

NOTICE OF ORDINARY MEETING

23 AUGUST 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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1. MAYORAL MINUTE – APPOINTMENT OF THE GENERAL MANAGER

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 9 August 2022.
- 7) Mayoral minutes(s) - if submitted.
- 8) Motions to close 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 - 23 AUGUST 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.

MAYORAL MINUTE MOTION TO CLOSE

ITEM NO. 1

FILE NO: 22-37

MOTION TO CLOSE MEETING TO THE PUBLIC

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(a) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Mayoral Minute Confidential Item 1 on the Ordinary Meeting agenda namely **Appointment of the General Manager**.
- 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include matters and information relating to personnel matters concerning particular individuals (other than councillors).
- 3) That the report of the closed part of the meeting remain confidential.

COUNCIL REPORTS

ITEM NO. 1

**FILE NO: 22/187697
EDRMS NO: 16-2022-172-1**

**DEVELOPMENT APPLICATION 16-2022-172-1 - 3 STOREY DWELLING - 58
SANDY POINT ROAD, CORLETTE**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.
- 2) Approve Development Application DA No. 16-2022-172-1 for a 3 storey dwelling at 58 Sandy Point Road, Corlette (Lot 283 DP 27048) subject to the conditions contained in **(ATTACHMENT 3)**.

BACKGROUND

The purpose of this report is to present a Development Application (DA) 16-2022-172-1 for a 3 storey dwelling to Council for determination.

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

Subject Land:	58 Sandy Point Road, Corlette (Lot 283 DP 27048)
Total Area:	626m ²
Zoning:	R2 Low Density Residential Zone
Submissions:	31 submissions from 19 property addresses
Key Issues:	The key issues identified throughout the assessment of the DA relate to building height, setbacks and bulk and scale.

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 Crs Leah Anderson, Giacomo Arnott and Jason Wells with additional support provided by Cr Bailey by email **(ATTACHMENT 4)**.

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

Proposal

The development application seeks consent for the demolition of existing structures on the site, construction of a 3 storey dwelling house and swimming pool. The dwelling includes a double car garage, single garage for boat storage, 7 bedrooms with associated ensuites, open plan living and dining spaces, internal lift access and

a rooftop retreat. The swimming pool is proposed at ground level and located towards the foreshore reserve.

Site Description and History

The subject site is legally identified as Lot 283 DP 27048 and is generally known as 58 Sandy Point Road, Corlette NSW 2315. The site is of regular rectangular shape and the topography is mostly level with only minor undulations observed. The site is clear of any significant vegetation and the rear of the site adjoins waterfront reserve. The site is located within an R2 Low Density Residential Zone and is surrounded by other residential development, predominately being 2 storey dwelling houses. The site is currently being used for residential accommodation, by way of a 2 storey dwelling house.

Key Issues

The key issues identified throughout assessment of the DA relate to the proposed exceedance of the building height, building setbacks and bulk and scale.

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

Building Height

The development application includes a proposed variation to Clause 4.3 of the LEP being for the maximum height of buildings. The development standard is 9m and the proposed maximum height is 10.16m, representing a 12.88% variation.

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the Port Stephens Local Environmental Plan (PSLEP). The request has been reviewed and the following is noted:

- The proposed development is considered to be appropriate for the context of the area which is characterised by dwellings of a similar bulk and scale
- There are a number of comparatively tall or taller buildings in the nearby area, including the immediate neighbouring dwelling at 60 Sandy Point Road, Corlette
- The height exceedance is located towards the middle of the site and as such, the area of exceedance is less apparent as viewed from the street and neighbouring properties.
- The design includes significant articulation and changes in material finishes, which addresses the bulk and scale in a positive manner
- The proposed development maintains an acceptable level of privacy and solar access to neighbouring properties.

- The overall building height is impacted by the site being located within a Flood Planning Area and minimum finished floor levels applying to the site.

