

NOTICE OF ORDINARY MEETING

10 MAY 2022



The Mayor and Councillors attendance is respectfully requested:

Mayor: R Palmer (Chair).

Councillors: L Anderson, G Arnott, M Bailey, C Doohan, G Dunkley, P Francis, P Kafer, S Tucker, J Wells.

SCHEDULE OF MEETINGS

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

Please Note:

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

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

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

Food and beverages are not permitted in the Council Chamber.

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BUSINESS

- 1) Opening meeting.
- 2) Acknowledgement of Country - Today, we are meeting on Worimi Country, we acknowledge the past, we are working towards a better tomorrow.
- 3) Prayer - We recognise the rich cultural and religious diversity in Port Stephens and pay respect to the beliefs of all members of our community, regardless of creed or faith.
- 4) Apologies and applications for a leave of absence by Councillors.
- 5) Disclosures of interests.
- 6) Confirmation of minutes Ordinary Meeting of 26 April 2022.
- 7) Mayoral Minute(s) – if submitted
- 8) Motions to close the meeting to the public – if submitted.
- 9) Reports to Council.
- 10) General Manager's reports – if submitted.
- 11) Questions with Notice – if submitted.
- 12) Questions on Notice.
- 13) Notices of motions – if submitted.
- 14) Rescission motions – if submitted.
- 15) Confidential matters – if submitted.
- 16) Conclusion of the meeting.

PRINCIPLES FOR LOCAL GOVERNMENT

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

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

Guiding principles for Council

1) Exercise of functions generally

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

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

2) Decision-making

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

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

3) Community participation

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

Principles of sound financial management

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

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

Integrated planning and reporting principles that apply to Council

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

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

PORT STEPHENS COMMUNITY STRATEGIC PLAN

The Local Government Act requires Council to adopt a Community Strategic Plan (10+ years). The Plan includes a Delivery Program (4 years), Annual Operational Plan and a Resource Strategy, it also includes the Council's budget.

The Community Strategic Plan is organised into 4 focus areas:

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

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

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

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

BUSINESS EXCELLENCE

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

These outcomes align with the following Business Excellence principles:

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

MEETING PROCEDURES SUMMARY

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

Quorum – A quorum at Port Stephens Council is 6.

Declarations of Interest

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

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

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

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

Motions and Amendments

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

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

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

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

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

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

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

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

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

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

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

A Point of Order can be raised where:

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

Declarations of Conflict of Interest – Definitions

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

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

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

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



Form of Special Disclosure of Pecuniary Interest

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

Important information

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

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

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

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

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

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

ORDINARY COUNCIL - 10 MAY 2022

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

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

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

to be held on the _____ day of _____ 20__

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

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

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

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

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

Mayor/Councillor's signature _____

Date _____

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



Declaration of Interest form

Agenda item No. _____

Report title _____

Mayor/Councillor _____ declared a

Tick the relevant response:

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

in this item. The nature of the interest is _____

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

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

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

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

Mayor/Councillor left the Council meeting at _____ pm.

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

COUNCIL REPORTS

ITEM NO. 1

**FILE NO: 22/95941
EDRMS NO: 16-2021-812-1**

DEVELOPMENT APPLICATION 16-2021-812-1 - MULTI-DWELLING HOUSING AND DEMOLITION OF DWELLING HOUSE - 21 HUNTER STREET, RAYMOND TERRACE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application DA No. 16-2021-812-1 for Multi-Dwelling Housing and Demolition of Dwelling House, for the reasons contained in **(ATTACHMENT 4)**.

BACKGROUND

The purpose of this report is to present Development Application (DA) 16-2021-812-1 for the demolition of an existing dwelling house and the construction of multi-dwelling housing to Council for determination.

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

Subject Land:	21 Hunter Street, Raymond Terrace (Lot 80 DP 1073157)
Total Area:	1015.44m ²
Zoning:	R2 Low Density Residential
Submissions:	2 submissions received
Key Issues:	The subject land is located within a high hazard flood risk area. An assessment against the relevant planning provisions found that the application cannot be supported as it will result in an unacceptable risk to life and property, and is not compatible with the flood hazard category applying to the site.

The development application has been reported in accordance with Council's Planning Matters to be Reported to Council Policy as it has been called up by Councillors Arnott, Dunkley, Smith and Nell **(ATTACHMENT 5)**.

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

Proposal

The DA proposes the demolition of an existing dwelling and the construction of multi-dwelling housing, car parking, ancillary landscaping and associated civil works.

The multi-dwelling housing contains 4 dwellings, with details as follows:

Dwelling 1 – a free standing, double-storey dwelling oriented to Hunter Street (west).

- The ground floor level has been designed to 2.6m AHD, comprising a double lock up garage, laundry and storage area
- The first floor level has been designed to 5.8m AHD, comprising 3 bedrooms, 1 bathroom and ensuite, dining and living area.

Dwellings 2 to 4 – 3 attached, double-storey dwellings oriented north-south over the site.

- The ground floor level has been designed to 2.75m AHD, each comprising a single lock up garage, laundry and storage area
- The first floor level has been designed to 5.8m AHD, each comprising 2 bedrooms, 1 bathroom and ensuite, dining and living area.

An emergency onsite flood refuge is incorporated within the attic of each dwelling.

No subdivision of the buildings is proposed.

Site Description and History

The site is mapped as High Hazard Floodway, which is characterised by the potential for high levels of flood inundation with associated high velocity flood water.

The site is orientated to the north-west to benefit from water views of the nearby river. The site has a rectangular shape and is 1015.44m² in area. The site contains a single storey weatherboard dwelling, gazebo, garage and concrete driveway identified over the site. The site has been largely cleared of vegetation, with mature trees located along the sites southern boundary. The site features a relatively flat topography, gently sloping to its front boundary in a north-west direction.

The Raymond Terrace town centre is located to the east of the site and is a short walking distance away. The site is located in close proximity to shops, schools, sports and park facilities.

Key Issues

The key issues identified during assessment relates to the fact that the DA seeks to construct medium density residential accommodation on land characterised as High Hazard Floodway, and the proposed exceedance of the building height development

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

Flooding 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 table below captures the relevant flood levels and the respective floor heights of the development.

LEP/DCP Requirement	Height (AHD)	DA Proposed	Height (AHD)
1% AEP (Current day)	4.8m	Unit 1 Ground Floor Level; Units 2-4 Ground Floor Level	2.6m; 2.75m
Flood Planning Level (FPL)	5.8m	Unit 1 First Floor Level; Unit 2-4 First Floor Level	5.8m
Probable Maximum Flood (PMF)	8.6m	Emergency onsite flood refuge (attic space)	8.6m

Clause 5.21(1) 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 development is 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 specific controls for development on flood prone land. DCP 2014 states that residential accommodation, which includes multi-dwelling housing, on land categorised as High Hazard Floodway is unsuitable development. As such, the development cannot be supported.

The proposal is not compatible with the flood hazard of the land as it would intensify residential density in an area that would be inundated by fast moving flood waters in a major flood event, thereby increasing risk to life and property. Furthermore, the proposal will result in flood isolation during flood events smaller than the future 1% AEP, which would place additional people at risk during floods and would place extra burden on the State Emergency Services.

The proposal will result in a risk to property as non-habitable rooms are proposed at 2.6m AHD which is well below both the FPL (5.8m AHD) and therefore property stored in these rooms would be subject to flood damage 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 DA does not address the risk to life and property during various flood events, and is not compatible with the flood hazard category applying to the site.

Building Height

The DA exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the Port Stephens LEP 2013 (LEP 2013). Unit 1 of the proposed development proposes a maximum building height of 9.2m, which exceeds the 9m height limit; representing a 2.2% variation to the development standard.

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

- The proposed design seeks to provide a specific architectural form that responds to site constraints. The variation is sought to allow flood refuge to be provided within the attic space of each dwelling. This has elevated the roof to just exceed the maximum height limitation.
- The design includes articulation and changes in colours and material finishes in order to adequately address the developments perceived bulk and scale. As a result, the development would not be inconsistent with the character of the area.
- The proposed development maintains acceptable privacy and solar access to neighbouring properties, consistent with the requirements of the DCP, despite the height variation.

It is considered that the applicant's Clause 4.6 variation request adequately demonstrates that there are sufficient environmental planning grounds to justify varying the height of buildings standard. On this basis, the building height variation would be supported in the event of an approval. A detailed assessment against Clause 4.6 is contained within the Clause 4.6 Assessment Report (**ATTACHMENT 3**).

Conclusion

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

- Environmental Planning and Assessment Act 1979
- LEP 2013 – Clause 5.21 Flood Planning
- 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 2014, the DA is recommended for refusal for the reasons contained in (**ATTACHMENT 4**).

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

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	Yes		Should Council determine to approve the DA, s.7.11 development contributions would be applicable and would be levied in accordance with conditions of consent.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is inconsistent with 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)**.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
If the DA is approved, a third party may appeal the determination.	Low	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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
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 location of the dwelling within a High Hazard Floodway results in the DA being incompatible with the flood hazard category applying to the site and is therefore recommended for refusal for the reasons outlined in **(ATTACHMENT 4)**. Future residents may be displaced should the dwellings become damaged or inaccessible during a flood event creating adverse social and economic outcomes.

CONSULTATION

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

- Development Engineering
- 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 not supported by Development Engineering or the Flood Advisory Review Panel for the reasons outlined above.

Notification

The application was exhibited from 13 October 2021 to 27 October 2021 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. Two (2) submissions were received during this time objecting to the development. A response to the submissions is contained within the Planners Assessment Report **(ATTACHMENT 2)**.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan. [↓](#)
- 2) Planners Assessment Report. [↓](#)
- 3) Clause 4.6 Assessment Report. [↓](#)
- 4) Reasons for Refusal. [↓](#)
- 5) Call to Council form. [↓](#)

COUNCILLORS ROOM

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

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

TABLED DOCUMENTS

Nil.



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



DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2021-812-1
Development Description	Multi-dwelling housing and demolition of dwelling house
Applicant	LE MOTTEE GROUP PTY LIMITED
Land owner	Janita & Matthew Finn
Date of Lodgement	30/09/2021
Value of Works	\$1,822,582.16
Submissions	2

PROPERTY DETAILS

Property Address	21 Hunter Street RAYMOND TERRACE
Lot and DP	LOT: 80 DP: 1073157
88B Restrictions on Title	Nil
Current Use	Residential
Zoning	R2 LOW DENSITY RESIDENTIAL
Site Constraints	<p>Acid Sulfate Soils (Class 2 & 4);</p> <p>Koala Habitat Planning Map (Link over Cleared and Mainly Cleared);</p> <p>SEPP (Coastal Management) 2018 – Coastal Zone;</p> <p>Height Trigger Map – RAAF Base Williamtown and Salt Ash Air Weapons Range;</p> <p>Bird Strike (Group C);</p> <p>Stormwater Drainage Requirement Area;</p> <p>Height of Buildings (9m);</p> <p>Heritage Conservation Area;</p> <p>Flood Planning Area (High Hazard Floodway).</p>
State Environmental Planning Policies	<p>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;</p> <p>State Environmental Planning Policy (Biodiversity and</p>

Conservation) 2021;
State Environmental Planning Policy (Resilience and Hazards) 2021.

PLANNERS PRE-ASSESSMENT CHECKLIST

OWNERS CONSENT	YES / N/A
Land owners consent	Yes
If the land owned by a corporation/company, relevant signatures have been provided (sole director, or director/director / director/company secretary).	N/A
For works occurring outside property, neighbouring consent provided.	N/A
For works occurring on common property within Strata, owner's consent from Strata body provided (common seal).	N/A
DA FORM AND AUTHORITY	
Applicant's description of proposal consistent with DA plans.	Yes
DA description correct in Authority (i.e. LEP definition).	Yes
DA lodged over all affected properties and Authority correct.	Yes
Satisfactory cost of works.	Yes
NOTIFICATION	
Application notified correctly (i.e. check properties notified).	Yes
REFERRALS	
Check referrals are correct and identify if additional required: i.e. Integrated Development (send within 14 days cl.66(2) EPA Regs 2000	Yes
Call applicant and send email acknowledgement.	Yes

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PROPOSAL

The Development Application (DA) proposes Multi Dwelling Housing (MDH), demolition of an existing dwelling, car parking, ancillary landscaping and site works (Figure 1). The MDH contains four (4) dwellings comprising the following:

Dwelling 1 – a free standing, double-storey dwelling oriented to Hunter Street (west). The dwelling consists of three (3) bedrooms, a double lock up garage and direct vehicular access off Hunter Street.

Dwellings 2 - 4 – three (3) attached, double-storey dwellings oriented north-south over the site. The dwellings consist of two (2) bedrooms, single lock up garage and battle-axe vehicular access off Hunter Street.

Ancillary works – on-site detention (OSD) and stormwater drainage to Hunter Street, landscaping, fencing crossovers and driveway.

Landscaping has been incorporated into the development across the front and rear of the site. Deep soil planting surrounding the building is provided to allow for tree planting that will provide visual interest and aid in softening the bulk and scale of the development.

The proposal does not involve subdivision of the subject lot.

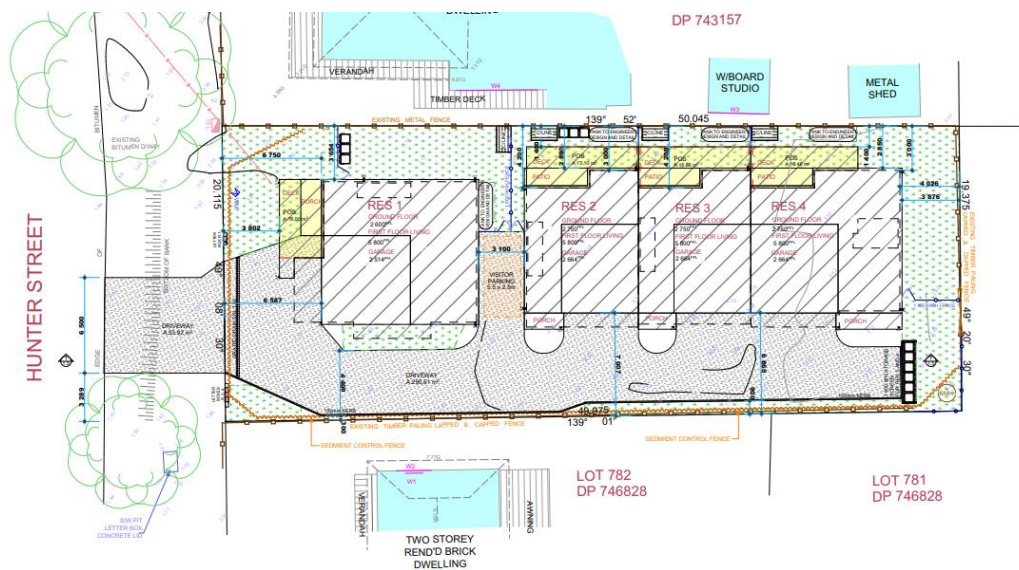


Figure 1: site plan of proposed MDH development

SITE DESCRIPTION

The site is located at 21 Hunter Street, Raymond Terrace, which is legally identified as Lot 80 DP 1073157. The site is located within an established residential area, which includes a mixture of dwellings, dual occupancies and multi dwelling housing.

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The site is orientated to the north-west to benefit from water views of the nearby river. The site has a rectangular shape and is 1015.44m² in area. The site has been substantially developed with a single storey weatherboard dwelling, gazebo, garage and concrete driveway identified over the site. The site has been largely cleared of vegetation, with native trees scattered along the sites southern boundary. The site features a relatively flat topography, gently sloping to its front boundary in a north-west direction.

The Raymond Terrace town centre is located to the east of the site and is a short walking distance away. The site is located in close proximity to shops, schools, sports and park facilities.



Figure 2: GIS aerial image of subject site

SITE HISTORY

The following development applications have been previously lodged on site, as shown in Table 1.

Table 1: Applications lodged

Application Number	Development Description	Determination / Date
16-2006-829-1	Adds to Existing Dwelling, Triple Garage, Carport & Gazebo	Approved with conditions 06/03/2007

SITE INSPECTION

A site inspection was carried out on 30 November 2021. During the inspection a recent flood event had occurred. River gauge data collected categorises this flooding event approximately between a 10% AEP (1 in 10 year event) and 20% AEP (1 in 5 year event).

The subject site can be seen in the photographs below:



Photo 1: western access to Hunter Street closed due to street flooding



Photo 2: flooded intersection of Hunter Street and Glenelg Street



Photo 3: site frontage from Hunter Street

PLANNING ASSESSMENT

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

Internal

Development Engineer – Not supported on flooding grounds.

Flood Advisory Review Panel – Not supported noting high hazard categorisation of the site.

Heritage Officer – The proposal is inappropriate in terms of character and setting and bulk and scale. Notwithstanding, the zoning allows for higher density development and is therefore permissible.

Building Surveyor - Supported with conditions.

Development Contributions Officer – Supported noting 7.11 contributions are applicable.

Spatial Services Officer – street addressing provided.

External

Nil.

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

The proposal is not integrated development.

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

The proposed development is not located on bushfire prone land.

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 (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 ('Vegetation SEPP'), aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. The Vegetation SEPP works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

Part 2.3 of the Vegetation SEPP contains provisions similar to those contained in the former (now repealed) clause 5.9 of Port Stephens Local Environmental Plan 2013 and provides that Council's Development Control Plan can make declarations with regards to certain matters. The Vegetation SEPP further provides that Council may issue a permit for tree removal.

The development application seeks consent for removal of existing trees located along the sites south-west boundary. The removal is supported as replacement plantings are proposed by the applicant consistent with Council's landscape technical specifications.

Chapter 4 of this policy (Koala Habitat Protection) aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

The site is mapped as link over cleared / cleared koala habitat and is less than 1ha in area. Accordingly, the provisions of this policy are not applicable to the development.

State Environmental Planning Policy (Resilience and Hazards) 2021

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

As per Clause 2.10 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 60m from the Hunter River waterbody, and is not expected to result in any direct impacts to the coastal environment. Notwithstanding, 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 the multi dwelling housing is destroyed and remnant debris displaced offsite in flood waters.

As per Clause 2.11 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 built form is of an appropriate type and design to ensure that the visual amenity of the coast is protected. The building envelope and size of the development is also compatible with the natural setting and will not adversely impact views. The palette of materials and finishes are sympathetic to the coastal environment. Existing access to the river and foreshore will not be inhibited by the development.

Clause 2.12 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 multi dwelling housing. In the event of the development being destroyed by flood waters, materials would be washed down stream affecting surrounding properties and may create a risk to the ecological environment of the river network.

Clause 4 Remediation of Land 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 proposed multi-dwelling use is not listed as a possible contaminating use, per Table 1 of the Guidelines. Noting this, the proposed development satisfies the requirements of Clause 4.

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The proposed development is defined as multi-dwelling housing which is permissible with consent in the R2 zone. As defined in the LEP, multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

The development satisfies the objectives of the zone by providing additional residential accommodation that caters for the housing needs of the community in a low density residential environment.

Clause 2.7 – Demolition requiring development consent

Clause 2.7 identifies that the demolition of a building or work may be carried out only with development consent, unless identified as exempt development under an applicable environmental planning instrument.

The proposed development requires the demolition of structures including the single storey dwelling, gazebo and garage. Should the application be supported by Council, conditions of consent have been provided to mitigate potential impacts to adjoining properties and the locality during demolition works.

Clause 4.1B – Minimum lot sizes for dual occupancies, multi-dwelling housing and residential flat buildings

Clause 4.1B specifies the minimum lot size required to facilitate development for the purposes of dual occupancies, multi dwelling housing and residential flat buildings in order to achieve planned residential density in certain zones.

The subject site has a total area of approximately 1015m² which provides sufficient area to facilitate the proposed development, in accordance with the requirements of this clause.

Clause 4.3 – Height of Buildings

Clause 4.3 aims to ensure that the height of buildings is appropriate for the context and character of the area, and to ensure that building heights reflect the hierarchy of centres and land use structure. To achieve these aims, clause 4.3(2) specifies that the height of a building on any land is not to exceed the maximum height shown for the land on the 'Height of Buildings Map' (HBM).

The HBM identifies a 9m height limit applies to the subject development. Unit 1 of the proposed development has a maximum height of 9.2 metres above existing ground level, which is above the maximum permissible building height of 9m metres specified on the HBM. Unit 2-4 of the proposed development comply with the HBM 9m limitation.

The proposed variation represents a 0.2m or 2.2% variation to the standard. Accordingly, a request to vary the development standard has been submitted to support the application. The clause 4.6 request is considered elsewhere in this report.

Clause 4.6 – Exceptions to development standards

The proposal exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the Port Stephens LEP 2013 (PSLEP). The DA has a maximum building height of 9.2m, which exceeds the 9m height limit and represents a 2.2% variation to the development standard.

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

- The proposed design seeks to provide a specific architectural form that responds to site constraints. The variation is sought to allow flood refuge to be provided within the attic space of each dwelling. This has elevated the roof to just exceed the maximum height limitation.
- The design includes articulation and changes in colours and material finishes in order to adequately address the developments perceived bulk and scale. As a result, the development would not be inconsistent with the character of the area.
- The proposed development maintains acceptable privacy and solar access to neighbouring properties, consistent with the requirements of the DCP, despite the height variation.

The zone objectives and objectives of Clause 4.3 are achieved despite the non-compliance. There are sufficient environmental planning grounds to justify contravening the height of buildings standard and compliance with the standard is unnecessary in the circumstances of this application.

On this basis, the building height variation is supported. A detailed assessment against Clause 4.6 is contained within Attachment 1 - Clause 4.6 Assessment Report.

Clause 5.6 – Architectural Roof Features

The development includes architectural roof features that exceed the maximum allowable building height specified under clause 4.3. Architectural roof features have been designed with consideration to the risk to life posed by flood constraints over the site, with high raked ceilings that incorporate a flood refuge space and a flood refuge escape hatch.

The proposed architectural roof features are not inconsistent with the character of the area and maintains acceptable privacy and solar access to neighbouring properties. The roof features are consistent with the objectives of this clause, and therefore supported.

Clause 5.10 – Heritage conservation

The proposal includes multi-dwelling housing within the Raymond Terrace Conservation area. The applicant did not provide a Heritage Impact Assessment. The following comments were raised in relation heritage conservation by Councils Heritage Consultant:

- The site is located in the Raymond Terrace Heritage Conservation Area but does not support a heritage listed item. Within the Hunter Street locality, there are two significant heritage items, being an un-named sandstone block timber clad house, and a sandstone block house identified as Cadell Cottage. These structures form an important part of the 19th century fabric of Raymond Terrace, and play a significant role in the history of the city and cultural memory of the inhabitants.
- The building located on the development site is a detached single storey dwelling, constructed of weatherboard cladding with tile roofing, and is situated on the western end of Hunter Street. The site is approximately 150m from Cadell Cottage and the cluster of heritage sites on the eastern end of Hunter Street and the corner of William Street.
- The dwelling on site is not identified as containing important heritage values and does not exhibit significant physical resemblance to the other heritage items on Hunter Street. The dwelling incorporates a flat roofed porch, a pyramid hipped roof and French doors. These elements are not in keeping with the 19th century context of the existing European heritage items in Raymond terrace. The established style for single dwellings applies a hip or gable roof style to the main structure, with either a distinct verandah with matching roof treatment (as with Cadell Cottage) or a porch that is incorporated within the roofline (as with the house at 7 Hunter Street).
- Adjacent development (also not heritage listed) includes a mixture of timber clad dwellings, bungalows and more contemporary brick and concrete structures. Further, it can be observed that buildings on this side of Hunter Street are in various states of disrepair and a majority do not incorporate traditional architectural features. It is assumed that these structures do not contribute to the heritage value of the area or the traditional aesthetic quality of Hunter Street.

Noting this, any potential impact to the heritage significance of the site is considered reasonably acceptable. Subsequently, the development is consistent with the objectives of this clause.

Clause 5.21 – Flood Planning

The proposed development is located on land mapped as Flood Prone land and is categorised as High Hazard Floodway. Development on land identified as flood prone is required to demonstrate minimal flood risk to life and property, and to achieve development that is compatible with the flood hazard to avoid significant adverse impacts on flood behaviour in the environment.

The proposed development seeks to construct multi dwelling housing, with all habitable rooms to be located at the sites Flood Planning Level (FPL). The proposed development seeks to minimise flood risk to life and property by locating each habitable room above the FPL and through the provision of a flood refuge in the attic of each dwelling.

However, it is considered that the proposal is not compatible with the flood hazard of the land as it would intensify residential density in an area that would be inundated by fast moving flood waters in a major flood event, thereby increasing risk to life and property. Furthermore, the proposal will result in flood isolation during flood events smaller than the future 1% AEP, which would place additional people at risk during floods and would place extra burden on the State Emergency Services.

