

# DRAFT

## MINUTES – 9 MARCH 2021



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 9 March 2021, commencing at 5.51pm.

**PRESENT:**

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

<b>042</b>	<b>Councillor Ken Jordan</b> <b>Councillor Jaimie Abbott</b>  It was resolved that the apology from Cr Glen Dunkley be received and noted, and that leave of absence be granted to Cr John Nell from 9 March to 5 April 2021.
<b>043</b>	<b>Councillor Jaimie Abbott</b> <b>Councillor Sarah Smith</b>  It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 23 February 2021 be confirmed.

<b>MINUTES ORDINARY COUNCIL - 9 MARCH 2021</b>
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	<p>Cr Le Mottee declared a pecuniary conflict of interest in Item 1. The nature of the interest is the Le Mottee Group assisted with the preparation of the application.</p>
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	<p>Mayor Palmer declared a pecuniary conflict of interest in Item 3. The nature of the interest is Mayor Palmer's brother in-law is a neighbouring property owner.</p>
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# MOTIONS TO CLOSE

**ITEM NO. 1**

**FILE NO: 21/45201  
EDRMS NO: PSC2006-6753**

**MOTION TO CLOSE**

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

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**RECOMMENDATION:**

- 1) That pursuant to section 10A(2) (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 land - 77 Dawson Street, Raymond Terrace (Part)**.
- 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.

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**ORDINARY COUNCIL MEETING - 9 MARCH 2021  
MOTION**

<b>044</b>	<p><b>Councillor Paul Le Mottee Councillor Chris Doohan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>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 on the Ordinary agenda namely <b>Proposed sale of land - 77 Dawson Street, Raymond Terrace (Part)</b>.</li><li>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"><li>• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.</li></ul></li><li>3) That the report remain confidential and the minute be released in accordance with Council's resolution.</li></ol>
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The motion was carried.

**ORDINARY COUNCIL MEETING - 9 MARCH 2021  
MOTION**

	<p><b>Councillor Giacomo Arnott</b> <b>Mayor Ryan Palmer</b></p> <p>That Council dissents from the ruling made by Mayor Palmer in Public Access relating to 4.3 of the Code of Meeting Practice, which makes clear, that an application for public access must be on the approved form and submitted by 12 noon the day before the Council meeting, and that this did not occur and Mayor Palmer ruled that he was okay with that.</p>
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The motion was lost.

# COUNCIL REPORTS

## MINUTES ORDINARY COUNCIL - 9 MARCH 2021

Councillor Paul Le Mottee left the meeting at 5:53pm prior to Item 1.

### ITEM NO. 1

FILE NO: 20/266215  
EDRMS NO: 16-2020-357-1

### DEVELOPMENT APPLICATION 16-2020-357-1 FOR A SINGLE STOREY DWELLING AT 918 NEWLINE ROAD, EAGLETON (LOT 31 DP 840177)

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

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2020-357-1 for a single storey dwelling at 918 Newline Road, Eagleton (Lot 31 DP 840177) for the reasons contained in **(ATTACHMENT 3)**.

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### ORDINARY COUNCIL MEETING - 9 MARCH 2021 MOTION

<b>045</b>	<b>Councillor Chris Doohan</b> <b>Councillor Jaimie Abbott</b>  It was resolved that Council defer development application 16-2020-357-1 for a single storey dwelling at 918 Newline Road, Eagleton (Lot 31 DP 840177) for a period of 4 weeks.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

### BACKGROUND

The purpose of this report is to present a development application (DA) 16-2020-357-1 for a single dwelling at 918 Newline Road, Eagleton (Lot 31 DP 840177) to Council for determination.

## MINUTES ORDINARY COUNCIL - 9 MARCH 2021

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 Mayor Ryan Palmer, Councillor Sarah Smith and Councillor Glen Dunkley (**ATTACHMENT 4**).

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

### Proposal

The DA proposes the construction of an elevated single dwelling on an existing stock refuge mound in the north western portion of the site, 126m from the Newline Road frontage.

The proposed dwelling is to be constructed on piers above the Flood Planning Level (FPL). The dwelling comprises 4 bedrooms, open plan living, dining and kitchen. A laundry and bathroom is to be located in the understorey, below the dwelling.

### Site Description and history

The site is located within the RU1 Primary Production zone with a frontage to Newline Road.

The site has a total area of 11.5ha and includes a machinery shed, stables, day yards and an approved stock refuge mound.

The stock refuge mound has levels varying between 4.04m AHD and 4.18m AHD.

A DA for a dwelling and shed was refused by Council staff in 1995.

An approval for operation of a wastewater management system was issued in 2004.

The site has recently been subject to an order from Council's Development Compliance section to 'cease use of shed as a dwelling'. The DA for the construction of a dwelling has been lodged in response to that order.

The entire site is flood prone and is categorised as High Hazard Floodway.

### Key Issues

The key issue identified during assessment relates to the fact that the DA presents an unacceptable risk to life and property. A detailed assessment of the DA is contained within the Planners Assessment Report (**ATTACHMENT 2**).

### Flood risk

The DA is inconsistent with both the Port Stephens Local Environmental Plan (LEP 2013) and the Development Control Plan 2014 (DCP 2014) noting the High Hazard Floodway categorisation applying to the site.

The flood levels applicable to the site are:

- Flood Planning Level (FPL) - 6.0m AHD
- 1% AEP (Current day) – 4.7m AHD
- Probable Maximum Flood (PMF) - 8.9m AHD

The DA includes the following levels:

- Existing stock refuge mound level (no change proposed) – 4.15m AHD
- Dwelling Finished Floor Level (FFL) - 6.55m AHD

Clause 7.3(3) of LEP 2013 states that development must be compatible with the flood hazard of the land and that it must not have a significant, adverse effect on flood behaviour. Despite the DA seeking to resolve a historic unlawful use of the land, the design of the dwelling and its associated egress are not considered to be compatible with the flood hazard category applying to the site resulting in an unnecessary risk to life and property.

Chapter B.5 of the DCP 2014 provides controls for development on flood prone land. DCP 2014 states that dwelling houses on land categorised as High Hazard Floodway may be considered where the proposal can address set performance based solutions. The solutions include an assessment of the development against the risk to life (B5.18), risk to property (B5.19) and the compatibility of development with the site specific flood hazard (B5.20).

Chapter B5.18, in considering the risk to life, requires that evacuation access to an area free of risk from flooding must be provided. The site and its surrounds are significantly flood affected and it is not possible to design an egress from the proposed dwelling to flood free areas offsite. A PMF flood refuge has not been included in the DA as an alternative to a safe egress in a flood event. As the DA cannot provide a suitable egress from the site and a suitable flood refuge has not been provided, the DA does not meet the performance based solutions contained in Chapter B5.18 of DCP 2014.

Chapter B5.19 requires development to address the risk to property during various flood events. The existing stock refuge flood mound is located below the 1% AEP level and the FPL. While a significant portion of the proposed dwelling is located on piers above the FPL, a laundry/bathroom are located well below the FPL. Further, there is no area for car parking or ancillary storage above the FPL. The design of the DA is such that the risk to property has not been suitably mitigated. Noting this, the proposal is not acceptable having regard to the performance based solutions contained in Chapter B5.19 of DCP 2014.

Chapter B5.20 requires the development to be compatible with the flood hazard category of the site. The site is located within a High Hazard Floodway with high velocity rates. As the site does not have access to flood free areas, the proposed dwelling will become isolated during large flood events, which increases the risk to



## MINUTES ORDINARY COUNCIL - 9 MARCH 2021

life and potentially places an unreasonable and unnecessary strain upon emergency services in a major flooding event.

With consideration of the above, the DA is unable to be supported. The DA is inconsistent with the provisions of both LEP 2013 and DCP 2014 as the proposal presents unacceptable risk to life and property.

### Conclusion

Due to the sites location in a High Hazard Floodway and the design of the dwelling and its associated egress, the proposal is inconsistent with the relevant legislation and policies, including:

- Environmental Planning and Assessment Act 1979 (EP&A Act)
- Port Stephens LEP 2013 – Clause 7.3 Flood Planning
- Port Stephens DCP 2014 – Chapter B5 Flooding

Based on a detailed assessment of the DA, and with consideration to the inconsistencies identified with LEP 2013 and DCP 2013, the DA is recommended for refusal for the reasons contained in **(ATTACHMENT 3)**.

## COMMUNITY STRATEGIC PLAN

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

## FINANCIAL/RESOURCE IMPLICATIONS

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

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

## LEGAL, POLICY AND RISK IMPLICATIONS

The DA is inconsistent with the relevant planning instruments including the EP&A Act, LEP 2013 and DCP 2014.

Detailed assessments against these requirements are contained within the Planners Assessment Report provided at **(ATTACHMENT 2)**.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
If the DA is approved, a third party may appeal the determination.	Medium	Determine the DA in line with the recommendations.	Yes
If the DA is approved, there is a risk that Council will be held liable for damage or consequences.	Medium	Determine the DA in line with the recommendations.	Yes
If the DA is approved, people and property may be exposed to an unacceptable level of risk.	Medium - High	Determine the DA in line with the recommendations.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Outside of the flood related issues associated with the proposal, it is considered that the development will have a positive economic impact on the local area and the broader community through the creation of employment and economic activity during the construction of the development.

However, the flood classification of the site and the design of the proposal presents an unacceptable risk to life and property and is therefore recommended for refusal for the reasons outlined in **(ATTACHMENT 3)**.

## **CONSULTATION**

### Internal

Consultation was undertaken with internal technical staff to facilitate the assessment of the DA including:

- Building and Developer Relations
- Development Engineering
- Strategic Planning (Development Contributions)
- Environmental Health
- Flood Advisory Review Panel.

The referral comments provided by these officers were considered as part of the detailed assessment and are discussed within the Planners Assessment Report **(ATTACHMENT 2)**. The DA is supported by all internal referrals, other than Development Engineering and Flood Advisory Review Panel for the reasons outlined above.

#### External

No consultation with any external agencies was required to be undertaken during the assessment of this DA.

#### Notification

In accordance with the provisions of the Port Stephens Community Participation Plan, the DA was exhibited from 31 August 2020 to 14 September 2020. During this period 1 public submission was received which objects to the DA.

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) Reasons for Refusal.
- 4) Call to Council Form.

### **COUNCILLORS ROOM**

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

### **TABLED DOCUMENTS**

Nil.



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## DEVELOPMENT ASSESSMENT REPORT

### APPLICATION DETAILS

<b>Application Number</b>	16-2020-357-1
<b>Development Description</b>	Single storey dwelling
<b>Applicant</b>	MR P J ILSLEY
<b>Land owner</b>	MR P J ILSLEY
<b>Date of Lodgement</b>	22/06/2020
<b>Value of Works</b>	\$288,000.00
<b>Submissions</b>	1

### PROPERTY DETAILS

<b>Property Address</b>	918 Newline Road EAGLETON
<b>Lot and DP</b>	LOT: 31 DP: 840177
<b>88B Restrictions on Title</b>	Nil
<b>Current Use</b>	Animal boarding or training establishment
<b>Zoning</b>	RU1 PRIMARY PRODUCTION
<b>Site Constraints</b>	Bushfire Prone Land - Class 3 (Buffer) Acid Sulfate Soils – Class (3) Koala Habitat Planning Map (Link over Cleared) SEPP (Coastal Management) 2018 – Coastal Zone Combined Footprint Height Trigger Map – RAAF Base Williamtown and Salt Ash Air Weapons Range – DoD Prime Agricultural Land (Classes 1-3)
<b>State Environmental Planning Policies</b>	SEPP (Building Sustainability Index: BASIX) 2004 SEPP (Coastal Management) 2018 SEPP (Koala Habitat Protection) 2020 SEPP No. 55 – Remediation of Land

**PLANNERS PRE-ASSESSMENT CHECKLIST****PROPOSAL**

The application proposes a dwelling to support the animal training establishment at the subject site. The proposed development comprises a 201m<sup>2</sup> single storey dwelling, to be located on an existing earth mound (approved under DA 16-2016-302). A concrete slab is proposed over the ground level of the dwelling, with piers proposed to support the first level of the dwelling. The dwelling is a single storey design comprising of four bedrooms, ensuite, open plan living, dining, kitchen space and a stairwell. The ground level will be used for vehicle parking and is identified as a non-habitable space.

The proposal also incorporates the decommissioning of unauthorised living quarters within the site's industrial metal shed and the associated OSSM system being connected to the proposed dwelling.



Figure 1: Proposed development

**SITE DESCRIPTION**

The subject site is legally identified as lot 31 DP 840177, 918 Newline Road, Eagleton. The regularly shaped rural lot is located on the eastern side of Newline Road, within a rural precinct that is characterised by large rural allotments. The lot comprises a total area of 11.5ha with development including a large shed, stables and day yards, earthworks mound, sealed crossover and driveway, multiple dams and small sheds.

The lot is relatively flat in its topography and is situated in close proximity of the Williams River and the entire site is identified within the High Hazard Floodway categorisation. Essential services including vehicular access and electricity are available to the lot, with services including water, wastewater and stormwater able to be managed onsite. No easements or land use restrictions have been identified over the site.



16-2020-357-1



Figure 2: Aerial view of subject site

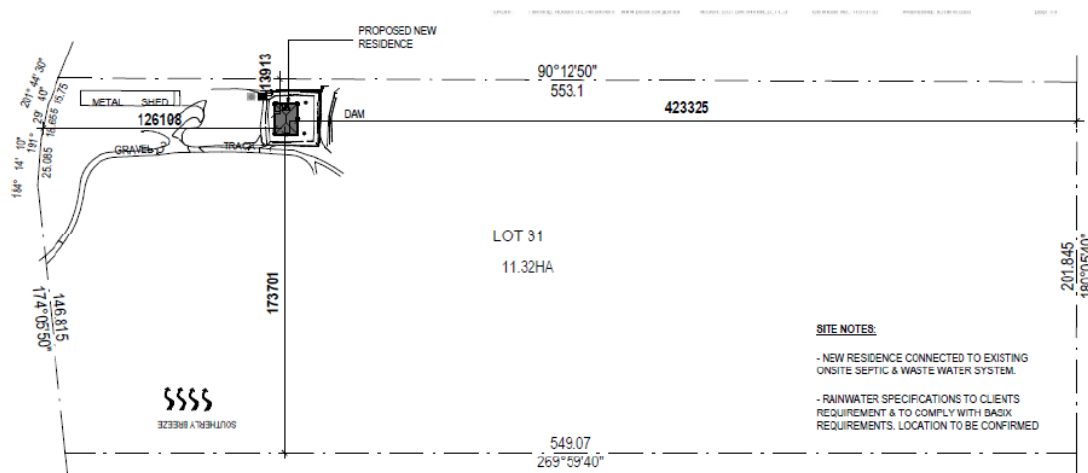


Figure 3: Locality plan

### SITE HISTORY

The site has supported an animal training establishment for approximately 15 years, with structures including a machinery shed, stables, day yards and stock refuge mounds approved over this timeframe. Whilst a development application for a dwelling and shed was refused by Council staff in 1995, an approval for operation of a waste water management system was issued in 2004.

The site has recently been subject to an order from Council's Development Compliance section to 'cease use of shed as a dwelling'. The pending development application for construction of a dwelling (DA 16-2020-357-1) has been lodged in response to this order.

The following applications have been assessed over the subject site:

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

16-2020-357-1

- 16-2016-302 – Land Fill (new stock refuge mound and extension of existing mound) – Approved – 28.06.2016
- 16-2005-215 – Four (4) x Stables & Day Yards – Approved – 21.04.2005
- 16-1998-1384 – Retaining Wall – Approved – 13.10.1998
- BA/DA - 7-1997-1607 – Land Fill & Excavation – Approved – 21.01.1998
- BA/DA – 7-1997-60651 – Machinery Shed – Approved – 12.06.1997
- BA/DA – 7-1997-84 – Land Fill – Approved – 10.02.1997
- BA/DA – 7.1997-56 – Advertising Sign – Approved – 23.01.1997
- BA/DA – 7.1995-1855 – Dwelling and Shed – Refused by Staff – 26.11.1996

**SITE INSPECTION**

A site inspection was carried out on 3 February 2021.

The subject site can be seen in the images below:



**Figure 4: View from proposed development site facing east**



**Figure 5: View from proposed development site facing west**





Figure 6: View of proposed development site facing north



Figure 7: View of proposed development site facing south

## REFERRALS

The proposed development was referred to the following internal specialists and external agencies. The comments provided by the special staff and external agencies have been used to carry out the assessment against the S4.15 Matters for Consideration below.

### Development Engineer

**16/07/2020** – Further information requested for items including; flood compatible design and construction, electrical installations, materials storage and structural certification of dwelling. Three (3) options were provided by Development Engineer as a pathway forward. Not supporting the application on the basis that Council does not support residential development within a high hazard floodway was recommended as the preferred option from a flood risk minimisation perspective.

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

16-2020-357-1

**7/12/2020** – Request for Information issued seeking assessment against the performance based solutions contained in Chapter B5.D of the Port Stephens Council DCP.

**20/12/2021** – Proposal is not consistent with the Floodplain Development Manual as the performance based criteria of DCP 2014 was not addressed to Council's satisfaction.

**Environmental Health** – The proposed waste water system design submitted with the application demonstrates a suitable solution is available through a S68 Onsite Sewer Management System application. The S68 application has been submitted with Council concurrently with the DA and has been supported subject to conditions of consent.

**Building Surveyor** – The proposed new dwelling was referred for consideration of Building Code of Australia (BCA) and building requirements. The proposed new dwelling is sufficiently separated from existing boundaries and the existing dwelling, achieving the BCA fire separation requirements. A CC has been lodged concurrently with the DA application. The proposal is supported subject to conditions.

**Flood Advisory Review Panel** – The application was referred to the Flood Advisory Review Panel (FARP) following the recommendation of refusal from Council Development Engineers due to the flood hazard categorisation. The application was reviewed by FARP on two occasions, the initial review and once more following the endorsement of the amendments to the Chapter B5 Flooding DCP 2014. FARP did not support the application as emergency egress for the proposal will be cut off early in a flood event and sits well below the current day 1% AEP flood level of 5.1m. Additionally, the proposal sits 2.35m below the PMF level of the site and thus a PMF flood Refuge would be required as a minimum but has not been proposed by the applicant. The development is not consistent with the application of performance based solutions outlined in B5.D of the DCP. Due to the unacceptable safety implications posed by the flood constraints of the site and the inability of the applicant to resolve these flooding issues to an acceptable engineering standard, the application is recommended for refusal.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979*****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 (Building Sustainability Index: BASIX) 2004**

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) was enacted to ensure that dwellings are designed to utilise less potable water and to minimise greenhouse gas emissions by setting energy and water reduction targets for residential houses and units.

A valid BASIX certificate has been submitted with the development application which demonstrates that the water, thermal comfort and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP BASIX.

**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.

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

16-2020-357-1

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 dual occupancy 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) 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 Policy commenced on 1 March 2020.

The site is located in an area mapped mainly cleared, the rear of the site along the boundary to the waterfront is mapped and 50m buffer over cleared. The development application does not include the removal of natural vegetation for koala habitat. The development is not considered to exacerbate impact to the koala habitat or decline in koala population.

State Environmental Planning Policy Coastal Management 2018

The subject land is located within the Coastal Environmental Area and Coastal Use Area. The subject is located in close proximity to the Williams River and triggers the consideration of the Coastal Management SEPP.

As per Clause 13 of the SEPP, development consent must not be granted for development within the coastal environment area unless the consent authority has considered whether the development will cause impact to the integrity of the biophysical and ecological environment, the values and natural coastal processes, marine vegetation, native vegetation and fauna and existing public open space and access to and along the foreshore.

The proposed development is setback approximately 120m from the Williams River waterbody, the development is separated from the waterbody by Newline Road and will therefore not have any significant adverse impacts.

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.

The proposed dwelling is not located in close proximity to the Williams River and will not impact on access to the river. The proposed residential use of the site, in conjunction with the existing flood risk as a result of the Hunter River, presents as a potential risk to the ecological environment in the event of the dwelling being destroyed in flood waters.

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

There is minor associated risk with the dwelling being destroyed by flooding. The proposed dwelling, in significant flooding events, may result in the destruction of the mound and structure. In the event of the development being destroyed by flood waters materials would be washed down stream affecting surrounding properties and risk to the ecological environment of the river network. If the proposal were amended to be further setback from the river and potential hazard the risk associated with the flooding could be minimised.

The application can therefore be supported as it generally complies with the aims and the matters for consideration of the Policy.

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

The proposed development is defined as a 'dwelling house' and is permissible with consent in the RU1 Primary Production zone. The development addresses the objectives of the zone to minimise the fragmentation and alienation of resource lands.

**Clause 4.2B – Erection Of A Dwelling On Land In Certain Rural, Residential And Environmental Protection Zones**

The site is located in the RU1 zone and the lot was created before 22 February 2014 with an area of at least 4,000m<sup>2</sup> on which a dwelling was permissible under the previous Local Environmental Plan.

The site therefore holds a dwelling entitlement.

**Clause 7.1 – Acid Sulfate Soils**

The subject land is mapped as containing potential Class 3 acid sulfate soils. The proposed development is not anticipated to entail excavations below 1 metres and therefore it is not expected that acid sulfate soils would be encountered during works.

**Clause 7.3 – Flood Planning**

The proposed development is located on land mapped as Flood Prone land and the land is below the flood planning level.

Developments on land identified as flood prone are to demonstrate minimal flood risk to life and property, and to achieve development which is compatible with the flood hazard to avoid significant adverse impacts on the flood behaviour in the environment.

The flood category for the development area is High Hazard Floodway. The current driveway connects the site to Newline Road. The driveway is not constructed above the flood planning level, which is required for an access way that can be used in the event of a flood. As such, the proposed development does not have suitable flood free access from the site.

The proposed siting for the development is therefore not supported. In the event of a flood, the development will result in unacceptable risk to life and property. The proposed dwelling is not considered appropriately located on the site to manage risk to life from flood, and avoid unsustainable social and economic costs to the community as a consequence of flood. and will be subject to dangerous flood impacts.

**Clause 7.6 – Essential Services**

The subject site is serviced by reticulated water and electricity. The applicant has noted the subject site has an existing OSMS servicing the existing shed and the system will be connected to the proposed dwelling in due course. The subject land also maintains direct access to Newline Road, meeting 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 DCP is applicable to the proposed development and has been assessed below.

**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 proposed development could be undertaken, subject to conditions of consent, without resulting in adverse impact to ASS. In this regard the development is consistent with the objective and requirements of the DCP.

**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.

**Chapter B5 – Flooding**

The subject land is mapped as being within the Flood Planning Area. Chapter B5 outlines objectives to inform and assist with determining development suitability on land designated in particular flood hazards. All new developments are required to address the development control within this part of the DCP to mitigate risks and considered suitability.

Chapter B.5 of the DCP 2014 provides more detailed provisions to inform the assessment against the LEP 2013 provisions. The DCP chapter was amended in December 2020 which included performance based solutions for certain development in flood prone areas. The amended chapter states that dwelling houses on land categorised as High Hazard Floodway can be considered, where the newly adopted performance based criteria in the DCP 2014 can be addressed.

The area has been classified as flood prone land and is located within a High Hazard Floodway. Further, the existing flood mound is below the flood planning level on the subject site.

The current flood levels applicable to the site are:

- Flood Planning Level - 6.0m AHD
- 1% AEP (Current day) – 4.7m AHD
- Probable Maximum Flood – 8.9m AHD

The proposed development includes finished floor level (FFL) as follows:

- Existing Flood Mound – 4.15m AHD
- Dwelling – 6.55m AHD

The applicant provided a Flood Impact Assessment for the proposal that included flood modelling for a range of flood events on the existing earth mound. Conclusions from the impact assessment stated *'the structural integrity of the mound and proposed dwelling is expected to be unaffected by flooding for all but extreme events such as the PMF'*.

The DA was assessed by Council's Development Engineering Section, which included an assessment of the proposal against the recently adopted performance based solutions listed in Chapter B5.D of the Port Stephens Council Development Control Plan (DCP).

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

16-2020-357-1

Chapter B5.18 states that evacuation access to an area free of risk from flooding must be provided. The subject land is located central to the flood affected area and it is therefore impossible to provide access to flood free areas offsite. The proponent has also not provided a flood refuge as part of the proposal.

Chapter B5.19 requires development to address the risk to property at the expected velocities and levels during various flood events. The existing flood mound is currently located below the 1% AEP level, which will result in the inundation of the ground floor area and any stored items below the dwelling (including vehicles).

Chapter B5.20 requires the application to be compatible with the flood hazard category of the site. The site is located within a High Hazard Floodway with high velocity rates. As the site does not have access to flood free areas, the development will become isolated during large flood events.

The development is not therefore consistent with the application of performance based solutions outlined in B5.D of the DCP. Due to the unacceptable safety implications posed by the flood constraints of the site and the inability of the applicant to resolve these flooding issues to an acceptable engineering standard, the application is recommended for refusal.

**Chapter B8 – Road Network and Parking**

The proposal includes a 4 bedroom dwelling, the DCP requires 2 car spaces to be provided to support the development on the site. There is a suitable car spaces available on the site. Should the development be supported, there is adequate car spaces available for the additional development on the site.

**Chapter C – Development Types**

The proposed development comprise of a single dwelling therefore the provisions of Chapter C4 are applicable.

**Chapter D4 - Dwelling House, Secondary Dwelling, or Dual Occupancy**Building height

There is no maximum building limit under the LEP, as such the maximum limit of 8m applies to the site. The proposal is for a single storey dwelling with a maximum proposed height of 7.9m, to be constructed on top of a flood mound. The dwelling does not exceed the maximum building height under the DCP 2014.

Setbacks

The proposal is appropriately setback from all the side and rear boundary setbacks. The proposal is located to the rear of the existing metal shed. The proposal does not detract from the rural character of the area.

Streetscape and privacy

The development is appropriately setback to ensure the rural character and streetscape and privacy of the area is maintained.

Private open space

The development is proposed on a rural property and is adequately setback to facilitate ample private open space for the proposed dwelling.

Landscaping

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

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The subject site is a rural property with sufficient space for landscaping and plantings. There are not matters of privacy which would require landscape screening to be planted. The subject site has sufficient space to achieve landscaping requirements.

Site Facilities and Services

The proposed dwelling location and flood mound area create suitable area to support facilities and services such as waste storage and clothes drying. As mentioned above, the existing OSWS system will be connected to the new dwelling.

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

There are no regulations that apply to the proposal.

***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

There would be beneficial impacts as a result of the development. The proposal will result in a dwelling on the site, increasing the housing stock and diversity of the area. The erection of a lawful dwelling house at the site would also ensure the continuation of a local business (animal training establishment). The construction of the development would result in employment opportunities during and after the development of the structures and having a monetary contribution to the local area.

Impacts on the Built Environment

The proposed development would not cause harm to the existing character. The proposed dwelling is to be erected on a flood mound, given the area is characterised by rural residential development, the dwelling would be built at a similar height to the surrounding properties. The dwelling has been designed in a manner to be consistent with the rural character of the area. Overall, the development is not considered likely to result in adverse impacts to the built environment.

Impacts on the Natural Environment

The proposed development is not considered to be compatible with the flood risk associated with the land and may result in an unacceptable impact to life. The proposed development is located within close proximity to the Williams River to the west. The development is not considered to be a suitable use of the site with regard to the environment and does not align with Councils endorsed policies.

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

The subject site is zoned RU1 – Primary Production, whereby the proposed dwelling is a permissible land use under the zoning. The site is identified as high hazard flood-way and the proposed development and use does not align or address all of the necessary requirements under current Council endorsed policy and legislation. Due to the identified flood hazard, the proposal has been assessed as not being a suitable outcome for the site.

**s4.15(1)(d) – Any submissions made in accordance with this act or the regulations**

The application was notified in accordance with the provisions of the Port Stephens Council Community Participation Plan. One (1) submission was received with relation to the subject development proposal. The matters raised in this submission have been detailed in the table below.

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

16-2020-357-1

No.	Author of submission	Comment	Council response
1		Siting of the proposed development	The proposal meets setback requirements outlined in the Port Stephens DCP.
		Loss of amenity and conflict arising between properties	The proposal is permissible under LEP 2013. The proposed dwelling is set approximately 120m from the existing dwelling located opposite Newline Road and it is considered that this will limit any significant amenity issues. The land to the north currently only contains a small shed and cattle yards.
		Flooding Risk	Council Development Engineers and Development Planners have assessed the proposal against relevant environmental planning instruments, development standards and policies. In this instance, the proposal has not been supported on the grounds of flood risk.

**s4.15(1)(e) – The public interest**

The proposed development is not considered to be in the public interest as the proposed development is not consistent or suitable with the flood category applicable to the subject site. The impact and increase in risk to life and property as a result of the development in a significant flood event is not supportable in this instance.

**s7.11 – Contribution towards provision or improvement of amenities or services (developer contributions)**

Nil.

**DETERMINATION**

The application is recommended to be refused by the elected Council.

ISAAC LANCASTER  
DEVELOPMENT PLANNER



**SCHEDULE 1 – REASONS FOR REFUSAL**

The application is recommended for refusal on the following grounds:

1. The proposed development fails to satisfy Clause 7.3 - Flood Planning of the Port Stephens Local Environmental Plan 2013 as the development does not demonstrate that it is compatible with the high hazard floodway category of the site, including minimising the risk to life associated with the flood hazard (s4.15(1)(a)(i) EP&A Act);
2. The development does not comply with the controls contained within Chapter B5 Flooding of the Port Stephens Development Control Plan (s4.15(1)(a)(iii) EP&A Act);
3. The proposed development does not demonstrate the site is suitable for the proposed site given the flood category of the land s4.15(1)(c) of the EP&A Act); and
4. The proposed development is not considered to be in the public interest as the development is inconsistent with the adopted principles and strategies which seek to promote the appropriate development of the land (s4.15(1)(e) EP&A Act).

**PORT STEPHENS COUNCIL**

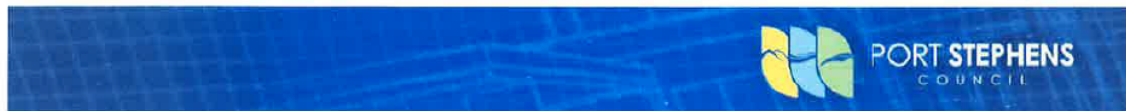
116 Adelaide Street  
Raymond Terrace NSW 2324

PO Box 42  
Raymond Terrace NSW 2324

Phone: 02 4980 0255  
Email: [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)

[www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)

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: Ryan Palmer  
Name: Sarah Smith  
Name: Glen Dunkley  
request that DA number: DA16-2020-357-1  
for DA description: Single storey dwelling.  
located at: 918 Newline Rd, Eagleton

be reported to Council for determination.