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

Building Setbacks

Rear Setback (Waterfront Reserve):

The Port Stephens Development Control Plan (PSDCP) requires a 4.5m setback to the waterfront reserve. The ground floor and second floor have increased setbacks of up to 8.7m. The first floor level building line is setback 4.5m from the waterfront reserve with minor eave encroachments. The setbacks and minor eave encroachments are consistent with the existing rear building line pattern. It is noted there are a number of dwellings with encroachments that extend further toward the waterfront reserve than is proposed within this application.

Further, the rear of the building has been designed to provide considerable articulation which reduces the bulk of the proposed dwelling when viewed from the waterfront reserve. The rear setback will provide continuity and consistency to the public domain and meets the objectives of Part C4.8 and is supported.

Side Boundary Setbacks:

The PSDCP requires 2m side setbacks at the upper levels. There are areas of reduced side setbacks of 1m on the first floor of the dwelling. However, it is considered the design provides adequate separation between the proposed and adjoining dwellings. The lot is relatively narrow, measuring 15.24m in width and the setbacks mimic the neighbouring properties. The design includes significant articulation including areas of increased side setbacks that exceed the minimum requirement as stipulated in the DCP.

The setbacks are consistent with the locality and neighbouring properties. The provided articulation minimises the presentation of bulk as viewed from the public domain and neighbouring properties.

Street Setback:

The PSDCP requires a minimum of 4.5m setback from the street boundary. The proposed development is setback 5m from the street and therefore complies.

The garages are located on the front building line and are not setback 1m behind the building line as per the DCP. However the proposal is consistent with existing development within the locality, which includes a number of garages forward of the building lines, with reduced street setbacks. It is considered that the variation to the garage setback is appropriate given the garages will not dominate the streetscape noting the inclusion of the upper level balcony. The balcony provides an appropriate level of passive surveillance to the street.

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

Bulk and Scale

The proposal is considered to achieve a scale, bulk and height appropriate for the area. The proposal is of a similar height to the adjoining development to the west, and other buildings within the locality. The perceived bulk and scale of the building is adequately addressed through the use of articulation to the façade and side walls. The bulk of the side walls of the building are effectively broken up through changes in material, colour and through the inclusion of recessed and protruding wall features.

The upper storey is located in the middle of proposed dwelling with increased setbacks from the allotment boundaries, thereby reducing the appearance of bulk from the public domain and neighbouring properties.

Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 2**), the application is considered to be consistent with the aims and objectives of the relevant environmental planning instruments and Council policies applicable to the subject site. There will be no adverse impact to the natural or built environment.

It is considered that the DA has been suitably designed to address the site constraints and despite the variation to the building height development standard, will not result in significant overshadowing, privacy or adverse visual impacts.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and Safe Place to Live	Enhance public safety, health and liveability through use of Council's regulatory controls and services.

FINANCIAL/RESOURCE IMPLICATIONS

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

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

The non-compliances with PSLEP 2013 the Port Stephens Development Control Plan 2014 (PSDCP 2014) are considered acceptable and consistent with the relevant control objectives. A detailed assessment against the environmental planning instruments is contained within the Planners Assessment Report contained at **(ATTACHMENT 2)**.

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The construction of the proposed development will provide employment opportunities in the locality during the short term and support the local building and development industries. This will have direct monetary input to the local economy.

As assessed throughout the report, the proposed development has been designed to reduce potential adverse impacts to neighbouring properties from an amenity perspective.

Overall, there are no anticipated adverse social or economic impacts as a result of the proposed development.

Impacts on the Built Environment

Whilst the dwelling exceeds the maximum building height limit, the development is considered to be appropriate for the context of the area which is characterised by dwellings of a similar bulk and scale. There are a number of comparatively tall or taller buildings in the nearby area. The height exceedance is generally located in the middle of proposed dwelling with increased setbacks from the allotment boundaries.