The proposal is also considered to increase risk to property as non-habitable rooms are proposed at 2.6m AHD which is well below both the FPL (5.8m AHD) and adaptable minimum floor level (5.6m AHD) and therefore property stored in these rooms would be subject to flood damage in a major flooding event.

Although the proposed development will result in a slight localised increase in flood velocity, it is accepted this is a negligible risk to adjoining properties and the environment, as demonstrated in the Flood Risk Management Report submitted by the applicant. It is considered that the development will have a negligible affect to adjoining properties and the environment. In the event the application is supported by Council, conditions would be recommended requiring that the development be designed and constructed to withstand the expected flood velocities and ensuring the structural integrity of the dwelling.

Please refer to Section B5 of this report, for an assessment of the proposed development against prescribed development control standards for flooding.

Clause 7.1 – Acid Sulfate Soils

The subject land is mapped as containing potential Class 2 and 4 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.

In the event the application is supported, conditions of consent would be recommended specifying fill quality, earthwork controls and sediment and erosion measures.

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 managed in accordance with Councils requirements. The subject land also maintains direct access to Hunter Street, 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 Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.

Chapter B1 – Tree Management

The road reserve adjoining the front boundary of the site, is vegetated with two (2) large eucalypt trees. Landscaping Plans prepared for the development application indicate these trees shall be retained. Notwithstanding, three (3) mature trees located along the sites south-west boundary are identified for removal. An Arboricultural Impact Assessment was prepared with the application to assess the health and condition, landscape significance and retention value of the trees identified for removal. Recommendations of the Arboricultural Impact Assessment and the accompanying Tree Protection Plan are supported by Council staff. Furthermore, replacement plantings as identified in the Landscaping Documentation are consistent with Council's landscape technical specifications.

Chapter B2 – Natural Resources

The application proposes to remove native vegetation over the site. The site is identified as clear of koala habitat and is located within an established residential area. The application does not unreasonably reduce viable koala habitat in the area or result in adverse impacts to koala habitat in the area.

The site does not contain any other items of environmental significance or threatened species.

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, no ASS were identified on the site. 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.

Noise

The placement and separation distances between outdoor living areas and habitable rooms incorporated into the design will limit any significant impacts on the adjoining properties. Noting the development is for residential purposes, ongoing adverse noise impacts are not likely to occur. The impacts of noise during construction can be limited through conditions of consent, which limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. Subject to conditions, the application is satisfactory in regards to noise management.

Earthworks

As discussed at clause 7.2 above, the proposed development involves minor earthworks. The impacts of the proposed earthworks can be mitigated through conditions of consent. The proposal is therefore consistent with requirements outlined in Councils DCP relating to earthworks.

Chapter B4 – Drainage and Water Quality

A stormwater management plan was submitted with the application and includes adequate quality and quantity controls as required by Councils policy. The stormwater drainage plan has been assessed as being consistent with the Infrastructure Specification.

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 controls within this part of the DCP to mitigate risks and consider suitability. Chapter B.5 of the DCP 2014 provides more detailed provisions to inform the assessment against the LEP 2013 provisions.

The area has been classified as flood prone land and is located within a High Hazard Floodway. Figure BI states that residential accommodation, which includes multi-dwelling housing, on land categorised as High Hazard Floodway is unsuitable.

The current flood levels applicable to the site are:

- Flood Planning Level – 5.8m AHD
- 1% AEP (Current day) – 4.8m AHD
- Probable Maximum Flood – 8.6m AHD

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

- Unit 1 Ground Floor Level – 2.6m AHD; Units 2-4 Ground Floor Level – 2.75m AHD
- Unit 1 First Floor Level – 5.8m AHD; Unit 2-4 First Floor Level – 5.8m AHD

Section B5.2 requires development to meet the minimum FFL specified in Figure BJ. Non-habitable rooms of the dwelling will be constructed below the adaptable minimum floor level (5.6m AHD) and the FPL (5.8m AHD). As a result, the risk to property has not been appropriately mitigated.

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 off site. A PMF flood refuge has been proposed in the dwelling design as an alternative to a safe egress in a flood event, which does not meet the requirements of B5.14 of the DCP 2014, as outlined in Table 2.

Moreover, 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 life and potentially places an unreasonable and unnecessary strain upon emergency services in a major flooding event. Future residents will also be displaced should the dwellings become damaged or inaccessible.

Table 2: B5.14 - Emergency onsite flood refuge assessment

Assessment criteria	Assessment comments	Compliance
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Located above the PMF level	Architectural plans prepared in support of the application demonstrate emergency onsite flood refuge is located above the PMF level.	Complies
Is intrinsically accessible to all people on the site, plainly evident and self-directing.	The emergency onsite flood refuge is incorporated into the first floor level ceiling for each dwelling. These refuges are self-directing and accessible via a pull-down ladder.	Complies
Is accessible in sufficient time for all occupants with fail safe access and no reliance on elevators.	Fail safe access to emergency onsite flood refuge is provided, with no reliance on elevators.	Complies
Has unobstructed external access for emergency boats during flooding;	Architectural/civil plans prepared in support of the application do not demonstrate unobstructed external access for emergency boats during flooding will be achieved.	Does not comply.
Caters for the number of persons that could reasonably be expected on-site at any one time (approx. 2m ² per person).	Architectural plans prepared in support of the application do not specify the dimensions of the emergency onsite flood refuge spaces. The capacity of these refuge spaces to reasonably cater persons in a flood event cannot be determined.	Does not comply.
Provides adequate shelter from storms and has natural lighting and ventilation.	Architectural plans prepared in support of the application demonstrates all refuge spaces provide adequate shelter from storms and has natural lighting and ventilation.	Complies.
Contains sufficient clean water, a first aid kit, portable radio with spare batteries and a torch with spare batteries.	Should the application be supported, a flood management plan for the dwellings will specify these refuge spaces must be provided with these necessary provisions.	Complies.
If a flood refuge is required, the DA must be accompanied by structural certification.	The application has not been supported by structural certification for the emergency onsite flood refuge spaces.	Does not comply.

Councils Flooding Engineers raised objection noting the proposal for multi-dwelling housing within a high hazard floodway is not supported by Section B5 of Council's DCP and deemed unsuitable. A performance based solution for flood controls (Section B5.D) is not appropriate for the proposed development type.

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With consideration of the above, the DA cannot be supported. The DA is inconsistent with the provisions of both the LEP 2013 and DCP 2014 as the proposal presents unacceptable risk to life and is not compatible with the flood hazard category applying to the site.

Chapter B7 – Heritage

The subject land is mapped as being within the Raymond Terrace Conservation area. Following from the discussion against clause 5.10 of the LEP above, the proposed development is acceptable in this regard.

Chapter B8 – Road Network and Parking

For multi dwelling developments, PSDCP2014 specifies the following on-site car parking requirements:

- 1 car space for one and two bedroom dwellings
- 2 car spaces for three or more bedroom dwellings
- 1 visitor space for every three dwellings

Proposed unit 1 contains (3) bedrooms. This unit is provided with a double lock up garage, satisfying the requirements of the PSDCP2014.

Proposed units 2-4 contains (2) two bedrooms each. Each unit is provided with a single lock up garage. This car parking design satisfies the requirements of the PSDCP2014.

The application proposes four (4) dwellings and therefore 1.25 visitor car parking spaces are required. The development provides one (1) visitor car parking space, thus representing a minor shortfall with the prescribed standards.

The minor visitor parking shortfall is considered acceptable given the site's proximity to on-street parking. The site is also well-serviced by alternate vehicle travel options, with bus stops located along William Street and pedestrian pathways to nearby amenities. The application is considered to be consistent with the objectives of this chapter in that the non-compliance will not have an adverse impact on off-site parking supply or impact the local traffic network.

Chapter C – Development Types

The proposed development is multi dwelling housing therefore the provisions of chapter C5 is applicable.

Chapter C5 – Multi-dwelling housing or Seniors Housing

Reference	Control	Assessment
Objective C5.A Requirement C5.1-C5.3	Landscaping <ul style="list-style-type: none"> • To enhance the appearance and amenity of developments through the retention and/or planting of large and medium sized trees. • To encourage landscaping between buildings for screening. • To ensure landscaped areas are consolidated and maintainable 	The proposal includes extensive landscaping across the northern and eastern boundaries of the lot. The proposed landscaping includes a combination of evergreen trees, screen planting, groundcover planting, shade tolerant planting and rain garden planting. This proposal is afforded with

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	<p>spaces that contribute to the open space structure of the area.</p> <ul style="list-style-type: none"> To add value and quality of life for residents and occupants within a development in terms of privacy, outlook, views and recreational opportunities. To reduce energy consumption through microclimate regulation To reduce air borne pollution by reducing the heat island effect To intercept stormwater to reduce stormwater runoff 	<p>approximately 283m² of landscaped area, satisfying the 20% deep soil planting requirement prescribed in C5.1. The landscaping plan satisfies both the objectives and prescribed standards of this chapter.</p>
<p>Objective C5.B</p> <p>Requirement C5.4-C5.5</p>	<p>Height</p> <ul style="list-style-type: none"> To ensure building height is appropriate for the context and character of the area. To ensure building heights reflect the hierarchy of centres and land use structure. To ensure ceiling heights achieve sufficient ventilation and daylight access. To ensure ceiling heights increase the sense of space and provides for well-proportioned rooms. To ensure ceiling heights contribute to the flexibility of building use over the life of the building. 	<p>The proposed development includes a height of 9m from the natural ground level to the roofline of proposed dwellings 2-4 and a height of 9.2m for proposed dwelling 1. As outlined in Attachment 1 (Clause 4.6 Assessment Report) the proposed development is consistent with the built form, context and character of the area, and reflective of the hierarchy of the centre and land use structures for the area.</p> <p>The ceiling heights proposed are a minimum of 2.75m which allows for adequate ventilation and lighting per the BCA. The development layout and footprints of the dwellings allow for an appropriate level of daylight access for each dwelling.</p>
<p>Objective C5.C</p> <p>Requirement C5.6-C5.18</p>	<p>Setbacks</p> <ul style="list-style-type: none"> To ensure development provides continuity and consistency to the public domain. To ensure adequate space between buildings to enable effective landscaping. To alleviate impacts on amenity including privacy, solar access, acoustic control and natural ventilation. To reduce the visual bulk of buildings from the street. To maintain the rhythm and built form on the street. 	<p><u>Front setback</u></p> <p>Dwelling 1 shall be located at the front of the site (all other dwellings located along access handle), thus the front setback control will only apply to this dwelling. Dwelling 1 proposes a front setback (ground floor) of 6.587m and a (upper floor) setback of 3.802m. The upper floor setback represents a minor variation (18%) to the prescribed control of 4.5m. Notwithstanding, the proposed setbacks of this dwelling satisfies the chapter objectives in that:</p> <ul style="list-style-type: none"> effective landscaping can be incorporated within this front setback (see landscaping plan); the proposed variation applies to an open structure (deck), reducing the visual bulk of the dwelling; and the proposed design is consistent with the rhythm and built form of

		<p>Hunter Street.</p> <p>The garage of Dwelling 1 will be setback 6.587m from the front boundary, and is compliant with the 5.5m prescribed standard.</p> <p><u>Side setback</u></p> <p>All of the proposed dwellings exceed 5.5m in height, therefore requiring a 3m side boundary setback per Chapter C5.13. All dwellings propose a minimum setback of 1.4m to an open deck extending off each dwelling and a minimum setback of 3m to the solid wall of each dwelling. The proposed setbacks incorporate adequate space between buildings to enable effective landscaping. Furthermore, design measures implemented across the north east elevation of these dwellings (highlights windows and privacy screens) assist in mitigating adverse impacts associated with this variation.</p> <p><u>Rear setback</u></p> <p>Dwelling 4 shall be located at the rear of the site (all other dwellings located forward of this dwelling) thus, the rear setback control will only apply to this dwelling. Dwelling 4 proposes a rear setback (ground floor) of 3.876m and a (upper floor) setback of 4.026m. The ground floor setback represents a variation (69%) to the DCP requirement specifying 25% of the average of the length of the side boundaries. The requirement is deemed onerous and considerably greater than the 3m requirement, where 25% of the average length of side boundary is less than 3m. On these grounds, the proposed setback is supported by Council.</p> <p><u>Driveway setback</u></p> <p>A section of driveway (approximately 15m in length) will be setback 300mm from the south-west boundary of the site. The remaining length of driveway will be setback 900mm from this boundary. Effective landscaping may be implemented throughout the driveway with existing lapped and capped paling fencing mitigating any adverse impacts posed by the driveway setback variation.</p>
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Objective C5.D Requirement C5.19-5.21	Natural Ventilation <ul style="list-style-type: none"> To ensure all habitable rooms are naturally ventilated. To ensure a comfortable indoor environment is created for residents. 	The layout of the proposed dwellings allows for natural ventilation to occur throughout the habitable rooms.
Objective C5.E Requirement C5.22-C5.32	Streetscape and Privacy <ul style="list-style-type: none"> To ensure development activates streetscape to provide passive surveillance and privacy 	All dwellings have been designed with an appropriate orientation, which allows for the dwellings to have a presence along the existing streetscape. Habitable rooms have windows looking out to the street providing passive street surveillance.
Objective C5.F Requirement C5.33-C5.36	Noise <ul style="list-style-type: none"> To minimise noise transfer through the siting of buildings and building layout To ensure noise impacts are mitigated within units through layout and acoustic treatments 	The proposal has incorporated setbacks, screening treatments, landscaping and design measures to ensure unreasonable levels of acoustic impact will not result from the dwellings.
Objective C5.G Requirement C5.37-5.41	Car Parking and Garages <ul style="list-style-type: none"> To ensure car parking caters for anticipated vehicle movements to and from the development and does not adversely impact on building articulation. To ensure vehicular access has minimal impacts on neighbouring dwellings. To ensure that vehicular access points and parking is safe and convenient for residents, visitors and service providers. 	Car parking and vehicular movements associated with the proposed development, have been outlined in civil engineering plans prepared for the development. These plans have been assessed and supported by Council's Development Engineer. The proposal includes a 4.4 metre wide shared driveway. Each dwelling has been provided with designated car parking space in accordance with the DCP ratios outlined in section B8, with further stacked parking opportunities available to Dwelling 1. The development provides (1) visitor car parking spaces (including one disabled visitor car space), thus complying with the prescribed standards.
Objective C5.H Requirement C5.42-C5.47	Private Open Space <ul style="list-style-type: none"> To ensure private open space with solar access is provided to allow the opportunity for passive and active outdoor recreation 	<p>A minimum 16m² of usable ground floor private open space (POS) is required for dwellings containing two (2) or more bedrooms. Where development cannot provide POS on the ground floor, provisions shall be made for a balcony of not less than 16m². Dwellings 2, 3 and 4 provide POS via balconies exceeding the usable 16m² requirement.</p> <p>A minimum of 25m² of usable ground floor POS is required for dwellings containing three (3) or more bedrooms. A minimum of 25m² of usable POS has been provided for Dwelling 1.</p>

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

		All POS provided for the dwellings have been located in a northerly direction, are located to the rear of the dwellings, have a minimum dimension of 4m x 4m and have direct access to internal living areas.
Objective C5.1 Requirement C5.48-C5.54	Site Facilities and services <ul style="list-style-type: none"> To ensure development provides appropriate facilities and services in the most appropriate site location 	<p>The development on the site allows for adequate areas for bin storage behind the building line or setback of the dwellings.</p> <p>In the event the application is approved by Council, a condition has been imposed requiring mail boxes be installed to clearly demonstrate the street and unit numbers from the street.</p> <p>A suitable open-air area for clothes drying has been provided for each dwelling behind the building line or setback with a northerly aspect, where possible, in accordance with this clause.</p>

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

There are no further requirements under regulations to be considered in the assessment.

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 multi-dwelling development that will provide housing diversity in the local area. Notwithstanding, the proposal will result in flood isolation during floods smaller than the defined flood event (future 1% AEP), which would place additional people at risk during floods and would place extra burden on the State Emergency Services and is not in the public interest.

Impacts on the Built Environment

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 application includes relevant construction methods and services to avoid adverse impacts on the surrounding environment. The proposal addresses the street and provides logical and convenient connections to the road network and pedestrian facilities in the locality. Any potential built impacts, by way of overshadowing or privacy, either meet DCP requirements or have been reasonably mitigated. There are no anticipated adverse impacts on the built environment as a result of the proposed development.

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 the natural environment. The proposed development is located within close proximity of the Hunter River north west of the site. The

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

development is not considered to be a suitable use of the site with regard to the natural hazards and does not align with Councils endorsed policies.

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

The subject site is zoned R2 – Low Density Residential, whereby the proposed multi dwelling housing is a permissible land use under the zoning. However, 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 relevant legislation. Due to the identified flood hazard, the proposal has been assessed as not being suitable for the site.

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

Public Submissions

The application was exhibited from 13.10.2021 to 27.10.2021 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. Two (2) submissions were received during this time. The matters raised during the exhibition period have been detailed in the table below.

Comment	Council response
Increased local area flooding <ul style="list-style-type: none"> - An increase in impervious surface area over the site may contribute to an increase in local area flooding. 	<ul style="list-style-type: none"> - A stormwater management plan was submitted with the application and includes adequate quality and quantity controls as required by Councils policy. - The proposed development area is more than 60% site coverage, therefore an On-site Detention (OSD) system is required. The OSD has been sized so that the post-development flow rate and volume equals the pre-development flow rate and volume for all storm events up to an including the 1% AEP. - As outlined in the Flood Impact and Risk Assessment report prepared with the application, the proposed development results in a minor local redistribution of flood flows around the proposed buildings, with changes in peak flood velocity being largely contained on site. Any off-site impacts are negligible in terms of presenting a potential adverse flood impact.
Tree removal <ul style="list-style-type: none"> - The removal of trees within the road reserve and over the site will have adverse ecological outcomes. - The removal of trees aligning the south west boundary of the site will reduce privacy between neighbouring properties. 	<ul style="list-style-type: none"> - The proposal seeks to remove three (3) trees, and an arborist report was prepared to assess the impact of the development on these trees, which was supported by Council. - CkPoM mapping, BV mapping and the supporting arborist report confirms vegetation identified for removal holds minimal environmental significance. - A detailed landscaping plan has been prepared with the proposal. The landscaping plan satisfies the objectives and standards outlined in section C5.A of the DCP (including privacy screening); whilst seeks to

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

	offset the impacts of vegetation removal associated with this proposal.
Zone objectives <ul style="list-style-type: none"> - The proposal is inconsistent with the objectives of the R2 Low Density Residential zone. 	<ul style="list-style-type: none"> - The proposed development is defined as multi-dwelling housing which is permissible with consent in the R2 zone. - The development satisfies the objectives of the zone by providing additional residential accommodation that caters for the housing needs of the community in a low density residential environment.
Privacy <ul style="list-style-type: none"> - Loss of privacy at 19 Hunter Street, due to height and orientation of proposed dwellings 2-4. 	<ul style="list-style-type: none"> - The proposed setbacks generally comply with Council's DCP requirements, as outlined elsewhere in this report. Notwithstanding, the privacy objectives are achieved through the use of highlight windows, landscaping and privacy screening over the north-east boundary.
Noise concerns <ul style="list-style-type: none"> - Ongoing noise impacts generated from an additional 3 dwellings over the site. - Noise attenuation measures implemented in dwellings. - Noise impacts generated throughout construction phase. 	<ul style="list-style-type: none"> - Should the DA be supported, conditions of consent have been provided 'during works', and 'at all times' for the on-going management of noise.
Overshadowing <ul style="list-style-type: none"> - Loss of solar access at 19 Hunter Street. 	<ul style="list-style-type: none"> - Loss of natural light in the adjoining dwellings to the north-east of the site would be minimal given solar access is primarily derived from the north. - Shadow diagrams prepared with the application indicate at least 50% of the POS for adjoining dwellings north-east and south-west of the site receive solar access for 3 hours in mid-winter.
Sewage overflow <ul style="list-style-type: none"> - Overloading of local sewer network. 	<ul style="list-style-type: none"> - The site is located within the Hunter Water reticulated network and network loading will be assessed under a s50 application by an external authority.
Boundary fencing <ul style="list-style-type: none"> - Increased boundary fencing should be implemented, with all costs to be paid by developer. 	<ul style="list-style-type: none"> - Additional boundary fencing with adjoining properties is not proposed, and is managed under the Dividing Fences Act 1991.

Section 4.15(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 hazard 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 supported in this instance.

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

Development contributions apply.

DETERMINATION

The application is recommended to be refused by Council, subject to the reasons for refusal provided with this report.

ISAAC LANCASTER

Development Planner



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Attachment 1 - Clause 4.6 ASSESSMENT REPORT

Clause 4.6 – Exceptions to Development Standards

CLAUSE OBJECTIVES AND EXCLUSIONS

Clause 4.6(1) – Clause Objectives

Clause 4.6 provides a mechanism to vary the development standards, such as building height, prescribed within PSLEP2013. The objectives of the clause are to provide an appropriate degree of flexibility in applying certain development standards to particular development, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6(2) – Exclusions to the operation of clause 4.6

The development standard(s) is not excluded from the operation of clause 4.6 (Refer clauses 4.6(2); 4.6(6); and 4.6(8) of PSLEP).

PROPOSED REQUEST

Clause 4.6(3) – Request to vary development standards

The development application includes a written request to vary development standard(s) in the *Port Stephens Local Environmental Plan 2013* (PSLEP).

The relevant development standard(s) and the extent of the proposed variation(s) is:

Development Standard	Proposed Variation	Extent of Variation (%)
Clause 4.3 of the PSLEP	0.2m	2.2%

The assessment of the applicant's clause 4.6 variation request is set out below:

Clause 4.6(3)(a) – Compliance is unreasonable or unnecessary

Clause 4.6(3)(a) requires the application to justify the contravention of the development standard(s) by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

In *Wehbe v Pittwater Council* (2007) LEC 827 (Wehbe), the Land and Environment Court identified five ways in which a request to vary a development standard may be determined to be well founded. The clause 4.6 request makes reference to the following reason identified in the *Wehbe v Pittwater Council* case:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.

PORT STEPHENS
COUNCILAttachment 1 - Clause 4.6
ASSESSMENT REPORT

Having regard to this reason, the applicant's clause 4.6 variation request provides that compliance with clause 4.3 (building heights) is unreasonable or unnecessary. The key reasons provided by the applicant have been summarised below:

- Architectural roof features have been designed with consideration to the risk to life posed by flood constraints over the site, with high raked ceilings that incorporate a flood refuge space and a flood refuge escape hatch.
- The proposal is consistent with DCP controls relating to overshadowing, privacy and amenity and no unreasonable impact would occur to adjacent properties.
- The development provides contemporary architectural design, matches desired built form of the area and promotes liveability.

Clause 4.6(3)(b) – Sufficient environmental planning grounds

Clause 4.6(3)(b) requires an application to justify the contravention of the development standard(s) by demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant notes that sufficient environmental planning grounds are met in that the proposal would provide a flood refuge space for all proposed dwellings, reducing the risk to life associated with development on flood prone land. The Clause 4.6 request states that the built form does not pose any issues with regard to views, overshadowing or character. The applicant also submits that the development is consistent with the relevant objectives (height and zoning) as described in the discussion against Clause 4.6(3)(a).

ASSESSMENT

Clause 4.6(4) – Assessment of request to vary development standards

Clause 4.6(4)(a)(i) - Adequacy of the applicant's request

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied the Clause 4.6 Application has adequately addressed the matters set out in clause 4.6(3) of the PSLEP listed above.

The applicant's Clause 4.6 variation request relies on one of the five ways in which a request to vary a development standard may be determined to be well founded outlined in *Wehbe*.

Having regard to the first test set down in *Wehbe*, it is noted that the objectives of Clause 4.3 is to ensure that the height of buildings is appropriate for the context and character of the area. Clause 4.3 also seeks to ensure that building heights reflect the hierarchy of centres and land use structure.

With regard to the context and character of the area, it is noted that there are several comparatively tall buildings in proximity of the site, including a two (2) storey multi dwelling



PORT STEPHENS
COUNCIL

Attachment 1 - Clause 4.6 ASSESSMENT REPORT

housing development west of the site at 53 Martens Avenue, Raymond Terrace. Single storey dwellings adjoin the site. Whilst it is acknowledged that the proposal is of a contrasting scale to the nearby single storey dwellings, the proposal remains consistent with the future desired character of the area, established by the low density zoning and existing taller buildings within the locality. Furthermore, the design includes articulation and changes in colours and material finishes in order to adequately address the developments perceived bulk and scale. As a result, the development would not be inconsistent with the character of the area.

