# DRAFT

# EXTRA ORDINARY MINUTES
# 29 JANUARY 2019

PORT **STEPHENS**

C O U N C I L

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 29 January 2019, commencing at 5.31pm.

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

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| **001** | **Councillor Ken Jordan**<br>**Councillor Sarah Smith**<br><br>It was resolved that the apology from Cr Doohan be received and noted. |

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| | Cr Abbott declared a significant non-pecuniary conflict of interest in item 2 and Rescission Motion, item 1. The nature of the interest is a personal connection with the applicant. |

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| | Cr Le Mottee declared a pecuniary conflict of interest in item 2 and Rescission Motion, item 1. The nature of the interest is the Le Mottee Group has undertaken work on the site. |

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# MOTIONS TO CLOSE

**ITEM NO. 1** **FILE NO: 19/18377**
**EDRMS NO: PSC2008-2574**

**MOTION TO CLOSE**

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

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**RECOMMENDATION:**

1) That pursuant to section 10A(2) (d)ii of the *Local Government Act 1993*, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely ***Birubi Information Centre - Land Acquisition***.
2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:

- information that would, if disclosed, confer a commercial advantage on a competitor of the council.

3) That the report remain confidential and the minute be released in accordance with Council's resolution.

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**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

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| **002** | **Councillor Paul Le Mottee**<br>**Councillor Glen Dunkley**<br><br>It was resolved that Council:<br><br>1) That pursuant to section 10A(2) (d)ii of the *Local Government Act 1993*, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely ***Birubi Information Centre - Land Acquisition***.<br>2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<br>• information that would, if disclosed, confer a commercial advantage on a competitor of the council.<br>3) That the report remain confidential and the minute be released in accordance with Council's resolution. |

# COUNCIL REPORTS

**ITEM NO. 1** **FILE NO: 19/6885**
**EDRMS NO: PSC2018-02118**

**REVISED INTEGRATED PLANNING AND REPORTING DOCUMENTS AND DEBT RECOVERY AND HARDSHIP POLICY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

1) Receive and note the community submissions received in relation to the draft Integrated Planning and Reporting documents and the Debt Recovery and Hardship Policy **(TABLED DOCUMENT 1)**.
2) Note the analysis of submissions to the Integrated Planning and Reporting documents **(ATTACHMENT 1)** and the Debt Recovery and Hardship Policy **(ATTACHMENT 2).**
3) Adopt the Integrated Planning and Reporting documents, being the Community Strategic Plan 2018-2028, Delivery Program and Operational Plan 2018-2021 including a Statement of Revenue, Strategic Asset Management Plan 2019-2029, Long Term Financial Plan 2019-2029 and the Workforce Plan 2018-2021 with amendments as provided in **(ATTACHMENT 3)**.
4) Revoke the Debt Recovery and Hardship Policy dated 25 October 2016 (Minute No. 313).
5) Adopt the revised Debt Recovery and Hardship Policy **(ATTACHMENT 4)**.
6) Apply to the Independent Pricing and Regulatory Tribunal for a Special Rate Variation of 7.5% per annum (including the rate peg), over seven years, to be a permanent increase which will be retained within the rate base.

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**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

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| **003** | **Councillor Giacomo Arnott**<br>**Councillor Ken Jordan**<br><br>It was resolved that Council move into Committee of the Whole. |

**COMMITTEE OF THE WHOLE RECOMMENDATION**

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|---|---|
| | **Councillor Giacomo Arnott**<br>**Councillor Paul Le Mottee**<br><br>That the recommendation be adopted. |

Cr Arnott requested his name be recorded as opposing the motion.

**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| **004** | **Mayor Ryan Palmer**<br>**Councillor Paul Le Mottee**<br><br>It was resolved that Council:<br><br>1) Receive and note the community submissions received in relation to the draft Integrated Planning and Reporting documents and the Debt Recovery and Hardship Policy **(TABLED DOCUMENT 1)**.<br>2) Note the analysis of submissions to the Integrated Planning and Reporting documents **(ATTACHMENT 1)** and the Debt Recovery and Hardship Policy **(ATTACHMENT 2).**<br>3) Adopt the Integrated Planning and Reporting documents, being the Community Strategic Plan 2018-2028, Delivery Program and Operationa Plan 2018-2021 including a Statement of Revenue, Strategic Asset Management Plan 2019-2029, Long Term Financial Plan 2019-2029 anc the Workforce Plan 2018-2021 with amendments as provided in **(ATTACHMENT 3)**.<br>4) Revoke the Debt Recovery and Hardship Policy dated 25 October 2016 (Minute No. 313).<br>5) Adopt the revised Debt Recovery and Hardship Policy **(ATTACHMENT 4)**.<br>6) Apply to the Independent Pricing and Regulatory Tribunal for a Special Rate Variation of 7.5% per annum (including the rate peg), over seven years, to be a permanent increase which will be retained within the rate base. |

Cr Arnott requested his name be recorded as opposing the motion.

**BACKGROUND**

The purpose of this report is to provide Council with information on community submissions received relating to the draft Integrated Planning and Reporting (IP&R) documents and the draft Debt Recovery and Hardship Policy which have been revised to outline how Council would deliver the proposed projects and programs to be funded by a proposed Special Rate Variation (SRV).

The IP&R documents consist of:

- Community Strategic Plan 2018-2028;

- Delivery Program and Operational Plans 2018-2021;
- Long Term Financial Plan 2019-2029;
- Strategic Asset Management Plan 2019-2029; and
- Workforce Plan 2018-2021.

The Long Term Financial Plan and the Strategic Asset Management Plan are 10 year documents, whilst the Workforce Plan normally matches the term of the Delivery Plan being the term of Council. In this case, two years.

The Statement of Revenue within the Delivery Program also includes sub-categories of the ordinary residential and farmland rates within the Williamtown Management Area.

At the Council meeting of 13 November 2018, Supplementary Information provided some minor changes to correct material in the Delivery Program and Operational Plans 2018-2021.

The SRV application is scheduled to be lodged with the Independent Pricing and Regulatory Tribunal (IPART) by 11 February 2019, with determinations announced in May 2019.

As part of the SRV application, Council must demonstrate its capacity to deliver projects funded by a SRV by revising its IP&R documents and publically exhibiting these documents for community comment.

The IP&R documents were revised to detail the impact of a SRV. Given the timing of the SRV application and notification of results in May 2019, it would not be possible to re-exhibit these documents if the SRV application is not successful. For this reason, the documents were written to show:

- If the SRV application is successful, they clearly show how Council would deliver the identified SRV projects and programs; or
- If the SRV application is not successful, show how Council would continue to deliver its program with a rate rise of rate pegging only.
- A section outlining the proposed SRV was added to each document so each document could be read independently of the others.

The Debt Recovery and Hardship Policy incorporating a new Rates Assistance Program was also reviewed and exhibited at the same time as the IP&R documents. The most significant amendment was the addition of the Rates Assistance program, which would come into effect should the SRV application be approved in full.

Fees and Charges 2019-2020, which are normally considered with the IP&R documents, will be prepared for Council's consideration, endorsement and public exhibition in May 2019. Once the SRV determination is known, Council will also formally make the rates and charges for 2019-2020, including the Williamtown sub-categories, in conjunction with the adoption of the fees and charges.

PUBLIC EXHIBITION

The IP&R documents were on public exhibition from Wednesday 14 November 2018 until Friday 21 December 2018.

Copies of the documents were offered to key community groups and the following accepted this offer:

- Soldiers Point Community Group Inc.
- Tomaree Ratepayers and Residents Association.
- Shoal Bay Community Association.
- South Tomaree Community Association Inc.
- Tomaree Business Chamber.
- Tilligerry Community Association (at Tilligerry Community Library).
- Medowie Progress Association (at Medowie Community Hall).

The Mayor, Councillors and staff presented at eight meetings, including three Ward based community meetings and the community services interagency meetings organised by Council:

- East Ward - Thursday 29 November 2018 - Birubi Surf Club (est. 38 people).
- West Ward - Wednesday 5 December 2018 - Raymond Terrace Senior Citizens Hall (est. 10 people).
- Central Ward - Thursday 6 December 2018 - Medowie Community Hall (est. 25 people).
- Community services interagency meeting – Tuesday 11 December (est. 15 people).

Council also offered to present information at community meetings and were invited to attend two meetings:

- Medowie Progress Association – 26 November 2018 (est. 25 people).
- Tilligerry Community Association – 10 December 2018 (est. 60 people).

The Mayor also spoke at the Tomaree Business Chamber breakfast on 13 December 2018, at which an estimated 85 people attended. It is estimated that a total of 260 people attended these meetings.

The Mayor also spoke at the December 2018 ‘Nelson Bay Now’ meeting, at which representatives from EcoNetwork and Tomaree Ratepayers and Residents Association attended (est.12 people).

Both the Mayor and Councillors provided information on this issue to a wide range of contacts over the past six months including businesses, sports councils, community groups, 355c committees and individual members of the community.

Advertisements were placed in the Port Stephens Examiner and on Council's website inviting submissions. Boosts on social media were also used to promote the documents and the consultation program.

Submissions could be made in the following ways:

- through Council's online engagement platform, 'Have Your Say' on Council's website
- by email through council@portstephens.nsw.gov.au
- by mail.

FEEDBACK

Council received 90 submissions on the draft IP&R documents and three submissions for the draft Debt Recovery and Hardship Policy.

Draft Integrated Planning and Reporting (IP&R) documents

Submissions on the IP&R documents consisted of:

- 57 handwritten and emailed submissions.
- 33 Engagement HQ short submissions.

As with the first stage of consultation, due to the significance of the proposed SRV and the projects, all submissions are provided in full in **(TABLED DOCUMENT 1)** and have been redacted for privacy. A full set of un-redacted submissions are available in the Councillors Room.

Submissions consisted of:

- 77 individuals.
- 12 community organisations and groups:
    - Anna Bay All Abilities Regional Play Park Inc.
    - Destination Port Stephens
    - EcoNetwork – Port Stephens Inc. (on EHQ)
    - Fern Bay Fullerton Cove Progress Association
    - Lemon Tree Passage Parks, Reserves and Landcare Group – work group of Council
    - Shoal Bay Community Association Inc.
    - Soldiers Point Community Group Inc. (2 submissions)
    - Tilligerry Community Association Inc.
    - Tilligerry Landcare Group - 355C committee.
    - Tilligerry Forward Committee - community group.
    - Tomaree Business Chamber Inc.
    - Tomaree Ratepayers and Residents Association Inc.

Comments were also made on social media and verbal feedback was provided to the Mayor and Councillors.

The most visited and downloaded document was the Delivery Program and Operational Plans followed by the Community Strategic Plan.

| Document name | Visits | Downloads |
|---|---|---|
| Delivery Program and Operational Plans | 28 | 29 |
| Community Strategic Plan | 19 | 20 |
| Long Term Financial Plan | 8 | 9 |
| Strategic Asset Management Plan | 6 | 6 |
| Workforce Plan | 4 | 6 |
| Summary of SRV Plans | 2 | 2 |
| Debt Recovery and Hardship Policy | 2 | 2 |

ANALYSIS

Each formal, written submission was reviewed and summarised **(ATTACHMENT 1).**

Having reviewed these submissions, Council plans to make no substantive changes to the proposed SRV projects and programs.

Of the 57 long written submissions received:

- 19 (33%) commented on the SRV only;
- 16 (28%) commented on the IPR documents only;
- 21 (37%) commented on both the SRV and IPR; and
- 1 (2%) commented on neither (Morrison Low report).

Of the 57 respondents:

- 58% were not supportive of the proposed SRV;
- 32% made no comment; and
- 10% were supportive of the proposed SRV.

Numerous submissions commented on supporting the proposed SRV in principal, but at a lower rate over a shorter period of time.

Of the 33 short submissions received via Engagement HQ, the majority did not support the proposed SRV and felt that Council was ignoring results of earlier community consultation.

GENERAL COMMENTS

- Whilst this was the public exhibition of the delivery documents, many submissions did not provide feedback on the IP&R documents but continued to raise concerns about the proposed SRV.
- Submissions question the level and length of the SRV and the project priorities. There is some commentary supporting a lesser amount over a shorter period for more rigorously prioritised projects.
- Some continued to support a CPI rise only and there was some support for the proposed rate rise.
- The project priorities should be a focus on the key role of Local Government being roads maintenance and fixing deteriorated infrastructure.
- A number of submissions only addressed the proposed SRV projects and made recommendations for removal of some (eg. Spencer Park, Soldiers Point) and inclusion of others (eg. Iris Moore Reserve works, Drungall Avenue, Corlette). Whilst others supported the prioritisation of specific projects like the Avenue of the Allies, Tanilba Bay.
- Some submissions provided alternative priority projects to be added to the proposed SRV projects, without indicating which projects could be removed to remain cost neutral.
- A number of works proposed by respondents are already listed as part of the Capital Works Program.
- Some comment on the low level of funding for some projects; eg. foreshore rehabilitation. It is envisaged that these funds would be matched with State Government grants available for this work.
- No comment was received in relation to the proposed Williamtown sub-categories of the ordinary residential and farmland rates within the Williamtown Management Area.
- No comment was received in relation to the proposed reduction in waste service charges for eligible pensioners to be funded by cross subsidy of other ratepayers.
- Some submissions were very detailed, while others only addressed single issues.

Given the importance of this proposal to the community, Council will provide a response to each respondent for their long, written submissions.

GENERAL THEMES

Council values the time and effort community members have taken at a busy time of the year to provide details on the proposed SRV, projects and programs. This also included commentary on matters unrelated to this process.

Affordability of the proposed SRV continued to be of concern to respondents. Others did provide feedback on the IP&R documents, particularly on projects listed in the Strategic Asset Management Plan. Some felt that the projects did not reflect true community need while others stated that Council should “live within its means” and prioritise the projects more carefully.

In developing the proposed project and program list, Council aimed to provide equitable distribution of expenditure across the Local Government Area (LGA), with major assets to benefit the whole community through to more location specific projects. The enhanced community services also aimed to support the whole community.

However, respondents tended to focus on their own areas, rather than comment on the broader benefit of the SRV projects and programs, often questioning the necessity of projects in other locations.

HARDSHIP

- Impact of the proposed SRV being hardship caused to pensioners, low/fixed incomes, renters and businesses.
- Hardship Policy does not address impact on self-funded retirees or renters specifically.
- The potential impact of the proposed SRV on fixed and low incomes – such as families, pensioners, self-funded retirees, renters and small business – is of concern.

RESPONSE

The revised Hardship Policy proposes a new Rates Assistance Program providing mechanisms for Council to provide practical financial assistance to financially vulnerable ratepayers.

As part of the draft Statement of Revenue, Council proposed to assist pensioners with a reduction in waste service charges. Unlike rates, Council has the ability to modify waste charges. An affordability measure is to provide lower waste service charges for eligible (receiving a pensioner rate concession) pensioners.

To recoup this subsidy for eligible pensioners, Council would charge a higher waste service charge to all other ratepayers, for land categorised as “residential”, “farmland” or “business” whether occupied or unoccupied.

The following waste service charges will be applied:

Pensioners

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 |
|---|---|---|---|---|---|---|---|
| If SRV proceeds | $398 | $379 | $360 | $341 | $323 | $305 | $287 |
| If SRV not approved | $428 | $439 | $450 | $461 | $473 | $485 | $497 |

Non-pensioners

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 |
|---|---|---|---|---|---|---|---|
| If SRV proceeds | $436 | $453 | $471 | $490 | $508 | $527 | $546 |
| If SRV not approved | $428 | $439 | $450 | $461 | $473 | $485 | $497 |

No comment was received on this proposal. However, two public charities and one financial counselling service provided submissions on the draft Debt Recovery and Hardship Policy which is outlined below.

OPPOSITION TO PROPOSED SRV

- Council should live within its means. The proposed SRV is not necessary.
- A number of comments about a Council that has previously been rated as 'Fit for the Future' making a proposed SRV is unjustifiable.
- Concern about existing costs.
- Many projects are "nice to have" rather than essential.
- Priorities should be roads, foreshore erosion and environment.

RESPONSE

Council can continue with its current program of works and service delivery without a SRV. The annual rate peg rise allows for maintenance of services but a continuing diminution of infrastructure and no ability to undertake and maintain range of new infrastructure.

However, community feedback has continually highlighted that more is expected and this cannot be funded by grants or investment income alone.

PREVIOUS COMMUNITY FEEDBACK

- Misconception voiced at meetings and in a number of submissions that the majority of ratepayers have objected to the proposed SRV in the Stage One consultations.

RESPONSE

This is not accurate. Council undertook extensive consultation and received approximately 2,000 submissions and completed surveys. Overall 74% of respondents selected Option 1 (rate peg only) as their first preference, while 17% of respondents selected one of the SRV options as their first preference with 9% not answering the question.

Of these, 403 were random phone surveys 61% of respondents selected rate peg only (no SRV) as their first preference, while 39% selected one of the SRV options as their first preferences. This survey was conducted in such a way that it is a statistically valid sample of the community.

This first stage consultation was to assess the willingness of the community to adopt a rate rise above rate pegging. Of the three SRV options, following community consultation, Council resolved to develop the 7.5% model - not the highest option. Council also responded to community feedback by reducing proposed SRV funds being made available to depot relocations and increasing funds for the roads program.

Major infrastructure works are the outcome of previous community consultation and are also the outcomes of various strategic planning documents. Before these projects would proceed, further community consultation would be undertaken. Also implementation and/or infrastructure plans would be developed/reviewed where appropriate to support existing strategic planning documents; for example, the Anna Bay Strategy and Town Plan.

Many respondents commented on the potential hardship of a rate rise and Council has responded by the proposed introduction of a new Rates Assistance program in the Debt Recovery and Hardship Policy.

PROJECT AND PROGRAM FUNDING

- Some questioning of the level and veracity of budget estimates for projects – some considered too low, some too high.

RESPONSE

Council has used a variety of tools to estimate the building and construction project estimates of proposed SRV projects. These include extrapolating costs from current projects and using industry guides such as Cordell Cost Guide and Rawlinsons Construction Cost Guide.

Councils are also required to produce detailed Capital Expenditure Reviews for large projects expected to cost in excess of 10% of Council's annual ordinary rate revenue or $1 million, whichever is the greater (GST exclusive). Capital Expenditure Reviews have been developed for a number of the proposed SRV projects and must be lodged with Office of Local Government prior to the lodgement of the SRV application.

These are:

- Raymond Terrace and King Street revitalisation;
- Nelson Bay revitalisation;
- Medowie revitalisation;

- Depot relocations.

Some of the projects are not fully funded by the SRV but will rely on other funds for sources such as grants, general revenue and loans.

More detail is and will be available in the LTFP, SAMP and annual reports as the projects are undertaken. Further community consultation will also be undertaken for the major projects. Council will also be required to report on the progress of SRV funded projects on an annual basis.

RATE LIABILITY OF DIFFERENT ACCOMMODATION COMMUNITIES

- Continued concern over the different types of land ownership (and hence rates responsibilities) amongst gated communities.
- Lack of understanding about the different models of gated, over 50s lifestyle resorts.
- Some concern why some pay rates (and allegedly receive no benefit) while others do not pay rates yet benefit from Council's facilities and services.

RESPONSE

The issue of accommodation development models and liability to pay rates in the Port Stephens local government area is complex. There are a variety of models which include:

- Community title under the *Community Land Management Act 1989 (NSW)*, where each lot is Torrens Title, each owner is rated and the community may or may not be gated. Whether a community is considered "gated" or not has no effect on whether the lot owners are liable to pay rates and receive services in return.
- Tenancy under the *Residential (Land Lease) Communities Act 2013 (NSW)*, where each occupant owns their home but not the land. This may be a caravan park or a manufactured home estate, including over 55s lifestyle resort. The entity that owns the land is rated as business.
- Aged care facilities that are public charities pay no rates.
- Strata title where each lot is Torrens Title and each owner is rated.
- Non-strata units, duplexes and granny flats where a single rate notice is issued for multiple occupancies.

Given the level of confusion about this issue and the potential impact on planning and future rate revenue, it is proposed that Council prepare a discussion paper (in consultation with the relevant communities) on the issue.

TILLIGERRY PENINSULA

- A number of submissions raised concern about the proposed projects to be funded on the Tilligerry Peninsula, again adding to the list of potential new projects.

- A number of submissions raised that Lemon Tree Passage is not the town centre of the peninsula and that Tanilba Bay also needed to be considered.
- Some submissions questioned the significant amount earmarked for the upgrade of McCann Park.

RESPONSE

Given the diverse range of projects and views proposed by the residents of the Tilligerry community (individuals, four community organisations/groups) and the lack of consensus on their priority, it is proposed that an infrastructure plan be developed for the Tilligerry Peninsula. This would allow projects to be considered and prioritised. To assist in this work, Council may consider the establishment of a community advisory panel similar to Medowie and Raymond Terrace to guide the plan and projects.

DRAFT DEBT RECOVERY AND HARDSHIP POLICY

Council received three submissions in response to the Draft Debt Recovery and Hardship Policy, which included a new proposed Rates Assistance Program. The submissions are provided in full in **(TABLED DOCUMENT 1).** Analysis of these submissions is provided in **(ATTACHMENT 2).**

The Rates Assistance Program would only come into operation if Council's Special Rate Variation application is approved in full by IPART.

The two charities that responded with submissions are happy to participate in the Rates Assistance Program. One charity estimates up to 200 requests for financial assistance from homeowners each year. An amount of $5,000 is seen as reasonable under the program. Another charity does not assist many homeowners from Port Stephens so is unable to estimate demand for the Rates Assistance Program. The second charity would prefer their intensive support workers or financial counsellor administer the program in preference to their volunteers.

The most significant inclusion in the policy was the proposed Rates Assistance Program. The Rates Assistance Program is part of Council's response to the affordability issues raised during the first stage public consultation on the SRV.

Council contacted five financial relief or counselling services during the exhibition period to gauge their response to the Rates Assistance Program as proposed. Council also made contact with Financial Counselling Hunter Valley Project Inc. and had discussions with the financial counsellor active within the LGA. The services were generally supportive of the proposed Rates Assistance Program.

During the exhibition period, the Office of Local Government (OLG) issued Debt Management and Hardship Guidelines. These guidelines propose changes to the contemporary Council approach to debt management and may require a comprehensive review of Council's current practices and consideration of the

resource implications, including human resources, computer software resources and the current debt collection contract.

PROPOSED AMENDMENTS TO THE IP&R DOCUMENTS

Following the review of submissions and administrative corrections, proposed amendments to the IP&R documents are listed in **(ATTACHMENT 3)**.

GENERAL CHANGES

Early errors were corrected as part of Supplementary Information provided to Council at its meeting on 18 November 2018.

Another administrative error meant that funds being made available for Raymond Terrace town centre revitalisation, while referring to work planned for King Street ($3 million) and did not include this in the figure of $12 million. It is proposed to correct the figure to $15 million in all IP&R documents.

As the Raymond Terrace town centre revitalisation did include refurbishment of King Street ($3 million), the total figure should have been $15 million. Because of this, the total of town centre revitalisation be amended from $40 million to $43 million with the total major, one off infrastructure projects with additional borrowing raising from $112.150 million to $115.150 million.

All IP&R documents (except for the CSP) contained a proposed SRV chapter so that only one document was reviewed. The background to the reader would also be available.

Feedback from groups and residents of the Tilligerry Peninsula community raised the issue that Lemon Tree Passage too narrowly defined neighbourhood revitalisation in this area. In response to this, it is proposed that this be amended to read “Lemon Tree Passage and Tanilba Bay”.

The above amendments would be made to all IP&R documents.

COMMUNITY STRATEGIC PLAN 2018-2028

As the community priorities remained the same, this document was not amended for public exhibition and no comments were received.

DELIVERY PROGRAM AND OPERATIONAL PLANS 2018-2021

General changes as outlined above.

In addition to the above general changes, a number of minor editorial corrections are required.

LONG TERM FINANCIAL PLAN 2019-2029

General changes as outlined above.

The total of SRV capital spend over 10 years has been corrected from $112 million to $115 million. This has had a minor effect on the projected underlying operating surplus from 2023-2024 and sections 1 and 9 of the LTFP are amended accordingly.

As a result of the $3 million increase in capital expenditure and subsequent flow-on effect to the underlying operating surplus from 2023-2024, the three primary financial statements and respective ratio graphs have been amended in Section 10.

STRATEGIC ASSET MANAGEMENT PLAN 2019-2029

General changes as outlined above and minor corrections.

SAMP9 uses Census 2011 data. For SAMP10, these figures will be updated using Census 2016 material.

WORKFORCE PLAN 2018-2021

General changes as outlined above.

PROPOSED AMENDMENTS TO THE DEBT RECOVERY AND HARDSHIP POLICY

Following the review of submissions, proposed amendments to the Debt Recovery and Hardship Policy are outlined in **(ATTACHMENT 4)**.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

The IP&R documents clearly show project and programs that would be funded if a SRV application is successful.

The Rates Assistance Program (subject to a full SRV being approved) proposed in the revised Debt Recovery and Hardship Policy proposes a $5,000 budget per welfare agency. Financial Counselling Hunter Valley Inc. does not provide financial relief directly, however emergency/financial relief is provided by each of the other five agencies contacted by Council. It is proposed that a total budget of $25,000 be allocated should the SRV proceed. There is no transfer of funds to the external services under the proposal, rather they will recommend to Council those ratepayers they have assessed as being eligible to receive a credit onto their rate assessment.

Costs associated with the policy are covered in the Corporate Services Group budget.

| Source of Funds | Yes/No | Funding ($) | Comment |
|---|---|---|---|
| Existing budget | Yes | 25,000 | Costs associated with the review of these documents are covered in the Corporate Services Group budget.<br><br>Ongoing costs associated with the implementation of the Policy are managed through Council's budget process. |
| Reserve Funds | No | | |
| Developer Contributions (S7.11) | No | | |
| External Grants | No | | |
| Other | No | | |

The objectives of the Debt Management and Hardship Guidelines issued by the OLG include contemporary, flexible rate collections that incorporate identifying and working with ratepayers in hardship, and reduced use of expensive court processes. The guidelines state "Councils should take legal action in court as a last resort rather than a matter of practice. (p26)" and "The Department of Justice is developing a new Civil Justice Strategy that places a strong emphasis on dispute resolution prior to filing in court, particularly by State agencies and councils. (p27)". Council already uses some of the practices recommended in the guidelines, but may have opportunities to further implement other practices such as:

- bill smoothing while withholding interest charges;
- developing additional fact sheets and better communication materials,
- implementing Centrepay for Centrelink customers to make payments to Council directly from Centrelink payments;
- proactively updating ratepayer contact information;
- potentially formalising within the policy attempts to contact ratepayers other than by letters and notices about overdue amounts (eg. SMS, email, phone) prior to sending a final notice;
- formalising repayment agreements in writing to the ratepayer;
- incorporating alternative dispute resolution in policy to attempt to resolve matters before filing in court; and
- filing of court documents online by Council itself rather than using a debt collection agent to reduce the legal costs recoverable from the ratepayer.

Council may need to undertake a comprehensive review of the financial and resource implications of adopting some of the OLG's recommendations and for this reason, it is proposed that the revised Debt Recovery and Hardship Policy be adopted for a reduced timeframe of twelve months so that a policy review may be conducted in 2019-2020.

**LEGAL, POLICY AND RISK IMPLICATIONS**

IP&R DOCUMENTS

Under section 402(5) and (6) of the *Local Government Act 1993* (the Act) following an ordinary election of Councillors, Council must review the Community Strategic Plan before 30 June, with the draft plan to be placed on public exhibition for 28 days and submissions received considered by Council before the plan is adopted.

Under section 403 of the Act, Council is required to review and have a resourcing strategy to implement the strategies established by the Community Strategic Plan that the Council is responsible for.

Under section 404(3) and (4) of the Act, Council must establish a new Delivery Program after each election of Council for the four years (3 years this term) commencing on 1 July with the draft program to be placed on public exhibition for 28 days and submissions received considered by Council before the program is adopted.

Under section 405 of the Act, Council must have an operational plan adopted before the beginning of the year detailing the activities to be engaged in. Council is required to place its Operational Plan on public exhibition for 28 days and consider submissions received during that period prior to adoption of the final plan. These plans must be adopted by Council prior to 30 June in any given year.

Sections 532-543 of the Act specify the requirements to make rates and charges in any given year. The legislation requires rates and charges to be made annually by Council resolution and served by 1 August. Council must obtain IPART approval to exceed the rate pegging limit. As part of this process, Council is required to revise its IP&R documents to demonstrate that SRV projects are in line with these strategic documents and Council has the capacity to deliver them.

DEBT RECOVERY AND HARDSHIP POLICY

In discussions with service providers the view was expressed that a rigorous eligibility assessment process might be beneficial to enable scarce funds to be fairly allocated to those most in need.

Clause 207 of the *Local Government (General) Regulation 2005* requires Council to promptly collect or recover all money payable to it.

Sections 567, 577 and 601 of the Act empower Council to provide hardship assistance in specific circumstances.

Section 356 of the Act allows Council to financially assist individuals for the purpose of exercising its functions where the assistance is part of a specific program, and has been included in Council's operational plan, does not exceed 5% of Council's rate income and the program applies to a significant group of persons in the LGA.

The adoption of a policy prescribing debt recovery and hardship processes promotes efficiency, consistency and transparency.

| **Risk** | **Risk Ranking** | **Proposed Treatments** | **Within Existing Resources?** |
|---|---|---|---|
| There is a risk that Council does not have an understanding of community priorities. | Low | Consultation on and adoption of the CSP. | Yes |
| There is a risk that Council does not have the resources to meet its Delivery Program. | Medium | Some aspirations in the current CSP can only be resourced with additional funds through a SRV. | Yes |
| There is a risk that the Integrated Plans are not adopted in the timeframe required by legislation, leading to breach of legislation and loss of reputation. | Low | Council adopt the Integrated Plans before 30 June 2019. | Yes |
| There is a risk that the allocated budget for the Rates Assistance Program might be insufficient and be fully utilised part way through the year | Medium | Accept the recommendations and adopt the Policy to allow the Rates Assistance Program to be incorporated into the Policy for submission with Council's SRV application and review it again during the next twelve months. | Yes |

| Risk | Risk Ranking | Proposed Treatments | Within Existing Resources? |
|---|---|---|---|
| There is a risk that adopting all of the OLG's recommendations without a comprehensive review of the resources required might result in more costly rate and debt collection | High | Accept the recommendations and review the Policy again during the next twelve months. | Yes |
| There is a risk that failure to adopt the revised policy including the Rates Assistance Program might demonstrate inadequate hardship assistance for individuals in the SRV application | Medium | Accept the recommendations and adopt the Policy to allow the Rates Assistance Program to be incorporated into the Policy for submission with Council's SRV application and review it again during the next twelve months. | Yes |

**SUSTAINABILITY IMPLICATIONS**
Includes Social, Economic and Environmental Implications

The draft Community Strategic Plan has been developed in alignment with the principles of sustainability and social justice, as required by Sections 402(3) of the Act. Following community consultation in July/August 2018, no major changes to community needs were identified and so this document was not modified.

The Delivery Program and Operational Plans have been founded on a quadruple bottom line basis of social, economic, environmental and governance factors through the four Focus Areas. The Four Focus Areas, 'Our Community, Our Place, Our Environment and Our Council' provide a structure for all of the Plans, enabling Council to address key actions while aiming to holistically meet the community's vision of 'A great lifestyle in a treasured environment'.

Rate income is necessary for Council to deliver the services outlined in the Delivery Program and Operational Plans.

The resourcing strategies have additional sections that address how Council would utilise additional funds secured for a rate increase and how it would deliver identified SRV projects.

The Long Term Financial Plan and the Strategic Asset Management Plan are modelled across ten years, which encapsulates most of the major projects to be funded by a proposed SRV.

While the workforce plan would normally only be modelled across the same time frame as the delivery program, a separate addendum has been included to demonstrate how Council would approach the workforce planning over the 10 year period for SRV projects.

The Debt Recovery and Hardship Policy is a public statement of Council's commitment to a fair, consistent approach to debt collection and hardship assistance.

The Rates Assistance Program provides practical financial assistance to financially vulnerable ratepayers, which is consistent with Council's charter of social justice and equity. The provision of a modest budget for financial assistance is economically sustainable given it is in response to an increase in Council's rate income.

**CONSULTATION**

Each long submission to the IP&R documents was reviewed and summarised **(ATTACHMENT 1).**

The aim of community consultation was to inform the community about the proposed Special Rate Variation projects and programs to be delivered as outlined in the revised IP& R documents and seek feedback.

Extensive consultation has already been undertaken in regard to the proposed Special Rate Variation. Stage One (July/August 2018) sought the community's views on a possible rate rise. Outcomes of this consultation with received submissions were detailed in a Council report (Item 7) at its meeting of 9 October 2018.

At this meeting, Council noted the outcomes of community consultation for a proposed Special Rate Variation and resolved to notify the Independent Pricing and Regulatory Tribunal of its intention to apply for a Special Rate Variation of 7.5% per annum (including the rate peg), over seven years, to be a permanent increase which will be retained within the rate base.

It also endorsed the development of the Integrated Planning and Reporting documents for further consideration (9 October 2018, Min No: 114).

Stage Two (November/December 2018) sought community views on the proposed projects and programs for be funded by the proposed 7.5% increase. The Integrated Planning and Reporting documents were modified to include the impact of the proposed Special Rate Variation.

Documents available on Council's website were:

- Community Strategic Plan 2018-2028;
- Delivery Program and Operational Plans 2018-2021;
- Long Term Financial Plan 2019-2029;
- Strategic Asset Management Plan 2019-2029;

- Workforce Plan 2018-2021;
- Debt Recovery and Hardship Policy (incorporating a Rates Assistance Program);
- Ready Reckoners for each rate category;
- Frequently Asked Questions; and
- SRV information material.

Hard copies of these documents and a proposed SRV booklet which outlined the delivery of the projects were also made available at Council's libraries and Administration Building. Copies were also provided in the lobby of the Medowie Community Hall and the Tilligerry Community Library.

They were made available for download from Council's website. Hard copies of the proposed SRV booklet were also available on request.

The issue of a proposed SRV continues to be commented on in the traditional print media as well as on social media.

External

Numerous community groups as detailed above were contacted in regard to the draft IP&R documents.

In addition to this, Council also contacted the following agencies in regard to the draft Debt Recovery and Hardship Policy:

- Port Stephens Family and Neighbourhood Services.
- Tomaree Neighbourhood Centre.
- St Vincent de Paul Raymond Terrace Conference.
- Salvation Army Raymond Terrace.
- Samaritans Emergency Relief.
- Financial Counselling Hunter Valley Project Inc.

The public exhibition of the documents were also widely promoted through advertisements in print media, media articles and radio interviews and social media posts.

Internal

- Mayor and Councillors.
- Executive Leadership Team.
- Financial Services Manager.
- Organisation Development Manager.
- Asset Manager.
- Corporate Analyst.
- Finance Reporting Coordinator.
- Finance and Revenue Coordinator.

- Communications Manager.
- Revenue staff.

**OPTIONS**

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

**ATTACHMENTS**

1) Analysis of submissions to IP&R documents.
2) Analysis of submissions to Debt Recovery and Hardship Policy.
3) Proposed amendments to the Integrated Planning and Reporting documents.
4) Revised Debt Recovery and Hardship Policy.

**COUNCILLORS ROOM**

1) Community submissions.

**TABLED DOCUMENTS**

1) Community submissions.