There are areas of reduced side setbacks on the first floor of the dwelling. It is considered the design provides adequate separation between the proposed and adjoining dwellings. The design includes significant articulation including areas of increased side setbacks that exceed the minimum requirement as stipulated in the PSDCP. The setbacks are consistent with the locality and neighbouring properties. The provided articulation minimises the presentation of bulk as viewed from the public domain and neighbouring properties.

Overall, the proposed development is considered suitable for the surrounding built environment.

Impacts on the Natural Environment

The proposed development is not expected to negatively impact the natural environment. As noted throughout this assessment the environmental impacts of the proposed development have been addressed through an internal referral process to Council's Natural Systems team. The referral and subsequent arborist report included specific comment on the existing koala feed tree. Appropriate tree protection measure conditions have been recommended for consent.

CONSULTATION

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

Internal

Consultation was undertaken with Council's Development Engineering and Natural Systems Teams. The referral comments have been considered as part of the Planners Assessment Report (**ATTACHMENT 2**). The internal referral officers supported the DA, subject to the recommended conditions of consent (**ATTACHMENT 3**).

Public Notification

The DA was notified in accordance with the requirements of the Port Stephens Council Community Engagement Strategy. The application was notified 3 times noting the development was amended twice, warranting re-notification. The first notification period was from 23 March 2022 to 5 April 2022 and 19 submissions were received. The second notification period was from 27 May 2022 to 10 June 2022 and 5 submissions were received. The third notification period was from 15 July 2022 to 29 July 2022 and 7 submissions were received. A total of 31 submissions were received over the 3 notification periods from 19 separate property addresses. The submissions oppose the DA.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan. [↓](#)
- 2) Planners Assessment Report. (Provided under separate cover) [⇒](#)
- 3) Recommended Conditions of Consent. [↓](#)
- 4) 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) 4980255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au



RECOMMENDED CONDITIONS OF CONSENT

1.0 - General Conditions of Consent

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

- (1) **Approved plans and supporting documentation** – Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
Sheets: DA001 to DA130	Revision I	Project: 1112 Architectural	Greenbuild	06.07.22

Document Title.	Version No.	Prepared By.	Dated.
Arborist Report - Impact Assessment'		Area Tree Vet	7 July 2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

- (2) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (3) **Excavation for residential building works** – If the approved development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the consent must, at the person's own expense:
- protect and support the adjoining premises from possible damage from the excavation; and
 - where necessary, underpin the adjoining premises to prevent any such damage.

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

PORT STEPHENS COUNCIL

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

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

- (5) **Completion of Roads Act Approval works** - All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the Roads Act Approval to the satisfaction of the Council as the Roads Authority.

- (6) **Footpath crossing construction** – A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.

Note: A Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of such works.

- (7) **Swimming pools and spas** - The swimming pool/spa must comply with:

- a) the Swimming Pools Act 1992;
- b) the Swimming Pools Regulation 2018;
- c) AS 1926.1 'Swimming Pool Safety' Part 1: Safety barriers for swimming pools;
- d) AS 3500.2 'Plumbing and Drainage' – Sanitary plumbing and drainage';
- e) AS1926.3 'Water Recirculation Systems'; and
- f) the Building Code of Australia.

- (8) **Tree removal/pruning** – The trees identified in Section 8 of 'Arborist Report - Impact Assessment', prepared by Area Tree Vet, dated 7 July 2022 is approved for pruning.

2.0 – Prior to Issue of a Construction Certificate

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

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

Details demonstrating compliance must be provided to the Certifying Authority.

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



(2) **Design amendments**

Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council

- Increase the upper floor balcony barrier (balustrade) to be a minimum of 9.3m from the rear allotment boundary.
- Master bedroom ensuite windows (W28 and W29) to be installed using opaque glazing

(3) **Proximity to Existing Network Assets**

Prior to the issue of a Construction Certificate the applicant shall consult with Ausgrid regarding the proposed development and its proximity to existing network assets, and the minimum safety separation requirements in accordance with Workcover Code of Practice 2006. Any advice provided by Ausgrid must be complied with during and until the completion of the development.

