

DRAFT

MINUTES – 13 JULY 2021



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 13 July 2021, commencing at 6.58pm.

PRESENT:

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

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

160	Councillor John Nell Councillor Chris Doohan It was resolved that the apologies from Cr Sarah Smith and Cr Ken Jordan be received and noted.
------------	--

The motion was carried.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ORDINARY COUNCIL MEETING - 13 JULY 2021 PROCEDURAL MOTION

	Councillor Giacomo Arnott That the motion to be put.
--	--

The motion was lost.

161	Councillor John Nell Councillor Chris Doohan It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 22 June 2021 be confirmed.
------------	---

The motion was carried.

	Declaration of Interest from Cr Paul Le Mottee was received and noted. Cr Paul Le Mottee declared a pecuniary interest in Item 1. The nature of the interest is the Le Mottee Group assisted with the preparation of this application.
--	---

MOTION TO CONSIDER BUSINESS WHICH NOTICE HAS NOT BEEN GIVEN

ORDINARY COUNCIL MEETING - 13 JULY 2021 MOTION

	Councillor Giacomo Arnott That Council: <ol style="list-style-type: none">1) Acknowledges the failure of the current Council led by Mayor Palmer to adequately fund local roads since September 2017.2) Notes that local roads are in a state of disrepair, and have been since 2017.3) Notes that recent weather events are a convenient excuse for failing to perform required works over a much longer period of time.4) Commits to putting more funding, urgently, into road works to make sure that Port Stephens locals can access and use local roads without needing to dodge Palmer Potholes every few metres.
--	---

The Chairperson ruled that the business was not a matter of great urgency, in accordance with the Code of Meeting Practice.

INDEX

SUBJECT**PAGE NO****MAYORAL MINUTES 5**

1. ROAD REHABILITATION BUDGET6
2. CONGRATULATIONS TO PORT STEPHENS SES.....8

MOTIONS TO CLOSE 10

1. MOTION TO CLOSE.....11

COUNCIL REPORTS..... 13

1. DEVELOPMENT APPLICATION 16-2020-349-1 FOR A PRIMITIVE CAMPING GROUND AT 465 ITALIA ROAD, EAST SEAHAM14

RESCISSION MOTIONS 56

1. DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE57
2. DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS), DEMOLITION OF EXISTING SINGLE STOREY DWELLING, ASSOCIATED LANDSCAPING, CIVIL WORKS AND CAR PARKING AT 10 TOMAREE ROAD, SHOAL BAY (LOT: 31 DP: 17513)124

COUNCIL REPORTS..... 152

2. POLICY REVIEW: COMPLIANCE POLICY152
3. POLICY REVIEW: DOG NOISE POLICY160
5. POLICY REVIEW: HERITAGE POLICY171
6. POLICY REVIEW - COMMERCIAL OPERATORS POLICY179
7. POLICY REVIEW: GRANTS AND DONATIONS195
4. POLICY REVIEW: ECONOMIC DEVELOPMENT POLICY204
8. REVISED TERMS OF REFERENCE FOR THE PORT STEPHENS BEACHSIDE HOLIDAY PARKS - HOLIDAY VAN CONSULTATIVE COMMITTEE.....214
9. COMMUNITY FUNDING PROGRAM229
10. MARCH 2021 NATURAL DISASTER PROJECTS233
11. REQUEST FOR FINANCIAL ASSISTANCE238
12. INFORMATION PAPERS245

INFORMATION PAPERS 246

1. COUNCIL RESOLUTIONS247

MINUTES ORDINARY COUNCIL - 13 JULY 2021

NOTICES OF MOTION 258

1. RAYMOND TERRACE.....259
2. HYDROGEN AND ELECTRIC VEHICLES IN COUNCIL'S FLEET261
3. PUBLICATION OF DEVELOPMENT APPLICATION INFORMATION.....264
4. PUBLICATION OF DEVELOPMENT APPLICATION SUBMISSIONS.....267
5. DUNS CREEK ROAD270
6. DUNS CREEK ROAD AND BUTTERWICK ROAD INTERSECTION273
7. EAST SEAHAM ROAD277
8. HINTON PATHWAYS279

CONFIDENTIAL 286

1. PROPOSED SALE OF COUNCIL OWNED LAND - SOLDIERS POINT287

MAYORAL MINUTES

MAYORAL MINUTE**ITEM NO. 1****FILE NO: 21/190236
EDRMS NO: PSC2015-01024****ROAD REHABILITATION BUDGET**

THAT COUNCIL:

- 1) Acknowledges Port Stephens' unprecedented rainfall events and impacts this has had on the road network.
 - 2) Increases this year's road rehabilitation budget by \$3 million, to be funded by current property sales.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

162	Mayor Ryan Palmer Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Acknowledges Port Stephens' unprecedented rainfall events and impacts this has had on the road network.2) Increases this year's road rehabilitation budget by \$3 million, to be funded by current property sales.
------------	---

The motion was carried.

**ORDINARY COUNCIL MEETING - 13 JULY 2021
AMENDMENT**

	Councillor Giacomo Arnott That Council: <ol style="list-style-type: none">1) Acknowledges Port Stephens' unprecedented rainfall events and impacts this has had on the road network.2) Increases this year's road rehabilitation budget by \$3 million, to be funded by current property sales.3) That Cr Arnott wanted to continue speaking on this matter but was told to stop speaking despite not reaching 5 minutes of speaking time
--	--

MINUTES ORDINARY COUNCIL - 13 JULY 2021

	4) If Cr Arnott was allowed to continue speaking, he would have noted that despite the politics of the motion, he supports it and can't wait for local roads to finally be repaired.
--	--

The amendment lapsed without a seconder.

BACKGROUND

The planning for the 2021/2022 financial year included an additional sum to be provided for essential roads maintenance.

The 'normal' level of road reseal/rehabilitation had been increased from \$1.6 million to \$2.6 million as a means to address required asset management to the road network. While this work would normally be programmed throughout the year, it has become evident that a significant amount of the road network requires repair in the short term. To that end, it is considered appropriate to alter the priorities of the reseal/rehabilitation program to facilitate this urgent work to be completed quickly.

While a number of property asset sales have been scheduled for the coming financial year, the timing of those cash flows are not yet certain. Funding from these sources can be made available to provide for an accelerated reseal/rehabilitation program to the extent required up to the allocation of \$5.6 million. The timing of these sales together with other potential changes to the capital works program are normally conveyed in the formal Quarterly Budget Review. These reviews are formally considered by Council with the first review set down for the end of September 2021.

The financial effects of the direction provided in this report will be included in the Quarterly Budget Review to give effect to the increased reseal/rehabilitation program.

ATTACHMENTS

Nil.

MAYORAL MINUTE**ITEM NO. 2****FILE NO: 21/177199
EDRMS NO: PSC2015-01024****CONGRATULATIONS TO PORT STEPHENS SES**

THAT COUNCIL:

- 1) Congratulate the combined team of Port Stephens SES Road Crash Rescue Unit and New South Wales Ambulance Rescue members for their success at the inaugural New South Wales State Road Crash Challenge where they were successful in winning 7 of 9 awards.
 - 2) Recognise the dedicated volunteer service that the Port Stephens' SES has provided to the Port Stephens Community for over 50 years.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

163	Mayor Ryan Palmer Councillor Giacomo Arnott It was resolved that Council: <ol style="list-style-type: none">1) Congratulate the combined team of Port Stephens SES Road Crash Rescue Unit and New South Wales Ambulance Rescue members for their success at the inaugural New South Wales State Road Crash Challenge where they were successful in winning 7 of 9 awards.2) Recognise the dedicated volunteer service that the Port Stephens' SES has provided to the Port Stephens Community for over 50 years.
------------	--

The motion was carried.

BACKGROUND

For over 50 years, the Port Stephens SES Unit has provided dedicated volunteer service to the Port Stephens Community. This service includes assisting the community prepare and respond to severe weather events as well as responding to road crash rescues.

Testament to their commitment to serve the Port Stephens Community was evident in May 2021, where a combined team consisting of members from the Port Stephens' SES Crash Rescue Unit and NSW Wales Ambulance attended the inaugural 2021 New South Wales State Road Crash Rescue Challenge held in Mogo on the South Coast of New South Wales.

The combined team were successful in winning 7 out of 9 awards. Events that the team were successful in were Controlled Rescue, Entrapped Rescue, Best Medical Team, Best Technical Team, Trauma Challenge, CPR Challenge as well as 1st Place Overall SES Unit.

ATTACHMENTS

Nil.

MOTIONS TO CLOSE

ITEM NO. 1

**FILE NO: 21/181447
EDRMS NO: PSC2021-00072**

MOTION TO CLOSE

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

RECOMMENDATION:

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

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

164	<p>Councillor Glen Dunkley Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 13 on the Ordinary agenda namely Proposed sale of Council owned land - Soldiers Point.2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none">• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.3) That the report remain confidential and the minute be released in accordance with Council's resolution.
------------	---

The motion was carried.

ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION

165	Councillor John Nell Councillor Steve Tucker It was resolved that Rescission Motions 1 and 2 be brought forward and dealt with after Item 1.
------------	--

The motion was carried.

COUNCIL REPORTS

MINUTES ORDINARY COUNCIL - 13 JULY 2021

Councillor Paul Le Mottee left the meeting at 7.36pm.

ITEM NO. 1

FILE NO: 21/139572
EDRMS NO: 16-2020-349-1

DEVELOPMENT APPLICATION 16-2020-349-1 FOR A PRIMITIVE CAMPING GROUND AT 465 ITALIA ROAD, EAST SEAHAM

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve DA 16-2020-349-1 for a Primitive Camping Ground comprising 7 sites and use of existing amenities building at 465 Italia Road, East Seaham (Lot 194 DP 261146) subject to the conditions contained in **(ATTACHMENT 3)**.
-

ORDINARY COUNCIL MEETING - 13 JULY 2021 MOTION

	<p>Councillor Giacomo Arnott</p> <p>That Council refuse Development Application 16-2020-349-1 for a primitive camping ground at 465 Italia Road, East Seaham, for the following reasons:</p> <ol style="list-style-type: none">1) The proposed development will not maintain the rural landscape character of the land as required under the Port Stephens Local Environmental Plan. (4.15(1)(a)(i) EP&A Act)2) The impact that the proposal will have on social outcomes for surrounding neighbours. Submissions have presented evidence that there is already anxiety and stress coming from the proposal. (4.15(1)(b) EP&A Act)3) The site is unsuitable for the proposed use due to environmental and amenity constraints. Evidence has been submitted of koalas on site, which has not been addressed by the proponent of Council assessment report. (4.15(1)(c) EP&A Act)4) Submissions made by the public are unanimously opposed, indicating public opposition to the proposal. (4.15(1)(d) EP&A Act)5) It is in the public interest to reduce risk of car crashes on Italia Road, reduce the risk of drinking water catchment contamination, reduce the risk of neighbourhood dispute, reduce the risk of staff hours spent on compliance monitoring, by refusing the application. (4.15(1)(e) EP&A Act).
--	---

The motion lapsed without a seconder.

**ORDINARY COUNCIL MEETING - 13 JULY 2021
FORESHADOWED MOTION**

	<p>Councillor Giacomo Arnott</p> <p>That Council defer Development Application 16-2020-349-1 for a primitive camping ground at 465 Italia Road, East Seaham until after 28 July 2021, to allow Councillors a site inspection and consideration of additional conditions of consent.</p>
--	--

The motion lapsed without a seconder.

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

166	<p>Mayor Ryan Palmer Councillor Chris Doohan</p> <p>It was resolved that Council approve DA 16-2020-349-1 for a Primitive Camping Ground comprising campsite and use of existing amenities building at 465 Italia Road, East Seaham (Lot 194 DP 261146) subject to the conditions contained in (ATTACHMENT 3) with the following amendments:</p> <p>Amend Condition 2.0(1) to require 24 hour onsite management, the restraining of guest animals at all times and a restriction on individual campsite fires. Condition to read:</p> <p>(1) Operational Plan of Management – An Operational Plan of Management for the site is required and must be provided to the Council for approval prior to the Approval to Operate (Camping Ground). The Operational Plan of Management must provide management strategies for the following areas:</p> <ul style="list-style-type: none">i. Provision of 24 hour on-site managementii. Restraining animals brought on to the site by campers at all times to avoid impacts on separate neighbours.iii. Restriction on individual campsite firesiv. Management of litter and rubbish generated by campers.v. Location of firefighting equipment.vi. Nominate that two tent campsites are permitted access to the existing amenities and the remaining 5 are not.
------------	---

	<p>vii. That campers on the 5 non-tent sites are required to provide their own on-board toilet and amenities.</p> <p>viii. How noise and anti-social behaviour will be managed on site.</p> <p>ix. Nominate the required setback between campsites to be in compliance with the Section 132 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.</p> <p>x. Emergency procedures.</p> <p>xi. Emergency and after hours contact numbers for visitors and nearby residents.</p> <p>Deletion Condition 3.0(5) to allow caravans onsite.</p> <p>Additional conditions</p> <ul style="list-style-type: none"> • that the eastern boundary fence be upgraded by the applicant to restrict animals & people moving across the boundary. • that those camping & their animals not be allowed within 10m of the eastern boundary. • Visitors will not be allowed to use any two-wheeled motorised vehicles on site for recreational use. • Proponent must ensure all neighbours to be provided with a phone number to contact the site manager at any time. • Proponent must have a list of all visitors to the site to demonstrate upon request that no more than the allowed visitors have been on site at any time. • Proponent to pay for installation of 'concealed driveway' signs on approach to the site driveway from each direction, to be installed by Council and refer to the Traffic Committee. <p>Addition of Condition 1.0(9) to require planting along the boundary shared with the eastern neighbour. Condition to read as followed:</p> <p>1.0(9) Screen planting – The applicant must plant a 5 metre width landscape strip along the eastern boundary starting 40m from the front boundary to the rear building line of the eastern neighbouring property. The species and pot size of the planting is to be approved by Council. Landscape screening to be planted prior to the commencement of use.</p>
--	--

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

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Glen Dunkley, John Nell and Steve Tucker.

Those against the Motion: Cr Giacomo Arnott.

The motion was carried.

**ORDINARY COUNCIL MEETING - 13 JULY 2021
AMENDMENT**

	<p>Councillor Giacomo Arnott</p> <p>That Council approve DA 16-2020-349-1 for a Primitive Camping Ground comprising campsite and use of existing amenities building at 465 Italia Road, East Seaham (Lot 194 DP 261146) subject to the conditions contained in (ATTACHMENT 3) with the following amendments:</p> <p>Amend Condition 2.0(1) to require 24 hour onsite management, the restraining of guest animals at all times and a restriction on individual campsite fires. Condition to read:</p> <p>(1) Operational Plan of Management – An Operational Plan of Management for the site is required and must be provided to the Council for approval prior to the Approval to Operate (Camping Ground). The Operational Plan of Management must provide management strategies for the following areas:</p> <ol style="list-style-type: none">Provision of 24 hour on-site managementRestraining animals brought on to the site by campers at all times to avoid impacts on separate neighbours.Restriction on individual campsite firesManagement of litter and rubbish generated by campers.Location of firefighting equipment.Nominate that two tent campsites are permitted access to the existing amenities and the remaining 5 are not.That campers on the 5 non-tent sites are required to provide their own on-board toilet and amenities.How noise and anti-social behaviour will be managed on site.Nominate the required setback between campsites to be in compliance with the Section 132 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.Emergency procedures.Emergency and after hours contact numbers for visitors and nearby residents. <p>Deletion Condition 3.0(5) to allow caravans onsite.</p> <p>Additional conditions</p> <ul style="list-style-type: none">that the eastern boundary fence be upgraded by the applicant to restrict animals and people moving across the boundary.that those camping and their animals not be allowed within 10m of the eastern boundary.
--	---

MINUTES ORDINARY COUNCIL - 13 JULY 2021

	<ul style="list-style-type: none">• Visitors will not be allowed to use any two-wheeled motorised vehicles on site for recreational use.• Proponent must ensure all neighbours to be provided with a phone number to contact the site manager at any time.• Proponent must have a list of all visitors to the site to demonstrate upon request that no more than the allowed visitors have been on site at any time.• Proponent to pay for installation of 'concealed driveway' signs on approach to the site driveway from each direction, to be installed by Council and refer to the Traffic Committee.• Proponent must upgrade On sites sewerage prior to the issuing of an approval to operate, to cater for all visitors at all sites using the amenities. <p>Addition of Condition 1.0(9) to require planting along the boundary shared with the eastern neighbour. Condition to read as followed:</p> <p>1.0(9) Screen planting – The applicant must plant a 5 metre width landscape strip along the eastern boundary starting 40m from the front boundary to the rear building line of the eastern neighbouring property. The species and pot size of the planting is to be approved by Council. Landscape screening to be planted prior to the commencement of use.</p>
--	--

The amendment lapsed without a seconder.

ORDINARY COUNCIL MEETING - 13 JULY 2021 AMENDMENT

	<p>Councillor Giacomo Arnott</p> <p>That Council approve DA 16-2020-349-1 for a Primitive Camping Ground comprising campsite and use of existing amenities building at 465 Italia Road, East Seaham (Lot 194 DP 261146) subject to the conditions contained in (ATTACHMENT 3) with the following amendments:</p> <p>Amend Condition 2.0(1) to require 24 hour onsite management, the restraining of guest animals at all times and a restriction on individual campsite fires. Condition to read:</p> <p>(1) Operational Plan of Management – An Operational Plan of Management for the site is required and must be provided to the Council for approval prior to the Approval to Operate (Camping Ground). The Operational Plan of Management must provide management strategies for the following areas:</p>
--	---

- i. Provision of 24 hour on-site management
- ii. Restraining animals brought on to the site by campers at all times to avoid impacts on separate neighbours.
- iii. Restriction on individual campsite fires
- iv. Management of litter and rubbish generated by campers.
- v. Location of firefighting equipment.
- vi. Nominate that two tent campsites are permitted access to the existing amenities and the remaining 5 are not.
- vii. That campers on the 5 non-tent sites are required to provide their own on-board toilet and amenities.
- viii. How noise and anti-social behaviour will be managed on site.
- ix. Nominate the required setback between campsites to be in compliance with the Section 132 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
- x. Emergency procedures.
- xi. Emergency and after hours contact numbers for visitors and nearby residents.

Deletion Condition 3.0(5) to allow caravans onsite.

Additional conditions

- that the eastern boundary fence be upgraded by the applicant to restrict animals and people moving across the boundary.
- that those camping and their animals not be allowed within 10m of the eastern boundary.
- Visitors will not be allowed to use any two-wheeled motorised vehicles on site for recreational use.
- Proponent must ensure all neighbours to be provided with a phone number to contact the site manager at any time.
- Proponent must have a list of all visitors to the site to demonstrate upon request that no more than the allowed visitors have been on site at any time.
- Proponent to pay for installation of 'concealed driveway' signs on approach to the site driveway from each direction, to be installed by Council and refer to the Traffic Committee.
- The site driveway must be upgraded to be fully sealed, to ensure vehicles are able to escape in case of bushfire, flood or any other emergency.

Addition of Condition 1.0(9) to require planting along the boundary shared with the eastern neighbour. Condition to read as followed:

1.0(9) Screen planting – The applicant must plant a 5 metre width landscape strip along the eastern boundary starting 40m from the front boundary to the rear building line of the eastern neighbouring property. The species and pot size of the planting is to be approved by Council. Landscape screening to be planted prior to the commencement of use.

The amendment lapsed without a seconder.

BACKGROUND

The purpose of this report is to present a Development Application (DA) 16-2020-349-1 for a Primitive Camping Ground at 465 Italia Road, East Seaham (Lot 194 DP 261146) to Council for determination.

The DA has been reported in accordance with Council's Planning Matters to be reported to Council Policy as it has been called up by Cr Giacomo Arnott, Cr John Nell and Cr Steve Tucker (**ATTACHMENT 4**).

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

A summary of the DA and property details is provided below:

Subject land	465 Italia Road East Seaham
Total area	56,743.75m ²
Zoning	RU2 Rural Landscape
Permissibility	Camping Grounds are permissible with consent.
Submissions	9 submissions were received objecting to the proposal.
Key issues	<ul style="list-style-type: none">• Managing the amount of campers on site and social impact of the proposal on the surrounding neighbours• The capacity of the wastewater system and catering for the additional camper's onsite.
Justification for Recommendation:	<p>It is recommended that Council approve DA 16-2021-92-1 subject to conditions based on the assessment undertaken which found:</p> <ul style="list-style-type: none">• The proposal is permissible with consent and considered consistent with the objectives of the E4 Environmental Living zone• The proposal is unlikely to have a significant impact on the ecological features of the local area or the amenity of neighbouring development• Non-compliances with the DCP are considered minor in nature and issues relating to setbacks have been addressed through ameliorative design measures
Development Plans:	Provided to Councillors separately due to privacy and copyright legislation.

Proposal

The DA proposes a primitive camping ground, which will contain a total of 7 campsites. The campsites will comprise of 2 campsites specifically for tents, with the

other 5 campsites for campervans, annexes to vehicles and the like. Caravans will not be permitted on site.

The 2 campsites catering for tents will have access to the existing amenities on site located near the existing kennels, which includes a toilet and shower. The remaining 5 campsites will not require access to amenities and will need to have on-board toilet and shower facilities.

The application does not propose any site or access upgrades.

Site description and history

The site is located in a rural area primarily used for rural residential purposes. Dense vegetation exists along the road frontage to the north and the rear half of the south of the site. The northern half of the site is mainly cleared with sparse vegetation and includes an existing dwelling, kennels for animal boarding, several outbuildings, and an onsite wastewater system.

The DA was lodged in response to a compliance matter as it was operating illegally as a camping ground with no approval.

Key issues

The key issues identified throughout the assessment of the DA relates primarily to amenity impacts on the surrounding neighbours and wastewater. A detailed assessment of the DA is contained within the Planners Assessment Report **(ATTACHMENT 2)**.

Amenity

Submissions raised a number of concerns including; fire safety from campfires, noise impacts, privacy of adjoining neighbours, waste management on site, traffic safety, and impact on the natural environment.

The impacts are mainly dealt with through designating an area away from neighbours where the campsites can be located. This provides adequate buffers to neighbouring properties to reduce noise and maintain privacy, and also provides adequate buffers from the vegetation on site to ensure campsites do not degrade the natural environment.

In addition, conditions of consent including an operational plan of management and noise management plan for the camping ground will be included. These plans will be required to detail how they respond to specific provisions such as how noise will be mitigated, how waste is handled, a register of those coming to the site, amongst other items.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

Wastewater

The site currently has connection to a primary septic system with an evapotranspiration area. Concerns were raised by submitters, internal staff and Hunter Water that the existing system is unlikely to be able to cater for the increased camper's onsite.

A restriction on tent campsites will be included in the determination. This will only allow 2 tent sites to have 4 people at a time, and only tent sites can use the existing amenities on site. If the owner of the site wants to increase the amount of people using the system they will need to upgrade the system to allow for that through a Section 68 application and modification application.

The 5 un-serviced sites used by campervans, will need to have their own toilet and amenities on-board. An operational plan of management will be required and is to outline which campsites have access to the amenities.

Conclusion

As detailed in this report, the development is considered suitable subject to the recommended conditions of consent.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

The DA could potentially be challenged in the Land and Environment Court. Defending Councils determination could have financial implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		The site is not subject to contributions as it proposes no works which can be levied against.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

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

LEGAL, POLICY AND RISK IMPLICATIONS

The DA is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act), LEP 2013, DCP 2014 and associated State Environmental Planning Policies. A detailed assessment against these environmental planning instruments is contained within the Planners Assessment Report contained at **(ATTACHMENT 2)**.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
If the DA is approved, there is a risk that determination of the DA may be challenged by a third party in the Land and Environment Court.	Low-Medium	Accept the recommendations	Yes
If the DA is refused, there is a risk that the determination of the DA may be challenged by the applicant in the Land and Environment Court.	Medium	Accept the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed camping ground will provide a form of short term tourist accommodation, which is permissible in the RU2 zone. Through the design measures and conditions of consent, negative social impacts should be mitigated and provide a development compatible with the existing rural character of the locality.

The location of the campsites on the site is considered appropriate and reduces the impact on the natural environment. The conditions relating to the wastewater system will ensure the amount of occupants using the system is restricted and if required through the Section 68 and modification application, the system is upgraded to cater for a higher demand.

CONSULTATION

Consultation with key stakeholders has been undertaken for the purposes of the assessment of the application, including consultation with the public through the notification process.

Internal

Consultation was undertaken with internal officers from Council's Natural Resources, Environmental Health, and Development Contributions Sections. The referral comments from these officers were considered as part of the assessment contained at **(ATTACHMENT 2)** and accordingly the DA is recommended for approval.

External

Consultation with Hunter Water was undertaken during the assessment of the application as the proposed development is within the Hunter Water Special Area – Grahamstown Dam. A referral was received from Hunter Water outlining matters to consider in the application, including, wastewater management on site and animal waste. Subject to the conditions imposed, the development can be supported.

Consultation with NSW Rural Fire Service was undertaken during the assessment of the application as the proposed development is a special fire protection purpose for the purposes of the Rural Fires Act 1997, being 'other tourist accommodation'. Subject to the requirements specified within the General Terms of Approval (GTA) issued on 13 April 2021, and the **(ATTACHMENT 3)** to the draft conditions of consent, RFS identified that the proposal could be supported.

Public Exhibition

The DA was advertised and notified in accordance with the requirements of the Port Stephens Council Community Engagement Strategy. The application was notified for a period of 14 days from 22 July 2020 to 5 August 2020. During this period, 9 public submissions were received.

A detailed assessment of the submissions and matters raised were considered as part of the Planners Assessment Report Contained at **(ATTACHMENT 2)**.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Planners Assessment Report.
- 3) Recommended Conditions of Consent.

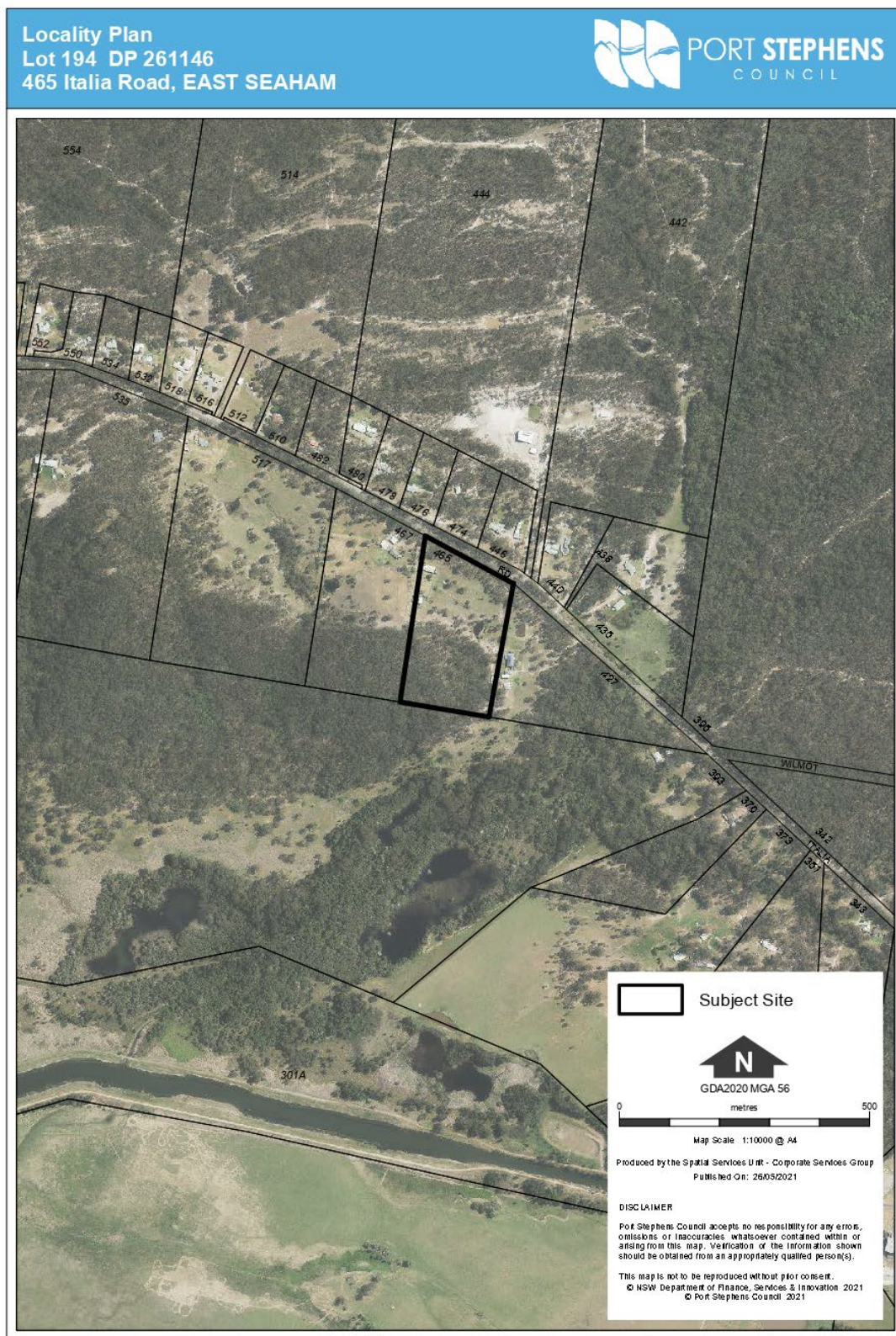
4) Call to Council Form.

COUNCILLORS ROOM

- 1) Development Plans (provided to Councillors separately due to privacy and copyright legislation).
- 2) Unredacted submissions.

TABLED DOCUMENTS

Nil.



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



DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2020-349-1
Development Description	Primitive Camping Ground, comprising 7 sites and use of existing amenities building
Applicant	MR R COCCO
Land owner	R COCCO and L CHANDLEY
Date of Lodgement	19/06/2020
Value of Works	\$0.00
Submissions	9

PROPERTY DETAILS

Property Address	465 Italia Road EAST SEAHAM
Lot and DP	LOT: 194 DP: 261146
88B Restrictions on Title	Nil
Current Use	Dwelling and Commercial Kennels
Zoning	RU2 RURAL LANDSCAPE
Site Constraints	Bush Fire Prone Land – Category 1, Category 3, Acid Sulfate Soils – Class 5, Koala Habitat Planning Map – Clear, Marginal, High Environmental Value Mapping – OEH SEPP Coastal Management Prime Agricultural Land Combined Corridor Map – Local Link, Landscape Habitat Link, Landscape Link, Hunter Water Special Areas – Grahamstown Dam NSW Wildlife Atlas – Fauna
State Environmental Planning Policies	State Environmental Planning Policy (Coastal Management) 2018

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

State Environmental Planning Policy (Koala Habitat Protection) 2020
State Environmental Planning Policy No 21—Caravan Parks (1992 EPI 204)
State Environmental Planning Policy No 55—Remediation of Land
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

PROPOSAL

The proposed development is for a primitive camping ground that supports seven (7) campsites, including:

- Two campsites, specifically for tents that will have access to the existing amenities on site located near the existing kennels, which includes a toilet and shower; and
- Five self-sufficient sites for campervans, caravans and the like. These sites will not require access to amenities and will need to have on-board toilet and shower facilities.

This development application (DA) has been lodged in response to a compliance matter. The site is currently operating as a camping ground without development consent.

The application does not propose any site upgrades such as roads, parking, new amenities, waste water systems etc.

The area of the site used to calculate the primitive camping ground is 3.5 hectares of the site, which excludes the existing dwelling and some areas along adjoining side boundaries.



Figure 1: Proposed development site.



Figure 2: Aerial view of the site and surrounding lots. Site outlined in red.

SITE DESCRIPTION

The site is identified as Lot 194 DP 261146, 465 Italia Road, East Seaham. The site is located in a rural residential area, comprising approximately 5.6ha. Dense vegetation is located on the road frontage and at the rear portion of the site, with sparse vegetation comprised of predominantly mature trees positioned in the centre of the site. The site currently contains a dwelling, commercial kennel and a number of outbuildings.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**SITE HISTORY**

Relevant Site History Includes:

- DA No's 7-1981-1005-1 & 7-1981-61589 – 1 – Dwelling and Commercial Kennels
- DA No. 7-1989-60243-1-1 – Agricultural Storage Shed
- DA No. 7-1989-60247-1 – Dwelling and Carport
- DA No.16-2000-229-1 – Carport
- (252670-2019) Tree permit – remove 3 trees in front verge 2 at 465 and 1 at 467 to mitigate obstruction of vision when leaving the properties.

Two compliance matters have been lodged over the site, and this DA has been prepared in response to unauthorised camping occurring on the site including signage installed at the front of the site. The compliance matter lodged with Council included concerns for fire danger, security, privacy and amenity impact on adjoining properties.

SITE INSPECTION

Site inspections were carried out on 11 September 2020 and 13 May 2021.

The subject site can be seen in the Figures below.



Figure 3: Existing commercial kennel on-site



Figure 4: From the camping area, looking towards the existing dwelling



Figure 5: Existing access to the subject site



Figure 6: Location of commercial kennels



Figure 7: Vegetated area at rear of site.



Figure 8: Vegetation at rear of site.



Figure 9: illustrating location of commercial kennels



Figure 10: illustrating location of commercial kennels



Figure 11: Existing amenities to be used as a recreation room/kitchenette under the subject development



Figure 12: View from cleared area looking south to rear of site.



Figure 13: View of kennel from cleared area.



Figure 14: View of wastewater disposal area.

REFERRALS

The application was assessed, and comments provided, by the following external agencies and internal specialist staff:

Natural Resources – Council officers inspected the site on the 5/05/2021. Vegetation on site consisted of an overstorey of a range of Eucalyptus species, midstorey species were absent, with heavy grazing of the under storey evident (goats and sheep). Vegetation is considered consistent with Seaham Spotted Gum Ironbark Forest.

Trees within/ or within proximity to the required APZ area were of young age and contained no hollows or habitat features at the time of inspection. No threatened species were observed. The application was supported unconditionally.

Environmental Health – The site is currently serviced by a primary treatment system with evapotranspiration area, as Hunter Water reticulated sewer is not available to the site. Generally, domestic systems such as this are designed to cater for a 10 person capacity. If there is only one system currently in place servicing the residence and the amenities near the kennel, a second system may be required or the existing system may need to be upgraded to a commercial system to cater for more than 10 people per day. A condition of consent was recommended to be included requiring a new Section 68 application accompanied by a report that demonstrates the current system is sufficient or needs upgrading to cater for the proposed demand. Subject to these conditions, the application was supported.

Developer Contributions – Council's Local Infrastructure Contribution Plan does not identify camping grounds as applicable development. Therefore, s7.11 contributions cannot be applied to DAs proposing camping grounds. All development above \$100,000 is subject to s7.12 contributions pursuant with Council's Fixed Local Infrastructure Contribution Plan. However the cost of works is nil and therefore developer contributions are not applicable.

NSW Rural Fire Services – The development is integrated per section 100B of the Rural Fires Act 1997 and the RFS provided their General Terms of Approval (GTA). The GTAs require that the land around the amenities building (kennel) must be managed as an IPA for a distance of 50m or to the side boundary, whichever comes first, in accordance with Appendix 4 of Planning for

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

Bushfire Protection 2019 (PBP 2019). A Bush Fire Emergency Management and Evacuation Plan must also be prepared. Other general requirements relating to utilities and servicing were also imposed.

PLANNING ASSESSMENT**Environmental Planning and Assessment Act 1979****Section 4.46 - Integrated development**

Section 4.46 EP&A Act provides that development is integrated development if in order to be carried out, the development requires development consent and one or more other approvals. The proposed development is integrated as it requires approval under the following Acts:

- NSW Rural Fire Services per section 100B of the Rural Fire Services Act 1997.

The application was referred to the NSW RFS as integrated development under s100B of the Rural Fires Act. The application was generally supported with a Bushfire Safety Authority and a number of recommended conditions.

Section 4.14 – Consultation and development consent (certain bushfire prone land)

The proposed development is mapped as bushfire prone land, and as such triggers assessment under the NSW RFS Planning for Bushfire Protection 2019. The application was referred to the NSW RFS as integrated development under s100B of the Rural Fires Act. The application was generally supported with a Bushfire Safety Authority and number of recommended conditions.

Section 4.15 - Matters for consideration

The proposal has been assessed under the relevant matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Section 4.15(a)(i) - any environmental planning instrument

An assessment has been undertaken against each of the applicable environmental planning instruments (EPI's), as follows:

State Environmental Planning Policies**State Environmental Planning Policy (Koala Habitat Protection) 2019**

This Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

This site contains areas under the koala habitat planning map as marginal and mainly cleared. The site does not contain core or preferred koala habitat per the Comprehensive Koala Plan of Management (CKPOM). The development does not propose any tree removal but due to the requirements under the RFS GTAs, a small amount of clearing may be required to achieve the 50m Inner Protection Area. This is considered acceptable and not contrary to the objectives of this policy as no core or preferred koala will be removed.

State Environmental Planning Policy No 21—Caravan Parks

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

The aim of this Policy is to encourage the orderly and economic use of land, encourage proper management and development of land and protection of the environment. This policy applies, as the application proposes a primitive camping ground.

Clause 7 of SEPP 21 “does not replace the definitions in other instruments” it simply ensures that all references to “camping ground” are taken to include caravan parks, as defined in this policy. Considering this, and that caravan parks are prohibited in the RU2 zone. A condition has been recommended requiring that no caravans are permitted to utilise the site. Only tents, campervans or annexes will be permitted on site.

Clause 10 of this policy outlines matters to be considered by Council prior to granting development consent. An assessment against these matters is provided below:

Clause	Comment
(a) whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,	The site is considered appropriate only as a primitive camping ground, due to the rural character and its location amongst other rural lots primarily used for residential purposes, not as a caravan park with short term tourist or long term sites.
(b) whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,	No long term sites are permitted on site, nor are caravans. The site is to only be used as a primitive camping ground, suitable for use as tourist accommodation.
(c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality	Not applicable. The site will not provide housing, only a place for short term tourist stays in tents, campervans and the like
(d) whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park	No community facilities or services are required to service the primitive camping ground. A toilet and shower will be provided for those using the two tent only campsites, and the other 5 campsites will be required to have their own on board amenities.
(e) any relevant guidelines issued by the Director, and	The relevant planning circulars have been considered as part of this assessment. Only 2 sites per hectare will be approved as part of the application in compliance with circular PS 06-001.
(f) the provisions of the Local Government (Caravan Parks and Camping Grounds)	This regulation is repealed and was in effect from 1 July 1993 to 31 August 1995.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

Clause	Comment
Transitional Regulation 1993.	

Considering the above, the proposal is consistent with this policy.

State Environmental Planning Policy No 55—Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.

The site has predominantly been used in the past for residential purposes with the commercial kennel. It is noted that the NSW list of contaminated sites and list of notified sites published by the EPA does not identify the site as being contaminated, nor has previous record of contamination in Council's system. The land is not within an investigation area, there are no records of potentially contaminating activities occurring on the site, and the proposed primitive camping ground is not listed as a possible contaminating use, per Table 1 of the Guidelines. Noting this, the proposed development satisfies the requirements of SEPP No. 55.

State Environmental Planning Policy Coastal Management 2018

The south-east rear corner of the site is mapped within the 100m buffer area to the wetland located to the east of the site. The site and proposed area of the primitive camping ground is approximately 100m from the buffer area.

As per Clause 11 of the Coastal Management SEPP, development consent must not be granted to development on land identified as 'proximity area for coastal wetlands' unless the consent authority (Council) is satisfied that the proposed development will not significantly impact the biophysical or ecological integrity of the adjacent coastal wetland or the quantity/quality of surface and ground water flows to and from the adjacent wetland.

The site has a large area of pervious surface area and no hardstand is proposed, as such it is not anticipated that water runoff from this use will affect the wetlands to the east of the site.

Limited information was provided relating to the waste water system. Due to the low number of sites, proposed and low use anticipated it is suggested that the existing on site wastewater system could support the low numbers. In the event that there is extensive use, an additional system would be required through a separate Section 68 application. A condition of consent has been included requiring a Section 68 application be approved prior to operating as a camping ground.

The DA is not likely to have significant impact on the existing fauna and flora of the land or the quality of habitat for indigenous and migratory species.

Clause 15 of the SEPP requires consideration to whether the development would increase the risk of coastal hazards. The proposed development is suitably designed and located to not increase risk to coastal hazards.

Therefore, the application would generally comply with the aims of the SEPP and the other matters for consideration stipulated under Clause 11 and 15, and can therefore be supported.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

The object of this Regulation is to provide opportunities for affordable alternatives in short-term and long-term accommodation. Clause 4 outlines the definition of a primitive camping ground is: 'a camping ground that is specified in its approval as being a primitive camping ground'. Part 3, Division 3, Subdivision 9, Section 132 outlines requirements for primitive camping grounds.

