

# DRAFT

## MINUTES – 26 FEBRUARY 2019



# PORT STEPHENS C O U N C I L

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 26 February 2019, commencing at 5:36pm.

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

Note: Cr Le Mottee was not present at the commencement of the meeting.

<b>033</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Nell</b>  It was resolved that the apologies from Cr Chris Doohan and Cr Glen Dunkley be received and noted.
<b>034</b>	<b>Councillor Jaimie Abbott</b> <b>Councillor Sarah Smith</b>  It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 12 February 2019 be confirmed.

	<p>Cr Abbott declared a pecuniary conflict of interest in item 3. The nature of the interest is a personal connection to the applicant.</p> <p>Cr Le Mottee declared a pecuniary conflict of interest in items 2 and 3. The nature of the interest is the Le Mottee Group has clients that own land in the area of item 2 and that Cr Le Mottee lives adjacent to Green Wattle Creek Road.</p>
--	--

# INDEX

SUBJECT

PAGE NO

**MAYORAL MINUTES..... 4**

1. ROCK FISHING SAFETY ACT IMPLEMENTATION .....5

**COUNCIL REPORTS..... 7**

1. DEVELOPMENT APPLICATION NO. 16-2018-602-1 FOR MEDICAL CENTRE (CHANGE OF USE FROM EXISTING DWELLING) AT 103 BOUNDARY ROAD MEDOWIE (LOT: 203 DP: 1235985).....8
2. DRAFT AMENDMENT TO THE PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014 - CHAPTER D13 REES JAMES ROAD, RAYMOND TERRACE.....44
3. FINANCIAL ASSISTANCE - CONSTRUCTION OF GREEN WATTLE CREEK ROAD, BUTTERWICK .....58
4. SIX-MONTHLY REPORT JULY TO DECEMBER 2018 AGAINST PORT STEPHENS COUNCIL DELIVERY PROGRAM 2018-2021.....96
5. QUARTERLY BUDGET REVIEW AS AT 31 DECEMBER 2018.....99
6. 2020 LOCAL GOVERNMENT ELECTION .....120

**NOTICES OF MOTION..... 124**

1. FUNDING FOR EMERGENCY ELECTRICAL GENERATOR - STATE EMERGENCY SERVICE HEADQUARTERS, RAYMOND TERRACE .....125

**RESCISSION MOTIONS ..... 127**

1. PLANNING PROPOSAL FOR BOOMERANG PARK .....128

# MAYORAL MINUTES



**MAYORAL MINUTE**

**ITEM NO. 1**

**FILE NO: 19/48256  
EDRMS NO: PSC2015-01024**

**ROCK FISHING SAFETY ACT IMPLEMENTATION**

---

**THAT COUNCIL:**

- 1) Endorse the General Manager writing to the NSW Department of Primary Industries (Fisheries) 'opting in' to the *Rock Fishing Safety Act 2016* in the Port Stephens Local Government Area (LGA).
  - 2) Endorse the implementation of a communications plan, education campaign, advertising, community workshops, signage installation and a 12 month enforcement moratorium.
- 

**ORDINARY COUNCIL MEETING - 26 FEBRUARY 2019  
MOTION**

<b>035</b>	<p><b>Councillor Sarah Smith</b> <b>Councillor John Nell</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Endorse the General Manager writing to the NSW Department of Primary Industries (Fisheries) 'opting in' to the <i>Rock Fishing Safety Act 2016</i> in the Port Stephens Local Government Area (LGA).</li><li>2) Endorse the implementation of a communications plan, education campaign, advertising, community workshops, signage installation and a 12 month enforcement moratorium.</li></ol>
------------	---

Cr Arnott and Cr Nell called a division.

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

Those against the Motion: Nil.

**BACKGROUND**

The purpose of this Mayoral Minute is to obtain Council approval for the recommendations listed above.

Between 2005 and 2016 there were over 100 rock fishing deaths in NSW. In response to this and two subsequent Coronial Enquiries, the *Rock Fishing Safety Act 2016* (the Act) commenced.

The Act requires that rock fishers and anyone assisting them, or children (under 12) in their care, wear an Australian Standard (AS4758) approved life jacket. The coronial enquiries revealed that of all the rock fishers who died during the period referred to above, none were wearing life jackets. There were also cases when the rescuer also drowned trying to save a rock fisherman.

Following the commencement of the Act, a trial was conducted in the Randwick LGA over a 12 month period. Less than 10% of fishermen in the trial were wearing life jackets and over 65% of them were confident they would not survive if they were washed in off the rocks. Following the trial, after significant education and continued surveillance, it was found that over 74% of rock fishermen were now wearing life jackets.

The key message of the government and the intent of the legislation is that life jackets save lives.

Despite its commencement in December 2016, the new Act is not applied automatically across NSW. Councils need to 'opt in' by way of the General Manager writing to the Senior Fisheries Manager before it is activated in the Port Stephens LGA.

Opting into the Act enables Council and other agencies such as Police, Roads & Maritime Services and the National Parks & Wildlife Service to undertake enforcement actions under the Act. Opting into the new legislation will also enable Council to seek funding and dedicate resources for collaborative education and enforcement campaigns with other agencies prior to, and during, targeted holiday periods and long weekends.

## **ATTACHMENTS**

Nil.

# COUNCIL REPORTS

**ITEM NO. 1**

**FILE NO: 19/42471  
EDRMS NO: 16-2018-602-1**

**DEVELOPMENT APPLICATION NO. 16-2018-602-1 FOR MEDICAL CENTRE  
(CHANGE OF USE FROM EXISTING DWELLING) AT 103 BOUNDARY ROAD  
MEDOWIE (LOT: 203 DP: 1235985)**

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

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2018-602-1 for a Medical Centre (change of use from existing dwelling) and associated car park and landscaping over two stages, at 103 Boundary Road, Medowie (Lot: 203 DP: 1235985) subject to the conditions contained in **(ATTACHMENT 4)**.

---

Councillor Paul Le Mottee entered the meeting at 5.40pm.

**ORDINARY COUNCIL MEETING - 26 FEBRUARY 2019  
MOTION**

	<p><b>Mayor Ryan Palmer Councillor John Nell</b></p> <p>That Council approve Development Application 16-2018-602-1 for a Medical Centre (change of use from existing dwelling) and associated car park and landscaping over two stages, at 103 Boundary Road, Medowie (Lot: 203 DP: 1235958) subject to the conditions contained in <b>(ATTACHMENT 4)</b> with the following amended condition:</p> <p>29. <b>Prior to issue of any Occupation Certificate</b>, all landscape works detailed on the approved landscape plan (No. 18014-B – LO1, prepared by Absolute Drafting Services, and dated 10.10.2018) shall be installed, inclusive of the following amendments:</p> <ul style="list-style-type: none"><li>a) All 12 trees denoted as 11m mature height in landscape plan will be Lophostemon confertus (Queensland Brush Box). The trees shall be a minimum pot size of 45 litres and taller than 1.2m at the time of planting;</li><li>b) Lapped and capped timber fencing shall be installed bordering the driveway, car parking spaces and pedestrian pavement, as notated and marked in red on the approved plan. The fencing shall be installed to a height of 1.8 metres in</li></ul>
--	--

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

	<p>order to maintain visual privacy to adjoining properties. The fencing is to be maintained in perpetuity; and</p> <p>c) Mature native trees and/or shrubs, a minimum 1.8m high, shall be planted immediately adjacent to the entire length of the timber fence bordering the pedestrian pathway (as notated and marked in red on the approved plan) in order to provide visual screening of the timber fence from 99 Boundary Road, Medowie (Lot: 202 DP 1235985). The native trees and/or shrubs are to be maintained in perpetuity. Where plantings fail they shall be replaced with a mature native planting within seven days.</p> <p>d) The driveway and carpark is to be Asphaltic concrete or similar.</p> <p>All landscaped areas shall be kept free of parked vehicles, stored goods, garbage or waste material and the like at all times.</p>
--	---

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

Those for the Motion: Mayor Ryan Palmer, Crs Paul Le Mottee and John Nell.

Those against the Motion: Crs Jaimie Abbott, Giacomo Arnott, Ken Jordan, Sarah Smith and Steve Tucker.

The motion was lost.

## ORDINARY COUNCIL MEETING - 26 FEBRUARY 2019 MOTION

<b>036</b>	<p><b>Councillor Ken Jordan</b> <b>Councillor Sarah Smith</b></p> <p>It was resolved that Council refuse Development Application 16-2018-602-1 for a Medical Centre (change of use from existing dwelling) and associated car park and landscaping over two stages, at 103 Boundary Road, Medowie (Lot: 203 DP: 1235958), with reasons for refusal contained in <b>ATTACHMENT 5</b>, and include the following additional reason:</p> <p>‘5. The proposed development fails to satisfy Clause 57 (4)(ii) of SEPP (Infrastructure) 2007 as the development is not compatible with the surrounding land uses (s4.15(1)(a) of the Environmental Planning and Assessment 1979 (EP&amp;A Act)).’</p>
------------	---

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

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Ken Jordan, Sarah Smith and Steve Tucker.

Those against the Motion: Mayor Ryan Palmer, Crs Paul Le Mottee and John Nell.

### Deferred from Council meeting of 12 February 2019

Development Application No. 16-2018-602-1 was reported to Council at its meeting on 12 February 2019. At that meeting it was resolved to defer the application to enable consideration of the reasons for refusal of the application and also considered potential options to ameliorate the neighbouring properties concerns. The resolution is provided below:

*Meeting Minute 020: It was resolved that Council defer Development Application 16-2018-602-1 for a Medical Centre (change of use from existing dwelling) and associated car park and landscaping over two stages, at 103 Boundary Road, Medowie (Lot: 203 DP: 1235985) to the next ordinary Council meeting.*

Reasons for Refusal have been prepared at **(ATTACHMENT 5)** should Council resolve to refuse the application.

To address the privacy and acoustic amenity concerns noted at the Council meeting on 12 February 2019, in the event that Council resolve to approve the application, solid timber fencing and additional planting is suggested as specified in the following additional condition:

Prior to issue of any Occupation Certificate, all landscape works detailed on the approved landscape plan (No. 18014-B – LO1, prepared by Absolute Drafting Services, and dated 10 October 2018) shall be installed, inclusive of the following amendments:

- a) All 12 trees denoted as 11metre mature height in landscape plan will be *Lophostemon confertus* (Queensland Brush Box). The trees shall be a minimum pot size of 45 litres and taller than 1.2 metres at the time of planting.
- b) Lapped and capped timber fencing shall be installed bordering the driveway, car parking spaces and pedestrian pavement, as notated and marked in red on the approved plan. The fencing shall be installed to a height of 1.8 metres in order to maintain visual privacy to adjoining properties. The fencing is to be maintained in perpetuity.
- c) Mature native trees and/or shrubs, a minimum 1.8 metres high, shall be planted immediately adjacent to the entire length of the timber fence bordering the pedestrian pathway (as notated and marked in red on the approved plan) in order to provide visual screening of the timber fence from 99 Boundary Road, Medowie (Lot: 202 DP 1235985). The native trees and/or shrubs are to be maintained in perpetuity. Where plantings fail they shall be replaced with a mature native planting within seven days.

All landscaped areas shall be kept free of parked vehicles, stored goods, garbage or waste material and the like at all times.

The 12 February 2019 Council Report is provided below. No changes have been made to this report since it was reported on 12 February 2019.

**BACKGROUND**

The purpose of this report is to present Development Application (DA) No.16-2018-602-1 to Council for determination. The development application was called to Council as detailed in **(ATTACHMENT 1)**.

The subject DA relates to land located at 103 Boundary Road, Medowie, legally identified as LOT: 203 DP: 1235985 (the 'subject site'). A locality plan is provided at **(ATTACHMENT 2)**.

Proposal

The applicant seeks approval for a Medical Centre (change of use from existing dwelling) and associated car park and landscaping, which will occur over two stages as follows:

- Stage one – Alterations and additions to existing dwelling comprising minor building works including removal of doors and windows, raising the floor level and construction of new walls. The overall extension to the existing dwelling within stage one is 6.1m<sup>2</sup>. Car parking, access, stormwater and landscaping works shall also be completed at stage one.
- Stage two - Extensions to the front (south elevation), side (east elevation) and rear (north elevation) of the existing dwelling. The overall extension to the existing dwelling within stage two is 49.7m<sup>2</sup>.

The centre will include five consult rooms, two bed nurse treatment station, minor operations room, on site pathology, two stationed reception and administration/ practice manager offices, separate staff toilets and staff room with kitchenette.

The employee details of the proposed medical centre include:

- Three full time General Practitioners (and proposing two additional doctors after two years when the practice is more established)
- One full time practice manager
- Two part time receptionists
- Two part time nurses

The additional rooms remaining are intended to be rented out to allied health specialists (such as pathology, psychologist and podiatrist). The centre requires a receptionist, a nurse, a practice manager and five medical professionals on-site at any one time.

The hours of operation of the proposed medical centre are as follows:

- Monday to Friday: 8:30am – 5:30pm and Saturday: 8:30am – 11:30am.

#### Site Description

The subject site has a total area of approximately 4,072m<sup>2</sup>. The site currently contains a single dwelling fronting Boundary Road and a detached double garage and carport. The single storey dwelling is proposed to be retained and converted to a medical centre with extensions and additions as detailed in **(ATTACHMENT 3)**. There are vacant lots either side of the subject site.

The site has a number of constraints including; Bushfire Prone Land, Acid Sulfate Soils – Class 5, RAAF Height Trigger Map (refer structures higher than 7.5 metres) and RAAF Bike Strike – Group A.

#### Key Issues

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

#### Permissibility

The subject land is zoned 'R5 Large Lot Residential' under Port Stephens Local Environmental Plan 2013 ('LEP2013') and 'Medical Centres' are not listed as permissible development within this zone.

However, Division 10 Clause 57(1) of the *State Environmental Planning Policy (Infrastructure) 2007* ('ISEPP') provides that development for the purposes of health services facilities (including medical centres) may be carried out by any person with consent in prescribed zones. The R5 Large Lot Residential zone is identified as a prescribed zone for the purpose of clause 57(1) of the ISEPP.

Furthermore, Clause 8 of the ISEPP defines the relationship it has with other Environmental Planning Instruments (such as the LEP2013), stating that where there is a conflict, the SEPP prevails. Accordingly, the ISEPP overrides the provision of the LEP2013, and the proposed Medical Centre is permissible development with consent.

#### Impacts to Character and Amenity of the Locality

The proposed development is considered to be compatible with the surrounding residential area. The proposed use shall occur within an existing dwelling and therefore the built form retains its residential character. Furthermore, landscaping treatment has been proposed to screen the proposed car parking from the street and mitigates any potential visual impact. The large lot size and setbacks to the streetscape (being over 10 metres to the proposed car park) and adjoining properties further mitigate any potential impacts arising from the proposed development.



It is noted that there has been community interest in the development application and during the exhibition period eight submissions were received. The submissions received identify concerns that the development shall impact the character and amenity of the locality for the following reasons:

- Traffic and parking impacts
- Commercial land use within a residential estate contrary to a Section 88B instrument
- Noise
- Privacy and visual impacts
- Waste management
- Social impacts

All concerns raised by the community during the exhibition period have been addressed in detail within the planner's assessment report contained at **(ATTACHMENT 3)**. It has been identified that the proposed development, subject to the recommended conditions, satisfies Council's requirements and is not likely to result in unreasonable adverse impacts to the character and amenity of the locality.

#### Conclusion

The proposed development is consistent with relevant legislation and policies, including:

- *Environmental Planning and Assessment Act 1979* ('EP&A Act')
- *State Environmental Planning Policy (Infrastructure) 2007* ('ISEPP')
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- Port Stephens Local Environmental Plan 2013 ('LEP2013')
- Port Stephens Development Control Plan 2014 ('DCP2014')

The key issues arising through the assessment and submissions raised in respect to the development application have been addressed within the detailed assessment report contained at **(ATTACHMENT 3)**. Subject to the recommended condition of consent contained at **(ATTACHMENT 4)** the proposed development is recommended for approval.

#### **COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.12)	Yes		The development is subject to the levying of development contributions under section 7.12 of the EP&A Act. A condition of consent has been recommended.
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, including; Port Stephens Local Environmental Plan 2013 (LEP), *State Environmental Planning Policy No 55 - Remediation of Land*, *State Environmental Planning Policy (Infrastructure) 2007* (SEPP) and Port Stephens Council Development Control Plan 2014 (DCP). Detailed assessment against these requirements are contained within the assessment report provided at **(ATTACHMENT 3)**.

Risk	<u>Risk Ranking</u>	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

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The proposed development is anticipated to generate viable employment and economic activity through both the construction of the development and occupation by the medical centre. The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality and will not result in unacceptable adverse impacts upon the natural or built environments. The

development is not anticipated to have significant adverse impacts on the locality, surrounding properties or public places. Accordingly, the development is considered to be in the public interest.

A detailed assessment of the proposed development has been carried out against the requirements of the *Environmental Planning and Assessment Act 1979* as provided in **(ATTACHMENT 3)**.

## **CONSULTATION**

### Internal referral

Consultation was undertaken with internal officers, including; Development Engineering, Natural Resources (Vegetation Management), Building Surveying and Development Contributions. The referral comments from these officers were considered as part of the assessment contained at **(ATTACHMENT 3)** and relevant recommend conditions of consent have been included at **(ATTACHMENT 4)** should the application be approved.

### External agency

Consultation with the Department of Defence was undertaken during the course of assessment as the subject site is identified as being affected by the RAAF Height Trigger Map (for structures higher than 7.5 metres) and RAAF Bike Strike – Group A. Subject to recommended conditions of consent being imposed; with respect to the management of waste and non-reflective surfaces in the design and the construction of the proposed development; the Department of Defence had no objection to the development.

### Public exhibition

In accordance with Council's notification policy as outlined in Chapter A of DCP2014 the application was notified for a period of 14 days between 19 September 2018 and 4 October 2018. During the exhibition period eight submissions were received. The key issues raised within the submissions have been discussed elsewhere within this report and have also been addressed in detail within the planner's assessment report contained at **(ATTACHMENT 3)**.

It has been identified that the concerns raised within the submissions can be adequately addressed by the proposed development and recommended conditions of consent contained in **(ATTACHMENT 4)**.

## **OPTIONS**

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

**ATTACHMENTS**

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

**COUNCILLORS ROOM**

Development Plans.

**TABLED DOCUMENTS**

Nil.



CALL TO COUNCIL FORM  
DEVELOPMENT APPLICATION

I, Councillor Chris Doohan

require Development Application Number DA NO:16-2018-602-1

for Medical Centre

at Lot 203 Boundary Rd, Medowie

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

**Reason:**

The reason for this call-up to Council is - Community concerns on Development impacts to area.

**Declaration of Interest:**

I have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this development application on my part or an associated person.

**I have a conflict of interest?** Yes / No

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

NOT APPLICABLE

**Signed:**



.....**Date:** 04 September 2018



ITEM 1 - ATTACHMENT 2 LOCALITY PLAN.





PORT STEPHENS  
COUNCILDEVELOPMENT  
ASSESSMENT REPORT

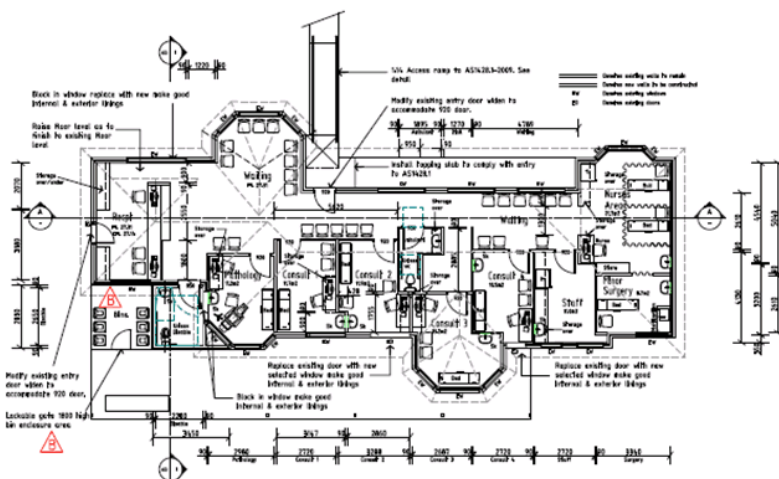
## APPLICATION DETAILS

Application Number	16-2018-602-1
Development Description	Medical Centre (change of use from existing dwelling) and associated car park and landscaping over two stages.
Applicant	MR G J BRUMMITT
Date of Lodgement	13/09/2018
Value of Works	\$350,000.00

Development Proposal

The application proposes a change of use from an existing dwelling to a Medical Centre over two stages (**Figure 3**), including:

- Stage one – Includes car parking, landscaping, stormwater and alterations and additions to the existing dwelling comprising minor building works including removal of doors and windows, raising the floor level and construction of new walls (**Figure 1**). The overall extension to the existing dwelling within Stage 1 is 6.1m<sup>2</sup>.



**Figure 1:** Stage one proposed floor plan

- Stage two - Extensions to the front (south), side (east) and rear (north) of the existing dwelling (**Figure 2**). The overall extension to the existing dwelling within Stage two is 49.7m<sup>2</sup>.





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

16-2018-602-1

PROPERTY DETAILS	
Property Address	103 Boundary Road MEDOWIE
Lot and DP	LOT: 203 DP: 1235985
Current Use	Dwelling House
Zoning	R5 LARGE LOT RESIDENTIAL
Site Constraints	Bushfire Prone Land (Buffer, Veg Cat 1); Acid Sulfate Soils – Class 5; RAAF Height Trigger Map (refer structures higher than 7.5m); RAAF Bike Strike – Group A; Port Stephens Mineral Resource Audit 2012 (referral area); Urban Release Area (Boundary Road); and DCP Chapter D9 – North Medowie.

**Site description and history**

The subject site is located at 103 Boundary Road, Medowie, is legally known as Lot 203 DP 1235985 and has an area of approximately 4,072m<sup>2</sup>. The site currently contains a single dwelling fronting Boundary Road and a detached double garage and carport. The single storey dwelling is proposed to be retained and converted to a medical centre (subject to this proposal). There are vacant lots either side of the subject site.



**Figure 4:** Locality of proposed development

The subject site has existing approval for a rural workers dwelling under 7-1995-679-1 (approved 23 October 1995) and a garage (detached) and carport under 16-2018-481-1 (approved August 2018). There are no compliance issues associated with the site that require consideration in respect to the proposed development.

Page 3 of 15

**Site Inspection**

A site inspection was carried out on 4 October 2018. The subject site is depicted in the images below:



**Image 1:** View of site from Boundary Road



**Image 2:** View of access to existing dwelling from driveway



**Image 3:** View from front of property to the West (adjoining property at the rear)



**Image 4:** Existing hardstand (where approved detached shed is to be located) to the East of the dwelling





**Image 5:** View from existing dwelling to the road frontage



**Image 6:** Adjoining property to the East

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

16-2018-602-1

**ASSESSMENT SUMMARY**

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

**Internal Referrals**

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

**Development Engineering**

No objections were made to the proposed development and conditions have been recommended with regard to provision of detailed stormwater plans. It has also been identified that a driveway construction application is required should the application be approved.

**Building**

Additional information was requested relating to disabled parking on the gravel driveway. On review of the revised plans no objections were made to the proposed development. General conditions relating to construction have been recommended should the application be approved.

**Development Contributions**

The proposed development is required to be levied under Section 7.12 of the Act. A condition outlining the contributions payable prior to the issue of the construction certificate has been recommended should the application be approved.

**Vegetation Management**

Additional information was requested requiring consistency with the development control plan, specifically landscape coverage and qualities, shading over car parking and screening and visual relief to the road and adjoining properties. On review of the additional information no objections were made to the amended landscape plan, however conditions on the species of trees and protection of existing trees on the site were recommended should the application be approved.

**External Referrals****Department of Defence**

The proposed development was referred to the Department of Defence (DoD) for comment as the subject site is identified as being affected by the RAAF Height Trigger Map (for structures higher than 7.5m) and RAAF Bike Strike – Group A.

A response was received from DoD, noting that they have no objection to the proposed development. However conditions have been recommended in the event the application be approved relating to the management of organic waste (such as maximum storage onsite and the

Page 7 of 15

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

16-2018-602-1

use of covered/enclosed bins) and use of non-reflective surfaces in the design and the construction of the proposed development.