## ATTACHMENT 1 : ANALYSIS OF FULL WRITTEN SUBMISSIONS TO IP&R DOCUMENTS

| Ref | RM8 | Feed back | SRV View | IPR Comment or Not | Group | Key issues |
|---|---|---|---|---|---|---|
| 1 | 348382 | SRV | Negative | N | | 7.5% excessive amount<br>Lesser amount with more information of where the money will go |
| 2 | 348735 | SRV | Negative | N | | 7.5% is higher than CPI -is that fair?<br>Some level of increase may be justified |
| 3 | 349933 | SRV | Negative | N | | No demonstrated need |
| 4 | 362279 | SRV | Negative | N | | Hardship for fixed incomes<br>Too high more than enough, young families and elderly.<br>Unfair and unnecessary -stay with 2%. |
| 5 | 364886 | SRV | Negative | N | | Proposed increase is over the top |
| 6 | 360564 | SRV | Negative | N | | Hardship for first home buyers<br>Consider first home buyers and elderly on budget |
| 7 | 377832 | SRV | Negative | Y | | Specific projects<br>Nobles Road Nelsons Plain<br>rubbish dumping at Irrawang Bridge |
| 8 | 378017 | SRV | Negative | N | | Hardship for self funded retitirees<br>Cost of projects too high for impact on self-funded retirees<br>The RAP should include assistance for self funded retirees |
| 9 | 378508 | SRV | Negative | N | | Do not need more tourists |
| 10 | 378741 | SRV | Negative | N | | Hardship<br>Consultation ignored<br>Majority of ratepayers have already spoken |
| 11 | 381894 | Both | Positive | Y | | Specific projects<br>Drinking stations on walking tracks |
| 12 | 389194 | SRV | Negative | N | | Hardship - excessive increase<br>Consultation ignored<br>Ability to deliver - Council has poor financial record |
| 13 | 394234 | SRV | Negative | N | | Ability to deliver - Council inefficient<br>Waste in previous works |
| 14 | 400029 | IPR | No comment | Y | | Detailed submission<br>Specific project<br>Higher priority to replace Central Park BBQ/shelters |
| 15 | 400164 | Both | Positive | Y | | Specific projects<br>Some increase justified but a lower amount<br>Tomaree Sports Centre needs upgrade |
| 16 | 407616 | SRV | Negative | N | | Opposes increase<br>Live within means |
| 17 | 415896 | IPR | No comment | Y | G | Detailed submission<br>Projects for Tilligerry Peninsula<br>IncludeTanilba Bay in town centre enhancement<br>Coastal erosion management needed<br>Tree preservation/biodiversity inadequate, poor management practises, park infrastructure aged and broken<br>Formation of community consultation group |
| 18 | 415856 | Both | Negative | Y | | Increase is not reasonable impact on high percentage of fixed income residents<br>Community engagement inadequate<br>No essential services are in jeopardy<br>Nice to have projects<br>Poor financial strategy<br>No evidence of productivity improvement<br>Council incompetent |
| 19 | 416261 | Both | Negative | Y | | Burden to ratepayers self funded retirees<br>Stick to budget<br>Do not sell community land. |
| 20 | 417994 | Both | Negative | Y | | Ignored community consultation<br>Live within means<br>Projects are wish list<br>No 1 priority should be to build and maintain roads<br>This is a tourist levy in a different guise |
| 21 | 418050 | IPR | No comment | Y | | Detailed 32 page submission<br>Projects for Tilligerry Peninsula. |

## ATTACHMENT 1 : ANALYSIS OF FULL WRITTEN SUBMISSIONS TO IP&R DOCUMENTS

| Ref | RM8 | Feed back | SRV View | IPR Comment or Not | Group | Key issues |
|---|---|---|---|---|---|---|
| 22 | 451702 | SRV | Negative | N | | Does not comply with guiding principles in Long Term Financial Plan in regard to borrowings and funding repayments<br>Do not support application as it is flawed and contradictory<br>Cannot find buiness case for projects<br>Pensioners and self funded retirees affected<br>Fit for the Future so why need SRV |
| 23 | 451364 | Both | Negative | Y | | Detailed 12 page submission<br>Hardship for pensioners<br>Do not support Spencer Park - road widening and parking spaces<br>Koala tree preservation is important<br>IPR figures are inflated |
| 24 | 442141 | Both | Negative | Y | | Increase not justified by the identified projects<br>Hardship for people with tight budgets<br>Will not encourage business growth<br>None of the SRV projects are essential<br>CPI rise only |
| 25 | 440331 | Both | Negative | Y | G | Detailed submission<br>Oppose SRV as not sufficently considered financial hardshp, previous consultation or ecological sustainable development<br>Hardship policy not adequate - what about self funded retirees<br>Foreshore erosion should be priority<br>Pensioners rebate has not increased<br>Identification of poor infrastructure<br>Fit for the Future - why needed?<br>Financial mismanagement<br>Ecological sustainable development |
| 26 | 433660 | SRV | No comment | N | | Why do the The Cove residents pay rates with limited Council services? |
| 27 | 431390 | Both | Negative | Y | | Little community infrastructure in Fern Bay<br>Need bus shelters, replace dead street trees, bumpy road entrances<br>Buy land for community infrastructure<br>Seaside Estate Fern Bay |
| 28 | 431219 | IPR | No comment | Y | G | Projects for Tilligerry Peninsula<br>Apparent inequality of projects and funds across the peninsula<br>Incomplete path linkages<br>Foreshore erosion<br>Koala protection, street tree planting, drainage |
| 29 | 407748 | IPR | No comment | Y | | Specific project.<br>Shoal Bay cycleway along waterfront to ANZAC Park |
| 30 | 453320 | IPR | No comment | Y | G | Detailed submission - Shoal Bay projects<br>Shola Bay deserves town centre funding<br>Foreshore erosion<br>Inadequate stormwater drainage<br>Pedestrian access to Shoal and Fingal Bays<br>Inadequate facilities for tourists - need more amenities, parking |
| 31 | 454134 | SRV | Negative | Y | | Objects to rate rise<br>Pensioners affected<br>Inadequate parking for some businesses<br>Fit for the Future - why need it<br>Foreshore erosion needs more funding<br>Ecological Sustainable Development |
| 32 | 454268 | Both | Positive | Y | G | General support for projects and services<br>Supports town centre revitalisation, events funding, Birubi Information Centre, Tomaree Sports Complex |
| 33 | 462772 | Neither | No comment | N | | Concerned about the Morrison Low report<br>Questions economic multiplier effect and impact on ratepayer disposable income |
| 34 | 481523 | SRV | Negative | N | | Hardship<br>SRV will be passed onto renters |
| 35 | 470040 | Both | Negative | Y | G | Detailed submission<br>Opposed to Spencer Park project<br>Ability to deliver<br>No clear consensus on projects.<br>Majority of ratepayers oppose increase. |

## ATTACHMENT 1 : ANALYSIS OF FULL WRITTEN SUBMISSIONS TO IP&R DOCUMENTS

| Ref | RM8 | Feed back | SRV View | IPR Comment or Not | Group | Key issues |
|---|---|---|---|---|---|---|
| 36 | 478809 | IPR | No comment | Y | | Specific project<br>Increase priority of Iris Moore Park and Birubi Lane Reserve projects to encompass Anna Bay All Ability Regional Play Park<br>Public amenities and parking in high demand |
| 37 | 478582 | Both | Negative | Y | | No community facilities at Fern Bay<br>Section 94 funds not used in Fern Bay<br>Hardship<br>Self funded retirees and families |
| 38 | 478469 | SRV | Negative | N | | Detailed submission<br>IPR figures played down<br>Ability to deliver<br>More detail on the roads program required<br>No mention of increases in waste charges<br>Some over 55 villages do not pay rates.<br>Hardship - will affect renters and pensioners - limited incomes |
| 39 | 478325 | Both | Positive | Y | | Support SRV in principle<br>Projects in Raymond Terrace - opportunity to change William Street drainage<br>Ability to deliver<br>Need process to closely monitor progress Too much focus on tree removal<br>Boomerang Park masterplan needs revisiting<br>Depot relocation could flood<br>Cycleway completion |
| 40 | 478214 | Both | Negative | Y | | Objects to level and length of SRV<br>Council is ignoring SRV opposition<br>Support NB town centre revitalisation<br>Rate increase is affordable by submitter but not so for others<br>Concern for people in community on lower incomes<br>Want to see improvements but at a sensible pace<br>No detail on how $15m in Nelson Bay will be spent. No detailed business plans |
| 41 | 478117 | Both | Negative | Y | | Doubts veracity of figures.<br>Oppose Spencer Park project - no shortage of parking<br>SRV too high<br>Ability to deliver<br>Solve Lagoons Estate<br>Rising sea levls and associated costs |
| 42 | 476470 | Both | Negative | Y | | First stage consultation ignored<br>Ability to deliver<br>Why relocating depots<br>Opposes Tomaree Sports Complex upgrade - only needs new amenities<br>Make sand mines pay for road repairs |
| 43 | 467693 | IPR | No comment | Y | | Conroy Park erosion needs to have higher priority |
| 44 | 485814 | IPR | No comment | Y | | Council has done a good job in managing costs and expenditure over time<br>Nice to have projects<br>Residents come before tourists<br>Depot relocations costs seem too high<br>Birubi Information Centre -should be funded by tourist operators, form a cooperative |
| 45 | 19/18 | Both | Negative | Y | G | Detailed submission<br>Hardship for renters and business owners<br>Council already has capacity to fund infrastructure<br>Significant majority of community opposed to SRV<br>Why need SRV to deliver projects<br>Something for everyone<br>Less ambitious project list more rigorously prioritised<br>Question level and length of SRV |
| 46 | 490510 | Both | Positive | Y | G | Supports proposed SRV as region is falling behind<br>Important SRV funds provided equitably between the Wards<br>Nelson Bay parking should be a prioirty |
| 47 | 490542 | SRV | Negative | N | | Hardship for pension dependents<br>Council's aspirations need to be tempered to community demographics<br>NSW government be approached to provide more funds<br>SRV above CPI not supported<br>NSW govt should provide more financial support<br>Hardship Policy will only aggravate a new group of marginalised residents |

## ATTACHMENT 1 : ANALYSIS OF FULL WRITTEN SUBMISSIONS TO IP&R DOCUMENTS

| Ref | RM8 | Feed back | SRV View | IPR Comment or Not | Group | Key issues |
|---|---|---|---|---|---|---|
| 48 | 490548 | IPR | No comment | Y | | Detailed 9 page submission<br>Detailed analysis of SAMP<br>SRV project list questioned<br>Critical of park and reserve maintenance (weeds and watering)<br>Critical of lack of environment staff<br>Conroy Park restoration |
| 49 | 490567 | Both | Negative | Y | | Revised document does not adquately adress the issues raised previously<br>Cannot support a rate rise for the poorly detailed proposal for new spends<br>Tilligerry needs refurbishment<br>Fix the broken stuff first |
| 50 | 490695 | IPR | No comment | Y | | Lack of funding for foreshore erosion<br>Need for more environment staff<br>Opposed to Spencer Park project |
| 51 | 490766 | IPR | No comment | Y | G | Specific project<br>Increase priority of Iris Moore Park and Birubi Lane Reserve projects to encompass Anna Bay All Ability Regional Play Park |
| 52 | 490783 | Both | Positive | Y | | Ratepayers should be not be responsible contributing to tourism facilities<br>Projects need to benefit all ratepayers (eg green waste collection, verge mowing and events)<br>Comments on Workforce Plan - more support for volunteers<br>Environmental programs are minimal<br>Commercial operators should pay for Birubi Information Centre<br>Focus on removal of dangerous trees - what will they be replaced with |
| 53 | 490997 | IPR | No comment | Y | G | Specific projects in Lemon Tree Passage<br>No detail on addressing infrastructure backlog<br>Material does not justify $2m proposed projects for LTP<br>Town centre location is not logical<br>Does not address backlog projects in LTP<br>McCann Park project not detailed enough<br>No informed decision on the prioirity or value for money to the local communiy.<br>MorrisonLow report is easily challenged - vague generalisations. |
| 54 | 491229 | IPR | No comment | Y | | Specific projects in Lemon Tree Passage.<br>Council is disconnected from the community.<br>Locals not asking for improving McCann Park. |
| 55 | 19/64 | IPR | No comment | Y | G | Detailed submission - Fern Bay<br>Unfair return for contribution of SRV for Fern Bay<br>Project suggestions - bus shelters, paths, rebuild public amenities |
| 56 | 19/2 | Both | Negative | Y | | SRV too high, needs to be 5%<br>Council did a good job running the IP&R information session<br>Rate increase is necessary<br>Hardship for low income people -pensions, self funded retirees, low wages<br>Non critical projects need to be reprioritised<br>Developer contributions need to be used for community infrastructure<br>Council's cost improvement intiatives need to be reported<br>Prioirty footpaths for Medowie |
| 57 | 349288 | IPR | No comment | Y | | Kent Gardens project - kerb and gutters |

## ITEM 1 - ATTACHMENT 2 ANALYSIS OF SUBMISSIONS TO DEBT RECOVERY AND HARDSHIP POLICY.

**ATTACHMENT 2: Summary of submissions to the draft Debt Recovery and Hardship Policy**

| Received from | Issues raised | Response |
|---|---|---|
| St Vincent de Paul | Willing to participate in the proposed Rates Assistance Program, estimates up to 200 home owners might seek assistance annually, believes $5,000 limit per support service is a reasonable amount | Propose to include St Vincent de Paul in the Rates Assistance Program. Propose to allocate $5,000 annual budget per support service as the amount each service may recommend in hardship support for ratepayers |
| Samaritans | Willing to participate in the proposed Rates Assistance Program | Propose to include Samaritans in the Rates Assistance Program |
| Financial Counselling Hunter Valley Project Inc | Council must take the *Office of Local Government Debt Management and Hardship Guidelines November 2018* into account when developing and implementing debt management and hardship policies | Guidelines were issued for the first time by the Office of Local Government after the Debt Recovery and Hardship Policy was placed on public exhibition. Due to the timing the revised policy as displayed did not take these guidelines into consideration. The reason for revising the policy was to include the Rates Assistance Program prior to lodging the Special Rate Variation with IPART on 11 February 2019. Due to tight timeframes it is proposed to adopt the revised policy with some changes and conduct a comprehensive review of the policy later in 2019 |
| Financial Counselling Hunter Valley Project Inc | Purpose of policy (1.1) add<br>• Fair and equitable treatment of people in hardship | This is an appropriate inclusion however replicates Council's commitment in the existing policy at Scope (3.1) "All people will be treated fairly and consistently" |
| Financial Counselling Hunter Valley Project Inc | Purpose of policy (1.1) add<br>• To comply with the Local Government Debt Management and Hardship Guidelines | This is an appropriate inclusion and has been added to the Purpose (1.1) |
| Financial Counselling Hunter Valley Project Inc | Remove the word "genuine" from recognition of hardship in Scope (3.1) | This is an appropriate exclusion from Scope (3.1) for the reasons stated in the submission |
| Financial Counselling Hunter Valley Project Inc | Insertion of the option to receive reminder notices by email at Rates and Charges Notice (5.1) | This is an appropriate inclusion as Council provides this service, and has been added to Rates and Charges Notice (5.1.1) |
| Financial Counselling Hunter Valley Project Inc | Provide contact details for local support services for ratepayers having financial difficulty, on the overdue instalment notice | This is an appropriate inclusion, however space is limited on overdue notices and this suggestion might be better considered in conjunction with the |

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**ITEM 1 - ATTACHMENT 2 ANALYSIS OF SUBMISSIONS TO DEBT RECOVERY AND HARDSHIP POLICY.**

| | | |
|---|---|---|
| | (5.1.2.1) | overall communication strategy for this area including bill design, information sheets and correspondence revision. It is proposed that this inclusion be listed for the next review of the policy during 2019 |
| Financial Counselling Hunter Valley Project Inc | Referral of debt to debt collection agency (5.1.3). Increase timeframe from 14 days to 21 days after overdue notice issued. Add wording to not refer for debt collection ratepayers with outstanding requests for hardship assistance or where contact has been made with Council by support services on their behalf | This is an appropriate inclusion and the timeframe can be met. It makes provision for Council to 'stop the clock' if there is hardship assistance requested or a support service representing the ratepayer contacts Council |
| Financial Counselling Hunter Valley Project Inc | Include on Council's debt collection agency letter of demand (5.1.4) relevant contact details for local support services if the ratepayer is having financial difficulty and increase the timeframe for the ratepayer to respond from seven days to 28 days | This is an appropriate inclusion and the redrafting of the letter of demand should be considered in conjunction with the overall communication strategy for billing and debt recovery including bill design, information sheets and correspondence revision. Council is in the process of obtaining contact details and consent to publish these from local support services. Revised timeframes will require coordination with Council's debt collection agency. It is proposed that this inclusion be listed for the next review of the policy during 2019 |
| Financial Counselling Hunter Valley Project Inc | In relation to debt escalation (5.1.4.1) include a statement that Council will only take legal action as a last resort and increase the timeframe between the issue of the letter of demand and instituting legal action from nine days to 21 days | These are appropriate inclusions and reflect Council's reliance on legal action as a last resort, generally after attempts at contacting ratepayers have been unsuccessful. Delaying legal action until 21 days after the letter of demand issues is appropriate as it allows for sometimes slow mail delivery, allows the ratepayer more time to pay and allows more time for contact |
| Financial Counselling Hunter Valley Project Inc | In relation to payment arrangements (5.1.5.1) introduce the ability for ratepayers to make payment arrangements for rates not yet overdue | This is an appropriate inclusion as Council already enters into such arrangements |
| Financial Counselling Hunter Valley Project Inc | In relation to payment arrangements (5.1.5.1) introduce Centrepay as a payment option | It is proposed that this be the subject of further investigation and cost/benefit analysis and be listed for the next review of the policy during 2019. Council presently offers payment options of |

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**ITEM 1 - ATTACHMENT 2 ANALYSIS OF SUBMISSIONS TO DEBT RECOVERY AND HARDSHIP POLICY.**

| | | |
|---|---|---|
| | | BPAY (internet and phone), BPOINT (internet, phone), Direct Debit, PostBillpay (internet, phone and in-person at any Australia Post outlet) and in-person, mail and Council website payment options. The cost to Council for these payment methods varies from 5 cents to approximately $2. Council received 178,000 rate payments last year. Centrepay at 99 cents (inc GST) per transaction would be the second most expensive payment method after in-person at Australia Post. All of the other payment methods provide payment data to Council in data files, so Council would need to investigate whether Centrepay can provide data files of payments or whether manual receipting is required |
| Financial Counselling Hunter Valley Project Inc | In relation to payment arrangements (5.1.5.1) suspend interest for hardship repayment arrangements and waive if arrangement is completed | It is proposed that this be the subject of further investigation and be listed for the next review of the policy during 2019. The reason for this is to ensure that any new policy treats ratepayers consistently and fairly, and to ensure that policy decisions about interest calculation are supported by Council's corporate software and can be managed efficiently |
| Financial Counselling Hunter Valley Project Inc | In relation to payment arrangements (5.1.5.1) remove the requirement that repayment arrangements being entered into have the overdue rates paid within 12 months | It is proposed that this be the subject of further investigation and be listed for the next review of the policy during 2019. The reason for this is that it is presently considered desirable to have an upper limit to what constitutes an acceptable repayment timeframe as:<br>• additional rates and charges continue to fall due quarterly<br>• minimum parameters assist staff in negotiating repayments<br>• a property is liable to be sold for unpaid rates when overdue for more than five years |
| Financial Counselling Hunter Valley Project Inc | In relation to payment arrangements (5.1.5.1) remove from the policy the requirement that, where legal action has commenced, arrangements must be in the form of a court instalment order | It is proposed that this be the subject of further investigation and be listed for the next review of the policy during 2019. A court instalment order is legally binding on both the ratepayer to make the agreed payments and Council to prevent further legal action. It is proposed to review the historic |

**ITEM 1 - ATTACHMENT 2 ANALYSIS OF SUBMISSIONS TO DEBT RECOVERY AND HARDSHIP POLICY.**

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|---|---|---|
| | | effectiveness of informal arrangements that were made after legal action was commenced and compare with those arrangements made via a court instalment order. |
| Financial Counselling Hunter Valley Project Inc | In relation to sundry debtor accounts (5.2.1) add a statement that the hardship provisions apply to sundry debtor accounts | It is proposed to add a statement that hardship provisions relevant to sundry debtor accounts apply at paragraphs (5.2.3) aged pensioners, (5.4.12) animal impounding fees and (5.4.14) referral of matters to the Hardship Panel |
| Financial Counselling Hunter Valley Project Inc | In relation to (5.2.2) sundry debtor process ) include a statement that Council will only take legal action as a last resort and increase the timeframe between the issue of the letter of demand and instituting legal action from nine days to 21 days | These are appropriate inclusions and reflect Council's reliance on legal action as a last resort, generally after attempts at contacting ratepayers have been unsuccessful. Delaying legal action until 21 days after the letter of demand issues is appropriate as it allows for sometimes slow mail delivery, allows the ratepayer more time to pay and allows more time for contact |
| Financial Counselling Hunter Valley Project Inc | In relation to payment arrangements (5.1.5.1) introduce the ability for ratepayers to make payment arrangements for sundry debtor accounts not yet overdue, introduce Centrepay, suspend interest for hardship repayment arrangements and waive if arrangement is completed, remove 12 month repayment timeframe maximum and requirement for court instalment orders | Allowing repayment arrangements for accounts not yet overdue is an appropriate inclusion and is included in this policy revision, the introduction of Centrepay will be the subject of cost/benefit analysis, interest charges are not applied to overdue sundry debtor accounts and the application of court instalment orders is to be reviewed. |
| Financial Counselling Hunter Valley Project Inc | Proposes some definitions and principles at (5.4) and (5.4.11.1) hardship provisions that are generally based on those contained in the OLG Debt Management and Hardship Guidelines. | The OLG guidelines were issued for the first time after the Debt Recovery and Hardship Policy was placed on public exhibition and due to the timing the revised policy as displayed did not take these guidelines into consideration. It is proposed to adopt the revised policy with some changes and in particular with the inclusion of the Rates Assistance Program in time to lodge the SRV with IPART on 11 February 2019 and conduct a comprehensive review of the policy later in 2019 and consider the particular wording proposed by FCHVP Inc at that time |

**ITEM 1 - ATTACHMENT 2 ANALYSIS OF SUBMISSIONS TO DEBT RECOVERY AND HARDSHIP POLICY.**

| | | |
|---|---|---|
| Financial Counselling Hunter Valley Project Inc | Proposes methods, processes, timeframes, communication methods by which ratepayers can apply for hardship assistance. | It is proposed that these be the subject of further investigation and be listed for the next review of the policy during 2019. |

## ITEM 1 - ATTACHMENT 3 PROPOSED AMENDMENTS TO THE INTEGRATED PLANNING AND REPORTING DOCUMENTS.

### ATTACHMENT 3: PROPOSED AMENDMENTS TO THE IP&R DOCUMENTS

**1. Community Strategic Plan 2018-2028**

No changes

**2. Delivery Program and Operational Plans 2018-2021**

<table>
<tr><th>Page</th><th>Amendment</th></tr>
<tr><td>11</td><td>1. Fund major, one-off infrastructure projects with additional loan borrowings<br>Town centre and neighbourhood revitalisation<br>Correction: Change Town centre and neighbourhood revitalisation total from $40m to $43m.<br><br>Correction: Change total from $112.150m to $115.150m.</td></tr>
<tr><td>12</td><td>2. Fund enhanced services with SRV funds only<br>Correction: Delete
<table>
<tr><td></td><td>10 year spend</td></tr>
<tr><td>Street lighting upgrade</td><td>$2m</td></tr>
<tr><td>Soldiers point carpark</td><td>$0.500m</td></tr>
</table>
Replace with:
<table>
<tr><td></td><td>10 year spend</td></tr>
<tr><td>Enhanced Community Services</td><td>$19.5m</td></tr>
<tr><td>Increased infrastructure maintenance</td><td>$11.2m</td></tr>
</table>
Provided as minor changes in Supplementary Information tabled at Council meeting on 18 November 2018.</td></tr>
<tr><td>14</td><td>Raymond Terrace town centre revitalisation<br>Correction: Change total of town centre and neighbourhood revitalisation from $40m to $43m.<br><br>Correction: Change Raymond Terrace revitilisation from $12m to $15m.</td></tr>
<tr><td>15</td><td>Lemon Tree Passage<br>Delete: “Lemon Tree Passage”<br>Replace with: “ Lemon Tree Passage/Tanilba Bay”</td></tr>
<tr><td>19</td><td>Tomaree Sports Complex<br>As listed in other documents.<br><br>Correction: Delete $2m and replace with $3m.</td></tr>
<tr><td>19</td><td>Tomaree Sports Complex<br>As listed in other documents.<br>Correction<br>Delete: “To construct a facility to replace the modest arts space, currently in Raymond Terrace library better meeting the community’s cultural needs.”<br>Replace with:</td></tr>
</table>

1

**ITEM 1 - ATTACHMENT 3 PROPOSED AMENDMENTS TO THE INTEGRATED PLANNING AND REPORTING DOCUMENTS.**

| | |
|---|---|
| | "In accordance with the Tomaree Sports Complex Master Plan, undertake renovation and expansion of the sporting grounds, new multipurpose amenities buildings, car parking and traffic improvements, accessibility upgrades and improved community event spaces.<br><br>*Provided as minor changes in Supplementary Information tabled at Council meeting on 18 November 2018.* |
| 19 | **King Park Sports Complex**<br>As listed in other documents.<br>Correction<br><br>Delete: "Part funded project"<br><br>Delete: "To support the implementation of the Birubi Point Aboriginal Place Management Plan, the proposed Birubi Information Centre has been designed to provide increased car and coach parking, reduce congestion and other site access issues around the visitor activity at Birubi Point. It will provide a sheltered area and space for dune operators and amenities, including public toilets and a kiosk."<br><br>Replace: with :<br>"In accordance with the Master Plan (to be completed in 2019), undertake car parking and traffic upgrades, stormwater harvesting, field lighting upgrades, playing surface renovations and landscape movements."<br><br>*Provided as minor changes in Supplementary Information tabled at Council meeting on 18 November 2018.* |
| 71 and 72 | Delete: table of One Off Capital Costs<br>Replace with: new table of One Off Capital Costs as follows:<br><br>Due to incorrect figure of $13m for Raymond Terrace, annual expenditures are re-calculated. |

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## CURRENT SUMMARY OF SRV PROJECTS 2019-2020 to 2028-2029 (p71 and 72 of DPOP)

### ONE OFF CAPITAL COSTS

| PROJECT | Year 1 2019-2020 | Year 2 2020-2021 | Year 3 2021-2022 | Year 4 2022-2023 | Year 5 2023-2024 | Year 6 2024-2025 | Year 7 2025-2026 | Year 8 2026-2027 | Year 9 2027-2028 | Year 10 2028-2029 | TOTAL SRV Funds |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **TOWN CENTRE AND NEIGHBORHOOD REVITALISATION** | | | | | | | | | | | |
| Nelson Bay | $0.375m | $0.375m | $2m | $2m | $2.5m | $2.75m | $2.5m | $2.5m | 0 | 0 | $15m |
| Raymond Terrace | $0.375m | $0.375m | $3m | $3m | $1.5m | $1.75m | $1m | $1m | 0 | 0 | $12m |
| Medowie | 0 | 0 | 0 | $0.500m | $2.25m | $2.25m | 0 | 0 | 0 | 0 | $5m |
| Karuah | $0.500m | $1.5m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $2m |
| Anna Bay | 0 | 0 | 0 | $0.250m | $1m | $0.750m | 0 | 0 | 0 | 0 | $2m |
| Lemon Tree Passage | $0.500m | $1.5m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $2m |
| Fingal Bay | 0 | 0 | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.500m |
| Fern Bay | 0 | 0 | $1m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $1m |
| Seaham | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.500m |
| **TOTAL** | **$2.25m** | **$3.7m** | **$6.5m** | **$5.75m** | **$7.25m** | **$7.5m** | **$3.5m** | **$3.5m** | **0** | **0** | **$40m** |
| **NEW AND IMPROVED INFRASTRUCTURE** | | | | | | | | | | | |
| **Drains and roads** | | | | | | | | | | | |
| Shoal Bay drainage | $2m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $2m |
| Foreshore improvements | $0.500m | $1.5m | $0.500m | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | $3m |
| Street lighting upgrade | 0 | $1m | $0.500m | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | $2m |
| Road rehabilitation and reseal | $0.500m | $1m | $2.5m | $3.15m | $4m | $4m | $5m | $5m | $5m | $5m | $35.15m |
| **TOTAL** | **$3m** | **$3.5m** | **$3.5m** | **$4.15m** | **$4m** | **$4m** | **$5m** | **$5m** | **$5m** | **$5m** | **$42.15m** |
| **Community amenities** | | | | | | | | | | | |
| Arts Centre | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $500,000 | $1.5m | $2m |
| Birubi Information Centre | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $3m | 0 | 0 | $3m |
| Mallabula Hall | 0 | 0 | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.500m |
| BBQ facilities | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.500m |
| Public amenities | $1m | $1m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $2m |
| Soldiers Point carpark | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.500m | 0 | $0.500m |
| Tomaree Sports Complex | 0 | 0 | 0 | 0 | $3m | 0 | 0 | 0 | 0 | 0 | $3m |
| King Park sports complex | 0 | 0 | 0 | 0 | 0 | $2m | $1m | 0 | 0 | 0 | $3m |
| Stuart Park, Hinton | $0.800m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.800m |
| **TOTAL** | **$2.3m** | **$1m** | **$0.500m** | **0** | **$3m** | **$2m** | **$1m** | **$3m** | **$0.500m** | **$1.5m** | **$15.3m** |
| **Paths and cycleways** | | | | | | | | | | | |
| Paths and cycleways | $3.6m | $2.6m | 0 | 0 | 0 | 0 | $0.500m | $0.500m | $0.500m | 0 | $7.7m |
| Brandy Hill paths and cycleways | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $2m | 0 | $2m |
| **TOTAL** | **$3.6m** | **$2.6m** | **0** | **0** | **0** | **0** | **$0.500m** | **$0.500m** | **$2.5m** | | **$9.7m** |
| **Depot relocation and rehabilitation** | | | | | | | | | | | |
| | 0 | $1.5m | $2m | $1.5m | 0 | 0 | 0 | 0 | 0 | 0 | $5m |
| **TOTAL** | **0** | **$1.5m** | **$2m** | **$1.5m** | **0** | **0** | **0** | **0** | **0** | **0** | **$5m** |
| **Street lighting upgrade** | | | | | | | | | | | |
| | 0 | 0 | $1m | $0.500m | $0.500m | 0 | 0 | 0 | 0 | 0 | $2m |
| **TOTAL** | **0** | **0** | **$1m** | **$0.500m** | **$0.500m** | **0** | **0** | **0** | **0** | **0** | **$2m** |

**Replace with**

**AMENDED SUMMARY OF SRV PROJECTS 2019-2020 to 2028-2029 (p71 and 72 of DPOP)**

**ONE OFF CAPITAL COSTS**

| PROJECT | Year 1 2019-2020 | Year 2 2020-2021 | Year 3 2021-2022 | Year 4 2022-2023 | Year 5 2023-2024 | Year 6 2024-2025 | Year 7 2025-2026 | Year 8 2026-2027 | Year 9 2027-2028 | Year 10 2028-2029 | TOTAL SRV Funds |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **TOWN CENTRE AND NEIGHBORHOOD REVITALISATION** | | | | | | | | | | | |
| Nelson Bay | $0.375m | $0.375m | $2.5m | $2.5m | $2.25m | $2.25m | $2.25m | $2.25m | $0.250m | 0 | $15m |
| Raymond Terrace | $0.375m | $0.375m | $2.5m | $2.5m | $2.25m | $2.25m | $2.25m | $2.25m | $0.250m | 0 | $15m |
| Medowie - drainage | 0 | 0 | 0 | $0.700m | $2.25m | $2.05m | 0 | 0 | 0 | 0 | $5m |
| Karuah | $0.500m | $1.5m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $2m |
| Anna Bay | 0 | 0 | 0 | $0.250m | $0.75m | $1m | 0 | 0 | 0 | 0 | $2m |
| Lemon Tree Passage/Tanilba Bay | $0.500m | $1.5m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $2m |
| Fingal Bay | 0 | 0 | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.500m |
| Fern Bay | 0 | 0 | $1m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $1m |
| Seaham | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.500m |
| **TOTAL** | **$2.25m** | **$3.75m** | **$6.5m** | **$5.95m** | **$7.5m** | **$7.55m** | **$4.5m** | **$4.5m** | **0** | **0** | **$43m** |
| **NEW AND IMPROVED INFRASTRUCTURE** | | | | | | | | | | | |
| **Drains and roads** | | | | | | | | | | | |
| Shoal Bay drainage | $2m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $2m |
| Foreshore improvements | $0.500m | $1.5m | $0.500m | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | $3m |
| Street lighting upgrade | 0 | $1m | $0.500m | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | $2m |
| Road rehabilitation and reseal | $0.500m | $1m | $2.5m | $3.15m | $4m | $4m | $5m | $5m | $5m | $5m | $35.15m |
| **TOTAL** | **$3m** | **$3.5m** | **$3.5m** | **$4.15m** | **$4m** | **$4m** | **$5m** | **$5m** | **$5m** | **$5m** | **$42.15m** |
| **Community amenities** | | | | | | | | | | | |
| Arts Centre | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $250,000 | $1.75m | $2m |
| Birubi Information Centre | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $3m | 0 | 0 | $3m |
| Mallabula Hall | 0 | 0 | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.500m |
| BBQ facilities | $0.500m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.500m |
| Public amenities | $1m | $1m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $2m |
| Soldiers Point carpark | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.500m | 0 | $0.500m |
| Tomaree Sports Complex | 0 | 0 | 0 | 0 | $3m | 0 | 0 | 0 | 0 | 0 | $3m |
| King Park sports complex | 0 | 0 | 0 | 0 | 0 | $2m | $1m | 0 | 0 | 0 | $3m |
| Stuart Park, Hinton | $0.800m | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.800m |
| **TOTAL** | **$2.3m** | **$1m** | **$0.500m** | **0** | **$3m** | **$2m** | **$1m** | **$3m** | **$0.750m** | **$1.75m** | **$15.3m** |
| **Paths and cycleways** | | | | | | | | | | | |
| Paths and cycleways | $3.6m | $2.6m | 0 | 0 | 0 | 0 | 0 | $0.500m | $0.500m | $0.500m | $7.7m |
| Brandy Hill paths and cycleways | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $2m | 0 | $2m |
| **TOTAL** | **$3.6m** | **$2.6m** | **0** | **0** | **0** | **0** | **0** | **$0.500m** | **$2.5m** | **$0.500m** | **$9.7m** |
| **Depot relocation and rehabilitation** | | | | | | | | | | | |
| | 0 | $1.5m | $2m | $1.5m | 0 | 0 | 0 | 0 | 0 | 0 | $5m |
| **TOTAL** | **0** | **$1.5m** | **$2m** | **$1.5m** | **0** | **0** | **0** | **0** | **0** | **0** | **$5m** |
| ~~**Street lighting upgrade**~~ | | | | | | | | | | | |
| ~~*DELETE DUPLICATE*~~ | ~~0~~ | ~~0~~ | ~~$1m~~ | ~~$0.500m~~ | ~~$0.500m~~ | ~~0~~ | ~~0~~ | ~~0~~ | ~~0~~ | ~~0~~ | ~~$2m~~ |
| ~~**TOTAL**~~ | ~~0~~ | ~~0~~ | ~~$1m~~ | ~~$0.500m~~ | ~~$0.500m~~ | ~~0~~ | ~~0~~ | ~~0~~ | ~~0~~ | ~~0~~ | ~~$2m~~ |

4

**3. Strategic Asset Management Plan 2019-2029**

| Page | Amendment |
|---|---|
| 24 | **1. Fund major, one-off infrastructure projects with additional loan borrowings**<br>Town centre and neighbourhood revitalisation<br>Correction: Change Town centre and neighbourhood revitalisation total from $40m to $43m.<br><br>Correction: Change total from $112.150m to $115.150m. |
| 26 | **Town centre and neighbourhood revitalisation**<br>Correction: Change Town centre and neighbourhood revitalisation total from $40m to $43m. |
| 26 | **Raymond Terrace**<br>Correction: Change Raymond Terrace revitilisation from $12m to $15m. |
| 27 | **Lemon Tree Passage**<br>Delete: "Lemon Tree Passage"<br>Replace with: " Lemon Tree Passage/Tanilba Bay" |
| 313 | Town Centre Improvements (SRV)<br>**Fingal Bay**<br>Correction<br>Delete: "Provide main street vista."<br>Replace with "Provide main street vista access along and to Market Street." |
| 313 | Town Centre Improvements (SRV)<br>**Fern Bay**<br>Correction<br>Delete: "Pathways for pedestrian access along and to Market Street."<br>Replace with: "Pathways for pedestrian access." |

**4. Workforce Plan 2018-2021**

| Page | Amendment |
|---|---|
| 46 | **1. Fund major, one-off infrastructure projects with additional loan borrowings**<br>Town centre and neighbourhood revitalisation<br>Correction: Change Town centre and neighbourhood revitalisation total from $40m to $43m.<br><br>Correction: Change total from $112.150m to $115.150m. |
| 48 | **Town centre and neighbourhood revitalisation**<br>Correction: Change Town centre and neighbourhood revitalisation total from $40m to $43m.<br>**Raymond Terrace**<br>Correction: Change Raymond Terrace revitilisation from $12m to $15m. |
| 49 | **Lemon Tree Passage**<br>Delete: "Lemon Tree Passage"<br>Replace with: " Lemon Tree Passage/Tanilba Bay" |

5

**5. Long Term Financial Plan 2019-2029**

| Page | Amendment |
|---|---|
| 5 | **Expenses**<br>Correction: SRV capital spend over 10 years $12m to $15m. |
| 5 | The total of SRV capital spend over 10 years has been corrected from $112m to $115m. This has had a minor effect on the projected underlying operating surplus from 2023-2024 and are amended accordingly.<br><br>Delete yellow highlighted area:<br><br>[illegible]<br>2023-2024 529,000 995,000<br>2024-2025 42,000 651,000<br>2025-2026 (1,026,000) 891,000<br>2026-2027 (1,321,000) 614,000<br>2027-2028 (1,441,000) 1,584,000<br>2028-2029 (2,392,000) 1,260,000<br><br>Replace with:<br><br>Projected Underlying Result / Conservative / Standard / SRV (*)<br>2023-2024 529,000 995,000 4,949,000<br>2024-2025 42,000 651,000 6,384,000<br>2025-2026 (1,026,000) 891,000 8,919,000<br>2026-2027 (1,321,000) 614,000 7,885,000<br>2027-2028 (1,441,000) 1,584,000 7,473,000<br>2028-2029 (2,392,000) 1,260,000 7,215,000 |
| 13 | **1. Fund major, one-off infrastructure projects with additional loan borrowings**<br>Town centre and neighbourhood revitalisation<br>Correction: Change Town centre and neighbourhood revitalisation total from $40m to $43m.<br><br>Correction: Change total from $112.150m to $115.150m. |
| 16 | **Town centre and neighbourhood revitalisation**<br>Correction: Change Town centre and neighbourhood revitalisation total from $40m to $43m. |
| 16 | **Raymond Terrace**<br>Correction: Change Raymond Terrace revitilisation from $12m to $15m. |
| 17 | **Lemon Tree Passage**<br>Delete: "Lemon Tree Passage"<br>Replace with: " Lemon Tree Passage/Tanilba Bay" |

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**ITEM 1 - ATTACHMENT 3 PROPOSED AMENDMENTS TO THE INTEGRATED PLANNING AND REPORTING DOCUMENTS.**

64

The total of SRV capital spend over 10 years has been corrected from $112m to $115m. This has had a minor effect on the projected underlying operating surplus from 2023-2024 and are amended accordingly.

Delete yellow highlighted area:

| | | | |
|---|---|---|---|
| 2023-2024 | 529,000 | 995,000 | |
| 2024-2025 | 42,000 | 651,000 | |
| 2025-2026 | (1,026,000) | 891,000 | |
| 2026-2027 | (1,321,000) | 614,000 | |
| 2027-2028 | (1,441,000) | 1,584,000 | |
| 2028-2029 | (2,392,000) | 1,260,000 | |

Replace with:

| Projected Underlying Result | Conservative | Standard | SRV (*) |
|---|---|---|---|
| 2023-2024 | 529,000 | 995,000 | 4,949,000 |
| 2024-2025 | 42,000 | 651,000 | 6,384,000 |
| 2025-2026 | (1,026,000) | 891,000 | 8,919,000 |
| 2026-2027 | (1,321,000) | 614,000 | 7,885,000 |
| 2027-2028 | (1,441,000) | 1,584,000 | 7,473,000 |
| 2028-2029 | (2,392,000) | 1,260,000 | 7,215,000 |

69 - 74

**Section 10: Financial Statements – Strategic Scenario (SRV)**

The total of SRV capital spend over 10 years has been corrected from $112m to $115m. Accordingly, the financial statements for Strategic Scenario (SRV) – 10.1 Income Statement, 10.2 Balance Sheet, 10.3 Statement of Cashflows and 10.4 Graphs - are amended –see as follows.