Clause	Comment
(1) If an approval to operate a primitive camping ground designates one or more camp sites within that ground, then the maximum number of designated camp sites is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground).	The area of the site designated as the primitive camping ground is 3.5 hectares. This allows for seven (7) campsites. Seven campsites are proposed. Designated campsites are not proposed, however only the central section of the site will be utilised for camping.
(2) The following conditions apply to a primitive camping ground— (a) if the approval to operate the primitive camping ground designates one or more camp sites within that ground—camping is not permitted within the primitive camping ground other than on those designated camp sites,	Not applicable, campsites are not designated on site.
(b) if the approval to operate the primitive camping ground does not designate one or more camp sites within that ground—the maximum number of caravans, campervans and tents permitted to use the camping ground at any one time is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground),	There will be seven (7) campsites in total on site. They will not be designated, however, are proposed to be concentrated around the centre of the site between the dense vegetation at the rear and the kennel/wastewater disposal area.
(c) a caravan, annexe or campervan must not be allowed to be installed closer than 6 metres to any other caravan, annexe, campervan or tent,	The camping ground can adequately accommodate the campervans. A condition of consent has been recommended requiring that a plan showing that campsites can meet these setbacks be provided prior to the use of the site as a primitive camping ground.
(d) a tent must not be allowed to be installed closer than 6 metres to any caravan, annexe or	The area designated for campsites can accommodate tents. A plan showing that

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

Clause	Comment
campervan or closer than 3 metres to any other tent,	campsites can meet these setbacks will be conditioned and required prior to the use of the site as a primitive camping ground.
(e) the camping ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approval for the camping ground,	There are amenities available at the kennel which the two tent campsites can access. The other 5 campsites can only be used by campervans or the like which have on-board water supply, a toilet and refuse facilities. A condition of consent for supply of the necessary services is recommended to satisfy this requirement.
(f) unoccupied caravans, campervans and tents are not to be allowed to remain in the camping ground for more than 24 hours,	Noted.
(g) if a fee is charged for camping, a register must be kept that contains entries concerning the same matters as are specified in clause 122 and, in addition, that specifies the size of the group (if any) with whom the person listed in the register camped,	It will be required under the Section 68 Approval to Operate a Camping Ground that this register is maintained.
(h) such fire fighting facilities as may be specified in the approval are to be provided at the primitive camping ground.	Fire fighting facilities must be provided and will be required prior to the issued of the Section 68 Approval to operate a camping ground.
(3) If the approval to operate a primitive camping site does not designate camp sites, a council may impose as a condition of the approval that the installation of tents, caravans, campervans and annexes is not permitted on a particular area or areas of land within the primitive camping ground, for reasons of health or safety or to ensure consistency with the principles of ecologically sustainable development or for any other purpose.	Conditions of consent have been recommended that prohibit camp sites in the vegetated area or in the wastewater disposal area on site. The campsites must also remain 10 metres from the west and 40 metres from the east.
(4) The provisions of Subdivisions 1–8 do not apply to a primitive camping ground.	Noted.
(5) For the purposes of subclause (2)(b), in the calculation of the number of tents using a camping ground, 2 or more tents occupied by	The consent will restrict the amount of people per site to 4 and 28 people in total on the site. This is due to the size of the site, proximity to

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

Clause	Comment
not more than 12 persons camping together as a group are to be counted as only one tent.	adjoining neighbours and to uphold the rural amenity and character of the area.
(6) The general manager of the council for the area in which a primitive camping ground is located may modify the conditions under this clause as they apply to the camping ground if the general manager is reasonably satisfied that it is necessary to do so for the purposes of accommodating persons who have been displaced because of bush fires.	Not proposed.

The development is considered to be able to comply with this regulation. A Section 68 application will be required post determination to approve the operation of the camping ground.

Port Stephens Local Environmental Plan 2013 (LEP)**Clause 2.3 – Zone Objectives and Land Use Table**

The DA is defined under the LEP as a Camping Ground and is permissible with consent in the RU2 Rural Landscape zone. A camping ground is defined as: 'an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park'.

The applicant has sought approval specifically for a Primitive Camping Ground, which are generally lower impact and have less amenities than a standard camping ground. They do not require sealed roads, hot water or laundries to be provided. Primitive camping ground approvals to operate are issued under Section 68 of the Local Government Act 1993. A detailed assessment of the Regulations has been completed above in the report.

The proposed development is located within the RU2 Rural Landscape Zone. The objectives of this zone are:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.

As the proposed development does not involve or require the extraction of natural resources or the emission of gross pollutants, the development is unlikely to impact on the natural resource base of the land.

The character of the land is comprised of the existing physical and natural features, land uses and amenity. Concerns were raised through public submissions that the development does not maintain the rural landscape character of the land. With consideration that the land use is permissible in the zone, attention is directed to the identification and mitigation of potential visual, physical, and aesthetic impacts of the development.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

As the development site is located behind the existing dwelling on the lot and will contain a maximum of seven (7) short-term campsites stay sites with no additional structures proposed, the development is not expected to have an unacceptable impact on the rural character of the locality.

Through consideration of the above, it is determined that the development is able to demonstrate that it is not inconsistent with the objectives of the land use zone.

Clause 7.1 – Acid Sulfate Soils

The subject land is Class 5 acid sulfate soils. There is no excavation proposed and therefore there should be no disturbance to acid sulfate soils which would cause environmental damage.

Clause 7.3 – Flood Planning

The south eastern corner of the site is Flood Prone Land. No other areas of the site are impacted by flooding and flood free access is available. The campsites are all to be located outside of the flood prone area and therefore no risk to life or property is expected as a result of the proposal.

Clause 7.6 – Essential Services

The subject site is serviced by electricity and water, but does not have reticulated sewer. Two (2) of the campsites will utilise the amenities on site which are connected to a primary septic system with evapotranspiration area. The other five (5) sites will be required to provide their own toilet facilities e.g. on-board toilet in campervan.

Clause 7.8 – Drinking Water Catchments

The proposed development is located within a drinking water catchment and accordingly the requirements of this clause apply. The response from Hunter Water identified potential concerns that should be addressed as part of the application, including;

- The age, type and condition of the existing on-site sewage management system;
- Demonstration of the capacity of the existing on-site system to adequately service the camping sites in addition to its current load (for both the two camping sites that are proposed to be serviced by the existing system, and any additional capacity that might be utilised by other campers);
- Management measures for the proposed unserviced camping sites to ensure that campers have their own facilities, use them appropriately, do not dispose of their waste on site, and either how they will be prevented from using the existing on-site amenities or whether there is capacity in the existing system to accommodate that;
- Details of monitoring or management to be undertaken at the site to ensure that sanitation is being appropriately managed.

The site currently has connection to a primary septic system with evapotranspiration area. A restriction on tent campsites will be included in the determination as the existing system is expected to only cater for residential use. A Section 68 application must be submitted to Council to obtain an approval to treat wastewater on the site. The application will be required to include a wastewater report addressing the requirements of PSC development assessment framework for the proposed commercial activity. A separate LG Act s68 application will be required to obtain and approval from Council to install a wastewater system with an Approval to operate issued by Council prior to use

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

The un-serviced sites need to have their own toilet and amenities on-board. A plan of management will be required that will specify which campsites have access to the amenities and which do not.

The plan of management will also be required to address the management of pets (in addition to the existing pets on site). This can include how pet waste is handled and disposed of on-site.

The implementation of the proposed conditions and plan of management should adequately manage and avoid any significant impact on water quality in the area.

Section 4.15(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition

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

Section 4.15(a)(iii) – any development control plan

Port Stephens Development Control Plan 2014

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

Chapter B1 – Tree Management

Tree removal was not proposed however, some clearing will be required to establish the 50m IPA required by RFS. Trees within or within proximity to the required IPA area were of young age and contained no hollows or habitat features at the time of inspection. No threatened species were observed by the natural resources officer during the site visit. The clearing required will be minimal and is considered acceptable.

Chapter B2 – Natural Resources

The site is mapped as containing Koala Habitat and Coastal SEPP wetlands. The DA does not propose removal of vegetation in the coastal wetlands proximity area, and the impact on Coastal SEPP wetlands has been discussed in detail above against the Coastal SEPP and CI 7.8 of the LEP.

The site contains areas of marginal and mainly cleared vegetation on the koala habitat planning map. Some vegetation may be required to be removed to the south of the amenities building in accordance with the IPA and APZ requirements of RFS. The removal of that vegetation is considered appropriate due to the age and type and to support the bushfire requirements, however, no other vegetation should be removed.

Chapter B3 – Environmental Management

Acid Sulfate Soils

The objective of this DCP Chapter is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage. As detailed within clause 7.1 discussion above, the site is Class 5 and proposes to excavation. No conditions of consent are required to address this further.

Noise

Objections received during the notification period, identified that during the previous illegal use of the site as a camping ground, visitors were riding motor bikes on the site and causing noise

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

impacts to surrounding properties. Outdoor recreation such as a motor bike riding is not proposed as a use with the application.

The proposed campsites are sufficiently setback from neighbouring properties and to create a buffer distance to reduce potential noise transmission. Further, the required plan of management recommended as a condition of consent includes provisions for noise management strategies and complaint registers.

Earthworks

No earthworks are proposed.

Chapter B4 – Drainage and Water Quality

A stormwater management plan was not provided with the DA, as there is no proposed permanent increase to the hard stand on the site. No structures or works are proposed which increase the impervious area or require additional stormwater management.

Chapter B5 – Flooding

The subject land is partially mapped as Flood Prone Land - PMF. Following from the discussion against clause 7.3 of the PSLEP above, the proposed development is acceptable in this regard, given the proposed campsites are not located in this area.

Chapter B5 includes consideration for site suitability for various land uses, noting camping grounds are not listed as a specific development type, and therefore captured under the 'all other development' category. For the minimal risk flood prone land, all 'other development' under the DCP is considered suitable and no specific development controls apply. As discussed under cl. 7.6, the camping sites are not located within mapped flood prone areas.

Chapter B8 – Road Network and Parking

Figure BU outlines the parking requirements for camping grounds. 1 car space is required per site, which results in the need for 7 spaces.

The DA documentation does not show specific parking areas, this however is consistent with the intent of a primitive camping ground. Cars will be parked next to each site area. There is appropriate space available to meet the parking demands anticipated for the maximum number of camping spaces.

The DA proposes a low number of sites and the intent of the primitive camping ground is to be for short stays. It is not anticipated that a high volume of cars will be entering and exiting the site on a daily basis. The spacing of the campervans and annexes will need to comply with the setbacks in the applicable Clause 132 of the Local Government Regulation 2005.

Chapter C – Development Types

The proposed development does not fit into the characterisation of the development types within Chapter C, therefore, no assessment is required.

Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

The regulations have been considered as required throughout the assessment.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.***Section 4.15 (1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*****Social and Economic Impacts**

Potential amenity impacts relating to traffic, noise and visual privacy can be adequately mitigated through the recommended conditions of consent. In particular, conditions of consent have been recommended requiring the preparation of a plan of management as well as a Section 68 Approval to Operate the camping ground. The plan of management will require measures to control adverse impacts from traffic, noise, privacy, guests and animals associated with the boarding facility.

Impacts on the Built Environment

The proposed development is not considered to have an impact on the built environment due to the DA being for use only, with no buildings or structures proposed. The primitive camping ground is not expected to impact the existing built form on site.

Impacts on the Natural Environment

Potential impacts on the natural environment relating to onsite wastewater disposal, erosion on ground from vehicles, waste and litter management and removal of vegetation can be adequately mitigated through the recommended conditions of consent. In particular, conditions of consent have been recommended requiring a Section 68 application to assess the wastewater system, and a plan of management which will outline where campsites can and cannot be located to control impacts on the natural environment.

It is considered that the proposed conditions of consent can regulate these potential negative impacts and reduce the impact on the natural environment.

Section 4.15(1)(c) the suitability of the site for the development

The subject site is suitable for a primitive camping ground. The rural character of the site and broader locality is suitable for this type of development as it is a lower impact use compared to a caravan park or other tourist style development. The location of campsites are restricted to provide suitable setbacks from the adjoining neighbours and to avoid campsites on unsuitable areas of the land such as within the rear vegetation and on the wastewater disposal area. Considering this, the development can be considered suitable.

Section 4.15(1)(d) any submissions made in accordance with this act or the regulations**Public Submissions**

The application was exhibited from 22 July 2020 to 5 August 2020, in accordance with the provisions of the Port Stephens Council Community Participation Plan. Nine (9) submissions were received during this time. The matters raised during the exhibition period have been detailed in the table below.

Comment	Council response
Safety of vehicle access to and from the property to Italia Road. Italia Road is a high trafficked road with large gravel trucks and	The low amount of campsites and expected visits is not considered to warrant any upgrades to the local road network.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

Comment	Council response
heavy machinery accessing the road networks. Limited visibility at the entrance of the property.	
Pet friendly – obligation of visitors to the property restrained and control pets at all times. Particularly barking by dogs at night.	Conditions of consent are recommended, including a plan of management to ensure enforcement of appropriate control of pets being brought onto the site.
Anti-social behaviour associated with campfires, parties, consumption of alcohol and noisy celebration during the night.	A condition of consent is recommended, restricting activities on the site and requiring a plan of management outlining the proposed management and mitigation of noise and antisocial behaviour of visitors.
Fire concern – any potential campsite fires would be a threat to the heavily dense State forest in close proximity to the site.	The owner is to ensure any campfires are controlled and to have the appropriate firefighting services on site per the LG Regulations 2005.
Limited information has been provided on the native flora and fauna of the area – healthy koala habitat is found in the area and some rare flora and fauna has been documented.	Only a small area of vegetation would be required for removal within the 50m IPA required by the RFS. None of this vegetation is comprised of habitat trees or other endangered vegetation.
Overall impact the development would have on the quiet, rural nature of the area by: increased traffic, motorbike riders, noise, risk of bushfire, escaped visiting pets and possible antisocial behaviours.	A condition of consent restricting activities on the site and requiring a plan of management outlining the proposed management and mitigation of noise and antisocial behaviour of visitors.
Waste water and general water management – no built to support the proposed increase in use. Concerns with runoff from the site flows down through adjoining property and into Casewell Creek flowing into wetlands and neighbouring property, which connect into Grahamstown Dam.	The proposal is for a total of 7 sites, 2 of the sites will access the amenities on the site. The 5 other sites will be for self-sufficient campers vans/RVs. They will not be permitted to use the onsite facilities.
No facilities for rubbish removal proposed.	The owner is to make adequate waste facilities available. A condition has been recommended to this effect.
Regulation of how many campers are permitted.	A condition of consent is recommended to limit the total number of campervans to 4 per site, or 28 in total.
Conflict of interest with the Councillors being a director of the company that submitted the DA.	This is a declared conflict of interest which is mitigated and managed through Council's governance procedures.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

Comment	Council response
COVID 19 concerns with protecting the community and the water table – due to being a water catchment area.	Not a legislative consideration for the application. The owner of the site would need to ensure all visitors comply with any relevant requirements relating to COVID 19.
The proposed area for Primitive Camp Ground is close to boundaries with adjoining properties. Concern for the potential impact this will have due to noise, movement, and intrusion upon neighbouring properties.	An amended site plan was provided with the application demonstrating an area on the site to be used for the PCG. This area is setback 40m from the eastern side boundary and 10m to the west.
Concern that self-contained sites will deposit their contaminate tanks on the property or will use the facilities which would apply further pressure on the existing system.	No dump points or waste is to be left on site. General rubbish should be disposed on site in a bin made available by the owner as required by the recommended conditions of consent.
Weed contamination – visiting vehicles bringing weeds onto the site and entering the watercourse.	There is a low likelihood of weed contamination occurring. Notwithstanding, a condition has been recommended that the plan of management include provisions for weed management on the site.
Soil erosion – 4WD access on the campsites and being bogged; continued use would lead to significant erosions and eventually spreading to the watercourse.	The potential for soil erosion resulting from campers using the site is considered to be low.
Boarding kennels – health code requirements when the camp kitchen and amenities proposed are attached the existing boarding kennels business. Never been notified of the business being registered.	The commercial kennel was approved subject to a separate DA and does not form part of this application.
Concern for the suitability of the location for such a development.	The development assessment has concluded the proposal is suitable subject to the conditions of consent. The key reasons are as follows: <ul style="list-style-type: none"> • It is consistent with the rural zoning and character of the area, and • The campsites are limited to 7 which is considered suitable for the size of the site and its proximity to neighbours
Concern with not having fixed location, as campers will be allowed to use the whole site including next to the dam and close to neighbouring properties.	An amended site plan was provided with the application demonstrating an area on the site to be used for the PCG. This area is setback 40m from the eastern side boundary and 10 metres from the west. It will also be conditioned campsites are not to occur in the vegetated area to the rear of the site or on the

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

Comment	Council response
	wastewater disposal area. This is to ensure visitors to the site do not establish sites within close proximity to the adjoining properties or sensitive environmental areas.
Social impact on the rural residential area, the number of visitors and disrespectful behaviour on neighbours. Noise impact because of music, motorbikes affecting the quiet area.	<p>A condition of consent restricting activities on the site and requiring a plan of management outlining the proposed management and mitigation of noise and antisocial behaviour of visitors.</p> <p>Motorbikes are not included as part of the application, further the applicant has noted, visitors to the site will not be permitted to ride on the property. Residents and family members will be using it as private recreation. A restriction will be imposed not permitting motorbike use on the site by visitors.</p>
Unlawful uses on the site including the campground, kennels and horse agistment (animal boarding and training establishment).	Kennels are part of an existing approval of the dwelling in 1981.
APZ established will require provision of an ecology report – prepared by a suitability qualified ecologist. Upgrade of access to the site to meet the PBP typically 4m wide all weather formation with 6m passing bays every 200m.	RFS has provided GTAs which the applicant will be required to comply with. The environmental impacts of the IPA have been satisfactorily addressed throughout this report.
Further consideration against the LG (<i>Manufactured Home Estates, Caravan Parks, Camping Ground and Moveable dwelling</i>) Regulation 2005, compliance with <i>Clause 132, Subdivision 9 of Division 3</i> . Clarification on the ratio of permitted sites/ha designated spaces. Large unlawful variation is proposed to the allowance specified by CI 132(2)(b). Accurate scale plan showing actual sites and ability to comply with the requirements of CI 132.	The application proposes 7 sites which complies with the 3.5 hectare/site ratio. A condition of consent will be included requiring an updated plan showing the ability to have campsites setback in compliance with Clause 132(2).
Suggest a designate site area be required due to the environmental sensitives of the land and to maintain the rural character of the area.	The camping area is setback 40m from the eastern side boundary and 10 metres from the west. It will also be conditioned campsites are not to occur in the rear vegetation or on the wastewater disposal area.

Section 4.15(1)(e) the public interest

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

The proposed development did attract public interest during notification and received two complaints about the illegal camping occurring on the site prior to the DAs lodgement.

It is considered that this DA is in the public interest as the determination can regulate the camping ground proposed on site providing restrictions on the development to ensure it operates in a way that is suitable.

Potential amenity impacts relating to traffic, noise and visual privacy have been found to be acceptable subject to the recommended conditions of consent.

The development also complies with the requirements of the PSLEP, Councils DCP and therefore the development is deemed to be in the public interest.

Section 7.11 – Contribution towards provision or improvement of amenities or services (developer contributions)

Council's Local Infrastructure Contribution Plan does not identify camping grounds as applicable development. Therefore, s7.11 contributions cannot be applied to DAs proposing camping grounds. All development above \$100,000 is subject to s7.12 contributions pursuant with Council's Fixed Local Infrastructure Contribution Plan. However the application form outlines that the cost of works is N/A and therefore s7.12 contributions are not applicable.

DETERMINATION

The application is recommended to be approved by Council, subject to the recommended conditions of consent provided as contained in the notice of determination.



SCHEDULE 1 – CONDITIONS OF CONSENT

1.0 - General Conditions of Consent

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

- (1) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference/ drawing No.	Name of plan	Prepared by	Date
7701 SITE-V2	Primitive Camping Ground Site Plan	Le Mottee	01-06-2021

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

- (2) **Amendments to documents and plans** – The development must be amended as follows:

- i. An amended site plan incorporating the area campsites are permitted and show the location of the 7 campsites within this area to demonstrate compliance with the setbacks required under Section 132(2) of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

Amended plans or documentation demonstrating compliance must be provided to the Council prior to the Commencement of the Use.

- (3) **The General Terms of Approval** from State authorities must be complied with prior to, during, and at the completion of the development.

The General Terms of Approval are:

1. NSW Rural Fire Service General Terms of Approval - DA20200729002742-CL55-1 dated 13 April 2021

A copy of the General Terms of Approval is attached to this determination notice.

- (4) **Separate approval for signs** – A separate development application for any signage must be provided to, and approved by, the Consent Authority or under the provision of the *State Environmental Planning Policy (Exempt and Complying Codes) 2008* if applicable prior to the erection or display of any such signs.

- (5) **Signage** – No consent is given or implied for any form of illumination or floodlighting to any sign.

- (6) **Outdoor lighting** – All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.

116 Adelaide Street
Raymond Terrace NSW 2324

PO Box 42
Raymond Terrace NSW 2324

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

www.portstephens.nsw.gov.au



(7) **Tree Removal/Pruning** – Trees/vegetation within the 50 meters of the amenities building, or to the boundary, whichever comes first, are approved for removal/pruning in accordance with the NSW RFS GTAs dated 13 April 2021. No other vegetation is approved for removal.

(8) **Approval to operate a camping ground** - A Local Government Act, 1993 (Section 68) application to operate a camping ground must be approved by Council and an Approval to Operate issued, prior to the commencement of use.

2.0 - Prior to the Issue of an Approval to Operate (Camping Ground)

The following conditions are to be complied with prior to the issue of an Approval to Operate a camping ground under Section 68 of the Local Government Act 1993.

- (1) **Operational Plan of Management** – An Operational Plan of Management for the site is required and must be provided to the Council for approval prior to the Approval to Operate (Camping Ground). The Operational Plan of Management must provide management strategies for the following areas:
- i. Management of animals brought on to the site by campers to avoid impacts on separate neighbours.
 - ii. Management of litter and rubbish generated by campers.
 - iii. Location of firefighting equipment and how campfires will be managed (or if they are not permitted).
 - iv. Nominate that two tent campsites are permitted access to the existing amenities and the remaining 5 are not.
 - v. That campers on the 5 non-tent sites are required to provide their own on-board toilet and amenities.
 - vi. How noise and anti-social behaviour will be managed on site.
 - vii. Nominate the required setback between campsites to be in compliance with the Section 132 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
 - viii. Outline no caravans are permitted on site.
 - ix. Outline that no campsites are to occur within 40 metres of the eastern boundary, 10 metres of the western boundary, within the rear vegetated area or on the area where wastewater is disposed.
 - x. Outline that each campsite is limited to 4 campers and 28 campers in total on the site at any time.
 - xi. Emergency procedures.
 - xii. Emergency and after hours contact numbers for visitors and nearby residents.
 - xiii. Weed management.
 - xiv. Security.

Error! Reference source not found.

Page 2 of 6

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.

- xv. Prohibition of any caravans on site.
 - xvi. Visitor arrival and departure times.
- (2) **General Noise Management Plan** – A General Noise Management Plan (NMP) is to be prepared and provided to the Council for approval. The NMP is to include the following:
- i. Contact details for site personnel responsible for noise management;
 - ii. Control of noisy activities by site personnel responsible and implementation of the noise management plan shall not be limited to night time noise only;
 - iii. Any revisions of the NMP should only occur if approved by Council or at Council request;
 - iv. A register of any noise related complaints should be retained for future audit by Council. Council would reserve the right to order noise measurements to determine compliance with noise emission criteria
 - v. Vehicle movements of campers to and from and onsite are restricted to daylight, with no vehicle movements permitted during night time hours.
- (3) **Wastewater Application** - a separate wastewater application for the installation of a waste treatment device/human waste storage facility or operation of the existing facility for the intended use shall be approved by Council. The wastewater management system proposed for the development shall be in accordance with Councils On-site Sewage Management Policy and the Local Government Act, 1993.
- (4) **Wastewater operation** - an Approval to Operate shall be obtained by Council in accordance with the Local Government Act, 1993 (Section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility or approval of the existing systems capacity for the intended use.

3.0 – Ongoing Use

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

- (1) **Waste water treatment devices** – All wastewater treatment devices (including drainage systems, sumps, traps and pumps) must be regularly maintained in good working order to ensure that they remain effective.
- A maintenance schedule must be developed and incorporated into a Plan of Management (PoM) and kept on-site at all times for staff to comply with. All liquid and solid wastes collected from the treatment device must be disposed of in accordance with relevant environmental protection and waste control Legislation.
- (2) **Responsibility for damage for tree removal/pruning** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to

Error! Reference source not found.

Page 3 of 6

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.

prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.

- (3) **Manoeuvring of vehicles** – All vehicles must enter and exit the site in a forward direction.
- (4) **Amenity** – The camping ground must be conducted, and customers controlled at all times so that no interference occurs to the amenity of the area, and adjoining residential premises.
- (5) **Use of Caravans** – The use of caravans on site is not permitted.
- (6) **Compliance with Operational Plan of Management and Noise Management Plan** – At all times the camping ground operation is to comply with the approved Noise Management Plan and Operational Plan of Management.
- (7) **Local Government Regulations** - The camping ground must be operated in accordance with the requirements of the Local Government Regulations (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005, excluding any objection approved in accordance with Section 82 of the Local Government Act 1993

Advice Note(s):

- (1) **'Dial Before you Dig'** – Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables.
- (2) **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act.
- (3) **Aboriginal archaeological deposit** – In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Heritage NSW shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.

**SCHEDULE 2 - REASONS FOR DETERMINATION AND REASONS FOR CONDITIONS****REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS**

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Port Stephens Local Environmental Plan 2013 (PSLEP), State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Coastal Management) 2018, State Environmental Planning Policy (Koala Habitat Protection) 2020, and State Environmental Planning Policy No 21—Caravan Parks.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Port Stephens Council Development Control Plan 2014 (PSDCP).
- Subject to the recommended conditions the proposed development will be provided with adequate essential services required under the PSLEP.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- Any submission issues raised have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination. Council has given due consideration to community views when making the decision to determine the application.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

1. Confirm and clarify the terms of Council's Approval;
2. Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
3. Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
4. Set standards and performance measures for acceptable environmental performance; and
5. Provide for the ongoing management of the development.

SCHEDULE 3 – RIGHT OF APPEAL AND REVIEW**RIGHT OF APPEAL**

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Section 8.7 and 8.10 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after:

Error! Reference source not found.

Page 5 of 6

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.

- a) the date on which you receive this notice, or
- b) the date on which that application is taken to have been determined under Section 8.11.

Section 8.8 of the Environmental Planning and Assessment Act 1979, does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development). The objector may, within 28 days after the date on which the notice of the determination was given in accordance with the regulations, and in accordance with rules of the Court, appeal to the Court.

RIGHT OF REVIEW

Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within six months after the date as specified in this notice of determination, together with payment of the appropriate fee. (**See exclusions note below**).

Exclusions: A request to review the determination of a development application pursuant to Section 8.2 of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:

- a) A determination to issue or refuse to issue a complying development certificate, or
- b) A determination in respect of designated development, or
- c) A determination made by the Council under Division 4 in respect of an application by the Crown.

SCHEDULE 4 - APPROVAL(S) UNDER SECTION 4.12(3)

NIL

SCHEDULE 5 - APPROVALS UNDER SECTION 4.46

NSW Rural Fire Service General Terms of Approval - DA20200729002742-CL55-1 dated 13 April 2021

ITEM 1 - ATTACHMENT 4 CALL TO COUNCIL FORM.



Call to Council form

Development Application

116 Adelaide Street,
Raymond Terrace NSW 2324

PO Box 42
Raymond Terrace NSW 2324

p (02) 4988 0255 | **f** (02) 4987 3612
e council@portstephens.nsw.gov.au

DX 21406 | **ABN** 16 744 377 876

DEVELOPMENT APPLICATION (DA) CALL TO COUNCIL REQUEST

We (Mayor/Councillor/s)

Name:	Giacomo Arnott
Name:	John Nell
Name:	Steve Tucker
request that DA number:	DA 16-2020-349-1
for DA description:	Primitive Camping Ground at 465 Italia Road, East Seaham
located at:	Seaham

be reported to Council for determination.

REASON

Public interest

SIGNATURE OF APPLICANT/S

Signature		Date	18 / 01 / 2021
Signature		Date	18 / 01 / 221
Signature		Date	18 / 01 / 2021

PRIVACY

Port Stephens Council is committed to protecting your privacy. We take reasonable steps to comply with relevant legislation and Council policy. **Purpose:** The purpose of this form is to enable Council to record the matter raised and taken appropriate action. **Intended recipients:** Council employees, contractors and other third parties where appropriate. **Supply:** Voluntary. **Consequence of Non Provision:** Council may not take action on the matter raised. **Storage and security:** This document will be placed on the relevant file and/or saved in Council's records management system in accordance with Council policy and relevant legislation. **Access:** Please contact Council on 02 4988 0255 to enquire how you can access information.

RESCISSION MOTIONS

MINUTES ORDINARY COUNCIL - 13 JULY 2021

Councillor Paul Le Mottee returned to the meeting at 7.55pm.

NOTICE OF RESCISSION

ITEM NO. 1

FILE NO: 21/172376

EDRMS NO: 16-2021-92-1

DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE

COUNCILLOR: RYAN PALMER
GLEN DUNKLEY
PAUL LE MOTTEE

THAT COUNCIL:

- 1) That Council rescind its decision of 22 June 2021 (Minute No. 150) on Item No. 3 Development Application 16-2021-92-1 for Horticulture and Ancillary Shed at 509 Gan Gan Road, One Mile.
-

ORDINARY COUNCIL MEETING - 13 JULY 2021 MOTION

167	Mayor Ryan Palmer Councillor Paul Le Mottee It was resolved that Council rescind its decision of 22 June 2021 (Minute No. 150) on Item No. 3 Development Application 16-2021-92-1 for Horticulture and Ancillary Shed at 509 Gan Gan Road, One Mile.
------------	--

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

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

Those against the Motion: Cr Giacomo Arnott.

The motion was carried.

ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION

168

Mayor Ryan Palmer
Councillor Chris Doohan

It was resolved that Council approve Development Application 16-2021-92-1 for horticulture and ancillary shed at 509 Gan Gan Road, One Mile (Lot 2 DP 810866) subject to the amended plans (2410-A02, Revision I and 2410-A03, Revision G) submitted to Council dated 28/06/2021 subject to the conditions below:

CONDITIONS WITHOUT PREJUDICE – DA 16-2021-92-1

1.0 - General Conditions of Consent

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

- (1) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference/ drawing No.	Name of plan	Prepared by	Date
2410-A02, Revision I	Proposed Site and Flood Layouts	Draw Design Group	28/06/2021
2410-A03, Revision G	Elevations & Section A-A	Draw Design Group	28/06/2021
L02, Issue B	Landscape Masterplan	Green Space Planning Co.	19/04/2021

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

- (2) **Separate approval for signs** – A separate development application for proposed signage, must be provide to, and approved by, the Consent Authority or under the provision of the State Environmental Planning Policy (Exempt and Complying Codes) 2008 if applicable prior to the erection or display of any such signs.

	<p>(3) Building Code of Australia – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.</p> <p>(4) Sign on building – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.</p> <p>The sign must be maintained while the work is being carried out and is to be removed when the work is completed.</p> <p>(5) Outdoor lighting - All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.</p> <p>(6) Protect existing vegetation and natural landscape features - Approval to remove existing vegetation for removal is not to occur until the issue of the Construction Certificate.</p> <p>No vegetation or natural landscape features other than that authorised for removal, pruning by this Consent must be disturbed, damaged or removed. No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval.</p> <p>(7) Approved report recommendations – Construction of the development must comply with the recommendations of the 'Flora and Fauna Assessment for No 509 Gan Gan Road, One Mile' (Reference Number: 16042021; Revision A), prepared by Enviro Ecology', dated 16 April 2021, detailed as follows:</p> <ul style="list-style-type: none"> • A suitably qualified ecologist or wildlife handler should be on site during clearing of vegetation. The qualified Ecologist is to hold a scientific licence issued by the NSW Office of Environment & Heritage and a current Animal Ethics licence issued by the Department of Industries and Investment. • Where possible, dead wood should be salvaged from felled trees and placed into retained vegetation within the study area. • During construction, vehicles and general construction equipment (such as excavators etc.) are to be received completely free of soil, seeds and plant material before entering the site to prevent the introduction of exotic plant species and pathogens,
--	--

	<p>equipment failing inspection should be sent away for cleaning. Appropriate records of inspections shall be maintained.</p> <p>Built up of mud, soil and organic matter present on vehicles shall be manually removed prior to vehicles entering/leaving the construction site.</p> <p>Works and vehicular movements shall cease if wet and muddy conditions develop/persist during construction to limit the movement of soil and organic matter onto, through and from the site, minimising the potential for the spread of weeds.</p> <p>(8) Driveway Maintenance – The Shared Driveway on 517 Gan Gan Road, One Mile from the junction with Gan Gan Road through to the western end of the shared right of carriageway must be maintained until all construction, landscaping and associated works are completed at which point the entire driveway must be restored to the current condition in accordance with the requirements of the dilapidation report as per Condition 2.1.</p> <p>(9) Amendments to plans – The development must be amended as follows:</p> <p>a) The landscape plan must be updated to be consistent with the approved plans and to incorporate additional landscaping along the shared driveway.</p> <p>Amended plans demonstrating compliance must be agreed upon with those impacted by existing right of carriageway and provided to the Certifying Authority and Council prior to the issue of a Construction Certificate.</p> <p>2.0 - Prior to Issue of a Construction Certificate</p> <p>The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.</p> <p>(1) Dilapidation report – Adjoining property - A dilapidation report including a photographic survey of the following adjoining properties must be provided to the Certifying Authority. The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.</p> <p>a) Shared Driveway on 517 Gan Gan Road, One Mile from the crossover with Gan Gan Road to the subject site entrance.</p> <p>b) 515 Gan Gan Road, One Mile.</p> <p>c) 513 Gan Gan Road, One Mile.</p> <p>d) 521 Gan Gan Road, One Mile.</p>
--	--

	<p>The dilapidation report is to be prepared by a qualified Structural Engineer and the owner of the adjoining property. All costs incurred in achieving compliance with this condition must be borne by the applicant.</p>
(2)	<p>Civil engineering plans – Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, access ways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>Note. Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.</p>
(3)	<p>Stormwater/drainage plans – Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>Note. Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.</p>
(4)	<p>Soil, erosion, sediment and water management – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council's Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.</p>
(5)	<p>Parking areas and loading bays – Parking areas and Loading bays are to be provided in accordance with AS2890 Part 2 'Parking Facilities'.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p>
(6)	<p>Construction Environmental Management Plan - A Construction Environmental Management Plan must be submitted to and approved by to the Certifying Authority and Council. The required CEMP must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with</p>

	<p>minimal environmental impact in relation to project staging, waste management, noise and dust management, traffic management and environmental management. The traffic management component must be prepared to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.</p> <p>(7) Hunter Water Corporation approval - A Section 50 Application under the Hunter Water Act 1991 must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.</p> <p>(8) Long service levy – In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.</p> <p>(9) Roads Act Application – The development must be amended as follows:</p> <p>a) The existing access off Gan Gan Road is to be widened to 6.5 metres for first 6 metres as per Council's Development Control Plan.</p> <p>Amended plans or documentation demonstrating compliance must be provided to the Certifying Authority and Council prior to the issue of a Construction Certificate.</p> <p>3.0 - Prior to Commencement of Works</p> <p>The following conditions of consent shall be complied with prior to any works commencing on the development site.</p> <p>(1) Notice of Principal Certifying Authority appointment – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the Environmental Planning & Assessment Regulation 2000. The notice must include:</p> <p>a) a description of the work to be carried out;</p> <p>b) the address of the land on which the work is to be carried out;</p> <p>c) the Registered number and date of issue of the relevant development consent;</p> <p>d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;</p>
--	---

	<p>e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and</p> <p>f) a telephone number on which the PCA may be contacted for business purposes.</p> <p>(2) Notice commencement of work – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the Environmental Planning & Assessment Regulation 2000. The notice must include:</p> <p>a) the name and address of the person by whom the notice is being given;</p> <p>b) a description of the work to be carried out;</p> <p>c) the address of the land on which the work is to be carried out;</p> <p>d) the Registered number and date of issue of the relevant development consent and construction certificate;</p> <p>e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and</p> <p>f) the date on which the work is intended to commence.</p> <p>(3) Sign of PCA and contact details – A sign must be erected in a prominent position on the site stating the following:</p> <p>a) that unauthorised entry to the work site is prohibited;</p> <p>b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;</p> <p>c) the name, address and telephone number of the Principal Certifying Authority.</p> <p>The sign must be maintained while the work is being carried out and must be removed upon the completion of works.</p> <p>(4) Construction Certificate Required – In accordance with the provisions of Section 6.7 of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:</p> <p>a) a Construction Certificate has been issued by a Consent Authority;</p>
--	---

	<p>b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the EP&A Act 1979; and</p> <p>c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.</p> <p>(5) Site is to be secured – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.</p> <p>(6) Soil erosion and sediment control – Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.</p> <p>Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).</p> <p>(7) All weather access – A 3m wide all-weather vehicle access is to be provided from the kerb cross over on Gan Gan Road to the building under construction for the delivery of materials and use by trades people.</p> <p>No materials, waste or the like are to be stored on the all-weather access at any time.</p> <p>(8) Rubbish generated from the development – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.</p> <p>No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.</p> <p>(9) Protection of trees /existing street trees – Protection of trees to be retained must be in accordance with AS490 'Protection of Trees on Development Sites' and the following:</p> <p>a) No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s)</p>
--	--

	<p>must be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.</p> <p>4.0 - During Works</p> <p>The following conditions of consent shall be complied with during the construction phase of the development.</p> <p>(1) Construction hours – All work (including delivery of materials) must be restricted to the hours of 7am to 5pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.</p> <p>(2) Toilet facilities – Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.</p> <p>The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.</p> <p>(3) Compliance with BCA – All building work must be carried out in accordance with the requirements of the Building Code of Australia.</p> <p>(4) Excavations and backfilling – All excavations and backfilling associated with this development consent must be executed safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.</p> <p>If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:</p> <ol style="list-style-type: none"> preserve and protect the building from damage; and if necessary, underpin and support the building in an approved manner; and give at least seven days' notice to the adjoining owner before excavating, of the intention to excavate. <p>The principal contractor, owner builder or any person who needs to excavate and undertake building work, must contact "Dial Before You Dig" prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.</p>
--	---

	<p>This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.</p> <p>(5) Building height – A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.</p> <p>(6) Survey report – The building must be set out by a Registered land surveyor. A peg out survey detailing the siting of the building in accordance with the approved plans must be provided to the Principal Certifying Authority prior to the pouring of concrete.</p> <p>(7) Stormwater disposal – Following the installation of any roof, collected stormwater runoff from the structure must be:</p> <p>a) Connected to an approved stormwater quality improvement device such as an infiltrating raingarden in accordance with Council's Standard Drawing S161 (or latest revision of this drawing). Where an infiltration garden is installed, it is to be located in the landscaped area(s) with an overflow pipe connected to the existing drainage easement/system.</p> <p>(8) Placement of fill - Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.</p> <p>Further, any alterations to the natural surface contours must not impede or divert natural surface water runoff so as to cause a nuisance to adjoining property owners.</p> <p>(9) Tree protection measures – All trees to be retained must be protected in accordance with AS4970 'Protection of Trees on Development Sites' for the duration of construction.</p> <p>(10) Unexpected finds contingency (general) – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.</p>
--	--

	<p>In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.</p> <p>Where remediation work is required, the applicant will be required to obtain consent for the remediation works.</p> <p>(11) Soil, erosion, sediment and water management – All requirements of the Erosion and Sediment Control Plan or Soil and Water Management Plan must be maintained at all times during the works and any measures required by the plan must not be removed until the site has been stabilised.</p> <p>(12) Offensive noise, dust, odour and vibration – All work must not give rise to offensive noise, dust, odour or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.</p> <p>(13) Delivery register - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered.</p> <p>This register must be made available to Council officers on request and be provided to the Council at the completion of the development.</p> <p>(14) Fill material – The only fill material that may be received at the development site is:</p> <ul style="list-style-type: none"> a) Virgin excavated natural material (VENM) within the meaning of the Protection of the Environment Operations Act (POEO Act 1997; or b) Excavated natural material (ENM) within the meaning of the POEO Act 1997; or c) Any other waste-derived material the subject of a resource recovery exemption under s.91 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material. <p>Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.</p>
--	---

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

- (15) **Tree removal/pruning** – All approved tree removal/pruning is subject to all pruning works being undertaken by a qualified arborist with minimum Australian Qualification Framework Level 3 qualifications or higher. All works are to be undertaken in accordance with the relevant provisions of AS 4373 'Pruning of Amenity trees'.
- (16) **Traffic Management Plan Implementation** – All construction traffic management procedures and systems identified in the approved Construction Environmental Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.

5.0 - Prior to Issue of an Occupation Certificate

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

- (1) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development.

The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.
- (2) **Fire Safety Certificates** - A Fire Safety Certificate must be provided to the PCA in accordance with the requirements of the Environmental Planning & Assessment Regulation 2000.
- (3) **Survey Certificate** – A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.
- (4) **Services** – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:
 - a) Electricity;
 - b) Water;
 - c) Sewer; and
 - d) Gas (where available).

