at a height of 33.5m;
- Installation of 3 RRU's mounted to the monopole at a height of 27m;
- Installation of a set of 2 outdoor equipment cabinets (ODU) with associated electronic equipment adjacent to the base of the monopole;
- Installation of a Telstra equipment shelter with associated electronic equipment adjacent to the base of the monopole;
- Installation of ancillary equipment associated with the operation of the facility, including cable trays, cabling, fencing, bollards, safe access methods, bird proofing, earthing and electrical works.

The facility is located in the eastern portion of the site in the car parking area associated with the adjoining recreational facilities and is immediately to the rear of a sporting field grandstand (**see Figure 2**).

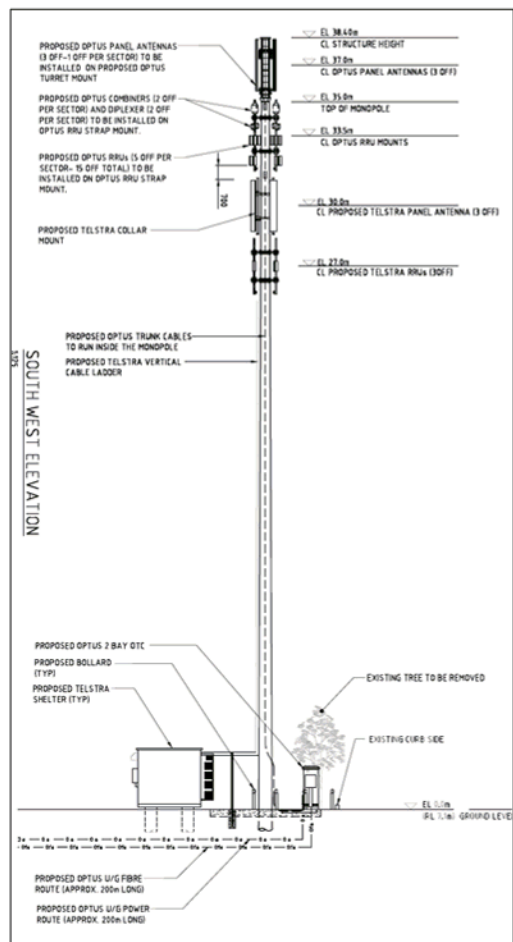


Figure 1: Elevation plan



Figure 2: Proposal Location within Site

PROPERTY DETAILS

Property Address	4 Leisure Way RAYMOND TERRACE
Lot and DP	LOT: 6 DP: 1006266
Current Use	Car Parking/services easement
Zoning	RE1 PUBLIC RECREATION
Site Constraints	Flood Prone Land – Category 1 (minimal risk) Bushfire prone land – Category 3 Acid Sulfate Soils – Class 4 & 5 Koala Habitat Mapping – clear Wildlife Atlas Fauna - Koala Height Trigger Map – RAAF Base Williamtown – 7.5m & 15m Bird Strike Group B Stormwater Drainage Requirement Area Combined Corridor Map (local link &, stepping stone)

Site Description

The subject site is located at 4 Leisure Way, Raymond Terrace, legally identified as Lot 6: DP: 1006266. The site is an irregular shape lot, covers an area of 2.3 hectares and predominantly features car parking associated with adjoining recreational facilities (see Figure 3 below). The site adjoins residential properties to the south, a sporting field to the east, a ten pin bowling club to the north and a swimming pool complex to the west. Grahamstown Dam and Richardson Road is located approximately 200m to the north east of the proposed location.

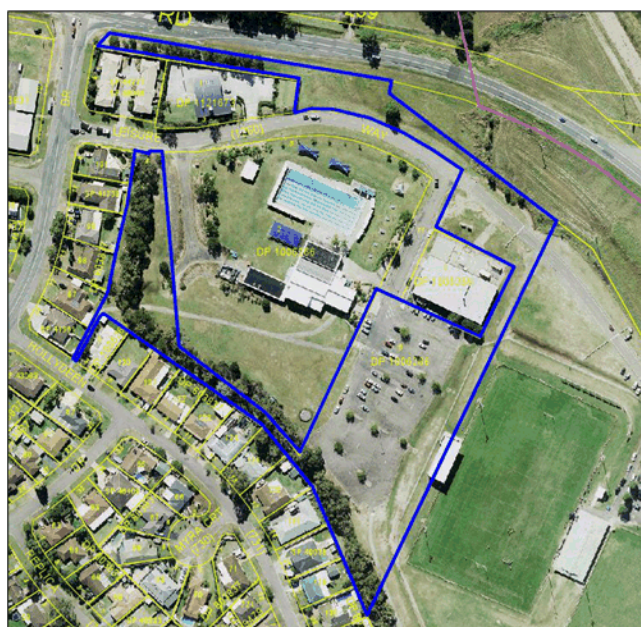


Figure 3: Satellite Image Overview of Subject Site

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

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Relevant Site History

The site has historically been used as a car park for the adjoining recreational facilities. There is one previous record of development approval for the site which relates to the adjoining recreational facilities, including:

- DA 16-2004-1718-1 for a Grand Stand & Joining Amenities approved with conditions in November 2004.

No historic approvals or past compliance matters were identified which would prohibit the proposed development.

Site Inspection

A site inspection was carried out on **4 of February 2019**. The site can be seen the photographs 1-4 below.

Site Photos:

Photo 1: ***Proposed development location (view to the south)***



Photo 2: ***Proposed development location (view to the north)***



Photo 3: ***Existing service location (view to the north)***



Photo 4: ***Vegetation screening between residential land use (view to the south)***

ASSESSMENT SUMMARY

Designated Development	The application is not designated development
Integrated Development	The application does not require additional approvals listed under s.4.46 of the EP&A Act
Concurrence	The application does not 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 used to carry out the assessment against the S4.15 Matters for Consideration below.

Building Surveyor – The application was referred to the building surveyor. No objection was raised to the proposed development and the application is supported with standard construction conditions recommended.

Development Contributions Officer – The application was referred to the development contributions officer as the development is greater than \$100,000 in value. Fixed Development Contributions have been recommended as a condition of consent.

External Referrals

The proposed development was referred to the following external agencies for comment.

Department of Defence - The height of the structure penetrates the relevant 15m Obstacle limitations or operations height trigger map and the application was referred to the Department of Defence. Defence aims to ensure its operations at RAAF Base Williamtown are not constrained by incompatible development on surrounding land. Upon review, defence have concluded that the Obstacle Limitation Surface will not be interfered with. An advice has been recommended within the consent, advising that the applicant seek approval from Defence for the use of temporary structures, including any cranes for construction. The applicant is to provide Defence and Air Services Australia (ASA) with "as constructed" details for the telecommunications facility.

MATTERS FOR CONSIDERATION – SECTION 4.15**s4.15(1)(a)(i) – The provisions of any EPI****State Environmental Planning Policies****State Environmental Planning Policy No. 55 Remediation of Land**

State Environmental Planning Policy No.55 – Remediation of Land ('SEPP No.55') provides a State-wide planning approach to the remediation of contaminated land. The provisions of SEPP No.55 provide that a consent authority must not consent to the carrying out of development on land unless it has given consideration to whether the land subject to the development is contaminated. Where the land is contaminated a consent authority must determine if the land is suitable in its contaminated state for the development, or alternatively determine that the land would be suitable once remediated. The subject site has a history of uses as a range of

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

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community uses and there is no evidence that contaminating activities have historically occurred on site. As such, the land is unlikely to be subject to contamination and does not warrant further investigation. The subject site is suitable for the proposed development and the objectives of SEPP No.55 have been satisfied.

State Environmental Planning Policy Infrastructure (2007)

State Environmental Planning Policy Infrastructure 2007 provides a state-wide planning policy to facilitate the effective delivery of infrastructure. Assessment against the relevant provisions of the SEPP is given in the below table.

STATE ENVIRONMENTAL PLANNING POLICY INFRASTRUCTURE (2007)		
Clause	Compliant	Notes (where needed or if not compliant)
115(1)	<input checked="" type="checkbox"/> Development proposes telecommunications facilities, other than development in clause 114 of development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land.	The proposed telecommunications facility is not exempt development and is permissible with consent within the subject RE2 zone.
115(3)	<input checked="" type="checkbox"/> Consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities issued by the Director-General for the purpose of this clause.	<p>The proposed development is consistent with the guideline principles (NSW Telecommunications Facilities Guideline including Broadband (2010) inclusive of:</p> <p>Principle 1: minimise visual impact</p> <p>(a) – (c) The proposed monopole is a free standing structure and is not attached to a building and therefore these principles are not directly related to the proposal. However, it is noted the Monopole is proposed to have a neutral grey colour that is consistent with the colour schemes of nearby street light poles.</p> <p>(d) Equipment associated with the facility is proposed to be housed within small equipment cabinets adjacent to the monopole. The cabinets will be painted in an earthy colour such as green or merino to blend in with the surrounding landscape. A condition of consent has been recommended requiring the implementation of vegetation screening to ensure the facility is appropriately screened.</p> <p>(e) The facility has been located and designed to respond to its surrounding landscape context. The proposal is located in proximity to existing vertical elements including light poles associated with the adjacent car park and sporting facility.</p> <p>(f) & (g) The proposal is not located on or adjacent to a state or local heritage listed item or conservation</p>

		<p>area.</p> <p>(h) No significant tree removal or lopping of vegetation is required. One introduced tree is proposed to be removed from the existing garden bed located on the site.</p> <p>(i) It is noted that the removal of the facility and restoration of the site to its original condition is required when it is no longer needed.</p> <p>(j) The siting and design of the telecommunication facility addresses relevant Industry Design Guides.</p> <p>Principle 2: co-location wherever possible</p> <p>(a) This principle is not applicable to monopole telecommunication facilities which cannot be housed underground.</p> <p>(b) There are no existing carrier telecommunications facilities located in the vicinity of the locality on which the proposed equipment could be suitably co-located. There are no public utilities such as lights and power poles or buildings of the required height and structural suitability for co-location. The proposed monopole will be utilised by two telecommunication carriers, limiting unnecessary clutter of telecommunication facilities.</p> <p>(c) & (d) The proposal is not for a tower extension.</p> <p>(e) The applicant has investigated 7 potential sites for selection, including one site for co-location on an existing light pole. The existing light pole was found to not be structurally adequate for the proposal. Following from discussion against principle 2(b), there are no public utilities or buildings of the required height and structural suitability for co-location in the locality of the proposed service area.</p> <p>(f) The proposal is not for a co-location purpose.</p> <p>Principle 3: health standards for exposure to radio emissions will be met</p> <p>(a-b) The proposed installation will comply with the Australian Communications and Media Authority (ACMA) regulatory arrangements with respect to electromagnetic radiation exposure levels. EME exposure levels from this site have been calculated in accordance with the ARPANSA prediction methodology and report format. The electromagnetic emissions (EME) report submitted with the application shows that the maximum predicted EME levels will equate to 0.84% of the maximum exposure limit, which is well below the allowable exposure limit under the Australian Standard (100% which is still</p>
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		<p>considered to be safe).</p> <p>Principle 4: minimise disturbance and risk and maximise compliance</p> <p>(a) The proposed height of the installation (38.4m in total) is below the 'Tall Structure' height of 110m AGL. However, due to the proposals proximity to the Williamstown Airport and the height of the structure penetrating the relevant 15m Obstacle limitations or operations height trigger map the application was referred to the Department of Defence for comment. In response, no objection was raised in relation to erecting the structure.</p> <p>(b) The facility has been designed to not interfere with other radio based systems and complies with the requirements of the relevant Australian standards in this regard.</p> <p>(c) All construction requirements have been recommended as conditions of consent.</p> <p>(d) The facility is not attached to a building.</p> <p>(e) Owners consent has been granted from the landowner (Port Stephens Council).</p> <p>(f) – (j) All construction requirements, including the implementation of sediment and erosion controls have been recommended as conditions of consent.</p> <p>(k) – (i) The proposal involves the removal of one tree and would not result in any significant environmental impact.</p> <p>(m) The applicant has provided an Aboriginal Heritage Information Management System search which has returned no recorded sites.</p> <p>(n) Conditions have been recommended in relation to reinstatement of affected public infrastructure.</p> <p>It is considered that all requirements and guidelines have been satisfied in this regard.</p>
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Local Environmental Plans

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The proposal is in accordance with Clause 115(1) of the SEPP Infrastructure 2007 and may be carried out by any person with consent on any land. Therefore, the proposal is permissible with consent within the subject RE2 zone. It is considered that the proposal would not hinder any future use of the site or contradict the zone objectives.

Clause 7.1 – Acid Sulfate Soils

The proposal is located in an area mapped as potential Class 5 and Class 4 ASS. Minor excavation works are required to implement the footings for the monopole. No excavations are

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

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proposed to extend below 2m of the natural ground level and therefore an acid sulfate soil management plan is not required. Nonetheless, a condition of consent has been recommended outlining the requirements of preparing an acid sulfate soil management plan should excavations extend below 2m.

Clause 7.3 – Flood Planning

The proposed tower will not be manned and therefore the risk to life is low. Furthermore, the open nature of the structure would ensure the impact on floodwaters would be negligible.

Clause 7.4 – Airspace Operations

Clause 7.4 stipulates that Council must not grant consent where a development penetrates the Limitation or Obstacle Operations Surface. In this regard, Council has consulted with the Department of Defence, who have advised that the proposed tower and antennae will not adversely impact on the Limitation or Obstacle Operations Surfaces.

s4.15(1)(a)(ii) – Any draft EPI

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

s4.15(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.

Chapter A.12 – Notification and Advertising

In accordance with the requirements of chapter A.12, the development application was notified for a period of 14 days from 22 November 2018 – 6 December 2018, during which time no submissions were received.

Chapter B1 – Tree Management

No significant tree removal or lopping of vegetation is required. One introduced tree is proposed to be removed from the existing garden bed located on the site.

Chapter B3 – Environmental Management

B3.A Acid sulphate soils: Following on from discussion against Clause 7.1 of the LEP above the subject land is mapped as containing potential Class 5 and 4 acid sulfate soils. No excavations are proposed to extend below 2m of the natural ground level and therefore an acid sulfate soil management plan is not required.

Chapter B5 - Flooding

The site is within Flood Prone Land Category 1 - minimal risk. Given the development is not manned and would not significantly affect the behaviour of flood waters, the proposal is consistent with the flood hazard.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

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Chapter B7 - Williamstown RAAF Base – Aircraft Noise and Safety

The height of the structure penetrates the relevant 15m Obstacle limitations or operations height trigger map and the application was referred to the Department of Defence. Upon review, defence have concluded that the Obstacle Limitation Surface will not be interfered with.

Chapter B9 – Road Network and Parking

Traffic generation as a result of the development will primarily occur during construction. Upon, completion of the project it is anticipated that traffic generation will be minimal and limited to approximately one maintenance visit per year and the facility would remain unmanned at all other times and therefore, there are no specific car parking requirements applicable to the proposal.

The proposal involves the removal of 6 car parks in the parking area currently shared by the lakeside leisure complex, a ten pin bowling alley and the lakeside sports complex sporting fields. The on-site parking provisions within Figure BT of the DCP require 3 car parking spaces for bowling alleys. The sporting complex and leisure centre fall within the category of community facilities and therefore require a merit based approach to determine car parking requirements in accordance with the DCP. It is considered that the removal of the six spaces would not result in adverse impacts to the on-site parking for the community facilities and the number of parking spaces provided remains satisfactory.

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

There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.

s4.15(1)(a)(iv) – The regulations

There are no matters prescribed by the regulations which apply to the proposed development.

s4.15(1)(b) – The likely impacts of the development**Social and Economic Impacts**

The proposal will result in positive social and economic impacts by enhancing access to critical mobile telecommunications services and mobile coverage.

The electromagnetic emissions (EME) report submitted with the application shows that the maximum predicted EME levels will equate to 0.84% of the maximum exposure limit, which is well below the allowable exposure limit under the Australian Standard. It is noted that the maximum exposure limit is expressed as a percentage value of 100%.

Impacts on the Built Environment

The height of the structure results in an inevitable visibility from a number of distances within the surrounding area. Due to the nature of telecommunications facilities, they must be located at an elevated position to gain the best coverage possible, which in turn results in potential negative visual impacts.

A number of methods have been integrated into the design of the facility to reduce the visibility of the structure, including:

- Use of slim line monopole in a natural grey colour;
- Locating structure in proximity to existing vertical elements including light poles; and

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2018-720-1

- Use of earthy colours for cabinet structures.

Subject to a recommended conditions of consent that requires the implementation of vegetation screening for cabinet structures it is considered that the proposed development will not result in unacceptable visual impacts to the surrounding locality or residential amenity.

Impacts on the Natural Environment

A condition of consent has been recommended requiring erosion and sediment controls to be implemented for the duration of construction works. No waste which requires collection or disposal will be generated by the operation of the facility. Finally no adverse impacts during flood events is expected.

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

The subject site is suitable for development due to its logical location for range accessibility and target reach, cleared area for construction and suitable access.

s4.15(1)(d) – Any submissions

No submissions have been received in relation to the proposed development.

s4.15(1)(e) – The public interest

The proposal is in the public interest as it will provide an important community benefit by providing access to critical mobile telecommunications services and greatly improved mobile coverage in the area.

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.

PORT STEPHENS
COUNCILRecommended conditions
of consent

CONDITIONS THAT IDENTIFY APPROVED PLANS

- The development shall be carried out in accordance with the stamped approved plans and documentation as listed below, except where modified by any condition of this consent or as shown in red colour on the plans.

Plan/Doc. Title	Plan Ref. No	Sheet.	Date	Drawn By
Draft Site Layout and Elevation	S2501	1-2 of 2	10.9.2018	Huawei Technologies Pty Ltd

Note 1: In the event of any inconsistency between the:

- Approved plans and the conditions, the conditions will prevail; or
- Approved plans and supplementary documentation, the plans will prevail.

Note 2: The consent relates only to those works indicated as proposed on the approved plans. No assessment has been undertaken of those structures marked as existing, and this consent does not extend to include any such structures.

Note 3: Modifications to the approved plans will require the lodgement and consideration by Council of a modification application pursuant to Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

- 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 THAT IDENTIFY OTHER APPROVALS REQUIRED

- Prior to the commencement of works**, the applicant is required to seek approval from the Department of Defence for the use of temporary structures, including any cranes for construction. RAAF Base Williamtown can be contacted for the approval process for any cranes for construction via the Base Aviation Safety Officer by email at WLM.baso@defence.gov.au.
- Prior to the commencement of works**, the applicant is to provide Defence and Air Services Australia (ASA) with "as constructed" details for the telecommunications facility. The details can be emailed to Defence at DSRGIDEP.ExecutiveSupport@defence.gov.au and ASA at vod@airservicesaustralia.com.

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.

PORT STEPHENS
COUNCILRecommended conditions
of consent

CONDITIONS THAT IDENTIFY CONTRIBUTIONS AND FEES

5. A monetary contribution is to be paid to Council, pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Port Stephens Council Fixed Development Contributions Plan, related to the Capital Investment Value (CIV) of the development as determined in accordance with clause 25j of the *Environmental Planning and Assessment Regulation 2000* and outlined in the table below.

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

The payment of the fixed development consent levy is to be accompanied by a Cost Summary Report Form setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Council Fixed Development Contributions Plan. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors. This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition.

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

- a. Building work only - **prior to issue of the Construction Certificate.**

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

The following conditions are to be complied with, to the satisfaction of the Certifying Authority, prior to the issue of the Construction Certificate.

6. Should works require excavation 2m below the natural ground level or are likely to lower the watertable by more than 2m below the natural ground level, a geotechnical report and Acid Sulphate Soils Management Plan (ASSMP) shall be prepared by a suitably qualified professional. These documents are to be provided to the Certifying Authority for approval **prior to the issue of a Construction Certificate.**

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.**PORT STEPHENS
COUNCIL****Recommended conditions
of consent**

7. **Prior to the issue of a Construction Certificate**, a tree planting plan is to be prepared to provide vegetation screening of equipment cabinets associated with the monopole and considered to be satisfactory by the Principle Certifying Authority. The plan is to detail the type of species to be planted and state the mature height and spread of all proposed vegetation. A copy of the tree planting plan is to be submitted to Council within 14 days of lodgement.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATIONS OR CONSTRUCTION

The following conditions are to be complied with prior to the commencement of works on the subject site(s).

8. **Prior to the commencement of works**, the applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.
9. **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.
10. **Prior to the commencement of works**, the property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking". Protection measures may include erosion and sedimentation controls as required. All protection measures are to be installed to the satisfaction of Council and must be regularly maintained for the duration of works and until the site is stabilised by vegetation or the like.

CONDITIONS TO BE SATISFIED DURING WORKS

The following conditions are to be complied with during works.

11. The Principal Contractor (or Owner/Builder) shall erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work. The sign shall also display the name, address and telephone number of the Principal Contractor for the work (or Owner/Builder) and shall state that unauthorised entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed.
12. All building work shall be carried out in accordance with the requirements of the Building Code of Australia.
13. Unless otherwise approved by Council in writing, all general building/demolition work shall be carried out between the hours of:

16-2018-720-1

Page 3 of 4

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



**PORT STEPHENS
COUNCIL**

Recommended conditions of consent

- a. 7.00am to 5.00pm Monday to Saturday
- b. No construction is to be carried out at any time on a Sunday or a public holiday.

Any work performed outside the abovementioned hours or on a public holiday that may cause offensive noise, as defined under the *Protection of the Environment Operations Act 1997*, is prohibited.

- 14. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.

CONDITIONS TO BE SATISFIED DURING WORKS – CONSTRUCTION REQUIREMENTS

The following conditions are to be complied with during works and relate to the construction of the approved development.

- 15. The monopole as well as any antennas and radio communication dishes shall be painted a suitable colour such as shale grey to blend into the surrounding landscape.
- 16. Landscaping shall be planted/installed in accordance with the approved tree planting plan (as required under Condition No.7). All landscaped areas shall be kept free of parked vehicles, stored goods, garbage or waste material and the like at all times.

CONDITIONS TO BE SATISFIED AT ALL TIMES

The following conditions are to be complied with at all times.

- 17. Landscaping shall be maintained in accordance with the approved tree planting plan (as required under Condition No.7) in a healthy state, and in perpetuity. If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

ADVISORY NOTES

The following advice is limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A. 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.
- B. In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Office of Environment and Heritage (OEH) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by OEH to proceed.

ITEM NO. 2

**FILE NO: 19/106947
EDRMS NO: 16-2018-773-1**

DEVELOPMENT APPLICATION 16-2018-773-1 ROAD AND DRAINAGE PUBLIC INFRASTRUCTURE WORKS (REPLACEMENT OF MAMBO CREEK CULVERT STRUCTURE, ROAD WORKS, EARTHWORKS AND ASSOCIATED SITE WORKS)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2018-773-1 for road and drainage public infrastructure works (replacement of Mambo Creek culvert structure, road works, earthworks and associated site works) at 12 Admiral Close, Salamander Bay (LOT: 1 DP: 1122502) subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

087	<p>Councillor John Nell Councillor Glen Dunkley</p> <p>It was resolved that Council approve Development Application 16-2018-773-1 for road and drainage public infrastructure works (replacement of Mambo Creek culvert structure, road works, earthworks and associated site works) at 12 Admiral Close, Salamander Bay (LOT: 1 DP: 1122502) subject to the conditions contained in (ATTACHMENT 3).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present Development Application (DA) No. 16-2018-773 -1 to Council for determination. The DA has been reported to Council in accordance with Council's Development Applications to be reported to Council Policy as the land on which the development is to be carried out is owned by Port Stephens Council.

The subject DA relates to land located at 12 Admiral Close, Salamander Bay legally identified as LOT: 1 DP: 1122502 (the 'subject site'). The subject site is located in the E2 Environmental Conservation Zone and is Port Stephens Council controlled community land. A locality plan is provided at **(ATTACHMENT 1)**.

Proposal

The applicant seeks approval for public infrastructure works (replacement of Mambo Creek culvert structure, road works, earthworks and associated site works). The proposed development is intended to improve safety for road users, reduce the impacts of flooding and improve the environmental conditions of the Mambo Wetland.

The proposed development involves the following civil construction works:

- Replacement of Mambo Creek culvert structure.
- Widening and raising the road pavement for a stretch of 375 metres over the Mambo Creek Culvert Structure and to the east.
- Installation of four speed humps and associated signage.
- Installation of a two metre wide sealed shoulder and bicycle pathway on the northern side of the road.
- Service replacement where affected.
- Initial and ongoing maintenance of the open drainage channel system.

Site description and history

The subject site (LOT: 1 DP: 1122502) covers an area of approximately 167 hectares and contains the Mambo Wetlands Reserve. Within the subject site the area of proposed works (development area) is confined to the Foreshore Drive road reserve, comprising a 1.8km section of the single carriageway road between Sandy Point Road (east) and Port Stephens Drive (West) and measuring an area of approximately 6 hectares as detailed in Figure 3 within the Planners Assessment Report contained in **(ATTACHMENT 2)**.

The subject site has a number of constraints including; Bushfire Prone Land, Flood Prone Land, wetlands mapped within the Port Stephens Local Environment Plan 2013, Acid Sulfate Soils - Class 2 and 3, endangered ecological communities – Coastal Saltmarsh, Swamp Sclerophyll Forest and freshwater wetlands, koala habitat – preferred and notifiable noxious weeds. The subject site includes the Salamander Bay Sanctuary Zone of the Port Stephens – Great Lakes Marine Park.

In addition, the subject site is identified as a coastal wetland area under State Environmental Planning Policy (Coastal Management) 2018.

As the proposed development involves earthworks and clearing of native vegetation within a mapped coastal wetland area, the development is classified as 'designated development' under Schedule 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and requires approval from Council under Part 4 of the EP&A Act.

The applicant submitted an Environmental Impact Statement (EIS), prepared by Umwelt, in support of the DA. The EIS was prepared in accordance with the Secretary's Environmental Assessment Requirements (SEARs) issued by the Department of Planning and Environment.

The subject site has had a number of development approvals since 1987. There are no historic approvals or past compliance matters identified which would prohibit the proposed development, as detailed within the Planners Assessment Report contained in **(ATTACHMENT 2)**.

Key issues

The key issue that arose during the assessment related to the potential ecological impacts of the proposed development, as outlined below. A detailed assessment of the development is contained in the Planners Assessment Report contained in **(ATTACHMENT 2)**.

Ecological impacts

The proposed development involves the clearance of endangered ecological communities, hollow bearing trees, preferred koala feed trees and marine vegetation

The assessment of the application has identified the proposed development is unlikely to have a significant impact on threatened species, populations, communities or their habitats or any hydrological features of the coastal wetland, as detailed within the Planners Assessment Report contained in **(ATTACHMENT 2)**. Furthermore, despite the short term impacts associated with vegetation clearing and earthworks, the proposed upgrade to the Mambo Creek culvert is anticipated to have a long-term positive impact on the Mambo Wetlands. The positive impacts arise as the proposed culvert replacement provides improved hydrological flows to the adjoining wetland which results in beneficial ecological outcomes, including reducing barriers to fish passage, minimising current restrictions on tidal flows and associated current impacts on saline wetland communities.

Conditions of consent have been recommended due to the small localised scale of clearing and earthworks associated with the proposed works and relate to the implementation of mitigation measures throughout the construction and operation of the proposed development. The Recommended Conditions of Consent contained in **(ATTACHMENT 3)** have been prepared with consideration of the NSW State

MINUTES ORDINARY COUNCIL - 14 MAY 2019

Government permits, licences and statutory requirements relating to vegetation management, stormwater controls, compensatory replanting and replacement of tree-hollows or implementation of nest boxes, and effective environmental management during construction and operation.

Conclusion

The proposed development is consistent with the relevant environmental planning instruments applicable to the subject site including:

- Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- State Environmental Planning Policy (Coastal Management) 2018.
- State Environmental Planning Policy No. 44 – Koala Habitat Protection.
- State Environmental Planning Policy No 55 - Remediation of Land.
- Port Stephens Local Environmental Plan 2013 (LEP); Clause 2.3 – Zone Objectives and Land Use Table, Clause 5.10 – Heritage Conservation, Clause 7.1 – Acid Sulfate Soils, Clause 7.2 – Earthworks, Clause 7.3 Flood Planning, and Clause 7.9 – Wetlands.
- Port Stephens Development Control Plan 2014 (DCP); Section B2 – Natural Resources, Section B3 – Environmental Management, Section B4 – Drainage and Water Quality, Section B5 – Flooding, Section B.8 Heritage and Section B9 – Road Network and Car Parking.

The proposed development would result in improved safety for road users, reduce the impacts of flooding and improve the environmental conditions of the Mambo Wetland. The key issues arising through the assessment of the application have been satisfactorily addressed and supported by sufficient mitigation measures as contained within the Recommended Conditions of Consent (**ATTACHMENT 3**). Accordingly, the proposed development supports and promotes the public interest, and is recommended for approval.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community. Provide land use plans, tools and advice that sustainably support the community. Enhance public safety, health and liveability through use of Council's regulatory controls and services.

FINANCIAL/RESOURCE IMPLICATIONS

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

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

LEGAL, POLICY AND RISK IMPLICATIONS

The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; State Environmental Planning Policy No. 44 – Koala Habitat Protection, State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Coastal Management) 2018, Port Stephens Local Environmental Plan 2013 (LEP) and Port Stephens Council Development Control Plan 2014 (DCP). A detailed assessment against these requirements are contained within the Planners Assessment Report contained in **(ATTACHMENT 2)**.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the application may be challenged at the Land and Environment Court.	Low	Approve the application in line with the officer's recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed development will result in positive social and economic impacts by improving road and pedestrian safety. Improved drainage via the implementation of the culvert upgrade would reduce the impact of flooding and reduce the likelihood of road closure during heavy rain events. The socio-economic impacts as a result of road closure during construction works are considered to be minor and of a short duration and overall, it is considered that the proposed development would have a positive social and economic impact.

Impacts on the Built Environment

Impacts to the built environment would be limited due to the nature of the proposed development involving a road upgrade and a new culvert structure. The proposed upgrades will enhance the appearance of the existing roadway whilst respecting the environmental features of the site.

Impacts on the Natural Environment

The proposed development is unlikely to have a significant impact on threatened species, populations, communities or their habitats or any hydrological features of the coastal wetland as detailed within the Planners Assessment Report contained in **(ATTACHMENT 2)**. Subject to the recommended conditions of consent the proposed development is considered unlikely to result in significant adverse impacts to the natural environment. In addition, it has been identified that the development is likely to result in improved ecological outcomes as it improves the hydrological flows to the adjoining wetland.

CONSULTATION

Internal

Consultation was undertaken with internal officers, including; Engineering and Natural Resources (Vegetation Management and Ecology). The referral comments from these officers were considered as part of the Planners Assessment Report

contained in **(ATTACHMENT 2)** and accordingly contained within the Recommended Conditions of Consent **(ATTACHMENT 3)**.

External

Consultation was undertaken with the following external agencies:

- Department of Primary Industry Fisheries (DPI Fisheries) – the application was referred to DPI Fisheries as integrated development in accordance with Section 200 and 204 of the *Fisheries Management Act 1994* (FM Act). General Terms of Approval and recommended conditions were provided.
- Natural Resource Access Regulator (NRAR) – the application was referred to NRAR as integrated development in accordance with the *Water Management Act 2000* (WM Act). A response was received from NRAR indicating that the development is exempt under Section 91E (1) of the WM Act, and a controlled activity approval is not required.
- Department of Primary Industry Marine Parks (DPI Marine Parks) - The application was referred to DPI Marine Parks for concurrence in accordance with Section 55 of the *Marine Estate Management Act 2014*. No objections were made and concurrence granted subject to recommended conditions.

- Hunter Water Corporation (HWC) - The application was referred to HWC in accordance with Section 51 of the *Hunter Water Act 1991*. No response was received and therefore it is considered HWC has no submissions to make in relation to a development application.
- AUSGRID - The application was referred to AUSGRID in accordance with Clause 45 of the State Environmental Planning Policy (Infrastructure) 2007. A response was received from AUSGRID including recommended conditions.
- NSW Department of Planning and the Environment (DPE) - Clause 81 of the Environmental Planning and Assessment Regulation 2000 provides that the consent authority must forward a copy of all submissions received in response to the public exhibition at the completion of the advertising and notification period to DPE. The submissions were forwarded to DPE as required under Clause 81 and no response was received.

The conditions provided by external agencies, where applicable, have been incorporated into the Recommended Conditions of Consent contained in **(ATTACHMENT 3)**.

Public exhibition

In accordance with Council's notification requirements the application was publically notified and advertised for a period of 30 days from 7 December 2018 to 4 January 2019. During the exhibition period five submissions were received in relation to the DA. These issues have been addressed in detail within the Planners Assessment Report contained in **(ATTACHMENT 3)**. The assessment acknowledges that these issues have been assessed and justified, or conditions can be imposed where applicable to manage the overall development of the site.

OPTIONS

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

ATTACHMENTS

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

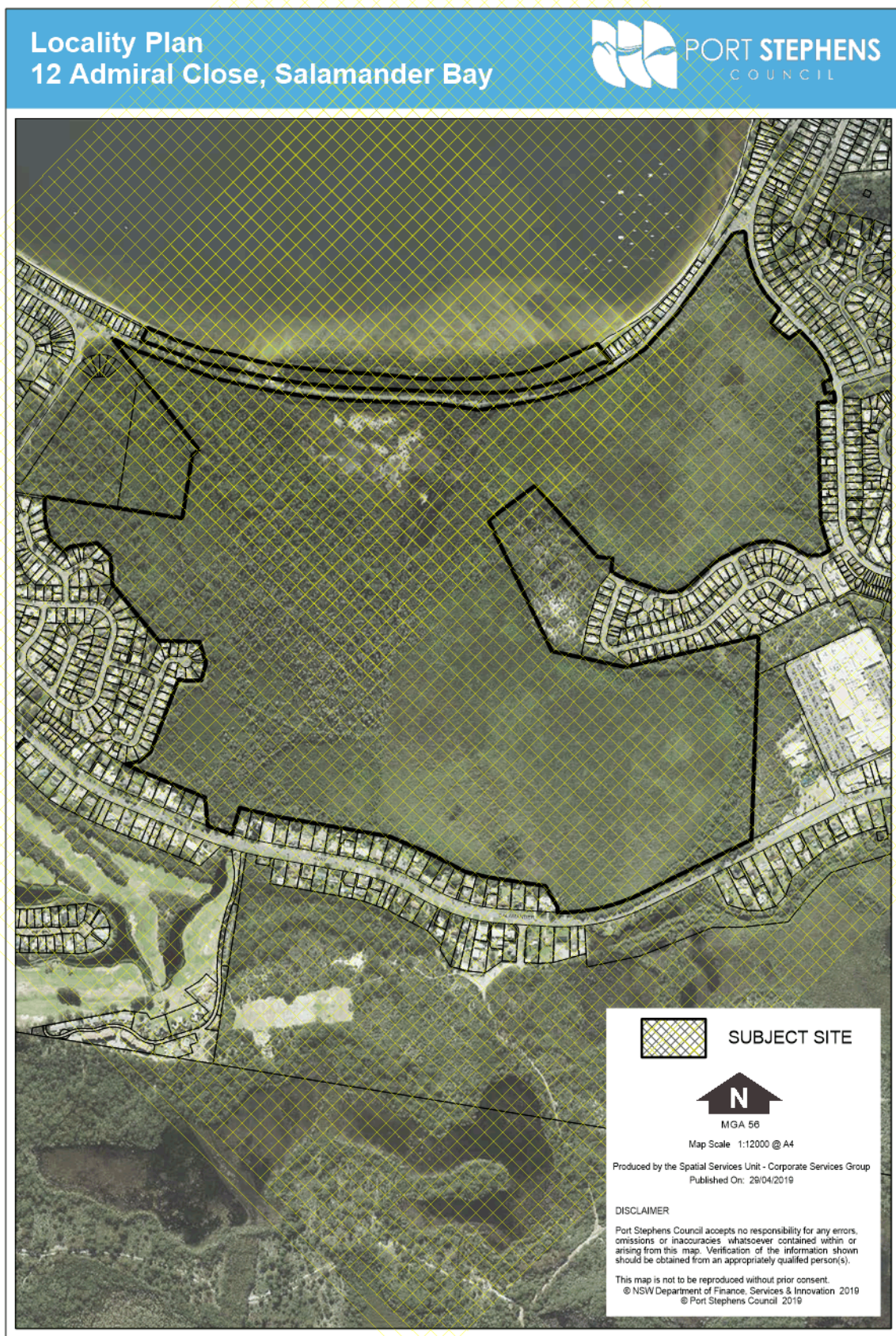
COUNCILLORS ROOM

- 1) Development Plans.
- 2) Submissions.
- 3) Department of Primary Industries General Terms of Approval.
- 4) Department of Primary Industries Concurrence Conditions.

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

TABLED DOCUMENTS

Nil.



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DEVELOPMENT ASSESSMENT REPORT

APPLICATION DETAILS

Application Number	16-2018-773-1
Development Description	Road and drainage public infrastructure works (replacement of Mambo Creek culvert structure, road works, earthworks and associated site works)
Applicant	PORT STEPHENS COUNCIL
Date of Lodgement	23/11/2018
Value of Works	\$1,700,000.00

Development Proposal

The application proposes road upgrade works and associated drainage infrastructure at Foreshore Drive Salamander Bay (**Figure 1 and 2**). The proposal is intended to improve safety for road users, reduce the impacts of flooding and improve the environmental conditions of the Mambo Wetland. The proposal involves the following civil construction works:

- Replacement of Mambo Creek culvert structure;
- Widening and raising the road pavement for 375m over the Mabo Creek Culvert Structure and to the east;
- Installation of four speed humps and associated signage;
- Installation of a two metre wide sealed shoulder and bicycle pathway on the northern side of the road;
- Service replacement where affected; and
- Initial and ongoing maintenance of the open drainage channel system.

