

# DRAFT

## MINUTES – 11 SEPTEMBER 2018



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 11 September 2018, commencing at 6.11pm.

**PRESENT:**

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

<b>280</b>	<b>Councillor Jaimie Abbott</b> <b>Councillor Steve Tucker</b>  It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 28 August 2018 be confirmed.
	<p>Cr Doohan declared a less than significant non-pecuniary conflict of interest in item 1. The nature of the interest is Cr Doohan's primary employer has interests in adjacent land.</p> <p>Cr Abbott declared a significant non-pecuniary conflict of interest in item 1. The nature of the interest is the development is located in the PFAS management zone, my employment is at the RAAF Base with the Department of Defence.</p> <p>Cr Le Mottee declared a pecuniary conflict of interest in Notice of Rescission, item 1. The nature of the interest is the Le Mottee Group prepared the application for the applicant.</p>

<b>MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018</b>
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	Cr Dunkley declared a less than significant non-pecuniary conflict of interest in Notice of Rescission, item 1. The nature of the interest is Cr Dunkley's neighbour has an interest in the property.
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# COUNCIL REPORTS



## MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

Councillor Chris Doohan left the meeting at 6:13pm.

Councillor Jaimie Abbott left the meeting at 6:14pm.

### ITEM NO. 1

FILE NO: 18/172131

EDRMS NO: 16-2017-524-1

**DEVELOPMENT APPLICATION 16-2017-524-1 (EARTHWORKS - FILL) AT 52, 52A AND 40 CABBAGE TREE ROAD WILLIAMTOWN (LOT: 7 DP: 1059398, LOT: 7 DP: 4831, LOT: 3 DP: 1106651)**

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

GROUP: DEVELOPMENT SERVICES

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse the development application 16-2017-524-1 for Earthworks - fill at 52, 52A and 40 Cabbage Tree Road, Williamtown (LOT: 7 DP: 1059398, LOT: 7 DP: 4831 and LOT: 3 DP: 1106651) for the reasons contained in **(ATTACHMENT 4)**.

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### ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018 MOTION

281	<p><b>Councillor Steve Tucker</b> <b>Councillor Giacomo Arnott</b></p> <p>It was resolved that Council defer item 1 for site inspection of development application 16-2017-524-1 for Earthworks - fill at 52, 52A and 40 Cabbage Tree Road, Williamtown (LOT: 7 DP: 1059398, LOT: 7 DP: 4831 and LOT: 3 DP: 1106651).</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

### BACKGROUND

The purpose of this report is to present development application (DA) No.16-2017-524-1, for earthworks - fill, to Council for determination. The development application was called to Council as detailed in **(ATTACHMENT 1)**.

The subject DA relates to land located at 52, 52A and 40 Cabbage Tree Road, Williamstown, legally identified as LOT: 7 DP: 1059398, LOT: 7 DP: 4831 and LOT: 3 DP: 1106651 (the 'subject site'). A locality plan is provided at **(ATTACHMENT 2)**.

### Proposal

The applicant seeks approval for earthworks comprising the placement of fill in a single stockpile on the subject site, as follows and detailed in **(ATTACHMENT 3)**.

- The total stockpile surface area and volume are unspecified, however it is noted that the stockpile varies between 3 m and 4.5 m in height with a batter at a 1:4 gradient.
- The proposed batter extends to the eastern side boundary with an approximately 0 m setback, whilst setbacks to the western side boundary exceed 40 metres.
- The fill is proposed to comprise virgin excavated natural material (VENM) and/or excavated natural material (ENM).

It is noted that the end purpose of the fill has not been specified by the applicant, with statements that the fill is required for 'future use and development of the site'. The applicant was requested to provide further information regarding the proposed end use, however this was not received.

### Site Description

The subject site consists of three lots with a total area of 7.5 ha and is located adjacent to the Defence and Airport Related Employment Zone (DAREZ). Vehicular access to the site is available via 52 Cabbage Tree Road. The site is constrained by environmental and neighbouring operational factors, including: flooding, contamination (PFAS), RAAF Base operations, ecology and bushfire.

The site is currently vacant, partly cleared of vegetation, with the northern section containing dense vegetation. Existing drainage corridors traverse the site through the centre from east to west and along the eastern boundary.

### Key Issues

The key issues resulting in the recommendation to refuse the application are outlined below. A detailed assessment of the development is contained at **(ATTACHMENT 3)**.

### Flood impacts

The subject site is mapped as being within the flood planning area and falls within multiple flood categories as follows; High Hazard (Flood Storage), High Hazard (Floodway), Low Hazard (Flood Storage) and Low Hazard (Flood Fringe). The proposed earthworks are located primarily within land identified as High Hazard (Flood Storage). Council's Development Control Plan 2014 (DCP2014) Chapter B5

requires that a flood study be provided with development applications proposing fill within the High Hazard (Flood Storage) area.

The applicant provided a flood assessment (prepared by Forum Consulting dated 26 March 2018) in support of their application. The flood assessment did not provide sufficient information to enable a detailed assessment of the impacts of the proposed earthworks upon adjacent properties, particularly along Cabbage Tree Road. In addition the flood assessment did not adequately address the flood hazard, including consideration of depth of inundation, flow velocity, or required warning time for local catchment flooding.

It is noted that Clause 7.3 of Council's Local Environmental Plan 2013 (LEP2013) applies to the subject site as it is land at or below the flood planning level. Clause 7.3(3) provides that development consent must not be granted to development on land to which the clause applies unless the consent authority is satisfied of certain preconditions including that; the development is compatible with the flood hazard of the land (cl. 7.3(3)(a)) and that the development will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties (cl. 7.3(3)(b)).

The proposed earthworks are not considered to be compatible with the flood hazard of the land as the applicant has failed to demonstrate that the proposed development will not adversely affect flood behaviour or impact adjoining properties. On this basis, the development is considered to fail the 'test' set out within Clause 7.3(3) and accordingly Council as the consent authority is unable to grant consent to the proposal.

#### Ecological impacts

Whilst the subject site has been subject to agricultural land use and largely cleared of remnant vegetation, it has been identified as containing the endangered ecological community (EEC) Swamp Sclerophyll Forest towards the north. The vegetation located within proximity to the low lying area around the waterways and/or drains throughout the site may also provide habitat for the threatened wallum froglet (*Crinia tinnula*) that has been known to occur within the locality. Threatened species and endangered ecological communities as listed under state and/or Commonwealth legislation may also be present within the area, including; a RAMSAR listed wetland, key fish habitat (as listed under the *Fisheries Management Act 1994*) and preferred koala habitat as detailed under the Port Stephens Comprehensive Koala Plan of Management (PS CKPoM).

An ecological report undertaken by Wildthing Environmental Consultants (dated April 2018) was submitted to Council. However, the report has limited consideration of the impacts of alteration to natural flow regimes, stating that the proposed development is unlikely to significantly alter the flow of the ephemeral drainage lines. The importation of fill and placement of this fill into these low lying areas will alter the hydrology of the site, which could alter the dynamics of the vegetation community

existing onsite. Furthermore, the ecological report was considered to be unsatisfactory as identified in **(ATTACHMENT 3)**.

The information provided by the applicant has failed to provide a clear or accurate depiction of the impacts of the proposed development on the environmental characteristics of the land, therefore the application cannot be supported.

#### Rural character

The subject site is zoned RU2 Rural Landscape under Clause 2.3 of the LEP 2013 and the objectives of the zone include to maintain the rural landscape character of the land. The information provided with the application did not adequately consider the impacts on the rural landscape character of the area. Concern is raised that the height of the proposed fill will result in adverse visual impacts to locality and adjoining properties. Due to the height and scale of the proposed fill it is considered that mitigation measures would be unlikely to ameliorate the potential impact.

#### Conclusion

The development is inconsistent with the relevant environmental planning instruments applicable to the site, including:

- *Environmental Planning and Assessment Act 1979*, including Section 4.15(1)(c) regarding the suitability of the site.
- Port Stephens LEP2013; Clause 2.3 (Zone objectives), Clause 7.2 (Earthworks), and Clause 7.3 (Flood Planning).
- Port Stephens DCP2014; Chapter B2 (Natural Resources) and Chapter B5 (Flooding).
- Council's Floodplain Risk Management Policy.
- NSW Government Floodplain Development Manual 2005.

The key issues arising through the assessment of the application that have not be able to be overcome by the applicant (as discussed above) and for these reasons the proposed development is recommended for refusal for the reasons contained within **(ATTACHMENT 4)**.

### **COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		There is scope within Council's existing budget to defend Council's determination if challenged.
Reserve Funds	No		
Development Contributions (\$7.11)	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The development application is inconsistent with the relevant planning instruments, flood development guidelines and studies including the *Environmental Planning and Assessment Act 1979* (EP&A Act), *Port Stephens Local Environmental Plan 2013* (LEP 2013), *Port Stephens Development Control Plan 2014* (DCP 2014), *Local Government Act 1993* (LG Act 1993), Council's Floodplain Risk Management Policy and the NSW Government Floodplain Development Manual 2005. Detailed assessment against these requirements are contained within the assessment report provided at **(ATTACHMENT 3)**.

In addition, Section 733 of the *Local Government Act 1993* (LG Act) provides Council with a general exemption from liability with respect to flood liable land only if the necessary studies and works are carried out in accordance with the principles contained in the NSW Floodplain Development Manual 2005.

The approval of the subject DA is considered to be inconsistent with the principles contained within the NSW Floodplain Development Manual 2005 and may negate the good faith immunity provisions in the LG Act. As such, individual Councillors may be personally accountable and responsible for any subsequent implications resulting from the decision. Further, in the event of any future claim, Council's insurers may determine not to cover Council should the application be approved, contrary to the recommendation of Council staff.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources ?</b>
There is a risk if the application is approved that Council's decision will be ultra vires as Clause 5.10, Clause 7.3, Clause and Clause 7.5 of the LEP 2013 are preconditions to the granting of consent and have not been satisfied.	Medium	Determine the application in line with the recommendation.	Yes
There is a risk that if the application is approved, that Council may be liable for any damage or consequences to approving a development located on a site with a known flood risk.	Medium	Determine the application in line with the recommendation.	Yes
There is a risk the proposal will expose people and property to risk of damage and death as a consequence of approving fill in a site with a known flood and contamination risk.	High	Determine the application in line with the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The subject site is located within a strategic economic precinct due to its proximity to DAREZ and is currently zoned RU2 Rural Landscape and it is important to note that there are currently no planning proposals lodged with Council seeking to rezone the land. Accordingly there is no strategic or economic purpose for which the proposed earthworks would merit support.

In addition, the applicant has failed to identify a purpose for the extent of proposed fill and has not demonstrated reasons for which the proposed earthworks would be required to support a permissible land use within the current RU2 Rural Landscape zone. Furthermore, in its current form the proposed development does not satisfy the zone objectives as the height, extent and visual impact of the earthworks are out of keeping with the rural character of the surrounding locality.



As outlined in an above section of this report the applicant has failed to appropriately identify and mitigate the impacts to the environment including; flooding and ecology. As a result the environmental impacts of the development are unknown and the proposal cannot be supported.

## **CONSULTATION**

### Internal referral

Consultation was undertaken with internal officers, including; Engineering, Natural Resources (Ecology and Weeds), Strategic Planning, and Environmental Health. The referral comments from these officers were considered as part of the assessment contained at **(ATTACHMENT 3)** and accordingly the DA is recommended for refusal for the reasons contained within **(ATTACHMENT 4)**.

### External agency

Consultation with the Environment Protection Agency (EPA) was undertaken during the course of assessment. Subject to recommended conditions of consent being imposed with respect to landfill the EPA did not object to the development **(ATTACHMENT 4)**.

### Public exhibition

In accordance with Council's notification requirements the DA was notified for a period of 14 days from 9 August 2017 to 22 August 2017. During the exhibition period four submissions were received. The key issues raised within the submissions included; drainage, spread of contaminated water, ecological impacts, flooding, visual impact, traffic management and lack of information supporting the development application. These issues have been addressed in detail within the detailed assessment report contained at **(ATTACHMENT 3)**. The assessment has acknowledged many of these concerns cannot be overcome and therefore the application is recommended for refusal.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Call to Council Form.
- 2) Locality Plan.
- 3) Assessment Report.
- 4) Reasons for Refusal.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



PORT STEPHENS  
COUNCIL

CALL TO COUNCIL FORM  
DEVELOPMENT APPLICATION

I, Councillor Steve Tucker  
require Development Application Number 2017-524  
for Earthworks - Temporary Fill  
at 40 Cabbage Tree Road Williamtown

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

**Reason:**

The reason for this call-up to Council is this D.A. submitted on  
3/8/2017 is a precursor to proposed future  
development and access to Newcastle Airport.

**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: [Redacted Signature] Date: 30/1/2018







PORT STEPHENS  
COUNCIL

# DEVELOPMENT ASSESSMENT REPORT

## APPLICATION DETAILS

Application Number	16-2017-524-1
Development Description	Fill and associated earthworks
Applicant	UNTAPPED PLANNING
Date of Lodgement	03/08/2017
Value of Works	\$20,000.00

### Development Proposal

The applicant seeks approval for earthworks comprising the placement of fill in a single stockpile on the subject site, as follows:

- The total stockpile surface area and volume are unspecified, however it is noted that the stockpile varies between 3 m and 4.5 m in height with a batter at a 1:4 gradient.
- The proposed batter extends to the eastern side boundary with an approx. 0 m setback, whilst setbacks to the western side boundary exceed 40 metres.
- The fill is proposed to comprise virgin excavated natural material ('VENM') and / or excavated natural material ('ENM').

It is noted that the end purpose of the fill has not been specified by the applicant, the applicant states that the fill is required for 'future use and development of the site'. The applicant was requested to provide further information regarding the proposed end use, however this was not received. An extract of the site plan is provided at **figure 1** below.

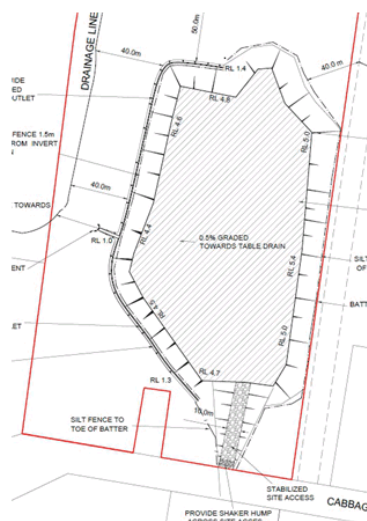


Figure 1: Site plan

**ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.**

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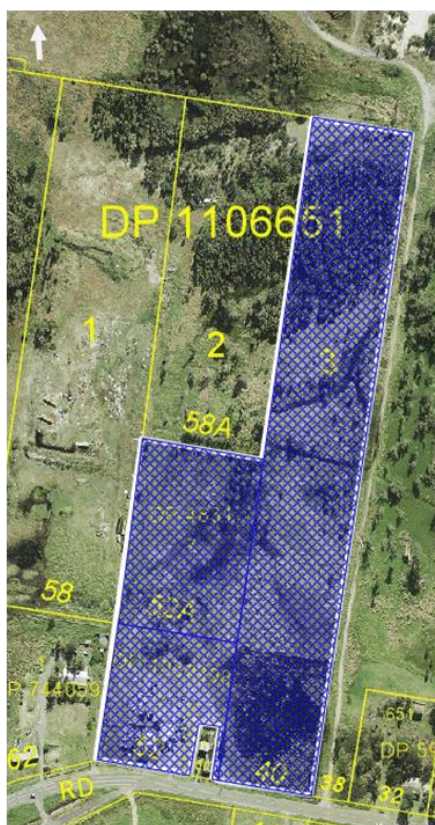
PROPERTY DETAILS	
<b>Property Address</b>	52A Cabbage Tree Road WILLIAMTOWN, 40 Cabbage Tree Road WILLIAMTOWN, 52 Cabbage Tree Road, WILLIAMTOWN
<b>Lot and DP</b>	LOT: 7 DP: 4831, LOT: 3 DP: 1106651, LOT: 7 DP: 1059398
<b>Current Use</b>	Vacant land
<b>Zoning</b>	RU2 RURAL LANDSCAPE
<b>Site Constraints</b>	<ul style="list-style-type: none"> <li>• Acid Sulfate Soils – Class 3;</li> <li>• Koala Habitat – Preferred;</li> <li>• Endangered Ecological Communities – Swamp Sclerophyll Forest;</li> <li>• RAAF Base Williamtown – ANEF 30-35;</li> <li>• RAAF Base Williamtown – Height Trigger;</li> <li>• RAAF Base Williamtown – Bird Strike Class C;</li> <li>• RAAF Base Williamtown – Extraneous Light;</li> <li>• Alligator Weed Affected Land;</li> <li>• Bushfire Prone Land – Category 3;</li> <li>• Flooding – High Hazard Storage;</li> <li>• Flooding – High Hazard Floodway;</li> <li>• Flooding – Low Hazard Storage;</li> <li>• Flooding – Low Hazard Fringe;</li> <li>• Williamtown PFAS Contamination Management Area – Primary Management Zone; and</li> <li>• Planning Strategy – DAREZ Business Park (adjoining the site).</li> </ul>

**Site Description**

The subject site consists of three lots with a total area of 7.5 ha and is located adjacent to the Defence and Airport Related Employment Zone ('DAREZ'). Vehicular access to the site is available via 52 Cabbage Tree Road. The site is constrained by environmental and neighbouring operational factors, including: flooding, contamination (PFAS), RAAF Base operations, ecology and bushfire.