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**ITEM 1 - ATTACHMENT 3 PROPOSED AMENDMENTS TO THE INTEGRATED PLANNING AND REPORTING DOCUMENTS.**

Delete:**10.1 Strategic Scenario – Income Statement (DELETE)**

| For the period ended 30 June | 2020 $'000 | 2021 $'000 | 2022 $'000 | 2023 $'000 | 2024 $'000 | 2025 $'000 | 2026 $'000 | 2027 $'000 | 2028 $'000 | 2029 $'000 |
|---|---|---|---|---|---|---|---|---|---|---|
| **Revenue** | | | | | | | | | | |
| Rates & Annual Charges | 61,106 | 65,048 | 69,259 | 73,756 | 78,563 | 83,700 | 89,192 | 91,576 | 94,019 | 96,523 |
| User Fees and Charges | 41,682 | 42,875 | 44,286 | 45,742 | 47,228 | 48,408 | 49,619 | 50,859 | 52,131 | 53,434 |
| Interest & Investment Revenue | 1,421 | 1,230 | 1,210 | 1,265 | 1,312 | 1,367 | 1,454 | 1,487 | 1,544 | 1,577 |
| Other Revenues | 7,084 | 7,261 | 7,443 | 7,629 | 7,819 | 8,015 | 8,215 | 8,421 | 8,631 | 8,847 |
| Operating Grants and Contributions | 12,339 | 12,648 | 12,964 | 13,288 | 13,620 | 13,961 | 14,310 | 14,668 | 15,034 | 15,410 |
| Capital Grants and Contributions | 5,866 | 5,983 | 6,102 | 6,225 | 6,349 | 6,476 | 6,606 | 6,738 | 6,872 | 7,010 |
| Gain on Sale of assets | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 |
| **Total Revenue** | **129,748** | **135,295** | **141,514** | **148,156** | **155,142** | **162,177** | **169,646** | **173,998** | **178,481** | **183,051** |
| **Operating Expenses** | | | | | | | | | | |
| Employee Benefits & On-Costs | 47,967 | 49,325 | 51,761 | 55,116 | 58,404 | 61,341 | 64,354 | 67,694 | 70,593 | 73,319 |
| Borrowing Costs | 1,317 | 1,823 | 2,174 | 2,408 | 2,726 | 2,904 | 2,724 | 2,693 | 2,500 | 2,302 |
| Materials & Contracts | 40,113 | 41,616 | 42,144 | 43,197 | 44,327 | 45,986 | 46,571 | 47,736 | 48,929 | 50,752 |
| Depreciation & Amortisation | 16,293 | 16,823 | 17,953 | 18,246 | 18,521 | 19,256 | 19,573 | 19,827 | 20,126 | 20,363 |
| Amortisation - intangibles | 263 | 294 | 321 | 345 | 367 | 386 | 404 | 421 | 436 | 451 |
| Other | 14,394 | 14,754 | 15,123 | 15,501 | 15,939 | 16,337 | 16,746 | 17,164 | 17,593 | 18,033 |
| **Total Operating Expenses** | **120,348** | **124,635** | **129,477** | **134,814** | **140,284** | **146,210** | **150,371** | **155,535** | **160,178** | **165,221** |
| **Operating Surplus / (Deficit)** | **9,400** | **10,660** | **12,037** | **13,342** | **14,858** | **15,967** | **19,274** | **18,463** | **18,303** | **17,829** |
| Other Comprehensive Income | - | - | - | - | - | - | - | - | - | - |
| **Total Comprehensive Income** | **9,400** | **10,660** | **12,037** | **13,342** | **14,858** | **15,967** | **19,274** | **18,463** | **18,303** | **17,829** |
| **Net Operating Result before Capital Grants** | **3,534** | **4,677** | **5,935** | **7,117** | **8,509** | **9,491** | **12,669** | **11,726** | **11,431** | **10,819** |
| **Adjustments for Underlying Result** | | | | | | | | | | |
| Gain on Sale of assets | (250) | (250) | (250) | (250) | (250) | (250) | (250) | (250) | (250) | (250) |
| Investment property fair value increases | (787) | (996) | (1,026) | (1,057) | (1,088) | (1,121) | (1,155) | (1,189) | (1,225) | (1,262) |
| NAP Profit | (4,012) | (4,111) | (4,213) | (4,318) | (4,424) | (4,533) | (4,645) | (4,759) | (4,876) | (5,230) |
| Local election costs | - | 500 | - | - | - | 550 | - | - | - | 600 |
| NAP dividend | 1,985 | 2,056 | 2,107 | 2,159 | 2,212 | 2,267 | 2,323 | 2,380 | 2,438 | 2,615 |
| **Underlying result** | **471** | **1,875** | **2,552** | **3,652** | **4,958** | **6,403** | **8,942** | **7,907** | **7,518** | **7,292** |
| Less: SRV loan repayments | (550) | (1,129) | (1,685) | (2,155) | (2,780) | (3,247) | (3,247) | (3,478) | (3,478) | (3,478) |
| **Revised underlying result** | (79) | 746 | 868 | 1,496 | 2,178 | 3,157 | 5,695 | 4,429 | 4,040 | 3,815 |

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**ITEM 1 - ATTACHMENT 3 PROPOSED AMENDMENTS TO THE INTEGRATED PLANNING AND REPORTING DOCUMENTS.**

### 10.2 Strategic Scenario – Balance Sheet (DELETE)

| As at 30 June | 2020 $'000 | 2021 $'000 | 2022 $'000 | 2023 $'000 | 2024 $'000 | 2025 $'000 | 2026 $'000 | 2027 $'000 | 2028 $'000 | 2029 $'000 |
|---|---|---|---|---|---|---|---|---|---|---|
| **ASSETS** | | | | | | | | | | |
| **Current Assets** | | | | | | | | | | |
| Cash and Cash Equivalents | 7,941 | 7,158 | 9,376 | 11,259 | 13,422 | 16,926 | 18,254 | 20,517 | 21,826 | 27,373 |
| Investments | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 |
| Receivables | 6,908 | 7,234 | 7,591 | 7,967 | 8,365 | 8,764 | 9,187 | 9,426 | 9,671 | 9,922 |
| Inventories | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 |
| **Total Current Assets** | **58,765** | **58,308** | **60,882** | **63,142** | **65,703** | **69,606** | **71,358** | **73,859** | **75,413** | **81,211** |
| **Non-Current Assets** | | | | | | | | | | |
| Infrastructure, Property, Plant & Equipment | 927,505 | 944,889 | 960,291 | 974,810 | 992,427 | 1,009,094 | 1,022,493 | 1,038,199 | 1,050,684 | 1,061,521 |
| Inventories | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 |
| Investment Properties | 33,201 | 34,197 | 35,223 | 36,279 | 37,368 | 38,489 | 39,643 | 40,833 | 42,058 | 43,319 |
| Intangibles | 1,061 | 1,187 | 1,296 | 1,392 | 1,478 | 1,556 | 1,627 | 1,694 | 1,757 | 1,818 |
| **Total Non-Current Assets** | **978,418** | **996,924** | **1,013,461** | **1,029,133** | **1,047,923** | **1,065,789** | **1,080,415** | **1,097,377** | **1,111,150** | **1,123,311** |
| **Total Assets** | **1,037,183** | **1,055,232** | **1,074,343** | **1,092,275** | **1,113,626** | **1,135,395** | **1,151,772** | **1,171,237** | **1,186,563** | **1,204,521** |
| **LIABILITIES** | | | | | | | | | | |
| **Current Liabilities** | | | | | | | | | | |
| Trade & Other Payables | 8,825 | 9,156 | 9,272 | 9,503 | 9,752 | 10,117 | 10,246 | 10,502 | 10,764 | 11,166 |
| Borrowings | 4,366 | 4,095 | 4,652 | 4,794 | 3,899 | 3,924 | 4,180 | 4,265 | 3,999 | 3,999 |
| Provisions | 15,815 | 15,962 | 16,686 | 17,344 | 18,003 | 19,943 | 20,411 | 21,629 | 21,635 | 24,346 |
| **Total Current Liabilities** | **29,007** | **29,213** | **30,610** | **31,641** | **31,655** | **33,984** | **34,837** | **36,396** | **36,398** | **39,511** |
| **Non Current Liabilities** | | | | | | | | | | |
| Trade & Other Payables | 3,564 | 3,019 | 2,473 | 1,928 | 1,382 | 837 | 291 | 0 | 0 | 0 |
| Borrowings | 27,971 | 34,876 | 40,224 | 43,430 | 49,530 | 52,607 | 48,426 | 47,161 | 43,162 | 39,164 |
| Provisions | 811 | 1,635 | 2,510 | 3,409 | 4,334 | 5,275 | 6,251 | 7,249 | 8,269 | 9,283 |
| **Total Non-Current Liabilities** | **32,347** | **39,530** | **45,207** | **48,766** | **55,246** | **58,718** | **54,968** | **54,410** | **51,431** | **48,448** |
| **Total Liabilities** | **61,353** | **68,743** | **75,817** | **80,407** | **86,901** | **92,702** | **89,805** | **90,806** | **87,829** | **87,959** |
| **Net Assets** | **975,830** | **986,490** | **998,527** | **1,011,868** | **1,026,726** | **1,042,693** | **1,061,967** | **1,080,431** | **1,098,734** | **1,116,562** |
| **EQUITY** | | | | | | | | | | |
| Accumulated Surplus | 607,271 | 617,931 | 629,968 | 643,309 | 658,167 | 674,134 | 693,408 | 711,872 | 730,175 | 748,003 |
| Asset Revaluation Reserves | 368,559 | 368,559 | 368,559 | 368,559 | 368,559 | 368,559 | 368,559 | 368,559 | 368,559 | 368,559 |
| **Total Equity** | **975,830** | **986,490** | **998,527** | **1,011,868** | **1,026,726** | **1,042,693** | **1,061,967** | **1,080,431** | **1,098,734** | **1,116,562** |

## ITEM 1 - ATTACHMENT 3 PROPOSED AMENDMENTS TO THE INTEGRATED PLANNING AND REPORTING DOCUMENTS.

### 10.3 Strategic Scenario – Statement of Cashflows (DELETE)

| For the period ended 30 June | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 |
|---|---|---|---|---|---|---|---|---|---|---|
| **Cash Flows from Operating Activities** | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 |
| **Receipts:** | | | | | | | | | | |
| Rates & Annual Charges | 60,568 | 64,721 | 68,902 | 73,380 | 78,165 | 83,300 | 88,769 | 91,337 | 93,774 | 96,271 |
| User Charges & Fees | 41,682 | 42,875 | 44,286 | 45,742 | 47,228 | 48,408 | 49,619 | 50,859 | 52,131 | 53,434 |
| Interest & Investment Revenue Received | 1,421 | 1,230 | 1,210 | 1,265 | 1,312 | 1,367 | 1,454 | 1,487 | 1,544 | 1,577 |
| Grants & Contributions | 16,063 | 16,446 | 16,838 | 17,240 | 17,651 | 18,072 | 18,503 | 18,945 | 19,397 | 19,860 |
| Other | 6,297 | 6,265 | 6,417 | 6,572 | 6,731 | 6,894 | 7,061 | 7,231 | 7,406 | 7,585 |
| **Payments:** | | | | | | | | | | |
| Employee Benefits & On-Costs | (48,790) | (50,296) | (53,360) | (56,673) | (59,989) | (64,223) | (65,797) | (69,910) | (71,619) | (77,044) |
| Materials & Contracts | (40,259) | (41,401) | (41,714) | (42,884) | (44,030) | (45,805) | (46,155) | (47,701) | (49,192) | (51,154) |
| Borrowing Costs | (1,317) | (1,823) | (2,174) | (2,408) | (2,726) | (2,904) | (2,724) | (2,693) | (2,500) | (2,302) |
| Other | (12,459) | (13,243) | (12,784) | (13,016) | (13,363) | (10,936) | (14,692) | (12,802) | (15,016) | (9,779) |
| **Net Cash provided (or used in) Operating Activities** | 23,307 | 24,775 | 27,620 | 29,219 | 30,979 | 34,175 | 36,038 | 36,754 | 35,925 | 38,447 |
| **Cash Flows from Investing Activities** | | | | | | | | | | |
| **Receipts:** | | | | | | | | | | |
| Sale of Investment Securities | | | | | | | | | | |
| Sale of Real Estate Assets | - | - | - | - | - | - | - | - | - | - |
| Sale of Infrastructure, Property, Plant & Equipment | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 |
| **Payments:** | | | | | | | | | | |
| Purchase of Infrastructure, Property, Plant & Equipment | (31,479) | (32,022) | (31,126) | (30,492) | (33,819) | (33,558) | (30,560) | (33,074) | (30,100) | (28,640) |
| Purchase of Intangible Assets | (410) | (420) | (431) | (442) | (453) | (464) | (475) | (487) | (500) | (512) |
| **Net Cash provided (or used in) Investing Activities** | (31,639) | (32,192) | (31,307) | (30,683) | (34,022) | (33,772) | (30,785) | (33,311) | (30,350) | (28,903) |
| **Cash Flows from Financing Activities** | | | | | | | | | | |
| **Receipts:** | | | | | | | | | | |
| Proceeds from Borrowings & Advances | 17,500 | 11,000 | 10,000 | 8,000 | 10,000 | 7,000 | 0 | 3,000 | 0 | 0 |
| **Payments:** | | | | | | | | | | |
| Repayment of Borrowings & Advances | (3,852) | (4,366) | (4,095) | (4,652) | (4,794) | (3,899) | (3,924) | (4,180) | (4,265) | (3,999) |
| **Net Cash flow provided (used in) Financing Activities** | 13,648 | 6,634 | 5,905 | 3,348 | 5,206 | 3,101 | (3,924) | (1,180) | (4,265) | (3,999) |
| **Net Increase/(Decrease) in Cash & Cash Equivalents** | 5,317 | (784) | 2,218 | 1,883 | 2,163 | 3,503 | 1,329 | 2,262 | 1,309 | 5,546 |
| **plus: Cash - beginning of year** | 2,625 | 7,941 | 7,158 | 9,376 | 11,259 | 13,422 | 16,926 | 18,254 | 20,517 | 21,826 |
| **Cash - end of the year** | 7,941 | 7,158 | 9,376 | 11,259 | 13,422 | 16,926 | 18,254 | 20,517 | 21,826 | 27,373 |
| plus: Investments - end of the year | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 |
| **Total Cash & Investments - end of the year** | 49,182 | 48,399 | 50,617 | 52,500 | 54,663 | 58,167 | 59,495 | 61,758 | 63,067 | 68,614 |
| Less restricted Cash (NAL) | (13,937) | (14,363) | (16,337) | (18,359) | (20,432) | (22,555) | (24,731) | (26,960) | (29,244) | (31,702) |
| **Cash, Cash Equivalents & Investments - end of the year** | 35,245 | 34,036 | 34,280 | 34,141 | 34,232 | 35,611 | 34,764 | 34,798 | 33,823 | 36,912 |

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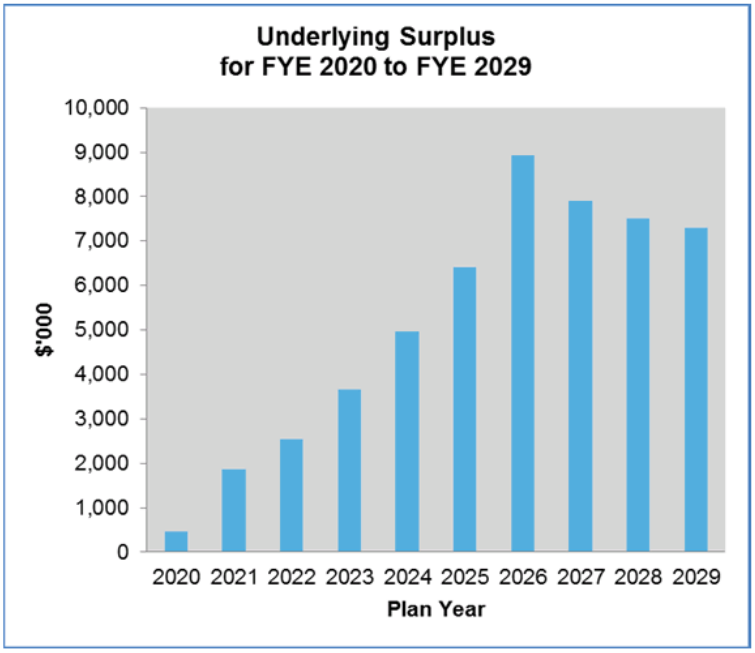
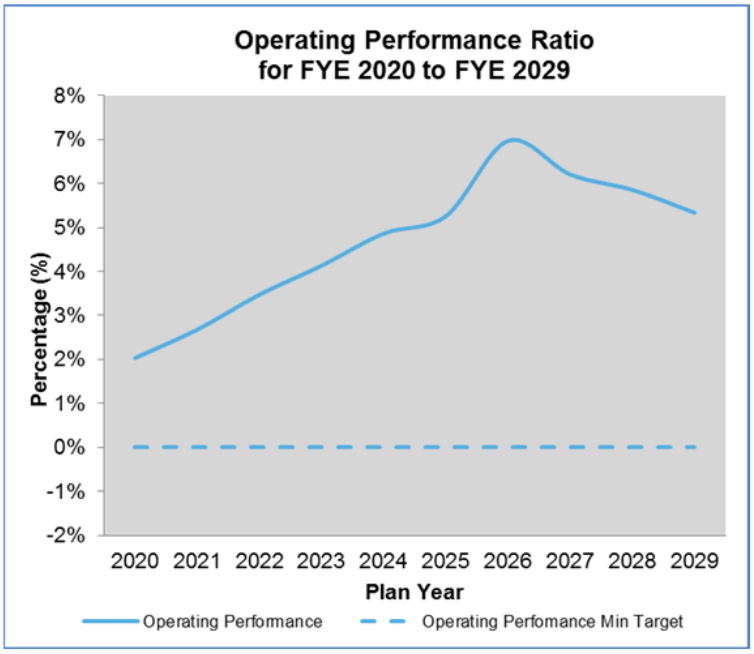
**10.4 Strategic Scenario – Graphs (DELETE)**
**Strategic Scenario Graph – Underlying Surplus (DELETE)**




**Strategic Scenario Graph - Operating Performance Ratio**

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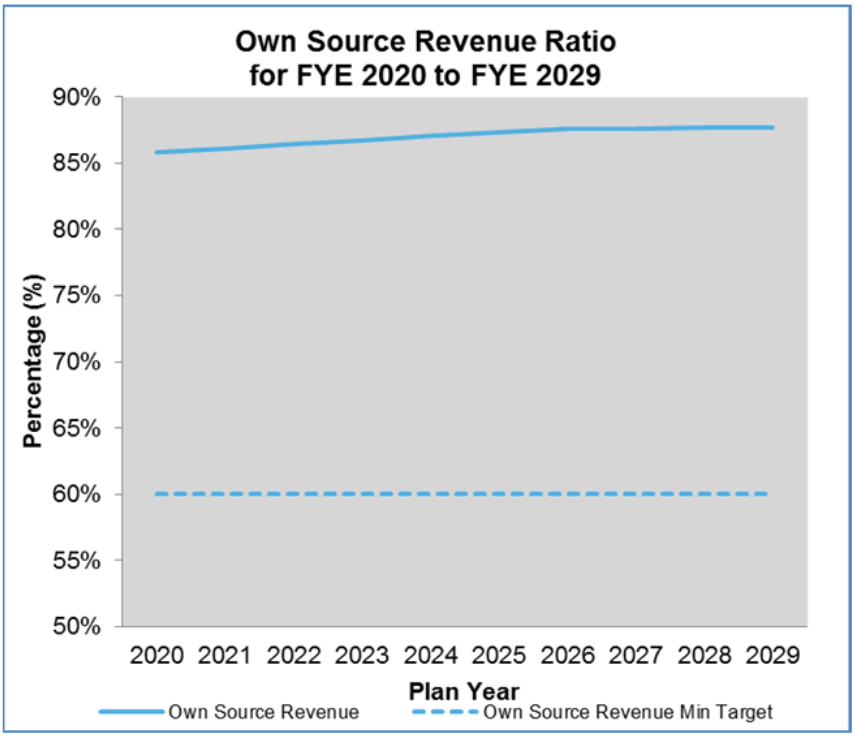
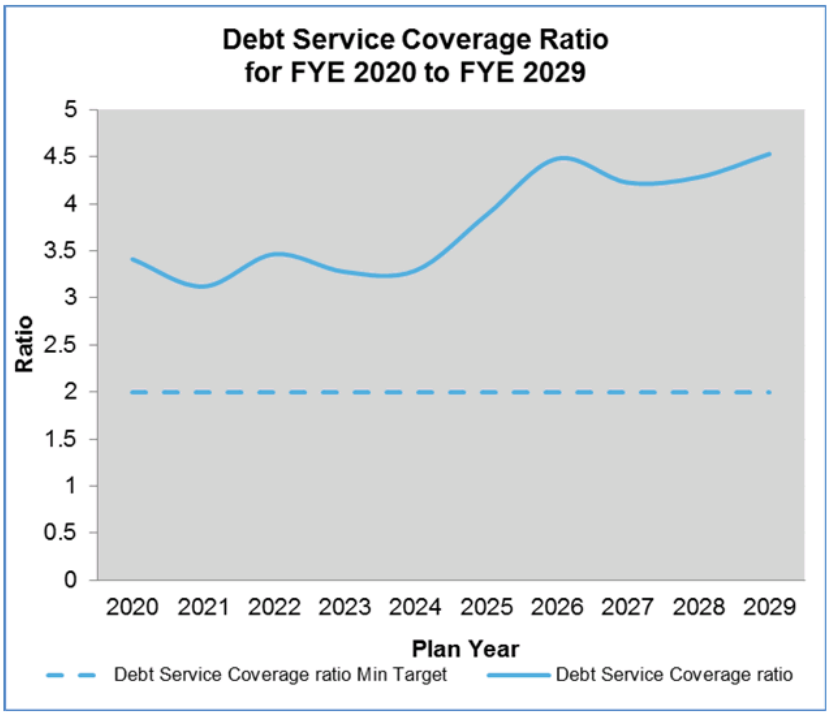
**Strategic Scenario Graph – Own Source Revenue Ratio**




**Strategic Scenario Graph – Debt Service Coverage Ratio**

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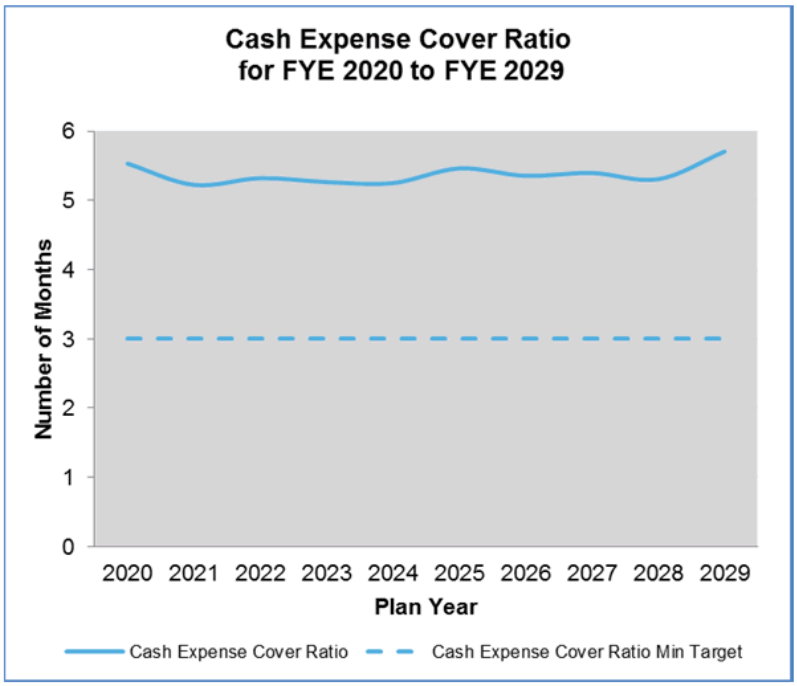
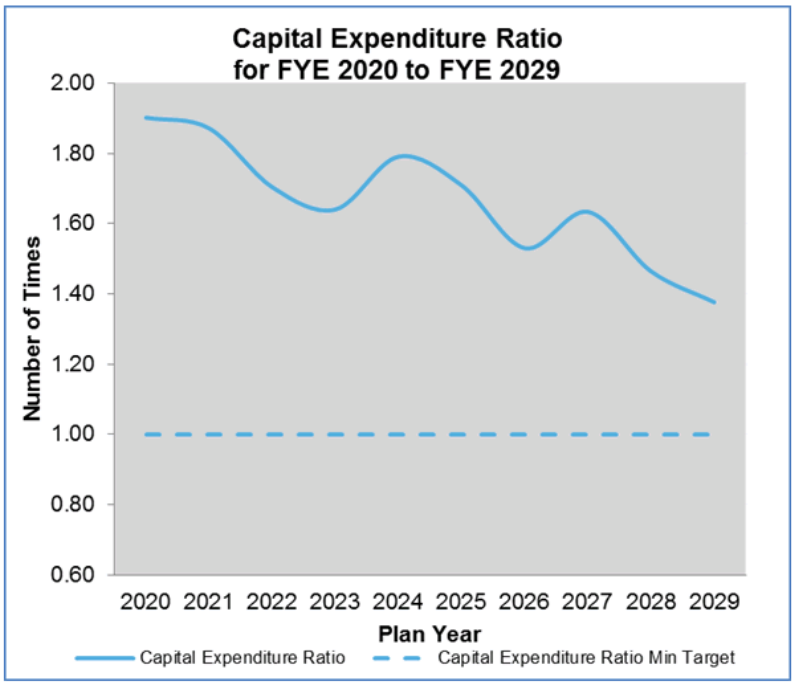
**Strategic Scenario Graph - Cash Expense Cover Ratio (DELETE)**




**Strategic Scenario Graph - Capital Expenditure Ratio (DELETE)**

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Add:

## 10. Financial Statements – Strategic Scenario (SRV)

### 10.1 Strategic Scenario – Income Statement (AMENDED)

| For the period ended 30 June | 2020 $'000 | 2021 $'000 | 2022 $'000 | 2023 $'000 | 2024 $'000 | 2025 $'000 | 2026 $'000 | 2027 $'000 | 2028 $'000 | 2029 $'000 |
|---|---|---|---|---|---|---|---|---|---|---|
| **Revenue** | | | | | | | | | | |
| Rates & Annual Charges | 61,106 | 65,048 | 69,259 | 73,756 | 78,563 | 83,700 | 89,192 | 91,576 | 94,019 | 96,523 |
| User Fees and Charges | 41,682 | 42,875 | 44,286 | 45,742 | 47,228 | 48,408 | 49,619 | 50,859 | 52,131 | 53,434 |
| Interest & Investment Revenue | 1,421 | 1,230 | 1,210 | 1,265 | 1,307 | 1,355 | 1,441 | 1,474 | 1,518 | 1,531 |
| Other Revenues | 7,084 | 7,261 | 7,443 | 7,629 | 7,819 | 8,015 | 8,215 | 8,421 | 8,631 | 8,847 |
| Operating Grants and Contributions | 12,339 | 12,648 | 12,964 | 13,288 | 13,620 | 13,961 | 14,310 | 14,668 | 15,034 | 15,410 |
| Capital Grants and Contributions | 5,866 | 5,983 | 6,102 | 6,225 | 6,349 | 6,476 | 6,606 | 6,738 | 6,872 | 7,010 |
| Gain on Sale of assets | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 |
| **Total Revenue** | **129,748** | **135,295** | **141,514** | **148,156** | **155,137** | **162,165** | **169,633** | **173,985** | **178,455** | **183,005** |
| **Operating Expenses** | | | | | | | | | | |
| Employee Benefits & On-Costs | 47,967 | 49,325 | 51,761 | 55,116 | 58,404 | 61,341 | 64,354 | 67,694 | 70,593 | 73,319 |
| Borrowing Costs | 1,317 | 1,823 | 2,174 | 2,408 | 2,726 | 2,904 | 2,724 | 2,693 | 2,500 | 2,302 |
| Materials & Contracts | 40,113 | 41,616 | 42,144 | 43,197 | 44,327 | 45,986 | 46,571 | 47,736 | 48,929 | 50,752 |
| Depreciation & Amortisation | 16,293 | 16,823 | 17,953 | 18,246 | 18,525 | 19,265 | 19,582 | 19,836 | 20,144 | 20,395 |
| Amortisation - intangibles | 263 | 294 | 321 | 345 | 367 | 386 | 404 | 421 | 436 | 451 |
| Other | 14,394 | 14,754 | 15,123 | 15,501 | 15,939 | 16,337 | 16,746 | 17,164 | 17,593 | 18,033 |
| **Total Operating Expenses** | **120,348** | **124,635** | **129,477** | **134,814** | **140,288** | **146,218** | **150,381** | **155,544** | **160,196** | **165,254** |
| **Operating Surplus / (Deficit)** | **9,400** | **10,660** | **12,037** | **13,342** | **14,849** | **15,947** | **19,252** | **18,441** | **18,259** | **17,751** |
| Other Comprehensive Income | - | - | - | - | - | - | - | - | - | - |
| **Total Comprehensive Income** | **9,400** | **10,660** | **12,037** | **13,342** | **14,849** | **15,947** | **19,252** | **18,441** | **18,259** | **17,751** |
| **Net Operating Result before Capital Grants** | **3,534** | **4,677** | **5,935** | **7,117** | **8,500** | **9,471** | **12,647** | **11,704** | **11,387** | **10,742** |
| **Adjustments for Underlying Result** | | | | | | | | | | |
| Gain on Sale of assets | (250) | (250) | (250) | (250) | (250) | (250) | (250) | (250) | (250) | (250) |
| Investment property fair value increases | (787) | (996) | (1,026) | (1,057) | (1,088) | (1,121) | (1,155) | (1,189) | (1,225) | (1,262) |
| NAP Profit | (4,012) | (4,111) | (4,213) | (4,318) | (4,424) | (4,533) | (4,645) | (4,759) | (4,876) | (5,230) |
| Local election costs | - | 500 | - | - | - | 550 | - | - | - | 600 |
| NAP dividend | 1,985 | 2,056 | 2,107 | 2,159 | 2,212 | 2,267 | 2,323 | 2,380 | 2,438 | 2,615 |
| **Underlying result** | **471** | **1,875** | **2,552** | **3,652** | **4,949** | **6,384** | **8,919** | **7,885** | **7,473** | **7,215** |
| Less: SRV loan repayments | (550) | (1,129) | (1,685) | (2,155) | (2,780) | (3,247) | (3,247) | (3,478) | (3,478) | (3,478) |
| **Revised underlying result** | (79) | 746 | 868 | 1,496 | 2,169 | 3,137 | 5,673 | 4,407 | 3,996 | 3,737 |

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## ITEM 1 - ATTACHMENT 3 PROPOSED AMENDMENTS TO THE INTEGRATED PLANNING AND REPORTING DOCUMENTS.

### 10.2 Strategic Scenario – Balance Sheet (AMENDED)

| As at 30 June | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 |
|---|---|---|---|---|---|---|---|---|---|---|
| | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 |
| **ASSETS** | | | | | | | | | | |
| **Current Assets** | | | | | | | | | | |
| Cash and Cash Equivalents | 7,941 | 7,158 | 9,376 | 11,059 | 12,967 | 16,409 | 17,725 | 19,474 | 20,008 | 24,258 |
| Investments | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 |
| Receivables | 6,908 | 7,234 | 7,591 | 7,967 | 8,365 | 8,764 | 9,187 | 9,426 | 9,671 | 9,922 |
| Inventories | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 | 2,675 |
| **Total Current Assets** | **58,765** | **58,308** | **60,882** | **62,942** | **65,248** | **69,089** | **70,828** | **72,817** | **73,595** | **78,097** |
| **Non-Current Assets** | | | | | | | | | | |
| Infrastructure, Property, Plant & Equipment | 927,505 | 944,889 | 960,291 | 975,010 | 992,873 | 1,009,581 | 1,022,971 | 1,039,169 | 1,052,385 | 1,064,440 |
| Inventories | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 | 16,651 |
| Investment Properties | 33,201 | 34,197 | 35,223 | 36,279 | 37,368 | 38,489 | 39,643 | 40,833 | 42,058 | 43,319 |
| Intangibles | 1,061 | 1,187 | 1,296 | 1,392 | 1,478 | 1,556 | 1,627 | 1,694 | 1,757 | 1,818 |
| **Total Non-Current Assets** | **978,418** | **996,924** | **1,013,461** | **1,029,333** | **1,048,370** | **1,066,277** | **1,080,893** | **1,098,347** | **1,112,851** | **1,126,229** |
| **Total Assets** | **1,037,183** | **1,055,232** | **1,074,343** | **1,092,275** | **1,113,618** | **1,135,366** | **1,151,721** | **1,171,163** | **1,186,446** | **1,204,326** |
| **LIABILITIES** | | | | | | | | | | |
| **Current Liabilities** | | | | | | | | | | |
| Trade & Other Payables | 8,825 | 9,156 | 9,272 | 9,503 | 9,752 | 10,117 | 10,246 | 10,502 | 10,764 | 11,166 |
| Borrowings | 4,366 | 4,095 | 4,652 | 4,794 | 3,899 | 3,924 | 4,180 | 4,265 | 3,999 | 3,999 |
| Provisions | 15,815 | 15,962 | 16,686 | 17,344 | 18,003 | 19,943 | 20,411 | 21,629 | 21,635 | 24,346 |
| **Total Current Liabilities** | **29,007** | **29,213** | **30,610** | **31,641** | **31,655** | **33,984** | **34,837** | **36,396** | **36,398** | **39,511** |
| **Non Current Liabilities** | | | | | | | | | | |
| Trade & Other Payables | 3,564 | 3,019 | 2,473 | 1,928 | 1,382 | 837 | 291 | 0 | 0 | 0 |
| Borrowings | 27,971 | 34,876 | 40,224 | 43,430 | 49,530 | 52,607 | 48,426 | 47,161 | 43,162 | 39,164 |
| Provisions | 811 | 1,635 | 2,510 | 3,409 | 4,334 | 5,275 | 6,251 | 7,249 | 8,269 | 9,283 |
| **Total Non-Current Liabilities** | **32,347** | **39,530** | **45,207** | **48,766** | **55,246** | **58,718** | **54,968** | **54,410** | **51,431** | **48,448** |
| **Total Liabilities** | **61,353** | **68,743** | **75,817** | **80,407** | **86,901** | **92,702** | **89,805** | **90,806** | **87,829** | **87,959** |
| **Net Assets** | **975,830** | **986,490** | **998,527** | **1,011,868** | **1,026,717** | **1,042,664** | **1,061,916** | **1,080,357** | **1,098,616** | **1,116,367** |
| **EQUITY** | | | | | | | | | | |
| Accumulated Surplus | 607,271 | 617,931 | 629,968 | 643,309 | 658,158 | 674,106 | 693,357 | 711,799 | 730,057 | 747,807 |
| Asset Revaluation Reserves | 368,559 | 368,559 | 368,559 | 368,559 | 368,559 | 368,558 | 368,559 | 368,558 | 368,559 | 368,560 |
| **Total Equity** | **975,830** | **986,490** | **998,527** | **1,011,868** | **1,026,717** | **1,042,664** | **1,061,916** | **1,080,357** | **1,098,616** | **1,116,367** |

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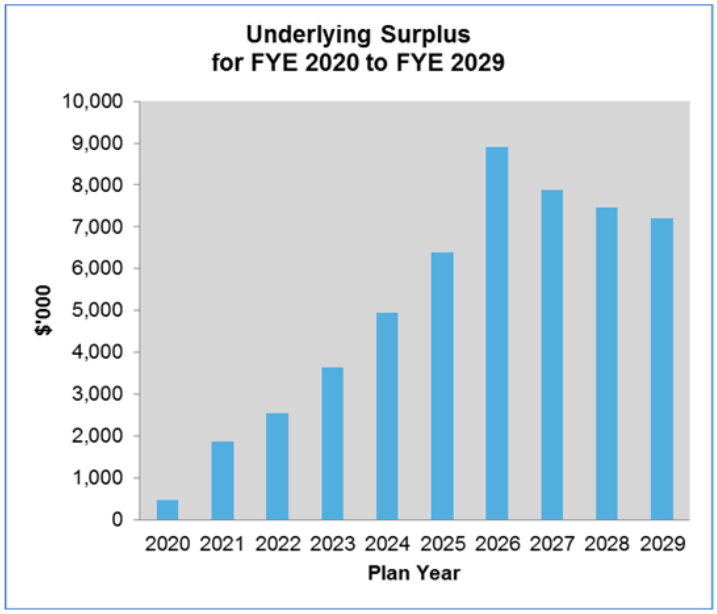
**ITEM 1 - ATTACHMENT 3 PROPOSED AMENDMENTS TO THE INTEGRATED PLANNING AND REPORTING DOCUMENTS.**

## 10.3 Strategic Scenario – Statement of Cashflows (AMENDED)

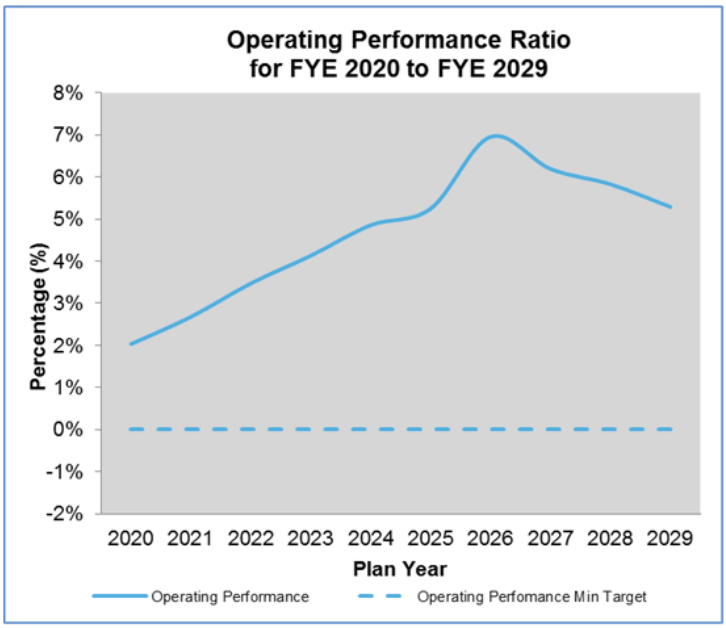
| For the period ended 30 June | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 |
|---|---|---|---|---|---|---|---|---|---|---|
| **Cash Flows from Operating Activities** | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 |
| **Receipts:** | | | | | | | | | | |
| Rates & Annual Charges | 60,668 | 64,721 | 68,902 | 73,380 | 78,165 | 83,300 | 88,769 | 91,337 | 93,774 | 96,271 |
| User Charges & Fees | 41,682 | 42,875 | 44,286 | 45,742 | 47,228 | 48,408 | 49,619 | 50,859 | 52,131 | 53,434 |
| Interest & Investment Revenue Received | 1,421 | 1,230 | 1,210 | 1,265 | 1,307 | 1,355 | 1,441 | 1,474 | 1,518 | 1,531 |
| Grants & Contributions | 16,063 | 16,446 | 16,838 | 17,240 | 17,651 | 18,072 | 18,503 | 18,945 | 19,397 | 19,860 |
| Other | 6,297 | 6,265 | 6,417 | 6,572 | 6,731 | 6,894 | 7,061 | 7,231 | 7,406 | 7,585 |
| **Payments:** | | | | | | | | | | |
| Employee Benefits & On-Costs | (48,790) | (50,296) | (53,360) | (56,673) | (59,989) | (64,223) | (65,797) | (69,910) | (71,619) | (77,044) |
| Materials & Contracts | (40,259) | (41,401) | (41,714) | (42,884) | (44,030) | (45,805) | (46,155) | (47,701) | (49,192) | (51,154) |
| Borrowing Costs | (1,317) | (1,823) | (2,174) | (2,408) | (2,726) | (2,904) | (2,724) | (2,693) | (2,500) | (2,302) |
| Other | (12,459) | (13,243) | (12,784) | (13,016) | (13,363) | (10,936) | (14,692) | (12,802) | (15,016) | (9,779) |
| **Net Cash provided (or used in) Operating Activities** | **23,307** | **24,775** | **27,620** | **29,219** | **30,974** | **34,163** | **36,025** | **36,741** | **35,899** | **38,402** |
| **Cash Flows from Investing Activities** | | | | | | | | | | |
| **Receipts:** | | | | | | | | | | |
| Sale of Investment Securities | | | | | | | | | | |
| Sale of Real Estate Assets | - | - | - | - | - | - | - | - | - | - |
| Sale of Infrastructure, Property, Plant & Equipment | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 | 250 |
| **Payments:** | | | | | | | | | | |
| Purchase of Infrastructure, Property, Plant & Equipment | (31,479) | (32,022) | (31,126) | (30,692) | (34,069) | (33,608) | (30,560) | (33,574) | (30,850) | (29,890) |
| Purchase of Intangible Assets | (410) | (420) | (431) | (442) | (453) | (464) | (475) | (487) | (500) | (512) |
| **Net Cash provided (or used in) Investing Activities** | **(31,639)** | **(32,192)** | **(31,307)** | **(30,883)** | **(34,272)** | **(33,822)** | **(30,785)** | **(33,811)** | **(31,100)** | **(30,153)** |
| **Cash Flows from Financing Activities** | | | | | | | | | | |
| **Receipts:** | | | | | | | | | | |
| Proceeds from Borrowings & Advances | 17,500 | 11,000 | 10,000 | 8,000 | 10,000 | 7,000 | - | 3,000 | - | - |
| **Payments:** | | | | | | | | | | |
| Repayment of Borrowings & Advances | (3,852) | (4,366) | (4,095) | (4,652) | (4,794) | (3,899) | (3,924) | (4,180) | (4,265) | (3,999) |
| **Net Cash Flow provided (used in) Financing Activities** | **13,648** | **6,634** | **5,905** | **3,348** | **5,206** | **3,101** | **(3,924)** | **(1,180)** | **(4,265)** | **(3,999)** |
| **Net Increase/(Decrease) in Cash & Cash Equivalents** | **5,317** | **(784)** | **2,218** | **1,683** | **1,908** | **3,442** | **1,316** | **1,749** | **533** | **4,251** |
| **plus: Cash - beginning of year** | 2,625 | 7,941 | 7,158 | 9,376 | 11,059 | 12,967 | 16,409 | 17,725 | 19,474 | 20,008 |
| **Cash - end of the year** | **7,941** | **7,158** | **9,376** | **11,059** | **12,967** | **16,409** | **17,725** | **19,474** | **20,008** | **24,258** |
| plus: Investments - end of the year | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 | 41,241 |
| **Total Cash & Investments - end of the year** | **49,182** | **48,399** | **50,617** | **52,300** | **54,208** | **57,650** | **58,966** | **60,715** | **61,249** | **65,499** |
| Less restricted Cash (NAL) | (13,937) | (14,363) | (16,337) | (18,359) | (20,432) | (22,555) | (24,731) | (26,960) | (29,244) | (31,702) |
| **Cash, Cash Equivalents & Investments - end of the year** | **35,245** | **34,036** | **34,280** | **33,941** | **33,777** | **35,095** | **34,235** | **33,755** | **32,004** | **33,798** |