With regard to the latter clause objectives relating to hierarchy of centres and land-use structure, the hierarchy of centres is not disrupted given there are several taller buildings existing in the Raymond Terrace town centre area which establish the hierarchy of the centre, well above what is proposed by the development. The proposal has a maximum height of 9.2m, which despite the variation, is considerably less than the adjoining height limit of 15m. The proposal is of a density and scale that is reflective of the land-use structure being the R2 Low Density Residential Zone.

On this basis, the objectives of Clause 4.3 are achieved, despite the numerical non-compliance. Subsequently, compliance with the standard is considered unnecessary in this instance.

Sufficient environmental planning grounds are noted to have been achieved on the basis that despite the proposed height variation, amenity impacts relating to overshadowing, privacy, and streetscape setting are adequately addressed, demonstrating no additional benefit would be derived from a reduced building height. Moreover, resultant environmental impacts of the proposal have been assessed as outlined elsewhere in this report and are satisfactory.

Consistent with subsequent case law (*Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC90), in addition to demonstrating that the first method identified in *Wehbe* is adhered to, it is necessary to find other ways to demonstrate compliance with the standard is "unreasonable and unnecessary". The additional reasons relevant to the application are as follows:

- Architectural roof features have been designed with consideration to the risk to life posed by flood constraints over the site, with high raked ceilings that incorporate a flood refuge space and a flood refuge escape hatch.
- Amenity impacts relating to overshadowing, privacy, and streetscape setting are adequately addressed, demonstrating no additional benefit would be derived from a reduced building height.

Clause 4.6(4)(a)(ii) - Public interest – consistency with objectives of the standard and objectives of the zone

**PORT STEPHENS**
COUNCIL

Attachment 1 - Clause 4.6 ASSESSMENT REPORT

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

As outlined above, notwithstanding the non-compliance with the standard, the objectives of clause 4.3 are achieved noting that the proposal is in keeping with the context and character of the area and is reflective of the hierarchy of centres.

Furthermore, the proposal is consistent with the zone objectives, achieved through the provision of housing supply to meet the needs of the community whilst causing no undue amenity impacts as a result of the variation.

The proposed variation, if replicated in future approvals would cause no undue cumulative impacts by way of undermining the objective of the development standard.

Clause 4.6(4)(b) - Concurrence of the Secretary

In accordance with the assumed concurrence, notified in [Planning Circular PS 08-003](#), the concurrence of the Secretary has been obtained (Clause 4.6(4)(b) of PSLEP).

CONCLUSION

The proposed development is considered to be consistent with the objectives of Clause 4.6 as in these particular circumstances, the objectives of the development standard are achieved notwithstanding non-compliance.

**SCHEDULE 1 – REASONS FOR REFUSAL**

1. The proposed development fails to satisfy Clause 5.21 - 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 and property 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**

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PORT STEPHENS
COUNCILCALL TO COUNCIL FORM
DEVELOPMENT APPLICATION

Development application (DA) call to Council request:	
I/We (Mayor/Councillor/s) <u>Arnott, Nell, Smith and Dunkley</u> request that DA number <u>16-2021-812-1</u> for DA description <u>Multi Dwelling Housing</u> located at <u>21 Hunter Street, Raymond Terrace</u> be reported to Council for determination.	
Reason:	
Public interest	
Declaration of Interest:	
I/We have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this DA on my part or an associated person. I/We (Mayor/Councillor/s) _____ have a conflict of interest: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes , please provide the nature of the interest and reasons why further action should be taken to bring this DA to Council:	
Signed: Cr Arnott - by email <small>Please sign or type name & attached to an email.</small> Cr Nell - by email	Date: <u>8/10/2021</u> <small>Click here to enter a date.</small>
Signed: Cr Smith - by email <small>Please sign or forward supporting email.</small>	Date: <u>23/11/2021</u> <small>Click here to enter a date.</small>
Signed: Cr Dunkley - by email <small>Please sign or forward supporting email.</small>	Date: <u>23/11/2021</u> <small>Click here to enter a date.</small>

ITEM NO. 2

**FILE NO: 22/113621
EDRMS NO: PSC2018-03515**

RE-ESTABLISH OF ALCOHOL FREE ZONES IN MEDOWIE AND SHOAL BAY

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Exhibit the proposal for the re-establishment of Alcohol Free Zones (AFZ) in Medowie and Shoal Bay (**ATTACHMENT 1**) in accordance with section 644A of the Local Government Act 1993 (NSW).
 - 2) If no objections are received, adopt the proposal to re-establish the above AFZs for four (4) years.
-

BACKGROUND

The purpose of this report is to seek Council endorsement to undertake the consultation process as required by section 644A of the Local Government Act 1993 to re-establish the existing Alcohol Free Zones (AFZs) in Medowie and Shoal Bay (**ATTACHMENT 1**). AFZs continue to operate in Nelson Bay, Raymond Terrace, Lakeside and Anna Bay.

AFZs act to prohibit the consumption of alcohol on specified public roads, footpaths and car parks and are in force 24 hours per day. They provide Police with the power to seize and dispose of alcohol from a person in an AFZ or if there is reasonable cause to believe the person is about to drink alcohol in the AFZ.

The intent of these measures is to improve public safety by preventing anti-social behavior and alcohol related crime occurring on public roads, footpaths and car parks. It should be noted that there is the ability to suspend AFZs for events and to allow alfresco dining, subject to alcohol license conditions.

AFZs were first established in Port Stephens in 2007 and have assisted in stabilising the number of liquor offences in the Local Government Area (LGA). The subject AFZs are set to expire in September 2022 and a proposal to re-establish the zones has been prepared (**ATTACHMENT 1**) in accordance with section 644 of the Local Government Act 1993 and the Ministerial Guidelines on Alcohol-Free Zones (published February 2009), and in response to a request from the Port Stephens-Hunter Police District.

The proposal highlights that AFZs have been an effective tool in preventing disorderly behaviour caused by the consumption of alcohol in public areas (**ATTACHMENT 1**). It is considered that, without the establishment of AFZs, there would be an increase

in disorderly behaviour and for that reason it is recommended that the AFZs be re-established for a period of 4 years.

This is in response to a request from Port Stephens Hunter Police District.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
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 cost of re-establishing an AFZ and Alcohol Prohibited Area (APA) includes installing new, or amending the existing, AFZ, APA signs, the public consultation and notification process. Funds to cover these costs will be sourced from Assets existing budgets.

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

Local Government Act 1993 (NSW)

Part 4 of Chapter 16 of the Local Government Act 1993 provides Council with the legislative powers to establish an AFZ for a period of up to four years, operating 24 hours per day, on public roads, footpaths and in public car parks in locations where antisocial behaviour or crime has been linked to the public consumption of alcohol. Section 644A includes the consultation requirements and the recommendations are in accordance with this section.

Ministerial Guidelines on Alcohol-Free Zones 2009

The Ministerial Guidelines on Alcohol Free Zones 2009 supplements the relevant provisions of the Local Government Act 1993 and provides detailed procedures to be followed when considering the establishment (including the re-establishment) of an AFZ. The guideline contains evaluation criteria for Councils to use when re-

establishing an AFZ. The criteria has been addressed in the proposal at **(ATTACHMENT 1)**.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
If the AFZs are not re-established, there is a risk of increased anti-social behaviour leading to a disruption in public safety and property.	Medium	Re-establish the AFZs for a period of four years.	Yes
There is a risk that AFZs are not adequately signposted.	Low	Review current signposts to ensure that they are clearly and accurately signposted. Ongoing consultation is undertaken with Facilities and Services to ensure signage is maintained and current.	Yes
There is a risk that members of the community or key stakeholders do not support the re-establishment of the AFZs.	Low	Provide explanatory information outlining the importance of AFZs in managing alcohol related crime in the community. Existing provisions are in place for temporary suspension of AFZs for events and alfresco dining where appropriate licencing is in place.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The establishment of the AFZs has helped to improve public perceptions of safety in these areas. The re-establishment of the AFZs will continue to assist Police in reducing anti-social and criminal behaviour in public places, as well as reduce the costs to Council for repairing property damage caused by such behaviour. Therefore, it is considered that the recommendations would have positive sustainability implications.

CONSULTATION

Internal

The Strategy and Environment Section are responsible for alcohol management on public land in Council. Should the proposal be adopted, consultation with Facilities and Services will be undertaken to ensure signage is updated to reflect the amended timeframes.

External

Should Council endorse the proposal, public consultation will be undertaken in accordance with section 644A of the Local Government Act 1993, as follows:

- A notice will be published on Council's website for a period of 30 days, advising that Council proposes to re-establish the AFZs and how to make a submission.
- A copy of the proposal will be provided to the Port Stephens-Hunter Police District and local licensed premises within the AFZ areas, allowing 30 days to provide a response.

Should objections to the proposal be received, a further report will be made to Council addressing the submissions, together with an amended proposal if required.

OPTIONS

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

ATTACHMENTS

- 1) Proposal to re-establish Alcohol Free Zones in Medowie and Shoal Bay. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH ALCOHO; FREE
ZONES IN MEDOWIE AND SHOAL BAY.



ITEM 2 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH ALCOHO; FREE ZONES IN MEDOWIE AND SHOAL BAY.

FILE NUMBERS

PSC2018-03515

LEGISLATION & POLICY

Local Government Act 1993 (NSW)

Ministerial Guidelines on Alcohol Free Zones 2009

Liquor Legislation Amendment Bill 2010

FIGURES

1. Medowie Alcohol Free Zone
2. Shoal Bay Alcohol Free Zone
3. Incidents, by type, with an alcohol factor in Medowie (October 2021 – March 2022)
4. Incidents, by type, with an alcohol factor in Shoal Bay (October 2021 – March 2022)

PROPOSAL

This proposal seeks to re-establish the Alcohol Free Zones (AFZs) in Medowie and Shoal Bay. The AFZ will be established for a period of four (4) years, operating for 24 hours a day in accordance with Section 644A of the *Local Government Act 1993* (NSW).

The proposal is the result of a request from the NSW Police - Port Stephens Hunter Police District (PSHPD) to have Alcohol Free Zones retained in the subject areas.

BACKGROUND

The Ministerial Guidelines on Alcohol Free Zones 2009 (the Guidelines), which supplement the relevant provisions of the *Local Government Act 1993* (NSW), enable Council to prepare a proposal to establish an Alcohol Free Zone on a public road, footpath or public carpark. Private car parks (being on private land and not under the control of the council) may not be included. Council managed car parks, located on private land which is leased by Council may be included in the AFZ. In some circumstances an AFZ may be proposed for an area that includes cafés or restaurants with footpath alfresco dining areas, however these are exempt from the enforceable zone if the business holds a current appropriate liquor license.

An AFZ can be established for a period of up to four years, with the enforceable zones operating for 24 hours per day.

ITEM 2 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH ALCOHOL FREE ZONES IN MEDOWIE AND SHOAL BAY.

A request to establish an AFZ can be submitted by any person living or working in the area, the local police or a local community group. Alternatively, a local council itself can decide to establish an AFZ.

The principal objective of an AFZ is to prevent disorderly behavior caused by the consumption of alcohol in public areas in order to improve public safety.

Evidence indicates that when AFZs are established in appropriate areas and operated with the required level of resources to promote and enforce the zones, they are an effective tool in assisting Police to manage alcohol-related crime and improve public safety. Within an AFZ, an enforcement officer has the power to issue warnings, seize and dispose of alcohol or charge an uncooperative person with obstruction under section 660 of the *Local Government Act 1993* (NSW), which carries a maximum penalty of \$2,200.

Police have noted the success of the existing AFZs in reducing alcohol related crime and anti-social behaviour, but have indicated that alcohol remains a factor for crimes such as assault, malicious damage and anti-social behaviour in these areas. The number of such offences would likely increase should the AFZs not be re-established.

PUBLIC CONSULTATION

Should Council endorse the proposal, public consultation will be undertaken in accordance with section 644A of the *Local Government Act 1993* (NSW), as follows:

- A notice will be published on Council's website, advising that Council proposes to re-establish the AFZs. The notice will clearly indicate the location and hours of operation of the proposed AFZs, the location, dates and times that the proposal can be inspected and will invite public comment to be made on the proposal within 30 days of the notice being published; and
- A copy of the proposal will be provided to the Port Stephens Hunter Police District and local licensed premises within the AFZ areas, allowing 30 days to provide a response.

Should objections to the proposal be received, a further report will be made to Council addressing the submissions, together with an amended proposal if required.

DURATION OF ALCOHOL FREE ZONES

Under section 644(3) of the *Local Government Act* (1993), Council can resolve to establish an AFZ for a maximum period of four years. Once established, an AFZ applies for 24 hours per day.

**ITEM 2 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH ALCOHO; FREE
ZONES IN MEDOWIE AND SHOAL BAY.**

The AFZs will become operational 7 days after a notice advising of their establishment has been published in The Port Stephens Examiner and the affected areas are adequately signposted.

PROPOSED LOCATION

ITEM 2 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH ALCOHO; FREE ZONES IN MEDOWIE AND SHOAL BAY.



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

ITEM 2 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH ALCOHO; FREE ZONES IN MEDOWIE AND SHOAL BAY.



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

ITEM 2 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH ALCOHO; FREE ZONES IN MEDOWIE AND SHOAL BAY.

CRIME STATISTICS

Medowie

Figure 3 shows that a number of incidents, with alcohol as a factor, occurred in Medowie over the last 6 months, with the type of incidents varying considerably. Re-establishing the AFZs will continue to provide Police with a useful tool to manage this range of offences.

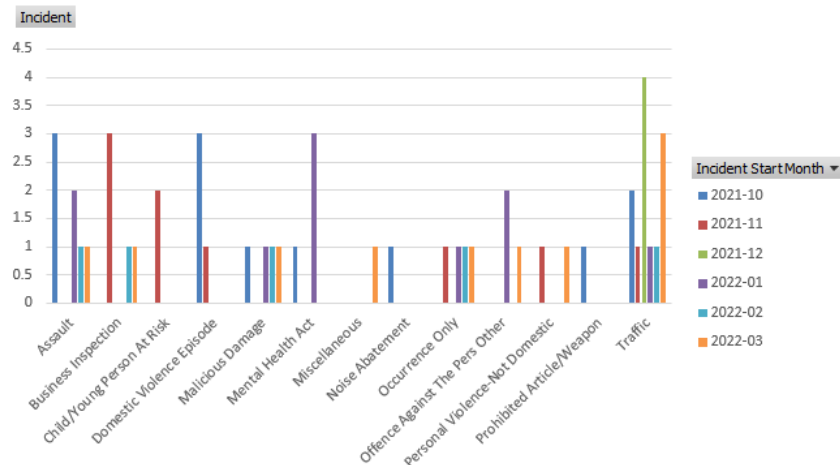


Figure 3: Incidents, by type, with an alcohol factor in Medowie (October 2021 – March 2022)

ITEM 2 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH ALCOHO; FREE ZONES IN MEDOWIE AND SHOAL BAY.

Shoal Bay

Figure 4 shows the number of incidents, with alcohol as a factor, which occurred at Shoal Bay in the last 6 months. Re-establishing the AFZs will continue to assist Police in the management of this alcohol-related anti-social behaviour.

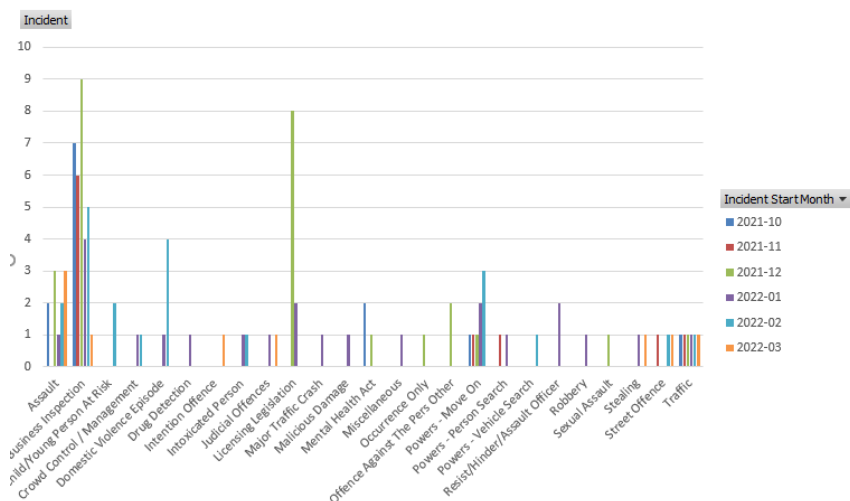


Figure 4: Incidents, by type, with an alcohol factor in Shoal Bay (October 2021 – March 2022)

**ITEM 2 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH ALCOHO; FREE
ZONES IN MEDOWIE AND SHOAL BAY.**

CONCLUSION

The re-establishment of the AFZs in Medowie and Shoal Bay should be supported as the NSW Bureau of Crime statistics presented above indicate that alcohol-related crime is still occurring in these areas.

Local Police recommend the re-establishment of AFZs and have confirmed that the AFZs will continue to assist them in managing and enforcing alcohol-related offences, containing anti-social behaviour and providing a safe street environment in these communities. Police have expressed concern that if alcohol consumption was permitted in these areas, anti-social behaviour would escalate to a significant level. It is therefore recommended that the AFZs be re-established for a period of four years.

ITEM NO. 3**FILE NO: 22/87839
EDRMS NO: PSC2017-00180****QUARTERLY BUDGET REVIEW TO 31 MARCH 2022****REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the discretionary changes to the adopted budget (**ATTACHMENT 1**) presented as the Quarterly Budget Review to 31 March 2022.

BACKGROUND

The purpose of this report is to amend the budget by bringing to Council's attention the issues that have affected the 2021 – 2022 budget. These issues are detailed in the Quarterly Budget Review to 31 March 2022 (**ATTACHMENT 1**). The statement sets out the details of the variations between Council's original budget and the proposed budget.

The COVID-19 pandemic has had a significant impact on Council's financial position, with continued analysis across all financial operations undertaken regularly to ensure clarity. Adjustments to Council expenditure have already been made to ensure Council maintains its financial sustainability. Ongoing conservative financial management is required for the near future.

The summary (**ATTACHMENT 1**) best represents the situation as well as it is presently known.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Financial Management	Maintain strong financial sustainability.

FINANCIAL/RESOURCE IMPLICATIONS

Council's anticipated underlying result is as follows:

	Surplus (\$)	Deficit (\$)
Budget 2021 - 2022	\$66,000	
September 2021 review		\$2,500,000
December 2021 review		\$975,000
March 2022 review	\$147,000	

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

Council's financial position is precarious as a result of the COVID-19 pandemic. Despite an improvement seen in the underlying result for the financial year 2021 – 2022, it is prudent that Council continues to monitor the budget carefully to ensure minimal risk to the organisation and community.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the underlying operating result may remain in a deficit for an unforeseeable amount of time.	High	The Long Term Financial Plan will be reviewed regularly to ensure that expenditure remains sustainable and that revenue is at appropriate levels.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council's budget is fundamental for operational sustainability and the provision of facilities and services to the community. The budget will continue to be carefully monitored with conservative expenditure while the financial outlook continues with a higher level of uncertainty.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section to discuss the overall financial result for the quarter.

Formal communication and meetings have been held and it is recommended to submit the Quarterly Budget Review to 31 March 2022 to Council for adoption.

Internal

- Executive Team.
- Financial Sustainability Committee.

External

Nil.

OPTIONS

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

ATTACHMENTS

- 1) Quarterly Budget Review to 31 March 2022. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



"A great lifestyle in a treasured environment"

**2021 – 2022
Quarterly Budget Review Statement
March 2022**

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ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

1) Executive Summary

The quarterly budget review has been compiled during a period of instability, not only for Council but for the industry as a whole. While many possible scenarios have and will continue to be modelled, the following summary best represents the current situation. Financial performance is generally measured using three primary statements, each are discussed in detail in the attached report. A summary of the predicted outcomes are as follows:

Profit & Loss Statement – operational budget

	Surplus ('000)	Deficit ('000)
Original budget – expected result	\$66	
September 2021 review		(\$2,500)
December 2021 review		(\$975)
March 2022 review	\$147	

The increment of \$1,121k is primarily due to:

Increased income from:

Grants	\$180k
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Decreased income from:

Parking fees	\$250k
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Decreased expenditure from:

Employee costs	\$1,053k
Materials and contracts	\$138k

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.**Capital Works Program – capital budget**

	<u>Gross</u>	<u>Contribution</u>	<u>Net</u>
Original budget – total spend	\$28,402k	\$12,122k	\$16,280k
September 2021 review	\$67,439k	\$28,607k	\$38,832k
December 2021 review	\$77,532k	\$30,398k	\$47,134k
March 2022 review	\$80,431k*	\$31,882k	\$48,549k

The increase of \$2,899k is principally due to:

Depot renovations	\$3,570k
Newline Rd upgrade	\$814k
RT Admin building car park	\$500k
Six Mile Rd upgrade	\$276k
Foreshore Drive – culvert and road upgrade	\$250k
Admin building project reallocation	(\$2,890k)
Other minor capital projects	\$380k

*Total capital works program includes \$3,850k for airport works and \$634k for airport contributions. The net program for Council is \$48,549k - \$3,216k = \$45,333k.

Cash flow

Original budget – cash projected	\$65,443k
September 2021 review	\$40,946k
December 2021 review	\$30,519k
March 2022 review	\$31,732k

The increase in the anticipated cash position to 30 June 2022 is principally due to the sale of land.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

1) Executive Summary - continued

Categorising the changes by Group:

Corporate Services: The operating budget change in this group was \$3,815 (favourable). The operating budget changes predominately relate to the profit on sale of assets and decrease in employee costs due to the ongoing financial pressures of the Covid pandemic.

Capital budget changes were \$2,890k (favourable) and relates to the removal of the admin building upgrade budget.

Development Services: Operating budget changes for this group were \$452k (favourable). The operating budget changes predominately relate to the decrease in employees costs due to the ongoing financial pressures of the Covid pandemic.

Capital budget changes were \$500k (favourable) and relate to adopting the revised budgets for development contributions.

Facilities & Services: The operating budget change in this group was \$346k (favourable). The operating budget changes predominately relate to the decrease in employees costs due to the ongoing financial pressures of the Covid pandemic.

Changes in the capital budget were \$4,804k (unfavourable) which is mainly due to the increase in roads upgrades and depot renovations.

General Manager's Office: Operating budget changes for this group were \$52k (favourable). The operating budget changes predominately relate to the decrease in employees costs due to the ongoing financial pressures of the Covid pandemic.

Newcastle Airport: There were no budget changes for this quarter.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

Operating Budget	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Corporate Services	52,259	-	(2,044)	851	3,815	54,882	44,394
Development Services	(8,104)	-	(50)	51	452	(7,651)	(5,785)
General Manager's Office	(7,007)	(31)	50	-	52	(6,935)	(5,388)
Facilities & Services	(32,448)	433	(294)	494	346	(31,469)	(14,461)
Newcastle Airport	244	-	-	(3,869)	-	(3,625)	(2,719)
Operating Surplus/(Deficit) before capital grants	4,944	402	(2,338)	(2,473)	4,666	5,201	16,040
Less: Gain on sale	(3,750)	-	-	-	(3,545)	(7,295)	(6,618)
Less: Fair value increases & royalties	(1,485)	-	(500)	-	-	(1,985)	(424)
Less: Newcastle Airport	(244)	-	-	3,869	-	3,625	2,719
Add: NAP Dividend	-	-	-	-	-	-	-
Add: Local election costs	600	-	-	-	-	600	4
Underlying Operating Surplus/(Deficit)	66	402	(2,838)	1,396	1,121	147	11,721

Capital Budget	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Corporate Services	(4,690)	(4,539)	906	(3,456)	2,890	(8,889)	(6,015)
Development Services	4,520	-	-	-	500	5,020	5,284
Facilities & Services	(12,260)	(14,338)	(4,581)	(5,482)	(4,804)	(41,464)	(11,518)
General Manager's Office	-	-	-	-	-	0	-
Newcastle Airport	(3,850)	-	-	634	-	(3,216)	-
Total	(16,280)	(18,876)	(3,675)	(8,303)	(1,414)	(48,549)	(12,250)

Note - + = inflow () = outflow

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

2) Introduction

Clause 203(1) of the *Local Government (General) Regulation 2021* requires Council's responsible accounting officer to prepare and submit a Quarterly Budget Review Statement (QBRS) to Council. The QBRS must show, by reference to the estimated income & expenditure that is set out in the operational plan, a revised estimate of income and expenditure for the year.