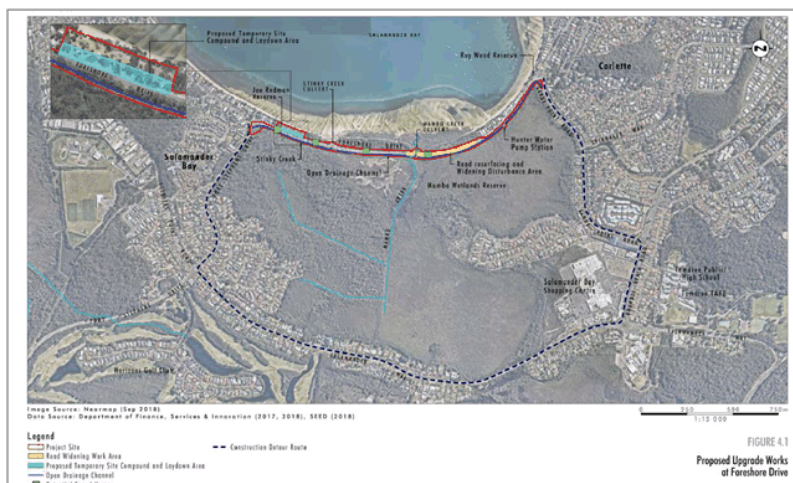


Figure 1: Mambo Creek Culvert Design

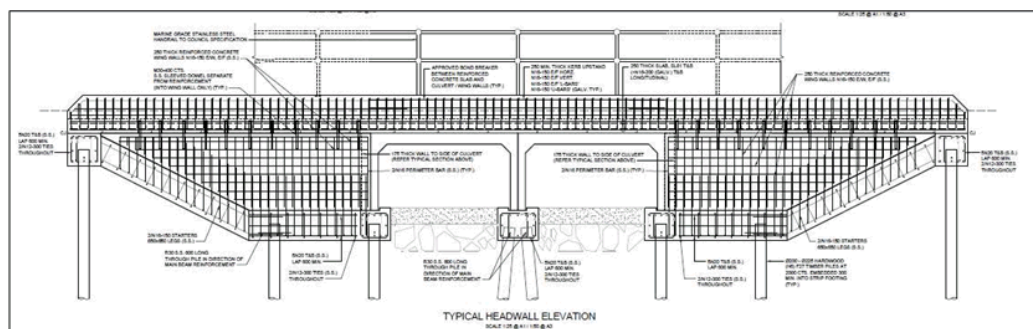


Figure 2: Culvert Structure Section

PROPERTY DETAILS

Property Address	12 Admiral Close SALAMANDER BAY
Lot and DP	LOT: 1 DP: 1122502
Current Use	Public Road and Drainage
Zoning	E2 ENVIRONMENTAL CONSERVATION
Site Constraints	<p>Bushfire Prone Land – Category 1, 2 and 3</p> <p>Acid Sulfate Soils - Class 2 and 3</p> <p>Koala Habitat Planning Map – Preferred</p> <p>Endangered Ecological Communities – Coastal Saltmarsh, Swamp Sclerophyll Forest and freshwater wetlands</p> <p>OEH High Environmental Value Mapping</p> <p>Port Stephens Great Lakes Marine Park</p> <p>OEH Biodiversity Values Map</p> <p>SEPP (Coastal Management) 2018 – combined foot print and coastal wetland</p> <p>Stormwater drainage requirement area</p> <p>OEH Combined Corridor Map – Core habitat and landscape habitat link</p> <p>Notifiable noxious weeds (Alligator weed, Mother of Millions, Salvina, long-leaf willow primrose and Chinese Violet)</p> <p>NSW Wildlife Atlas – Fauna (vulnerable and endangered)</p> <p>LEP 2013 Wetland</p> <p>Flood Prone Land – High hazard floodway, high hazard flood fringe</p>

Site Description

The subject site comprises the Foreshore Drive Road reserve extending through Lot: 1 DP: 1122502 which includes the Mambo Wetland. Foreshore Drive is a single carriageway road that extends for 2.8km on the southern shoreline of Salamander Bay, connecting the residential areas of Soldiers Point/Salamander Bay and Corlette. The project area, comprises 1.8km of Foreshore Drive between Sandy Point Road (east) and Port Stephens Drive (west), measuring an area of approximately 6 ha in size (**Figure 3**).

The subject site includes the downstream extent of the Mambo Wetland, the Salamander Bay Sanctuary Zone of the Port Stephens – Great Lakes Marine Park, the Joe Redman Reserve and Salamander bay Foreshore. The site is relatively flat with the exception of the existing open drainage channel and areas surrounding Stinky Creek and Mambo Creek. The proposed works are entirely located within the E2 Environmental Conservation zone.

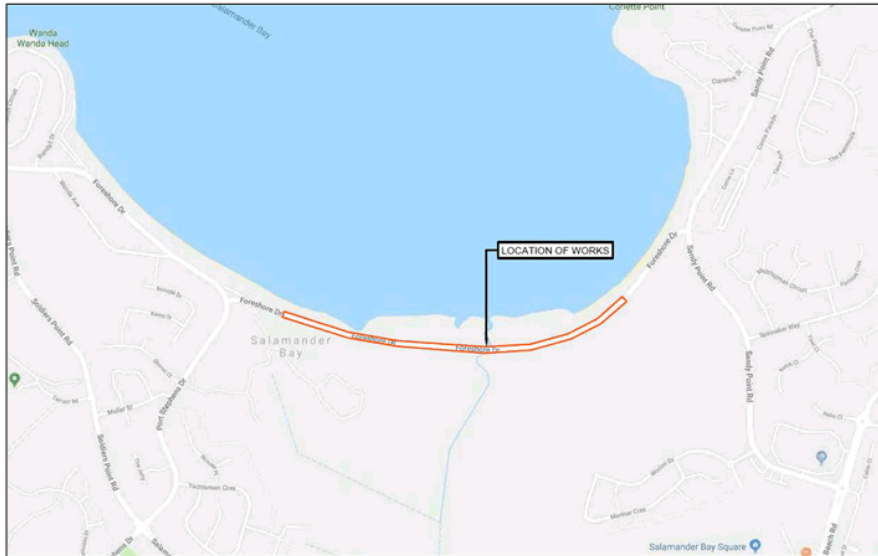


Figure 3: Location of proposed works

Site History

The subject site has had a number of development approvals since 1987. The current lot configuration was approved in 1995 as part of a 100 lot subdivision under DA 7-1995-40266-1. There are no historic approvals or past compliance matters identified which would prohibit the proposed development.

Site Inspection

A site inspection was carried out on 4 January 2019. The subject site can be seen in images 1 - 4 below:



Image 1: Joe Redman Reserve and the Foreshore Drive Road reserve viewed to the east



Image 2: Existing Mambo Creek Drainage Culvert viewed to the south



Image 3: Mambo Creek road crossover and adjacent wetland area viewed to the east



Image 4: Foreshore Drive Road reserve viewed to the west

ASSESSMENT SUMMARY

Designated Development	The application proposes a road and drainage public infrastructure works on land mapped as a coastal wetland as defined under Clause 10 of the SEPP (Coastal Management) 2018. Subsequently the development is designated development pursuant to Schedule 3 of the <i>Environmental Planning and Assessment Regulations 2000</i> and 4.10 of the <i>Environmental Planning and Assessment Act 1979</i> . SEARs have been provided by the Minister pursuant to the requirements of the Act.
Integrated Development	The application requires additional approvals listed under s.4.46 of the EP&A Act.
Concurrence	The application does 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 used to carry out the assessment against the S4.15 Matters for Consideration below.

Drainage and Flooding Engineer

The application was referred to Council's Drainage and Flooding engineer. No flooding or drainage issues were identified and it was deemed that the proposal would result in an overall improvement in the drainage system.

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Development Engineer

The application was referred to Council's Development Engineering Section for assessment. The application was supported, subject to recommended conditions relating to the requirement for approval under Section 138 of the Roads Act 1993. These conditions have been included in the recommended conditions of consent to be reported to Council.

Natural Resources

The application was referred to Council's Natural Resource Section for assessment. Additional information was requested in relation to impacts to oyster aquaculture operations and water quality and vegetation monitoring. Upon provision of the requested information, the application was supported, subject to recommended conditions relating to; the provision of a Construction Environmental Management Plan (CEMP), Operational Environmental Management Plan (OEMP), management of noxious weeds and other environmental management measures. These conditions have been included in the recommended conditions of consent to be reported to Council.

External Referrals

The proposed development was referred to the following external agencies for comment.

Department of Primary Industry Fisheries (DPI Fisheries)

The application was referred to DPI Fisheries as integrated development in accordance with Section 200 and 204 of the *Fisheries Management Act 1994* (FM Act). DPI Fisheries have reviewed the proposal and no objections were made. General Terms of Approval (GTA) have been issued as well as specific conditions to be satisfied prior to and during construction. The GTAs have been included in the recommended conditions of consent to be reported to Council.

Department of Primary Industry Marine Parks (DPI Marine Parks)

The application was referred to DPI Marine Parks for concurrence in accordance with Section 55 of the *Marine Estate Management Act 2014*. No objections were made and concurrence granted subject to recommended conditions. The concurrence letter and conditions have been included in the recommended conditions of consent to be reported to Council.

Natural Resource Access Regulator (NRAR)

The application was referred to NRAR as integrated development in accordance with the *Water Management Act 2000* (WM Act). A response was received from NRAR indicating that the development is exempt under Section 91E (1) of the WM, and a controlled activity approval is not required.

Hunter Water Corporation (HWC)

The application was referred to HWC in accordance with S.51 of the *Hunter Water Act 1991*. Email correspondence was received from HWC seeking clarification on the extent of works and potential interaction with scheduled HWC water main repair works. An email was sent to HWC on 3 January 2019 confirming that the proposal does not involve any works that would interact with the scheduled HWC maintenance. No formal letter response was received from HWC within 21 days, and no objections were raised during the email correspondence.

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AUSGRID

The application was referred to AUSGRID in accordance with Clause 45 of the *State Environmental Planning Policy (Infrastructure) 2007*. A response was received from AUSGRID including recommended advisory notes relating to proximity to existing network assets, electricity easements, relocation of electricity assets and supply of electricity. These advisory notes have been included in the recommended conditions of consent to be reported to Council.

NSW Department of Planning and the Environment (DPE)

Clause 81 of the *Environmental Planning and Assessment Regulation 2000* provides that the consent authority must forward a copy of all submissions received in response to the public exhibition at the completion of the advertising and notification period. The submissions were forwarded to DPE and no response was received within 21 days.

MATTERS FOR CONSIDERATION – SECTION 4.15**s4.15(1)(a)(i) – The provisions of any EPI**State Environmental Planning PoliciesState Environmental Planning Policy (Coastal Management) 2018

The SEPP (Coastal Management) 2018 aims to promote an integrated and co-ordinated approach to land use planning through the management of development within coastal management areas. The proposal is located within a Coastal Wetland area, coastal wetland proximity area, coastal use area and coastal environment area as defined by the SEPP. The proposal involves earthworks and clearance of native vegetation and/or harm of marine vegetation within these areas and in accordance with Clause 10 of the SEPP requires development consent. As per Clause 10 of the SEPP, development consent must not be granted for development within a coastal wetland area unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland.

It is considered that the existing ecological environment and potential ecological constraints have been adequately assessed within the provided Environmental Impact Statement and the proposal is unlikely to have a significant impact on threatened species, populations, communities or their habitats or any hydrological features of the coastal wetland, provided that appropriate conditions of consent are applied. The proposed culvert upgrade is anticipated to have long-term positive impact on the Mambo Wetlands by increasing hydrological exchange.

State Environmental Planning Policy (Infrastructure) 2009 (Infrastructure SEPP)

Clause 94 of the Infrastructure SEPP permits development on any land for the purpose of a road or road infrastructure facilities to be carried out by or on behalf of a public authority without consent. While the Project is consistent with road or road infrastructure facilities being undertaken by a public authority, it occurs on land that is regulated by the Coastal Management SEPP (2018) and therefore the Infrastructure SEPP does not apply to the proposal.

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State Environmental Planning Policy No 44 – Koala Habitat

State Environmental Planning Policy No.44 – Koala Habitat (SEPP 44) aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for Koalas to ensure a permanent free-living population over their present range and reverse the current trend of Koala population decline. In accordance with SEPP 44, Council has prepared the Comprehensive Koala Plan of Management (CKPoM). The subject site is mapped as preferred koala habitat, however it is noted that the majority of the site consists of disturbed road side vegetation with a stand of treed vegetation as the canopy. The proposal is expected to modify approximately 0.8 ha of native vegetation including the removal of up to 14 preferred Koala feed trees.

The proposal involves the prioritised retention of preferred koala habitat trees and no removal of supplementary or habitat linking areas is proposed. Compensatory plantings for the removal of Koala feed trees will be installed within areas identified for koala habitat rehabilitation and will be prescribed within a Vegetation Management Plan (VMP). The VMP will detail long-term management, protection and rehabilitation of native vegetation including preferred Koala Habitat.

The proposed upgrades to Foreshore Drive include traffic calming devices and increased visibility to reduce vehicle strike. The proposal does not involve any fencing which would restrict koala movement and the works. During construction, risks to koala will be managed through pre-clearance inspections prior to tree removal and supervision by a suitably qualified ecologist during the felling of any koala feed trees. It is considered that the application suitably addresses the requirements of the CKPOM and is unlikely to have a significant impact on the koala population.

State Environmental Planning Policy No 55 - Remediation of Land

State Environmental Planning Policy No.55 – Remediation of Land (SEPP No.55) provides a State-wide planning approach to the remediation of contaminated land. The provisions of SEPP No.55 provide that a consent authority must not consent to the carrying out of development on land unless it has given consideration to whether the land subject to the development is contaminated. Where the land is contaminated a consent authority must determine if the land is suitable in its contaminated state for the development, or alternatively determine that the land would be suitable once remediated.

The subject site has a history of use as a road, facilitating vehicle access between Salamander Bay and Nelson Bay. Further, much of the areas within the road verge and adjacent Joe Redman Reserve are largely vegetated. As such, the land is unlikely to be subject to contamination and does not warrant further investigation. The subject site is suitable for the proposed development and the objectives of SEPP No.55 have been satisfied.

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

The proposed development includes a road upgrade and drainage works and is permissible with consent. The subject site is zoned E2 Environmental Conservation and the objectives of the zone include to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values and prevent development that would have adverse effect on those values. The development addresses the objectives of the E2 zone through the provision of a road upgrade and drainage works which would not result in any significant impact to the natural environment and would have long-term positive impact on the Mambo Wetlands by increasing hydrological exchange via the new culvert.

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Clause 5.10 – Heritage Conservation

The objective of this clause is to conserve the heritage of Port Stephens, including significant heritage items and areas, environmental features, archaeological sites and Aboriginal heritage. An Archaeological cultural heritage and historic heritage due diligence assessment has been undertaken in respect of the subject site, which found that the project is unlikely to interact with or disturb any undisturbed deposits that may be present within the project site or cause impact to any sites recorded on the Aboriginal Heritage Information Management System (AHIMS). A search of the NSW State Heritage Register and Inventory reveals that there are no non Aboriginal heritage listings located within the project area. No impacts are anticipated to occur to any Aboriginal or non-Aboriginal heritage features and therefore the proposal is considered consistent with the requirements of this clause.

Clause 7.1 – Acid Sulfate Soils

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The subject site is identified as containing class 2 and class 3 acid sulfate soils (ASS). The proposed works would involve excavations below the natural ground surface and may result in changes to groundwater. A geotechnical report and Acid Sulfate Soils Management Plan (ASSMP) was provided with the application which comprises suitable measures to prevent and minimise the discharge of ASS leachate to the surrounding environment. A condition of consent has been recommended requiring that the ASSMP be included in the CEMP. It is considered that the proposed development satisfies the provisions of clause 7.1.

Clause 7.2 – Earthworks

The objective of clause 7.2 is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighboring uses, cultural or heritage items or features of the surrounding land. The proposal involves excavation to a depth of up to 0.6m required for the proposed pavement widening, pavement rehabilitation works and replacement of the existing pipe culvert in Mambo Creek. It is noted that no earthworks or alteration of bed depth and width would be required for works associated with the open drainage channel.

Exposure of soils during earthworks will include stripping of topsoil, excavation, stockpiling and materials transport which may result in soil erosion and mobilisation of sediment offsite. The Environmental Impact Statement details mitigation measures which will be implemented within the CEMP. Conditions have been included in the recommended conditions of consent to be reported to Council requiring that a CEMP be submitted to and determined to be satisfactory by Port Stephens Council which must include an Erosion and Sediment Control Plan. Subject to the recommended conditions, the development is satisfactory having regard to clause 7.2.

Clause 7.3 – Flood Planning

The objective of clause 7.3 is to minimise flood risk to life and property associated with the use of the land. The subject site is located within high hazard flood fringe and high hazard floodway areas. The proposed works will improve the drainage system along Foreshore Drive as well as improve the tidal water entering the Mambo wetland. Overall, the proposal would improve long-term stability of the roadway, reducing flood impacts and creating a positive impact on road and pedestrian safety.

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In response to the objectives of clause 7.3, the proposal is considered to be satisfactory as it:

- Is compatible with the flood hazard of the land;
- Will not significantly adversely affect flood behavior resulting in detrimental increases in the potential flood affectation of other development or properties;
- Incorporates appropriate measures to manage risk to life from flood;
- Will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and
- Is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

To this extent, it is considered that development consent can be granted in accordance with clause 7.3 of the LEP, as the consent authority is satisfied that matters outlined in clause 7.3(3) have been appropriately addressed.

Clause 7.9 – Wetlands

The objective of this clause is to ensure that wetlands are preserved and protected from the impacts of development. The subject site contains wetlands identified under the LEP. Subject to conditions of consent, the proposal would not significantly impact native flora and fauna, impact on the provision of quality habitat on land for indigenous and migratory species, or alter the surface and groundwater characteristics. Therefore, the proposal is considered satisfactory having regard to the requirements of clause 7.9.

s4.15(1)(a)(ii) – Any draft EPI

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

s4.15(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.12 – Notification and Advertising

In accordance with the requirements of chapter A.12, the development application was notified and advertised for a period of 30 days from 7 December 2018 to 4 January 2019.

Section B2 – Natural Resources

The subject land includes vegetation mapped as endangered ecological communities (EEC) – coastal saltmarsh, swamp sclerophyll forest, freshwater wetlands and vegetation mapped as preferred koala habitat. Further, the subject site is located within the Salamander Bay Sanctuary zone of the Port Stephens - Great Lakes Marine Park and a wetland identified within the LEP. The proposed development will involve a number of local environmental impacts related to:

- Removal of EEC and potential alteration of composition and/or extent associated with hydrological alterations;
- Removal of 14 preferred Koala feed trees;
- Removal of four hollow-bearing trees;
- Impacts to Koala habitat connectivity;
- Removal of mangroves;
- Impacts to marine vegetation;
- Temporary blockage of fish passage; and

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- Potential impacts to oyster leases.

Notwithstanding, the assessment of the application has identified the proposal is unlikely to have a significant impact on threatened species, populations, communities or their habitats or any hydrological features of the coastal wetland. Impacts associated with the proposal have been minimised through the design phase and measures to mitigate further impacts will be imposed through conditions of consent.

Furthermore, it has been demonstrated that the proposed development is unlikely to impact on a matter of national environmental significance. Despite the short term impacts associated with vegetation clearing and earthworks, the proposed upgrade to the Mambo Creek culvert is anticipated to have a long-term positive impact on the Mambo Wetlands by increasing hydrological exchange. Accordingly, subject to recommended conditions, which relate to; NSW State Government permits, licences and statutory requirements relating to vegetation management, stormwater controls, compensatory replanting and replacement of tree-hollows or implementation of nest boxes, the proposed development is considered satisfactory.

Section B3 – Environmental ManagementAcid sulfate soils

Refer to discussion under clause 7.1 of the LEP within this report. Subject to recommended conditions of consent proposed development meets the requirements of Section B3.

Earthworks

Refer to discussion under clause 7.2 of the LEP within this report. Conditions of consent have been recommended relating to the provision of an Erosion and Sediment Control Plan and the quality of fill being VENM or ENM and maximum extent of fill and grading requirements to ensure any impacts of the development are appropriately avoided, minimised or mitigated. Subject to conditions of consent the proposed development meets the requirements of Section B3.

Section B4 – Drainage and Water Quality

The proposed upgrading of the culvert would improve the drainage system along Foreshore Drive as well as improve the tidal water entering the Mambo wetland. Overall, the proposal will improve long-term stability of the roadway, reducing flood impacts and creating a positive impact on road and pedestrian safety. Therefore, it is considered that the proposal is consistent with the requirements of this section.

Section B5 – Flooding

Refer to discussion under clause 7.3 of the LEP. Overall, the proposal will reduce flood impacts to Foreshore Drive and therefore it is considered that the proposal is consistent with the requirements of this section.

Section B8 – Heritage

Refer to discussion under Clause 5.10 of the LEP within this report. No impacts are anticipated to occur to any Aboriginal or non-Aboriginal heritage features and therefore the proposal is considered consistent with the requirements of Section B8.

Section B9 – Road Network and Parking

The application includes the following road network upgrade works:

- Road widening and raising to reduce flood impacts
- A two metre wide sealed shoulder bicycle lane
- Traffic calming measures – speed bumps

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Foreshore Drive is to be closed to the public for the duration of works, with local traffic directed via an alternative route. As a result, a Traffic Management Plan is required, and a Pedestrian Access and Safety Plan would be included within the CEMP. Overall, the proposal is considered to create a positive impact on road and pedestrian safety. Due to the works being carried out within a public road reserve, approval from Council is required under section 138 of the *Roads Act 1993* and will be lodged separately, including detailed engineering plans. A condition of consent has been recommended, requiring the lodgement of a Roads Act approval with Council.

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

There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.

s4.15(1)(a)(iv) – The regulations

In accordance with Schedule 2, Part 2 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), the Secretary's Environmental Assessment Requirements (SEARs) were requested from the Secretary of Department of Planning and Environment for the preparation of the EIS and Biodiversity Impact Assessment. The SEARs have incorporated requirements of agencies including NSW Department of Primary Industries (Fisheries) and the Office of Environment and Heritage (OEH).

s4.15(1)(b) – The likely impacts of the development**Social and Economic Impacts**

The proposal will result in positive social and economic impacts by improving road and pedestrian safety. Improved drainage via the implementation of the culvert upgrade would reduce the impact of flooding and reduce the likelihood of road closure during heavy rain events. The socio-economic impacts as a result of road closure during construction works are considered to be minor and of a short duration and overall, it is considered that the proposal would have a positive social and economic impact.

Impacts on the Built Environment

Impacts to the built environment would be limited due to the nature of the proposal involving a road upgrade and a new culvert structure. The proposed upgrades will enhance the appearance of the existing roadway whilst respecting the environmental features of the site.

Impacts on the Natural Environment

The proposal is unlikely to have a significant impact on threatened species, populations, communities or their habitats or any hydrological features of the coastal wetland. Due to the small localised scale of clearing and earthworks and the implementation of mitigation measures throughout the construction and operation of the proposal, impacts are unlikely to be significant.

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

It is considered that the site is capable of supporting the proposed development as demonstrated within the EIS and would result in an overall improvement of hydrological flows within the adjacent Mambo Wetlands. Despite being within an ecologically diverse location, provided appropriate mitigation and management measures are implemented, the site can be developed without any significant impacts on the natural environment.

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s4.15(1)(d) – Any submissions

The development application was notified and advertised for a period of 30 days between 7 December 2018 and 4 January 2019. During this time, five submissions from three individuals and two community groups were received in relation to the proposed development. The issues raised within the submissions are discussed in further detail in the table below.

Submission summary	Submission response
The predicted flood levels within the EIS are conservative. The study models a flat rate of rainfall across the entire culvert catchment and therefore does not consider localised variations in rainfall intensity. Increased frequency of extreme weather occasioned by climate change will result in continued flooding.	The flood modelling within the EIS was carried out in accordance with the NSW Floodplain Development Manual 2005 and examines the impact on existing flood behaviour for a full range of flood events including up to the probable maximum flood (PMF). The application has been reviewed by Councils Engineering Section and the predicted flood levels are considered satisfactory in this regard.
The EIS does not give regard to noxious weeds, including <i>Ludwigia peruviana</i> and <i>bryophyllum delagoense</i> that invade large tracts of the wetlands and road reserve.	Consideration of noxious weeds is given in the Mambo Wetland Ecological Assessment appended to the EIS. A review of this was undertaken by Council's Natural Resources Section. In response, it is recommended that a condition be implemented requiring the preparation of a site-specific Construction Environmental Management Plan (CEMP), and must include a Pest Management Plan addressing noxious weeds and environmental pests. It is considered that the impact of noxious weeds can be adequately addressed in the CEMP.
The application does not give reference or assessment of impacts to the <i>dendrobium teretifolium</i> , commonly known as the Rat's tail Orchid located at the eastern end of Joe Redman Reserve (west portion of the project area).	<i>Dendrobium teretifolium</i> is an epiphytic orchid that occurs almost exclusively on <i>Casuarina glauca</i> (Swamp Oak). Whilst this species is protected, it is not a threatened species and therefore does not require formal assessment.
The existing pedestrian pathway is often blocked by parked vehicles and requires greater policing and the existing cycle path finishes at Joe Redman Reserve.	This area is not located within the subject site of the proposed development and therefore is not relevant to the current assessment. The policing of illegal parking on the footpath is a matter for local law enforcement by the Port Stephens Council Rangers. Any future upgrades or extensions to cycle paths proposed outside this DA would be completed under future capital works programs.

ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2018-773-1

<p>Design option 4 (within the EIS) should be reconsidered as the best option to complete the work.</p>	<p>Option 4, as detailed under section 2.3 in the EIS would replace the Mambo Creek Culvert with four Reinforced Concrete Box Culvert (RCBC) of 2400mm x 1200mm each and raise and widen Foreshore Drive between Mambo Creek and residential areas to the east.</p> <p>It is noted that Option 4, would include the provision of two, extra RCBC's with greater widths than that proposed in the application. The EIS recognises that this option would have the greatest environmental benefit to the wetland however, the option was not preferred due to the significant capital cost involved, extensive construction works and associated construction impacts to the Mambo Wetland.</p> <p>The proposed design (option 3 in the EIS) is considered satisfactory as it would provide improved access and safer road and pedestrian conditions on Foreshore Drive by reducing flooding of the roadway during high tidal and rainfall events. The proposal meets the objectives of the project while maintaining satisfactory environmental outcomes and is therefore considered the most appropriate option.</p>
<p>Environmental Officers from Council be present at critical times during the project when the impact on Mambo Wetlands is likely the greatest.</p>	<p>The EIS details that should construction proceed, management measures, including ongoing environmental monitoring should be incorporated into the detailed design and applied during the construction and operation.</p> <p>A condition is recommended requiring the preparation of a CEMP to outline monitoring of erosion and sediment control, vegetation management and water quality monitoring throughout construction and during ongoing operations and maintenance.</p> <p>In addition, a condition is recommended requiring a suitably qualified ecologist to be present during the removal of approved native trees. Certification of the supervision is required to be submitted and deemed satisfactory by PSC Natural Resources Section in this regard.</p>

ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2018-773-1

	It is considered that the monitoring measures to be implemented within the CEMP and the certification of supervision provides for adequate environmental management and the presence of Council officers would not be required.
Koala feed trees such as eucalyptus robusta have been identified on plans. These should be clearly marked to avoid accidental damage and monitored by council's environmental staff.	It is recommended that a condition be incorporated requiring trees identified for removal and/or retention to be marked with different coloured flagging tape under the supervision of an appropriately qualified flora ecologist.
The plans detail drainage paths to be cleared of fallen debris to allow free flowing drainage in the drain opposite Joe Redman Reserve. The fallen trees and debris in this area provide pathways across the water for koalas seeking shelter and food in Joe Redman Reserve. Removal of the trees would impact the koala population and disrupt their natural movement.	Potential impacts to the Koala have been assessed within the EIS and reviewed by Councils Natural Resources Section. From this, it was determined that there would be no significant impact to the koala.
The speed humps should be relocated to the central area opposite Joe Redman Reserve. Currently, the distance between the speed humps allows vehicles to speed up in between. The sight of a koala opposite Joe Redman Reserve can lead to dangerous traffic conditions. Some extra signage may help here as well as the widening of the road.	The proposed speed humps marked within Area 1 and 2 on the plans, correspond with the start and end locations of John Redman Reserve. The placement of speed humps in this location would act to slow traffic in these areas. 25km/h advisory signs are also located in conjunction with the speed humps and 30m - 50m before the hump in accordance with AS 1742.13.
The temporary site compound within the road reserve on or near Joe Redman Reserve would be used for plant maintenance and material storage or workers vehicles. This will result in considerable damage to an acknowledged environmentally fragile area that is also subject to flooding. Serious attention and supervision during the construction phase to avoid irreversible damage to Joe Redman Reserve.	<p>Construction is anticipated to take 16 weeks and that after construction all disturbed areas would be stabilised and rehabilitated to a pre-construction equivalent.</p> <p>The stockpiling of materials within the site compound area would not require the removal of native vegetation, not be located under the drip line of trees, be located outside areas of weed infestation and be located such that waterways and drainage lines are not directly impacts.</p> <p>Further to this, any stockpiles would be located away from areas subject to overland flow and at least 10m from any watercourse. It is considered that the above mitigation measures, combined with the proposed rehabilitation would not result in any significant damage to the Joe Redman reserve.</p>

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ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2018-773-1

The Aboriginal Cultural Heritage Due Diligence assessment does not mention tangible and intangible evidence, nor the importance of landscapes, native species, art, modified trees, etchings, geological formations, burials, artefacts within the surrounding area. The assessment does not include adequate consultation within indigenous and non-indigenous locals.	This Aboriginal Archaeological Cultural Heritage Due Diligence Assessment has been prepared in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales, The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance (Burra Charter) (2013) and the relevant best practice standards set out by the NSW Heritage.
Consultation with Local Land Services, DPI Fisheries, DPI Marine Parks, OEH, oyster farmers and other interested parties/wildlife organisations.	Consultation has occurred and has been documented with all the listed agencies with the exception of Local Land Services as detailed within the EIS and this report. There are no legislative requirements, requiring consultation with Local Land Services in the case of this application.
The drain behind the concrete wall should be cleared to improve natural water flows and tree removal in this area should be reconsidered.	It is assumed the submission relates to the 'Stinky Creek' concrete drainage structure. The drainage structure is proposed to be cleared of sediment and blockage. Some vegetation removal is proposed within the open drainage channel in this area to facilitate future maintenance of the drainage channel.
An alternative pedestrian and cyclist pathway should be considered close to the foreshore to improve safety.	The proposal incorporates road widening and a two metre wide sealed shoulder bicycle lane, as well as traffic calming devices to enhance pedestrian and cyclist safety.
Native vegetation should not be over cleared to protect native wildlife and vegetation communities.	Vegetation removal has been assessed as part of the application, and determined that there would be no significant impact.
OEH should be notified if Aboriginal artefacts are found during works.	An advisory note is recommended to be incorporated into any consent, requiring work to cease immediately and contact be made with the Office of Environment and Heritage (OEH), in the event of any aboriginal artefact, object or structure being unearthed. Work must not recommence until the material has been inspected and permission has been given by OEH to proceed.

ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2018-773-1

s4.15(1)(e) – The public interest

The proposal would result in improved safety for road users, reduce the impacts of flooding and improve the environmental conditions of the Mambo Wetland. Furthermore, the proposed development involves a number of protective measures which will ensure that impacts on the surrounding environment will be appropriately managed and minimised. Accordingly, the proposed development supports and promotes the public interest.

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Notice of Determination

Under Section 4.16, 4.17, 4.18(1)(a) and Schedule 1, Clause 20(2) of the Environmental Planning and Assessment Act 1979 (NSW).

SCHEDULE 2

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. The development shall be carried out in accordance with the stamped approved plans and documentation as listed below, except where modified by any condition of this consent or as shown in red colour on the plans.

Plan/Doc.Title	Plan Ref. No	Sheet.	Date	Drawn By
Site Plan, Design Specification Data & Typical Road Sections	PSC2018- 00627	1 - 17	20.2.2018	Port Stephens Council
Drainage maintenance Detailed Plan Existing Culvert Works	PSC2018- 00627	1 of 1	7.11.2018	Port Stephens Council

Note 1: In the event of any inconsistency between the:

- Approved plans and the conditions, the conditions will prevail; or
- Approved plans and supplementary documentation, the plans will prevail.

Note 2: The consent relates only to those works indicated as proposed on the approved plans. No assessment has been undertaken of those structures marked as existing, and this consent does not extend to include any such structures.

Note 3: Modifications to the approved plans will require the lodgement and consideration by Council of a modification application pursuant to Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

CONDITIONS THAT IDENTIFY LIMITATIONS OF CONSENT

2. The development shall be undertaken in accordance with conditions specified by the Department of Primary Industries (Fisheries NSW) (referenced FE18/982 and dated 24 December 2018). A copy of the General Terms of Approval is attached to this determination notice.

CONDITIONS THAT IDENTIFY OTHER APPROVALS REQUIRED

3. A Works on Public Infrastructure Application under Section 138 of the Roads Act 1993 is to be lodged with Council as the Roads Authority



Notice of Determination

Under Section 4.16, 4.17, 4.18(1)(a) and Schedule 1, Clause 20(2) of the Environmental Planning and Assessment Act 1979 (NSW).

The application is to be accompanied by detailed engineering plans in accordance with Council's Infrastructure Specification and approved plans.

CONDITIONS TO BE SATISFIED PRIOR TO THE REMOVAL OF VEGETATION OR COMMENCEMENT OF WORKS

The following conditions are to be complied with prior to the removal of vegetation or commencement of works on the subject site (whichever occurs first).

4. **Prior to the removal of vegetation or commencement of works** (whichever occurs first), the person having the benefit of this consent shall contact Hunter Water Corporation (HWC) to ensure that the approved works do not impact upon existing or proposed HWC infrastructure. A copy of the information received by HWC shall be provided to Council within 10 days of receipt. Should HWC require modification to the approved development a Section 4.55 Modification Application and/or modified Construction Certificate Application should be lodged.
5. **Prior to the removal of vegetation or commencement of works** (whichever occurs first), photographic documentation or any other relevant documentation certifying that the construction boundary has been fenced, erosion and sediment control measures are in place, and that tree protection and vegetation exclusion fencing has been installed in accordance with the approved plans and the conditions of this consent are to be submitted to and approved by Council.
6. **Prior to the removal of vegetation or commencement of any works** (whichever occurs first), a Construction Environmental Management Plan (CEMP) must be prepared by a suitably experienced consultant and in accordance with the most recent version of the NSW Department of Planning and Environment's Guidelines for the preparation of a CEMP. The CEMP shall also include the recommended safeguards and mitigation measures as detailed in the Environmental Impact Statement prepared by Umwelt (2018) (ref: 4387_R01 and dated: 23/11/18) and letter prepared by Umwelt (2019) (ref: Post EIS NR RFI Response_20190225_ltr and dated 26/22/19)

Vegetation removal and/or the commencement of works shall not occur until Council has provided written correspondence that the CEMP is satisfactory.
7. **Prior to the removal of vegetation or commencement of any works** (whichever occurs first), an Operational Environmental Management Plan (OEMP) must be prepared by a suitably experienced consultant and in accordance with the most recent version of the NSW Department of Planning and Environment's Guidelines for the preparation of a OEMP. The OEMP must include measures to protect and manage the environmental and ecological values of the site for routine works over the length of Foreshore Drive and within the Stinky Creek and Mambo Creek drainage system. The OEMP shall also include the recommended safeguards and mitigation measures as detailed in the Environmental Impact Statement prepared by Umwelt (2018) (ref: 4387_R01 and dated: 23/11/18) and letter prepared by Umwelt (ref: 4387A_PSC_Post EIS fire advice_20190121_ltr and dated: 21 January 2019).

ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.**Notice of Determination**

Under Section 4.16, 4.17, 4.18(1)(a) and Schedule 1, Clause 20(2) of the Environmental Planning and Assessment Act 1979 (NSW).

Vegetation removal and/or the commencement of works shall not occur until Council has provided written correspondence that the OEMP is satisfactory.

8. **Prior to the removal of vegetation or commencement of any works** (whichever occurs first), documentation of all relevant approvals, licences and permits must be submitted to Port Stephens Council Natural Resources Section.
9. **Prior to the removal of vegetation or commencement of any works** (whichever occurs first), the site is required to be inspected by Council's Invasive Species Team a minimum of one week prior to the commencement of works.
10. **Prior to the removal of vegetation or commencement of any works** (whichever occurs first), environmental site inductions will be conducted for all personnel working on the site. Discussion on specific mitigation measures required for management of key environmental aspects must be included as part of the induction. Records of the induction including content and personnel inducted must be kept.
11. **Prior to the removal of vegetation or commencement of any works** (whichever occurs first), all contractors, sub-contractors, and personnel shall be inducted onto the site and informed of all vegetation, fauna and Aboriginal heritage protection requirements detailed in this consent.
12. **Prior to the removal of vegetation or commencement of any works** (whichever occurs first), the property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking". Protection measures may include erosion and sedimentation controls as required. All protection measures are to be installed to the satisfaction of Council and must be regularly maintained for the duration of works and until the site is stabilised by vegetation or the like.

