

MINUTES 15 APRIL 2014



Minutes of Extra-Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 15 April 2014, commencing at 6.03pm.

PRESENT: Mayor B MacKenzie; Councillors C. Doohan; S. Dover; K. Jordan; P. Le Mottee; J. Morello; J Nell; S. Tucker; General Manager; Corporate Services Group Manager; Acting Facilities and Services Group Manager; Development Services Group Manager and Executive Officer.

088	Councillor John Nell Councillor John Morello
	It was resolved that the apologies from Cr Geoff Dingle and Cr Peter Kafer be received and noted.
	There were no Declaration of Interest received.

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SUBJECT

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COUNCIL REPORTS

ITEM NO. 1

FILE NO: 16-2013-757-1

DEVELOPMENT APPLICATION FOR SENIORS LIVING SELF CARE VILLAGE AT NO. 118 & 118A SOLDIERS POINT ROAD SOLDIERS POINT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2013-757-1 subject to the conditions contained in **(ATTACHMENT 3)**.
-

**EXTRA-ORDINARY COUNCIL MEETING – 15 APRIL 2014
MOTION**

089	Councillor Steve Tucker Councillor Sally Dover
	It was resolved that Council approve Development Application 16-2013-757-1 subject to the conditions contained in (ATTACHMENT 3) .

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

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present a development application to Council for determination. Council's Development Applications to be Reported to Council policy enables the Manager Development Assessment and Compliance to report DA's to council for determination as required.

Whilst it is acknowledged the site has a Site Compatibility Certificate for Seniors Living development issued by the NSW Department of Planning and Infrastructure, the application is put before Council due to potential impacts on Threatened Species, bulk and scale and neighbour impacts. Through the assessment process, provision of additional information and recommended conditions of consent, staff are of the view these issues have been satisfactorily addressed or mitigated.

The key issue with the development application relates to ecology. In a procedural sense, if a proposed development is likely to have a 'significant' impact on threatened species a species impact statement (SIS) is required by the respective legislation.

The ecological report submitted with the application indicates there is no 'significant' impact to threatened species. The assessment of the development by Council planning staff has concluded that a species impact statement is not required, as it is determined there is no 'significant' impact on the local koala and orchid populations.

The internal ecological advice received indicates that an SIS is required. Due to the discrepancy between the planning assessment and internal ecological advice, our process is to seek a peer review from a suitably qualified planning and ecological firm.

In accordance with Council's procurement guidelines, a specialist planning and ecological firm were appointed to review all the information and provide advice on whether the planning assessment was accurate and the applicability of an SIS. This peer review was received on 10 April 2014 and in summary, supports the validity of the original assessment in that an SIS is not required.

A full copy of the peer review assessment is attached as **(ATTACHMENT 4)**.

The additional and/or amended conditions as recommended by the peer review have been included. This relates to submission of a hollow bearing tree plan prior to issue of CC and a change to the condition regarding additional tree plantings to allow for them to be off site to promote a better outcome.

The development application was lodged 9 December 2012 under the provisions of Port Stephens Local Environmental Plan 2000 and is considered permissible development subject to the Site Compatibility Certificate dated 15 November 2013.

The proposal comprises a three-staged development of six (6) separate seniors living building blocks which includes one hundred (100) seniors living units inclusive of community facilities.

In respect to the possible section 94 contribution to the walkway, the recommended conditions of consent recommends the standard s94 contribution. However, should Council resolve to negotiate a voluntary planning agreement with the Bowling Club for their apportioned share of the walkway, the section 94 contributions would be updated accordingly.

FINANCIAL/RESOURCE IMPLICATIONS

The application has been assessed within Council's existing resources. The development will attract Section 94 contributions of \$6228.00 per Seniors Living Unit which equates to a total developer contribution of \$622,830.00.

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Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	Yes	6,228	The development conditions will levy \$6,228 per seniors living unit, pursuant to Port Stephens Section 94 Plan.
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

The development application is consistent/not consistent with Council's Local Environmental Plans and local policy including Development Control Plan 2007 and Section 94 Plan.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the development application is approved Council will be challenged in the Land and Environment Court by a third party or NSW Office of Environment & Heritage.	Medium	Council has sought an external peer review of the application that concurs with the assessment that an SIS is not required.	Yes. The proposed recommendations and conditions should mitigate the risk.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that the development will provide a positive social impact. The development will provide for a purpose built seniors living residential development to support the ageing population.

It is considered that the development will provide a positive economic impact. The capital investment value as stated on the application and confirmed in the submitted quantity surveyors report is approximately \$17.0million. The construction phase and ongoing operation will provide employment and cumulative economic benefit.

In addition to the \$17.0million in direct economic output during construction, further economic output of \$13.2million will occur in terms of supporting goods and services being supplied during the construction (from other sectors in the economy). A further \$3million worth of economic output will occur (as those working on the

project get paid and spend money in the local economy). Meaning total economic output for this development (direct, indirect and consumption) is \$33.2million.

From a direct increase in output of \$17 million the corresponding creation of direct jobs is estimated at 39 jobs. Additionally a further 48 jobs will be created as a result of employment creation occurring as a result of the indirect and consumption effects. Meaning total employment for this development (direct, indirect and consumption) is 87 jobs.

A significant proportion of the vegetation on the site is proposed to be removed to facilitate the development. A seven part test was submitted and Council's Natural Resources team has assessed the proposal. The independent peer review commissioned by Council concurs with the recommendation and its validity and that in a procedural sense, an SIS not needed.

The submitted Flora and Fauna Report and Council's Natural Resources assessment suggests that the most significant fauna impact of the development is on koala and most significant flora impact is likely to be *C. doweringii* (Red Helmet Orchid) which are endangered and vulnerable species respectively under the Threatened Species Conservation Act 1995.

Council's Natural Resources assessment stated approval of the DA is not recommended at this stage for these reasons and also requested a Species Impact Assessment be undertaken.

In accordance with Councils standard approach and, in fact, regarded as the best practice development assessment process, the assessing planner considers all advice received and makes a determination on balance. The assessing planner is the project manager and is not legally obliged to concur with internal specialist advice. The assessing planner is required to consider all advices which at times may conflict, hence why one party with a line of site across all issues is required. Where it is justified and legally robust, it is not uncommon for the assessing officer to respectfully not adopt internal advice. This is consistent with the principles of the current state government planning reform agenda and the currently very active town planning cultural change initiatives.

The site can be described as partially disturbed land with various weed invasion, introduced species and bushfire Asset Protection Zone (APZ) disturbance. No physical ground connectivity to the site exists except for Bowling Club car park entry. Recent development, namely the Ash Street residential development removed a key fauna linkage to the site (removal of approximately 18 Koala feed trees) and via subsequent residential fencing practically isolated the subject property for movement by larger ground mammals such as Koalas.

The submitted Seven Part Test by Wildthing Environmental Consultants July 2013 states in relation to the habitat:

"The site is believed to provide habitat for a number of native fauna species, however it is recognised that due to the relatively small size of the site and

isolation as a result of surrounding development the habitat quality has been markedly reduced"

"Considering the level of surrounding development within the locality, native habitat within the site would be subject to a considerable amount of isolation from other areas of habitat. More mobile species such as birds, Flying Foxes and Microchiropteran Bats would be the most likely fauna to utilise the site

In relation to Endangered Ecological Communities, the report states the Coastal Sand Apple/Swamp Open Forrest has a number of similarities to and is likely a disturbed example of the Endangered Ecological Community Swamp Sclerophyll Forest. The report does note the proposal is unlikely to place the local occurrence of this community at risk of extinction.

It is acknowledged in the report that Koalas have frequented the site. Access to the site has recently been restricted via residential fencing which doesn't allow free movement of Koalas to the site. The proposal will remove the majority of vegetation including Koala foraging species (approximately 18 feed trees). There is some scope for replacement planting on site and the recommended conditions of consent recommend forty (40) replacement trees.

The report states *"the proposal will result in an incremental decline of primary Koala habitat in the local area. However, considering the difficulty in currently accessing the site for Koalas and recent loss of an area of preferred Koala habitat that joined the site to the south and recommendations of compensatory plantings the impact on the local Koala population would be reduced"*.

The report states the *"proposal is likely to result in the removal of all specimens of C. dowlingii from the site resulting in an incremental reduction in the local population of the orchid species. Without any active protection for C. dowlingii on site such as weed control by experienced bush regenerators and restricted access to areas of suitable habitat the long-term survival of C. dowlingii on site would be unlikely. Considering the presence of larger local populations of C. dowlingii within Stoney Ridge Reserve and Lemon Tree Passage and the current land practices on site the proposal is unlikely to significantly place any viable local populations of this orchid species at risk of extinction"*.

Whilst the site does support threatened flora and fauna, extenuating circumstances primarily being the nature of surrounding development has detrimentally isolated the site and the key species (Koala and *C. dowlingii*) as identified in the submitted report.

For the above reasons it is considered that the request for a Species Impact Statement is not required. Based on the information contained in the submitted Flora & Fauna report it is considered the impact on the identified Threatened Flora and Fauna species is already stated and the definition of what is a 'significant' impact is a highly subjective matter, and a decision which is within Council's jurisdiction. Council sought expert external advice that confirmed an SIS is not needed.

It is considered that an appropriate assessment with respect to S79C and Part 5A of the Environmental Planning & Assessment Act 1979 has been undertaken with the information submitted.

Furthermore, should the application be approved appropriate conditions of consent shall be imposed to ensure that the site will be managed appropriately during construction to mitigate any potential environmental impacts.

CONSULTATION

In accordance with Council's Notification Policy, adjoining neighbours were notified of the proposed development and the application was advertised. In response, **seven (7) submissions** were received. It is noted that one submission from the Tomaree Residents and Ratepayers Association generally supports the proposal. It is noted the previous application (16-2010-980-1) received eleven (11) submissions. The following points of objection were raised in the submissions with subsequent planning comment:

- Neighbour Privacy, Overshadowing and Amenity

Comment

Privacy, overshadowing and amenity has been considered in the assessment of the application. The overlooking from proposed dwellings onto neighbouring dwellings private open space is of concern to some neighbours. This privacy implication is considered to be appropriately mitigated due to the large boundary setbacks of the buildings (10m north, 5m-13m west, 8m south, Bowling Club car park to the east). In addition, privacy screens have been added to decks on the northern elevation of Block E, which has balconies facing residential development to the north of the site. Screen tree plantings along this elevation will also help alleviate privacy issues and minimise impact.

Shadow diagrams submitted with the application indicate all surrounding properties will maintain at least three hours of sunlight to their private open space between 9am and 3pm midwinter.

- Noise

Comment

The development is not expected to generate noise greater than what is experienced in any other residential development. The building setbacks from boundaries are greater than the minimum setback for other residential development. The development is not expected to generate any offensive noise.

- Impact on Flora and Fauna

Comment

This is discussed in detail in Attachment 2. In summary, there will be a loss of habitat however on balance of all factors relating to the proposal, the development is considered appropriate.

- Objection to Permissibility of Development

Comment

The proposed use permissible development pursuant to the Site Compatibility Certificate issued by the Director General of NSW Planning and Infrastructure dated 15 November 2013 under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

- Access and Traffic

Comment

The proposal has been assessed with respect to access and traffic and the proposal provides for adequate parking, vehicle manoeuvring (including servicing and community vehicles) and access to the public road network.

- Height, Bulk and Scale

Comment

It is noted that the site has no required height limit given it is not zoned residential. Height, bulk and scale must be assessed on merit. This is discussed in detail in Attachment 2. In summary, the bulk and scale of building with respect to neighbouring development, site topography, setbacks to road networks and public places is considered acceptable in this instance.

- Concern regarding access to Bowling Club site through Ash Street development.

Comment

The walkway is not subject of this application however it is likely there will be a raised pedestrian walkway through the Ash Street detention basin to access the Bowling Club. Council has already resolved at a meeting in February 2014 to support the walkway through the detention basin.

OPTIONS

- 1) Adopt the recommendation;
- 2) Defer the Development Application and seek additional information;
- 3) Refuse the Development Application.

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment;
- 3) Conditions;
- 4) Peer Review of Assessment.