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

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

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

The QBRS is composed of the following components:

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

3) Responsible Accounting Officer's Statement

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

The following statement is made in accordance with clause 203(2) of the *Local Government (General) Regulations 2021*.

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter end 31/03/2022 indicates that Council's projected financial position will not be satisfactory at year-end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure. The impact of the Covid-19 pandemic continues to be monitored and used to model the potential financial impacts on the organisation. A range of austerity measures have been implemented, aimed at reducing the potential deficit to break even or better. These measures and the impact are monitored on a weekly basis and reported to the Executives and Council on a regular basis. The cash position is being critically examined and monitored to ensure that the maximum amount of cash is being retained within the organisation. Potential delays to the capital works program are being examined and will be separately reported as appropriate.

Name: Tim Hazell

Responsible Accounting Officer, Port Stephens Council

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

4) Income & Expenses Budget Review Statement

Consolidated Income Statement	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Rates and Annual Charges	66,079	-	-	-	-	66,079	66,275
User Charges & Fees Income	48,862	-	(3,037)	(4,888)	(250)	40,687	21,798
Interest & Investment Income	1,237	-	-	(201)	-	1,037	269
Other Income	7,493	-	228	(359)	-	7,361	5,212
Grants and Cont.	12,161	433	235	699	179	13,707	7,056
Grants and Cont.(Capital)	12,122	8,891	7,594	1,791	1,485	31,882	20,494
Fair Value Gains	835	-	-	-	-	835	-
Net Gain on Sale	3,750	-	-	-	3,545	7,295	6,618
Total Revenue	152,539	9,324	5,019	(2,958)	4,959	168,883	127,721
Employee Costs	53,672	-	161	1,480	(1,053)	54,260	39,042
Borrowing Costs	882	-	-	168	-	1,050	328
Materials & Contracts	57,994	-	(164)	(4,273)	(138)	53,419	36,393
Other Expenses	4,678	31	(235)	-	-	4,474	4,376
Depreciation & Impairment	18,247	-	-	350	-	18,596	11,047
Total Expenditure	135,472	31	(237)	(2,275)	(1,192)	131,799	91,187
Operating Surplus/(Deficit) after capital grants	17,067	9,293	5,256	(682)	6,150	37,083	36,534
Operating Surplus/(Deficit) before capital grants	4,944	402	(2,338)	(2,473)	4,666	5,201	16,041
Less: Net Gain on Sale	(3,750)	-	-	-	(3,545)	(7,295)	(6,618)
Less: Fair Value Increases & Royalties	(1,485)	-	(500)	-	-	(1,985)	(424)
Less: Newcastle Airport	(244)	-	-	3,869	-	3,625	2,719
Add: NAP Dividend	-	-	-	-	-	-	-
Add: Local Election Costs	600	-	-	-	-	600	4
Underlying Operating Surplus/(Deficit)	66	402	(2,838)	1,396	1,121	147	11,722

Notes:

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

Council's original operating budget for 2021-2022 was incorporated as part of the Integrated Plans that were adopted by Council on 22 June 2021.

This statement sets out the details of variations between Council's original operating budget and the revised budget as part of the March Quarterly Budget Review. This has altered from an original projected underlying surplus of \$66,000 to a revised surplus of \$147,000.

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

REVENUE	Budget Change \$'000	F/U
Rates and Annual Charges	-	-
No change.		
User Charges and Fees	250	U
User charges and fees has decreased due to the decrease in parking fees.		
Grants and Contributions provided for Operating Purposes	179	F
Income has increased mainly due to brining in the budgets for weed control grants.		
Interest and Investment Revenue	-	-
No change.		
Other Income	-	-

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

No change.

Grants and Contributions provided for Capital Purposes	1,485	F
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Capital grants & contributions have increased primarily due to the following projects:

- Newline road upgrade - \$815k
- Development contributions - \$500k
- Other road upgrade projects - \$170k

Net Gains from the Disposal of Assets	3,545	F
--	--------------	----------

Net gain from the disposal of assets relates to the following:

- 178 Cabbage Tree - \$3,771k
 - 2 Bagnall Avenue - \$1,810k
 - 77 Dawson Rd - \$374k
 - 19 Bagnall Beach Rd - \$368k
 - 2 Coachwood Drive - \$135k
 - Reallocations – (\$2,913k)
-

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

EXPENDITURE	\$'000	Budget Change F/U
Borrowing Costs	-	-
No change.		
Depreciation, Amortisation and Impairment	-	-
No change.		
Employee Benefits and On-Costs	1,053	F
Employee benefits and on-costs has decreased primarily due to the ongoing financial pressures of the Covid pandemic.		
Materials and Contracts	138	F
Materials and contracts has been decreased primarily due to offset the decrease in parking fees.		
Other Expenses	-	-
No change		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

5) Capital Budget Review Statement

Consolidated - Summary	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Grants and Cont.(Capital)	12,122	8,891	7,594	1,791	1,485	31,882	20,494
Total Receipts	12,122	8,891	7,594	1,791	1,484.69	31,882	20,494
Capital Equipment & Contracts	28,402	27,768	11,269	6,624	5,789	79,851	29,543
Property Acquisition & Development	-	-	-	3,470	(2,890)	580	3,201
Total Payments	28,402	27,768	11,269	10,094	2,899	80,431	32,743
Capital Surplus/(Deficit)	(16,280)	(18,876)	(3,675)	(8,303)	(1,414)	(48,549)	(12,250)

This statement sets out the details of variations between Council's original capital budget and revised capital budget. There are budgetary changes proposed in this quarter which result in a further increase in the capital program by the value of \$2.9m.

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

INCOME	\$'000	Budget Change F/U
Capital Grants & Contributions	1,485	F

Capital grants & contributions have increased primarily due to the following projects:

- Newline road upgrade - \$815k
- Development contributions - \$500k
- Other road upgrade projects - \$170k

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

EXPENDITURE	\$'000	Budget Change F/U
-------------	--------	----------------------

Property Acquisition and Development	2,890	F
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Property acquisition and development has decreased primarily due to the removal of the admin building budget.

Capital Equipment and Contracts	5,789	U
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Capital equipment and contracts has increased primarily due to the following projects:

- | | |
|--|----------|
| • Depot renovations | \$3,570k |
| • Newline Rd upgrade | \$814k |
| • RT Admin building car park | \$500k |
| • Six Mile Rd upgrade | \$276k |
| • Foreshore Drive – culvert and road upgrade | \$250k |
| • Other minor capital projects | \$380k |

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

The capital works program by section is as follows:

Consolidated - Detailed	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Capital Funding							
Capital Grants & Contributions	12,122	8,891	7,594	1,791	1,485	31,882	20,494
Total Capital Funding	12,122	8,891	7,594	1,791	1,485	31,882	20,494
Capital Expenditure							
Corporate Services Group							
Commercial Property Reserve & Cluster Plan							
Fingal Bay Holiday Park	2,019	679	(1,396)	248	-	1,550	1,200
Halifax Holiday Park	490	53	(64)	(70)	-	409	250
Shoal Bay Holiday park	481	150	(360)	(9)	-	262	246
Thou Walla Sunset Retreat	300	-	(105)	5	-	200	111
Koala Sanctuary	350	124	62	-	-	536	389
Office and Chambers	-	-	-	-	-	-	-
Property Development & Land Acquisitions	-	-	-	3,470	-	3,470	3,201
Administration Building	250	3,000	-	-	(2,890)	360	302
Property Investments	-	93	1,107	(250)	-	950	-
Commercial Property Total	3,890	4,099	(756)	3,394	(2,890)	7,737	5,700
Business Improvement Technology	800	439	-	62	-	1,301	375
Corporate Services Group Total	4,690	4,539	(756)	3,456	(2,890)	9,039	6,075

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

Consolidated - Detailed	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
General Manager's Office							
Software	-	-	-	-	-	-	-
General Manager's Office Total	-	-	-	-	-	-	-
Facilities and Services							
Assets							
Fleet Maintenance	2,213	1,340	-	(2,213)	-	1,340	-
Drainage and Flooding	600	196	200	-	-	996	918
Assets Total	2,813	1,536	200	- 2,213	-	2,336	918
Community Services							
Domestic Waste Management	-	17	-	-	-	17	0
Library Services	250	-	-	-	-	250	201
Community Services	250	17	-	-	-	267	201
Capital Works							
Capital Works Construction	16,799	21,675	11,825	8,851	5,789	64,939	25,549
Capital Works Total	16,799	21,675	11,825	8,851	5,789	64,939	25,549
Facilities and Services Total	19,862	23,229	12,025	6,638	5,789	67,542	26,668
Newcastle Airport	3,850	-	-	-	-	3,850	-
Total Capital Expenditure	28,402	27,768	11,269	10,094	2,899	80,431	32,743
Net Outlay	16,280	18,876	3,675	8,303	1,414	48,549	12,250

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.
6) Reserve Balances

This statement sets out the budgeted reserve balances and funding source change.

Reserves	Opening Balance	Rollover Transfers	Operating Transfers in / (out)	Financing Transfers in / (out)	Transfers between Reserves	Original Budget	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	Closing Balance
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Administration Building Reserve	502	-	(181)	-	-	(250)	-	-	(68)	4
Asset Rehabilitation Reserve	1,352	(1,042)	4,100	(500)	-	(3,600)	(74)	(14)	(40)	182
Commercial Properties Reserve	5,605	(2,046)	6,632	(1,798)	(744)	-	(651)	(5,178)	5,138	6,958
Community Loans	200	-	-	-	-	-	-	-	-	200
Crown Reserves	2,891	(1,380)	2,777	(401)	-	(3,640)	(754)	1,346	68	908
Developer Contributions	11,481	(33)	4,389	-	-	(632)	(474)	(1,629)	(1,543)	11,558
Domestic Waste	3,744	(197)	223	-	-	(270)	-	-	27	3,528
Drainage Reserve	196	(196)	1,417	-	-	(675)	(200)	-	-	542
Election Reserve	600	-	(200)	-	-	-	-	-	-	400
Federal Assistance Grant Reserve	3,459	-	(3,459)	-	-	-	-	-	-	-
Fleet Reserve	2,410	(1,357)	2,180	-	220	(2,213)	-	17	(1,257)	-
IT Reserve	684	(439)	800	-	-	(800)	-	-	-	245
Newcastle Airport	10,542	-	2,916	-	-	(3,850)	-	(2,885)	-	6,723
Other Waste Services Reserve	422	(185)	(96)	-	-	-	-	-	28	170
Parking Meters Reserve	178	(47)	1,128	-	-	(130)	(500)	45	(345)	329
Repealed Funds Reserve	5,581	(2,765)	-	-	-	-	(997)	(1,819)	-	-
Roads / Environmental Reserve	46	(44)	425	-	-	(425)	-	-	-	3
Section 355C Committees	626	-	-	-	-	-	-	-	-	626
Unexpended Grants Reserve	4,779	(1,173)	-	-	-	-	(3,606)	-	-	-
Sustainable Energy and Water Reserve	171	-	0	-	-	-	-	-	-	171
Unexpended Loan Funds Reserve	5,000	(13,424)	0	5,000	424	-	(110)	110	3,000	-
Ward Funds Reserve	26	(100)	(26)	-	100	-	-	-	-	-
Bonds and Retentions	1,034	-	0	-	-	-	-	-	-	1,034
Total	61,531	(24,428)	23,025	2,302	(0)	(16,485)	(7,365)	(10,008)	5,009	33,581

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

7) Cash Flow Statement (Consolidated)	Original Budget	Revotes & Carried Forward	Budget Revision Sept	Budget Revision Dec	Budget Revision Mar	Revised Budget
Cash Flows from Operating Activities	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Receipts:						
Rates and Annual Charges	64,640	-	-	-	-	64,640
User Charges & Fees Income	48,272	-	(3,037)	(4,888)	(250)	40,097
Interest & Investment Revenue Received	1,237	-	-	(201)	-	1,036
Other	8,138	-	228	(359)	0	8,007
Grants and Contributions	21,735	9,324	7,828	2,490	1,664	43,041
Payments:						
Employee Benefits & On-Costs	(52,134)	-	(161)	(1,480)	1,053	(52,722)
Borrowing Costs	(872)	-	-	(168)	-	(1,040)
Materials & Contracts	(47,679)	-	164	4,273	138	(43,104)
Other	(18,633)	(31)	235	-	-	(18,429)
Net Cash provided (or used in) Operating Activities	24,704	9,293	5,256	(333)	2,605	41,526
Cash Flows from Investing Activities						
Receipts:						
Proceeds from disposal of Property Plant & Equipment	3,750	-	-	-	6,507	10,257
Proceeds from development & land sales	-	-	-	-	-	-
Payments:						
Purchase of Real Estate, Infrastructure, Property Plant & Equipment and Intangibles	(28,402)	(27,768)	(11,269)	(10,094)	(2,899)	(80,431)
Net Cash provided (or used in) Investing Activities	(24,652)	(27,768)	(11,269)	(10,094)	3,608	(70,174)
Cash Flows from Financing Activities						
Receipts:						
Proceeds from borrowings	10,000	-	-	-	(5,000)	5,000
Payments:						
Repayment of Leases, Borrowings & Advances	(3,408)	-	-	-	-	(3,408)
Net Cash provided (or used in) Financing Activities	6,592	-	-	-	(5,000)	1,592
Net Increase/(Decrease) in Cash & Cash Equivalents	6,644	(18,474)	(6,013)	(10,426)	1,213	(27,057)
plus: Cash & Investments - beginning of year (*)	58,789	-	-	-	-	58,789
Cash & Investments - end of the year	65,433	(18,474)	(6,013)	(10,426)	1,213	31,732

*opening balance adjustment made to reflect 30 June 2021 actual closing balance

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

Cash Flow Statement Funding Reconciliation

The 'Recommended Changes to Budget' in the March QBR constitute an overall increase in Council's cash flow position by \$1,213k (favourable) after the use of internal reserves and external funding sources are factored in.

PSC is clearly solvent based on the current and estimated cash position from the review changes. PSC's current cash position as per the March investment report was \$48.8m.

8) Budget Review Contracts and Other Expenses

Councillors are currently made aware of tenders of \$250,000 or more in accordance with legislation. However, Councillors should be made aware of other material contracts entered into by Council and details of other expenses that are of particular interest. To this end, a contract listing and details of legal fees and consultancy expenses are included in the QBRs.

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

- Were entered into during the quarter ending 31/03/2022; and
- Have a value equal to or more than \$50,000.

Part B of the report shows expenditure as at 31/03/2022 for:

- Consultancies
- Legal fees

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

ITEM 3 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2022.

Part A

Contracts Listing

Contractor	Contract Details and Purpose	Contract Value IncGST	Contract Commencement Date	Contract End Date	Budgeted (Y/N)
ANDREW MIEDECKE MOTORS PTY LTD	PURCHASE OF FLEET	85,974	4/02/2022	31/03/2022	Y
CUB DEMOLITION PTY LTD	RFQ005-2022 BOYD OVAL - DEMOLITION & EARTHWORKS	63,404	4/02/2022	11/03/2022	Y
PKF (NS) AUDIT & ASSURANCE LIMITED	2021-2022 INTERNA: AUDIIT PROGRAM: SECTION 7.11 CON	60,500	7/02/2022	31/05/2022	Y
NEWCASTLE CITY COUNCIL	MARCH 2022 WASTE DISPOSAL - FLOOD, MARCH 2022, etc	127,823	21/03/2022	25/02/2022	Y
OTIS ELEVATOR COMPANY PTY LTD	ADMINISTRATION BUILDING LIFT MOTOR ROOM CONTROLLER	53,861	28/03/2022	05/05/2022	Y

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

Part B

Consultancy & Legal Expenses

Expense	Expenditure YTD (\$)	Budgeted (Y/N)
Consultancies		
HR	28,218	Y
Engineering	91,252	Y
IT	9,880	Y
Property	17,768	Y
Other	256,287	Y
Total consultancies	403,405	
Legal Fees		
Advice	69,556	Y
Litigation	161,610	Y
Total legal fees	231,166	

Expense - Litigation	Expenditure YTD (\$)
Environmental Law	41,468
Local Government Law	13,237
Planning and Development Law	102,449
Statutory Law	4,457
Total	\$161,610

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/03/2022 and should be read in conjunction with other documents in the QBRS.

ITEM NO. 4

**FILE NO: 22/81727
EDRMS NO: PSC2017-00669**

INDEPENDENT AUDIT COMMITTEE MEMBERSHIP

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Extend the term of the independent Audit Committee members to 30 June 2023 or until Council implements the new Audit Risk Improvement Committee (whichever is the sooner).
- 2) Increase the allowance paid to independent Audit Committee members to \$850 per meeting attended, effective from July 2022.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the proposal to extend the term of the external independent members of Council's Audit Committee until the implementation of Council's new Audit Risk Improvement Committee (ARIC).

By way of background, the Local Government Act 1993 was amended in August 2016 to require each council and joint organisation in NSW to appoint an audit, risk and improvement committee. This requirement was initially anticipated to take effect from March 2021, however, given the COVID-19 pandemic and deferral of Council elections until December 2021, this date has been extended until **4 June 2022**.

The Office of Local Government (OLG) has developed draft guidelines for Risk Management and Internal Audit to support and inform the operations of ARICs. The proposed guidelines are based on international standards and the experience of Australian and NSW Government public sector agencies who have already implemented risk management and internal audit, but has been adapted to reflect the unique needs and structure of NSW councils and joint organisations.

While the draft guidelines were released in August 2021, the final guidelines have not been finalised to date. The draft guidelines propose significant changes to the appointment and qualification requirements for independent committee members and councillor membership on the ARIC.

As the OLG is yet to release the new guidelines, as an interim arrangement, it is proposed to extend the term of the independent members for a further period of 12 months ending on 30 June 2023 or until Council adopts a new ARIC committee membership (whichever is the sooner).

This approach will ensure continuity of membership and transition of independent expertise to the new ARIC framework when it is introduced.

The current term of the independent audit committee members expires on 30 June 2022. Each of the current independent member brings relevant expertise and experience as follows:

Mr Ben Niland – has over 18 years' experience in large government organisations working within processes and systems which are risk based. Ben's background in government organisation provides a great understanding of the legislative framework Council operates within. Ben has been an independent external member of Council's Audit Committee for 7 years demonstrating a high level of practical and conceptual financial and management accounting skill with knowledge of internal controls, policies and procedures.

Mr Frank Cordingley – has over 20 years' experience working in both the private and public sectors. He offers unique experiences that would provide value to the committee and balance the experience of the other members through providing experience in general management, financial management, risk management, work health and safety, and improvement opportunities from an operational, as well as a financial perspective. As Director Corporate Services for Hunter Health, Frank also held the position as an independent member on the Audit and Risk Management Committee of Health Support Services for a period of 3 years. In addition, Frank was also a Director on the Board of Newcastle Airport Ltd and a member of their Audit and Risk Management Committee.

Mr Shaun Mahony – has over 22 years' experience in professional accounting firms providing audit, account and business advice to a broad range of clients including public companies, government organisations, not for profit entities and private companies. Shaun has also held senior finance roles overseeing finance, information technology and communications, human resources and administration functions. Shaun demonstrates a high level of understanding and knowledge of business and operational processes, governance and risk management practices.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

The meeting allowance for independent external members of \$750 per meeting was adopted by Council at its meeting held 12 May 2020. At this time \$750 per meeting attended was consistent with other allowances paid when benchmarked with councils of a similar size.

ORDINARY COUNCIL - 10 MAY 2022

The meeting allowance has been reviewed and an allowance of \$850 per meeting is now considered appropriate to be paid to each independent external representative of the Audit Committee for each meeting attended. This is in line with other allowances paid when benchmarked with councils of a similar size.

Under the proposed ARIC framework, the member fee proposed is at \$1,621 per meeting for a medium size LGA.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Potential increase of \$1200 per year which will be met within the 2022 to 2023 budget.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no limitations on the term for independent members of an audit committee under the Office of Local Government guidelines.

The Audit Committee Charter provides that Council may resolve to appoint independent external members for consecutive terms.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council would not comply with the Office of Local Government guidelines if independent members are not appointed.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that the Audit Committee with independent membership adds significant rigour to Council's governance framework, risk control, compliance and financial reporting and enhances Council's reputation, operations and financial sustainability.

CONSULTATION

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

All independent members are supportive of the proposal to extend their terms by 12 months or until the new membership of the ARIC is determined by Council.

Internal

- General Manager.

External

- Independent Audit Committee members.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5**FILE NO: 22/105068
EDRMS NO: PSC2021-04205****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Ward funds to the following:-
 - a. Nelson Bay Netball Association – Cr Matthew Bailey – Rapid Response - \$500 donation towards programs to encourage women and girls to participate in sport.
-

BACKGROUND

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

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

- 1) Mayoral Funds
- 2) Rapid Response
- 3) Community Capacity Building

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

The requests for financial assistance are shown below:

WARD FUNDS

Nelson Bay Netball Association	Nelson Bay Netball Association runs social and performance competitions and provides development for	\$500	Donation towards programs to encourage women and girls to participate in sport.
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	coaches, umpires and athletes.		
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COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Community Partnerships	Support financially creative and active communities.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

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

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

FILE NO: 22/107199
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 10 May 2022.

No:	Report Title	Page:
1	Illegal Dumping	98
2	Council Resolutions	103
3	Questions on Notice / Questions with Notice	116

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 22/96441
EDRMS NO: PSC2017-00180**

ILLEGAL DUMPING

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

BACKGROUND

The purpose of this report is at the Council meeting of 8 February 2022, following consideration of a Notice of Motion (**ATTACHMENT 1**) relating to illegal dumping, it was resolved that Council:

- 1) Notes the comment that illegal dumping is a major problem in our remote, forested areas close to residential parts of Port Stephens.
- 2) Asks the General Manager to prepare a report outlining whether lowering the costs of going to the tip would reduce illegal dumping.

Extent of Illegal Dumping in Port Stephens Local Government Area

Council is aware of illegal dumping on our land, private, National Parks and State Forest land within the Port Stephens area. Council has undertaken a large body of work in recent years to significantly reduce the number of incidents, volume of waste and number of specific illegal waste dumping hot spots.

Council has been particularly effective in managing and reducing our illegal dumping by developing and implementing its own strategies which has seen a considerable reduction in illegal dumping across the Port Stephens area.

Strategies have included:

- Partnerships – establishing strong and collaborative partnerships with large land holders/managers from State Forestry, National Parks, Commercial and the private sector.
- Capacity building – assisting land managers with the knowledge and skills they need to implement practical solutions to combat illegal dumping.
- Strategic enforcement – detecting, investigating and prosecuting serious illegal dumping offences.
- Education – guiding and educating the community on the social, environmental and economic impacts of illegal dumping and improving community knowledge of correct waste disposal options.
- Community engagement – supporting community involvement in combating illegal dumping, for example, by working with community groups to identify dumping hotspots and designing and implementing dumping prevention strategies to create and improve reporting pathways.

ORDINARY COUNCIL - 10 MAY 2022

- Building an evidence base through data collection and analysis – enhancing intelligence and data on illegal dumping to ensure targeted, strategic action to prevent it.
- Staff development of investigations expertise through formal qualifications.

In addition, Council provides a diverse range of waste collection, recycling, disposal services and education programs including:

- Free Green Waste drop off days
- Free Problem Waste drop off days (E-Waste, mattresses)
- Free Chemical Cleanout days
- Red and Yellow bin collection services
- Bulky Waste kerbside collection services (2 per year)
- Waste Education through a dedicated Education Officer
- Financial assistance for waste disposal
- Operation of the Salamander Bay Waste Transfer Station.

It is believed that the combination of Council illegal dumping prevention strategies alongside our comprehensive waste disposal services has led to a progressive decline in overall dumping to minor levels. Based on Council's 2021 Community Satisfaction Survey, respondents rated satisfaction for 'managing illegal dumping' at 70%, 3 points higher than last year. The below table shows an upward trend in overall satisfaction since 2014.

Community Satisfaction Survey								
Year	2014	2015	2016	2017	2018	2019	2020	2021
	47%	60%	61%	54%	79%	76%	67%	70%

Consultation has occurred with both State Forest and National Parks & Wildlife Services as the main authorities responsible for managing remote forested areas. All reports indicate that although illegal dumping is still occurring, there is an overall reduction in the number of incidents.

Reduction of Tip Fees to Reduce Illegal Dumping

The notion that illegal dumping is directly related to the cost of lawful disposal at a waste disposal facility is acknowledged as a logical principle, however, the following is noted:

- Since 2014 90% of offenders interviewed by Council officers indicated that the cost of tip fees was generally not what influenced their decision, rather it was more about human behaviour, convenience or lack of knowledge about lawful disposal options.
- The majority of waste dumped in remote forested areas originated from areas outside of Council's control or influence. Therefore, strategies like lowering our local tip fees are unlikely to influence this behaviour.

