

DRAFT

MINUTES – 12 FEBRUARY 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 – 12 February 2019, commencing at 6.18pm.

PRESENT:

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

014	Councillor Chris Doohan Councillor Jaimie Abbott It was resolved that the apologies from Cr Steve Tucker and Cr Ken Jordan be received and noted.
015	Councillor Jaimie Abbott Councillor Giacomo Arnott It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council of 11 December 2018 and the Extra-Ordinary Council meeting held on 29 January 2019 be confirmed.

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019
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	There were no Declarations of Interest received.
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MOTIONS TO CLOSE

ITEM NO. 1

**FILE NO: 19/5167
EDRMS NO: PSC2015-01024**

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (a) 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 **GENERAL MANAGER'S CONTRACT OF EMPLOYMENT**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - personnel matters concerning particular individuals (other than councillors).
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

**ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
MOTION**

016	<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) (a) 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 0 on the Ordinary agenda namely GENERAL MANAGER'S CONTRACT OF EMPLOYMENT.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">• personnel matters concerning particular individuals (other than councillors).3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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ITEM NO. 2

FILE NO: 19/22555
EDRMS NO: PSC2018-00562

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 2 on the Ordinary agenda namely **Lots 8 & 9 Salamander Bay DP1239352**.
- 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 - 12 FEBRUARY 2019
MOTION

017	<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 0 on the Ordinary agenda namely Lots 8 & 9 Salamander Bay DP1239352.2) 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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ITEM NO. 3

FILE NO: 19/22557
EDRMS NO: PSC2008-0204

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) 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 3 on the Ordinary agenda namely ***King Street, Raymond Terrace Easements*** .
 - 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
 - 3) That the report remain confidential and the minute be released in accordance with Council's resolution.
-

ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
MOTION

018	<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) (c) 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 0 on the Ordinary agenda namely <i>King Street, Raymond Terrace Easements</i> .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">• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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COUNCIL REPORTS

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019 MOTION

019	Councillor Giacomo Arnott Councillor Chris Doohan It was resolved that Item 4 be brought forward and dealt with after Item 1.
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ITEM NO. 1

FILE NO: 18/341453
EDRMS NO: 16-2018-602-1

DEVELOPMENT APPLICATION NO. 16-2018-602-1 FOR MEDICAL CENTRE (CHANGE OF USE FROM EXISTING DWELLING) AT 103 BOUNDARY ROAD MEDOWIE (LOT: 203 DP: 1235985)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2018-602-1 for a Medical Centre (change of use from existing dwelling) and associated car park and landscaping over two stages, at 103 Boundary Road, Medowie (Lot: 203 DP: 1235958) subject to the conditions contained in **(ATTACHMENT 4)**.

ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019 MOTION

	Councillor Paul Le Mottee Councillor Chris Doohan That Council approve Development Application 16-2018-602-1 for a Medical Centre (change of use from existing dwelling) and associated car park and landscaping over two stages, at 103 Boundary Road, Medowie (Lot: 203 DP: 1235958) subject to the conditions contained in (ATTACHMENT 4) .
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**ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
AMENDMENT**

020	<p>Councillor John Nell Mayor Ryan Palmer</p> <p>It was resolved that Council defer Development Application 16-2018-602-1 for a Medical Centre (change of use from existing dwelling) and associated car park and landscaping over two stages, at 103 Boundary Road, Medowie (Lot: 203 DP: 1235958) to the next ordinary Council meeting.</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 Dooan, Glen Dunkley, Paul Le Mottee, John Nell, and Sarah Smith.

Those against the Motion: Nil.

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

BACKGROUND

The purpose of this report is to present Development Application (DA) No.16-2018-602-1 to Council for determination. The development application was called to Council as detailed in **(ATTACHMENT 1)**.

The subject DA relates to land located at 103 Boundary Road, Medowie, legally identified as LOT: 203 DP: 1235985 (the 'subject site'). A locality plan is provided at **(ATTACHMENT 2)**.

Proposal

The applicant seeks approval for a Medical Centre (change of use from existing dwelling) and associated car park and landscaping, which will occur over two stages as follows:

- Stage one – Alterations and additions to existing dwelling comprising minor building works including removal of doors and windows, raising the floor level and construction of new walls. The overall extension to the existing dwelling within stage one is 6.1m². Car parking, access, stormwater and landscaping works shall also be completed at stage one.
- Stage two - Extensions to the front (south elevation), side (east elevation) and rear (north elevation) of the existing dwelling. The overall extension to the existing dwelling within stage two is 49.7m².

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

The centre will include five consult rooms, two bed nurse treatment station, minor operations room, on site pathology, two stationed reception and administration/ practice manager offices, separate staff toilets and staff room with kitchenette.

The employee details of the proposed medical centre include:

- Three full time General Practitioners (and proposing two additional doctors after two years when the practice is more established)
- One full time practice manager
- Two part time receptionists
- Two part time nurses

The additional rooms remaining are intended to be rented out to allied health specialists (such as pathology, psychologist and podiatrist). The centre requires a receptionist, a nurse, a practice manager and five medical professionals on-site at any one time.

The hours of operation of the proposed medical centre are as follows:

- Monday to Friday: 8:30am – 5:30pm and Saturday: 8:30am – 11:30am.

Site Description

The subject site has a total area of approximately 4,072m². The site currently contains a single dwelling fronting Boundary Road and a detached double garage and carport. The single storey dwelling is proposed to be retained and converted to a medical centre with extensions and additions as detailed in **(ATTACHMENT 3)**. There are vacant lots either side of the subject site.

The site has a number of constraints including; Bushfire Prone Land, Acid Sulfate Soils – Class 5, RAAF Height Trigger Map (refer structures higher than 7.5m) and RAAF Bike Strike – Group A.

Key Issues

The key issues considered within the application are outlined in detail in this report. A detailed assessment of the development is contained at **(ATTACHMENT 3)**.

Permissibility

The subject land is zoned 'R5 Large Lot Residential' under Port Stephens Local Environmental Plan 2013 ('LEP2013') and 'Medical Centres' are not listed as permissible development within this zone.

However, Division 10 Clause 57(1) of the *State Environmental Planning Policy (Infrastructure) 2007* ('ISEPP') provides that development for the purposes of health services facilities (including medical centres) may be carried out by any person with

consent in prescribed zones. The R5 Large Lot Residential zone is identified as a prescribed zone for the purpose of clause 57(1) of the ISEPP.

Furthermore, Clause 8 of the ISEPP defines the relationship it has with other Environmental Planning Instruments (such as the LEP2013), stating that where there is a conflict, the SEPP prevails. Accordingly, the ISEPP overrides the provision of the LEP2013, and the proposed Medical Centre is permissible development with consent.

Impacts to Character and Amenity of the Locality

The proposed development is considered to be compatible with the surrounding residential area. The proposed use shall occur within an existing dwelling and therefore the built form retains its residential character. Furthermore, landscaping treatment has been proposed to screen the proposed car parking from the street and mitigates any potential visual impact. The large lot size and setbacks to the streetscape (being over 10 metres to the proposed car park) and adjoining properties further mitigate any potential impacts arising from the proposed development.

It is noted that there has been community interest in the development application and during the exhibition period eight submissions were received. The submissions received identify concerns that the development shall impact the character and amenity of the locality for the following reasons:

- Traffic and parking impacts
- Commercial land use within a residential estate contrary to a Section 88B instrument
- Noise
- Privacy and visual impacts
- Waste management
- Social impacts

All concerns raised by the community during the exhibition period have been addressed in detail within the planner's assessment report contained at **(ATTACHMENT 3)**. It has been identified that the proposed development, subject to the recommended conditions, satisfies Council's requirements and is not likely to result in unreasonable adverse impacts to the character and amenity of the locality.

Conclusion

The proposed development is consistent with relevant legislation and policies, including:

- *Environmental Planning and Assessment Act 1979* ('EP&A Act')
- *State Environmental Planning Policy (Infrastructure) 2007* ('ISEPP')
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- Port Stephens Local Environmental Plan 2013 ('LEP2013')

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- Port Stephens Development Control Plan 2014 ('DCP2014')

The key issues arising through the assessment and submissions raised in respect to the development application have been addressed within the detailed assessment report contained at **(ATTACHMENT 3)**. Subject to the recommended condition of consent contained at **(ATTACHMENT 4)** the proposed development is recommended for approval.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live.	Enhance public safety, health and livability 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 (\$7.12)	Yes		The development is subject to the levying of development contributions under section 7.12 of the EP&A Act. A condition of consent has been recommended.
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, including; Port Stephens Local Environmental Plan 2013 (LEP), *State Environmental Planning Policy No 55 - Remediation of Land*, *State Environmental Planning Policy (Infrastructure) 2007* (SEPP) and Port Stephens Council Development Control Plan 2014 (DCP). Detailed assessment against these requirements are contained within the assessment report provided at **(ATTACHMENT 3)**.

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed development is anticipated to generate viable employment and economic activity through both the construction of the development and occupation by the medical centre. The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality and will not result in unacceptable adverse impacts upon the natural or built environments. The development is not anticipated to have significant adverse impacts on the locality, surrounding properties or public places. Accordingly, the development is considered to be in the public interest.

A detailed assessment of the proposed development has been carried out against the requirements of the *Environmental Planning and Assessment Act 1979* as provided in **(ATTACHMENT 3)**.

CONSULTATION

Internal referral

Consultation was undertaken with internal officers, including; Development Engineering, Natural Resources (Vegetation Management), Building Surveying and Development Contributions. The referral comments from these officers were considered as part of the assessment contained at **(ATTACHMENT 3)** and relevant recommend conditions of consent have been included at **(ATTACHMENT 4)** should the application be approved.

External agency

Consultation with the Department of Defence was undertaken during the course of assessment as the subject site is identified as being affected by the RAAF Height Trigger Map (for structures higher than 7.5m) and RAAF Bike Strike – Group A. Subject to recommended conditions of consent being imposed; with respect to the management of waste and non-reflective surfaces in the design and the construction of the proposed development; the Department of Defence had no objection to the development.

Public exhibition

In accordance with Council's notification policy as outlined in Chapter A of DCP2014 the application was notified for a period of 14 days between 19 September 2018 and 4 October 2018. During the exhibition period eight submissions were received. The key issues raised within the submissions have been discussed elsewhere within this report and have also been addressed in detail within the planner's assessment report contained at **(ATTACHMENT 3)**.

It has been identified that the concerns raised within the submissions can be adequately addressed by the proposed development and recommended conditions of consent contained in **(ATTACHMENT 4)**.

OPTIONS

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

ATTACHMENTS

- 1) Call to Council Form.
- 2) Locality Plan.
- 3) Planners Assessment Report.
- 4) Recommended Conditions of Consent.

COUNCILLORS ROOM

Development Plans.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 CALL TO COUNCIL FORM.



CALL TO COUNCIL FORM
DEVELOPMENT APPLICATION

I, Councillor Chris Doohan

require Development Application Number DA NO:16-2018-602-1

for Medical Centre

at Lot 203 Boundary Rd, Medowie

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

Reason:

The reason for this call-up to Council is - Community concerns on Development impacts to area.

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

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

NOT APPLICABLE

Signed:

A large black rectangular box redacting the signature of the councillor.

.....Date: 04 September 2018

ITEM 1 - ATTACHMENT 2 LOCALITY PLAN.



ITEM 1 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

PORT STEPHENS
COUNCILDEVELOPMENT
ASSESSMENT REPORT

APPLICATION DETAILS

Application Number	16-2018-602-1
Development Description	Medical Centre (change of use from existing dwelling) and associated car park and landscaping over two stages.
Applicant	MR G J BRUMMITT
Date of Lodgement	13/09/2018
Value of Works	\$350,000.00

Development Proposal

The application proposes a change of use from an existing dwelling to a Medical Centre over two stages (**Figure 3**), including:

- **Stage one** – Includes car parking, landscaping, stormwater and alterations and additions to the existing dwelling comprising minor building works including removal of doors and windows, raising the floor level and construction of new walls (**Figure 1**). The overall extension to the existing dwelling within Stage 1 is 6.1m².

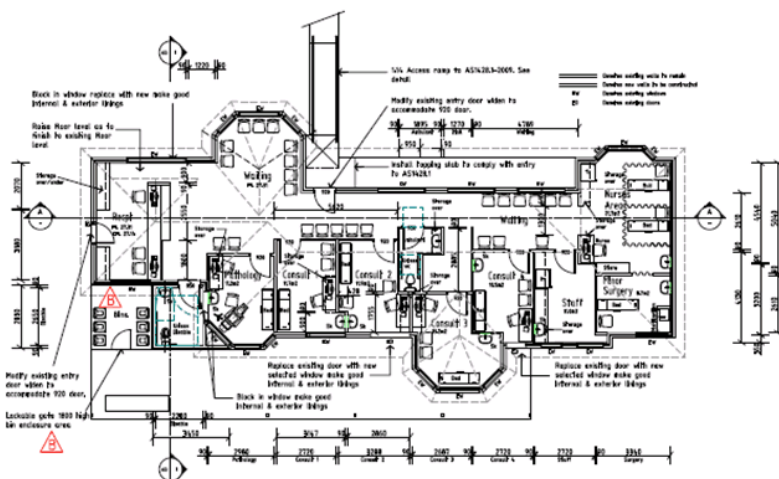


Figure 1: Stage one proposed floor plan

- **Stage two** - Extensions to the front (south), side (east) and rear (north) of the existing dwelling (**Figure 2**). The overall extension to the existing dwelling within Stage two is 49.7m².

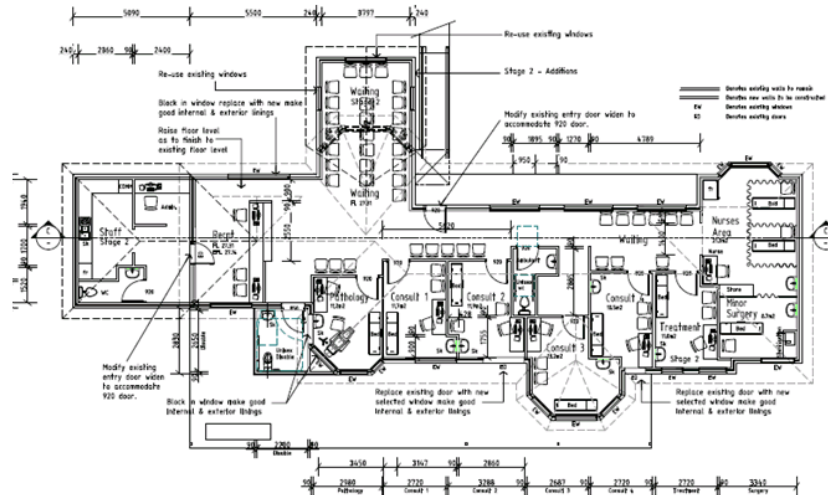


Figure 2: Stage two proposed floor plan

At the completion of construction, the medical centre will include five consulting rooms, two bed nurse treatment station, minor operations room, on site pathology, two stationed reception and administration/ practice manager offices, separate staff toilets and staff room with kitchenette.

The operational details of the proposed medical centre include:

- Employees – Three full time general practitioners (proposing two additional doctors after two years when the practice is more established), one full time practice manager, two part time receptionists and two part time nurses. The additional rooms would be rented out to allied health specialists (such as pathology, psychologist and podiatrist). The centre proposes at any one time a receptionist, a nurse, a practice manager and five medical professionals in the centre.
- Hours of operation – Monday to Friday – 8:30am to 5:30pm and Saturdays - 8:30am to 11:30am.

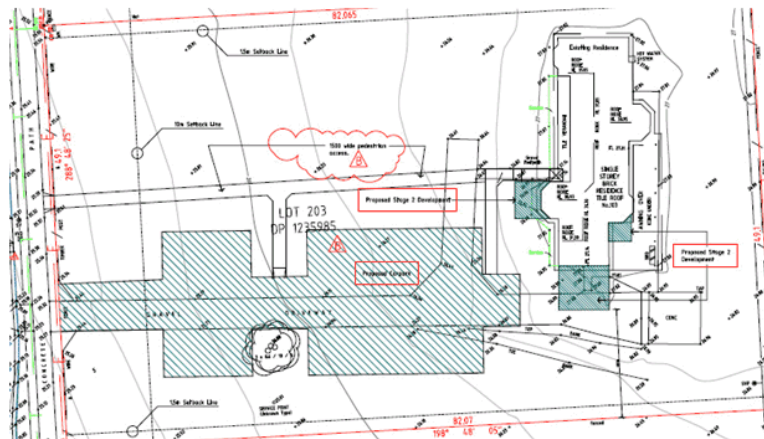


Figure 3: Site Plan

ITEM 1 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

16-2018-602-1

PROPERTY DETAILS

Property Address	103 Boundary Road MEDOWIE
Lot and DP	LOT: 203 DP: 1235985
Current Use	Dwelling House
Zoning	R5 LARGE LOT RESIDENTIAL
Site Constraints	Bushfire Prone Land (Buffer, Veg Cat 1); Acid Sulfate Soils – Class 5; RAAF Height Trigger Map (refer structures higher than 7.5m); RAAF Bike Strike – Group A; Port Stephens Mineral Resource Audit 2012 (referral area); Urban Release Area (Boundary Road); and DCP Chapter D9 – North Medowie.

Site description and history

The subject site is located at 103 Boundary Road, Medowie, is legally known as Lot 203 DP 1235985 and has an area of approximately 4,072m². The site currently contains a single dwelling fronting Boundary Road and a detached double garage and carport. The single storey dwelling is proposed to be retained and converted to a medical centre (subject to this proposal). There are vacant lots either side of the subject site.



Figure 4: Locality of proposed development

The subject site has existing approval for a rural workers dwelling under 7-1995-679-1 (approved 23 October 1995) and a garage (detached) and carport under 16-2018-481-1 (approved August 2018). There are no compliance issues associated with the site that require consideration in respect to the proposed development.

Site Inspection

A site inspection was carried out on 4 October 2018. The subject site is depicted in the images below:



Image 1: View of site from Boundary Road



Image 2: View of access to existing dwelling from driveway



Image 3: View from front of property to the West (adjoining property at the rear)



Image 4: Existing hardstand (where approved detached shed is to be located) to the East of the dwelling



Image 5: View from existing dwelling to the road frontage



Image 6: Adjoining property to the East

ITEM 1 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

16-2018-602-1

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.

Development Engineering

No objections were made to the proposed development and conditions have been recommended with regard to provision of detailed stormwater plans. It has also been identified that a driveway construction application is required should the application be approved.

Building

Additional information was requested relating to disabled parking on the gravel driveway. On review of the revised plans no objections were made to the proposed development. General conditions relating to construction have been recommended should the application be approved.

Development Contributions

The proposed development is required to be levied under Section 7.12 of the Act. A condition outlining the contributions payable prior to the issue of the construction certificate has been recommended should the application be approved.

Vegetation Management

Additional information was requested requiring consistency with the development control plan, specifically landscape coverage and qualities, shading over car parking and screening and visual relief to the road and adjoining properties. On review of the additional information no objections were made to the amended landscape plan, however conditions on the species of trees and protection of existing trees on the site were recommended should the application be approved.

External Referrals**Department of Defence**

The proposed development was referred to the Department of Defence (DoD) for comment as the subject site is identified as being affected by the RAAF Height Trigger Map (for structures higher than 7.5m) and RAAF Bike Strike – Group A.

A response was received from DoD, noting that they have no objection to the proposed development. However conditions have been recommended in the event the application be approved relating to the management of organic waste (such as maximum storage onsite and the

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ITEM 1 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

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use of covered/enclosed bins) and use of non-reflective surfaces in the design and the construction of the proposed development.

MATTERS FOR CONSIDERATION – SECTION 4.15**s4.15(1)(a)(i) – The provisions of any EPI**State Environmental Planning Policy 55 – Remediation of Land

The subject site is currently and has historically been used for residential purposes. As such, the likelihood of the site being contaminated is unlikely. Moreover, the NSW list of contaminated sites published by the EPA does not list the site as being a registered contaminated site. Based on this, it is considered that no significant contaminating activities have been undertaken that would inhibit the use of the site for the proposed use.