## REASON

Public interest as a review of development in areas deemed as floodway is taking place.

## SIGNATURE OF APPLICANT/S

Signature		Date	11 8 2020
Signature		Date	11 8 2020
Signature		Date	11 8 2020

## 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.

## MINUTES ORDINARY COUNCIL - 9 MARCH 2021

Councillor Paul Le Mottee returned to the meeting at 5:59pm prior to Item 2.

### ITEM NO. 2

FILE NO: 21/20001  
EDRMS NO: 16-2020-302-1

### DEVELOPMENT APPLICATION 16-2020-302-1 FOR A DUAL OCCUPANCY (1 EXISTING) AND FLOOD MOUND AT 814 HINTON ROAD, OSTERLEY (LOT 29 DP 871241)

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

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2020-302-1 for a dual occupancy (1 existing) and flood mound at 814 Hinton Road, Osterley (Lot 29 DP 871241) for the reasons contained in **(ATTACHMENT 3)**.
- 

### ORDINARY COUNCIL MEETING - 9 MARCH 2021 MOTION

046	<p><b>Councillor Chris Doohan</b> <b>Councillor Jaimie Abbott</b></p> <p>It was resolved that Council defer development application 16-2020-302-1 for a dual occupancy (1 existing) and flood mound at 814 Hinton Road, Osterley (Lot 29 DP 871241) for a period of 4 weeks to allow for a site inspection.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

## **BACKGROUND**

The purpose of this report is to present a Development Application (DA) 16-2020-302-1 for a dual occupancy (1 existing) and flood mound at 814 Hinton Road, Osterley (Lot 29 DP 871241) to Council for determination.

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 Mayor Ryan Palmer, Councillor Paul Le Mottee and Councillor Glen Dunkley (**ATTACHMENT 4**).

### Proposal

The DA seeks approval for a detached dual occupancy development, which includes the construction of an additional single level dwelling and a flood mound (on which the dwelling is to be located). A dwelling already exists on the site.

The additional dwelling is to be located to the rear (south west) of the site, in close proximity to the Hunter River.

The additional dwelling is to comprise of 5 bedrooms, a kitchen and open plan living areas.

The flood mound, on which the dwelling is to be located, will be constructed to a height of 6.165m AHD, which is 0.5m to 1.8m above existing ground level. The pad level of the mound will be above the 1% AEP (Current day) but not the Flood Planning Level (FPL) and will require 1,161m<sup>3</sup> of fill.

### Site Description and History

The site is a regular shape, with an access handle providing access from Hinton Road. The site contains an existing dwelling located in the north western portion of the site, with an ancillary shed located in the south west corner of the site.

The site is flood prone with varying flood risk categories applying to the site. The northern most portion of the site (where the existing dwelling is located) is flood free. Towards the centre of the site, the flood category increases to High Hazard Flood Fringe and High Hazard Flood Storage. The rear of the site, where the proposed dwelling is to be located is identified as High Hazard Floodway.

### Key issues

The key issue identified during assessment relates to the fact that the DA seeks to construct an additional dwelling on a portion of the site characterised as High Hazard Floodway. A detailed assessment of the DA is contained within the planners assessment report (**ATTACHMENT 2**).

Flooding impacts

The DA is inconsistent with both the Port Stephens Local Environmental Plan (LEP 2013) and the Development Control Plan 2014 (DCP 2014). The DA seeks to construct an additional dwelling on a portion of the site, which is identified as High Hazard Floodway.

The current flood levels applicable to the site are:

- Flood Planning Level (FPL) - 6.5m AHD
- 1% AEP (Current day) - 5.0 – 5.6m AHD
- Probable Maximum Flood (PMF) - 8.9m AHD

The DA includes the following levels:

- Pad level - 6.165m AHD
- Dwelling Finished Floor Level (FFL) - 6.55m AHD

Clause 7.3(3) of LEP 2013 states that development must be compatible with the flood hazard of the land and that it must not have a significant, adverse effect on flood behaviour. The DA being located in a High Hazard Floodway is not considered to be compatible with the flood hazard category noting the unnecessary risk to life and property. There are alternate locations on the site, which are affected by lesser flood categories that would have a reduced risk to life and property. In addition, the DA does not provide an appropriate flood refuge in a PMF or egress in a major flooding event, which increases the risk to life and potentially places an unreasonable and unnecessary strain upon emergency services in a major flooding event.

Chapter B.5 of the DCP 2014 provides controls for development on flood prone land. DCP 2014 states that residential development (other than a dwelling house) on land categorised as High Hazard Floodway is an unsuitable land use. As the DA would create a dual occupancy development with the inclusion of an additional dwelling within the High Hazard Floodway, the proposal is deemed unsuitable.

Further, Chapter B5.1 of the DCP 2014 states that any proposal must be located on the land with the lowest flood risk. Given there are alternative areas of the site characterised by a lower flood category, the proposal is deemed unsuitable.

During the assessment of the DA, Council officers requested that the proposal be amended to relocate the additional dwelling to a more suitable area of the site, within a flood free area or within a lesser flood hazard category. In response, the applicant provided a flood report and proposed to raise the flood mound to the PMF level (8.9m AHD) and the driveway access to the dwelling to 5.1m AHD (current 5% AEP). It is considered that raising the flood mound to 8.9m AHD would require significant earthworks and would not address the DCP provisions as described above. Further, the proposed driveway level would not achieve the required height for egress as stipulated by DCP 2014, which requires access to be located at the current day 1% AEP.

With consideration to the above, the DA cannot be supported. The DA is deemed to be inconsistent with the provisions of both LEP 2013 and DCP 2014.

### Suitability of the Site

As described above, the area on which the additional dwelling is to be located is not suitable given it is categorised as High Hazard Floodway. There are alternate locations on the site, which are affected by lesser flood categories that would have a reduced risk to life and property.

### Conclusion

Due to the proposed location of the dwelling and flood mound in a High Hazard Floodway, the DA is inconsistent with the relevant legislation and policies, including:

- Environmental Planning and Assessment Act 1979
- Port Stephens LEP 2013 – Clause 7.3 Flood Planning
- Port Stephens DCP 2014 – Chapter B5 Flooding

Based on a detailed assessment of the DA, and with consideration to the inconsistencies identified with LEP 2013 and DCP 2013, the DA is recommended for refusal.

## **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
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 be potentially challenged in the Land and Environment Court. Defending Council's determination could have financial implications.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

The DA is inconsistent with the relevant planning instruments, including the EP&A Act, LEP 2013 and DCP 2014.

Detailed assessments against these requirements are contained within the Planners Assessment Report provided at **(ATTACHMENT 2)**.

<b>Risk</b>	<b><u><a href="#">Risk Ranking</a></u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
If the DA is approved, a third party may appeal the determination.	Medium	Determine the DA in line with the recommendations.	Yes
If the DA is approved, there is a risk that Council will be held liable for damage or consequences.	Medium	Determine the DA in line with the recommendations.	Yes
If the DA is approved, people and property may be exposed to an unacceptable level of risk.	Medium - High	Determine the DA in line with the recommendations.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Outside of the flood related issues associated with the DA, it is considered that the DA will have a positive economic impact on the local area and the broader community through the creation of employment and economic activity during the construction phase.

However, the location of the additional dwelling within a High Hazard Floodway presents an unacceptable and unreasonable risk to life and property and is therefore recommended for refusal for the reasons outlined in **(ATTACHMENT 3)**.

**CONSULTATION**Internal

Consultation was undertaken with internal technical staff to facilitate the assessment of the DA including:

- Building and Developer Relations
- Development Engineering

- Strategic Planning (Development Contributions)
- Environmental Health
- Flood Advisory Review Panel.

The referral comments provided by these officers were considered as part of the detailed assessment and are discussed within the Planners Assessment Report **(ATTACHMENT 2)**. The DA is supported by all internal referrals, other than Development Engineering and Flood Advisory Review Panel as per the assessment of the flooding impact subject to the site.

#### External

The DA was referred to the Department of Planning, Industry and Environment - Biodiversity Conservation Division (BCD) given the additional dwelling is to be located in close proximity to the Hunter River. No final comments have been received by BCD.

#### Notification

In accordance with the Port Stephens Community Participation Plan, the DA was notified for 14 days from 10 June to 24 June 2020. No public submissions were received.

### **OPTIONS**

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

### **ATTACHMENTS**

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

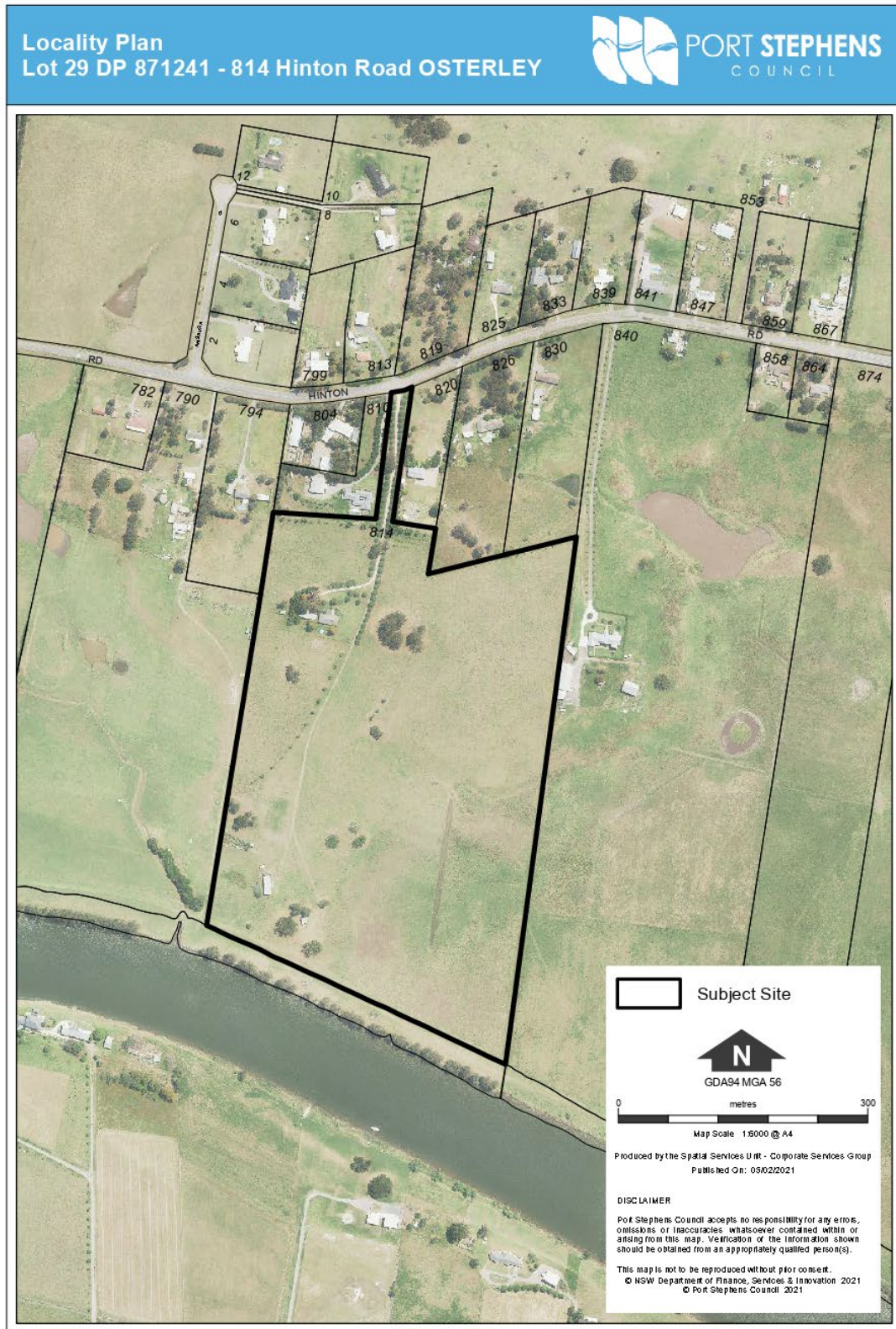
### **COUNCILLORS ROOM**

- 1) Development Plans.

### **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

<b>Application Number</b>	16-2020-302-1
<b>Development Description</b>	Dual occupancy (one existing) and flood mound
<b>Applicant</b>	COMPLETE PLANNING SOLUTIONS
<b>Land owner</b>	Mr R J & Mrs M S Vetter
<b>Date of Lodgement</b>	03/06/2020
<b>Value of Works</b>	\$559,135.00
<b>Submissions</b>	Nil

### PROPERTY DETAILS

<b>Property Address</b>	814 Hinton Road OSTERLEY
<b>Lot and DP</b>	LOT: 29 DP: 871241
<b>88B Restrictions on Title</b>	Restriction to user – no separate parcel of land shall be created by way of subdivision or by excision from the land burdened.
<b>Current Use</b>	Dwelling and shed
<b>Zoning</b>	RU1 PRIMARY PRODUCTION
<b>Site Constraints</b>	Bushfire prone land OEH Referral – HV Flood Mitigation Scheme – Levee Acid Sulfate Soils – Class 3 and 5 Koala Habitat Planning – Clear, preferred (river to the rear), Clear Buffer Endangered Ecological Communities – Swamp Sclerophyll forest High Environmental Value Mapping Biodiversity Values Map – rear eastern corner RAAF – high trigger 45m Bird Strike Group A Prime Agricultural Land – prime, local link (rear of site) Biophysical Strategic Agricultural Land – rear of site

	Flood prone land – High Hazard Flood Way, High Hazard Storage, Low Hazard Storage and Low Hazard Fringe
<b>State Environmental Planning Policies</b>	SEPP – Coastal Management – Coastal Zone Footprint SEPP No. 55 – Remediation of Land SEPP (Building Sustainability Index: BASIX) 2004 SEPP (Koala Habitat Protection) 2019

### **PROPOSAL**

The proposed development involves the construction of a dual occupancy (one existing dwelling) and a flood mound to be located to the south of the existing dwelling. The proposed dwelling is to be located to the rear of the site, in close proximity to the Hunter River.

The proposal includes a single storey dwelling with 5 bedrooms, kitchen, open-plan living areas, and various other living areas; and an attached garage.

The dwelling is to be constructed on the proposed mound that requires 1,161m<sup>3</sup> of fill, creating a pad level at RL 6.165m AHD.



**Figure 1** – Proposed dwelling

### **SITE DESCRIPTION**

The subject site is an irregular shape, with a driveway handle connecting to the street, likely as a result of previous subdivisions. The site is identified as 814 Hinton Road, Osterley, legally identified as Lot 29 DP 871241. The site has an existing dwelling located toward the north of the site and shed located in the southwest corner of the lot. The proposed development area for the additional dwelling is located to the rear (south) of the site which has a frontage to the Hunter River.

The site falls from the road frontage in the east towards the Hunter River in the west.

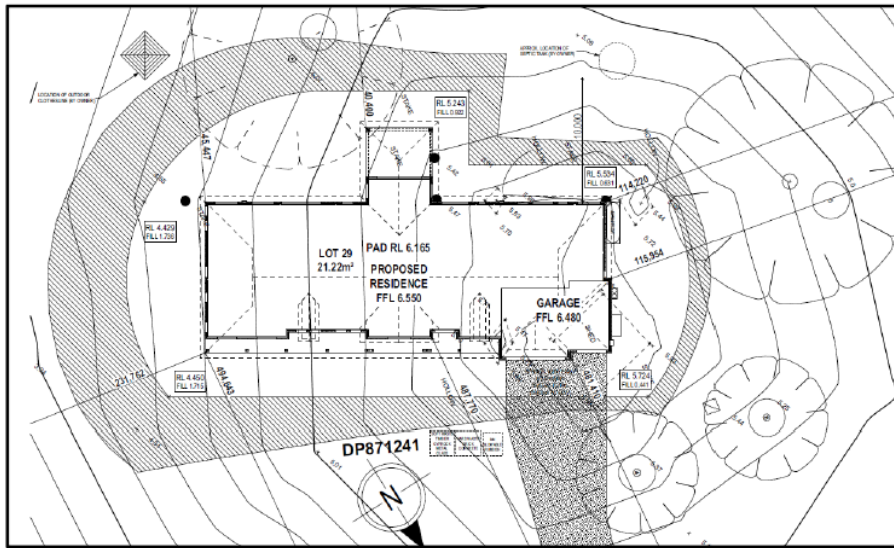


Figure 2 – Proposed dwelling and flood mound

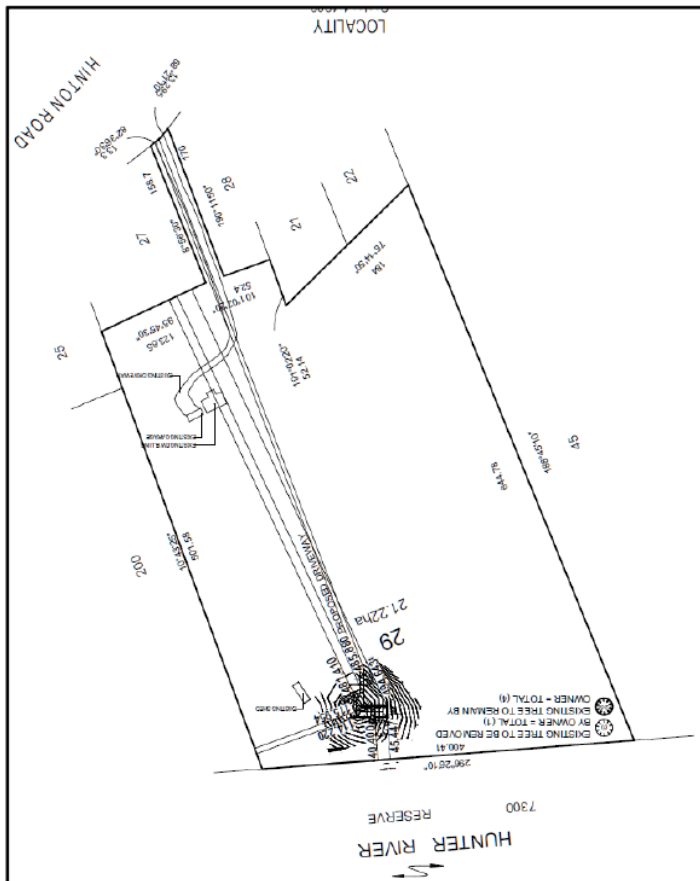
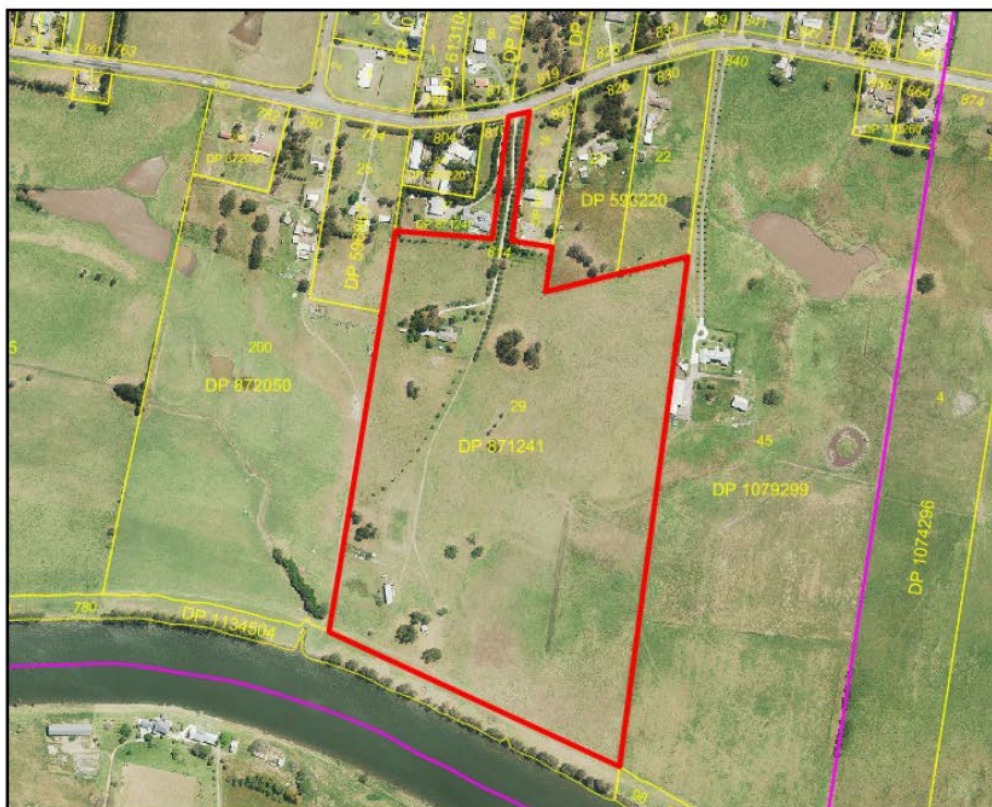


Figure 3 – Proposed site plan





**Figure 4 – GIS aerial image of the subject site**

## SITE INSPECTION

A site inspection was carried out on 21 October 2020. The subject site can be seen in images below:



**Image 1** – View south from the site of development to the river



**Image 2 – View of site that shows the tree to be retained**

**ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**

**Image 3** – View north toward the existing dwelling



**Image 4** – View of the existing gravel access way to the rear of the site

**PLANNING ASSESSMENT**

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

Internal

**Development Engineer** – The application was referred to Development Engineering Services for assessment of drainage and flooding matters. The site is identified as land categorised as flood prone lane, incorporating a range of flood hazard categories across the site, including high hazard flood fringe, high hazard flood storage and high hazard floodway, moving to the rear of the site.

The proposed development is located on a part of the site identified as high hazard floodway. As such the proposal for additional residential use on the site, is not supported in the current location. The proposal has been reviewed against the recently endorsed amended Chapter B5 Flooding of Port Stephens Development Control Plan 2014 (DCP 2014) and cannot be supported. Further information was requested to relocate the proposal to a lesser flood hazard impacted area of the subject site. The applicant did not wish to relocate the dwelling.

**Environmental Health** – The proposed waste water system design submitted with the application demonstrates a suitable solution is available through a S68 Onsite Sewer Management System application. The S68 application has been submitted with Council concurrently with the DA and has been supported subject to conditions of consent.

**Building Surveyor** – The proposed new dwelling was referred for consideration of Building Code of Australia (BCA) and building requirements. The proposed new dwelling is sufficiently separated from existing boundaries and the existing dwelling, achieving the BCA fire separation requirements. A CC has been lodged concurrently with the DA application. The proposal is supported subject to conditions.

**Flood Advisory Review Panel** – As mentioned above, the application was referred to the Flood Advisory Review Panel (FARP) following the recommendation of refusal from Council Development Engineers due to the flood hazard categorisation. The application was reviewed by FARP on two occasions, the initial review and once more following the endorsement of the amendments to the Chapter B5 Flooding DCP 2014. FARP did not support the proposed development in the proposed location as there are flood free areas that would be more suitable for the additional dwelling. An amendment to the design and siting of the development was requested

**ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**

from the applicant to align with the DCP requirements. The amended information was not provided as the applicant explained, the proposed location was the preferred and desired location for the additional dwelling on the site.

External

**Biodiversity Conservation Division** – Due to the sites location to the Hunter River, and the proposed dwelling being in close proximity to a flood levee, the application was referred to BCD. Further information was requested and has since been provided to the referral officer. No final comments have been received.

**Environmental Planning and Assessment Act 1979**

***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 (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) was enacted to ensure that dwellings are designed to utilise less potable water and to minimise greenhouse gas emissions by setting energy and water reduction targets for residential houses and units.

A valid BASIX certificate has been submitted with the development application which demonstrates that the water, thermal comfort and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP BASIX.

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 dual occupancy 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) 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 Policy commenced on 1 March 2020.

The site is located in an area mapped mainly cleared, the rear of the site along the boundary to the waterfront is mapped and 50m buffer over cleared. The development application does not include the removal of natural vegetation for koala habitat. The development is not considered to exacerbate impact to the koala habitat or decline in koala population.

State Environmental Planning Policy Coastal Management 2018



**ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**

The subject land is located within the Coastal Environmental Area and Coastal Use Area. The subject is located with the Hunter River to the rear which triggers the consideration of the Coastal Management SEPP.

As per Clause 13 of the SEPP, development consent must not be granted for development within the coastal environment area unless the consent authority has considered whether the development will cause impact to the integrity of the biophysical and ecological environment, the values and natural coastal processes, marine vegetation, native vegetation and fauna and existing public open space and access to and along the foreshore.

The proposed development is sufficiently setback from the Hunter River waterbody, the development is located adjacent to the flood levee located on the site. The levee separates the subject site from the Hunter River, the proposed development is situated more than 10m from the levee bank and will not likely result in any adverse impacts.

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.

The proposed dwelling is located to rear of the site which has a frontage to the Hunter River. The siting of the development raises concerns with the potential to impact on the ecological environment of the Hunter River. The proposed residential use of the site, in conjunction with the existing flood risk as a result of the Hunter River, presents as a potential risk to the ecological environment in the event of the dwelling being destroyed in flood waters.

Clause 15 of the SEPP requires consideration as to whether the development would increase the risk of coastal hazards. The proposed development is not likely to increase risk to coastal hazards.

There is associated risk with the dwelling being destroyed by flooding, as discussed above. The proposed dwelling and mound, in a significant flooding event may result in the destruction of the mound and structure. In the event of the development being destroyed by flood waters materials would be washed down stream affecting surrounding properties and risk impacting the ecological environment of the river network. If the proposal were amended to be further setback from the flood hazards the potential impacts would be minimised.

Port Stephens Local Environmental Plan 2013 (LEP)

**Clause 2.3 – Zone Objectives and Land Use Table**

The proposed development is defined as a dual occupancy which is permissible with consent in the RU1 Primary production zone. The development is proposed in a manner which does not reduce the primary production land available and accords with the zone objectives.

**Clause 7.1 – Acid Sulfate Soils**

The subject land is mapped as containing potential Class 3 and 5 acid sulfate soils. The proposed development is not anticipated to entail excavations below 1 metre and therefore it is not expected that acid sulfate soils would be encountered during works.



**ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.****Clause 7.2 – Earthworks**

The application proposes earthworks on the site to construct the mound for the dwelling to be located above the flood planning level. The mound requires 1,161m<sup>3</sup> of fill to be brought onto the site. The proposed mound and fill is located within the high hazard flood area and as such would require appropriate construction and structural certification.

The earthworks are not anticipated to result in adverse impacts to the soil stability, drainage, future development of the area, of the amenity of adjoining properties' or waterways. The material being brought onto the site is required to be quality clean fill to minimise effect and disturbance in the surrounding area. Due to the flood hazard category of the site, the fill is required to be constructed and certified to achieve structural requirements.

**Clause 7.3 – Flood Planning**

The proposed development is located on land mapped as Flood Prone land and the land is below the flood planning level.

Developments on land identified as flood prone are to demonstrate minimal flood risk to life and property, and to achieve development which is compatible with the flood hazard to avoid significant adverse impacts on the flood behaviour in the environment.

The flood category for the development area is high hazard flood way, noting the flood hazard lessens to the north. The existing dwelling is not within mapped flood area. The current driveway is not constructed above the flood planning level, which is required for an access way that can be used in the event of a flood. As such, the proposed development does not have suitable flood free access from the site. Additionally, the proposed area for the development is located within close proximity to the Hunter River, which during significant storm and rain fall events is subject to flooding.

In the event of a flood, the development will result in unacceptable risk to life and property. The proposed dwelling is not considered appropriately located on the site. It is noted there are other locations on the site outside of the high hazard category which would be more suitable for the proposed development.

**Clause 7.6 – Essential Services**

The subject site is serviced by reticulated water and electricity. The applicant has noted the subject site has an existing OSMS servicing the existing dwelling; an additional system would be required for the proposed dwelling. The subject land also maintains direct access to Hinton Road, meeting the requirements of this clause.

**Clause 7.15 – Dual occupancies on land in certain rural and environment protection zones**

The proposed development is located on land in the RU1 Primary Production zone. Development consent cannot be granted unless the dual occupancy is designed and sited to give the appearance of being a single development; any dwellings are able to use shared facilities such as common driveway and essential services; and any ancillary structures are to be situated within close proximity to the dwellings. Further, any dwellings are to be designed and sited to avoid potential and adverse environmental impacts.

The proposed dual occupancy gives the appearance of one development as the new dwelling is located behind the exiting dwelling; and both dwellings can utilise the same driveway to access the surrounding road network. However, with consideration of the flood category applicable to the site, the dwelling is not considered to be sited to avoid potential adverse environmental impacts.

**ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.*****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 DCP is applicable to the proposed development and has been assessed below.

**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 proposed development could be undertaken, subject to conditions of consent, without resulting in adverse impact to ASS. In this regard the development is consistent with the objective and requirements of the DCP.

**Earthworks**

As discussed above, the proposed development involves the construction of a flood mound to create a level area for the development. The impacts of the proposed earthworks can be mitigated through conditions of consent if approved. 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.

**Chapter B5 – Flooding**

The subject land is mapped as being within the Flood Planning Area. Chapter B5 outlines objectives to inform and assist with determining development suitability on land designated in particular flood hazards. All new development are required to address the development control within this part of the DCP to mitigate risks and considered suitability.

The proposed developed is located on an area of the site identified as high hazard flood way category, B5 considers residential accommodation (other than a dwelling house) as an unsuitable land use on flood prone land mapped as high hazard floodway. As the proposed development is defined as residential accommodation and the subject hazard category is high hazard floodway, the proposed development is not considered to be a suitable land use in accordance with B5. Further, as the proposal includes an additional dwelling (creating a dual occupancy), a performance based solution cannot be prepared. The risk of the new development in the proposed development will result in risk to life and property and is considered unsuitable.

Further, as there are multiple flood hazards identified on the site, B5.1 states proposed development must be located on the land with the lowest flood risk. This has been raised with the applicant and amended design requested; however no amended design has been provided to Councils officers for assessment. Thus, the proposal fails to accord with control B5.1.

