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MINUTES – 10 DECEMBER 2019



COUNCIL

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 10 December 2019, commencing at 6.12pm.

PRESENT: Mayor R Palmer, Councillors J Abbott, G Arnott, C. Doohan,

G Dunkley, K. Jordan, P. Le Mottee, J Nell, S Smith, S. Tucker, General Manager, Corporate Services Group Manager, Facilities and Services Group Manager,

Development Services Group Manager and Governance

Section Manager.

There were no apologies received.

238	Councillor Ken Jordan
	Councillor Steve Tucker

It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 26 November 2019 be confirmed.

Cr Le Mottee declared a pecuniary conflict of interest in item 5. The nature of the interest is the Le Mottee Group have undertaken survey work on the site.

Cr Abbott declared a pecuniary conflict of interest in items 5 and 10. The nature of the interest is Cr Abbott works at the RAAF Base and is employed by the Department of Defence.

Cr Arnott declared a pecuniary conflict of interest in item 10. The nature of the interest is Cr Arnott owns a property in the ANEF zone.

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MAYORAL MINUTE

MAYORAL MINUTE

ITEM NO. 1 FILE NO: 19/387240 EDRMS NO: PSC2015-01024

2019 IN REVIEW

THAT COUNCIL:

- 1) Thank the staff and volunteers of Port Stephens Council for the fantastic year that has been achieved.
- 2) Recognise the awards that Council has received.
- 3) Highlight the achievements for the year.
- 4) Wish all staff, their families and the community a Merry Christmas and Happy New Year.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

239 Mayor Ryan Palmer

It was resolved that Council:

Councillor Chris Doohan

- 1) Thank the staff and volunteers of Port Stephens Council for the fantastic year that has been achieved.
- 2) Recognise the awards that Council has received.
- 3) Highlight the achievements for the year.
- 4) Wish all staff, their families and the community a Merry Christmas and Happy New Year.

BACKGROUND

The purpose of this report is to acknowledge Council staff and the many achievements during the year.

2019 has been a fantastic year for one and all and the achievements and great work that has happened across the Port Stephens local government area would not have been possible without the dedication and hard work from the great staff and the many volunteers who are committed to making Port Stephens a great place to live.

Delivery on operational plan activities continued to be the main focus with many highlights making 2019 a year of getting things done. These include more than \$25.6m in grants towards progressing major projects; achieving a community satisfaction score of 76% and an employee engagement score of 74% - the highest ever result.

Whilst many of the major projects focused on roads, drainage and footpaths there were some significant infrastructure milestones achieved which I would like to acknowledge:

- The Medowie Sport and Community Facility taking shape and expected to open in early 2020.
- Construction of the Port Stephens Koala Sanctuary commenced.
- DA approved for the Birubi Information Centre making way for construction to commence in late 2020.

I would also like to acknowledge some of the recognitions Council has received whilst achieving the best outcomes for Port Stephens.

- Finalist NSW Premier's Award Making housing more affordable.
- Silver Award for our Annual Report 2017-2018.
- Division and overall winner of the Local Government NSW Excellence in the Environment Award for invasive species management.
- Overall Trainee of the Year and Business Administration Trainee of the Year TAFE NSW.
- Employer of Choice Award by the Local Government Engineers Association.

Throughout the year we also had the honour of welcoming 72 new Australians as part of our official citizenship ceremonies program. We welcomed people of various nationalities celebrating unity and diversity for everyone, and I thank you all for bringing your unique cultures and perspectives to Port Stephens.

In closing, I would like to wish the staff, their families and the community of Port Stephens a great, safe and very happy Christmas, and I look forward to a very busy and exciting 2020.

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Nil.

MOTIONS TO CLOSE

ITEM NO. 1 FILE NO: 19/377847 EDRMS NO: PSC2009-02408V4

MOTION TO CLOSE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely 1 CENTRAL AVENUE, SALAMANDER BAY (LOT 8).

- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
- information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

240 Councillor John Nell

It was resolved that Council:

Councillor Glen Dunkley

- 1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely 1 CENTRAL AVENUE, SALAMANDER BAY (LOT 8).
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
- information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ITEM NO. 2 FILE NO: 19/377848 EDRMS NO: PSC2016-00955

MOTION TO CLOSE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

1) That pursuant to section 10A(2) (d)i of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary agenda namely **EXPRESSION OF INTEREST - 9B DIEMARS ROAD, SALAMANDER BAY**.

- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
- commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

241 Councillor John Nell Councillor Glen Dunkley

It was resolved that Council:

- 1) That pursuant to section 10A(2) (d)i of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary agenda namely **EXPRESSION OF INTEREST 9B DIEMARS ROAD**, **SALAMANDER BAY**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
- commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

COUNCIL REPORTS

ITEM NO. 1 FILE NO: 19/340656 EDRMS NO: 16-2019-339-1

DEVELOPMENT APPLICATION 16-2019-339-1 FOR A SERVICE STATION AND FOOD AND DRINK PREMISES - INCLUDING VEHICLE REPAIR STATION, ANCILLARY SIGNAGE, CAR PARKING, LANDSCAPING, DEMOLITION OF EXISTING STRUCTURES AND ASSOCIATED SITE WORKS

REPORT OF: KATE DRINAN - DEVELOPMENT ASSESSMENT AND

COMPLIANCE SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Approve Development Application DA No. 16-2019-339-1 for a service station, food and drink premises and vehicle workshop at 787 and 795 Medowie Road, Medowie (Lot 3 DP 260883 and Lot 1 DP 1215257) subject to the recommended Conditions of Consent contained in (ATTACHMENT 3).

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

242 Councillor Ken Jordan Councillor Steve Tucker

It was resolved that Council approve Development Application DA No. 16-2019-339-1 for a service station, food and drink premises and vehicle workshop at 787 and 795 Medowie Road, Medowie (Lot 3 DP 260883 and Lot 1 DP 1215257) subject to the recommended Conditions of Consent contained in **(ATTACHMENT 3)** and the following additional conditions:

- Prior to the issue of a construction certificate, amended plans must be provided to Council to limit access to left in and left out of Medowie Road. These plans must include a physical restriction on the ingress and egress and are to be approved by the Local Traffic Committee. Any treatment must not restrict neighbouring properties from being able to complete a right hand turn into and out of their properties.
- 2. Prior to the issue of a construction certificate a lighting plan is to be prepared by a suitably qualified person demonstrating compliance with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'. In addition, the light emanating from the approved signage shall be less than half of the maximum lux allowable (as set by AS 1158 and AS 4282) during the

hours of 10pm and 7am. The lighting plan must include details regarding the control of obtrusive lighting associated with the development and be submitted to Council for approval.

3. A new condition 56 be added to state:

The service station is only to be open for business and used for the purpose approved within the following hours:

Day	Hours of Operation
Monday – Sunday/Public Holidays	6am – 10pm

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

This condition shall have effect until the properties on the north and south are further developed.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

243	Councillor Chris Doohan Councillor Giacomo Arnott
	It was resolved that Cr Doohan be granted a 2 minute extension of time to address Council.

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

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

Those against the Motion: Crs Giacomo Arnott, Chris Doohan and Steve Tucker.

BACKGROUND

The purpose of this report is to present Development Application (DA) 16-2019-339-1 to Council for determination. The DA has been reported to Council in accordance with Council's Development Applications to be reported to Council Policy as the land on which the development is to be carried out is owned by Port Stephens Council.

The subject DA relates to land located at 787 and 795 Medowie Road, Medowie and is legally described as Lot 3 DP 260883 and Lot 1 DP 1215257. Land at 795 Medowie Road is located in the B2 Local Centre and R2 Low Density Residential zones and is Port Stephens Council controlled operational land. Land at 787 Medowie Road is under private ownership and is zoned R2 Low Density Residential. A locality plan is provided at (ATTACHMENT 1).

Proposal

The application seeks approval for the construction of a service station, food and drink premises and vehicle workshop. Associated works include demolition of existing structures, car parking, landscaping and signage. The application proposes operation of the service station 24 hours a day, 7 days per week. The vehicle repair station is proposed to operate 7am to 6pm, Monday to Saturday and closed Sundays. The food and drink premises is proposed to operate 7am to 10pm, 7 days per week.

The service station component will include a convenience store, overhead fuel canopy, 3 double sided fuel dispensers and underground fuel tanks. No more than 2 staff will be present at the service station at any one time.

The food and drink premises will be located in a single storey building with a total floor area of 100m^2 . The tenant for the commercial tenancy has not been identified and the internal fitout would be subject to a future approval. No more than 2 staff will be present at the food and drink premises at any one time.

The vehicle workshop will be located in a single storey building and includes a total floor area of $385m^2$ with 2 work bays, an administration space and amenities. No more than 4 staff will be present at the workshop at any one time.

A total of 22 car parking spaces are proposed to cater for the development.

The development includes a number of signs comparable with existing service stations located in the locality. The largest sign would be an 8 metre high pylon sign erected in the middle of the site fronting Medowie Road.

Site Description and History

The site is located on the western side of Medowie Road approximately 140 metres north of the intersection of Medowie Road and Ferodale Road. The site is commonly known as 787 and 795 Medowie Road, Medowie and is legally described as Lot 3 DP 260883 and Lot 1 DP 1215257 respectively.

The site at 795 Medowie Road is subject to an existing approval to subdivide the site from 1 into 5 lots under DA 16-2018-789-1. These lots are yet to be registered. Proposed Lot 3 under DA 16-2018-789-1 forms part of the site for the purpose of this development application.

The site currently contains an existing single-storey dwelling and associated structures, all of which are located on 787 Medowie Road. Surrounding land uses comprise of commercial uses to the south west and low density residential to the south, east and north. The site at 795 Medowie Road forms part of a larger site in the Medowie Town Centre that is currently vacant and identified for future commercial and residential land uses. Two development applications are currently under consideration by Council to the west of the proposed service station for a commercial development (16-2019-445-1) and food and drink premises (16-2019-616-1). A development application for an office premises on the northern portion of the site was approved by Council in August 2019.

There is an existing approval (16-2018-696) for the redevelopment of the adjoining site to the north at 791 Medowie Road for the construction of a multi-dwelling housing development comprising 8 units.

Key Issues

The key issues identified throughout the assessment of the proposal relate to impacts to the amenity of adjoining residential land, site zoning, traffic and the height of proposed signage, as outlined below. A detailed assessment of the development is contained in the Planners Assessment Report (ATTACHMENT 2).

Impacts to Surrounding Residential Land

The proposed development borders low density residential land to the south, east (across Medowie Road) and north. Due to the interface between the B2 Local Centre and part of the site being located in the R2 Low Density Residential zone, consideration has been given to ensuring the development does not adversely impact the adjoining residential land uses.

Council officers requested revised plans to better address potential visual and amenity impacts to the surrounding residential land. In response, the submission of amended plans included an increased setback distance between the service station convenience store and residential land to the north in order to facilitate an appropriately sized vegetated screening buffer. To the south of the site, 2 car parking spaces were removed to incorporate additional tree plantings to enhance screening of the development. The direction of signage was also adjusted to reduce visibility and light spill to adjoining residences.

The proposal included the submission of an acoustic assessment report which demonstrates that there would be acceptable impact to the neighbouring residential acoustic amenity subject to recommendations relating to acoustic fencing and barriers.

Air quality and odour associated with service station have been addressed in the application with vapour recovery equipment designed to capture the displaced vapour and return it to the underground fuel storage tank or other appropriate vessel. The vapour recovery system would limit the emission of fuel vapour when vehicles refuel by at least 85%. Conditions of consent have been recommended for the ongoing maintenance and testing of the system to ensure its continued safe operation for the life of the development. In addition, drainage and spill hazards have been appropriately addressed in the application, with mitigation measures included as recommended conditions.

Following submission of the amended plans, it is considered that the development would not adversely impact upon the visual amenity and built character of the area. The proposed built form is of an appropriate scale and bulk suitable for the site and would not unreasonably impact surrounding residential land uses.

Development in the Low Density Residential Zone

The site is zoned part B2 Local Centre and part R2 Low Density Residential. Service stations, vehicle repair stations and food and drink premises are permitted with consent in the B2 zone, however prohibited in the R2 zone. Despite this, Clause 5.3 of the Port Stephens Local Environmental Plan 2013 provides flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

The development is not inconsistent with the objectives of the R2 zone in that it will enable land uses that provide services to meet the day to day needs of residents and has been designed to best protect the existing residential amenity and character of the area, as discussed above and detailed in (ATTACHMENT 2). Therefore, the proposed development is consistent with the provisions of Clause 5.3 and subsequently is recommended for approval.

Traffic and Access

Access to the development is proposed via a left in and left out arrangement onto Medowie Road. The application was supported by a Traffic Impact Assessment (TIA) prepared by Intersect Traffic (dated May 2019). The TIA assessed the proposed access arrangements and concludes that the access arrangements for the development are satisfactory and compliant with Australian Standard AS 2890.1 – 2004 Parking facilities – Part 1: Off-street car parking and Port Stephens DCP (2014) Section B – Road Network and Parking requirements.

Further, the TIA concluded that the proposal with the additional traffic generated will not result in the road network capacity thresholds in both 2019 and 2029 being reached.

Council traffic engineers have assessed the Traffic Impact Assessment and raised no objections to the road network capacity assessment or proposed development.

Building Height

The site has a maximum building height of 8 metres on the B2 zoned portion of the site and 9 metres on the R2 zoned portion. The development proposes a maximum building height of 8.2 metres on the R2 zoned portion, complying with the 9 metre height limit on that portion of the site. However, the proposed pylon sign has a maximum height of 8.85 metres on the B2 zoned portion of the site which is non-compliant with the 8 metre height limit for that portion of the site. A condition has been recommended requiring the pylon sign to be lowered to comply with the 8 metre height limit so to ensure that the advertising does not project above the roof line of the development. No variation request was lodged in support of the variation to the height limit.

Conclusion

The proposed development is consistent with the relevant environmental planning instruments applicable to the subject site including:

- Section 4.15 of the Environmental Planning and Assessment Act 1979.
- State Environmental Planning Policy No 55 Remediation of Land and State Environmental Planning Policy Infrastructure (2007).
- State Environmental Planning Policy (Infrastructure) 2007.
- State Environmental Planning Policy 33 Hazardous or Offensive Development.
- State Environmental Planning Policy No. 64 Advertising and Signage (SEPP 64).
- Port Stephens Local Environmental Plan 2013 (LEP 2013).
- Port Stephens Development Control Plan 2014 (DCP 2014).

A detailed assessment of the proposal against the provisions of Section 4.15 Environmental Planning and Assessment Act 1979 (EP&A Act) is provided at **(ATTACHMENT 2)**.

The key issues arising through the assessment of the application have been satisfactorily addressed and supported by sufficient mitigation measures as provided within the Recommended Conditions of Consent contained in **(ATTACHMENT 3)**. On this basis, the proposed development supports and promotes the public interest, and is recommended for approval.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

The application could potentially be 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 (S7.12)	Yes		Development levy to be paid to Council based on a percentage relating to the Capital Investment Value (CIV) of the development.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979. A detailed assessment against these requirements are contained within the Planners Assessment Report contained in **(ATTACHMENT 2)**.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that a third party or the applicant may appeal the determination.	Low	Approve the application as recommended. The assessment carried out details the merits of the proposed development.	Yes

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused the ability to provide new commercial development in Medowie will not be realised.	Moderate	Approve the application as recommended.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed development of a service station on the site is anticipated to have an ongoing positive social and economic impact on the local Medowie area and the broader community through the creation of viable employment and economic activity during both the construction and ongoing operations of the development.

The proposed works will not adversely impact upon the visual amenity and built character of the area. The proposed built form is of an appropriate scale and bulk suitable for the locality, which includes a signage scheme and landscape works attenuating the visual impact of built elements. Accordingly, the proposed development is appropriate for the establishing the commercial character of the Medowie Town Centre.

The proposal incorporates appropriate measures to ensure no adverse impact on the natural environment. Air quality, noise, drainage and spill hazards have been appropriately addressed in the application, with mitigation measures included as recommended conditions.

CONSULTATION

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

<u>Internal</u>

Consultation was undertaken with internal officers, including; building surveying, development engineering, vegetation management, environmental health and development contributions. The referral comments from these officers were considered as a part of the Planners Assessment Report contained in (ATTACHMENT 2) and accordingly in the recommended Conditions of Consent contained in (ATTACHMENT 3).

External

Consultation was undertaken with Hunter Water Corporation (HWC), Ausgrid, Department of Defence and NSW Police. Responses received from HWC and AUSGRID made no objection to the proposal subject to recommended conditions. No response from NSW Police or the Department of Defence was received.

Public Consultation

In accordance with the requirements of the DCP 2014, the development application was notified, with notification period spanning from 7 June 2019 to 21 June 2019. Following the submission of amended plans the application was renotified and advertised for a period of 14 days from 11 October 2019 to 25 October 2019 to provide further opportunity for community comments.

During the first submission period, a total of 12 submissions were received. During the re-notification period, 1 submission was received. The matters raised in submissions have been addressed in detail within (ATTACHMENT 2).

OPTIONS

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

ATTACHMENTS

- 1) Locality plan.
- 2) Assessment Report. (Provided under separate cover)
- 3) Conditions of Consent.

COUNCILLORS ROOM

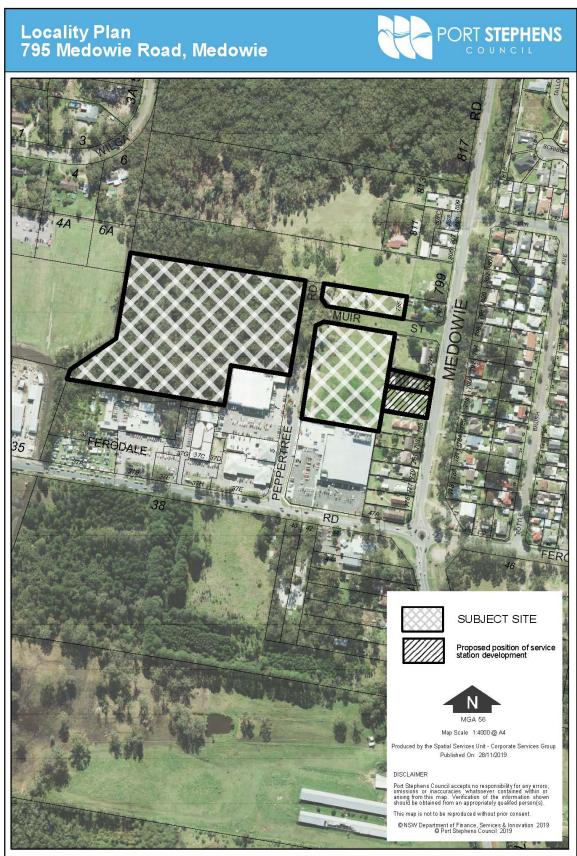
- 1) Development Plans.
- 2) Copy of Submissions.

Note: Any third party reports referenced in this report can be inspected upon request.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.



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



Recommended Conditions of Consent

SCHEDULE 1 - CONDITIONS OF CONSENT

Details of Conditions:

General Conditions of Consent

The following conditions of consent are general conditions applying to the development.

 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	Drawn By	Date
Architectural Plans	TP2 Revision J	Hazkem	15-11-19
	TP2a Revision D	Hazkem	15-11-19
	TP3 Revision D	Hazkem	20-09-19
	TP4 Revision F	Hazkem	15-11-19
Concept Stormwater / Civil Plans	CIV01 Revision E	DRB Consulting Engineers	26-09-19
Landscape Plans	Sheet 2-6 Revision E	Mara Consulting	26-09-19

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

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

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

Note 3: Modifications to the approved plans will require the lodgement and consideration by Council of a modification application pursuant to Section 4.55 of the *Environmental Planning and Assessment Act 1979.*

PORT STEPHENS COUNCIL

116 Adelaide Street Raymond Terrace NSW 2324 PO Box 42 Raymond Terrace NSW 2324

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

www.portstephens.nsw.gov.au



2. Prior to the issue of a Construction Certificate / commencement of works, a Driveway Construction Application is to be lodged with Council as the Roads Authority.

Prior to Issue of a Construction Certificate

The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.

3. A monetary contribution is to be paid to Council, pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Port Stephens Council Fixed Development Contributions Plan, related to the Capital Investment Value (CIV) of the development as determined in accordance with clause 25j of the *Environmental Planning and Assessment Regulation 2000* and outlined in the table below.

Capital Investment Value	Levy Rate (% of CIV)
Up to and including \$100,000	Nil
More than \$100,000 and up to and including \$200,000	0.5%
More than \$200,000	1%

The payment of the fixed development consent levy is to be accompanied by a Cost Summary Report Form setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Council Fixed Development Contributions Plan. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors. This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition.

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

- a. Building work only prior to issue of the Construction Certificate.
- 4. The development shall be amended as follows:
 - a) The proposed pylon sign identified as S1 on the Architectural Plans, Revision H prepared by Hazkem and dated 20-09-19 is to be reduced in height to comply with the 8m height control applying to the site.
 - b) Substitute the following landscaping referenced in the Landscape Plans prepared by Mara Consulting (Revision E, 26-09-19):
 - Large sized native shrub to be substituted Callistemon viminalis 'Dawson River Weeper' in 300mm pot size;
 - Medium sized Native shrub is to be substituted with Syzygium'Cascade' in 200mm pot size; and

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 Banksia Integrifolia is to be substituted with Lophostemon confertus in 45 lit pot size.

Amended plans or documentation demonstrating compliance shall be provided to the Certifying Authority or Council prior to the issue of a construction certificate.

- 5. A revised schedule of materials and finishes for the North Elevation of the Convenience Store and Workshop on the Architectural Plans Drawing No. TP3 Revision D prepared by Hazkem and dated 20-09-19 is to be provided to Council for approval. The revised material and finishes are to provide improved articulation of the walls facing the residential property to the north.
- 6. A Section 49 Application under the Hunter Water Act 1991 must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.
- 7. Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, accessways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.

Details demonstrating compliance must be provided to the Certifying Authority.

Note. Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.

8. Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).

Details demonstrating compliance must be provided to the Certifying Authority.

Note. Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.

9. Any retaining walls required to support the approved development, that do not meet the requirements for exempt development, must be designed and certified by a suitably qualified Structural Engineer in accordance with Councils Infrastructure Specifications.

Details demonstrating compliance must be provided to the certifying authority.

10.A certificate must be prepared by a qualified Structural Engineer certifying the structural adequacy of the onsite detention tank and its ability to withstand the proposed structural loads, must be provided to the satisfaction of the Certifying Authority.

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- 11. An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council's Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.
- 12. A Construction Environmental Management Plan (CEMP) is to be submitted to the Certifying Authority. The required CEMP must outline the sequence and construction methodology and specify mitigating measures tonsure all works are carried out in accordance with appropriate guidelines and standards and with minimal environmental impact in relation to project staging, waste management, traffic management and environmental management.

Prior to Commencement of Works

The following conditions of consent shall be complied with prior to any works commencing on the development site.

- 13. Notice must be given to Council at least two days prior to building works commencing in accordance with Clause 103 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:
 - a) a description of the work to be carried out;
 - b) the address of the land on which the work is to be carried out;
 - c) the Registered number and date of issue of the relevant development consent;
 - d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;
 - e) if the PCA is an accredited certifier, his, her or its accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
 - f) a telephone number on which the PCA may be contacted for business purposes.
- 14. Notice must be given to Council at least two days prior to building works commencing in accordance with Clause 104 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:
 - a) the name and address of the person by whom the notice is being given;
 - b) a description of the work to be carried out;
 - c) the address of the land on which the work is to be carried out;
 - d) the Registered number and date of issue of the relevant development consent and construction certificate;
 - e) a statement signed by or on behalf of the Principal Certifying Authority to the
 effect that all conditions of the consent that are required to be satisfied prior
 to the work commencing have been satisfied; and
 - f) the date on which the work is intended to commence.
- 15. A sign must be erected in a prominent position on the site stating the following:

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- a) that unauthorised entry to the work site is prohibited;
- b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
- c) the name, address and telephone number of the Principal Certifying Authority.

The sign must be maintained while the work is being carried out and must be removed upon the completion of works.

- 16.In accordance with the provisions of Section 6.7 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*, construction or subdivision works approved by this consent must not commence until the following has been satisfied:
 - a) a Construction Certificate has been issued by a Consent Authority;
 - a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the EP&A Act 1979; and
 - the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
- 17. The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.
- 18. 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.

- 19. Where not already available, 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 must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.
- 20. Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.

Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).

During Works

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The following conditions of consent shall be complied with during the construction phase of the development.

- 21. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.
- 22. The Principal Contractor (or Owner/Builder) shall erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work. The sign shall also display the name, address and telephone number of the Principal Contractor for the work (or Owner/Builder) and shall state that unauthorized entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed.
- 23. All building work shall be carried out in accordance with the requirements of the Building Code of Australia.
- 24. All construction traffic management procedures and systems identified in the approved Construction Environmental Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.
- 25. 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.
- 26. Unless otherwise approved by Council in writing, all general building/demolition work shall be carried out between the hours of:
- a. 7.00am to 5.00pm Monday to Saturday
- b. No construction is to be carried out at any time on a Sunday or a public holiday.
 - Any work performed outside the abovementioned hours or on a public holiday that may cause offensive noise, as defined under the *Protection of the Environment Operations Act 1997*, is prohibited.
- 27. 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.

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- 28. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.
- 29. All excavated and/or filled areas are to be retained or battered and suitably drained so as to prevent any subsidence of the surrounding land and constructed so as to deny any flow of water into or around the building or neighbouring buildings or onto neighbouring land.
- 30. Following the installation of any roof, collected stormwater runoff from the structure must be connected an existing stormwater drainage easement/system/street.
- 31. The only fill material that may be received at the development site is:
- Virgin excavated natural material (VENM) within the meaning of the Protection of the Environment Operations Act (POEO Act 199)7; or
- Excavated natural material (ENM) within the meaning of the POEO Act 1997; or
- Any other waste-derived material the subject of a resource recovery exemption under s.91 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material.

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

Any fill, soil, mulch and plant bought onto the site must be certified as free of weeds and weed seeds.

- 32. Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.
 - Further, any alterations to the natural surface contours must not impede or divert natural surface water runoff so as to cause a nuisance to adjoining property owners.
- 33. Stockpiles of soil must not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials must be suitably covered to prevent dust and odour nuisance.
- 34. All associated excavations and backfilling associated with the development must be executed safely and in accordance with the appropriate professional standards, and must be properly guarded and protected to prevent them from being dangerous to life or property.
- 35. The design, construction and fit-out of the food premises and/or food storage area must comply with all applicable Acts, Regulation, codes and standards including:
 - a) the Food Act 2003;

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- b) the Food Regulation 2004
- c) The food Standards Australia and New Zealand, Food Standards Code 3.2.3 and Food standards and Equipment;
- d) AS 1668 'The Use of Ventilation and Air Conditioning in Buildings'; and
- e) AS 4674 'Design, Construction and Fitout of Food Premise

Details demonstrating compliance must be provided to the Certifying Authority.

- 36. Noise generated from demolition and construction activities should comply with the NSW Interim Construction Noise Guideline (ICNG), 2009.
- 37. 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.
- 38. All building work must be carried out in accordance with the provisions of the Building Code of Australia and where applicable the Disability (Access to Premises Buildings) Standards 2010.

Prior to Issue of an Occupation Certificate

The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.

- 39. Lot consolidation and formal registration with the NSW Land Registry Services is required for the following lots:
 - Approved Lot 3 under DA 16-2018-789-1
 - Lot 3 DP 260883 787 Medowie Road, Medowie

Details demonstrating compliance must be provided to the Certifying Authority.

- 40. The Subdivision Certificate for DA 16-2018-789-1 must be registered with Land Registry Services. Proof of registration of the land must be provided to the Principle Certifying Authority.
- 41. 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.

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- 42. VR1 control equipment must be installed in accordance with Part 6 of the *Protection of the Environment Operations (Clean Air) Regulation 2010* and the Standards and Best Practice Guideline for VR at petrol Service Stations.
- 43. The UPSS (Underground Petroleum Storage System) must comply with all applicable legislation, guidelines and codes of best practice, including:
 - a. Protection of the Environment Operations Act 1997 (NSW).
 - b. Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019,
 - c. NSW Safe Work NSW Code of Practice: Storage and Handling of Dangerous Goods,
 - d. AS4897-2008 Design, installation and operation of underground petroleum storage systems, AS1940-2004 The Storage and Handling of Flammable and Combustible Liquids.
- 44. Evidence that the following requirements and those specified under Part 2 of the *Protection of the Environment Operations (Underground Petroleum Storage Systems Regulation 2019* have been met must be provided to the Principle Certifying Authority:
 - a) The UPSS must be appropriately designed, installed and commissioned by duly qualified persons in accordance with UPSS Regulation.
 - b) The UPSS must have minimum mandatory pollution protection equipment installed, consistent with the Regulation.
 - c) The UPSS must have groundwater monitoring wells installed in accordance with the Regulation.
 - d) The UPSS must have a certificate showing that an equipment integrity test (EIT) has been carried out in line with the written directions of duly qualified persons.
- 45. All landscape works detailed on the approved landscape plan shall be installed. All landscaped areas shall be kept free of parked vehicles, stored goods, garbage or waste material and the like at all times.
- 46. All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the *Roads Act* Approval to the satisfaction of the Council as the Roads Authority.
- 47. The applicant must rectify any new damage to public infrastructure to the satisfaction of the Council as the Roads Authority.
- 48. An Environment Protection Plan (including procedures for early leak detection and rectification and loss monitoring procedures) must be in place and maintained/updated throughout the life of the Underground Petroleum Storage System.
- 49. All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.

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The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.

- 50. Works As Executed Plans must be prepared and provided to the Principal Certifying Authority in accordance with Council's Infrastructure Specifications confirming all stormwater drainage systems are constructed in accordance with the approved plans/documentation.
- 51. A minimum of 22 car parking spaces including 1 disabled car parking space are to be provided in accordance with AS2890 and the approved plans.
- 52. Loading / unloading facilities must be constructed in accordance with the approved plans. The extent of the loading bay must be permanently marked on the pavement surface.
- 53. 'No stopping' signage is to be installed in accordance with the approved Roadworks Permit under Section 138B of the Roads Act 1993.
- 54. Certification is to be submitted to the Principal Certifying Authority to certify that the construction of the development complies with the recommendations of the Acoustic Assessment Report (dated 17 April 2019) and Addendum Acoustic Letter (dated 27 September 2019) prepared by Muller Acoustic Consulting.
- 55. A Fire Safety Certificate must be provided to the PCA in accordance with the requirements of the Environmental Planning & Assessment Regulation 2000.

Ongoing Use

The following conditions of consent are operational conditions applying to the development.

56. The vehicle repair station is only to be open for business and used for the purpose approved within the following hours:

Day	Hours of Operation
Monday - Friday	7am – 6pm
Saturday	7am – 6pm
Sunday/Public Holidays	No approval to operate

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

57. The food and drink premises is only to be open for business and used for the purpose approved within the following hours:

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Day	Hours of Operation
Monday - Friday	7am – 10pm
Saturday	7am – 10pm
Sunday/Public Holidays	7am – 10pm

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

- 58. The acoustic barriers shall be maintained throughout the life of the development.
- 59. Approved site landscaping shall be maintained throughout the life of the development.
- 60. Waste collection associated with the proposed development are only to occur Monday Saturday between 7:00am 7:00pm.
- 61. The Waste Management Plan dated May 2019 prepared by KDC must be complied with at all times.
- 62. Fuel deliveries associated with the proposed development are only to occur between 7:00am and 10:00pm.
- 63. The approved signs must be maintained in a presentable and satisfactory state of repair.
- 64. The level of illumination and/or lighting intensity used to illuminate the sign/s must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.
- 65. If leak and repair work is undertaken on the UPSS, the system cannot be recommissioned unless it satisfies the requirements outlined in the UPSS Regulation.
- 66. Fuel bowsers and service areas shall be covered and bunded so as to prevent entry of rainwater and surface water. Any water collected within the bunded area is to be directed to a trade waste system, under an agreement with Hunter Water Corporation.
- 67. At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of New South Wales Fire Brigades in accordance with the Environmental Planning & Assessment Regulations 2000.

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- 68. Copies of annual summaries of groundwater monitoring results associated with the UPSS are to be provided to Hunter Water Corporation and details of any incidents that have the potential to affect surface or groundwater.
- 69. The use of the premises involving the repair, maintenance or upgrade of motor vehicles must comply with the following requirements at all times:
- a) automotive parts in contact with any automobile fluid must be stored in a covered, bunded area.
- all cleaning, washing for degreasing of motor vehicles must be carried out in an approved area set aside for that purpose which must be connected to the sewer where available
- c) all water effluent from the vehicle workshop must drain to a Hunter Water Corporation sewer following treatment in an oil/water separator or other system as approved by Hunter Water.

Advice Note(s):

The following advice is limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.
- B. Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au
- C. In the event of any Aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Biodiversity and Conservation Division (BCD) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.
- D. You are advised that, in accordance with the EP&A Act, (Section 6.8) payment of the building industry Long Service Leave levy, where applicable, must be paid **prior to** the issue of any Construction Certificate.
- E. The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate

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ITEM 1 - ATTACHMENT 3 CONDITIONS OF CONSENT.



F. If wastewater is intended to be discharged to the reticulated sewer network, a Trade Waste Agreement with Hunter Water Corporation will be required.

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ITEM NO. 2 FILE NO: 19/363334

EDRMS NO: 16-2019-284-2

DEVELOPMENT APPLICATION NO.: 16-2019-284-2 FOR PROPOSED S4.55(1A) MODIFICATION TO OFFICE PREMISES AND SIGNAGE - REMOVAL OF SHARED PATHWAY REQUIREMENT

REPORT OF: KATE DRINAN - DEVELOPMENT ASSESSMENT AND

COMPLIANCE SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Refuse Development Application DA No. 16-2019-284-2 for a Section 4.55(1A) Modification to office premises and signage – removal of shared pathway requirement, for the reasons contained in **(ATTACHMENT 3)**.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

244	244	Councillor Giacomo Arnott Councillor Paul Le Mottee			
		It was resolved that Council refuse Development Application DA No. 16-2019-284-2 for a Section 4.55(1A) Modification to office premises and signage – removal of shared pathway requirement, for the reasons contained in (ATTACHMENT 3) .			

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

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present a development application (DA) No. 16-2019-284-2 to Council for determination. The DA has been reported to Council in accordance with Council's 'Development Applications to be Reported to Council Policy' as the original development application was approved by the elected Council at the Council meeting held on 27 August 2019. The original development application

was reported to Council as the land on which the development is to be carried out is owned by Port Stephens Council.

The subject DA relates to land located at 795 Medowie Road, Medowie, (LOT: 1 DP: 1215257) ('the subject site'). A Locality Plan is provided at **(ATTACHMENT 1)**.

Proposal

In August 2019, Council granted development consent to DA 16-2019-284-1 for an office premises and associated signage. The development consent required the construction of a shared pathway along the full frontage of the development site within Muir Street, as required by Port Stephens Development Control Plan 2014 Chapter C2 (Commercial) - C2.21 (Public footpath).

A modification application has recently been submitted seeking to amend the consent by removing the requirement for the construction of a shared pathway.

Key Issues

The removal of the footpath is inconsistent with Port Stephens Council Development Control Plan (DCP 2014) and Port Stephens Pathways Plan.

Section C2.21 of the DCP 2014 requires commercial developments to provide public footpaths for the entire length of the development street frontage. The Port Stephens Pathways Plan also identifies a shared path on the northern side of Muir Street. This section of pathway provides a linkage with Medowie Road (east) and Yulong Park (west). The proposed removal of the requirements for a shared pathway under this application is considered to be inconsistent with Council's DCP 2014 controls.

Further, the removal of footpath requirements is likely to impede on pedestrian connectivity within the new commercial area, triggering a potential negative impact on the built environment, and would result in a social and economic impact by restricting pedestrian access and attendance of the public to future businesses along the northern portion of Muir Street.

Noting the issues raised above, it is considered that the proposal would not be in the public interest.

It is therefore recommended that the proposal be refused as it is not supported in the Planners Assessment Report provided at (ATTACHMENT 2) and the recommended Reasons for Refusal provided at (ATTACHMENT 3).

Conclusion

The proposal is considered to be unacceptable against the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 and is not supported.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021	
Thriving and Safe Place to Live	Enhance public safety, health and liveability through use of Council's regulatory controls and services.	

FINANCIAL/RESOURCE IMPLICATIONS

The application may be 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 (S7.12)	Yes		Fixed development consent contributions are applicable to the development.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is inconsistent with the objectives of the applicable environmental planning instruments and guidelines, being; the Port Stephens Council Development Control Plan 2014 (DCP 2014) and Port Stephens Pathway Plan. A detailed assessment against these requirements are contained within the Planners Assessment Report provided at (ATTACHMENT 2) and the recommended Reasons for Refusal contained in (ATTACHMENT 3).

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the application may be challenged at the Land and Environment Court.	Moderate	Refuse the application in line with the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Environment

Removal of the footpath design and construction requirements is likely to impede on pedestrian connectivity within the new commercial area, triggering a potential negative social and economic impact by restricting pedestrian access and attendance of the public to future businesses along the northern portion of Muir Street.

Built Environment

Removal of the footpath design and construction requirements would limit practical pedestrian access and not meet the current built character of the area by way of connectivity and pedestrian access. The subject site is the first to be developed within this new subdivision, and removal of the pedestrian access along Muir Street is likely to impede future developments within the area.

Natural Environment

The proposal is not anticipated to impact on the natural environment on or surrounding the subject site.

CONSULTATION

Internal

The application was reviewed by the Development Engineering section. The review found that the proposal could not be supported from a public asset perspective. The referral comments from these officers were considered as part of the Planners Assessment Report provided at (ATTACHMENT 2) and are reflected in the recommended Reasons for Refusal contained in (ATTACHMENT 3).

External

No external consultation was required for the modification assessment.

Public Consultation

The proposal was not required to be notified in accordance with the requirements of Section A of the DCP 2014.

OPTIONS

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

ATTACHMENTS

- Locality Plan.
 Planners Assessment Report.
 Reasons for Refusal.

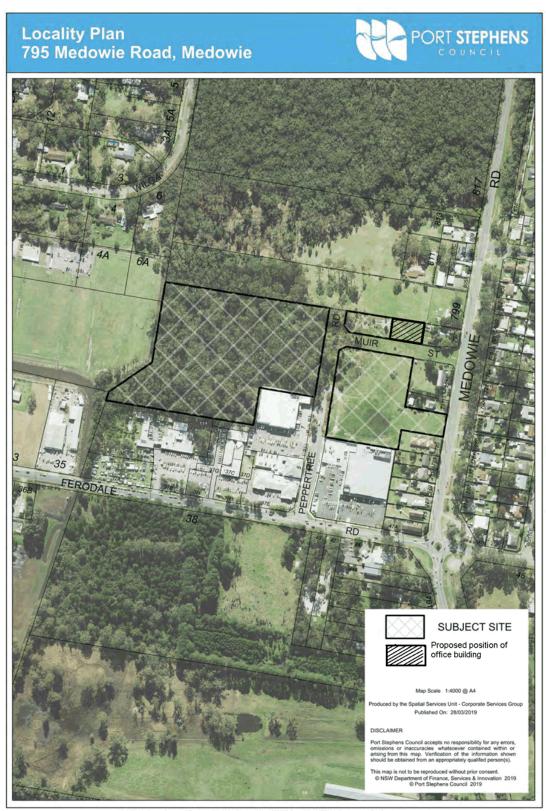
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 LOCALITY PLAN.



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

ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.



APPLICATION DETAILS				
Modification application no.	16-2019-284-2			
Development description	Office premises and signage – construction of two storey office premises, signage, car parking, landscaping, fencing and associated site works			
Modification description	S4.55 (1a) modification to office premises and signage – removal of shared pathway requirement			
Applicant	MURRAY CONSULTING SOLUTIONS PTY LTD			
Date of lodgement	27/09/2019			

Modification proposal

The application proposes to modify conditions 7, 8 and 38 relating to the design and construction of a footpath within the road reserve at the frontage of the subject site, being future Lot 2 of 795 Medowie Road Medowie (see figure 1).

DA 16-2019-284-1 required a 2.5m wide footpath to be designed and constructed along the southern development frontage, within the road reserve between Muir street and the subject site. The footpath construction is triggered by the requirements of C2.21 – Footpath Construction, under Chapter C2 (Commercial) of the PSDCP 2014.



Figure 1 - Subject and neighbouring allotments demonstrating footpath requirements.

Proposed condition amendments:

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ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-284-2

Condition 7 - For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138B of the Roads Act 1993.

This is a standard condition of consent applied when development requires a Roadworks Permit under Section 138B of the Roads Act 1993. Should the proposed modification be supported, any reference to a footpath would be removed. The remainder of the condition remains unchanged.

Condition 8 - The following information must be provided to Council as Roads Authority with the Roads Act application:

- a. Design plans for a 2.5 metre wide shared pathway across the full frontage of the development site within Muir Street.
- b. Details of any required regulatory signage approved by the Local Traffic Committee and consistent with this condition.
- c. Any associated works to ensure satisfactory transitions to existing infrastructure.

This is a standard condition of consent applied when development triggers a Roads Act application, and in turn notes the information to be provided to Council for such application to be made. Should of the removal of the footpath be supported, part A of this condition would be deleted. All other matters under this condition remain unchanged.

Condition 38 - A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.

Note: A Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of such works.

This is a standard condition of consent applied when development requires construction of driveways and footpath crossings under a Roads Act approval, and works are to be completed prior to occupation of the development. Should the proposed modification be supported, any reference to a footpath would be removed. The remainder of the condition remains unchanged.

PROPERTY DETAILS			
Property address	795 Medowie Road MEDOWIE		
Lot and DP	LOT: 1 DP: 1215257		
Zoning	B2 LOCAL CENTRE / PART R2 LOW DENSITY RESIDENTIAL / PART RE1 PUBLIC RECREATION		
Site constraints that affect the modification	N/A		

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	

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ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-284-2

Concurrence

The application does not require the concurrence of another body

Internal Referrals

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

<u>Development Engineer</u> – The proposal to remove the shared pathway requirement is not supported. Construction of a shared path along the property frontage is required as part of the development due to the following:

- DCP Section C2.21 requires development to provide paving to the public footpath for the entire length of the development street frontage.
- The Port Stephens Pathways Plan shows the shared path on the northern side of Muir Street. This section of pathway provides a linkage with Medowie Road, Yulong Park and the western side of Peppertree Road.
- · Council's Mapping System shows that both sides of Muir Street will contain a shared path.



Figure 2 & 3 - Council Pathway Plan demonstrating shared footpath requirements along the frontage of the development site.

The shared pathway condition may be reduced from 2.5m to 2.0m width, which would match the existing shared path on the southern side of Muir Street. This reduction could be considered under the Roads Act application, noting the intent of the condition (to provide a shared pathway) would be reasonably addressed.

External Referrals

The proposed modification was not required to be referred to any external agencies for comment.

MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT – \$4.55(1A)

S4.55(1A)(a) – Minimal Environmental Impact

Whilst the proposed modification will not significantly impact on the natural environment, the removal of conditions 7, 8 and 36 may result in impacts to the social, economic and built environments on and surrounding the subject site. As noted above, footpath construction along the southern road reserve of the subject allotment is triggered by Chapter C2.21 of the PSDCP 2014, of which promotes active street frontages and pedestrian access within commercially zoned areas

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ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-284-2

and development types. The removal of the footpath requirement from the subject DA limits pedestrian activity along the street frontage of the development, and impedes pedestrian access to the site. Furthermore, an existing footpath is located along the corner of Medowie Road and Muir Street, and the removal of footpath requirements along the northern road reserve of Muir Street is likely to result in disjointed pedestrian access points to the Medowie town centre.

