

# DRAFT

## MINUTES – 11 JULY 2017



# PORT STEPHENS C O U N C I L

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 11 July 2017, commencing at 5.58pm.

**PRESENT:**

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

Cr Ken Jordan was not present at the commencement of the meeting.

<b>159</b>	<b>Councillor Steve Tucker</b> <b>Councillor John Nell</b>  It was resolved that the apology from Mayor Bruce MacKenzie be received and noted, and that leave of absence be granted.
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<b>MINUTES ORDINARY COUNCIL - 11 JULY 2017</b>
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<b>160</b>	<b>Councillor Paul Le Mottee</b> <b>Councillor John Nell</b>  It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 27 June 2017 be confirmed.
	Cr Paul Le Mottee declared a pecuniary conflict of interest in items 1 and 2. The nature of the interest is that the Le Mottee Group drew plans for the applicant in item 1, and the Le Mottee Group is the applicant in item 2.

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# COUNCIL REPORTS



**ITEM NO. 1**

**FILE NO: 17/98072  
RM8 REF NO: 16-2016-862-1**

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

REPORT OF: MICHAEL MCINTOSH - GROUP MANAGER DEVELOPMENT  
SERVICES  
GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application (DA) No.16-2016-862-1 for Torrens title subdivision of one into two lots, and new shed at No.111 South Street, Medowie (Lot 14 DP 1079392), subject to the conditions contained in **(ATTACHMENT 2)**.
  - 2) Refuse the request for a refund of DA fees totalling \$735.
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Councillor Paul Le Mottee left the meeting at 6:00pm in Committee of the Whole.

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

<b>161</b>	<b>Councillor Peter Kafer Councillor Geoff Dingle</b>  It was resolved that Council move into Committee of the Whole.
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**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Geoff Dingle Councillor Peter Kafer</b>  That Council refuse the development application (DA) No.16-2016-862-1 for Torrens title subdivision of one into two lots, and new shed at No.111 South Street, Medowie (Lot 14 DP 1079392) for the following reasons: <ol style="list-style-type: none"><li>1) The land has been developed consistently with that zoning for large houses on large parcels of land. The lot subject to this proposal Lot 14, DP1079392 has been developed consistently with large lot zoning. More importantly, there is nothing unique about this land which would suggest it should be developed in any way that is inconsistent with the large lot zoning.</li><li>2) The area available for the erection of a dwelling(s) in relation to the proposed subdivision is also insufficient to accommodate all the</li></ol>
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	<p>activities associated with a dwelling and would create unacceptable amenity impacts particularly noise.</p> <ol style="list-style-type: none"> <li>3) The SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012 is 65 pages in length and there is no documentation relating to the rezoning of Lot 14, 111 South Street, Medowie.</li> <li>4) Councillors have allegedly been deceived into supporting inclusion of Lot 14 in the SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012. There is no descriptor in the Councillors papers supporting the rezoning proposal particularly of concern when considering new inclusions.</li> <li>5) In the Executive summary of the SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012 is says: The amended proposal seeks to implement additional planning provisions for the Pacific Dunes Estate to proceed with the staged development of an integrated residential community. The proposal concentrates only on land within the existing Pacific Dunes Estate and is a scaling down of previous staged expansion proposed, and supported by the Council and NSW Department of Planning in 2008. Lot 14 is outside this land area definition.</li> <li>6) In the summary SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012, it makes no written reference/description of Lot 14, 111 South Street.</li> <li>7) Under background to the site; the SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012, maps on pages 10/11, item 1.1 Figure 1 and Figure 2, highlights the boundary of the area under rezoning consideration with red borders including the Pacific Dunes Estate golf course and residential area, including the verge area on the north side of South Street. It doesn't include Lot 14, 111 South Street.</li> <li>8) Under existing planning controls the SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012, Figure 9 shows the pre-existing zoning covering 11 South Street as 1c5 zoning. No reference is made seeking amendments to the existing statutory planning regime.</li> <li>9) The SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012, Figure 11 show Lot 14 marked as 2A, however there is no descriptor or any reference to this lot in the supporting documentation.</li> <li>10) Under 3.3 Proposed Residential Development the SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012, as outlined in</li> </ol>
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	<p>Section 3.2 above, the components to the proposed residential development are:</p> <ul style="list-style-type: none"> <li>a) to rezone an area of the Hillside Lots Precinct from Rural Small Holdings 1(c4) to Residential 2(a) with a new minimum allotment size of 720m<sup>2</sup>, rather than the current 900m<sup>2</sup>;</li> <li>b) to rezone some of the land comprising the "Fairway Lots" from Special Recreation 6(c) to Residential 2 (a) with a new minimum allotment size of 450m<sup>2</sup>, rather than the current 600m<sup>2</sup>;</li> <li>c) to introduce an extension to the Fairway Lots Precinct at the southern end of the estate, with a minimum allotment size of 450m<sup>2</sup>;</li> <li>d) to rezone some of the existing Special Recreation 6(c) land located to both the immediate east and immediate west of the existing community facility to Residential 2(a), and to allow small lot subdivision with a minimum allotment size of 200m<sup>2</sup>. This area will be known as the Golf and Country Club Precinct and is to accommodate golf villas. There is no reference to Lot 14, DP1079392.</li> </ul> <p>11) The SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012, there is no reference to Lot 14 associated with traffic and transport, ecology, soils and there is no argument made to increase density in an existing rural residential development area.</p> <p>12) On the 9<sup>th</sup> May 2017 at Council's Ordinary meeting it was resolved that Council commence the process of rezoning Lot 14 DP 1049392, 111 South Street, from R2 to R5. This provides consistencies with surrounding zoning and prevents subdivision into smaller lots creating traffic parking hazards and have a significant adverse impact on the amenity and streetscape of the surrounding area.</p> <p>13) The site is not suitable for the development given the location and context of the proposed subdivision and traffic impacts. The site is within close proximity to the nearby roundabout at the intersection of South Street and Championship Drive and the development will have unacceptable impacts on the local traffic network with respect to traffic safety (s.79C(1)(c) EP&amp;A Act 1979); and</p> <p>14) The development is likely to have significant adverse impacts on the amenity and streetscape of the surrounding area. The development is therefore not in the public interest (s.79C (e) EP&amp;A Act 1979).</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Chris Doohan, Peter Kafer and Steve Tucker.

## MINUTES ORDINARY COUNCIL - 11 JULY 2017

Those against the Motion: Crs Sally Dover, John Morello and John Nell.

Councillor Paul Le Mottee left the meeting at 7.54pm in Open Council.

Councillor Ken Jordan left the meeting at 7.54pm in Open Council.

### ORDINARY COUNCIL MEETING - 11 JULY 2017

#### MOTION

162	<p><b>Councillor Peter Kafer</b> <b>Councillor Geoff Dingle</b></p> <p>It was resolved that Council refuse the development application (DA) No.16-2016-862-1 for Torrens title subdivision of one into two lots, and new shed at No.111 South Street, Medowie (Lot 14 DP 1079392) for the following reasons:</p> <ol style="list-style-type: none"><li>1) The land has been developed consistently with that zoning for large houses on large parcels of land. The lot subject to this proposal Lot 14, DP1079392 has been developed consistently with large lot zoning. More importantly, there is nothing unique about this land which would suggest it should be developed in any way that is inconsistent with the large lot zoning.</li><li>2) The area available for the erection of a dwelling(s) in relation to the proposed subdivision is also insufficient to accommodate all the activities associated with a dwelling and would create unacceptable amenity impacts particularly noise.</li><li>3) The SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012 is 65 pages in length and there is no documentation relating to the rezoning of Lot 14, 111 South Street, Medowie.</li><li>4) Councillors have allegedly been deceived into supporting inclusion of Lot 14 in the SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012. There is no descriptor in the Councillors papers supporting the rezoning proposal particularly of concern when considering new inclusions.</li><li>5) In the Executive summary of the SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012 is says: The amended proposal seeks to implement additional planning provisions for the Pacific Dunes Estate to proceed with the staged development of an integrated residential community. The proposal concentrates only on land within the existing Pacific Dunes Estate and is a scaling down of previous staged expansion proposed, and supported by the Council and NSW Department of Planning in 2008. Lot 14 is outside this land area definition.</li><li>6) In the summary SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group</li></ol>
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	<p>February 2012, it makes no written reference/description of Lot 14, 111 South Street.</p> <p>7) Under background to the site; the SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012, maps on pages 10/11, item 1.1 Figure 1 and Figure 2, highlights the boundary of the area under rezoning consideration with red borders including the Pacific Dunes Estate golf course and residential area, including the verge area on the north side of South Street. It doesn't include Lot 14, 111 South Street.</p> <p>8) Under existing planning controls the SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012, Figure 9 shows the pre-existing zoning covering 11 South Street as 1c5 zoning. No reference is made seeking amendments to the existing statutory planning regime.</p> <p>9) The SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012, Figure 11 show Lot 14 marked as 2A, however there is no descriptor or any reference to this lot in the supporting documentation.</p> <p>10) Under 3.3 Proposed Residential Development the SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012, as outlined in Section 3.2 above, the components to the proposed residential development are:</p> <ul style="list-style-type: none"> <li>a) to rezone an area of the Hillside Lots Precinct from Rural Small Holdings 1(c4) to Residential 2(a) with a new minimum allotment size of 720m<sup>2</sup>, rather than the current 900m<sup>2</sup>;</li> <li>b) to rezone some of the land comprising the "Fairway Lots" from Special Recreation 6(c) to Residential 2 (a) with a new minimum allotment size of 450m<sup>2</sup>, rather than the current 600m<sup>2</sup>;</li> <li>c) to introduce an extension to the Fairway Lots Precinct at the southern end of the estate, with a minimum allotment size of 450m<sup>2</sup>;</li> <li>d) to rezone some of the existing Special Recreation 6(c) land located to both the immediate east and immediate west of the existing community facility to Residential 2(a), and to allow small lot subdivision with a minimum allotment size of 200m<sup>2</sup>. This area will be known as the Golf and Country Club Precinct and is to accommodate golf villas. There is no reference to Lot 14, DP1079392.</li> </ul> <p>11) The SJB Planning Amended Planning Proposal Pacific Dunes Estate, Medowie submitted on behalf of RCL Group February 2012, there is no reference to Lot 14 associated with traffic and transport, ecology, soils and there is no argument made to increase density in an existing rural residential development area.</p> <p>12) On the 9<sup>th</sup> May 2017 at Council's Ordinary meeting it was resolved</p>
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	<p>that Council commence the process of rezoning Lot 14 DP 1049392, 111 South Street, from R2 to R5. This provides consistencies with surrounding zoning and prevents subdivision into smaller lots creating traffic parking hazards and have a significant adverse impact on the amenity and streetscape of the surrounding area.</p> <p>13) The site is not suitable for the development given the location and context of the proposed subdivision and traffic impacts. The site is within close proximity to the nearby roundabout at the intersection of South Street and Championship Drive and the development will have unacceptable impacts on the local traffic network with respect to traffic safety (s.79C(1)(c) EP&amp;A Act 1979); and</p> <p>14) The development is likely to have significant adverse impacts on the amenity and streetscape of the surrounding area. The development is therefore not in the public interest (s.79C (e) EP&amp;A Act 1979).</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Chris Doohan, Peter Kafer and Steve Tucker.

Those against the Motion: Crs Sally Dover, John Morello and John Nell.

## **BACKGROUND**

The purpose of this report is to present Development Application (DA) No.16-2016-862-1 to Council for determination. The DA proposes a one (1) into two (2) lot Torrens title subdivision and new shed at 111 South Street, Medowie (Lot 14 DP 1079392).

A locality plan is held at **(ATTACHMENT 1)**.

The application has been called to Council by Councillor Jordan. A copy of the call up form is held at **(ATTACHMENT 3)**.

A two way conversation was held with Councillors on 21 February 2017 to provide details of the proposal.

The subject application was then reported to Council at its ordinary meeting of 28 March 2017. Council resolved to refuse the development application. A rescission motion was lodged subsequent to the meeting.

Proposed reasons for refusal were provided to Council as requested on 29 March 2017. These were distributed via email and are attached again as **(ATTACHMENT**

5), however it is noted concern exists in relation to defending these refusal reasons given the proposal complies with the local and state planning rules.

The rescission motion was considered by Council at its ordinary meeting of 9 May 2017 5 where it was resolved to rescind its decision of Minute No. 060 of 28 March 2017 on item 1 (DA 16-2016-862-1). A motion was moved to approve the development in line with the officer's recommendation, however this motion was lost. No further motions were made to determine the application, and so the application remained unresolved.

It is noted at the 9 May 2017 meeting, various case law was discussed by Councillors as a precedent. It is noted that precedent can only exist in 'like-for-like' development situations. The case law cited on 9 May 2017, relates to developments of different types and scale, and in particular related to subdivisions that did not comply with the respective LEPs. The case law cited is therefore of no comparison.

Following this, a two-way conversation was held with Councillor's on 31 May 2017 where additional information was presented in relation to traffic impact and potential legal implications (costs and chances of success) in regards to determining the application.

#### Development Proposal

The application proposes a one into two lot Torrens title subdivision and a shed. The proposed subdivision will create the following allotments:

- Lot 1 with an area of 1,561m<sup>2</sup> which will contain the existing dwelling onsite. Access to this lot is currently provided directly from South Street; and
- Lot 2 with an area of 700m<sup>2</sup> and will be suitable for supporting a future dwelling. Access to this lot will be available from Sylvan Avenue.

The proposed shed measures 34m<sup>2</sup> in size and 3.05m in height and will be located within proposed Lot 1 to the west of the existing dwelling, along the Sylvan Avenue frontage. Landscaping has been provided to screen the shed from the street.

#### Site Details

The subject site is located at 111 South Street Medowie and is legally identified as Lot 14 DP 1079392. The site is a corner lot located on the intersection of South Street and Sylvan Avenue, measuring 2,262m<sup>2</sup> in size. The subject site is zoned as R2 Low Density Residential and has a minimum lot size of 450m<sup>2</sup> under the *Port Stephens Local Environmental Plan 2013* (LEP2013). The site contains a single storey dwelling located along the South Street frontage, with sole driveway access from this street. The sites topography rises gently from South Street to the north towards LOT 99 DP 1031039.

Surrounding developments comprise predominantly detached single dwellings (of both one and two storeys in height). The land to the south of the subject site is zoned

R2 Low Density Residential, with a minimum lot size of 600m<sup>2</sup> under the LEP2013. The land to the north is zoned R5 Large Lot Residential with a minimum lot size of 2,000m<sup>2</sup> under the LEP2013. A development application (DA) 16-2015-682-1 for three dual occupancies (six single storey dwellings) across three lots at 1A, and 1D Sylvan Avenue was approved on 29 January 2016. These allotments are located to the west of the subject site, directly across the road from the property at 8 Sylvan Avenue. This land is zoned R5, with a minimum lot size of 2,000m<sup>2</sup>.

### Site History

#### 1) Re-zoning

The subject site was previously zoned as 1C (Rural Small Holdings) under the *Port Stephens Local Environmental Plan 2000* (LEP2000), with an accompanying minimum lot size of 2,000m<sup>2</sup>.

A planning proposal was submitted to Council in February 2012 on behalf of Pacific Dunes Estate, which included the subject site. The intent of the rezoning was to facilitate higher densities and increase lot yield in the Pacific Dunes Estate to respond to market desire, by rezoning land 2(a) Residential and lowering the applicable minimum lot size to 700m<sup>2</sup>. The subject site was referenced in a number of figures contained within the Council report of 13 August 2013, which are identified within the planner's assessment report held at **(ATTACHMENT 4)**.

Council endorsed the proposal with a minimum lot size of 700m<sup>2</sup>. Council resolved to prepare the planning proposal on 24 April 2012 and to proceed with the planning proposal post-exhibition on 13 August 2013. Both resolutions were unanimous.

At some time between the exhibition period and gazettal an administrative error resulted in the minimum lot size of the subject site being reduced to 450m<sup>2</sup>. The error was not realised until after gazettal of the planning proposal which occurred concurrently with the *Port Stephens Local Environmental Plan 2013* (LEP2013). To date this error has not been rectified and the current minimum lot size for the site remains at 450m<sup>2</sup>. It is however noted that there are plans to rectify the matter as part of the forthcoming housekeeping LEP. In respect to the intended minimum lot size endorsed by Council in 2013, the applicant has proposed a subdivision where each lot exceeds 700m<sup>2</sup>.

#### 2) Approved development application(s)

A single storey dwelling was approved on the subject site on 3 July 2013 under DA 16-2013-262-1. A modification to the single storey dwelling was approved on 17 February 2017 under DA 16-2013-262-2 which related to the relocation of a retaining wall on-site closer to the dwelling to benefit drainage and access to private open space. The modification also included a floor under the approved alfresco cabana and a small pathway to connect this floor to a landing outside the children's activity room.



### Assessment Outcomes

The proposed shed is considered ancillary to the existing dwelling and is therefore considered permissible with consent in the R2 Low Density Residential zone. An assessment of the shed has determined that it complies with the relevant development standards and *Port Stephens Development Control Plan 2014* (DCP2014) requirements.

The application includes a one into two lot Torrens title subdivision that requires consent under Clause 2.6 of the *Port Stephens Local Environmental Plan 2013* (LEP2013). The proposed development is compliant with Clause 4.1 – Minimum Subdivision Lot Sizes of LEP2013 and Chapter C1 – Subdivision of DCP2014 with a lot size of above 450m<sup>2</sup>. In addition, it is noted that the proposal complies with the 700m<sup>2</sup> minimum lot size intended for the land and as endorsed by Council. A detailed assessment of the proposal against the provisions of s.79C *Environmental Planning and Assessment Act 1979* (EP&A Act) is provided at **(ATTACHMENT 4)**.

The development addresses the objectives of the zone by providing the opportunity for additional residential development to cater for the housing needs of the community. The proposal will not have any significant impacts on the amenity of adjoining properties.

### Key Issues

#### 1) Parking and Road Network

A referral was sent to Council's Traffic Engineer to assess the traffic impacts of the proposed subdivision. It was concluded there is sufficient frontage to Sylvan Avenue from proposed Lot 2 so as to allow safe access to each proposed lot, with acceptable minimum sight distances in accordance with Austroads requirements. There are no anticipated negative impacts to the safe operation of the local road network as a result of the proposal.

Further consideration of traffic impacts will be carried out during the assessment of any future development on the proposed vacant lot. No new vehicular access is required to the shed.

Following concerns from Councillors and members of the public, Council staff referred the proposal to an external traffic consultant for peer review. An independent assessment of traffic impacts was undertaken by Barker Ryan Stewart, who provided a response on 19 May 2017. The response did not raise any objection to the proposed development from a traffic impact viewpoint. This concurs with the assessment undertaken by internal specialist staff.

#### 2) Zoning and Minimum Lot Sizes

The proposed development exceeds the current minimum lot size of 450m<sup>2</sup>. In addition, the proposal meets the intended minimum lot size of 700m<sup>2</sup> as endorsed by

Council on 13 August 2013. The proposal does not increase lot yield above the densities envisaged in the planning proposal and is in keeping with the objectives of the zone.

3) Covenants/restrictions on title

A number of submissions stated that the subject site cannot be subdivided as the result of a restriction on the title. However there is no restriction registered over the lot and the subdivision of this site is not so burdened.

4) Notification

In accordance with Chapter A.12 of the Port Stephens Development Control Plan 2014, the application was not initially notified or advertised. However given the level of interest from surrounding land owners, direct consultation was undertaken to identify concerns.

5) Privacy

Proposed Lot 2 has sufficient space to facilitate future residential development without creating any substantial privacy or amenity issues. The subject land is located downslope from adjoining properties to the north and east, and it is noted that these properties feature garages, driveways and parking areas adjacent to the development site. Consideration of privacy impacts from specific development is required to be undertaken during the assessment of any future proposal. There are no anticipated privacy impacts from the subject development.

6) Increase demand for services

It is considered that the additional allotment, included in the proposal, will not impact significantly on the services in the area. The site is located in a residential area with adequate access to sewer, water, electricity, stormwater and road infrastructure.

7) Existing streetscape/character

The submissions described the subdivision as out of character from the rest of the Sylvan Ridge Estate. However, the intent of the Pacific Dunes planning proposal was to facilitate smaller residential lots. It is noted that the proposal respects the intended minimum lot size of 700m<sup>2</sup> and the resulting lots will act as a transition between the R2 and R5 zonings. It is considered that the proposed subdivision will not detrimentally impact on the streetscape or character of the area.

Mitigation Measures

In order to warrant refusal of the proposed development on the basis of a likely traffic or privacy impact, Council should be satisfied that there is a 'real chance or possibility' of the adverse impact eventuating. Consideration must also be given to the ability for the potential impact to be mitigated.

In order to respond to the concerns raised by the community and reinforced by Council (at its meetings of 28 March 2017 and 9 May 2017) the applicant increased the minimum lot size of the proposed allotment to 700m<sup>2</sup>. Privacy and stormwater impacts are not a direct consideration of the proposed development however it is noted that sufficient area has been provided for proposed Lot 2 to ensure any impacts in terms of privacy and stormwater generated by future development on-site can be mitigated. Parking and traffic impacts are low as confirmed by the external peer review completed by Barker Ryan Stewart.

#### Request for Refund of DA Fees

It is acknowledged that the original proposal incorporated a lot of less than 700m<sup>2</sup> (624m<sup>2</sup>). The applicant had been given preliminary verbal advice that the proposal they were intending to lodge complied with the minimum lot size requirements of the PSLEP 2013. Although this lot was compliant with the requirements of the PSLEP 2013, following consultation, in the interest of the community the applicant amended their original plan to increase this lot size to 700m<sup>2</sup>. This change came at cost to the applicant. Given the change was required largely as a result of an administrative error by Council staff, the applicant has requested a refund of DA fees which total \$735 as compensation for the additional monetary, design and time costs they have been subject to. There is no provision within the Schedule of Fees and Charges for Council for the refund of applications fees in such a circumstance, and accordingly Council staff cannot recommend the approval of this request. Furthermore, staff have incurred considerable time in assessing the DA, hence it's reasonable that fees are paid for it.

#### **COMMUNITY STRATEGIC PLAN**

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

#### **FINANCIAL/RESOURCE IMPLICATIONS**

There are no known financial implications resulting from the recommendation of this report.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		
Reserve Funds	No		
Section 94	Yes		Refer to conditions of consent.
External Grants	No		

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

The development application is consistent with the *Port Stephens Local Environmental Plan* (LEP2013) and *Port Stephens Development Control Plan 2014* (DCP2014).

Defendable reasons for refusals have not been able to be compiled, as the proposal complies with the LEP and DCP etc.

Further details are provided in the Planners Assessment Report held at **(ATTACHMENT 4)**.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused, it may be challenged at the Land and Environment Court.	High	Approve the application in line with the officers recommendation	Yes
This is a risk that if a refusal of the application is challenged in the Land and Environment Court, Council would be unsuccessful in defending the determination.	High	Approve the application in line with the officers recommendation	Yes
There is a risk that if the application is refused, available development opportunities for residential subdivision may not be realised.	Low	Approve the application as recommended.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The development will result in positive economic, social and environmental outcomes. The proposed development represents a one into two lot Torrens title subdivision and will result in an additional residential lot to service the needs of the community.

The proposed subdivision will reinforce the residential character in the locality and will act as a transition between the R2 zoned land to the south of the subject site and the R5 zoned land to the north of the subject site.