Developments in flood prone areas are required to meet the minimum finished floor level (FFL) as specified in figure BJ. The below table provides an outline of the required FFL under the DCP, the FFLs provided in the flood certificate for the site and the proposed FFL for the development.

The finished floor levels proposed for the development meet or exceed the minimum FFL required under figure BJ and the flood certificate.

**ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**

<b>Required FFL</b>	<b>Flood Certificate</b>	<b>Proposed FFL</b>
Habitable rooms – flood planning level	6.5mAHD	6.50mAHD
Non Habitable rooms – adaptable minimum floor level	5.8m – 6.4m	6.55m AHD
Flood refuge – probable maximum flood level (where evacuation egress from residential accommodation cannot be achieved via a route that is flood free , see B5.14)	Only required where flood free access cannot be achieved. Flood free access is to be at current day 1% AEP event – 5.5m AHD	Proposed driveway increase to 5.1m AHD.

The Flood report prepared and provided to Council to further support the proposal. The report makes alternative designs including raising the flood mound to the PMF level (8.9m AHD) and raise the flood mound to comply with the CP 2014 requirements.

Flood free access is required to achieve the current day 1% AEP, being 5.5m AHD. The proposed driveway does not achieved the DCP provisions. In the event the application is supported, further information to ensure flood free access is achieved to the required flood level would need to be submitted. Alternatively, a flood refuge would need to be provided as per the DCP requirements.

The proposed raising of the mound would require significant earthworks while not addressing the DCP provisions, further proposed driveway access is required to be increased to achieve the current day 1% AEP.

The development application cannot be supported noting it provide residential development in a high hazard floodway, which is inconsistent with the DCP 2014. Further, there are more suitable sites on the property sited on areas unaffected by flooding.

The proposed development in its current location results in a risk to life and property.

#### **Chapter B8 – Road Network and Parking**

The proposal includes a 4 bedroom dwelling and the DCP requires 2 car spaces to be provided to support the development on the site. There are a suitable car spaces available on the site.

#### **Chapter C – Development Types**

The proposed development is a dual occupancy therefore the provisions of chapter C4 are applicable.

#### **Chapter C4 - Dwelling House, Secondary Dwelling, or Dual Occupancy**

##### Building height

There is no maximum building limit under the LEP, as such the maximum limit of 8m applies to the site. The proposal is for a single storey dwelling with a maximum proposed height of 6.2m, to be constructed on top of a flood mound.

**ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**Setbacks

The proposal is appropriately setback from the side and rear boundary setbacks. The proposal is located to the rear of the existing dwelling. The proposal does not detract from the rural character of the area.

Streetscape and privacy

The development is appropriately setback to ensure the rural character and streetscape and privacy of the area.

Private open space

The development is proposed on a rural property and is adequately setback to facilitate ample private open space for each of the dwellings on the site.

Landscaping

The subject site is a rural property the area has sufficient space for landscaping and plantings. There are not matters of privacy to amenities impacts which would require landscape screening to be planted. The subject site has sufficient space to achieve landscaping requirements.

Site Facilities and Services

The proposed dwelling location and flood mound create a suitable area to support facilities and services such as waste storage and clothes drying. As mentioned above, an OSWS application has been lodged concurrently with the DA the proposed location and the Wastewater report demonstrates a suitable outcome for the subject property.

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

There are no regulations that apply to the proposal.

***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 proposal will result in a dual occupancy (detached and one existing) development on the site, increasing the housing stock and diversity of the area. The construction of the development would result in employment opportunities during and after the development of the structures and have a monetary contribution to the local area.

Impacts on the Built Environment

The proposed dwelling is to be erected on a flood mound. The site slopes to the rear and the dwelling would therefore not adversely impact the character of the area. The dwelling has been designed in a manner to be consistent with the rural character of the area. Overall, the development is not considered likely to result in adverse impacts to the built environment.

Impacts on the Natural Environment

The proposed development is not considered to be compatible with the flood risk associated with the land and may result in an unacceptable impact to life. The proposed development is located within close proximity to the river to the south. The development is not considered to be a suitable use of the site with regard to the natural environment and does not align with Councils endorsed policies.

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

The proposal seeks to erect a new dwelling in a high hazard flood area on the site. The proposed development would be subject to significant flood waters moving at a velocity which would create

**ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**

a risk to life and property. Further, there are areas on the site with a lessened flood hazard, where the risk to life and property is reduced.

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

The application was exhibited from 10 June to 24 June 2020 in accordance with the provisions of the Port Stephens Council Community Participation Plan. No submissions were received with relation to the subject development proposal.

***Section 4.15(1)(e) the public interest***

The proposed development is not considered to be in the public interest as the proposed development for an additional dwelling within a High Hazard Floodway is not consistent or suitable with the flood category applicable to the subject site. The impact and increase in risk to life and property as a result of the development in a significant flood event is not supportable in this instance.

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

The application would result in an additional dwelling on the subject site. Therefore s7.11 contributions are applicable pursuant to Council's Local Infrastructure Contribution Plan.

Should the application be supported, a condition of consent is a condition for the payment of contributions will be required.

**DETERMINATION**

The application is recommended to be refused by the elected Council.

SOPHIE-MARIE EFKARPIDIS

DEVELOPMENT PLANNER

**SCHEDULE 1 – REASONS FOR REFUSAL**

The application is recommended for refusal on the following grounds:

1. The proposed development fails to satisfy Clause 7.3 - Flood Planning of the Port Stephens Local Environmental Plan 2013 as the development does not demonstrate that it is compatible with the high hazard floodway category of the site, including minimising the risk to life associated with the flood hazard (s4.15(1)(a)(i) EP&A Act);
2. The development does not comply with the controls contained within Chapter B5 Flooding of the Port Stephens Development Control Plan (s4.15(1)(a)(iii) EP&A Act);
3. The proposed development does not demonstrate the site is suitable for the proposed site given the flood category of the land s4.15(1)(c) of the EP&A Act); and
4. The proposed development is not considered to be in the public interest as the development is inconsistent with the adopted principles and strategies which seek to promote the appropriate development of the land (s4.15(1)(e) EP&A Act).

**PORT STEPHENS COUNCIL**

116 Adelaide Street  
Raymond Terrace NSW 2324

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Phone: 02 4980 0255  
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## 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:	Mayor Ryan Palmer
Name:	Cr Paul Le Mottee
Name:	Cr Glen Dunkley
request that DA number:	16-2020-302-1
for DA description:	Dual occupancy (one existing) and flood mound
located at:	814 Hinton Road, Osterly

be reported to Council for determination.

### REASON

Public interest

### SIGNATURE OF APPLICANT/S

Signature		Date	11 / 2 / 21
Signature		Date	23 / 2 / 21
Signature		Date	23 / 2 / 21

### 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.

## MINUTES ORDINARY COUNCIL - 9 MARCH 2021

Mayor Ryan Palmer vacated the Chair at 6:03pm prior to Item 3. The Deputy Mayor, Cr Paul Le Mottee chaired the meeting.

### ITEM NO. 3

FILE NO: 21/19711  
EDRMS NO: 16-2020-477-1

### DEVELOPMENT APPLICATION 16-2020-477-1 FOR 2 SEMI-DETACHED DWELLINGS & A 1 INTO 2 LOT TORRENS TITLE SUBDIVISION AT 6 BEENONG CLOSE, NELSON BAY (LOT 196 DP 9165)

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

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2020-477-1 for 2 semi-detached dwellings and a 1 into 2 lot Torrens title subdivision at 6 Beenong Close, Nelson Bay (Lot 196 DP 9165) subject to the conditions contained in **(ATTACHMENT 3)**.

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### ORDINARY COUNCIL MEETING - 9 MARCH 2021 MOTION

<b>047</b>	<b>Councillor Jaimie Abbott</b> <b>Councillor Giacomo Arnott</b>  It was resolved that Council defer development application 16-2020-477-1 for 2 semi-detached dwellings and a 1 into 2 lot Torrens title subdivision at 6 Beenong Close, Nelson Bay (Lot 196 DP 9165) for inspection.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Paul Le Mottee, Sarah Smith and Steve Tucker.

Those against the Motion: Cr Ken Jordan.

The motion was carried.

### BACKGROUND

The purpose of this report is to present a Development Application (DA) 16-2020-477-1 for 2 semi-detached dwellings and a 1 into 2 lot Torrens title subdivision at 6 Beenong Close, Nelson Bay (Lot 196 DP 9165) to Council for determination.



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 Councillor Sarah Smith, Councillor Jaimie Abbott and Councillor Chris Doohan (**ATTACHMENT 4**).

The site is zoned R2 Low Density Residential and is currently vacant. A locality plan is provided at (**ATTACHMENT 1**).

### Proposal

The DA proposes 2 x 2 storey semi-detached dwellings, sharing a party wall and a Torrens title subdivision (1 into 2 lots).

Each dwelling will comprise of living areas on the ground level and 4 bedrooms on the upper level. Patios have been provided to the rear of the building.

The DA seeks to create 2 new allotments (Lot 1961 and 1962) with the following lot areas:

<b>Proposed Lot No.</b>	<b>Proposed Lot Area</b>
Lot 1961	327m <sup>2</sup>
Lot 1962	314m <sup>2</sup>

The DA comprises a stepped design that conforms to the narrowing of the site towards the rear boundary. The proposed dwellings have been offset from the northern boundary to provide sufficient setback from Council drainage infrastructure.

### Site Description and History

The site is located within R2 Low Density Residential zone.

The site has an area of 641m<sup>2</sup> and is currently vacant. The site is irregular in shape and reduces in width from 20m at the frontage to 6m at the rear boundary.

The site slopes from the Beenong Close frontage toward the west. Council owned stormwater infrastructure runs along the northern boundary of the site. The infrastructure is not currently protected by a drainage easement.

The site is located at the end of the Beenong Close cul-de-sac. The road reserve between the site and Beenong Close road is relatively wide, measuring 12m in width.

The site is surrounded by established low density residential development.

### Key Issues

The key issue identified throughout the assessment of the DA relates to the potential impacts on the amenity of adjoining residential land. A detailed assessment of the

development is contained in the Planners assessment report provided at **(ATTACHMENT 2)**.

### Amenity Impacts

During the initial notification of the DA, public submissions were received raising concerns including adverse impacts on the amenity of the area, solar access impacts, privacy impacts and a general concern that the DA was an overdevelopment of the site.

In response to the issues raised, an amended design was prepared by the applicant. The amended design included the following:

- Increased side setbacks along the southern boundary
- Reduction in the overall height of the development
- Plantings added along the southern boundary and to the rear of both proposed dwellings
- Inclusion of privacy screens
- Replacement of large windows with highlight windows along the side boundaries to protect the privacy of neighbouring properties.

The amended design is considered on merit to be acceptable despite some setback non-compliances with the DCP as discussed below.

### Setbacks

Part D6 Nelson Bay West of the DCP requires subjective front and side setbacks to ensure development 'provides continuity and consistency to the public domain'.

As shown in the table below, the DA does not comply with the side and front setback requirements.

**Table 1: DCP D6 setbacks and the proposed setbacks**

<b>Required</b>	<b>Proposed Dwelling 1 (south)</b>	<b>Proposed Dwelling 2 (north)</b>
Front minimum setback - 6m	Garage - 4.5m Upper storey - 3.2m	Garage - 3.5m Upper storey - 2.3m
Minimum side setback - 2m	Ground floor - 0.5m to 1.7m Upper storey - 2m	Ground floor - 1.6m Upper floor - 1.6m

The non-compliance with the front setback will not result in a visual impact to the public domain due to the road reserve which measures 12m from the road to the site boundary. Further, the design of the dwellings, with the inclusion of upper level balconies, provides a high level of articulation, which will not appear visually dominant in the streetscape.

The non-compliances with the side setback control results from the irregular shape of the site, coupled with the Council stormwater infrastructure located along the northern boundary.

At its closest point, the garage area of Dwelling 1 (south) is located 500mm from the southern boundary. However, due to the angled nature of the boundary and the associated stepped dwelling design, the non-compliance reduces towards the rear of the site and a significant portion of the Dwelling 1 is compliant with the control. The side setback non-compliance of Dwelling 1 is limited to the ground floor level and is consistent with setbacks seen on neighbouring properties. The inclusion of landscape screening in the side setback area, along with privacy mitigation measures to the windows facing south provides sufficient protections for the southern neighbouring property.

The side setback non-compliance of Dwelling 2 is considered to be minimal, being only 400mm at its closest point. Similarly, to the situation described above, due to the angled boundary and stepped dwelling design, a significant portion of the Dwelling 2 is compliant with the side setback control.

#### Solar Access

The DA complies with the solar access controls of the DCP, which requires a minimum of 3 hours of solar access to the private open space areas of the neighbouring properties during mid-winter. The solar access impacts are not made worse by the southern side setback non-compliance noting that the non-compliance is limited to the ground floor level. The upper level of the southern elevation, from which the shadows are cast, is compliant with the 2m side setback control. Further, it is noted that the DA is below the 9m height control applying to the site, thereby reducing the potential solar impacts.

Overall, 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.

### **COMMUNITY STRATEGIC PLAN**

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

### **FINANCIAL/RESOURCE IMPLICATIONS**

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

**MINUTES ORDINARY COUNCIL - 9 MARCH 2021**

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	Yes		
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 and the LEP 2013. Minor non-compliances with the DCP 2014 are proposed however, are considered acceptable as detailed within the Planners Assessment Report provided at **(ATTACHMENT 2)**.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
If the DA is approved, there is a risk that a third party may appeal the determination.	Medium	Adopt the recommendation.	Yes
If the DA is refused, there is a risk that the applicant may appeal the determination.	Medium	Adopt the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The DA represents a modern dual occupancy and will result in additional housing to service the needs of the community. The construction of the DA 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.

The DA will reinforce the residential nature of the locality and is characteristic of other developments in both the local and wider community.

The setback non-compliances have been considered with respect to the site constraints and are considered acceptable in this instance. The DA is therefore recommended for approval subject to the conditions of consent **(ATTACHMENT 3)**.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by both internal and external to Council, including the public notification process.

### Internal referral

Consultation was undertaken with Council's Development Service Engineers and Building Surveyors. Their 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)**.

### External agency

As the DA includes residential subdivision and the site is mapped as bushfire prone land, the DA was referred to the NSW Rural Fire Service (RFS). The RFS made no objection to the DA subject to conditions requiring compliance with the documentation 'Planning for Bushfire Protection 2019'.

### Public Consultation

In accordance with the provision of the Port Stephens Council Community Participation Plan, the DA was exhibited from 31 August 2020 to 14 September 2020. During this period 5 public submissions were received.

Following amendments to the DA, the DA was re-notified from 29 October 2020 to 12 November and from 21 December 2020 to 25 January 2021. During those periods 1 submission was received which stated that their initial concerns remained.

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) Proposed Conditions of Consent.
- 4) Call to Council Form.

**COUNCILLORS ROOM**

- 1) Development Plans.
- 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 DETAILS

<b>Application Number</b>	16-2020-477-1
<b>Development Description</b>	Semi-detached dwellings and Torrens Title Subdivision
<b>Applicant</b>	YOUR HOME DESIGNS PTY LTD
<b>Land owner</b>	Beenong6 Pty Ltd
<b>Date of Lodgement</b>	12/08/2020
<b>Value of Works</b>	\$710,000.00
<b>Submissions</b>	Five (including one resubmission during the second and third notification periods)

### PROPERTY DETAILS

<b>Property Address</b>	6 Beenong Close NELSON BAY
<b>Lot and DP</b>	LOT: 196 DP: 9165
<b>88B Restrictions on Title</b>	Unregistered easement along north-west boundary
<b>Current Use</b>	Vacant site
<b>Zoning</b>	R2 LOW DENSITY RESIDENTIAL
<b>Site Constraints</b>	<p>Bush fire prone land – Vegetation Category 1 and buffer</p> <p>Acid Sulfate Soil – Class 5</p> <p>Koala Habitat Planning Map – Clear</p> <p>Stormwater Drainage Requirement Area – Land Locked Catchment. For development 100 year ARI on site infiltration (if not 100 year ARI detention)</p> <p>Combined Corridor Map – Landscape Habitat Link</p> <p>Flood Prone Land – further investigation</p> <p>Height restriction 9m</p> <p>Minimum lot size 500m<sup>2</sup></p>
<b>State Environmental Planning Policies</b>	<p>SEPP No. 55 – Remediation of Land</p> <p>SEPP (Koala protection) 2019</p> <p>SEPP (Building Sustainability Index: BASIX) 2004</p>



ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2020-477-1

**PROPOSAL**

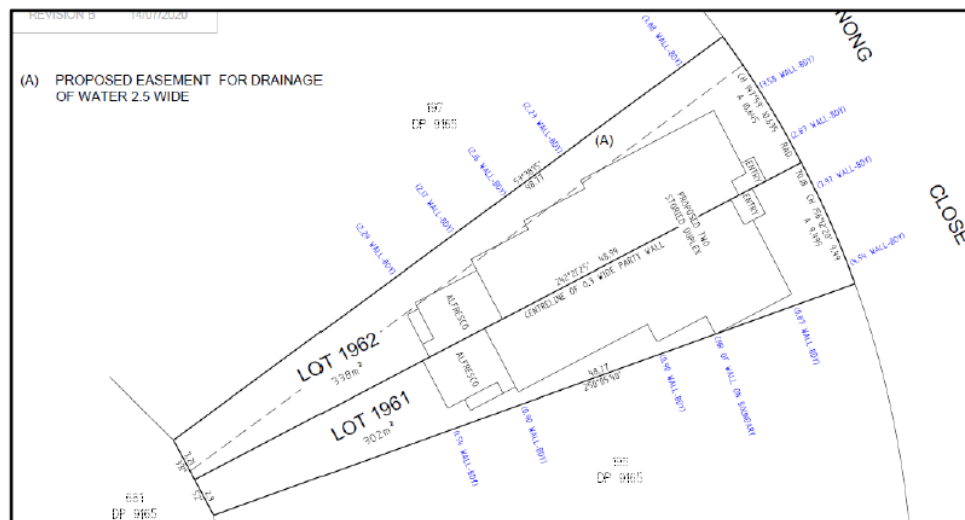
The application proposes semi-detached dwellings and one into two lot Torrens title subdivision. Each dwellings comprises of four bedrooms (including ensuite); open plan kitchen, living and dining area, rumpus area and laundry space. A lift is proposed for dwelling 1. Dwelling 1 also includes a double lock up garage, with dwelling 2 being provided with a single lock up garage and car port.



**Figure 1** – Proposed dual occupancy

The proposed subdivision will result in the creation of the following allotments (figure 2):

- Lot 1961 an area of 302m<sup>2</sup>; and
- Lot 1962 an area of 338m<sup>2</sup>



**Figure 2** – Proposed subdivision

**SITE DESCRIPTION**

## ITEM 3 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

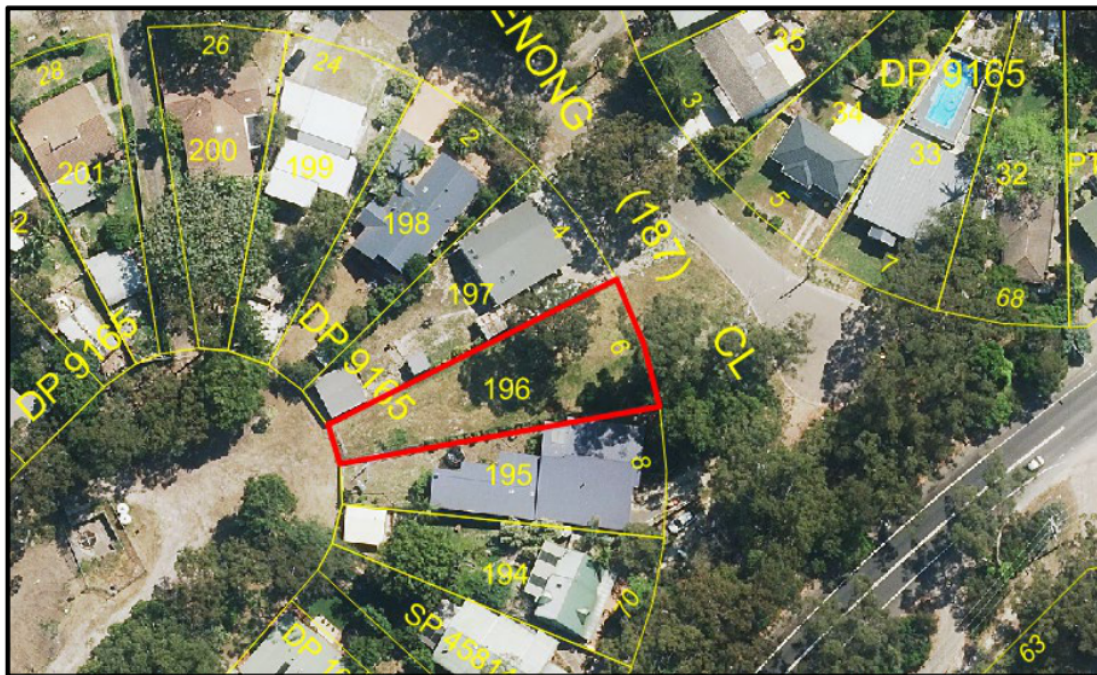
16-2020-477-1

The subject site is known as at 6 Beenong Close, Nelson Bay (**Figure 3**). The site is legally identified as Lot 196 DP 9165 and has an area of 683m<sup>2</sup>.

The site slopes away from the Beenong Close frontage towards the west.

The subject site is an irregular wedge shape which reduces in width toward the rear of the site; comprising a site frontage of width of 20m and a rear boundary width of 6m. Early investigations identified drainage infrastructure located along the northern boundary of the site.

The land has frontage to Beenong Close that ends in a cul-de-sac a short distance to the east. The road reserve between the subject site and Beenong Close has a relatively large road reserve measuring a minimum of 12m.



**Figure 3** – GIS aerial image of subject site

The site is surrounded by established low density residential development. An application similar to the subject application was lodged with Council earlier this year (16-2020-263-1) and rejected on lodgement. The matters raised upon lodgement, related to the unregistered easement along the north-west elevation of the site; which has been considered in the amended design within this application.

#### Site inspection

A site inspection was carried out on **30 September 2020**. The site is managed grass with one large tree located toward the site frontage. The site falls to the rear and does not have an existing driveway.

The subject site can be seen in the images below:

16-2020-477-1



**Image 1** – View of the frontage of the subject site



**Image 2** – Adjoining neighbour



**Image 3** – Adjoining neighbour

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**Image 4** – View to the rear of the site



**Image 5** – View along the area containing drainage infrastructure

**REFERRALS**

The proposed development was referred to the following internal specialists and external agencies. The comments provided by the special staff and external agencies have been used to carry out the assessment against the S4.15 Matters for Consideration below.

*Internal Referrals*

Building Surveyor - The application was supported subject to conditions of consent. The proposed development has sufficient separation between the building and boundaries that satisfy minimum BCA fire separation requirements. The amended plan set includes changes to the design to ensure compliance with BCA fire separations requirements.

Development Engineer – The application was supported subject to conditions of consent.

Vegetation Management – The application is supported subject to conditions of consent, which requires a street tree be planted in the road reserve.

*External Referrals*

Rural Fire Service – the application was referred to the RFS as integrated development under s.100B of the Rural Fires Act 1997. The property is surrounded with residential developments on managed land and grassland. BAL 12.5 is required for all elevations, except the south-west elevation, which is BAL 19.

The development is conditionally supported by the RFS and subject to GTAs.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979****S4.46 – What is integrated development**

The proposed development required integrated referral under section 100B of the Rural Fires Act 1997 as the development includes residential subdivision of bushfire prone land. Per the assessment provided under the referrals section above, the application was referred to RFS and subsequently supported with conditions under Section 100B of the Rural Fires Act 1997.

**S4.15 – Matters for Consideration****s4.15(1)(a)(i) – The provisions of any EPI*****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 (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) was enacted to ensure that dwellings are designed to utilise less potable water and to minimise greenhouse gas emissions by setting energy and water reduction targets for residential houses and units.

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A valid BASIX certificate has been submitted with the development application which demonstrates that the water, thermal comfort and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP BASIX.

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 dual occupancy and subdivision 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) 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 Policy commenced on 1 March 2020.

The proposed development is located on a site located in an established residential area. The site does not have an area nor apply to an area of more than 1 hectare and as such the SEPP does not apply. The site is identified as clear from koala habitat and as such the development will not adversely impact koala habitat.

Port Stephens Local Environmental Plan 2013 (LEP)

**Clause 2.3 – Zone Objectives and Land Use Table**

The proposed development is defined as a dual occupancy which is permissible with consent in the R2 Low Density zone. The development addresses the objectives of the zone by providing housing needs for the community and enhancing the existing residential amenity of the area.

**Clause 4.1 – Minimum Subdivision Lot Size**

Clause 4.1 outlines the minimum lot size applicable to the subject sites, as identified on the minimum lot size map, to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls.

The proposed lots do not achieve the minimum lot size under this clause, as such an assessment against Cl 4.1C is required.

**Clause 4.1C – Exceptions to minimum lot sizes for certain residential development**

The proposal is on land that does not achieve the minimum lot size for subdivision applicable in Clause 4.1 that consent may be granted under Clause 4.1C. The subject site is located in the R2 zone and proposes the subdivision of land into two lots for the purpose of semi-detached dwellings. The erection of a dwelling on each lot resulting from the subdivision where the size of each lot is equal to or greater than 250m<sup>2</sup> is permissible under this clause. The proposed allotments as a result of the subdivision are as follows:

- Proposed lot 1 – 302m<sup>2</sup>
- Proposed lot 2 – 338m<sup>2</sup>

Per the above, the proposed subdivision seeks to create allotments, which exceed the minimum lot size specified under the Clause 4.1C, and consequently achieve the objectives and requirements of this clause.

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**Clause 4.3 – Height of Buildings**

The proposed development has a maximum height of 8.303 metres, which is below the maximum permissible building height of 9 metres specified on the Height of Buildings Map.

**Clause 7.1 – Acid Sulfate Soils**

The subject land is mapped as containing potential Class 5 acid sulfate soils. The proposed development is not anticipated to entail excavations below 2 metres and therefore it is not expected that acid sulfate soils would be encountered during works.

**Clause 7.2 – Earthworks**

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. No material is proposed to be imported or exported from the subject site and accordingly, the development accords with the requirements of this clause.

**Clause 7.6 – Essential Services**

The subject site is serviced by reticulated water, electricity and sewer. In addition, the application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Councils requirements. The subject land also maintains direct access to Beenong Close, meeting 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.