It is noted that an existing shared path (2m wide) was approved under the DA for subdivision 16-2018-749-1) along the southern portion of the street, however the northern road reserve along

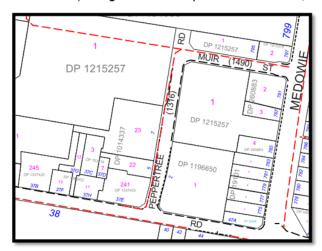


Figure 3 – GIS aerial mapping of Council's footpath construction. Red large line indicates

Muir street remains unsealed. Council's footpath plan (per figure 3 below) indicates that a shared pathway be provided along the northern road reserve fronting Muir street, providing connectivity to Peppertree road, Medowie road, and Karrang Drive to the east of the commercial prescient. It is noted that the development consent only triggers the footpath construction for the immediate development frontage (being proposed Lot 2 of existing DP 1215257) for a length of approximately 35m. Future development of neighbouring allotments will be subject to the same requirements under C2 of the DCP and Council's Footpath Plan.

Council noted that a reduction of the footpath requirements from 2.5m to 2m could be acceptable and addressed under the future Roads Act application, as the

intent of the condition (providing a shared pathway) would stand to meet Council requirements and Australian Standards. The applicant did not support this reduction in footpath requirements, and requested a further reduction to a width of 1.2m. Upon review, Council officers cannot support this footpath width, noting all documentation, footpath plans and area strategies specifically require a shared pathway in this area. Further to this, a 1.2m footpath would not be adequate for wheelchair, pram or bike passing.

S4.55(1A)(b) - Substantially The Same Development

The development as modified is substantially the same as the approved development for the following reasons:

- a. The development outcome remains an office building with ancillary car parking and landscaping areas;
- b. The built form of the approved office building remains the same;
- c. The modification includes proposed deletion of a footpath fronting the site, of which was imposed as a condition of consent per Council requirements, and in turn does not seek to amend the approved plans.

On this basis, the application is considered substantially the same.

S4.55(1A)(c) - Notification

The application has been notified in accordance with Councils Development Control Plan.

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ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

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S4.55(1A)(d) - Submissions

There were no submissions received relating to the proposed modification.

S4.55(3) - S4.15(1) Assessment

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

The application is consistent with the provision of the PSLEP2103 and all relevant SEPPs applicable to the proposal.

s4.15(1)(a)(ii) - Any Draft EPI

	Notes (what draft EPI if needed and comments where not compliant)
□ There are no draft EPI's that are relevant to the proposed development	
☐ A draft EPI is relevant to the proposed development however the application is consistent with the aims and objectives of the document.	

s4.15(1)(a)(iii) - Port Stephens Development Control Plan 2014

Chapter	Compliant	Notes (where needed or if not compliant)
В	☐ General Controls	
С	☑ Development Types Chapter C2 – Commercial	C2.21 – Public Footpath Control C2.21 notes Development provides paving to the public footpath for the entire length of the development street frontage. The proposed modification seeks to delete conditions of consent of which enforce the construction of the footpath along the street frontage of the development site. Noting this, the proposed modifications are not in accordance with the requirements of this chapter.

<u>s4.15(1)(a)(iiia)</u> – Any planning agreement or draft planning agreement entered into under section <u>93F</u>

	Notes (where needed)
□ There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.	

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ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

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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)(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.	Removal of footpath design and construction requirements is likely to impede on pedestrian connectivity within the new commercial area, triggering a potential negative social and economic impact by restricting pedestrian access and attendance of the public to future businesses along the northern portion of Muir street.		
⊠ Built Environment: The proposed development would not cause harm to the existing character.	Removal of the footpath design and construction requirements would limit practical pedestrian access and not meet the current built character of the area by way of connectivity and pedestrian access. The subject site is the first to be development within this new subdivision, and removal of the pedestrian access along Muir street is likely to impede future developments within the area.		
⋈ Natural Environment: There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added.	The proposal is not anticipated to impact on the natural environment on or surrounding the subject site.		

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

The subject site is within an existing commercial area and newly approved commercial subdivision. The proposal includes an office building and ancillary development, of which achieves the commercial objectives of the zone. The requirement for footpath construction has been imposed per the standard commercial development requirements of C2.21 of the DCP and Council's Footpath Plan. Whilst the development overall is considered suitable for the subject site, removal of the footpath design and construction requirements for the subject site would not be considered suitable nor practical.

s4.15(1)(e) – The public interest

The development as approved is deemed suitable for the subject site and commercial zoning of the area. The proposed removal of the footpath construction would impede on public pedestrian access within the newly subdivided commercial prescient, and does not encourage connectivity.

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ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

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The removal of the footpath would impact on the pedestrian access and attendance of the public, limiting business opportunities and restricting future commercial developments within the area.

The removal of the footpath would also set a precedent for future commercial developments as there is always a financial impact associated with designing and constructing access.

Noting this, whilst the overall development is considered within the public interest, removal of the design and construction of the footpath would not be.

MODIFIED CONDITIONS

No change to the existing conditions are recommended.

DETERMINATION

The modification application is recommended to be refused under delegated authority, subject to amended conditions as shown above.

EMMILIA JOHNSTONE

Development Planner

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ITEM 2 - ATTACHMENT 3 REASONS FOR REFUSAL.



Recommended Reasons for Refusal

REASONS FOR REFUSAL

- The proposed removal of the footpath would have an unreasonable impact on the built environment in the locality, particularly in the context of the Port Stephens Development Control Plan 2014 and the Port Stephens Pathway Plan 2016. [Section 4.15(1) (b) Environmental Planning and Assessment Act 1979].
- 2. The proposed removal of the required footpath is inconsistent with commercial objectives of the zone, with respect to impeding pedestrian access and business activity [Section 4.15(1) (c) *Environmental Planning and Assessment Act 1979*]
- The proposed development is contrary to the public interest, with respect to the removal of the footpath and is likely to have significant adverse impacts on the amenity and streetscape of the surrounding area [Section 4.15(1) (e) Environmental Planning and Assessment Act 1979].

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

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ITEM NO. 3 FILE NO: 19/343247

EDRMS NO: 58-2019-3-1

PLANNING PROPOSAL FOR 339 TAREAN ROAD, KARUAH

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION

MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Adopt the Planning Proposal (ATTACHMENT 1) to amend the Land Zoning Map, Height of Building Map and Lot Size Map under the Port Stephens Local Environmental Plan 2013 at 339 Tarean Road, Karuah Lot 52 DP 735066 from RU2 Rural Landscape to Part R2 Low Density Residential and E2 Environmental Conservation.

2) Forward the Planning Proposal to the NSW Department of Planning, Industry and Environment for a Gateway Determination and request delegated authority to make the plan.

Councillor Glen Dunkley left the meeting at 6:58pm prior to voting on this item.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

245 Councillor Paul Le Mottee Councillor Chris Doohan

It was resolved that Council:

- 1) Adopt the Planning Proposal (ATTACHMENT 1) to amend the Land Zoning Map, Height of Building Map and Lot Size Map under the Port Stephens Local Environmental Plan 2013 at 339 Tarean Road, Karuah Lot 52 DP 735066 from RU2 Rural Landscape to Part R2 Low Density Residential and E2 Environmental Conservation.
- 2) Forward the Planning Proposal to the NSW Department of Planning, Industry and Environment for a Gateway Determination and request delegated authority to make the plan.

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

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is for Council to adopt the Planning Proposal (ATTACHMENT 1) to amend the Port Stephens Local Environmental Plan 2013 (LEP 2013) to enable residential development to be undertaken on the subject land. Should Council resolve to adopt the Planning Proposal, it will be forwarded to the NSW Department of Planning, Industry and Environment (DPIE) for a Gateway Determination. A locality map of the land subject to the Planning Proposal is provided at (ATTACHMENT 1).

The land is currently zoned RU2 Rural Landscape and the Planning Proposal seeks to rezone the land to part E2 Environmental Conservation and part R2 Low Density Residential. The area proposed to be zoned R2 Low Density Residential will be accompanied by a minimum lot size of $500m^2$ and a maximum height of buildings of 9 metres. The area proposed to be zoned E2 Environmental Conservation will retain the existing 40 hectares minimum lot size and no maximum height of building control. A summary of the Planning Proposal and property details are provided below:

Date Lodged:	22 July 2019			
Proponent:	AO Farm Holding Pty Ltd (Perception Planning Pty Ltd)			
Subject Property:	Lot 52 DP 735066, 339 Tarean Road, Karuah			
Total Area:	30.25 hectares			
Current Zoning:	RU2 Rural Landscape			
Proposed Zoning:	R2 Low Density Residential			
	E2 Environmental Conservation			
Residential Lot Yield:	Approximately 240 lots			
Relevant Local Strategy:	Karuah Growth Strategy (2011)			
Key Issues:	 Biodiversity: A Biodiversity Development Assessment Report (BDAR) will be prepared post-Gateway. Redefinition of the proposed zone boundaries may be required. Servicing: Capacity issues. Further servicing report required post-Gateway. 			

Further detail on the assessment of the Planning Proposal is provided in the Strategic Planning Assessment Report provided at **(ATTACHMENT 2)**.

Suitability of the Subject Land

The Karuah Growth Strategy (KGS) identifies an area of approximately 10,800m² in the southern section of the subject site (adjoining Tarean Road) as being within the 'existing urban area'. The remaining portion of the subject land has not been identified in the KGS for residential development due to its environmental significance and location within a biodiversity corridor. The KGS acknowledges that the suitability of the remainder of the site for residential development may be determined following more detailed ecological investigations. The Planning Proposal is supported by a Preliminary Ecological Assessment confirming the site does not form part of a regional biodiversity corridor and that land in the southern portion of the wetland may be suitable for residential development.

The environmental impacts of the Planning Proposal will be quantified through the completion of the Biodiversity Development Assessment Report (BDAR) should the Planning Proposal receive a Gateway Determination to proceed. At present, all lands of higher environmental significance, based on preliminary investigations, are proposed to be zoned E2 Environmental Conservation. This approach provides the appropriate scope to avoid, minimise and offset when the BDAR is completed at the post-Gateway stage.

The proposed zone boundaries have been determined having regard for the wetland and location of more significant vegetation.

A Residential Needs Assessment undertaken to support the Planning Proposal indicates that it will contribute to increased housing supply to support the growth of Karuah and the Port Stephens Local Government Area (LGA).

Existing and surrounding land uses

The site is comprised of native bushland with freshwater wetland traversing over the centre of the site, which is a mapped watercourse (Muston's Gully). Muston's Gully and the older growth forest to the north is proposed to be zoned E2 Environmental Conservation (ATTACHMENT 1).

The Stockton-Watagan Regional Biodiversity Corridor runs along the south of the Karuah township as provided in the Port Stephens Planning Strategy and the Ecological Assessment that accompanies the Planning Proposal.

Environmentally significant land, containing the wetland, a Council-owned sports field and residential development adjoins the site to the east. A hotel and residential development adjoin the site to the south, vegetated rural land under ownership of the Karuah Local Aboriginal Land Council adjoins to the north and to the west is undeveloped, cleared rural land, which is subject to a separate Planning Proposal which seeks to rezone the land to accommodate approximately 400 residential lots.

The Planning Proposal for this adjoining site was adopted by Council at its meeting on 13 August 2019 and forwarded to DPIE for a Gateway Determination (currently pending).

Servicing

The Planning Proposal recommends that a preliminary service inquiry be undertaken with Hunter Water Corporation should the Planning Proposal receive a Gateway Determination to proceed. Subsequently, consultation with adjoining landowners will be undertaken.

It is understood that upgrades to the Karuah Waste Water Treatment Facility will be required, which may be made more feasible by having multiple landowners in the same locality.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021	
	Provide land use plans, tools and advice that sustainably support the community.	

FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Stage One fees for Category B Rezoning of \$11,200 paid.
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no foreseen legal, policy or risk implications for Council as a result of the recommendation of this report.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that there is insufficient land available in Karuah to meet future housing demand.	Medium	Adopt the Planning Proposal and submit to the DPIE for a Gateway Determination.	Yes
There is a risk that land proposed to be zoned for residential purposes has higher environmental value than indicated in the Preliminary Ecological Assessment.	Medium	The proponent will undertake a Biodiversity Development Assessment Report (BDAR) should the Planning Proposal receive a Gateway Determination to proceed. The merits of the Planning Proposal can be reassessed should the recommendations of supporting reports be amended.	Yes

Environmental Planning and Assessment Act 1979

The Planning Proposal is being processed in accordance with Part 3 of the Environmental Planning and Assessment Act 1979. Should Council resolve to adopt the Planning Proposal, it will be forwarded to DPIE for a Gateway Determination, including a request for the delegation of plan making functions.

Port Stephens Local Environmental Plan 2013

The Planning Proposal seeks to amend the LEP 2013 by rezoning the subject land from RU2 Rural Landscape to part E2 Environmental Conservation and part R2 Low Density Residential. The area proposed to be zoned R2 Low Density Residential will be accompanied by a minimum lot size of 500m² and a maximum height of buildings of 9 metres. The area proposed to be zoned E2 Environmental Conservation will retain the existing 40 hectares minimum lot size and no maximum height of building control.

Port Stephens Development Control Plan 2014

The Port Stephens Development Control Plan 2014 (DCP 2014) includes Part D2 Karuah containing site specific controls for the development of Karuah.

The DCP 2014 currently identifies the subject land as having Environmental significance. Should the Planning Proposal proceed, the DCP will need to be amended to include necessary site-specific controls, an updated staging plan, capabilities of water and sewer will need to be developed and indicative road, lot

layout and connections, which take into consideration the Planning Proposal on land adjoining to the west.

A review of the existing DCP 2014 (Part D2 Karuah) will be required should the Planning Proposal receive a Gateway Determination to proceed.

Hunter Regional Plan 2036 (2016)

The Hunter Regional Plan (HRP) sets priorities and provides a direction for regional planning decisions. It focuses on new housing and jobs, and targets growth in strategic centres and renewal corridors close to transport to deliver social and economic benefits.

The Planning Proposal is consistent with the vision and goals outlined in the HRP as it will provide additional housing choice within a new, well designed community that is accessible to a range of facilities and services.

Port Stephens Planning Strategy (2011)

The Port Stephens Planning Strategy 2011 (PSPS) predicts growth in the Karuah and Swan Bay area to occur in greenfield areas adjacent to the Karuah town boundaries. The Planning Proposal is consistent with the envisaged growth provided in the PSPS, providing additional greenfield housing within proximity to the existing Karuah town centre. This has been further supported by a housing needs analysis supporting the Planning Proposal.

Karuah Growth Strategy (2011)

The Karuah Growth Strategy (KGS) was adopted by Council in 2011 to provide a spatial and land use plan for the growth of Karuah. The KGS identifies growth scenarios, infrastructure constraints and land for new urban development recognising that the village scale and character of Karuah is likely to be attractive to visitors and new residents.

The KGS includes a staging plan for the suggested release of new urban land in Karuah. The staging plan is based on initially releasing land adjacent to the existing urban area (south of Karuah town centre) and progressively moving outwards (west of Karuah town centre). Environmentally significant land is avoided, and a biodiversity corridor defines the medium term western limit of the village (this adjoins the subject site to the west). The KGS notes the capacity of the sewerage treatment plant will, together with market demand for residential land, ultimately determine the rate of land release.

The subject site is noted in the KGS given Council's resolution in 2006 to support a Planning Proposal to rezone the land for residential purposes. The NSW Department of Planning advised in 2007 and 2008 that it would not support the proposal because it was within the Watagan Stockton Green Corridor and there appeared to be ample residential land already available in Karuah. Acknowledging the history of the site, the

KGS states the subject site should remain in the Green Corridor unless ecological investigations establish otherwise to the satisfaction of State agencies and Council.

The Preliminary Ecological Assessment prepared in support of the Planning Proposal indicates that the land is not within a regional biodiversity corridor. A residential needs assessment undertaken concludes that there is a potential undersupply of land in Karuah. Given the findings of the reports prepared in response to ecological and housing supply matters, it is considered the Planning Proposal has sufficient merit to proceed for a Gateway Determination.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Environmental

While the subject land is vegetated and contains a wetland, the proposal has appropriately responded to environmental conditions by proposing an E2 Environmental Conservation zone within high value areas and limiting the proposed R2 Low Density Residential zone to areas of lower value. In addition, the proponent has committed to undertaking a Biodiversity Development Assessment Report (BDAR) should the Planning Proposal receive a Gateway Determination to proceed.

Social and Economic

The Planning Proposal is likely to deliver a range of social and economic benefits to Karuah, including:

- Employment through construction jobs to carry out subdivision and building works.
- Increased population contributing towards the economic growth of the locality through increased patronage to local retail and service premises and ongoing demand for services.
- Additional housing choice in Karuah and the LGA.

CONSULTATION

<u>Internal</u>

Internal consultation was undertaken with the Natural Resources and Development Engineering teams. Further detailed investigations will be required should the Planning Proposal receive a Gateway Determination to proceed as discussed above.

Natural Resources

Council's Natural Resources team have reviewed the Preliminary Ecological Assessment and supplementary studies.

The proponent has committed to undertaking a Biodiversity Development Assessment Report (BDAR) post-Gateway to consider outstanding ecological matters. This assessment may require proposed zone boundaries to be revised.

Development Engineering

A flood and drainage study will need to be provided should the Planning Proposal receive a Gateway Determination. The study will determine potential impacts that development may have on the surrounding environment, particularly the wetland.

External

Consultation with community and State Government Agencies will be undertaken in accordance with the Gateway Determination. It is anticipated that the Planning Proposal will be exhibited for 28 days should the Planning Proposal receive a Gateway Determination to proceed.

OPTIONS

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

ATTACHMENTS

- 1) Planning Proposal. (Provided under separate cover)
- 2) Strategic Planning Assessment Report.

COUNCILLORS ROOM

Note: All relevant technical studies referenced in this report can be inspected upon request.

TABLED DOCUMENTS

Nil.



Our Ref: 58-2019-3-1

07 August 2019

STRATEGIC PLANNING ASSESSMENT REPORT

Assessment of written request made to the Council by a person for the preparation of a planning proposal under Part 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Application No.	58-2019-3-1
Applicant Name	Perception Planning
Applicant Address	PO Box 107 Clarence Town NSW 2321
Site Location Details	Lot 52 DP 735066, 339 Tarean Road, Karuah
Proposal Summary	Rezone the land from RU2 Rural Landscape to Part R2 Low Density Residential and E2 Environmental Conservation.
Eligible for Planning Proposal Preparation?	Yes.
Adequate Information?	Yes
Planning proposal to be prepared?	Yes

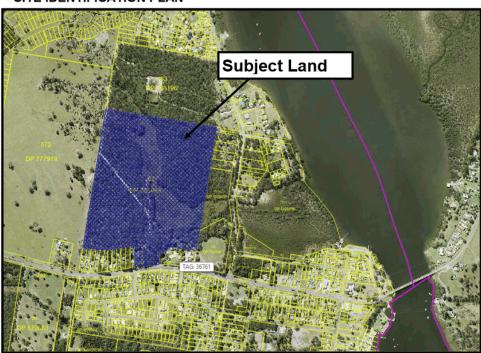
The application has been reviewed to determine whether it sufficiently addresses the requirements for preparation of a planning proposal under the EP&A Act and guidelines issued under s3.33(3) of the EP&A Act.

RECOMMENDATION

Based on the information lodged for the application, the LEP amendment proposal is considered to have sufficient merit to warrant preparation of a planning proposal by Council.

It is recommended that a planning proposal be prepared for the LEP amendment proposal and lodged with the NSW Department of Planning and Environment for Gateway Determination.

SITE IDENTIFICATION PLAN



PRE-LODGEMENT MATTERS

Ma	atter	Comment
1.	Undertake residential land needs assessment	Lodged with PP. Identified less than 15 year land supply in Karuah.
2.	Ecological impact will likely be a determining factor	Preliminary ecological assessment has been undertaken and concludes that 'there is no glaring reason not to proceed from an ecological perspective'. An E2 zone is proposed for more sensitive / significant parts of site. However, further BDAR investigations will be required post-Gateway that will need to investigate Koala utilisation of the site and possible EEC Lower Hunter Spotted Ironbark Forest.

INTERNAL REFERRALS

Internal Body	Referral Response
Development Engineers	TRAFFIC A connection to existing road network can be achieved and designed at a later stage. An indicative lot layout and traffic assessment will be required.

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Internal Body Referral Response

DRAINAGE / FLOODING

Concerns:

- Part of the proposed planning proposal area is a flood prone area and is affected by Karuah River flooding as well as local flooding.
- A SEPP 14 wetland is located within this property and any development in this land would increase impact (additional volume of water, increasing flow rates, frequency of stormwater discharges, increasing velocities, erosion issues on creeks and wetland etc) on wetland hydrology.

Further investigation/reporting needed:

- A flood and drainage study should be carried out for the catchment to determine the impact the development has on the surrounding environment and consider:
 - tail water condition from Karuah River and the hydraulic control at Muston road.
 - Potential drainage options to minimise the water quantity and quality impact.

Demonstrate how the development will eliminate the impact on the wetland hydrology and day-to-day hydrological conditions of the wetland.

Natural Resources

The request to address the CKPoM and assessment of the potential of vegetation on site to be commensurate with EEC listing of Lower Hunter Spotted Gum Ironbark Forest in the Sydney Basin and NSW North Coast Bioregions has not been satisfied.

Port Stephens Comprehensive Koala Plan of Management (CKPoM)

Supplementary Koala habitat has been mapped within the south of the site. In accordance with Criteria b) of Appendix 2 of the CKPoM, only low impact development is suitable within an area of supplementary koala habitat.

The current proposal does not demonstrate low impact development within supplementary koala habitat. Further information on koala utilisation of the site is required. If koalas are not using the site, this could help justify low impact development. If further assessment determines that koalas are using the site, a revised zoning footprint or a land use zoning that promotes low impact development may be appropriate.

Lower Hunter Spotted Gum Ironbark Forest

The floristic composition of vegetation on site aligns with the Endangered Ecological Community listing of Lower Hunter Spotted Gum Ironbark Forest. A detailed vegetation condition assessment is required to determine appropriate zone boundaries that minimise impact on this EEC. Offsetting calculations should be revised to include vegetation as the Endangered Lower Hunter Spotted Gum Ironbark Forest.

INFORMATION ASSESSMENT

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TABLE 1 - STRATEGIC MERIT ASSESSMENT

Assessment of technical information

Information	Applicable	Lodged	Adequacy
Considerations under s3.33	2) of the EP&A	Act	
Statement of objectives or intended outcomes of the proposed instrument	Yes	Yes	Adequate.
Explanation of the provisions that are to be included in the proposed instrument	Yes	Yes	Adequate.
Justification for the objectives, outcomes and provisions of the proposed instrument, and whether it will give effect to, or is a product of, a local planning priority or action in an endorsed local strategic planning statement.	Yes	Yes	Adequate.
Maps containing sufficient detail to indicate the substantive effect of the proposed instrument	Yes	Yes	Adequate.
Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument	Yes	Yes	Adequate.
Projected timeline of the plan making process	Yes	Yes	Adequate.
Strategic Planning Context a	and Strategic M	erit	
Assessment of consistency with relevant regional plan(s) (including any exhibited draft plan(s)).	Yes	Yes	Adequate.

Assessment of Consistency with the Hunter Regional Plan

The PP has demonstrated consistency with the following directions and actions:

- Action 21.4 Create a well-planned, functional and compact settlement patterns that
 responds to settlement planning principles and does not encroach on sensitive land-uses,
 including land subject to hazards, on drinking water catchments or on areas with high
 environmental values.
- Action 21.6 Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and greenfield locations.
- Action 22.1 Respond to the demand for housing and services for weekend visitors, students, seasonal workers, the ageing community and resource industry personnel.
- Action 22.2 Encourage housing diversity, including studios and one and two-bedroom dwellings, to match forecast changes in household sizes.

Assessment of consistency	Yes	Yes	Adequate.
with relevant district plan(s)			

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Information	Applicable	Lodged	Adequacy
(including any exhibited draft plan(s)).			
Assessment of Consistency	with the Greate	r Newcastle I	Metropolitan Plan
Provides housing within Port S	Stephens LGA to	meet dwelling	targets in Metro Plan.
Assessment of consistency	Yes	Yes	Adequate.
with relevant corridor plan(s)			
(including any exhibited draft			
plan(s)).			
Assessment of consistency	Yes	Yes	Adequate.
with relevant precinct plan(s)			
(including structure plans			
and master plans and any			
exhibited draft plan(s))			
Assessment of consistency	Yes	Yes	Adequate.
with relevant Council			
strategy (or strategies)			
endorsed by the NSW			
Department of Planning,			
Industry and Environment,			
including an endorsed local			
planning strategic statement.			

Assessment of consistency with local strategies and policies

Port Stephens Planning Strategy (PSPS) 2011 (not endorsed by DPIE)

The PP will provide land supply to meet housing needs within Karuah and the LGA, where an undersupply has been identified. Preliminary Ecological Assessment states that the site does not form part of a regional biodiversity corridor.

Karuah Growth Strategy 2011 (not endorsed by DPIE)

The PP is not consistent with the Karuah Growth Strategy, adopted by Council, however supporting material provides strategic merit to proceeding with the PP.

Site-Specific Merit	Applicable	Lodged	Adequacy
Does the proposal have site- specific merit, having regard to the natural environment (including known significant environmental values, resources or hazards)?	Yes	Yes	Adequate. That part of the site with the highest environmental significance is proposed to be zoned E2. However, further investigation through the BDAR process is required to determine potential location of EEC on site and Koala utilisation of site.
Does the proposal have site- specific merit, having regard to the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal?	Yes	Yes	Adequate. A site specific DCP amendment should be prepared post-Gateway, having regard for connections to neighbouring future development.
Does the proposal have site- specific merit, having regard to the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed	Yes	No	The assessment of the site- specific merit regarding the availability of services and infrastructure to meet the demands from the proposal as contained in the LEP amendment is insufficient. A servicing strategy will need to be prepared, in

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Information	Applicable	Lodged	Adequacy
financial arrangements for infrastructure provision?			consultation with HWC, post- Gateway.
Site Description/Context			
Aerial photographs	Yes	Yes	Adequate.
Site photos	Yes	Yes	Adequate.

TABLE 2 - SEPP ASSESSMENT

Assessment against State Environmental Planning Policies (SEPP's)

SEPP	Overview	Applicable	Consistency
SEPP No. 44 - Koala Habitat Protection	Encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	Yes	Adequate. Further investigation is required post-Gateway – through the BDAR assessment.
SEPP No. 55 - Remediation of Land	Contains state-wide planning controls for the remediation of contaminated land. The policy requires councils to be notified of all remediation proposals and requires lodgement of information for rezoning proposals where the history of use of land is unknown or knowledge incomplete.	Yes	Adequate. The site contains vegetation and no evidence of contaminating activities. A Preliminary Contamination Investigation should be conditioned as part of the Gateway Determination because the land is proposing to change from a rural zone to a residential zone.
SEPP (Coastal Management) 2018	Promotes an integrated and coordinated approach to land use planning in the coastal zone consistent with the objects of the Coastal Management Act 2016.	Yes	The LEP amendment proposal relates to land identified within the Coastal Wetlands and Littoral Rainforests Area. The information lodged for the proposal

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SEPP	Overview	Applicable	Consistency
			demonstrates consistency with the SEPP.
SEPP (Rural Lands) 2008	Contains rural planning principles and rural subdivision principles, which must be taken into consideration before developing rural land. Provides for rural land to be subdivided below the minimum lot size for subdivision for the purpose of primary production.	Yes	Adequate. The site is in proximity to the centre of Karuah. Existing and planned residential land is located to the immediate east, south and west. The rezoning will not undermine the agricultural activities on nearby land (e.g. poultry farm) because we do not understand agricultural activities are currently taking place on these lots (other than grazing).

TABLE 3 - MINISTERIAL DIRECTION ASSESSMENT

Assessment against Ministerial Directions

Ministeri	ial Direction	Overview	Applicable	Consistency
1.	Employment ar	nd Resources		
1.2	Rural Zones	Provides for protection of the agricultural production value of rural land by requiring planning proposals to be justified by a relevant strategy or study if they seek to rezone rural zoned land to a residential, business, industrial, village or tourist zone or increase the permissible density of rural (except RU5) zoned land.	Yes	Adequate. The PP is inconsistent with this direction, but it is of minor significance as the site is not identified to have agricultural value.
1.5	Rural Lands	Applies to planning proposals relating to land where the SEPP (Rural Lands) 2008 applies. By requiring consistency with the rural planning principles and rural	Yes	Adequate. The PP is inconsistent with this direction, but it is of minor significance as the PP seeks to rezone rural land to

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Ministerial Direction		Overview	Applicable	Consistency
		subdivision principles of SEPP (Rural Lands) 2008, or justification under a relevant strategy, the direction seeks to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.		achieve the aim of providing housing in proximity to an existing town centre.
2.	Environment ar	nd Heritage		
2.1	Environment Protection Zones	Applies to all planning proposals. Provides for the protection and conservation of environmentally sensitive areas, by ensuring that planning proposals do not reduce the environmental protection standards applying to such land unless it is suitably justified by a relevant strategy or study or is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate	Yes.	Adequate. The PP proposes an environmental zone over those lands identified to be of higher environmental significance. However, further investigation is required to determine potential for EEC on site. This will need to be determined through BDAR
2.2	Coastal Management	Applies to land within a coastal zone, as defined in the Coastal Management Act 2016. The direction seeks to protect and manage coastal areas of NSW. Proposals must include provisions that give effect to and are consistent with the objects of the Coastal Management Act 2016, the Coastal Management Manual and Toolkit, Coastal Design Guidelines and any relevant Coastal Management Program certified by the Minister.	Yes	Adequate The PP proposes to place the land identified as wetlands and a 40m buffer within an environmental protection zone.
2.3	Heritage Conservation	Requires relevant planning proposals to contain provisions to facilitate the conservation of items, areas, objects	Yes	Adequate. Schedule 5 – Environmental Heritage of the PSLEP

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Ministerial Direction		Overview	Applicable	Consistency
		and places of environmental heritage significance and indigenous heritage significance.		does not identify the site as containing a heritage item, being located within a heritage conservation area or being part of an Archaeological site. A Basic Search of the Aboriginal Heritage Information Management System (AHMIS) identified no heritage items or places within 50m of the site. Nevertheless, a Preliminary Aboriginal Heritage Assessment should be completed postgateway.
3.	Housing, Infrast	ructure and Urban Developn	nent	•
3.1	Residential Zones	Applies to planning proposals affecting existing or proposed residential zoned land or other zoned land upon, which significant residential development is or will be permitted. Requires relevant planning proposals to include provisions that encourage housing development, ensures satisfactory arrangements for servicing infrastructure and will not reduce the permissible residential density of land; unless it is suitably justified under a relevant strategy or study or is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated	Yes.	Adequate. The PP seeks to provide residential housing within proximity to an established residential area.
3.4	Integrating Land Use and Transport	Requires planning proposals, which seek to create, alter or remove a zone or provision relating to urban land (including land zoned for residential, business, industrial,	Yes	Adequate. The PP will encourage housing within Karuah which is within

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ITEM 3 - ATTACHMENT 2 STRATEGIC PLANNING ASSESSMENT REPORT.

Ministerial Direction		Overview	Applicable	Consistency
		village or tourist purposes), to be consistent with the aims, objectives and principles of 'Improving Transport Choice – Guidelines for planning and development' and 'The Right Place for Business and Services – Planning Policy' or that they be suitably justified under a relevant strategy or study or be of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate)		commuting distance to employment lands. The housing that will result from the proposal reinforces the existing town centre of Karuah and places downward pressure on valuable agricultural or environmental lands on the periphery to be rezoned.
4.	Hazard and Risk			
4.1	Acid Sulfate Soils	Requires the provisions of planning proposals must be consistent with the Acid Sulfate Soils Planning Guidelines and other such relevant provisions provided by the Director-General of the Department of Planning, except where the proposal is suitably justified under a relevant strategy or study or where non-compliance is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated	Yes.	Adequate. The PSLEP identifies the site as containing Acid Sulfate Soils — Class 2 and 5. The proposal will rezone all lands identified as ASS Class 2 to E2 — Environmental Conservation. Any subsequent works that need to take place on the land will be considered under Clause 7.1 — Acid Sulfate Soils of the PSLEP.

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Ministerial Direction		Overview	Applicable	Consistency
4.3	Flood Prone Land	Applies requirements for planning proposals that seek to create, remove or alter a zone or a provision that affects flood prone land except where noncompliance is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	Yes.	Adequate. Part of the site is identified as flood prone land. This part of the site is proposed to be zoned E2.
4.4	Planning for Bushfire Protection	Applies requirements for planning proposals affecting land mapped as being bushfire prone land (or land in proximity to such land); except where the Commissioner of the NSW Rural Fire Service has issued written advice to Council that, notwithstanding the noncompliance with the requirements; the NSW Rural Fire Service does not object to progression of the planning proposal.	Yes	Adequate. A Strategic Bush Fire Assessment in accordance with the NSW RFS, 2018, 'Draft Planning for Bushfire Protection (Part 4 – Strategic Planning)' will be completed post-Gateway determination.
5.	Regional Planni	ng		
5.10	Implementation of Regional Plans	Requires that planning proposals be consistent with relevant regional strategies released by the Minister for Planning, except where, in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate); the inconsistency is considered to be of minor significance and the intent of the strategy is not undermined.	Yes	Adequate. The PP has demonstrated consistency with the Hunter Regional Plan and the Greater Newcastle Metropolitan Plan.

Conclusion

The PP has demonstrated consistency with the relevant Ministerial Directions. Further studies are required on heritage conservation (Aboriginal Heritage), bushfire, EEC impact and CKPoM.

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TABLE 4 - TECHNICAL CONTENT ASSESSMENT

Assessment of technical information

Information Traffic and Transport (Applicable	Lodged	Adequacy
Traffic impact assessment	Yes	No	Required post- Gateway.
Environmental Consid	erations		
Bushfire hazard assessment	Yes	No	Required post- Gateway.
Acid sulphate soil assessment	Yes	Yes	Acid sulphate Class 2 and 5 to be zoned E2.
Flora assessment	Yes	Yes	Preliminary Ecological Assessment is sufficient for Gateway, however BDAR will be required post-Gateway to assess EEC.
Fauna assessment	Yes	Yes	Preliminary Ecological Assessment including CKPoM assessment is sufficient, however BDAR will be required post-Gateway that addresses Koala utilisation of site.
Water quality assessment	N/A	No	See below.
Stormwater management analysis	Yes	No	Required post- Gateway as per engineer's comments.
Flood impact assessment	Yes	Yes	Flood prone land to be rezoned E2. See engineer's comments.
Contamination assessment	Yes	No	Required post- Gateway.
Natural resource impact assessment	Yes	Yes	Preliminary Ecological Assessment is sufficient, however BDAR will be required post-Gateway.
Urban Design Considerations			
Site plan	Yes	No	The applicant has indicated that this will be provided post-Gateway and will have regard for connections to adjoining sites, bushfire protection measures, traffic study etc. This is not required to determine strategic

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ITEM 3 - ATTACHMENT 2 STRATEGIC PLANNING ASSESSMENT REPORT.

Information	Applicable	Lodged	Adequacy
			merit for a Gateway determination.
Social and cultural co	nsiderations		
Heritage impact assessment	Yes	No	Adequate.
Aboriginal cultural heritage due diligence assessment	Yes	No	Required post- Gateway.
Social impact assessment	Yes	Yes	Adequate.
Infrastructure conside	rations		
Infrastructure capacity analysis	Yes.	No.	Required post- Gateway.
Utility servicing assessment	Yes	No	Required post- Gateway.

Note:
This report has been prepared on the basis of information submitted at the time of lodgement of the LEP amendment request and in consideration of the planning requirements applying at the time of assessment.

Report prepared by:	Report reviewed by:
Sarah Connell	William Oxley
Strategic Planner	Principal Planner

ITEM NO. 4 FILE NO: 19/304747 EDRMS NO: 58-2017-3-1

PLANNING PROPOSAL FOR 4 GILES ROAD, SEAHAM

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION

MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Not proceed with the Planning Proposal (ATTACHMENT 1) that seeks to rezone land from RU2 Rural Landscape to R5 Large Lot Residential and reduce the minimum lot size from 40 hectares to 1 hectare at 4 Giles Road, Seaham (Lot 14 DP 846633).

Councillor John Nell left the meeting at 7:02pm. Councillor John Nell returned to the meeting at 7:03pm.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

RECOMMENDATION IS THAT COUNCIL:

It was resolved that Council defer the Planning Proposal **(ATTACHMENT 1)** for 4 Giles Road, Seaham (Lot 14 DP 846633) to allow the applicant to provide further information to Council.

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, Chris Doohan, Ken Jordan, Paul Le Mottee, Sarah Smith and Steve Tucker.

Those against the Motion: Mayor Ryan Palmer and Crs John Nell.

BACKGROUND

The purpose of this report is to recommend that Council does not support a Planning Proposal for 4 Giles Road, Seaham proceeding for Gateway Determination.

The recommendation has been informed by the attached strategic planning assessment report (ATTACHMENT 2). The key reasons for the recommendation include:

- The Planning Proposal is inconsistent with adopted local and State policies, Ministerial Directions and strategies, including policies for rural residential rezonings.
- 2) The Planning Proposal may adversely impact on currently identified future urban land use opportunities in the locality.
- 3) The proponent for the Planning Proposal has requested that Council make a formal decision based on the information already provided.

Date Lodged:	17 March 2017 (and revised 24 August 2018)		
Proponent:	Parker Scanlon Pty Ltd (for the landowner)		
Subject Property:	4 Giles Road, Seaham (Lot 14 DP 846633)		
Site Area:	32.2 hectares		
Current Zoning:	RU2 Rural Landscape		
Proposed Zoning:	R5 Large Lot Residential		
Current Minimum Lot Size:	40 hectares		
Proposed Minimum Lot Size:	1 hectare		
Planning Proposal	Reduce permitted minimum lot size from 40 hectares to 1 hectare. Rezone land from RU2 Rural Landscape to R5 Large Lot		
	Residential.		
Supporting Studies	Planning Proposal (Parker Scanlon Pty Ltd, 24 August 2018).		
	Suitability for Primary Production (David Campbell BSC FAusIMM, 15 July 2016).		
	Traffic Impact Statement (Better Transport futures, 29 July 2016).		
	Flora and Fauna Assessment (Wildthing Environmental, February 2017).		
	Assessment of Odour Impact (Parker Scanlon, November 2017).		
	Bushfire Threat Assessment for Rural Subdivision (Anderson Environment & Planning, November 2017).		

Key Issues	The proposal is inconsistent with the Hunter Regional Plan 2036. The proposal is inconsistent with the Port Standard.
	The proposal is inconsistent with the Port Stephens Planning Strategy.
	The proposal is inconsistent with the Port Stephens Rural Residential Policy.
	The proposal is inconsistent with Ministerial Direction 1.2 Rural Zones.

Parker Scanlon Pty Ltd (the proponent) has lodged a Planning Proposal requesting amendment to the Port Stephens Local Environmental Plan 2013 (LEP 2013) to permit large lot residential development at 4 Giles Road, Seaham (ATTACHMENT 1). The Planning Proposal seeks to rezone the land from RU2 Rural Landscape to R5 Large Lot Residential and to reduce the minimum lot size from 40 hectares to 1 hectare to facilitate 26 rural residential allotments.

On 5 September 2017, Council provided a preliminary assessment to the proponent detailing the above inconsistencies and requested that the proponent respond in a revised Planning Proposal.

On 4 August 2018, the proponent provided an updated Planning Proposal that addressed some of the issues identified, however the inconsistencies with adopted local and State policies, Ministerial Directions and strategies were not considered to be adequately addressed or resolved.

On 6 August 2019, Council staff met with the proponent to discuss options to progress the Planning Proposal following consultations with the Department of Planning, Infrastructure and Environment (DPIE).

On 8 August 2019, Council staff wrote to the proponent requesting the Planning Proposal in its current form be withdrawn and on 19 August 2019, the proponent requested the Planning Proposal be reported to Council without amendment.

Existing and current use

The site is located within the Seaham locality and is accessed via Giles Road. A locality plan is provided at **(ATTACHMENT 3)**.

Existing development on the site includes a residential dwelling, several ancillary buildings and dams located within creek paths. The site is presently used for livestock grazing but due to poor soils is considered to have limited agricultural potential. The site currently contains some riparian corridors and some vegetation, mainly consisting of mature trees.

Surrounding land uses include large rural holdings, some containing chicken farms, and some smaller concessional allotments. The land directly adjoining the site to the south is identified in the Port Stephens Planning Strategy as a Future Growth Area (the Wallalong Urban Growth Area). Note that the Future Growth Area was the

subject of a planning proposal which was not supported by the DPIE, however the land remains identified in the Port Stephens Planning Strategy (PSPS) as an urban investigation area.

Suitability of the site

The Planning Proposal seeks to facilitate rural residential development in a location that is inconsistent with the Hunter Regional Plan 2036, Port Stephens Planning Strategy and Port Stephens Rural Residential Policy.

The site is currently not identified for rural residential development in a local strategy. The PSPS does not identify a rural residential land use for the site and identifies the adjoining landholdings to the south as a Future Growth Area to be investigated for urban housing. The Planning Proposal does not address consistency with the aim of the Port Stephens Rural Residential Policy to 'ensure that rural residential does not hinder the strategic development of urban settlements in the future'.

Similarly, the Planning Proposal does not provide an assessment against the action in the State Government Hunter Regional Plan 2036 (HRP) directing councils to plan for rural residential development 'on land that is unlikely to be needed for urban development'.

It is noted that even if the Planning Proposal was consistent with the Port Stephens Rural Residential Policy, DPIE has not endorsed the Policy as sufficient justification for planning proposals for rural residential development in Port Stephens.

The HRP directs councils that seek to facilitate rural residential development to prepare a Local Housing Strategy (LHS) to plan for local housing, including rural residential development, where appropriate. A LHS for Port Stephens is currently being prepared for exhibition and Council has been consulting with DPIE on the options available to progress a number of planning proposals to facilitate rural residential development in advance of an endorsed LHS.

On 12 April 2019, DPIE formally notified Council that rural residential planning proposals could potentially proceed ahead of an endorsed strategy if the planning proposals adopted a 'precinct planning' approach and included a strategic assessment of the site and surrounding locality, including consideration of potential future land uses. This is consistent with Ministerial Direction 1.2 Rural Zones, which requires that rural land not be rezoned unless they are supported by a land use strategy, regional plan or land use study.

Given the PSPS identifies the neighbouring land for urban investigation, any precinct plan would need to include this neighbouring land and consider its potential future land use in order to address the Hunter Regional Plan. For example, to support the Planning Proposal, a precinct plan would need to justify the extent of the area identified for future urban growth in the PSPS and provide reasons for why the land adjoining the future growth area would be unlikely to be suitable for urban purposes.

As Council is currently preparing a LHS that will address future housing needs and land supply for urban development in Port Stephens, a precinct plan that considers the above matters in advance of the adoption of the LHS could pre-empt recommendations in the LHS and a Council decision to adopt the LHS.

For these reasons it is considered that the site is unsuitable for a precinct planning approach to progress the Planning Proposal in advance of the LHS.

DPIE also provides general guidance for assessing the strategic merit of planning proposals that may not be consistent with State or local strategic plans and policies. The relevant assessment criteria for the Planning Proposal is whether the proposal responds to a change in circumstances, such as recent investment in new infrastructure or changing demographic trends that have not been recognised by existing strategic plans. In this instance, the Planning Proposal does not contain evidence of a change in circumstances that would support a rural residential land use in this location.

