

NOTICE OF ORDINARY MEETING

8 DECEMBER 2020



The Mayor and Councillors attendance is respectfully requested:

Mayor: R Palmer (Chair).

Councillors: J Abbott, G Arnott, C Doohan, G Dunkley, K Jordan, P Le Mottee, J Nell, S Smith, S Tucker.

SCHEDULE OF MEETINGS

TIME	ITEM	VENUE
5:30pm:	Public Access (if applied for)	Council Chambers
Followed by:	Ordinary Meeting	Council Chambers

Please Note:

In accordance with the NSW Privacy and Personal Information Protection Act 1998, you are advised that all discussion held during the Open Council meeting is public information. This will include any discussion involving the Mayor, a Councillor, staff member or a member of the public. All persons present should withhold from making public comments about another individual without seeking the consent of that individual in the first instance. Should you have any questions concerning the privacy of individuals at the meeting, please speak with the Governance Section Manager or the General Manager prior to the meeting.

Please be aware that Council webcasts its Open Council meetings via its website. All persons should refrain from making any defamatory remarks. Council accepts no liability for any defamatory remarks made during the course of the Council meeting.

For the safety and wellbeing of the public, no signs, placards or other props made from material other than paper will be permitted in the Council Chamber. No material should be larger than A3 in size.

Food and beverages are not permitted in the Council Chamber.

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BUSINESS

- 1) Opening meeting.
- 2) Prayer - We ask Almighty God to give us wisdom and courage so we can serve our community, and uphold justice and equality in Port Stephens. Amen.
- 3) Acknowledgement of Country - Today, we are meeting on Worimi Country, we acknowledge the past, we are working towards a better tomorrow.
- 4) Apologies and applications for a leave of absence by Councillors.
- 5) Confirmation of minutes Ordinary Meeting of 24 November 2020.
- 6) Disclosure of interests.
- 7) Mayoral minute(s) – if submitted.
- 8) Motions to Close.
- 9) Council Reports.
- 10) Information Papers.
- 11) General Manager's Reports – if submitted.
- 12) Questions with Notice – if submitted.
- 13) Questions on Notice.
- 14) Notices of Motion – if submitted.
- 15) Rescission Motions – if submitted.
- 16) Confidential matters – if submitted.
- 17) Conclusion of the meeting.

PRINCIPLES FOR LOCAL GOVERNMENT

Port Stephens Council is a local authority constituted under the Local Government Act 1993. The Act includes the Principles for Local Government for all NSW Councils.

The object of the principles for councils is to provide guidance to enable councils to carry out their functions in a way that facilitates local communities that are strong, healthy and prosperous.

Guiding principles for Council

1. Exercise of functions generally

The following general principles apply to the exercise of functions by Council. Council should:

- (a) provide strong and effective representation, leadership, planning and decision-making.
- (b) carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) work with others to secure appropriate services for local community needs.
- (h) act fairly, ethically and without bias in the interests of the local community.
- (i) be responsible employers and provide a consultative and supportive working environment for staff.

2. Decision-making

The following principles apply to decision-making by Council (subject to any other applicable law). Council should:

- (a) recognise diverse local community needs and interests.
- (b) consider social justice principles.
- (c) consider the long term and cumulative effects of actions on future generations.
- (d) consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

3. Community participation

Council should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

Principles of sound financial management

The following principles of sound financial management apply to Council. Council should:

- (a) spend responsible and sustainable, aligning general revenue and expenses.
- (b) invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) have effective financial and asset management, including sound policies and processes for the following:
 - (i) performance management and reporting,
 - (ii) asset maintenance and enhancement,
 - (iii) funding decisions,
 - (iv) risk management practices.
- (d) have regard to achieving intergenerational equity, including ensuring the following:
 - (i) policy decisions are made after considering their financial effects on future generations,
 - (ii) the current generation funds the cost of its services.

Integrated planning and reporting principles that apply to Council

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by Council. Council should:

- (a) identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) identify strategic goals to meet those needs and aspirations.
- (c) develop activities, and prioritise actions, to work towards the strategic goals.
- (d) ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- (e) regularly review and evaluate progress towards achieving strategic goals.
- (f) maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) collaborate with others to maximise achievement of strategic goals.
- (h) manage risks to the local community or area or to the council effectively and proactively.
- (i) make appropriate evidence-based adaptations to meet changing needs and circumstances.

PORT STEPHENS COMMUNITY STRATEGIC PLAN

The Local Government Act requires Council to adopt a Community Strategic Plan (10+ years). The Plan includes a Delivery Program (3 years), Annual Operational Plan and a Resource Strategy, it also includes the Council's budget.

The Community Strategic Plan is organised into four focus areas:

OUR COMMUNITY – Port Stephens is a thriving and strong community respecting diversity and heritage.

OUR PLACE – Port Stephens is a liveable place supporting local economic growth.

OUR ENVIRONMENT – Port Stephens' environment is clean and green, protected and enhanced.

OUR COUNCIL – Port Stephens Council leads, manages and delivers valued community services in a responsible way.

BUSINESS EXCELLENCE

Port Stephens Council is a quality and a customer service focused organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on nine (9) principles.

These outcomes align with the following Business Excellence principles:

- 1) Clear direction and mutually agreed plans enable organisational alignment and focus on achievement of goals.
- 2) Understanding what customers and other stakeholders value, now and in the future, enables organisational direction, strategy and action.
- 3) All people work in a system. Outcomes are improved when people work on the system and its associated processes.
- 4) Engaging people's enthusiasm, resourcefulness and participation improves organisational performance.
- 5) Innovation and learning influence the agility and responsiveness of the organisation.
- 6) Effective use of facts, data and knowledge leads to improved decisions.
- 7) Variation impacts predictability, profitability and performance.
- 8) Sustainable performance is determined by an organisation's ability to deliver value for all stakeholders in an ethically, socially and environmentally responsible manner.
- 9) Leaders determine the culture and value system of the organisation through their decisions and behaviour.

MEETING PROCEDURES SUMMARY

Starting time – All meetings must commence within 30 minutes of the advertised time.

Quorum – A quorum at Port Stephens Council is six (6).

Declarations of Interest

Pecuniary – Councillors who have a pecuniary interest must declare the interest, not participate in the debate and leave the meeting.

Non-Pecuniary – Councillors are required to indicate if they have a non-pecuniary interest, should a Councillor declare a significant non-pecuniary they must not participate in the debate and leave the meeting. If a Councillor declares a less than significant non-pecuniary they must state why no further action should be taken. Councillors may remain in the meeting for a less than significant non-pecuniary.

Confirm the Minutes – Councillors are able to raise any matter concerning the Minutes prior to confirmation of the Minutes.

Public Access – Each speaker has five (5) minutes to address Council with no more than two (2) for and two (2) against the subject.

Motions and Amendments

Moving Recommendations – If a Committee recommendation is being moved, ie been to a Committee first, then the motion must be moved and seconded at Council prior to debate proceeding. A Councillor may move an alternate motion to the recommendation.

Amendments – A Councillor may move an amendment to any motion however only one amendment or motion can be before Council at any one time, if carried it becomes the motion.

Seconding Amendments – When moving an amendment, it must be seconded or it lapses.

Incorporating Amendments – If a motion has been moved and the mover and seconder agree with something which is being moved as an amendment by others, they may elect to incorporate it into their motion or amendment as the case may be.

Voting Order – When voting on a matter the order is as follows:

1. Amendment (If any)
2. Foreshadowed Amendments – (If any, and in the order they were moved)
3. Motion

NB – Where an amendment is carried, there must be another vote on the amendment becoming the motion.

Voting – an item is passed where a majority vote for the subject. If the voting is tied the Chairperson has a second (casting) vote which is used to break the deadlock.

Closed Session – There must be a motion to close a meeting. Prior to voting on the motion the chairperson will invite the gallery to make representations if they believe the meeting shouldn't be closed. Then Councillors vote on the matter. If adopted the gallery should then be cleared and the matter considered in closed session. Any decision taken in session closed is a resolution. There must be a motion to reopen the Council meeting to the public. If decision occurred in 'closed session', the meeting is advised of the resolution in 'open session'.

Procedural Motion – Is a motion necessary for the conduct of the meeting, it is voted on without debate, eg defer an item to the end of the meeting (however, to defer an item to another meeting is not a procedural motion), extend the time for a Councillor to speak etc.

Points of Order – when any of the following are occurring or have occurred a Councillor can rise on a 'Point of Order', the breach is explained to the Chairperson who rules on the matter.

A Point of Order can be raised where:

- 1) There has been any non-compliance with procedure, eg motion not seconded etc.
- 2) A Councillor commits an act of disorder:
 - a) Contravenes the Act, any Regulation in force under the Act, the Code of Conduct or this Code.
 - b) Assaults or threatens to assault another Councillor or person present at the meeting.
 - c) Moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or Committee, or address or attempts to address the Council or Committee on such a motion, amendment or matter.
 - d) Insults or makes personal reflections on or imputes improper motives to any other Councillor, any staff member or alleges a breach of Council's Code of Conduct.
 - e) Says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into disrepute.

Declarations of Conflict of Interest – Definitions

Pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in Clause 7 of the Code of Conduct.

Non Pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Code of Conduct. These commonly arise out of family or personal relationships or involvement in sporting, social or other cultural groups and associations and may include an interest of financial nature.

The matter of a report to council from the conduct review committee/reviewer relates to the public duty of a councillor or the general manager. Therefore, there is no requirement for Councillors or the General Manager to disclose a conflict of interest in such a matter.

The political views of a Councillor do not constitute a private interest.



Form of Special Disclosure of Pecuniary Interest

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

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Special disclosure of pecuniary interests by [full name of councillor]

in the matter of [insert name of environmental planning instrument]

which is to be considered at a meeting of the PORT STEPHENS COUNCIL

to be held on the _____ day of _____ 20__

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the councillor [Tick or cross one box.]	<input type="checkbox"/> The councillor has an interest in the land (eg is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest ¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ² [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	

¹ Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

² A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.

Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Mayor/Councillor's signature _____

Date _____

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]



Declaration of Interest form

Agenda item No. _____

Report title _____

Mayor/Councillor _____ declared a

Tick the relevant response:

<input type="checkbox"/>	pecuniary conflict of interest
<input type="checkbox"/>	significant non pecuniary conflict of interest
<input type="checkbox"/>	less than significant non- pecuniary conflict of interest

in this item. The nature of the interest is _____

If a Councillor declares a less than significant conflict of interest and intends to remain in the meeting, the councillor needs to provide an explanation as to why the conflict requires no further action to manage the conflict. (Attach a separate sheet if required.)

OFFICE USE ONLY: (Committee of the Whole may not be applicable at all meetings.)

Mayor/Councillor left the Council meeting in Committee of the Whole at _____pm.

Mayor/Councillor returned to the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor left the Council meeting at _____ pm.

Mayor/Councillor returned to the Council meeting at _____ pm.

MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

**FILE NO: 20/371605
EDRMS NO: PSC2015-2020**

THANK YOU STAFF AND VOLUNTEERS

THAT COUNCIL:

- 1) Thank all employees and volunteers of Port Stephens Council for a successful year despite the challenges of 2020.
 - 2) Highlight many achievements for the year.
 - 3) Recognise the Awards and Grant funding Council has received.
 - 4) Wish all employees and volunteers, their families and the community a happy Christmas and prosperous new year.
-

BACKGROUND

The purpose of this Mayoral Minute is to acknowledge Port Stephens Council employees, volunteers and the many achievements throughout the year despite its challenges.

2020 has been a year like no other. While it started out strong with a commitment to our largest-ever major projects program, we soon had to face one of our greatest challenges - the COVID-19 pandemic.

Council employees and volunteers have shown immense resilience and determination as they overcame significant obstacles, adapted the way work was undertaken and how services were delivered, including the temporary closure of services like libraries and holiday parks.

I extend my congratulations to the Port Stephens Council General Manager, his management team and all staff, supported by our numerous volunteers, for adapting and diverting our Council's resources so that we could continue to meet the needs of our community during the pandemic. These efforts have meant our Council is still in a financially sustainable position with only a modest deficit - something for which we can all be very proud.

This would not have been possible without the dedication and hard work of the wonderful employees and the many volunteers who are committed to making Port Stephens a great place to live.

Despite the obstacles, delivering on our operational plan continued to be a key focus. I'm proud to report that we:

- achieved a community satisfaction score of 80%
- achieved an employee engagement score of 81% — our highest ever result
- received \$24.2 million in grants to help progress major projects.

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

- completing the Medowie Sport and Community Facility and securing a fantastic operator for this venue, which is set to open this summer
- opening the Port Stephens Koala Sanctuary — a brand new tourism offering, with significant benefits for our threatened species
- the announcement of a Special Activation Precinct for Williamstown — a great result after 20 years of our Council advocating for a defence and airport employment zone
- implementing key actions in the Nelson Bay strategy, including public domain improvements, the introduction of smart parking and activating our streets with parklets and public artwork.

I also acknowledge some of the recognitions Council has received whilst achieving the best outcomes for Port Stephens:

- Winner - Community and Development Services Award for Thrive Kids at the 2020 NSW Local Government Excellence Awards
- Winner - Roadside Environmental Management Award for the 'Discovering Mahony's Toadlet' project at the Excellence in the Environment Awards 2020
- Finalist - Community Partnerships and Collaboration for the Anna Bay 7 Day Make Over at the 2020 NSW Local Government Excellence Awards.

Throughout the year, we also had the honour of welcoming 101 new Australians as part of our official citizenship ceremonies program. Despite it being temporarily halted due to COVID-19, we were still able to welcome people from all over the world who have chosen to call Port Stephens home. I want to thank you all for bringing your unique cultures and perspectives to our beautiful part of the world.

In closing, I thank all of our employees and volunteers, their families and the community of Port Stephens for the resilience and community spirit they have shown throughout this challenging and unprecedented year.

I wish you all a safe and very happy Christmas and I look forward to a very busy and exciting 2021 delivering for our community.

ATTACHMENTS

Nil.

COUNCIL REPORTS

ITEM NO. 1

**FILE NO: 20/321082
EDRMS NO: 58-2019-4-1**

PLANNING PROPOSAL FOR 2179, 2199, 2207, 2209 AND 2213 PACIFIC HIGHWAY, HEATHERBRAE

REPORT OF: JANELLE GARDNER - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the amendments to the planning proposal (**ATTACHMENT 2**) for 2179, 2199, 2207, 2209 and 2213 Pacific Highway, Heatherbrae (Lot 4211 DP747474, Lot 53 DP 534043, Part of Lot 513 DP 587997, Part of Lot 512 DP 587997 and Lot 511 DP 587997) to rezone the subject land from RU2 Rural Landscape to B5 Business Development and remove the minimum lot size.
- 2) Receive and note the submissions (**ATTACHMENT 3**) received during the public exhibition of the planning proposal.
- 3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).

BACKGROUND

The purpose of this report is to advise Council of the outcome of the exhibition of the planning proposal (**ATTACHMENT 2**) for 2179, 2199, 2207, 2209 and 2213 Pacific Highway, Heatherbrae and note the submissions received (**ATTACHMENT 3**). The report seeks authorisation to exercise delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 (LEP 2013). A locality plan is provided at (**ATTACHMENT 1**).

The planning proposal seeks to amend the LEP 2013 to rezone the subject land from RU2 Rural Landscape to B5 Business Development and remove the minimum lot size. The planning proposal is responding to actions and directions from the Port Stephens Local Strategic Planning Statement and the Raymond Terrace and Heatherbrae Strategy 2015-2031 to facilitate Heatherbrae as a key destination for bulky goods.

The planning proposal was publicly exhibited from 9 September 2020 to 14 October 2020. During the public exhibition period, 2 submissions from the landowners were received. In accordance with the Gateway determination, the planning proposal was reviewed by a number of public authorities and 2 submissions from agencies were received. All submissions are addressed in (**ATTACHMENT 3**).

ORDINARY COUNCIL - 8 DECEMBER 2020

A summary of the planning proposal is set out below:

Date Lodged:	23 August 2019 (Revised 10 October 2019)
Proponent:	Perception Planning Pty Ltd on behalf of the landowners
Subject properties:	2179 Pacific Highway, Heatherbrae (Lot 4211 DP 747474) 2199 Pacific Highway, Heatherbrae (Lot 53 DP 534043) 2207 Pacific Highway, Heatherbrae (Part of Lot 513 DP 587997) 2209 Pacific Highway, Heatherbrae (Part of Lot 512 DP 587997) and 2213 Pacific Highway, Heatherbrae (Lot 511 DP 587997)
Site Area:	5.4 hectares
Current Zoning:	RU2 Rural Landscape
Proposed Zoning:	B5 Business Development
Current Minimum Lot Size:	20 hectares
Proposed Minimum Lot Size:	No minimum lot size
Key issues and comments	<p>Flooding. The proposed rezoning has been limited to land above the flood planning area, which will protect future commercial development from flood risk.</p> <p>M1 extension to Raymond Terrace. The subject site is approximately 1km northeast of the proposed interchange and is expected to reduce demand for the existing service industry. A bulky goods retail precinct could facilitate increased commerce in Heatherbrae.</p>

At its meeting on 26 November 2019, Council resolved to adopt the planning proposal and forward it to the Department of Planning, Industry and Environment (DPIE) to seek a Gateway determination and delegated authority to make the plan (**ATTACHMENT 4**).

On 1 May 2020, DPIE issued a Gateway determination, subject to conditions requiring the planning proposal to be updated prior to exhibition. In accordance with the Gateway determination, the planning proposal was updated to:

- Amend the proposed boundary to ensure all land proposed to be zoned for B5 Business Development land is located above the flood planning area.
- Address relevant directions and actions in the Hunter Regional Plan 2036 and the Greater Newcastle Metropolitan Plan 2036.
- Prepare and exhibit a draft amendment to the Port Stephens Development Control Plan 2014 with provisions for the site.
- Include a koala habitat assessment.
- Include a preliminary contamination assessment.
- Address Ministerial Directions 1.2 Rural Zones, 1.3 Mining, Petroleum Production and extractive Industries, 1.5 Rural Lands, 2.6 Remediation of Contaminated Land, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans.

The Gateway determination authorises Council to make the necessary amendments to the LEP 2013 to give effect to the planning proposal following public exhibition.

Existing and current use

The subject land is approximately 5.4 hectares and comprises 5 allotments that are currently used for residential purposes. The rear portions of 2207 and 2209 Pacific Highway, Heatherbrae are excluded from this planning proposal and are used for rural purposes. The existing development on the land includes residential dwellings, with some home businesses and farm sheds. The subject land has been largely cleared of vegetation.

Purpose of the amendment

The planning proposal seeks to amend the LEP 2013 to facilitate the development of bulky goods businesses in Heatherbrae.

In 2012, Council commissioned the Raymond Terrace and Heatherbrae Economic Study (Hill PDA Study) which identified additional demand for bulky goods premises in Heatherbrae. Currently, locations outside of the Port Stephens Local Government Area (LGA) such as Rutherford and Kotara are meeting this demand.

The Hill PDA Study, as well as the earlier Port Stephens Commercial and Industrial Lands Study (2010), have identified Heatherbrae as the most suitable location for bulky goods premises in the LGA. The Raymond Terrace and Heatherbrae Strategy 2015-2031 was informed by these studies and identified suitable land for rezoning on the western side of the Pacific Highway, north of the subject site.

Suitability of the subject land

Although the subject land is located just south of the specific site identified for rezoning in the Raymond Terrace and Heatherbrae Strategy 2015-2031 (the strategy), it will still achieve the direction of the strategy. The specific site identified for rezoning in the strategy is already developed for business purposes (e.g. Motto Farm Motel, an equestrian centre, service station and a motor inn) and unlikely to be rezoned for bulky goods in the near future. The rezoning will ensure Council can meet the objectives of the strategy to provide adequate land to facilitate bulky goods development in Heatherbrae.

The subject land is considered to be suitable for commercial development given that it is relatively unconstrained, in proximity to Raymond Terrace and located adjacent to the Pacific Highway. Further, while the land is currently zoned RU2 Rural Landscape, it is located opposite land currently zoned B5 Business Development.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that there is insufficient land available in Heatherbrae to attract bulky goods premises to satisfy demand in the locality.	Medium	Adopt the recommendations.	Yes

Port Stephens Development Control Plan 2014 (DCP 2014)

In accordance with the Gateway determination, an amendment to the DCP 2014 was prepared and exhibited. The amendment makes changes to Chapter D1 of the DCP 2014 and provides for an indicative road layout to facilitate the orderly future subdivision of the site, subject to development consent. The DCP 2014 amendment was exhibited concurrent with the planning proposal and was adopted by Council on 24 November 2020.

Port Stephens Local Environmental Plan 2013 (LEP 2013)

The planning proposal will rezone approximately 5.4 hectares of land from RU2 Rural Landscape to B5 Business Development and remove development standards for minimum lot size to facilitate bulky goods development.

The objective of the B5 Business Development zone is listed in the LEP 2013 as:

- To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area in locations that are close to, and that support the viability of, centres.

Amending the LEP 2013 will permit (with development consent) the development of specialised retail premises (bulky goods) which is considered consistent with the objectives of this zone.

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

Part 3 of the EP&A Act provides the framework for amending a local environmental plan. DPIE issued a Gateway determination under section 3.34 of the EP&A Act specifying that the planning proposal should proceed to exhibition, subject to conditions and consultation requirements.

Council is authorised to act as the local plan making authority to make the plan by the Gateway determination. Should Council adopt the recommendations, arrangements will be made for the drafting of the amendment to the LEP 2013 to give effect to the planning proposal.

Hunter Regional Plan 2036 (HRP 2036)

The planning proposal is consistent with the HRP 2036 and aligns with direction 6 to 'Grow the economy of MidCoast and Port Stephens'. The planning proposal will permit commercial development and support the economy through long-term retail and employment opportunities.

Greater Newcastle Metropolitan Plan 2036 (GNMP 2036)

The planning proposal is consistent with the GNMP 2036 and aligns with strategy 8 to 'Address changing retail consumer demand' and strategy 9 to 'Plan for jobs closer to homes in the Metro frame'. The planning proposal will provide additional bulky goods development and provide jobs within the metropolitan frame.

Port Stephens Local Strategic Planning Statement (LSPS)

The planning proposal is consistent with the planning priorities in the Port Stephens LSPS, and will deliver action 2.1 to 'expand bulky goods at Heatherbrae, further strengthening its role as a key destination for this type of commercial development'.

Raymond Terrace and Heatherbrae Strategy 2015-2031 (the strategy)

The planning proposal is consistent with the strategy 2015-2031 and will deliver directions to facilitate Heatherbrae as a key destination for bulky goods.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic

The planning proposal is expected to deliver a range of social and economic benefits to the existing and future community, including:

- Employment through construction jobs to carry out subdivision and building works, as well as ongoing employment through retail and transport jobs to service the future commercial development.
- Reduced need for residents to travel for bulky goods retail shopping.
- Increased commercial opportunities for businesses within the LGA.
- Increased expenditure within the LGA.
- Strengthening of Heatherbrae as a retail destination for bulky goods.

CONSULTATION

Internal

Consultation with internal stakeholders has been undertaken to inform the assessment of the planning proposal, including Development Engineering, Development Assessment and Compliance and Natural Resources units. No objections were raised and associated impacts are able to be addressed adequately at the development assessment stage.

External

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

- NSW Rural Fire Service
- Hunter Water Corporation
- Department of Planning, Industry and Environment (Resources Regulator)
- Department of Primary Industries (Agriculture)
- Transport for NSW

No public authorities objected to the planning proposal. A summary of submissions and recommendations is provided at **(ATTACHMENT 3)**.

In accordance with the Gateway determination, the planning proposal was placed on public exhibition for a minimum of 28 days from 9 September 2020 to 14 October 2020.

Adjoining landowners were notified of the planning proposal and public notice was placed in the Port Stephens Examiner. Copies of the planning proposal were made available on Council's website, at the Council administration building and the Raymond Terrace Library.

During the exhibition period, 2 submissions were received from the owners of the land the subject of the planning proposal in response to the exhibition of the amendments to the DCP 2014. A summary of the submissions and responses is provided at **(ATTACHMENT 3)**.

As a result of consultation, an amendment was made to the DCP 2014 for Heatherbrae, as detailed at **(ATTACHMENT 3)**. The DCP 2014 was adopted by Council on 24 November 2020. There were no changes made to the proposed LEP 2013 provisions following consultation.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Planning Proposal.
- 3) Summary of Submissions.
- 4) Council Minutes - 26 November 2019.

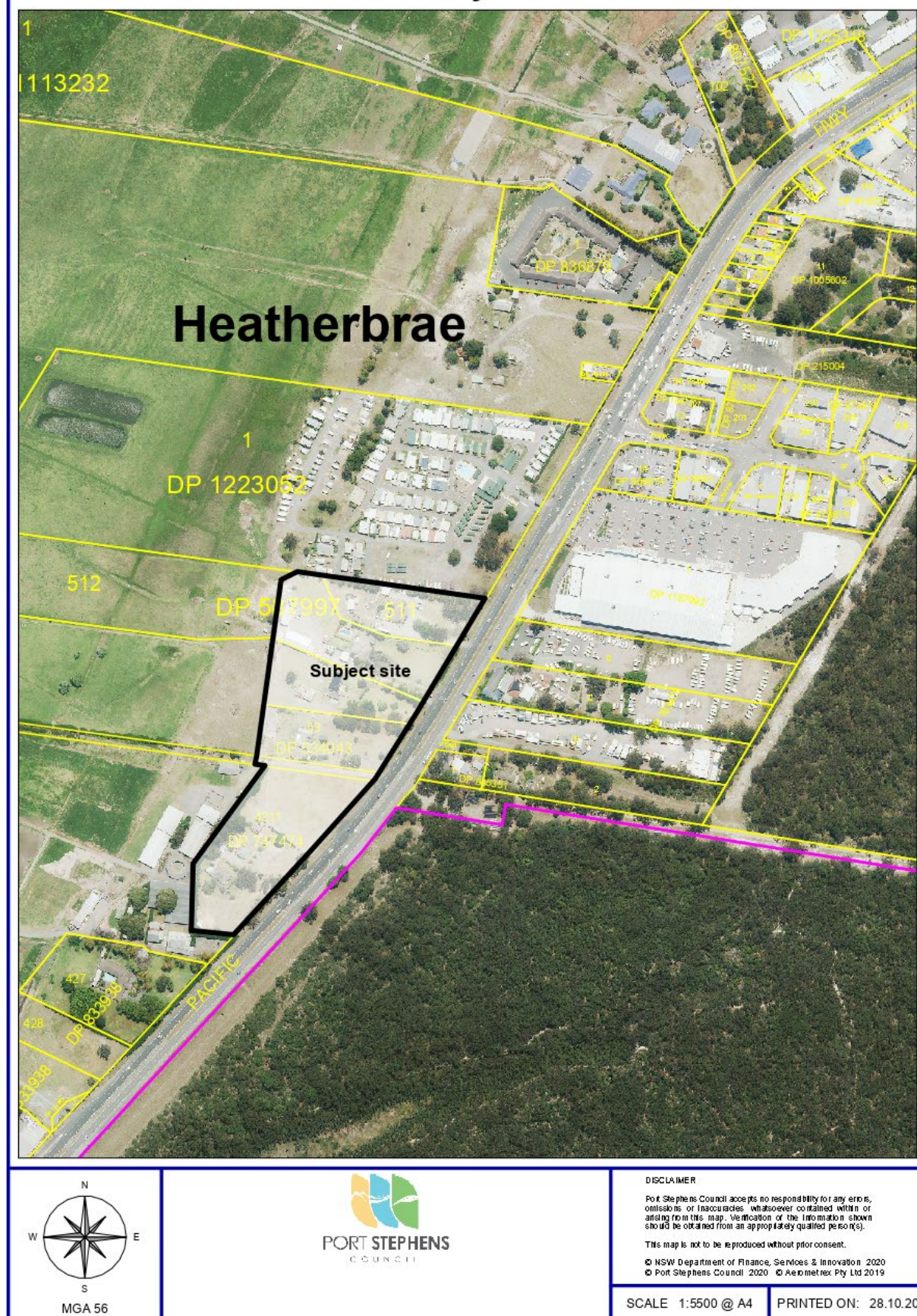
COUNCILLORS ROOM


- 1) Relevant technical studies that form part of the planning proposal are available for review by Councillors upon request.
- 2) Copy of Submissions.

TABLED DOCUMENTS

Nil.

Locality Plan





2179 - 2213 Pacific Highway, Heatherbrae

**Proposed amendment to Port Stephens Local
Environmental Plan 2013**
Rezoning of 2179 - 2213 Pacific Highway, Heatherbrae



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ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.**VERSION CONTROL**

Version	Details
1 - August 2019	Planning proposal (PP) as submitted to Council
2 - October 2019	Revised PP as submitted to Council
3 - November 2019	PP updated into Council template and submitted to Department of Planning, Industry and Environment (DPIE)
4 - February 2020	PP revised by Council to address matters raised by DPIE in the adequacy assessment. The main changes include: <ul style="list-style-type: none"> • Additional mapping and evidence provided • Additional information around the Heatherbrae Bypass, Economic Land Use Study and their relationship with the PP • Further analysis against the Hunter Regional Plan and Greater Newcastle Metropolitan Plan • Inclusion of further review against relevant Ministerial Directions and State Environmental Planning Policies • Updated to include review against the draft Local Strategic Planning Statement • Additional information provided under Section C and Section D • Revised timeframe
5 - September 2020	PP revised to address matters listed in the Gateway determination. The main changes include: <ul style="list-style-type: none"> • Assessment against the State Environmental Planning Policy (Koala Habitat Protection) 2019 • Consistency with action 13.1 of the Greater Newcastle Metropolitan Plan 2036 • Consistency with section 9.1 direction 2.6 – Remediation of Contamination Land • Updated map that illustrates the location of flood prone land in relation to the proposed zoning boundary • Revised site boundary and updated LEP maps following the site survey
6 - October 2020	PP revised to incorporate agency feedback.