**s4.15(s4.15(1)(a)(iii) – Any DCP**

PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014		
Clause	Compliant	Notes
B3	<input checked="" type="checkbox"/> Development would not disturb acid sulphate soils or an acceptable ASSMP has been prepared. <input type="checkbox"/> Earthworks would have minimal environmental impacts with conditions on VENM fill and erosion and sediment controls.	As per the assessment against Clause 7.1 of the LEP, the proposal is unlikely to disturb ASS as part of earthworks on the site. Earthworks are unlikely to result in adverse impacts on the environment.
B4	<input checked="" type="checkbox"/> Non-permeable area not significantly increased and development consistent with figure BD, on-site detention not required; OR, <input type="checkbox"/> Non-permeable area above figure BD and acceptable on-site detention / infiltration proposed or condition for	<p>The site impervious area is 45%, which is below the 65% maximum allowable for the site under DCP chapter D6 lower slopes Nelson Bay West.</p> <p>The proposed development includes water tanks collecting roof water and connected to infiltration pits at the rear of the proposed lots.</p> <p>Due to the established surrounding developments and the subject site being the only remaining undeveloped site; water quality requirements from</p>

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	<p>details added.</p> <p><input checked="" type="checkbox"/> Insignificant increases to adversely impact on water quality; OR</p> <p><input checked="" type="checkbox"/> Stormwater management plan proposed in accordance with this Chapter and Council's standard drawings.</p>	<p>the site are not likely to result in a significant benefit or impact. The application will result in single dwelling erected on separate lots; as such no water quality features are required. Additionally, as the subject site is within an established area and the proposal includes rainwater tanks, there is minimal adverse impacts likely to result on the water quality as result of not requiring water quality for the subject site.</p> <p>The development meets the objectives of the DCP B4 chapter.</p>
B8	<p><input checked="" type="checkbox"/> The development would not generate significant increases in traffic.</p> <p><input checked="" type="checkbox"/> On-site parking provision meets the requirements of figure BQ or merit based assessment; AND,</p> <p><input type="checkbox"/> Suitable disabled parking is provided in line with figure BQ.</p>	<p>Each dwelling consists of four bedrooms, and accordingly requires 2 parking spaces. Dwelling 1 proposes a double car garage and dwelling 2 proposes a single car garage and carport in accordance with the requirements of the DCP. Stacked car parking is also possible in the driveway for additional off street parking.</p>
C1	<p><input checked="" type="checkbox"/> The development is a minor subdivision; AND,</p> <p><input checked="" type="checkbox"/> The proposal would result in lot dimensions appropriate for their proposed use whilst not restricting the provision of services.</p> <p><input checked="" type="checkbox"/> The proposal is consistent with the LEP requirements on subdivisions.</p>	<p>The proposed subdivision is to create two sites:</p> <ul style="list-style-type: none"> <li>• Lot 1961 – 302m<sup>2</sup>; and</li> <li>• Lot 1962 – 338m<sup>2</sup>.</li> </ul> <p>Each lot maintains access to Beenong Close. Due to the irregular site shaped site the lots cannot achieve a regular rectangular shape. The resulting lot shapes are consistent with the existing lots and permit the proposed residential use to occur on the site.</p>
C4	<p><input checked="" type="checkbox"/> Proposal ensures development provides continuity to the street and setbacks comply with C4.10-C4.19.</p> <p><input checked="" type="checkbox"/> Development appropriately activates the street with habitable rooms where applicable.</p> <p><input checked="" type="checkbox"/> The proposed development would be sympathetic to the streetscape as it is consistent with the existing development in its form, height, bulk, design and materials.</p> <p><input checked="" type="checkbox"/> The development would not</p>	<p><b>Dwelling 1:</b></p> <ul style="list-style-type: none"> <li>• Front and side setback are considered against chapter D6 of the DCP.</li> <li>• Rear setback – 18.3m.</li> </ul> <p><b>Dwelling 2</b> is located adjacent to an existing drainage infrastructure along the northern boundary.</p> <ul style="list-style-type: none"> <li>• Front and side setback are considered against chapter D6 of the DCP.</li> <li>• Rear setback – 18.5m.</li> </ul> <p>The dual occupancy has been designed to include balconies facing the street and views from internal space looking out on to the street. The development activates the street with a large balcony and enables passive surveillance to occur from the site.</p> <p>Each dwelling has a large alfresco area at the rear which is accessed from the living room on the ground floor. There is also a suitable amount of area</p>

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	adversely affect the amenity of neighbouring properties or the public domain.	<p>for private open space to be achieved for each of the dwellings. Privacy screen are proposed along the south east elevation and on the balconies of both dwellings to restrict unreasonable privacy impacts to adjoining properties.</p> <p>Solar diagrams have been provided demonstrating the likely impacts to the POS of adjoining dwellings and the proposed POS for each of the dwellings. The adjoining dwellings both retain a minimum of 3 hours of sunlight in the private open space area to the rear of the existing dwellings. Amendments to the initial design were made to reduce the overall building height by 300mm and flat reduced solar impacts to adjoining neighbours.</p> <p>The proposal includes landscaping within the front setback and along the rear and side boundaries for each of the dwellings. The landscaping has been supported by Councils vegetation management officer.</p>
D6	Nelson Bay West Lower Slopes additional requirements	<p>The subject site is identified within the Nelson Bay West Lower Slopes area.</p> <p>The proposal does not comply with the setback requirements of the DCP, as a consequence of site topography constraints. The subject site is a wedge shaped allotment and has an easement along the boundary which limits the siting of the development. As such, a merit assessment of the non-compliance is required.</p> <p>Additional requirements apply to land identified in the DCP chapter. Setback requirements include:</p> <ul style="list-style-type: none"> <li>• Minimum Front setback of 6; and</li> <li>• Minimum side setback of 2m are required.</li> </ul> <p><b>Dwelling 1:</b></p> <ul style="list-style-type: none"> <li>• Front setback –4.5m (garage);</li> <li>• Front upper storey – 3.2m;</li> <li>• Side setback – the garage is setback between of 0.5m and 1.3m from the side boundary on the south-western corner of the garage. The remainder of the dwelling is setback a minimum of 1.7m from the side boundary;</li> <li>• Side upper storey - 2m.</li> </ul> <p><b>Dwelling 2</b> is located adjacent to an existing drainage easement along the side boundary (2.5m wide).</p> <ul style="list-style-type: none"> <li>• Front setback –garage 3.5m;</li> </ul>

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	<ul style="list-style-type: none"> <li>• Front upper storey – 2.3m;</li> <li>• Side setback – minimum 1.6m;</li> <li>• Side upper storey minimum 1.6m.</li> </ul> <p>The original proposal and amended design does not strictly comply with the side and front setback requirements. It is considered through the assessment that the non-compliances with the front and side setback will not result in adverse impacts to the public domain or detract from the streetscape.</p> <p>The dwelling frontages are articulated to reduce dominance of the frontage and address street to not negatively impact or detract from the streetscape. Further, the road reserve of the site is large which assists in minimising the visual impact of the proposed design exceedance in the front setback. The upper levels protrude closer to the frontage than the garages, 2.6m balconies have been included attached to the master bedrooms of each dwelling. The articulation created by the balcony reduces the dominance of the frontage.</p> <p>Dwelling 1 garage is setback 1.3m from the side boundary and progressively gets closer to the boundary in the south-west corner of the garage due to the narrowing of the boundary. The remainder of the ground floor is setback a minimum of 1.7m.</p> <p>Dwelling 2 ground and upper floor side setback is 1.6m, resulting in a non-compliance of 0.4m from the D6 setback requirement.</p> <p>The amended design incorporating privacy screens, landscaping and increased side setbacks mitigates amenity and privacy impacts. The proposal is not considered to adversely affect the surrounding area, noting a precedence with the surrounding existing dwellings not strictly meeting these requirements. The subject sites irregular shape and the additional setback requirements of D6 has created constraints for the dwelling design. The design of the proposal has responded to these constraints to achieve an outcome that meets the objectives of the DCP objectives and achieves consistency with the established built form. Further, BCA fire separation requirements are satisfied.</p> <p>Onsite detention is required where impervious surfaces exceeded 65%, the development is approximately 45% impervious area. As such, there is no requirement for onsite detention to be provided.</p> <p>D6.6 requires a landscape plan to be provided achieving a 34% landscape area and 35% endemic</p>
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		species to be used. Amended landscape design plans have been provided demonstrating landscaping long the south-east side boundary and rear of each lot in addition to landscaping in the frontages of each dwelling. The plans note native trees and shrubs are to be used throughout the design, the landscaped area is 47.7%. Satisfying the requirements of the DCP.
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**s4.15(1)(a)(iiiia) – Any planning agreement or draft planning agreement entered into under section 7.4**

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

**s4.15(1)(a)(iv) – The regulations**

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

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

	Notes
<input checked="" type="checkbox"/> <b>Social and Economic Environment:</b> There would be beneficial impacts as a result of the development.	The proposed development represents modern dwellings that will result in additional housing to service the needs of the community. The dwellings will allow for the use of existing services and facilities in the locality without requiring upgrades that burden the public. 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 proposed development.
<input checked="" type="checkbox"/> <b>Built Environment:</b> The proposed development would not cause harm to the existing character.	The proposed development will reinforce the residential nature of the locality and is characteristic of other developments in both the local and wider community.  The non-compliances have been considered with respect to the site constraints. The proposed front and side setbacks create an envelope that is in consistent with the objectives of chapter D6 DCP. The non-compliances are considered acceptable with merit.  The application includes relevant construction methods and services such as an on-site stormwater management system that will prevent adverse impacts on adjoining properties. The proposal addresses the street and provides logical and convenient connections to the road network and pedestrian facilities in the

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	locality. There are no anticipated adverse impacts on the built environment as a result of the proposed development.
<input checked="" type="checkbox"/> <b>Natural Environment:</b> There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added.	The proposed development includes a stormwater water system that manages stormwater in accordance with Councils quantity and quality requirements. A condition of consent is proposed that requires the installation and maintenance of erosion and sedimentation controls. It is noted that no significant vegetation is proposed to be removed and that the proposal includes a landscaping plan that utilises native species.

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

The subject site is located within an existing residential area and is relatively clear of vegetation. The site has access to all relevant services and the proposed development makes good use of the available land. There are some non-compliances where the proposed development on the site does not achieve the DCP requirements. Despite this, the subject site is considered to be a suitable site for the proposed use and design proposed in this application. The constraints and irregular shape of the site have been considered and the development is considered suitable for the site. The design includes all elements required under the relevant planning instruments and policies and there are no significant impacts on the locality as a result of the development.

**s4.15(1)(d) – Any submissions**

The application was exhibited from **31 August 2020 to 14 September 2020**, in accordance with the provisions of the Port Stephens Council Community Participation Plan. Five (5) submissions received during this time.

Due to the high level of community interest the application was re-exhibited from **29 October 2020 to 12 November 2020 and 21 December 2020 to 25 January 2021**. One submission was received during each of the subsequent notifications that stated that the issues raised previously remained.

The matters raised during the exhibition period have been detailed in the table below.

Number of submitters	Comment	Council response
3	Overdevelopment of the site – bulk and scale of development is not in keeping with the character of the street.  Does not comply with average building line of neighbouring properties	The bulk and scale of the development is not considered to be inconsistent with the zone objectives and the proposal is a permissible land use under the provisions of LEP 2013.  To limit the bulk and scale, the applicant designed the development to include variations in setbacks from the side and front boundaries, to break up the building bulk  The proposed development has a minimum 3.5m setback from the front property line. The front setback non-compliance is considered acceptable as the front façade is well articulated and the subject site has a large road reserve which acts as a visual aid to reduce the impact to road frontage.
1	The proposed building has no architectural redeeming features	The proposed development is considered to be a modern dual occupancy development consistent with recent

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		developments in the greater Nelson Bay area.
4	Solar Access – create shadows on adjoining properties and restrict solar access	<p>The proposal overshadows the property to the south in mid-winter. There will however be at least 3 hours of sunlight to the open space areas to the south of the development, which complies with the solar access requirements of C.4 of the DCP assessment.</p> <p>Amendments to the design were made to reduce the height of the development by 300mm and to reduce the front property setback to increase solar access to adjoining property.</p> <p>It should be noted that the impact resulting from the proposal will be similar to those created by a standalone double storey dwelling.</p> <p>As detailed in the assessment above, the proposed development is considered to allow an appropriate level of solar access on adjoining site per the requirements of the DCP.</p>
3	Proposal is not consistent with the character and streetscape of the area.	<p>The design of the development is considered to be consistent with the R2 zone objectives as it provides further housing stock for the community through low density residential development. The design is considered to be consistent with the surrounding area through the use of weatherboard cladding, glass, rendered concrete and timber. The design is considered to be a contemporary design which respects the character of the area.</p> <p>The proposed design has been amended by the applicant to include, increase the structures setback from the side boundaries and reduce the height of the development. The height is well below the 9m LEP 2013 height restriction, the setbacks have been increased and landscaping has been included to provide additional privacy screening.</p>
3	Side and front setbacks	<p>The proposed setbacks have been assessed and considered in detail against C4 and D6 of the DCP. A merit assessment of the proposed development has been undertaken.</p> <p>The assessment of the amended design is considered to be an appropriate outcome for the subject site. The amended design has increased the side setbacks for the development resulting in minor non-compliances at certain points, however a significant portion of development is compliant.</p> <p>The dwelling frontages have design articulation and address the site frontage in a manner, which is considered to not negatively impact or detract from the streetscape. The road reserve of the site is large which assists in minimising the visual impact of the front setback.</p>
2	Increase to traffic volume	

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	and on street parking and impact on street visibility	The proposed development includes adequate parking to support two car parks for each dwelling which is required for dwellings with three or more bedrooms. Each dwelling has two car spaces available in addition to stacked parking spaces, which can be accommodated in each of the driveways. The development is not considered likely to create an unacceptable increase to the traffic volume of the street.
3	Privacy impact – loss of privacy for adjoining properties due to height of development and location of windows	Amended plans have been provided by the applicant in response to further information request. These plans provide amendments that consider the privacy impacts on adjoining neighbours.  Privacy screens have been added to the southern elevation and will be required on the north west elevation to ensure the adjoining neighbours have continued privacy.
1	Original refusal of application	The previous development application lodged was rejected by Council as it did not consider the Council drainage infrastructure along the northern boundary. The current application has considered this constraint.
2	Stormwater management – mapped as a 1% infiltration area	The stormwater management plan proposes collection of roof water to be piped to a 5,000L tank for each dwelling. The overflow will be piped to the rear of each proposed site to an infiltration pit. Standard conditions of consent requiring consistency with Council requirements.
3	Does not meet the zone objective of the R2 Low Density Residential zone under the PSLEP 2013	The proposed development provides housing needs for the community and as per the detailed assessment in the report is considered to not have a significant impact on the existing residential amenity and character of the area.

**s4.15(1)(e) – The public interest**

The proposal provides additional accommodation in the locality to service the needs of the community, and is not anticipated to have any significant adverse impacts on surrounding properties or the amenity of the locality. The proposed development reinforces the residential nature of the land and is in keeping with the character of surrounding developments. The proposed development is in the public interest.

**s7.11 – Contribution towards provision or improvement of amenities or services (developer contributions)**

Development contributions apply for the provision of one dwelling and one lot. Development contributions have been applied.

**DETERMINATION**

The application is recommended to be approved by the elected Council subject to conditions of consent.

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SOPHIE-MARIE EFKARPIDIS | Development Planner



## ITEM 3 - ATTACHMENT 3 PROPOSED CONDITIONS OF CONSENT.

**RECOMMENDED 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
YDH-168 Rev. D6 DA.2	Site Plan	Your Home Designs	4/12/2020
YDH-168 Rev. D6 DA.3	Stormwater Plan	Your Home Designs	4/12/2020
YDH-168 Rev. D6 DA.6	Landscape Plan	Your Home Designs	4/12/2020
YDH-168 Rev. D6 DA.8	Ground Floor	Your Home Designs	4/12/2020
YDH-168 Rev. D6 DA.9	Upper Floor	Your Home Designs	4/12/2020
YDH-168 Rev. D6 DA.10 & DA.11	Elevations	Your Home Designs	4/12/2020
YDH-168 Rev. D6 DA.12	Section	Your Home Designs	4/12/2020
36803 PSP3 1 of 1	Subdivision Plan	North Point Surveys	1/2/2021

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

- (2) **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.
- (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.

**PORT STEPHENS COUNCIL**

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**ITEM 3 - ATTACHMENT 3      PROPOSED CONDITIONS OF CONSENT.**

- (4) **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.

- (5) **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.

- (6) **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 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.

- (7) **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.

ITEM 3 - ATTACHMENT 3 PROPOSED CONDITIONS OF CONSENT.



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

- (8) **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.
- (9) **General terms of approval** – 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, DA20200909003285-Original-1, 2 November 2020
- A copy of the General Terms of Approval is attached to this determination notice.

## 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) **Driveway gradients and design** - For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design must comply with AS 2890.1 'Off street Car Parking' and:
- a) the driveway must be at least 1m from any street tree, stormwater pit or service infrastructure; and
  - b) a Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of any works.
- Details demonstrating compliance must be provided to the Certifying Authority.
- (2) **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.
- (3) **Section 7.11 Development contributions** – A monetary contribution is to be paid to Council for the provision of one additional lot/dwelling, pursuant to Section 7.11 of the *Environmental Planning & Assessment Act 1979* and the Port Stephens Council Local Infrastructure Contributions Plan 2020 towards the provision of the following public facilities:

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$596	\$596
Civic Administration – Works Depot	\$1,554	\$1,554
Town Centre Upgrades	\$4,186	\$4,186

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ITEM 3 - ATTACHMENT 3 PROPOSED CONDITIONS OF CONSENT.



Public Open Space, Parks & Reserves	\$1,539	\$1,539
Sports & Leisure Facilities	\$2,327	\$2,327
Cultural & Community Facilities	\$836	\$836
Road Works	\$2,318	\$2,318
Shared Paths	\$3,362	\$3,362
Bus Facilities	\$11	\$11
Fire & Emergency Services	\$229	\$229
Flood & Drainage	\$1,765	\$1,765
<b>Total</b>		<b>\$18,723</b>

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

- a) Subdivision and building work - prior to issue of the Construction Certificate or Subdivision Works Certificate, whichever occurs first.

**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.

- (5) **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.
- (6) **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.
- (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*.

### 3.0 - Prior to Issue of a Subdivision Works Certificate

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

- (1) **Subdivision Works Certificate Required** – In accordance with the provisions of Section 6.13 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 Subdivision Works Certificate has been issued by a Consent Authority;

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**ITEM 3 - ATTACHMENT 3 PROPOSED CONDITIONS OF CONSENT.**

- 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.
- (2) **Driveway gradients and design** - For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design must comply with AS 2890.1 'Off street Car Parking' and:
- c) the driveway must be at least 1m from any street tree, stormwater pit or service infrastructure; and
  - d) a Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of any works.
- Details demonstrating compliance must be provided to the Certifying Authority.
- (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) **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 Roads Act Approval Certificate under Section 138B of the *Roads Act 1993*.
- (6) **Bushfire safety – Subdivision** - The site is located within a bushfire prone area. Certification from a by an NSW suitability qualified Bushfire Consultant must be provided to certify that the development complies with:
- a) the NSW RFS' General Terms of Approval for the DA; and
  - b) the Bushfire Report provided with the DA Bushfire Assessment Report, prepared by Peak Land Management, April 2020; and
  - c) the latest version of NSW Rural Fire Service publication "Planning for Bush Fire Protection 2019."

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**ITEM 3 - ATTACHMENT 3 PROPOSED CONDITIONS OF CONSENT.**

- (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.

**4.0 - 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;

ITEM 3 - ATTACHMENT 3 PROPOSED CONDITIONS OF CONSENT.



- 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.

- (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:

- d) a Construction Certificate has been issued by a Consent Authority;
- e) 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
- f) 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) **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.

### 5.0 - During Works

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

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**ITEM 3 - ATTACHMENT 3 PROPOSED CONDITIONS OF CONSENT.**

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

- a) Diverted through a first flush system before being connected to an existing stormwater easement/system/street.

**ITEM 3 - ATTACHMENT 3 PROPOSED CONDITIONS OF CONSENT.**

(7) **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.

(8) **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.

(9) **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.

(10) **Bush fire safety – Dwellings** – The site is located within a bushfire prone area and must comply with NSW Rural Fire Service document "Planning for Bushfire Protection 2019." Compliance with the specific requirements of Chapter 7 of PBP2019.

Details demonstrating compliance must be provided to the Certifying Authority.

(11) **Landscape plan / street tree plan** – The following tree species must be planted at no cost to Council along the road verge adjoining the subject site

a) 1 x *Lophostemon confertus* in 75 litre pot size

Details demonstrating compliance must be provided to the Certifying Authority.

(12) **Privacy – Window Sill Height** - To ensure reasonable privacy for the adjoining property, windows along the south east and north-west elevations, must have a minimum sill height of 1.5m above finished floor level.

Alternatively, the window(s) may be permanently fixed to this height (i.e. windows are not to swing or lift open) with obscure glazing provided that the ventilation requirements of the BCA are met.

Details demonstrating compliance must be provided to the Certifying Authority.

### **6.0 - Prior to Issue of a Subdivision Certificate**

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

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**ITEM 3 - ATTACHMENT 3      PROPOSED CONDITIONS OF CONSENT.**

- (1) **Subdivision Certificate** – The issue of a Subdivision Certificate is not to occur until all conditions of this development consent have been satisfactorily addressed and all engineering works are complete.

Works As Executed Plans must be prepared and provided to the Principal Certifying Authority in accordance with Council's Infrastructure Specifications and approved plans.

- (2) **Dual Occupancy and Subdivision** – Prior to the issue of the subdivision certificate the following is to occur:

- a) The dwellings shall have a satisfactory frame inspection undertaken; and
- b) A report/plan shall be provided from a Registered Surveyor showing that:
  - i) The setback of the buildings from the adjacent and proposed boundaries meets the requirements of the BCA; and

All service lines are wholly contained within their respective lots, or an appropriate Easement or Easements have been shown on the plan of survey and suitably described in the 88B instrument.

- (3) **Requirement for a Subdivision Certificate** - The application for Subdivision Certificate(s) must be made in accordance with the requirements of Clause 157 of the *Environmental Planning & Assessment Regulations 2000*.

The applicant will be required to submit documentary evidence that the property has been developed in accordance with the plans approved by this development consent 16-2020-477-1, and of compliance with the relevant conditions of consent, prior to the issuing of a Torrens Plan of Subdivision.

In addition, one signed original copy of the original plans and/or documents, and final plan of survey/title, must be submitted to Council. A USB containing an electronic copy of all relevant documents must also be provided.

- (4) **Burdened lots to be identified** - Any lots subsequently identified during construction of the subdivision as requiring restrictions must also be suitably burdened.

- (5) **Surveyor's Report** – A certificate from a Registered Surveyor must be provided to the Principal Certifying Authority, certifying that all drainage lines have been laid within their proposed easements.

Certification is also to be provided stating that no services or accessways encroach over the proposed boundary other than as provided for by easements as created by the final plan of subdivision.

- (6) **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.

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**ITEM 3 - ATTACHMENT 3 PROPOSED CONDITIONS OF CONSENT.**

- 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.

- (7) **Landscape plan / street tree plan** –The following tree species must be planted at no cost to Council along the road verge adjoining the subject site

- a) 1 x Lophostemon confertus in 75 litre pot size

Details demonstrating compliance must be provided to the Certifying Authority.

### **7.0 - 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) **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) **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.

- (4) **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.

### **8.0 – Ongoing Use**

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

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**ITEM 3 - ATTACHMENT 3 PROPOSED CONDITIONS OF CONSENT.**



- (1) **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
  - 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*.
  
- (2) **Privacy Screen** - Any privacy screen/s and landscaping screening must be permanently maintained in accordance with the approved plans for the life of the development.
  
- (3) **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.

**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) **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

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**ITEM 3 - ATTACHMENT 3 PROPOSED CONDITIONS OF CONSENT.**

recommence until the material has been inspected and permission has been given by Heritage NSW to proceed.

- (4) **Council must be nominated as PCA for subdivision works** – Under Section 6.5 of the *Environmental Planning & Assessment Act 1979*, Council shall be nominated as the Principal Certifying Authority for subdivision work and has the option of undertaking inspection of physical construction works.
- (5) **Component certificates (where Council is PCA)** – Where Council is appointed as the Principal Certifying Authority for the development, the following component certificates, as relevant to the development, shall be provided prior to the issued of a final Occupation Certificate:
- a) Insulation installation certificates.
  - b) Termite management system installation certificates.
  - c) Smoke alarm installation certificate from installing licensed electrician.
  - d) Survey certificate(s), prepared by a registered land surveyor, certifying that the building has been correctly and wholly located upon the subject allotment.
  - e) Certification attesting that retaining walls have been constructed in accordance with Engineers details or manufacturers specifications as applicable.
  - f) All certificates or information relating to BASIX compliance for the development.
  - g) An 'Approval to Operate a Sewage Management System' issued by Council (for areas that are not serviced by a Sydney Water sewer).
  - h) A certificate certifying that the wet areas have been waterproofed in accordance with the requirements of the Building Code of Australia.
  - i) All certificates relating to salinity, as required by conditions of the Development Consent.
  - j) Any other certificates relating to the development (for example, engineering certification for foundations, piers, reinforcing steel or hydraulic certification for all stormwater drainage works).

Where the appointed PCA is not Council, the matters listed in this condition should be regarded as advisory only.

**Note:** The above certification does not override any requirements of the *Environmental Planning & Assessment Act 1979* with respect to any required critical stage inspections.

- (6) **Addressing**– Prior to occupying the development or release of subdivision certificate (whichever occurs first) Council's Spatial Services Team should be contacted via email at: [addressing@portstephens.nsw.gov.au](mailto:addressing@portstephens.nsw.gov.au) to obtain correct property addressing details. Please state your Development Approval number and property address in order to obtain the correct house numbering.

PORT STEPHENS  
COUNCILCALL TO COUNCIL FORM  
DEVELOPMENT APPLICATION

## Development application (DA) call to Council request:

I/We (Mayor/Councillor/s) SMITH request  
 that DA number 16-2020-477-1 for DA  
 description 6 BEENONG CLOSE, NELSON BAY located at  
 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) \_\_\_\_\_ have a conflict of interest:

☒ No

☐ 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:**  
Please sign or  
type name &  
attached to  
an email.

**Signed:**  
Please sign or  
forward  
supporting  
email

**Signed:**  
Please sign or  
forward  
supporting  
email

**Date:** Click here to enter a date.

27-10-20.

**Date:** Click here to enter a date.

27/10/20

**Date:** Click here to enter a date.

27/10/20.



## MINUTES ORDINARY COUNCIL - 9 MARCH 2021

Mayor Ryan Palmer resumed the Chair at 6:11pm prior to Item 4.

### ITEM NO. 4

FILE NO: 21/29497  
EDRMS NO: PSC2011-02657

### SIX MONTHLY REPORT: JULY TO DECEMBER 2020 AGAINST THE PORT STEPHENS COUNCIL DELIVERY PROGRAM 2018-2021

REPORT OF: TIMOTHY CROSDALE - GROUP MANAGER CORPORATE SERVICES  
GROUP: CORPORATE SERVICES

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#### RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Six Monthly Report for July to December 2020 (**ATTACHMENT 1**) on the progress of Port Stephens Council's Delivery Program 2018 – 2021.
- 

### ORDINARY COUNCIL MEETING - 9 MARCH 2021 MOTION

048	<p><b>Councillor Chris Doohan</b> <b>Councillor Sarah Smith</b></p> <p>It was resolved that Council adopt the Six Monthly Report for July to December 2020 (<b>ATTACHMENT 1</b>) on the progress of Port Stephens Council's Delivery Program 2018 – 2021.</p>
-----	---

The motion was carried.

### BACKGROUND

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

This is the fifth progress report of the Delivery Program 2018 - 2021 which was adopted by Council in June 2018.

### COMMUNITY STRATEGIC PLAN

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

**FINANCIAL/RESOURCE IMPLICATIONS**

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

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Section 404(5) of the Local Government Act 1993 stipulates that: 'The General Manager must ensure that regular progress reports are provided to the Council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every 6 months'.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will not adopt the Six Monthly Report July to December 2020 placing Council in breach of legislation leading to reputational loss.	Low	Adopt the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Community Strategic Plan, Delivery Program and Operational Plans are founded on a basis of social, economic, environmental and governance through 4 focus areas Our Community, Our Place, Our Environment and Our Council. The report reflects these factors and provides a comprehensive progress report according to each focus area along with a scorecard of Council's key result measures.

Council has achieved its targets for community satisfaction, service delivery, employee engagement, governance and risk management.

## **MINUTES ORDINARY COUNCIL - 9 MARCH 2021**

As at the December 2020 Quarterly Budget Review Council's underlying financial position was a balanced budget. This is a significant improvement on the projected \$4.4 million underlying deficit for the 2020-2021 financial year. By carefully managing cash flow and reprioritising spending, Council has still been able to meet its financial obligations. Council will continue to manage this situation closely to ensure ongoing financial sustainability.

The annual results of Council's infrastructure backlog will be reported in the Six Monthly Report for January to June 2021.

### **CONSULTATION**

The Six Monthly Report July to December 2020 has been compiled from information and data provided across Council's operations and reviewed by both the Senior Leadership Team and Executive Team of Council.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Six Monthly Report: July to December 2020.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.



# Six monthly report

## JULY TO DECEMBER 2020



PORT STEPHENS  
COUNCIL

council@portstephens.nsw.gov.au | 02 4988 0255

PORTSTEPHENS.NSW.GOV.AU



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The Six-monthly Report July to December 2020 has been prepared in accordance with the requirements of Section 404(5) of the *Local Government Act 1993*:

*"The general manager must ensure that regular progress reports are provided to the council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every six months."*

## Acknowledgement

Port Stephens Council acknowledges the Worimi People as the traditional custodians of the land of Port Stephens. We also pay our respect to Aboriginal Elders past, present and future.

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## General Manager's message

Dear Councillors,

While the past 6 months have been a challenging time for us all — I am **proud of the resilience** we have all shown during this unpredictable year.

There's no doubt we've all felt the effects of COVID-19, but we've continued to get on with the job, thinking of alternate ways to deliver services and connect with the community — which has been more important than ever during the pandemic.

Despite the challenges, we have seen some excellent examples of collaboration across Council including the opening of the Koala Sanctuary, a new operator for Medowie Sport and Community Facility, smart parking in Nelson Bay, engaging with the community about the Raymond Terrace Public Domain Plan and carrying out our first liveability index (place census) to better understand what our community values and their priorities for improvement.

None of this would be possible without the work behind the scenes to keep us safe, financially sustainable, connected and our economy ticking along. Our teams have been busy across so many fronts, from helping our local businesses during COVID, to delivering a large capital works program and ensuring we balance our budget to remain financially sustainable.

I know that we are doing the right thing when both our **community satisfaction** and **employee engagement** scores have reached 80% and 81% respectively — ensuring our key stakeholders are satisfied and engaged is paramount in these challenging times.

In the past 6 months, we have also been recognised for the following awards showing that no matter what happens we will continue to deliver valued services to our community:

- Winner — NSW Local Government Excellence Awards – Roadside Environment Management Award
- Winner — NSW Local Government Excellence Awards – Community Development and Services Award
- Finalist — Federation Award 2020 – Community Service Delivery
- Finalist — 2020 Excellence in Family Day Care Awards – Port Stephens Family Day Care



*Wayne Wallis*

Wayne Wallis, General Manager



# Highlights - July to December 2020

## Our community highlights



**39,081** childcare places filled



**10,589** library enquiries



**246,000** people visited our beaches (Sept-Dec)



Our **Incredible Place & Youth** strategies adopted

## Our place highlights



**Koala Sanctuary** opening



**Smart parking** launch Nelson Bay



**18,393** potholes repaired



**484** Development Applications determined with a net median turnaround of 27 days and a total capital investment value of \$139 million.

## Our environment highlights



**915** sites inspected for priority weeds



**3,351** trees planted



**11,055 tonnes** red bin waste



**2,470 tonnes** recycling yellow bin waste



**732 tonnes** green waste (536 t drop off days)

**4,172 tonnes** mixed Waste Transfer station

## Our Council highlights



**81%** Employee Engagement rating



**80%** Community Satisfaction score



**Breakeven** underlying financial position (as at Dec 2020)



**\$5.6 million** grant funding secured

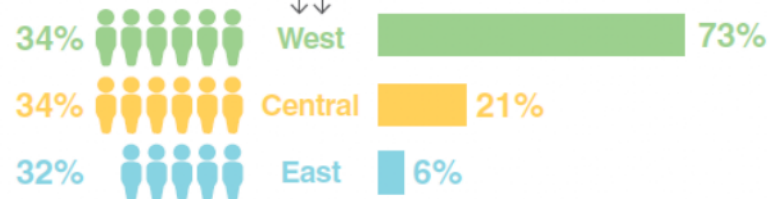
## Our People

POPULATION  
**73,481**  
(2019 Estimated Resident Population)



POPULATION  
PROJECTION  
**82,050**  
BY 2041  
(NSW Department of Planning 2019)

POPULATION BY WARD → % OF THE LAND AREA



MEDIAN AGE **45 YEARS** ▶ OLDER THAN NSW MEDIAN AGE OF **38 YEARS**

ABORIGINAL AND  
TORRES STRAIT  
ISLANDER POPULATION

**3482**

Making up **4.74%**  
of our population

## Our Economy



LABOUR FORCE  
**29,754**  
(ABS 2016)

**4.6%** UNEMPLOYMENT  
(March 2020)



NUMBER OF ACTIVE  
BUSINESSES  
**4955**  
(registered ABN and GST June 2020)



**\$5.334 billion**  
GROSS REGIONAL PRODUCT  
(Nominal GRP 2019)

MAIN EMPLOYING INDUSTRIES

Public administration and safety **15%**  
Manufacturing **12%**  
Construction **11%** (ABS 2016)

Source: Remplan 13 August 2020.