CONDITIONS TO BE SATISFIED DURING WORKS

The following conditions are to be complied with during works.

13. A temporary toilet(s) shall be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided shall be one toilet per 20 persons or part thereof employed on the site at any one time. The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.
14. All works are to be undertaken in accordance with the CEMP, as specified in Condition No. 6 of this consent.
15. A weeds wash down area must be established and subsequently monitored for the presence of priority weeds including:
 - Long leaf willow Primrose (*Ludwigia longifolia*)



Notice of Determination

Under Section 4.16, 4.17, 4.18(1)(a) and Schedule 1, Clause 20(2) of the Environmental Planning and Assessment Act 1979 (NSW).

- Mother of Millions (*Bryophyllum* species)
- Bitou Bush (*Crysanthemoides monilifera*)
- Common Pear (*Opuntia stricta*)
- Blackberry (*Rubus fruticosus* species aggregate)
- Lantana (*Lantana camara*)

All machinery and equipment that has operated in affected areas is considered contaminated and must be cleaned thoroughly before leaving the site. Cleaning must include the removal of all mud and plant matter, followed by washing down with high pressure water.

CONDITIONS TO BE SATISFIED AT ALL TIMES

The following conditions are to be complied with at all times.

16. **At all times**, safeguards and mitigation measures as detailed within the 'Environmental Impact Assessment – Foreshore Drive Upgrade' prepared by Umwelt and dated November 2018 must be adhered to prior to and during construction as well as during operation of the development.
17. **At all times**, construction and maintenance works shall be conducted in accordance with the approved management plans.
18. **At all times**, ongoing maintenance activities are to be undertaken in accordance with the OEMP, as specified within Condition No. 7 of this consent.
19. The only fill material that may be received at the development site is:
 - a) Virgin excavated natural material (VENM) within the meaning of the Protection of the Environment Operations Act (POEO Act 1997); or
 - b) Excavated natural material (ENM) within the meaning of the POEO Act 1997; or
 - c) Any other waste-derived material the subject of a resource recovery exemption under s.91 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material.

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.

Any fill, soil, mulch and plant bought onto the site must be certified as free of weeds and weed seeds.

ADVISORY NOTES

The following advice is limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

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

16-2018-773-1

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Notice of Determination

Under Section 4.16, 4.17, 4.18(1)(a) and Schedule 1, Clause 20(2) of the Environmental Planning and Assessment Act 1979 (NSW).

- A. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.
- B. Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au
- C. In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Office of Environment and Heritage (OEH) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by OEH to proceed.
- D. The development site is located in close proximity to overhead powerlines. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice outlines the minimum safety separation requirements between these overhead mains / poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction.
- E. There is an existing easement in favour of Ausgrid within the subject land. The purpose of the easement is to protect Ausgrid assets and to provide adequate working space along the route of the line for construction and maintenance work and also to ensure that no work or other activity is undertaken under or near the assets which could either by accident or otherwise create an unsafe situation for persons or for the security of the assets. Under the terms of the easement any works proposed within the easement must be approved by Ausgrid.
- F. Should any existing Ausgrid assets require relocating to facilitate the development, this relocation work is generally at the applicants cost. These costs would not only include the cost of the works but also all costs associated with the creation of revised easements.

ITEM NO. 3

**FILE NO: 19/115087
EDRMS NO: 16-2017-837-1**

DEVELOPMENT APPLICATION NO.16-2017-837-1 FOR TWO INTO 39 LOT TORRENS TITLE SUBDIVISION (INCLUDING ONE RESIDUE LOT AND ONE DRAINAGE RESERVE LOT), DEMOLITION OF DWELLING AND CONSTRUCTION OF SEVEN DWELLINGS AT 799, 813 AND 813A MEDOWIE ROAD, MEDOWIE (LOT: A DP404939, LOT: 32 DP1045148, LOT:4 DP632334)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2017-837-1 for two into 39 Lot Torrens title subdivision (including one residue lot and one drainage reserve lot), demolition of dwelling and construction of seven dwellings at 799 Medowie Road, Medowie, 813 Medowie Road, Medowie and 813A Medowie Road, Medowie (Lot A DP404939, Lot 32 DP1045148 and Lot 4 DP632334), subject to the Recommended Conditions of Consent contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

088	<p>Councillor Chris Doohan Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Approve Development Application DA No. 16-2017-837-1 for two into 39 Lot Torrens title subdivision (including one residue lot and one drainage reserve lot), demolition of dwelling and construction of seven dwellings at 799 Medowie Road, Medowie, 813 Medowie Road, Medowie and 813A Medowie Road, Medowie (Lot A DP404939, Lot 32 DP1045148 and Lot 4 DP632334), subject to the amended Recommended Conditions of Consent contained in (ATTACHMENT 1).2) Amend Condition No.12 in the recommended conditions of consent to: <p>Prior to the issue of a Construction Certificate, a Works on Public Infrastructure Application under Section 138 of the <i>Roads Act 1993</i> is to be lodged with Council as the Roads Authority. The application is to be</p>
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	<p>accompanied by:</p> <ul style="list-style-type: none"> a. Plans for all civil works within a road reserve, approved by the Roads Authority and consistent with this condition; b. Plans detailing the intersection of Road 1 and Medowie road designed as left out, exit only in accordance with AustRoads Guide to Road Design and RMS supplements; c. Emergency access only signage details to be positioned on the Road 1 and Medowie Road intersection; d. A detailed plan of the 4-way Intersection of road 1, 2, 4 and Peppertree Road, including regulatory signage and line marking shall be submitted to and approved by the Port Stephens Local Traffic Committee; e. A detailed plan of any required regulatory signage & line marking prepared and approved by the Port Stephens Local Traffic Committee; f. Any associated works to ensure satisfactory transitions to existing infrastructure; g. Concrete footpath 1.2 metres wide connecting the development to public infrastructure within peppertree road and Medowie road; h. Concrete pad to cater for a bus stop compliant with the Disability Discrimination Act and Council Standard Drawings within Medowie road adjacent to 799 & 805 Medowie Road Medowie; i. Traffic control plans in accordance with the Roads and Maritime Services– Traffic Control at Worksites Manual prepared by an accredited practitioner; j. Payment of applicable fees and bonds; and k. Contractor's public liability insurances to a minimum value of \$20 million dollars. <p>The above works are to be completed prior to the issue of a Subdivision Certificate, with a compliance certificate obtained from Council as the Roads Authority.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Giacomo Arnott.

BACKGROUND

Development Application (DA) No.16-2017-837-1 was reported to Council at its meeting on 9 April 2019 with a recommendation for approval. Council resolved to defer determination of the item to 14 May 2019. The resolution is provided below:

Meeting Minute 076: It was resolved that Council defer development Application DA No. 16-2017-837-1 for two into 39 Lot Torrens title subdivision (including one residue lot and one drainage reserve lot), demolition of dwelling and construction of seven dwellings at 799 Medowie Road, Medowie and 813 Medowie Road, Medowie (Lot A DP404939 and Lot 32 DP1045148 (**ATTACHMENT 5**).

During the meeting of 9 April 2019 Councillors enquired as to whether access to Medowie Road from Proposed Road No.1 could be an emergency vehicle only access point. Council staff have liaised with the Rural Fire Service (RFS) regarding whether an emergency access gate would be supported in this location in order to limit access to emergency vehicles only. The RFS have advised that emergency access gates are not generally supported on public roads as they result in obstacles for emergency vehicles and may create traffic jams during emergency situations.

Therefore, should an emergency access gate be incorporated into the current development proposal the RFS would be required to undertake a further assessment of the application and the previously issued General Terms of Approval (GTA) would

likely require amendment. Referral to the RFS for assessment would be required to occur prior to the determination of the application.

As an alternative to the provision of an emergency access gate, Council staff explored the option to install signage stating 'no entry and emergency access only' at the Proposed Road No.1 and Medowie Road intersection. However, whilst installation of signage could be facilitated, the assessment of the application has determined that proposed intersection design is satisfactory in its current form and emergency access signage is not necessary as detailed with the Planners Assessment Report contained at (**ATTACHMENT 2**).

It is further noted that the application has been referred to the Local Traffic Committee (LTC) Meeting of 7 May 2019 as required by the Recommended Conditions of Consent contained at (**ATTACHMENT 3**). Finalised minutes of the LTC meeting will be provided to Councillors for consideration prior to the 14 May 2019 Council Meeting.

During the meeting of 9 April 2019 Councillors also requested that Council officers consider whether the Spotted Gums, which can reach a mature height of 30 metres, proposed as street trees along part of Proposed Road No.1 are a suitable street tree for the subject location. In response, Condition No.10 contained in the Recommended Conditions of Consent (**ATTACHMENT 3**), which requires that the applicant prepare a street tree planting plan consistent with Port Stephens Council Tree Technical Specifications prior to issue of a Construction Certificate, has been amended to specify the maximum height of trees species proposed must not exceed a maximum height of 20 metres.

The 9 April 2019 Council Report is provided below. No changes have been made to this report since it was reported to Council on 9 April 2019.

Council Report – 9 April 2019

The purpose of this report is to present a development application (DA) 16-2017-837-1 for a two into 39 lot Torrens title subdivision (including one residue lot and one drainage reserve lot), demolition of dwelling and construction of seven dwellings to Council for determination. The application was called to Council as contained in **(ATTACHMENT 4)**.

The subject DA relates to land located on 799 Medowie Road and 813 Medowie Road, Medowie (Lot A DP404939 and Lot 32 DP1045148). A Locality Plan is provided at **(ATTACHMENT 1)**.

Proposal

The application proposes a two into 39 lot Torrens title subdivision. The development includes a number of new roads with connections to both Peppertree Road and Medowie Road. The subdivision will comprise 37 residential lots and includes the following:

- Creation of 29 regular development lots with a range of sizes between 500m² and 815m².
- Demolition of an existing dwelling.
- Seven lots incorporating a dwelling below the minimum lot size, each being approximately 350m². The proposed lots satisfy lot size exemptions. The dwellings incorporate a split level design with the two storey elevation facing the road frontage. The dwellings will incorporate four bedrooms, a combined kitchen/living/dining room, bathroom and ensuite, laundry, and alfresco.
- One large residue development lot with a size of 4,764m² (proposed Lot 11 which will be the subject of future applications).

In addition to the residential component, the proposal also includes:

- A drainage reserve lot with an area of 1645m² to cater for the stormwater drainage of the development.
- A 12,760m², 83 metre wide lot positioned at the rear of the subject site to be revegetated and managed in accordance with the approved Vegetation Management Plan (VMP). The vegetation within the proposed lot is considered to be of high environmental value and provides vegetation connectivity for fauna species including the Koala.
- A 10 metre wide easement on the property adjoining the subject site to the west (6 Wilga Road, Medowie) further increasing the width of the vegetation corridor, as mutually agreed with the landholder.

Site description and history

The development site encompasses two lots with a combined area of approximately 5.5ha. The subject site currently contains one dilapidated dwelling. The site contains a mix of land forms, with cleared areas on the eastern portion of the site with an increase in vegetation towards the western portion. The Flora and Fauna report submitted with the application noted that the existing vegetation on site is of moderate quality, with the highest quality located closer to the western property boundary. The site includes frontage to the public road network at multiple locations, including Peppertree Road and Medowie Road. The local centre of Medowie is positioned to the south, existing residential lots to the east and west and a significantly vegetated lot to the north as detailed in **(ATTACHMENT 1)**.

The subject site has a number of constraints including; Bushfire prone land, Koala habitat, Endangered Ecological Communities and flood prone land. A detailed assessment of the development is contained in the Planners Assessment Report as contained in **(ATTACHMENT 2)**.

Key issues

The key issues that arose during the assessment related to the potential ecological impacts of the proposed development and potential traffic issues, as outlined below. A detailed assessment of the development is in the Planners Assessment Report as contained in **(ATTACHMENT 2)**.

Ecological impacts

The DA is considered a pending development application and therefore the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* applies to the application. In accordance with Clause 28(1) the former planning provisions under the *Threatened Species Conservation (TSC) Act 1995* applies.

The Flora and Fauna report submitted with the application assessed the potential indirect and direct impact of the development on the surrounding environment. The proposal requires the removal of approximately:

- 0.99ha of the EEC Swamp Sclerophyll Forest;
- 0.53ha of Smooth-barked Apple-Blackbutt Woodland;
- 0.48ha of Forest Red Gum Open Forest; and
- 2.17ha Cleared Grassland.

Approximately 2ha of vegetation to be removed contains koala feed trees. A total of 108 Koala feed trees are to be removed to facilitate the proposed development.

To appropriately mitigate and offset the vegetation removal required to facilitate the development, the following measures have been implemented and appropriately conditioned:

- The creation of a 12,760m², 83 metre wide lot at the rear of the development site. The proposed lot will be revegetated and managed in accordance with the approved VMP. The revegetation is to optimise fauna movement and will require 472 Koala feed trees, 100 scrub species, 50 plant species and 1200 ground cover species to be planted.
- In agreement with the adjacent landholder, the creation of a 10 metre easement on 6 Wilga Road, Medowie, increasing the vegetation corridor width to 93 metres. Koala fencing will be conditioned to maximise vegetation connectivity between the subject site and 6 Wilga Road.

The Planners Assessment Report as contained in **(ATTACHMENT 2)** identified that the environmental impacts have been mitigated to an appropriate level as necessary under the *TSC Act 1995*.

Traffic

The application was submitted with a Traffic Impact Assessment which detailed the Medowie Road intersection design along with the internal road layout and proposed road treatments. The assessment report and layout was considered satisfactory, subject to detailed design requirements imposed as part of the Recommended Conditions of Consent **(ATTACHMENT 3)** will require:

- The intersection on 'Road 1' and Medowie Road to be left in left out. Medowie Road will also be required to be widened in accordance with Austroads and Council requirements; and
- A detailed plan for the four way intersection including regulatory signage to be submitted to and be deemed to be satisfactory by Port Stephens Local Traffic Committee.

Subject to the Recommended Conditions of Consent as contained in **(ATTACHMENT 3)** the additional traffic movements generated by the subdivision will have minimal impact on the surrounding road network and site access will be able to operate with minimal delay. The application is consistent with the requirements of the Roads and Maritime Service (RMS) Guide to Traffic Generating Development, Austroads Guide to Traffic Management and Port Stephens Development Control Plan 2014.

Conclusion

The proposed development is consistent with the relevant environmental planning instruments applicable to the subject site including:

- Section 4.15 of the *Environmental Planning and Assessment Act 1979*
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2014
- State Environmental Planning Policy No. 44 – Koala Habitat Protection
- State Environmental Planning Policy No 55 - Remediation of Land

- Port Stephens Local Environmental Plan 2013 (LEP)
- Port Stephens Development Control Plan 2014 (DCP)

The proposed development will contribute to the housing stock in Medowie. The proposal will stimulate the local economy during the construction phase of the development and support the local economy of Medowie in the longer term through an increase in population. The proposed development is consistent with the adopted Medowie Strategy 2016.

The key issues arising through the assessment of the application have been satisfactorily addressed and supported by sufficient mitigation measures as contained in the Recommended Conditions of Consent (**ATTACHMENT 3**). Accordingly, the proposed development supports and promotes the public interest, and is recommended for approval.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

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

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

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
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 proposal will provide for the housing needs of the community within a low density residential environment and represents a logical residential extension to the surrounding B2 Local Centre zone land. The proposal creates residential lots located within close proximity to local facilities and services, supporting the local economy of Medowie. The range in proposed lot sizes will diversify the housing stock within the subdivision. This is consistent with the intent and direction of the adopted Medowie Strategy 2016.

The proposed development will have minimal adverse impacts on the built environment. The proposed dwellings and future development will provide a range of designs and styles which positively responds to the future streetscape.

The development will not have a significant impact on the natural environment. The impacts to the natural environment to facilitate the proposed development have been appropriately mitigated as required under the *TSC Act 1995* and Port Stephens Comprehensive Koala Plan of Management (CKPoM). Recommended conditions of consent require the vegetation corridor to be revegetated and managed in perpetuity in accordance with the VMP.

The proposed development includes a stormwater system that manages stormwater in accordance with Councils quantity and quality requirements. In addition, a condition of consent is proposed that requires the installation and maintenance of erosion and sedimentation controls.

CONSULTATION

Internal

Consultation was undertaken with internal officers, including; Engineering, Natural Resources (Vegetation Management and Ecology), Building Surveying, Strategic Planning and Development Contributions. The referral comments from these officers were considered as part of the Planners Assessment Report contained in **(ATTACHMENT 2)** and accordingly in the Recommended Conditions of Consent contained in **(ATTACHMENT 3)**.

External

Consultation with Hunter Water Corporation (HWC) was undertaken during the assessment of the application as the proposed development falls within a Hunter Water Special Area. Subject to conditions of consent being imposed, HWC identified that the proposal could be supported.

Consultation was also undertaken with the Rural Fire Service (RFS) during the assessment of the application as the proposed development constitutes subdivision in bush fire prone land. General Terms of Approval (GTA's) were received on 27 September 2018. The GTA's have been imposed in the recommended Notice of Determination (NOD).

Public exhibition

In accordance with Council's notification requirements the application was publicly notified and advertised on two occasions for a period of 14 days between:

- 30 November 2017 and 13 December 2017 – three submissions from three individuals were received.
- 19 July 2018 and 2 August 2018 – five submissions from two individuals were received.

A petition was received 29 January 2019 containing 13 signatures. The petition objected to the development based on traffic and access concerns to Medowie Road.

The key issues raised within the submissions included; overdevelopment, traffic and road implications, estimated cost of works, impacts to the natural environment, stormwater and drainage management. These issues have been addressed in detail within the Planners Assessment Report contained in **(ATTACHMENT 2)**.

The assessment of the application has determined that, subject to the recommended conditions of consent, the issues raised within the submissions have been addressed and the proposed development is recommended for approval.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Planners Assessment Report.
- 3) Recommended Conditions of Consent.
- 4) Call to Council form.
- 5) Minute No, 076 - 9 April 2019.

COUNCILLORS ROOM

- 1) Development Plans.
- 2) Submissions.

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

TABLED DOCUMENTS

Nil.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 48800255 Fax: (02) 48873612 Email: council@portstephens.nsw.gov.au

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.



DEVELOPMENT ASSESSMENT REPORT

APPLICATION DETAILS

Application Number	16-2017-837-1
Development Description	Demolition of dwelling, two into 39 lot Torrens title subdivision (including one residue lot and one drainage reserve lot), demolition of dwelling and construction of seven dwellings
Applicant	TATTERSALL LANDER PTY LTD
Date of Lodgement	16/11/2017
Value of Works	\$10,461,000.00

Development Proposal

The application proposes a two into 39 lot Torrens title subdivision (including one residue lot and one drainage reserve lot), demolition of dwelling and construction of seven dwellings (**Figure 1**). The development includes a number of new roads with connections to both Peppertree Road and Medowie Road. The subdivision will comprise 37 residential lots and includes the following:

- Demolition of the existing dilapidated dwelling;
- Creation of 29 regular development lots with a range of sizes between 500m² and 815m²;
- Seven dwellings positioned on lots below the minimum lot size, each being approximately 350m². The proposed lots satisfy lot size exemptions. The dwellings proposed incorporate a split level design with the two storey elevation facing the road frontage. The dwellings will incorporate four bedrooms, a combined kitchen/living/dining room, bathroom and ensuite, laundry, and alfresco (**figure 2**); and
- One large residue development lot with a size of 4,764m² (proposed Lot 11).

In addition to the residential component, the proposal also includes:

- A drainage reserve lot with an area of 1645m² to cater for the stormwater drainage of the development;
- A 12,760m² lot positioned at the rear of the subject site is to be managed in accordance with the vegetation management plan and restricted under an 88(b) restriction on title. The vegetation in the proposed lot is considered to be of high environmental value and provides vegetation connectivity for fauna species including the Koala; and
- A 10m wide easement on 6 Wilga Road (adjoins the subject site to the west) to further increase the width of the vegetation corridor.



Figure 1 - Proposed subdivision layout

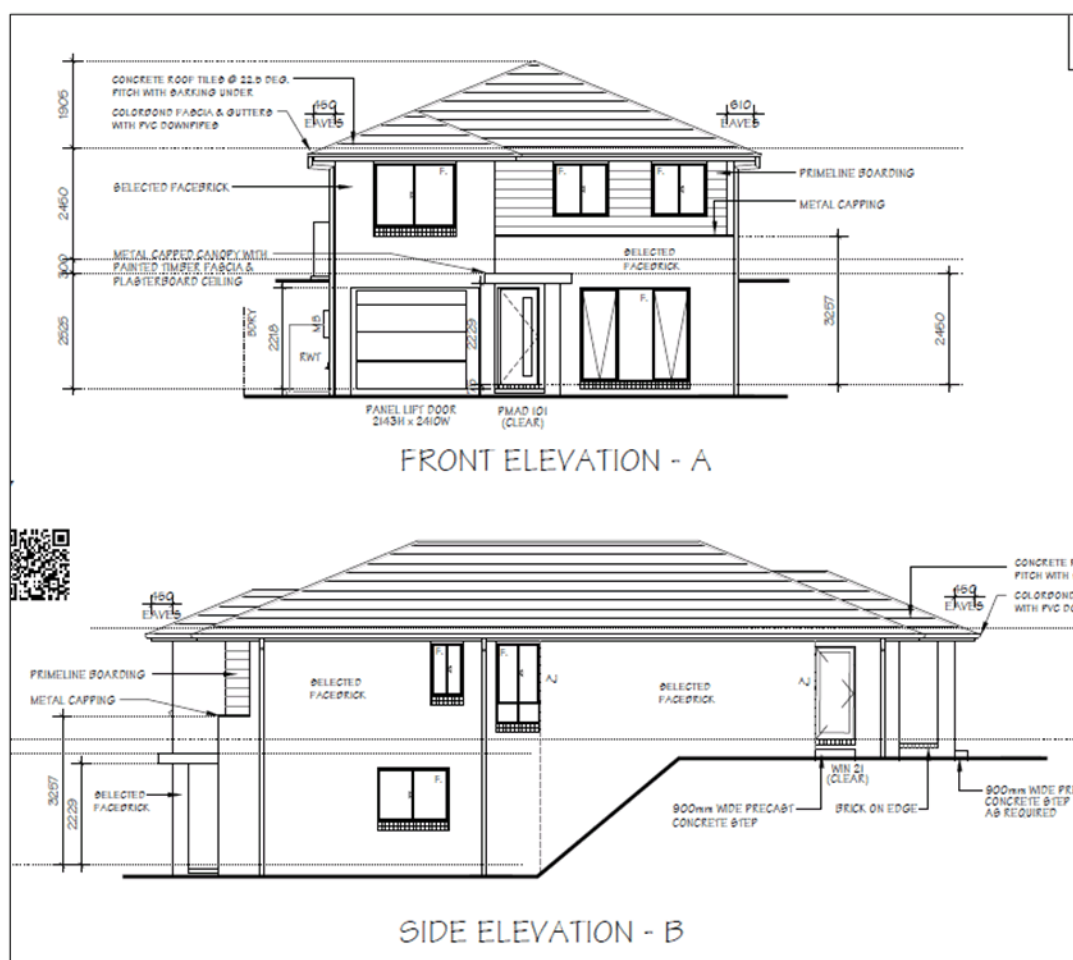


Figure 2 - Front and side elevation of typical proposed dwelling

PROPERTY DETAILS

Property Address	799 Medowie Road MEDOWIE, 813 Medowie Road MEDOWIE
Lot and DP	LOT: A DP: 404939, LOT: 32 DP: 1045148
Current Use	The land is generally vacant excepting for residential land use that has occurred adjacent to Medowie Road.
Zoning	R2 LOW DENSITY RESIDENTIAL
Site Constraints	<ul style="list-style-type: none"> • Bushfire Prone Land • Preferred Koala Habitat • Acid sulfate soils (class 5) • Endangered Ecological Community (Blue Gum High Forest) • Endangered Ecological Community (Swamp Sclerophyll Forest) • Hunter Water Special Area – Grahamstown Dam Catchment • Stormwater Drainage Problem Area • RAAF Bird Strike Group B • Flood Prone Land

Site Description

The development site encompasses two lots with a combined area of approximately 5.5ha. The subject site currently contains one dilapidated dwelling. The site contains a mix of land forms, cleared areas on the eastern portion of the site with an increase in vegetation towards the western portion.

The Flora and Fauna report submitted with the application noted that the existing vegetation on site is of moderate quality with the highest quality located closer to the western (rear) property boundary. The subject site has a number of constraints including; Bushfire prone land, Koala habitat, Endangered Ecological Communities and flood prone land.

The site includes frontage to the public road network at multiple locations, including to Peppertree Road, and to Medowie Road. The Local centre of Medowie is positioned to the south, existing residential lots to the east and west and a significantly vegetated lot to the north (refer to **figure 3** below).

It is noted that No. 813A Medowie Road, Medowie, is located between the subject site and Medowie Road, this land parcel is classified as community land owned by Council. Prior to an operational consent documentation is to be submitted and deemed to be satisfactory by Council demonstrating that legal access to the development site from Medowie Road can be achieved in accordance with the Subdivision Plan (Ref:214274 and dated 09/07/2018). Documentation is to detail that satisfactory arrangements have been made for the incorporation of 813A Medowie Road, Medowie (Lot 4 DP 632334) into Medowie Road.

A photograph of a large, light-colored industrial building with a dark roof, partially obscured by a dark green fence and surrounded by tall grass and trees. The sky is blue with scattered white clouds.

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Image 2: Proposed driveway at 813 Medowie Road.



Image 3: South towards the local centre of Medowie



Image 4: Illustrating the road frontage, existing development and the dilapidated dwelling to be demolished.



Image 5: The dilapidated dwelling to be demolished.

ASSESSMENT SUMMARY

Designated Development	The application is not designated development
Integrated Development	The application does require additional approvals listed under s.4.46 of the EP&A Act
Concurrence	The application does not 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 used to carry out the assessment against the section 4.15 Matters for Consideration below.

Development Engineer

Following receipt of additional information provided by the Applicant, the application was supported by Development Engineering subject to conditions of consent. The recommended conditions relate to detailed stormwater design, roads act approval, dilapidation report and required easements.

Building Surveyor

Council's Building Surveyor raised no objections to the proposal subject to the inclusion of recommended conditions of consent.

Natural Resources

Following receipt of additional information provided by the Applicant, the application was supported by Natural Resources subject to conditions of consent. The recommended conditions relate to the creation and implementation of a Construction Environmental Management Plan (CEMP) and a revised Vegetation Management Plan (VMP).

Development Contributions Officer

Council's Development Contributions Officer identified that developer contributions are required for 35 additional lots, after a two lot credit has been applied for the existing lots. The required contributions are to be paid prior to the issue of a subdivision certificate, a recommended condition of consent has been included.

Spatial Services Officer

Council's Spatial Services Officer identified that housing numbering has been provided and has recommended an advice incorporated into the conditions of consent which requires the confirmation of lot numbering prior to issuing of a subdivision certificate.

Strategic Planner

Strategic Planning raised no objection to the proposed development and identified:

- The subject site is located within Precinct B of the Medowie Planning Strategy.
- The Medowie Planning Strategy identifies lot density as 12 dwelling/ ha, equating to 48 dwellings.
- The DA is consistent with the current zoning of the subject lot and will provide housing within the town centre.

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- The road network (along the perimeter of the VMP area and through 6 Wilga Road) is inconsistent with the road network illustrated in the Medowie strategy, however would not pose restrictions to it.

Vegetation Management Officer

Council's Vegetation Management Officer raised no objections to the proposed development and did not require the imposition of conditions of consent.

External Referrals

The proposed development was referred to the following external agencies for comment.

Rural Fire Service (RFS)

The application was referred to the RFS as integrated development. On receipt of additional information, General Terms of Approval (GTAs) were issued. Conditions of consent which incorporate the RFS GTAs in to the consent have been recommended.

Hunter Water Corporation (HWC)

The application was referred to Hunter Water Corporation (HWC) for comment. Hunter Water noted that if Council was satisfied with the applicants modelling, HWC had no objection to the development. Council's Development Engineers reviewed the applicants modelling as part of their assessment and subject to the recommended conditions of consent the proposal was found to be satisfactory.

MATTERS FOR CONSIDERATION – SECTION 4.15**s4.15(1)(a)(i) – The provisions of any EPI**Port Stephens Local Environmental Plan 2013 (LEP)**Clause 2.3 – Zone Objectives and Land Use Table**

The subject site is zoned 'R2 Low Density Residential'. The proposed development is defined as subdivision and construction of dwellings and is permissible with consent.

The proposed development meets the objectives of the R2 zone in that it will provide for the housing needs of the community within a low density residential environment within close proximity to the essential facilities and services meeting the day to day needs of residents. The proposed subdivision pattern and density is consistent with the existing subdivision pattern and character of the locality and with the future desired subdivision pattern typical of an urban release area.

Clause 2.6 – Subdivisions - consent requirements

Clause 2.6 of the LEP requires development consent for the subdivision of land and, as a result, a development application has been lodged for the proposal.

Clause 4.1 – Minimum Lot Size

The minimum lot size applicable to the subject site(s) is 500sqm. The resulting lots of the proposed subdivision are as follows:

- Creation of 29 regular development lots with a range of sizes between 500m² and 815m² and will allow for lots sizes that are suitable for its residential purpose;

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- Seven dwellings on lots below the minimum lot size, each being approximately 350m² (See Clause 4.1C discussion); and
- One large development lot with a size of 4,764m².

Clause 4.1B – Minimum Lot Sizes for Multi-dwelling housing

The subject site has an area of 5.4ha which exceeds the minimum lot size of 750m² required for the proposed development under this clause.

Clause 4.1C – Exceptions to Minimum Lot Sizes

The proposed subdivision results in seven lots that do not meet the minimum lot size specified under Clause 4.1 of the LEP. However, as the application includes both a subdivision and construction of dwellings and the land is zoned R2, under this clause the resulting lots may be subdivided down to a minimum of 250m². The resulting lots (i.e. lots where dwellings are proposed under this application) are approximately 350m² and exceed the minimum size under this clause and therefore complies with this clause.

Clause 4.3 – Height of buildings

The proposed development has a maximum height of 7.2 metres, which is below the maximum permissible building height of 9m metres specified on the Height of Buildings Map.

Clause 7.1 – Acid sulfate soils

The subject site is mapped as Class 5 Acid Sulfate Soils (ASS) and is located within 200m of adjacent Class 3 ASS. A condition has been incorporated requiring an ASS Management Plan should ASS Soils be encountered during works.

Clause 7.2 – Earthworks

The proposed development will incorporate earthworks by way of general subdivision works, site levelling and basin construction. No significant levels of cut and fill will be required. It is therefore considered that the imposition of erosion and sediment control and fill importation conditions will be sufficient to limit impacts resulting from the proposed earthworks.

Clause 7.3 – Flood Planning

The site is identified as flood prone land as follows:

- High Hazard Floodway identified in the southwest corner (in an area to be managed in the Vegetation Management Plan (VMP) and northern property boundary;
- High Hazard Flood Storage located in area designated under the VMP;
- Low Hazard Floodway, intersect the rear portion of the development site;
- Low Hazard Flood Storage Area located in area designated under the VMP; and
- Low hazard flood fringe area intersects the development site.

The applicant proposes earthworks to ensure a development area above the flood planning level, and to ensure consistency in levels through the development footprint. The proposed dwelling sites are appropriate for the flood category. The flood report lodged with the application outlined that no flood level increase is predicted to occur within or outside the development site from development works.

The application has demonstrated that the development:

- is compatible with the flood hazard of the land,

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- will not significantly adversely affect flood behavior resulting in detrimental increases in the potential flood affectation of other development or properties,
- incorporates appropriate measures to manage risk to life from flood,
- will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and
- is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

The application is consistent with the objectives and matters contained under Clause 7.3.

Clause 7.6 – Essential Services

Access to water and sewer is currently available in this area. A standard condition relating to the receipt of evidence confirming connection of essential services has been imposed on the consent. A condition will be placed on the consent to remove the transpiration area and septic tank, which currently services the existing dwelling.

State Environmental Planning Policies**SEPP (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. 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.

State Environmental Planning Policy No.44 Koala Habitat Protection

The Koala Habitat Planning Map within the Port Stephens Council Comprehensive Koala Plan of Management (PSC CKPoM), illustrates areas of preferred koala habitat, and buffer areas over cleared and marginal Koala habitat. Ground-truthing submitted with the application revealed patches of preferred Koala Habitat and associated buffer areas. The ground truthed koala mapping provided with the application is illustrated in **figure 4** below.

The proposal will remove koala habitat as follows:

- 108 Preferred Koala feed trees (86 *Eucalyptus tereticornis* and 22 *Eucalyptus robusta*)
- Approximately 1.66ha of preferred koala habitat
- Approximately 0.43ha of preferred 100m buffer over koala habitat
- Approximately 2.14ha of 100m buffer over cleared land
- Approximately 0.05ha of mainly cleared land

Approximately 2ha of vegetation to be removed contains koala feed trees. A total of 108 Koala feed trees are to be removed to facilitate the proposed development.

To appropriately mitigate and offset the vegetation removal required to facilitate the development, the following measures have been implemented and appropriately conditioned:

- The creation of a 12,760m², 83m wide lot at the rear of the development site. The proposed lot will be revegetated and managed in accordance with the approved VMP. The revegetation is to optimise fauna movement and will require 472 Koala feed trees, 100 scrub species, 50 plant species and 1200 ground cover species to be planted; and

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- The creation of a 10m easement on 6 Wilga Road, Medowie, increasing the vegetation corridor width to 93m. Koala fencing will be conditioned to maximise vegetation connectivity between the subject site and 6 Wilga Road.

The application assessment identified that the environmental impacts have been mitigated to an appropriate level as necessary under the TSC Act 1995.



s4.15(1)(a)(ii) – Any draft EPI

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

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s4.15(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.12 – Notification and Advertising

In accordance with the requirements of chapter A.12, the development application was exhibited for a period of 14 days. See assessment of submissions at the end of this report.

Section B2 – Natural Resources

The applicant submitted a Flora and Fauna Report with the development application (DA). It is noted that the DA is considered a pending development application and therefore the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* applies to the application. In accordance with Clause 28(1) the former planning provisions under the *Threatened Species Conversation Act 1995* (TSC Act) applies.

The Flora and Fauna report submitted with the application assessed the potential indirect and direct impact of the development on the surrounding environment. The proposal requires the removal of roughly:

- 0.99ha of the EEC Swamp Sclerophyll Forest
- 0.53ha of Smooth-barked Apple-Blackbutt Woodland
- 0.48ha of Forest Red Gum Open Forest
- 2.17ha Cleared Grassland

Approximately 2ha of vegetation is required to be removed which contains koala feed trees. A total of 108 Koala feed trees are to be removed to facilitate the proposed development.

To appropriately mitigate and offset the vegetation removal required to facilitate the development, the following measures have been implemented:

- The creation of a 12760m² lot positioned at the rear of the development site. The proposed lot will be managed in accordance with the approved VMP. The VMP will revegetate the lot to optimise the vegetation corridor (**figure 6**). The width of the proposed lot is 83m.
- Revegetation will encompass 472 Koala feed trees, 100 scrub species, 50 plant species and 1200 ground cover species.
- The creation of a 10m easement on 6 Wilga Road, Medowie, increasing the vegetation corridor width to 93m. Koala fencing will be conditioned to maximise vegetation connectivity between the subject site and 6 Wilga Road.

The application outlined that the environmental impacts have been mitigated to an appropriate level as necessary under the TSC Act.

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Section B3 – Environmental ManagementBushfire Prone

The subject site is classified as bushfire prone land. The NSW RFS has reviewed the application and provided General Terms of Approval, which have been attached to the consent.

Acid Sulphate Soils (ASS)

The development will require the creation and implementation of ASS management if ASS are found on-site.

Section B4 – Drainage and Water Quality

The applicant submitted a Stormwater Management Strategy and Plans with the application. A further information request was issued by Council's Development Engineering Unit with regard to the drainage design and water detention. The development was considered to meet the required water quality parameters. Conditions of consent were recommended by Council's Development Engineering Unit and have been included in the consent.

Chapter B9 – Road Network and Parking

The application was submitted with a Traffic Impact Assessment which detailed the Medowie Road intersection design along with internal road layout and proposed road treatments. The assessment report and layout was considered satisfactory by Council's Traffic Engineering Unit and detailed design requirements have been imposed as part of the conditions of consent.

Section C1 – Subdivision

The layout and orientation of the proposed lots allows for future dwelling(s) to be located on the lots as well as allowing sufficient solar access onto the lots. The proposed lots have direct access to Medowie Road and Peppertree Road. The proposed internal road will facilitate access to proposed lots and also facilitate access to neighbouring properties.

The proposed subdivision has been assessed against appropriate clauses in Chapter C1, as outlined below.

Requirement	Assessment
C1.A Block and Street Layout	The resulting lots have dimensions that are below the prescribed maximum controls and therefore complies with the DCP. A perimeter road is provided to provide a road layout consistent with Planning Bushfire Protection 2006.
C1.B Lot Size and Dimension	Each lot adheres to the minimum lot exception requirement as specified in Clause 4.1C in PSLEP2013. Each proposed lot is capable of supporting a building footprint. Sufficient area is available to site future and proposed buildings, as well as provide sufficient open space and vehicle manoeuvring area on each resulting lot.
C1.C Solar Access	The proposal allows for exposed back yards for all dwellings, ensuring ample access to sunlight for future users. The orientation of the lots is considered acceptable. The proposed lot layout is consistent with existing subdivision patterns in the locality.