ATTACHMENTS

- ATTACHMENT 1** – Existing Land Zoning Map
ATTACHMENT 2 – Proposed Land Zoning Map
ATTACHMENT 3 – Existing Lot Size Map
ATTACHMENT 4 – Proposed Lot Size Map
ATTACHMENT 5 – Existing Urban Release Area Map

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

ATTACHMENT 6 – Proposed Urban Release Area Map
ATTACHMENT 7 – Excerpt from Draft DA Process Improvement DCP Amendment – Part D1 Heatherbrae
ATTACHMENT 8 – Excerpt from the Raymond Terrace and Heatherbrae Economic Land Use Study (pages 97-99) NB: the full document is publicly available on the Port Stephens Council website
ATTACHMENT 9 – Koala Habitat Assessment
ATTACHMENT 10 – Department of Primary Industry (Agriculture) Correspondence
ATTACHMENT 11 – Land Use Conflict Risk Assessment
ATTACHMENT 12 – Preliminary Contamination Assessment
ATTACHMENT 13 – Survey Map (Flood Planning Level & Zone Boundary)
ATTACHMENT 14 – Flood Certificates
ATTACHMENT 15 – Traffic Impact Assessment
ATTACHMENT 16 – Transport for NSW Correspondence
ATTACHMENT 17 – Hunter Water Preliminary Servicing Advice

FILE NUMBERS

Council: 58-2019-4-1
Department: PP_2019_PORTS-005-00

SUMMARY

Purpose:	The purpose of this planning proposal is to amend the <i>Port Stephens Local Environmental Plan 2013</i> (LEP) to enable the development of bulky goods premises in Heatherbrae.
Subject land:	Lot 4211, DP 747474, 2179 Pacific Highway, Heatherbrae; Lot 53, DP 534043, 2199 Pacific Highway, Heatherbrae; Part of Lot 513, DP 587997, 2207 Pacific Highway, Heatherbrae; Part of Lot 512, DP 587997, 2209 Pacific Highway, Heatherbrae; and Lot 511, DP 587997, 2213 Pacific Highway, Heatherbrae.
Proponent:	Perception Planning on behalf of landowners.
Proposed changes:	<ul style="list-style-type: none">• Rezone subject land from RU2 Rural Landscape to B5 Business Development• Remove identification of the subject land as AB2 20 hectares
Area of land:	~ 5.4 hectares

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.**BACKGROUND**

This planning proposal seeks to amend the *Port Stephens Local Environmental Plan 2013* (LEP) to enable commercial development at 2179, 2199, 2207, 2209 and 2213 Pacific Highway, Heatherbrae.

The subject site is currently zoned RU2 Rural Landscape and this planning proposal seeks to rezone part of the land to B5 Business Development. This planning proposal is responding to a direction from the Raymond Terrace and Heatherbrae Strategy 2015-2031, to facilitate Heatherbrae as a key destination for bulky goods.

As identified in this planning proposal, the following additional investigations have been provided following a Gateway determination:

- Site Survey
- Preliminary Contamination Report
- Koala Habitat Assessment
- Hunter Water Preliminary Servicing Advice

SITE

The subject site is approximately 5.4 hectares and adjoins the Pacific Highway in Heatherbrae. **Figure 1** (p. 6) identifies the subject land. The subject site is zoned RU2 Rural Landscape and comprises multiple lots that are currently being used for residential purposes. The parts of lots, which are excluded from this planning proposal, serve rural purposes and are currently used for livestock grazing. These lands will be able to continue their agricultural activities following rezoning and development of the subject land.

The boundaries of the proposed zone have been surveyed to ensure lands below the Flood Planning Level (FPL) are not rezoned to B5 Business Development and to identify a location above the FPL for a dwelling house and cattle refuge to facilitate continued operation of the rural lands excluded from the proposed rezoning.

The surrounding land contains a mixture of residential, rural, commercial and industrial uses. Heatherbrae has historically been characterised as a major service centre for the Pacific Highway with a range of commercial development including motels, service stations, take-away food premises and more recently bulky goods premises. The planned M1 Pacific Motorway extension to Raymond Terrace will bypass Heatherbrae and is expected to reduce traffic volumes and may reduce demand for the existing service industry. A bulky goods retail precinct would respond to this changing market and could facilitate increased commerce in Heatherbrae.

Figure 1 – Locality



ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

PART 1 – Intended outcomes

The intended outcome of the planning proposal is to enable bulky goods development at 2179, 2199, 2207, 2209 and 2213 to facilitate Heatherbrae becoming a bulky goods destination.

PART 2 – Explanation of provisions

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

- Amend Land Zoning Map Sheet LZN_002 (**ATTACHMENT 1**) for Lot 4211, DP 747474, Lot 53, DP 534043, part of Lot 513, DP 587997, part of Lot 512, DP 587997 and Lot 511, DP 587997 from RU2 Rural Landscape to B5 Business Development (**ATTACHMENT 2**)
- Amend Lot Size Map Sheet LSZ_002 (**ATTACHMENT 3**) to remove the identification of the site as 20ha (**ATTACHMENT 4**)
- Amend Urban Release Area Map Sheet URA_002 (**ATTACHMENT 5**) to identify the subject site as an Urban Release Area (**ATTACHMENT 6**)

Figures 2, 3 and 4 indicate the proposed changes to the Land Zoning Map Lot Size Map and Urban Release Area Map. It is noted that the below maps have been informed by a site survey.

These amendments will be supported by a site-specific Development Control Plan (DCP) to facilitate coordinated development at the development application stage. Council endorsed the draft Development Control Plan 2014 – Chapter D1 Heatherbrae for public exhibition on 8 September 2020 as part of a larger draft amendment. An excerpt from the draft amendment is attached (**ATTACHMENT 7**).

Figure 2 - Existing and proposed Land Zoning Map



Figure 3 – Existing and proposed Lot Size Map



Figure 4 - Existing and proposed Urban Release Area Map



PART 3 – Justification

Section A – Need for the planning proposal

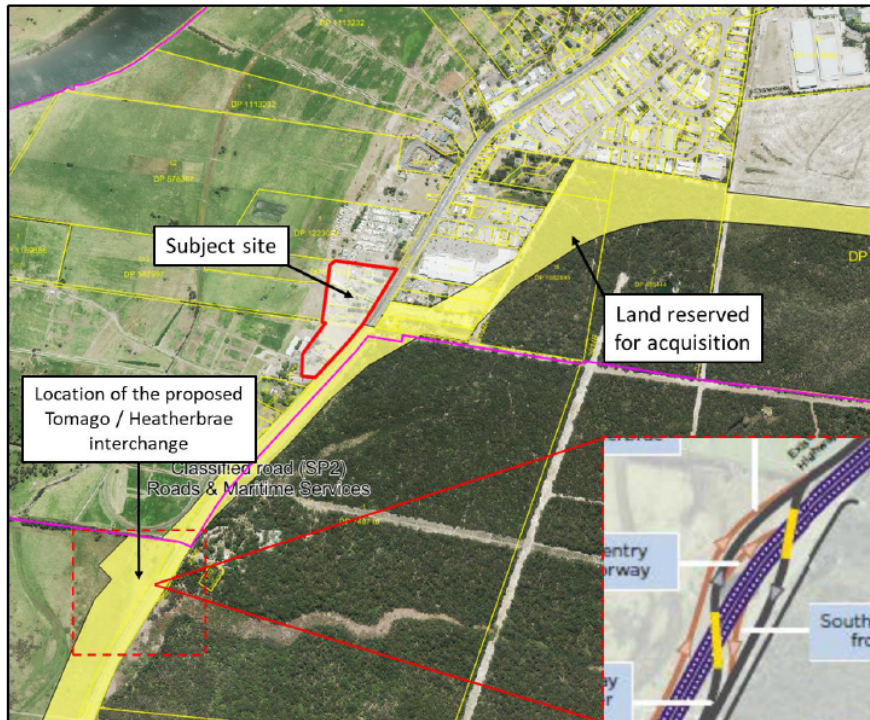
Q1. Is the planning proposal a result of any strategic study or report?

The proposal is the result of the *Raymond Terrace and Heatherbrae Strategy* (RT&HS), which contains a number of directions and actions that seek to facilitate Heatherbrae as the key destination for 'bulky goods premises' in Port Stephens. This direction was informed by the Hill PDA, 2012, '*Raymond Terrace and Heatherbrae Economic Land Use Study*' (**ATTACHMENT 8**) that identified that there is an undersupply of bulky goods (pp. 75-77).

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The Hill PDA study was prepared to identify and analyse economic and employment opportunities in Raymond Terrace and Heatherbrae. Among other factors, the Hill PDA Study took the planned M1 extension to Raymond Terrace, which will bypass Heatherbrae, into consideration. The proposed road and interchange is identified in **Figure 5**.

Figure 5: Relationship between the subject site and the location of the proposed Heatherbrae bypass. NB: the proposed interchange to access Heatherbrae is located approximately 1km southwest of the subject site.



The Hill PDA Study determined Heatherbrae to be appropriate for a bulky goods hub due to its position in trade area, the price of land, the highway access and expected population growth.

The planning proposal will enable the direction of the RT&HS to facilitate Heatherbrae as a bulky goods destination. The planning proposal is a result of the RT&HS, which was informed by the Hill PDA Study.

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

In order to achieve the intended outcome, the following options were considered:

- a. **List a Schedule 1** – Rather than rezone the land, list as an Additional Permitted Use for bulky goods premises to be permissible with consent under Schedule 1.

This option is considered less desirable as it would be inconsistent with the NSW Government, *Planning Circular – Schedule 1*.

- b. **Amend the Zone from RU2** – Rural Landscape to B5 – Business Development for the entire identified lots (i.e. including flood prone land).

Rezoning the entire lots would result in land that is below the Flood Planning Level, which would be inconsistent with Ministerial Direction 4.3 – *Flood Prone Land* under the *Environmental Planning and Assessment Act 1979*.

- c. **Amend the Zone from RU2** – Rural Landscape to B5 – Business Development for the part of the identified lots not identified as being within the flood planning area.

This option is considered the most desirable and as a result it is proposed under *Part 2 – Explanation of provisions*. It allows for the land not identified as within the flood planning area to be developed for bulky goods premises.

Section B – Relationship to strategic planning framework**Q3. Will the planning proposal give effect to the objectives and actions of the Hunter Regional Plan or Greater Newcastle Metropolitan Plan (or any exhibited draft plans that have been prepared to replace these)?**

- a) Does the proposal have strategic merit?

Hunter Regional Plan 2036

The *Hunter Regional Plan 2036* (HRP) applies to the Port Stephens LGA and is an applicable consideration for this planning proposal. The HRP identifies Heatherbrae as a significant employment land cluster and Raymond Terrace as a centre within the Port Stephens LGA.

The HRP identifies a regional priority for Port Stephens to “*leverage proximity to major global gateways – and its attractive and valuable natural environment and coastal and rural communities – to generate economic growth and diversity*”.

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The planning proposal is consistent with:

- **Direction 6 – Grow the economy of MidCoast and Port Stephens** as it will boost the economy through the provision of short-term employment during construction and long term retail and transport roles once businesses are established
- **Direction 13 – Plan for greater land use compatibility** as it will contribute to the existing commercial land uses of the surrounding land without impacting on rural land uses
 - **Action 13.2 – Limit urban and rural housing encroachment into identified agricultural and extractive resource areas, industrial areas and transport infrastructure when preparing local strategies** as the subject land is already used for rural housing.
- **Direction 23 – Grow centres and renewal corridors** while Heatherbrae is not identified as a renewal corridor, the planning proposal will provide additional employment lands within an identified employment land cluster in proximity of the strategic Centre Raymond Terrace
 - **Action 23.5 - Focus commercial and retail development within existing centres and transport hubs and ensure that locations for new centres are integrated with existing or planned residential development; do not undermine existing centres; encompass high quality urban design; and consider transport and access requirements** as it will provide commercial land within an existing employment cluster with capacity for additional bulky goods development
- **Direction 24 – protect the economic functions of employment land** as the Hill PDA Study identified there is sufficient demand to support additional bulky goods premises within Heatherbrae and recommended this avenue for increasing commerce in the area
 - **Action 24.1 – Locate new employment land so that it does not conflict with surrounding residential uses** as it will replace the existing 5 residential dwellings that are currently incompatible with the surrounding commercial development

The planning proposal is consistent with the HRP as it will provide new employment lands within an existing employment land cluster within proximity of Raymond Terrace, is compatible with the surrounding land uses and will not conflict with existing or planned infrastructure.

Greater Newcastle Metropolitan Plan 2036

The *Greater Newcastle Metropolitan Plan 2036* (GNMP) applies to part of the Port Stephens LGA, including Heatherbrae. The GNMP identifies Raymond Terrace as an emerging city centre and supports increasing the number of jobs within and near Raymond Terrace.

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

The one specific reference to Heatherbrae in the GNMP is in relation to the protection of the Blue and Green Grid (p.79). The planning proposal is consistent with this direction as it is located on the western side of the Pacific Highway and does not propose to remove any vegetation.

The planning proposal is consistent with:

- **Strategy 8 – Address changing retail consumer demand** as it seeks to meet the growing demand of bulky goods premises in Heatherbrae
- **Strategy 9 – Plan for jobs closer to homes in the Metro frame** as it will provide additional jobs in close proximity of the residential centre of Raymond Terrace
- **Strategy 11 – Create more great public spaces where people come together** as it will facilitate commercial development that can contribute to creating a great public space for the community
 - **Action 11.1 protect and enhance waterfront parkland areas** as the Hunter River waterfront is not visible from the Pacific Highway or the subject land, rezoning would not impact waterfront parkland areas. Similarly, the subject land is not located within a natural setting. The subject land is currently used for residential purposes within an existing urban centre.
- **Strategy 23 – Protect major freight corridors** as it will enable more employment lands in proximity of the highway and prevent urban encroachment. Consultation with Transport for NSW is ongoing to ensure future access will not conflict with future plans to bypass Heatherbrae.

The planning proposal is justifiably inconsistent with:

- **Strategy 13 – Protect rural amenity outside urban areas** as the subject land and the locality does not have existing rural amenity. From the street, only the existing dwellings and sheds are visible and the surrounding lands consist of commercial businesses
 - **Action 13.1 – enable the growth of the agricultural sector by directing urban development away from rural areas and managing the number of new dwellings in rural areas** as the planning proposal will not enable further residential development thus managing potential land use conflict. Additionally, the productive agricultural land in the flood planning area is excluded from the planning proposal and will be retained. The planning proposal will not impact the agricultural sector.

The planning proposal is consistent with the GNMP as it will address changing retail demand, provide jobs within the metro frame, will not impact on areas with rural amenity and will not impact the agricultural sector.

Figure 6 - Identification of the site in the Greater Newcastle Metropolitan Plan (p. 10)



Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another local strategy or strategic plan?

The most relevant local strategy or other local strategic plans are:

Local Strategic Planning Statement

The Local Strategic Planning Statement (LSPS) was adopted by Council 14 July 2020. The LSPS identifies the 20-year vision for land use in Port Stephens and sets out social, economic, and environmental planning priorities for the future.

The LSPS identifies Heatherbrae as a major employment area, and the nearby town of Raymond Terrace as a strategic centre. The LSPS identifies the need to strengthen Heatherbrae's role as a key destination for bulky goods.

The planning proposal is consistent with:

- **Planning Priority 1 – Support the growth of strategic centres and major employment areas** as it seeks to provide additional employment land within a major employment area
- **Planning Priority 2 – Make business growth easier** as it seeks to provide additional lands for businesses to establish
 - **Action 2.1 - Expand bulky goods at Heatherbrae, further strengthening its role as a key destination for this type of commercial development** as the intended outcome is to facilitate bulky goods development in Heatherbrae

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

- **Planning Priority 9 – Protect and preserve productive agricultural land** as the subject land, while zoned RU2 Rural Landscape, is not agriculturally productive

The planning proposal is consistent with the LSPS as it will support the growth of an employment area, provide opportunities for business growth and expand bulky goods at Heatherbrae.

Raymond Terrace and Heatherbrae Strategy 2015-2031

The *Raymond Terrace and Heatherbrae Strategy 2015-2031* (RT&HS) was adopted by Council in 2015. The vision of the Strategy is '*A strong regional centre and a great place to live work and play*' (p.10).

The Strategy seeks to facilitate Heatherbrae as the key destination for 'bulky goods premises' in the Port Stephens LGA. The planning proposal is directly facilitating the following directions from the RT&HS:

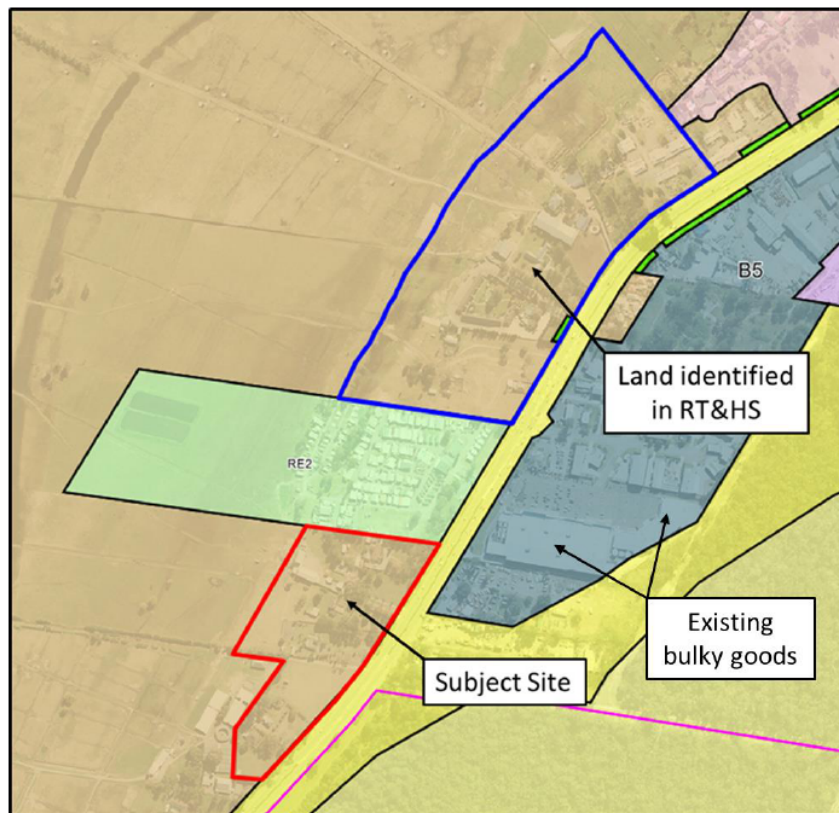
- **Direction 1.1** – Growing a regionally competitive centre by providing lands to strengthen the retail offering of Raymond Terrace and facilitating Heatherbrae as a destination for bulky goods
- **Direction 2.1** – Enabling development that supports compatible land clustering 'like with like' land uses by the identification of key precincts, such as Kangaroo Street for Light Industrial and Heatherbrae for bulky goods

These directions were informed by the Hill PDA, 2012, '*Raymond Terrace and Heatherbrae Economic Land Use Study*' that identified an undersupply of bulky goods in Port Stephens (p. 75-77) (**ATTACHMENT 8**). The Hill PDA Study identified that opportunity exists for Heatherbrae to position itself as a leading destination for bulky goods shopping. Based on retail expenditure modelling, sufficient demand exists to support an approximate additional bulky goods floor space of:

- 5,000sqm by 2016 (1.3ha of land);
- 8,200sqm by 2021 (2.1ha of land); and
- 15,000sqm by 2031 (3.8ha of land).

The RT&HS acknowledged a need for 4.5 hectares of land to be rezoned to B5 Business Development to cater for the additional demand. The RT&HS identified approximately 15 hectares of rural land located opposite the existing B5 Business Development zoned land as suitable for bulky goods development (**Figure 8**), but none of this land has been rezoned.

Figure 7 - Relationship between the subject site and the land identified in the Raymond Terrace and Heatherbrae Strategy



A planning proposal was initiated by Council for the identified land in 2017 but was never progressed due to the unwillingness of landowners. Several businesses and rural industries are currently operating within the identified land including cattle grazing, a motel, an equestrian centre, a service station and a motor inn, which would not benefit from a rezoning. This planning proposal does not wish to rezone the land previously identified in the RT&HS as this would lead to an oversupply of business zoned land.

The subject land of this planning proposal is a more suitable location for bulky goods development than the identified land for the following reasons:

- The subject land has willing landowners with development experience;
- The subject land is not prime agricultural land, while much of the identified land is;
- The subject land is more feasible to develop containing only five dwellings with ancillary buildings. The identified land comprises large businesses such as a motor inn and a motel that would be unfeasible to redevelop; and

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- The subject land is located in closer proximity to the existing bulky goods premises Bunnings and BCF at 8 Griffin St, Heatherbrae. Clustering of similar businesses is beneficial for commerce.

This planning proposal aims to facilitate meeting the projected demand from the Hill PDA Study by providing approximately 5.4 hectares of land in a suitable location. Rezoning the subject site to B5 Business Development can provide sufficient land to meet the growing demand for bulky goods floor space without leading to an oversupply of business zoned land.

Should the planning proposal receive a Gateway determination to proceed, the previously identified land would not be required to facilitate bulky goods development in Heatherbrae.

The planning proposal is not only consistent with, but also a result of the RT&HS, as it seeks to facilitate Heatherbrae as a destination for bulky goods premises.

Port Stephens Integrated Plans 2018

The Integrated Plans (the Plans) were adopted by Port Stephens Council in early 2018.

The Integrated Plans are the Community Strategic Plan, Delivery Program and Operational Plans. They seek to guide the operations of Port Stephens Council over a four-year term of Councillors. It contains a number of actions relevant to place, community, environment and the council. The Plan makes no specific reference to employment lands, Heatherbrae or bulky goods premises.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

An assessment of relevant State Environmental Planning Policies (SEPPs) against the Planning Proposal is provided in the table below.

Table 1 – Relevant State Environmental Planning Policies

SEPP	Consistency and Implications
SEPP Koala Habitat Protection (2019)	The Port Stephens Comprehensive Koala Plan of Management (CKPoM) has been prepared in accordance with Part 3 of the Koala Habitat Protection SEPP, and is applicable in the Port Stephens LGA. Schedule 2 of the CKPoM sets out the performance criteria for planning proposals, which have been addressed below.

- a. Not result in development within areas of preferred koala habitat;

The subject site does not contain land mapped as preferred koala habitat (**Figure 8**).

- b. Allow only for low impact development within areas of Supplementary Koala Habitat and Habitat Linking Areas;**

The subject site does not contain land mapped as supplementary koala habitat (**Figure 8**).

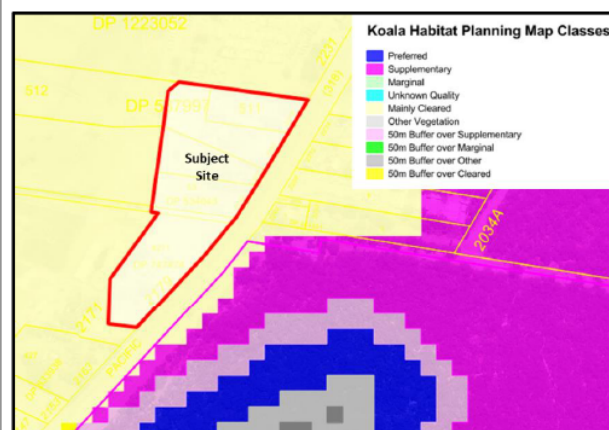
- c. Minimise the removal of any individual preferred koala food trees, where ever they occur on the site;

The Koala Habitat Assessment (**ATTACHMENT 9**) concluded five preferred koala food trees were located on site and recommended retaining these trees. Appropriate mitigations can be arrange at the development application stage.

- d. Not result in development which would sever koala movement across the site generally and for minimising the likelihood of impediments to safe/unrestricted koala movement*

The site consists of marginal koala habitat with little connectivity to other higher quality areas of vegetation. The Koala Habitat Assessment found no evidence of koalas within the subject site and concluded rezoning the land is unlikely to result in any significant impacts to the koala or important koala habitat.

Figure 8 – Koala habitat mapping



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SEPP Primary Production & Rural Development (2019)	<p>The Primary Production and Rural Development SEPP applies to land across NSW and aims to facilitate the orderly economic use and development of lands for primary production.</p> <p>The relevant Ministerial Direction is discussed below, which provides greater relevance to the rezoning of rural lands through a planning proposal.</p>
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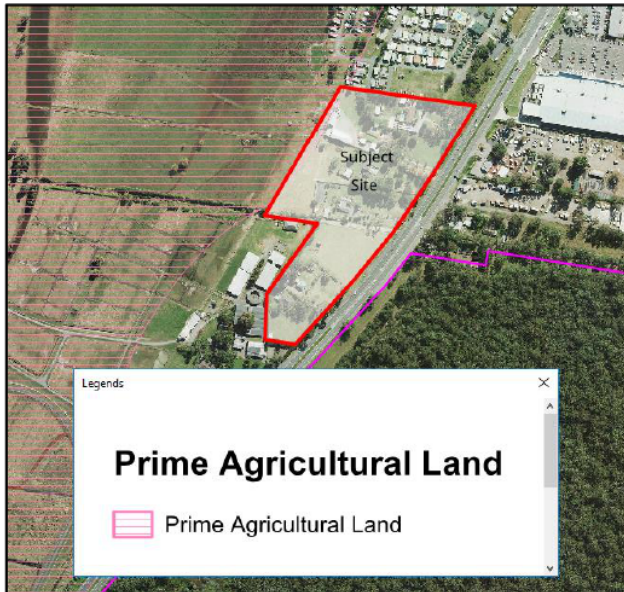
Q6. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of relevant Ministerial Directions against the Planning Proposal is provided in the table below.

Table 2 – Relevant Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implications
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	The planning proposal is consistent with the objectives of this direction as it seeks to encourage employment growth in an identified employment area, will provide additional business zones and will support the viability of Heatherbrae through the appropriate clustering of bulky goods.	
1.2 Rural Zones	<p>The planning proposal is inconsistent with this direction, but it is of minor significance due to its consistency with the GNMP which considered the objectives of this direction.</p> <p>Furthermore, the site is not identified to have agricultural value and is located within an existing employment area identified for bulky goods development.</p> <p>Formal consultation was undertaken with the Department of Primary Industries (DPI) (Agriculture) with no objections raised (ATTACHMENT 10). A Land Use Conflict Risk Assessment was prepared to address potential land use conflict issues and satisfy recommendations from DPI Agriculture (ATTACHMENT 11).</p>	
1.3 Mining, Petroleum Production and extractive Industries	<p>This direction is applicable as the planning proposal will remove the permissibility of extractive industries on the subject land.</p> <p>The rezoning only applies to a small portion of rural zoned land. The remaining land (part of Lot 512 and part</p>	

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	<p>of Lot 513 DP 587997) located to the west of the subject site will retain their rural zoning and will not be impeded by the planning proposal.</p> <p>Formal consultation was undertaken with DPIE Resources Regulator with no objections raised.</p>
1.5 Rural Lands	<p>The planning proposal is inconsistent with this direction, but it is of minor significance due to its consistency with the LSPS and the GNMP, which considered the objectives of this direction.</p> <p>Furthermore, the subject land does not contain prime agricultural land (Figure 9), environmental values or any rural economic activities. Although the land is currently zoned rural, it is not being used for significant rural purposes, but housing. The planning proposal seeks to provide additional employment land for bulky goods premises which will provide social and economic benefits to the community.</p> <p>Formal consultation was undertaken with DPI Agriculture with no objections raised (ATTACHMENT 10). A Land Use Conflict Risk Assessment was prepared to address potential land use conflict issues and satisfy recommendations from DPI Agriculture (ATTACHMENT 11).</p> <p>Figure 9 - Prime agricultural land mapping</p> 

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

2. ENVIRONMENT AND HERITAGE	
2.3 Heritage Conservation	<p>The existing LEP has been informed by previous Environmental Planning Instruments (EPIs), heritage studies and archaeological studies. Schedule 5 – Environmental Heritage of this LEP does not identify the site to contain any heritage item, be located within a heritage conservation area or be part of or adjacent to an archaeological site.</p> <p>A basic search of the Aboriginal Heritage Information Management System (AHMIS) identified no heritage items or places within 50m of the site.</p> <p>The planning proposal is consistent with this direction, as there will be no impact.</p>
2.6 Remediation of Contaminated Land	<p>The Preliminary Contamination Assessment (ATTACHMENT 12) identified minor hydrocarbon and metals contamination in the soils, confirmed asbestos containing material (ACM) in the existing dwellings on site as well as a fragment of building material comprised of ACM. The Assessment found the site is suitable for commercial/industrial land use with minor works associated with the removal of the identified burn pile residue and hydrocarbon contaminated soils, as well as the removal of identified ACM.</p>
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT	
3.4 Integrating Land Use and Transport	<p>The proposal is consistent with the GNMP which has considered the objectives of this direction.</p> <p>Furthermore, the proposal is consistent with this direction as it seeks to encourage employment within the existing centre of Heatherbrae. The subject site adjoins the Pacific Highway, a major arterial road where public transport is currently available and increased service is feasible. An existing bus stop is located adjacent to the subject site.</p>
<p>Additionally, the most relevant aims, objectives and principles of Improving Transport Choice – Guidelines for Planning and Development and The Right Place for Business and Services – Planning Policy and a response are:</p> <p><u>Improving Transport Choice – Guidelines for Planning and Development</u></p> <ol style="list-style-type: none"> 1. Concentrate in centres - The proposal immediately adjoins the Pacific Highway, which is a well-serviced location for public transport in Port Stephens. The nearest bus stop is located directly in front of the subject land. 2. Mix uses in centres - The proposal represents the transition of Heatherbrae to the key destination for bulky goods in Port Stephens. This will contribute to the existing mix of housing and industry. 	

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

3. Align centres within corridors - The proposal is located within the Pacific Highway Corridor, which links the regional centre of Raymond Terrace to the major centre of Newcastle and other regional centres, such as Maitland.
4. Link public transport with land use strategies - The proposal is in response to the Raymond Terrace and Heatherbrae Strategy. By responding to this Strategy, the proposal is concentrating desired development in a desired location.
5. Connect streets - The proposal will enable an internal street network that facilitates future northern connections to adjoining lots. At the same time, when Heatherbrae is by-passed, the Pacific Highway will have significant capacity for local traffic.
6. Improve pedestrian access - The proposal will enable subdivision that will provide pedestrian pathways. At the same time, we could expect people purchasing bulky goods to use private motor vehicles.
7. Improve cycle access - The proposal will enable subdivision that will provide pedestrian pathways, which could be used by cyclists and/or a road network that can be used by cyclists. At the same time, we could expect people purchasing bulky goods to use private motor vehicles.
8. Manage parking supply - Appropriate parking will be provided at the subdivision stage depending on the use.
9. Improve road management - The connection to the Pacific Highway will be designed and constructed in consultation with Council and the NSW Roads and Maritime Services.
10. Implement good design - The proposal is over flat land with relatively few constraints and in turn opportunity exists for good design at the subdivision stage.