You can read more about Port Stephens in our economic and community profiles:  
[portstephens.nsw.gov.au/your-council/port-stephens-profile](http://portstephens.nsw.gov.au/your-council/port-stephens-profile)

## Our Council

### Community's vision

A great lifestyle in a treasured environment.

### Council's vision

Engaged and resilient people in strong healthy relationships, working collaboratively, enhancing community well-being.

### Council's purpose

To deliver services valued by our Community in the best possible way.

### Values



#### Respect

Creating a unique, open and trusting environment in which each individual is valued and heard.

#### Integrity

Being honest and inspiring trust by being consistent, matching behaviour's to words and taking responsibility for our actions.

#### Teamwork

Working together as one Council, supporting each other to achieve better results for everyone.

#### Excellence

Improving the way we work, to meet the challenges of the future.

#### Safety

Providing a safety focused workplace culture to ensure the wellbeing of staff, their families and the community.

## Principal activities

### Key priorities

The following key priorities were nominated for investigation and progression over the Delivery Program period – 2018 to 2021. Over the past 6 months, we have investigated funding sources to resource these initiatives and infrastructure projects, with the progress achieved for the 6 months outlined below.

#### Accessible Port Stephens

Council has completed a number of actions under the Disability Inclusion Action Plan (DIAP) and continued to provide ongoing support and services to ensure and promote inclusivity.

Over the 6 months, we have:

- Opened a new playground at Bagnalls Beach East with inclusive play elements and accessible pathways connecting the car park, playground and BBQ.
- Made access improvements to our public amenities at Raymond Terrace and Mallabula tennis club, which now include an accessible toilet, shower and adult change facilities.
- Continued to make our communication channels user-friendly for all by writing in plain English, making our website and social media content accessible, and creating easy-read summaries for complex documents.



#### Williamstown Special Activation Precinct (SAP) (DAREZ)

The Williamstown Special Activation Precinct (SAP) was declared on 28 May 2020. Council staff have been working with the State government to prepare background studies for the SAP investigation area. Community consultation on the SAP began in December 2020 with a series of drop-in sessions at the Williamstown Community Hall. Council staff also briefed the SAP team and their consultants during a site visit. Council will continue to work with the State government as part of the SAP process to enable a defence and aerospace precinct at Williamstown.

#### Birubi Information Centre

Council in partnership with the Worimi Conservation Lands, Worimi Local Aboriginal Land Council and NSW National Parks, has initiated the development of a business plan to guide the operations of this new tourism development.

Detailed design, construction drawings and tender documentation are underway through an external consultancy. A quantity survey will be undertaken to determine the detailed estimate for construction.

Once delivered it will be the focus of all tourism-related activities for the Worimi Conservation Lands from the Anna Bay entrance.



#### Coastal Management Program

Port Stephens Council is currently working on a coastal management program (CMP), which identifies risks to the coast and sets a long-term strategy for managing these into the future.

In 2020, Council commenced working on stage 2 of the Coastal Management Program (CMP) and has undertaken a detailed study to assess the coastal hazards – coastal erosion, coastal inundation and windblown sand.

Stage 2 involved engagement with several internal and external stakeholders. Project Control Groups were established with internal Council staff, and consultation with the CMP Stakeholder Reference Group which includes State and private agencies i.e. Department of Planning, Industry and Environment. As a part of community engagement, a series of webinars with coastal technical experts was hosted in November 2020 to help locals learn more about the coast.

Stage 3 of the coastal management program is scheduled to be finalised later this year.



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2020.

## SIX MONTHLY REPORT: JULY TO DECEMBER

## Key Priorities

**Cycleways, footpaths and beautification**

The shared path along Waropara Road, Medowie was completed in late 2020. Minor cleaning up scheduled for January 2021, will see it ready in time for the return to school.

Planning is well underway for the shared path alongside Medowie Road, Medowie with additional grant funding awarded courtesy of a State Government Walking and Cycling initiative.

Planning also continues for paths alongside Nelson Bay Road through Fern Bay, Lemon Tree Passage Road missing link from Mallabula to Lemon Tree Passage, and the Shoal Bay foreshore.

**Events**

A number of events have either been cancelled or postponed as a result of COVID-19 restrictions, refer page 17.

As restrictions regarding regional events started to ease from October, some events such as the Peter Wilson Memorial Championships, WSL Port Stephens Pro QS1,000 - 2021 (Men's & Women's), Spartan Port Stephens, Port Stephens Triathlon, Fingal Bay Twilight Markets, Raymond and Terrace Aquatic Club Annual Race Day started to return to Port Stephens. Wedding applications, as well as enquiries and interest in markets, have also started to increase.

In conjunction with our marketing partners, we have continued to work on various event hosting opportunities to secure events for 2021.

**Funding investigations**

From 2018 to 2019, as part of the Operational Plan, Council endorsed the investigation of other funding options for a range of major projects.

Council has secured \$5.6 million in grants in the past six months.

Council continues to seek a broader range of State and Federal Government grants. This can be challenging, as grant program priorities do not often match those of local projects. Council continues to optimise its investment returns.

**Gateway, location and town signage**

Stage 1 of the gateway signage program was completed prior to June 2019 with no activity undertaken in the past 6 months.

Future stages of the signage program will look at each suburb as funding becomes available.



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## SIX MONTHLY REPORT: JULY TO DECEMBER

## Key Priorities

**Key road projects**

Council has a plan to deliver a number of key capital works projects. Over the past 6 months, the following has been achieved on these key projects:

- Church Street, Nelson Bay - Council has now completed the reconstruction of road pavement of Church Street to improve the ride quality and pavement strength, as well as minor drainage improvements and pedestrian accessibility.
- Fairlands Road, Medowie - no activity was undertaken during the past 6 months, while we sought additional funding through the State Government's Fixing Local Roads' grant. Project initiation and design will commence in the next reporting period (January to June 2021) and construction in the 2021-2022 financial year if additional funds become available.
- Fingal Bay Link Road (estimated cost is \$188 million) - the State Government has committed to funding this project, with Transport for NSW leading the planning and delivery of the project.
- Tanilba Road, Mallabula - Council has plans to reconstruct the Tanilba Road from Bay Street to the Parkway Ave North including pavement widening, kerb and gutter construction and drainage upgrades. Project initiation and design have been deferred to commence in the next reporting period (January to June 2021), with construction scheduled for the 2021-2022 financial year.
- Tomaree Road, Shoal Bay - Council has now completed Stage 2 (Fingal Street to Verona Road) of the full reconstruction of Tomaree Road, including pavement widening, kerb and gutter and footpath construction and drainage upgrades. Construction of the remaining works Stage 3 (Marine Drive to Rigney Street) will be completed when funding is sourced.
- Warren Street, Seaham – Project initiation and design was completed in the reporting period with construction to commence in January 2021.

**Koala Sanctuary**

The Koala Sanctuary officially opened on 25 September 2020, with over 15,000-day visitors and 2,500 overnight guests welcomed during its first 3 months of operation.

Offering visitors a unique opportunity to see koalas in their natural habitat, the Koala Sanctuary supports their long-term rehabilitation and preservation.

The Koala Sanctuary includes:

- |                             |                               |
|-----------------------------|-------------------------------|
| • Koala Centre and Hospital | • Elevated viewing platform   |
| • Sanctuary Story Walk      | • Fat Possum Café             |
| • Newcastle Airport SKYwalk | • Deluxe 4 star accommodation |



### Medowie Sport and Community Facility

Construction of the facility finished in February 2020 but our initial search for an operator was hindered by COVID-19. At the end of 2020 after a competitive expression of interest process, a suitable local operator signed a lease, with the centre opening at the end of January 2021.

The centre provides:

- club facilities at Medowie Sporting precinct
- multiple community groups access to use the facility under a sublease agreement with the Medowie Sport and Community Club
- a restaurant, bar, event space, sporting facilities and meeting places.

### Off-leash dog parks

Council has completed the dog exercise area in Boomerang Park, Raymond Terrace.

Council is also investigating the mapping of the dog exercise area in the Anna Bay, Fisherman's Bay and Boat Harbour areas with recommendations to be made to Council in 2021.

### Placemaking

We prepared a draft Public Domain Plan to activate Raymond Terrace town centre and commenced implementation of the Nelson Bay Public Domain Plan.



We were successful in obtaining grant funding for placemaking activities in our main streets, including the installation of parklets at Nelson Bay.

Round 1 of the Community Funding Program opened in July 2020 and resulted in 17 successful recipients ranging from local businesses to artists being awarded funding to initiate placemaking activities including artworks, street performances, bush regeneration projects and music in the park. Round 2 is due to open in February 2021.

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2020.

SIX MONTHLY REPORT: JULY TO DECEMBER

Key Priorities

The Port Stephens Liveability Index has been completed and provides the council with a detailed understanding of the values and priorities of our towns and communities.

The Our Incredible Place Strategy was completed and provides the framework for the development of arts, culture and events activity across Port Stephens.

In December 2020 we rolled out Smart Parking in Nelson Bay, a new integrated smart parking system designed to identify available parking spaces, promote turnover and improve safety in the town centre.

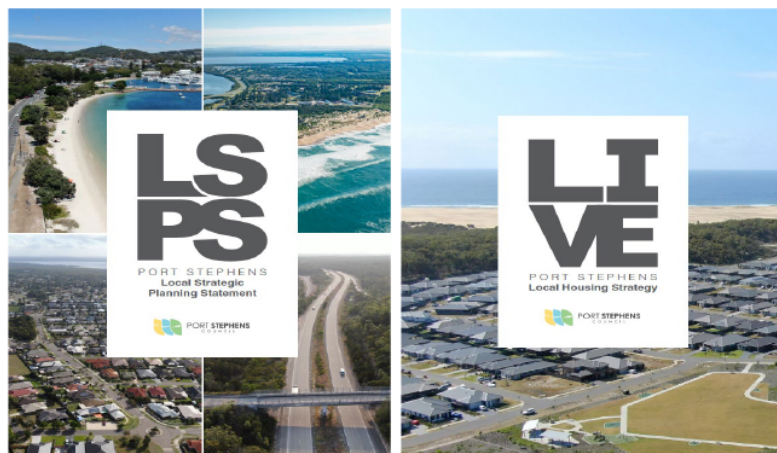
**Port Stephens Council depot development**

Councillors have been briefed with options and recommendation to rejuvenate the existing Raymond Terrace site and rationalise the existing Administration Building fit-out. This will allow for greater centralisation of staff as well as meet the needs of Council to supply services to the community.

The project is currently under architectural and functional design with detail engineering design underway. We propose to have all detail and construction details completed by July 2021.

**Strategic Planning Statement and Local Housing Strategy**

The Local Strategic Planning Statement (LSPS) and Local Housing Strategy (Live Port Stephens) were adopted in July 2020. Implementation of these key planning documents has commenced by investing in a liveability index and amending the Port Stephens Development Control Plan to improve development assessment processes and reduce the cost of new housing.



**Williamstown Management area**

Department of Defence has prepared a project plan to manage ongoing PFAS contamination remediation.

Council is continuing to monitor the implementation of the Department of Defence PFAS contamination remediation program and will continue to liaise with relevant agencies, community groups and residents as appropriate.

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### Delivery Program objectives update

As with all businesses that have faced challenges during the COVID-19 pandemic we have remain committed to delivering services to our community in the best possible way while remaining flexible and agile if and when any challenges are thrown our way.

We adapt, revise and re-baseline our work programs, diverting resources and planned projects to respond where necessary to the evolving circumstances.

Our progress made in the 6 months to December 2020 reflects this approach.



In this report, we use the icons below to indicate the status of our Operational Plan actions, which form part of the Delivery Program 2018-2021.



**ON TRACK** (Operational Plan Actions on track to achieve target)



**MONITOR** (Operational Plan Actions within 5% of the target)



**OFF TRACK** (Operational Plan Actions >5% off the target )

## Our Community

*Port Stephens is a thriving and strong community respecting diversity and heritage*

### C1 Community diversity

We have continued to:

- provide facilities and services for children
- provide support for young people to build their confidence and contribution to the community
- encourage Port Stephens to be inclusive and access friendly
- support needs of an ageing population
- support volunteers to deliver appropriate community services

#### Key outcomes include:

- Continuing Thrive Kids award-winning streak, and meeting National Quality Standards for 3 services assessed by the Directorate of Early Education and Care. Supporting our families through various types of high-quality childcare, with 39,081 childcare places filled, 51 family day care educators, conducting 320 family day care compliance visits and 30 venue safety checks.
- Adopting the Youth Strategy 2020-2025 and grant funding to three youth programs through the Community Support Fund and Lively Spaces fund.
- Consulting the community on the draft Raymond Terrace Public Domain Plan that seeks to improve access within the town centre, increase walkability and enhance key places, refer page 7 for more on Council's DIAP.
- Adopting the Port Stephens Local Strategic Planning Statement and Port Stephens Local Housing Strategy which includes actions to plan for an ageing population. A number of actions have already commenced which include developing a liveability index and advocating for reforms to lifestyle villages and communities with better plans for ageing in place.
- Putting in place COVID Safe Plans for all halls and park groups along with recognising the valuable length of service for a number of our volunteers, some volunteers dedicating over 25 years.

#### SOCIAL CONNECTION

By creating a place where young people can express their views, skills, talents and ideas you are supporting the future of our local communities.

**TAMARA** — 15 YEARS OLD  
Port Stephens Youth Plan 2020 to 2022 consultation



#### Key challenges include:

- A shortage of educators and relocation of Grahamstown OOSH service.

#### Highlights of what's next?

- Review of mobile pre-school services.
- Implementing the Youth Strategy Action Plan, including activities and services that meet the Council's Schedule of Targeted Early Intervention funding with the Department of Communities and Justice.
- Reviewing the DIAP.

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## SIX MONTHLY REPORT: JULY TO DECEMBER

## Our Community

## C2 Recognised traditions and lifestyles

We have continued to:





- recognise and support local Aboriginal and Torres Strait Islander people
- support and promote local cultural activities
- recognise and support the heritage of Port Stephens
- provide public libraries as vibrant community spaces


## Key outcomes include:


- The official signing of the Yabang Gumba-Gu Aboriginal Agreement demonstrating Council's commitment and partnership with local Aboriginal stakeholders to combine resources for welfare packs to isolated Aboriginal Elders.
- Collaborating with Birubi Point Aboriginal Panel to implement a short-term response to stabilise the frontal sand dunes at the bottom of the Birubi car park.
- Adopting 'Our Incredible Place Strategy' for Events, Arts and Culture to guide the development of local cultural activities.
- Responding to a large number of internal requests for heritage advice on Council projects.





 742 new library members

 10,589 (library) enquiries answered

 12,311 people reached through online 'Storytime' and 'Read and Rhyme' sessions

 Hosting a series of online events via Zoom including 'Stand up for Poetry'

 Donating items from 'Food for Fines' Amnesty campaign

 'Call & Collect' and homebound delivery services provided

## Highlights of what's next?

- Improving processes with the local Aboriginal community for Council use of Aboriginal art and language.
- Improving processes for Council's Planning and Development Assessment areas to consult with Karuah and Worimi Local Aboriginal Land Councils.



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## SIX MONTHLY REPORT: JULY TO DECEMBER

## Our Community

## C3 Community partnerships

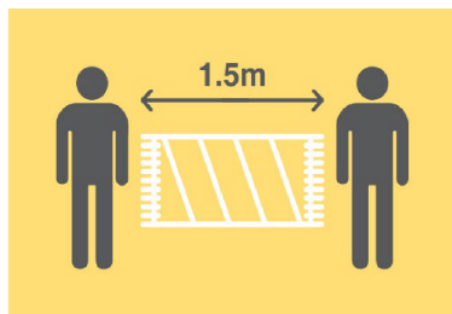


We have continued to:

- assist community service providers to effectively deliver services in the region
- support local community events that highlight and foster the creative and diverse nature of our community
- provide recreational and leisure services
- support financially creative and active communities.

## Key outcomes include:

- Success in adapting our program to convene and support online inter-agency meetings especially for workers delivering outreach services.
- Working in partnership with Aboriginal health service providers to resource 150 welfare packs delivered to isolated Aboriginal Elders in the community during NAIDOC Week.
- Providing Mayoral and Ward funds to support the local community and running the first round of the Community Funding Program.
- Confirming our contract with NSW Department of Communities and Justice (DCJ) for funding of the Targeted Early Intervention (TEI) program.
- Delivering events in alternate ways during COVID, including live streaming NAIDOC flag raising and for Australia Day organising COVID safe pool parties at our pools.
- Re-opening our leisure centres in July 2020, when the NSW State Government public health order restrictions eased, with detailed COVID safe plans in place.
- Working closely with NSW Police, agencies and stakeholders to develop COVID specific beach safety plans. These included COVID: wardens, messaging PA system, signage etc. Bi-monthly risk audits of One mile, Fingal and Birubi beaches were also completed.



19,274 preventative actions undertaken



8 rescues performed



760 law enforcement actions



15,384 cases of info/advice to the public



62 first aid treatments

## Key challenges include:

- COVID-19 - limiting local events, gatherings and impacting the number of people attending Council's leisure centres (decreasing numbers by 22%).

## Highlights of what's next?

- Focus on using the community Interagency meetings and partnerships to deliver place-based projects along with planning for outcomes in the TEI schedule with DCJ.
- Upgrades to cafes at Lakeside and Tomaree Aquatic centres.

## Our Place

*Port Stephens is a liveable place supporting local economic growth*

### P1 Strong economy, vibrant local businesses, active investment



We have continued to:

- support sustainable business development in Port Stephens
- support and deliver services that attract sustainable visitation to Port Stephens.

#### Key outcomes include:

- Working with local businesses to assist with their development and implementation of COVID safety plans.
- Securing sponsors for the 2021 Port Stephens Mayoral Academic scholarship.
- Going live with the Port Stephens' Investor Concierge Service to provide investment information and services to businesses that are considering establishing, growing or relocating their presence in Port Stephens.
- Launching the Port Stephens Investment Prospectus via a series of small COVID safe events.
- Developing and holding the Visitor Economy Start House program to support and mentor locals in bringing their new business ideas to fruition.
- Issuing 83 private ceremony and event licences and securing 5 sponsored events.
- Implementing a new Events Register to improve the overall effectiveness of events applications.
- Increasing domestic tourism and visitor numbers has increased demand for accommodation and tour services at the Visitors Information Centre translating to increases in merchandise sales and revenue.
- Despite cancellations in events, in December 2020 13 new events have been secured and are due to be held in early 2021.

#### Key challenges include:

- COVID -19 - has presented ongoing challenges with uncertainty in the business community. COVID has also impacted the registrations for Zoom pitch night events and continued to present issues with implementing activation projects and events. The events team have managed 29 event cancellations/postponements including 12 sponsorship event cancellations. Council continues to provide the latest information and resources to help keep local businesses COVID safe.

#### Highlights of what's next:

- Continuing to engage with businesses in Raymond Terrace, with plans to recommence the popular Business Leaders' Lunch series and undertake the Business Health Check survey in May 2021.
- Council will continue to research possibilities to facilitate the Port Stephens Produce Market.

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## SIX MONTHLY REPORT: JULY TO DECEMBER

## P2 Infrastructure and facilities

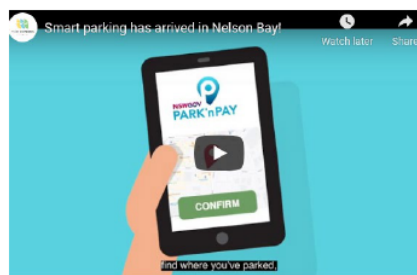
We have continued to:

- plan civil and community infrastructure to support the community
- build Council's civil and community infrastructure to support the community
- maintain Council's civil and community infrastructure to support the community
- deliver road infrastructure services on behalf of Roads and Maritime Services.



## Key outcomes include:

- Successful trialling an online auction disposal methodology.
- Using reports from In-Vehicle Management System data for decision making, identifying trends and decreasing driver events.
- Completing a major asset revaluation task for our Roads asset class (including drains, pathways, barriers, kerb, etc.)
- Delivering the majority of the Smart Parking Infrastructure works package (including civil works, traffic circulation changes, smart cities technology, public registration portal scheme, upgrades to existing technology, community consultation and construction of public amenities).
- Securing external funding through the 'Streets as Shared Spaces' program to provide a safe pedestrian and cyclist link between Nelson Bay and Little Beach.
- Processing 70 Flood Certificate requests and drainage or engineering assessment requests for Development Applications.
- Constructing drainage improvement works in Nelson Bay.
- Commencing work on updating the flood hazard layers across the LGA, investigating catchment drainage issues at Salamander Bay and updating the Shoal Bay drainage model.
- Continuing work on the Anna Bay Floodplain Risk Management Study and Plan, Lower Hunter Floodplain Cumulative Development Impact Study and Plan and investigating catchment drainage issues at Little Beach.
- Progressing Councils 2020-2021 Road Safety Projects funded by Transport for NSW.
- Delivering projects such as the new Nelson Bay CBD public amenities, Bill Strong Oval Irrigation upgrades and working with the community on Korora Oval (Salamander Bay) Cricket facility improvements.
- Successful in grant funding applications for Little Beach Boat Ramp, Longworth Park amenities, Shoal Bay footpath and Mallabula Sports Complex.
- Adopting the Kings Park Sports Complex Masterplan and exhibition of the Place Space Strategy
- Registering assets transferred from 10 new subdivisions and updating Council's asset data systems
- Delivering and planning a number of Capital Works projects (including survey/cadastral, design, project management and construction) – refer page 32.



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SIX MONTHLY REPORT: JULY TO DECEMBER 2020.

Our Place

- Raising road safety awareness through both the 'Joe Rider' motorcycle safety campaign and Holiday Time Road safety campaign.
- Funding from NSW State Government's Fixing Local Roads grant for the upgrade of Fullerton Cove Road, Kula Road, Medowie Road and Newline Road. Funding also received for the construction of a shared path to be constructed between Ferodale Road and South Street Medowie.
- Maintaining 7 operational and historic cemeteries across Council's owned and managed land at Raymond Terrace, Pioneer Hill, Karuah, Anna Bay, Carumbah Gardens Nelson Bay, Birubi Point and Seaham cemetery.
- Repairing 18,393 potholes and 7,547 square meters of heavy patching to maintain our roads.
- Completing 764 defects and 959 routine inspections for roadside and drainage maintenance.
- Mowing 2,400 locations.
- Completing 1,411 building and trades defect requests and 8,574 testing and tagging of equipment across 99 sites.
- Completing 632 scheduled and unscheduled (break down) services
- The signing of a new Road Maintenance Council Contract with Transport for NSW to undertake road maintenance works on State Roads along with carrying out scheduled work as part of the contract.



**Key challenges include:**

- COVID-19 - changing needs for capital fleet procurement and supply chain issues with lead times extended up to 9 months for supply of utes/trucks and 24 months for specialist plant items.
- Due to an enhanced Capital Works program, Roadside and Drainage crews were diverted to a greater quantity of capital works, which resulted in more outstanding defects occurring, however, this will be the focus for the next 6 months. The workshop has also been in demand with more equipment requiring servicing.
- Wet weather in December resulted in a substantial increase in potholes and impacted the ability to carry out works.

**Highlights of what's next:**

- Completing Nelson Bay Smart Parking and investigating Smart parking implementation for Anna and Shoal Bay, updating the Pathways Plan and refining the Civil Asset Inspection Program.
- Submissions and awaiting results of funding through various grant programs such as round 2 of the Local Roads and Community Infrastructure Program, Round 2 of Fixing Local Roads Program and Federal and State Black Spots program.
- Delivering the remaining FY2020-2021 capital works program and continuing to expand the future works program through the availability of additional infrastructure stimulus grant funding.



**P3 Thriving and safe place to live**

We have continued to:

- provide land use plan, tools and advice that sustainably support the community
- enhance public safety, health and liveability through use of Council's regulatory controls and services
- support the amenity and identity of Port Stephens
- support emergency services and protect Council assets from bushfires and extreme weather events.

**Key outcomes include:**

- Adopting the Port Stephens' Local Strategic Planning Statement and Local Housing Strategy refer to page 12.
- Currently assessing and processing 17 planning proposals to optimise land use to maximise social, economic and environmental needs of the area.
- Determining 484 development applications and reducing the 100-day list to 20.
- Approving 171 construction certificates with a net median processing time of under 5 days. Positive industry responses are being received on our refinement of the certification process
- Inspecting:
  - Food shops - 240 primary inspections and 29 re-inspections for the period, with 88% being satisfactory at the primary inspection. 3 warning letters, 7 improvement notices and 2 penalty notices were issued.
  - On-site Sewage Management Systems – 377 primary inspections with a 98% satisfaction result.
  - Skin penetration premises – 18 inspections with more than 90% overall compliance with routine health standards.
  - Public Swimming pools – the inspection program commenced in October 2020, with 77 inspections and 15 re-inspections conducted achieving 79% compliance.
  - Underground Petroleum Storage Systems (UPSS) – the inspection program commenced in October 2020, with 35 UPSS sites registered and 2 routine inspections performed.
- Investigating incidents of unauthorised development and land use and continued work to reduce outstanding complaints. 182 Customer Relation Management requests (CRMs) were received with 99 finalised. Several long-running compliance matters were resolved without the need to seek action in court.
- Rangers carried out several targeted campaigns including the Dinghy project, Illegal camping project, dogs on beaches, dogs with orders, building site inspections and investigated 31 dog attacks, resulting in 12 enforcement actions. Our Rangers were also actively involved in Council's emergency response to COVID-19 and management of large groups in public spaces (as authorised COVID marshalls) as well as parking enforcement surveillance at tourist hotspots and assisting with community engagement for Nelson Bay Smart Parking.
- Focusing on illegal waste and dumping customer requests, providing education and enforcement to identify offenders and prioritising illegal dumping investigations. Both kerbside waste collection requests (210 CRMs) and illegal dumping investigations slowed over the period.

## ITEM 4 - ATTACHMENT 1

## SIX MONTHLY REPORT: JULY TO DECEMBER 2020.

## Our Place

- Public consultation and adoption of amendments to the Local Environment Plan (LEP) and Development Control Plan (DCP).
- Developing the draft Raymond Terrace Public Domain Plan (PDP) and Streetscape Design Guideline with wide community engagement and support.



- Ensuring the RFS and SES buildings are maintained within agreed levels, with Anna Bay and Soldiers Point RFS stations both having the main automatic roller doors replaced to ensure safe operation for the fire season.
- Asset Protection Zones (APZ) and registered fire trails on Council owned and managed land have continued to be maintained in accordance Council agreed service levels.
- Drafting a revised version of the EMPLAN (including updated evacuation facilities and Council's vulnerable facilities e.g. OOSH facilities) was undertaken in preparation of an updated template. It is proposed that this plan will be submitted to the Local Emergency Management Committee – Emergency NSW for endorsement by mid-2021.

**Key challenges include:**

- The Environmental Health team continues to work with IT and business improvement teams to develop a digital solution for capturing inspection data.
- COVID-19 restrictions presented challenges for community engagement about bulky waste and illegal dumping programs. The pandemic continues to test Port Stephens emergency management arrangements with Council continuing to work with LEOCON and NSW Health as the pandemic evolves. Wet weather has postponed some planned hazard reduction burns, which will be rescheduled once the weather clears.

**Highlights of what's next:**

- Submission of planning proposals to the Department of Planning, Industry and Environment for gateway determination and to give effect to the Port Stephens Local Strategic Planning Statement and Local Housing Strategy (Live Port Stephens).
- The Raymond Terrace Public Domain Plan (PDP) will be considered by Council in early 2021. Subject to Council approval, implementation of the PDP will commence in 2021 with grant funds already secured for minor works to be undertaken in areas identified in the plan.
- The newly commenced UPSS inspection program will focus on higher risk service stations.



## Our Environment

*Port Stephens' environment is clean, green, protected and enhanced*

### E1 Ecosystem Function



We have continued to:

- protect and enhance the local natural environment
- re-educate the community about the natural environment.

#### Key outcomes include:

- Exhibiting and adopting the Tree Vandalism Policy and Environment Policy.
- Processing:
  - 44 DA referrals assessed for Environmental Impact Assessments
  - 117 tree removal applications assessed
  - 38 other referrals assessed
- Inspecting a record 915 sites (418 sites same period last year) for biosecurity compliance of priority weeds - 47 compliance and enforcement actions and 239 sites treated to control priority weeds.
- Developing a Natural Asset Register, which will align with Council's SAMP.
- Completing bushland assessments for all of Council's natural areas and detailed vegetation mapping.
- Regenerating 60.3 ha across 184 sites of environmental with the help of 1011 volunteers.
- Educating the community through the following programs:
  - Western LGA Koala Corridors
  - Birubi Sand Dune Rehabilitation
  - Flying-fox - Ross Walbridge Reserve
  - TAFE Presentations; Coastal Management Program, Biosecurity Act
  - Share the Shore videos
  - Council's Koala Sightings Map: Citizen Science Hub on the Department's SEED Portal
  - Backyard Birds
  - Tree DCP updates (tree fact sheets) - Arborist presentation
  - Sustainability and Climate Change Survey
  - Volunteers Intro to Bush Regeneration



#### Key challenges include:

- Complexities of assessing development applications where unauthorised clearing of vegetation has occurred, highlighting the need for policies and processes to account for this.

ITEM 4 - ATTACHMENT 1  
2020.

## SIX MONTHLY REPORT: JULY TO DECEMBER

## Our Environment

- COVID-19 restrictions have challenged our face-to-face education activities, however, we've managed to reach 760 community members educating them on biosecurity weeds.

**Highlights of what's next:**

- Development of a Local Biodiversity Offsets Policy to provide reasonable, flexible and pragmatic options for developers to offset habitat loss after avoidance and minimisation strategies have been employed.

**E2 Environmental Sustainability**

We have continued to:

- reduce the community's environmental footprint.

**Key outcomes include:**

- Initial community consultation on developing a Waste Strategy
- Coordinating waste collection services (refer to highlights on page 4).
- Presenting a number of options to Council (including the expansion of our solar panels, energy-efficient lighting and investing in solar farms) to reduce our energy consumption.

**Key challenges include:**

- Newline Road Advanced Resource Recovery Technology (AART) Facility was shut for 6 weeks whilst SUEZ completed stage one upgrades to the facility - waste was diverted to Summerhill during this time.