The proposed shed is consistent with the height of the dwelling house and maintains a sufficient setback from the secondary street frontage (Sylvan Avenue). The existing fence and landscaping will provide adequate screening of the shed to increase site and streetscape aesthetics. There are no anticipated adverse impacts on the built environment as a result of the proposed development.

The proposed additional lot has adequate site access for vehicles and is of a size which can easily accommodate a future dwelling. It should be acknowledged that any future dwelling design will be subject to a separate assessment.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Development Assessment and Compliance Section during the development application process. The objective of the consultation was to inform the relevant parties of the development application and obtain their feedback on the proposal to ensure all potential concerns have been investigated.

### Internal

The application was reviewed by a range of Councils internal specialists. The application was referred to Councils Engineering Section, Building Surveyor, and Section 94 Officer for comment. The application was supported unconditionally by Council's Engineering Section, general conditions of consent were provided by Council's Building Surveyor, and the proposal attracted Section 94 contributions for which a condition is proposed.

### External

In accordance with the requirements of the *Port Stephens Development Control Plan 2014* (DCP2014), the application was not notified or advertised. However, following interest from surrounding property owners, consultation was undertaken and as a result eight (8) submissions were received. A meeting was also held with concerned residents. The issues identified in the submissions have been addressed under 'key issues' in this report. The objectors advised in the subject meeting, should the proposal be amended to be over 700 square metres their concerns would be reduced. This has occurred.

## CONCLUSION

The proposed development is considered to suitably address the requirements of the *Port Stephens Local Environmental Plan 2013* and *Port Stephens Development Control Plan 2014*. Mitigation measures proposed in the application, in addition to the

proposed conditions of consent, are anticipated to adequately address any potential impacts of the development.

### **OPTIONS**

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

### **ATTACHMENTS**

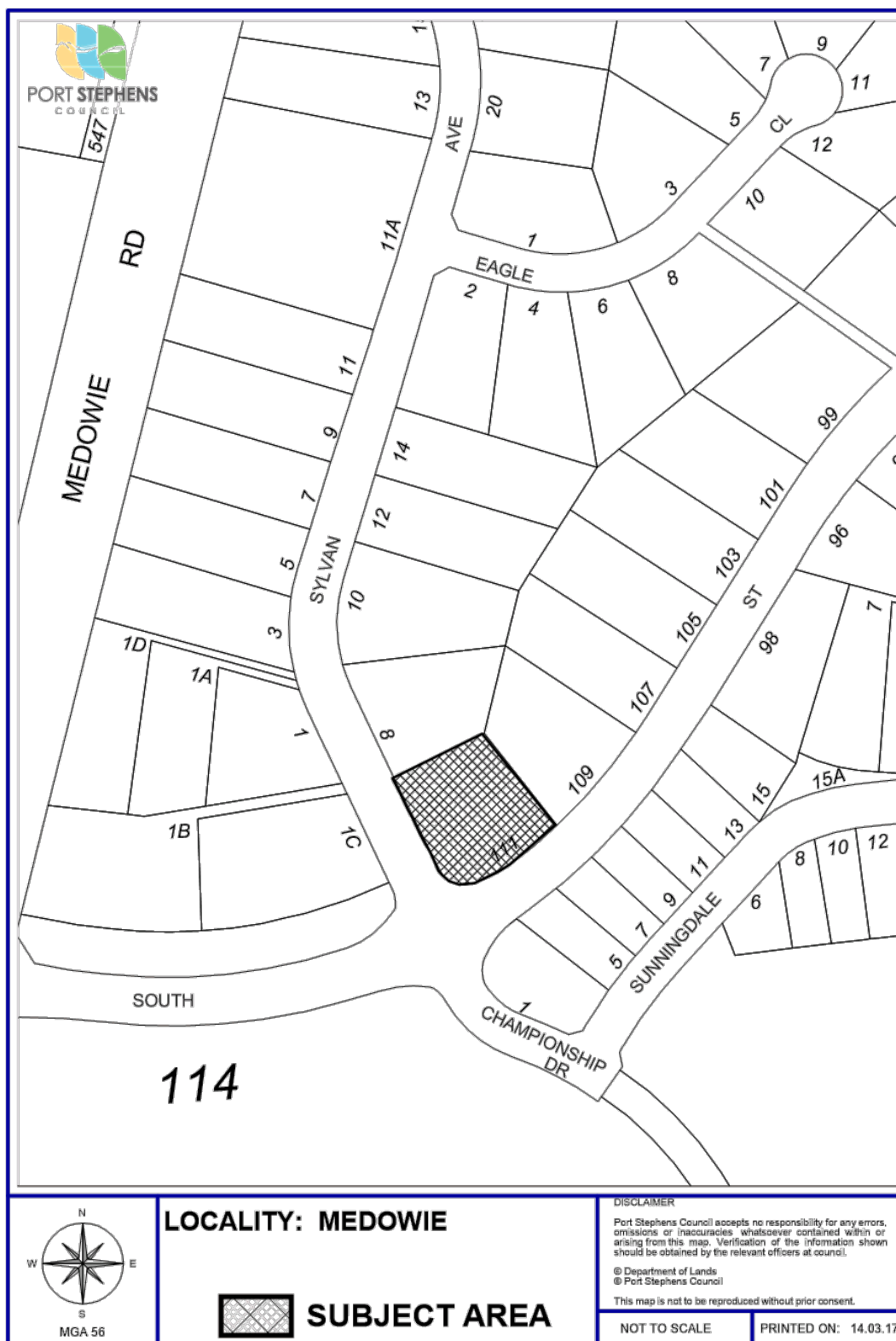
- 1) Locality Plan.
- 2) Conditions of Consent.
- 3) Call to Council Form.
- 4) Planners Assessment Report.
- 5) Reasons for Refusal.

### **COUNCILLORS ROOM**

- 1) Development plans.

### **TABLED DOCUMENTS**

Nil.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800266 Fax: (02) 49873812 Email: council@portstephens.nsw.gov.au

**ITEM 1 - ATTACHMENT 2 CONDITIONS OF CONSENT.****PORT STEPHENS**  
COUNCIL**Notice of Determination**

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

Development consent is granted to development application 16-2016-862-1 subject to the conditions in Schedule 1.

Notice is hereby made under Section 81 of the Environmental Planning and Assessment Act 1979 (the Act) of a Development Consent issued under Section 80 of the Act, for the development described below. The consent should be read in conjunction with the conditions contained in Schedule 1, the notes contained in Schedule 2 and the bushfire safety authority approval issued by the New South Wales Rural Fire Service contained in Schedule 3.

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

**APPLICATION DETAILS**

**Application No:** 16-2016-862-1

**Property Address:** LOT: 14 DP: 1079392  
**111 South Street MEDOWIE**

**Description of Development:** **Torrens Title Subdivision into Two Lots and Alterations & Additions to Existing Dwelling (deck), Concrete Driveway and Shed**

**Date of determination:** 27 June 2017

**Date from which the consent operates:** 27 June 2017

**Date on which the consent shall lapse:** 28 June 2022  
(unless physical commencement has occurred)

Erin Daniel | Development Planner





**PORT STEPHENS**  
COUNCIL

## Notice of Determination

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

### SCHEDULE 1

#### REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

These conditions are required to:

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

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

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

Plan/Doc.Title	Plan Ref. No	Sheet.	Date	Drawn By
Proposed Subdivision Contour & Detailed Overlay	6307 PS-V3	1 of 2	7/2/2017	LeMottee Group
Proposed Subdivision	6307 PS-V3	2 of 2	7/2/2017	LeMottee Group
Shed Location Plan	SLP_001	1 of 1	7/2/2017	MM
Shed Detail	30825	1 of 1	26/8/2016	Shed Boss

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

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

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

3. **Prior to the commencement of works on the shed**, erosion and sediment control measures shall be put in place immediately down contour of any disturbed ground, and maintained post completion until the site is fully stabilised, to prevent the

ITEM 1 - ATTACHMENT 2 CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

## Notice of Determination

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

movement of soil by wind, water or vehicles onto any adjoining property, drainage line, easement, natural watercourse, reserve or road surface, in accordance with *Managing Urban Stormwater – Soils and Construction, Volume 1* (Landcom, 2004).

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

6. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
7. Unless otherwise approved by Council in writing, all general building/demolition work shall be carried out between the hours of:
  - 7.00am to 6.00pm Monday to Friday
  - 7.00am to 5.00pm Saturday

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

8. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.

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

9. **Prior to release of the Occupation Certificate for the shed**, the applicant shall restore, replace or reconstruct any damaged sections of kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve which results from construction activities, as determined by Council's Development Engineers or Civil Assets Engineer. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Council.

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

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

Facility	Per lot/dwelling	Total
Civic Administration	\$1,154.00	\$1,154.00
Public Open Space, Parks & Reserves	\$2,529.00	\$2,529.00

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

16-2016-862-1

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## ITEM 1 - ATTACHMENT 2 CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

## Notice of Determination

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

Sports and Leisure Facilities	\$6,828.00	\$6,828.00
Cultural and Community Facilities	\$2,435.00	\$2,435.00
Road Works	\$1,607.00	\$1,607.00
Fire & Emergency Services	\$224.00	\$224.00
Medowie Traffic	\$2,516.00	\$2,516.00
Total		\$17,293.00

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

- a. **Prior to the issue of a subdivision certificate, or a construction certificate for works associated with the subdivision, whichever occurs first.**

Note: The amount of contribution payable under this condition has been calculated at the time of determination and in accordance with the Port Stephens Section 94 contributions plan. The contribution amount is valid for twelve months from the consent date. Should payment take place after twelve months the contribution shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics.

11. For endorsement of the Subdivision Certificate, the person having the benefit of the development consent shall submit an original plan of subdivision plus an electronic copy (USB or CD), suitable for endorsement by Council. The following details must be submitted with the plan of subdivision and its copies:
  - a. the endorsement fee current at the time of lodgement;
  - b. the 88B instrument;
  - c. the Section 50 (Hunter Water) Compliance Certificate for the subdivision;
  - d. Documentary evidence detailing essential service connections to both allotments; and
  - e. Proof of payment of Section 94 contribution
12. A registered surveyor shall provide certification that the service as constructed is contained within each lot, or within appropriate easements to accommodate the service. The certification is to be provided to the PCA, **prior to the issue of a Subdivision Certificate.**

### ADVICES

- A. **Prior to making the application for a Subdivision Certificate**, the person having the benefit of this consent is to contact Council's Mapping Section via email at: [addressing@portstephens.nsw.gov.au](mailto: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.

**ITEM 1 - ATTACHMENT 2 CONDITIONS OF CONSENT.**



**PORT STEPHENS**  
COUNCIL

## Notice of Determination

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

- B. Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/the person having the benefit of the development consent to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.
- C. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposal. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- D. The development was referred to the NSW Rural Fire Service for an integrated referral. The application was supported unconditionally; the document is contained in Schedule 3 of this consent, referenced D16/4382 and dated 11 January 2017.

### SCHEDULE 2

#### RIGHT OF APPEAL

If you are dissatisfied with this decision:

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

#### NOTES

- This is not an approval to commence work. Building works cannot commence until a construction certificate is issued by Council or an accredited certifier.
- Consent operates from the determination date. For more details on the date from which the consent operates refer to section 83 of the Environmental Planning and Assessment Act 1979.
- Development consents generally lapse five years after the determination date, however different considerations may apply. For more details on the lapsing date of consents refer to section 95 of the Environmental Planning and Assessment Act 1979

ITEM 1 - ATTACHMENT 2 CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

## Notice of Determination

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

### SCHEDULE 3

*All communications to be addressed to:*

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Telephone: 1300 NSW RFS  
e-mail: [csc@rfs.nsw.gov.au](mailto:csc@rfs.nsw.gov.au)

Headquarters  
Locked Bag 17  
Granville NSW 2142

Facsimile: 8741 5433



The General Manager  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324

Your Ref: 16-2016-862-1  
Our Ref: D16/4382  
DA16122305407 JC

**ATTENTION:** Hugh Jones

11 January 2017

Dear Sir/Madam

#### **Integrated Development for 14//1079392 111 South Street Medowie**

I refer to your letter dated 21 December 2016 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued without any specific conditions.

For any queries regarding this correspondence please contact Joshua Calandra on 1300 NSW RFS.

Yours sincerely

Iona Cameron  
**Acting Team Leader**

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under 'Planning for Bush Fire Protection, 2006'.

ID:105407/98982/5

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Email [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)

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ITEM 1 - ATTACHMENT 3 CALL TO COUNCIL FORM.



CALL TO COUNCIL FORM  
DEVELOPMENT APPLICATION



I, Councillor **Ken Jordan**.....

require Development Application Number..... **16-2016 862-1**

for **subdivision at 111 South Street**

at **111 South Street**

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

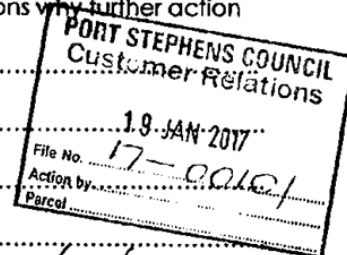
**Reason:**

The reason for this call-up to Council is **the community are not happy with the subdivision, the neighbours were not notified and they should have been told.**

**Declaration of Interest:**

I have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this development application on my part or an associated person. **I have a conflict of interest? Yes/No** (delete the response not applicable).

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



Signed: ...

Date: **18/1/2017**





## DEVELOPMENT ASSESSMENT REPORT

### APPLICATION DETAILS

<b>Application Number</b>	16-2016-862-1
<b>Development Description</b>	Torrens Title Subdivision into Two Lots and new Shed
<b>Applicant</b>	MRS M L MORRISSEY & MR A MORRISSEY
<b>Date of Lodgement</b>	15/12/2016
<b>Value of Works</b>	\$24,000.00

### Development Proposal

The application proposes a one (1) into two (2) lots Torrens title subdivision and a shed.

The proposed subdivision will create the following allotments:

- Lot 1 with an area of 1,561m<sup>2</sup> which will contain the existing dwelling onsite. Access to this lot is currently provided directly from South Street; and
- Lot 2 with an area of 700m<sup>2</sup> and will be suitable for supporting a future dwelling. Access to this lot will be available from Sylvan Avenue.

The proposed shed measures 34m<sup>2</sup> in size and 3.05m in height and will be located within proposed Lot 1 to the west of the existing dwelling, along the Sylvan Avenue frontage. Landscaping has been provided to screen the shed from the street.

The initial application included the addition of a deck to the existing dwelling, however compliance issues were raised and subsequently the deck was withdrawn from the current application. The deck is part of an ongoing compliance action.

### PROPERTY DETAILS

<b>Property Address</b>	111 South Street MEDOWIE
<b>Lot and DP</b>	LOT: 14 DP: 1079392
<b>Current Use</b>	Single Storey Dwelling
<b>Zoning</b>	R2 LOW DENSITY RESIDENTIAL
<b>Site Constraints</b>	Bushfire Prone Land – Category 3; Acid Sulfate Soils – Class 5; Koala Habitat – Preferred Habitat linking over cleared land; RAAF Height Trigger Area – Structures over 15m; RAAF Bird Strike zone – Group B; Extraneous Lighting (CASA); D10 Pacific Dunes, Medowie; and Flood Prone Land – Minimal Risk Flood Prone Land.

**ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.**

16-2016-862-1

**Site Description**

The subject site is located at 111 South Street Medowie and is legally identified as Lot 14 DP 1079392 (**Figure 1**). The site is a corner lot located on the intersection of South Street and Sylvan Avenue, measuring 2,262m<sup>2</sup> in size. The site comprises a single storey dwelling located along the South Street frontage, with sole driveway access from this street. The sites topography rises gently from South Street to the north towards LOT 99 DP 1031039.

Surrounding developments comprise predominantly detached single dwellings (of both one and two storeys in height), with the Pacific Dunes Golf Course located to the south west of the site.



**Figure 1** – Aerial of locality

**Site History**

The subject site has historic residential use and approval for the following:

- DA 16-2002-727-1: Golf Course (approved 8 August 2002);
- DA 16-2004-701-1: 3 lot Torrens Title Subdivision & Road Widening (approved 29 October 2004);
- DA 16-2013-262-1: Single Storey Dwelling (approved 3 July 2013); and
- DA 16-2013-262-2: Relocation of retaining wall and construction of alfresco floor (approved 17 February 2017).

There are no outstanding matters relating to these consents which would prevent the proposed development from being carried out.

A planning proposal was submitted to Council in February 2012 on behalf of Pacific Dunes Estate, which included the subject site. The intent of the rezoning was to facilitate higher densities and increase lot yield in the Pacific Dunes Estate to respond to market desire, by rezoning land 2(a)

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Residential and lowering the applicable minimum lot size to 700m<sup>2</sup>. **Figure 2 and 3** identifies the areas addressed by the planning proposal, contained as attachment 3B to the Council report of 13 August 2013.



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**ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.**

16-2016-862-1

After consultation with Council's Strategic Planning section, it is understood that the current minimum lot size of 450m<sup>2</sup> appears to be a mapping anomaly that occurred during the adoption of LEP 2013.

**Site Inspection**

A site inspection was carried out on Friday 3 February 2017. The subject site can be seen in figures 4 to 9 below:



**Figure 4** – Subject Site, viewed from 1C Sylvan Avenue (LOT 11 DP 1105086)



**Figure 5** – Proposed Lot 2 viewed from corner of Sylvan Avenue and South Street



**Figure 6** – Sylvan Avenue facing north

16-2016-862-1



**Figure 7** – Proposed Lot 2, viewed from Sylvan Avenue



**Figure 8** – Existing residency, fronting South Street



**Figure 9** – Proposed lot, viewed from existing dwelling

#### **ASSESSMENT SUMMARY**

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

**ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.**

16-2016-862-1

**Internal Referrals**

The proposed application was referred to the following internal specialist staff. The comments of the listed staff have been used to carry out the assessment against the S79C Matters for Consideration below.

**Building Surveyor** – The proposed development was supported with general conditions of consent provided.

**Section 94 Officer** – The proposed development is required to be levied and has been conditioned accordingly.

**Traffic Engineer** – It was concluded there appears to be sufficient frontage to Sylvan Avenue from the proposed lot to provide the desired separation of driveways if the lot was subsequently developed. Minimum sight distance on Sylvan Avenue, from an access point to the proposed lot can be achieved in accordance with Austroads requirements. However, it was noted Sylvan Avenue is too narrow to support on-street parking so any future development on the proposed lot will have to consider any parking requirements to accommodate off-street parking. The assessment considered all of the public submissions and the application was supported unconditionally.

**External Referrals**

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

**RFS** – The applications was referred to the RFS as integrated development under 100B of the *Rural Fires Act 1997*. In response, the application was supported unconditionally by the RFS.

**MATTERS FOR CONSIDERATION – SECTION 79C****s79C(1)(a)(i) – The provisions of any EPI**

Port Stephens Local Environmental Plan 2013 (LEP)

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

The proposed shed is considered ancillary to the existing dwelling. Dwellings are permissible with consent in the R2 Low Density Residential zone. The proposed development also incorporates a subdivision and is permissible with consent in any residential zone with consent, subject to meeting the minimum lot size requirements. The development addresses the objectives of the zone by providing additional allotments to facilitate further development of the land for residential purposes, therefore meeting the housing needs of the community and area.

**Clause 2.6 – Subdivision**

The proposed development incorporates a two lot Torrens title subdivision and has sought approval under this application in accordance with this Clause.

**Clause 4.1 – Minimum Lot Size**

Resulting lots of the proposed subdivision both exceed the minimum lot size of 450m<sup>2</sup> applicable to the subject land. Proposed Lot 1 has an area of 1,561m<sup>2</sup> and proposed Lot 2 has 700m<sup>2</sup>.

As discussed above, the current minimum lot size of 450m<sup>2</sup> appears to be a mapping anomaly that occurred during the adoption of LEP2013. The applicant agreed to increase the size of proposed Lot 2 from 624.3m<sup>2</sup> to 700m<sup>2</sup> to meet the minimum lot size requirements contained within the planning proposal lodged in 2012. As a result of this, the subdivision does not increase lot yield above the densities envisaged in the planning proposal.

**Clause 4.3 – Height of Buildings**

The proposed shed has a maximum height of 3.05m, which is below the maximum permissible building height of 9m specified on the Height of Buildings Map.

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**ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.**

16-2016-862-1

**Clause 7.1 – Acid Sulfate Soils**

The subject land is mapped as containing potential Class 5 acid sulfate soils. The proposed development is not anticipated to include any significant excavations and therefore there are no expected impacts as a result of acid sulfate soils.

**Clause 7.3 – Flood Planning**

The proposed development is located on land mapped as minimal risk flood prone land. However this flood prone land consists of approximately 75m<sup>2</sup> in the eastern corner of the site. As the proposed shed will be constructed outside of this area, no significant negative impacts on the local flooding characteristics will occur.

**Clause 7.6 – Essential Services**

The subject site is serviced by reticulated water, electricity and sewer. The subject land also maintains direct access to South Street via the existing driveway. Additional access to proposed Lot 2 can be gained from Sylvan Avenue meeting the requirements of this clause. A condition is proposed that requires the provision of evidence that all essential services are available to the resulting lots, prior to the issue of a subdivision certificate.

**s79C(1)(a)(ii) – Any draft EPI**

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

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

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

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

In accordance with the requirements of chapter A.12, the development application was not required to be notified.

**Chapter B3 – Environment Management****B3.A Bushfire Prone Land**

The subject site is mapped as Bushfire Prone Land, and as a result was referred to the NSW Rural Fire Service as integrated development under 100B of the *Rural Fires Act 1997*. In response, the application was supported unconditionally.

**B3.B Acid Sulfate Soils**

The subject land is mapped as containing potential Class 5 acid sulfate soils. The proposed development is not anticipated to include any significant excavations and therefore there are no expected impacts as a result of acid sulfate soils.

**Chapter B5 – Flooding**

The subject land is mapped as being within the Flood Planning Area. Following from the discussion against Clause 7.3 of the LEP2013 above, the proposed development is acceptable in this regard.

**Chapter B6 – Essential Services**

Reticulated water, electricity and sewer are available to the subject site. The area included in proposed Lot 2 naturally slopes towards Sylvan Avenue, thus any stormwater captured by future development will be directed towards the drainage infrastructure located on Sylvan Avenue. Stormwater drainage will however be assessed under future development applications. Proposed Lot 2 will have direct access to a Sylvan Avenue.

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**ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.**

16-2016-862-1

**Chapter B9 – Road Network and Parking**

Proposed Lot 2 achieves sufficient frontage to Sylvan Avenue to provide the desired separation of driveways if the lot was subsequently developed. Minimum sight distance on Sylvan Avenue, from an access point to proposed Lot 2 can be achieved in accordance with Austroads requirements. It is noted that Sylvan Avenue is too narrow to support on-street parking; therefore any future development on proposed Lot 2 must accommodate off-street car parking.