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C1.E Infrastructure	There is sufficient space for public utilities, such as water and electricity, to be kept within private lot boundaries. The stormwater design submitted with the application is considered to be satisfactory.
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It is considered that the application generally complies with the DCP provisions.

Section C5 – Multi-dwelling housing

Requirements		
C5.1 and C5.3	Landscaping Coverage and Qualities <ul style="list-style-type: none"> 20% of the site area consisting of deep soil planting where the lot is greater than 250m² and zoned R2 – Low Density Residential. 50% of the landscaped area must be located behind the building line to the primary road. Landscape works incorporate adequate screening from the street and adjacent neighbors. Front boundary structures (e.g. fencing and retaining walls) provide visual relief with the use of landscape planting. Structural soil and/or structural cells should be used to reduce competition between specimen trees and infrastructure. 	<p>A landscape plan is to be provided for the seven dwelling sites prior to the issue of a construction certificate. It was confirmed that the requirements of C5.1 can be satisfied, subject to the inclusion of recommended conditions.</p> <p>A street planting plan is required prior to the issue of a construction certificate. Subject to conditions the objectives of this clause are satisfied.</p>
Requirements		
C5.4	Building Height <ul style="list-style-type: none"> Maximum height limit of 8m or a merit-based approach is taken where no height limit is specified under PSLEP 2013 clause 4.3. 	The proposed development incorporates a maximum building height of 7.2m, which is below the maximum permissible building height.
C5.5	Floor to Ceiling Height <ul style="list-style-type: none"> Minimum floor to ceiling heights of 2.4m 	The proposed dwellings include floor to ceiling heights of 2.5m and therefore complies with this clause.
Requirements		
C5.6	Front Setback <ul style="list-style-type: none"> Minimum 4.5m front setback from the front property line or the existing average building line for 75% of the building façade. 	The front setback of all dwellings complies with the front setback requirement.

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C5.11	<p>Side Setbacks</p> <ul style="list-style-type: none"> • Minimum 0.9m side boundary setback for any part of a building at or below 5.5m in height. • Minimum 3m side boundary setback for any part of a building at or below 5.5m in height. 	<p>The upper southern side setback does not comply with the 3m requirement (1.76m) as prescribed under this chapter.</p> <p>It is considered that the design of the dwelling minimises the impact of the setback non-compliance. No habitable rooms are located on the upper story southern elevation and therefore the non-compliances do not have an adverse impact on privacy, solar access and acoustic control.</p> <p>Further, once constructed the dwellings will appear as single dwellings and therefore the 2m side setback as prescribed under Chapter C4 is more appropriate for this development.</p> <p>The development is considered to be consistent with the objectives for setbacks prescribed in PSDCP2014.</p>
C5.14	<p>Rear Setbacks</p> <p>For the ground level (finished), rear setback must not exceed whichever of the following is greater:</p> <ul style="list-style-type: none"> • Minimum 3m from the rear boundary, or • 25% of the average of the length of the side boundaries. 	<p>The proposed dwellings comply with the ground floor rear setback requirements.</p>
Requirements		

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5.19 – C5.21	<p>Natural Ventilation</p> <ul style="list-style-type: none"> The buildings orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms. Depths of habitable rooms support natural ventilation. <p>Doors and openable windows maximise natural ventilation opportunities by using the following design solutions:</p> <ul style="list-style-type: none"> Adjustable windows with large effective openable areas; A variety of window types that provide safety and flexibility such as awnings and louvres; and Windows which the occupants can reconfigure to funnel breezes into the dwelling such as vertical louvres, casement windows and externally opening doors. 	<p>Each dwelling within the proposed development is orientated to capture the use of prevailing breezes for natural ventilation, and includes doors / windows of alternative sizes and types to maximize natural ventilation. The proposed development is compliant with this clause.</p>
Requirements		
C5.22	<p>Access</p> <p>Dwellings that have street frontage provide direct and legible pedestrian access from the street to the front entry.</p>	<p>Safe and clear access from the street to each dwelling has been provided in accordance with this clause.</p>
C5.23 – C5.25	<p>Openings</p> <ul style="list-style-type: none"> The front door entrance of each dwelling must be sheltered and be located forward of the designated car parking space Windows and walls are located to avoid noise sources from adjacent lots and streets Windows on the second floor considers impacts on the privacy or amenity of neighbouring buildings 	<p>Openings within each dwelling is logical and well thought out, responding to the context of each site. Each dwelling complies with the requirements of this clause.</p>
C5.27	<p>Colour Schemes</p> <ul style="list-style-type: none"> Building colours should adopt a colour scheme to express building massing, articulation and detailed façade elements. 	<p>Each dwelling has adopted a colour scheme reflective of the environmental context and therefore complies with this clause.</p>

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C5.29 – C5.31	<p>Façade</p> <ul style="list-style-type: none"> The façade of each dwelling within a building should be identifiable as such to indicate that the building consists of separate dwellings. Subtle changes provide individuality between the proposed dwellings while seeking to maintain pattern continuity of the overall building. 	<p>The proposed development has been designed in accordance with this clause. Although the proposed seven dwelling are similar, once the subdivision is developed the dwellings will be unique in character and style.</p>
Requirements		
C5.37 – C5.41	<p>Driveway Width and Access</p> <ul style="list-style-type: none"> Where a common driveway is to be provided it is to have a minimum width of 3.6m Visual impact of long driveways should be minimised through changing alignments and screen planting 	<p>The proposed driveway meets the requirements of this clause. Conditions have been incorporated into the consent requiring street trees which will further increase the visual interest through the use of landscaping.</p>
Requirements		
C5.43	<p>Private Open Space Dimensions</p> <p>Minimum area of 25m² of ground floor private open space for each dwelling containing three or more bedrooms that:</p> <ul style="list-style-type: none"> has minimum dimensions of 4m x 4m; has direct access from internal living areas; is not located within a front setback; and has a northerly aspect. 	<p>Each dwelling provides sufficient private open space on the ground floor and balconies, satisfying the requirements of this clause.</p>
C5.46 – C5.47	<p>Solar Access</p> <ul style="list-style-type: none"> Minimum of two hours sunlight to the private open space area between the hours of 9am-3pm midwinter Minimum of 50% of private open space of adjoining dwellings is not affected by any shadow for a minimum of three hours between 9am-3pm mid-winter 	<p>The dwellings, which are single storey will have very minimal shading effects and will maintain adequate sunlight to the neighbouring properties and sufficient sunlight to the POS in accordance with this clause.</p>
Requirements		
C5.49	<p>Adequately screened waste storage and recycling area are to be provided behind the building line or setback of a dwelling</p>	<p>Adequate screened waste storage areas have been provided for each dwelling. Waste will be stored in a dedicated space.</p>

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C5.50	Mail boxes are adjacent to the major entrance	Mail boxes have been provided on the fence line, fronting the road in accordance with this clause.
C5.52	A suitable open-air area for clothes drying is to be provided for each dwelling behind the building line or setback with a northerly aspect	A suitable open-air area for clothes drying has been provided for each dwelling behind the building line or setback with a northerly aspect, in accordance with this clause.
C5.54	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: <ul style="list-style-type: none"> • 6m³ for one bedroom units • 8m³ for two bedroom units • 10m³ for three or more bedroom units 	Sufficient storage has been provided for each dwelling in accordance with clause.

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

There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.

s4.15(1)(a)(iv) – The regulations

N/A

s4.15(1)(a)(v) – Any coastal management plan

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

s4.15(1)(b) – The likely impacts of the development**Social and Economic Impacts**

The proposal will provide for the housing needs of the community within a low density residential environment and represents a logical residential extension to the surrounding B2 Local Centre zone land. The proposal creates residential lots located within close proximity to local facilities and services, supporting the local economy of Medowie. The range in proposed lot sizes will diversify the housing stock within the subdivision.

Impacts on the Built Environment

The proposed development will have minimal adverse impacts on the built environment. The proposed dwellings and future development will provide a range of designs and styles which positively responds to the streetscape.

Impacts on the Natural Environment

The development will not have a significant impact on the natural environment. The impacts to the natural environment to facilitate the proposed development have been appropriately mitigated as required under the *Threatened Species Conservation Act 1995* (TSC) and Port Stephens Comprehensive Koala Plan of Management (CKPoM).

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Recommended conditions of consent require the vegetation corridor to be revegetated and managed in perpetuity in accordance with the VMP. The proposed development includes a stormwater system that manages stormwater in accordance with Councils quantity and quality requirements.

In addition, a condition of consent is proposed that requires the installation and maintenance of erosion and sedimentation controls.

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

The subject site is suitable for the development as the site is located within a reasonable distance to local facilities and services and the proposed lots are of sufficient size to allow future residential dwellings. The subject site will reinforce the future desired residential character of the locality represented through the R2 low density residential zoning of the subject site.

s4.15(1)(d) – Any submissions

In accordance with Council's notification requirements the application was publically notified and advertised on two occasions for a period of 14 days between:

- 30 November 2017 and 13 December 2017 – three submissions from three individuals were received.
- 19 July 2018 and 2 August 2018 – five submissions from two individuals were received.

A petition was received 29 January 2019 containing 13 signatures. The petition objected to the development based on traffic and access concerns to Medowie Road.

The key issues raised within the submissions are discussed below.

Concerns	Comments
<ul style="list-style-type: none"> - Easements exist on site which may prohibit proposal. - Access to existing dwellings during construction - Impacts of proposed road to 811 Medowie Road 	<p>No easement was identified which would prohibit the development application. It is noted that there is a right of access easement placed over the subject site for 811 Medowie Road to gain vehicle access.</p> <p>Conditions specify that suitable vehicle access arrangements to 811 Medowie Road, Medowie (Lot: 31 DP1045148) during construction be available at all times.</p> <p>Once the development has been constructed, vehicle access will be available. In accordance with clause 1.9A of PSLEP2013 a covenant that restricts carrying out of that development does not apply to the extent necessary to serve that purpose.</p>
Noise and dust during construction	Conditions require a Construction and Environment Management Plan which will require the implementation of noise and dust mitigation measures to be implemented during construction.

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Property Boundary Fencing	The erection of dividing fences under this consent does not affect the provisions of the <i>Dividing Fences Act 1991</i> . Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s.
Increase pedestrian usage between Wilga road and shopping precinct and to Yulong Oval Public Reserve. Formal paths are requested to minimise impact of increase pedestrian traffic	No pedestrians foot paths are proposed or considered required. It is noted that potential footpaths would cross multiple properties and is not a DA consideration. Subject to road upgrades conditioned under this consent no concerns have been identified with the increase in lots utilising Medowie Road.
Increase water to flow on neighbouring properties.	The stormwater plans submitted with the application satisfy requirements and objectives outlined in Chapter B4 – Drainage and water Quality of PSDCP2014. The stormwater design will not cause unacceptable impact to neighbouring properties.
Increase bushfire risks to adjoining properties	The subdivision will require compliance with Planning for Bushfire Protection. Compliance with PBP 2006 and clearing of vegetation on the eastern portion of the site will decrease the bushfire risk to existing properties.
Inconsistent with CKPOM	Subject to conditions of consent which require the implementation of a VMP and onsite vegetation plantings. The application is consistent with the objectives of PSCKPoM.
Tagging of vegetation prior to determination of Development Application	The tagging of vegetation to assist in preparing Flora and Fauna reports is required and is required to conduct fauna and flora assessments.
Access to the development and potential for traffic accidents Internal Layout and impact to existing properties	Access to the development has been assessed and considered satisfactory. No safety concerns have been raised subject to conditions of consent. Medowie Road is to be widened in accordance with Austroads and Council requirements to accommodate a basic right turn (BAR) type intersection. Additional regulatory signage will also be required to be implemented. The internal road layout is considered satisfactory and will not have an unacceptable impact on existing properties.

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Requirement of a Species Impact Statement	The development is considered to not have a significant impact on a threatened species and therefore no concurrence from the Office of Heritage is required.
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s4.15(1)(e) – The public interest

The proposal is a permissible land use within the R2 Low Density Residential Zone. The application has been assessed in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and other relevant planning considerations. As such, the approval of the application is considered to be within the public interest as it provides for future housing opportunities in a suitable location.

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



Recommended Conditions of Consent.

SCHEDULE 2

PART A – CONDITIONS OF DEFERRED COMMENCEMENT APPROVAL

Pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*, these are deferred commencement conditions. The consent is not to operate until the Applicant satisfies the Council that:

1. **Prior to the issue of the operational Development Consent**, documentation is to be submitted and deemed to be satisfactory by Council demonstrating that legal access to the development site from Medowie Road can be achieved in accordance with the Subdivision Plan (Ref:214274 and dated 09/07/2018). All costs incurred in achieving compliance with this condition shall be borne by the applicant. Documentation is to detail that satisfactory arrangements have been made for the incorporation of 813A Medowie Road, Medowie (Lot:4, DP632334) into Medowie Road.

The Applicant shall satisfy the deferred commencement conditions listed in Part A, within **2 years** from the date of issue of the deferred commencement consent. The consent will lapse if the conditions are not satisfied within this period. Upon satisfaction of the matters listed under Part A, and written confirmation from Council to that effect, the consent shall become operative from the date of endorsement included in the written notification subject to the conditions listed in Part B.

PART B – CONDITIONS OF CONSENT APPLICABLE AFTER SATISFACTION OF DEFERRED COMMENCEMENT CONDITION(S)**CONDITIONS THAT IDENTIFY APPROVED PLANS**

1. The development shall be carried out in accordance with the stamped approved plans and documentation as listed below, except where modified by any condition of this consent or as shown in red colour on the plans.

Plan/Doc.Title	Plan Ref. No	Sheet.	Date	Drawn By
Proposed Subdivision Overall Layout	214274	1 of 1	09/07/2018	Tattersall Lander Pty Ltd
Subdivision Detail Plans (3 Sheets)	214274	2,3,4	21/01/2019	Tattersall Lander Pty Ltd
Bulk Earthworks Plan	214274	5	21/01/2019	Tattersall Lander Pty Ltd
Cut and Fill Plan	214274	18	21/01/2019	Tattersall Lander Pty Ltd

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Tree Removal Plan	214275	20	21/01/2019	Tattersall Lander Pty Ltd
Lot 15 dwelling plans (5 Sheets)	A00	02 to 06	04.10.17	Rawson Homes
Lot 16 dwelling plans (5 Sheets)	A00	02 to 06	04.10.17	Rawson Homes
Lot 17 dwelling plans (5 Sheets)	A00	02 to 06	04.10.17	Rawson Homes
Lot 18 dwelling plans (5 Sheets)	A00	02 to 06	04.10.17	Rawson Homes
Lot 19 dwelling plans (5 Sheets)	A00	02 to 06	04.10.17	Rawson Homes
Lot 20 dwelling plans (5 Sheets)	A00	02 to 06	04.10.17	Rawson Homes
Lot 21 dwelling plans (5 Sheets)	A00	02 to 06	04.10.17	Rawson Homes

Note 1: In the event of any inconsistency between the:

- Approved plans and the conditions, the conditions will prevail; or
- Approved plans and supplementary documentation, the plans will prevail.

Note 2: The consent relates only to those works indicated as proposed on the approved plans. No assessment has been undertaken of those structures marked as existing, and this consent does not extend to include any such structures.

Note 3: Modifications to the approved plans will require the lodgement and consideration by Council of a modification application pursuant to Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

2. The development shall be undertaken in accordance with the General Terms of Approval (GTA) and conditions by NSW Rural Fire Service D19/73 and dated 30 January 2019. A copy of the GTAs is attached to this notice.

CONDITIONS THAT IDENTIFY OTHER APPROVALS REQUIRED

3. **Prior to the issue of a Construction Certificate / commencement of works**, a Driveway Construction Application is to be lodged with Council as the Roads Authority.

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Recommended Conditions of Consent.

4. **Prior to issue of the Construction Certificate and/or Subdivision Certificate (whichever occurs first)**, a Compliance Certificate under Section 50 of the Hunter Water Act 1991, for this development, shall be submitted to the Principal Certifying Authority.

CONDITIONS THAT IDENTIFY CONTRIBUTIONS AND FEES

5. A monetary contribution is to be paid to Council for the provision of 35 additional lots, pursuant to section 4.17(1) of the *Environmental Planning and Assessment Act 1979*, section 7.11 of the *Environmental Planning and Assessment Act 1979*, and the Port Stephens Council Development Contributions Plan towards the provision of the following public facilities:

Facility	Per lot/dwelling	Total
Civic Administration, plan management	\$748.00	\$26,180.00
Civic Administration, works depot	\$457.00	\$15,995.00
Public Open Space, Parks and Reserves	\$2,640.00	\$92,400.00
Sports and Leisure Facilities	\$7,129.00	\$249,515.00
Cultural and Community Facilities	\$2,543.00	\$89,005.00
Road Works	\$1,679.00	\$58,765.00
Fire & Emergency Services	\$232.00	\$8,120.00
Medowies, Traffic and Transport	\$2,626.00	\$91,910
	Total	\$631,890.00

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

- a. Subdivision and building work - **prior to the issue of the Construction Certificate, or Subdivision Certificate**, whichever occurs first.

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

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

The following conditions are to be complied with, to the satisfaction of the Certifying Authority, prior to the issue of the Construction Certificate.

6. **Prior to issue of a Construction Certificate**, detailed design plans of any retaining wall required to support the approved development, that do not meet the

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.**Recommended Conditions of Consent.**

requirements for exempt development, shall be submitted to the Certifying Authority for approval.

7. **Prior to the issue of a Subdivision Certificate and/or Construction Certificate and/or vegetation clearing works (whichever occurs first),** a Construction Environmental Management Plan (CEMP) must be prepared by a suitably qualified and experienced consultant in the preparation of such plans in accordance with the most recent version of the NSW Department of Planning and Environment's Guidelines for preparation of a CEMP. Additionally, the CEMP must include:
- a. A methodology for a preclearance fauna survey conducted by a suitably qualified and experienced ecologist and where dams are to be drained a suitably qualified and experienced aquatic ecologist and requirement for the report to be provided once complete;
 - b. A requirement for a suitably qualified and experienced ecological to:
 - i. Supervise the removal of all trees and vegetation and advise the site manager and tree clearing staff of any habitat potential and precautions necessary;
 - ii. Ensure the felling of trees occurs away from any adjoining habitats;
 - iii. Set traps for several nights to allow fauna to relocate from any trees or hollows proposed for removal. Non-threatened native fauna found or trapped in hollows, nests or non-hollow bearing trees must be relocated by a licensed wildlife carer or consultant.
 - iv. Provide a minimum 48 hour window to vacate for any threatened fauna species to vacate. If the fauna does not vacate in this time, a Plan of Management (POM) for the relocation of the species must be submitted to Council for review. Works cannot continue on site until Council has provided written correspondence that the POM is satisfactory;
 - v. Any hollows or nests that can be salvaged from the clearing process must be mounted on the existing trees on the subject site. Salvaged hollows shall be used in preference to the use of nest boxes. If hollows cannot be salvaged suitably sized nest boxes at a ratio of two nest boxes for one hollow removed, specific to the fauna species identified onsite, shall be attached firmly to existing trees. The nest boxes shall be positioned at a suitable height off the ground as per the individual species habitat preferences as directed by the ecologist on-site.
 - c. Requirements for the construction footprint to be delineated and clearly marked no go zones established under the guidance of a suitably qualified and experienced ecological consultant. The tree and vegetation fencing shall:
 - i. Be a minimum height of 1.2 metres;

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- ii. Incorporate steel star pickets at a maximum distance of 2 metres between pickets;
 - iii. Include a minimum of 3 strands of steel wire;
 - iv. Include orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter; and
 - v. Be maintained for the duration of the works and only be removed once the site has been stabilized.
- d. Requirements for any damage to vegetation within the tree and vegetation protection areas or outside the construction footprint to have remedial action carried out by a suitably qualified and experienced ecologist.
- e. Prohibition of the storage or disposal of materials within the fenced tree protection areas.
- f. Prohibition of the placement of soil or fill material within the dripline of a tree such that a changes of more than 50mm to the surface level does not occur or that the soil is not to be compacted and including the requirement that any soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil.
- g. Salvaging of useable trees and shrubs which are felled for re-use, either in log form, or as woodchip mulch for erosion control and/or site rehabilitation and non-salvageable material such as roots and stumps to be disposed of at an approved site.
- h. A requirement for any soil, mulch and plants brought onto the site to be certified as free of weeds and weed seeds.
- i. Suitable vehicle access arrangements to 811 Medowie Road, Medowie (Lot: 31 DP1045148) during construction is to be available at all times.
- j. Construction noise and dust suppression mitigation measures.

The issue of a Subdivision Certificate and/or Construction Certificate and/or vegetation clearing works (whichever occurs first), shall not occur until Council has provided written correspondence that the CEMP is satisfactory.

8. **Prior to the issue of a Subdivision Certificate, Construction Certificate or vegetation clearing works (whichever occurs first),** a revised Vegetation Management Plan (VMP) is to be prepared by a suitably qualified and experienced ecologist and submitted to Council within 14 days of completion. The VMP must be prepared in accordance with the latest versions of the approved VMP and approved Flora and Fauna Assessment, prepared by Wildthing Environmental Consultants and Council's, Port Stephens Council Technical Specification Vegetation – May 2014, NSW Rural Fire Service General Terms of Approval and any other relevant Commonwealth or NSW State Government guidelines or requirements. The VMP must include the rehabilitation and ongoing maintenance and monitoring requirements for the area of vegetation to be conserved. The VMP must also include:

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- a. Details of any permanent protection measures such as barriers or signage and associated operational maintenance requirements;
- b. A maintenance and monitoring schedule that includes submission of monitoring reports to Council after initial clearing works are completed; then annually for a period of five years post issuing of the subdivision certificate and thereafter once every five years for the life of the development;
- c. Details of any training or awareness activities such as environmental site inductions and environmental emergency response training relevant to the operation of the development and;
- d. A description of appropriate contingencies to be implemented, if management measures are identified as being ineffective and/or result in environmental harm.

The issue of a Subdivision Certificate and/or Construction Certificate and/or vegetation clearing works (whichever occurs first), shall not occur until Council has provided written correspondence that the VMP is satisfactory.

9. **Prior to the issue of a Construction Certificate**, a detailed landscape plan is to be prepared for proposed lots 15 to 21 in accordance with Council's Tree Technical Specification and submitted to the Certifying Authority for approval. This plan is to indicate the location of all paved and landscaped areas, vegetation to be removed and/or retained, type of species to be planted, and is to state the mature height and spread of all proposed vegetation.
10. **Prior to issue of a Construction Certificate**, a street tree planting plan consistent with Port Stephens Council Tree Technical Specifications. The street tree planting plan shall be submitted to, and approved by the Principal Certifying Authority with a copy provided to Council's Vegetation Management Officer within seven days of submission to the Principal Certifying Authority. The tree species included in the street tree planting plan must not exceed a maximum height of 20 meters.
11. **Prior to the issue of the Construction Certificate**, a dilapidation report on the visible and structural condition of the surrounding public infrastructure must be provided to Council. The dilapidation report is to be prepared by a practising Structural / Civil Engineer agreed to by both the applicant and Council. All costs incurred in achieving compliance with this condition shall be borne by the applicant.

The liability of any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition, will be borne by the applicant.
12. **Prior to the issue of a Construction Certificate**, a Works on Public Infrastructure Application under Section 138 of the *Roads Act 1993* is to be lodged with Council as the Roads Authority. The application is to be accompanied by:
 - a. Plans for all civil works within a road reserve, approved by the Roads Authority

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- and consistent with this condition;
- b. Plans detailing the intersection of road 1 and Medowie road designed as left in – left out in accordance with AustRoads Guide to Road Design and RMS supplements;
- c. A detailed plan of the 4-way Intersection of road 1, 2, 4 and Peppertree Road, including regulatory signage and line marking shall be submitted to and approved by the Port Stephens Local Traffic Committee;
- d. A detailed plan of any required regulatory signage & line marking prepared and approved by the Port Stephens Local Traffic Committee;
- e. Any associated works to ensure satisfactory transitions to existing infrastructure;
- f. Concrete footpath 1.2 metres wide connecting the development to public infrastructure within peppertree road and Medowie road;
- g. Concrete pad to cater for a bus stop compliant with the Disability Discrimination Act and Council Standard Drawings within Medowie road adjacent to 799 & 805 Medowie Road Medowie;
- h. Traffic control plans in accordance with the Roads and Maritime Services– Traffic Control at Worksites Manual prepared by an accredited practitioner;
- i. Payment of applicable fees and bonds; and
- j. Contractor's public liability insurances to a minimum value of \$20 million dollars.

The above works are to be completed **prior to the issue of a Subdivision Certificate**, with a compliance certificate obtained from Council as the Roads Authority.

13. **Prior to issue of a Construction Certificate**, a detailed stormwater drainage plan is to be submitted to the Certifying Authority. The detailed plans are to be in accordance with the applicable Port Stephens Council Development Control Plan and Infrastructure Specification as well as the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council), approved DRAINS and MUSIC modelling and include the following information:
 - a. On-Site Stormwater Detention & Water Quality System with supporting calculations for a system capable of catering for a range of rainfall scenarios up to and including the 1% AEP Rainfall Event;
 - b. Inter-allotment drainage catering for all flows up to and including 1% AEP;
 - c. Water quality control devices that comply with the approved plans and modelling;
 - d. Conveyance where necessary, of stormwater through the site from upstream catchments, roads and adjoining properties and catch drains on top of retaining walls;
 - e. Overland flow for major storm events, catering for a range of rainfall scenarios up to and including the 1% AEP Rainfall Event, that is directed to the public drainage system;
 - f. Detailed pavement finished surface levels, to ensure stormwater runoff is directed into the stormwater system;

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- g. A minimum 300mm freeboard should be provided within the drainage channel banks adjacent to road 1, whilst maintaining 500mm freeboard to all residential lots;
- h. All earthworks/batters within public reserve to have a maximum slope of 1:4;
- i. Metal kerb adaptors (or alternative) within the kerb adjacent to each approved lot not serviced by an inter-allotment drainage line, extended to within the boundaries of each respective property by a 100mm SN8 grade pipe;
- j. Exclusion fencing around water quality and detention basins within drainage reserve to Australian Standard AS1926 and include a minimum 5.5m wide gated opening to the satisfaction of the Principal Certifying Authority;
- k. Advisory signs shall be prominently located adjacent to the stormwater detention area detailing the purpose of the system, the depth indicators and warning of the dangers associated with the detention basin;
- l. Scour protection to be provided where the upstream natural drainage path connects to the diversion channel on the northern side of the development; and
- m. Evidence of Council (or relevant authority) approval for stormwater connection to the public system, with the above supporting details endorsed, under Section 68 of the Local Government Act 1993 or Section 138 of the Roads Act 1993.

The above works are to be completed **prior to the issue of a Subdivision Certificate.**

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATIONS OR CONSTRUCTION

The following conditions are to be complied with prior to the commencement of works on the subject site(s).

- 14. **At least two days prior to the commencement of works**, the applicant shall submit to Council a "Notice of Commencement and Appointment of Principal Certifying Authority" form.
- 15. **Prior to the commencement of works**, certification that includes evidence in writing or photographs by a suitably qualified and experienced ecologist that all pre construction requirements within the approved Construction Environmental Management Plan and Vegetation Management Plan were implemented.
- 16. **Prior to the commencement of works**, the person having the benefit of this consent shall contact Hunter Water Corporation (HWC) to ensure that the approved works do not impact upon existing or proposed HWC infrastructure. A copy of the information received by HWC shall be provided to Council within 10 days of receipt. Should HWC require modification to the approved development a Section 4.55 Modification Application and/or modified Construction Certificate Application should be lodged.
- 17. **Prior to the commencement of works**, the applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within

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

18. **Prior to works commencing** all contractors, sub-contractors, and personnel shall be notified of vegetation protection requirements detailed in this consent. Site inductions for all personnel and visitors in accordance with the vegetation management plan approved by Council shall be provided by a suitably qualified ecologist during construction.
19. **Prior to works commencing** an assessment in accordance with the EPBC Act (Commonwealth Environmental Protection and Biodiversity Conservation Act 1999) referral guidelines for the vulnerable koala (2014) and Significant Impact Guidelines 1.1 – Matters of National Environmental Significance (2013) should be undertaken to determine the risk of a significant impact and need to refer the action for EPBC Act approval.
20. **Prior to the commencement of works**, a 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people. No materials, waste or the like are to be stored on the all-weather access at any time except with the agreement of the Principle Certifying Authority.
21. **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.
22. **Prior to the commencement of works**, the property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking". Protection measures may include erosion and sedimentation controls as required. All protection measures are to be installed to the satisfaction of Council and must be regularly maintained for the duration of works and until the site is stabilised by vegetation or the like.

CONDITIONS TO BE SATISFIED DURING WORKS

The following conditions are to be complied with during works.

23. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.
24. All works shall occur in accordance with the approved Construction Environmental Management Plan and Vegetation Management Plan.

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25. All demolition works are to be carried out in accordance with Australian Standard AS 2601-2001. All waste materials are to be either recycled, or disposed of to a licenced waste facility.

Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility. Evidence is to be provided to the Certifying Authority demonstrating

26. The Principal Contractor (or Owner/Builder) shall erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work. The sign shall also display the name, address and telephone number of the Principal Contractor for the work (or Owner/Builder) and shall state that unauthorized entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed.
27. All building work must be carried out in accordance with the provisions of the Building Code of Australia and where applicable the Disability (Access to Premises – Buildings) Standards 2010
28. A temporary toilet(s) shall be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided shall be one toilet per 20 persons or part thereof employed on the site at any one time. The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.
29. Unless otherwise approved by Council in writing, all general building/demolition work shall be carried out between the hours of:
- a. 7.00am to 5.00pm Monday to Saturday
 - b. No construction is to be carried out at any time on a Sunday or a public holiday.

Any work performed outside the abovementioned hours or on a public holiday that may cause offensive noise, as defined under the *Protection of the Environment Operations Act 1997*, is prohibited.

30. No building materials, plant, equipment, refuse or spoil is to be deposited on or be allowed to remain on Council's footpath or outside the boundaries of the development site unless approved by Council in writing. Where building activity cannot avoid occupation of the public road reserve, (such as, for the erection of hoarding, scaffolding, partial closure) separate approval from Council for the use of the road reserve is required.
31. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.

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32. All excavated and/or filled areas are to be retained or battered and suitably drained so as to prevent any subsidence of the surrounding land and constructed so as to deny any flow of water into or around the building or neighbouring buildings or onto neighbouring land.
33. The only fill material that may be received at the development site is:
- a. Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act 1997 (POEO)*; or
 - b. 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.

34. All associated excavations and backfilling associated with the development must be executed safely and in accordance with the appropriate professional standards, and must be properly guarded and protected to prevent them from being dangerous to life or property.

CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to the issue of either an Interim or Final Occupation Certificate (as specified within the condition).

35. **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.
Note: The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.
36. **Prior to the issue of a Final Occupation Certificate for the respective dwelling**, the commitments listed in BASIX Certificate No's. 853923S_03 (proposed Lot 15), 853924S_03 (proposed Lot 16), 853925S_03 (proposed Lot 17), 853926S_03 (proposed Lot 18), 853927S_03 (proposed Lot 19), 853928S_03 (proposed Lot 20), 853929S_03 (proposed Lot 21), (or an amended version of this certificate, or a replacement certificate particular to the approved development) are to be installed in the development. Should an amended or replacement certificate be issued, a copy is to be forwarded to the principle certifying authority immediately following its issue.

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.**Recommended Conditions of Consent.**

37. All retaining walls, including all footings, drainage and backfill are to be located wholly within the property boundaries, and are to include a sub-surface drain that connects to a stormwater disposal system in accordance with the requirements of Councils DCP.
38. **Prior to issue of any Occupation Certificate for any dwelling**, all landscape works on proposed lot 15-21 as detailed on the approved landscape plan (Condition No.10) shall be installed. All landscaped areas shall be kept free of parked vehicles, stored goods, garbage or waste material and the like at all times.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions are to be complied with prior to the issue of a Subdivision Certificate by Council.

39. **Prior to issue of the Subdivision Certificate**, one signed original copy of the original plans and/or documents, and final plan of survey/title, shall be submitted to Council. A USB containing an electronic copy of all relevant documents must also be provided.
40. **Prior to issue of a Subdivision Certificate**, the street tree plantings are to be completed in accordance with the approved Street Tree Planting plan.
41. **Prior to the issue of any Subdivision Certificate**, access to the water quality and detention basin including all associated infrastructure is to be completed.
42. **Prior to the issue of any Subdivision Certificate**, the applicant shall rectify any new damage to public infrastructure to the satisfaction of the Council as the Roads Authority.
43. **Prior to the issue of any Subdivision Certificate**, 813A Medowie Road, Medowie (Lot: 4, DP632334) is to be incorporated into Medowie Road. Evidence that this condition has been satisfied is to be provided with the subdivision certificate application. All costs incurred in achieving compliance with this condition shall be borne by the applicant.
44. **Prior to the issue of a Subdivision Certificate**, works-as-executed plans and an accompanying report prepared and certified by a Chartered Professional Engineer, recognised under the National Engineering Register (NER) confirming all stormwater drainage systems are constructed in accordance with the approved plan shall be submitted to the Principal Certifying Authority for assessment.
45. **Prior to the issue of a Subdivision Certificate**, the following is to be provided:
 - a. Road construction plans in CAD format;
 - b. Works-as-executed drawings and CAD files of all engineering works; and

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.**Recommended Conditions of Consent.**

- c. CAD files which include all lot and road boundaries, lot numbers and easements.

All CAD files shall be supplied in AutoCAD or compatible format in a known coordinate system (preferably GDA94 or MGA56)

- 46. **Prior to the issue of a Subdivision Certificate**, a Registered Surveyor shall provide certification to the satisfaction of the Principal Certifying Authority that all structures and services (e.g. drainage, stormwater, water supply, gas, electricity, telephone) as constructed are contained within each lot, or within appropriate easements to accommodate such services.
- 47. **Prior to the issue of a Subdivision Certificate**, an Operation and Maintenance Plan for the stormwater system, prepared by a suitably qualified and experienced person, detailing a regular maintenance programme for the stormwater management system.
- 48. **Prior to the issue of a Subdivision Certificate**, the dividing fence between the subject site and 6 Wilga Road, Medowie (Lot: 411, DP706650) shall be installed, incorporating koala friendly fencing.
- 49. **Prior to occupying the development or Subdivision Certificate Release**, whichever occurs first, Council's Spatial Services Team should be contacted via email at: addressing@portstephens.nsw.gov.au to obtain correct property addressing details. Please state your Development Approval number and property address in order to obtain the correct house numbering.
- 50. The deposited plan and 88B instrument submitted with the subdivision certificate application is to include details of encumbrances under Section 88B of the *Conveyancing Act 1919*, required to carry out the approved development. In particular, the title of the respective approved lots shall be endorsed with the following:
 - a. Restriction on the Lot titled 'Public Res' to be managed in accordance with the approved VMP;
 - b. Easements for stormwater drainage;
 - c. Easements for provision of services;
 - d. Rights of access shall be provided over each temporary turning head, in favour of Port Stephens Council and the general public with council being named as a party needed to authorise the release, vary or modification of the restriction;
 - e. Maintenance responsibilities; and
 - f. Restriction as to user preventing any structure built within a drainage easement (catering for inter-allotment drainage) that obstructs flows or diverts flows outside the easement for all flows up to and including the 1% AEP or divergence outside of the

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.**Recommended Conditions of Consent.**

The authority to release, vary or modify the above restrictions shall be listed as the owner of the lot(s) benefitted, but only with the agreement of Port Stephens Council.

51. **Prior to the issue of a Subdivision Certificate**, a 10m wide easement restricting vegetation removal is to be created on 6 Wilga Road, Medowie (Lot: 411, DP706650) is to be created. The authority to release, vary or modify the above restrictions shall be listed as the owner of the lot(s) benefitted, but only with the agreement of Port Stephens Council.
52. **Prior to the issue of a Subdivision Certificate:**
- a. The dwellings on proposed lots 15-21 shall have a satisfactory frame inspection undertaken; and
 - b. A report/plan shall be provided from a Registered Surveyor showing that:
 - i. The setback of the buildings from the adjacent and proposed boundaries meets the requirements of the BCA; and
 - ii. All service lines are wholly contained within their respective lots, or an appropriate Easement or Easements have been shown on the plan of survey and suitably described in the 88B instrument.
53. **Prior to the issue of a Subdivision Certificate**, evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:
- a. Telecommunications;
 - b. Electricity;
 - c. Gas;
 - d. Water; and
 - e. Sewer.
- Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.
54. **Prior to the issuing of the Subdivision Certificate**, certification that includes evidence in writing or photographs by a suitably qualified and experienced ecologist that all the requirements within the approved Construction Environmental Management Plan and Vegetation Management Plan were implemented.

CONDITIONS TO BE SATISFIED AT ALL TIMES

The following conditions are to be complied with at all times.

55. At all times, all collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties. The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.**Recommended Conditions of Consent.**

56. **At all times** the development must limit vehicle speeds through the development to forty kilometers per hour or less and koala crossing signage must be maintained on roads throughout the development and include visible fauna rescue numbers.
57. Landscaping shall be maintained in accordance with the approved plan in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the development. If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

ADVISORY NOTES

The following advice is limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.
- B. Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au
- C. You are advised that, in accordance with the EP&A Act, (Section 6.8) payment of the building industry Long Service Leave levy, where applicable, must be paid **prior to the issue of any Construction Certificate**.
- D. The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

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

ITEM 3 - ATTACHMENT 4 CALL TO COUNCIL FORM.