The site is currently vacant, partly cleared of vegetation, with the northern section of containing dense vegetation. Existing drainage corridors traverse the site through the centre from east to west and along the eastern boundary.

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**Image 1:** Aerial extent of subject site

**Site History**

Compliance action associated with unauthorised land fill has occurred historically at the site (circa 2005), however this matter was resolved and has no bearing on the assessment of the current application.

**Site Inspection**

A site inspection was carried out on **31 July 2018**. The subject site is depicted in the below images.

16-2017-524-1



**Image 2:** 40 Cabbage Tree Road (looking west)



**Image 3:** 40 Cabbage Tree Road (looking north-west)



16-2017-524-1



**Image 4:** 40 and 52 Cabbage Tree Road (looking west)



**Image 5:** 40 Cabbage Tree Road (looking west)



**Image 6:** 40 Cabbage Tree Road (looking west)

#### **ASSESSMENT SUMMARY**

<b>Designated Development</b>	The application is not designated development
<b>Integrated Development</b>	The application requires additional approvals listed under Section 4.46 of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) and requires assessment by the Environmental Protection Agency under Section 43 the <i>Protection of the Environment Operations Act 1997</i> (PEEO Act).
<b>Concurrence</b>	The application does require the concurrence of another body

#### **Internal Referrals**

The proposed development was referred to the following internal specialist staff. The comments of the listed staff have been used to carry out the assessment against the Section 4.15 Matters for Consideration of the EP&A Act below.

#### **Engineering Services**

Additional information was requested on 15 September 2017 outlining the requirements for further detail on the proposed water quality measures (including erosion and sediment control measures), proximity of the proposed fill to the First Order stream passing through each lot and provision of a flood report to adequately address the impact of the proposed fill on the flood characteristics and arrangements of the land.

On 16 November 2017 a flood assessment prepared by Forum Consulting (Ref: 71520 and dated 14 November 2017) and response to the additional requirements was received. Amended plans

**ITEM 1 - ATTACHMENT 3      ASSESSMENT REPORT.**

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were also received, which relocated the proposed fill a minimum of 40m from waterfront land to negate a referral to DPI – Water and requirement for a controlled activity permit under the *Water Management Act 2000* (WM Act).

A review of the information, inclusive of the flood assessment provided on 16 November 2017 identified inadequacies and inconsistencies with the Port Stephens Council Development Control Plan 2014 (DCP 2014), the NSW Floodplain Development Manual 2005, and Council's existing Flood Study or Floodplain Risk Management Plan for the subject site in relation to numerical flood modelling, flood characteristics, flood planning level(s), flood storage impacts, velocity (including direction) and hazard and hydraulic categories. In addition, no information on the location of the 'future' redistribution of the proposed fill on-site was provided, therefore long term flooding impacts could not be considered.

On 30 January 2018, the applicant was requested to provide further information on the impacts on the flood characteristics of the land in line with the above comments. A response was received from the applicant on 20 April 2018, including an amended flood assessment, prepared by Forum Consulting (ref: 71520 and dated 26 March 2018). The information was reviewed by Council's Flood Advisory Review Panel at its meeting of 3 July 2018; however, the level of detail in the updated flood assessment was not sufficient enough to make an assessment on the impacts of flooding on adjacent properties. The application is yet to adequately consider the flood hazard, including consideration of depth of inundation, flow velocity and warning time for local catchment flooding and the impact of the proposal on the local residents, particularly along Cabbage Tree Road.

The application in its current form is not supported, and consequently recommended for refusal.

#### Strategic Planning

The statement of environmental effects submitted with the application noted that the objective of the development is to stockpile clean fill on the site for the future use and development of the site. The site is located within the DAREZ. In relation to the future use of the site, Strategic Planning have commented that the State government supports the expansion of aerospace and other compatible adjoining land uses at Williamstown. Direction 7 of the Hunter Regional Plan also contains actions to 'facilitate development opportunities on land surrounding Newcastle Airport to cluster emerging high-technology industry, defence and aerospace activities'.

Further, the draft Greater Newcastle Metropolitan Plan requires Council to align local plans to provide for high tech land uses and aerospace related industries to manage environmental constraints (including remediation) to plan for the staged release of land to facilitate the future expansion of DAREZ.

A pre-lodgement meeting was held with the applicant of the subject DA on 31 July 2018 in relation to the lodgement of a planning proposal that would seek to rezone the subject site (and, it is understood, other surrounding land) as part of the second stage of the development of the DAREZ precinct. Council advised that any planning proposal would need to address the environmental constraints including flooding, drainage, ecology, contamination, bushfire, and traffic and also the economic impacts of the proposal, including consideration of the staging of the DAREZ precinct and the existing development consent for Stage 1 DAREZ (construction of Stage 1 has not been finalised), as well as consistency with the Newcastle Airport Masterplan in relation to a proposed second access road.

A number of studies have been carried out looking at drainage in Williamstown, including the Commonwealth Defence Drainage Study currently being undertaken. Generally studies show the Williamstown/Fullerton Cove Drainage Catchment is at capacity as a result of approved developments, including the Stage 1 DAREZ. The studies have considered options to improve drainage in the area and to increase the drainage capacity in order to support the development of

**ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.**

16-2017-524-1

Williamstown and Council continues to be involved with State agencies in working towards solutions for improving drainage in the area to facilitate future development in accordance with the directions and actions in the Hunter Regional Plan and draft Greater Newcastle Metropolitan Plan.

No planning proposal has been lodged with Council, and thus cannot be considered as part of the assessment of the subject application.

Building Surveyor

No objections were made, application is supported unconditionally.

Natural Resources

Additional information was requested on 11 September 2017 requiring the provision of an ecology assessment in accordance with the provisions of Section B2 of the DCP 2014. A response was received on 14 November 2017, noting that under the *Local Land Services Act 2013* (LLS Act), the rear of the site is mapped as being Category 2 – Sensitive Regulated Land. The proposed location of the fill was amended to avoid these areas and any waterways on the site. The remainder of the site was considered as Category 1 – Exempt Land, whereby clearing of native vegetation is not regulated under Part 5 of the LLS Act. An ecology report, as requested, was not provided by the applicant.

A review of this information was carried out by Council's Natural Resource Section. A second request for the provision of an ecology report occurred on 30 January 2018. Whilst it was acknowledged that the subject site has been subject to agricultural land use and largely cleared of remnant vegetation, the site has ecological values associated not only with the Swamp Sclerophyll Forest located towards the rear of the site but also with the low lying area around the waterways and/or drains throughout the site. These latter areas may provide habitat for the threatened wallum froglet (*Crinia tinnula*) that has known to occur on the subject site and in the area immediately to the north of the site. The site is also known to support threatened species and endangered ecological communities as listed under state and/or Commonwealth legislation. It is within the catchment of key fish habitat as mapped under the *Fisheries Management Act 1994*, *State Environmental Planning Policy (Coastal Management) 2018* and an internationally important RAMSAR listed wetland. The site also supports preferred koala habitat as detailed under the Port Stephens Comprehensive Koala Plan of Management (PS CKPoM) and is at the outer edge of a current generational persistence area for the koala. Demonstration of how the proposed development complies with the performance criteria of the PS CKPoM was requested.

An ecology report was submitted to Council on 20 April 2018, prepared by Wildthing Environmental Consultants (dated April 2018, ref: 12326). Through a review of this report, Council's Natural Resource Section recommended refusal, unless additional information was received relating to:

- a) The exact fill boundary in relation to habitat trees;
- b) Additional surveys and details on the Wallum Froglet;
- c) Assessment of potential impacts to natural flow regimes, inclusive of hydrology description, dynamics of the vegetation community and potential groundwater interactions;
- d) Details on potential pollution and water quality impacts from proposed filling including erosion and sedimentation;
- e) Additional consideration of the impacts on Alligator Weed located on-site;
- f) Additional consideration of mitigation measures, including potential offset measures for the loss of hollow bearing trees or procedures for vegetation removal;



**ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.**

16-2017-524-1

- g) Consideration of the future management or tenure of the site to protect the remaining ecological attributes of the site;
- h) Further information against the 'assessment of significance' to demonstrate that no significant impact will be likely;
- i) Justification for the determination that the proposal is unlikely to have a significant impact on Matters of National Environmental Significance in accordance with the associated guidelines;
- j) Further assessment on the impact on koala habitat; and
- k) Assessment of the cumulative impacts of the proposed development.

The provision of information on two occasions has not provided a clear or accurate depiction on the impacts of the proposed development on the environmental characteristics of the land. Based on the information provided, and known likely impacts, the application is recommended for refusal.

**Environmental Health**

Additional information was requested to outline and clarify the purpose and intended future use of the fill. In response to the information provided, the Environmental Health team made note to defer consideration of the application to the EPA in accordance with Section 43 of the POEO Act.

**Weeds Officer**

Additional information was requested on 15 August 2017 to clarify the impact of development on notifiable noxious weeds. The site is located within an area identified as containing the notifiable noxious weed infestation including Mother of Millions and Alligator Weed. Any VENM/ENM classified soil transported to the site would void the 'clean' fill classification, which will limit the potential transportation of fill to other sites. The application is unclear with respect to whether the proposal involves the temporary storage of fill for future removal to different sites or temporary filling of the identified areas for redistribution on site at a later stage. Additional information was received on 30 August 2017 noting that the intent of the fill is to utilise it on site in the future, so the fill is not intended to leave the site to be utilised elsewhere. A condition requesting the preparation of a weed management plan was recommended, in the event the application is supported.

**External Referrals**

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

**Environment Protection Agency (EPA)**

The application was referred to the EPA as integrated development under Section 4.46 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to complete an assessment under Section 43 the POEO Act. Following submission of additional information by the applicant the EPA provided a response on 5 February 2018 which provided recommended conditions of consent.

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

The proposed development is defined as "earthworks" and is permissible with consent as an innominate use and under Clause 7.2 Earthworks of the LEP 2013.

**ITEM 1 - ATTACHMENT 3      ASSESSMENT REPORT.**

16-2017-524-1

The subject site is zoned RU2 Rural Landscape. The application provided a basic consideration of the objectives of the zone, concluding that the proposed development is broadly consistent with the zone objectives. In review of this and subsequent further information requesting this be expanded upon, it is concluded that the proposed development does not adequately consider the impacts on the rural landscape character of the site and surrounding context. Given the proposed fill extends to heights of 3.5m to 4m, the development will likely be visible from Cabbage Tree Road and surrounds across Williamstown. No visual impact assessment been undertaken to demonstrate consistency with the objectives of the RU2 zone and therefore remains inconsistent with the zone objectives.

**Clause 5.10 – Heritage**

The Williamstown Defence and Airport Related Zone (DAREZ) Land Use Development Strategy prepared by GHD in December 2007 identified Aboriginal objects and Aboriginal places recorded on the land immediately adjacent (to the north) of the subject site. In accordance with Clause 2(3), additional information was requested from the applicant to investigate the potential for Aboriginal Heritage on the subject site and associated impacts of the proposed development. In response, the applicant noted that in March 2008, McCardle Cultural Heritage Pty Ltd undertook an Indigenous Archaeological Desk Top Assessment of the Airport/ Defence related employment zone at Williamstown to accompany the DAREZ rezoning which included the subject site. The study concluded that *'the area of highest archaeological potential is that in the northern portion of the study area. Within this area, it is suggested that sites will be artefact scatters and middens within the dunal and ridge formations as they are located to well-resourced areas and also provide excellent viewpoints'*. The applicant noted that while included in the study area, the subject site is located south of the area identified as being of significance and that no further investigation was required.

In response to this, a copy of the McCardle findings was requested to enable further comprehensive assessment of heritage impacts. A screenshot of the study area from the report was provided, indicating that the subject site were of low archaeological potential. An AHIMS search was also carried out on 25 March 2018, which determined that no artefacts or items of interest are located on or near the subject site. The applicant has also noted that the fill is to be located to the south of the subject site, which has been disturbed by heavy grazing for a long period of time.

The information provided with the application is sufficient to enable assessment of the application against Clause 5.10 and subject to conditions of consent with respect to this matter the development is considered to be satisfactory.

**Clause 7.1 – Acid Sulfate Soils**

The objective of Clause 7.1 is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The subject site is identified as containing class 3 acid sulfate soils. Development consent is required for the carrying out of works more than 1 metre below the natural ground surface, or works by which the water table is likely to be lowered more than 1 metre below the natural ground surface. It is noted that the proposed development includes earthworks by means of landfill, not excavation. However, there is a risk of exposing potential acid sulfate soils through the movement of soils on-site to facilitate the development. A geotechnical report would be required, if development consent was granted in order to comply with the requirements of this clause.

**Clause 7.2 – Earthworks**

The objective of Clause 7.2 is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items, or features of the surrounding land. The proposed earthworks are not exempt development under this plan or any other applicable environmental

**ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.**

16-2017-524-1

planning instrument; therefore require consent from Council, and consideration of the matters specified under Clause 7.2(3).

The flood assessment submitted with the application outlines that the earthworks are not anticipated to impact adjoining properties. Soil stability conditions would be incorporated into any conditions of consent issued to ensure scour protection, which would include but not limited to landscaping. The use of clean fill would also be conditioned.

As discussed under Clause 5.10 of this report, the likelihood of disturbing relics as a result of the proposed development is unknown. Economically, the proposed development could increase the use of the land for agricultural purposes or the expansion of DAREZ in the future, however as no planning proposal has been lodged for this purpose, the impacts are unknown.

Measures to avoid, minimise or mitigate the impacts of the development have not been widely assessed or considered within the documentation submitted as part of the development application.

In consideration of the matters contained under Clause 7.2(3), the proposed development is not satisfactory and consent should not be granted.

**Clause 7.3 – Flood Planning**

The subject development is located on land mapped as being within the flood planning area and categorised as High Hazard – Flood Storage, High Hazard – Floodway, Low Hazard – Flood Storage and Low Hazard – Flood Fringe. Clause 7.3 therefore applies.

As noted under the internal referrals section above, the level of detail in the updated flood assessment was not sufficient enough to make an assessment on the impacts of flooding on the subject land or adjacent properties. The proposed development has not responded to the objectives of Clause 7.3, and development consent should not be granted as the documentation submitted with the development application has not demonstrated that the proposed landfill:

*a) Is compatible with the flood hazard of the land;*

As noted in the flood assessment prepared by Forum Consulting Engineers (dated 26 March 2018, ref: 71520), the location of the proposed landfill is clear of any floodway issues and is wholly located in the area marked as High Hazard – Flood Storage. Through the provision of a detailed flood report, compatibility with the flood hazard of the land may be determined, however based on the information provided, it has been determined that the proposed development is not compatible with the flood hazard.

*b) Will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties;*

As noted under the internal referrals section above, the level of detail in the updated flood assessment was not sufficient enough to make an assessment on the impacts of flooding on the subject land or adjacent properties.

*c) Incorporates appropriate measures to manage risk to life from flood;*

No measures have been proposed to manage risk to life from flood.

*d) Will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses;*

The requirements of subclause (d) have partially been addressed. The flood assessment prepared by Forum Consulting Engineers (dated 14 November 2017, ref: 71520), outlined that the location of the landfill is a minimum of 40m from any identified water course. Soil stability conditions would be incorporated into any conditions of consent issued to ensure

**ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.**

16-2017-524-1

scour protection, which would include but not limited to landscaping. The use of clean fill would also be conditioned. The ecology report prepared by Wildthing Environmental Consultants (dated April 2018, ref: 12326) has limited consideration of the impacts of alteration to natural flow regimes, stating that the proposed development is unlikely to significantly alter the flow of the ephemeral drainage lines. The importation of fill and placement of this fill into these low lying areas will alter the hydrology of the site, which could significantly alter the dynamics of the vegetation community existing onsite.

- e) *Is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

The social and economic impacts of flooding are well documented local and State wide. Policies and strategies have been implemented by Council to adequately mitigate the adverse impacts of flooding within the Local Government Area. The proposed development has limited consideration of the social and economic costs to the community as a result of offset flooding and cumulative flood impacts on other development or properties that are likely to occur in the same floodplain.

To this extent, it is considered that development consent cannot be granted in accordance with Clause 7.3 of LEP2013 – Flood Planning as the consent authority is not satisfied that matters outlined in Clause 7.3(3) are satisfied.

**s4.15(1)(a)(ii) – Any draft EPI**

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

**s4.15(1)(a)(iii) – Any DCP****Port Stephens Development Control Plan 2014**

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

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

In accordance with the requirements of chapter A.12, the development application was notified for a period of fourteen (14) days from 9 August 2017 to 22 August 2017.