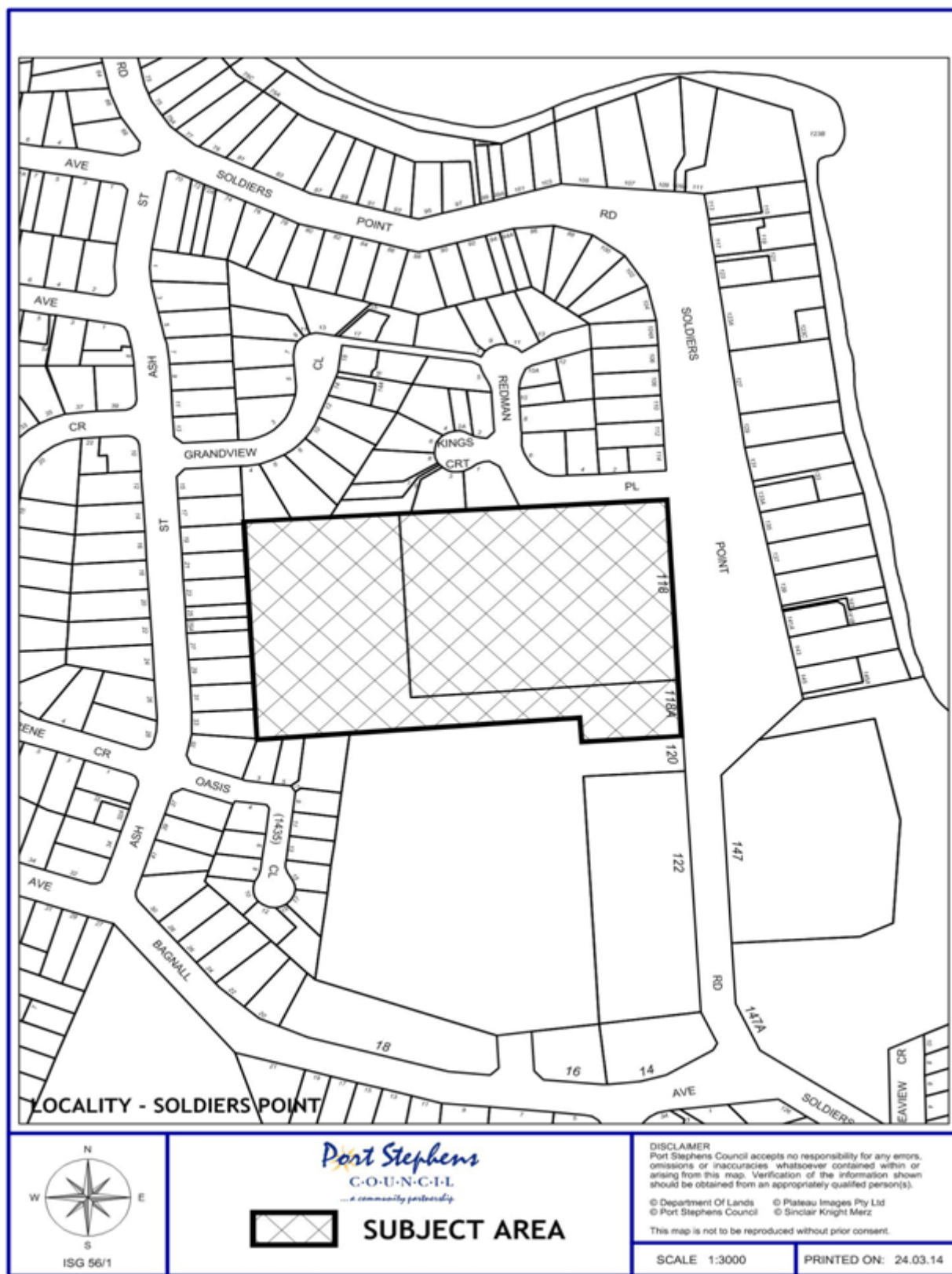
COUNCILLORS ROOM

- 1) Statement of Environmental Effects including sub reports;
- 2) Development Plans.

TABLED DOCUMENTS

- 1) Site Plans.

ATTACHMENT 1 LOCALITY PLAN



ATTACHMENT 2

ASSESSMENT

The application has been assessed pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and the following is a summary of those matters considered relevant in this instance.

THE PROPOSAL

The proposal comprises a three-staged development of six (6) separate Seniors Living building blocks which includes one hundred (100) Seniors Living Self-Care Units and associated community facilities.

Stage 1 involves the construction of Block A (three-storey, ground level parking) on the southern part of the site and includes twenty (20) two-bedroom units and Block B which includes the three-storey Community Building and Pool and six (6) one bedroom units. Stage 1 also includes the construction of thirty seven (37) car parks along the eastern edge of the development adjacent to the existing Bowling Club car park.

Stage 2 involves the construction of Block D and E (stepped 3-storey buildings) which includes two (2) three-bedroom units, twenty eight (28) two-bedroom units and eleven (11) one-bedroom units and associated parking.

Stage 3 completes the development and involves the construction of Block C and F (three storey semi-detached buildings) which includes the construction of thirteen (13) three-bedroom units, fifteen (15) two-bedroom units and five (5) one bedroom units and associated parking.

THE APPLICATION

Owner	Soldiers Point Bowling Club Ltd
Applicant	Nicholas Sovechles C/- Soldiers Point Bowling Club Ltd
Detail Submitted	Statement of Environmental Effects including sub-consultant reports Development Plans

THE LAND

Property Description	The site is located off Soldiers Point Road and the majority of works is proposed on the allotment directly behind the existing Bowling Club. The site is heavily vegetated and slopes up to the north west of the site. The site is bordered by residential development on the north and west and caravan park on the south.
Address	118 & 118A Soldiers Point Road Soldiers Point

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Area	34,000m ² (approx.)
Dimensions	240mx140m (inclusive of existing Bowling Club site)

Site Description

The site is located off Soldiers Point Road and the majority of works is proposed on the allotment directly behind the existing Bowling Club. The site is heavily vegetated and slopes up to the north west of the site. The site is bordered by residential development on the north, south and west and also a caravan park to the south.

Site Constraints

The most noticeable site constraint is the significant amount of vegetation ranging from large trees to some undergrowth and managed grassland with scattered trees on the lower ground. The site is also bushfire prone and is tagged as Koala Habitat. The land is classed as Acid Sulfate Soils Class 4 and 5. Class 4 relates to work below 2m of natural ground level and Class 5 relates to work within 500m of an adjacent class.

Surrounding Development

The site is bordered by residential development on the north, south and west and caravan park to the south.

THE ASSESSMENT

HISTORY

Site History:

Soldiers Point Bowling Club has been operating on the site for over 30 years. Various alterations, additions and modifications to the Bowling Club and associated facilities have been approved on the site.

Relevantly, Development Application (16-2010-980-1) for a similar proposal on the site was lodged in December 2010. This application was withdrawn by the applicant in September 2011 in response to a number of assessment matters that were not able to be resolved.

Whilst similar in concept to the previous application, the current application has been amended in a number of ways in response to the matters. Including updated ecological assessment.

DA History:

DA lodged: 9 December 2013

INTERNAL REFERRALS

Engineering (Including Traffic)

Recommendation: Approval subject to conditions

Building

Recommendation: Approval subject to conditions

Natural Resources

Recommendation: Request applicant submits a Species Impact Statement to address impact on Koala, hollow bearing trees and *C. dowlingii* (Red Helmet Orchid).

Comment

Refer Natural Environment Section Below

Community Planning (Access & Disability)

Recommendation: Approval subject to conditions

EXTERNAL REFERRALS

NSW Rural Fire Service

The development is identified as integrated under clause 91 of the EP&A Act 1979 and S100B of the Rural Fires Act 1997. A referral to the NSW Rural Fire Service is required under Section 100B of the Rural Fires Act, 1997.

This referral was made on the 12th December 2013. A Bushfire Safety Authority was issued on the 15th January 2014 with no General Terms of Approval required.

STATUTORY PROVISIONS

Environmental Planning and Assessment Act 1979.

Clause 91 – The development is identified as integrated under these provisions given the site is mapped as bushfire prone. A referral to the NSW Rural Fire Service is required under Section 100B of the Rural Fires Act, 1997.

This referral was made on the 12th December 2013. A Bushfire Safety Authority was issued on the 15th January 2014 with no General Terms of Approval required.

State Environmental Planning Policies (SEPP)

SEPP 44 - Koala Habitat Protection

The SEPP applies to the proposal. The application has been assessed with respect to the SEPP. Refer to Natural Resources Section for further comment.

SEPP 71 – Coastal Protection

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

SEPP – (Housing for Seniors or People with a Disability) 2004

Clause 24

Site Compatibility Certificate

A Site Compatibility Certificate has been issued by the Director General NSW Planning & Infrastructure dated 15 November 2013 for the development under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004. This Certificate effectively permits the development subject to the following stated requirements;

1. *Regarding the provision of on-site services, in order to satisfy the requirements of the SEPP, the applicant will need to provide the following information with the development application:*
 - a. *names of the service provider/s that will provide the services/s.*
 - b. *the terms under which the services are to be provided, and*
 - c. *confirmation that the services will be provided for the life of the development.*
 1. *This information should be evidenced by a servicing management plan and draft contracts with the relevant service providers;*
2. *Building height, bulk and scale are to be determined as part of the development assessment process, noting the need for the development to be compatible with surrounding development;*
3. *Access to local services shall be provided via a 'suitable access pathway', as defined in the SEPP; and*
4. *Impact upon a threatened species, population or ecological community, or its habitat, must be considered as part of development assessment, and if necessary through consultation and concurrence of the Office of Environment and Heritage.*
 - 2.

Comment

A Draft Servicing Management Plan with relevant service providers has been submitted with the application.

Building height, bulk and scale has been assessed and is discussed elsewhere in this report and is considered acceptable.

A suitable access pathway is 'a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like'. The development has been assessed with respect to accessibility and is considered to comply with the intent of the accessibility clause and is provided with suitable links to public transport and other appropriate internal linkages.

Ecology has been considered as part of the assessment and is discussed elsewhere in this report.

Schedule 1 – Assessment Criteria

The development has been assessed against the following relevant criteria outlined in Schedule 1 of the SEPP.

Site Compatibility Certificate

The proposal is considered to comply with the section. The development has appropriate location and access to facilities, is suitable with respect to bush fire threat and has available water and sewer facilities as required by the section.

Design Requirements

The proposal is considered to comply with the section. Design requirements, neighbourhood amenity, streetscape, visual and acoustic privacy, solar access, stormwater, crime prevention and accessibility has been considered in the design and assessment of the application.

Development Standards to be complied with

The proposal complies with the minimum lot size and frontage requirements of this section.

Development on land adjoining land zoned primarily for urban purposes

This section details requirements for such development to be provided with servicing and facilities such as home nursing and assistance, transport to local services, availability to facilities and services.

The development is considered to be able to comply with this section.

Standards concerning accessibility and useability for hostels and self-contained dwellings AND Additional Standards for Self-Contained Dwellings

These sections outline standards including security, letterboxes, car parking, accessibility of entry points and internal design of dwellings. The development is considered to comply with the section.

In addition, a comprehensive Disability Access Report (Lindsay Perry Access & Architecture, 18 February 2014) has been provided with respect to access and disability standards in the SEPP and the SEPP Guideline. The recommendations in the report are conditioned in the draft conditions of consent.

Port Stephens Local Environmental Plan 2000 (PSLEP 2000)

The development application was lodged 9 December 2012, while Port Stephens Local Environmental Plan 2000 (PSLEP2000) was still in force. PSLEP 2000 is therefore the primary Local Environmental Plan for which the application is to be assessed under.

The site was zoned 6(c) Special Recreation pursuant to PSLEP2000.

Clause 29 Recreation zonings

The 6(c) Special Recreation zone description states;

The Special Recreation "C" Zone includes privately and publicly owned land used for recreational purposes such as licensed clubs, golf courses, bowling clubs and the like.

Comment: Whilst the development is not for a recreational purpose, it is considered compatible with the existing use on the land, being the Bowling Club. For further compatibility/permisibility information refer to State Environmental Planning Policy - (Housing for Seniors or People with a Disability) 2004 section above.

The 6(c) Special Recreation zone objectives states;

The objectives of the Special Recreation "C" Zone are to enable privately and publicly operated recreational development in suitable and accessible localities and to ensure facilities do not reduce the amenity of the locality or its environmental quality.

Comment: Seniors Living as a form of residential development is not listed as permissible development under the clause, however the development is considered permissible development subject to the Site Compatibility Certificate dated 15 November 2013.

Clause 42 – Development along arterial roads

The development is considered appropriate with respect to the clause. Traffic volumes and the nature of traffic generated by the development has been assessed by the applicant and Council with no adverse impacts identified.

Clause 44 - Appearance of land and buildings

The intent of this clause is to ensure development is appropriate with respect to views, vistas and the built and natural environment. The development is considered to be consistent with the clause for reasons discussed elsewhere in this report. In summary, the site distance of the proposed buildings to main roads, lack of building dominance over predominant public or private view points and the integration of buildings into the ground (cut) provide an acceptable appearance with respect to the clause.

Clause 47 – Services

The proposal is consistent with the clause. All essential services are readily available to the site.

Clause 51A - Development on land identified on Acid Sulfate Soils Planning Map

The development site is identified as Class 4 and Class 5 Acid Sulfate Soils (ASS). Class 4 relates to works below 2m of Natural Ground Level, and Class 5 relates to works adjacent to any other class.

Cut and fill is required on the northern buildings blocks. Particularly Blocks D and E require cut into the higher part of the site

The majority of cut is located in Class 5 ASS. The required cut as identified on the development plans for Block E ranges from 2m-6m and averages approximately 3m. An analysis of the topography of the site with respect to the ASS Planning Map determined that the required cut is unlikely to reach a depth that is mapped as likely to experience Acid Sulfate Soils.