**Chapter C1 – Subdivision**

Clause	Requirement	Assessment
C1.2	Subdivision defined as either minor or major	The proposed subdivision is a one into two lot Torrens title subdivision, with no new roads. Accordingly the subdivision is classified as a minor subdivision.
C1.5	Maximum lot dimensions of 80m deep and 160m long	The resulting lots have approximate dimensions of: <ul style="list-style-type: none"> <li>• Lot 1 – 31.21m deep by 43.24m long; and</li> <li>• Lot 2 – 43.24m deep by 19m long.</li> </ul> The above dimensions are under the maximum lot dimensions are therefore complies with the DCP.
C1.11	New lots support a building footprint of 15x8m or 10x12m	Proposed Lot 2 is capable of supporting a building footprint in accordance with this requirement.
C1.14	Where possible, lots should be orientated to provide one axis within 30 degrees east and 20 degrees west of true solar north. Where a northern orientation is not possible, lots should be wider to allow private open space on the northern side of the dwelling. Subdivision design should take account for solar access opportunities afforded by land topography.	The subject site does not achieve solar access in accordance with C1.14 as a result of the lot formation under the previous subdivision. It is however noted that the resulting lots of the proposed development are large enough to obtain sufficient northerly solar access into private open spaces and dwellings.
C1.21	Each lot must achieve gravity drainage to the public drainage network, and may include the use of inter-allotment drainage.	Proposed Lot 2 naturally slopes towards Sylvan Avenue, thus any stormwater will flow towards the existing drainage infrastructure located on Sylvan Avenue.

**Chapter C4 – Ancillary Development**

Clause	Requirement	Assessment
C4.1	Lodgement Requirements	The application includes relevant information required under this clause.
C4.9	Building height to be max. 9m on land with no maximum building height	The proposed shed has a maximum height of 3.05m above ground level, which is below the maximum permissible building height of 9m specified on the

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**ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.**

16-2016-862-1

	specified in LEP	Height of Buildings Map.
C4.10	Minimum front setback of 4.5m in greenfield sites or average of adjacent properties, or 10m in rural, environmental or R5 zoned land	The proposed shed is setback approximately 13.5m from the front property boundary which complies with the minimum setback requirements.
C4.11	Minimum setback from secondary street frontage of 2m or 10m in rural or environmental zones	The proposed shed is setback between 3.7m and 5.4m from the secondary street frontage property boundary, which complies with the minimum setback requirements.
C4.21	Development to be sympathetic to the street character	The proposed shed is typical of other developments in the locality in terms of size and scale. The shed will match the colours of the existing dwelling on-site and will be screened by the existing fence and landscaping.
C4.31	Ancillary shed on residential land to have max. gross floor area of 72m <sup>2</sup> and min setback from side and rear boundaries of 0.9m, or uses a merits bases approach to floor area on R5 zoned land with a 10m front boundary setback and 5m rear and side boundary setback	The shed has a gross floor area of 34m <sup>2</sup> and is setback between 3.7m and 5.4m from the secondary street frontage (Sylvan Avenue) and approximately 15m from proposed rear property boundary. The floor area and setbacks of the proposed ancillary shed meet the requirements of this clause.

**Chapter D10 – Pacific Dunes – Meadowie (Hillside Lots Precinct)**

Site specific development controls are applicable to the proposed development and have been assessed below as follows.

D10.1	Landscape Plan	The proposed shed is to be screened by the existing hedging, which are represented on the plan.
D10.5	Setbacks – Hillside Precinct	The proposed shed complies with the setback requirements of the Hillside Precinct.

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

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

**s79C(1)(a)(iv) – The regulations**

There are no clauses of the regulations that require consideration for the proposed development.

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

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

**s79C(1)(b) – The likely impacts of the development**

Social and Economic Impacts

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**ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.**

16-2016-862-1

The proposal will result in a positive social and economic impact through the provision of additional allotments to service the housing needs of the local community. There are no anticipated adverse social or economic impacts as a result of the proposed development.

Impacts on the Built Environment

The proposed development will reinforce the residential nature of the locality. The proposal addresses the street and provides logical and convenient connections to the road network and pedestrian facilities in the locality. There are no anticipated adverse impacts on the built environment as a result of the proposed development.

Impacts on the Natural Environment

The proposal is for a Torrens Title subdivision and shed. The development is not envisaged to generate any impacts on the natural environment.

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

The subject site is located within an existing residential area and is relatively clear of vegetation. The site has access to all relevant services and the proposed development makes good use of the available land. The application design includes all elements required under the relevant planning instruments and policies and there are no anticipated negative impacts on the locality as a result of the development.

**s79C(1)(d) – Any submissions**

Eight (8) submissions and one signed petition have been received in relation to the proposed development and are discussed in further detail below.

Issue Raised	Comment
Parking and Road Networking	A referral was sent to Council's Traffic Engineer to assess the traffic impacts of the proposed subdivision with consideration to submissions.  It was concluded there are sufficient frontage to Sylvan Avenue from the proposed lot to provide the desired separation of driveways, if the lot was subsequently developed. Minimum sight distance on Sylvan Avenue, from an access point to the proposed lot can be achieved in accordance with Austroads requirements.
Zoning and Minimum Lot Sizes	Resulting lots of the proposed subdivision both exceed the minimum lot size of 450m <sup>2</sup> applicable to the subject land. Proposed Lot 1 has an area of 1,561m <sup>2</sup> and proposed Lot 2 has 700m <sup>2</sup> .  The current minimum lot size of 450m <sup>2</sup> appears to be a mapping anomaly that occurred during the adoption of LEP2013. The applicant agreed to increase the size of proposed Lot 2 from 624.3m <sup>2</sup> to 700m <sup>2</sup> to meet the minimum lot size requirements contained within the planning proposal lodged in 2012. As a result of this, the subdivision does not increase lot yield above the densities envisaged in the planning proposal.
Covenants/restrictions on title	A number of submissions stated that the subject site cannot be subdivided as the entire Sylvan Ridge Estate has a restriction on the title, which does not allow for the further subdivision of land. However the subject site was under a different Deposited Plan, (Pacific Dunes) which subsequently did not have this same restriction on title. The subdivision of this site is therefore not burdened by this restriction.
Notification	The application was not required to be notified in accordance with

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**ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.**

16-2016-862-1

	<i>Chapter A.12 of the Port Stephens Development Control Plan 2014.</i>
Privacy	Privacy impacts are not generated by the proposed subdivision rather could be an impact generated by future development. In this instance it is noted that proposed Lot 2 (700m <sup>2</sup> ) is deemed to have sufficient space to facilitate future residential development without creating any substantial privacy issues.
Increase demand for services	The application is for subdivision and an ancillary shed. It is noted that the subject site is zoned R2 which facilitates future residential development. It is considered that the proposal will not impact significantly on the services in the area.
Existing streetscape/character	The submissions described the subdivision as out of character from the rest of the Sylvan Ridge Estate. However, the intent of the Pacific Dunes Planning Proposal was to facilitate smaller residential lots, and as such the subject site was included in the proposal as an appearance to the entrance of the Pacific Dunes Estate. The original planning proposal had the subject site mapped as a one (1) into three (3) lot subdivision; in conclusion the proposed one (1) into two (2) lot subdivision is an improved outcome as it will act as a transition between two zonings.
Stormwater	The subject site naturally slopes downwards towards Sylvan Avenue, thus any stormwater that will not infiltrate on the current undeveloped site (proposed Lot 2) will drain to the drainage infrastructure located on Sylvan Avenue.

The issues raised in the submissions have been considered in the context of the proposal, surrounding locality and relevant legislation. The issues raised have been determined to not be of significance as to warrant refusal or modification of the proposed development.

**s79C(1)(e) – The public interest**

The additional lot in the locality will service the needs of the community, whilst not anticipated to have any significant adverse impacts on surrounding properties or the amenity of the locality. The proposed development reinforces the residential nature of the land and is in keeping with the character of surrounding developments. The proposed development has created a significant amount of community interest, however complies with all the applicable planning provisions required for the subject development.

The proposed shed is also considered in keeping with the amenity and streetscape of the area.

**DETERMINATION**

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

Erin Daniel | Development Planner



**PORT STEPHENS**  
COUNCIL

## Reasons for refusal

1. The site is not suitable for the development given the location and context of the proposed subdivision and traffic impacts. The site is within close proximity to the nearby roundabout at the intersection of South Street and Championship Drive and the development will have unacceptable impacts on the local traffic network with respect to traffic safety (s.79C(1)(c)EP&A Act 1979); and
2. The development is likely to have significant adverse impacts on the amenity and streetscape of the surrounding area. The development is therefore not in the public interest (s.79C(e) EP&A Act 1979).

## MINUTES ORDINARY COUNCIL - 11 JULY 2017

Cr Ken Jordan entered the meeting at 6.33pm in Committee of the Whole.

### ITEM NO. 2

FILE NO: 17/114801  
RM8 REF NO: 16-2016-856-1

**DEVELOPMENT APPLICATION NO.16-2016-856-1 FOR A RESIDENTIAL FLAT BUILDING (INCORPORATING SIX STOREY APARTMENT COMPLEX WITH UNDERGROUND CAR PARKING) AT 65-67 DONALD STREET, NELSON BAY (LOTS: A & B DP:369677)**

REPORT OF: MICHAEL MCINTOSH - GROUP MANAGER DEVELOPMENT SERVICES  
GROUP: DEVELOPMENT SERVICES

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2016-856-1 for a Residential Flat Building (Incorporating 6 Storey Apartment Complex with Underground Car Parking) at 65-67 Donald Street, Nelson Bay (Lots A & B, DP369677), subject to conditions contained in **(ATTACHMENT 3)**.
- 

### ORDINARY COUNCIL MEETING - 11 JULY 2017 COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor John Nell</b> <b>Councillor Sally Dover</b>  That the recommendation be adopted.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, John Morello, John Nell and Steve Tucker.

Those against the Motion: Nil.

### ORDINARY COUNCIL MEETING - 11 JULY 2017 MOTION

<b>163</b>	<b>Councillor John Nell</b> <b>Councillor John Morello</b>  It was resolved that Council approve Development Application 16-2016-856-1 for a Residential Flat Building (Incorporating 6 Storey Apartment Complex with Underground Car Parking) at 65-67 Donald Street, Nelson
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## MINUTES ORDINARY COUNCIL - 11 JULY 2017

	Bay (Lots A & B, DP369677), subject to conditions contained in <b>(ATTACHMENT 3)</b> .
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Chris Doohan, Sally Dover, Peter Kafer, John Morello, John Nell and Steve Tucker.

Those against the Motion: Nil.

### BACKGROUND

The purpose of this report is to present to Council for determination development application (DA) 16-2016-856-1 for the construction of a six storey Residential Flat Building and associated basement car parking. A locality plan is provided at **(ATTACHMENT 1)**.

The application includes a variation to the maximum building height specified under the Port Stephens Local Environmental Plan 2013 (PSLEP2013). Variations to the maximum building height are of potential interest to the local community and so accordingly, the application is reported to Council for determination.

### Proposal

The application proposes a six storey Residential Flat Building at 65-67 Donald Street, Nelson Bay comprising 17 apartments that include:

- 1 x one-bedroom apartment;
- 9 x two-bedroom apartments (including one accessible unit); and
- 7 x three-bedroom apartments.

Thirty onsite car parking spaces, including one accessible space are proposed. The car parking will provide 26 car parking spaces in the basement level, incorporating a vertical double vehicle stacking arrangement for eight (8) parking spaces. The entry and exit point to the basement car parking area is provided on the southern elevation. Four car parking spaces are provided at ground level positioned on the southern elevation.

The slope of the site dictates the building form and results in building heights that vary between 20.7m to 17.7m.

### Site Details

The subject site is located on the western fringe of Nelson Bay town centre— one of the main entrance points to the town centre. The subject site is located on a corner

lot, positioned south east of the intersection of Donald Street and Church Street. The site slopes from the south west corner of 67 Donald Street (Church Street Frontage) towards the north east corner of 65 Donald Street (Donald Street frontage) and measures 817.62m<sup>2</sup> in size.

The site is currently vacant and it is considered that the proposed development will create a high quality building design at a main entry point to the centre of Nelson Bay. Existing and approved residential flat buildings located along Church Street and Donald Street are similar in built form and scale.

#### Assessment Outcomes

The subject lots, 65 Donald Street and 67 Donald Street are zoned B2 Local Centre and R3 Medium Density Residential respectively under PSLEP2013. The proposal is permissible with consent in each zone.

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

#### Key Issues

##### Building Height

The maximum building height as prescribed under PSLEP2013 and applicable to the subject site is 15m. To support a proposed building height of up to 20.7m and in accordance with clause 4.6 of PSLEP2013, the applicant has lodged a request for an exception to clause 4.3 of the Local Environmental Plan.

It is noted that the amended design of the development is consistent with the Nelson Bay Town Centre and Foreshores Strategy adopted in 2012, which includes a building height 'bonus' of two storeys for the Nelson Bay CBD and including the subject property if design excellence and strategic public benefit can be demonstrated. The design of the amended development is of a high quality with the inclusion of a range of materials, textures and colours. The range of materials and colours, in conjunction with the articulation and modulation of building façades, visually reduce the perception of the bulk and scale of the development. It is considered that the design achieves a built form that has acceptable proportions and a balanced composition of elements. The visual appearance of the development responds to the existing local context, while providing a benchmark in regards to design for future development in the locality and infilling a vacant lot positioned at a main entry point to the town centre of Nelson Bay. The proposal exhibits design excellence as prescribed under the Nelson Bay Town Centre and Foreshores Strategy 2012.

The proposal will expand the population base in close proximity to the town centre of Nelson Bay contributing towards critical mass of the population, thereby supporting the local economy. There is a clear public benefit from the proposed development which not otherwise be realised if the proposal was restricted to the 15m building height limit.

The proposal has given regard for the impact of the additional height, which is in context with the locality and does not present any significant impact on privacy, views or overshadowing. Although the Nelson Bay Town Centre and Foreshore Strategy (2012) do not have formal legislative weight, the strategy has been formally adopted by Council. The principles and recommendations represent the contemporary views of the public and Council as to how development should be carried out and what characteristics should be incorporated into the design of new developments. Accordingly, the principles and recommendations of the strategy are appropriate considerations when undertaking an assessment of the impacts of a development and its suitability in the locality.

In consideration of the request for an exception to the maximum building height, the requirements of clause 4.6 of PSLEP2013 have been considered as follows:

- There are sufficient environmental planning grounds to justify the variation including that the proposed development will activate the adjacent public spaces and improve the visual amenity of the locality;
- The development is consistent with the intent of the Nelson Bay Town Centre and Foreshore Strategy (2012) in that its height, bulk and scale are appropriate for the context and character of the locality. The design also incorporates the use of neutral tones, coloured materials, multiple building façade design features and modulation of building sections;
- The proposed development represents an increase in the availability of residential housing in Nelson Bay;
- The development is consistent with the objectives of the development standard as it is in keeping with the height context of other buildings in the locality, and reinforces the Nelson Bay town centre;
- The development is consistent with the objectives of the B2 and R3 zones as it provides for the housing needs of the community in a medium density environment which will support businesses within the town centre;
- The proposed development is an appropriate response to the context of the site, and the variation to the standard is compatible with the existing and future character of the Nelson Bay area; and
- The proposed development will not have significant environmental impact and is in the public interest and better achieves the development standard's objectives.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

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

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

The development application is consistent with Section 79C of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

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

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The development is expected to produce a total economic output of \$12.4 million. Twenty two jobs are anticipated to be created and positive economic outcomes will continue post construction via the flow on effects of future residents by way of shopping, working, living and recreational pursuits. In addition, the development will attract s94 contributions for the provision of local infrastructure and facilities in accordance with Section 94 of *EP&A Act*.

The design of the development is considered to be of a high quality. The development responds to the existing and desired character of the western fringe of Nelson Bay, while providing a benchmark in regards to design for future development. The development will create visual interest and activate the Donald Street and Church Street frontage. The development is not anticipated to have significant adverse impacts on the locality, surrounding properties or public places.

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

## **CONSULTATION**

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

### Internal

The application was referred to the following Council sections:

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

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

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



External

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

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

- The setback to the eastern boundary has been increased.
- The building is recessed from the forth storey upwards to the penthouse level. The penthouse level is further recessed.
- Curved balcony corner elements have been added to the north east elevation (Donald Street frontage).
- Unit 2 has been redesigned to allow a shorter length of corridor to the main lobby to provide an area for seating.
- The width of the entry at the front boundary adjacent to the mailboxes has been widened 1m to allow for and promote social interaction.
- Skylights have been incorporated into all bathrooms and corridors on the top floor.
- Grey water harvesting and storage of stormwater on site has been included for irrigation of landscaping.

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

Public Consultation - The application was exhibited for 14 days in accordance with PSDCP2014, ending 11 January 2017. During this period two (2) submissions were received. The following concerns were raised:

Concern Raised	Response
Maximum height of building	Height, bulk and scale have been assessed in the Assessment Report provided at <b>(ATTACHMENT 2)</b> to this report and it is concluded that the development is acceptable in this regard. The amended development plans detail design features that reduce the apparent height, bulk and scale of the development so as to be consistent with surrounding development.

**MINUTES ORDINARY COUNCIL - 11 JULY 2017**

<b>Concern Raised</b>	<b>Response</b>
Shortage of on street parking	The application was assessed against on-site car parking requirements as outlined under PSDCP2014 which specified a minimum of 30 onsite car parking spaces are required to service the development. The development will provide 30 car parking spaces and as such satisfies onsite car parking requirements. Following, there is no requirement to secure additional on-street car parking spaces.
Inconsistent with the character of Nelson Bay	The proposal has been assessed against and was considered to be satisfactory with regard to the objectives of the R3 and B2 zoned land. Further, the development is consistent with existing and approved residential flat buildings located on Church Street and Donald Street.
Inconsistent with the Nelson Bay Strategy	The Nelson Bay Town Centre and Foreshores Strategy (2012) support the height of the proposed development. Further, the proposal reinforces Nelson Bay as a Centre and improves the amenity of the locality by providing a high quality, contemporary development at one of the main entrances to the CBD. The proposal is consistent with the adopted strategy.
The use of future units	The proposed development is for a residential flat building. Residential flat buildings are a type of residential accommodation which is defined as a building or place used predominantly as a place of residence. The provision of residential units for long term accommodation is in keeping with the objectives of the zone and is considered to be appropriate in this instance.

## MINUTES ORDINARY COUNCIL - 11 JULY 2017

Concern Raised	Response
Insufficient Information provided in the Statement of Environmental Effects	The Statement of Environmental Effects (SEE) submitted is consistent with the requirements set out in Schedule 1, Part 1, Clause 2(4) of <i>The Environmental Planning and Assessment Regulations 2000</i> . Furthermore, the SEE adequately describes the proposed development and potential impacts, and allows an appropriate assessment of the development to be undertaken.

### OPTIONS

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

### ATTACHMENTS

- 1) Locality Plan.
- 2) Assessment Report. (Provided under separate cover)
- 3) Proposed conditions.

### COUNCILLORS ROOM

- 1) DA Plans.

### TABLED DOCUMENTS

Nil.



## ITEM 2 - ATTACHMENT 3 PROPOSED CONDITIONS.



**PORT STEPHENS**  
COUNCIL

## Recommended Conditions

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

### SCHEDULE 1

#### REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

These conditions are required to:

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

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

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

Plan/Doc.Title	Plan Ref. No	DWG No.	Date	Drawn By
Development Plans (10 sheets)	0216	1 to 10	May 2017	Stephen Jones Associates
Finishes Schedule Sample Board (1 Sheet)	0216	1	June 2017	Stephen Jones Associates
Landscape Plan (1 Sheet)	001	1	June 2017	Site Designs Studios
Concept Stormwater Plans (3 Sheets)	3641	C200, C2101, C210	14.06.17	Lewis Engineering
Bulk Earthworks Plan (1 Sheet)	3641	C100	22.5.17	Lewis Engineering
Sediment and Erosion Control Plans (2 Sheets)	3641	C300, C301	22.05.17	Lewis Engineering

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

ITEM 2 - ATTACHMENT 3 PROPOSED CONDITIONS.



PORT STEPHENS  
COUNCIL

## Recommended Conditions

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

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

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

3. **Prior to the commencement of works**, erosion and sediment control measures shall be put in place to prevent the movement of soil by wind, water or vehicles onto any adjoining property, drainage line, easement, natural watercourse, reserve or road surface, in accordance with *Managing Urban Stormwater – Soils and Construction, Volume 1* (Landcom, 2004).
4. **Prior to the commencement of works**, a waste containment facility is to be established on site. The facility is to be regularly emptied, and maintained for the duration of works. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site shall be cleared of all building refuse and spoil immediately upon completion of the development.
5. **Prior to the commencement of works within the Right of Carriageway (ROC)**, traffic control plans in accordance with the Roads and Maritime Services – Traffic Control at Worksites Manual prepared by an accredited practitioner must be submitted and be deemed to be satisfactory by the Certifying Authority. The traffic control plan must include:
  - a. specific timeframes for the undertaking of works within the ROC
  - b. traffic control measures to limit impact on adjacent sites

The owners of 63 Donald Street, Nelson Bay (Lot: 0, SP45370) must be notified. The notification shall include the estimated commencement and completion dates of works within the ROC, as stated in the traffic control plan.

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

6. 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 and constructed in accordance with Council's 'Infrastructure Design and Construction Specification – AUS Spec', and Development Control Plan.

The required works to be designed are as follows:

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

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ITEM 2 - ATTACHMENT 3 PROPOSED CONDITIONS.



PORT STEPHENS  
COUNCIL

## Recommended Conditions

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

- a. 2.5% MAX cross fall concrete footway with full verge width of concrete construction, to be constructed for the full frontage of the site on both Church Street and Donald Street.
- b. Traffic control plans in accordance with the Roads and Maritime Services– Traffic Control at Worksites Manual prepared by an accredited practitioner;
- c. Payment of applicable fees and bonds; and
- d. Contractor's public liability insurances to a minimum value of \$20 million dollars.

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

7. The shared vehicle driveway, internal traffic aisles shall have a width to cater for design vehicle paths determined by Australian Standard AS2890 into and out of assigned parking spaces for a minimum of twenty-four (24) vehicle parking spaces for residents and the provision of a minimum six (6) visitor parking spaces onsite. This requirement will be met by providing vehicle swept paths utilising the 85th percentile turning circle as outlined in AS 2890.1: Off-street Car Parking. Adequate signage and linemarking is to be provided to ensure one-way traffic flow within the proposed internal access driveway.

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

8. A monetary contribution is to be paid to Council for the provision of 4 additional units, pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979*, Section 94 of the *Environmental Planning and Assessment Act 1979*, and Councils Section 94 Contribution Plan towards the provision of the following public facilities:

Facility	Per lot/dwelling	Total
Civic Administration	\$1,166	\$4,664
Public Open Space, Parks and Reserves	\$2,556	\$10,224
Sports and Leisure Facilities	\$6,899	\$27,596
Cultural and Community Facilities	\$2,460	\$9,840
Road Works	\$1,624	\$6,496
Fire & Emergency Services	\$226	\$904
	Total	\$59,724

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

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

Note: The amount of contribution payable under this condition has been calculated at the time of determination and in accordance with the Port Stephens Section 94

ITEM 2 - ATTACHMENT 3 PROPOSED CONDITIONS.



PORT STEPHENS  
COUNCIL

## Recommended Conditions

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

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

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

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

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

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

11. **Prior to the issue of the Construction Certificate**, an amended landscape plan must be provided showing ten (10) trees within the Church Street and Donald Street road reserve.

- *Magnolia grandiflora* trees within the Donald Street road reserve; and
- *Tristanopsis laurina* trees within the Church Street road reserve.

12. **Prior to the issue of the Construction Certificate**, full details of driveway/hardstand area grading must be provided to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority.

13. **Prior to the issue of a Construction Certificate**, a Driveway Construction Application is to be lodged with the Roads Authority. Driveways are to be designed in accordance with Council's Standard Drawings SD105 & SD122 with a minimum width of 3.4m.