With consideration to the above, there is no foreseeable pathway for the Planning Proposal to deliver a rural residential outcome consistent with the current vision for housing at both State and local levels. The site is not considered suitable for consideration as part of a Planning Proposal to facilitate rural residential development in this location, or as part of a precinct plan that addresses rural residential development and future urban development in the locality in advance of a LHS.

In addition, the Strategic Planning Assessment Report addresses relevant site specific and technical assessments (ATTACHMENT 2).

Assessment and Recommendation

The justification in the Planning Proposal for rural residential development in the proposed location is based on the existing surrounding context and character of the locality. Neighbouring sites on Giles Road include 28 rural lots that were subdivided some years ago as a result of historic 'concessional lot' provisions in previous local planning instruments. These lots range in size from 1.5 hectares to 3.6 hectares and were not the result of any planning strategies or studies. It is noted the Planning Proposal has not considered the potential future character of the locality in the context of the PSPS identifying adjoining land as a Future Growth Area. As outlined above, a precinct plan prepared to support the Planning Proposal would be required to address these matters.

The Planning Proposal also refers to the limited agricultural potential of the land and the existing fragmentation of rural land in the vicinity to justify the suitability of the site for rural residential development. It is noted these characteristics would also support consideration of the site for future urban purposes.

In addition to the assessment of site suitability and strategic merit, the strategic planning assessment report addresses relevant site specific and technical matters (ATTACHMENT 2). These matters have not been determinative in the assessment given the significance of the issues relating to strategic merit and the suitability of the site detailed above.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications if Council resolves to adopt the recommendations of this report.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No	10,750	Stage 1 Planning Proposal Fee.
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are risks related to land use planning and public interest considerations if Council resolves to proceed with the Planning Proposal.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
The Planning Proposal is inconsistent with current State and local plans, strategies and policies related to rural residential development and, in its current form, may be unlikely to obtain a Gateway determination if it is progressed.	High	Resolve not to proceed with the Planning Proposal.	Yes.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
If a precinct plan is prepared to support progressing the Planning Proposal to overcome inconsistencies with State and local plans policies, there is a risk that progressing the Planning Proposal will pre-empt recommendations and a Council decision to adopt the LHS which will consider future urban land supply in Port Stephens.	Medium	Resolve not to proceed with the Planning Proposal. Exhibit the LHS which will consider land supply and opportunities for future urban development in Port Stephens in early 2020.	Yes.

Environmental Planning and Assessment Act 1979 (NSW)

Under Part 3 of the Environmental Planning and Assessment Act 1979 (NSW), (the Act) only the Minister for Planning (or the Minister's delegate) or a Council can initiate the preparation of a local environmental plan. This process is commenced through the consideration and adoption of a Planning Proposal.

If Council adopts the recommendations of this report and does not proceed with the Planning Proposal, the proponent has the following options:

- Request a review by the Hunter and Central Coast Joint Regional Planning Panel.
- Make a submission during the exhibition of the Port Stephens LHS and submit a
 planning proposal should the Strategy justify investigating the site for future
 residential uses.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

If Council proceeds with the Planning Proposal, there are minimal social and economic benefits given the risks identified in pre-empting a Council decision to adopt a LHS that considers land supply and opportunities for future urban development in Port Stephens.

The environmental impacts of the proposal have been assessed in **(ATTACHMENT 2)** and include potential impacts on habitat corridors, threatened fauna species and endangered ecological communities that would be necessary to be addressed if the Planning Proposal were to proceed.

CONSULTATION

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

Internal

The Planning Proposal was referred to Council's Development Engineering and Natural Resources teams to complete a preliminary assessment on flooding, drainage and environmental matters.

The Natural Resources team have identified that the Planning Proposal would require updated assessments, including an updated flora and fauna assessment and additional surveys to assess impacts on biodiversity values. Given the significance of the outcomes of the strategic merit assessment detailed above, these matters have not been determinative in preparing the recommendations in this report.

The Development Engineering team supports the Planning Proposal on the condition that a site based overland flow report to address potential for flooding and drainage risk be provided. Given the lack of information in relation to flooding and drainage in the area it is considered that these issues should be addressed in the Planning Proposal. This information was requested on 5 September 2017 however the proponent has requested the matter be deferred to the development application stage following the rezoning. Given the significance of the outcomes of the strategic merit assessment detailed above, these matters have not been determinative in preparing the recommendations in this report.

External

Preliminary consultation has been undertaken with DPIE and on 12 April 2019, DPIE formally notified Council that rural residential planning proposals could potentially proceed ahead of an endorsed LHS if the planning proposals adopted a 'precinct planning' approach and included a strategic assessment of the site and surrounding locality, including consideration of potential future land uses. As outlined above, the site is not considered suitable for a precinct planning approach undertaken ahead of the adoption of a LHS given it adjoins an identified Future Growth Area.

Should Council resolve to progress the Planning Proposal and a Gateway Determination is issued, consultation with the community and public authorities will be undertaken in accordance with the Gateway Determination.

OPTIONS

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

ATTACHMENTS

- 1) Planning Proposal 4 Giles Road, Seaham. (Provided under separate cover)
- 2) Strategic Planning Assessment Report 4 Giles Road, Seaham 2324.
- 3) Locality Plan.

COUNCILLORS ROOM

Note: All relevant technical studies referenced in this report can be inspected upon request.

TABLED DOCUMENTS

Nil.

ITEM 4 - ATTACHMENT 2 STRATEGIC PLANNING ASSESSMENT REPORT 4 GILES ROAD, SEAHAM 2324.



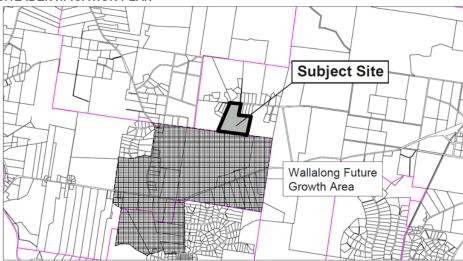
Our Ref: 58-2017-3-1

STRATEGIC PLANNING ASSESSMENT REPORT

Assessment of written request made to the Council by a person for the preparation of a planning proposal under Part 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Application No.	[58-2017-3-1]	
Applicant Name	Parker Scanlon Pty Ltd	
Applicant Address	PO Box 986, Hamilton, NSW, 2303	
Site Location Details	4 Giles Road, Seaham (Lot 14 DP 846633)	
Proposal Summary	Proposal to amend land from RU2 – Rural Landscape to R5 – Large Lot Residential and to reduce the minimum lot size from 40 hectares to 1 hectare.	
Eligible for Planning Proposal Preparation?	No	
Adequate Information?	No	
Planning proposal to be prepared?	No	

SITE IDENTIFICATION PLAN



ASSESSMENT SUMMARY

The Planning Proposal (PP) is is inconsistent with adopted local and State policies, Ministerial Directions and strategies, including policies for rural residential rezonings, and may adversely impact on currently identified future urban land use opportunities in the locality

The PP has not demonstrated consistency with the Hunter Regional Plan (HRP), the Port Stephens Planning Strategy (PSPS), the Port Stephens Rural Residential Policy (PSRRP), State Environmental Planning Policies (SEPPs) or Ministerial Directions as it has not adequately demonstrated that the rezoning would not impact on future land use capabilities.

Additionally, insufficient information has been provided to demonstrate that development of the site could achieve the environmental outcomes required to demonstrate consistency with the abovementioned State and local strategies and policies.

Whilst there is the opportunity for the proposal to be amended to potentially address actions relating to environmental outcomes, there is no foreseeable pathway to resolve the inconsistencies with the current vision for housing in both State and local planning strategies. At this time, the site is not considered suitable for rural residential development in this location.

PRE-LODGEMENT

The proponents attended a pre-lodgement meeting with Council on the 13 February 2015.

INTERNAL REFERRALS

Internal Body	Referral Response
Natural Resources	The natural resources unit do not support the rezoning as proposed. In September 2017, Council requested further information from the proponent in relation to the following environmental concerns:
	 An updated assessment of required vegetation clearing to include asset protection zones (APZ's), driveways, fencing and infrastructure; Improved riparian buffers;
	 A targeted survey for the threatened plant species Slaty Redgum (Eucalyptus glaucina);
	 Assessment against the Comprehensive Koala Plan of Management (CKPoM) performance criteria for rezoning; and
	 Demonstration of how the proposal ca improve or maintain biodiversity values.
	A revised PP was submitted in August 2018 and considered by the Natural Resources Unit. While the revised PP addressed the need for further vegetation clearing, the flora and fauna assessment was not updated to include the increased level of clearing. Additionally, the revised PP remained inconsistent with the CKPoM, did not include a targeted survey for Slaty Redgum and did not demonstrate improved or maintained biodiversity values.
Development Engineers	The development engineering Unit supported the proposal on the condition that a site based overland flow report be provided. The report needs to
-	address any potential for flooding and drainage risk e.g. preliminary consideration on any flood levels; water velocity; hazard category; consideration of any potential for impact on downstream property; water quality; consideration that that pre and post development flows can be matched for the site up to the 1% annual exceedance probability event.

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Internal Body	Referral Response
	The proponent did not provide the requested information with the revised PP. Given the lack of information in relation to flooding and drainage in the area it is considered that this should be addressed at PP stage.

INFORMATION ASSESSMENT

TABLE 1 - STRATEGIC MERIT ASSESSMENT

Assessment of technical information

Information	Applicable	Lodged	Adequacy	
Considerations under s3.33(2) of the EP&A Act				
Statement of objectives or intended outcomes of the proposed instrument	Yes	Yes	Adequate	
Explanation of the provisions that are to be included in the proposed instrument	Yes	Yes	Adequate	
Justification for the objectives, outcomes and provisions of the proposed instrument	Yes	Yes	Inadequate	
Maps containing sufficient detail to indicate the substantive effect of the proposed instrument	Yes	Yes	Adequate	
Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument	Yes	No	Inadequate	
Projected timeline of the plan making process	Yes	No	Inadequate	
Strategic Planning Context				
Assessment of consistency with relevant regional plan(s)	Yes	Yes	Inadequate	

Assessment of Inconsistency with the Hunter Regional Plan

The PP has not demonstrated consistency with the following actions:

Action 22.5 Include guidance in local land use strategies for expanding rural villages and rural-residential development so that such developments will:

- occur on land that is unlikely to be needed for urban development
- not impact on strategic or important agricultural land, energy, mineral or extractive resource viability or biodiversity values
- contribute to the conservation of important biodiversity values or the establishment of important corridor linkages

The PP has not considered the surrounding context of the land through a precinct planning approach. The site is directly adjoined to the south by the Wallalong Future Growth Area, which features very similar land based opportunities and constraints. The PP has not provided an analysis of the impact of the proposal on the potential future character of the locality in the context of the PSPS identifying adjoining land as a Future Growth Area. In addition, the PP has not adequately demonstrated that the land is unlikely to be needed for urban development given its proximity to the Future Growth Area.

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Information Applicable Lodged Adequacy

Council has consulted with the NSW Department of Planning, Infrastructure and Environment (DPIE) who formally notified Council that rural residential PPs could potentially proceed ahead of an endorsed strategy if the PPs adopted a 'precinct planning' approach and included a strategic assessment of the site and surrounding locality, including consideration of potential future land uses. This is consistent with Ministerial Direction 1.2 Rural Zones, which requires that rural land not be rezoned unless they are supported by a land use strategy, regional plan or land use study.

Given the PSPS identifies the neighbouring land for urban investigation, any precinct plan would need to include this neighbouring land and consider its potential future land use in order to address the HRP. For example, to support the PP, a precinct plan would need to justify the extent of the area identified for future urban growth in the PSPS and provide reasons for why the land adjoining the future growth area would be unlikely to be suitable for urban purposes.

As Council is currently preparing a Local Housing Strategy (LHS) that will address future housing needs and land supply for urban development in Port Stephens, a precinct plan that considers the above matters in advance of the adoption of the LHS could pre-empt recommendations in the LHS and a Council decision to adopt the LHS.

For these reasons it is considered that the site is unsuitable for a precinct planning approach to progress the PP in advance of the LHS. Given this, there is no foreseeable pathway to achieve consistency with this aspect of this action.

Additionally, development of the site may impact on conservation of important biodiversity values and corridor linkages, which is inconsistent with this action. Insufficient information has been provided to demonstrate the strategic merit of the proposal in this regard.

Action 10.1 Protect locations that can accommodate agricultural enterprises from incompatible development, and facilitate the supply chain, including infrastructure, distribution areas, processing facilities and research and development in local plans – The proposal seeks to establish residential zoning within 250m of poultry sheds, reducing the opportunity to use that land for an agricultural enterprise. Insufficient justification has been provided to address this action.

Action 14.1 Identify terrestrial and aquatic biodiversity values and protect areas of high environmental value to sustain the lifestyle, economic success and environmental health of the region – The PP considers impacts on local ecology, however additional information is required to demonstrate consistency with this action.

Action 14.2 Identify and strengthen biodiversity corridors as places for priority biodiversity offsets – The PP is likely to impact biodiversity corridors and has not considered an offsetting approach. Insufficient information has been provided to demonstrate consistency with this action.

Action 14.4 Protect biodiversity by maintaining and, where possible, enhancing the existing protection of high environmental value areas; implementing appropriate measures to conserve validated high environmental value areas; developing local strategies to avoid and minimise the impacts of development on areas of high environmental value and biodiversity corridors; and identifying offsets or other mitigation measures for unavoidable impacts — The PP may impact high environmental value areas and biodiversity corridors identified on site. Insufficient information has been provided to demonstrate consistency with this action.

Conclusion

Whilst there is the opportunity for the proposal to be amended to potentially address actions relating to environmental outcomes, there is no foreseeable pathway to resolve the inconsistency with Action 22.5 at this time.

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Information	Applicable	Lodged	Adequacy
Assessment of consistency with relevant Council strategy (or strategies) endorsed by DPIE.	Yes	Yes	Inadequate

Assessment of Inconsistencies with Local Strategies and Policies

Port Stephens Planning Strategy (PSPS) 2011 (not endorsed by DPIE)

Strategic direction 6.4.4 of the PSPS discourages rural residential development. The PSPS does however recognise that there may be limited circumstances where it is appropriate, specifically, consisting of relatively minor extensions to existing rural residential development where there is no adverse impact on either future land use capabilities or infrastructure.

The proposal argues that the surrounding land use pattern is rural-residential in nature and that the proposal is therefore an extension of this land use and approrpaite for rural residential develoment. The surrounding land use pattern is however due to concessional lots that have been delivered through a variety of minor individual development approvals over time. This land use pattern has not been the result of any strategic planning for rural residential development in this location. In addition, the proposal would approximately double the number of residential lots in the immediate vicinity. The proposal has not adequately demonstrated that the development would be a *minor* extension of an existing rural residential development.

Further, PSPS sets out that additional rural residential lots are not supported at Wallalong, due to its potential for urban development in the future. The subject site lies immediatley to the north of the Wallalong Future Urban Growth Area. It is noted that the subject land and the Growth Area feature consistent land based characterisites which could support urban development in the future. The PP has not demonstrated that the proposal is consistent with PSPS or that it will not impact on future opportunities for urban growth in the area.

Port Stephens Rural Residential Policy 2017 (not endorsed by DPIE)

The PSRRP was developed to deliver the rural residential outcomes set out in the HRP. The PP has not adequately demonstrated that the proposal is consistent with the aim of the Rural Residential Policy - to ensure that rural residential development does not hinder the strategic development of urban settlements in the future.

The PSRRP has not been endorsed by DPIE and Council has been notified that it cannot be used to support a PP for rural residential uses in the absence of an endorsed housing strategy that considers a range of housing typologies. DPIE have advised Council that rural residential PPs could potentially proceed ahead of an endorsed strategy if the PPs adopted a 'precinct planning' approach and included a strategic assessment of the site and surrounding locality, including consideration of potential future land uses.

The suitability of the site for urban land uses has not been explored in the PP (including investigation of matters such as consistency with the HRP, Council's housing vision, settlement pattern, developable and infill areas, connectivity, open space and community facilities), which would be required to fulfil the requirements of a Precinct Planning approach and address the HRP.

A precinct plan to support the PP would need to justify the extent of the area identified for future urban growth in the PSPS and provide reasons for why the land adjoining the future growth area would be unlikely to be suitable for urban purposes. As Council is currently preparing a LHS that will address future housing needs and land supply for urban development in Port Stephens, a precinct plan that considers the above matters in advance of the adoption of the LHS could preempt recommendations in the LHS and a Council decision to adopt the LHS.

For these reasons it is considered that the site is unsuitable for a precinct planning approach to progress the PP in advance of the LHS.

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Information Applicable Lodged Adequacy

In addition, the subject land contains high environmental value land, which is an exclusionary criterion set out in the PSRRP. The PP is also inconsistent with several management criteria which require further site specific assessment to demonstrate consistency with the PSRRP. These items include:

- Koala habitat areas and corridors are to be protected in accordance with the Port Stephens Comprehensive Koala Plan of Management (CKPoM) The PP is inconsistent with 3 of the 4 performance criteria in Appendix 2 of the CKPoM.
- Development must not impact on native vegetation, endangered ecological communities, threatened species or habitats – The proposal may impact on native vegetation, endangered ecological communities (EECs), threatened fauna species and their habitats.
- Development must contribute to the conservation of important biodiversity values or the
 establishment of important biodiversity corridor linkages The indicative lot layout and
 proposed mitigations may not adequately conserve the biodiversity values and corridor linkages
 on site.
- Development has a minimum 500m buffer from existing agricultural industries (e.g. Poultry farms, aquaculture) or the boundary of the lot containing the existing agricultural industry. If required, development proposed within the 500m buffer is to provide expert reports to establish appropriate setbacks. These reports may relate to but not be limited to noise, odour, visual amenity and biosecurity risks Poultry sheds are located on the adjoining land with the nearest shed located within 230m of the south western corner of the subject site. Whilst an odour assessment has been provided, the report was not prepared by a suitable expert, and uses anecdotal assumptions to demonstrate consistency with this requirement.

Conclusion

Whilst there is an opportunity for the proposal to be amended to potentially address some of the management criteria listed in the PSRRP, there is no foreseeable pathway to resolve the inconsistency with the land use site suitability requirements of the PSPS or PSRRP.

Site Description/Context

Aerial photographs	Yes	Yes	Adequate	
Site photos	Yes	Yes	Adequate	

TABLE 2 - SEPP ASSESSMENT

Assessment against State Environmental Planning Policies (SEPPs)

SEPP	Overview	Applicable	Consistency
SEPP No. 44 - Koala Habitat Protection	Encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent freeliving populations will be maintained over their present range.	Yes	Inadequate According to the study information for the proposal, the site contains koala habitat. The PP is Inconsistent with 3 of the 4 performance criteria in Appendix 2 of the CKPoM.
SEPP No. 55 - Remediation of Land	Contains state-wide planning controls for the remediation of contaminated land. The policy requires councils to	Yes	There is the potential for the site to contain contaminated land. Insufficient information has been lodged to adequately

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SEPP	Overview	Applicable	Consistency
	be notified of all remediation proposals and requires lodgement of information for rezoning proposals where the history of use of land is unknown or knowledge incomplete.		assess consistency with the SEPP. Consistency can be confirmed post gateway determination.
SEPP (Primary Production and Rural Development) 2019	Aims to facilitate the orderly economic use and development of lands for primary production.	N/A	The proposal was submitted prior to the development of this SEPP and has addressed consistency against SEPP (Rural Lands) 2008 instead.
SEPP (Rural Lands) 2008	Contains rural planning principles and rural subdivision principles, which must be taken into consideration before developing rural land. Provides for rural land to be subdivided below the minimum lot size for subdivision for the purpose of primary production.	Yes	Inadequate The PP is inconsistent with the SEPP's Rural Planning Principles as it would further fragment rural land and does not demonstrate an ability to maintain biodiversity values or avoid constrained land.

Insufficient information has been provided to demonstrate consistency with the above relevant SEPP's

TABLE 3 - MINISTERIAL DIRECTION ASSESSMENT

Assessment against Ministerial Directions

Minis	sterial Direction	Overview	Applicable	Consistency
1.	Employment an	d Resources		
1.2	Rural Zones	Provides for protection of the agricultural production value of rural land by requiring PPs to be justified by a relevant strategy or study if they seek to rezone rural zoned land to a residential, business, industrial, village or tourist zone or increase the permissible density of rural (except RU5) zoned land.	Yes	Inadequate The PP proposes to rezone rural zoned land to a residential zone in the absence of a relevant local or regional strategy, or study that gives consideration to the objectives of the direction. It is noted that DPIE have confirmed to Council that a PP that takes a precinct planning approach is a suitable form of study to address consistency with this direction, however

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ITEM 4 - ATTACHMENT 2 STRATEGIC PLANNING ASSESSMENT REPORT 4 GILES ROAD, SEAHAM 2324.

Minis	sterial Direction	Overview	Applicable	Consistency
				the proposal does not follow a precinct planning approach. As outlined above any precinct plan for this site would need to address matters such as consistency with the HRP, Council's housing vision, settlement pattern, developable and infill areas, connectivity, open space and community facilities. Given the PSPS identifies the neighbouring land for urban investigation, any precinct plan would need to include this neighbouring land and consider its potential future land use in order to address the HRP. As Council is currently preparing a LHS that will address future housing needs and land supply for urban development in Port Stephens, a precinct plan that considers the above matters in advance of the adoption of the LHS could preempt recommendations in the LHS and a Council decision to adopt the LHS. A precinct planning approach is considered unsuitable at this time to support the PP.
1.3	Mining, Petroleum Production and Extractive Industries	Seeks to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials is not compromised by inappropriate development.	Yes	It is appropriate in this instance to determine consistency with this direction following a gateway determination.
1.5	Rural Lands	Applies to PPs relating to land where the SEPP (Rural Lands) 2008 applies. By requiring consistency with the rural planning principles and rural subdivision principles of SEPP (Rural Lands) 2008, or justification under a relevant strategy, the direction seeks to	Yes	Inadequate The PP is inconsistent with both local and State Strategies for rural land and is consequently inconsistent with this direction.

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Ministerial Direction		Overview	Applicable	Consistency
		protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.		
2.	Environment ar	nd Heritage		
2.1	Environment Protection Zones	Applies to all PPs. Provides for the protection and conservation of environmentally sensitive areas, by ensuring that PPs do not reduce the environmental protection standards applying to such land unless it is suitably justified by a relevant strategy or study or is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	Yes	Inadequate. The PP would impact corridors, known threatened species, Koalas, hollow bearing trees and EEC's.
2.3	Heritage Conservation	Requires relevant PPs to contain provisions to facilitate the conservation of items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Yes	Adequate
3.	Housing, Infras	tructure and Urban Develop	ment	
3.1	Residential Zones	Applies to PPs affecting existing or proposed residential zoned land or other zoned land upon, which significant residential development is or will be permitted. Requires relevant PPs to include provisions that encourage housing development, ensures satisfactory arrangements for servicing infrastructure and will not reduce the permissible residential density of land; unless it is suitably justified under a	Yes	Adequate

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ITEM 4 - ATTACHMENT 2 STRATEGIC PLANNING ASSESSMENT REPORT 4 GILES ROAD, SEAHAM 2324.

Mini	sterial Direction	Overview	Applicable	Consistency
		relevant strategy or study or is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).		
4.	Hazard and Risk	(
4.1	Acid Sulfate Soils	Requires the provisions of PPs must be consistent with the Acid Sulfate Soils Planning Guidelines and other such relevant provisions provided by the Director-General of the Department of Planning, except where the proposal is suitably justified under a relevant strategy or study or where non-compliance is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	Yes	Adequate
4.3	Flood Prone Land	Applies requirements for PPs that seek to create, remove or alter a zone or a provision that affects flood prone land except where non-compliance is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	Yes	Adequate
4.4	Planning for Bushfire Protection	Applies requirements for PPs affecting land mapped as being bushfire prone land (or land in proximity to such land); except where the Commissioner of the NSW Rural Fire Service has issued written advice to Council that, notwithstanding the noncompliance with the requirements; the NSW Rural Fire Service does	Yes	Adequate

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Minis	terial Direction	Overview	Applicable	Consistency
		not object to progression of the PP.		
5.	Regional Planni	ng		
5.10	Implementation of Regional Plans	Requires that PPs be consistent with relevant regional strategies released by the Minister for Planning, except where, in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate); the inconsistency is considered to be of minor significance and the intent of the strategy is not undermined.	Yes	As discussed elsewhere in this report, the proposal is inconsistent with local and State strategies that relate to housing including the HRP as outlined above. The inconsistency is not considered to be of minor significance given the potential impacts on future urban development opportunities identified in local strategies (as outlined above). The PP has not included any analysis of the significance of the inconsistency to justify the proposal.

Conclusion

The proposal has not adequately demonstrated consistency with a number of Ministerial Directions or provided an assessment of the significance of the inconsistencies. It is considered that in some cases the inconsistencies are significant given the potential impacts on future urban development opportunities identified in local strategies (as outlined above). The PP has also not provided any studies which could justify these inconsistencies. In some cases, a study to justify an inconsistency (i.e. preparing a precinct plan that considers consistency with the HRP, Council's housing vision, settlement pattern, developable and infill areas, connectivity, open space and community facilities) is likely to pre-empt a decision of Council to adopt a LHS that will address future housing needs and land supply for urban development in Port Stephens. Therefore there is no foreseeable pathway to achieve consistency with the Ministerial Directions 1.2 and 5.10.

TABLE 4 -TECHNICAL CONTENT ASSESSMENT

Assessment of technical information

Information	Applicable	Lodged	Adequacy	
Traffic and Transport Considerations				
Traffic impact assessment	Yes	Yes	Adequate	
Environmental Consideration				
Bushfire hazard assessment	Yes	Yes	Adequate	
Air quality assessment	Yes	Yes	Inadequate	
			Given the proximity of chicken sheds the the site, an odour assessment report is required. A report was included	

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ITEM 4 - ATTACHMENT 2 STRATEGIC PLANNING ASSESSMENT REPORT 4 GILES ROAD, SEAHAM 2324.

Information	Applicable	Lodged	Adequacy
			with the PP, however does not adequaltey address the potential impact of the rezoning on the ongoing operation of the agricultural enterprise.
Flora and fauna assessment	Yes	Yes	Inadequate.
			The submitted flora and fauna assessment has not considered all of the proposed vegetation clearing.
Technical soil assessment	Yes	Yes	Adequate
Flood impact assessment	N/A	No	N/A
Economic considerations			
Agricultural land suitability assessment	Yes	Yes	Adequate
Infrastructure considerations			
Infrastructure capacity analysis	Yes	Yes	Adequate
Utility servicing assessment	Yes	Yes	Inadequate
			A utility servicing assessment is required for the proposal. The information lodged for the LEP amendment request does not include a utility servicing assessment and is considered inadequate.

Conclusion

Additional information is required to address the technical requirements of the proposal. It is noted however that addressing the technical requirements will not provide a pathway to resolve the inconsistency with site suitability criteria described elsewhere in this report.

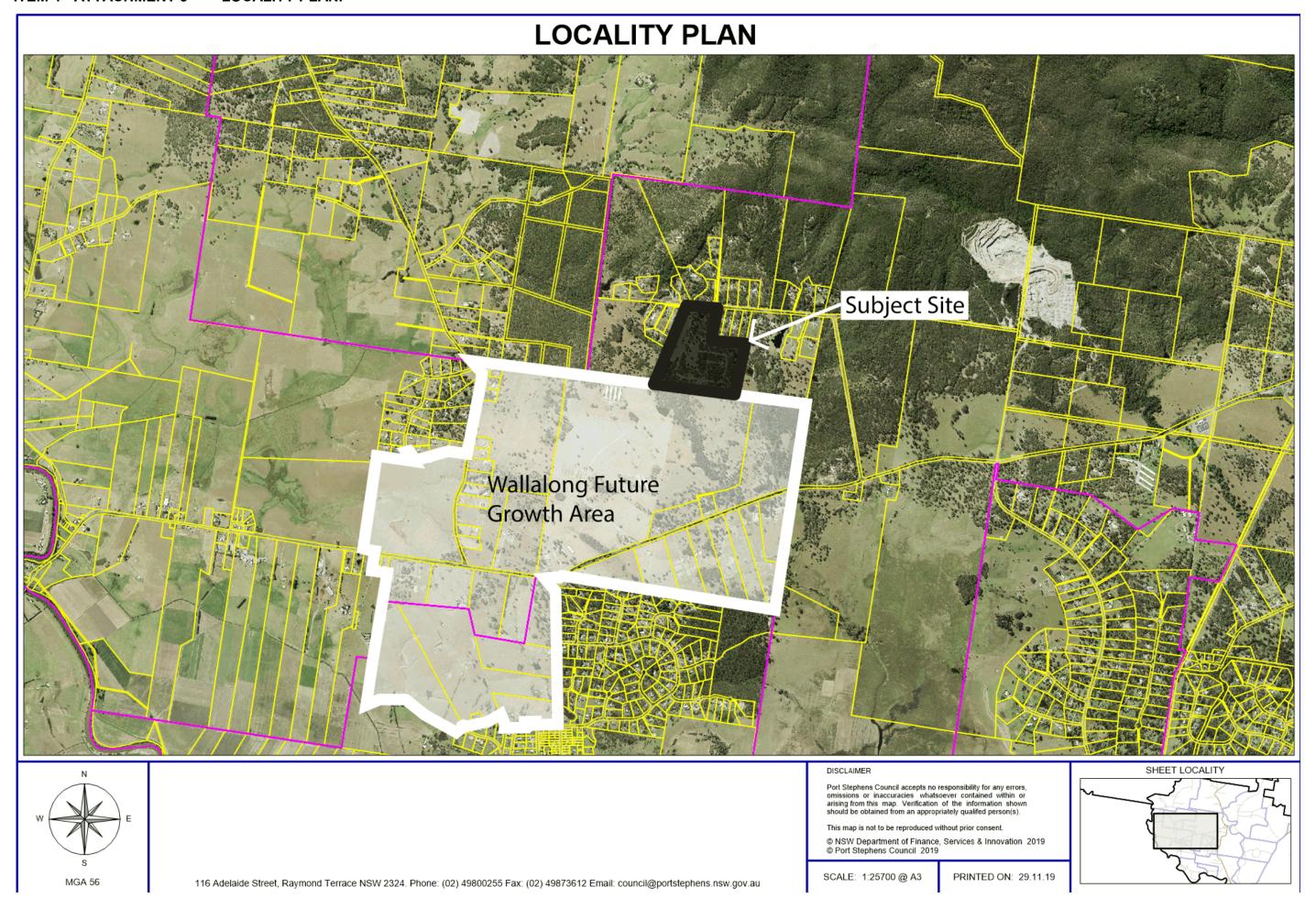
Note:

This report has been prepared on the basis of information submitted at the time of lodgement of the LEP amendment request and in consideration of the planning requirements applying at the time of assessment.

Report prepared by:	Report reviewed by:
Gemma Wallace	Brett Gardiner
Strategic Planner	Senior Strategic Planner

ITEM 4 - ATTACHMENT 3

LOCALITY PLAN.



Councillor Jaimie Abbott left the meeting at 7:10pm. Councillor Paul Le Mottee left the meeting at 7:10pm.

ITEM NO. 5 FILE NO: 19/357254 EDRMS NO: 58-2017-2-1

PLANNING PROPOSAL FOR 2A AND 2B LAVIS LANE WILLIAMTOWN

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION

MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Note that no submissions were received during the public exhibition of the Planning Proposal to amend Schedule 1 Additional permitted uses of the Port Stephens Local Environmental Plan 2013 to permit (with development consent) a 'service station' at 2A and 2B Lavis Lane, Williamtown (Lot 1 and Lot 2 DP 1237147) (ATTACHMENT 3).

2) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under Section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

246 Councillor Chris Doohan Councillor John Nell

It was resolved that Council:

- Note that no submissions were received during the public exhibition of the Planning Proposal to amend Schedule 1 Additional permitted uses of the Port Stephens Local Environmental Plan 2013 to permit (with development consent) a 'service station' at 2A and 2B Lavis Lane, Williamtown (Lot 1 and Lot 2 DP 1237147) (ATTACHMENT 3).
- 2) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under Section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).

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

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to report on the public exhibition of the Planning Proposal for 2A and 2B Lavis Lane, Williamtown and seek authorisation to exercise delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 (LEP 2013).

The Planning Proposal for 2A and 2B Lavis Lane, Williamtown seeks to facilitate the use of the site as a service station, subject to development consent (ATTACHMENT 3). The Planning Proposal will amend Schedule 1 Additional permitted uses of the Port Stephens Local Environmental Plan 2013 (LEP 2013) to permit (with development consent) a 'service station' at 2A and 2B Lavis Lane, Williamtown.

The Planning Proposal was publicly exhibited from 17 October 2019 to 31 October 2019 and no submissions were received.

A summary of the Planning Proposal set out below:

Date lodged:	27 February 2017	
Proponent:	KDC Pty Ltd (for the landowner Mr D R Gaddes)	
Subject properties:	2A Lavis Lane, Williamtown (Lot 1 DP 1237147) 2B Lavis Lane, Williamtown (Lot 2 DP 1237147)	
Current zoning:	RU2 Rural Landscape	
Site area:	0.285 hectares	
Proposed amendment:	Amend Schedule 1 Additional permitted uses of LEP 2013 to permit (with development consent) a 'service station' on the subject properties.	
Key issues and controls:	Flooding and contamination risk. All matters have been addressed in accordance with the Gateway Determination.	

A locality plan is provided at (ATTACHMENT 1).

At its meeting on 25 September 2018, Council resolved to adopt the Planning Proposal and forward it to the NSW Department of Planning and Environment (now NSW Department of Planning, Industry and Environment) (the Department) for a Gateway Determination, including a request for delegated authority to make the plan.

On 13 May 2019, the Department issued a Gateway Determination, subject to conditions requiring the Planning Proposal to be updated prior to exhibition. In accordance with the Gateway Determination, the Planning Proposal was updated to include:

- A contamination assessment.
- Advice from the NSW Environment Protection Authority (EPA) stating that there is no contamination risk or that the contamination risk can be appropriately managed.
- A map of the Williamtown Catalyst Area identified in the Greater Newcastle Metropolitan Plan 2036.

The Gateway Determination authorised Council to exercise delegations to make the necessary amendments to the LEP 2013 to give effect to the Planning Proposal.

Consultation was undertaken with relevant public authorities prior to public exhibition. No objections were made to the Planning Proposal proceeding. A copy of the advice received from public authorities is provided at **(ATTACHMENT 2)**.

Existing and current use

There are a number of uses approved under multiple development consents over the subject land, including a restaurant, a tavern, 3 food outlets, earthworks, tourist accommodation and a car wash (Development Application 16-2012-777-1) and a restaurant (Development Application 16-2016-45-1). Initial construction activities (filling) for the purposes of these uses has commenced.

Purpose of the amendment

A rezoning is not proposed in this instance. The proposal is to retain the current RU2 Rural Landscape zone and amend Schedule 1 of the LEP 2013 to enable the additional use of a 'service station' with consent. The purpose of the amendment is to provide additional services to travellers moving to and from RAAF Base Williamtown – Newcastle Airport, the Williamtown aviation and defence hub, and along Nelson Bay Road.

Suitability of the subject land

The subject land is in close proximity to RAAF Base Williamtown – Newcastle Airport and the Williamtown aviation and defence hub. It is situated near the roundabout intersection at Lavis Lane and Nelson Bay Road and adjoins an existing fast food restaurant. Other surrounding land uses include a service station, rural land and land owned by the Commonwealth Department of Defence.

The proposed use of a 'service station' is compatible with the existing consents for the subject land, and the other surrounding existing and planned future land uses. Any further site suitability uses for a 'service station' are able to be addressed during the assessment of a development application.

The subject land is located within the RAAF Base Williamtown per- and polyfluoroalkyl substances (PFAS) Contamination Secondary Management Zone identified on maps published by the Environment Protection Authority (EPA). The Secondary Management Zone is described as having 'some detected levels of PFAS' by the EPA and the EPA has published advice to residents in the Secondary Management Zone.

The Planning Proposal would not permit a residential use of the land and is unlikely to increase exposure to PFAS chemicals originating from the RAAF Base Williamtown. The EPA were consulted on the Planning Proposal and do not object to it proceeding. The EPA has provided advice that there is very low potential for any interaction with PFAS contamination during the construction phase of the development and that risks associated with PFAS can be managed through measures contained in previous advice provided to the proponent (ATTACHMENT 2) and through further detailed assessment at development application stage.

In respect of flooding, areas surrounding the site are categorised as either High Hazard Floodway or High Hazard Storage. Given the relatively small development footprint of a typical service station, the proposed additional use is unlikely to significantly add to the flood impacts on neighbouring properties, given the nature and scale of development that has already been approved on the site. The Planning Proposal has minor significance from a floodplain risk management perspective. The NSW Office of Environment and Heritage advised it has no concerns in relation to flooding.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

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

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

Source of Funds	Yes/No	Funding (\$)	Comment
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no significant anticipated legal, policy or risk implications as a consequence of the recommendation of this report.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the Planning Proposal will facilitate development that is incompatible or inappropriate with the location in the RAAF Base Williamtown PFAS Contamination Secondary Management Zone.	Low	Adopt the recommendations of this report, noting that the EPA have advised that any potential for risk during the preparation of an environmental assessment at development application stage in accordance with EPA advice.	Yes
There is a risk that future development and occupants are at risk during flood events.	Low	Adopt the recommendations of this report, which identifies that the Planning Proposal has minor significance from a floodplain risk management perspective.	Yes

Port Stephens Local Environmental Plan 2013

The current zoning of the site is RU2 Rural Landscape. Service stations are a prohibited use in the zone.

The Planning Proposal seeks to amend Schedule 1 of the LEP 2013 by including a 'service station' as an additional permitted use on the site (with development consent).

A 'service station' is defined by the LEP 2013 as:

- "...a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:
- a) The ancillary sale by retail of spare parts and accessories for motor vehicles
- b) The cleaning of motor vehicles
- c) Installation of accessories
- d) Inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration)
- e) The ancillary retail selling or hiring of general merchandise or services or both."

The Planning Proposal will retain the current zoning of RU2 Rural Landscape. This will limit the scope for further general commercial uses on the site and reduces or removes the risk of undermining other centres zoned or planned for business and commercial purposes.

Environmental Planning and Assessment Act 1979 (EP&A Act)

Part 3 of the EP&A Act provides the framework for amending a local environmental plan. The Department issued a Gateway Determination under Section 3.34 of that Act specifying that the Planning Proposal should proceed to exhibition, subject to conditions and consultation requirements, including a minimum 14 day exhibition period. The Planning Proposal was updated and exhibited in accordance with the Gateway Determination.

The Gateway Determination issued by the Department authorised Council to act as the local plan-making authority. Should Council adopt the recommendations, Council will make arrangements for the drafting of the amendment to the LEP 2013 to give effect to the Planning Proposal.

Hunter Regional Plan

The Planning Proposal aligns with the directions and goals of the Hunter Regional Plan 2036 to grow the economy of Port Stephens and to develop enhanced manufacturing, defence and aerospace hubs. The subject land is located close to the Williamtown aviation and defence hub and RAAF Base Williamtown - Newcastle Airport. The proposed use will support this economic centre, as well as service visitors and residents travelling on Nelson Bay Road. Importantly, it is also located on land that is already subject to a development consent for a tourist facility and the proposed use will support this approved use.

Greater Newcastle Metropolitan Plan

The Planning Proposal aligns with the actions in the Greater Newcastle Metropolitan Plan to grow the airport and the aerospace and defence precinct in the Williamtown Catalyst Area. It also supports the action to align local plans to facilitate the growth and change in that area over time. The proposed additional use of the land as a service station will support the emerging economic hub in the area and provide facilities and for visitors and travellers on Nelson Bay Road.

Port Stephens Planning Strategy

The Port Stephens Planning Strategy does not directly identify the site for any particular potential land use, however it does locate the site within the broader 'Eastern Growth Corridor'. The Planning Proposal is of minor significance in relation to the Strategy and will have no negative impact on the intended strategic land use planning outcomes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Planning Proposal will have positive social and economic implications through an estimated additional 5 jobs. Benefits through increased choice for consumers, including users of the Nelson Bay Road corridor may also result. Environmental implications are limited given the site is cleared of vegetation and is subject to existing development consents. The site is located in the RAAF Base Williamtown PFAS contamination 'Secondary Management Zone' and is also categorised as High Hazard Floodway under the Williamtown Salt Ash Floodplain Risk Management Study and Plan. These matters have been considered in the context of the existing development consents that already permit similar and compatible developments on the subject properties, and the advice received from public authorities which make no objections to the Planning Proposal proceeding.

CONSULTATION

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

Internal

Consultation with internal stakeholders has been undertaken by the Strategy and Environment Section to inform the assessment of the Planning Proposal. The assessment of flooding impacts associated with the Planning Proposal does not endorse the filling of a flood storage area or a floodway without comprehensive technical investigation of how a development could change the flood behaviour in the area. Given the small footprint and current approved development on the site, it is

appropriate to defer this investigation to the development application stage when the details of any future development on the site are known.

External

In accordance with the Gateway Determination, the Planning Proposal was placed on public exhibition for a minimum period of 14 days from 17 October 2019 to 31 October 2019. A notice was placed in the Port Stephens Examiner and letters were issued to adjoining property owners. A copy of the Planning Proposal was made available on Council's website, at the Council's Administration Building and libraries.

No submissions were received from the public during the exhibition period.

The following public authorities were consulted prior to exhibition and in accordance with the Gateway Determination:

- Roads and Maritime Services
- Environment Protection Authority
- Rural Fire Service
- Biodiversity Conservation Division (formerly Office of Environment and Heritage)
- Department of Defence.

No public authorities objected to the Planning Proposal proceeding. A summary of their comments and advice is provided at **(ATTACHMENT 2)**.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Public Authority Advice.
- 3) Planning Proposal for 2A and 2B Lavis Lane, Williamtown. (Provided under separate cover)

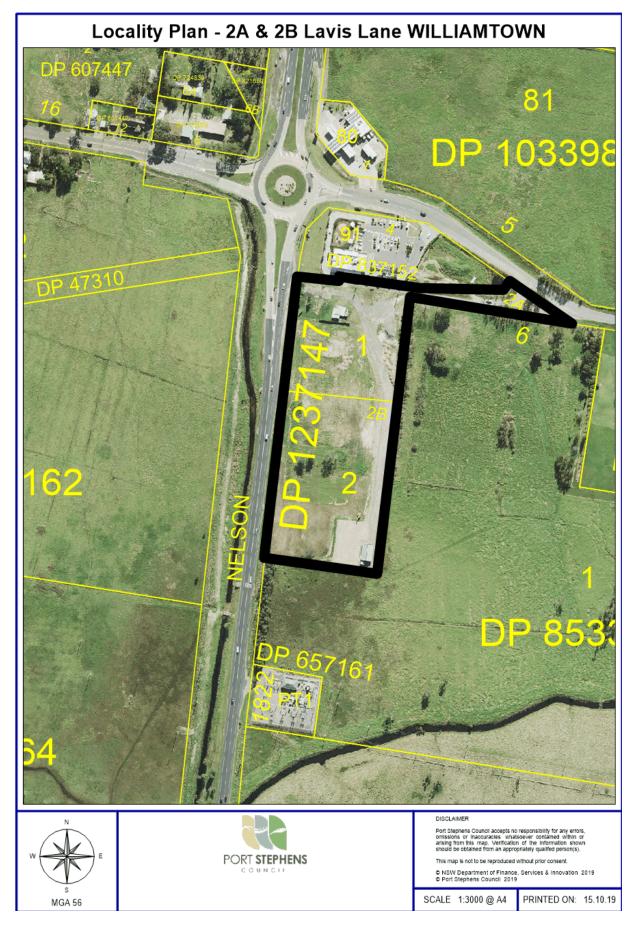
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Note: All relevant technical studies referenced in this report can be inspected upon request.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 LOCALITY PLAN.