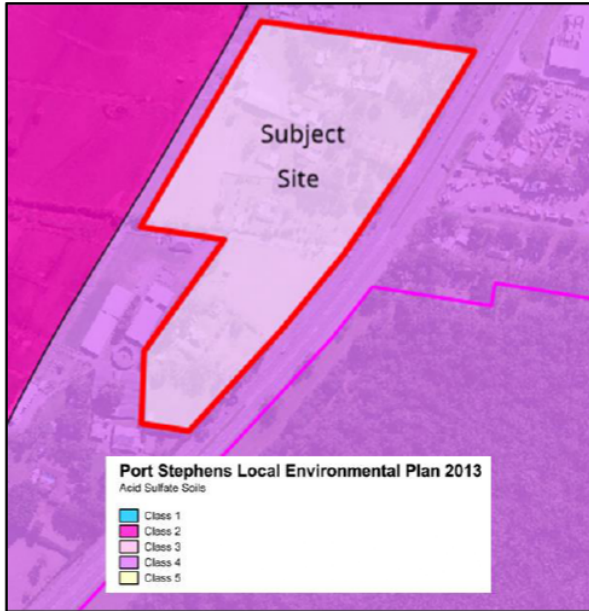
The Right Place for Business and Services – Planning Policy

1. The Right Location - The proposal is responding to a Strategy, which identifies Heatherbrae as the right location for bulky good outlets. This Policy discusses how bulky goods require space to display and handle large goods and how they can be located in centres. Heatherbrae is an existing employment centre that has been identified as the most appropriate location for bulky goods premises.
2. The Right Centre - The proposal is located within a centre that has good highway exposure, land for large floorspaces and near growing residential populations. This is why Heatherbrae was identified by the RT&HS as the key destination for bulky goods.

4. HAZARD AND RISK

4.1 Acid Sulfate Soils	<p>This direction is applicable as the site is mapped as containing Class 4 acid sulfate soils (Figure 10).</p> <p>The planning proposal does not propose physical works. When physical works are proposed as part of a future subdivision, the earthworks will be associated with the filling of the land as opposed to cutting and therefore</p>
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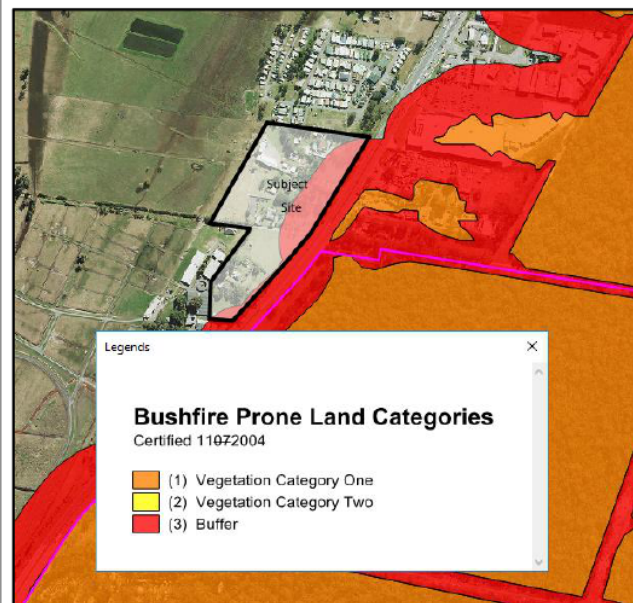
ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

	<p>should be consistent. This clause will be addressed through a future development application.</p> <p>Figure 10 - Acid sulfate soil mapping</p> 
4.3 Flood Prone Land	<p>This direction is applicable as the subject land, as well as all of Heatherbrae, is mapped as flood prone land.</p> <p>The planning proposal only seeks to rezone land that is 'Minimal Risk Flood Prone Land' (i.e. land that is above the 1/100 Event, but below the Probable Maximum Flood).</p> <p>This approach is consistent with the approach taken for commercial/industrial development across Port Stephens. The approach to commercial/industrial development on flood prone land is outlined within the Port Stephens Development Control Plan 2014 (B5 – Flooding).</p> <p>The planning proposal does not include land that is mapped within the flood planning area (ATTACHMENT 13). The site boundary was informed by flood certificates (ATTACHMENT 14) and a site survey to avoid land within the flood planning area.</p>
4.4 Planning for Bushfire Protection	<p>This direction is applicable as the part of the subject site is mapped as bushfire prone (Figure 11).</p>

Given that the planning proposal will enable commercial/industrial development, which only needs to demonstrate consistency with the aims/objective of the NSW RFS, 2006, 'Planning for Bushfire Protection' and that the bushfire threat is not located on the site, a Strategic Bush Fire Assessment or Bushfire Assessment Report is not considered to be required. This information can be provided at the Development Assessment stage of the development process.

Formal consultation with the Rural Fire Service was undertaken with no objections raised.

Figure 11 - Bushfire prone land mapping



5. REGIONAL PLANNING

5.4 Commercial and Retail Development along the Pacific Highway

This direction is applicable as the subject site is located along the Pacific Highway. The subject site is fronting an 80km/h road in a rural zone and is therefore "out of town".

The planning proposal is inconsistent with this direction but it considered to be of minor significance due to the changing function of the highway at Heatherbrae. The planned bypass of Heatherbrae will reduce the highway function of the road with inter- and intra-regional road traffic more likely to use the future M1 extension.

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

	<p>The planning proposal is responding to the future bypass by facilitating directions and actions from the draft Local Strategic Planning Statement, the Raymond Terrace and Heatherbrae Strategy and Port Stephens Planning Strategy to enable bulky goods development in Heatherbrae. Rezoning the subject land to B5 Business Development would be in keeping with nearby land uses and would be appropriate development.</p> <p>A Traffic Impact Assessment has been prepared (ATTACHMENT 15) and consultation with Transport for NSW was undertaken with no objections raised (ATTACHMENT 16) to ensure consistency with this Direction.</p>
5.10 Implementation of Regional Plans	<p>This direction applies because the site is identified in the area covered by the HRP and the GNMP. As demonstrated under Question 3, the planning proposal has demonstrated consistency with both the HRP and the GNMP.</p>

Section C – Environmental, social and economic impact**Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

There is a low likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of this planning proposal.

The site contains marginal koala habitat with little connectivity to other higher quality areas of vegetation. The Koala Habitat Assessment (**ATTACHMENT 9**) found no evidence of koalas within the subject site and concluded rezoning the land is unlikely to result in any significant impacts to the Koala or important Koala habitat. It is recommended, where possible, the five koala feed trees located onsite be retained.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The subject land is identified as flood prone, however is above the flood planning area (**ATTACHMENT 13**). The planning proposal is unlikely to have adverse flood impacts on or off the subject land.

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.**Q9. Has the planning proposal adequately addressed any social and economic effects?**

The proposal will result in the following positive social and economic effects:

- Increased employment opportunities in the Port Stephens LGA and Hunter Region through construction jobs to carry out building works, as well as ongoing employment through retail and transport jobs to service the future commercial development;
- Increased commercial opportunities for businesses within the Port Stephens LGA;
- Increased expenditure within the Port Stephens LGA;
- Reduced need for residents, both within and outside of the Port Stephens LGA, to travel to alternative bulky goods retail premises such as the homemaker centres at Kotara and Rutherford;
- Reduced travel times for Port Stephens residents to access bulky goods retailing;
- Reduced travel times for residents outside of the Port Stephens LGA, such as Tarro, Beresfield and Woodberry, to access bulky goods retailing; and
- Strengthening of Heatherbrae as a retail destination for bulky goods.

No economic studies on the impact of the future Heatherbrae bypass have been undertaken at this point. The Hill PDA Study however, did take the impact of the bypass into consideration in their analysis of Heatherbrae. The purpose of the Hill PDA Study was to identify opportunities and future land uses while having regard to sustainable economic development principles. The Hill PDA Study identified that a degree of exposure in passing trade would be lost as a consequence of the bypass, but established a strategy goal to “make Heatherbrae a leading destination for bulky goods”.

Section D – State and Commonwealth interests**Q10. Is there adequate public infrastructure for the planning proposal?**

Adequate public infrastructure is available. The site has access via the Pacific Highway and accessible public transport at the site. The planning proposal will not result in any significant additional demand on general public infrastructure such as schools and hospitals.

The Hunter Water servicing advice (**ATTACHMENT 17**) identified that reticulated water can be provided to the site and identified two options for wastewater. There is potential to connect to the nearest sewer connection point 2km from the site but Hunter Water also acknowledged that if this is not feasible, onsite treatment and disposal can be explored.

A Traffic Impact Statement (**ATTACHMENT 15**) has been prepared to support the planning proposal and inform the draft site-specific chapter for

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

Heatherbrae (**ATTACHMENT 7**) to guide the delivery of transport infrastructure.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation has been undertaken with the following public authorities:

- NSW Rural Fire Service
- Department of Planning, Industry and Environment (Resources Regulator)
- Hunter Water Corporation
- Transport for NSW
- Department of Primary Industries (Agriculture)

The NSW Rural Fire Service and the Department of Planning, Industry and Environment (Resources Regulator) made no objections to the planning proposal.

Formal consultation with Hunter Water Corporation was undertaken through a preliminary servicing inquiry. The details of this advice (**ATTACHMENT 17**) is addressed above under **Question 10**. No objections were raised.

Formal consultation has been undertaken with Transport for NSW (TfNSW) prior to lodgement of the planning proposal as well as following the Gateway determination (**ATTACHMENT 16**). Prior to lodgement, plans were submitted to TfNSW for comment who advised a Traffic Impact Statement would support the proposed intersection. Further consultation was undertaken during exhibition on the planning proposal and Traffic Impact Statement with no objections raised. TfNSW made several recommendations which are addressed below:

Table 3: Transport for NSW recommendations and Council responses

TfNSW Recommendation	Response
The proposed Traffic Control Signalised (TCS) intersection identified in the Traffic Impact Statement be relocated 50 metres north in line with the private road.	The draft DCP Chapter (ATTACHMENT 7) prepared for Heatherbrae has been amended to identify an indicative intersection in line with the referenced private road.
The TCS intersection should be provided prior to any development occurring on-site, including subdivision.	The subject land is proposed to be mapped as an urban release area (URA). Clause 6.5 of the LEP requires the satisfaction of TfNSW for the provision of vehicular access to the Pacific Highway prior to the granting of development consent for subdivision.
Each property has an agreed access point with consent under section 70 of the <i>Roads Act 1993</i> ,	The current land use and existing access can continue following a rezoning. The land use can only

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

which is applicable to the current land use only.	change following a development application which would require new vehicle access arrangements.
All existing consented access points should be revoked as a result of the planning proposal and a new access agreement will be created to suit future development. The new access points will also be established under a Roads Act section 70 process. Council is requested to create an 88B instrument protecting the common boundary of the site to prevent any further direct points over this site as part of the rezoning conditions.	The planning proposal will not revoke existing access points as a new access agreement should be determined in conjunction with a development application following a rezoning. A draft DCP chapter for Heatherbrae has been prepared to ensure the existing access arrangements will be replaced with a single intersection. The specifics of this arrangement can be determined at the development application stage. A development application will be required to meet the satisfaction of TfNSW prior to consent being granted in accordance with Clause 6.5 of the LEP.

Formal consultation was undertaken with DPI (Agriculture) with no objections raised. DPI (Agriculture) made one recommendation to undertake a Land Use Conflict Risk Assessment (LUCRA) to identify the risks and potential mitigation strategies to reduce land use conflict (**ATTACHMENT 10**). A LUCRA has been prepared to support the planning proposal (**ATTACHMENT 11**). Some of the potential land use conflicts identified include stormwater runoff, amenity, access, fencing, lights, noise and hours of operation. Management strategies have been identified to address these potential issues.

PART 4 – Mapping

The proposed map layer amendments are included as attachments to the planning proposal as follows:

Attachment 1 – Current Land Zoning Map LZN_002

Attachment 2 – Proposed Land Zoning Map – Map Amendment to Land Zoning Map – Sheet LZN_002 from RU2 Rural Landscape to B5 Business Development Zone

Attachment 3 – Current Lot Size Map LSZ_002

Attachment 4 – Proposed Lot Size Map – Map amendment to Lot Size Map – Sheet LSZ_002 to remove the identification of the site as 20ha

Attachment 5 – Current Urban Release Area Map URA_002

ITEM 1 - ATTACHMENT 2 PLANNING PROPOSAL.

Attachment 6 – Proposed Urban Release Area Map – Map Amendment to Urban Release Area Map – Sheet URA_002 to include identification of the site as an urban release area.

PART 5 – Community consultation

In accordance with the Gateway determination, the planning proposal and proposed DCP were placed on public exhibition for a minimum of 28 days from 9 September 2020 to 14 October 2020.

Adjoining landowners were notified of the planning proposal and public notice was placed in the Port Stephens Examiner. Copies of the planning proposal were made available on Council's website, at the Council administration building and the Raymond Terrace library.

During the exhibition period, two submissions were received from the community. Both submissions were supportive of the planning proposal and requested changes to the proposed DCP Part D1 Heatherbrae. The requests were unnecessary and can be addressed at the development application stage. No changes were made to the planning proposal or proposed DCP as a result of community consultation.

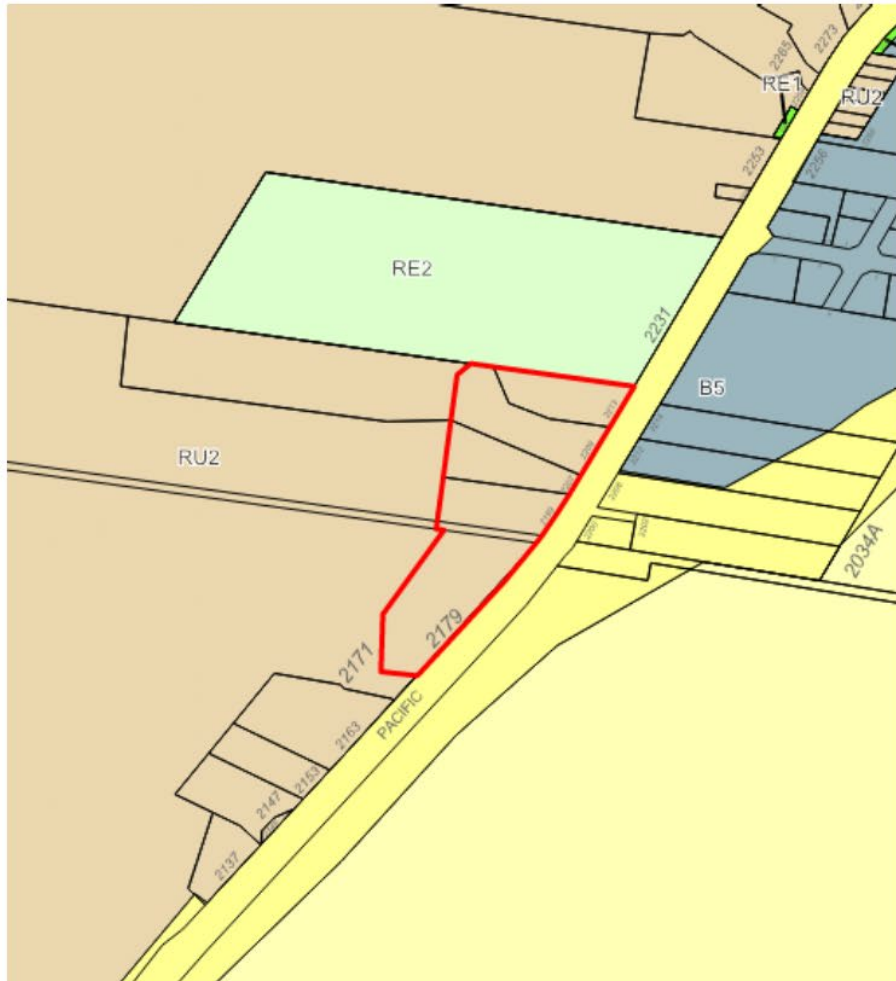
PART 6 – Project timeline

The additional technical information, studies and investigations identified in the planning proposal and consultation have been completed. The planning proposal will now be reported to Council.

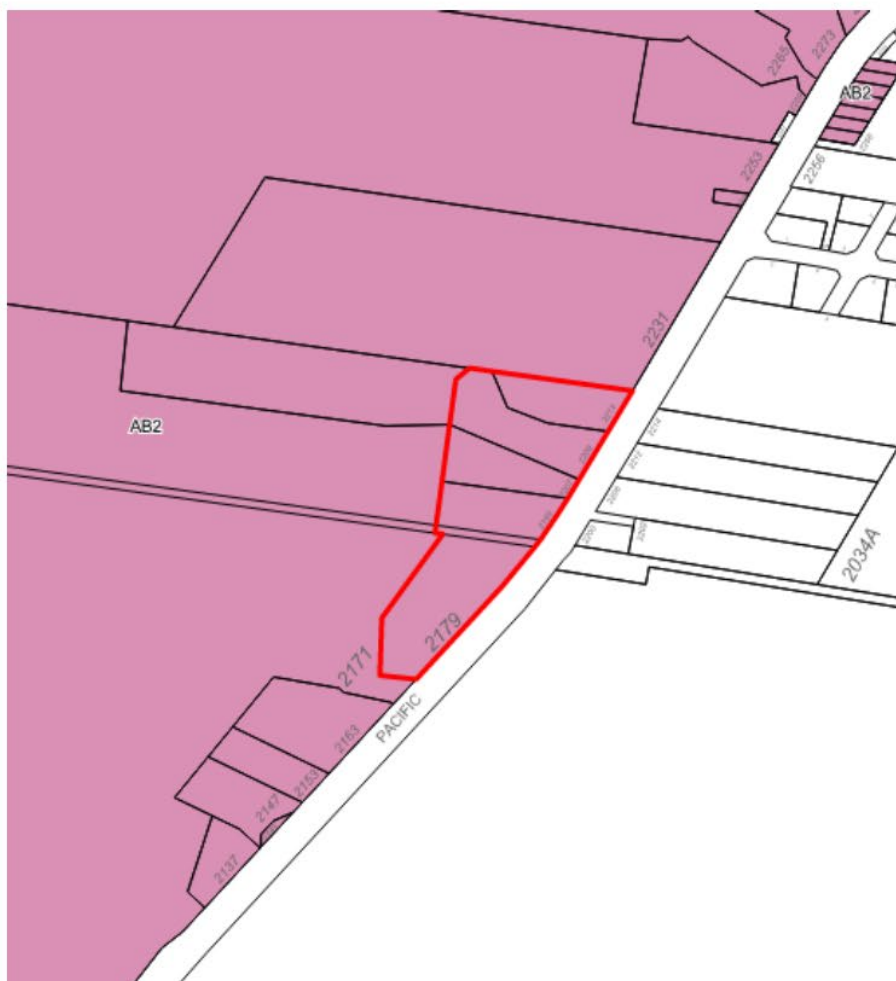
The following timetable is proposed to make the plan:

	Nov 2020	Dec 2020	Jan 2021	Feb 2021	Mar 2021
Council Report					
Parliamentary Counsel					

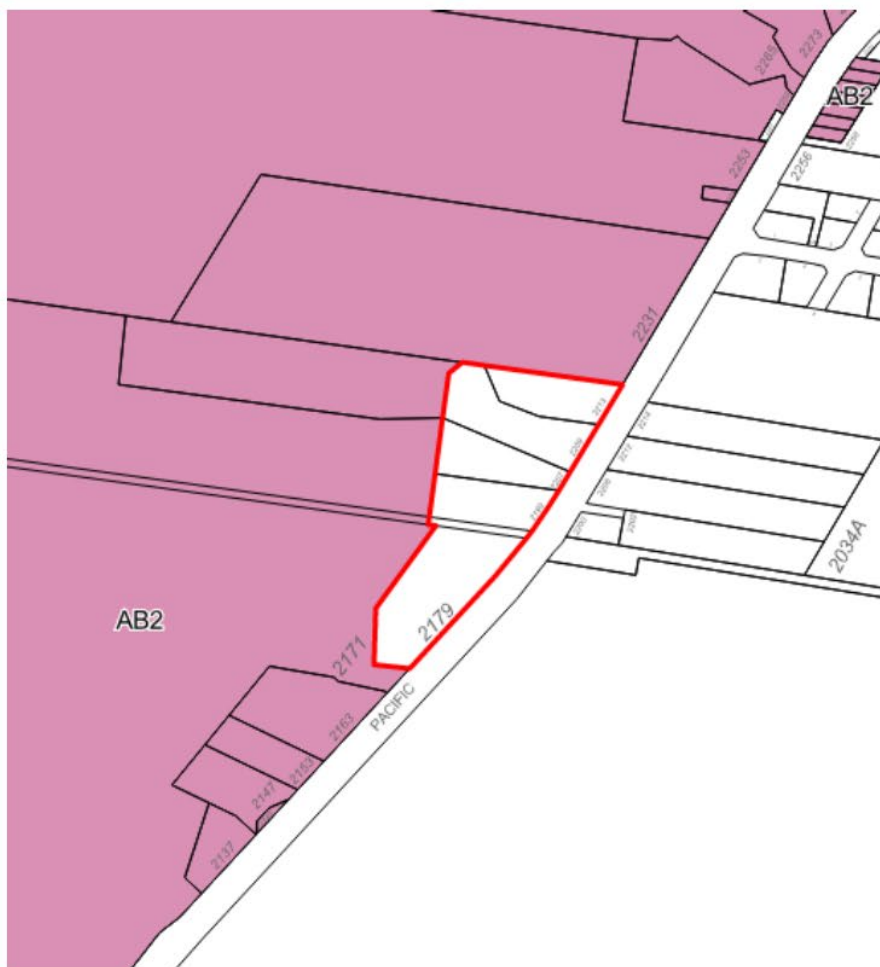
ATTACHMENT 1 – CURRENT LAND ZONING MAP



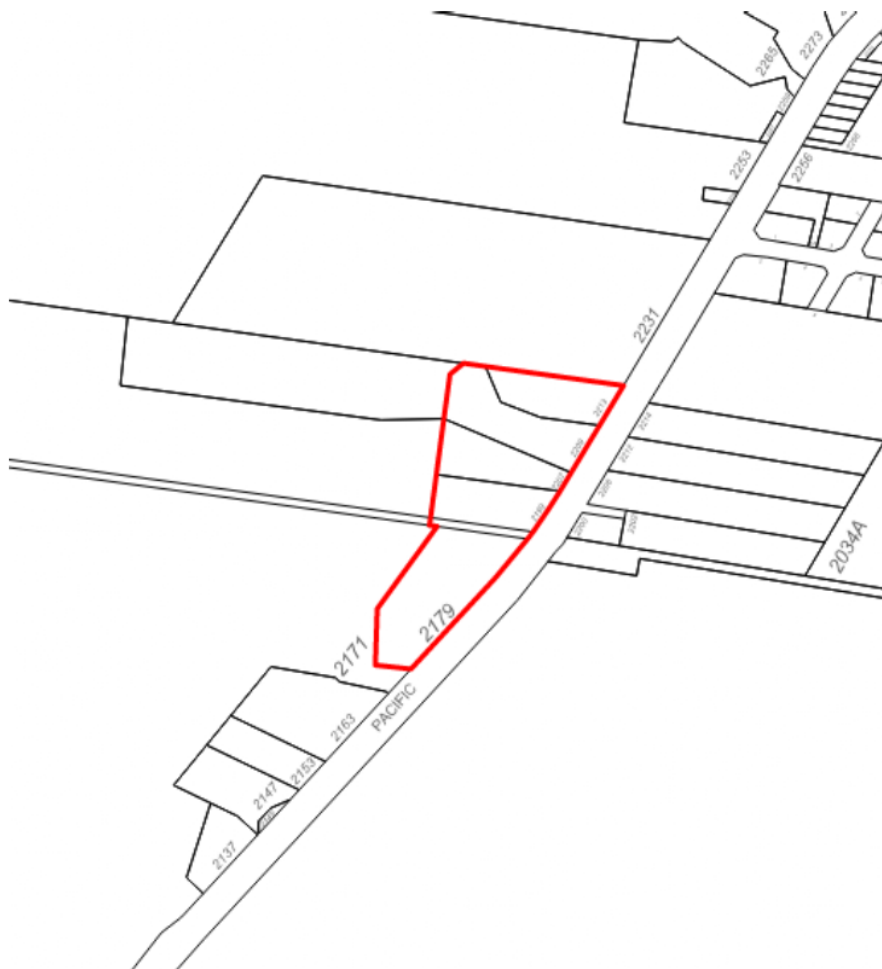
ATTACHMENT 3 – EXISTING LOT SIZE MAP



ATTACHMENT 4 – PROPOSED LOT SIZE MAP



ATTACHMENT 5 – EXISTING URBAN RELEASE AREA MAP



**ATTACHMENT 7 – EXCERPT FROM DRAFT DA PROCESS
IMPROVEMENT DCP AMENDMENT – PART D1 HEATHERBRAE**

Information requested in this report can be inspected upon request.

**ATTACHMENT 8 - EXCERPT FROM THE RAYMOND TERRACE
AND HEATHERBRAE STRATEGY (PAGES 97-99)**

Information requested in this report can be inspected upon request.

ATTACHMENT 9 – KOALA HABITAT ASSESSMENT

Information requested in this report can be inspected upon request.

**ATTACHMENT 10 – DEPARTMENT OF PRIMARY INDUSTRY
(AGRICULTURE) CORRESPONDENCE**

Information requested in this report can be inspected upon request.

ATTACHMENT 11 – LAND USE CONFLICT RISK ASSESSMENT

Information requested in this report can be inspected upon request.

ATTACHMENT 12 – PRELIMINARY CONTAMINATION ASSESSMENT

Information requested in this report can be inspected upon request.

**ATTACHMENT 13 – SURVEY MAP (FLOOD PLANNING AND ZONE
BOUNDARY)**

Information requested in this report can be inspected upon request.

ATTACHMENT 14 – FLOOD CERTIFICATES

Information requested in this report can be inspected upon request.

ATTACHMENT 15 – TRAFFIC IMPACT ASSESSMENT

Information requested in this report can be inspected upon request.

ATTACHMENT 16 – TRANSPORT FOR NSW CORRESPONDENCE

Information requested in this report can be inspected upon request.

ATTACHMENT 17 – HUNTER WATER PRELIMINARY SERVICING ADVICE

Information requested in this report can be inspected upon request.

ITEM 1 - ATTACHMENT 3 SUMMARY OF SUBMISSIONS.

Heatherbrae planning proposal and draft Development Control Plan 2014
Amendment – Part D1 Heatherbrae (DCP) Response to Submissions

No.	Author of submission	Comment	Council response
1	Berry Park Pty Ltd on behalf of 2179 Pacific Highway, Heatherbrae	The submission supported the proposed rezoning to facilitate a bulky goods destination in Heatherbrae.	Noted.
		The submission requests the legend in Figure DC of the draft DCP Amendment be amended to refer to the 'Indicative Local Street' as an "Indicative Local Street/Right of Way" to allow for optional private road access arrangements.	The purpose of the indicative local street in Figure DC is to encourage the coordinated development of an intersection and internal road layout that provides access to all lots proposed to be rezoned. The DCP would not prevent an alternative appropriate private road arrangement that could meet this objective. Council approved the DCP amendment on the 24 November 2020.
2	Catalyze Property Consulting Pty Ltd on behalf of 2207 and 2209 Pacific Highway, Heatherbrae	The submission objects to the location of the indicative intersection with the Pacific Highway in Figure DC of the draft DCP Amendment as it may delay the development of adjacent land until the intersection and inter-allotment access have been provided.	Following consultation with Transport for NSW, the location of the indicative intersection in Figure DC was amended to align with the private road located between 2179 and 2199 Pacific Highway, Heatherbrae. Council approved the DCP amendment on the 24 November 2020.
		The submission requested Figure DC be amended to locate the indicative intersection between 2179 and 2199 Pacific Highway, Heatherbrae over an existing privately owned road.	The purpose of the indicative local street and intersection in Figure DC is to encourage the coordinated development of an intersection and internal road layout that provides access to all lots subject to the proposed rezoning. The DCP would not prevent an alternative intersection and road layout that was supported by appropriate studies and provided access to all lots subject to the proposed rezoning.
		The submission requests Council provide advice on how the existing private	Any future development application will be required to consider the impact of

		road located between 2179 and 2199 Pacific Highway, Heatherbrae will operate.	development on the existing private road and its operations. It is not considered that this matter is likely to prejudice the orderly development of the subject land.
		The submission requests Council provide advice on how the indicative intersection in Figure DC of the draft DCP would be funded and apportioned.	An intersection will be a requirement to develop relevant land for commercial development. The landowners/developers acting on the consent would be required to fund this intersection. The apportionment of costs is a civil matter to be negotiated between the landowners and developers.
3	Transport for NSW	The submission strongly recommended relocating the proposed Traffic Control Signalised (TCS) intersection 50 metres north in line with the private road.	The DCP amendment prepared to support the planning proposal was amended to identify an indicative intersection in line with the referenced private road. Council approved the DCP amendment on the 24 November 2020.
		The submission stated the TCS intersection should be provided prior to any development occurring on-site, including subdivision.	The subject land is proposed to be mapped as an urban release area (URA). Clause 6.5 of the Port Stephens Local Environmental Plan (LEP) requires the satisfaction of TfNSW for the provision of vehicular access to the Pacific Highway prior to the granting of development consent for subdivision.
		The submission noted that each property has an agreed access point with consent under section 70 of the Roads Act 1993, which is applicable to the current land use only.	The current land use and existing access can continue following a rezoning. The land use can only change following a development application which would require new vehicle access arrangements.
		The submission recommended that all existing consented access points should be revoked as a result of the planning proposal and a new access agreement will be	The planning proposal will not revoke existing access points as a new access agreement should be determined in conjunction with a development application following a rezoning. Council approved a DCP amendment on

ITEM 1 - ATTACHMENT 3 SUMMARY OF SUBMISSIONS.

		created to suit future development. It also noted the new access points will be established under a Roads Act Section 70 process. The submission requested Council to create an 88B instrument protecting the common boundary of the site to prevent any further direct points over this site as part of the rezoning conditions.	the 24 November 2020 for Heatherbrae to ensure the existing access arrangements will be replaced with a single intersection. The specifics of this arrangement can be determined at the development application stage. A development application will be required to meet the satisfaction of TfNSW prior to consent being granted in accordance with Clause 6.5 of the LEP.
4	Department of Primary Industries (Agriculture)	The submission recommended undertaking a Land Use Conflict Risk Assessment (LUCRA) to identify risks and potential mitigation strategies.	A LUCRA has been prepared to support the planning proposal.

MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019**ITEM NO. 3****FILE NO: 19/328983
EDRMS NO: 58-2019-4-1****PLANNING PROPOSAL FOR 2179 PACIFIC HIGHWAY, HEATHERBRAE**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal (**ATTACHMENT 3**) to amend the Land Zoning Map and Minimum Lot Size Map under the Port Stephens Local Environmental Plan 2013 at 2179, 2199, 2207, 2209 and 2213 Pacific Highway, Heatherbrae (Lot 4211 DP 747474, Lot 53 DP 534043, Part Lot 513 DP 587997, Part Lot 512 DP 587997 and Lot 511 DP 587997) to rezone the land from RU2 Rural Landscape to B5 Business Development and remove development standards for minimum lot size.
- 2) Forward the Planning Proposal to the NSW Department of Planning, Industry and Environment for a Gateway determination and request authority to make the plan.

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

226	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Adopt the Planning Proposal (ATTACHMENT 3) to amend the Land Zoning Map and Minimum Lot Size Map under the Port Stephens Local Environmental Plan 2013 at 2179, 2199, 2207, 2209 and 2213 Pacific Highway, Heatherbrae (Lot 4211 DP 747474, Lot 53 DP 534043, Part Lot 513 DP 587997, Part Lot 512 DP 587997 and Lot 511 DP 587997) to rezone the land from RU2 Rural Landscape to B5 Business Development and remove development standards for minimum lot size.2) Forward the Planning Proposal to the NSW Department of Planning, Industry and Environment for a Gateway determination and request authority to make the plan.
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MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019

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

Those for the Motion: Mayor Ryan Palmer, Crs Chris Doohan, Ken Jordan, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to recommend that Council adopt a Planning Proposal (**ATTACHMENT 3**) to amend the Port Stephens Local Environmental Plan 2013 (LEP 2013) to enable commercial development at 2179, 2199, 2207, 2209 and 2213 Pacific Highway, Heatherbrae. A locality plan is provided at (**ATTACHMENT 1**).

The subject site is currently zoned RU2 Rural Landscape and the Planning Proposal seeks to rezone the land to B5 Business Development. The Planning Proposal is responding to a direction from the Raymond Terrace and Heatherbrae Strategy 2015-2031, to facilitate Heatherbrae as a key destination for bulky goods.

The recommendation has been informed by the attached strategic planning assessment report (**ATTACHMENT 2**).

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

Date Lodged:	23 August 2019 (Revised 10 October 2019)
Proponent:	Perception Planning Pty Ltd on behalf of the landowners
Subject Property:	2179 Pacific Highway, Heatherbrae Lot 4211 DP 747474, 2199 Pacific Highway, Heatherbrae Lot 53 DP 534043, 2207 Pacific Highway, Heatherbrae Part Lot 513 DP 587997, 2209 Pacific Highway, Heatherbrae Part Lot 512 DP 587997, and 2213 Pacific Highway, Heatherbrae Lot 511 DP 587997.
Site Area:	~ 5.9ha (59,361sqm)
Current Zoning:	RU2 Rural Landscape
Proposed Zoning:	B5 Business Development
Current Minimum Lot Size:	20 Hectares
Proposed Minimum Lot Size:	No minimum lot size

MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019

Supporting Studies	<ul style="list-style-type: none"> • Planning Proposal (Perception Planning Pty Ltd, 10 October 2019) • Raymond Terrace and Heatherbrae Economic Study (Hill PDA (on behalf of PSC), 2012) • Port Stephens Commercial and Industrial Lands Study (SGS (on behalf of PSC), 2010) • Traffic Impact Assessment (Intersect Traffic 2019)
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Existing and surrounding land uses

The land subject to the Planning Proposal is located within Heatherbrae and adjoins the Pacific Highway (**ATTACHMENT 1**). The subject site comprises multiple lots and part lots that are currently used for residential purposes. The part lots which are excluded from this Planning Proposal serve rural purposes and are currently used for livestock grazing. The existing development includes residential dwellings, with some home businesses in operation, and farm sheds. The subject site has been largely cleared with any native vegetation limited to landscaped areas around the dwellings.

The surrounding land contains a mixture of residential, rural, commercial and industrial uses. Heatherbrae has historically been characterised as a major service centre for the Pacific Highway with a range of commercial development including hotels, service stations, take-away food premises and more recently bulky goods premises. The planned M1 Pacific Motorway extension to Raymond Terrace will bypass Heatherbrae and is expected to reduce traffic volumes and may reduce demand for the existing service industry. A bulky goods retail precinct would respond to this changing market and could facilitate increased commerce in Heatherbrae. This is consistent with the overall direction of Council's adopted Raymond Terrace and Heatherbrae Strategy 2015-2031.

Purpose of the amendment

The Planning Proposal seeks to amend the LEP 2013 to facilitate the development of bulky goods premises in Heatherbrae.

In 2012, Council commissioned the Raymond Terrace and Heatherbrae Economic Study (Hill PDA Study) which identified an additional demand for bulky goods within Heatherbrae. Currently, this demand is being met by stores outside of the Port Stephens Local Government Area (LGA) such as Rutherford and Kotara.

The Hill PDA Study, as well as the earlier Port Stephens Commercial and Industrial Lands Study (2010), have identified Heatherbrae as the most suitable location for bulky goods premises in the LGA. The Raymond Terrace and Heatherbrae Strategy 2015-2031 was informed by these studies and identified suitable land for rezoning on the western side of the Pacific Highway, north of the subject site (**ATTACHMENT 4**).

MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019

Suitability of the subject land

The subject site is located just outside the land identified for rezoning in the Raymond Terrace and Heatherbrae Strategy, however the site is considered appropriate to achieve the direction of the strategy to provide adequate land to facilitate bulky goods development in Heatherbrae.

The subject site is considered to be suitable for commercial development given that it is relatively unconstrained, within proximity of Raymond Terrace and located adjacent to the Pacific Highway. Furthermore, while the land is currently zoned RU2 Rural Landscape, it is located opposite land already zoned B5 Business Development.

Proponent Justification

The Planning Proposal has demonstrated consistency with regional, district and local plans. The rezoning is consistent with the Hunter Regional Plan as it will help grow the economy of Port Stephens by providing additional employment lands within an existing employment cluster. It is also consistent with the Greater Newcastle Metropolitan Plan as it will provide employment within proximity of Raymond Terrace, a strategic centre.

The rezoning will achieve Direction 1.1 of the Raymond Terrace and Heatherbrae Strategy; to grow a more regionally competitive centre by providing lands to strengthen the retail offering of Raymond Terrace and facilitating Heatherbrae as a destination for bulky goods. Additionally, the Planning Proposal will respond to the planned M1 extension that will bypass Heatherbrae by providing alternative retail opportunities that could progress Heatherbrae from a service centre into a destination for bulky goods.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	5,600	Stage 1 Planning Proposal Fees
Reserve Funds	No		

MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the DPIE will refuse the Planning Proposal at Gateway.	Low	Adopt the recommendations of this report.	Yes
There is a risk that there is insufficient land available in Heatherbrae to attract bulky goods premises to satisfy demand in the locality.	Medium	Adopt the recommendations of this report.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic

The Planning Proposal is expected to deliver a range of social and economic benefits to the existing and future community, including:

- Employment through construction jobs to carry out subdivision and building works, as well as ongoing employment through retail and transport jobs to service the future commercial development.
- Reduced need for residents to travel for bulky retail shopping.
- Increased commercial opportunities for businesses within the LGA.
- Increased expenditure within the LGA.
- Strengthening of Heatherbrae as a retail destination for bulky goods.

MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019Compatibility with Surrounding Land Uses

The land subject to the Planning Proposal is surrounded by several businesses in existing rural, recreational and business zones along the Pacific Highway. The land adjoining the site to the south is a horse stud farm including associated outbuildings and sheds. A caravan park adjoins the site to the north. Surrounding land uses on the other side of the Pacific Highway from the site include a food and drink premise, a caravan dealership and a bulky goods centre with hardware and other shops. The rezoning would complement the businesses on the land already zoned B5 Business Development opposite the site. The applicant has indicated that the likely future uses of the site would consist of similar bulky goods development. It is considered that future uses of the site are not likely to conflict with the operation of the adjoining stud farm or caravan park and site specific measures to minimise any impacts could be addressed at the development application stage.

Traffic

Access to the site is from the Pacific Highway and the proponent has undertaken initial consultation with Roads and Maritime Services (RMS) to prepare a Traffic Impact Assessment. The Traffic Impact Assessment identifies that intersection upgrades may be required to support future development on the site. It is noted that the construction of the Heatherbrae bypass and further consultation with RMS will specify the appropriate traffic studies and works to be undertaken following a Gateway determination.

Environmental

The site contains a number of isolated trees, which Council officers have identified as koala feed trees. The proponent has confirmed a preliminary ecological assessment will be undertaken to address the Port Stephens Comprehensive Koala Plan of Management (CKPOM) should the Planning Proposal receive a Gateway determination to proceed. Any required offsetting to address the CKPOM is likely to be minor. It is likely this can be resolved at subdivision stage and would not impede a rezoning.

CONSULTATIONInternal

Internal consultation was undertaken with the Natural Resources and Development Engineering units. Matters identified are of minor significance and may be resolved post Gateway determination.

MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019External

Consultation with the community and State Government agencies will be undertaken in accordance with the Gateway determination. It is anticipated that the Planning Proposal will be exhibited for 28 days post Gateway determination.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Assessment Report.
- 3) Planning Proposal. (Provided under separate cover)
- 4) Strategic Zoning Map.

COUNCILLORS ROOM

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

TABLED DOCUMENTS

Nil.

ITEM NO. 2

**FILE NO: 20/316454
EDRMS NO: PSC2006-0191V2**

DRAFT VOLUNTARY PLANNING AGREEMENT - KINGS HILL DEVELOPMENT

REPORT OF: JANELLE GARDNER - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Agree in principle to the preparation of a draft Voluntary Planning Agreement for the purposes of securing biodiversity offsets related to Development Application 16-2018-722-1 for land at Kings Hill, generally in accordance with the proposed terms set out in this report.
-

BACKGROUND

The purpose of this report is to seek in principle agreement to prepare a draft Voluntary Planning Agreement (VPA) between Council and Kings Hill Development No 1 Pty Ltd and Kings Hill Development No 2 Pty Ltd (the Developer), generally in accordance with the proposed terms set out in this report.

The draft VPA will relate to a concept development application submitted by the Developer for future residential subdivision within the Kings Hill Urban Release Area (URA) (Development Application 16-2018-772-1). The concept development is for 1,900 residential lots and the application seeks consent to carry out stage 1 subdivision works for initial site preparation and vegetation clearing. The application is currently under assessment and will be determined by the Hunter and Central Coast Regional Planning Panel.

The draft VPA is proposed by the Developer to secure the biodiversity offsets that are necessary to offset the likely impacts of the proposed development. The proposed terms of the draft VPA include:

- Approx. 231 hectares of conservation land at Kings Hill (**ATTACHMENT 1**) will be rehabilitated and enhanced by the Developer, prior to being transferred to Council ownership.
- The Developer will undertake works over 5 years to enhance the conservation land in accordance with a Biodiversity Management Plan, including fencing and weeding. These works have been costed at \$3,500,000 and will be entirely funded by the Developer.
- The Developer will provide a bank guarantee of \$600,000 as rolling security that these works will be completed.

- If Council is satisfied with the enhancement works completed by the Developer, the Developer will dedicate the conservation land at no cost to Council.
- On dedication of the land to Council, the Developer will make a monetary contribution to Council of \$3,000,000 to fund the ongoing management of the conservation land for 40 years, including weed and pest management, bushfire management, fencing and trail maintenance.
- After 40 years, the indicative ongoing costs to Council have been calculated at approx. \$80,000 per annum.
- The draft VPA will not impact the obligations of the Developer to pay local infrastructure contributions under the Port Stephens Local Infrastructure Contributions Plan 2020.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

Upon dedication, the draft VPA will include an obligation for the Developer to make a monetary contribution of \$3,000,000 to fund the ongoing management of the conservation land for 40 years. After this time, the management of the land will be funded by Council.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	Yes	\$3,000,000 (plus accrued interest)	Monetary contribution proposed on dedication under the terms of a draft VPA.

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the biodiversity offsets proposed in the draft VPA are not adequate to offset the likely impacts of the proposed development.	Low	The biodiversity offsets proposed have been independently assessed as adequate as part of the assessment of Development Application 16-2018-772-1. Adopt the recommendations.	Yes
There is a risk that the monetary contributions will be insufficient to fund the maintenance of the conservation land.	Low	The cost estimates have been verified using Council data from the management of other biodiversity sites. Adopt the recommendations.	Yes
There is a risk that Council will not be able to fund the ongoing management of the land after 40 years.	Low	Council regularly prepares funding strategies to manage similar public assets dedicated to Council to support growth, such as the roads and drains in the Strategic Asset Management Plan. Adopt the recommendations.	Yes

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

The draft VPA will be prepared in accordance with section 7.4 of the EP&A Act. The draft VPA will be reported to Council for endorsement prior to public exhibition in accordance with section 7.5.

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

Should Council endorse public exhibition of a draft VPA, public notice will be undertaken in accordance with clause 25D of the EP&A Regulation and an explanatory note will be prepared to be exhibited with the draft VPA in accordance with clause 25E of the EP&A Regulations.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The draft VPA will secure conservation land to offset the likely impacts of proposed development under Development Application 16-2018-772-1. The draft VPA will provide for the rehabilitation, maintenance and management of the conservation land

and will result in overall neutral or beneficial environmental impacts, given the development of the urban release area at Kings Hill.

The draft VPA will secure funding for Council to maintain the conservation land for 40 years and after that time there will be an economic cost to Council for the ongoing management of the conservation land. The draft VPA will support the future development of the urban release area at Kings Hill, which will provide housing (approx. 3500 new homes), jobs, and direct economic benefits to the local economy (estimated at \$140 million into the local economy annually) and will therefore have overall positive social and economic impacts in Port Stephens.

CONSULTATION

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

Internal

Consultation has been undertaken with the Development Assessment and Compliance, Financial Services sections, and the Natural Resources unit of Council. There are no objections to the recommendations of this report.

External

A draft VPA and explanatory note will be reported to Council prior to any public exhibition in accordance with the EP&A Act and EP&A Regulations.

OPTIONS

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

ATTACHMENTS

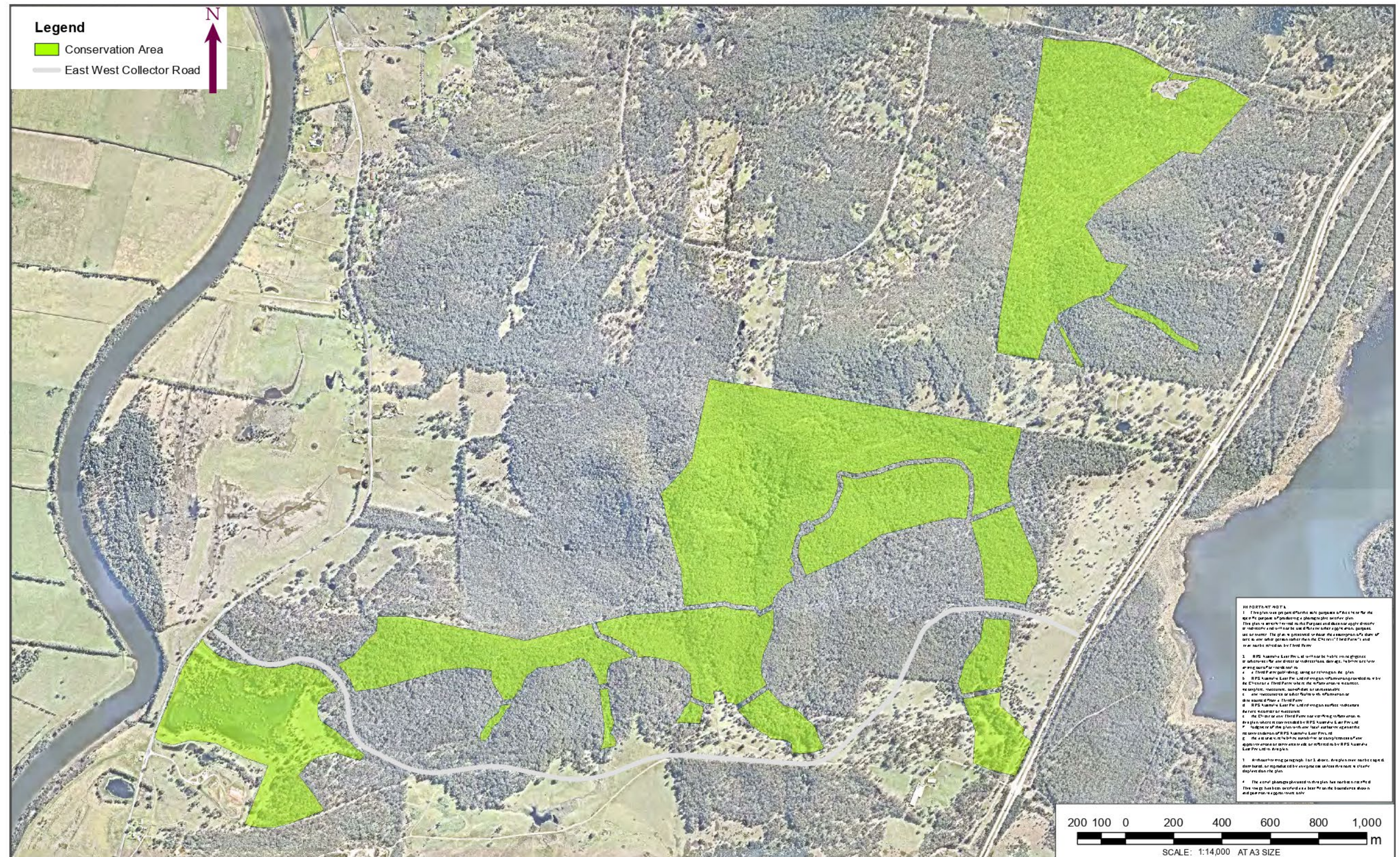
- 1) Map of conservation land.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



TITLE : FIGURE 1: THE CONSERVATION AREA

LOCATION : KINGS HILL

DATUM: GDA 1994

DATE : 19/12/2019

VERSION (PLAN BY): AA3 (mark.aikens)

PROJECTION: GDA 1994 MGA Zone 56

PURPOSE: ECOLOGY

J:\GIS\130430 Raymond Terrace\10 - Drafting\egis Map Documents\EcolReport7 - BM P20191106 PATH: Revised\130430 Figure 1 Conservation Area A3 20191106.mxd

CLIENT: PM NO 1 PTY LIMITED
 JOB REF: PR130430

RPS AUSTRALIA EAST PTY LTD (ABN 44 140 292 762)
 Unit 2A, 45 Fitzroy Street, Carrington, NSW, Australia, 2294 PO Box 120, Carrington, NSW, 2294
 T: 02 4940 4200 F: 02 4940 4299 www.rpsgroup.com.au

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ITEM NO. 3

**FILE NO: 20/326341
EDRMS NO: PSC2018-01095**

**AMENDMENT TO THE PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014
- PART B5 FLOODING**

REPORT OF: JANELLE GARDNER - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submission received during the exhibition period.
- 2) Endorse the Port Stephens Development Control Plan 2014 – Part B5 Flooding and Part E1 Glossary (DCP Amendment) (**ATTACHMENT 1**).
- 3) Provide public notice that the amendment to the Port Stephens Development Control Plan 2014 has been approved in accordance with the Environmental Planning and Assessment Regulation 2000.

BACKGROUND

The purpose of this report is to outline the outcomes of the exhibition of the draft Port Stephens Development Control Plan 2014 - Part B5 Flooding and Part E1 Glossary (DCP Amendment) (**ATTACHMENT 1**) and to seek Council approval to make the DCP Amendment.

The DCP Amendment will give effect to planning priority 8 of the Port Stephens Local Strategic Planning Statement (LSPS) to improve resilience to hazards and climate change and implements the recommendations of Council's Floodplain Risk Management Policy Committee. The DCP Amendment sets out prescriptive and performance based controls for new development on flood prone land, in accordance with the NSW Floodplain Development Manual 2005.

At its meeting on 27 March 2018, Council endorsed the DCP Amendment for exhibition. A draft of the DCP Amendment was publically exhibited for 28 days from 12 April 2018 to 10 May 2018 and 1 submission was received. A summary and response to the submission is provided at (**ATTACHMENT 2**).

Since the exhibition of the DCP Amendment, Council resolved to form the Floodplain Risk Management Policy Committee (the Committee) comprising of Councillors and Council staff to rewrite Council's Floodplain Policy. As part of this, the Committee considered the draft DCP Amendment and proposed amendments to:

- Clarify the application of the controls for single dwellings proposed in a floodway, with reference to the NSW Floodplain Development Manual 2005.
- Confirm the intent of the DCP Amendment is not to facilitate residential subdivision or the intensification of existing residential uses in a floodway.

In addition to the above clarification, the DCP Amendment has been substantially reformatted following exhibition to make it more user friendly, including changes to:

- More clearly describe the application of the DCP chapter and the different assessment pathways.
- Include explanatory materials such as flowcharts, diagrams and charts.

The DCP Amendment will provide greater certainty for proponents and the community about the assessment process and the controls that apply to new development on flood prone land.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the DCP Amendment is not made clear and consistent guidance about development on flood prone land will not be available to proponents and the community.	Medium	Adopt the recommendations.	Yes
There is a risk that if the DCP Amendment is not made the DCP 2014 will contain outdated requirements and provisions that do not align with Council policies and State guidelines.	Medium	Adopt the recommendations.	Yes

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

Division 3.6 of the EP&A Act relates to development control plans. Should Council resolve to approve the DCP Amendment, all necessary matters in making the amendment to the plan will be carried out in accordance with the EP&A Act.

Local Government Act 1993

Under the Local Government Act 1993, Council is immune from flood risk liability if policies and plans are prepared in accordance with the NSW Floodplain Development Manual 2005 (section 733). The DCP Amendment provides controls for flood prone land in accordance with the NSW Floodplain Development Manual 2005 and adopts the principles of the manual.

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

Division 2 of Part 3 of the EP&A Regulations specifies the requirements for public participation when a DCP is amended. The public exhibition of the DCP Amendment has satisfied these requirements.

Hunter Regional Plan 2036 (HRP 2036)

The HRP 2036 includes direction 16 to increase resilience to hazards and climate change. The DCP Amendment responds to direction 16 by ensuring Council has controls that apply to development on flood prone land that are consistent with the NSW Floodplain Development Manual 2005.

Port Stephens Local Strategic Planning Statement (LSPS)

The LSPS was adopted on 14 July 2020. The DCP Amendment will give effect to planning priority 8, to improve resilience to hazards and climate change and to implement the recommendations of Council's Floodplain Risk Management Policy Committee.

Floodplain Risk Management Policy and Flood Hazard Maps

The DCP Amendment has been prepared to align with Council's Floodplain Risk Management Policy and associated maps. The DCP, Floodplain Risk Management Policy and Council's Flood Hazard Maps operate to provide a framework for the assessment of flooding impacts during the planning and assessment of development on flood prone land. All of these documents have been prepared in accordance with the NSW Floodplain Development Manual 2005 in order to satisfy the Local Government Act 1993.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The DCP Amendment is a key part of implementing Council's Floodplain Risk Management Policy (the policy) and reducing the impact of flooding and flood liability on individual owners and occupiers of flood prone property.

The DCP Amendment is consistent with the policy and recognises that flood prone land is a valuable resource that should not be sterilised by unnecessarily precluding appropriate development. It seeks to ensure that the economic costs which may arise from damage to property or risk to life from flooding is not greater than that which can reasonably be managed by a property owner and the community.

Development on flood prone land can have detrimental environmental implications and the DCP Amendment is consistent with the policy, which aims to ensure that development on flood prone land does not have unreasonable environmental impacts by significantly altering flood behaviour.

CONSULTATION

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

Internal

Consultation with internal stakeholders has been undertaken to inform the preparation of the DCP Amendment, including the Development Engineering unit and the Development Assessment and Compliance section.

The DCP Amendment has also been reviewed by Council's Floodplain Risk Management Policy Committee (the Committee), comprising of Councillors and Council staff. Changes were made to the DCP Amendment on the recommendation of the Committee to clarify the application of the controls for single dwellings proposed in a floodway and to confirm the intent is not to facilitate residential subdivision or the intensification of existing residential uses in a floodway.

External

The DCP Amendment was placed on public exhibition for 28 days from 12 April 2018 to 10 May 2018. A notice was placed in the Port Stephens Examiner and copies of the exhibition material were made available on the Council website, at the Council administration building, and Council libraries.

One community submission was received which raised operational concerns about specific stormwater drainage infrastructure. The submission did not raise any matters in relation to flooding or the DCP Amendment. The submission was referred to the Assets Section for review and response. The submission is summarised in **(ATTACHMENT 2)**.

OPTIONS

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

ATTACHMENTS

- 1) Chapter B5 Flooding.
- 2) Summary of Submission.

COUNCILLORS ROOM

- 1) Copy of submission.

TABLED DOCUMENTS

Nil.

B5

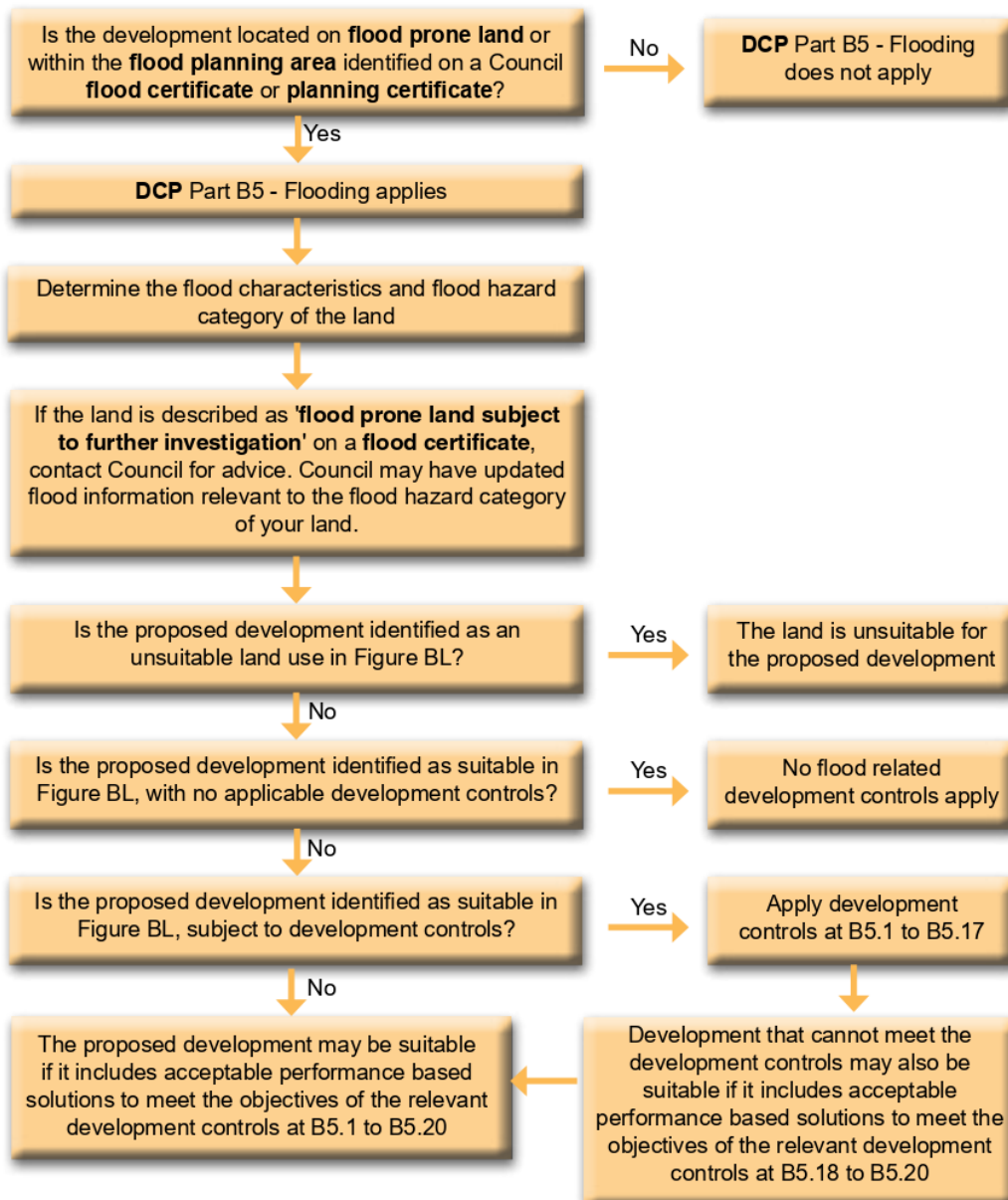
B5 Flooding

Application

This Part applies to all development on **flood prone land**.

Refer to the flow chart at Figure B1 to determine the assessment pathway for new development.

Figure B1: Determine the assessment pathway



B5

How flood impacts are assessed

A **flood certificate** identifies the flood category and flooding characteristics of the land to inform the assessment of proposed development.

The **flood certificate** will describe the highest flood category applicable to the land (a combination of the **flood hazard** and the **hydraulic category**), as well as various flood levels (such as the **flood planning level** and the **probable maximum flood** level). Figure BJ shows the possible flood categories and Figure BK shows how flood categories reflect the landscape and the relationship between water depth and water velocity in a flood.