CALL TO COUNCIL FORM
DEVELOPMENT APPLICATION

I, Councillor Arnott

require Development Application Number 16-2017-837-1

for Two (2) into Fifty (50) Lot Torrens Title Subdivision - Forty Nine (49)
Dwelling Lots and Seventeen (17) Dwellings

at 799 & 813 Medowie Rd Medowie NSW 2318

to be subject of a report to Council for determination by Council.

Reason:

The reason for this call-up to Council is Koala habitat (environmental concerns),
planned site visit for all Crs in 2018 with a neighbouring resident,
community concerns over development

Declaration of Interest:

I have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this development application on my part or an associated person.

I have a conflict of interest? ~~Yes~~/No (delete the response not applicable).

If **yes**, please provide the nature of the interest and reasons why further action should be taken to bring this matter to Council:

.....
.....
.....
.....

Signed: .. Date: 15/12/17

MINUTES ORDINARY COUNCIL - 9 APRIL 2019**ITEM NO. 1****FILE NO: 19/4537
EDRMS NO: 16-2017-837-1**

DEVELOPMENT APPLICATION NO.16-2017-837-1 FOR TWO INTO 39 LOT TORRENS TITLE SUBDIVISION (INCLUDING ONE RESIDUE LOT AND ONE DRAINAGE RESERVE LOT), DEMOLITION OF DWELLING AND CONSTRUCTION OF SEVEN DWELLINGS AT 799 AND 813 MEDOWIE ROAD, MEDOWIE (LOT: A DP404939, LOT: 32 DP1045148)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2017-837-1 for two into 39 Lot Torrens title subdivision (including one residue lot and one drainage reserve lot), demolition of dwelling and construction of seven dwellings at 799 Medowie Road, Medowie and 813 Medowie Road, Medowie (Lot A DP404939 and Lot 32 DP1045148), subject to the Recommended Conditions of Consent contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 9 APRIL 2019
MOTION**

	Councillor Chris Doohan Councillor Sarah Smith That Council approve Development Application DA No. 16-2017-837-1 for two into 39 Lot Torrens title subdivision (including one residue lot and one drainage reserve lot), demolition of dwelling and construction of seven dwellings at 799 Medowie Road, Medowie and 813 Medowie Road, Medowie (Lot A DP404939 and Lot 32 DP1045148), subject to the Recommended Conditions of Consent contained in (ATTACHMENT 3) .
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MINUTES ORDINARY COUNCIL - 9 APRIL 2019**ORDINARY COUNCIL MEETING - 9 APRIL 2019
AMENDMENT**

076	Councillor Glen Dunkley Councillor John Nell It was resolved that Council defer development Application DA No. 16-2017-837-1 for two into 39 Lot Torrens title subdivision (including one residue lot and one drainage reserve lot), demolition of dwelling and construction of seven dwellings at 799 Medowie Road, Medowie and 813 Medowie Road, Medowie (Lot A DP404939 and Lot 32 DP1045148).
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The amendment on being put became the motion which was carried.

MOTION

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

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present a development application (DA) 16-2017-837-1 for a two into 39 lot Torrens title subdivision (including one residue lot and one drainage reserve lot), demolition of dwelling and construction of seven dwellings to Council for determination. The application was called to Council as contained in **(ATTACHMENT 4)**.

The subject DA relates to land located on 799 Medowie Road and 813 Medowie Road, Medowie (Lot A DP404939 and Lot 32 DP1045148). A Locality Plan is provided at **(ATTACHMENT 1)**.

ITEM NO. 4

**FILE NO: 19/112996
EDRMS NO: PSC2013-04879**

POLICY: ASBESTOS MANAGEMENT POLICY

REPORT OF: TIMOTHY CROSDALE – GROUP MANAGER DEVELOPMENT
SERVICES
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Asbestos Management Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the draft Asbestos Management Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the Policy be adopted as amended, without a further report to Council.
 - 3) Revoke the Asbestos Management Policy dated 13 June 2017 (Minute No. 125) should no submissions be received.
-

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

089	<p>Councillor Ken Jordan Councillor Sarah Smith</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the draft Asbestos Management Policy shown at (ATTACHMENT 1).2) Place the draft Asbestos Management Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the Policy be adopted as amended, without a further report to Council.3) Revoke the Asbestos Management Policy dated 13 June 2017 (Minute No. 125) should no submissions be received.
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Councillor Giacomo Arnott left the meeting at 7:17pm and was not present for the remainder of the meeting.

BACKGROUND

The purpose of this report is to present the review of the Asbestos Management Policy (the 'Policy') adopted by Council on 13 June 2017 (Minute No.125).

The review of the Asbestos Management Policy results in no fundamental changes to the Policy adopted in 2017. There have been no major legislative changes that require a revised position of Council. The proposed amendments are administrative in nature as highlighted in **(ATTACHMENT 1)**.

Like many Councils across Australia, a number of our buildings, structures and assets were built or refurbished at a time when asbestos containing materials may have been used during construction. The presence of asbestos containing materials in itself does not constitute a danger. However, there is a potential risk to health if asbestos containing material is damaged or disturbed.

As asbestos and its safe disposal is regulated under numerous pieces of legislation, it is often difficult to determine who is the responsible authority in certain asbestos-related scenarios, when to contact SafeWork NSW or when Council should take the lead role in providing asbestos advice. This can be confusing for the community when dealing with asbestos related matters.

The adoption and regular review of an Asbestos Management Policy formalises Council's approach and will ensure that the organisation is equipped to safely manage asbestos and any associated legislative obligations.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018 - 2021
Thriving and Safe Place to Live	Enhance public safety, health and liveability through use of Council's regulatory controls and services.
Governance	Reduce risk across Council.

FINANCIAL/RESOURCE IMPLICATIONS

In accordance with asbestos management practices across Australia, Council will continue to pursue a risk management approach, which is designed to safeguard those persons who occupy, service and visit Council buildings from exposure to asbestos fibres.

While the long term objective is for all Council controlled buildings to be free of asbestos related material, it is estimated that the cost to achieve this objective is far beyond the financial reach of Council, in the short to medium term.

Given the highly regulated nature of asbestos and the many existing mechanisms in place to address risks, a full scale program to remove asbestos is prohibitively expensive and is out of step with both Australian and international practice.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Council's legislative functions for minimising the risks from asbestos apply in various scenarios including:

- As a responsible employer;
- Educating residents;
- Contaminated land management;
- Council land, building and asset management;
- Emergency response;
- Land use planning (including development approvals and demolition); and
- Waste management and regulation.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council fails to meet its obligations in relation to the management of asbestos leading to injury and reputation damage and litigation costs.	Medium	Adopt the revised Policy.	Yes
There is a risk that Council fails to heighten community awareness on the identification and safe removal of asbestos leading to increased exposure to risk in the Local Government Area (LGA).	Medium	Adopt the revised Policy.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council has an important dual role in maintaining a safe environment and minimising the risks of exposure to asbestos, as far as is reasonably practicable, for both:

- a) Residents and the public; and
- b) Workers (employees, volunteers and contractors) in Council workplaces.

An Asbestos Management Policy (and related documents within) is in place to provide direction to Council workers to minimise risks associated with exposure to asbestos in the workplace and ensures that workers are involved in the development of safe systems of work and a safe environment with respect to asbestos management issues.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Development Services Group Manager who is the Executive Team member of Council's Asbestos Management Project Team.

Internal

Consultation has taken place with:

- Port Stephens Council Asbestos Management Project Team; and
- Executive Team.

External

In accordance with local government legislation the draft Asbestos Management Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Draft Asbestos Management Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2013-04879
TITLE: ASBESTOS MANAGEMENT
POLICY OWNER: GROUP MANAGER DEVELOPMENT SERVICES

1. PURPOSE:

1.1 The purpose of this Policy is outline Council's commitment to maintaining a safe environment and minimising the risks of exposure to asbestos, as far as is reasonably practicable, for local residents, the wider public and workers (employees, volunteers and contractors) in Council workplaces.

1.2 This Policy aligns with the following initiatives outlined within the 2016-2020 **2018- 2021** Operational Plan:

~~Our Citizens: Community Safety: Port Stephens is a community where people feel safe:
1.1.1 Use Council's regulatory powers and government legislation to enhance public safety.~~

1.2.1 Our Place: Thriving and safe place to live: Our community supports a healthy, happy and safe place. P 3.2 Enhance public safety, health and liveability through use of Council's regulatory controls and services.

~~Our Council: A Sustainable Council: Port Stephens Council's services and assets are sustainable in the longer term: 5.1.3 Manage risks across Council.~~

1.2.2 Our Council: Our Council's leadership is based on trust and values Respect, Integrity, Teamwork, Excellence and Safety (RITES). L1.5 – Reduce risk across Council.

1.3 The long term objective is for all buildings on Council owned land to be free of asbestos containing material. The presence of asbestos in premises on Council owned or managed land will be identified, the risk to health evaluated and mitigation measures implemented until the long term objective of removal is completed.

1.4 Council also aims to heighten awareness within the community on the identification and safe removal of asbestos to minimise the risk of exposure across the local government area.

Policy

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Policy



2. CONTEXT/BACKGROUND:

- 2.1 Asbestos was used widely in Australian buildings and structures between the 1940's and 1980's because of its durability, fire resistance and excellent insulating properties. Heightened public awareness of asbestos related diseases has increased public concern over the handling and ongoing management of asbestos containing material. However, it was not until 2003 that asbestos was banned in Australia.
- 2.2 Council has no insurance coverage under its Public Liability Policy relating to asbestos matters. The policy excludes any actual or alleged liability arising directly or indirectly out of, resulting from or in consequence of, or in any way involving asbestos, or any materials containing asbestos in whatever form or quantity.
- 2.3 For sites that are significantly contaminated, the Environment Protection Authority (EPA) and SafeWork NSW are the lead regulatory authorities. The EPA's role is to regulate the classification, storage, transport and disposal of waste in NSW, including asbestos waste.
- 2.4 SafeWork NSW has a major role in ensuring that removal of asbestos is carried out in accordance with legislative requirements and, where necessary, by registered contractors. Legislation, however, only applies to:
- 2.4.1 A workplace, or
- 2.4.2 Where the type or quantity of asbestos being removed, repaired or disturbed requires the work to be carried out by an asbestos licensed contractor.
- 2.5 Note: A workplace includes a residential property if any person is being employed there, but not if the works are carried out solely by an owner builder who does not employ anyone.
- 2.6 For matters outside of the EPA and SafeWork NSW responsibilities, Council is the appropriate regulatory authority, which typically include demolition, construction sites, residential properties, commercial sites and small to medium sized industrial facilities.
- 2.7 Council owns and maintains a range of built assets and facilities across the local government area with related obligations to minimise risk of harm to users of these assets and facilities.
- 2.8 The Policy is underpinned by the following principles:
- 2.8.1 The Policy is consistent with and supports the requirements of the Model Asbestos Policy for NSW Councils developed by the Local Government NSW.

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Policy



- 2.8.2 Council will take all necessary steps to protect the health and safety of workers, contractors and the community from the risks associated with asbestos containing material (ACM) within Council controlled and managed buildings.
 - 2.8.3 A risk management approach will be adopted for the management and control of ACM.
 - 2.8.4 Council should not permit the use of Council owned or controlled buildings and/or other structures, including open spaces, where it is known they contain ACM's unless all reasonable risks have been considered which may include an asbestos management plan developed to address the assessed risk.
- 2.9 Council aims to manage the risks from ACM and provide a record of actions undertaken with the ultimate aim being to:
- 2.9.1 Increase awareness
 - 2.9.2 Prevent airborne asbestos fibre exposure
 - 2.9.3 Prevent the spread of asbestos fibres
 - 2.9.4 Increase its competency and experience
 - 2.9.5 Control works likely to disturb ACM in Council owned or managed buildings.

3. SCOPE:

- 3.1 Council is committed to complying with the Model Asbestos Policy and Guide (links to document under "RELATED DOCUMENTS" section below) developed by Local Government NSW in partnership with the NSW Government and input from industry reference groups.
- 3.2 Council's responsibilities for asbestos management apply in various scenarios including:
- 3.3 As a responsible employer
- 3.4 Council has responsibilities to workers under the *Work Health and Safety Act 2011 (NSW)* and Work Health and Safety Regulations (NSW) in maintaining a safe work environment through Council's:
 - 3.4.1 General responsibilities
 - 3.4.2 Education, training and information for workers
 - 3.4.3 Health monitoring for workers
 - 3.4.4 Procedures for identifying and managing asbestos containing materials in Council premises.
- 3.5 As part of the Integrated Risk Management System, an Asbestos Procedure is in place to ensure that workers are involved in the development of safe systems of work and a safe environment to manage any asbestos related risks.

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Policy



3.6 Educating residents

- 3.7 Providing education for the community on the identification and safe removal of asbestos is the joint responsibility of Councils and State Government agencies. Council, however, is often the first point of contact for residents who believe they have identified asbestos in their homes or have a concern or complaint regarding a public health hazard. Council also has a role in proactively offering useful information to the community to minimise avoidable incidents that present asbestos health hazards. This could include providing information to residents on lawful/licenced disposal facilities that are located within the Local Government Area (LGA).

3.8 Contaminated land management

- 3.9 Council has a responsibility to provide information about land contamination on planning certificates issued under Section 149-10.7 of the EP&A Act. For sites that are significantly contaminated and require a major remediation program independent of any rezoning or development applications, the EPA and SafeWork NSW are the lead regulatory authorities.

- 3.10 Responsibility for cleaning up contaminated land lies with the person responsible for the contamination or the relevant landowner.

3.11 Council land, building and asset management

- 3.12 Council has a responsibility to ensure that risk assessments are carried out on any Council owned buildings or assets that may contain asbestos materials. Like many Councils across Australia, a number of our buildings, structures and assets were built or refurbished at a time when asbestos containing materials may have been used during construction. Control measures are in place to manage these assets.

3.13 Emergency response

- 3.14 Council may play a role in ensuring that ACM's are cleaned up after an emergency or incident. If the incident occurs at a workplace, SafeWork NSW is the lead agency.

- 3.15 Council may issue a cleanup, prevention, cost compliance or penalty infringement notice. Alternatively, Council may act under the EPA Act. Council will determine an appropriate response depending on the nature of the situation.

3.16 Land use planning (including development approvals and demolition)

- 3.17 Council recognises the need to exercise care when changing zoning for land uses, approving development or excavating land due to the potential to uncover known or unknown asbestos material from previous land uses (for example, where a site has been previously used as a landfill or on-site burial of asbestos waste).

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Policy



3.18 Council is the consent authority for the majority of development applications in the LGA and may impose conditions of consent and a waste disposal guide in development consent to ensure the safe removal of asbestos, where asbestos has been identified or may be reasonably assumed to be present.

3.19 Waste management and regulation

3.20 It is illegal to dispose of asbestos waste in kerbside garbage bins or via the kerbside bulky waste collections, it is also illegal to recycle, reuse, bury or illegally dump asbestos waste. Asbestos waste (in any form) must only be disposed of at a facility that is licensed to lawfully receive asbestos waste. Within Port Stephens LGA the only licensed waste facility that can accept asbestos waste is the landfill facility on Newline Road Raymond Terrace. The Salamander Bay Waste Transfer Station is not licensed to accept asbestos waste.

4. DEFINITIONS:

An outline of the key definitions of terms included in the policy.

Model Asbestos Policy for NSW Councils	The Model Asbestos Policy provides councils with the basis for the preparation of a comprehensive and compliant asbestos policy. It outlines important legislative obligations of councils and provides useful additional information.
Asbestos	Includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated and/or altered.
Asbestos-containing material (ACM)	Means any material containing more than 1% asbestos.

5. POLICY STATEMENT:

5.1 Council has an important dual role in maintaining a safe environment and minimising the risks of exposure to asbestos, as far as is reasonably practicable, for both:

5.1.1 Residents and the public; and

5.1.2 Workers (employees, volunteers and contractors) in Council workplaces.

5.2 Council is committed to ensuring that asbestos containing material in Council owned buildings is managed and controlled to protect the health and wellbeing of workers, contractors and the community in accordance with the Model Asbestos Policy and Guide developed by Local Government NSW in partnership with the NSW Government and input from industry reference groups.

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Policy



6. POLICY RESPONSIBILITIES:

- 6.1 Executive Team - Responsible for the overall implementation and review of the policy.
- 6.2 Development Services Group Manager - Responsible for the ongoing communications and engagement of asbestos awareness within the organisation and throughout the community.
- 6.3 Section Managers - Responsible for compliance with the overall objectives and policy statement as outlined within this document as relevant to their section.
- 6.4 Organisation Development - Responsible for maintaining safe systems of work and establishing an environment where staff and their supervisors minimise the risks of exposure to asbestos in accordance with the *Work Health and Safety Act 2011* (NSW) and Work Health and Safety Regulations (NSW).
- 6.5 Asset owners (Assets, Property & Community Services) - Responsible for ensuring that risk assessments are carried out on any Council owned buildings or assets that may contain asbestos materials and that appropriate control measures are in place to manage these assets.
- 6.6 Strategic Land Use Planning - Responsible for providing information about land contamination on planning certificates issued under Section 149 **10.7** of the EP&A Act.
- 6.7 Development and Assessment **and Compliance** - Responsible for imposing conditions of consent and a waste disposal guide in development consent to ensure the safe removal of asbestos, where asbestos has been identified or may be reasonably assumed to be present.
- 6.8 Environmental Health & Compliance - Responsible for coordinating Council's response to Asbestos related issues such as land contamination, illegal dumping and pollution.

7. RELATED DOCUMENTS:

- 7.1 Port Stephens Council Guide to the Management of Asbestos Risks
- 7.2 Port Stephens Council Asbestos Procedure
- 7.3 [Model Asbestos Policy for NSW Councils](#) (LGNSW)
- 7.4 [Guide to the Model Asbestos Policy for NSW Councils](#) (LGNSW)
- 7.5 Demolition work code of practice 2015 (Catalogue no. WC03841)
- 7.6 *Contaminated Land Management Act 1997* (NSW)
- 7.7 *Environmental Planning and Assessment Act 1979* (NSW)
- 7.8 Environmental Planning and Assessment Regulation 2000 (NSW)
- 7.9 *Local Government Act 1993* (NSW)

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Policy



- 7.10 *Protection of the Environment Operations Act 1997*(NSW)
- 7.11 Protection of the Environment Operations (General) Regulation 2009 (NSW)
- 7.12 Protection of the Environment Operations (Waste) Regulation 2014 (NSW)
- 7.13 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (NSW)
- 7.14 State Environmental Planning Policy No. 55 – Remediation of Land (NSW)
- 7.15 *Workers Compensation (Dust Diseases) Act 1942* (NSW)
- 7.16 *Work Health and Safety Act 2011* (NSW) and Work Health and Safety Regulations (NSW)

CONTROLLED DOCUMENT INFORMATION:

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RM8 container No	PSC2013-04879	RM8 record No	PSC2013-04879
Audience	Employees, Volunteers, Contractors and Public		
Process owner	Group Manager Development Services		
Author	Group Manager Development Services		
Review timeframe	Two years	Next review date	May 2021
Adoption date	26 November 2013		

Policy


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Policy



VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	26/11/2013	Group Manager Development Services		343
2	23/06/2015	Group Manager Development Services	Transfer to new policy template, greater detail around roles and responsibilities of key service units across Council	172
3	13/6/2017	Group Manager Development Services	1) All references to "workCover" replaced with "SafeWork NSW" 2) Under PURPOSE: <ul style="list-style-type: none"> Paragraph 2 delete 2015-2019 and replace with 2016-2020. Second dot point delete 15.1.3 and replace with 5.1.3. Reword paragraph 3 from "The presence of asbestos in premises on Council owned or managed land will be identified and the risk to health evaluated. " change to "The presence of asbestos in premises on Council owned or managed land will be identified, the risk to health evaluated and mitigating measures implemented until the long term objective of removal is completed." 3) Under <u>Educating residents</u> additional sentence added to end of paragraph – "This should include providing information to residents on lawful/licenced disposal facilities that are located within the LGA" 4) Under RELATED DOCUMENTS: <ul style="list-style-type: none"> Updated hyperlinks for documents 3) and 4). 	125
<div> <div>Policy</div> <div> <p><small>WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au</small></p>  </div> </div>				

Policy



			<ul style="list-style-type: none"> • Replace 5) Australian Standard AS2601-2001 : The Demolition of Structures with 5) Demolition work code of practice 2015 (catalogue no. WC03841). • Amend 12) Protection of the Environment Operations (Waste) Regulation 2005 NSW to 12) Protection of the Environment Operations (Waste) Regulation 2014 (NSW). • Add 16) <i>Work Health and Safety Act 2011</i> (NSW) and Work Health and • Safety Regulations (NSW). 	
4	TBA	Group Manager Development Services	<p>Updated to new Policy template to include paragraph numbering.</p> <p>1.2 - Updated Operation Plan to current year.</p> <p>1.2.1 - Updated Operation Plan heading and key directions to current year.</p> <p>1.2.2 - Updated Operation Plan heading and key directions to current year.</p> <p>2.7 – Inserted new paragraph ‘Council owns and maintains a range of built assets and facilities across the local government area with related obligations to minimise risk or harm to users of these assets and facilities.’</p> <p>3.9 - Updated Section 149 to Section 10.7 in accordance with legislation updates.</p> <p>6.6 – Updated Section 149 to Section 10.7 in accordance with legislation updates.</p> <p>6.7 – Added ‘and Compliance’ to the naming convention of the Section.</p>	TBA

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ITEM NO. 5

**FILE NO: 19/75900
EDRMS NO: PSC2019-00698**

POLICY: VOLUNTEER RECOGNITION POLICY

REPORT OF: MICHELLE GILLIVER-SMITH - ORGANISATION DEVELOPMENT
SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Volunteer Recognition Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the draft Volunteer Recognition Policy on public exhibition for a period of 28 days and should no submissions be received, the Policy be endorsed without a further report to Council.
-

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

090	<p>Councillor Glen Dunkley Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the draft Volunteer Recognition Policy shown at (ATTACHMENT 1).2) Place the draft Volunteer Recognition Policy on public exhibition for a period of 28 days and should no submissions be received, the Policy be endorsed without a further report to Council.
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BACKGROUND

The purpose of this report is for the draft Volunteer Recognition Policy (the 'Policy') to be adopted by Council. Council has a recognition scheme for staff, however recognition of volunteers is ad hoc with no documented process or Policy supported by Council.

Many Council programs and services could not be provided without the support of volunteers. Council volunteers are people who help maintain our parks, reserves and cemeteries, manage our community halls, work in our libraries, Visitor Information Centre and the Ngioka Centre. There are also volunteers who participate in our Sports Councils and advisory groups.

Recognising volunteers would:

- improve volunteer motivation and satisfaction;
- increase volunteer recruitment and retention;
- raise the profile of volunteers within Council; and
- promote the importance of volunteering to the wider community.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Diversity	Support volunteers to deliver appropriate community services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications as the proposed recognition scheme can be funded within the current budget.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal, Policy or risk implications.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without a Policy and consistent approach, volunteer recognition will decrease, volunteers will feel undervalued and retention of volunteers will become increasingly difficult.	Medium	Endorse the Policy.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A key measure for community wellbeing is the level of participation through volunteering. As Council has over 700 volunteers supporting programs and services on behalf of Council, the social, economic and environmental benefits to the community are extremely high.

On an individual level, volunteering can help improve confidence, happiness, fulfilment and social connections.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Organisational Development Section to ascertain the appropriateness of the reward and recognition of volunteers.

Internal

Internal stakeholders have been consulted including staff that supervise and work with volunteers and governance.

External

It is proposed that the volunteer recognition scheme be publicly launched at a National Volunteer Week morning tea on Monday 20 May 2019. Input from our volunteers will be sought on the guidelines prior to their finalisation.

In accordance with local government legislation the draft Volunteer Recognition Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Draft Volunteer Recognition policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2019-00698
TITLE: VOLUNTEER RECOGNITION
OWNER: ORGANISATION DEVELOPMENT SECTION MANAGER

1. PURPOSE:

1.1 The purpose of this Policy and related guidelines is to provide Council with a framework for the delivery of recognition to Council volunteers to maximise volunteer motivation and satisfaction. The purpose of the Volunteer Recognition Scheme is to identify and acknowledge Council volunteers who contribute significant time or service to Council programs and to ensure there are appropriate mechanisms in place to provide this recognition. The scheme is in line with Council's Community Strategic Plan 2018-2028, C1.5 Support volunteers to deliver appropriate community services.

2. CONTEXT/BACKGROUND:

- 2.1 Volunteer recognition is essential for volunteer motivation, satisfaction, retention and recruitment. Council has a recognition scheme for staff, however recognition for volunteers is currently completed on an ad-hoc basis. This policy highlights Council's commitment to our volunteers, of which there are over 700.
- 2.2 A consistent approach to the identification of volunteers and mechanisms for delivery of recognition will be of benefit to both staff and volunteers as it will provide equitable access and a framework in line with staff recognition. It will assist to raise the profile of volunteers within Council and promote the importance of volunteering to the wider community.

3. SCOPE:

- 3.1 This policy relates to all of Council's volunteers and the sections of Council under which they volunteer. The sections of Council that manage volunteers will be responsible for the identification of volunteers and delivery of recognition in line with this policy and guidelines. Support and tools will be provided by the Volunteers Coordinator.
- 3.2 Volunteer Recognition includes thank you cards, letters and certificates of recognition, media promotion, recognition of years of service, recognition upon retirement, National Volunteers Week, annual thank you event and Port Stephens Annual Awards.

Policy

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Policy

**4. DEFINITIONS:**

Thank You cards	Council corporate cards
Letter and Certificates	Letters of recognition on Mayoral letterhead signed by Mayor Certificates of recognition, generally framed
Media promotion	Print and social media advertising and promotional avenues
Years of Service	Refers to length of time a volunteer and/or committee has been a Registered Volunteer with Port Stephens Council
Retirement	Refers to a person who has been a Registered and active Council Volunteer continuously for at least 5 years and they are retiring as a Council Volunteer
National Volunteer Week	An annual celebration to acknowledge the contribution of our nation's volunteers, led by Volunteering Australia
Volunteer Thank You	An annual event where volunteers, Councillors and staff are invited to a function to recognise and thank our volunteers
Port Stephens Annual Awards	Event used by Council to formally recognise the efforts of exceptional people within our community
Volunteer Recognition Nomination Form	Form used to provide sufficient information on a volunteer, committee or activity worthy of special recognition

5. POLICY STATEMENT:

5.1 Council recognises that volunteers are the lifeblood of the community, with over 700 volunteers delivering services on behalf of Council. A Volunteer Recognition Scheme will formally reward volunteers through a series of initiatives appropriate to Council's budget and the contribution of the volunteer, and be in keeping with staff recognition.

5.2 It is expected that the implementation of this Policy and guidelines will lead to:

- improved volunteer motivation and satisfaction;
- increased volunteer recruitment and retention;
- heightened awareness and understanding, both internally and externally, of the roles undertaken by Council's volunteers; and
- increased promotion of the importance of volunteering to the wider community.

Policy

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ITEM 5 - ATTACHMENT 1 DRAFT VOLUNTEER RECOGNITION POLICY.

Policy

**6. POLICY RESPONSIBILITIES:**

- 6.1 The Volunteers Coordinator is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.
- 6.2 Council staff who manage volunteers are responsible for implementing and complying with the policy.
- 6.3 Managers are responsible for complying with this policy.

7. RELATED DOCUMENTS:

- 7.1 *Local Government Act 1993.*
- 7.2 Council Code of Conduct.
- 7.3 *Work Health and Safety Act 2011.*
- 7.4 Community Strategic Plan 2018 – 2028.
- 7.5 355c Committee Terms of Reference.
- 7.6 Volunteer management guidelines – various.

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2019-00698	EDRMS record No.	19/100638
Audience	Councillors, Council staff, Council volunteers, general community		
Process owner	Organisation Development Section Manager		
Author	Volunteers Coordinator		
Review timeframe	Two years	Next review date	
Adoption date			

Policy

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Policy

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1		Organisation Development Section Manager	New policy.	

Policy

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Page: 4 of 4

ITEM NO. 6**FILE NO: 19/108969
EDRMS NO: PSC2009-02488****POLICY: HOLIDAY PARKS SPONSORSHIP AND PROMOTIONS POLICY****REPORT OF: KIM LATHAM - HOLIDAY PARKS SECTION MANAGER
GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Holiday Parks Sponsorship and Promotions Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the draft Holiday Parks Sponsorship and Promotions Policy on public exhibition for a period of 28 days and should no submissions be received, the Policy be endorsed, without a further report to Council.
-

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

091	Councillor Chris Doohan Councillor Sarah Smith It was resolved that Council: <ol style="list-style-type: none">1) Endorse the draft Holiday Parks Sponsorship and Promotions Policy shown at (ATTACHMENT 1).2) Place the draft Holiday Parks Sponsorship and Promotions Policy on public exhibition for a period of 28 days and should no submissions be received, the Policy be endorsed, without a further report to Council.
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BACKGROUND

The purpose of this report is to seek Council's endorsement of the draft Holiday Parks Sponsorship and Promotions Policy (the 'Policy').

This is a new Policy which provides a process for Port Stephens Beachside Holiday Parks to assess one off requests for in-kind support, usually in the form of providing an accommodation donation at any of the five holiday parks under its control.

Sponsorship is a common business function across all industry sectors. In a Council setting, corporate sponsorship is the mechanism which allows Council to support initiatives with the potential to generate economic benefit as well as reputation benefit or community benefit for Port Stephens.

The Policy provides a transparent framework into how the Holiday Parks Section of Council assesses sponsorship requests and how Council will promote the existence of sponsorship opportunities.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Financial Management	Maximise non-rate revenue and investment to support Council services.

FINANCIAL/RESOURCE IMPLICATIONS

The Policy has no known financial or resource implications and any activities will continue to be carried out in line with existing budgets.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The Policy provides an equitable framework through which Council can provide sponsorship and is written in accordance with Council's Sponsorship Policy, the *Local Government Act 1993* and *Sponsorship in the public sector – A guide to developing policies and procedures for both receiving and granting sponsorship; Independent Commission Against Corruption (ICAC), May 2006*.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may enter into sponsorship arrangements without a formal framework in place, leading to financial and reputational loss.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Policy provides the framework to ensure equitable and timely decisions are made by Council with regard to sponsorship arrangements while at the same time ensuring community expectations are met.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Holiday Parks Section to ensure the Policy aligns with Council's objectives.

Internal

- Holiday Parks Section Manager.
- Marketing and Promotions Manager.
- Group Manager Corporate Services.
- Governance Section Manager.

External

- In accordance with local government legislation the draft Holiday Parks Sponsorship and Promotions Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Draft Holiday Parks Sponsorship and Promotions policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 6 - ATTACHMENT 1 DRAFT HOLIDAY PARKS SPONSORSHIP AND PROMOTIONS POLICY.

Policy



FILE NO: PSC2009-02488
TITLE: HOLIDAY PARKS SPONSORSHIP AND PROMOTIONS POLICY
POLICY OWNER: HOLIDAY PARKS SECTION MANAGER

1. PURPOSE:

- 1.1 This policy provides clarity around the means in which Port Stephens Beachside Holiday Parks allocates one off requests for in-kind support, usually in the form of providing an accommodation donation at any of the five holiday parks under its control.

2. CONTEXT/BACKGROUND:

- 2.1 Port Stephens is a tourism and hospitality mecca that attracts 100,000's of visitors annually to experience the many natural attractions that this region has to offer.
- 2.2 Operating five Holiday Parks that offer a variety of accommodation experiences including Beachside Holidays, Unique Retreats and Nature Escapes, Port Stephens Beachside Holiday Parks are well renowned and highly desired established parks.
- 2.3 The Holiday Parks include Fingal Bay Holiday Park, Halifax Holiday Park, Shoal Bay Holiday Park, Port Stephens Treescape and Thowalla Sunset Retreat.
- 2.4 Port Stephens Beachside Holiday Parks receives numerous unsolicited requests for in-kind accommodation donations from organisations and individuals to use as raffle prizes, giveaways and industry familiarisations.
- 2.5 Additionally some organisations, such as media outlets, make approaches to offer Contra advertising opportunities using an accommodation donation provided in-kind.

3. SCOPE:

- 3.1 Usually unsolicited approaches made for in-kind accommodation donations are:
- a) between 1-7 nights;
 - b) used to raise much needed funds for charity groups as prizes in raffles, trivia nights and other fundraising events;
 - c) industry familiarisation (usually 1-2 nights) requests can be last minute due to schedule changes and itinerary alterations;
 - d) media Contra advertising opportunity requests are usually received in advance and provide targeted organisational promotional exposures.

Policy

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ITEM 6 - ATTACHMENT 1 DRAFT HOLIDAY PARKS SPONSORSHIP AND PROMOTIONS POLICY.

Policy



4. DEFINITIONS:

4.1 An outline of the key definitions of terms included in the policy.

SPONSORSHIP	A commercial relationship between Port Stephens Beachside Holiday Parks and a third party (organisation, group or individual), governed by written agreement. Sponsorship involves provision of one off non-financial (in-kind) accommodation support in return for mutually agreed economic or reputational benefits.
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5. POLICY STATEMENT:

5.1 Port Stephens Beachside Holiday Parks is committed to playing a role within the promotion of the region by supporting those organisations, industry and media who provide suitable brand exposures.

5.2 Criteria for providing one off requests for in-kind accommodation support.

5.2.1 All requests for one off in-kind accommodation support is considered on a case-by-case basis. To be eligible to apply the following criteria's must be met:

- a) requests must be in writing stating the nature of support required;
- b) requests must outline details of fundraising activities, what is the Industry familiarisation's purpose or the Contra value to Beachside Holiday Parks;
- c) requests must outline any reputational return to Beachside Holiday Parks to raise parks profile.

5.3 One off In-kind accommodation support partners

5.3.1 Port Stephens Beachside Holiday Parks will only enter into one off in-kind support with reputable organisation and groups. Any organisation or group that has the potential to involve Port Stephens Beachside Holiday Parks in controversial issues, or expose to adverse criticism will not be considered.

5.3.2 No Mayor/Councillor or Port Stephens Council employee, or members of their families, are to receive personal benefit from one off in-kind accommodation support.

5.4 Approval of One off In-kind accommodation support

5.4.1 One off in-kind accommodation support requests are approved by the Holiday Parks Section Manager on receipt of a recommendation from the Marketing and Promotions Manager proposing the in-kind support.

Policy

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**ITEM 6 - ATTACHMENT 1 DRAFT HOLIDAY PARKS SPONSORSHIP AND
PROMOTIONS POLICY.**

Policy



6. POLICY RESPONSIBILITIES:

- 6.1 The Holiday Parks Section Manager has overall responsibility for the implementation of this policy.
- 6.2 Applications for sponsorship may be received and coordinated at coordinator level, if relevant to their role at Council. In all cases, consultation with the relevant section and group manager must occur prior to agreement being entered into.
- 6.3 The relevant section manager is responsible for reporting sponsorship requests over \$20,001 to Council for endorsement.

7. RELATED DOCUMENTS:

- 7.1 Port Stephens Council Code of Conduct.
- 7.2 Port Stephens Council Sponsorship Policy.
- 7.3 *Local Government Act 1993.*
- 7.4 *Sponsorship in the public sector – A guide to developing policies and procedures for both receiving and granting sponsorship; Independent Commission Against Corruption (ICAC), May 2006.*

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ITEM 6 - ATTACHMENT 1 DRAFT HOLIDAY PARKS SPONSORSHIP AND PROMOTIONS POLICY.

Policy



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EDRMS container No	PSC2009-02488	EDRMS record No	19/102621
Audience	Event organisers, community organisations and the Port Stephens Community.		
Process owner	Holiday Parks Section Manager.		
Author	Holiday Parks Section Manager.		
Review timeframe	Two years	Next review date	
Adoption date			

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1		Marketing and Promotions Manager	New policy.	

Policy

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ITEM NO. 7

**FILE NO: 19/97927
EDRMS NO: PSC2015-02099**

POLICY: FORESHORE DINGHY STORAGE POLICY

REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Foreshore Dinghy Storage Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the revised Foreshore Dinghy Storage Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the Policy be adopted as amended, without a further report to Council.
 - 3) Revoke the Foreshore Dinghy Storage Policy adopted by Council on 14 April 2015, Minute No. 086 should no submissions be received.
-

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

092	<p>Councillor John Nell Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Foreshore Dinghy Storage Policy shown at (ATTACHMENT 1).2) Place the revised Foreshore Dinghy Storage Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the Policy be adopted as amended, without a further report to Council.3) Revoke the Foreshore Dinghy Storage Policy adopted by Council on 14 April 2015, Minute No. 086 should no submissions be received.
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BACKGROUND

The purpose of this report is for the consideration and exhibition of the revised Foreshore Dinghy Storage Policy (the 'Policy') **(ATTACHMENT 1)**.

The Policy was originally implemented in 2015. The purpose of the Policy is to provide a framework to enable a balance between the storage of dinghies and other recreational activities as well as providing a compliance mechanism to manage this balance.

The Policy and code outcomes remain mostly unchanged, though the content has changed by:

- reformatting the Policy into the new Policy template;
- rewording of the Context/Background and Policy statement;
- removal of definitions from Policy statement; and
- addition of six month renewal option.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Infrastructure and Facilities	Maintain the Council's civil and community infrastructure to support the community.