3.0 - Prior to Issue of a Subdivision Works Certificate

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

Nil

4.0 - Prior to Commencement of Works

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

- (1) **Home Building Act requirements** - Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information —
- a) In the case of work for which a principal contractor is required to be appointed—
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - b) In the case of work to be done by an owner-builder—
 - (iii) the name of the owner-builder, and
 - (iv) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work



must not be carried out unless the principal certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (2) **Payment of development contributions-** In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (3) **Notice of Principal Certifying Authority appointment –** The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:
- a) a description of the work to be carried out;
 - b) the address of the land on which the work is to be carried out;
 - c) the Registered number and date of issue of the relevant development consent;
 - d) the name and address of the Principal Certifier and the person who appointed the principal certifier;
 - e) if the principal certifier is a registered certifier
 - i) the certifier's registration number, and
 - ii) a statement signed by the registered certifier to the effect that the certifier consents to being appointed as principal certifier, and
 - iii) a telephone number on which the certifier may be contacted for business purposes.
- The notice must be lodged on the NSW planning portal.
- (4) **Notice commencement of work –** Notice must be given to Council and the Principal Certifier, if not the Council, of the person's intention to commence the erection of the building or undertake subdivision work at least two days prior to subdivision and/or building works commencing in accordance with Sections 6.6 (2) and 6.12 (2) (c) of the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:
- a) the name and address of the person;
 - b) a description of the work to be carried out;
 - c) the address of the land on which the work is to be carried out;

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ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- d) the Registered numbers and date of issue of the development consent and construction certificate;
- e) a statement signed by or on behalf of the principal certifier that all conditions of the consent that must be satisfied before the work commences have been satisfied; and
- f) the date on which the work is intended to commence.

The notice must be lodged on the NSW planning portal.

- (5) **Signs on site** – A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
- a) showing the name, address and telephone number of the principal certifier for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

- (6) **Erosion and sediment controls in place** – Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).

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

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

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

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

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (9) **Damage report – Public Infrastructure** – The applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.
- (10) **Roads Act Approval** – For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roads Act Approval Certificate under Section 138B of the Roads Act 1993.
- (11) **Surface water collection from swimming pools and spas** - Swimming pool surrounds and/or paving must be constructed so as to ensure water from the pool overflow or surge does not discharge onto neighboring properties.
Details demonstrating compliance must be provided to the Certifying Authority.

5.0 - During Works

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

- (1) **Implementation of BASIX commitments** - While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.
- (2) **Shoring and adequacy of adjoining property (if applicable)**- If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —
 - a) Protect and support the building, structure or work from possible damage from the excavation, and
 - b) Where necessary, underpin the building, structure or work to prevent any such damage.

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

- (3) **Hours of work** – The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:
7.00am to 5.00pm on Monday to Saturday
The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.



Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

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

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

- (5) **Compliance with the Building Code of Australia** – Building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (6) **Placement of fill** - Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.

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

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

- (8) **Uncovering relics or Aboriginal objects** - While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.



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

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

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

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

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

- (10) **Waste water from swimming pools and spas** – All swimming pool waste water must be disposed of as follows:

- a) Where a Hunter Water sewer is available – waste water must be drained or pumped to the sewer.
- b) Where a Hunter Water sewer is not available (such as rural areas) – waste water must be disposed of as follows:

Chlorinated pool waste water:

- i. Discharging to a rubble pit measured 600mm wide x 600mm deep x 3m long, located not less than 3m from any structure or property boundary; or
- ii. Discharging to a tail out drain to disperse the water over a large grassed area or paddock, provided that the land fall does not direct water to buildings on the subject or adjoining properties, or create a nuisance to an adjoining property owner.

Saltwater pool waste water:

- iii. Discharging as per point (ii) above.