State Environmental Planning Policy (Infrastructure) 2007 ('ISEPP')

The development has been lodged as a Medical Centre under Division 10, clause 57(1) of the SEPP (Infrastructure) 2007 ('ISEPP'). This clause enables development for the purposes of health services facilities to be carried out by any person with consent. In the SEPP, a *Health Services Facility* has the same meaning as the in the Standard Instrument (see clause 56 of the ISEPP), which is defined as:

health services facility means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

Medical Centre is defined in the standard instrument as:

medical centre means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

It is noted that a *Medical Centre* is not permissible in the R5 zone under Port Stephens Local Environmental Plan 2013 ('LEP2013'). However, clause 8 of the ISEPP defines the relationship it has with other Environmental Planning Instruments, such as LEP2013, stating that where there is a conflict, the SEPP prevails. Accordingly, the ISEPP overrides the provisions of LEP2013, and a *Medical Centre* is permissible in the R5 zone.

Port Stephens Local Environmental Plan 2013 (LEP)**Clause 1.9 – Application of SEPPs**

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ITEM 1 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

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The LEP is subject to the provisions of any State Environmental Planning Policy that prevails over the LEP as provided by Section 3.28 of the *Environmental Planning and Assessment Act 1979*.

Clause 1.9A – Suspension of covenants, agreements and instruments

Clause 1.9A stipulates that for the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of a development does not apply to the extent necessary to serve that purpose.

A restriction on the use of land relating to the subject site (103 Boundary Road, Medowie LOT: 203 DP: 1235985) has been placed on the 88B Instrument to not permit buildings to be used other than for residential accommodation. This restriction on the land title benefits "every other lot except lot 200 and lots 205-230 inclusive". The restriction pertaining to residential accommodation is for the benefit of the developer for the first three years and the proprietor of the lots having common boundaries with the proprietor of the lot seeking to release, vary or modify the restriction. However, due to the application of clause 1.9A these restrictions do not limit Council's ability to approve the development, therefore the 88b restriction seeking to limit commercial development in the Bower estate has no effect and does not limit Council's ability to approve the development. An advisory note is recommended in the event the application is approved informing the applicant the restriction remains on the Section 88B Instrument and they may wish to seek advice with respect to the matter.

Clause 2.3 – Zone objectives and land use table

The subject site is zoned 'R5 Large Lot Residential' and Medical Centres are prohibited development. However, as detailed above the proposed Medical Centre is permissible with consent under the *State Environmental Planning Policy (Infrastructure) 2007* ('ISEPP').

Clause 7.1 – Acid sulfate soils

The site is located within class 5 acid sulfate soils. The subject site is not located within 500m of adjacent class soils, and does not propose excavations that would lower the watertable. The proposal is therefore unlikely to disturb acid sulfate soils and as such a management plan is not required.

Clause 7.2 - Earthworks

The application proposes minor earthworks on the site to achieve the required car parking grades. The proposed earthworks are relatively minor in nature and are not anticipated to result in any negative impacts on the subject site or adjoining land. No material is proposed to be imported or exported from the subject site and accordingly, the development complies with the requirements of this clause.

Clause 7.4 – Airspace operations

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The application proposes development within the height trigger map (i.e. structures higher than 7.5m). As such the application was referred to Department of Defence for comment whom noted that it is unlikely that the proposed development will compromise the operations of the RAAF Base Williamtown Airport by penetrating the limitation or operations surface. Accordingly, the development meets the objectives of this clause.

Clause 7.6 – Essential Services

The subject site has appropriate existing connections to essential services including reticulated water, electricity and sewer. It is noted that the proposed development is under 60% site coverage for impervious areas. Further, the Bower Estate incorporates water quality and detentions (for up to 60% impervious areas). In this regard, no additional stormwater controls are required for this application. The subject land also maintains direct access to Boundary Road, meeting the requirements of this Clause.

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 between 19 September 2018 and 4 October 2018. During this time eight submissions were received. Submissions are considered and addressed in detail elsewhere within this report.

Chapter B.3 – Environmental Management**Bushfire Prone Land**

Although the area is identified as bushfire prone, the site is surrounded by a large residential subdivision with managed land to all boundaries. There is no bushland threat located within 140 metres of the site. The potential threat is therefore minor and no specific bushfire upgrades will be required.

Acid Sulfate Soils

As discussed elsewhere within the report, the site is located within class 5 acid sulfate soils. The proposal is therefore unlikely to disturb acid sulfate soils and as such a management plan is not required.

Earthworks

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As discussed previously in the report, the application proposes minor earthworks on the site to achieve the proposed car parking grades. The proposed earthworks are relatively minor in nature and are not anticipated to result in any negative impacts on the subject or adjoining land. No material is proposed to be imported or exported from the subject site and accordingly, the development accords with the requirements of this clause.

Noise

The hours of operation of the proposed development include:

- Monday to Friday – 8:30am to 5:30pm; and
- Saturday – 8:30am to 11:30am.

The operational hours are considered appropriate given its level, nature and the character of the noise. The development type is not listed as a requirement to comply with B3.3 of the DCP.

Chapter B.4 – Drainage and water quality

The proposed development will result in an increase to the sites existing impervious area. However, it is noted that the proposed development is under 60% site coverage for impervious areas. Further, the Bower Estate incorporates water quality and detentions (for up to 60% impervious areas). In this regard, no additional stormwater controls are required for this application.

Chapter B.7 – Williamstown RAAF Base – aircraft noise and safety

The subject site is within the RAAF Height Trigger Map (refer structures higher than 7.5m) and has been referred to the Department of Defence accordingly. The subject site is located with the RAAF Bike Strike – Group A, however the development proposed is not listed as a development type to be avoided.

Chapter B.9 – Road networking and parking

The DCP requires the following ratios for the proposed development:

Land Use	Parking Ratio	Floor Area	Requirement
Medical Centre	1 car space per 25m ² (disabled car parking 1 car space per 10 car spaces)	Stage one – 223.55m ²	8.9 (9)
		Stage two – 247.859m ²	9.9 (10)
Maximum parking spaces required			10
Parking spaces provided			22

The development provides 22 car parking spaces (including two accessible spaces) located at the front of the existing building. Car parking is accessed from Boundary Road. Due to the location of the subject site and setback from Boundary Road, the provision of additional car parking will not

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result in any adverse visual impacts. It is considered that the driveway location would provide safe access and egress from the site considering the location along the road. The requirements of chapter B.9 have been satisfied.

Chapter C.2 – Commercial development

The development is located within a residential zone, however the proposed land use is commercial. Accordingly the development has been assessed against chapter C.2 and is considered to be satisfactory.

It is noted that to achieve consistency with the existing public domain and streetscape, whilst adhering to commercial requirements, additional facade treatments and minor external works are proposed which are complimentary to the form, proportions and massing of existing buildings within the area. It is noted that the floor to ceiling height of the proposed development is at 2.4m, which complies with the Building Code of Australia requirements.

The proposed development provides a clear direction and recognisable entry from the street and provides waste storage to the rear of the building, screened from public view. All waste is proposed to be deposited at the nearest waste management facility

The proposed landscape treatment is consistent with the DCP requirements with regard to coverage, qualities, 30% shading of car parking areas and provision of screening and visual relief to the road and adjoining properties at an appropriate scale. Overall, it is considered that the landscaping will enhance the appearance and amenity of the development.

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 within the regulations that relate to this application.

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 result in positive social and economic impacts through increasing the availability of medical services and facilities in the locality for the community. The location and use of the premises would encourage walking and cycling when accessing the facility.

Impacts on the Built Environment

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The proposed development will have no adverse impacts on the built environment within its locality and is largely contained within the existing building. The existing building is in-keeping with the bulk and scale of existing developments in the locality. The landscape features are considered an appropriate scale to the development and will enhance the appearance and amenity of the development.

Impacts on the Natural Environment

The proposed development is not anticipated to have an impact on the surrounding natural environment. The existing building and associated hardstand are not located near any vegetation. In addition, appropriate erosion measures during construction and stormwater management would ensure impacts to the natural environment are acceptable.

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

The proposed development is considered to be appropriately positioned within its locality to adequately service the community and therefore the subject site is suitable for the development.

s4.15(1)(d) – Any submissions

In accordance with the requirements of chapter A.12, the development application was notified for a period of 14 days between 19 September 2018 and 4 October 2018. During this time eight submissions were received. The key matters raised within the received submission are outlined and addressed below:

Submission	Response
Traffic and parking concerns. Concern for staff and visitor parking.	Parking has been assessed under the DCP Chapter B.9 – Road Networking & Parking which requires parking ratios (i.e. requiring 1 car space per 25m ² and a total of 10 spaces). The proposed parking provides excess parking with 22 spaces, including two accessible spaces provided. The proposed driveway access is adequate for the development type and with access from Boundary Road, it is considered that the driveway location would provide safe access and egress from the site considering the location along the road.
Lower property prices	There is no evidence that the proposal would impact on property prices was provided. Furthermore, this is not a relevant consideration for Council under the EP&A Act.
Section 88b instrument stated no businesses will operate out of any residential lot in Bower estate.	Clause 1.9A LEP2013 stipulates that for the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of a development does not apply to the extent necessary to serve that

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	purpose. Therefore, the 88b restriction seeking to limit commercial development in the Bower estate has no effect and does not limit Council's ability to approve the development. An advisory note is recommended in the event the application is approved informing the applicant the restriction remains on the Section 88B Instrument and they may wish to seek advice with respect to the matter.
Privacy issues for surrounding properties (visual).	Recommended conditions of consent have been provided to require appropriate privacy screening and buffers are to provide privacy to adjoining properties.
The development is out of character for the area and will provide unreasonable impacts on views and outlook of the neighbouring properties.	<p>The proposed development is considered in keeping with the residential nature of the area and is largely contained within the existing dwelling.</p> <p>The car parking has a visual impact from the street but the revised landscape plan provides landscaping features that are an appropriate scale to the development and will mitigate the aesthetic and streetscape issues on the impact of the car park and impact on adjoining neighbours.</p>
Concerns on waste collection and storage.	All waste is proposed to be deposited at the nearest waste management facility. The plans include an enclosed waste storage area located at the rear of the building.
Under the Port Stephens Local Environmental Plan 2013 – Zone R5 Large Lot Residential the proposal is not permissible with consent.	It is noted that a <i>Medical Centre</i> is not permissible in the R5 zone under Port Stephens Local Environmental Plan 2013 (LEP). However, clause 8 of the ISEPP defines the relationship it has with other Environmental Planning Instruments (such as the LEP), stating that where there is a conflict, the ISEPP prevails. Accordingly, the ISEPP overrides the LEP, and a Medical Centre is permissible in the R5 zone.
The proposal suggests there will be allied health services provided such as psychology, concern for safety for the surrounding estate that this will attract mentally unstable patients to the area.	There is no evidence to support the concerns raised in the submission. Furthermore, it is unlikely that the proposed development will result in safety impacts to surrounding residential development.
Concern regarding the construction impacts of the proposal such as noise, dust, hours, traffic and parking concerns for pedestrian safety of children and potential damage to surrounding properties.	Standard conditions of consent will be placed on the determination regarding construction standards and requirements.
Concern that the development has not addressed the public domain in reference to aspects such as wider footpaths and disabled access.	A standard condition is recommended should the application be approved requiring the development to comply with the requirements of the Building Code of Australia and where applicable the Disability (Access to

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	Premises – Buildings) Standards 2010.
Concern regarding impact on services such as sewer, power, water and communications services.	The subject site is serviced by reticulated water, electricity and sewer. A condition is recommended in the event the application be approved relating to obtaining a Section 50 certificate from Hunter Water Corporation to ascertain appropriate connection to water and sewer.
The proposal will have social impacts on the neighbourhood and streetscape.	The proposal will increase medical services and facilities in the locality for the community. The location and use of the premises would encourage walking and cycling when accessing the facility and is considered a positive social impact. It is not likely that the development will result in any adverse social impacts to surrounding development.
Already three medical facilities within a 15 minute radius of the estate, there is no need to have this one.	Whilst this is noted, should a use be permissible, the consent authority (Council) must assess the application on merit using the applicable legislation. Competition and impact to existing businesses is not a relevant consideration under the EP&A Act.
Concerns for no adequate emergency plan and or bush fire survival plan put in place to cater for the proposed development.	There is no legislative requirement to consider an emergency plan and it is not considered necessary in this instance. Although the area is identified as bushfire prone, the site is surrounded by a large residential subdivision with managed land to all boundaries. There is no bush fire threat located within 140 metres of the site. The potential threat is therefore minor and no specific bushfire upgrades will be required.
Noise concerns (acoustics). Shift workers living in adjoining property.	The proposed hours of operation are considered appropriate given its level, nature and the character of the noise. These hours are not outside of normal business hours. The development is not listed as a development type that has the potential to produce adverse offensive noise (such as clubs, childcare centres and the like), therefore the development is not required to comply with the noise objective and requirements listed under Chapter B3.3 Environmental Management of the DCP.

s4.15(1)(e) – The public interest

The proposed development will result in the availability of a medical facility to the community. The development is considered to be in the interest of the local community.

ITEM 1 - ATTACHMENT 4 RECOMMENDED CONDITIONS OF CONSENT.



**PORT STEPHENS
COUNCIL**

Recommended Conditions of Consent

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	18014-B	A01	10.10.2018	Absolute Drafting Services
Proposed Stage 1 - Floor Plans	18014-B	A02	10.10.2018	Absolute Drafting Services
Proposed Stage 2 - Floor Plans	18014-B	A03	10.10.2018	Absolute Drafting Services
Car Parking Plan	18014-B	A04	10.10.2018	Absolute Drafting Services
Proposed Landscape Plan	18014-B	L01	10.10.2018	Absolute Drafting Services

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. Works are to be carried out in two stages in accordance with the approved stamped plans, including:
 - a. Stage 1 is to include all landscaping, stormwater, access and car parking in accordance with the Site Plan (Drawing No.: 18014, Revision: B, Dated: 10/10/18), Proposed Stage 1 – Floor Plans (Drawing No.: 18014, Revision: B, Dated: 10/10/18) and Car Parking Plan (Drawing No.: 18014, Revision: B, Dated: 10/10/18); and
 - b. Stage 2 is to include the extensions to the floor plan in accordance with the Site Plan (Drawing No.: 18014, Revision: B, Dated: 10/10/18) and Proposed Stage 2 – Floor Plans (Drawing No.: 18014, Revision: B, Dated: 10/10/18).

CONDITIONS THAT IDENTIFY OTHER APPROVALS REQUIRED

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3. **Prior to the issue of a Construction Certificate and/or commencement of works (whichever occurs first)**, a Driveway Construction Application is to be lodged with Council as the Roads Authority.
4. **Prior to issue of a Construction Certificate and/or commencement of works (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, 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. **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 Councils Development Control Plan and Infrastructure Specification as well as

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the current Australian Rainfall and Runoff guidelines using the current Hydrologic Soil Mapping data for Port Stephens available from Council, and include the following information:

- a. An emergency overland flow path 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;
- b. Conveyance where necessary, of stormwater through the site from upstream catchments, (including roads and adjoining properties);
- c. Detailed pavement finished surface levels, to ensure stormwater runoff is directed into the stormwater system;
- d. 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; and
- e. Evidence of Council (or relevant authority) approval for stormwater connection to the public system, with the above supporting details endorsed, under Section 68 (Approvals) 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 Final Occupation Certificate.**

7. The building, including the roof, shall be constructed in materials of a low reflective quality. The building shall be designed so as to not result in glare that causes any nuisance or interference to pilot visibility during daylight hours. Details shall be submitted to the Certifying Authority for approval **prior to the issue of a Construction Certificate.**
8. **Prior to the issue of a Construction Certificate**, the landscape plan (No. 18014-B – LO1, prepared by Absolute Drafting Services, and dated 10.10.2018) shall be modified to include the following:
 - a. All 12 trees denoted as 11m mature height in landscape plan will be *Lophostemon confertus* (Queensland Brush Box). The trees shall be a minimum pot size of 45 litres and taller than 1.2m at the time of planting.

The modified landscape plan is to be submitted to the Certifying Authority with supporting documentation demonstrating compliance with Council's Tree Technical Specification and this condition.

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).

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9. **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.
10. **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.
11. **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.
12. **Prior to the commencement of work**, 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.
13. **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.
14. **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.
15. **Prior to the commencement of works**, all existing trees (or groups of trees) which are to remain undisturbed on the site or neighbouring properties shall be indicated on the approved project drawings and shall be adequately protected for the duration of the construction phase of the project. The follow measures shall be implemented:
 - a. Stockpiling or storage or mixing of materials, vehicle parking, disposal of liquids, machinery repairs and refuelling, siting of offices or sheds and the lighting of fires shall not occur within the dripline of trees identified to remain on the site or neighbouring properties;
 - b. All tree protection works including protective fencing shall be carried out before excavation, grading and site works commence. Protective fencing using brightly coloured "bunting" type fencing supported by 1800mm high star pickets is required;

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- c. Any excavation or removal or addition of topsoil within the dripline of trees is to be carried out in accordance with approved plans;
- d. The structural roots of the existing tree, located on the neighbouring property, less than 50mm in diameter are not to be severed; and
- e. Erection of any fencing must take into account further growth of existing tree.

CONDITIONS TO BE SATISFIED DURING WORKS

The following conditions are to be complied with during works.

- 16. 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.
- 17. 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.
- 18. All building work shall be carried out in accordance with the requirements of the Building Code of Australia and where applicable the Disability (Access to Premises – Buildings) Standards 2010.
- 19. 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.
- 20. 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.

- 21. 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

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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.

22. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.
23. 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.
24. 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.
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 that asbestos waste has been disposed of in accordance with this condition.

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).

26. **Prior to the issue of a Final Occupation Certificate**, the stormwater and drainage works required are to be completed.
27. **Prior to issue of any Occupation Certificate**, a minimum of 22 car parking spaces including 2 disabled car parking spaces are to be provided in accordance with AS2890 Parts 1, 2 and 6 (as current at the time of construction). Parking shall be permanently marked on the pavement surface.
28. **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.

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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.

29. **Prior to issue of any Occupation Certificate**, all landscape works detailed on the approved landscape plan (No. 18014-B – LO1, prepared by Absolute Drafting Services, and dated 10.10.2018) shall be installed, inclusive of the following amendments:

- a) All 12 trees denoted as 11m mature height in landscape plan will be *Lophostemon confertus* (Queensland Brush Box). The trees shall be a minimum pot size of 45 litres and taller than 1.2m at the time of planting.

All landscaped areas shall be kept free of parked vehicles, stored goods, garbage or waste material and the like at all times.

30. **Prior to the issue of each Occupation Certificate**, a fire safety schedule and a fire safety certificate issued under Divisions 2 and 4, Part 9 of the Environmental Planning and Assessment Regulations 2000 (the Regs) must be submitted to the Principal Certifying Authority, Council and the Commissioner of New South Wales Fire Brigades. A copy of the schedule and certificate must also be prominently displayed in the building. Subsequent annual fire safety statements issued under Division 5, Part 9 of the Regs are to be provided to the authorities listed in this condition and displayed within the building each year.
31. **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority must be satisfied that all outdoor lighting installed as part of the development is designed and positioned to minimise any detrimental impact upon the amenity of surrounding properties, or cause nuisance to motorists on nearby roads.

CONDITIONS TO BE SATISFIED AT ALL TIMES

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

32. 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.
33. 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.
34. All work or storage of goods and materials is to be confined within the building except for external areas specifically approved for such purposes on the approved plan.

ITEM 1 - ATTACHMENT 4 RECOMMENDED CONDITIONS OF CONSENT.



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35. All vehicles must enter and exit the site in a forward direction.
36. The development shall not undertake activities which may restrict, obstruct or inconvenience the use of the land by other users, outside of the approved development location.
37. The hours of operation are restricted to the following times:

Day	Start Time	Finish Time
Monday to Friday (Excluding Public Holidays)	8:30am	5:30pm
Saturday	8:30am	11:30am

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

38. The waste storage area is to be screened so as not to be visible from a public place or a communal area. The enclosure is to be constructed of materials that are durable, impervious to moisture and capable of being easily cleaned, and consist of covered/ enclosed bins.

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. It is the Applicants responsibility to ensure compliance with the requirements of the Disability Discrimination Act 1992 (DDA). Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.
- E. The development is to comply with the requirements applying to a medical centre-use' as contained under the Port Stephens Local Environmental Plan 2013, as follows: means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally

ITEM 1 - ATTACHMENT 4 RECOMMENDED CONDITIONS OF CONSENT.



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provided by health care professionals. It may include the ancillary provision of other health services.

- F. A restriction on the use of land relating to the subject site (103 Boundary Road, Medowie LOT: 203 DP: 1235985) has been placed on the Section 88B Instrument to not permit buildings to be used other than for residential accommodation. Clause 1.9A – Suspension of covenants, agreements and instruments of Port Stephens Local Environmental Plan 2013 outlines that a restriction does not restrict a consent authority issuing an approval. However you are advised that the restriction remains on the Section 88B Instrument and you may wish to seek your own advice with respect to this matter.