- Most of the incidents of illegal dumping occurring in the 2017 – 2022 period could have been lawfully disposed of at little to no cost through using one of the many disposal methods above.
- As part of Council's offender interview process, offenders were advised of the potential tip fee, if they had instead chosen to lawfully dispose of the waste. In all occasions the cost was significantly lower than the value of the penalty notice issued.
- As a large percentage of the tip fees include the State imposed Waste Levy, there is minimal influence Council can have on overall pricing. The remainder of the cost is utilised to run the waste facility site, landfill cost or transport to land fill sites.

It is worth noting that Council only effectively has control over the Salamander Bay Waste Transfer station which is only used by a portion of our total population. The Newline Road Landfill facility is privately operated by SUEZ and Council has no direct control over their applicable disposal rates. The rates are, however, comparable to other waste disposal facilities in surrounding local government areas.

From a financial viewpoint, any reduction in tip fees would impact upon Council's budget given that the majority of the fees are related to either the State Environmental Levy or operational costs.

ATTACHMENTS

- 1) Council Meeting Minutes - 8 February 2022. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022**NOTICE OF MOTION****ITEM NO. 10****FILE NO: 21/288550****EDRMS NO: PSC2017-00019****ILLEGAL DUMPING****COUNCILLOR: GIACOMO ARNOTT****THAT COUNCIL:**

- 1) Notes that illegal dumping is a major problem in our remote, forested areas close to residential parts of Port Stephens.
- 2) Asks the General Manager to prepare a report outlining whether lowering the costs of going to the tip would reduce illegal dumping.

**ORDINARY COUNCIL MEETING - 8 FEBRUARY 2022
MOTION**

035	Councillor Giacomo Arnott Councillor Matthew Bailey It was resolved that Council: <ol style="list-style-type: none">1) Notes that illegal dumping is a major problem in our remote, forested areas close to residential parts of Port Stephens.2) Asks the General Manager to prepare a report outlining whether lowering the costs of going to the tip would reduce illegal dumping.
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The motion was carried.

**BACKGROUND REPORT OF: KATE DRINAN – DEVELOPMENT AND
COMPLIANCE SECTION MANAGER****BACKGROUND**

Based on Council's 2021 Community Satisfaction Survey, respondents rated satisfaction for 'managing illegal dumping' at 70%, 4 points higher than last year.

Council is aware of illegal dumping on our land, National Parks land and State Forest land. Council has undertaken a large body of work in recent years to significantly reduce the number of incidents, volume of waste and number of specific illegal waste dumping hot spots. Council has employed a number of strategies to this affect, such

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

as beautifying areas with tree planting, clearing, reducing vegetation that acts as a screen and the installation of physical barriers.

Through investigations into illegal dumping, the cost of tip fees is generally not what influences the offender, rather it is more about behaviour and convenience. Any reduction in tip fees would impact upon Council's budget.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

ITEM NO. 2

**FILE NO: 22/105067
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 Council resolutions. [↓](#)
- 2) Development Services Group Council resolutions. [↓](#)
- 3) Facilities & Services Group Council resolutions. [↓](#)
- 4) General Manager's Office Council resolutions. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 CORPORATE SERVICES GROUP COUNCIL RESOLUTIONS.



Action Sheets Report	Division:	Corporate Services	Date From:	27/08/2013
	Committee:		Date To:	26/04/2022
	Officer:		Printed:	Monday, 2 May 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/08/2013	Crosdale, Timothy	Campvale Drain	30/12/2022		
243		Crosdale, Timothy				
29 April 2022 Two private owners, Hunter Water Corporation and National Parks and Wildlife Service (NPWS). Matter still outstanding.						
Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/05/2021	Crosdale, Timothy	Car parking in Shoal Bay	30/06/2022	12/05/2021	
1		Crosdale, Timothy				21/123694
29 April 2022 In principle approval received from Crown Lands.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Crosdale, Timothy	Newline Road, Raymond Terrace	30/06/2022		
2		Crosdale, Timothy				20/288489
199						
29 April 2022 Approved. Contracts prepared. Finalising survey levels in contract.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/04/2021	Crosdale, Timothy	Proposed Closure and Sale of Pathway in Boat Harbour	30/06/2022	13/05/2022	
2		Crosdale, Timothy				21/96728
090						
29 April 2022 Matter progressing.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	User Defined	Crosdale, Timothy	Financial Sustainability Committee	30/06/2022		
		Crosdale, Timothy				
29 Apr 2022 Financial Sustainability Committee is established. Report back to Council end of June 2022.						

ITEM 2 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



Action Sheets Report	Division:	Development Services	Date From:	13/07/2021
	Committee:		Date To:	26/04/2022
	Officer:		Printed:	Monday 2 May 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/02/2022	Drinan, Kate	Minor DA Modification Reporting	15/06/2022	25/02/2022	
7 060		Peart, Steven				22/57049
29 Apr 2022 Review of Planning Matters to be Report to Council Policy is currently being circulated to the Executive Team. Council Report will be drafted and reported to Council 14 June 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/02/2022	Gardner, Janelle	Newspaper Notices	31/08/2022	25/02/2022	
2 055		Peart, Steven				22/57049
29 Apr 2022 Due to finances a number of options are being considered and will be reported back to Council in August 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/02/2022	Lamont, Brock	Policy Review: Rezoning Request Policy	25/05/2022	25/02/2022	
4 051		Peart, Steven				22/57049
29 Apr 2022 Post public exhibition submissions and report being prepared for Ordinary Council Meeting on 24 May 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/07/2021	Drinan, Kate	Publication of Development Application Submissions	17/06/2022		
4		Peart, Steven				21/190429
29 Apr 2022 Discuss Publication of Development Application Information and Submissions two way has been scheduled for Tuesday 14 June 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/07/2021	Drinan, Kate	Publication of Development Application Information	17/06/2022		
3 178		Peart, Steven				21/190429
29 Apr 2022 Discuss Publication of Development Application Information and Submissions two way has been scheduled for Tuesday 14 June 2022.						

ITEM 2 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



Action Sheets Report	Division:	Development Services	Date From:	13/07/2021
	Committee:		Date To:	26/04/2022
	Officer:		Printed:	Monday 2 May 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/09/2021	Connell, Sarah	Port Stephens Waterway Strategy	30/06/2022	15/09/2021	
1 240		Peart, Steven				21/252518
29 Apr 2022						
Research is being undertaken and an internal team meeting has been scheduled to determine the next steps and prepare a project scope to be presented for review to the Strategy & Environment Section Manager - 13 May 2022						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Lourens, Rean	Carbon Neutrality	28/04/2023	13/10/2021	
2 275		Peart, Steven				21/274186
29 Apr 2022						
Natural Systems team will complete a report to Ordinary Council in September 2022 stepping through the roadmap to achieving carbon neutrality by 2025, along with suitable funding source to achieve the goal.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Drinan, Kate	Illegal Dumping	13/05/2022	14/02/2022	
10 035		Peart, Steven				22/45826
29 Apr 2022						
Illegal Dumping has been drafted and will be reported to Council - Tuesday 10 May 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/04/2022	Lamont, Brock	Planning Proposal for 792 Seaham Road, Seaham	10/05/2022	28/04/2022	
1 106		Peart, Steven				22/109684
29 Apr 2022						
Rescission notice received, matter to be reported back to Council 10 May 2022.						

ITEM 2 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



Action Sheets Report	Division:	Development Services	Date From:	13/07/2021
	Committee:		Date To:	26/04/2022
	Officer:		Printed:	Monday 2 May 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Lourens, Rean	FLYING-FOX ISSUES AT ROSS WALLBRIDGE RESERVE	30/09/2022	14/02/2022	
7 032		Pearl, Steven				22/45826
29 Apr 2022 Flying Fox Issues at Ross Walbridge Reserve - It was resolved that Council request an additional report to be provided to the Flying Fox report, asking for options, including financial implications, for moving the flying fox colony on without harming them. Report to be drafted and reported back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/04/2022	Lamont, Brock	Medowie High School	30/06/2022	28/04/2022	
3		Pearl, Steven				22/109684
29 Apr 2022 Council writes to the NSW Minister for Education, Shadow Minister for Education and the State Member for Port Stephens to conduct an urgent review of the December 2009 report titled "Review of the Education Provision and Demographic Patterns Relating to the Raymond Terrace, Medowie, Salt Ash and Tilligerry Peninsula areas in West Port Stephens", using current demographical data.						

ITEM 2 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.



Division:	Facilities & Services	Date From:	8/12/2020
Committee:		Date To:	26/04/2022
Officer:		Printed:	Monday 2 May 2022
Action Sheets Report			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Burton , Paul	Boomerang Park BBQs	28/06/2022	14/02/2022	
9 034		Kable, Gregory				22/45826
28 Apr 2022						
Report shall be provided to Council on the proposal to increase facilities as per this NOM.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	Basketball Backboard and Rings - Croquet Court, Boomerang Park	24/05/2022	14/02/2022	
15 039		Kable, Gregory				22/45826
28 Apr 2022						
Further investigation on the foundation will be undertaken to ensure the court is fit for the proposed use. Report will then be provided back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	Tomaree Road Footpath	24/05/2022	14/02/2022	
13 037		Kable, Gregory				22/45826
28 Apr 2022						
Report will be provided to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	Raymond Terrace Lakeside Pathway	24/05/2022	14/02/2022	
4 029		Kable, Gregory				22/45826
28 Apr 2022						
Preliminary investigation was undertaken to form part of the NOM background. Additional investigation with assistance from NSW Police will be undertaken and report will be presented to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Gutsche, Tammy	Medowie Library	28/06/2022	14/02/2022	
2 027		Kable, Gregory				22/45826
28 Apr 2022						
Investigation underway to determine viability as requested.						

ITEM 2 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.



Division:	Facilities & Services	Date From:	8/12/2020
Committee:		Date To:	26/04/2022
Officer:		Printed:	Monday 2 May 2022
Action Sheets Report			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 6 031	Ordinary Council 8/02/2022	Gutsche, Tammy Kable, Gregory	Reusable Nappies and Menstrual Products	22/06/2022	14/02/2022	22/45826
29 Apr 2022 Report is currently in progress.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 5 030	Ordinary Council 8/02/2022	Maretich, John Kable, Gregory	Foreshore Reserves and Parking on Council Land	26/07/2022	14/02/2022	22/45826
28 Apr 2022 Report shall be provided to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 10	Ordinary Council 22/03/2022	Gutsche, Tammy Kable, Gregory	POLICY REVIEW - PROVISION AND MANAGEMENT OF CEMETERIES POLICY	31/05/2022	23/03/2022	22/81589
29 Apr 2022 A report is currently be prepared and will be presented back to Council on 24 May 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 7 092	Ordinary Council 22/03/2022	Maretich, John Kable, Gregory	Identifying Potholes	30/06/2022	23/03/2022	22/81589
28 Apr 2022 Report is currently in progress.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 6 091	Ordinary Council 22/03/2022	Maretich, John Kable, Gregory	Guy Marks Oval, King Park, Raymond Terrace	30/06/2022	23/03/2022	22/81589
28 Apr 2022 Staff to prepare a sign to rename the oval.						

ITEM 2 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.



Action Sheets Report	Division:	Facilities & Services	Date From:	8/12/2020
	Committee:		Date To:	26/04/2022
	Officer:		Printed:	Monday 2 May 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Gutsche, Tammy Kable, Gregory	Independent Audit of Financial Positions of 355c Hall Committees	22/06/2022	14/02/2022	22/45826
16 041						
29 Apr 2022 Report is currently in progress.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John Kable, Gregory	POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY	26/07/2022	14/02/2022	22/45826
6 018						
28 Apr 2022 Report with requested information shall be provided to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/05/2021	Maretich, John Kable, Gregory	Bus Stop in Seaside Estate, Fern Bay	31/05/2022	26/05/2021	21/138820
5 128						
28 Apr 2022 This review shall be undertaken through Local Traffic Committee and consultation with members of the Seaside Community Association and a report is being compiled.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/05/2021	Maretich, John Kable, Gregory	Anna Bay Drainage Union	1/06/2022	26/05/2021	21/138820
2 126						
21 Apr 2022 The State Government agency responsible for Anna Bay Drainage Union shall be consulted with.						

ITEM 2 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.



Action Sheets Report	Division:	Facilities & Services	Date From:	8/12/2020
	Committee:		Date To:	26/04/2022
	Officer:		Printed:	Monday 2 May 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Maretich, John	DEDICATION AS PUBLIC ROAD OF PART LOT 491 DP 27846 - 18C CROMARTY ROAD, SOLDIERS POINT	31/12/2022	13/08/2021	
1 210		Kable, Gregory				21/218740
28 Apr 2022						
Council staff will commence transfer of land parcel to the road reserve.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/07/2021	Stewart, Adam	Hydrogen and Electric Vehicles in Council's Fleet	30/06/2022		
2 177		Kable, Gregory				21/190429
28 Apr 2022						
Staff are currently in consultation with suppliers on how to introduce new fuel sources for our vehicles.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Burton , Paul	Medowie Regional Playground and Town Centre	31/08/2022		
2 012		Kable, Gregory				21/33235
28 Apr 2022						
Two-Way Council briefing will be scheduled in the near future to discuss the future of this land.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Stewart, Adam	5G Small Cell Technology Rollout in Port Stephens	30/06/2022		
3 006		Kable, Gregory				21/33235
28 Apr 2022						
Discussions have commenced with Telstra.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Gutsche, Tammy	Change to Lease Arrangements for Fingal Bay Surf Life Saving Club and Commercial Tenancies	31/05/2022	13/10/2021	
8 270		Kable, Gregory				21/274186
29 Apr 2022						
Paperwork currently being prepared for the Mayor and General Manager for the official seal.						

ITEM 2 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.



Action Sheets Report	Division:	Facilities & Services	Date From:	8/12/2020
	Committee:		Date To:	26/04/2022
	Officer:		Printed:	Monday 2 May 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Burton , Paul	Shade Sail at Robinson Reserve, Anna Bay	30/06/2022	13/10/2021	
7 269		Kable, Gregory				21/274186
28 Apr 2022 Item will be added to WPP. Grant funding opportunities will be investigated following adoption of the WPP.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Burton , Paul	Raymond Terrace Indoor Sports Facility	30/06/2022	13/10/2021	
9 271		Kable, Gregory				21/274186
28 Apr 2022 Item will be added to WPP. Grant funding opportunities will be investigated following adoption of the WPP.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Stewart, Adam	Kirrang Drive, Medowie Shared Pathway	30/06/2022	13/08/2021	
8 217		Kable, Gregory				21/218740
28 Apr 2022 Council staff will undertake further investigations into the financial requirements and options to accelerate the Kirrang Drive, Medowie pathway. Staff will report the outcomes back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Maretich, John	Agreement with Community Association DP270468 - Lagoons Estate, Nelson Bay	30/06/2022		
4 208		Kable, Gregory				21/218740
28 Apr 2022 Council to enter agreement with the Community Association DP 270468 in accordance with the confidential terms as per Council report.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Burton , Paul	Raymond Terrace Seven Day Makeover	31/12/2022		
17 228		Kable, Gregory				21/218740
28 Apr 2022 This will be discussed with the Councillors in the lead up to William St, Stage 2 which funded through the Streets of Shared Spaces grant.						

ITEM 2 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.



Action Sheets Report	Division:	Facilities & Services	Date From:	8/12/2020
	Committee:		Date To:	26/04/2022
	Officer:		Printed:	Monday 2 May 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Stewart, Adam	Australia Post Mail Box, 14A William Street, Raymond Terrace	30/06/2022	13/08/2021	
20 229		Kable, Gregory				21/218740
28 Apr 2022 There are a variety of site specific constraints and factors which need to be taken into account including compliance with the Disability Discrimination Act, NSW Road Rules in regard to stopping near a postbox, and Council's Stage 2 works for William Street which will seek to relocate and optimise the location of street furniture including mail boxes.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/03/2022	Maretich, John	Policy Review - Public Property Encroachment Policy	31/05/2022	23/03/2022	
7		Kable, Gregory				22/81589
28 Apr 2022 The Policy was placed on Public Exhibition and two submissions were received. A report will be prepared go to Council in May 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/03/2022	Maretich, John	POLICY REVIEW - FLOODPLAIN RISK MANAGEMENT	31/05/2022	23/03/2022	
8		Kable, Gregory				22/81589
28 Apr 2022 The policy was placed on Public Exhibition with one submission received. A report will be prepared to go to Council in May 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/12/2020	Mitchell, Darren	Fly Point and Little Beach Parking/SMART Parking	31/05/2022		
3		Kable, Gregory				20/391301
29 Apr 2022 Two way conversation held. Report to Council to be prepared.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/10/2021	Maretich, John	REVIEW OF DOG OFF LEAD AREAS - BOAT HARBOUR	31/08/2022	28/10/2021	
20		Kable, Gregory				21/286560
28 Apr 2022 Two way conversation held. Report to Council to be prepared.						

**ITEM 2 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL
RESOLUTIONS.**

Action Sheets Report	Division:	Facilities & Services	Date From:	8/12/2020
	Committee:		Date To:	26/04/2022
	Officer:		Printed:	Monday 2 May 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/04/2022	Maretich, John	Lakeside Leisure Centre	10/05/2022	28/04/2022	
2		Kable, Gregory				22/109684
29 Apr 2022						
Report to Council to be prepared.						

ITEM 2 - ATTACHMENT 4 GENERAL MANAGER'S OFFICE COUNCIL RESOLUTIONS.

Action Sheets
Report

Division: General Manager's Office
Committee:
Officer:

Date From: 22/02/2022
Date To: 26/04/2022

Printed: Monday, 2 May 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/04/2022	Wickham, Tony	CODE OF MEETING PRACTICE REVIEW	14/06/2022	28/04/2022	
4		Wallis, Wayne				22/109684
29 Apr 2022 Item deferred pending advice from the Office of Local Government.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/04/2022	Walker, Ashley	Request for Financial Assistance	13/05/2022	13/04/2022	
7 101		Wallis, Wayne				22/100753
29 Apr 2022 On public exhibition until 12 May 2022 as the request is for an individual.						

ITEM NO. 3**FILE NO: 22/111302
EDRMS NO: PSC2021-02510****QUESTIONS ON NOTICE / QUESTIONS WITH NOTICE****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE****BACKGROUND**

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

Item:	1
Councillor:	Councillor Steve Tucker
Date Received:	26 April 2022
Question with Notice:	Provide an update on previous representations made by Council regarding the rating scheme for Caravan Park / Manufactured Home Estates communities.
Response:	IPART were charged with reviewing the rating system in 2019. Council made a detailed submission to the Office of Local Government (OLG), addressing the issues associated with the rating of manufactured home estates and suggested legislative amendments that would assist in addressing the issue. OLG acknowledged the submission, however a specific response has not been provided to date. In stating the above, given the issue relates to rate structure, any changes would not enable the increase of overall rates revenue. It may, however, provide mechanisms to increase the proportion of rates revenue from Manufactured Home Estates across the LGA.
Item:	2
Councillor:	Councillor Giacomo Arnott
Date Received:	26 April 2022
Question with Notice:	Does the Development Contributions Plan list the subsequent staged works of the Lakeside Leisure Centre in the project list?
Response:	Works are listed within the Development Contributions Plan for Lakeside Leisure Centre. The plan reference is OSF50 Lakeside Aquatic Centre, Raymond Terrace – facilities upgrades \$500,000. No further stages or references are made within the plan.

ORDINARY COUNCIL - 10 MAY 2022

Item:	3
Councillor:	Councillor Peter Kafer
Date Received:	26 April 2022
Question with Notice:	Was the currently proposed 4.4 hectare site of a new Medowie High School (Lot 2 in Deposited Plan 595932) ever included in Council's Koala Comprehensive Plan of Management?
Response:	The site is predominantly mapped as Marginal Koala Habitat within Port Stephens Comprehensive Koala Plan of Management (CKPoM). Any potential development of this site would need to assess ecological impacts through assessments and offsetting as required under the CKPoM and NSW Biodiversity Conservation Act 2016.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

NOTICES OF MOTION

NOTICE OF MOTION**ITEM NO. 1****FILE NO: 22/110576
EDRMS NO: PSC2021-04195****FEDERAL ELECTION ADVOCACY****COUNCILLOR: GIACOMO ARNOTT**

THAT COUNCIL:

- 1) Agrees to advocate at the upcoming Federal election on matters important to Council.

BACKGROUND REPORT OF: WAYNE WALLIS – GENERAL MANAGER**BACKGROUND**

The Federal election has been announced for 21 May 2022.

In conjunction with the Mayor and Councillors, Port Stephens Council maintains an advocacy program on key issues affecting the local government area.

The intent of the advocacy program is to be able to put in front of key policy and decision makers issues of importance to enhance the well-being of our community.

The 2022 Community advocacy priorities are included in **(ATTACHMENT 1)**.

Additional emphasis is always placed on advocacy to key stakeholders during Federal and State election periods.

FINANCIAL/RESOURCE IMPLICATIONS

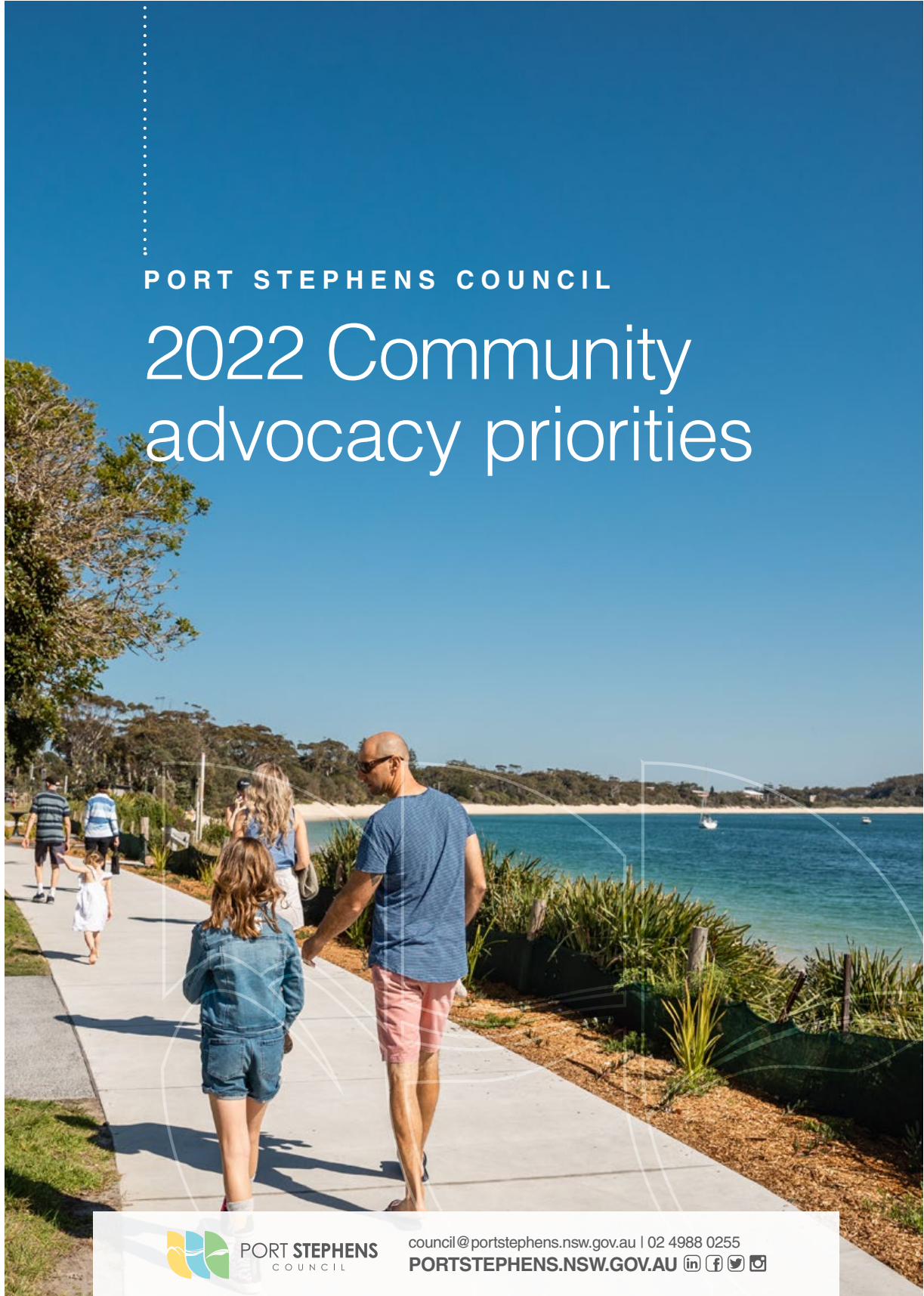
Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

ATTACHMENTS

- 1) 2022 Community advocacy priorities.