Land in the hydraulic categories **flood fringe**, **flood storage** and **floodway** will generally make up the visible **floodplain**, whilst **overland flow paths** feed into the **floodplain**. Consequently, the characteristics of **overland flow paths** are considered separately from other flood categories and are not detailed in Figure BK below.

A **flood certificate** may also identify land as '**minimal risk flood prone land**' where only minimal impacts are anticipated, or as '**flood prone land subject to further investigation**' when Council does not hold detailed flood information. The requirements that apply to these categories are detailed in this Part.

Figure BJ: Flood categories

Hydraulic category	Flood hazard	
	Low hazard	High hazard
Flood Prone	Minimal Risk Flood Prone Land	
Flood Fringe	Low Hazard Flood Fringe	High Hazard Flood Fringe
Flood Storage	Low Hazard Flood Storage	High Hazard Flood Storage
Overland Flow Path	Low Hazard Overland Flow Path	High Hazard Overland Flow Path
Floodway	Low Hazard Floodway	High Hazard Floodway

B5

Figure BK: Flood hazard categories: landscape

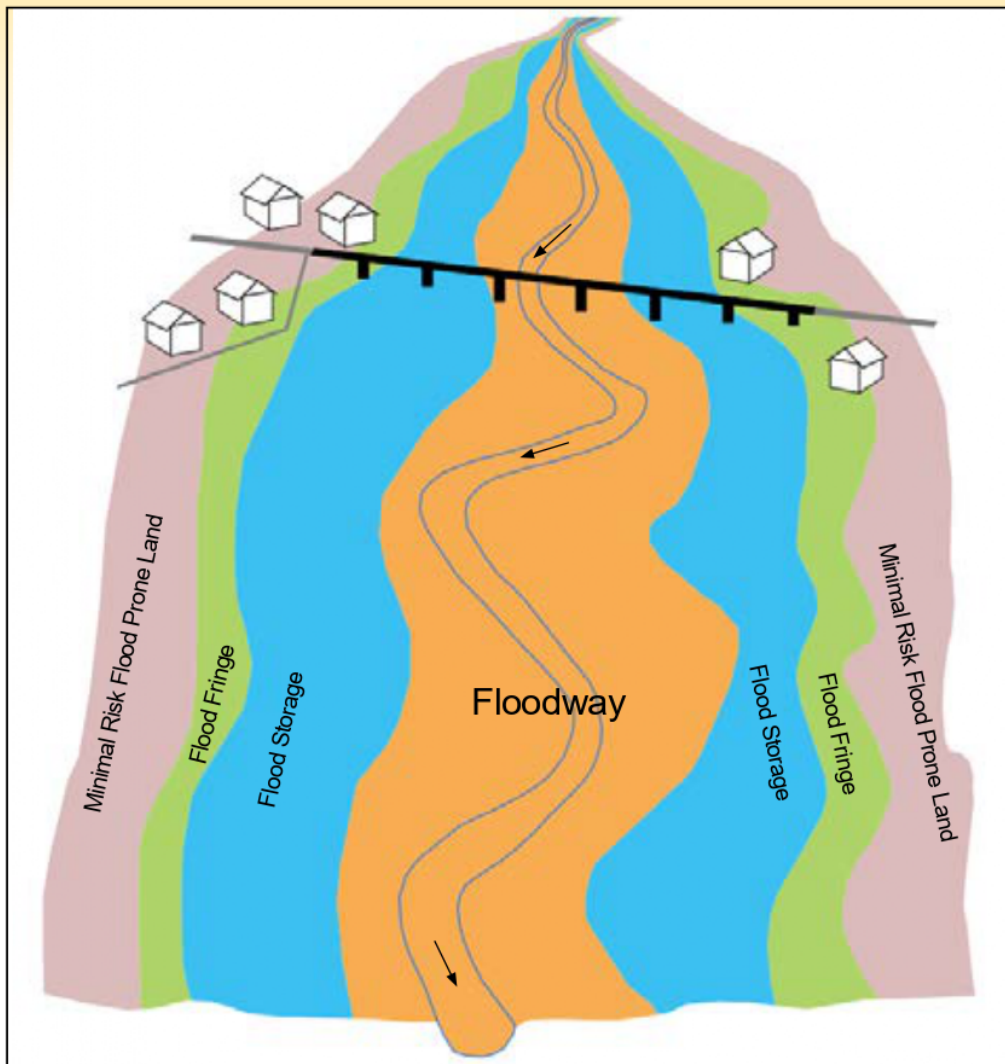
**Determining development suitability**

Figure BL below sets out whether or not different types of new development are considered suitable on land designated a particular flood hazard category (as identified on a **flood certificate**).

Most new development proposed on **flood prone land** will need to address the development controls in this Part to mitigate risks and be considered suitable (Refer to Figure BL below).

Where risks are assessed as low, such as where land is identified as '**minimal risk flood prone land**' on a **flood certificate**, the requirements for new development will be minimal and most new development on that land is considered suitable (Refer to Figure BL below).

B5

In some instances the risks of new development are substantially higher and the ability to develop the land is less certain. In these instances, an applicant may prepare performance based solutions to meet the objectives of the relevant development controls and demonstrate that the risks have been mitigated. If the solution cannot demonstrate acceptable mitigation of risk, the new development may be an unsuitable use of the land (Refer to Figure BL below).

Figure BL: Suitable land uses by flood hazard category (as identified on a flood certificate)

Development suitability										
	Flood Hazard Categories (as identified on a flood certificate)	Minimal Risk Flood Prone Land	Low Hazard Flood Fringe	High Hazard Flood Fringe	Low Hazard Flood Storage	High Hazard Flood Storage	Low Hazard Overland Flow Path	High Hazard Overland Flow Path	Low Hazard Floodway	High hazard Floodway
Development vulnerable to emergency response and critical infrastructure		S	U	U	U	U	U	U	U	U
Residential accommodation (other than a dwelling house)		NA	S	S	S	S	S	S	U	U
Residential subdivision		NA	S	S	S	S	S	S	U	U
Dwelling house		NA	S	S	S	S	S	S	PB	PB
Farm buildings		NA	S	S	S	S	S	S	S	S
Fill		NA	S	S	S	S	S	S	S	S
Non-residential subdivision		NA	S	S	S	S	S	S	PB	PB
All other development		NA	S	S	S	S	S	S	PB	PB
Key										
U	Unsuitable land use on flood prone land									
NA	Suitable, no applicable development controls									
S	Suitable, subject to development controls									
PB	A performance based solution may be provided to demonstrate that the proposed land use is suitable									

B5.A Development on all flood prone land

Objectives

- To ensure development satisfies the provisions of the **LEP**.
- To provide detailed controls for the assessment of development proposed on **flood prone land** in accordance with the *Environmental Planning and Assessment Act 1979*.
- To ensure flood risk is considered as early as possible in the planning and development process, based on the best available flood information.
- To reduce the impact of flooding and flood liability on individual owners and occupiers of **flood prone land**.
- To recognise **flood prone land** as a valuable social, economic and environmental resource that should not be sterilised by inappropriate development.

B5

- To ensure that the use and development of **flood prone land** includes risk consequences that are manageable.
- To implement the principles of the **NSW Government 'Floodplain Development Manual'** (as updated from time to time), **Construction of Buildings in Flood Hazard Areas (Australian Building Codes Board)** and Council's **Floodplain Risk Management Policy** and **Flood hazard maps** as identified within Figure B1.

Development controls

Site selection

- B5.1 If multiple flood hazard categories are specified for a site on a **flood certificate**, the proposed development must be located on the land with the lowest flood risk.

Finished floor level (FFL)

- B5.2 Development must meet the minimum **FFL** as specified in Figure BM.
- Note: The National Construction Code may provide minimum **FFLs** for some categories of development which prevail to the extent of any inconsistency with these controls.
- The finished surface of open space car parking, carports and driveways should be designed having regard to vehicle stability, including consideration of depths and velocity during inundation by flood waters.

Figure BM: Finished floor level

Development type	Required FFL
Development vulnerable to emergency response, and critical infrastructure	Probable maximum flood (PMF) level
Residential accommodation (including dwelling houses)	<ul style="list-style-type: none"> Habitable rooms – flood planning level Non-habitable rooms – adaptable minimum floor level Flood Refuge – probable maximum flood Level (see B5.14 to determine if a flood refuge is required)
Subdivision	Flood planning level
Farm buildings	Onsite waster water level
Commercial premises	<ul style="list-style-type: none"> Habitable rooms - flood planning level Non-habitable rooms - onsite waster water level
Industrial premises	<ul style="list-style-type: none"> Habitable rooms - flood planning level Non-habitable rooms - onsite waster water level
Garages, open car parking spaces and carports	Current day 1% AEP flood level
Driveways and access	Current day 1% AEP flood level, or the flood immunity of the connecting public road

Development controls**Flood compatible design**

- B5.3 Development for a building (and/or an associated driveway or access) must be of a **flood compatible design** and construction and shall meet the relevant requirements in the **Construction of Buildings in Flood Hazard Areas (Australian Building Codes Board)**. Council may also require **structural certification** for development proposed on land which becomes a floodway in the **PMF**.

B5

Development controls

Fencing

- B5.4 Fencing on **flood prone land** should be stable in events up to the current day **1% AEP flood event** and not obstruct the flow of floodwater.

Electrical features

- B5.5 All incoming main power service equipment, including all metering equipment, and all electrical fixtures, such as power points, light fittings, switches, heating, ventilation and other service facilities must be located above the **FPL**, or where possible above the **PMF**.
- Where the above cannot be achieved, the following features shall be used:
- Electrical cabling is not to be installed within walls, or chased into walls; and
 - Any circuit containing switches, power points or any other electrical fitting that are located below the **FPL**, shall connect to the power supply through an individual Residual Current Device (**RCD**), located in the meter box.

Potentially hazardous and/or polluting material

- B5.6 The storage of hazardous or potentially hazardous materials, potentially polluting material or material that could be washed from site and cause harm downstream must be stored above the **FPL** with appropriate bunding.
- B5.7 Items that may wash away during flood events (e.g. rainwater tanks, hot water tanks, gas cylinders, shipping containers) must be elevated above the **1% AEP flood event** level in the year 2100 (without **freeboard**) or anchored to resist buoyancy and impact forces.

B5.B Development on all flood prone land other than minimal risk flood prone land

Objectives

In addition to the objectives listed in B5.A, the following objectives apply to development on all **flood prone land** other than **minimal risk flood prone land**:

- To ensure that appropriate controls are applied to development on land where more than a minimal risk is present.

Development controls

Flood impact and risk assessment

- B5.8 A **flood impact and risk assessment** is required for:
- Any **fill** on land identified as **floodway**.
 - Any **fill** located in a **flood storage area**, unless:
 - The net volume of **fill** does not exceed the lesser of 20% or 2000m³ of the **flood volume** of the lot in the **1% AEP flood event** in the year 2100 (this includes consideration of previous **fill** volumes); and
 - It is demonstrated that the **fill** does not adversely affect local drainage patterns of all events up to the **1% AEP flood event** in the year 2100.

B5

Development controls

- B5.8 Note: Fill in **flood storage areas** greater than the abovementioned volume can be offset by **flood storage**. Offsetting can be achieved through consolidation of lots and/or assigning an 'easement to flood land' on the compensatory lot/s. Compensatory lots must be located within the zone of influence of the proposed **fill** (as demonstrated by the **flood impact and risk assessment**) or adjacent to the proposed **fill** and be of the same hazard category of the subject site.
- Any **fill** for the purposes of a **livestock flood refuge mound**, unless the **livestock flood refuge mound** is located in an identified **flood fringe area**:
 - The volume/size and location of the **livestock flood refuge mound** meets the criteria in Figure BN; and
 - The size of the mound must have regard to the agricultural capacity of the land. The design and size of the mound shall be determined by reference to the *NSW Department of Primary Industries –Agriculture, 2009, 'Primefacts: Livestock flood refuge mounds'*; and
 - Where the proposed development could change flood behaviour, affect existing flood risk, or expose people to flood risks that require management or;
 - If Council determines a **flood impact and risk assessment** is necessary for any other reason.

Figure BN: Livestock flood refuge mound

Size of mound	Distance from nearest property
20m x 20m (at current day 1% AEP flood level and 0.5m below the current day 1% AEP flood level)	> 180m
20m x 20m (1.0m below the current day 1% AEP flood level)	> 40m
20m x 20m (1.5m below the current day 1% AEP flood level)	> 25m
40m x 40m (at current day 1% AEP flood level, 0.5m below the current day 1% AEP flood level and 1.0m below the current day 1% AEP flood level)	> 830m
40m x 40m (1.5m below current day 1% AEP flood level)	> 170m

Note: Interpolation between the values listed above should be based on the length of the mound perpendicular to the direction of flow, followed by the depth below the current day 1% **AEP flood event** level.

Development controls

Ongoing flood adaptation

- B5.9 For residential accommodation, subdivision, commercial premises, industrial premises, garages, open car parking spaces and carports, a reduced **planning horizon** of 50 years from the date of determination will be accepted where the design facilitates ongoing flood adaptation (ie the future raising of the building).
- Minor alterations and additions to existing residential accommodation
- B5.10 Where proposed alterations and additions to existing **residential accommodation** is less than 40% of the **gross floor area** of the existing **residential accommodation**, and does not involve a net increase in the number of bedrooms,

B5

Development controls

Council will consider a **FFL** lower than the **flood planning level (FPL)**, but not lower than the existing floor level. Any additional flood risk must include mitigation measures to reduce the overall flood risk of the development.

Driveways and access

B5.11 Access from the building envelope to the public road is to have a minimum **finished access level** of:

- The **flood immunity** of the connecting public road; or
- The current day **1% AEP flood event** level for the site.

B5.12 Earthworks for driveways and access must satisfy the objectives of B3.D of the **DCP** and **LEP**.

Note: Impacts on local drainage and localised flooding should be considered and addressed. Driveways should be designed and constructed in accordance with Councils standard design drawings.

Subdivision

B5.13 Subdivision that creates the ability to erect additional dwellings is to indicate building envelopes above the **FPL** and comply with the requirements of B5.11, B5.12 and B5.14 of this Part.

Emergency onsite flood refuge

B5.14 If evacuation egress from residential accommodation, a commercial premises, an industrial premises, fill or development vulnerable to emergency response and critical infrastructure to flood free areas cannot be achieved via a route that is flood free in the current day **1% AEP flood event** or is a **low hazard flood area**, an onsite **flood refuge** must be provided meeting the following criteria:

- Is located above the **PMF** level;
- Is intrinsically accessible to all people on the site, plainly evident and self-directing;
- Is accessible in sufficient time for all occupants with fail safe access and no reliance on elevators;
- Has unobstructed external access for emergency boats during flooding;
- Caters for the number of persons that could reasonably be expected on-site at any one time (approx. 2m² per person);
- Provides adequate shelter from the storm and has natural lighting and ventilation; and
- Contains sufficient clean water, a first aid kit, portable radio with spare batteries and a torch with spare batteries.

Note: If a **flood refuge** is required, the DA must be accompanied by **structural certification**.

Development on land identified as **overland flow path**

B5.15 A **site based overland flow report** must be submitted for development located within a designated **overland flow path**. The purpose of this report is to demonstrate that the development:

- Will not result in material increase in flood level or flood hazard upstream, downstream or surrounding properties; and

B5

Development controls

- Will provide acceptable management of flood risk with appropriate development levels to ensure the safety of people.

B5.C Development on land identified as floodway

Objectives

In addition to the objectives listed in B5.A and B5.B, the following objectives apply to development on land defined as **floodway**:

- To ensure development on land identified as **floodway** is restricted to low risk development.
- To ensure the capacity of the **floodway** to convey and contain floodwaters is not diminished.

Development controls

Appropriate development

- B5.16 Development other than farm buildings and/or **fill** is not supported on land identified as either low hazard floodway or high hazard floodway.

Fencing

- B5.17 Fencing in a **floodway** should not include non-permeable materials or fencing types that could restrict or redirect flood waters.

B5.D Application of performance based solutions

Objectives

Performance based solutions that meet the objectives listed below apply to:

- Proposed development identified as suitable on flood prone land in Figure BL that cannot meet the relevant development controls in this Part; or
- Proposed development that is identified as possibly suitable on flood prone land in Figure BL, subject to performance based solutions.

Performance based solutions

Risk to life

- B5.18 The proposed land use is consistent with Figure BL, which shows suitable land uses by flood hazard category (as identified on a **flood certificate**) and the proposed development incorporates adequate measures to manage risk to human life from flooding, including:
- Evacuation access from an area affected by flooding to an **area free of risk from flooding**, taking into account any potential access restrictions;
 - Warning times and procedures to make people aware of the need to evacuate;
 - Consideration of the current and potential future occupants; and
 - Consistency with the most recent Council adopted flood study or **floodplain risk management study** that has been undertaken for the site.

B5

Performance based solutions

Risk to property

B5.19 The proposed development will not increase the potential individual or cumulative flood impacts on other development or properties that are likely to occur in the same **floodplain**. In determining any potential increase in flood impacts, Council will consider:

- Future (in the year 2100) flood levels and/or velocities including, but not limited to the **5% AEP flood event**, **1% AEP flood event** and **probable maximum flood (PMF)** events;
- Loss of **flood storage** in the immediate **floodplain**; and
- Consistency with the most recent, Council adopted flood study or **floodplain risk management study** that has been undertaken for the site.

Flood hazard compatibility

B5.20 The proposed development must be compatible with the flood hazard category of the land (as identified on a **flood certificate**) or include mitigation measures or offsets to reduce the **flood risk**. In determining compatibility, Council will consider:

- Whether there is other land on the site with lower flood risks where the development could be located;
- Depth of flood inundation on the site and the adjacent land;
- Flow velocity on the site as well as upstream and downstream from the site;
- Suitability of design so that the development does not become isolated by high hazard floodwaters; and
- Consistency with the most recent, Council adopted flood study or **floodplain risk management study** that has been undertaken for the site.

E1

E1 Glossary

Amendments to Part E1 - Glossary

1. Amended definitions

Replace the listed existing definitions with the listed amendments in Part E1:

Existing	Amended
<p>flood study is a comprehensive technical investigation of flood behaviour that defines the variation over time of flood levels, extent and velocity for flood events of various severities up to and including the PMF event. It covers the entire floodplain catchment, with particular emphasis on the area under consideration. The flood study will:</p> <ul style="list-style-type: none"> i. Be certified by a chartered Professional Engineer who is recognised under the Engineers Australia's National Engineering Register (NER), who has experience in hydraulics and floodplain management; ii. Be a comprehensive document that includes numerical flood modelling of the proposed development area; iii. Ensure that the extent of the study adequately assesses all flooding characteristics and impacts of the development in the area; iv. Be consistent with any existing flood study or floodplain risk management plan undertaken for Council for the subject site. Where there is deviation from the Council adopted studies, the flood study must detail and justify the deviations; v. Be consistent with the NSW Floodplain Development Manual 2005 and the current version of Australian Rainfall and Runoff and determine the existing flooding characteristics and assess the impacts of the proposal, including assessment of design flood events including 10% AEP, 5% AEP, 1% AEP and PMF for existing conditions, 2050 and 2100; and vi. Assess cumulative flood storage impacts, flood levels, velocity (including direction), hazard and hydraulic categories. <p>Structural Report is a report certifying the structural stability of the structure. The Structural Report is to be prepared by a Chartered Professional Engineer recognised under the Engineers Australia's National Engineering Register (NER) in the area of practice of Structural Engineering. The Report must certify that the proposed structural components can withstand the forces of floodwater up to the PMF, including hydrostatic pressure, the hydrodynamic pressure, the impact of debris and buoyancy forces.</p>	<p>flood impact and risk assessment is a comprehensive technical investigation of flood behaviour that defines the variation over time of flood levels, extent and velocity for flood events of various severities up to and including the PMF event. It covers the entire floodplain catchment, with particular emphasis on the area under consideration. The flood impact and risk assessment will:</p> <ul style="list-style-type: none"> i. Be certified by a chartered Professional Engineer who is recognised under the Engineers Australia's National Engineering Register (NER), who has experience in hydraulics and floodplain management; ii. Be a comprehensive document that includes numerical flood modelling of the proposed development area; iii. Ensure that the extent of the study adequately assesses all flooding characteristics and impacts of the development in the area; iv. Be consistent with any existing flood impact and risk assessment or floodplain risk management plan undertaken for Council for the subject site. Where there is deviation from the Council adopted studies, the flood study must detail and justify the deviations; v. Be consistent with the NSW Floodplain Development Manual 2005 and the current version of Australian Rainfall and Runoff and determine the existing flooding characteristics and assess the impacts of the proposal, including assessment of design flood events including 10% AEP, 5% AEP, 1% AEP and PMF for existing conditions, 2050 and 2100; and vi. Assess cumulative flood storage impacts, flood levels, velocity (including direction), hazard and hydraulic categories. <p>structural certification is a report certifying the stability of a structure. The report is to be prepared by a Chartered Professional Engineer recognised under the Engineers Australia's National Engineering Register (NER) in the area of practice of Structural Engineering. The report must certify that the proposed structural components can withstand the forces of floodwater up to the PMF, including hydrostatic pressure, the hydrodynamic pressure, the impact of debris and buoyancy forces.</p>

ITEM 3 - ATTACHMENT 2 SUMMARY OF SUBMISSION.

Draft Port Stephens Development Control Plan 2014 – Response to submissions

No.	Author of submission	Comment	Council response
1	Resident	The submission identified stormwater drainage infrastructure issues in the Tomago area and requested a drainage plan to be implemented prior to the consideration of the DCP Amendment.	The DCP Amendment does not relate to stormwater drainage infrastructure. The DCP Amendment sets out prescriptive and performance based controls for new development on flood prone land, in accordance with the NSW Floodplain Development Manual 2005. The submission was referred to the Assets Section for review and response in 2018.

ITEM NO. 4**FILE NO: 20/311064
EDRMS NO: PSC2008-2921****POLICY REVIEW: TREE VANDALISM POLICY**

REPORT OF: JANELLE GARDNER - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submissions received shown at **(ATTACHMENT 2)**.
- 2) Endorse the revised Tree Vandalism Policy as shown at **(ATTACHMENT 1)**.
- 3) Revoke the Tree Vandalism Policy dated 14 August 2018, Minute Number 246.

BACKGROUND

The purpose of this report is to seek Council endorsement of the revised Tree Vandalism Policy (the policy) **(ATTACHMENT 1)** following public exhibition.

The policy sets out a consistent approach for Council when responding to tree vandalism incidents on Council managed land in Port Stephens. It provides for a proportionate compliance and enforcement approach that responds to the significance of the vandalism event and the cost of remediation.

Tree vandalism incidents continue to occur in Port Stephens and are particularly apparent in the coastal zone where development pressure as well as conflicts between water views and vegetation can put trees on Council managed land at risk.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Ecosystem Function.	Protect and enhance the local natural environment.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications arising from the review of this policy. No substantive changes are proposed to the way in which Council responds to incidences of tree vandalism, relative to the existing policy.

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

There is no legal requirement for Council to have a tree vandalism policy position. The policy strengthens Council's position through a consistent and sustainable approach to the planning, procurement and delivery of its services and assets.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that in the absence of a policy that the incidence of tree vandalism will increase.	Medium	Adopt the recommendations.	Yes
There is a risk that the absence of a policy will make Council's compliance and enforcement measures inconsistent.	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The primary aim of the policy is to reduce the incidence of vandalism to public trees and vegetation on Council managed land across Port Stephens. Public trees are a valued public asset and the effective deterrence that the policy is expected to provide will further protect these assets, resulting in improved local amenity and the ongoing provision of the environmental services that these trees and vegetation provide (habitat, shade, wind amelioration, soil stabilisation etc).

CONSULTATION

Consultation with key stakeholders has been undertaken by the Natural Resources team.

Consultation with a number of internal stakeholders was undertaken to ensure that the revised policy was consistent with Council's existing policies and practices, specifically in the area of Corporate Risk, Compliance, and Asset Management.

Internal

The following sections of Council were consulted on the revised policy and all feedback and comments have been incorporated into the revised policy:

- Corporate Risk
- Development Assessment and Compliance
- Public Domain and Services

The Executive Team was consulted to seek management endorsement.

External

The revised policy was publically exhibited for a period of 28 days from 25 September 2020 to 23 October 2020. During public exhibition, 2 submissions were received. The submissions are summarised in **(ATTACHMENT 2)**.

OPTIONS

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

ATTACHMENTS

- 1) Revised Tree Vandalism Policy.
- 2) Submissions Summary.

COUNCILLORS ROOM

- 1) Copy of submissions.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2008-2921

TITLE: TREE VANDALISM POLICY

OWNER: STRATEGY AND ENVIRONMENT SECTION MANAGER

1. PURPOSE:

- 1.1 ~~The primary aim of the Tree Vandalism Policy is to reduce the incidence of vandalism to public trees and vegetation across Port Stephens.~~
- 1.1 This policy sets out a consistent approach for Council when responding to tree vandalism incidents in Port Stephens. It includes a range of response measures which are collectively aimed at raising the public profile of the tree vandalism in the community in order to serve as effective deterrence measures.

2. CONTEXT/BACKGROUND:

- 2.1 Tree vandalism continues to be of concern in Port Stephens and is particularly apparent in coastal areas where development pressure as well as conflicts between water views and vegetation puts trees / vegetation on Council managed land at risk.
- 2.2 This vandalism has a significant and cumulative impact on Council assets and the environment. Impacts include reduced visual and community amenity, the loss of wind- breaks and erosion control in some locations, and the loss of wildlife habitat.
- 2.3 Such vandalism can also have substantial financial and human resource costs for Council including tree replacement costs, the cost of the investigation, rehabilitation and repair costs, and the cost of implementing potential punitive and/or deterrence measures.

3. SCOPE:

- 3.1 This policy applies to all instances of tree vandalism on Council managed land.

4. DEFINITIONS:

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

Policy

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Policy



Tree vandalism	The intentional and unlawful destruction, damage or injury to trees and/or vegetation on Council managed land. Examples include poisoning, mowing, pruning, removal and ringbarking.
Council managed land	Any land that is under the care, control and management of Port Stephens Council.

5. STATEMENT:

- 5.1 Council values trees and vegetation on Council managed land and the significant contribution they make to **healthy ecosystems and environmental health**, and to the health and wellbeing **of Port Stephens' residents**.
- 5.2 Council is committed to maintaining the economic, cultural, environmental and social values of Port Stephens.
- 5.3 The identification and prosecution of perpetrators of public tree vandalism will be pursued ~~consistently~~ by Council consistent with this policy and Council's Compliance Policy and Council Prosecutions Policy.
- 5.4 Council will assess the impact (Low, Medium, or High) of the tree vandalism incident in accordance with the industry standard assessment which takes into account the following factors: significance of the tree; the tree's life cycle stage; the profile of the site; the tree's safe useful life expectancy; the environmental effects; the target where the tree could fall; damage caused; and the cost of remediation.
- 5.5 Council will develop and implement **proportionate** response measures to act as a **deterrent** ~~deterrence~~, and to prevent further damage and **to rehabilitate** the ~~rehabilitation of damaged areas. in accordance with the relevant guidelines~~
- 5.6 Council will continue to promote the protection of trees and vegetation, and to encourage the reporting of vandalism.

6. RESPONSIBILITIES:

- 6.1 All members of the public have responsibility for complying with this policy.
- 6.2 Strategy and Environment have responsibility for monitoring, reviewing and providing advice on this policy.
- 6.3 Strategy and Environment have responsibility for undertaking compliance in accordance with Council's Compliance Policy.

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Policy



6.4 Public Domain and Services have responsibility for undertaking and funding relevant response measures under this policy.

7. RELATED DOCUMENTS:

- 7.1 Compliance Policy
- 7.2 Council Prosecutions Policy
- 7.3 Environmental Legislative Requirements Procedure (EMS 3.0)
- 7.4 Environmental Incident Procedure (EMS 4.0)
- 7.5 Environment Policy
- 7.6 Heritage Policy
- 7.7 Legal Management Directive
- 7.8 Tree Vandalism Management Directive
- 7.9 Environmental Planning & Assessment Act (EP&A) 1979
- 7.10 Tree Vandalism Guidelines: Response measures for low, medium and high impact vandalism events.

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2008-2921	EDRMS record No.	TBA
Audience	Councillors, staff and community		
Process owner	Strategy and Environment Section Manager		
Author	Natural Resources Coordinator		
Review timeframe	2 years	Next review date	TBA
Adoption date	August 2018		

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Policy



Version	Date	Author	Details	Minute No.
1	August 2018	Natural Resources Coordinator	<p>Reviewed the previous policy (Tree/Vegetation Vandalism Policy), included numbering to each paragraph and updated the version control.</p> <p>Substantial re-write of the policy which necessitates replacing the existing policy dated July 2014.</p> <p>Intent of existing policy remains unchanged.</p>	246
2	TBA	Natural Resources Coordinator	<p>1.1 - Deleted paragraph.</p> <p>5.1 – Insert 'healthy ecosystems' delete environmental health.</p> <p>5.1 - added 'of Port Stephens' residents'.</p> <p>5.3 – Deletion of consistently.</p> <p>5.5 – Insert 'proportionate', 'deterrent', to rehabilitate".</p> <p>5.5 - Delete 'deterrence, the rehabilitation of, and in accordance with the relevant guidelines'.</p>	TBA

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Policy



	TBA	Natural Resources Coordinator	<p>7.9 – Insert 'Environmental Planning & Assessment Act (EPA&A) 1979'.</p> <p>7.10 – Insert Tree Vandalism Guidelines: Response measures for low, medium and high impact vandalism events.</p> <p>Delete Appendix 1 – Tree Vandalism Guidelines: Response measures for low, medium and high impact vandalism events.</p>	
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ITEM 4 - ATTACHMENT 2 SUBMISSIONS SUMMARY.