### 10.4 Strategic Scenario – Graphs

**Strategic Scenario Graph – Underlying Surplus (AMENDED)**

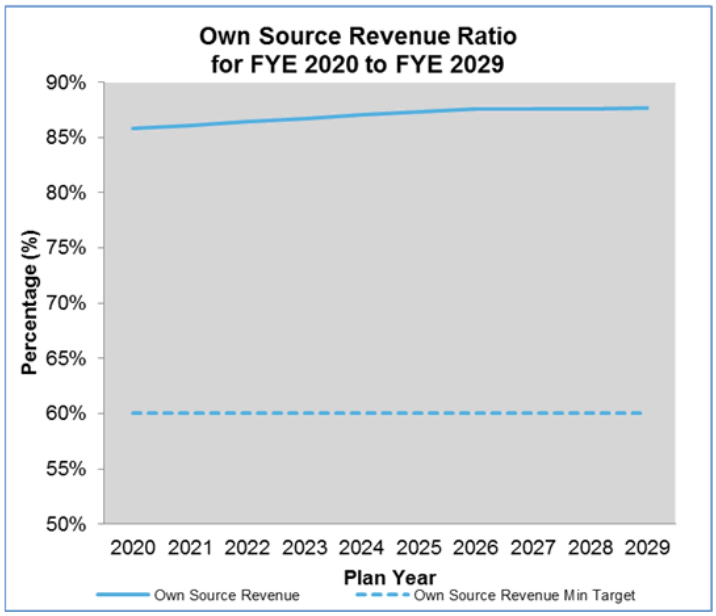



**Strategic Scenario Graph - Operating Performance Ratio (AMENDED)**

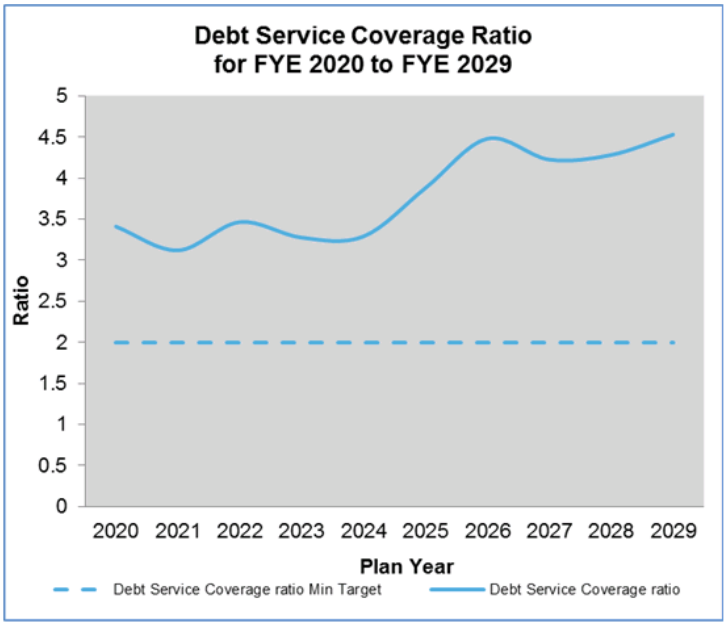


**ITEM 1 - ATTACHMENT 3 PROPOSED AMENDMENTS TO THE INTEGRATED PLANNING AND REPORTING DOCUMENTS.**

**Strategic Scenario Graph – Own Source Revenue Ratio (AMENDED)**




**Strategic Scenario Graph – Debt Service Coverage Ratio (AMENDED)**

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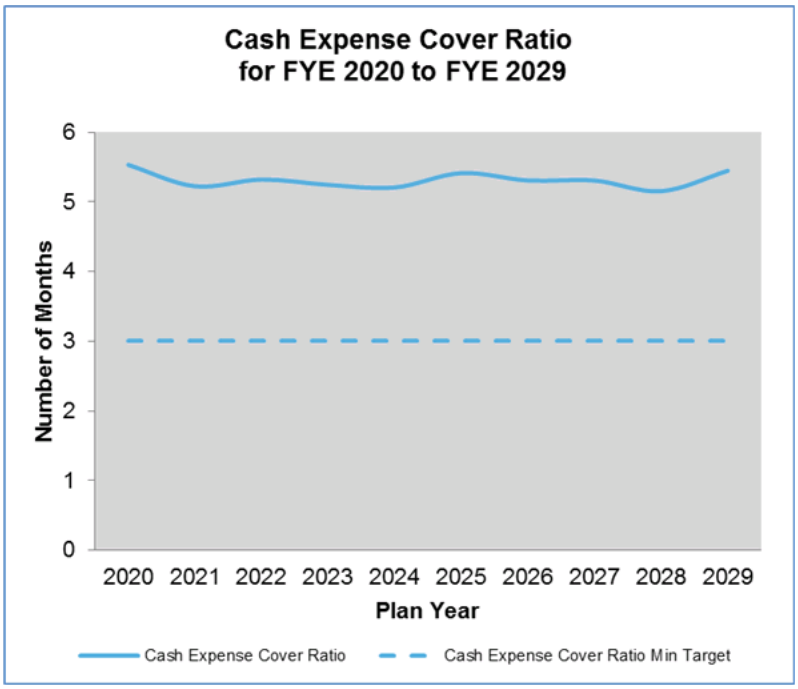
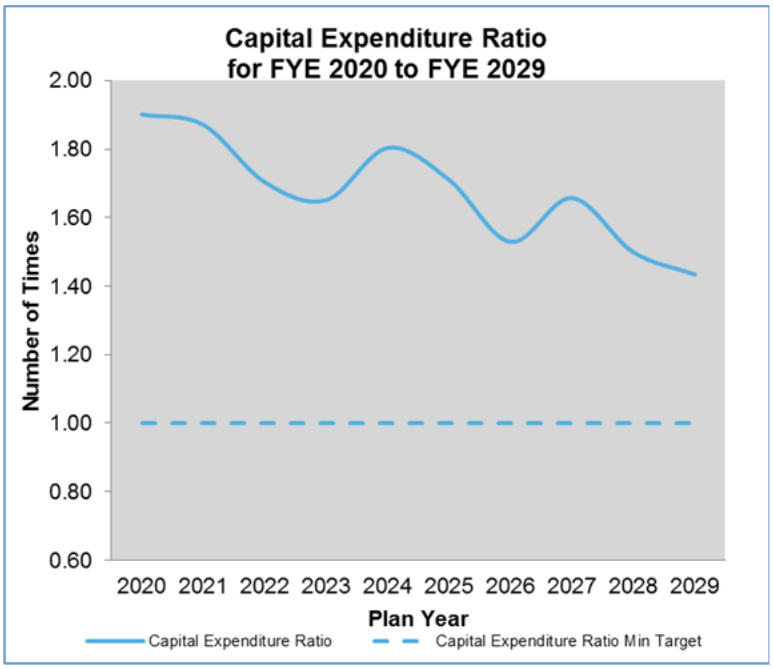
**Strategic Scenario Graph - Cash Expense Cover Ratio (AMENDED)**




**Strategic Scenario Graph - Capital Expenditure Ratio (AMENDED)**

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Policy

PORT STEPHENS COUNCIL

**FILE NO:** **PSC2009-02488**

**TITLE:** **DEBT RECOVERY AND HARDSHIP**

**POLICY OWNER:** **FINANCIAL SERVICES SECTION MANAGER**

## 1. PURPOSE:

1.1 The purpose of this policy is to ensure:

- Efficient and effective processes for collection of outstanding debts.
- Provision of a decision making framework for assessment of financial hardship applications.
- Statutory requirements are met for recovery of rates, charges, fees and other debts.
- Debts are recorded in Council's accounting system.
- Compliance with the Office of Local Government Debt Management and Hardship Guidelines

## 2. CONTEXT/BACKGROUND:

2.1 This document prescribes Council procedures to recover monies that become overdue for rates, charges, fees and other debts and assistance to ratepayers and debtors experiencing financial hardship.

## 3. SCOPE:

3.1 This policy has been written considering the following principles:

- Council has a responsibility to recover monies owing to it in a timely, efficient and effective manner to fund its operations.
- All people will be treated fairly and consistently.
- All matters will be considered confidentially.
- ~~Genuine~~ financial hardship will be recognised and people treated with respect and compassion in considering their circumstances.

## 4. DEFINITIONS:

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

| | |
|---|---|
| 30 day trading account | A sundry debtor account wherein Council extends credit to the debtor to be paid in full monthly in arrears. |

| | |
|---|---|
| Aged pensioner | A person verified by Centrelink as receiving an aged pension and holding a pensioner concession card. |
| Legal action | Debt recovery action taken under the *Civil Procedure Act 2005* or *Local Government Act 1993.* |
| Letter of demand | Correspondence sent to a ratepayer or debtor formally requesting payment. |
| Recovery action | Making contact with a ratepayer or debtor to request payment of overdue amounts. |

## 5. POLICY STATEMENT:

5.1 Part 1 – Recovery of rates and charges

5.1.1 Rates and charges notice

- A rates and charges notice will be sent in July each year payable in four instalments due on 31 August, 30 November, 28 February and 31 May. An instalment notice will be sent 30 days before instalments two, three and four are due.
- Ratepayers can elect to receive rate, instalment and reminder notices by email

5.1.2 Overdue instalment notices

- An overdue instalment notice will be sent 21 days after the due date for all unpaid assessments over $25.00.

5.1.2.1 Overdue instalment notices will include:

- debt details
- a request to pay within 14 days
- an option of repayment arrangement
- a notice of referral to Council's debt collection agency if the overdue amount exceeds ~~$700~~ $800 and remains unpaid
- an instruction to disregard notice if complying with a repayment arrangement.

5.1.3 Recovery action – referral to debt collection agency

- ~~14 days after the issue of the overdue instalment notice unpaid assessments over $700 $800 with no repayment arrangement in placewill be referred to Council's debt collection agency.~~
- 21 days after the issue of the overdue instalment notice, assessments will be referred to Council's debt collection agency where:

- the debt balance is $800 or more, and
- there is no repayment arrangement in place, and
- there is no undetermined request for financial assistance, and
- there has been no contact from a support service on behalf of the ratepayer.

5.1.4 Recovery action – debt collection agency procedures

- Council's debt collection agency will issue a letter of demand in relation to each debt advising that:
  - council has referred the debt for collection
  - payment is required within seven days of the date of the letter
  - if unpaid; legal action will be commenced
  - the minimum amount in legal costs that will be added to the ratepayer's assessment if legal action is commenced.

5.1.4.1 Council will only commence legal action as a last resort. The debt will escalate to the following stages only if it remains unpaid:

- ~~Nine~~ 21 days after the date of the letter a statement of liquidated claim will be prepared, filed with the court and issued for service.
- If after the statutory period following service, judgement will be obtained.
- Further action will be commenced to recover the debt including writ of execution and garnishee orders.

5.1.5 Arrangements to ~~repay overdue~~ pay rates and charges

5.1.5.1 A ratepayer may enter into a weekly, fortnightly or monthly arrangement to ~~repay overdue~~ pay rates and charges with Council or Council's debt collection agency subject to the following conditions:

- The overdue amount must be paid in full within 12 months.
- Normal interest charges apply, unless written off under hardship provisions of this policy at part 4.
- Council's Finance Officer - Revenue may enter into a longer term repayment arrangement if in that Officer's opinion a ratepayer's financial circumstances warrant this.
- A ratepayer dissatisfied with a decision of the Finance Officer - Revenue may have that decision reviewed by the Finance Officer - Revenue Team Leader.
- Ratepayers will be advised at the time of making a repayment arrangement that if the arrangement is dishonoured recovery action will recommence without further notice.

- Where an arrangement has been dishonoured, a new arrangement cannot be accepted until a payment is received to show good faith.
- Where legal action has commenced, arrangements must be in the form of a court instalment order.
- Extensions of time beyond three months without any payment will not be acceptable.
- Where a supplementary rates and charges notice is issued in the latter part of the year and where an arrangement is made for payment of the rates within six months of the due date, interest will be written off provided payment of one half of the amount due is made within three months and the balance is paid within six months.

5.2 Part 2 – Recovery of sundry debtor accounts

5.2.1 Sundry debtor invoices and statements

5.2.1.1 Sundry debtor accounts and invoices will be created when information becomes available and printed and posted weekly. The payment due date will be 30 days after the invoice issue. A statement will be issued within seven days of month's end.

5.2.1.2 Hardship provisions apply to sundry debtor accounts in certain circumstances, refer to paragraphs 5.2.3, 5.4.12 and 5.4.14.

5.2.2 Overdue sundry debtors

5.2.2.1 The following process applies to recovery of overdue sundry debtor accounts:

- If unpaid by the due date a second and then a third monthly statement will be forwarded as a reminder.
- ~~If full payment is not received after issue of the second statement then an overdue sundry debtor account letter requesting payment or the making of a satisfactory arrangement to pay will be sent to the debtor; and~~
- ~~The overdue sundry debtor account letter will advise that the recovery of the overdue account will be referred to Council's debt collection agency if the account is not paid within 14 days. Section 355(b) committees, sporting clubs and government agencies will not be referred to the debt collection agency.~~
- A letter of demand will be sent by Council before an overdue sundry debt is referred to Council's debt collection agency. Section 355(b) committees, sporting clubs and government agencies will not be referred to the debt collection agency.

5.2.3 Overdue sundry debtors – aged pensioners

5.2.3.1 If a sundry debtor account is a charge on the land ie kerb and gutter, or foot paving, and it is payable by an aged pensioner, the aged pensioner may apply to Council to have the account deferred against their estate subject to the hardship provisions of this policy and provided they have already deferred their rates against their estate.

5.2.4 Recovery action – suspension of credit facilities

5.2.4.1 If the account is a recurring account, eg waste tipping fees, and any part remains unpaid for more than 60 days, further credit to that debtor account may be withdrawn until the overdue amount is paid. The process of suspending credit facilities will be:

- Council will make contact with the debtor to notify of the Council's intention to suspend credit facilities. Notification will include a letter when credit is suspended.
- ~~A letter of demand will be posted to the debtor advising of the overdue amount, required payment date, 30 day payment terms and advising that non payment will result in the account being suspended with fees required up front to continue to use Council services;~~
- ~~After the required payment date a second letter will be posted to the debtor advising that the account has been suspended and debt referred to Council's debt collection agency;~~
- After payment of the overdue amount or commencement of a satisfactory repayment arrangement, credit facilities may be resumed; and
- If payment terms are breached again Council may cancel credit facilities.

5.2.5 Recovery action – referral to debt collection agency

5.2.5.1 14 days after issue of the ~~recovery notice~~ letter of demand as described in ~~2 b)~~ 5.2.2.1 above, Council will refer overdue accounts to its debt collection agency.

5.2.6 Recovery action – debt collection agency procedures

5.2.6.1 Council's debt collection agency will issue a letter of demand in relation to each debt advising:

- Council has referred the debt for collection.
- Payment is required within seven days of the date of the letter.
- If unpaid, legal action will be commenced.
- The minimum amount in legal costs that will be added to the ratepayer's account if legal action is commenced.

5.2.6.2 Council will only commence legal action as a last resort. The debt will escalate to the following stages only if it remains unpaid:

- ~~Nine~~ 21 days after the date of the letter a statement of liquidated claim will be prepared, filed with the court and issued for service.
- After the statutory period following service, judgment will be obtained.
- Further action will be commenced to recover the debt including writ of execution and garnishee orders.

5.2.7 Arrangements to repay sundry debtor accounts

5.2.7.1 A debtor may enter into a weekly, fortnightly or monthly arrangement to repay ~~overdue~~ accounts with Council or Council's debt collection agency subject to the following conditions:

- The overdue amount must be paid in full within 12 months.
- Council's Finance Officer - Revenue may enter into a longer term repayment arrangement if in that Officer's opinion a debtor's financial circumstances warrant this.
- A debtor dissatisfied with a decision of the Finance Officer - Revenue may have that decision reviewed by the Finance Officer - Revenue Team Leader.
- Debtors will be advised at the time of making a repayment arrangement that if the arrangement is dishonoured recovery action will recommence without further notice.
- Where an arrangement has been dishonoured, a new arrangement cannot be accepted until a payment is received to show good faith.
- Where legal action has commenced, arrangements must be in the form of a court instalment order.
- Extensions of time beyond three months without any payment will not be acceptable.

5.3 Part 3 – Credit control

5.3.1 Terms of payment – 30 day accounts

5.3.1.1 All accounts with Council will be strictly 30 days trading terms, without exceptions. Council will open credit accounts in accordance with this policy.

5.3.2 Terms of payment – credit accounts

5.3.2.1 No credit account will be opened unless a 30 day trading application form has been completed and returned. Council will conduct a reference check on the applicant, verifying references provided by the applicant, before a credit account is offered.

5.3.3 Terms of payment – one off usage

5.3.3.1 No company or individual will be extended credit for one off use of:

- room hire
- hall hire
- community centre bookings
- holiday park bookings
- council stores
- sporting field use
- enrolment fees
- tipping fees
- vehicle repairs
- sundry sales including documents, copying and plant.

5.3.4 Council will invoice government departments that provide a purchase order. All other one off usages must be paid for in advance or at the time of usage to avoid difficulties in locating debtors and recovering fees. Council's receipts satisfy the requirements of a tax invoice for business debtors.

5.3.5 Council will extend credit and allow payment plans for animal impounding fees and sustenance fees at the discretion of the Coordinator Environmental Health and Compliance to avoid hardship.

5.3.6 Terms of payment – deposits and progress payments

5.3.6.1 For private works Council will provide a written quote for the proposed work to cover estimated costs for the work. For work to proceed, Council requires written authorisation from the client and proof of identity. For work valued at more than $1,000 a 10% deposit will be required before work commences. For work valued at more than $10,000 Council will require agreed progress payments at various stages.

5.3.7 Judgment debts and credit history

5.3.7.1 Credit reporting agencies access some court records relating to debt recovery. Specifically, they access details of all default judgments and record these on the individual's credit history, in some cases for five years. If a statement of liquidated claim is served and the debtor:

- makes no payment in the next 28 days;
- doesn't pay the amount claimed, including legal costs; or
- doesn't apply for a court instalment order to pay off the amount claimed, including legal costs; ~~and~~ or
- doesn't lodge a notice of defence with the court disputing the claim;

- then the debtor ~~will~~ may be liable to incur a default judgment. It is these default judgments, where a debtor has not responded to a statement of claim that may be included in an individual's credit history.

5.3.8 If the debt has been paid in full, Council will upon request, write a letter to the debtor confirming that the debt has been repaid in full which may then be presented as proof of payment. Credit reporting agencies will not remove from an individual's credit history the existence of a default judgment because it assists users of their reports with credit risk assessment.

5.3.9 Debtors may sometimes ask for Council to consent to the filing of a notice of discontinuance or to have judgment set aside to have the default judgment removed from their credit history. The process requires a notice of motion to have judgment set aside and then a notice of discontinuance. Council will not have judgment set aside or issue a notice of discontinuance in these circumstances. A notice of discontinuance is a remedy for correcting a claim that was issued in error, before judgment is entered by the court. A debtor has no right to have a default judgment erased upon payment of the debt. The debtor had the opportunity to avoid default judgment when they were issued with the statement of claim and judgment warning letter. A default judgment is a valid court judgment.

5.3.10 Council does not report debts to any credit reporting agencies, and is under no obligation to assist debtors to delete factually correct court judgment history.

5.4 Part 4 – Hardship provisions:

5.4.1 Defer payment of rates and charges – aged pensioners

5.4.1.1 Aged pensioners who satisfy the eligibility criteria may make application to defer the payment of rates and charges and property related sundry debtor accounts against their estate. If granted, payment of the rates, charges, interest and property related sundry debts will be deferred until any of the following occurs:

- Death of the ratepayer.
- Sale of the property.
- The ratepayer ceases to occupy the property as their principal place of living and rents the property out.

5.4.2 The criteria used to determine eligibility for deferral will be:

- The ratepayer must be an aged pensioner as defined by Centrelink in receipt of a pensioner rate concession in relation to the property.

- The property must be the ratepayer's principal place of living.
- The property must be used for residential or farming purposes only.
- The property can have no more than a single dwelling house or residential unit erected upon it.
- The total amount of rates and charges (net of pensioner concession) payable must be more than 8% of the age pension of an individual (if the ratepayer is an individual) or 8% of the age pension of a couple (if the ratepayer is a couple) at the date of the initial application.

5.4.3 An initial application form must be completed and lodged with Council and determined by the Finance Revenue Coordinator. A ratepayer dissatisfied with a decision of the Finance Revenue Coordinator may have that decision reviewed by the Hardship Panel established under this policy. The Hardship Panel may approve an application for deferral if it believes the circumstances of the ratepayer warrant this even if the eligibility criteria have not been met. A letter of determination will be issued to the ratepayer. If an application is refused, the ratepayer will be provided with reasons for the refusal.

5.4.4 After approval, a letter will be posted out annually to the ratepayer with a copy to sign and return to continue the deferral. The purpose of the annual letter will be to confirm that the ratepayer continues to own and occupy the property, is still alive, and is aware of and agrees to the deferral. Deferral will continue once granted without the need to satisfy the 8% criteria again, provided that the ratepayer continues to own and occupy the property. Where the ratepayer ceases to occupy the rateable property and the property becomes rented a repayment timeframe for the deferred rates and charges will be negotiated by the Finance Officer - Revenue. A person dissatisfied with a decision of the Finance Officer - Revenue may have that decision reviewed by the Finance Officer - Revenue Team leader.

5.4.5 Interest charges accrue in respect of deferred rates and charges at the rate determined under the *Local Government Act.* No deferred rates, charges or interest will be written off under this policy.

5.4.6 Writing off of accrued interest

5.4.6.1 The Finance Officers – Revenue and Finance Officer - Revenue Team Leader have delegated authority to write off small amounts of interest that have accrued on rates and charges where the person was unable to pay the rates and charges when they became due and payable for reasons beyond their control. The Finance Revenue Coordinator has delegated authority to write off an unspecified amount of interest.

5.4.7 Ratepayers seeking to have interest written off under hardship provisions must submit the prescribed application form to be considered by the Finance Revenue Coordinator. Accrued interest on rates and charges may be written off where payment of the accrued interest would cause the person hardship. A person dissatisfied with a decision of the Finance Revenue Coordinator may have that decision reviewed by the Hardship Panel. The Hardship Panel may request the ratepayer to come to an interview if it is necessary to understand the issues causing hardship.

5.4.8 Hardship resulting from a general revaluation of the Port Stephens Local Government Area

5.4.8.1 In accordance with section 601 of the Local Government Act a ratepayer who suffers substantial hardship as the consequence of the making and levying of a rate on the most recent valuation, may apply to Council for relief. Assistance will only be available in the first year new valuations are used to calculate rates.

5.4.8.2 The criteria used to determine eligibility:

- Rates payable must be more than 3% of the gross household income.
- The applicant must be an owner and occupier of the property to which the rates relate and the dwelling must be the applicant's sole or principal place of living.
- The ordinary rate increase must be more in percentage terms than the amount determined by Council at each revaluation. The ordinary rate increase is calculated as the ordinary rates payable for the new rating year (being the first year in which new valuations are used) minus the ordinary rates payable in the previous rating year increased by the allowed ratepegging increase for the year; (eg rates ~~2014-2015 $900~~ 2017 – 2018 $1000 minus rates ~~2013-2014 $700~~ 2016 – 2017 $800 plus ~~2.8%~~ 1.5% ratepegging increase ~~($719.60)~~ ($812.00) = ~~$180.40~~ $188.00).

5.4.9 Applications must be submitted on the prescribed application form. Assistance will be calculated as follows:

- One half of the ordinary rate increase up to a maximum of $200 (eg ~~$180.40~~ $188.00 increase x 0.5 = ~~$90.20~~ $94.00. ~~$500 increase x 0.5 = $200 max~~).
- No assistance will be given for domestic waste management charges, Hunter Catchment Contribution or ~~special rates~~ or other charges.
- The maximum amount of assistance in aggregate for all ratepayers will be $20,000.

5.4.10 Applications will be considered in the order in which they are received by Council. No further applications will be considered once the aggregate amount of assistance has been granted. Applications will be considered by the Finance Officer - Revenue Team Leader. A ratepayer dissatisfied with a decision of the Finance Officer - Revenue Team Leader may have that decision reviewed by the Hardship Panel established under this

policy. If an application is refused, the applicant will be provided with reasons for the refusal.

5.4.11 Rates Assistance Program

5.4.11.1 The Rates Assistance Program only comes into operation if Council's Special Rate Variation application is approved in full by IPART. Council partners with local welfare and/or financial counselling services to act as a referral point for ratepayers experiencing financial hardship. Participating services are empowered to assess ratepayer's individual financial circumstances and recommend to Council that rates and charges up to $250.00 be written off due to financial hardship. Each participating service is given an annual limit of $5,000 that they can recommend for financial assistance. Assistance is limited to non-pensioners to assist individuals or families who are experiencing financial hardship and difficulty paying rates, but are not eligible for a pensioner rate concession. Participating services are to contact Council to recommend assistance. Council will check to ensure the ratepayer in not in receipt of a pensioner rate concession and provide confirmation to the participating service. A credit will then be processed to the ratepayer's rate assessment. A record of all assistance is kept and assistance is limited to $250 per ratepayer per annum. Assistance is provided in the order that recommendations are received by Council.

5.4.11.2 The rates assistance program is included in Council's revenue policy annually and publicly exhibited as a proposed donation for a class of individuals under section 356 of the Local Government Act 1993 and the aggregated cost included in the annual report.

5.4.12 ~~5.4.11~~ Fees and charges

5.4.12.1 The Coordinator Environmental Health and Compliance may consider hardship matters relating to animal impounding and sustenance fees. Assistance may be provided in the form of allowing additional time to pay or waiving the fees in cases of hardship. A customer dissatisfied with a decision of the Coordinator Environmental Health and Compliance may have that decision reviewed by the Hardship Panel established under this policy. Applicants under this section will be made aware that fees and charges in relation to animal impounding increase on a daily basis and will accrue during the review period. Council will not consider hardship applications in relation to animal registration fees or the costs of microchipping or veterinarian fees and charges.

5.4.13 ~~5.4.12~~ Hardship panel

5.4.13.1 A panel comprising the Finance Revenue Coordinator, ~~Senior Social Planning Officer~~ Finance Revenue Team Leader and ~~a representative from Corporate~~

~~Services~~ the Financial Services Section Manager will determine applications for assistance referred to it and review decisions as necessary.

5.4.14 ~~5.4.13~~ Referral of matters to hardship panel

5.4.14.1 The General Manager or Mayor may refer any Council matter involving financial hardship of a ratepayer or resident to the Hardship Panel for consideration and advice.

5.4.15 ~~5.4.14~~ Privacy

5.4.15.1 In accordance with the Privacy Code of Practice and Council's Privacy Management Plan, personal information collected as a consequence of this policy will only be used for the purpose of assessing eligibility under the policy and will not be used for any other purpose or disclosed to any other person unless Council is required by law to do so or authorised to do so by the person to whom that personal information relates.

5.5 Part 5 – Sale of land for unpaid rates or charges:

5.5.1 Where rates or charges for a property are overdue for more than five years the land is liable to be sold under Section 713 of the *Local Government Act 1993*. The process in compliance with the requirements of ss713-726 of the *Local Government Act 1993* will generally be as follows:

- Each September outstanding rate assessments will be reviewed to identify all land liable to be sold.
- Land titles will be searched and all persons with an interest in the land will be notified of Council's intention.
- A report will be prepared for Council to consider offering the land for sale by public auction.
- A date will be set for the public auction.
- A real estate agent will be appointed to conduct the sale.
- Notice of the auction will be published in accordance with s715 of the Act and given to all persons with an interest in the land.
- Contracts for sale will be prepared.
- The real estate agent will market the land.
- Reserve prices will be established.
- all land will be offered for sale by public auction unless all overdue amounts are paid in full prior to auction.
- On auction day a deposit of 10% in cash or bank cheque will be payable by the successful bidder.

- If the land is not sold at auction the land may be sold by private treaty, subject to the restrictions contained in s716 of the Act.
- All costs associated with the sale must be met from sale proceeds.
- Sale proceeds will be applied as required by the Act.
- The land will be conveyed free of debts to the extent provided by the Act.
- Council will hold any surplus proceeds for persons having estates or interests in the land immediately before the sale according to their respective estates and interests.
- Council will pay the balance of the purchase money or any part of the balance to or among the persons who are, in its opinion, clearly entitled to it.

5.6 Part 6 – Pensioner rate concessions:

5.6.1 The following prescribes how Council will grant concessions to pensioners:

5.6.1.1 Eligibility for pensioner concessions
In all situations where an eligible pensioner has assumed full and sole responsibility for the paying of rates, notwithstanding the nature of the ownership of the property, Council agrees to grant the full pensioner concession under Section 577 of the Act. The presentation of a Pensioner Concession Card will be accepted by Council as a sufficient test to meet the hardship requirements of the Act under these circumstances.

5.6.1.2 Backdating of pensioner concessions
Where an eligible pensioner applies for a concession Council will backdate that concession for up to two years prior to the current year (ie a maximum total of three years including the current year) provided that:

- The pensioner was at all times eligible for the concession.
- The pensioner provides a statutory declaration that the rateable property was their sole or principal place of living for all of the period that the concession is claimed for.

5.7 Part 7 – Social implications:

5.7.1 Council has a charter under the Local Government Act 1993 to raise funds for local purposes by imposing rates, charges and fees fairly. A policy that prescribes Council's process of collecting debts facilitates consistency and promotes fairness.

5.7.2 The hardship provisions of this policy empower Council to provide practical financial assistance to financially vulnerable ratepayers and debtors, which is consistent with Council's charter of social justice and equity.

~~5.7.3 The provisions of this revised policy are largely unaltered from the previous policy which had been in place for nine years and provided assistance for many ratepayers in terms~~

~~of interest reductions, pension rebate extensions, deferral of rates for financially disadvantaged aged pensioners, rate reductions for low income ratepayers following general revaluations, provision of interest free loans to ratepayers experiencing financial hardship with on-site sewage management system upgrades and rate reductions for oyster farmers affected by water contamination.~~

## 6. POLICY RESPONSIBILITIES:

6.1 The Finance Revenue Coordinator is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.

6.2 The Finance Officer - Revenue Team Leader and Finance Officer - Revenue are responsible for complying with the policy.

## 7. RELATED DOCUMENTS

7.1 Pensioner Rate Rebates.
7.2 Pensioner Interest Charges.
7.3 Waiving of Interest Charges.
7.4 Interest on Overdue Rates.
7.5 Interest Charges on Supplementary Rate Levies.
7.6 *Local Government Act 1993* - specifically sections *564, 567, 577, 601, 712* and *713-726*.
7.7 Code of Conduct.

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## CONTROLLED DOCUMENT INFORMATION:

| This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au | | | |
|---|---|---|---|
| **EDRMS container No** | PSC2009-02488 | **EDRMS record No** | ~~16/391420~~ 18/305201 |
| **Audience** | Council staff and Community | | |
| **Process owner** | Financial Services Section Manager | | |
| **Author** | Financial Services Section Manager | | |
| **Review timeframe** | Two years | **Next review date** | ~~25/10/2018~~ 25/10/2020 |
| **Adoption date** | 28/08/2007 | | |

Policy

PORT STEPHENS COUNCIL

**VERSION HISTORY:**

| Version | Date | Author | Details | Minute No. |
|---|---|---|---|---|
| 1.0 | 28/08/2007 | Financial Services Section Manager | Policy adopted | 235 |
| 2.0 | 14/12/2010 | Financial Services Section Manager | Revised policy adopted | 404 |
| 3.0 | 11/12/2012 | Financial Services Section Manager | Revised policy adopted | 338 |
| 4.0 | 25/11/2014 | Financial Services Section Manager | Revised policy adopted | 315 |
| 5.0 | 23/08/2016 | Financial Services Section Manager | Reviewed and formatted into the new template.<br>Position titles updated to reflect organisational chart.<br>Increased minimum threshold for commencing rates legal action from $500 to $700 due to increasing legal costs.<br>Added definitions.<br>Added code of conduct to related documents. | |
| 6.0 | 25/10/2016 | Financial Services Section Manager | Adopted by Council | 313 |

| | | | | |
|---|---|---|---|---|
| 7.0 | | Financial Services Section Manager | Increased minimum threshold for commencing rates legal action from $700 to $800.<br>Additional dot point regarding letters of demand at 5.2.2.<br>Removed two dot points regarding overdue sundry debtor accounts at 5.2.2.<br>Added dot point regarding credit facilities at 5.2.4.<br>Removed two dot points regarding overdue accounts at 5.2.4.<br>Added 'or' to dot points at 5.3.7.<br>Changed 'will' to 'may' to dot point 5 at 5.3.7.<br>Changed financial years from 2014 – 2015 to 2017 – 2018 and 2013 – 2014 to 2016 – 2017 to dot point 3 at 5.4.8.<br>Changed pricing from $900 to $1000 and $700 to $800 to dot point 3 at 5.4.8.<br>Changed ratepegging increase from 2.8% to 1.5% and subsequent calculation of $719.60 = $180.40 to $812.00 = $188.00 to dot point 3 at 5.4.8.<br>Changed assistance calculation from $180.40 x 0.5 = $90.20 to $188.00 x 0.5 = $94.00 to dot point 1 at 5.4.9.<br>Removed '$500 increase x 0.5 = $200 max' to dot point 1 at 5.4.9.<br>Changed 'special rates' to 'other charges' to dot point 2 at 5.4.9. | |

| | | | | |
|---|---|---|---|---|
| | | | Added section on 'Rates Assistance Program' to 5.4.11.<br>Amended numbering from 5.4.11 through to 5.4.15.<br>Removed 'Senior Social Planning Officer' and 'a representative from Corporate Services'; replaced with 'Finance Revenue Team Leader' and 'Finance Services Section Manager' at 5.4.12.<br>Removed dot point regarding provisions of revised policy at 5.7.3.<br>Added at 1.1 reference to the new OLG Debt Management and Hardship Guidelines<br>Removed 'Genuine' from the last dot point at 3.1<br>Added to option to receive notice by email at 5.1.1<br>Replaced 14 days with 21 days at 5.1.3<br>Added to 5.1.3 'or undetermined request for financial hardship assistance, or contact from a support service on behalf of the ratepayer,'<br>Added to 5.1.4.1 'Council will only commence legal action as a last resort'<br>Replaced Nine days with 21 days at 5.1.4.1<br>Replaced 'repay overdue' with 'pay' at 5.1.5 and 5.1.5.1<br>Added paragraph about hardship at 5.2.1.2<br>Replaced 'recovery notice' with 'letter of demand' and the paragraph referencing at 5.2.5.1 | |

| | | | | |
|---|---|---|---|---|
| | | | Added to 5.2.6.2 'Council will only commence legal action as a last resort'<br>Replaced 'Nine' with '21' days at 5.2.6.2 | |

Councillor Jaimie Abbott left the meeting at 6:30pm, prior to Rescission Motion, item 1.
Councillor Paul Le Mottee left the meeting at 6:30pm, prior to Rescission Motion, item 1.

**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| **005** | **Councillor Giacomo Arnott**<br>**Councillor Ken Jordan**<br><br>It was resolved that Council move out of Committee of the Whole. |

**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| **006** | **Councillor Giacomo Arnott**<br>**Councillor Ken Jordan**<br><br>It was resolved that both Rescission Motions be brought forward and dealt prior to item 2. |

# RESCISSION MOTIONS

## NOTICE OF RESCISSION

**ITEM NO. 1** **FILE NO: 18/433112**
**EDRMS NO: PSC2017-00020**

**DEVELOPMENT APPLICATION 16-2018-417-1 SINGLE STOREY DWELLING, SHED AND FLOOD MOUND AT 251 CLARENCE TOWN ROAD, WOODVILLE (LOT 3 DP1154596)**

**COUNCILLOR:** JOHN NELL
GIACOMO ARNOTT
KEN JORDAN

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**THAT COUNCIL:**

Rescind its decision of 11 December 2018 on Item No. 1 Development Application 16-2018-417-1 single storey dwelling, shed and flood mound at 251 Clarence Town Road, Woodville (Lot 3 DP1154596).

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**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| | **Councillor Giacomo Arnott**<br>**Councillor Ken Jordan**<br><br>That Council rescind its decision of 11 December 2018 on Item No. 1 Development Application 16-2018-417-1 single storey dwelling, shed and flood mound at 251 Clarence Town Road, Woodville (Lot 3 DP1154596). |

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, Ken Jordan and John Nell.

Those against the Motion: Mayor Ryan Palmer, Crs Glen Dunkley, Sarah Smith and Steve Tucker.

The motion was lost.

**ATTACHMENTS**

1) Minutes - Item 1 Ordinary Council meeting 11 December 2018.

**ITEM 1 - ATTACHMENT 1 MINUTES - ITEM 1 ORDINARY COUNCIL MEETING 11 DECEMBER 2018.**



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

| | |
|---|---|
| | **Councillor Giacomo Arnott**<br>**Councillor John Nell**<br><br>That Council move into Committee of the Whole. |

The motion on being put was lost.

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

| | |
|---|---|
| | **Councillor Giacomo Arnott**<br>**Councillor John Nell**<br><br>That the speaking limit be 10 minutes instead of the five minutes. |

The motion on being put was lost.

**ITEM NO. 1** **FILE NO: 18/236100**
**EDRMS NO: 16-2018-417-1**

**DEVELOPMENT APPLICATION 16-2018-417-1 - SINGLE STOREY DWELLING, SHED AND FLOOD MOUND AT 251 CLARENCE TOWN ROAD, WOODVILLE (LOT 3 DP1154596)**

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

**RECOMMENDATION IS THAT COUNCIL:**

1) Refuse Development Application 16-2018-417-1 for a single dwelling, shed and flood mound at 251 Clarence Town Road, Woodville (LOT: 3 DP: 1154596) for reasons contained in **(ATTACHMENT 4).**

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

| | |
|---|---|
| 172 | **Mayor Ryan Palmer**<br>**Councillor Glen Dunkley** |

## ITEM 1 - ATTACHMENT 1 MINUTES - ITEM 1 ORDINARY COUNCIL MEETING 11 DECEMBER 2018.



| | |
|---|---|
| | It was resolved that Council approve, in principle, Development Application 16-2018-417-1 for a single dwelling, shed and flood mound at 251 Clarence Town Road, Woodville (LOT: 3 DP: 1154596) subject to conditions to be reported to the next extraordinary meeting on 29 January 2019. |

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 Glen Dunkley, John Nell, Sarah Smith and Steve Tucker.

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

**ORDINARY COUNCIL MEETING - 11 DECEMBER 2018**
**MATTER ARISING**

| | |
|---|---|
| **173** | **Councillor Giacomo Arnott**<br>**Councillor John Nell**<br><br>That Council seek independent legal advice on Council and individual Councillors liability, and the proposed liability generally be provided to Council at the same time the conditions of consent are brought back to Council. |

The motion on being put was lost on the casting vote of the Mayor.

Cr Giacomo Arnott and Cr John Nell called for a division.

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

Those against the Motion: Mayor Ryan Palmer, Crs Sarah Smith and Steve Tucker.