14. The following details of the stormwater drainage system piped to a legal point of discharge, are **required prior to the issue of any Construction Certificate**:

- a. A detailed on site detention/infiltration plan shall be prepared by a suitably qualified and experienced engineer to adequately attenuate ground surface and roof collected stormwater for all storm events up to and including the 1% Annual Exceedance Probability (AEP) event.

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PORT STEPHENS  
COUNCIL

## Recommended Conditions

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

- b. The design shall include details of the location (including levels), type and size of infiltration/detention systems, orifice, roof guttering (with gutter guards to prevent blockage), downpipes, pipes, pits and the boundary pit discharge point to the public drainage system.
  - c. The drainage line from the proposed 600mm wide grate (at the entrance to the basement level carpark) to the Donald Street discharge point must be separated from the line running from the OSD/infiltration system to the road to avoid any possible backflows into the grate that would be caused by the flows from the OSD/infiltration system.
  - d. Discharge pipes from the OSD/infiltration systems to Donald Street are to be located on the eastern side of Donald Street driveway.
  - e. Complete design calculations are to be provided demonstrating the system's capacity to contain/infiltrate and convey concentrated roof stormwater run-off, via guttering and downpipes suitably sized, into a **legal point of discharge**.
  - f. The stormwater quality treatment train shall treat storm water, prior to discharge, to PSC DCP 2014 targets. Small Scale Site Quality Model or DCP deem to comply methodology may be used to demonstrate how the following targets are met:
    - i. Total nitrogen retention post-development load: 45%
    - ii. Total phosphorus retention post-development load: 60%
    - iii. Total suspended solids post-development load: 90%
    - iv. Gross pollutants post-development load: 90%
15. Detailed engineering plans shall be submitted to Council or an accredited Private Certifier (with the appropriate category of accreditation) for approval **prior to issue of the Construction Certificate**.
- The details shall be in accordance with this consent, the BCA, Council's Design and Construction Specifications, policies and standards, as a minimum and include but are not limited to:
- a. Structural details for concrete or masonry drainage structures;
  - b. Structural details for boundary retaining walls;
  - c. Construction erosion and sediment control.
15. **Prior to the issue of a Construction Certificate**, a geotechnical assessment of the site is to be undertaken to determine whether the development works will disturb Acid Sulfate Soils (ASS). Should ASS be encountered within the zone of works an ASS Management Plan is to be prepared by a suitably qualified engineer and submitted to the Certifying Authority for approval.

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

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

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ITEM 2 - ATTACHMENT 3 PROPOSED CONDITIONS.



PORT STEPHENS  
COUNCIL

## Recommended Conditions

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

16. All civil engineering works shall be carried out in accordance with the Construction Certificate and Council's Design and Construction Specification, Policies and Standards, to the satisfaction of the Certifying Authority.
17. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
18. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
19. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
  - \* Monday to Friday, 7am to 6pm;
  - \* Saturday, 8am to 1pm;
  - \* No construction work to take place on Sunday or Public Holidays.
20. It is the responsibility of the applicant to erect a PCA sign and ensure the PCA sign remains in position for the duration of works.
21. The storage of materials, placement of toilets and rubbish skips etc. within the road reserve is not permitted by this consent. Separate approval under the Roads Act is required to occupy, close or partially close the road reserve adjacent to the property.
22. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment, the person undertaking the excavation must preserve and protect the building from damage, which may involve underpinning and supporting the building in an approved manner.

The adjoining property owner shall be given 7 days' notice before excavating below the level of the base of the footings of a building on an adjoining allotment of land. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
21. The only fill material that may be received at the development site is:
  - Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act 1997 (POEO)*; or
  - Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.



PORT STEPHENS  
COUNCIL

## Recommended Conditions

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

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

In this condition, 'development site' includes any public road or other public place where works are being undertaken for the purposes of the approved development.

23. Civil Works within the development site are subject to:
- a. inspection by Council, or the Certifying Authority;
  - b. testing by a registered NATA Laboratory; and
  - c. Approval by Council or the Certifying Authority at each construction stage as determined by Council's Design and Construction Specification, policies and standards.

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

24. **Prior to the issue of any Occupation Certificate**, evidence that Lots A & B, DP369677 have been consolidated must be provided to the Certifying Authority.
25. **Prior to the issue of a Final Occupation Certificate**, the works approved under the Roads Act approval must be completed and a compliance certificate must be obtained from the Roads Authority.
26. **Prior to the issue of a Final Occupation Certificate**, an indemnity form to SITA Australia Pty Ltd for Waste Services for a Private Road must be completed and submitted to Council.
27. Collected roof runoff stormwater shall be piped from the approved drainage system and connected to a legal point of discharge.
28. 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**.
29. Submission of Works-As-Executed plans and accompanying report prepared and certified by a suitably qualified hydraulic engineer confirming all stormwater drainage systems are constructed in accordance with the approved plan.

Minor variations can be accepted providing they are clearly identified in the report and the hydraulic engineer certifies that site flow up to the 1% annual exceedance probability (AEP) rainfall events are conveyed from all roof areas on site to a legal point of discharge without impacting building or adjacent properties..

**An Occupation Certificate cannot be issued** until the Works-As-Executed plans



**PORT STEPHENS**  
COUNCIL

## Recommended Conditions

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

and accompanying reports have been provided to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority.

30. **Prior to the issue of a Final Occupation Certificate**, the driveway is to be constructed in accordance with the Driveway Construction Approval and a compliance certificate is to be obtained from the Roads Authority. Adequate signage and linemarking is to be provided to ensure one-way traffic flow within the proposed internal access driveway.
  31. **Prior to the issue of a Final Occupation Certificate**, an Operation and Maintenance Plan for the stormwater system shall be prepared by a suitably qualified engineer, detailing a regular maintenance programme for infiltration/detention and pollution control devices, covering inspection, cleaning and waste disposal, a copy of which shall be supplied to the owner/operator.
  32. All disturbed public footpath areas shall be reinstated with graded compacted topsoil and turfed to the satisfaction of Council. Smooth transitions shall be made with adjoining property frontages and the top-soiling and grassing extended to suit.
  33. The applicant shall restore, replace or reconstruct any damaged sections of kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve which results from construction activities, as determined by Council's Development Engineers or Civil Assets Engineer. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Council.
- A Final Occupation Certificate** shall not be issued until all necessary remediation and repair works have been completed to the satisfaction of Council.
34. **Prior to the issue of the Final Occupation Certificate**, the Principal Certifying Authority is to be satisfied that all landscape works have been undertaken in accordance with the approved plans.
  35. The required street trees shall be replanted to the satisfaction of Council **prior to the release of the Final Occupation Certificate**.
  36. **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No. **745110M**, or an amended version of this certificate, have been complied with.

### CONDITIONS TO BE SATISFIED AT ALL TIMES

37. The replacement street trees are to be maintained to maturity through use of mulch and watering to achieve natural height.
38. Deck areas must not be used for laundry purposes, including clothes drying.



**PORT STEPHENS**  
COUNCIL

## Recommended Conditions

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

39. Vents, antennae, air conditioning units and any plant equipment, are to be located within the basement, chased into the building, or screened so as not to be visible from the street or any public place.
40. Air-conditioning and ventilation systems installed at the premises must be installed and maintained to ensure that no offensive or intrusive noise is created, as defined by the Protection of the Environment Operations Act 1997.
38. All ground surface collected stormwater overflows shall be dispersed as sheet flow at ground level in a manner that does not create concentrated or nuisance flows for nearby buildings or neighbouring properties.
39. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
40. Filling shall not obstruct any natural drainage path or water drainage system. Neither shall the fill encroach onto any adjoining property.
41. In areas that are disturbed for site filling, all available topsoil shall be stockpiled and re-used at the completion of the earthworks. The topsoil shall be spread evenly and lightly rolled. All disturbed areas shall be stabilised within 14 days of completion of filling operations with grass cover by either turfing or seeding.
42. Motor vehicles are only permitted to enter and leave the site in a forward direction. On site manoeuvring areas are to be kept clear for this purpose.
43. The storage of materials, placement of toilets and rubbish skips etc. within the road reserve is not permitted by this consent. Separate approval under the Roads Act is required to occupy, close or partially close the road reserve adjacent to the property.
44. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
  - a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
  - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.

### ADVICES

- a. Consideration to the guidance provided by the Australian Institute of Refrigeration, Air Conditioning and Heating (AIRAH) document Air Conditioning Residential Best Practice Guideline (NSW), which provides general information and appropriate locations for air conditioners to be installed to avoid creating noise nuisance is

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**ITEM 2 - ATTACHMENT 3 PROPOSED CONDITIONS.**

**PORT STEPHENS**  
COUNCIL

## Recommended Conditions

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

recommended. This is available at  
[www.airah.org.au/Content/NavigationMenu/Resources/BestPracticeGuide](http://www.airah.org.au/Content/NavigationMenu/Resources/BestPracticeGuide).

- b. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposal. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- c. Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment and Heritage must be informed accordance with Section 89A of the *National Parks and Wildlife Act, 1974* (as amended). Works affecting Aboriginal 'objects' on the site must not continue until the Office of Environment and Heritage has been informed. Aboriginal 'objects' must be managed in accordance with the *National Parks and Wildlife Act, 1974*.
- d. Telecommunications infrastructure to services the premises should be installed which complies with the following:
  - The requirements of the Telecommunications Act 1997 (Cth)
  - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation.
  - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
- e. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.
- f. Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/the person having the benefit of the development consent to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.

### SCHEDULE 2

#### RIGHT OF APPEAL

If you are dissatisfied with this decision:

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

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**PORT STEPHENS**  
COUNCIL

## Recommended Conditions

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

### NOTES

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

## MINUTES ORDINARY COUNCIL - 11 JULY 2017

Councillor Ken Jordan returned to the meeting at 7.56pm in Open Council.  
Councillor Paul Le Mottee returned to the meeting at 7.56pm in Open Council.

### ITEM NO. 3

FILE NO: 17/100839  
RM8 REF NO: 16-2017-265-1

### DEVELOPMENT APPLICATION NO. 16-2017-265-1 FOR A ONE INTO TWO LOT TORRENS TITLE SUBDIVISION AT 1 SKETCHLEY ROAD, RAYMOND TERRACE (LOT 2 DP31847)

REPORT OF: MICHAEL MCINTOSH - GROUP MANAGER DEVELOPMENT  
SERVICES  
GROUP: DEVELOPMENT SERVICES

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application (DA) No. 16-2017-265-1 for one lot into two lot Torrens title subdivision at 1 Sketchley Road, Raymond Terrace subject to the conditions contained in **(ATTACHMENT 3)**.
- 

### ORDINARY COUNCIL MEETING - 11 JULY 2017 COMMITTEE OF THE WHOLE RECOMMENDATION

	<p><b>Councillor Peter Kafer</b> <b>Councillor Geoff Dingle</b></p> <p>That Council defer consideration of Development Application (DA) No. 16-2017-265-1 for one lot into two lot Torrens title subdivision at 1 Sketchley Road, Raymond Terrace.</p>
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Councillor Paul Le Mottee returned to the meeting at 6:42pm in Committee of the Whole.

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

Those for the Motion: Crs Geoff Dingle, Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, Paul Le Mottee, John Morello, John Nell and Steve Tucker.

Those against the Motion: Nil.



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

<b>164</b>	<b>Councillor Ken Jordan</b> <b>Councillor Paul Le Mottee</b>  It was resolved that Council defer consideration of Development Application (DA) No. 16-2017-265-1 for one lot into two lot Torrens title subdivision at 1 Sketchley Road, Raymond Terrace.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, Paul Le Mottee, John Morello, John Nell and Steve Tucker.

Those against the Motion: Nil.

**BACKGROUND**

The purpose of this report is to present to Council for determination Development Application (DA) 16-2017-265-1 for a one lot into two lot Torrens title subdivision.

The DA has been reported to the elected Council given Council is the owner of the subject land and it is classified as both community and operational land under the *Local Government Act 1993*. The existing use is consistent with these classifications.

Proposal

The subject land is currently divided by Sketchley Road, with the northern part containing Sketchley Pioneer Cottage and Museum and the southern part containing Bettles Park. A locality plan has been included as **(ATTACHMENT 1)**.

Under Clause 5.2 of the *Port Stephens Local Environmental Plan 2013* (the LEP), the northern part of the site was reclassified as operational land, whilst the southern part remains community land. It should also be noted that the northern and southern portions have different land zonings, being R2 Low Density Residential and RE1 Public Recreation respectively. The application seeks to formally subdivide the public land into proposed Lot 1 (922.3m<sup>2</sup>) being the portion of land to the north of Sketchley Road, and proposed Lot 2 (6,341m<sup>2</sup>) being the portion of the land to the south of Sketchley Road. This will better reflect the existing uses of the land and allow better management into the future. No physical works are proposed as a part of this application.

### Key Issues

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

- 1) Heritage impacts – The proposed development, whilst relating to a site with significant local heritage importance, would not result in any adverse impact as no physical works are proposed. Furthermore, the site is already physically separated by Sketchley Road and therefore the formal separation into two distinct lots would have no noticeable effect on the heritage significance of the area or the use of the public land by the community.
- 2) Impacts on the use of public land – During the process of the application, concerns were raised regarding the proposed development and the impact on the current use of the site. The subdivision follows the reclassification of the land, which was reported to Council and included public exhibition as part of the planning proposal for the reclassification, and is the final step in the formal separation of the Sketchley Pioneer Cottage and Museum, and Bettles Park. The proposed development does not seek to alter the current use of the museum or park nor undertake any physical works. The separation will facilitate the better management of the site so that a lease can be offered over the museum, and the risk to Council of future insurance claims can be reduced.

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

### **COMMUNITY STRATEGIC PLAN**

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

### **FINANCIAL/RESOURCE IMPLICATIONS**

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

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

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

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that a third party may appeal the determination.	Low	Approve the application as recommended. The assessment carried out details the merits of the proposed development.	Yes
There is a risk that the land remains a single lot, thereby impacting on the efficient management of the site.	Medium	Approve the application as recommended.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The proposal is relatively minor with no physical works to the site and therefore is unlikely to have an impact on the social, economic, built or natural environment.

**CONSULTATION**

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

Internal

The application was referred to the Council's heritage advisor, who found that the application would not result in harm to the heritage significance of Sketchley Cottage as no physical works were proposed.

External

The application was publicly notified and advertised for a period of fourteen (14) days. A further exhibition period of fourteen (14) days was undertaken adding into the description the commonly referred to names of Sketchley Pioneer Cottage and Museum and Bettles Park.

One submission was received with the concerns raised and the response to these concerns outlined in the table below.

Objection	Response
Inadequate description of community land.	In the second round of advertisement and notification, the site was identified with the address, Lot and DP number as well as the commonly referred to name (Sketchley Pioneer Cottage and Museum and Bettles Park). This is considered to adequately describe the site in line with the EP&A Regulations.
Improper plans showing the proposed development.	The draft plan of subdivision (which is shown in Figure 1 of this report) was made public during the second round of exhibition. Subsequently it is considered that the documents made public adequately provide sufficient information for residents to make submissions.
Confusion over the current operational and community use and the future use of the site.	Part of the site has been reclassified from community land to operational land pursuant to Clause 5.2 of the LEP. This occurred as a part of a planning proposal process that included public exhibition.  The current proposed development is a formal subdivision reflecting the boundaries of the reclassification and separate uses of the site. There are no negative impacts on the classification of the land as a result of this proposal.

**OPTIONS**

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

**ATTACHMENTS**

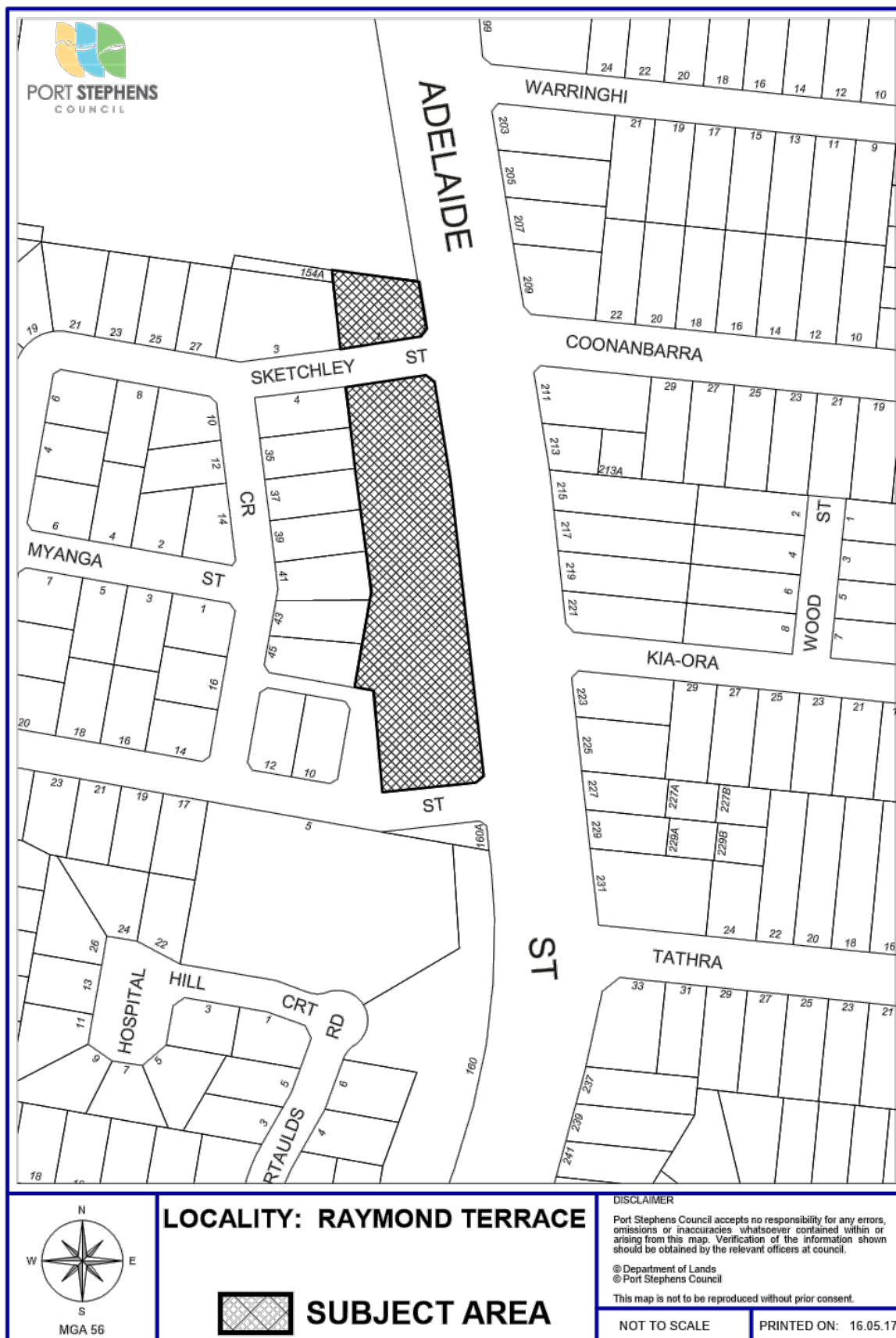
- 1) Locality Plan.
- 2) Assessment Report.
- 3) Notice of Determination.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



## ITEM 3 - ATTACHMENT 2 ASSESSMENT REPORT.

DEVELOPMENT  
ASSESSMENT REPORT

## APPLICATION DETAILS

<b>Application Number</b>	16-2017-265-1
<b>Development Description</b>	Torrens Title Subdivision 1 lot into 2
<b>Applicant</b>	PORT STEPHENS COUNCIL
<b>Date of Lodgement</b>	01/05/2017
<b>Value of Works</b>	\$0.00

**Development Proposal**

The application proposes a one into two lot Torrens title subdivision at 1 Sketchley Road. The proposal would result in the following lots:-

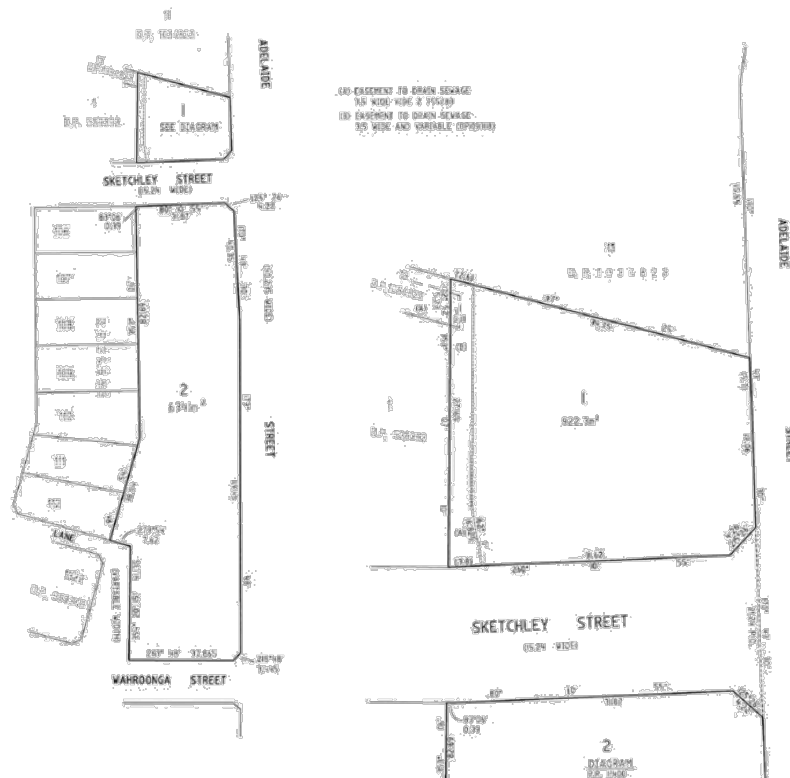
- Lot 1 – 922.3m<sup>2</sup>; and,
- Lot 2 – 6,341m<sup>2</sup>.

The development would formally separate the site into the operational land (being Lot 1 and containing the Sketchley Pioneer Cottage and Museum) and community land (being Lot 2 and containing recreational open space). The proposed development is illustrated in Figure 1. No works are proposed as part of the proposal and the use of the development would remain the same.

## PROPERTY DETAILS

<b>Property Address</b>	1 Sketchley Street RAYMOND TERRACE
<b>Lot and DP</b>	LOT: 1 DP: 1093118
<b>Current Use</b>	Information and Education Facility (Museum) and Recreation Facility (Outdoor)
<b>Zoning</b>	RE1 PUBLIC RECREATION/R2 LOW DENSITY RESIDENTIAL
<b>Site Constraints</b>	Acid Sulphate Soils – Category 4 Koala Habitat Planning Map – Preferred/Buffer SEPP 71 – Coastal Protection Draft Coastal Management SEPP – Coastal Use Flood Prone Land – Low Hazard Flood Fringe Area/Minimal Risk Flood Prone Land Local Heritage Item – Sketchley Cottage and Port Jackson Fig Tree

Figure 1: Proposed plan of subdivision



### Site Description

The subject site is a rectangular shaped parcel of land split by Sketchley Road, with the northern portion zoned R2 and containing Sketchley cottage and the southern portion zoned RE2 and containing the public park (see Figure 2). In total the site measures 7,263m<sup>2</sup> in area.

The site is generally flat with some mature vegetation on the site, as well as the nearby historically significant Port Jackson Fig Tree on the corner of Sketchley Road and Adelaide Street.