FINANCIAL/RESOURCE IMPLICATIONS

Income received from the implementation of this Policy contributes towards regulation and capital improvements to storage facilities.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The removal of unregistered dinghies can occur under the *Impoundment Act 1993*.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without the regulation of dinghy and water vessel storage the amenity of public reserves is diminished.	Low	Adopt the amended Policy.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The use of a dinghy is an important method for residents and visitors to enjoy the waterways within the Port Stephens area. The interaction/balance between the general public recreation use of public land and dinghy storage needs to be managed. This Policy provides for the dinghy management to gain a better interaction/balance. Foreshore dinghy storage will be managed to ensure there are minimal environmental impacts.

The \$100 registration fee is documented and reviewed annually through the Port Stephens Council Fees and Charges process.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Assets Section.

Internal

- Review has been undertaken with Community & Recreation.

External

- In accordance with local government legislation the revised Foreshore Dinghy Storage Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Foreshore Dinghy Storage policy.

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM 7 - ATTACHMENT 1 REVISED FORESHORE DINGHY STORAGE POLICY.

Policy



FILE NO: PSC2011-02312
TITLE: FORESHORE DINGHY STORAGE POLICY
POLICY OWNER: JOHN MARETICH, CIVIL ASSETS SECTION MANAGER

1. PURPOSE:

- 1.1 To provide a framework to enable a balance between the storage of dinghies and other recreational activities as well as providing a compliance mechanism to manage this balance.

2. CONTEXT/BACKGROUND:

- ~~2.1 The current approach to managing dinghies stored on public foreshores involves the provision of storage such as dinghy racks and removal on the basis of safety risks to park users, demand for park space during peak seasons and potential damage to foreshores. There is now an adopted Council policy position relating to this issue.~~
- 2.1 A Notice of Motion was tabled at the 26 June, 2012 Ordinary Council Meeting to address the issue of dinghy and water vessel storage on council foreshore reserves.
- 2.2 The action was prompted due to the number of dinghies and other water vessels being stored on foreshore reserves. ~~The number of dinghies and other water vessels on Council's~~ It was noted that a number foreshores of reserves throughout the Port Stephens Council area were cluttered with abandoned dinghies, canoes and catamarans and this was ~~are~~ limiting the ability for the residents of Port Stephens and visitors to enjoy our beautiful beaches and waterways. Greater order and management is required to preserve the foreshore reserves for the enjoyment of all.
- 2.3 Council adopted the Foreshore Dinghy Storage Policy in April 2015.

3. SCOPE:

- 3.1 Dinghy storage on reserves is permissible under a user pay system where income will be allocated to the maintenance, improvement, enforcement and initial signage of foreshore dinghy storage facilities
- 3.2 A permit system will enable Council to identify dinghies which have been abandoned on foreshores and subsequently will enable their removal.

Policy

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ITEM 7 - ATTACHMENT 1 REVISED FORESHORE DINGHY STORAGE POLICY.**Policy****4. DEFINITIONS:**

4.1 An outline of the key definitions of terms included in the policy.

Dinghy	A single or multi-hulled vessel up to maximum length of 3.0 metres.
Unauthorised Vessel	Is a vessel not included in the 'Dinghy' definition, this would include but not be limited to any single or multi-hulled vessel over 3 metres in length, a medium/large trailable vessel, trailer sailer, catamaran, sailboard, jetski, surfboard, work punt, pontoon, sailboat (fitted with mast), rowing skull, inflatable boat, canoe, kayak, and the like.
Derelict Vessel	Is a dinghy or other vessel left on public land, which appears to be unseaworthy by the evidence of damage to affect vessel flotation and users safety.
Abandoned Vessel	An abandoned vessel is a dinghy or other vessel left on public land, which appears to be un-owned or has no or expired registration.

5. POLICY STATEMENT:

5.1 For the purpose of this policy

- a dinghy is defined as a single or multi-hulled vessel up to a maximum length of 3.0 metres
- an unauthorised vessel is a vessel not included in the 'Dinghy' definition. An unauthorised vessel would include, but not be limited to, any single or multi-hulled vessel over 3 metres in length, a medium/large trailable vessel, trailer sailer, catamaran, sailboard, jetski, surfboard, work punt, pontoon, sailboat (fitted with mast), rowing skull, inflatable boat, canoe, kayak, and the like.
- a derelict vessel is a dinghy or other vessel left on public land, which appears to be unseaworthy by the evidence of damage to affect vessel flotation and users safety, and
- an abandoned vessel is a dinghy or other vessel left on public land, which appears to be un-owned or has no or expired registration.

5.1 Port Stephens Council is committed to providing recreational facilities and services in keeping with Council's vision and key corporate objectives.

5.2 The registration will be twelve months with renewal occurring during July for the financial year. A six month registration will be available from January to June of same financial year.

5.3 An inspection will be carried out every three months or as required to determine the percentage of dinghies registered.

5.4 Those dinghies not registered will be deemed abandoned and removed from the foreshore.

Policy

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ITEM 7 - ATTACHMENT 1 REVISED FORESHORE DINGHY STORAGE POLICY.

Policy



- 5.5 Dinghies and unauthorised vessels stored outside of the designated dinghy storage areas are to be removed and impounded by Council authorised officers. These vessels will be held at Council's impound and maybe disposed of in accordance with the *Impounding Act, 1993*.
- 5.6 Dinghies without a permit sticker and stored on a dinghy storage rack will also be removed under the *Impounding Act, 1993*.
- 5.7 Owners of unregistered vessel that have been removed from the foreshore will have three months to retrieve their vessel. If the vessel has not been claimed after three months, it may be sold by tender.
- 5.8 Dinghies will be permitted to be stored in any Council managed foreshore reserve. In the Council managed foreshore reserves that have designated storage areas, dinghies must be stored within the storage area. Council managed foreshore reserves with designated storage areas include;
- Shoal Bay Foreshore Reserve, Shoal Bay.
 - Dutchman's Beach, Nelson Bay.
 - Corlette Point Park, Corlette.
 - Roy Wood Reserve, Corlette.
 - Georges Reserve, Salamander Bay.
 - Wanda Beach Reserve, Salamander Bay.
 - Kangaroo Point Reserve, Soldiers Point.
 - Everitt Park, Soldiers Point.
 - Sunset Beach, Soldiers Point.
 - Taylors Beach Foreshore, Taylors Beach.
 - Koala Park, Lemon Tree Passage.
 - John Parade Foreshore, Lemon Tree Passage.
 - Foster Park, Tanilba Bay.
- 5.9 Council will review the fee for dinghy storage annually.

6. POLICY RESPONSIBILITIES:

- 6.1 The use of a dinghy is an important method for residents and visitors to enjoy the waterways within the Port Stephens area. The interaction/balance between the general public recreation use of public land and storage of dinghies needs to be managed. This Policy will allow the storage of dinghies to be managed, to ensure equity of access for all.
- 6.2 This policy will allow Council to fund the maintenance and construction of dinghy storage facilities through the collection of fees.
- 6.3 Dinghy storage will be managed to ensure there is minimal environmental impacts.

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ITEM 7 - ATTACHMENT 1 REVISED FORESHORE DINGHY STORAGE POLICY.

Policy



7. RELATED DOCUMENTS:

7.1 ~~NSW Coastal Policy, 1997.~~

7.1 State Environmental Planning Policy (Coastal Management), 2018

7.2 ~~Coastal Crown Lands Policy, 1991.~~

7.3 ~~Crown Land Foreshore Tenures Policy, 1991.~~

7.2 Crown Land Domestic Waterfront Licences – Guidelines, 2018

7.3 Local Government Act, 1993.

7.4 Impounding Act, 1993.

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No	PSC2011-02312	EDRMS record No	
Audience	Community, Assets Section, Community and Recreation, Staff and General Manager		
Process owner	Assets Section Manager		
Author	Community and Recreation Coordinator		
Review timeframe	Two years	Next review date	April 2021
Adoption date	14/04/2015		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	14/04/2015	Community and Recreation Coordinator	Adopted by Council.	086

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**ITEM 7 - ATTACHMENT 1 REVISED FORESHORE DINGHY STORAGE
POLICY.**

Policy



2		Community and Recreation Coordinator	Reviewed and Updated in Council new Policy Template. Policy Owner – Updated. 2.1, 2.2, 2.3, 5.1 Reworded to improve content. 5.1 Removed due to definitions are identified in 4.1. 5.3 Additional wording. 7.1, 7.2, 7.3 Removed old policy and added new policy.	
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ITEM NO. 8

**FILE NO: 19/117426
EDRMS NO: A2004-0284**

POLICY: PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submissions shown at **(ATTACHMENT 1)**.
 - 2) Adopt the revised Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy shown at **(ATTACHMENT 2)**.
 - 3) Revoke the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy dated 26 September 2017, Min. No. 226.
-

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

093	<p>Councillor John Nell Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Receive and note the submissions shown at (ATTACHMENT 1).2) Adopt the revised Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy shown at (ATTACHMENT 2).3) Revoke the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy dated 26 September 2017, Min. No. 226.
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BACKGROUND

The purpose of this report is to provide Council with the draft Payment of Expenses and Provision of Facilities to Councillors Policy (the 'Policy') following the public exhibition period of 21 March 2019 to 18 April 2019.

As a result of the public exhibition one public submission was received. Council submitted an administrative amendment submission to provide further clarity around particular clauses within the Policy. A summary of the public submission and the proposed administrative amendments is shown at **(ATTACHMENT 1)**.

A copy of the revised Policy, including the administrative amendments, is shown at **(ATTACHMENT 1)**.

The Policy is provided for Council's consideration.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

Expenditure associated with this Policy is included in Council's 2018-2019 budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Section 252 of the *Local Government Act 1993* requires Council to adopt a Policy within the first twelve (12) months of each term of Council, rather than annually. This amendment also makes provision for the Policy to be reviewed as and when required.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council would be in breach of Section 252 and 253 of the <i>Local Government Act 1993</i> , should this Policy not be adopted.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Policy allows Councillors to effectively carry out their responsibilities as members of the Council and as community representatives without suffering financial hardship.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Governance Section.

Internal

- The Executive Team has been consulted to seek management endorsement.
- The General Manager has been consulted to seek endorsement prior to Council's consideration.

External

The Policy was on public exhibition from 21 March 2019 to 18 April 2019, with one public submission received.

OPTIONS

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

ATTACHMENTS

- 1) Submission summary.
- 2) Revised Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy.

COUNCILLORS ROOM

- 1) Submissions.

TABLED DOCUMENTS

Nil.

ITEM 8 - ATTACHMENT 1 SUBMISSION SUMMARY.

Submissions for the Payment of Expenses and Provision of Facilities to Mayor and Councillors policy

	Author	Comment	Council response
1	Tomaree Ratepayers and Residents Association (TRRA)	<p>The TRRA supports the policy change concerning the increase in monetary limits for councillor professional development, noting there is no automatic entitlement and that reimbursement will be provided for approved courses. The policy change seems reasonable if the community expects better quality decision making. Whilst the policy change is supported it does not mean that any inappropriate activity by individual won't be criticised by interested parties such as TRRA.</p> <p>The TRRA noted the policy clauses concerning litigation expenses and acknowledged the complexity of the matter, and suggested a simple guide be produced to assist in understanding the matter.</p>	<p>The supportive submission from the TRRA is noted.</p> <p>In terms of the comments with respect to litigation expenses, Council is guided by its insurer. It is Council's insurer that decides if a claim is accept or not.</p>
		Revised Policy	Proposed changes to revised Policy
2	Council officer	Reference to 'Councillors' in most instances refers to the Mayor and Councillors.	Where the clause specifically relates to the Mayor and Councillors change from 'Councillors' to 'Elected Members'.
			Add definition – Elected Member – means a person who is a local government Councillor or Mayor.
		Definition – Long distance intrastate travel means travel to other parts of NSW of more than three hours duration by private vehicle.	Update definition – Long distance intrastate travel means travel by private vehicle to other parts of NSW of more than three hours duration from the Port Stephens Council Administration building.

ITEM 8 - ATTACHMENT 1 SUBMISSION SUMMARY.

	Author	Comment	Council response
		Definition – Councillor – means a person elected or appointed to civic office as a member of the governing body of council who is not suspended, including the Mayor.	Update definition – Councillor – means a person elected or appointed to civic office as a member of the governing body of council who is not suspended.
		3.2.1 All travel by Councillors should be undertaken using the most direct route and the most practicable and economical mode of transport.	3.2.1 All travel by Elected Members should be undertaken using the most direct route and the most practicable and economical mode of transport. Should an Elected Member elect to travel an alternate route that is not the most economical, they will only be reimbursed the cost associated with taking the most direct and economical route.
	Council officer	3.2.2 Each Councillor may be reimbursed or costs met by Council up to a total of \$7,000 per year, and the Mayor may be reimbursed or costs met by Council up to a total of \$7,000 per year, for travel expenses incurred while undertaking official business or professional development or attending approved conferences and seminars within NSW.	3.2.2 Each Elected Member may be reimbursed or costs met by Council up to a total of \$7,000 per year for travel expenses incurred while undertaking official business or professional development or attending approved conferences and seminars within NSW.
		3.7 Total interstate, overseas and long distance intrastate travel expenses for all Councillors will be capped at a maximum of \$2,000 per year. This amount will be set aside in Council's annual budget.	3.7 Total interstate travel (excluding the ACT), overseas and long distance intrastate travel expenses for each Elected Member will be capped at a maximum of \$2,000 per year. This amount will be set aside in Council's annual budget.

ITEM 8 - ATTACHMENT 1 SUBMISSION SUMMARY.

	Author	Comment	Council response
		3.20 The daily limits for meal expenses within Australia, where breakfast, lunch and dinner are to be consistent with those set out in the Port Stephens Council Enterprise Agreement, as adjusted.	3.20 The daily limits for meal expenses within Australia (breakfast, lunch and dinner) will be reimbursed in accordance with the reasonable meal allowance expense amounts as determined by the Australian Taxation Office from time to time.
		3.21 The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the General Manager, being mindful of Clause 3.19.	3.21 The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the General Manager, being mindful of Clause 3.19 and 3.20 above.
		3.24 As an indicative guide for the standard of refreshments to be provided at Council related meetings, the General Manager must be mindful of the Port Stephens Council Enterprise Agreement, as adjusted.	3.24 As an indicative guide for the standard of refreshments to be provided at Council related meetings, the General Manager must be mindful of the reasonable meal allowance expense amounts as determined by the Australian Taxation Office from time to time.
	Council officer	3.33 Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved Council. Council will also meet the reasonable cost of meals when they are not included in the conference fees. Reimbursement for accommodation and meals not included in the conference fees will be subject to Clauses 3.18-3.22.	3.33 Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved by Council. Council will also meet the reasonable cost of meals when they are not included in the conference fees. Reimbursement for travel, accommodation and meals not included in the conference fees will be subject to Clauses 3.2.1 and 3.18-3.22.

ITEM 8 - ATTACHMENT 1 SUBMISSION SUMMARY.

	Author	Comment	Council response
		<p>3.35 In limited circumstances, Council shall meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Councillor when the Councillor is performing his or her official functions within the Port Stephens Local Government area, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Councillor is entitled to a maximum of \$500 annually, not including the Local Government NSW annual conference.</p>	<p>3.35 In limited circumstances, Council will meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Councillor when performing his or her official functions – including but not limited to Council related functions that are of a formal or ceremonial nature, such as award ceremonies and attendance at the annual Strategic Councillor workshop. Each Councillor is entitled to a maximum of \$500 annually (not including the Local Government NSW annual conference).</p>
		<p>3.36 Costs and expenses incurred by the Councillor on behalf of their spouse, partner or accompanying person shall be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending the function.</p>	<p>3.36 Costs and expenses incurred by the Councillor on behalf of their spouse, partner or accompanying person will be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending a function noted in 3.35 above.</p>

ITEM 8 - ATTACHMENT 1 SUBMISSION SUMMARY.

	Author	Comment	Council response
	Council officer	<p>3.37 In limited circumstances, Council shall meet certain costs incurred by the Mayor on behalf of their spouse, partner or accompanying person which is property and directly related to accompanying the Mayor within the State of New South Wales or as resolved by Council when performing his or her official functions, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Mayor is entitled to a maximum of \$1,000 annually, not including the Local Government NSW annual conference.</p>	<p>3.37 In limited circumstances, Council will meet certain costs incurred by the Mayor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Mayor when performing his or her official functions, including but not limited to functions that are of a formal or ceremonial nature, such as award ceremonies and attendance at the annual Strategic Councillor workshop. The Mayor is entitled to a maximum of \$1,000 annually (not including the Local Government NSW annual conference).</p>
		<p>3.39 Costs associated with spouse, partner or accompanying person associated with attendance at conferences other than the Local Government NSW annual conference, or any seminars or training shall not be met by Council.</p>	<p>3.39 Costs incurred by Elected Members on behalf of a spouse, partner or accompanying person associated with attendance at a conference (other than the Local Government NSW annual conference), seminar or training as part of the Elected Members professional development program will not be met by Council.</p>
		<p>3.71 The Councillor must as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor.</p>	<p>3.71 The Councillor must as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor. In the case of the Mayor, the Mayor is to notify the General Manager or Public Officer.</p>

ITEM 8 - ATTACHMENT 1 SUBMISSION SUMMARY.

	Author	Comment	Council response
		3.94 Further details can be obtained through Council's Councillor Support Executive Assistant.	3.94 Further details can be obtained through Council's Senior Executive Assistant.
	Council officer	3.127 Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by an individual Councillor and as a total for all Councillors.	3.127 Detailed reports on the provision of expenses and facilities to Elected Members will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure incurred by Elected Members. The report will also show the total cost incurred to Council by Elected Members (including the monthly allowance) for each costing category listed.

ITEM 8 - ATTACHMENT 2 REVISED PAYMENT OF EXPENSES AND
PROVISION OF FACILITIES TO MAYOR AND COUNCILLORS POLICY.

Policy



FILE NO: A2004-0284

TITLE: PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO
MAYOR/COUNCILLORS POLICY

POLICY OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy ('Policy') is to clearly state the facilities and support that are available to Councillors **Elected Members** to assist them in fulfilling their civic duties.
- 1.2 This Policy enables the reasonable and appropriate reimbursement of expenses and provision of facilities to Councillors **Elected Members** to help them undertake their civic duties.
- 1.3 It ensures accountability and transparency, and seeks to align Councillors **Elected Members** expenses and facilities with community expectations. Councillors **Elected Members** must not obtain private or political benefit from any expense or facility provided under this Policy.
- 1.4 The Policy has been prepared in accordance with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005* (the Regulation), and complies with the Office of Local Government's Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in NSW.
- 1.5 The Policy sets out the maximum amounts Council will pay for specific expenses and facilities.

2. CONTEXT/BACKGROUND:

- 2.1 The provision of expenses and facilities enables **the Mayor and** Councillors to fulfil their civic duties as the elected representatives of Port Stephens Council.
- 2.2 The community is entitled to know the extent of expenses paid to Councillors **Elected Members**, as well as the facilities provided.
- 2.3 Council staff are empowered to question or refuse a request for payment from a Councillor when it does not accord with this Policy.

Policy

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ITEM 8 - ATTACHMENT 2 REVISED PAYMENT OF EXPENSES AND
PROVISION OF FACILITIES TO MAYOR AND COUNCILLORS POLICY.

Policy



- 2.4 Expenses and facilities provided by this Policy are in addition to fees paid to Councillors **Elected Members**. The minimum and maximum fees a council may pay each Councillor **Elected Members** are set by the Local Government Remuneration Tribunal as per Section 241 of the Act and reviewed annually. Council must adopt its annual fees within this set range.

3. SCOPE:

Part A – Expenses

3.1 General expenses

- 3.1.1 All expenses provided under this Policy will be for a purpose specific to the functions of holding civic office. Allowances for general expenses are not permitted under this Policy.

- 3.1.2 Expenses not explicitly addressed in this Policy will not be paid or reimbursed.

3.2 Specific expenses.

General travel arrangements and expenses

- 3.2.1 All travel by Councillors **Elected Members** should be undertaken using the most direct route and the most practicable and economical mode of transport. **Should an Elected Member elect to travel an alternate route that is not the most economical, they will only be reimbursed the cost associated with taking the most direct and economical route.**

- 3.2.2 Each Councillor **Elected Member** may be reimbursed or costs met by Council up to a total of \$7,000 per year, ~~and the Mayor may be reimbursed or costs met by Council up to a total of \$7,000 per year,~~ for travel expenses incurred while undertaking official business or professional development or attending approved conferences and seminars within NSW.

3.3 This includes reimbursement:

- a) for public transport fares;
- b) for the use of a private vehicle or hire car;
- c) for parking costs for Council and other meetings;
- d) for tolls;
- e) by Cabcharge card or equivalent;
- f) for documented ride-share programs, such as Uber, where tax invoices can be issued.

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ITEM 8 - ATTACHMENT 2 REVISED PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO MAYOR AND COUNCILLORS POLICY.

Policy



- 3.4 Allowances for the use of a private vehicle will be reimbursed by kilometre at the rate contained in the Local Government (State) Award.
- 3.5 Councillors **Elected Members** seeking to be reimbursed for use of a private vehicle must keep a log book recording the date, distance and purpose of travel being claimed. The claim form must include such details.

Interstate, overseas and long distance intrastate travel expenses

- 3.6 In accordance with the Policy Statement, Council will scrutinise the value and need for Councillors **Elected Members** to undertake overseas travel. Council should avoid interstate, overseas and long distance intrastate trips unless direct and tangible benefits can be established for the Council and the local community. This includes travel to sister and friendship cities.
- 3.7 Total interstate **travel (excluding the ACT)**, overseas and long distance intrastate travel expenses for all Councillors **each Elected Member** will be capped at a maximum of \$2,000 per year. This amount will be set aside in Council's annual budget.
- 3.8 Councillors **Elected Members** seeking approval for any interstate and long distance intrastate travel must submit a case to, and obtain the approval of, a full Council meeting prior to travel.
- 3.9 Councillors **Elected Members** seeking approval for any overseas travel must submit a case to, and obtain the approval of, a full Council meeting prior to travel.
- 3.10 The case should include:
- a) objectives to be achieved in travel, including an explanation of how the travel aligns with current Council priorities and business, the community benefits which will accrue as a result, and its relevance to the exercise of the Councillors **Elected Members** civic duties;
 - b) who is to take part in the travel;
 - c) duration and itinerary of travel;
 - d) a detailed budget including a statement of any amounts expected to be reimbursed by the participant/s.

Note: for the most part, a report will be submitted to a full Council meeting by the General Manager's Office, detailing the proposed travel.

- 3.11 For interstate and long distance intrastate journeys by air of less than three hours, the class of air travel is to be economy class.

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PROVISION OF FACILITIES TO MAYOR AND COUNCILLORS POLICY.

Policy



- 3.12 For interstate journeys by air of more than three hours, the class of air travel may be premium economy.
- 3.13 For international travel, the class of air travel is to be premium economy if available. Otherwise, the class of travel is to be economy.
- 3.14 Bookings for approved air travel are to be made through the General Manager's Office.
- 3.15 For air travel that is reimbursed or costs met by Council as Council business, ~~Councillors~~ **Elected Members** will not accrue points from the airline's frequent flyer program. This is considered a private benefit.

Travel expenses not paid by Council

- 3.16 Council will not pay any traffic or parking fines or administrative charges for road toll accounts.

Accommodation and meals

- 3.17 In circumstances where it would introduce undue risk for a ~~Councillors~~ **Elected Members** to travel to or from official business in the late evening or early morning, reimbursement of costs for accommodation and meals on the night before or after the meeting may be approved by the General Manager. This includes where a meeting finishes later than 10pm or starts earlier than 7am and the ~~Councillors~~ **Elected Member** lives more than 50 kilometres from the meeting location.
- 3.18 Council will meet the costs for accommodation and meals while ~~Councillors~~ **Elected Members** are undertaking prior approved travel or professional development outside the Hunter area.
- 3.19 The maximum daily limits for accommodation expenses within Australia is \$400 per ~~Councillors~~ **Elected Member** per day inclusive. This will ensure accommodation costs in a capital city are covered.
- 3.20 The daily limits for meal expenses within Australia, ~~where (breakfast, lunch and dinner) are to be consistent with those set out in the Port Stephens Council Enterprise Agreement, as adjusted~~ will be reimbursed in accordance with the reasonable meal allowance expense amounts as determined by the Australian Taxation Office from time to time.

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ITEM 8 - ATTACHMENT 2 REVISED PAYMENT OF EXPENSES AND
PROVISION OF FACILITIES TO MAYOR AND COUNCILLORS POLICY.

Policy



- 3.21 The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the General Manager, being mindful of Clause 3.19 and 3.20 above.
- 3.22 Councillors Elected Members will not be reimbursed or costs met by Council for alcoholic beverages.

Refreshments for council related meetings

- 3.23 Appropriate refreshments will be available for Council meetings, Council committee meetings, Councillor briefings, approved meetings and engagements, and official Council functions as approved by the General Manager.
- 3.24 As an indicative guide for the standard of refreshments to be provided at Council related meetings, the General Manager must be mindful of the Port Stephens Council Enterprise Agreement, as adjusted reasonable meal allowance expense amounts as determined by the Australian Taxation Office from time to time.

Professional development (including conferences and seminars)

- 3.25 Council will set aside \$15,000 per Councillor Elected Member, per term in its budget to facilitate professional development of Councillors Elected Members through programs, training, education courses and membership of professional bodies.
- 3.26 In the first year of a new Council term, Council will provide a comprehensive induction program for all Councillors Elected Members which considers any guidelines issued by the Office of Local Government (OLG). The cost of the induction program will be in addition to the ongoing professional development funding.
- 3.27 Annual membership of professional bodies will only be covered where the membership is relevant to the exercise of the Councillor's Elected Member's civic duties, the Councillor Elected Member actively participates in the body and the cost of membership is likely to be fully offset by savings from attending events as a member.
- 3.28 Approval for professional development activities is subject to a prior written request to the General Manager outlining the:
- a) details of the proposed professional development;
 - b) relevance to Council priorities and business;
 - c) relevance to the exercise of the Councillor's civic duties.

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ITEM 8 - ATTACHMENT 2 REVISED PAYMENT OF EXPENSES AND
PROVISION OF FACILITIES TO MAYOR AND COUNCILLORS POLICY.

Policy



- 3.29 In assessing an ~~Councillors~~ **Elected Members** request for a professional development activity, the General Manager must consider the factors set out in Clause 3.28, as well as the cost of the professional development in relation to the Councillor's remaining budget.
- 3.30 Council is committed to ensuring its ~~Councillors~~ **Elected Members** are up to date with contemporary issues facing Council and the community, and local government in NSW.
- 3.31 Council will set aside a total amount of \$30,000 annually in its budget to facilitate ~~Councillors~~ **Elected Members** attendance at conferences and seminars. This allocation is for all ~~Councillors~~ **Elected Members**. The General Manager will ensure that access to expenses relating to conferences and seminars is distributed equitably.
- 3.32 Approval to attend a conference or seminar is subject to approval of a full Council meeting. In assessing an Councillor's **Elected Member's** request, the General Manager must consider the following factor prior to submitting the report to Council:
- a) relevance of the topics and presenters to current Council priorities and business and the exercise of the ~~Councillor's~~ **Elected Member's** civic duties;
 - b) cost of the conference or seminar in relation to the total remaining budget.
- 3.33 Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved Council. Council will also meet the reasonable cost of meals when they are not included in the conference fees. Reimbursement for **travel**, accommodation and meals not included in the conference fees will be subject to Clauses **3.2.1 and 3.18-3.22**.

Spouse and Partner Expenses

- 3.34 Accompanying person means a person who has a close relationship with an ~~Councillor~~ **Elected Member** and/or provides carer support to the ~~Councillor~~ **Elected Member**.
- 3.35 In limited circumstances, Council will meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Councillor when the Councillor is performing his or her official functions ~~within the Port Stephens Local Government area~~, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature, **such as award ceremonies and attendance at the annual Strategic Councillor workshop**. Each Councillor is entitled to a maximum of \$500 annually **(not including the Local Government NSW annual conference)**.

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- 3.36 Costs and expenses incurred by the Councillors **Elected Members** on behalf of their spouse, partner or accompanying person will be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending the function **noted in 3.35 above**.
- 3.37 In limited circumstances, Council will meet certain costs incurred by the Mayor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Mayor within the State of New South Wales or as resolved by Council when performing his or her official functions, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature, **such as award ceremonies and attendance at the annual Strategic Councillor workshop**. Each Mayor is entitled to a maximum of \$1,000 annually (not including the Local Government NSW annual conference).
- 3.38 Council will meet limited expenses of spouse, partner or accompanying person associated with attendance at the Local Government NSW annual conference. These expenses are limited to the costs of registration and the official conference dinner. Expenses such as travel expenses, any additional accommodation expenses and the cost of any accompanying persons program will not be met by Council.
- 3.39 Costs **incurred by Elected Members on behalf of a** ~~associated with~~ spouse, partner or accompanying person associated with attendance at a conference (other than the Local Government NSW annual conference), ~~or any seminars or training~~ **as part of the Elected Members professional development program** will not be met by Council.
- 3.40 In no circumstances will the peripheral expenses of a spouse, partner or accompanying person, such as grooming, special clothing and transport be considered reimbursable expenses.

Information and communications technology (ICT) expenses

- 3.41 Council will reimburse Councillors **Elected Members** for expenses associated with appropriate ICT devices up to a limit of \$5,000 per term. This may include a combination of devices such as; mobile phone, a tablet and a desktop computer or laptop. Council will only reimburse a Councillors **Elected Members** for a maximum of three devices.
- 3.42 Councillors **Elected Members** may seek reimbursement for applications on their mobile electronic communication device that are directly related to their duties as an Councillors **Elected Member**, within the maximum limit.

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- 3.43 Council will reimburse Councillors **Elected Members** for their communication device costs (including mobile phone, landline rental, landline telephone and facsimile) incurred in attending to Council business, up to 75% of the total invoice, to a maximum cost of \$200 per month. Unless an Councillors **Elected Member** can provide evidence that 100% of the total invoice should be paid.
- 3.44 As an alternative to clause 3.43, Council will reimburse Councillors **Elected Members** for their communication device costs where it is part of a bundle plan. This would include landline costs and internet where costs were incurred in attending to Council business, up to 75% of the total invoice, to a maximum cost of \$100 per month. The reimbursement for a mobile phone plan will be, up to 75% of the total invoice, to a maximum cost of \$100 per Councillor per month. Unless an Councillors **Elected Member** can provide evidence that 100% of the total invoice should be paid.
- 3.45 Council will meet the cost of providing and maintaining an internet connection at the residence of an Councillors **Elected Member** up to 75% of the total invoice, to a maximum of \$60 per month, where not included in a bundle plan. Any internet costs incurred above this maximum will be met by the Councillors **Elected Member**. Unless an Councillors **Elected Member** can provide evidence that 100% of the total invoice should be paid
- 3.46 Reimbursements will be made only for communications devices and services used for Councillors **Elected Members** to undertake their civic duties, such as:
- a) receiving and reading Council business papers.
 - b) relevant phone calls and correspondence.
 - c) diary and appointment management.
- 3.47 All communication device costs incurred above this maximum will be met by the Councillors **Elected Member**.
- 3.48 If an Councillors **Elected Member** does not have a telephone line or internet connection at their home, Council will meet reasonable connection costs.

Special requirement and carer expenses

- 3.49 Council encourages wide participation and interest in civic office. It will seek to ensure Council premises and associated facilities are accessible, including provision for sight or hearing impaired Councillors **Elected Members** and those with other disabilities.

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- 3.50 Transportation provisions outlined in this Policy will also assist Councillors **Elected Members** who may be unable to drive a vehicle.
- 3.51 In addition to the provisions above, the General Manager may authorise the provision of reasonable additional facilities and expenses in order to allow an Councillors **Elected Member** with a disability to perform their civic duties.
- 3.52 Councillors **Elected Members** who are the principal carer of a child or other elderly, disabled and/or sick immediate family member will be entitled to reimbursement of carer's expenses up to a maximum of \$2,000 per annum for attendance at official business, plus reasonable travel from the principal place of residence.
- 3.53 Child care expenses may be claimed for children up to and including the age of 16 years where the carer is not a relative.
- 3.54 In the event of caring for an adult person, Councillors **Elected Members** will need to provide suitable evidence to the General Manager that reimbursement is applicable. This may take the form of advice from a medical practitioner.

Home office expenses

- 3.55 Each Councillors **Elected Member** may be reimbursed up to \$300 per year for costs associated with the maintenance of a home office, such as minor items of consumable stationery and printer ink cartridges.

Insurances

Councillors **Elected Members** will receive the benefit of insurance cover for:

- 3.56 Personal Accident – Personal Accident insurance covers personal injury, which is caused by accidental external and visible means that solely and independently of any other cause results in an Councillors **Elected Member's** death or disablement. The cover applies anywhere in the world during and while travelling to and from Council business. The capital benefit for the death of an Councillors **Elected Member** is \$500,000. The cover does not include medical expenses.
- 3.57 Professional Indemnity – Professional Indemnity insurance covers Council where Council becomes legally liable to pay compensation for financial loss as a result of any negligent act, error or omission in the conduct of Council's business activities arising from a breach of professional duty. Cover is subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme wording.

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- 3.58 Public Liability – Public Liability insurance covers Council's legal liability to pay compensation to third parties arising in connection with the business activities of Council. Matters arising from Councillors **Elected Members**' performance of civic duties or exercise of their functions as Councillors **Elected Members** are covered subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme Policy wording.
- 3.59 Councillors' & Officers' Liability – Councillors' & Officers' Liability insurance protects Councillors **Elected Members** and officers from the costs incurred in defending themselves against legal actions that arise from honest mistakes in the management of Council. It covers Councillors **Elected Members** for personal liabilities as a result of wrongful acts subject to any limitations or conditions set out in the Policy of insurance.
- 3.60 Full details of the abovementioned insurance policies are available in Council's Insurance Handbook held by Council's Organisation Development Section.

Legal assistance

- 3.61 Councillors **Elected Members** may be entitled to indemnity for an enquiry, investigation or hearing commenced by an official body.

Council will not meet the legal costs:

- a) of legal proceedings initiated by an Councillors **Elected Member** under any circumstances;
 - b) of an Councillors **Elected Member** seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation;
 - c) for legal proceedings that do not involve an Councillors **Elected Member** performing their role as an Councillors **Elected Member**.
- 3.62 Reimbursement of expenses for reasonable legal expenses must have Council approval by way of a resolution at a Council meeting prior to costs being incurred.
- 3.63 **In the event of legal proceedings being taken against an Councillors **Elected Member**, arising out of or in connection with the Councillors **Elected Member's** performance of his or her civic duties or exercise of his or her functions as an Councillors **Elected Member** (with the exception of defamation proceedings).**
- 3.64 After the conclusion of the inquiry, investigation, hearing or proceeding, Council will reimburse an Councillors **Elected Member** for all legal expenses properly and reasonably incurred on a solicitor/client basis, PROVIDED THAT:

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- a) The amount of such reimbursement will be reduced by the amount of any monies that may be or are recouped by the Councillors **Elected Member** on any basis.
 - b) The Councillors **Elected Member's** performance or exercise of the civic duty or function was in the opinion of Council bona fide and/or proper (Section 731 of the Act).
 - c) The amount of such reimbursement be limited to an hourly rate being charged by Council's Hunter based Solicitors ie any portion of the expenses representing an hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.
- 3.65 Council may indemnify or reimburse the reasonable legal expenses of an Councillors **Elected Member** for proceedings before the NSW Civil and Administrative Tribunal or an investigative body PROVIDED the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillors **Elected Member**.
- a) Legal expenses incurred in relation to proceedings arising out of the performance by an Councillor **Elected Member** of his or her functions under the Act should be distinguished from expenses incurred in relation to proceedings arising merely from something, which an Councillor **Elected Member** has done during his or her term of office. An example of the latter is expenses arising from an investigation as to whether a councillor acted corruptly by using knowledge of a proposed rezoning for private gain.
 - b) In addition, legal costs will only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the Councillor **Elected Member**. This may include circumstances in which a matter does not proceed to a finding. In relation to an Councillor's **Elected Member's** conduct, a finding by an investigative or review body that an inadvertent minor technical breach has occurred may not necessarily be considered a substantially unfavourable outcome.
- 3.66 In the case of a code of conduct complaint made against an Councillor **Elected Member**, legal costs will only be made available where the matter has been referred by the General Manager to a conduct reviewer and the conduct reviewer has commenced a formal investigation of the matter and makes a finding substantially favourable to the Councillor **Elected Member**.
- 3.67 Council will not meet any Councillors **Elected Members'** costs of any enquiry, investigation or hearing initiated at the request of, or to any legal proceedings taken by, Council itself.
- 3.68 **In the case of defamation proceedings arising from the making of a public statement, where an Councillor **Elected Member** is a defendant or anticipated defendant in such proceedings**

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- 3.69 Indemnity or reimbursement in respect of costs of defending an action in defamation is only available in circumstances where the Councillors **Elected Member** was acting properly when making the statement complained of. The threshold criteria for the application of the indemnity or reimbursement will apply (see 3.70).

Note: Council may not meet the costs of any action in defamation taken by an Councillor **Elected Member** as plaintiff in any circumstances (DLG Circular 00/22).