**MATTERS FOR CONSIDERATION – SECTION 4.15****s4.15(1)(a)(i) – The provisions of any EPI**State Environmental Planning Policy 55 – Remediation of Land

The subject site is currently and has historically been used for residential purposes. As such, the likelihood of the site being contaminated is unlikely. Moreover, the NSW list of contaminated sites published by the EPA does not list the site as being a registered contaminated site. Based on this, it is considered that no significant contaminating activities have been undertaken that would inhibit the use of the site for the proposed use.

State Environmental Planning Policy (Infrastructure) 2007 ('ISEPP')

The development has been lodged as a Medical Centre under Division 10, clause 57(1) of the SEPP (Infrastructure) 2007 ('ISEPP'). This clause enables development for the purposes of health services facilities to be carried out by any person with consent. In the SEPP, a *Health Services Facility* has the same meaning as the in the Standard Instrument (see clause 56 of the ISEPP), which is defined as:

**health services facility** means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

**Medical Centre** is defined in the standard instrument as:

**medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

It is noted that a *Medical Centre* is not permissible in the R5 zone under Port Stephens Local Environmental Plan 2013 ('LEP2013'). However, clause 8 of the ISEPP defines the relationship it has with other Environmental Planning Instruments, such as LEP2013, stating that where there is a conflict, the SEPP prevails. Accordingly, the ISEPP overrides the provisions of LEP2013, and a *Medical Centre* is permissible in the R5 zone.

Port Stephens Local Environmental Plan 2013 (LEP)**Clause 1.9 – Application of SEPPs**

Page 8 of 15

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

16-2018-602-1

The LEP is subject to the provisions of any State Environmental Planning Policy that prevails over the LEP as provided by Section 3.28 of the *Environmental Planning and Assessment Act 1979*.

**Clause 1.9A – Suspension of covenants, agreements and instruments**

Clause 1.9A stipulates that for the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of a development does not apply to the extent necessary to serve that purpose.

A restriction on the use of land relating to the subject site (103 Boundary Road, Medowie LOT: 203 DP: 1235985) has been placed on the 88B Instrument to not permit buildings to be used other than for residential accommodation. This restriction on the land title benefits "every other lot except lot 200 and lots 205-230 inclusive". The restriction pertaining to residential accommodation is for the benefit of the developer for the first three years and the proprietor of the lots having common boundaries with the proprietor of the lot seeking to release, vary or modify the restriction. However, due to the application of clause 1.9A these restrictions do not limit Council's ability to approve the development, therefore the 88b restriction seeking to limit commercial development in the Bower estate has no effect and does not limit Council's ability to approve the development. An advisory note is recommended in the event the application is approved informing the applicant the restriction remains on the Section 88B Instrument and they may wish to seek advice with respect to the matter.

**Clause 2.3 – Zone objectives and land use table**

The subject site is zoned 'R5 Large Lot Residential' and Medical Centres are prohibited development. However, as detailed above the proposed Medical Centre is permissible with consent under the *State Environmental Planning Policy (Infrastructure) 2007* ('ISEPP').

**Clause 7.1 – Acid sulfate soils**

The site is located within class 5 acid sulfate soils. The subject site is not located within 500m of adjacent class soils, and does not propose excavations that would lower the watertable. The proposal is therefore unlikely to disturb acid sulfate soils and as such a management plan is not required.

**Clause 7.2 - Earthworks**

The application proposes minor earthworks on the site to achieve the required car parking grades. The proposed earthworks are relatively minor in nature and are not anticipated to result in any negative impacts on the subject site or adjoining land. No material is proposed to be imported or exported from the subject site and accordingly, the development complies with the requirements of this clause.

**Clause 7.4 – Airspace operations**

Page 9 of 15

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

16-2018-602-1

The application proposes development within the height trigger map (i.e. structures higher than 7.5m). As such the application was referred to Department of Defence for comment whom noted that it is unlikely that the proposed development will compromise the operations of the RAAF Base Williamtown Airport by penetrating the limitation or operations surface. Accordingly, the development meets the objectives of this clause.

**Clause 7.6 – Essential Services**

The subject site has appropriate existing connections to essential services including reticulated water, electricity and sewer. It is noted that the proposed development is under 60% site coverage for impervious areas. Further, the Bower Estate incorporates water quality and detentions (for up to 60% impervious areas). In this regard, no additional stormwater controls are required for this application. The subject land also maintains direct access to Boundary Road, meeting the requirements of this Clause.

**s4.15(1)(a)(ii) – Any draft EPI**

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

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

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

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

In accordance with the requirements of chapter A.12, the development application was notified for a period of 14 days between 19 September 2018 and 4 October 2018. During this time eight submissions were received. Submissions are considered and addressed in detail elsewhere within this report.

**Chapter B.3 – Environmental Management****Bushfire Prone Land**

Although the area is identified as bushfire prone, the site is surrounded by a large residential subdivision with managed land to all boundaries. There is no bushland threat located within 140 metres of the site. The potential threat is therefore minor and no specific bushfire upgrades will be required.

**Acid Sulfate Soils**

As discussed elsewhere within the report, the site is located within class 5 acid sulfate soils. The proposal is therefore unlikely to disturb acid sulfate soils and as such a management plan is not required.

**Earthworks**



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

16-2018-602-1

As discussed previously in the report, the application proposes minor earthworks on the site to achieve the proposed car parking grades. The proposed earthworks are relatively minor in nature and are not anticipated to result in any negative impacts on the subject or adjoining land. No material is proposed to be imported or exported from the subject site and accordingly, the development accords with the requirements of this clause.

Noise

The hours of operation of the proposed development include:

- Monday to Friday – 8:30am to 5:30pm; and
- Saturday – 8:30am to 11:30am.

The operational hours are considered appropriate given its level, nature and the character of the noise. The development type is not listed as a requirement to comply with B3.3 of the DCP.

**Chapter B.4 – Drainage and water quality**

The proposed development will result in an increase to the sites existing impervious area. However, it is noted that the proposed development is under 60% site coverage for impervious areas. Further, the Bower Estate incorporates water quality and detentions (for up to 60% impervious areas). In this regard, no additional stormwater controls are required for this application.

**Chapter B.7 – Williamstown RAAF Base – aircraft noise and safety**

The subject site is within the RAAF Height Trigger Map (refer structures higher than 7.5m) and has been referred to the Department of Defence accordingly. The subject site is located with the RAAF Bike Strike – Group A, however the development proposed is not listed as a development type to be avoided.

**Chapter B.9 – Road networking and parking**

The DCP requires the following ratios for the proposed development:

Land Use	Parking Ratio	Floor Area	Requirement
Medical Centre	1 car space per 25m <sup>2</sup> (disabled car parking 1 car space per 10 car spaces)	Stage one – 223.55m <sup>2</sup>	8.9 (9)
		Stage two – 247.859m <sup>2</sup>	9.9 (10)
Maximum parking spaces required			10
Parking spaces provided			22

The development provides 22 car parking spaces (including two accessible spaces) located at the front of the existing building. Car parking is accessed from Boundary Road. Due to the location of the subject site and setback from Boundary Road, the provision of additional car parking will not

Page 11 of 15

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

16-2018-602-1

result in any adverse visual impacts. It is considered that the driveway location would provide safe access and egress from the site considering the location along the road. The requirements of chapter B.9 have been satisfied.

**Chapter C.2 – Commercial development**

The development is located within a residential zone, however the proposed land use is commercial. Accordingly the development has been assessed against chapter C.2 and is considered to be satisfactory.

It is noted that to achieve consistency with the existing public domain and streetscape, whilst adhering to commercial requirements, additional facade treatments and minor external works are proposed which are complimentary to the form, proportions and massing of existing buildings within the area. It is noted that the floor to ceiling height of the proposed development is at 2.4m, which complies with the Building Code of Australia requirements.

The proposed development provides a clear direction and recognisable entry from the street and provides waste storage to the rear of the building, screened from public view. All waste is proposed to be deposited at the nearest waste management facility

The proposed landscape treatment is consistent with the DCP requirements with regard to coverage, qualities, 30% shading of car parking areas and provision of screening and visual relief to the road and adjoining properties at an appropriate scale. Overall, it is considered that the landscaping will enhance the appearance and amenity of the development.

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

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

**s4.15(1)(a)(iv) – The regulations**

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

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

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

**s4.15(1)(b) – The likely impacts of the development****Social and Economic Impacts**

The proposal will result in positive social and economic impacts through increasing the availability of medical services and facilities in the locality for the community. The location and use of the premises would encourage walking and cycling when accessing the facility.

**Impacts on the Built Environment**

Page 12 of 15

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

16-2018-602-1

The proposed development will have no adverse impacts on the built environment within its locality and is largely contained within the existing building. The existing building is in-keeping with the bulk and scale of existing developments in the locality. The landscape features are considered an appropriate scale to the development and will enhance the appearance and amenity of the development.

**Impacts on the Natural Environment**

The proposed development is not anticipated to have an impact on the surrounding natural environment. The existing building and associated hardstand are not located near any vegetation. In addition, appropriate erosion measures during construction and stormwater management would ensure impacts to the natural environment are acceptable.

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

The proposed development is considered to be appropriately positioned within its locality to adequately service the community and therefore the subject site is suitable for the development.

**s4.15(1)(d) – Any submissions**

In accordance with the requirements of chapter A.12, the development application was notified for a period of 14 days between 19 September 2018 and 4 October 2018. During this time eight submissions were received. The key matters raised within the received submission are outlined and addressed below:

<b>Submission</b>	<b>Response</b>
Traffic and parking concerns. Concern for staff and visitor parking.	Parking has been assessed under the DCP Chapter B.9 – Road Networking & Parking which requires parking ratios (i.e. requiring 1 car space per 25m <sup>2</sup> and a total of 10 spaces). The proposed parking provides excess parking with 22 spaces, including two accessible spaces provided.  The proposed driveway access is adequate for the development type and with access from Boundary Road, it is considered that the driveway location would provide safe access and egress from the site considering the location along the road.
Lower property prices	There is no evidence that the proposal would impact on property prices was provided. Furthermore, this is not a relevant consideration for Council under the EP&A Act.
Section 88b instrument stated no businesses will operate out of any residential lot in Bower estate.	Clause 1.9A LEP2013 stipulates that for the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of a development does not apply to the extent necessary to serve that

Page 13 of 15

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

16-2018-602-1

	purpose. Therefore, the 88b restriction seeking to limit commercial development in the Bower estate has no effect and does not limit Council's ability to approve the development. An advisory note is recommended in the event the application is approved informing the applicant the restriction remains on the Section 88B Instrument and they may wish to seek advice with respect to the matter.
Privacy issues for surrounding properties (visual).	Recommended conditions of consent have been provided to require appropriate privacy screening and buffers are to provide privacy to adjoining properties.
The development is out of character for the area and will provide unreasonable impacts on views and outlook of the neighbouring properties.	<p>The proposed development is considered in keeping with the residential nature of the area and is largely contained within the existing dwelling.</p> <p>The car parking has a visual impact from the street but the revised landscape plan provides landscaping features that are an appropriate scale to the development and will mitigate the aesthetic and streetscape issues on the impact of the car park and impact on adjoining neighbours.</p>
Concerns on waste collection and storage.	All waste is proposed to be deposited at the nearest waste management facility. The plans include an enclosed waste storage area located at the rear of the building.
Under the Port Stephens Local Environmental Plan 2013 – Zone R5 Large Lot Residential the proposal is not permissible with consent.	It is noted that a <i>Medical Centre</i> is not permissible in the R5 zone under Port Stephens Local Environmental Plan 2013 (LEP). However, clause 8 of the ISEPP defines the relationship it has with other Environmental Planning Instruments (such as the LEP), stating that where there is a conflict, the ISEPP prevails. Accordingly, the ISEPP overrides the LEP, and a Medical Centre is permissible in the R5 zone.
The proposal suggests there will be allied health services provided such as psychology, concern for safety for the surrounding estate that this will attract mentally unstable patients to the area.	There is no evidence to support the concerns raised in the submission. Furthermore, it is unlikely that the proposed development will result in safety impacts to surrounding residential development.
Concern regarding the construction impacts of the proposal such as noise, dust, hours, traffic and parking concerns for pedestrian safety of children and potential damage to surrounding properties.	Standard conditions of consent will be placed on the determination regarding construction standards and requirements.
Concern that the development has not addressed the public domain in reference to aspects such as wider footpaths and disabled access.	A standard condition is recommended should the application be approved requiring the development to comply with the requirements of the Building Code of Australia and where applicable the Disability (Access to

Page 14 of 15

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

16-2018-602-1

	Premises – Buildings) Standards 2010.
Concern regarding impact on services such as sewer, power, water and communications services.	The subject site is serviced by reticulated water, electricity and sewer. A condition is recommended in the event the application be approved relating to obtaining a Section 50 certificate from Hunter Water Corporation to ascertain appropriate connection to water and sewer.
The proposal will have social impacts on the neighbourhood and streetscape.	The proposal will increase medical services and facilities in the locality for the community. The location and use of the premises would encourage walking and cycling when accessing the facility and is considered a positive social impact. It is not likely that the development will result in any adverse social impacts to surrounding development.
Already three medical facilities within a 15 minute radius of the estate, there is no need to have this one.	Whilst this is noted, should a use be permissible, the consent authority (Council) must assess the application on merit using the applicable legislation. Competition and impact to existing businesses is not a relevant consideration under the EP&A Act.
Concerns for no adequate emergency plan and or bush fire survival plan put in place to cater for the proposed development.	There is no legislative requirement to consider an emergency plan and it is not considered necessary in this instance. Although the area is identified as bushfire prone, the site is surrounded by a large residential subdivision with managed land to all boundaries. There is no bush fire threat located within 140 metres of the site. The potential threat is therefore minor and no specific bushfire upgrades will be required.
Noise concerns (acoustics). Shift workers living in adjoining property.	The proposed hours of operation are considered appropriate given its level, nature and the character of the noise. These hours are not outside of normal business hours. The development is not listed as a development type that has the potential to produce adverse offensive noise (such as clubs, childcare centres and the like), therefore the development is not required to comply with the noise objective and requirements listed under Chapter B3.3 Environmental Management of the DCP.

**s4.15(1)(e) – The public interest**

The proposed development will result in the availability of a medical facility to the community. The development is considered to be in the interest of the local community.

**ITEM 1 - ATTACHMENT 4 RECOMMENDED CONDITIONS OF CONSENT.**



**PORT STEPHENS  
COUNCIL**

# Recommended Conditions of Consent

## CONDITIONS THAT IDENTIFY APPROVED PLANS

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

Plan/Doc.Title	Plan Ref. No	Sheet.	Date	Drawn By
Site Plan	18014-B	A01	10.10.2018	Absolute Drafting Services
Proposed Stage 1 - Floor Plans	18014-B	A02	10.10.2018	Absolute Drafting Services
Proposed Stage 2 - Floor Plans	18014-B	A03	10.10.2018	Absolute Drafting Services
Car Parking Plan	18014-B	A04	10.10.2018	Absolute Drafting Services
Proposed Landscape Plan	18014-B	L01	10.10.2018	Absolute Drafting Services

**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*.

2. Works are to be carried out in two stages in accordance with the approved stamped plans, including:
  - a. Stage 1 is to include all landscaping, stormwater, access and car parking in accordance with the Site Plan (Drawing No.: 18014, Revision: B, Dated: 10/10/18), Proposed Stage 1 – Floor Plans (Drawing No.: 18014, Revision: B, Dated: 10/10/18) and Car Parking Plan (Drawing No.: 18014, Revision: B, Dated: 10/10/18); and
  - b. Stage 2 is to include the extensions to the floor plan in accordance with the Site Plan (Drawing No.: 18014, Revision: B, Dated: 10/10/18) and Proposed Stage 2 – Floor Plans (Drawing No.: 18014, Revision: B, Dated: 10/10/18).

## CONDITIONS THAT IDENTIFY OTHER APPROVALS REQUIRED

## ITEM 1 - ATTACHMENT 4 RECOMMENDED CONDITIONS OF CONSENT.

PORT STEPHENS  
COUNCILRecommended  
Conditions of Consent

3. **Prior to the issue of a Construction Certificate and/or commencement of works (whichever occurs first)**, a Driveway Construction Application is to be lodged with Council as the Roads Authority.
4. **Prior to issue of a Construction Certificate and/or commencement of works (whichever occurs first)**, a Compliance Certificate under Section 50 of the *Hunter Water Act 1991*, for this development, shall be submitted to the Principal Certifying Authority.

**CONDITIONS THAT IDENTIFY CONTRIBUTIONS AND FEES**

5. 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.**

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

*The following conditions are to be complied with, to the satisfaction of the Certifying Authority, prior to the issue of the Construction Certificate.*

6. **Prior to issue of a Construction Certificate**, a detailed stormwater drainage plan is to be submitted to the Certifying Authority. The detailed plans are to be in accordance with Councils Development Control Plan and Infrastructure Specification as well as



ITEM 1 - ATTACHMENT 4      **RECOMMENDED CONDITIONS OF CONSENT.**



PORT STEPHENS  
COUNCIL

## Recommended Conditions of Consent

the current Australian Rainfall and Runoff guidelines using the current Hydrologic Soil Mapping data for Port Stephens available from Council, and include the following information:

- a. An emergency overland flow path for major storm events, catering for a range of rainfall scenarios up to and including the 1% AEP Rainfall Event, that is directed to the public drainage system;
- b. Conveyance where necessary, of stormwater through the site from upstream catchments, (including roads and adjoining properties);
- c. Detailed pavement finished surface levels, to ensure stormwater runoff is directed into the stormwater system;
- d. Metal kerb adaptors (or alternative) within the kerb adjacent to each approved lot not serviced by an inter-allotment drainage line, extended to within the boundaries of each respective property by a 100mm SN8 grade pipe; and
- e. Evidence of Council (or relevant authority) approval for stormwater connection to the public system, with the above supporting details endorsed, under Section 68 (Approvals) of the Local Government Act 1993 or Section 138 of the Roads Act 1993.

The above works are to be completed **prior to the issue of a Final Occupation Certificate.**

7. The building, including the roof, shall be constructed in materials of a low reflective quality. The building shall be designed so as to not result in glare that causes any nuisance or interference to pilot visibility during daylight hours. Details shall be submitted to the Certifying Authority for approval **prior to the issue of a Construction Certificate.**
8. **Prior to the issue of a Construction Certificate**, the landscape plan (No. 18014-B – LO1, prepared by Absolute Drafting Services, and dated 10.10.2018) shall be modified to include the following:
  - a. All 12 trees denoted as 11m mature height in landscape plan will be *Lophostemon confertus* (Queensland Brush Box). The trees shall be a minimum pot size of 45 litres and taller than 1.2m at the time of planting.

The modified landscape plan is to be submitted to the Certifying Authority with supporting documentation demonstrating compliance with Council's Tree Technical Specification and this condition.

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

*The following conditions are to be complied with prior to the commencement of works on the subject site(s).*



ITEM 1 - ATTACHMENT 4 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

## Recommended Conditions of Consent

9. **At least two days prior to the commencement of works**, the applicant shall submit to Council a "Notice of Commencement and Appointment of Principal Certifying Authority" form.
10. **Prior to the commencement of works**, the person having the benefit of this consent shall contact Hunter Water Corporation (HWC) to ensure that the approved works do not impact upon existing or proposed HWC infrastructure. A copy of the information received by HWC shall be provided to Council within 10 days of receipt. Should HWC require modification to the approved development a Section 4.55 Modification Application and/or modified Construction Certificate Application should be lodged.
11. **Prior to the commencement of works**, the applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.
12. **Prior to the commencement of work**, a 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people. No materials, waste or the like are to be stored on the all-weather access at any time except with the agreement of the Principle Certifying Authority.
13. **Prior to the commencement of works**, a waste containment facility is to be established on site. The facility is to be regularly emptied, and maintained for the duration of works. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site shall be cleared of all building refuse and spoil immediately upon completion of the development.
14. **Prior to the commencement of works**, the property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking". Protection measures may include erosion and sedimentation controls as required. All protection measures are to be installed to the satisfaction of Council and must be regularly maintained for the duration of works and until the site is stabilised by vegetation or the like.
15. **Prior to the commencement of works**, all existing trees (or groups of trees) which are to remain undisturbed on the site or neighbouring properties shall be indicated on the approved project drawings and shall be adequately protected for the duration of the construction phase of the project. The follow measures shall be implemented:
  - a. Stockpiling or storage or mixing of materials, vehicle parking, disposal of liquids, machinery repairs and refuelling, siting of offices or sheds and the lighting of fires shall not occur within the dripline of trees identified to remain on the site or neighbouring properties;
  - b. All tree protection works including protective fencing shall be carried out before excavation, grading and site works commence. Protective fencing using brightly coloured "bunting" type fencing supported by 1800mm high star pickets is required;

**ITEM 1 - ATTACHMENT 4      RECOMMENDED CONDITIONS OF CONSENT.**



**PORT STEPHENS  
COUNCIL**

## Recommended Conditions of Consent

- c. Any excavation or removal or addition of topsoil within the dripline of trees is to be carried out in accordance with approved plans;
- d. The structural roots of the existing tree, located on the neighbouring property, less than 50mm in diameter are not to be severed; and
- e. Erection of any fencing must take into account further growth of existing tree.

### **CONDITIONS TO BE SATISFIED DURING WORKS**

*The following conditions are to be complied with during works.*

- 16. 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.
- 17. 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.
- 18. All building work shall be carried out in accordance with the requirements of the Building Code of Australia and where applicable the Disability (Access to Premises – Buildings) Standards 2010.
- 19. A temporary toilet(s) shall be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided shall be one toilet per 20 persons or part thereof employed on the site at any one time. The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.
- 20. 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.

- 21. 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

**ITEM 1 - ATTACHMENT 4      RECOMMENDED CONDITIONS OF CONSENT.****PORT STEPHENS  
COUNCIL**

## Recommended Conditions of Consent

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.

22. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.
23. 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.
24. 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.
25. All demolition works are to be carried out in accordance with Australian Standard AS 2601-2001. All waste materials are to be either recycled, or disposed of to a licenced waste facility.

Any asbestos containing material encountered during demolition or works is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility. Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.

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

*The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to the issue of either an Interim or Final Occupation Certificate (as specified within the condition).*

26. **Prior to the issue of a Final Occupation Certificate**, the stormwater and drainage works required are to be completed.
27. **Prior to issue of any Occupation Certificate**, a minimum of 22 car parking spaces including 2 disabled car parking spaces are to be provided in accordance with AS2890 Parts 1, 2 and 6 (as current at the time of construction). Parking shall be permanently marked on the pavement surface.
28. **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.

**ITEM 1 - ATTACHMENT 4      RECOMMENDED CONDITIONS OF CONSENT.**



**PORT STEPHENS  
COUNCIL**

## Recommended Conditions of Consent

**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.

29. **Prior to issue of any Occupation Certificate**, all landscape works detailed on the approved landscape plan (No. 18014-B – LO1, prepared by Absolute Drafting Services, and dated 10.10.2018) shall be installed, inclusive of the following amendments:

- a) All 12 trees denoted as 11m mature height in landscape plan will be *Lophostemon confertus* (Queensland Brush Box). The trees shall be a minimum pot size of 45 litres and taller than 1.2m at the time of planting.

All landscaped areas shall be kept free of parked vehicles, stored goods, garbage or waste material and the like at all times.

30. **Prior to the issue of each Occupation Certificate**, a fire safety schedule and a fire safety certificate issued under Divisions 2 and 4, Part 9 of the Environmental Planning and Assessment Regulations 2000 (the Regs) must be submitted to the Principal Certifying Authority, Council and the Commissioner of New South Wales Fire Brigades. A copy of the schedule and certificate must also be prominently displayed in the building. Subsequent annual fire safety statements issued under Division 5, Part 9 of the Regs are to be provided to the authorities listed in this condition and displayed within the building each year.

31. **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority must be satisfied that all outdoor lighting installed as part of the development is designed and positioned to minimise any detrimental impact upon the amenity of surrounding properties, or cause nuisance to motorists on nearby roads.

### **CONDITIONS TO BE SATISFIED AT ALL TIMES**

*The following conditions are to be complied with at all times.*

32. At all times, all collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties. The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.
33. Landscaping shall be maintained in accordance with the approved plan in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the development. If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity.
34. All work or storage of goods and materials is to be confined within the building except for external areas specifically approved for such purposes on the approved plan.