Submissions summary – Tree Vandalism Policy

No.	Author of submission	Comment	Council response
1	Tomaree Ratepayers and Residents Association Inc. (TRRA)	We welcome the revised policy and have no objection to it being published in full and unredacted.	Noted
		Further to our submission on the revised Tree Management chapter of the DCP, it is very important that Council promotes and enforces a strict tree vandalism policy.	Noted
		We seek clarification as to where the accompanying Guidelines will be found and whether they remain unchanged.	On adoption of the policy, the Guidelines will be published to the tree management section of Council's website. They remain largely unchanged and have been revised to more clearly reflect a risk-based approach to compliance and proportionate enforcement responses.
		We welcome the recent updating of Council's website and request that it be revised to include warnings about compliance actions and penalties. We also ask that it provide more illustrations of trees and their benefits.	Noted. A Communications request to update and overhaul the tree management page of Council's website is currently under consideration by Council's communications section.
2	Tilligerry Community Association	A tree vandalism policy is important, it's a shame it is a 'hollow tiger'. These days if you ring Council about tree removal, it is likely the removal has been granted permission or the tree has already been removed since there is no public process of notifying locals.	<p>Council uses its Tree Vandalism Policy to consistently respond to instances of tree vandalism on Council land.</p> <p>Tree removal on private land must comply with Council's DCP and, where exemptions do not apply, the landholder must have a valid Council-issued permit before removing the tree. Tree removal without the necessary authorisation is investigated as alleged development without consent and penalties may apply if there is evidence to support the breach has taken place.</p> <p>Council has a Community Participation Plan registered with the Department of Planning, Industry and Environment that sets out its community engagement approach and notification model.</p>

ITEM 4 - ATTACHMENT 2 SUBMISSIONS SUMMARY.

	Investigations of tree vandalism relies on locals reporting on their neighbours, which is a risky undertaking.	Public notifications to Council are protected under the Privacy and Personal Information Protection Act (PPIPA). Notifiers can also request to make the notification anonymously.
	I was told that Council had removed my footpath tree after someone had complained. I did not want the tree removed.	Trees on Council road reserves and land are under the management of Council.
	Newcastle Council uses A3 signs to indicate Vandalism Events.	Port Stephens Council also employs the use of signs to raise community awareness around tree vandalism events and request information from the public. Larger signs are also used in higher-impact events.
	The effectiveness of this policy requires a functional street tree policy. The council trees list is long and tedious. The distances from the roadside are unreasonable.	Council is updating its Tree Technical Specification that will provide clearer guidance on suitable tree species and roadside planting.
	There is little communication about the policy, tree vandalism events, and Council's compliance and enforcement response. We urge Council to strengthen this policy and be more transparent about its enforcement.	Noted.

ITEM NO. 5

**FILE NO: 20/311071
EDRMS NO: PSC2015-03964**

POLICY REVIEW: ENVIRONMENT POLICY

REPORT OF: JANELLE GARDNER - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submissions received shown at **(ATTACHMENT 2)**.
- 2) Endorse the revised Environment Policy as shown at **(ATTACHMENT 1)**.
- 3) Revoke the Environment Policy dated 26 June 2018, Minute Number 178.

BACKGROUND

The purpose of this report is to seek Council endorsement of the revised Environment Policy (the policy) **(ATTACHMENT 1)** following public exhibition.

The policy is a foundation document for the Environmental Management System (EMS) framework, consistent with the Environmental Management Standard ISO 14001 and was a critical element of the EMS project plan.

The policy provides direction for Council's overall environmental performance.

Changes to the policy reflect an increased focus on sustainability in Council's suite of policy documents to incorporate sustainable procurement and design principles into the policy.

This review is part of the scheduled 2 yearly cycle.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Environmental Sustainability	Reduce the community's environmental footprint.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications with the adoption of this revised policy.

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

There is no legal requirement for Council to have an environmental policy position. The policy strengthens Council's position through a sustainable approach to the planning, procurement and delivery of its services and assets. The policy is also a requirement of ISO 14001 that provides the framework for Council's EMS.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that not adopting the policy will lead to an inconsistent approach to environmental sustainability.	Medium	Adopt the recommendations.	Yes
There is a risk that not adopting the policy will create a lag in establishing Council's response to environmental sustainability.	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy will provide guidance on developing Council's sustainable performance.

The maintenance of an Environmental Policy will ensure ongoing consistency with the Environmental Management Standard ISO 14001.

The policy will guide initiatives endorsed by Council's Sustainable Energy Team (Currents) and the preparation of a Sustainability Action Plan and Roadmap that will assist in reducing Council's impact on the environment.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment section for technical refinement and awareness of the intent of the policy.

Internal

Consultation has been undertaken with Council's Enterprise Risk Management team to ensure compliance with the Environmental Management System.

The Executive Team has been consulted to seek management endorsement.

External

The revised policy was publically exhibited for a period of 28 days from 25 September 2020 to 23 October 2020. During public exhibition, 2 submissions were received. The submissions are summarised in **(ATTACHMENT 2)**.

OPTIONS

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

ATTACHMENTS

- 1) Revised Environment Policy.
- 2) Submissions Summary.

COUNCILLORS ROOM

- 1) Copy of submissions.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2015-03964

TITLE: ENVIRONMENT POLICY

POLICY OWNER: STRATEGY AND ENVIRONMENT SECTION MANAGER

1. PURPOSE:

1.1 Port Stephens Council is committed to achieving ~~its vision statement of a~~ "a great lifestyle in a treasured environment" so that current and future generations can enjoy, and benefit from, a healthy natural environment. This policy outlines Council's commitment to the environment by providing leadership and direction for improved environmental performance **and sustainable outcomes**.

2. CONTEXT/BACKGROUND:

2.1 Port Stephens is a diverse region, comprised of natural features including bushland, rivers, wetlands and coastal areas. A healthy natural environment is critical to the people of Port Stephens as it provides essential environmental services such as clean air, clean water and healthy soils. In turn this supports ecological, cultural, recreational, economic and aesthetic values.

2.2 Local government plays an important role in protecting and enhancing the natural environment in order to achieve Ecologically Sustainable Development (ESD). Specifically, the charter for NSW Councils reinforces Council's role "to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development".

2.3 The natural environment is a complex and interdependent system making it challenging to accurately quantify and assess impacts. The principles of ESD are therefore embedded in the Local Government Act 1993 which states that "ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes". The principles are incorporated within local government decision-making processes including planning, regulation, administration and operations.

2.4 The ~~four~~ **4** principles underpinning ESD are:

- a) Precautionary principle
- b) Intergenerational equity
- c) Conservation of biological diversity and ecological integrity
- d) Improved valuation, pricing and incentive mechanisms

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Policy



2.5 The integration of social, environmental and economic factors are also required through the Integrated Planning and Reporting Framework to enable holistic and sustainable planning for the future (LGNSW Interim Policy Statements: Planning and Environment). Ecologically sustainable development requires the effective integration of economic, social and environmental considerations in decision-making processes. The Integrated Planning and Reporting framework also requires councils to address social, environmental, economic and civic leadership (the quadruple bottom line) issues in an integrated way (LGNSW Sustainability Position Statement).

3. SCOPE:

- 3.1 This policy provides direction for Council's approach to its application of ESD principles and overall environmental performance.
- 3.2 Environmental performance refers to the environmental results that are achieved through Council's management and control of the environmental aspects of its systems, policies, processes, procedures, services and activities (ISO14001:2015). Environmental performance can be improved when beneficial environmental impacts are increased and adverse environmental impacts and risks are reduced.
- 3.3 Whilst Council's approach to environmental risk is influenced by this policy, Council's Integrated Enterprise Risk Management Policy provides the overall direction on Council's systematic management of risk. Therefore, these two policies should be considered together.

4. DEFINITIONS:

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

Biological Diversity and Ecological Integrity	The variety of life forms, the different plants, animals and microorganisms, the genes they contain and the ecosystems they form.
Ecologically Sustainable Development (ESD)	Effective integration of economic and environmental considerations in decision-making processes.
Improved Valuation, Pricing and Incentive Mechanisms	Environmental factors should be included in the valuation of assets and services.
Intergenerational Equity	That the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.
Precautionary Principle	If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

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Policy



5. POLICY STATEMENT:

- 5.1 Council ensures a healthy natural environment is maintained for the wellbeing of the Port Stephens community.
- 5.2 Council is committed to empowering its employees to assume accountability and responsibility for the continuous improvement of its environmental performance by creating and promoting a culture of participation and by providing a robust process for monitoring and review.
- 5.3 Council is committed to the four 4 principles of Ecologically Sustainable Development.
- 5.4 Council meets all its statutory responsibilities under environmental legislation.
- 5.5 Council is committed to achieving environmental results through a sustainable approach to the planning, procurement and delivery of its services and assets. Across its organisational business units and functions, Council seeks to maximise energy and resource efficiency, reduce waste and transport.

6. POLICY RESPONSIBILITIES:

- 6.1 Strategy and Environment Section is responsible for monitoring, reviewing and providing advice on the policy.
- 6.2 Implementation of and compliance with the Environment Policy is the responsibility of all staff, with the Senior Leadership Team responsible for ensuring the policy is implemented throughout the organisation.

7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993
- 7.2 Port Stephens Council Community Strategic Plan
- 7.3 Asset Management Policy
- 7.4 Climate Change Policy
- 7.5 Commercial Operators Policy
- 7.6 Compliance Policy
- 7.7 Economic Development Policy
- 7.8 Heritage Policy
- 7.9 Enterprise Integrated Risk Management Policy
- 7.10 On-Site Sewage Management Policy
- 7.11 Pricing Policy
- 7.12 Procurement Policy
- 7.13 Property Investment Policy

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Policy



7.14 Social Impact Policy

7.14 LGNSW Policy Platform

7.15 Sustainable Energy Planning and Design for Projects and Activities

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No	PSC2015-03964	EDRMS record No	TBA
Audience	Councillors, staff and community		
Process owner	Strategy and Environment Section Manager		
Author	Environmental Strategist Environmental Officer		
Review timeframe	2 years	Next review date	June 2020 ²
Adoption date	March 2016		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	8 March 2016	Environmental Strategist / Environmental Management System Officer	Original Policy	051
2.0	26 June 2018	Environmental Strategist	Policy adapted to new Policy Template. No Amendments.	178

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Policy



3.0	TBA	Environmental Officer	<p>1.1 - Deletion of the wording "its vision statement of" from the Purpose.</p> <p>2.5 - Deletion of LGNSW Interim Policy Statement and replacement with most current LGNSW Sustainability Position Statement.</p> <p>3.3 - Deletion of "Integrated" and replacement with "Enterprise" to reflect organisational changes.</p> <p>5.5 – Inserted new paragraph: "Council is committed to achieving environmental results through a sustainable approach to the planning, procurement and delivery of its services and assets. Across its organisational business units and functions, Council seeks to maximise energy and resource efficiency, reduce waste and transport."</p> <p>7.1 – Added hyperlink to Local Government Act 1993.</p> <p>7.4 - Added Climate Change Policy.</p> <p>7.9 - Deletion of "Integrated" and replaced with "Enterprise" Risk Management Policy to reflect organisational changes.</p> <p>7.14 – Deleted Social Impact Policy as this policy has been revoked.</p> <p>7.14 - Inclusion of LGNSW Policy Platform.</p>	TBA
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Policy

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Policy



			<p>7.15 - Inclusion of Sustainable Energy Planning and Design for Projects and Activities.</p> <p>Controlled Document Information - Deleted the title of the author Environmental Strategist and replaced with Environmental Officer to reflect organisational changes.</p>	
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Policy

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ITEM 5 - ATTACHMENT 2 SUBMISSIONS SUMMARY.

Submissions summary – Environment Policy

No.	Author of submission	Comment	Council response
1	Tomaree Ratepayers and Residents Association Inc. (TRRA)	We have no objection to the policy being published in full and unredacted. We welcome revision of this Policy to more closely align with other Council initiatives such as the recently adopted Climate Change Policy and forthcoming Sustainability Action Plan and Roadmap.	Noted
		We note that Council has recently signed up to the Cities Power Partnership and is also a member of the Hunter Joint Organisation (JRO) which has a number of environmental initiatives. These are welcome demonstrations 'on paper' to improved environmental outcomes	Noted
		TRRA has observed that Port Stephens Council often falls short of meeting its environmental and ESD commitments in practice, in areas as diverse as development on flood prone land, recycling, habitat and tree cover loss, transport and traffic management and compliance enforcement. Council can and should do more not only in its own operations but also by playing a leadership role in the community.	Noted
		We urge Council to set specific measurable targets in its forthcoming Sustainability Action Plan and Roadmap and Climate Change Adaptation Action Plan, and to monitor and report on performance against these targets.	Specific targets and actions will be articulated in both the Sustainability Action Plan and Roadmap (in draft) and the revised Climate Change Adaptation Action Plan (in draft).
2	Tilligerry Community Association	While we understand that the policy is a broad statement of Council principles, there is a need to set priorities and demonstrate some commitment to ecologically sustainable development, e.g. koala action.	The Environment Policy sets out Council's commitment to ESD principles and its broad approach to embedding these principles in day-to-day operations through our strategies, processes, and work plans. Council demonstrates its compliance with this policy through its decision-making and its prioritisation of environmental protection and management projects, such as the Koala Sanctuary, the Coastal Management Program, the Climate Change Adaptation Action Plan, and Bushland Regeneration projects.

ITEM 5 - ATTACHMENT 2 SUBMISSIONS SUMMARY.

		<p>The policy does not give many hints about what council will support. Port Stephens has a poor reputation regarding the environment despite the efforts of locals. This policy is a missed opportunity to talk about what Port Stephens is doing.</p>	<p>This policy reiterates Council's commitment to complying with ESD provisions of state and federal legislation. Council projects and initiatives that align with the four key principles of ESD are detailed in our Operational and Delivery Plans. Details and achievements of these projects and initiatives are communicated to the community via our annual report, website, and social media posts.</p>
		<p>The environment has to be across all departments, all the silos of council. There is nothing in this policy about this being an across council priority.</p>	<p>This policy applies to all areas of Council, as it relates to the Integrated Planning and Reporting framework, Enterprise Risk Management systems, and other Council processes, procedures, and systems (see s 3.2). In addition, the Policy sets out the commitment across all business units and functions to implement a sustainable approach (s5.5)</p>
		<p>We ask council to give this document more teeth by stressing the priorities for Port Stephens under which we can work as volunteers.</p>	<p>Council priorities are set out in our Operational and Delivery Plans. Volunteers are engaged in the delivery of many sustainable projects across the LGA, particularly in the regeneration of natural areas.</p>

ITEM NO. 6

**FILE NO: 20/319973
EDRMS NO: PSC2014-02649**

POLICY REVIEW: PUBLIC ART POLICY

REPORT OF: STEVEN BERNASCONI - COMMUNICATIONS SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Public Art Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Public Art Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revoke the Public Art Policy dated 27 March 2018, Minute Number 061, should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council endorsement of the revised Public Art Policy (the policy) **(ATTACHMENT 1)**.

The purpose of the policy is to provide Council with a framework to approve or commission public art projects in the public domain.

The policy details a best practice approach to manage public art procurement and management to maximise the social and economic benefits and create high quality public spaces.

A consistent approach to the management of public art provides clear processes to assist Council and the community develop high quality and place appropriate public art projects for the region.

Changes to the policy specifically relate to:

- streamlining and simplifying the language
- removing duplication between policy and guidelines
- broadening classification of types of public art initiatives in line with current delivery
- updates to content in line with the Our Incredible Place Strategy 2020
- update related documents

The policy is to be used in conjunction with the Public Art Guidelines which provides clear guidance for artists, developers, community groups and Council officers.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Support the amenity and identity of Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

There is currently no annual budget for delivery of public art programs. Funding is available through grant programs, capital works projects, requirements contained within the Port Stephens Development Control Plan 2014 and external grant funding.

The recommendation will not result in any financial or 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

There are no known legal or policy implications as a result of the proposed recommendation.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council's reputation may be damaged as a result of decisions made in relation to the policy.	Low	Adopt the recommendations.	Yes

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that public art commissions negatively impact on the public domain.	Low	The Public Art Guidelines and application form provides guidance for best practice approach. Adopt the recommendations.	Yes
There is a risk that public art commissions are unsafe and have negative maintenance implications.	Low	The Public Art Guidelines and application form provides guidance for best practice approach. Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy details a best practice approach to manage public art procurement and management to maximise the social and economic benefits and create high quality public spaces.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Communications section.

Internal

- Assets section
- Strategy and Environment section
- Strategic Arts Committee

The Executive Team has been consulted to seek management endorsement.

External

In accordance with local government legislation, the revised Public Art Policy will be placed on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

1) Revised Public Art Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2014-02649

TITLE: PUBLIC ART POLICY

OWNER: COMMUNICATIONS SECTION MANAGER

1. PURPOSE:

- 1.1 Port Stephens Council is committed to increasing the wellbeing and liveability of the Port Stephens community. Creating better spaces and better places that celebrate creativity and culture is part of this commitment.
- 1.2 The purpose of the Public Art Policy and related Public Art Guidelines is to provide Council with a framework to approve or commission public art projects in the public domain.
- 1.3 The policy details a best practice approach to manage public art placement, procurement and management to maximise the social and economic benefits and create high quality public spaces of public art as it relates to place-making and contributing to a vibrant cultural and economic life (Port Stephens Community Strategic Plan).

2. CONTEXT/BACKGROUND:

- 2.1 Public art is an integral factor in enhancing the physical, social and economic environment of Port Stephens. This is achieved by developing a sense of place using visual artworks in public areas. Public art has the potential to transform our places, create new experiences and celebrate our community identity.
- 2.2 In Port Stephens, interest in public art is growing, driven in part by a wider awareness and expectation of the benefits of public art, including enhancing infrastructure and the environment. The opportunity to enrich commercial developments is also recognised.
- 2.3 Public art is also closely aligned to tourism and related economic strategies that aim to build on the natural appeal of the Port Stephens and attract visitors to the region.
- 2.4 A consistent approach to the management of public art provides clear processes to assist Council and the community develop suitable high quality and place appropriate public art projects for the region.

Policy

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Policy



3. SCOPE:

- 3.1 This policy applies to all and any public art projects located, or proposed, in the public domain.
- 3.2 The Public Art policy refers to the placement, procurement, approval and management of art works (temporary or permanent) and complementing urban design.
- 3.3 This policy relates to all Councillors and Council officers who are engaged in the process of approving public art, either through commission, direct purchase or donation.
- 3.4 The supporting Public Art Guidelines is to be used to guide a best practice approach to public art.
- 3.5 The policy applies to Public art can be integrated into, but not limited to:
 - a) New developments proposed by commercial developers;
 - b) Existing areas as part of a master plan or upgrade being developed by Council;
 - c) Council-initiated public art projects
 - d) Public art purchases
 - e) Public art projects initiated by other Government agencies, private property developers, artists or the community
 - f) Public art received as gifts, donations and bequests
 - g) Existing public art in the public domain
 - h) Proposals submitted by community groups and/or individual artists, for both permanent works and temporary display as part of a festival.
 - i) Development of Council's plans and strategies that relate to the public realm, including developer contributions and master planning, that provide opportunities to incorporate public art principles.
- 3.6 Council's Development Control Plan also provides for inclusion of public art into commercial and mixed-use development as part of the development consent process, depending on the scale of works proposed.
- 3.7 This policy does not apply to works that are solely commemorative in nature such as memorials or plaques. Such projects and proposals are considered in line with Council's Parks and Roadside Memorials Policy.

4. DEFINITIONS:

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

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Policy

Public Art	Artworks and one-off designs created for, or located in, a public space and readily accessible to members of the public. The work may be of a temporary or permanent nature.
Commission	A commission is a direct request to produce a piece of art specifically for Council's public art collection. A public art commission by Council is a contracted transaction.
Decommission	Decommissioning is the term used for permanent removal of a work of art from a public art installation or collection.
Public Domain	Public places and/or open spaces that are situated within, vested in or managed by Council. This includes parks, beaches, outdoor recreation facilities, streets, laneways, pathways and foreshore areas and public buildings, facilities or enclosed structures, owned and managed by Council that are physically accessible to the general public.

5. STATEMENT:

5.1 The key objectives of this policy are to:

- a) Establish a consistent process for the commissioning, approval and decommissioning of public art.
- b) Enhance the natural and built assets of Port Stephens by enlivening and enriching public spaces.
- c) Create a sense of identity about Port Stephens heritage, culture and lifestyle.
- d) Facilitate the integration of public art into relevant facilities and infrastructure projects.
- e) Develop and enhance opportunities and promotion of local artists.
- f) Provide a policy foundation to Council's Development Control Plan for the inclusion of public art into commercial and mixed-use development.

5.2 It is expected that the implementation of this policy will lead to:

- a) The planning of public art in Council's urban designs to improve the quality of community spaces, the public domain and to enhance the pedestrian streetscape experience.
- b) Identification of sites/zones for future public art works, appropriate asset management, including safety and maintenance.
- c) Effective community engagement and consultation to ensure the art work will have meaning and relevance to the site in which it is located.

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Policy



- 5.3 Council officers are responsible for the commissioning, procurement and placement of public art should refer to the Public Art Guidelines. The accompanying guidelines provide a process through which Council can address public art procurement and planning, evaluation, including identifying sites/zones for appropriate future public art works, appropriate asset management, decommissioning, including safety and maintenance.

6. RESPONSIBILITIES:

- 6.1 The Community Development and Engagement unit manages, and provides technical advice and reports on public art as part of the cultural development program. It is the responsibility of other units across Council for implementing the policy and Public Art Guidelines.

7. RELATED DOCUMENTS:

- 7.1 Cultural Plan 2015-2018 Our Incredible Place Strategy 2020
 7.2 Port Stephens Development Control Plan 2014
 7.3 Port Stephens Section 94 Contributions Plan
 7.4 Asset Management Policy
 7.5 Graffiti Management Policy
 7.6 Public Art Guidelines for the approval and installation of public art in Port Stephens.

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2014-02649	EDRMS record No.	TBA
Audience	Councillors, Council staff, community		
Process owner	Communications Section Manager		
Author	Community Development and Engagement Coordinator		
Review timeframe	2 years	Next review date	TBA
Adoption date	10 November 2015		

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Policy



VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	10 November 2015	Communications Section Manager	Original policy and guidelines endorsed for public exhibition by Council at its 10 November 2015 meeting. No submissions received, therefore Policy and guidelines adopted by Council.	340
2	27 March 2018	Communications Section Manager	Public Art Guidelines section 6.0 updated to include mention of required approval relating to private developer public art contributions in the development assessment process. The value of capital investment for commercial development was changed from \$1 million to \$2 million in line with the Port Stephens Development Control Plan. Inclusion of Guidelines for the approval and installation of Public Art in Port Stephens in related documents section.	061

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Policy



3	TBA	Communications Section Manager	<p>1.1 - added 'Port Stephens Council is committed to increasing the wellbeing and liveability of the Port Stephens community. Creating better spaces and better places that celebrate creativity and culture is part of this commitment.'</p> <p>1.2 - deleted 'purpose of the' added 'Public Art Guidelines' deleted 'is to' added 's' on the end of provide added 'approve or commission public art projects in the public domain.'</p> <p>1.3 - added 'The policy details a best practice approach to' deleted 'placement' added 'and create high quality public spaces' deleted 'of public art as it relates to place making and contributing to a vibrant cultural and economic life (Port Stephens Community Strategic Plan).'</p> <p>2.1 - deleted 'This is achieved by developing a sense of place using visual artworks in public areas.' added 'Public art has the potential to transform our places, create new experiences and celebrate our community identity.'</p> <p>2.2 – deleted paragraph.</p> <p>2.3 – deleted paragraph.</p> <p>2.4 - deleted: 'suitable' added 'high quality and place appropriate'</p>	TBA
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Policy



			<p>3.1 - added 'This policy applies to all and any public art projects located, or proposed, in the public domain'.</p> <p>3.2 - deleted: 'Public Art' added: an 's' to refer added: 'approval'.</p> <p>3.3 - added 'This policy relates to all Councillors and Council officers who are engaged in the process of approving public art, either through commission, direct purchase or donation.'</p> <p>3.4 - added 'The supporting Public Art Guidelines is to be used to guide a best practice approach to public art.'</p> <p>3.5 deleted 'Public art can be integrated into, but not limited to: deleted: a) New developments proposed by commercial developers. b) Existing areas as part of a master plan or upgrade being developed by Council. added: c) Council-initiated public art projects. d) Public art purchases. e) Public art projects initiated by other Government agencies, private property developers, artists or the community. f) Public art received as gifts, donations and bequests. g) Existing public art in the public domain. deleted: h) Proposals submitted by</p>	
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Policy



			<p>community groups and or individual artists, for both permanent works and temporary display as part of a festival.</p> <p>added:</p> <p>i) Development of Council's plans and strategies that relate to the public realm, including developer contributions and master planning, that provide opportunities to incorporate public art principles.</p> <p>3.7 - added 'This policy does not apply to works that are solely commemorative in nature such as memorials or plaques. Such projects and proposals are considered in line with Council's Parks and Roadside Memorials Policy.'</p> <p>4.1 - added in Public Art definition: The work may be of a temporary or permanent nature. added 'Commission' definition. added 'Decommission' definition. added: 'Public Domain' definition.</p> <p>5.1 a) added 'Establish a consistent process for the commissioning, approval and decommissioning of public art'.</p> <p>5.1 b) added 'and enriching'.</p> <p>5.3 - added 'Council officers responsible for the commissioning, procurement and placement of public art</p>	
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Policy



Version	Date	Author	Details	Minute No.
			<p>should refer to the Public Art Guidelines'. deleted 'accompanying' added 'evaluation' deleted: 'including identifying sites/zones for appropriate future public art works'. added 'decommissioning and' deleted 'including'</p> <p>6.1 - added 'provides technical advice' 'the' and 'program'.</p> <p>7.1 - deleted: ' Cultural Plan 2015-2018'. added 'Our Incredible Place: Events, Arts and Cultural Strategy 2020'.</p> <p>7.3 – deleted 'Port Stephens Section 94 Contributions Plan'.</p> <p>7.6 - added: 'Public Art' deleted: 'for the approval and installation of public art in Port Stephens.'</p>	

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ITEM NO. 7

**FILE NO: 20/355584
EDRMS NO: PSC2007-3163**

POLICY REVIEW: WASTE MANAGEMENT AND RESOURCE RECOVERY

REPORT OF: TAMMY GUTSCHE - COMMUNITY SERVICES SECTION
MANAGER
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submissions received at **(ATTACHMENT 1)**.
 - 2) Adopt the Waste Management and Resource Recovery Policy at **(ATTACHMENT 2)**.
 - 3) Revoke the existing Policy.
-

BACKGROUND

The purpose of this report is to provide Council with the submissions received following the public exhibition of the Draft Waste Management and Resource Recovery Policy ("Policy").

The public exhibition period was from 14 October 2020 to 10 November 2020 with 3 submissions received. The changes made to the Policy are largely grammatical or technical in nature and include:

- Removed 'Waste Management and Resource Recovery Plan' and replaced with 'waste services that are both convenient and cost effective and that maximize the diversion of waste from landfill'.
- Added definition for Problem Waste.
- Added illegal dumping and collection and disposal of litter under Public Place Waste Management.
- Changed 'Environmental Services' to 'the Strategy and Environmental Section'.
- Removed detailed responsibilities of each Waste Management role.

A summary of submissions received is included at **(ATTACHMENT 1)**.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Environmental Sustainability	Reduce the community's environmental footprint.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications if this Policy is adopted.

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

There are no potential risks to Council if this Policy is adopted.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council's reputation could be damaged if it is using a policy that is not up to date.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The purpose of the policy is to detail Council's position on waste management within the Port Stephens Council Local Government Area in order to facilitate the delivery of waste services that are both convenient and cost effective and that maximise the diversion of waste from landfill.

There are no social, economic or environmental implications for the Port Stephens community by adopting this revised policy.

A draft Waste Strategy is currently being developed to help guide Council's waste management system and to plan for the community's needs for the short (1 to 5 years), medium (5 to 10 years) and the long term (10 to 15 years).

CONSULTATION

As part of the draft Waste Strategy development, consultation with the community has been undertaken by the Community Services Section. The objective of the

consultation was to obtain feedback from the community regarding current and future needs for waste management.

To inform the draft Waste Strategy, community consultation has been undertaken by an external consultant. Methods of engagement include:

- Telephone survey of residents.
- 3 face-to-face public consultation sessions across each of the 3 wards.
- Online survey.
- PS Live Facebook event.

OPTIONS

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

ATTACHMENTS

- 1) Summary of submissions.
- 2) Waste Management and Resource Recovery Policy.

COUNCILLORS ROOM

- 1) Full copy of submissions.

TABLED DOCUMENTS

Nil.

ITEM 7 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS.

Policy Review: Waste Management and Resource Recovery Policy submissions

No.	Author of submission	Comment	Council response
1	Tomaree Ratepayers & Residents Association Inc.	The policy should contain targets or performance measures.	Targets and performance measures will be included in the upcoming Waste Strategy as they are not usually incorporated in Policies.
		Many residents have questioned why Council does not have a regular 'green waste' collection service with separate bins.	As part of the consultation on the draft Waste Strategy, residents are asked for their feedback regarding green waste and the option of providing bins, in order to inform our future requirements.
		There is no obvious solution to commercial waste, Council could perhaps research and consider alternatives.	As part of the draft waste strategy, Council is looking into how we can continue to improve diversion of waste, including commercial waste.
		In peak visitor times, waste bins in popular recreational and tourist destinations overflow.	Community Services has recently increased resources in the Public Place Cleaning team to address litter and waste bins in public places. Recruitment is currently underway to fill this team. As part of consultation for the draft Waste Strategy we are seeking feedback on other initiatives which target public place littering.
		Some stretches of major access roads such as Nelson Bay Road and Port Stephens Drive are routinely disfigured by unsightly litter. As with public waste bins, it must be given a higher priority.	Community Services has recently increased resources in the Public Place Cleaning team to address litter and waste bins in public places. Recruitment is currently underway fill this team. As part of consultation for the draft Waste Strategy we are seeking feedback on other initiatives which target public place littering.
		Policy should address the trapping and filtering of waste at stormwater outlets. Consideration should also be given to options for filtering stormwater for liquid pollutants such as oils, detergents, fertiliser and weedkiller.	This issue is a storm water management issue. The waste section will continue to work with the community in education in littering and continue better litter management practices however the stormwater management comes under the roads and drainage section and therefore is not included in waste policies and strategies.