**BACKGROUND**

The purpose of this report is to present a Development Application (DA) to Council for determination. The subject DA relates to land located at 251 Clarence Town Road, Woodville, legally identified as LOT: 3 DP: 1154596 ('the subject site'). A locality plan is provided at **(ATTACHMENT 1)**.

The DA was called to Council as detailed in **(ATTACHMENT 2)**.

Proposal

The applicant seeks approval for the construction of a flood mound, single dwelling and ancillary shed on the subject site, as follows:

- Single storey dwelling (239m$^2$) containing four bedrooms, bathroom, ensuite, living/dining area, library and lounge areas and a double garage.
- Fill to create a flood mound with a total volume of approximately 6,633m$^3$ (to achieve a level area of approximately 1,606m$^2$ above the Flood Planning Level (FPL)). The maximum height of the mound is approximately between 2 to 3 metres as measured from existing ground level. The batter extends to the eastern side boundary with an approximate 2 metre setback.
- Ancillary shed with an area of 80m$^2$ setback 10 metres from the proposed dwelling and to be constructed on the flood mound.

Site History

The subject site has a total area of 6.1 hectares, is zoned RU1 – Primary Production and is accessible via Clarence Town Road. An existing shed is located to the west of the proposed development. The site is surrounded by large lot residential and farming uses and is identified as high hazard floodway. The land is generally clear of vegetation and has a topography that is raised above the level of Clarence Town Road.

A DA was submitted to Council in 2016 for a single storey dwelling house, land fill and ancillary shed. The application was rejected due to insufficient information.

Key Issues

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

Flood Impacts

The subject site is located on mapped flood prone land within the high hazard floodway. The applicant has submitted a Flood Impact Assessment for the proposal (from BMT dated 29 March 2018), which includes a Flood Evacuation Plan linked to trigger levels. The impact assessment considers a range of flood events (5%, 2%, 1%, 0.5% and Probable Maximum Flood (PMF)) and concludes that the construction would have negligible impact on flood levels (less than 0.1m difference) and minor impact on flood velocities (largely confined to the site, though 0.2m/s increase on the neighbouring lot).

As outlined in Table 1, the proposed flood mound is to be constructed with a finished level above the adopted Flood Planning Level (FPL). BMTs Engineer supported the proposal on the basis that the proposed dwelling and shed would be located upon the flood mound above the adopted FPL.

| Description | Level |
|---|---|
| Adopted Flood Planning Level (FPL) | RL 7.6m - Australian Height Datum (AHD) |
| Top of flood mound | RL 7.8m - Australian Height Datum (AHD) |
| Finished floor level of dwelling | RL 8.1m - Australian Height Datum (AHD) |
| Finished floor level of shed | RL 8.014m - Australian Height Datum (AHD) |

*Table 1: Nominated levels relating to the subject site and proposed development.*

Despite the dwelling and shed structures being located above the adopted FPL, development in a high hazard floodway is not encouraged under Section B5.11 of the Development Control Plan 2014 (DCP 2014) and an application may only be considered where it demonstrates to have specific community needs/benefit. The provision of private housing does not meet the criteria and therefore the proposal is inconsistent with Council's adopted policy.

New residential development on land which becomes an island during a flood event must provide flood refuge and must be constructed to withstand hydraulic loading due to flood events up to the PMF (B5.3 of DCP 2014). The design does have a large pitched-roof space above Reduced Level (RL) 10.85metres Australian Height Datum (AHD) that could be fitted out to provide a flood refuge (the applicant would need to agree to the space being used for this purpose).

Clarence Town Road is located to the south of the subject site and serves as the main access to the site. The road sits at RL 3.7metres and Paterson Road along the western boundary of the lot is elevated to approximately RL 4.0 metres. In the event of a flood, the site would experience the loss of connection to both access roads, limiting access to the site and options for safe evacuation. This creates an unnecessary risk to life in the event of a significant flooding event.

In addition to the controls within Council's DCP, Clause 7.3 of Council's Local Environmental Plan (LEP2013) also applies. Clause 7.3(3) provides that the development must be compatible with the flood hazard of the land and that it must not significantly adversely affect flood behaviour (resulting in detrimental increases in the potential flood affectation of other development or properties). As outlined above, the proposal would have negligible impacts on flood levels and minor impacts on flood velocities to surrounding properties. It is however considered that the proposal is not compatible with the flood hazard of the land as it increases the risk to life. In the event of a flood the site would experience connection loss and there would be limited options for the evacuation of the site, which could place unreasonable strain upon emergency services. Therefore the inclusion of the flood mound does not completely mitigate the risk to life in the event of a major flood.

It should be acknowledged that the assessment of the subject proposal has been undertaken in accordance with Council's current adopted DCP 2014. Under Council's proposed flood DCP (which was exhibited, however subsequently withdrawn from consideration by Council), the proposal would be considered against performance criteria: Risk to Life (B5.1), Risk to Property (B5.2) and Flood Hazard Capability (B5.3).

If the DCP was adopted in the future, it would give Council more flexibility to consider proposals where the risk can be managed or reduced by engineering works. The proposal will still however fail to demonstrate compliance with the proposed Flood Hazard Capability objectives under the plan as the development would still become isolated by high hazard floodwaters (due to the existing level of Clarence Town and Paterson Roads). This matter could not be addressed without significant and costly works to raise the level of Clarence Town Road at least 2.5 metres over a distance of 450metres (which is unlikely to be viable and would be subject to assessment and review by the Office of Environment and Heritage).

The social and economic impacts of flooding are well documented locally and State wide. Legislation, policies and strategies (including the NSW Floodplain Manual, Council's LEP and DCP) have been endorsed and implemented by Council to mitigate the impacts of flooding within the Local Government Area. Although the proposed development is unlikely to impact on development or properties in the same floodplain, it will increase the risk to life during a major flood event. On this basis, the development is considered to be inconsistent with Clause 7.3(3) of the LEP and is recommended for refusal.

Suitability of the Site

The subject site is zoned for rural purposes. Filling of the subject site could increase the available opportunities for rural land use and support the social and economic environment through decreasing the stress associated with the loss and recovery during and after the flood. However, based on the information provided, the assessment has determined that the site is not suitable for the proposed development as:

- the development does not comply with the requirements under the NSW Floodplain Manual and Council's adopted LEP and DCP.
- the subject site is not suitable for the proposed residential development due to the high hazard floodway constraints that are applicable to the land.

Conclusion

The development is inconsistent with the relevant legislation and policies, including:

- *Environmental Planning and Assessment Act 1979*, including Section 4.15(1)(c) the suitability of the site.
- Port Stephens LEP2013; Clause 7.3 Flood Planning.

- Port Stephens DCP2014; Section B5 Flooding.
- Council Floodplain Risk Management Policy.
- NSW Government Floodplain Development Manual 2005.

The key issues arising through the assessment of the application are that the proposed development is not a suitable outcome for the site, and for these reasons the proposed development is recommended for refusal for the reasons contained in **(ATTACHMENT 4)**.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

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

| Source of Funds | Yes/No | Funding ($) | Comment |
|---|---|---|---|
| Existing budget | Yes | | |
| Reserve Funds | No | | |
| Developer Contributions (S7.11) | No | | |
| External Grants | No | | |
| Other | No | | |

**LEGAL, POLICY AND RISK IMPLICATIONS**

The Development Application (DA) 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), 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 and may negate the good faith immunity provisions in the LG Act.

| Risk | Risk Ranking | Proposed Treatments | Within Existing Resources? |
|---|---|---|---|
| There is a risk that if the application is approved Councils decisions will contradict the requirements set out under Clause 7.3 LEP 2013. | Medium | Determine the application in line with the recommendations. | Yes |
| There is a risk that if the application is approved, Council may be liable for damage or consequences to approving a development located on a site with a known high flood risk. | Medium | Determine the application in line with the recommendations. | Yes |
| The risk is that the proposal will expose the property and people to risk of damage and death as a consequence of approving fill and a dwelling within a known flood risk area. | Medium | Determine the application in line with the recommendations. | Yes |

**SUSTAINABILITY IMPLICATIONS**
Includes Social, Economic and Environmental Implications

The key issues arising through the assessment of the application are that the proposed development is not a suitable outcome for the site, and for these reasons the proposed development is recommended for refusal as outlined in **(ATTACHMENT 4)**.

**CONSULTATION**

Internal referral

Consultation was undertaken with internal officers, including the Engineering section. 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

The application was notified to the Office of Environment and Heritage (OEH) as the subject site is a Declared Floodplain under the Hunter Valley Flood Mitigation Scheme and the *Hunter Water Management Act 2000*. No response has been received from OEH to date, however, should any approval of the proposed development be granted, a condition would be recommended to liaise with OEH regarding associated approval for works under Section 256 of the *Water Management Act 2000.*

Notification

In accordance with Council's notification policy outlined in Chapter A of DCP 2014 single dwellings do not require notification. Accordingly the subject DA was not placed on public notification.

**OPTIONS**

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

**ATTACHMENTS**

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

**COUNCILLORS ROOM**

1) Development Plans.

**TABLED DOCUMENTS**

Nil.

**ITEM 1 - ATTACHMENT 1 MINUTES - ITEM 1 ORDINARY COUNCIL MEETING 11 DECEMBER 2018.**



**ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.**

**ITEM 1 - ATTACHMENT 1 MINUTES - ITEM 1 ORDINARY COUNCIL MEETING 11 DECEMBER 2018.**



**ITEM 1 - ATTACHMENT 2 CALL TO COUNCIL FORM.**

PORT STEPHENS COUNCIL

**CALL TO COUNCIL FORM**
**DEVELOPMENT APPLICATION**

I, Councillor Ken Jordan

require Development Application Number.....

for A House on rural land at Woodville

at 249 Clarencetown Road Woodville

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

**Reason:**

The reason for this call-up to Council is the applicant would like to speak to Councillor re the DA.

**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] **Date:** 25/09/2018

PORT STEPHENS COUNCIL

# DEVELOPMENT ASSESSMENT REPORT

## APPLICATION DETAILS

| | |
|---|---|
| **Application Number** | 16-2018-417-1 |
| **Development Description** | Single Storey Dwelling, Shed and Flood Mound |
| **Applicant** | MR C S LUMSDEN |
| **Date of Lodgement** | 27/06/2018 |
| **Value of Works** | $400,000.00 |

**Development Proposal**

The proposed development includes the construction of a flood mound, single storey dwelling and ancillary shed on the subject site. The single storey dwelling measures 239.47m$^2$ in size and contains four bedrooms, bathroom, ensuite, living/dining area, library and lounge areas and a double garage. The flood mound will create a levelled area of approximately 1,606m$^2$. The proposed shed measures 80m$^2$.

The proposed development is located on land mapped as being Flood Planning Area. The flood planning level relevant to the land is RL 7.6m AHD. The development plans submitted with the DA identify the flood mound pad at 7.8m AHD, the finished floor level of RL 8.1m AHD for the dwelling and 8.014m AHD for the shed. The proposal for the flood mound includes approximately 6,633m$^3$ of fill material.

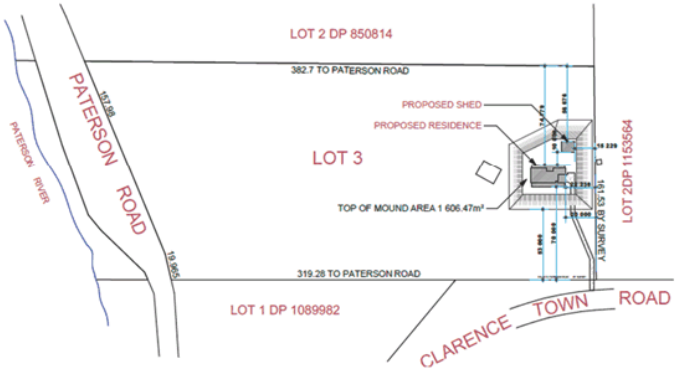


**Figure 1** – Location Plan

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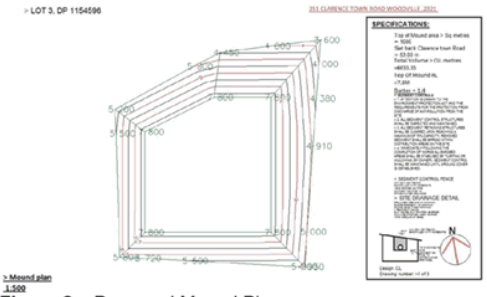


**Figure 2** – Proposed Mound Plan

| PROPERTY DETAILS | |
|---|---|
| **Property Address** | 251 Clarence Town Road WOODVILLE |
| **Lot and DP** | LOT: 3 DP: 1154596 |
| **Current Use** | Shed is located on the site |
| **Zoning** | RU1 PRIMARY PRODUCTION |
| **Site Constraints** | Acid Sulfate Soil – Class 1, 3, 4 and 5 (Building and Mound in class 3 and 5)<br>Koala Habitat Planning Map – Mainly Cleared, 50m Buffer over Cleared and Preferred (Main site of development identified as mainly cleared)<br>SEPP (Coastal Management) 2018 – Coastal Zone Combined Footprint<br>Notifiable Noxious Weeds – Alligator weed<br>Combined Corridor Map – Landscape Habitat Link, Local Link<br>OEH Referral – Declared Floodplain<br>OEH Referral – HV Flood Mitigation Scheme<br>Prime Agricultural Land (Class 1-3) – Prime<br>Flood Prone Land<br>High Hazard Floodway area<br>Flood Planning Level |

**Site Description**

The subject site has an area of 6.1 ha and is zoned RU1 – Primary Production. The site maintains access from Clarence Town Road, and directly adjoins the Paterson River to the west and east **(Figure 3)**.

Page **2** of **10**

## ITEM 1 - ATTACHMENT 1 MINUTES - ITEM 1 ORDINARY COUNCIL MEETING 11 DECEMBER 2018.



### ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.



The site is located within 4km from local amenity and facilities within Bolwarra, Largs and Wallalong. Maitland is within 12km from the site providing a large offering of services and amenity to the dwelling.

**Figure 3** – Subject Site

**Site History**

The site currently has an existing shed located in close proximity to the proposed area of the dwelling, shed and flood mound **(Figure 1)**. There is no previous approval for the shed located on Council's record system. This however does not pose any compliance issues for the subject application.

A development application was submitted to Council in 2016 for a dwelling house – single storey, land fill and ancillary shed. The application was rejected as there was not sufficient information provided for the assessment to be undertaken. A note contained on this file states that a favourable outcome may not be reached for the site due to the high flood hazard.

A waste treatment system was submitted to Council in 2016 with the dwelling house application, it was withdrawn following the rejection of the dwelling application.

**Site Inspection**

A site inspection was carried out on Thursday 9 August 2018. Upon the site inspection the proposed siting for the development has a topography that is raised above the road level and significantly higher than the rear of the site. The land surrounding the subject site includes some steep gully's and rural land uses. The topography of the site falls from the proposed location of the dwelling house to the gully RL 1.5 m and then back up to RL 6.0 m on 291 Clarence Town Road.

The subject site can be seen in the below figures.

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**Figure 4** – view from the site to Clarence Town Road

**Figure 5** – view from the site to the existing shed on site

**Figure 6** – proposed site looking to the north

| ASSESSMENT SUMMARY | |
|---|---|
| **Designated Development** | The application is not designated development |
| **Integrated Development** | The application does not require additional approvals listed under s.4.46 of the EP&A Act |
| **Concurrence** | The application does not require the concurrence of another body |

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**Internal Referrals**

The proposed development was referred to the following internal specialist staff. The comments of the listed staff have been used to carry out the assessment against the S4.15 Matters for Consideration below.

Development and Flood Engineering – It was identified that the subject site is classed as High Hazard Floodway under the Paterson River Floodplain Risk Management Study and Plan. The proposed development has not been supported as detailed within this assessment report.

The Development Engineer suggested the application be submitted to Flood Advisory Review Panel (FARP).

Flood Advisory Review Panel – Given the nature of the proposed development, the application was referred to Councils Flood Advisory Review Panel (FARP) for review and comment. The FARP recommended that the application be refused due to the subject site being unsuitable for residential development as it is located within a high hazard flood way.

**External Referrals**

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

OEH – The application was notified to the Office of Environment and Heritage (OEH) as the subject site is a Declared Floodplain under the Hunter Valley Flood Mitigation Scheme and the *Hunter Water Management Act 2000*. No response has been received from OEH to date, however, should any approval of the proposed development be granted, a condition would be recommended to liaise with OEH regarding associated approval for works under Section 256 of the *Water Management Act 2000*.

## MATTERS FOR CONSIDERATION – SECTION 4.15

**s4.15(1)(a)(i) – The provisions of any EPI**

Port Stephens Local Environmental Plan 2013 (LEP)

**Clause 2.3 – Zone Objectives and Land Use Table**
The proposed development is defined as a dwelling house and is permissible with consent in the RU1 Primary Production zone. The development addresses the objectives of the zone to minimise the fragmentation and alienation of resource lands.

**Clause 4.2B – Erection of dwelling houses on land in certain rural, residential and environmental protection zones**
In relation to the permissibility of a dwelling on the site an assessment against 4.2B (3) is required. The site is zoned RU1 Primary Production with an area of 6.1ha, which is under the minimum lot size of 40 hectares prescribed by Clause 1.7 of the LEP 2013. However, the lot was created before the current plan (LEP2013), and measures greater than 4,000m$^2$ in size. The construction of a dwelling house meets the requirements of this clause.

**Clause 7.1 – Acid Sulfate Soils**
The subject land is mapped as containing potential Class 1, 3, 4 and 5 acid sulfate soils (ASS). Accordingly, any works more than 1m below the natural ground surface that would disrupt the ASS on the site would require an assessment and management plan in relation to the works. The SoEE submitted with the application notes the proposal does not seek to excavate the site but to introduce fill for the proposed flood mound. Should Council determine to approve the development, any potential matters associated with acid sulfate soils could be addressed via conditions of consent.

**Clause 7.2 – Earthworks**

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Clause 7.2 seeks to ensure that earthworks will not have a detrimental impact upon the environment or surrounding properties. The application proposes earthworks on the site to achieve a building platform for the dwelling house to meet the flood planning level associated with the subject site through the construction of a flood mound. Earthworks to create a level flood mound are to include approx. 6,633.35m$^3$ of fill. The application notes that the proposed fill will be certified ENM, VENM or material subject to a waste exemption.

The resulting height of the earth mound at the lower north east edge is approx. 3. m from the natural ground level to the top of the mound. The southern edge of the flood mound facing toward the street frontage results in a height of approx. 2.6 m from the natural ground level to the top of the mound. The bulk and scale resulting from the height of the flood mound and the proposed dwelling will have an impact on the surrounding developments, landscape and uses, however this impact is considered to be minor and would not restrict the approval of the proposal. A condition of consent would be recommended relating to erosion mitigation works to be carried out to protect the neighbouring property.

**Clause 7.3 – Flood Planning**
Clause 7.3 seeks to minimise the flood risk to life and property associated with the use of land and to allow development only where it is compatible with the land's flood hazard so as to ensure that significant adverse impacts on flood behaviour and the environment are avoided.

The proposal suggests the flood mound will decrease the risk to life and property in the event of a flood. In the event of a flood the site would experience connection loss to connecting access ways limiting the option for emergency services trucks and the evacuation of the site. Although the proposed flood mound seeks to manage future risk on the site, it does not improve the chance of no risk to life in the event of a significant flooding occurrence.

Clarence Town Road is located to the south of the subject site and serves as the main access to the site. This road is RL 3.7m and Paterson Road along the western boundary of the lot is elevated approximately 4.0 m. In this regard, in the event of a flood, the site would experience the loss of connection to either of these roads, limiting the potential for emergency service vehicles to access the site and impact on the safe evacuation of the site resulting in a risk to life in the event of a significant flooding event.

To improve the access to the site in the event of a flood, Clarence Town Road would need to be increased to RL 6.2m AHD from current RL 3.5m AHD to limit the site from becoming is located in the event of a flood. These works are not encouraged and would require approval and further assessment by the Office of Environment and Heritage.

The social and economic impacts of flooding are well documented locally and State wide. Legalisation, policies and strategies have been endorsed and implemented by Council to mitigate the impacts of flooding within the Local Government Area. The proposed development is likely to increase risk to life during a major event.

Overall, the application is not acceptable when considered in the context of clause 7.3 as the site is classified as floodway and is located within an area that conveys a significant portion of the flood flow, which could detrimentally impact the risk to life.

**Clause 7.6 – Essential Services**
Clause 7.6 requires the consent authority to be satisfied with the connection of essential services to the subject site including water, electricity, sewerage, stormwater and access. As noted above, a wastewater treatment system was part of the dwelling application to Council in 2016 which was withdrawn following the rejection of the dwelling application. A waste treatment system was submitted to Council in 2016 with the dwelling house application, it was withdrawn following the rejection of the dwelling application. Should Council determine to approve the development, a condition of consent would be recommended relating to the application and approval for a wastewater treatment system as well as demonstrating essential service connection availability to

the dwelling (including water, sewerage, stormwater and access). Subject to conditions of consent including requirements around section 68 approvals for onsite sewer management system the development would be able to connect to necessary essential services.

State Environmental Planning Policy Coastal Management 2018

The subject land is located with the Coastal Environmental Area, as such the following general matters are required to be considered when determining an application. As per Clause 13 of the SEPP, development consent must not be granted for development within the coastal environment area unless the consent authority has considered whether the development will cause impact to the integrity of the biophysical and ecological environment, the values and natural coastal processes, marine vegetation, native vegetation and fauna and existing public open space and access to and along the foreshore. Should Council elect to approve the development application, a condition requiring adequate erosion and sediment controls to be implemented during construction, and structural certification of the flood mound post construction to ensure impacts on the coastal area are mitigated will be required.

SEPP 44 Koala Habitat Protection

The proposed development has been considered against Council's Comprehensive Koala Plan of Management (CKPoM) which has been prepared under the SEPP. The subject site is mapped as Mainly Cleared on majority of the site, the part of site located along the river bank is mapped as 50m Buffer over Cleared. The small portion of the site located along the river edge is identified as preferred koala habitat. The proposed siting and development of the dwelling, flood mound and ancillary shed is located on the west of the site, approx. 270m from the 50m buffer over cleared and approx. 330m from the preferred habitat mapping. The proposal does not include any removal of vegetation. The proposed development is consistent with the aims of SEPP 44 in this regard.

SEPP (BASIX) 2004

A BASIX Certificate has been submitted for the proposed development which demonstrates that the proposal can achieve the required water and energy saving targets compared to the standard model house. Should Council elect to approve the application, a condition of consent would be recommended in the notice of determination requiring the development to be carried out in accordance with the BASIX certificate.

**s4.15(1)(a)(ii) – Any draft EPI**

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

**s4.15(1)(a)(iii) – Any DCP**

Port Stephens Development Control Plan 2014

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

**Section A.12 – Notification and Advertising**
In accordance with the requirements of chapter A.12, the development application was not notified.

**Section B2 – Natural Resources**
Alligator weed, a notifiable noxious weed, is located on the river edge of the subject site. The weed is not within close proximity to the proposed mound, dwelling or shed site and therefore does not require any measures to mitigate its spread or removal.

**Section B3 – Environmental Management**
The site is located within a range of Acid Sulfate Soils refer to cl7.1 LEP2013 discussion above.

**Section B4 – Drainage and Water Quality**

The proposal does not include a stormwater management plan and no proposed stormwater management have been included on the plans. Drainage and water quality in relation to the dwelling and flood mound would need to be demonstrated to Council.

As discussed above, a water treatment system application was withdrawn from Council in 2016. The application includes a 2,000 ltr rainwater tank. The proposal does not demonstrate how the flood mound or dwelling will address draining of water.

In the event of Council approving the DA, a condition relating to the satisfactory control and drainage of stormwater can be attached to the notice in accordance with the DCP.

**Section B5 – Flooding**
Refer to cl 7.3 LEP2013 discussion above. The area has been classified as flood prone land, High hazard Floodway area. The proposed flood mound is to create an area above the flood planning level on the subject site.

The site is a High Hazard Floodway and the FPL for the site is RL 7.6m AHD (based on the recent, best available information from the Paterson River Flood Study 2017, rather than the previous FPL of 8.0m AHD). The current day 1% AEP level is RL 6.5m AHD, which does not include freeboard and the PMF level is RL 9.0m AHD (rather than the old level of RL 10.7m AHD), a depth of 1.2m over the top of the proposed earthen mound.

The flood report submitted with the application assesses the proposed flood mound, dwelling and ancillary shed against a range of design flood conditions including the 5% AEP, 2% AEP, 1 % AEP, 0.5% AEP and PMF design events. The development is not consistent with the outcomes of Section 5.11 of the DCP which related specially to High Hazard Floodway, as follows:

- **B5.11**: development within a floodway is not encouraged, applications may be considered where demonstration of specific community needs/benefits that do not relate to the provision of housing. Under this clause of the DCP the proposed dwelling development is not encouraged or supported.
- **B5.3:** Land that becomes an island during a flood event is to provide a flood refuge. Although capacity appears to exist, the application has not identified the location of a proposed flood refuge on the subject site.
- **B5.5:** Habitable room, non-habitable room and garage/carport are to demonstrate specific requirements to meet this clause. A habitable room is to be accompanied by a certificate from a Chartered Professional Structural Engineer certifying that the development is capable of withstanding the effects of flooding. Should Council determine to approve the development, a condition of consent would be recommended relating to the submission of certification from a Charactered Professional Structural Engineer for the capability of the structure to withstand the effects of flooding.

Access to and from the site becomes an issue as Clarence Town Road to the south of the subject site is RL 4m, the natural ground level in the location of the flood mound is between RL 5.5m and RL 5m. The finished floor level of the proposed development are the flood mound pad at 7.8m AHD and the finished floor level of RL 8.1m AHD for the dwelling. The dwelling is likely to become isolated by flood waters. In conclusion, the proposed development is not supported when taking into consideration the requirements of Section B5 of the DCP.

**Section B6 – Essential Services**
Refer to cl 7.6 LEP2013 discussion above, if the application is to be approved by Council recommended conditions that satisfactory measures are made for the connection to essential services for the dwelling.

**Section C4 – Dwelling House, Secondary Dwelling, Dual Occupancy or Ancillary**

**C4.1 Building height**
The proposed dwelling is single storey with a maximum height of 5.4m above the pad level, which is below the max height of 8m.

**C4.B Setback**
The proposal complies with the front and rear setback requirements. The proposed dwelling has a front setback of 70m and rear setback of 74m.The proposed flood mound is setback 53m from the front property boundary and 39m from the rear boundary.

**C4.26 Streetscape Character**
The proposed dwelling is located within an area that has a number of historic dwellings. A review of the surrounding sites and developments note that majority are a result of historic approvals of which pre date the current Council DCP. The proposal is a single brick dwelling which does not adversely impact on the street character of the area. However, it is noted that the proposed height of both the dwelling and flood mound will have minor visual impacts to the streetscape and locality due to finished roof height of 13.5m, pad top FFL of 8.1 m and toe of the flood mount at 4.1 m. These impacts have been assessed and given other similar developments in the wider rural area it is considered this would not be a reason to refuse the application.

**C4.D Private Open Space**
Adequate open space and solar access has been provided due to the rural nature of the subject site.

**C4.E Car Parking and Garages**
The development has adequate area to provide provision for car access, parking and carport.

**C4.G Site Facilitates and Services**
The development site has adequate area and space for suitable site facilities and services can be provided for.

**C4.H Ancillary Structures**
The proposal includes an ancillary shed to be located behind the building setback of the dwelling. The ancillary shed meets the minimum requirements for setbacks from the dwelling and boundaries.

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

The assessment has considered the likely impact of the development by identifying potential impacts of the proposal, measures to improve impacts and frequency/severity of impacts. The development is not compatible with the flood risks associated with the land and may result in unacceptable impacts to life. The development is recommended for refusal for the following reasons.

- The proposed dwelling is not considered to align with a suitable use of the site and does not align with Councils endorsed policies. The applicable clauses and requirements have been enforced to ensure development occurs on site where the use is suitable; and
- The proposal is not consistent with the supported development within High Hazard Floodway.

## ITEM 1 - ATTACHMENT 1 MINUTES - ITEM 1 ORDINARY COUNCIL MEETING 11 DECEMBER 2018.



### ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.



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

The subject site is zoned RU1 – Primary Production, whereby the proposed dwelling and ancillary shed are permissible uses under the zoning. The site is identified as high hazard flood way and the proposed development and use does not align or address all of the requirements under current Council endorsed policy and legislation. Due to the identified flood hazard, the use of the site for residential accommodation is not a suitable outcome for the site.

**s4.15(1)(d) – Any submissions**

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

**s4.15(1)(e) – The public interest**

The proposed development is no 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. The development poses an unacceptable risk to life and may also result in adverse flood impacts to surrounding properties.

## ITEM 1 - ATTACHMENT 1 MINUTES - ITEM 1 ORDINARY COUNCIL MEETING 11 DECEMBER 2018.



### ITEM 1 - ATTACHMENT 4 REASONS FOR REFUSAL.

PORT STEPHENS COUNCIL

**REASONS FOR REFUSAL**

1. The proposed development fails to satisfy Clause 7.3 (Flood Planning) of the LEP2013 as the development does not demonstrate that it is compatible with the flood characteristics of the site including minimising the flood risk to life associated with the land (s4.15(1(b) of the *Environmental Planning and Assessment Act 1979 ('EP&A Act')*);

2. The development does not comply with the controls contained within Port Stephens Development Control Plan (Chapter B5 Flooding) (s.4.15(1)(a)(i) of the *EP&A Act*);

3. The proposed development does not demonstrate the suitability of the use of the site given the flood characteristics of the land (s4.15(1)(c) of the *EP&A Act*); and

4. 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 the land (s.4.15(1)(e) of the *EP&A Act*).

Councillor Jaimie Abbott returned to the meeting at 6:52pm for Rescission Motion item 2.

Councillor Paul Le Mottee returned to the meeting at 6:52pm at item 2 for Rescission Motion item 2.

**NOTICE OF RESCISSION**

**ITEM NO. 2** **FILE NO: 18/433120**
**EDRMS NO: PSC2017-00020**

**DEVELOPMENT APPLICATION 16-2018-233-1 SINGLE STOREY DWELLING AND SHED WITH MEZZANINE AT 232 SEAHAM ROAD, NELSONS PLAINS (LOT 1 DP:707147)**

**COUNCILLOR:** JOHN NELL
GIACOMO ARNOTT
KEN JORDAN

---

**THAT COUNCIL:**

Rescind its decision of 11 December 2018 on Item No. 2 Development Application 16-2018-233-1 single storey dwelling and shed with mezzanine at 232 Seaham Road, Nelsons Plains (Lot 1 DP:707147).

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**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| | **Councillor John Nell**<br>**Councillor Giacomo Arnott**<br><br>That Council rescind its decision of 11 December 2018 on Item No. 2 Development Application 16-2018-233-1 single storey dwelling and shed with mezzanine at 232 Seaham Road, Nelsons Plains (Lot 1 DP:707147). |

Councillor Giacomo Arnott left the meeting at 7:01pm prior to voting.
Councillor Giacomo Arnott returned to the meeting at 7:02pm prior to voting.

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

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Ken Jordan and John Nell.

Those against the Motion: Mayor Ryan Palmer, Crs Glen Dunkley, Paul Le Mottee, Sarah Smith and Steve Tucker.

The motion was lost.

**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MATTER ARISING**

| | |
|---|---|
| | **Councillor Giacomo Arnott**<br>**Councillor John Nell**<br><br>That Council request a full brief of legal advice from an external legal provider regarding Council's and Councillors' risk and liability in approving items such as this item. |

Cr Arnott and Cr Nell called for a division.

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Ken Jordan and John Nell.

Those against the Motion: Mayor Ryan Palmer, Crs Glen Dunkley, Paul Le Mottee, Ryan Palmer, Sarah Smith and Steve Tucker.

The matter arising was lost.

**ATTACHMENTS**

1) Minutes - Item 2 Ordinary Council meeting 11 December 2018.

**ITEM 2 - ATTACHMENT 1 MINUTES - ITEM 2 ORDINARY COUNCIL MEETING 11 DECEMBER 2018.**

**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

Cr Paul Le Mottee entered the meeting at 6.43pm.

**ITEM NO. 2** **FILE NO: 18/305759**
**EDRMS NO: 16-2018-233-1**

**DEVELOPMENT APPLICATION 16-2018-233-1 - SINGLE STOREY DWELLING AND SHED WITH MEZZANINE AT 232 SEAHAM ROAD, NELSONS PLAINS (LOT 1 DP:707147)**

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

**RECOMMENDATION IS THAT COUNCIL:**

1) Refuse development application 16-2018-233-1 for a single dwelling and shed with mezzanine at 232 Seaham Road, Nelsons Plains (LOT: 1 DP: 707147) for reasons contained in **(ATTACHMENT 4)**.

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

| | |
|---|---|
| | **Councillor Giacomo Arnott**<br>**Councillor John Nell**<br><br>That the Motion be put. |

The motion on being put was lost.

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

| | |
|---|---|
| **174** | **Mayor Ryan Palmer**<br>**Councillor Sarah Smith**<br><br>It was resolved that Council approve, in principle, Development Application 16-2018-233-1 for a single dwelling and shed with mezzanine at 232 Seaham Road, Nelsons Plains (LOT: 1 DP: 707147) subject to conditions to be reported to the next extraordinary meeting on 29 January 2019. |

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 Glen Dunkley, Paul Le Mottee, and Sarah Smith.

Those against the Motion: Crs Giacomo Arnott, John Nell and Steve Tucker.

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

| | |
|---|---|
| | **Councillor Giacomo Arnott**<br>**Councillor John Nell**<br><br>That Council request a full brief of legal advice from Council's internal legal team on Council's liability in approving items on the matter, and the proposals legality be provided to Council when this item comes back to Council with conditions of consent. |

The motion on being put was lost.

Cr Giacomo Arnott and Cr John Nell called for a division.

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

Those against the Motion: Mayor Ryan Palmer, Crs Glen Dunkley, Paul Le Mottee and Sarah Smith.

**BACKGROUND**

The purpose of this report is to present a development application (DA) to Council for determination. The subject DA relates to land located at 232 Seaham Road, Nelsons Plains, legally identified as LOT: 1 DP: 707147 ('the subject site'). A locality plan is provided at **(ATTACHMENT 1)**.

The development application was called to Council as detailed in **(ATTACHMENT 2)**.

Proposal

The applicant seeks approval for the construction of a single dwelling and ancillary shed with a mezzanine on the subject site. Details of the proposal are as follows:

- Single storey dwelling with a wraparound verandah to be located on an existing cattle refuge mound. The internal living spaces (198m²) contain four bedrooms, bathroom, ensuite, living/dining area, and lounge areas. The external perimeter verandah area has a footprint of 157m² bringing the total footprint of the dwelling to 355m².

- Ancillary shed with a ground floor footprint of 420m² to be constructed on the existing cattle refuge mound located adjacent the dwelling. The shed has an overall height of 7.45 metres incorporating a second storey internal mezzanine and outdoor verandah with a floor area of 252m². The combined ground floor and first floor area of the shed is 672m².

Site History

The subject site has a total area of 11.5 hectares, is zoned RU1 – Primary Production and is accessible via Seaham Road. An approval was issued in 2003 for a flood mound and hay shed for the purpose of cattle refuge. The cattle mound has been constructed has an approximate finished level of 5.5 metres Australian Height Datum (AHD). The existing cattle mound was not intended for residential development and was not assessed as such at that time.

An application approval for a single storey dwelling in 2000 was refused by Council as well as an application for a Tourist Facility (Cabins) in 2011, primarily due to flooding concerns.

The site is surrounded by similar large rural lots for the purposes of farming and are identified as high hazard floodway. The land is generally clear of vegetation and comprises mainly of pasture grass. A majority of the subject site is below the level of Seaham Road, the existing cattle mound raises the proposed building site above the level of Seaham Rd and is located approximately 300 metres away from the road frontage.

Numerous existing structures are located on the site, including a shed and a number of shipping containers.

Key Issues

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

Flood Impacts

The subject site is mapped flood prone land within the high hazard floodway category.

Neither a flooding certificate nor flood impact assessment was submitted with the original application as supporting documentation. Following a Request for Further Information (RFI), the applicant submitted a flood report which identified the site as a high hazard storage area which is contrary to Council's flood categorisation. The flood report was not accompanied by clear justification and flood study to support the reduction in the flood hazard category.

Table 1 below shows the finished floor levels of the proposed structures relative to Council's Adopted Flood Planning Level.

| Description | Level |
|---|---|
| Councils Adopted Flood Planning Level (FPL) | RL 5.9m AHD |
| Top of flood mound (Existing) | RL 5.5m AHD (variable) |
| Finished floor level of proposed dwelling | RL 5.9m AHD |
| Finished floor level of proposed shed | RL 5.6m AHD<br>Mezzanine 8.7m AHD |

*Table 1: Nominated levels relating to the subject site and proposed development*

Despite the dwelling being located at the adopted FPL, development in a high hazard floodway is not encouraged under Section B5.11 of the Development Control Plan (DCP 2014) and an application may only be considered when accompanied with a flood report and the development is able to demonstrate it has a specific community needs/benefit. As noted above, the flood report is considered inadequate and the provision of private housing does not meet the above criteria. Therefore the proposal is inconsistent with Council's adopted policy.

New residential development on land which becomes an island (isolated) during a flood event must provide flood refuge and must be constructed to withstand the flood actions events up to the Probable Maximum Flood (PMF) (B5.3 of DCP 2014). The residential component is a single storey which does not provide compliant flood refuge. The shed and mezzanine could be adapted to provide flood refuge during a major event, as a level of 8.7 metres AHD has been nominated on the proposed plans. The PMF level is at 8.8 metres AHD which would require modifications to the mezzanine height to achieve this aspect of the DCP.

Seaham Road is located approximately 300 metres from the dwelling site and is accessed by an existing driveway. Based on the 2017 flood data, the crest of Seaham Road (2.1m AHD) has a frequency of flooding inundation of just under 40% AEP (Average Exceedance Probability - which used to be called a frequency of one (1) in 2.5 years), while the driveway low point (1.32m AHD) has a frequency of flooding inundation of approximately 50% AEP (frequency of one (1) in two (2) years). Note the flood actions in these lower events are more about stormwater not being able to get away rather than flooding that breaches the levee banks. Noting this, the site would experience the loss of connection to access roads, limiting access to the site and options for safe evacuation during these lower events. The land and access points have traditionally been developed with the consideration of the land being prime agricultural and grazing land and were not developed with residential occupation in mind.

In addition to the controls within Council's DCP, Clause 7.3 of Council's Local Environmental Plan (LEP2013) also applies. Clause 7.3(3) states that the development must be compatible with the flood hazard of the land and that it must not have a significant, adverse effect on flood behaviour (resulting in detrimental increases in the potential flood affectation of other development or properties). As outlined above, a flood report was not submitted addressing the impacts or compatibility with the flood hazard of the land. In the event of a flood, the site would experience connection loss and there would be limited options for the evacuation of the site. This is likely to place unreasonable and unnecessary strain upon emergency services.

The social and economic impacts of flooding are well documented locally and state wide. Legislation, policies and strategies (including the NSW Floodplain Development Manual, Council's LEP and DCP) have been endorsed and implemented by Council to mitigate the impacts of flooding within the Local Government Area. On this basis, the development is considered to be inconsistent with Clause 7.3(3) of the LEP and is recommended for refusal.

It should be noted that conditional support for the shed component of the application can be achieved. The farm shed could be approved with appropriate conditions requiring a Structural Report prepared by a Chartered Professional Engineer recognised under the Engineers Australia's National Engineering Register (NER) in the area of practice of Structural Engineering. The report must certify that the proposed structural components can withstand the forces of floodwater up to the PMF, including hydrostatic pressure, the hydrodynamic pressure, the impact of debris and buoyancy forces.

The proposed residential development cannot be supported for the above mentioned reasons.