### Site History

The site has previously had development consent for the use of the cottage as a museum issued in 1988, as well as additions to the museum in 1993. There are no known compliance issues on the site that affect the current application.

### Site Inspection

A site inspection was carried out on 15<sup>th</sup> May 2017. The subject site can be seen in Figures 3 and 4 below.



16-2017-265-1

Figure 2: Site location



Figure 3: View of existing Sketchley Pioneering Cottage & Museum (proposed Lot 1)



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**Figure 4:** View of park (proposed Lot 2)**ASSESSMENT SUMMARY**

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

**Internal Referrals**

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

Heritage Officer – There are no heritage concerns with respect to the proposed subdivision.

**MATTERS FOR CONSIDERATION – SECTION 79C****s79C(1)(a)(i) – The provisions of any EPI**

Port Stephens Local Environmental Plan 2013 (LEP)

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

The site is zoned R2 Low Density Residential north of Sketchley Road and RE1 Public Recreation south of Sketchley Road. The existing uses on the site include an information and education facility (museum) and outdoor recreation facility.

**ITEM 3 - ATTACHMENT 2      ASSESSMENT REPORT.**

16-2017-265-1

The existing uses are consistent with the zone objectives. Whilst the proposal would separate the operational land from the community land, this would not affect the existing physical use. Conversely, the separation of the land would allow better management of the Sketchley Cottage as it would facilitate the land to be leased, thereby providing greater security for the current occupant and less risk for Council. As such the development would remain consistent with the zone objectives.

**Clause 2.6 – Subdivision—consent requirements**

The proposed subdivision of land into two Torrens title lots is permissible with consent under this clause.

**Clause 4.1 – Minimum Subdivision Lot Size**

The northern portion of the site containing the operational land has a minimum lot size of 500m<sup>2</sup>, whilst the community land is not identified on the LEP lot size map.

Proposed Lot 1 would meet the minimum lot size and therefore the development is considered to satisfy this clause. Although proposed Lot 2 does not have a minimum lot size requirement, it is considered that the proposal complies with the objectives of the clause and can be supported.

**Clause 5.2 – Classification and Reclassification of Public Land**

Council may classify or reclassify public land as operational or community land under this clause, in accordance with the *Local Government Act 1993*.

Schedule 4 of the LEP shows that part of the subject site (being proposed Lot 1) was reclassified as operational land at gazettal of the plan. Subsequently, this part of land ceases to be community land and was discharged from all trusts, estates interests, dedications, conditions, restrictions or covenants affecting this part of land. However, it should be noted that easements to drain sewage and for the sewer main have not been discharged, pursuant with column 3 of part 2, Schedule 4.

The proposed subdivision seeks to formally separate the operational land of Lot 1 from the remaining community land of Lot 2. It is noted that the subdivision plan shows the easements identified to remain are still burdening Lot 1 and therefore the proposal would be in line with Schedule 4. As such it is considered that there are no matters within this clause which restricts the granting of consent.

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

The proposed development is located within the coastal zone and is considered to meet the principles of the NSW Coastal Policy. There are no anticipated adverse impacts on the local ecology or water quality as no physical works are proposed. The proposal is sufficiently separated from the waterway that there are no anticipated impacts on the access to the foreshore. The proposed development is not anticipated to have any negative impacts on views to or from the waterway.

**Clause 5.10 – Heritage Conservation**

Pursuant to subclause (2), development subdividing land on which a heritage item is located requires consent. The proposed development, whilst relating to a site with significant local heritage importance, would not result in any adverse impact as no physical works are proposed. Furthermore, the site is already physically separated by Sketchley Road, as well as being separated in terms of zoning, public land use and heritage value. Therefore the formal separation into two distinct lots would have no noticeable effect on the heritage significance of the area.

Council may require a heritage assessment where development would affect the heritage significance of the heritage item. In this instance, given no physical works are proposed and the subdivision would separate the heritage item from the adjoining park, which is not a heritage item, it is considered that the proposed development would not affect the heritage significance of Sketchley Cottage or the nearby Fig Tree.

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**ITEM 3 - ATTACHMENT 2 ASSESSMENT REPORT.**

16-2017-265-1

Overall, the proposal is compliant with this clause. Further heritage requirements are discussed under Chapter B.8 of the DCP.

**Clause 7.1 – Acid Sulphate Soils**

The site is located within acid sulphate soils Category 4, however as no works are proposed the development would not encounter acid sulphate soils.

**Clause 7.3 – Flood Planning**

The site is located within the flood planning area. The proposed subdivision would not increase the opportunity for additional residential development and therefore the increase risk to life is negligible. In addition, the proposal would not increase development on the site to adversely impact flood characteristics. As such the proposed development satisfies this requirement.

**Clause 7.6 – Essential Services**

The proposed subdivision does not create the opportunity for further development that would require essential services. In any sense, appropriate services are already in place for the existing uses on site. Therefore there is nothing within this clause which prevents consent being given.

**State Environmental Planning Policy No 44 – Koala Habitat Protection**

A portion of the park to the south of Sketchley Road is identified as being preferred Koala habitat within the Council's maps. In accordance with the Council's Comprehensive Koala Plan of Management (CKPoM), this is considered capable of providing koala habitat and should be protected from loss accordingly. Whilst this is noted, there are no works associated with the proposed subdivision, nor any works that can reasonably be expected as a result of the development, that would adversely impact on the habitat of Koala's. As such, the application is considered to comply with the CKPoM and this SEPP.

**State Environmental Planning Policy No 71 – Coastal Protection**

The proposed development is located in the coastal zone and accordingly the matters for consideration under clause 8 of this policy apply. The proposed development is not anticipated to have an adverse impact on the ecology, culture or amenity of the foreshore and coastal waters as the development proposes no physical works. In addition, given the separation of the development from the waterway, there are no anticipated impacts on access to, or views to or from the waterway and foreshore area. There are no anticipated conflicts between the proposed land use and the use of the waterway. The proposed development has been considered against the matters for consideration under the SEPP and is acceptable in this regard.

**s79C(1)(a)(ii) – Any draft EPI**

The draft State Environmental Planning Policy (Coastal Management) 2016 (Coastal SEPP) is currently being considered, with the public exhibition ending on 23 December 2016.

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

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

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

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

- (a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that:
  - (i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and

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**ITEM 3 - ATTACHMENT 2 ASSESSMENT REPORT.**

16-2017-265-1

- (ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and
  - (iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and
  - (iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and
  - (v) the use of the surf zone is considered,
- (b) to accommodate both urbanised and natural stretches of coastline

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

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

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

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

The DCP outlines that subdivisions resulting in less than four lots do not require notification or advertisement; however, as the application related to Council owned land and has been prepared by Council, notification and advertisement was undertaken for a period of 14 days.

Following the initial period of notification, the application was re-notified for a further period of 14 days, ending on 14<sup>th</sup> June 2017. This was to clarify the subject site within the notification letter and advertisement as well as provide sufficient time for comment.

Overall the notification and advertisement of the application is in line with this requirement.

**Chapter B.2 – Natural Resources**

Whilst part of the site is identified as preferred Koala habitat, the proposed development would not result in the loss of vegetation, nor reasonably provide opportunity for future development, that would adversely impact on Koala habitat. Therefore the proposal is not inconsistent with the CKPoM or SEPP 44.

**Chapter B.5 – Flooding**

The site is located within the flood planning area, however the hazard level is relatively minor. Irrespective of this, the proposed subdivision would not increase the opportunity for development on the site and therefore the risk to life or impact on flooding characteristics would be negligible. Therefore the proposal is consistent with this requirement.

**Chapter B.6 – Essential Services**

The proposed subdivision would not require the connection of essential services, but nonetheless these services are available.

**Chapter B.8 – Heritage**

Development consent is required pursuant to Clause 5.10 of the LEP. However, given the minor nature of the proposed subdivision and insignificant impact on the heritage significance, a heritage assessment is not required. Therefore, it is considered that the proposal complies with the requirements of this chapter.

**Chapter C1 – Subdivision**

The proposed Torrens title is defined as a minor subdivision and the relevant supporting documents have been submitted. The application would not result in adverse layout nor would it impact on the existing provision of open space. The consent would ensure appropriately endorsed documents are submitted prior to the Subdivision Certificate through conditions.

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**ITEM 3 - ATTACHMENT 2 ASSESSMENT REPORT.**

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

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

**s79C(1)(a)(iv) – The regulations**

There are no matters within the regulations that relate to the application.

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

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

**s79C(1)(b) – The likely impacts of the development**

The proposal is relatively minor with no physical works to the site and therefore is unlikely to adversely impact on the social, economic, built or natural environment.

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

The subject site is owned by Council, however is separated between operational land and community land. The land is split by Sketchley Road and contains separate uses with different zonings. Based on this, the subject site is considered to be suitable for the proposed subdivision.

**s79C(1)(d) – Any submissions**

One submission was received objecting to the application. The issues raised in the letter are taken into account in the table below.

Objection	Response
Inadequate description of community land.	In the second round of advertisement and notification, the site was identified with the address, Lot and DP number as well as the commonly referred to name (Sketchley Pioneer Cottage and Museum and Bettles Park). This is considered to adequately describe the site in line with the EP&A Regulations.
Improper plans showing the proposed development.	The draft plan of subdivision (which is shown in Figure 1 of this report) was made public during the second round of exhibition. Subsequently it is considered that the documents made public adequately provide sufficient information for residents to make submissions.
Confusion over the current operational and community use and the future use of the site.	Part of the site has been reclassified from community land to operational land pursuant to Clause 5.2 of the LEP. This included the planning proposal process and public exhibition, which is not relevant to this application, however gave the public opportunities to provide opinions on the reclassification.  The proposed development is a formal subdivision following the reclassification and separate uses of the site. No physical works are proposed and no changes to the current use of the development (i.e. the museum and the public park) are proposed under this application. Therefore the impacts to the community resulting from a change of use have not been considered in the determination of the application. Nonetheless, it is considered that the subdivision would improve the current operations through reducing risk on the site and facilitating

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**ITEM 3 - ATTACHMENT 2      ASSESSMENT REPORT.**

16-2017-265-1

	appropriate leases to be entered into. Therefore the impact on the use would be beneficial.
--	---

**s79C(1)(e) – The public interest**

The proposal would formalise the separate operational and community land, thereby improving the management of the site. There are no expected adverse impacts as a result of the proposal and therefore the proposed development is considered to be in the public interest.

**DETERMINATION**

The application is recommended to be approved by Councillors, subject to conditions as contained in the notice of determination.

LUKE MANNIX

ITEM 3 - ATTACHMENT 3 NOTICE OF DETERMINATION.



**PORT STEPHENS**  
COUNCIL

## Notice of Determination

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

Development consent is granted to development application 16-2017-265-1 subject to the conditions in Schedule 1.

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

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

### APPLICATION DETAILS

**Application No:** 16-2017-265-1

**Property Address:** LOT: 1 DP: 1093118  
**1 Sketchley Street RAYMOND TERRACE**

**Description of Development:** Torrens Title Subdivision 1 lot into 2

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

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

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

MR L H MANNIX  
Development Planner

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

16 2017 265 1

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**PORT STEPHENS**  
COUNCIL

## Notice of Determination

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

### SCHEDULE 1

#### REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

These conditions are required to:

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

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

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

Plan/Doc.Title	Sheet.	Date	Drawn by
Plan of Subdivision of Lot 1 DP 1093118	1 of 1	08/05/2017	John Leslie Evans

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

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

2. The title of the respective approved lots shall be endorsed with the following encumbrances under Section 88B of the *Conveyancing Act*:
  - a) Easement to Drain Sewer; and,
  - b) Easement for sewer main
 Details that effect the encumbrances must be submitted with the Subdivision Certificate.
3. **Prior to the issue of a Subdivision Certificate**, a copy of the Section 50 certificate issued by Hunter Water Corporation is to be submitted to Council.
4. **For the endorsement of the Subdivision Certificate**, the person having the benefit of the development consent shall submit an original plan of subdivision plus an electronic copy on a USB or CD, suitable for endorsement by Council. The following details must be submitted with the plan of subdivision and its copies:
  - a) Any applicable Section 88B Instrument;

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DX 21406 Raymond Terrace • Phone 4980 0255  
Email council@portstephens.nsw.gov.au

16 2017 265 1

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**ITEM 3 - ATTACHMENT 3 NOTICE OF DETERMINATION.**



**PORT STEPHENS**  
COUNCIL

## Notice of Determination

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

- b) The endorsement fee current at the time of lodgement; and,
- c) Surveyor's certification(s) required under the subdivision consent.

### **SCHEDULE 2**

#### **RIGHT OF APPEAL**

If you are dissatisfied with this decision:

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

#### **NOTES**

- This is not an approval to commence work. Building works cannot commence until a construction certificate is issued by Council or an accredited certifier.
- Consent operates from the determination date. For more details on the date from which the consent operates refer to section 83 of the Environmental Planning and Assessment Act 1979.
- Development consents generally lapse five years after the determination date, however different considerations may apply. For more details on the lapsing date of consents refer to section 95 of the Environmental Planning and Assessment Act 1979.

**ITEM NO. 4**

**FILE NO: 17/111952  
RM8 REF NO: PSC2016-01959**

**PLANNING PROPOSAL TO AMEND ZONING AND MINIMUM LOT SIZE  
PROVISIONS AT 63 BOUNDARY RD MEDOWIE (BOWER ESTATE)**

REPORT OF: MICHAEL MCINTOSH - GROUP MANAGER DEVELOPMENT  
SERVICES  
GROUP: DEVELOPMENT SERVICES

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the planning proposal as publicly exhibited to amend the *Port Stephens Local Environmental Plan 2013 (NSW)* for land at 63 Boundary Road, Medowie to:
  - a. Rezone part Lot 1, DP 1224780 from part E2 Environmental Conservation and part R5 Large Lot Residential to part E2 Environmental Conservation, part R5 Large Lot Residential and part R2 Low Density Residential.
  - b. Reduce the minimum lot size for part Lot 1, DP 1224780 for land proposed to be zoned R2 Low Density Residential from 1,000m<sup>2</sup> to 500m<sup>2</sup>.
  - c. Apply a height of building limit for part Lot 1, DP 1224780 of 9m. No height of building limit currently exists for this land.
- 2) Request that the Minister for Planning make the Plan in accordance with the *Environmental Planning and Assessment Act 1979 (NSW)* (s59).
- 3) Advise the applicant to prepare an amendment to Part D9 North Medowie – Medowie of the Port Stephens Development Control Plan 2014.

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

	<p><b>Councillor Geoff Dingle Councillor Peter Kafer</b></p> <p>That Council refuse the rezoning for land at 63 Boundary Road, Medowie, as the proposal is inappropriate for this location.</p>
--	---

Councillor Peter Kafer left the meeting at 7:01pm.  
Councillor Peter Kafer returned to the meeting at 7:03pm.

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

Those for the Motion: Crs Geoff Dingle, Chris Doohan, Ken Jordan, Peter Kafer and Steve Tucker.

## MINUTES ORDINARY COUNCIL - 11 JULY 2017

Those against the Motion: Crs Sally Dover, Paul Le Mottee, John Morello and John Nell.

### ORDINARY COUNCIL MEETING - 11 JULY 2017 MOTION

	<b>Councillor Geoff Dingle</b> <b>Councillor Peter Kafer</b>  That Council refuse the rezoning for land at 63 Boundary Road, Medowie, as the proposal is inappropriate for this location.
--	--

### ORDINARY COUNCIL MEETING - 11 JULY 2017 AMENDMENT

	<b>Councillor Steve Tucker</b> <b>Councillor John Nell</b>  It was resolved that Council defer item 4 for further consideration.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

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

The Amendment on being put became the Motion, which was put and carried.

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

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

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

### BACKGROUND

The purpose of this report is to consider submissions received during the public exhibition period of the planning proposal (the proposal) (**ATTACHMENT 1**) for 63 Boundary Road, Medowie (the site) and seek endorsement for a request that the proposal be made by the Minister for Planning as publicly exhibited.

At its meeting on 8 November 2016, Council resolved to seek a gateway determination for the proposal from the NSW Department of Planning and Environment (DoPE). On the 9 December 2016, Council received a gateway determination (**ATTACHMENT 2**), which included a condition to publicly exhibit the planning proposal for a minimum of 14 days.

The proposal was initially exhibited for 14 days from 11 May 2017 to 25 May 2017. On 18 May 2017, Council staff met with a number of Medowie residents who had raised concerns in relation to the proposal. Following this meeting, Council staff agreed that the public exhibition period should be extended for additional 14 days in order to allow further time for residents to review the proposal. 12 submissions were received during the public exhibition period; 11 objections and 1 in support of the proposal. The main issues raised in the objections were:

1. Traffic and emergency access/egress;
2. Storm water drainage;
3. Character of Medowie/intent of Medowie Strategy; and
4. Lack of community facilities and open space.

The above issues are further discussed under the 'Consultation' section of this report. Additionally, further detail on the submissions received and responses to these issues is provided in the attached 'Submissions Table' (**ATTACHMENT 3**). No changes have been made to the Planning Proposal as a result of the issues raised.

It is noted that the gateway determination provided Council with written authorisation to exercise the functions of the Minister for Planning under *Environmental Planning and Assessment Act 1979 (s59) (NSW)*. These delegations allow Council to make the LEP Amendment without having to go back to DoPE.

However, an objection received from the Department of Defence means that Council must forfeit its plan making powers back to the Minister for Planning. Further detail on the Department of Defence's objection is provided in the attached 'Submissions Table' (**ATTACHMENT 3**). As a result of this, this report recommends that Council request that the Minister make the Plan.

In accordance with LEP (c6.3), the proponent requires that a site specific Development Control Plan be adopted. Should the LEP be made, the applicant will be required to seek an amendment to the Port Stephens Development Control Plan 2014, in particular Part D9 North Medowie – Medowie. This will ensure that the controls are relevant to and reflective of the amended zone and minimum lot size. As a result, this report also recommends that the applicant prepare a DCP.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

The proponent has paid the relevant rezoning fees in line with the Council's Fees and Charges Policy. In accordance with this Policy, a Stage 3 fee of \$5,250 will be required if the recommendation is supported by Council.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes	\$5,250 \$10,500 \$5,250	Stage 1 fees – 28/06/2016 Stage 2 fees – 09/05/2017 Stage 3 fees – To be advised.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The following summarises the key planning strategies and instruments that relate to the Planning Proposal:

**Hunter Regional Plan 2036**

The Hunter Regional Plan (HRP) was released on 14 October 2016 and is a 20-year blueprint for the future of the Hunter. The HRP identifies Medowie as a centre of local significance intended to provide future housing and urban renewal opportunities. The proposal will deliver Goal 4 of the HRP which seeks to provide greater housing choice and jobs in the Hunter. Specifically, the proposal satisfies 'Direction 21 – Create a compact settlement' and 'Direction 22 – Promote housing diversity'. The site is also highlighted as an urban release area within the HRP.

**Port Stephens Planning Strategy 2011**

The Port Stephens Planning Strategy (PSPS) was adopted by Council on 20 December 2011. The PSPS provides the current framework for future growth in the Local Government Area (LGA). The PSPS identifies Medowie as being a main urban

**MINUTES ORDINARY COUNCIL - 11 JULY 2017**

release area within the Eastern Growth Corridor of the LGA. Medowie is the fastest growing Planning District, as identified by the PSPS, and notes that there is limited opportunity for infill development and growth will occur on the urban fringe. The proposal is therefore consistent with the PSPS.

Medowie Strategy 2016

The Medowie Strategy 2016 (the Strategy) was adopted by Council on 13 December 2016. Concerns were raised in submissions that the proposal was not consistent with the intent of the Medowie Strategy, that is, to provide smaller lots closer to services and the town centre. A response to these concerns is provided later in this report under 'Consultation'.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council could be legally challenged on the procedural merits of the LEP Amendment.	Low	Staff have followed procedural requirements as set out in the <i>Environmental Planning and Assessment Act 1979 (NSW)</i> as well as meeting the conditions prescribed by the Minister for Planning in the gateway determination.	Yes
There is a risk that future landowners will purchase land without knowing they will be subjected to aircraft noise.	Low	Where relevant, development will be subject to the controls of the Port Stephens Development Control Plan 2014. A notation is provided on all section 149(5) Planning Certificates advising the presence of aircraft noise to land within the Port Stephens Local Government Area.	Yes
There is a risk that the LEP Amendment will not proceed given the Department of Defence (DoD's) objection.	Low	A response to DoD's concerns is included in the final planning proposal to be forwarded to the Department of Planning and Environment should Council resolve to proceed with the LEP Amendment.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Concern has been raised in submissions received during the exhibition period that relate to social, economic and environmental implications of the planning proposal proceeding. These include reduced lot sizes becoming a 'low socio-economic ghetto', the validity of a koala refuge within the development, the loss of native vegetation and reduced water quality/increased water quantity leaving the site. A response to these concerns is provided in the attached 'Submissions Table' (**ATTACHMENT 3**).

## **CONSULTATION**

Consultation was undertaken in accordance with the previous report to Council on this matter.

### Internal

Council's Traffic and Drainage Engineers have provided responses to submissions raising concerns in relation to stormwater and traffic impacts, discussed below.

It is also noted that Council's Natural Resource team hold no objection to the proposal on environmental grounds.

### External

The proposal was notified to adjoining landowners and advertised in the Port Stephens Examiner. Between 11 May and 8 June 2017, the proposal was available on Council's website and Administration Building (Raymond Terrace). A copy was also placed at the Medowie Community Centre.

The main issues raised in submissions that objected to the proposal are:

#### 1. Traffic and emergency access/egress

Objectors raised concerns that the reduced minimum lot size will significantly affect the amenity of the neighbourhood by way of traffic generation. The applicant submitted a Traffic Impact Statement (TIS) to support the planning proposal. The TIS concluded that the proposal will not have a major impact upon the local road network and is acceptable on traffic planning and engineering grounds.

The TIS recommended minor upgrade works to the Medowie Road / Boundary Road intersection, including the construction of a short channelized-right turn treatment and a basic left-turn treatment. The TIS concluded that with these works, the intersection would "continue to offer good levels of service into the future". Council's Traffic Engineer reviewed the proposal and supporting documentation and concluded that the local road network and intersections, including Medowie Road/Boundary Road, will continue to operate at the best level of service.



Additionally, a number of the submissions were concerned that access to Medowie Road is only provided via one road (Boundary Road). In particular, concern was raised that this access point would be incapable of allowing safe traffic egress in the event of an emergency, such as a bushfire, and a second access should be required. The applicant submitted a Bushfire Threat Assessment (BTA) to support the planning proposal.

The BTA considered access to and from the estate in the event of a bushfire and found that the proposal will be able to comply with the access provisions of the NSW Rural Fire Service's (RFS) document 'Planning for Bushfire Protection 2006' (PFBP). The RFS were provided with a copy of the BTA and responded with no objection to the development if matters such primary and secondary access ways complied with the requirements of the PFBP at the time of subdivision.

## **2. Stormwater drainage**

Objectors raised concerns in relation to increased stormwater that would result from the reduced minimum lot size that would increase the lot yield and therefore impervious surfaces (e.g. roofs, driveways etc.). Council staff responded to these concerns by confirming that appropriate modelling had been carried out to achieve a neutral or beneficial on water quality.

A resident on Medowie Road was concerned that their property would be particularly affected by stormwater run-off given their property was low lying. However, Council's Drainage Engineer confirmed that the development does not drain to Medowie road and all stormwater from the development has been/ will be directed to Moffatt's Swamp catchment through three large detention basins to control the post development discharges.