	<p>Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.</p> <p>(5) Stormwater/drainage works – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.</p> <p>The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.</p> <p>(6) Completion of landscape works – All landscape works are to be undertaken in accordance with the approved landscape plan and conditions of this Development Consent.</p> <p>(7) Car parking requirements – A minimum of 6 car parking spaces are to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked on the pavement surface.</p> <p>(8) Loading/unloading facilities – Loading /unloading facilities must be constructed in accordance with the approved plans. The extent of the loading bay must be permanently marked on the pavement surface.</p> <p>(9) Waste disposal – The building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on public land (eg footpaths, roadways, plazas, reserves) at any time.</p> <p>(10) All weather access – A 3m wide all-weather vehicle access is to be provided from the kerb cross over on Gan Gan Road to the access to the development. The all-weather access is to be maintained for the life of the development.</p> <p>6.0 - Ongoing Use</p> <p>The following conditions of consent are operational conditions applying to the development.</p> <p>(1) Manoeuvring of vehicles – All vehicles must enter and exit the site in a forward direction.</p> <p>(2) Removal of graffiti – The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.</p>
--	--

	<p>(3) Loading to occur on site – All loading and unloading operations are to be carried out wholly within the building/site and in accordance with the approved plans.</p> <p>The loading dock (if provided) must be used for loading and unloading operations in connection with the approved use.</p> <p>(4) Parking – Signage (loading docks) – Proposed parking areas, service bays, truck docks, driveways and turning areas must be maintained clear of obstructions and be used exclusively for purposes of car parking, loading/ unloading, and vehicle access respectively for the life of the development. Under no circumstances are such areas to be used for the storage of goods or waste materials.</p> <p>(5) Parking areas to be kept clear – At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.</p> <p>(6) No retailing – The premises must be used strictly for the cultivation of vegetables (horticulture) pending distribution to persons engaged in the retail trade and under no circumstances must be used as a shop for the display or sale of goods on a retail basis.</p> <p>(7) Fire Safety Schedule – At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of Fire and Rescue NSW in accordance with the Environmental Planning & Assessment Regulations 2000.</p> <p>(8) Maintenance of landscaping – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.</p> <p>If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.</p> <p>(9) Amenity – The business must be conducted so that no interference occurs to the amenity of the area, adjoining occupations and residential or business premises.</p>
--	--

	<p>(10) Use limitations – The site must be used for horticulture and associated purposes only. Approved structures must not be adapted, converted or used for commercial, industrial or residential purposes without the prior approval of Council.</p> <p>(11) Offensive noise – The use and occupation of the premises including all plant and equipment must not give rise to any offensive noise within the meaning of the Protection of the Environment Operation Act 1997 and must comply with the NSW Noise Policy for Industry 2017 (as amended).</p> <p>(12) Delivery and Employee Number Restrictions – The following restrictions apply to deliveries and employee numbers:</p> <ul style="list-style-type: none"> a) No more than one (1) delivery per week is to be received; and b) No more than two (2) people are to be employed on site. <p>All deliveries are restricted to the hours of 9am – 5pm, Monday to Friday and 9am to 12pm on Saturdays. Deliveries are not to be carried out on Sundays or Public Holidays.</p> <p>(13) Vehicle Exit – When exiting the site all vehicles associated with the horticulture use must exist via a left hand turn only.</p> <p>Advice Note(s):</p> <p>(1) 'Dial Before you Dig' – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables.</p> <p>(2) Dividing fences – The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.</p> <p>Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.</p> <p>(3) Premise standard – It is the Applicants responsibility to ensure compliance with the requirements of the Disability Discrimination Act 1992 (DDA).</p>
--	---

Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.

- (4) **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act.
- (5) **Aboriginal archaeological deposit** – In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Biodiversity Conservation Division (BCD) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.
- (6) **Signage** – You are advised that any proposed advertising signs that are not shown on the approved plans, or classified as exempt development, are subject to a separate Development Application to Council.
- (7) **Council as PCA, PCA sign** – It is the responsibility of the applicant to erect a PCA sign. Where Council is the PCA, the sign is available free of charge, from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay. The applicant is to ensure the PCA sign remains in position for the duration of works.

SCHEDULE 2 - REASONS FOR DETERMINATION AND REASONS FOR CONDITIONS

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Port Stephens Local Environmental Plan 2013 (PSLEP), State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Koala

Habitat Protection) 2020, State Environmental Planning Policy (Coastal Management) 2018

- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Port Stephens Council Development Control Plan 2014 (PSDCP).
- The proposed setback variation to the PSDCP is considered to be acceptable in the particular circumstances of this case as the variation will not result in adverse amenity impacts to adjoining properties.
- Subject to the recommended conditions the proposed development will be provided with adequate essential services required under the PSLEP.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- Any submission issues raised have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination. Council has given due consideration to community views when making the decision to determine the application.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- 1) Confirm and clarify the terms of Council's Approval;
- 2) Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- 3) Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- 4) Set standards and performance measures for acceptable environmental performance; and
- 5) Provide for the ongoing management of the development.

SCHEDULE 3 – RIGHT OF APPEAL AND REVIEW

RIGHT OF APPEAL

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Section 8.7 and 8.10 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 6 months after:

- a) the date on which you receive this notice, or
- b) the date on which that application is taken to have been determined under Section 8.11.

Section 8.8 of the Environmental Planning and Assessment Act 1979, does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development). The objector may, within 28 days after the date on which the notice of the determination was given in accordance with the regulations, and in accordance with rules of the Court, appeal to the Court.

RIGHT OF REVIEW

Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within 6 months after the date as specified in this notice of determination, together with payment of the appropriate fee. (**See exclusions note below**).

Exclusions: A request to review the determination of a development application pursuant to Section 8.2 of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:

- a) A determination to issue or refuse to issue a complying development certificate, or
- b) A determination in respect of designated development, or
- c) A determination made by the Council under Division 4 in respect of an application by the Crown.

The following modifications to the conditions have been made:

- Condition 1.1 updated to reflect new plans provided (landscape plans to be amended see conditions 1.9 below).
- Condition 1.8 has been added for driveway maintenance.
- Condition 1.9 has been added requiring updated landscape plans so they are consistent with the approved plans and also showing additional landscaping along the shared driveway. It also notes that the landscape plans must be agreed upon by those impacted by the ROW.
- Condition 2.1 has been updated to add 513 and 521 Gan Gan Road.
- Condition 2.6 has been updated to include a comment regarding traffic management and pedestrian safety.
- Condition 4.16 has been added for pedestrian safety during construction.
- Condition 6.12 has been updated restricting deliveries to 1 per week and also restricting the hours.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

	<ul style="list-style-type: none">• Condition 6.13 has been added to restrict vehicles exiting the site to be via a left hand turn only.• Given the amenities have been removed, all proposed conditions relating to onsite sewer management have been removed.
--	--

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

Those for the Motion: Crs Jaimie Abbott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell, Ryan Palmer and Steve Tucker

Those against the Motion: Cr Giacomo Arnott.

The motion was carried.

ORDINARY COUNCIL MEETING - 13 JULY 2021 AMENDMENT

	<p>Councillor John Nell Councillor Giacomo Arnott</p> <p>That the Development Application 16-2021-92-1 for horticulture and ancillary shed at 509 Gan Gan Road, One Mile be deferred to allow consideration of the 'entry and exit' onto Reflections Drive, and referral to the Traffic Committee.</p>
--	--

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

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

Those against the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Glen Dunkley, Paul Le Mottee, Ryan Palmer and Steve Tucker.

The motion was lost.

ORDINARY COUNCIL MEETING - 13 JULY 2021 AMENDMENT

	<p>Councillor Giacomo Arnott</p> <p>That the construction certificate will not be issued until the Traffic Committee agrees to changes to Reflections Drive to restrict dangerous heavy vehicle movement.</p>
--	--

The amendment lapsed without a seconder.

ATTACHMENTS

- 1) Development Application 16-2021-92-1 for Horticulture and Ancillary Shed at 509 Gan Gan Road, One Mile - Minute No. 150 - 22 June 2021.

COUNCILLORS ROOM

- 1) Development Plans.
- 2) Unredacted submissions.

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM NO. 3

**FILE NO: 21/135699
EDRMS NO: 16-2021-92-1**

DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2021-92-1 for horticulture and ancillary shed at 509 Gan Gan Road, One Mile (Lot 2 DP 810866) subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 22 JUNE 2021
MOTION**

150	<p>Councillor Chris Doohan Councillor Sarah Smith</p> <p>It was resolved that Council refuse Development Application 16-2021-92-1 for horticulture and ancillary shed at 509 Gan Gan Road, One Mile (Lot 2 DP 810866) for the following reasons:</p> <ol style="list-style-type: none">1. The proposed development fails to satisfy the objectives of Chapter B8.B and Chapter B8.C of the Port Stephens Development Control Plan as the development does not achieve safe site distances (as provided in Figure BX) (s4.15(1)(a)(iii) EP&A Act);2. The proposed development fails to satisfy Clause 7.9 – Wetlands of the Port Stephens Local Environmental Plan 2013 (LEP 2013) as the development may have an adverse impact on the condition and significance of the existing ecological values of the land (s4.15(1)(a)(i) EP&A Act);3. The proposed development does not demonstrate site suitability for the proposed development given potential amenity impacts on adjoining land owners as well as impacts to the environmental value of the land (s4.15(1)(c) of the EP&A Act);4. The proposed development is not considered to be in the public interest as the development will not promote the orderly development of land (s4.15(1)(e) EP&A Act);
------------	--

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

	<p>5. The proposed development does not comply with the objectives of the E4 Environmental Living zone as outlined in the LEP 2013 as the development does not propose low impact residential development in an ecologically sensitive manner (s4.15(1)(a)(i) EP&A Act);</p> <p>6. The proposed development fails to satisfy the objectives of Clause 4.3 – Height of Buildings of the Port Stephens Local Environmental Plan 2013 as the proposed building height is not considered appropriate for the context or character of the area given it is surrounded by low density residential development (s4.15(1)(a)(i) EP&A Act).</p>
--	--

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

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

Those against the Motion: Cr Paul Le Mottee.

The motion was carried.

BACKGROUND

The purpose of this report is to present Development Application (DA) 16-2021-92-1 for horticulture and ancillary shed at 509 Gan Gan Road, One Mile (Lot 2 DP 810866) to Council for determination.

A summary of the DA and property details is provided below:

Subject Land:	509 Gan Gan Road, One Mile (Lot 2 DP 810866)
Total Area:	8.2ha
Zoning:	E4 Environmental Living
Submissions:	3 submissions were received
Proposal:	Change of use of the land for horticulture including the construction of an ancillary shed and other associated structures.
Key Issues:	The key issues identified throughout the assessment of the DA relate to the potential impacts on the ecological values of the site, safe site access and amenity impacts on the surrounding development.
Development plans:	Provided to Councillors separately due to privacy and copyright legislation

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

The DA has been reported in accordance with Council's Planning Matters to be Reported to Council Policy, as the DA has been called up by Cr John Nell, Cr Sarah Smith and Cr Giacomo Arnott (**ATTACHMENT 4**).

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

Proposal

The DA proposes a change of use of the land for horticulture purposes and includes the following key elements to facilitate the horticultural use of the site:

- Construction of 1 ancillary shed (500m²)
- Cultivation of olive and avocado trees across an area of approximately 600m² in area in total
- Construction of 2 greenhouses (24m² each)
- Removal of approximately 650m² of existing vegetation consisting of ground cover and scattered weeds
- Replacement landscaping to screen the proposed shed
- Earthworks to achieve a level building platform through the use of balanced cut and fill.

The development is located in an area of the site with sparse vegetation. The site is proposed to be accessed via an existing right of carriageway over Lot 1125 DP 788377 from Gan Gan Road, One Mile.

Site Description and History

The site is heavily vegetated and currently vacant. The site has 3 road frontages to Gan Gan Road, Eucalyptus Drive and Reflections Drive. There does not appear to be any formal access to the site from any of these road frontages, however, the site benefits from a right of carriageway measuring 15m wide over Lot 1125 DP 788377, adjoining the sites northern boundary. A plan identifying the right of carriageway has been provided at (**ATTACHMENT 5**).

The site is surrounded predominately by large lot rural residential uses. A largely cleared vacant lot is located directly to the south of the site and One Mile beach is located further to the east.

There are no recent development approvals recorded on the site that are relevant to the current DA.

Key Issues

The key issues identified throughout the assessment of the DA relate to the potential impacts on the ecological values of the site, safe site access and impacts to surrounding residential amenity. A detailed assessment of the DA is contained within the Planners Assessment Report provided at (**ATTACHMENT 2**).

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

Ecological Values

The site is mapped as containing ecological values, including Port Stephens Local Environmental Plan 2013 (LEP 2013) mapped wetlands, wildlife corridors, preferred and supplementary koala habitat and threatened species. Ecological concerns were raised within the public submissions received during notification of the DA.

In response to the ecological concerns identified, a Flora and Fauna Impact Assessment was prepared by the applicant, which concluded the following:

- All endangered ecological communities will be retained and protected
- The vegetation requiring clearing includes scattered weeds and native groundcovers that are not suitable habitat for threatened species.
- It was found that the clearing of habitat is unlikely to have a significant impact on the threatened species as they are highly mobile and much of the existing vegetation on the site is of better quality and will be retained
- Targeted surveys did not identify any threatened fauna species or endangered population's listed under the Biodiversity Conservation Act or the Environmental Protection and Biodiversity Conservation Act within the site
- No koalas were observed and there was no evidence (scats or scratches) of previous koala habitation recorded in the study area.

It is concluded that the DA is unlikely to have a significant impact on the ecological features of the local area.

Amenity Impacts

During notification of the DA public submissions were received raising concerns regarding potential adverse impacts on the amenity of the area as a result of the scale of the ancillary shed and proposed use of the right of carriage way for access.

In response to the issues raised, amended plans were prepared by the applicant. The amended plans included:

- Increased setback of the ancillary shed to the eastern boundary from 3m to 5m
- Inclusion of deep soil landscaping along the both eastern boundary with Lot 1 DP 810866 and northern boundary with Lot 1125 DP 788377 to provide screening and improve visual amenity.

The amended design is considered on merit to be acceptable despite some setback non-compliances. The proposed ancillary shed is non-compliant with Control C8.5 of the DCP in that it does not reach the minimum 10m side setback on the eastern boundary but rather proposes a 5m setback.

The reduced setback to the eastern boundary is considered appropriate for the following reasons:

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

- Strict compliance with the side setback provisions would result in additional vegetation clearing, including koala habitat
- Landscaping is proposed to be located within the setback consisting of trees that will have a mature height of 10m. The inclusion of the proposed landscaping will improve potential visual amenity impacts with the neighbouring property through providing appropriate screening
- The dwelling of the neighbouring property is setback approximately 47m from the common boundary. Therefore, overshadowing of this dwelling and its associated outdoor open space is not considered likely
- The shed is setback 15m from the northern boundary and therefore will not dominate the frontage to the right of carriageway.

Right of Carriageway

In relation to concerns over the use of the right of carriageway, the following has been assessed:

- The DA has been sited to front the right of carriageway in an area of sparse vegetation to limit clearing required to facilitate the development. For the development to gain access from the alternative street frontages significant vegetation clearing would be required that would include koala habitat. This clearing would be inconsistent with the E4 Environmental Living zoning objectives that seeks to ensure that development does not have an adverse effect on ecological, scientific or aesthetic values. It is further considered that given the clearing required for an alternative access, the ecological values of the site would be adversely impacted. This would not result in an acceptable ecological outcome nor would it be consistent with the zoning objectives.
- The applicant stated that 2 staff would be employed and a maximum of 3 deliveries per week is expected during the operational phase. The traffic movements described above are not considered likely to cause amenity impacts nor adverse impacts to the existing road network. A condition of consent has been recommended restricting both employee and delivery numbers.
- A condition of consent has been recommended requiring that a Construction Environmental Management Plan be prepared prior to the issue of a Construction Certificate, which must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact including traffic and dust. A condition requiring a dilapidation report be prepared for the shared driveway and Lot 1 DP 810866 has also been recommended.

Use of Land

Concern relating to the proposed use of the site for horticulture purposes were raised during the notification period. Any use outside this would require separate development consent. It should be noted that industrial and commercial uses are prohibited in the zone. A condition has also been recommended limiting the use to be only for horticulture and related purposes.

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.**MINUTES ORDINARY COUNCIL - 22 JUNE 2021**Site Distances

The current vehicular access has been identified to be non-compliant with the safe intersection side distance (SISD) controls within Chapter B8.C of the DCP that requires a minimum SISD of 140m. Concerns were also raised during the notification period in relation to the potential safety issues.

The DA achieves the required SISD to the north, however a very minor non-compliance to the south (139.85m) has been identified. Given the access is existing, the non-compliance is minimal and no additional lots are proposed to be serviced, Council's Development Engineering section found that no additional works would be required.

Taking the above into consideration, the site access is suitable for the DA.

Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 2**) the application is considered to be consistent with the aims and objectives of the relevant environmental planning instruments applicable to the DA.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		Development contributions are not applicable.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act), LEP

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.**MINUTES ORDINARY COUNCIL - 22 JUNE 2021**

2013 and associated State Environmental Planning Policies. The non-compliances with the Port Stephens Development Control Plan 2014 (DCP 2014) are considered minor in nature and have been addressed through either conditions of consent or design measures. A detailed assessment against these environmental planning instruments is contained within the assessment report contained at (ATTACHMENT 2).

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
If the DA is approved, there is a risk that the determination of the DA may be challenged by a third party in the Land and Environment Court.	Low	Accept the recommendations.	Yes
If the DA is refused, there is a risk that the determination of the DA may be challenged by the applicant in the Land and Environment Court.	Low	Accept the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications.

Social and Economic Impacts

The proposed development is expected to provide an additional source of income for the residents of the site whilst also providing a source of local produce. The construction of the development would support employment within the local building industry, providing positive social and economic benefit.

The proposed development will provide a low impact land use which is compatible within the established residential setting. There are no adverse social impacts expected to occur as a result of the development.

Impacts on the Built Environment

The proposed development is considered to be sympathetic to the surrounding development and its residential nature. The proposed ancillary shed is compliant with the height limit and includes appropriate landscape screening along the sites northern boundary and eastern boundary. The proposed landscape screening will soften the proposed development to ensure there is limited impact on the existing character of the area.

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

Impacts on the Natural Environment

The site contains a number of environmental constraints that have been considered in the ecology impact assessment provided and throughout the assessment of this DA. It is considered that the proposed development is appropriate for the site and will not have a significant impact on the natural environment.

CONSULTATION

Consultation was undertaken with Council's Development Engineers, Natural Resource Officers, Environmental Health Officers and Building Surveyors. These referral comments were considered as part of the Planners Assessment Report Contained at **(ATTACHMENT 2)** and accordingly the DA is recommended for approval subject to the conditions of consent contained within **(ATTACHMENT 3)**.

Public Exhibition

The DA was advertised and notified in accordance with the requirements of the Port Stephens Council Community Engagement Strategy. The application was notified for a period of 14 days from 19 February 2021 to 5 March 2021. During this period, 3 public submissions were received.

A detailed assessment of the submissions and matters raised were considered as part of the Planners Assessment Report Contained at **(ATTACHMENT 2)**.

OPTIONS

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

ATTACHMENTS

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

COUNCILLORS ROOM

- 1) Development Plans (provided to Councillors separately due to privacy and copyright.
- 2) Unredacted submissions.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 1 LOCALITY PLAN.



MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.



APPLICATION REFERENCES

Application Number	16-2021-92-1
Development Description	Horticulture and ancillary shed
Applicant	PERCEPTION PLANNING PTY LTD
Land owner	MR G D WELLS & MS H M WALKER
Date of Lodgement	11/02/2021
Value of Works	\$95,000.00
Submissions	3

PROPERTY DETAILS

Property Address	509 Gan Gan Road ONE MILE
Lot and DP	LOT: 2 DP: 810866
88B Restrictions on Title	<p>The site contains a right of carriageway measuring 20m wide fronting Gan Gan Rd. The proposed development will not impact this right of carriageway.</p> <p>The subject site benefits from a right of carriageway measuring 15m wide which is located on Lot 1125 DP 788377 (created under DP 646893). The proposal seeks to utilise this right of carriageway for access to the site.</p>
Current Use	Vacant/Vegetated Land
Zoning	E4 ENVIRONMENTAL LIVING
Site Constraints	<p>Bushfire prone land – Category 1, 2 and 3.</p> <p>Koala Habitat – Cleared, buffer over cleared, preferred, Biodiversity Values</p> <p>Acid Sulfate Soils – Category 1, 3 and buffer</p> <p>LEP wetlands</p> <p>Flood Prone Land (PMF)</p>
State Environmental Planning Policies	State Environmental Planning Policy No. 55 – Remediation of Land

Page 1 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

State Environmental Planning Policy (Koala Habitat Protection) 2020

Page 2 of 22

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

PROPOSAL

The proposed development seeks consent for the construction of an ancillary shed and a change of use of the land for horticulture purposes.

The horticulture operation will comprise of the planting of avocado and olive trees and it is proposed to be located in the north eastern portion of the site directly adjacent to Lot 1 DP 810866 and Lot 1125 DP 788377. To support the proposed use of the site for horticulture activities, the proposal also seeks consent for the installation and construction of associated infrastructure and structures. The development specially involves the following:

- Construction of 2 x greenhouses both with floor areas of 24m².
- Plantation of olive and avocados trees which will cover approximately 600m² in area in total.
- Construction of an ancillary shed utilised to store fertiliser, pesticides, equipment and machinery. The shed will also house an office space, staff amenities and lunch area. The shed has a total area of 500m² and height of 7.55m.
- Construction of a new access driveway from Lot 1125 and a 6 space car park. The development proposed to utilise the existing right of carriageway.
- Removal of approximately 650m² of existing vegetation consisting of ground cover and scattered weeds to facilitate the proposed development.
- Planting of landscaping along the sites eastern boundary with Lot 1 DP 810866 and along the sited frontage to Lot 1125 DP 788377.

Refer to Figure 1 below of the proposed development and site layout.

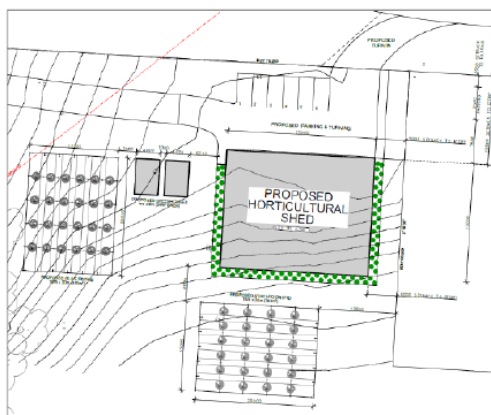


Figure 1: Proposed Site Partial Site Plan

Details in relation to the operation of the horticulture use are as follows:

- The current owners of the site will be employed by the business with no external employees currently anticipated to be required.
- The operational hours will be on a seasonal basis.
- There is no anticipated commercial sale of produce on the site and will therefore be sold externally.

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

- No bulk deliveries are anticipated with all deliveries being transported to the site by the employees in a small van. It is anticipated that there will be a maximum of 3 x deliveries per week during peak periods.
- Waste will be serviced via kerb side collection. Once the facility is operational and if further waste servicing is required, consultation will be undertaken with Council and surrounding neighbours.
- No business identification signage is proposed.

SITE DESCRIPTION

The subject site is located at 509 Gan Gan Road, One Mile and legally described as Lot 2 DP 810866. The site is approximately 8.2 hectares in area and is heavily vegetated with no visible structures on site. The site has three road frontages, to Gan Gan Road, Eucalyptus Drive and Reflections Drive. There does not appear to be any formal access to the site from these road frontages. The site benefits from a right of carriageway measuring 15m wide over Lot 1125 DP 788377.

An Aboriginal site (ceremonial ring) is located within the north western portion of the site. The proposed development will not impact this site. No other AHIMS listed sites are located nearby.

The site is surrounded largely by residential uses. A largely cleared vacant lot is located directly to the south of the site and One Mile beach is located further to the east.



Figure 2: Site Aerial

SITE HISTORY

There are a number of applications relating to the subject site on Council's system:

- BA/DA 7-1985-2986-1 – Subdivision – 2 Lots – Approved
- BA/DA 7-1985-3012-1 – Strata Subdivision – 2 Lots- Approved
- BA/DA 7-1991-5070-1 – Subdivision 2 Lots – Approved
- BA/DA 7-1991-60429-1 – Dwelling – Approved
- BA/DA 7-1991-5189-1 – Dwelling – Approved
- DA 16-2000-1048-1 – 19 Lot Subdivision – Approved
- DA 16-2014-628-1 – Drainage works – Approved

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

The proposed development will not impact the previously approved applications.

There is a compliance matter related to the site for an unauthorised fence in an environmental protection zone and illegal dumping. The fence was investigated and the applicant provided an assessment prepared by Kleinfelder Australia Pty Ltd (Kleinfelder) which found that the fence in its original form did not comply with the current guidelines as per the CKPoM. Therefore, it was recommended that the sharp ends of mesh be crimped to reduce the risk of injury to koalas when climbing over the fence. These works have been conducted to remove sharp edges off the fence. Following these amendments it was found by Kleinfelder that the fence met the requirements of the CKPoM.

SITE INSPECTION

A site inspection was carried out on 4 March 2021.

The subject site can be seen in figures 1 and 2 below:



Figure 3. Approximate location of car park and shed and olive orchard further to the rear



Figure 4. Approximate location of car parking, shed and avocado orchard to the rear



Figure 5: Approximate location of proposed access



Figure 6: Existing access road through Lot 1125.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.



Figure 7: Approximate location of olive orchard.

PLANNING ASSESSMENT

The application was assessed, and comments provided, by the following external agencies and internal specialist staff:

Internal

Development Engineer – The application was reviewed by Council's development engineer. The site distances were reviewed and whilst there is a minor non-compliance, given the access is existing no upgrades can be imposed in this regard. It was recommended that the access dimensions be upgraded to be 6.5m wide for the first 6m given the sites frontage to Gan Gan Road, as per Council's DCP. Taking into consideration that the access is existing, no additional lots are proposed to be serviced and traffic numbers are minimal, it has been determined that the access is suitable and the upgrades is not required.

The site was also identified as being flood prone (PMF), however the area subject to development is not flood affected.

The proposals stormwater management plan was reviewed and found to meet the requirements of the DCP. Overall, the application was supported subject to conditions. These conditions have been included in the draft consent.

Natural Resources – Council's Natural Resources officer reviewed the proposed development including the Flora and Fauna Impact Assessment prepared by Enviro Ecology and found that the reports conclusions were satisfactory in that the proposed development is not likely to have a significant impact upon threatened species, endangered populations or endangered ecological communities. The proposed development was therefore supported subject to conditions of consent. These conditions have been included in the recommended conditions.

Environmental Health – The proposal was referred to Council's Environmental Health Officer. It was found that the site was not connected to reticulated sewer and is rated as 'very high' hazard according to Council's OSMS hazard class map. As such, a s68 approval is required to be obtained from Council for the installation of an OSMS. Given the sites location in a very high hazard area, the S.68 application is required to be submitted with a waste water report. A condition of consent requiring this has been recommended.

Page 6 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

Building Surveyor – The proposal was referred to Council's Building Surveyor for review. It was found that the plans demonstrate that compliance with the BCA can be achieved. The application was therefore supported subject to conditions. These conditions have been recommended.

Environmental Planning and Assessment Act 1979

Section 4.46 - Integrated development

The proposed development does not trigger the requirements for integrated development in accordance with Section 4.46 of the EP&A Act.

Section 4.14 – Consultation and development consent (certain bushfire prone land)

The proposed development is mapped as bushfire prone land, category 1, 3 and buffer and as such triggers assessment under the NSW RFS Planning for Bushfire Protection 2019. Given the proposal is for a horticulture development, chapter 8 of the PBP 2019 it's required to be considered. The proposed development has been identified as likely being a class 7 or 8 building under the NCC and therefore has been assessed under Section 8.3.1 of the PBP 2019. It is considered that the proposed development is compliant with the PBP 2019 in that:

- Safe access to and from the public road system will continue to be provided from the site;
- The proposal is capable of providing suitable emergency and evacuation arrangements;
- The proposal will be required to be constructed in accordance with the NCC and therefore hydrants and hose reels to cover all floor areas within the building will be provided and therefore adequate water services will be provided to assist in firefighting;
- It is considered that gas and electricity connections will be suitably locatable within the proposed development;
- The proposal does not involve the storage of hazardous material.

As per the above, the proposal is considered to be consistent with the PBP 2019 and therefore Clause 4.14 (1)(a).

Section 4.15 - Matters for consideration

The proposal has been assessed under the relevant matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Section 4.15(a)(i) - any environmental planning instrument

An assessment has been undertaken against each of the applicable environmental planning instruments (EPI's), as follows:

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ('Vegetation SEPP'), aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. The Vegetation SEPP works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

Part 3 of the Vegetation SEPP contains provisions similar to those contained in the former (now repealed) clause 5.9 of Port Stephens Local Environmental Plan 2013 and provides that Council's Development Control Plan can make declarations with regards to certain matters. The Vegetation SEPP further provides that Council may issue a permit for tree removal.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

The development application seeks consent for the removal of existing vegetation to facilitate the proposed development. The removal is supported as replacement plantings are proposed by the applicant consistent with Council's landscape technical specifications.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.

It is noted that the NSW list of contaminated sites and list of notified sites published by the EPA does not identify the site as being contaminated, nor has previous record of contamination in Council's system. The land is not within an investigation area, there are no records of potentially contaminating activities occurring on the site, and the horticulture proposed use is not listed as a possible contaminating use, per Table 1 of the Guidelines. Noting this, the proposed development satisfies the requirements of SEPP No. 55.

State Environmental Planning Policy (Koala Habitat Protection) 2021

This policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

The development site has been identified as 'clear' on the mapping and is not considered to be 'Core Koala Habitat' as defined by this SEPP. In addition, no koalas were observed during the fauna survey and there was no evidence (scats or scratches) of previous koala habitation were recorded from the study area. It is therefore considered that the proposed development is consistent with this policy.

State Environmental Planning Policy Coastal Management 2018

The subject land is located within the Coastal Use Area as such the following general matters are required to be considered when determining an application.

As per Clause 14 of the SEPP, development consent must not be granted for development unless the consent authority has considered existing and safe access to and along the foreshore, overshadowing and loss of views, visual amenity and scenic qualities and heritage values. The consent authority must also be satisfied that the development is designed and sited to avoid adverse impacts and to ensure the development has taken into account the surrounding built environment in its design.

Whilst portions of the site have been identified as being within a coastal use area, the proposed development is not. It is considered that the proposal will not impact the safe access to the coastal area nor will it impact views, visual amenity and scenic qualities and heritage values.

Clause 15 of the SEPP requires consideration to whether the development would increase the risk of coastal hazards. The proposed development is suitably designed and located to not increase risk to coastal hazards.

Therefore the application would generally comply with the aims of the SEPP and the other matters for consideration stipulated under Clause 14 and 15, and can therefore be supported.

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

Page 8 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

The proposed development is defined as a 'horticulture' which is permissible with consent in the E4 Environmental Living zone. The proposed shed is ancillary to the horticulture use, and proposes to house an office, staff amenities, machinery, pesticides and fertilisers required to ensure the functionality of horticulture development. The proposed shed is therefore considered to be ancillary as it will serve the horticulture use rather than serve its own purpose.

Whilst the proposed development is not residential development, it addresses the objectives of the zone by providing a compatible low impact development without having adverse impacts on the surrounding ecological, scientific or aesthetic values as assessed.

Clause 4.3 – Height of Buildings

The proposed development has a maximum height of 7.7 metres, which is below the maximum permissible building height of 9 metres specified on the Height of Buildings Map.

Clause 5.10 – Heritage conservation

The subject site does not have any state or locally listed heritage items nor is it within a heritage conservation area in accordance with the PSLEP. However, it was identified that the site contains one listed Aboriginal heritage item, being a 'ceremonial ring'. The item is located within the north western portion of the site on top of the existing ridge, refer to **Figure 8** below. The proposed development has been sited so as to not impact the Aboriginal heritage item and is considered to be consistent with this clause.

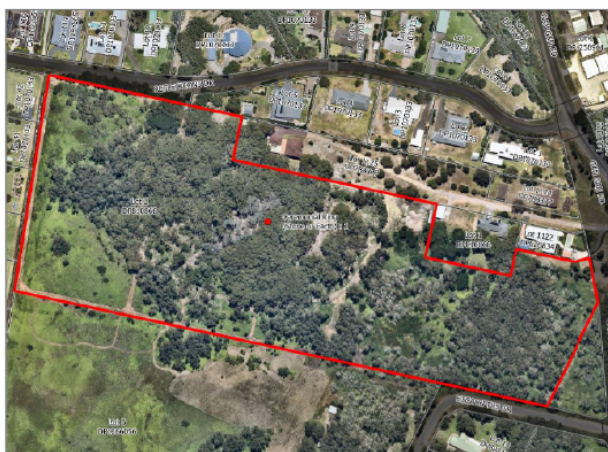


Figure 8. Location of existing Aboriginal Heritage item on the site

Clause 7.1 – Acid Sulfate Soils

The subject site is mapped as containing potential Class 3 and 5 acid sulfate soils. The proposed development is located wholly within the Class 5 ASS. The development is not anticipated to entail excavations below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent land. Therefore it is not expected that acid sulfate soils would be encountered during works.

Clause 7.2 – Earthworks

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

The application proposes earthworks on the site to achieve a level building platform through the use of balanced cut and fill. Earthworks are minor in nature and are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place. The applicant has advised that fill material will be Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM) or any other waste derived material. A condition has been recommended ensuring only fill of this form is put on the site.

Clause 7.3 – Flood Planning

The site has been identified as containing flood prone land (PMF). However, the portion of the site to be developed for the horticulture facility is not impact by flood prone land. Therefore, it is considered that the proposal will not result in any unacceptable impacts on local flood characteristics.

Clause 7.6 – Essential Services

The subject site is capable of being connected to essential services such as a reticulated water and electricity. However, the site is not connected reticulated sewer and is rated as 'very high' hazard according to Council's OSMS hazard class map. As such, an s88 approval is required to be obtained from Council for the installation of an OSMS. A condition of consent requiring this has been recommended.

The subject site will be accessed via the existing right of carriageway provided from Gan Gan Road.

The proposal can therefore meet the requirements of this clause.

Clause 7.9 – Wetlands

Portions of the site have been mapped as wetland. A small portion of the development encroaches the mapped wetland. Notwithstanding, the application has been assessed by Council's Natural Resources Officer who has determined that the development will not have a negative impact on the flora and fauna of the wetland, therefore the development satisfies the requirements of this clause.

Section 4.15(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition

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

Section 4.15(a)(iii) – any development control plan

Port Stephens Development Control Plan 2014

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

Chapter B1 – Tree Management

The proposal seeks consent to remove existing vegetation on the site to facilitate the proposed development, specifically 650m² of cleared land with scattered weeds and native groundcovers. Therefore, this Chapter of the DCP applies.

The vegetation requiring removal was identified as providing sub-optimal (habitat) for threatened species. The targeted surveys undertaken as a part of the Flora and Fauna Assessment did not identify any threatened fauna species or endangered population's listed under the BC Act or the EPBC Acts within the subject site. It was concluded that the proposal was unlikely to have a significant impact on the ecological features of the local area.

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

A condition of consent has been recommended noting that tree removal is to be undertaken by a qualified arborist with minimum Australian Qualification Framework Level 3 qualifications or higher.

In addition, it is noted that the proposal will not result in clearing of native vegetation beyond the designated threshold of 0.05ha and therefore does not require a BDAR.

The proposal is considered to be consistent with Chapter B1.

Chapter B2 – Natural Resources

Chapter B2 of the DCP applies as the site is located within 500m of land that contains items of environmental significance and is located in proximity to land containing koala habitat.

B2.A Environmental Significance

Given the site is located within 500m of LEP mapped wetlands, wildlife corridors and threatened species a flora and fauna assessment was provided for the proposal. The flora and fauna assessment was prepared in accordance with DCP requirements and found that the proposal is unlikely to have significant impact on the ecological features of the local area. This finding was supported by Council's Natural Resources officer.

B2.B Biodiversity offsets

Biodiversity offsets are not required as the proposal will not result in clearing of native vegetation beyond the designated threshold of 0.05ha.

B2.D Koalas

The overall site contains preferred koala habitat, supplementary habitat, and buffer over cleared habitat, link over cleared habitat and mainly cleared habitat. The development site is largely located within the 'cleared' koala habitat map with a small portion in supplementary habitat and buffer over cleared. This was required to be taken into consideration in the Flora and Fauna assessment for the site.

Whilst a small portion of vegetation is required to be removed in the supplementary habitat, during the site assessment no koalas were observed and there was no evidence (scats or scratches) of previous koala habitation were recorded from the study area.

It is therefore considered that the proposed development is consistent with this Chapter of the DCP and the CKPoM.

Chapter B3 – Environmental Management

B3.A Acid Sulfate Soils

The objective of this DCP Chapter is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage.

As detailed within clause 7.1 discussion above, the subject land is mapped as containing potential Class 3 and 5 acid sulfate soils. The proposed development is located wholly within the Class 5 ASS. The development is not anticipated to entail excavations below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent land. Therefore it is not expected that acid sulfate soils would be encountered during works.

B3.B Air Quality

Air quality is not expected to be significantly impacted by the proposed development. Impacts on air quality during construction can be mitigated through condition of consent. Relevant conditions have been recommended.

Page 11 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

B3.C Noise

The separation distances incorporated into the development will limit any significant impacts on the adjoining development during the operation of the horticulture facility.

The impacts of the development during construction could be limited through conditions of consent which limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. Subject to the recommended conditions, the application is satisfactory in regards to noise management.

B3.D Earthworks

As discussed at clause 7.2 above the proposed development involves minor earthworks to establish a level building platform and site access through the use of balanced cut and fill. The impacts of the proposed earthworks can be mitigated through conditions of consent. The proposal is therefore consistent with requirements outlined in Councils DCP relating to earthworks.

Chapter B4 – Drainage and Water Quality

A stormwater management plan was submitted with the application and includes adequate quality and quantity controls as required by Councils policy. The stormwater drainage plan has been assessed as being consistent with the Infrastructure Specification and a condition of consent has been included in the consent requiring the provision of detailed engineering plans, prior to the issue of a construction certificate.

Chapter B7 – Heritage

The subject site does not have any heritage listed items nor is it within a heritage conservation area in accordance with the PSLEP. However, it was identified that the site contains one listed Aboriginal heritage item being a 'ceremonial ring'. Therefore, Section B7.D is relevant.

B7.D Aboriginal heritage

An extensive Aboriginal Heritage Information Management System AHIMS search and its associated site card was provided to Council for review. The site card confirms the location of the Aboriginal heritage listed item is located within the north western portion of the site, atop a ridgeline, refer to **Figure 8** (in Clause 5.10 assessment). The proposed development has been sited approximately 124m from the site so as to not impact heritage values. No impacts to heritage would occur and the proposal is considered to be consistent with this clause.

Chapter B8 – Road Network and Parking

B8.A Traffic impacts

The proposal provides sufficient detail in relation to parking location, number and dimensions, access arrangements and potential traffic implications.

The proposal is not expected to generate significant amounts of traffic to the site, with a maximum of three deliveries per week expected when the orchards are at full growth. Deliveries are proposed to be transported to the site by the employees of the orchard in a small van. In addition, there is no anticipated commercial sale of produce on the site and will therefore be sold externally.

Access to the site is proposed to be provided via the existing right of carriage way over Lot 1125 DP 788377. A new driveway access, car parking and manoeuvring area is proposed to be constructed.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

As per the above, it is considered that the proposed development will not result in adverse impacts to existing road networks and therefore a traffic impact assessment is not deemed necessary for the proposal.

B8.B On-site parking provisions

The DCP does not include any car parking rates for horticulture developments and therefore a merit based assessment is required to be undertaken.

A total of 6 car parking spaces are proposed to be provided to the site and a manoeuvring area. The owners of the site are proposed to operate the horticulture facility with no additional employees required. Further, there is no anticipated commercial sale of produce on the site and deliveries will be collected by the operators rather than delivered by external companies. Therefore, the number of car parking spaces provided is considered suitable for the proposed use. A condition requiring the car parking spaces to comply with AS2890 has been recommended.

The car parking is proposed to be provided in front of the building line rather than behind as stipulated by Control B8.11. The landscaping proposed along the frontage to the adjacent lot will screen the car parking which is considered to be appropriate.

B8.C On-site parking access

The development is proposed to utilise an existing right of carriageway providing access from an existing crossover off Gan Gan Road. In accordance with this Chapter of the DCP the required safe intersection side distance (SISD) is 140m. The SISD for the existing access achieves 140m to the north however, has a minor non-compliance to the south (139.85m). The DCP also notes that ingress/egress dimension may need to be increased to 6.5m for the first 6m inside the property boundary when development provides access to an arterial road. This applies to the proposal as the site gains access from Gan Gan Road which is considered to be an arterial road. Council's Development Engineer recommended that a condition be placed on the consent requiring this to be upgraded. However, given the access is existing, no additional lots are proposed to be serviced, appropriate passing bays are achieved and there is minimal traffic movements proposed, the access is considered to be suitable.

The proposed development also seeks to construct a new crossover and driveway from Lot 1125 DP 788377. This access is considered to be appropriate to cater for the proposed development.

B8.D Visitor parking and loading facilities

Visitor parking is not considered necessary for the proposed development given no commercial sale of goods or deliveries from external companies are proposed. Notwithstanding, a sufficient number of car parking spaces are provided should people visit the site.

The site provides sufficient area for loading.

Chapter C – Development Types

The proposed development is for a horticulture use. There is no specific controls for horticulture uses under the DCP. However, given two greenhouses and an ancillary shed is proposed Chapter C8 is therefore applicable and has been assessed below.

Chapter C8 – ancillary structures

The proposed development is zoned E4 Environmental Living under the PSLEP and therefore is not strictly a residential or rural zone. However, taking into consideration the proposed use and size of the subject lot, the controls regarding rural sheds have been utilised for assessment.

Reference	Control	Assessment
C8.5	Rural Shed in a rural zone adheres to:	<u>Greenhouses</u>

Page 13 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

	<ul style="list-style-type: none"> - minimum 10m side and rear boundary setback; - minimum 5m setback from another building; and - Colour scheme consistent with the existing character of the area. 	<p>The green houses have a minimum side setback of 47m and therefore exceed the 10m required rear setback. The greenhouses themselves are setback 1m from each other. Given their small scale this is considered to be appropriate.</p> <p>The minimum setback of the greenhouses from the proposed ancillary shed is approximately 8m and therefore compliant.</p> <p>The greenhouses materials will consist of a steel frame and green shade cloth lining.</p> <p><u>Ancillary Shed</u></p> <p>The ancillary shed has a minimum setback of 5m to the eastern side setback, which does not comply with the 10m numerical control. The reduced setback to the eastern boundary is considered appropriate as it is located in close proximity to the access to the site and reduces the amount of clearing required to facilitate the proposed development.</p> <p>Landscaping is also proposed to be located within this setback consisting of trees that have a mature height of 10m. The inclusion of the proposed landscaping provides sufficient visual screening to avoid adverse amenity impacts to the neighbouring property. It is also noted that the dwelling of the neighbouring is setback 42m from the common boundary, with a shed located between, which further mitigates any potential visual impacts.</p> <p>All other boundary setback requirements are complied with.</p> <p>The shed is proposed to be constructed of metal sheet wall cladding of colorbond monument finish which is considered appropriate for the area.</p>
--	---	---

Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

Page 14 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

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

Section 4.15 (1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Social and Economic Impacts

The proposed development is expected to provide an additional source of income for the residents of the site, whilst also providing a source of local produce. The construction of the development would support employment within the local building industry, providing positive social and economic benefit.