PORT STEPHENS COUNCIL

2022 Community advocacy priorities



PORT STEPHENS
COUNCIL

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

PORTSTEPHENS.NSW.GOV.AU





A balanced approach

TO ENSURE
THE LONG TERM
SUSTAINABILITY OF
THE WATERWAYS AND
THEIR SUPPORTING
ECONOMIES

Foreshores and Waterways

Funding to implement foreshore revitalisation works that seek to sustainably manage and support recreational, commercial and economic outcomes.



- \$250,000 – Business case and concept design for the Nelson Bay commercial tour operator wharf, visitors centre and foreshore upgrade.
- \$150,000 – Development of a Port Stephens Waterways Strategy to deliver economic, tourism and environmental outcomes.
- \$600,000 – Minor stabilisation works at Shoal Bay and Corlette to reduce coastal erosion.
- \$1.6 million – Co-funding to support construction of a new Marine Rescue Facility at Lemon Tree Passage.



Creating liveable cities

TO ATTRACT A DIVERSE
RESIDENTIAL BASE

Housing Supply

Ensure a pipeline of new housing to attract residents, support housing affordability and attract a workforce for the future.



\$80 million +



- Commit funding to the highway interchange and drainage channel at Kings Hill to catalyse housing development.
- Support increased building heights and density in strategic centres.
- Commit funding to public transport connections between Port Stephens, Maitland and Newcastle to support the needs of students and workers.
- Commit to ensuring adequate education and health facilities to support population growth.

Creating liveable cities requires quality infrastructure, increased density and investment in public transport to provide suitable housing and connectivity.

Supporting Council to bring forward a supply of development ready land in and around the strategic centres of Nelson Bay and Raymond Terrace will support population targets and economic growth.





Jobs and investment

UNLOCK DEVELOPMENT
AND CREATE 4300
NEW JOBS

Williamtown Special Activation Precinct

Drive investment in defence, aviation and aerospace through the delivery of government led investment in infrastructure and development at the Williamtown Special Activation Precinct (SAP).



\$150 million



- Resolve long term drainage issues to alleviate land use constraints to unlock development.
- Align all levels of government to facilitate future development through streamlined planning and investment attraction.
- Plan for and deliver sustainable design elements and public domain treatments to identify Williamtown as a global gateway to the Hunter, Greater Newcastle and Port Stephens.



Drive Port Stephens' economy

TO CREATE VIBRANT
PLACES AND SPACES

Town centre revitalisation

Seek funding opportunities to compliment Councils financial commitment to invest in increasing the vibrancy of our town centres through a place based approach to infrastructure and development.



- \$2.3 million – Planning and concept design for Medowie Town Centre and District Playground.
- \$15+ million – Deliver package of works for the Raymond Terrace Public Domain Plan.
- \$5 million – Deliver package of works for the Nelson Bay Public Domain Plan.



Creating vibrant and liveable spaces is a key driver of economic growth.

Investment in tourism infrastructure, wayfinding signage and public domain enhancements that will help boost the NSW economy through new private investment, infrastructure enhancements and a thriving visitor economy.





Improve connections

TO REDUCE TRAVEL TIMES, INCREASE SAFETY AND ATTRACT INVESTMENT

Better connections

Seek a firm commitment for funding and the delivery of major infrastructure items to reduce travel times, improve liveability and expand active transport options.

- Progress – the long awaited M1 extension to address sustained traffic growth on one of our nation's most important motorways, the duplication of Nelson Bay Road from Williamtown to Bobs Farm and the Fingal Bay Link Road to cater to forecast population growths and reduce congestion.
- \$100 million – Upgrade to Cabbage Tree Road to accommodate traffic growth from expanded Newcastle Airport and Williamtown/Tomago industrial areas.
- \$17 million – A rolling program of road reseal will address significant risks to road safety for residents and visitors.
- \$2.5 million – Connecting pathways between Shoal Bay and Nelson Bay to improve health, wellbeing and mobility between aged care facilities and the town centre.
- \$2 million – Improving cyclist and pedestrian connectivity between Medowie and Raymond Terrace CBD.
- \$3 million – Shared path between Williamtown RAAF to Medowie connecting pedestrian staff between the base and the community.
- \$9 million – High priority pathways as part of the Tomaree Pedestrian Access Mobility Plan ensuring safety and accessibility for pedestrians.
- Commitment to upgrade the Medowie Road and M1 intersection and Bucketts Way and M1 intersection.



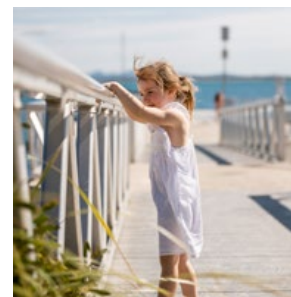
\$12.7b boost to the NSW economy

THROUGH UPGRADES TO NEWCASTLE AIRPORT

Upgrades to Newcastle Airport Terminal

Seek funding to assist Council, as co-owner of Newcastle Airport, to upgrade the terminal to service new international flights, increasing domestic flights, freight and logistics.

- \$55 million – A Code E runway at Williamtown is a game changer for NSW, generating 4,410 full time jobs and driving \$12.7 billion in regional economic benefit through increased freight and stimulation of the visitor economy.





Environmental sustainability

ENHANCE AND PROTECT OUR NATURAL ASSETS

Creating a sustainable future

Seek funding for programs to reduce emissions, mitigate environmental impacts and grow circular economy outcomes.



\$20 million +



- Investment in new technology to support the adaptation of fleet services, construction materials and renewable energies to achieve a carbon neutral council by 2025.
- Investigate the suitability of a Green Energy Corridor for Tomago and Williamtown.
- Deliver the Port Stephens Coastal Management Plan.
- Renew the Port Stephens Comprehensive Koala Plan of Management (CKPOM).



Sport and recreation

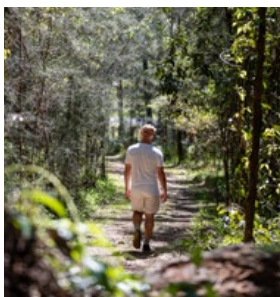
TO IMPROVE WELLBEING, ATTRACT EVENTS AND DRIVE VISITATION

Sport and recreation infrastructure

Seek funding support for high quality, multi-functional sports complexes at Medowie, Raymond Terrace and Nelson Bay.



- \$11 million – Stage 1 King Park Masterplan.
- \$50,000 – Feasibility and business case for the Raymond Terrace Indoor Sports and Multipurpose Centre.
- \$2.1 million – Stage 2 Tomaree Sports Complex expansion.



Message from the Mayor

Port Stephens is known for its incredible natural beauty, unique wildlife and strong community spirit. These characteristics make our place an ideal recreation and visitor destination as well as a great place to live, work and play.

As we prepare for our future and potential growth, it's important we are equipped to meet the needs of our community for many years to come.

Like communities across the globe, our region has felt the effects of the COVID-19 pandemic. To restart our economy and deliver on our region's full potential, we require significant investment from both public and private sectors.

Our Council calls on all levels of government to partner with us and drive these major initiatives that will shape the future of Port Stephens for years to come.

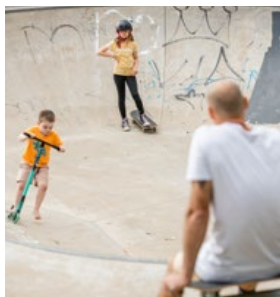
Our community is like no other – and we are seeking policy commitments from government to ensure the focus on our community is at the forefront of their future planning.

We ask that our state and federal representatives join us in delivering these projects for our community as we work together on building a bright tomorrow for Port Stephens.



.....
A handwritten signature in black ink, reading 'R Palmer'.

Ryan Palmer
Mayor of Port Stephens



RESCISSION MOTIONS

NOTICE OF RESCISSION

ITEM NO. 1

**FILE NO: 22/114017
EDRMS NO: PSC2021-04197**

PLANNING PROPOSAL FOR 792 SEAHAM ROAD, SEAHAM

COUNCILLOR: RYAN PALMER
CHRIS DOOHAN
GLEN DUNKLEY

THAT COUNCIL:

That Council rescind its decision of 26 April 2022 on Item No. 1 Planning Proposal for 792 Seaham Road, Seaham.

ATTACHMENTS

- 1) Planning Proposal for 792 Seaham Road, Seaham - Minute No. 106 - 26 April 2022. [↓](#)

ITEM 1 - ATTACHMENT 1 PLANNING PROPOSAL FOR 792 SEAHAM ROAD, SEAHAM - MINUTE NO. 106 - 26 APRIL 2022.**MINUTES ORDINARY COUNCIL - 26 APRIL 2022****ITEM NO. 1****FILE NO: 22/65828
EDRMS NO: 58-2018-23-1****PLANNING PROPOSAL FOR 792 SEAHAM ROAD, SEAHAM**

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the amendments to the planning proposal (**ATTACHMENT 2**) for 792 Seaham Road, Seaham (Lot 100, DP 1064980) to rezone the subject land from RU1 Primary Production to R5 Large Lot Residential and to reduce the minimum lot size on the land from AB3 (40 hectares) to Z1 (2 hectares).
- 2) Receive and note the submissions (**ATTACHMENT 3**) received during agency consultation and public exhibition of the planning proposal.
- 3) Endorse the submission of the planning proposal (**ATTACHMENT 2**) to the Department of Planning and Environment requesting they exercise their plan making authority to amend the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).

**ORDINARY COUNCIL MEETING - 26 APRIL 2022
MOTION**

106	<p>Councillor Giacomo Arnott Councillor Peter Francis</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Note the amendments to the planning proposal (ATTACHMENT 2) for 792 Seaham Road, Seaham (Lot 100, DP 1064980) to rezone the subject land from RU1 Primary Production to R5 Large Lot Residential and to reduce the minimum lot size on the land from AB3 (40 hectares) to Z1 (2 hectares).2) Receive and note the submissions (ATTACHMENT 3) received during agency consultation and public exhibition of the planning proposal.3) Following consideration of points 1 and 2, and community opposition, Council request the Minister to determine that the planning proposal does not proceed, in accordance with section 3.35(d) of the Environmental Planning and Assessment Act.
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Note: Council resolved at its meeting of 22 February 2022 to conduct a trial of recording a division on all items for a period 4 meetings.

Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Mayor Ryan Palmer, Crs Matthew Bailey, Chris Doohan and Glen Dunkley.

The motion was carried.

BACKGROUND

The purpose of this report is to advise Council of the outcome of the exhibition of the planning proposal (**ATTACHMENT 2**) for 792 Seaham Road, Seaham and note the submissions received (**ATTACHMENT 3**). The report also seeks endorsement to submit the planning proposal (**ATTACHMENT 2**) to the Department of Planning and Environment (DPE), requesting they exercise their plan making authority to make amendments to the Port Stephens Local Environmental Plan 2013 (LEP). A locality plan is provided at (**ATTACHMENT 1**).

The planning proposal seeks to amend the LEP to enable rural residential subdivision and housing on the subject land at 792 Seaham Road, Seaham. As a result of the planning proposal, an estimated 18 lots could be created, subject to a future Development Application (DA) for the subdivision of land. The planning proposal seeks to amend the LEP by rezoning the subject land from RU1 Primary Production to R5 Large Lot Residential and reducing the minimum lot size provisions from 40ha to 2ha.

The planning proposal is consistent with the criteria for rural residential housing listed in the local housing strategy, Live Port Stephens (LHS) and will provide a logical extension of existing rural residential housing in the locality to meet the housing needs of the community.

A summary of the planning proposal is set out below:

Date Lodged:	13 June 2018
Proponent:	Le Mottee Group
Subject properties:	Lot 100 DP 1064980
Area of Land:	Total site area is approximately 45ha
Potential lot yield:	Approximately 18 lots
Current Zoning:	RU1 Primary Production
Proposed Zoning	R5 Large Lot Residential

On 28 July 2020, a Council delegate, in accordance with the Port Stephens Council Rezoning Request Policy, endorsed the planning proposal to be submitted to the Department of Planning and Environment (DPE) to seek a Gateway determination. A Gateway determination was issued on 28 August 2020 (**ATTACHMENT 4**).

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In response to the Gateway determination, additional studies were undertaken and relevant agencies were consulted with. Objections to the planning proposal were received from two agencies. Significant time was spent resolving these issues with agencies resulting in time delays. This included preparation of studies required to be carried out at specific times of the year.

On 28 May 2021 DPE advised that an amendment to the Gateway determination was required due to a drafting error. An alteration of Gateway determination was issued on 7 October 2021 (**ATTACHMENT 5**). Council officers resolved the initial objection from Biodiversity and Conservation Division – Water (BCD). An objection from the Department of Primary Industries - Agriculture (DPI) remains outstanding and as a result Council does not have delegation to make the plan.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

The financial and resource implications are within the existing budget.

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that suitable sites for housing are not enabled to satisfy demand in the locality.	Low	Adopt the recommendations.	Yes

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Part 3 of the EP&A Act provides the framework for amending a LEP. DPE issued a Gateway determination (**ATTACHMENT 4**) and an altered Gateway determination (**ATTACHMENT 5**) under section 3.34 of the EP&A Act specifying that the planning proposal should proceed to exhibition, subject to conditions and consultation requirements.

The Gateway determination (**ATTACHMENT 4**) and the altered Gateway determination (**ATTACHMENT 5**) delegates plan making authority to Council in the circumstance that there are no unresolved objections from agencies. In this instance, an objection from DPI remains unresolved and so DPE retain plan making authority. Should Council adopt the recommendations, arrangements will be made to request DPE exercise plan making authority and give effect to the planning proposal.

Hunter Regional Plan 2036 (HRP)

The planning proposal is consistent with the aims of the Hunter Regional Plan 2036 (HRP). The proposal will provide housing choice and promote housing diversity, by encouraging rural residential housing in proximity to an established rural residential area and within 10 minutes of a strategic centre at Raymond Terrace. The planning proposal is also consistent with all of the objectives for rural residential development as set out in the HRP.

Greater Newcastle Metropolitan Plan 2036 (GNMP)

The planning proposal is consistent with Greater Newcastle Metropolitan Plan 2036 (GNMP) and will give effect to Strategy 18 as it will deliver well-planned rural residential housing areas close to jobs and services. The planning proposal is also consistent with the objectives set out in the GNMP for rural residential development. Port Stephens Local Environmental Plan 2013 (LEP)

The subject land is zoned RU1 Primary Production under the LEP. The planning proposal will rezone the entire site, approximately 45 hectares to R5 Large Lot Residential. The planning proposal will also reduce the minimum lot size within the proposed R5 zone from 40ha to 2ha.

The objective of the R5 Large Lot Residential zone is listed in the LEP as:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

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Amending the LEP will permit (with development consent) subdivision of the land and housing, which is consistent with the objectives of the zone and the surrounding subdivision pattern.

Port Stephens Local Strategic Planning Statement (LSPS)

The LSPS identifies the 20-year vision for land use in Port Stephens and sets out social, economic and environmental planning priorities for the future.

The planning proposal will give effect to the following planning priorities of the LSPS:

- Planning Priority 1 – Support the growth of strategic centres and major employment areas
- Planning Priority 4 – Ensure suitable land supply
- Planning Priority 5 – Increase diversity of housing choice

Port Stephens Local Housing Strategy (Live Port Stephens)

The planning proposal will give effect to the following priorities of Live Port Stephens:

- Priority 1.2 – Remove barriers to unlock housing supply
- Priority 1.3 – Increase the proportion of infill housing
- Priority 3.2 – Encourage a range of housing types and sizes.

The proposal is consistent with the Rural Residential Criteria listed in Live Port Stephens.

Port Stephens Rural Residential Strategy (2015)

The planning proposal is consistent with the Rural Residential strategy, as it addresses matters for investigation that have been identified relevant to the proposed land, including estimating potential yield, ensuring suitable buffers between intensive agriculture, avoiding areas of environmental sensitivity and provision for flood evacuation.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic:

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

- Development of the land for housing will assist in meeting regional dwelling targets identified within the GNMP
- Benefit will be found in the provision of additional housing to service the future needs of the community, containing this housing in an existing rural residential area

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- The Seaham and Nelsons Plains community have access to community services and facilities within the regional center of Raymond Terrace and Maitland, and access to recreational facilities locally and within the wider Port Stephens locality.

Environmental

There are no significant adverse environmental effects expected as a result of this proposal. The subject land is partially cleared and contains scattered native trees throughout the middle of the site and along the eastern boundary. An ecological assessment was carried out to support the proposal. Given the proposed 2Ha lot size, a concept subdivision plan submitted with the planning proposal has demonstrated that a lot layout can be achieved where impacts to biodiversity are avoided and minimised. Any proposed removal of vegetation will be subject to ecological requirements during a future development application assessment, including the objectives of the R5 zoning which require consideration for minimising impacts on environmentally sensitive locations.

The eastern and western portions of the site are identified as being within the flood planning area. The subject land contains around 22ha of land that is flood prone, being below the 1:100 year flood level. The concept subdivision plan demonstrates that a lot layout can be achieved where each lot includes a building envelope that is elevated above the Flood Planning Level (FPL).

The planning proposal has considered the impacts of flooding, bushfire, rural land use conflict, acid sulfate soils, wastewater management, contamination and heritage, and demonstrated that the rezoning is compatible with the characteristics of the land.

CONSULTATION

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

Following issue of the Gateway determination, agency consultation was undertaken prior to public exhibition. Two agencies raised matters for further consideration, one of which remains outstanding as detailed below. Confirmation was received from all other agencies that they do not object to the planning proposal, and the planning proposal was updated prior to community consultation.

Twenty submissions from residents were received during the public exhibition period. No further amendments have been made to the planning proposal as a result of these submissions.

All submissions are addressed in detail in **(ATTACHMENT 3)**.

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Consultation with internal stakeholders was undertaken to assess the planning proposal, including with Asset Engineering Services, Development Planning, and Natural Systems units. No objections were raised and associated impacts can be addressed adequately at the DA stage.

External

The Gateway determination required Council to undertake consultation with relevant agencies, prior to undertaking public exhibition. Council referred the planning proposal and associated studies to the following agencies on 8 February 2021.

- NSW Rural Fire Service (RFS)
- Department of Primary Industries (DPI)
- Biodiversity Conservation Division – Water (BCD)
- Newcastle Airport
- Civil Aviation and Safety Authority (CASA)
- Commonwealth Department of Defence
- Hunter Water Corporation.

Prior to agency referrals being sent, a meeting was held with DPI in December 2020 given historical responses to similar planning proposals, to discuss several rural residential proposals in Port Stephens, and the Local Housing Strategy. Irrespective of this meeting, DPI lodged an objection to the planning proposal on 3 March 2021. The objection was based on the Right to Farm Policy, a recommendation that the odour assessment be peer reviewed, as well as concerns surrounding the strategic justification of the planning proposal. To address this objection, the planning proposal was updated to include further information on surrounding land uses. In addition, the odour assessment was updated to include onsite monitoring and to take into account the growing cycle and meteorological conditions. The methodology for this assessment was then peer reviewed. DPI made a further submission during the public exhibition period confirming their objection. This matter remains an outstanding objection.

BCD (now Environment, Energy and Science Group) expressed concern that the concept road layout does not provide rising road access to all proposed lots in a flood event. This matter was resolved through consultation with BCD, as the concept subdivision plan demonstrates a building envelope within each lot that is above the Flood Planning Level (FPL). Additionally, flood related development controls apply to road design and subdivision layout and will be addressed in detail as part of a subsequent Development Application.

Both DPI and BCD comments have been addressed in detail in **(ATTACHMENT 3)**.

Following the above consultation and resulting amendments, the planning proposal was publicly exhibited in accordance with the Gateway determination from 3 February 2022 to 3 March 2022. During the exhibition period, 20 submissions were

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received. The matters raised relate primarily to biodiversity values, traffic and access, and flooding. The matters raised in the submissions have been summarised and addressed in **(ATTACHMENT 3)**.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Final Planning Proposal. (Provided under separate cover)
- 3) Response to Submissions Table.
- 4) Gateway Determination.
- 5) Alteration of Gateway Determination.

COUNCILLORS ROOM

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

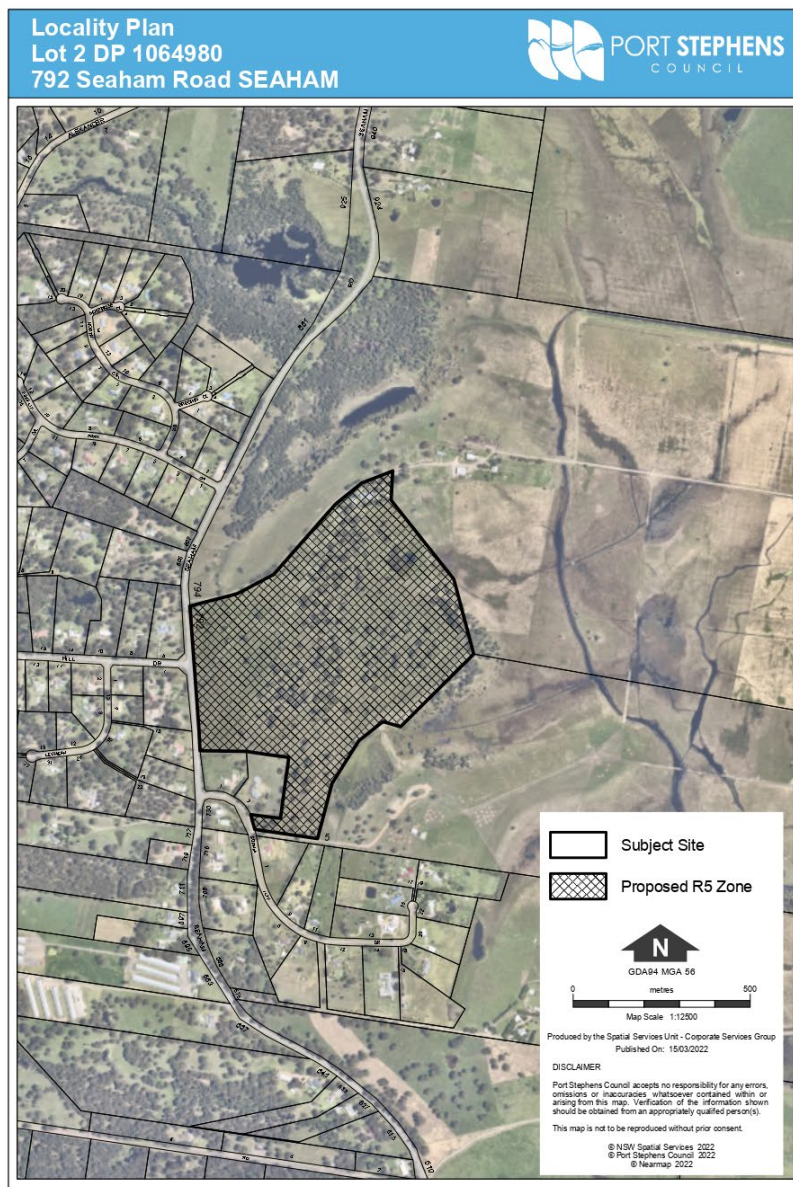
TABLED DOCUMENTS

- 1) Nil.

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ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.



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ITEM 1 - ATTACHMENT 3 RESPONSE TO SUBMISSIONS TABLE.