Given these depths it is considered unlikely that the development will expose or disturb Acid Sulfate Soils. A condition will be included to cover the unlikely event that Acid Sulfate Soils are disturbed.

Other LEP Considerations

PSLEP 2000 does not specify development standards for maximum Height, Floor to Space Ratio (FSR) or Density on the site given the land is not zoned residential.

In effect, these variables must be assessed on merit and with respect to any other requirements in SEPP (Housing for Seniors of People with a Disability) 2004.

The surrounding residential land has a maximum building height of 9m, minimum site area per dwelling of 500m² and maximum FSR of 0.5:1.

The northern building Blocks C, D and E are stepped into the higher ground and effectively achieve 5 stories but no more than 3 stories (at 'mid-block') in any one section. The maximum height of all the buildings above the existing ground level is 3 stories. The height of all building is considered acceptable.

The gross floor area of the development is approximately 7600m² which equates to a FSR of less than 0.5:1.

The density and FSR of the site is considered appropriate given all units achieve suitable amenity and services and the development complies with the Development Control Plan and SEPP - (Housing for Seniors or People with a Disability) 2004.

It is noted that Clause 50 of the SEPP outlines 'Standards that cannot be used to refuse development consent for self-contained dwellings' and in this regard the FSR standard is 0.5:1 and the development complies with this standard.

Port Stephens Local Environmental Plan 2013 (PSLEP 2013)

At the time of lodgement, PSLEP 2013 was in Draft form. Subject to S79C(1)(a)(ii) of the NSW Environmental Planning & Assessment Act 1979, the Draft LEP should be considered in the assessment of the application.

Consideration of the proposal with respect to PSLEP2013 has been undertaken.

The land is zoned RE2 – Private Recreation under PSLEP 2013. Similarly to the provisions of PSLEP2000, the proposal would remain permissible under PSLEP 2013 under the provisions of the Site Compatibility Certificate.

There are no other relevant clauses of PSLEP2013 that relate to the development.

POLICY PROVISIONS

Port Stephens Development Control Plan 2007.

The application has been assessed against the relevant provisions of Port Stephens Development Control Plan, 2007, as follows:

B2 - Environmental and Construction Management

The application has been assessed against the applicable provisions of Port Stephens Development Control Plan, 2007 –B2 Environmental and Construction Management, and considered satisfactory with regards to the section.

B3 - Parking and Access

The application is considered satisfactory with regards to B3 – Parking and Access.

Section B3.8 – Number of Parking Spaces

The total number of car parking spaces is referred to in section B9 of the DCP.

For self-contained dwellings, 0.5 spaces are required for each bedroom, with a minimum of 1 space per dwelling. One visitor space per 5 units or part thereof is required.

For the development, this equates to:

- 100 spaces for the 100 units plus;
- 7.5 (say 8) additional spaces for the 15 units with three bedrooms plus;
- 20 visitor spaces.

The development provides 128 spaces which complies with the DCP requirement. It is noted the DCP requirement is the same as the SEPP requirement.

B9 – Seniors Living

The application has been assessed against the applicable provisions of Port Stephens Development Control Plan, 2007 – Seniors Living, and considered satisfactory with regards to the section.

C10 – Disability Access

In accordance with the requirements of chapter C10, the application was accompanied by an Access Report (Lindsay Perry Access & Architecture, 18th February 2014). The report indicates the development complies with the required standards for access. The development is to be conditioned to comply with the recommendations of this report.

SECTION 94 CONTRIBUTIONS

The application, should it be approved would attract the following Section 94 Contributions payable prior to the issue of a Construction Certificate –

	Per Lot	Total
Civic Administration	(\$558)	(\$55,750)
Public Open Space, Parks and Reserves	(\$1156)	(\$115,600)
Sports and Leisure Facilities	(\$2726)	(\$272,600)
Cultural and Community Facilities	(\$1370)	(\$137,000)
Roadworks	(\$308)	(\$30,780)
Fire & Emergency Services	(\$111)	(\$11,100)
		100 Units
		Total: \$622,830

Whilst some development categories levy a S94A of 1% of the cost of development, Seniors Living development is a specified development type in Port Stephens Section 94 Development Contributions Plan 2007 and is levied at 50% of the specified rate for all infrastructure categories except roadworks which is levied at 20%.

Options into the pedestrian walkway linkage through the Ash Street development stormwater detention basin are currently underway. There has been previous commitment from Soldiers Point Bowling Club to pay a proportion of the cost of the walkway.

The final cost of the walkway is unknown at this stage but it is noted that Council will have the opportunity to approve (subject to further Council report and meeting) a reduction in the above S94 contribution equal to the Bowling Club's walkway contribution on the basis that the walkway would be providing net community benefit and connectivity to facilities and services in the locality.

Any implications of such reduction would be detailed in a future report. The above S94 figures are included in the draft conditions of consent,

LIKELY IMPACTS

Built Environment

Adjoining Properties

The construction of the proposed development at the subject site is considered unlikely to result in any ongoing adverse impacts upon adjoining properties.

The type of development (Seniors Living) is not a land use that is expected to produce noise impacts. Privacy impacts, where identified are considered to be reasonably mitigated to a level that can be reasonably expected in an urban environment. The addition of architectural privacy screens and screen-tree planting mitigates impacts between the development and existing residents of dwelling to the north. Privacy impacts on the south and west are considered lesser due to the orientation of building away from those dwellings and no private open space areas of proposed units facing these elevations,

Streetscape and Amenity

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon the local streetscape and amenity of adjoining properties.

Whilst it is acknowledged the development will change the nature of the immediate locality with the removal of large trees and the development of large buildings, the streetscape is not considered to be detrimentally affected for what is primarily an urban environment. The building is considered to be well sited and designed with respect to the topography of the land.

Similarly, the amenity of adjoining properties is not expected to be detrimentally affected or produce an impact greater to that which is reasonably expected in an urban environment.

Landscaping

The applicant has provided a landscape plan, prepared by a suitable professional.

The landscape plan has been amended during the assessment to include endemic species to the area and the retention of seven (7) hollow bearing trees.

Whilst the capacity to retain the majority of vegetation on the site is removed, the landscape plan is considered appropriate for the development.

Should the application be approved additional conditions of consent with respect to koala feed tree planting and other conditions relating to ecology will be imposed.

Views

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon existing views of neighbouring properties.

Local vistas are generally to the east towards Port Stephens. Currently properties to the west of the site do not have the benefit of these views. The development will not impact views from these properties. Similarly, existing views for northern adjoining properties will not be affected.

Access and Traffic

The proposed development utilises the existing Bowling Club access off Soldiers Point Road.

As the proposal is not considered likely to generate significant additional traffic to the existing road network, the development is considered satisfactory with regards to Access, Transport and Traffic.

Natural Environment

A significant proportion of the vegetation on the site is proposed to be removed to facilitate the development. A seven part test was submitted and Council's Natural Resources team has assessed the proposal.

Council's Natural Resources assessment of the DA stated approval is not recommended at this stage for a number of ecological reasons.

The submitted Flora and Fauna Report and Council's Natural Resources Assessment suggests that the most significant fauna impact of the development is on Koala and most significant Flora impact is likely to be *C dowlingii* (Red Helmet Orchid) which are Endangered and Vulnerable species respectively under the Threatened Species Conservation Act 1995.

The submitted Seven Part Test (Wildthing Environmental Consultants, July 2013) indicates that there is evidence of previous Koala activity on the site and it also acknowledges presence of Koala habitat and feed trees. Similarly the report details evidence of *C dowlingii* throughout the site.

Site assessment comment – Planning

The site can be described as partially disturbed land with various weed invasion, introduced species and bushfire Asset Protection Zone (APZ) disturbance. The Flora and Fauna Report confirms the vegetation consists of Coastal Sand Apple/Swamp Open Forrest and Smooth-barked Apple-Red Bloodwood – Forrest Oak Open Forrest. The site is not mapped on Council's system as Endangered Ecological Community however the Flora and Fauna Report states the Coast Sand Apple/Swamp Open Forrest has a number of

similarities to and is likely a disturbed example of the Endangered Ecological Community Swamp Sclerophyll Forest.

A large area of the understorey of the Coastal Sand Apple/Swamp Open Forrest has been removed and replaced with introduced grassed and maintained parkland type land with barbeque and seating areas and a number of introduced tree species.

No physical ground connectivity to the site exists except for Bowling Club car park entry. Site inspection confirmed that the site is fully bordered by 1.8m high colorbond fencing, effectively restricting the free movement of koalas to the site. There is some evidence that Koalas are continuing to access the site under some fencing panels that are not touching the ground.

Recent development, namely the Ash Street residential development removed a key fauna linkage to the site (removal of approximately 18 Koala feed trees) and via subsequent residential fencing practically isolated the subject property for movement by larger ground mammals such as Koalas.

Proposal

The proposal will remove the majority of vegetation from the site. There are potential areas for tree retention to the west of proposed Block B and on the boundaries. It is likely that the majority of *C. dowlingii* will be removed from the site along with 'up to 17 Koala feed trees', a number of hollow bearing trees and various other existing native and some introduced species.

Seven Part Test (Flora and Fauna Report)

The submitted Seven Part Test by Wildthing Environmental Consultants July 2013 states in relation to the habitat:

"The site is believed to provide habitat for a number of native fauna species, however it is recognised that due to the relatively small size of the site and isolation as a result of surrounding development the habitat quality has been markedly reduced"

"Considering the level of surrounding development within the locality, native habitat within the site would be subject to a considerable amount of isolation from other areas of habitat. More mobile species such as birds, Flying Foxes and Microchiropteran Bats would be the most likely fauna to utilise the site"

In relation to Endangered Ecological Communities, the report states the Coastal Sand Apple/Swamp Open Forrest has a number of similarities to and is likely a disturbed example of the Endangered Ecological Community Swamp Sclerophyll Forest. The report goes on to state the proposal is unlikely to place the local occurrence of this community at risk of extinction.

In relation to threatened species, the report states that *C. dowlingii* (Red Helmet Orchid) is the only threatened or rare flora species found on site. The threatened fauna species recorded on site are East Coast Freetail Bat, Glossy Black-Cockatoo and Koala.

The report states that in relation to the East Coast Freetail Bat and Glossy Black Cockatoo, the proposal is unlikely to place any viable local populations of these mobile species at risk of extinction.

Koala

It is acknowledged in the report that Koalas have frequented the site. Access to the site has recently been restricted via residential fencing which doesn't allow free movement of Koalas to the site. The proposal will remove the majority of vegetation including Koala foraging species (approximately 18 feed trees). There is some scope for replacement planting however given the isolated nature of the site; the (beneficial) impact of this would be reduced.

The report states *"the proposal will result in an incremental decline of primary Koala habitat in the local area. However, considering the difficulty in currently accessing the site for Koalas and recent loss of an area of preferred Koala habitat that joined the site to the south and recommendations of compensatory plantings the impact on the local Koala population would be reduced"*.

Red Helmet Orchid

The report states the *"proposal is likely to result in the removal of all specimens of C. dowlingii from the site resulting in an incremental reduction in the local population of the orchid species. Without any active protection for C. dowlingii on site such as weed control by experienced bush regenerators and restricted access to areas of suitable habitat the long-term survival of C. dowlingii on site would be unlikely. Considering the presence of larger local populations of C. dowlingii within Stoney Ridge Reserve and Lemon Tree Passage and the current land practices on site the proposal is unlikely to significantly place any viable local populations of this orchid species at risk of extinction"*.

The request for a Species Impact Statement is understood to be for the purpose of a targeted investigation of impact of the development on threatened species. It is considered the submitted Seven Part Test outlines the likely impacts on the identified threatened Flora and Fauna species. In particular it is considered the report addresses the impact on Flora and Fauna, if not in as much detail as an Species Impact Statement but appears to make reasonable conclusions, in this case in relation to the Red Helmet Orchid and Koala.

Conclusion

Whilst the site does support threatened flora and fauna, extenuating circumstances primarily being the nature of surrounding development has detrimentally isolated the site and the key species (Koala and *C. dowlingii*) as identified in the submitted report.

For the above reasons it is considered that the request for a Species Impact Statement is not required. Based on the information contained in the submitted Flora & Fauna report it is considered the impact on the identified Threatened Flora and Fauna species is already stated and Council can make an informed and appropriate assessment. The definition of what is a 'significant' impact is a highly subjective matter, and a decision which is within Council's jurisdiction.

It is also considered that the applicant has demonstrated an increased compliance with elements of the Comprehensive Koala Plan of Management via retention of additional trees within boundaries and the provision of an updated landscaping plan, tree retention and hollow bearing tree retention plan.

It is considered that an appropriate assessment with respect to S79C and Part 5A of the Environmental Planning & Assessment Act 1979 has been undertaken with the information submitted.

Furthermore, should the application be approved appropriate conditions of consent shall be imposed to ensure that the site will be managed appropriately during construction to mitigate any potential environmental impacts.

The external peer review confirms that an SIS is not needed.

Water

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon existing water within the locality.

Noise

The construction of the proposed development at the subject site is considered unlikely to result in any adverse acoustic impacts within the locality.