The proposed development will provide a low impact land use, compatible within the established residential setting. There are no adverse social impacts expected to occur as a result of the development.

Impacts on the Built Environment

The proposed development is considered to be sympathetic to the surrounding development and its residential nature. The proposed ancillary shed is compliant with the height limit and includes appropriate landscape screening along the sites northern boundary and eastern boundary. The proposed landscape screening will soften the proposed development to ensure there is limited impact on the existing character of the area.

Impacts on the Natural Environment

The site contains a number of environmental constraints which have been considered in the ecology impact assessment provided and throughout the assessment of this DA. It is considered that the proposed development is appropriate for the site and will not have a significant impact on the natural environment.

Section 4.15(1)(c) the suitability of the site for the development

The subject site is considered to be suitable for the proposed development as it is currently vacant, the location of the proposed development is in a largely cleared area of the site and therefore does not require significant clearing of native vegetation and has been designed to limit impacts on surrounding properties.

Section 4.15(1)(d) any submissions made in accordance with this act or the regulations

Public Submissions

The application was exhibited from 19 February 2021 to 5 March 2021 in accordance with the provisions of the Port Stephens Council Community Participation Plan. Three (3) submissions were received during this time. The matters raised during the exhibition period have been detailed in the table below.

Issue	Response
Access A number of submissions raised concerns regarding access, particularly regarding the development utilising the existing right of carriageway when there are alternative road frontages available and the suitability of this given the nature of the development and potential future uses such as a depot. Concerns were raised in relation to the potential safety concerns as a result of the use	The proposed horticulture use has been sited to front the right of carriageway in an area of sparse vegetation to limit clearing required to facilitate the development. Requiring the development to gain access from the alternative street frontages would require significant clearing of vegetation including preferred and supplementary koala habitat, high environmental value mapped vegetation and endangered ecological community (swamp sclerophyll forest). This clearing would be

Page 15 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

<p>of the right of carriage way, particularly given site distances on Gan Gan Road have not been met.</p> <p>Suitability of heavy vehicles utilising the right of carriage way given it has not been designed to do so.</p>	<p>inconsistent with the E4 Environmental Living zone objectives which seeks to ensure that development does not have an adverse effect on ecological, scientific or aesthetic values. It is considered that given the clearing required for an alternative access, the ecological values of the site would be adversely impacted. It is therefore considered that this would not result in an acceptable outcome for the development nor would it be consistent with the zoning objectives.</p> <p>In terms of use of the site as a depot, the proposal seeks consent for the use of the site for horticulture purposes. Any use outside of this would require separate development consent, noting that depots are not permissible within the E4 Environmental Living zone.</p> <p>It is acknowledged that there is a minor non-compliance in relation to site distances for vehicle access (139.85m along the northern direction). This was reviewed by Council's Development Engineer, who found that given the access is existing, the non-compliance is minimal and no additional proposed lots are seeking to be serviced, upgrades cannot be imposed. It is noted that the applicant has advised there will be a maximum of 3 deliveries per week when the orchard is at full growth which will be undertaken by a small van. Other traffic movements will be from the employees of the horticulture development which consists of 2 people.</p> <p>Heavy vehicles may be utilised during the construction of the development however this will occur over a small period of time and can be managed by conditions of consent. A condition of consent has been recommended requiring that a Construction Environmental Management Plan be prepared prior to the issue of a Construction Certificate which must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact including traffic and dust.</p>
<p>Traffic</p> <p>Concern was raised in relation to the increase in traffic movements in the last 7 months and the potential for this to increase if development consent is issued for the development.</p>	<p>The proposal seeks consent for the use of the site for horticulture purposes. Anything outside of this would require development consent. Industrial and commercial uses are prohibited in the zone.</p>

Page 16 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

<p>particularly given its likely to be utilised as an industrial/commercial use.</p> <p>The submission requested Council impose conditions of consent to ensure commercial purposes are not to occur on the land.</p> <p>Concern is also raised in relation to the damage to the surface of the driveway as a result of the increased vehicular movements.</p>	<p>During operation of the horticulture facility, traffic movements are expected to be minimal with a maximum of 3 deliveries expected per week, only 2 employees and no commercial sale of produce on the site. It is therefore considered that operational traffic will not have a significant impact on the safety of the driveway or surrounding road network. A condition of consent has been recommended restricting both employee and delivery numbers.</p> <p>It is expected that additional vehicle movements will be required during construction including potential for heavy vehicles. A condition of consent has been recommended requiring that a dilapidation report of the shared driveway be prepared detailing the physical condition of the driveway and access. Noting that all costs incurred in achieving compliance with this condition must be borne by the applicant.</p>
<p>Environmental Significance</p> <p>A submission noted that the environmental significance of the land has been understated and ignored in the development proposal. The submission noted that environmental issues should be carefully examined.</p>	<p>Following a preliminary assessment of the proposal, it was identified that the applicant was required to provide an Ecology Assessment to address environmental concerns. The Ecology Assessment found that that the proposed development is not likely to have a significant impact upon threatened species, endangered populations or endangered ecological communities. This report and its conclusions were reviewed by Council's Natural Resources Officer and found to be satisfactory.</p> <p>It is considered that the proposal has addressed environmental concerns adequately and the siting of the development reduces potential significant impacts.</p>
<p>Flooding</p> <p>Concern has been raised in relation to flooding on the lot and that the development may exacerbate this flooding particularly given the fill proposed.</p> <p>The location of the southern orchard was specifically raised as a concern given it will be in the lower portion of the site more susceptible to flood.</p>	<p>The site has been identified as containing flood prone land. This mapped land is considered to be minimal risk land in accordance with Chapter B.8 of the Port Stephens DCP 2013. Notwithstanding, the proposal includes earthworks which has been reviewed by Council's Development Engineer from a flooding perspective who found that the development is compliant with relevant controls and not likely to have an unacceptable impact on local flood characteristics.</p>

Page 17 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

<p>Viability Avocado and Olive Orchards</p> <p>A submission raised concerns in relation to the viability of the avocado and olive orchards and noted that the subject site is not suitable for these orchards. The submission noted that it is unreasonable to approve a development if it is likely going to fail.</p>	<p>Horticulture is permissible with consent in the E4 Environmental Living zone. Council cannot refuse a development on the basis that a development may not succeed.</p>
<p>Fill</p> <p>Concern was raised in relation to filling of the site and its proximity to a mapped wetland.</p> <p>A submission raised concern in relation to the amount of fill required for the proposed development.</p>	<p>Minimal fill is required to facilitate the proposed development. The proposed ancillary shed will be supported by concrete columns at the rear rather than filling the site for a slab. This has reduced the amount of fill required for the development.</p> <p>A condition has also been recommended requiring that fill must be Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM) or any other waste derived material the subject of a resource recovery exemption under s.91 of the <i>Protection of the Environment Operations (Waste) Regulation 2014</i> that is permitted to be used as fill material.</p> <p>A delivery register must be kept to ensure this condition is complied with. This will mitigate potential impacts on mapped wetlands from a contamination perspective.</p>
<p>Dumping and clearing</p> <p>A submission noted that there has been illegal dumping and clearing on the site. The submission noted that the dumping and clearing has impacted resident's amenity and safety.</p> <p>Concern was raised given no ASSMP was required for these works nor in the proposed application.</p> <p>Concern was also raised around the dumping of potentially contaminated waste on site may have impacted these wetlands and the ecologically important nature of the site.</p>	<p>It is noted that the illegal dumping and clearing of vegetation on the site is subject to a compliance matter which is dealt with separately to the DA.</p>
<p>Loss of Amenity</p> <p>Concern was raised in relation to the potential loss of amenity as a result of the noise, vibration and dust arising from increased vehicle movement.</p>	<p>Operationally, the proposed horticulture use is not expected to cause unacceptable noise, vibration and dust given the minimal vehicular movements expected.</p> <p>Additional vehicular movements are expected during construction. Conditions of consent have been recommended to mitigate potential</p>

Page 18 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

	impacts such as the requirement for a Construction Environmental Management Plan (CEMP) to be prepared. In addition, a condition of consent noting that all must not give rise to offensive noise, dust, odour or vibration as defined in the <i>Protection of the Environment Operations Act 1997</i> has been recommended.
<p>Bulk and Scale of Shed</p> <p>Concern was raised in relation to the size of the ancillary shed and its consistency with surrounding development and the current zoning. Noting that the shed will be much larger than surrounding sheds.</p> <p>The submission raised concern over the need for the reduced setback when the site is so large. The submission noted that the reduce setback will have a negative impact on the character of the area.</p> <p>A number of submission raised concern over the size of the shed in comparison to the orchards.</p>	<p>Since lodgement of the DA, the shed has been reduced in size from 600m² to 500m² with the maximum height being 7.7 metres.</p> <p>The reduction in the size of the shed and proposed height is considered to be more in keeping with surrounding developments scale and suitable for the proposed use. It is acknowledged that surrounding sheds are supporting residential developments rather than a horticulture use.</p> <p>The shed has been setback 15m from the northern boundary to reduce potential visual impacts from the shared driveway and neighbouring properties. Landscape planting is proposed to be provided along the northern and eastern boundary of the site. The landscaping consists of trees having a full growth height of 8m along the northern boundary and 10m along the eastern boundary. The addition of this landscaping is considered to soften the scale of the proposed development and is more in keeping with the surrounding land.</p> <p>When the DA was lodged, the shed proposed a side setback to the eastern boundary of 3m with no detailed landscaping plan provided. Since lodgement the setback has been increased to 5m and a landscaping buffer provided. The increased side setback, proposed front setback and provision of landscaping as noted above, is considered to soften the scale of the proposed development. The shed does not propose to have windows along its eastern boundary and therefore the dwelling on Lot 1 DP 810866 is not likely to be impacted by overlooking nor overshadowing given the distance between the shed and existing dwelling.</p> <p>Whilst the shed is a similar scale to the orchards, it is proposed to house an office, staff amenities, machinery, and storage of pesticides/fertilisers to support the horticulture</p>

Page 19 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

	use. The scale is considered appropriate for the site.
Permissibility of shed A submission raised concern in relation to the permissibility of the proposed shed noting that it was more in line with an industrial development and is contrary to the E4 zoning.	The proposed shed is considered to be ancillary as it will serve the horticulture use.
Intended Use A number of submissions raised concern regarding whether the site will be utilised for its proposed use following approval. The submissions received raise concern that the development will likely be utilised to support a construction business as observed.	The proposal seeks consent for the use of the site for horticulture purposes. Any land use would require separate development consent. It is noted that industrial and commercial uses are prohibited in the zone.
Accuracy of DA documentation A submission noted that the SEE and DCP responses did not accurately address the proposal. The inaccuracy specifically noted were: <ul style="list-style-type: none"> Noted in the SEE that no vegetation is being removed when vegetation does require removal. Noted that no bushfire assessment report is required. Note that the proposed earthworks will not impact adjoining land. The submission raised concern over ASS and impacts to the wetland. SEE notes no noxious weeds. Submission states there is noxious weeds on site that may spread during construction. DCP response doesn't provide sufficient response to koala habitat section. Submission states a bulk earthworks plan should be provided to Council. Submission states the site is not connected to reticulated sewerage. 	The following response is made in relation to each point: <ul style="list-style-type: none"> An Ecology Report has since been provided addressing vegetation removal which has been assessed appropriately. A bushfire assessment report was not deemed to be required for the proposed development. The proposal has been appropriately assessed against the RFS Planning for Bushfire Protection 2009. It is also noted that BAL levels do not apply to development that is not for residential purposes. Earthworks have been assessed and found to be suitable with no anticipated impact to nearby wetland. The proposed shed has also been designed to ensure minimal earthworks and fill is required through the use of concrete piers for support. ASS have also been assessed and it has been determined that they are unlikely to be encountered during construction given excavations below 5 metres AHD are not proposed. The Ecology Assessment Report addressed noxious weeds on the site and provided a recommendation that works and vehicular movements shall cease if wet and muddy conditions develop/persist during construction to limit the movement of soil and organic matter onto, through and from the site, minimising the potential for the spread

Page 20 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

	<p>of weeds. This recommendation has been included as a condition of consent.</p> <ul style="list-style-type: none"> • Presence of koala habitat was also assessed in the Ecology Assessment report provided. It was found that during the site assessment no koalas were observed and there was no evidence (scats or scratches) of previous koala habitation were recorded from the study area. • Given the scale of earthworks required a bulk earthworks plan is not considered to be required. • It has been noted that the site is not connected to reticulated sewerage. A condition of consent has been recommended requiring that the applicant submit a s68 application prior to the issue of a Construction Certificate. A condition is also recommended that the onsite sewerage management system be installed and obtain an approval to operate from Council prior to the issue of an Occupation Certificate.
<p>Contamination</p> <p>A submission raised concern that the site may be contaminated due to the fill previously utilised on the site.</p>	<p>The NSW list of contaminated sites and list of notified sites published by the EPA does not identify the site as being contaminated, nor has previous record of contamination in Council's system.</p> <p>It is understood that the dumping on the site has since been removed and future fill will be required to consist of Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM) or any other waste derived material the subject of a resource recovery exemption under s.91 of the <i>Protection of the Environment Operations (Waste) Regulation 2014</i> that is permitted to be used as fill material.</p>
<p>Impacts of earthworks on adjoining property</p> <p>A submission raised concern the proposed development and associated earthworks will result in water being pushed on to their property instead (515 Gan Gan Road).</p> <p>Concern was also raised that the fill may encroach on the neighbouring sites boundary</p>	<p>A stormwater management plan has been provided with the proposed development and found to be compliant with Council's DCP.</p> <p>In addition, conditions have been recommended to protect adjoining land from fill noting that filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.</p>

Page 21 of 22

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

particularly given the sheds proximity to the shared boundary.	
Location of shed The neighbouring property (515 Gan Gan Road) noted they are not supportive of the proposed shed being located 3m away from their shared boundary. The noted the non-compliance with the DCP control and are concerned that the development will overshadow their property.	The setback of the shed from the shared boundary has been increased from 3m to 5m. Landscaping is also proposed along this boundary to provide further screening and reduce potential visual impacts. In terms of amenity and overshadowing, the shed does not propose to install windows on this elevation and therefore overlooking is not anticipated. Overshadowing to the dwelling and associated outdoor open space is not considered likely to occur given the sheds height and location approximately 47m from the dwellings western elevation.
Inconsistency with the zoning objectives A submission received notes that the proposed development is inconsistent with the objectives of the E4 environmental living zone as it is prohibited being an industrial development. The submission also noted the proposal is inconsistent with the character of the area, particularly the proposed shed.	Whilst the proposed development is not residential development, it addresses the objectives of the zone by providing a compatible low impact development without having adverse impacts on the surrounding ecological, scientific or aesthetic values as assessed.

Section 4.15(1)(e) the public interest

The proposal is in the public interest as it is permissible with consent and meets relevant zoning objectives, has beneficial social and economic impacts, and has minimal environmental impacts. The proposal will create more jobs within the area during both construction and throughout the developments operation. Whilst also providing a source of local produce.

Section 7.11 – Contribution towards provision or improvement of amenities or services (developer contributions)

S 7.11 contributions do not apply to the proposed development. Given the cost of work is below \$100,000 nor do 7.12 contributions.

DETERMINATION

The application is recommended to be approved by Council, subject to the recommended conditions as contained in the notice of determination.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



DRAFT CONDITIONS F CONSENT – DA 16-2021-92-1

1.0 - General Conditions of Consent

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

- (1) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference/ drawing No.	Name of plan	Prepared by	Date
2410-A02, Revision H	Proposed site and flood layouts	Draw Design Group	15/12/2020
2410-A03, Revision F	Elevations & Section A-A	Draw Design Group	15/12/2020
L02, Issue B	Landscape Masterplan	Green Space Planning Co.	19/04/2021

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

- (2) **Separate approval for signs** – A separate development application for proposed signage, must be provide to, and approved by, the Consent Authority or under the provision of the *State Environmental Planning Policy (Exempt and Complying Codes) 2008* if applicable prior to the erection or display of any such signs.
- (3) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (4) **Sign on building** – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.
- The sign must be maintained while the work is being carried out and is to be removed when the work is completed.
- (5) **Outdoor lighting** – All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.
- (6) **Protect existing vegetation and natural landscape features** - Approval to remove existing vegetation for removal is not to occur until the issue of the Construction Certificate.

PORT STEPHENS COUNCIL

116 Adelaide Street
Raymond Terrace NSW 2324

PO Box 42
Raymond Terrace NSW 2324

Phone: 02 4990 0255
Email: council@portstephens.nsw.gov.au

www.portstephens.nsw.gov.au

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



No vegetation or natural landscape features other than that authorised for removal, pruning by this Consent must be disturbed, damaged or removed. No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval.

- (7) **Approval of OSMS under LG Act** - An approval under Section 68 of the *Local Government Act 1993* is to be obtained from Council for the installation of an on-site sewage management system (OSMS) prior to the issue of a Construction Certificate.
- (8) **Approved report recommendations** – Construction of the development must comply with the recommendations of the 'Flora and Fauna Assessment for No 509 Gan Gan Road, One Mile' (Reference Number: 16042021; Revision A), prepared by Enviro Ecology, dated 16 April 2021, detailed as follows:
- A suitably qualified ecologist or wildlife handler should be on site during clearing of vegetation. The qualified Ecologist is to hold a scientific licence issued by the NSW Office of Environment & Heritage and a current Animal Ethics licence issued by the Department of Industries and Investment.
 - Where possible, dead wood should be salvaged from felled trees and placed into retained vegetation within the study area.
 - During construction, vehicles and general construction equipment (such as excavators etc.) are to be received completely free of soil, seeds and plant material before entering the site to prevent the introduction of exotic plant species and pathogens, equipment failing inspection should be sent away for cleaning. Appropriate records of inspections shall be maintained.
- Built up of mud, soil and organic matter present on vehicles shall be manually removed prior to vehicles entering/leaving the construction site.
- Works and vehicular movements shall cease if wet and muddy conditions develop/persist during construction to limit the movement of soil and organic matter onto, through and from the site, minimising the potential for the spread of weeds.

2.0 – Prior to Issue of a Construction Certificate

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

- (1) **Dilapidation report – Adjoining property** - A dilapidation report including a photographic survey of the following adjoining properties must be provided to the Certifying Authority. The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.
- a) Shared Driveway on 517 Gan Gan Road, One Mile from the crossover with Gan Gan Road to the subject site entrance.
 - b) 515 Gan Gan Road, One Mile.

Error! Reference source not found.

Page 2 of 14

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



The dilapidation report is to be prepared by a qualified Structural Engineer and the owner of the adjoining property. All costs incurred in achieving compliance with this condition must be borne by the applicant.

- (2) **Civil engineering plans** – Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, access ways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.

Details demonstrating compliance must be provided to the Certifying Authority.

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

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

Details demonstrating compliance must be provided to the Certifying Authority.

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

- (4) **Soil, erosion, sediment and water management** – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council's Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.

- (5) **Parking areas and loading bays** – Parking areas and Loading bays are to be provided in accordance with AS2890 Part 2 'Parking Facilities'.

Details demonstrating compliance must be provided to the Certifying Authority.

- (6) **Construction Environmental Management Plan** – A Construction Environmental Management Plan must be submitted to and approved by to the Certifying Authority and Council. The required CEMP must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging, waste management, noise and dust management, traffic management and environmental management

- (7) **Hunter Water Corporation approval** – A Section 50 Application under the *Hunter Water Act 1991* must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.

- (8) **Long service levy** – In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.

Error! Reference source not found.

Page 3 of 14

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



3.0 - Prior to Commencement of Works

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

- (1) **Notice of Principal Certifying Authority appointment** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:
 - a) a description of the work to be carried out;
 - b) the address of the land on which the work is to be carried out;
 - c) the Registered number and date of issue of the relevant development consent;
 - d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;
 - e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
 - f) a telephone number on which the PCA may be contacted for business purposes.
- (2) **Notice commencement of work** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:
 - a) the name and address of the person by whom the notice is being given;
 - b) a description of the work to be carried out;
 - c) the address of the land on which the work is to be carried out;
 - d) the Registered number and date of issue of the relevant development consent and construction certificate;
 - e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
 - f) the date on which the work is intended to commence.
- (3) **Sign of PCA and contact details** – A sign must be erected in a prominent position on the site stating the following:
 - a) that unauthorised entry to the work site is prohibited;
 - b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
 - c) the name, address and telephone number of the Principal Certifying Authority.The sign must be maintained while the work is being carried out and must be removed upon the completion of works.

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (4) **Construction Certificate Required** – In accordance with the provisions of Section 6.7 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*, construction or subdivision works approved by this consent must not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a Consent Authority;
 - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the *EP&A Act 1979*; and
 - c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
- (5) **Site is to be secured** – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.
- (6) **Soil erosion and sediment control** – Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction' ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.
- Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).
- (7) **All weather access** – A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people.
- No materials, waste or the like are to be stored on the all-weather access at any time.
- (8) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.
- No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.
- (9) **Protection of trees /existing street trees** – Protection of trees to be retained must be in accordance with AS490 'Protection of Trees on Development Sites' and the following:
- a) No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) must be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.

Error! Reference source not found.

Page 5 of 14

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



4.0 - During Works

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

- (1) **Construction hours** – All work (including delivery of materials) must be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.
- (2) **Toilet facilities** – Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.

The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.
- (3) **Compliance with BCA** – All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (4) **Excavations and backfilling** – All excavations and backfilling associated with this development consent must be executed safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:
 - a) preserve and protect the building from damage; and
 - b) if necessary, underpin and support the building in an approved manner; and
 - c) give at least seven days notice to the adjoining owner before excavating, of the intention to excavate.
The principal contractor, owner builder or any person who needs to excavate and undertake building work, must contact "Dial Before You Dig" prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.
- (5) **Building height** – A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.
- (6) **Survey report** – The building must be set out by a Registered land surveyor. A peg out survey detailing the siting of the building in accordance with the approved plans must be provided to the Principal Certifying Authority prior to the pouring of concrete.

Error! Reference source not found.

Page 6 of 14

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (7) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:

[select one of the following]

- a) Diverted through a first flush system before being connected to an existing stormwater easement/system/street.
- b) Connected to an approved stormwater quality improvement device such as an infiltrating raingarden in accordance with Council's Standard Drawing S161 (or latest revision of this drawing). Where an infiltration garden is installed, it is to be located in the landscaped area(s) with an overflow pipe connected to the existing drainage easement/system.
- c) Dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties. The discharge location must be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.

- (8) **Placement of fill** - Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.

Further, any alterations to the natural surface contours must not impede or divert natural surface water runoff so as to cause a nuisance to adjoining property owners.

- (9) **Tree protection measures** – All trees to be retained must be protected in accordance with AS4970 'Protection of Trees on Development Sites' for the duration of construction.

- (10) **Unexpected finds contingency (general)** – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.

Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

- (11) **Soil, erosion, sediment and water management** – All requirements of the Erosion and Sediment Control Plan or Soil and Water Management Plan must be maintained at all times during the works and any measures required by the plan must not be removed until the site has been stabilised.

- (12) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the *Protection of the Environment Operations Act 1997* when measured at the nearest property boundary.

Error! Reference source not found.

Page 7 of 14

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (13) **Delivery register** - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered.

This register must be made available to Council officers on request and be provided to the Council at the completion of the development.

- (14) **Fill material** – The only fill material that may be received at the development site is:

- a) Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act (POEO Act 1997)*;
or
- b) Excavated natural material (ENM) within the meaning of the *POEO Act 1997*;
or
- c) Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

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

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

- (15) **Tree removal/pruning** – All approved tree removal/pruning is subject to all pruning works being undertaken by a qualified arborist with minimum Australian Qualification Framework Level 3 qualifications or higher. All works are to be undertaken in accordance with the relevant provisions of AS 4373 'Pruning of Amenity trees'.

5.0 - Prior to Issue of an Occupation Certificate

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

- (1) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development.

The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.

- (2) **Fire Safety Certificates** - A Fire Safety Certificate must be provided to the PCA in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

- (3) **Survey Certificate** – A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies

Error! Reference source not found.

Page 8 of 14

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.

- (4) **Services** – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:
- a) Electricity;
 - b) Water;
 - c) Sewer; and
 - d) Gas (where available).

Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.

- (5) **Stormwater/drainage works** – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.

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

- (6) **Completion of landscape works** – All landscape works are to be undertaken in accordance with the approved landscape plan and conditions of this Development Consent.

- (7) **Car parking requirements** – A minimum of 6 car parking spaces are to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked on the pavement surface.

- (8) **Loading/unloading facilities** – Loading /unloading facilities must be constructed in accordance with the approved plans. The extent of the loading bay must be permanently marked on the pavement surface.

- (9) **Waste disposal** – The building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on public land (e.g. footpaths, roadways, plazas, reserves) at any time.

- (10) **On-Site sewerage management inspection** – An onsite sewerage management system/waste treatment device is to be installed and obtain approval to operate from Council in accordance with Local Government Act 1993 (Section 68A) prior to the issue of any Occupation Certificate

6.0 – Ongoing Use

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

Error! Reference source not found.

Page 9 of 14

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (1) **Maneuvering of vehicles** – All vehicles must enter and exit the site in a forward direction.
- (2) **Removal of graffiti** – The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.
- (3) **Loading to occur on site** – All loading and unloading operations are to be carried out wholly within the building/site and in accordance with the approved plans.
The loading dock (if provided) must be used for loading and unloading operations in connection with the approved use.
- (4) **Parking – Signage (loading docks)** – Proposed parking areas, service bays, truck docks, driveways and turning areas must be maintained clear of obstructions and be used exclusively for purposes of car parking, loading/ unloading, and vehicle access respectively for the life of the development. Under no circumstances are such areas to be used for the storage of goods or waste materials.
- (5) **Parking areas to be kept clear** – At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.
- (6) **No retailing** – The premises must be used strictly for the cultivation of vegetables (horticulture) pending distribution to persons engaged in the retail trade and under no circumstances must be used as a shop for the display or sale of goods on a retail basis.
- (7) **Fire Safety Schedule** – At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of Fire and Rescue NSW in accordance with the *Environmental Planning & Assessment Regulations 2000*.
- (8) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.
If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.
- (9) **Amenity** – The business must be conducted so that no interference occurs to the amenity of the area, adjoining occupations and residential or business premises.
- (10) **Waste water treatment devices** – All wastewater treatment devices (including drainage systems, sumps, traps and pumps) must be regularly maintained in good working order to ensure that they remain effective.
A maintenance schedule must be developed and incorporated into a Plan of Management (PoM) and kept on-site at all times for staff to comply with. All liquid and

Error! Reference source not found.

Page 10 of 14

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



solid wastes collected from the treatment device must be disposed of in accordance with relevant environmental protection and waste control Legislation.

- (11) **Use limitations** – The site must be used for horticulture and associated purposes only. Approved structures must not be adapted, converted or used for commercial, industrial or residential purposes without the prior approval of Council.
- (12) **Offensive noise** – The use and occupation of the premises including all plant and equipment must not give rise to any offensive noise within the meaning of the *Protection of the Environment Operation Act 1997* and must comply with the *NSW Noise Policy for Industry 2017* (as amended).
- (13) **Delivery and Employee Number Restrictions** – The following restrictions apply to deliveries and employee numbers:
 - a) No more than three (3) deliveries per week are to be received; and
 - b) No more than two (2) people are to be employed on site.

Advice Note(s):

- (1) **'Dial Before you Dig'** – Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables.
- (2) **Dividing fences** – The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.
- (3) **Premise standard** – It is the Applicants responsibility to ensure compliance with the requirements of the *Disability Discrimination Act 1992* (DDA).

Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.
- (4) **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act.
- (5) **Aboriginal archaeological deposit** – In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area,

Error! Reference source not found.

Page 11 of 14

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



and the Biodiversity Conservation Division (BCD) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.

- (6) **Signage** – You are advised that any proposed advertising signs that are not shown on the approved plans, or classified as exempt development, are subject to a separate Development Application to Council.
- (7) **Council as PCA, PCA sign** – It is the responsibility of the applicant to erect a PCA sign. Where Council is the PCA, the sign is available free of charge, from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay. The applicant is to ensure the PCA sign remains in position for the duration of works.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



SCHEDULE 2 - REASONS FOR DETERMINATION AND REASONS FOR CONDITIONS

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Port Stephens Local Environmental Plan 2013 (PSLEP), State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Koala Habitat Protection) 2020, State Environmental Planning Policy (Coastal Management) 2018
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Port Stephens Council Development Control Plan 2014 (PSDCP).
- The proposed setback variation to the PSDCP is considered to be acceptable in the particular circumstances of this case as the variation will not result in adverse amenity impacts to adjoining properties.
- Subject to the recommended conditions the proposed development will be provided with adequate essential services required under the PSLEP.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- Any submission issues raised have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination. Council has given due consideration to community views when making the decision to determine the application.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

1. Confirm and clarify the terms of Council's Approval;
2. Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
3. Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
4. Set standards and performance measures for acceptable environmental performance; and
5. Provide for the ongoing management of the development.

SCHEDULE 3 – RIGHT OF APPEAL AND REVIEW

RIGHT OF APPEAL

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Section 8.7 and 8.10 of the Environmental Planning and Assessment Act

Error! Reference source not found.

Page 13 of 14

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



1979 gives you the right to appeal to the Land and Environment Court within six months after:

- a) the date on which you receive this notice, or
- b) the date on which that application is taken to have been determined under Section 8.11.

Section 8.8 of the Environmental Planning and Assessment Act 1979, does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development). The objector may, within 28 days after the date on which the notice of the determination was given in accordance with the regulations, and in accordance with rules of the Court, appeal to the Court.

RIGHT OF REVIEW

Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within six months after the date as specified in this notice of determination, together with payment of the appropriate fee. (**See exclusions note below**).

Exclusions: A request to review the determination of a development application pursuant to Section 8.2 of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:


- a) A determination to issue or refuse to issue a complying development certificate, or
- b) A determination in respect of designated development, or
- c) A determination made by the Council under Division 4 in respect of an application by the Crown.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 4 CALL TO COUNCIL FORM.

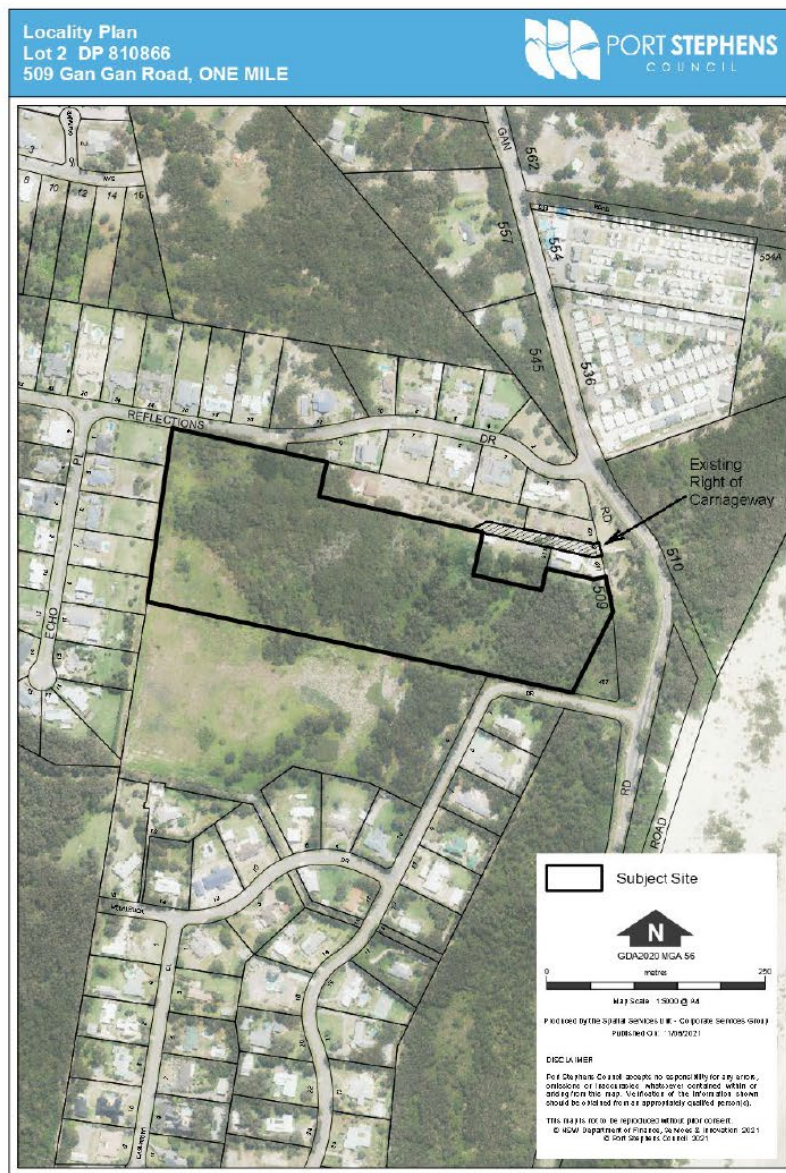
 PORT STEPHENS COUNCIL CALL TO COUNCIL FORM DEVELOPMENT APPLICATION	
Development application (DA) call to Council request:	
I/We (Mayor/Councillor/s) <u>Smith, Nell Arnott</u> request that DA number <u>16-2021-92-1 - 509</u> for DA description <u>600 m2 Horticultural Shed</u> located at <u>Gan Gan Rd One Mile</u> be reported to Council for determination.	
Reason:	
Public Interest	
Declaration of Interest:	
I/We have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this DA on my part or an associated person.	
I/We (Mayor/Councillor/s) <u>Smith, Nell and Arnott</u> have a conflict of interest:	
<input checked="" type="checkbox"/> No	
<input type="checkbox"/> Yes	
If yes, please provide the nature of the interest and reasons why further action should be taken to bring this DA to Council:	
Signed: <small>Please sign or type name & affix to an email</small>	Date: Click here to enter a date.
Signed: <small>Please sign or forward supporting email</small>	Date: Click here to enter a date. <u>6/03/2021</u>
Signed: <small>Please sign or forward supporting email</small>	Date: Click here to enter a date.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

ITEM 1 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE - MINUTE NO. 150 - 22 JUNE 2021.

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 3 - ATTACHMENT 5 SITE PLAN.



NOTICE OF RESCISSION

ITEM NO. 2

FILE NO: 21/172790

EDRMS NO: 16-2020-811-1

DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS), DEMOLITION OF EXISTING SINGLE STOREY DWELLING, ASSOCIATED LANDSCAPING, CIVIL WORKS AND CAR PARKING AT 10 TOMAREE ROAD, SHOAL BAY (LOT: 31 DP: 17513)

COUNCILLORS: JAIMIE ABBOTT
GIACOMO ARNOTT
JOHN NELL

THAT COUNCIL:

- 1) Rescind its decision of 22 June 2021 (Minute No. 148) on Item No. 1 Development Application 16-2020-811-1 for Construction and use of 4 Storey Residential Flat Building (3 Apartments), Demolition of Existing Single Storey Dwelling, Associated Landscaping, Civil Works and Car Parking at 10 Tomaree Road, Shoal Bay (LOT: 31 DP: 17513).
-

ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION

	<p>Councillor Jaimie Abbott Councillor Giacomo Arnott</p> <p>That Council rescind its decision of 22 June 2021 (Minute No. 148) on Item No. 1 Development Application 16-2020-811-1 for Construction and use of 4 Storey Residential Flat Building (3 Apartments), Demolition of Existing Single Storey Dwelling, Associated Landscaping, Civil Works and Car Parking at 10 Tomaree Road, Shoal Bay (LOT: 31 DP: 17513).</p>
--	--

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

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

MINUTES ORDINARY COUNCIL - 13 JULY 2021

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

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

ATTACHMENTS

- 1) Development Application 16-2020-811-1 for Construction and Use of 4 Storey Residential Flat Building (3 Apartments), Demolition of Existing Dwelling etc - 10 Tomaree Road, Shoal Bay - Minute No. 148 - 22 June 2021.

COUNCILLORS ROOM

- 1) Development Plans.
- 2) Unredacted submissions.

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM NO. 1

FILE NO: 21/133400
EDRMS NO: 16-2020-811-1

DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS), DEMOLITION OF EXISTING SINGLE STOREY DWELING, ASSOCIATED LANDSCAPING, CIVIL WORKS AND CAR PARKING AT 10 TOMAREE ROAD, SHOAL BAY (LOT: 31 DP: 17513)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.
- 2) Approve Development Application DA No. 16-2020-811-1 for the construction of a 4 storey residential flat building (3 apartments), demolition of existing single storey dwelling, associated landscaping, civil works and car parking at 10 Tomaree Road Shoal Bay (Lot: 31 DP: 17513) subject to the conditions contained in (ATTACHMENT 3).

ORDINARY COUNCIL MEETING - 22 JUNE 2021 MOTION

148	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.2) Approve Development Application DA No. 16-2020-811-1 for the construction of a 4 storey residential flat building (3 apartments), demolition of existing single storey dwelling, associated landscaping, civil works and car parking at 10 Tomaree Road Shoal Bay (Lot: 31 DP: 17513) subject to the conditions contained in (ATTACHMENT 3).
-----	---

Councillor John Nell left the meeting at 6:59pm.
Councillor John Nell returned to the meeting at 7:01pm.

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

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

Those for the Motion: Crs Chris Doohan, Ken Jordan, Paul Le Mottee, Sarah Smith and Steve Tucker.

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

The motion was carried.

BACKGROUND

The purpose of this report is to present Development Application (DA) 16-2020-811-1 for the construction of a 4 storey residential flat building (3 apartments), demolition of existing single storey dwelling, associated landscaping, civil works and car parking to Council for determination.

A summary of the DA and property details is provided below:

Subject Land:	10 Tomaree Road, Shoal Bay (Lot 31 DP 17513)
Total Area:	533m ²
Zoning:	R3 Medium Density Residential Zone
Submissions:	21 submissions were received
Key Issues:	The key issues identified throughout the assessment of the DA relate to building height, privacy, overshadowing and building design
Development Plans	Provided to Councillors separately due to privacy and copyright legislation

The DA has been reported to Council in accordance with Council's Planning Matters to be Reported to Council Policy as the DA includes a request to vary a development standard by greater than 10%. The development standard is Clause 4.3 – Height of Buildings and the extent of the variation is 19.4%.

State Environmental Planning Policy 65 – Design of Residential Apartment Development does not apply to the development, as the policy only applies to residential flat buildings with 4 or more apartments. However, a merit assessment has been undertaken against the Apartment Design Guide (ADG) given there are no specific controls applicable to residential flat building (RFB) developments within the Port Stephens Development Control Plan 2014 (DCP 2014).

A locality plan is provided at (ATTACHMENT 1).

Proposal

The DA proposes the construction and use of a 4 storey residential flat building (3 apartments), demolition of existing single storey dwelling, associated landscaping, civil works and car parking.

**ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1
FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING
(3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE
ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021**

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

Each of the apartments includes 4 bedrooms, 1 bathroom and 2 ensuites, open plan living, dining and kitchen and deck oriented to Tomaree Road. A basement car park is provided with 6 car spaces.

No subdivision of the building is proposed.

Site Description and History

The site currently contains a single storey dwelling and several non-native trees. The lot is relatively narrow, measuring 15m in width.

The topography of the site is sloped, rising from 13.5m Australian Height Datum (AHD) at the front of the site to 15.8m AHD at the rear.

Adjoining the site to the north is a split level 4 storey residential flat building, known as the 'The Crest'. To the west, on the opposite side of Tomaree Road is a 7 storey tourist and visitor accommodation building. Adjoining lots to the south consist of low density detached housing. To the east of the site upslope from the site is a split level 3 storey multi-dwelling housing development known as 'Bahia'.

Sites to both the north and west of the site are subject to a 15m maximum building height which is greater than the 9m maximum building height allocated to the site.

The Shoal Bay Local Centre (Zoned B2) is located immediately to the west of the site.

Key Issues

The key issues identified throughout the assessment of the DA relate to the proposed exceedance of the building height development standard, privacy, overshadowing, building design and car parking.

A detailed assessment of the DA is contained within the Planners Assessment Report (**ATTACHMENT 2**).

Building Height

The DA exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the Port Stephens LEP 2013 (LEP 2013). The DA proposes a maximum building height of 10.75m, which exceeds the 9m height limit; representing a 19.4% variation to the development standard.

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the LEP 2013. That request has been reviewed and the following is noted:

**ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1
FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING
(3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE
ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021**

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

- There are a number of comparatively tall buildings in the nearby area, including the neighbouring 4 storey residential flat building to the north and a 7 storey tourist and visitor accommodation building, directly opposite the site on Tomaree Road. Other comparatively tall buildings are prevalent in the broader Shoal Bay area
- The neighbouring Crest apartments to the north is a comparatively tall development, however, does not fully utilise the available 15m height limit. The proposal has a maximum height of 10.75m, which despite the variation, is considerably less than the adjoining height limit of 15m
- When viewed from the street, the highest point corresponds with the ridge of the skillion roof at 10.758m, which decreases to a height of 10.2m (13% variation) across the frontage
- The site slopes upward toward the rear of the site. Due to the proposed cut into this slope, at the rear of the development, the highest point is 9.3m, representing only a minor variation
- The design includes articulation and changes in colours and material finishes in order to adequately address the developments perceived bulk and scale. As a result, the development would not be inconsistent with the character of the area
- The proposed development maintains acceptable privacy and solar access to neighbouring properties, consistent with the requirements of the ADG, despite the height variation.

It is considered that the applicant's Clause 4.6 variation request adequately demonstrates that there are sufficient environmental planning grounds to justify varying the height of buildings standard. On this basis, the building height variation is supported. A detailed assessment against Clause 4.6 is contained within the Planners Assessment Report (**ATTACHMENT 2**).