The same concern was shared by residents in Settlers Close. Council's Drainage Engineer addressed this by confirming that some of the natural catchments, which were previously drained through Settlers Close and Square Close, have now been re-directed away from these two streets. Therefore, the residents here are likely to experience less stormwater run-off during an event as a result of the proposal.

## **3. Character of Medowie/intent of Medowie Strategy**

A number of submissions were concerned that the proposal is out of character for Medowie, which is typically a large lot/rural residential settlement. Additionally, objectors questioned the consistency of the proposal with the intent of the Medowie Strategy, being to small lots close to services/town centre and large lots in the peri-urban precincts.

The Medowie Strategy notes the need to identify urban release areas within Medowie, with priority given the sites that are characterised by the following:

- Proximity to existing urban areas;
- Location along main transport routes (Medowie Road and Ferodale Road);
- Access to community facilities;
- Better access to sewer and water infrastructure;
- Reduced land fragmentation;
- Flood-free land; and
- Cleared land.

The subject site is consistent with each of the above criteria and is therefore a preferred urban release area. The subject site is specifically identified by the strategy with an estimated dwelling yield of 480. The proposal is also consistent with the Strategy's recommended minimum lot size for residential development of 500m<sup>2</sup>.

An existing development consent permits the subject site to be subdivided into 345 allotments (DA 16-2015-336-1). Should the proposal proceed the lot yield of the site is expected to increase to 480 being a difference of 135 lots.

#### 4. Lack of facilities and open space

Objectors were concerned that the Bower Estate is not capable of sustaining a high quality of life for the additional lots that would be created by the proposal based on the lack of facilities and open space within the development. The estate will be master planned and should the LEP Amendment proceed, an amendment to Part D9 of the Port Stephens Development Control Plan 2014 (DCP) will be required to address matters such as facilities and open space that may be required by future residents. It is noted that Council's current provisions are made in the DCP for subdivision developments to provide public open space (refer to C1.F and C1.15-17).

The proposal will allow for the provision of adequate facilities including open space for future residents however this will be via the development application process.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Planning proposal. (Provided under separate cover)
- 2) Gateway Determination.
- 3) Submissions table.

### **COUNCILLORS ROOM**

- 1) Original submissions received from external agencies and public.

**TABLED DOCUMENTS**

Nil.

ITEM 4 - ATTACHMENT 2 GATEWAY DETERMINATION.



Our ref: PP\_2016\_PORTS\_008\_00  
(16/14701)

Mr Wayne Wallis  
General Manager  
Port Stephens Council  
PO Box 42  
Raymond Terrace NSW 2324

Att: Matthew Borsato

Dear Mr Wallis,

**Planning proposal to amend Port Stephens Local Environmental Plan 2013  
– Boundary Road, Medowie.**

I am writing in response to your Council's letter requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone part of Lots 93 to 96 DP753194 at Boundary Road, Medowie.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

The planning proposal's consistency with S117 Directions 3.5 Development Near Licenced Aerodromes, 2.1 Environmental Protection Zones and 4.4 Planning for Bushfire Protection will require further consultation with the Office of Environment and Heritage, Department of Defence and NSW Rural Fire Service respectively. Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department for administrative purposes.

Hunter and Central Coast Region - Hunter Office - Level 2 26 Honeysuckle Drive (PO Box 1226) Newcastle NSW 2300  
Phone 02 4904 2700 Fax 02 4904 2701 Website [planning.nsw.gov.au](http://planning.nsw.gov.au)

**ITEM 4 - ATTACHMENT 2      GATEWAY DETERMINATION.**

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Attached for your assistance is a simplified guide to the plan making process and reporting requirements to ensure that the LEP Tracking System is kept updated.

Should you have any queries in regard to this matter, I have arranged for Claire Brooks from the Hunter office to assist you. Ms Brooks can be contacted on (02) 4904 2700.

Yours sincerely,

9/12/2016  
**Monica Gibson**  
**Director Regions, Hunter and Central Coast**  
**Planning Services**



### Gateway Determination

**Planning proposal (Department Ref: PP\_2016\_PORTS\_008\_00):** to rezone land at Boundary Road, Medowie

I, the Director Regions, Hunter and Central Coast at Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 for land at part of Lots 93-96 DP 753194 Boundary Road, Medowie should proceed subject to the following conditions:

1. Consultation is required with the NSW Rural Fire Service in relation to s117 direction 4.4 Planning for Bushfire Protection. Council is to amend the Planning Proposal to address the advice provided.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
  - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Environment 2016)* and must be made publicly available for a minimum of 14 days; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Environment 2016)*.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act 1979:
  - (a) Office of Environment and Heritage (regarding Section 117 Direction Environment Protection Zones);
  - (b) Transport for NSW - Roads and Maritime Services; and
  - (c) Department of Defence

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

**ITEM 4 - ATTACHMENT 2      GATEWAY DETERMINATION.**

5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Dated 9<sup>th</sup> day of December 2016.

**Monica Gibson  
Director Regions, Hunter and Central Coas  
Planning Services  
Department of Planning and Environment  
  
Delegate of the Minister for Planning**

**Planning &  
Environment****WRITTEN AUTHORISATION TO EXERCISE DELEGATION**

Port Stephens City Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2016_PORTS_008_00	Planning proposal to rezone land at Boundary Road, Medowie

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guideline for the preparation of local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 9<sup>th</sup> December 2016

**Monica Gibson**  
**Director Regions, Hunter and Central Coast**  
**Planning Services**  
**Department of Planning and Environment**



ITEM 4 - ATTACHMENT 2 GATEWAY DETERMINATION.



Planning &  
Environment

**Delegated plan making reporting requirements**

(Attachment 5 from "A guide to preparing local environmental plans")

**Notes:**

- The department will fill in the details of Table 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the Department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department with the RPA's request to have the LEP notified

**Table 1 – To be completed by the Department**

Stage	Date/Details
Planning Proposal Number	PP_2016_PORTS_008_00
Date Sent to Department under s56	21 November 2016
Gateway determination date	9 December 2016

**Table 2 – To be completed by the RPA**

Stage	Date/Details
Dates draft LEP exhibited	
Date of public hearing (if held)	
Date sent to PCO seeking Opinion	
Date Opinion received	
Date Council Resolved to Adopt LEP	
Date LEP made by GM (or other) under delegation	
Date sent to Department requesting notification (hunter@planning.nsw.gov.au)	
Brief Description of Purpose of planning proposal	

**Table 3 – To be completed by the Department**

Stage	Date/Details
Notification Date and details	

**Additional relevant information:**

**ITEM 4 - ATTACHMENT 2 GATEWAY DETERMINATION.****PLAN MAKING PROCESS POST GATEWAY – FOR DELEGATED MATTERS****1. Post Exhibition Review**

- Any unresolved s117 directions must be finalised before progressing with LEP
- If planning proposal is revised, council is to email a copy of the revised proposal to the regional planning team - [hunter@planning.nsw.gov.au](mailto:hunter@planning.nsw.gov.au) under Section 58(2) of the Act prior to requesting LEP to be made.
- If changes to planning proposal are substantial then may no longer be authorised by the Gateway determination and a Gateway amendment may be required before LEP is made. Councils are encouraged to contact regional planning team to seek advice before finalising the LEP under delegation.

**2. Legal Drafting of the LEP**

- Council's request to draft and finalise the plans should be made as soon as possible to ensure timeframes are met. Council should upload the maps and GIS data directly to the department's portal site (<https://data.planningportal.nsw.gov.au/help>).
- Once uploaded Council should email [hunter@planning.nsw.gov.au](mailto:hunter@planning.nsw.gov.au) and advise maps are available for checking. Any questions about uploading can be directed to [gis@planning.nsw.gov.au](mailto:gis@planning.nsw.gov.au).
- Unless otherwise negotiated the department will only undertake a technical review of any maps, to ensure they comply with LEP mapping technical guidelines.
- No maps or mapping/GIS data is to be sent directly to PCO.
- The request for legal drafting should be sent to PCO at [parliamentary.counsel@pco.nsw.gov.au](mailto:parliamentary.counsel@pco.nsw.gov.au) including the planning proposal, a copy of the gateway determination and details of any change to the proposal arising from the gateway determination. The name and contact details of the council contact officer should also be supplied.
- A copy of the request to PCO should also be forwarded to the department for administrative purposes only – [hunter@planning.nsw.gov.au](mailto:hunter@planning.nsw.gov.au)

**3. Making of the draft LEP s59**

- Council's delegate resolves to finalise the LEP by signing the instrument (see example below).
- If council's delegate decides not to make plan or defer a matter, council should liaise with regional team for assistance.
- Council must also notify PCO if plan not proceeding

**4. Notification of LEP**

- Council advises and requests the department to make the plan, email request to [hunter@planning.nsw.gov.au](mailto:hunter@planning.nsw.gov.au) and the following documents to be provided for notification
  1. Signed LEP - which includes full name of LEP and PCO file reference
  2. Signed map cover sheet and associated maps,
  3. Name and position of the delegate who signed the LEP and date,
  4. Completed Attachment 5 - delegated plan making reporting template,
  5. Copy of council's assessment (s 59 report) which is usually the council report/minutes
  6. PC opinion
- Request to [hunter@planning.nsw.gov.au](mailto:hunter@planning.nsw.gov.au) by Tuesday of the week will enable notification by Friday.

Example of signature front page

Fred Smith  
General Manager  
  
As delegate for the Minister for Planning  
12/12/14

ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.

SUBMISSION SUMMARY AND PLANNING RESPONSE

Submission	Summary of Submission	Planning Proposal Response
<b>External Agencies</b>		
Department of Defence (DoD)	<ul style="list-style-type: none"> <li>a. The site is located in proximity to the RAAF Base Williamtown and Salt Ash Air Weapons Range which map expose future residents to high levels of aircraft noise. DoD suggests that noise attenuation measures are adopted in the design and construction of and future residential dwellings.</li> <li>b. The site is constrained by building height controls and any structures proposed in excess of 7.5m must be referred to the DOD.</li> <li>c. DoD does not support the proposed rezoning and requests that Council provide a notation on any section 149(5) Planning Certificate that is likely to be affected by some level of aircraft noise.</li> </ul>	<ul style="list-style-type: none"> <li>a. Given that the site is outside of the mapped ANEF contours Council is unable to require future development to design and construct noise attenuation measures.</li> <li>b. Council currently complies with this requirement and will continue to notify any proposed structure in excess of 7.5m to DoD.</li> <li>c. Council will continue to provide a notation on all section 149(5) Planning Certificates advising recipients that Port Stephens LGA is subject to aircraft noise. As a result of the objection Council will forfeit its plan making powers delegated by the Minister for Planning.</li> </ul>
Hunter Water Corporation (HWC)	<ul style="list-style-type: none"> <li>a. HWC has required the developer to prepare revised water and sewer servicing strategies for the potential increased yield of the site.</li> <li>b. HWC has required the developer prepare a revised scope of work to increase the capacity of the wastewater pumping station to cope with the increased yield.</li> <li>c. HWC does not anticipate any significant changes to the design and therefore has no objection to the proposal</li> </ul>	No objection.
Office of Environment & Heritage (OEH)	<ul style="list-style-type: none"> <li>a. The proposal does not increase the area/footprint used for residential purposes therefore OEH has no objection</li> </ul>	No Objection.
Roads & Maritime Service (RMS)	<ul style="list-style-type: none"> <li>a. The TIA addresses a maximum yield of 450 lots rather than 480 lots identified within the planning proposal. Medowie Road intersection upgrade is to be design and constructed in accordance with Austroads standards.</li> <li>b. Developer to take into consideration section 117 (2) direction 3.4 in relation to providing adequate access to public transport and opportunities for pedestrians and cyclists to connect with the surrounding area. Intersection upgrades should provide for on-road cyclists to safely</li> </ul>	<ul style="list-style-type: none"> <li>a. 25 May 2017 – Council forwarded a Threshold Analysis (Better Transport Futures, 16 September 2015) showing that the intersection of Boundary Road and Medowie Road will continue to operate at a high level of service, even up to 600 developed lots. It demonstrates the current intersection design is suitable for the additional development potential that may result from the planning proposal.</li> <li>b. Section 117 Directions have been adequately addressed in the planning proposal.</li> </ul>

# MINUTES ORDINARY COUNCIL - 11 JULY 2017

## ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.

Submission	Summary of Submission	Planning Proposal Response
	<p>use the road network.</p> <p>c. Concept design plans and electronic modelling data shall be provided to RMS and a referral made to RMS seeking concurrence under section 138 of the <i>Roads Act 1993</i></p> <p>d. Despite Council's plan to provide a shared path between the subject site and the town centre, provisions should be made for safe connectivity for cyclists where road upgrades are required.</p> <p>e. Discharged stormwater from the rezoned land shall not exceed the capacity of the Medowie Road stormwater drainage system.</p> <p>f. Council should ensure that the applicant is aware of the potential for road traffic noise to impact development on the site (particularly form Medowie Road)</p>	<p>c. 26 May 2017 – Electronic copy of the SIDRA analysis from the proponent was provided to RMS for review.</p> <p>d. Future additional subdivision resulting from the planning proposal will be subject to the development assessment process.</p> <p>e. The planning proposal has been adequately assessed for its impact on stormwater quality and quantity. Appropriate measures are proposed to achieve a neutral or beneficial effect.</p> <p>f. There will be increased levels of traffic generation due to increased lot yield and as a result increased noise and vehicle emissions. The impacts anticipated are not expected to be significant.</p>
Rural Fire Service (RFS)	<p>No objection to the proposal subject to the following matters being satisfied at subdivision stage:</p> <ul style="list-style-type: none"> <li>• APZs around the proposed Koala Habitat Reserve</li> <li>• Tree corridors to be managed as APZs</li> <li>• Detention basin planting to be consistent with APZs</li> <li>• Plan of Management may be required for the areas listed above</li> <li>• Registration of an access entitlement for a secondary access/egress point from Boundary Rd o Country Rd</li> <li>• Public road access to comply with 'Planning for Bushfire Protection 2006' including construction of Western Road</li> <li>• Secondary access mentioned above and northern portion of Western Rd are to comply with the fire trail requirements of 'Planning for Bushfire Protection 2006'</li> </ul>	No Objection. The matters required to be addressed by RFS will form part of the future DA for subdivision.
<b>Public Submissions</b>		
1.	<p>a. Impact of subdivision on property and lifestyle</p> <p>b. Concerned with existing works being carried out close to property</p> <p>c. Concern for drainage from development impacting on property that is low lying on Medowie Road</p> <p>d. Concern for increased traffic and head lights penetrating those houses situated below the road level</p> <p>e. Question raised regarding the upgrading of electricity and internet?</p> <p>f. Opposes 500 square metre allotments</p>	<p>a. The proposal is consistent with the Medowie Strategy to provide residential development with a minimum area of 500 square metres. Potential impacts from the development have been considered and are acceptable.</p> <p>b. The future additional potential development that may occur under the planning proposal will not impact on the roadworks that are already occurring under the existing development consent for residential subdivision.</p> <p>c. The development does not drain to Medowie road. All stormwater</p>

ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.

Submission	Summary of Submission	Planning Proposal Response
		<p>from the development has been directed to Moffatt's Swamp catchment through three large detention basins to control the post development discharges.</p> <p>d. Traffic Impact Assessment (TIA) indicates that intersections will still operate at the best level of service with up to 600 Lots developed.</p> <p>There will be an impact from head lights on properties situated opposite new and existing intersections however the degree of impact will depend on individual situations</p> <p>e. Both electricity and internet services are provided by separate bodies to Council.</p> <p>f. The proposal is consistent with the Medowie Strategy to provide 500 square metre allotments in urban release areas.</p>
2.	<p>a. Concerned with roadworks occurring that have contributed large amounts of dirt to a significant height adjoining property fence lines. Concerned that this will contribute to erosion and sediment run-off into own property</p> <p>b. Concern for increased traffic and head lights penetrating those houses situated below the road level (Medowie Road)</p> <p>c. Support development within the community but concerned about privacy</p> <p>d. Traffic – will a guard rail be provided on Medowie road to stop vehicles from crashing into property?</p>	<p>a. The future additional potential development that may occur under the planning proposal will not impact on the roadworks that are already occurring under the existing development consent for residential subdivision.</p> <p>b. TIA indicates that intersections will still operate at the best level of service. There will be an impact from head lights on properties situated opposite new and existing intersections however the degree of impact will depend on individual situations</p> <p>c. It is understood this issue relates to the potential for traffic lights to shine onto private property on the western site of the intersection of Boundary Road and Medowie Road. This issue is a development and construction management issue that needs to be further investigated, with the assistance of the site developer. Council understands that tree planting will be implemented to assist in addressing this concern and new fencing may have also been provided.</p> <p>d. There are no plans currently for installation of guard rail at this location</p>
3.	<p>a. Concerned that proposal will change the quality of the Bower Estate</p> <p>b. Disappointed that the estate proposes an additional 130 lots after the initial advertisements for the estate included phrases such as:</p> <ul style="list-style-type: none"> <li>"Impressively spacious home-sites"</li> </ul>	<p>a. The proposal is consistent with the Medowie Strategy to provide 500 square metre allotments in urban release areas. The Medowie Strategy was publicly exhibited and adopted by Council in 2016.</p> <p>b. The Medowie Strategy identifies the site as a key urban release</p>

ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.

Submission	Summary of Submission	Planning Proposal Response
	<ul style="list-style-type: none"> <li>"Award winning property group"</li> <li>"Exceptional living environments"</li> <li>"Compliment the Medowie lifestyle"</li> <li>"Quality &amp; sustainable environments"</li> <li>"Time to upsize"</li> </ul> <p>c. Concerned that the additional lots will create traffic, pollution and noise impacts.</p>	<p>area with an estimated dwelling yield of 480 lots. The proposal is consistent with the Medowie Strategy.</p> <p>c. There will be increased levels of traffic generation due to increased lot yield and as a result increased noise and vehicle emissions. The impacts anticipated are not expected to be significant</p>
4.	<p>a. Long-time resident concerned about the impact of proposed changes on town.</p> <p>b. Concerned about additional traffic volume and access during an emergency, such as a bushfire or storm event. Requests a second access for safety</p> <p>c. Concern that smaller lots are not consistent with existing character of Medowie that places small lots close to town and large lots further out of town. Concerned that the smaller lots will create a lower socioeconomic area.</p> <p>d. Believes the developer has misled residents of the initial stages based on sale of larger lots and concerned that reduction in minimum lot size will reduce land values for those residents in the initial stages</p> <p>e. Asks "What is to stop the developer submitting an application to rezone to even smaller lots further down the track?"</p> <p>f. Supports creating more affordable housing in the area for first home buyers but does not believe the estate is an appropriate location. Believes that the reduced lots will attract investors and public housing.</p>	<p>a. The proposal is consistent with the Medowie Strategy to provide 500 square metre allotments in urban release areas. The Medowie Strategy was publicly exhibited and adopted by Council in 2016.</p> <p>b. TIA indicates that intersections will still operate at the best level of service. A second access would provide added security in the event of an emergency evacuation however is not warranted on intersection capacity grounds</p> <p>c. The proposal is supported by the Hunter Regional Plan and the Medowie Strategy as a means to provide housing in Medowie and Port Stephens LGA. Social and economic impacts must be considered in the DA for subdivision plus any future development in accordance with s79C of the EP&amp;A Act.</p> <p>d. Residents who bought in Stages 1 and 2 of the Bower Estate were notified of the proposal by the applicant via email during the exhibition period. Land values are not a town planning consideration.</p> <p>e. Council is obligated to consider any planning proposal that has been lodged.</p> <p>f. The proposal will deliver housing that is consistent with the Medowie Strategy.</p>
5.	<p>a. Believes the developer has misled residents of the initial stages based on sale of larger lots. Believes that neighbours should have been informed by Council of the proposed changes earlier.</p> <p>b. Concerned with additional traffic impact and access including during the event of an emergency (like a bushfire). Asks "are there going to be measures put into place so that this doesn't happen? For example another access road to the estate."</p> <p>c. Question regarding the provision of bus services to the estate and</p>	<p>a. Community consultation has been carried out in accordance with s57 of the EP&amp;A Act and the gateway determination issued by the Minister for Planning. Additionally, Council has written to neighbours in proximity to the proposal site for which it has details for. Residents within Stages 1 and 2 of the Bower Estate were unable to be contacted due to the unavailability of ownership information. However, the proponent wrote to these residents via</p>

ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.

Submission	Summary of Submission	Planning Proposal Response
	whether sufficient bus stops will be provided for school children to access buses safely.	<p>email.</p> <p>b. TIA indicates that intersections will still operate at the best level of service. A second access would provide added security in the event of an emergency evacuation however is not warranted on intersection capacity grounds</p> <p>c. Bus routes are being planned. Bus stops have not been identified as yet but will be provided as required.</p>
6.	<p>a. Believes that the rezoning and proposed development will adversely impact on street parking and traffic congestion surrounding the subject site due to the increase of additional residents and their visitor's cars – particularly due to the lack of public transport, residents and their visitors will be more reliant on their own vehicles.</p> <p>b. If Medowie has been ear-marked as a growth area, and medium density housing is required, believes it should be located towards the town centre and shops for walkability purposes. This would also ease additional congestion to public transport infrastructure. The suggested redevelopment is out of character for this area, as all lots surrounding The Bower Estate are 4000sqm minimum and the nearest 500sqm lots are approx. 2km away.</p> <p>c. Believes the smaller lots would attract families of lower socio-economic background and potentially contribute to higher levels of crime in the area.</p> <p>d. Concern for existing residents becoming trapped in an emergency such as a bushfire. Believes the proposal will worsen this risk.</p> <p>e. Sceptical as to whether the proposed "animal house" for local wildlife to retreat to will be utilised given the additional traffic volumes within the estate's road network.</p> <p>f. The proposed development will result in increased noise levels (from homes, as well as traffic) for current residents in the area</p> <p>g. Dissatisfied with Council not providing notification to residents within Stage 1 and 2 of the Bower Estate. Purchased property based on research on Medowie and the Bower Estate being a large lot residential area.</p> <p>h. Considers the McCloy Group to have misled purchasers of the Bower Estate by displaying a Master Plan publicly that is proposed</p>	<p>a. There will be increased levels of traffic generation due to increased lot yield. TIA indicates that intersections will still operate at the best level of service. Off street parking will be required in accordance with Council's DCP</p> <p>b. It is acknowledged that other existing development in the area is 4,000 square metres. The site already has DA approval for approximately 350 residential allotments with an applicable minimum lot size of 1,000 square metres.</p> <p>The site is identified for residential release within the Medowie Planning Strategy for an estimated 480 dwellings 'Precinct A' (based on a general standard yield estimate of 12 dwellings/ha). It is the largest identified release area and its delivery is important to increasing the supply of land for housing. The land is also comparatively unconstrained to some other areas of land within Medowie. It is able to be serviced; is not located within the Grahamstown Dam Drinking Water catchment; biodiversity conservation issues have been resolved; and it is under single ownership.</p> <p>c. The proposal is supported by the Hunter Regional Plan and the Medowie Strategy as a means to provide housing in Medowie and Port Stephens LGA. Social and economic impacts must be considered in the DA for subdivision plus any future development in accordance with s79C of the EP&amp;A Act.</p> <p>d. Council's Traffic Engineer and RFS have concluded that the local road network has the capacity to cater for the increased lot yield.</p> <p>e. Vegetation removal has been considered as part of the proposal and deemed to be non-significant given the large area of retained</p>

ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.