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

Councillor Chris Doohan left the meeting at 6:43pm prior to Item 4.

ITEM NO. 4

FILE NO: 19/15592
EDRMS NO: PSC2016-01186

PLANNING PROPOSAL FOR BOOMERANG PARK

REPORT OF: JANET MEYN - PROPERTY SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That Council not progress the planning proposal for the rezoning and reclassification of land located at Boomerang Park, Raymond Terrace.
-

Councillor Chris Doohan returned to the meeting at 6:49pm prior to voting.

ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019 MOTION

021	<p>Councillor Giacomo Arnott Councillor John Nell</p> <p>It was resolved that Council not progress the planning proposal for the rezoning and reclassification of land located at Boomerang Park, Raymond Terrace.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Paul Le Mottee and Cr Chris Doohan.

Councillor John Nell left the meeting at 6:51pm.

BACKGROUND

The purpose of this report is to advise Council that there have been significant constraints identified which will adversely affect the reclassification and rezoning of the land and any potential profits from the sale of the land.

At the Council Meeting of 28 July 2015, Minute Number 213 (**ATTACHMENT 1**) Council resolved to adopt the planning proposal to rezone the subject land within

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential, and reclassify the subject land from 'community' to 'operational', and forward the planning proposal to the NSW Department of Planning and Infrastructure (Department) to request a Gateway determination. The proposed area is approximately 4.5 hectares and indicative lot yield was approximately 46 lots (**ATTACHMENT 2**).

The planning proposal was forwarded to the Department to assess as a Gateway determination. The Department requested further information and investigations to be undertaken.

DeWitt Consulting were engaged to undertake the investigations on behalf of Council and undertook extensive investigations. It was identified that there are significant constraints with the site with regards to Aboriginal Cultural Heritage, Asset Protection Zones and the Heritage Curtilage associated with the individual heritage items in Boomerang Park including the quarry and reservoir.

Taking into consideration the impacts of these constraints and the impact to the proposed development, It is considered that at this time that it is prudent to not proceed with the planning proposal for the proposed rezoning and reclassification as previously endorsed. Should Council resolved not to proceed with the planning proposal, Council officers will write to the Department and request that they do not progress any further with the planning proposal.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

Based on the 2015 investigations, it was expected that future land sales as a result of the rezoning had the potential to yield approximately \$1.7m to Council, subject to the planning proposal proceeding and future land sales. Given the constraints identified in the recent report, this number would now need to be reconsidered, as the fees associated with this development will be substantially higher. There is no budget currently allocated for ongoing investigations. The investigations to date have cost within the vicinity of \$36,000.

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

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

Source of Funds	Yes/No	Funding (\$)	Comment
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that community opposition to the planning proposal will delay the process.	High	Accept the recommendation.	Yes
There is a risk that the land is required for future recreation purposes.	Medium	Accept the recommendation.	Yes
There is a risk that the constraints on the site will demonstrably reduce the potential yield and the profitability of the development.	High	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The planning proposal and future development of 4.5 hectares of Boomerang Park could provide significant social benefits, such as opportunities to provide a diversity of dwelling stock that would respond to housing affordability in Raymond Terrace.

During the preparation of the Boomerang Park Masterplan, significant community concern and opposition to the rezoning and reclassification was raised.

CONSULTATION

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

Internal

- Corporate Services Group Manager.
- Property Services Section Manager.
- Commercial Investment Manager.
- Development Services Section.
- Facilities and Services Section.

External

- Community Consultation.
- DeWitt Consulting.
- Insite Heritage.
- Firebird Consultants.
- John Carr Heritage.

OPTIONS

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

ATTACHMENTS

- 1) Boomerang Park Planning Proposal - Minute Number 213 - 28 July 2015.
- 2) Locality Map.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL -
MINUTE NUMBER 213 - 28 JULY 2015.**

MINUTES ORDINARY COUNCIL - 28 JULY 2015

ITEM NO. 5

FILE NO: PSC2015-01000/538

TRIM REF NO: PSC2015-01301

PLANNING PROPOSAL - BOOMERANG PARK

REPORT OF: TIMOTHY CROSDALE - STRATEGY AND ENVIRONMENT
SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at (**ATTACHMENT 1**) to rezone the subject land within Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential and reclassify the subject land from 'community' to 'operational' land.
- 2) Forward the Planning Proposal to the NSW Department of Planning and Infrastructure under section 56 in the *Environmental Planning and Assessment Act 1979* with a request for a Gateway Determination.

**ORDINARY COUNCIL MEETING - 28 JULY 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

Councillor Geoff Dingle
Councillor Peter Kafer

The amendment put was that Council:

- 1) Refuse the Planning Proposal at (**ATTACHMENT 1**) to rezone the subject land within Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential and reclassify the subject land from 'community' to 'operational' land.

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

Those for the Motion: Crs Geoff Dingle and Peter Kafer

Those against the Motion: Crs Chris Doohan, Sally Dover, Ken Jordan, Paul Le Mottee, Bruce MacKenzie and Steve Tucker

The Motion was lost.

**ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL -
MINUTE NUMBER 213 - 28 JULY 2015.****MINUTES ORDINARY COUNCIL - 28 JULY 2015****ORDINARY COUNCIL MEETING - 28 JULY 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

Councillor Paul Le Mottee
Councillor Chris Doohan

A motion was moved and seconded that Council:

- 1) Adopt the Planning Proposal at (**ATTACHMENT 1**) to rezone the subject land within Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential and reclassify the subject land from 'community' to 'operational' land. With the following amendments:
 - a) Council reaffirm its position that the site is to be developed for seniors housing only.
 - b) Council register a restriction / covenant on the use of land to formalise it to only be used for seniors housing post gateway determination.
- 2) Forward the Planning Proposal to the NSW Department of Planning and Infrastructure under section 56 in the *Environmental Planning and Assessment Act 1979* with a request for a Gateway Determination.

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

Those for the Motion: Crs Chris Doohan, Sally Dover, Ken Jordan, Paul Le Mottee, Bruce MacKenzie and Steve Tucker

Those against the Motion: Crs Geoff Dingle and Peter Kafer

The motion was carried.

**ORDINARY COUNCIL MEETING - 28 JULY 2015
MOTION**

212
Councillor Geoff Dingle
Councillor Peter Kafer

- 1) Refuse the Planning Proposal at (**ATTACHMENT 1**) to rezone the subject land within Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential and reclassify the subject land from 'community' to 'operational' land.

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

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.

MINUTES ORDINARY COUNCIL - 28 JULY 2015

Those for the Motion: Crs Geoff Dingle and Peter Kafer

Those against the Motion: Crs Chris Doohan, Sally Dover, Ken Jordan, Paul Le Mottee, Bruce MacKenzie and Steve Tucker

The motion was lost.

ORDINARY COUNCIL MEETING - 28 JULY 2015 MOTION

	Councillor Peter Kafer Councillor Geoff Dingle Cr Kafer moved a motion of no confidence in Council. The motion was lost.
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ORDINARY COUNCIL MEETING - 28 JULY 2015 MOTION

213	Mayor Bruce MacKenzie Councillor Chris Doohan A motion was moved and seconded that Council: <ol style="list-style-type: none">1) Adopt the Planning Proposal at (ATTACHMENT 1) to rezone the subject land within Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential and reclassify the subject land from 'community' to 'operational' land. With the following amendments.<ol style="list-style-type: none">a) Council reaffirm its position that the site is to be developed for seniors housing only.b) Council register a restriction / covenant on the use of land to formalise it to only be used for seniors housing post gateway determination.2) Forward the Planning Proposal to the NSW Department of Planning and Infrastructure under section 56 in the <i>Environmental Planning and Assessment Act 1979</i> with a request for a Gateway Determination.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Chris Doohan, Sally Dover, Ken Jordan, Paul Le Mottee, Bruce MacKenzie and Steve Tucker

**ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL -
MINUTE NUMBER 213 - 28 JULY 2015.****MINUTES ORDINARY COUNCIL - 28 JULY 2015**

Those against the Motion: Crs Geoff Dingle and Peter Kafer

The motion was carried.

BACKGROUND

The purpose of this report is to obtain Council's endorsement to submit the Planning Proposal at (**ATTACHMENT 1**) to the Department of Planning & Environment requesting a Gateway determination.

Subject land:	Part Lot 1 DP 1018979, 17E Irrawang Street, Raymond Terrace [see Locality Plan at (ATTACHMENT 2)]
Proponent:	Port Stephens Council (Facilities & Services Group)
Proposed changes:	Reclassify the subject land from 'Community' to 'Operational' Land; and Rezone the subject land from RE1 Public Recreation to R2 Low Density Residential
Area of land:	4.5 hectares (the total area of the park is 21.6 hectares)
Potential lot yield:	Approximately 46 lots

The Planning Proposal seeks to reclassify 4.5 hectares of Council owned land within Boomerang Park from 'community' land to 'operational' land pursuant to Clause 30 of the *NSW Local Government Act 1993*, and rezone the land from RE1 Public Recreation to R2 Low Density Residential pursuant to *Port Stephens Local Environmental Plan 2013* (PSLEP 2013) to allow the land to be developed for residential purposes.

The rezoning and reclassification has resulted from a resolution by Port Stephens Council on 25 November 2014 to adopt the Boomerang Park Masterplan and initiate the process to rezone and reclassify 4.5ha of the park to enable future residential development as identified in the adopted Masterplan.

The land forms part of Boomerang Park, which was first dedicated as a Public Reserve in 1837, following the preparation of a survey for the township of Raymond Terrace. This reserve was subsequently dedicated in September 1892 as a Recreation Reserve. The reserve became known as 'Boomerang Park' in 1914.

Boomerang Park currently accommodates the Raymond Terrace Senior Citizens Centre, the Raymond Terrace Before and After School Care (both fronting Irrawang Street) the Port Stephens All Breeds Dog Obedience Canine Club (fronting Kangaroo Street) and public amenities. A water tower is located in the centre of the park, on

**ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL -
MINUTE NUMBER 213 - 28 JULY 2015.****MINUTES ORDINARY COUNCIL - 28 JULY 2015**

land owned by the Hunter Water Corporation. These uses are not within the area of the park proposed for residential development and will not be impacted by the proposal.

The part of the park proposed to be rezoned and reclassified (the site) has an area of 4.5 hectares and is of a triangular configuration [see Locality Plan at **(ATTACHMENT 2)**]. The site is predominately grassed and contains a small number of mature trees. The site is bounded by parkland to the west, mature trees to the northeast, by an historic (heritage listed) cemetery to the east and fronts Elizabeth Avenue to the South. On the opposite side of Elizabeth Avenue, is an established residential area zoned R2 Low Density Residential. The proposed residential zone is a logical extension to this adjoining zone.

The proposal seeks to accommodate residential development on land within close proximity to existing services and is not required for its current use as a public reserve. The proponent has advised that the site is no longer required for public recreation purposes as it is surplus to the community's needs. In accordance with the NSW Department of Planning and Environment, which recommends a standard of 2.83 hectares of open space per 1,000 residents, there is sufficient public open space within the Raymond Terrace Planning District, even with the proposed removal of 4.5ha of Boomerang Park. Currently, there is 16.94 hectares per 1,000 residents which will be reduced to 16.6 hectares per 1,000 residents should the planning proposal proceed.

As identified in the planning proposal at **(ATTACHMENT 1)**, the following additional investigations will be required post Department of Planning Gateway determination, including:

- Preliminary contamination assessment in accordance with SEPP 55.
- Additional heritage information.
- Further threatened species assessment.

It is considered that the planning proposal has sufficient merit to proceed to gateway on the basis that the additional information will be submitted post-gateway. The planning proposal will not be exhibited until the additional information is provided.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services.

**ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL -
MINUTE NUMBER 213 - 28 JULY 2015.****MINUTES ORDINARY COUNCIL - 28 JULY 2015****FINANCIAL/RESOURCE IMPLICATIONS**

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	10,500	Stage 1 Rezoning fees. The cost of processing this planning proposal will be covered by Rezoning Fees, in accordance with Council's Fees & Charges.

The future sale of land associated with the rezoning has the potential to yield approximately \$1.7m to Council, subject to the planning proposal proceeding and future land sales.

LEGAL, POLICY AND RISK IMPLICATIONS

The Planning Proposal will be processed in accordance with the plan making procedures in the *Environmental Planning and Assessment Act 1979*, the Local Government Act 1993 and the Department of Planning's Practice Note PN 09-003 (12 June 2009) *Classification and reclassification of public land through a local environmental plan*.

A fact sheet outlining the process for rezoning and reclassification of land can be found at (**ATTACHMENT 3**).

Practice Note PN 09-003 (12 June 2009) Classification and reclassification of public land through a local environmental plan

The purpose of PN09-003 is to provide guidance on how to classify or reclassify public land through a local environmental plan.

In accordance with the practice note, Council must provide a Statement of Interest when the planning proposal is exhibited. The Statement of Interest seeks to:

- a) Identify land owned by Council proposed to be reclassified; and
- b) Allow the community the opportunity to assess the proposal with a full appreciation of all relevant information.

A copy of the Statement of Interest can be found at Attachment 8 to the Planning Proposal at (**ATTACHMENT 1**).

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Local Government Act 1993

Reclassification of the site from 'community' to 'operational' land under the Local Government Act 1993 will allow Council to sell the land.

The proposed reclassification is to be the subject of a public hearing pursuant to section 29 of the *Local Government Act 1993* and PN09-003.

In accordance with the relevant legislation, the public hearing will be held after the exhibition period.

Section 117 Ministerial Direction 6.2 – Reserving Land for Public Purposes

This Direction requires the approval of the Director-General of the Department of Planning and Environment to remove the reservation of land for a public purpose. The reclassification of the subject land from community land to operational land will involve the revocation of the public reserve status of the subject land.

The proponent has advised that the removal of 4.5ha of open space will have a minimal overall impact on the provision of open space in the Raymond Terrace Planning District. There is currently 16.94ha of open space /1000 residents, and the proposal will reduce this to 16.6ha/1000 residents. This exceeds the NSW Department of Planning and Environment recommendations of 2.83 hectares of open space per 1000 residents

Port Stephens Local Environmental Plan 2013

The objectives of this planning proposal will be achieved by the following amendments to the *Port Stephens Local Environmental Plan 2013*:

- Amend Part 2 Land classified, or reclassified, as operational land—interests changed, Schedule 4 Classification and reclassification of public land to include part of Lot 1 DP 1018979, 17E Irrawang Street, Raymond Terrace (**ATTACHMENT 2**) shows the part of the park that is subject to the reclassification.
- Amend Land Zoning Map Sheet LZN_002C for part of Lot 1 DP 1018979 from RE1 Public Recreation to R2 Low Density Residential.
- Amend Lot Size Map Sheet LSZ_002C from no minimum lot size to 500m².
- Amend Height of Building Map Sheet HOB_002C – from no maximum building height to 9 metres.

Heritage

Boomerang Park, including the former stone quarry and mature tree planting, is listed under Schedule 5 of the PSLEP 2013 as an item of Environmental Heritage. Further investigations, post-Gateway, are required and include the establishment of curtilage requirements to the former stone quarry and identification of significant trees for retention, in conjunction with an Arborist report.

An Aboriginal Heritage Information Management Systems web service search was undertaken over the subject land. No Aboriginal sites or places have been recorded

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in or near the subject land. Consultation with the Worimi Local Aboriginal Land Council will be undertaken following a gateway determination.

It is considered that there is sufficient justification for the planning proposal to proceed to gateway on the basis that the additional information will be submitted post-gateway. The planning proposal will not be exhibited until the additional information is provided.

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy identifies Raymond Terrace as a Major Regional Centre and projects 300 new dwellings in Raymond Terrace through infill development.

A key component of the LHRS is ensuring that most new development is located in close proximity to major centres and employment lands, maximising access to services and employment opportunities.

The planning proposal is consistent with the Strategy, as it will contribute to achieving the projected infill dwelling projections set for Raymond Terrace in an area that is close to employment opportunities and services.

The Lower Hunter over the next 20 years: A Discussion Paper

The Lower Hunter over the next 20 years: A Discussion Paper aims to facilitate discussion to feed into the development of a new Lower Hunter Regional Strategy. This Discussion Paper provides guiding planning principles for the Lower Hunter, such as providing a diversity of housing choices for different budgets and lifestyles. This planning proposal is considered to be consistent with those applicable planning principles listed in this Paper as a diverse range of housing types are permitted in the R2 Zone.

Integrated Strategic Plan (Port Stephens 2022)

The proposal is consistent with Council's Integrated Strategic Plan (Port Stephens 2022) which states that Council should provide for a range of lot sizes and housing types to respond to demographic needs and affordability. The proposal will potentially add approximately 40 lots to the residential stock in Raymond Terrace.

Port Stephens Planning Strategy (PSPS)

The Planning Proposal is consistent with the directions adopted by the PSPS. The PSPS identifies Raymond Terrace as a Regional Centre that serves the needs of the wider LGA. It is an area of projected population growth, from 13,346 people in 2009 to 21,380 people in 2031. The Strategy identifies potential growth by infill development in the area encompassing Raymond Terrace – Heatherbrae – Nelsons Plains of 800 dwellings during the period 2011 – 2036. The proposed reclassification and rezoning will therefore provide infill residential development opportunities in accordance with the Strategy.

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Boomerang Park Plan of Management

The Boomerang Park Plan of Management was adopted in November 2000. The POM provides a framework to enable decisions in regards to the site to be made on a consistent and equitable basis.

The vision for Boomerang Park, as outlined in the POM, is as follows:

"To provide public open space that enables a wide range of recreational, cultural, conservational, educational and community based activities to be undertaken in a manner that adds to the scenic and social attributes of the Raymond Terrace planning district".

The Boomerang Park Masterplan seeks to facilitate the provision of new infrastructure and facilities that will contribute to the ongoing development, improvement and increased use of the park, in accordance with the vision.

The Boomerang Park Plan of Management will need to be updated to reflect the changes to Boomerang Park. The POM would cease to apply to the site as POMs do not apply to operational land.

Boomerang Park Masterplan

The Boomerang Park Masterplan was adopted by Council on 25 November 2014 and sets the proposed layout and form of the park and facilities. It seeks to enable greater community use and enjoyment of the park by expanding the opportunities for formal and informal use, at a range of scales.

The Masterplan identifies one parcel of land within the Park that is proposed to be further investigated for future reclassification and rezoning. The planning proposal is consistent with Council's resolution of 25 November 2014.

Draft Raymond Terrace & Heatherbrae Strategy 2015-2031

The draft Raymond Terrace & Heatherbrae Strategy was endorsed for public exhibition by Council at its meeting on 26 May 2015. The draft Strategy seeks to implement a quantity to quality approach to public open space, which recognises the limited operating budgets of regional Councils and the significant amount of public open space that they are required to maintain. With regards to Boomerang Park, the draft strategy includes the following Action:

Action No. 25 - Implementation of the Boomerang Park Masterplan which includes quality paths, play equipment, etc. This is subject to securing appropriate funding.

The Planning Proposal is consistent with the draft strategy, which is reflective of Council's endorsement of the Boomerang Park Masterplan.

It is noted that the draft Raymond Terrace and Heatherbrae Strategy will be placed on public exhibition in July 2015.

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Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that community are dissatisfied with the planning proposal process and outcome.	Low	Ensure adequate consultation is undertaken with the community and stakeholders in accordance with established policy and guidelines.	Yes
There is a risk that the land is required for recreation purposes.	Low	Council's Facilities & Services Group have advised that the site is surplus to the recreation needs of the community in accordance with the Department of Planning and Environment standards.	Yes
There is a risk that there is a perceived conflict of interest between Council as the proponent and Council as the consent authority.	Low	Ensure planning proposal is processed in accordance with the <i>Local Government Act 1993</i> , the <i>Environmental Planning and Assessment Act 1979</i> and LEP Practice Note PN09-003.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Additional housing in Raymond Terrace will have a positive economic impact consistent with Council's strategic plans in this area.

The planning proposal and future development of 4.5 hectares of Boomerang Park could provide significant social benefits, such as opportunities to provide a diversity of dwelling stock that would respond to housing affordability in Raymond Terrace.

During the preparation of the Boomerang Park Masterplan, significant concern and opposition to the rezoning was raised. Further information on Council's approach to consult with the community is outlined in the following sections.

The proposed residential use of the site is unlikely to have a significant impact on the environment.