Privacy

Privacy impacts to neighbouring properties may occur due to the narrow dimensions of the site and reduced side setbacks of the development, which are predominately 3.1m. To ensure adequate privacy is maintained, privacy screens, highlight windows, and opaque windows have been provided along the side elevations.

Overshadowing

Due to the orientation of the lot, overshadowing will occur to the neighbouring lot to the south. Despite the overshadowing, at least 50% of the private open space of the neighbouring dwelling to the south achieves solar access for 3 hours in mid-winter, in accordance with the requirements of the ADG. However, the north facing windows of the dwelling would not receive any direct sunlight during mid-winter. Despite this, the overshadowing is considered acceptable given the orientation of the lot is such that overshadowing of this extent is inevitable even from a development that is compliant with the 9m height limit.

**ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1
FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING
(3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE
ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021**

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

Building Design

Despite the proposed height variation, the DA is considered compatible with the character of the area. In addition, the DA includes design strategies that reduce the perceived bulk and scale of the building including the following:

- An articulated facade facing Tomaree Street which is well proportioned and includes an appropriate mix of material finishes and colour choice
- The bulk of the side walls of the building are effectively broken up through changes in material, colour and through the inclusion of recessed and protruding wall features
- The roof form includes a skillion design comprising 2 sections of varying pitches, which provide improved visual interest.

The adopted design strategies ensure that the DA is compatible with the surrounding area, despite the proposed height variation.

Car Parking

The DA includes a basement car park with 6 car spaces.

The DCP 2014 requires the provision of:

- 2 car parking spaces for each dwelling; and
- 1 visitor car parking space for every 3 dwellings within a RFB

The development does therefore not have sufficient parking to provide the required visitor parking space.

The applicant included a car parking assessment, reviewing the availability of on street car parking to accommodate the shortfall. The car parking assessment identifies that sufficient car parking would be available in the surrounding streets (including Messines Street 90m south of the site), even during busy times when parking is heavily utilised. On this basis, the car parking shortfall is supported.

Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 2**), the application is considered to be consistent with the aims and objectives of the relevant environmental planning instruments applicable to the subject site.

It is considered that the DA has been suitably designed to address the site constraints and will not result in significant privacy or amenity issues.

ORDINARY COUNCIL - 13 JULY 2021**ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1
FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING
(3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE
ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021****MINUTES ORDINARY COUNCIL - 22 JUNE 2021****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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (\$7.11)	Yes		Should Council determine to approve the DA, s.7.11 development contributions would be applicable and would be levied in accordance with conditions of consent.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The DA is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act), PSLEP 2013 and associated State Environmental Planning Policies as listed above.

The non-compliances with the Port Stephens Development Control Plan 2014 (DCP 2014) are considered minor in nature. A detailed assessment against these environmental planning instruments is contained within the assessment report contained at (ATTACHMENT 2).

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
If the DA is approved, there is a risk that the determination of the DA may be challenged by a third party in the Land and Environment Court.	Low	Accept the recommendation.	Yes

**ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1
FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING
(3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE
ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021****MINUTES ORDINARY COUNCIL - 22 JUNE 2021**

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
If the DA is refused, there is a risk that the determination of the DA may be challenged by the applicant in the Land and Environment Court.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed development would provide additional housing opportunities that can rely upon existing social and recreational infrastructure existing within the Shoal Bay Centre. The development adds to the local housing mix to serve the needs of the local community.

The construction of the proposed development will provide employment opportunities in the locality and support the local building and development industries. This will have direct monetary input to the local economy and the increased number of residents in the locality will provide ongoing economic input through daily living activities.

There are no anticipated adverse social or economic impacts as a result of the DA.

Impacts on the Built Environment

The proposed development will reinforce the medium density residential nature of the locality and is characteristic of other developments in both the local and wider community.

The overall aesthetics of the development are of good quality incorporating a range of materials and colours in conjunction with the articulation of building facades. The design effectively reduces the perceived bulk and scale of the development, ensuring consistency with surrounding development. The development aligns with the intended future character of Shoal Bay, and will encourage infill development of underutilised lots in and surrounding the town centre.

Although the building exceeds the maximum building height as prescribed under LEP2013, it is considered that the bulk and scale of the building is comparable with surrounding development and reflects the desired medium density character of the Shoal Bay centre.

It is considered there are no unreasonable impacts on the built environment as a result of the DA.

**ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1
FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING
(3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE
ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021**

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

Impacts on the Natural Environment

The site does not contain any natural habitat or native vegetation and there are no anticipated adverse impacts expected to occur to the natural environment.

CONSULTATION

Consultation with key stakeholders has been undertaken for the purposes of the assessment of the application, including consultation with the public through the notification and advertising process.

Internal

Consultation was undertaken with Council's Building Surveying, Development Engineering, Development Contributions and Spatial Services teams. The referral comments provided by these officers were considered as part of the Planners Assessment Report (**ATTACHMENT 2**). All internal referral officers supported the DA subject to conditions of consent (**ATTACHMENT 3**).

External

Consultation was undertaken with external agencies including the NSW Rural Fire Service, Ausgrid and Hunter Water Corporation. No objection to the DA was made by any external agencies. The comments provided by the external agencies were considered during the detailed assessment and are discussed within the Planners Assessment Report (**ATTACHMENT 2**).

Public exhibition

The DA was advertised and notified in accordance with the requirements of the Port Stephens Council Community Participation Plan. The application was exhibited for a period of 14 days (including the Christmas exclusion period) from 22 December 2020 to 25 January 2021. During that time, 21 public submissions were received, from 26 individuals.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan. [↓](#)
- 2) Planners Assessment Report. (Provided under separate cover)
- 3) Recommended Conditions of Consent. [↓](#)

ORDINARY COUNCIL - 13 JULY 2021
--

**ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1
FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING
(3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE
ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021**

MINUTES ORDINARY COUNCIL - 22 JUNE 2021
--

COUNCILLORS ROOM

- 1) Development Plans (provided to Councillors separately due to privacy and copyright legislation).
- 2) Unredacted submissions.

TABLED DOCUMENTS

Nil.

ORDINARY COUNCIL - 13 JULY 2021

**ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1
FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING
(3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE
ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021**

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.



ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



RECOMMENDED CONDITIONS OF CONSENT – DA 16-2020-811-1

1.0 - General Conditions of Consent

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

- (1) **External agency requirements** – The requirements from the following agencies must be complied with prior to, during, and at the completion of the development.

The Requirements are:

1. NSW Rural Fire Service, Reference no. DA20210119000192-Original-1, dated 25 March 2021.
2. Ausgrid, Reference no. 1900103835, dated 14 December 2020.

A copy of the Requirements is attached to this determination notice.

- (2) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference/ drawing No.	Name of plan	Prepared by	Date
2002920 Revision E, Sheet 2	Survey Site / Analysis	Sorensen Design & Planning	26/05/2021
2002920 Revision E, Sheet 3	Proposed Site Plan	Sorensen Design & Planning	26/05/2021
2002920 Revision E, Sheet 4-7	Level 1-4 Floor Plan	Sorensen Design & Planning	26/05/2021
2002920 Revision E, Sheet 8	Section and Driveway Profile	Sorensen Design & Planning	26/05/2021
2002920 Revision E, Sheets 9-12	Elevations	Sorensen Design & Planning	26/05/2021
GSP200186 Issue A02	Landscape Plan	Green Space Planning Co.	October 2020
GSP200186 Issue A03	Plan Schedule	Green Space Planning Co.	October 2020
200446, CIV01, Revision A	Stormwater Management Plan	DRB Consulting Engineers	24/11/2020

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

- (3) **Plan amendments** – The approved landscape plan prepared by Green Space Planning Co., reference no. GSP200186 Issue A02 and A03 and dated October 2020 is to be amended as follows:

PORT STEPHENS COUNCIL

116 Adelaide Street
Raymond Terrace NSW 2324

PO Box 42
Raymond Terrace NSW 2324

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

www.portstephens.nsw.gov.au

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- a) To reflect the building footprint within the approved Site Plan prepared by Sorensen Design & Planning, reference no. 2002920 Revision C, Sheet 3 and dated 9/03/2021.
 - b) Replace *Brachychiton populneus* tree with *Tristanopsis luscious*®.
Amended plans, demonstrating compliance with this condition are to be provided to the certifying authority.
- (4) **BASIX Certificate** – The applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) for the development to which this consent applies.
- (5) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (6) **Home Building Act** – Pursuant to Section 4.17(11) of the *Environmental Planning & Assessment Act 1979*, residential building work within the meaning of the *Home Building Act 1989* shall not be carried out unless the PCA for the development to which the work relates:
- a) In the case of work for which a principal contractor has been appointed:
 - i. Has been informed in writing of the name and licence number of the principal contractor; and
 - ii. Where required has provided an insurance certificate with the name of the insurer by which work is insured under Part 6 of that Act.
 - b) In the case of work to be carried out by an owner-builder:
 - i. Has been informed in writing of the name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act; has provided a copy of the owner-builder permit.
- (7) **Home Building Act – Insurance** – Building work that involves residential building work within the meaning of the *Home Building Act 1989*, must not commence until such time as a contract of insurance is in force in accordance with Part 6 of that Act.
This clause does not apply:
- a) to the extent to which an exemption is in force under Clause 187 or 188 of the *Environmental Planning & Assessment Regulation 2000 (EP&A Regulation 2000)*, subject to the terms of any condition or requirement referred to in Clause 198(6) or 188(4) of the *EP&A Regulation 2000*; or
 - b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) of Clause 98 of the *EP&A Regulation 2000* applies.
- (8) **Excavation for residential building works** – If the approved development involves an excavation that extends below the level of the base of the footings of a building on

Page 2 of 16

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



adjoining land, the person having the benefit of the consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation; and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the consent owns the adjoining land or the owner of the adjoining land has given consent in writing that condition not applying, and a copy of that written consent is provided to the PCA prior to the excavation commencing.

- (9) **Sign on building** – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.

The sign must be maintained while the work is being carried out and is to be removed when the work is completed.

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

- (11) **Outdoor lighting** - All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.

- (12) **Roof mounted equipment** – All roof mounted equipment such as air conditioning units, service pipes and vents etc., required to be installed must be concealed within the external walls of the development or adequately screened so as not to be visible from a public place.

- (13) **Design quality of development** - The approved design (including an element or detail of that design) or materials finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building without the approval of Council.

2.0 – Prior to Issue of a Construction Certificate

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

**ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1
FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING
(3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE
ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021**

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (1) **Dilapidation report – Adjoining property** - A dilapidation report including a photographic survey of the following adjoining properties must be provided to the Certifying Authority. The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.
 - a) 6 Tomaree Road, Shoal Bay – Strata Plan 14477
 - b) 12 Tomaree Road, Shoal Bay – Lot 32 DP 17513
 - c) 47 Ronald Avenue, Shoal Bay – Strata Plan 18079The dilapidation report is to be prepared by a qualified Structural Engineer and the owner of the adjoining property. All costs incurred in achieving compliance with this condition must be borne by the applicant.
- (2) **Civil engineering plans** – Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, access ways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.

Details demonstrating compliance must be provided to the Certifying Authority.

Note. Under the *Roads Act 1993*, only the Roads Authority can approve commencement of works within an existing road reserve.
- (3) **Stormwater/drainage plans** – Detailed stormwater drainage plans for a system discharging stormwater towards the north end of Tomaree Road at all times, must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).

Details demonstrating compliance must be provided to the Certifying Authority.

Note. Under the *Roads Act 1993*, only the Roads Authority can approve commencement of works within an existing road reserve.
- (4) **Stormwater system Operation and Maintenance Procedure Plan** – An Operation and Maintenance Plan for the stormwater system must be prepared by a qualified engineer detailing a regular maintenance programme for pollution control devices, covering inspection, cleaning and waste disposal.

Details demonstrating compliance must be provided to the Certifying Authority.
- (5) **Retaining walls** – All retaining walls within 1m of a boundary and exceeding 600mm in height must be designed and certified by a suitably qualified Structural Engineer.

Details demonstrating compliance must be provided to the Certifying Authority.
- (6) **Soil, erosion, sediment and water management** – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council's Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.

Page 4 of 16

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (7) **Roads Act Approval** – For construction/reconstruction of Council infrastructure, including vehicular crossings. Footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138B of the *Roads Act 1993*.
- (8) **Construction Environmental Management Plan** - A Construction Environmental Management Plan must be submitted to and approved by to the Certifying Authority and Council. The required CEMP must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging, waste management, noise and dust management, traffic management and environmental management
- (9) **Section 7.11 Development contributions** – A monetary contribution is to be paid to Council for the provision of two dwellings, pursuant to Section 7.11 of the *Environmental Planning & Assessment Act 1979* and the Port Stephens Local Infrastructure Contributions Plan 2020 towards the provision of the following public facilities:

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$452	\$904
Civic Administration – Works Depot	\$1,178	\$2,356
Town Centre Upgrades	\$3,174	\$6,348
Public Open Space, Parks & Reserves	\$1,925	\$3,850
Sports & Leisure Facilities	\$1,832	\$3,664
Cultural & Community Facilities	\$1,240	\$2,480
Road Works	\$3,340	\$6,680
Shared Paths	\$3,059	\$6,118
Bus Facilities	\$11	\$22
Fire & Emergency Services	\$229	\$458
Flood & Drainage	\$1,767	\$3,534
Kings Hill Urban Release Area	\$281	\$562
Total		\$36,976

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

- a) Prior to issue of the **Construction Certificate**.

Note: The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount must be indexed at the time of actual payment in accordance with the applicable Index.

- (10) **Long service levy** – In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (11) **Hunter Water Corporation approval** - A Section 50 Application under the *Hunter Water Act 1991* must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.

3.0 - Prior to Commencement of Works

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

- (1) **Public liability insurance** – The owner or contractor must take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc.) for the full duration of the proposed works.
Evidence of this Policy must be provided to Council and the Certifying Authority.
- (2) **Notice of Principal Certifying Authority appointment** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:
- a) a description of the work to be carried out;
 - b) the address of the land on which the work is to be carried out;
 - c) the Registered number and date of issue of the relevant development consent;
 - d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;
 - e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
 - f) a telephone number on which the PCA may be contacted for business purposes.
- (3) **Notice commencement of work** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:
- a) the name and address of the person by whom the notice is being given;
 - b) a description of the work to be carried out;
 - c) the address of the land on which the work is to be carried out;
 - d) the Registered number and date of issue of the relevant development consent and construction certificate;
 - e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
 - f) the date on which the work is intended to commence.

Page 6 of 16

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (4) **Sign of PCA and contact details** – A sign must be erected in a prominent position on the site stating the following:
- a) that unauthorised entry to the work site is prohibited;
 - b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
 - c) the name, address and telephone number of the Principal Certifying Authority.
- The sign must be maintained while the work is being carried out and must be removed upon the completion of works.

- (5) **Construction Certificate Required** – In accordance with the provisions of Section 6.7 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*, construction or subdivision works approved by this consent must not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a Consent Authority;
 - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the *EP&A Act 1979*; and
 - c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

- (6) **Site is to be secured** – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.

An awning is to be erected that would sufficiently prevent any substance from the construction work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

- (7) **Demolition work** – All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility.

Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility.

Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.

- (8) **Soil erosion and sediment control** – Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction (the blue book)' and any Sediment and Erosion plans approved with this Development Consent.

Page 7 of 16

**ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1
FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING
(3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE
ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021**

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



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

- (9) **All weather access** – A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people.

No materials, waste or the like are to be stored on the all-weather access at any time.

- (10) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.

No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.

- (11) **Hazardous Building Materials Assessment** – A Hazardous Building Material Assessment (HBMA) must be undertaken on all buildings and structures to be demolished that identifies all hazardous components on site. A HBMA report must be provided to the PCA and Council.

Once hazardous components are identified, all demolition works that involve the demolition and removal of the hazardous materials must ensure that all site personnel are protected from risk of exposure in accordance with relevant SafeWork NSW and NSW Demolition Guidelines. Premises and occupants on adjoining land must also be protected from exposure to any hazardous materials.

4.0 - During Works

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

- (1) **Construction hours** – All work (including delivery of materials) must be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.

- (2) **Toilet facilities** – Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.

The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (3) **Compliance with BCA** – All building work must be carried out in accordance with the requirements of the Building Code of Australia.

- (4) **Excavations and backfilling** – All excavations and backfilling associated with this development consent must be executed safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:

- a) preserve and protect the building from damage; and
- b) if necessary, underpin and support the building in an approved manner; and
- c) give at least seven days notice to the adjoining owner before excavating, of the intention to excavate.

The principal contractor, owner builder or any person who needs to excavate and undertake building work, must contact "Dial Before You Dig" prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

- (5) **Building height** – A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.

- (6) **Survey report** – The building must be set out by a Registered land surveyor. A peg out survey detailing the siting of the building in accordance with the approved plans must be provided to the Principal Certifying Authority prior to the pouring of concrete.

- (7) **Construction Environmental Management Plan implementation** - All construction management procedures and systems identified in the Construction Environmental Management Plan referenced in condition 2.15 must be introduced during construction of the development.

- (8) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:

- a) The approved stormwater management system.

- (9) **Placement of fill** - Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.

Further, any alterations to the natural surface contours must not impede or divert natural surface water runoff so as to cause a nuisance to adjoining property owners.

Page 9 of 16

**ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1
FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING
(3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE
ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021**

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (10) **Unexpected finds contingency (general)** – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.

Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

- (11) **Soil, erosion, sediment and water management** – All requirements of the Erosion and Sediment Control Plan or Soil and Water Management Plan must be maintained at all times during the works and any measures required by the plan must not be removed until the site has been stabilised.

- (12) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the *Protection of the Environment Operations Act 1997* when measured at the nearest property boundary.

- (13) **Fill material** – The only fill material that may be received at the development site is:

- a) Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act (POEO Act 1997)*;
- or
- b) Excavated natural material (ENM) within the meaning of the *POEO Act 1997*;
- or
- c) Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

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

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

5.0 - Prior to Issue of an Occupation Certificate

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

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (1) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development.
The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.
- (2) **Survey Certificate** - A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.
- (3) **Footpath crossing construction** - A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.
Note: A Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of such works.
- (4) **Services** - Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:
 - a) Electricity;
 - b) Water;
 - c) Sewer; and
 - d) Gas (where available).Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.
- (5) **Stormwater/drainage works** - All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.
The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.
- (6) **Rectification damage to public infrastructure** - The applicant must rectify any new damage to public infrastructure to the satisfaction of the Council as the Roads Authority.
- (7) **Completion of Roads Act Approval works** - All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the Roads Act Approval to the satisfaction of the Council as the Roads Authority.
- (8) **Works as Executed Plans and Report** - Works As Executed Plans must be prepared and provided to the Principal Certifying Authority in accordance with

Page 11 of 16

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



Council's Infrastructure Specifications confirming all stormwater drainage systems are constructed in accordance with the approved plans/documentation.

- (9) **Geotechnical Compliance Certificate** – A Certificate of Compliance prepared by a qualified Geotechnical Engineer must be provided to the Principal Certifying Authority stating that the works detailed in the Geotechnical Report have been undertaken under the Engineer's supervision and to the Engineer's satisfaction, and that the assumptions relating to site conditions made in preparation of the report were validated during construction.
- This certificate must accompany the Works as Executed plans.
- (10) **Street tree planting** – All street trees must be planted in accordance with the approved Street Tree Planting plan (as required under condition 2.9).
- (11) **Completion of landscape works** – All landscape works are to be undertaken in accordance with the approved landscape plan and conditions of this Development Consent.
- (12) **Car parking requirements** – A minimum of 6 car parking spaces are to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked on the pavement surface.
- (13) **Fire Safety Schedule** - A Fire Safety Certificate must be provided to the PCA in accordance with the requirements of the Environmental Planning & Assessment Regulation 2000.
- (14) **Garbage room** – Rooms used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, must be constructed in accordance with the approved plans and the following:
- a) The room must be constructed of solid material, cement rendered and trowelled to a smooth even surface;
 - b) The floor must be impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room; and
 - c) Garbage rooms must be vented to the external air by natural or mechanical ventilation.
- Details demonstrating compliance must be provided to the Certifying Authority.
- (15) **Parking areas and loading bays** – Parking areas and Loading bays are to be provided in accordance with AS2890 Part 2 'Parking Facilities'.
- Details demonstrating compliance must be provided to the Certifying Authority.
- (16) **Privacy – Deck Screening** – Permanently fixed 1.8m high privacy screen(s) must be provided to the northern elevation of each deck as follows:

Page 12 of 16

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- a) The screens are to be applied to at least 50% of the length of the decks elevation.
- b) the screens must not have openings more than 30mm wide; and
- c) the total area of all openings must be less than 30% of the surface area of the screen when viewed in elevation.

Details demonstrating compliance must be provided to the Certifying Authority.

- (17) **Privacy – Windows** – To ensure reasonable privacy for the adjoining properties, all privacy screens on windows indicated on the approved plans are to be as follows:

- a) the screens must not have openings more than 30mm wide; and
- b) the total area of all openings must be less than 30% of the surface area of the screen when viewed in elevation.

Obscure glazing must be installed on windows as indicated on the approved plans.

Details demonstrating compliance must be provided to the Certifying Authority.

6.0 – Ongoing Use

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

- (1) **Maneuvering of vehicles** – All vehicles must enter and exit the site in a forward direction.
- (2) **Removal of graffiti** – The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.
- (3) **Parking areas to be kept clear** – At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.
- (4) **Privacy screen** – All privacy screens must be permanently maintained in accordance with the approved plans for the life of the development.
- (5) **Residential air conditioning units** – The operation of air conditioning units must operate as follows:
 - a) be inaudible in a habitable room during the hours of 10pm – 7am on weekdays and 10pm to 8am on weekends and public holidays;
 - b) emit a sound pressure level when measured at the boundary of any neighbouring residential property, at a time other than those specified in (a) above, which exceeds the background (LA90, 15 minutes) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute; and

Page 13 of 16

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- c) not discharge any condensate or moisture onto the ground surface of the premises or into stormwater drainage system in contravention of the requirements of the *Protection of the Environment Operations Act 1997*.
- (6) **Fire Safety Schedule** – At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of Fire and Rescue NSW in accordance with the *Environmental Planning & Assessment Regulations 2000*.
- (7) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.
If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.
- (8) **Waste management and collection** – At all times, the strata management body must make arrangements for the placement of the garbage bins at the kerbside for weekly collection and must ensure the return of the bins to the garbage room as soon as practicable after collection.
- (9) **Security** – Access to common areas and the communal open space area to the rear is to be restricted by a key/swipe card access system.

Advice Note(s):

- (1) **'Dial Before you Dig'** – Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables.
- (2) **Dividing fences** – The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.
Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.
- (3) **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. It is the

Page 14 of 16

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



owner/applicants responsibility to ensure compliance with the requirements of this Act.

- (4) **Aboriginal archaeological deposit** – In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Heritage NSW shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.
- (5) **Works near/adjoining electricity network assets** – There are underground electricity network assets adjacent to the proposed development in Tomaree Street. Any works undertaken adjacent to Ausgrid underground assets / Ausgrid assets must be undertaken with care in accordance with Ausgrid Network Standard Document NS 156 – Work Near or Around Underground Cables
- (6) **House Numbering** – House numbers are to be allocated to each unit as follows:

HOUSE NUMBERING	
Proposed Unit Number	House Number/Street Address
1	1/10 Tomaree Road SHOAL BAY
2	2/10 Tomaree Road SHOAL BAY
3	3/10 Tomaree Road SHOAL BAY

ORDINARY COUNCIL - 13 JULY 2021

ITEM 2 - ATTACHMENT 1 DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS) DEMOLITION OF EXISTING DWELLING ETC - 10 TOMAREE ROAD, SHOAL BAY - MINUTE NO. 148 - 22 JUNE 2021

MINUTES ORDINARY COUNCIL - 22 JUNE 2021

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



REASONS FOR DETERMINATION AND REASONS FOR CONDITIONS

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being: Port Stephens Local Environmental Plan 2013 (PSLEP), State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy Coastal Management 2018, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- Council has considered and accepted the proposed development standard variation request to Clause 4.3 of the PSLEP. The proposed 1.8m variation is considered acceptable in the particular circumstances of this case as the variation will not significantly overshadow the neighbouring properties, obstruct significant view corridors, result in negative privacy issues and is in keeping with the character of the area.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Port Stephens Council Development Control Plan 2014 (PSDCP).
- Subject to the recommended conditions the proposed development will be provided with adequate essential services required under the PSLEP.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- Any submission issues raised have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination. Council has given due consideration to community views when making the decision to determine the application.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

1. Confirm and clarify the terms of Council's Approval;
2. Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
3. Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
4. Set standards and performance measures for acceptable environmental performance; and
5. Provide for the ongoing management of the development.

Page 16 of 16

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

169	Councillor John Nell Councillor Chris Doohan It was resolved that Council adopt the recommendations of Items 2, 3, 5, 6 and 7 by multiple item adoption, and Item 4 be dealt with following Item 7.
------------	---

The motion was carried.

ITEM NO. 2

FILE NO: 21/118811
EDRMS NO: PSC2013-00406/045

POLICY REVIEW: COMPLIANCE POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Compliance Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the revised 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 Compliance Policy dated 26 November 2019, (Minute No. 231) should no submissions be received.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

169	Councillor John Nell Councillor Chris Doohan It was resolved that Council: 1) Endorse the revised Compliance Policy shown at (ATTACHMENT 1) . 2) Place the revised 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.
------------	---

ORDINARY COUNCIL - 13 JULY 2021

	3) Revoke the Compliance Policy dated 26 November 2019, (Minute No. 231) should no submissions be received.
--	---

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Compliance Policy (**ATTACHMENT 1**).

Please note that yellow highlighting in the attached policy indicates an amendment has been made and strikethrough text is to be deleted.

Council has an obligation to respond appropriately to customer complaints regarding a wide range of topics and relevant legislation. Due to the miscellaneous nature of compliance matters a broad approach is required and this approach needs to be documented, simple and user friendly such that common sense prevails in its application.

In 2017, Council adopted the current policy that uses the NSW Ombudsman Enforcement Guideline for Local Councils as its framework. Since then, the policy and general approach has been working well.

This review was conducted to ensure the policy continues to align with current legislation and organisational requirements.

There is no change to the intent of the policy and all changes made are administrative corrections.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

There are no direct financial/resource implications as the implementation of the policy will continue to be implemented as part of ongoing operations.

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

ORDINARY COUNCIL - 13 JULY 2021

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal, policy and risk implications in reviewing and updating existing policies to assist in facilitating more accurate and robust decision making.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk of making poor decisions as a result of an outdated policy.	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy addresses the above implications and provides Council with an effective tool for dealing with compliance matters. The policy also seeks to regulate and protect the community in a fair and equitable manner.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Environmental Health and Compliance Section.

Internal

In the initial development of this policy, the Environmental Health and Compliance team consulted within the Development Assessment and Compliance Section (Planning and Developer Relations and Building and Developer Relations) as well as the Strategy and Environment team.

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

External

In accordance with local government legislation, the revised Compliance Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Compliance Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2013-00406-045

TITLE: COMPLIANCE POLICY

OWNER: DEVELOPMENT ASSESSMENT AND COMPLIANCE
SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to outline Port Stephens Council's general approach to compliance and enforcement. The policy relates to the regulation of development activity, pollution control, regulation of parking, natural resource management, environmental health, the control over the keeping of animals and other regulatory issues within Council's area of responsibility as listed in the community strategic plan.

2. CONTEXT/BACKGROUND:

- 2.1 As compliance is a challenging area with typically high levels of community interest, a policy is required to set the framework to assist staff and provide clarity for the community. The policy was first developed in 2007 and has been amended a number of times since. The policy provides the context around council officers using their discretion and factors to consider when handling compliance matters.

3. SCOPE:

- 3.1 This policy provides guidance for all compliance related matters in the Port Stephens local government area. The policy particularly applies to, or is useful for persons that are the subject of a compliance investigation, the complainant/submission maker, the general public and Council staff.
- 3.2 The NSW Ombudsman's Enforcement Guidelines for Council's have been used as the basis of framing this policy and for developing operational procedures to address compliance issues.

4. DEFINITIONS:

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

Discretion

Discretion relates to a Council officers consideration in deciding whether to take enforcement action or not, or what extent of action to take.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version.
Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 2 - ATTACHMENT 1 REVISED COMPLIANCE POLICY.

Policy



Principles	The considerations and value to which Council staff consider any compliance matter against as mentioned in this policy.
Risk based approach	In a public and environmental context, risk is measured in terms of the likelihood of an event occurring and the risk of harm to human health and the environment.

5. STATEMENT:

- 5.1 Council will carry out its compliance responsibilities in a fair and equitable manner to ensure:
- a) The relevant details are considered in compliance investigations and decisions are made in an environmentally and socially responsible manner
 - b) The initiation of a process of education and creation of awareness within the community in relation to the reasons for and importance of compliance
 - c) The investigation and enforcement of complaints about unlawful activity or failure to comply with the terms or conditions of approval, notices, licences or breaches of legislation which Council is responsible for enforcing
 - d) Cooperation with other Government Agencies responsible for enforcing legislation that relates to unlawful activities within Port Stephens
 - e) The establishment of clear guidelines for the exercise of discretion in dealing with action requests or complaints about unlawful activity and to assist Council staff
 - f) Council considers the guiding principles in **(Appendix 1)** to assist staff in meeting the above policy statements to act promptly, consistently and effectively to allegations of unlawful activity.

6. RESPONSIBILITIES:

- 6.1 The policy is implemented primarily via the Environmental Health and Compliance Coordinator.
- 6.2 All Council staff that deal with written or verbal requests or complaints alleging unlawful activity are responsible for following the policy framework.
- 6.3 All formal notifications of alleged unlawful activity will be lodged in Councils customer request system and directed to the responsible officer.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993.
- 7.2 Environmental Planning and Assessment Act 1979.
- 7.3 Protection of the Environment Operations Act 1997.
- 7.4 Roads Act 1993.
- 7.5 Companion Animals Act 1998.
- 7.6 Public Health Act 2010.
- 7.7 Swimming Pools Act 1992.
- 7.8 Rural Fires Act 1997.
- 7.9 Road Transport Act 2013.
- 7.10 Food Act 2003.
- 7.11 Impounding Act 1993.
- 7.12 Biodiversity Conservation Act 2016.

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website: www.portstephens.nsw.gov.au .			
EDRMS container No.	PSC2013-00406/045	EDRMS record No.	19/380264 21/124780
Audience	Council staff, the general public.		
Process owner	Development Assessment and Compliance Section Manager.		
Author	Environmental Health and Compliance Coordinator.		
Review timeframe	3 years	Next review date	
Adoption date	28 August 2007		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	28/08/2007	Manager Development and Building	Policy adopted by Council	235

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



Version	Date	Author	Details	Minute No.
2	26/11/2013	Manager Development Assessment and Compliance	Amended	344
2.1	28/03/2017	Development Assessment and Compliance Section Manager	Updated to new template	065
3	26/11/2019	Development Assessment and Compliance Section Manager	Minor punctuation and grammatical changes throughout including to: 2.1, 3.1, 3.2, 5.1a, 5.1e, 5.1f. 6.1 Deleted Manager Development Assessment and Compliance and replaced with Environmental Health and Compliance Coordinator. 7.12 Deleted Weeds Act and replaced with Biodiversity Conservation Act 2016.	231
4		Environmental Health and Compliance Coordinator	Policy updated to new template to reflect current style and minor punctuation updates.	

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version.
Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM NO. 3

**FILE NO: 21/118914
EDRMS NO: PSC2013-00406**

POLICY REVIEW: DOG NOISE POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Dog Noise Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the revised Dog Noise 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 Dog Noise Policy dated 8 October 2019, (Minute No. 182) should no submissions be received.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

169	<p>Councillor John Nell Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Dog Noise Policy shown at (ATTACHMENT 1).2) Place the revised Dog Noise 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 Dog Noise Policy dated 8 October 2019, (Minute No. 182) should no submissions be received.
------------	---

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Dog Noise Policy **(ATTACHMENT 1)**.

Please note that yellow highlighting in the attached policy indicates an amendment has been made and strikethrough text is to be deleted.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

The Dog Noise Policy was originally adopted on 3 June 1997 and last reviewed on 8 October 2019.

The review of the Dog Noise Policy results in no fundamental changes to the policy adopted in 2019. There have been no major legislative changes that require a revised position of Council.

Council has an obligation to respond appropriately to customer complaints regarding barking dog noise under the relevant legislation. Prior to 2017 Council relied on the Companion Animals Act 1998 when dealing with dog noise complaints as a 'nuisance dog', but a lack of ability to achieve a result for the customer led to significant changes being made. A number of reviews have occurred since then with the key change being the utilisation of the Protection of the Environment Operations Act 1997 and the pursuit of dog noise matters as 'offensive noise'.

For the last 4 years the revised policy and refined approach has been working well operationally.

The adoption and regular review of the Dog Noise Policy formalises Council's approach and will ensure that the organisation is equipped to appropriately manage dog noise complaints in accordance with legislative requirements.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal direct financial/resource implications; however, repeated breaches or failure to adhere to legislative directions could result in fines being issued to the dog owners causing offensive noise.

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 positive legal, policy and risk implications in reviewing and updating existing policies to assist in facilitating more accurate and robust decision making.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk of making poor decisions as a result of an outdated policy.	High	Adopt Recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy provides Council with an effective tool for dealing with noise complaints in relation to barking dogs. The policy seeks to protect neighbourhood amenity in a fair and equitable manner.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Environmental Health and Compliance Team.

Internal

Consultation has been undertaken with the Ranger Team and the Executive Team.

External

The Ranger Services team consulted with other Councils of a similar size and demographic, community members and industry peers.

Council staff have previously presented the policy and approach at Regulatory Industry Workshops (state and national level) in which the methods have been well received.

In accordance with local government legislation, the revised Dog Noise Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

1) Revised Dog Noise Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2013-00406/043

TITLE: DOG NOISE POLICY

OWNER: DEVELOPMENT ASSESSMENT AND COMPLIANCE
SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to provide a formal framework for the management and regulation of barking dog noise complaints in the Port Stephens Local Government Area (LGA). The policy also provides an efficient and cost effective method of gathering the information and evidence required to resolve dog noise control issues.

2. CONTEXT/BACKGROUND:

- 2.1 The policy (formerly the Dog Noise Strategy) was first adopted by Council on 3 June 1997 and was most recently amended on 14 February 2017. 8 October 2019. When compared to the original strategy, the revised The policy sets out continues to provide Council operational staff with an improved, cost effective method of dealing with noise complaints in relation to barking dogs as well as enabling a sufficient amount of evidence to be obtained in dog noise control matters.
- 2.2 Dog noise in the Port Stephens LGA is managed as 'offensive noise' under the Protection of the Environment Operations Act 1997 (POEO Act). The policy requires the submission of a barking dog diary ('the diary') from complainants within 7 days of the event to establish the validity of their complaints.
- 2.3 Council is committed to resolving dog noise problems having regard to legislative requirements and can only do so when persons who lodge complaints about barking dogs provide the required level of information to support the complaint. An integral part of the investigation process includes persons lodging complaints being willing to provide evidence and appear as a witness if necessary.
- 2.4 The policy sets Port Stephens Council apart in terms of how other peer Council's manage nuisance dogs and provides a consistent and transparent approach.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



3. SCOPE:

- 3.1 The role of Council's Ranger team in the implementation of the policy is to manage barking dog complaints in the Port Stephens LGA where the complainants are able to provide evidence demonstrating the noise created is 'offensive noise' as defined by the ~~Protection of the Environment Operations~~ POEO Act 1997.

4. DEFINITIONS:

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

Nuisance Dog	A dog that makes a noise, by barking or otherwise, that persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises.
Offensive Noise	Interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted.
Repeated Barking	More than three episodes of five barks in one hour on multiple occasions during a 24 hour period. (Note – this is a guide for the assessing officer only and does not necessarily constitute offensive noise. A demonstrated impact needs to be identified).

5. STATEMENT:

- 5.1 Upon receipt of a first complaint about dog noise, Council staff will attempt to make contact with the dog owner and advise that a complaint has been received. The dog owner will be given ~~fourteen~~ 14 days to resolve the issue without further involvement from Council.
- 5.2. If the dog barking persists past the ~~fourteen~~ 14 day period described above, Council will request a Council approved diary and statement form to be completed by the complainant giving time and duration of barking. Complainants are encouraged to obtain audio recordings of noise episodes where possible, to accompany the diary.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 3 - ATTACHMENT 1 REVISED DOG NOISE POLICY.

Policy



- 5.3. On submitting the diary to Council an investigation will be carried out by the Ranger team and if the noise is deemed offensive via a supplementary method of verification which may include neighbour interviews, patrols, video and audio recordings, a Council officer will issue a Noise Abatement Direction to the owner of the dog. Once issued, the noise abatement direction will remain in force for ~~twenty-eight~~ 28 days.
- 5.4 If further offensive noise is caused within the ~~twenty-eight~~ 28 day period described above the complainant will be requested to provide an additional diary and other methods of verification should be obtained where possible. If the evidence provided demonstrates the Noise Abatement Direction has been breached a Council Officer may issue infringements to the owner of the dog, accompanied by a new Noise Abatement Direction.
- 5.5 If the noise is not deemed offensive by Council staff at the conclusion of their investigation, the complainant will be advised accordingly and no further action will be taken.
 - a) ~~5.5.1~~ note – the above process will be repeated while ever the dog noise continues.
 - b) ~~5.5.2~~ after the expiry of the ~~twenty-eight~~ 28 days Council staff may take the following action:
 - 5.5.3.1 if multiple diaries and statements have been received and an offence is considered to be committed, issue a Prevention Notice under the ~~Protection of the Environment Operations~~ POEO Act 1997.
 - 5.6. ~~5.5.2~~ if no further diaries are received the matter will be deemed to be resolved and no further action will be taken.
- 5.7. ~~6~~ The definition of 'offensive noise' is set out in the ~~Protection of the Environment Operations~~ POEO Act 1997. For the purposes of dog barking noise, it is accepted that dogs may bark for various reasons and this alone does not make the noise offensive. As a guide to dog barking noise interfering unreasonably with comfort or repose, the dog noise would need to meet ~~one~~ 1 or more of the following:
 - a) ~~5.7.1~~ barking before 7am or after 8pm; or
 - b) ~~5.7.2~~ repeated barking that interrupts normal home activity such as sleep, conversations, phone calls, watching television, study etc.
- 5.8.7 Should additional complaints and completed diaries be received after a Prevention Notice has been issued, a decision will be made having consideration to Council's legal procedures policy as to further action.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



5.98 If the matter is not resolved following the above process Council may issue a Court Attendance Notice.

6. RESPONSIBILITIES:

- 6.1 Coordinator Environmental Health and Compliance.
- 6.2 Ranger Team Leader.
- 6.3 Ranger Team.

7. RELATED DOCUMENTS:

- 7.1 Councils Local Companion Animals Management Plan.
- 7.2 Companion Animals Act 1998 (Nuisance Orders).
- 7.3 Protection of the Environment Operations Act 1997 (Prevention Notice, Noise Abatement Order).
- 7.4 Dog Noise Diary.
- 7.5 Dog Noise Fact Sheet.

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website: www.portstephens.nsw.gov.au .			
EDRMS container No.	PSC2013-00406/43	EDRMS record No.	19/335158 21/124858
Audience			
Process owner	Development Assessment and Compliance Section Manager		
Author	Environmental Health and Compliance Coordinator		
Review timeframe	3 years	Next review date	
Adoption date	3 June 1997		

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	3/6/1997		Policy adopted by Council	1083
2	30/1/2001		Amended	016
3	19/10/2004		Amended	375
4	13/8/2013		Amended	216
5	14/02/2017	Coordinator Environmental Health and Compliance.	Changes to Policy and approach based on Protection of Environmental Operations Act offensive noise, rather than Companion Animals Act nuisance order. New noise diary and supplementary fact sheet. Provides for a robust yet effective way to manage noise.	008
6	8/10/2019	Coordinator Environmental Health and Compliance.	Updated to new template. Minor punctuation and grammatical changes made throughout. 2.2. Feedback from customers and an internal process review has led to the Policy now seeking that the complainant's diary be supplemented by one additional diary from another affected neighbour to assist in establishing validity of complaints. The onus of gathering the additional diary from another affected neighbour rests solely with the primary complainant. 4.1. Definitions updated to include 'Continuous Barking'. 5.1 Upon receipt of a first complaint about dog noise, Council staff will attempt to make contact with the dog owner and advise that a complaint has been received. The dog owner will be given	182

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



			<p>fourteen days to resolve the issue without further involvement from Council.</p> <p>5.2. If the dog barking persists past the fourteen day period described above, Council will request a Council approved diary and statement form to be completed by the complainant giving time and duration of barking.</p> <p>5.3. On submitting the diary to Council an investigation will be carried out by the Ranger team and if the noise is deemed offensive via a supplementary method of verification which may include neighbour interviews, patrols, video and audio recordings, A Council officer will issue a Noise Abatement Direction to the owner of the dog. Once issued, the noise abatement direction will remain in force for twenty eight days.</p> <p>5.4 If further offensive noise is caused within the twenty eight days period described above the complainant will be requested to provide an additional diary and other methods of verification should be obtained where possible. If the evidence provided demonstrates the Noise Abatement Direction has been breached a Council Officer may issue infringements to the owner of the dog, accompanied by a new Noise Abatement Direction.</p> <p>5.5 If the noise is not deemed offensive by Council staff at the conclusion of their investigation, the complainant</p>	
--	--	--	---	--

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



			<p>will be advised accordingly, and no further action will be taken</p> <p>5.5.3 If multiple diaries and statements have been received and an offence is considered to be committed, issue a Prevention Notice under the Protection of the Environment Operations Act 1997.</p> <p>5.6 If no further diaries are received the matter will be deemed to be resolved and no further action will be taken.</p>	
7		Coordinator Environmental Health and Compliance	<p>Revision of Policy, incorporation into new styling format and minor punctuation and grammar amendments throughout.</p> <p>2.1 Added – policy (formerly the Dog Noise Strategy)</p> <p>2.1 Added – When compared to the original strategy, the revised... continues...</p> <p>2.2 Added - within 7 days of the event.</p>	

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM NO. 5

**FILE NO: 21/119679
EDRMS NO: PSC2013-00406**

POLICY REVIEW: HERITAGE POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Heritage Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the revised Heritage Policy on public exhibition for a period of 28 days and, should no submissions be received, adopt the policy without a further report to Council.
 - 3) Revoke the Heritage Policy dated 23 July 2019, (Minute No. 165) should no submissions be received.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

169	<p>Councillor John Nell Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Heritage Policy shown at (ATTACHMENT 1).2) Place the revised Heritage Policy on public exhibition for a period of 28 days and, should no submissions be received, adopt the policy without a further report to Council.3) Revoke the Heritage Policy dated 23 July 2019, (Minute No. 165) should no submissions be received.
------------	--

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Heritage Policy **(ATTACHMENT 1)**.