		Details of the Advanced Resource Recovery Technology (ARRT) facility operation is not currently explained well by Council, and setbacks are reported in relation to the use of compost generated by the facility. Council should do more to explain and promote it.	Council's pending Waste Strategy will include a component on improved education and communication to the community.
		Council should report on the performance of the ARRT facility, including the level of success in diverting recyclable materials from landfill.	Council's pending Waste Strategy will include a component on improved education and communication to the community. Council report on the overall diversion of waste in our Annual Report and also through the EPA Annual WARRP report. These reports are both publicly available.
		The Policy does not expressly mention the use of waste products in construction materials. Council has highlighted its 'trial' use of recycled glass in road base – it deserves express mention in the WMRR Policy along with an appraisal of its success and potential for wider application.	The use of waste products in construction materials will be investigated further, and is included for discussion as part of consultation on the draft Waste Strategy.
		Council should consider including requirements relating to use of recycled products in tenders for Council construction works.	This suggestion will be investigated with other relevant areas within Council.
		Rather than limiting itself to compliance, the policy should expressly commit to best practice and leading edge innovative approaches to waste management and resource recovery in Council's own operations.	Council strives to commit to best practice and leading edge innovative approaches to waste management and resource recovery in Council's own operations.
		Council should take a leadership role in relation to waste management and resource recovery. Include a new section in the Policy 'Leadership and Innovation', and outline policy initiatives in which it plans to innovate and move forward to improve not only its own operations but also the wider community performance.	This will be included as part of the Waste Strategy.
		Council should visibly embrace the NSW Waste Hierarchy – Avoid, Reduce, Recycle, Reuse, Repair, Repurpose, Recover and	This will be included as part of the upcoming Waste Strategy.

		Dispose – and consider reporting both its own and community performance in relation to these 8 activities, both as a current benchmark and in terms of future targets.	Improved reporting is currently being investigated.
		The Policy claims that it: 'outlines what waste service are provided to the residents, ratepayers and businesses of Port Stephens as well as Council's overall position on waste management'. We submit that the draft does not sufficiently achieve the second objective.	Council's overall position on waste management will be included as part of the upcoming Waste Strategy.
		There is no reference to non-Council waste management and resource recovery initiatives, other than a clause relating to a separate policy on 'financial assistance for the disposal of waste to charitable, not for profit or benevolent organisations'. A comprehensive waste management and resource recovery policy would take into account these private initiatives and attempt to integrate them with Council's own activities to achieve the maximum overall contribution to the objective of: <i>'facilitate the delivery of waste services that are both convenient and cost effective and that maximise the diversion of waste from landfill'</i> .	Port Stephens Council is part of the Hunter Joint Organisation working group, this group is involved in investigating and taking a lead role in research and development of new and emerging technologies and implementing these into the local government model. Port Stephens Council is committed to landfill diversion. The NSW government through the EPA is monitoring and setting targets for Councils to achieve.
		We urge Council to include an explicit community leadership role in the Policy and address the relationship between Council's own operations and other waste management and resource recovery initiatives in Port Stephens.	Council through the waste contract and contractors are developing and implementing initiatives, to meet best practice guidelines on reduce, reuse, and recycle as part of continuous improvement business model.
		We urge Council to defer adoption of the Waste Management and Resource Recovery Policy.	Development of the Waste Strategy will lead to this interim policy being revoked.
2	EcoNetwork Port Stephens Inc.	We submit that Council include measurable targets, and explicitly include a monitoring and reporting regime.	Targets and performance measures will be included in the upcoming Waste Strategy as they are not usually incorporate in Policies.
		Many residents have questioned why Council does not have a regular 'green waste' collection service with separate bins. Landcare groups report the	As part of the consultation on the draft Waste Strategy, residents are asked for their feedback regarding green waste and the option of providing bins,

ITEM 7 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS.

		continual dumping of green waste in bush areas, encouraging weed growth and fire hazards. A green waste bin would help alleviate this problem.	in order to inform our future requirements.
		In peak visitor times, waste bins in popular recreational and tourist destinations overflow before they are emptied. This is not only unsightly but also a health hazard, and discourages people from 'doing the right thing'.	Community Services has recently increased resources in the Public Place Cleaning team to address litter and waste bins in public places. Recruitment is currently underway for the additional positions. As part of consultation for the draft Waste Strategy we are seeking feedback on other initiatives which target public place littering.
		Litter on road verges. Some stretches of major access roads such as Nelson Bay Road and Port Stephens Drive are routinely disfigured by unsightly litter. As with public waste bins, it must be given a higher priority.	Community Services has recently increased resources in the Public Place Cleaning team to address litter and waste bins in public places. Recruitment is currently underway for the additional positions. As part of consultation for the draft Waste Strategy we are seeking feedback on other initiatives which target public place littering.
		Litter and other waste escapes into drains leading into our bays and waterways. Some drains are netted, but most aren't. The feasibility and advantages of netting all drainage into the bays should be considered with routine cleaning.	This issue is a storm water management issue. The waste section will continue to work with the community in education in littering and continue better litter management practices however the stormwater management comes under the roads and drainage section and therefore is not included in waste policies and strategies.
		Details of the Advanced Resource Recovery Technology (ARRT) facility operation have not been explained well by Council, and setbacks are reported in relation to the use of compost generated by the facility. If the ARRT facility is as positive an initiative as is claimed, we submit that Council should do more to explain and promote it.	Council's pending Waste Strategy will include a component on improved education and communication to the community.
		Council should report on the performance of the ARRT facility, including the level of success in diverting recyclable materials from landfill.	Council will incorporate better communication and education within the new waste strategy to report good practices.

ITEM 7 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS.

			Council report on the overall diversion of waste in our Annual Report and also through the EPA Annual WARRP report. These reports are both publicly available.
		Council should visibly embrace the NSW Waste Hierarchy – Avoid, Reduce, Recycle, Reuse, Repair, Repurpose, Recover and Dispose – and consider reporting its own and community operations against these practices as a current benchmark and future targets.	<p>Port Stephens Council is a member of the Hunter Joint Organisation, which is currently investigating circular economy initiatives.</p> <p>The NSW Waste Hierarchy will be included in our upcoming Waste Strategy.</p>
		Rather than limiting itself to mere compliance, the policy should expressly commit to best practice and leading edge innovative approaches to waste management and resource recovery in Council's own operations. It is sufficiently important that Council should include a new policy section 'Leadership and Innovation', and outline policy initiatives in which it plans to innovate and move forward to improve its own operations and community performance.	<p>Council does strive to commit to best practice and leading edge innovative approaches to waste management and resource recovery in Council's own operations. This will be included as part of the upcoming Waste Strategy.</p> <p>The strategy is a document designed to incorporate emerging innovation and technological advancements in the waste industry which is in a state of change due to recent events and funding through the federal and state governments. These changes are going to continue to emerge and the strategy will need to be a live document able to change with emerging trends in the resource recovery future.</p>
		Section 6 of the Policy on 'Responsibilities' has been revised to remove the specified delegations, leaving only the overall responsibility of the Community Services Section Manager. This is unfortunate and should be reversed – clearly allocating and publicising responsibilities for delivery of the various specific implementation areas improves transparency and accountability.	<p>The Community Services Section Manager has overall responsibility for waste management within Council.</p> <p>Each member within the waste management team has specific responsibilities for delivery and improvement which are captured in their Individual Work and Development Plans.</p>
		The Policy claims that it: 'outlines what waste service are provided to the residents, ratepayers and businesses of Port Stephens as well as Council's overall position	Council's overall position on waste management will be included as part of the upcoming Waste Strategy.

		<i>on waste management</i> '. We submit that the draft does not sufficiently achieve the second objective.	
		There is no reference to non-Council waste management and resource recovery initiatives, other than a clause relating to a separate policy on 'financial assistance for the disposal of waste to charitable, not for profit or benevolent organisations'. A comprehensive waste management and resource recovery policy would take into account these private initiatives and attempt to integrate them with Council's own activities to achieve the maximum overall contribution to the objective of: 'facilitate the delivery of waste services that are both convenient and cost effective and that maximise the diversion of waste from landfill'.	Port Stephens Council is part of the Hunter Joint Organisation working group, this group is involved in investigating and taking a lead role in research and development of new and emerging technologies and implementing these into the local government model. Port Stephens Council is committed to landfill diversion. The NSW government through the EPA is monitoring and setting targets for Councils to achieve.
		In the area of Council's policy regarding Information and Education (5.2.8.1), possibly community groups could assist with workshops on recycling and composting. Some Councils offer discounted composting facilities to households. These incentives encourage conversations about household waste and how to reduce it.	This is being considered as part of the upcoming Waste Strategy. Feedback has been sought from the community.
		We urge Council to include an explicit community leadership role in the Policy and address the relationship between Council's own operations and other waste management and resource recovery initiatives in Port Stephens.	This will be considered as part of our waste strategy.
3	Climate Action Port Stephens	CAPS members are eager to see Port Stephens Council adopt ambitious emissions reductions targets, and to see Council targeting every sector when looking at ways to reduce our community's emissions.	Through our Waste Strategy all efforts will be made to reduce the amount of organic waste going to landfill, which will help to reduce the levels of methane gases produced in the future.
		CAPS members are concerned about how the community is no longer made aware of when Council policies and development applications are placed on public exhibition since Council decided	As a result of the change in legislation, Port Stephens Council is no longer required to publish in local newspapers when Council policies and development applications are

		to cease printing notices in the local newspaper.	placed on public exhibition. This information is readily available on our website.
		The policy should include targets and performance measures.	Targets and performance measures will be included in the upcoming Waste Strategy as they are not usually incorporated in Policies.
		Many residents have questioned why Council does not have a regular 'green waste' collection service with separate bins.	As part of consultation on the draft Waste Strategy, residents are asked for their feedback regarding green waste and the option of providing bins, in order to inform our future requirements.
		Public place waste management can be lacking during peak holiday times and long weekends, leaving bins overflowing in public areas. The litter on road verges is further unsightly, an environmental hazard, and a road hazard when the minced rubbish blows over the roads on windy days. The trapping and filtering of waste at storm water outlets also must be addressed to prevent environmental damage and rubbish in our waterways.	Community Services has recently increased resources in the Public Place Cleaning team to address litter and waste bins in public places. Recruitment is currently underway for the additional positions. As part of consultation for the draft Waste Strategy we are seeking feedback on other initiatives which target public place littering.
		ARRT – if all the materials collected from the red waste bins are ending up in landfill following the previously referenced EPA decision, then Council must introduce a Green Waste collection service to enable the diversion of compostable materials from landfill.	Council are considering all options including the inclusion of green waste collection as part of the development of the Waste Strategy. Council are also working with current contractors to develop new ways of separating and diverting compostable materials from the landfill.
		Circular economies are based on the principles of designing out waste and pollution, keeping products and materials in use at their highest and best value, and regenerating natural systems. In order for our community to be living sustainably, Council must embrace the principles of a circular economy, This could easily be achieved by embracing the NSW Waste Hierarchy – Avoid, Reduce, Recycle, Reuse, Repair, Recycle, Recover and Dispose.	Port Stephens Council is a member of the Hunter Joint Organisation, which is currently investigating circular economy initiatives. The NSW Waste Hierarchy will be included in our upcoming Waste Strategy.
		We urge Council to include an explicit community leadership role	Council are looking to implement recovery initiatives in all aspects

ITEM 7 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS.

		in the Policy and address the relationship between Council's own operations and other waste management and resource recovery initiatives in Port Stephens.	of operation and that is the basis of the upcoming strategy. Council works closely with its current contractors to achieve these outcomes.
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ITEM 7 - ATTACHMENT 2 WASTE MANAGEMENT AND RESOURCE RECOVERY POLICY.

Policy



FILE NO: PSC2007-3163

TITLE: WASTE MANAGEMENT AND RESOURCE RECOVERY POLICY

OWNER: WASTE MANAGEMENT COORDINATOR
COMMUNITY SERVICES SECTION MANAGER

1. PURPOSE:

- 1.1. The purpose of this policy is to detail Council's position on solid waste management within the Port Stephens Council Local Government Area in order to facilitate the delivery of a Waste Management and Resource Recovery Plan. waste services that are both convenient and cost effective and that maximise the diversion of waste from landfill.

2. CONTEXT/BACKGROUND:

- 2.1 Port Stephens Council currently provides domestic and non-domestic waste services in accordance with sections 496 and 501 of the Local Government Act 1993.
- 2.2 These services include:
- a) the provision of mobile garbage bins
 - b) weekly residual waste (red bin) collection service
 - c) fortnightly dry recycling (yellow bin) collection service
 - d) on-call bulky and green waste collection
 - e) processing of recyclables
 - f) processing of residual waste via an Advanced Resource Recovery Technology (ARRT) Facility
 - g) green waste drop off days
 - h) where required, the land filling of residual wastes
 - i) environmental monitoring of decommissioned landfills
 - j) community education about waste services provided by Council, how to correctly use the provided services and how waste generation can be reduced.
- 2.3 Port Stephens Council also coordinates the collection of certain hazardous and problem waste not suitable for collection in either waste or recycling household bins. These include the provision of permanent drop off sites or drop off events for the collection of household chemicals, paints, oils, gas bottles, electronic waste, mattresses, tyres, car and household batteries, mobile phones printer cartridges and fluorescent tubes.

Policy

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ITEM 7 - ATTACHMENT 2 WASTE MANAGEMENT AND RESOURCE RECOVERY POLICY.

Policy



- 2.4 Port Stephens Council also provides waste and recycling services to events held within Port Stephens and in public places such as parks and reserves, sporting fields and streets where Council's asset owners have determined the need for this service.
- 2.5 Residents and businesses of Port Stephens have self-haul access to one Council-owned Waste Transfer Station at Salamander Bay. Waste delivered to the transfer station is sorted and separated for reuse, recycling or disposal.
- 2.6 The management of waste provides significant outcomes for human health and for the quality of our environment. Since the mid 1990's Council's approach to waste management has moved from simple landfilling of all wastes to kerbside recycling and the utilisation of technology designed to efficiently collect and sort waste for maximum resource recovery. Through these actions Port Stephens Council has improved the sustainability of its waste management services to the community.

3. SCOPE:

- 3.1 The policy outlines what **waste** services are provided to the residents, ratepayers and businesses of Port Stephens as well as Council's **overall** position on **solid**-waste management.

4. DEFINITIONS:

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

Domestic Waste Management	Collection, processing and disposal of solid waste collected from the kerbside of residential properties.
Non-Domestic Waste Management	Collection, processing and disposal of solid waste collected from non-domestic (commercial) properties.
Public Place Waste Management	Collection, processing and disposal of waste collected from streets, parks and central business districts.
Problem Waste	Waste streams such as mattresses, electronic waste, tyres, medical sharps and household chemicals such as paints, oils, batteries etc.

5. STATEMENT:

- 5.1 Council provides the following waste management to the residents, ratepayers and businesses of Port Stephens.

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ITEM 7 - ATTACHMENT 2 WASTE MANAGEMENT AND RESOURCE RECOVERY POLICY.

Policy



5.2 Domestic and Non-domestic (Commercial) Waste Management

5.2.1 Council is committed to:

- a) providing convenient and accessible waste services that meet the needs of the community
- b) reasonable costing of waste services in accordance with Sections 496 and 501 the Local Government Act 1993
- c) the source separation of commercially viable recyclables from residual waste both in its kerbside collections and bulk waste collections
- d) processing residual waste via Advanced Resource Recovery Technology (ARRT) Facility until at least 2027
- e) the disposal of inert domestic waste to licensed landfill sites
- f) the provision of waste collection services via contracts with commercial operators
- g) the provision of alternative waste technology via contracts with commercial operators
- h) continually educating the community about its range of waste services and how to correctly use them.

5.2.2 Toxic/Hazardous/Medical Waste

5.2.2.1 Council is committed to:

- a) creating solutions that source separate these wastes from the domestic/commercial waste streams
- b) supporting extended producer responsibility schemes for the collection and disposal of hazardous and medical wastes
- c) run drop off events for problem wastes such as chemicals, mattresses, tyres and electronic waste
- d) continue to operate the Community Recycling Centre (CRC) at the Salamander Bay Waste Transfer Station that accepts hazardous household chemicals free of charge from residents of Port Stephens
- e) continue to have medical sharp collection points in amenities across Port Stephens LGA to allow safe disposal of these items in public places.

5.2.3 Public Place Waste Management

5.2.3.1 Council is committed to:

- a) providing mobile garbage bins and bulk containers in public places where the need is determined by Council's asset owners including:
 - o CBD areas
 - o Streets
 - o Parks & Reserves
 - o Sporting Facilities

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ITEM 7 - ATTACHMENT 2 WASTE MANAGEMENT AND RESOURCE RECOVERY POLICY.

Policy



- b) the source separation of commercially viable recyclables in locations where trials have deemed it successful
- c) the provision of waste services for special events where Council has approved the waste management plans for these events
- d) the maintenance of all public place waste infrastructure to ensure that it is safe and clean for the users of the area
- e) the collection and disposal of unidentifiable illegal dumped waste in public spaces
- f) the collection and disposal of litter within public spaces.

5.2.4 Management of Waste Transfer Stations

5.2.4.1 Council is committed to:

- a) the provision and operation of Salamander Bay Waste Transfer Station at 4 Tarrant Road Salamander Bay as per Council's Community Strategic Plan.

5.2.5 Landfill Management

5.2.5.1 Council is committed to:

- a) the rehabilitation of decommissioned landfills to meet or exceed the licence requirements
- b) the continued monitoring of decommissioned landfill sites for due diligence purposes so that the environmental impacts are known
- c) reducing the community's reliance on land filling as the primary waste management method.

5.2.6 Financial Assistance for the Disposal of Waste in Port Stephens

5.2.6.1 Council is committed to:

- a) The provision of financial assistance for the disposal of waste to charitable, not for profit or benevolent organisations in accordance with Council's Policy "Financial Assistance for the Disposal of Waste in Port Stephens" under section 356 of the Local Government Act 1993.

5.2.7 Illegal Dumping

5.2.7.1 Council is committed to:

- a) minimising illegal dumping as it is an offence under the NSW Protection of the Environment Operations Act 2001 and those carrying out such activities may be fined. Council's Compliance Policy addresses the issues surrounding illegal

Policy

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ITEM 7 - ATTACHMENT 2 WASTE MANAGEMENT AND RESOURCE RECOVERY POLICY.

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dumping, in terms of its regulation and the need to prioritise activities that educate the community.

5.2.8 Information/Education

5.2.8.1 Council is committed to:

- a) providing clear and concise information on the range, cost and availability of waste services provided
- b) providing education to residents and visitors to the area in order to maximise the potential of its services
- c) working with Environmental Services **the Strategy and Environment Section** to educate the community via its association with community groups, schools and other interest groups.

5.2.9 Development Planning

5.2.9.1 Council is committed to:

- a) ensuring that waste management issues are managed in the Local Environment Plan and related Development Control Plans **Plan**.

5.2.10 Legislative compliance

5.2.10.1 ~~In pursuing this policy~~ Council will comply with **relevant** legislation, specifically **including**:

- a) ~~in the management of waste services Council will observe~~ observing the principles of ecological sustainable development (as defined in the Local Government Amendment (Ecologically Sustainable Development) Act 1997) **in the management of waste services**, specifically:
 - o inter-generational equity
 - o improved valuation
 - o pricing and incentive mechanisms (eg: polluter pays and full life cycle costing)
 - o the precautionary principle and the conservation of ecological integrity.
- b) ~~Council will comply with~~ NSW Environment Protection Licences for the Salamander Bay Waste Transfer Stations and the surrender notices for all decommissioned landfill sites
- c) ~~Council will comply with~~ the Local Government Act 1993 by continuing to provide waste services to domestic and non-domestic properties under sections 496 and 501 of the Act
- d) ~~Council will comply with~~ the Work Health and Safety Act 2011 (NSW)
- e) ~~Council will give~~ **giving** due consideration to state and commonwealth guidelines and strategies including but not limited to:
 - o NSW Waste Avoidance and Resource Recovery Act 2001

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ITEM 7 - ATTACHMENT 2 WASTE MANAGEMENT AND RESOURCE RECOVERY POLICY.

Policy



- o NSW Waste Avoidance and Recovery Strategy 2014-21.
- f) the NSW Waste Hierarchy of Avoid, **Reduce** Reuse, **Repair**, Recycle, **Recover**, Dispose, will guide decision making processes (Waste Avoidance & Resource Recovery Act 2001)
- g) Council will comply **complying** with Australian Standards relating to mobile garbage bin design and standard colours (AS4123.6 2006 and AS4123.7 2006)
- h) Council will provide **providing** services and education material that is consistent with regional, state and national strategies and programs
- i) ~~where opportunities exist, Council will participate~~ **participating** in local and regional initiatives to address waste issues **where opportunities exist**.

6. RESPONSIBILITIES:

- 6.1 Overall review and evaluation of this policy lies with the Community Services Section Manager.
- ~~6.2 Key areas for implementation are delegated to the following positions:~~
- ~~6.3 Waste Management Coordinator — Domestic and non-domestic waste management; toxic hazardous and medical wastes; public place waste management; landfill management; Financial Assistance for the Disposal of Waste in Port Stephens.~~
- ~~6.4 Waste Transfer Station Coordinator — Management of waste transfer stations.~~
- ~~6.5 Waste Management Officer information/education.~~
- ~~6.6 Waste Projects Officer Customer Service/Information.~~
- ~~6.7 Waste Compliance and Strategy Coordinator — illegal dumping and litter management.~~

7. RELATED DOCUMENTS:

- 7.1 Financial Assistance for the disposal of waste in Port Stephens Policy. (~~Adopted 24/04/20017, Minute No. 268 — Amendment (currently being reviewed).~~)
- 7.2 Compliance Policy. (~~Adopted 28/8/07, Minute No. 235 — Amended 28/03/2017, Minute No. 065).~~)

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ITEM 7 - ATTACHMENT 2 WASTE MANAGEMENT AND RESOURCE RECOVERY POLICY.

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EDRMS container No.	PSC2007-3163	EDRMS record No.	18/86846 20/275597
Audience	Residents, Ratepayers and Businesses of Port Stephens		
Process owner	Community Services Section Manager		
Author	Waste Management Coordinator		
Review timeframe	2 years	Next review date	31/03/2020
Adoption date	27/11/2007		

VERSION HISTORY:

Version	Date	Author	Details	Min. No
1	27/11/2007	Steve Bernasconi	Policy Adopted.	337
2	24/11/2009	Steve Bernasconi	Amended Policy Adopted.	396
3	23/6/2015	Aaron Malloy	Amended Policy Adopted.	176
4	27/02/2018	Steve Bernasconi	<ul style="list-style-type: none"> Reformatting the policy into the new format. Inclusion of additional information to cover new services under Toxic/Hazardous/Medical Waste and Public Place Waste Management. Some minor wording changes through the document to make it reflect current trends in the waste industry and levels of services provided. 	035

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ITEM 7 - ATTACHMENT 2
RECOVERY POLICY.

WASTE MANAGEMENT AND RESOURCE

Policy



			<ul style="list-style-type: none"> Revised draft policy for review and endorsement by Executive Leadership Team. Draft for Public Exhibition. 	
5		Community Services Section Manager	<p>Reformatted policy into the new template.</p> <p>Updated Policy owner from Waste Management Coordinator to Community Services Section Manager.</p> <p>1.1 Deleted 'solid', 'a Waste Management and Resource Recovery Plan.' Added 'waste services that are both convenient and cost effective and that maximise the diversion of waste from landfill.'</p> <p>3.1 Added 'waste' and 'overall'. Deleted 'solid'.</p> <p>4.1 Added definition for Problem Waste.</p> <p>5.2.2.1a Deleted 'source'.</p> <p>5.2.3.1 Added lines 'e' and 'f'.</p> <p>5.2.8.1c Deleted 'Environmental Services'. Added 'the Strategy and Environment Section'.</p> <p>5.2.9.1 remove 'Plans' and replace with 'Plan'.</p> <p>5.2.10 Added line.</p> <p>5.2.10.1 Deleted 'In pursuing this policy'. Added 'relevant'. Replaced 'specifically' with 'including'.</p>	

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ITEM 7 - ATTACHMENT 2
RECOVERY POLICY.

WASTE MANAGEMENT AND RESOURCE

Policy



			<p>5.2.10.1a Reworded sentence</p> <p>5.2.10.1b Deleted 'Council will comply with'</p> <p>5.2.10.1c Deleted 'Council will comply with'</p> <p>5.2.10.1d Deleted 'Council will comply with'</p> <p>5.2.10.1e Deleted 'Council will give'. Added 'giving'.</p> <p>5.2.10.1f Added 'Reduce, Repair, Recover'.</p> <p>5.2.10.1g Deleted 'Council will comply'. Added 'compliance'.</p> <p>5.2.10.1h Deleted 'Council will provide'. Added 'providing'.</p> <p>5.2.10.1i – reworded sentence.</p> <p>6.2 to 6.7 have been deleted.</p> <p>6.8 Added line.</p> <p>6.9 Added line.</p> <p>6.10 Added 'is responsible for'.</p> <p>7.1 – deleted reference to date and minute number.</p> <p>7.2 – deleted reference to date and minute number.</p> <p>Updated EDRMS record number from 18/86846 to 20/275597.</p>	
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ITEM NO. 8**FILE NO: 20/355937
EDRMS NO: PSC2007-3003****POLICY REVIEW: LEGISLATIVE COMPLIANCE POLICY****REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Legislative Compliance Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Legislative Compliance Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revoke the Legislative Compliance Policy dated 9 October 2018, Minute No. 124, should no submissions be received.

BACKGROUND

The purpose of this report is to provide Council with the reviewed Legislative Compliance Policy ('Policy'). The Policy has been reviewed as part of Council's ongoing policy review program.

The Policy recognises the need for Council to have appropriate processes and structures in place to ensure legislative requirements are achievable and integrated into the day to day operations of Council.

The Policy has been reviewed and while the formatting has been amended, the content remains unchanged. The Policy is presented for Council's consideration.

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		

ORDINARY COUNCIL - 8 DECEMBER 2020

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

LEGAL, POLICY AND RISK IMPLICATIONS

The Policy recognises the need for Council to have appropriate processes and structures in place to ensure legislative requirements are achievable and integrated into the day to day operations of Council.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that lack of appropriate processes and structures to help ensure achievement of legislative requirements will expose Council to issues arising from non-compliance.	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The establishment of overarching principles for identifying and promoting legislative obligations will assist Council in its commitment to legislative compliance.

CONSULTATION

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

Internal

- The Executive Team has been consulted to seek management endorsement.

External

- Following Council resolution, the revised Policy will be placed on public exhibition for a period of 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Legislative Compliance Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2007-3003

TITLE: LEGISLATIVE COMPLIANCE POLICY

OWNER: **MANAGER-LEGAL SERVICES** **GOVERNANCE SECTION**
MANAGER

1. PURPOSE:

- 1.1 Council is committed to conducting its functions and activities lawfully and in a manner that is consistent with its compliance obligations.
- 1.2 The Legislative Compliance Policy (**Policy**) establishes the overarching principles and commitment to action for Council with respect to achieving compliance by:
 - a) Identifying a clear legislative compliance framework within which Council operates;
 - b) Promoting a consistent, rigorous and comprehensive approach to compliance throughout Council;
 - c) Developing and maintaining practices that facilitate and monitor compliance within Council;
 - d) Seeking to ensure standards of good corporate governance; and
 - e) Engendering a culture of compliance where every person within Council accepts personal responsibility for compliance.

2. CONTEXT/BACKGROUND:

- 2.1 This policy applies to Councillors and all Council officers. Council's legal and regulatory compliance obligations include legislative, regulatory, and contractual as well as Council's policies, procedures, guidelines and management directives.
- 2.2 The policy recognises the balance between Council's responsibility to ensure compliance and its ongoing objective of enhancing community relations and awareness.

3. SCOPE:

- 3.1 The Policy is aligned with Council's objectives as articulated in the Council Integrated Plans.
- 3.2 Council recognises that there are four elements for an effective compliance program:

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Policy



- a) Commitment – to and the establishment of a compliance program;
- b) Implementation – of a compliance program, including ongoing education and maintenance;
- c) Monitoring and Measuring – reporting and supervision of the compliance program; and
- d) Continual Improvement – regular review and continual improvement of the compliance program.

4. DEFINITIONS:

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

Compliance	Adhering to the requirements of laws, industry and organisation standards and codes, principles of good governance and accepted community & ethical standards
Council officer	An employee, contractor or volunteer acting on behalf of Council

5. STATEMENT:

- 5.1 Council shall have appropriate processes and structures to ensure that legislative requirements are achievable and are integrated into the day to day operations of Council.
- 5.2 The processes and structures will aim to:
- a) Develop and maintain a system for identifying the legislation that applies to Council's activities and functions.
 - b) Assign responsibilities for ensuring legislative and regulatory obligations are fully implemented by Council.
 - c) Provide education and awareness for Councillors and Council officers in the legislative requirements that affect them.
 - d) Provide people with the resources to identify and remain up-to-date with legislative changes.
 - e) Establish a mechanism for reviewing situations where non-compliance has occurred.
 - f) Review and assess the system for compliance.

6. RESPONSIBILITIES:

- 6.1 General Manager, Governance Section Manager and Manager Legal Services **Manager** are responsible for the implementation of this policy in conjunction with other Council officers as appropriate.

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7. RELATED DOCUMENTS:

7.1 Legislative Compliance Database.

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2007-3003	EDRMS record No.	
Audience	Port Stephens Community and Council officers		
Process owner	Manager Legal Services Manager		
Author	Manager Legal Services Manager		
Review timeframe	2 years	Next review date	October 2020
Adoption date	9 October 2018		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	28/6/2016	Manager Legal Services	Creation of Policy	193
2.0	9/10/2018	Manager Legal Services	Formatting amended to reflect the current template for policies – no other amendments require.	124
3.0		Legal Services Manager	Formatting to reflect current template for policies, including numbering paragraphs and sub-paragraph and updating the version control. Updated title of policy owner. 1.2, 3.2 and 5.2 – changed bullet points to sub-paragraph alphabetical numbering 6.1 – updated title of Legal Services Manager.	

Policy

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ITEM NO. 9

**FILE NO: 20/356126
EDRMS NO: PSC2007-3003**

POLICY REVIEW: REQUESTS FOR ASSISTANCE - LEGAL COSTS POLICY

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Requests for Assistance – Legal Costs Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Requests For Assistance – Legal Costs Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revoke the Requests for Assistance – Legal Costs Policy dated 9 October 2018, Minute No. 125, should no submissions be received.

BACKGROUND

The purpose of this report is to provide Council with the reviewed Requests for Assistance – Legal Costs Policy ('Policy'). The Policy has been reviewed as part of Council's ongoing policy review program.