A preliminary assessment of the ecological values of Boomerang Park and potential impacts of the proposed reclassification and rezoning has been undertaken. The area proposed to be developed for residential purposes is predominately cleared of vegetation, although approximately 86 native and exotic trees would potentially be

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removed, with some minor impacts expected to a number of threatened species and their habitats.

There is sufficient habitat for a range of native plant and animal species to be maintained or enhanced within Boomerang Park, provided that it is managed in accordance with the adopted Masterplan. Overall, the proposed residential development is considered to have relatively minor ecological impacts and to be of low risk to the values the park or adjacent areas, however these initial assumptions should be further examined through additional ecological surveys and assessments.

It is considered that the preliminary ecological investigations provide a sufficient level of detail for a gateway determination to be made. However, should the planning proposal be supported by the gateway, further ecological investigations will be required to more accurately determine the ecological impacts of the planning proposal.

CONSULTATION

Community consultation will be undertaken in accordance with the gateway determination. However, given the community's concern about the proposal, Council intends to undertake additional community consultation to that required by the 'gateway', including information sessions to provide further detailed response to the community during the exhibition period.

Notice of the public exhibition period will be placed in the local newspaper, The Examiner. The exhibition material will be on display at the following locations during normal business hours:

- Council's Administration Building 116 Adelaide Street, Raymond Terrace.
- Raymond Terrace Library, Port Stephens Street, Raymond Terrace.
- Tomaree Library, Town Centre Circuit, Salamander Bay.
- Medowie Community Centre, Cnr of Medowie and Ferodale Streets, Medowie.

The planning proposal will also be available on Council's website.

In accordance with the *Local Government Act* – a Public Hearing is required for the reclassification of the site and will take place following the exhibition period, as legislated.

OPTIONS

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

**ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL -
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MINUTES ORDINARY COUNCIL - 28 JULY 2015

ATTACHMENTS

- 1) Planning Proposal - Boomerang Park. (Provided under separate cover)
- 2) Locality Plan. (Provided under separate cover)
- 3) Fact Sheet - Rezoning and Reclassification of Land. (Provided under separate cover)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



ITEM NO. 2

**FILE NO: 19/3762
EDRMS NO: 16-2018-534-1**

DEVELOPMENT APPLICATION 16-2018-534-1 (ALTERATIONS AND ADDITIONS TO EXISTING TOURISM RESORT - 20 GLAMPING TENTS WITH AMENITIES, KOALA SANCTUARY AND CLINIC, VEGETATION REMOVAL AND CAR PARKING) AT 562 GAN GAN ROAD ONE MILE (LOT: 2 DP: 1109948)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the Development Application 16-2018-534-1 for alterations and additions to existing tourism resort – twenty (20) glamping tents with amenities, koala sanctuary and clinic, tourism centre, vegetation removal and car parking at 562 Gan Gan Road One Mile (LOT: 2 DP: 1109948) subject to the conditions contained in **(ATTACHMENT 3)**.

Councillor Giacomo Arnott left the meeting at 6:53pm prior to voting.
Councillor John Nell returned to the meeting at 6:54pm prior to voting.
Councillor Giacomo Arnott returned to the meeting at 6:55pm prior to voting.

**ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
MOTION**

022	Councillor Paul Le Mottee Councillor Chris Doohan It was resolved that Council approve the Development Application 16-2018-534-1 for alterations and additions to existing tourism resort – twenty (20) glamping tents with amenities, koala sanctuary and clinic, tourism centre, vegetation removal and car parking at 562 Gan Gan Road One Mile (LOT: 2 DP: 1109948) 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, Paul Le Mottee, John Nell and Sarah Smith.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present Development Application (DA) No. 16-2018-534-1 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 562 Gan Gan Road One Mile, legally identified as LOT: 2 DP: 1109948 (the 'subject site'). A locality plan is provided at **(ATTACHMENT 1)**.

Proposal

The applicant seeks approval for alterations and additions to the existing Treescape Camping and Accommodation Park, including twenty (20) glamping tents with amenities, koala sanctuary and clinic, tourism centre, vegetation removal, car parking and roads. The proposed works comprise:

- Construction of a tourism centre incorporating a café/shop, outdoor seating, covered area, administration rooms and reception, and amenities.
- Installation of 20 glamping tents (with private amenities).
- Construction of koala clinic for koalas in treatment, management and learning.
- Car parking and alteration to internal roads.
- Vegetation clearing for bushfire protection of the site.

Site description and history

The subject site currently contains the existing Treescape Camping and Accommodation Park, including camping sites and studios / villas / cabins, internal roads and parking, amenities, swimming pool, BBQ and play areas, and a demountable building which facilitates the care and treatment of koalas. The subject site adjoins the Tomaree National Park to the north, Middle Rock Holiday Resort to the south and rural residential dwellings to the west.

The subject site has a number of constraints including; Bushfire Prone Land, Acid Sulfate Soils - Class 4 and 5; endangered ecological communities (fresh water wetlands, swamp sclerophyll forest), koala habitat – preferred and notifiable noxious weeds (Chinese violet).

The subject site has had a number of development approvals since 1998 relating to tourism accommodation and ancillary uses, 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 subject site contains 'preferred' habitat category as shown on the Koala Habitat Planning Map within the Port Stephens Council Comprehensive Koala Plan of Management (PSCKPoM). Furthermore, the Koala feed tree Eucalyptus Robusta (Swamp Mahogany), together with supplementary habitat trees including Eucalyptus pilularis (Blackbutt) and Smooth-barked Apple – Blackbutt, are located on site. Koalas have also been occasionally observed at the site using non-preferred feed trees for resting sites.

To facilitate the proposed development, 0.55ha of remnant vegetation in the form of Smooth-Barked Apple – Blackbutt and five hollow bearing trees are required to be removed. However, the development does not require the removal of or impact to 'preferred' koala feed trees.

Notwithstanding the proposed vegetation removal, the assessment of the application has identified that the proposed development will not result in unacceptable adverse impacts on wetlands or the local ecology, as detailed within the planners assessment report contained in **(ATTACHMENT 2)**. The proposal includes appropriate mitigation measures, such as suitable stormwater infrastructure, retention of significant trees, and suitable location of structures on-site. As a result, the application has been recommended for approval subject to conditions.

Recommended conditions prepared in consideration of the 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, have been included in the draft recommended conditions of consent contained in **(ATTACHMENT 3)**.

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 7.1 – Acid sulfate soils, Clause 7.2 – Earthworks, Clause 7.6 – Essential services, Clause 7.8 – Drinking water catchments and Clause 7.9 – Wetlands.

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- Port Stephens Development Control Plan 2014 (DCP); Section B2 – Natural Resources, Section B3 – Environmental management, Section B4 – Drainage and water quality and Section B9 – Road network and car parking.

The proposed development will contribute to an important tourism generating use in the Port Stephens Local Government Area (LGA) and results in a design and business model that better serves the intended use of the subject site. The key issues arising through the assessment of the application have been satisfactorily addressed and supported by sufficient mitigation measures as recommended within the 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 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		
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 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 have a direct economic impact of \$4.021 million during the construction phase and will have a minimum economic impact of more than \$793,000 across the Port Stephens LGA per annum. The proposed development will be a key driver for international tourism visitation to the Port Stephens LGA upon completion of construction and is expected to result in an increase of visitors to the locality.

Further, through the care and management of koalas within the proposed sanctuary, positive social impacts are expected through the creation of a greater sense of community within the Port Stephens LGA. Overall, the proposed development is considered likely to have a positive social and economic impact.

Impacts on the Built Environment

The location of the subject site is within a bushland setting which provides a natural visual buffer to adjoining roads and Caravan Park. Timber fencing and vegetation along the boundary of the site further minimises visual impact from adjoining properties. The built components of the proposed development including the koala clinic, glamping tents and tourism centre have been designed to complement the surrounding natural environment. The proposed car park includes additional landscaping to ensure that it is adequately screened and to break up the visual bulk of the hardstand area. The proposed development does not result in any adverse impacts to the built environment.

Impacts on the Natural Environment

The impacts of the proposed development, including the removal of 0.55ha of remnant vegetation and hollow bearing trees, has been considered in detail during the assessment of the application as detailed within the assessment 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.

CONSULTATION

Internal

Consultation was undertaken with internal officers, including; Engineering, Natural Resources (Vegetation Management and Ecology), Building Surveying, Environmental Health and Development Contributions. The referral comments from these officers were considered as part of the assessment contained in **(ATTACHMENT 2)** and accordingly conditioned in the 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 the Nelson Bay Sandbeds 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 a special fire protection purpose for the purposes of the *Rural Fires Act 1997*, being 'other tourist accommodation'. Subject to the requirements specified within the Bushfire Safety Authority (BSA) and General Terms of Approval (GTA) issued on 5 October 2018, and attached to the draft conditions of consent, RFS identified that the proposal could be supported.

Public exhibition

In accordance with Council's notification requirements the application was publically notified and advertised for a period of 14 days between 23 August 2018 and 6 September 2018. During the exhibition period no submissions were received.

OPTIONS

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

ATTACHMENTS

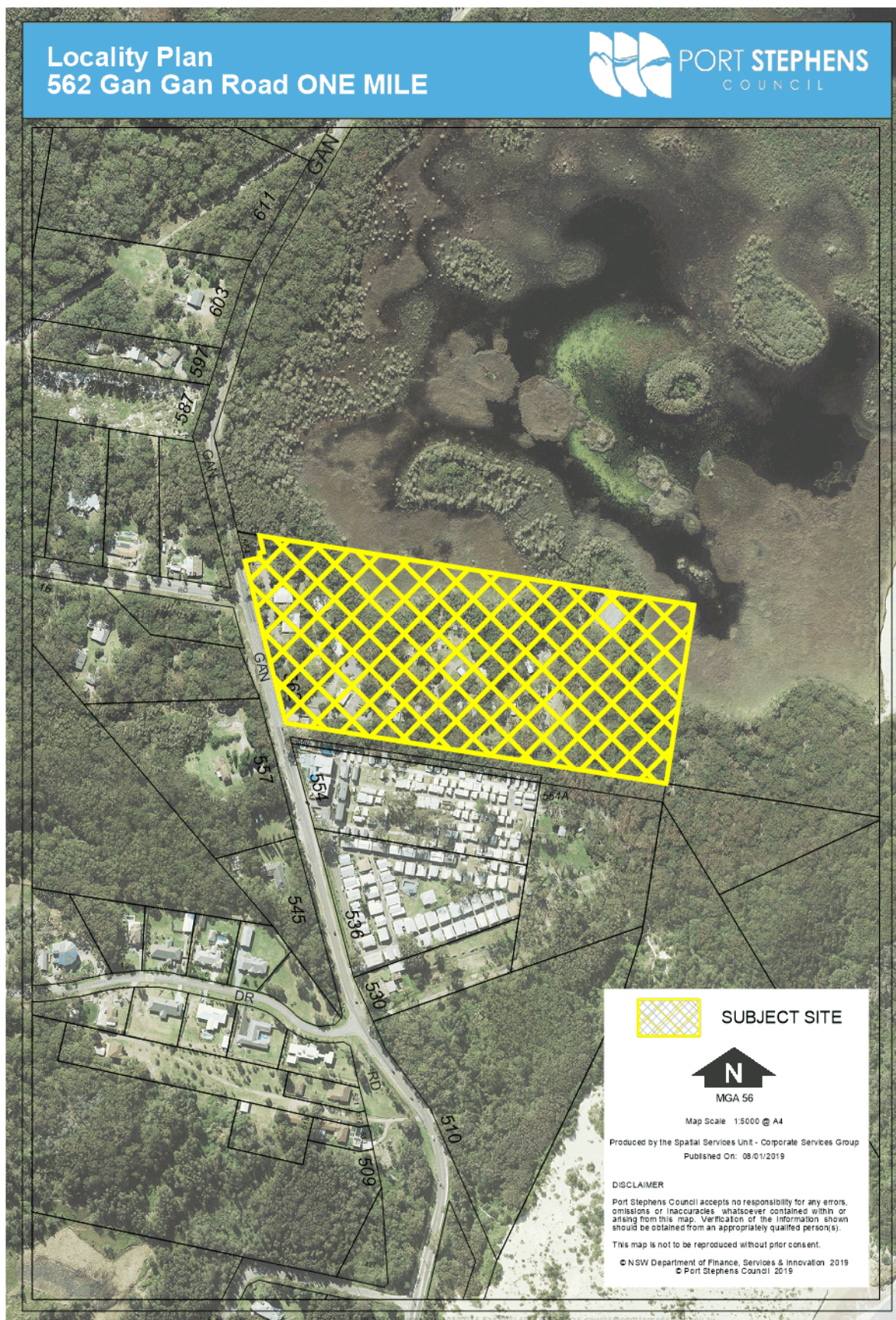
- 1) Locality Plan.
- 2) Planners Assessment Report.
- 3) Recommended Conditions of Consent.

COUNCILLORS ROOM

- 1) Development Plans.

TABLED DOCUMENTS

Nil.



PORT STEPHENS
COUNCILDEVELOPMENT
ASSESSMENT REPORT

APPLICATION DETAILS

Application Number	16-2018-534-1
Development Description	Alterations and additions to existing tourism resort – twenty (20) glamping tents with amenities, koala sanctuary and clinic, tourism centre, vegetation removal and car parking.
Applicant	PORT STEPHENS COUNCIL
Date of Lodgement	10/08/2018
Value of Works	\$4,495,328.00

Development proposal

The proposed development comprises alterations and additions to the existing 'Treescape Camping and Accommodation Park', as illustrated in **Figure 1** below. The proposed works comprise:

- Construction of a tourism centre incorporating a café / shop, outdoor seating, covered area, administration rooms and reception, and amenities;
- Installation of 20 glamping tents (with private amenities);
- Construction of koala clinic for koalas in treatment, management and learning;
- Upgrade and realignment of existing car park and alteration to internal roads to provide for the appropriate movement of vehicles across the site and cater for the increase in car parking supply, including parking for buses; and
- Vegetation clearing for bushfire protection of the site.



Figure 1: proposed tourism centre, koala clinic and glamping tents marked in orange.

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The koala clinic will care for and rehabilitate sick and injured koalas. The facility will be licenced by the NSW Department of Primary Industries.

The proposed 20 glamping tents will replace an existing 21 sites operating at the site including; 14 powered, five unpowered and two drive through sites. Accordingly, there is a reduction in the overall number of camping accommodation sites located on-site.

It is noted that there are a number of historic approvals relating to the approved use, including consents dating back to 1998 for a 'holiday village' (DA 7-1998-3863-1) as detailed elsewhere in this report. However, of particular relevance to the current proposal is DA 16-2002-1272-1 which granted consent for 'redevelopment of tourist resort'. A number of minor modifications have been approved to DA 16-2002-1272-1, most recently a modified consent (DA 16-2002-1272-3) was issued on 12 February 2015.

The current tourism resort continues to operate in accordance with the conditions of DA 16-2002-1272-3. Condition 2 of DA 16-2002-1272-3 states:

- *Approval is granted for: 48 camp sites and 15 powered short term van sites. 10 dormitory style tent accommodation, and six "first time" camping sites.*

As such, a total of 79 sites were approved under DA 16-2002-1272-3 and the associated 'Approval to Operate (Caravan Park)' (ATO) also identifies approval for 79 sites (54 camp sites and 25 short term sites) on site.

However, the Applicant has confirmed that the majority of the camping sites under the previous approval (DA 16-2002-1272-3) were not constructed. It is these sites which shall be replaced by the 20 glamping tents proposed under this consent and the Applicant does not intend to construct any additional camping sites at this time. Therefore, a condition of consent has been recommend which requires the applicant to submit a notice of modification under Clause 97(1) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regs) to delete Condition 2 of DA 16-2002-1272-3. The recommended condition ensures there is no inconsistency between the current application and historic consents applicable to the site.

PROPERTY DETAILS

Property Address	562 Gan Gan Road ONE MILE
Lot and DP	LOT: 2 DP: 1109948
Current Use	Tourist resort
Zoning	RE1 PUBLIC RECREATION
Site Constraints	SEPP Coastal Management 2018; Acid Sulfate Soils – Class 4 (front) and 5 (rear); Endangered ecological communities – fresh water wetlands, swamp sclerophyll forest; Koala habitat – preferred; Notifiable noxious weeds – Chinese violet; Bushfire prone land – vegetation category 1; Hunter Water Corporation – Special Areas (2005); LEP2013 – wetlands; and Drinking water catchment – Tomaree Special Areas.

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Site description

The site is located at 562 Gan Gan Road, One Mile, legally identified as LOT: 2 DP: 1109948 (the 'subject site') and measures approximately 8.14 Ha in size. The subject site currently contains the existing Treescape Camping and Accommodation Park, including camping sites and studios / villas / cabins, internal roads and parking, amenities, swimming pool, BBQ and play areas, and a demountable building which facilitates the care and treatment of koalas. The subject site adjoins the Tomaree National Park to the north, Middle Rock Holiday Resort to the south and rural residential dwellings to the west. The Tomaree National Park is densely vegetated with natural coastal bushland and forested wetlands. The subject site incorporates scattered established vegetation and landscaping throughout.

Site history

It is noted that a Review of Environmental Factors (REF) is currently being assessed by Council as the proponent and determining authority to consider walking paths and landscaping, a koala pathway and elevated walk, koala enclosure fencing and pens, and external servicing works through the subject site. No matters which would restrict the proposed development within the REF are apparent.

The following historic approvals are relevant to the site:

DA no. and description	Determination
7-1998-3863-1 – holiday village.	8 July 1998
16-2001-1521-1 – 50 temporary camp sites.	23 November 2001
16-2002-1272-1 – Redevelopment of tourist resort.	3 March 2003
16-2002-1272-2 – s96(1A) modification – delete condition 16 (relating to gravel footway in Gan Gan Rd), include ancillary manager's residence, incorporate 1.8m timber fence along Gan Gan Rd.	7 November 2003
16-2004-1154-1 – pool plant shed.	22 June 2005
16-2002-1272-3 – s96(2) modification to redevelopment of tourist resort.	12 February 2015

No matters which would restrict the proposed development are apparent within the historic approvals.

Site inspection

A site inspection was carried out on Tuesday 14 August 2018. The subject site is illustrated in the images below:



Image 1: internal roads and pool pump station.



Image 2: existing koala facility (to the east).



Image 3: existing koala facility (to the east).



Image 4: existing roads and area for proposed glamping tents (to the west).



Image 5: looking east towards area for proposed glamping tents.

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

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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.

Development Engineering

Upon the receipt of additional information relating to vehicle manoeuvring, water quality and stormwater plans, the application was supported subject to conditions relating to geotechnical and stormwater drainage requirements. These conditions have been included in the recommended conditions of consent.

Vegetation Management

A landscape plan was not requested for this development. As such, the Vegetation Management assessment focused upon the extent of the asset protection zone required to facilitate the proposed development. As a result of the assessment a condition requiring the replanting of 74 forest red gum trees on Council owned land (located off-site) has been recommended. The condition has been included in the draft conditions of consent and requires the replacement planting to occur prior to the issue of any occupation certificate is attached to any consent. It is noted that the Applicant has raised no objection to the recommended condition.

Building

Subject to conditions relating to construction and fire safety Council's Building Section raised no objection to the proposed development. The recommended conditions of consent have been included within the draft conditions of consent.

Natural Resources

Upon receipt of additional information relating to the biodiversity assessment report and SEPP (Coastal Management) 2018, the application has been supported with recommended conditions relating to vegetation removal and protection, hollow bearing trees, and koala habitat. These conditions have been included in the draft conditions of consent.

Development Contributions

The application has been assessed in accordance with the Port Stephens Council Fixed Development Contributions Plan under three main components including the koala clinic, glamping tents and tourism centre. As a result, it is considered that the proposed development constitutes a commercial entity and intensifies the existing land use. In this regard, the payment of fixed development contributions is required prior to the issue of the construction certificate. A condition giving effect to this requirement has been included in the draft conditions of consent.

Environmental Health

During the assessment it was identified that the level of detail provided in the application was not sufficient to assess how the development aligns with the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* (LG Reg 2005). It was also noted that the site sizes and dimensions were not clear. In order to address this matter a condition has been recommended requiring details of the short-term glamping sites in accordance with the LG Reg 2005 to be provided prior to the issue of the construction certificate. Additional conditions relating to the operation of the glamping tents, café and community plan details have also been recommended. The recommended conditions of consent have been included in the draft conditions of consent.

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Traffic Engineering

No objection to the proposed development was raised. The traffic impact statement submitted with the application indicates minimal impact on the surrounding road network and parking supply appears to meet the requirements.