Please note that yellow highlighting in the attached policy indicates an amendment has been made and strikethrough text is to be deleted.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

The policy provides an overarching commitment to recognise, protect, and promote tangible and intangible Aboriginal and non-Aboriginal heritage.

The review of the Heritage Policy results in no fundamental changes to the policy adopted in July 2019. There have been no major legislative changes that require a revised position of Council and all changes made are administrative corrections.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Recognised Traditions and Lifestyles	Recognise and support the heritage of Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

There are no direct financial/resource implications as the policy will continue to be implemented as part of ongoing operations.

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 positive legal, policy and risk implications in reviewing and updating existing policies to assist in facilitating more accurate and robust decision making.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council does not have an up-to-date policy approach to heritage matters and may miss out on external grant funds.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy recognises the importance of heritage for Port Stephens and its communities, and acknowledges that heritage has cultural heritage tourism potential. The policy seeks to recognise, protect and promote heritage in the Port Stephens local government area.

CONSULTATION

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

Internal

Consultation has been undertaken with the Planning and Developer Relations and Community Development and Engagement units. The Executive Team has also been consulted to seek management endorsement.

External

The Strategy and Environment Section consulted with members of the 355c Heritage Advisory Committee.

In accordance with local government legislation the revised Heritage Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Heritage Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2016-02097

TITLE: HERITAGE POLICY

OWNER: STRATEGY AND ENVIRONMENT SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of the Heritage Policy (the policy) is to state Port Stephens Council's commitment to ensuring systems are in place to assist in the recognition, protection, and promotion of Aboriginal and non-Aboriginal heritage in the Port Stephens Local Government Area (LGA).

2. CONTEXT/BACKGROUND:

- 2.1 Heritage is a key element of Australia's identity. It reflects our Aboriginal and non-Aboriginal spirit and ingenuity through our cultural, built and unique, living landscapes. Heritage is a legacy from our past, informing present and future operations generations.
- 2.2 The Port Stephens LGA encompasses a rich Aboriginal and non-Aboriginal history. It is the land of the Worimi people with the area being first noted by Europeans in May 1770. Considerable Aboriginal and non-Aboriginal terrestrial and maritime history has been documented in the region, ranging from a vibrant fishing industry, trade, and establishment of towns, villages and agricultural activity.
- 2.3 Port Stephens Council supports opportunities to retain local history in a way that positively influences social connections and place making in communities and also recognises the positive economic benefit gained from cultural heritage tourism.

3. SCOPE:

- 3.1 The policy is a commitment to:
- a) assist in the conservation, protection and interpretation of local and state State heritage
 - b) recognise and respect heritage, both Aboriginal and non-Aboriginal
 - c) celebrate places, buildings, landscapes and stories of our local communities that provide a link to our nation's heritage
 - d) develop partnerships and provide initiatives that enable practical actions to protect and manage heritage places
 - e) establish consistent methods of managing heritage matters between Council and the community that are in line with local, State and Federal legislation

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 5 - ATTACHMENT 1 REVISED HERITAGE POLICY.

Policy



- f) consult with relevant Aboriginal and non-Aboriginal communities. Engage with the diverse communities of Port Stephens to preserve and celebrate heritage.

- 3.2 This policy applies to land and infrastructure owned by Council or where Council has been appointed Crown land manager. It also recognises Council's role in supporting the preservation of significant heritage, including those privately owned, through Council's Local Environmental Plan.

4. DEFINITIONS:

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

Heritage: Places, buildings, landscapes and stories related to the history of our community.

5. STATEMENT:

- 5.1 Port Stephens Council supports heritage activities in the Port Stephens LGA. This includes the environmental heritage of Port Stephens, conserving heritage items and heritage conservation areas (including associated fabric, settings and views), archaeological sites and Aboriginal objects **and items, and Aboriginal** places of heritage significance.

6. RESPONSIBILITIES:

- 6.1 Executive Team: Leadership and strategic direction.
6.2 Senior Leadership Team: Leadership through ensuring staff understanding of and compliance with provisions outlined in this policy and associated documentation.
6.3 Strategy and Environment Section Manager: policy implementation and process owner.
6.4 Development Assessment and Compliance Section Manager: Planning compliance.
6.5 Civil Assets Manager: Asset Custodian.
6.6 Heritage Advisor: Provide professional advice to Council.
6.7 355c Heritage Advisory Committee: Provide community advice to Council.
6.8 355c Aboriginal Strategic Committee: Provide community advice to Council.

7. RELATED DOCUMENTS:

- 7.1 **Port Stephens Heritage Signs and Trails Guidelines 2015. Port Stephens Signage Style Guide (2020) and Port Stephens Brand Identity Style Guide (2019).**
7.2 Port Stephens Local Environmental Plan 2013.
7.3 Port Stephens Development Control Plan 2014.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



- 7.4 Port Stephens Cultural Plan 2015-2018 Our incredible place; a strategy for events, the arts and culture in Port Stephens.
- 7.5 Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth).
- 7.6 Environmental Planning and Assessment Act 1979 (NSW).
- 7.7 Environment Protection and Biodiversity Conservation Act 1999 (Cth).
- 7.8 Local Government Act 1993 (NSW).
- 7.9 National Parks and Wildlife Act 1974 (NSW).
- 7.10 Heritage Act 1977 (NSW).
- 7.11 Crown Land Management Act 2016 (NSW).
- 7.12 The Australia ICOMOS Charter for Places of Cultural Significance, The Burra Charter, 2013.
- 7.13 Design Guide for Heritage 2019 (Heritage Council of NSW and Government Architect NSW).

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website: www.portstephens.nsw.gov.au.

EDRMS container No.	PSC2016-02097	EDRMS record No.	19/274236 21/12604
Audience	Council Staff and the Community		
Process owner	Strategy and Environment Section Manager		
Author	Strategy and Environment Section Manager		
Review timeframe	3 years	Next review date	
Adoption date	25 March 2015		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	24/03/2015	Strategy and Environment Section Manager	N/A	056
2.0	11/04/2017	Strategy and Environment Section	Transfer to new corporate policy template.	086

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



Version	Date	Author	Details	Minute No.
		Manager	<p>The policy purpose is a transfer of the objectives from Version 1.0.</p> <p>The policy scope is a transfer of the principles and part of the policy statement from Version 1.0.</p> <p>The policy responsibilities is a transfer of the implementation responsibility from Version 1.0.</p> <p>The policy responsibilities has been amended to include ELT, SLT and Development Assessment & Compliance Section Manager.</p> <p>The related documents section is a transfer of the relevant legislative provisions from Version 1.0.</p> <p>The related documents has been amended to include the Port Stephens Heritage Signs and Trails Guidelines 2015, Local Environmental Plan 2013, Draft Port Stephens Council Heritage Strategy, Development Control Plan 2013, Port Stephens Cultural Plan 2015-2018 and Crown Lands Act 1989</p>	
3.0	23/07/2019	Strategy and Environment Section Manager	<p>Reformatted the policy into the new policy template.</p> <p>1.1, 2.1, 2.2, 3.1(b), 3.1(f) and 3.2 - Administrative amendments to update references to legislation, other relevant documents, grammar, and align the policy with other Council policies.</p> <p>6.5 – Civil Assets Manager – listed</p>	165

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



Version	Date	Author	Details	Minute No.
			<p>as 'Asset Custodian'.</p> <p>6.8 - Updated list of policy Responsibilities to include the function of Council's Aboriginal Strategic Committee in providing advice to Council.</p> <p>7.3, 7.5, 7.1 and 7.12- Updated list of Related Documents to relevant year.</p> <p>7.13 - Included the Design Guide for Heritage 2019 (published by the Government Architect NSW).</p>	
4.0		Strategy and Environment Section Manager	<p>Reformatted the policy into the new policy template.</p> <p>Minor corrections in spelling and grammar.</p> <p>Updated 7.1 by removing Port Stephens Heritage Signs and Trails Guidelines 2015. Included the Port Stephens Signage Style Guide (2020) and Port Stephens Brand Identity Style Guide (2019).</p> <p>Updated 7.4 with the current Our Incredible Place strategy.</p>	

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



ITEM NO. 6

**FILE NO: 21/128602
EDRMS NO: PSC2019-00384**

POLICY REVIEW - COMMERCIAL OPERATORS POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Commercial Operators Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the revised Commercial Operators 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 Commercial Operators Policy dated 11 June 2019 (Minute No. 120), should no submissions be received.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

169	<p>Councillor John Nell Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Commercial Operators Policy shown at (ATTACHMENT 1).2) Place the revised Commercial Operators 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 Commercial Operators Policy dated 11 June 2019 (Minute No. 120), should no submissions be received.
------------	--

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Commercial Operators Policy **(ATTACHMENT 1)**.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

Please note that yellow highlighting in the attached policy indicates an amendment has been made and strikethrough text is to be deleted.

The revised policy aims to encourage a diversity of users on Council owned and managed land to create vibrant and active places for all people to enjoy.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Partnerships	Provide recreational and leisure services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications from adopting the recommendations. All revenue from licence fees is used to offset the cost of maintaining public open space and the subsequent cost to ratepayers.

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 legal or policy impediments from adopting the recommendations. Any activity on Council land classified as Community Land requires formal approval as per the Local Government Act 1993, Section 47 and 47A.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that not having a Commercial Operators Policy may result in unapproved activities being undertaken on Council land resulting in safety, legal, financial, environmental and reputation damage.	Medium	Adopt the recommendations.	Yes

MINUTES ORDINARY COUNCIL - 13 JULY 2021

There is a risk that not having a Commercial Operators Policy may result in conflict between prospective operators and the general community resulting in safety and reputation damage.	Low	Adopt the recommendations.	Yes
There is a risk that not having a Commercial Operators Policy may result in lengthy decision making processes when assessing requests for use of Council land resulting in added costs to small business and reputation damage to Council.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendations creates opportunities for people to participate in healthy, educational and creative activities on Council owned and managed land. Managing the allocation of foreshores and park areas needs to be carefully considered through this policy as these areas attract large numbers of people at peak times and the interaction between passive users and commercial operators has the potential to create conflict.

The local economy benefits from this policy because it allows small to medium enterprises to access Council owned and managed land and conduct their business at reasonable rates for their customers.

This policy, its guidelines and conditions in standard licence agreements ensures that environmental constraints at any given site are fully considered and managed.

CONSULTATION

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

The objective of the consultation is to ensure all stakeholders are included in the review of the policy to provide initial feedback to ensure the accuracy of the information documented within the draft Commercial Operators Policy.

Internal

- Executive Team
- Governance Section – Legal Services Team
- Strategic Property Section – Commercial Investments Team
- Strategy and Environment Section - Economic Development and Tourism Team
- Assets Section – Community and Recreation Assets Team
- Public Domain and Services Section – Parks Team
- Development Assessment and Compliance Section – Environmental Health and Compliance Team

External

Existing licenced commercial operators were not contacted as there were no physical changes to processes recommended within the draft Commercial Operators Policy.

In accordance with local government legislation the revised Commercial Operators Policy will go on public exhibition for a period of 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Commercial Operators Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2019-00384

TITLE: COMMERCIAL OPERATORS POLICY

OWNER: COMMUNITY SERVICES SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of the Commercial Operators Policy is to confirm Council's approach to commercial activities on Council owned and managed land.
- 1.2 The policy aims to achieve well managed commercial operations that create vibrant public spaces, promote community participation and connections, improve the visitor experience and grow the Port Stephens economy.
- 1.3 The policy also provides the framework for a streamlined process for managing the use of Council owned or managed land by private business, markets, events and mobile food/retailers.

2. CONTEXT/BACKGROUND:

- 2.1 Port Stephens has a diverse range of open space including parks, sports fields, foreshores, beaches, and bushland reserves. These open spaces are well suited to a wide range of passive and active uses and, as these open spaces have become more popular, demand has risen for the use of Council owned and managed land to conduct commercial operations.
- 2.2 By ensuring a consistent approach to the approval and management of commercial activities on Council owned or managed land, Council can facilitate the economic and social benefits across the community whilst also ensuring a diversity of quality products complimentary to each location.
- 2.3 The Policy aims to achieve well managed commercial operations that create vibrant public spaces, promote community participation and connections, improve the visitor experience and grow the Port Stephens economy.

3. SCOPE:

- 3.1 The Commercial Operators Policy applies to the management of Commercial Operations within the Port Stephens Council Local Government Area. The total open space deemed suitable for these activities is 490 hectares of Port Stephens Council's total open space provision (refer to Table 1).

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version.
Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



- 3.2 Commercial Operations include both land and water based activities ranging from events, markets, mobile food/retailers, including but not limited to personal and group fitness classes, bicycle hire, surf schools, watercraft hire and lessons in watercraft use and sport adventure activities.
- 3.3 Approval to issue a licence under the Commercial Operators Policy does not negate the need for nor is intended as a substitute for development consent under the Environmental Planning and Assessment Act 1979, where required.
- 3.4 Licensed activities involving the retail sale of food and drink products are required to comply with the relevant legislative provisions of the NSW Food Act 2003, the Australia/NSW Zealand Food Standard Codes and related guidelines and policies, where required.
- 3.5 The Commercial Operators Policy does not apply to commercial operations on land that is not owned or managed by Council. Commercial operations on land that is not owned or managed by Council may require other development approvals.
- 3.6 The Policy does not apply to the following activities that may be subject to separate approval processes:
 - a) commercial activities subject to a lease arrangement
 - b) commercial use of community halls
 - c) commercial use of sporting facility buildings
 - d) commercial activities on land that is not owned or managed by Council
 - e) activities not considered to be a commercial activity.

4. DEFINITIONS:

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

Commercial activity	To conduct any aspect of a business, or service in order to provide goods or services to any person for profit or cost recovery on Council's owned and managed land.
Commercial operator	A person or entity that intends to conduct an activity for profit or personal gain on Council owned and managed land.
Commercial operators licence	A contract to operate across and or on Council owned and managed land.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



Council owned and managed land	Land that is owned or managed by Port Stephens Council, including Crown Land where Council is the corporate trust manager.
Land based activity	Activities that are conducted on Council owned and managed land. Examples of land based activities include, but are not limited to: personal fitness trainers, group fitness, hiring of bicycles, dog obedience schools, mobile food/retailers, markets and events.
Water based activity	Activities that are conducted mostly in waterways but require access to the waterway from Council owned and managed land. Examples of water based activities include but are not limited to; learn to surf schools, hire of water craft, lessons in water craft use, sport adventure activities, mobile food/retailers, events.
Mobile Food/Retail Operator	A Company or individual that operates a mobile food or other retail vehicle, cart or stall.
Mobile Food/Retail Vehicle	All mobile vans, mobile trailers, carts or maritime vessels (whether registered or not) used for the purpose of selling any article of food or merchandise on Council's owned and managed land.
Ongoing Markets	A regularly scheduled outlet for the sale of goods and services at the same or regular location with the majority of goods and services provided by the producer, grower, craftsperson or service person (in excess of four times per year).
Temporary Markets	A temporary outlet for the sale of goods and services at the same or regular location with the majority of goods and services provided by the producer, grower, craftsperson or service person (up to four times per year).
Temporary Events	A temporary one off or annual activity on Council owned and managed land.
Not For Profit Operations	A Company or individual that operates a business on a cost recovery basis and does not make a profit.
Licensing terms and conditions	This includes guidelines, processes and other internal documents used by Council staff in the assessment and approval of Commercial Operator licence applications.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



5. STATEMENT:

- 5.1 Port Stephens Council will support and facilitate commercial operations on Council owned or managed land that provide economic and community benefit, enhance the local culture and ensure the safety of residents and visitors. In order to achieve this Council will:
- permit the use of Council owned and managed land for commercial operations that meet the purpose of the land as defined in the Local Environment Plan, any Plan of Management for the land, the Crown Lands Management Act 2016, the Local Government Act 1993 and the licensing terms and conditions of any specific site
 - encourage commercial operations on Council owned and managed land that provide economic, social and environmental benefit
 - ensure Council owned and managed land is used in a safe manner
 - permit 5 year licenses for the use of Council owned and managed land by approved Commercial Operators ensuring security of tenure for approved Commercial Operators. Accordingly, those Commercial Operators shall be offered a 5 year licence term for any new licence subject to all requirements of the Local Government Act 1993 and the Crown Lands Management Act 2016
 - at Council's sole discretion permit short term licenses for the use of Council owned and managed land by approved commercial operators
 - commit to implementing and keeping current terms and conditions that ensure that occupiers of licenced sites do not cause nuisance to neighbours and other stakeholders
 - assess and apportion licence fees that are determined by market demand and the Setting of Fees and Charges Management Directive
 - provide locations suitable for site specific commercial operations as listed in Table 1
 - as required, Council may initiate a process to identify supplementary sites for land and water based commercial operations to activate a particular location.

Table 1: Council owned and managed land that may be licensed for site specific commercial operations, excluding temporary events and temporary markets (operating less than 4 times per year). Mobile food/retail operator sites will be assessed upon application.

Suburb	Location	Lot / DP	Number of Sites	
			Land Based Activities	Water Based Activities
Anna Bay	Birubi Beach	Lot 7325, DP 1156724	2	1

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



Anna Bay	Robinson Reserve	Lot 7325, DP 1156724	2	0
Boat Harbour	Boat Harbour Beach Reserve	Lot 7324, DP 1205289	1	1
Corlette	Bagnall Beach Reserve, corner of Sandy Point Road and Pantowarra Street (A)	Lot 540, DP 823768	1	0
Corlette	Bagnall Beach Foreshore Reserve, adjacent corner of Pantowarra Street (B)	Lot 540, DP 823768	0	1
Corlette	Roy Wood	Lot 356, DP 27845	0	1
Corlette	Conroy Park	Lot 256, DP 27048	1	1
Fingal Bay	Fingal Bay Foreshore Reserve	Lot 475, DP 728127	2	0
Fingal Bay	Fingal Bay Oval	Lot 418, DP 257378	2	0
Fingal Bay	Fingal Beach (A)	Lot 475, DP 728127	1	2
Fingal Bay	Fingal Beach Boat ramp end(B)	Lot 475, DP 728127	1	1
Fisherman's Bay	Fisherman's Bay Park	Lot 278, DP 753204	1	0
Hinton	Hinton Foreshore Reserve	Lot 26, DP 109540	1	1
Hinton	Stuart Park	Lot 1, DP 915417	2	0
Karuah	Aliceton Reserve	Lot 61, DP 24364	2	0
Karuah	Lionel Morton Oval	Lot 153, DP 753196	1	0
Karuah	Longworth Park	Lot 710 DP 1050943	1	0
Karuah	Memorial Park Boat Ramp	Lot 710 DP 1050943	1	0

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version.
Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



Lemon Tree Passage	Kooindah Park	LOT:PT 93 DP 217567	3	0
Mallabula	Caswell Reserve	Lot 93, DP 11392	0	1
Mallabula	Mallabula Sports Complex	Lot 398, DP 1142139	4	0
Medowie	Boyd Oval	Lot 1, DP 408155	2	0
Medowie	Coachwood Drive Reserve	Lot 37, DP 807956	1	0
Medowie	Ferodale Sports Park	Lot 22, DP 1021843	2	0
Medowie	Kindlebark Oval	Lot 59 DP 730472 LOT:129 DP 710216	2	0
Medowie	Yulong Oval	Lot 49, DP 249781	2	0
Nelson bay	Apex Park	PLT 154, DP753204	2	0
Nelson Bay	Bill Strong Oval,	Lot 101, DP 1175980	2	0
Nelson Bay	Dutchman's Beach Reserve	Lot 7318, DP1138620	3	0
Nelson Bay	Dutchman's Beach Foreshore	Lot 7318, DP1138620	0	2
Nelson Bay	Fly Point Reserve	Lot 101, DP 1175980	3	0
Nelson Bay	Little Beach Reserve	Lot 101, DP 1175980	1	0
Nelson Bay	Neil Carroll Park	Lot 101, DP 1175980	2	0
Nelson Bay	Nelson Bay Foreshore adjacent to the Nelson Bay public wharf amenities (A)	Lot 550,559, DP 1033413	1	0
Nelson Bay	Nelson Bay Foreshore adjacent Nelson Bay Kiosk and carpark (B)	Lot 550 559, DP 1033413	0	1

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



Nelson Bay	Nelson Bay Foreshore, Victoria Parade adjacent Fly Point amenities (C)	Lot 550,559 DP 1033413	0	1
Nelson Bay	Tomaree Sports Complex	Lot 1, DP 1136350	4	0
Nelson Bay	Tom O Dwyer Oval	Lot 402, DP 753204	1	0
Nelson Bay	Yaccaba St	Lot 1, 2, DP1236311	1	0
One Mile	One Mile Beach	Lot 7311, DP 1120641	1	1
Raymond Terrace	Alton Park Reserve	Lot 61, DP 24364	1	0
Raymond Terrace	Boomerang Park	Lot 1, DP 1018979	3	0
Raymond Terrace	Bettles Park		1	0
Raymond Terrace	Fitzgerald Bridge Boat Ramp area	Lot 131, DP 1120122	0	1
Raymond Terrace	King Park Sports Complex	Lot 1, DP 733011 Lot 131, DP 1120122	3	0
Raymond Terrace	Lakeside Reserve 2	Lot 261, DP 263821	1	0
Raymond Terrace	Lakeside Reserve 3	Lot 116, DP 262378	1	0
Raymond Terrace	Lakeside Sports Complex	Lot PT2, DP 502401	2	0
Raymond Terrace	Ross Walbridge Reserve	Lot 1, DP 115898	2	0
Raymond Terrace	Riverside Park	Lot 7005, DP 94774	1	0
Raymond Terrace	Vi Barnett Oval	Lot 131, DP 1120122	1	0
Salamander Bay	Bagnall Beach Road Detention Basin	Lot 5072, DP 841259	1	0
Salamander Bay	George's Reserve	Lot 1, DP 852661	0	1

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



Salamander Bay	Joe Redman Reserve	Lot 356, DP 27845	1	0
Salamander Bay	Korora Oval	Lot 541, DP 27274	3	0
Salamander Bay	Roy Wood Reserve	Lot 356, DP 27946	1	1
Salamander Bay	Salamander Sports Complex	Lot 1, DP 1117732	2	0
Seaham	Brandon Park	Lot 11, DP 26452	2	0
Seaham	Seaham Park	Lot 1, DP 758899	3	0
Shoal Bay	Shoal Bay Foreshore - Boat Ramp (A)	Lot 7022,7023 DP 1126832	0	1
Shoal Bay	Shoal Bay Foreshore Adjacent public wharf (B)	Lot; 7022,7023 DP 1126832	0	1
Shoal Bay	Shoal Bay Foreshore Beach Road adjacent to Harbourside Haven (C)	Lot; 7022,7023 DP 1126832	0	1
Shoal Bay	Shoal Bay Foreshore intersection of Harwood Avenue and Beach Road (D)	Lot: 7022,7023 DP 1126832	0	1
Shoal Bay	Marrungbangbaa Reserve	Lot 7305, DP 1130568	1	1
Soldiers Point	Everitt Park	Lot 322, DP 636840	1	0
Tanilba Bay	Forster Park	Lot: 7322 DP 1154060	0	1
Tanilba Bay	Peace Park	Lot 1, DP 265326	0	1
Taylors Beach	Taylors Beach Foreshore	Lot 637, DP 27626	0	1
Wallalong	Bowthorne Park	Lot 1, DP 703382	1	0

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



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:
 - a) ~~Contracts and Services Coordinator~~ **Community Contracts Coordinator** – implement the policy, review and update the Licensing Terms and Conditions and supporting documents relating to this Policy; issuing of licence approvals under delegation; internal and external relationship management.
 - b) ~~Tourism and Events Coordinator~~ **Economic Development and Tourism Coordinator** – review and update the Temporary Events Assessment and Markets Guidelines and supporting documents relating to this Policy; issue Temporary Events Licences and Market approvals under delegation.
 - c) Environmental Health and Compliance Coordinator – review and update the Mobile Food Operators Guideline and supporting documents relating to this Policy. Issue permit in accordance with the requirements of the NSW Food Act 2003 under delegation.
 - d) ~~Property Officer Community Leasing~~ – **Community Contracts Officer** prepare and administer licence documentation.
 - e) Environmental Health and Compliance Coordinator, ~~Events and Tourism Coordinator~~ **Economic Development and Tourism Coordinator**, Community Development and Engagement Coordinator, Asset Coordinator, Parks Coordinator, Traffic Coordinator, Corporate Risk Team – provide advice on the implementation of the Policy relating to asset planning, traffic management and planning, scheduled improvements, liaison with Sports Council's, risk management, environmental health, safety and compliance requirements and liaison relating to the coordination of market and events and bookings on Council owned and managed land.

7. RELATED DOCUMENTS:

- 7.1 Setting of Fees and Charges Management Directive.
- 7.2 Commercial Operator Guideline.
- 7.3 Temporary Event /Market Guidelines.
- 7.4 Mobile Food Vehicle Guideline.
- 7.5 Not for Profit Guide.
- 7.6 Tourism Policy.
- 7.7 Advertising Signs Policy.
- 7.8 Alcohol in Parks and Reserves Policy.
- 7.9 Temporary Structures on Footways Policy.
- 7.10 Port Stephens Council Plans of Management for community land.
- 7.11 Local Environmental Plan (LEP).
- 7.12 Roads Act 1993 and Roads Regulation 2008.
- 7.13 Food Act 2003 and Food Regulation 2010.
- 7.14 Protection of the Environment and Operations Act, 1997.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



- 7.15 Local Government Act 1993.
- 7.16 Crown Lands Management Act 2016.
- 7.17 Environmental Planning and Assessment Act 1979.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version.
Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website: www.portstephens.nsw.gov.au .			
EDRMS container No.	PSC2019-00384	EDRMS record No.	21/129656
Audience	Existing and potential commercial operators, Sports Councils; Parks and Reserves 355c Committees; local business associations and their members; Destination Port Stephens and their members.		
Process owner	Community Services Section Manager		
Author	Community Services Section Manager		
Review timeframe	2-years-3 years	Next review date	
Adoption date	11 June 2019		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	11 June 2019	Contracts and Services Coordinator	New policy to incorporate all commercial activity on council owned or managed land covering commercial operators, temporary events, markets and mobile food vendors.	120
2		Community Services Section Manager	Updated Policy into the new template including updating review timeframe in line with new guidelines. Updated policy wording into the new template. 4. Definitions – added in new definition for Commercial Activity. 6.2.1. Removed heading Contracts & Services Coordinator and replaced with Community Contracts Coordinator. 6.2.2. & 6.2.5. Removed heading Tourism and Events Coordinator and	

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



Version	Date	Author	Details	Minute No.
			<p>replaced with Economic Development & Tourism Coordinator.</p> <p>6.2.4. Removed heading – Property Officer Community Leasing and replaced with Community Contracts Officer</p> <p>Review Timeframe – changed from 2 to 3 years.</p>	

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



12

ITEM NO. 7

**FILE NO: 21/164699
EDRMS NO: PSC2007-2386**

POLICY REVIEW: GRANTS AND DONATIONS

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Grants and Donations Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Grants and Donations Policy, 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 Grants and Donations Policy dated 10 December 2019, Minute No. 254, should no submissions be received.

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

169	<p>Councillor John Nell Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Grants and Donations Policy shown at (ATTACHMENT 1).2) Place the revised Grants and Donations 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 Grants and Donations Policy dated 10 December 2019, Minute No. 254, should no submissions be received.
------------	---

The motion was carried.

BACKGROUND

The purpose of this report is seek Council's endorsement of the revised Grants and Donations Policy (policy).

The policy provides a range of financial assistance opportunities funded from the Mayoral and Ward funds, Aboriginal Projects Fund and the annual Community

MINUTES ORDINARY COUNCIL - 13 JULY 2021

Funding Program (which includes cultural events, heritage and environmental activities).

The policy has been reviewed as part of Council's ongoing policy review program. The changes relate to re-aligning the policy to the new Community Funding Program.

Please note that yellow highlighting in the attached policy indicates an amendment has been made and strikethrough text is to be deleted.

The policy is presented for Council's consideration.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

As part of good governance, this policy will assist Council in managing grants and donations, making it clear to the community what opportunities exist.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that in the absence of a financial assistance framework, Council would not meet the requirements of the Local Government Act 1993.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

This policy provides the community with opportunities to apply for project funds to assist with events and activities throughout the Port Stephens local government area.

CONSULTATION

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

Internal

- Executive Team
- General Manager

External

In accordance with the local government legislation, the revised Grants and Donations Policy will go on public exhibition for a period of 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Grants and Donations Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2007-02386
TITLE: GRANTS AND DONATIONS
POLICY OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

1.1 The purpose of this policy is to provide a policy framework to enable Council to provide financial assistance to the Port Stephens community in an equitable and fair manner, whilst ensuring legislative compliance.

2. CONTEXT/BACKGROUND:

2.1 Council has provided financial assistance to the Port Stephens community over many years under a number of funding avenues, such as; ~~Community Financial Assistance Grants, Rapid Response financial assistance, Community Capacity Building, Heritage, Cultural, Aboriginal and Environmental projects.~~

2.2 ~~These funds~~ Funds have been provided to enhance the Port Stephens local government area to build on the Council vision and the surrounding communities.

~~2.3 This policy has been updated following a major review of all financial assistance provided by Council. As a result grants and donations will be covered by this policy, however any requests for sponsorship should be considered under the Corporate Sponsorship policy. Community group loans are managed under the Community Groups Loan policy.~~

2.3 Requests for sponsorship should be considered under the Corporate Sponsorship policy and community group loans are managed under the Community Groups Loan policy.

2.4 Council has a requirement to ensure any monies distributed under Section 356 of the Local Government Act 1993, adhere to the legislative requirement.

3. SCOPE:

3.1 Port Stephens Council provides grants and donations to those within the local government area to assist in building our community.

3.2 This policy covers the following funding opportunities:

- a) Aboriginal Projects Fund*
- b) Community Funding Program*

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



- c) Mayoral Funds - available throughout the year, subject to funding availability.
- d) Rapid Response - available throughout the year, subject to funding availability and requires signature of requesting councillor.
- e) Community Capacity Building - available throughout the year, subject to funding availability and requires the signature of all ward councillors.
- f) Community Projects Fund*
- g) Cultural Projects Fund*
- h) Environmental Projects Fund*
- i) Heritage Projects Fund*
- j) ~~Mayoral Funds - available throughout the year, subject to funding availability.~~
- k) ~~Rapid Response - available throughout the year, subject to funding availability and requires signature of requesting councillor.~~
- l) ~~Community Capacity Building - available throughout the year, subject to funding availability and requires the signature of all ward councillors.~~

3.3-*Council will call for applications on an annual basis with each Project Fund offering different grant limits per application, with eligibility criteria applicable to each Project Fund. Guidelines are available for each Fund.

3.4 Applications received from individuals will be subject to further legislative provisions and will require a public exhibition period prior to final approval.

3.5 Funds must be spent within the Port Stephens local government area or provided to a resident or organisation located within the local government area.

3.6 There may be a formal acquittal process for each application.

3.7 This policy does not cover requests for sponsorship or community group loans, please refer to Council's Corporate Sponsorship policy and the Community Groups Loan policy.

3.8 Council will not be responsible for any ongoing maintenance or improvements that arise from successful application for funding, other than where the works may be on Council owned or managed lands, subject to Council agreement.

3 DEFINITIONS:

Financial assistance	Financial mechanisms provided by Council, as a third party, to an organisation or individual to support activities that are in line with Council's Community Strategic Plan. As a third party, Council is not connected to the activities but may be affected by them.
----------------------	--

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



Grants	<p>Financial support given to an individual or organisation to assist with identified activities or projects.</p> <p>Expenditure does not represent an equal benefit to Council.</p> <p>Grants are financial assistance and are covered under s356 of the Local Government Act.</p>
Donations	<p>Financial or non-financial (in-kind) support which is provided with limited terms and conditions.</p> <p>Expenditure does not represent an equal benefit to Council.</p> <p>Donations are financial assistance and are covered under s356 of the Local Government Act.</p>
Loans	<p>Financial support, to be repaid with interest over an agreed term, which is provided to develop buildings or facilities that are Council owned or managed.</p> <p>Expenditure does represent an equal benefit to Council.</p> <p>Loans are commercial agreements and are not covered under s356 of the Local Government Act.</p>
Sponsorships	<p>Financial or non-financial (in-kind) support from Council to an organisation or individual (the recipient) in return for mutually agreed economic, cultural, community or reputational benefits. These benefits may include promotion, marketing and/or tickets.</p> <p>Expenditure does represent an equal benefit to Council.</p> <p>Sponsorships are commercial agreements and are not covered by s356 of the Local Government Act.</p>

4 POLICY STATEMENT:

5.1 Port Stephens Council is committed to supporting its community with financial assistance where appropriate.

5.2 Council's commitment is:

a) To provide an equitable, transparent, accountable and coordinated approach for providing

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



financial assistance to community groups in accordance with the terms of Section 356 of the Local Government Act 1993.

- b) To provide equitable financial assistance to people and organisations, bearing in mind that the Council is trustee and custodian of public assets and is bound by its charter to effectively account for and manage those assets.
- c) To promote a sense of community, community harmony and social cohesion.
- d) To assist communities under stress.
- e) To ensure fair distribution of activities and services throughout Port Stephens.
- f) To provide financial assistance by way of a grant or donation, not sponsorship.

5 POLICY RESPONSIBILITIES:

5.1 Applications for grants and donations will be coordinated by a project officer.
Please refer to the relevant guidelines for contact details or Council website
www.portstephens.nsw.gov.au.

5.2 The General Manager is responsible for reporting to Council annually and certifying that expenditure under the Financial Assistance Program meets the necessary probity and transparency required by the Act. The Financial Assistance Program expenditure is reported in the Annual Report (Statutory Statements) as part of the requirements for s356.

6 RELATED DOCUMENTS:

- 6.1 Local Government Act 1993
- 6.2 Financial Assistance for Disposal of Waste policy
- 6.3 Community Groups Loan policy
- 6.4 Corporate Sponsorship policy
- 6.5 Debt Recovery and Hardship policy
- 6.6 Rate Donation for Community Groups policy
- 6.7 Council Charter
- 6.8 Code of Conduct

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version.
Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy

**CONTROLLED DOCUMENT INFORMATION:**

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au			
TRIM container No	PSC2007-2386	TRIM record No	46/384443
Audience	Port Stephens community		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	Two 3 years	Next review date	4 December 2021 1 December 2024
Adoption date	28/06/2016		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	19/05/2009	Corporate Planner	Adoption by Council	151
2.0	19/10/2010	Executive Officer	Adoption by Council	338
3.0	28/06/2016	Governance Manager	New policy following review of all financial assistance offered by Council and inserted into the new policy template.	191
3.1	10/12/2019	Governance Section Manager	Reviewed the policy, included numbering to each paragraph and updated the version control. Updated title of policy owner. 3.2 – updated item numbering. 3.8 – new paragraph stating Council is not responsible for ongoing	254

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



			<p>maintenance of projects.</p> <p>5.2 – updated itemising of paragraphs.</p>	
3.2		Governance Section Manager	<p>Reviewed the policy and updated the version control.</p> <p>2.1 – remove previous financial assistance categories.</p> <p>2.2 – minor rewording.</p> <p>2.3 – remove out-dated content.</p> <p>2.3 – insert new paragraph.</p> <p>3.1 – updated to include new program and remove obsolete programs.</p>	

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM NO. 4

FILE NO: 21/129169
EDRMS NO:

POLICY REVIEW: ECONOMIC DEVELOPMENT POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Economic Development Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the revised Economic Development 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 Economic Development Policy dated 26 March 2019, (Minute No. 059) should no submissions be received.
-

ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION

170	<p>Councillor Glen Dunkley Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Economic Development Policy shown at (ATTACHMENT 1).2) Place the revised Economic Development 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 Economic Development Policy dated 26 March 2019, (Minute No. 059) should no submissions be received.
------------	---

The motion was carried.

**ORDINARY COUNCIL MEETING - 13 JULY 2021
AMENDMENT**

	<p>Councillor Giacomo Arnott</p> <p>That Council:</p> <ol style="list-style-type: none">1) Endorse the revised Economic Development Policy shown at (ATTACHMENT 1), with the changes to clause 6.2 reversed.2) Place the revised Economic Development 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 Economic Development Policy dated 26 March 2019, (Minute No. 059) should no submissions be received.
--	--

The amendment lapsed without a seconder.

BACKGROUND

The purpose of this report is seek Council's endorsement of the revised Economic Development Policy.

Port Stephens Council is committed to leading an integrated and collaborative approach to the delivery of a vibrant and liveable place supporting economic growth. The revised policy **(ATTACHMENT 1)** outlines Council's role in the delivery of economic development outcomes across the local government area (LGA).

Please note that yellow highlighting in the attached policy indicates an amendment has been made and strikethrough text is to be deleted.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Strong Economy, Vibrant Businesses, Active Investment	Support sustainable business development in Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

There are no direct financial/resource implications as the implementation of the policy will continue to be implemented as part of the ongoing operations.

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 positive legal, policy and risk implications in endorsing the draft policy as they show that Council is committed to economic development, tourism, events and place activation across Port Stephens.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of making poor decisions as a result of an outdated policy.	Low	Adopt the Recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications.

The revised policy supports the growth of a strong and resilient local economy.

With an improved focus on key outcomes across business, tourism, events and place making, Council can help build capacity in the local business community, facilitate employment opportunities and increase the wellbeing of the resident population.

CONSULTATION

Internal

Consultation has been undertaken by the Strategy and Environment Section Manager and Economic Development and Tourism Coordinator. The revised policy has been endorsed by the Executive Team.

External

The revised policy supports Destination Port Stephens Strategic Plan, Destination Sydney Surround North Destination Management plan and the Hunter Regional Economic Development Strategy.

The revised policy also aligns with the Hunter Regional Plan and Greater Newcastle Metropolitan Plan

In accordance with local government legislation the revised Economic Development Policy will go on public exhibition for a period of 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Economic Development Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: A2004-0654 **PSC2013-00406**

TITLE: ECONOMIC DEVELOPMENT POLICY

OWNER: STRATEGY AND ENVIRONMENT SECTION MANAGER

1. PURPOSE:

1.1 Port Stephens Council is committed to leading an integrated and collaborative approach to the delivery of a vibrant and liveable place supporting economic growth. This policy outlines Council's role in delivering the following key outcomes:

- a) enabling business growth
- b) attracting events to drive economic benefit
- c) increasing overnight visitor spend
- d) creating people friendly spaces.

2. CONTEXT/BACKGROUND:

2.1 Port Stephens is a significant economic hub and forms part of the Hunter Region, the largest regional economy in Australia. The Port Stephens' economy has a diverse industry and employment base built around our natural assets. Well established manufacturing, defence and aviation facilities together with access to markets in Sydney, the Hunter and the Port of Newcastle, are key strengths.

2.2 Location and access to transport infrastructure creates a strong competitive advantage for Port Stephens, with key linkages to national markets via the M1 Pacific Motorway, Pacific Highway Corridor and New England Highway. These transport networks support a robust manufacturing sector at Tomago leading in metals manufacturing, heavy engineering, and light industrial.

2.3 Newcastle Airport is located in at Williamtown in Port Stephens and is well recognised as a major economic driver for the Hunter. ~~with over 1.2 million passengers per year and international capability to increase visitation to the area.~~ Williamtown has been identified by the NSW Government as a location for a Special Activation Precinct (SAP). This SAP will capitalise on the emerging aerospace industry around Newcastle Airport and the Williamtown Royal Australia Airforce (RAAF) base, and position Port Stephens as a national and international hub supporting defence and aerospace.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



2.4 ~~This influence however, does not occur in isolation and key to the growth of the Port Stephens economy is the development of strong partnerships with business, State and Federal agencies, industry organisations and neighbouring Councils.~~

2.4 The Port Stephens Economic Development and Tourism Strategy 2018-2022 and associated actions aligns directly to this supports the delivery of this policy along with federal and state government strategies aimed at increasing regional economic development including:

- a) Hunter Regional Plan
- b) Greater Newcastle Metropolitan Plan
- c) Hunter Regional Economic Development Strategy
- d) NSW Visitor Economy Industry Action Plan; NSW Visitor Economy Strategy 2030
- e) Destination Sydney Surrounds North Destination Management Plan.

3. SCOPE:

3.1 Port Stephens Council understands the critical role it plays in the development of a strong and stable economy. The day to day role of council has a fundamental effect on the ability to attract investment and grow the local economy. Core functions include land use planning, procurement, public asset management, development application processing time, environmental management and the design of our public spaces.