Planning Proposal for 792 Seaham Road, Seaham submissions

No.	Author of submission	Comment	Council response
1	Resident	The submission expresses support for the proposal. The submission states that the development would provide housing to the area. The submission also states that more of this rural residential development is needed.	Council notes the positive submission.
2	Resident	The submission expresses support for the proposal. The submission states that the development will provide housing to the area, and allows more people access to a rural residential lifestyle.	Council notes the positive submission.
3	Resident	The submission notes that the resident was not made aware of the proposal until they read about it in the Port Stephens Examiner, and asks whether there is any requirement for notification at Gateway stage.	<p>Planning proposals are required to be exhibited in accordance with the Gateway determination issued by the State government. All Gateway determinations issued before 15 December 2021 require exhibition to be undertaken in accordance with the State government's <i>Local Environmental Plans: A guide to preparing local environmental plans</i> (the Guide). The Guide specifies that public exhibition is to be undertaken by notification in a local newspaper, on Council's website, and in writing to adjoining and adjacent landowners.</p> <p>In line with the Guide, letters notifying adjoining and adjacent landowners of the exhibition were sent on 1 February 2022. Community consultation was undertaken in accordance with the Gateway determination, which required the planning proposal to be publicly exhibited for a period of 28 days.</p> <p>Exhibition of the planning proposal has been undertaken in accordance with the Environmental Planning and Assessment Act 1979, the NSW Department of Planning, Industry and Environment's (DPIE) 'A guide to preparing local environmental plans' and Council's adopted Rezoning Request Policy. There are no statutory requirements for community consultation on a planning proposal prior to the proposal being forwarded to the NSW DPIE for a Gateway</p>

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		<p>determination. This is because the planning proposal does not include all of the studies and information necessary to enable the community to make an informed submission.</p> <p>In 2020, Council amended its rezoning request process to include notification of adjoining and adjacent neighbours when a new planning proposal is lodged with Council. This application was lodged in 2018, and therefore notice at the lodgement stage was not given.</p>
	<p>The submission requests that all proposed lot sizes of subdivision remain at 2ha minimum.</p>	<p>At this stage there is no application for a subdivision being assessed. The planning proposal seeks to amend the land zoning and minimum lot size maps, which would enable a development application to subdivide the land to be lodged and assessed.</p> <p>The planning proposal will amend the Minimum Lot Size Map to 2ha, meaning that any future lot must be a minimum of 2ha. The future subdivision will be subject to a Development Application (DA).</p>
	<p>The submission notes that the subject land has had cattle grazing on it for 21 years.</p>	<p>It is noted that the subject land was historically used for cattle grazing.</p>
	<p>The submission notes that the planning proposal states there are some 'scattered native trees throughout the middle of the site', and argues that there are a lot of native trees on the land which are home to numerous types of wildlife. The submission expresses concern about the loss of trees and habitat for this wildlife, particularly because of the location of the road in the proposed lot layout.</p>	<p>The site is partially cleared. Some scattered native trees occur throughout the middle of the site and along the eastern boundary.</p> <p>An updated ecological assessment was undertaken in October 2020. The assessment has identified important biodiversity values on the site. In the absence of an environmental zoning, lot size and subdivision design are the key factors that will ensure impacts to biodiversity are avoided and minimised, which will be determined at DA stage.</p> <p>The subdivision and road layout will be defined and assessed at the DA stage. Given this and the proposed 2ha minimum lot size, it is reasonable to assume that the majority of key biodiversity/ecological constraints, that are likely to be identified through a Biodiversity Development Assessment Report (BDAR) process at the DA stage, may be avoided. Additionally, the</p>

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		objectives of the R5 Large Lot Residential (R5) zoning provides consideration for minimising impacts on environmentally sensitive locations. The large lots proposed will enable tree retention to be maximised, and it is considered that any future subdivision DA could avoid impacts to the majority of critical vegetation.
	The submission disputes the comment that odour due to poultry farms has not historically been an issue for the area.	<p>The planning proposal states that odour due to poultry farms has not been an issue in the area. This is based on an audit of Council's complaints register. There have been no complaints in relation to the nearby poultry or grazing operations in the last five years from the existing neighbouring residences.</p> <p>To further support this, due to the site being located within 1km of a poultry farm an odour assessment was required pursuant to <i>Live Port Stephens</i>, Council's local housing strategy.</p> <p>An odour assessment was carried out after the Gateway determination was issued and an odour report was submitted to Council. The report concluded that there would be no adverse odour impact within the boundaries of the site.</p> <p>After reviewing the odour assessment report, Council requested that the applicant submit a proposed methodology for verifying the data in the report through onsite monitoring. The requirements to be included in the proposed methodology were set by Council and included taking into account the growing cycle meteorological conditions, and was to include onsite monitoring.</p> <p>The applicant submitted a proposed methodology, which was then independently peer reviewed. The independent review of the methodology supported the approach, and the applicant was then instructed to carry out the Quantitative Odour Modelling and provide an additional assessment report. The Quantitative Odour Assessment Report, which included an inspection and collection of samples for odour analysis from the two (2) poultry</p>

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			operations and dispersion modelling supports the planning proposal. The report concluded that there will be no adverse impact of odour at the proposed development.
		The submission states that no mention is made of the many kangaroos that graze on the subject land. The submission also notes the lack of reference to the egrets that migrate to the water.	The ecological assessment makes note of species sighted incidentally during the assessment. Eastern Grey Kangaroo and Cattle Egret are both listed in the species sighted. The assessment notes all fauna sightings were confined to species adapted to open areas. The assessment concluded that the proposal can be designed in a sensitive way that would avoid removal of the site's most important areas of native vegetation and habitat.
		The submission notes that the land will be affected by aircraft noise, due to the regular commercial airlines, and also the RAAF aircraft.	<p>The site is not identified as being within the Australian Noise Exposure Forecast (ANEF) contours. Only proposals on land affected by ANEF contour 25 or above are deemed "unacceptable" for residential purposes under Australian Standard 2021 to 2015.</p> <p>As part of agency consultation Newcastle Airport, Civil Aviation and Safety Authority (CASA) and the Commonwealth Department of Defence were consulted with, and had no objections to the proposal.</p> <p>Despite this, the Port Stephens LGA regularly experiences some level of aircraft noise. Section 10.7(5) planning certificates issued for the site will contain a note advising that the property may be affected by aircraft noise.</p>
		The submission expresses concerns regarding the ability of the Seaham Road and Sophia Jane Drive intersection to support additional traffic generated from new development. The submission states that the intersection at school drop off and pick up time is dangerous due to the location that the school bus parks and the speed of drivers along Seaham Road.	The proposed lot layout is entirely indicative, and will be subject to a future DA if the land is rezoned. Any future application for subdivision will be required to do a traffic study to determine whether access to the lots will be via Seaham Road or Sophia Jane Drive. This traffic study, and internal review by Council engineers, will determine whether an upgrade to the intersection is required.
		The submission states that two children have been hit by cars crossing the road after getting off the bus.	The planning proposal was referred to the relevant agencies for consultation and no traffic concerns were raised. Access will be considered in detail at subdivision stage, subject to rezoning.

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			<p>It is noted that there is one recorded traffic incident that occurred at the intersection of Sophia Jane Drive and Seaham Road in 2014. This was a rear-end crash with someone waiting to turn into Sofia Jane being struck from behind. This crash occurred in darkness and resulted in minor injury. Council is not aware of any other traffic incidents at this intersection. There may be other incidents that have not been reported to Police, but based on best available information, it is not considered a dangerous location.</p> <p>Council has access to a range of mechanisms to deliver safety for motorists and pedestrians using the public road network, including the use of safety signage and requiring construction of roads in accordance with the AustRoads Guidelines. Any concerns for the existing intersection at Seaham Road and Sophia Jane Drive can be lodged with the Traffic and Transport section of Council for review.</p>
4	Resident	The submission supports of planning proposal. The submission notes that the minimum lot size is large, and that it is an extension of the blocks in Sophia Jane Drive.	The positive submission is noted.
5	Resident	The submission objects to the proposal.	Noted.
		The submission expresses concerns over the loss of safe high ground for stock and wildlife in a flood event. The submission states that the floodplain has been inundated by floods 3 times in the last 15 years.	The Agricultural Land Viability Assessment was undertaken to assess the property in terms of its agricultural viability by an analysis of its natural physical assets, its man-made assets, and an economic analysis of its major agricultural enterprise – beef cattle. The assessment acknowledges that this property may offer some flood refuge for cattle, however flood free land also exists on neighbouring properties that run cattle.
		The submission expresses concern over the loss of large habitat trees and shrub land on the subject land, stating that trees will need to be removed for future development. The submission states the trees are home to many birds and other native animals.	See response to submission No 3.

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		<p>The submission expresses concern about the loss of rural primary production land.</p>	<p>An Agricultural Land Viability Assessment was undertaken to assess the site in terms of its agricultural viability. The assessment found that the property is constrained by its limited arable agricultural land size of around 46ha, which limits numbers of stock and resultant income. Soils, slopes, flooding, high input costs of fertiliser, electricity, fuel and labour which are all rapidly rising, and income from agricultural produce being relatively low reduce the land's agricultural viability. The assessment concluded that the proposed rezoning for a rural residential subdivision is considered to have a minor impact on agricultural production in this area.</p> <p>Both the criteria in <i>Live Port Stephens</i> and Ministerial Directions 1.2 and 1.5 outline that land that is important agricultural land, state significant agricultural land, or Biophysical Strategic Agricultural Land (BSAL) should be excluded from rezoning unless justification is provided.</p> <p>The proposal does not relate to important agricultural land, state significant agricultural land or BSAL. Therefore the planning proposal is not considered to represent a meaningful loss of fertile farmland.</p>
		<p>The submission expresses concern that additional septic and stormwater runoff will filter into the adjacent wetlands located to the east of the subject land and will create pollution that will affect the wetlands.</p>	<p>Connection to a reticulated sewer system is not available therefore onsite wastewater systems shall be required for each lot, which is consistent with the surrounding rural residential development of Seaham, Nelsons Plains and Brandy Hill, and with the rural residential rezoning criteria in <i>Live Port Stephens</i>.</p> <p>There are potential hydrological changes that occur with any development. Future development has the potential to increase stormwater runoff from non-permeable roof surfaces. A future DA will require this to be addressed, and could include stormwater management infrastructure to address this, including a drainage basin.</p>

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		The submission expresses safety concerns from more traffic turning right into Sophia Jane Drive from Seaham Road, noting more trucks will be on the road as a result of the Brandy Hill Quarry expansion. The submission notes that traffic currently travels at 80 kilometres an hour and there is limited road to pass safely on the shoulder side.	See response to submission No 3.
		The submission expresses concern about the availability of power in the area, noting that blackouts currently occur in the area due to overloading during peak period, and worries that new development will make this worse.	The subject land is connected to a reticulated power supply. Preliminary service advice from Ausgrid (electricity) confirm the availability and capacity of electricity supply to the subject land.
6	Resident	The submission opposes the proposal.	Noted.
		The submission states that 50% of the area of the proposed development is subject to floods, and concern about the frequency of flooding increasing since 2015. The submission expresses concern about the cattle that currently use this higher ground as a flood refuge.	The subject land contains around 22ha of land that is flood prone, being below the 1:100 year flood level. These areas will not be developed, and all lots within the proposed subdivision will be subject to flood planning controls. However, the layout configuration provides land within each lot that is elevated above the Flood Planning Level (FPL), in order to satisfy minimum habitable floor level requirements. A Flood Certificate and Flood Report have been prepared in support of the planning proposal, which identifies sufficient flood free ground available, and if residents do not choose to stay then adequate warning time exists to permit evacuation prior to the subject land becoming isolated.
		The submission expresses concern about the environmental impact from the removal of trees in future development, and notes the native species that exist here. The submission states that there will be no control on tree removal once building begins.	See response to submission No 3.
		The submission expresses safety concerns about the increased traffic from development and additional residents in the area. The submission expresses concern about the Seaham Road and Sophia Jane Drive, and states that the entry to the development should not be via Sophia Jane Drive.	See response to submission No 3.

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		<p>The submission states that the value of houses in the area is tied to the rural amenity of the neighbourhood. The submission expresses concern that the planning proposal will devalue the existing properties due to increased traffic and noise.</p>	<p>The land is identified by the Rural Lands Study as being within the River Estuary area characterised by the floodplains of the Paterson and Williams River offering distant views of pasture and wetlands. Given the proximity of existing rural residential areas and the consistency of the proposal with adjoining land, it is not considered that the proposal will detract from the scenic values identified.</p> <p>The proposed lot size of 2ha and zone are consistent with the existing rural residential amenity of the area.</p>
7	Resident	<p>The submission objects to the proposal.</p>	<p>Noted.</p>
		<p>The submission states that there are contradictions in the development application, in regards to the overall effect on the local community and the flood prone land.</p>	<p>At this stage there is no application for a subdivision being assessed. The planning proposal seeks to amend the land zoning and minimum lot size maps, which would enable a DA to subdivide the land to be lodged and assessed.</p> <p>See response to submission No 5 in relation to flooding.</p>
		<p>The submission expresses concern about the nearby Koala habitat, and has concerns that post and rail fencing would not be sufficient to allow for Koala movement.</p>	<p>At this stage there is no application for a subdivision or development being proposed or assessed. The planning proposal seeks to amend the land zoning and minimum lot size maps, which would enable a DA to subdivide the land to be lodged and assessed.</p> <p>Any development subject to a DA would be assessed against the Port Stephens Comprehensive Koala Plan of Management (CKPoM) with further ecological studies that provide a more detailed assessment of potential development scenarios, in accordance with the Biodiversity Conservation Act, which would include the required offsets. Development controls and/or design features to minimise impacts on threatened species habitats will be established through the development assessment processes.</p>
		<p>The submission states that the RAAF and passenger flights fly directly above the development. The submission states that the noise level is above 96 DB.</p>	<p>See response to submission No 3.</p>

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		The submission expresses concern for the loss of habitat for other native animals in the area.	See response to submission No 3.
		The submission expresses concern regarding the intersection between Seaham Road and Sophia Jane Drive, and states there have been many near accidents.	See response to submission No 3.
8	Resident	The submitter states an objection to the proposal.	Noted.
		The submission expresses concern for the impact on the environment, and flora and fauna.	See response to submission No 3.
		The submission expresses concern about the loss of the cattle refuge.	See response to submission No 5.
		The submission states that nearby residents will be affected by the proposal in relation to rural amenity.	See response to submission No 6.
9	Resident	The submission objects to the proposed subdivision and housing.	At this stage there is no application for a subdivision or housing being proposed, and therefore this is not being assessed. The planning proposal seeks to amend the land zoning and minimum lot size maps, which would enable a development application to subdivide the land to be lodged and assessed.
		The submission expresses concern about the impacts of the rezoning on vulnerable, endangered or critically endangered flora and fauna. The submission notes the area provides habitat to a population of endangered birdlife and lists several species sighted in the area.	See response to submission No 3.
		The submission expresses concern about loss of foraging and roosting habitat, loss of ground litter, and loss of eucalypt over story.	The ecological assessment determined that trees on the site may provide foraging, nesting, resting and roosting opportunities for a range fauna; however, the shrub layer is almost entirely absent and the groundlayer is highly disturbed. This limits habitat availability significantly for fauna that are not adapted to open areas, such as many small birds. The assessment recommends that the proposed development footprint should be designed to avoid the majority of the site's older growth vegetation and hollow-bearing trees. This will be subject to further ecological assessments at DA Stage.
		The submission states that the area lies within an endangered forest corridor extending from Paterson to Seaham.	The ecological assessment assessed corridors and connectivity in relation to the planning proposal. The site's vegetation has links to patches of

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		<p>bushland within the residential township of Brandy Hill to the west, south-west and north-west of the site as well as to a much larger area of more intact bushland approximately 3.5km to the north-west. It is otherwise surrounded by residential development to the west, north-west and south-west and by cleared agricultural land to the east, north-east and south-east. The site is likely to form part of a network of 'stepping stones' through the area for fauna species that are able to cross relatively open areas.</p> <p>The site is located outside of the Watagan to Stockton Corridor, as identified in the Hunter Regional Plan 2036. A review of Office of Environment and Heritage key habitats and corridors mapping demonstrates that the site is not part of any state or regional wildlife corridor.</p>
	<p>The submission states that the proposed rezoning will have irreversible impacts on the food and natural resources located in the area which may have been utilised by Aboriginal people, and will impact on the cultural value of the land.</p>	<p>Ministerial Direction 2.3 Heritage Conservation aims to preserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. A search of the Aboriginal Heritage Information Management System (AHIMS) was undertaken with a 200m buffer around the site. There were no Aboriginal sites or places recorded within the study area.</p> <p>No items, areas, objects, or places of environmental heritage significance are located on the subject land. Heritage Item 84 'Eskdale House' is located to the north of the subject land however is not related to the proposal.</p> <p>The area is not in proximity to any areas or items of significance listed on the State Heritage Register.</p>
	<p>The submission states that the proposed rezoning area sits aside a wetland and flood plain which feeds into the Williams River. The submission states that the wetland demonstrates characteristics of the previous common permanent freshwater swamps of the Hunter Valley and may be an example of 'complex hydrosphere'.</p>	<p>The land is identified as containing a wetland in Port Stephens Local Environmental Plan. To ensure that wetlands are preserved and protected from the impacts of development, Clause 7.9 of the Port Stephens LEP will need to be addressed in any future development application to this part of the site.</p> <p>It is noted Swamp Oak – Weeping Grass grassy riparian forest of the</p>

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			Hunter Valley occurs within the site, however this plant community type will not be impacted by future development in the future because it will be retained due to it occurring in flood prone land, which will not be developed.
		The submission also states the area has a number of rock shelves which have potential to be part of the Edgeworth David Quarry.	<p>No items, areas, objects, or places of environmental heritage significance are located on the subject land. Heritage Item 84 'Eskdale House' is located to the north of the subject land however is not related to the proposal.</p> <p>Seaham Quarry is identified in Schedule 5 of the Port Stephens LEP as State heritage significance. As the proposal is located over 3 kilometres away from the Seaham Quarry site, it is unlikely that there would be any items of significance located on the subject site. Further, the Agricultural Land Viability Assessment tested geology and soils as part of their assessment and found no significant geology.</p>
		The submission expresses concern about hydrological changes to the water bodies located within the subject site.	A 1st order watercourse runs through the western part of the site. In accordance with the Office of Water (2012) <i>Guidelines for Riparian Corridors on Waterfront Land</i> , this watercourse would require a vegetated riparian zone (VRZ) of 10m on each side. The proposed development footprint would remain external to the VRZ, subject to a future development application.
		<p>The submission expresses concerns that the odour assessment may not be reflective of multiple weather conditions.</p> <p>The submission believes that a noise pollution impact study is necessary to be conducted at times when there is scheduled bird pickups.</p>	<p>See response to submission No 3.</p> <p>An odour assessment was required to be undertaken due to the site being located within 1km of a poultry farm. This assessment took into account various meteorological conditions, however it was model-based. The assessment report concluded that there would be no adverse odour impact within the boundaries of the site.</p> <p>Although this assessment concluded that there will be no adverse impact of odour at the proposed development from the nearby poultry operations, it did state that the planting of fast growing trees and shrubs along the western and southern boundaries of the proposed development should be considered. The justification of this recommendation is that the foliage</p>

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			would provide additional mitigation of potential odour impacts on the site (during rare times when worst case conditions occur) as well as potential noise impacts from traffic movements along Seaham Road.
		The submission expresses traffic concerns about the intersection of Seaham Road and Sophia Jane Drive, referencing several accidents	See response to submission No 3.
		The submission also expresses concern about the location of the bus stop and concern for the safety of children crossing the road.	
		The submission states that any development in the area will have an impact on the flooding of nearby properties.	See response to submission No 6. A Flood Certificate and Flood Report have been prepared in support of the planning proposal, which identifies sufficient flood free ground available and takes into consideration the impact on the surrounding properties. Any application that is lodged for subdivision will be assess for its impact on the flood plain and be referred to Council's Flooding and Drainage Engineers.
		The submission expresses concern about the proposal impacting the value of nearby property.	See response to submission No 6.
10	Resident	The submission expresses appreciation that the zoning and minimum lot size are in line with Sophia Jane Drive.	Noted.
		The submission expresses concern about the impact that the proposed lot layout will have on ecological communities and their habitats.	See response to submission No 3.
		The submission states that the flood levels are inconsistent, and expresses concern that development will increase the impact of flooding on existing properties and proposed properties.	See response to submission No 6.
		The submission expresses concern about the road and lot location on the proposed subdivision layout. The submission expresses concern about access, referencing the bushfire report that says that access is only available via Sophia Jane Drive. The submission states access should be considered at planning proposal stage.	See response to submission No 6. As above, access will be considered in detail at subdivision stage, subject to rezoning. A traffic study will be required as part of any future subdivision development application. This will assess the traffic situation in detail, and determine whether access to the lots will be via Seaham Road or Sophia

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			Jane Drive. This traffic study, and internal review by Council engineers, will determine whether an upgrade to the intersection is required.
11	Residents	The submission states that the original development proposal of Sophia Jane Drive stated that 22 hectares of flood prone land would not be subdivided.	See response to submission No 6.
		The submission states that the flood access study from another proposal (610 Seaham Road) demonstrates a different flood level to Council's flood mapping. The submission expresses concern that the flood level is above the proposed access route.	<p>Council's Flood Certificate demonstrates that the planning proposal affects minimal land that is subject to the probable maximum flood, including low hazard fringe and low hazard storage area.</p> <p>The Flood Certificate is provided in accordance with the provisions of section 733 of the Local Government Act 1993. Flood certificates provide an estimate of real flood characteristics. Any particular flood may be different to the conditions that were assumed to determine the information shown in this certificate. The provided flood information has been compiled from information provided by external consultants and flood studies completed by Council in accordance with the NSW Floodplain Development Manual.</p> <p>All lots within the proposed subdivision will be subject to flood planning controls, however the layout configuration provides land within each lot that is elevated above the FPL, in order to satisfy minimum habitable floor level requirements.</p>
		The submission states that in 2015 there was no flood warning, and as a result many animals died in the Seaham and Nelsons Plains area.	A Flood Certificate and Flood Report have been prepared in support of the planning proposal, which state that there is sufficient flood free ground available, and if residents do not choose to stay then adequate warning time exists to permit evacuation prior to the subject land becoming isolated.
		The submission expresses concern that development on this land will increase the flood risk by reducing the area that can absorb water and increase runoff.	There are potential hydrological changes that occur with any development. Future development would create an increase in stormwater runoff from non-permeable roof surfaces. A future development application will require this to be addressed, and could include stormwater management infrastructure.

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		such as a drainage basin, to address this.
	The submission notes that the Bushfire Assessment Report states that detailed compliance can be reassessed at DA stage. The submission states this may mean the proposed access may not meet the criteria.	A Preliminary Bushfire Assessment was prepared in support of the planning proposal. An updated Bushfire assessment report that reflects Planning for Bushfire Protection 2019 has been provided post-Gateway, and the planning proposal was referred to NSW Rural Fire Service (RFS). The indicative subdivision plan demonstrates that the proposed lot size allows for sufficient distance for asset protection zones. At the detailed design phase, lot design/APZ provision, infrastructure, access and construction plans are required to meet the specifications outlined in Planning for Bushfire Protection (PBP) 2019.
	The submission expresses concern at the age of the Aboriginal Heritage Information Management System (AHIMS), and states changes may have been made to identify Aboriginal sites since 2017.	An updated AHIMS search was undertaken in 2022 for the subject site. The search returned the same result as the existing result attached to the planning proposal.
	The submission notes that rural residential criteria requires demonstration that the land will be accessed via a sealed road. This submission expresses concern that the planning proposal confirms that Seaham is a sealed road, where the Bushfire Assessment Report refers to access being via Sophia Jane Drive.	As above, it is currently unclear where access to the development will be. Any future application for subdivision will be required to do a traffic study to determine whether access to the lots will be via Seaham Road or Sophia Jane Drive. Both Seaham Road and Sophia Jane Drive are sealed, so the planning proposal remains consistent with the rural residential criteria.
	The submission expresses ecological concerns relating to wildlife, including hollow bearing trees as habitat.	See response to submissions No 3 and 9.
	The submission agrees that further ecological studies should be undertaken to provide a more detailed assessment of potential development scenarios.	Noted.
	The submission states the characteristics of the wetland on site has a number of rock shelves with similar characteristics to The Edgeworth David Quarry.	See response to submission No 9.
	The submission expresses concern about hydrological changes to the water bodies located within the subject site.	See response to submission No 9.