**Section B2 – Natural Resources**

As noted above whilst the subject site has been subject to agricultural land use and largely cleared of remnant vegetation, it has been identified as containing the endangered ecological community ('EEC') Swamp Sclerophyll Forest towards the north. The vegetation located within proximity to the low lying area around the waterways and/or drains throughout the site may also provide habitat for the threatened wallum froglet (*Crinia tinnula*) that has been known to occur within the locality. Threatened species and endangered ecological communities as listed under state and/or Commonwealth legislation may also be present within the area, including; a RAMSAR listed wetland, key fish habitat (as listed under the *Fisheries Management Act 1994*) and preferred koala habitat as detailed under the Port Stephens Comprehensive Koala Plan of Management (PS CKPoM).

An ecological report undertaken by Wildthing Environmental Consultants (dated April 2018) was submitted to Council. However, the report has limited consideration of the impacts of alteration to natural flow regimes, stating that the proposed development is unlikely to significantly alter the flow of the ephemeral drainage lines. The importation of fill and placement of this fill into these low lying areas will alter the hydrology of the site, which could significantly alter the dynamics of the vegetation community existing onsite. Furthermore, the ecological report was considered to be unsatisfactory as it failed to provide the information necessary for Council's Natural Resource section to complete a detailed assessment.



**Section B4 – Drainage and Water Quality**

Council's Development Engineering Section noted that landfill and earthworks isolated from the use of land or impervious area increase does not trigger any specific water quality measures. The proposed plans have indicated that the landfill would be surrounded by sediment fencing and a "raingarden sediment trap" which satisfies sediment and water quality measures. However, sediment control during construction would still need to be addressed. In this regard, the requirements of Section B4 have been satisfied.

**Section B5 – Flooding**

The subject land is mapped as being within the Flood Planning Area. Following from the discussion against Clause 7.3 of the LEP 2013 above, the proposed development is not acceptable in this regard.

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

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

**s4.15(1)(a)(iv) – The regulations**

There are no clauses of the regulations relevant to the proposed development.

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

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

**s4.15(1)(b) – The likely impacts of the development**

The subject site is located within a strategic economic precinct due to its proximity to DAREZ and is currently zoned RU2 Rural Landscape and it is important to note that there are currently no planning proposals lodged with Council seeking to rezone the land. Accordingly there is no strategic or economic purpose for which the proposed earthworks would merit support.

In addition, the applicant has failed to identify a purpose for the extent of proposed fill and has not demonstrated reasons for which the proposed earthworks would be required to support a permissible land use within the current RU2 Rural Landscape zone. Furthermore, in its current form the proposed development does not satisfy the zone objectives as the height, extent and visual impact of the earthworks are out of keeping with the rural character of the surrounding locality.

As outlined in an above section of this report the applicant has failed to appropriately identify and mitigate the impacts to the environment including; flooding and ecology. As a result the environmental impacts of the development are unknown and the proposal cannot be supported.

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

Based on the information provided, the proposed development is likely to have adverse impact particularly in respect to the flood characteristics and ecological value of the site. Furthermore, the assessment has determined that the site is not suitable as the development:

- Encourages the improper management, development and conservation of the natural and artificial resources of agricultural land;

**ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.**

16-2017-524-1

- Is inconsistent with the objectives of the RU2 Rural Landscape zone applied to the land;
- May result in unacceptable and potentially irreversible impact to the natural environment by way of altering the flood characteristics of the subject and neighbouring sites; and
- Will incur and unacceptable and potential irreversible impact on the natural environment by way of altering the existing hydrology and fauna and flora characteristics of the land.

**s4.15(1)(d) – Any submissions**

Four submissions have been received in relation to the proposed development during the notification period and are summarised below:

	<b>Submission Summary</b>
1	<p>Submission objects to proposal, based on concerns relating to:</p> <ul style="list-style-type: none"> <li>• Disruption of existing drainage flows and spread of contaminated of water, the subject site is contaminated with PFAS, PFAO, PFAB in the high area of the "red zone".</li> <li>• Ecological impacts on lower section of site, containing birds of prey and nesting locations.</li> <li>• Flood impacts of proposed fill on broader Tomago area and cumulative impacts if fill is used to manage flooding across neighbouring sites. Any approval of fill activities may create a precedent for managing flood impacts through placement of fill.</li> <li>• Visual impacts of proposal with fill dimensions reaching height 6m may create undesirable impacts on tourism value of broader Port Stephens.</li> <li>• Ongoing management of dust from proposed fill stockpiles.</li> </ul>
2	<p>Submission objects to proposal, based on concerns relating to:</p> <ul style="list-style-type: none"> <li>• Disruption of existing drainage flows and spread of contaminated of water, the subject site is contaminated with PFAS, PFAO, PFAB in the high area of the "red zone".</li> <li>• Potential impact of proposed development on flood characteristics of neighbouring land.</li> <li>• Increase in truck movements and how they would access the subject site, and the associated impacts on the surrounding road network.</li> <li>• Quality of the proposed fill.</li> </ul>
3	<p>Submission objects to proposal, based on concerns relating to:</p> <ul style="list-style-type: none"> <li>• Disruption of existing drainage flows and spread of contaminated of water, the subject site is contaminated with PFAS, PFAO, PFAB in the high area of the "red zone".</li> <li>• Potential impact of proposed development on flood characteristics of neighbouring land.</li> <li>• There is no access to the property that would allow truck movements so one would need to be built. Cabbage Tree Road is already busy with truck movements.</li> <li>• Demolition of house or disturbance of existing asbestos containing fill pile should not be permitted.</li> </ul>
4	<p>Submission objects to proposal, based on concerns relating to:</p> <ul style="list-style-type: none"> <li>• The permissibility of land filling in the zone where not ancillary to a permitted land</li> </ul>

**ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.**

16-2017-524-1

	<p>use.</p> <ul style="list-style-type: none"><li>• The lack of clarity on what the proposal entails.</li><li>• How the development responds to known environmental constraints.</li><li>• The long term objectives and management of the site.</li><li>• Impact on Aboriginal Cultural Heritage of the site.</li><li>• The 'preloading' will result in the migration of contaminated groundwater from the site.</li><li>• Potential impact of proposed development on flood characteristics of neighbouring land.</li><li>• Truck movements and road safety, inclusive of number of movements and timeframes.</li><li>• Impact on threatened vegetation located on the site.</li></ul>
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**Comments**

A response to each of the comments received from submission makers has been made in this report. The assessment has acknowledged many of these concerns cannot be overcome and therefore the application is recommended for refusal.

**s4.15(1)(e) – The public interest**

The proposed development is not considered to be in the public interest as it is inconsistent with the adopted principles and strategies which seek to promote the appropriate development of land.



**REASONS FOR REFUSAL**

1. The proposed development fails to satisfy Clause 2.3 (zone objectives) and Clause 7.2 (earthworks) of the Port Stephens Local Environmental Plan 2013 (LEP2013) as the development will result in unacceptable visual impacts and is likely to detract from the rural character of the locality (s.4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act');
2. The proposed development fails to satisfy Clause 7.3 (Flood Planning) of LEP2013 as insufficient information has been provided to demonstrate that the development is compatible with the flood characteristics of the site, including potential impacts to adjoining properties (s.4.15(1)(a)(i) of the *EP&A Act*);
3. The development fails to comply with the controls contained within Port Stephens Development Control Plan (Chapter B2 Natural Resources and Chapter B5 Flooding) (s.4.15(1)(a)(i) *EP&A Act 1979*);
4. Insufficient information has been provided to demonstrate that the site is suitable for the development given the flood characteristics and ecological value of the land (s.4.15(1)(c) of the *EP&A Act*); and
5. The proposed development is not considered to be in the public interest as the development is inconsistent with the adopted principles and strategies which seek to promote the appropriate development of land (s.4.15(1)(e) of the *EP&A Act*).

## MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

Councillor Jaimie Abbott returned to the meeting at 6:26pm.  
Councillor Chris Doohan returned to the meeting at 6:26pm.

### ITEM NO. 2

FILE NO: 18/178357  
EDRMS NO: A2004-0315

### 2017-2018 GENERAL PURPOSE FINANCIAL REPORTS

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES

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#### RECOMMENDATION IS THAT COUNCIL:

- 1) Ratifies the referring of the draft 2017-2018 General Purpose Financial Reports for audit.
  - 2) Signs the statement on the General Purpose Financial Reports.
- 

### ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018 MOTION

282	<p><b>Councillor Ken Jordan</b> <b>Councillor Paul Le Mottee</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Ratifies the referring of the draft 2017-2018 General Purpose Financial Reports for audit.</li><li>2) Signs the statement on the General Purpose Financial Reports.</li></ol>
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### BACKGROUND

The purpose of this report is to advise Council that the draft General Purpose Financial Reports for the period ended 30 June 2018 have been prepared and the audit commenced on Monday 10 September 2018.

Under Section 413 of the *Local Government Act 1993* (NSW) Council is required to submit with the General Purpose Financial Reports, a Statement by Councillors and Management as to its opinion on the reports (**ATTACHMENT 1**).

For information purposes, an extract of the General Purpose Financial Statements is shown at (**ATTACHMENT 2**).

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
Financial Management.	Maintain strong financial sustainability.

**FINANCIAL/RESOURCE IMPLICATIONS**

The 2017-2018 General Purpose Financial Reports have been prepared in compliance with the Local Government Act, the *Local Government Code of Accounting Practice and Financial Reporting*, and the *Australian Accounting Standards*.

All revenues for 2017-2018 have been recognised together with any revenues due but not yet received, which have been raised as debtors for the period.

All expenditure incurred for the period has been recognised.

Provision has been made for all unpaid creditors.

Funds received for specific purposes but not expended during the period have been identified as either an external or internal restriction.

All known assets of Council have been recognised and brought to account.

All known assets acquired during the period have been recognised at actual cost, or at fair value in line with fair value accounting for assets.

All known liabilities incurred during the period have been recognised at actual or committed cost.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Signing of the statement giving Council's opinion on the financial reports will comply with Section 413 of 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 failure to sign the General Purpose Financial Reports will result in non-compliance with legislative requirements leading to potential reputational and financial loss.	Low	Accept the recommendations and sign the statement on the General Purpose Financial Reports.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no significant sustainability implications.

**CONSULTATION**

No consultation is required as this is a statement by Councillors and management that the General Purpose Financial Statements have been prepared in accordance with applicable regulations.

Internal

Nil.

External

Nil.

**OPTIONS**

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

**ATTACHMENTS**

- 1) General Purpose Financial Statements - Statement by Councillors and Management.
- 2) Extract of the General Purpose Financial Statements.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



**ITEM 2 - ATTACHMENT 1      GENERAL PURPOSE FINANCIAL STATEMENTS -  
STATEMENT BY COUNCILLORS AND MANAGEMENT.**

Financial Statements 2018

**Port Stephens**

General Purpose Financial Statements  
for the year ended 30 June 2018

**Statement by Councillors and Management**  
made pursuant to Section 413(2)(c) of the *Local Government Act 1993 (NSW)* (as amended)

**The attached General Purpose Financial Statements have been prepared in accordance with:**

- the *Local Government Act 1993 (NSW)* (as amended) and the regulations made thereunder,
- the Australian Accounting Standards and other pronouncements of the Australian Accounting Standards Board
- the Local Government Code of Accounting Practice and Financial Reporting.

**To the best of our knowledge and belief, these financial statements:**

- present fairly the Council's operating result and financial position for the year,
- accord with Council's accounting and other records.

**We are not aware of any matter that would render these statements false or misleading in any way.**

**Signed in accordance with a resolution of Council made on 11 September 2018.**

\_\_\_\_\_  
Ryan Palmer  
Mayor  
11 September 2018

\_\_\_\_\_  
Councillor  
11 September 2018

\_\_\_\_\_  
Wayne Wallis  
General Manager  
11 September 2018

\_\_\_\_\_  
Tim Hazell  
Responsible Accounting Officer  
11 September 2018

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**ITEM 2 - ATTACHMENT 2      EXTRACT OF THE GENERAL PURPOSE  
FINANCIAL STATEMENTS.**

Financial Statements 2018

## Port Stephens

 Income Statement  
for the year ended 30 June 2018

Original unaudited budget 2018	\$ '000	Notes	Actual 2018	Actual 2017
<b>Income from continuing operations</b>				
<b>Revenue:</b>				
54,709	Rates and annual charges	3a	55,287	53,415
38,984	User charges and fees	3b	39,752	37,971
1,322	Interest and investment revenue	3c	1,417	1,192
5,989	Other revenues	3d	6,206	8,068
12,023	Grants and contributions provided for operating purposes	3e,f	13,431	16,488
5,703	Grants and contributions provided for capital purposes	3e,f	15,387	14,309
<b>Other income:</b>				
250	Net gains from the disposal of assets	5	816	259
	Fair value increment on investment property	11	4,799	525
	Reversal of revaluation decrements / impairment of IPP&E previously expensed	4d	—	—
	Net share of interests in joint ventures and associates using the equity method	17	—	—
118,980	<b>Total income from continuing operations</b>		<b>137,095</b>	<b>132,227</b>
<b>Expenses from continuing operations</b>				
42,123	Employee benefits and on-costs	4a	43,104	41,795
903	Borrowing costs	4b	679	714
39,940	Materials and contracts	4c	41,411	36,275
15,235	Depreciation and amortisation	4d	14,458	14,985
	Impairment of investments	4d	—	—
13,034	Other expenses	4e	16,534	15,046
	Interest and investment losses	3c	—	—
	Net losses from the disposal of assets	5	—	—
	Fair value decrement on investment property	11	—	—
—	Revaluation decrement / impairment of IPP&E	4d	573	696
	Net share of interests in joint ventures and associates using the equity method	17	—	—
111,235	<b>Total expenses from continuing operations</b>		<b>116,759</b>	<b>109,511</b>
7,745	<b>Operating result from continuing operations</b>		<b>20,336</b>	<b>22,716</b>
	<b>Operating result from discontinued operations</b>	22	—	—
7,745	<b>Net operating result for the year</b>		<b>20,336</b>	<b>22,716</b>
7,745	Net operating result attributable to Council		20,336	22,716
	Net operating result attributable to non-controlling interests		—	—
2,042	<b>Net operating result for the year before grants and contributions provided for capital purposes</b>		<b>4,949</b>	<b>8,407</b>

This statement should be read in conjunction with the accompanying notes.

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**ITEM 2 - ATTACHMENT 2      EXTRACT OF THE GENERAL PURPOSE  
FINANCIAL STATEMENTS.**

Financial Statements 2018

## Port Stephens

 Statement of Comprehensive Income  
for the year ended 30 June 2018

\$ '000	Notes	2018	2017
<b>Net operating result for the year</b> (as per Income Statement)		<b>20,336</b>	<b>22,716</b>
<b>Other comprehensive income:</b>			
Amounts that will not be reclassified subsequently to the operating result			
Gain (loss) on revaluation of IPP&E	10a	18,341	(2,270)
Adjustment to correct prior period errors			—
Impairment (loss) reversal relating to IPP&E	10a	—	352
Other comprehensive income – joint ventures and associates	17b	—	—
<b>Total items which will not be reclassified subsequently to the operating result</b>		<b>18,341</b>	<b>(1,918)</b>
Amounts that will be reclassified subsequently to the operating result when specific conditions are met			
Realised (gain) loss on available for sale investments recognised in operating result		—	—
Gain (loss) on revaluation of available for sale investments		—	48
<b>Total items which will be reclassified subsequently to the operating result when specific conditions are met</b>		<b>—</b>	<b>48</b>
<b>Total other comprehensive income for the year</b>		<b>18,341</b>	<b>(1,870)</b>
<b>Total comprehensive income for the year</b>		<b>38,677</b>	<b>20,846</b>
Total comprehensive income attributable to Council		38,677	20,846
Total comprehensive income attributable to non-controlling interests		—	—

This statement should be read in conjunction with the accompanying notes.

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**ITEM 2 - ATTACHMENT 2 EXTRACT OF THE GENERAL PURPOSE FINANCIAL STATEMENTS.**

Financial Statements 2018

## Port Stephens

 Statement of Financial Position  
as at 30 June 2018

\$ '000	Notes	2018	Restated 2017	Restated 1 July 2016
<b>ASSETS</b>				
<b>Current assets</b>				
Cash and cash equivalents	6a	9,828	8,093	7,735
Investments	6b	40,209	40,402	25,911
Receivables	7	9,067	9,659	12,761
Inventories	8	5,849	14,313	12,277
Other	8	426	435	513
Non-current assets classified as 'held for sale'	9	—	—	—
<b>Total current assets</b>		<b>65,379</b>	<b>72,902</b>	<b>59,197</b>
<b>Non-current assets</b>				
Investments	6b	1,033	231	244
Receivables	7	190	176	199
Inventories	8	16,622	9,241	8,077
Infrastructure, property, plant and equipment	10	927,929	889,641	883,529
Investment property	11	31,467	26,000	21,500
Intangible assets	12	957	1,196	1,398
Investments accounted for using the equity method	17	—	—	—
Non-current assets classified as 'held for sale'	9	—	—	—
Other	8	29	10	—
<b>Total non-current assets</b>		<b>978,227</b>	<b>926,495</b>	<b>914,947</b>
<b>TOTAL ASSETS</b>		<b>1,043,606</b>	<b>999,397</b>	<b>974,144</b>
<b>LIABILITIES</b>				
<b>Current liabilities</b>				
Payables	13	11,202	9,322	7,443
Income received in advance	13	410	605	245
Borrowings	13	3,460	2,837	3,014
Provisions	14	17,220	15,409	14,797
Liabilities associated with assets classified as 'held for sale'	9	—	—	—
<b>Total current liabilities</b>		<b>32,292</b>	<b>28,173</b>	<b>25,499</b>
<b>Non-current liabilities</b>				
Payables	13	8	8	7
Income received in advance	13	4,648	4,884	5,145
Borrowings	13	20,371	18,721	16,698
Provisions	14	531	532	562
Investments accounted for using the equity method	17	—	—	—
Liabilities associated with assets classified as 'held for sale'	9	—	—	—
<b>Total non-current liabilities</b>		<b>25,558</b>	<b>24,145</b>	<b>22,412</b>
<b>TOTAL LIABILITIES</b>		<b>57,850</b>	<b>52,318</b>	<b>47,911</b>
<b>Net assets</b>		<b>985,756</b>	<b>947,079</b>	<b>926,233</b>
<b>EQUITY</b>				
Accumulated surplus	15	588,281	567,409	543,738
Revaluation reserves	15	397,475	379,670	382,543
Other reserves	15	—	—	(48)
Council equity interest		985,756	947,079	926,233
Non-controlling equity interests		—	—	—
<b>Total equity</b>		<b>985,756</b>	<b>947,079</b>	<b>926,233</b>

This Statement should be read in conjunction with the accompanying Notes.