Threshold Criteria – Defamation Proceedings

- 3.70 Where proceedings have been foreshadowed or commenced against the Mayor or a Councillor arising from a public statement or statements made or acts done by any of them and, in the opinion of Council's appointed solicitor the following 'Three Criteria' are satisfied through the required procedure set out below namely:

- i. The statement was made or the act was done in relation to discharging the functions of civic office;
- ii. The Councillor **Elected Member** concerned was acting in good faith (Section 731 of the Act); and
- iii. The statement or the act in question was reasonable in the circumstances and not made or done maliciously or frivolously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false,

then Council will reimburse an Councillor **Elected Member** for all legal expenses, fees, liabilities or costs incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against the Councillor) properly and reasonably incurred on a solicitor/client basis, PROVIDED THAT the amount of such reimbursement will be:

- a) reduced by the amount of any monies that may be or are recouped by the Councillor **Elected Member** on any basis; and
- b) limited to an hourly rate being charged by Council's Hunter based Solicitors ie any portion of the expenses representing an hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

Engagement of Legal Representatives – Requisite Procedure

- 3.71 The Councillor must as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify either the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor. **In the case of the Mayor, the Mayor is to notify the General Manager or Public Officer.**

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3.72 This notification must:

- a) be in written form;
- b) include all details including any correspondence from the alleged injured party concerning the possible claim; and
- c) include the Councillor's **Elected Member's** comments on whether the Councillor **Elected Member** considers that the Three Criteria are satisfied.

3.73 The Councillor **Elected Member** must not respond to any allegations made or accept any liability in respect to any allegations made unless authorised to do so by Council or its solicitor or the insurer or its solicitor.

3.74 The Councillor **Elected Member** must at all times without undue delay keep Council fully informed of any oral or written communications made to the Councillor **Elected Member** by the alleged injured party or the injured party's agents or legal representative in respect of the claim.

3.75 The General Manager must immediately upon becoming aware that a claim may be forthcoming or aware that a statement has been made which may give rise to a claim, notify and forward to Council's insurer any information relating to the matter with a view to obtaining the Insurer's acceptance and carriage of the claim should the three criteria be satisfied.

3.76 If proceedings are threatened (and not yet commenced), the General Manager must without undue delay inform Council's appointed Solicitor and Council's insurer of the notification. The Council's solicitor at Council's cost must form a view as to whether the Three Criteria are satisfied, and must notify the General Manager who will in turn notify the Councillor **Elected Member** concerned in written form of that view.

3.77 If the Council's solicitor considers that the Three Criteria are satisfied, the General Manager will either instruct Council's solicitors or if Council's Insurers have accepted the matter as a possible claim then it will represent the Councillor **Elected Member** concerned.

3.78 If Council's solicitor forms the view that the Three Criteria are not satisfied, the Councillor **Elected Member** may request a review of that advice from an independent legal practitioner as agreed in advance between the Councillor **Elected Member** concerned and the General Manager and failing agreement as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.

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- 3.79 If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
- a) In the case that the claim is accepted by Council's insurer it will have carriage of the matter subject to consultation with the General Manager and the Councillor **Elected Member** will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.
 - b) If the Insurer does not accept the claim as it is of the opinion that the matter is outside the policy then the General Manager in consultation with Council's solicitor will nominate a legal practitioner that they consider should represent the Councillor **Elected Member**. If the Councillor **Elected Member** considers that such representation is appropriate then the procedures in the paragraph below must be followed. If Council's solicitors are not of the same opinion as the insurers the General Manager in consultation with Council's solicitors will take whatever action is necessary (without unduly holding up the defamation proceedings) to have the question determined.
 - c) If the Councillor **Elected Member** considers that the legal practitioner nominated is not appropriate then the Councillor **Elected Member** concerned and the General Manager must attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
- 3.80 If Council's insurers have not accepted the claim the General Manager must contact the proposed legal practitioner and must require that an agreement be entered into between the legal practitioner and the Council which will include such terms and conditions as the General Manager sees fit including:
- a) Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
 - b) Accounts being considered and approved by the General Manager prior to payment; and
 - c) All instructions provided to the legal representatives by the Councillor **Elected Member** concerned to be subject to the concurrence of the General Manager.
- 3.81 Notwithstanding the provisions of paragraph above, once proceedings have actually been commenced then the procedures set out above must be followed. (Note: The General Manager should regularly review Council's insurance policies with respect to the application of them to the Council's possible liability pursuant to this policy.)

Exclusion from Policy

- 3.82 This Policy will not apply to any defamation or other action brought by any Councillor **Elected Member** or Council employee against any Councillor **Elected Member**, arising from the making of a statement by any of the latter of and concerning any of the former, unless in addition to the Three Criteria set out above:

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- a) The statement complained of is made to a person or body in circumstances where it is likely to be subject to qualified privilege or absolute privilege (including without limitation statements made in good faith to the Police or Director of Public Prosecutions, the Office of Local Government, statements made ancillary to, and in giving evidence to, a Court or Tribunal or other body conducting any inquiry, investigation or hearing, statements made to the Office of the Ombudsman and statements made to any Parliamentary Committee) (but in such circumstances the policy will only apply to the extent of the publication of the statement in these circumstances, and not to any other publication of the statement); or
- b) The statement:
- is made at a meeting of Council, a briefing of Councillors **Elected Members** or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefing; and
 - is in accordance with the Local Government (General) Regulations 2005 and Council's Code of Meeting Practice current at the time the statement was alleged to have been made; and
 - does not breach any other law.

Part B – Facilities

General facilities for all Councillors **Elected Members**

Facilities

- 3.83 Council will provide the following facilities to Councillors to assist them to effectively discharge their civic duties:
- a) a Councillor common room appropriately furnished to include telephone, photocopier, printer, desks, computer terminals, pigeon holes and appropriate refreshments (excluding alcohol);
 - b) access to shared car parking spaces while attending Council offices on official business;
 - c) personal protective equipment for use during site visits;
 - d) a name badge which may be worn at official functions, indicating that the wearer holds the office of a Councillor and/or Mayor or Deputy Mayor.
- 3.84 Councillors may book meeting rooms for official business in a specified Council building at no cost. Rooms may be booked through a specified officer in the Mayor's office or other specified staff member.
- 3.85 The provision of facilities will be of a standard deemed by the General Manager as appropriate for the purpose.

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Stationery

3.86 Council will provide the following stationery to Councillors **Elected Members** each year:

- a) letterhead, to be used only for correspondence associated with civic duties;
- b) business cards;
- c) up to the cost of 50 ordinary postage stamps;
- d) up to 30 Christmas or festive cards per year for Councillors and 100 for the Mayor.

Note: All postage is to be lodged at the Council Administration Building.

3.87 As per Section 3.86, postage costs will only be used to support an Councillors **Elected Members** civic duties. Any postage costs not used will not be carried over to the next year's allocation.

Administrative support

3.88 Council will provide administrative support to Councillors **Elected Members** to assist them with their civic duties only. Administrative support may be provided by staff in the Mayor's Office or by a member of Council's administrative staff as arranged by the General Manager or their delegate.

3.89 As per Section 7, Council staff are expected to assist Councillors **Elected Members** with civic duties only, and not assist with matters of personal or political interest, including campaigning.

Corporate Uniform

3.90 Councillors **Elected Members** may choose from a selection of Corporate Uniforms provided by Council's approved supplier. Council will contribute a subsidy to 35% of the initial cost to a maximum of \$250 per annum. A sundry debtor account will then be forwarded to the Councillors **Elected Members** for payment of the balance. Alternatively, a deduction can be made from the Councillors **Elected Members** monthly allowance.

Superannuation

3.91 Councillors **Elected Members** may elect to contribute all or part of their Councillor's **Elected Member's** Allowance into an approved Superannuation Scheme by completing **FORM 3**.

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Health & Wellbeing Initiative

- 3.92 Councillors **Elected Members** will be able to access a Health Initiative program, which includes gym membership at local facilities. The program requires a minimum six (6) month membership with a payment to be made in advance for three (3) months – non-refundable.
- 3.93 Councillors **Elected Members** will investigate any taxation implications for individual Councillors **Elected Members** as a result of the membership.
- 3.94 Further details can be obtained through Council's ~~Councillor Support Executive Assistant~~ **Senior Executive Assistant**.

Additional facilities for the Mayor

- 3.95 Council will provide to the Mayor a maintained vehicle to a similar standard of other Council vehicles, with a fuel card. The vehicle will be supplied for use on business, professional development and attendance at the Mayor's office.
- 3.96 The Mayor must keep a log book setting out the date, distance and purpose of all private travel. The log book must be submitted to Council on a monthly basis.
- 3.97 The Mayoral monthly claim for expenses will be reduced to cover the cost of any private travel recorded in the log book, calculated on a per kilometre basis by the rate set by the Local Government (State) Award.
- 3.98 A parking space at Council's offices will be reserved for the Mayor's Council-issued vehicle for use on official business, professional development and attendance at the Mayor's Office.
- 3.99 Council will provide the Mayor with a furnished office incorporating a computer configured to Council's standard operating environment, telephone and meeting space.
- 3.100 A corporate credit card only to be used for official Council business in accordance with this Policy.
- 3.101 In performing his or her civic duties, the Mayor will be assisted by a small number of staff providing administrative and secretarial support, as determined by the General Manager.
- 3.102 The number of exclusive staff provided to support the Mayor and Councillors will not exceed one full time equivalent.

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3.103 As per Section 3.101, staff in the Mayor's office are expected to work on official business only, and not for matters of personal or political interest, including campaigning.

Part C – Processes

Approval, payment and reimbursement arrangements.

3.104 Expenses should only be incurred by Councillors **Elected Members** in accordance with the provisions of this Policy.

3.105 Approval for incurring expenses, or for the reimbursement of such expenses, should be obtained before the expense is incurred.

3.106 Up to the maximum limits specified in this Policy, approval for the following may be sought after the expense is incurred:

- a) local travel relating to the conduct of official business;
- b) carer costs;
- c) ICT expenditure.

3.107 Final approval for payments made under this Policy will be granted by the General Manager or their delegate.

Direct payment

3.108 Council may approve and directly pay expenses. Requests for direct payment must be submitted to the General Manager for assessment against this Policy using the prescribed form, with sufficient information and time to allow for the claim to be assessed and processed.

3.109 Alternatively, if Council makes the arrangements then the costs will be paid by Council for official Council business.

Reimbursement

3.110 All claims for reimbursement of expenses incurred must be made on the prescribed form, supported by appropriate receipts and/or tax invoices and be submitted to the General Manager.

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Advance payment

- 3.111 Council may pay a cash advance for Councillors **Elected Members** attending approved conferences, seminars or professional development.
- 3.112 The maximum value of a cash advance is \$100 per day of the conference, seminar or professional development to a maximum of \$400.
- 3.113 Requests for advance payment must be submitted to the General Manager for assessment against this Policy using the prescribed form with sufficient information and time to allow for the claim to be assessed and processed.
- 3.114 Councillors **Elected Members** must fully reconcile all expenses against the cost of the advance within one month of incurring the cost and/or returning home. This includes providing to council:
- a) a full reconciliation of all expenses including appropriate receipts and/or tax invoices;
 - b) reimbursement of any amount of the advance payment not spent in attending to official business or professional development.

Notification

- 3.115 If a claim is approved, Council will make payment directly or reimburse the Councillor **Elected Member** through accounts payable.
- 3.116 If a claim is refused, Council will inform the Councillor **Elected Member** in writing that the claim has been refused and the reason for the refusal.

Reimbursement to council

- 3.117 If Council has incurred an expense on behalf of a Councillor **Elected Member** that exceeds a maximum limit, exceeds reasonable incidental private use or is not provided for in this Policy:
- a) Council will invoice the Councillor **Elected Member** for the expense;
 - b) the Councillor **Elected Member** will reimburse Council for that expense within 14 days of the invoice date.
- 3.118 If the Councillor **Elected Member** cannot reimburse Council within 14 days of the invoice date, they are to submit a written explanation to the General Manager. The General Manager may elect to deduct the amount from the Councillor's **Elected Member's** allowance.

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Timeframe for reimbursement

- 3.119 Unless otherwise specified in this Policy, Councillors **Elected Member's** must provide all claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved, unless approved by the General Manager due to extenuating circumstances.

Disputes

- 3.120 If an Councillors **Elected Member** disputes a determination under this Policy, the Councillors **Elected Member** should discuss the matter with the General Manager.
- 3.121 If the Councillor **Elected Member** and the General Manager cannot resolve the dispute, the Councillor **Elected Member** may submit a notice of motion to a Council meeting seeking to have the dispute resolved.

Return or retention of facilities

- 3.122 All unexpended facilities or equipment supplied under this Policy are to be relinquished immediately upon a Councillor or Mayor ceasing to hold office or at the cessation of their civic duties.
- 3.123 Should a Councillor **Elected Member** desire to keep any equipment allocated by Council, then this Policy enables the Councillor **Elected Member** to make application to the General Manager to purchase any such equipment. The General Manager will determine an agreed fair market price or written down value for the item of equipment.
- 3.124 The prices for all equipment purchased by Councillors **Elected Members** under Clause 3.123 will be recorded in Council's annual report.

Publication

- 3.125 This Policy will be published on Council's website.

Reporting

- 3.126 Council will report on the provision of expenses and facilities to Councillors **Elected Members** as required in the Act and Regulations.

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3.127 Detailed reports on the provision of expenses and facilities to Councillors **Elected Members** will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by an individual incurred by Elected Members and as a total for all Councillors. The report will also show the total cost incurred to Council by Elected Members (including the monthly allowance) for each costing category listed.

Auditing

3.128 The operation of this Policy, including claims made under the Policy, will be included in Council's audit program and an audit undertaken at least every two years.

Breaches

3.129 Suspected breaches of this Policy are to be reported to the General Manager.

3.130 Alleged breaches of this Policy will be dealt with by following the processes outlined for breaches of the Code of Conduct, as detailed in the Code and in the Procedures for the Administration of the Code.

4. DEFINITIONS:

An outline of the key definitions of terms included in the Policy.

Accompanying person	Means a spouse, partner or de facto or other person who has a close personal relationship with or provides carer support to a Councillor.
Appropriate refreshments	Means food and beverages, excluding alcohol, provided by Council to support Councillors undertaking official business.
Act	Means the <i>Local Government Act 1993</i> (NSW).
Clause	Unless stated otherwise, a reference to a clause is a reference to a clause of this Policy.
Code of Conduct	Means the Code of Conduct adopted by Council or the Model Code if none is adopted.
Council term	As defined by the <i>Local Government Act 1993</i> (NSW) or the NSW Government from time to time.
Councillor	Means a person elected or appointed to civic office as a member of the governing body of council who is not suspended, including the Mayor .

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Elected Member	Means a person who is a local government Councillor or Mayor.
General Manager	Means the general manager of Council and includes their delegate or authorised representative.
Incidental personal use	Means use that is infrequent and brief and use that does not breach this Policy or the Code of Conduct.
Long distance intrastate travel	Means travel by private vehicle to other parts of NSW of more than three hours duration by private vehicle from the Port Stephens Council Administration building.
Mayor	Means the Mayor of Port Stephens Council.
Maximum limit	Means the maximum limit for an expense or facility provided in the text and summarised in Schedule 1.
NSW	New South Wales.
Official business	Means functions that the Mayor or Councillors are required or invited to attend to fulfil their legislated role and responsibilities for Council or result in a direct benefit for Council and/or for the local government area, and includes: <ul style="list-style-type: none"> meetings of Council and committees of the whole meetings of committees facilitated by Council civic receptions hosted or sponsored by Council meetings, functions, workshops and other events to which attendance by a Councillor has been requested or approved by Council.
Professional development	Means a seminar, conference, training course or other development opportunity relevant to the role of a Councillor or the Mayor.
Regulation	Means the Local Government (General) Regulation 2005 (NSW).
Year	Means the financial year that is the 12 month period commencing on 1 July each year.

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5. POLICY STATEMENT:

5.1 The objectives of this Policy are to:

- a) enable the reasonable and appropriate reimbursement of expenses incurred by Councillors **Elected Members** while undertaking their civic duties;
- b) enable facilities of a reasonable and appropriate standard to be provided to Councillors **Elected Members** to support them in undertaking their civic duties;
- c) ensure accountability and transparency in reimbursement of expenses and provision of facilities to Councillors **Elected Members**;
- d) ensure facilities and expenses provided to Councillors meet community expectations;
- e) support a diversity of representation;
- f) fulfil the Council's statutory responsibilities.

5.2 Council commits to the following principles:

- a) **Proper conduct:** Councillors **Elected Members** and staff acting lawfully and honestly, exercising care and diligence in carrying out their functions.
- b) **Reasonable expenses:** Providing for Councillors **Elected Members** to be reimbursed or costs met by Council for expenses reasonably incurred as part of their role as Councillors **Elected Members**.
- c) **Participation and access:** Enabling people from diverse backgrounds, underrepresented groups, those in carer roles and those with special needs to serve as an Councillors **Elected Member**.
- d) **Equity:** There must be equitable access to expenses and facilities for all Councillors **Elected Members**.
- e) **Appropriate use of resources:** Providing clear direction on the appropriate use of Council resources in accordance with legal requirements and community expectations.
- f) **Accountability and transparency:** Clearly stating and reporting on the expenses and facilities provided to Councillors **Elected Members**.

5.3 Private or political benefit:

- a) Councillors **Elected Members** must not obtain private or political benefit from any expense or facility provided under this Policy.
- b) Private use of Council equipment and facilities by Councillors **Elected Members** may occur from time to time. For example, telephoning home to advise that a Council meeting will run later than expected.
- c) Such incidental private use does not require a compensatory payment back to Council.

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- d) Councillors **Elected Members** should avoid obtaining any greater private benefit from Council than an incidental benefit. Where there are unavoidable circumstances and more substantial private use of Council facilities does occur, Councillors **Elected Members** must reimburse the Council.
- e) Campaigns for re-election are considered to be a political benefit. The following are examples of what is considered to be a political interest during a re-election campaign:
- production of election material;
 - use of Council resources and equipment for campaigning;
 - use of official Council letterhead, publications, websites or services for political benefit;
 - fundraising activities of political parties or individuals, including political fundraising events.

6. POLICY RESPONSIBILITIES:

- 6.1 The General Manager is responsible for implementing and ensuring compliance.
- 6.2 The Governance Manager is responsible for implementing, ensuring compliance, monitoring, evaluating, reviewing and providing advice on the Policy.
- 6.3 Mayor and Councillors are responsible for complying with the Policy.

7. RELATED DOCUMENTS:

- *Local Government Act 1993*, Sections 252 and 253.
- *Local Government (General) Regulation 2005*, Clauses 217 and 403.
- Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, 2009.
- Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities.
- Local Government Circular 05-08 legal assistance for Councillors and Council Employees.
- Local Government Circular 17-17 Councillor Expenses and Facilities Policy – Better Practice Template.

7.1 Related Council policies:

- Code of Conduct.

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SCHEDULE 1

The main expenses and facilities are summarised in the table below. All monetary amounts are exclusive of GST.

Clause	Expense or facility	Maximum amount	Frequency
3.2.2	General travel expenses	\$7,000 per Councillor. \$7,000 for the Mayor.	Per year
3.7	Interstate, overseas and long distance intrastate travel expenses	\$2,000 total for all Councillors.	Per year
3.20	Meals	As per the Port Stephens Enterprise Agreement, as adjusted.	Per meal
3.19	Accommodation	\$400 per Councillor/Mayor.	Per night
3.25	Professional development	\$15,000 per Councillor/Mayor.	Per term
3.31	Conferences and seminars	\$30,000 total for all Councillors and Mayor.	Per year
3.35	Spouse/partner expenses	\$500 per Councillor.	Per year
3.37	Spouse/partner expenses	\$1,000 for the Mayor.	Per year
3.41	ICT expenses	\$5,000 per Councillor.	Per term
3.43	Communication devices (mobile phone, landline phone rental & calls, facsimile)	75% up to \$200.	Per month
3.44	Communication devices bundle plan (landline phone rental & calls, facsimile)	75% up to \$100.	Per month
3.44	Communication devices bundle plan (mobile phone)	75% up to \$100.	Per month
3.45	Internet where not included in a bundle plan	75% up to \$60.	Per month
3.52	Carer expenses	\$2,000 per Councillor.	Per year
3.55	Home office expenses	\$300 per Councillor.	Per year
3.86	Postage stamps	50.	Per year

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Clause	Expense or facility	Maximum amount	Frequency
3.86	Christmas or festive cards	30 per Councillor. 100 for the Mayor.	Per year
3.83	Access to facilities in a Councillor common room	Provided to all Councillors.	Not relevant
3.95	Council vehicle and fuel card	Provided to the Mayor.	Not relevant
3.98	Reserved parking space at Council offices	Provided to the Mayor.	Not relevant
3.99	Furnished office	Provided to the Mayor.	Not relevant
3.101	Number of exclusive staff supporting Mayor and Councillors	Provided to the Mayor and Councillors.	Not relevant
3.112	Advance payment for conferences, seminars	\$100 per Councillor/Mayor up to \$400.	Per event

Additional costs incurred by an Councillors **Elected Member** in excess of these limits are considered a personal expense that is the responsibility of the Councillor **Elected Member**.

Councillors **Elected Members** must provide claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved, unless approved by the General Manager due to extenuating circumstances.

Detailed reports on the provision of expenses and facilities to Councillors **Elected Members** will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by an individual Councillor **Elected Member** and as a total for all Councillors **Elected Members**.

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EDRMS container No	A2004-0284	EDRMS record No	
Audience	Mayor and Councillors		
Process owner	Governance Manager		
Author	Governance Manager		
Review timeframe	Annually	Next review date	September 2020
Adoption date	28/06/1994		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	28/06/1994	Assistant General Manager		342
2.0	13/12/1994	Assistant General Manager		691
3.0	14/11/1995	Assistant General Manager		562
4.0	10/09/1996	Assistant General Manager		528
5.0	23/12/1997	Assistant General Manager		1471
6.0	09/03/2004	Governance Officer		107
7.0	31/01/2006	Governance Coordinator		398
8.0	27/11/2006	Governance Coordinator		758

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Policy



Version	Date	Author	Details	Minute No.
9.0	25/03/2008	Governance Coordinator		069
10.0	16/12/2008	Executive Officer		398
11.0	24/11/2009	Executive Officer		399
12.0	23/11/2010	Executive Officer		373
13.0	18/11/2011	Executive Officer		385
14.0	27/11/2012	Executive Officer		323
15.0	26/11/2013	Executive Officer		345
16.0	26/08/2014	Executive Officer		229
17.0	22/09/2015	Governance Manager	Transferred Policy to new corporate Policy template and updated forms. No changes to the intent or objectives of the Policy.	295
18.0	23/08/2016	Governance Manager	<p>It is proposed to amend the Policy as follows:</p> <ol style="list-style-type: none"> 1) Increase cl. 1.12.1 to increase the allowance from \$3,000 to \$4,000 per term. 2) Amend cl. 1.15.1 change name of the Local Government Pecuniary Interest Tribunal to NSW Civil and Administrative Tribunal. 3) Cl. 8 change clause references stated in clause 8. 4) Under the "Exclusion from Policy" change name of Department of Local Government to Office of Local Government. 	242

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Version	Date	Author	Details	Minute No.
18.1	13/12/2016	Governance Manager	It is proposed to amend the Policy as follows: 1) Update the context/background to reflect adopt timeframes in accordance with the Local Government Act. 2) Update cl.252 (1) page 2. 3) Remove cl.253 (4) page 3. 4) Update cl 217 (a1) (vii), page 5. 5) Update cl 1.3.1, page 8 6) Update cl 1.6.2 & 1.6.4, page 9. 7) Update cl 1.8.1, page 11. 8) Update cl 1.10.1, page 12. 9) Update cl 1.12.1, page 13. 10) Update cl 1.13.3, page 14. 11) Update Related documents, page 24.	368
19	26/09/2017	Governance Manager	Redrafted Policy into the Office of Local Government template Policy, with some additions.	226

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Version	Date	Author	Details	Minute No.
20		Governance Manager	<p>Reviewed the policy, included numbering to each paragraph and updated the version control.</p> <p>Updated title of policy owner to Governance Section Manager.</p> <p>3.21 – updated reference to 3.19.</p> <p>Conferences and seminars included in Professional development heading.</p> <p>3.25 – increase dollar value and timing for professional development.</p> <p>3.28 – updated reference to 3.27.</p> <p>Delete Conferences and Seminars heading.</p> <p>3.33 – updated reference to 3.18-3.22.</p> <p>3.41 – increased ICT expenses.</p> <p>3.44 – Update reference to 3.43 and maximum cost to \$100.</p> <p>3.69 – updated reference to 3.70.</p> <p>3.87 – updated reference to 3.86.</p> <p>3.103 – updated reference to 3.101.</p> <p>3.124 – updated reference to 3.123.</p> <p>7 – included reference to OLG Circular 17-17.</p> <p>Schedule 1 – updated reference numbers.</p> <p>Following submission</p> <p>Where the term 'Councillors' refers to the Mayor and Councillors changed to 'Elected Members'.</p> <p>Included definition for Elected Members.</p> <p>Updated definition of Long Distance Intrastate travel.</p> <p>Updated definition of Councillor.</p> <p>Updated clause 3.2.1, 3.2.2, 3.7, 3.20, 3.21, 3.24, 3.33, 3.35, 3.36, 3.37, 3.39, 3.71, 3.94, 3.127.</p>	

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ITEM NO. 9

**FILE NO: 19/123048
EDRMS NO: PSC2017-00739**

POLICY: COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submission at **(ATTACHMENT 1)**.
 - 2) Adopt the Councillor Induction and Professional Development Policy shown at **(ATTACHMENT 1)**.
-

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

094	Councillor Glen Dunkley Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Receive and note the submission at (ATTACHMENT 1).2) Adopt the Councillor Induction and Professional Development Policy shown at (ATTACHMENT 1).
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BACKGROUND

The purpose of this report is to provide Council with the Councillor Induction and Professional Development Policy (the 'Policy') following the public exhibition period of 21 March 2019 to 18 April 2019.

As a result of the public exhibition, one submission was received in support of the Policy.

A copy of the Policy is shown at **(ATTACHMENT 2)**.

The Policy is provided for Council's consideration.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

The financial and resource implications are within the existing budget upon adoption of the Councillor Induction and Professional Development Policy.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to comply with the Regulation and any guidelines issued by the Office of Local Government (OLG).

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be in breach of the <i>Local Government Act 1993</i> , the Regulations and the OLG should it not comply with all requirements associated with the program.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Internal

- The Executive Team has been consulted to seek management endorsement.
- The General Manager has been consulted to seek endorsement prior to Council's consideration.

External

The Policy was on public exhibition from 21 March 2019 to 18 April 2019, with one submission received.

OPTIONS

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

ATTACHMENTS

- 1) Submission summary.
- 2) Draft Councillor Induction and Professional Development Policy.

COUNCILLORS ROOM

- 1) Submission.

TABLED DOCUMENTS

Nil.

ITEM 9 - ATTACHMENT 1 SUBMISSION SUMMARY.

Submission for the Councillor Induction and Professional Development Policy

	Author	Comment	Council response
1	Tomaree Ratepayers and Residents Association (TRRA)	The TRRA supports the policy noting it is a result of the NSW Government's Councillor Induction and Professional Development Guidelines being released. Further that the guidelines seem to be reasonable/desirable.	The supportive submission from the TRRA be received and noted.

ITEM 9 - ATTACHMENT 2 DRAFT COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT POLICY.

Policy



FILE NO: PSC2017-00739

TITLE: COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT POLICY

POLICY OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to demonstrate Port Stephens Council's commitment to ensuring that the Mayor and Councillors have access to induction and ongoing professional development which will assist them to develop and maintain the skills and knowledge required to effectively perform their civic role and responsibilities under the *Local Government Act 1993* ('the Act').

2. CONTEXT/BACKGROUND:

- 2.1 This policy has been developed to recognise the diversity of elected officials from a professional development perspective. Those elected to Port Stephens Council come from different backgrounds and it is acknowledged that they will already have some skills and experience to assist them in carrying out their role as a mayor or councillor. In an effort to further assist elected officials with a greater understanding of the local government framework and complexities, professional development has been enacted in the *Local Government (General) Regulation 2005*.

3. SCOPE:

- 3.1 This policy applies to all Councillors of Port Stephens Council, including the Mayor.

4. DEFINITIONS:

- 4.1 An outline of the key definitions of terms included in the policy.

Act	means <i>Local Government Act 1993</i>
Council	means Port Stephens Council
Councillors	means Elected members of Port Stephens Council
General Manager	means General Manager of Port Stephens Council.
Mayor	means Mayor of Port Stephens Council
Year	means financial year

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ITEM 9 - ATTACHMENT 2 DRAFT COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT POLICY.

Policy



5. POLICY STATEMENT:

Statement of commitment

- 5.1 Port Stephens Council is committed to developing an induction and ongoing professional development program for the Mayor and Councillors to ensure they can fulfil their statutory roles and responsibilities. As part of this program, the Mayor and each Councillor will have a professional development plan that identifies specific gaps in their capabilities (ie their knowledge, skills and attributes) and identify professional development activities to build these capabilities.

Induction program

- 5.2 Port Stephens Council will develop an induction program for new and returning Councillors as well as a supplementary program for the Mayor to ensure they are provided all the information they need to effectively fulfil their roles in the first few months of Council's term and feel confident in their ability to do so. The induction program will cover:
- a) an orientation to Council facilities and the local government area.
 - b) an overview of the key issues and tasks for the new council including Council's Community Strategic Plan, Delivery Program, Operational Plan, Resourcing Strategy and Community Engagement Plan.
 - c) the legislation, rules, principles and political context under which councils operate.
 - d) the roles and responsibilities of councillors and the mayor.
 - e) Council's organisational structure, workforce management strategy and the roles and responsibilities of the General Manager and Council staff.
 - f) what Council does and how it operates, including an overview of integrated planning and reporting, land-use planning, natural resource management, financial management and asset management by Council.
 - g) key Council policies and procedures Councillors must comply with including the Code of Conduct.
 - h) the role of Council meetings and how to participate effectively in them.
 - i) the support available to the Mayor and Councillors and where they can go to get more information or assistance, and
 - j) information on the process for taking the oath of office.
 - k) other information that may be relevant at the time.

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ITEM 9 - ATTACHMENT 2 DRAFT COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT POLICY.

Policy



- 5.3 In the case of the mayor, the program will also cover:
- a) how to be an effective leader of the governing body and the Council.
 - b) the role of the Chair and how to chair council meetings.
 - c) the Mayor's role in integrated planning and reporting.
 - d) the Mayor's role and responsibilities under the Code of Conduct.
 - e) the Mayor's role and responsibilities in relation to the General Manager's employment.
 - f) the Mayor's role at regional and other representative bodies, and
 - g) the Mayor's civic and ceremonial role.
- 5.4 The Mayor and Councillors must have a working knowledge and understanding of these areas by the end of the induction program.
- 5.5 The induction program will also include team building activities to help the governing body establish itself as a cohesive and collaborative team focused on a common purpose with shared values and goals. Activities will aim to ensure the Mayor and councillors:
- a) identify how they would like to work together as a team and identify a common vision for the governing body.
 - b) build relationships with each other based on trust and mutual respect that facilitate collaboration.
 - c) contribute to a positive and ethical culture within the governing body.
 - d) work towards consensus as members of the governing body for the benefit of the community.
 - e) develop respectful negotiation skills and manage alternative views within the governing body without damaging relationships.
 - f) understand what supports or undermines the effective functioning of the governing body.
 - g) respect the diversity of skills and experiences on the governing body, and
 - h) communicate and uphold the decisions of Council in a respectful way, even if their own position was not adopted.
- 5.6 Activities should also help the Mayor, as the leader of the governing body, to:
- a) act as a stabilising influence and show leadership, and
 - b) promote a culture of integrity and accountability within Council and when representing Council in the community and elsewhere.
- 5.7 The Mayor and Councillors, including those re-elected to office, must attend all induction sessions.

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ITEM 9 - ATTACHMENT 2 DRAFT COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT POLICY.

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- 5.8 Port Stephens Council will evaluate the induction program at the end of each Council term to determine whether it has achieved these outcomes, and to identify and address areas for improvement.

Ongoing professional development program

- 5.9 An individual ongoing professional development plan will be developed for the Mayor and each Councillor to address any gaps in the capabilities (ie the knowledge, skills and attributes) needed to effectively fulfil their role.
- 5.10 Each professional development plan will span the Council's term, and identify professional development activities that the Mayor or Councillor will participate in. Professional development activities will be prioritised according to need and approved by the General Manager where Council funds are required in accordance with Council's Payment of Expenses and Provision of Facilities to Mayor and Councillors policy. The Mayor and Councillors are expected to complete all the activities included in their professional development plan.
- 5.11 Professional development activities will, wherever possible, follow the 70/20/10 principle. The 70/20/10 principle requires that:
- a) 70% of learning activities are provided via learning and developing from experience – for example, on-the-job training, self-directed learning, developmental roles, problem solving, exposure and practice
 - b) 20% of learning activities are provided via learning and training through others – for example, personal or professional networks, coaching, mentoring, feedback, memberships and professional associations, and
 - c) 10% of learning activities are provided via learning and developing through structured programs – for example, training courses, external or in-house workshops, seminars, webinars and other e-learning and briefing sessions conducted by the council, external training providers or industry bodies.
- 5.12 The timing of professional development activities for the Mayor and Councillors will be designed in such a way so as to not overload Councillors with learning activities in the early part of Council's term. The timing will reflect what knowledge and skills Councillors and the Mayor need at various points in Council's term to undertake their roles.
- 5.13 The Mayor and Councillors will be provided with as much notice as possible for upcoming induction and professional development activities.

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ITEM 9 - ATTACHMENT 2 DRAFT COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT POLICY.

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Budget

- 5.14 An annual budget allocation will be provided to support the induction and professional development activities undertaken by the Mayor and Councillors. Expenditure will be monitored and reported quarterly.
- 5.15 Approval of training and/ or expenses Professional development activities that require Council funds are to be approved by the General Manager in accordance with Council's Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy.

Evaluation

- 5.16 Council will evaluate the professional development program at the end of each Council term to assess whether it was effective in assisting the Mayor and Councillors to develop the capabilities required to fulfil their civic roles.

Reporting

- 5.17 The General Manager will publically report each year in Council's annual report:
- a) the name of the Mayor and each individual Councillor that completed Council's induction program (where an induction program has been delivered during the relevant year).
 - b) the name of the Mayor and each Councillor who participated in any ongoing professional development program during the year.
 - c) the number of training and other activities provided to the Mayor and Councillors during the year as part of a professional development program, and
 - d) the total cost of induction and professional development activities and any other training provided to the Mayor and Councillors during the relevant year.

6. POLICY RESPONSIBILITIES:

- 6.1 The Mayor and each Councillor are responsible for making themselves available to attend any development activities identified in the professional development plan.
- 6.2 The Mayor and all Councillors must make all reasonable endeavours to attend and participate in the induction sessions and professional development activities arranged for them during the term of the Council.
- 6.3 The Governance Section Manager is responsible for planning, scheduling and facilitating induction and professional development activities for the Mayor and Councillors in consultation with the General Manager.

Policy

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ITEM 9 - ATTACHMENT 2 DRAFT COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT POLICY.

Policy



- 6.4 The General Manager has overall responsibility for Port Stephens Council's induction and professional development program.
- 6.5 The Governance Section Manager is responsible for monitoring, evaluating, reviewing and providing advice on the policy.

7. RELATED DOCUMENTS:

- 7.1 *Local Government Act 1993*
- 7.2 *Local Government (General) Regulations 2005*
- 7.3 *Councillor Induction and Professional Development Guidelines 2018*

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au			
EDRMS container No		EDRMS record No	
Audience	Mayor and Councillors		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	Two years	Next review date	March 2021
Adoption date			

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0		Governance Section Manager	First version of policy based on the model policy provided in the Councillor Induction and Professional Development Guidelines 2018.	

Policy

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ITEM NO. 10**FILE NO: 19/106710
EDRMS NO: PSC17-00178****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the *Local Government Act 1993* from the respective Mayor and Ward Funds to the following:
- a. Raymond Terrace RSL Sub-Branch – Cr Ken Jordan - \$1,500 donation towards hire of audio system for 2019 ANZAC day ceremonies.
 - b. Paterson Allyn Garden Group Inc. – Mayor - \$395 donation towards garden ramble in Duns Creek.
 - c. Port Stephens Veteran Golfers Association – Mayor - \$1,000 donation towards 2019 Port Stephens Week of Golf event.
 - d. Port Stephens Family History Society Inc. – Cr Steve Tucker - \$500 donation towards publication of book called History and Heritage of Tanilba House.
 - e. Port Stephens Community Woodworkers Inc. – Cr John Nell - \$320 donation towards waste disposal costs.
 - f. Port Stephens Third Age Learning – Cr John Nell - \$200 donation towards production of exercise video.
 - g. Medowie Netball Club – Cr Chris Doohan - \$500 donation towards the purchase of a shade shelter for use at Club events.
 - h. Tomaree Business Chamber – Cr Glen Dunkley - \$2,000 donation towards Street Activation and Street Art program.
 - i. Nelson Bay Netball Association – Cr Glen Dunkley - \$500 donation towards sun shade for use at carnivals.