3.2 Council will lead industry with a focused approach to the delivery of economic development outcomes, build capacity in the local business community, facilitate employment opportunities and increase the wellbeing of the resident population. In order to achieve this Council will:

- a) implement the Economic Development and Tourism Strategy
- b) support the growth of business through evidence based decision making, advocacy and business networks with clear outcomes
- c) invest directly in local business initiatives
- d) provide ongoing financial and strategic support to Destination Port Stephens to allow the organisation to implement programs to grow overnight visitor spend
- e) coordinate the Economic Development Advisory Panel (EDAP)
- f) work in partnership with key stakeholders to attract and deliver events, educate Council and the community on the value of events and seek funding to deliver events
- g) develop strategic plans to guide the sustainable growth of the visitor economy, encourage the development of high quality tourism product and experiences and build trust and understanding of the strategic value of the visitor economy

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



- h) build partnerships with Newcastle Airport, neighbouring councils and key stakeholders to deliver economic development outcomes
- i) promote placemaking processes and partnerships, activate public spaces and support a place-led approach to design and development.

4. DEFINITIONS:

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

Economic Development Advisory Panel (EDAP)	Includes representatives from Council and the business community. The purpose of the panel is to provide technical expertise or advice on economic development matters.
--	---

Economic Development	Activity to enable sustainable growth, provides infrastructure and services, and directed at job retention and creation.
----------------------	--

Place Management	A coordinated, place-based, multi-stakeholder approach to improve locations, harnessing the skills, experiences and resources of those in the private, public, and community sectors. This is a collaborative approach with the aim of making places better.
------------------	--

5. STATEMENT:

5.1 Port Stephens Council will build relationships, grow trust and create connections to support the development of a strong local economy with a focus on the following outcomes:

- a) make business growth easier
- b) attract events that drive economic benefit
- c) increase overnight visitor spend
- d) create people friendly spaces.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



6. RESPONSIBILITIES:

- 6.1 The Economic Development and Tourism team is responsible for the development of a strategy aligned to this policy, monitoring, reviewing and providing advice on the policy across the organisation.
- 6.2 The EDAP will hold the Economic Development unit accountable for this delivery of this strategy objectives.

7. RELATED DOCUMENTS:

- 7.1 Port Stephens Community Strategic Plan.
- 7.2 Port Stephens Economic Development and Tourism Strategy.
- 7.3 Hunter Regional Plan.
- 7.4 Greater Hunter Metropolitan Plan.
- 7.5 Hunter Region Economic Development Strategy.
- 7.6 Visitor Economy Industry Action Plan NSW Visitor Economy Strategy 2030.
- 7.7 Destination Sydney Surrounds North Destination Management Plan.
- 7.8 Tourism Policy.

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website: www.portstephens.nsw.gov.au .			
EDRMS container No.	A2004-0654 PSC2013-00406	EDRMS record No.	19/161550 21/124130
Audience	Council Staff and Community		
Process owner	Strategy and Environment Section Manager		
Author	Economic Development and Tourism Coordinator		
Review timeframe	3 years	Next review date	
Adoption date	25 November 2014		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	25/11/2014	Economic Development Manager	Original policy adopted by Council.	306
2	26/03/2019	Economic Development	Reviewed the previous Policy (Economic Development Policy),	059

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



Version	Date	Author	Details	Minute No.
		and Tourism Coordinator	included numbering to each paragraph and updated the version control. Substantial re-write of the Policy which necessitates replacing the existing Policy dated November 2014. Intent of existing Policy remains unchanged.	
3		Economic Development and Tourism Coordinator	<p>2.3 – Updated paragraph to provide current details regarding economic driver:</p> <p>Removed wording - with over 1.2 million passengers per year and international capability to increase visitation to the area.</p> <p>Updated wording - Williamtown has been identified by the NSW Government as a location for a Special Activation Precinct (SAP). This SAP will capitalise on the emerging aerospace industry around Newcastle Airport and the Williamtown Royal Australia Airforce (RAAF) base, and position Port Stephens as a national and international hub supporting defence and aerospace.</p> <p>2.4 – Deleted – no longer relevant: This influence however, does not occur in isolation and key to the growth of the Port Stephens economy is the development of strong partnerships with business, State and Federal agencies, industry organisations and neighbouring Councils.</p>	

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



Version	Date	Author	Details	Minute No.
			<p>2.5 – Removed dates and reworded sentence structure.</p> <p>Removed wording - 2018-202 and associated actions aligns directly to this.</p> <p>Updated wording - supports the delivery of this</p> <p>2.5.4 – Updated relevant strategy.</p> <p>Removed wording - NSW Visitor Economy Industry Action Plan;</p> <p>Added updated strategy - NSW Visitor Economy Strategy 2030</p> <p>4.1 Updated definitions table - Economic Development Advisory Panel (EDAP) - Includes representation from Council and the business community. The purpose of the advisory panel is to provide technical expertise and advice in relation to economic development matters.</p> <p>6.2 – Deleted – no longer relevant.</p> <p>Removed The EDAP will hold the Economic Development team accountable for this delivery of this strategy objectives.</p> <p>7.6 – Updated related document.</p>	

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



ITEM NO. 8

**FILE NO: 21/152475
EDRMS NO: PSC2014-00882**

**REVISED TERMS OF REFERENCE FOR THE PORT STEPHENS BEACHSIDE
HOLIDAY PARKS - HOLIDAY VAN CONSULTATIVE COMMITTEE**

REPORT OF: KIM LATHAM - HOLIDAY PARKS SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee **(ATTACHMENT 1)**.
 - 2) Revoke the existing Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee, dated October 2019.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

171	<p>Councillor Paul Le Mottee Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee (ATTACHMENT 1).2) Revoke the existing Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee, dated October 2019.
------------	---

The motion was carried.

**ORDINARY COUNCIL MEETING - 13 JULY 2021
AMENDMENT**

	<p>Councillor Giacomo Arnott</p> <p>That Council:</p> <ol style="list-style-type: none">1) Endorse the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee
--	--

MINUTES ORDINARY COUNCIL - 13 JULY 2021

	<p>(ATTACHMENT 1), with the changes to election vacancies being removed.</p> <p>2) Revoke the existing Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee, dated October 2019.</p>
--	--

The amendment lapsed without a seconder.

BACKGROUND

The purpose of this report is to endorse the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee which has been updated following a review (ATTACHMENT 1).

The Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee is made up of Council staff and elected representatives from the Council managed Crown Holiday parks. The purpose of the committee is to represent and inform over 240 holiday van owners who hold occupancy agreements with Council to reside in mobile dwellings within Shoal Bay Holiday Park, Halifax Holiday Park and Fingal Bay Holiday Park.

Due to the Port Stephens Holiday Park Reserve Trust being dissolved with the implementation of the new Crown Lands Management Act 2016, Council are now recognised as Land Managers for our Crown Holiday Parks and responsible for the approval of changes to the Terms of Reference.

Please note that yellow highlighting in the attached Terms of Reference indicates an amendment has been made and strikethrough text is to be deleted.

There is no change to the intent of the Terms of Reference and all changes are minor in nature and have been developed in consultation with members of the Holiday Van Consultative Committee.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Financial Management	Maximise non-rate revenue and investment to support Council services.

FINANCIAL/RESOURCE IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 13 JULY 2021

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

The revised Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee Terms of Reference has been reviewed by Council's legal services.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that not adopting the recommendations will impact on Council's reputation.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no known implications from the amendments.

The Consultative Committee provides an effective forum to discuss and resolve pertinent matters to the holiday van owners.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Holiday Parks Section.

Internal

- Holiday Park Assistant Managers.

External

- Holiday Van Consultative Committee representatives.

OPTIONS

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

ATTACHMENTS

- 1) Revised Terms of Reference: Holiday Van Consultative Committee.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 8 - ATTACHMENT 1 REVISED TERMS OF REFERENCE: HOLIDAY VAN CONSULTATIVE COMMITTEE.

Terms of Reference



PORT STEPHENS BEACHSIDE HOLIDAY VAN CONSULTATIVE COMMITTEE

1. PURPOSE

- 1.1 The purpose of the Holiday Van Consultative Committee (the Committee) is to provide a forum for meaningful discussion, facilitating appropriate consultation and engagement with holiday van owners toward the implementation stages of development and change occurring across the Fingal Bay, Shoal Bay and Halifax Holiday Parks.
- 1.2 To ensure that Holiday Van Owners' concerns and issues are understood and accurately presented to the Committee for discussion.
- 1.3 To improve communication and act as an information channel between **Holiday Van Owners**, the **Council** and **Park Management**.
- 1.4 To act in a way that improves communication channels between **Holiday Van Owners** and **Park Management**.
- 1.5 To provide a forum for open discussion. Issues are to be of a collective nature only.
- 1.6 To consider relevant information to be circulated in the Quarterly Holiday Van Newsletter.

2. CONTEXT / BACKGROUND

- 2.1 Port Stephens Beachside Holiday Parks Consultative Committee was established in April 2014 to ensure an appropriate channel of communication was formed between **Council** and **Holiday Van Owners** at Fingal Bay, Shoal Bay and Halifax.

Under the Crown Land Management Act (2016) Council is recognised as the **Crown Land Manager** and as such has a responsibility to manage **Crown Lands** for the purposes for which the land is reserved or dedicated.

- 2.2 The Holiday Parks Long Term Casual Occupancy Act (2002) makes provision for the **Park Owner** to establish a consultative committee for its **Holiday Parks**. The formation of any such committee is at the discretion of the Council. It is also the right of the Council to determine procedural issues including the extent of representation on the Committee.

ITEM 8 - ATTACHMENT 1 REVISED TERMS OF REFERENCE: HOLIDAY VAN CONSULTATIVE COMMITTEE.

Terms of Reference



3. SCOPE

- 3.1 The scope of operation of this **Committee** is to actively promote discussion on agenda matters with the view of improving the quality and financial viability of the **Holiday Parks** and amenity of holiday van owners, in keeping with the objectives set out in the approved **Plans of Management**.

4. DEFINITIONS

- 4.1 "Park Owner" means Council.
- 4.2 "Council" means Port Stephens Council and the officers of Council.
- 4.3 "Crown Lands" means NSW Government Department Industry, and the officers of Crown Lands.
- 4.4 "Crown Land Manager" means Council in its capacity as managers of Crown reserves.
- 4.5 "Committee" means the Port Stephens Holiday Van Consultative Committee.
- 4.6 "Holiday Parks" means Fingal Bay, Shoal Bay and Halifax Holiday Parks.
- 4.7 "Park Management" means the appointed Council personnel responsible for the strategic and operational management of Port Stephens Beachside Holiday Parks.
- 4.8 "Holiday van" means a holiday van or caravan as defined in the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
- 4.9 "Holiday Van Owner" means a person or persons who own a holiday van and who has the right to occupy a site under a current occupation agreement.
- 4.10 "Plans of Management" means the plans approved by the Minister for the purpose of managing key objectives, strategies and performance targets established for the management of a Holiday Park on Council land or Crown reserve.
- 4.11 Port Stephens Caravan and Campers Association - "PSCCA" means the association representing holiday van owners within the holiday parks.

5. AUTHORITY

- 5.1 The **Committee** may formulate recommendations and submit same to Council for its consideration and determination. There is no decision making authority delegated by the **Council** to the **Committee**.

6. TERM

- 6.1 The commencement date of the Holiday Van Consultative Committee was April 2014 and is ongoing.

ITEM 8 - ATTACHMENT 1 REVISED TERMS OF REFERENCE: HOLIDAY VAN CONSULTATIVE COMMITTEE.

Terms of Reference



7. MEMBERSHIP

7.1 Membership of the **Committee** will comprise 10 members:

7.1.1 Park Management – 5 appointed representatives:

- a) Holiday Park Section Manager or delegate
- b) Administration Officer or delegate
- c) ~~Manager, Halifax Holiday Park~~ **Holiday Parks Business Manager**
- d) ~~Manager, Shoal Bay Holiday Park and~~ **Holiday Parks Operations Manager**
- e) ~~Manager, Fingal Bay Holiday Park~~ **Holiday Park Assistant Manager**

7.1.2 Holiday Van Owner – 5 elected representatives:

- a) Halifax (1)
- b) Shoal Bay (1)
- c) Fingal Bay (3) – North Precinct – includes Amaroo, Toowoona, Karloo
Gooyah and Yatamah Streets, South Precinct – includes 7 vans in Pinaroo (23-35 on South boundary), Muraban, Kalyan, Rumaui, Orana Streets (#18-42) and West Precinct – includes Pinaroo (2-75 excludes 7 vans in South precinct), Orana (#2-16), Quandong Extension & Nowrainie Streets.

7.2 **Holiday Van Owner** representatives will be elected through elections conducted across the 3 **Holiday Parks**. If a **Holiday Van Owner** representative resigns their position on the **Committee**, a new delegate will be sought through an expression of interest. If a **Holiday Van Owner** representative is unable to attend any one meeting of the **Committee** a nominated delegate, preferably from the same precinct, or a **PSCCA** member or a current **Holiday Van Owner** in the park as approved by the Chairperson may attend in their place.

7.3 The 5 **Holiday Van Owner** representatives will be elected from the 5 established electorates:

- a) **Halifax** (representing all occupants on Halifax Holiday Park)
- b) **Shoal Bay** (representing all occupants on Shoal Bay Holiday Park)
- c) **Fingal Bay** – A minimum of 2 and a maximum of 3 representatives to represent Fingal Bay Holiday Park as a whole.

7.4 Elections

7.4.1 All **Holiday Van Owners** will be provided with the opportunity to nominate a van owner to represent their electorate to which they belong, as detailed in 7.1.2 above.

7.4.2 A **Holiday Van Owner** may nominate in one electorate only.

ITEM 8 - ATTACHMENT 1 REVISED TERMS OF REFERENCE: HOLIDAY VAN CONSULTATIVE COMMITTEE.

Terms of Reference



7.4.3 Nominators must supply, along with their nomination form:

- a) A short description of their background (half an A4 page maximum) and reasons for wanting to be elected to this **Committee**; and
- b) A current head and shoulders photograph which will be published with the ballot paper to enable holiday van owners to make a considered choice when voting for their representative.

7.4.4 Nominations will be called giving 28 days' notice of closure of nominations.

7.4.5 Within 7 working days of the closure of nominations, **Holiday Van Owners** will be provided with details of those who have nominated and receive a ballot paper for return to Port Stephens Beachside Holiday Park Management, PO Box 147 Nelson Bay 2315, within 28 days of the date of issue.

7.4.6 Should multiple nominations not be received in any one electorate, the individual who has nominated will be declared the representative for that electorate.

7.4.7 If the vote for any one position is tied, then the representative will be decided by a random draw of names.

7.4.8 Holiday van owners will be given one vote per site occupancy agreement to elect a representative for their electorate.

7.4.9 The ballot process will be supervised and conducted by the nominated Returning Officer (Council's Public Officer).

7.4.10 Within 2 working days of the close of the ballot, Park Management will advise **Holiday Van Owners** in that precinct of the successful elected Holiday Van Representatives for the **Committee**.

7.4.11 If no nominations are received, the **Committee** Chairperson may approach an individual **Holiday Van Owner** and recommend appointment to the vacant position to **Committee** to fill the casual vacancy until the next election period.

7.5 Term of Committee Members

7.5.1 **Committee** members will be elected for a 2 year term.

7.5.2 During the first term of office (no earlier than 18 months from the **Committee** commencing) an election will be held for 2 of the members with an election for the remaining 3 to be held the following year (at the end of the 2 year term). This will ensure continuity of membership.

7.5.3 The **Committee** will actively seek nominees for vacant positions as they become available.

7.5.4 A **Committee** member may resign at any time with notification in writing to the Chairperson.

ITEM 8 - ATTACHMENT 1 REVISED TERMS OF REFERENCE: HOLIDAY VAN CONSULTATIVE COMMITTEE.

Terms of Reference



7.5.5 **Committee** members may be re-elected for consecutive terms.

7.5.6 Election for any vacant committee member positions will occur annually, coinciding with timing of the election process described at 7.5.2 and in consideration of operational requirements.

8 ROLES AND RESPONSIBILITIES

8.1 The **Committee** will be chaired by Council's Holiday Parks Section Manager or nominated delegate.

The Administration Officer or delegates role is to provide advice and general knowledge to the **Committee** members.

The **Holiday Park** Managers or delegates roles are to provide advice and recommendations on the agenda items and to provide input and direction to ensure transparency and that all information is true and relevant.

The **Holiday Van Owners** representative's roles are to ensure they provide appropriate consultation and engagement with **Holiday Van Owners** regarding development and change occurring across the **Holiday Parks**.

8.2 Members of the **Committee** are expected to:

- a) Have a good understanding of the **Committee's** position within the **Council's** governance framework.
- b) Understand the regulatory and legislative requirements **Council** appropriate to **Council** and **Crown Lands**.
- c) Ensure effective communication exists between the **Committee**, **Park Management** and key stakeholders.
- d) Provide professional competency to be able to meet the objectives of the **Committee**.

8.3 All **Committee** members are required to uphold the **Council's** values and behaviours, which are considered to be core requirements of Council. All **Committee** members are expected to demonstrate the following values and behaviours in their dealings with each other and with the **Holiday Parks** community:

- a) Respect – the individual, the environment and our culturally diverse community. We will treat everyone fairly with equity of opportunity and access for all.
- b) Integrity - The **Committee** members will be honest in all that we do.
- c) Teamwork - **Committee** members will work within a network of people for the betterment of the community.
- d) Excellence - **Committee** members will strive to excel at everything we do. We will aim for the highest standard of quality to achieve best value for our community and customers.
- e) Safety - **Committee** members will strive for a safer community. We do not put ourselves, or others at risk of injury and we will report hazards and make them safe.

ITEM 8 - ATTACHMENT 1 REVISED TERMS OF REFERENCE: HOLIDAY VAN CONSULTATIVE COMMITTEE.

Terms of Reference



8.4 Code of Conduct

- 8.4.1 **Committee** members are bound by the terms and conditions of **Council's** Code of Conduct.
- 8.4.2 **Committee** members must declare any conflicts of interest at the start of each meeting. Details of any conflicts of interest must be appropriately minuted.
- 8.4.3 Where members or invitees at **Committee** meetings are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from **Committee** deliberations on the issue where the conflict of interest may exist.

8.5 Induction

- 8.5.1 **Park Management** will ensure that new **Committee** members receive relevant information and briefings on their appointment to assist them to meet their **Committee** responsibilities.

8.6 Performance Assessment

- 8.6.1 The Chair of the **Committee** will initiate an annual review of the performance of the **Committee**. The review will be conducted on a self-assessment basis (unless otherwise determined by the **Committee**), with appropriate input from relevant stakeholders, as determined by the **Committee** members.

9 ADMINISTRATION ARRANGEMENTS

9.1 Meeting practices and cycles

- 9.1.1 Unless otherwise specified in this Terms of Reference and in accordance with any Local Government or Crown Lands legislative requirements, the **Committee** will determine its meeting practice, processes and protocols.
- 9.1.2 The **Committee** will meet on the 3rd Friday **week** of February, May, August and November of each year.
- 9.1.3 Extra-Ordinary meetings of the **Committee** may be convened only at the discretion of **Council**.
- 9.1.4 Meetings will be held at a time and date that is suitable for the majority of **Committee** members.
- 9.1.5 Meeting duration shall not exceed a maximum of 1½ hours unless determined otherwise by the **Committee**.
- 9.1.6 To reach a quorum for the **Committee** at least 3 of the elected **Committee** members must be present and at least 3 **Park Management** representatives. If for any reason a quorum is not reached the meeting will be rescheduled.

ITEM 8 - ATTACHMENT 1 REVISED TERMS OF REFERENCE: HOLIDAY VAN CONSULTATIVE COMMITTEE.

Terms of Reference



- 9.1.7 Meeting Attendance - **Committee** members are expected to attend all **Committee** meetings.
- 9.1.8 Each participating member of the **Committee** shall meet all costs of their individual participation and attendance at **Committee** meetings.
- 9.1.9 Where a **Committee** member fails to attend 3 successive meetings without submitting a satisfactory explanation, a casual vacancy will be declared.
- 9.1.10 Persons other than **Committee** members/alternates/**Council** or **Crown Land** Officers shall not be permitted to attend meetings unless by invitation of the **Committee** Chairperson.
- 9.1.11 A suitable meeting place and facilities will be made available by **Council** for the purpose of conducting the **Committee** meetings.
- 9.1.12 Where a **Committee** member is unable to attend a meeting, a nominated delegate preferably from the same precinct, or a **PSCCA** member or a current **Holiday Van Owner** in the park as approved by the Chairperson may attend in their place. **The nominated representative may attend the meeting via Zoom online video link.**
- 9.1.13 **By agreement with the Committee the meeting may be held via Zoom online video link.**
- 9.2 Secretariat**
- 9.2.1 **Park Management** will provide the Secretariat to the **Committee**.
- 9.3 Agenda and minutes**
- 9.3.1 Any **Committee** member may submit Agenda items.
- 9.3.2 A reminder of the date of the next meeting and the closing date for receipt of Agenda items will be sent by the Secretariat to all **Committee** members in advance of the next meeting.
- 9.3.3 Agenda items shall be forwarded to the Secretariat at least 7 days prior to the next meeting.
- 9.3.4 Representatives submitting items should ensure the content is given in sufficient detail to assist members to understand the issues raised or by providing additional supporting information.
- 9.3.5 The Secretariat will ensure the Agenda for each meeting and supporting papers are circulated to members in sufficient time (at least 3 working days) before the meeting.
- 9.3.6 Circulation of the Agenda will be by electronic means as determined by the **Committee**.
- 9.3.7 **Park Management** at its discretion will approve/disapprove items submitted for inclusion in any Agenda. There will be no general business permitted at the meeting.

ITEM 8 - ATTACHMENT 1 REVISED TERMS OF REFERENCE: HOLIDAY VAN CONSULTATIVE COMMITTEE.

Terms of Reference



- 9.3.8 Only Agenda items of a collective nature will form the basis for discussion at **Committee** meetings – items of an individual nature i.e. items that relate to an individual **Holiday Van Owner** will not form discussion at **Committee** meetings.
- 9.3.9 Any additional information, which comes to hand after the preparation of Agenda papers, may be tabled at the meeting. The Secretariat will distribute papers to the **Committee** representatives prior to the **Committee** meeting where possible.
- 9.3.10 **Minutes** - A formal record of the **Committee** meetings, including action responsibilities, shall be prepared by the Secretariat and circulated to all **Committee** members within 1 week of the meeting.
- a) Any comments shall be submitted to the Secretariat within 1 week of circulation.
- b) The final record draft will be settled by the Chairperson, circulated to all the members and published within the Beachside Holiday Parks website and **Council's** central electronic records system (EDRMS).

9.4 Voting

- 9.4.1 Matters under consideration by the **Committee** will be determined by consensus whenever possible. In the event that consensus cannot be achieved, an item is adopted by the **Committee** where a majority of members vote for the subject. If the voting is tied the Chairperson has a second (casting) vote which is used to break the deadlock.

9.5 Recordkeeping

- 9.5.1 The Secretariat will be responsible for minute taking and appropriate record keeping in line with **Council** policy.

10 **CONFIDENTIALITY**

- 10.1 Members listed in this Terms of Reference may become acquainted with or have access to confidential and/or sensitive information. Members should not disclose such information to any other party unless specifically authorised to do so and should not make improper use of any information.
- 10.2 **Council** has a common law and statutory obligation to protect the privacy and confidentiality of some information that may be shown to **Committee** Members. It is expected that **Committee** Members will accept and maintain the confidentiality of information so designated. Matters of a confidential nature will be identified during the meeting however if a member is unsure the confidentiality of the matter should be checked with the Chairperson.
- 10.3 Letters from individuals addressed to **Council** will not be provided to the **Committee** nor will **Council** representatives provide names and addresses of any correspondence directed to **Council**.

ITEM 8 - ATTACHMENT 1 REVISED TERMS OF REFERENCE: HOLIDAY VAN CONSULTATIVE COMMITTEE.

Terms of Reference



11. INTELLECTUAL PROPERTY

11.1 The **Committee** acknowledges and agrees:

- a) It is important for **Council** to develop, maintain, protect and manage the organisation's intellectual property including copyrights, trademarks, registered designs, patents and databases.
- b) The **Committee** has a duty to observe and help protect **Council's** intellectual property by not copying or supplying such property without the express permission of **Council** or the copyright owner.
- c) **Council** retains ownership of all intellectual property created by Members in the course of their **Committee** work.
- d) **Council** will acknowledge the **Committee** if publishing or reproducing a copy of Holiday Van Consultative Committee research, including images and historical data.

11.2 The Holiday Van Consultative **Committee** will refer to the Secretariat any questions relating to intellectual property rights or the use of another organisation's document.

12. MEDIA

12.1 Any media liaison associated with the activities of the **Committee** shall be undertaken in accordance with **Council's** protocols and with the approval of the **Committee**.

12.2 **Council** authorises delegated staff to make public statements on its behalf however other than designated **Council** staff **Committee** members are not permitted to make public statements on behalf of the **Committee** or **Council** including any media interviews and written material for publications e.g. the local newspaper, social media or radio.

13. REVIEW

13.1 The Terms of Reference will be reviewed at the first meeting each calendar year and recommendations made to Council of suggested changes, for its determination. Any changes to the **Committee** Terms of Reference must be approved by **Council**.

14. OTHER MATTERS

14.1 Dispute Resolution - Should issues arise about a **Committee** member continuing their representation on the **Committee**, the member's views will be sought with the aim of resolving the issue. Initially this will be the responsibility of the Chairperson of the **Committee**.

If after a genuine attempt to resolve the issue the Chairperson considers that the **Committee** members appointment should be reviewed the matter will be referred to **Council** Senior Management to assist in conciliating the matter.

The **Committee** Member may wish to have a support person during this process.

ITEM 8 - ATTACHMENT 1 REVISED TERMS OF REFERENCE: HOLIDAY VAN CONSULTATIVE COMMITTEE.

Terms of Reference



If conciliation is unsuccessful and a decision is made to discontinue representation, the **Committee** Member will be verbally informed of the decision with subsequent written confirmation from **Council** provided.

- 14.2 In carrying out its functions the **Committee** will be guided by existing processes and policies of **Council**.

15. MEETING CODE OF COOPERATION

- We start on time and finish on time.
- We focus on the strategic intent of the item.
- We ensure that people attending meetings are provided with guidance and support.
- We consider the risks and opportunities of each item.
- We are prepared to have open and honest conversations about an issue even if it is uncomfortable.
- We all participate fully and are prepared to challenge each other.
- We use improvement tools that enhance meeting efficiency and effectiveness.
- We actively listen to what others have to say, seeking first to understand then to be understood.
- We consider the deployment of actions and programs through appropriate frameworks and communicate the consensus view through appropriate channels.
- We follow up on the actions we are assigned responsibility for and complete them on time.
- We give and receive open and honest feedback in a constructive manner.
- We use data to make decisions (whenever possible).
- We determine issues arising by consensus or refer to the Chair for consideration.
- We strive to continually improve our meeting process and build time into each agenda for reflection and learning.
- We will promote best practice, keeping open minds, combining our experiences and shared learnings to inform our deliberations.

16. RELATED DOCUMENTS

- Local Government Act 1993
- Crown Land Management Act (2016)
- Holiday Parks Long Term Casual Occupancy Act (2002)
- Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
- Port Stephens Council's Code of Conduct.

ITEM 8 - ATTACHMENT 1 REVISED TERMS OF REFERENCE: HOLIDAY VAN CONSULTATIVE COMMITTEE.

Terms of Reference


CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au			
EDRMS container No	PSC2014-00882	EDRMS record No	TBC
Audience	Council staff and community		
Process owner	Holiday Park Administration Officer		
Author	Holiday Park Administration Officer		
Review timeframe	2 Years	Next review date	TBC
Adoption date	October 2019		

VERSION HISTORY:

Version	Date	Author	Details
1	October 2019	Holiday Park Administration Officer	Original document converted into new format.
2	TBC	Holiday Park Administration Officer	<p>Minor formatting changes.</p> <p>7.1.1 – Updated Park Management members to reflect current position titles.</p> <p>7.5.6 – Inserted new paragraph.</p> <p>9.1.2 – Deleted Friday and inserted 'week'.</p> <p>9.1.12 – added last sentence 'The nominated representative may attend the meeting via Zoom online video link'.</p> <p>9.1.13 - Inserted new paragraph.</p> <p>Document control – Amended review timeframe to 2 years in accordance with Council's review process.</p>

ITEM NO. 9**FILE NO: 21/146191
EDRMS NO: PSC2014-01123****COMMUNITY FUNDING PROGRAM**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the ongoing Community Funding Program as detailed in the report **(TABLE 2)**.
 - 2) Endorse the Local Strengthening Grants assessment panel membership including the Mayor, 1 Councillor from each ward and Council staff.
 - 3) Nominate 1 Councillor from each ward for the Local Strengthening Grants assessment panel.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

172	Councillor Chris Doohan Councillor Paul Le Mottee It was resolved that Council: <ol style="list-style-type: none">1) Endorse the ongoing Community Funding Program as detailed in the report (TABLE 2).2) Endorse the Local Strengthening Grants assessment panel membership including the Mayor, 1 Councillor from each ward and Council staff.3) Nominate 1 Councillor from each ward for the Local Strengthening Grants assessment panel in the new term of Council.
------------	---

The motion was carried.

BACKGROUND

The purpose of this report is to seek endorsement for the ongoing Community Funding Program in accordance with Council's Community Funding Guidelines.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

In response to community and economic impacts from the COVID-19 pandemic, Council ran an altered grants program in 2020/2021 as a key initiative within the Restart Port Stephens Plan.

The 2020/2021 program was delivered across 2 targeted streams. A total of \$138,200.00 was allocated to 27 projects as shown in **(TABLE 1)**.

TABLE 1

Fund	Applicants	Recipients	Total Funded
Vibrant Spaces Fund	38	13	\$72,000
Community Support Fund	28	14	\$66,200
TOTAL	66	27	\$138,200

Council staff have reviewed the 2020/2021 program and identified a range of benefits of the altered program and opportunities for improvement, including:

- greater strategic alignment
- increased applications by almost 50%
- greater diversity of applications
- streamlined process for the applicant
- better mix of grant funds tailored to different needs.

The proposed new ongoing Community Funding Program seeks to improve on the 2020/2021 altered grants program and evolve it to respond to the changing community needs into the future. The proposed program is outlined in **(TABLE 2)**.

Through Council's Sponsorship Policy, a range of other programs are funded including Community Event Development Fund, Evening Economy Fund and My Incredible Place Micro Grants.

TABLE 2

Fund	Details	Amount	Frequency
Vibrant Spaces Fund	Funding for projects increasing vibrancy of our town centres and public spaces.	\$60,000	2 rounds per year
Local Strengthening Grants (Formally Community Support Fund)	Support community organisations, groups and clubs that support wellbeing in our community – up to \$6,000	\$73,000	2 rounds per year
Port Stephens Aboriginal Projects Fund	Funding for projects that empower local Aboriginal people – up to \$3,000	\$35,000	Open all year round
	TOTAL	\$168,000	

MINUTES ORDINARY COUNCIL - 13 JULY 2021

The assessment process for the Local Strengthening Grant includes assessment by a panel of Councillors (one representative from each ward), the Mayor and two Council staff. The assessment process is carried out in accordance with Council's Community Funding Guidelines.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Partnerships	Assist community service providers to effectively deliver services in the region.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$168,000	From recurrent grant and Economic Development and Tourism budgets.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

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

Funding is also distributed in accordance with the Corporate Events Sponsorship Policy and the Grants and Donations Policy.

Risk	Risk Ranking	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

There is a risk that the delivery of grants is delayed resulting in a loss of reputation.	Low	Adopt the recommendations.	Yes
---	-----	----------------------------	-----

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendation will result in improved social and economic outcomes for the Port Stephens community through opportunities to generate social reconnection and business growth and employment.

CONSULTATIONInternal

Consultation with key stakeholders has been undertaken by the Economic Development and Tourism and the Community Development and Engagement Teams.

External

Consultation was undertaken with the following external Committees:

- Aboriginal Strategic Committee
- Strategic Arts Committee

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil

ITEM NO. 10**FILE NO: 21/156503
EDRMS NO: PSC2020-01013****MARCH 2021 NATURAL DISASTER PROJECTS****REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Council endorse the expenditure of funds (**ATTACHMENT 1**) to complete works resulting from the March 2021 natural disaster.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

173	Councillor Chris Doohan Councillor Jaimie Abbott It was resolved that Council endorse the expenditure of funds (ATTACHMENT 1) to complete works resulting from the March 2021 natural disaster.
------------	--

The motion was carried.

BACKGROUND

The purpose of this report is seek Council's adoption to undertake the works that are now required following the recent March 2021 storm event.

On 18 March 2021 the Tomaree Peninsula sustained rainfall that was in excess of what is typical of a 0.5% Annual Exceedance Probability, more commonly known as a 1 in 500 year event. The rainfall continued at varying intensities for nearly a week. Noting the months prior to March 2021 were also wet, this resulted in saturated ground conditions.

This rain event travelled along the East Coast of Australia causing unprecedented flooding in multiple towns. The high intensity and volume rainfall caused asset damage and facilities and services being cut. Port Stephens was one of many areas in NSW that was declared a natural disaster area by the State Government.

A natural disaster declaration allows Council to seek contributory funding from the NSW State Government to repair critical assets. Critical assets are typically within the road reserve such as roads, drains, footpaths, etc. The natural disaster claim

MINUTES ORDINARY COUNCIL - 13 JULY 2021

requirement does not see assets such as community buildings as critical. Non critical assets are covered by Council's own insurance.

Some emergency works were undertaken immediately to repair and bring assets back to an acceptable standard. There are however, still a large number of assets that are being examined, scoped and priced ready for approval for contributory funding by the NSW State Government under the natural disaster claim. These works are shown in **(ATTACHMENT 1)**.

These projects have been instigated by the March 2021 natural disaster and not through our usual capital works process, hence Council has not yet resolved to expend funds on these projects.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Infrastructure and Facilities	Plan civil and community infrastructure to support the community.

FINANCIAL/RESOURCE IMPLICATIONS

Works on non-critical assets have been claimed through Council's insurance.

Council has already spent \$990,000 as part of the immediate emergency works of which approximately \$396,446 is not claimable under the Natural Disaster criteria. This amount is like an insurance premium that must first be spent before any claims can be made. Council is claiming 100% of future repair costs however, confirmation of the NSW Government's contribution has not yet been finalised.

Council has sufficient cash flow to have the works completed and then seek reimbursement. Timing of projects within Council's current Capital Works Program may need to be adjusted to incorporate major works completed as part of this claim.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	Yes		To be funded from Natural Disaster Funding allocation.
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Local Government Act Section 55 allows for works to proceed to fast track usual tender processes in the event of an emergency. Given the quantum of post emergency works and the value of monies involved, Council is required to endorse the expenditure to complete the works.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the funding body will not approve the whole claim as the asset had already deteriorated leading to Council having to pay a percentage of the repair costs.	Medium	Council is working with the funding body to ensure the claim is understood. We may have to reduce/postpone existing levels of service/capital projects to fund the missing percentage.	Yes
There is a risk that leaving damaged or non-functioning assets too long will result in community dissatisfaction and reputation damage.	Medium	Following the natural disaster claim approval for works undertake repair as soon as practicable.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A number of damaged assets such as Foreshore Drive culvert, the land slips and piped drainage are currently impacting Council's ability to provide the Community safe, convenient and reliable assets.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Assets Section of Council. Consultation was used to seek concurrence so as to undertake the repair to assets as soon as possible

Internal

- Sections in Facilities and Services.
- Finance.
- Executive Team.

External

- Residents and business impacted by damaged assets.
- Transport for NSW.
- Public Works Advisory.
- Resilience NSW.
- Crown Lands NSW.

OPTIONS

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

ATTACHMENTS

- 1) March 2021 - Natural Disaster Projects.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

March 2021 – Natural Disaster Projects

Projects	Cost
Foreshore Drive Culvert	\$1.8million
Land Slips	\$3.5million
Pipe Drainage Works	\$200k
Road Pavement Works	\$200k
Flood Pumps	\$400k
Emergency Works	\$990k
Total	\$7.09million

ORDINARY COUNCIL MEETING - 13 JULY 2021
PROCEDURAL MOTION

174	Councillor John Nell Councillor Chris Doohan It was resolved that the Council meeting continue until 9.30pm.
------------	--

The motion was carried.

ITEM NO. 11

FILE NO: 21/62359
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 Mayoral and Ward funds to the following:-
 - a. Mayoral funds – \$6550 donation to the Nelson Bay West Landcare Group towards the purchase of a 3 way shower with foot tap for Bagnall Beach East Reserve.
 - b. Mayoral funds - \$2000 donation to Tilligerry Football Club for the purchase of new jerseys.
 - c. Mayoral funds - \$2000 donation to 1st Anna Bay Scouts towards the purchase of life jackets for expeditions.
 - d. Endorse the provision of funds to November Sheehan – Mayoral funds - \$1000 donation towards the production of handmade cards for elderly residents in aged care facilities and place on exhibition for a period of 28 days, in accordance with the Local Government Act 1993 to seek public comment.
 - e. Endorse the provision of funds to Craig Hamilton – Mayoral funds - \$5000 donation towards a mental health event in Nelson Bay during Mental Health Week and place on exhibition for a period of 28 days, in accordance with the Local Government Act 1993 to seek public comment.
 - f. Mayoral funds - \$3531 donation to Northern Hawks Rugby League Club towards the purchase of indigenous jerseys for 3 teams competing in NAIDOC week games.
 - g. Mayoral funds - \$560 donation to Karingal Preschool Nelson Bay Inc. towards admission costs for an excursion to the Koala Sanctuary.
 - h. Mayoral funds - \$3500 donation to Salamander Bay Recycling towards the repair and maintenance of the internal service road.
 - i. Mayoral funds - \$9240 donation to Wahroonga Aboriginal Corporation towards rent support for 1 year for the establishment of a Community Hub.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

- j. Central Ward funds – Cr Chris Doohan - Rapid Response - \$500 donation to Medowie Tigers Playground towards a new sandpit cover and sand play toys.
 - k. Central Ward funds – Cr Chris Doohan – Rapid Response - \$500 donation to Lions Club of Medowie to support purchase of a defibrillator for the Lions Support Van.
 - l. Central Ward funds – Cr Chris Doohan – Rapid Response - \$500 donation to Creative Communities International towards the purchase of materials for a mini-makeover working bee in Anna Bay.
 - m. Central Ward funds – Cr Chris Doohan – Rapid Response - \$500 donation to Medowie Football Club towards the purchase of new game balls for men's and women's U/12 to Senior League teams.
- 2) Should no submissions be received as a result of the public exhibition stated in 1d. and 1e. above, the funds be approved.

ORDINARY COUNCIL MEETING - 13 JULY 2021 MOTION

175	<p>Mayor Ryan Palmer Councillor Chris Doohan</p> <p>It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral and Ward funds to the following:-</p> <ul style="list-style-type: none">a. Mayoral funds – \$6550 donation to the Nelson Bay West Landcare Group towards the purchase of a 3 way shower with foot tap for Bagnall Beach East Reserve.b. Mayoral funds - \$2000 donation to Tilligerry Football Club for the purchase of new jerseys.c. Mayoral funds - \$2000 donation to 1st Anna Bay Scouts towards the purchase of life jackets for expeditions.d. Endorse the provision of funds to November Sheehan – Mayoral funds - \$1000 donation towards the production of handmade cards for elderly residents in aged care facilities and place on exhibition for a period of 28 days, in accordance with the Local Government Act 1993 to seek public comment.e. Endorse the provision of funds to Craig Hamilton – Mayoral funds - \$5000 donation towards a mental health event in Nelson Bay during Mental Health Week and place on exhibition for a period of 28 days, in accordance with the Local Government Act 1993 to seek public comment.f. Mayoral funds - \$3531 donation to Northern Hawks Rugby League Club towards the purchase of indigenous jerseys for 3 teams competing in NAIDOC week games.g. Mayoral funds - \$560 donation to Karingal Preschool Nelson Bay Inc. towards admission costs for an excursion to the Koala Sanctuary.
------------	--

MINUTES ORDINARY COUNCIL - 13 JULY 2021

	<ul style="list-style-type: none">h. Mayoral funds - \$3500 donation to Salamander Bay Recycling towards the repair and maintenance of the internal service road.i. Mayoral funds - \$9240 donation to Wahrenonga Aboriginal Corporation towards rent support for 1 year for the establishment of a Community Hub.j. Central Ward funds – Cr Chris Doohan - Rapid Response - \$500 donation to Medowie Tigers Playground towards a new sandpit cover and sand play toys.k. Central Ward funds – Cr Chris Doohan – Rapid Response - \$500 donation to Lions Club of Medowie to support purchase of a defibrillator for the Lions Support Van.l. Central Ward funds – Cr Chris Doohan – Rapid Response - \$500 donation to Creative Communities International towards the purchase of materials for a mini-makeover working bee in Anna Bay.m. Central Ward funds – Cr Chris Doohan – Rapid Response - \$500 donation to Medowie Football Club towards the purchase of new game balls for men's and women's U/12 to Senior League teams. <p>2) Should no submissions be received as a result of the public exhibition stated in 1d. and 1e. above, the funds be approved.</p>
--	--

The motion was carried.