Submission	Summary of Submission	Planning Proposal Response
	to change.	<p>native vegetation north-east of the site. It is intended that koalas will utilise the street tree network to gain access to the refuge.</p> <p>f. There will be increased noise and vehicle emissions due to increased lot yield. The impacts anticipated are not expected to be significant</p> <p>g. Council wrote to neighbours in proximity to the proposal site for which it has details for. Residents within Stages 1 and 2 of the Bower Estate were unable to be contacted due to the unavailability of ownership information. However, the proponent wrote to these residents via email during the exhibition period.</p> <p>h. Council is obligated to consider any planning proposal that has been lodged.</p>
7.	<p>a. The proposal will adversely impact on traffic</p> <p>b. The proposal is out of character for Medowie which is traditionally a large lot area. The proposal has limited open spaces</p> <p>c. The proposal will result in greater loss of vegetation and impact the E2 Environmental Conservation zone</p> <p>d. The proposal will result in overdevelopment</p> <p>e. The land does not meet the objectives of the R2 Low Density Residential zone and is better suited to the objectives of the R5 Large Lot Residential zone</p> <p>f. The proposal does not take into account emergency access/egress</p> <p>g. The proposal will increase noise through high traffic volumes</p> <p>h. The proposal may result in inadequate stormwater drainage</p> <p>i. The means by which the proposal has advanced to this stage is controversial (i.e. the developers proposal to rezone the land while seeking development consent under the existing zone)</p> <p>j. Not all affected residents have been notified of the proposed rezoning</p>	<p>a. There will be increased levels of traffic generation due to increased lot yield. TIA indicates that intersections will still operate at the best level of service.</p> <p>b. The proposal is consistent with the intent of the Medowie Strategy to provide 500 square metre allotments in residential areas. The provision of open space is required by the PSDCP and will be addressed as part of a future DA for subdivision.</p> <p>c. Vegetation removal has been considered as part of the proposal and deemed to be non-significant given the large area of retained native vegetation north-east of the site. The proposal has been considered by Council's Natural Resource staff as well as OEH who maintain no objection to the proposal on environmental grounds.</p> <p>d. The proposed minimum lot size of 500 square metres is not considered to be an overdevelopment with environmental, engineering and planning matters all considered satisfactory. The proposal is consistent with the Medowie Strategy.</p> <p>e. The land will meet the objectives of the R2 zone by providing for the housing needs of the community; enable further facilities or services to meet the day to day needs of residents; protect and enhance the residential amenity of the area; and ensures development is carried out in a way that is compatible with the flood risk of the area.</p> <p>f. Council's Traffic Engineer and RFS have concluded that the local</p>



**ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.**

Submission	Summary of Submission	Planning Proposal Response
		<p>road network has the capacity to cater for the increased lot yield.</p> <p>g. There will be increased noise and vehicle emissions due to increased lot yield. The impacts anticipated are not expected to be significant</p> <p>h. The proposal has included stormwater drainage system within the development area and three large detention basins to control post development discharges to pre-development discharges. Also, some of the natural catchments, which were previously drained through Settlers Close and Square Close, have now been redirected away from these two streets.</p> <p>i. Council is obligated to consider any planning proposal that has been lodged. The subject planning proposal has merit because it is consistent with the Hunter regional Plan, Port Stephens Planning Strategy and Medowie Strategy.</p> <p>j. Community consultation has been carried out in accordance with s57 of the EP&amp;A Act and the gateway determination issued by the Minister for Planning. Additionally, Council has written to neighbours in proximity to the proposal site for which it has details for. Residents within Stages 1 and 2 of the Bower Estate were unable to be contacted due to the unavailability of ownership information. However, the proponent wrote to these residents via email.</p>
8.	<p>a. The proposal moves high density development to the perimeter of the community and is against town planning outcomes</p> <p>b. The proposal runs counter to the Medowie strategy intent to place the bulk of the population close to the commercial hub of the community.</p> <p>c. Increased traffic flows will impact on existing rural residential communities</p> <p>d. Higher density blocks adjoining the environmental reserve place sustainability pressures on the conservation areas</p> <p>e. The estate will attract young families to the estate with limited open space amenity and poor access to infrastructure options without public transport</p> <p>f. The estate cannot be argued as low cost housing as the land will sell at market value there are no provisions to pass saving from a</p>	<p>a. The site will be master planned and appropriate amendments to the Part D9 of the PSDCP will ensure the estate achieves good planning outcomes.</p> <p>b. The Medowie Strategy identifies the site as a key urban release area with an estimated dwelling yield of 480 lots. The proposal is consistent with the Medowie Strategy.</p> <p>c. There will be increased levels of traffic generation due to increased lot yield. TIA indicates that intersections will still operate at the best level of service.</p> <p>d. The proposal has been considered by Council's Natural Resource staff as well as OEH who maintain no objection to the proposal on environmental grounds.</p>

ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.

Submission	Summary of Submission	Planning Proposal Response
	<p>higher density outcome to consumers</p> <p>g. Larger recreation areas are not included in the proposal; smaller lots equate to a lack of private open space for families</p> <p>h. The community is not walkable based on the shortest route to services and amenities provided by the Medowie community</p> <p>i. All routes to the Medowie commercial hub require access via Medowie Rd a major regional road heavily trafficked and not suitable for pedestrians and cyclists.</p> <p>j. There is risk of health impact from aircraft noise bombing and strafing on the RAAF range.</p> <p>k. Additional storm water drainage risks downstream residents in existing communities</p> <p>l. Higher density adds risk to resident's attempting to leave the area in fire emergencies</p> <p>m. The higher density proposal requires a complete rethink and reallocation of section 94 contributions</p> <p>n. Larger lots must boarder the environmental zones to maintain environmental sustainability this rezoning proposal does not support this approach</p>	<p>e. Open space and public transport opportunities will be provided as part of a future development application for subdivision as per the requirements of the PSDCP.</p> <p>f. Market outcomes are not considered within the planning process. The proposal is consistent with the Medowie Strategy and will assist in providing additional housing to Medowie and the Port Stephens LGA.</p> <p>g. Open space opportunities will be provided as part of a future development application for subdivision as per the requirements of the PSDCP.</p> <p>h. The Medowie Strategy identifies the site as a key urban release area with an estimated dwelling yield of 480 lots. The proposal is consistent with the Medowie Strategy.</p> <p>i. Council's Pathways Plan identifies off-road shared paths connecting to the existing network. S94 funds are being collected for this purpose</p> <p>j. The DoD has raised similar concerns that have been addressed in the response to their submissions above. Appropriate measures will be utilised to ensure residents are aware of the presence of aircraft noise in the LGA.</p> <p>k. As the development provided three large detention basins to control the post development flows and the discharge points are within the existing floodplain area, it would have insignificant risks on downstream residents.</p> <p>l. Council's Traffic Engineer and RFS have concluded that the local road network has the capacity to cater for the increased lot yield.</p> <p>m. Council already has in place a local contributions plan for traffic and transport contributions as a result of additional proposed development across Medowie. It based on the previous Medowie Strategy 2009 version, which estimated a yield of greater than 3,000 dwellings across Medowie.</p> <p>The revised Medowie Strategy, adopted by Council in December 2016, estimates a reduction in yield to a total of approximately 2,700 dwellings.</p>

ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.

Submission	Summary of Submission	Planning Proposal Response
		<p>Council is in the process of commencing a review to the local contributions for traffic and transport infrastructure in Medowie.</p> <p>n. The proposal has been considered by Council's Natural Resource staff as well as OEH who maintain no objection to the proposal on environmental grounds.</p>
9.	<p>a. Low density residential housing should be located near the town centre</p> <p>b. The proposal is not in keeping with any blocks in North Medowie (i.e. existing blocks are large lot residential)</p> <p>c. Insufficient supply of open space, and car parking areas with overcrowding leading to anti-social behaviour</p> <p>d. The future lots should not be used for multiple dwellings or two storey dwellings</p> <p>e. Trees should not be removed and questions how koalas will access the refuge</p> <p>f. The single entry/exit point will create traffic issues</p> <p>g. The RAAF does not support the proposal</p> <p>h. Reticulated sewerage required for smaller blocks, concerned with increased stormwater run-off</p>	<p>a. The Medowie Strategy identifies the site as a key urban release area with an estimated dwelling yield of 480 lots. The proposal is consistent with the Medowie Strategy.</p> <p>b. The Medowie Strategy identifies the site as a key urban release area with an estimated dwelling yield of 480 lots. The proposal is consistent with the Medowie Strategy.</p> <p>c. Both open space and off-street parking areas will be provided as part of future DAs for subdivision and the erection of buildings as per the requirements of the PSDCP.</p> <p>d. The proposed R2 zone will permit dual occupancies however minimum site area requirements must be in accordance with the PSLEP (Cl 4.1B). The height of dwellings will be considered in accordance with the PSDCP. A maximum height of building limit has been proposed to 9 metres.</p> <p>e. Vegetation removal has been considered as part of the proposal and deemed to be non-significant given the large area of retained native vegetation north-east of the site. It is intended that koalas will utilise the street tree network to gain access to the refuge.</p> <p>f. TIA indicates that intersections will still operate at the best level of service.</p> <p>g. The DOD has maintained an objection to the proposal based on concerns for dwellings being subject to aircraft noise and the impact of tall structures. A response to DODs concerns is provided in this table above.</p> <p>h. The development will be serviced by a reticulated sewerage system as required by Hunter Water. As the development provided three large detention basins to control the post development flows and the discharge points are within the existing floodplain area, it would have insignificant risks on downstream residents.</p>

ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.

Submission	Summary of Submission	Planning Proposal Response
10.	<p>a. An electronic direct mail (EDM) was forwarded to all purchasers that exchanged contract to purchase land in stages 1 and 2 of the Bower Estate</p> <p>b. The Planning proposal aligns with NSW State Government initiatives regarding housing affordability by increasing the supply of land and the growing need for more housing</p> <p>c. The Planning Proposal aligns with the Medowie Planning Strategy which identifies the Bower Estate a residential release area suitable for R2 Low Density Residential zoning with an estimated dwelling yield of 480 dwellings</p> <p>Matters addressed in EDM referred to above:</p> <p>d. The Planning Proposal if adopted will not affect stages 1 and 2 and the size of existing home sites in any way.</p> <p>e. Planning Proposal - Rezoning: The proposal to reduce the minimum lot size was proposed as a means to enable future growth in Medowie and to accommodate the rising demand for housing in the Port Stephens Local Government Area. In late 2016 the Planning Proposal was endorsed unanimously by the elected Port Stephens Councillors. To transition future home sites with existing home sites at The Bower, McCloy Group is proposing minimum lot sizes of approximately 650m<sup>2</sup> with larger home sites ranging up to 1000m<sup>2</sup>, averaging 700m<sup>2</sup> across all future home sites. A total lot yield in the vicinity of approximately 450 lots is envisioned.</p> <p>f. Infrastructure &amp; Safety:</p> <ul style="list-style-type: none"> <li>• Medowie Road speed limit is being decreased to 80km / hour.</li> <li>• The intersection of Medowie Road and Boundary Road currently under construction has been designed to cater for in excess of 450 home sites within The Bower.</li> <li>• Road &amp; Maritime Services has confirmed the increased lot yield will have no effect on the existing road network.</li> <li>• Hunter Water Corporation has no objections to the Planning Proposal with the proposed increase in lots already catered for in the design of the waste water pump station.</li> <li>• Rural Fire Service has reviewed all proposed changes and has no objection to the proposal, seeing it as successfully</li> </ul>	No response required to submission in support of the planning proposal.

**ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.**

Submission	Summary of Submission	Planning Proposal Response
	<p>meeting safety requirements including emergency egress.</p> <p>g. Housing Affordability &amp; Community Planning: The Planning Proposal's purpose is to support the growing need for housing and a move to align The Bower with NSW State Government initiatives regarding housing affordability. By decreasing lot size and increasing the supply of more affordable land, housing becomes more accessible within the local area. The Planning Proposal does not expand the area of residential housing; approximately 70 hectares of The Bower will remain conserved as Medowie State Conservation Area.</p> <p>h. Masterplans &amp; Future Development: The masterplan as displayed will always be the current approved plan and is always subject to change. Anytime amendments are approved by Council, the masterplan is updated to reflect the amendments. Changes to the masterplan at The Bower are made to meet the changing needs of the housing market taking into consideration changes in best practice in residential community design.</p> <p>i. McCloy Group is continually in discussions with Childcare, Retirement Living and other similar operators that may also benefit the community.</p>	
11.	<p>a. Increased traffic from the development will impact quality of life due to noise and light pollution along Boundary Road</p> <p>b. Believes a bottle neck will be created due to one entry/exit point from The Bower onto Boundary Rd and that this will be a significant issue during a bushfire fire event or other natural hazards (such as storm event causing powerlines to fall over the road carriageway)</p>	<p>a. There will be increased levels of traffic generation due to increased lot yield. TIA indicates that intersections will still operate at the best level of service.</p> <p>b. A second access would provide added security in the event of an emergency evacuation however is not warranted on intersection capacity grounds</p>
12.	<p>a. Community reluctantly accepted 345 lots in the estate with block sizes of a minimum of 1000 square metres.</p> <p>b. 500 square will result in tree removal that will impact upon Koalas</p> <p>c. The Medowie Strategy was to provide high density development close to shops and amenities and for outlying areas to have acreage blocks.</p> <p>d. The estate will eventually become a low socio-economic ghetto with a resultant increase in local crime.</p>	<p>a. The development application was assessed prior to the adoption of the Medowie Strategy which supports 500 square metre allotments on the site.</p> <p>b. Vegetation removal has been considered as part of the proposal and deemed to be non-significant given the large area of retained native vegetation north-east of the site. It is intended that koalas will utilise the street tree network to gain access to the refuge.</p> <p>c. The Medowie Strategy identifies the site as a key urban release</p>

**ITEM 4 - ATTACHMENT 3 SUBMISSIONS TABLE.**

Submission	Summary of Submission	Planning Proposal Response
		<p>area with an estimated dwelling yield of 480 lots. The proposal is consistent with the Medowie Strategy.</p> <p>d. The proposal is supported by the Hunter Regional Plan and the Medowie Strategy as a means to provide housing in Medowie and Port Stephens LGA. Social and economic impacts must be considered in the DA for subdivision plus any future development in accordance with s79C of the EP&amp;A Act.</p>

**ITEM NO. 5**

**FILE NO: 17/115230**  
**RM8 REF NO: PSC2015-01072**

**POLICY: TOURISM**

REPORT OF: MICHAEL MCINTOSH - GROUP MANAGER DEVELOPMENT  
SERVICES  
GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

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

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

	<b>Councillor John Nell</b> <b>Councillor Geoff Dingle</b>  That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 11 JULY 2017**  
**MOTION**

<b>165</b>	<b>Councillor Steve Tucker</b> <b>Councillor Ken Jordan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Endorse the draft Tourism Policy shown at <b>(ATTACHMENT 1)</b>.</li><li>2) Place the draft Tourism Policy, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.</li></ol>
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**BACKGROUND**

The purpose of this report is to seek the endorsement of the draft Tourism Policy from Council.

Whilst Council has been a strong supporter of the tourism industry in Port Stephens for over 30 years, there has been no formal policy in place to ratify this commitment.

This policy has been developed to confirm Council's ongoing commitment to, and role in achieving, a vibrant and sustainable tourism industry in Port Stephens. This policy also outlines the critically important role that tourism plays in the broader economy of Port Stephens.

This policy supports the Port Stephens Community and Strategic Plan objective 4.1.1: Provide processes and services which deliver benefit to tourism in Port Stephens; and aligns with the Federal Government 2020 Tourism Strategy and the NSW Visitor Economy Action Plan which both identify tourism as a key economic driver.

Local Government has an integral role in supporting broader government strategies through the development of quality tourism experiences, services and infrastructure and providing leadership and direction to industry through effective collaborations and partnerships.

Through a destination management approach, Council will lead tourism, industry, government and the community to develop a coordinated strategy designed to create a strong and resilient tourism industry.

In 2014, Port Stephens Tourism Limited, in consultation with Council, industry and government developed the initial Port Stephens Destination Management Plan (DMP). This plan provided the foundations for the recent growth across the visitor economy and delivered a range of actions including the formation of Destination Port Stephens, strategic marketing partnerships with neighbouring councils and the implementation of international business development programs with Newcastle Airport. A revision of the plan is now underway.

This revised DMP will provide Council with a coordinated strategy to manage the visitor economy and will connect planning, development and marketing activity which links the needs of visitors (demand) against the product and experiences on offer (supply) in Port Stephens.

This strategy will provide the basis for ongoing funding through State and Federal Governments who have identified a well-developed DMP as a key requirement for accessing tourism funding and investment.

Industry consultation and feedback has been completed and work is underway on linking the DMP actions to Council's broader strategies and plans. It is expected that the plan will be completed by September 2017. The plan would be submitted to Council for endorsement and actions integrated for delivery across the organisation.



**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Economic Development.	Provide processes and services that deliver benefit to tourism in Port Stephens. Provide Economic Development services to local business.

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of this recommendation/

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		Current section and unit budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The draft Tourism Policy will assist the facilitation of tourism held on Council owned and managed land greatly improving compliance and risk management with event approval issued under the *Local Government Act 1993*.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that without the formal Tourism Policy in place there will be a negative impact on Councils core services and brand.	Low	Adopt the recommendations.	Yes
There is a risk that without a formal Tourism Policy in place tourism experiences and services would be detrimental to Councils partnerships.	Low	Adopt the recommendations.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Well managed tourism is an important part of the development of vibrant, sustainable local communities, contributing to the community social fabric.

The attraction, procurement and facilitation of tourism within Port Stephens has become an important way for Council to support and encourage local economic development, leading to infrastructure and facility improvements.

Poorly managed tourism can result in significant environmental harm. Council has an important role in identifying opportunities, providing support and resources to ensure tourism is conducted in a safe and environmentally sustainable way.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section.

Council will encourage a collaborative and strategic approach to the conservation of the natural assets on which the visitor economy depends whilst supporting investment in the development of quality tourism product which encourages overnight visitor spend, positively impact the visitor experience, promotes awareness of Port Stephens and drive the construction of new, and upgrade of existing facilities and infrastructure.

### Internal

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section.

- The policy was developed by the Tourism and Events Coordinator in consultation with the Strategy and Environment Section Manager and the Group Manager – Development Services.
- The Executive Leadership Team has been consulted and provided endorsement of the policy.

### External

Following Council resolution, the policy will be placed on public exhibition in the Port Stephens Examiner and on Council's website. In accordance with local government legislation the Tourism Policy will go on public exhibition for 28 days.

## **OPTIONS**

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

- 3) Reject the recommendations.

**ATTACHMENTS**

- 1) Draft Tourism Policy.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

## Policy



**FILE NO:** PSC2015-01072  
**TITLE:** TOURISM POLICY  
**POLICY OWNER:** STRATEGY AND ENVIRONMENT MANAGER

### **PURPOSE:**

This policy outlines Council's commitment to and role in achieving, a vibrant and sustainable tourism industry in Port Stephens. This policy also outlines the critically important role that tourism plays in the broader economy of Port Stephens.

This policy supports the Port Stephens Community and Strategic Plan to deliver processes and services which deliver benefit to tourism in Port Stephens and clarifies Council's commitment to working with the community, industry, and all layers of government to ensure an innovative and collaborative approach to sustainable tourism growth to deliver on the communities' vision of a great lifestyle in a treasured environment.

### **CONTEXT/BACKGROUND:**

Port Stephens Council recognises the economic, environmental and social benefits that a vibrant and sustainable tourism industry provides through increased employment, investment, and infrastructure. Council has a clear understanding of the broader context of the tourism industry and the significant impact it can have on both attracting visitors and delivering a high quality visitor experience.

Port Stephens is recognised as one of the key regional tourism destinations in NSW and attracts a broad range of domestic and international visitors each year. In 2017, Port Stephens welcomed in excess of 2,00,000 domestic visitor nights, 660,000 day visitors and 127,000 international visitor nights bringing over \$372 million in visitor spend and directly employing approximately 1,700 people.

Tourism in Port Stephens is no longer looked at in terms of a single focus industry and the relatively new term of the Visitor Economy takes into account broader economic activity than that which has historically been defined as 'tourism and events'. It includes the direct and indirect impacts resulting from a visitor travelling outside their usual environment for a holiday, leisure, events, business, convention and exhibition, retail, education to visiting friends and

## Policy

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## Policy



relatives or for short term employment in NSW. It includes intrastate, interstate and international visitors (VEAP 2012).

Council's investment in building a diverse and resilient Visitor Economy links directly to the Port Stephens Community and Strategic Plan objective 4.1.1 : To provide processes and services which deliver benefit to tourism in Port Stephens. This includes event sponsorship and licensing, destination marketing and visitor servicing.

This policy aligns with Federal and State government priorities which identify tourism as a key economic driver.

Local Government has an integral role in supporting these strategies through the development of quality tourism experiences; the provision of local services and infrastructure; and providing leadership and direction to industry through effective collaborations and partnerships.

### **SCOPE:**

Port Stephens Council will support and foster visitor economy partnerships between community, industry and government stakeholders. Council will act as the facilitator for industry driven change and innovation that aligns with Council's values and vision. In order to achieve this, Council will:

- Provide ongoing financial support to Destination Port Stephens to allow the organisation to undertake destination marketing activities, leverage grant funding and drive sustainable visitation and visitor spend.
- Attract and sponsor a diverse range of events which reduce seasonal fluctuations, promote the Port Stephens brand and create economic, social and environmental benefits across the LGA.
- Administer an integrated event licensing process to reduce the complexity of process for event organisers and reduce costs, manage risk and manage reputation across Council.
- Deliver visitor servicing strategies aimed at increasing the quality of the visitor experience.
- Maintain productive relationships with Destination NSW, Sydney Surrounds North Destination Network, Tourism Australia, Tourism Hunter and the North Coast Destination Network.

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ITEM 5 - ATTACHMENT 1 DRAFT TOURISM POLICY.

## Policy



- Plan for and provide quality infrastructure and facilities designed to meet the needs of visitors now and well into the future.

### DEFINITIONS:

**Visitor Economy** The visitor economy takes into account broader economic activity than that which has historically been defined as 'tourism and events'. It includes the direct and indirect impacts resulting from a visitor travelling outside their usual environment for a holiday, leisure, events, business, conventions and exhibitions, retail, education, to visit friends and relatives or for short-term employment in NSW. It includes intrastate, interstate and international visitors.

### POLICY STATEMENT:

Port Stephens Council will provide leadership and coordination role to ensure that relevant stakeholders are effectively engaged and working together to deliver agreed upon actions and outcomes in the Destination Management Plan.

Council will encourage a collaborative and strategic approach to the conservation of the natural assets on which the visitor economy depends whilst supporting investment in the development of quality tourism product which encourages overnight visitor spend, positively impact the visitor experience, promotes awareness of Port Stephens and drive the construction of new, and upgrade of existing facilities and infrastructure.