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# MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

## ITEM 2 - ATTACHMENT 2      EXTRACT OF THE GENERAL PURPOSE FINANCIAL STATEMENTS.

Financial Statements 2018

### Port Stephens

#### Statement of Changes in Equity for the year ended 30 June 2018

\$ '000	Notes	2018 Accumulated surplus	IPP&E revaluation reserve	Available for sale reserve	Other reserves (specify)	Council interest	Non- controlling interest	Total equity	2017 Accumulated surplus	IPP&E revaluation reserve	Available for sale reserve	Other reserves (specify)	Council interest	Non- controlling interest	Restated Total equity
<b>Opening balance</b>		567,409	379,670	–	–	<b>947,079</b>	–	<b>947,079</b>	543,738	353,628	(48)	–	<b>897,318</b>	–	<b>897,318</b>
Correction of prior period errors	15 (b)	–	–	–	–	–	–	–	–	28,915	–	–	<b>28,915</b>	–	<b>28,915</b>
Changes in accounting policies	15 (c)	–	–	–	–	–	–	–	–	–	–	–	–	–	–
<b>Restated opening balance</b>		<b>567,409</b>	<b>379,670</b>	<b>–</b>	<b>–</b>	<b>947,079</b>	<b>–</b>	<b>947,079</b>	<b>543,738</b>	<b>382,543</b>	<b>(48)</b>	<b>–</b>	<b>926,233</b>	<b>–</b>	<b>926,233</b>
Net operating result for the year prior to correction of errors and changes in accounting policies		20,336	–	–	–	20,336	–	20,336	22,716	–	–	–	22,716	–	22,716
<b>Net operating result for the year</b>		<b>20,336</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>20,336</b>	<b>–</b>	<b>20,336</b>	<b>22,716</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>22,716</b>	<b>–</b>	<b>22,716</b>
<b>Other comprehensive income</b>															
– Gain (loss) on revaluation of IPP&E	10a	–	18,341	–	–	18,341	–	18,341	–	(2,270)	–	–	(2,270)	–	(2,270)
– Gain (loss) on revaluation of available for sale investments		–	–	–	–	–	–	–	–	–	48	–	48	–	48
– Impairment (loss) reversal relating to IPP&E	10a	–	–	–	–	–	–	–	–	352	–	–	352	–	352
<b>Other comprehensive income</b>		<b>–</b>	<b>18,341</b>	<b>–</b>	<b>–</b>	<b>18,341</b>	<b>–</b>	<b>18,341</b>	<b>–</b>	<b>(1,918)</b>	<b>48</b>	<b>–</b>	<b>(1,870)</b>	<b>–</b>	<b>(1,870)</b>
<b>Total comprehensive income (c&amp;d)</b>		<b>20,336</b>	<b>18,341</b>	<b>–</b>	<b>–</b>	<b>38,677</b>	<b>–</b>	<b>38,677</b>	<b>22,716</b>	<b>(1,918)</b>	<b>48</b>	<b>–</b>	<b>20,846</b>	<b>–</b>	<b>20,846</b>
Distributions to/(contributions from) non-controlling interests		–	–	–	–	–	–	–	–	–	–	–	–	–	–
Transfers between equity items		536	(536)	–	–	–	–	–	955	(955)	–	–	–	–	–
<b>Equity – balance at end of the reporting period</b>		<b>588,281</b>	<b>397,475</b>	<b>–</b>	<b>–</b>	<b>985,756</b>	<b>–</b>	<b>985,756</b>	<b>567,409</b>	<b>379,670</b>	<b>–</b>	<b>–</b>	<b>947,079</b>	<b>–</b>	<b>947,079</b>

This statement should be read in conjunction with the accompanying notes.

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**ITEM 2 - ATTACHMENT 2      EXTRACT OF THE GENERAL PURPOSE  
FINANCIAL STATEMENTS.**

Financial Statements 2018

## Port Stephens

 Statement of Cash Flows  
for the year ended 30 June 2018

Original unaudited budget 2018	\$ '000	Notes	Actual 2018	Actual 2017
<b>Cash flows from operating activities</b>				
<b>Receipts:</b>				
54,333	Rates and annual charges		55,081	53,302
38,984	User charges and fees		40,774	41,215
1,322	Investment and interest revenue received		1,239	1,137
15,726	Grants and contributions		22,779	24,940
—	Bonds, deposits and retention amounts received		62	101
5,373	Other		12,203	14,395
<b>Payments:</b>				
(42,290)	Employee benefits and on-costs		(44,132)	(41,789)
(39,595)	Materials and contracts		(44,747)	(39,809)
(903)	Borrowing costs		(674)	(669)
—	Bonds, deposits and retention amounts refunded		—	—
(8,388)	Other		(15,656)	(16,282)
<b>24,562</b>	<b>Net cash provided (or used in) operating activities</b>	16b	<b>26,928</b>	<b>36,541</b>
<b>Cash flows from investing activities</b>				
<b>Receipts:</b>				
	Sale of investment securities		74,600	85,152
	Sale of investment property		—	—
	Sale of real estate assets		5,460	—
250	Sale of infrastructure, property, plant and equipment		927	1,564
	Deferred debtors receipts		14	11
<b>Payments:</b>				
	Purchase of investment securities		(75,209)	(99,582)
	Purchase of investment property		(41)	(115)
(26,384)	Purchase of infrastructure, property, plant and equipment		(30,123)	(22,408)
	Purchase of real estate assets		(2,957)	(2,249)
	Purchase of intangible assets		(133)	(357)
<b>(26,134)</b>	<b>Net cash provided (or used in) investing activities</b>		<b>(27,462)</b>	<b>(37,984)</b>
<b>Cash flows from financing activities</b>				
<b>Receipts:</b>				
6,000	Proceeds from borrowings and advances		8,000	4,870
	Proceeds from finance leases		—	(1)
<b>Payments:</b>				
(2,808)	Repayment of borrowings and advances		(5,732)	(3,029)
	Repayment of finance lease liabilities		—	(39)
<b>3,192</b>	<b>Net cash flow provided (used in) financing activities</b>		<b>2,268</b>	<b>1,801</b>
<b>1,620</b>	<b>Net increase/(decrease) in cash and cash equivalents</b>		<b>1,734</b>	<b>358</b>
13,533	Plus: cash and cash equivalents – beginning of year	16a	8,093	7,735
	<b>Cash and cash equivalents – end of the year</b>	16a	<b>9,827</b>	<b>8,093</b>
Additional Information:				
26,155	plus: Investments on hand – end of year	6b	41,242	40,633
<b>41,308</b>	<b>Total cash, cash equivalents and investments</b>		<b>51,069</b>	<b>48,726</b>

This statement should be read in conjunction with the accompanying notes.

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**ITEM NO. 3**

**FILE NO: 18/61933  
EDRMS NO: PSC2008-0257**

**PROPOSED ACQUISITION OF FORMER FIRE STATION SITE - 51 WILLIAM STREET, RAYMOND TERRACE**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Proceed with the compulsory acquisition of Lot 1 DP874513 for the purpose of future road and community use of a public area in accordance with the requirements of the *Land Acquisition (Just Terms) Compensation Act 1991* (LAJTCA).
  - 2) Makes an application to the Minister and the Governor for approval to acquire Lot 1 DP874513 by compulsory process under section 186(1) of the *Local Government Act 1993*.
  - 3) Classify Lot 1 DP874513 as Operational Land once compulsorily acquired.
  - 4) Authorise the General Manager and Mayor to sign and affix the Seal of Council to all documentation.
- 

**ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018  
MOTION**

<b>283</b>	<p><b>Councillor Paul Le Mottee Councillor Steve Tucker</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Proceed with the compulsory acquisition of Lot 1 DP874513 for the purpose of future road and community use of a public area in accordance with the requirements of the <i>Land Acquisition (Just Terms) Compensation Act 1991</i> (LAJTCA).</li><li>2) Makes an application to the Minister and the Governor for approval to acquire Lot 1 DP874513 by compulsory process under section 186(1) of the <i>Local Government Act 1993</i>.</li><li>3) Classify Lot 1 DP874513 as Operational Land once compulsorily acquired.</li><li>4) Authorise the General Manager and Mayor to sign and affix the Seal of Council to all documentation.</li></ol>
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**BACKGROUND**

The purpose of this report is to recommend the acquisition of 51 William Street, Raymond Terrace (the 'Property') for future road and community use and classify the Property as 'Operational' upon acquisition. The location of the Property is detailed at **(ATTACHMENT 1)**.

Council at its meeting of 25 August 2009, Minute No. 265 **(ATTACHMENT 2)** resolved to place a Road Widening Order over the Property to preserve it for public vehicular access to service the proposed future commercial development on the adjacent Council land. A detailed view of the Property is detailed at **(ATTACHMENT 3)**.

The Property is Crown Land which was excised from Sturgeon Street and dedicated as a Fire Station site in 1959 and the building was constructed in 1960. The compulsory acquisition will allow the Property to be used for road widening of Sturgeon Street and/or enable an essential, clear and safe link between the proposed commercial development with the Council Administration Building and existing business area in William Street to be established. The constructed roundabout has been centrally located in the intersection to cater for a future increase in traffic to and from this section of Sturgeon Street. Once the building is demolished, considerable road works on the kerbs and splitter islands will be necessary.

On 5 April 2018 the Minister refused an Aboriginal Land Claim (ALC 37149) over the Property. *The Land and Environment Court Rules 1996*, allows a four month appeal period relating to the determination of Aboriginal Land Claims. The appeal period concluded on 7 August 2018 and no appeals or claims were lodged.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

Compensation to Crown for the site will be determined by the Valuer General (VG) as is the case with all compulsory acquisitions. Payment for the purchase will be made from Council's Property Reserve which is estimated to be a nominal amount.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		
Reserve Funds	No		



**MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no apparent legal or policy implications from the recommendations.  
There is a risk that if the recommendations are not adopted, control of the Property may be lost by Council thus impacting upon Council's future development plans for the location.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will lose control of the Property.	High	Accept the recommendations.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Fire Station was relocated to a more suitable site in Raymond Terrace.

The demolition of the building may expose asbestos and Council is not aware if underground fuel tanks were in place. Therefore appropriate risk management and demolition processes with suitability qualified contractors will be engaged to undertake the work.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Property Services Section to determine the status of the Aboriginal Land Claim, that acquisition of this Crown Land is essential to complete works and what the acquisition process should entail.

Internal

- Senior Survey and Land Information Manager.
- Asset Section Manager.
- Civil Assets Planning Manager.
- Land Acquisition and Development Manager.
- Property Services Section Manager.
- Property Officer.

External

- Crown Land Offices – Maitland and Newcastle.
- Office of Local Government.
- Crown Land Aboriginal Land Claims Unit.
- National Native Title Tribunal.
- NSW Aboriginal Land Council.
- Worimi Local Aboriginal Land Council.

### **OPTIONS**

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

### **ATTACHMENTS**

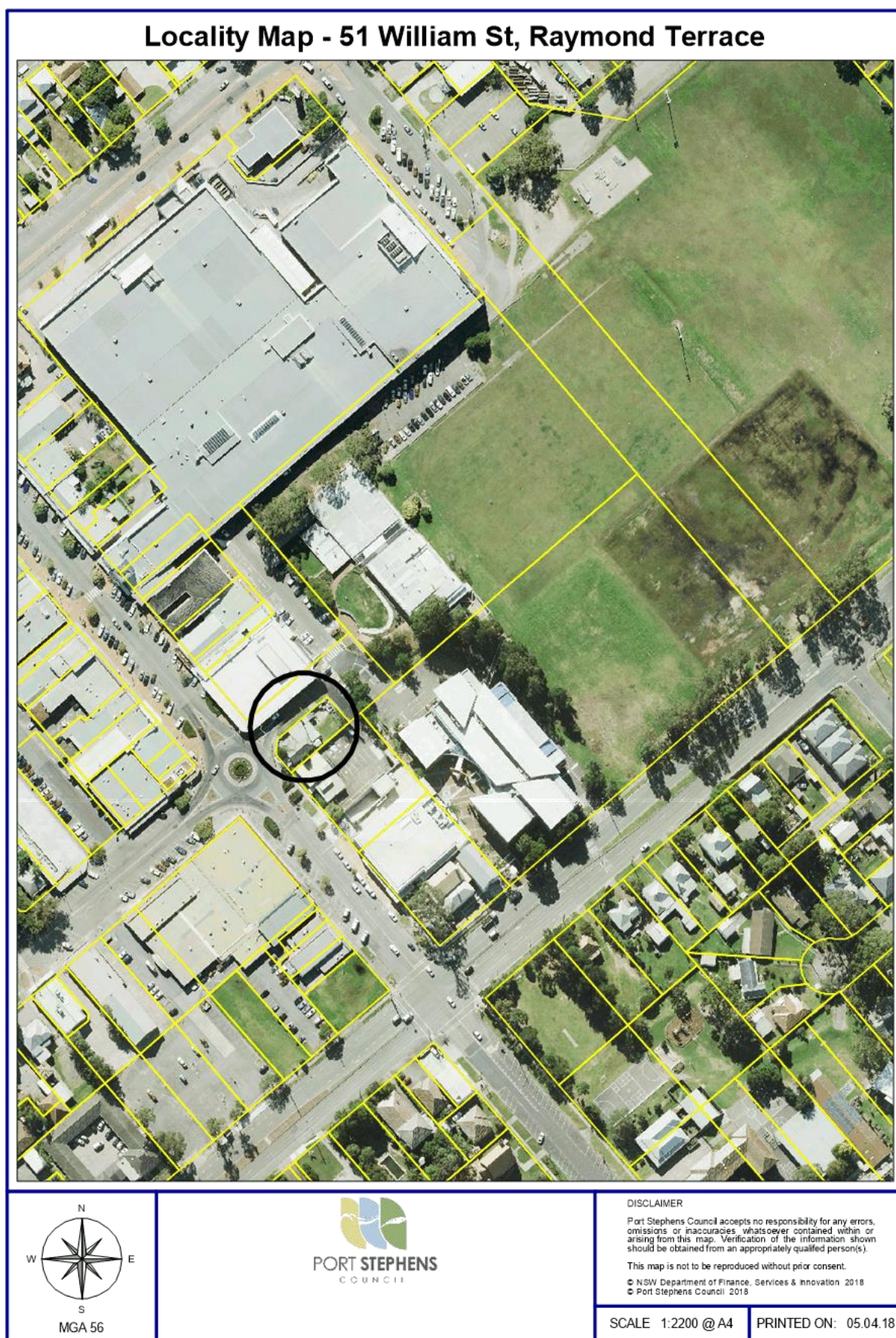
- 1) Locality Map.
- 2) Minute No. 265 - 25 August 2009.
- 3) Proposed area to be acquired.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.



**MINUTES ORDINARY COUNCIL – 25 AUGUST 2009**

ITEM NO.    2

FILE NO: PSC2009-02472

**REALIGNMENT OF STURGEON STREET RAYMOND TERRACE NEAR THE  
FORMER FIRE BRIGADE STATION****REPORT OF: CARMEL FOSTER – MANAGER, COMMERCIAL PROPERTY  
GROUP: COMMERCIAL SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Prepares a road widening plan under Section 22 of the Roads Act 1993 over the former section of Sturgeon Street known as Lot 1 D.P.874513.
- 2) The required notices of the proposed road widening be prepared and advertised under the Roads Act 1993.
- 3) Submit the proposed plan to the Minister for Local Government with advice Council proposes to issue a Road Widening Order over the plan.
- 4) Following advertising if any submissions are received they are reported to Council and forward to the Minister under Section 23 Roads Act, 1993.
- 5) The Road Widening Order be notified in the Government Gazette if no submissions are received or the Minister grants his approval if submissions are received.
- 6) On completion of 5 above, referral of the matter to Strategic Planning Section for inclusion in relevant LEP.