Social and Economic Impacts -

The construction of the proposed development at the subject site is considered unlikely to result in any adverse social or economic impacts upon the local community.

SUITABILITY OF THE SITE

The Site Compatibility Certificate relevantly states:

I, Director General of the Department of Planning and Infrastructures determine the application made by RPS on 16 September 2013 by issuing this certificate under clause 25(4)(a) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability (2004).

I certify that in my opinion:

- the site described in Schedule 1 is suitable for more intensive development; and*
- the development described in Schedule 1 is compatible with the surrounding environment having had regard to the criteria specified in clause 25(5)(b); and*
- that the development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding land uses only if it satisfies certain requirements specified in Schedule 2 of this certificate.*

On balance of all social, economic and environmental issues relating to the development the site is considered to be suitable for the proposed development.

All requirements under the Site Compatibility Certificate have been considered in the assessment of the application, as have the requirements of S79C of the Environmental Planning and Assessment Act 1979 and the site is therefore considered suitable for the development.

PUBLIC INTEREST

Similarly to above, the approval of the application is considered to be in the public interest. The need for Seniors Housing is highlighted as a growing need in the NSW and particularly in localities such as Port Stephens that has a higher than average retirement age population.

**ATTACHMENT 3
CONDITIONS OF CONSENT**

1. Development Consent is granted for a staged development of a Self-Care Senior Living development as indicated on the approved plans and documentation.
2. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
3. All building work must be carried out in accordance with the provisions of the Building Code of Australia and the Premises Standard.
4. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
5. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
6. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
 - * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L10 level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.
7. It is the responsibility of the applicant to erect a PCA sign and to ensure the PCA sign remains in position for the duration of building works.
8. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures

have the potential to pollute the waterways and degrade aquatic habitats. Offenders will be issued with an 'on the spot' fine under the Protection of the Environment Operations Act 1997.

Note: Erosion and sediment control measures prepared in accordance with the Erosion and Sediment Control Regional Policy and Code of Practice or Managing Urban Stormwater – Soils and Construction produced by Landcom 2004, need to be maintained at all times. A copy of Landcom 2004 bluebook may be purchased by calling (02) 98418600.

9. Landscaping shall be carried out in accordance with the approved Landscape Plan. A qualified landscape designer must provide a compliance certificate to the Principal Certifying Authority certifying that the landscaping has been carried out in accordance with the approved plan, prior to the issue of the Occupation Certificate. Where Council is not the Principal Certifying Authority, a copy of the certificate must be provided for Council's records.
10. In addition to the plantings indicated on the approved landscape plan, Forty (40) replacement Koala feed trees (minimum 75L pot size) to replace the trees removed from the site shall be planted **prior to the issue of the occupation certificate**, in a suitable alternative location agreed Council. Replacement trees are to be maintained to maturity through use of mulch and watering to achieve their natural height.
11. A fauna ecologist shall be employed to supervise the removal of all trees and to advise the site manager and tree clearing staff of any habitat potential and precautions necessary during tree felling. The following strategies need to be employed to mitigate the effect of this clearing on native fauna that occur on the site:
 - Prior to removal of habitat trees licensed wildlife carers or consultants shall relocate any fauna species.
 - A hollow bearing tree plan is to be submitted to Council prior to issue of a construction certificate
 - Clearing of hollow-bearing and nesting trees should be restricted to Autumn or Winter months so as to avoid dislocation of wildlife during breeding seasons.
 - Remove and modify hollows and nests from felled trees and re-establish these on the site or as near as possible to the site to provide compensatory habitat. This could include mounting of hollows& nests on trees or poles, or on other buildings or structures.
 - Where original hollows cannot be retained, artificial nesting boxes must be provided to provide compensatory habitat at a ratio of 2:1.
 - In circumstances where native fauna is detected during the removal of habitat trees, clearing should cease until a licensed wildlife carer or consultant relocates the fauna species.

- Should a threatened species be positively identified, all clearing works shall cease until a plan of management for the possible relocation of the species has been approved by council in consultation with the Office of Environment & Heritage.
 - Where in spite of precautions, wildlife is injured, the fauna ecologist is to take the necessary action to treat the animal, which may include veterinary treatment or transfer of the animal to a volunteer wildlife carer group such as the Native Animal Trust Fund or Hunter Koala Preservation Society.
12. All tree protection works including protective fencing shall be carried out before excavation, grading and site works commence. Stockpiling or storage or mixing of materials, vehicle parking, disposal of liquids/materials shall not occur within the dripline of trees identified to remain on the site.
13. The common fencing along the southern boundary of the site and the Ash Street development stormwater detention area shall be modified to allow the potential for safe movement of koalas to the site. The preferred option for minimising restrictions to safe koala movement is that there be no fencing, however noting the need for some site security suitable fencing may include:
- i. fences where the bottom of the fence is a minimum of 200mm above ground level that would allow koalas to move underneath;
 - ii. fences that facilitate easy climbing by koalas; for example, sturdy chain mesh fences, or solid style fences with timber posts on both sides at regular intervals of approximately 20m; or
 - iii. open post and rail or post and wire (definitely not barbed wire on the bottom strand).
14. Prior to occupying the approved Seniors Living dwelling(s), contact Council's Mapping Section via email at: addressing@portstephens.nsw.gov.au stating your Development Approval number, address of the property and the assessing officer, to obtain the correct house numbering. Be advised that any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.
15. The development shall provide 128 on-site car parking spaces, including disabled parking spaces. These spaces shall be separately accessible, clearly line-marked (disabled spaces clearly signposted) and adequately paved and drained in accordance with the Section B3 – Parking, Traffic and Transport, of Port Stephens Development Control Plan 2007. Car parking must be provided prior to the issue of the occupation certificate or use of the development.
16. The development shall comply with all recommendations outlined in the Disability Access Report prepared by Lindsay Perry Access & Design dated 18 February 2014.

The qualified access adviser shall certify that the access and facilities has

been constructed in accordance with the submitted design details and report, **prior to the issue of the occupation certificate.**

17. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
18. Advisory signs shall be prominently located adjacent to the stormwater detention area detailing the purpose of the system, the depth indicators and warning of the dangers associated with the detention basin.
19. All civil engineering works shall be carried out in accordance with the Construction Certificate and Council's Design and Construction Specification, Policies and Standards, to the satisfaction of Council or the Certifying Authority prior to issue of the Occupation Certificate.

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

20. A monetary contribution is to be paid to Council, pursuant to section 80A(1) of the Environmental Planning and Assessment Act, 1979 and Section 94 of the Environmental Planning and Assessment Act, 1979 towards the provision of the following public facilities:-

	Per Lot	Total
Civic Administration	(\$557.50)	(\$55,750)
Public Open Space, Parks and Reserves	(\$1156)	(\$115,600)
Sports and Leisure Facilities	(\$2726)	(\$272,600)
Cultural and Community Facilities	(\$1370)	(\$137,000)
Fire & Emergency Services	(\$111)	(\$11,100)
Roadworks	(\$307.80)	(\$30,780)

Total	(\$6228)	(\$622,830)
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Note: a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.

b) Contributions are to be paid prior to **issue of construction certificate for each stage.**

In this instance:	Stage 1 (26 Units)	= \$161,936
	Stage 2 (41 Units)	= \$255,360
	Stage 3 (33 Units)	= \$205,534
	Total (100 Units)	= \$622,830

- c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months from the date of original consent.
21. A Construction Management Plan shall be submitted and approved by Council, **prior to the issue of the Construction Certificate**. The construction management plan shall specify operational details to minimise any potential impact to adjoining properties. The construction management plan should include but not limited to the following information:- Construction techniques, noise and vibration management, storage of equipment and building materials, hours of work:, primary route for truck movements, etc.
22. The trees marked on the approved tree retention plan and hollow bearing tree retention plan shall be retained. The trees must be clearly identified on the site prior to commencement of work. A detailed tree management plan will be submitted for all trees to be retained on site and shall be approved by Council **prior to issue of the Construction Certificate**. The tree management plan will address:-
- SULE Safe Useful Life Expectance
 - Tree protection measures including fence design
 - Tree valuations (community based) using the Draft Australian standard DR 99307 Amenity Trees - Guide to Valuation
 - Remediation of the trees to be retained including pruning and mulching works
 - Tree hazard evaluation form consistent with the International Society of Arboriculture including photographs

ENGINEERING

23. Where car spaces are adjacent to obstructions greater than 150mm, a further clearance of 300mm shall be provided in accordance with Australian Standards AS2890.1:2004. Details shall be submitted and approved by the Certifying Authority **prior to the issue of the Construction Certificate**.
24. The loading bay as shown on Drawing 'DA1201 issue CCC' dated 25/02/14 shall have a minimum length of 8.8m in accordance with AS2890.2-2002. Details shall be submitted and approved by the Certifying Authority **prior to the issue of the Construction Certificate**.
25. Parking spaces 6, 9, 12, 15, 28 and 53 as shown on Drawing 'DA1201 issue CCC' dated 25/02/14 shall be deleted from the design due to lack of turning area. Six (6) replaces parking spaces shall be constructed in the development

to compensate. Details shall be submitted and approved by the Certifying Authority **prior to the issue of the Construction Certificate.**

26. The development shall provide a safe pedestrian connection from the development site to the frontage of Soldiers Point Road. The pedestrian connection shall be separate to that of the vehicle travel path. A 1.2m wide footpath shall be constructed from the development, alongside the battle-axe handle and connect to the footpath within the road reserve in Soldiers Point Road. Grades to be in accordance with the State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**
27. The stormwater detention system shall be designed and built in accordance with the approved concept plan and the table provided below. A staged orifice structure shall be provided that restricts site discharge to pre-developed flows as per the minor and major events listed in the table. Full calculations shall be provided demonstrating that the staged discharge rates are achieved (i.e. minor volume up to minor event discharges at minor discharge rate and volume in excess of minor volume discharges at equal to or below major discharge rate).

The construction detail shall also include details of the location and type of detention system, orifice, pipes, pits, major overland flow path and the discharge point to the public drainage system.

Details shall be submitted and certified by a suitably qualified and practising drainage engineer, and approved by the certifying authority **prior to issue of the construction certificate.**

Average recurrence Interval	PSD (l/s) per site	Storage site specific (m ³) per site
10	150	70.3
100	150	220

28. The stormwater detention system shall include design features in accordance with **Section 8.11 of Australian Standard AS3500.3:2003.**

A Construction Certificate cannot be issued until full details of the stormwater detention system have been provided to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority.

29. A bio-retention basin shall be incorporated into the onsite detention system with a filter area of 100 m² with a filter depth of 0.45m as per the 'water quality assessment' dated 3rd March 2014 by Peter Sullivan & Associates Pty Ltd. The

filter volume shall be additional to the storage volume required for the onsite detention. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**

30. The construction of the bio-retention water quality structure shall be in accordance with the Water by Design – Construction and Establishment Guidelines: swales, bio-retention systems and wetlands Document. Design details shall be approved **prior to issue of the Construction Certificate.**
31. All storm events up to the 1% AEP critical storm duration shall be safely diverted around the retaining walls and conveyed from the North Western corner of the lot to the onsite detention basin via the use of catch drains, storm water pipes and alike. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**
32. A **Soil & Water Management Plan** in accordance 'Managing Urban Storm water; Soils and Construction document, Landcom 2004' is to be prepared by an Engineer whose qualifications are acceptable for membership of the Institution of Engineers Australia (or other professional approved by Council) detailing temporary and permanent measures proposed to be installed and maintained. The plan is to include an analysis of the susceptibility of soil to erosion and is to be submitted with the Engineering plans. Details shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate.**
33. All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional, in accordance with Council's 'Infrastructure Design and Construction Specification – AUS Spec', and Section B of Development Control Plan 2007.

The required works to be designed are as follows:

- a) The bus stop on the western side of Soldiers Point Road approximately 90m south of the development shall be upgraded to ensure it complies with The Disability Discrimination Act 1992.
- b) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
- c) Payment of applicable fees and bonds; and
- d) Contractor's public liability insurances to a minimum value of \$10 million dollars.