All pool types:

- iv. Must not be discharged to a septic tank or an on- site sewage management installation or disposal area;
- v. Must not be discharged into a reserve, watercourse, easement or storm water drainage system

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



- (12) **Finished floor level** - The finished habitable floor level of the site must be a minimum level of Reduced Level 3.8 metres Australian Height Datum in accordance with the approved plans.
- A survey report prepared by a Registered Surveyor confirming that the finished floor level complies with the approved plans or floor levels specified by the development consent, must be provided to Principal Certifying Authority prior to the development proceeding beyond floor level stage.
- (13) **Tree pruning** – All approved tree pruning is subject to all pruning works being undertaken by a qualified arborist with minimum Australian Qualification Framework Level 3 qualifications or higher. All works are to be undertaken in accordance with the relevant provisions of AS 4373 'Pruning of Amenity trees' and the recommendations of the 'Arborist Report - Impact Assessment', prepared by Area Tree Vet, dated 7 July 2021.
- (14) **Tree protection measures** – All trees to be retained must be protected in accordance with AS4970 'Protection of Trees on Development Sites' and the recommendations of the 'Arborist Report - Impact Assessment', prepared by Area Tree Vet, dated 7 July 2022 for the duration of construction.
- (15) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:
- An additional 6,000lt of stormwater detention in addition to the stormwater requirements under the Basix certificate shall be provided.
 - Diverted through a first flush system before being connected to an existing stormwater easement/system/street.

6.0 - Prior to Issue of a Subdivision Certificate

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

Nil

7.0 - Prior to Issue of an Occupation Certificate

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

- (1) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development.
- The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.
- (2) **Stormwater/drainage works** – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.



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

- (3) **Repair of infrastructure** – Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

- (4) **Swimming Pool Register** – In accordance with Part 3A of the Swimming Pools Act 1992, all swimming pools (including spas) are required to be Registered on the NSW Swimming Pools Register.

Prior to the issue of any Occupation Certificate, you are required to provide evidence in the form of the Certificate of Registration to the Principal Certifying Authority.

- (5) **Warning notice** – A warning notice complying with the provisions of the Swimming Pools Regulation 2018, must be displayed and maintained in a prominent position in the immediate vicinity of the swimming pool, in accordance with Section 17 of the Swimming Pools Act 1992.

The Principal Certifying Authority must ensure that this warning notice is provided and displayed prior to the issue of the Occupation Certificate.

Council also recommends that all owners and/or users of swimming pools obtain a copy of the 'Cardiopulmonary Resuscitation Guideline' known as "Guideline 7: Cardiopulmonary Resuscitation" published by the Australian Resuscitation Council.

- (6) **Swimming pool landscaping** - Landscaping of the swimming pool enclosure and surrounds including the provision of outdoor furniture, construction of barbecues and pergolas must not reduce the effectiveness of the swimming pool safety fencing.

All landscaping, furniture, and other similar structures must be located at least 900mm from the outside of the pool safety fencing.

- (7) **Survey Certificate** – A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.

8.0 – Ongoing Use

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

- (1) **Residential air conditioning units** – During occupation and ongoing use of the building, the applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plant and equipment that generates noise are in an appropriate location on the site (including a soundproofed area where



necessary) to ensure the noise generated does not exceed 5dBa at the boundary adjacent to any habitable room of an adjoining residential premises.

- (2) **Noise nuisance prevention** – The motor, filter, pump, and all sound producing equipment associated with or forming part of the swimming pool filtration system must be located so as not to cause a nuisance to adjoining property owners.

The location of equipment that causes offensive noise may require the equipment to be located within a suitable acoustic enclosure, or the relocation of such equipment.
- (3) **Prohibitions within swimming pool enclosure** – The area contained within the swimming pool safety fencing enclosure must not be used for other non-related activities or equipment, such as the installation of children's play equipment or clothes drying lines.

Advice Note(s):

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

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.
- (3) **Responsibility for damage for tree removal/pruning** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.
- (4) **Approved Plans to be on-site** – A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS OF CONSENT.