External Referrals

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

Rural Fire Service (RFS)

The proposed development constitutes a special fire protection purpose for the purposes of the *Rural Fires Act 1997*, being 'other tourist accommodation'. Accordingly, the application was referred to the RFS as integrated development requesting a Bushfire Safety Authority (BFA) under Section 100B of the *Rural Fires Act 1997* and General Terms of Approval (GTA) under Division 4.8 of the *Environmental Planning and Assessment Act 1979*. The BFA and GTAs were issued on 5 October 2018 specifying required asset protection zones, water, utility, access, design and construction and landscaping requirements and the implementation of an emergency and evacuation procedure on-site. The requirements have been attached to the draft conditions of consent.

Hunter Water Corporation (HWC)

The proposed development falls within the Nelson Bay Sandbeds Special Area as gazetted in the *Hunter Water Regulation 2015*, and was therefore referred to HWC for review and comment. In response, it was noted that the proposed development will be connected to the reticulated sewer network and therefore meets the Neutral of Beneficial Effect (NorBE) requirements in terms of wastewater. Questions were however raised with regard to NorBE requirements in terms of stormwater. Following a review and assessment of the Applicants stormwater quality modelling, HWC identified that the proposal could be supported.

Ausgrid

The proposed development was referred to Ausgrid for comment in accordance with Clause 45(2) of the *State Environmental Planning Policy (Infrastructure) 2007*. In response no objections to the development were identified subject to the inclusion of conditions relating to proximity to existing network assets. The recommended conditions have been included in the draft conditions of consent.

MATTERS FOR CONSIDERATION – SECTION 4.15Relevant legislation

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (Local Government Regulation 2005)

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The *Local Government Regulation 2005* (LG Regs) aim to provide opportunities for affordable alternatives in short-term and long-term accommodation by enforcing set standards of construction and design which in turn ensure the health and safety of occupiers of these facilities. Part 3 of the *Local Government Regulation 2005* relates directly to the proposed 'glamping tents'. The information provided with the application did not provide sufficient detail to demonstrate compliance with the requirements set out under this Part. However, as agreed with the applicant, a condition has been recommended outlining the details required to be submitted to Council prior to the issue of the construction certificate. A condition has also been recommended requiring the existing approval to operate (caravan park) to be modified under Section 68 of the Local Government Act 1993 prior to the occupation of the 'glamping tents' in accordance with Clause 73 of the *Local Government Regulation 2005*. Therefore, subject to the recommended conditions included in the draft conditions of consent the proposal is considered satisfactory.

s4.15(1)(a)(i) – The provisions of any EPI**State Environmental Planning Policies****State 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 SEPP protects vulnerable coastal land including various coastal areas, wetlands and rainforests. The proposed development is applicable to two coastal management zones; Coastal Wetlands and Proximity Area to Coastal Wetlands. It is noted that the proposed development has the potential to result in indirect impacts to coastal wetlands including:

- Introduction of pollutants associated with surface water; and
- Introduction of weed propagules from vehicular traffic.

To avoid and minimise the impacts to coastal wetlands, the following safeguards are proposed to be implemented:

- Ensure stormwater is collected and diverted to appropriate stormwater infrastructure; and
- Undertake periodic weed control to ensure germinating propagules are managed to prevent further spread.

These safeguards have been recommended as conditions to any consent via the preparation and implementation of a bushfire and vegetation management plan and stormwater solution. The objectives of SEPP have been met in this regard.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

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. The Biodiversity Development Assessment Report (BDAR), prepared by Jackson Teece (Dated: July 2018, Rev C) submitted with the development application found the entirety of the study area falls within the 'preferred' habitat category as shown on the Koala Habitat Planning Map within the Port Stephens Council Comprehensive Koala Plan of Management (PSCKPoM) and the feed tree *Eucalyptus Robusta* (*Swamp Mahogany*), together with supplementary habitat trees including *Eucalyptus pilularis* (Blackbutt) and Smooth-barked Apple – Blackbutt, are located on site. The BDAR also identified that koalas have been occasionally observed at the site using non-preferred feed trees for resting sites.

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Under the *Environmental Planning and Biodiversity Conservation Act 1999* Referral Guidelines for Koalas a score of 8 was obtained which indicates that the vegetation and habitat within the study area would be considered as habitat critical to the survival of the koala. The proposed development will require the removal of approximately 0.55 Ha of remnant vegetation, however the proposed development does not require the removal of or impact to 'preferred' koala feed trees. It is however noted that compensatory planting is required to occur at a location off-site owned by Port Stephens Council to mitigate the loss of 'supplementary' habitat vegetation resulting from the proposed tree removal and in order to maintain koala corridors. A recommended condition has been included in the draft conditions of consent. Overall, the impact on koala habitat is low and the aims of SEPP 44 have been met.

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 Np.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 tourist resort and there is no evidence that contaminating activities have historically occurred on site. Furthermore, much of the land subject to the proposed development is vegetated and clear of any historic land uses. 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.

Port Stephens Local Environmental Plan 2013 (LEP2013)**Clause 2.3 – Zone objectives and land use table**

The proposed development is defined as 'tourist and visitor accommodation' under LEP2013. Tourist and visitor accommodation is permissible with consent in the RE1 – Public Recreation. The objectives of the zone include:

- To enable land to be used for public open space or recreational purposes;
- To provide a range of recreational settings and activities and compatible land uses; and
- To protect and enhance the natural environment for recreational purposes.

The proposed development is consistent with the zone objectives outlined above as it provides for a land use for public recreational purposes with a focus on the natural environment in which it resides. Protection of the environment and mitigation of potential impacts will occur through the construction and operational phases of the proposed development which also achieves consistency with the zone objectives.

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 4 (front) and class 5 (rear) acid sulfate soils (ASS). It has been identified that the proposed works may result in the excavation of soil below 2 metres of the natural ground surface. Therefore, a condition requiring the completion of a geotechnical report prior to the issue of a Construction Certificate has been included in the draft conditions of consent. The required geotechnical report shall determine whether the development works will disturb ASS and should disturbance to ASS be identified through the geotechnical assessment a ASS Management Plan will be required to be prepared. Subject to the recommended conditions the proposed development satisfies the provisions of clause 7.1.

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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, neighbouring uses, cultural or heritage items or features of the surrounding land. The proposed development incorporates earthworks, including cut and fill to establish a level building platform for each element of the proposed development. Conditions have been included within the draft conditions of consent requiring that imported fill be limited to VENM, ENM or other certified materials, together with limiting the maximum extent of fill and grading requirements to ensure any impacts of the development are appropriately avoided, minimised or mitigated. Subject to the recommended conditions the development is compliant with this clause 7.2.

Clause 7.6 – Essential services

The subject site has existing water, sewer and electricity connections which will be utilised as part of the proposed development. Direct access from Gan Gan Road is available and stormwater will be directed via the proposed system, confirmed as being in accordance with Councils requirements by the Development Engineering Section. The requirements of Clause 7.6 have been satisfied.

Clause 7.8 – Drinking water catchments

The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storage areas. The proposed development falls within the Nelson Bay Sandbeds Special Area as gazetted in the *Hunter Water Regulation 2015*, and was therefore referred to Hunter Water Corporation (HWC) for review and comment. In response, it was noted that the proposed development will be connected to the reticulated sewer network and meets Neutral or Beneficial Effect (NorBE) in terms of wastewater. In respect to stormwater the proposed development also meets NorBE requirements and Council's water quality stripping targets. The development has been designed, sited and will be managed to avoid any significant adverse impact on water quality and flows within the drinking water catchment and therefore meets the objective of this clause.

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 however suitable stormwater controls will be implemented and that the development is well designed and sited to avoid any significant adverse environmental impact. Conditions relating to the required stormwater management controls and implementation of adequate erosion and sediment controls has been included in the draft conditions of consent. The recommended conditions minimise the impacts of the development during both the construction and operational phase. Subject to condition of consent the requirements of clause 7.9 have been satisfied.

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.

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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 14 days between 23 August 2018 and 6 September 2018. During the exhibition period no submissions were received.

Section B2 – Natural resources

The subject land includes vegetation mapped as endangered ecological communities – fresh water wetlands, swamp sclerophyll forest and vegetation mapped as preferred koala habitat. The proposed development will:

- Removal of 0.55ha of remnant vegetation in the form of Smooth-Barked Apple – Blackbutt;
- Removal of five hollow bearing trees (of the 35 identified on the subject site); and
- Incorporate indirect impacts as a result of stormwater discharge and project construction.

Notwithstanding, the assessment of the application has identified that the proposed development will not result in unacceptable adverse impacts on wetlands or the local ecology. The proposal includes appropriate mitigation measures, such as suitable stormwater infrastructure, retention of significant trees, and suitable location of structures on-site. As a result, the application can be supported, subject to conditions. Recommended conditions prepared in consideration of the 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, have been included in the draft conditions of consent.

Section B3 – Environmental managementAcid sulfate soils

Refer to discussion under clause 7.1 of 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 this report. Conditions of consent have relating to 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. The proposed development meets the requirements of Section B3.

Section B4 – Drainage and water quality

The subject site currently has an impervious area of approximately 1.22 Ha, or 15.0%. The proposed development increases the impervious area to 1.58 Ha, or 19.4%. The proposed stormwater management strategy for the subject site as prepared by Northrop can be summarised as follows:

- Stormwater runoff for the subject site (except Catchment E) will drain towards the wetlands at the north of the subject site, via a number of vegetated swales and biofiltration basins. The intent is to integrate the treatment train into the existing landscape to minimise visual impact;
- Runoff from the new car parking area will be collected and conveyed via a pit and pipe network, with proprietary pit inserts fitted in the pits to capture gross pollutants and coarse sediment;
- Runoff from the new car parking area will drain to a bioretention basin for treatment, via a vegetated swale. An outlet sub-soil drainage pipe from the basin will be directed to the wetlands. Overflow from the basin will sheet to the surrounding landscaped area; and
- Retro-fitting proprietary pit inserts into the existing stormwater drainage pits at the site entrance, which forms Catchment E.

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The proposed stormwater drainage system was considered by Councils Development Engineer and Hunter Water Corporation who determined that the system met the requirements of Councils DCP and other relevant policies. It is also noted that the post-developed mean annual loads for all pollutants meets the NorBE requirements, thus reducing impacts to the wetlands located on-site and adjacent to the subject site. Associated conditions detailing the stormwater requirements to guide construction and certification and ongoing management are recommended to be incorporated into any consent. Accordingly, subject to the recommended conditions of consent, the proposed development is considered satisfactory.

Section B9 – Road network and car parking

The application was lodged with a traffic and parking assessment prepared by Seca Solutions (ref: P0865 and dated 9 July 2018) in accordance with the RMS Guide to Traffic Generating Development, Austroads Guides and Section B9 of the DCP.

Road network

The subject site is accessed directly from Gan Gan and an existing left in turning lane provides access to the site. The assessment of the Application has identified that adequate sight distances exist and that there are no required upgrades to the existing road network to facilitate the development. It is also noted that the internal road network of the development can adequately cater for the intended use, including provision of suitable turning paths for buses to navigate the site.

Car parking

Car parking is currently provided throughout the subject site, including: 21 parking spaces adjacent to the accommodation to the front of the site, 19 spaces (including 1 accessible space) within the main parking area, and 5 additional spaces (including 1 accessible space) to the side of the entry driveway. Additional parking is available spread throughout the site as well as informal parking within the various powered and unpowered camping sites.

The DCP does not provide an appropriate applicable parking rate for the proposed development. Similarly, no parking rates are provided within the RTA Guide to Traffic Generating Developments. Notwithstanding, the car parking demands for the total development have been calculated at a requirement of 57 spaces (including at least one accessible space) plus 2 bus spaces in order to cater for the following:

- Up to 20 passenger vehicles for visitors who drive to each feeding session (~60 persons);
- Maximum of two buses for tour groups during each feeding session;
- Ten passenger vehicles associated with volunteers and Port Stephens Council staff (based on a ratio of one space per two staff);
- Twenty passenger vehicles associated with the glamping tents (based on a ratio of one space per tent);
- Four parking spaces for visitors associated with the cabins and glamping tents; and
- Three parking spaces (triple garage associated with the clinic) for vets and koala transportation vehicles.

The development provides 78 spaces in total as follows:

- An existing 21 spaces servicing the existing cabins;
- A new carpark (being the redevelopment of the existing carpark near the reception area) shall provide 42 spaces as well as parking for two buses;
- Twelve parking spaces located within the main site (to the north of the current powered camping sites) shall be retained; and
- Three enclosed parking provided within a triple garage associated with the koala clinic.

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ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2018-534-1

As such, the proposed development is consistent with the overall aims and objectives of the DCP and provides a satisfactory arrangement and number of car parking spaces to adequately service the development through upgrading and realigning the existing car park located within the front portion of the subject site. A condition outlining the required car parking spaces is recommended and has been included within the draft conditions of consent.

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 relevant provisions applicable to the subject application.

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 proposed development will have a direct economic impact of \$4.021 million during the construction phase and will have a minimum economic impact of more than \$793,000 across the Port Stephens Local Government Area (LGA) per annum. The proposed development will be a key driver for international tourism visitation to the Port Stephens LGA upon completion of construction and is expected to result in an increase of visitors to the locality.

Further, through the care and management of koalas within the proposed sanctuary, positive social impacts are expected through the creation of a greater sense of community within the Port Stephens LGA. Overall, the proposed development is considered likely to have a positive social and economic impact.

Impacts on the Built Environment

The location of the subject site is within a bushland setting which provides a natural visual buffer to adjoining roads and Caravan Park. Timber fencing and vegetation along the boundary of the site further minimises visual impact from adjoining properties. The built components of the proposed development including the koala clinic, glamping tents and tourism centre have been designed to complement the surrounding natural environment. The proposed car park includes additional landscaping to ensure that it is adequately screened and to break up the visual bulk of the hardstand area. The proposed development does not result in any adverse impacts to the built environment.

Impacts on the Natural Environment

The impacts of the proposed development, including the removal of 0.55ha of remnant vegetation and hollow bearing trees, has been considered in detail elsewhere within this report. Subject to the recommended conditions of consent the proposed development is considered unlikely to result in significant adverse impacts to the natural environment.

ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

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

As discussed throughout this report, the site is considered suitable for the proposed development. A summary of the key reasons for its suitability is provided below:

- The proposed development and works are consistent with the established tourism use of the subject site;
- The proposed development protects and enhances the natural environmental assets of the subject site and Port Stephens Local Government Area (LGA) as a whole;
- The proposed development of the subject site will facilitate economic growth that contributes to long-term and self-sufficient employment locally;
- The site is appropriately zoned and is of an appropriate size to accommodate the proposed development;
- The subject site is visually isolated from sensitive receivers and can be developed without any adverse amenity impacts to the surrounding area; and
- 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.

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 proposed development will contribute to an important tourism generating use in the Port Stephens LGA and result in a design and business model that better serves the intended use of the subject site. 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.



PORT STEPHENS
COUNCIL

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

- 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
Tree Removal Plan	2017140	DA-004	12/07/2018	Jackson Teece
Site Plan	2017140	DA-005	12/07/2018	Jackson Teece
Tourism Centre – Floor Plan	2017140	DA-100	12/07/2018	Jackson Teece
Tourism Centre – Elevations	2017140	DA-102	12/07/2018	Jackson Teece
Koala Clinic – Floor Plan	2017140	DA-110	12/07/2018	Jackson Teece
Koala Clinic – Elevations	2017140	DA-112	12/07/2018	Jackson Teece
Concept Stormwater Drainage and Level Plan Sheet 1	NL172522	DA-C3.01	07.11.18	Northrop
Concept Stormwater Drainage and Level Plan Sheet 2	NL172522	DA-C3.02	07.11.18	Northrop
Swept Path Analysis	NL172522	DA-C5.01	07.11.18	Northrop

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.

ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS
COUNCIL

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).

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 is to be carried out in accordance with the General Terms of Approval issued by the following approval bodies:
 - a. New South Wales Rural Fire Service dated 5 October 2018 (ref. no.: D18/6830)

A copy of the General Terms of Approval is attached to this determination notice.
3. In accordance with Clause 4.17 of the *Environmental Planning and Assessment Act 1979*, this consent modifies DA 16-2002-1272-3 by deleting Condition No.2; which states:

Approval is granted for: 48 camp sites and 15 powered short term van sites, 10 dormitory style tent accommodation, and six "first-time" camping sites.

Prior to issue of a Construction Certificate, the person having the benefit of this consent shall submit to Council a 'Notice of Modification' to give effect to this condition in accordance with Clause 97(1) of the *Environmental Planning and Assessment Regulation 2000*.

CONDITIONS THAT IDENTIFY CONTRIBUTIONS AND FEES

4. 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%

ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.**PORT STEPHENS
COUNCIL****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 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 a **Construction Certificate**.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR REMOVAL OF VEGETATION

The following conditions are to be complied with, to the satisfaction of the Certifying Authority, prior to the issue of the Construction Certificate or removal of vegetation (whichever occurs first and as specified within the condition).

PLANNING AND BUILDING

5. **Prior to issue of a Construction Certificate**, a Compliance Certificate under Section 50 of the *Hunter Water Act 1991*, for this development, shall be submitted to the Principal Certifying Authority.
6. **Prior to the issue of a Construction Certificate**, a geotechnical assessment of the site is to be undertaken to determine whether the development works will disturb Acid Sulfate Soils (ASS). Should ASS be encountered within the zone of works an ASS Management Plan is to be prepared by a suitably qualified engineer and submitted to the Certifying Authority for approval. The recommendations and/or mitigation measures contained within the Acid Sulfate Soils (ASS) Management Plan shall be complied with during works.

ENGINEERING

7. **Prior to issue of a Construction Certificate**, detailed civil and stormwater drainage plans are to be submitted to the Certifying Authority for approval. The detailed plans are to be in accordance with the applicable Port Stephens Council Development Control Plan and Infrastructure Specifications as well as the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council), and include the following information:
 - a. An emergency overland flow path for major storm events, catering for a range of rainfall scenarios up to and including the 1% AEP Rainfall Event;
 - b. Conveyance where necessary, of stormwater through the site from upstream catchments, (including roads and adjoining properties);

ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS
COUNCIL

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).

- c. Detailed pavement finished surface levels, to ensure stormwater runoff is directed into the stormwater system;
- d. Interallotment drainage;
- e. Water quality control devices that comply with the requirements of the applicable Port Stephens Development Control Plan;
- f. 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, a copy of which shall be supplied to the owner; and
- g. 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 Final Occupation Certificate**.

ENVIRONMENTAL HEALTH

8. **Prior to the issue of a Construction Certificate**, details of the short-term glamping sites demonstrating compliance with the requirements of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* shall be submitted to Council for approval.
9. **Prior to the issue of a Construction Certificate**, a kitchen fit out plan shall be provided to Council in accordance with the Food Standards Code for approval.

NATURAL RESOURCES

10. **Prior to the removal of vegetation or issue of a Construction Certificate (whichever occurs first)**, a site survey by a suitably qualified ecologist must be conducted to identify whether *Diuris arenaria* and/or *D. praecox* are present on the subject site. The surveys must be undertaken during the known flowering periods of both species.

Should *Diuris arenaria* and/or *D. praecox* be identified on the subject site, an assessment must be undertaken by a suitably qualified ecologist which details recommendations to illustrate how the proposal will avoid or minimise impacts on these threatened species and evidence of flowering of reference sites.

A copy of the site survey and assessment (if required) must be submitted to Council within 14 days of completion. **Vegetation removal and/or the issue of a Construction Certificate** shall not occur until Council has provided written correspondence that the site survey and assessment (if required) is satisfactory.

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).

11. **Prior to the removal of vegetation or issue of a Construction Certificate (whichever occurs first)**, a Bushfire and Vegetation Management Plan (BVMP) for the construction and operational phases of the development must be prepared by a suitably qualified ecologist and submitted to Council within 14 days of completion.

The BVMP shall be prepared in accordance with the Biodiversity Development Assessment Report (prepared by Jackson Teece and WSP, dated 1 October 2018 (Revision C) and referenced PS109520-ECO-REP-001), Letter response (prepared by WSP, dated 25 October 2018 and referenced PS109520-ECO-LTR-001 RevA), Port Stephens Council Technical Specification Vegetation – May 2014, Port Stephens Council Technical Specification Noxious Weeds, NSW Rural Fire Service General Terms of Approval and any other relevant Commonwealth or NSW State Government guidelines or requirements. The BVMP must also include:

- a. A tree schedule and map that identifies tree number, scientific name, common name, age class and significance such as hollows present or koala fees trees or any other specific comments or recommendations;
- b. Details of any permanent protection measures such as barriers or signage and associated operational maintenance requirements;
- c. 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 occupation certificate and thereafter once every five years for the life of the development;
- d. Any hold points required;
- e. 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
- f. A description of appropriate contingencies to be implemented, if management measures are identified as being ineffective and/or result in environmental harm.