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:

MINUTES ORDINARY COUNCIL - 13 JULY 2021**MAYORAL FUNDS – Mayor Palmer**

Nelson Bay West Landcare Group	The Nelson Bay Landcare Group is made up of local volunteers who help look after various parks, reserves and bushland areas along the foreshore between Apex Park and Bagnall Beach Road.	\$6550	Donation towards the purchase of 3 way shower with foot tap for Bagnall Beach East Reserve.
Tilligerry Football Club	The Tilligerry Football Club welcomes members of the community to participate in soccer matches.	\$2000	Donation towards the purchase of new jerseys.
Anna Bay Scouts	Anna Bay Scouts involves boys and girls in the Scout Program where they engage in peer to peer mentoring and healthy, outdoor, adventurous activities.	\$2000	Donation towards the purchase of life jackets for expeditions.
November Sheehan - Heart Letter Pen initiative	The Heart Letter Pen initiative is a small volunteer organisation who make cards for the elderly residents of aged care facilities.	\$1000	Donation towards the production of handmade cards for elderly residents in aged care facilities.
Craig Hamilton	Craig Hamilton is a mental health author and speaker who delivers powerful presentations about mental health and wellbeing.	\$5000	Donation towards the running of a mental health event in Nelson Bay during Mental Health Month.
Northern Hawks Rugby League Club	The Northern Hawks Rugby League Club is a newly formed club competing in the Newcastle Rugby League competition for 2021.	\$3531	Donation towards the purchase of indigenous jerseys for 3 teams competing in NAIDOC week games.
Karingal Preschool Nelson Bay Inc.	Karingal Preschool provides early education, care and activities to the community.	\$560	Donation towards admission costs for an excursion to

MINUTES ORDINARY COUNCIL - 13 JULY 2021

			the Koala Sanctuary.
Salamander Bay Recycling	Salamander Bay Recycling is an independent, not for profit benevolent organisation run by the community for the community providing household waste removal services.	\$3500	Donation towards repair and maintenance of internal service road.
Wahroonga Aboriginal Corporation	Wahroonga Aboriginal Corporation works with Indigenous clients with programs including housing, family support, emergency relief, employment and training centre.	\$9240	Donation towards rent support for 1 year for the establishment of a Community Hub.

WARD FUNDS

Medowie Tigers Playgroup	Playgroup is a not-for-profit organisation dedicated to supporting families and strengthening local communities through playgroups.	\$500	Donation towards new sand pit cover and sand play toys.
Lions Club of Medowie	The Medowie Lions Club is a community group which serves the community with a common desire to make the community better using their creativity, enthusiasm and energy.	\$500	Donation towards a defibrillator for the Lions Support Van.
Creative Communities International	Creative Communities International work collaboratively with Council's to transform the look and feel of a town centre within 7 days.	\$500	Donation towards materials for a mini makeover working bee in Anna Bay.
Medowie Football Club	Medowie Football Club is a predominately junior	\$500	Donation towards the purchase of

MINUTES ORDINARY COUNCIL - 13 JULY 2021

	soccer club with a growing number of senior teams, catering to the township of Medowie.		new game balls for men's and women's U/12 to senior league teams.
--	---	--	---

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.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

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: 21/173295
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 13 July 2021.

No:	Report Title	Page:
1	Council Resolutions	247

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

176	Councillor John Nell Councillor Giacomo Arnott
	It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 13 July 2021.
	<hr/>
	No: Report Title
	1 Council Resolutions

The motion was carried.

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 21/62309
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: 22/06/2021
	Officer:	
Action Sheets Report	Printed: Monday, 5 July 2021	

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	30/12/2021	28/03/2018	
13		Crosdale, Timothy				18/66656
066						
2 Jul 2021						
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	COMPULSORY ACQUISITION OF PART OF VICTORIA PARADE RESERVE NELSON BAY FOR ROAD PURPOSES	30/12/2021	29/05/2019	
6		Crosdale, Timothy				19/148388
110						
2 Jul 2021						
Governor's approval to issue Proposed Acquisition Notices (PANS) received. PANS issued 10 June 2021. Acquisition To be gazetted in October 2021.						

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	30/12/2021		
7		Crosdale, Timothy				19/200498
169						
2 Jul 2021						
Still in negotiations between AGL and LGL.						

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 22/06/2021
	Officer:	
Action Sheets Report	Printed: Monday, 5 July 2021	

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	30/12/2021	12/02/2020	
2		Crosdale, Timothy				20/39141
028						
2 Jul 2021						
Awaiting Minister's approval to proceed with the compulsory acquisition.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Crosdale, Timothy	Newline Road, Raymond Terrace	28/02/2022		
2		Crosdale, Timothy				20/288489
199						
2 Jul 2021						
Approved. Contracts prepared. Finalising survey levels in contract.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/03/2021	Crosdale, Timothy	Proposed sale of land - 77 Dawson Road, Raymond Terrace (Part)	30/08/2021	11/03/2021	
1		Crosdale, Timothy				21/60805
051						
2 Jul 2021						
Settlement will occur upon registration of lots.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/04/2021	Crosdale, Timothy	Proposed sale of Land in Raymond Terrace	31/12/2021	14/04/2021	
1		Crosdale, Timothy				21/96728
089						
2 Jul 2021						
Documentation being prepared by legal representatives.						

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 22/06/2021
	Officer:	
Action Sheets Report	Printed: Monday, 5 July 2021	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/04/2021	Crosdale, Timothy	PROPOSED CLOSURE AND SALE OF PATHWAY IN BOAT HARBOUR	30/04/2022	14/04/2021	
2		Crosdale, Timothy				21/96728
090						
2 Jul 2021						
On hold. Awaiting further instructions, following objection.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/05/2021	Crosdale, Timothy	Car parking in Shoal Bay	30/12/2021	12/05/2021	
1		Crosdale, Timothy				21/123694
2 Jul 2021						
Consultation continues with Crown Lands to enable this proposed use.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/05/2021	Crosdale, Timothy	PROPOSED SALE OF LAND - MEDOWIE	30/07/2021	26/05/2021	
1		Crosdale, Timothy				21/138820
130						
2 Jul 2021						
Contracts exchanged on 27 May 2021. Settlement to take place in July 2021.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/05/2021	Crosdale, Timothy	PROPOSED SALE OF LAND - WILLIAMTOWN	30/06/2022	26/05/2021	
2		Crosdale, Timothy				21/138820
133						
2 Jul 2021						
Documentation being prepared by legal representatives.						

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 22/06/2021
	Officer:	
Action Sheets Report		Printed: Monday, 5 July 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/06/2021	Crosdale, Timothy	Proposed sale of Council owned land - Salamander Bay	30/12/2021		
1 158		Crosdale, Timothy				21/170138
2 Jul 2021 Staff progressing the matter.						

ITEM 1 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP REPORT.



Outstanding	Division: Development Services	Date From: 26/09/2017
	Committee:	Date To: 26/06/2021
	Officer:	
Action Sheets Report	Printed: Monday, 5 July 2021	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/06/2021	Drinan, Kate	Development Application 16-2020-811-1 for construction and use of 4 storey residential flat building (3 apartments), demolition of existing single storey dwelling, associated landscaping, civil works and car parking at 10 Tomaree Road, Shoal Bay (L...	13/07/2021	23/06/2021	
1		Pearl, Steven				21/170138
148						
5 Jul 2021						
Revised Target Date changed From: 6 Jul 2021 To: 13 Jul 2021						
Reason: A rescission motion was lodged, to be presented at the meeting of 13/7/2021 for determination.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/06/2021	Drinan, Kate	Development Application 16-2021-92-1 for horticulture and ancillary shed at 509 Gan Gan Road, One Mile	13/07/2021	23/06/2021	
3		Pearl, Steven				21/170138
150						
5 Jul 2021						
Revised Target Date changed From: 6 Jul 2021 To: 13 Jul 2021						
Reason: A rescission motion was lodged, to be presented at the meeting of 13/7/2021 for determination.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 22/06/2021
	Officer:	
Action Sheets Report		Printed: Monday, 5 July 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Maretich, John	Solar Infrastructure	31/08/2021	11/12/2019	
6		Kable, Gregory				19/388450
264						
2 Jul 2021						
Once the Capital Works Plan is adopted by Council, funds will be allocated to this project which will then commence.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Gutsche, Tammy	GREEN WASTE DROP OFF - SALAMANDER BAY	31/07/2021	11/12/2019	
7		Kable, Gregory				19/388450
265						
1 Jul 2021						
The Waste Management Strategy is in the final review stage. A key message of the waste strategy revolves around green waste and the implementation of a third bin. Therefore the ongoing green waste at Salamander Bay will be considered as part of this process.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/02/2020	Lamont, Brock	Indoor Sports Facility	1/12/2021	26/02/2020	
4		Kable, Gregory				20/50488
042						
2 Jul 2021						
Indoor Sports Facility has been included within Development Contributions Plan. Feasibility of project has been Commenced, however, resources are being prioritised to scoping and delivery of Capital works Program. Recruiting in Community and Recreation Assets to achieve full complement and report will be finalised by December 2021.						

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	31/07/2021	10/06/2020	
1		Kable, Gregory				20/164033
101						
2 Jul 2021						
Councillors have agreed to the design and locations of the three plaques. Plaques have been ordered ready for the opening ceremony yet to be determined.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 22/06/2021
	Officer:	
Action Sheets Report		Printed: Monday, 5 July 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/07/2020	Stewart, Adam	Tomaree Headland	31/07/2022		
2 139		Kable, Gregory				20/192934
2 Jul 2021 Council has undertaken a site review with National Parks as part of their footpath design assessment. It should be noted that National Parks are still in design phase of this project and at present Council has not allocated funds. Though options are being assessed for a funding source for this project.						

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.	1/12/2021		
11 261		Kable, Gregory				20/358525
1 Jul 2021 Newcastle Airport to submit DA modification. Legal Contracts have been drafted in preparation for DA modification approval.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/12/2020	Stewart, Adam	Fly Point and Little Beach Parking/SMART Parking	31/12/2021		
3		Kable, Gregory				20/391301
2 Jul 2021 Awaiting completion of the associated Place Plans. Report to prepared and reported back to Council by the end of 2021.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Stewart, Adam	5G Small Cell Technology Rollout in Port Stephens	31/12/2021		
3 006		Kable, Gregory				21/33235
2 Jul 2021 Discussions have commenced with Telstra.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 22/06/2021
	Officer:	
Action Sheets Report		Printed: Monday, 5 July 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Lamont, Brock	MEDOWIE REGIONAL PLAYGROUND AND TOWN CENTRE	1/12/2021		
2012		Kable, Gregory				21/33235
2 Jul 2021 Report due diligence being undertaken. Resources are being prioritised to scoping and delivery of Capital Works Program. Recruiting in Community and Recreation Assets to achieve full complement and report will be finalised by December 2021.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Stewart, Adam	FERN BAY SHARED PATHWAY	31/01/2022		
7017		Kable, Gregory				21/33235
2 Jul 2021 Currently Capital Works have stage 1 of the Fern Bay path scheduled for a July construction commencement. Stage 2 will proceed following the completion of the detailed design.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/04/2021	Lamont, Brock	Drainage at Vi Barnett Field in Raymond Terrace	1/07/2021		
12083		Kable, Gregory				21/96728
2 Jul 2021 Sewer upgrade works have been completed. Field repair works are underway. Further water quality testing will be undertaken.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/04/2021	Stewart, Adam	Drainage investigation - Lemon Tree Passage	1/12/2021	14/04/2021	
1088		Kable, Gregory				21/96728
2 Jul 2021 Drainage investigation and property evaluation has commenced. Discussion with property owners in on going. Any future actions will be determined by Council.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 22/06/2021
	Officer:	
Action Sheets Report		Printed: Monday, 5 July 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/05/2021	Maretich, John	Anna Bay Drainage Union	1/12/2021	26/05/2021	
2		Kable, Gregory				21/138820
126						
2 Jul 2021						
The State Government agency responsible for Anna Bay Drainage Union shall be consulted with.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/05/2021	Maretich, John	Bus Stop in Seaside Estate, Fern Bay	31/12/2021	26/05/2021	
5		Kable, Gregory				21/138820
128						
2 Jul 2021						
This review shall be undertaken through Local Traffic Committee and consultation with members of the Seaside Community Association.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/05/2021	Gutsche, Tammy	Lease Renewal - 2B Ridgeway Avenue, Soldiers Point	31/07/2021	26/05/2021	
3		Kable, Gregory				21/138820
132						
2 Jul 2021						
Awaiting signature and registration.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/06/2021	Stewart, Adam	Shoal Bay Parklets	31/07/2021		
1		Kable, Gregory				21/156213
142						
2 Jul 2021						
Council has received notice that the funding agency has raised no objections to the removal of the parklets. The parklets have now been removed and are in storage.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/06/2021	Lamont, Brock	Sand Movement from Shoal Bay to Fly Point	31/12/2022	9/06/2021	
2		Kable, Gregory				21/156213
143						
2 Jul 2021						
Council shall apply for grants in accordance with associated criteria.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.


Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 22/06/2021
	Officer:	
Action Sheets Report	Printed: Monday, 5 July 2021	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/06/2021	Lamont, Brock	Review of Dog Off Lead Areas - Anna Bay/Birubi Point, Fisherman's Bay and Boat Harbour	4/10/2021	23/06/2021	
5		Kable, Gregory				21/170138
2 Jul 2021 Staff currently updating mapping as per Council resolution. Staff preparing signage and other collateral as per Council resolution.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/06/2021	Lamont, Brock	Funding for Rock Revetment at Kangaroo Point, Soldiers Point	31/12/2021	23/06/2021	
2 155		Kable, Gregory				21/170138
2 Jul 2021 Staff continue to identify grants suitable for works as described. Staff will prepare correspondence for Hunter Water seeking assistance with erosion issues.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/06/2021	Stewart, Adam	PATHWAYS PLAN - KIRRANG DRIVE, MEDOWIE	31/07/2021		
3 156		Kable, Gregory				21/170138
2 Jul 2021 Staff are currently reviewed the Pathway Plans and Capital Works Program.						

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: 21/174769

EDRMS NO: PSC2017-00019

RAYMOND TERRACE

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Recognises that the people of Raymond Terrace respect their town.
 - 2) Notes that referring to the town properly in media and social media is important to show that an organisation also respects the town.
 - 3) Notes that Port Stephens Council respects Raymond Terrace and its people and, to that end,
 - 4) Directs the Communications team to cease using the phrase 'Ray Tay' in all functions of their work, to ensure that Council is appropriately respecting the town of Raymond Terrace and its people.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

	<p>Councillor Giacomo Arnott</p> <p>That Council:</p> <ol style="list-style-type: none">1) Recognises that the people of Raymond Terrace respect their town.2) Notes that referring to the town properly in media and social media is important to show that an organisation also respects the town.3) Notes that Port Stephens Council respects Raymond Terrace and its people and, to that end,4) Directs the Communications team to cease using the phrase 'Ray Tay' in all functions of their work, to ensure that Council is appropriately respecting the town of Raymond Terrace and its people.
--	--

The motion lapsed without a seconder.

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

A recent post on Port Stephens Council's Facebook page promoting community engagement with the planned main street improvements led with the sentence "Raymond Terrace, Ray Tay, The Terrace – whatever you like to call it...you're next".

The post included a photographic re-enactment of the famous Abbey Road album by The Beatles and included our Deputy Mayor Councillor Le Mottee and members of the local business community.

The use of the term 'Ray Tay' as a colloquialism and the Abbey Road photo were deliberately used to draw attention to the post and to encourage discussion about the William Street town centre improvements. The post has generated a lot of positive engagement with 350 likes and reactions, 30 shares, 306 comments, 5,500 link clicks to learn more. The post reached 23,800 — far exceeding average statistics for posts on our Facebook page.

This is not the first time Council has used the term 'Ray Tay' — it was used in previous social posts about giving feedback on the Raymond Terrace Public Domain Plan. These posts generated a lot of engagement and even attracted positive media attention for the Public Domain Plan, which would not have been the case if we had not taken this approach.

Social media forms part of our overall communications approach. The aim of our communication is to cut through the noise generated by a 24/7 news cycle and have our messages received by as many people as possible. The more people who see our messages, the more people who can participate in decisions that impact them.

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: 21/176060

EDRMS NO: PSC2017-00019

HYDROGEN AND ELECTRIC VEHICLES IN COUNCIL'S FLEET

MAYOR: RYAN PALMER

THAT COUNCIL:

- 1) Staff investigate the future use of hydrogen and electric vehicles in its fleet including commuter vehicles, garbage trucks and plant.
 - 2) Staff report back to Council on an estimated timeline of changeover, costs associated and carbon reduction, with a switch to new technologies in Council's fleet.
 - 3) Staff investigate the needs of the community in regards to recharging stations over the coming 10 year period and make recommendations to meet these.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

177	<p>Mayor Ryan Palmer Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) The General Manager investigate the future use of hydrogen and electric vehicles in its fleet including commuter vehicles, garbage trucks and plant.2) The General Manager report back to Council on an estimated timeline of changeover, costs associated and carbon reduction, with a switch to new technologies in Council's fleet.3) The General Manager investigate the needs of the community in regards to recharging stations over the coming 10 year period and make recommendations to meet these.
------------	--

The motion was carried.

BACKGROUND REPORT OF: ANDREW BEHRENS, ACTING ASSETS SECTION MANAGER

BACKGROUND

The purpose of this report is to advise Council of the potential future use of hydrogen and electric vehicles in its fleet including commuter vehicles, garbage trucks and plant.

As the technology and supporting infrastructure for alternative fuels continues to emerge and evolve, industry experts suggest that market users will buy what they consider suits their purpose, governments will legislate as required (eg emissions targets, safety) and manufacturers will build what suits their market position.

Council's current fleet contains vehicles in the following categories:

- Cars
- Utilities
- Mid-size trucks
- Heavy trucks
- Plant

There are a wide range of considerations that need to be taken into account in determining the appropriate alternative fuel type vehicle for a particular use such as vehicle availability, travel distance, weight limits, location of appropriate charging infrastructure, recharge timeframes, purchase price, whole of life costs, and compatibility. The industry currently suggests that the following alternative fuel types best suit the following class of vehicles:

- Electric - best suits light vehicles
- Hydrogen - mid-large size vehicles
- Electric - heavy long haul vehicles

At the present, there is a range of light vehicles available as electric vehicles including hybrid versions in Australia. There are very few mid-large size vehicles available in an affordable price range with most being in the luxury category. Some heavy vehicles are available via aftermarket kit or as European imports at a premium price.

There are also various levels of charging available for electric vehicles. The level of charging required influences the vehicle recharge timeframe and the extent of infrastructure required. Currently there are several different types of charge connection plugs dependent on the vehicle manufacturer. At present hydrogen refuelling is very limited in regional areas.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

Given the availability of appropriately priced and whole of life cost alternative fuel vehicles the passenger car class is the most appropriate to be considered at present given the relatively limited charging infrastructure presently in place within the local government area. At present the switch to alternative fuel vehicles for utilities, trucks and plant is considered cost prohibitive.

Council staff will continue to keep abreast of this evolving industry and continue to investigate and test the suitability of incorporating hydrogen and electric vehicles into Council's Fleet.

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.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

Councillor Chris Doohan left the meeting at 9:13pm.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: 21/177266

EDRMS NO: PSC2017-00019

PUBLICATION OF DEVELOPMENT APPLICATION INFORMATION

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Notes its desire to engage meaningfully with the public through the Development Application process.
 - 2) Makes all information on Development Applications accessible via DA Tracker in perpetuity.
-

ORDINARY COUNCIL MEETING - 13 JULY 2021 MOTION

178	<p>Councillor Giacomo Arnott</p> <p>Mayor Ryan Palmer</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Notes its desire to engage meaningfully with the public through the DA process.2) Seek external legal advice on how to reduce the risk to Council in making DA information more accessible to the public via online methods and consideration of:<ul style="list-style-type: none">• publishing DA information online until the determination of the DA; and• following determination publishing the stamped plans which are to remain online in perpetuity.3) Seek OLG and Dept of Planning advice.
-----	---

Councillor Chris Doohan returned to the meeting at 9:18pm prior to voting.

The motion was carried.

**BACKGROUND REPORT OF: KATE DRINAN – ACTING GROUP MANAGER
DEVELOPMENT SERVICES**

BACKGROUND

Council's endorsed Community Engagement Strategy (CES) reflects its commitment to involving the community in effective engagement during the development assessment process. Section 2 of the CES – Community Participation Plan (CPP) sets out how and when Council will engage the community across our planning functions under the Environment Planning and Assessment Act 1979 (EP&A Act). The CPP includes the mandatory requirements for notification and advertising of development applications.

Council has an obligation to make Council records available subject to various pieces of legislation (including the Government Information (Public Access) Act 2009 (NSW), Copyright Act 1968 and the EP&A Act). Council endeavours to provide access, through other means where possible.

Council makes development application (DA) information available to members of the public during the notification period as stipulated by the EP&A Act. Council is permitted to display this information, contrary to the narrow provisions provided under the Copyright Act. Once outside of the allowable notification period, the DA information is removed from the DA tracker in order to not constitute an infringement of Copyright.

Outside of the notification period, the DA information is available to view at the Council administration building.

Council's position on the publication of DA information is based on a number of factors, including:

1. Requirements of the Government Information (Public Access) Act 2009.
2. Requirements of the Copyright Act 1968.
3. Requirements of the Environmental Planning and Assessment Act 1979.
4. NSW Civil & Administrative Tribunal decisions, namely:
 - a) [Sandy v Kiama Municipal Council \[2019\] NSWCATAD 49](#)
 - b) [Hoggett v Campbelltown City Council \[2019\] NSWCATAD 258](#)
 - c) [Amos v Central Coast Council \[2018\] NSWCATAD 101](#)
 - d) [Brown v Wingecarribee Shire Council \(No 2\) \[2020\] NSWCATAD 225](#)
5. [Information and Privacy Commission's factsheet](#).
6. Advice from the Privacy Commissioner.
7. Council's consideration of legal advice.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

8. Potential liability impacts as a result of a breach.
9. The GIPA Act provides no protection for officers under [s113 of the GIPA Act](#). Further explanation provided in the [Information and Privacy Commission's factsheet](#).

Council should be mindful if such a motion is passed it would be deemed unlawful and in contravention of legislation such as the Copyright Act 1968, the Government Information (Public Access) Act 2019 and the Privacy and Personal Information Protection 1998. As such, if passed, the General Manager may not be able to implement the resolution of Council.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Internal resources. A risk based approach to the publishing of DA information may have financial implications which have not been budgeted for.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

ATTACHMENTS

Nil.

**ORDINARY COUNCIL MEETING - 13 JULY 2021
PROCEDURAL MOTION**

179	Councillor Giacomo Arnott Councillor Jaimie Abbott It was resolved that the Council meeting continue until 10pm.
------------	--

The motion was carried.

NOTICE OF MOTION

ITEM NO. 4

FILE NO: 21/177277

EDRMS NO: PSC2017-00019

PUBLICATION OF DEVELOPMENT APPLICATION SUBMISSIONS

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Notes that members of the public expect to be able to have as much information as possible about Development Applications.
 - 2) Ensures that all submissions by the public on Development Applications are displayed in full to the public unless the submitter specifically requests that their details or submission be redacted.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

	Councillor Giacomo Arnott Councillor John Nell That Council: <ol style="list-style-type: none">1) Notes that members of the public expect to be able to have as much information as possible about Development Applications.2) Ensures that all submissions by the public on Development Applications are displayed in full to the public unless the submitter specifically requests that their details or submission be redacted.
--	--

**ORDINARY COUNCIL MEETING - 13 JULY 2021
AMENDMENT**

180	Councillor John Nell Councillor Giacomo Arnott It was resolved that Notice of Motion 4 be deferred for discussion between the new Council and Council officers, and that external legal advice be obtained.
------------	---

The amendment on being put became the motion, which was put and carried.

**BACKGROUND REPORT OF: KATE DRINAN – ACTING GROUP MANAGER
DEVELOPMENT SERVICES****BACKGROUND**

Council's endorsed Community Engagement Strategy (CES) reflects its commitment to involve the community in effective engagement during the development assessment process. Section 2 of the CES – Community Participation Plan (CPP) sets out how and when Council will engage the community across our planning functions under the Environment Planning and Assessment Act 1979 (EP&A Act). The CPP includes the mandatory requirements for notification and advertising of development applications.

Council currently publishes DA submissions received in response to a DA via DA Tracker. The submissions are redacted by Council prior to publication to remove personal information including names and residential addresses, along with signatures, phone numbers and email addresses. This approach is consistent with the Information Privacy Commission (IPC) document "Information Access Guideline 3 - For local councils - personal information contained in development applications: What should not be put on council websites".

In the event that a submitter specifically requests that their submission not be redacted, Council endeavours to fulfil that request. In the event that a submission contains defamatory comments and/or includes any copyright information, those comments and information will be redacted.

Council should be mindful if such a motion is passed it may be deemed unlawful and in contravention of legislation such as the Copyright Act 1968, the Government Information (Public Access) Act 2019 and the Privacy and Personal Information Protection 1998. As such, if passed, the General Manager may not be able to implement the resolution of Council.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 5

FILE NO: 21/177290

EDRMS NO: PSC2017-00019

DUNS CREEK ROAD

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Notes the significant safety issues at Duns Creek Road, Duns Creek.
 - 2) Notes that the road is unsealed.
 - 3) Notes that the Capital Works Plan has a section of road planned to be sealed in the coming months.
 - 4) Prepares a report for the next Council meeting, detailing precisely when the road sealing that is planned will be completed.
 - 5) Agrees to seek grant funding for \$3 million to seal more of the road as soon as possible.
 - 6) Investigates the cost of a \$3 million loan to get the road sealed as soon as possible if a grant is not secured.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

	<p>Councillor Giacomo Arnott</p> <p>That Council:</p> <ol style="list-style-type: none">1) Notes the significant safety issues at Duns Creek Road, Duns Creek.2) Notes that the road is unsealed.3) Notes that the Capital Works Plan has a section of road planned to be sealed in the coming months.4) Prepares a report for the next Council meeting, detailing precisely when the road sealing that is planned will be completed.5) Agrees to seek grant funding for \$3 million to seal more of the road as soon as possible.6) Investigates the cost of a \$3 million loan to get the road sealed as soon as possible if a grant is not secured.
--	--

The motion lapsed without a seconder.

BACKGROUND REPORT OF: ANDREW BEHRENS – ACTING ASSETS SECTION MANAGER**BACKGROUND**

The purpose of this report is to note that some road users have significant safety concerns in regard to Duns Creek Road, Duns Creek parts of which are unsealed. A number of crashes within the past 5 years have resulted in a project being endorsed by the Australian Government as part of the Black Spot Program.

Council's Capital Works Plan includes a project to seal a 740m long section of Duns Creek Road, from Wallaby Close heading north. Council will utilise PS2020 funding along with Federal Black Spot Program funding to undertake these works.

The road reconstruction works are scheduled to commence mid July 2021 and have an estimated construction duration of approximately 8 weeks, weather permitting.

Minimal grant opportunities exist for a project such as this. To date, Council has applied for a number of grants for improvements of Duns Creek Road however, all, except for the recent Black Spot application, have been unsuccessful as most grants rely on a cost benefit ratio to be achieved. This road is a dead end road with low vehicle count and the cost to reconstruct is high resulting in a low benefit cost ratio.

Reconstructing the remaining unsealed road to a suitable standard would require major changes to the landscape, service relocations, property acquisitions and/or easements before road realignment, widening and sealing can take place and it is anticipated that this will require in excess of \$3 million.

Further investigations will need to be undertaken to fully understand the constraints and limitations that may be involved in reconstructing the remaining unsealed road and enable a more accurate estimate to be prepared. At present these additional investigations are unfunded.

Council will continue to apply for grants when opportunities arise in order to complete the works required to complete reconstruction of the remaining unsealed section of Duns Creek Road. Loan costs can be investigated, however, a funding source to repay the loan would be required.

FINANCIAL/RESOURCE IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 13 JULY 2021

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

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 6

FILE NO: 21/177376

EDRMS NO: PSC2017-00019

DUNS CREEK ROAD AND BUTTERWICK ROAD INTERSECTION

COUNCILLOR: ANDREW BEHRENS

THAT COUNCIL:

- 1) Notes the safety concerns of residents about Duns Creek Rd and Butterwick Road, Duns Creek.
 - 2) Notes that 134 locals have signed a petition asking for safety improvements at this intersection.
 - 3) Requests a report be prepared for Council outlining options for improving safety at this intersection, which need to be undertaken as soon as possible.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

	<p>Councillor Giacomo Arnott</p> <p>That Council:</p> <ol style="list-style-type: none">1) Notes the safety concerns of residents about Duns Creek Rd and Butterwick Road, Duns Creek.2) Notes that 134 locals have signed a petition asking for safety improvements at this intersection.3) Requests a report be prepared for Council outlining options for improving safety at this intersection, which need to be undertaken as soon as possible.
--	---

The motion lapsed without a seconder.

**BACKGROUND REPORT OF: ANDREW BEHRENS – ACTING ASSETS SECTION
MANAGER**

BACKGROUND

The purpose of this report is to note the safety concerns held by residents and road users in regard to the intersection of Duns Creek Road and Butterwick Road, Duns Creek and note the receipt of a petition with 134 signatures requesting urgent improvement to the intersection.

The petition raises concerns about drivers travelling straight through the intersection on Butterwick Road without observing the give way sign. The requested improvements are noted on the petition and include speed reduction and painted 'speed bumps' on approaches, or speed reduction with give way signs on all approaches to the intersection.

The Information Paper of 22 June 2021 (**ATTACHMENT 1**) outlines the previous investigations and road safety improvements undertaken to date.

Speed limits across all roads in NSW are administered by Transport for NSW (TfNSW), not Council, and are determined by TfNSW in accordance with the document entitled NSW Speed Zoning Guidelines.

An inspection of the site has been undertaken by Local Traffic Committee representatives and recent safety improvements were noted. The matter is listed in the Local Traffic Committee July 2021 Agenda and will consider further safety improvements at the intersection. The Local Traffic Committee July 2021 meeting is scheduled to take place on 6 July 2021. The Minutes of the meeting will be available following the review by Local Traffic Committee members, review and concurrence by Councillors and endorsement by the General Manager.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

- 1) Information Paper 22 June 2021 - Petition - Duns Creek Road and Butterwick Road Duns, Creek.

**ITEM 6 - ATTACHMENT 1 INFORMATION PAPER 22 JUNE 2021 - PETITION -
DUNS CREEK ROAD AND BUTTERWICK ROAD DUNS, CREEK.****COUNCIL MEETING – 22 JUNE 2021****ITEM NO. 1****FILE NO: 21/150368
EDRMS NO: PSC2015-03017****PETITION: URGENT IMPROVEMENT TO INTERSECTION - DUNS CREEK ROAD
AND BUTTERWICK ROAD, DUNS CREEK****REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES****BACKGROUND**

The purpose of this report is to advise Council of a petition received with 126 signatures requesting urgent improvement to intersection – Duns Creek Road and Butterwick Road, Duns Creek.

The petition raises concerns about drivers travelling straight through the intersection on Butterwick Road without observing the give way sign. The requested improvements are noted on the petition and include speed reduction and painted 'speed bumps' on approaches, or speed reduction with give way signs on all approaches to the intersection.

The Local Traffic Committee (LTC) have received and investigated an identical concern in 2018. The June 2018 LTC meeting minutes are included as **(ATTACHMENT 2)**. To address the concern, the LTC warranted the following works.

- Upgrade to size 'B' and double-post the Give Way signs on Butterwick Road at Duns Creek Road.
- Install Give Way advance warning signage on Butterwick Road for northbound traffic.
- Relocate the existing intersection advance warning sign on Butterwick Road.

A recent site inspection confirms that these measures were installed and remain in good condition. Photos of the inspection are included as **(ATTACHMENT 3)**.

Further to the signage works, Council's line marking program has refreshed the line marked holding lines for Butterwick Road in April 2021

Speed limits across all roads in NSW are administered by Transport for NSW (TfNSW), not Council, and are determined by TfNSW in accordance with the document entitled NSW Speed Zoning Guidelines.

This matter will be referred to the Local Traffic Committee for further review.

Do not delete this line

ATTACHMENTS

**ITEM 6 - ATTACHMENT 1 INFORMATION PAPER 22 JUNE 2021 - PETITION -
DUNS CREEK ROAD AND BUTTERWICK ROAD DUNS, CREEK.**

COUNCIL MEETING – 22 JUNE 2021

- 1) Petition - Urgent improvement to intersection - Duns Creek Road and Butterwick Road, Duns Creek.
- 2) Local Traffic Committee Minutes - June 2018.
- 3) Photographs of Butterwick Road / Duns Creek Road Intersection.

COUNCILLORS ROOM

- 1) Petition.

TABLED DOCUMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 7

FILE NO: 21/177395

EDRMS NO: PSC2017-00019

EAST SEAHAM ROAD

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Notes that part of East Seaham Road is still unsealed.
 - 2) Notes that Council has progressively been sealing the road, with progress stalled for some time now.
 - 3) Requests a report to be prepared for Council, outlining the reason for the recent delays and noting when works will recommence on site.
-

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

	<p>Councillor Giacomo Arnott</p> <p>That Council:</p> <ol style="list-style-type: none">1) Notes that part of East Seaham Road is still unsealed.2) Notes that Council has progressively been sealing the road, with progress stalled for some time now.3) Requests a report to be prepared for Council, outlining the reason for the recent delays and noting when works will recommence on site.
--	---

The motion lapsed without a seconder.

**BACKGROUND REPORT OF: ANDREW BEHRENS – ASSETS SECTION
MANAGER**

BACKGROUND

The purpose of this report is to note that approximately 3.2 km of East Seaham Road remains unsealed and that Council has progressively sealed sections of the road. The sealing of sections of East Seaham Road has been funded by Council and by grants obtained from the Australian Government as part of the Black Spot Program.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

Sealing the remaining sections of the road has stalled for some time now due to a lack of funds. Sourcing funding in sufficient amounts to seal the remaining sections of the road has proven difficult.

Environmental impact assessments to determine constraints, requirements and appropriate management measures for the sealing of the remaining sections of the roadworks have commenced but have not been finalised.

With insufficient funding available to complete these assessments it is difficult to determine the environmental requirements and appropriate road design which, in turn, influences the estimation of construction costs necessary for applications for funding.

Council has recently applied for funding from the Black Spot Program for the next stage of works based on recent crash statistics. If Council is successful in obtaining grant funding it will enable finalisation of environmental reporting and construction of the next stage of works. As of 30 June 2021, Council has not been notified whether this grant funding project application has been approved.

When a suitable source of funding has been secured works to reseal the remaining sections of East Seaham Road will recommence. Until then unsealed road maintenance activities will continue as required.

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. 8

FILE NO: 21/177415

EDRMS NO: PSC2017-00019

HINTON PATHWAYS

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Notes that pedestrians walking along Hinton Road are often placed in danger considering the lack of appropriate pathways in the area.
 - 2) Notes that Council met with residents in November 2019 and has not adequately progressed works in the local area since then.
 - 3) Prepare a report for Council outlining how and when the following works can be undertaken:
 - 4) Widen the shoulder along Hinton Road between Bounty Close and Nulla Nulla Lane.
 - 5) Complete 250m of shared paths between Bounty Close and Nulla Nulla Lane adjacent to the gutter.
 - 6) Complete the installation of 430m of shared pathway between Anne Street and Swan Street.
 - 7) Complete the installation of 220m of shared pathway between Swan Street and Stuart Park access.
 - 8) Complete the installation of a shared pathway linking the townships of Hinton and Wallalong.
-

ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION

	<p>Councillor Giacomo Arnott</p> <p>That Council:</p> <ol style="list-style-type: none">1) Notes that pedestrians walking along Hinton Road are often placed in danger considering the lack of appropriate pathways in the area.2) Notes that Council met with residents in November 2019 and has not adequately progressed works in the local area since then.3) Prepare a report for Council outlining how and when the following works can be undertaken:<ol style="list-style-type: none">a. Widen the shoulder along Hinton Road between Bounty Close and Nulla Nulla Lane.b. Complete 250m of shared paths between Bounty Close and Nulla Nulla Lane adjacent to the gutter.
--	--

MINUTES ORDINARY COUNCIL - 13 JULY 2021

	<ul style="list-style-type: none">c. Complete the installation of 430m of shared pathway between Anne Street and Swan Street.d. Complete the installation of 220m of shared pathway between Swan Street and Stuart Park access.e. Complete the installation of a shared pathway linking the townships of Hinton and Wallalong.
--	--

The motion lapsed without a seconder.

BACKGROUND REPORT OF: ANDREW BEHRENS – ACTING ASSETS SECTION MANAGER

BACKGROUND

The purpose of this report is to note that pedestrian road users walking along Hinton Road, Hinton may be placed in danger due to the lack of formed pathways and that Council received a petition in early 2020 requesting Council investigate the proposal for shared footpath (pathway) construction and shoulder widening for the townships of Hinton and Wallalong. The Information Paper from 11 February 2020 is shown in **(ATTACHMENT 1)**.

Council staff agree that pathways within and between these 2 townships would improve pedestrian safety as well as provide cyclist connections. The proposed pathway works have not progressed due to a lack of suitable funding sources and grants.

Council's adopted Pathways Plan shown in **(ATTACHMENT 1)** shows the proposed pathways prioritised by Council. The Pathways Plan does not show proposed pathways between Bounty Close and Nulla Nulla Lane, Hinton.

There are significant constraints, challenges and complexities in various locations along each of the pathways that need to be further investigated such as the topography, landscape, environmental conditions, location of services, potential property acquisitions, road realignment/widening, and drainage and flooding considerations. These constraints, limitations, challenges and requirements need to be better understood to enable an accurate cost estimate to be prepared. At present, these additional investigations are unfunded.

To enable the projects to proceed would require a reallocation of funds from another project or gaining monies from other sources of external funds. Council staff will continue to apply for grants when opportunities arise. Each offered grant usually has a set of specific criteria that the proposed project must meet for it to be successful. The projects chosen for the grant depend on the grant criteria with the aim to create the best possible chance of success.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

- 1) Information Paper - 11 February 2020.

MINUTES ORDINARY COUNCIL - 11 FEBRUARY 2020**ITEM NO. 3****FILE NO: 20/9444
EDRMS NO: PSC2015-03017****PETITION TO INVESTIGATE THE PROPOSAL FOR SHARED FOOTPATH
CONSTRUCTION AND SHOULDER WIDENING IN HINTON AND WALLALONG****REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES****BACKGROUND**

The purpose of this report is to present to Council a petition containing 92 signatures requesting Council investigate the proposal for shared footpath (pathway) construction and shoulder widening for the townships of Hinton and Wallalong. The petition is shown in **(ATTACHMENT 1)**.

The pathways requested in the petition are Hinton Road (Hinton township) and between Bowthorne Park Wallalong and Hinton. These pathways are shown in Sheet 2 of Council's adopted Pathway Plan **(ATTACHMENT 2)**. Council staff agree that these pathways would improve pedestrian and children safety as well as provide cyclist connections between these two townships as suggested in the petition.

Pathways on Paterson Street and Swan Street, Hinton are included in the recently adopted Local Infrastructure Contributions Plan, though matching funds have not yet been sourced or prioritised in Council's Capital Works Program. It should be noted that the priority of this project is dependent on an increase of development in this area.

At the time of writing this information paper, the Capital Works Program is being reviewed following the adoption of the Local Infrastructure Contributions Plan. This project could be introduced earlier through alternative funds, though it would be at the expense of another project already listed in the Capital Works Program.

As requested by the petition, Council's staff will continue to apply for grants. Each offered grant usually has a set of specific criteria that the proposed project must meet for it to be successful. The projects chosen for the grant depend on the grant criteria with the aim to create the best possible chance of success.

The petition has also requested shoulder widening between Bounty Close and Nulla Nulla Lane. At present there are no plans in the near foreseeable future to undertake these works.

It should be noted that Council does not charge the adjoining residents a contribution for the construction of a pathway. This was an issue raised in the petition.

MINUTES ORDINARY COUNCIL - 11 FEBRUARY 2020

ATTACHMENTS

- 1) Petition - Application to Fund Improvements to Local Infrastructure in Hinton and Wallalong.
- 2) Pathway Plan Sheet 2 - Woodville, Wallalong and Hinton.

COUNCILLORS ROOM

- 1) Copy of unredacted petition.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 11 FEBRUARY 2020

ITEM 3 - ATTACHMENT 1 PETITION - APPLICATION TO FUND
IMPROVEMENTS TO LOCAL INFRASTRUCTURE IN HINTON AND WALLALONG.

92 Signatures

**2020 Application to Fund
Improvements to Local Infrastructure in
Hinton and Wallalong NSW 2321**

- Purpose of application :** To seek funding from Port Stephens Council to improve Pedestrian and Road Safety outcomes for Hinton and Wallalong residents.
- Reason for petition :** To seek majority local support to application
- Proposed projects :** Fastrack the construction of planned extensions to footpaths on Hinton Road to improve pedestrian and children safety.
- Complete outstanding shoulder widening works between Bounty Close and Nulla Nulla Lane to provide increased clearances to through vehicles for pedestrians and cyclists.
- Fastrack the construction of a planned shared footpath between Bowthorne Park Wallalong and Hinton to provide safe pedestrian and cyclist connectivity between the two communities.
- Additional information :** The purpose of petition is to seek funding to complete the planned footpath extensions without individual residents incurring a cost to the footpath component in front of their properties.
- The final scope of works will be determined by Council's Engineering assets team based on the funding made available by Port Stephens Council and additional funding available through concurrent grants provided by the NSW Government.

CONFIDENTIAL ITEMS

In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL MEETING – 13 JULY 2021 MOTION

181	Councillor Jaimie Abbott Councillor Glen Dunkley It was resolved that Council move into confidential session.
-----	---

The following Council officers were present for the Confidential Session:

Senior Governance Officer.

CONFIDENTIAL**ITEM NO. 1****FILE NO: 21/159490
EDRMS NO: PSC2021-00072****PROPOSED SALE OF COUNCIL OWNED LAND - SOLDIERS POINT****REPORT OF: TIMOTHY CROSDALE - GROUP MANAGER CORPORATE
SERVICES****GROUP: CORPORATE SERVICES****ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

182	Councillor Chris Doohan Councillor Glen Dunkley It was resolved Council: <ol style="list-style-type: none">1) Authorise the sale of Council owned land on the confidential terms and conditions set out in this report.2) Authorise the seller's agent to sign the contract at the auction, subject to the sale conditions set out in this report.3) Authorise the General Manager to negotiate variations to contract conditions as required, excluding the sale price below the valuations outlined in this report.4) Authorise the Mayor and General Manager to affix the Council Seal and sign all documents necessary to complete the sale.
------------	--

The motion was carried.

**ORDINARY COUNCIL MEETING – 13 JULY 2021
MOTION**

183	Councillor John Nell Councillor Steve Tucker It was resolved that Council move out of confidential session.
------------	---

There being no further business the meeting closed at 9.25pm.