**Highlights of what's next:**

- SUEZ is currently accepting waste at the Newline facility and trialling new systems and product outputs. The new systems and products have been developed in response to changes to Mixed Waste Organic Outputs (MWO) product being able to be used as a compost material by the EPA, and the aging digesters.
- Continuing to investigate feasible options to expand existing infrastructure to reduce Council energy consumption.



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2020.

## SIX MONTHLY REPORT: JULY TO DECEMBER

## Our Environment

## E3 Environmental Resilience



We have continued to:

- encourage community resilience to coastal hazards
- encourage community resilience to detrimental impacts from the environment
- encourage community resilience to the impacts of climate change.

**Key outcomes include:**

- Preparing the first draft of the Stage 2 Coastal Management Program (refer to Key Priorities section on page 8).



- Completing quarterly monitoring of decommissioned waste landfill sites as per the schedule along with capping and rehabilitation of the former waste landfill at Newline Road, Raymond Terrace.
- Department of Defence has developed a remediation plan for the PFAS management zone and is progressively implementing remediation works.
- Completing the review of the 2009 Port Stephens Climate Change Adaptation Action Plan and commenced incorporating the upgraded treatment actions it into Council's processes along with integrating the high-level recommendations into our IPR framework.

**Key challenges:**

- Results of the BMT review of the Climate Change Adaptation Action Plan were that:
  - Progress of the 35 treatment actions has been ongoing – the Coastal Management Program is expected to drive completion of more actions over the next 18 months.
  - Updated climate data and modelling saw a moderate increase in risk level across 30% of priority risks, a minor increase across 65% and no change across 5%
  - We lead our peers across 14% of key performance areas, the average for 57% of operational activities, lagging in 29% of operations ( dedicated climate change officers and total funding dedicated to climate change).

**Highlights of what's next:**

- Continuing work on the Coastal Management Program, refer to the Key Priorities section on page 8.
- Engagement of a new staff member and Project Control Group to ensure Climate Change Adaptation actions are implemented.

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## Our Council

*Port Stephens Council leads, manages and delivers valued community services in a responsible way*

### L1 Governance



We continue to:

- develop and encourage the capabilities and aspirations of a contemporary workforce
- provide strong civic leadership and government relations
- provide a strong ethical governance structure
- provide strong supportive business systems for Council's operations
- reduce risk across Council.

#### Key outcomes include:

- Staff continuing to respond to COVID-19 by adjusting work arrangements in line with NSW Health guidelines and the organisation updating the COVID staff scenarios document as necessary.
- Continuing our HR program of work, including improving our Human Resource Information System (Cornerstone), our approach to learning and development and rolling out initiatives to support psychological health.
- Delivering support to Council and the executive team on time and budget.
- As a joint owner of the airport, recognising the official opening and completion of Stage-1 construction of the Astra Aerolab Aerospace Business park.
- Considering the establishment of the Hunter 2050 Foundation (facilitated by the Hunter Joint Organisation of Councils which Council is a member of), which aims to grow the regional economy through targeted local investments and industrial development.
- Determining 142 requests to provide access to Council information and providing legal advice for 140 matters across Council for statutory and operational matters. A number of legal matters have concluded in the courts.
- 8 internal audits have been identified for this financial year.
- Meeting our Integrated Reporting Planning Framework requirements by:
  - providing Council with a six-month progress report on our achievements and challenges to June 2020.
  - providing the community with our Annual Report 2019-2020 on the year that has been.
- Providing a report and results of the 2020 Community Satisfaction Survey - refer to Community Satisfaction Scorecard on page 35.
- Completing 7 full-Service Reviews and 14 ADRI reviews concluding round 3 of the service review program.
- Continuing the Business Systems Program of work, improvements and upgrades.



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2020.

## SIX MONTHLY REPORT: JULY TO DECEMBER



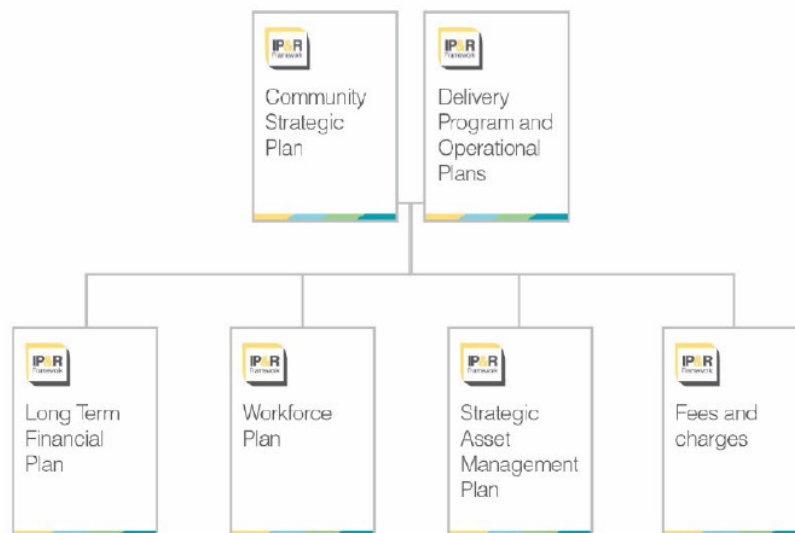
- Supplying changes required to technology to enable working from home, working remotely and via zoom locations as well as technological support for the Koala Sanctuary.
- Awarding a contract to develop and implement a new Enterprise Risk system.

**Key challenges include:**

- COVID-19 had a severe impact on the airport operations and NAPL was unable to provide its usual dividend to shareholders in 2020 - 2021.

**Highlights of what's next:**

- Reviewing the 2021 Enterprise Agreement.
- Preparing our Integrated Planning and Reporting (IPR) documents for the 2021-2022 financial year (including Delivery Program 2018-2022, Operational Plan 2021-2022, Workforce Plan 2018-2022, Long Term Financial Plan 2021-2031, Strategic Asset Management Plan 2021-2031 and Fees and Charges 2021-2022 for Council consideration in April 2021.
- Reviewing the Community Strategic Plan for 2022 to 2032.



- 22 conferees are scheduled to have their citizenship conferred on Australia Day.
- Round 4 of the Service Review program will commence for the period 2021-2024 with a focus on streamlining process efficiencies and innovative improvements to achieve soft savings where available.
- Improving the organisation's approach to data management and cybersecurity.
- Automating key workflows using the CRM tool.

**L2 Financial Management**

We continue to:

- maintain strong financial sustainability
- maximise non-rate revenue and investment to support Council services.

**Key outcomes include:**

- Continuing to maintain our financial sustainability, achieve key metrics and securing \$5,579,653 in grant funding in the past six months.
- Working towards centralised purchasing.
- Renegotiating 70 leases and licences securing \$2,100,000 in rent.
- Completing scheduled Administration building upgrade works.
- Preparing an Asbestos Management Plan for several properties, as identified in the Asbestos Register.
- Completing 75% of sales for the newly created Medowie lots, lodging development applications for subdivision of Council owned land at Soldiers Point and Raymond Terrace, finalising the acquisition of the former Raymond Terrace Fire Station site and purchasing a property in Nelson Bay CBD.
- Opening the Koala Sanctuary in September 2020 (Refer to Key Priorities section on page 10).
- Average occupancy across our Holiday Parks increasing by over 4% (to 49.47%) compared to the same period last year. 145,642 guest nights were booked during the reporting period an increase of 15,500 at the same time last year.

**Key challenges include:**

- COVID-19 - has impacted our financial situation, refer to Scorecard on page 38. Due to the introduction of new Federal and State legislation governing lessee and lessor obligations through the pandemic, we received 46 requests for rent relief totalling \$340,713 (9% of annual rent). Council agreed to defer \$301,684 (8%) until 2021 and waived the balance. Repayment agreements have been issued and will commence as soon as the legislation permits.
- COVID-19 – has impacted the Holiday Parks, being exceptionally busy during October school holidays and impacted by cases locally and within the state at other times over the period.

**Highlights of what's next:**

- Managing Council's finances as COVID-19 evolves.
- Auditing the commercial leasing portfolio to ensure agreements are binding, tenants are complying with lease terms and conditions, properties are maintained as per requirements and we are achieving a 7% return from our commercial assets.
- Finalising Bagnall Avenue and Dawson Road subdivisions, the remediation of Squire Street, as well as formulating a Property Strategy to guide future decision-making.



**L3 Communication and Engagement**

We continue to:

- promote a customer first organisation
- provide information in a range of accessible formats
- strengthen Council's reputation
- provide a voice for the community.

**Key outcomes include:**

- The Customer Request Management system remediation project is 90% completed with 33 of 37 categories now using streamlined workflows. Daily customer interactions have also increased due to the roll-out of the Smart Parking program.
- Updating our dedicated COVID-19 webpage to ensure our community has quick access to information they need about services, restrictions and how our Council is helping business and the community.
- Launching the Port Stephens Investment Prospectus microsite to encourage investment in the Port Stephens LGA. The first of its kind for our Council it is an example of how key projects, which require significant marketing investment, can benefit from a microsite.
- Producing Facebook Live events for :
  - the Waste Strategy – reaching over 23,000 people with women aged 35 to 45 years being the largest demographic group.
  - the NAIDOC ceremony – reaching over 2,000 people with the largest demographic being women aged 25 to 34 years.
- Increasing focus on communications planning to ensure we take a strategic approach to communicate with our community, communicate clearly and via the appropriate channels to meet community needs. A project manager has been appointed as a key contact for each project.
- Marketing, communications and design for various projects including the Koala Sanctuary opening, smart parking, Annual report 2019-2020, a new operator for the Medowie Sport and Community Facility, launching a revised grant program to help community and business with COVID-19 adaptations, continuing COVID-19 summer safety messaging, rock fishing and Joe Rider safety campaigns for fishers and motorcyclists respectively.
- Community engagement for the Place Score Liveability index, the launch of Smart Parking Systems, Raymond Terrace Public Domain Plan, Tilligerry projects and the Coastal Management Program.

**Key challenges include:**

- While COVID-19 has proved a challenging time for our community and our Council, it has forced us to think digital-first and has put an increasing focus on online service delivery and communication.

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2020.

## SIX MONTHLY REPORT: JULY TO DECEMBER

## Our Council

**Highlights of what's next:**

- Complete the Customer Request System remediation project and develop an approach for redeveloping the website to align with other corporate systems so that customers can find what they need when they need it streamlining registered customer requests.
- Finalising the Website Strategy and continuing to communicate with our community and keep them involved during COVID-19 through live streaming events, online consultation and creating more videos to promote our works.
- Developing a Communications Strategy for Port Stephens Council to ensure all of our external communication has a clear purpose and is aligned with the Community Strategic Plan.
- Delivering the annual Australia Day event - with some changes to ensure we are keeping our community safe during COVID-19 pandemic.
- Using the Place Score liveability index data to prioritise resources to areas of greater community need.



SCORECARD

# Scorecard

Our seven key result measures underpin everything we do at Port Stephens Council:



## Service Delivery

Target > 95% Integrated Plans delivered on time

Achievement: 100% of Operational Plan Actions on track

(as at 31 Dec 2020)



## Community Satisfaction

Target > 80% Community Satisfaction

Achievement: 80% (Source: 2020 Community Satisfaction Survey)



## Employee Engagement

Target > 70% Employee Engagement

Achievement: 81% (Source: 2020 Employee Engagement Survey)



## Governance

Target > 95% Governance Health Check

Achievement: 98.24% (as of June 2020 )



## Risk Management

Target > 80% Risk Management Maturity

Achievement: 86% (As of October 2020)



## Financial sustainability

Target > underlying financial surplus

Achievement: Breakeven (As of Dec 2020 QBR)



## Infrastructure Backlog

Target: Reduction in the backlog

Achievement: \$13.83 m (As of June 2020)



On track (target achieved or on track to be achieved)



Monitor (<5% off the target)



Off-track (>5% off the target)

# SCORECARD

We successfully balance these key metrics by:

- ensuring that we're delivering on what we say we're going to do
- ensuring our community is satisfied with the level of service
- ensuring our assets are maintained in an acceptable standard
- being financially sustainable
- having the right practices and governance in place
- having an appropriate risk maturity and
- having engaged employees



Image: Key result metrics

ITEM 4 - ATTACHMENT 1  
2020.

## SIX MONTHLY REPORT: JULY TO DECEMBER

## SCORECARD

## 1. Service Delivery

From July to December 2020, we made the following progress on the 2020-2021 Operational Plan actions which contribute to the achievement of Delivery Program objectives:

- 100% (85 actions) on track

The following tables are a summary of individual road, community and recreation projects that were completed and are in progress as of 31 December 2020. It is not an exhaustive list of all Capital Works projects carried out during this period.

Roads and Drainage projects completed	Expenditure 1 July to 31 December 2020
Lemon Tree Passage Road, Salt Ash	\$621,959
Tomaree Road Shoal Bay — Stage 2	\$984,489
Church St, Nelson Bay	\$433,036
Fullerton Cove Rd, Fullerton Cove	\$636,159
School Drive, Tomago	\$179,349
Swan Bay Rd Seg 30-50, Swan Bay (PS2020)	\$549,098
Clarencetown Rd Seg 40, Woodville	\$553,303
<b>TOTAL</b>	<b>\$3,957,393</b>

Roads & Drainage projects in construction	Expenditure 1 July to 31 December 2020
Masonite Rd, Tomago	\$542,064
Newline Rd, Raymond Terrace	\$706,062
Port Stephens Drive, Anna Bay	\$129,894
<b>TOTAL</b>	<b>\$1,378,020</b>

ITEM 4 - ATTACHMENT 1  
2020.

## SIX MONTHLY REPORT: JULY TO DECEMBER

## SCORECARD

Roads & Drainage projects in planning	Expenditure 1 July to 31 December 2020
Clarencetown Rd Seg 10, Woodville	\$59,014
Clarencetown Rd Riverflat, Seaham	\$500,378
Grahamstown Rd, Medowie	\$204,500
Warren St /Bus Interchange, Seaham	\$245,529
Medowie Rd, Medowie shared path	\$16,035
Lemon Tree Passage Rd, Salt Ash (near Michael Dr)	\$231,759
Fern Bay Shared Pathway (PS2020)	\$95,870
Raymond Terrace levee bank shared path (PS2020)	\$17,541
William St, Raymond Terrace - Town Centre Improvements (PS2020)	\$71,399
<b>TOTAL</b>	<b>\$1,442,025</b>

Community & Recreational and Structures projects completed	Expenditure 1 January to 30 June 2020
Conroy Park Foreshore Improvements	\$184,291
Salt Ash Hall Amenities	\$17,102
Medowie Skatepark Infrastructure	\$32,269
Seaham Park path	\$35,500
Nelson Bay CBD Amenities (PS2020)	\$103,902
Robinson Reserve, Anna Bay	\$77,638
Koala Sanctuary, One Mile	\$104,275
Bill Strong Oval, Nelson Bay	\$71,902
<b>TOTAL</b>	<b>\$626,879</b>



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2020.

## SIX MONTHLY REPORT: JULY TO DECEMBER

## SCORECARD

Community & Recreational and Structures projects in construction	Expenditure 1 July to 31 December 2020
Medowie Tennis Amenities	\$65,840
<b>TOTAL</b>	<b>\$65,840</b>

Community & Recreational and Structures projects in planning	Expenditure 1 July to 31 December 2020
Little Beach, Nelson Bay - Amenities Replacement ( <b>PS2020</b> )	\$8,384
Tilligerry Skatepark	\$44,515
Stuart Park Amenities, Hinton	\$35,466
Boyd Oval Amenities, Medowie	\$28,103
Tomaree Sports Complex Amenities	\$287,742
Raymond Terrace Depot	\$725,618
Birubi Information Centre	\$289,749
<b>TOTAL</b>	<b>\$1,419,577</b>

## 2. Community Satisfaction

We conducted our annual Community Satisfaction Survey in May/June 2020 yielding an overall satisfaction score of 80%. This score meets the yearly target of 80% and is 4 percentage points higher than our 2019 score.

A detailed report is available on the Council's website.

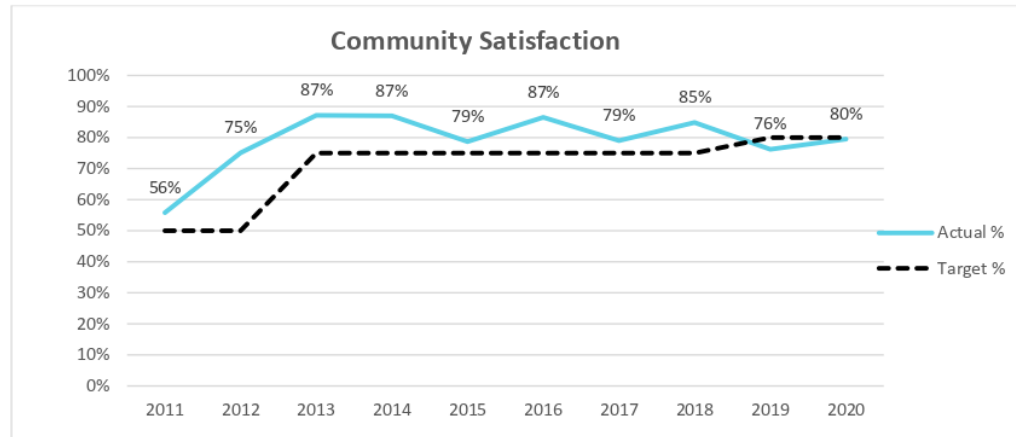


Figure: Community Satisfaction

## 3. Employee Engagement

We conducted an Employee Engagement Survey in October 2020, resulting in our highest ever 81% engagement score.

For the second year in a row, we exceeded our ambitious target of 70%, which continues to place Council in the top quartile of organisations in Australia and New Zealand.

We continue to score significantly above the average local government score of 54%. There have been improvements in all key areas, which we focussed on during the year.

Over the next 6 to 12 months, we will implement a robust plan with key stakeholders to further improve and sustain effective strategies with short- and long-term milestones.

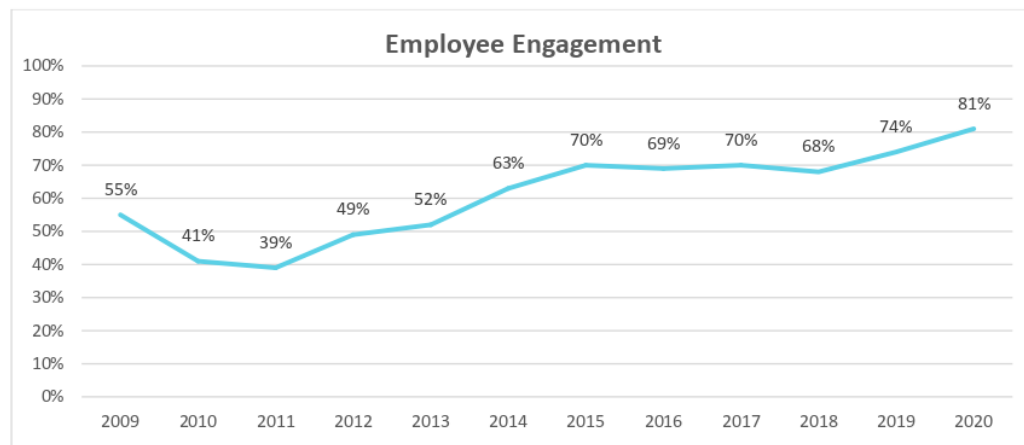


Figure: Employee Engagement

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2020.

## SIX MONTHLY REPORT: JULY TO DECEMBER

## SCORECARD

**4. Governance**

We conducted the annual review of the Governance Health Check in June 2020, resulting in a 98.24% score.

We implemented further improvements in the area of - managing working with children policy and procedures. As a result of these improvements, the Governance Health Check score has exceeded the Council's target of 95%.

The Governance Health Check is a tool to measure our governance and performance. It covers four areas - ethics, risk management, information management and reporting. The graph below demonstrates our progress in achieving our Governance Health Check scores from 2015 to 2020.

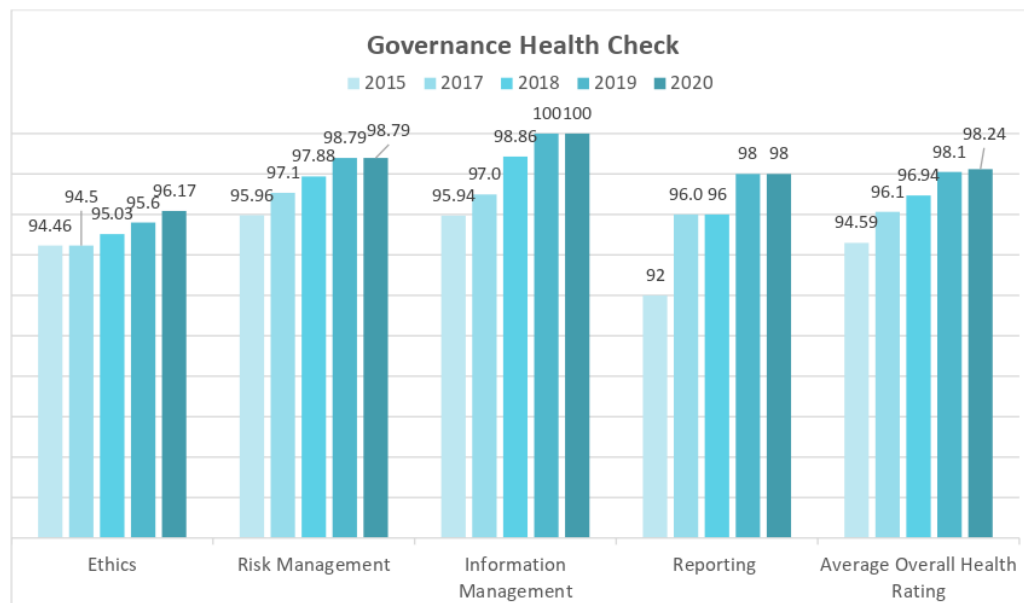


Figure: Graph Governance Health Check

**5. Risk Management**

We reviewed our risk maturity score in October 2020, achieving a rating of 86% against a target of 80%.

Consistent with the Council's business excellence philosophy, the Enterprise Risk Management team initiated a review of the Risk Management Framework and established a multi-year program to mature the capacity and capability of intelligent risk management at Council. This extensive program examines all aspects of the framework, including processes, systems, documentation and risk language. This approach will extend existing risk management practices to further integrate effective risk management in support of Council's Community Strategic Plan.

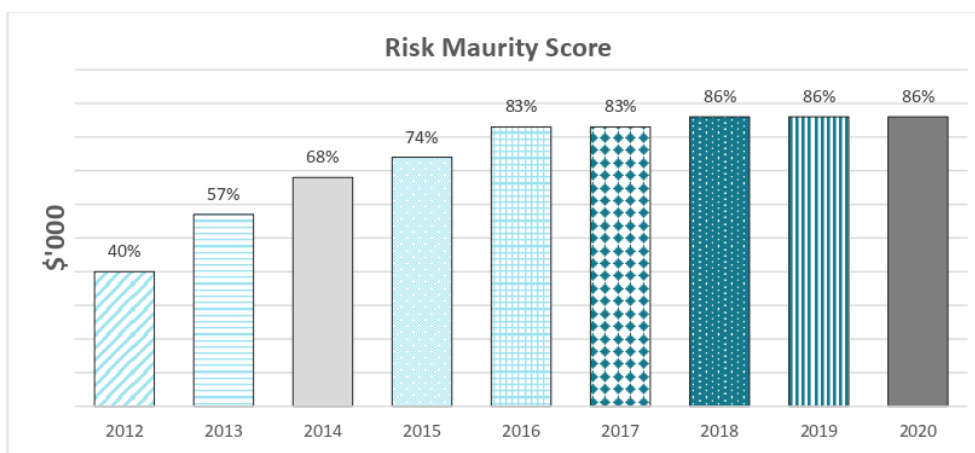


Figure: Graph Risk Maturity Score

### Environmental Management System

Council's Environment Policy, a foundation document of the Environmental Management System, was reviewed and adopted by Council in December 2020. In October 2020, Council was announced as the overall winner in the Local Government New South Wales (LGNSW) Excellence in the Environment Awards 2020, for our work on Roadside Environmental Management. Council's winning project, Discovering Mahony's Toadlet – a journey to expand the Hunter and Central Coast Roadside Environmental Marker Scheme was in partnership with the Hunter Joint Organisation and supported through a Local Government NSW grant.

In 2016, Mahony's Toadlet (*Uperoleia mahoyi*), was discovered in the Port Stephens Local Government Area (LGA).

The newly discovered species was listed as threatened the following year. This project undertook ecological surveys of Council's roadside environments to assess likely habitat for Mahony's Toadlet. This also included addressing potential impacts of the Council's roadside maintenance activities on the species and inclusion into our Environmental Management System.

Council also integrated this project into the existing Hunter Joint Organisation Regional Roadside Environment Marker Scheme, which is ready to use by other road authorities across the region. Council is progressively rolling out the marker program for our roadside maintenance activities.

With the support of experienced third parties, Council continues to explore its understanding of specific climate change threats to our operations and long-term delivery



Image: Mayor Ryan Palmer, Kirily Sheridan, Environmental Management System Manager and Chris Hilkemeijer, Enterprise Risk Manager

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2020.

SIX MONTHLY REPORT: JULY TO DECEMBER

SCORECARD

of services. This is being examined through scenario analysis on the impacts climate change has on different functional areas of Council, including long-term planning and resourcing. This analysis will help to inform Council's ongoing approach to adapting to the challenges of climate change.

**Work Health and Safety**

The health, safety and wellbeing of workers is a priority at Council and is reflected in our proactive Work Health and Safety (WHS) program. During the last six months, Council has undertaken the following key health and safety outputs (including actions to prevent or respond to the potential risk):

- 63 Ergonomic assessments (97 Actions),
- 17 Workplace Inspections (130 Actions),
- 70 Safety Compliance Audits,
- 884 Safety observations (94 Actions), and
- Over 160 people participated in Skin Checks

Council's ongoing and continued efforts in workplace health and safety were acknowledged by its Workers Compensation Insurer, StateCover Mutual Ltd, by way of a partial rebate received in the period.

**6. Financial sustainability**

For the past 5 years, our Council has been consistently delivering a modest 1% surplus — in part due to our diverse non-rate revenue streams.

As outlined in our Annual Report 2019-2020, COVID-19 significantly impacted almost every facet of our operations. With a downturn in revenue because of the pandemic, our projected underlying result moved to a deficit of \$185,000 in June 2020. As at the December Quarterly Budget Review, we anticipate our underlying financial position will be break-even.

By carefully managing our cash flow and reprioritising spending, we have still been able to meet our Council's financial obligations while keeping people employed in meaningful work.

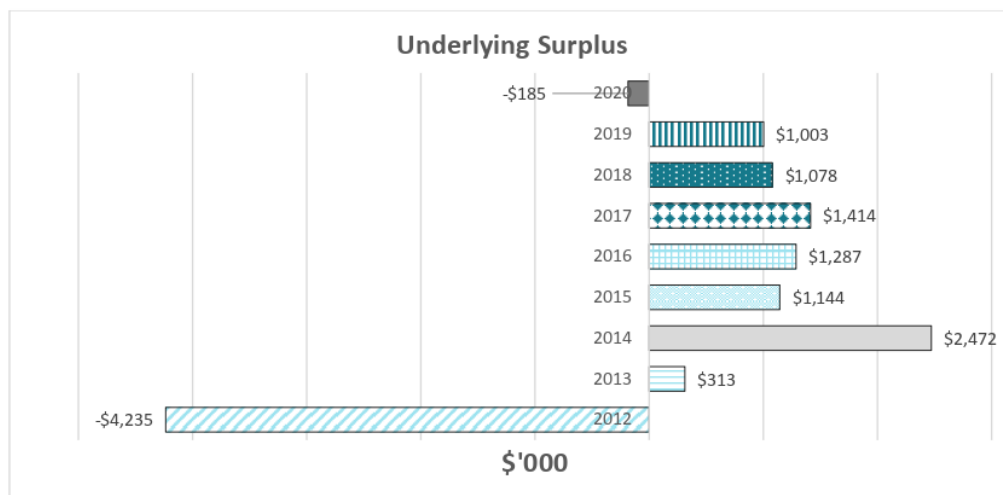


Figure: Graph Underlying Surplus

**7. Infrastructure backlog**

The infrastructure backlog is a new measure introduced in the 2019-2020 financial year.

The target is to reduce the backlog, which occurred significantly from 2014 to 2015, remaining relatively stable for the past 4 years. The infrastructure backlog is reported on an annual basis in the Annual Report.

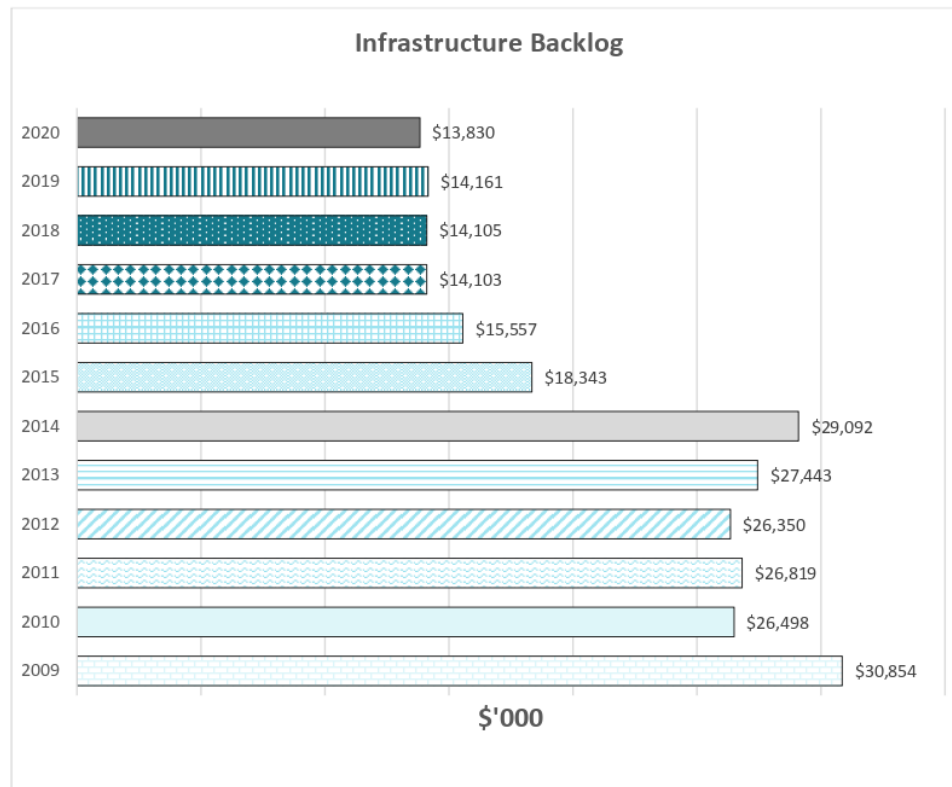


Figure: Graph Infrastructure backlog





**ITEM NO. 5****FILE NO: 21/45203  
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 9 March 2021.

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	Planning Strategy Implementation Annual Report 2020	133
2	Designated Persons' Return	157
3	Council Resolutions	158

**ORDINARY COUNCIL MEETING - 9 MARCH 2021  
MOTION**

<b>049</b>	<b>Councillor Paul Le Mottee Councillor Giacomo Arnott</b>  It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 9 March 2021.  <table><tr><th><b>No:</b></th><th><b>Report Title</b></th></tr><tr><td>1</td><td>Planning Strategy Implementation Annual Report 2020</td></tr><tr><td>2</td><td>Designated Persons' Return</td></tr><tr><td>3</td><td>Council Resolutions</td></tr></table>	<b>No:</b>	<b>Report Title</b>	1	Planning Strategy Implementation Annual Report 2020	2	Designated Persons' Return	3	Council Resolutions
<b>No:</b>	<b>Report Title</b>								
1	Planning Strategy Implementation Annual Report 2020								
2	Designated Persons' Return								
3	Council Resolutions								

The motion was carried.