Vegetation removal and/or the issue of a Construction Certificate shall not occur until Council has provided written correspondence that the BVMP is satisfactory.

12. **Prior to the removal of vegetation or issue of a Construction Certificate (whichever occurs first)**, a Construction and Environmental Management Plan (CEMP) must be prepared by a suitably experienced consultant in 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.

Vegetation removal and/or the issue of a Construction Certificate shall not occur until Council has provided written correspondence that the CEMP is satisfactory.

13. **Prior to the removal of vegetation issue of a Construction Certificate (whichever occurs first)**, photographic documentation and/or written particulars shall be submitted to Council within 14 days of completion demonstrating that:



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 construction boundary has been fenced;
- b. Pre-clearance tree tagging has occurred; and
- c. Tree protection fencing and vegetation exclusion fencing has been installed in accordance with the conditions of this consent.

Vegetation removal and/or the issue of a Construction Certificate shall not occur until Council has provided written correspondence that the abovementioned works have been completed to Council's satisfaction.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORKS

The following conditions are to be complied with prior to the commencement of works involving vegetation removal, excavation, demolition or construction on the subject site(s).

PLANNING AND BUILDING

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**, 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.
16. **Prior to the commencement of work**, 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.
17. **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.
18. **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.

NATURAL RESOURCES

ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.**PORT STEPHENS
COUNCIL****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).

19. **Prior to the commencement of any works**, all trees and vegetation identified for retention on the approved plan (prepared by Jackson Teece, reference: 2017140, Rev: A, and dated 12/07/2018) must have protection fencing installed in accordance with AS4970-2009.

The tree and vegetation protection fencing shall:

- a. Be a minimum height of 1.2 metres;
 - b. Incorporate steel star pickets at a maximum distance of 2 metres between pickets;
 - c. Include a minimum of 3 strands of steel wire;
 - d. Include orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter;
 - e. Tree protection fencing shall be installed beneath the tree canopy under the supervision of a suitably qualified arborist, bushland regenerator or ecologist with experience in tree protection measures; and
 - f. Vegetation protection fencing must be installed under the supervision of a suitably qualified flora ecologist.
20. **Prior to the commencement of works involving vegetation removal**, a preclearance fauna survey must be conducted by a suitably qualified ecologist. A copy of the preclearance fauna survey shall be submitted to Council within 14 days of completion. Works involving vegetation removal shall not occur until Council has provided written correspondence that the preclearance fauna survey has been completed to Council's satisfaction.

CONDITIONS TO BE SATISFIED DURING WORKS

The following conditions are to be complied with during works.

PLANNING AND BUILDING

21. 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.
22. 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.

ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.**PORT STEPHENS
COUNCIL****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).

23. All building work shall be carried out in accordance with the requirements of the Building Code of Australia.
24. 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.
25. 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.

26. 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.
27. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.
28. 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.
29. 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.

INFRASTRUCTURE

30. Works undertaken to Ausgrid assets are to be undertaken with care and in accordance with all relevant statutory requirements including, but not limited to; Worksafe Document – Work Near Overhead Powerlines and Ausgrid Network Standard Document NS 220 – Overhead Design Manual.

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).

31. Any new private electrical work, or alterations, should be done in accordance with the Service and Installation Rules of NSW and Standards Australia – AS/NZS 3000 Wiring Rules.

NATURAL RESOURCES

32. **During works**, the requirements of the Bushfire and Vegetation Management Plan (BVMP) prepared in satisfaction of Condition No. 11 shall be implemented.
33. **During works**, to ensure the protection of trees identified for retention occurs, the following must be undertaken:
- a. Tree protection fencing must be maintained and only be removed once the site has been stabilised;
 - b. Any damage to vegetation within the tree and vegetation protection areas or outside the construction footprint must have remedial action carried out by a suitably qualified ecologist;
 - c. Storage or disposal of materials must not occur within the fenced tree protection areas;
 - d. Soil or fill material must not be placed within the dripline of a tree; causing changes in surface level by more than 50mm from the existing level and must not to be compacted. Such soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil; and
 - e. Salvaging useable trees and shrubs which are felled shall occur for re-use, either in log form, or as woodchip mulch for erosion control and/or site rehabilitation. Non-salvageable material such as roots and stumps may only be disposed of at an appropriately licensed facility to accept such waste.
34. **During works involving vegetation removal**, a suitably qualified ecological must:
- a. Supervise the removal of all trees and vegetation and advise the site manager and tree clearing staff of any habitat potential and precautions necessary;
 - b. Ensure the felling of trees occurs away from any adjoining habitats;
 - c. 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;
 - d. Provide a minimum 48 hour window 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; and

ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS
COUNCIL

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).

- e. Treat any injured wildlife, including veterinary treatment or transfer of the animal to a local volunteer wildlife carer group.
35. **During works involving vegetation removal**, any hollows or nests that can be salvaged from the clearing process must be mounted on 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 installed firmly to existing trees on the subject site by a suitably qualified ecologist. The nest boxes shall be positioned at a suitable height off the ground as per the individual species habitat preferences and as directed by the ecologist on site.

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).

PLANNING AND BUILDING

36. **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.
37. **Prior to the issue of an Occupation Certificate**, car parking for the development shall be provided in accordance with the approved plans, with a minimum allocation for the development of 57 car parking spaces, two bus parking spaces and at least one accessible car parking space. Car parking spaces are to be appropriately delineated and designed in accordance with AS2890.1:2004 (Off-street car parking).
38. **Prior to the issue of each Occupation Certificate**, a fire safety schedule and a fire safety certificate issued under Divisions 2 and 4, Part 9 of the *Environmental Planning and Assessment Regulations 2000* (the Regs) must be submitted to the Principal Certifying Authority, Council and the Commissioner of New South Wales Fire Brigades. A copy of the schedule and certificate must also be prominently displayed in the building. Subsequent annual fire safety statements issued under Division 5, Part 9 of the Regs are to be provided to the authorities listed in this condition and displayed within the building each year.

NATURAL RESOURCES

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).

39. **Prior to the issue of any Occupation Certificate**, seventy-four (74) *Eucalyptus tereticornis* (Forest Red Gum) trees shall be planted at 10 Hannah Parade One Mile (Lot 7310 DP1129641) to replace the trees to be removed from the site. The replacement plantings are to be planted in accordance with Council's Tree Technical Specification and are to be tube stock. Documentary evidence is to be provided to Council demonstrating compliance with this condition and an Occupation Certificate cannot be released until Council has provided written correspondence that the replacement plantings are satisfactory.

The replacement plantings are to be maintained to maturity through use of mulch and watering. Maintenance activities can cease once the replacement plantings achieve natural height.

40. **Prior to the issue of an Occupation Certificate**, permanent regulatory signage is to be installed limiting vehicle speeds through the development to a maximum speed of 40 kilometers per hour. Koala crossing signage must also be installed throughout the development and shall include visible native fauna rescue numbers (such as Port Stephens Koalas 0418 628 483.). The required signage shall be maintained in good repair for the life of the development.

PRIOR TO COMMENCEMENT OF USE

The following conditions are to be satisfied prior to commencement of the use of the approved short-term glamping sites.

41. **Prior to commencement of the use of the short-term glamping sites**, the applicant shall obtain a separate Approval to Operate a Caravan Park/Camping Ground under Section 68 of the *Local Government Act 1993*.
42. **Prior to commencement of the use of the short-term glamping sites**, a copy of the community map indicative to the layout of the site as approved under this consent shall be provided to Council. Any amendments to the map shall be forwarded to Council as soon as practicable after Council has endorsed in writing any such amendments.

CONDITIONS TO BE SATISFIED AT ALL TIMES

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

PLANNING AND BUILDING

43. **At all times**, a copy of the Fire Safety Schedule and Fire Safety Certificate shall be prominently displayed in the building and a copy forwarded to the Commissioner of New South Wales Fire Brigades in accordance with Division 4 and Division 5 of Part 9 of the Environmental Planning and Assessment Regulation 2000.

ENGINEERING

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

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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).

44. **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.

NATURAL RESOURCES

45. **For the life of the development**, maintenance and monitoring reports in accordance with the Bushfire and Vegetation Management Plan (BVMP) shall be submitted to Council for review as specified in Condition No. 11 of this consent. The applicant shall undertake any action recommended by Council arising from the review of the maintenance and monitoring reports.
46. **For the life of the development**, the koala crossing signage installed on the roads internal to the subject site as specified in Condition No. 40 shall be maintained.
47. **At all times**, dogs or cats are prohibited on the development site.

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. The works associated with the connection of electricity may be 'contestable' and would be developer funded. Information regarding Contestability and connection to the Ausgrid network can be found in the Ausgrid Electricity Supply Standards.
- D. **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.

SCHEDULE 3

RIGHT OF APPEAL

If you are dissatisfied with this decision:

- a review of determination can be made under Section 8.2 of the Act, or

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).

- a right of appeal under Section 8.7 of the Act can be made to the Land and Environment Court within six (6) months from the date on which that application is taken to have been determined.

NOTES

- This is not an approval to commence work. Building works cannot commence until a construction certificate is issued by Council or an accredited certifier.
- Consent operates from the determination date. For more details on the date from which the consent operates refer to Section 4.20 of the Environmental Planning and Assessment Act 1979.
- Development consents generally lapse five years after the determination date, however different considerations may apply. For more details on the lapsing date of consents refer to Section 4.53 of the Environmental Planning and Assessment Act 1979.

ITEM NO. 3

**FILE NO: 18/196804
EDRMS NO: PSC2014-03911**

**POLICY REVIEW: CULTURAL DIVERSITY POLICY AND DRAFT
MULTICULTURAL POLICY**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Draft Multicultural Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the Draft Multicultural 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 existing Cultural Diversity Policy, adopted in 2002, amended by Council on 9 December 2014, minute no: 337 shown at **(ATTACHMENT 2)**.
-

**ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
MOTION**

023	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the Draft Multicultural Policy shown at (ATTACHMENT 1).2) Place the Draft Multicultural 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 existing Cultural Diversity Policy, adopted in 2002, amended by Council on 9 December 2014, minute no: 337 shown at (ATTACHMENT 2).
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BACKGROUND

The purpose of this report is to seek endorsement from Council to exhibit the Draft Multicultural Policy (Draft Policy) as contained in **(ATTACHMENT 1)**.

If adopted, the Multicultural Policy would replace the current Cultural Diversity Policy (Adopted 26/03/2002, Minute No: 104; Amended: 09/12/2014, Minute No: 337) as contained in **(ATTACHMENT 2)**. Notwithstanding, Council's review of the Cultural

Diversity Policy has resulted in a recommendation to revoke this Policy as it has limited application going forward.

Council has obligations under NSW legislation in respect of observing diversity and multicultural principles.

Under section 8A of the *Local Government Act 1993* (NSW), Council has an obligation to 'recognise diverse local community needs and interests' in decision making.

Under section 3 of the *Multicultural NSW Act 2000* (NSW), Council has an obligation to observe multicultural principles outlined in that Act and the General Manager has a duty to implement those principles.

The existing Cultural Diversity Policy was prepared prior to these obligations being inserted in the legislation. Recent legislative reforms included changes to the Multicultural NSW Act in 2014 and changes to the Local Government Act in 2016.

The existing Cultural Diversity Policy was due for review in 2016 and a review was undertaken to ensure that the Policy aligned with current legislation and requirements.

Due to the extent of the changes required to the Cultural Diversity Policy, a new Policy has been prepared. The purpose of the Draft Policy is to outline Council's responsibilities under current legislation and celebrate multiculturalism in Port Stephens.

The review was informed by resources from Multicultural NSW and similar policies in neighbouring jurisdictions. Although there is no significant departure from the intent of the existing Cultural Diversity Policy, a number of changes are required, including:

- Updates to reference to the current NSW legislation.
- Consideration of the multicultural principles outlined in the Multicultural NSW Act to fulfil the legislative obligation for Council.
- Updates to terminology and definitions to ensure consistency with the current legislation.

The following issues were identified in the existing Cultural Diversity Policy and are now addressed in the Draft Policy:

Regulatory framework

The existing Cultural Diversity Policy describes a regulatory framework that is outdated or not relevant to local government. For example, the Cultural Diversity Policy references the:

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

- Australian Government, 2011, People of Australia - Australia's Multicultural Policy, which applies to the Federal Government and does not place obligations on local councils.
- The *Community Relations Commission and Principle of Multiculturalism Act 2000* (NSW), which has now been replaced by the Multicultural NSW Act.

The Draft Policy includes references to current legislation and adopts the terminology and definitions used in the Multicultural NSW Act.

Addressing the legislation

The multicultural principles within the Multicultural NSW Act guide the development and implementation of multicultural policy in NSW. The Draft Policy has been prepared to fulfil the obligation under that Act for Council to observe the multicultural principles outlined in that Act.

The Local Government Act was amended in 2016 to introduce guiding principles for councils, including an obligation to 'recognise diverse local community needs and interests' in decision making. The Draft Policy has been prepared to fulfil this obligation under that Act.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Diversity.	Encourage Port Stephens to be inclusive and access friendly.

FINANCIAL/RESOURCE IMPLICATIONS

There is no direct financial implication for Council in relation to the adoption of the Policy.

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 Draft Policy reflects the existing State legislative framework and satisfies the relevant obligations:

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

- Public authorities (including local councils) must observe the multicultural principles outlined in *the Multicultural NSW Act 2000* in conducting its affairs (Section 3(4)).
- It is the duty of the Chief Executive Officer of a Public Authority to implement the *Multicultural NSW Act 2000*.
- Under section 8A of the *Local Government Act 1993* (NSW), Council has an obligation to recognise diverse local community needs and interests in decision making.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council's reputation may be damaged as a result of decisions made in relation to an out of date Policy.	Low	Adopt the Policy.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Multicultural Policy is designed to support and celebrate Council's multicultural community, inform the quality of and access to Council services for multicultural communities and commits Council to working internally with its own staff and systems, and externally by engaging meaningfully with the community.

CONSULTATION

Consultation has been undertaken with key stakeholders by the Strategic Planning Unit.

Internal

The Executive Team has been consulted to seek management endorsement.

External

The Policy will be placed on public exhibition in the Port Stephens Examiner and on Council's website in accordance with relevant legislative processes.

OPTIONS

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

ATTACHMENTS

- 1) Draft Multicultural Policy.
- 2) Cultural Diversity Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 1 DRAFT MULTICULTURAL POLICY.

Policy



FILE NO: PSC2014-03911

TITLE: MULTICULTURAL POLICY

POLICY OWNER: STRATEGY AND ENVIRONMENT SECTION MANAGER

1. PURPOSE:

1.1 The purpose of this Policy is to guide Council in recognising and responding to cultural diversity in the exercise of functions such as service provision, planning, advocacy and community development.

2. CONTEXT/BACKGROUND:

2.1 This Policy provides a platform for collaboration and partnerships between Council, business, service providers, other tiers of government and the community where cultural diversity is observed, respected and appreciated.

2.2 Councils have statutory obligations to observe the multicultural principles outlined in the *Multicultural NSW Act 2000* (NSW) and to recognise diverse local community needs and interests in decision making under the *Local Government Act 1993* (NSW).

2.3 The multicultural principles are as follows:

2.3.1 All individuals in New South Wales, irrespective of their linguistic, religious, and ancestral backgrounds, should demonstrate a unified commitment to Australia, its interests and future.

2.3.2 All individuals in New South Wales should recognise the importance of shared values governed by the rule of law within a democratic framework.

2.3.3 The people of New South Wales are of different linguistic, religious and ancestral backgrounds who, either individually or in community with other members of their respective groups, are free to profess, practise and maintain their own linguistic, religious and ancestral heritage.

2.3.4 All individuals and institutions should respect and make provision for the culture, language and religion of others within an Australian legal and institutional framework where English is the common language.

2.3.5 All individuals in New South Wales should have the greatest possible opportunity to:

Policy

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ITEM 3 - ATTACHMENT 1 DRAFT MULTICULTURAL POLICY.

Policy



- 2.3.5.1 contribute to, and participate in, all aspects of public life in which they may legally participate, and
- 2.3.5.2 make use of, and participate in, relevant activities and programs provided or administered by the Government of New South Wales.
- 2.3.6 All institutions of New South Wales should recognise the linguistic and cultural assets in the population of New South Wales as a valuable resource and promote this resource to maximise the development of the State.

3. SCOPE:

- 3.1 This Policy is designed to support Council in fulfilling obligations to observe and recognise cultural diversity under the *Multicultural NSW Act 2000* and the *Local Government Act 1993*.

4. DEFINITIONS:

Cultural diversity	Means the different linguistic, religious and ancestral backgrounds of the people of New South Wales.
Principles of Multiculturalism	The multicultural principles outlined in section 3 of the <i>Multicultural NSW Act 2000</i> and as listed in this Policy.

These definitions are sourced from the *Multicultural NSW Act 2000*.

5. POLICY STATEMENT:

- 5.1 The Port Stephens Multicultural Policy aims to achieve the following objectives in order to observe the Principles of Multiculturalism:
 - 5.1.2 Objective 1: Leadership
Council promotes the principles of multiculturalism both within the organisation and to the wider community.
 - 5.1.3 Objective 2: Community Harmony
Council works with communities and stakeholders to promote activities and initiatives that foster inclusion.
 - 5.1.4 Objective 3: Access and Equity
Council endeavours to provide information, programs, services and facilities that are accessible for the community and makes provision for cultural diversity.

Policy

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ITEM 3 - ATTACHMENT 1 DRAFT MULTICULTURAL POLICY.

Policy



5.1.5 Objective 4: Economic and Cultural Opportunities

Council, in collaboration with community and stakeholders, promotes the benefits of cultural diversity as a social, cultural and economic asset for the local government area.

5.1.6 Objective 5: Planning and Engagement

Council's approach to integrated planning and community engagement embraces cultural diversity and aims to increase inclusivity.

6. POLICY RESPONSIBILITIES:

6.1 The key position/s are responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on this Policy:

6.1.1 General Manager - to lead staff (either directly or through delegated authority) in their understanding of this Policy and the application of the multicultural principles.

6.1.2 Group and Section Managers - to plan, action, communicate, and exercise functions in accordance with this Policy as it impacts their areas of responsibility.

6.1.3 All Council officials - to observe this Policy.

7. RELATED DOCUMENTS:

7.1 *Local Government Act 1993*

7.2 *Multicultural NSW Act 2000*

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No	PSC2014-03911	EDRMS record No	PSC2014-03911
Audience	Council Staff and Community		
Process owner	Strategy and Environment Section Manager		
Author	Strategic Planning Coordinator		
Review timeframe	Two years	Next review date	February 2021
Adoption date	TBA		

Policy

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Policy



VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	February 2019	Strategic Planning Coordinator	<p>Reviewed the Policy, included numbering to each paragraph.</p> <p>Substantial re-write of the Policy which necessitates the existing Cultural Diversity Policy dated 9 December 2014 (Minute No. 337) to be revoked.</p> <p>No significant departure from the intent of the existing Policy.</p> <p>Draft prepared for public exhibition.</p>	

Policy

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**POLICY**

Adopted: 26 March 2002
Minute No: 104
Amended: 9 December 2014
Minute No: 337

FILE NO: PSC2014-0391
TITLE: CULTURAL DIVERSITY POLICY
RESPONSIBLE OFFICER: COMMUNICATIONS SECTION MANAGER

BACKGROUND

Port Stephens Council recognises the social, economic and educational benefits cultural diversity offers the local community. A diverse community is considered to be a strong and sustainable community. Council plays an important role in ensuring that people from all backgrounds have equitable access to community services, facilities and resources, and that everyone can take part in community life.

The NSW and Federal governments have policies to respond to the changing composition of the Australian people. *The People of Australia–Australia's Multicultural Policy (2011)* is the primary vehicle for ensuring that Australian government programs and services are responsive to the needs of Australia's culturally and linguistically diverse population.

Similarly agencies in NSW, as one of the most culturally diverse states, are guided by the *Community Relations Commission and Principle of Multiculturalism Act (2000)*. The legislative frameworks provided by the NSW and Federal governments inform this policy and guide Port Stephens Council's service delivery.