ITEM 5 - ATTACHMENT 2 PUBLIC AUTHORITY ADVICE.

Planning Proposal for 2A and 2B Lavis Lane, Williamtown, Public Authority Advice

No.	Author of	Comment	Council response	
	submission			
1	Roads and Maritime Services	Reference is made to Council's email dated 19 August 2019, regarding the Planning Proposal referred to Roads and Maritime Services (Roads and Maritime) for comment. Roads and Maritime understands the planning proposal seeks to amend Schedule 1 Additional Permitted Uses of the Port Stephens Local Environmental Plan 2013 to permit development for the purpose of a 'service station' on the land (subject to development consent).	Noted, the initial RMS request for a Traffic Impact Assessment was withdrawn upon review. The RMS have no further comment on the Planning Proposal at this time.	
		It is noted that the site has vehicular access to Lavis Lane via a Right of Carriageway through the McDonalds site to the north and an ingress access off Nelson Bay Road.		
		Roads and Maritime have reviewed the previous advice dated 13 August 2019 requesting an updated Traffic Impact Statement to assess the addition of a service station to the proposed development, and withdraw this requirement. Roads and Maritime have no further comments on the Planning Proposal at this time.		
		If Council has significant concerns that are specific to Roads and Maritime's interests, please provide further details and Roads and Maritime.		
2	2 Environment Protection Authority	The Environment Protection Authority (EPA) understands from the information provided that the proposal is to amend Schedule 1 Additional permitted uses of the Port Stephens Local Environmental Plan 2013 (the LEP) to permit development of a 'service station' on the land (subject to development consent).	Noted, the EPA is of the opinion that there is a very low potential for any interaction with PFA contamination during	
		As per the EPA's letter of 1 December 2016 (EPA ref DOC/599667), and the results of both surface water and soil testing carried out at the proposed site, the EPA is of the opinion that there is a very low potential for any interaction with PFAS contamination during the construction phase of the development and that risks associated with PFAS contamination can be readily managed through the measures contained in that letter.	the construction phase of the development. Any risks associated with PFAS contamination can be readily managed through measures	
		Environmental Impacts Requiring Consideration	outlined in previous advice to the	
		The EPA recommends that the following issues be addressed during the preparation of an environmental assessment should the Development Application proceed: • Further investigation to characterise the potential for PFAS contamination which will need to be managed	proponent. The issues raised by the EPA to be addressed during preparation of an environmental assessment if a	
		during construction; Sampling for PFAS undertaken in accordance with the PFAS National Environmental Management Plan;	development application proceeds should be adhered to.	
		and the reasonal Elimonial Management Hall,		

ITEM 5 - ATTACHMENT 2 PUBLIC AUTHORITY ADVICE.

	I		
		Depending on what construction activities take place, interaction with groundwater may be an issue which must be addressed. The EPA does not support the discharge of untreated groundwater potentially contaminated with PFAS;	
		Further assessment of PFAS in soils must be completed if excavation is required at or below the depth of groundwater;	
		Soils that are excavated above the groundwater level must be characterised to determine whether they are suitable for reuse or for offsite disposal. If they are to be reused onsite, leachability testing must be undertaken to determine ongoing contamination risks; and	
		Soils must be classified using the Addendum to the Waste Classification Guidelines (2014).	
3	Rural Fire Service	The New South Wales Rural Fire Service has considered the information submitted and has no specific recommendations in relation to bush fire protection.	Noted, the RFS has no specific recommendations in relation to bush fire protection.
4	Office of Environment and Heritage	The Office of Environment and Heritage (now Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment) reviewed the planning proposal and associated documents for this proposal and has no concerns in relation to biodiversity or flooding. BCD has not reviewed and will not be commenting on the Aboriginal cultural heritage assessment for this planning proposal.	Noted, the BCD has no concerns in relation to biodiversity or flooding.
5	Department of Defence	The Department of Defence (Defence) would like to thank the Port Stephens Council (Council) for referring this matter to Defence for comment. Defence understands that the planning proposal seeks to allow a service stations as an additional permitted use on 2A and 2B Lavis Lane, Williamtown. The site is approximately 1.5 kilometres south of RAAF Base Williamtown. Defence has reviewed the application for any possible impact on Defence operations and provides the following advice. Aircraft Noise Defence notes that the subject site is within the 20 to 25 Australian Noise Exposure Forecast contours for RAAF Base Williamtown. Under Australian Standard 2021:2015, it is conditionally acceptable to develop a house within 20 to 25 noise contours. Defence understands that existing dwellings are already located within the 20 to 25 ANEF contours; however the proposed redevelopment and subdivision of an existing residential area will intensify land use in an area regularly overflown by aircraft and will be subject to very high levels of aircraft noise.	Noted, the land is within acceptable ANEF contours for the proposed use of a 'service station'. No residential use of the land is being sought. A future Development Application for a 'service station' will need to take into account any applicable development controls for bird strike and extraneous lighting.

ITEM 5 - ATTACHMENT 2 PUBLIC AUTHORITY ADVICE.

While Defence is conscious of the noise generated by its activities and makes every effort to minimise community aircraft noise exposure, Defence cannot readily modify its activities due to the establishment or intensification of noise-sensitive developments in close proximity to RAAF Base Williamtown. Defence's requirements to conduct a broad range of flying scenarios, both day and night, means current noise mitigation measures may require adaption to meet future training requirements. Defence will not accept any liability based on aircraft noise.

Bird Strike

The subject site is located in an area mapped by Defence as "Birdstrike Group B". In this area, certain land uses that have the potential to attract wildlife should be avoided as they will potentially increase the risk for bird strike for aircraft operation from RAAF Base Williamtown.

Organic waste and/or storage of bins associated with the proposed development might be attractive to vermin and/or birds and will potentially increase the risk of bird strike operating from RAAF Base Williamtown. Defence requests that an appropriate condition for the management of organic waste (such as maximum storage onsite and the use of covered/enclosed bins) be included in any subsequent approval.

Extraneous lighting

Extraneous Lighting is a potential hazard to aircraft. Consequently the amount of upward light emitted in specific areas near airfields must be controlled. Due to the proximity of the proposed development to RAAF Base Williamtown, it is suggested that all outdoor lighting design associated with the proposal is to comply with the requirements of the Civil Aviation Safety Authority Manual of Standards Part 139 Aerodromes.

Glare from reflective surfaces can affect the visibility of pilots during daylight hours. Defence requests that the proposed commercial development building should be comprised of non-reflective building materials. If any reflective surfaces from the proposed commercial development are found to cause a glare problem for pilots Defence may request these surfaces be suitably modified to extinguish the glare.

Councillor Jaimie Abbott returned to the meeting at 7:14pm. Councillor Paul Le Mottee returned to the meeting at 7:14pm.

ITEM NO. 6 FILE NO: 19/343626

EDRMS NO: PSC2006-0066V2-050

DRAFT LOCAL INFRASTRUCTURE CONTRIBUTION PLAN AND DRAFT FIXED LOCAL INFRASTRUCTURE CONTRIBUTION PLAN

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION

MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note public submissions received during the exhibition of the draft Port Stephens Local Infrastructure Contributions Plan and draft Port Stephens Fixed Local Infrastructure Contributions Plan at (ATTACHMENT 1).
- 2) Approve the Port Stephens Local Infrastructure Contributions Plan (ATTACHMENT 2) and Port Stephens Fixed Local Infrastructure Contributions Plan (ATTACHMENT 3) as amended, to commence on 1 January 2020, and repeal the Port Stephens Development Contributions Plan 2007 and Port Stephens Fixed Development Contributions Plan 2006 on that date.
- 3) Provide public notice that the Port Stephens Local Infrastructure Contributions Plan and Port Stephens Fixed Local Infrastructure Contributions Plan has been approved in accordance with the Environmental Planning and Assessment Regulation 2000 (NSW).
- 4) Adopt the funding strategies contained in this report being:
- a. \$8.9 million of repealed funds to PSC2020 Community Projects.
- b. Rollover of all funds within the administration and road haulage categories.
- c. Rollover of \$1.5 million to the Fern Bay catchment.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

247 Councillor John Nell Councillor Chris Doohan

It was resolved that Council:

- Receive and note public submissions received during the exhibition of the draft Port Stephens Local Infrastructure Contributions Plan and draft Port Stephens Fixed Local Infrastructure Contributions Plan at (ATTACHMENT 1).
- 2) Approve the Port Stephens Local Infrastructure Contributions Plan (ATTACHMENT 2) and Port Stephens Fixed Local Infrastructure

Contributions Plan (ATTACHMENT 3) as amended, to commence on 1 January 2020, and repeal the Port Stephens Development Contributions Plan 2007 and Port Stephens Fixed Development Contributions Plan 2006 on that date.

- 3) Provide public notice that the Port Stephens Local Infrastructure Contributions Plan and Port Stephens Fixed Local Infrastructure Contributions Plan has been approved in accordance with the Environmental Planning and Assessment Regulation 2000 (NSW).
- 4) Adopt the funding strategies contained in this report being:
- a. \$8.9 million of repealed funds to PSC2020 Community Projects.
- b. Rollover of all funds within the administration and road haulage categories.
- c. Rollover of \$1.5 million to the Fern Bay catchment.

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

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to advise Council of the outcomes of the consultation undertaken on the draft Port Stephens Local Infrastructure Contributions Plan and draft Port Stephens Fixed Local Infrastructure Contributions Plan (draft Plans), and to note the response to submissions provided at (ATTACHMENT 1). The report recommends that Council approve the Port Stephens Local Infrastructure Contributions Plan (ATTACHMENT 2) and Port Stephens Fixed Local Infrastructure Contributions Plan (ATTACHMENT 3), as amended. The Report recommends Council approve a funding strategy consequent on the repeal of the Port Stephens Development Contributions Plan 2007 and Port Stephens Fixed Development Contributions Plan 2006.

Council collects local infrastructure contributions from new developments to fund the local roads, parks, drains, and community and sporting facilities necessary to support growth. Local infrastructure contributions are levied in accordance with Council's adopted infrastructure contributions plans and the funds collected must be allocated to the projects identified in the plans.

At its meeting on 10 September 2019, Council resolved to publicly exhibit the draft Plans for 28 days in accordance with the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulations 2000.

Three submissions were received during the exhibition period, including a submission from City of Newcastle Council. Responses to the issues raised in these submissions are provided in **(ATTACHMENT 1)**.

There are proposed amendments to the draft Plans following exhibition and in response to the submissions received. The majority of the amendments relate to minor administrative matters and seek to clarify the operation of the draft Plans or provide more information on the calculations and analysis that informed the draft Plans. These minor changes to the draft Plans include:

- 1) Catchment names have been amended to better distinguish contributions catchments from the names of the Council wards.
- 2) Changes to the Works Schedule, including:
- Minor corrections to projects listed in the Works Schedules.
- Projects related to the development of the Kings Hill Urban Release Area have been removed as they will be included in a future amendment to the Local Infrastructure Contribution Plan specific to the Urban Release Area.
- Identification of project reference numbers and staging thresholds for the carrying out of works.
- Clarification of the proportion of funding to be sourced from local infrastructure contributions towards the projects in the Works Schedules.
- 3) Clarifications in the draft Plans to:
- Include references to the relevant legislation and Ministerial Directions that apply to contributions plans.
- Provide additional detail on how the contributions rates have been calculated.
- Specify that pooled funds will be allocated to projects in accordance with the staging thresholds identified in the Works Schedule.
- Provide more detail in relation to the projects in town centres that will be funded from local infrastructure contributions.

Due to the changes made to the Works Schedules detailed above, the contributions rates for dwellings have changed since exhibition. The table below shows the amended rates:

	Contribution Rates (per dwelling/lot)			
	Raymond Terrace - Rural	Central Growth Corridor	Tomaree	Fern Bay
Exhibited Rate	\$17,942	\$19,683	\$18,433	\$17,952

Final Rate	\$17,686	\$19,649	\$18,444	\$15,814
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Should Council repeal the Port Stephens Development Contributions Plan 2007 and Port Stephens Fixed Development Contributions Plan 2006, funds that have been collected under those Plans may be reallocated.

At its meeting on 27 August 2019 (Minute No. 209) (ATTACHMENT 4), Council resolved to complete the works identified in the Port Stephens Council 2020 Community Projects.

The source of funds within this report identified a funding allocation of \$8.9 million of repealed funds from the Port Stephens Development Contribution Plan 2007 and Port Stephens Fixed Development Contribution Plan 2006 towards the Port Stephens Council 2020 Community Projects. As the majority of works in the Port Stephens Council 2020 Community Projects are directly linked to the Port Stephens Development Contributions Plan 2007 and Port Stephens Fixed Development Contributions Plan 2006 it was considered prudent to utilise this source of funding.

Of the remaining funds to be reallocated, it is proposed to roll over the funds collected for civic administration and maintenance of heavy haulage roads. This will enable the funds collected for long term civic administration projects and the planned program of road maintenance as a result of extractive industries in Port Stephens to be adequately funded.

It is also proposed to allocate \$1.5 million to projects located in the Fern Bay catchment to ensure the funds collected from recent growth in the area will fund infrastructure items that align with the draft North Stockton and Fern Bay Strategy and to respond to submissions received on the draft Plans.

The act of repealing the Port Stephens Development Contributions Plan 2007 and Port Stephens Fixed Development Contributions Plan 2006 would not affect development consents that include a condition to pay contributions under those plans. Subsequently, there are provisions in the draft Plans for the collection of contributions from repealed plans and the funds collected will be allocated towards the same catchment in which it was collected.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021	
	Provide land use plans, tools and advice that sustainably support the community.	

FINANCIAL/RESOURCE IMPLICATIONS

The Plans aim to secure contributions towards local infrastructure from new development. Should the draft Plans be approved, it will enable Council to provide adequate public services and amenities to satisfy community expectations.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (S7.11)	Yes		The preparation and exhibition of the draft Plans is an administrative cost funded by the local infrastructure contributions allocated for plan management.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Environmental Planning and Assessment Act 1979 (EP&A Act)

Division 7.1, Sections 7.11 and 7.12 of the EP&A Act authorise Council to require new development to contribute to the provision and upgrade of local infrastructure through conditions of development consent imposed in accordance with adopted local infrastructure contributions plans.

The draft Plans have been prepared in accordance with Division 7.1 of the EP&A Act.

Environmental Planning and Assessment Regulations 2000 (EP&A Regulation)

Part 4 of the EP&A Regulation and Clause 27 sets out the particulars a local infrastructure contributions plan must contain. Division 2 of Part 4 of the EP&A Regulation sets out the exhibition requirements for draft local infrastructure contributions plans.

The draft plans have been prepared and exhibited in accordance with the EP&A Regulation.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the projects identified in the draft Plans will not be adequately funded by contributions sourced from new development and will require other sources of revenue.	Medium	Project funding has been estimated and apportioned based on current population data and development projections. The Plans will be reviewed every 5 years and amended when new strategic plans are adopted.	Yes
There is a risk that local infrastructure contributions will impact development feasibility.	Low	Contributions rates have been calculated in accordance with the relevant Ministerial Direction which sets a maximum cap of \$20,000 for residential contribution rates, unless a council applies for a specific exemption. Rates have been calculated to fund the infrastructure prioritised as necessary to provide the facilities and services of the projected population. Rates have also been benchmarked to ensure development charges are reasonable.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

New development is expected to require new and upgraded public facilities and amenities. The draft Plans provide a means of collecting, managing and administrating local infrastructure contributions to ensure that the community has an adequate level of public services and amenities. Projects in the draft Plans will promote healthy living and support thriving communities and town centres. Therefore, it is expected that there will be overall positive social implications.

The Plans will enable Council to adequately fund and deliver the infrastructure upgrades and new facilities likely to be needed as a result of new development. The Plans ensure an adequate standard of services and facilities can be provided for existing and future communities and that the existing community will not be funding the infrastructure needs that result from growth. Therefore, the Plans will have positive economic implications for the community.

CONSULTATION

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

<u>Internal</u>

The draft Plans have been prepared in consultation with the Financial Services and Assets Sections. The projects in the Works Schedule of the draft Plans have been aligned with Council's Strategic Asset Management Plan and capital works program, and with other strategic asset management documents including plans of management for parks and community facilities, and adopted strategies for town centres.

External

The draft Plans were publicly exhibited from 19 September 2019 to 17 October 2019. The exhibition was undertaken in accordance with the Environmental Planning and Assessment Regulation 2000 and included the following:

- Public notice in the Port Stephens Examiner on 18 September 2019.
- Hard copies available at Port Stephens Council Administration Building, Raymond Terrace Library and Tomaree Library and Community Centre.
- Available for download on Port Stephens Council website.
- Various social media posts to inform the community of the exhibition period.

Three written submissions were received during the exhibition period, and one supplementary submission was received from Newcastle City Council as part of the consultation undertaken in relation to the cross boundary projects to be funded from the Fern Bay catchment following exhibition. Specific matters raised in submissions have been summarised and addressed in the response to submissions at **(ATTACHMENT 1)**.

The following amendments are proposed to the draft Plans and Works Schedule in direct response to submissions:

- Amendments to the cross boundary projects funded from the Fern Bay catchment.
 In addition, the cross boundary category will be reviewed following adoption of the draft Fern Bay and North Stockton Strategy to identify further projects in the Strategy that can be funded by local infrastructure contributions.
- Amendments to the Works Schedules to remove the item 'Kings Hill Rural Fire Station' from the Fern Bay catchment and the draft Plans.
- The data and dwelling projections that informed calculations have been attached as an appendix to the Port Stephens Local Infrastructure Contributions Plan.

A late submission was received from a community group after the close of the exhibition period on 10 November 2019. Many of the matters raised have been addressed in the amendments made to the draft Plans following exhibition and in the response to submissions prepared to address the submissions made during exhibition at **(ATTACHMENT 1)**.

OPTIONS

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

ATTACHMENTS

- 1) Summary of submissions.
- 2) Draft Port Stephens Local Infrastructure Contributions Plan. (Provided under separate cover)
- 3) Draft Port Stephens Fixed Local Infrastructure Contribution Plan. (Provided under separate cover)
- 4) Minute No.209 27 August 2019.

COUNCILLORS ROOM

1) Copy of submissions.

TABLED DOCUMENTS

Nil.

ITEM 6 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS.

Draft Port Stephens Local Infrastructure Contributions Plan and draft Port Stephens Fixed Local Infrastructure Contributions Plan – Response to Submissions

No.	Author of submission	Comment	Council response
1	City of Newcastle (CoN) dated 17 October 2019	The submission included a number of suggested projects to be added to the cross boundary section of the Works Schedule. The submission provided the total cost of the projects and requested that the suggested projects be partly funded by the contributions collected by development in the Fern Bay catchment.	Council contacted CoN to conduct further consultation on these projects including the quantum to be funded from contributions collected in the Fern Bay catchment and the relevant nexus for each project. CoN provided Council with population data to inform calculations. A supplementary submission was received from CoN, and is detailed below.
		The submission also advised that CoN seeks to prepare a Deed Of Agreement to detail ongoing arrangements.	Noted.
2	Supplementary submission from CoN dated 31 October 2019 following further consultation.	A supplementary submission was received from CoN following further consultation with Council. An amended Schedule of Works was proposed and it was noted that the estimated value of projects provided is the total cost of the project. It is anticipated that these local infrastructure projects provided in Stockton are proposed to be partly funded by the contributions collected by development in the Fern Bay catchment. The submission noted that on adoption of the draft Fern Bay and North Stockton Strategy, CoN's Sports Strategy and Social Infrastructure Strategy, further refinements to the necessary Contributions Plans may be required.	Council met with officers from CoN on 30 October 2019 to discuss an amended Schedule of Works to be funded partly from the Fern Bay catchment. In response to the supplementary submission, the draft Plans have been amended to include more funding for cross boundary projects and to identify new projects for funding in Newcastle. Some of the projects included in the original submission from CoN were removed because it was agreed that there was no nexus. There was an agreement on the apportionment of costs of the projects, and clarification on the description of projects was also agreed upon. The draft Plans include some items of infrastructure that already align with the draft Fern Bay and North Stockton

			contributions plans to include additional projects identified in the draft Fern Bay and North Stockton Strategy will be carried out when the Strategy is adopted and more detail on the infrastructure necessary to support the Strategy is available.
3	Resident	The submission stated that insufficient funds are being allocated towards projects in the Newcastle LGA, particularly as the majority of Fern Bay residents would utilise facilities in Stockton. It also identified a	Council consulted with CoN on additions to the cross boundary projects located in the Newcastle LGA. The outcomes of this consultation are detailed above.
		number of facilities in the Newcastle LGA that could be funded with contributions, such as Corroba Oval and amenities, and parking at the Stockton Ferry Wharf.	It should be noted that Corroba Oval is-included in the Works Schedule of the draft plans, together with other sports facilities. The figure provided is the total cost Port Stephens will contribute (not considering apportionment), rather than the total cost of the project.
			The draft Plans have been amended to make this more clear.
		The submission queried why there is no money allocated from the Fern Bay catchment for road works and added that Vardon Road upgrades are needed. It was also raised that future housing releases, such as the development at the Fern Bay Rifle Range, will necessitate road upgrades in Fern Bay.	Council has already committed funds collected under the Port Stephens Development Contributions Plan 2007 and Port Stephens Fixed Development Contributions Plan 2006 to Vardon road upgrades and no further funding is required to complete these works. Given this project is fully funded, it was not included in the draft Plans.
			Infrastructure to service future development has been limited to proposals where the land rezoning has received a Gateway Determination issued by the NSW Department of Planning, Industry and Environment (DPIE). This provides some certainty that the development will go ahead, and the infrastructure and upgrades necessary to fund as a result should be included in the draft Plans. The

	Fern Bay Rifle Range redevelopment has not yet received a Gateway Determination. As new housing becomes more certain, the plans will be reviewed and amended every five years or as required. It is noted that developers may also be required to provide or fund some of the necessary infrastructure as part of the development application process.
The submission noted that the pathway on the western side of Nelson Bay road should go all the way to the Fullerton Cove road roundabout as there are many people living at The Cove and Palm Lakes who require a footpath to walk along.	There was a mapping error identified in the draft Plans which has now been corrected to show the path being extended. This can be seen on the maps that accompany the draft Plans as item SP69.
The submission stated that there will be an increase in development in the Fern Bay/Fullerton Cove area with the proposed development at the Newcastle Golf Course and the development next to The Cove on Fullerton Cove road. The submission added that 2026 is a long time for residents to wait for the pathways that are mentioned in the draft Plans.	The timing of delivering items in the plan is aligned with Council's Capital Works Program. If Council changes the timing in the Contributions Plans it would not necessarily ensure that the item is constructed sooner. Changes to the timing in the Works Schedule are considered as part of the preparation the Capital Works Program and Council's Strategic Asset Management Plan.
	The timing of the delivery of infrastructure specified in the draft Plans is also prepared based on current knowledge of future development. As new development becomes more certain, the plans will be reviewed and amended every five years or as required.
	Other means of fast tracking infrastructure delivery include the option of developers in the area undertaking Works in Kind agreements or voluntary planning agreements to construct the infrastructure as part of their developments, which Council is supportive

			subject to an agreement being in place.
		The submission queried why there is no money allocated for flooding or drainage works in the Fern Bay catchment, given that 'flood prone land' was nominated as a constraint in the draft Fern Bay and North Stockton Strategy.	While flood prone land is a constraint to development in the Fern Bay catchment, the land subject to flooding within the catchment has not been identified for growth. Therefore there is no nexus between new development and flooding works in the Fern Bay catchment.
		The submission queried why the Kings Hill RFS Station is being funded by the Fern Bay catchment given this is not located within the catchment area.	The draft Plans have been amended to correct this error.
		The submission supported a supermarket, and encouraged the approval of a Development Application for this proposed development.	This comment is not related to the exhibited draft contributions plans. It is noted there is no current development application for this development. It is noted a planning proposal for a rezoning that would facilitate supermarket at Fern Bay has been lodged with Council. Council has been consulting with the applicant during the preparation of the draft Fern Bay and North Stockton Strategy which seeks to identify an appropriate location for a new supermarket and the planning proposal has been put on hold until Council adopts the draft Strategy.
4	Fern Bay/Fullerton Cove Progress Association	The submission identified a number of deficiencies in the current Contributions Plans: a) The Works Schedule includes a boat ramp that may not be feasible due to the tidal nature of the Hunter River. b) Additional mobile library stops never eventuated as the requirements for semitrailer access were not included in any of the plans for the Seaside, Palm Lake or The Cove developments. c) Bus shelters and seating were included in the plan, yet the primary bus stop at the Seaside development has	Council has prepared the draft Plans to replace the current plans. In response to the matters raised in relation to the content of the current Plans: a) The draft Plans do not include this project. b) The draft Plans do not include this project. c) Bus shelters are included in the Works Schedule of the draft Plans. It is noted that the bus stop at Seaside Estate is not a project funded by Development Contributions and is a requirement of the State

6 - ATTACHMENT 1	SUMMARY OF SUBMIS	SIONS.
	gone without a shelter or seating. d) No plan was made to acquire land in the Seaside development so that community, family orientated, Council owned facilities, constructed with Section 94 funds, could be co-located with the expanding population they are designed to support. e) The primary factor behind this failure was the lack of any strategic planning for our area.	Significant consent for the estate. d) The Seaside Estate was approved as State Significant Development and is a Community Title estate. The community association therefore owns and maintains the recreation and community assets and facilities in the estate. e) The draft North Stockton and Fern Bay Strategy is currently on exhibition. The draft Plans include some of the infrastructure identified in the draft Strategy.
	The submission noted that the draft Fern Bay and North Stockton Strategy has not been finalised and that a version of the draft strategy that was contained in the minutes for the Council meeting from the 28th May 2019 had numerous errors, outdated data and other discrepancies. The submission noted that the timing of the exhibition of the draft Fern Bay and North Stockton Strategy did not allow for both the strategy and the draft Contributions Plans to be reviewed concurrently.	The exhibition materials for the draft North Stockton and Fern Bay Strategy addressed many of the matters specified that relate to the content of the draft Fern Bay and North Stockton Strategy. The draft Plans include some items relevant to the draft Strategy including town centre upgrades and some pathways, however they do not include all items of infrastructure necessary to implement the draft Strategy. When the details of this infrastructure are known, the draft Plans will be updated and/or new development in the area will provide infrastructure through the Planning Proposal and development application process.
	The submission stated that about \$1.7 million will be repealed from the Fern Bay catchment and spent on PSC2020 Community Projects in the remainder of the LGA.	At its meeting on 27 August 2019 (minute no. 209), Council resolved to allocate \$8.9 million of the repealed funds from the Port Stephens Development Contribution Plan 2007 and Port Stephens Fixed Development Contribution Plan 2006 towards the PSC2020 Community Projects. Parts of this will be used to fund projects in the Fern Bay catchment, including the \$1 million allocated towards shared paths at Fern Bay.

The submission identifies the following errors and omissions in the plan:	On adoption of the draft Plans it is proposed that \$1.5 million of repealed funds in the Fern Bay catchment will be rolled over to fund the projects listed in the draft Plans within the Fern Bay catchment. 1. The error has been amended and the item
1. The Kings Hill RFS station was included the Fern Bay catchment area. 2. The number of lots used to calculate the contribution rate is unclear 3. The assumptions behind the estimated demand for regional facilities outside of Fern Bay are incorrect. The submission was supported by a survey that found Fern Bay residents use facilities in CoN LGA. 4. The Fern Bay shared user path has already been funded using funds allocated from the current plan.	amended and the item has been removed from the draft Plans. The item will be included in a Kings Hill contributions chapter which is currently being prepared and funded wholly by development in the Kings Hill catchment. As a result additional funds were put towards projects in the cross boundary section of the Works Schedule including some projects proposed to be funded in the submission. 2. Council had an independent demographic study prepared to inform dwelling projections. Projections were based on census data as well as Planning Proposal and development application information. The plan has been amended to include an appendix to provide this data. The draft Plans have also been amended to more clearly outline the calculations and assumptions made in the preparation of the plan. 3. It is acknowledged that Fern Bay and Fullerton Cove residents use facilities within the CoN LGA and the draft Plans have been amended to increase the amount of cross boundary funding for these projects. It is noted that there are also facilities in the Fern Bay

	aatahmant that are
	catchment that are categorised as 'regional facilities' and all catchments in the LGA will contribute towards under the draft Plans e.g. town centre upgrades. 4. Shared paths in Fern Bay are identified to be funded as part of the PSC2020 Community Projects. The PSC2020 Community Projects are being funded from a range of sources including repealed funds. The location and design of the shared paths is currently being undertaken and due to the uncertainties it is considered appropriate to include these projects in the draft plans to ensure adequate funding for shared paths. It should be noted that the PS2020 Community Projects in the Fern Bay catchment are being partly funded from sources outside of the repealed funds from the Fern Bay catchment.
The submission noted that there is no money allocated to road works in particular Taylor, Popperwell and Fullerton Cove Roads. The submission identified expected development that will impact on these roads.	It is noted that the expected demand from the Rifle Range rezoning has not been included in the draft Plans. A Gateway determination has not been made by the NSW DPIE and therefore there is no certainty of this development proceeding, or which roads would be impacted. Furthermore, further consideration is needed as to whether road upgrades will be required as part the development application process, and wholly funded by the developer. It should be noted that where development has already been approved, Council is unable to collect contributions towards

	works within the draft Plans. The submission identified a caravan park development that has been subject to contributions at the time of the approval. Therefore development on Fullerton Cove Road that has already been approved has not been taken into consideration in the calculations that have informed the draft Plans.
The submission noted the following projects that should be funded under the draft Plans: 1. A footpath on the western side of Nelson Bay Road. 2. A footpath to a proposed supermarket on Fullerton Cove Road. 3. Pedestrian crossing on Nelson Bay Road The submission highlighted that this would benefit residents of existing over 50s communities.	It is acknowledged that the draft Plans include a shared path along Nelson Bay Road, however the specific location cannot be verified until a detailed design of the pathway is undertaken. Furthermore, it is acknowledged that \$1m of funding is committed as part of the PSC2020 Community Priority Projects funding for shared paths in Fern Bay, however the location of pathways is subject to further detailed design.
	Nonetheless infrastructure contributions can only be used to fund the infrastructure needs that come as a result of new development. The path identified in the submission would benefit existing users only and therefore there is no nexus between the item and infrastructure contributions.
	Furthermore the pedestrian crossing identified would also benefit the existing users only and similarly there is no nexus between the item and infrastructure contributions.
	Hence the projects identified in the submission will need to be completed as part of the Capital Works Program, and funded by other sources.
	Council is committed to supporting infrastructure to new commercial areas and it is noted that a Planning Proposal

	is being assessed for commercial rezoning in Fullerton Cove. However, as noted above, this is on hold pending the outcome of the draft Fern Bay and North Stockton Strategy, which currently identifies a town centre in North Stockton. A decision on the necessary infrastructure (and the funding sources for that infrastructure) to support the development will be made if and when it is approved.
The submission states that the following projects should be included under the cross boundary contribution category: 1. Corroba Oval 2. Expanded library services 3. South Stockton Active Hub	1. Corroba Oval has been included in the sporting projects to be funded by the cross boundary contributions. 2. The library services have not been included in the Works Schedule. However, the draft North Stockton Fern Bay Strategy identifies new library services as part of the plan for the future. When the location and details of this infrastructure are known the draft Plans may be amended to include these items. 3. Stage two of the South Stockton Active Hub has cross boundary contributions allocated towards it.
The submission requested that Council delay adopting the draft plans until the draft Fern Bay North Stockton Strategy is adopted.	The draft Plans include some items relevant to the draft Strategy including town centre upgrades and some pathways, however they do not include all items of infrastructure necessary to implement the draft Strategy. When the details of this infrastructure are known, the draft plans will be updated and/or new development in the area will provide infrastructure through the Planning Proposal and development application process.

ITEM 6 - ATTACHMENT 1	SUMMARY OF SUBMISSIONS.
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MINUTES ORDINARY COUNCIL - 27 AUGUST 2019

ITEM NO. 12 FILE NO: 19/211481 EDRMS NO: A2004-1312

PSC2020 PROPOSED COMMUNITY PROJECTS

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Submit the projects as listed in d) Ancillary Minor Works for public exhibition and invite submissions.
- Should no submissions be received as a result of the public exhibition, the Ancillary Minor Works projects will be endorsed and funding sourced as outlined within the report.
- Formally vote budget allocations and source of funding as included in this report to complete the works listed at a) East Ward, b) Central Ward and c) West Ward
- 4) Authorises the General Manager to secure loan funding up to \$5 million for the works identified in this report.
- 5) Authorise the Mayor and General Manager to affix the Council Seal and sign all documents necessary to secure the loan.

Crs Arnott/Le Mottee – extension of time granted to Cr Arnott of 3 minutes.

ORDINARY COUNCIL MEETING - 27 AUGUST 2019 MOTION

209 Mayor Ryan Palmer Councillor Giacomo Arnott

It was resolved that Council:

- Submit the projects as listed in d) Ancillary Minor Works for public exhibition and invite submissions.
- Should no submissions be received as a result of the public exhibition, the Ancillary Minor Works projects will be endorsed and funding sourced as outlined within the report.
- Formally vote budget allocations and source of funding as included in this report to complete the works listed at a) East Ward, b) Central Ward and c) West Ward.
- 4) Authorises the General Manager to secure loan funding up to \$5 million for the works identified in this report.

PORT STEPHENS COUNCIL

MINUTES ORDINARY COUNCIL - 27 AUGUST 2019

5) Authorise the Mayor and General Manager to affix the Council Seal and sign all documents necessary to secure the loan.

BACKGROUND

The purpose of this report is to request endorsement to complete the works identified.

During the community consultation program in 2018, a number of projects were identified to be added to the Capital Works Plus Program. The Special Rate Variation was identified as a funding source for these projects to proceed, however this application was unsuccessful. Council considered a Notice of Motion at its meeting of 25 June 2019 and the subsequent public engagement and consultation program has reiterated the community desire for these works to be undertaken.

The projects to be completed across Port Stephens are:

a) East Ward

- Amenities replacement George Reserve, Salamander Bay \$150,000.
- Foreshore improvements Conroy Park, Corlette \$178,000.
- Amenities replacement Little Beach, Nelson Bay \$180,000.
- Revetment work Soldiers Point, \$200,000.
- Ancillary works (paths / drainage) Shoal Bay Foreshore, Shoal Bay \$550,000.
- Road upgrade Foreshore Drive, Corlette \$400,000.
- Stage 1, East Donald Street Carpark demolition and at grade car parking including amenities replacement – Nelson Bay \$1,400,000.
- Tomaree Sports Complex amenities replacement Salamander Bay \$2,000,000.

Sub total: \$5.058m

b) Central Ward

- Town centre improvements Anna Bay \$350,000.
- Town centre improvements (including amenities) Medowie \$450,000.
- Shared pathway Waropara Road, Medowie \$500,000.
- Shared pathway Avenue of the Allies, Tanilba Bay \$700,000.
- Shared pathway Gan Gan Road (missing links) Anna Bay \$700,000.
- Shared pathway Lemon Tree Passage road, Mallabula to Lemon Tree Passage (missing link) \$800,000.
- Shared pathway Medowie Road (Ferodale Road to South Street) Medowie \$850,000.

PORT STEPHENS COUNCIL

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Town Centre works – Lemon Tree Passage / Tanilba Bay \$600,000.

Sub total: \$4.95m

c) West Ward

- Amenities replacement Longworth Park, Karuah \$120,000.
- Bus interchange Seaham \$250,000.
- Shared pathway Levee bank, Raymond Terrace \$300,000.
- Road upgrade Mustons Road, Karuah \$500,000.
- Shared paths Fern Bay \$1,000,000.
- Town Centre improvements (road upgrade and streetscape) William Street, Raymond Terrace \$1,000,000.
- Road upgrades Duns Creek Road, Forest Road, Swan Bay Road \$1,000,000.
- Amenities/clubhouse upgrade Stuart Park, Hinton \$1,200,000.

In addition to the large capital works identified above, a number of smaller maintenance requirements have been identified.

Sub total: \$5.37m

d) Ancillary Minor Works

- Tree Works Karuah & Raymond Terrace \$70,000.
- Bill Strong Irrigation \$70,000.
- Nelson Bay Tennis Club Lighting \$50,000.
- Supporting Park Infrastructure for Medowie Skate Park \$30,000.
- Medowie Playground Fencing \$20,000.
- Raymond Terrace Dog Park \$40,000.
- Lemon Tree Passage Road Roundabout Beautification (Avenue of Allies) -\$20,000.
- Nelson Bay Road/Port Stephens Drive Roundabout Entrance Beautification -\$50,000.
- Salt Ash Hall Outside Toilet \$70,000.
- Event Signage Nelson Bay Road, Nelson Bay \$20,000.
- King Park Irrigation \$60,000.

Sub total: \$500,000

Grand total: \$15.878m

PORT STEPHENS COUNCIL

MINUTES ORDINARY COUNCIL - 27 AUGUST 2019

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Financial Management	Maintain strong financial sustainability.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	\$2.0m	There is a current allocation in the Councillor ward funds of \$544,000 from the net proceeds of the Salamander Way commercial development. It is appropriate to utilise these funds for this asset renewal program. In addition, it is proposed that funding to be received from the Anna Bay oval sale be allocated to this asset renewal program.
Developer Contributions (S7.11)	Yes	\$8.9m	Council would be aware of the new Section 7.11 developer contribution plan that is proposed to be formally implemented towards the end of December 2019. This will mean that funds already received under the current plan will be repealed and will need to be allocated. As the majority of works suggested in this latest list of community projects are directly linked to the current Section 7.11 plan it is considered prudent to utilise this source of funding.
External Grants	No		

PORT STEPHENS COUNCIL

MINUTES ORDINARY COUNCIL - 27 AUGUST 2019

Source of Funds	Yes/No	Funding (\$)	Comment
Other	Yes	\$5.0m	It is proposed to borrow loan funds up to \$5.0 million over a 15 year period with current indicative interest rate of 3.0% - 4.0%. In addition, it is proposed to allocate revenue received from the Sand Extraction Project to be set aside to repay the external debt.

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if Council does not complete these projects then community expectations will not be met.	Medium	That Council applies for loan funding through various sources to obtain the funds required to complete these projects.	Yes
There is a risk that revenue from the sand extraction project may not meet expectations.	Medium	Additional funding sources will need to be identified.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

This asset renewal program will see numerous works completed to meet the expectations of many communities.

CONSULTATION

Internal

Internal consultation was undertaken at the Councillor Strategy Day in July 2019 and with Executive Team.

PORT STEPHENS COUNCIL

MINUTES ORDINARY COUNCIL - 27 AUGUST 2019

External

Throughout July 2019 Council ran 6 information and feedback sessions across the LGA with a focus to build community awareness and to gain insights around the priority projects identified in Council's previous resolution of 25 June 2019 (ATTACHMENT 1).

A total of 254 residents attended these face to face sessions and provided their priorities. The largest session was at Nelson Bay where 80 people attended. There were a total of 662 visits to the dedicated webpage and 253 people completed an online survey. For further information refer to the Councillor Information Sessions Engagement Report July 2019 (ATTACHMENT 2).

Whilst it is acknowledged that the projects included in a), b) and c) have previously been included in Strategic Asset Management Plans and therefore have been publicly exhibited with submissions invited, the maintenance projects listed in d) will need to be submitted for a public exhibition period of 28 days and submissions invited.

OPTIONS

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

ATTACHMENTS

- Notice of Motion Funding for Proposed Community Projects Minute No. 136 -25 June 2019.
- 2) Councillor Information Sessions Engagement Report July 2019.

COL	INCII	1	ORS	RO	OM

Nil.

TABLED DOCUMENTS

Nil.

PORT STEPHENS COUNCIL

ITEM NO. 7 FILE NO: 19/356432 EDRMS NO: PSC2013-03548

HALIFAX HOLIDAY PARK - AMENITIES

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Formally decline the offer of loan funds from the State Government.

- 2) Seek quotations from financial institutions for external loan funding of \$2 million to be repaid over a 10 year period.
- 3) Delegate authority to the Mayor and General Manager to accept loan terms and conditions provided they are consistent with those outlined within this report.
- 4) Delegate authority to the Mayor and General Manager to sign relevant documents and affix the Council Seal to relevant documents.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

248 Councillor Paul Le Mottee Councillor Sarah Smith

It was resolved that Council:

- 1) Formally decline the offer of loan funds from the State Government.
- 2) Seek quotations from financial institutions for external loan funding of \$2 million to be repaid over a 10 year period.
- 3) Delegate authority to the Mayor and General Manager to accept loan terms and conditions provided they are consistent with those outlined within this report.
- 4) Delegate authority to the Mayor and General Manager to sign relevant documents and affix the Council Seal to relevant documents.

BACKGROUND

The purpose of this report is to seek Council's concurrence to a funding model for the construction of the new amenities block at the Halifax Holiday Park. The new amenities block had been included in a previous plan of management and was identified as a critical piece of infrastructure that was in need of replacement.

The decision to replace the amenities block was taken in the last financial year and the project was commenced. An original scope of works in the order of \$2 million was identified.

Initially, it was considered that funding for the project would come from what was known as the Crown Trust Holiday Park Reserve, which accumulated funds from past operations of the Crown Lands Parks. This reserve was to be utilised to replace critical infrastructure at the Crown Lands Holiday Parks.

A number of years ago, the State Government established a consolidated fund that was used to assist Trust Managers to upgrade infrastructure on Crown Lands. Council has previously accessed funds through this avenue, known as Park Reserve Management Funds. Council's last loan through this scheme is due to be repaid in 2020.

The State Government has continued this fund, now known as the Crown Reserves Improvement Fund (CRIF). The purpose of the fund, as it was under the previous name, is to provide access to relatively low interest rate loans or grants that can assist Trust Managers to replace infrastructure.

Council took the opportunity to seek access to this fund in the latest round of funding and has been advised that it was successful for a \$2 million loan for the replacement of the Halifax Holiday Park amenities building. The rationale for applying for the loan was to access relatively affordable finance and spread the cost of repaying the loan over the life of the asset. The loan, for a 10 year period, is being offered at an interest rate of 3.5%.

Given the current economic outlook, the opportunity was taken to market test the terms and conditions offered by the State Government. In this market testing it has become apparent that Council can access an external loan funding source at a fixed rate of 2.91% for a 10 year period (subject to periodic review), and the repayments can be factored in to the long term financial planning for the holiday parks.

As Council may be aware, there are a number of significant capital works projects scheduled for the Holiday Parks. These include new amenities at Halifax, new amenities at Shoal Bay, new amenities at Fingal Bay and a new exit for Shoal Bay.

By taking the opportunity to spread this capital cost out over the short term life of the asset, Council will be able to effectively fund these projects over the coming years.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Financial Management	Maintain strong financial sustainability.

FINANCIAL/RESOURCE IMPLICATIONS

The financial/resource implications are achievable and have been factored into the long term financial projections for the Crown Holiday Parks. Projected annual repayments of \$233,402 have been modelled and debt levels are within overall benchmarking levels.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	Yes	2m	External loan funding.

LEGAL, POLICY AND RISK IMPLICATIONS

A formal loan agreement will have to be entered into and will be executed under normal Council processes.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that without taking out loan funds the reserve funds will be used and depleted.	Medium	Accept recommendations.	Yes
There is a risk that failure to update critical infrastructure will impact occupancy rates and returns.	Medium	Accept recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

By replacing ageing infrastructure, advantages of more sustainable amenities can be made as well as maintaining the level of guest experience for the Holiday Parks.