- (5) **Council as PCA, PCA sign** – It is the responsibility of the applicant to erect a PCA sign. Where Council is the PCA, the sign is available free of charge, from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay. The applicant is to ensure the PCA sign remains in position for the duration of works.
- (6) **Hunter Water Infrastructure - Hunter Water stamped plans– Prior to the commencement of works**, the person having the benefit of this consent shall contact Hunter Water Corporation (HWC) to ensure that the approved works do not impact upon existing or proposed HWC infrastructure. A copy of the information received by HWC shall be provided to Council within 10 days of receipt. Should HWC require modification to the approved development a Section 4.55 Modification Application and/or modified Construction Certificate Application should be lodged.
- (7) **Building materials not permitted on Council's footpath/road reserve**– No building materials, plant, equipment, refuse or spoil is to be deposited on or be allowed to remain on Council's footpath or outside the boundaries of the development site unless approved by Council in writing. Where building activity cannot avoid occupation of the public road reserve, (such as, for the erection of hoarding, scaffolding, partial closure) separate approval from Council for the use of the road reserve is required.
- (8) **House Number– Prior to the issue of any Occupation Certificate**, a house address number shall be displayed in a prominent area, visible from the adjacent road.
- (9) **Requirements of PCA - Issuing of OC – Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.
- Note:** The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.

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DX 21406 ABN 16 744 377 876

Call to Council form

Development Application

DEVELOPMENT APPLICATION (DA) CALL TO COUNCIL REQUEST

We (Mayor/Councillor/s)

Name:

LEAH ANDERSON

Name:

GIACOMO ARNOTT

Name:

JASON WELLS

request that DA number:

16-2022-172-1

for DA description:

→ 58 SANDY PT RD, CORLETTE

located at:

→ DEMOLITION & RE-BUILD

be reported to Council for determination.

REASON

COMMUNITY INTEREST & OBJECTIONS

SIGNATURE OF APPLICANT/S

Signature

Date

29 6 2022.

Signature

Date

Signature

Date

PRIVACY

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

ITEM NO. 2

FILE NO: 22/199771
EDRMS NO: 58-2018-26-1

**GATEWAY EXTENSION FOR PLANNING PROPOSAL AT 610 SEAHAM ROAD,
NELSONS PLAINS**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the letter from the NSW Department of Planning and Environment **(ATTACHMENT 1)**.
- 2) Endorse the program of works for progressing the planning proposal for 610 Seaham Road, Nelsons Plains (Lot 1 DP1191203) **(ATTACHMENT 2)**.

BACKGROUND

On 30 June 2022, Council wrote to the NSW Department of Planning and Environment (DPE) to request an extension to the Gateway determination timeframe for a planning proposal at 610 Seaham Road, Nelsons Plains. The Gateway extension would allow for the completion of further studies and the remaining steps in the planning proposal process to be undertaken.

On 25 July 2022 Council received a letter **(ATTACHMENT 1)** from the DPE in response to the request. The letter states that prior to approving further alterations to the Gateway determination that a resolution of Council is required to confirm the program of work for progressing the planning proposal.

The purpose of this report is to seek Council endorsement of the revised program of works (the Program) **(ATTACHMENT 2)** to progressing the planning proposal. The planning proposal would enable the subdivision of 610 Seaham Road, Nelsons Plains for rural residential development.

A map showing the location of the subject land is provided at **(ATTACHMENT 3)**.

The proposal was previously endorsed by Council on September 2020 and subsequently forwarded to the DPE to request a Gateway determination. A Gateway determination was issued on 12 April 2021 **(ATTACHMENT 4)** and an amended Gateway determination was issued on 7 October 2021 **(ATTACHMENT 5)**.