**OPERATIONS COMMITTEE – 11 AUGUST 2009**

	<b>Councillor Ken Jordan Councillor Glenys Francis</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 25 August 2009**

<b>265</b>	<b>Councillor Ken Jordan Councillor Glenys Francis</b>	It was resolved that the recommendation be adopted.
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**OPERATIONS COMMITTEE – 11 AUGUST 2009**

ITEM NO.    2

FILE NO: PSC2009-02472

**REALIGNMENT OF STURGEON STREET RAYMOND TERRACE NEAR THE FORMER FIRE BRIGADE STATION****REPORT OF: CARMEL FOSTER – MANAGER, COMMERCIAL PROPERTY****RECOMMENDATION IS THAT COUNCIL:**

- 1) Prepares a road widening plan under Section 22 of the Roads Act 1993 over the former section of Sturgeon Street known as Lot 1 D.P.874513.
- 2) The required notices of the proposed road widening be prepared and advertised under the Roads Act 1993.
- 3) Submit the proposed plan to the Minister for Local Government with advice Council proposes to issue a Road Widening Order over the plan.
- 4) Following advertising if any submissions are received they are reported to Council and forward to the Minister under Section 23 Roads Act, 1993.
- 5) The Road Widening Order be notified in the Government Gazette if no submissions are received or the Minister grants his approval if submissions are received.
- 6) On completion of 5 above, referral of the matter to Strategic Planning Section for inclusion in relevant LEP.

**BACKGROUND**

The purpose of this report is to recommend the return to the status of public road, the entire site occupied by the former fire station in Sturgeon Street, Raymond Terrace, to re-establish the full original width of that street by utilising a Road Widening Plan and Order under the provisions of the Roads Act 1993. The site is currently owned by the Department of Lands and dedicated for Fire Brigade Station.

The original Fire Station site was dedicated for that purpose in June 1959 over part of Sturgeon Street which was closed. See **(ATTACHMENT 1)** for general location map. In the 1960's the fire station was constructed and become operational. The land was known as Lot 11 Section 11 Town of Raymond Terrace and later had a small amount of road widening taken from it and is now known as Lot 1 D.P.874513 **(SEE ATTACHMENT 2)**, which measured 14.935 x 33.53 metres, this reduced the effective width of that part of Sturgeon Street to 15.2 metres.

The current round-about at the intersection of William Street is located to suit the full original width of both streets. Following the rezoning of the former sports ground area to Business General 3(a), which contains about 6.8 hectares it is now possible for this large area to be developed for commercial activities potentially creating significant traffic generation. If such a development is to take place and to link to the existing business area in William Street, it is imperative that Sturgeon Street be returned to its full original width. To do this the procedures contained within the

**OPERATIONS COMMITTEE – 11 AUGUST 2009**

Roads Act 1993 by the preparation of a Road Widening Plan and Order can be followed. The Act caters for notifications, advertising and the obtaining of the Minister for Local Governments consent. If the procedures meet the Ministers approval a notification can be placed in the Government Gazette which formerly creates the official Road Widening Order.

**LINKS TO CORPORATE PLANS**

The links to the 2008-2012 Council Plan are:-

**SOCIAL SUSTAINABILITY** – Council will preserve and strengthen the fabric of the community, building on community strengths.

**ECONOMIC SUSTAINABILITY** – Council will support the economic sustainability of its communities while not compromising its environmental and social well being.

**BUSINESS EXCELLENCE** – Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey

**FINANCIAL/RESOURCE IMPLICATIONS**

By placing a road widening order the Council indicates that it is prepared to acquire the area sometime in the future. At the time of purchase the land acquisition (Just Term Compensation) Act 1991 will apply. Obviously there will be road works to be carried out in the future for which funds will have to be made available.

**LEGAL AND POLICY IMPLICATIONS**

Sections 22 to 26 of the Roads Act 1993 (**SEE ATTACHMENT 3**) will apply with the main implication being on the parcel of lands affected by the Road Widening Order. This places a restriction on the land owner that no constructions, replacement or repair of a building can take place. This would allow the site to be available for Council in the future when it acquires the land. Provided the proposal is acceptable the relevant LEP should reflect the changes to zoning.

**BUSINESS EXCELLENCE FRAMEWORK**

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 1) **LEADERSHIP** – Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.

**OPERATIONS COMMITTEE – 11 AUGUST 2009**

- 2) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 3) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 4) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

**SUSTAINABILITY IMPLICATIONS****SOCIAL IMPLICATIONS**

The recommendation in itself will have no social implications as the fire station has closed down and a new one is in use in another location in Raymond Terrace. Social implications would arise when and if a commercial development takes place on the former sports ground site.

**ECONOMIC IMPLICATIONS**

Council will have to fund the acquisition of the site sometime in the future.

**ENVIRONMENTAL IMPLICATIONS**

Nil

**CONSULTATION**

Commercial Property Manager, Strategic Planners, Engineering Services Manager and Principal Property Advisor.

**OPTIONS**

- 1) Agree with recommendations
- 2) Refuse recommendations
- 3) Modify recommendations

**ATTACHMENTS**

- 1) General locality plan
- 2) Plan of the property DP874513
- 3) Road Widening Order procedures

**COUNCILLORS ROOM**

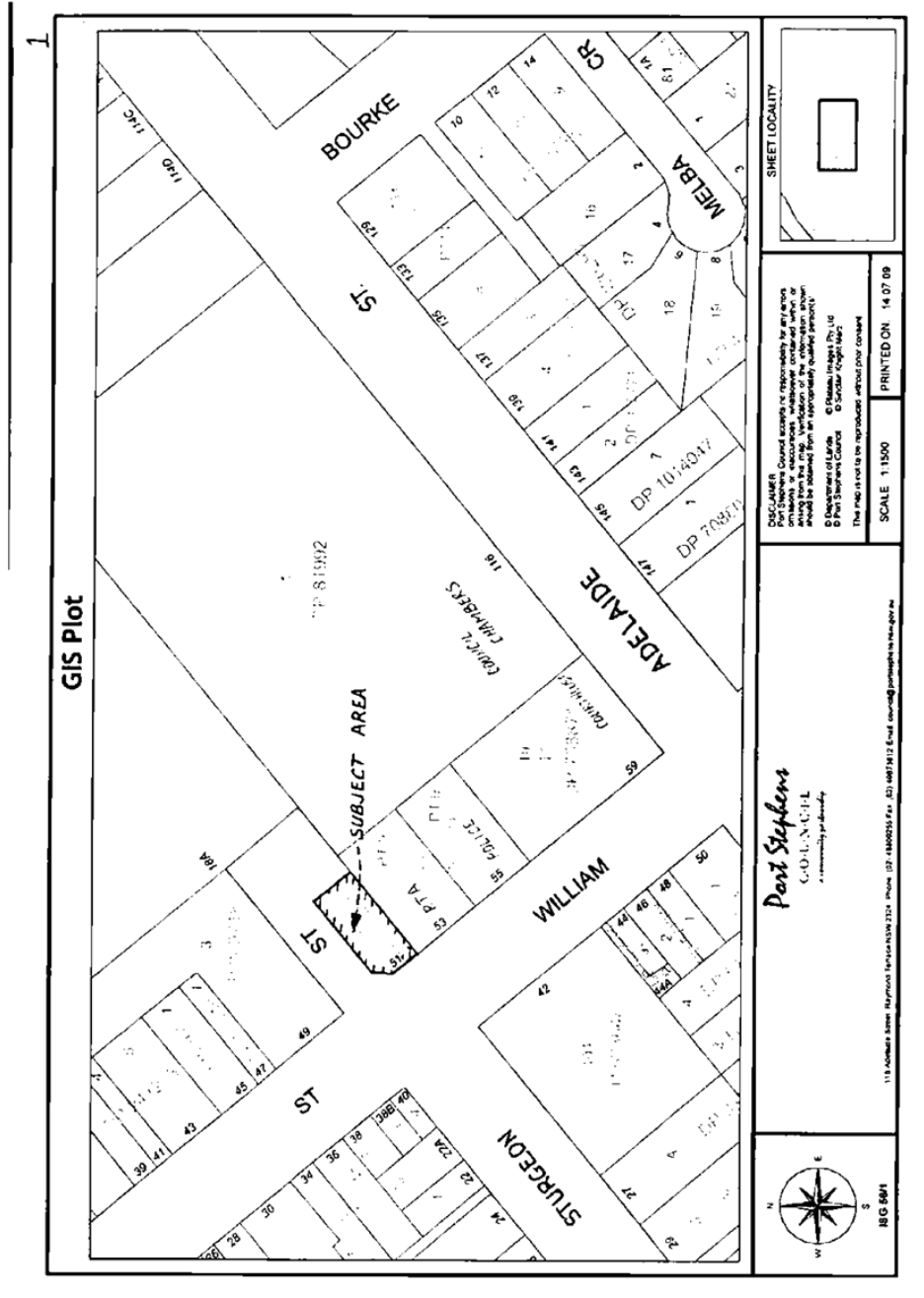
Nil

**TABLED DOCUMENTS**

Nil

OPERATIONS COMMITTEE – 11 AUGUST 2009

ATTACHMENT 1





**MINUTE NO. 265 - 25 AUGUST 2009.**

**ATTACHMENT 2**



OPERATIONS COMMITTEE – 11 AUGUST 2009

ATTACHMENT 3

3

**Road Widening Order**

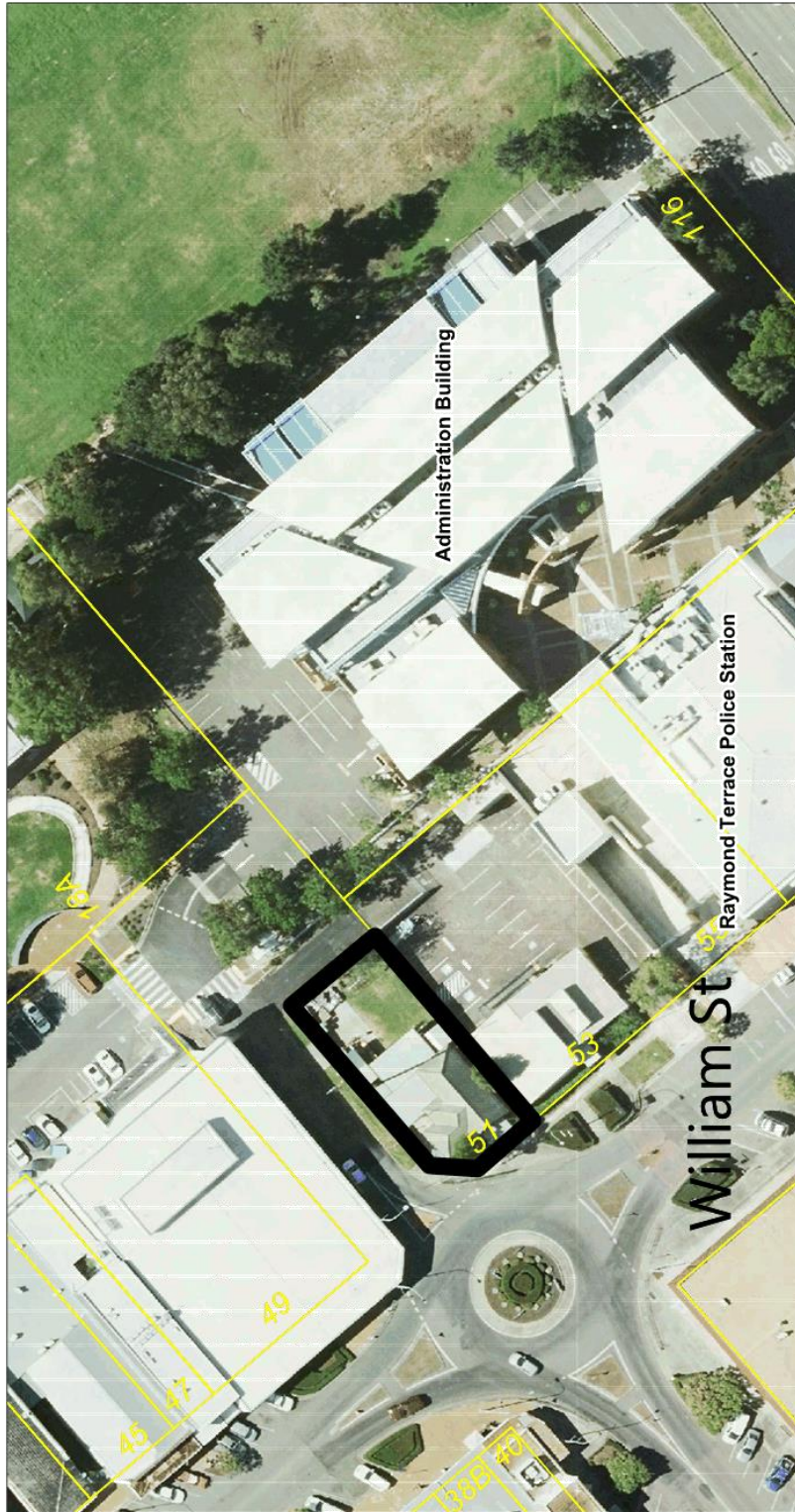
Council should officially resolve to prepare a "Road Widening Plan" and issue a "Road Widening Order" over the affected land(s).

**ROADS ACT, 1993**

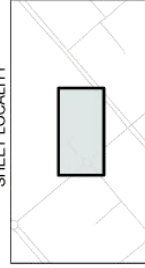
- Sec. 22 (1) Council as the road authority **MAY** submit the proposed widening plan to the Minister for Local Government – *This is recommended at initial stages if multiple properties are affected.*
- (2) Council **MUST** place notice in –  
 (a) Local Newspaper  
 (b) Serve notice on affected property owner(s)
- (3) Notices to state –  
 (a) Plan Identity  
 (b) Place(s) and times plan may be inspected  
 (c) Any person can make submission to Council or Minister  
 (d) Time available (usually min. 28 days) to make and the manner of submission
- Sec. 23 Any submission received to be forwarded to Minister – *This could be done together with Councils original notification of the proposal, if not done earlier.*
- Sec. 24 (1) Minister to consider submissions and can approve, alter or refuse plan.
- Sec. 25 If submissions are received and Ministers approval is given Council can then notify the plan in the Government Gazette under "Road Widening Order".
- (4) Order takes effect on the date of the gazette publication.  
 (a) Council must notify affected land owner(s). *(Notice MUST state Council will acquire area affected some time in the future to satisfy Sec. 21 Land Acquisition (Just Terms Compensation) Act 1991 (J.T.C.Act)).*  
 (b) Council must lodge survey plan for registration at LPI.  
 (c) Forward a copy of the plan to Valuer General.

A Road Widening Order relates to Sec.21 J.T.C.Act in that it creates affected lands as "designed for acquisition" for a public purpose – (Section 26(c) Environmental Planning and Assessment Act can be used to do a similar thing and reserve the affected land for the purpose referred to).

Area to be acquired outlined BLACK



SHEET LOCALITY



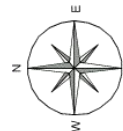
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MGA 56

**ITEM NO. 4**

**FILE NO: 18/177342  
EDRMS NO: PSC2009-02488**

**POLICY REVIEW: NAMING AND RENAMING OF RESERVES POLICY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the revised Naming and Renaming of Reserves policy shown at **(ATTACHMENT 1)**.
- 2) Place the Naming and Renaming of Reserves policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Naming and Renaming of Reserves policy dated 13 September 2016, Minute No. 257 should no submissions be received.

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**ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018  
MOTION**

<b>284</b>	<p><b>Councillor Chris Doohan Councillor Glen Dunkley</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Endorse the revised Naming and Renaming of Reserves policy shown at <b>(ATTACHMENT 1)</b>.</li><li>2) Place the Naming and Renaming of Reserves policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.</li><li>3) Revoke the Naming and Renaming of Reserves policy dated 13 September 2016, Minute No. 257 should no submissions be received.</li></ol>
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**BACKGROUND**

The purpose of this report is to seek Council's endorsement of the revised Naming and Renaming of Reserves Policy. Minor wording changes have been made to the policy in relation to the new *Crown Land Management Act 2016* whereby Council will now be referred to as 'Crown Land Manager' instead of 'Trust Manager'.

No other material changes have been made.

The purpose of this policy is to provide consistency in the process of naming and renaming reserves.

## **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
Community Partnerships	Provide recreational and leisure services.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The Naming and Renaming of Reserves Policy has no known financial or resource implications.

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

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

The Naming and Renaming of Reserves Policy is written in accordance with the *Geographical Names Board Act 1966* and the *Local Government Act 1993*.

Council's Naming and Renaming of Reserves Policy provides guidelines to be followed in accordance with the *Geographical Names Board Act 1966* when naming or renaming reserves in the care and control of Council.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the Geographical Names Board will not support a proposal to name or rename a reserve.	High	Accept the recommendations.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no known Social, Economic or Environmental Implications.

Adoption of uniform guidelines endorsed by the Geographical Names Board will enable ratepayers and public authorities such as the Police and Ambulance Services to more easily find specified reserves.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken both internally and externally to determine if there were any substantial amendments to the policy that could be justified.