This policy affirms Port Stephens Council's commitment to supporting this cultural diversity as it enriches the lives of all people in our community.

OBJECTIVE

- 1) To ensure the provision of Council information, services and facilities does not discriminate those from culturally and linguistically diverse backgrounds through the provision of key principles to guide Council's decision making.

ITEM 3 - ATTACHMENT 2 CULTURAL DIVERSITY POLICY.**PRINCIPLES**

The following principles will support Council to achieve its objective to support people from culturally and linguistically diverse backgrounds.

- 1) Council will endeavour to ensure all residents have equitable access to Council services and facilities regardless of race, language, religion or culture.
- 2) Council's consultative and decision making processes will recognise and encourage the participation and contribution of residents from culturally and linguistically diverse backgrounds.
- 3) Council will seek to develop appropriate communication strategies to inform people from culturally and linguistically diverse backgrounds about participation in its services, programs and facilities.
- 4) Council will ensure that community, social, recreation, environmental and infrastructure planning shall incorporate the needs of people from culturally and linguistically diverse backgrounds as required.
- 5) Council will work collaboratively where appropriate with fellow members of the Hunter Region of Councils (HROC), regional multicultural, interagency and government organisations to ensure an integrated and strategic approach is taken to the planning and delivery of services for residents from culturally and linguistically diverse backgrounds.
- 6) Council will encourage and promote opportunities for residents and visitors from culturally and linguistically diverse backgrounds to participate in the economic and cultural life of the Port Stephens community.

POLICY STATEMENT

This policy affirms Port Stephens Council's commitment to three key concepts:

- 1) cultural identity: the right of all Australians, within defined limits, to express and share their individual cultural heritage, including their language and religion;
- 2) social justice: the right of all Australians to equality of treatment and opportunity, and the removal of barriers of race, ethnicity, culture, religion, language, gender or place of birth; and
- 3) economic efficiency: the need to maintain, develop and utilize effectively the skills and talents of all Australians, regardless of background.

RELATED POLICIES

- 1) Social Impact Policy, minute no. 241;
- 2) Tenancy Policy, minute no. 212;
- 3) Community Engagement Policy, minute no. 318;
- 4) Disability Access and Inclusion Policy, minute no. 321;

ITEM 3 - ATTACHMENT 2 CULTURAL DIVERSITY POLICY.

- 5) The People of Australia–Australia's Multicultural Policy, Australian Government, 2011.

SUSTAINABILITY IMPLICATIONS**SOCIAL IMPLICATIONS**

The Cultural Diversity Policy provides the framework for acknowledging, valuing and celebrating the social, economic and educational value of cultural diversity in the Port Stephens. It ensures that residents from culturally and linguistically diverse backgrounds have equitable access to Council services and facilities and are provided with opportunities to participate and contribute in Council's decision making processes.

The policy encourages communication and the community understanding that the rights and responsibilities of people from culturally and linguistically diverse backgrounds are recognised as an integral part of the Port Stephens community.

ECONOMIC IMPLICATIONS

Effectively utilizing the skills and talents of all Australians, regardless of background, has significant economic benefits for the region.

ENVIRONMENTAL IMPLICATIONS

There are no significant environmental implications.

RELEVANT LEGISLATIVE PROVISIONS

- 1) Ethnic Affairs Commission Amended Act (1997);
- 2) Local Government Act (1993);
- 3) Local Government Amendment (Community and Social Plans) Regulation (1998);
- 4) NSW Anti-Discrimination Act (1977);
- 5) The Community Relations Commission & Principles of Multiculturalism Act (2000);
- 6) Nationality & Citizenship Act (1948).

IMPLEMENTATION RESPONSIBILITY

The policy shall be implemented on an organisational wide basis.

PROCESS OWNER

Communications Section Manager

REVIEW DATE

December 2016

ITEM NO. 5**FILE NO: 19/3653
EDRMS NO: PSC2018-04025****MEMBERSHIP OF COUNTRY MAYOR'S ASSOCIATION****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse Port Stephens Council membership to the Country Mayor's Association of New South Wales.
-

**ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
MOTION**

024	Councillor Sarah Smith Councillor Glen Dunkley It was resolved that Council endorse Port Stephens Council membership to the Country Mayor's Association of New South Wales.
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BACKGROUND

The purpose of this report is to inform Council of an invitation received from the Country Mayors Association inviting Port Stephens Council to become part of its membership.

The objective of the Country Mayors Association is to further the interests of Country Councils by being an advocate on State-wide issues and to act as an information sharing forum.

Councils eligible for membership are those country councils outside the Greater Sydney area, Newcastle and Wollongong metropolitan areas. There are currently 66 member councils with meetings attended by the Mayors and General Managers of the member councils. Port Stephens Council meets the membership criteria.

The Country Mayors Association meets at Parliament House in Sydney on a quarterly basis. Meetings are generally held in March, May, August and November and provide a unique opportunity to meet and lobby issues with State parliamentarians.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide strong civic leadership and government regulations.

FINANCIAL/RESOURCE IMPLICATIONS

The cost of membership for councils with a population greater than 10,000 is \$750 per annum. Membership fees are decided at the Country Mayors Association's Annual General Meeting which is held in November each year and are used to pay a secretariat, any room hire fees and the cost of morning tea and lunch. Accumulated fees are available to be used to further the interests of country councils such as lobbying and undertaking research to allow submissions to be prepared to government on issues affecting member councils.

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

Any council official appointed to any association is required to adhere to the Code of Conduct at all times.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Port Stephens Council will not be represented on state wide matters.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6**FILE NO: 18/394469
EDRMS NO: PSC2017-00178****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. Port Stephens Community Arts Centre – Mayoral Funds - \$2,000 donation towards cost of new woodworkers facilities.
 - b. Newcastle Jets Club Pty Ltd – Mayoral Funds - \$5,500 donation towards five Newcastle Jets 500 Club memberships for: Seaham Bowthorne Football Club; Nelson Bay Football Club; Tilligerry Football Club; Raymond Terrace Football Club; Medowie Football Club.
 - c. 1st Anna Bay Scouts – Mayoral Funds - \$1,000 donation towards the Anna Bay Scouts trip to Samoa.
 - d. Tomaree Youth Community Action Group – Mayoral Funds - \$1,000 donation towards Youth Week event SkatenScoot.
 - e. Life Education – Mayoral Funds - \$625 donation towards the Stop Party Drug Deaths program for one class of children.
 - f. Seaside Singers – East Wards Funds - \$845 donation towards 2019 annual rental payment to the Tomaree Community Centre.
 - g. COPS Y – East Ward Funds - \$1,000 donation towards rental of facilities.
- 2) Endorse the provision of funds to Sacred Tree Markets as a contribution towards the Street Food event trial for \$2,000 and place the proposal on public exhibition for a period of 28 days, in accordance with the *Local Government Act 1993* to seek public comment.
- 3) Should no submissions be received as a result of the public exhibition stated above, the funds be approved.

**ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
MOTION**

025	Councillor Glen Dunkley Councillor John Nell It was resolved that Council approve 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: <ol style="list-style-type: none">a. Port Stephens Community Arts Centre – Mayoral Funds -
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MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

	<p>\$2,000 donation towards cost of new woodworkers facilities.</p> <p>b. Newcastle Jets Club Pty Ltd – Mayoral Funds - \$5,500 donation towards five Newcastle Jets 500 Club memberships for: Seaham Bowthorne Football Club; Nelson Bay Football Club; Tilligerry Football Club; Raymond Terrace Football Club; Medowie Football Club.</p> <p>c. 1st Anna Bay Scouts – Mayoral Funds - \$1,000 donation towards the Anna Bay Scouts trip to Samoa.</p> <p>d. Tomaree Youth Community Action Group – Mayoral Funds - \$1,000 donation towards Youth Week event SkatenScoot.</p> <p>e. Life Education – Mayoral Funds - \$625 donation towards the Stop Party Drug Deaths program for one class of children.</p> <p>f. Seaside Singers – East Wards Funds - \$845 donation towards 2019 annual rental payment to the Tomaree Community Centre.</p> <p>g. COPS Y – East Ward Funds - \$1,000 donation towards rental of facilities.</p> <p>2) Endorse the provision of funds to Sacred Tree Markets as a contribution towards the Street Food event trial for \$2,000 and place the proposal on public exhibition for a period of 28 days, in accordance with the <i>Local Government Act 1993</i> to seek public comment.</p> <p>3) Should no submissions be received as a result of the public exhibition stated above, the funds be approved.</p>
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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)
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 - 12 FEBRUARY 2019**EAST WARD – Councillors Abbott, Dunkley and Nell**

COPSY (Caring for Our Port Stephens Youth Inc.)	A registered charity established to evaluate possible services, advocate, facilitate and support an effective, sustainable and free counselling service for youth in Port Stephens.	\$1,000	Donation towards rental of facilities.
Seaside Singers.	A non-profit community choir.	\$845	Donation towards 2019 annual rental payment to the Tomaree Community Centre.

MAYORAL FUNDS – Mayor Palmer

Port Stephens Community Arts Centre.	A community facility that provides a venue for community art and craft activities.	\$2,000	Donation towards cost of new woodworkers' facilities.
Newcastle Jets Club Pty Ltd	An Australian professional soccer club based in Newcastle.	\$5,500	Donation towards five Newcastle Jets 500 Club memberships for: Seaham Bowthorne Football Club; Nelson Bay Football Club; Tilligerry Football Club; Raymond Terrace Football Club; Medowie Football Club.

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

1 st Anna Bay Scouts	A NSW youth organisation providing young Australians with fun and challenging opportunities to grow through adventure.	\$1,000	Donation towards the Anna Bay Scouts trip to Samoa.
Sacred Tree Markets	A privately owned and operated business providing a retail event for the communities of Port Stephens and the Hunter Valley.	\$2,000	Donation towards the Street Food event trial.
Life Education	A non-profit organisation empowering children and young people to make safer and healthier choices through education.	\$625	Donation towards the Stop Party Drug Deaths program for one class of children.
Tomaree Youth Community Action Group	A not-for-profit volunteer run group empowering youth to fulfil their potential by providing spaces where youth can get together and interact in a positive environment.	\$1,000	Donation towards the Youth Week event – Skatenscoot.

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;
- 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.

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

Consultation has been taken with the key stakeholders to ensure budget requirements are met and approved.

As per the financial assistance guidelines for requests received from individuals, the request from Sacred Tree Markets will be placed on public exhibition for a period of 28 days.

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. 7**FILE NO: 19/24145
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 12 February 2019.

No: Report Title Page:

1	Submission to the Department of Planning and Environment on the Bobs Farm Sand Mine	117
2	Cultural Project Grant Funding Reallocation	121
3	November 2018 Cash and Investments	122
4	December 2018 Cash and Investments	125
5	PETITION: Road Safety Wallawa Road Nelson Bay	128
6	DESIGNATED PERSONS' RETURN	130
7	GENERAL MANAGER'S ANNUAL PERFORMANCE REVIEW	131

**ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
MOTION**

026	Councillor Glen Dunkley Councillor Chris Doohan It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 12 February 2019. No: Report Title Page: 1 Submission to the Department of Planning and Environment on the Bobs Farm Sand Mine 2 Cultural Project Grant Funding Reallocation 3 November 2018 Cash and Investments 4 December 2018 Cash and Investments 5 PETITION: Road Safety Wallawa Road Nelson Bay 6 DESIGNATED PERSONS' RETURN
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MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019
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	7	GENERAL MANAGER'S ANNUAL PERFORMANCE REVIEW
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**ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
MATTER ARISING**

027	Councillor John Nell Councillor Chris Doohan It was resolved that Council refer the request for centre line marking in Wallawa Road, Nelson Bay to the Local Traffic Committee.
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INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 19/22558
EDRMS NO: 25-2018-8-1**

**SUBMISSION TO THE DEPARTMENT OF PLANNING AND ENVIRONMENT ON
THE BOBS FARM SAND MINE**

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

BACKGROUND

A State Significant Development (SSD 6395) Application for a Sand Mine Project at Bobs Farm has been submitted to the Department of Planning and Environment (the Department). SSD's are deemed to have State significance due to their size, economic value or potential impacts. SSD's are assessed by the Department and are determined by the Minister for Planning.

The Bobs Farm Sand Mine SSD seeks approval for a quarry to extract and process sand at a rate of 750,000 tonnes per annum over a 15 year period (with the total sand extraction being 10 million tonnes). Access to the sand mine is proposed via Nelson Bay Road with vehicles exiting the site onto Marsh Road and then out onto Nelson Bay Road.

The application was on public exhibition from 28 November 2018 to 1 February 2019. In response to strong community concerns expressed to Councillors during the exhibition period, a submission formally objecting to the proposal was submitted to the Department. Council's submission endeavoured to express the key community concerns raised including traffic and safety concerns, the proximity of the sand mine to the Bobs Farm School, impacts on ground water and environmental and ecological concerns. A copy of the submission is provided at **(ATTACHMENT 1)**.

ATTACHMENTS

- 1) Letter to Department Planning and Environment - 31 January 2019.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 LETTER TO DEPARTMENT PLANNING AND ENVIRONMENT - 31 JANUARY 2019.



DPE Ref: SSD 6395

ATTENTION: MELISSA ANDERSON
DEPARTMENT OF PLANNING AND ENVIRONMENT
GPO BOX 39
SYDNEY NSW 2001

31 January 2019

Dear Melissa,

Re: Bobs Farm Sand Mine Project (SSD 6395)

Property: LOT: 254 DP753204, LOT: 51 DP1015671, LOT: 10 DP1071458
3631 Nelson Bay Road, Bobs Farm

Reference is made to the above State Significant Development application which is currently being assessed.

Council objects to the proposed development for the reasons outlined in this submission. A summary of the key issues associated with the proposed sand mine is provided below:

- Traffic and safety concerns
- Proximity to the Bobs Farm School
- Impacts on ground water
- Environmental and ecological concerns
- Public Interest

These issues are discussed in more detail below.

TRAFFIC AND SAFETY CONCERNS AND PROXIMITY TO BOBS FARM SCHOOL

Council have a number of traffic and safety concerns in relation to the exit route being along Marsh Road. The proposed operations are located within close proximity to the Bobs Farm School and the proposed haulage route will see heavy vehicles exiting the site into a school zone. In this regard, the proposed haulage route will directly conflict with local and school traffic and raises significant vehicular and pedestrian safety concerns.

PORT STEPHENS COUNCIL

116 Adelaide Street
Raymond Terrace NSW 2324

PO Box 42
Raymond Terrace NSW 2324

Phone: 02 4980 0255
Email: council@portstephens.nsw.gov.au

www.portstephens.nsw.gov.au
ABN 16 744 377 876

ITEM 1 - ATTACHMENT 1 LETTER TO DEPARTMENT PLANNING AND ENVIRONMENT - 31 JANUARY 2019.**IMPACTS ON GROUND WATER**

Local land holders have approached Council raising significant concerns with the potential impact of the proposed sand mine on the ground water. The ground water is likely to be affected by the mining activity which could threaten the quality and flow of the aquifer. The importance of the groundwater at the proposed site is due to its location within the Stockton Sandbed Aquifer. This aquifer is important in supporting local agriculture and vegetation, and also provides a backup water source for the supply of Grahamstown Dam in the event of future water shortages. This groundwater aquifer has potential interactions with the neighbouring Tomago Sandbed Aquifer, which supplies 20 % of the lower Hunter's drinking water.

Further, it is understood that potential acid sulfate soils have been recorded on site. Considering the proposed interaction with groundwater that is connected to the drinking water catchment, extractive activities that interact with the groundwater are considered to have a high risk of potentially serious impacts. This could impact on the viability of the surrounding rural land uses and is not acceptable.

ENVIRONMENT AND ECOLOGY

A number of representations have been made to Councillors raising concerns with the potential environmental and ecological impacts associated with the proposed development and the rehabilitation of the site following the end of the quarrying activities.

Council staff have reviewed the proposal and have provided its comments to the Department. Those comments highlight deficiencies in the ecological assessment and Council, through this submission, wishes to reiterate those comments and request that a full and thorough ecological assessment be provided.

Further, it is noted that the proposed rehabilitation plan lacks detail and significant concern is raised that the mining activities will leave a void that will remain in perpetuity and would have lasting legacy issues within the area. This is not considered to be an acceptable outcome.

PUBLIC INTEREST

For the reasons noted above, and noting the number of representations made to Council from the community raising concerns with respect to noise impacts and air quality, the application is not considered to be in the public interest. These concerns are exacerbated due to the close proximity of the proposed development to the Bobs Farm School site.

Should you require any further information in relation to this matter or have any questions, please contact me on the details below.

**ITEM 1 - ATTACHMENT 1 LETTER TO DEPARTMENT PLANNING AND
ENVIRONMENT - 31 JANUARY 2019.**



Yours sincerely,



**Ryan Palmer
MAYOR OF PORT STEPHENS**

31 January 2019

Telephone enquiries
(02) 4988 0245
Please quote file no: 25-2018-8-1

PORT STEPHENS COUNCIL

116 Adelaide Street
Raymond Terrace NSW 2324

PO Box 42
Raymond Terrace NSW 2324

Phone: 02 4980 0255
Email: council@portstephens.nsw.gov.au

www.portstephens.nsw.gov.au
ABN 16 744 377 876

ITEM NO. 2

**FILE NO: 18/379505
EDRMS NO: PSC2014-01593**

CULTURAL PROJECT GRANT FUNDING REALLOCATION

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

BACKGROUND

The purpose of this paper is to reallocate previously Council approved cultural grant funding.

At Council's meeting on 10 July 2018 the allocation of \$60,000 from the Cultural Projects Fund was adopted. This allocation included \$3,000 to an individual applicant, Janie Gibson, for the project 'Shakespeare in the Botanic Gardens'.

Unfortunately, Janie Gibson, is no longer in a position to provide the project as she has now moved away from the area. The funds were never provided to Janie and the monies remain unspent.

The Mayor and the three Councillors allocated to the Strategic Arts 355c committee, Cr Tucker, Cr LeMottee and Cr Nell met with Council staff on 25 September 2018 where this issue was raised.

The Mayor and Councillors expressed interest to promote and enhance the grant programs especially the narrative around what recipients are able to do with the funding received from successful grant applications.

Consequently, it is now planned to use these reallocated funds to create promotion materials to help celebrate Council's funding programs. It is envisaged that the promotion materials will include the development of video collateral which is often a significant investment outside the range of the usual promotion avenues.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

**FILE NO: 18/448718
EDRMS NO: PSC2006-6531**

NOVEMBER 2018 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 30 November 2018.

ATTACHMENTS

- 1) Cash and Investments - November 2018.
- 2) Cashflow Report - November 2018.

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

ITEM 3 - ATTACHMENT 1 CASH AND INVESTMENTS - NOVEMBER 2018.