CONSULTATION

Consultation was initially completed in conjunction with the adoption of detailed Plans of Management.

<u>Internal</u>

- Holiday Park Section Manager.
- Holiday Park Advisory Committee.

External

• Loan application submitted to the State Government for approval.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 8 FILE NO: 19/173280

EDRMS NO: PSC2005-3551

DISSOLUTION OF THREE 355C COMMITTEES AND CHANGE OF OPERATION OF ONE 355C COMMITTEE

REPORT OF: ZOE PATTISON - BUSINESS SYSTEMS SUPPORT SECTION

MANAGER

GROUP: CORPORATE SERVICES

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RECOMMENDATION IS THAT COUNCIL:

1) Dissolve the following three 355c committees of Council as of 31 December 2019, and close related committee bank accounts:

- a. Port Stephens Native Flora Garden Committee
- b. Soldiers Point-Salamander Bay Landcare Group
- c. Bobs Farm Public Hall Committee.
- Change the Tanilba Bay Parks Reserves and Hall Committee to the Tanilba Foreshore Hall Committee and adopt the amended Appendix to the 355c Committee Terms of Reference (ATTACHMENT 1).

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ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

249 Councillor John Nell Councillor Steve Tucker

It was resolved that Council:

- 1) Dissolve the following three 355c committees of Council as of 31 December 2019, and close related committee bank accounts:
- a. Port Stephens Native Flora Garden Committee
- b. Soldiers Point-Salamander Bay Landcare Group
- c. Bobs Farm Public Hall Committee.
- 2) Change the Tanilba Bay Parks Reserves and Hall Committee to the Tanilba Foreshore Hall Committee and adopt the amended Appendix to the 355c Committee Terms of Reference (ATTACHMENT 1).
- 3) The \$8,000 from Bobs Farm Hall be quarantined.

BACKGROUND

The purpose of this report is to recommend that Council dissolve three 355c committees and amend the function on one committee.

The volunteer management service review was adopted by Council on 26 August 2018, Minute No. 267 (ATTACHMENT 2) with a 2 year implementation period.

One outcome of the service review was to "disband the 355c committee model of operation for park and cemetery committees over time and establish groups of Council volunteers working on Council land". The primary reasons for this change are to reduce administrative workload on volunteers and encourage more people to be involved.

Progressing implementation of the volunteer management service review, the Port Stephens Native Flora Garden Committee and the Soldiers Point – Salamander Bay Landcare Group recently resolved to dissolve as 355c committees of Council and change to the new model of operation.

Members of the Port Stephens Native Flora Garden Committee will establish a new volunteer group under Council with the name of Fly Point Nature Reserve Group, with members of the former 355c committee to be registered as members of the new volunteer group.

Members of the Soldiers Point – Salamander Bay Landcare Group (355c committee) resolved to form a new volunteer group under Council, also with the name of Soldiers Point – Salamander Bay Landcare Group. Members of the former 355c committee are to be registered as members of the newly formed group.

The Tanilba Bay Parks Reserves and Hall Committee resolved to change to a 355c hall management committee only and establish a 355c committee in the name of Tanilba Foreshore Hall Committee, endorse the amended the Appendix to the Terms of Reference, bank account name, email and promotional material.

Council staff and volunteers have committed to working cooperatively and collaboratively over the coming months whilst transitioning to this new model for onground volunteering. A further report to Council to dissolve the remaining 355c park committees (and change hall/park committees) is planned for mid-2020.

Another outcome of the service review was to find alternative avenues to manage hall facilities when required. Bobs Farm Public Hall is not being utilised by the community with minimal bookings per year. In times past, it was the hub of the local community, being used by youth groups, progress associations, school groups, parties, balls, fetes, dances and kitchen teas.

The Bobs Farm Public Hall Committee resolved to dissolve as a committee of Council and return management of the facility to Council. Some members of the committee were recognised at the volunteer end of year function held 9 December 2019 for their longstanding service.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Diversity	Support volunteers to deliver appropriate
	community services.

FINANCIAL/RESOURCE IMPLICATIONS

Bank accounts held by the Port Stephens Native Flora Garden Committee and Soldiers Point – Salamander Bay Landcare Group will be closed mid-December 2019, with remaining funds to be transferred to Council and be available for use by the newly formed groups until 30 June 2020 (following a consultation and approval process).

Funds in the Tanilba Bay Parks Reserves and Hall Committee bank account will remain for hall management purposes, with required changes to the bank account name and signatories.

Any minor assets of Council held by the former 355c park committees (eg tools and equipment) will be transferred to the new park groups. Park groups under the new model do not receive an annual operating subsidy. Instead, the equivalent financial allocation will be retained and pooled, and utilised for resourcing of activities for these groups. Funds will not be rolled over from year to year. Park groups are still able to apply for eligible internal and external grants to support their work in the community, as they would have done as a 355c committee.

The Bobs Farm Public Hall Committee bank account will be closed mid December 2019, with remaining funds to be transferred to Council's general fund (approximately \$8,000).

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

There are no legal or policy impediments to accepting the recommendations. A further report to Council is planned for mid-2020 to endorse changes to 355c committees as required by section 355c of the Local Government Act 1993.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that not accepting the recommendations will affect Council's reputation as these committees have resolved to dissolve and change to the new model of operation.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Expansion and improved satisfaction in on-ground volunteering in Port Stephens is being hampered by the 355c committee model as outlined in the volunteer management service review. By transitioning to the new group model, the administrative workload of volunteers will be reduced and volunteer engagement and satisfaction will improve. There will be more opportunities for volunteers to participate in on-ground working bee activities in our parks and reserves which will in turn will build a sense of community wellbeing and value to the local environment.

Given the low use of the Bobs Farm Public Hall and the dissolution of the hall committee, Council staff will need to consider the future of the hall and options for use and management.

CONSULTATION

Consultation with key stakeholders was undertaken by the Organisation Development Section. Extensive engagement and consultation with volunteers, 355c committees, staff and Councillors occurred throughout 2018 as part of the service review process. Consultation both within Council and with the affected 355c committees is vital for key process changes such as this to ensure all parties are engaged in the transition and are able to provide input into the model of operation.

In addition, the Volunteers Coordinator has engaged specifically and extensively with the identified committees through phone conversations, email correspondence and meeting attendance.

OPTIONS

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

ATTACHMENTS

- 1) Appendix to 355c Committee Terms of Reference Tanilba Foreshore Hall Committee.
- 2) Minute No. 267 26 August 2018.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 8 - ATTACHMENT 1 APPENDIX TO 355C COMMITTEE TERMS OF REFERENCE - TANILBA FORESHORE HALL COMMITTEE.

APPENDIX TO 355(c) COMMITTEE TERMS OF REFERENCE

Item 1	Name of committee	Tanilba Foreshore Hall Committee
Item 2	Purpose of committee	6.1.1 Council will engage its citizens in developing plans for the future of the Port Stephens Local Government Area.
Item 3	Functions delegated by Council to committee (Objectives)	 Cooperate with Council to ensure that facilities are provided and maintained at an acceptable standard. Undertake the functions of: arranging bookings for hire of the hall; receiving and banking fees and charges; arranging cleaning; and providing reports to Council on maintenance requirements. Liaise with Council as to the development, planning and management of Tanilba Foreshore Hall. Make recommendations to Council on appropriate fees and charges for the use of the facility. Provide forward works priorities to Council for consideration and planning of future works. Encourage and support the community and/or community groups, to participate in programs benefiting Tanilba Bay. Be an avenue through which Council can engage with the community on matters that affect them.
Item 4	Restrictions on functions delegated	Any works undertaken will be with the knowledge and approval of the Community and Recreation Assets Coordinator and/or Building Trades Coordinator and /or Parks Supervisor.
Item 5	Policies, legislation the committee is required to comply with	Principle policies and legislation including but not limited to: Local Government Act 1993 Work Health and Safety Act 2011 Privacy and Personal Information Protection Act 1998 State Records Act 1998 PSC 355c Committee Terms of Reference and Appendix PSC Code of Conduct PSC Code of Meeting Practice PSC Access to Information Policy PSC Procurement Policy PSC WHS Statement of Commitment
Item 6	Term of Committee	September of Council Election each four years. Council to readopt Terms of Reference within three months following election.
Item 7	Maximum number and make up of committee members	Up to fifty (50) General Members.

Item 8	Executive and Advisory members	Three (3) to four (4) Executive Members: Chairperson Vice Chairperson Treasurer Secretary Up to five (5) Advisory Members	
Item 9	Councillors	As resolved by Council.	
Item 10	Council employees	Corporate Services Group Organisation Support Section Manager Organisation Support Section Governance Section Community and Recreation Coordinator Building Trades Coordinator Parks Coordinator Volunteers Coordinator Finance Coordinator Facilities and Services Senior Business Support Advisor Community and Recreation Asset Officer	
Item 11	Name of financial institution and type of account/s	To be determined.	
Item 12	Name of any account operated by the committee	Tanilba Foreshore Hall Committee, a 355c committee of Port Stephens Council	
Item 13	Reporting	Financial Record Keeping and Reporting	
		 Committees must spend their annual allocation from Council only on items and works that enable them to exercise their Functions delegated to them from Council pursuant to Clause 3 and outlined in Item 3 of the Appendix. With the introduction of the Goods and Services Tax effective from 1 July 2000, all 355(c) committees are 	
		obliged to comply with the new tax system.	
		 a) All committees are covered under Council's Australian Business Number (16744377876). 	
		 b) Committees are responsible for administering the requirements of GST Legislation, that is charging GST on taxable supplies and correctly identifying input tax credits claimable from Australian Tax Office (ATO). 	
		 Accordingly, each committee must supply Council with details of GST applicable to all financial transactions for inclusion in Council's monthly Business Activity Statements (BAS). 	
		 d) Compliance with this request will ensure Council's obligation is met on time and will avoid any interest or penalty chargeable by the ATO. 	

Item 13	Reporting	3.	The Treasurer shall be responsible for ensuring:		
cont			a)	The proper keeping of the books and accounts of the committee, which shall be kept as directed by the General Manager and made available to the Council when required for that purpose by the General Manager.	
			b)	b) Accounts must be accessible by the General Manager who must be able to authorise, in his or her own right, withdrawals from any account held by the committee.	
			c) Forwarding monthly financial and GST reporting to Council's designated Responsible Officer each month in a format as directed by the General Manager. (Only those Committees with quarterly bank statements will be granted permission to submit quarterly financial reports, which must be received by the end of the following month.)		
				 This includes a cash book style financial record keeping system (manual or electronic) supplied by Council, which is set up to record income, expenditure, GST and reconciliations in a simple format. 	
				ii. The cash book is completed each month and the original forwarded to Council before the end of the following month, along with copies of tax invoices, tax input receipts and bank statements.	
				iii. The totals of each month are entered onto the Annual Financial Summary reporting page.	
			d)	d) Receiving monies on behalf of the committee and maintaining accurate records of the receipt of such monies. e) Attending to the payment of accounts and other expenses approved by the committee on behalf of the committee, and maintaining an accurate record of such payments.	
			e)		
			f)	Issuing of tax invoices.	
			g)	Annual Financial Summary to be forwarded prior to 31 March each year to Council's Responsible Officer for finance in a format as provided by Council, and to include:	
				 copy of bank statement, bank book or on-line banking printout clearly indicating the balance as at the 31st December each year. copies of documentation supporting all increases and decreases in any investment accounts. 	
		4.	All monies received by the committee shall be deposited within seven (7) days of receipt into an account in the financial institution set out in Item 11 of the Appendix. Any such account must have the names of the account/s set out in Item 12 of the Appendix.		

Item 13	Reporting	5.	The committee may only operate those accounts set out in	
cont	reporting	J.	Item 11 and 12 of the Appendix or as directed in writing by the General Manager.	
			 Any cheques drawn on behalf of the committee or withdrawals from any account operated by the committee shall be signed by any two (2) of the Executive as determined by the committee. 	
			 All financial accounts must have two Council staff signatories, including all term deposit accounts in accordance with Item 10 of the Appendix. 	
			c) All committees are required to advise Council of the details of the persons who are authorised signatories of the committee's bank account, when a new account is opened, and when changes to the signatories occurs.	
			d) All financial accounts held by the committee must include the words "A 355c Committee of Port Stephens Council" in the account name.	
			expenditure in excess of the amount held in the committee's credit in the account operated by the committee. In any event, no expenses of any member of the committee, or the committee, shall be paid unless authorised by resolution of the committee.	
		6.		
		7.		
		8.	The financial year shall be the period from the 1 January to 31 December.	
		Ge	eneral Reporting Annual Reporting - to be forwarded prior to 31 March each year to Council's Responsible Officer for Volunteers and must include:	
			 Minutes of AGM and Account Signatories. 	
			 Committee Annual Report – brief summary of activities/ projects undertaken between 1 January and 31 December, and proposed projects and activities. 	
			■ Updated list of all Members.	

Item 13 cont	Reporting	Recommendations for Fees and Charges to be forwarded to Council by 1 st December each year.		
		 The fees and charges are set by Council, taking into consideration the recommendations of the committee and the operating requirements of the facility. 		
		 The committee is not able to provide subsidies or waive hire fees as specified in Item 4 of the Appendix. 		
		 Details of Uninsured Casual Hires - committees are required to report the number of times the facility is used by uninsured casual hirers to enable Council to complete its Insurance Renewal Declaration. This information is required to be forwarded to Council's Responsible Officer for Volunteers prior to 31 March each year. 		
		An uninsured 'Casual Hirer' means "any person or group of persons (not being a sporting body, club, association, corporation or incorporated body), who hires a Council facility for non-commercial or non- profit making purposes, less frequently than once per calendar month or 12 times per calendar year".		
		 Notification to Council should also include a brief description of the type of use on those occasions, eg birthday party, family reunion etc. 		
Item 14	Changes to Terms of Reference or Appendix – Adopted by Council Meeting Date Minute No Resolution	Schedule to Constitution adopted 26 June 2001, Minute No. 237. Terms of Reference adopted by Council 27 October 2015, Minute No. 322. Amended Terms of Reference adopted 9 May 2017, Minute No. 106.		
		Appendix for Tanilba Bay Parks Reserves and Hall Committee adopted by Council 23 August 2016, Minute No. 238.		
		Appendix for Tanilba Foreshore Hall Committee adopted by Council 10 December 2019, Minute No. xx.		
Item 15	Additional clauses or amendments to Terms of Reference or Schedule To be listed in full – body of terms of Reference not to be altered	Clause 16 – Halls The committee will be required to meet the following expenses from income received from the hire of the hall: Water usage charges Electricity charges Cleaning costs Agreed contribution to repairs, maintenance and ground maintenance.		
		Council will meet the following expenses: Council rates Standing charges for water Sewerage charges Waste collection Structural maintenance and repairs		

MINUTES ORDINARY COUNCIL - 10 DECEMBER 2019 ITEM 8 - ATTACHMENT 1 APPENDIX TO 355C COMMITTEE TERMS OF REFERENCE - TANILBA FORESHORE HALL COMMITTEE.

ITEM 8 - ATTACHMENT 2 MINUTE NO. 267 - 26 AUGUST 2018.

MINUTES ORDINARY COUNCIL - 28 AUGUST 2018

ITEM NO. 6 FILE NO: 18/143022

EDRMS NO: PSC2017-01586

SERVICE REVIEW - VOLUNTEER MANAGEMENT

REPORT OF: STEVEN BERNASCONI - COMMUNITY SERVICES SECTION

MANAGER

GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Endorse the Volunteers Management service package as outlined, to deliver the required level of service to meet the organisation's future needs.

ORDINARY COUNCIL MEETING - 28 AUGUST 2018 MOTION

Councillor Glen Dunkley Councillor Sarah Smith It was resolved that Council endorse the Volunteers Management service package as outlined, to deliver the required level of service to meet the organisation's future needs.

BACKGROUND

The purpose of this report is to endorse the Volunteers Management service package.

The Volunteers Management is part of the Community Services Section and the Facilities and Services Group. The vision of Volunteers Management is providing opportunities for people to have meaningful engagement in their local community.

Port Stephens has a population of 71,000 with 700 registered Council volunteers. By way of comparison, Newcastle City Council has a population of 160,000 with 350 registered Council volunteers. Creation and management of a framework to govern all Council volunteers is provided by the Volunteers Coordinator (1 FTE). It includes:

- Recruitment and registration of volunteers.
- Reward and recognition for volunteers.
- Training and development of volunteers.
- Governance and management frameworks.
- Guidelines and resources.
- · Hall and park forums.

PORT STEPHENS COUNCIL

ITEM 8 - ATTACHMENT 2 MINUTE NO. 267 - 26 AUGUST 2018.

MINUTES ORDINARY COUNCIL - 28 AUGUST 2018

Fees and charges.

In most cases volunteers and 355c committees are directly managed by other council teams. The Volunteers Management service review has shown that:

- 1) There is no standard practice for how Council takes over management of a hall facility when a 355c hall committee disbands.
- The 355c committee model for parks groups limits growth in volunteer numbers through the formality and governance requirements of 355c of the *Local Government Act 1993 (NSW)*.
- Port Stephens Council is "the last bastion" of 355c committees in local government with most other councils moving towards a focus on Landcare and informal working groups for their activities.
- 4) Learning and development for volunteers is largely limited to governance and compliance matters. There is a growing demand for a renewed focus on natural resource management skills development, social networking and peer support.
- 5) Parks committees are calling for more support from Council staff to help plan and resource projects. A reduction of volunteers willing to take on governance roles in committees, an ageing volunteer workforce and a growing trend in short term/project specific volunteering are driving this demand.
- 6) Financial governance requirements for parks and cemetery committees are onerous given these committees manage small sums of money yet are required to account for this money in the same manner as committees with large budgets.
- 7) There is no clear direction as to whether parks and cemetery committees' purpose is to provide hands on assistance with the maintenance of public spaces or to accumulate money with a view to directing Council's strategic asset management planning for parks and cemeteries.

The recommendations from the service review, to be deployed over a two year period in continued consultation with volunteers and 355c Committees are to:

- Make no changes to 355c committees where the primary purpose is the management of bookings and financial aspects of Council facilities. This includes sports councils, hall committees, and other financial committees.
- Make no changes to non-financial 355c committees where the sole purpose is an advisory role to Council.
- Make no changes to how volunteers are managed directly by staff (eg Libraries, Visitors Information Centre, Public Domain and Services Section).
- 4) Initiate alternative options for hall facility management where there is no community management or where committees' capabilities are limited and do not meet Council requirements. This includes liaising with primary users to take on the role of booking agent or, leasing the hall to a tenant with provisions for community use or, commercial management of the facility.
- 5) Disband 355c committee model of operation for parks and cemetery committees over time and establish groups of Council volunteers working on Council land that report to the Parks Team of the Public Domain and Services Section.

PORT STEPHENS COUNCIL

ITEM 8 - ATTACHMENT 2 MINUTE NO. 267 - 26 AUGUST 2018.

MINUTES ORDINARY COUNCIL - 28 AUGUST 2018

6) Establish a new paid position to support the growth in parks and cemetery groups to enable these groups to formulate site specific action plans and to be the linchpin between the groups and other Council teams.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021		
	Support volunteers to deliver appropriate community services.		

FINANCIAL/RESOURCE IMPLICATIONS

The recommendations from the service review do not result in any financial gain to Council's operational budget. Existing funding arrangements for 355c committees will be retained with disbanded parks and cemetery committees pooling their annual subsidy to be used for on the ground works within the financial year. Accounting for these funds will move from a committee Treasurer and the associated paper based process to Council's job number system and financial reporting tools. Committees with banked savings will be consulted on how best to allocate these funds to local projects that align with Council's Strategic Asset Management Plan.

Funding for a new position to support parks and cemetery groups is reliant on a new funding source being determined and will result in an increased call on general revenue with existing resources or future income streams. The start date for the proposed new position will be determined by the take up of the parks and cemetery group model by existing 355c committees and aspiring and as yet unformed groups.

For clarity, the existing financial subsidy allocated to eligible 355c committees will not be used to fund the proposed new support role.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	95,000	One new FTE salary package and resource budget. Funding source to be determined through existing budgetary processes.
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy impediments to adopting this recommendation.

PORT STEPHENS COUNCIL

ITEM 8 - ATTACHMENT 2 MINUTE NO. 267 - 26 AUGUST 2018.

MINUTES ORDINARY COUNCIL - 28 AUGUST 2018

As committees disband or change purpose further reports to Council will be forthcoming to endorse such changes as required by section 355c of the *Local Government Act 1993*.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that not adopting the recommendation will lead to existing volunteers feeling ignored resulting in volunteer disengagement.	Low	Adopt the recommendation and manage all feedback through existing communication channels.	Yes
There is a risk that adopting the recommendation will lead to existing volunteers feeling ignored resulting in volunteer disengagement.	Low	Adopt the recommendation and manage all feedback through existing communication channels.	Yes
There is a risk that not adopting the recommendation will lead to fewer volunteers as fewer people are attracted to the 355c committee model of volunteering.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendation will create more opportunities for volunteers to participate in parks, Landcare and cemetery improvement projects which in turn build a sense of community wellbeing and value to the local environment.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Community Services Section. The consultation formed part of the cyclical service review process.

PORT STEPHENS COUNCIL

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ITEM 8 - ATTACHMENT 2 MINUTE NO. 267 - 26 AUGUST 2018.

MINUTES ORDINARY COUNCIL - 28 AUGUST 2018

Internal

Consultation using interviews, surveys, presentations and desk top analysis has involved the following internal stakeholders:

- 1) Staff who supervise or have direct contact with volunteers.
- 2) Volunteers of Council:
 - a. Park forums (March and July 2017, March and July 2018).
 - b. Hall forums (July 2017 and July 2018).
 - c. Cemetery committee engagement (May 2018.)
 - d. Park committee engagement (May 2018).
 - e. Community engagement workshop (November 2017).
 - f. Volunteer surveys and direct submissions.
 - g. "Cashless trial" with a 355c committee.
- 3) Consultative Committee.
- 4) Senior Management.
- 5) Executive Leadership Team.
- 6) Two way conversations with Councillors on 17 July and 21 August 2018.

External

Consultation using interviews and surveys has involved the following external stakeholders:

- 1) Users of Council's parks and reserves.
- 2) Regular users of Council's halls.
- 3) 21 other council's with volunteers and 355c committees.
- 4) Hunter Volunteer Centre.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

PORT STEPHENS COUNCIL

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ITEM NO. 9 FILE NO: 19/369525

EDRMS NO: PSC2005-4218

355C COMMITEE TERMS OF REFERENCE APPENDICES REVIEW

REPORT OF: ZOE PATTISON - BUSINESS SYSTEMS SUPPORT SECTION

MANAGER

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Revoke the following 355c committee constitution schedules and/or terms of reference appendices (ATTACHMENT 1):

- a. Fern Bay Hall, Reserves and Tidy Towns Committee Schedule
- b. Mallabula Community Centre Committee Schedule
- c. Raymond Terrace Senior Citizens Centre Management Committee Schedule.
- 2) Adopt the 355c Committee Terms of Reference Appendices for the following committees (ATTACHMENT 2):
- a. Fern Bay Community Centre Committee
- b. Mallabula Community Centre Committee
- c. Raymond Terrace Senior Citizens Hall Management Committee.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

Councillor Sarah Smith Councillor Chris Doohan It was resolved that Council: 1) Revoke the following 355c committee constitution schedules and/or terms of reference appendices (ATTACHMENT 1): a. Fern Bay Hall, Reserves and Tidy Towns Committee Schedule b. Mallabula Community Centre Committee Schedule c. Raymond Terrace Senior Citizens Centre Management Committee Schedule. 2) Adopt the 355c Committee Terms of Reference Appendices for the following committees (ATTACHMENT 2): a. Fern Bay Community Centre Committee b. Mallabula Community Centre Committee c. Raymond Terrace Senior Citizens Hall Management Committee.

BACKGROUND

The purpose of this report is recommend to Council the adoption of amended 355c committee terms of reference appendices for 4 committees.

At its meeting of 27 October 2015 Council resolved to receive further reports to endorse the adoption of individual 355c Committee Appendices following consultation with each Committee, Minute No. 322 (ATTACHMENT 3). The Appendix template reflects changes in policies and legislation associated with 355c Committees and the roles and functions of the committees and staff.

As part of the review, the following committees required new Terms of Reference Appendices as their current Constitution Schedules are out of date. The table below outlines when the Constitution Schedules were adopted and/or amended by Council.

NAME OF COMMITTEE	DATE OLD SECHEDULES/APPENDICES ADOPTED AND/OR AMENDED
Fern Bay Hall, Reserves and Tidy Towns Committee	Schedule adopted 27/11/01 (Min No. 485).
Mallabula Community Centre Committee	Schedule adopted 25/9/01 (Min No.392).
Raymond Terrace Senior Citizens Centre Management Committee	Schedule adopted 28/5/02 (Min No. 193) and amended 18/1/05 (Min No. 014).

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Diversity	Support volunteers to deliver appropriate community services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no foreseen financial or resource implications resulting from the recommendations in this report.

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

A 355c Committee Terms of Reference sets out mandatory provisions for the administration and management of the committees and their requirements under the Local Government Act 1993. The Appendix is the supporting document to the Terms of Reference detailing the individual purpose and roles of each committee and any clauses within the Terms of Reference that are not relevant to that committee's functions.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that conflict between 355c Committee Members arises due to management and operational requirements not being clearly outlined in a detailed Appendix.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council establishes 355c Committees to assist in Council operations under the Local Government Act 1993. Committees are made up of volunteers who assist in the maintenance and operation of Council facilities as well as planning and advisory roles. They offer a range of services that enhance the environment and the community, promoting positive partnerships and financially sustainable practices.

CONSULTATION

Consultation with key stakeholders was undertaken by the Organisation Development Section. Consultation both within Council and with the community is vital for key governance documents such as this to ensure requirements are met in the operation of community volunteers under the Local Government Act 1993.

Internal

Thorough consultation was undertaken in 2015 in the development of the 355c Committee Terms of Reference. The template for individual Committee Appendices was part of this process and outlined in the Council report of 27 October 2015.

External

A draft 355c Committee Terms of Reference Appendix for each committee was prepared in conjunction with individual committees. Final drafts have been ratified by the committees and are now being recommended for Council endorsement.

OPTIONS

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

ATTACHMENTS

- 1) Schedules or Appendices to be revoked.
- 2) Appendices to be adopted.
- 3) Minute No. 322 27 October 2015.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 9 - ATTACHMENT 1 SCHEDULES OR APPENDICES TO BE REVOKED.

SCHEDULE TO CONSTITUTION

Item 1	Name Of Committee	Fern Bay Hall, Reserves and Tidy Towns Committee
Item 2	Name of Council Section	Recreations Services
Item 3	Functions delegated by Council to committee	To co-operate with Council to ensure that facilities are provided and maintained at an acceptable standard.
	(Objectives)	Undertake the functions of: arranging bookings for hire of facility receiving and banking fees & charges arranging cleaning providing reports to Council on maintenance requirements
		To make recommendation to Council as to the development, planning and management of Fern Bay Hall.
		To make recommendations to Council on appropriate charges for the use of Fern Bay Hall.
		To refer requests for additional work to Council for consideration and setting of priorities.
		Provide a community link to assist Council staff in consulting with the community on management plans.
		Reserves
		Co-ordinate working bees, liaise with Council staff re working bees in Fern Bay.
		Encourage and support the community and/or community groups, to participate in programs benefiting Fern Bay.
		Co-ordinate and/or assist in the preparation of entries for Tidy Towns Programs for the Fern Bay area.
		Co-ordinate and/or assist Council and the community in the participation in international and national environmental events.
		Assist in the sourcing of alternate funding (eg grants) or voluntary labour (eg work for dole) for committee projects.
		Provide a community link to assist Council staff in consulting with the community on management plans.
		Promote and participate in environmental education programs with schools and the community
Item 4	Restrictions on functions delegated	All works undertaken will be with the knowledge and approval of Raymond Terrace Parks Co-ordinator (Reserves) Contracts & Halls Co-ordinator (Hall)
Item 5	Policies, legislation the committee is required to comply with	Principle policies & legislation including but not limited to: OH&S 2000 OH&S Regulation 2001 LGA & Regulations 1993 PPIPA 1988 Code of Conduct Code of Meeting Practice Accessing Information Policy Child Protection Policy Volunteers Policy

ITEM 9 - ATTACHMENT 1 SCHEDULES OR APPENDICES TO BE REVOKED.

Item 6	Date on which constitution concludes	September of Council Election each four years. Council to re adopt constitution within three months following election.
Item 7	Maximum number and make up of committee members	Up to five interested community persons.
Item 8	Councillors	As resolved by Council.
Item 9	Council employees	Raymond Terrace Parks Co-ordinator (Reserves) Halls & Contracts Co-ordinator (Hall)
Item 10	Name of financial institution and type of account	Commonwealth Bank Cheque – interest bearing
Item 11	Name of any account operated by the committee	Fern Bay Hall, Reserves & Tidy Towns Committee a S355(b) committee of Port Stephens Council
Item 12	Area assigned to committee and/or map	Fern Bay Hall and adjacent reserve
Item 13	Additional clauses or amendments to Standard Constitution or Schedule. To be listed in full - body of constitution not to be altered.	Clause 16 – Halls The committee will be required to meet the following expenses from income received from the hire of the hall: a) Water Usage Charges b) Electricity charges c) Cleaning Costs d) Agreed contribution to repairs & maintenance Council will meet the following expenses a) Council Rates b) Standing Charges for Water c) Sewerage Charges d) Structural Maintenance & Repairs
Item 14	Changes to constitution or Schedule – Adopted by Council: Meeting Date: Minute No: Resolution:	Adopted by Council 27 November 2001 Minute No. 485

ITEM 9 - ATTACHMENT 1 SCHEDULES OR APPENDICES TO BE REVOKED.

SCHEDULE TO CONSTITUTION

Item 1	Name Of Committee	Mallabula Community Centre Committee
Item 2	Name of Council Section	Recreation Services
Item 3	Functions delegated by Council to committee (Objectives)	 To co-operate with Council to ensure that facilities are provided and maintained at an acceptable standard. Undertake the functions of: arranging bookings for hire of facility receiving and banking fees & charges arranging cleaning providing reports to Council on maintenance requirements To make recommendations to Council as to the development, planning and management of Mallabula Community Centre. To make recommendations to Council on appropriate charges for the use of Mallabula Community Centre. To refer requests for additional work to Council for consideration and setting of priorities. Encourage and support the community and/or community groups, to participate in programs benefiting the community at Mallabula Community Centre. In co-operation with Council, Government Departments and other bodies/organisations ensure that wherever possible optimum use is made of existing facilities. Provide a community link to assist Council staff in consulting with the community on management plans
Item 4	Restrictions on functions delegated	All works undertaken will be with the knowledge and approval of the Contracts & Halls Coordinator
Item 5	Policies, legislation the committee is required to comply with	Principle policies & legislation including but not limited to: OH&S 2000 OH&S Regulation 2001 LGA & Regulations 1993 PPIPA 1988 Code of Conduct Code of Meeting Practice Accessing Information Policy Child Protection Policy Volunteers Policy
Item 6	Date on which constitution concludes	September of Council Election each four years. Council to re adopt constitution within three months following election.
Item 7	Maximum number and make up of committee members	Up to seven interested community members
Item 8	Councillors	As resolved by Council.
Item 9	Council employees	Contracts & Halls Coordinator

ITEM 9 - ATTACHMENT 1 SCHEDULES OR APPENDICES TO BE REVOKED.

Item 10	Name of financial institution and type of account	Greater Building Society Ltd Passbook Account Three Investment Accounts
Item 11	Name of any account operated by the committee	Mallabula Community Centre Committee a S355(b)committee of Port Stephens Council
Item 12	Area assigned to committee and/or map	Mallabula Community Centre
Item 13	Additional clauses or amendments to Standard Constitution or Schedule. To be listed in full - body of constitution not to be altered.	Clause 16 – Halls The committee will be required to meet the following expenses from income received from the hire of the hall: a) Water Usage Charges b) Electricity charges c) Cleaning Costs d) Agreed contribution to repairs & maintenance Council will meet the following expenses a) Council Rates b) Standing Charges for Water c) Sewerage Charges d) Structural Maintenance & Repairs
Item 14	Changes to constitution or Schedule – Adopted by Council: Meeting Date: Minute No: Resolution:	Adopted by Council 25/9/01 Minute No. 392

ITEM 9 - ATTACHMENT 1 SCHEDULES OR APPENDICES TO BE REVOKED.

SCHEDULE TO CONSTITUTION

Name of Committee	Raymond Terrace Senior Citizens Centre Management Committee
Name of Council Team	Community and Library Services
Functions delegated by Council to committee	To co-operate with Council to ensure that facilities are provided and maintained at an acceptable standard.
(Objectives)	2. Undertake the functions of: • arranging bookings for hire of facility • receiving and banking fees & charges • arranging cleaning • arranging lawn mowing • providing reports to Council on maintenance requirements 3. To make recommendation to Council as to the development, planning and management of Raymond Terrace Senior Citizens Centre. 4. To make recommendations to Council on appropriate
	 charges for the use of the facility. To refer requests for additional work to Council for consideration and setting of priorities. Keeping Association members and the community informed of proposals by the committee.
Restrictions on functions delegated	All works undertaken will be with the knowledge and approval of Community and Library Services Manager
Policies, legislation the committee is required to comply with	Principle policies & legislation including but not limited to: OH&S 2000 PH&S Regulation 2001 LGA & Regulations 1993 PPIPA 1988 Code of Conduct Code of Meeting Practice Accessing Information Policy Child Protection Policy Volunteers Policy
Date on which constitution concludes	September of Council Election each four years. Council to re adopt constitution within three months following election.
Maximum number and make up of committee members	Up to seven financial members of the Raymond Terrace Senior Citizens Association to be appointed by Council from a panel of eight nominated by the Raymond Terrace Senior Citizens Association. Vacancies on the committee are to be filled from a panel of three persons nominated by the Raymond Terrace Senior Citizens Association.
	Restrictions on functions delegated Policies, legislation the committee is required to comply with Date on which constitution concludes Maximum number and make up of

ITEM 9 - ATTACHMENT 1 SCHEDULES OR APPENDICES TO BE REVOKED.

Item 8	Councillors	As resolved by Council.
Item 9	Council employees	Community and Library Services Manager
Item 10	Name of financial institution and type of account	Commonwealth Bank Cheque Account Investment Account
Item 11	Name of any account operated by the committee	Raymond Terrace Senior Citizens Centre Management Committee a S355(b) committee of Port Stephens Council
Item 12	Area assigned to committee and/or map	Raymond Terrace Senior Citizens Centre and adjacent rental property
Item 13	Additional clauses or amendments to Standard Constitution or Schedule. To be listed in full - body of constitution not to be altered.	Clause 16 – Halls The committee will be required to meet the following expenses from income received from the hire of the hall: a) Water Usage Charges b) Electricity charges c) Cleaning Costs d) Agreed contribution to repairs & maintenance Council will meet the following expenses a) Council Rates b) Standing Charges for Water c) Sewerage Charges d) Structural Maintenance & Repairs
Item 14	Changes to constitution or Schedule – Adopted by Council: Meeting Date: Minute No: Resolution:	Constitution Adopted by Council 28 May 2002 Minute No.193 Amendment to constitution numbers (6 to 7) adopted by Council 18 January 2005 Minute No 014

APPENDIX TO 355(c) COMMITTEE TERMS OF REFERENCE

Item 1	Name of committee	Fern Bay Community Centre Committee
Item 2	Purpose of committee	6.1.1 Council will engage its citizens in developing plans for the future of the Port Stephens Local Government Area.
Item 3	Functions delegated by Council to committee (Objectives)	 Cooperate with Council to ensure that facilities are provided and maintained at an acceptable standard. Undertake the functions of: arranging bookings for hire of the hall; receiving and banking fees and charges; arranging cleaning; and providing reports to Council on maintenance requirements. Liaise with Council as to the development, planning and management of Fern Bay Community Centre and adjacent facilities. Make recommendations to Council on appropriate fees and charges for the use of the facility. Provide forward works priorities to Council for consideration and planning of future works. Encourage and support the community and/or community groups, to participate in programs benefiting Fern Bay. Be an avenue through which Council can engage with the community on matters that affect them.
Item 4	Restrictions on functions delegated	Any works undertaken will be with the knowledge and approval of the Community and Recreation Coordinator and/or Building Trades Coordinator. Committees that have volunteers between the age of 15 to 18 years working on 355(c) projects are required to have at least one member present with a current Working With Children Check, alternatively a parent or guardian, of that person under 18 years is required to be on site working with the young person in question.
Item 5	Policies, legislation the committee is required to comply with	Principle policies and legislation including but not limited to: Local Government Act 1993 Work Health and Safety Act 2011 Privacy and Personal Information Protection Act 1998 State Records Act 1998 PSC 355c Committee Terms of Reference and Appendix PSC Code of Conduct PSC Code of Meeting Practice PSC Access to Information Policy PSC Procurement Policy PSC WHS Statement of Commitment
Item 6	Term of Committee	September of Council Election each four years. Council to readopt Terms of Reference within three months following election.

355(c) Committee Terms of Reference Appendix – Fern Bay Community Centre Committee – Adopted 10/12/19

Item 7	Maximum number	Up to fifty (50) General Members.		
	and make up of			
	committee members			
Item 8	Executive and Advisory members	Three (3) to four (4) Executive Members:		
		Up to five (5) Advisory Members		
Item 9	Councillors	As resolved by Council		
Item 10	Council employees	Corporate Services Group Organisation Support Section Manager Organisation Support Section Governance Section Community and Recreation Coordinator Building Trades Coordinator Parks Coordinator Volunteers Coordinator Finance Coordinator Facilities and Services Senior Business Support Advisor Community and Recreation Asset Officer		
Item 11	Name of financial institution and type of account/s	Newcastle Permanent Club Account		
Item 12	Name of any account operated by the committee	Fern Bay Community Centre Committee, a 355c Committee of Port Stephens Council		
Item 13	Reporting	Financial Record Keeping and Reporting		
		 Committees must spend their annual allocation from Council only on items and works that enable them to exercise their Functions delegated to them from Council pursuant to Clause 3 and outlined in Item 3 of the Appendix. 		
		 With the introduction of the Goods and Services Tax effective from 1 July 2000, all 355(c) committees are obliged to comply with the new tax system. 		
		 a) All committees are covered under Council's Australian Business Number (16744377876). 		
		 b) Committees are responsible for administering the requirements of GST legislation, that is charging GST on taxable supplies and correctly identifying input tax credits claimable from the Australian Taxation Office. 		
		 Accordingly, each committee must supply Council with details of GST applicable to all financial transactions for inclusion in Council's monthly Business Activity Statements (BAS). 		
		 d) Compliance with this request will ensure Council's obligation is met on time and will avoid any interest or penalty chargeable by the ATO. 		

Item 13	Reporting	3.	The	e Treasurer shall be responsible for ensuring:
cont			a)	The proper keeping of the books and accounts of the committee, which shall be kept as directed by the General Manager and made available to the Council when required for that purpose by the General Manager.
			b)	Accounts must be accessible by the General Manager who must be able to authorise, in his or her own right, withdrawals from any account held by the committee.
			c)	Forwarding monthly financial and GST reporting to Council's designated Responsible Officer each month in a format as directed by the General Manager. (Only those Committees with quarterly bank statements may choose to report quarterly instead of monthly.)
				 This includes a cash book style financial record keeping system (manual or electronic) supplied by Council, which is set up to record income, expenditure, GST and reconciliations in a simple format.
				 The cash book is completed each month and the original forwarded to Council with copies of tax invoices, tax input receipts and bank statements.
				 The totals of each month are entered onto the Annual Financial Summary reporting page.
			d)	Receiving monies on behalf of the committee and maintaining accurate records of the receipt of such monies.
			e)	Attending to the payment of accounts and other expenses approved by the committee on behalf of the committee, and maintaining an accurate record of such payments.
			f)	Issuing of tax invoices.
			g)	Annual Financial Summary to be forwarded prior to 31 March each year to Council's Responsible Officer for finance in a format as provided by Council, and to include:
				 copy of bank statement, bank book or on-line banking printout clearly indicating the balance as at the 31st December each year. copies of documentation supporting all increases and decreases in any investment accounts.
		4.	witl fina suc	monies received by the committee shall be deposited hin seven (7) days of receipt into an account in the ancial institution set out in Item 11 of the Appendix. Any ch account must have the names of the account/s set out tem 12 of the Appendix.

Item 13 cont	Reporting	5.	The committee may only operate those accounts set out in Item 11 and 12 of the Appendix or as directed in writing by the General Manager.
			a) Any cheques drawn on behalf of the committee or withdrawals from any account operated by the committee shall be signed by any two (2) of the Executive as determined by the committee.
			b) All financial accounts must have two Council staff signatories, including all term deposit accounts in accordance with Item 10 of the Appendix.
			c) All committees are required to advise Council of the details of the persons who are authorised signatories of the committee's bank account, when a new account is opened, and when changes to the signatories occurs.
			d) All financial accounts held by the committee must include the words "A 355c Committee of Port Stephens Council" in the account name.
			e) The committee is also required to provide documentation at the Annual General Meeting, from the financial institution, listing the current signatories, on each account held. This documentation will form part of the Minutes of the Annual General Meeting.
		6.	The committee must not, at any time, incur any expenditure in excess of the amount held in the committee's credit in the account operated by the committee. In any event, no expenses of any member of the committee, or the committee, shall be paid unless authorised by resolution of the committee.
		7.	The committee may authorise the transfer of an amount not exceeding the sum of \$50.00, to be known as "petty cash", which shall be held by the Treasurer subject to any direction by the committee.
		8.	The financial year shall be the period from the 1 January to 31 December.
		Gei	neral Reporting
		1.	Annual Reporting - to be forwarded prior to 31 March each year to Council's Responsible Officer for Volunteers and must include:
			Minutes of AGM and Account Signatories.
			 Committee Annual Report - a brief summary of activities and projects undertaken by the committee between 1 January and 31 December, and proposed projects and activities.
			Updated list of all Members.

Item 13 cont	Reporting	 Recommendations for Fees and Charges to be forwarded to Council by 1st December each year.
		 a) The fees and charges are set by Council, taking into consideration the recommendations of the committee and the operating requirements of the facility.
		 b) The committee is not able to provide subsidies or waive hire fees as specified in Item 4 of the Appendix.
		3. Uninsured Casual Hirers - Committees are required to report the number of times the facility is used by uninsured casual hirers to enable Council to complete its Insurance Renewal Declaration. This information is required to be forwarded to Council's Responsible Officer for Volunteers prior to 31 March each year.
		 An uninsured 'Casual Hirer' means "any person or group of persons (not being a sporting body, club, association, corporation or incorporated body), who hires a Council facility for non-commercial or non-profit making purposes, less frequently than once per calendar month or 12 times per calendar year".
		 Notification to Council should also include a brief description of the type of use on those occasions, eg birthday party, family reunion etc.
Item 14	Changes to Terms of Reference or Appendix –	Schedule to Constitution for Fern Bay Reserves, Hall and Tidy Towns Committee adopted 27 November 2001, Minute No. 485.
	Adopted by Council Meeting Date Minute No Resolution	355(c) Committee Terms of Reference adopted by Council 27 October 2015, Minute No 322. Amended Terms of Reference adopted at Council Meeting 9 May 2017, Minute No 106.
	resolution	355(c) Committee Terms of Reference Appendix for Fern Bay Community Centre Committee by Council 10 December 2019, Minute No. xx.
Item 15	Additional clauses or amendments to Terms of Reference or Schedule To be listed in full – body of terms of Reference not to be altered	Clause 16 – Halls The committee will be required to meet the following expenses from income received from the hire of the hall: Water usage charges Electricity charges Cleaning costs Agreed contribution to repairs and maintenance Council will meet the following expenses: Council rates Standing charges for water Sewerage charges Waste collection Structural maintenance and repairs

ITEM 9 - ATTACHMENT 2 APPENDICES TO BE ADOPTED.