ITEM 1 - ATTACHMENT 4 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

## Recommended Conditions of Consent

35. All vehicles must enter and exit the site in a forward direction.
36. The development shall not undertake activities which may restrict, obstruct or inconvenience the use of the land by other users, outside of the approved development location.
37. The hours of operation are restricted to the following times:

Day	Start Time	Finish Time
Monday to Friday (Excluding Public Holidays)	8:30am	5:30pm
Saturday	8:30am	11:30am

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.

38. The waste storage area is to be screened so as not to be visible from a public place or a communal area. The enclosure is to be constructed of materials that are durable, impervious to moisture and capable of being easily cleaned, and consist of covered/ enclosed bins.

### ADVISORY NOTES

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

- A. 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](http://www.dialbeforeyoudig.com.au)
- C. 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**.
- D. It is the Applicants responsibility to ensure compliance with the requirements of the Disability Discrimination Act 1992 (DDA). Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.
- E. The development is to comply with the requirements applying to a medical centre-use' as contained under the Port Stephens Local Environmental Plan 2013, as follows: means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally

**ITEM 1 - ATTACHMENT 4      RECOMMENDED CONDITIONS OF CONSENT.**



**PORT STEPHENS**  
COUNCIL

## Recommended Conditions of Consent

provided by health care professionals. It may include the ancillary provision of other health services.

- F. A restriction on the use of land relating to the subject site (103 Boundary Road, Medowie LOT: 203 DP: 1235985) has been placed on the Section 88B Instrument to not permit buildings to be used other than for residential accommodation. Clause 1.9A – Suspension of covenants, agreements and instruments of Port Stephens Local Environmental Plan 2013 outlines that a restriction does not restrict a consent authority issuing an approval. However you are advised that the restriction remains on the Section 88B Instrument and you may wish to seek your own advice with respect to this matter.

**ITEM 1 - ATTACHMENT 5 REASONS FOR REFUSAL.**



**REASONS FOR REFUSAL**

1. The proposed development fails to satisfy Clause 2.3 (zone objectives) of the Port Stephens Local Environmental Plan 2013 (LEP2013) as the development will result in unacceptable visual and acoustic impacts and is likely to detract from the rural-residential character of the locality (s4.15(1)(a) of the Environmental Planning and Assessment 1979 (EP&A Act));
2. The proposed development will result in unacceptable social impacts on the immediate locality due to adverse privacy impacts (s.4.15(1)(b) of the EP&A Act);
3. The proposed development is not considered to be suitable for the site due to the unreasonable acoustic amenity and traffic impacts on the immediate locality (s.4.15(1)(c) of the EP&A Act); and
4. The proposed development is not considered to be in the public interest as the development is inconsistent with the adopted principles and plans which seek to promote the appropriate development of the land (s.4.15(1)(e) of the EP&A Act).

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

Councillor Paul Le Mottee left the meeting at 6:04pm, prior to item 2.

### ITEM NO. 2

FILE NO: 19/1173  
EDRMS NO: PSC2018-00670

### DRAFT AMENDMENT TO THE PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014 - CHAPTER D13 REES JAMES ROAD, RAYMOND TERRACE

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

---

#### RECOMMENDATION IS THAT COUNCIL:

- 1) Exhibit a draft amendment to the Port Stephens Development Control Plan 2014 Chapter D13 Rees James Road (Amendment No. 8) (the Amendment) **(ATTACHMENT 1)** in accordance with Section 3.43 of the *Environmental Planning and Assessment Act 1979* (NSW).
  - 2) Exhibit the Amendment for a period of 28 days in accordance with the *Environmental Planning and Assessment Regulation 2000* (NSW).
  - 3) If no submissions are received, approve the Amendment as exhibited, without a further report to Council.
- 

### ORDINARY COUNCIL MEETING - 26 FEBRUARY 2019 MOTION

037	<p><b>Councillor Ken Jordan</b> <b>Councillor John Nell</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Exhibit a draft amendment to the Port Stephens Development Control Plan 2014 Chapter D13 Rees James Road (Amendment No. 8) (the Amendment) <b>(ATTACHMENT 1)</b> in accordance with Section 3.43 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW).</li><li>2) Exhibit the Amendment for a period of 28 days in accordance with the <i>Environmental Planning and Assessment Regulation 2000</i> (NSW).</li><li>3) If no submissions are received, approve the Amendment as exhibited, without a further report to Council.</li></ol>
-----	--

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, Ken Jordan, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

## **BACKGROUND**

The purpose of this report is to seek approval to place the draft Port Stephens Development Control Plan 2014 (DCP) (Amendment No.8) - Chapter D13 Rees James Road, Raymond Terrace (the Amendment) (**ATTACHMENT 1**) on public exhibition for a minimum period of 28 days. The amendment will replace the current Chapter D13 – Rees James Road of the Port Stephens Development Control Plan 2014 (**ATTACHMENT 2**), as well as make minor amendments such as altering page numbers.

Chapter D13 relates to Rees James Road at Raymond Terrace, which is identified as an Urban Release Area under the Port Stephens Local Environmental Plan 2013 (PSLEP). The Amendment seeks to update the indicative layout for future development as shown in Figure DX of the DCP, as well as reflect recent large scale subdivision approvals and include provisions to ensure it is compliant with the PSLEP requirements for Urban Release Areas.

It is expected that the Amendment will provide clearer and more consistent development requirements for land owners and future developers. Key features of the Amendment include:

- Update Figure DX to include the lot layout of recently approved subdivisions.
- Addition of requirements that relate to street connectivity to ensure the efficient movement of traffic and the orderly and economic development of the precinct. It also ensures that future development applications take into consideration road connections with adjoining future subdivisions.
- Additional transport network provisions, including public transport requirements, shared paths and road widening. These matters have been drafted with the assistance of Council's Engineering Services.
- Addition of Hunter Water requirements through stormwater and drainage provisions. This will improve transparency for landowners with the upfront identification of requirements for development in the precinct. It is also expected that this would streamline the development assessment process.
- The identification of open space in the precinct, as well as landscaping requirements along Rees James Road.

The infrastructure identified in the Amendment is either consistent with the current Port Stephens Development Contributions Plan 2007 or will be included in the draft of the new contributions plans currently being prepared for exhibition.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no known financial or resource implications for Council as a consequence of the proposed recommendations. The development of the proposed plan has been managed within the existing budget.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no known significant legal, policy or risk implications resulting from the proposed recommendation.

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

An objective of the EP&A Act is to promote the orderly and economic development of land and it is considered that the Amendment would ensure that future development applications meet this objective.

Division 3.6 of the EP&A Act relates to Development Control Plans. Should Council resolve to proceed with the Amendment, all necessary matters in preparing the plan will be carried out in accordance with the EP&A Act.

**Environmental Planning & Assessment Regulations 2000 (EP&A Regulations)**

Division 2 of Part 3 of the EP&A Regulations specifies the requirements for public participation. The recommendation is in accordance with the provisions of the EP&A Regulations.

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

### Port Stephens Local Environmental Plan 2013 (PSLEP)

The Amendment seeks to provide precinct specific development requirements that give effect to the aims of the PSLEP. Furthermore, given the subject area is located in an Urban Release Area, endorsing the Amendment with improved objectives and provisions will satisfy Clause 6.3 of the PSLEP. Overall the Amendment would not affect the operation of the PSLEP.

### Port Stephens Development Control Plan 2014

Chapter D13 of the DCP is a site-specific chapter relating to the precinct at Rees James Road. The Amendment will replace the current Chapter D13 and the general controls of the comprehensive DCP will still apply, where appropriate, to manage all other relevant general matters relating to development. This will avoid the unnecessary duplication of development controls.

### Current Development Applications

A development application has been lodged at 6 Kuranga Avenue, Raymond Terrace (within the precinct) proposing a one into two lot subdivision (16-2018-854-1) and a meeting has been held with the land owner to make them aware of the proposed DCP amendments. Based on the information submitted with the application, the proposed subdivision is considered to be relatively minor and would not be significantly inconsistent with the objectives and aims of the Amendment. Therefore it is considered that the recommendations would not have a significant adverse impact on the determination of 16-2018-854-1.

<b>Risk</b>	<b><u><a href="#">Risk Ranking</a></u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the amendments are not made and future subdivisions result in unfavourable lot and street layouts.	Medium	Endorse the Amendment for exhibition.	Yes
There is a risk that the amendments are not made resulting in confusion and uncertainty around development assessment for land owners and developers.	Medium	Endorse the Amendment for exhibition.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Amendment will provide updated precinct specific guidance, which will result in greater certainty for landowners and better development outcomes. Furthermore, the lot and street layout, as well as infrastructure provisions, will have benefits for future residents by providing better connectivity with Raymond Terrace. Therefore positive social and economic implications are expected.

Hunter Water's water quality requirements will allow the future residential development of the land without impacting the nearby water sensitive waterways. As a result, positive environmental implications are expected.

## **CONSULTATION**

Preliminary consultation with key internal stakeholders and agencies has been undertaken by the Strategy & Environment Section in order to identify and consider any significant issues prior to exhibition.

### Internal

Internal consultation has been undertaken with the Development Assessment and Compliance, Engineering Services and Natural Resources teams and the Amendment has been prepared with their support. No objections to the Amendment have been made by internal stakeholders.

### External

Hunter Water provided requirements with respect to water quality and was also given the opportunity to provide comments on the Amendment given the location of nearby sensitive Hunter Water land. The comments made have been taken into consideration.

Notwithstanding the above, the purpose of this report is to endorse the Amendment for public exhibition.

If supported, the Amendment will be placed on public exhibition for a minimum of 28 days. An advertisement will be placed in the Port Stephens Examiner and the Amendment will be made available on Council's website as well as a hard copy at Council's Administration Building (Raymond Terrace). Landholders in the precinct will be individually notified.

Submissions on the Amendment will be invited during the public exhibition period and, if submissions are received, they will be considered in a future report back to Council with any detail of any post-exhibition changes to the Amendment.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Draft Port Stephens Development Control Plan (Amendment No.8) Chapter D13 Rees James Road.
- 2) Existing Port Stephens Development Control Plan Chapter D13 Rees James Road.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ITEM 2 - ATTACHMENT 1 DRAFT PORT STEPHENS DEVELOPMENT  
CONTROL PLAN (AMENDMENT NO.8) CHAPTER D13 REES JAMES ROAD.

# D13

REES JAMES RD – RAYMOND TERRACE

## D13 Rees James Rd – Raymond Terrace

### Application

This Part applies to the land identified in Figure DW (p. D-150), known as Rees James Rd – Raymond Terrace

### Objective

D13.A	<b>Street Layout and Transport Network</b>	<ul style="list-style-type: none"> <li>To ensure that a well-planned and connected street layout for the area is delivered and not compromised by development on a single site.</li> <li>To achieve efficient and equitable pedestrian, cycle, public transport and private vehicle connectivity between lots and precincts, the local centre and nearby service areas.</li> </ul>
-------	--	--

### Requirements

D13.1	Layout	The street layout is generally consistent with the Locality Controls Map at Figure DX (p. D-151).
D13.2		Street layout variations are permitted where an access point is provided to Rees James Road, Dawson Road or Rosie Road.
D13.3	Connectivity	<p>The <b>subdivision</b> of a lot that proposes a layout which prevents effective connectivity of the wider street network will not be supported. <b>Development Applications</b> must:</p> <ul style="list-style-type: none"> <li>Provide for wider street network connectivity in a <b>grid-like structure</b>.</li> <li>Where possible, provide a through road to existing roads. If constraints of the site do not permit a through street, the development is to include potential connections to adjoining future subdivisions without compromising lot yields.</li> <li>Look to avoid the use of cul-de-sacs as a means of lot access.</li> <li>Where cul-de-sacs cannot be avoided, they are to be restricted to: <ul style="list-style-type: none"> <li>Maximum length of 75m; and</li> <li>Access to a maximum of 10 dwellings.</li> </ul> </li> </ul>
D13.4		Street networks are to be informed by road connections for <b>future subdivisions</b> on adjacent lands.
D13.5	Transport Movement Hierarchy	The positioning and design of the <b>transport movement network</b> provides priority to facilitate efficient walking, cycling and public transport networks whilst retaining and complementing natural topography, such as views and drainage.
D13.6		Designated public transport routes as identified on the Locality Controls Map at Figure DX (p. D-151) are constructed as bus routes in accordance with <b>infrastructure specification – Design</b> .

147

## ITEM 2 - ATTACHMENT 1 DRAFT PORT STEPHENS DEVELOPMENT CONTROL PLAN (AMENDMENT NO.8) CHAPTER D13 REES JAMES ROAD.

### D13

#### REES JAMES RD – RAYMOND TERRACE

D13.7		Access to <b>public transport routes</b> or to future public transport stops must be considered and should be no more than <b>400m walk</b> by the most direct route.
D13.8	Shared path connections	In addition to the requirements for pathways in Section C1, <b>shared paths</b> are provided generally in accordance with the Locality Controls Map at Figure DX (p. D-151)
D13.9	Road Widening	<b>Road widening</b> will be required for all <b>residential subdivisions</b> along Rees James Road to ensure safe and adequate vehicle manoeuvring.
<b>Objective</b>		
D13.B	<b>Urban Design</b>	<ul style="list-style-type: none"> <li>To ensure that built outcomes provide an efficient use of the land and proposed development considers the broader opportunities and constraints in the area.</li> <li>To ensure that proposed development does not compromise future development potential of adjoining or nearby land.</li> <li>To ensure street activation is provided through building orientation to Rees James Road.</li> </ul>
<b>Requirements</b>		
D13.10	Lot orientation and access	<p><b>Development</b> adjoining Rees James Road must be orientated towards and have a primary entrance that is visible and accessible from Rees James Road.</p> <p><b>Note:</b> Section B9 provides further consideration towards site access and Section C4 provides further consideration towards orientation.</p>
<b>Objectives</b>		
D13.C	<b>Stormwater Drainage and Water Quality</b>	<ul style="list-style-type: none"> <li>To ensure environmentally sustainable and affordable water management solutions are implemented on a catchment-wide basis and not compromised by development on a single site.</li> <li>To safeguard nearby sensitive wetlands by improving the quality of stormwater runoff.</li> <li>To improve or maintain water quality within the Grahamstown Dam Drinking Water Catchment.</li> <li>To ensure that stormwater from development is adequately managed to provide for common stormwater management infrastructure.</li> </ul>
<b>Requirements</b>		
D13.11	Stormwater Drainage	<b>On-site detention / on-site infiltration</b> is required for all new development where impervious areas are proposed.
D13.12		<p>The <b>on-site detention / on-site infiltration</b> is to be:</p> <ul style="list-style-type: none"> <li>Sized so that the post-development flow rate and volume equals the pre-development flow rate and volume for all storm events up to and including the <b>1% Annual Exceedance Probability (AEP)</b> storm event; and,</li> <li>Provided by underground chambers, surface storage or a combination of the two.</li> </ul>



ITEM 2 - ATTACHMENT 1 DRAFT PORT STEPHENS DEVELOPMENT  
CONTROL PLAN (AMENDMENT NO.8) CHAPTER D13 REES JAMES ROAD.

## D13

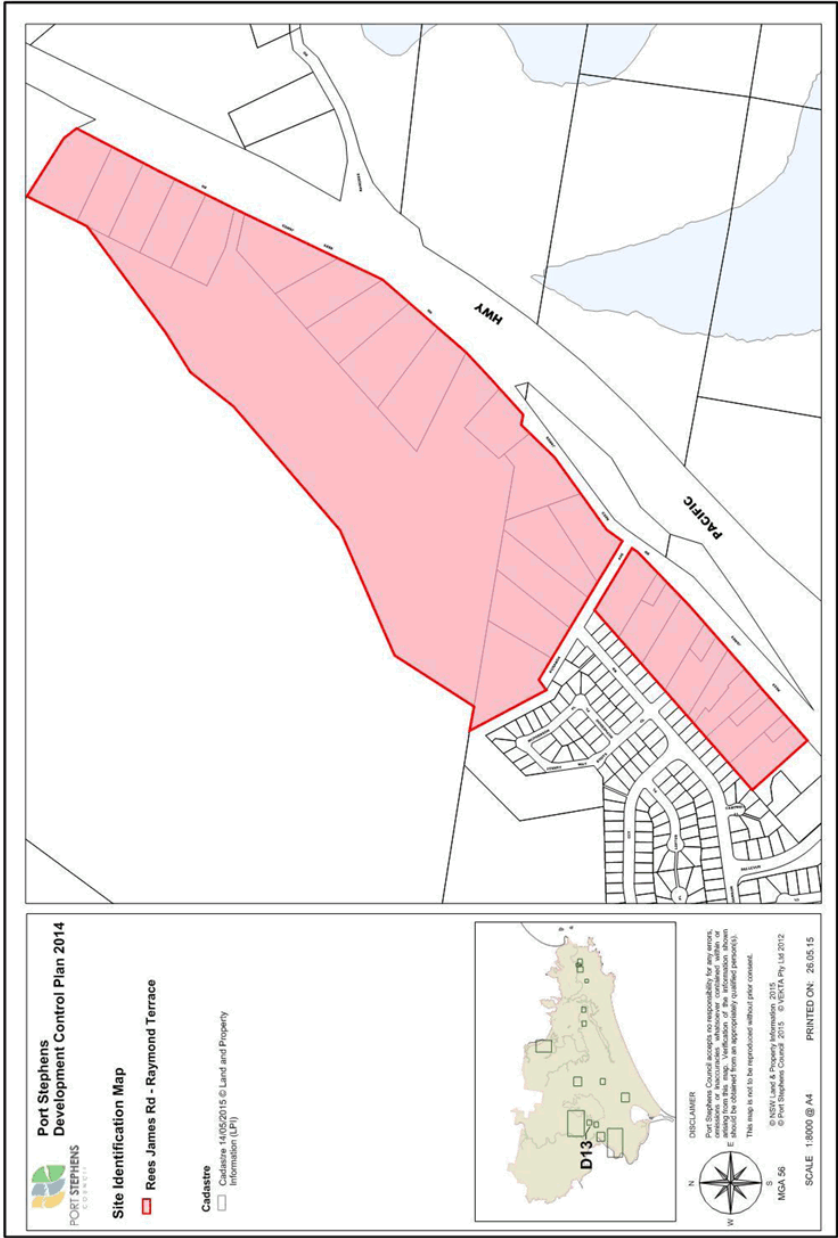
## REES JAMES RD – RAYMOND TERRACE

		<b>Note:</b> Section B4 provides further consideration towards on-site detention / on-site infiltration.
D13.13	Drainage Reserves / Basins	<b>Stormwater drainage reserves / basins</b> are located generally in accordance with the Locality Controls Map at Figure DX (p. D-151)
D13.14		All new <b>development</b> must demonstrate that there would be no adverse impact on the operation of the <b>stormwater drainage reserve / basins</b> or adjoining land on which stormwater is discharged.
D13.15	Water Quality	<p>When a <b>Development Application</b> is received for subdivision greater than three lots <u>or</u> would result in an impervious area greater than 60% of the site area, it must demonstrate that the quality of water that is released into <b>public drainage</b> achieves Councils <b>water quality stripping targets</b> for the area.</p> <p><b>Water quality stripping targets</b> are to be in accordance with the Landcom stretch water quality targets (<i>Landcom Water Sensitive Urban Design Book 2 Planning and Management 2009</i>) below:</p> <ul style="list-style-type: none"> <li>• Total nitrogen retention post development load: <b>65%</b></li> <li>• Total phosphorus retention post development load: <b>85%</b></li> <li>• Total suspended solids post-development load: <b>90%</b></li> </ul> <p><b>Note:</b> These requirements exceed those under Section B4 and so supersede the requirements of that section.</p>
<b>Objectives</b>		
D13.E	<b>Recreation and Visual Amenity</b>	<ul style="list-style-type: none"> <li>• To ensure the provision of an adequate area of public open space is provided for the amenity of residents.</li> <li>• To provide an attractive and low maintenance landscape along Rees James Road.</li> </ul>
<b>Requirements</b>		
D13.18	Open Space	An area of public open space is to be located in general accordance with the Locality Controls Map at Figure DX (p. D-151).
D13.19	Street Trees along Rees James Road	<p>A <b>landscaping plan</b> for <b>residential subdivision</b> along Rees James Road must provide for an attractive and low maintenance landscape along the road frontage, and in accordance with the <b>tree technical specifications</b>.</p> <p><b>Note:</b> Street trees are a required component for residential subdivisions under the provisions of Section C1.</p>

ITEM 2 - ATTACHMENT 1      DRAFT PORT STEPHENS DEVELOPMENT CONTROL PLAN (AMENDMENT NO.8) CHAPTER D13 REES JAMES ROAD.

D13  
REES JAMES RD – RAYMOND TERRACE

Figure DW: Rees James Rd – Raymond Terrace Land Application Map



ITEM 2 - ATTACHMENT 1      DRAFT PORT STEPHENS DEVELOPMENT  
CONTROL PLAN (AMENDMENT NO.8) CHAPTER D13 REES JAMES ROAD.

D13  
REES JAMES RD – RAYMOND TERRACE

Figure DX: Rees James Rd – Raymond Terrace Locality Controls Map



ITEM 2 - ATTACHMENT 2 EXISTING PORT STEPHENS DEVELOPMENT  
CONTROL PLAN CHAPTER D13 REES JAMES ROAD.

# D13

REES JAMES RD – RAYMOND TERRACE

## D13 Rees James Rd – Raymond Terrace

Application		
This Part applies to the land identified in Figure DW (p. D-148) as Rees James Rd – Raymond Terrace		
Objective		
D13.A	Street Layout	To ensure streets comply with the indicative street layout
Requirements		
D13.1	Street Layout	The street layout is consistent with Figure DX (p. D-149)
D13.2		Street layout variations are permitted where an access point is provided to Rees James or Dawson Road <b>Note:</b> C1.3 requires the street network to be interconnected to provide a grid-like structure
Objective		
D13.B	Lot Layout	To ensure street activation is provided through building orientation to Rees James Rd
Requirement		
D13.3	Adjoining Rees James Road	<b>Development</b> adjoining Rees James Road must be orientated towards and have a primary entrance that is visible and accessible from Rees James Road <b>Note:</b> B9 provides consideration to site access
Objectives		
D13.C	Aircraft Noise	<ul style="list-style-type: none"><li>To ensure <b>development</b> satisfies the requirements of <b>PSLEP 2013</b>, clause 7.5</li><li>To ensure appropriate consideration is given to land burdened by aircraft noise</li></ul>
Requirement		
D13.4	Aircraft Noise	<b>Note:</b> Rees James Road is located within the 20-25 and 25-30 <b>ANEF</b> contours. B7.1 details what is to be considered when <b>development</b> is located within the <b>aircraft noise planning area</b> , which includes the 20-25 <b>ANEF</b> contours.