# INFORMATION PAPERS

**ITEM NO. 1**

**FILE NO: 21/18077  
EDRMS NO: PSC2015-03638**

**PLANNING STRATEGY IMPLEMENTATION ANNUAL REPORT 2020**

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

**BACKGROUND**

The purpose of this report is to present the Planning Strategy Annual Report for 2020 ('the report') (**ATTACHMENT 1**).

At its meeting on 27 November 2018, Council resolved (Minute No. 156) (**ATTACHMENT 2**) to establish Implementation Panels (Panel) for the Raymond Terrace and Heatherbrae Strategy, progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program and the Medowie Planning Strategy.

Each Panel is guided by terms of reference, which require an Annual Report to be provided to Council on the outcomes of Panel meetings and the progress of each relevant planning strategy.

Council has since adopted the Fern Bay and North Stockton Strategy, Local Strategic Planning Statement and Local Housing Strategy.

The progress of relevant actions contained in these strategies has also been included in the report for 2020.

**ATTACHMENTS**

- 1) Planning Strategy Implementation Annual Report 2020.
- 2) Minutes of Council Meeting - 27 November 2018. (Minute 156).

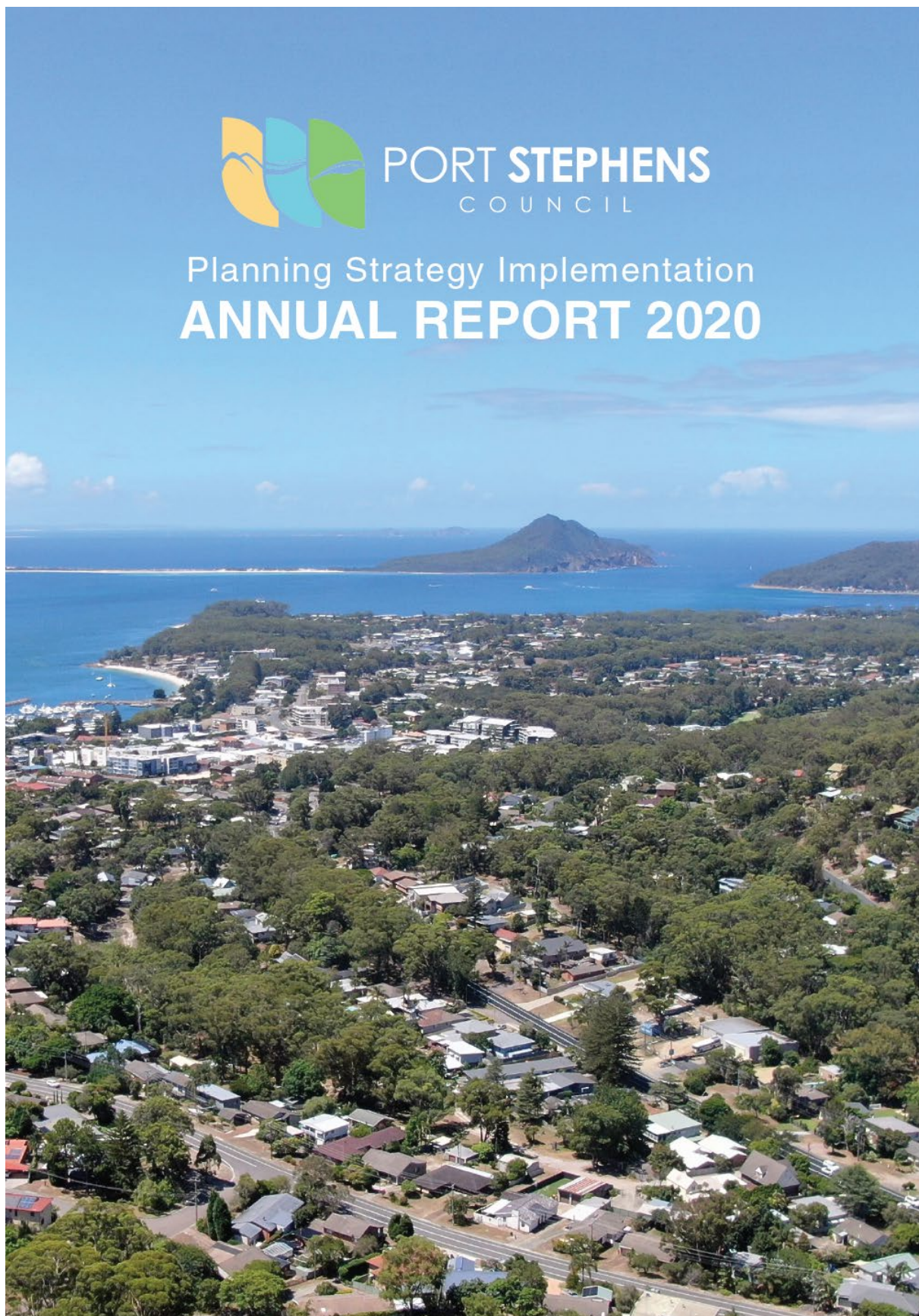
**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



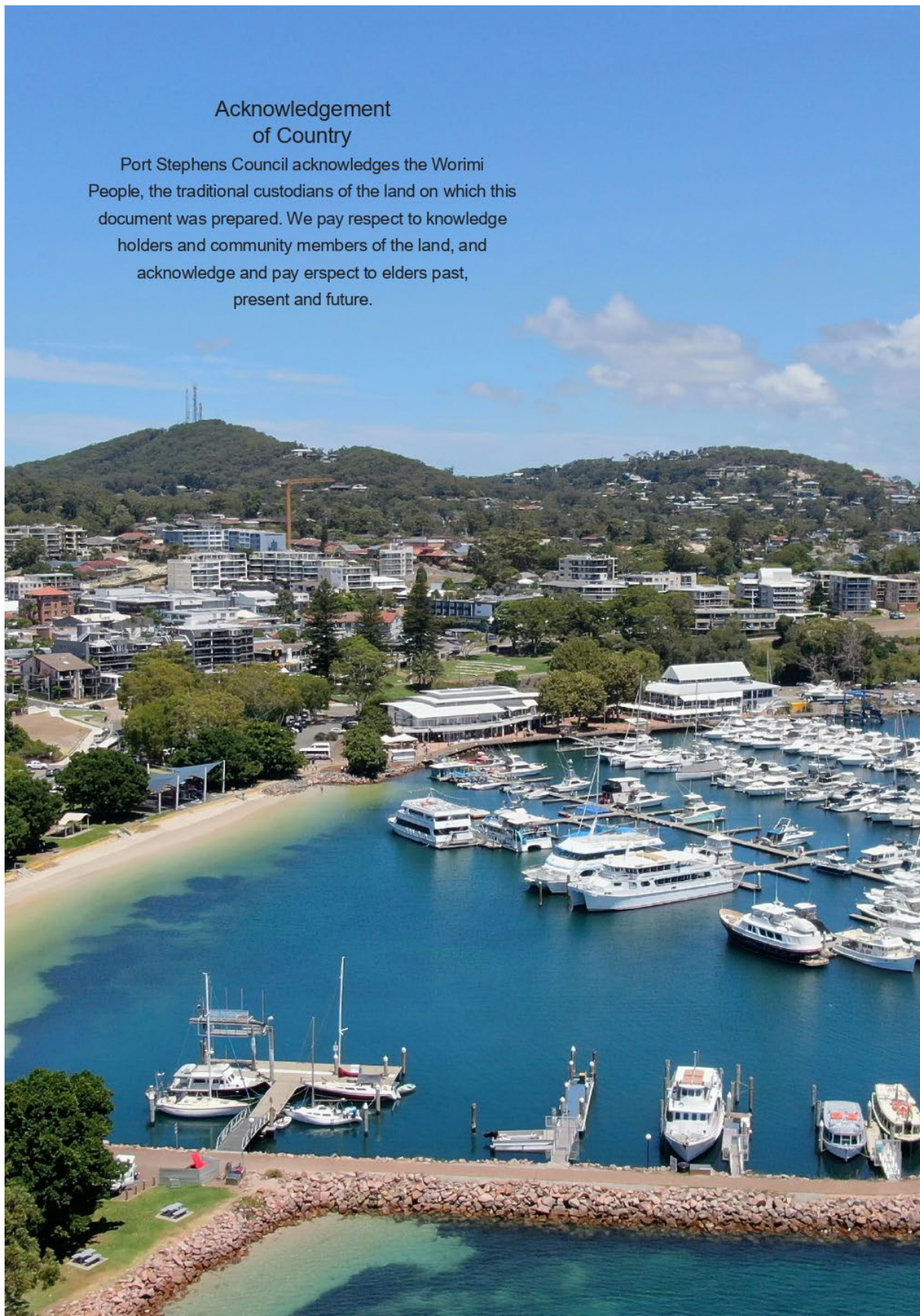




**ITEM 1 - ATTACHMENT 1      PLANNING STRATEGY IMPLEMENTATION  
ANNUAL REPORT 2020.**

**Acknowledgement  
of Country**

Port Stephens Council acknowledges the Worimi People, the traditional custodians of the land on which this document was prepared. We pay respect to knowledge holders and community members of the land, and acknowledge and pay respect to elders past, present and future.





ITEM 1 - ATTACHMENT 1  
ANNUAL REPORT 2020.

PLANNING STRATEGY IMPLEMENTATION



Planning Strategy Implementation Annual Report 2020

## Contents

- 04** Port Stephens Local Strategic Planning Statement
- 06** Port Stephens Local Housing Strategy (Live Port Stephens)
- 08** Raymond Terrace and Heatherbrae Strategy
- 10** Nelson Bay Town Centre and Foreshore Strategy
- 12** Medowie Planning Strategy
- 14** Fern Bay and North Stockton Strategy

## Introduction

Port Stephens Council has established a strategic planning framework to link planning, land use controls and local infrastructure provision across the local government area. The framework consists of a Local Strategic Planning Statement (LSPS) and Local Housing Strategy (Live Port Stephens), adopted by Council in 2020, providing the overarching vision and planning priorities to inform decision making.

The LSPS and Live Port Stephens are supported by a series of place-based local area strategies aimed at delivering improved economic, environmental and social outcomes in centres identified for growth.

In 2018 Port Stephens Council (Council) established implementation panels for Raymond Terrace and Heatherbrae, Nelson Bay and Medowie. The implementation panels include community and business representatives appointed by Council, as well as the ward councillors for each area, the Mayor, and key Council staff.

This report has been prepared to detail the progress of actions in strategies that form part of the local strategic planning framework, including the outcomes from the implementation panels.

## ITEM 1 - ATTACHMENT 1 PLANNING STRATEGY IMPLEMENTATION ANNUAL REPORT 2020.

### Port Stephens Local Strategic Planning Statement

The Port Stephens Local Strategic Planning Statement (LSPS) provides the vision for land use in Port Stephens over the next 20 years and was adopted by Council in July 2020. The LSPS is the tool that gives local-level effect to State government regional plans by informing local statutory plan making and development controls. It also provides the link between the Port Stephens Community Strategic Plan and land use planning.

#### Port Stephens Local Strategic Planning Statement actions update

##### Alignment of the Local Environmental Plan 2013 with the LSPS

A planning proposal has been prepared to amend the Local Environmental Plan 2013 to give effect to relevant actions in the LSPS and align local and regional strategic planning. The planning proposal will be submitted to the State government in 2021 followed by further community consultation.

##### Local Housing Strategy and Rural Residential Criteria (Actions 4.1 and 9.1)

Council adopted the Port Stephens Local Housing Strategy (Live Port Stephens) including criteria for new rural residential rezonings in July 2020. The criteria was developed following extensive investigations and consultation over the past 10 years to determine appropriate areas for new large lot housing and supports the LSPS priority to protect and preserve productive agricultural land.

##### Smart City Blueprint (Action 6.1)

Council adopted the Port Stephens Smart City Blueprint in July 2020. The Blueprint will guide decision-making as Port Stephens becomes a smart region by using innovative technology to make our place more liveable, prosperous and sustainable. The Blueprint is available on the Council website: <https://www.portstephens.nsw.gov.au/grow/port-stephens-planning-strategies/smart-city-strategy>

##### Bushfire prone land mapping (Action 8.2)

The review of the Port Stephens Bushfire Prone Land Map has been completed in collaboration with the NSW Rural Fire Service (RFS). The updated mapping has been certified by the RFS and is expected to be published in 2021.

##### Community Wellbeing Strategy (Action 10.1)

A Community Wellbeing Strategy to establish principles for a sustainable, healthy, safe and inclusive community will be prepared for exhibition in 2021. The Strategy will be informed by liveability and place census data collected in 2020 and will simplify and consolidate several existing social policies and plans.

##### Actions linked to local area strategies

The following LSPS actions were implemented in 2020 and are linked to local area strategies:

- Action 1.1 Port Stephens Investment Prospectus (Raymond Terrace and Heatherbrae Strategy)
- Action 2.1 Heatherbrae bulky goods (Raymond Terrace and Heatherbrae Strategy)
- Action 5.1 Increase height of building controls at Nelson Bay (Nelson Bay Delivery Program)
- Action 10.3 Raymond Terrace Public Domain Plan (Raymond Terrace and Heatherbrae Strategy)

Further details on these actions are provided below.



**ITEM 1 - ATTACHMENT 1  
ANNUAL REPORT 2020.**

**PLANNING STRATEGY IMPLEMENTATION**



## ITEM 1 - ATTACHMENT 1 PLANNING STRATEGY IMPLEMENTATION ANNUAL REPORT 2020.

### Port Stephens Local Housing Strategy (Live Port Stephens)

The Local Housing Strategy (Live Port Stephens) is the overarching strategy to guide land use planning decisions for new housing in Port Stephens and was adopted by Council in July 2020.

#### Live Port Stephens actions update

##### Rezoning prioritisation and process review (Action 1 & 6)

A review of the rezoning request process to improve assessment timeframes informed the preparation and adoption of a Rezoning Request Policy and Guideline. Under the policy, rezoning requests for housing that are consistent with adopted planning strategies are sent to the NSW Department of Planning, Industry and Environment (DPIE) under delegated authority. Other changes to the rezoning process have contributed to significant time savings in 2020, two planning proposals, with the potential to create up to 20 additional dwellings, received Gateway determinations from DPIE within 31 days.

##### Streamline assessments and reduce cost of housing (Action 13)

Council adopted an amendment to the Port Stephens Development Control Plan 2014 (DCP) to improve the efficiency of the development assessment process and increase housing affordability. The changes also addressed the impact of COVID-19 on business and building activity in 2020 and reduced the cost of doing business in Port Stephens. This was through amending various controls and provisions to provide a more pragmatic approach to meeting objectives for development controls. The changes deliver savings of between \$5000 and \$20,000 as they minimise additional construction costs and reduce potential fees and charges.

##### Advocacy for more affordable dwellings (Action 8)

A submission on the proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) was prepared. The Housing Diversity SEPP will facilitate the delivery of diverse and affordable housing to meet the needs of the State's growing population and support the development of a build-to-rent sector. The Housing Diversity SEPP aligns with Live Port Stephens and priorities to improve housing affordability.

##### ePlanning reforms (Action 12)

Council partnered with the DPIE and adopted ePlanning reforms to streamline the lodgement and processing of development applications and integrated assessments.

##### Liveability Index (Action 19)

A placemaking and liveability census tool, Place Score was used in 2020 to map, measure and monitor liveability in Port Stephens. A survey was undertaken to understand what residents, workers and visitors value in their neighbourhood as well as score the liveability performance of our neighbourhoods. The results enable Council to prioritise investment in infrastructure, align projects with community values, and increase community participation in strategic planning.

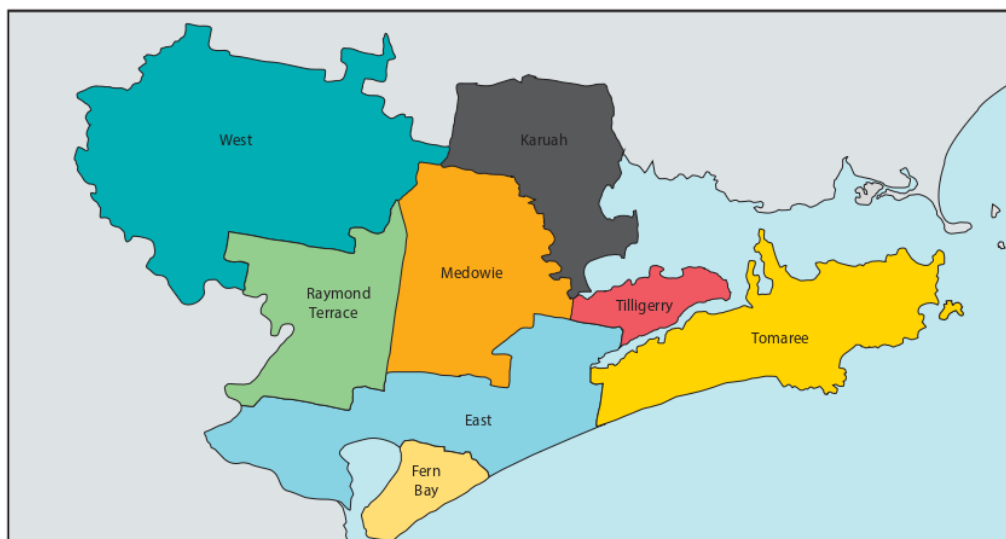
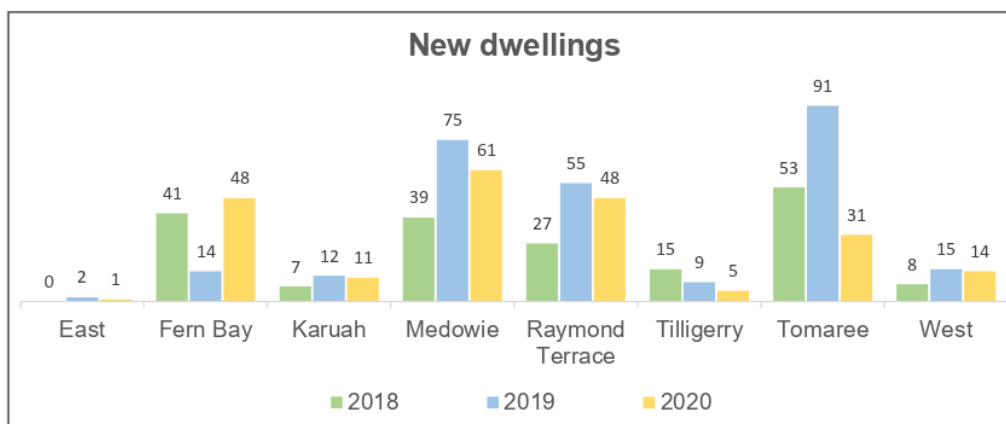


**ITEM 1 - ATTACHMENT 1 PLANNING STRATEGY IMPLEMENTATION ANNUAL REPORT 2020.**

**Land supply and dwelling production report (Action 2)**

Council monitors dwelling production to update population forecasts and ensure an adequate supply of new housing. New data show almost 500 more people moved to Port Stephens in 2020 than previously estimated. The higher than expected growth was recently acknowledged by the NSW Minister for Planning and Public Spaces, The Hon. Rob Stokes MP. The Minister advised that population projections released by the NSW Department of Planning, Industry and Environment for the Hunter in 2019 did not account for the growth trends in 2020. These trends will be revised as part of the review of the Hunter Regional Plan.

In 2020, urban release areas in Medowie, Fern Bay and Raymond Terrace produced the highest number of new dwellings. Greenfield sites were more likely to benefit from the federal government's HomeBuilder grant assistance that targeted funding for new buildings and renovations on properties valued less than \$750k.



Planning areas



## ITEM 1 - ATTACHMENT 1 PLANNING STRATEGY IMPLEMENTATION ANNUAL REPORT 2020.

### Raymond Terrace and Heatherbrae Strategy

The Raymond Terrace and Heatherbrae Strategy provides the strategic direction to achieve the vision for a strong regional centre and a great place to live, work and play.

The community members on the Raymond Terrace and Heatherbrae Panel are:

- Jeff Bretag (Resident Representative)
- Ken Buckingham (Resident Representative)
- David Davies (Resident Representative)
- Kristine Brown (Business Representative)
- Jake Bush (Business Representative)

Due to COVID-19 restrictions Panel members were mostly engaged via emails and online meetings during 2020. Panel members were involved in progressing a number of actions and projects throughout the year including participating in guided town walks and workshops to inform the preparation of the Raymond Terrace Public Domain Plan. Panel members were also invited to participate in training for place making and measuring liveability.

#### Raymond Terrace and Heatherbrae Strategy actions update

##### Public Domain Plan and Town Centre Improvements (Actions 27, 29, 30, 31 32, 35)

A Raymond Terrace Public Domain Plan (PDP) has been prepared to guide future investment in the town centre. The PDP implements the following actions:

- Develop streetscape design guidelines (actions 27 and 35)
- Identify the preferred locations for passive open space (action 29)
- Redefine the identity of Raymond Terrace/ Civic Precinct (action 30)
- Provide detailed designs for the upgrade of William Street (action 31)
- Prepare concept designs for Port Stephens and Adelaide Streets (action 32)

Community consultation was undertaken to inform the PDP, including with the Raymond Terrace and Heatherbrae Panel.

The PDP will be reported to Council for adoption in 2021 followed by the following projects:

- William Street road upgrade and streetscape improvements funded by PSC2020 community priority projects
- Parklet installation and place activation activities funded by the NSW Government's Streets as Shared Spaces grant program.

The Port Stephens Local Infrastructure Contributions Plans were adopted to provide funding towards works identified in the PDP. New artwork installations have also commenced in accordance with the PDP. The first artwork was installed outside Best and Less showcasing the unique identity and history of the area.



Artist impression of the river foreshore

ITEM 1 - ATTACHMENT 1  
ANNUAL REPORT 2020.

PLANNING STRATEGY IMPLEMENTATION



Art project 'Everyday Wonders of Raymond Terrace' by Alysha Fewster

**Expansion of bulky goods at Heatherbrae (Action 2)**

A request to rezone land on the Pacific Highway, Heatherbrae to enable new bulky goods retail development was finalised by Council in 2020. The rezoning implements Action 2 from the Raymond Terrace and Heatherbrae Strategy and will be gazetted in 2021.

**Speedy Lock Lane residential development (Action 19)**

A request to rezone land at 5 Speedy Lock Lane, Heatherbrae to enable the development of 30 new homes has been finalised. Council has approved a 1 into 2 lot subdivision to split the residential area from the rural holding which enables further subdivision to occur.

**Investment Prospectus (Actions 3, 12, 14, 24, 25)**

Our Economic Development and Tourism Unit released an Investment Prospectus to assist investors understand the local characteristics and unique advantages of relocating business or developing in Raymond Terrace and Port Stephens. The Investment Prospectus implements several actions from the Raymond Terrace and Heatherbrae Strategy and will be used to advocate to major institutions, promote key development sites and assist proponents in understanding development potential in Raymond Terrace and Port Stephens.



## ITEM 1 - ATTACHMENT 1 PLANNING STRATEGY IMPLEMENTATION ANNUAL REPORT 2020.

### Medowie Planning Strategy

The Medowie Planning Strategy has been prepared to provide direction for land use planning and sustainable growth, following the identification of Medowie as a growth area in local and regional plans.

The community members on the Medowie Panel are:

- Heather Sharp (Resident Representative)
- Geoff Voigt (Resident Representative)
- Ben Niland (Business Representative)
- Robert Dein (Business Representative)

Due to COVID-19 restrictions, Panel members mostly participated via email and phone calls during 2020. Panel members also attended place making and measuring liveability training.



Medowie Town Centre

#### Medowie Planning Strategy actions update

##### Local Infrastructure Funding (Action 19)

Council adopted the Port Stephens Local Infrastructure Contributions Plan 2020 to provide funding towards local traffic and transport infrastructure works and town centre upgrades, including works identified in the Medowie Planning Strategy.

##### Residential and commercial developments (Action 22)

A number of sites identified in the Medowie Planning Strategy for residential and commercial land uses are being developed, or continuing to be developed. These include:

- The Bower residential estate
- The Gardens residential estate
- Tallwood Lifestyle Resort
- Various commercial developments in the town centre

Construction continued on Catherine McAuley College with the initial stages nearing completion by the end of 2020. The first students are expected to commence in 2021.

##### Sports amenities at Boyd Oval (Action 13)

The existing multi-purpose sports amenities at Boyd Oval will be replaced with a budget of \$1.4m after concept plans were endorsed by local sports clubs. The works are expected to start in April 2021.

**ITEM 1 - ATTACHMENT 1      PLANNING STRATEGY IMPLEMENTATION  
ANNUAL REPORT 2020.****Medowie Sport and Community Facility  
(Action 10)**

The Medowie Sport and Community Facility was completed and offers a lounge, bistro, meeting areas, bowling green, playground and car parking. The facility is a significant milestone to implement the Ferodale Park Sports Complex Master Plan.

**Campvale Drain Project (Action 2)**

Council has collaborated with Hunter Water Corporation to improve drainage outcomes in Medowie including a review of Campvale Drain. Following investigations and technical modelling, a solution has been proposed to reduce the frequency of long period flooding (i.e. flooding that lasts more than 10 days) by 75%. Options include opening up, or pumping around, the area known as 'the pinch' to increase the water flow rate down to Campvale pump station. Council will work with Hunter Water to confirm the project scope and estimated costs.

**Shared pathways (Action 20)**

Several shared pathways identified in the Medowie Planning Strategy have been completed or commenced construction in 2020, including:

- Completion of the shared pathway between Boundary Road and the town centre.
- Construction of a shared pathway along Waropara Road.
- Construction of a shared pathway on Medowie Road between Ferodale Road and Medowie Macadamias.

In 2020 Council was successful in applying for a grant under the NSW 2020/2021 Active Transport Program for the construction of 1,650m of shared pathway from Catherine McAuley College to the Medowie Macadamia Farm. Construction will begin in April 2021 and is expected to be completed by June 2021.



Medowie Sport and Community Facility



## ITEM 1 - ATTACHMENT 1 PLANNING STRATEGY IMPLEMENTATION ANNUAL REPORT 2020.

### Nelson Bay Town Centre and Foreshore Strategy

**Progressing the Nelson Bay Town Centre and Foreshore Strategy: a revised implementation and delivery program (the Nelson Bay Delivery Program) provides the direction to achieve a revitalised Nelson Bay and links with actions to implement during the life of the strategy.**

The community members on the Nelson Bay Panel are:

- Richard Casey (Resident Representative)
- Greg Smith (Resident Representative)
- Richard Ware (Resident Representative)
- Nicholas Diemar (Business Representative)
- Robert Taylor (Business Representative)

Due to COVID-19 restrictions, panel members were mostly engaged via emails and online meetings during 2020. Panel members were updated on the progress of the Nelson Bay Delivery Program as well as the implementation of the Nelson Bay Citizens Parking Panel report recommendations. Panel members were invited to participate in the exhibition of the changes to Nelson Bay planning controls and attend placemaking and measuring liveability training. The members of our implementation panels are uniquely positioned to provide valuable input or lead place making projects.

#### Nelson Bay Delivery Program actions update

##### Nelson Bay Planning Proposal and DCP (Action 1, 2, 7, 11)

A proposal to amend planning provisions and revitalise the Nelson Bay town centre was adopted by Council in 2020. The amendments will enhance local character, reinforce the natural amphitheatre topography of the town centre, activate public spaces and promote a more vibrant business environment.

##### Urban Design Panel (Action 3)

An independent Urban Design Panel (UDP) was established in 2019 to review development proposals throughout Port Stephens and provide independent design excellence advice in Nelson Bay. Two projects within the town centre were referred to the UDP in 2020 and additional projects are expected to utilise the service with the adoption of the amended planning controls.

##### Public Domain (Action 12)

As part of implementing the Nelson Bay Public Domain Plan (PDP), Council has started making streets in the town centre more people-friendly. This includes 'stamping' the road pavement on Magnus Street with blue and sand coloured paint to mark a shared zone for pedestrians and cars.

New public art has been installed in the laneway near Stockton Street to make it more attractive and enhance pedestrian links, as well as fairy lights and seating throughout the town centre. We also received grant funding from the NSW Government as part of their COVID-19 shared spaces grants to trial an on-road shared path between Nelson Bay centre and Little Beach.





Art project "Abundance" by Megan Barrass

**Car Parking Improvements (Actions 13, 21, 22)**

Smart Parking and changes to traffic and parking in the centre commenced over summer. The changes implement the recommendations of the independent Nelson Bay Citizens Parking Panel, a Panel made up of residents, business owners and community representatives.

New smart parking technology uses registration plate recognition and digital signage to help make parking even easier. Extending one way traffic flows in the centre has made it easier to navigate, improved pedestrian safety and created additional street parking.