CASH AND INVESTMENTS HELD AS AT 30 NOVEMBER 2018

ISSUER	BROKER	RATING*	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
WESTPAC BANKING CORPORATION	WESTPAC	AA-	TD	2.56%	371	13-Dec-18	1,200,000	1,200,000
COMMONWEALTH BANK	CBA	AA-	TD	2.62%	365	20-Dec-18	1,400,000	1,400,000
BANANA COAST CREDIT UNION	IMPERIUM	NR	TD	2.75%	365	20-Dec-18	600,000	600,000
BANKWEST	BANKWEST	AA-	TD	2.75%	209	9-Jan-19	1,000,000	1,000,000
WESTPAC BANKING CORPORATION	WESTPAC	AA-	TD	2.64%	363	23-Jan-19	2,000,000	2,000,000
POLICE CREDIT UNION (SA)	FARQUHARSON	NR	TD	2.90%	245	4-Feb-19	1,000,000	1,000,000
COMMONWEALTH BANK	CBA	AA-	TD	2.63%	365	2-Mar-19	1,000,000	1,000,000
MYSTATE	FARQUHARSON	BBB	TD	2.80%	287	18-Mar-19	1,200,000	1,200,000
MYSTATE	CURVE	BBB	TD	2.83%	303	3-Apr-19	1,000,000	1,000,000
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
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
QBANK	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
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
SUB TOTAL (\$)							39,500,000	39,500,000
INVESTMENTS TOTAL (\$)							39,500,000	39,500,000
CASH AT BANK (\$)							2,951,448	2,951,448
TOTAL CASH AND INVESTMENTS (\$)							42,451,448	42,451,448
CASH AT BANK INTEREST RATE				1.75%				
BBSW FOR PREVIOUS 3 MONTHS				1.98%				
AVG. INVESTMENT RATE OF RETURN				2.84%				
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 30/11/2018

CASHFLOW STATEMENT

Opening Cash and Investment 1 July 2018
Closing Cash and Investment 30 November 2018

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

YTD	Notes
36,013,235	
43,753,071	
7,739,836	

Investing Activities

Receipts from sale of Property, Plant & Equipment
Payments for Property, Plant & Equipment
Total

1,394,240
(8,751,722)
(7,357,482)

Financing Activities

Payment of loans
Receipt of new loans
Total

(1,728,131)
-
(1,728,131)

Total Cash Movement

Plus: Opening Cash and Investment 1 July 2018
Closing Cash and Investment 30 November 2018

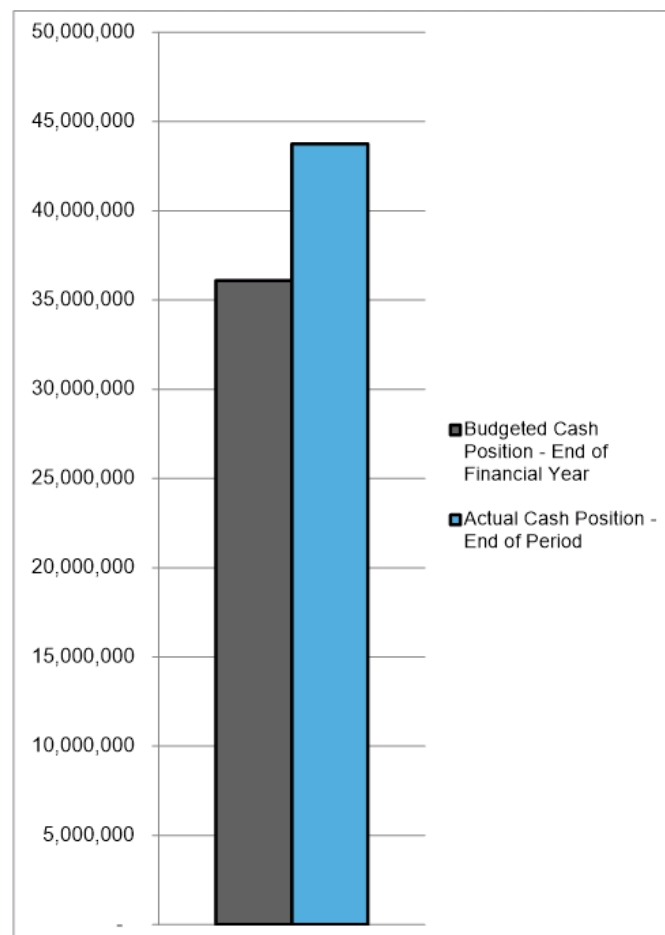
7,739,836
36,013,235
43,753,071

Budgeted Cash Movement for the Financial Year
Plus Opening Cash and Investment 1 July 2018
Budgeted Cash and Investment Position 30 June 2019

83,765
36,013,235
36,097,000

In front / (behind) on budget

7,656,071	1
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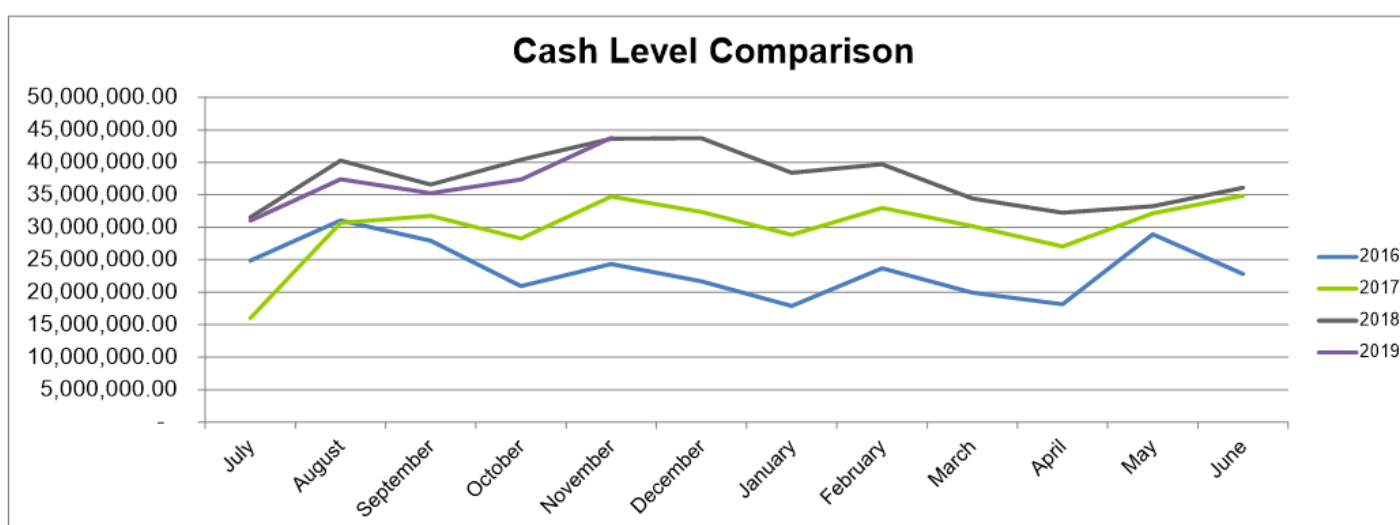


Notes

- 1** Council's cash position is up on the budgeted year end position by \$7.6M predominately due to the following reasons:
- Bookings are being taken for the holiday parks busy period.
 - Capital contributions have been higher then the anticipated budget
 - 2nd quarter rates have been received

Significant future cash inflows expected in next few months include settlement proceeds from Salamander Way, fee for service charges from the State Roads program and the annual RFS maintenance grant.

Significant future cash outflows expected in next few months include: Holiday Park capital works program, Karuah Wharf, Plant purchases, desktop computer rollout and Caswell Reserve works.



ITEM NO. 4

**FILE NO: 19/299
EDRMS NO: PSC2006-6531**

DECEMBER 2018 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 December 2018.

ATTACHMENTS

- 1) Cash and Investments - December 2018.
- 2) Cashflow Report - December 2018.

MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

ITEM 4 - ATTACHMENT 1 CASH AND INVESTMENTS - DECEMBER 2018.

CASH AND INVESTMENTS HELD AS AT 31 DECEMBER 2018

ISSUER	BROKER	RATING*	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
BANKWEST	BANKWEST	AA-	TD	2.75%	209	9-Jan-19	1,000,000	1,000,000
WESTPAC BANKING CORPORATION	WESTPAC	AA-	TD	2.64%	363	23-Jan-19	2,000,000	2,000,000
POLICE CREDIT UNION (SA)	FARQUHARSON	NR	TD	2.90%	245	4-Feb-19	1,000,000	1,000,000
COMMONWEALTH BANK	CBA	AA-	TD	2.63%	365	2-Mar-19	1,000,000	1,000,000
MYSTATE	FARQUHARSON	BBB	TD	2.80%	287	18-Mar-19	1,200,000	1,200,000
MYSTATE	CURVE	BBB	TD	2.83%	303	3-Apr-19	1,000,000	1,000,000
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
BANK OF US	CURVE	BBB	TD	2.90%	338	8-Aug-19	1,000,000	1,000,000
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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
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
SUB TOTAL (\$)							36,300,000	36,300,000
INVESTMENTS TOTAL (\$)							36,300,000	36,300,000
CASH AT BANK (\$)							3,837,037	3,837,037
TOTAL CASH AND INVESTMENTS (\$)							40,137,037	40,137,037
CASH AT BANK INTEREST RATE				1.75%				
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 31/12/2018

CASHFLOW STATEMENT

Opening Cash and Investment 1 July 2018
Closing Cash and Investment 30 November 2018

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

YTD
36,013,235
41,005,089
4,991,854

Notes

Investing Activities

Receipts from sale of Property, Plant & Equipment
Payments for Property, Plant & Equipment
Total

1,437,229
(11,059,664)
(9,622,435)

Financing Activities

Payment of loans
Receipt of new loans
Total

(2,616,175)
-
(2,616,175)

Total Cash Movement

Plus: Opening Cash and Investment 1 July 2018
Closing Cash and Investment 30 November 2018

4,991,854
36,013,235
41,005,088

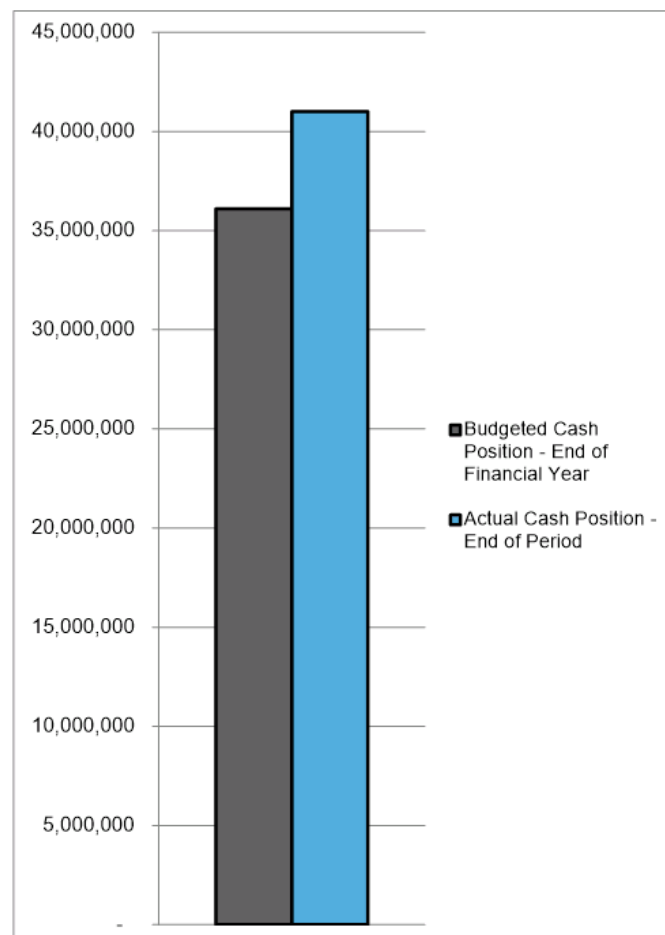
Budgeted Cash Movement for the Financial Year
Plus Opening Cash and Investment 1 July 2018
Budgeted Cash and Investment Position 30 June 2019

83,765
36,013,235
36,097,000

In front / (behind) on budget

4,908,089

1

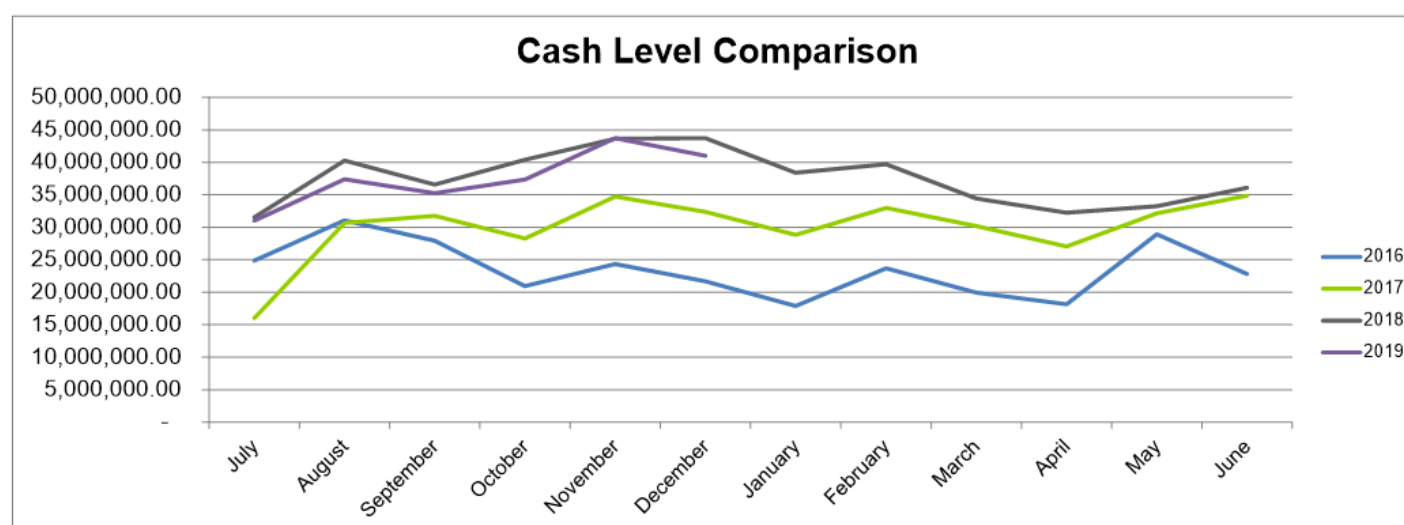


Notes

- 1 Council's cash position is up on the budgeted year end position by \$4.9M predominately due to the following reasons:
- Bookings are being taken for the holiday parks busy period.
 - Capital contributions have been higher than the anticipated budget
 - 2nd quarter rates have been received

Significant future cash inflows expected in next few months include settlement proceeds from Salamander Way, fee for service charges from the State Roads program and calendar year based grants.

Significant future cash outflows expected in next few months include: CCTV rollout program, Koala Sanctuary project, plant purchases and the desktop computer rollout.



ITEM NO. 5

FILE NO: 18/431825
EDRMS NO: PSC2017-00015

PETITION: ROAD SAFETY WALLAWA ROAD, NELSON BAY

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

BACKGROUND

The purpose of this report is to present to Council a petition containing 26 signatures submitted by residents of Port Stephens on the safety of Wallawa Road, Nelson Bay. The petition follows a request by residents for Council to improve road safety at the bends on the southern end of Wallawa Road. The petition states that drivers tend to cut the corners around these bends and that due to a lack of footpaths, pedestrians are forced to walk on the road, making it unsafe.

This request was investigated in October 2018 as part of Local Traffic Committee inspections at which time the request was not supported. Inspection Committee members noted that the road is a dead-end with local residents being the only users, apart from service vehicles (garbage). The bends in the road may encourage drivers to cut the corners however barrier lines are not warranted and may not deter drivers from cutting the corners. The Local Traffic Committee inspections comprise representation from NSW Police, Roads and Maritime Services and Port Stephens Council.

ATTACHMENTS

- 1) Petition - Request for Safety Measures on Wallawa Road, Nelson Bay.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 PETITION - REQUEST FOR SAFETY MEASURES
ON WALLAWA ROAD NELSON BAY.

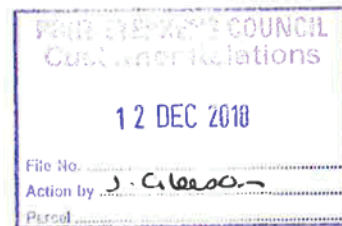
11

Total 26.

2nd December 2018

The General Manager

Port Stephens Council



The following rate payers request Council to take steps to improve safety on the dangerous corner of Wallawa Road Nelson Bay opposite the entrance to Wallawa Road Fire Trail and also the entrance to Tingara St of Wallawa Road.

Due to the fact there is no footpath the residents eg: school children and dog walkers, have to walk on the road and rely on the oncoming vehicles being on the right side.

We suggest Council arrange for centre line markings in both situations plus 40km signs to be installed before the Wallawa right angle corner.

We look forward to a prompt resolution to these safety problems as it was first brought to Councils attention in April 2018 and twice since.

NAME

ADDRESS

ITEM NO. 6

**FILE NO: 19/7364
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 advise Council of new Council staff who have submitted their Designated Persons' Return/s (Return).

In accordance with Section 450A of the *Local Government Act 1993*, all new staff are required to lodge a Return within three (3) months of commencement. These Returns are to be tabled at the first Council meeting after the lodgement date.

The following is a list of position/s who has submitted Return/s:

- Lawyer (PSC927).
- Commercial Investment Manager (PSC775).

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Designated Persons' returns.

ITEM NO. 7

**FILE NO: 18/420736
EDRMS NO: PSC2005-1318**

GENERAL MANAGER'S ANNUAL PERFORMANCE REVIEW

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

BACKGROUND

The purpose of this report is to receive and note the outcome of the General Manager's Annual Performance Review 1 July 2017 to 30 June 2018, which has been signed by the Mayor and General Manager.

Council established a performance evaluation process for the General Manager in accordance with the Guidelines for the Appointment and Oversight of General Managers issued pursuant to Sections 23A and 338 of the Local Government Act 1993. This includes the establishment of a Performance Evaluation panel to review the General Manager's performance against the agreed criteria and to establish performance criteria for the next period.

The annual performance review summary is noted as **(ATTACHMENT 1)**.

ATTACHMENTS

- 1) General Manager's Performance Review Summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**ITEM 7 - ATTACHMENT 1
SUMMARY.**
GENERAL MANAGER'S PERFORMANCE REVIEW

ATTACHMENT 1
**GENERAL MANAGER'S
PERFORMANCE REVIEW**
2017-2018

Level	Definition
Excellent	<ul style="list-style-type: none"> Performance is clearly outstanding. Performance is superior – it far exceeds standards or expectations. Performance is exceptional on a continuous basis.
Good	<ul style="list-style-type: none"> Performance generally meets or exceeds standards or expectations. Attains all or nearly all of position objectives.
Acceptable	<ul style="list-style-type: none"> Performance is adequate – it meets standards or expectations, and is developing within the position.
Needs improvement	<ul style="list-style-type: none"> Fails to meet one or a few expectations.
Unacceptable	<ul style="list-style-type: none"> Performance is below accepted levels. Fails to meet most job expectations.

	Median
Leadership	Good
Service delivery	Good
Customer satisfaction	Good
Governance	Excellent
Risk management	Excellent
Financial sustainability	Excellent
Employee engagement	Excellent
Relationships with Councillors	Good
Relationships with stakeholders	Excellent
Overall Performance	Excellent

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 – 12 FEBRUARY 2019 MOTION

028	Councillor Glen Dunkley Councillor Chris Doohan It was resolved that Council move into confidential session.
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The following Council officers were present for the Confidential Session:

Communications Section Manager

ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019 MOTION

029	Mayor Ryan Palmer Councillor Chris Doohan It was resolved that confidential items 2 and 3 be brought forward and dealt with prior to confidential Mayoral Minute item 1.
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CONFIDENTIAL

ITEM NO. 2

**FILE NO: 19/15802
EDRMS NO: PSC2018-00562**

LOTS 8 & 9 SALAMANDER BAY DP1239352

REPORT OF: JANET MEYN - PROPERTY SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

**ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
MOTION**

030	<p>Councillor John Nell Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Rescind the resolution to sell proposed Lots 8 & 9, 155 Salamander Way, Salamander Bay, Minute Number 191 dated 26 June 2018 (ATTACHMENT 1).2) Resolve to sell Lot 9 DP1239352 being 15 Bagnall Beach Road, Salamander Bay in Council's commercial land subdivision on the confidential terms and conditions disclosed within this report.3) Authorise the General Manager to negotiate variations to contract conditions as required, excluding the sale price of the lot.4) Authorise the Mayor and General Manager to affix the Council seal and sign all documents necessary to exchange contracts and settle the sale.
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CONFIDENTIAL

ITEM NO. 3

**FILE NO: 19/15797
EDRMS NO: PSC2008-0204**

KING STREET, RAYMOND TERRACE EASEMENTS

REPORT OF: JANET MEYN - PROPERTY SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

**ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
MOTION**

031	<p>Councillor Giacomo Arnott Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Proceed with the compulsory acquisition of an easement for access over part of Lot 2 in DP867862 known as 24A King Street and Lot 1 DP862816 known as 26 King Street in accordance with the requirements of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i>.2) Make application to the Minister and the Governor for approval to acquire the easement over part of Lot 2 DP867862 and Lot 1 DP862816 by compulsory process under Section 186(1) of the <i>Local Government Act 1993</i>.3) Authorise the General Manager and the Mayor to sign and affix the Seal of Council to all documentation required for the compulsory acquisition.
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CONFIDENTIAL

MAYORAL MINUTE

ITEM NO. 1

**FILE NO: 18/454103
EDRMS NO: PSC2015-01024**

GENERAL MANAGER'S CONTRACT OF EMPLOYMENT

**ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019
MOTION**

032	<p>Councillor Chris Doohan Councillor Sarah Smith</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the offer of a five year contract extension to the General Manager under the terms of the proposed Standard Contract of Employment for General Managers.2) Delegate authority to the Mayor to finalise the total remuneration package of the contract.
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There being no further business the meeting closed at 7.21pm.