### Internal

- Property Officer.
- Land Acquisition and Development Manager.
- Property Services Section Manager.

### External

- Geographical Names Board.

In accordance with local government legislation, the draft Naming and Renaming of Reserves policy will go on public exhibition for 28 working days.

In accordance with local government legislation the draft Naming and Renaming of Reserves policy will go on public exhibition from 20 September 2018 to 18 October 2018 for 28 days.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Revised Naming and Renaming of Reserves policy.

## **COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ITEM 4 - ATTACHMENT 1  
POLICY.

REVISED NAMING AND RENAMING OF RESERVES

Policy



**FILE NO:** PSC2009-02488  
**TITLE:** NAMING AND RENAMING OF RESERVES POLICY  
**POLICY OWNER:** PROPERTY OFFICER

**1. PURPOSE:**

1.1 The purpose of this policy is to provide consistency in the process of naming and renaming reserves.

**2. CONTEXT/BACKGROUND:**

2.1 The naming and renaming of reserves is a process defined within the Geographical Names Board (GNB) guidelines to comply with the *Geographical Names Board Act 1966*.

2.2 Council must comply with this Act when naming or renaming its reserves.

2.3 It involves consultation with GNB, the community, Crown Lands, Historical Society and Local Aboriginal Land Councils (where applicable).

**3. SCOPE:**

3.1 To provide consistency in the process of naming and renaming of Council owned reserves or Crown reserves which Council are appointed Trust Manager **the Crown Land Manager**.

3.2 This policy applies to the naming and renaming of Council owned reserves (either public reserves or drainage reserves) and Crown reserves which Council are the Crown Land Manager.

3.3 Requests for the naming of other Crown lands should be referred back to the applicant with the advice they should contact the relevant Crown office directly.

3.4 **PART A - THE NAMING OF COUNCIL OWNED RESERVES** (ie. Council holds freehold title)

3.4.1 An application/enquiry is received at Council either from a person or agency or by a section of Council with the proposal to name or rename a reserve. Initial consultation

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**ITEM 4 - ATTACHMENT 1 REVISED NAMING AND RENAMING OF RESERVES POLICY.**

## Policy



between Council's Property Officer and relevant Council staff will determine if naming is required or appropriate (eg. reserve possibly already named).

- 3.4.2 Requests for the naming of reserves are to comply with the Placename Application.
- 3.4.3 Form (fact sheet) and guidelines as set by the GNB for determination are located on the GNB website [www.gnb.nsw.gov.au](http://www.gnb.nsw.gov.au). Where an application is received seeking commemoration of a living person, the application shall be refused.
- 3.4.4 Where the application is received seeking the commemoration of a deceased person (12 months must have passed since they deceased) then a Commemorative Naming Form and guidelines as set by the GNB should also be completed.
- 3.4.5 Where the proposed name has an historical connotation, the relevant local Historical Society shall be notified by mail or email of the proposal and requested to comment on the historical suitability of the name.
- 3.4.6 Where the proposed name has an Aboriginal connotation, the relevant Local Aboriginal Land Council shall be notified by mail or email of the proposal and requested to comment on the suitability of the name.
- 3.4.7 A recommendation will be prepared for the Ordinary Council Meeting providing relevant details requesting Council apply to the GNB with the proposed name.
- 3.4.8 If recommendation is approved, Council's Property Section will complete the required application form after liaising with the applicant to obtain all details. This form will be submitted to the GNB with any other required documents for the Board to determine.
- 3.4.9 If the recommendation is not approved, the applicant is advised to propose a new name and the process will begin again from point 3.
- 3.4.10 If the GNB determines the name is appropriate that Department will advertise in a local newspaper circulating in the area of the reserve proposed to be named/renamed with a copy of the advertisement to be placed in each Councillor's mail tray. The advertisement shall include the following: "That comments and submissions on the proposal shall be in writing and will be received by Council for a period of 28 days from the date of advertisement/written notification".
- 3.4.11 At the close of the advertising/public consultation period and if objection(s) have been received, copies of all objections will be reported to Council.

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ITEM 4 - ATTACHMENT 1 REVISED NAMING AND RENAMING OF RESERVES POLICY.

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- 3.4.12 If Council resolves to proceed and change the original proposed name to one provided through the objection process and agrees upon a name(s), application shall be made to the GNB for formal approval of the name(s) resolved.
- 3.4.13 The reserve(s) is taken to be officially named upon publication of a notice by the GNB in the New South Wales Government Gazette and local newspaper.
- 3.4.14 Suitable signage to be erected upon the reserve(s) at such position(s) as determined by the required Facilities and Services staff or his/her nominated representative.
- 3.5 **PART B - THE NAMING OF CROWN RESERVES OVER WHICH COUNCIL HAS BEEN APPOINTED TRUST MANAGER 'CROWN LAND MANAGER'**
- 3.5.1 Requests are to comply with point 3.4.2 Part A of this policy.
- 3.5.2 Approval shall be obtained from the District Office of Crown Land prior to advertising/public consultation.
- 3.5.3 If approval is obtained, compliance with requirements of points 3.4.3 to 3.4.14 inclusive of Part A of this policy.
- 3.5.4 The scope may also include – what, when and where the policy applies; who will be affected and how it will affect them and what impact the policy will have. Exclusions to policy application should also be included, if applicable.

4. DEFINITIONS:

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

Crown Reserve	Crown reserves are land set aside on behalf of the community for a wide range of public purposes including environmental and heritage protection, recreation and sport, open space, community halls, special events and government services.
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5. POLICY STATEMENT:

- 5.1 It is Council's intent that this policy specifies the requirements of naming and renaming a Council owned reserve or Crown reserve over which Council has been appointed Trust Manager **Crown Land Manager**.

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**ITEM 4 - ATTACHMENT 1      REVISED NAMING AND RENAMING OF RESERVES  
POLICY.**

Policy



**6. POLICY RESPONSIBILITIES:**

- 6.1 Roles and responsibilities - the Property Officer is responsible for the implementation of this policy.
- 6.2 Support and advice - can be obtained from the GNB, Historical Society and Local Aboriginal Land Council and Crown Land where applicable.
- 6.3 Communication - Council staff and the community will be kept informed via local newspapers and either mail or email for the consultation period and after the name is finalised, the GNB will publish the name in the NSW Government Gazette.
- 6.4 Implementation of this policy with adoption of uniform guidelines endorsed by the GNB will enable ratepayers and public authorities such as the Police and Ambulance Services to more easily locate reserves.
- 6.5 The applicant would be responsible for costs. Therefore if Council was the applicant the costs would be minimal, generally only for signage.

**7. RELATED DOCUMENTS:**

- 7.1 [GNB Placename Application Form – Fact Sheet and Guidelines.](#)
- 7.2 Council's Road Naming & Renaming Process.

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**ITEM 4 - ATTACHMENT 1 REVISED NAMING AND RENAMING OF RESERVES POLICY.**

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<b>EDRMS container No</b>	PSC2009-02488	<b>EDRMS record No</b>	18/170586
<b>Audience</b>	Council staff & Community		
<b>Process owner</b>	Property Officer		
<b>Author</b>	Property Officer		
<b>Review timeframe</b>	Two years	<b>Next review date</b>	
<b>Adoption date</b>			

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1	9 October 2012	Property Officer	Policy Adopted	263
2	12 August 2014	Property Officer	Policy Amended	208
3		Property Officer	Transferred into new format. 3.1 - Change reference from Trust Manager to Crown Land Manager 3.5 - Change reference from Trust Manager to Crown Land Manager 5.1 - Change reference from Trust Manager to Crown Land Manager	

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**ITEM NO. 5**

**FILE NO: 18/171791  
EDRMS NO: PSC2014-03407**

**POLICY REVIEW: PORT STEPHENS ANNUAL AWARDS - OUTCOME OF  
PUBLIC EXHIBITION**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the Port Stephens Annual Awards Policy (**ATTACHMENT 1**) and note the associated Port Stephens Annual Awards Guidelines (**ATTACHMENT 2**).
- 2) Revoke the Port Stephens Annual Awards policy dated 24 February 2015 Minute No. 027.

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**ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018  
MOTION**

<b>285</b>	<b>Councillor Glen Dunkley Councillor Chris Doohan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Endorse the Port Stephens Annual Awards Policy (<b>ATTACHMENT 1</b>) and note the associated Port Stephens Annual Awards Guidelines (<b>ATTACHMENT 2</b>).</li><li>2) Revoke the Port Stephens Annual Awards policy dated 24 February 2015 Minute No. 027.</li></ol>
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**BACKGROUND**

The purpose of this report is to seek Council's endorsement of the revised Port Stephens Annual Awards Policy provided as (**ATTACHMENT 1**) and Guidelines provided as (**ATTACHMENT 2**).

On 27 March 2018, Council endorsed that the draft documents be placed on public exhibition for a period of 28 days. Council also requested that during the public exhibition period a survey was conducted seeking community views on the number of Port Stephens medals that should be awarded annually.

There were no formal submissions received regarding the Port Stephens Annual Awards Policy and as such there are no content changes to the Policy. However, the Policy has been updated to include paragraph numbering in alignment with Council's new Policy template.

The survey that was conducted during the public exhibition period had a low response. However, the responses have resulted in some changes to the Port Stephens Awards Guidelines. These changes as highlighted in **(ATTACHMENT 2)** include the reduction of the number of Port Stephens medals to a single awardee.

## **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
Community Partnerships.	Support local community events that highlight and foster the creative and diverse nature of our community.

## **FINANCIAL/RESOURCE IMPLICATIONS**

There are no additional financial and/or resource implications related to the adoption of the recommendations.

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

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

There are no legal or policy implications related to the adoption of the recommendations. The only risk implication relates to Council's reputation.

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

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Port Stephens Community Awards process increases participation and pride in the community and outcomes are associated with strong social wellbeing. The awards also form a significant part of the event program of Australia Day.

**CONSULTATION**

As explained above there were no formal submissions received during the public exhibition period conducted from 4 June 2018 to 1 July 2018.

However, the comments received through the accompanying survey have resulted in amendments to the Port Stephens Annual Awards Guidelines.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Draft Port Stephens Annual Awards Policy.
- 2) Draft Port Stephens Annual Awards Guidelines.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM 5 - ATTACHMENT 1 DRAFT PORT STEPHENS ANNUAL AWARDS POLICY.**

Policy



**FILE NO:** PSC2014-03407  
**TITLE:** PORT STEPHENS ANNUAL AWARDS  
**POLICY OWNER:** COMMUNICATIONS SECTION MANAGER

**1. PURPOSE:**

- 1.1 The purpose of this Policy is to recognise groups and individuals that contribute to the achievement of Council's vision of: Port Stephens - A great lifestyle in a treasured environment.
- 1.2 The awards recognise outstanding service, effort and achievements to groups, individuals and events that contribute to making our community a great place to live, work, play and grow.

**2. CONTEXT/BACKGROUND:**

- 2.1 Port Stephens Council recognises outstanding contributions of members of the Port Stephens community through the delivery of an Annual Awards program. The peak award is the Freeman of Port Stephens, followed by the Citizen of the Year, the Young Citizen of the Year, and other awards that acknowledge social, cultural and environmental achievements. These Annual Awards will provide further opportunity for Council to formally recognise those people who provide outstanding or distinguished service to the community and enhance community pride and spirit.

**3. SCOPE:**

- 3.1 Council plays a role in supporting individuals and groups that benefit the Port Stephens community.
- 3.2 Eligibility for Port Stephens community awards is based on objective criteria to ensure awards recipients are determined following a merit-based approach.

**4. POLICY STATEMENT:**

- 4.1 Port Stephens Council relies on community members to achieve its vision for Port Stephens. Council has a system of Annual Awards to recognise individuals and groups who, through outstanding effort, service and achievement, have contributed to the promotion of the community values of Port Stephens.

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**ITEM 5 - ATTACHMENT 1  
POLICY.**

**DRAFT PORT STEPHENS ANNUAL AWARDS**

**Policy**



4.2 The Port Stephens Annual Awards Assessment Panel is comprised of:

- The Mayor (Chair)
- The General Manager
- Three Councillors (one from each Ward), drawn from the 355(c) Port Stephens Australia Day Committee
- Three community representatives, drawn from the 355(c) Port Stephens Australia Day Committee
- One Freeman of Port Stephens (by invitation of the Mayor)

The role of the Panel is to receive and consider nominations in accordance with the criteria and recommend recipients for each category of award. Outstanding achievement or contribution towards Port Stephens's community values will be the principle basis for the awards. The community values are:

- Honesty
- Safety
- Fairness
- Community Spirit
- Friendliness
- Having a say
- Support and connectedness
- Tolerance of difference
- Sustainability
- Life choices

4.3 The Mayor has delegated authority under this Policy to determine the awards on the recommendation of the Port Stephens Annual Awards Assessment Panel.

**5. POLICY RESPONSIBILITIES:**

5.1 The Community Development and Engagement Unit are responsible for the implementation, monitoring, evaluating and reviewing the Policy.

**6. RELATED DOCUMENTS:**

6.1 Port Stephens Annual Awards Guidelines.

**Policy**

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**ITEM 5 - ATTACHMENT 1 DRAFT PORT STEPHENS ANNUAL AWARDS POLICY.**

Policy



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<b>EDRMS container No</b>	PSC2014-03407	<b>EDRMS record No</b>	
<b>Audience</b>	Councillors, staff and community		
<b>Process owner</b>	Communications Section Manager		
<b>Author</b>	Community Development and Engagement Coordinator		
<b>Review timeframe</b>	Two years	<b>Next review date</b>	September 2020
<b>Adoption date</b>	28 November 2000		

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1.	28 November 2000		Port Stephens Community Awards	657
2.	27 August 2002		Port Stephens Community Awards	349
3.	8 February 2011		Port Stephens Community Awards	011
4.	24 February 2015	Communications Section Manager	Port Stephens Community Awards	027

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ITEM 5 - ATTACHMENT 1  
POLICY.

DRAFT PORT STEPHENS ANNUAL AWARDS

Policy



5.	September 2018	Communications Section Manager	<p>2.1 – Updated to reflect that each individual category was named in the context/background section of the Policy. This was replaced with a general statement (see below) so changes can be made to Award Categories without the Policy requiring review and further adoption by Council.</p> <p><i>'The peak award is the Freeman of Port Stephens, followed by the Citizen of the Year, the Young Citizen of the Year, and other awards that acknowledge social, cultural and environmental achievements'.</i></p>	TBA
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**ITEM 5 - ATTACHMENT 2 DRAFT PORT STEPHENS ANNUAL AWARDS GUIDELINES.**

**EDRMS No: PSC2014- 03407**

**PORT STEPHENS ANNUAL AWARDS**

**GUIDELINES**

Port Stephens Council values the outstanding contributions made to the Port Stephens community by various groups and individuals throughout the region. The Port Stephens Annual Awards provide an opportunity for Port Stephens Council to formally recognise these efforts.

There are six award categories:

**1. FREEMAN OF PORT STEPHENS**

This honour recognises a distinguished citizen (or citizens) who have contributed eminent services to the community of Port Stephens or the wider community over many years. It may be awarded for outstanding achievement in the highest order for service to Port Stephens, Australia or general society.

Council is not obligated to award the Freeman of Port Stephens every year.

Retired Councillors with ten (10) years or more service (continuous or otherwise) as an elected Councillor are automatically granted the honorary title of Freeman of Port Stephens.

The General Manager (or delegate) shall keep a recorded list called the Freemans' Roll which shall be placed on display in the public area of the Council Chamber.

The Freeman of Port Stephens shall be invited to relevant and/or significant Councils events and functions, including the presentation of the Annual Awards.

The Council will provide a suitable insignia, badge or prestigious identification, which may be worn by the recipient on formal occasions.

**2. CITIZEN OF THE YEAR**

The Port Stephens Citizen of the Year award recognises the services of an individual citizen (or individual citizens) that have made a significant and demonstrable contribution to the community over the preceding 12 month period. While the focus for this award is on achievements made over the previous 12 month period, Council invites information and achievements of the nominee previous to that period.

**ITEM 5 - ATTACHMENT 2 DRAFT PORT STEPHENS ANNUAL AWARDS GUIDELINES.**

The selection criteria for Citizen of the Year nominees are:

- The nominee must have made a significant contribution to the community.
- The nominee should be an inspirational role model for the community.
- The scope of impact the nominee's contribution has had on the local government area.

The General Manager (or delegate) shall keep a recorded list of Citizen of the Year winners which shall be placed on display in the public area of the Council Chamber.

The Citizen of the Year shall be invited to attend the following year's awards ceremony, as well as to appropriate Council functions as required in the twelve (12) months following their receipt of the award.

**3. YOUNG CITIZEN OF THE YEAR**

The Port Stephens Young Citizen of the Year award recognises the services of an individual citizen (or individual citizens) that have made a significant and demonstrable contribution to the community over the preceding twelve (12) month period. While the focus for this award is on achievements made over the previous twelve (12) month period, Council invites information and achievements of the nominee previous to that period.

The Port Stephens Young Citizen of the Year should be aged 25 years or under on the day the honour is awarded.