Given the delay in obtaining a revised Gateway determination, along with the additional time required to ensure that odour had been properly assessed, an

ORDINARY COUNCIL - 23 AUGUST 2022

extension to the Gateway timeframe was required. The DPE is now looking to confirm that Council is committed to the revised approach.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

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

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
That Council does not endorse the program of works to progress the planning proposal leading to a Gateway expiry prior to completion of the works.	Medium	Council endorses the recommendation to progress the program of works for the planning proposal.	Yes

Environmental Planning and Assessment Act 1979

The planning proposal is being processed in accordance with Part 3 of the Environmental Planning and Assessment Act 1979 (NSW). Part 3 of the EP&A Act provides the framework for amending a Local Environmental Plan. DPE issued a Gateway determination under section 3.34 of the EP&A Act specifying that the

planning proposal should proceed to exhibition, subject to conditions and consultation requirements.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Given the council report relate an administrative Gateway extension, there are no sustainability implications.

CONSULTATION

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

Internal

Consultation with internal stakeholders was undertaken this consultation has included Engineering Services, Development Planning and Natural Systems units.

External

Consultation has been undertaken with the NSW Department of Planning and Environment.

OPTIONS

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

ATTACHMENTS

- 1) DPE letter. [↓](#)
- 2) Program of Works to Completion. [↓](#)
- 3) Locality Map. [↓](#)
- 4) Gateway Determination. [↓](#)
- 5) Alteration of Gateway determination. [↓](#)

COUNCILLORS ROOM

- 1) The planning proposal and its relevant technical studies that form part of the planning proposal are available for review by Councillors upon request.

TABLED DOCUMENTS

Nil.



Planning,
Industry &
Environment

IRF22/2239

Mr Wayne Wallis
General Manager
Port Stephens Council

Attn: Brett Gardiner, via email: Council@portstephens.nsw.gov.au

Dear Mr Wallis

Planning proposal PP-2021-612 – Alteration of Gateway Determination

I am writing in response to Council's request for an extension of time to complete planning proposal PP-2021-612 that seeks to enable rural residential development at 610 Seaham Road, Nelsons Plains.

The Gateway determination issued in April 2021 included condition 2(c) for public exhibition to commence by 1 December 2021. This condition has not been met.

I appreciate there have been several issues Council has been working through in relation to technical studies and advice from relevant public authorities.

As you are aware, the Department of Planning and Environment is committed to reducing the time taken to complete planning proposals and is taking an active management approach to align planning proposals with the timeframes outlined in the *Local Environmental Plan Making Guideline* (December 2021).

Before approving further alteration to the Gateway determination, including Council's request, a resolution of Council is required to confirm the program for progressing the planning proposal to public exhibition, finalisation of the local environmental plan and whether any amendments to the planning proposal have been made since the Gateway determination was issued.

If you have any more questions, please contact Mr Thomas Holmes, Senior Planning Officer at the Department on [REDACTED].

Yours sincerely

[REDACTED]

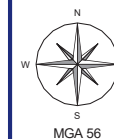
25 July 2022

Malcolm McDonald
Executive Director, Local and Regional Planning

ITEM 2 - ATTACHMENT 2 PROGRAM OF WORKS TO COMPLETION.

Task	Proposed Timeframes		Notes
	Date	Weeks	
Review Quantitative Odour Monitoring Report	July 29 – 29 August 2022	4	Review may trigger need to engage external consultant for peer review
Resolve Agency referrals and update planning proposal	25 August – 22 September 2022	4	Includes attempt to resolve current DPI Agriculture objection and update planning proposal in response
Prepare exhibition version of planning proposal, and exhibition material	22 September – 6 October 2022	2	
Exhibition	7 October – 4 November 2022	4	Gateway determination requires coordination with newspaper advertising timeframes
Submission summary and response	4 November – 25 November 2022	3	
Update planning proposal and prepare Council report	18 November – 9 December	2	
Council report due	6 January 2023	-	
Council meeting	14 February 2023	-	
DPE Finalisation	16 February – 16 March 2023	4	
Gazettal	17 March - 13 April 2023	4	Assumed timeframe

Locality Map 610 Seaham Road Nelsons Plains



DISCLAIMER

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Planning,
Industry &
Environment

Gateway Determination

Planning proposal (Department Ref: PP_2020_PORTS_005_00): to rezone land and amend development standards to enable rural residential subdivision and housing at 610 Seaham Road, Nelsons Plains.