APPENDIX TO 355(c) COMMITTEE TERMS OF REFERENCE

Item 1	Name of committee	Mallabula Community Centre Committee
Item 2	Purpose of committee	6.1.1 Council will engage its citizens in developing plans for the future of the Port Stephens Local Government Area.
Item 3	Functions delegated by Council to committee (Objectives)	 Cooperate with Council to ensure that facilities are provided and maintained at an acceptable standard. Undertake the functions of: arranging bookings for hire of the hall; receiving and banking fees and charges; arranging cleaning; and providing reports to Council on maintenance requirements. Liaise with Council as to the development, planning and management of Mallabula Community Centre. Make recommendations to Council on appropriate fees and charges for the use of the facility. Provide forward works priorities to Council for consideration and planning of future works. Encourage and support the community and/or community groups, to participate in programs benefiting Mallabula. Be an avenue through which Council can engage with the community on matters that affect them.
Item 4	Restrictions on functions delegated	Any works undertaken will be with the knowledge and approval of the Community and Recreation Assets Coordinator and/or Building Trades Coordinator.
Item 5	Policies, legislation the committee is required to comply with	Principle policies and legislation including but not limited to: Local Government Act 1993 Work Health and Safety Act 2011 Privacy and Personal Information Protection Act 1998 State Records Act 1998 PSC 355c Committee Terms of Reference and Appendix PSC Code of Conduct PSC Code of Meeting Practice PSC Access to Information Policy PSC Procurement Policy PSC WHS Statement of Commitment
Item 6	Term of Committee	September of Council Election each four years. Council to readopt Terms of Reference within three months following election.
Item 7	Maximum number and make up of committee members	Up to fifty (50) General Members.

Item 8	Executive and Advisory members	Three (3) to four (4) Executive Members: Chairperson Vice Chairperson Treasurer Secretary Up to five (5) Advisory Members		
Item 9	Councillors	As resolved by Council		
Item 10	Council employees	Corporate Services Group Organisation Support Section Manager Organisation Support Section Governance Section Community and Recreation Coordinator Building Trades Coordinator Parks Coordinator Volunteers Coordinator Finance Coordinator Facilities and Services Senior Business Support Advisor Community and Recreation Asset Officer		
Item 11	Name of financial institution and type of account/s	Greater Bank Access Account Investment Account		
Item 12	Name of any account operated by the committee	Mallabula Community Centre Committee, a 355c committee of Port Stephens Council		
Item 13	Reporting	Financial Record Keeping and Reporting		
		 Committees must spend their annual allocation from Council only on items and works that enable them to exercise their Functions delegated to them from Council pursuant to Clause 3 and outlined in Item 3 of the Appendix. With the introduction of the Goods and Services Tax effective from 1 July 2000, all 355(c) committees are obliged to comply with the new tax system. 		
		 a) All committees are covered under Council's Australian Business Number (16744377876). 		
		 b) Committees are responsible for administering the requirements of GST Legislation, that is charging GST on taxable supplies and correctly identifying input tax credits claimable from Australian Tax Office (ATO). 		
		 Accordingly, each committee must supply Council with details of GST applicable to all financial transactions for inclusion in Council's monthly Business Activity Statements (BAS). 		
		 d) Compliance with this request will ensure Council's obligation is met on time and will avoid any interest or penalty chargeable by the ATO. 		

Item 13	Reporting	3.	The	e Tr	reasurer shall be responsible for ensuring:
cont			a)	co Ge wh	me proper keeping of the books and accounts of the mmittee, which shall be kept as directed by the eneral Manager and made available to the Council pen required for that purpose by the General anager.
			b)	wh	counts must be accessible by the General Manager no must be able to authorise, in his or her own right, thdrawals from any account held by the committee.
			c)	in the be rep	orwarding monthly financial and GST reporting to buncil's designated Responsible Officer each month a format as directed by the General Manager. (Only ose Committees with quarterly bank statements will granted permission to submit quarterly financial ports, which must be received by the end of the lowing month.)
				i.	This includes a cash book style financial record keeping system (manual or electronic) supplied by Council, which is set up to record income, expenditure, GST and reconciliations in a simple format.
				ii.	The cash book is completed each month and the original forwarded to Council before the end of the following month, along with copies of tax invoices, tax input receipts and bank statements.
				iii.	The totals of each month are entered onto the Annual Financial Summary reporting page.
			d)	ma	eceiving monies on behalf of the committee and aintaining accurate records of the receipt of such onies.
			e)	ex co	tending to the payment of accounts and other penses approved by the committee on behalf of the mmittee, and maintaining an accurate record of ch payments.
			f)	lss	suing of tax invoices.
			g)	Ma fin	anual Financial Summary to be forwarded prior to 31 arch each year to Council's Responsible Officer for ance in a format as provided by Council, and to clude:
					copy of bank statement, bank book or on-line banking printout clearly indicating the balance as at the 31st December each year. copies of documentation supporting all increases and decreases in any investment accounts.
		4.	with fina suc	hin anci ch a	nies received by the committee shall be deposited seven (7) days of receipt into an account in the al institution set out in Item 11 of the Appendix. Any account must have the names of the account/s set Item 12 of the Appendix.

Item 13 cont	Reporting	5.	The committee may only operate those accounts set out in Item 11 and 12 of the Appendix or as directed in writing by
			the General Manager.
			 Any cheques drawn on behalf of the committee or withdrawals from any account operated by the committee shall be signed by any two (2) of the Executive as determined by the committee.
			 All financial accounts must have two Council staff signatories, including all term deposit accounts in accordance with Item 10 of the Appendix.
			c) All committees are required to advise Council of the details of the persons who are authorised signatories of the committee's bank account, when a new account is opened, and when changes to the signatories occurs.
			 All financial accounts held by the committee must include the words "A 355c Committee of Port Stephens Council" in the account name.
			e) The committee is also required to provide documentation at the Annual General Meeting, from the financial institution, listing the current signatories, on each account held. This documentation will form part of the Minutes of the Annual General Meeting.
		6.	The committee must not, at any time, incur any expenditure in excess of the amount held in the committee's credit in the account operated by the committee. In any event, no expenses of any member of the committee, or the committee, shall be paid unless authorised by resolution of the committee.
		7.	The committee may authorise the transfer of an amount not exceeding the sum of \$50.00, to be known as "petty cash", which shall be held by the Treasurer subject to any direction by the committee.
		8.	The financial year shall be the period from the 1 January to 31 December.
		Gei	neral Reporting
		1.	Annual Reporting - to be forwarded prior to 31 March each year to Council's Responsible Officer for Volunteers and must include:
			 Minutes of AGM and Account Signatories.
			 Committee Annual Report – brief summary of activities/ projects undertaken between 1 January and 31 December, and proposed projects and activities.
			 Updated list of all Members.

Item 13 cont	Reporting	2. Recommendations for Fees and Charges to be forwarded to Council by 1 st December each year.
		 The fees and charges are set by Council, taking into consideration the recommendations of the committee and the operating requirements of the facility.
		 b) The committee is not able to provide subsidies or waive hire fees as specified in Item 4 of the Appendix.
		3. Details of Uninsured Casual Hires - committees are required to report the number of times the facility is used by uninsured casual hirers to enable Council to complete its Insurance Renewal Declaration. This information is required to be forwarded to Council's Responsible Officer for Volunteers prior to 31 March each year.
		An uninsured 'Casual Hirer' means "any person or group of persons (not being a sporting body, club, association, corporation or incorporated body), who hires a Council facility for non-commercial or non- profit making purposes, less frequently than once per calendar month or 12 times per calendar year".
		 Notification to Council should also include a brief description of the type of use on those occasions, eg birthday party, family reunion etc.
Item 14	Changes to Terms of Reference or Appendix – Adopted by Council	355(c) Committee Terms of Reference adopted by Council 27 October 2015, Minute No 322. Amended Terms of Reference adopted 9 May 2017, Minute No 106.
	Meeting Date Minute No Resolution	355(c) Committee Terms of Reference Appendix for Mallabula Community Centre Committee adopted by Council 10 December 2019, Minute No. xx.
Item 15	Additional clauses or amendments to Terms of Reference or Schedule To be listed in full – body of terms of Reference not to be altered	Clause 16 – Halls The committee will be required to meet the following expenses from income received from the hire of the hall: Water usage charges Electricity charges Cleaning costs Agreed contribution to repairs, maintenance and ground maintenance.
		Council will meet the following expenses: Council rates Standing charges for water Sewerage charges Waste collection Structural maintenance and repairs

APPENDIX TO 355(c) COMMITTEE TERMS OF REFERENCE

Item 1	Name of committee	Raymond Terrace Senior Citizens Hall Management Committee
Item 2	Purpose of committee	6.1.1 Council will engage its citizens in developing plans for the future of the Port Stephens Local Government Area.
Item 3	Functions delegated by Council to committee (Objectives)	 Cooperate with Council to ensure that facilities are provided and maintained at an acceptable standard. Undertake the functions of: arranging bookings for hire of facility; receiving and banking fees and charges; arranging cleaning of the hall; arranging for maintenance of surrounding garden beds; and liaising with Council on hall maintenance requirements. Liaise with Council as to the development, planning and management of Raymond Terrace Senior Citizens Hall. Make recommendations to Council on appropriate charges for the use of the Senior Citizens Hall. Provide forward works priorities to Council for consideration and planning of future works. Encourage and support the community and/or community groups, to participate in programs benefiting the community at Raymond Terrace.
Item 4	Restrictions on functions delegated	Any works undertaken will be with the knowledge and approval of the Community and Recreation Coordinator and/or Building Trades Coordinator and/or Parks Supervisor.
Item 5	Policies, legislation the committee is required to comply with	Principle policies and legislation including but not limited to: Local Government Act 1993 Work Health and Safety Act 2011 Privacy and Personal Information Protection Act 1998 State Records Act 1998 PSC 355c Committee Terms of Reference and Appendix PSC Code of Conduct PSC Code of Meeting Practice PSC Access to Information Policy PSC Procurement Policy PSC WHS Statement of Commitment
Item 6	Term of Committee	September of Council Election each four years. Council to readopt Terms of Reference within three months following election.
Item 7	Maximum number and make up of committee members	Up to fifty (50) General Members.

355(c) Committee Terms of Reference Appendix – Raymond Terrace Senior Citizens Hall Management Committee – 10/12/19 1

ITEM 9 - ATTACHMENT 2 APPENDICES TO BE ADOPTED.

Item 8	Executive and Advisory members	Three (3) to four (4) Executive Members: Chairperson Vice Chairperson Treasurer Secretary Up to five (5) Advisory Members		
Item 9	Councillors	As resolved by Council		
Item 10	Council employees	Corporate Services Group Organisation Support Section Manager Organisation Support Section Governance Section Community and Recreation Coordinator Building Trades Coordinator Parks Coordinator Volunteers Coordinator Finance Coordinator Facilities and Services Senior Business Support Advisor Community and Recreation Asset Officer		
Item 11	Name of financial institution and type of account/s	Newcastle Permanent Club Account and Investment Account		
Item 12	Name of any account operated by the committee	Raymond Terrace Senior Citizens Hall Mngt Comm, 355c comm of PSC		
Item 13	Reporting	Financial Record Keeping and Reporting		
		 Committees must spend their annual allocation from Council only on items and works that enable them to exercise their Functions delegated to them from Council pursuant to Clause 3 and outlined in Item 3 of the Appendix. With the introduction of the Goods and Services Tax effective from 1 July 2000, all 355(c) committees are 		
		obliged to comply with the new tax system.		
		 a) All committees are covered under Council's Australian Business Number (16744377876). 		
		 b) Committees are responsible for administering the requirements of GST Legislation, that is charging GST on taxable supplies and correctly identifying input tax credits claimable from Australian Tax Office (ATO). 		
		 Accordingly, each committee must supply Council with details of GST applicable to all financial transactions for inclusion in Council's monthly Business Activity Statements (BAS). 		
		 d) Compliance with this request will ensure Council's obligation is met on time and will avoid any interest or penalty chargeable by Australian Taxation Office. 		

355(c) Committee Terms of Reference Appendix – Raymond Terrace Senior Citizens Hall Management Committee – 10/12/19 2

Item 13	Reporting	3.	The	Treasurer shall be responsible for ensuring:
cont			a)	The proper keeping of the books and accounts of the committee, which shall be kept as directed by the General Manager and made available to the Council when required for that purpose by the General Manager.
			b)	Accounts must be accessible by the General Manager who must be able to authorise, in his or her own right, withdrawals from any account held by the committee.
			c)	Forwarding monthly financial and GST reporting to Council's designated Responsible Officer each month in a format as directed by the General Manager. (Only those Committees with quarterly bank statements will be granted permission to submit quarterly financial reports, which must be received by the end of the following month.)
				This includes a cash book style financial record keeping system (manual or electronic) supplied by Council, which is set up to record income, expenditure, GST and reconciliations in a simple format.
				ii. The cash book is completed each month and the original forwarded to Council before the end of the following month, along with copies of tax invoices, tax input receipts and bank statements.
				iii. The totals of each month are entered onto the Annual Financial Summary reporting page.
			d)	Receiving monies on behalf of the committee and maintaining accurate records of the receipt of such monies.
			e)	Attending to the payment of accounts and other expenses approved by the committee on behalf of the committee, and maintaining an accurate record of such payments.
			f)	Issuing of tax invoices.
			g)	Annual Financial Summary to be forwarded prior to 31 March each year to Council's Responsible Officer for finance in a format as provided by Council, and to include: copy of bank statement, bank book or on-line banking printout clearly indicating the balance as at the 31st December each year. copies of documentation supporting all increases and decreases in any investment accounts.
		4.	with fina suc	monies received by the committee shall be deposited nin seven (7) days of receipt into an account in the incial institution set out in Item 11 of the Appendix. Any is account must have the names of the account/s set in Item 12 of the Appendix.

Item 13	Reporting	5.	The committee may only operate those accounts set out in			
cont			tem 11 and 12 of the Appendix or as directed in writing by the General Manager.			
			Any cheques drawn on behalf of the committee or withdrawals from any account operated by the committee shall be signed by any two (2) of the Executive as determined by the committee.			
		1	 All financial accounts must have two Council staff signatories, including all term deposit accounts in accordance with Item 10 of the Appendix. 			
		(All committees are required to advise Council of the details of the persons who are authorised signatories of the committee's bank account, when a new account is opened, and when changes to the signatories occurs.			
		(d) All financial accounts held by the committee must include the words "A 355c Committee of Port Stephens Council" in the account name.			
			e) The committee is also required to provide documentation at the Annual General Meeting, from the financial institution, listing the current signatories, on each account held. This documentation will form part of the Minutes of the Annual General Meeting.			
		1	The committee must not, at any time, incur any expenditure in excess of the amount held in the committee's credit in the account operated by the committee. In any event, no expenses of any member of the committee, or the committee, shall be paid unless authorised by resolution of the committee.			
		1	The committee may authorise the transfer of an amount not exceeding the sum of \$50.00, to be known as "petty cash", which shall be held by the Treasurer subject to any direction by the committee.			
			The financial year shall be the period from the 1 January to 31 December.			
		Gen	General Reporting			
		у	Annual Reporting - to be forwarded prior to 31 March each rear to Council's Responsible Officer for Volunteers and must include:			
		-	Minutes of AGM and Account Signatories.			
		•	Committee Annual Report – brief summary of activities/ projects undertaken between 1 January and 31 December, and proposed projects/activities.			
		•	Updated list of Members.			

Item 13 cont	Reporting	Recommendations for Fees and Charges to be forwarded to Council by 1 st December each year.		
		 a) The fees and charges are set by Council, taking into consideration the recommendations of the committee and the operating requirements of the facility. 		
		 b) The committee is not able to provide subsidies or waive hire fees as specified in Item 4 of the Appendix. 		
		3. Details of Uninsured Casual Hires - committees are required to report the number of times the facility is used by uninsured casual hirers to enable Council to complete its Insurance Renewal Declaration.		
		 An uninsured 'Casual Hirer' means "any person or group of persons (not being a sporting body, club, association, corporation or incorporated body), who hires a Council facility for non-commercial or non-profit making purposes, less frequently than once per calendar month or 12 times per calendar year". 		
		 Notification to Council should also include a brief description of the type of use on those occasions, eg birthday party, family reunion etc. 		
Item 14	Changes to Terms of Reference or Appendix –	Former Constitution Schedule amended and adopted by Council on 18 January 2005, Minute No. 14.		
	Adopted by Council Meeting Date Minute No Resolution	355(c) Committee Terms of Reference adopted by Council 27 October 2015, Minute No. 322. Amended Terms of Reference adopted by Council 9 May 2017, Minute No. 106.		
		355(c) Committee Terms of Reference Appendix for Raymond Terrace Senior Citizens Hall Management Committee adopted by Council 10 December 2019, Minute No. xx.		
Item 15	Additional clauses or amendments to Terms of Reference or Schedule To be listed in full – body of terms of Reference not to be altered	Water usage chargesElectricity chargesCleaning costs		
		Council will meet the following expenses: Council rates Standing charges for water Sewerage charges Waste collection Structural maintenance and repairs		

MINUTES ORDINARY COUNCIL - 27 OCTOBER 2015

ITEM NO. 13 FILE NO: PSC2015-01000/852

TRIM REF NO: A2004-0709

DRAFT 355(C) COMMITTEE TERMS OF REFERENCE

REPORT OF: STEVEN BERNASCONI - COMMUNITY SERVICES SECTION

MANAGER

GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Adopt the draft 355(c) Committee Terms of Reference as shown in (ATTACHMENT 1) and the draft Committee Appendix Template as shown in (ATTACHMENT 2).

- Delegate authority to the General Manager to make any minor amendments to the Terms of Reference and Committee Appendix Template as adopted to correct any drafting errors.
- Revoke the 355(c) Committee Standard Constitution as amended by Council on 13 September 2011 Minute Number 329 (ATTACHMENT 3).
- Receive further reports to endorse the adoption of individual 355(c) Committee Appendices following consultation with each Committee.

ORDINARY COUNCIL MEETING - 27 OCTOBER 2015 COMMITTEE OF THE WHOLE RECOMMENDATION

Councillor Geoff Dingle Councillor Chris Doohan

That the recommendation be adopted. changes

ORDINARY COUNCIL MEETING - 27 OCTOBER 2015 MOTION

322 Councillor Ken Jordan Councillor Chris Doohan

It was resolved that Council:

1) Adopt the draft 355(c) Committee Terms of Reference as shown in (ATTACHMENT 1) and the draft Committee Appendix Template as shown in (ATTACHMENT 2), subject to rewording clause 7.6 j) to read "Committee's that have volunteers between the age of 15 to 18 years working on 355(c) projects are required to have at least on member present with a current Working With Children Check, alternatively a parent or guardian, of that person under 18 years, is

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MINUTES ORDINARY COUNCIL - 27 OCTOBER 2015

- required to be on site working with the young person in question.
- 2) Delegate authority to the General Manager to make any minor amendments to the Terms of Reference and Committee Appendix Template as adopted to correct any drafting errors.
- Revoke the 355(c) Committee Standard Constitution as amended by Council on 13 September 2011 Minute Number 329 (ATTACHMENT 3).
- Receive further reports to endorse the adoption of individual 355(c)
 Committee Appendices following consultation with each Committee.

BACKGROUND

The purpose of this report is to recommend the adoption of the revised draft 355(c) Committee Terms of Reference and the individual draft 355(c) Committee Appendix Template.

The content of the 355(c) Committee Standard Constitution has not been reviewed since 2003. It was evident that legislation, in particular regarding Work Health and Safety, had changed since 2003 and the Constitution required updating to reflect these changes. Concerns were also raised by Committee members that the terminology regarding Committee membership within the document was confusing.

Council uses the mechanisms available in section 355 of the *Local Government Act* 1993 to delegate certain activities, services or events on Council land. Members of the 355(c) Committees are registered Council Volunteers and governed by Council. Their governance requirements are detailed in the draft 355(c) Committee Terms of Reference.

The review process began in April 2015, with consultation undertaken with relevant Council staff, Committee Members and Councillors. The process is detailed in the consultation section of this report.

Research into other Council's 355(c) Committees revealed that the common practice was for 355(c) Committees to be guided by a Terms of Reference rather than a Constitution, which is more commonly used for the governance of incorporated associations. It was therefore recommended throughout the consultation process of the review, that the Constitution be renamed to a Terms of Reference. This was accepted by internal Council stakeholders and Committee Members.

The main changes included in the draft 355(c) Terms of Reference are:

 Updated legislation such as the Work Health and Safety Act 2011 and changes to Council procedures including financial administration, record keeping and specific worksite inductions.

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MINUTES ORDINARY COUNCIL - 27 OCTOBER 2015

- Clarified structure of the Committees to include definitions of Executive and Advisory Members with all members being defined as General Members. All General Members are all Registered Volunteers of Council.
- All Committees allowed up to fifty General Members, with voting rights at the Annual General Meeting.
- Clarification between Casual Volunteers and Registered Volunteers and the Work Health and Safety requirements they operate under.
- Clarification of requirements for Committees to follow Council's Procurement Management Directive when engaging others to provide goods and or services.
- 6) The inclusion of a Working With Children Check for Committee Members, with at least one General Member with a Working With Children Check to be supervising at an activity of the Committee where a Volunteer is over the age of fifteen years and under the age of eighteen years. This is a requirement under the Working With Children (Child Protection Act) 2012 of the NSW Office of Children's Guardian. The check is free for volunteers to obtain and is valid for a period of five years.
- 7) Executive Membership is to have a maximum term of three years, unless there are no alternative nominations.
- One Executive Member must remain an Executive Member each year to retain Committee knowledge.
- 9) Clarification and additional information on mechanisms and governance involved in the formation and operation of 355(c) Committees.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2014-2019
Port Stephens has strong governance and civic leadership.	Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications from adopting the recommendations.

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

PORT STEPHENS COUNCIL

ITEM 9 - ATTACHMENT 3 N

MINUTE NO. 322 - 27 OCTOBER 2015.

MINUTES ORDINARY COUNCIL - 27 OCTOBER 2015

LEGAL, POLICY AND RISK IMPLICATIONS

A 355(c) Committee Terms of Reference sets out mandatory provisions for the administration and management of the Committees and their requirements under the *Local Government Act*. This is designed to ensure that a Committee does not undertake any work or activities, whether directly or by the use of volunteer labour, that contravenes any legislation or relates to a function that cannot or has not been delegated to that Committee. The Committee can therefore exercise their delegation in a manner that is consistent with Council's policy objectives, and ensure their delegation is implemented in a manner that does not expose Council to liability.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council is liable for injury or incident relating to operations and work undertaken by Council Volunteers.	Medium	Ensure that all volunteers comply with Council policy procedures and processes.	Yes
There is a risk that Council Volunteers are unaware of their requirements as a 355(c) Committee Volunteer under the Local Government Act, and are therefore vulnerable to unwittingly cause harm to themselves or others while operating as a 355(c) Committee Volunteer.	Medium	Ensure that all volunteers comply with Council policy procedures and processes.	Yes
There is a risk that conflict between the 355(c) Committee Members arises due to management and operational requirements not being clearly outlined in a detailed 355(c) Committee Terms of Reference.	Low	Provide information to 355(c) Committee Volunteers that outlines their management and code of conduct responsibilities.	Yes
There is a risk that volunteers and committee members may view the new Terms of	Low	Adopt the recommendations in the knowledge that the Terms of Reference has been prepared in full	Yes

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ITEM 9 - ATTACHMENT 3

MINUTE NO. 322 - 27 OCTOBER 2015.

MINUTES ORDINARY COUNCIL - 27 OCTOBER 2015				
Reference as more 'red tap in reputation	e' resulting	consultation with existing 355(c) committees.		

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council establishes community committees to undertake projects and assist in Council operations under section 355(c) of the *Local Government Act*. The activities and projects undertaken by Committees are often those that would not be financially viable for Council without volunteer assistance.

Council currently has forty eight 355(c) Committees who assist in the care of Council parks, reserves, cemeteries, facilities and services. This is vital to Council working in partnership with the community and provides opportunities for volunteering for Council to be safe, accessible and enjoyable. It ensures the community has a say and can have an active role in the operation of Council facilities and services.

A number of the Committees undertake work including dune stabilisation, conservation, weed eradication and litter removal. This environmental support afforded to Council by these volunteers is invaluable. The Committees work in partnership with Council ensuring activities are performed in accordance with recognised practices that often provide long term benefits to the environment.

CONSULTATION

- Relevant staff members were involved in the initial review process, providing updated information according to their area of expertise, to ensure the draft Terms of Reference meets legislation and Council policy and procedures.
- 2) Briefings were provided to Councillors on the proposed review process (25 June 2015, 30 June 2015 and 13 July 2015) with a summary of proposed recommendations and a timeline for implementation of the review. Information was also provided to Councillors in PS News Letter.
- 3) An internal Review Working Party met throughout the review process to consider recommendations and feedback for inclusion into all drafts of the document. The members of the Working Party were the Governance Manager, Legal Services Manager, Community Services Section Manager and the Volunteer Coordinators.
- 4) Sports Councils were consulted, with updates provided at Sports Council meetings. Council staff responsible for 355(c) Committees and their members, including the Aboriginal Strategic Committee, Strategic Arts Committee and the Heritage Advisory Committee provided feedback throughout the process.
- 5) The first draft was distributed to all 355(c) Committees of Council, with a summary of proposed recommendations and the review timeline. Committee Members were given six weeks to consider the draft. Nine Committees provided feedback. It was then discussed as an agenda item for both the Halls and Parks Forums in July 2015. An after-hours session was scheduled as an

PORT STEPHENS COUNCIL

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MINUTES ORDINARY COUNCIL - 27 OCTOBER 2015

- opportunity for Sports Council members and 355(c) Committee Volunteers that are in paid employment for an update and discussion in person.
- 6) A second draft was then distributed to Committee Members for further consideration and feedback for inclusion in the final draft. Seven Committees provided feedback at this stage.
- Once adopted the new Terms of Reference will be distributed to all 355(c) Committees for their records. A works program has been established to gradually update each and every 355(c) Committee Appendix to align with the new template. These new Appendix documents will be reported to Council in batches as they reach a final version.

OPTIONS

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

ATTACHMENTS

- 1) Draft 355(c) Committee Terms of Reference (Provided under separate cover)
- 2) Draft 355(c) Committee Appendix Template (Provided under separate cover)
- 3) 355(c) Committee Standard Constitution. (Provided under separate cover)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

PORT STEPHENS COUNCIL

Councillor Jaimie Abbott left the meeting at 7:31pm. Councillor Giacomo Arnott left the meeting at 7:31pm.

ITEM NO. 10 FILE NO: 19/348266

EDRMS NO: PSC2006-0038

POLICY REVIEW: AIRCRAFT NOISE POLICY

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION

MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

 Receive and note the submission received from the Commonwealth Department of Defence during the public exhibition period (ATTACHMENT 2).

- 2) Adopt the revised Aircraft Noise Policy (ATTACHMENT 1).
- 3) Revoke the Aircraft Noise Policy adopted by Council on 25 October 2016, Minute No. 311.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

251 Councillor Chris Doohan Councillor Steve Tucker

It was resolved that Council:

- 1) Receive and note the submission received from the Commonwealth Department of Defence during the public exhibition period (ATTACHMENT 2).
- 2) Adopt the revised Aircraft Noise Policy (ATTACHMENT 1).
- 3) Revoke the Aircraft Noise Policy adopted by Council on 25 October 2016, Minute No. 311.

BACKGROUND

The purpose of this report is to present to Council the submission received during public exhibition, and seek Council adoption of the revised Aircraft Noise Policy (the revised policy) (ATTACHMENT 1).

The revised policy aims to provide a framework for planning decisions and other Council programs relating to aircraft noise. It provides information about aircraft noise and guidance for planning proposals and planning certificates.

The revisions include:

- Reformatting the policy into the new policy template.
- Administrative amendments to update references to legislation and other relevant documents.
- Amendments to remove duplication of requirements in the Port Stephens Local Environmental Plan 2013 (LEP 2013) and Port Stephens Development Control Plan 2014 (DCP 2014) in relation to the assessment of development applications.
- Administrative amendments to align the policy with other Council policies and Council's style guide.

The revisions are complementary to the recent amendments made to the DCP 2014 to refer to the 2025 Australian Noise Exposure Forecast (ANEF) for the purposes of assessing development applications.

The revised policy will continue to refer to the Aircraft Noise Planning Area Map (a composite of the 2025 ANEF and the former 2012 ANEF) for the purposes of providing adequate notification of affected land on planning certificates issued to prospective purchasers of land. This will satisfy good faith obligations to ensure Council notifies future landowners that a property may be affected by aircraft noise.

On 27 August 2019, Council resolved to exhibit the revised policy for 28 days. The exhibition period took place from 12 September 2019 to 10 October 2019. During public exhibition, 1 submission was received from the Commonwealth Department of Defence (Defence) and no other submissions were received (ATTACHMENT 2).

Following exhibition, a minor amendment was made to the revised policy to update references to "RAAF Base Williamtown – Newcastle Airport". This amendment responds to the submission from Defence. The submission from Defence also included proposed amendments to the guideline that accompanies the policy, and these have been incorporated in the guideline.

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

Costs associated with the implementation of the revised policy are covered in the existing Council budget and will be subject to standard organisation budget review procedures and approvals.

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

There are no foreseen legal or policy risk implications as a result of the recommendation. The revised policy has been prepared with regard to Council's good faith obligations to provide prospective purchasers with adequate notice of relevant matters in planning certificates.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the revised policy does not align with other Council policies and planning legislation.	Low	The revised policy ensures planning certificates continue to provide prospective purchasers of current hazard risk restrictions. The policy is reviewed periodically and the mapping will be updated when the aeroplanes flying under the 2012 ANEF have been phased out.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The revised policy will continue to have positive social economic and environmental implications through the provisions of a framework for land use planning, provision of information about aircraft noise, and guidance for planning proposals.

CONSULTATION

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

Internal

The revised policy was informed by the consultation in relation to the amendment to the DCP Aircraft Noise Planning Area Map. This included internal consultation with the Development Assessment and Compliance Section and the Legal Services team.

External

The revised policy was placed on public exhibition from 12 September 2019 to 10 October 2019. Copies were made available at Council's Administration Building, main libraries and on Council's website. Public notice of the exhibition was placed in the Port Stephens Examiner.

No submissions were received from the general public.

Consultation with Defence was undertaken in accordance with the established Memorandum of Understanding (MoU) between Council and Defence dated 23 September 2015. A copy of their submission is provided at (ATTACHMENT 2).

Defence is supportive of the revised policy and provided specific comments and suggested amendments to better reflect Defence operations at RAAF Base Williamtown. These have been incorporated into the revised policy and supporting guideline.

OPTIONS

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

ATTACHMENTS

- 1) Aircraft Noise Policy.
- 2) Submissions.

COUNCILLORS ROOM

1) Un-redacted submission.

TABLED DOCUMENTS

Nil.

ITEM 10 - ATTACHMENT 1 AIRCRAFT NOISE POLICY.

Policy



FILE NO: PSC 2006-0038

TITLE: PORT STEPHENS AIRCRAFT NOISE POLICY

POLICY OWNER: STRATEGY AND ENVIRONMENT SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to give effect to the Port Stephens Aircraft Noise Guideline for the purposes of land use planning decisions related to planning proposals and the issue of planning certificates. provide a framework for land use-planning decisions and other Council programs relating to aircraft noise. It sets out-principles to guide planning proposals, development assessment, provision of aircraft noise information and efforts to initiate aircraft noise amelioration programs. It sets out the basis for local policy directions for managing aircraft noise issues to:
- a) Protect the RAAF Base Williamtown and Newcastle Airport.
- b) Protect the community.
- c) Respond to local circumstances and expectations.
- d) Exercise due care and diligence.
- e) Inform the public.
- f) Promote cooperation.
- 1.2 The policy should be read in conjunction with the Port Stephens Aircraft Noise Guideline (consistency with the guideline constitutes consistency with the policy).

2. CONTEXT/BACKGROUND:

2.1 Aircraft noise is not a new issue for the LGA due to the community's long-standing-coexistence with RAAF Base Williamtown, Newcastle Airport, and the Salt Ash Air-Weapons Range. To limit aircraft noise impacts, Council has for many years-applied controls on new development in aircraft noise affected areas. These controls are based on Australian Noise Exposure Forecast (ANEF) maps and Australian-Standard 2021-2015- Acoustics-Building siting and construction (AS 2021-2015). This policy sets out the basis and local policy directions for managing aircraft noise issues. Aircraft noise in Port Stephens originates from the RAAF Base Williamtown - Newcastle Airport, and the Salt Ash Air Weapons Range. Aircraft noise has the potential to cause adverse amenity impacts on surrounding land uses.

Policy

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ITEM 10 - ATTACHMENT 1 AIRCRAFT NOISE POLICY.

Policy



- 2.2 To address potential aircraft noise impacts, provisions in Council's statutory planning instruments apply to relevant development applications (ie the Port Stephens Local Environmental Plan 2013 (LEP 2013) and the Port Stephens Development Control Plan 2014).
- 2.3 Council has also executed a Memorandum of Understanding (MOU) with the Commonwealth Department of Defence for the purposes of exercising planning functions for development located within the Aircraft Noise Planning Area identified in the Port Stephens Aircraft Noise Guideline. The MOU sets out procedures for notification and consultation with the Commonwealth Department of Defence in relation to relevant land use planning decisions.

3. SCOPE:

- 3.1 The policy relates specifically to the following Councilfunctions:
- a) Consideration of planning proposals (rezoning requests).
- b) Issuing planning certificates.
- c) Assessment of development applications.
- d) Information management (including planning certificates).
- 3.2 The policy and Port Stephens Aircraft Noise Guideline affects those apply to properties and landowners that are located within the Aircraft Noise Planning Area identified in that guideline.

4. **DEFINITIONS**:

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

Planning and Assessment Act 1979 containing planning and other information about the relevant land. Planning certificates are required to be attached to a contract for the sale of land under the conveyancing

legislation.

Planning proposal A request to make an amendment to the LEP 2013.

(rezoning request) Amendments may include changes to permissible land uses,

building heights or minimum lot sizes.

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ITEM 10 - ATTACHMENT 1 AIRCRAFT NOISE POLICY.

2012 ANEF 2012 Australian Noise Exposure Forecast. This forecast was

made in 2003 and is based upon predicted conditions in 2012. It reflects the operation of existing Hawk and Hornet aircraft and is expected to continue to at least

2018.

2025 ANEF 2025 Australian Noise Exposure Forecast. This forecast was

made on 10 August 2011 and is based on predicted conditions in 2025. It reflects the operation of Joint Strike Fighter combat aircraft after 2018 and the continued

operation of the Hawk aircraft.

ANPA Aircraft Noise Planning Area the area of land subject to

aircraft noise related development controls. It comprises all properties that are wholly or partly within the ANEF 20 contour on 'relevant ANEF maps' and includes land that is within ANEF contours of 20 and greater (note: the ANPA is a composite of the 2012 ANEF and the

2025 ANEF).

AS 2021-2015 Australian Standard 2021-2015 Acoustics Aircraft Noise

Intrusion Building Siting and Construction. This is a nationally recognised standard for development affected by

aircraft noise.

5. POLICY STATEMENT:

5.1 The policy and related guideline aims to:

- a) Recognise the fundamental significance of RAAF Base Williamtown, Newcastle Airport RAAF Base Williamtown – Newcastle Airport and Salt Ash Air Weapons range at the nation, State, regional and local levels.
- b) Protect the long-term operation of those facilities by preventing encroachment of incompatible activities that are sensitive to aircraft noise.
- To eEnsure that aircraft noise impacts on the community are within acceptable limits.
- d) Allow a merit-based framework that is responsive to local expectations, weighs up potential costs and benefits to the community, and promotes approaches that are cost-effective, equitable and affordable.
- e) Ensure that planning proposal functions and functions related to the issue of planning certificates and information management functions are exercised with a reasonable standard of care and diligence.
- f) Facilitate the issue of planning certificates that provide information about the likelihood of aircraft noise provision of information to the public about aircraft noise that is accurate and meaningful, and that enables people to make appropriate decisions.

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ITEM 10 - ATTACHMENT 1 AIRCRAFT NOISE POLICY.

g) To-Promote a cooperative framework in which all interested stakeholders can contribute to the future planning of RAAF Base Williamtown – Newcastle Airport and its environs.

6. POLICY RESPONSIBILITIES:

- 6.1 Strategic Planning team (policy review_and, planning proposal assessment and planning certificates).
- 6.2 Development Assessment and Compliance Section (development application assessment)

7. RELATED DOCUMENTS:

- 7.1 Environmental Planning and Assessment Act 1979 (NSW).
- 7.2 Local Planning Direction 3.5 Development Near Licensed Aerodromes. Local Planning Direction 3.5 Development Near Regulated Airports and Defence Airfields.
- 7.3 Port Stephens Local Environmental Plan 2013.
- 7.4 Port Stephens Development Control Plan 2014.
- 7.5 Port Stephens Aircraft Noise Guideline (attached).

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 PSC 2006-0038 17/100053-54 **EDRMS EDRMS** record No container No **TBA** Audience General Process owner Strategy and Environment Section Strategy and Environment Section Manager Author Review Next review date 25/10/2018 Two years timeframe **TBA** 23/08/2011 Adoption date

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ITEM 10 - ATTACHMENT 1 AIRCRAFT NOISE POLICY.

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	23/08/11	Group Manager, Sustainable Planning	N/A	292
1.1	25/10/16	Strategy and Environment Section Manager	Provide policy in corporate template. Amend title of previous 'Port Stephens Aircraft Noise Policy 2010' to 'Port Stephens Aircraft Noise Guideline' and attach as supporting document. Key updates include reference to: Port Stephens Local Environmental Plan 2013 (LEP 2013); Port Stephens Development Control Plan 2014 (DCP); Australian Standard 2021-2015 Acoustics - Aircraft noise intrusion - building siting and construction (AS2021 2015); and the Memorandum of Understanding (MOU) between Council and the Commonwealth (Department of Defence) 23 September 2015.	311

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ITEM 10 - ATTACHMENT 1 AIRCRAFT NOISE POLICY.

1.2	TBA	Strategy and Environment Section Manager	Policy reviewed and a draft prepared with amendments to adopt the new template for Council policies.	TBA
			1.1 Update to clarify the purpose of the Policy and avoid duplication of other Council instruments that apply to the assessment of impacts of aircraft noise.	
			2.1-2.2-2.3 Update to clarify the background and context of the Policy and to include reference to the other Council instruments that address aircraft noise impacts.	
			3.1 Amendments to simplify the language of the Policy.	
			3.2 Amendments to clarify that the Policy and Port Stephens Aircraft Noise Guideline only apply to land.	
			4.1 Updates to remove references to terms not used in the Policy and to add definitions for 'planning certificate' and 'planning proposal'.	
			5.1. Amendment to clarify the aims of the Policy related to planning certificates and planning proposals.	
			6.2 Update to remove reference to the Development and Compliance Section as they do not exercise functions related to planning proposals and planning certificates.	
			7.2 Update reference to Local Planning Direction 3.5 Development Near Regulated Airports and Defence Airfields.	

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ITEM 10 - ATTACHMENT 2 SUBMISSIONS.

Policy Review: Aircraft Noise Policy Submissions

		Comment	Coursil
No.	Author of submission	Comment	Council response
1	Commonwealth Department of Defence	Thank you for forwarding the revised Port Stephens Aircraft Noise Policy to the Department of Defence (Defence) for comments. The Policy sets out Council's general policy approach to managing aircraft noise in relation to land use planning in the Port Stephens local government area. I note that the revised policy proposes to remove any reference to the former 2012 Australian Noise Exposure Forecast in order to reference the current 2025 ANEF for RAAF Base Williamtown. Defence is generally supportive of the revised Port Stephens Aircraft Noise Policy and the proposed amendments to the policy, which provides Council's policy framework for planning decisions and other Council programs relating to aircraft noise. It also defines the area covered by the policy as land which is wholly or partially within the ANEF 20 contour, and provides clear consideration to matters that have the potential to impact on the long-term operation of RAAF Base Williamtown, including notification requirements for development located within the Aircraft Noise Planning Area.	Noted. Defence reviewed the revised policy and is generally supportive of the revised policy and the proposed amendments to it. The policy and the related guideline have been updated and amended to address and/or include the specific comments and suggested amendments from Defence.
		Defence has reviewed the Port Stephens Aircraft Noise Policy and would like to make some specific comments and suggested amendments to better reflect Defence operations at RAAF Base Williamtown. The suggested comments are at Attachment A [below]:	
		Section 1.2 Principal Aims	
		3 rd dot-point please amend to read as - To ensure Port Stephens Council planning approvals/decision take into account aircraft noise impacts on the community and that they are within acceptable limits.	
		Section 2.4 Aircraft Noise Planning Area (under "Available ANEF Maps")	
		First paragraph could read: ANEF Maps for all flying operations for RAAF Base Williamtown and Newcastle Airport.	
		5 th paragraph - Defence has always advised Council to only use the 2025 ANEF and have not advised Council to consider keeping the 2012 ANEF Map. Council have decided for the past 7 years to use the 2012 ANEF.	
		Section 2.5 Planning Criteria (under "Aircraft Noise Burden")	
		Any noise impact does not sit solely with Defence. Newcastle Airport operates at Williamtown and thus it is a shared burden.	
		If Council makes a planning decision to allow noise sensitive development within the ANEF contours, then the aircraft noise burden becomes an existing one and it would also sit with Council.	

ITEM 10 - ATTACHMENT 2 SUBMISSIONS.

No.	Author of submission	Comment	Council response
		3.4 Principles (under "Consultation")	
		The Council should consult with the Department of Defence and Newcastle Airport and any stakeholder having a particular interest in the issue of aircraft noise.	
		4.2 Promoting cooperation	
		For each of the dot points please consider amending to include the following:	
		Appreciate the strategic importance and operational requirements of RAAF Base Williamtown to the Australian people;	
		Appreciate the strategic importance of Newcastle Airport and its operational requirements;	
		Ensure the local community is burdened to the minimum extent possible from aircraft operations from RAAF Base Williamtown and Newcastle Airport.	
		Part 6. RAAF Base Williamtown - Newcastle Airport	
		Please ensure the RAAF Base Williamtown is referred to in the title.	
		Naming convention	
		RAAF (Base) Williamtown - Newcastle Airport must be used when referred to.	
		Any reference to JSF should be amended to state: F-35 Lightning II.	

Councillor Jaimie Abbott returned to the meeting at 7:32pm. Councillor Giacomo Arnott returned to the meeting at 7:32pm.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

252	Councillor Chris Doohan Councillor Ken Jordan
	That Council adopt item 11 to 14 as a multi vote.

ITEM NO. 11 FILE NO: 19/363357

EDRMS NO: PSC2009-02488

POLICY REVIEW: BUDGET CONTROL AND AUTHORISATION POLICY

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

.....

RECOMMENDATION IS THAT COUNCIL:

1) Endorse the revised Budget Control and Authorisation Policy shown at (ATTACHMENT 1).

- 2) Place the revised Budget Control and Authorisation Policy on public exhibition for a period of 28 days and should no submission be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Budget Control and Authorisation Policy dated 12 December 2017, Minute No. 318 should no submissions be received.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

253	Councillor Chris Doohan Councillor Ken Jordan
	It was resolved that Council:
	1) Endorse the revised Budget Control and Authorisation Policy shown at (ATTACHMENT 1).
	 Place the revised Budget Control and Authorisation Policy on public exhibition for a period of 28 days and should no submission be received, the policy be adopted as amended, without a further report to Council.