The selection criteria for Young Citizen of the Year nominees are:

- The nominee must have made a significant contribution to the community.
- The nominee should be an inspirational role model for the community.
- The scope of impact the nominee's contribution has had on the local government area.

The General Manager (or delegate) shall keep a recorded list of Young Citizen of the Year winners which shall be placed on display in the public area of the Council Chamber.

The Young Citizen of the Year shall be invited to attend the following year's awards ceremony, as well as to appropriate Council functions as required in the twelve (12) months following their receipt of the award.

**4. PORT STEPHENS MEDAL**

The Port Stephens Medal is awarded to an individuals, organisations or groups for distinguished service to the community of Port Stephens over the previous twelve (12) months or a number of years.

**ITEM 5 - ATTACHMENT 2 DRAFT PORT STEPHENS ANNUAL AWARDS GUIDELINES.**

The selection criteria for the Port Stephens Medal nominees are:

- Exercising community leadership.
- Promoting the principles of cultural diversity and social equity.
- Started a valuable new local initiative.
- Shows a tireless approach to community life and participation.

**5. SPORTSPERSON OF THE YEAR**

The Sportsperson of the Year award is awarded to individuals who have exhibited outstanding service to the sporting community of Port Stephens over the previous twelve (12) months. Service to the sporting community may be via on field pursuits as a participant or competitor, or through the outstanding delivery of administrative functions.

The selection criteria for the Sportsperson of the Year award nominees are:

- Achieved significant sporting success throughout the year; and/or
- Contributed to significant sporting success for a particular, or a number of, sport/s.

**6. CULTURAL ENDEAVOUR**

Culture is reflected in our value systems, traditions and beliefs including in arts and creativity, heritage and history, architecture and design, festivals and events. Local culture can also be influenced by aspects of the distinctive coastal and rural environment, education and learning, the media, cultural tourism and accessible leisure activities.

Awarded to individuals who have exhibited outstanding service to the cultural community of Port Stephens or who have attained a high level of achievement in the wider cultural community.

The selection criteria for the Cultural Endeavour award are:

Contribution to the cultural community development of Port Stephens through innovation in one or more of the following;

- Places and spaces for culture
- Celebrating the culture of diversity
- Collaboration and networking
- Resourcing community cultural vitality
- Cultural tourism
- Place making and local distinctiveness
- Cultural needs of children, young people, families and older people
- Public libraries as people spaces and places
- Events as cultural drivers

**ITEM 5 - ATTACHMENT 2 DRAFT PORT STEPHENS ANNUAL AWARDS GUIDELINES.****Nomination process**

- Nominations can be made by the community at any time of year until the closure date.
- The nomination closure date will be in November of each year and will be communicated via Council's website and other communications channels at Council's discretion.
- Any nomination submitted after the publicised closure date will be accepted into the next round of annual awards.
- Each nomination will be acknowledged by Council in writing.
- Nominations are to be submitted through Council's website using the online nomination form.
- While nominations may be made in specific categories, the assessment panel is ultimately responsible for matching nominees to categories. Panel members may allocate a nominee to a category at its discretion and without communicating the decision to the person responsible for submitting the nomination.

**Assessment process**

The assessment of the nominations will be undertaken by an assessment panel made up of the following members:

- The Mayor (Chair)
- The General Manager
- Three Councillors - one from each Ward - drawn from the Port Stephens Australia Day Celebrations Coordinating Committee
- Three community representatives drawn from the Port Stephens Australia Day Celebrations Coordinating Committee
- One Freeman by invitation of the Mayor each year

The role of the Panel is to receive and consider nominations in accordance with the criteria and to make recommendations to the Mayor in respect of each award category.

The Assessment Panel is responsible for choosing the category for which the individual's or group's nomination will be assessed and awarded.

The assessment is based on information provided in the nomination form only. Panel members are forbidden to base their decisions on existing or prior knowledge of the nominated person/s or group/s under assessment.

The Panel reserves the right not to recommend an award in any category in any year. This includes Freeman of Port Stephens.

Nominations are scored according to a preference vote, which is determined by the weighting of the total preferences. All assessments are confidential and the panel's recommendations are presented to the Mayor who then determines the awards.

**ITEM 5 - ATTACHMENT 2 DRAFT PORT STEPHENS ANNUAL AWARDS GUIDELINES.****Final determination of award winners**

The Mayor has delegated authority under the Annual Awards Policy to determine the awards on the recommendation of the Assessment Panel.

**Judging Criteria and Conditions of Entry**

Outstanding achievement or contribution towards Port Stephens's community values will be the principle basis for the awards. The community values are:

- Honest
- Safety
- Fairness
- Community Spirit
- Friendliness
- Having a say
- Support and connectedness
- Tolerance of difference
- Sustainability
- Life choices

Award recipients will be individuals or groups who through their efforts espouse these values and show that individually and together we can make a difference. Their contribution may be at a local, national or international level. They will be seen as role models for the community.

The awards will recognise people who contribute in any area of endeavour including social justice and welfare, arts and cultural activities, education and youth development, the environment, business and sustainable economic development, sport, science and technology and academic achievement.

Above all the recipients will be able to demonstrate their contribution through results, focus, determination, creativity, commitment, enthusiasm and the pursuit of excellence.

Recipients can be:

1. ~~Either volunteers or paid employees;~~
2. ~~The recipient of an award on more than one occasion.~~

~~To be eligible for nomination nominees must be:~~

1. ~~Residents of Port Stephens, except in exceptional circumstances, which is determined by the Assessment Panel;~~
2. ~~Nominated by others and not themselves;~~
3. ~~Fit within one or more of the categories outlined above;~~

~~An award may be awarded more than once to a particular person or group, at the sole discretion of the Assessment Panel.~~



**ITEM 5 - ATTACHMENT 2      DRAFT PORT STEPHENS ANNUAL AWARDS GUIDELINES.**

Up to 3 Port Stephens Medals can be awarded to group, committees or individuals in any year.

**Eligibility Criteria**

- 1) Nominees must be residents of Port Stephens, except in exceptional circumstances, as determined by the Assessment Panel.
- 2) Awards will not be granted posthumously.
- 3) Self-nominations will not be accepted.
- 4) Nominations must fit within one or more of the categories outlined above.
- 5) Nominees may be either volunteers or paid employees.
- 6) Awards may be awarded more than once to a particular person or group, at the sole discretion of the Assessment Panel.

**Presentation Ceremony**

The Port Stephens Annual Awards will be presented annually on Australia Day, 26 January, at a civic function organised by Port Stephens Council.

**Contact**

Port Stephens Council  
Community Development and Engagement Team  
Tel 4988 0255  
council@portstephens.nsw.gov.au

**Related policies**

Port Stephens Annual Awards Policy  
Port Stephens Community Strategic Plan  
Code of Conduct

**Review date**

September 2020

**ITEM NO. 6****FILE NO: 18/187928  
EDRMS NO: PSC2017-00178****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: WAYNE WALLIS - GENERAL MANAGER  
GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the *Local Government Act 1993* from the respective Mayor and Ward Funds to the following:
- a. Trek4Kidz Rally Car #24 – Mayoral Funds - \$500 donation towards John Hunter Starlight Room.
  - b. Karuah Oyster and Timber Festival – Mayoral Funds - \$1,500 donation towards 2018 event costs.
  - c. Farmer's Relief Port Stephens Charity Weekend – Mayoral Funds - \$1,000 donation towards drought relief charity weekend.
  - d. Rural Aid Limited – Mayoral Funds - \$1,000 donation towards Medowie Bale out the Drought campaign.
  - e. Port Stephens Celtic Association – Mayoral Funds - \$700 donation towards 2018 Clans on the Coast event.
  - f. First Anna Bay Cubs & Scouts – Central Ward Funds, Cr Doohan - \$500 donation towards purchase of six man tent and/or gazebos.

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**ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018  
MOTION**

<b>286</b>	<b>Councillor Chris Doohan Councillor Glen Dunkley</b>  It was resolved that Council approves provision of financial assistance under Section 356 of the <i>Local Government Act 1993</i> from the respective Mayor and Ward Funds to the following: <ul style="list-style-type: none"><li>a. Trek4Kidz Rally Car #24 – Mayoral Funds - \$500 donation towards John Hunter Starlight Room.</li><li>b. Karuah Oyster and Timber Festival – Mayoral Funds - \$1,500 donation towards 2018 event costs.</li><li>c. Farmer's Relief Port Stephens Charity Weekend – Mayoral Funds - \$1,000 donation towards drought relief charity weekend.</li><li>d. Rural Aid Limited – Mayoral Funds - \$1,000 donation towards</li></ul>
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## MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

	Medowie Bale out the Drought campaign. e. Port Stephens Celtic Association – Mayoral Funds - \$700 donation towards 2018 Clans on the Coast event. f. First Anna Bay Cubs & Scouts – Central Ward Funds, Cr Doohan - \$500 donation towards purchase of six man tent and/or gazebos.
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### BACKGROUND

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public funding. The Grants and Donations Policy gives Councillors a wide discretion either to grant or to refuse any requests.

Council's Grants and Donations Policy provides the community and Councillors with a number of options when seeking financial assistance from Council. Those options being:

1. Mayoral Funds
2. Rapid Response
3. Community Financial Assistance Grants – (bi-annually)
4. Community Capacity Building

Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the *Local Government Act 1993*. This would mean that the financial assistance would need to be included in the Operational Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

The requests for financial assistance are shown below:

### CENTRAL WARD – Councillors Doohan, Smith and Tucker

First Anna Bay Cubs & Scouts	A NSW youth organisation providing young Australians with fun and challenging opportunities to grow through adventure.	\$500	Donation towards purchase of six man tent and/or gazebos.
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**MAYORAL FUNDS – Mayor Palmer**

Trek4Kidz Rally Car #24 - raising money for the Starlight Children's Foundation	A non-profit organisation founded in 1982 for hospitalised kids and their families.	\$500	Donation towards the John Hunter Starlight Room.
Karuah Oyster and Timber Festival	A community festival committee.	\$1,500	Donation towards the 2018 event costs.
Farmer's Relief Port Stephens Charity Weekend	A community drought appeal fund.	\$1,000	Donation towards drought relief charity weekend.
Rural Aid Limited	A community drought appeal fund.	\$1,000	Donation towards Medowie Bale out the Drought campaign.
Port Stephens Celtic Association	A not for profit community event providing support to palliative and cancer care.	\$700	Donation towards 2018 Clans on the Coast event.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

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

**LEGAL AND POLICY IMPLICATIONS**

To qualify for assistance under Section 356(1) of the *Local Government Act 1993*, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function, which it, the Council, would otherwise undertake;
- b) the funding will directly benefit the community of Port Stephens;
- c) applicants do not act for private gain.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those funds will always be available.	Low	Adopt the recommendations.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the General Manager's Office.

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

**OPTIONS**

- 1) Accept the recommendation.
- 2) Vary the dollar amount before granting each or any request.
- 3) Decline to fund all the requests.

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM NO. 7****FILE NO: 18/188097  
EDRMS NO: PSC2017-00015****INFORMATION PAPERS****REPORT OF: WAYNE WALLIS - GENERAL MANAGER  
GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 11 September 2018.

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<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
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1	Cash and Investments July 2018	83
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**ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018  
MOTION**

<b>287</b>	<b>Councillor John Nell Councillor Glen Dunkley</b>	
	It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 11 September 2018.	
	<hr/>	
	<b>No:</b>	<b>Report Title</b>
		<b>Page:</b>
	1	Cash and Investments July 2018
		83





# INFORMATION PAPERS



**ITEM NO. 1**

**FILE NO: 18/174518  
EDRMS NO: PSC2006-6531**

**CASH AND INVESTMENTS JULY 2018**

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES

**BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 31 July 2018.

Item of Note

The 90 term deposit rate previously used by Council as its investment portfolio benchmark is no longer produced by our brokers. As a result the investment policy is currently being revised which will include a new rate of reference for benchmarking purposes.

**ATTACHMENTS**

- 1) Cash and Investments July 2018.

CASH AND INVESTMENTS HELD AS AT 31 JULY 2018								
ISSUER	BROKER	RATING*	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
POLICE CREDIT UNION (SA)	FARQUHARSON	NR	TD	2.90%	365	2-Aug-18	750,000	750,000
COMMONWEALTH BANK	CBA	AA-	TD	2.61%	361	27-Aug-18	1,000,000	1,000,000
AMP BANK LTD	FIIG	A	TD	2.60%	205	19-Sep-18	1,500,000	1,500,000
AUSTRALIAN MILITARY BANK	CURVE	NR	TD	2.65%	364	5-Oct-18	900,000	900,000
COMMONWEALTH BANK	CBA	AA-	TD	2.59%	365	9-Oct-18	500,000	500,000
AUSWIDE BANK LTD	FARQUHARSON	BBB	TD	2.65%	363	10-Oct-18	1,350,000	1,350,000
AMP BANK LTD	CURVE	A	TD	2.65%	272	25-Oct-18	1,500,000	1,500,000
COMMONWEALTH BANK	CBA	AA-	TD	2.56%	335	4-Nov-18	1,250,000	1,250,000
AMP BANK	RIM	A+	TD	2.75%	365	14-Nov-18	400,000	400,000
CREDIT UNION AUSTRALIA	FARQUHARSON	BBB	TD	2.65%	349	29-Nov-18	1,000,000	1,000,000
WESTPAC BANKING CORPORATION	WESTPAC	AA-	TD	2.56%	371	13-Dec-18	1,200,000	1,200,000
COMMONWEALTH BANK	CBA	AA-	TD	2.62%	365	20-Dec-18	1,400,000	1,400,000
BANANA COAST CREDIT UNION	IMPERIUM	NR	TD	2.75%	365	20-Dec-18	600,000	600,000
BANKWEST	BANKWEST	AA-	TD	2.75%	209	9-Jan-19	1,000,000	1,000,000
WESTPAC BANKING CORPORATION	WESTPAC	AA-	TD	2.64%	363	23-Jan-19	2,000,000	2,000,000
POLICE CREDIT UNION (SA)	FARQUHARSON	NR	TD	2.90%	245	4-Feb-19	1,000,000	1,000,000
COMMONWEALTH BANK	CBA	AA-	TD	2.63%	365	2-Mar-19	1,000,000	1,000,000
MYSTATE	FARQUHARSON	BBB	TD	2.80%	287	18-Mar-19	1,200,000	1,200,000
MYSTATE	CURVE	BBB	TD	2.83%	303	3-Apr-19	1,000,000	1,000,000
AMP BANK	RIM	A+	TD	2.75%	365	14-May-19	1,000,000	1,000,000
AMP BANK	IMPERIUM	A+	TD	2.95%	370	29-May-19	1,000,000	1,000,000
POLICE CREDIT UNION (SA)	RIM	NR	TD	2.90%	365	30-May-19	1,000,000	1,000,000
AMP BANK	IMPERIUM	A+	TD	2.95%	376	13-Jun-19	1,250,000	1,250,000
NATIONAL AUSTRALIA BANK	IMPERIUM	AA-	TD	2.80%	365	13-Jun-19	1,000,000	1,000,000
BANK OF US	RIM	BBB	TD	2.95%	365	22-Jun-19	1,000,000	1,000,000
ING	IMPERIUM	A-	TD	2.83%	368	25-Jun-19	1,000,000	1,000,000
AMP BANK	IMPERIUM	A+	TD	3.00%	365	28-Jun-19	800,000	800,000
BANANACOAST	RIM	BBB	TD	2.95%	376	9-Jul-19	800,000	800,000
SUB TOTAL (\$)							29,400,000	29,400,000
INVESTMENTS TOTAL (\$)							29,400,000	29,400,000
CASH AT BANK (\$)							939,474	939,474
TOTAL CASH AND INVESTMENTS (\$)							30,339,474	30,339,474
CASH AT BANK INTEREST RATE				1.75%				
BBSW FOR PREVIOUS 3 MONTHS				2.06%				
AVG. INVESTMENT RATE OF RETURN				2.74%				
TD = TERM DEPOSIT								
*STANDARD AND POORS LONG TERM RATING								
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY								
T HAZELL								

# RESCISSION MOTIONS



## MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

Councillor Glen Dunkley left the meeting at 6:46pm.  
Councillor Paul Le Mottee left the meeting at 6:46pm.

### NOTICE OF RESCISSION

ITEM NO. 1

FILE NO: 18/190377  
EDRMS NO: PSC2017-00020

### PLANNING PROPOSAL 95A AND 97 STOCKTON STREET, NELSON BAY

**COUNCILLOR:** RYAN PALMER  
STEVE TUCKER  
KEN JORDAN

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#### THAT COUNCIL:

- 1) Rescind its decision of 28 August 2018 to take no further action on Item No. 1 Planning Proposal 95A and 97 Stockton Street, Nelson Bay.

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### ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018 MOTION

288	<p><b>Councillor Chris Doohan</b> <b>Councillor Steve Tucker</b></p> <p>It was resolved that Council rescind its decision of 28 August 2018 to take no further action on Item No. 1 Planning Proposal 95A and 97 Stockton Street, Nelson Bay.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Chris Doohan, Ken Jordan, Sarah Smith and Steve Tucker.

Those against the Motion: Crs Jaimie Abbott, Giacomo Arnott and John Nell.

### ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018 MOTION

	<p><b>Councillor Giacomo Arnott</b> <b>Councillor John Nell</b></p> <p>That Council defer the planning proposal for 95A and 97 Stockton Street, Nelson Bay for a site inspection.</p>
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## MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

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

Those for the Motion: Crs Giacomo Arnott and John Nell.

Those against the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Ken Jordan, Sarah Smith and Steve Tucker.

The motion was lost.

### ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018 MOTION

	<p><b>Councillor John Nell</b> <b>Councillor Giacomo Arnott</b></p> <p>That Council defer the planning proposal for 95A and 97 Stockton Street, Nelson Bay for alternative options to be provided to Council for the site.</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 Giacomo Arnott and John Nell.

Those against the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Ken Jordan, Sarah Smith and Steve Tucker.

The motion was lost.

### ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018 MOTION

289	<p><b>Mayor Ryan Palmer</b> <b>Councillor Chris Doohan</b></p> <p>It was resolved that Council:</p> <p>1) Adopt the Planning Proposal (dated 29 May 2018) <b>(TABLED DOCUMENT)</b> to amend Schedule 1 of the <i>Port Stephens Local Environmental Plan 2013</i> to permit with consent development for the purposes of:</p> <ul style="list-style-type: none"><li>• Storage premises on Lot 1, DP 200208 (97 Stockton Street, Nelson Bay); and</li><li>• A recreation facility (indoor) on Lot 2, DP 200208 (95A Stockton</li></ul>
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## MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

	Street, Nelson Bay).
2)	Forward the Planning Proposal to the NSW Department of Planning and Environment to seek a gateway determination and request delegated authority to make the Plan.
3)	The Planning Proposal be adopted subject to a request that the Department of Planning and Environment consider further restricting the proposed additional use by reference to matters such as operating hours car parking requirements and site usage that can address potential impacts on neighbours.

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

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

Those against the Motion: Cr Jaimie Abbott.

The motion was carried.

### ATTACHMENTS

- 1) Council Minute 28 August 2018 Planning Proposal 95A and 97 Stockton Street Nelson Bay.

**ITEM 1 - ATTACHMENT 1 COUNCIL MINUTE 28 AUGUST 2018 PLANNING PROPOSAL 95A AND 97 STOCKTON STREET NELSON BAY.****MINUTES ORDINARY COUNCIL - 28 AUGUST 2018**

Councillor Glen Dunkley left the meeting at 6:10pm, in Open Council.  
Councillor Paul Le Mottee left the meeting at 6:10pm, in Open Council.

**ITEM NO. 1****FILE NO: 18/158167  
EDRMS NO: 58-2017-12-1****PLANNING PROPOSAL 95A AND 97 STOCKTON STREET, NELSON BAY**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Planning Proposal (dated 29 May 2018) (**TABLED DOCUMENT**) to amend Schedule 1 of the *Port Stephens Local Environmental Plan 2013* to permit with consent development for the purposes of:
  - Storage premises on Lot 1, DP 200208 (97 Stockton Street, Nelson Bay); and
  - A recreation facility (indoor) on Lot 2, DP 200208 (95A Stockton Street, Nelson Bay).
- 2) Forward the Planning Proposal to the NSW Department of Planning and Environment to seek a gateway determination and request delegated authority to make the Plan.

**ORDINARY COUNCIL MEETING - 28 AUGUST 2018****MOTION**

<b>262</b>	<b>Councillor John Nell Councillor Giacomo Arnott</b>  It was resolved that Council take no action on the planning proposal at 95A and 97 Stockton Street, Nelson Bay.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Ken Jordan, Sarah Smith and Steve Tucker.

The Motion was carried.

Councillor Jaimie Abbott left the meeting at 6:24pm, Open Council.  
Councillor Giacomo Arnott left the meeting at 6:24pm, Open Council.

**ITEM 1 - ATTACHMENT 1 COUNCIL MINUTE 28 AUGUST 2018 PLANNING PROPOSAL 95A AND 97 STOCKTON STREET NELSON BAY.****MINUTES ORDINARY COUNCIL - 28 AUGUST 2018****BACKGROUND**

The purpose of this report is for Council to consider a Planning Proposal to amend Schedule 1 'Additional permitted uses' to the *Port Stephens Local Environmental Plan 2013* (LEP 2013) to permit with consent development for the purposes of:

- Storage premises on Lot 1, DP 200208 (97 Stockton Street, Nelson Bay).
- A recreation facility (indoor) on Lot 2, DP 200208 (95A Stockton Street, Nelson Bay).

A Locality Map is attached at **(ATTACHMENT 1)**.

The Planning Proposal notes that the amendments are necessary to facilitate these future uses (subject to development consent) and the future uses will likely utilise existing structures on the site **(TABLED DOCUMENT)**.

A summary of the Planning Proposal and property details are included below:

Date lodged:	19 July 2017
Proponent:	Le Mottee Group Pty Ltd
Subject properties:	97 Stockton Street, Nelson Bay LOT: 1 DP: 200208 95A Stockton Street, Nelson Bay LOT: 2 DP: 200208
Current zoning:	R2 Low Density Residential <b>(ATTACHMENT 2)</b> .
Site area:	Cumulative site area of the two (2) lots is approximately 1454m <sup>2</sup>
Proposed additional land use(s):	Storage premises on Lot 1, DP 200208 (97 Stockton Street, Nelson Bay) and a recreation facility (indoor) on Lot 2, DP 200208 (95A Stockton Street, Nelson Bay).

Existing and current use

The subject land is currently zoned R2 Low Density Residential **(ATTACHMENT 2)** and supports two large existing sheds. A current approval exists on the site for a removal business and a storage business. The Planning Proposal describes the site as having a long history of commercial uses **(TABLED DOCUMENT)**, however the existing use does not match the current residential zoning, which has been in place since the commencement of the *Environmental Planning and Assessment Act 1979* (EP&A Act) in 1980.

Purpose of the amendment

A rezoning is not proposed in this instance. The amendment to Schedule 1 of the LEP 2013 will enable additional uses under the current zoning and limit the additional land uses permissible on the subject site to:

**ITEM 1 - ATTACHMENT 1 COUNCIL MINUTE 28 AUGUST 2018 PLANNING PROPOSAL 95A AND 97 STOCKTON STREET NELSON BAY.****MINUTES ORDINARY COUNCIL - 28 AUGUST 2018**

- Storage premises on Lot 1, DP 200208.
- A recreation facility (indoor) on Lot 2, DP 200208.

The existing R2 Low Density Residential zone will be retained and will not prohibit future residential use, if desired. The additional land uses are not considered likely to pose a significant threat to the existing retail/commercial core in Nelson Bay town centre given the limited uses proposed and the scale of the sites.

Suitability of the subject land

The site is not identified for commercial purposes in any State or local land use planning strategies. Despite this, commercial uses have previously been carried out on the land. Given the historical uses of the site, the existing structures located on the site, and the limited uses that will be permitted, the proposed additional uses are considered appropriate.

The Planning Proposal seeks to maintain the ongoing use of the land consistent with the existing commercial uses on the site, while limiting the types of commercial purposes that may be carried out with consent. Limiting the additional uses will minimise adverse impacts and maintain the potential to develop the land for future residential use, in accordance with the character of the area, if desired.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no foreseen financial or resource implications for Council as a consequence of the recommendation of this report.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes	\$5,250	Stage 1 Rezoning Fees paid 19 July 2017.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

**ITEM 1 - ATTACHMENT 1 COUNCIL MINUTE 28 AUGUST 2018 PLANNING PROPOSAL 95A AND 97 STOCKTON STREET NELSON BAY.****MINUTES ORDINARY COUNCIL - 28 AUGUST 2018****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 commercial uses on the site could negatively impact on other identified centres.	Low	Limiting the additional permitted land uses to storage premises and a recreation facility (indoor) within the R2 Low Density Residential Zone will assist in minimising potential adverse impacts. It is understood that commercial uses have existed on the site for an extended period of time with no demonstrable impact on the existing commercial centre in the locality.	Yes
There is a risk that the additional permitted use could compromise the residential use of the land.	Low	Given the residential zoning will not change, the potential exists for residential development of the site in the future.	Yes

Port Stephens Local Environmental Plan 2013

The site is currently zoned R2 Low Density Residential under the LEP 2013. The existing R2 zone that applies to the subject sites under the LEP 2013 will be retained.

The Planning Proposal will permit (with consent) specific additional land uses which are considered to have minimal potential for adverse impacts. By permitting only specific additional land uses and retaining the R2 zoning, potential development is limited to those land uses and will not result in a further extension of a business zone in the residential neighbourhood.

Limiting the land use negates potential negative social impacts associated with allowing other uses through a rezoning, and also facilitates potential future residential use to reflect population growth demands.

The proposed additional use on Lot 1, DP 200208 is defined by the LEP 2013 as:

**“storage premises** means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any industry, business premises or retail premises on the same parcel of

**ITEM 1 - ATTACHMENT 1 COUNCIL MINUTE 28 AUGUST 2018 PLANNING PROPOSAL 95A AND 97 STOCKTON STREET NELSON BAY.**

**MINUTES ORDINARY COUNCIL - 28 AUGUST 2018**

land, and includes self-storage units, but does not include a heavy industrial storage establishment or a warehouse or distribution centre.”

Note: self-storage units are a type of storage premises and would be permitted with consent if the additional use of ‘storage premises’ is allowed.

The proposed additional use on Lot 2, DP 200208 is defined by the LEP 2013 as:

“**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.”

Environmental Planning and Assessment Act 1979

Under Part 3 of the EP&A Act, only the Minister or Council can initiate an amendment to a Local Environmental Plan. If Council resolves to proceed with the recommendation and adopt the Planning Proposal, it will be forwarded to the NSW Department of Planning and Environment for a gateway determination. This will include a request for the delegation of plan making functions.

Hunter Regional Plan 2036

Nelson Bay is identified as a ‘strategic centre’ in the Hunter Regional Plan, with the following priorities:

- Maintain it as one of the primary tourist centres for the region and a hub for the Tomaree Peninsula.
- Maintain retail and professional services for the surrounding communities.
- Investigate opportunities for high-density development that maintains and enhances the tourist, recreational and residential appeal of the centre.
- Balance the mix of permanent residential and tourist accommodation to enhance the vibrancy and appeal of the centre and surrounds.

Whilst the site is not identified specifically in the Plan, the proposal would not be inconsistent with maintaining Nelson Bay as a hub for the Tomaree Peninsula because it will provide additional services and facilities in the locality. The proposal is similarly not inconsistent with maintaining the Nelson Bay town centre as the commercial and business centre on the peninsula, given the underlying zoning will remain residential and the additional permitted uses will be limited.

Port Stephens Planning Strategy 2011

The Port Stephens Planning Strategy (PSPS) provides a comprehensive planning strategy for the local government area. The PSPS identifies a number of key challenges and opportunities for Nelson Bay. The site is not specifically identified in

**ITEM 1 - ATTACHMENT 1 COUNCIL MINUTE 28 AUGUST 2018 PLANNING PROPOSAL 95A AND 97 STOCKTON STREET NELSON BAY.****MINUTES ORDINARY COUNCIL - 28 AUGUST 2018**

the PSPS, however the proposed additional permissible uses will enable the continuation of specific commercial activities on the site with limited impacts on the viability of the commercial land in Nelson Bay town centre, given the scale of the site and the limited uses that will be allowed.

Nelson Bay Town Centre and Foreshore Strategy 2012

The site is not within the boundary of the Nelson Bay Town Centre and Foreshore Strategy 2012, however given the commercial nature of the proposed additional permitted uses, the Strategy and the draft 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (2017)' (Delivery Program) (exhibited from 21 February 2018 to 4 April 2018) have been considered. The site is less than 1km from the commercial core of the town centre, however it is considered the continuation of specific commercial activities on the site will have limited impacts on the viability of the commercial land in Nelson Bay town centre, given the scale of the site and the limited uses that will be allowed. This is not inconsistent with the aims and objectives of the 2012 Strategy and draft Delivery Program.

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no significant environmental implications as a result of the Planning Proposal which concludes that the impacts related to the specific commercial activities can be addressed as part of any future development application.

There is also a positive social and economic impact identified through facilitating the sustainable use of the existing structures on the land and the provision of additional services in the neighbourhood.

**CONSULTATION**Internal

Consultation was undertaken with internal stakeholders including the Development Assessment and Compliance Unit. No major concerns were identified with the Planning Proposal. All associated impacts are considered able to be dealt with during the assessment stage of any future development applications.

External

Community consultation and consultation with Government agencies will be undertaken in accordance with the gateway determination.

**ITEM 1 - ATTACHMENT 1 COUNCIL MINUTE 28 AUGUST 2018 PLANNING  
PROPOSAL 95A AND 97 STOCKTON STREET NELSON BAY.**

**MINUTES ORDINARY COUNCIL - 28 AUGUST 2018**

**OPTIONS**

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

**ATTACHMENTS**

- 1) Locality Plan 95A and 97 Stockton Street Nelson Bay.
- 2) Current Zoning Map 95A and 97 Stockton Street Nelson Bay.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) Planning Proposal 95A and 97 Stockton Street, Nelson Bay.



**ITEM 1 - ATTACHMENT 1 COUNCIL MINUTE 28 AUGUST 2018 PLANNING PROPOSAL 95A AND 97 STOCKTON STREET NELSON BAY.**

**ITEM 1 - ATTACHMENT 1      LOCALITY PLAN 95A AND 97 STOCKTON STREET  
NELSON BAY.**

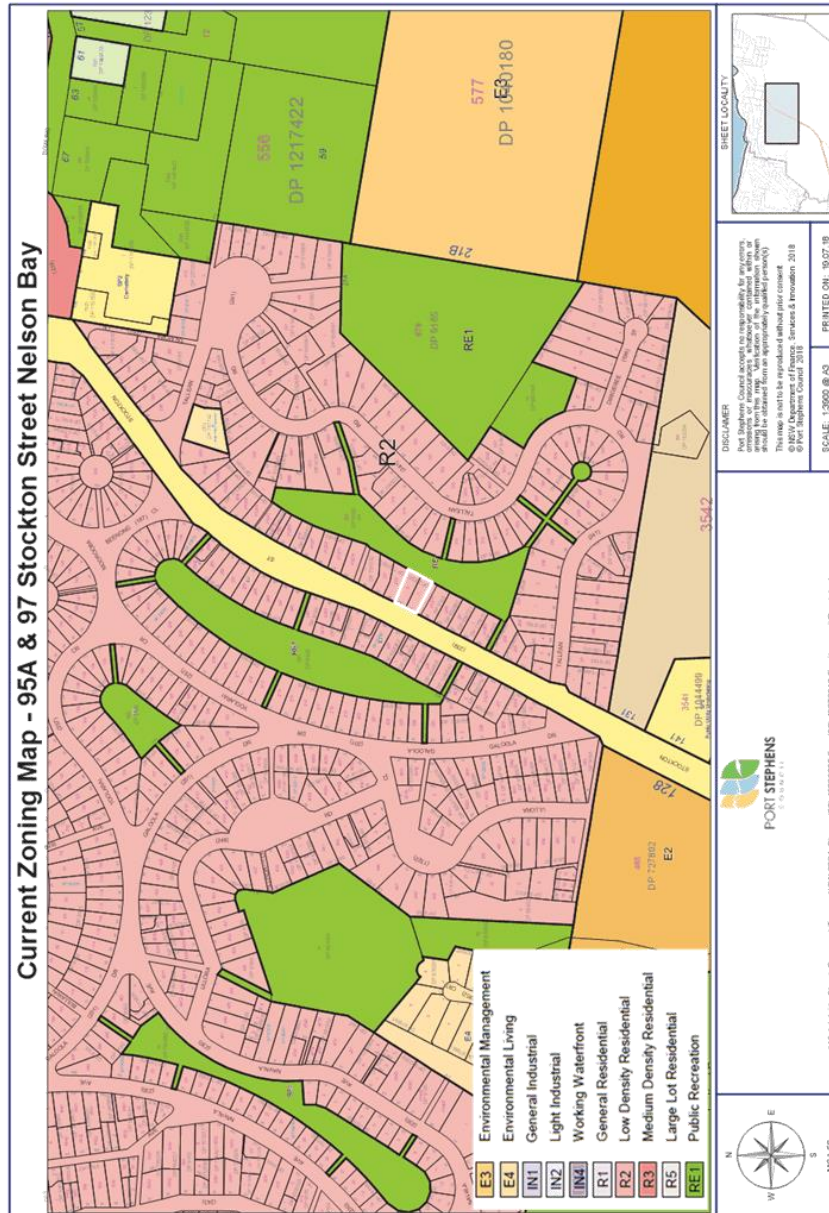


# MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

## ITEM 1 - ATTACHMENT 1 COUNCIL MINUTE 28 AUGUST 2018 PLANNING PROPOSAL 95A AND 97 STOCKTON STREET NELSON BAY.

### MINUTES ORDINARY COUNCIL - 28 AUGUST 2018

#### ITEM 1 - ATTACHMENT 2 CURRENT ZONING MAP 95A AND 97 STOCKTON STREET NELSON BAY.



There being no further business the meeting closed at 7.13pm.