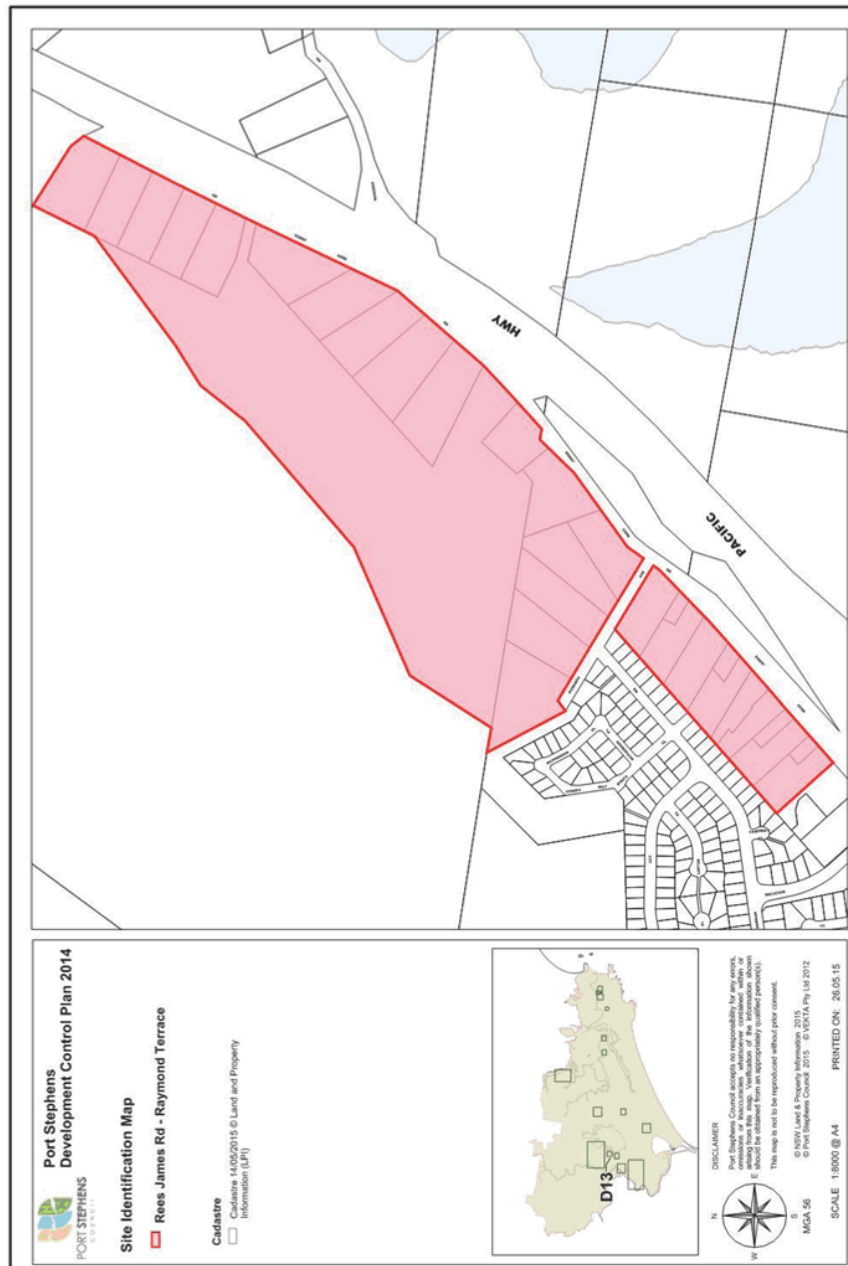
D-147

ITEM 2 - ATTACHMENT 2 EXISTING PORT STEPHENS DEVELOPMENT  
CONTROL PLAN CHAPTER D13 REES JAMES ROAD.

D13

REES JAMES RD – RAYMOND TERRACE

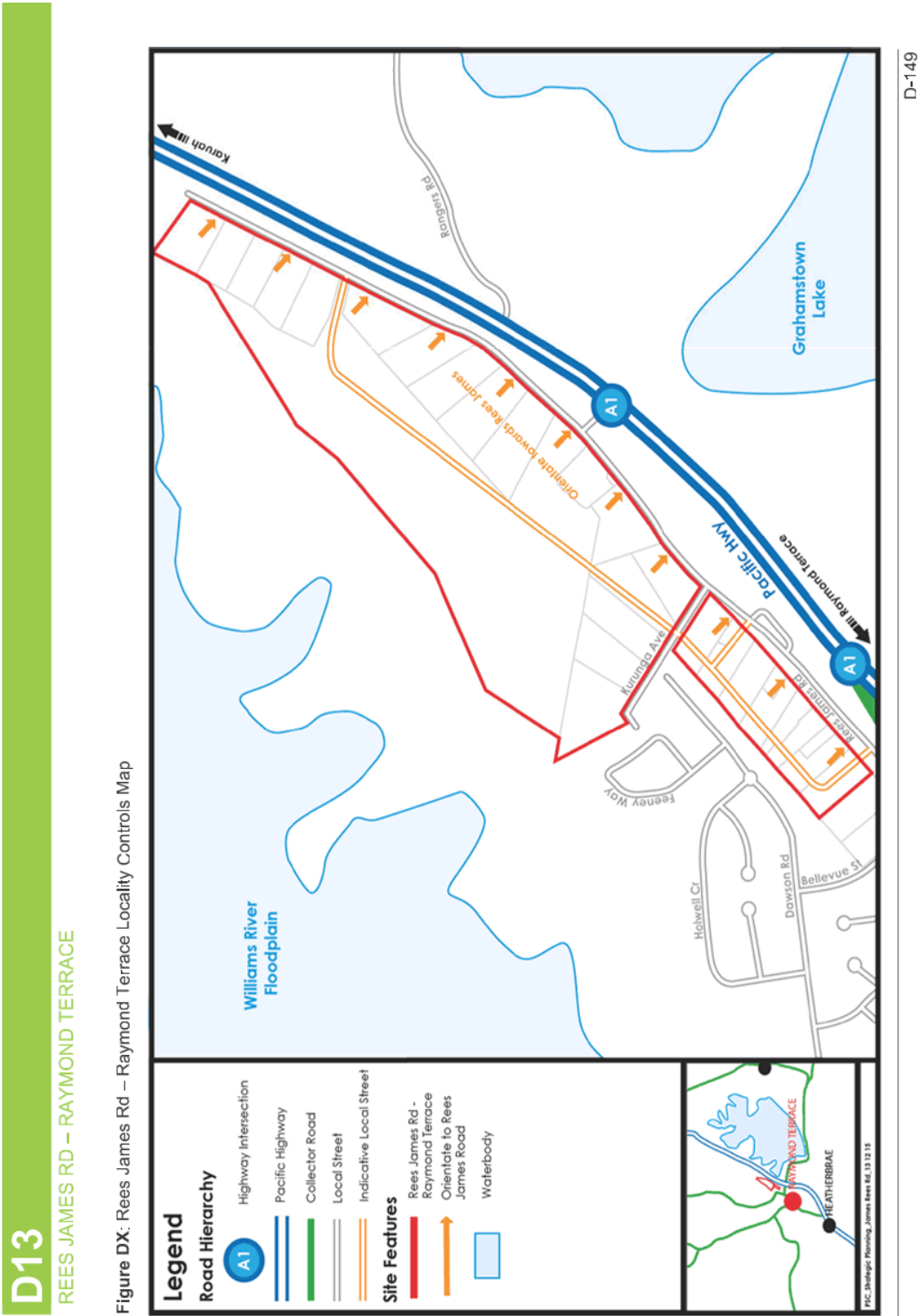
Figure DW:  
Rees James  
Rd – Raymond  
Terrace Land  
Application  
Map



D-148



ITEM 2 - ATTACHMENT 2      EXISTING PORT STEPHENS DEVELOPMENT  
CONTROL PLAN CHAPTER D13 REES JAMES ROAD.



**ITEM NO. 3****FILE NO: 19/33326  
EDRMS NO: 16-2014-0168-4****FINANCIAL ASSISTANCE - CONSTRUCTION OF GREEN WATTLE CREEK ROAD, BUTTERWICK****REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER  
GROUP: GENERAL MANAGER'S OFFICE**

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Receive and note the submissions received as a result of the public notice period for the construction of Green Wattle Creek Road, Butterwick.
  - 2) Make a determination on the provision of financial assistance.
  - 3) Note that the financial assistance will form part of the March 2019 quarterly budget review, if approved; and
  - 4) Subject to the approval of the financial assistance, authorise the Mayor and General Manager to affix the Council Seal and execute all associated documentation.
- 

Councillor Jaimie Abbott left the meeting at 6:07pm, prior to item 3.

**ORDINARY COUNCIL MEETING - 26 FEBRUARY 2019  
MOTION**

<b>038</b>	<b>Councillor John Nell Councillor Ken Jordan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Receive and note the submissions received as a result of the public notice period for the construction of Green Wattle Creek Road, Butterwick.</li><li>2) Provide financial assistance for the construction of Green Wattle Creek Road, Butterwick.</li><li>3) Note that the financial assistance will form part of the March 2019 quarterly budget review, if approved; and</li><li>4) Subject to the approval of the financial assistance, authorise the Mayor and General Manager to affix the Council Seal and execute all associated documentation.</li></ol>
------------	---



## **BACKGROUND**

The purpose of this report is to provide Council with the submissions received from the public exhibition of a proposal to provide financial assistance in relation to the construction of Green Wattle Creek Road, Butterwick.

Council at its meeting of 11 December 2018 (**ATTACHMENT 1**) resolved:

‘It was resolved that Council:

- 1) Approve Section 4.55(1A) Modification Application No.16-2014-168-4 for a Rural Landsharing Community (Condition 12 – Green Wattle Road Construction Requirements) at 15 Green Wattle Creek Road, Butterwick (LOT:1 DP999947) subject to the conditions contained in (ATTACHMENT 5).
- 2) Subject to the provisions of section 356 of the *Local Government Act 1993*, Council approve the financial assistance provided under (ATTACHMENT 5).
- 3) That the financial assistance be public exhibited as required by section 356 of the *Local Government Act 1993*.
- 4) That the funding (until such time as the funds are repaid) of the financial assistance be considered as part of the December 2018 quarterly review.
- 5) That Council commence the road works once an agreement is formalised in accordance with condition 12.1 as contained in (ATTACHMENT 5).’

A Modification Application (DA No. 16-2014-168-4) was lodged 29 August 2018 proposing a payment plan for the required road upgrades to Green Wattle Creek Road. The Modification Application was reported to Council at its meeting on 13 November 2018. At that meeting it was resolved that Council defer the determination of the Modification Application to enable an alternative condition specifying a payment plan for the required road grades.

Subsequent to that meeting Council's Facilities and Services Section undertook a cost estimate for the completion of the roadworks required in accordance with the existing consent. Council's high-level, preliminary cost estimate to reconstruct 400 metres of Green Wattle Creek Road to meet Council's infrastructure specifications was noted at approximately \$400,000.

At the Council meeting on 11 December 2018, Council approved the Modification Application with an additional condition which is provided below:

### Condition 12.1

In lieu of the owner undertaking the works within the public road reserve as specified under Condition 12A the following is required:

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

1) Prior to 1 April 2019, an agreement is to be entered into between the owner of 15 Green Wattle Creek Road, Butterwick and Port Stephens Council which has the following effect:

- An initial payment of \$200,000 is required to be paid to Council by a date that is to be agreed to between the owner and Port Stephens Council; and
- Prior to the issue of a Development Application for the eighteenth (18th) dwelling, or by 31 December 2020, whichever comes first, a payment of \$100,000 is required to be paid to Council; and
- Prior to the issue of a Development Application for the twenty first (21st) dwelling, or by 31 December 2020, whichever comes first, a payment of an additional \$100,000 is required to be paid to Council.

The funding required for the financial assistance did not form part of the December 2018 quarterly budget review as the proposal required public exhibition before Council could make a final decision. Subject to Council's decision on this report, the financial assistance will form part of the March 2019 budget review, if approved.

As a result of the public notice period, three submissions have been received. The submissions are provided for Council's consideration. A summary of the submissions is provided at **(ATTACHMENT 2)**.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide a strong ethical governance structure.

### FINANCIAL/RESOURCE IMPLICATIONS

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

### LEGAL, POLICY AND RISK IMPLICATIONS

Section 356 of the *Local Government Act 1993*, requires Council to give 28 days' public notice of any proposal to provide financial assistance in these circumstances.

**MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019**

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council may have been in breach of the <i>Local Government Act 1993</i> if public notice was not given.	Low	Public notice was provided in accordance with the <i>Local Government Act 1993</i> .	Yes.

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Governance Section.

Public notice was provided from 10 January 2019 to 7 February 2019 in the Port Stephens Examiner and on Council's website to allow for submissions to be received.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Council meeting minute - 11 December 2018.
- 2) Submissions summary.

**COUNCILLORS ROOM**

- 1) Full copy of the submissions.

**TABLED DOCUMENTS**

Nil.

**ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.****MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

Councillor Paul Le Mottee left the meeting at 6:58pm.

**ITEM NO. 3**

**FILE NO: 18/363664  
EDRMS NO: 16-2014-168-4**

**SECTION 4.55(1A) MODIFICATION APPLICATION TO APPROVED RURAL  
LANDSHARING COMMUNITY (CONDITION 12 - GREEN WATTLE ROAD  
CONSTRUCTION REQUIREMENTS) AT 15 GREEN WATTLE CREEK ROAD,  
BUTTWERWICK (LOT:1 DP999947)**

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

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Section 4.55(1A) Modification Application No.16-2014-168-4 for a Rural Landsharing Community (Condition 12 – Green Wattle Road Construction Requirements) at 15 Green Wattle Creek Road, Butterwick (LOT:1 DP999947) for the reasons contained in **(ATTACHMENT 4)**.
- 

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

<b>175</b>	<p><b>Councillor John Nell Mayor Ryan Palmer</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Approve Section 4.55(1A) Modification Application No.16-2014-168-4 for a Rural Landsharing Community (Condition 12 – Green Wattle Road Construction Requirements) at 15 Green Wattle Creek Road, Butterwick (LOT:1 DP999947) subject to the conditions contained in (ATTACHMENT 5).</li><li>2) Subject to the provisions of section 356 of the Local Government Act 1993, Council approve the financial assistance provided under (ATTACHMENT 5).</li><li>3) That the financial assistance be public exhibited as required by section 356 of the Local Government Act 1993.</li><li>4) That the funding (until such time as the funds are repaid) of the financial assistance be considered as part of the December 2018 quarterly review.</li><li>5) That Council commence the road works once an agreement is formalised in accordance with condition 12.1 as contained in (ATTACHMENT 5).</li></ol>
------------	---

**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

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

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

Those against the Motion: Nil.

**BACKGROUND**

The purpose of this report is to present a Section 4.55(1A) Modification Application for an approved Rural Landsharing Community at 15 Green Wattle Creek Road, Butterwick to Council for determination.

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

The Section 4.55(1A) Modification Application was called to Council as detailed in **(ATTACHMENT 2)**.

Council Resolution 13 November 2018

Modification Application No. 16-2014-168-4 was reported to Council at its meeting 13 November 2018 for determination. At that meeting it was resolved that Council defer the determination of the Modification Application to enable:

- 1) The drafting of an alternative condition which gives the following effect:
  - a. That Council builds the road and accepts the \$200,000 contribution for road construction.
  - b. That the cost above \$200,000, up to \$400,000, incurred by Council becomes payable in stages (and apportioned according to dwelling numbers) prior to the issue of the occupation certificates for Stages 1, 2 and 3.
- 2) Report back to Council regarding the funding for the completion of the capital works.

Subsequent to the above resolution, a further Modification Application (DA No.16-2018-164-5) has been submitted which seeks to remove the staging of the development. The application is currently under assessment by Council Staff.

In response to Council's resolution and noting the above Modification Application, Condition 12 has been modified and a new Condition 12.1 has been incorporated into the recommended conditions of consent at **(ATTACHMENT 5)** should Council resolve to approve this modification.

**ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.****MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

Regardless of the determination of Modification Application No.16-2014-168-5, no concerns have been identified by the timing of payments which are linked to the release of Construction Certificates based on the number of dwellings rather than stages.

Council's Facilities and Services Section have undertaken a cost estimate for the completion of the roadworks required under this consent. It is noted that the existing road reserve conditions in Green Wattle Creek Road comprise generally a tree lined corridor with a narrow gravel road. Council's high-level, preliminary cost estimate to reconstruct 400 metres of Green Wattle Creek Road to meet Council's infrastructure specifications is approximately \$400,000. This estimate is based on the assumption that any environmental considerations do not change the design.

Should Council elect to approve this Modification Application (16-2014-168-4), it is recommended that the conditions of consent contained in **(ATTACHMENT 5)** be endorsed.

Site History

The original Development Application (DA 16-2014-168-1) was approved by Council at its meeting of 24 October 2014. The application proposed stage one of a three staged development for a rural land sharing community at 15 Green Wattle Creek Road, Butterwick.

As part of stage one of the development the application gained approval for the use of the site as a rural landsharing community, construction of internal roads and infrastructure, use of an existing dwelling for administration and the establishment of agricultural activities. Stage two and three of the development proposal will seek consent under separate applications. At the completion of the development a total of 29 dwellings will be constructed on the subject site, subject to obtaining all required approvals.

Since the original approval, two other Modification Applications have been lodged and determined, including:

- DA No.16-2014-168-2 – Proposal to modify staging, road construction timing and requirements and partial reduction of 7.11 (formerly Section 94) contributions. The modification resulted in a \$206,799 reduction in contributions and amendments to the staging plan which was approved by Council.
- DA No.16-2014-168-3 – Proposed design changes to four dwellings. The Modification Application was supported.

Proposed Modification

The subject Section 4.55(1A) Modification Application proposes to modify DA Consent No.16-2014-168-3, by modifying Condition No.12.

**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**Condition No. 12

All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the *Roads Act 1993*. Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional, in accordance with Council's 'Infrastructure Design and Construction Specification – AUS Spec', and Section B of Development Control Plan 2007. The required works to be designed are as follows:

- a. Full width rural road including a minimum 6 metre wide carriageway with 1 metre wide shoulders, 3% cross fall each side of the centreline, minimum 250mm deep table drain for a distance of 400 metres from the sealed section at the intersection of Green Wattle Road and Jack James Close.
- b. 6 metre wide carriageway is to have a two-coat hot flush bitumen seal for a distance of 400 metres from the sealed section at the intersection of Green Wattle Road and Jack James Close.
- c. Removal of trees where necessary to ensure safe sight distance in accordance with Austroads - Guide to road design.
- d. Roadside furniture and safety devices including signage, guide posts, chevrons, directional arrows in accordance with RTA and Australian Standards.
- e. Signage and line marking. The signage and line marking plan shall be approved by the Council Traffic Committee.
- f. Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual.
- g. Payment of applicable fees and bonds.
- h. Contractor's public liability insurances to a minimum value of \$10 million dollars.

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

The condition details road upgrade requirements and requires sealing of Green Wattle Creek Road for a distance of 400 metres from the Green Wattle Creek Road and Jack James Close intersection. The Modification Application proposes to modify condition 12 to specify that Council construct the 400 metres that is required to be sealed and the proponent contributes \$200,000 towards this construction.

The applicant has argued that the proposal should be supported for the following reasons:

- The condition was an unreasonable impost on the community.
- There are recent court cases limiting Council's ability to require work to be done remote from the site of the development.
- Other surrounding traffic generating development will use the road.
- The condition does not require Green Wattle Creek Road to be constructed, only to be designed and approved.



**ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.****MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

It is noted that a *Roads Act 1993* (Roads Act) Approval from Council was in place that specified requirements for constructing the Green Wattle Creek Road and the timing of the construction. The Roads Act Approval has now expired. The Roads Act allows for expired Roads Act Approvals to be renewed.

Key Issue – Upgrade to Green Wattle Creek Road

Based on the RTA's 'Guide to Traffic Generating Development', single residential dwellings generate an estimated 7.4 vehicle trips per day. Given the future development includes 29 dwellings, once completed it is expected that future occupants of the proposed development site will utilise Green Wattle Creek Road approximately 215 times per day. The sealing of the road is required to:

- Minimise dust impacts to properties located within the area (including mostly rural dwellings).
- Provide access for emergency vehicles (in accordance with Rural Fire Service (RFS) General Terms of Approval (GTAs)).
- Ensure vehicular safety along this stretch of road.
- Minimise road maintenance requirements.

The current approval requires bitumen sealing of Green Wattle Creek Road for a distance of 400 metres from the intersection of Green Wattle Creek Road and Jack James Close. Strict compliance with *Councils Infrastructure Specification* would have required sealing of the entire length of Green Wattle Creek Road (or alternatively the applicant would have been limited to a maximum traffic load of 15 dwellings).

Significant variation has already been granted to the proponent to reduce the cost of the infrastructure construction through varying Council's standard requirement. Should strict compliance with *Councils Infrastructure Specification* have been required the cost would have been much higher to complete the works along the full length of the road.

The request from the applicant would result in Council financially contributing to facilitate the private development occurring on the subject site. The surrounding development is rural in nature and there is no nexus to require the road upgrade as a result of other surrounding development. The road works are required as a direct consequence of the proposed development of up to 29 dwellings on the subject site and it is standard practice to condition for works of this nature to be undertaken within the public road to facilitate private development where there is an increased demand on existing infrastructure. Furthermore, there is no Council budget allocation for the works to be undertaken. Funding infrastructure, (that would not otherwise be required to service the wider community) to facilitate privately owned developments will reduce funds available for Council to adequately service the needs of the wider community and to maintain and construct public infrastructure. The request is therefore not supported.

**ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.****MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

The applicant has argued that the condition does not require the construction of Green Wattle Creek Road (only the design and approval). However, it is noted that the Roads Act Approval specified the timing of the construction of Green Wattle Creek Road which has now expired. The interpretation regarding the construction of Green Wattle Creek Road presented by the applicant is not supported and Council officers maintain that it is the intent of the current approval that the roadworks are undertaken by the proponent.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

In the event that the application is refused, there would be no financial or resource implications as a result of the proposed development.

In the event that the application is approved, this may result in a funding shortfall for the provision of future infrastructure and facilities.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		Section 7.11 contributions will not change as part of the proposed modification.
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The development application is inconsistent with the Port Stephens Development Control Plan 2014 and Councils Infrastructure Specification. A detailed assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) is included as **(ATTACHMENT 3)** and recommended reasons for refusal included as **(ATTACHMENT 4)**.

**ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.****MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council sets a precedent to fund privately owned development.	High	Refuse the application as recommended.	Yes
There is a risk that Port Stephens Council may not recover the funds.	High	Ensure any agreement has an element of surety.	Yes
There is a risk that if the application is refused, it may be challenged at the Land and Environment Court.	Medium	Defend the refusal of the application in the NSW Land and Environment Court if required.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Contributing finance to infrastructure for private developments which intensify the use of the land is not a function of Council and as such Council assisting in financing the upgrade of Green Wattle Creek Road is not supported. The economic impact of the modification is considered to be unacceptable. Approval of the modification will reduce funding that is already allocated to service the needs of the wider community and to maintain and construct public infrastructure.

The modification does not alter the developments built form or impacts to the natural environment.

**CONSULTATION**Internal

The application was referred to the Councils Development Engineering Section. The application was not supported as detailed in the Assessment Report contained in **(ATTACHMENT 3)**.

External

The original DA was referred to the NSW Rural Fire Service (RFS) for assessment. However, as the Modification Application is recommended for refusal, pursuant to section 4.47(2) of the EP&A Act, Council did not seek comments from the RFS. Notwithstanding it is noted that the proposed modification does not alter the approved development in a manner which would impact upon the General Terms of Approval previously issued by the RFS.

**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

Public Consultation

The application was exhibited in accordance with Council's Development Control Plan for a period of 14 days. In response no submissions were received.

**OPTIONS**

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

**ATTACHMENTS**

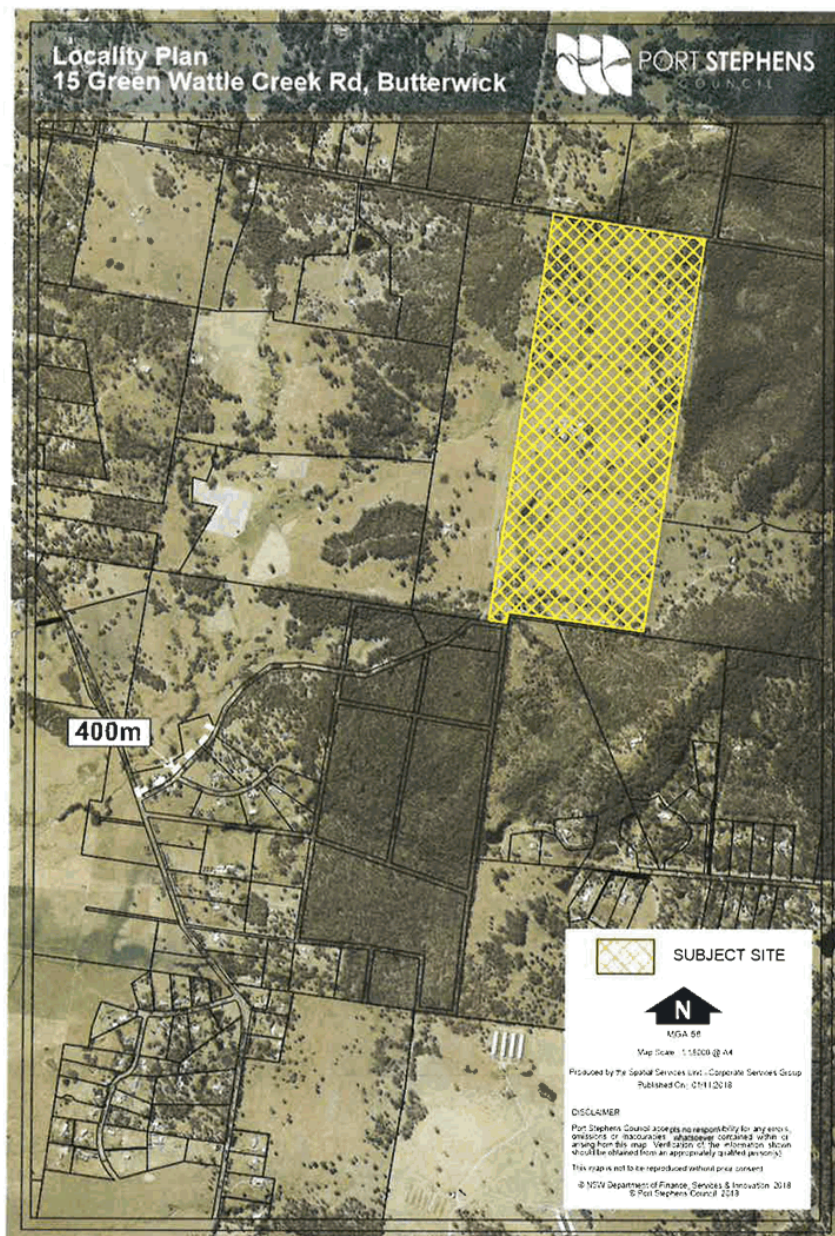
- 1) Locality Plan.
- 2) Call to Council form.
- 3) Assessment Report.
- 4) Recommended Reasons for Refusal.
- 5) Recommended Conditions of Consent.