**Review Infrastructure Funding (Action 33)**

The Port Stephens Local Infrastructure Contributions Plans were adopted in 2020 and include funding for infrastructure identified in the Delivery Program and Nelson Bay Public Domain Plan.

ITEM 1 - ATTACHMENT 1  
ANNUAL REPORT 2020.

## PLANNING STRATEGY IMPLEMENTATION

## Fern Bay and North Stockton Strategy

The Fern Bay and North Stockton Strategy has been prepared to guide future development and ensure sufficient community infrastructure is provided for the growing community.

## Fern Bay and North Stockton Strategy actions update

## Pathways and bus stops (Action 9 and 10)

Funding has been to the construction of a shared pathway along Nelson Bay Road, Fern Bay as part of the Port Stephens 2020 Community Priority Projects. Planning and design has commenced on the pathway and a number of bus stops in Fern Bay requiring upgrade.

## Infill feasibility assessment (Action 19)

The Infill Housing Study and Live Port Stephens considered the planning and market barriers that limit the delivery of infill housing in the Port Stephens LGA. Several interventions, including changes to planning provisions, were identified to facilitate duplexes, granny flats, and small residential flat buildings within existing urban areas, including Fern Bay. Implementing the recommendations of the Infill Housing Study is an action in Live Port Stephens.

## Vardon Road upgrade (Action 22)

The upgrade of Vardon Road at Fern Bay to improve traffic conditions was completed in 2020. The road is well utilised by the public school, community hall, childcare centre and Newcastle Golf Course. A multisport court and park furniture upgrades at Fern Bay Reserve were also completed in 2020. The projects were funded by development contributions collected in the Fern Bay area.

## Rifle range planning proposal (Action 23)

A rezoning request to enable up to 300 new dwellings at the former rifle range site has progressed in 2020. The rezoning was exhibited from 3 June to 1 July 2020 and 5 community submissions were received generally in support of the proposal.



Artist impression of Rifle Range Proposal



**ITEM 1 - ATTACHMENT 1  
ANNUAL REPORT 2020.**

**PLANNING STRATEGY IMPLEMENTATION**



Seaside Estate

**Seaside Estate planning proposal (Action 28)**

A rezoning within the Seaside Estate was withdrawn by the proponent in 2020. The proposal sought to rezone land from neighbourhood centre to low density residential.

**Seaside Estate recreational and community facilities (Action 29)**

Council negotiated a Material Public Benefit Agreement with the Rawson Communities and the Seaside Estate Community Association to improve recreational spaces within the Seaside Estate. The improvements completed in 2020 included amenities, barbeque facilities, skate/scooter park, basketball facilities, play equipment, pathways, landscaping at Banksia Park and a public off-leash dog park.

**Local infrastructure funding (Action 13)**

Council adopted the Port Stephens Local Infrastructure Contributions Plan 2020 to provide funding towards pathways, bus facilities and recreational facilities identified in the Fern Bay and North Stockton Strategy.

**Fullerton Cove planning proposal (Action 32)**

A rezoning at 42 Fullerton Cove Road, Fullerton Cove received a Gateway determination to proceed from the NSW Department of Planning, Industry and Environment in October 2020. The proposal includes rezoning part of the site from rural landscape to neighbourhood centre to facilitate a small supermarket. Further detailed assessments are required prior to community consultation and exhibition.

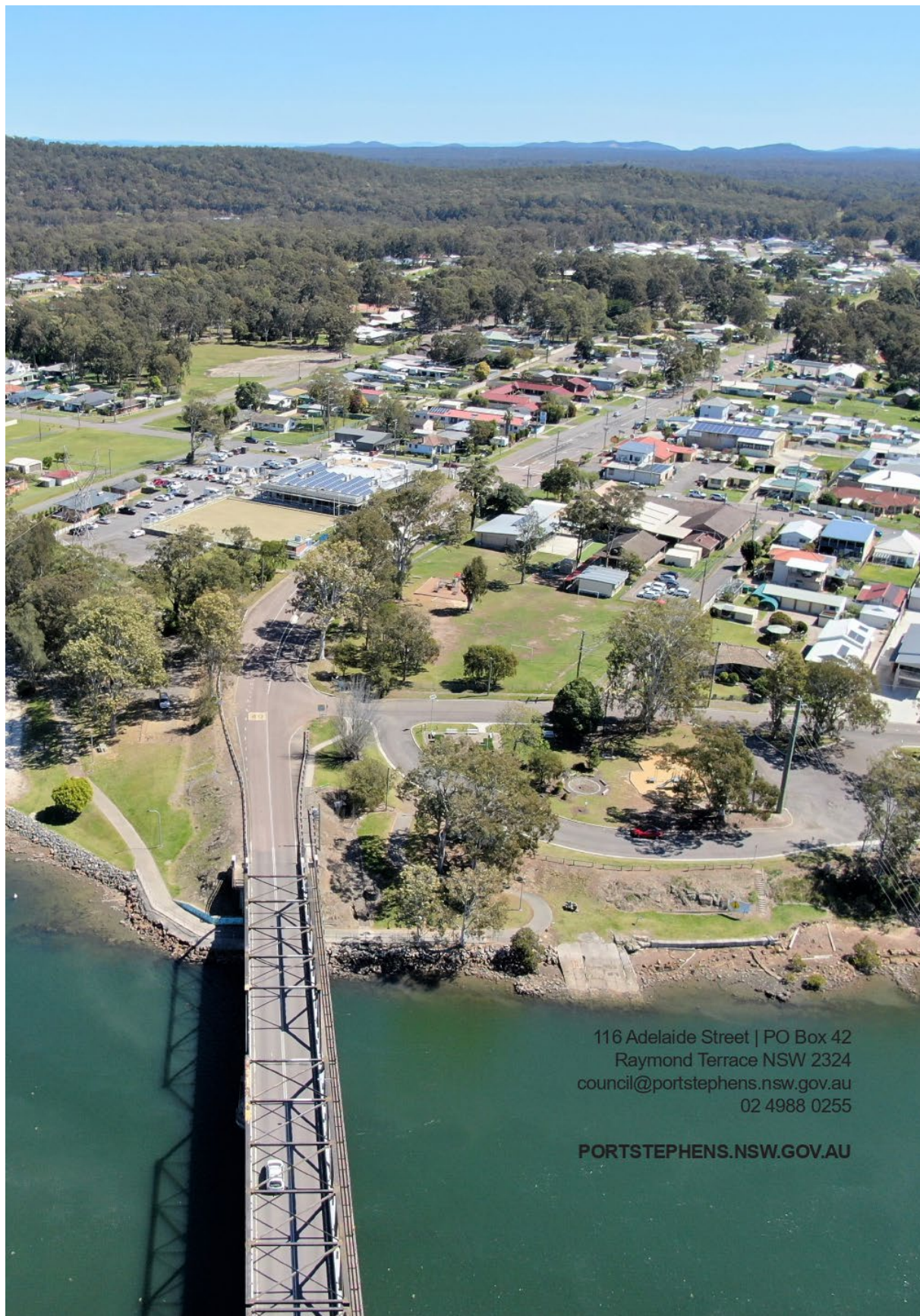


Seaside Estate recreational amenities



**ITEM 1 - ATTACHMENT 1  
ANNUAL REPORT 2020.**

**PLANNING STRATEGY IMPLEMENTATION**



116 Adelaide Street | PO Box 42  
Raymond Terrace NSW 2324  
[council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)  
02 4988 0255

**PORTSTEPHENS.NSW.GOV.AU**

**ITEM 1 - ATTACHMENT 2 MINUTES OF COUNCIL MEETING - 27 NOVEMBER 2018. (MINUTE 156).****MINUTES ORDINARY COUNCIL - 27 NOVEMBER 2018**

Mayor Ryan Palmer left the meeting at 5:38pm in Open Council and Deputy Mayor, Cr Sarah Smith chaired the meeting in the absence of the Mayor.

**ITEM NO. 1**

**FILE NO: 18/255127  
EDRMS NO: PSC2009-09539**

**IMPLEMENTATION PANELS - MEDOWIE PLANNING STRATEGY, NELSON BAY TOWN CENTRE AND FORESHORE STRATEGY AND RAYMOND TERRACE AND HEATHERBRAE STRATEGY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Amend the Terms of Reference for the Nelson Bay Town Centre and Foreshore Strategy Implementation Panel and the Raymond Terrace and Heatherbrae Strategy Implementation Panel to enable up to three (3) resident representatives to be appointed to each of these panels (**ATTACHMENT 1**).
  - 2) Establish the Medowie Planning Strategy Implementation Panel and appoint the recommended community representatives as panel members:
    - Robert Dein (Business)
    - Ben Niland (Business)
    - Heather Sharp (Resident)
    - Geoffrey Voigt (Resident)
  - 3) Establish the Nelson Bay Town Centre and Foreshore Strategy Implementation Panel and appoint the recommended community representatives as panel members:
    - Nicholas Diemar (Business)
    - Robert Taylor (Business)
    - Richard Casey (Resident)
    - Greg Smith (Resident)
    - Richard Ware (Resident)
  - 4) Establish the Raymond Terrace and Heatherbrae Strategy Implementation Panel and appoint the recommended community representatives as panel members:
    - Kristine Brown (Business)
    - Jake Bush (Business)
    - David Davies (Resident)
    - Ken Buckingham (Resident)
    - Jeffrey Bretag (Resident)
-



**ITEM 1 - ATTACHMENT 2 MINUTES OF COUNCIL MEETING - 27 NOVEMBER 2018. (MINUTE 156).****MINUTES ORDINARY COUNCIL - 27 NOVEMBER 2018****ORDINARY COUNCIL MEETING - 27 NOVEMBER 2018  
MOTION**

156	<p><b>Councillor Chris Doohan</b> <b>Councillor Steve Tucker</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Amend the Terms of Reference for the Nelson Bay Town Centre and Foreshore Strategy Implementation Panel and the Raymond Terrace and Heatherbrae Strategy Implementation Panel to enable up to three (3) resident representatives to be appointed to each of these panels (<b>ATTACHMENT 1</b>).</li><li>2) Establish the Medowie Planning Strategy Implementation Panel and appoint the recommended community representatives as panel members:<ul style="list-style-type: none"><li>• Robert Dein (Business)</li><li>• Ben Niland (Business)</li><li>• Heather Sharp (Resident)</li><li>• Geoffrey Voigt (Resident)</li></ul></li><li>3) Establish the Nelson Bay Town Centre and Foreshore Strategy Implementation Panel and appoint the recommended community representatives as panel members:<ul style="list-style-type: none"><li>• Nicholas Diemar (Business)</li><li>• Robert Taylor (Business)</li><li>• Richard Casey (Resident)</li><li>• Greg Smith (Resident)</li><li>• Richard Ware (Resident)</li></ul></li><li>4) Establish the Raymond Terrace and Heatherbrae Strategy Implementation Panel and appoint the recommended community representatives as panel members:<ul style="list-style-type: none"><li>• Kristine Brown (Business)</li><li>• Jake Bush (Business)</li><li>• David Davies (Resident)</li><li>• Ken Buckingham (Resident)</li><li>• Jeffrey Bretag (Resident)</li></ul></li></ol>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

**MINUTES ORDINARY COUNCIL - 27 NOVEMBER 2018****BACKGROUND**

The purpose of this report is to establish the Medowie Planning Strategy Implementation Panel, Nelson Bay Town Centre and Foreshore Implementation Panel, Raymond Terrace and Heatherbrae Strategy Implementation Panel and appoint community representatives to those panels.

At its meeting on 25 September 2018, Minute Number 092, it was resolved that:

'Council establish selection committees for each of the Raymond Terrace and Heatherbrae Strategy Implementation Panel, the Medowie Planning Strategy Implementation Panel and the Nelson Bay Town Centre and Foreshore Strategy Implementation Panel comprising the Mayor and respective Ward Councillors to review nominations and recommend two (2) business and two (2) community members for each panel in accordance with the Terms of Reference (**ATTACHMENT 1**) of the Supplementary Information'.

At the meetings of the selection committees for the Nelson Bay Town Centre and Foreshore Strategy Implementation Panel and the Raymond Terrace and Heatherbrae Strategy Implementation Panel, it was agreed to amend the Terms of Reference for these panels to enable up to three (3) resident representatives to be appointed to each panel (**ATTACHMENT 1**), on the basis of nominations received.

It is also noted that the Mayor has been included as a member on each panel to reflect Council's resolution of 24 April 2018 (**ATTACHMENT 1**).

The following community representatives have been recommended by the selection committees:

**Medowie Planning Strategy Implementation Panel**

- 1) Robert Dein (Business) – Served on the previous panel that guided the review of the previous Medowie Strategy. Robert has operated a local business for 35 years and understands planning and development matters in the town centre and in general.
- 2) Ben Niland (Business) – Served on the previous panel that guided the review of the previous Medowie Strategy. Ben operates an engineering consulting business and has been living in the area for approximately 20 years. Ben has demonstrated involvement in a range of local committees and clubs, and can combine business, engineering and local knowledge.
- 3) Heather Sharp (Resident) – A resident for almost 10 years with a young family. Heather demonstrated a good knowledge of local issues and involvement in the local community.
- 4) Geoffrey Voigt (Resident) – A resident for 20 years with involvement in local sporting and community groups. Geoffrey was involved in the preparation of the Medowie Strategy and will bring local knowledge as it relates to the Medowie Strategy.

**ITEM 1 - ATTACHMENT 2 MINUTES OF COUNCIL MEETING - 27 NOVEMBER 2018. (MINUTE 156).****MINUTES ORDINARY COUNCIL - 27 NOVEMBER 2018**Nelson Bay Town Centre and Foreshore Strategy Implementation Panel

- 1) Nicholas Diemar (Business) – A resident of Nelson Bay and local business owner with an office located in Nelson Bay who has strong connections to the area and has demonstrated community involvement as a volunteer.
- 2) Robert Taylor (Business) – Asset manager, including the management of the Nelson Bay d'Albora Marina. Robert is knowledgeable of the local tourism, events, marine, recreation and business economies and can represent the interests of both business and visitors to Nelson Bay.
- 3) Richard Casey (Resident) – A local resident of the area who is active in the local community with demonstrated experience in public administration and experience in the retail industry.
- 4) Greg Smith (Resident) – Greg has broad knowledge and experience of local development and tourism matters. Greg is also an advocate for young people and families.
- 5) Richard Ware (Resident) – Richard is a long term resident of Nelson Bay and is involved in a number of local groups including sports and environment protection.

Raymond Terrace and Heatherbrae Implementation Panel

- 1) Kristine Brown (Business) – Has over 10 years of Raymond Terrace/Heatherbrae Real Estate Sales experience having owned a Real Estate Agency from 2002 – 2018. Kristine demonstrated an ability to consider matters that arise during her discussions with local residents and potential investors in her capacity as a Real Estate Agent.
- 2) Jake Bush (Business) – A local business owner with strong connections to Raymond Terrace. Jake has experience in restoring the built heritage of King Street and is a strong advocate for community events and town centre improvements.
- 3) David Davies (Resident) – A long term resident of Raymond Terrace. David demonstrated that through his active involvement in a number of community groups he has a broad understanding of local issues.
- 4) Ken Buckingham (Resident) – Ken is a long term resident of Raymond Terrace and has worked in a number of local businesses across various industries. Ken is involved community, business, youth, family and sporting groups and can represent these varied perspectives.
- 5) Jeffrey Bretag (Resident) – A resident of Raymond Terrace over the past four years. Jeffrey demonstrated that his experience as a town planner would provide a positive contribution to the panel.

It is noted that Jeffrey Bretag is a past employee of Port Stephens Council and was directly involved in the development of the Raymond Terrace and Heatherbrae Strategy in 2015 and currently works as a planning consultant. Council's Code of Conduct will apply to the Panel's activities, and conflicts of interest will be managed in accordance with that Code.

If Council resolves to establish the Panels and appoint the representatives, preparations for the first meeting of each respective Panel will commence.

**ITEM 1 - ATTACHMENT 2 MINUTES OF COUNCIL MEETING - 27 NOVEMBER 2018. (MINUTE 156).**
**MINUTES ORDINARY COUNCIL - 27 NOVEMBER 2018**
**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	Yes		The coordination of the Panels will be managed within existing budget resources.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The establishment of the Implementation Panels seek to provide greater transparency and accountability for the implementation of the endorsed strategies.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the adopted strategies are not implemented.	Low	Establish the Panels to provide greater transparency and accountability in the implementation of the strategies.	Yes
There is a risk that implementation of the strategies is not communicated beyond the Panels.	Low	Establish the Panels to help communicate the endorsed strategies. Continue to communicate and meet with other stakeholders in the community.	Yes

**ITEM 1 - ATTACHMENT 2 MINUTES OF COUNCIL MEETING - 27 NOVEMBER 2018. (MINUTE 156).****MINUTES ORDINARY COUNCIL - 27 NOVEMBER 2018**

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that conflicts of interest will arise given the membership of the Implementation Panels include local business owners and residents.	Low	The Terms of Reference apply Council's Code of Conduct to the Panel's activities. This means any conflicts of interest must be managed in accordance with that Code and, where necessary, disclosed prior to meetings.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Each of the strategies were developed with consideration given to the social, economic and environmental implications for these localities. The Implementation Panels seek to ensure that these strategies are realised and the outcomes are communicated to the community on an ongoing basis.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section and the Communications Section. Expressions of Interest were sought from the community as detailed in previous reports to Council.

Notifications were placed in the Port Stephens Examiner, Council's website and social media platforms during the notification period.

The outcomes of the Implementation Panels will be reported to Council via an Annual Report. The Annual Report will also be published on Council's website for wider community interest.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Implementation Panels Terms of Reference.



**MINUTES ORDINARY COUNCIL - 27 NOVEMBER 2018**

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM NO. 2**

**FILE NO: 21/14111  
EDRMS NO: PSC2019-02300**

**DESIGNATED PERSONS' RETURN**

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

**BACKGROUND**

The purpose of this report is to table Designated Persons' Return/s (return) submitted.

In accordance with the Part 4 – Pecuniary Interest of the Code of Conduct, all designated persons' are required to submit a return. Returns are to be tabled at the first Council meeting after the lodgement date.

The following is a list of position/s who have submitted return/s:

- Development Planner (PSC081).

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) Designated Persons' Return.

**ITEM NO. 3**

**FILE NO: 21/45043  
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.

**ATTACHMENTS**

- 1) Corporate Services Group report.
- 2) Development Services Group report.
- 3) Facilities & Services Group report.
- 4) General Manager's Office report.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

## ITEM 3 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



<b>Outstanding</b>	<b>Division:</b> Corporate Services	<b>Date From:</b> 26/09/2017
	<b>Committee:</b>	<b>Date To:</b> 23/02/2021
<b>Action Sheets Report</b>	<b>Officer:</b>	<b>Printed:</b> Monday, 1 March 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	
13 066		Crosdale, Timothy				18/66656
26 Feb 2021 Awaiting Minister's approval to proceed with the compulsory acquisition.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/02/2019	Crosdale, Timothy	King Street, Raymond Terrace Easements	30/12/2021	14/02/2019	
3		Crosdale, Timothy				19/39843
26 Feb 2021 The Minister for Local Government has approved Council's application to compulsorily acquire an easement through 24A and 26 King Street, Raymond Terrace, for the purposes of construction of a shared pedestrian pathway. Proposed Acquisition Notices have been served on the land owners.						

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	
6 110		Crosdale, Timothy				19/148388
26 Feb 2021 Waiting on Aboriginal Land Claim determination by Crown Lands.						

## ITEM 3 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



<b>Outstanding</b>	<b>Division:</b> Corporate Services	<b>Date From:</b> 26/09/2017
	<b>Committee:</b>	<b>Date To:</b> 23/02/2021
<b>Action Sheets Report</b>	<b>Officer:</b>	<b>Printed:</b> Monday, 1 March 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	30/06/2021		
7		Crosdale, Timothy				19/200498
169						
26 Feb 2021						
Still in negotiations between AGL and LGL.						

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						
26 Feb 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	30/06/2021		
2		Crosdale, Timothy				20/288489
199						
26 Feb 2021						
Approved. Contracts are being prepared by HWC. Awaiting works to be finalised for survey.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/02/2021	Crosdale, Timothy	Purchase of Property at Shoal Bay	30/03/2021		
2		Crosdale, Timothy				21/46402
038						
26 Feb 2021						
Revised Target Date changed from: 9 Mar 2021 to: 30 Mar 2021						
Investigate the feasibility of a potential purchase and prepare a report for consideration at a future Council meeting.						



**ITEM 3 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.**

<a href="#">Outstanding</a>	<b>Division:</b> Corporate Services	<b>Date From:</b> 26/09/2017
	<b>Committee:</b>	<b>Date To:</b> 23/02/2021
	<b>Officer:</b>	
<a href="#">Action Sheets Report</a>		<b>Printed:</b> Monday, 1 March 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/02/2021	Crosdale, Timothy	Renewal of Lease - 29 Sturgeon Street, Raymond Terrace	9/03/2021		
2 040		Crosdale, Timothy				21/46402
26 Feb 2021 Recommendation was endorsed by Council.						

## ITEM 3 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP REPORT.



<b>Outstanding</b>	<b>Division:</b> Development Services	<b>Date From:</b> 26/09/2017
	<b>Committee:</b>	<b>Date To:</b> 23/02/2021
	<b>Officer:</b>	
<b>Action Sheets Report</b>		<b>Printed:</b> Monday, 1 March 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/08/2020	Drinan, Kate	DEVELOPMENT APPLICATION 16-2019-679-1 FOR DEMOLITION OF EXISTING STRUCTURE AND CONSTRUCTION OF SHOPTOP HOUSING AND DETACHED DWELLING AT 26 KING STREET, RAYMOND TERRACE	23/03/2021		
1		Pearl, Steven				20/265439
151						
5 Feb 2021						
Revised Target Date changed from: 28 Feb 2021 to: 23 Mar 2021						
Reason: Being reported back to Council 23 March 2021.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Gardner, Janelle	Draft Voluntary Planning Agreement - Salsands (NSW) Pty Ltd	30/06/2021		
2		Pearl, Steven				21/33235
005						
25 Feb 2021						
Revised Target Date changed from: 26 Mar 2021 to: 30 Jun 2021						
Reason: Draft VPA on public exhibition from 11 February - 11 March 2021.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Gardner, Janelle	5G Small Cell Technology Rollout in Port Stephens	30/06/2021		
3		Pearl, Steven				21/33235
006						
25 Feb 2021						
Revised Target Date changed from: 30 Jun 2021 to: 30 Jun 2021						
Reason:						
* Investigation of opportunities to identify appropriate locations for telecommunications infrastructure on Council owned assets to minimise visual impacts.						
* Encourage creative telecommunications infrastructure design.						

## ITEM 3 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP REPORT.



<b>Outstanding</b>	<b>Division:</b> Development Services	<b>Date From:</b> 26/09/2017
	<b>Committee:</b>	<b>Date To:</b> 23/02/2021
<b>Action Sheets Report</b>	<b>Officer:</b>	<b>Printed: Monday, 1 March 2021</b>

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Drinan, Kate	Caravan Parks / Manufactured Housing Estates - Notification of internal residents of alterations and additions to land lease villages	19/03/2021		
1		Pearl, Steven				21/33235
011						
<p>11 Feb 2021</p> <p>Revised Target Date changed from: 23 Feb 2021 to: 19 Mar 2021</p> <p>Reason: Amend the Community Engagement Strategy to require reasonable attempts be made to notify the relevant residents committee or equivalent in the event that a development application for alterations and additions or a modification application is received for a caravan park/manufactured housing estate.</p> <p>Place the revised Community Engagement Strategy on public exhibition for a period of 28 days and should no submissions be received, the strategy be adopted without a further report to Council.</p>						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/02/2021	Pearl, Steven	Williamstown SAP	9/03/2021		
1		Pearl, Steven				21/46402
036						
<p>25 Feb 2021</p> <p>Revised Target Date changed from: 9 Mar 2021 to: 09 Mar 2021</p> <p>Reason: Staff will be drafting a letter/email to the SAP Project team asking for an outline of whether any compulsory land acquisitions will occur within the Williamstown SAP and noting our concern about the prospect of compulsory acquisitions for people who have been through years of uncertainty and confusion at the hands of Government (per resolution 3).</p>						

**ITEM 3 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.**


<b>Outstanding</b>	<b>Division:</b> Facilities & Services	<b>Date From:</b> 26/09/2017
	<b>Committee:</b>	<b>Date To:</b> 23/02/2021
	<b>Officer:</b>	
<b>Action Sheets Report</b>		<b>Printed:</b> Monday, 1 March 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 6 264	Ordinary Council 10/12/2019	Maretich, John Kable, Gregory	Solar Infrastructure	31/08/2021	11/12/2019	19/388450
26 Feb 2021 Revised Target Date changed from: 8 Mar 2021 to: 31 Aug 2021 External consultants draft report on energy lighting efficiency/solar panels options was reviewed by internal staff and by external 3rd party consultant. Project will proceed through normal procurement methods.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 7 265	Ordinary Council 10/12/2019	Gutsche, Tammy Kable, Gregory	GREEN WASTE DROP OFF - SALAMANDER BAY	30/06/2021	11/12/2019	19/388450
26 Feb 2021 Will be considered as part of the Waste Management Strategy.						

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

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 1 101	Ordinary Council 9/06/2020	Stewart, Adam Kable, Gregory	Naming of Pathway, Gan Gan Road, Anna Bay	2/03/2021	10/06/2020	20/164033
25 Feb 2021 Proposals have been received from contractors, which will be presented to Central Ward Councillors in March 2021.						

**ITEM 3 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.**



<b>Outstanding</b>	<b>Division:</b> Facilities & Services	<b>Date From:</b> 26/09/2017
	<b>Committee:</b>	<b>Date To:</b> 23/02/2021
	<b>Officer:</b>	
<b>Action Sheets Report</b>		<b>Printed:</b> Monday, 1 March 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/07/2020	Lamont, Brock	REVIEW OF THE OFF LEASH DOG AREAS AND TIMES AT ANNA BAY / BIRUBI POINT, FISHERMANS BAY AND BOAT HARBOUR	30/06/2021		
1		Kable, Gregory				20/192934
138						
26 Feb 2021						
The findings of the investigation will be presented to Council during April/May 2021.						
Revised Target Date changed by from: 2 Mar 2021 to: 30 Jun 2021						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/07/2020	Stewart, Adam	Tomaree Headland	31/07/2022		
2		Kable, Gregory				20/192934
139						
25 Feb 2021						
Revised Target Date from: 31 Mar 2021 to: 31 Jul 2022						
Council has undertaken site review with National Parks as part of the 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.	30/09/2021		
11		Kable, Gregory				20/358525
261						
25 Feb 2021						
Development modification required and legal contracts to be drawn up.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/12/2020	Maretich, John	Fly Point and Little Beach Parking/SMART Parking	31/03/2021		
3		Kable, Gregory				20/391301
25 Feb 2021						
Report is being prepared and will be reported back to Council in March 2021.						



## ITEM 3 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



<b>Outstanding</b>	<b>Division:</b> Facilities & Services	<b>Date From:</b> 26/09/2017
	<b>Committee:</b>	<b>Date To:</b> 23/02/2021
	<b>Officer:</b>	
<b>Action Sheets Report</b>		<b>Printed:</b> Monday, 1 March 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Maretich, John	Policy Review - Foreshore Vessel Storage Policy	30/04/2021		
5		Kable, Gregory				21/33235
008						
25 Feb 2021 Foreshore Vessel Storage Policy has been placed on public exhibition for 28 days from Thursday 11 February 2021 to Wednesday 10 March 2021.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Maretich, John	MEDOWIE REGIONAL PLAYGROUND AND TOWN CENTRE	31/05/2021		
2		Kable, Gregory				21/33235
012						
25 Feb 2021 Staff will investigate and prepare a report for Council as per Notice of Motion.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Maretich, John	ROAD RESEALS ACROSS PORT STEPHENS	30/06/2021		
4		Kable, Gregory				21/33235
014						
25 Feb 2021 Staff will prepare a report for Council with road recommendations as per Notice of Motion.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Maretich, John	FERN BAY SHARED PATHWAY	31/03/2021		
7		Kable, Gregory				21/33235
017						
25 Feb 2021 Staff will start the process to apply for developer contributions.						

**ITEM 3 - ATTACHMENT 4      GENERAL MANAGER'S OFFICE REPORT.**

<a href="#">Outstanding</a>	<b>Division:</b> General Manager's Office	<b>Date From:</b> 26/09/2017
	<b>Committee:</b>	<b>Date To:</b> 23/02/2021
	<b>Officer:</b>	
<a href="#">Action Sheets Report</a>		<b>Printed:</b> Monday, 1 March 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/02/2021	Edwards, Ann	Request for Financial Assistance	25/03/2021		
9		Wallis, Wayne				21/46402
035						
1 Mar 2021						
Revised Target Date changed from: 9 Mar 2021 to: 25 Mar 2021						
Reason: Request for financial assistance from an individual has been placed on public exhibition until 24 March 2021.						

# 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 – 9 MARCH 2021 MOTION

<b>050</b>	<b>Councillor Chris Doohan</b> <b>Councillor Jaimie Abbott</b>  It was resolved that Council move into confidential session.
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The motion was carried.

The following Council officers were present for the Confidential Session:

Senior Executive Assistant  
Senior Governance Officer

**CONFIDENTIAL****ITEM NO. 1****FILE NO: 21/41634  
EDRMS NO: PSC2006-6753****PROPOSED SALE OF LAND - 77 DAWSON ROAD, RAYMOND TERRACE  
(PART)**

REPORT OF: TIMOTHY CROSDALE - GROUP MANAGER CORPORATE  
SERVICES  
GROUP: CORPORATE SERVICES

**ORDINARY COUNCIL MEETING - 9 MARCH 2021  
MOTION**

<b>051</b>	<b>Councillor Giacomo Arnott Councillor Chris Doohan</b>  It was resolved that Council:  1) Authorise the sale of the land as outlined on the confidential terms and conditions disclosed in this report. 2) Authorise the Mayor and General Manager to affix the Council Seal and sign all documents necessary to exchange contracts and settle the sale.
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The motion was carried.

**ORDINARY COUNCIL MEETING – 9 MARCH 2021  
MOTION**

<b>052</b>	<b>Councillor Jaimie Abbott Councillor Sarah Smith</b>  It was resolved that Council move out of confidential session.
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The motion was carried.

There being no further business the meeting closed at 6.19pm