Suitability of the Site

The subject site is zoned for rural purposes. The existing filling of the subject site could be considered to allow for additional opportunities for the rural land use and support the social and economic environment through decreasing the stress associated with the loss and recovery during and after the flood. The proposed shed would reflect the intent of the original approval providing a farm shed to service the property. However, the introduction of residential structures reduces the usability of this space, from the original intention of a livestock refuge.

Based on the information provided the assessment has determined that the site is not suitable for the proposed development as:

- The development does not comply with the requirements under the NSW Floodplain Manual and Council's adopted LEP and DCP.

- The subject site is not suitable for the proposed residential development due to the high hazard floodway constraints and associated risks that are applicable to the land.

Conclusion

The development is inconsistent with the relevant legislation and policies, including:

- *Environmental Planning and Assessment Act 1979*, including Section 4.15(1)(c) the suitability of the site.
- Port Stephens LEP2013; Clause 7.3 Flood Planning.
- Port Stephens DCP2014; Section B5 Flooding.
- Council Floodplain Risk Management Policy.
- NSW Government Floodplain Development Manual 2005.

The key issues arising through the assessment of the application are that the proposed development is not a suitable outcome for the site, and is recommended for refusal for the reasons contained in **(ATTACHMENT 4)**.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

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

| Source of Funds | Yes/No | Funding ($) | Comment |
|---|---|---|---|
| Existing budget | Yes | | |
| Reserve Funds | No | | |
| Developer Contributions (S7.11) | 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), Council's Floodplain Risk Management Policy and the NSW Government Floodplain Development Manual 2005.

Detailed assessments 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 proposed development is considered to be inconsistent with the principles contained within the NSW Floodplain Development Manual and may negate the good faith immunity provisions in the LG Act.

| Risk | Risk Ranking | Proposed Treatments | Within Existing Resources? |
|---|---|---|---|
| There is a risk that if the application is approved Councils decisions will contradict the requirements set out under Clause 7.3 LEP 2013. | Medium | Determine the application in line with the recommendation. | Yes |
| There is a risk that if the application is approved, Council may be liable for damage or consequences to approving a development located on a site with a known high flood risk. | Medium | Determine the application in line with the recommendation. | Yes |

| Risk | Risk Ranking | Proposed Treatments | Within Existing Resources? |
|---|---|---|---|
| The risk is that the proposal will expose the property and people to risk of damage and death as a consequence of approving fill and a dwelling within a known flood risk area. | Medium | Determine the application in line with the recommendation. | Yes |

**SUSTAINABILITY IMPLICATIONS**
Includes Social, Economic and Environmental Implications

The key issues arising through the assessment of the application are that the proposed development is not a suitable outcome for the site, and for these reasons the proposed development is recommended for refusal as outlined in **(ATTACHMENT 4)**.

**CONSULTATION**

Internal referral

Consultation was undertaken with internal officers, including the Engineering section. The referral comments from these officers were considered as part of the assessment contained at **(ATTACHMENT 3)** and accordingly the proposed development is recommended for refusal for the reasons contained within **(ATTACHMENT 4).**

External agency

Nil.

Notification

It is noted that Councils notification policy outlines in Chapter A of DCP 2014 single dwellings do not require notification. Accordingly the proposed development was not placed on public notification.

**OPTIONS**

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

**ATTACHMENTS**

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

**COUNCILLORS ROOM**

1) Development Plans.

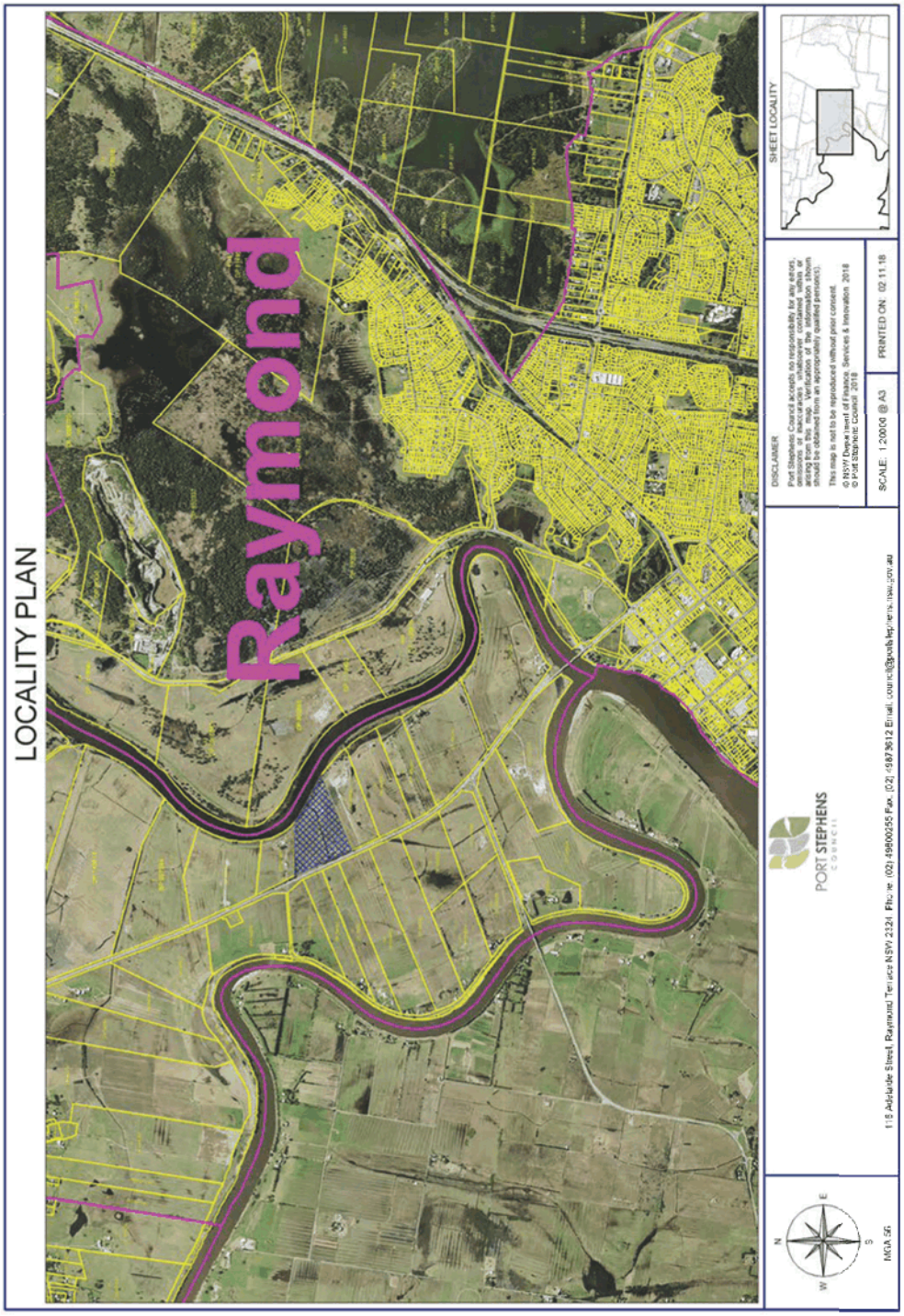
**TABLED DOCUMENTS**

Nil.

**ITEM 2 - ATTACHMENT 1 MINUTES - ITEM 2 ORDINARY COUNCIL MEETING 11 DECEMBER 2018.**



**ITEM 2 - ATTACHMENT 1 LOCALITY PLAN.**



**ITEM 2 - ATTACHMENT 1 MINUTES - ITEM 2 ORDINARY COUNCIL MEETING 11 DECEMBER 2018.**

MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 2 - ATTACHMENT 2 CALL TO COUNCIL FORM.

PORT STEPHENS COUNCIL

**CALL TO COUNCIL FORM**
**DEVELOPMENT APPLICATION**

I, Councillor Ryan Palmer, Steve Tucker, Glen Dunkley.

require Development Application Number 16-2018-233-1.

for Single Dwelling, Farm shed with a mezzanine

at 232 Seaham Rd, Nelson Plains

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

**Reason:**

The reason for this call-up to Council is public interest issues regarding information being requested on flooding.

**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] **Date:** 25-10-18

PORT STEPHENS COUNCIL

# DEVELOPMENT ASSESSMENT REPORT

## APPLICATION DETAILS

| | |
|---|---|
| **Application Number** | 16-2018-233-1 |
| **Development Description** | Single Storey Dwelling & Farm Shed with Mezzanine |
| **Applicant** | HILL TOP PLANNERS PTY LTD |
| **Date of Lodgement** | 05/04/2018 |
| **Value of Works** | $450,000.00 |

**Development Proposal**

The applicant seeks approval for the construction of a single dwelling and ancillary shed with a mezzanine on the subject site. Details of the proposal are as follows:

• Single storey dwelling with a wraparound verandah to be located on the existing cattle refuge. The internal living spaces (198m²) containing four bedrooms, bathroom, ensuite, living/dining area, and lounge areas. The external perimeter verandah area has a footprint of 157m² bring the total footprint of the dwelling to 355m².

• Ancillary shed with an area of 420m² setback to be constructed on the flood mound adjacent the dwelling. The shed has an overall height of 7.45m with a second storey mezzanine and verandah are covering 60% of the footprint.

## PROPERTY DETAILS

| | |
|---|---|
| **Property Address** | 232 Seaham Road NELSONS PLAINS |
| **Lot and DP** | LOT: 1 DP: 707147 |
| **Zoning** | RU1 PRIMARY PRODUCTION |
| **Site Constraints** | *High Hazard Floodway, Site Access, Onsite septic requirements* |

**Site History:**

The subject site has a total area of 11.5 hectares, is zoned RU1 – Primary Production and is accessible via Seaham Road. An existing approval was issued in 2003 for a flood mound and hay shed for the purpose of cattle refuge. The fill mound has been constructed and has an approximate finished level of 5.5m AHD. The mound was not intended for residential development and was not assessed as such.

An application approval for a single storey dwelling in 2000 was refused by Council as well as an application for a Tourist Facility (Cabins) in 2011, primarily due to flooding concerns.

Building material was identified on the site in 2004, investigation showed the materials being used to backfill excavated holes dug on the property. Asbestos was also identified. The site has been identified under Councils Contaminated Lands Register. The development application does not address this issue.

Council identified in 2009 that an unauthorised septic system was operating on site and requested it be removed due to the environment impact it posed noting it was adjacent to a drainage canal that led directly to the Williams River. At the time of the recent site inspection it could not be identified if the system had been removed/decommissioned.

**Site Inspection**

Two site inspections were carried out in July 2018 and October 2018. The site can be seen in the photographs below.

The site is surrounded by similar large rural lots for the purposes of farming and are located within the high hazard floodway. The land is generally clear of vegetation and comprises mainly of pasture grass. A majority of the site is below the level of Seaham Road. The existing fill mound is raised above the level of Seaham Rd and is located approximately 300m from the road frontage.

The site has one main existing shed structure. The structure is located adjacent to Seaham Rd and will have no impact on the proposed development. As mentioned in the site history Council identified that an unauthorised waste treatment system was servicing the shed structure. At the time of a recent site inspection, it could not be identified if the system had been removed/decommissioned. Council's Environmental team have been made aware of the issue and will follow up if required.

The site has a number of shipping containers located across the property and approvals have been identified for the containers. One container is located toward the front of the property adjacent to the existing shed which appears to have been on site for several years. The remaining containers are located on the existing mound where the proposed development is located.

Site Photos:

Photo 1: *Existing fill mound & proposed site of development*

Photo 2: Existing structures along Seaham Rd

16-2018-233-1

Photo 3: Existing structures along Seaham Rd

Photo 4: Full site view from entry of property

## REFERRALS

No external referrals were required. In the event of an approval, a condition would be required requiring a 256 approval under the Water Management Act 2000 prior to the commencement of works.

The proposed development was referred to the following internal specialists. The comments of the listed staff have been used to carry out the assessment against the S4.15 Matters for Consideration below.

**Council's Flooding Drainage Engineers Comments and applicants response:**

Original Referral: 2/05/2018

This proposal is for a residential dwelling in a mapped High Hazard Floodway.

The site is part of the confluence of two major river systems: the Hunter River and the Williams River; and fronts the Williams River. In the current day 1% AEP event, the velocity in the Hunter River has been estimated at about 3 m/s and in the Williams River at the subject site at more than 1 m/s and in the confluence between the two rivers the velocity is up to 1 m/s and the depth across the natural surface is generally 3 to 4 metres of floodwaters.

The proposed residential development in this location isn't compatible with the flood hazard of the land and is likely to result in unsustainable social and economic costs to the community as a consequence of flooding (refer to Port Stephens LEP 2013 Clause 7.3 (3)) and therefore development consent must not be granted for this purpose.

Council's Development Control Plan makes it clear that;

Development within a floodway is not encouraged. An application may only be considered where it demonstrated to have specific community needs/benefits.

Council has recently exhibited a new flooding DCP that further makes it clear that residential development in a High Hazard Floodway is an unsuitable use of the land.

The proposed farm shed is to be situated above the 5% AEP flood level, with a mezzanine level above the PMF. Flood compatibility should be addressed.

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**Recommendations:**

Subject to receiving an adequate Structural Report, the farm shed can be approved with appropriate conditions. The proposed residential development cannot be supported.

**RFI – Sent 14/05/2018 with 14 days for information to be forwarded to Council**

It has been established that no flood report was submitted with the application as required by our DCP B5.11.

The responding information did not include flood report prepared by and suitability qualified practicing engineer. The flooding information provided was prepared by the planning consultant without supporting flooding data and presented some inconsistencies with Council's data. The applicant nominated the 1% AEP at 4.9m AHD and a flood category of high hazard flood storage. Council's mapping system indicate a flood level category of high hazard floodway.

The comments were forwarded to Councils Flooding and drainage engineers for further assessment with the following advice received. No further information was received in regards to a flooding report supporting the proposal.

**Advice Received From Councils Flooding & Drainage Engineers**

Second Referral: 31/05/2018

This proposal is for development in a High Hazard Floodway. The flood study that accompanies the DA needs to be a comprehensive technical investigation of flood behaviour that defines the variation over time of flood levels, extent and velocity for flood events of various severities up to and including the PMF event. It covers the entire floodplain catchment, with particular emphasis on the area under consideration. The flood study will:

i) Be certified by a chartered Professional Engineer
ii) Be a comprehensive document that includes numerical flood modelling of the proposed development area;
iii) Ensure that the extent of the study adequately assesses all flooding characteristics and impacts of the development in the area;
iv) Be consistent with any existing Flood Study or Floodplain Risk Management Plan
v) Be consistent with the Floodplain Development Manual and the current version of Australian Rainfall and Runoff and determine the existing flooding characteristics and assess the impacts of the proposal, including assessment of design flood events including 10% AEP, 5% AEP, 1% AEP and PMF for existing conditions, 2050 and 2100; and
vi) Assess cumulative flood storage impacts, flood levels, velocity (including direction), hazard and hydraulic categories.

**Further flooding Advice in relation to early isolation events:**

The low point on the driveway handle is 1.32m AHD (according to the applicant's plan) and the low point on Seaham Road in this vicinity is 2.1m AHD (crest of the road – between 218 and 268 Seaham Road).

Based on the 2017 flood frequency analysis, the crest of Seaham Road (2.1m AHD) has a frequency of inundation of just under 40% AEP (Average Exceedance Probability - what used to be called a frequency of 1 in 2.5 years), while the driveway low point (1.32m AHD) has a frequency of inundation of approximately 50% AEP (what used to be called a frequency of 1 in 2

years). Note the flood mechanism in these events is more about stormwater not being able to get away rather than overbank riverine flooding.

Evacuation along Seaham Road becomes a High Hazard at 0.3m depth (RL 2.4m AHD) which has a frequency of inundation of 20% AEP (what used to be called a frequency of 1 in 5 years).

The PMF level for this site is RL 8.8m AHD and has a velocity of 2.5m/s, while the Flood Planning Level for this site is 5.9m AHD and this flood has a velocity of 0.6m/s. Note scour velocity for "well vegetated, erosion-resistant soils with grassed banks" is 2m/s - see https://www.brisbane.qld.gov.au/sites/default/files/swoip_appendix_a_b.pdf (page 30)

## MATTERS FOR CONSIDERATION – SECTION 4.15

**s4.15(1)(a)(i) – The provisions of any EPI**

| STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX BASIX) 2008 | | |
|---|---|---|
| **Clause** | **Compliant** | **Notes (where needed or if not compliant)** |
| 6 | ☒ The proposed BASIX affected development, or buildings that become BASIX affected development (conversion of garage for example) is accompanied by a BASIX certificate<br>☒ Condition of consent relating to BASIX | BASIX report has been submitted with the application |

| PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013 | | |
|---|---|---|
| **Clause** | **Compliant** | **Notes (where needed or if not compliant)** |
| 2.1 | ☒ Permissible in zone and meets zone objectives. | |
| 2.7 | ☒ Potential asbestos contained with condition of consent added. | No demolition has been identified in the development however asbestos and mixed building waste has been identified on the site and identified as an issue. |
| 4.1 | ☒ The proposal is consistent with the Lot Size Map; OR, | |
| 4.2B | ☒ Dwelling proposed on RU1, RU2, R5, E2 or E3 land where there is no current dwelling on site.<br>☒ Land zoned RU1, RU2, E2 or E3 and created before 22 February 2014 with an area of at | |

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| | | |
|---|---|---|
| | least 4,000m$^2$ on which a dwelling was permissible under the previous LEP; OR, | |
| 4.3 | ☒ Proposed development is under maximum building height; | |
| 5.9AA | ☒ Trees will be removed that are not prescribed under DCP. | No nominated vegetation to be removed. |
| 7.1 | ☒ Potential Class 3 ASS with no works more than 1m below ground level; OR,<br>☒ Potential Class 2 ASS with no works below ground level; OR, | The property is affected by two ASS classifications, The majority of the site and the area of the affected works are classified as Class 3. However no works will require the excavation into natural ground. Although consideration must be made for the type of substructure required as the existing mound may not have been engineered for residential purposes. Compaction rates would require piering into natural ground to provide adequate bearing pressure for the new propose structures. |
| 7.2 | ☒ Earthworks required, but do not have negative impacts on surrounding properties. | Some earth works will be required to bring the existing fill mound to the required FPL. This has not been identified in the application. Minor earthworks will also be required for the proposed septic system required on site, no detail has been provided for the type of system proposed. |
| 7.3 | ☒ Development within flood planning area but no anticipated flood risk to life and property, or change in flood characteristics. | The development is located in a High Hazard Flood Way.<br><br>Neither a flooding certificate nor flood impact assessment was submitted with the original application as supporting documentation. Following a request for further information (RFI), the applicant submitted a flood report which identified the site as a high hazard storage area which is contrary to Council's flood categorisation. The flood report was not accompanied by clear justification and flood study to support the reduction in the flood |

| | | |
|---|---|---|
| | | hazard category.<br><br>It is considered that the proposal is not compatible with the flood hazard of the land as it increases the risk to life. In the event of a flood the site would experience connection loss and there would be limited options for the evacuation of the site, which could place unreasonable strain upon emergency services.<br><br>Given there is an existing cattle mound and no additional fill is proposed, the proposal would have negligible impacts on flood levels and minor impacts on flood velocities to surrounding properties. |
| 7.6 | ☒ Essential services are available to the site where required. | On site waste treatment system will be required for the property. No record of an application has been submitted to support the application. |

**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 | | |
|---|---|---|
| **Clause** | **Compliant** | **Notes (where needed or if not compliant)** |
| A.12 | ☒ Notification and advertising. | Not required for single dwellings |
| B1 | ☒ Trees to be removed do not require approval as outlined in B1.1. | No vegetation is required to be removed |
| B2 | ☒ Not in proximity of items of environmental significance.<br>☒ Land does not contain koala habitat or development is consistent with the CKPoM. | |
| B3 | ☒ Development meets bushfire construction requirements. | The property may be affected by grassland vegetation but the expectation is that the property will |

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| | | |
|---|---|---|
| | ☒ Development would not disturb acid sulphate soils or an acceptable ASSMP has been prepared.<br>☒ Earthworks would have minimal environmental impacts with conditions on VENM fill and erosion and sediment controls. | be maintained as managed lands to achieve a BAL Low category<br><br>Refer to 7.1 in the above table for assessment<br><br>No earth mounds are proposed |
| B4 | ☐ Non-permeable area not significantly increased and development consistent with figure BD, on-site detention not required; OR,<br>☐ Non-permeable area above figure BD and acceptable on-site detention proposed or condition for details added.<br>☐ Insignificant increases to adversely impact on water quality. | N/A |
| B5 | ☒ Proposed development is on flood prone land; AND,<br>☐ A flood certificate has been submitted with the application and the finished levels are consistent with Table 2: Development Suitability Table; AND,<br>☐ The submitted documents are consistent with Table 2: Development Suitability Table.<br><br>B5.11<br>Development located within High Hazard 1 – Floodway adheres to the following:<br>• New buildings or structures and fill are not supported unless accompanied by a report<br>Note: Development within a floodway is not encouraged. An application may only be considered where it demonstrated to have specific community needs/benefits, which does not relate to the provision of housing | The proposed property is identified as a High Hazard Floodway category.<br><br>No flood certificate was submitted with the application. Conflicting levels have been provided by the Applicant.<br><br>The Applicant has not adequately addressed part B5.11 the DCP or demonstrated that the application benefits the needs of the community. |
| B6 | ☒ Essential services are available to the site, where required. | Yes – Onsite septic system required |
| B9 | ☒ The development would not generate significant increases in traffic. | |
| C4 | ☒ BASIX submitted in accordance with SEPP.<br>☒ Site coverage is in accordance with figure BD. | The development is setback approximately 300m from Seaham Road and will not have a significant impact on the streetscape or |

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| | | |
|---|---|---|
| | ☒ Proposal ensures development provides continuity to the street and setbacks comply with C4.10-C4.19.<br>☒ Development appropriately activates the street with habitable rooms where applicable.<br>☒ The proposed development would be sympathetic to the streetscene as it is consistent with the existing development in its form, height, bulk, design and materials.<br>☒ The development would not adversely affect the amenity of neighbouring properties or the public domain.<br>☒ Ancillary development complies with C4.31-C4.43. | neighbouring properties. |

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

| | Notes (where needed) |
|---|---|
| ☒ There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development. | N/A |

**s4.15(1)(a)(iv) – The regulations**

| | Notes (where needed) |
|---|---|
| ☒ There are no matters within the regulations that are relevant to the determination of the application. | |

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

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

| | Notes (where needed) |
|---|---|
| ☒ **Social and Economic Environment:** There would be beneficial impacts as a result of the development. | Yes, Refer to comment above in relation to flooding and the associated social and environmental impacts |
| ☒ **Built Environment:** The proposed development would not cause harm to the existing character. | |

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| | |
|---|---|
| ☒ **Natural Environment:** There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added. | |

**s4.15(1)(d) – Any submissions**

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

## DETERMINATION

The application is recommended to be refused for the reasons contained in the Reasons for Refusal.

RYAN BRIDGES

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ITEM 2 - ATTACHMENT 1 MINUTES - ITEM 2 ORDINARY COUNCIL MEETING 11 DECEMBER 2018.



ITEM 2 - ATTACHMENT 4 REASONS FOR REFUSAL.

PORT STEPHENS COUNCIL

**REASONS FOR REFUSAL**

1. The proposed development fails to satisfy Clause 7.3 (Flood Planning) of the LEP2013 as the development does not demonstrate that it is compatible with the flood characteristics of the site including minimising the flood risk to life associated with the land (s4.15(1(b) of the *Environmental Planning and Assessment Act 1979 ('EP&A Act')*);

2. The development does not comply with the controls contained within Port Stephens Development Control Plan (Chapter B5 Flooding) (s.4.15(1)(a)(i) of the *EP&A Act*);

3. The proposed development does not demonstrate the suitability of the use of the site given the flood characteristics of the land (s4.15(1)(c) of the *EP&A Act*); and

4. 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 the land (s.4.15(1)(e) of the *EP&A Act*).

Councillor Paul Le Mottee left the meeting at 7:24pm in Open Council.
Councillor Jaimie Abbott left the meeting at 7:24pm in Open Council.

**ITEM NO. 2** **FILE NO: 18/413609**
**EDRMS NO: 16-2018-417-1**

**DEVELOPMENT APPLICATION 16-2018-417-1 - SINGLE STOREY DWELLING, SHED AND FLOOD MOUND AT 251 CLARENCE TOWN ROAD, WOODVILLE (LOT 3 DP1154596)**

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

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**RECOMMENDATION IS THAT COUNCIL:**

1) Refuse Development Application 16-2018-417-1 for a single dwelling, shed and flood mound at 251 Clarence Town Road, Woodville (LOT: 3 DP: 1154596) for reasons contained in **(ATTACHMENT 4).**

---

**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| | **Councillor Giacomo Arnott**<br>**Councillor Ken Jordan**<br><br>That item 2 be deferred to seek independent legal advice regarding legal issues surrounding mounds being approved. |

Cr Arnott and Cr Jordan called for a division.

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

Those against the Motion: Mayor Ryan Palmer, Crs Glen Dunkley, Sarah Smith and Steve Tucker.

**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| **007** | **Mayor Ryan Palmer**<br>**Councillor Steve Tucker**<br><br>It was resolved that Council approve Development Application 16-2018-417-1 for a single dwelling, shed and flood mound at 251 Clarence Town |

| | |
|---|---|
| | Road, Woodville (LOT: 3 DP: 1154596) subject to the conditions contained in (ATTACHMENT 5). |

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

Those for the Motion: Crs Glen Dunkley, Ryan Palmer, Sarah Smith and Steve Tucker

Those against the Motion: Crs Giacomo Arnott, Ken Jordan and John Nell.

Councillor Jaimie Abbott returned to the meeting at 7:42pm in Open Council after voting had occurred on item 2.

Councillor Paul Le Mottee returned to the meeting at 7:43pm in Open Council after voting had occurred on item 2.

**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MATTER ARISING**

| | |
|---|---|
| **008** | **Councillor Ken Jordan**<br>**Councillor Giacomo Arnott**<br><br>It was resolved that Council:<br>1) Form a committee comprising of Councillors and Council staff to re-write the Floodplain policy.<br>2) Invite the SES to address the newly formed committee. |

Cr Jordan and Cr Arnott called for a division.

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

Those against the Motion: Nil.

Development Application No. 16-218-417-1 was reported to Council at its meeting on 11 December 2018. At that meeting it was resolved that the application be approved in principle subject to the preparation of conditions. The resolution is provided below:

*Meeting Minute 172: It was resolved that Council approve, in principle, Development Application 16-2018-417-1 for a single dwelling, shed and flood mound at 251 Clarence Town Road, Woodville (LOT: 3 DP: 1154596) subject to conditions to be reported to the next extraordinary meeting on 29 January 2019.*

In response recommended conditions of consent have been prepared at **(ATTACHMENT 5)** should Council resolve to approve the application.

The 11 December 2018 Council Report is provided below. No changes have been made to this report since it was reported on 11 December 2018.

**BACKGROUND**

The purpose of this report is to present a Development Application (DA) to Council for determination. The subject DA relates to land located at 251 Clarence Town Road, Woodville, legally identified as LOT: 3 DP: 1154596 ('the subject site'). A locality plan is provided at **(ATTACHMENT 1)**.

The DA was called to Council as detailed in **(ATTACHMENT 2)**.

Proposal

The applicant seeks approval for the construction of a flood mound, single dwelling and ancillary shed on the subject site, as follows:

- Single storey dwelling (239m$^2$) containing four bedrooms, bathroom, ensuite, living/dining area, library and lounge areas and a double garage.
- Fill to create a flood mound with a total volume of approximately 6,633m$^3$ (to achieve a level area of approximately 1,606m$^2$ above the Flood Planning Level (FPL)). The maximum height of the mound is approximately between 2 to 3 metres as measured from existing ground level. The batter extends to the eastern side boundary with an approximate 2 metre setback.
- Ancillary shed with an area of 80m$^2$ setback 10 metres from the proposed dwelling and to be constructed on the flood mound.

Site History

The subject site has a total area of 6.1 hectares, is zoned RU1 – Primary Production and is accessible via Clarence Town Road. An existing shed is located to the west of the proposed development. The site is surrounded by large lot residential and farming uses and is identified as high hazard floodway. The land is generally clear of vegetation and has a topography that is raised above the level of Clarence Town Road.

A DA was submitted to Council in 2016 for a single storey dwelling house, land fill and ancillary shed. The application was rejected due to insufficient information.

Key Issues

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

Flood Impacts

The subject site is located on mapped flood prone land within the high hazard floodway. The applicant has submitted a Flood Impact Assessment for the proposal (from BMT dated 29 March 2018), which includes a Flood Evacuation Plan linked to trigger levels. The impact assessment considers a range of flood events (5%, 2%, 1%, 0.5% and Probable Maximum Flood (PMF)) and concludes that the construction would have negligible impact on flood levels (less than 0.1m difference) and minor impact on flood velocities (largely confined to the site, though 0.2m/s increase on the neighbouring lot).

As outlined in Table 1, the proposed flood mound is to be constructed with a finished level above the adopted Flood Planning Level (FPL). BMTs Engineer supported the proposal on the basis that the proposed dwelling and shed would be located upon the flood mound above the adopted FPL.

| **Description** | **Level** |
|---|---|
| Adopted Flood Planning Level (FPL) | RL 7.6m - Australian Height Datum (AHD) |
| Top of flood mound | RL 7.8m - Australian Height Datum (AHD) |
| Finished floor level of dwelling | RL 8.1m - Australian Height Datum (AHD) |
| Finished floor level of shed | RL 8.014m - Australian Height Datum (AHD) |

*Table 1: Nominated levels relating to the subject site and proposed development.*

Despite the dwelling and shed structures being located above the adopted FPL, development in a high hazard floodway is not encouraged under Section B5.11 of the Development Control Plan 2014 (DCP 2014) and an application may only be considered where it demonstrates to have specific community needs/benefit. The provision of private housing does not meet the criteria and therefore the proposal is inconsistent with Council's adopted policy.

New residential development on land which becomes an island during a flood event must provide flood refuge and must be constructed to withstand hydraulic loading due to flood events up to the PMF (B5.3 of DCP 2014). The design does have a large pitched-roof space above Reduced Level (RL) 10.85metres Australian Height Datum (AHD) that could be fitted out to provide a flood refuge (the applicant would need to agree to the space being used for this purpose).

Clarence Town Road is located to the south of the subject site and serves as the main access to the site. The road sits at RL 3.7metres and Paterson Road along the western boundary of the lot is elevated to approximately RL 4.0 metres. In the event of a flood, the site would experience the loss of connection to both access roads,

limiting access to the site and options for safe evacuation. This creates an unnecessary risk to life in the event of a significant flooding event.

In addition to the controls within Council's DCP, Clause 7.3 of Council's Local Environmental Plan (LEP2013) also applies. Clause 7.3(3) provides that the development must be compatible with the flood hazard of the land and that it must not significantly adversely affect flood behaviour (resulting in detrimental increases in the potential flood affectation of other development or properties). As outlined above, the proposal would have negligible impacts on flood levels and minor impacts on flood velocities to surrounding properties. It is however considered that the proposal is not compatible with the flood hazard of the land as it increases the risk to life. In the event of a flood the site would experience connection loss and there would be limited options for the evacuation of the site, which could place unreasonable strain upon emergency services. Therefore the inclusion of the flood mound does not completely mitigate the risk to life in the event of a major flood.

It should be acknowledged that the assessment of the subject proposal has been undertaken in accordance with Council's current adopted DCP 2014. Under Council's proposed flood DCP (which was exhibited, however subsequently withdrawn from consideration by Council), the proposal would be considered against performance criteria: Risk to Life (B5.1), Risk to Property (B5.2) and Flood Hazard Capability (B5.3).

If the DCP was adopted in the future, it would give Council more flexibility to consider proposals where the risk can be managed or reduced by engineering works. The proposal will still however fail to demonstrate compliance with the proposed Flood Hazard Capability objectives under the plan as the development would still become isolated by high hazard floodwaters (due to the existing level of Clarence Town and Paterson Roads). This matter could not be addressed without significant and costly works to raise the level of Clarence Town Road at least 2.5 metres over a distance of 450metres (which is unlikely to be viable and would be subject to assessment and review by the Office of Environment and Heritage).

The social and economic impacts of flooding are well documented locally and State wide. Legislation, policies and strategies (including the NSW Floodplain Manual, Council's LEP and DCP) have been endorsed and implemented by Council to mitigate the impacts of flooding within the Local Government Area. Although the proposed development is unlikely to impact on development or properties in the same floodplain, it will increase the risk to life during a major flood event. On this basis, the development is considered to be inconsistent with Clause 7.3(3) of the LEP and is recommended for refusal.

Suitability of the Site

The subject site is zoned for rural purposes. Filling of the subject site could increase the available opportunities for rural land use and support the social and economic environment through decreasing the stress associated with the loss and recovery

during and after the flood. However, based on the information provided, the assessment has determined that the site is not suitable for the proposed development as:

- the development does not comply with the requirements under the NSW Floodplain Manual and Council's adopted LEP and DCP.
- the subject site is not suitable for the proposed residential development due to the high hazard floodway constraints that are applicable to the land.

Conclusion

The development is inconsistent with the relevant legislation and policies, including:

- *Environmental Planning and Assessment Act 1979*, including Section 4.15(1)(c) the suitability of the site.
- Port Stephens LEP2013; Clause 7.3 Flood Planning.
- Port Stephens DCP2014; Section B5 Flooding.
- Council Floodplain Risk Management Policy.
- NSW Government Floodplain Development Manual 2005.

The key issues arising through the assessment of the application are that the proposed development is not a suitable outcome for the site, and for these reasons the proposed development is recommended for refusal for the reasons contained in **(ATTACHMENT 4)**.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

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

| **Source of Funds** | **Yes/No** | **Funding ($)** | **Comment** |
|---|---|---|---|
| Existing budget | Yes | | |
| Reserve Funds | No | | |
| Developer Contributions (S7.11) | No | | |
| External Grants | No | | |
| Other | No | | |

## LEGAL, POLICY AND RISK IMPLICATIONS

The Development Application (DA) 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), 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 and may negate the good faith immunity provisions in the LG Act.

| **Risk** | **Risk Ranking** | **Proposed Treatments** | **Within Existing Resources?** |
|---|---|---|---|
| There is a risk that if the application is approved Councils decisions will contradict the requirements set out under Clause 7.3 LEP 2013. | Medium | Determine the application in line with the recommendations. | Yes |
| There is a risk that if the application is approved, Council may be liable for damage or consequences to approving a development located on a site with a known high flood risk. | Medium | Determine the application in line with the recommendations. | Yes |
| The risk is that the proposal will expose the property and people to risk of damage and death as a consequence of approving fill and a dwelling within a known flood risk area. | Medium | Determine the application in line with the recommendations. | Yes |

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The key issues arising through the assessment of the application are that the proposed development is not a suitable outcome for the site, and for these reasons the proposed development is recommended for refusal as outlined in **(ATTACHMENT 4)**.

## CONSULTATION

Internal referral

Consultation was undertaken with internal officers, including the Engineering section. 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

The application was notified to the Office of Environment and Heritage (OEH) as the subject site is a Declared Floodplain under the Hunter Valley Flood Mitigation Scheme and the *Hunter Water Management Act 2000*. No response has been received from OEH to date, however, should any approval of the proposed development be granted, a condition would be recommended to liaise with OEH regarding associated approval for works under Section 256 of the *Water Management Act 2000.*

Notification

In accordance with Council's notification policy outlined in Chapter A of DCP 2014 single dwellings do not require notification. Accordingly the subject DA was not placed on public notification.

## OPTIONS

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

## ATTACHMENTS

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

## COUNCILLORS ROOM

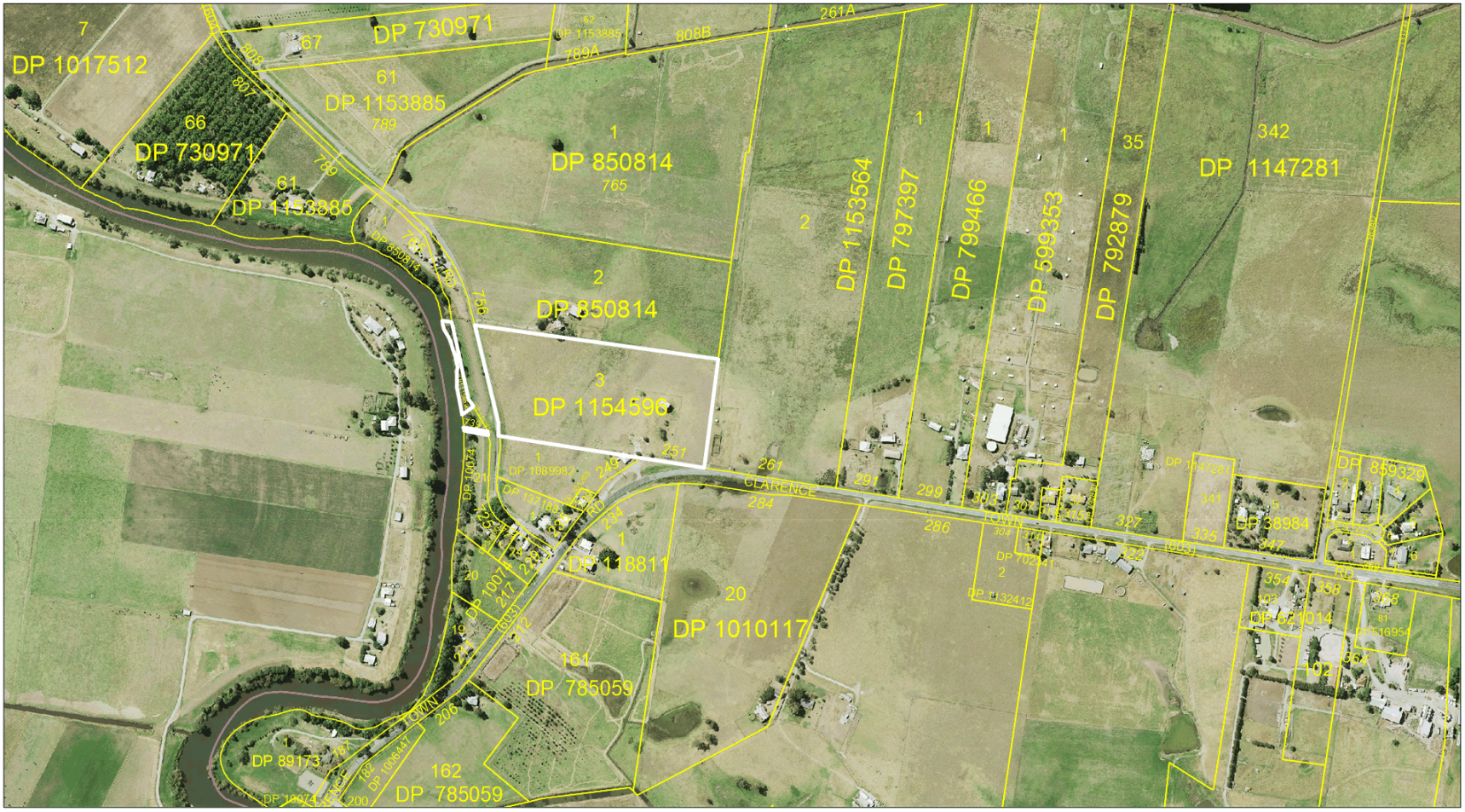
1) Development Plans.

## TABLED DOCUMENTS

Nil.