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		The submission expresses concern that there was no community consultation up until this point in the proposal.	See response to submission No 3.
		The submission expresses traffic concerns about the intersection of Seaham Road and Sophia Jane Drive, and states that an infrastructure upgrade is required.	See response to submission No 3.
12	Resident	The submission questions whether the proposal is for a rezoning or development application.	<p>The application is a rezoning request that proposes to amend the Lot Size to 2ha, and amend the Land Zoning to R5 Large Lot Residential under the Port Stephens Local Environmental Plan, 2013. Any future subdivision will be subject to a development application.</p> <p>The concept subdivision and road layout is indicative only, and is used to show that a number of strategic outcomes can be achieved. The road design and subdivision would be assessed in detail as part of a subsequent development application.</p>
		The submission states that there are inconsistencies with Ministerial Directions 1.2 Rural Zones, 1.5 Rural Lands, 3.1 Residential Zones, and 3.4 Integrating Land Use and Transport.	A planning proposal may be inconsistent with these directions if the proposal is in accordance with the Hunter Regional Plan (HRP) or Greater Newcastle Metropolitan Plan (GNMP), if they are justifiably inconsistent, or the inconsistency is considered to be of a minor nature. The planning proposal is consistent with both the HRP and GNMP as it will assist in meeting the dwelling targets identified within the GNMP and reinforce the role of Raymond Terrace as a Strategic Centre by providing increased housing diversity within a short distance of Raymond Terrace.
		The submission expresses concerns about the odour from nearby poultry farms. The submission states that at least 5 of the lots are within the 1km buffer zone from the nearest poultry farm.	See response to submission No 3.
		<p>The submission expresses concern about the potential environmental impacts of the proposal. The submission expresses concern that the majority of flood free land is where the most vegetation is.</p> <p>The submission also notes the environmentally sensitive area outside the boundary of the subject</p>	<p>See response to submission No 3.</p> <p>The land is not within an environmentally sensitive area and is consistent with Ministerial Direction 2.1 Environment Protection Zones, which aims to protect and conserve environmentally protected areas.</p>

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		site, and states it would be impacted by development on the site	
		The submission expresses concern over the loss of koala feed trees, and concern that development would restrict koala movement.	See response to submission No 7.
		The submission states that social impacts were not considered due to a lack of community consultation.	See response to submission No 3. Community consultation was undertaken in accordance with the Gateway determination, which required the planning proposal to be publicly exhibited for a period of 28 days.
13	Resident	The submission expresses concern about the loss of high ground for cattle refuge in flood events, noting the loss of livestock in the 2015 flood events.	See response to submission No 5.
		The submission states the proposal's inconsistency with Ministerial Direction 1.2 Rural Zones, and planning priority 9 of the Port Stephens Local Strategic Planning Statement (LSPS).	See response to submission No 12. The Port Stephens LSPS includes 'Planning Priority 9 – Protect and preserve productive agricultural land'. Action 9.1 implements the Planning Priority: <i>"Prepare a local housing strategy that includes assessment criteria for new rural residential development to protect existing and potential productive agricultural land"</i> The Port Stephens Local Housing Strategy (Live Port Stephens) includes Rural Residential Criteria. The planning proposal is consistent with the criteria as detailed in the planning proposal.
		The submission states that the closest poultry shed is only 430 metres away from the subject land. The submission states that the minimum separation distance from a rural living area is not to be less than 1km.	See response to submission No 3.
		The submission notes references in the proposal that relate to biodiversity value, and expresses concern that these ecological values will not be considered at development application stage.	See response to submission No 3.
		The submission expresses concern that the proposed road and subdivision layout will lead to the removal of important vegetation.	See response to submission No 3. The concept subdivision and road layout is indicative only, and is used to show that a number of strategic outcomes can be achieved. Should the

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			land be rezoned, the road design and subdivision would be assessed in detail as part of a subsequent development application, in conjunction with more detailed assessment of flood, biodiversity and traffic outcomes.
		The submission expresses concern about the loss of koala habitat and fragmentation of koala movement.	See response to submission No 7.
		The submission notes that the land will be affected by aircraft noise from the RAAF as well as Newcastle Airport.	See response to submission No 3.
		The submission has concerns relating to the validity of the odour assessment.	See response to submission No 3.
14	Resident	The submission objects to the proposal on the basis of the Right to Farm Policy.	The NSW Right to Farm Act and Policy guides agricultural land use planning and aims to ensure that farmers are able to undertake lawful activities in line with accepted industry standards without undue interference or nuisance complaints. The Policy and Act ensures that farmers cannot be litigated against when operating lawful activities. The planning proposal has considered the Right to Farm Act and Policy.
		The submission expresses concern for the loss of arable land.	See response to submission No 5.
		The submission expresses traffic concern about the intersection of Seaham Road and Sophia Jane Drive.	See response to submission No 3.
		The submission states that there is no bus stop at the intersection of Seaham Road heading towards Clarencetown Road.	Transport for NSW determines the routes and operations of buses in the Port Stephens LGA. It is Council's responsibility to provide the local infrastructure, such as seating and shelters in response to this.
		The submission expresses concern about the loss of native fauna habitat.	See response to submission No 3.
15	Resident	The submission expresses concern about the loss of 'successful farmland' and loss of animal refuge during flood events.	See response to submission No 5.
		The submission states that this rezoning will set a precedent for additional rural rezoning applications in the area.	This rezoning request is the result of several strategic planning documents including the Hunter Regional Plan, Greater Newcastle Metropolitan Plan, and the Port Stephens Local Strategic

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			<p>Planning Statement (LSPS), which included an action to prepare a local housing strategy that includes assessment criteria for new rural residential development to protect existing and potential productive agricultural land.</p> <p>A local housing strategy that included criteria for new rural residential development was adopted in July 2020 (Appendix 2 of Live Port Stephens).</p> <p>This application has been assessed against the Rural Residential Criteria (RRC) in Appendix 2 of Live Port Stephens and is consistent.</p> <p>The RRC was developed by constraints mapping in response to the Hunter Regional Plan 2036 and Greater Newcastle Metropolitan Plan 2036 directions. It accounts for:</p> <ul style="list-style-type: none"> • land identified by, or in proximity to an area identified by, a local, regional or State strategic plan for potential urban housing • land within a 2km distance from existing or planned major employment areas • slopes greater than 18 degrees • class 1 and 2 acid sulphate soils • land within the Flood Planning Area • high biodiversity value land, including coastal wetlands or coastal lakes • noise exposure areas within an ANEF 25 or greater • land identified as Important Agricultural Land, as defined by the Biophysical Strategic Agricultural Land (BSAL) mapping prepared by the State Government for the purposes of Strategic Regional Land Use Planning • land located within 500 metres of known extractive industries, quarrying or mining. • land identified by the State Government as having known mineral resource potential
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		Suitability of locations for rural residential housing are defined in accordance with the RRC in Live Port Stephens.
	<p>The submission expresses environmental concerns. Particular concern is expressed for the loss of trees as habitat for endangered and native birds, and koalas.</p> <p>The submission states that the development application fails to address the importance of preserving the section of high biodiversity value mapped land and dismisses this as a minor issue.</p>	<p>See response to submission No 3 and No 7.</p> <p>At this stage there is no application for a subdivision being assessed. The planning proposal seeks to amend the land zoning and minimum lot size maps, which would enable a DA to subdivide the land to be lodged and assessed.</p> <p>The Biodiversity Value Map identifies a small part of the site as having high biodiversity values. This area is located on the eastern edge of the site within the flood planning area, and therefore will likely be retained as part of any development proposal for the site.</p>
	<p>The submission states there are inconsistencies in the mapping and proposed lot layout, in relation to access and flood prone land.</p>	<p>See response to submission No 3.</p> <p>The concept subdivision and road layout is indicative only and is used to show that a number of strategic outcomes can be achieved. Should the land be rezoned, the road design and would be assessed in detail as part of any subsequent subdivision application.</p>
	<p>The submission expresses concern that neighbours of the proposed rezoning will be impacted by increased noise, and reduction in privacy and rural amenity.</p>	<p>Should the land be rezoned, development applications can be lodged for subdivision and dwellings. Development applications would be assessed against the Port Stephens Development Control Plan 2014 (DCP). The DCP considers both privacy and amenity, and provides relevant setbacks and controls to ensure that these impacts are mitigated.</p>
	<p>The submission states that the proposed rezoning would impact the road safety of the Seaham Road and Sophia Jane Drive intersection.</p>	<p>See response to submission No 3.</p>
	<p>The submission expresses flood concerns, stating that the proposal will increase flood risk.</p>	<p>See response to submission No 6.</p>
	<p>The submission states the proposal has inconsistencies with the HRP, GNMP and Live Port Stephens in relation to biodiversity and flooding.</p>	<p>The planning proposal is consistent with the aims of the HRP. The proposal will provide greater housing choice and promote housing diversity, by encouraging rural residential housing in proximity to an established rural residential area and within 10 minutes</p>

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			<p>of a strategic centre at Raymond Terrace. The planning proposal is also consistent with all of the objectives for rural residential development as set out in the HRP.</p> <p>The planning proposal is also consistent with GNMP and will give effect to Strategy 18 as it will deliver well-planned rural residential housing areas close to jobs and services. The planning proposal is also consistent with the objectives set out in the GNMP for rural residential development.</p> <p>The planning proposal is consistent with, and will give effect to the following priorities of Live Port Stephens:</p> <ul style="list-style-type: none"> • Priority 1.2 – Remove barriers to unlock housing supply • Priority 1.3 – Increase the proportion of infill housing • Priority 3.2 – Encourage a range of housing types and sizes. <p>Live Port Stephens includes Rural Residential Criteria. The planning proposal is consistent with the criteria.</p> <p>The proposal's consistency with the relevant strategic planning documents has been addressed in further detail throughout the planning proposal.</p>
		The submission expresses concerns about the provision of infrastructure, specifically electricity and sewage.	See response to submission No 5.
16	Resident	<p>The submission states that during major Lower Hunter flooding events the subject site will become isolated. The submission expresses concern about rising flood levels, lack of warning times and the location of future dwellings.</p> <p>The submission expresses concern about the proposal's inconsistency with Hunter Regional Plans (HRP) 2036, particularly the focus of the HRP on walking and cycling links.</p>	<p>See response to submission No 6.</p> <p>The HRP is the regional land use strategy that applies to the Port Stephens. It aims to provide the overarching framework to guide the NSW Government's land use planning priorities and decisions to 2036 and to guide subsequent and more detailed land use plans, development proposals and infrastructure funding decisions. The HRP is high-level and it is difficult for any proposal to align with all objectives set out in the HRP. The</p>

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			<p>planning proposal is, however consistent with all of the objectives for rural residential development as set out in the HRP.</p> <p>The planning proposal is also consistent with the aims of the HRP as it will provide greater housing choice and promote housing diversity by encouraging rural residential housing in proximity to an established rural residential area and within 10 minutes of a strategic centre at Raymond Terrace.</p>
		<p>The submission advocates for contributions to be paid by any new rural residential proposal in the local area for use towards a dual use pathway between Brandy Hill and Raymond Terrace along Seaham road.</p>	<p>When a new lot is created the Port Stephens Local Infrastructure Contributions Plan (LIC Plan) applies. For the creation of each lot, the Developer would pay approximately \$18,000 towards the provision of infrastructure as detailed in the Works Schedule of the LIC Plan. There is a \$20,000 cap on how much Councils are able to levy on new development.</p> <p>While infrastructure contributions are a key way to fund infrastructure, including public and open space, footpaths, cycleways, roads, social and community infrastructure and stormwater management, they are not the only funding mechanism used.</p> <p>Similarly, infrastructure contributions do not pay for the entire cost of new projects, unless it can be demonstrated that the entire need of the infrastructure item is a result of the new development.</p> <p>There is currently a number of items in the Works Schedule of the LIC plan scheduled for the Brandy Hill area, including a shared pathway from Clarencetown Road to Seaham Road along Brandy Hill Drive, upgrades to Seaham Park, upgrades to Brendon Park, Seaham, roadworks on East Seaham Road, and an upgrade to the Seaham RFS station.</p> <p>The items in the Works Schedule are determined by infrastructure needs analyses, as well as items that are including in Council's other strategic asset plans.</p>

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			<p>Council's Pathway Plans and locational Pedestrian Access and Mobility Plans (PAMPs) and Strategic Asset Management Plan (SAMP) identify the current and planned shared pathways and other infrastructure items. These documents take into account the anticipated population increase as a result of new development.</p> <p>There is currently no pathway identified in the Works Schedule that extends from Brandy Hill to Raymond Terrace.</p>
		<p>The submission notes the Port Stephens Rural Residential Policy references a rural land resource buffer of 1km, highlighting that the site states a buffer of 430 metres from operating poultry sheds.</p> <p>The submission expresses concerns over the methodology used to check the odour.</p>	See response to submission No. 3
17	Koala Koalition EcoNetwork Port Stephens (KKEPS)	<p>The submission states that the conservation status of koalas in NSW has been recently upgraded to endangered, and requests that this information is considered.</p> <p>The submission expresses concerns that the cumulative environmental impacts from additional nearby rezoning at 610 Seaham Road have not been adequately considered as part of the proposal.</p>	<p>It is noted that the upgraded conservation status of koalas came into effect on 12 February 2022, after the public exhibition period had concluded.</p> <p>While this is not referred to in the planning proposal document, if the site were to be rezoned, any future development applications would be required to take into account any new requirements or controls in place as a result of the change, as well as updated ecological studies.</p> <p>Each rezoning request is assessed against both site specific and strategic merit, including the Rural Residential Criteria in Live Port Stephens.</p> <p>The rezoning request for 610 Seaham Road is being assessed against the same criteria, and is currently preparing the relevant studies and justification required.</p> <p>The proposed minimum lot size ensures that a development layout can be achieved which gives regard to the impacts of development of the environment. These impacts can be considered in detail, including cumulative impact, during assessment of a future development application where critical information such as</p>

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			proposed lot layout and vegetation removal is available.
		The submission expresses concerns that the ecological assessment is not sufficient to determine the impact on the koala population. The submission points out that the assessment recognises the survey limitations that suggests further ecological studies may be required.	Refer to submission No 7.
		The submission states the koala habitat map used in the ecological assessment to is out of date.	Should the rezoning be successful, further ecological studies will be required at both the subdivision and in any applications for dwellings.
		The submission expresses concerns that the ecological assessment expresses contradictory information on which trees will be retained to conserve important biodiversity in the area.	
18	Voice of Woodville and Wallalong (VOWW)	The submission states that VOWW opposes this rezoning proposal.	Noted.
		The submission expresses confusion over the number of lots referenced in the proposal.	The planning proposal is to amend the Lot Size Map to 2ha, which means that any future lot would be a minimum of 2ha.
			Should the land be rezoned, any future subdivision of the land will be subject to a development application, which will determine the number of lots as a result of detailed design and further studies.
		The submission states that the effect of climate change has not been mentioned, and expresses concern about the flood impacts of this.	See response to submission No 6.
			Climate change is a consideration under the Floodplain Development Manual.
		The submission expresses concerns that the 'Agricultural Land Viability assessment' does not take into consideration former successful use of this land.	Refer to submission No 5.
		The submission expresses concerns that the report does not take into account the impact on neighbouring rural enterprises, specifically the loss of high land used for security of cattle during flood events.	The Agricultural Land Viability Assessment acknowledges that the site may offer some flood refuge for cattle, however noting that flood free land also exists on neighbouring properties.
		The submission states that the proposal is inconsistent with the ministerial directions and rural subdivision principles.	See response to submission No 12.

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		The submission states that social impacts were not considered due to lack of community consultation.	See response to submission No 3.
		The submission expresses environmental concerns for the impact to local flora and fauna arising from removal of native tree species.	See response to submissions No 3 and No 9. Should the rezoning be successful, further ecological studies will be required at both the subdivision and in any applications for dwellings.
		The submission states that aircraft noise has not been adequately addressed.	See response to submission No 3.
19	Save Port Stephens Koalas	The submission expresses concern about the risk that land fragmentation and loss of habitat poses to native species.	At this stage there is no application for a subdivision or development being proposed or assessed, or for the clearing of any vegetation. Should the site be rezoned, further ecological studies will be required at both the subdivision and in any applications for dwellings. The site is located outside of the Watagan to Stockton Corridor, as identified in the Hunter Regional Plan 2036. A review of Office of Environment and Heritage key habitats and corridors mapping demonstrates that the site is not part of any state or regional wildlife corridor.
		The submission expresses concerns that the only land suitable for development due to flood levels is the vegetated area part of the koala corridor.	See response to submission No 3. It is considered that the large lot size proposed enables tree retention to be maximised and enough flood free land available should the land be subdivided. Should the site be rezoned and later subdivided, flooding and ecology will be assessed in detail at the DA stage. The ecological assessment concluded that there is no koala corridor on the site, and that the site contains only a small amount of preferred koala habitat. Due to the surrounding rural development, the ecological assessment found that the site is likely to form part of a network of 'stepping stones' through the area for fauna species that are able to cross relatively open areas.

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		The submission states that the land suitable for development on the subject site provides high ground refuge for wildlife and stock during flood events, which would no longer be accessible for this purpose if this land is developed.	See response to submission No 5.
20	Resident	The submission expresses concerns about the Seaham Road and Sophia Jane Drive intersection, and the ability for the intersection to support a potential increase in traffic.	See response to submission No 3.
		The submission expresses concerns around the ecological impact that rezoning the subject land may have on the wildlife and wetlands.	See response to submissions No 3 and No 9.
21	Newcastle Airport	The referral notes that the site is not within the Australian Noise Exposure Forecast (ANEF) for Newcastle Airport. However, the subject site will regularly experience some level of aircraft noise from aircraft movements.	Noted.
		The referral requested that the constraints associated with aircraft noise be placed on any S10.7 planning certificate issued by Council for the property.	Any section 10.7(5) planning certificates issued for the site contain a note to say that the property may be affected by aircraft noise.
22	Civil Aviation and Safety Authority (CASA)	CASA raised no objection to the planning proposal proceeding.	Noted.
23	Commonwealth Department of Defence	Defence noted that the site is outside the ANEF for RAAF Base Williamtown and Salt Ash Air Weapons Range but the site will still regularly experience some level of aircraft noise from aircraft on approach and departure from RAAF Base Williamtown.	Noted.
		Defence requested that a property notation be placed on any S10.7 certificate that may be issued by Council for the property advising that the property is subject to aircraft noise generated by activities at RAAF Base Williamtown.	Any section 10.7(5) planning certificate issued for the site contains a note to say that the property may be affected by aircraft noise.
24	NSW Rural Fire Service (RFS)	NSW RFS raised no objections to the planning proposal.	Noted.
25	Department of Primary Industries –	The response from the DPI referred to there being no supply and demand analysis for the proposal in Live Port Stephens, and that Live Port Stephens is not endorsed by	Planning proposals for rural residential development are not relied on for meeting the housing targets identified by DPIE.

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Agriculture (DPI)	Department of Planning, Industry and Environment (DPIE).	Rather, they align with Outcome 3 of Live Port Stephens to "Increase diversity of housing choice" and respond directly to the findings of the 'Housing Preferences in Port Stephens Report' prepared by SGS Economics & Planning which identifies rural blocks as being the preferred housing choice amongst 14.4% of survey participants.
	It was noted that while it is unlikely to impact existing nearby farmers, the proposal lacks details regarding the Right to Farm Act and the existing land uses within the area (other than rural residential).	Regarding the Right to Farm Act, the planning proposal has been updated to include further information on the surrounding land uses.
	The response noted that an odour assessment had been completed, and that DPI did not comprehensively review this but made the following point: <ul style="list-style-type: none"> A large portion of the conclusion of 'no or minimal impact' from the poultry farms was based on a site visit. Poultry operations vary in odour depending on which phase of the bird's growth cycle and a singlet visit would most likely not be a reliable measure of the greatest impact. 	After a Gateway determination was issued an odour assessment was carried out, and an odour report was submitted to Council. After reviewing the odour assessment report, Council requested that the applicant submit a proposed methodology for having the data that was provided in the report verified through onsite monitoring.
	DPI recommended that the odour assessment be peer reviewed.	The requirements to be included in the proposed methodology were set out by Council and included taking into account the growing cycle, meteorological conditions, and was to include onsite monitoring.
	The response included broader comments on Council's recently adopted local housing strategy and rural residential development.	The applicant submitted a proposed methodology, which was then independently peer reviewed. The independent review of the methodology supported the approach, and the applicant was then instructed to carry out the Quantitative Odour Modelling and provide an additional assessment report.
	DPI sent another submission during the public exhibition period confirming their objection.	The Quantitative Odour Assessment Report supports the planning proposal.
		Given these comments were not in relation to the planning proposal, they have been addressed elsewhere with DPI.
		Noted.

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26	Biodiversity Conservation Division (BCD)	<p>The response from BCD stated that the concept road layout does not provide rising road access to proposed lot 18 in the concept subdivision plan and recommended that at the Development Application stage, Council ensures that all lots have rising road access to an emergency evacuation route, so that the occupants can still evacuate along a formed roadway even if they do not immediately respond to a flood warning.</p>	<p>The concept subdivision and road layout is indicative only, and is used to show that a number of strategic outcomes can be achieved. The road design and subdivision would be assessed in detail as part of a subsequent application.</p> <p>BCD provided subsequent formal correspondence that they were satisfied that this issue should be addressed during assessment of a future development application, and not at planning proposal stage.</p>
		<p>The response noted that although the biodiversity on the site has been impacted by grazing, there are still high biodiversity values which should be retained or enhanced where possible as part of the proposal.</p> <p>The response noted which species comprised the remnant vegetation and stated that some of these species are likely to be using the remnant vegetation on the property.</p> <p>The recommendation from BCD was that the proposal includes development footprints which have been located to retain as many high biodiversity values as possible on site.</p>	<p>Council notes and is aware of the biodiversity value of the site.</p> <p>Subsequent to a Gateway determination being issued Council requested that a further study be carried out, and an updated Ecological Assessment was prepared and submitted to Council post-Gateway.</p> <p>Council referred the assessment internally to the Natural Systems team, and was satisfied with the updated assessment, noting that as a result of the 2 ha minimum lot size proposed, and the refinement of subdivision/road layout at DA stage that the majority of key biodiversity/ecological constraints that are likely to be identified through a BDAR process at DA stage may be avoided. Further to this, the objectives of the R5 zoning provides consideration for minimising impacts on environmentally sensitive locations.</p> <p>BCD provided subsequent formal correspondence that they were satisfied that this issue should be addressed during assessment of a future development application, and not at planning proposal stage.</p>
27	Hunter Water Corporation.	<p>Formal consultation with Hunter Water Corporation was undertaken through preliminary servicing advice.</p> <p>After a Gateway determination for the site was issued, Hunter Water, the planning proposal was referred to Hunter Water and no objections were received.</p>	<p>Noted.</p>

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Industry &
Environment****Gateway Determination**

Planning proposal (Department Ref: PP_2020_PORTS_003_00): to rezone RU1 Primary Production land to zone R5 Large Lot Residential and amend the minimum lot size from 40ha to 2ha at 792 Seaham Road, Seaham.

I, Director, Western Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 to amend zoning and minimum lot size for land at 792 Seaham Road, Seaham should proceed subject to the following conditions:

1. Prior to undertaking community consultation, the following is required:
 - a. Preparation of a Bushfire Assessment Report and consultation with the Rural Fire Service to address the proposal's inconsistency with section 9.1 Direction 4.4 Planning for Bushfire Protection.
 - b. Consultation with Department of Planning, Industry and Environment - Agriculture to address the proposals inconsistency with section 9.1 Direction 1.5 Rural Lands and potential agricultural land use conflict.
 - c. Preparation of the necessary Biodiversity Study(s) and consultation with Department of Planning, Industry and Environment – Biodiversity Conservation Division to address the proposals inconsistencies with section 9.1 Direction 2.1 Environmental Protection Zones and performance criteria (c) and (d) of Port Stephens Comprehensive Koala Plan of Management.
 - d. Preparation of report detailing the findings of a preliminary contamination investigation of the land carried out in accordance with the contaminated land planning guidelines to address section 9.1 Direction 2.6 Remediation of Contaminated Land.
 - e. Consultation with Newcastle Airport, Civil Aviation and Safety Authority (CASA) and Commonwealth Department of Defence to address section 9.1 Direction 3.5 Development Near Regulated Airports and Defence Airfields.
 - f. Consultation with Department of Planning, Industry and Environment – Water to address section 9.1 Direction Flood Prone Land.
 - g. Consultation with Hunter Water to confirm capacity of existing water infrastructure & feasibility of onsite wastewater management to service future development of the site.

Council is to update the planning proposal to take into account the outcomes of the above studies and consultation and reflect the findings in the final public

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exhibition document along with all updated reports and consultation documents. Council is to seek approval from the Department of Planning, Industry and Environment prior to undertaking community consultation.

2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:

- (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018) and must be made publicly available for a minimum of **28 days**; and

the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).

3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination and
- (b) there are no outstanding written objections from public authorities.
5. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 28th day of August 2020.

28.8.20

Damien Pfeiffer
Director, Western Region
Local and Regional Planning
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces

PP_2020_PORTS_003_00 (IRF20/3645)

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Planning,
Industry &
Environment

Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2020_PORTS_003_00)

I, the Executive Director, Local and Regional Planning at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 28 August 2020 for the proposed amendment to the *Port Stephens Local Environmental Plan 2013* as follows:

1. Amend "condition 1" to delete 'Council is to seek approval from the Department of Planning, Industry and Environment prior to undertaking community consultation.'
2. Add to "condition 2"
 - b. Public exhibition is to commence by 1 December 2021.
3. Delete: "condition 5"
and replace with:
a new condition 5: "The time frame for completing the LEP is by 28 May 2022."

Dated 7th day of October 2021.

Monica Gibson
Executive Director, Local and Regional
Planning
Planning and Assessment
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning and
Public Spaces

PP_2020_PORTS_003_00 (IRF21/2772)