From time to time, Local Government NSW (LGNSW) requests that councils support other NSW councils by providing financial assistance to help offset costs incurred in relation to legal proceedings in which they have been involved. These proceedings usually involve a major local government principle, which may be eroded if the proceedings are not pursued. The benefit to all councils in supporting such requests is that the cost of protecting such principles are defrayed across numerous councils. These requests are sent only occasionally by LGNSW, with the last being received by Council in 2016. The last occasion Council requested financial support was early 2000 for drainage legal proceedings.

This Policy outlines the process for putting these requests to Council for consideration where staff recommend such requests be supported and to provide Council with the opportunity to consider recommendations by staff not to support a request.

The Policy has been reviewed and, while the formatting has been amended, the content remains unchanged.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

Any assistance provided in accordance with Council resolution is paid from the legal services budget.

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

As part of good governance, the Policy will enable Council to assist other Councils faced with substantial legal costs to defend their reasonable decisions, where issues arising from and/or outcomes of such legal proceedings have a bearing on the Port Stephens Local Government Area.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that lack of an appropriate framework for dealing with these requests will lead to inequitable decisions being made concerning requests from other Councils for assistance with legal costs.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Open and transparent consideration of requests for assistance helps to ensure Council financial resources are applied to such requests in an equitable and consistent manner.

CONSULTATION

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

Internal

- The Executive Team has been consulted to seek management endorsement.

External

- Following Council resolution, the Policy will be placed on public exhibition for a period of 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Policy - Requests for Assistance - Legal Costs.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil .

ITEM 9 - ATTACHMENT 1 REVISED POLICY - REQUESTS FOR ASSISTANCE - LEGAL COSTS.

Policy



FILE NO: PSC2007-3003

TITLE: REQUESTS FOR LEGAL ASSISTANCE – LEGAL COSTS

OWNER: ~~MANAGER-LEGAL SERVICES~~ **GOVERNANCE SECTION**
MANAGER

1. PURPOSE:

- 1.1 To assist Councils faced with substantial legal costs to defend their reasonable decisions, where the issues arising from and/or outcomes of such legal proceedings directly benefit the Port Stephens Local Government Area.

2. CONTEXT/BACKGROUND:

- 2.1 From time to time, Local Government NSW (**LGNSW**) requests that Councils support other NSW Councils by providing financial assistance to help off-set costs incurred in relation to legal proceedings in which they have been involved. This policy outlines the process for putting these requests to Council for consideration where staff recommend such request be supported, and to provide Councillors with the opportunity to consider recommendations by staff not to support a request.

3. SCOPE:

- 3.1 It is through the adoption and use of policies that Council can aim to deal with matters consistently, particularly where such matters involved the use of Council funds to assist another Council or organisation outside the Port Stephens Local Government Area.
- 3.2 Under s356 of the *Local Government Act 1993* (financial assistance to other~~s~~), Council must approve any financial contributions to assist other Councils with legal costs.

4. DEFINITIONS:

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

Executive Team	Port Stephens Council management team comprising General Manager and Group Managers
Financial Assistance	Percentage contribution of costs incurred in legal proceedings as determined by LGNSW
LGNSW	Local Government NSW

Policy

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ITEM 9 - ATTACHMENT 1 REVISED POLICY - REQUESTS FOR ASSISTANCE - LEGAL COSTS.



Policy

5. STATEMENT:

- 5.1 Requests for LGNSW for financial assistance with legal costs incurred by other NSW Councils will only be granted by Council if the issues arising from and/or outcomes of legal proceedings involving those Councils directly benefit the Port Stephens Local Government Area.
- 5.2 Council officers will assess such requests to gauge their relevance to Council and provide recommendation as to whether or not each request should be met.
- 5.3 Where Council officers recommend financial assistance to be provided, a report will be submitted to Council for its consideration.
- 5.4 Where Council officers recommend against providing financial assistance, a report will be submitted to the General Manager to be deal with under delegated authority and in consultation with the Executive Team.
- 5.5 The General Manager will advise Councillors of his intention to refuse a request. At the request of any Councillor, the General Manager will submit a report to Council for consideration and decision.

6. RESPONSIBILITIES:

- 6.1 Manager Legal Services **Manager**, General Manager and Executive Team are responsible for the implementation of the policy in conjunction with other Council officers as appropriate.

7. RELATED DOCUMENTS:

- 7.1 "Policy and Guidelines – Requests for Assistance with Legal Costs" (LGNSW) (November 2015)

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2007-3003	EDRMS record No.	
Audience	Port Stephens Community		
Process owner	Manager Legal Services Manager		
Author	Manager Legal Services Manager		

Policy

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ITEM 9 - ATTACHMENT 1 REVISED POLICY - REQUESTS FOR ASSISTANCE - LEGAL COSTS.

Policy



Review timeframe	2 years	Next review date	October 2020
Adoption date	9/10/2018		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	9/7/1996	Assistant General Manager	Foundation of policy put in place when Council first requested by LGNSW to contribute to legal costs incurred by another Council	364
1.1	1/4/1997	Corporate Development Officer	Amended policy to screen all requests for assistance	945
2.0	27/11/2001	Legal Officer	Amended policy to streamline the process for consideration of requests for assistance	492
3.0	14/6/2016	Manager Legal Services	Revision of Policy and incorporation into new styling format	163
3.1	9/10/2018	Manager Legal Services	Formatting amended to reflect the current policies template	125
3.2		Legal Services Manager	Formatting to reflect current template for policies and updating version control. Updated title of policy owner, process owner and author. 6.1 – updated title of Legal Services Manager.	

Policy

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ITEM NO. 10**FILE NO: 20/286254
EDRMS NO: A2004-0984****CODE OF CONDUCT: ANNUAL REPORTING**

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the annual reporting of Code of Conduct complaint statistics involving Mayor, Councillors and General Manager for the period of 1 September 2019 to 31 August 2020.

BACKGROUND

The purpose of this report is to provide the code of conduct complaint statistics for the reporting period 1 September 2019 to 31 August 2020, in accordance with Part 11 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (Procedures).

The statistics relate to complaints concerning the Mayor, Councillors and the General Manager.

The statistics are shown at **(ATTACHMENT 1)**.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with the code of conduct complaints are within the existing budget and staff resource allocation.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	No		

ORDINARY COUNCIL - 8 DECEMBER 2020

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

LEGAL, POLICY AND RISK IMPLICATIONS

Part 11 of the Procedures requires all complaints received concerning the Mayor, Councillors and the General Manager to be reported to Council within 3 months of the end of September each year.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council would be in breach of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, and therefore in breach of the Local Government Act 1993, if a report is not be provided to Council.	Low	Adopt the recommendation.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

- 1) Code of Conduct Statistics - 1 September 2019 to 31 August 2020.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 10 - ATTACHMENT 1 CODE OF CONDUCT STATISTICS - 1 SEPTEMBER 2019 TO 31 AUGUST 2020.

CODE OF CONDUCT REPORTING REQUIREMENTS FOR 1 SEPTEMBER 2019 TO 31 AUGUST 2020

Model Code of Conduct Complaints Statistics Port Stephens Council	
Number of Complaints	
1 a The total number of complaints received in the period about councillors and the General Manager (GM) under the code of conduct	10
b The total number of complaints finalised in the period about councillors and the GM under the code of conduct	10
Overview of Complaints and Cost	
2 a The number of complaints finalised at the outset by alternative means by the GM or Mayor	8
b The number of complaints referred to the Office of Local Government (OLG) under a special complaints management arrangement	0
c The number of code of conduct complaints referred to a conduct reviewer	2
d The number of code of conduct complaints finalised at preliminary assessment by conduct reviewer	0
e The number of code of conduct complaints referred back to GM or Mayor for resolution after preliminary assessment by conduct reviewer	0
f The number of finalised code of conduct complaints investigated by a conduct reviewer	2
g The number of finalised complaints investigated where there was found to be no breach	0
h The number of finalised complaints investigated where there was found to be a breach	2
i The number of complaints referred by the GM or Mayor to another agency or body such as the ICAC, the NSW Ombudsman, OLG or the Police	0
j The number of complaints being investigated that are not yet finalised	0
k The total cost of dealing with code of conduct complaints within the period made about councillors and the GM including staff costs	20,413
Preliminary Assessment Statistics	
3 The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:	
a To take no action (clause 6.13(a) of the 2018 and 2020 Procedures)	0
b To resolve the complaint by alternative and appropriate strategies (clause 6.13(b) of the 2018 and 2020 Procedures)	0
c To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies (clause 6.13(c) of the 2018 and 2020 Procedures)	0
d To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, OLG or the Police (clause 6.13(d) of the 2018 and 2020 Procedures)	0
e To investigate the matter (clause 6.13(e) of the 2018 and 2020 Procedures)	0

ITEM 10 - ATTACHMENT 1 CODE OF CONDUCT STATISTICS - 1 SEPTEMBER 2019 TO 31 AUGUST 2020.

Investigation Statistics	
4 The number of investigated complaints resulting in a determination that there was no breach , in which the following recommendations were made:	
a That the council revise its policies or procedures	<input type="text" value="0"/>
b That a person or persons undertake training or other education (clause 7.37 of the 2018 Procedures or clause 7.40 of the 2020 Procedures)	<input type="text" value="0"/>
5 The number of investigated complaints resulting in a determination that there was a breach in which the following recommendations were made:	
a That the council revise any of its policies or procedures (clause 7.36(a) of the 2018 Procedures or clause 7.39 of the 2020 Procedures)	<input type="text" value="0"/>
b In the case of a breach by the GM, that action be taken under the GM's contract for the breach (clause 7.36(h) of the 2018 Procedures or clause 7.37(a) of the 2020 Procedures)	<input type="text" value="0"/>
c In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 (clause 7.36(i) of the 2018 Procedures or clause 7.37(b) of the 2020 Procedures)	<input type="text" value="0"/>
d In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 and that the matter be referred to OLG for further action (clause 7.36(j) of the 2018 Procedures or clause 7.37(c) of the 2020 Procedures)	<input type="text" value="0"/>
6 Matter referred or resolved after commencement of an investigation (clause 7.20 of the 2018 or 2020 Procedures)	<input type="text" value="0"/>
Categories of misconduct	
7 The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:	
a General conduct (Part 3)	<input type="text" value="2"/>
b Non-pecuniary conflict of interest (Part 5)	<input type="text" value="0"/>
c Personal benefit (Part 6)	<input type="text" value="0"/>
d Relationship between council officials (Part 7)	<input type="text" value="0"/>
e Access to information and resources (Part 8)	<input type="text" value="0"/>
Outcome of determinations	
8 The number of investigated complaints resulting in a determination that there was a breach in which the council failed to adopt the conduct reviewers recommendation	<input type="text" value="0"/>
9 The number of investigated complaints resulting in a determination that there was a breach in which the council's decision was overturned following a review by OLG	<input type="text" value="0"/>

ITEM NO. 11

**FILE NO: 20/350695
EDRMS NO: PSC2017-00178**

REQUEST FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayor funds to the following:-
 - a. Karuah Working Together Inc. – Mayoral funds - \$1000 donation towards refurbishment of the used items shed.

BACKGROUND

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

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

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

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

The requests for financial assistance are shown below:

MAYORAL FUNDS – Mayor Palmer

Karuah Working Together Inc.	Karuah Working Together Inc. supports local sporting clubs, school and events through sales of used items.	\$1000	Donation towards refurbishment of used items shed.
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COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Partnerships	Support financially creative and active communities.

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 AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

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

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 12

FILE NO: 20/356900
EDRMS NO: PSC2017-00015

INFORMATION PAPERS

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

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 8 December 2020.

No:	Report Title	Page:
1	Council Resolutions	179
2	Questions on Notice/Questions with Notice	188
3	General Manager's Annual Performance Review 2019-2020	190

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 20/356902
EDRMS NO: PSC2017-00106**

COUNCIL RESOLUTIONS

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

BACKGROUND

The purpose of this report is to inform the Mayor and Councillors of the status of all matters to be dealt with arising out of the proceedings of previous meetings of the Council in accordance with the Code of Meeting Practice.

The General Manager's Office has no outstanding resolutions.

ATTACHMENTS

- 1) Corporate Services Group report.
- 2) Development Services Group report.
- 3) Facilities & Services Group report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 24/11/2020
	Officer:	
Action Sheets Report	Printed: Monday, 30 November 2020	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/03/2018	Crosdale, Timothy	COMPULSORY ACQUISITION OF AN EASEMENT FOR ACCESS OVER PART OF 6 GOVERNMENT ROAD, SHOAL BAY	28/02/2021	28/03/2018	
13		Crosdale, Timothy				18/66656
066						
26 Nov 2020						
Reason: Awaiting Minister's approval to proceed with the compulsory acquisition.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/02/2019	Crosdale, Timothy	King Street, Raymond Terrace Easements	28/02/2021	14/02/2019	
3		Crosdale, Timothy				19/39843
26 Nov 2020						
Reason: Awaiting Minister's approval to proceed with the compulsory acquisition.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2019	Crosdale, Timothy	PROPOSED ACQUISITION OF FORMER FIRE STATION SITE - 51 WILLIAM STREET, RAYMOND TERRACE	28/02/2021	29/05/2019	
5		Crosdale, Timothy				19/148388
109						
26 Nov 2020						
Reason: Minister's approval granted. Proposed Acquisition Notices have been issued to stakeholders. 90 days have expired and we anticipate Gazettal no later than 4 December 2020.						

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 24/11/2020
Action Sheets Report	Officer:	Printed: Monday, 30 November 2020

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2019	Crosdale, Timothy	COMPULSORY ACQUISITION OF PART OF VICTORIA PARADE RESERVE NELSON BAY FOR ROAD PURPOSES	28/02/2021	29/05/2019	
6		Crosdale, Timothy				19/148388
110						
26 Nov 2020						
Reason: Waiting on Aboriginal Land Claim determination by Crown Lands.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/07/2019	Crosdale, Timothy	GRANT OF EASEMENTS IN FAVOUR OF AGL - PUNT ROAD, TOMAGO	30/01/2021		
7		Crosdale, Timothy				19/200498
169						
26 Nov 2020						
Reason: Still in negotiations between AGL and LGL.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/02/2020	Crosdale, Timothy	RENEWAL OF OPTUS LEASE - 9 TARRANT ROAD, SALAMANDER BAY	31/12/2020	12/02/2020	
1		Crosdale, Timothy				20/39141
027						
26 Nov 2020						
Reason: Leases have been signed and are in the process of being registered.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/02/2020	Crosdale, Timothy	COMPULSORY ACQUISITION OF PART 879 SWAN BAY ROAD, SWAN BAY FOR ROAD WIDENING PURPOSE	25/02/2021	12/02/2020	
2		Crosdale, Timothy				20/39141
028						
26 Nov 2020						
Reason: Awaiting Minister's approval to proceed with the compulsory acquisition.						

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 24/11/2020
	Officer:	
Action Sheets Report	Printed: Monday, 30 November 2020	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Crosdale, Timothy	Newline Road, Raymond Terrace	6/12/2020		
2		Crosdale, Timothy				20/288489
199						
26 Nov 2020						
Reason: Approved. Contracts are being prepared by Hunter Water Corporation.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/10/2020	Pattison, Zoe	POLICY REVIEW: PUBLIC ACCESS TO RECORDS AFTER 30 YEARS	30/11/2020		
6		Crosdale, Timothy				20/319652
223						
30 Oct 2020						
Revised Target Date changed From: 10 Nov 2020 To: 30 Nov 2020. Reason: Policy serving public exhibition period.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/10/2020	Crosdale, Timothy	Purchase of Property	7/12/2020		
1		Crosdale, Timothy				20/319652
26 Nov 2020						
Reason: Contracts have been exchanged with completion of the purchase due to settle on 7 December 2020.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/11/2020	Hazell, Tim	Policy Review: Debt Recovery and Hardship	9/12/2020		
7		Crosdale, Timothy				20/336705
238						
16 Nov 2020						
Revised Target Date changed From: 24 Nov 2020 To: 09 Dec 2020. Reason: Currently serving public exhibition period.						

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 24/11/2020
	Officer:	
Action Sheets Report		Printed: Monday, 30 November 2020

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/11/2020	Crosdale, Timothy	Withdrawal of Planning Proposal - 22 Homestead Street, Salamander Bay	8/12/2020		
5 255		Crosdale, Timothy				20/358525
30 November 2020 Revised Target Date changed From: 24 Nov 2020 To: 31 Dec 2020 Reason: Process underway to withdraw planning proposal.						

ITEM 1 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP REPORT.



Outstanding	Division: Development Services	Date From: 26/09/2017
	Committee:	Date To: 24/11/2020
	Officer:	
Action Sheets Report	Printed: Monday, 30 November 2020	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/08/2020	Drinan, Kate	DEVELOPMENT APPLICATION 16-2019-679-1 FOR DEMOLITION OF EXISTING STRUCTURE AND CONSTRUCTION OF SHOPTOP HOUSING AND DETACHED DWELLING AT 26 KING STREET, RAYMOND TERRACE	28/02/2021		
1		Peart, Steven				20/265439
151						
27 Nov 2020 Council resolved to defer this item. A further report will be reported to Council once feedback from the applicant has been received.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/10/2020	Gardner, Janelle	5G SMALL CELL TECHNOLOGY ROLLOUT WITHIN PORT STEPHENS	28/02/2021		
1		Peart, Steven				20/304775
214						
27 Nov 2020 It was resolved that Council prepare a report on the 5G Small Cell 'low impact' technology rollout within Port Stephens. The report will be presented to Council once the relevant studies have been undertaken.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 24/11/2020
	Officer:	
Action Sheets Report	Printed: Monday, 30 November 2020	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Maretich, John	Solar Infrastructure	8/03/2021	11/12/2019	
6		Kable, Gregory				19/388450
264						
27 Nov 2020 External consultants draft report on energy lighting efficiency / solar panels options was reviewed by internal staff and by external 3rd party consultant. Project will proceed through normal procurement methods.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Gutsche, Tammy	GREEN WASTE DROP OFF - SALAMANDER BAY	26/03/2021	11/12/2019	
7		Kable, Gregory		Est. Compl.	Emailed	19/388450
265						
26 Nov 2020 Feasibility report will be prepared with the Waste Management Strategy.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/02/2020	Lamont, Brock	Indoor Sports Facility	30/06/2021	26/02/2020	
4		Kable, Gregory				20/50488
042						
27 Nov 2020 Current discussions with the Dept of Education about co-sharing a single facility has become not viable. Will commence engagement with Sports Council to determine the indoor sporting needs of this community.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/06/2020	Stewart, Adam	Naming of Pathway, Gan Gan Road, Anna Bay	2/03/2021	10/06/2020	
1		Kable, Gregory				20/164033
101						
27 Nov 2020 The specifications and request for quote have been prepared. These documents will be released to Contractors in September. Final designs & proposals will be presented in December 2020 to the Central Ward Councillors.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/07/2020	Lamont, Brock	REVIEW OF THE OFF LEASH DOG AREAS AND TIMES AT ANNA BAY / BIRUBI POINT, FISHERMANS BAY AND BOAT HARBOUR	2/03/2021		
1		Kable, Gregory				20/192934
138						
27 Nov 2020 Consultation proposed to be November 2020 with report to Council early in the New Year 2021.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 24/11/2020
	Officer:	
Action Sheets Report		Printed: Monday, 30 November 2020

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/07/2020	Stewart, Adam	Tomaree Headland	31/03/2021		
2		Kable, Gregory				20/192934
139						
27 Nov 2020 Discussions ongoing with National Parks as part of their footpath plans as well as other community groups who have a vested interest.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/10/2020	Gutsche, Tammy	Policy Review: Waste Management and Resource Recovery	31/12/2020		
5		Kable, Gregory				20/304775
209						
26 Nov 2020 3 x submissions were received during the public exhibition period. A report will be presented to Council 8 December 2020.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/10/2020	Maretich, John	Policy Review: Information & Direction Signs in Road Reserves	31/03/2021		
6		Kable, Gregory				20/304775
210						
27 Nov 2020 Public Exhibition closed on 10 November 2020 with 1 submission received. Report will be prepared and reported back to Council in February 2021.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/11/2020	Gutsche, Tammy	Birubi Point Community Preschool - Licence	31/12/2020		
4		Kable, Gregory				20/336705
234						
26 Nov 2020 Public exhibition commenced Monday 23 November 2020 for a period of 28 days.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/11/2020	Maretich, John	Dinghy Policy Amendment	30/04/2021		
1		Kable, Gregory				20/336705
243						
27 Nov 2020 Council policy to be reviewed and presented back to Council in early 2021. This is proposed to be finalised in April 2021 following report to Council, public exhibition and report back to Council with Community feedback.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 24/11/2020
	Officer:	
Action Sheets Report	Printed: Monday, 30 November 2020	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 17/11/2020	Maretich, John	Medowie Sport and Community Facility	31/12/2020		
1 246		Kable, Gregory				20/344543
27 Nov 2020 Lease agreement has been signed.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/11/2020	Miles, Philip	Disposal of Surplus Excavated Materials at Newcastle Airport Development Project Site	30/09/2021		
11 261		Kable, Gregory				20/358525
30 Nov 2020 Development modification required and legal contracts to be drawn.						

ITEM NO. 2**FILE NO: 20/357256
EDRMS NO: PSC2020-00993****QUESTIONS ON NOTICE/QUESTIONS WITH NOTICE****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE****BACKGROUND**

The purpose of this report is to provide a response to Questions taken on or with Notice in accordance with the Code of Meeting Practice.

Item:	1
Councillor:	Cr Steve Tucker
Date Received:	10 November 2020
Response:	<p>Council liability for injuries sustained using foreshore dinghy racks</p> <p>Arising from the Notice of Motion considered by Council on 10 November 2020, a question was raised as to whether Council would be liable for someone's injuries using Council's dinghy racks.</p> <p>Liability would depend on whether Council has failed to take reasonable precautions against a risk of harm. A Court would look at whether any action by Council (or failure to act) caused or contributed to any injury and, if so, whether Council breached its duty of care obligations. The Court would look at what, if any, damage was suffered because of any breach.</p> <p>Council can moderate aspects of responsibility for the storage and maintenance of the dinghy/kayaks through mechanisms such as the Terms and Conditions of storage incumbent on owners. Council will, however, retain a duty to oversee the practice of storing vessels and ensure its reserves are safe.</p>

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

**FILE NO: 20/359277
EDRMS NO: PSC2005-1318**

GENERAL MANAGER'S ANNUAL PERFORMANCE REVIEW 2019-2020

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

BACKGROUND

The purpose of this report is to receive and note the outcome of the General Manager's Annual Performance Review 2019-2020, which has been signed by the Mayor and General Manager.

Council established a performance evaluation process for the General Manager in accordance with the Guidelines for the Appointment and Oversight of General Managers issues pursuant to Sections 23A and 338 of the Local Government Act 1993. This includes the establishment of a Performance Evaluation Panel to review the General Manager's performance against the agreed criteria and to establish performance criteria for the next period.

The annual performance review summary is noted as **(ATTACHMENT 1)**.

ATTACHMENTS

- 1) General Manager's performance review summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 1
SUMMARY.

GENERAL MANAGER'S PERFORMANCE REVIEW



ATTACHMENT 1

GENERAL MANAGER'S
PERFORMANCE REVIEW

2019-2020

Level	Definition
Acceptable	Performance general meets or exceeds standards or expectations. Attains all or nearly all of position objectives.
Needs Improvement	Fails to meet some performance standards or expectations and/or position accountabilities
Unacceptable	Performance generally does not meet or is below standards or expectations. Fails to meet all or nearly all key position accountabilities.

2019 to 2020 RESULTS

Key Result Area	Target	Result	Comment
1. Service Delivery	>95% integrated plan delivery	98% - Acceptable	Benchmark exceeded
2. Community satisfaction	>80% community satisfaction	80% - Acceptable	Benchmark exceeded
3. Governance	>95% governance health check	98% - Acceptable	Benchmark exceeded
4. Risk Management	>80% risk management maturity score	86% - Acceptable	Benchmark exceeded
5. Financial sustainability	Underlying surplus	(\$185K) – Needs improvement	Underlying deficit due to COVID-19 severe financial impact
6. Employee engagement	>70% employee engagement	74% - Acceptable	Benchmark exceeded
7. Infrastructure Management	Backlog reduction	\$13.83M - Acceptable	Benchmark exceeded
8. Major projects	On time, on budget	54% completed 10% in progress 36% deferred due to COVID-19 – Acceptable	Benchmark exceeded 110 projects Value \$43M COVID-19 impacts

NOTICES OF MOTION

NOTICE OF MOTION**ITEM NO. 1****FILE NO: 20/358955****EDRMS NO: PSC2017-00019****PORT STEPHENS INTERNATIONAL WOMEN'S DAY SCHOLARSHIP****COUNCILLOR: RYAN PALMER**

THAT COUNCIL:

- 1) Contributes \$1000 from each Ward fund to provide 3 scholarships of \$1000 each for women aged 16 and older in the Port Stephens local government area, in celebration of International Women's Day 2021.
-

BACKGROUND REPORT OF: STEVEN BERNASCONI – COMMUNICATIONS SECTION MANAGER**BACKGROUND**

The Port Stephens International Women's Day (IWD) scholarship program is designed to encourage women in the Port Stephens local government area to achieve their goals and to support their valuable contribution to our communities.

It is proposed to offer 3 scholarships of \$1000 each for women across arts and culture, environment, business, community, health and sport – during 2021.

The awardees would be announced at the Rotary Club of Salamander Bay International Women's Day lunch to be held in March 2021.

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		

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 20/365163

EDRMS NO: PSC2017-00019

KING STREET EASEMENT

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Writes to the Minister for Local Government:
 - a. Noting that Port Stephens Council places a high priority on obtaining an easement over part of King Street, Raymond Terrace for the purpose of a shared pathway that is the only missing link along the Raymond Terrace foreshore.
 - b. Requesting that this matter be considered as soon as possible in order to facilitate this project proceeding as soon as possible.
 - c. Expressing appreciation for any support that is able to be provided to assist Port Stephens Council in this matter.
-

**BACKGROUND REPORT OF: TIM CROSDALE – ACTING GROUP MANAGER
CORPORATE SERVICES**

BACKGROUND

Applications to compulsorily acquire an easement through 24a King Street, Raymond Terrace (blue on **ATTACHMENT 1**) and 26 King Street, Raymond Terrace (black on **ATTACHMENT 1**) were lodged with the Office of Local Government on 21 March 2019.

The Land Acquisition (Just Terms Compensation) Act 1991 (the Act) allows privately owned land to be compulsorily acquired where the authority and the landowner cannot come to agreement on the acquisition.

The compulsory acquisition process is as follows and generally takes 120 days to complete, once Ministerial consent is received:

- Authority to make genuine attempt to acquire the land by agreement. Section 10a of the Act requires the parties to negotiate for at least 6 months – **completed**.

- Authority to serve Notice of Intention to Acquire Land on the landowner and make application to acquire to the Office of Local Government (OLG) – **completed**.
- OLG to obtain the consent of the Minister for Local Government and provide to the authority – **under consideration**.
- Authority to serve Proposed Acquisition Notice on the landowner – **to be undertaken**.
- Landowner to lodge Claim for Compensation Form with the Authority - **to be undertaken**.
- OLG to obtain Governor's approval and provide to the Authority - **to be undertaken**.
- Authority to publish notice of the acquisition in the Government Gazette - **to be undertaken**.
- Valuer-General to provide Authority with Notice of Compensation payable.
- Authority to pay compensation to the landowner - **to be undertaken**.

As outlined above, Minister's consent has not yet been received to enable the continued progression of the compulsory acquisition process despite repeated follow up by Council officers.

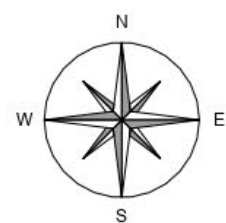
FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

- 1) Aerial image of 24a and 26 King Street, Raymond Terrace.

24A & 26 King Street Proposed Easements for Access



MGA 56



PORT STEPHENS
COUNCIL

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

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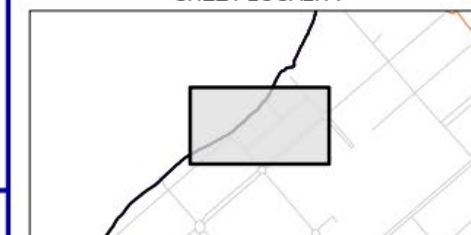
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PRINTED ON: 30.11.20

SHEET LOCALITY



NOTICE OF MOTION

ITEM NO. 3

FILE NO: 20/371625

EDRMS NO: PSC2017-00019

FLY POINT AND LITTLE BEACH PARKING/SMART PARKING

COUNCILLOR: RYAN PALMER

THAT COUNCIL:

- 1) Review the trial of the new shared pathway at Fly Point over the summer holidays through on the ground community consultation.
 - 2) Investigate additional parking areas at Fly Point.
 - 3) Investigate the use of the SMART Parking technology at Fly Point including community consultation.
 - 4) Investigate the use of the SMART Parking technology at Little Beach including community consultation.
 - 5) Reaffirm that all SMART Parking across Port Stephens remains free for residents, ratepayers and businesses.
 - 6) Continue investigations for SMART Parking at Shoal Bay and Birubi including community consultation.
-

BACKGROUND REPORT OF: JOHN MARETICH – ASSETS SECTION MANAGER

BACKGROUND

The purpose of this report is to provide background information on the Notice of Motion.

The Fly Point shared pathway was grant funded with the aim to increase pedestrian safety access along this length of foreshore. Prior to the introduction of the shared pathway, pedestrians were co-sharing the road and gravel shoulder with moving traffic and parked vehicles in a non-formalised manner. As part of the grant, Council is required to undertake a review of the trial and report back to the funding agency.

Investigations and concept designs to increase the number of formalised car parking spaces at Fly Point have commenced.

The introduction of the Smart Parking technology program to include Fly Point and Little Beach may follow on from the existing Nelson Bay Smart Parking program. As noted in the Notice of Motion, community consultation will be required to ensure any implementation will meet strategic plans for these areas.

The Council endorsed Smart Parking program stipulates parking is free for residents, ratepayers and businesses. This position is also represented in Council's Fees and Charges.

Preliminary investigation for Smart Parking at Shoal Bay and Birubi has commenced. This investigation will include a project plan that details the required steps for any implementation.

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		

ATTACHMENTS

Nil.