## ITEM 2 - ATTACHMENT 1 LOCALITY PLAN.

# Locality Plan

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PORT STEPHENS COUNCIL

116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

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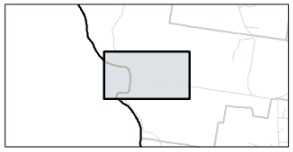
SHEET LOCALITY



## ITEM 2 - ATTACHMENT 2 CALL TO COUNCIL FORM.

PORT STEPHENS COUNCIL

**CALL TO COUNCIL FORM**
**DEVELOPMENT APPLICATION**

I, Councillor Ken Jordan

require Development Application Number.....

for A House on rural land at Woodville

at 249 Clarencetown Road Woodville

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

**Reason:**

The reason for this call-up to Council is the applicant would like to speak to Councillor re the DA.

**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] **Date:** 25/09/2018

PORT STEPHENS COUNCIL

# DEVELOPMENT ASSESSMENT REPORT

## APPLICATION DETAILS

| | |
|---|---|
| **Application Number** | 16-2018-417-1 |
| **Development Description** | Single Storey Dwelling, Shed and Flood Mound |
| **Applicant** | MR C S LUMSDEN |
| **Date of Lodgement** | 27/06/2018 |
| **Value of Works** | $400,000.00 |

**Development Proposal**

The proposed development includes the construction of a flood mound, single storey dwelling and ancillary shed on the subject site. The single storey dwelling measures 239.47m$^2$ in size and contains four bedrooms, bathroom, ensuite, living/dining area, library and lounge areas and a double garage. The flood mound will create a levelled area of approximately 1,606m$^2$. The proposed shed measures 80m$^2$.

The proposed development is located on land mapped as being Flood Planning Area. The flood planning level relevant to the land is RL 7.6m AHD. The development plans submitted with the DA identify the flood mound pad at 7.8m AHD, the finished floor level of RL 8.1m AHD for the dwelling and 8.014m AHD for the shed. The proposal for the flood mound includes approximately 6,633m$^3$ of fill material.

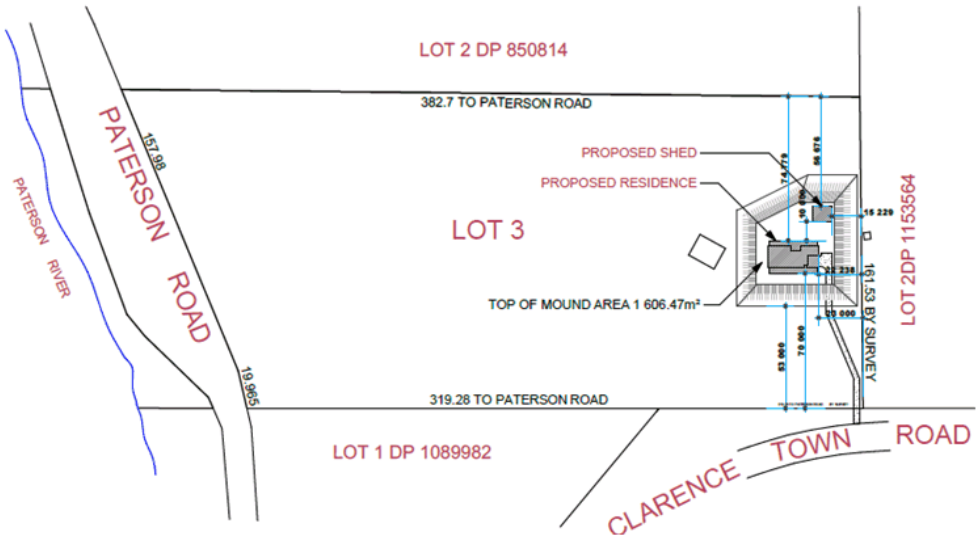



**Figure 1** – Location Plan

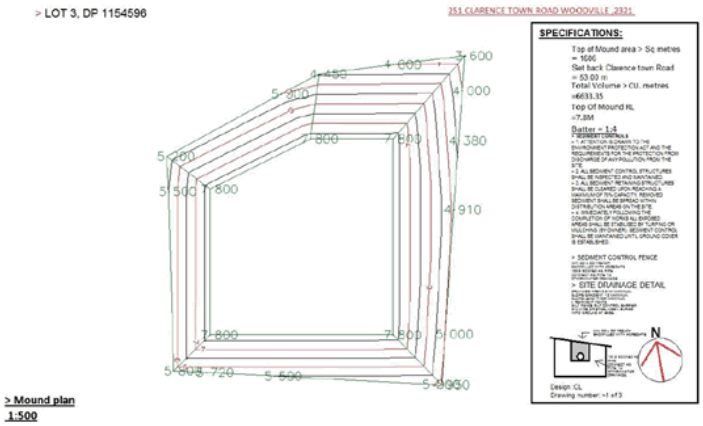



**Figure 2** – Proposed Mound Plan

## PROPERTY DETAILS

| | |
|---|---|
| **Property Address** | 251 Clarence Town Road WOODVILLE |
| **Lot and DP** | LOT: 3 DP: 1154596 |
| **Current Use** | Shed is located on the site |
| **Zoning** | RU1 PRIMARY PRODUCTION |
| **Site Constraints** | Acid Sulfate Soil – Class 1, 3, 4 and 5 (Building and Mound in class 3 and 5)<br>Koala Habitat Planning Map – Mainly Cleared, 50m Buffer over Cleared and Preferred (Main site of development identified as mainly cleared)<br>SEPP (Coastal Management) 2018 – Coastal Zone Combined Footprint<br>Notifiable Noxious Weeds – Alligator weed<br>Combined Corridor Map – Landscape Habitat Link, Local Link<br>OEH Referral – Declared Floodplain<br>OEH Referral – HV Flood Mitigation Scheme<br>Prime Agricultural Land (Class 1-3) – Prime<br>Flood Prone Land<br>High Hazard Floodway area<br>Flood Planning Level |

**Site Description**

The subject site has an area of 6.1 ha and is zoned RU1 – Primary Production. The site maintains access from Clarence Town Road, and directly adjoins the Paterson River to the west and east **(Figure 3)**.

The site is located within 4km from local amenity and facilities within Bolwarra, Largs and Wallalong. Maitland is within 12km from the site providing a large offering of services and amenity to the dwelling.

**Figure 3** – Subject Site

## Site History

The site currently has an existing shed located in close proximity to the proposed area of the dwelling, shed and flood mound **(Figure 1)**. There is no previous approval for the shed located on Council's record system. This however does not pose any compliance issues for the subject application.

A development application was submitted to Council in 2016 for a dwelling house – single storey, land fill and ancillary shed. The application was rejected as there was not sufficient information provided for the assessment to be undertaken. A note contained on this file states that a favourable outcome may not be reached for the site due to the high flood hazard.

A waste treatment system was submitted to Council in 2016 with the dwelling house application, it was withdrawn following the rejection of the dwelling application.

## Site Inspection

A site inspection was carried out on Thursday 9 August 2018. Upon the site inspection the proposed siting for the development has a topography that is raised above the road level and significantly higher than the rear of the site. The land surrounding the subject site includes some steep gully's and rural land uses. The topography of the site falls from the proposed location of the dwelling house to the gully RL 1.5 m and then back up to RL 6.0 m on 291 Clarence Town Road.

The subject site can be seen in the below figures.

**Figure 4** – view from the site to Clarence Town Road

**Figure 5** – view from the site to the existing shed on site

**Figure 6** – proposed site looking to the north

## ASSESSMENT SUMMARY

| | |
|---|---|
| **Designated Development** | The application is not designated development |
| **Integrated Development** | The application does not require additional approvals listed under s.4.46 of the EP&A Act |
| **Concurrence** | The application does not require the concurrence of another body |

**Internal Referrals**

The proposed development was referred to the following internal specialist staff. The comments of the listed staff have been used to carry out the assessment against the S4.15 Matters for Consideration below.

Development and Flood Engineering – It was identified that the subject site is classed as High Hazard Floodway under the Paterson River Floodplain Risk Management Study and Plan. The proposed development has not been supported as detailed within this assessment report.

The Development Engineer suggested the application be submitted to Flood Advisory Review Panel (FARP).

Flood Advisory Review Panel – Given the nature of the proposed development, the application was referred to Councils Flood Advisory Review Panel (FARP) for review and comment. The FARP recommended that the application be refused due to the subject site being unsuitable for residential development as it is located within a high hazard flood way.

**External Referrals**

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

OEH – The application was notified to the Office of Environment and Heritage (OEH) as the subject site is a Declared Floodplain under the Hunter Valley Flood Mitigation Scheme and the *Hunter Water Management Act 2000*. No response has been received from OEH to date, however, should any approval of the proposed development be granted, a condition would be recommended to liaise with OEH regarding associated approval for works under Section 256 of the *Water Management Act 2000.*

## MATTERS FOR CONSIDERATION – SECTION 4.15

**s4.15(1)(a)(i) – The provisions of any EPI**

Port Stephens Local Environmental Plan 2013 (LEP)

**Clause 2.3 – Zone Objectives and Land Use Table**
The proposed development is defined as a dwelling house and is permissible with consent in the RU1 Primary Production zone. The development addresses the objectives of the zone to minimise the fragmentation and alienation of resource lands.

**Clause 4.2B – Erection of dwelling houses on land in certain rural, residential and environmental protection zones**
In relation to the permissibility of a dwelling on the site an assessment against 4.2B (3) is required. The site is zoned RU1 Primary Production with an area of 6.1ha, which is under the minimum lot size of 40 hectares prescribed by Clause 1.7 of the LEP 2013. However, the lot was created before the current plan (LEP2013), and measures greater than 4,000m$^2$ in size. The construction of a dwelling house meets the requirements of this clause.

**Clause 7.1 – Acid Sulfate Soils**
The subject land is mapped as containing potential Class 1, 3, 4 and 5 acid sulfate soils (ASS). Accordingly, any works more than 1m below the natural ground surface that would disrupt the ASS on the site would require an assessment and management plan in relation to the works. The SoEE submitted with the application notes the proposal does not seek to excavate the site but to introduce fill for the proposed flood mound. Should Council determine to approve the development, any potential matters associated with acid sulfate soils could be addressed via conditions of consent.

**Clause 7.2 – Earthworks**

Clause 7.2 seeks to ensure that earthworks will not have a detrimental impact upon the environment or surrounding properties. The application proposes earthworks on the site to achieve a building platform for the dwelling house to meet the flood planning level associated with the subject site through the construction of a flood mound. Earthworks to create a level flood mound are to include approx. 6,633.35m$^3$ of fill. The application notes that the proposed fill will be certified ENM, VENM or material subject to a waste exemption.

The resulting height of the earth mound at the lower north east edge is approx. 3. m from the natural ground level to the top of the mound. The southern edge of the flood mound facing toward the street frontage results in a height of approx. 2.6 m from the natural ground level to the top of the mound. The bulk and scale resulting from the height of the flood mound and the proposed dwelling will have an impact on the surrounding developments, landscape and uses, however this impact is considered to be minor and would not restrict the approval of the proposal. A condition of consent would be recommended relating to erosion mitigation works to be carried out to protect the neighbouring property.

**Clause 7.3 – Flood Planning**
Clause 7.3 seeks to minimise the flood risk to life and property associated with the use of land and to allow development only where it is compatible with the land's flood hazard so as to ensure that significant adverse impacts on flood behaviour and the environment are avoided.

The proposal suggests the flood mound will decrease the risk to life and property in the event of a flood. In the event of a flood the site would experience connection loss to connecting access ways limiting the option for emergency services trucks and the evacuation of the site. Although the proposed flood mound seeks to manage future risk on the site, it does not improve the chance of no risk to life in the event of a significant flooding occurrence.

Clarence Town Road is located to the south of the subject site and serves as the main access to the site. This road is RL 3.7m and Paterson Road along the western boundary of the lot is elevated approximately 4.0 m. In this regard, in the event of a flood, the site would experience the loss of connection to either of these roads, limiting the potential for emergency service vehicles to access the site and impact on the safe evacuation of the site resulting in a risk to life in the event of a significant flooding event.

To improve the access to the site in the event of a flood, Clarence Town Road would need to be increased to RL 6.2m AHD from current RL 3.5m AHD to limit the site from becoming is located in the event of a flood. These works are not encouraged and would require approval and further assessment by the Office of Environment and Heritage.

The social and economic impacts of flooding are well documented locally and State wide. Legalisation, policies and strategies have been endorsed and implemented by Council to mitigate the impacts of flooding within the Local Government Area. The proposed development is likely to increase risk to life during a major event.

Overall, the application is not acceptable when considered in the context of clause 7.3 as the site is classified as floodway and is located within an area that conveys a significant portion of the flood flow, which could detrimentally impact the risk to life.

**Clause 7.6 – Essential Services**
Clause 7.6 requires the consent authority to be satisfied with the connection of essential services to the subject site including water, electricity, sewerage, stormwater and access. As noted above, a wastewater treatment system was part of the dwelling application to Council in 2016 which was withdrawn following the rejection of the dwelling application. A waste treatment system was submitted to Council in 2016 with the dwelling house application, it was withdrawn following the rejection of the dwelling application. Should Council determine to approve the development, a condition of consent would be recommended relating to the application and approval for a wastewater treatment system as well as demonstrating essential service connection availability to

the dwelling (including water, sewerage, stormwater and access). Subject to conditions of consent including requirements around section 68 approvals for onsite sewer management system the development would be able to connect to necessary essential services.

State Environmental Planning Policy Coastal Management 2018

The subject land is located with the Coastal Environmental Area, as such the following general matters are required to be considered when determining an application. As per Clause 13 of the SEPP, development consent must not be granted for development within the coastal environment area unless the consent authority has considered whether the development will cause impact to the integrity of the biophysical and ecological environment, the values and natural coastal processes, marine vegetation, native vegetation and fauna and existing public open space and access to and along the foreshore. Should Council elect to approve the development application, a condition requiring adequate erosion and sediment controls to be implemented during construction, and structural certification of the flood mound post construction to ensure impacts on the coastal area are mitigated will be required.

SEPP 44 Koala Habitat Protection

The proposed development has been considered against Council's Comprehensive Koala Plan of Management (CKPoM) which has been prepared under the SEPP. The subject site is mapped as Mainly Cleared on majority of the site, the part of site located along the river bank is mapped as 50m Buffer over Cleared. The small portion of the site located along the river edge is identified as preferred koala habitat. The proposed siting and development of the dwelling, flood mound and ancillary shed is located on the west of the site, approx. 270m from the 50m buffer over cleared and approx. 330m from the preferred habitat mapping. The proposal does not include any removal of vegetation. The proposed development is consistent with the aims of SEPP 44 in this regard.

SEPP (BASIX) 2004

A BASIX Certificate has been submitted for the proposed development which demonstrates that the proposal can achieve the required water and energy saving targets compared to the standard model house. Should Council elect to approve the application, a condition of consent would be recommended in the notice of determination requiring the development to be carried out in accordance with the BASIX certificate.

**s4.15(1)(a)(ii) – Any draft EPI**

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

**s4.15(1)(a)(iii) – Any DCP**

Port Stephens Development Control Plan 2014

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

**Section A.12 – Notification and Advertising**
In accordance with the requirements of chapter A.12, the development application was not notified.

**Section B2 – Natural Resources**
Alligator weed, a notifiable noxious weed, is located on the river edge of the subject site. The weed is not within close proximity to the proposed mound, dwelling or shed site and therefore does not require any measures to mitigate its spread or removal.

**Section B3 – Environmental Management**
The site is located within a range of Acid Sulfate Soils refer to cl7.1 LEP2013 discussion above.

**Section B4 – Drainage and Water Quality**

The proposal does not include a stormwater management plan and no proposed stormwater management have been included on the plans. Drainage and water quality in relation to the dwelling and flood mound would need to be demonstrated to Council.

As discussed above, a water treatment system application was withdrawn from Council in 2016. The application includes a 2,000 ltr rainwater tank. The proposal does not demonstrate how the flood mound or dwelling will address draining of water.

In the event of Council approving the DA, a condition relating to the satisfactory control and drainage of stormwater can be attached to the notice in accordance with the DCP.

**Section B5 – Flooding**
Refer to cl 7.3 LEP2013 discussion above. The area has been classified as flood prone land, High hazard Floodway area. The proposed flood mound is to create an area above the flood planning level on the subject site.

The site is a High Hazard Floodway and the FPL for the site is RL 7.6m AHD (based on the recent, best available information from the Paterson River Flood Study 2017, rather than the previous FPL of 8.0m AHD). The current day 1% AEP level is RL 6.5m AHD, which does not include freeboard and the PMF level is RL 9.0m AHD (rather than the old level of RL 10.7m AHD), a depth of 1.2m over the top of the proposed earthen mound.

The flood report submitted with the application assesses the proposed flood mound, dwelling and ancillary shed against a range of design flood conditions including the 5% AEP, 2% AEP, 1 % AEP, 0.5% AEP and PMF design events. The development is not consistent with the outcomes of Section 5.11 of the DCP which related specially to High Hazard Floodway, as follows:

- **B5.11**: development within a floodway is not encouraged, applications may be considered where demonstration of specific community needs/benefits that do not relate to the provision of housing. Under this clause of the DCP the proposed dwelling development is not encouraged or supported.
- **B5.3:** Land that becomes an island during a flood event is to provide a flood refuge. Although capacity appears to exist, the application has not identified the location of a proposed flood refuge on the subject site.
- **B5.5:** Habitable room, non-habitable room and garage/carport are to demonstrate specific requirements to meet this clause. A habitable room is to be accompanied by a certificate from a Chartered Professional Structural Engineer certifying that the development is capable of withstanding the effects of flooding. Should Council determine to approve the development, a condition of consent would be recommended relating to the submission of certification from a Charactered Professional Structural Engineer for the capability of the structure to withstand the effects of flooding.

Access to and from the site becomes an issue as Clarence Town Road to the south of the subject site is RL 4m, the natural ground level in the location of the flood mound is between RL 5.5m and RL 5m. The finished floor level of the proposed development are the flood mound pad at 7.8m AHD and the finished floor level of RL 8.1m AHD for the dwelling. The dwelling is likely to become isolated by flood waters. In conclusion, the proposed development is not supported when taking into consideration the requirements of Section B5 of the DCP.

**Section B6 – Essential Services**
Refer to cl 7.6 LEP2013 discussion above, if the application is to be approved by Council recommended conditions that satisfactory measures are made for the connection to essential services for the dwelling.

**Section C4 – Dwelling House, Secondary Dwelling, Dual Occupancy or Ancillary**

**C4.1 Building height**
The proposed dwelling is single storey with a maximum height of 5.4m above the pad level, which is below the max height of 8m.

**C4.B Setback**
The proposal complies with the front and rear setback requirements. The proposed dwelling has a front setback of 70m and rear setback of 74m.The proposed flood mound is setback 53m from the front property boundary and 39m from the rear boundary.

**C4.26 Streetscape Character**
The proposed dwelling is located within an area that has a number of historic dwellings. A review of the surrounding sites and developments note that majority are a result of historic approvals of which pre date the current Council DCP. The proposal is a single brick dwelling which does not adversely impact on the street character of the area. However, it is noted that the proposed height of both the dwelling and flood mound will have minor visual impacts to the streetscape and locality due to finished roof height of 13.5m, pad top FFL of 8.1 m and toe of the flood mount at 4.1 m. These impacts have been assessed and given other similar developments in the wider rural area it is considered this would not be a reason to refuse the application.

**C4.D Private Open Space**
Adequate open space and solar access has been provided due to the rural nature of the subject site.

**C4.E Car Parking and Garages**
The development has adequate area to provide provision for car access, parking and carport.

**C4.G Site Facilitates and Services**
The development site has adequate area and space for suitable site facilities and services can be provided for.

**C4.H Ancillary Structures**
The proposal includes an ancillary shed to be located behind the building setback of the dwelling. The ancillary shed meets the minimum requirements for setbacks from the dwelling and boundaries.

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

The assessment has considered the likely impact of the development by identifying potential impacts of the proposal, measures to improve impacts and frequency/severity of impacts. The development is not compatible with the flood risks associated with the land and may result in unacceptable impacts to life. The development is recommended for refusal for the following reasons.

- The proposed dwelling is not considered to align with a suitable use of the site and does not align with Councils endorsed policies. The applicable clauses and requirements have been enforced to ensure development occurs on site where the use is suitable; and
- The proposal is not consistent with the supported development within High Hazard Floodway.

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

The subject site is zoned RU1 – Primary Production, whereby the proposed dwelling and ancillary shed are permissible uses under the zoning. The site is identified as high hazard flood way and the proposed development and use does not align or address all of the requirements under current Council endorsed policy and legislation. Due to the identified flood hazard, the use of the site for residential accommodation is not a suitable outcome for the site.

**s4.15(1)(d) – Any submissions**

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

**s4.15(1)(e) – The public interest**

The proposed development is no 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. The development poses an unacceptable risk to life and may also result in adverse flood impacts to surrounding properties.

## ITEM 2 - ATTACHMENT 4 REASONS FOR REFUSAL.

PORT STEPHENS COUNCIL

**REASONS FOR REFUSAL**

1. The proposed development fails to satisfy Clause 7.3 (Flood Planning) of the LEP2013 as the development does not demonstrate that it is compatible with the flood characteristics of the site including minimising the flood risk to life associated with the land (s4.15(1(b) of the *Environmental Planning and Assessment Act 1979 ('EP&A Act'))*;

2. The development does not comply with the controls contained within Port Stephens Development Control Plan (Chapter B5 Flooding) (s.4.15(1)(a)(i) of the *EP&A Act*);

3. The proposed development does not demonstrate the suitability of the use of the site given the flood characteristics of the land (s4.15(1)(c) of the *EP&A Act*); and

4. 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 the land (s.4.15(1)(e) of the *EP&A Act*).

PORT STEPHENS COUNCIL

# Notice of Determination

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

## SCHEDULE 1

### CONDITIONS THAT IDENTIFY APPROVED PLANS

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

| Plan/Doc.Title | Plan Ref. No | Sheet. | Date | Drawn By |
|---|---|---|---|---|
| Site Plan Pad Section | 3646 | 1 of 9 | 22/2/2018 | Advantage |
| Location Plan | 3643 | 2 of 9 | 22/2/2018 | Advantage |
| Floor Plan | 3643 | 3 of 9 | 22/2/2018 | Advantage |
| Elevations | 3643 | 4 and 5 of 9 | 22/2/2018 | Advantage |
| Shed Plan, section and Elevations | 3643 | 6 of 9 | 22/2/2018 | Advantage |
| Mound Plan | 16-2018-417-1 (1), (2) and (3) | 7 – 9 of 9 | 27/6/2018 | Applicant |

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

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

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

**Note 3**: The consent relates only to those works indicated as proposed on the approved plans. No assessment has been undertaken of those structures marked as existing, and this consent does not extend to include any such structures.

### CONDITIONS THAT IDENTIFY OTHER APPROVALS REQUIRED

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

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

4. **Prior to the issue of the Construction Certificate** a separate wastewater application for the installation of a waste treatment device/human waste storage

PORT STEPHENS COUNCIL

# Notice of Determination

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

facility shall be submitted to and approved by Council. The wastewater management system proposed for the development shall be in accordance with Councils On-site Sewage Management Policy and the *Local Government Act 1993*. The application is to be accompanied by full details of the proposed system and site assessment complying with the relevant section of the Development Assessment Framework (DAF).

**This consent has not addressed any additional fill for the purpose of providing adequate disposal field or infrastructure location for any wastewater treatment system. Any additional fill required for the provision of any wastewater treatment system is subject to separate approval.**

5. **Prior to the issue of the Construction Certificate** the following information is to be submitted to the Certifying Authority, prepared and certified by a Chartered Professional Structural Engineer:

    a. Detailed structural engineering design of the proposed development, having regard for the SES Building Guidelines and ABCB Construction of Buildings in Flood Hazard Areas Standard, unless otherwise permitted by conditions of this consent. The design must show that the proposed development is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy and impact from debris up to and including the 1% Annual Exceedance Probability (AEP) event. The 1% AEP flooding characteristics are 6.5 metres AHD and 1.5 metres per second velocity;

    b. Certification that the proposed development is capable of withstanding the force of any flood waters experienced up to the Probable Maximum Flood Event (PMF). The PMF flooding characteristics are 9 metres AHD and 3.1 metres per second velocity;

    c. Certification demonstrating that any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property; and

    d. Certification demonstrating that the rainwater tank, finishes, plant fittings and equipment and any other buoyant fixtures will be of materials and functional capacity to withstand the forces of floodwater in events up to and including the 1% AEP event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces.

6. **Prior to the issue of the Construction Certificate and/or the commencement of works** (whichever occurs first), the person having benefit of this consent must apply to the Office of Environment and Heritage for consent from the Minister under Section 256 of the *Water Management Act 2000*.

7. **Prior to the commencement of works**, the person having the benefit of this consent shall contact Hunter Water Corporation (HWC) to ensure that the approved works do not impact upon existing or proposed HWC infrastructure. A copy of the information received by HWC shall be provided to Council within 10 days of receipt. Should HWC

PORT STEPHENS COUNCIL

# Notice of Determination

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

require modification to the approved development a Section 4.55 Modification application and/or modified Construction Certificate Application should be lodged.

**CONDITIONS THAT ARE PRESCRIBED**

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

9. **Prior to the commencement of works**, a contract of insurance is to be in force in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act.

10. **Prior to the commencement of works**, for any residential building work within the meaning of the Home Building Act 1989, (the HB Act) except for Crown building works certified in accordance with section 6.28 of the Act, the principal certifying authority must provide to the Council (unless Council is the principal certifying authority) a written notice of:

    a. In the case where a principle contractor is required to be appointed, the name and licence number of the principal contractor and the name of the insurer by which the work is insured under the HB Act;

    b. In the case of work to be done by an owner builder, the name of the owner-builder and their permit number if required under the HB Act.

11. Except in the case of work only carry out to the interior of a building or Crown building work certified in accordance with section 6.28 of the Act, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the principal certifying authority for the work, the name of any principle contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.

12. Where any excavation required for the development extends below the level of the base of a footing of a building, structure or work on adjoining land (including within a road or rail corridor), the person having the benefit of the consent must protect and support that building, structure or work from possible damage from the excavation, and where necessary underpin the building, structure or work to prevent any such damage.

**CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATIONS OR CONSTRUCTION**

13. **At least two days prior to the commencement of works**, the applicant shall submit to Council a "Notice of Commencement and Appointment of Principal Certifying Authority" form.

14. **Prior to the commencement of works**, the applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.

PORT STEPHENS COUNCIL

# Notice of Determination

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

15. **Prior to the commencement of work**, a 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people. No materials, waste or the like are to be stored on the all-weather access at any time except with the agreement of the Principle Certifying Authority.

16. **Prior to the commencement of works**, a waste containment facility is to be established on site. The facility is to be regularly emptied, and maintained for the duration of works. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site shall be cleared of all building refuse and spoil immediately upon completion of the development.

17. **Prior to the commencement of works**, the property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking". Protection measures may include erosion and sedimentation controls as required. All protection measures are to be installed to the satisfaction of Council and must be regularly maintained for the duration of works and until the site is stabilised by vegetation or the like.

**CONDITIONS TO BE SATISFIED DURING WORKS – SITE REQUIREMENTS**

18. Unless otherwise approved by Council in writing, all general building/demolition work shall be carried out between the hours of:

    a. 7.00am to 5.00pm Monday to Friday
    b. 7.00am to 5.00pm Saturday

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

19. A temporary toilet(s) shall be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided shall be one toilet per 20 persons or part thereof employed on the site at any one time. The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.

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

21. Dust suppression is to be actively undertaken during works, through the use of wet-down water tankers or an alternative method which adequately prevents dust from affecting the amenity of the neighbourhood and the environment.

PORT STEPHENS COUNCIL

# Notice of Determination

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

22. **Immediately following the sub-floor framing or slab inspection**,

    a. A Registered Surveyor is to certify that the finished floor level of all the habitable residential rooms is at or above the Flood Planning Level (FPL). **The FPL is RL 7.6 metres AHD**;

    b. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods;

    c. All building materials, equipment, ducting, etc., below the Flood Planning Level (FPL) shall be flood compatible;

    d. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level;

    e. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed; and

    f. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply.

23. **Immediately following completion of the earthworks**,

    a. The final pad shape, levels and location will be confirmed by the submission of a detailed survey plan prepared by a Registered Surveyor. The detailed survey plan shall be provided to Council within 14 days of completion; and

    b. The mound is to be top dressed and seeded with fast growing grasses.

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

24. **Prior to the issue of any Occupation Certiciate,** A flood management plan shall be prepared for the subject site which covers evacuation, a demonstrated practical understanding of predicted flood levels and impact to access to/from the site including flood level and duration of inundation, the provision of emergency food, medical supplies, power/communication, water and effluent disposal, etc. incorporating the State Emergency Services Business Floodsafe Toolkit, shall be submitted and approved by Council prior to the issue of the Construction Certificate.

25. **Prior to the issue of the Occupation Certificate** an Approval to Operate the wastewater system shall be obtained by Council in accordance with the Local Government Act, 1993 (Section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility.

26. **Prior to the issue of a Final Occupation Certificate**, the commitments listed in BASIX Certificate No. **707374S** (or an amended version of this certificate, or a replacement certificate particular to the approved development) are to be installed in the development. Should an amended or replacement certificate be issued, a copy is to be forwarded to the principle certifying authority immediately following its issue.

PORT STEPHENS COUNCIL

# Notice of Determination

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

27. **Prior to the issue of any Occupation Certificate**, the applicant shall rectify any new damage to public infrastructure to the satisfaction of the Council as the Roads Authority.

28. **Prior to occupying the development**, Council's Spatial Services Team should be contacted via email at: addressing@portstephens.nsw.gov.au to obtain correct property addressing details. Please state your Development Approval number and property address in order to obtain the correct house numbering.

    Note: any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.

29. **Prior to occupying the development**, a house address number shall be displayed in a prominent area, visible from the adjacent road.

30. **Prior to the issue of any Occupation Certificate,** the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.

    **Note:** The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.

## CONDITIONS TO BE SATISFIED AT ALL TIMES

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

## ADVISORY NOTES

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

A. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.

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

PORT STEPHENS COUNCIL

# Notice of Determination

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

C. You are advised that, in accordance with the EP&A Act, (sec.6.8) payment of the building industry Long Service Leave levy, where applicable, must be paid **prior to issue of any Construction Certificate**.

D. **Prior to the commencement of works involving vegetation removal**, a pre-clearance faunal survey must be undertaken by a suitably qualified arborist and documentary evidence of this pre-clearance faunal survey and any recommendations are to be provided to and acknowledged by Council's Natural Resources Management Unit.

If the pre-clearance faunal survey identifies that there are threatened species inhabiting a tree flagged for removal; all clearing works shall cease until a Plan of Management for the relocation of the species has been approved by Council's Natural Resources Management Unit in consultation with the Office of Environment and Heritage.

## SCHEDULE 2

### RIGHT OF APPEAL

If you are dissatisfied with this decision:

- a review of determination can be made under Division 8.2 of the Act, or
- a right of appeal under Section 8.7 of the Act can be made to the Land and Environment Court within six (6) months from the date on which that application is taken to have been determined.

### NOTES

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

**ITEM NO. 3** **FILE NO: 18/413610**
**EDRMS NO: 16-2018-233-1**

**DEVELOPMENT APPLICATION 16-2018-233-1 - SINGLE STOREY DWELLING AND SHED WITH MEZZANINE AT 232 SEAHAM ROAD, NELSONS PLAINS (LOT 1 DP:707147)**

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

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**RECOMMENDATION IS THAT COUNCIL:**

1) Refuse development application 16-2018-233-1 for a single dwelling and shed with mezzanine at 232 Seaham Road, Nelsons Plains (LOT: 1 DP: 707147) for reasons contained in **(ATTACHMENT 4)**.

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Councillor Glen Dunkley left the meeting at 7:52pm in Open Council.
Councillor Glen Dunkley returned to the meeting at 7:53pm in Open Council.

**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| | **Councillor Giacomo Arnott**<br>**Councillor John Nell**<br><br>That item 3 be deferred to seek independent legal advice on the legal implications on approving items of this nature. |

Cr Arnott and Cr Nell called for a division.

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

Those against the Motion: Mayor Ryan Palmer, Crs Glen Dunkley, Ken Jordan, Paul Le Mottee, Sarah Smith and Steve Tucker.

The motion was lost.

**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| | **Mayor Ryan Palmer**<br>**Councillor Paul Le Mottee**<br><br>That Council approve development application 16-2018-233-1 for a single dwelling and shed with mezzanine at 232 Seaham Road, Nelsons Plains (LOT: 1 DP: 707147) subject to the conditions contained in (ATTACHMENT 5). |

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 Paul Le Mottee, Sarah Smith and Steve Tucker.

Those against the Motion: Crs Jaimie Abbott, Giacomo Arnott, Glen Dunkley, Ken Jordan and John Nell.

The motion was lost.

**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| **009** | **Councillor Giacomo Arnott**<br>**Councillor Ken Jordan**<br><br>It was resolved that Council refuse development application 16-2018-233-1 for a single dwelling and shed with mezzanine at 232 Seaham Road, Nelsons Plains (LOT: 1 DP: 707147) for reasons contained in **(ATTACHMENT 4)**. |

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

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Glen Dunkley, Ken Jordan and John Nell.

Those against the Motion: Mayor Ryan Palmer, Crs Paul Le Mottee, Sarah Smith and Steve Tucker.

The motion was carried.

Development Application No. 16-218-233-1 was reported to Council at its meeting on 11 December 2018. At that meeting it was resolved that the application be approved in principle subject to the preparation of conditions. The resolution is provided below:

*Meeting Minute 174: It was resolved that Council approve, in principle, Development Application 16-2018-233-1 for a single dwelling and shed with mezzanine at 232 Seaham Road, Nelsons Plains (LOT: 1 DP: 707147) subject to conditions to be reported to the next extraordinary meeting on 29 January 2019.*

In response recommended conditions of consent have been prepared at **(ATTACHMENT 5)** should Council resolve to approve the application.

The 11 December 2018 Council Report is provided below. No changes have been made to this report since it was reported on 11 December 2018.

**BACKGROUND**

The purpose of this report is to present a development application (DA) to Council for determination. The subject DA relates to land located at 232 Seaham Road, Nelsons Plains, legally identified as LOT: 1 DP: 707147 ('the subject site'). A locality plan is provided at **(ATTACHMENT 1)**.

The development application was called to Council as detailed in **(ATTACHMENT 2)**.

Proposal

The applicant seeks approval for the construction of a single dwelling and ancillary shed with a mezzanine on the subject site. Details of the proposal are as follows:

- Single storey dwelling with a wraparound verandah to be located on an existing cattle refuge mound. The internal living spaces (198m²) contain four bedrooms, bathroom, ensuite, living/dining area, and lounge areas. The external perimeter verandah area has a footprint of 157m² bringing the total footprint of the dwelling to 355m².
- Ancillary shed with a ground floor footprint of 420m² to be constructed on the existing cattle refuge mound located adjacent the dwelling. The shed has an overall height of 7.45 metres incorporating a second storey internal mezzanine and outdoor verandah with a floor area of 252m². The combined ground floor and first floor area of the shed is 672m².

Site History

The subject site has a total area of 11.5 hectares, is zoned RU1 – Primary Production and is accessible via Seaham Road. An approval was issued in 2003 for a flood mound and hay shed for the purpose of cattle refuge. The cattle mound has been constructed has an approximate finished level of 5.5 metres Australian Height Datum

(AHD). The existing cattle mound was not intended for residential development and was not assessed as such at that time.

An application approval for a single storey dwelling in 2000 was refused by Council as well as an application for a Tourist Facility (Cabins) in 2011, primarily due to flooding concerns.

The site is surrounded by similar large rural lots for the purposes of farming and are identified as high hazard floodway. The land is generally clear of vegetation and comprises mainly of pasture grass. A majority of the subject site is below the level of Seaham Road, the existing cattle mound raises the proposed building site above the level of Seaham Rd and is located approximately 300 metres away from the road frontage.

Numerous existing structures are located on the site, including a shed and a number of shipping containers.

Key Issues

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

Flood Impacts

The subject site is mapped flood prone land within the high hazard floodway category.

Neither a flooding certificate nor flood impact assessment was submitted with the original application as supporting documentation. Following a Request for Further Information (RFI), the applicant submitted a flood report which identified the site as a high hazard storage area which is contrary to Council's flood categorisation. The flood report was not accompanied by clear justification and flood study to support the reduction in the flood hazard category.

Table 1 below shows the finished floor levels of the proposed structures relative to Council's Adopted Flood Planning Level.

| **Description** | **Level** |
|---|---|
| Councils Adopted Flood Planning Level (FPL) | RL 5.9m AHD |
| Top of flood mound (Existing) | RL 5.5m AHD (variable) |
| Finished floor level of proposed dwelling | RL 5.9m AHD |
| Finished floor level of proposed shed | RL 5.6m AHD<br>Mezzanine 8.7m AHD |

*Table 1: Nominated levels relating to the subject site and proposed development*

Despite the dwelling being located at the adopted FPL, development in a high hazard floodway is not encouraged under Section B5.11 of the Development Control Plan (DCP 2014) and an application may only be considered when accompanied with a flood report and the development is able to demonstrate it has a specific community needs/benefit. As noted above, the flood report is considered inadequate and the provision of private housing does not meet the above criteria. Therefore the proposal is inconsistent with Council's adopted policy.

New residential development on land which becomes an island (isolated) during a flood event must provide flood refuge and must be constructed to withstand the flood actions events up to the Probable Maximum Flood (PMF) (B5.3 of DCP 2014). The residential component is a single storey which does not provide compliant flood refuge. The shed and mezzanine could be adapted to provide flood refuge during a major event, as a level of 8.7 metres AHD has been nominated on the proposed plans. The PMF level is at 8.8 metres AHD which would require modifications to the mezzanine height to achieve this aspect of the DCP.

Seaham Road is located approximately 300 metres from the dwelling site and is accessed by an existing driveway. Based on the 2017 flood data, the crest of Seaham Road (2.1m AHD) has a frequency of flooding inundation of just under 40% AEP (Average Exceedance Probability - which used to be called a frequency of one (1) in 2.5 years), while the driveway low point (1.32m AHD) has a frequency of flooding inundation of approximately 50% AEP (frequency of one (1) in two (2) years). Note the flood actions in these lower events are more about stormwater not being able to get away rather than flooding that breaches the levee banks. Noting this, the site would experience the loss of connection to access roads, limiting access to the site and options for safe evacuation during these lower events. The land and access points have traditionally been developed with the consideration of the land being prime agricultural and grazing land and were not developed with residential occupation in mind.

In addition to the controls within Council's DCP, Clause 7.3 of Council’s Local Environmental Plan (LEP2013) also applies. Clause 7.3(3) states that the development must be compatible with the flood hazard of the land and that it must not have a significant, adverse effect on flood behaviour (resulting in detrimental increases in the potential flood affectation of other development or properties). As outlined above, a flood report was not submitted addressing the impacts or compatibility with the flood hazard of the land. In the event of a flood, the site would experience connection loss and there would be limited options for the evacuation of the site. This is likely to place unreasonable and unnecessary strain upon emergency services.

The social and economic impacts of flooding are well documented locally and state wide. Legislation, policies and strategies (including the NSW Floodplain Development Manual, Council's LEP and DCP) have been endorsed and implemented by Council to mitigate the impacts of flooding within the Local Government Area. On this basis,

the development is considered to be inconsistent with Clause 7.3(3) of the LEP and is recommended for refusal.

It should be noted that conditional support for the shed component of the application can be achieved. The farm shed could be approved with appropriate conditions requiring a Structural Report prepared by a Chartered Professional Engineer recognised under the Engineers Australia's National Engineering Register (NER) in the area of practice of Structural Engineering. The report must certify that the proposed structural components can withstand the forces of floodwater up to the PMF, including hydrostatic pressure, the hydrodynamic pressure, the impact of debris and buoyancy forces.

The proposed residential development cannot be supported for the above mentioned reasons.