**COUNCILLORS ROOM**

- 1) DA supporting documentation.
- 2) Notice of Determination – Development Application 16-2014-168-1.

**TABLED DOCUMENTS**

Nil.



MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 2 CALL TO COUNCIL FORM.



CALL TO COUNCIL FORM  
DEVELOPMENT APPLICATION



I, Councillor John Nell.....  
require Development Application Number DA No.16-2014-168-4) .....

for Rural Land Sharing Community – 15 Green Wattle Creek Road, Butterwick. A  
section 4.55(1A) modification application has been lodged (to the approved  
Rural Land Sharing Community known as 'Shepherds Ground').  
.....

at 15 Green Wattle Creek Road, Butterwick.  
.....  
.....

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

**Reason:**

The reason for this call-up to Council is Public Interest.....  
.....  
.....

**Declaration of Interest:**

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

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

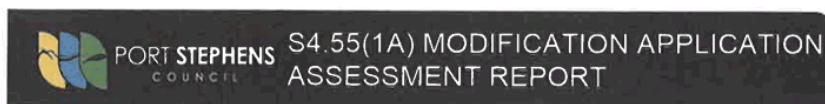
Signed: ..  ..... Date: 14 Sept. 2018.....



ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.

MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 3 ASSESSMENT REPORT.



APPLICATION DETAILS

Modification Application Number	16-2014-168-4
Development Description	Rural Land Sharing Community
Modification Description	S4.55 (1A) Modification – Amend condition 12 (Green Wattle Creek Road Construction Requirements)
Applicant	SHEPHERDS GROUND PTY LTD
Date of Lodgement	29/08/2018

Modification Proposal

The Section 4.55(1A) modification application proposes to modify DA Consent No.16-2014-168-3. The modification application proposes to modify Condition No.12. Condition No.12 relates to the required upgrade works within the road reserve. The condition currently requires:

- A. Full width rural road including a minimum 6 metres wide carriageway with 1m wide shoulders, 3% cross fall each side of the centreline, minimum 250mm deep table drain, subsoil drainage for a distance of 400 metre from the sealed section at the intersection of Green Wattle Road and Jack James Close.
- B. 6m wide carriageway is to have a two-coat hot flush bitumen seal for a distance of 400 metre from the sealed section at the intersection of Green Wattle Road and Jack James Close.
- C. Removal of trees where necessary to ensure safe sight distance in accordance with Austroads - Guide to road design.
- D. Roadside furniture and safety devices including signage, guide posts, chevrons, directional arrows in accordance with RTA and Australian Standards.
- E. Signage and line marking. The signage and line marking plan shall be approved by the Council Traffic Committee.
- F. Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
- G. Payment of applicable fees and bonds; and
- H. Contractor's public liability insurances to a minimum value of \$10 million dollars.

The modification application proposes to modify condition 12 to specify that Council construct the 400 metre sealed section at the intersection of Green Wattle Road and Jack James Close requirements and the proponent contributes \$200,000.

The conditions of consent proposed to be modified have been discussed in further detail below.



ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.

MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 3 ASSESSMENT REPORT.

16-2014-168-4

**PROPERTY DETAILS**

Property Address	15 Green Wattle Creek Road BUTTERWICK
Lot and DP	LOT: 1 DP: 999947
Zoning	RU2 RURAL LANDSCAPE
Site Constraints That Affect The Modification	Nil.

**ASSESSMENT SUMMARY**

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

**Internal Referrals**

The proposed 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.

**Development Engineer** – The proposed modification to Condition 12 is not supported. The upgrade to Green Wattle Road is warranted in accordance with Council's Infrastructure Specification due directly to increased traffic volumes generated by the approved rural land sharing development.

**External Referrals**

**RFS** – In accordance with Section 4.47(2) of the EP&A Act 1979 the RFS were not requested to provide amended general terms of approval (or comments) as the recommendation is for refusal.

**MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT – S4.55(1A)**

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

The proposed modifications will not change to the impact to the natural and built environment. The design or timing of the construction of the public road is not proposed to be changed.

The modification application proposes Council undertake the road upgrade works required for Green Wattle Creek Road as specified in the existing approval and the proponent contribute \$200,000 towards the associated costs. The economic impact is considered to be unacceptable due to the economic impact to the wider community for Council to fund a privately owned development. The upgrade to Green Wattle Road is warranted in accordance with Council's Infrastructure Specification due directly to increased traffic volumes generated by the approved rural land sharing development.

**ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.**

**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

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

16-2014-168-4

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

The development as modified is substantially the same as the approved development as the development remains Staged Development – Rural Land sharing. The modification solely relates to the completion of the road upgrade works and the payment for the construction of the public road.

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.

**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)
	<input checked="" type="checkbox"/> There are no draft EPI's that are relevant to the proposed development	
	<input type="checkbox"/> 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)
B	<input checked="" type="checkbox"/> General Controls	See B9 discussion below
B9	<b><u>B9 – Road Network and Parking</u></b>  The application has been approved as a staged development. Staging includes:  Stage 1 – 6 Dwellings Stage 2 – 9 Dwellings Stage 3 – 13 Dwellings Stage 4 – 1 Dwelling	

ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.

MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 3 ASSESSMENT REPORT.

16-2014-168-4

<p><u>Total 29 Dwellings</u></p> <p>Based on the RMS's "Guide to Traffic Generating Development", single residential dwellings generate an estimated 7.4 vehicle trips per day. Once completed it is expected that future occupants will utilise Green Wattle Road approximately 215 times per day. The intensification of the site from stage 1 would also require Green Wattle Road to be sealed. The sealing of the road is required to:</p> <ul style="list-style-type: none"> <li>• Minimise dust impacts to properties located within the area (including mostly rural dwellings);</li> <li>• Provide access for emergency vehicles (in accordance with Rural Fire Service (RFS) General Terms of Approval (GTAs);</li> <li>• Ensure vehicular safety along this stretch of road; and</li> <li>• Minimises road maintenance requirements.</li> </ul> <p>Conditions of consent require the sealing of Green Wattle Creek Road from Jack James Close for 400m. It is noted that if strict compliance with Councils <i>Council Infrastructure Specification</i> was a condition the following would be required:</p> <ul style="list-style-type: none"> <li>• Sealing of the entire length of Green Wattle Road;</li> <li>• Max traffic load of 15 dwellings.</li> </ul> <p>It is considered that the costs of the intensifying the subject lot has been significantly decreased by not conditioning strict compliance with <i>Council Infrastructure Specification</i>.</p> <p>Contributing finance to infrastructure for private developments which intensify the use of the land is not a function of Council and as such Council assisting in financing the upgrade of Green Wattle Creek Road is not supported.</p>	
C	<input checked="" type="checkbox"/> Development Types
D	<input checked="" type="checkbox"/> Specific Areas

s4.15(1)(a)(iii) – Any planning agreement or draft planning agreement entered into under section 93F

	Notes (where needed)
<input checked="" type="checkbox"/> There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.	

s4.15(1)(a)(iv) – The regulations

	Notes (where needed)
<input checked="" type="checkbox"/> There are no matters within the regulations that are relevant to the determination of the application.	

**ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.**

**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

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

16-2014-168-4

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

	Notes (where needed)
<input checked="" type="checkbox"/> There are no coastal management plans 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 significant adverse impact as a result of the development.	Contributing finance to development requirements of intensifying the private use of the land is not a function of Council and as such Council assisting in financing the required infrastructure upgrades is not supported. Funding infrastructure, (that would not otherwise be required to service the wider community) to facilitate privately owned developments, will reduce funds available for Council to adequately service the needs of the wider community and to maintain and construct public infrastructure. The request is therefore not supported.
Built Environment: The proposed development would not cause harm to the existing character.	The modification does alter the developments built form. Therefore no changes to the built environment will occur as a result of the proposed modification.
Natural Environment: There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added.	The modification does alter the developments potential impact to the natural environment. Therefore there will be no change in the developments impact to the natural environment as a result of the proposed modification.

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

The subject site is suitable for the development (i.e. approved Rural Land Sharing Community) subject to existing conditions of consent. Although the funding arrangement proposed by the applicant is not supported, the original development was assessed under Section 4.15 (formally Section 79C) and was determined to be suitable for the subject site.

s4.15(1)(d) – Any submissions

There were no submissions received relating to the proposed modification.

s4.15(1)(e) – The public interest

The development is not in the public interest. Funding privately owned development will reduce funds available to Council to adequately service the needs of the wider community and to maintain and construct public infrastructure.



PORT STEPHENS  
COUNCIL

## Recommended Reasons for Refusal

### REASONS FOR REFUSAL

1. The Modification Application fails to satisfy the controls contained within Port Stephens Development Control Plan - Chapter B9 Road Network and Parking as the Developer is required to undertake necessary road upgrades and the modification shifts this financial burden to Council (s.4.15C(1)(a)(iii) *EP&A Act 1979*).
2. The Modification Application results in unacceptable economic impacts as it seeks to divert public funds to benefit a private development. (s.4.15(1)(b) of the *EP&A Act 1979*).
3. The Modification Application is not to be considered to be in the public interest as the use of Council funding to provide infrastructure (that would not otherwise be required) to a private development limits Council's ability to service the needs of the wider community (s.4.15(1)(e) *EP&A Act 1979*).

## ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.

## MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

## ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.

PORT STEPHENS  
COUNCIL

## Recommended Conditions of Consent

## REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

These conditions are required to:

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

## CONDITIONS THAT IDENTIFY APPROVED PLANS AND LIMITATIONS OF CONSENT

- 1B. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Plan/Doc. Title	Dwg. No.	Date	Drawn By
Proposed Master Plan'	A003	15/01/14	Gregory Burgess Pty Ltd Architects
<b>Note:</b> Relates to concept approval only. In the case of any inconsistencies the approved staging plan prevails.			
Detailed Master Plan	A100	15/01/14.	Gregory Burgess Pty Ltd Architects
<b>Note:</b> Approval for indicative colour palette and location of effluent disposal area only			
Detailed Plan and Section	A102	15/01/14.	Gregory Burgess Pty Ltd Architects
Landscape Plan (1/2)	SG-LP-01	3/01/14.	Gregory Burgess Pty Ltd Architects
<b>Note:</b> Landscaping only. In the case of any inconsistencies the approved staging plan prevails.			
Landscape Plan (2/2)	SG-LP-02	3/01/14.	Gregory Burgess Pty Ltd
Staging Plan	-	26/09/15	Tom Chen, Ecobuild
<b>Note:</b> As amended in red. Staging of the internal road has been approved, however staging must align with the staging of dwellings and construction shall be in accordance with the General Terms of Approval issued by the RFS on 14 May 2014.			

**ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.**
**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**
**ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.**

**PORT STEPHENS  
COUNCIL**
**Recommended Conditions of Consent**

Dwelling No. 1 (13 Sheets)	-	04/05/2017	Tom Chen, Ecobuild
Dwelling No. 2 (12 Sheets)	-	08/05/2017	Tom Chen, Ecobuild
Floor Plan (House Three)	1	20/09/15	Tom Chen, Ecobuild
Elevations (House Three)	2	20/09/15	Tom Chen, Ecobuild
Elevations (House Three)	3	20/09/15	Tom Chen, Ecobuild
Sections (House Three)	4	20/09/15	Tom Chen, Ecobuild
Dwelling No. 20 (13 Sheets)	-	04/05/2017	Tom Chen, Ecobuild
Dwelling No. 21 (13 Sheets)	-	04/05/2017	Tom Chen, Ecobuild
Floor Plan (House 22)	1	17/09/15	Tom Chen, Ecobuild
Elevations (House 22)	2	17/09/15	Tom Chen, Ecobuild
Elevations (House 22)	3	17/09/15	Tom Chen, Ecobuild
Sections (House 22)	4	17/09/15	Tom Chen, Ecobuild
Community Management Statement and Rules		10/02/14.	Shepherds Ground Co-operative Limited

2. The development is approved as a 'Rural Landsharing Community' in accordance with the provisions of State Environmental Planning Policy No.15 Rural Landsharing Communities.
- 3A. The development shall be carried out in stages. This consent applies to the concept approval and Stage One which involves;
  - a. The use of the subject site as a Rural Landsharing Community (including 30 dwellings),
  - b. Six dwellings (as part of Stage One),
  - c. Land tenure, dwelling occupancy rights, staging plan, and land management arrangements,
  - d. Design principles that are binding upon subsequent stages of the development (i.e. criteria for the location of future buildings),
  - e. Staged construction of internal roads,
  - f. The construction of drainage infrastructure,
  - g. The use of the existing dwelling for administration associated with the establishment of the Rural Landsharing Community in the short to mid-term until a purpose built community building is constructed in a subsequent stage,

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

16-2014-168-4

Page 2 of 17



MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

Recommended Conditions of Consent

- h. Agricultural activities to be established on the site (associated exempt development), and
  - i. On Site Waste Water System.
- 4A. Prior to the commencement of any building works, in Stage Two, Three and Four, separate development consent shall be granted for structures within each stage.
- 5B. The development shall be undertaken in accordance with the General Terms of Approval granted (and attached to this consent) as follows:
- a. NSW Rural Fire Service dated 18 October 2018; and
  - b. Department of Natural Resources dated 16 June 2014.

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

- 6. At least 48 hours prior to the commencement of any development (including demolition, excavation, shoring or underpinning works), a notice of commencement of building or subdivision work form and appointment of the Principal Certifying Authority form shall be submitted to Council.
- 7. Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during the construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm and/or as directed by the Principal Certifying Authority and Council officers.

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

ENGINEERING / STORMWATER

- 8. A Soil & Water Management Plan in accordance 'Managing Urban Storm water; Soils and Construction document, Landcom 2004' is to be prepared by an Engineer whose qualifications are acceptable for membership of the Institution of Engineers Australia (or other professional approved by Council) detailing temporary and permanent measures proposed to be installed and maintained. The plan is to include an analysis of the susceptibility of soil to erosion and is to be submitted with the Engineering plans. Details shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.
- 9. A Construction Certificate cannot be issued until full details of the stormwater drainage design, including overland flow paths, stormwater quality and quantity control measures to manage and convey all stormwater up to the 1% AEP critical

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

16-2014-168-4

Page 3 of 17

MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

Recommended Conditions of Consent

storm duration and associated calculations, has been provided to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority.

The stormwater system shall be designed and constructed so that water quality targets are met in accordance with Council's Urban Stormwater and Rural Water Quality Management Plan.

ROADWORKS AND ACCESS

10. A detailed geotechnical investigation shall be undertaken and a report prepared detailing the following:
- a. pavement design of the internal roads, and
  - b. geotechnical integrity of existing dam 3 including, recommendations as to any necessary remediation works or removal of the dam to ensure dwellings downstream will not be affected due to failure of the existing dam embankment.

Details shall be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

11. Prior to the issue of the Construction Certificate (for each building works stage) the vehicle accessway shall be constructed according to the following design criteria:
- a. be an all-weather access with a minimum trafficable width of 4 metres;
  - b. have an offset of 300 mm or greater from obstructions higher than 150 mm;
  - c. include a passing area at least every 200 metres, with a minimum width of 5.5 metres, and minimum length of 6.5 metres with 45° tapers;
  - d. road pavement in accordance with the detailed geotechnical report required under the conditions of consent for this development.

**Note:** The internal vehicle accessway has been approved to be constructed in stages. The staged construction of the internal accessway must align with the staging of the approved dwellings and the requirements of the Rural Fire Service.

- 12A. All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993. Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional, in accordance with Council's 'Infrastructure Design and Construction Specification – AUS Spec', and Section B of Development Control Plan 2014. The required works to be designed are as follows:

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

16-2014-168-4

Page 4 of 17

MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

Recommended Conditions of Consent

- e. Full width rural road including a minimum 6 metres wide carriageway with 1m wide shoulders, 3% cross fall each side of the centreline, minimum 250mm deep table drain, subsoil drainage for a distance of 400 metre from the sealed section at the intersection of Green Wattle Road and Jack James Close.
- f. 6m wide carriageway is to have a two-coat hot flush bitumen seal for a distance of 400 metre from the sealed section at the intersection of Green Wattle Road and Jack James Close.
- g. Removal of trees where necessary to ensure safe sight distance in accordance with Austroads - Guide to road design.
- h. Roadside furniture and safety devices including signage, guide posts, chevrons, directional arrows in accordance with RTA and Australian Standards.
- i. Signage and line marking. The signage and line marking plan shall be approved by the Council Traffic Committee.
- j. Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
- k. Payment of applicable fees and bonds; and
- l. Contractor's public liability insurances to a minimum value of \$10 million dollars.

**Prior to the issuing of a Construction Certificate or Occupation Certificate** after the date of the S.4.55 Modification Determination of DA Consent No.16-2014-168-4 the above described works shall be approved and constructed under Section 138 of the Roads Act 1993.

12.1. In lieu of the owner undertaking the works within the public road reserve as specified under Condition 12A the following is required:

- 1) Prior to 1 April 2019, an agreement is to be entered into between the owner of 15 Green Wattle Creek Road, Butterwick and Port Stephens Council which has the following effect:
  - An initial payment of \$200,000 is required to be paid to Council by a date that is to be agreed to between the owner and Port Stephens Council; and
  - **Prior to the issue of a Development Application for the eighteenth (18th) dwelling, or by 31 December 2020, whichever comes first, a payment of \$100,000 is required to be paid to Council; and**

MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

Recommended Conditions of Consent

- Prior to the issue of a Development Application for the twenty first (21st) dwelling, or by 31 December 2020, whichever comes first, a payment of an additional \$100,000 is required to be paid to Council.

WASTE WATER

12.2. Prior to issue of the Construction Certificate for Stage One submit to Council an application to Install, Alter or Construct a Waste Treatment Device or Human Waste Storage Facility. The application shall be prepared in accordance with the Local Government Act, 1993 (S68-part C5), the Local Government (General) Regulation, 2005 (Part 2, Division 4) and Councils On-site Sewage Management Policy. The application must include a detailed assessment report by suitably qualified and experienced Waste Water Consultant. The report must satisfactorily address the detailed design and constructability requirements for the installation, construction, operation and maintenance of all On-site Sewage Management infrastructure including greywater treatment system, composting systems effluent land application areas. For preliminary information on the conceptual wastewater servicing strategy the reader is directed to the report on "Supplementary Effluent Disposal Assessment, Proposed Rural Land Sharing Development, Douglas Partners, Project 81393.01, dated September 2014". Note: Significant changes to preliminary system design, hydraulic loading, proposed system locations or any assessment element detailed within the Supplementary Effluent Disposal Assessment Report will require further investigations to be undertaken and amendment to the report.

CONTRIBUTIONS AND FEES

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

**STAGE ONE (SIX DWELLINGS – ONE CREDIT APPLIED)**

	Per dwelling	Total
Civic Administration	\$571.50	\$2857.5
Public Open Space, Parks and Reserves	\$1186	\$5930
Sports and Leisure Facilities	\$2797.50	\$13987.5
Cultural and Community Facilities	\$1405	\$7025
Road Works	\$521	\$2605

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

16-2014-168-4

Page 6 of 17

**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

**ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.**



**PORT STEPHENS  
COUNCIL**

**Recommended Conditions of Consent**

Fire & Emergency Services	\$113	\$565
Total		\$32 969.50

**STAGE TWO (NINE DWELLINGS)**

	Per dwelling	Total
Civic Administration	\$571.50	\$5143.50
Public Open Space, Parks and Reserves	\$1186	\$10674
Sports and Leisure Facilities	\$2797.50	\$25177.50
Cultural and Community Facilities	\$1405	\$12645
Road Works	\$521	\$4689
Fire & Emergency Services	\$113	\$1017
Total		\$59 346

**STAGE THREE (13 DWELLINGS)**

	Per dwelling	Total
Civic Administration	\$571.50	\$7429.50
Public Open Space, Parks and Reserves	\$1186	\$15418
Sports and Leisure Facilities	\$2797.50	\$36367.50
Cultural and Community Facilities	\$1405	\$18265
Road Works	\$521	\$6773
Fire & Emergency Services	\$113	\$1469
Total		\$85 722

**STAGE FOUR (TWO DWELLINGS)**

	Per dwelling	Total
Civic Administration	\$571.50	\$1143
Public Open Space, Parks and Reserves	\$1186	\$2372
Sports and Leisure Facilities	\$2797.50	\$5595
Cultural and Community Facilities	\$1405	\$2810
Road Works	\$521	\$1042
Fire & Emergency Services	\$113	\$226

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

16-2014-168-4

Page 7 of 17



**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018****ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.**

**PORT STEPHENS**  
COUNCIL

### Recommended Conditions of Consent

Total \$13 188

**Note:**

- a. The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.
- b. Contributions are to be paid **prior to the issue of any Construction Certificate for each Stage.**
- c. The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months from the date of original consent.

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

13. Building work that involves residential building works (within the meaning of the Home Building Act, 1989) must not be carried out unless the principal certifying authority for the development to which the work relates:
  - a. in the case of work to be done by a licensee under that Act:
    - i. has been informed in writing of the licensee's name and contractor licence number, and
    - ii. is satisfied that the licence has complied with the requirements of Part 6 of that Act, or
  - b. in the case of work to be done by any other person:
    - i. has been informed in writing of the person's name and owner-builder permit, or
    - ii. has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date

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

16-2014-168-4

Page 8 of 17

**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018****ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.****PORT STEPHENS  
COUNCIL****Recommended Conditions of Consent**

any information or declaration previously given under either of those paragraphs.

A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act, 1989, that states that a person is the holder of an insurance policy issued for the purposes of this clause, is sufficient evidence that the person has complied with the requirements of that part.

14. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
15. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:
  - Monday to Friday, 7am to 6pm;
  - Saturday, 8am to 1pm;
  - No construction work to take place on Sunday or Public Holidays.
16. It is the responsibility of the applicant to erect a PCA sign and to ensure the PCA sign remains in position for the duration of works.
17. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
18. During the extraction, removal, and transportation of material associated with the works, the person having the benefit of the consent shall ensure that airborne dust is contained within the work site or transport vehicles, and does not impact on the amenity of the surrounding environment. Effective environmental controls and practices shall be implemented and maintained to the satisfaction of Council or the Principal Certifying Authority.
19. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person having the benefit of the development consent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council.