 Revoke the Budget Control and Authorisation Policy dated 12 December 2017, Minute No. 318 should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Budget Control and Authorisation Policy.

The objective of the policy is to ensure that all Council expenditure is legally authorised and that effective systems of budgetary control are in place to monitor and report on actual income and expenditure compared with budgeted income and expenditure.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021	
Financial Management	Maintain strong financial sustainability.	

FINANCIAL/RESOURCE IMPLICATIONS

The implementation of the policy ensures that all Council expenditure is legally authorised and ensures the sound financial management of Council's assets.

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

Implementation of the Budget Control and Authorisation Policy ensures that all Council expenditure is authorised under the provisions contained in the Local Government Act 1993 (NSW) and the Local Government (General) Regulations 2005.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council's legal responsibilities will not be met if the policy is not implemented which could cause financial and/or reputational damage.	Low	Adopt the recommendations.	Yes
There is a risk that failing to effectively monitor and control actual income and expenditure in conjunction with budgeted income and expenditure could compromise Council's financial position.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council's budget is fundamental for operational sustainability and to the provision of facilities and services to the community.

CONSULTATION

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

<u>Internal</u>

Executive Team.

External

In accordance with local government legislation the revised Budget Control and Authorisation Policy will go on public exhibition for a period of 28 days.

OPTIONS

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

ATTACHMENTS

1) Revised Budget Control and Authorisation Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 11 - ATTACHMENT 1 REVISED BUDGET CONTROL AND AUTHORISATION POLICY.

Policy



FILE NO: PSC2009-02488

TITLE: BUDGET CONTROL AND AUTHORISATION POLICY

POLICY OWNER: FINANCIAL SERVICES SECTION MANAGER

1. PURPOSE:

1.1 The purpose of this policy is to ensure that all Council expenditure is legally authorised and that effective systems of budgetary control are in place to monitor and report on actual income and expenditure compared with budgeted income and expenditure.

2. CONTEXT/BACKGROUND:

2.1 On 20 September 2011, Council adopted a Budget Control and Authorisation Policy, Minute No. 349. Council is committed to ensuring the allocation of its resources is responsible and appropriate.

3. SCOPE:

- 3.1 The elected Council is responsible for the allocation of Council's resources for the benefit of the area (section 232 Local Government Act 1993 (NSW) (Local Government Act).
- 3.2 Council cannot delegate its authority to vote money for expenditure on works, services and facilities (section 377 Local Government Act).
- 3.3 The Council is responsible to regularly review and monitor its financial performance (section 232 Local Government Act).
- 3.4 The General Manager is responsible for the efficient and effective allocation of resources and ensuring appropriate policies and delegations of authority (section 335 Local Government Act).
- 3.5 Responsible budget officers are responsible for carrying out activities within their area of responsibility in accordance with their delegations from the General Manager.

4. **DEFINITIONS**:

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

Budget An estimate of income and expenditure for a set period of time.

Unexpended votes Financial resources not spent.

Policy

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Policy



Budget reviews A quarterly review of budget allocations submitted for Council

endorsement.

Responsible Accounting

Officer

A staff member designated by the General Manager in accordance with the Local Government Act to take charge of accounting and finance requirements of the organisation.

5. POLICY STATEMENT:

5.1 General

- 5.1.1 Each year, Council will approve estimated income and expenditure for works and services as detailed in the Community Strategic Plan. The estimates will be submitted to Council in the form of a 10-year Long Term Financial Plan. For the purposes of the Local Government (General) Regulation 2005 (NSW), Council will be deemed to have approved the budget at section group level.
- 5.1.2 No employees shall incur a liability unless Council has approved such expenditure and they must have the necessary authority delegated to incur a liability on behalf of Council.
- 5.1.3 As the Responsible Accounting Officer, the Financial Services Section Manager is to
- a) that appropriate budgeting and accounting systems (including internal control systems) are established and maintained.
- b) that a system of budgetary control is established and maintained that will enable Council's actual income and expenditure to be monitored each month and to be compared with the estimate of Council's income and expenditure. If any instance arises where the actual income or expenditure of the Council is materially different from its estimated income or expenditure, the General Manager must report the instance to the next meeting of Council.
- 5.2 Voting and authorising new expenditure
- 5.2.1 The voting and authorising of additional expenditure not included in the original budget is the statutory responsibility of Council and cannot be delegated to the General Manager or any other person. This requirement is valid irrespective of whether new items of expenditure are offset by additional income not included in the original estimates.
- 5.2.2 Council authority for such new items is to be obtained by either:
- a) including details in a quarterly budget review.
- b) in a separate report to Council.

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Policy



- 5.2.3 To ensure that all decisions by Council have taken into account the overall impact on the budget and Council priorities:
- a) reports are to include recommendations from the relevant section manager, of the impact on the current or future budgets.
- b) the funding/budget implications will be referred to a Council meeting as part of the Quarterly Budget Review Statement, with a recommendation from the Executive Leadership Team based on a corporate assessment of overall budget implications and priorities.

5.3 Transferring votes

- 5.3.1 The General Manager has delegated authority to approve the transfer of votes, within the same group across groups, up to a maximum of \$10,000 \$50,000. Such transfers and the reasons for the transfers are to be included in the next Quarterly Budget Review Statement.
- 5.3.2 The transfer of votes between groups must be submitted to Council for approval.
- 5.3.2 The transfer of votes within across groups for amounts in excess of \$10,000 \$50,000 or between operational and capital must be submitted to Council for approval.

5.4 Budget reviews

- 5.4.1 The General Manager Responsible Accounting Officer will prepare and submit to Council a Quarterly Budget Review Statement within two 2 months of the end of each quarter, except for the June quarter which is discretionary.
- 5.4.2 The Quarterly Budget Review Statement will show the actual income and expenditure at the end of the guarter and a revised estimate of income and expenditure for the year.
- 5.4.3 The Quarterly Budget Review Statement will itemise summarise any additional votes or transfers that require Council approval.
- 5.4.4 The Quarterly Budget Review Statement must include a report as to whether the General Manager Responsible Accounting Officer believes that the statement indicates if Council's financial position is satisfactory or unsatisfactory and recommendations for remedial action if necessary.
- 5.4.5 The Quarterly Budget Review Statement must include a report that provides sufficient information to alert Council to any issues or potential problems that may impact its ability to achieve stated financial targets.

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Policy



- 5.4.6 The Quarterly Budget Review Statement must include a report that provides sufficient information to inform Council as to whether Council's Capital Works Program is on track to deliver the projects outlined in its Asset Management Plan.
- 5.5 Unexpended votes (revotes)
- 5.5.1 All approvals and votes lapse at the end of the financial year or whenever Council's term of office ends. However, this does not apply to approvals and votes relating to:
- a) work carried out, work in progress or contracted to be carried out.
- b) any service provided, or contracted to be provided.
- c) goods and materials provided, or contracted to be provided.
- facilities provided, or contracted to be provided before the term of office of the Council ends.
- 5.5.2 The General Manager Responsible Accounting Officer will be responsible to determine if the criteria in 5.5.1 1) above will apply and to authorise the carrying forward of a vote into the next financial year. The General Manager Responsible Accounting Officer will submit a report to Council detailing these carried forward votes.
- 5.5.3 Once an approval or vote has lapsed, it can only be reinstated by a resolution of the Council. In the case of a newly elected Council, a report will be submitted to the first meeting of Council recommending the approval and voting of expenditure to enable the day-to-day operations of Council to continue. In the case of votes unexpended at the end of the financial year, a report is to be submitted to Council itemising the lapsed votes that in the opinion of the General Manager Responsible Accounting Officer, should be revoted for the next period.

6. POLICY RESPONSIBILITIES:

6.1 The Financial Services Section Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.

7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993.
- 7.2 Local Government Act (General) Regulation.

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Policy	1		



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www.portstephens	J.HSW.gov.uu		
EDRMS	PSC2009-02488	PSC2009-02488 EDRMS record No 17/209919	
container No			19/357704
Audience	Council staff		
Process owner	Financial Services Section	Financial Services Section Manager	
Author	Financial Services Section	Financial Services Section Manager	
Review	2 years Next review date		
timeframe			
Adoption date	21/07/1998		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	21/07/98	Financial Services Section Manager	Policy adopted.	336
2.0	20/09/11	Financial Services Section Manager	Amended policy adopted.	349
3.0	25/03/14	Financial Services Section Manager	Amended policy adopted.	62
4.0	16/12/15	Financial Services Section Manager	This policy has been reviewed and formatted into the new template. Included a definition of Responsible Accounting Officer.	
5.0	09/02/16	Financial Services Section Manager	Amended policy updated.	017
6.0	12/12/17	Financial Services Section Manager	Updated RM8 reference from 15/244602 to 17/209919.	318

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Policy



7.0	Financial Services	Updated policy into new template.
7.0	Section Manager	5.1.1 – Removed 'section'
		5.1.1 – Kelnoved Section 5.1.1 – Added 'Group'
		5.2.3 b) – Removed 'Leadership'.
		5.3.1 – Removed 'within the same
		group'
		5.3.1 – Added 'across Groups'
		5.3.1 – Removed '\$10,000'
		5.3.1 - Added '\$50,000'
		5.3.2 – Removed 'The transfer of
		votes between groups must be
		submitted to Council for approval.
		5.3.2 - Removed 'within'
		5.3.2 - Added 'across'
		5.4.1 – Removed 'General
		Manager'
		5.4.1 – Added 'Responsible
		Accounting Officer'
		5.4.3 – Removed 'itemise'
		5.4.3 – Added 'summarise'
		5.5.2 - Removed 'General
		Manager'
		5.5.2 – Added 'Responsible
		Accounting Officer' and '5.5.1'.
		5.5.3 – Removed 'General Manager'
		5.5.3 – Added 'Responsible
		Accounting Officer'
		6.1 – Inserted 'is responsible for
		implementing, complying with,
		monitoring, evaluating, reviewing
		and providing advice on the policy.'
		Updated EDRMS record number.
		opulated EDITINIO record fluiriber.

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ITEM NO. 12 FILE NO: 19/372065 EDRMS NO: PSC2007-02386

POLICY REVIEW: GRANTS AND DONATIONS

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

1) Endorse the revised Grants and Donations Policy shown at (ATTACHMENT 1).

- 2) Place the revised Grants and Donations Policy, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Grants and Donations Policy dated 28 June 2016, Minute No. 191 should no submissions be received.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

254 Councillor Chris Doohan Councillor Ken Jordan

It was resolved that Council:

- 1) Endorse the revised Grants and Donations Policy shown at (ATTACHMENT 1).
- 2) Place the revised Grants and Donations Policy, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Grants and Donations Policy dated 28 June 2016, Minute No. 191 should no submissions be received.

BACKGROUND

The purpose of this report is to provide the revised Grants and Donations Policy ('policy') to Council.

This policy has been reviewed as part of Council's ongoing policy review program. This policy provides a range of financial assistance opportunities funded from the Mayoral and Ward funds, Aboriginal Projects Fund, Community Projects Fund, Cultural Projects Fund, Environmental Projects Fund and the Heritage Projects Fund.

The changes to the policy are minor in nature and include a clause to ensure applicants are aware of ongoing responsible for infrastructure and/or equipment acquired as a result of funding provided by Council, rests with the applicant.

The policy is presented for Council's consideration.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE 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

As part of good governance, this policy will assist Council in managing grants and donations, making it clear to the community what opportunities exist.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that in the absence of a financial assistance framework, Council would not meet the requirements of the Local Government Act 1993.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

This Policy provides the community with opportunities to apply for project funds to assist with events and activities throughout the Port Stephens local government area.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Governance Section.

Internal

- The Executive Team have been consulted to seek management endorsement.
- The General Manager has been consulted to seek endorsement prior to Council consideration.

External

• Following Council adoption, the policy will be placed on public exhibition in the Port Stephens Examiner and on Council's website for a period of 28 days.

OPTIONS

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

ATTACHMENTS

1) Revised Grants and Donations Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2007-02386

TITLE: GRANTS AND DONATIONS POLICY

POLICY OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

1.1 The purpose of this policy is to provide a framework to enable Council to provide financial assistance to the Port Stephens community in an equitable and fair manner, whilst ensuring legislative compliance.

2. CONTEXT/BACKGROUND:

- 2.1 Council has provided financial assistance to the Port Stephens community over many years under a number of funding avenues such as; Community Financial Assistance Grants, Rapid Response financial assistance, Community Capacity Building, Heritage, Cultural, Aboriginal and Environmental projects.
- 2.2 These funds have been provided to enhance the Port Stephens local government area (LGA) to build on the Council vision and the surrounding communities.
- 2.3 This policy has been updated following a major review of all financial assistance provided by Council. As a result grants and donations will be covered by this policy, however any requests for sponsorship should be considered under the Corporate Sponsorship policy. Community group loans are managed under the Community Groups Loan Policy.
- 2.4 Council has a legislative requirement to ensure any monies distributed under Section 356 of the Local Government Act 1993 adhere to the legislative requirements.

3. SCOPE:

- 3.1 Port Stephens Council provides grants and donations to those within the local government area to assist in building our community.
- 3.1 This policy covers the following funding opportunities:
- a) Aboriginal Projects Fund*
- b) Community Projects Fund*
- c) Cultural Projects Fund*
- d) Environmental Projects Fund*

Policy

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Policy



- e) Heritage Projects Fund*
- f) Mayoral Funds available throughout the year, subject to funding availability.
- g) Rapid Response available throughout the year, subject to funding availability and requires signature of requesting councillor.
- h) Community Capacity Building available throughout the year, subject to funding availability and requires the signature of all ward councillors.
- 1) Aboriginal Projects Fund*
- 2) Community Projects Fund*
- 3) Cultural Projects Fund*
- 4) Environmental Projects Fund*
- 5) Heritage Projects Fund*
- 6) Mayoral Funds available throughout the year, subject to funding availability.
- Rapid Response available throughout the year, subject to funding availability and requires signature of requesting councillor.
- 8) Community Capacity Building available throughout the year, subject to funding availability and requires the signature of all ward councillors.
- 3.3 *Council will call for applications on an annual basis with each project fund offering different grant limits per application, with eligibility criteria applicable to each project fund. Guidelines are available for each fund.
- 3.4 Applications received from individuals will be subject to further legislative provisions and will require a public exhibition period prior to final approval.
- 3.5 Funds must be spent within the Port Stephens local government area or provided to a resident or organisation located within the local government area.
- 3.6 There may be a formal acquittal process for each application.
- 3.7 This policy does not cover requests for sponsorship or community group loans, please refer to Council's Corporate Sponsorship Policy and the Community Groups Loan Policy.
- 3.8 Council will not be responsible for any ongoing maintenance or improvements that arise from successful applications for funding, other than where the works may be on Council owned or managed lands, subject to Council agreement.

Policy



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Policy



4 DEFINITIONS:

Financial assistance Financial mechanisms provided by Council, as a third party,

to an organisation or individual to support activities that are in line with Council's Community Strategic Plan. As a third party, Council is not connected to the activities but may be

affected by them.

Grants Financial support given to an individual or organisation

to assist with identified activities or projects.

Expenditure does not represent an equal benefit to Council. Grants are financial assistance and are covered under s356

of the Local Government Act.

Donations Financial or non-financial (in-kind) support which is

provided with limited terms and conditions.

Expenditure does not represent an equal benefit to

Council.

Donations are financial assistance and are covered under

s356 of the Local Government Act.

Loans Financial support, to be repaid with interest over an agreed

term, which is provided to develop buildings or facilities

that are Council owned or managed.

Expenditure does represent an equal benefit to Council. Loans are commercial agreements and are not covered

under s356 of the Local Government Act.

Sponsorships Financial or non-financial (in-kind) support from Council to

an organisation or individual (the recipient) in return for mutually agreed economic, cultural, community or reputational benefits. These benefits may include

promotion, marketing and/or tickets.

Expenditure does represent an equal benefit to Council. Sponsorships are commercial agreements and are not

covered by s356 of the Local Government Act.

5 POLICY STATEMENT:

5.1 Port Stephens Council is committed to supporting its community with financial assistance where appropriate.

Policy



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Policy



5.2 Council's commitment is:

- a) To provide an equitable, transparent, accountable and coordinated approach for providing financial assistance to community groups in accordance with the terms of Section 356 of the Local Government Act 1993.
- To provide equitable financial assistance to people and organisations, bearing in mind that the Council is trustee and custodian of public assets and is bound by its charter to effectively account for and manage those assets.
- c) To promote a sense of community, community harmony and social cohesion.
- d) To assist communities under stress.
- e) To ensure fair distribution of activities and services throughout Port Stephens.
- f) To provide financial assistance by way of a grant or donation, not sponsorship.
- To provide an equitable, transparent, accountable and coordinated approach for providing financial assistance to community groups in accordance with the terms of Section 356 of the Local Government Act 1993.
- To provide equitable financial assistance to people and organisations, bearing in mind that
 the Council is trustee and custodian of public assets and is bound by its charter to effectively
 account for and manage those assets.
- · To promote a sense of community, community harmony and social cohesion.
- To assist communities under stress.
- To ensure fair distribution of activities and services throughout Port Stephens.
- To provide financial assistance by way of a grant or donation, not sponsorship.

6 POLICY RESPONSIBILITIES:

- 6.1 Applications for grants and donations will be coordinated by a project officer. Please refer to the relevant guidelines for contact details or Council's website www.portstephens.nsw.gov.au.
- 6.2 The General Manager is responsible for reporting to Council annually and certifying that expenditure under the Financial Assistance Program meets the necessary probity and transparency required by the Act. The Financial Assistance Program expenditure is reported in the Annual Report (Statutory Statements) as part of the requirements for s356.

7 RELATED DOCUMENTS:

- 7.1 Local Government Act 1993
- 7.2 Financial Assistance for Disposal of Waste policy
- 7.3 Community Groups Loan policy
- 7.4 Corporate Sponsorship policy
- 7.5 Debt Recovery and Hardship policy

Policy

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ITEM 12 - ATTACHMENT 1 **REVISED GRANTS AND DONATIONS POLICY.**

Policy

- 7.6 Rate Donation for Community Groups policy
- 7.7 Council Charter7.8 Code of Conduct



Policy		



CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No	PSC2007-2386 EDRMS record No 16/384443			
Audience	Port Stephens communit	Port Stephens community		
Process owner	Governance Section Ma	Governance Section Manager		
Author	Governance Section Ma	Governance <mark>Section</mark> Manager		
Review timeframe	Four years 2 years	Next review date	1 December 2019 1 December 2021	
Adoption date	28/06/2016			

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	19/05/2009	Corporate Planner	Adoption by Council	151
2.0	19/10/2010	Executive Officer	Adoption by Council	338
3.0	28/06/2016	Governance Manager	New policy following review of all financial assistance offered by Council and inserted into the new policy template.	191
3.1		Governance Section Manager	Reviewed the policy, included numbering to each paragraph and updated the version control. Updated title of policy owner.	
			3.2 – updated item numbering.	
			3.8 – new paragraph	

Policy

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ITEM 12 - ATTACHMENT 1 REVISED GRANTS AND DONATIONS POLICY.

Policy	
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stating Council is not responsible for ongoing maintenance of projects. 5.2 – updated itemising of
paragraphs.

Policy





ITEM NO. 13 FILE NO: 19/375788 EDRMS NO: PSC2007-3003

POLICY REVIEW: COUNCIL PROSECUTIONS

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

1) Endorse the revised Council Prosecutions Policy shown at (ATTACHMENT 1).

- 2) Place the Council Prosecutions Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Council Prosecutions Policy dated 28 March 2017, Minute No. 070 should no submissions be received.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

255 Councillor Chris Doohan Councillor Ken Jordan

It was resolved that Council:

- 1) Endorse the revised Council Prosecutions Policy shown at (ATTACHMENT 1).
- 2) Place the Council Prosecutions Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Council Prosecutions Policy dated 28 March 2017, Minute No. 070 should no submissions be received.

BACKGROUND

The purpose of this report is to recommend the adoption of the revised Council Prosecutions Policy (policy) shown at **(ATTACHMENT 1).**

The policy was first adopted by Council in 2000. The aim of the policy is to ensure effective use of council resources in relation to legislative enforcement as well as providing the basis for separation of powers in relation to such enforcement.

The policy recognises the balance between Council's responsibility to enforce legislation and its ongoing objective of enhancing community relations and awareness. It also acknowledges the importance of the separate roles of Council employees, the elected body of Council and the Courts of Law in dealing with alleged offences.

The revised policy proposed for endorsement retains the same principles as the current policy.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

All costs associated with the development and implementation of the policy is within the 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

The policy recognises the balance between Council's responsibility to enforce legislation and its ongoing objective of enhancing community relations and awareness. Council has a responsibility to try to ensure that breaches of the law are dealt with appropriately and to meet community expectation that pursuit of Council's enforcement function will be undertaken in a consistent and equitable manner.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that lack of clear policy and principles will lead to an inconsistent and inequitable approach to Council's enforcement function.	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The endorsement of clear policy and principles will help ensure a consistent and equitable approach, and effective use of Council resources in relation to Council's enforcement function.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Governance Section.

<u>Internal</u>

The policy has been endorsed by Council's Executive Team.

External

In accordance with local government legislation the draft policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

1) Revised Council Prosecutions Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 13 - ATTACHMENT 1 REVISED COUNCIL PROSECUTIONS POLICY.

Policy



FILE NO: PSC2007-3003

TITLE: COUNCIL PROSECUTIONS

POLICY OWNER: LEGAL SERVICES MANAGER GOVERNANCE SECTION

MANAGER

1. PURPOSE:

- 1.1 As part of its role in the community, Council needs to ensure that breaches of law, which it has authority to pursue are dealt with in a consistent and equitable manner. It is also imperative that, in observance of the principles of good government, Council has in place a framework for the proper exercise of powers of enforcement vested in it.
- 1.2 The This policy is aimed at providing the basis for separation of powers in relation to Council enforcement of legislation. It is also aimed at ensuring effective use of Council resources in relation to legislative enforcement.

2. CONTEXT/BACKGROUND:

- 2.1 As part of its regulatory role, Council is responsible for enforcing provisions under a number of NSW Acts and Regulations.
- 2.2 The This policy recognises the balance between Council's responsibility to enforce legislation and its ongoing objective of enhancing community relations and awareness. It also acknowledges the importance of the separate roles of Council employees, Councillors the elected body of Council and the Courts of Law in dealing with alleged offences.

3. SCOPE:

- 3.1 It is through the adoption and use of policies that Council can aim to deal with matters consistently, particularly where such matters have a direct effect on the rights, interests or legitimate expectations of individuals within the community.
- 3.2 The This policy is designed to provide guidance as to when and under what circumstances Council will pursue legal action in relation to alleged offences for which it has authority to prosecute. This policy pertains only to summary and criminal offences for which Council is the prosecuting authority; it does not apply to civil law matters involving Council.

Policy

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ITEM 13 - ATTACHMENT 1 REVISED COUNCIL PROSECUTIONS POLICY.

Policy



3.3 Council has a responsibility to try to ensure that breaches of the law are dealt with appropriately and to meet community expectation that pursuit of Council's enforcement functions will be undertaken in a consistent and equitable manner. A consistent approach also helps Council to deal with breaches of the law in a procedurally sound and cost effective way.

4. **DEFINITIONS**:

Councillors Those elected to represent the ratepayers and residents within the

Port Stephens local government area

Elected body of

Council

Mayor and Councillors of Port Stephens Counci

Employees Those employed by Port Stephens Council

NSW Acts and Various Acts and Regulations passed by the New South Wales

Regulations Parliamen

Policy A policy that is adopted by Port Stephens Council

5. POLICY STATEMENT:

- 5.1 Council's mission is to foster a network of people that focuses on achieving best value services and facilities for our Community.
- 5.2 This envisages that Council will work with the community to achieve its goals. Council sees its role as principally being that of communicating with the community and making each citizen aware of their individual responsibilities in supporting and maintaining a sustainable community.
- 5.3 In its regulatory role, however, Council has a responsibility to use its enforcement functions when necessary. Legal action is one option available to Council when people purportedly break the law.
- 5.4 Council, when it becomes aware of alleged breaches of the law, will aim to ensure alleged offenders are treated equitably by having in place internal procedures and guidelines to address a number of issues including:
- a) The intent of the alleged offender and the circumstances surrounding the alleged offence.
- b) Options available to Council to help educate the community and raise awareness about legal obligations and responsibilities with the aim of deterring future similar offences. These options may include alternative dispute resolution procedures as well as sanctions and court action.

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Policy



- c) Criteria to help ensure reasonableness and procedural fairness.
- d) The quality of evidence available to support Court action.
- e) The legal, administrative and other costs associated with Court action.
- f) The likelihood of success of any Court action.
- g) The potential outcomes of any Court action, including the quantum of any fines that Council might be paid as a result of Court action.
- h) The deterrent effect of Court action.
- i) Alternatives to Court action, including the issuing of infringement notices.
- j) Whether the alleged offence has wider policy implications for Council.
- 5.5 An administrative review panel will be available if required to assess whether or not Council should pursue legal proceedings in relation to alleged offences. Internal review by the administrative review panel will be undertaken at the direction of the General Manager or the General Manager's delegate. Internal procedures will be used to help determine the stages where internal review can take place.
- 5.6 Requests by staff, Councillors the elected body of Council or members of the public for internal review of a matter must be made by representations to the General Manager or the General Manager's delegate, who will then determine whether or not such review is to be undertaken. The administrative review panel will make its recommendations to the General Manager or the General Manager's delegate for determination as to whether or not to proceed.
- 5.7 The final decision to prosecute will be made by the General Manager or the General Manager's delegate. The General Manager may, if he or she deems it appropriate, refer particular cases to Council. Council will be kept informed of any prosecutions.
- 5.8 It should be noted that, where possible, Council will attempt to recover all legal costs incurred as a result of legal proceedings it pursues in relation to alleged offences.

6. POLICY RESPONSIBILITIES:

- 1) Legal Services Manager is responsible for the implementation, complying with, monitoring, evaluating, reviewing and providing advice on this policy.
- 2) General Manager is responsible for the complying with and monitoring this policy.
- 3) Group Managers, Section Managers, Co-ordinator Environmental Health and compliance employees are responsible for complying with this policy
- 6.1 The Legal Services Manager is responsible for the implementation of this policy in conjunction with other Council officers as appropriate.

Policy

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Policy



7. RELATED DOCUMENTS:

- 7.1 Council has authority to prosecute under a number of NSW Acts and Regulations, including but not restricted to:
- a) Local Government Act 1993 (NSW)
- b) Environmental Planning and Assessment Act 1979 (NSW)
- c) Protection of the Environment Operations Act 1997 (NSW)

Roads Act 1993 (NSW)

- d) Companion Animals Act 1998 (NSW)
- e) Biosecurity Act 2015 (NSW)
- f) Public Health Act 2010 (NSW)
- g) Swimming Pools Act 1992 (NSW)

Rural Fires Act 1997 (NSW)

Road Transport Act 2013 (NSW)

- h) Food Act 2003 (NSW)
- i) Impounding Act 1993 (NSW)
- j) Boarding Houses Act 2012 (NSW)
- 7.2 In addition to the above, the following also relate to this policy:
- a) Government Information (Public Access) Act 2009 (NSW)
- b) Port Stephens Code of Conduct

Policy



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Policy	



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EDRMS PSC2007-3003 EDRMS record No			
Audience	Management and staff Port Stephens community, elected body of Council and Council employees		
Process owner	Legal Services Manager Governance Section Manager		
Author	Manager Legal Services M	anager	
Review timeframe	2 years	Next review date	28 March 2017
umename			10 December 2021
Adoption date	20 June 2000		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	20/06/2000	Legal Officer	Adopted by Council.	319
2.0	28/03/2017	Legal Services Manager	Minor administrative review and transfer to new corporate policy template.	070

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Policy



3.0	Legal Services Manager	Reviewed this policy, including numbering to each paragraph and updated version control. Policy Owner – now Governance Section Manager 1.1 – inserted the word "This" to read "This policy" 2.2– inserted the word "This" to read "This policy" - replaced "Councillors" with "the elected body of Council" 3.2 - – inserted the word "This" to read "This policy" 4 – deleted the definition of "Councillors" and replaced with the definition of "Elected body of Council" 5.6 – replaced "Councillors" with "the elected body of Council" 6. Policy Responsibilities - Removed a number of personnel listed and replaced with "6.1 The Legal Services Manager is
		Removed a number of personnel
		7.1 – deleted references to legislation no longer applicable (Roads Act 1993, Rural Fires Act 1997 and Road Transport Act 2013) and included legislation now applicable ("7.1.5 Biosecurity Act 2015 (NSW)", "7.1.10 Boarding Houses Act 2012 (NSW)")

Policy





ITEM NO. 14 FILE NO: 19/375822

EDRMS NO: PSC2008-9962

POLICY REVIEW: ALTERNATIVE DISPUTE RESOLUTION

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

1) Endorse the revised Alternative Dispute Resolution Policy shown at **(ATTACHMENT 1).**

- 2) Place the Alternative Dispute Resolution Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Alternative Dispute Resolution Policy dated 28 March 2017, Minute No. 071, should no submissions be received.

.....

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

Councillor Chris Doohan Councillor Ken Jordan It was resolved that Council: Endorse the revised Alternative Dispute Resolution Policy shown at (ATTACHMENT 1). Place the Alternative Dispute Resolution Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council. Revoke the Alternative Dispute Resolution Policy dated 28 March 2017, Minute No. 071, should no submissions be received.

BACKGROUND

The purpose of this report is to recommend the adoption of the revised Alternative Dispute Resolution Policy (policy) shown at **(ATTACHMENT 1)**.

The policy was first adopted by Council in 2009. The purpose of the policy is to provide a process to help resolve disputes that relate to Council in a clear, consistent and fair manner. It relates to planning, development, environment, enforcement, land management, customer and business issues.

The revised policy proposed for endorsement retains the same principles as the current policy.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

All costs associated with the development and implementation of the policy is within the 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

Due to its business, community and regulatory roles, Council can find itself dealing with conflict in many areas including the building, development assessment and planning areas, neighbourhood disputes over trees, noise, odours and animals. Many of these disputes may be dealt with effectively by staff as they arise, however at times some disputes may escalate into significant issues which consume considerable time, energy and community money to address.

Mediation, negotiation, facilitation and other forms of Alternative Dispute Resolution can be used when appropriate to assist resolve difficult disputes or as an alternative to the expensive and time-consuming option of litigation.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that lack of clear policy and principles in relation to alternative dispute resolution will lead to time-consuming and costly litigation, and more conflict in dispute handling processes.	Medium	Adopt the recommendations	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The endorsement of clear policy and principles will help ensure a consistent approach and effective use of Council resources in relation to enforcement and dispute handling.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Governance Section. Internal

The policy has been endorsed by Council's Executive Team.

External

In accordance with local government legislation the draft policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

1) Revised Alternative Dispute Resolution Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 14 - ATTACHMENT 1 REVISED ALTERNATIVE DISPUTE RESOLUTION POLICY.

Policy



FILE NO: PSC2008-9962

TITLE: ALTERNATIVE DISPUTE RESOLUTION POLICY

POLICY OWNER: LEGAL SERVICES GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to provide a process to help resolve disputes that relate to Port Stephens Council. The policy framework sets out a clear, consistent and fair means to address disputes in an effective and cooperative manner. The This policy also provides an alternative dispute handling process that is less formal and less costly than litigation.
- 1.2 The This policy relates to planning, development, environment, enforcement issues, land management, customer and business disputes.

2. CONTEXT/BACKGROUND:

- 2.1 Due to its business, community and regulatory roles, Council can find itself dealing with conflict in many areas including the building, development assessment and planning areas, neighbourhood disputes over trees noise, odours and animals. Many of these disputes may be dealt with effectively by staff as they arise, however at times some disputes may escalate into significant issues which consume considerable time, energy and community money resourcing to address.
- 2.2 Mediation, negotiation, facilitation and other forms of Alternative Dispute Resolution (ADR) can be used when appropriate to assist resolve difficult disputes or as an alternative to the expensive and time-consuming option of litigation.
- 2.3 Not all difficult issues will warrant the use of alternative dispute resolution processes involving independent negotiators or mediators. Many disputes can be dealt with and resolved informally by staff without the need to resort to other means. This policy is only meant to cover the more difficult disputes that Council encounters where it is considered that an alternative dispute handling process is the best option.
- 2.4 The NSW Ombudsman encourages NSW councils to use Alternative Dispute Resolution ADR as an alternative to litigation and as a means to help resolve disputes between members of the community involving councils.

Policy

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g this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



- 2.5 In accordance with NSW Ombudsman's guidelines for Local Government, this policy must not fetter or limit the range of discretion conferred by a statute on Council staff involved in regulatory or enforcement matters. In exercising that discretion, officers must not act under the dictation or at the behest of any third person or body.
- 2.6 This policy is meant only to provide guidance in the exercise of those powers and at times, depending on the issues surrounding the particular dispute, mediation or negotiation may not be the best option.

3. SCOPE:

- 3.1 It is through the adoption and use of policies that Council can aim to deal with matters consistently, particularly where such matters have a direct effect on the rights, interests or legitimate expectations of individuals within the community.
- 3.2 Council has a responsibility to try to ensure that breaches of the law are dealt with appropriately and to meet community expectation that pursuit of Council's enforcement functions will be undertaken in a consistent and equitable manner. A consistent approach also helps Council to deal with breaches of the law in a procedurally sound and cost effective way.

4. **DEFINITIONS**:

Alternative Dispute Resolution (ADR)

The term 'alternative dispute resolution' or 'ADR' is often used to describe a wide variety of dispute resolution mechanisms that are short of, or alternative to, full-scale court processes. ADR systems may be generally categorised as negotiation, conciliation/mediation, or arbitration systems.

Arbitration

Arbitration is a formal dispute resolution process governed by the Commercial Arbitration Act 1984 (NSW) (or the equivalent in other states) in which two or more parties refer their dispute to an independent third person (the arbitrator) for determination. Providing that the arbitration is conducted according to the principles of natural justice its procedures may be varied by the parties to suit the size and complexity of their dispute.

Arbitration is a process where the parties present arguments and evidence to an independent third party, the arbitrator, who makes a determination. It may be voluntary, ordered by the court or required as part of a contract.

Policy

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Policy



Development Application

(DA)

A development application is a formal request for permission to carry out development, and includes plans and drawings, a

statement of environmental effects and a completed application

form.

Facilitation The term facilitation is broadly used to describe any activity

which makes tasks for others easy. For example:

Facilitation is used in business and organisational settings to ensure the designing and running of successful meetings or negotiations. A person who takes on such a role is called a

facilitator.

Mediation A process in which parties to a dispute with the assistance of a

neutral third party ('the Mediator') identify disputed issues, develop options, consider alternatives and endeavour to reach

an agreement. The mediator has no advisory or other

determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

Mediation Agreement A mediation agreement is a written agreement setting out the

terms of settlement reached between the parties to the mediation process. The agreement is confidential except where

the terms of the agreement expressly permit part or all of its contents to be divulged to other parties. The agreement must

be signed by all parties to the agreement.

Negotiation At its most basic, negotiation is an informal bargaining process.

It takes place directly between the people in dispute, but can be assisted by others, eg lawyers and advocates. The people involved in the dispute communicate directly to try to reach an agreement. Communication may be written or spoken and may

take some time.

Neutral Evaluation This is a process provided by the NSW Land and Environment

Court as a form of mediation in some disputes.

Section 34 Conferences These are conducted by the Land and Environment Court

(NSW). These conferences are more formal than other Court managed ADR processes and are presided over by a single

Commissioner.

5. POLICY STATEMENT:

5.1 The Alternative Dispute Resolution process This policy endeavours to:

Policy

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Policy



- a) Establish a clear, consistent and fair process to help address disputes.
- b) Provide and alternative dispute handling process that is less formal and more cooperative than litigation.
- c) Save time and costs.
- d) Reduce conflict in the dispute handling process.
- 5.2 The Alternative Dispute Resolution This policy will apply to development, environment and land management disputes and other disputes concerning animals, trees, noise effluent, odours and other forms of pollution. It also applies to business disputes.
- 5.3 Principles the following principles relate to the way ADR is applied by Council:
- a) ADR is a voluntary process.
- b) To preserve the legitimacy of the process, all parties to ADR are given the opportunity to be represented and have control over the outcomes.
- c) Where appropriate, ADR is to be initiated as soon as possible to avoid issues escalating.
- d) Council will ensure confidentiality and respect privacy requirements when dealing with disputes.
- e) Council will ensure procedural fairness in ADR matters.
- f) Where mediation is used as one of the ADR options, the mediator is to be suitably qualified, independent and impartial to the dispute at hand.
- g) Any mediation agreement will be documented and signed by all parties.
- h) Costs associated with ADR are generally shared between all parties to the dispute unless other arrangements are agreed to by Council.
- 5.4 Awareness and Cooperation
- 5.4.1 Council will encourage parties to a dispute to resolve issues as they arise or come to notice before they escalate into significant matters.
- 5.4.2 Council will take a proactive approach to minimise the occurrence of disputes.
- 5.5 Approach Council will not enter into ADR where:
- a) There are issues that relate to the content of Council Policies (as opposed to application of a policy).
- b) A dispute may create a planning precedent.
- c) The parties are not willing to co-operate.
- d) Council does not believe that ADR is the best option, based on the particular circumstances and broader public interest considerations.

Policy

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ITEM 14 - ATTACHMENT 1 REVISED ALTERNATIVE DISPUTE RESOLUTION POLICY.

Policy



6. POLICY RESPONSIBILITIES:

6.1-Manager The Legal Services Manager is responsible for the implementation of this policy in conjunction with other Council officers as appropriate.

7. RELATED DOCUMENTS:

- 7.1 Compliance Policy.
- 7.2 Complaint Handling Policy.
- 7.3 Managing Unreasonable Complainant Conduct Policy.
- 7.4 Council Prosecutions Policy.
- 7.5 Port Stephens Council Code of Conduct.

Policy



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Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au

ITEM 14 - ATTACHMENT 1 REVISED ALTERNATIVE DISPUTE RESOLUTION POLICY.

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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

- Harris Contactor Principal	- Inchigation				
EDRMS container No	PSC2008-09962	EDRMS record No			
Audience	Port Stephens community,	Port Stephens community, elected body of Council & Council employees			
Process owner	Manager Legal Services Governance Section Manager				
Author	Legal Services Manager				
Review	2 years	Next review date	28 March 2019		
timeframe	*		10 December 2021		
Adoption date	28 April 2009				

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	28/04/2009	Manager Environmental Services	Adopted by Council	117
2.0	28/03/2017	Manager Legal Services	Revision of Policy and incorporation into new styling format	071

Policy

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Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



3.0	Legal Services	Reviewed this policy, including
5.5	Manager	numbering to each paragraph,
		administrative amendments and
		updated version control.
		Policy Owner – now Governance
		Section Manager
		1.1 – inserted the word "This" to
		read "This policy"
		1.2 – inserted the word "This" to read "This policy"
		2.1 – deleted "energy" and
		"community money" and replaced with "resourcing"
		2.2 – added acronym "ADR"
		2.4 – deleted "Alternative Dispute
		Resolution" and replaced with "ADR"
		2.5 – deleted "for Local Government"
		4. Definitions:
		Replaced the definition for "Arbitration"
		Deleted definitions for
		"Development Application",
		"Neutral Evaluation" and "Section 34 Conferences"
		5.1 – deleted "The Alternative Dispute Resolution process" and
		replaced with "This policy"
		5.2 – deleted "The Alternative
		Dispute Resolution" and replaced with "This"
		5.3 – added the word "Principles"
		6.1 – amended to read "Legal
		Services Manager is responsible"
		7.3 – added the word "Policy"
		7.5 – added the word Policy

Policy

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Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM NO. 15 FILE NO: 19/371059 EDRMS NO: A2004-0984

CODE OF CONDUCT: ANNUAL REPORTING

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

 Receive and note the annual reporting of Code of Conduct complaint statistics involving Mayor, Councillors and General Manager for the period of 1 September 2018 to 31 August 2019.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

257	Councillor Jaimie Abbott Councillor Ken Jordan
	It was resolved that Council receive and note the annual reporting of Code of Conduct complaint statistics involving Mayor, Councillors and General Manager for the period of 1 September 2018 to 31 August 2019.

BACKGROUND

The purpose of this report is to provide code of conduct complaint statistics to Council for the reporting period 1 September 2018 to 31 August 2019, in accordance with Part 11 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (Procedures).

The statistics relate to complaints concerning the Mayor, Councillors and the General Manager.

The statistics are shown at (ATTACHMENT 1).

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with the code of conduct complaints are within the existing budget and staff resource allocation.

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

Part 11 of the Procedures requires all complaints received concerning the Mayor, Councillors and the General Manager be reported to Council within 3 months of the end of September each year.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council would be in breach of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, and therefore in breach of the Local Government Act 1993, should a report not be provided to Council.	Low	Adopt the recommendation.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

1) Code of Conduct Statistics - 1 September 2018 to 31 August 2019.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 15 - ATTACHMENT 1 CODE OF CONDUCT STATISTICS - 1 SEPTEMBER 2018 TO 31 AUGUST 2019.

Page 1 of 3

	Model Code of Conduct Complaints Statistics Port Stephens Council				
N	uml	ber of Complaints			
1	а	The total number of complaints received in the period about councillors and the General Manager (GM) under the code of conduct	10		
	b	The total number of complaints finalised in the period about councillors and the GM under the code of conduct	10		
Ó	ver	view of Complaints and Cost			
2	а	The number of complaints finalised at the outset by alternative means by the GM or Mayor	10		
	b	The number of complaints referred to the Office of Local Government under a special complaints management arrangement	0		
	С	The number of code of conduct complaints referred to a conduct reviewer	0		
	d	The number of code of conduct complaints finalised at preliminary assessment by conduct reviewer	0		
	е	The number of code of conduct complaints referred back to GM or Mayor for resolution after preliminary assessment by conduct reviewer	0		
	f	The number of finalised code of conduct complaints investigated by a conduct reviewer	0		
	g	The number of finalised code of conduct complaints investigated by a conduct review committee	0		
	h	The number of finalised complaints investigated where there was found to be no breach	0		
	i	The number of finalised complaints investigated where there was found to be a breach	0		
	j	The number of complaints referred by the GM or Mayor to another agency or body such as the ICAC, the NSW Ombudsman, the Office or the Police	0		
	k	The number of complaints being investigated that are not yet finalised	0		
	1	The total cost of dealing with code of conduct complaints within the period made about councillors and the GM including staff costs	4,885		

ITEM 15 - ATTACHMENT 1 CODE OF CONDUCT STATISTICS - 1 SEPTEMBER 2018 TO 31 AUGUST 2019.

Page 2 of 3

Pr	elir	ninary Assessment Statistics	
3		e number of complaints determined by the conduct reviewer at the preliminary essment stage by each of the following actions:	
	а	To take no action	0
	b	To resolve the complaint by alternative and appropriate strategies	0
	С	To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies	0
	d	To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, the Office or the Police $$	0
	е	To investigate the matter	0
	f	To recommend that the complaints coordinator convene a conduct review committee to investigate the matter	0
In	ves	tigation Statistics	
4		e number of investigated complaints resulting in a determination that there was no each, in which the following recommendations were made:	
	а	That the council revise its policies or procedures	0
	b	That a person or persons undertake training or other education	0
5		e number of investigated complaints resulting in a determination that there was a breach which the following recommendations were made:	
	а	That the council revise any of its policies or procedures	0
	b	That the subject person undertake any training or other education relevant to the conduct giving rise to the breach	0
	С	That the subject person be counselled for their conduct	0
	d	That the subject person apologise to any person or organisation affected by the breach	0
	е	That findings of inappropriate conduct be made public	0
	f	In the case of a breach by the GM, that action be taken under the GM's contract for the breach	0
	g	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993	0
	h	In the case of a breach by a councillor, that the matter be referred to the Office for further action	0
6		Matter referred or resolved after commencement of an investigation under clause 8.20 of the Procedures and clause 7.20 of the new Procedures	0

ITEM 15 - ATTACHMENT 1 CODE OF CONDUCT STATISTICS - 1 SEPTEMBER 2018 TO 31 AUGUST 2019.