The engineering plans must be approved by Council **prior to the issuing of a Construction Certificate required under this consent.**

SCHEDULE 3 – APPROVED PLANS AND DOCUMENTATION

Statement of Environmental Effects report number PR118872 prepared by RPS dated November 2013

Stamped plans prepared by Kevin Snell Architects titled/numbered/dated:

- Site Analysis Plan DA0701 Issue CC dated 27.02.14
- Site Plan DA1003 Issue CCC dated 25.02.14
- Levels Study Plan DA1004 Issue CC dated 27.02.14
- Staging Plan DA1005 Issue CC dated 27.02.14
- Site Tree Retention Plan DA1006 Issue AA dated 25.02.14
- Ground Floor Plan DA1201 Issue CCC dated 25.02.14
- First Floor Plan DA1301 Issue CCC dated 27.02.14
- Second Floor Plan DA1302 Issue CCC dated 27.02.14
- Third Floor Plan DA1303 Issue CC dated 17.02.14
- Fourth Floor Plan DA 1304 Issue CC dated 17.02.14
- Fifth Floor Plan DA1305 Issue CC dated 17.02.14
- Roof Plan DA1404 Issue B dated 26.02.14
- Elevation01 DA1501 Issue CC dated 18.02.14
- Elevation02 DA1502 Issue CC dated 18.02.14
- Elevation03 DA1503 Issue CC dated 18.02.14
- Elevation04 DA1504 Issue CC dated 18.02.14
- Sections1 DA1601 Issue CC dated 18.02.14
- Section2 DA1602 Issue CC dated 18.02.14

Engineering Plans prepared by Michael Fitzgerald Consulting Engineers Pty Ltd Job No. 10-3853:

- Sedimentation & Erosion Control Plan Drawing C4 Issue 1 dated 28.02.14
- Details and Sections Drawing C3 Issue 1 dated 28.02.2014
- Stormwater Outlet Pipe Plan C2 Issue 1 dated 28.02.14
- Stormwater Drainage Plan C1 Issue 1 dated 28.02.14

Water Quality Assessment dated 3.3.14 by Peter Sullivan & Associates Pty Ltd

Bushfire Threat Assessment prepared by RPS dated December 2010

BASIX Certificate Number 517588M

Seven Part Test prepared by Wildthing Environmental Consultants Job No: 12122 dated July 2013

Traffic Assessment Report prepared by TPK & Associates dated December 2010

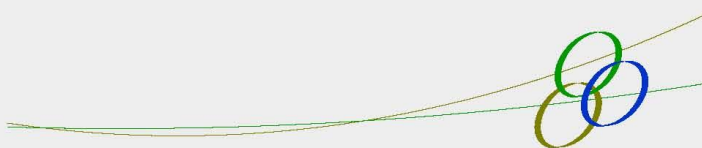
MINUTES FOR EXTRA-ORDINARY MEETING – 15 APRIL 2014

Landscaping Plan prepared by Lee Rowan's Landscaping (as amended by applicant including Hollow Bearing Tree retention Plan), dwrg no. LA3:02
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Disability Access Report prepared by Lindsay Perry Access & Architecture Ref 1413 dated 18 February 2014
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ATTACHMENT 4
Peer Review of Assessment

EPS



10 April 2014

Matthew Brown
Manager Development Assessment & Compliance Port Stephens Council
PO Box 42
Raymond Terrace NSW 2315
Via email: matthew.brown@portstephens.nsw.gov.au

Dear Matthew,

Re: Peer Review of Council Assessment – Soldiers Point Bowling Club Seniors Development

In accordance with Council's brief EPS has undertaken a peer review of the Council Assessment for Soldiers Point Bowling Club Seniors Development.

Council's Brief to EPS

Council requires the services of a suitably qualified and experienced planning and ecological firm to peer review the assessment of the above mentioned development application. The proposal includes a Seniors Development at Soldiers Point, adjacent to the existing Bowling club.

The ecological report submitted with the DA indicates there is no significant impact to threatened species. The assessment of the development to date by Council planning staff has concluded that a species impact statement is not required as it is determined there is no 'significant' impact on the local koala and orchid populations. The internal ecological advice received indicates that an SIS is required. Due to the discrepancy between the planning assessment officer and internal ecological advice, our process is to seek a peer review.

With the peer review, Council seeks clarity that the assessment report is accurate and concurrence that an SIS is not needed. It is noted under the respective legislation this determination is open for Council to make.

The planning assessment report considers referral advice from all disciplines and is intended, on balance, to arrive at a robust planning determination in accordance with section 79C of the Environmental Planning and Assessment Act 1979, balancing social, environmental and economic issues etc.

For background purposes, the following information is attached to be reviewed;

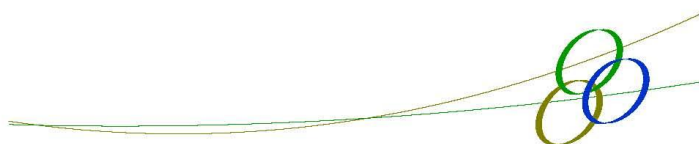
- *The ecological report submitted with the DA*
- *The internal ecological advice*
- *The Council report and s79C assessment*
- *The development plans*

ENVIRONMENTAL PROPERTY SERVICES

Level 33, 264 George St, Sydney NSW 2000
Level 1, 19 Stockton St, Nelson Bay, NSW 2315

Telephone (Sydney): 02 9298 1985
Telephone (Hunter): 02 4981 1600

ABN: 17 143 490 537
Website: www.enviroproperty.com.au



Peer Review Methodology

EPS is an urban planning, environmental and economic consultancy. We advise companies, private individuals, Government and funding agencies throughout Australia. We provide a range of planning, environmental and economic services throughout the project life cycle from initial site identification, assessment and acquisition through detailed design, planning, environmental impact assessment, licencing and compliance, and for relevant projects alternative after use development and enhanced residual development value.

EPS is acutely aware of the dynamic regulatory regime in NSW and we recognise the importance of being up to date or ahead of the changes where possible. EPS's expertise is founded on inter-relating economic, planning, environmental and professional skills that combine to offer a unique package of services.

We consider EPS meets Council's requirement of *a suitably qualified and experienced planning and ecological firm*.

EPS has reviewed the package of information provided by Council. EPS has also undertaken a site visit on 10 April 2014 to confirm site conditions and examine the wider locality.

As part of the peer review EPS has undertaken its own independent research into relevant threatened species and contacted scientific experts to seek advice.

Conflict of Interest Declaration

EPS can confirm that its principals and employees do not:

- Have a non-pecuniary interest in the project or consultancies involved in the preparation of documentation for the project;
- Have any conflict of interest regarding relationships or previous employment with other consultancies involved in the preparation of documentation for the project.

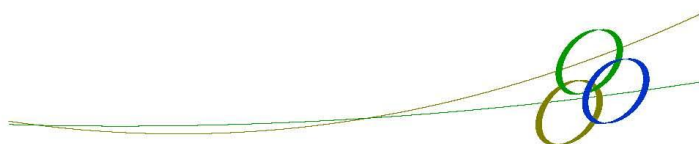
Peer Review Comments

Seven Part Test on Threatened Flora and Fauna (Wildthing Environmental Consultants, July 2013)

The Flora & Fauna Report established the legislative requirements, methodology, field results, considerations under S5A of the *Environmental Planning & Assessment Act 1979*, considerations under the Port Stephens Comprehensive Koala Plan of Management, considerations under the *Environmental Protection & Biodiversity Conservation Act 1999*, lists recommendations and a conclusion, as well as providing relevant flora & fauna species lists and tree details.

The Flora & Fauna Report states:

- *Corybas dowlingii* (Red Helmet Orchid) which is listed as Endangered under the *Threatened Species Conservation Act 1995* was found to occur on site. A number of orchid species with a similar basal leaf structure are known to occur within similar habitats in the local area, including *Corybas aconitifolius*, *Corysanthes primosa*, *Acianthus fornicates* and *Acianthus caudatus*.
- No additional threatened or rare flora species were recorded within the site (fieldwork was outside of the recognised flowering periods for three other threatened orchid species).
- Considering the level of surrounding development within the locality, native habitat within the site would be subject to a considerable amount of isolation from other areas of habitat.



- 14 habitat trees containing hollows were identified. Recommendation for the avoidance of removal of habitat trees where possible is provided, but no specific detail of which trees could be retained is provided.
- A habitat assessment for significant species is provided, identifying a number of moderate to high likelihood of a threatened species occurring within the site.
- A recommendation is to install nest boxes within the adjacent reserve area at a ratio of 2 nest boxes for every hollow removed.
- An inspection of koala feed trees, primarily *Eucalyptus robusta* (Swamp Mahogany) within the site found little evidence of recent koala activity.
- Assessment of the proposal against the Port Stephens Comprehensive Koala Plan of Management recommends replacement of koala feed trees on a 2:1 ratio.
- An ecologist is to be onsite and inspect trees prior to vegetation removal to minimise flora injury.

Comment

EPS considers the main threatened species of concern requiring further assessment have been identified and include the Koala and Red Hooded Orchid. It is considered the justification provided in the report for other matters and the proposed recommendations, such replacement of koala feed trees and nest boxes are suitable, given the assessment information and context of the site.

EPS has prepared individual Seven Part Tests for the Koala and Red Hooded Orchid. A copy of each Seven Part Test is attached. Both Seven Part Tests for the Koala and Red Hooded Orchid conclude that the proposed action **is not likely** to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction.

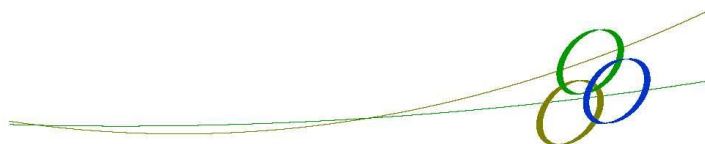
Port Stephens Council Natural Resources Assessment – Internal Ecological Advice

The internal assessment advice refers to information provided for a previous application for the site. EPS has not been privy to this previous information but consideration of the matters raised has been provided where relevant in our own Seven Part Tests.

The internal assessment of the impact on *Corybas dowlingii* appears to have not fully examined the lifecycle of the orchid when considering whether the proposed action is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction. The rationale of the lifecycle and other matters is contained in our Seven Part Test.

The internal assessment of the impact on Koalas states that the local population of Soldiers Point, while still breeding, is under stress and that any loss of vegetation could be significant. The assessment states that a large extent of the local habitat is going to be removed and the removal of the feed trees is likely to affect the long term survival of the local population. The assessment does not comment on the sites isolation as a result of urban development nor comment on the surrounding patch size of vegetated land where the local koala population is recorded as utilising on the NSW Wildlife Atlas. The surrounding vegetated reserves in Soldiers Point in proximity to the site covers well over 60ha, while the area of clearing covers 1.2ha or 2% of the adjacent reserve area. The rationale of the koala assessment for significance is contained in our Seven Part Test.

It is agreed that clarification of the loss of hollow bearing trees should be provided to determine the appropriate number of nest boxes required to offset the loss. This matter can be included as a condition of consent prior to the release of the construction certificate.



Council Report and s79C Assessment

EPS reviewed Council's s79C Assessment Report. EPS did not receive or review other project reports including the Statement of Environmental Effects for the proposal.

Council's assessment report outlines the baseline economic and social benefits of the proposal. The project will result in a relatively large employment opportunity for Soldiers Point and Tomaree Peninsular. The direct and indirect economic effects will also result in positive local and regional economic benefits.

The assessment report incorrectly identifies *Corybas dowlingii* as 'vulnerable' pursuant to the Threatened Species Conservation Act 1995. This species is listed as 'endangered'.

The assessment states:

Whilst the site does support threatened flora and fauna, extenuating circumstances primarily being the nature of surrounding development has detrimentally isolated the site and key species (Koala and C. dowlingii) as identified in the submitted report.

For the above reasons it is considered that the request for a Species Impact Statement is not required. Based on the information contained in the submitted Flora & Fauna report it is considered the impact on the identified Threatened Flora and Fauna species is already stated and the definition of what is a 'significant' impact is a highly subjective matter, and a decision which is within Council's jurisdiction.

It is considered that an appropriate assessment with respect to S79C and Part 5A of the Environmental Planning & Assessment Act 1979 has been undertaken with the information submitted.

EPS peer review of the information provided and through our own assessment concurs with the finding that a Species Impact Assessment is not required.

With regards to consideration of conditions to be imposed, it is considered that a greater benefit to Koalas would be obtained by planting the replacement feed trees off site in wildlife corridors and reserves surrounding the locality due to the restrictions of the site for Koala access and proposed built form.

The environmental matters have been addressed as a key focus of this review. Our conclusion that the environmental matters can be addressed and a Species Impact Statement is not required, in balance with the other social, economic and public interest matters, concurs that the planning assessment report on balance arrives at a robust planning determination in accordance with section 79C of the Environmental Planning and Assessment Act 1979.

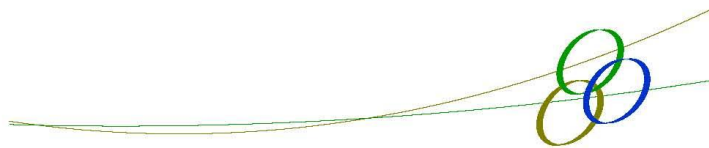
EPS



Yours Sincerely,

Steve McCall
Principal

EPS



Appendix 1
Seven Part Tests

SEVEN - PART TEST – CORYBAS DOWLINGII (RED HELMET ORCHID)

Consideration of the effects of the proposed development under the guidelines of Section 5A of the *Environmental Planning and Assessment Act 1979* (EPA Act 1979) is provided below.

Seven - part tests - factors of assessment

(a) in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction

Corybas dowlingii (Red Helmet Orchid)

The following description of the species is sourced from the Office of Environment & Heritage website (accessed 10/4/14):

Description

Red Helmet Orchid is a tuberous orchid species which grows in clonal colonies. The orchid has a solitary dark green heart-shaped to circular leaf 15-35 mm long and 15-35 mm wide ending in a sharp point. The solitary, erect flower grows close to the ground and is dark purplish red with whitish areas in the labellum.