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

20. **Prior to the issue of the Occupation Certificate**, the Principal Certifying Authority is to be satisfied that restriction as to use of the land under Section 88E

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

16-2014-168-4

Page 9 of 17





PORT STEPHENS  
COUNCIL

### Recommended Conditions of Consent

of the Conveyancing Act 1919, has been created restricting the occupation of the premises to:

- a. Rural Landsharing Community in accordance with State Environmental Planning Policy No.15.
  - b. Subdivision prohibited.
21. **Prior to the issue of the Occupation Certificate**, the Principal Certifying Authority is to be satisfied that an restriction under Section 88B of the *Conveyancing Act 1919*, has been created as follows:
- a. The effluent land application areas (including all greywater and compost land application areas) shall not be developed for a future different use. The restriction shall identify the land for use as effluent disposal area only.
22. **Prior to the release of any Occupation Certificate**, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious and/or environmental weed species, have been undertaken in accordance with the approved plan(s) and conditions of consent. The species *Sapium sabiferum* identified on the approved species list shall not be used and shall be replaced with a more suitable species for the site.
23. The approved 'Community Management Statement and Rules – Shepherds Ground Co-operative Limited, dated 10 February 2014' shall be amended to include by-laws that appropriately and adequately define the responsibilities for the operation, maintenance, monitoring and, where necessary, the replacement of the individual and common On-site Sewage Management Systems including but not limited to treatment systems, dry composting systems, reticulation systems and land application areas. The by-laws should be drafted by a suitably qualified person/organisation and should be to the satisfaction of Council.
- 24.1 Written evidence from the electricity supply authority shall be submitted to Council stating that satisfactory arrangements have been made for the provision of electricity supply to all dwelling(s) and approved dwelling envelopes (for each remaining Stage).
- 25.1 Written evidence from the telecommunications authority shall be submitted to Council stating that satisfactory arrangements have been made for the provision of telephone supply to all dwelling(s) and approved dwelling envelopes (for each remaining Stage).
- 25.2A **Prior to the issue of the Occupation Certificate**, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No's 818476S (No 1), 818763S (No 2), 681691S (No 3), 818767S (No 20), 818772S

**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018****ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.****PORT STEPHENS  
COUNCIL****Recommended Conditions of Consent**

(No 21) and 667448S (No 22), have been complied with. Should there be any changes to the specifications of the development (e.g. colour, insulation, etc.), except where restricted or excluded by any condition of consent, an amended/new BASIX Certificate shall be obtained and may be relied upon as having complied with this condition.

**PRIOR TO COMMENCEMENT OF USE**

25.3. **Prior to the occupation of the administration and office buildings** the owner is to provide Council with a Final Fire Safety Certificate as prescribed by Clause 174 and 107 EP&A Reg 200 as per the attached fire safety schedule for the premises.

25.4. The administration and office buildings are to be fitted with portable fire extinguishers **prior to commencement of use or issue of any Occupation Certificate for the site.**

25.5. **Prior to commencement of use** of the administration and office a fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council, if Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.

**CONDITIONS TO BE SATISFIED AT ALL TIMES**

26. Access and facilities for persons with disabilities to an within all community buildings and community areas of the development shall be provided at all times in accordance with AS1428.1 – Design for Access and Mobility and Part D3 the Building Code of Australia.

26.1. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:

- a. The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
- b. That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.

MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

Recommended Conditions of Consent

27. All owners/shareholders shall comply with the approved document 'Community Management Statement and Rules – Shepherds Ground Co-operative Limited, dated 10 February 2014' (as amended by conditions of this consent). The Community Management Statement and Rules shall become the Community Management Statement as required under cl.10 SEPP No.15.
28. Any overflow from the proposed dam/s must not concentrate water on any adjoining property. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
29. All waste shall be contained within a secure enclosure or bin. Rubbish generated from the development is to be suitability contained on site at all times. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown off site.
30. All owners/shareholders of the subject site shall use the development as their principle place of residence at all times. The development is not to be used as a tourist/holiday accommodation or temporary accommodation of any kind.

NATURAL RESOURCES

31. Where hollow bearing trees cannot be retained hollows shall be harvested and installed in adjacent trees. If hollows are unable to be salvaged they will need to be replaced with nest boxes at a ratio of 2:1.
32. The following key areas are to be revegetated and/or managed to encourage natural regeneration and improve condition:
  - a. An area along the southern boundary including Green Wattle Creek, and an area along the northern boundary (including a small remnant of Lower Hunter Valley Dry Rainforest) of the study area (labelled "Landscape Value" in Figure 3 of Appendix E)
  - b. The area of steep hills including the gully containing a small remnant of Lower Hunter Valley Dry Rainforest in the northeast of the landholding."
  - c. Revegetation areas are to be managed and treated for weeds.

All revegetation works are carried out using a combination of natural regeneration (as promoted by stock management/exclusion) and replanting where natural regeneration does not occur. Replanting will have an emphasis on tree canopy and mid-storey species that are endemic to the site as described in Section 3.2.2 Dry sclerophyll forest and Section 3.2.3 Riparian forest in Appendix E. Recommended species can also be obtained by contacting Council's Natural Resource Team.

ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.

MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

Recommended Conditions of Consent

ADVICES

- A. ADVICE DELETED UNDER 16-2014-168-2
- B. ADVICE DELETED UNDER 16-2014-168-2
- C. In the event of any bone or stone artefacts, or discrete distributions of shell, being unearthed during any earthmoving, all work must cease immediately in the affected area, and the National Parks and Wildlife Service (NPWS) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by NPWS to proceed.
- D. Given the nature of the proposed development it is recommended that the submitted Section 68 Application address the development in its entirety and is not limited to the approved six dwellings approved under Stage One.

SCHEDULE 2

RIGHT OF APPEAL

If you are dissatisfied with this decision:

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

NOTES

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

HOW TO READ MODIFIED CONDITIONS

The following conventions are used within this modified condition set:

- New conditions will generally be added to the end of the existing condition set and will be subsequently numbered. If a condition is added within the existing condition

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

16-2014-168-4

Page 13 of 17

**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018**

**ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.**



**PORT STEPHENS  
COUNCIL**

**Recommended Conditions of Consent**

set, it will be suffixed with the appendage .1. For example if a new condition is to be added after existing condition 12, the new condition will be condition 12.1. If a second condition is to be added, it will be condition 12.2 and so on;

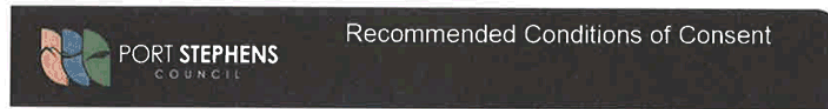
- The condition number of an amended condition is suffixed with the letter A. For example if condition 4 is amended, it becomes condition 4A. If the condition is amended a second time, it will become condition 4B and so on; and
- If a condition is deleted, the condition number will remain within the condition set with only the text 'CONDITION DELETED UNDER (DA REFERENCE NUMBER)' shown.

Should you have any questions about how to interpret this modified condition set, please contact Council.



MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.



SCHEDULE 3



NSW RURAL FIRE SERVICE



The General Manager  
Port Stephens Council  
PO Box 42  
Raymond Terrace NSW 2324

Your Ref: 16-2014-168-4  
Our Ref: D14/0986  
DA14041191713 BS

ATTENTION: Samuel Harvey



18 October 2018

Dear Mr Harvey

Integrated Development Application - 1/999947 15 Green Wattle Creek Road  
Butterwick 2321

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. Upon the commencement of the development and in perpetuity the areas detailed below shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':
  - all land within and around the proposed residential development and existing dwelling/proposed community hub;
  - for a distance of 30 metres from the north-eastern edge of the proposed residential development; and,

**Postal address**

Records  
NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

**Street address**

NSW Rural Fire Service  
Planning and Environment Services (North)  
Suite 1, 125 West High Street  
COFFS HARBOUR NSW 2450

T (02) 6691 0400  
F (02) 6691 0498  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)  
Email: [gen@rfs.nsw.gov.au](mailto:gen@rfs.nsw.gov.au)

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

16-2014-168-4

Page 15 of 17

**MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018****ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.****PORT STEPHENS  
COUNCIL****Recommended Conditions of Consent**

- for a distance of 50m in all other directions from the edge of the proposed residential development and existing dwelling/proposed community hub.
- 2. Appropriate arrangements shall be put in place in the establishment of the rural landsharing community scheme to ensure the effective documentation, implementation and ongoing maintenance of the required Asset Protection Zones on the site.

**Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- 3. The provision of water, electricity and gas to the proposed dwellings shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- 4. Arrangements shall be made within the proposed development for the provision of water supplies for bush fire fighting purposes in accordance with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Access**

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

- 5. The existing and proposed access roads within the site shall comply with sections 4.1.3(2) and 4.2.7 of 'Planning for Bush Fire Protection 2006'.

**Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- 6. The seven proposed dwellings within 100m of the bush fire hazard to the north-east of the proposed development, as outlined in Drawing Ref 5721 BF-V2 'Bushfire Threat Assessment' (Le Mottee Group, 19/2/2014), shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

**Emergency Management Arrangements**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions apply:

- 7. An emergency / evacuation plan is to be prepared consistent with the NSW Rural Fire Service document 'Guidelines for the Preparation of Emergency/Evacuation Plan'. This shall reflect the proposal for a refuge to be provided on the site and shall set out specific arrangements in the instance of a bush fire occurring to the south-west of the site.

NSW RURAL FIRE SERVICE

2 of 3

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

16-2014-168-4

Page 16 of 17



ITEM 3 - ATTACHMENT 1 COUNCIL MEETING MINUTE - 11 DECEMBER 2018.

MINUTES ORDINARY COUNCIL - 11 DECEMBER 2018

ITEM 3 - ATTACHMENT 5 RECOMMENDED CONDITIONS OF CONSENT.



PORT STEPHENS  
COUNCIL

Recommended Conditions of Consent

General Advice – consent authority to note

It is noted that the dedicated bush fire fighting water supply tanks to dwellings on the north-east side of the proposed development are to be located at the rear of the proposed dwellings. As these dwellings will not have vehicular access from the proposed main circular access road, consideration will need to be given to the provision of access to, or relocation of, these supplies at stage 2 of the development in order to comply with Section 4.1.3 of Planning for Bush Fire Protection 2006.

This letter is in response to a further assessment of the application submitted and supersedes our previous general terms of approval dated 14 May 2014.

Should you wish to discuss this matter please contact Bradford Sellings on 1300 NSW RFS.

Yours Sincerely



Alan Bawden  
Team Leader – Development Assessment and Planning

For general information on bush fire protection please visit [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

NSW RURAL FIRE SERVICE 3 of 3

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

16-2014-166-4

Page 17 of 17

**ITEM 3 - ATTACHMENT 2 SUBMISSIONS SUMMARY.**
**SUBMISSIONS SUMMARY: FINANCIAL ASSISTANCE FOR GREEN WATTLE CREEK ROAD, BUTTERWICK**

No.	Author of submission	Comment
1	Resident	<ol style="list-style-type: none"> <li>1. That the applicant has delayed paying for the road on several occasions.</li> <li>2. Ratepayers' money should not be used for personal gain.</li> <li>3. Council should not be left out of pocket when the targets are not met.</li> <li>4. The applicant has gained on reduced contributions, why should they gain again and again – where do you draw the line?</li> </ol>
2	Resident	<ol style="list-style-type: none"> <li>1. Ratepayers' contribution through land rates should not be used to fund Green Wattle Creek road for Shepherds Ground, it should be used to benefit community projects.</li> <li>2. Council finances should not be used for personal gain.</li> <li>3. Council will never see the money if left the way it is.</li> <li>4. At the end of Butterwick Road onto Woodville Street the road have be to widen for approximately 5 to 6 homes by the owner before any commencement. Why wasn't Shepherds Ground made to do the same for 29 houses?</li> </ol>
3	Resident	<ol style="list-style-type: none"> <li>1. The objector is surprised and disappointed that Council overturned the staff recommendation.</li> <li>2. Lack of other dwellings being constructed on Green Wattle Creek Road since the approval of Shepherds Ground – no prospect of another dwelling benefiting, therefore the road construction will almost be for the sole benefit of Shepherds Ground.</li> <li>3. Shepherds Ground should meet all costs.</li> <li>4. Financial assistance is not a prudent use of ratepayers' money.</li> <li>5. That the proposal to provide financial assistance flawed as the repayment is based on commercial targets being met.</li> <li>6. If no more than 17 dwellings are built the applicant does not have to pay back \$200,000 and the applicant may receive an interest free loan.</li> <li>7. The risk in this proposal is too high for Council.</li> <li>8. That Council's only recourse if the project fails is to sale the property.</li> <li>9. By providing financial assistance Council is demonstrating its support for Shepherds Ground and perhaps encouraging investors who have assumed Council has an informed view of the financial viability of the project – noting that Council does not consider the financial health of a development as part of assessing a development application.</li> <li>10. Council has a duty of care to consider the financial viability of the development.</li> </ol>

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

Councillor Paul Le Mottee returned to the meeting at 6:12pm.

Councillor Jaimie Abbott returned to the meeting at 6:12pm.

### ITEM NO. 4

FILE NO: 19/15910  
EDRMS NO: PSC2019-00249

### SIX-MONTHLY REPORT JULY TO DECEMBER 2018 AGAINST PORT STEPHENS COUNCIL DELIVERY PROGRAM 2018-2021

REPORT OF: CARMEL FOSTER - GROUP MANAGER CORPORATE SERVICES  
GROUP: CORPORATE SERVICES

---

#### RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Six-Monthly report July to December 2018 on the progress of Council's Delivery Program 2018-2021 **(TABLED DOCUMENT 1)**.

---

### ORDINARY COUNCIL MEETING - 26 FEBRUARY 2019 MOTION

039	<p><b>Councillor Sarah Smith</b> <b>Councillor John Nell</b></p> <p>It was resolved that Council adopt the Six-Monthly report July to December 2018 on the progress of Council's Delivery Program 2018-2021 <b>(TABLED DOCUMENT 1)</b>.</p>
-----	---

### BACKGROUND

The purpose of this report is to provide Council and the community with an update on the progress of Council's Delivery Program 2018-2021.

This is the first progress report of the new Delivery Program 2018-2021 adopted by Council in June 2018.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide a strong ethical governance structure.

**FINANCIAL/RESOURCE IMPLICATIONS**

This Six-Monthly report (**TABLED DOCUMENT 1**) is generated from a combination of information and data provided from across Council's operations. There are no financial or resource implications in providing this report.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Section 404(5) of the *Local Government Act 1993* stipulates that: 'The General Manager must ensure that regular progress reports are provided to the Council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every six months.'

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will not adopt the Six-Monthly report July to December 2018 placing Council in breach of legislation leading to reputational loss.	Low	Accept the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Community Strategic Plan, Delivery Program and Operational Plans are founded on a basis of social, economic, environmental and governance factors through four focus areas Our Community, Our Place, Our Environment and Our Council. The report reflects these factors and provides a comprehensive progress report according to each focus area along with a scorecard of Council's key result measures.

Council is on track to achieve its targets for service delivery, community satisfaction (85%), governance, risk management and financial sustainability, with some improvements required in regard to our employee engagement score of 68% (against

an ambitious new target of 70%). Whilst below the corporate target of 70%, Council still remains above the target of an 'engaged workforce' of 65% and significantly above the average local government sector engagement score of 55%.

## **CONSULTATION**

The Six-Monthly report July to December 2018 has been compiled from information and data provided from across Council's operations and reviewed by both the Senior Leadership and Executive Teams of Council.

## **OPTIONS**

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

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

- 1) Six-Monthly report July to December 2018.

**ITEM NO. 5**

**FILE NO: 19/28230**  
**EDRMS NO: A2004-0242**

**QUARTERLY BUDGET REVIEW AS AT 31 DECEMBER 2018**

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

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve the discretionary changes to the adopted budget as detailed in **(ATTACHMENT 1)** presented as the 2018-2019 Quarterly Budget Review Statement – December 2018.

---

**ORDINARY COUNCIL MEETING - 26 FEBRUARY 2019**  
**MOTION**

<b>040</b>	<b>Councillor Ken Jordan</b> <b>Councillor Paul Le Mottee</b>  It was resolved that Council approve the discretionary changes to the adopted budget as detailed in <b>(ATTACHMENT 1)</b> presented as the 2018-2019 Quarterly Budget Review Statement – December 2018.
------------	---

**BACKGROUND**

The purpose of this report is to amend the budget by bringing to Council's attention the proposals and issues that have an impact on the 2018-2019 budget that are detailed in the Quarterly Budget Review Statement – December 2018. This statement sets out the details of variations between Council's original budget and the proposed budget as part of the December 2018 Quarterly Budget Review.

Council considered its Integrated Strategic Plans in March 2018 and these plans include the budget estimates for the 2018-2019 financial year.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

Council's anticipated underlying result is as follows:

**MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019**

	<b>Surplus (\$)</b>	<b>Deficit</b>
Budget 2018-2019	984,000	
September Review	790,000	
December Review	949,000	
March Review		

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the underlying operating result may return to a deficit.	Medium	Long Term Financial Plan established to reach break-even point.	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 to discuss the overall financial result for the quarter.

**Internal**

- Group Managers via email/meetings in January 2019 to provide an update on the overall financial result for the quarter.
- Senior Leadership Team during formal meetings in February 2019 to discuss the overall financial result for the quarter.

Formal communication and meetings have been held and the recommendation to submit to Council for formal adoption was accepted.



**OPTIONS**

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

**ATTACHMENTS**

- 1) Quarterly Budget Review as at 31 December 2018.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



"A great lifestyle in a treasured environment"

## 2018 – 2019 Quarterly Budget Review Statement December 2018

**ITEM 5 - ATTACHMENT 1      QUARTERLY BUDGET REVIEW AS AT 31  
DECEMBER 2018.****TABLE OF CONTENTS**

1. EXECUTIVE SUMMARY	1
2. INTRODUCTION	3
3. RESPONSIBLE ACCOUNTING OFFICER'S STATEMENT	4
4. INCOME & EXPENSES BUDGET REVIEW STATEMENT	5
5. CAPITAL BUDGET REVIEW STATEMENT	9
6. CASH FLOW STATEMENT & ANALYSIS	14
7. BUDGET REVIEW CONTRACTS AND OTHER EXPENSES	15

ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

QUARTERLY BUDGET REVIEW AS AT 31

# 1) Executive Summary

Categorising the changes by Group:

**Corporate Services:** The operating budget change in this Group was \$208k (Unfavourable). The operating budget changes predominately relate to the transfer of expenditure budgets from other groups due to service reviews, this reflects the transfer of budget responsibilities.

Capital budget changes were \$36k (Favourable) and mainly relate to the reduction of capital expenditure on the holiday park program.

**Development Services:** Operating budget changes for this Group were \$53k (Favourable). This relates to new grants in weeds control and tourism that Council was awarded.

Changes in the capital budget were \$1,400k (Favourable) as a result of a revised forecast in income from development contributions.

**Facilities & Services:** The operating budget change in this Group was \$347k (Favourable). This is mainly due to an increase in state roads income from RMS.

Changes in the capital budget were \$1,083k (Unfavourable) which consisted of an increase of capital expenditure for sports assets, roads and drains.

**General Manager's Office:** The operating budget changes in this Group were \$33k (Unfavourable). This was primarily as a result of an increase in expenditure for the professional development of Councillors.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBRs.

Page 1 of 16

ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

QUARTERLY BUDGET REVIEW AS AT 31

Operating Budget	2019 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2019 Revised Budget	2019 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Corporate Services	39,079	-	(173)	(208)	-	38,699	38,869
Development Services	(7,608)	-	(215)	53	-	(7,770)	(3,430)
General Manager's Office	(2,643)	-	205	(33)	-	(2,470)	(1,502)
Facilities & Services	(28,888)	-	(11)	347	-	(28,552)	(7,731)
Newcastle Airport	3,886	-	-	-	-	3,886	2,086
<b>Operating Surplus/(Deficit) before capital grants</b>	<b>3,827</b>	<b>-</b>	<b>(194)</b>	<b>159</b>	<b>-</b>	<b>3,792</b>	<b>28,292</b>
Less: Gain on sale	(250)	-	-	-	-	(250)	(79)
Less: Fair value (gains) / losses	(650)	-	-	-	-	(650)	-
Less: Newcastle Airport	(3,886)	-	-	-	-	(3,886)	(2,086)
Add: NAP Dividend	1,943	-	-	-	-	1,943	1,943
<b>Underlying Operating Surplus/(Deficit)</b>	<b>984</b>	<b>-</b>	<b>(194)</b>	<b>159</b>	<b>-</b>	<b>949</b>	<b>28,069</b>

Capital Budget	2019 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2019 Revised Budget	2019 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Corporate Services	(4,721)	(1,074)	(56)	36	-	(5,814)	(2,110)
Development Services	3,100	-	-	1,400	-	4,500	3,738
Facilities & Services	(8,675)	(17,585)	(945)	(1,083)	-	(28,288)	(7,207)
<b>Total</b>	<b>(10,296)</b>	<b>(18,659)</b>	<b>(1,001)</b>	<b>353</b>	<b>-</b>	<b>(29,603)</b>	<b>(5,580)</b>

Note - + = inflow () = outflow

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBRs.

## **2) Introduction**

Clause 203(1) of the *Local Government (General) Regulation 2005* requires Council's responsible accounting officer to prepare and submit a Quarterly Budget Review Statement (QBRs) to Council. The QBRs must show, by reference to the estimated income & expenditure that is set out in the operational plan, a revised estimate of income and expenditure for the year.

It also requires the QBRs to include a report by the responsible accounting officer as to whether or not the statement indicates Council to be in a satisfactory financial position, with regard to Council's original budget.

Council's operational plan sets out the achievements, goals and revenue policy, including estimates of income and expenditure. The QBRs plays an important role in monitoring Council's progress against the plan and ongoing management of the annual budget.

The QBRs is the mechanism whereby Councillors and the community are informed of Council's progress against the operational plan (original budget) and the recommended changes and reasons for major variances.

The QBRs is composed of the following components:

- Responsible Accounting Officer Statement.
- Income & Expenses Budget Review Statement.
- Capital Budget Review Statement.
- Cash Flow Statement Review.
- Budget Review Contracts and Other Expenses.

ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

QUARTERLY BUDGET REVIEW AS AT 31

**3) Responsible Accounting Officer's Statement**

The Regulations require that a budget review statement must include or be accompanied by a report as to whether or not the Responsible Accounting Officer (RAO) believes that the QBRs indicates that Council's financial position is satisfactory, having regard to the original estimate of income and expenditure. If Council's financial position is considered by the RAO to be unsatisfactory, then recommendations for remedial action must be included.

The following statement is made in accordance with clause 203(2) of the *Local Government (General) Regulations 2005*.

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter end 31/12/2018 indicates that Council's projected financial position will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Name: Tim Hazell

Responsible Accounting Officer, Port Stephens Council

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBRs.

Page 4 of 16



ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

QUARTERLY BUDGET REVIEW AS AT 31

4) Income & Expenses Budget Review Statement

Consolidated	2019 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2019 Revised Budget	2019 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Rates and Annual Charges	56,787	-	4	-	-	56,791	56,657
User Charges & Fees Income	39,367	-	(253)	3,619	-	42,732	19,888
Interest & Investment Income	1,353	-	-	-	-	1,353	691
Other Income	6,591	-	78	-	-	6,669	5,433
Grants and Cont.	11,758	-	140	60	-	11,958	5,175
Grants and Cont. (Capital)	5,811	-	(60)	10,361	-	16,112	6,183
Gain on Sale	250	-	-	-	-	250	(79)
<b>Total Revenue</b>	<b>121,916</b>	<b>-</b>	<b>(91)</b>	<b>14,040</b>	<b>-</b>	<b>135,865</b>	<b>93,948</b>
Employee Costs	45,135	-	121	125	-	45,381	23,658
Borrowing Costs	698	-	-	30	-	728	390
Materials & Contracts	36,830	-	203	3,335	-	40,368	19,536
Other Expenses	13,995	-	(161)	30	-	13,864	8,050
Depreciation & Impairment	15,621	-	-	-	-	15,621	7,839
<b>Total Expenditure</b>	<b>112,279</b>	<b>-</b>	<b>163</b>	<b>3,520</b>	<b>-</b>	<b>115,962</b>	<b>59,473</b>
<b>Operating Surplus/(Deficit) after capital grants</b>	<b>9,637</b>	<b>-</b>	<b>(254)</b>	<b>10,520</b>	<b>-</b>	<b>19,904</b>	<b>34,475</b>
<b>Operating Surplus/(Deficit) before capital grants</b>	<b>3,827</b>	<b>-</b>	<b>(194)</b>	<b>159</b>	<b>-</b>	<b>3,792</b>	<b>28,292</b>
Less: Gain on sale	(250)	-	-	-	-	(250)	(79)
Less: Fair value (gains) / losses	(650)	-	-	-	-	(650)	-
Less: Newcastle Airport	(3,886)	-	-	-	-	(3,886)	(2,086)
Add.: NAP Dividend	1,943	-	-	-	-	1,943	1,943
<b>Underlying Operating Surplus/(Deficit)</b>	<b>984</b>	<b>-</b>	<b>(194)</b>	<b>159</b>	<b>-</b>	<b>949</b>	<b>28,069</b>

Notes:

1. Revised Budget = Original Budget +/- approved budget changes in previous quarters.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBRS.

ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

## QUARTERLY BUDGET REVIEW AS AT 31

Council's original operating budget for 2018-2019 was incorporated as part of the Integrated Plans and was adopted by Council on 26 June 2018.

This statement sets out the details of variations between Council's original operating budget and the revised budget as part of the December Quarterly Budget Review. This has altered from an original projected underlying surplus of \$984,000 to a revised underlying surplus of \$949,000.

Note that for budgetary changes: **F** = favourable budget change, **U** = unfavourable budget change.

<b>REVENUE</b>	<b>Budget Change \$'000</b>	<b>F/U</b>
<b>Rates and Annual Charges</b>	-	-
No Change.		
<b>User Charges and Fees</b>	<b>3,619</b>	<b>F</b>
User charges and fees have increased due to the increase in state roads project income.		
<b>Grants and Contributions provided for Operating Purposes</b>	<b>60</b>	<b>F</b>
Operating grants have increased due to receipt of weeds and mosquitoes grants for One Mile and Glen Oak and tourism.		
<b>Interest and Investment Revenue</b>	-	-
No Change		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBRs.

Page 6 of 16

ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

QUARTERLY BUDGET REVIEW AS AT 31

<b>Other Revenues</b>	-	-
<b>Grants and Contributions provided for Capital Purposes</b>	<b>10,361</b>	<b>F</b>
Income from development contributions was increased \$1.4M as a result of a revised forecast.		
Capital grants have increased due to number of new grants being received which are mainly for:		
<ul style="list-style-type: none"> <li>• Birubi Tourist Interchange (\$3m),</li> <li>• RMS Grants (\$2.5m),</li> <li>• Robinson Park playground (\$1.4m),</li> <li>• Boomerang Park pathway (\$600k),</li> <li>• Fingal Bay RFS (\$357k)</li> <li>• Apex Park upgrade (\$300k).</li> <li>• Taylors Beach wharf replacement (\$200k)</li> <li>• Little Beach access ramp (\$100k)</li> </ul>		
<b>Net Gains from the Disposal of Assets</b>	-	-
No Change		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBR.

Page 7 of 16

ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

## QUARTERLY BUDGET REVIEW AS AT 31

EXPENDITURE	\$'000	Budget Change F/U
<b>Borrowing Costs</b>	30	U
The increase relates to a revised forecast of interest costs from Councils loans portfolio.		
<b>Depreciation, Amortisation and Impairment</b>	-	-
No Change		
<b>Employee Benefits and On-Costs</b>	125	U
Employee benefits and on-costs have increased primarily due to the completion of service reviews which has resulted in the revaluation of positions.		
<b>Materials and Contracts</b>	3,335	U
Materials and contracts have increased due to more work commencing for state roads projects.		
<b>Other Expenses</b>	30	U
Other expenses have increased due to professional development requirements for the councillors.		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBR.

Page 8 of 16

ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

## QUARTERLY BUDGET REVIEW AS AT 31

## 5) Capital Budget Review Statement

Consolidated	2019 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2019 Revised Budget	2019 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Grants and Cont. (Capital)	5,811	-	(60)	10,361	-	16,112	6,183
<b>Total Receipts</b>	<b>5,811</b>	<b>-</b>	<b>(60)</b>	<b>10,361</b>	<b>-</b>	<b>16,112</b>	<b>6,183</b>
Capital Equipment & Contracts	16,107	18,550	911	9,608	-	45,175	11,609
Property Acquisition & Development	-	109	30	400	-	539	154
<b>Total Payments</b>	<b>16,107</b>	<b>18,659</b>	<b>941</b>	<b>10,008</b>	<b>-</b>	<b>45,714</b>	<b>11,763</b>
<b>Capital Surplus/(Deficit)</b>	<b>(10,296)</b>	<b>(18,659)</b>	<b>(1,001)</b>	<b>353</b>	<b>-</b>	<b>(29,603)</b>	<b>(5,580)</b>

This statement sets out the details of variations between Council's original capital budget and revised capital budget. There are budgetary changes proposed which result in a net increase in the capital program to the value of \$353k.

Note that for budgetary changes: **F** = favourable budget change, **U** = unfavourable budget change.

**ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.**
**QUARTERLY BUDGET REVIEW AS AT 31**

<b>INCOME</b>		<b>Budget Change</b>
	<b>\$'000</b>	<b>F/U</b>
<b>Capital Grants &amp; Contributions</b>	<b>10,361</b>	<b>F</b>
Income from development contributions was increased \$1.4M as a result of a revised forecast.		
Capital grants have increased due to number of new grants being received which are mainly for:		
<ul style="list-style-type: none"> <li>• Birubi Tourist Interchange (\$3m),</li> <li>• RMS Grants (\$2.5m),</li> <li>• Robinson Park playground (\$1.4m),</li> <li>• Boomerang Park pathway (\$600k),</li> <li>• Fingal Bay RFS (\$357k)</li> <li>• Apex Park upgrade (\$300k).</li> <li>• Taylors Beach wharf replacement (\$200k)</li> <li>• Little Beach access ramp (\$100k)</li> </ul>		
<b>EXPENDITURE</b>		
<b>Property Acquisition and Development</b>	<b>400</b>	<b>U</b>
This relates to the annual allocation from the Commercial Property Reserve for capital related costs on managing Council's land bank portfolio.		
<b>Capital Materials and Contracts</b>	<b>9,608</b>	<b>U</b>
Capital materials and contracts expenditure has increased due to the introduction of the following projects:		
<ul style="list-style-type: none"> <li>• Roads pavement - \$3M</li> <li>• Sports complex - \$2.7M</li> <li>• Parks and playgrounds upgrade - \$2.3M</li> </ul>		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBRs.

Page 10 of 16

ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

QUARTERLY BUDGET REVIEW AS AT 31

- Amenities upgrade - \$1.1m
- Building and halls upgrades – \$1m
- Koala Sanctuary - \$500k
- Major Plant - \$450k
- Waste Transfer Station upgrades - \$250k
- Aquatic structures upgrade - \$200k
- Investment property refurbishments - \$500k
- The Holiday Parks and Drainage reserve capital budgets were reduced by \$2.4m as a result of revising project timelines.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBRs.

Page 11 of 16



ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

QUARTERLY BUDGET REVIEW AS AT 31

The capital works program by section is as follows:

	2019 Original Budget \$'000	Budget revotes & carry forwards \$'000	Budget Revision Sept Qtr \$'000	Budget Revision Dec Qtr \$'000	Budget Revision Mar Qtr \$'000	2019 Revised Budget \$'000	2019 YTD Actuals \$'000
<b>Capital Funding</b>							
Capital Grants & Contributions	5,811	-	(60)	10,361	-	16,112	6,183
<b>Total Capital Funding</b>	<b>5,811</b>	<b>-</b>	<b>(60)</b>	<b>10,361</b>	<b>-</b>	<b>16,112</b>	<b>6,183</b>
<b>Capital Expenditure</b>							
<b>Corporate Services Group</b>							
<b>Commercial Property Reserve &amp; Cluster Plan</b>							
Fingal Bay Holiday Park	1,630	-	-	(871)	-	759	160
Halifax Holiday Park	1,225	-	-	(577)	-	648	427
Shoal Bay Holiday park	685	-	-	(235)	-	450	95
Thou Walla Sunset Retreat	70	-	-	50	-	120	130
TreEscape	-	-	-	185	-	185	239
Office and Chambers	332	-	-	-	-	332	-
Property Development	-	109	30	400	-	539	154
Property Section Manager	-	-	-	500	-	500	146
Property Investments	239	41	-	512	-	792	16
<b>Commercial Property Total</b>	<b>4,181</b>	<b>150</b>	<b>30</b>	<b>(36)</b>	<b>-</b>	<b>4,325</b>	<b>1,367</b>
Business Improvement Technology	540	924	26	-	-	1,490	743
<b>Corporate Services Group Total</b>	<b>4,721</b>	<b>1,074</b>	<b>56</b>	<b>(36)</b>	<b>-</b>	<b>5,814</b>	<b>2,110</b>

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBRs.

ITEM 5 - ATTACHMENT 1      QUARTERLY BUDGET REVIEW AS AT 31  
DECEMBER 2018.

	2019 Original Budget \$'000	Budget revotes & carry forwards \$'000	Budget Revision Sept Qtr \$'000	Budget Revision Dec Qtr \$'000	Budget Revision Mar Qtr \$'000	2019 Revised Budget \$'000	2019 YTD Actuals \$'000
<b>Facilities and Services</b>							
<b>Assets</b>							
Fleet Maintenance	2,165	1,765	-	442	-	4,372	1,276
Drainage and Flooding	-	34	-	-	-	34	-
<b>Assets Total</b>	<b>2,165</b>	<b>1,799</b>	<b>-</b>	<b>442</b>	<b>-</b>	<b>4,406</b>	<b>1,276</b>
<b>Community Services</b>							
Domestic Waste Management	-	-	-	290	-	290	-
Library Services	250	-	-	-	-	250	102
<b>Community Services</b>	<b>250</b>	<b>-</b>	<b>-</b>	<b>290</b>	<b>-</b>	<b>540</b>	<b>102</b>
<b>Capital Works</b>							
Capital Works Construction	8,971	15,786	885	9,312	-	34,954	8,275
<b>Capital Works Total</b>	<b>8,971</b>	<b>15,786</b>	<b>885</b>	<b>9,312</b>	<b>-</b>	<b>34,954</b>	<b>8,275</b>
<b>Facilities and Services Total</b>	<b>11,386</b>	<b>17,585</b>	<b>885</b>	<b>10,044</b>	<b>-</b>	<b>39,900</b>	<b>9,653</b>
<b>Total Capital Expenditure</b>	<b>16,107</b>	<b>18,659</b>	<b>941</b>	<b>10,008</b>	<b>-</b>	<b>45,714</b>	<b>11,763</b>
<b>Net Outlay</b>	<b>10,296</b>	<b>18,659</b>	<b>1,001</b>	<b>(353)</b>	<b>-</b>	<b>29,603</b>	<b>5,580</b>

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBRS.

Page 13 of 16

ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

## QUARTERLY BUDGET REVIEW AS AT 31

6) Cash Flow Statement (Consolidated)	Original Budget	Revotes & Carried Forward	Budget Revision Sept	Budget Revision Dec	Budget Revision Mar	Revised Budget
Cash Flows from Operating Activities	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Receipts:</b>						
Rates and Annual Charges	56,226	-	4	-	-	56,230
User Charges & Fees Income	39,283	-	(253)	3,619	-	42,649
Interest & Investment Revenue Received	1,353	-	-	-	-	1,353
Other	5,887	-	78	-	-	5,965
Grants and Contributions	15,468	-	80	10,421	-	25,969
<b>Payments:</b>						
Employee Benefits & On-Costs	(46,193)	-	(121)	(125)	-	(46,439)
Borrowing Costs	(698)	-	-	(30)	-	(728)
Materials & Contracts	(36,049)	-	(203)	(3,335)	-	(39,587)
Other	(13,212)	-	161	(30)	-	(13,081)
<b>Net Cash provided (or used in) Operating Activities</b>	<b>22,065</b>	<b>-</b>	<b>(254)</b>	<b>10,520</b>	<b>-</b>	<b>32,331</b>
<b>Cash Flows from Investing Activities</b>						
<b>Receipts:</b>						
Proceeds from disposal of Property Plant & Equipment	250	-	-	-	-	250
Proceeds from development	-	2,700	-	-	-	2,700
<b>Payments:</b>						
Purchase of Infrastructure, Property Plant & Equipment	(21,583)	(18,659)	(941)	(10,008)	-	(51,191)
<b>Net Cash provided (or used in) Investing Activities</b>	<b>(21,333)</b>	<b>(15,959)</b>	<b>(941)</b>	<b>(10,008)</b>	<b>-</b>	<b>(48,241)</b>
<b>Cash Flows from Financing Activities</b>						
<b>Receipts:</b>						
Proceeds from borrowings	2,000	1,000	-	-	-	3,000
<b>Payments:</b>						
Repayment of Borrowings & Advances	(3,485)	-	-	-	-	(3,485)
<b>Net Cash provided (or used in) Financing Activities</b>	<b>(1,485)</b>	<b>1,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(485)</b>
Net Increase/(Decrease) in Cash & Cash Equivalents	(753)	(14,959)	(1,194)	512	-	(16,394)
plus: Cash & Investments - beginning of year (*)	51,070	-	-	-	-	51,070
<b>Cash &amp; Investments - end of the year</b>	<b>50,317</b>	<b>(14,959)</b>	<b>(1,194)</b>	<b>512</b>	<b>-</b>	<b>34,676</b>

\* - opening balance adjustment made to reflect 30 June 2018 actual closing balance

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBRs.

### Cash Flow Statement Funding Reconciliation

The 'Recommended Changes to Budget' in the December QBR constitute an overall increase in Council's Cash Flow position by \$512k (Favourable) after the use of internal reserves and external funding sources are factored in. These changes are split across the Operating budget of \$159k (Favourable) and Capital Budget of \$353K (Favourable).

PSC is clearly solvent based on the current and estimated cash position from the review changes. PSC's current cash position as per the December investment report was \$40.1m.

### 7) Budget Review Contracts and Other Expenses

Councillors are currently made aware of tenders of \$150,000 or more in accordance with legislation. However, Councillors should be made aware of other material contracts entered into by Council and details of other expenses that are of particular interest. To this end a contract listing and details of legal fees and consultancy expenses are included in the QBRs.

Part A lists contracts (other than employment contracts and contracts entered into from Council's preferred suppliers list) that:

- Were entered into during the quarter ending 31/12/2018; and
- Have a value equal to or more than \$50,000.

Part B of the report shows expenditure as at 31/12/2018 for:

- Consultancies
- Legal fees

For the purposes of this report, a consultancy is defined as a person or organisation engaged under contract on a temporary basis to provide recommendation or high level specialist or professional advice to assist decision making by management.

ITEM 5 - ATTACHMENT 1  
DECEMBER 2018.

QUARTERLY BUDGET REVIEW AS AT 31

**Part A**  
**Contracts Listing**

Contractor	Contract Details and Purpose	Contract Value Inc GST	Commencement date	Contract end date	Budgeted (Y/N)
UNIVERSITY OF TECHNOLOGY SYDNEY	Nelson Bay Citizens Parking Panel	51,106.00	1/10/2018	19/02/2019	Y
MARTENS & ASSOCIATES	Engineering services required in Council litigated matter	122,405.31	10/10/2018	21/11/2018	Y
GUARDRAIL INSTALLATIONS AUSTRALIA PTY	Supply and install bike rail and Guard Rails	58,795.00	1/10/2018	20/12/2018	Y
NEWCASTLE SECURITY PTY LTD	Holiday Parks security	73,861.40	23/11/2018	30/06/2019	Y
MARIC BUILD PTY LTD	Replacement of 4 x beach house bathrooms at Fingal Bay	77,651.64	11/02/2019	15/03/2019	Y
TERRACE PAINTING SERVICES	Halifax Holiday Parks Villa Internal Painting	87,466.50	1/10/2018	31/03/2019	Y
SCONE OUTDOORS	Park and Gardens Toro 4010D MOWER	102,328.10	14/11/2018	14/11/2018	Y
SURVEY & INSTRUMENT SPECIALISTS	Trimble SX10 Robotic scanning total station bundle	102,850.00	20/11/2018	20/11/2018	Y
CONSTRUCTION EQUIPMENT AUSTRALIA	Smooth Drum Roller	142,780.00	16/11/2018	16/11/2018	Y

**Part B**  
**Consultancy & Legal Expenses**

Expense	Expenditure YTD (\$)	Budgeted (Y/N)
Consultancies	387,510	Y
Legal Fees	363,368	Y

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2018 and should be read in conjunction with other documents in the QBRs.

Page 16 of 16

**ITEM NO. 6****FILE NO: 19/6435  
EDRMS NO: PSC2018-00494****2020 LOCAL GOVERNMENT ELECTION****REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER  
GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT PORT STEPHENS COUNCIL ("THE COUNCIL"):**

- 1) Pursuant to s. 296(2) and (3) of the *Local Government Act 1993* (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
- 2) Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
- 3) Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.
- 4) That items 1 to 3 listed above are subject to the outcome of the IPART review of the costs of running local government elections, with a further report to Council following the Independent Pricing and Regulatory Tribunal (IPART) report being released.

**ORDINARY COUNCIL MEETING - 26 FEBRUARY 2019  
MOTION**

<b>041</b>	<b>Councillor John Nell Councillor Sarah Smith</b>  It was resolved that Port Stephens Council ("the Council"):  <ol style="list-style-type: none"><li>1) Pursuant to s. 296(2) and (3) of the <i>Local Government Act 1993</i> (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.</li><li>2) Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.</li><li>3) Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.</li><li>4) That items 1 to 3 listed above are subject to the outcome of the IPART review of the costs of running local government elections, with a</li></ol>
------------	---

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

	further report to Council following the Independent Pricing and Regulatory Tribunal (IPART) report being released.
--	--

### BACKGROUND

The purpose of this report is to allow Council to determine the method of conducting the 2020 local government election in Port Stephens.

As Council is aware the next NSW local government ordinary elections will be held in September 2020. Under the *Local Government Act 1993*, Council has the option of engaging the NSW Electoral Commission or conducting the election 'in-house', by contract. Council conducted the 2012 local government election 'in-house', with the 2017 local government election conducted by the NSW Electoral Commission.

Council is required to make a resolution 18 months from the next ordinary election (ie by 11 March 2019) should it wish to engage the NSW Electoral Commission (NSWEC) to conduct the 2020 local government election, and enter into a contract no later than 15 months from the next election.

If Council fails to pass a resolution before the abovementioned dates, Council will be required to conduct the election 'in-house', by contract and seek tenders given the cost will exceed the \$150,000 threshold under the *Local Government (General) Regulation 2005*. Council would also be required to place a notice on its website stating that it has failed to pass a resolution on the method of conducting the election. Council has participated in a tender process through Regional Procurement for the 2020 election to be conducted by contract. The only tender received was from the Australian Election Company. In addition to the tender process a preliminary estimate of costs was requested from the NSWEC, however this was not provided due to the announcement of an IPART review into the costs of local government elections.

It is recommended that Council engage the NSW Electoral Commission to conduct the 2020 local government election in Port Stephens, based on past experience of conducting local government elections, subject to the outcome of the IPART review and a costs estimate being provided by the NSW Electoral Commission. The IPART report is due by 30 August 2019.

The recommendation is worded specifically to engage the NSWEC. Whilst there is no timeframe within the recommendation, under the legislation it will not commence until the 2020 local government election and can be terminated immediately following the 2020 election should Council wish. Alternatively, it will remain in place until 18 months from the 2024 local government election.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

The local government election is funded from an election reserve fund. It is anticipated that the election costs will be in excess of \$530,000.

The tender received from Australian Election Company for the Port Stephens Council local government election totalled \$511,707.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

In accordance with s296 of the *Local Government Act 1993*, Council is required to pass a resolution of its intention in relation to conducting the 2020 local government election for Port Stephens.

Section 55 of the *Local Government Act 1993* (the Act), requires tenders to be called for certain Council activities where the value will exceed \$150,000, and also provides exemptions that may apply. Section 55(3) (p) of the Act provides an exemption to the NSWEC – therefore NSWEC are not required to tender for an election contract.

Council has recently received advice from the Office of Local Government advising that the NSW Government proposes to extend the deadline for councils to pass a resolution on the method of conducting the 2020 local government election. The amending legislation is not proposed to be before the NSW Parliament prior to the NSW State election in March 2019. Therefore, the current legislative requirement of 11 March 2019 will have lapsed. The recommendation is worded to avoid any potential breach of the *Local Government Act 1993* as it currently stands.



**MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019**

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council will not be able to engage the NSWEC should this resolution not be passed before 11 March 2019.	Low	Adopt the recommendations.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Governance Section.

**Internal**

General Manager.

**External**

Council has consulted the NSW Electoral Commission and Regional Procurement through the tender process.

**OPTIONS**

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

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

# NOTICES OF MOTION

**NOTICE OF MOTION**

**ITEM NO. 1**

**FILE NO: 19/42383**

**EDRMS NO: PSC2017-00019**

**FUNDING FOR EMERGENCY ELECTRICAL GENERATOR - STATE EMERGENCY SERVICE HEADQUARTERS, RAYMOND TERRACE**

**COUNCILLOR: PAUL LE MOTTEE**

---

**THAT COUNCIL:**

- 1) Allocate the money required (approximately \$23,000 inclusive of GST) to replace the emergency electrical generator at the State Emergency Service (SES) Headquarters in Raymond Terrace and that the money is sourced equally from across the three Wards from the Property Reserve.

---

**ORDINARY COUNCIL MEETING - 26 FEBRUARY 2019  
MOTION**

	<p><b>Councillor Paul Le Mottee</b> <b>Councillor Ken Jordan</b></p> <p>That Council allocate the money required (approximately \$23,000 inclusive of GST) to replace the emergency electrical generator at the State Emergency Service (SES) Headquarters in Raymond Terrace and that the money is sourced equally from across the three Wards from the Property Reserve.</p>
--	--

Cr Le Mottee requested that the Notice of Motion be withdrawn. The Notice of Motion was subsequently withdrawn with consent of the Chair.

**BACKGROUND REPORT OF: GREG KABLE  
– GROUP MANAGER FACILITIES & SERVICES**

**BACKGROUND**

Council has been approached by a local member of the Port Stephens State Emergency Service (Port Stephens SES) Unit at Raymond Terrace requesting that Port Stephens Council fund a backup power generator at the Port Stephens Unit.

Council currently provides and maintains 13 emergency service facilities (11 RFS stations and two SES stations). To date, Council has not supplied generators to any of these facilities.

Part 4, Section 17(5) of the *State Emergency Service Act 1989* states '*The council of a local government area must, within three months of the appointment of a local commander for the area, provide (free of charge) suitable training facilities and storage and office accommodation to enable the local commander to exercise his or her functions.*' In accordance with the legislation, there is no requirement for Council to provide any additional equipment such as a generator to each facility.

For some time, there has been a generator in place at the Port Stephens SES unit. It was originally installed by the NSW Rural Fire Service when they used the building as their Zone office. This generator has fallen into disrepair and is no longer useable.

Council has recently supported the Port Stephens SES unit with a grant application through the 'Infrastructure Grants - The Office of Responsible Gambling' for the purchase and installation of a new generator. An outcome to this grant application is believed to be imminent.

In recent years, the Port Stephens SES facility has had works completed including the installation of a mezzanine level including training room, kitchen and bathroom facilities in 2014 (\$180,000) and a carpark installed in 2016 at a cost of (\$40,000).

## **ATTACHMENTS**

Nil.

# RESCISSION MOTIONS

**NOTICE OF RESCISSION**

**ITEM NO. 1**

**FILE NO: 19/42420**

**EDRMS NO: PSC2017-00020**

**PLANNING PROPOSAL FOR BOOMERANG PARK**

**COUNCILLOR:** PAUL LE MOTTEE  
CHRIS DOOHAN  
KEN JORDAN

---

**THAT COUNCIL:**

Rescind its decision of 12 February 2019 on Item No. 4, Minute No. 21 Planning Proposal for Boomerang Park.

---

**ORDINARY COUNCIL MEETING - 26 FEBRUARY 2019**  
**MOTION**

<b>042</b>	<b>Councillor Paul Le Mottee</b> <b>Councillor Ken Jordan</b>  It was resolved that Council rescind its decision of 12 February 2019 on Item No. 4, Minute No. 21 Planning Proposal for Boomerang Park.
------------	--

Note: The Mayor ruled on the Point of Order, that emails be considered as a signature in relation to lodging rescission motions.

Note: Cr Arnott's Point of Order to speak on the matter further was declined by the Chair.

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 Ken Jordan, Paul Le Mottee and Sarah Smith.

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

The motion was carried on the casting vote of the Mayor.