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

095	Councillor Chris Doohan Councillor Ken Jordan It was resolved that Council approves provision of financial assistance under Section 356 of the <i>Local Government Act 1993</i> from the respective Mayor and Ward Funds to the following: <ul style="list-style-type: none">a. Raymond Terrace RSL Sub-Branch – Cr Ken Jordan - \$1,500 donation towards hire of audio system for 2019 ANZAC day ceremonies.
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MINUTES ORDINARY COUNCIL - 14 MAY 2019

	<ul style="list-style-type: none">b. Paterson Allyn Garden Group Inc. – Mayor - \$395 donation towards garden ramble in Duns Creek.c. Port Stephens Veteran Golfers Association – Mayor - \$1,000 donation towards 2019 Port Stephens Week of Golf event.d. Port Stephens Family History Society Inc. – Cr Steve Tucker - \$500 donation towards publication of book called History and Heritage of Tanilba House.e. Port Stephens Community Woodworkers Inc. – Cr John Nell - \$320 donation towards waste disposal costs.f. Port Stephens Third Age Learning – Cr John Nell - \$200 donation towards production of exercise video.g. Medowie Netball Club – Cr Chris Doochan - \$500 donation towards the purchase of a shade shelter for use at Club events.h. Tomaree Business Chamber – Cr Glen Dunkley - \$2,000 donation towards Street Activation and Street Art program.i. Nelson Bay Netball Association – Cr Glen Dunkley - \$500 donation towards sun shade for use at carnivals.
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BACKGROUND

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by the Mayor and or Councillors as deserving of public funding. The Grants and Donations Policy gives the Mayor and Councillors a wide discretion either to grant or to refuse any requests.

Council's Grants and Donations Policy provides the community, the Mayor and Councillors with a number of options when seeking financial assistance from Council. Those options being:

1. Mayoral Funds;
2. Rapid Response;
3. Community Financial Assistance Grants – (bi-annually); and
4. Community Capacity Building.

Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the *Local Government Act 1993*. This would mean that the financial assistance would need to be included in the Operational Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

The requests for financial assistance are shown below:

MINUTES ORDINARY COUNCIL - 14 MAY 2019**WEST WARD – Councillors Arnott, Jordan and Le Mottee**

Raymond Terrace RSL Sub-Branch.	An ex service organisation tasked with the well-being, care, compensation and commemoration of serving and ex-serving Defence Force Personnel and their dependants.	\$1,500	Donation towards hire of audio system for 2019 ANZAC Day ceremonies.
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CENTRAL WARD – Councillors Doohan, Smith and Tucker

Port Stephens Family History Society Inc.	A non-profit association that offers research facilities to help others research and compile their family history.	\$500	Donation towards publication of book called History and Heritage of Tanilba House.
Medowie Netball Club.	A sporting club that is part of the Port Stephens Netball Association.	\$500	Donation towards purchase of a shade shelter for use at Club events.

EAST WARD – Councillors Abbott, Dunkley and Nell

Port Stephens Community Woodworkers Inc.	Provides a safe workshop for members to practice their wood working skills, socialise and provide support to the local community.	\$320	Donation towards disposal of waste costs.
Port Stephens Third Age Learning.	Where people who have retired, or semi-retired meet to pursue their interests.	\$200	Donation towards production of exercise video.

MINUTES ORDINARY COUNCIL - 14 MAY 2019

Nelson Bay Netball Association.	A sporting club association located in Nelson Bay.	\$500	Donation towards sun shade for use at carnivals.
Tomaree Business Chamber.	A not for profit organisation representing the business community of Nelson Bay and the Tomaree Peninsula in Port Stephens.	\$2,000	Donation towards Street Activation and Street Art program.

MAYORAL FUNDS – Mayor Palmer

Port Stephens Veteran Golfers Association.	A local association that promotes golf and other sports meetings, competitions and matches.	\$1,000	Donation towards 2019 Port Stephens Week of Golf event.
Paterson Allyn Garden Group Inc.	A small community not for profit gardening group.	\$395	Donation towards Garden Ramble in Duns Creek.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Partnerships	Support financially creative and active communities.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

To qualify for assistance under Section 356(1) of the *Local Government Act 1993*, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The Policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function, which it, the Council, would otherwise undertake;
- b) the funding will directly benefit the community of Port Stephens; and
- c) applicants do not act for private gain.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those funds will always be available.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Consultation with key stakeholders has been undertaken by the General Manager's Office.

Consultation has been taken with the key stakeholders to ensure budget requirements are met and approved.

OPTIONS

- 1) Accept the recommendation.
- 2) Vary the dollar amount before granting each or any request.
- 3) Decline to fund all the requests.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 11**FILE NO: 19/123575
EDRMS NO: PSC2017-00015****INFORMATION PAPERS****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 14 May 2019.

No: Report Title Page:

1	Council Submission on Draft Hunter Special Infrastructure Contributions	216
2	March 2019 Cash and Investments	222
3	Floodplain Risk Management Policy Committee	225
4	Petition: Maintenance Duns Creek Road and Forest Road, Duns Creek	226
5	Designated Persons' Return	228
6	Local Government NSW Tourism Conference 2019	229

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

096	Councillor Glen Dunkley Councillor John Nell It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 14 May 2019. No: Report Title: 1 Council Submission on Draft Hunter Special Infrastructure Contributions 2 March 2019 Cash and Investments 3 Floodplain Risk Management Policy Committee 4 Petition: Maintenance Duns Creek Road and Forest Road, Duns Creek 5 Designated Persons' Return 6 Local Government NSW Tourism Conference 2019
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INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 19/41911
EDRMS NO: PSC2013-05109**

COUNCIL SUBMISSION ON DRAFT HUNTER SPECIAL INFRASTRUCTURE CONTRIBUTIONS

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

BACKGROUND

The purpose of this report is to inform Council of the submission made on the Draft Hunter Region Special Infrastructure Contributions Framework (draft Hunter SIC). Councillors have been previously briefed on the details of the draft Hunter SIC and potential impacts in Port Stephens.

The NSW Department of Planning and Environment (DPE) exhibited the draft Hunter SIC from 14 January 2019 to 25 February 2019, following the previous exhibition of the the draft Hunter Region SIC 'proposed approach' commencing in late December 2017. Port Stephens Council previously made a submission on the 'proposed approach' in January 2018.

The documents exhibited included a submissions summary report on the exhibition of the 'proposed approach', a draft Hunter SIC Ministerial determination, direction and order.

In addition to the exhibition, Hunter Councils also participated in workshops held by DPE on the Draft Hunter SIC.

Council's submission on the Draft Hunter SIC (**ATTACHMENT 1**) was provided to DPE on 11 March 2019 and identifies the following issues with the draft Hunter SIC:

- Inequitable State infrastructure investment in the Hunter.
- Impact on housing affordability and supply in Port Stephens.
- Impact on supply of infill housing in Port Stephens.
- Impact on new industrial and commercial development in Port Stephens.
- Administrative burdens for local government.
- Inadequate consultation with affected parties, including prospective purchasers and the future homeowners likely to bear the cost of new SIC charges.

Since exhibition, Council has continued to engage with DPE on these and other issues, including attending workshops with DPE. DPE have recently sought further input from local government on proposed infrastructure to be funded by SIC and alternative models for calculating the quantum of contributions for housing to address impacts on housing affordability and infill housing supply. DPE have committed to engaging further with Hunter Councils prior to the adoption of a draft Hunter SIC.

ATTACHMENTS

- 1) Port Stephens Council Submission to the Draft Hunter SIC.

COUNCILLORS ROOM

- 1) Submissions summary report on the exhibition of the 'proposed approach', a draft Hunter SIC Ministerial determination, direction and order.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1

PORT STEPHENS COUNCIL SUBMISSION TO THE DRAFT HUNTER SIC.



Executive Director
Infrastructure and Delivery
Department of Planning and Environment
GPO Box
SYDNEY NSW 2001

Dear Sir/Madam

Re: Submission on Draft Hunter Region Special Infrastructure Contribution

Thank you for the opportunity to provide a submission on the draft Hunter Region Special Infrastructure Contributions (SIC) determination and related documents.

This submission has been prepared with reference to Port Stephens Council's previous submission on the draft Hunter Region SIC 'Proposed Approach', dated 15 February 2018, and Council's relevant land use strategies.

Council is supportive of collecting contributions from new developments to support the provision of State infrastructure in the Hunter to support growth. The infrastructure funded should however be distributed equitably between council areas, or the draft SIC calculations should be adjusted to be applied more equitably in Port Stephens. Elements of the draft SIC appear to contradict existing State policies and endorsed plans, in particular the policies to support affordable housing and provide greater housing choices. These matters are further outlined below.

Summary

Key issues raised in this submission include:

- Inequitable State infrastructure investment
- Impact on housing affordability and supply
- Impact on supply of infill housing
- Impact on new industrial and commercial development
- Administration of the SIC
- Inadequate consultation with affected parties

PORT STEPHENS COUNCIL

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Raymond Terrace NSW 2324

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ABN 16 744 377 876

ITEM 1 - ATTACHMENT 1 PORT STEPHENS COUNCIL SUBMISSION TO THE DRAFT HUNTER SIC.**1. Inequitable State infrastructure investment**

Of all Lower Hunter councils with greenfield development potential, Port Stephens will have the lowest rate of State infrastructure investment sourced from the SIC. Only one item of SIC funded State infrastructure is located in Port Stephens (the upgrade of Tomago Road/Cabbage Tree Road).

Despite this, all of the Port Stephens local government area will be subject to the new charges. This includes areas that are not in the Greater Newcastle Metropolitan area and where new development is unlikely to benefit from the infrastructure items identified in the SIC.

As only one item of SIC funded infrastructure is located in Port Stephens, and new development in many parts of Port Stephens will have no connection to the infrastructure listed in the draft SIC, the draft SIC does not meet the objective of the SIC Determination:

The objective of this Determination is to provide for special infrastructure contributions to be made to the provision of infrastructure in connection with the intensification of urban residential and industrial development in the Hunter Region Special Contributions Area as a result of changes to planning controls in the Hunter Region and, in particular, as a result of the rezoning of rural land for urban purposes.

The draft SIC should be amended to include State infrastructure items located in Port Stephens that will facilitate new development and growth in our local government area.

This could include the infrastructure listed in Council's previous submission dated 15 February 2018 (e.g. Medowie drainage infrastructure works, bio-certification of priority housing areas, Williamstown drainage mitigation works, Raymond Terrace town centre upgrades, a new high school in Medowie, TAFE campus in Raymond Terrace, upgrades to Tomaree Community Hospital, rail link to Williamstown and Newcastle Airport, transport interchanges at Medowie and Anna Bay, and Fingal Bay Link Road).

Alternatively, the draft SIC should be applied and calculated equitably. This could include only charging new development within the boundary of the Greater Newcastle Metropolitan Plan or calculating SIC charges based on land value.

2. Impact on housing affordability and supply

The proposed SIC charges are likely to negatively impact housing affordability and supply in the Port Stephens local government area.

The SIC will apply to wider range of development than current arrangements for State infrastructure provision, which may impact housing supply in Port Stephens. Currently only declared Urban Release Areas pay SIC charges, however smaller scale greenfield rezonings will now be charged. Subsequent infill development (such as multi dwelling housing) and further subdivisions on newly rezoned land are also proposed to be

| Page 2

ITEM 1 - ATTACHMENT 1 PORT STEPHENS COUNCIL SUBMISSION TO THE DRAFT HUNTER SIC.

subject to additional SIC charges. These new costs could discourage smaller scale rezonings and proposals that increase housing supply on newly rezoned land.

The impact of the new SIC is likely to be greater for rezonings that are smaller in scale and also where sites are located outside of the Greater Newcastle Metropolitan boundary. This is because the uplift in value when that land is rezoned is less likely to be able to absorb the cost of the SIC. In Port Stephens, a large proportion of potential greenfield residential sites meet one or both of these descriptions, i.e. they are smaller scale rezonings and they are not within the Greater Newcastle Metropolitan boundary. The impact on development feasibility for these sites in our local government area is likely to impact housing supply, and where sites are feasible to develop, increase the cost of new housing.

The Draft Hunter Region SIC – Submissions Report states that a feasibility analysis was undertaken to demonstrate that the proposed contribution rate was reasonable, however there is no information available on the locations where this study was carried out. It is not clear if a feasibility analysis was undertaken on sites in Port Stephens, and in particular on sites in our local government area that are some distance from the Greater Newcastle Metropolitan boundary.

3. Impact on supply of infill housing

The draft SIC will continue apply to the subsequent subdivision and development of newly rezoned land after a rezoning and initial subdivision occurs. This means that following the initial subdivision of a development lot, a proposal to further subdivide or increase the yield on a site will be subject to further SIC charges. This will increase the cost of infill development on land that the State has already determined as suitable for new housing and appears to be contrary to many State Government policies to encourage medium density infill development.

This could impact the ability for councils to meet the infill housing targets in the Greater Newcastle Metropolitan Plan, and appears to discourage infill housing in newly rezoned areas even if they are serviced and may be suitable for increased densities.

4. Feasibility of commercial and industrial development

Currently only industrial/commercial development around Williamstown and Newcastle Airport are subject to SIC charges. Under the draft SIC, these costs will apply to all new rezonings in Port Stephens for new businesses. Similar to the impact on the feasibility of new residential development, these new charges are likely to affect the viability of new industrial/commercial development in Port Stephens.

In particular, Council is concerned about the impact this will have on the areas in Port Stephens that have been identified for new business zones around Raymond Terrace and Heatherbrae. These sites have not yet been rezoned, despite identification in the Raymond Terrace and Heatherbrae Strategy in 2015, and increasing the cost of

ITEM 1 - ATTACHMENT 1 PORT STEPHENS COUNCIL SUBMISSION TO THE DRAFT HUNTER SIC.

developing this land further is unlikely to have a positive impact on supporting economic growth of Raymond Terrace.

An alternative could be to exempt new business rezonings from SIC charges if they are consistent with State and local strategies for economic growth.

5. Administration of the SIC

The draft SIC for residential rezonings will continue to apply to further subdivisions and increases in the density of development on a site in perpetuity. Councils will be responsible for imposing the conditions of consent requiring subsequent SIC payments. Council notes that this would require every development application to be cross checked against greenfield sites that were originally charged SIC. This is considered a significant administrative burden for councils and suggests that the NSW Department of Planning & Environment should host the data for Councils in relation to the greenfield sites that have been subject to SIC charges.

6. Inadequate consultation with affected parties

The NSW Department of Planning & Environment has conducted extensive consultation on the draft SIC with local Councils and stakeholders from the development industry, including the NSW Property Council and the Urban Development Institute of Australia. This consultation has not however been had with smaller landowners who may not be members of these industry bodies. Further, consultation has not been undertaken more broadly with the future homeowners who are likely to be subject to SIC charges if they purchase a recently rezoned property and seek to develop a dual occupancy or subdivide the property. These stakeholders are likely to be the most affected by the draft SIC given they will not have the same financial means to absorb the cost of the additional charges as established developers. In Port Stephens, these stakeholders make up the majority of applicants meeting with Council staff about potential rezonings. Council has concerns that these stakeholders have not been represented during the consultation process.

Should you wish to discuss this or any of the other issues identified above, please contact Elizabeth Lamb, Acting Strategic Planning Co-ordinator on 4980 0293 or by email on Elizabeth.Lamb@portstephens.nsw.gov.au.


Tim Crosdale
Group Manager Development Services

11 March 2019

ITEM NO. 2

**FILE NO: 19/102754
EDRMS NO: PSC2006-6531**

MARCH 2019 CASH AND INVESTMENTS

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 31 March 2019.

ATTACHMENTS

- 1) March 2019 - Cash and Investments.
- 2) March 2019 - Cashflow Report.

ITEM 2 - ATTACHMENT 1 MARCH 2019 - CASH AND INVESTMENTS.
CASH AND INVESTMENTS HELD AS AT 31 MARCH 2019

ISSUER	BROKER	RATING*	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
MYSTATE	CURVE	BBB	TD	2.83%	303	3-Apr-19	1,000,000	1,000,000
BOC	CURVE	A	TD	2.25%	31	5-Apr-19	2,000,000	2,000,000
BANKWEST	BANKWEST	AA-	TD	2.78%	258	2-May-19	1,500,000	1,500,000
AMP BANK	RIM	A+	TD	2.75%	365	14-May-19	1,000,000	1,000,000
AMP BANK	IMPERIUM	A+	TD	2.95%	370	29-May-19	1,000,000	1,000,000
POLICE CREDIT UNION (SA)	RIM	NR	TD	2.90%	365	30-May-19	1,000,000	1,000,000
AMP BANK	IMPERIUM	A+	TD	2.95%	376	13-Jun-19	1,250,000	1,250,000
NATIONAL AUSTRALIA BANK	IMPERIUM	AA-	TD	2.80%	365	13-Jun-19	1,000,000	1,000,000
BANK OF US	RIM	BBB	TD	2.95%	365	22-Jun-19	1,000,000	1,000,000
ING	IMPERIUM	A-	TD	2.83%	368	25-Jun-19	1,000,000	1,000,000
AMP BANK	IMPERIUM	A+	TD	3.00%	365	28-Jun-19	800,000	800,000
BANANA COAST CREDIT UNION	RIM	NR	TD	2.95%	376	9-Jul-19	800,000	800,000
AUSTRALIAN MILITARY BANK	FARQUHARSON	NR	TD	2.78%	146	24-Jul-19	500,000	500,000
BANK OF US	CURVE	BBB	TD	2.90%	338	8-Aug-19	1,000,000	1,000,000
ICBC	RIM	A	TD	2.84%	362	21-Aug-19	1,500,000	1,500,000
QIBANK	FARQUHARSON	BBB	TD	2.90%	364	30-Aug-19	1,000,000	1,000,000
ICBC	RIM	A	TD	2.84%	373	5-Sep-19	1,000,000	1,000,000
ICBC	RIM	A	TD	2.85%	384	18-Sep-19	1,500,000	1,500,000
ICBC	RIM	A	TD	2.84%	342	3-Oct-19	1,000,000	1,000,000
ARAB BANK	FARQUHARSON	BB+	TD	2.95%	369	16-Oct-19	1,250,000	1,250,000
SOUTH WEST CREDIT UNION CO-OP	RIM	BBB	TD	2.90%	378	30-Oct-19	1,000,000	1,000,000
ICBC	RIM	A	TD	2.83%	377	13-Nov-19	1,000,000	1,000,000
ICBC	RIM	A	TD	2.86%	453	27-Nov-19	1,000,000	1,000,000
BOC	CURVE	A	TD	2.87%	399	11-Dec-19	1,000,000	1,000,000
BOC	CURVE	A	TD	2.88%	391	18-Dec-19	1,000,000	1,000,000
BOC	CURVE	A	TD	2.88%	412	9-Jan-20	1,000,000	1,000,000
AUSTRALIAN MILITARY BANK	LAMINAR	NR	TD	3.01%	420	22-Jan-20	1,000,000	1,000,000
DNISTER UKRANIAN CREDIT UNION CO-OP	FIIG	NR	TD	3.00%	362	5-Feb-20	1,000,000	1,000,000
ARAB BANK	FARQUHARSON	BB+	TD	2.95%	359	19-Feb-20	1,000,000	1,000,000
AMP BANK	IMPERIUM	A+	TD	2.95%	373	13-Mar-20	1,000,000	1,000,000
ICBC	RIM	A	TD	2.93%	509	1-Apr-20	1,000,000	1,000,000
ARAB BANK	RIM	BB+	TD	2.97%	502	20-Apr-20	1,500,000	1,500,000
BOC	CURVE	A	TD	2.88%	512	28-Apr-20	1,000,000	1,000,000
DNISTER UKRANIAN CREDIT UNION CO-OP	FIIG	NR	TD	3.00%	362	5-Aug-20	1,000,000	1,000,000
SUB TOTAL (\$)							36,600,000	36,600,000
INVESTMENTS TOTAL (\$)							36,600,000	36,600,000
CASH AT BANK (\$)							996,608	996,608
TOTAL CASH AND INVESTMENTS (\$)							37,596,608	37,596,608
CASH AT BANK INTEREST RATE				1.60%				
BBSW FOR PREVIOUS 3 MONTHS				2.01%				
AVG. INVESTMENT RATE OF RETURN				2.86%				
TD = TERM DEPOSIT								
*STANDARD AND POORS LONG TERM RATING								
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY								
T HAZELL								



Cash flow analysis 31/03/2019

CASHFLOW STATEMENT

Opening Cash and Investment 1 July 2018
Closing Cash and Investment 31 March 2019

Movement in cash

Movement in cash represented by:

Operating Activities

Receipts from ratepayers, customers and government authorities
Payments to suppliers & employees
Interest received
Interest paid

Total

Investing Activities

Receipts from sale of Property, Plant & Equipment
Payments for Property, Plant & Equipment

Total

Financing Activities

Payment of loans
Receipt of new loans

Total

Total Cash Movement

Plus: Opening Cash and Investment 1 July 2018

Closing Cash and Investment 31 March 2019

Budgeted Cash Movement for the Financial Year
Plus Opening Cash and Investment 1 July 2018

Budgeted Cash and Investment Position 30 June 2019

In front / (behind) on budget

YTD	Notes
36,013,235	
37,135,715	
1,122,481	

89,070,683
(71,843,892)
854,250
(405,850)
17,675,191

1,472,919
(16,335,518)
(14,862,599)

(4,440,112)
2,750,000
(1,690,112)

1,122,481

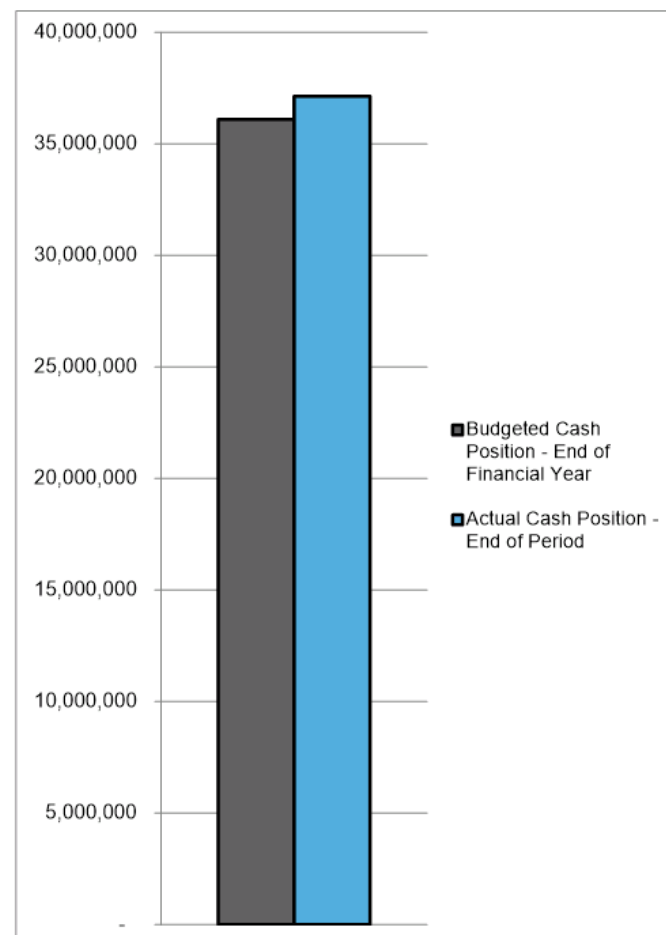
36,013,235

37,135,715

83,765
36,013,235
36,097,000

1,038,715

Notes



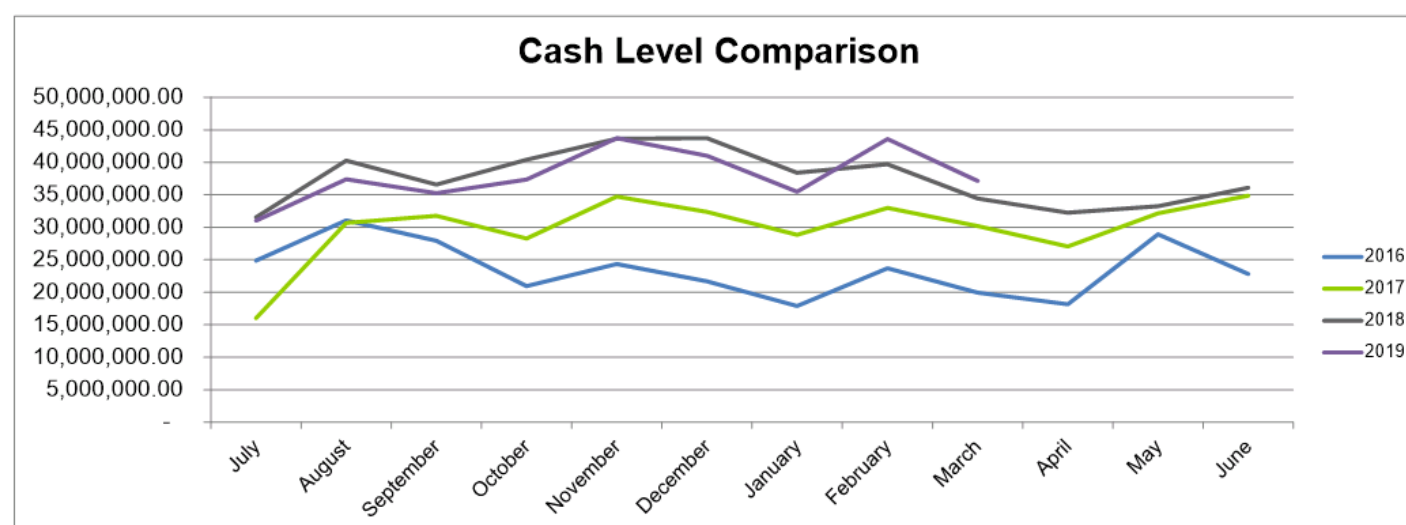
Notes

1 Council's cash position is up on the budgeted year end position by \$1M predominately due to the following reasons:

- The receipt of state roads income for \$894K this month
- Receipt of Roads to Recovery funding this month for \$373K
- Receipt of various capital grants for \$844K this month

Significant future cash inflows expected in next few months include fee for service charges from the State Roads program
Easter holiday trade and 4th quarter rates.

Significant future cash outflows expected in next few months include: Medowie Bowls project, CCTV rollout program, Ferodale Sports Complex
Nelson Bay road upgrade, Karuah pontoon replacement and plant purchases.



ITEM NO. 3

**FILE NO: 19/80472
EDRMS NO: PSC2015-01399**

FLOODPLAIN RISK MANAGEMENT POLICY COMMITTEE

REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES

BACKGROUND

The purpose of this report is to inform Council that a Floodplain Risk Management Policy Committee is to be formed comprised of the Mayor, several Councillors and Council staff.

On the 29 January 2019 (Minute No. 008) Council resolved to:

- 1) Form a committee comprising of Councillors and Council staff to rewrite the Floodplain Policy.
- 2) Invite the SES to address the newly formed committee.

A flooding information session with the elected body was held in February 2019. Subsequently a call for nominations was made and the following Councillors were nominated to form the Floodplain Risk Management Committee.

- Mayor Ryan Palmer
- Councillor Chris Doohan
- Councillor Glen Dunkley
- Councillor John Nell
- Councillor Paul Le Mottee

This information paper is to formalise the committee.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 4

**FILE NO: 19/123016
EDRMS NO: PSC2015-03017**

PETITION: MAINTENANCE DUNS CREEK ROAD AND FOREST ROAD, DUNS CREEK

REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES

BACKGROUND

The purpose of this report is to present to Council a petition with 296 signatures from the residents and regular visitors of Duns Creek.

The current unsealed road maintenance framework is to undertake four programmed inspections per year, with three programmed maintenance grades.

Additional reactive inspections are also completed following customer requests and periods of wet weather. Based upon the outcomes of preventative and reactive inspections, additional grading and/or other treatments may be allocated. The March grading discussed in the petition was such an occurrence and targeted only the areas deemed to require urgent reactive maintenance.

Council staff acknowledge both the increase in traffic and reactive maintenance for Duns Creek Road, and are pleased to confirm that a revaluation of the maintenance schedule will now include an additional programmed maintenance grade, resulting in four per annum.

In relation to road upgrades, Council Strategic Asset Management Plan 2019 to 2029, Duns Creek Road (ie Forest Road to 291 Duns Creek Road) is listed for upgrading and sealing. Within the Special Rate Variation program of works, if approved, the balance of Duns Creek Road is listed for upgrading and sealing between 2022 and 2025, and Forest Road is listed for upgrading and sealing in the 2028 to 2029 financial year.

ATTACHMENTS

- 1) Petition Maintenance Duns Creek Road and Forest Road.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**ITEM 4 - ATTACHMENT 1 PETITION MAINTENANCE DUNS CREEK ROAD
AND FOREST ROAD.**

To the Civil Projects Engineer, Port Stephens Council

We the undersigned being residents and regular visitors of Duns Creek NSW are hereby petitioning Port Stephens Council for more frequent and more adequate maintenance of the gravel sections of Duns Creek Road and Forest Road. Many more vehicles are using our roads yet we are still only getting four monthly maintenance with the last carried out the second week in march 2019 not seeing the section from just below fire station to tarred section or the last section of gravel being touched at all and the sections that were done being well below standard with insufficient drainage and breaking down within a fortnight. We have had several accidents in the last 18 months with another serious one this week. As ratepayers we expect to have a safe useable road with regular maintenance and vegetation clearing and a plan for future bitumen works within an acceptable timeline.

ITEM NO. 5

**FILE NO: 19/117027
EDRMS NO: PSC2018-01339**

DESIGNATED PERSONS' RETURN

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to table Designated Persons' Return/s (Return) submitted by new Council employees.

In accordance with the Part 4 – Pecuniary Interest of the Code of Conduct, all new employees are required to submit a Return within three (3) months of commencement. Returns are to be tabled at the first Council meeting after the lodgement date.

The following is a list of position/s who have submitted Return/s:

- Building Surveyor (PSC071).

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Designated Persons' Return.

ITEM NO. 6

**FILE NO: 19/110993
EDRMS NO: PSC2017-02841**

LOCAL GOVERNMENT NSW TOURISM CONFERENCE 2019

REPORT OF: GLEN DUNKLEY - COUNCILLORS
GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to provide an overview of the Local Government NSW Tourism Conference held on 17-19 March 2019 at Terrigal on the Central Coast. The conference was attended by Mayor Ryan Palmer and Councillors Glen Dunkley and Sarah Smith.

A number of key themes were identified:

- Events are key to growth in the tourism industry
- Business owners are absolutely key to the success of the area and need to work together
- Arts, Heritage and Indigenous (First Nation) Tourism is growing
- We need to tell our stories – business owners need to tell their stories
- Businesses need to work together and attract people rather than be competitors

Australian Council for the Arts – Arts and Tourism

Latest research shows NSW had over 3 million international visitors who were arts visitors (visiting for reasons related to the arts). Arts visitors also typically stay longer and spend more than other international visitors. 48% are coming from Asia and 24% from Europe. These visitors are more likely to visit regional areas and over 80% have an interest in First Nations. An excellent case study was presented on indigenous tours in the Dubbo area that international visitors are flocking to. This is something that we could work with Destination Port Stephens and the Worimi to further develop in Port Stephens.

Festival, fairs and cultural events are driving growth in the visitor economy, particularly in regional areas. Destination NSW is working with areas to fill the “quiet times” with these sorts of events to create a less seasonal economy, but also to spread the load from peak areas. This further highlights the thought that events are driving growth.

“Quirky”, unique installations such as the Brim Silos are attracting more and more people to regional areas, particularly those that aren’t typically tourist destinations. This is driving a better economy in these small towns.

Destination NSW

The year ending September 2018 saw over 90,000 people employed directly through regional tourism, 24.5 million visitors and 91.1 million nights stayed. This was a great result.

The NSW Visitor Economy Industry Action Plan 2030 was briefly touched on. This plan aims to double the 2009 overnight expenditure to \$36 billion by 2020 and triple it by 2030 to \$55 billion with \$25 billion of that in regional areas. There are 43 actions in the plan to achieve this, broken into six focus areas.

A number of marketing campaigns that Destination NSW funded through the Regional Tourism Fund were presented as case studies. These included “The Good Life” campaign for the Hunter Wine Country which used black and white and was a bit risqué to be effective. Dubbo focused on having something for the whole family and encouraging the school gate chat. Finally, The Riverina used the theme – Go With the Flow, focusing on taking it easy and escaping your worries.

Regional Conferencing is a key focus for Destination NSW. The website meetinnsw.com.au has been set up to make this easier for conference organisers and groups. The Central Coast Council has a great conference and event handbook that outlines each venue in the area and their details which is a great reference for conference organisers. Although we have limited venues that can hold large numbers, the Central Coast and some other examples showed we should be pursuing this in a stronger way.

A number of areas that were touched on by Destination NSW were:

- Drive visitors – road trip planners are getting better and more detailed
- Indigenous tourism is worth over \$1.5 billion – a toolkit has been developed
- Food and Wine tourism is growing – are we tapping into this?

Site Visit – Revitalising Woy Woy

Woy Woy has recently undergone a revitalisation, primarily driven by a number of new or renewed local businesses, particularly in the hospitality space. A number of key factors have contributed to this – engaged, young, excited business owners and a public transport advantage with the Newcastle – Sydney train line stopping right in town.

Woy Woy business owners have capitalised on some key local advantages:

- Their proximity to Sydney:
 - Attracting entrepreneurs who want to work remotely – it's cheaper to live there than Sydney.
- Natural Environment:
 - Discovered a pearl growing in the oysters of the area – this has created a whole new tourism industry.

- The history of the area:
 - Oyster farmers and local fishermen are used in tours and food events to share their story - more people are interested in where their food comes from and the story behind it.
- Working together.
 - All business owners see themselves as working for Woy Woy and are passionate about the area and complement each other.

Social Media, Technology and Tourism

We need to think differently. People don't go on holidays to relax anymore – they want experiences, but they want authentic experiences. Visitors want to share these experiences and, as such, social media has become a (or the most) trusted source of information for visitors. It has been shown that people follow the crowd on social media, therefore it could be said that experience is now through the lens but the evaluation is through the likes.

How do we become 'that place' on social media that everyone likes or wants to visit?

- Encourage all local businesses to have a page on the key platforms:
 - Some councils are running workshops to help them.
- Know what we have to share online:
 - Create a list for visitors and locals of our top spots.
- Create a handle and hashtag for people using social media in our area to use – use it consistently.
- Run competitions that encourage people to use our hashtag and handles.
- Create hashtags for events and use them.
- Create frames or special features for events or locations – make them relevant and useable.
- WIFI at key locations so visitors can share.
- Using technology for games, education and tours.
- Investigate augmented reality – this will become more prevalent in the very near future.
- Social media must be different to the website.
- Use influencers carefully – they must be genuine.

Best practice is to let the visitor be part of the experience and create the emotion through what they share. The average user of Facebook and Instagram has 100 – 350 followers. These are authentic followers who will be influenced by what the visitor is sharing.

ATTACHMENTS

Nil.

NOTICES OF MOTION

NOTICE OF MOTION**ITEM NO. 1****FILE NO: 19/122533
EDRMS NO: PSC2017-00019****REDUCING SINGLE USE PLASTICS IN PORT STEPHENS****COUNCILLOR: SARAH SMITH**

THAT COUNCIL:

- 1) Support and advocate on behalf of local community and business groups to reduce the amount of single use plastics that are used and disposed of in Port Stephens.
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**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

097	Councillor Sarah Smith Councillor Glen Dunkley It was resolved that Council: <ol style="list-style-type: none">1) support and advocate on behalf of local community and business groups to reduce the amount of single use plastics that are used and disposed of in Port Stephens.2) Port Stephens Council partner with Plastic Free Port Stephens to deliver a community led approach to reduce single use plastic.
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BACKGROUND REPORT OF: Aaron Malloy – Acting Community Services Manager**BACKGROUND**

The removal of single use plastics from circulation within Australia gathered considerable momentum in 2018 when the major supermarket chains phased out the use of plastic bags. In addition to this, in the last year there has been some media attention on the recycling market and recently the issues involved with certain types of plastic waste.

Initiatives within Council are currently being implemented to reduce the use of single use plastics. These initiatives include the removal of plastic cutlery, straws and cups within Council's administration building and the replacement of plastic water bottles at the Visitors Information Centre with cans.

These types of initiatives and more could be introduced in businesses or events across Port Stephens. However, they would need to be initiated by the businesses and community groups themselves as Council does not have the staff resources to provide a dedicated person or team to be the leader of these projects. Council can however provide advice and assistance to these groups via the Waste Services team and in particular the Waste Education Officer.

Grant opportunities such as the Environment Protection Authority (EPA) Bin Trim program along with other one off grant programs are available from time to time for businesses to run waste reduction projects. The Waste Education Officer again has the ability and availability to provide advice and guidance to any businesses and community groups that are interested in applying for these grants.

ATTACHMENTS

Nil.

CONFIDENTIAL ITEMS

In accordance with Section 10A, of the *Local Government Act 1993*, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL MEETING – 14 MAY 2019 MOTION

098	Councillor Ken Jordan Councillor Jaimie Abbott It was resolved that Council move into confidential session.
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The following Council officers were present for the Confidential Session:

Public Relations and Marketing Coordinator
Digital Marketing and Social Media Officer

CONFIDENTIAL

ITEM NO. 1

**FILE NO: 19/106536
EDRMS NO: PSC2018-00043-008**

DEBT RECOVERY

**REPORT OF: JANET MEYN - PROPERTY SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES**

**ORDINARY COUNCIL MEETING - 14 MAY 2019
MOTION**

099	Councillor John Nell Councillor Glen Dunkley It was resolved that Council authorise the General Manager to pursue debt recovery as outlined within the body of this report.
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ORDINARY COUNCIL MEETING – 14 MAY 2019
MOTION

100	Councillor Steve Tucker Councillor Paul Le Mottee It was resolved that Council move out of confidential session.
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There being no further business the meeting closed at 8.05pm.