Distribution

Corybas dowlingii is restricted to the central coast and Hunter regions of New South Wales where it is currently known from the Port Stephens, Bulahdelah, Lake Macquarie and Freemans Waterhole areas. It is known from the local government areas of Cessnock, Great Lakes, Lake Macquarie and Port Stephens.

Habitat and ecology

- *Sheltered areas such as gullies and southerly slopes in tall open forest on well-drained gravelly soil at elevations of 10-200 m*
- *Pollinated by flies*
- *Flowering occurs from June to August*

(Source OEH Website)

Three key factors are relevant in the biological life cycle of *Corybas dowlingii*:

1. Pollination by flies;
2. Seeds are dispersed by wind
3. Colonies can be a single genotype.

Limited research on the range a fly can travel has indicated that studies in the United States show flies has a dispersal range of between 20m – 32km.

(Source: http://animaldiversity.ummz.umich.edu/accounts/Musca_domestica/)

Once pollinated, each flower can produce a capsule containing 3000-4000 seeds. While wind dispersal (anemochory) is one of the more primitive means of dispersal abundant seed production can maximise the likelihood of a seed landing in a site suitable for germination. The dispersal of seed is one way new colonies of the species is spread. Once germinated a single plant can grow via tuber to form a colony. This results in generally in a single genotype for the colony.

The subject site is located approximately 200m from the closest boundary of the Stoney Creek Reserve. The Stoney Creek Reserve is identified as containing a population of *Corybas dowlingii* with an estimate of 14,615 specimens (Okada, 2006). Figure 1 illustrated the site relationship to Stoney Creek Reserve, which is also now zoned E2 Environmental Conservation pursuant to the *Port Stephens Local Environmental Plan 2013*.



Figure 1: Location of the subject site to Stoney Creek Reserve

The Wildthing Environmental Consultants Seven Part Test Report (July 2013) identified that 10 flowering plants were observed on site and up to 100 specimens may be on site based on the observation of basal leaves present. It is also noted a number of orchid species with a similar basal leaf structure are known to occur within similar habitats in the local area, including *Corybas aconitifolius*, *Corysanthes primosa*, *Acianthus fornicates* and *Acianthus caudatus*.

A phone conversation with Wildthing Environmental Consultant, Darrell Harmon (author of the July 2013 Report) confirmed the species identification was based on the description by D.L. Jones. D.L. Jones description is listed by the Scientific Committee, established by the *Threatened Species Conservation Act 1995*, in making a Final Determination to list the orchid *Corybas dowlingii* D.L. Jones as an *Endangered Species* in Part 1 of Schedule 1 of the Act. Darrell Harmon also stated that other orchid species co-occur on the site and when the plants are not flowering it is difficult to distinguish between them. This may also explain the discrepancy point identified in the Port Stephens Council Natural Resources Assessment, which states the site had previously been mapped with over 2000 individual species of *Corybas dowlingii*. The previous mapping and assessment information was not available as part of the information package provided for review.

Corybas dowlingii was identified as one of three endangered orchid species potentially to be impacted by the construction of the Buladelah Bypass for the Pacific Highway Upgrade undertaken by RMS. RMS engaged CSIRO's Centre for Plant Biodiversity Research in 2006 to research the biology of the species and to investigate reproduction and transplant potential on Alum Mountain prior to the construction of the bypass. Since 2006, CSIRO scientists have performed annual surveys, pollination tests and translocation projects.

Dr Chris Howard was the Research Scientist for the project under the direction Dr Mark Clements. EPS attempted to contact Dr Mark Clements however he was away and hence unavailable. Both Dr Mark Clements and Dr Chris Howard are considered experts in relation to *Corybas dowlingii*. EPS contacted Dr Chris Howard and discussed the matters of this seven part test (pers comms 10/4/14). Several of the key points of the discussion included:

- In Dr Howard's opinion it is most likely that the subject site colony of *Corybas dowlingii* is the result of seed dispersal from the specimens located in Stoney Creek Reserve. While pollination does not occur very often, the seeds can disperse great distances. The colony forms by underground tubers and this results in a single genome type for the colony.
- While being physically isolated at the subject site, the local population would include Stone Creek Reserve population which could contain various genetic variations.
- The removal of the specimens from the subject site should not result in a loss of genetic variation due the likelihood of the colony being a single genome type.
- The species can be easily transplanted without any special requirements. Details on transplant procedures can be sought.
- Caution in the identification of the species is required with a recommendation that any species considered as possibly *Corybas dowlingii* be confirmed by orchid specialists at the NSW Herbarium. The species is very difficult to positively identify as only minor morphological differences in flower size differentiate the species from the cosmopolitan species *Corybas aconitiflorus*, which is not an endangered species. *Corybas aconitiflorus* is a species of terrestrial orchid native to eastern Australia, from south-east Queensland to Tasmania.

Based on the advice of Dr Howard, the *Corybas dowlingii* is considered to be genetically linked to the species located in Stoney Creek Reserve and therefore do not form an isolated species that if removed would result in the disruption of the lifecycle the *Corybas dowlingii* such that a viable population of the orchid in the locality is likely to be placed at risk of extinction.

Dr Howard and his team have undertaken genetic DNA testing of *Corybas dowlingii* to examine if a genetic delineation exists in the DNS reviewed and that of other *Corybas* genus. The DNA testing has confirmed that no genetic delineation exists between *Corybas dowlingii* and the common *Corybas aconitiflorus*. Dr Clements and Dr Howard have prepared a paper for the Australian Journal of Botany regarding their findings. Dr Howard could not provide a copy of the paper as it has not been published at the date of our discussions. Dr Howard did state once the paper is published the CSIRO will then seek to have *Corybas dowlingii* delisted as a recognised species and consequently a threatened species.

Conclusion

Taking into account the matters listed, it is considered that the life cycle of the *Corybas dowlingii* is not likely to be disrupted such that a viable population of the orchid is likely to be placed at risk of extinction. The subject site colony is considered a single genome type specimen from the main local population in Stoney Creek Reserve.

(b) in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction

No endangered populations likely to occur within the subject site.

(c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:

- (i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or***
- (ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction***

No endangered ecological community are assessed as a relevant part of this seven part test for *Corybas dowlingii*.

(d) in relation to the habitat of a threatened species, population or ecological community:

(i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and

The development requires the removal of 1.2ha of native vegetation on site including the colony of orchid in a portion of this area.

(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and

The habitat value of the site is already fragmented and has become isolate from the wider habitat as a result of residential development.

(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality

The current habitat within the site has been degraded. In accordance with the expert advice of Dr Chris Howard, the removal of isolated vegetation surrounded by urban development in this circumstance, considering the available habitat opportunities in the local and wider area is not considered significant in terms of the long-term survival of *Corybas dowlingii* in the locality.

(e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly)

The subject site is not located near any declared areas of critical habitat. The action proposed is not likely to have an adverse effect on critical habitat (either directly or indirectly).

(f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan

Corybas dowlingii is on the OEH 'Keep Watch List'. The OEH website states, *this species is likely to be secure in NSW for the long term without targeted management, assuming adequate ongoing management of habitat within the public reserve system. This species is therefore a lower priority for investment than other, more threatened species that have urgent management requirements.*

The species has an abundant population in the Stoney Creek Reserve which is zoned Environmental Conservation.

The OEH website states, *these species require no immediate investment because they are either naturally rare, have few known threats, or are more abundant than previously assumed when they were listed as threatened. OEH staff will keep a watching brief on these species.*

Experts have advised that investment in the targeted management of keep watch species is unlikely to provide any significant benefit to viability, so this stream is a low priority for investment unless threats increase. If evidence indicates a decline in the population or an intensification of threats, the species will be immediately moved to a higher priority management stream.

If new evidence shows a species is more abundant or less threatened than assumed at time of listing, it will be recommended to the NSW Scientific Committee for review of its listing status under the Threatened Species Conservation Act 1995.

(g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process

The proposal may increase the operation of the key threatening process (KTP) "Clearing of vegetation". However, the removal of native vegetation is in an urban area surrounded by residential development and as such we consider that this is a very small contribution to this KTP,

when taking into account the areas of vegetation in the Soldiers Point, Salamander Bay & Taylors Beach areas.

SEVEN - PART TEST - PHASCOLARCTOS CINEREUS (KOALA)

Consideration of the effects of the proposed development under the guidelines of Section 5A of the *Environmental Planning and Assessment Act 1979* (EPA Act 1979) is provided below.

Seven - part tests - factors of assessment

(a) in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction

Phascolarctos cinereus (Koala)

P. cinereus may occur within the subject site on occasion as part of a larger home range. The Wildthing Environmental Consultants Seven Part Test (July 2013) states that 'although the koala was not recorded within the site during the field work secondary indications such as scratches on trees and a small number of older scats consistent with this species were noted. Previously two Koalas (one noted with young) were found to be present within the adjoining lot over the western side of the southern boundary (former Lot 84 DP 243098 Ash Street, Soldiers Point) in September 2012 during tree clearance operations (Wildthing Environmental Consultants, 2012)'.

The neighbouring allotment included preferred koala habitat with up to 21 specimens of *Eucalyptus robusta* (Swamp Mahogany) which has since been removed and replaced with residential development, including new residences and Colourbond fencing. A site visit undertaken of the residential development on 10 April 2014 revealed that the opportunity for koala movement through this new development is severely restricted by new residences and fencing which results in a barricade effect around the entire site. It is noted that the 13 street trees for the development are koala feed trees, *Eucalyptus robusta* and the development consent also required an additional 14 koala feed trees in the individual allotments. Accordingly, the effect use of this site for koala passage has been severely degraded.

A site visit undertaken of the subject site on 10 April 2014 also confirmed the finding of the Wildthing Environmental Consultants Seven Part Test (July 2013) that 'access to habitat within the site for Koalas was compromised by surrounding development. A number of barriers primarily in the form of fences have been placed around much of the site'. The site visit confirmed that Colourbond fencing dominated the property boundary surrounds, with only a small section of chain wire fence adjacent to the southern boundary for the existing caravan park. These matters are illustrated in Figure 1.



Figure 1: Site fencing

Examination of the sites location and the surrounding area within 800m, as illustrated in Figure 2, reveals that the site is relatively isolated and surrounded by urban development, although within 200-300m several areas of vegetated land exists, including Stoney Creek Reserve. The surrounding vegetated reserves in Soldiers Point in proximity to the site covers well over 60ha, while the area of clearing covers 1.2ha or 2% of the adjacent reserve area. It is noted that Stoney Creek Reserve, which under the recent Port Stephens Local Environment Plan 2013 is now zoned E2 Environmental Conservation, is located within 200m of the site boundary to the south.

Koalas are a mobile species and suitable habitat exists within the surrounding area. The Koala Plan of Management Map shows the surrounding areas to include Preferred Koala Habitat, Supplementary Koala Habitat, various 50m buffer areas and mainly cleared areas. The potential for movement between these areas for Koalas is illustrated in Figure 2 as red arrows indicating possible wildlife corridor pathways.

Koalas tend to move little under most conditions, changing trees only a few times each day. There is little evidence for longer movements in most cases (Ellis et al. 2009), though dispersing individuals, mostly young males, may occasionally cover distances of several kilometres over land with little vegetation. In south-east Queensland, the average distance between natal and breeding home

ranges was similar for males and females, at approximately 3.5 km (Dique et al. 2003b). Maximum dispersal distances were up to about 10 km for males and females (Dique et al. 2003b). Other studies have reported moves of just over 9 km in the outer suburbs of southern Sydney (Ward 2002), up to 11 km in Tucki Tucki Reserve in NSW (Gall 1980), and 16 km in rural south-east Queensland (White 1999).

(Department of Environment, Commonwealth Government - website, Species Profile and Threats Database - *Phascolarctos cinereus* (combined populations of Qld, NSW and the ACT) — Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) accessed 10/4/14.



Figure 2: Understanding of local vegetated areas and possible wildlife corridors within 800m of the subject site

The *Lower Hunter Koala Study* undertaken by Eco Logical Australia Pty Ltd (June 2013) was commissioned by the Department of Sustainability Environment, Water, Population and Communities under the Sustainable Regional Development program (the program). The program facilitates regional sustainability planning that will lead to a strategic assessment of future urban development and associated infrastructure in the Lower Hunter region. Relevant extracts of the Study are listed below:

Koalas are largely solitary animals, however they are not territorial and individual home ranges may overlap (SEWPaC 2012). The size of koala home ranges varies throughout the species distribution, likely due to quality, structure and connectivity of habitat. The expert workshop found that a home range of 10ha is expected to be suitable for supporting a few individuals in high quality habitat in the Port Stephens area.

A dominant male's home range usually overlaps with those of several females, to which he maintains access during the breeding season (Cork et al. 2000a & b).