**ORDINARY COUNCIL MEETING - 26 FEBRUARY 2019  
MOTION**

<b>043</b>	<p><b>Mayor Ryan Palmer Councillor Ken Jordan</b></p> <p>It was resolved that Council defer the decision on the planning proposal for Boomerang Park until the Council meeting of the 28 May 2019 to allow for the planning proposal to be discussed and considered at the first Raymond Terrace and Heatherbrae Implementation Panel, and for alternative sites to be investigated by the General Manager for seniors living in Raymond Terrace.</p>
------------	---

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

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

**ATTACHMENTS**

- 1) Ordinary Council Minutes from 12 February 2019 for Item No. 4.

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

### MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

ITEM NO. 4

FILE NO: 19/15592  
EDRMS NO: PSC2016-01186

#### PLANNING PROPOSAL FOR BOOMERANG PARK

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

---

#### RECOMMENDATION IS THAT COUNCIL:

- 1) That Council not progress the planning proposal for the rezoning and reclassification of land located at Boomerang Park, Raymond Terrace.

---

Councillor Chris Doohan returned to the meeting at 6:49pm prior to voting.

#### ORDINARY COUNCIL MEETING - 12 FEBRUARY 2019 MOTION

021	<b>Councillor Giacomo Arnott</b> <b>Councillor John Nell</b>  It was resolved that Council not progress the planning proposal for the rezoning and reclassification of land located at Boomerang Park, Raymond Terrace.
-----	--

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, Glen Dunkley, John Nell and Sarah Smith.

Those against the Motion: Cr Paul Le Mottee and Cr Chris Doohan.

Councillor John Nell left the meeting at 6:51pm.

#### BACKGROUND

The purpose of this report is to advise Council that there have been significant constraints identified which will adversely affect the reclassification and rezoning of the land and any potential profits from the sale of the land.

At the Council Meeting of 28 July 2015, Minute Number 213 (**ATTACHMENT 1**) Council resolved to adopt the planning proposal to rezone the subject land within Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential, and reclassify the subject land from 'community' to 'operational', and forward the planning



**MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019**

proposal to the NSW Department of Planning and Infrastructure (Department) to request a Gateway determination. The proposed area is approximately 4.5 hectares and indicative lot yield was approximately 46 lots (**ATTACHMENT 2**).

The planning proposal was forwarded to the Department to assess as a Gateway determination. The Department requested further information and investigations to be undertaken.

DeWitt Consulting were engaged to undertake the investigations on behalf of Council and undertook extensive investigations. It was identified that there are significant constraints with the site with regards to Aboriginal Cultural Heritage, Asset Protection Zones and the Heritage Curtilage associated with the individual heritage items in Boomerang Park including the quarry and reservoir.

Taking into consideration the impacts of these constraints and the impact to the proposed development, it is considered that at this time that it is prudent to not proceed with the planning proposal for the proposed rezoning and reclassification as previously endorsed. Should Council resolved not to proceed with the planning proposal, Council officers will write to the Department and request that they do not progress any further with the planning proposal.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
Infrastructure and Facilities	Build Council's civil and community infrastructure to support the community.

**FINANCIAL/RESOURCE IMPLICATIONS**

Based on the 2015 investigations, it was expected that future land sales as a result of the rezoning had the potential to yield approximately \$1.7m to Council, subject to the planning proposal proceeding and future land sales. Given the constraints identified in the recent report, this number would now need to be reconsidered, as the fees associated with this development will be substantially higher. There is no budget currently allocated for ongoing investigations. The investigations to date have cost within the vicinity of \$36,000.

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

**MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019****LEGAL, POLICY AND RISK IMPLICATIONS**

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that community opposition to the planning proposal will delay the process.	High	Accept the recommendation.	Yes
There is a risk that the land is required for future recreation purposes.	Medium	Accept the recommendation.	Yes
There is a risk that the constraints on the site will demonstrably reduce the potential yield and the profitability of the development.	High	Accept the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The planning proposal and future development of 4.5 hectares of Boomerang Park could provide significant social benefits, such as opportunities to provide a diversity of dwelling stock that would respond to housing affordability in Raymond Terrace.

During the preparation of the Boomerang Park Masterplan, significant community concern and opposition to the rezoning and reclassification was raised.

**CONSULTATION**

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

Internal

- Corporate Services Group Manager.
- Property Services Section Manager.
- Commercial Investment Manager.
- Development Services Section.
- Facilities and Services Section.

External

- Community Consultation.
- DeWitt Consulting.

**MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019**

- Insite Heritage.
- Firebird Consultants.
- John Carr Heritage.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Boomerang Park Planning Proposal - Minute Number 213 - 28 July 2015.
- 2) Locality Map.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019**

**ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE  
NUMBER 213 - 28 JULY 2015.**

**MINUTES ORDINARY COUNCIL - 28 JULY 2015**

ITEM NO. 5

FILE NO: PSC2015-01000/538  
TRIM REF NO: PSC2015-01301

**PLANNING PROPOSAL - BOOMERANG PARK**

REPORT OF: TIMOTHY CROSDALE - STRATEGY AND ENVIRONMENT  
SECTION MANAGER  
GROUP: DEVELOPMENT SERVICES

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Planning Proposal at (**ATTACHMENT 1**) to rezone the subject land within Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential and reclassify the subject land from 'community' to 'operational' land.
- 2) Forward the Planning Proposal to the NSW Department of Planning and Infrastructure under section 56 in the *Environmental Planning and Assessment Act 1979* with a request for a Gateway Determination.

**ORDINARY COUNCIL MEETING - 28 JULY 2015  
COMMITTEE OF THE WHOLE RECOMMENDATION**

Councillor Geoff Dingle  
Councillor Peter Kafer

The amendment put was that Council:

- 1) Refuse the Planning Proposal at (**ATTACHMENT 1**) to rezone the subject land within Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential and reclassify the subject land from 'community' to 'operational' land.

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

Those for the Motion: Crs Geoff Dingle and Peter Kafer

Those against the Motion: Crs Chris Doohan, Sally Dover, Ken Jordan, Paul Le Mottee, Bruce MacKenzie and Steve Tucker

The Motion was lost.

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

### MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

#### ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.

#### MINUTES ORDINARY COUNCIL - 28 JULY 2015

##### ORDINARY COUNCIL MEETING - 28 JULY 2015 COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>A motion was moved and seconded that Council:</p> <ol style="list-style-type: none"><li>1) Adopt the Planning Proposal at (<b>ATTACHMENT 1</b>) to rezone the subject land within Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential and reclassify the subject land from 'community' to 'operational' land. With the following amendments:<ol style="list-style-type: none"><li>a) Council reaffirm its position that the site is to be developed for seniors housing only.</li><li>b) Council register a restriction / covenant on the use of land to formalise it to only be used for seniors housing post gateway determination.</li></ol></li><li>2) Forward the Planning Proposal to the NSW Department of Planning and Infrastructure under section 56 in the <i>Environmental Planning and Assessment Act 1979</i> with a request for a Gateway Determination.</li></ol>
--	--

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

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

Those against the Motion: Crs Geoff Dingle and Peter Kafer

The motion was carried.

##### ORDINARY COUNCIL MEETING - 28 JULY 2015 MOTION

212	<p>Councillor Geoff Dingle Councillor Peter Kafer</p> <ol style="list-style-type: none"><li>1) Refuse the Planning Proposal at (<b>ATTACHMENT 1</b>) to rezone the subject land within Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential and reclassify the subject land from 'community' to 'operational' land.</li></ol>
-----	---

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

---

PORT STEPHENS COUNCIL

69

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

### MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

#### ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.

##### MINUTES ORDINARY COUNCIL - 28 JULY 2015

Those for the Motion: Crs Geoff Dingle and Peter Kafer

Those against the Motion: Crs Chris Doohan, Sally Dover, Ken Jordan, Paul Le Mottee, Bruce MacKenzie and Steve Tucker

The motion was lost.

##### ORDINARY COUNCIL MEETING - 28 JULY 2015 MOTION

	<b>Councillor Peter Kafer</b> <b>Councillor Geoff Dingle</b>  Cr Kafer moved a motion of no confidence in Council.  The motion was lost.
--	---

##### ORDINARY COUNCIL MEETING - 28 JULY 2015 MOTION

213	<b>Mayor Bruce MacKenzie</b> <b>Councillor Chris Doohan</b>  A motion was moved and seconded that Council:  1) Adopt the Planning Proposal at ( <b>ATTACHMENT 1</b> ) to rezone the subject land within Boomerang Park, from RE1 Public Recreation to R2 Low Density Residential and reclassify the subject land from 'community' to 'operational' land. With the following amendments. a) Council reaffirm its position that the site is to be developed for seniors housing only. b) Council register a restriction / covenant on the use of land to formalise it to only be used for seniors housing post gateway determination.  2) Forward the Planning Proposal to the NSW Department of Planning and Infrastructure under section 56 in the <i>Environmental Planning and Assessment Act 1979</i> with a request for a Gateway Determination.
-----	---

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

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

**MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019****ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.****MINUTES ORDINARY COUNCIL - 28 JULY 2015**

Those against the Motion: Crs Geoff Dingle and Peter Kafer

The motion was carried.

**BACKGROUND**

The purpose of this report is to obtain Council's endorsement to submit the Planning Proposal at (**ATTACHMENT 1**) to the Department of Planning & Environment requesting a Gateway determination.

Subject land:	Part Lot 1 DP 1018979, 17E Irrawang Street, Raymond Terrace [see Locality Plan at ( <b>ATTACHMENT 2</b> )]
Proponent:	Port Stephens Council (Facilities & Services Group)
Proposed changes:	Reclassify the subject land from 'Community' to 'Operational' Land; and Rezone the subject land from RE1 Public Recreation to R2 Low Density Residential
Area of land:	4.5 hectares (the total area of the park is 21.6 hectares)
Potential lot yield:	Approximately 46 lots

The Planning Proposal seeks to reclassify 4.5 hectares of Council owned land within Boomerang Park from 'community' land to 'operational' land pursuant to Clause 30 of the *NSW Local Government Act 1993*, and rezone the land from RE1 Public Recreation to R2 Low Density Residential pursuant to *Port Stephens Local Environmental Plan 2013* (PSLEP 2013) to allow the land to be developed for residential purposes.

The rezoning and reclassification has resulted from a resolution by Port Stephens Council on 25 November 2014 to adopt the Boomerang Park Masterplan and initiate the process to rezone and reclassify 4.5ha of the park to enable future residential development as identified in the adopted Masterplan.

The land forms part of Boomerang Park, which was first dedicated as a Public Reserve in 1837, following the preparation of a survey for the township of Raymond Terrace. This reserve was subsequently dedicated in September 1892 as a Recreation Reserve. The reserve became known as 'Boomerang Park' in 1914.

Boomerang Park currently accommodates the Raymond Terrace Senior Citizens Centre, the Raymond Terrace Before and After School Care (both fronting Irrawang Street) the Port Stephens All Breeds Dog Obedience Canine Club (fronting Kangaroo Street) and public amenities. A water tower is located in the centre of the park, on

**MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019****ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.****MINUTES ORDINARY COUNCIL - 28 JULY 2015**

land owned by the Hunter Water Corporation. These uses are not within the area of the park proposed for residential development and will not be impacted by the proposal.

The part of the park proposed to be rezoned and reclassified (the site) has an area of 4.5 hectares and is of a triangular configuration [see Locality Plan at (ATTACHMENT 2)]. The site is predominately grassed and contains a small number of mature trees. The site is bounded by parkland to the west, mature trees to the northeast, by an historic (heritage listed) cemetery to the east and fronts Elizabeth Avenue to the South. On the opposite side of Elizabeth Avenue, is an established residential area zoned R2 Low Density Residential. The proposed residential zone is a logical extension to this adjoining zone.

The proposal seeks to accommodate residential development on land within close proximity to existing services and is not required for its current use as a public reserve. The proponent has advised that the site is no longer required for public recreation purposes as it is surplus to the community's needs. In accordance with the NSW Department of Planning and Environment, which recommends a standard of 2.83 hectares of open space per 1,000 residents, there is sufficient public open space within the Raymond Terrace Planning District, even with the proposed removal of 4.5ha of Boomerang Park. Currently, there is 16.94 hectares per 1,000 residents which will be reduced to 16.6 hectares per 1,000 residents should the planning proposal proceed.

As identified in the planning proposal at (ATTACHMENT 1), the following additional investigations will be required post Department of Planning Gateway determination, including:

- Preliminary contamination assessment in accordance with SEPP 55.
- Additional heritage information.
- Further threatened species assessment.

It is considered that the planning proposal has sufficient merit to proceed to gateway on the basis that the additional information will be submitted post-gateway. The planning proposal will not be exhibited until the additional information is provided.

**COMMUNITY STRATEGIC PLAN**

Strategic Direction	Delivery Program 2013-2017
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services.



## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

### MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

#### ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.

#### MINUTES ORDINARY COUNCIL - 28 JULY 2015

##### FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	10,500	Stage 1 Rezoning fees. The cost of processing this planning proposal will be covered by Rezoning Fees, in accordance with Council's Fees & Charges.

The future sale of land associated with the rezoning has the potential to yield approximately \$1.7m to Council, subject to the planning proposal proceeding and future land sales.

##### LEGAL, POLICY AND RISK IMPLICATIONS

The Planning Proposal will be processed in accordance with the plan making procedures in the *Environmental Planning and Assessment Act 1979*, the Local Government Act 1993 and the Department of Planning's Practice Note PN 09-003 (12 June 2009) *Classification and reclassification of public land through a local environmental plan*.

A fact sheet outlining the process for rezoning and reclassification of land can be found at (ATTACHMENT 3).

Practice Note PN 09-003 (12 June 2009) Classification and reclassification of public land through a local environmental plan

The purpose of PN09-003 is to provide guidance on how to classify or reclassify public land through a local environmental plan.

In accordance with the practice note, Council must provide a Statement of Interest when the planning proposal is exhibited. The Statement of Interest seeks to:

- Identify land owned by Council proposed to be reclassified; and
- Allow the community the opportunity to assess the proposal with a full appreciation of all relevant information.

A copy of the Statement of Interest can be found at Attachment 8 to the Planning Proposal at (ATTACHMENT 1).

**MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019**

**ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.**

**MINUTES ORDINARY COUNCIL - 28 JULY 2015**

**Local Government Act 1993**

Reclassification of the site from 'community' to 'operational' land under the Local Government Act 1993 will allow Council to sell the land.

The proposed reclassification is to be the subject of a public hearing pursuant to section 29 of the *Local Government Act 1993 and PN09-003*.

In accordance with the relevant legislation, the public hearing will be held after the exhibition period.

**Section 117 Ministerial Direction 6.2 – Reserving Land for Public Purposes**

This Direction requires the approval of the Director-General of the Department of Planning and Environment to remove the reservation of land for a public purpose. The reclassification of the subject land from community land to operational land will involve the revocation of the public reserve status of the subject land.

The proponent has advised that the removal of 4.5ha of open space will have a minimal overall impact on the provision of open space in the Raymond Terrace Planning District. There is currently 16.94ha of open space /1000 residents, and the proposal will reduce this to 16.6ha/1000 residents. This exceeds the NSW Department of Planning and Environment recommendations of 2.83 hectares of open space per 1000 residents

**Port Stephens Local Environmental Plan 2013**

The objectives of this planning proposal will be achieved by the following amendments to the *Port Stephens Local Environmental Plan 2013*:

- Amend Part 2 Land classified, or reclassified, as operational land—interests changed, Schedule 4 Classification and reclassification of public land to include part of Lot 1 DP 1018979, 17E Irrawang Street, Raymond Terrace (**ATTACHMENT 2**) shows the part of the park that is subject to the reclassification.
- Amend Land Zoning Map Sheet LZN\_002C for part of Lot 1 DP 1018979 from RE1 Public Recreation to R2 Low Density Residential.
- Amend Lot Size Map Sheet LSZ\_002C from no minimum lot size to 500m<sup>2</sup>.
- Amend Height of Building Map Sheet HOB\_002C – from no maximum building height to 9 metres.

**Heritage**

Boomerang Park, including the former stone quarry and mature tree planting, is listed under Schedule 5 of the PSLEP 2013 as an item of Environmental Heritage. Further investigations, post-Gateway, are required and include the establishment of curtilage requirements to the former stone quarry and identification of significant trees for retention, in conjunction with an Arborist report.

An Aboriginal Heritage Information Management Systems web service search was undertaken over the subject land. No Aboriginal sites or places have been recorded

**MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019**

**ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.**

**MINUTES ORDINARY COUNCIL - 28 JULY 2015**

in or near the subject land. Consultation with the Worimi Local Aboriginal Land Council will be undertaken following a gateway determination.

It is considered that there is sufficient justification for the planning proposal to proceed to gateway on the basis that the additional information will be submitted post-gateway. The planning proposal will not be exhibited until the additional information is provided.

**Lower Hunter Regional Strategy**

The Lower Hunter Regional Strategy identifies Raymond Terrace as a Major Regional Centre and projects 300 new dwellings in Raymond Terrace through infill development.

A key component of the LHRS is ensuring that most new development is located in close proximity to major centres and employment lands, maximising access to services and employment opportunities.

The planning proposal is consistent with the Strategy, as it will contribute to achieving the projected infill dwelling projections set for Raymond Terrace in an area that is close to employment opportunities and services.

**The Lower Hunter over the next 20 years: A Discussion Paper**

The Lower Hunter over the next 20 years: A Discussion Paper aims to facilitate discussion to feed into the development of a new Lower Hunter Regional Strategy. This Discussion Paper provides guiding planning principles for the Lower Hunter, such as providing a diversity of housing choices for different budgets and lifestyles. This planning proposal is considered to be consistent with those applicable planning principles listed in this Paper as a diverse range of housing types are permitted in the R2 Zone.

**Integrated Strategic Plan (Port Stephens 2022)**

The proposal is consistent with Council's Integrated Strategic Plan (Port Stephens 2022) which states that Council should provide for a range of lot sizes and housing types to respond to demographic needs and affordability. The proposal will potentially add approximately 40 lots to the residential stock in Raymond Terrace.

**Port Stephens Planning Strategy (PSPS)**

The Planning Proposal is consistent with the directions adopted by the PSPS. The PSPS identifies Raymond Terrace as a Regional Centre that serves the needs of the wider LGA. It is an area of projected population growth, from 13,346 people in 2009 to 21,380 people in 2031. The Strategy identifies potential growth by infill development in the area encompassing Raymond Terrace – Heatherbrae – Nelsons Plains of 800 dwellings during the period 2011 – 2036. The proposed reclassification and rezoning will therefore provide infill residential development opportunities in accordance with the Strategy.

**MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019**

**ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.**

**MINUTES ORDINARY COUNCIL - 28 JULY 2015**

**Boomerang Park Plan of Management**

The Boomerang Park Plan of Management was adopted in November 2000. The POM provides a framework to enable decisions in regards to the site to be made on a consistent and equitable basis.

The vision for Boomerang Park, as outlined in the POM, is as follows:

*"To provide public open space that enables a wide range of recreational, cultural, conservational, educational and community based activities to be undertaken in a manner that adds to the scenic and social attributes of the Raymond Terrace planning district".*

The Boomerang Park Masterplan seeks to facilitate the provision of new infrastructure and facilities that will contribute to the ongoing development, improvement and increased use of the park, in accordance with the vision.

The Boomerang Park Plan of Management will need to be updated to reflect the changes to Boomerang Park. The POM would cease to apply to the site as POMs do not apply to operational land.

**Boomerang Park Masterplan**

The Boomerang Park Masterplan was adopted by Council on 25 November 2014 and sets the proposed layout and form of the park and facilities. It seeks to enable greater community use and enjoyment of the park by expanding the opportunities for formal and informal use, at a range of scales.

The Masterplan identifies one parcel of land within the Park that is proposed to be further investigated for future reclassification and rezoning. The planning proposal is consistent with Council's resolution of 25 November 2014.

**Draft Raymond Terrace & Heatherbrae Strategy 2015-2031**

The draft Raymond Terrace & Heatherbrae Strategy was endorsed for public exhibition by Council at its meeting on 26 May 2015. The draft Strategy seeks to implement a quantity to quality approach to public open space, which recognises the limited operating budgets of regional Councils and the significant amount of public open space that they are required to maintain. With regards to Boomerang Park, the draft strategy includes the following Action:

Action No. 25 - Implementation of the Boomerang Park Masterplan which includes quality paths, play equipment, etc. This is subject to securing appropriate funding.

The Planning Proposal is consistent with the draft strategy, which is reflective of Council's endorsement of the Boomerang Park Masterplan.

It is noted that the draft Raymond Terrace and Heatherbrae Strategy will be placed on public exhibition in July 2015.

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

### MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

#### ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.

#### MINUTES ORDINARY COUNCIL - 28 JULY 2015

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that community are dissatisfied with the planning proposal process and outcome.	Low	Ensure adequate consultation is undertaken with the community and stakeholders in accordance with established policy and guidelines.	Yes
There is a risk that the land is required for recreation purposes.	Low	Council's Facilities & Services Group have advised that the site is surplus to the recreation needs of the community in accordance with the Department of Planning and Environment standards.	Yes
There is a risk that there is a perceived conflict of interest between Council as the proponent and Council as the consent authority.	Low	Ensure planning proposal is processed in accordance with the <i>Local Government Act 1993</i> , the <i>Environmental Planning and Assessment Act 1979</i> and LEP Practice Note PN09-003.	Yes

#### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Additional housing in Raymond Terrace will have a positive economic impact consistent with Council's strategic plans in this area.

The planning proposal and future development of 4.5 hectares of Boomerang Park could provide significant social benefits, such as opportunities to provide a diversity of dwelling stock that would respond to housing affordability in Raymond Terrace.

During the preparation of the Boomerang Park Masterplan, significant concern and opposition to the rezoning was raised. Further information on Council's approach to consult with the community is outlined in the following sections.

The proposed residential use of the site is unlikely to have a significant impact on the environment.

A preliminary assessment of the ecological values of Boomerang Park and potential impacts of the proposed reclassification and rezoning has been undertaken. The area proposed to be developed for residential purposes is predominately cleared of vegetation, although approximately 86 native and exotic trees would potentially be

PORT STEPHENS COUNCIL

77

**MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019****ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.****MINUTES ORDINARY COUNCIL - 28 JULY 2015**

removed, with some minor impacts expected to a number of threatened species and their habitats.

There is sufficient habitat for a range of native plant and animal species to be maintained or enhanced within Boomerang Park, provided that it is managed in accordance with the adopted Masterplan. Overall, the proposed residential development is considered to have relatively minor ecological impacts and to be of low risk to the values the park or adjacent areas, however these initial assumptions should be further examined through additional ecological surveys and assessments.

It is considered that the preliminary ecological investigations provide a sufficient level of detail for a gateway determination to be made. However, should the planning proposal be supported by the gateway, further ecological investigations will be required to more accurately determine the ecological impacts of the planning proposal.

**CONSULTATION**

Community consultation will be undertaken in accordance with the gateway determination. However, given the community's concern about the proposal, Council intends to undertake additional community consultation to that required by the 'gateway', including information sessions to provide further detailed response to the community during the exhibition period.

Notice of the public exhibition period will be placed in the local newspaper, The Examiner. The exhibition material will be on display at the following locations during normal business hours:

- Council's Administration Building 116 Adelaide Street, Raymond Terrace.
- Raymond Terrace Library, Port Stephens Street, Raymond Terrace.
- Tomaree Library, Town Centre Circuit, Salamander Bay.
- Medowie Community Centre, Cnr of Medowie and Ferodale Streets, Medowie.

The planning proposal will also be available on Council's website.

In accordance with the *Local Government Act* – a Public Hearing is required for the reclassification of the site and will take place following the exhibition period, as legislated.

**OPTIONS**

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

## MINUTES ORDINARY COUNCIL - 26 FEBRUARY 2019

### MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

#### ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL - MINUTE NUMBER 213 - 28 JULY 2015.

#### MINUTES ORDINARY COUNCIL - 28 JULY 2015

##### ATTACHMENTS

- 1) Planning Proposal - Boomerang Park. (Provided under separate cover)
- 2) Locality Plan. (Provided under separate cover)
- 3) Fact Sheet - Rezoning and Reclassification of Land. (Provided under separate cover)

##### COUNCILLORS ROOM

Nil.

##### TABLED DOCUMENTS

Nil.



MINUTES ORDINARY COUNCIL - 12 FEBRUARY 2019

ITEM 4 - ATTACHMENT 1 BOOMERANG PARK PLANNING PROPOSAL -  
MINUTE NUMBER 213 - 28 JULY 2015.



There being no further business the meeting closed at 7.10pm.