Page 3 of 3

Ca	ateg	gories of misconduct			
7		e number of investigated complaints resulting in a determination that there was a breach th respect to each of the following categories of conduct:			
	а	General conduct (Part 3)	0		
	b	Conflict of interest (FMCC Part 4) and Non-pecuniary conflict of interest (NMCC Part 5)	0		
	С	Personal benefit (FMCC Part 5 / NMCC Part 6)	0		
	d	Relationship between council officials (FMCC Part 6 / NMCC Part 7)	0		
	е	Access to information and resources (FMCC Part 7 / NMCC Part 8)	0		
0	utc	ome of determinations			
8	8 The number of investigated complaints resulting in a determination that there was a breach in which the council failed to adopt the conduct reviewers recommendation				
9		e number of investigated complaints resulting in a determination that there was a breach which the council's decision was overturned following a review by the Office	0		

ITEM NO. 16 FILE NO: 19/377842 EDRMS NO: PSC2017-00015

INFORMATION PAPERS

REPORT OF: WAYNE WALLIS - GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 10 December 2019.

.....

No: Report Title Page:

1 Council Resolutions 240

Councillor Chris Doohan left the meeting at 7:40pm.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

258	Councillor Chris Doohan Councillor Ken Jordan
	It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 10 December 2019.
	No: Report Title:
	1 Council Resolutions

INFORMATION PAPERS

ITEM NO. 1 FILE NO: 19/189306

EDRMS NO: PSC2017-00105

COUNCIL RESOLUTIONS

REPORT OF: WAYNE WALLIS - GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to inform Elected Members of the status of all matters to be dealt with arising out of the proceedings of previous meetings of the Council in accordance with the Code of Meeting Practice.

Note that at the time of preparing these reports there were no outstanding matters relating to the Development Services Group.

ATTACHMENTS

- 1) Corporate Services Group report.
- 2) Facilities & Services Group report.
- 3) General Manager's Office report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding Division: Corporate Services Date From: 26/09/2017
Date To: 26/11/2019

Action Sheets Printed: Monday, 2 December 2019
Report

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/03/2018	Meyn, Janet	COMPULSORY ACQUISITION OF AN EASEMENT FOR ACCESS OVER PART OF 6 GOVERNMENT ROAD, SHOAL BAY	31/01/2020	28/03/2018	
13		Foster, Carmel				18/66656
066						
27 Nov 2	2019 - Property Serv	ices is waiting for an	update from the Office of Lo	ocal Governme	ent.	

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed		
Report	Ordinary Council 26/06/2018	Foster, Carmel	RECLASSIFICATION OF 109 FORESHORE DRIVE, SALAMANDER BAY	10/12/2019	27/06/2018			
2		Foster, Carmel				18/138953		
18 Oct 2	18 Oct 2019 - Matter to be brought back to Council in December 2019. No action until then.							

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed			
Report	Ordinary Council 10/07/2018	Meyn, Janet	398 CABBAGE TREE ROAD, WILLIAMTOWN	31/01/2020					
2		Foster, Carmel				18/151411			
221									
27 Nov 2	27 Nov 2019 - The lease has been executed by all parties. Lease to be registered.								

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/08/2018	Meyn, Janet	Proposed Partial Road Closure - The Close, Raymond Terrace for future Development of Terrace Central Shopping Centre	28/02/2020	15/08/2018	
1		Foster, Carmel				18/179364
254						
27 Nov :	2019 - Sale of the clo	sed road to the adjo	ining land owner is progress	sing.		

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ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding Division: Corporate Services Date From: 26/09/2017

Date To: 26/11/2019

Action Sheets Printed: Monday, 2 December 2019
Report

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed		
Report	Ordinary Council 12/02/2019	Meyn, Janet Foster, Carmel	King Street, Raymond Terrace Easements	31/05/2020	14/02/2019	19/39843		
27 Nov 2019 - Awaiting advice from the Office of Local Government as to what additional information is required.								

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed		
Report	Ordinary Council 14/05/2019	Meyn, Janet	DEBT RECOVERY	1/06/2020	15/05/2019			
1		Foster, Carmel				19/136619		
099								
27 Nov :	27 Nov 2019 - Debt recovery is underway.							

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2019	Meyn, Janet	PROPOSED ACQUISITION OF FORMER FIRE STATION SITE - 51 WILLIAM STREET, RAYMOND TERRACE	31/03/2020	29/05/2019	
5		Foster, Carmel				19/148388
109						
27 Nov 2	2019 – The draft Gaz	ette has been appro	ved. Awaiting receipt of the	formal approv	al to acquire.	

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed		
Report	Ordinary Council 28/05/2019	Meyn, Janet	COMPULSORY ACQUISITION OF PART OF VICTORIA PARADE RESERVE NELSON BAY FOR ROAD PURPOSES	30/06/2020	29/05/2019			
6 110		Foster, Carmel				19/148388		
21 Nov 2	21 Nov 2019 - Awaiting status update from the Office of Local Government.							

InfoCouncil Page 2 of 4

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding Division: Corporate Services Date From: 26/09/2017
Date To: 26/11/2019

Action Sheets Printed: Monday, 2 December 2019
Report

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed		
Report	Ordinary Council 11/06/2019	Meyn, Janet	Naming of Reserve - Bower Reserve, Medowie	31/12/2019	12/06/2019			
3		Foster, Carmel				19/160026		
121								
21 Nov 2	21 Nov 2019 - The application has been lodged with the Office of Local Government.							

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed		
Report	Ordinary Council 9/07/2019	Meyn, Janet	Sale of 2 Jessie Road, Anna Bay (formerly Anna Bay Oval)	31/12/2019				
1		Foster, Carmel				19/186501		
158								
27 Nov 2	27 Nov 2019 - Settlement scheduled for December 2019.							

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed		
Report	Ordinary Council 23/07/2019	Meyn, Janet	GRANT OF EASEMENTS IN FAVOUR OF AGL - PUNT ROAD, TOMAGO	24/12/2019				
7 169		Foster, Carmel				19/200498		
27 Nov 2	27 Nov 2019 - Aawaiting internal Legal review.							

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed		
Report	Ordinary Council 24/09/2019	Meyn, Janet	PCYC LEASE - 42 WILLIAM STREET, RAYMOND TERRACE	31/12/2019	25/09/2019			
5		Foster, Carmel				19/321198		
165								
27 Nov 2	27 Nov 2019 - Lease documentation executed and awaiting registration.							

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ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding Division: Corporate Services Date From: 26/09/2017

Date To: 26/11/2019

Action Sheets Printed: Monday, 2 December 2019
Report

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed		
Report	Ordinary Council 8/10/2019	Meyn, Janet	EASEMENT TO DRAIN WATER - KINGSLEY DRIVE AND CORYULE STREET, BOAT HARBOUR	24/12/2019	9/10/2019			
1 191		Foster, Carmel				19/331292		
	27 Nov 2019 - Agreement from all land owners has been reached. Execution and registration of documents is progressing.							

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed		
Report	Ordinary Council 12/11/2019	Meyn, Janet	SALE OF PART 13 SCHOOL DRIVE, TOMAGO	31/01/2020	13/11/201 9			
1		Foster, Carmel				19/364714		
217								
27 Nov 2	27 Nov 2019 - Council to prepare the 3 contracts for sale.							

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed			
Report	Ordinary Council 26/11/2019	Latham, Kim	POLICY REVIEW: Holiday Parks Major Event Sponsorship and Promotions Policy	10/01/2020	27/11/201 9				
9		Foster, Carmel				19/378137			
232									
28 Nov 2	28 Nov 2019 – The policy has been placed on public exhibition.								

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ITEM 1 - ATTACHMENT 2 FACILITIES & SERVICES GROUP REPORT.



Outstanding Division: Facilities & Services Date From: 26/09/2017

Date To: 26/11/2019

Action Sheets Printed: Monday, 2 December 2019
Report

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed		
Report	Ordinary Council 13/02/2018	Maretich, John	SPORTS GROUND IRRIGATION SYSTEMS	28/04/2020	14/02/2018			
2		Kable, Gregory				18/32353		
026								
21 Nov :	21 Nov 2019 - This will be reported back to Council as part of the Strategic Asset Management Plan.							

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed			
Report	Ordinary Council 27/03/2018	Kable, Gregory	Lease of grounds of 43, 45, 47 and 47A Tanilba Avenue Tanilba Bay (Lot 238, Lot 270 and Lot 271 DP753194, Lot 342 DP704442) to Calvary Retirement Communities Hunter-Manning Limited ACN 102625212.	28/02/2020	28/03/2018				
14		Kable, Gregory				18/66656			
067									
	21 Nov 2019 - 1Once approval from Crown Lands comes through it then has to go to both the Worimi Land Council and the NSW Local Aboriginal Council as both have land claims on this parcel of land.								

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/04/2018	Maretich, John	BOBS FARM DRAINAGE	31/12/2020	11/04/2018	
2		Kable, Gregory				18/75830
084						
21 Nov 2019 - Currently examining funding options to determine if Council can adopt these as public assets.						

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed	
Report	Ordinary Council 9/07/2019	Maretich, John	ROCK REVETMENT AT KANGAROO POINT, SOLDIERS POINT	31/07/2020			
2		Kable, Gregory				19/186501	
155							
21 Nov 2019 - Council staff will seek to identify grant funding opportunities for this project.							

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ITEM 1 - ATTACHMENT 3 GENERAL MANAGER'S OFFICE REPORT.



Outstanding Division: General Manager's Office Date From: 26/09/2017

Date To: 26/11/2019

Action Sheets Printed: Monday, 2 December 2019
Report

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed	
Report	Ordinary Council 26/11/2019	Wallis, Wayne	Request for Financial Assistance	31/12/2019	27/11/2019		
13		Wallis, Wayne				19/378137	
236							
27 Nov 2019 - Payment to Soldiers Point Lions Club is pending completion of relevant documentation prior to works being completed on the bus shelter.							

InfoCouncil Page 1 of 1

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1 FILE NO: 19/375363 EDRMS NO: A2004-0284

CODE OF MEETING PRACTICE

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

1) Amend its Code of Meeting Practice to include:

a. clause 11.11 from the Office of Local Government's recommended clauses for a code of meeting practice, reading:

"All voting at council meetings (including meetings that are closed to the public) must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."

- 2) Amend its Code of Meeting Practice to remove:
- a. clauses 11.6 to 11.9 and 11.13, per the recommendation from the Office of Local Government, if clause 11.11 is included.

Councillor Chris Doohan returned to the meeting at 7:43pm.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

Councillor Giacomo Arnott Councillor John Nell

That Council:

- 1) Amend its Code of Meeting Practice to include:
- a. clause 11.11 from the Office of Local Government's recommended clauses for a code of meeting practice, reading:

"All voting at council meetings (including meetings that are closed to the public) must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."

- 2) Amend its Code of Meeting Practice to remove:
- a. clauses 11.6 to 11.9 and 11.13, per the recommendation from the Office of Local Government, if clause 11.11 is included.

Cr Arnott moved a motion for a division. The motion lapsed without a seconder.

The motion was lost.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 AMENDMENT

Councillor Paul Le Mottee
Councillor Ken Jordan

That the Notice of Motion be deferred until after February 2021.

Cr Arnott moved a motion for a division. The motion lapsed without a seconder.

The motion was lost.

Cr Arnott recorded his vote against amendment.

BACKGROUND REPORT OF: TONY WICKHAM – GOVERNANCE SECTION MANAGER

BACKGROUND

Council at its meeting on 13 August 2019 considered a Notice of Motion (NOM) worded the same as this item. A copy of the previous NOM is shown at **(ATTACHMENT 1)**.

Council's adopted Code of Meeting Practice is based on the Model Code of Conduct (Model Code) released by the Office of Local Government late 2018.

Whilst the Model Code is predominantly mandatory, a number of clauses within the Model Code are optional. Those referenced in this NOM were optional clauses.

Rather than adopt clause 11.11 (as detailed in the NOM) Council determined to retain clauses 11.6 to 11.9 and 11.13.

An extract from the adopted Code of Meeting Practice is shown below for clauses 11.6 to 11.9 and 11.13:

- 11.6 If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
- 11.7 The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) Councillors rise and call for a division.

- 11.8 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the Council's minutes for the meeting.
- 11.9 When a division on a motion is called, any Councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.5 of this Code.
- 11.13 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the Council or a Council committee.

The outcome of the NOM, should it be adopted, would mean that a division is required for all Council resolutions.

Should Council amend the Code of Meeting Practice, 28 days public exhibition will be required with up to 42 days required to allow for submissions to be received.

ATTACHMENTS

1) Previous Notice of Motion - 13 August 2019

ITEM 1 - ATTACHMENT 1 PREVIOUS NOTICE OF MOTION - 13 AUGUST 2019

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

NOTICE OF MOTION

ITEM NO. 2 FILE NO: 19/204007

EDRMS NO: A2004-0284

CODE OF MEETING PRACTICE

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Amend its Code of Meeting Practice to include:
- a. clause 11.11 from the Office of Local Government's recommended clauses for a code of meeting practice, reading:

"All voting at council meetings (including meetings that are closed to the public) must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."

- 2) Amend its Code of Meeting Practice to remove:
- a. clauses 11.6 to 11.9 and 11.13, per the recommendation from the Office of Local Government, if clause 11.11 is included.

ORDINARY COUNCIL MEETING - 13 AUGUST 2019 MOTION

Councillor Giacomo Arnott Councillor John Nell

That Council:

- 1) Amend its Code of Meeting Practice to include:
- a. clause 11.11 from the Office of Local Government's recommended clauses for a code of meeting practice, reading:

"All voting at council meetings (including meetings that are closed to the public) must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."

- 2) Amend its Code of Meeting Practice to remove:
- a. clauses 11.6 to 11.9 and 11.13, per the recommendation from the Office of Local Government, if clause 11.11 is included.

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ITEM 1 - ATTACHMENT 1 PREVIOUS NOTICE OF MOTION - 13 AUGUST 2019

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The motion was lost.

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

Those for the Motion: Cr Giacomo Arnott.

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

BACKGROUND REPORT OF: TONY WICKHAM – GOVERNANCE SECTION MANAGER

BACKGROUND

Council adopted the current Code of Meeting Practice at its meeting of 28 May 2019. A copy of the Council resolution is shown at **ATTACHMENT 1**.

The adopted Code of Meeting Practice is based on the Model Code of Conduct (Model Code) released by the Office of Local Government late 2018.

Whilst the Model Code is predominantly mandatory, a number of clauses within the Model Code are optional. Those referenced in this Notice of Motion were optional clauses.

Rather than adopt clause 11.11 (as detailed in the Notice of Motion) Council determined to retain clauses 11.6 to 11.9 and 11.13.

An extract from the adopted Code of Meeting Practice is shown below for clauses 11.6 to 11.9 and 11.13:

- 11.6 If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
- 11.7 The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) Councillors rise and call for a division.
- 11.8 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the Council's minutes for the meeting.
- 11.9 When a division on a motion is called, any Councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.5 of this Code.

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11.13 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the Council or a Council committee.

The resulting outcome of the Notice of Motion, should it be adopted, would be for a division to be recorded for all Council resolutions.

ATTACHMENTS

1) Council meeting minute extract 28 May 2019 - Code of Meeting Practice.

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ITEM 2 - ATTACHMENT 1 COUNCIL MEETING MINUTE EXTRACT 28 MAY 2019 - CODE OF MEETING PRACTICE.

MINUTES ORDINARY COUNCIL - 28 MAY 2019

ITEM NO. 9

FILE NO: 19/130590 EDRMS NO: A2004-0284

POLICY REVIEW: CODE OF MEETING PRACTICE

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- Receive and note the submission.
- 2) Endorse the Revised Code of Meeting Practice shown at (TABLE DOCUMENT 1).
- 3) Revoke the Code of Meeting Practice dated 12 December 2017, Min. No. 329.

ORDINARY COUNCIL MEETING - 28 MAY 2019 MOTION

113 Councillor Glacomo Arnott
Councillor Chris Doohan

It was resolved that Council:

- 1) Receive and note the submission.
- Endorse the Revised Code of Meeting Practice shown at (TABLE DOCUMENT 1).
- Revoke the Code of Meeting Practice dated 12 December 2017, Min. No. 329.

Councillor Jaimie Abbott left the meeting at 6:17pm and did not return to the meeting.

ORDINARY COUNCIL MEETING - 28 MAY 2019 AMENDMENT

Councillor Glacomo Arnott

That Council:

- 1) Edit clause 4.12 to read, in full:
- From:
- "Each speaker will be allowed five minutes to address the Council. This time is to be strictly enforce by the chairperson."

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MINUTES ORDINARY COUNCIL - 28 MAY 2019

- · To:
- "Each speaker will be allowed five minutes to address the Council. Speakers attending on behalf of an organisation speaking about an issue relevant to their organisation will be allowed ten minutes to address the Council. This time is to be strictly enforce by the chairperson."
- 2) Insert optional clause 11.11 from the model code of meeting practice, which reads:
- "All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."
- 3) Insert new clause 10.22(a), which will read:
- "On items relating to Council's finances, Councillors will be automatically granted an additional five minutes speaking time on top of the five minutes as allowed in clause 10.22, to a total of ten minutes, if they request extra time."
- 4) Amend 8.1 order of meeting business, as follows:
- Move number 3 (acknowledgement of Worimi people) to become number 2, and drop number 2 (prayer) down to number 3.
- 5) Insert optional clause 20.24, which reads:
- "All voting at meetings of committees of the council, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."

The amendment lapsed without a seconder.

ORDINARY COUNCIL MEETING - 28 MAY 2019 AMENDMENT

Councillor Giacomo Arnott

- 1) That Council edit clause 4.12 to read, in full:
- From:
- "Each speaker will be allowed five minutes to address the Council.
 This time is to be strictly enforce by the chairperson."
- To
- "Each speaker will be allowed five minutes to address the Council. Speakers attending on behalf of an organisation speaking about an issue relevant to their organisation will be allowed ten minutes to address the Council. This time is to be strictly enforce by the chairperson."

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The amendment lapsed without a seconder.

ORDINARY COUNCIL MEETING - 28 MAY 2019 AMENDMENT

Councillor Giacomo Arnott

That Council insert optional clause 11.11 from the model code of meeting practice, which reads:

"All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."

The amendment lapsed without a seconder.

ORDINARY COUNCIL MEETING - 28 MAY 2019 AMENDMENT

Councillor Giacomo Arnott

That Council insert new clause 10.22(a), which will read: "On items relating to Council's finances, Councillors will be automatically granted an additional five minutes speaking time on top of the five minutes as allowed in clause 10.22, to a total of ten minutes, if they request extra time."

The amendment lapsed without a seconder.

ORDINARY COUNCIL MEETING - 28 MAY 2019 AMENDMENT

Councillor Giacomo Arnott

That Council amend 8.1 - order of meeting business, as follows: Move number 3 (acknowledgement of Worlmi people) to become number 2, and drop number 2 (prayer) down to number 3.

The amendment lapsed without a seconder.

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ORDINARY COUNCIL MEETING - 28 MAY 2019 AMENDMENT

Councillor Giacomo Arnott

That Council insert optional clause 20.24, which reads: "All voting at meetings of committees of the council, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."

The amendment lapsed without a seconder.

The original motion on being put was carried.

BACKGROUND

The purpose of this report is to provide Council with the Code of Meeting Practice (the 'Code') following the public exhibition period from 21 March to 18 April 2019, allowing up to 2 May 2019 for submissions to be received, as required by the Local Government Act 1993.

As a result of the public exhibition, one submission was received. A summary of the submission is shown at (ATTACHMENT 1).

As Council is aware amendments to the Local Government Act 1993 in August 2016 provided for a model code of meeting practice for all local councils in NSW. In December 2018, the Office of Local Government released the new model Code of Meeting Practice.

The Code applies to meetings of the Council and Committees of Council where the membership comprises all elected members. The model code also applies to boards of joint organisations and county councils.

Council is required to adopt a new Code of Meeting Practice based on the model Code by 14 June 2019, and may enhance the Code, however, any supplementary clauses cannot be inconsistent with the model Code.

The new Code contains mandatory and non-mandatory provisions. The majority of the Code is the same or similar to Council's existing Code of Meeting Practice. Webcasting of Council meetings is mandatory under the model Code. A number of the non-mandatory provisions have been incorporated into the Code.

A copy of the Code is shown at (TABLE DOCUMENT 1).

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The Code is provided for Council's consideration.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

The financial and resource implications are within the 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

Council is required to adopt a new Code of Meeting Practice based on the model Code to ensure it meets all legislative requirements in relation to conducting a meeting of the Council and a committee meeting of Council. The new Code must be adopted by 14 June 2019.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be in breach of the Local Government Act 1993 should it not adopt a new Code of Meeting Practice and the model Code of Meeting Practice will automatically come into force.	Low	Adopt the recommendations.	Yes.

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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are limited sustainability implications associated with this report.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Governance Section.

Internal

- General Manager
- Mayor

<u>External</u>

The new Code of Meeting Practice was publicly exhibited from 21 March 2019 to 18 April 2019, with submissions received up to 2 May 2019 as required by the Local Government Act 1993.

OPTIONS

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

ATTACHMENTS

1) Submission summary

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

1) Draft Code of Meeting Practice.

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ITEM 9 - ATTACHMENT 1 SUBMISS

SUBMISSION SUMMARY

Submission for the Code of Meeting Practice

	Author	Comment	Council response
1	Tomaree Ratepayers and Residents Association (TRRA)	The TRRAs submission makes the following comments: 1. Notes the revised Code is mostly mandated by the NSW State Government under the provisions of the model Code and it contains optional content.	Noted – the model Code of Meeting Practice contains both mandatory and non-mandatory clauses.
		Notes that Council is able to enhance the Code subject to the enhancements not being inconsistent with the model Code.	2. Noted.
		3. Meeting schedules, notices - that Council consider amending the current meeting cycle from two Council meetings to the practice of holding alternate meeting as committee of the whole meetings and a full Council meeting and a full Council meeting are pectively, as the TRRA is of the view it allows Councillors and the community greater opportunity to consider and seek feedback on matters.	The current meeting cycle is considered appropriate at this time.
		Public Forums - that most of Section 4 Public Forums is mendatory with some discretion to set limits and timeframes. It is noted that the Mayor has been substituted for the General Manager and that a maximum number of speakers has been set at 12. Further, that dause 4.12 sets a speaking limit of 5 minutes for individuals with no mention of a limit for those representing an organisation. It is suggested that a limit of 10 minutes should be set for organisations.	4. The submission indicates that most of Section 4 — Public Forums is mandatory however the entire section is normandatory in the model Code. Council has elected to include Section 4 in its Code and is able to make amendments to the non-mandatory provisions as advised by the Office of Local Government in its Circular No. 18-45, 18 December 2018. Amendments cannot be made to the mandatory provisions of the Code.

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5. Webcast - TRRA have concerns about the limitations of Council's minimalist approach to webcasting and the length of time webcast recordings are retained on the website. The TRRA call on Council to investigate options to enhance the value of the webcast as an 'after the event' resource, such as a facility that would provide an online meeting agenda that a viewer can click on to go straight to that point of the recording.	5. Council's existing webcasting has been introduced to allow members of the public to access Council meetings whenever and wherever they wish, without the need to be present in person - the current system achieves this outcome. It also provides access to agenda items in written on line form as the meeting progresses — this facility is also available post the meeting. Viewers have the option of viewing the recording and/or the written agenda during the webcast.
Record of voting - that Council should include non-mandatory clauses 11.11 and 20.24 of the model Code which requires all resolutions of Council to have the names of those who voted for and against the motion recorded in the minutes. Expulsion from meetings - notes the provision of expulsion from meetings, and welcomes Council's approach to require a resolution to expel a councillor from a meeting.	The Local Government Act 1993 requires Council to record the names of those who voted for and against all planning decisions. The recording of who voted for and against all other resolutions is currently at the discretion of Council. Council had 2 options in terms of expulsion from a meeting — to give the Mayor the sole discretion to expel anyone (including a councillor) from a meeting for disorder or to give the Mayor the discretion to expel anyone (other than a councillor) from a meeting for disorder. Council elected the latter provision.
Rescission motions – TRRA notes that Council did not adopt the non- mandatory clause to allow a rescission motion to be dealt with at the same meeting (cd. 17.12 of the model Code), however Council adopted the non- mandatory clause to allow a resolution to be	Council's current practice has been to require a rescission motion to be lodged and presented to the next Ordinary Council meeting, on this basis the draft Code was put forward for consideration. Clause 17.12 of the model Code, as opposed to

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SUBMISSION SUMMARY

recommitted to correct an error. Further, the TRRA state that there are both pros and cons for allowing a rescission motion at the same meeting. The TRRA believe that Council should explain its reasoning on the matter before it is resolved.	Council's draft Code, states: 17.12 Subject to clause 17.7, in cases of urgency, a motion to alter or resolution of the council may be moved at the same meeting at which the resolution was adopted, where:
	(a) a notice of motion signed by three counciliors is submitted to the chairperson, and (b) a motion to have the motion considered at the meeting is passed, and (c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council. Council's draft Code of Meeting Practice enables a resolution to be recommitted to correct an error (clause 17.12).

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NOTICE OF MOTION

ITEM NO. 2 FILE NO: 19/378187 EDRMS NO: PSC2017-00019

EXEMPTION FOR ENVIRONMENTAL APPROVALS FOR NON-MAINTENANCE ROAD IMPROVEMENT WORKS

MAYOR: RYAN PALMER

THAT COUNCIL:

- 1) Write to the NSW State Government requesting an exemption for environmental approvals for non-maintenance road improvement works that occur in coastal management (or buffer) areas.
- 2) Acknowledges the now exorbitant costs involved in obtaining approvals to complete much needed road improvements in a coastal management area.
- 3) Acknowledges that urgent work required on the following roads is being delayed due to the work involved, approvals required and cost now required under the Coastal Management Act:
- a. Foreshore Drive, Salamander Bay
- b. Swan Bay Road, Swan Bay
- c. Mustons Road, Karuah.

.....

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

Mayor Ryan Palmer Councillor Chris Doohan It was resolved that Council: 1) Write to the NSW State Government requesting an exemption for environmental approvals for non-maintenance road improvement works that occur in coastal management (or buffer) areas. 2) Acknowledges the now exorbitant costs involved in obtaining approvals to complete much needed road improvements in a coastal management area. 3) Acknowledges that urgent work required on the following roads is being delayed due to the work involved, approvals required and cost now required under the Coastal Management Act: a. Foreshore Drive, Salamander Bay b. Swan Bay Road, Swan Bay

c. Mustons Road, Karuah.

Councillor Glen Dunkley returned to the meeting at 8:03pm.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

260	Mayor Ryan Palmer Councillor Paul Le Mottee
	It was resolved that Cr Arnott be expelled from the Council Chamber for acts of disorder.

Mayor adjourned the meeting at 8.04pm to allow for the Police to be called to remove Cr Arnott as he refused to leave the Council Chamber.

Councillor Giacomo Arnott left the meeting at 8:17pm.

The meeting resumed at 8.17pm with all those present at the adjournment being present, with the exception of Cr Arnott.

BACKGROUND REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER

BACKGROUND

The introduction of the Coastal Management Act 2016 and State Environmental Planning Policy (SEPP) 2018 replaced a number of previous SEPPs including SEPP14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection).

The Act and SEPP promotes an integrated land use planning perspective by specifying how development proposals are to be assessed if the development proposal or works falls in one of the 4 coastal zones.

In summary, the coastal zone classified as Coastal Wetlands and Littoral Rainforests Area were previously protected by SEPP 14 and SEPP 26. This coastal zone has now determined works above and beyond "emergency works and routine maintenance works" as now Designated Development. Traditional works, for example, road rehabilitation and drainage culvert construction fall outside of defined "emergency works and routine maintenance works" and hence now require a development consent. It should be noted that an approximate 100m buffer zone now surrounds the previous SEPP 14 and SEPP 26 areas that also require development consent.

Prior to the adoption of the Coastal Management Act and SEPP, either a Roads Act or SEPP Infrastructure would have provided the approval once the proposed works were assessments against relevant environmental legislation by a qualified person. The addition of the development assessment process has added inefficiencies, cost and time delays to the project delivery on Council's infrastructure.

ATTACHMENTS

NOTICE OF MOTION

ITEM NO. 3 FILE NO: 19/378259 EDRMS NO: PSC2017-00019

SMART PARKING

MAYOR: RYAN PALMER

THAT COUNCIL:

1) Investigate the installation of SMART Parking at Birubi Headland and Shoal Bay CBD Precinct/Foreshore.

- Continue community consultation in Nelson Bay around the installation of SMART Parking.
- 3) All SMART Parking in Port Stephens be free for residents, rate payers and employees of local businesses. Time based restrictions to apply.
- 4) Invest the funds raised from SMART Parking back into the precinct where the funds are collected.
- 5) Invest the funds into the following projects (but not limited to) public domain, improved/increased car parking, place activation, marketing and advertising, landscaping etc.
- 6) Each precinct shall have its own reserve to managing funding.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019

MOTION

261 Mayor Ryan Palmer Councillor Glen Dunkley

It was resolved that Council:

- 1) Investigate the installation of SMART Parking at Birubi Headland and Shoal Bay CBD Precinct/Foreshore.
- 2) Continue community consultation in Nelson Bay around the installation of SMART Parking.
- 3) All SMART Parking in Port Stephens be free for residents, rate payers and employees of local businesses. Time based restrictions to apply.
- 4) Invest the funds raised from SMART Parking back into the precinct where the funds are collected.
- 5) Invest the funds into the following projects (but not limited to) public domain, improved/increased car parking, place activation, marketing and advertising, landscaping etc.

6) Each precinct shall have its own reserve to manage funding.

BACKGROUND REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER

BACKGROUND

Smart parking schemes help to influence transport mode choice and prioritise efficient travel in areas where there is a high demand for parking on roads and road related areas. Generally, smart parking schemes are intended primarily:

- a. to ensure both safety and traffic efficiency within the overall context of travel demand management and the management of traffic on the road system
- b. to provide equitable access to parking spaces through increased parking turnover in areas where demand for parking exceeds the available parking spaces
- c. to help manage the competition between short-medium term parking and all day parking
- d. to ensure that any parking demand strategy is consistent with any land transport strategy for the area, and to support and complement the transport objectives, especially public and active transport, rather than working against them
- e. to enable revenue capture to ensure establishment and administration of the scheme and the provision of infrastructure.

Roads & Maritime Services (RMS) concurrence must be sought for the implementation of a smart parking scheme. This is because parking signs, meters/machines and certain pavement marking are prescribed traffic control devices and therefore must go through the Local Traffic Committee before they can be installed. A review of the regulations and RMS guidelines confirm that Council may introduce a concurrent permit parking scheme which would allow permit holders to park without charge and/or time restrictions in relevant pay parking spaces.

The proposed smart parking scheme is supported by the Nelson Bay Strategy/Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program through recommendations of the Citizens Parking Panel. Additionally, the technical Traffic and Parking Studies parking studies and community consultation recommendations 9 and 15 - Parking in Nelson Bay: Engagement Report (AKA Independent Citizens Parking Panel Report).

9. Rationalise parking limits and times, with:

- a. a review of the different time zones (eg 5, 10, 15 minute parking zones) and of their location
- b. paid parking in certain areas/car parks
- c. permits/times for locals.

15. Investigate 'smart parking' opportunities, including but not limited to the following:

- a. Signage to include count of available spaces and direction/distance to
- b. Cameras linked to signage to identify and direct to available spaces
- c. Plate recognition to identify parking users, generate data, but also enable remote payment ie users (potentially only non-locals) are identified by a sensor as they enter the CBD and start paying a fee after a given number of hours (or straightaway depending on the time of the year)
- d. Technology linked to smartphones via applications
- e. Use Artificial Intelligence (drone parking).

Recommendations P3 and P5 in the Nelson Bay Traffic and Parking Study Update:

- P3 Improve town centre off-street parking facilities
- P5 Expand paid parking coverage.

The Birubi Headland and Shoal Bay CBD precinct/foreshore area will need further investigation to be reported back to Council.

ATTACHMENTS

NOTICE OF MOTION

ITEM NO. 4 FILE NO: 19/378281

EDRMS NO: PSC2017-00019

RAYMOND TERRACE INCREASED DENSITY

MAYOR: RYAN PALMER

THAT COUNCIL:

1) Investigate increased density and heights in and around the Raymond Terrace CBD/Boomerang Park area to allow for population growth.

2) Recognise that there is a great opportunity to increase density around Boomerang Park, but not in the park, due to the large amount of parklands and open space available.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

262 Mayor Ryan Palmer Councillor Chris Doohan

It was resolved that Council:

- 1) Investigate increased density and heights in and around the Raymond Terrace CBD/Boomerang Park area to allow for population growth.
- 2) Recognise that there is a great opportunity to increase density around Boomerang Park, but not in the park, due to the large amount of parklands and open space available.

BACKGROUND REPORT OF: STEVEN PEART – STRATEGY & ENVIRONMENT SECTION MANAGER

BACKGROUND

The Greater Newcastle Metropolitan Plan identifies Raymond Terrace as a strategic centre with the potential to accommodate significant growth to become an important residential and economic centre.

The Raymond Terrace and Heatherbrae Strategy was adopted by Council on the 24 November 2015 and recognises the opportunities for increased density in and around the Raymond Terrace town centre. The Strategy contains actions to:

- Increase the maximum height of buildings in and around Raymond Terrace town centre.
- Explore opportunities to support small lot housing to achieve higher densities in around the town centre.
- Implement the Boomerang Park Masterplan and support increased dwellings around Boomerang Park.
- Facilitate seniors housing and shop top housing in and around the town centre.

Consistent with these actions, and as part of the Local Housing Strategy, Council is preparing an Infill Housing Study that considers the feasibility of developing sites in and around the Raymond Terrace town centre for higher density housing, including shop top housing and multi dwelling housing.

The outcomes of the Infill Housing Study will inform changes to planning controls to make these development types more feasible in Raymond Terrace. The Local Housing Strategy and Infill Housing Study will be reported to Council prior to public exhibition in early 2020.

ATTACHMENTS

NOTICE OF MOTION

ITEM NO. 5 FILE NO: 19/379705

EDRMS NO: PSC2017-00019

PORT STEPHENS INTERNATIONAL WORMEN'S DAY SCHOLARSHIP

MAYOR: RYAN PALMER

THAT COUNCIL:

1) Contribute \$1000 from each Ward fund to provide 3 scholarships of \$1000 each for women aged 16 and older in the Port Stephens local government area, in celebration of International Women's Day 2020.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

263 Mayor Ryan Palmer Councillor Jaimie Abbott

It was resolved that Council contribute \$1000 from each Ward fund to provide 3 scholarships of \$1000 each for women aged 16 and older in the Port Stephens local government area, in celebration of International Women's Day 2020.

BACKGROUND REPORT OF: STEVEN BERNASCONI – COMMUNICATIONS SECTION MANAGER

BACKGROUND

The inaugural Port Stephens International Women's Day (IWD) scholarship program was held in 2018. The program was well received with scholarships announced at the Rotary Club of Salamander Bay International Women's Day lunch.

This program is designed to encourage women in the Port Stephens local government area to achieve their goals and to support their valuable contribution to our communities.

It is proposed to offer 3 scholarships of \$1000 each for women across arts and culture, environment, business, community, health and sport – during 2020.

The awardees would be announced at the Rotary Club of Salamander Bay International Women's Day lunch to be held in March 2020.

ATTACHMENTS

NOTICE OF MOTION

ITEM NO. 6 FILE NO: 19/381617

EDRMS NO: PSC2017-00019

SOLAR INFRASTRUTURE

MAYOR: RYAN PALMER

THAT COUNCIL:

1) Request the General Manager to investigate and provide a report on the options to use solar to reduce Council's electricity costs and carbon footprint.

OPDINARY COLINCII MEETING - 10 DECEMBER 2019

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

264	Mayor Ryan Palmer Councillor John Nell
	It was resolve that Council request the General Manager to investigate and provide a report on the options to use solar to reduce Council's electricity costs and carbon footprint.

BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER

BACKGROUND

External companies have in the past contacted Council with options or schemes to increase Council's solar infrastructure.

Options have previously centred on the creation of solar farms on large parcels of land or on bodies of water that Council has no control or management of. These proposals were based on supplying energy back to the electricity grid to offset Council's electricity costs. Though these options have required a large capital cost outside of Council's usual financial means.

With changes to the energy market, a new option has been presented to Council to place solar panels and low energy lighting on our building assets. While very early into the investigation of this proposal, it appears that Council is not required to spend a large capital to increase our solar panels and low energy lights to our existing network. The proposal would reduce energy consumption and Council's carbon footprint. This option does not include street lighting as these are being worked through on another program.

Further investigation is required and will be reported back to Council with details.

Council has a sustainability fund that enables upgrades to its facilities for low energy lighting and solar panels. To date solar panels have been introduced on the following Council owned buildings:

- Administration Building
- Salt Ash Community Hall
- Raymond Terrace Men's Shed
- Raymond Terrace Community Care Centre
- Medowie Community Centre
- Corlette Hall
- Seaham School of Arts
- Fingal Bay Rural Fire Station
- Tilligerry Rural Fire Station
- Tomaree Library
- Salamander Waste Facility

It should be noted that solar is not the ideal solution for all locations. Alternatives such as low energy lighting can make a large difference to Council's energy consumption.

ATTACHMENTS

NOTICE OF MOTION

ITEM NO. 7 FILE NO: 19/381619 EDRMS NO: PSC2017-00019

GREEN WASTE DROP OFF - SALAMANDER BAY

MAYOR: RYAN PALMER

THAT COUNCIL:

1) Request the General Manager to provide a report on the feasibility of having green waste dropped off for free every Sunday at Salamander Bay and not every 2nd and 4th Sunday.

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

265	Mayor Ryan Palmer Councillor Glen Dunkley
	It was resolve that Council request the General Manager to provide a report on the feasibility of having green waste dropped off for free every Sunday at Salamander Bay and not every 2 nd and 4 th Sunday.

BACKGROUND REPORT OF: GREG KABLE – FACILITIES & SERVICES GROUP MANAGER

BACKGROUND

The green waste drop off events are funded by the Waste Management Charge within the Council rates notices and the current Green Waste Drop off schedule includes:

October to April.

1st Sunday – Karuah and Lemon Tree Passage

2nd Sunday – Raymond Terrace and Salamander Bay

3rd Sunday – Lemon Tree Passage

4th Sunday – Raymond Terrace and Salamander Bay

May to September

1st Sunday – Karuah

2nd Sunday – Raymond Terrace

3rd Sunday – Lemon Tree Passage

4th Sunday – Salamander Bay

<u>Usage</u>

- Currently residents have an option of 48 out of 52 Sundays per year for free green waste disposal, acknowledging that they need to travel to other locations on the weekends when it is not their local event.
- The usage of these green waste drop off events is reasonable with up to 2000 users each month in the growing seasons when 7 services a month are available.
- Of these 2000 users many are regulars at a particular site and a couple of users will visit all the sites across the month so it isn't 2000 individual users each month.
- To eliminate the regulars an assumption of 1500 different users would be reasonable, which means about 5% of the eligible users attend the events per month.
- A doubling of Salamander Bay may produce questions from the Western and Tilligerry areas about the same level of service.

Site	Tonnes Per Event
Karuah	4 to 5
Raymond Terrace	25 to 30
Lemon Tree Passage	20 to 25
Salamander Bay	50 to 60

Budget

- Current annual budget \$500,000.
- This covers the staffing, contractor and disposal costs for the service.
- A doubling of the service level would see an almost doubling of the budget.

Effect of increasing service level

- Originally the green waste drop off service included the allocation of 1 collection per location per month.
- 5 years ago Council doubled the services to fortnightly during the October to March period and we observed a doubling of the volume of material received each month.

- This doubling in volume at the green waste drop off days did not result in an increase in tonnes received at the Salamander Bay Waste Transfer Station overall.
 - This means that the additional green waste delivered on the drop off events was material that would have normally been delivered and paid for during the week or on alternative weekends by the waste generator.
 - Further increases to the service level would further reduce the income of the Waste Transfer Station resulting in it needing to be subsidised by Council and hence the rate payers of Port Stephens.

Pros for Increase in Service Level

• The 5% of residents or rate payers that use the service each month will have additional options for free green waste drop off.

Cons for Increase in Service Level

- An increase in the residents rates of approximately \$20 per year due to the increased cost of doubling the drop off event calendar and decrease in surplus for the Salamander Bay Waste Transfer Station.
- The 95% of residents and ratepayers that don't use the service each month will be paying the bill via their waste charges within the rates for the 5% that do use the service each month.
- Council's contractor may be unwilling to hold extra events at the Raymond Terrace Site as they would be unable to staff the additional days.
- With the recent decision by the NSW EPA the revoke the use of the compost produced from Council's red bin, Council will need to develop a long term waste strategy, which could possibly include a green bin for the residents.
 - o If a green bin was introduced in Port Stephens we would need to consider the removal or wind back of the green waste drop off events in order to cover part of the new service costs so that the residents don't have to pay as much for the new system.

ATTACHMENTS

CONFIDENTIAL ITEMS

In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL MEETING – 10 DECEMBER 2019 MOTION

266	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that Council move into confidential session.

The following Council officers were present for the Confidential Session:

Communications Section Manager Public Relations and Marketing Coordinator Digital Marketing and Social Media Officer

CONFIDENTIAL

ITEM NO. 1 FILE NO: 19/357719

EDRMS NO: PSC2009-02408V4

1 CENTRAL AVENUE, SALAMANDER BAY (LOT 8)

REPORT OF: JANET MEYN - PROPERTY SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

Councillor Ken Jordan Councillor Chris Doohan It was resolved that Council: 1) Enter into a ground lease with TAFE NSW for Lot 8 in Deposited Plan 1239352 for a term of 10 years with 2, 5 year options. 2) Authorises the Mayor and the General Manager to sign and affix the Council Seal to all documentation required to effect the lease for Lot 8 in Deposited Plan 1239352. 3) Authorises the General Manager to negotiate any outstanding terms and conditions of the lease.

CONFIDENTIAL

ITEM NO. 2 FILE NO: 19/372220

EDRMS NO: PSC2016-00955

EXPRESSION OF INTEREST - 9B DIEMARS ROAD, SALAMANDER BAY

REPORT OF: JANET MEYN - PROPERTY SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

ORDINARY COUNCIL MEETING - 10 DECEMBER 2019 MOTION

Councillor John Nell Councillor Ken Jordan It was resolved that Council: 1) Approve the sale of 9B Diemars Road, Salamander Bay by expression of interest. 2) Authorise the General Manager to negotiate contract conditions as required, excluding the sale price of the lot. 3) Should a suitable proponent not be identified through the Expression of Interest process, Council will proceed with the original recommendation.

ORDINARY COUNCIL MEETING – 10 DECEMBER 2019 MOTION

269	Councillor Glen Dunkley Councillor Steve Tucker
	It was resolve that Council move out of confidential session.

There being no further business the meeting closed at 8.43pm.