Tree use and diet choice by koalas have previously been linked, with varying degrees of support, to tree size and species (Moore et al. 2010). More specifically, this relates to concentrations of nitrogen, phosphorous, potassium, fibre, volatile terpenes, soluble sugars, and moisture within leaves (Moore et al. 2010). Koalas have also been found to visit trees less frequently that contain high foliar concentrations of deterrent plant secondary metabolites known as formulated phloroglucinol compounds (Moore and Foley 2005). There can be variation in the palatability of browse within the same species, and this combined with the spatial context with regards to surrounding trees affects koala tree selection choices (Moore et al. 2010).

*Koalas may also change diet and select different tree species throughout the year to reflect increased energy requirements in winter and increased water requirements in summer (Ellis et al. 1995). Although suitable feed trees are often thought to be the primary factor in koala distribution, the presence of large shady trees used for diurnal shelter may also be important in some areas or during extremes of temperature (Ellis et al. 1995, Ward 2002). Several non-food trees in the Port Stephens LGA are used during the day (including *Angophora costata*, *Eucalyptus signata* and *Corymbia gummifera*) and selected taller trees were used more intensively during summer suggesting their use as shelter (Matthews et al. 2007).*

Koalas feed disproportionately on a small number of tree species in relation to the total number of eucalyptus species across the koala's distribution. These species vary according to location and between different koala populations. The use of feed trees by Koalas in the Port Stephens LGA is directly related to soil fertility. The main geomorphological units preferred by Koalas are Aeolian and Swamp soil landscapes of Quaternary origin. These soil landscapes derive from Nerong and Paterson Volcanics and Transferral and alluvial deposits of Quaternary and Permian origin (Phillips and Callaghan 1996).

Historical estimates of population size suggest well below 1000 individuals distributed over the entire Port Stephens study area and likely between 350-500 animals in total, though it is noted that this population estimate was noted as being "speculative but considered" (Phillips et al. 1996).

*Whilst recent literature emphasises the role of supplementary tree species for other habitat needs other than food, it is not known if there has been any systematic research whether koalas can survive in areas without supplementary (roost) trees. The expert group concluded that koalas would adapt usage of trees for shelter to the species available to them to complement preferred feed tree species. The use of *Callitris* pine and ironbark species as shelter trees was noted by the expert group.*

The workshop discussions also noted:

- *Most of the available information was from the eastern Port Stephens area; whilst there were knowledge limitations across Cessnock, Maitland, Newcastle and Lake Macquarie areas.*
- *Koalas in urban areas can use different species (i.e. planted species like *E. nicholii*) than those in native woodland areas.*

(Eco Logical Australia Pty Ltd, June 2013)

The Lower Hunter Koala Study concludes with spatial modelling following input from a panel of experts to prepare and rank Koala Habitat Modelling for the Lower Hunter Region. The Study states:

The four classes across the Lower Hunter study area to determine koala habitat value can be defined as:

- ***Lower koala habitat value (0 - 19)*** – *Areas that have little or no identified mapped values for koala habitat within the landscape. The majority of these areas are highly disturbed, fragmented or urbanised.*
- ***Moderate koala habitat value (20 - 33)*** – *Areas that have some mapped koala habitat values within the landscape. In most cases the values within this category will provide supporting habitat for koala in the area.*
- ***High koala habitat value (34 - 48)*** – *Areas with priority koala habitat values. These areas will include a large proportion of the criteria for koala habitat and provide an important resource for koalas in the area.*
- ***Very High koala habitat value (49 - 100)*** – *An accumulation of priority values for koala habitat. These areas contain the majority of or even all values identified as criteria meeting priority koala habitat within the Lower Hunter area.*

(Eco Logical Australia Pty Ltd, June 2013)

As illustrated in Figure 3, the site appears to be ranked as moderate koala habitat with Stoney Creek Reserve shown as high koala habitat.

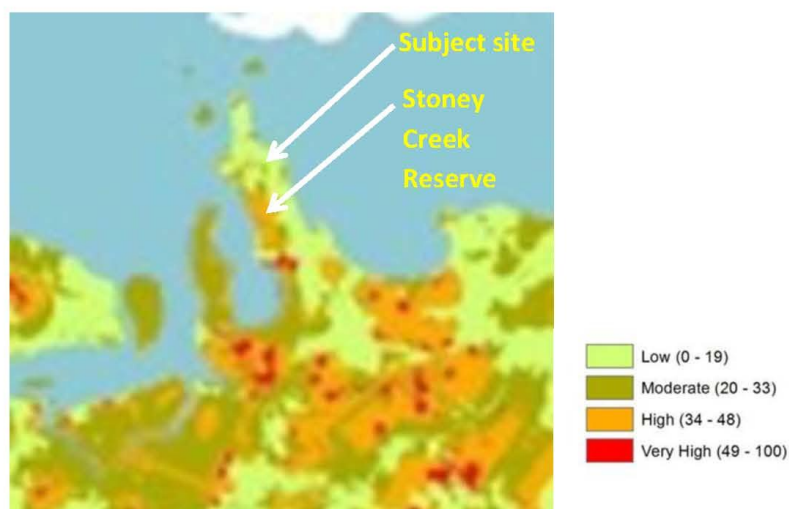


Figure 3: Excerpt from Figure 4 Koala Habitat Value Model (Eco Logical Australia June 2013)

Further examination of the Koala records on the OEH Atlas of NSW Wildlife, as shown in Figure 4, demonstrate a relatively robust number of records in the Soldiers Point area and Tomaree & Tilligerry Peninsula's, although these are a listing of all records, not time specific. The records do demonstrate a considerable spatial range that may support the notion that Koalas are able to move through urban areas as well as wildlife corridors around Soldiers Point. The relative spread of records also highlight that most of the Soldiers Point and Salamander Bay areas are suitable in habitat for Koalas.

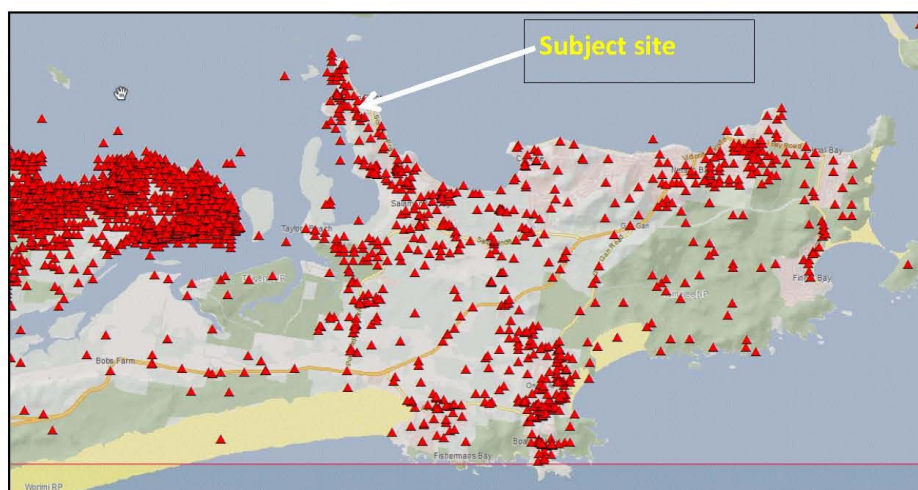


Figure 4: Koala recorded sightings registers on OEH Atlas of NSW Wildlife (Accessed 10/4/14)

Consideration of whether the action proposed is likely to have an adverse effect on the life cycle of the Koala species such that a viable local population of the species is likely to be placed at risk of extinction is based on the information provided above, which in summary includes:

- The site to be cleared is already disturbed, contains only 1.2ha of native vegetation.
- The site has been recently further isolated by urban development with the construction of a new subdivision to the south of the allotment, which by virtue of residences and Colourbond fencing drastically reduces the ability of ground based Koala movement.
- The remaining boundaries of the site, with the exception of the entry driveway and car park (bitumen) contain Colourbond fencing that severely restricts Koala movement to and from the site. Koalas entering the site via the entry driveway would also need to traverse Soldiers Point Road, the main thorough fare for Soldiers Point.
- The recent development and boundary fencing supports the notion that the usability of the site for Koalas has diminished.
- As illustrated in Figure 2, Stoney Creek Reserve is located approximately 200m from the southern boundary of the site. Figure 2 also shows other vegetated areas in the locality and possible wildlife corridors interconnecting these areas.
- Stoney Creek Reserve is now zoned E2 Environmental Conservation which provides a conservation status for this large expanse of vegetated area.
- The site is relatively small compared to the scale of the surrounding vegetated areas.
- Based on the data presented in the Lower Hunter Koala Study undertaken by Eco Logical Australia Pty Ltd (June 2013) Port Stephens Koalas can have a home range of up to 10ha.
- Koalas feed trees species vary throughout the year and are highly influenced by soil fertility. The local area around the site include large vegetated areas to the south west which link to the wider vegetated areas of Salamander Bay and Taylors Beach.
- As illustrated in Figure 3, the site appears to be ranked as moderate koala habitat, the urban areas are ranked low koala habitat while Stoney Creek Reserve is shown as high koala habitat.
- Usage of the wider area by Koalas is strongly supported by the Koala records on the OEH Atlas of NSW Wildlife, as shown in Figure 4, particularly for Soldiers Point, Salamander Bay and Taylors Beach.

Conclusion

Taking into account the matters listed, it is considered that the life cycle of the Koala is not likely to be disrupted such that a viable population of the Koala is likely to be placed at risk of extinction.

(b) in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction

No endangered populations likely to occur within the subject site. It is noted that north of the site, separated by the waterbody of Port Stephens is the Hawks Nest and Tea Gardens Endangered Koala Population.

The action proposed is not likely to have an adverse effect on the life cycle of the Hawks Nest and Tea Gardens Endangered Koala Population such that a viable local population of the species is likely to be placed at risk of extinction.

(c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:

(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or

(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction

No endangered ecological community are assessed as a relevant part of this seven part test for Koalas.

(d) in relation to the habitat of a threatened species, population or ecological community:

(i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and

The development requires the removal of 1.2ha of native vegetation on site including approximately 18 feed trees.

(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and

The habitat value of the site is already fragmented and has become isolate from the wider habitat as a result of residential development.

(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality

The current habitat within the site represents potential foraging habitat for Koalas as part of larger home ranges. However, given the isolation of the site by urbanisation (particularly Colourbond fencing and new residences) the importance of the habitat has been degraded. The size of the site area proposed for clearing is relatively small in comparison to the wider home range possibilities for Koalas in the Soldiers Point, Salamander Bay and Taylors Beach areas. The removal of isolated vegetation surrounded by urban development in this circumstance, considering the available habitat opportunities in the local and wider area is considered acceptable in terms of the long-term survival of Koalas in the locality.

(e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly)

The subject site is not located near any declared areas of critical habitat. The action proposed is not likely to have an adverse effect on critical habitat (either directly or indirectly).

(f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan

A recovery plan for the Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) will be developed and is to commence following the expiration of the National Koala Conservation and Management Strategy in 2014. This recovery plan will be for those populations covered by the national threatened species listing. There are a number of conservation instruments, guidelines and plans in place for the Koala across its entire range, in individual states, and for some regional populations.

The NSW Koala Recovery Plan objectives include:

Objective 1: To conserve koalas in their existing habitat.

Objective 2: To rehabilitate and restore koala habitat and populations.

Objective 3: To develop a better understanding of the conservation biology of koalas.

Objective 4: To ensure that the community has access to factual information about the distribution, conservation and management of koalas at a national, state and local scale.

Objective 5: To manage captive, sick or injured koalas and orphaned wild koalas to ensure consistent and high standards of care.

Objective 6: To manage overbrowsing to prevent both koala starvation and ecosystem damage in discrete patches of habitat.

Objective 7: To coordinate, promote the implementation, and monitor the effectiveness of the NSW Koala Recovery Plan across NSW.

The proposal will remove a small area of native vegetation including Koala feed trees in an urban area. The proposed clearing is not directly inconsistent with the objectives of the NSW Koala Recovery Plan and listed sub actions as most are aimed at gathering information and action at a regional scale. The proposal is not consistent with the Port Stephens Koala Plan of Management. However, the proposal recommends replacement of Koala feed trees at a ratio greater than the trees to be cleared and Council proposed to impose a condition of consent for 40 replacement feed trees on site. It is considered greater value of benefits to Koalas would be obtained by planting the replacement feed trees off site in wildlife corridors and reserves due to the restrictions of the site for Koala access and proposed built form.

(g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process

The proposal may increase the operation of the key threatening process (KTP) "Clearing of vegetation". However, the removal of native vegetation is in an urban area surrounded by residential development and as such we consider that this is a very small contribution to this KTP, when taking into account the areas of vegetation in the Soldiers Point, Salamander Bay & Taylors Beach areas.

Taking into account the matters listed, it is considered that the development is not likely to significantly affect the Koala or its habitat.