Suitability of the Site

The subject site is zoned for rural purposes. The existing filling of the subject site could be considered to allow for additional opportunities for the rural land use and support the social and economic environment through decreasing the stress associated with the loss and recovery during and after the flood. The proposed shed would reflect the intent of the original approval providing a farm shed to service the property. However, the introduction of residential structures reduces the usability of this space, from the original intention of a livestock refuge.

Based on the information provided the assessment has determined that the site is not suitable for the proposed development as:

- The development does not comply with the requirements under the NSW Floodplain Manual and Council's adopted LEP and DCP.
- The subject site is not suitable for the proposed residential development due to the high hazard floodway constraints and associated risks that are applicable to the land.

Conclusion

The development is inconsistent with the relevant legislation and policies, including:

- *Environmental Planning and Assessment Act 1979*, including Section 4.15(1)(c) the suitability of the site.
- Port Stephens LEP2013; Clause 7.3 Flood Planning.
- Port Stephens DCP2014; Section B5 Flooding.
- Council Floodplain Risk Management Policy.
- NSW Government Floodplain Development Manual 2005.

The key issues arising through the assessment of the application are that the proposed development is not a suitable outcome for the site, and is recommended for refusal for the reasons contained in **(ATTACHMENT 4)**.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

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

| Source of Funds | Yes/No | Funding ($) | Comment |
|---|---|---|---|
| Existing budget | Yes | | |
| Reserve Funds | No | | |
| Developer Contributions (S7.11) | 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), Council's Floodplain Risk Management Policy and the NSW Government Floodplain Development Manual 2005.

Detailed assessments 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 proposed development is considered to be inconsistent with the principles contained within the NSW Floodplain Development Manual and may negate the good faith immunity provisions in the LG Act.

| Risk | Risk Ranking | Proposed Treatments | Within Existing Resources? |
|---|---|---|---|
| There is a risk that if the application is approved Councils decisions will contradict the requirements set out under Clause 7.3 LEP 2013. | Medium | Determine the application in line with the recommendation. | Yes |
| There is a risk that if the application is approved, Council may be liable for damage or consequences to approving a development located on a site with a known high flood risk. | Medium | Determine the application in line with the recommendation. | Yes |
| The risk is that the proposal will expose the property and people to risk of damage and death as a consequence of approving fill and a dwelling within a known flood risk area. | Medium | Determine the application in line with the recommendation. | Yes |

**SUSTAINABILITY IMPLICATIONS**
Includes Social, Economic and Environmental Implications

The key issues arising through the assessment of the application are that the proposed development is not a suitable outcome for the site, and for these reasons the proposed development is recommended for refusal as outlined in **(ATTACHMENT 4)**.

**CONSULTATION**

Internal referral

Consultation was undertaken with internal officers, including the Engineering section. The referral comments from these officers were considered as part of the assessment contained at **(ATTACHMENT 3)** and accordingly the proposed development is recommended for refusal for the reasons contained within **(ATTACHMENT 4).**

External agency

Nil.

Notification

It is noted that Councils notification policy outlines in Chapter A of DCP 2014 single dwellings do not require notification. Accordingly the proposed development was not placed on public notification.

**OPTIONS**

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

**ATTACHMENTS**

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

**COUNCILLORS ROOM**

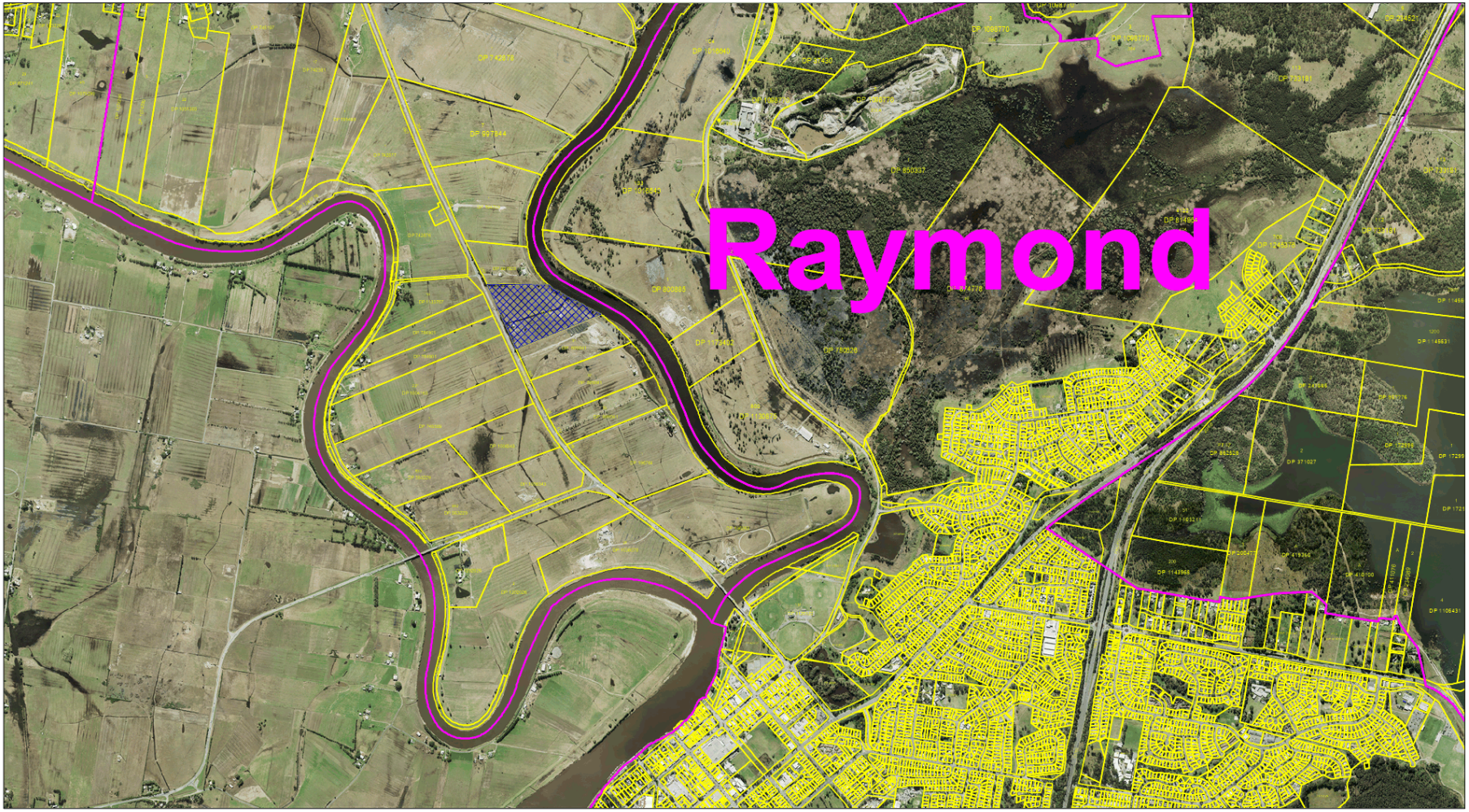
1) Development Plans.

**TABLED DOCUMENTS**

Nil.

## ITEM 3 - ATTACHMENT 1 LOCALITY PLAN.

# LOCALITY PLAN

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PORT STEPHENS
COUNCIL

116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

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SHEET LOCALITY

**ITEM 3 - ATTACHMENT 2 CALL TO COUNCIL FORM.**

PORT STEPHENS COUNCIL

**CALL TO COUNCIL FORM**
**DEVELOPMENT APPLICATION**

I, Councillor Ryan Palmer, Steve Tucker, Glen Dunkley

require Development Application Number 16-2018-233-1

for Single Dwelling, Farm shed with a mezzanine

at 232 Seaham Rd, Nelson Plains

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

**Reason:**

The reason for this call-up to Council is public interest issues regarding information being requested on flooding

**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] **Date:** 25-10-18

PORT STEPHENS COUNCIL

# DEVELOPMENT ASSESSMENT REPORT

## APPLICATION DETAILS

| | |
|---|---|
| **Application Number** | 16-2018-233-1 |
| **Development Description** | Single Storey Dwelling & Farm Shed with Mezzanine |
| **Applicant** | HILL TOP PLANNERS PTY LTD |
| **Date of Lodgement** | 05/04/2018 |
| **Value of Works** | $450,000.00 |

**Development Proposal**

The applicant seeks approval for the construction of a single dwelling and ancillary shed with a mezzanine on the subject site. Details of the proposal are as follows:

• Single storey dwelling with a wraparound verandah to be located on the existing cattle refuge. The internal living spaces (198m²) containing four bedrooms, bathroom, ensuite, living/dining area, and lounge areas. The external perimeter verandah area has a footprint of 157m² bring the total footprint of the dwelling to 355m².

• Ancillary shed with an area of 420m² setback to be constructed on the flood mound adjacent the dwelling. The shed has an overall height of 7.45m with a second storey mezzanine and verandah are covering 60% of the footprint.

## PROPERTY DETAILS

| | |
|---|---|
| **Property Address** | 232 Seaham Road NELSONS PLAINS |
| **Lot and DP** | LOT: 1 DP: 707147 |
| **Zoning** | RU1 PRIMARY PRODUCTION |
| **Site Constraints** | *High Hazard Floodway, Site Access, Onsite septic requirements* |

**Site History:**

The subject site has a total area of 11.5 hectares, is zoned RU1 – Primary Production and is accessible via Seaham Road. An existing approval was issued in 2003 for a flood mound and hay shed for the purpose of cattle refuge. The fill mound has been constructed and has an approximate finished level of 5.5m AHD. The mound was not intended for residential development and was not assessed as such.

An application approval for a single storey dwelling in 2000 was refused by Council as well as an application for a Tourist Facility (Cabins) in 2011, primarily due to flooding concerns.

Building material was identified on the site in 2004, investigation showed the materials being used to backfill excavated holes dug on the property. Asbestos was also identified. The site has been identified under Councils Contaminated Lands Register. The development application does not address this issue.

Council identified in 2009 that an unauthorised septic system was operating on site and requested it be removed due to the environment impact it posed noting it was adjacent to a drainage canal that led directly to the Williams River. At the time of the recent site inspection it could not be identified if the system had been removed/decommissioned.

**Site Inspection**

Two site inspections were carried out in July 2018 and October 2018. The site can be seen in the photographs below.

The site is surrounded by similar large rural lots for the purposes of farming and are located within the high hazard floodway. The land is generally clear of vegetation and comprises mainly of pasture grass. A majority of the site is below the level of Seaham Road. The existing fill mound is raised above the level of Seaham Rd and is located approximately 300m from the road frontage.

The site has one main existing shed structure. The structure is located adjacent to Seaham Rd and will have no impact on the proposed development. As mentioned in the site history Council identified that an unauthorised waste treatment system was servicing the shed structure. At the time of a recent site inspection, it could not be identified if the system had been removed/decommissioned. Council's Environmental team have been made aware of the issue and will follow up if required.

The site has a number of shipping containers located across the property and approvals have been identified for the containers. One container is located toward the front of the property adjacent to the existing shed which appears to have been on site for several years. The remaining containers are located on the existing mound where the proposed development is located.

Site Photos:

Photo 1: *Existing fill mound & proposed site of development*

Photo 2: Existing structures along Seaham Rd

Photo 3: Existing structures along Seaham Rd

Photo 4: Full site view from entry of property

## REFERRALS

No external referrals were required. In the event of an approval, a condition would be required requiring a 256 approval under the Water Management Act 2000 prior to the commencement of works.

The proposed development was referred to the following internal specialists. The comments of the listed staff have been used to carry out the assessment against the S4.15 Matters for Consideration below.

**Council's Flooding Drainage Engineers Comments and applicants response:**

Original Referral: 2/05/2018

This proposal is for a residential dwelling in a mapped High Hazard Floodway.

The site is part of the confluence of two major river systems: the Hunter River and the Williams River; and fronts the Williams River. In the current day 1% AEP event, the velocity in the Hunter River has been estimated at about 3 m/s and in the Williams River at the subject site at more than 1 m/s and in the confluence between the two rivers the velocity is up to 1 m/s and the depth across the natural surface is generally 3 to 4 metres of floodwaters.

The proposed residential development in this location isn't compatible with the flood hazard of the land and is likely to result in unsustainable social and economic costs to the community as a consequence of flooding (refer to Port Stephens LEP 2013 Clause 7.3 (3)) and therefore development consent must not be granted for this purpose.

Council's Development Control Plan makes it clear that;

Development within a floodway is not encouraged. An application may only be considered where it demonstrated to have specific community needs/benefits.

Council has recently exhibited a new flooding DCP that further makes it clear that residential development in a High Hazard Floodway is an unsuitable use of the land.

The proposed farm shed is to be situated above the 5% AEP flood level, with a mezzanine level above the PMF. Flood compatibility should be addressed.

**Recommendations:**

Subject to receiving an adequate Structural Report, the farm shed can be approved with appropriate conditions. The proposed residential development cannot be supported.

**RFI – Sent 14/05/2018 with 14 days for information to be forwarded to Council**

It has been established that no flood report was submitted with the application as required by our DCP B5.11.

The responding information did not include flood report prepared by and suitability qualified practicing engineer. The flooding information provided was prepared by the planning consultant without supporting flooding data and presented some inconsistencies with Council's data. The applicant nominated the 1% AEP at 4.9m AHD and a flood category of high hazard flood storage. Council's mapping system indicate a flood level category of high hazard floodway.

The comments were forwarded to Councils Flooding and drainage engineers for further assessment with the following advice received. No further information was received in regards to a flooding report supporting the proposal.

**Advice Received From Councils Flooding & Drainage Engineers**

Second Referral: 31/05/2018

This proposal is for development in a High Hazard Floodway. The flood study that accompanies the DA needs to be a comprehensive technical investigation of flood behaviour that defines the variation over time of flood levels, extent and velocity for flood events of various severities up to and including the PMF event. It covers the entire floodplain catchment, with particular emphasis on the area under consideration. The flood study will:

i) Be certified by a chartered Professional Engineer
ii) Be a comprehensive document that includes numerical flood modelling of the proposed development area;
iii) Ensure that the extent of the study adequately assesses all flooding characteristics and impacts of the development in the area;
iv) Be consistent with any existing Flood Study or Floodplain Risk Management Plan
v) Be consistent with the Floodplain Development Manual and the current version of Australian Rainfall and Runoff and determine the existing flooding characteristics and assess the impacts of the proposal, including assessment of design flood events including 10% AEP, 5% AEP, 1% AEP and PMF for existing conditions, 2050 and 2100; and
vi) Assess cumulative flood storage impacts, flood levels, velocity (including direction), hazard and hydraulic categories.

**Further flooding Advice in relation to early isolation events:**

The low point on the driveway handle is 1.32m AHD (according to the applicant's plan) and the low point on Seaham Road in this vicinity is 2.1m AHD (crest of the road – between 218 and 268 Seaham Road).

Based on the 2017 flood frequency analysis, the crest of Seaham Road (2.1m AHD) has a frequency of inundation of just under 40% AEP (Average Exceedance Probability - what used to be called a frequency of 1 in 2.5 years), while the driveway low point (1.32m AHD) has a frequency of inundation of approximately 50% AEP (what used to be called a frequency of 1 in 2

years). Note the flood mechanism in these events is more about stormwater not being able to get away rather than overbank riverine flooding.

Evacuation along Seaham Road becomes a High Hazard at 0.3m depth (RL 2.4m AHD) which has a frequency of inundation of 20% AEP (what used to be called a frequency of 1 in 5 years).

The PMF level for this site is RL 8.8m AHD and has a velocity of 2.5m/s, while the Flood Planning Level for this site is 5.9m AHD and this flood has a velocity of 0.6m/s. Note scour velocity for "well vegetated, erosion-resistant soils with grassed banks" is 2m/s - see https://www.brisbane.qld.gov.au/sites/default/files/swoip_appendix_a_b.pdf (page 30)

## MATTERS FOR CONSIDERATION – SECTION 4.15

**s4.15(1)(a)(i) – The provisions of any EPI**

| STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX BASIX) 2008 | | |
|---|---|---|
| **Clause** | **Compliant** | **Notes (where needed or if not compliant)** |
| 6 | ☒ The proposed BASIX affected development, or buildings that become BASIX affected development (conversion of garage for example) is accompanied by a BASIX certificate<br>☒ Condition of consent relating to BASIX | BASIX report has been submitted with the application |

| PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013 | | |
|---|---|---|
| **Clause** | **Compliant** | **Notes (where needed or if not compliant)** |
| 2.1 | ☒ Permissible in zone and meets zone objectives. | |
| 2.7 | ☒ Potential asbestos contained with condition of consent added. | No demolition has been identified in the development however asbestos and mixed building waste has been identified on the site and identified as an issue. |
| 4.1 | ☒ The proposal is consistent with the Lot Size Map; OR, | |
| 4.2B | ☒ Dwelling proposed on RU1, RU2, R5, E2 or E3 land where there is no current dwelling on site.<br>☒ Land zoned RU1, RU2, E2 or E3 and created before 22 February 2014 with an area of at | |

| | | |
|---|---|---|
| | least 4,000m$^2$ on which a dwelling was permissible under the previous LEP; OR, | |
| 4.3 | ☒ Proposed development is under maximum building height; | |
| 5.9AA | ☒ Trees will be removed that are not prescribed under DCP. | No nominated vegetation to be removed. |
| 7.1 | ☒ Potential Class 3 ASS with no works more than 1m below ground level; OR,<br>☒ Potential Class 2 ASS with no works below ground level; OR, | The property is affected by two ASS classifications, The majority of the site and the area of the affected works are classified as Class 3. However no works will require the excavation into natural ground. Although consideration must be made for the type of substructure required as the existing mound may not have been engineered for residential purposes. Compaction rates would require piering into natural ground to provide adequate bearing pressure for the new propose structures. |
| 7.2 | ☒ Earthworks required, but do not have negative impacts on surrounding properties. | Some earth works will be required to bring the existing fill mound to the required FPL. This has not been identified in the application. Minor earthworks will also be required for the proposed septic system required on site, no detail has been provided for the type of system proposed. |
| 7.3 | ☒ Development within flood planning area but no anticipated flood risk to life and property, or change in flood characteristics. | The development is located in a High Hazard Flood Way.<br><br>Neither a flooding certificate nor flood impact assessment was submitted with the original application as supporting documentation. Following a request for further information (RFI), the applicant submitted a flood report which identified the site as a high hazard storage area which is contrary to Council's flood categorisation. The flood report was not accompanied by clear justification and flood study to support the reduction in the flood |

| | | |
|---|---|---|
| | | hazard category.<br><br>It is considered that the proposal is not compatible with the flood hazard of the land as it increases the risk to life. In the event of a flood the site would experience connection loss and there would be limited options for the evacuation of the site, which could place unreasonable strain upon emergency services.<br><br>Given there is an existing cattle mound and no additional fill is proposed, the proposal would have negligible impacts on flood levels and minor impacts on flood velocities to surrounding properties. |
| 7.6 | ☒ Essential services are available to the site where required. | On site waste treatment system will be required for the property. No record of an application has been submitted to support the application. |

**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 | | |
|---|---|---|
| **Clause** | **Compliant** | **Notes (where needed or if not compliant)** |
| A.12 | ☒ Notification and advertising. | Not required for single dwellings |
| B1 | ☒ Trees to be removed do not require approval as outlined in B1.1. | No vegetation is required to be removed |
| B2 | ☒ Not in proximity of items of environmental significance.<br>☒ Land does not contain koala habitat or development is consistent with the CKPoM. | |
| B3 | ☒ Development meets bushfire construction requirements. | The property may be affected by grassland vegetation but the expectation is that the property will |

| | | |
|---|---|---|
| | ☒ Development would not disturb acid sulphate soils or an acceptable ASSMP has been prepared.<br>☒ Earthworks would have minimal environmental impacts with conditions on VENM fill and erosion and sediment controls. | be maintained as managed lands to achieve a BAL Low category<br><br>Refer to 7.1 in the above table for assessment<br><br>No earth mounds are proposed |
| B4 | ☐ Non-permeable area not significantly increased and development consistent with figure BD, on-site detention not required; OR,<br>☐ Non-permeable area above figure BD and acceptable on-site detention proposed or condition for details added.<br>☐ Insignificant increases to adversely impact on water quality. | N/A |
| B5 | ☒ Proposed development is on flood prone land; AND,<br>☐ A flood certificate has been submitted with the application and the finished levels are consistent with Table 2: Development Suitability Table; AND,<br>☐ The submitted documents are consistent with Table 2: Development Suitability Table.<br><br>B5.11<br>Development located within High Hazard 1 – Floodway adheres to the following:<br>• New buildings or structures and fill are not supported unless accompanied by a report<br>Note: Development within a floodway is not encouraged. An application may only be considered where it demonstrated to have specific community needs/benefits, which does not relate to the provision of housing | The proposed property is identified as a High Hazard Floodway category.<br><br>No flood certificate was submitted with the application. Conflicting levels have been provided by the Applicant.<br><br>The Applicant has not adequately addressed part B5.11 the DCP or demonstrated that the application benefits the needs of the community. |
| B6 | ☒ Essential services are available to the site, where required. | Yes – Onsite septic system required |
| B9 | ☒ The development would not generate significant increases in traffic. | |
| C4 | ☒ BASIX submitted in accordance with SEPP.<br>☒ Site coverage is in accordance with figure BD. | The development is setback approximately 300m from Seaham Road and will not have a significant impact on the streetscape or |

| | | |
|---|---|---|
| | ☒ Proposal ensures development provides continuity to the street and setbacks comply with C4.10-C4.19.<br>☒ Development appropriately activates the street with habitable rooms where applicable.<br>☒ The proposed development would be sympathetic to the streetscene as it is consistent with the existing development in its form, height, bulk, design and materials.<br>☒ The development would not adversely affect the amenity of neighbouring properties or the public domain.<br>☒ Ancillary development complies with C4.31-C4.43. | neighbouring properties. |

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

| | Notes (where needed) |
|---|---|
| ☒ There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development. | N/A |

**s4.15(1)(a)(iv) – The regulations**

| | Notes (where needed) |
|---|---|
| ☒ There are no matters within the regulations that are relevant to the determination of the application. | |

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

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

| | Notes (where needed) |
|---|---|
| ☒ **Social and Economic Environment:** There would be beneficial impacts as a result of the development. | Yes, Refer to comment above in relation to flooding and the associated social and environmental impacts |
| ☒ **Built Environment:** The proposed development would not cause harm to the existing character. | |

| | |
|---|---|
| ☒ **Natural Environment:** There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added. | |

**s4.15(1)(d) – Any submissions**

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

## DETERMINATION

The application is recommended to be refused for the reasons contained in the Reasons for Refusal.

RYAN BRIDGES

**ITEM 3 - ATTACHMENT 4 REASONS FOR REFUSAL.**

PORT STEPHENS COUNCIL

**REASONS FOR REFUSAL**

1. The proposed development fails to satisfy Clause 7.3 (Flood Planning) of the LEP2013 as the development does not demonstrate that it is compatible with the flood characteristics of the site including minimising the flood risk to life associated with the land (s4.15(1(b) of the *Environmental Planning and Assessment Act 1979 ('EP&A Act'))*;

2. The development does not comply with the controls contained within Port Stephens Development Control Plan (Chapter B5 Flooding) (s.4.15(1)(a)(i) of the *EP&A Act*);

3. The proposed development does not demonstrate the suitability of the use of the site given the flood characteristics of the land (s4.15(1)(c) of the *EP&A Act*); and

4. 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 the land (s.4.15(1)(e) of the *EP&A Act*).

PORT STEPHENS COUNCIL

# Notice of Determination

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

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

| Plan/Doc.Title | Plan Ref. No | Sheet. | Date | Drawn By |
|---|---|---|---|---|
| Proposed Dwelling and Shed | HTP-201801 | DA00-DA08 | 20.3.2018 | Hoover Group Design and Development |

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

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

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

**Note 3**: The consent relates only to those works indicated as proposed on the approved plans. No assessment has been undertaken of those structures marked as existing, and this consent does not extend to include any such structures.

## CONDITIONS THAT IDENTIFY OTHER APPROVALS REQUIRED

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

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

4. **Prior to the issue of the Construction Certificate** a separate wastewater application for the installation of a waste treatment device/human waste storage facility shall be approved by Council. The wastewater management system proposed for the development shall be in accordance with Councils On-site Sewage Management Policy and the Local Government Act, 1993. The application is to be accompanied by full details of the proposed system and site assessment complying with the relevant section of the Development Assessment Framework (DAF).

PORT STEPHENS COUNCIL

# Notice of Determination

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

**This consent has not addressed any additional fill for the purpose of providing adequate disposal field or infrastructure location for any wastewater treatment system. Any additional fill required for the provision of any wastewater treatment system is subject to separate approval.**

5. **Prior to the issue of the Construction Certificate** the following information is to be submitted to the Certifying Authority, prepared and certified by a Chartered Professional Structural Engineer:

    a. Detailed structural engineering design of the proposed development, having regard for the SES Building Guidelines and ABCB Construction of Buildings in Flood Hazard Areas Standard, unless otherwise permitted by conditions of this consent. The design must show that the proposed development is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy and impact from debris up to and including the 1% Annual Exceedance Probability (AEP) event. The 1% AEP flooding characteristics are 5.9 metres AHD and 0.6 metres per second velocity;

    b. Certification that the proposed development is capable of withstanding the force of any flood waters experienced up to the Probable Maximum Flood Event (PMF). The PMF flooding characteristics are 8.8 metres AHD and 2.5 metres per second velocity;

    c. Certification demonstrating that any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property; and

    d. Certification demonstrating that the rainwater tank, finishes, plant fittings and equipment and any other buoyant fixtures will be of materials and functional capacity to withstand the forces of floodwater in events up to and including the 1% AEP event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces.

6. **Prior to the commencement of works**, the person having the benefit of this consent shall contact Hunter Water Corporation (HWC) to ensure that the approved works do not impact upon existing or proposed HWC infrastructure. A copy of the information received by HWC shall be provided to Council within 10 days of receipt. Should HWC require modification to the approved development a Section 4.55 Modification Application and/or modified Construction Certificate Application should be lodged.

PORT STEPHENS COUNCIL

# Notice of Determination

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

7. **Prior to the issue of a Construction Certificate**, a preliminary contaminated site investigation is to be submitted to the certifying authority for area . The preliminary investigation shall be carried out in accordance with :

   a) Managing Land Contamination Planning Guidelines (1998),
   b) Relevant EPA Guidelines
   c) Assessment of Site Contamination NEPM (1999 as amended 2013).

   The preliminary contaminated site investigation report shall be prepared by an appropriately quailed person.

**CONDITIONS THAT ARE PRESCRIBED**

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

9. **Prior to the commencement of works**, a contract of insurance is to be in force in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act.

10. **Prior to the commencement of works**, for any residential building work within the meaning of the Home Building Act 1989, (the HB Act) except for Crown building works certified in accordance with section 6.28 of the Act, the principal certifying authority must provide to the Council (unless Council is the principal certifying authority) a written notice of:
    a. In the case where a principle contractor is required to be appointed, the name and licence number of the principal contractor and the name of the insurer by which the work is insured under the HB Act;
    b. In the case of work to be done by an owner builder, the name of the owner-builder and their permit number if required under the HB Act.

11. Except in the case of work only carry out to the interior of a building or Crown building work certified in accordance with section 6.28 of the Act, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the principal certifying authority for the work, the name of any principle contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.

PORT STEPHENS COUNCIL

# Notice of Determination

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

12. Where any excavation required for the development extends below the level of the base of a footing of a building, structure or work on adjoining land (including within a road or rail corridor), the person having the benefit of the consent must protect and support that building, structure or work from possible damage from the excavation, and where necessary underpin the building, structure or work to prevent any such damage.

**CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATIONS OR CONSTRUCTION**

13. **At least two days prior to the commencement of works**, the applicant shall submit to Council a "Notice of Commencement and Appointment of Principal Certifying Authority" form.

14. **Prior to the commencement of works**, the applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.

15. **Prior to the commencement of work**, a 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people. No materials, waste or the like are to be stored on the all-weather access at any time except with the agreement of the Principle Certifying Authority.

16. **Prior to the commencement of works**, a waste containment facility is to be established on site. The facility is to be regularly emptied, and maintained for the duration of works. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site shall be cleared of all building refuse and spoil immediately upon completion of the development.

17. **Prior to the commencement of works**, the property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking". Protection measures may include erosion and sedimentation controls as required. All protection measures are to be installed to the satisfaction of Council and must be regularly maintained for the duration of works and until the site is stabilised by vegetation or the like.

PORT STEPHENS COUNCIL

# Notice of Determination

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

**CONDITIONS TO BE SATISFIED DURING WORKS – SITE REQUIREMENTS**

18. Unless otherwise approved by Council in writing, all general building/demolition work shall be carried out between the hours of:
    a. 7.00am to 5.00pm Monday to Friday
    b. 7.00am to 5.00pm Saturday

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

19. A temporary toilet(s) shall be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided shall be one toilet per 20 persons or part thereof employed on the site at any one time. The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.

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

21. Dust suppression is to be actively undertaken during works, through the use of wet-down water tankers or an alternative method which adequately prevents dust from affecting the amenity of the neighbourhood and the environment.

22. **Immediately following the sub-floor framing or slab inspection**,
    a. a registered surveyor is to certify that the finished floor level of all the habitable residential rooms is at or above the Flood Planning Level (FPL). **The FPL is RL 5.9 metres AHD**.
    b. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods.
    c. All building materials, equipment, ducting, etc., below the Flood Planning Level (FPL) shall be flood compatible.
    d. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level.
    e. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed.

PORT STEPHENS COUNCIL

# Notice of Determination

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

f. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply.

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

23. **Prior to the issue of any Occupation Certificate**, A flood management plan which covers evacuation, a demonstrated practical understanding of predicted flood levels and impact to access to/from the site including flood level and duration of inundation, the provision of emergency food, medical supplies, power/communication, water and effluent disposal, etc. incorporating the State Emergency Services Business Floodsafe Toolkit, shall be submitted and approved by Council prior to the issue of the Construction Certificate

24. **Prior to the issue of the Occupation Certificate** an Approval to Operate the wastewater system shall be obtained by Council in accordance with the Local Government Act, 1993 (Section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility.

25. **Prior to the issue of a Final Occupation Certificate**, the commitments listed in BASIX Certificate No. 914669S_02 (or an amended version of this certificate, or a replacement certificate particular to the approved development) are to be installed in the development. Should an amended or replacement certificate be issued, a copy is to be forwarded to the principle certifying authority immediately following its issue.

26. **Prior to the issue of any Occupation Certificate**, the applicant shall rectify any new damage to public infrastructure to the satisfaction of the Council as the Roads Authority.

27. **Prior to occupying the development**, Council's Spatial Services Team should be contacted via email at: addressing@portstephens.nsw.gov.au to obtain correct property addressing details. Please state your Development Approval number and property address in order to obtain the correct house numbering.

    Note: any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.

28. **Prior to occupying the development**, a house address number shall be displayed in a prominent area, visible from the adjacent road.

PORT STEPHENS COUNCIL

# Notice of Determination

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

29. **Prior to the issue of any Occupation Certificate,** the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.

    **Note:** The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.

**CONDITIONS TO BE SATISFIED AT ALL TIMES**

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

**ADVISORY NOTES**

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

A. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.

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

C. You are advised that, in accordance with the EP&A Act, (sec.6.8) payment of the building industry Long Service Leave levy, where applicable, must be paid **prior to issue of any Construction Certificate**.

D. **Prior to the commencement of works involving vegetation removal**, a pre-clearance faunal survey must be undertaken by a suitably qualified arborist and documentary evidence of this pre-clearance faunal survey and any recommendations are to be provided to and acknowledged by Council's Natural Resources Management Unit.
   If the pre-clearance faunal survey identifies that there are threatened species inhabiting a tree flagged for removal; all clearing works shall cease until a Plan of

PORT STEPHENS COUNCIL

# Notice of Determination

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

Management for the relocation of the species has been approved by Council's Natural Resources Management Unit in consultation with the Office of Environment and Heritage.

## SCHEDULE 3

### RIGHT OF APPEAL

If you are dissatisfied with this decision:

- a review of determination can be made under Division 8.2 of the Act, or
- a right of appeal under Section 8.7 of the Act can be made to the Land and Environment Court within six (6) months from the date on which that application is taken to have been determined.

### NOTES

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

## SCHEDULE 4

### APPROVAL UNDER SECTION 4.12(3)

Nil

## SCHEDULE 5

### APPROVAL UNDER SECTION 4.46

Nil

**ITEM NO. 4** **FILE NO: 19/249**
**EDRMS NO: PSC2017-02800**

**NEWCASTLE BUSINESS DELEGATION VISIT TO AUCKLAND 3-5 FEBRUARY 2019**

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

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**RECOMMENDATION IS THAT COUNCIL:**

1) Endorse attendance of Mayor Ryan Palmer and the General Manager at the Newcastle Business Delegation's visit to Auckland, New Zealand from 3-5 February 2019.

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**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| **010** | **Councillor Paul Le Mottee**<br>**Councillor Ken Jordan**<br><br>It was resolved that Council endorse attendance of Mayor Ryan Palmer and the General Manager at the Newcastle Business Delegation's visit to Auckland, New Zealand from 3-5 February 2019. |

**BACKGROUND**

The purpose of this report is to inform Council of an invitation received by Mayor Ryan Palmer (and associate) to participate in the Newcastle Business Delegation's visit to Auckland, New Zealand from 3-5 February 2019. This event, hosted by Newcastle Airport Pty Limited is being coordinated by the Hunter Business Chamber.

Invitations have been extended to around 25 government and business leaders in the region including the Port of Newcastle, the Hunter Water Corporation, Newcastle Tourism Industry Group and all councils within the greater Newcastle metropolitan area.

Working in partnership with Auckland Tourism, Events and Economic Development (ATEED), the purpose of the visit is to provide an opportunity for business, government and tourism leaders from Newcastle and Auckland to gather to discuss local and regional issues of the respective cities and regions.

A key opportunity for the delegation is to build stronger business and tourism links on the back of the seasonal flights between Newcastle and Auckland airports.

## COMMUNITY STRATEGIC PLAN

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

## FINANCIAL/RESOURCE IMPLICATIONS

Newcastle Airport Pty Limited will cover the cost of flights, accommodation and transfers. Any other costs incurred by Council will be covered within existing budget.

| Source of Funds | Yes/No | Funding ($) | Comment |
|---|---|---|---|
| Existing budget | Yes | | |
| Reserve Funds | No | | |
| Developer Contributions (S7.11) | No | | |
| External Grants | No | | |
| Other | No | | |

## LEGAL, POLICY AND RISK IMPLICATIONS

As per the Payment of Expenses and Provision of Facilities to Mayor/Councillors policy a report must be presented to Council prior to travel being undertaken.

| Risk | Risk Ranking | Proposed Treatments | Within Existing Resources? |
|---|---|---|---|
| There is a risk that relationships between New Zealand and the Port Stephens area might be missed. | Medium | Adopt the recommendation. | Yes. |
| There is a risk that new opportunities for tourism, events and economic development might be missed. | Medium. | Adopt the recommendation. | Yes. |

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Affiliations with other countries provide a forum for cultural, economic and educational interchange between communities and encourage friendship, cooperation and understanding of our respective business, tourism and economic relationships.

## CONSULTATION

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

Internal

- General Manager.

External

- Hunter Business Chamber.
- Newcastle Airport Pty Limited.

## OPTIONS

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

## ATTACHMENTS

1) Newcastle Business Delegation Itinerary.

## COUNCILLORS ROOM

Nil.

## TABLED DOCUMENTS

Nil.

# UPDATED ITINERARY

## Auckland visit by Newcastle business and civic delegation

**3 – 5 February 2019**

### Sunday 3 February

| Time | Location | Activity | Notes |
|---|---|---|---|
| 5.30pm-7.30pm | Newcastle Airport | Check-in<br><br>Board for departure at 7.30pm | Virgin flight VA199<br><br>Flight time 2hrs 55 minutes |
| 12.25am (Auckland time) | Auckland Airport | Arrive at Auckland<br><br>Group transfer to accommodation Heritage Hotel | Group shuttle |

### Monday 4 February

| Time | Location | Activity | Notes |
|---|---|---|---|
| 10.30am – 1.30pm | 12 Madden St, GridAKL | Newcastle/Auckland business pitch and business matching<br><br>Lunch/morning tea provided | Forum to be attended by business and civic leaders from host and visiting city.<br><br>Presentations by representatives from Newcastle, Port Stephens and Auckland (Auckland Tourism Events and Economic Development ATEED and The Hon Craig Knowles AM, Senior Trade Commissioner, Austrade)<br><br>Questions/Discussion<br><br>Lunch and relaxed networking opportunities. |
| 1.30 – 2.30 | Wynyard Quarter | Walking tour | Led by Frith Walker, Manager Place Making, Panuku Development Auckland, https://www.panuku.co.nz/who-we-are |

| | | | |
|---|---|---|---|
| 3.30 – 4.00 | Level 27, 135 Albert St, Auckland Central | Mayoral meeting | Lord Mayor of Newcastle Nuatali Nelmes<br>Ryan Palmer, Mayor of Port Stephens<br>The Hon Phil Goff, Mayor of Auckland<br>Wayne Wallis CEO Port Stephens Council |
| 2.30 – 4.00 | TBC | Business site visit | To run concurrently while Mayors are meeting |
| 4.00 – 5.00 | Heritage Hotel | Delegate personal time | |
| 5.00 – 5.30 | Queens Wharf | Travel to ferry terminal | Approx 15 mins walking time |
| 5.30 – 10.00 | Waiheke Island | Delegate tour and dinner – Newcastle and Auckland representatives | 5.30pm ferry<br>Mudbrick Winery<br>9.30pm *or* 11pm ferry return |

## Tuesday 5 February

| Time | Location | Activity | Notes |
|---|---|---|---|
| 10am – Noon | Mount Eden [Maungawhau] | Tāmaki Hikoi | https://www.tamakihikoi.co.nz/experiences/heaven-to-earth |
| 10am – Noon | TBC | Possible concurrent business activity | For those not interested in tourism experience |
| Noon – 2pm | TBC | Lunch and final activity | TBC |
| 2pm – 2.30pm | | Transfer to airport | Group shuttle |
| 3pm – 5.10pm | Check in for 5.10pm departure | Check in for 5.10pm departure | Virgin flight VA198 |
| 6.45pm | Newcastle Airport | Arrive home | |

# CONFIDENTIAL ITEMS

In accordance with Section 10A, of the *Local Government Act 1993*, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

**EXTRA ORDINARY COUNCIL MEETING – 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| **011** | **Councillor John Nell**<br>**Councillor Sarah Smith**<br><br>It was resolved that Council move into confidential session. |

The following Council officers were present for the Confidential Session:

Communications Section Manager
Digital Marketing and Social Media Officer

**CONFIDENTIAL**

**ITEM NO. 1** **FILE NO: 19/16511**
**EDRMS NO: PSC2008-2574**

**BIRUBI INFORMATION CENTRE - LAND ACQUISITION**

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

**EXTRA ORDINARY COUNCIL MEETING - 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| **012** | **Councillor John Nell**<br>**Councillor Steve Tucker**<br><br>It was resolved that Council:<br><br>1) Approves the purchase of Lot 32 Deposited Plan 146884, 84A Gan Gan Road, Anna Bay, as detailed within the report.<br>2) Authorise the Mayor and General Manager to sign and affix the Seal of Council to all relevant documentation.<br>3) Upon acquisition, resolves to classify Lot 32 Deposited Plan 146884 as Operational Land in accordance with the *Local Government Act 1993* No. 30, Section 31, subsection (2). |

**EXTRA ORDINARY COUNCIL MEETING – 29 JANUARY 2019**
**MOTION**

| | |
|---|---|
| **013** | **Councillor Paul Le Mottee**<br>**Councillor Steve Tucker**<br><br>It was resolved that Council move out of confidential session. |

There being no further business the meeting closed at 8.18pm.