### POLICY RESPONSIBILITIES:

- 1) The Tourism and Events Unit is responsible for monitoring, reviewing and providing advice on the policy across the organisation

### RELATED DOCUMENTS:

- 1) Visitor Economy Action Plan
- 2) Destination Port Stephens Funding Agreement
- 3) Economic Development Strategy
- 4) Tourism 2020
- 5) Port Stephens Destination Management Plan

## Policy

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# Policy



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<b>RM8 container No</b>	PSC2015-01072	<b>RM8 record No</b>	PSC2015-01072
<b>Audience</b>	Council		
<b>Process owner</b>	Strategy and Environment Section Manager		
<b>Author</b>	Tourism and Events Coordinator		
<b>Review timeframe</b>	Three years	<b>Next review date</b>	30 June 2020
<b>Adoption date</b>			

## VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	27/6/2017	Tourism and Events Coordinator	To seek the endorsement of the draft Tourism Policy from Council.	

# Policy

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**ITEM NO. 6**

**FILE NO: 17/118990  
RM8 REF NO: PSC2005-3551**

**DISCONTINUE 355C COMMITTEE: PORT STEPHENS CHOIR**

REPORT OF: STEPHEN CROWE - COMMUNICATIONS SECTION MANAGER  
GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Request the 355c Port Stephens Choir to discontinue operations as a 355c Committee of Council.
  - 2) Transfer current cash funds to The Salvation Army (Raymond Terrace) to be identified by The Salvation Army for future use by the choir for the community.
  - 3) Transfer other choir assets including sheet music; music stands; PA equipment and uniforms to The Salvation Army (Raymond Terrace) for continued use of choir members.
  - 4) Retain the trailer for ongoing Council use.
- 

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

	<p><b>Councillor Peter Kafer Councillor Paul Le Mottee</b></p> <p>That Council:</p> <ol style="list-style-type: none"><li>1) the 355c Port Stephens Community Choir discontinue operating as a 355c Committee of Council.</li><li>2) Transfer current cash funds to the Salvation Army (Raymond Terrace) to be identified by The Salvation Army for future use by the choir for the community.</li><li>3) Transfer other choir assets including sheet music; music stands; PA equipment and uniforms to The Salvation Army (Raymond Terrace) for continued use of choir members.</li><li>4) Transfer the equipment trailer to The Salvation Army (Raymond Terrace) for continued use of the choir to perform at community events and other engagements.</li></ol>
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**ORDINARY COUNCIL MEETING - 11 JULY 2017  
MOTION**

<b>166</b>	<b>Councillor Steve Tucker</b> <b>Councillor Ken Jordan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) the 355c Port Stephens Community Choir discontinue operating as a 355c Committee of Council.</li><li>2) Transfer current cash funds to the Salvation Army (Raymond Terrace) to be identified by The Salvation Army for future use by the choir for the community.</li><li>3) Transfer other choir assets including sheet music; music stands; PA equipment and uniforms to The Salvation Army (Raymond Terrace) for continued use of choir members.</li><li>4) Transfer the equipment trailer to The Salvation Army (Raymond Terrace) for continued use of the choir to perform at community events and other engagements.</li></ol>
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**BACKGROUND**

The purpose of this report is to recommend that Council endorse the request of the 355c Port Stephens Choir Committee to cease operations as a 355c Committee of Council.

The current Port Stephens Community Choir Committee's schedule to the 355c standard constitution was last reviewed in 2003 and notes the committee's functions are to develop a sense of community identity and belonging by involving participants in community cultural activity; to assist in the development of other Choirs in Port Stephens; and to encourage all members of the community to participate, placing an emphasis on combining individual musical skills in a choir for civic and cultural activities.

While the choir continues to meet each week for rehearsal, public performances are limited and based largely around private functions at venues such as local nursing homes. Membership has been static over the past four years.

The choir performed briefly at the 2017 Australia Day event in Raymond Terrace however this was the first civic event at which the choir had performed on behalf of Council in a number of years.

Discussions have been held more recently between choir representatives and The Salvation Army (Raymond Terrace) management, resulting in an in-principle agreement to transfer choir operations to The Salvation Army. The agreement is

## MINUTES ORDINARY COUNCIL - 11 JULY 2017

supported by both parties and it is acknowledged that the partnership will provide new opportunities under the proposed structure. The Salvation Army would also take over administrative matters such as insurance and the hiring of any staff.

If this proposal is adopted, the committee will close its current bank account and transfer the balance of cash funds to The Salvation Army. These funds will be identified by The Salvation Army for future use by the choir. Other assets of the choir, including sheet music; music stands; PA equipment and uniforms would also be transferred. A trailer purchased by the choir from an external grant a number of years ago is currently registered to Council but is not a registered plant item. It is proposed that the trailer remain with Council to support community consultation programs.

Council staff would continue to help facilitate the transfer to ensure all parties are suitably transitioned to the new arrangements, as was the case when the previous 355c Community Band Committee transitioned to a new operating structure under the PCYC in 2016.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Arts and Culture.	Plan for and promote multiculturalism and Port Stephens' heritage, arts and culture.

### FINANCIAL/RESOURCE IMPLICATIONS

As of 15 June 2017, the Port Stephens 355c Choir Committee had cash funds of \$4,900 and equipment valued at approximately \$8,000 (including sheet music valued at \$2,000, a PA system and an electronic piano valued at \$3,000 and the trailer is approximately \$3,000). Currently, the committee annually receives \$1,000 from Council as a 355c committee. This automatic funding support would cease; however, the group would be able to apply for grants through The Salvation Army.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$4,900	Funds currently in the Committee's bank account.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

### LEGAL, POLICY AND RISK IMPLICATIONS

The Choir Committee no longer provides a service aligned to Council business as required of a 355c Committee. By operating under the alternative management

## MINUTES ORDINARY COUNCIL - 11 JULY 2017

structure of The Salvation Army, future liability to Council and exposure to risk as a result of non-compliance is removed.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that should the choir continue as a 355c Committee of Council that it will not be able to satisfactorily meet legislative requirements and those outlined in the group's constitution.	Medium to High.	Transition to community management.	Yes

### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Under the current operating structure, the Port Stephens 355c Choir Committee would struggle to sustain itself in an efficient manner and provide a suitable range of activities for the community. By transitioning to a community management model under the leadership of The Salvation Army, the financial capacity of the choir will be improved through reduced costs, and the choir's capacity to attract new members will increase. The Salvation Army will provide suitable storage and operating space free of charge and as an organisation will benefit from a new program that compliments their current activities.

### CONSULTATION

Consultation with key stakeholders has been undertaken by the Community Development and Engagement Unit.

- 1) Initial discussion with Port Stephens 355c Choir Committee and general meeting May 2016.
- 2) Meeting with The Salvation Army (Raymond Terrace), March 2017.
- 3) Meeting with Port Stephens 355c Choir Committee and general meeting March 2017.
- 4) Meeting between The Salvation Army and Port Stephens 355c Choir Committee May 2017.

### OPTIONS

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

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM NO. 7****FILE NO: 17/113411  
RM8 REF NO: PSC2017-01505****SERVICE REVIEW - PROPERTY SERVICES**

REPORT OF: GLENN BUNNY - PROPERTY SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Maintain current service levels across the Section.
  - 2) Note proposed actions to drive efficiencies and provide enhanced service levels.
- 

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

	<b>Councillor Paul Le Mottee Councillor Sally Dover</b>  That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 11 JULY 2017  
MOTION**

<b>167</b>	<b>Councillor Steve Tucker Councillor Ken Jordan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Maintain current service levels across the Section.</li><li>2) Note proposed actions to drive efficiencies and provide enhanced service levels.</li></ol>
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**BACKGROUND**

The purpose of this report is to provide an overview of the Holiday Parks Service Review and seeks endorsement for the recommendations.

The review has been undertaken in accordance with Council's rolling program of Service Reviews and has been conducted over the past five months with assistance from Business Systems Support, Human Resources and Finance Teams.

Port Stephens Council operates five holiday parks:

- Fingal Bay Holiday Park - operated on behalf of Crown Lands by the Port Stephens Holiday Park Reserve Trust.
- Shoal Bay Holiday Park - operated on behalf of Crown Lands by the Port Stephens Holiday Park Reserve Trust (60% owned by PSC and 30% owned by Crown).
- Halifax Holiday Park - operated on behalf of Crown Lands by the Port Stephens Holiday Park Reserve Trust.
- Treescape - operated by Council under a lease agreement from Crown Lands.
- Thou Walla Sunset Retreat - owned and operated by Council.

These businesses are operated for the purpose of returning revenue to Council to fund operations. The review assessed all aspects of the holiday park operations and focused on three key areas:

- Centralising key decision making and functions.
- Strengthening leadership and management in the various levels of the businesses.
- Increasing the use of technology to gain efficiencies.

The service review has resulted in recommended actions that recognise the opportunity for improvement in the business, the growth over the last several years in the businesses, and the potential for further success. As such many of the actions proposed are an investment in the parks, primarily through the creation of new positions with a focus on leadership and investment in technology to enable our people to work smarter.

Leadership, management, and decision making will be strengthened through all levels of the parks to ensure that the parks have positive working environments and team based cultures enabling positive and successful workplaces. Staff will have continual support from supervisors who are empowered to make timely decisions.

Marketing and promotions activities will be separated from operational matters to allow focus to be placed on both critical aspects of the business. While both areas will work closely to best serve the parks, the separation will allow each area to specialise in the respective work areas and ensure the day to day matters that arise are being addressed as well as the longer term strategic business development.

A key component of the operational management area will be to centralise key activity areas including procurement and rostering to ensure that economies of scale can be achieved.

Investment in technology is recommended to improve and streamline processes to add quality to the customer journey, and gain efficiency. Areas of improvement include telephony, leave and timesheet processes, and daily task processes for housekeeping.

The investment in these recommendations will be offset in full through operational savings in key expenditure areas of external labour hire, unplanned maintenance, and purchasing. Improvements will be realised in staff working conditions, and importantly the customer journey and satisfaction.

### **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
A Sustainable Council.	Council will maintain its underlying financial performance to budget at break even or better. Council will increase its revenue from non-rates sources. Manage risks across Council. Attract, retain and develop staff to meet current and future workforce needs. Provide enabling business support services for Council's operations.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The recommended actions will ultimately see a net position improvement in the holiday parks with forecasted efficiencies in key activity areas including procurement and external labour costs.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	\$153,000	Ongoing savings to the recurrent operating budget as a result of the recommended actions in the service review.

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

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the holiday park operations	Medium	Adopt the recommended changes.	Yes

are not financially sustainable in the future.			
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## **SUSTAINABILITY IMPLICATIONS**

As commercial businesses operated by Council it is important that the forward business planning for the holiday parks demonstrates that the individual businesses are financially successful and sustainable, but also as a collective. By implementing the recommendations the operations are ensured to be successful in the future in all regards.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Property Section during the review process.

### Internal

- Business Systems Support were engaged for guidance on the review process as a whole and provided input into the proposed changes to increase the use of technology in certain business areas.
- Human Resources were engaged to assist with assessing the effects of proposed changes and ensure correct processes were applied.
- Finance was engaged to assist with establishing the financial consequences of recommended changes.
- Holiday parks staff have been consulted throughout the review process with regards to gathering information for the review process, and consulted with regards to proposed changes.

## **OPTIONS**

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

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.



**ITEM NO. 8****FILE NO: 17/120941  
RM8 REF NO: PSC2017-01038****SERVICE REVIEW - COMMUNICATIONS SECTION****REPORT OF: STEPHEN CROWE - COMMUNICATIONS SECTION MANAGER  
GROUP: DEVELOPMENT SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Maintain current service levels across the Section.
  - 2) Note proposed actions to drive efficiencies and provide enhanced service levels.
- 

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

	<b>Councillor Paul Le Mottee Councillor Sally Dover</b>  That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 11 JULY 2017  
MOTION**

<b>168</b>	<b>Councillor Steve Tucker Councillor Ken Jordan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Maintain current service levels across the Section.</li><li>2) Note proposed actions to drive efficiencies and provide enhanced service levels.</li></ol>
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**BACKGROUND**

The purpose of this report is to provide an overview of the Communications Section's Service Review and seeks endorsement for recommended emanating from that review.

The Communications Section drives its strategy and execution via the following four teams:

- Public Relations and Marketing;

## MINUTES ORDINARY COUNCIL - 11 JULY 2017

- Website and Digital;
- Customer Relations;
- Community Development and Engagement.

(Please note the Customer Relations unit was not included in this report as Council's approach to customer service is about to undertake a major review. As a result, this report will be tabled separately at the conclusion of that review, in the term of the new Council.)

The modern communications landscape is an ever changing one. Much of this change revolves around the use of technology to communicate with our audiences, most obviously through social media platforms. To deliver on its purpose, the Section needs to be able match strides with the way a modern community consumes its news and delivers its feedback. Finding a way to do this constituted a central piece of this service review.

Specifically, emerging trends that impacted on this review include:

- Lessening impact of print advertising;
- News delivered in real time through multiple channels and multiple sources;
- Audiences expected news to be visual and concise;
- News comes from a host of sources not just professional journalists;
- Digital advertising is having an ever increasing impact on the industry;
- The news cycle is short and losing control of issues is much easier than was previously the case;
- There is an ever increasing demand for high quality graphic design work in both print and digital format;
- Audiences are more sophisticated and understand the value of the brand;
- Demand from Council staff for automated processes, paperless forms, web solutions and intranet improvements continues to grow exponentially, but is not matched by resources or strategy;
- The lack of an overarching digital strategy is a significant gap for Council and needs to be rectified in the short term.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Engage our community in conversations and provide timely and accurate information	Conduct community engagement activities
Strengthen Council's brand and reputation	Manage Council's external communications
Strengthen Council's brand and reputation	Manage Council's internal communications
Strengthen Council's brand and reputation	Develop, implement and monitor Council's customer service framework

## **FINANCIAL/RESOURCE IMPLICATIONS**

Recommended staff changes and push toward additional digital media resources to better respond and operate in the current communications environment, whilst maintaining effectiveness in other key areas will result in an increase in operational budget.

These changes will be funded for, largely through a 25% reduction in Council's print advertising spend. The review established in excess of 25% surplus spend in print media.

Existing statutory obligations to notify within the local paper will not be impacted by these changes.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes	\$104,584 in savings across Council	Savings made as follows: <ul style="list-style-type: none"> <li>• Reduced print advertising - \$62,584.</li> <li>• Cessation of external after hours phone service - \$30,000.</li> <li>• New, more efficient media monitoring service - \$12,000.</li> </ul>
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

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

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that increased social media comment/activity will result in reputation damage for Council.	Low	Social Media management directive. Social Media process. Social Media strategy.	Yes
Reduction in print advertising will draw public criticism from the public, adversely affecting Council's	Moderate	Increase in targeted digital communications.	Yes

reputation.			
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## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Current data suggests community expectations regarding digital communications will continue to grow over time. Equally reliance on print advertising and newspapers specifically, continue to decrease. The recommended staff and resource changes recommended in this report, will assist in preparing Council for these shifting social trends.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Communications Section. This consultation was undertaken both during the development of this report and at its conclusion as follows:

### Internal

- A staff on-line survey was conducted, which assessed the importance of services offered by the Communications Section and satisfaction with these services;
- Further verbal feedback was sought from those areas of Council who work most closely with the Communications Section;
- The final report and recommendations were tabled for feedback to the Executive Leadership Team and consultative committee.

### External

- A community digital services survey was conducted in December 2016. Outcomes were used to help inform this Service review;
- The outcomes of the 2017 Community Satisfaction Survey, which was conducted both online and in hard copy by 800+ respondents was also used to inform this report.

## **OPTIONS**

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

## **ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM NO. 9****FILE NO: 17/125667  
RM8 REF NO: PSC2011-03219****SERVICE REVIEW - PUBLIC DOMAIN AND SERVICES SECTION**

REPORT OF: PETER MATWIJOW - PUBLIC DOMAIN AND SERVICES SECTION  
MANAGER  
GROUP: FACILITIES & SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Maintain current service levels across the Section.
  - 2) Note proposed actions to drive efficiencies and provide enhanced service levels.
- 

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

	<b>Councillor John Nell Councillor Sally Dover</b>  That Council:  <ol style="list-style-type: none"><li>1) Maintain current service levels across the Section.</li><li>2) Note proposed actions to drive efficiencies and provide enhanced service levels.</li><li>3) Further consideration be undertaken on reviewing the level of service of Public Domain and Services, in particular Parks and Gardens.</li></ol>
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**ORDINARY COUNCIL MEETING - 11 JULY 2017  
MOTION**

<b>169</b>	<b>Councillor Steve Tucker Councillor Ken Jordan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Maintain current service levels across the Section.</li><li>2) Note proposed actions to drive efficiencies and provide enhanced service levels.</li><li>3) Further consideration be undertaken on reviewing the level of service of Public Domain and Services, in particular Parks and Gardens.</li></ol>
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**BACKGROUND**

The purpose of this report is to provide Council with the results of the Public Domain & Services Service Review. This review is recommending changes to staff structure which will contribute to an increased level of service.

These recommendations as communicated at the Councillors Two-way conversation on 20 June, 2017 are to provide efficiencies in the delivery of services, manage fatigue issues and to effect increasing the level of service for each area as required by our customers following consultation.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
A Sustainable Council.	Council will maintain its underlying financial performance to budget at break even or better. Council will increase its revenue from non-rates sources. Manage risks across Council. Attract, retain and develop staff to meet current and future workforce needs. Provide enabling business support services for Council's operations.

**FINANCIAL/RESOURCE IMPLICATIONS**

The service review has realised savings of \$162,772 gained through restructure/redesign of positions and utilising a different mix of plant and equipment. The savings would be re-invested into the Public Domain & Services Section to enable an increase in service level.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are minor legal, policy or risk implications associated with the implementation of changes to structure or plant.

**MINUTES ORDINARY COUNCIL - 11 JULY 2017**

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that some staff may be made redundant.	Medium	New positions will be advertised internally through an Expression of Interest Process minimising the risk of redundancies and in accordance with the Workplace Change and Redundancy provisions of the Port Stephens Council Enterprise Agreement.	Yes
There is a risk that not implementing the changes detailed in the service review will result in no increase in service levels.	High	Implement the changes to structure and plant as detailed in the service review.	Yes
There is a risk that not implementing the changes detailed in the service review will result in poor reputation of Council in the community.	High	Implement the changes to structure and plant as detailed in the service review.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The implementation of the recommendations in the service review will promote an increase in service levels. This should then increase the satisfaction of the community in core areas of operation. Importantly these will also manage fatigue issues in some units.

It should be noted that the Service Review has highlighted an increase in defects across Building Trades, Parks and Roadside & Drainage however this is primarily due to better recording mechanisms and data capture achieved over the last 3 years and does not necessarily represent a high risk to the organisation. Further improvements are being implemented to capture actual cost estimates of all defects. This will allow Council to make further changes as data becomes available.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Public Domain & Services Section. The objective of the consultation has been to ensure all



## **MINUTES ORDINARY COUNCIL - 11 JULY 2017**

stakeholders were continually involved and aware of the recommendations and the data that supported the need for the proposed changes.

### Internal

The Consultative Committee on 15 June, 2017 received and noted the recommendations of the Service Review.

A two way conversation was held with Councillors on 20 June, 2017.

Public Domain & Services staff have been engaged in numerous face to face meetings since February 2017.

The Executive Leadership Team has endorsed the recommendations of the Service Review.

### External

The New South Wales Local Government, Clerical, Administrative, Energy, Airlines and Utilities Union (United Services Union) has been engaged in numerous face to face meetings since February 2017 and in the Consultative Committee on 15 June 2017.

## **OPTIONS**

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

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ITEM NO. 10****FILE NO: 17/125775  
RM8 REF NO: PSC2011-03219****SERVICE REVIEW - CAPITAL WORKS SECTION****REPORT OF: PHILIP MILES - CAPITAL WORKS SECTION MANAGER  
GROUP: FACILITIES & SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Maintain current service levels across the Section.
  - 2) Note proposed actions to drive efficiencies and provide enhanced service levels.
- 

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

	<b>Councillor Steve Tucker Councillor Ken Jordan</b>  That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 11 JULY 2017  
MOTION**

<b>170</b>	<b>Councillor Steve Tucker Councillor Ken Jordan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Maintain current service levels across the Section.</li><li>2) Note proposed actions to drive efficiencies and provide enhanced service levels.</li></ol>
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**BACKGROUND**

The purpose of this report is to provide Council with the results of the Capital Works Section Service Review. This review is recommending changes to staff structure which will contribute to an increased level of service.

These recommendations as communicated at the Councillors Two-way conversation on 20 June, 2017 are to provide efficiencies in the delivery of services, manage fatigue issues and to effect increasing the level of service for each area as required by our customers following consultation.

Previous service and process reviews within Capital Works have attempted to limit cost and time variations on individual projects to less than 10%. Despite significant improvements in defining work flows and allocating accountabilities, variations on individual projects are still having isolated instances of variations between 20 and 30%. These variations require significant rework to address and in some cases can require a reduction in scope to complete the project. The restructures proposed in this review aim to further define accountabilities across the value chain and target specific areas for improvement within the process.

A concentration of resources and attention to detail in the initiation stage of the project is designed to produce detailed scoping and consistent estimates, while improved management and support of Team Leaders is expected to result in better overall control of the budget.

Program management will be undertaken by a single coordinator under the proposed structure which will allow for more effective and efficient project management resulting in variation control of under 10% across all Capital Works Projects.

### **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
A Sustainable Council.	Council will maintain its underlying financial performance to budget at break even or better. Council will increase its revenue from non-rates sources. Manage risks across Council. Attract, retain and develop staff to meet current and future workforce needs. Provide enabling business support services for Council's operations.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Improved efficiencies will allow the completion of more works for the same Capital Works budget and further enhance Council's capability to win capital works projects for Roads and Maritime Services.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		Varies year to year. Various Capital funding sources.
Reserve Funds	No		
Section 94	No		

**MINUTES ORDINARY COUNCIL - 11 JULY 2017**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are minor legal, policy or risk implications associated with the implementation of changes to structure or plant.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that some staff may be made redundant.	Medium	New positions will be advertised internally through an Expression of Interest Process minimising the risk of redundancies and in accordance with the Workplace Change and Redundancy provisions of the Port Stephens Council Enterprise Agreement.	Yes
There is a risk that not implementing the changes detailed in the service review will result in no increase in service levels.	High	Implement the changes to structure and plant as detailed in the service review.	Yes
There is a risk that not implementing the changes detailed in the service review will result in poor reputation of Council in the community.	High	Implement the changes to structure and plant as detailed in the service review.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The restructure proposed in this review aims to further define accountabilities across the value chain and target specific areas for improvement within the process. A concentration of resources and attention to detail in the initiation stage of the project is designed to produce detailed scoping and consistent estimates, while improved management and support of Team Leaders is expected to result in better overall control of the budget.

Program management will be undertaken by a single coordinator under the proposed structure which will allow for more effective and efficient project management resulting in variation control of under 10% across all Capital Works Projects.

The implementation of the recommendations in the service review will promote an increase in service levels. This should then increase the satisfaction of the community in core areas of operation.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Capital Works Section. The objective of the consultation has been to ensure all stakeholders were continually involved and aware of the recommendations and the data that supported the need for the proposed changes.

### Internal

The Consultative Committee on 15 June, 2017 received and noted the recommendations of the Service Review.

A two way conversation was held with Councillors on 20 June, 2017.

Capital Works Section staff have been engaged in numerous face to face meetings since February 2017.

The Executive Leadership Team has endorsed the recommendations of the Service Review.

### External

The New South Wales Local Government, Clerical, Administrative, Energy, Airlines and Utilities Union (United Services Union) and the Professionals Australia (Local Government Engineers Association) have been engaged in numerous face to face meetings since February 2017 and in the Consultative Committee on 15 June 2017.

## **OPTIONS**

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

## **ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.