ITEM NO. 2**FILE NO: 13/803 (16-2009-889-6)****ASH STREET/OASIS CLOSE WALKWAY – SOLDIERS POINT****REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE
SECTION MANAGER****GROUP: DEVELOPMENT SERVICES**
-----**RECOMMENDATION IS THAT COUNCIL:**

- 1) Amend its resolution from 25 February 2014 requiring a 50% split of contributions for construction of walkway Option B;
 - 2) Endorse a contribution respectively of \$34,000 for the owners of 3 Oasis and \$100,000 for the Soldiers Point Bowling Club (subject to the relevant memorandum of understanding and/or Voluntary Planning Agreements);
 - 3) Upon the finalisation of the negotiations and respective payments, Council commence construction of the Walkway.
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EXTRA-ORDINARY COUNCIL MEETING – 15 APRIL 2014**MOTION**

090	Councillor Ken Jordan Mayor Bruce MacKenzie
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Amend its resolution from 25 February 2014 requiring a 50% split of contributions for construction of walkway Option B;2) Endorse a contribution respectively for \$34,000 for the owners of 3 Oasis Close; \$34,000 for the owners of Soldiers Point Bowling Club; and the balance being \$66,000 to be funded via Section 94 contributions (subject to a relevant memorandum of understanding and/or voluntary planning agreements as necessary);3) Upon the finalisation of the negotiations and respective payments, Council commence construction of the Walkway.

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

Those for the Motion: Mayor Bruce MacKenzie, Cr Paul Le Mottee, Ken Jordan, Chris Doohan, John Nell, John Morello and Sally Dover.

Those against the Motion: Cr Steve Tucker.

BACKGROUND

The purpose of this report is to provide information and a progress update to Councillors which may impact a resolution it made at the meeting of 25 February 2014. This report also seeks to amend the previous approach in respect to the percentage each party would contribute to the new walkway structure.

At the Council meeting on 25 February 2014, it was resolved to proceed with construction of walkway Option B over 7 Oasis Close. The initial estimate of construction costs was \$54,000, which was based on a 1.2m walkway to replace the existing 1.2m wide easement. Both the owner of 3 Oasis Close and the Soldiers Point Bowling Club had agreed to contribute 50% of the initial estimate (\$27,000 each) to Council.

After the 25 February 2014 meeting, Council staff put construction of walkway Option B out to market in accordance with Council's procurement process, which included preparation of a final design taking into account increased width (1.8m) and accessibility/tactile indicators, which were required to comply with the relevant standards and legislation and Council's resolution. The final cost estimate of the project is \$134,000.

Council staff has discussed the cost increase with both parties, and the Bowling Club has agreed verbally in principle to increase its contribution, providing that the amount can be deducted from its Section 94 contributions required for their DA for 100 Seniors Living Units (DA 16-2013-757-1), which will be considered by Council under a separate report. This is only a general agreement/discussion at this stage and a voluntary planning agreement would be a mechanism for this.

Maintaining a 50/50 split for the increased estimated costs could be seen as unreasonable for the owner of 3 Oasis Close, as it will exceed the approximate value of land they will obtain by closing the existing Right of Footway easement.

The recommended Section 94 condition for the Bowling Club Seniors Living Development requires payment of \$622,830, of which \$115,600 is for Public Open Space, Parks & Reserves.

Further consideration of how this may work under Council's Section 94 plan is required (ie Voluntary Planning Agreement or direct reduction etc). There has been public concern raised regarding loss of Section 94 funds and perception that the community is essentially funding the walkway. In this instance there is considered to be some scope/nexus as both the Oasis Close and Bowling Club Seniors Living developments increase the demand for improved pedestrian access, and can be facilitated without decreasing funds for other categories such as Roads, Libraries, Sports Grounds etc. Essentially, Council would require a section 94 contribution for the purpose of public open space, parks reserves etc, regardless so it is logical to assign this to a tangible project.

The Bowling Club has advised that any such agreement would need to be delayed until the DA for 100 Seniors Living Units is determined, and concurrence from the board is obtained. By Council currently considering the development application, whilst in a legislative sense they are distinctly different items, it is preferable to consider the matters at the same time.

It is recommended that Council amends its previous resolution requiring a 50/50 split of contributions between the owner of 3 Oasis Close and the Soldiers Point Bowling Club to an approximate split of \$100,000 from the club and \$34,000 from the owner of 3 Oasis Close, and note that Council staff will continue to investigate/negotiate this option pending determination of the Bowling Club DA.

FINANCIAL/RESOURCE IMPLICATIONS

The recommendation of this report will not create any additional financial demand or risk for Council, as the works will still be funded by the owner of 3 Oasis Close and the Bowling Club.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	Yes	115,600	Likely available funds for Open Space projects under DA 16-2013-757-1.
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

This report does not impact the existing legal or policy implications for Council.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that funds may not be made available or delayed for the project.	Low	Continue to proceed as per the recommendation and Council's previous resolution on the 25 February 2014 Not agree to extinguish the existing Right of Footway easement until funds are available. Enter into an agreement with both parties regarding	Yes

		contributions of funds to Council Ensure that any variation to Section 94 contributions to DA 16-2013-757-1 is consistent with legislation and Council's Section 94 Plan.	
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that this report will not have any adverse social, economic or environment implications, subject to progressing in accordance with the recommendations and Council resolution.

Concern has been raised that the increased cost estimate and allocation of funds from Section 94 will impact the community. It is noted that the contribution amount to other categories under Council's Section 94 plan is unlikely to be impacted, and use of the funds to provide improved pedestrian links will provide a community benefit beyond the Oasis Close and Bowling Club's Seniors Living developments.

CONSULTATION

This report has not triggered the need for further public notification under Council's Notification Policy at this stage. However, should Council proceed to formal contribution agreements as a result of this report, staff will proceed to inform the relevant objectors.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3**FILE NO: PSC2013-05400****SOLDIERS POINT HOLIDAY PARK – PROPOSED NEW PRODUCT****REPORT OF: CARMEL FOSTER – PROPERTY SERVICES SECTION MANAGER****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Supports the introduction of new products at Soldiers Point Holiday Park being 10 x Eco Tents, 10 x First Time Camping Tents and 1 x Tree House (**ATTACHMENT 1**) and authorise the General Manager or delegate to obtain the necessary approvals and undertake the procurement process.

EXTRA-ORDINARY COUNCIL MEETING – 15 APRIL 2014**MOTION**

091	Councillor John Nell Councillor Ken Jordan
	It was resolved that Council support the introduction of new products at Soldiers Point Holiday Park being 10 x Eco Tents, 10 x First Time Camping Tents and 1 x Tree House (ATTACHMENT 1) and authorise the General Manager or delegate to obtain the necessary approvals and undertake the procurement process.

MATTER ARISING

092	Councillor Bruce MacKenzie Councillor Chris Doohan
	It was resolved that the General Manager investigate possible location/s for camping within Port Stephens.

BACKGROUND

The purpose of this report is for Council to endorse the proposed introduction of new products for the Soldiers Point Holiday Park to increase patronage and revenue.

In December 2013, the new contract for the management of Soldiers Point Holiday Park commenced. Soldiers Point Holiday Park has struggled to remain viable since its redevelopment in 2004. The Soldiers Point Plan of Management severely restricts further development of the site, in particular the current camping area which is prime real estate with beautiful water views. Over the previous 10 years the

occupancy for the camping area has fluctuated between 17% to 19% with targeted marketing campaigns unable to change this trend.

The new contract managers have extensive experience in the accommodation, hospitality and tourism industry and are recommending the introduction of three innovative new products to provide a unique selling point for the park:

- 1) Eco Tents: Modern Eco Tents are designed to enhance the guest experience by providing an under canvas experience without having to pitch a tent or bring all of the camping gear. The proposed Eco Tents will resemble a cabin under canvas. Eco Tents will provide the fundamentals to enhance a guest stay such as a TV, DVD, king bed, outdoor seating and an ensuite. Eco Tents come pre made on their own recycled material deck. Footings are not required to be dug in the ground. Ensuities can be provided using existing water services. Grey water can be filtered using existing sullage and current grey water recycling techniques and filtration. Toilets will be Ecolet/Clivus Multrum self-composting technology toilet pans and will not require connection to black water waste. Eco tents will be powered by low voltage power and lighting systems that can be reduced from the existing 240 volt campground power heads.
- 2) First Time Camping: The First Time Camping (FTC) product is a fun product that is also very easy to market and sell. The product is designed as a 'Family Tent'. First time camping tents are less expensive and less grand than Eco Tents. The tents are similar to those used at Cockatoo Island in Sydney Harbour and at the Taronga Zoo Roar n Snore. First Time Camping takes the camping idea one step further by including hospitality (dinner and breakfast). Dinner is a meal supplied by either a local caterer on site, or as a fixed price meal from one of the local restaurants and breakfast consists of a continental breakfast pack, a bacon and egg roll and tea or coffee.
- 3) Tree Houses: Tree Houses or Sky Tents are actually built in a tree above the ground. Currently, there is no installation of bona fide tree houses in the tourism sector in Australia (ie. built in a tree). This would represent an Australian first product. Therefore, there may be potential DA issues around the engineering and construction of the Tree Houses as there is no precedent and Council will be required to be pioneers in the approval process. The tree houses themselves are constructed around the tree so as not to harm the tree. As a truly unique experience, the tree houses will contain a queen bed, low voltage power to run electrical appliances and lighting, shower, and a self-composting toilet. Test marketing suggests that the product would be a huge success, more so with the treetop location overlooking the ocean and/or Marina.

If the Council endorses the recommendation to introduce new product to the camping area, there will be a reduction of camp sites (55 to 10). This will impact on an existing group of campers that have regularly camped at the grounds during the two week Christmas period. A Communication plan has been developed and will be implemented should Council adopt the recommendation. The steps in the communication process will be to:

- 1) personally contact campers that have camped on the grounds over the previous years and notify them of Council's decision and the impacts;
- 2) provide those contacted with information packs on camping products in Council's other parks;
- 3) have the Communications Section prepare a Media release, in consultation with the Business Development Unit.

FINANCIAL/RESOURCE IMPLICATIONS

It is proposed to fund the purchase of the new products and the refurbishment of the existing cabin stock over two financial years. The total spend is \$246,000 and comprises the 10 x Eco Tents (\$180,000), 10 x First Time Camping Tents (\$18,000) and 1 x Tree House (\$48,000). Council will be able to consider the funding through the March 2014 Budget Review process.

The current returns on the camp ground area are \$190,000 pa. based on the actual occupancy rate of 19%. The occupancy rate of the camp ground area over the previous 10 years has fluctuated between 17% to 19%, a trend line that has not been able to be increased despite many and various media and advertising campaigns. The returns on the new product are conservatively estimated to be \$520,000 pa. based on a projected occupancy rate of 35%. This occupancy rate is considered low as similar products in other holiday parks are achieving 80% to 90%. There will be an initial period of marketing and advertising required to inform consumers of the product available at the holiday park and in the first year the low (35%) projected occupancy may be a reality. However, once consumers are aware of the new product it is expected that the occupancy rate will be increased considerably. The revenue projected on the new product includes a three year payback period.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	246,000	Property Reserve: Revenue from investment profits.
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Soldiers Point Holiday Park has a Plan of Management outlining the management of the park - the new product is in accordance with the Plan of Management. Introducing new accommodation into the park will require consultation with the Worimi Land Council and National Parks.

As stated previously in the report, the Tree House product may require DA approval and due to no other similar product constructed within Australia there may be some delays in the process.

MINUTES FOR EXTRA-ORDINARY MEETING – 15 APRIL 2014

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that that not providing a new product to increase the occupancy and use of the camping area will result in a less than satisfactory return on Council's investment.	High	Adopt the recommendations.	Yes
There is a risk that the new product will not increase the occupancy of the camping area.	Low	The product has been tested in other locations and has been proven to be very successful.	Yes
There is a risk that the lack of other tree house structures in Australia may delay the approval process.	Medium	Early discussions to be held with Development Services to determine information required and timeframes.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The construction of the proposed new products is in itself sustainable as there is no disturbance to the current built environment, thus construction impact will be minimal. New products either sit upon the ground or are harnessed into trees without causing long term or permanent site damage. Site rehabilitation would consist of removing the new products and rehabilitating the grass. Waste water will be filtered (grey water) and black water will be self-composted using new technology.

The nature of the development will enhance the amenity of the camp ground precinct, be more respectful to the site, and provide habitat and some biodiversity for local wildlife.

The new product proposes packaging accommodation, food and beverages and activities. Discussions have been held with local businesses to be involved and initial discussions have been extremely positive. This will be of great benefit to the local economy and businesses.

CONSULTATION

- 1) Two Way Conversation with Council held 11 March 2014;
- 2) Soldiers Point Holiday Park Contract Mangers.

OPTIONS

- 1) Approve the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Images of a Tree House, Eco Tent and First Time Camping product.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

IMAGES OF A TREE HOUSE, ECO TENT AND FIRST TIME CAMPING PRODUCT

Tree House



Eco Tent



First Time Camping



There being no further business the meeting closed at 6.22pm.

I certify that pages 1 to 69 of the Open Extra-Ordinary Minutes of Council 15 April 2014 were confirmed by Council at its meeting held on 13 May 2014.

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Bruce MacKenzie
MAYOR