I, the Director, Central Coast and Hunter 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 2013* should proceed subject to the following conditions:

1. The planning proposal is to be updated prior to community consultation to:
 - (a) incorporate a 2 hectare minimum lot size;
 - (b) identify in the explanation of provisions that Map Sheets LZN_001C and LSZ_001C will also be amended; and
 - (c) include an updated assessment against the *State Environmental Planning Policy (Koala Habitat Protection) 2019*.
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 must be made publicly available for a minimum of **28 days**;
 - (b) 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); and
 - (c) public exhibition is to commence **by 1 December 2021**.
3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Ministerial directions:
 - Department of Primary Industries;
 - Biodiversity and Conservation Division;
 - NSW Rural Fire Service;
 - Hunter Water Corporation;
 - Worimi Local Aboriginal Land Council; and
 - Newcastle Airport, Civil Aviation and Safety Authority (CASA) and Commonwealth Department of Defence.

PP_2020_PORTS_005_00 (IRF20/4479)

ITEM 2 - ATTACHMENT 4 GATEWAY DETERMINATION.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

4. A public hearing is required to be held into the matter by Port Stephens Council under section 3.34(2)(e) of the Act following community consultation.
5. The time frame for completing the LEP is **14 months** following the date of the Gateway determination.

Dated 12th day of April 2021.



Dan Simpkins
Director, Central Coast and Hunter Region
Planning and Assessment
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning and
Public Spaces

PP_2020_PORTS_005_00 (IRF20/4479)



Planning,
Industry &
Environment

Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2020_PORTS_005_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 12 April 2021 for the proposed amendment to the *Port Stephens Local Environmental Plan 2013* as follows:

1. Delete: "condition 1(a)".
2. Delete: "condition 3"

and replace with:

a new condition 3: "Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Ministerial directions:

- Department of Primary Industries;
- Biodiversity and Conservation Division;
- NSW Rural Fire Service;
- Hunter Water Corporation;
- Worimi Local Aboriginal Land Council;
- Newcastle Airport, Civil Aviation and Safety Authority (CASA), Commonwealth Department of Defence; and
- NSW Environment Protection Authority.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal."

3. Delete: "condition 4".

and replace with

a new condition 4: "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.

4. Delete: "condition 5"

and replace with:

a new condition 5: "The time frame for completing the LEP is by 12 October 2022."

PP_2020_PORTS_005_00 (IRF21/3319)

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_005_00 (IRF21/3319)

ITEM NO. 3

**FILE NO: 22/180891
EDRMS NO: PSC2018-03515**

RE-ESTABLISHMENT 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) Adopt the proposal to re-establish the Alcohol Free Zones in Medowie and Shoal Bay, including an extension to the Medowie Alcohol Free Zone.

BACKGROUND

The purpose of this report is to advise Council of the submissions received during the exhibition of the proposal to re-establish the Alcohol Free Zones (AFZs) in Medowie and Shoal Bay, including an extension to the Medowie AFZ.

At its meeting on 10 May 2022, Council resolved to exhibit the proposal to re-establish the Alcohol Free Zones (AFZ) in Medowie and Shoal Bay (**ATTACHMENT 1**) in accordance with section 644A of the Local Government Act 1993 (NSW).

At this meeting, feedback was provided that an extension to the Medowie AFZ should be included in the proposal and exhibited. The Medowie AFZ will extend west along Ferodale Road to the intersection with Kirrang Drive to include Medowie Social, north on Peppertree and Medowie Roads to Muir Street and along the entire length of Muir Street to include new town centre developments.

The proposal was exhibited for a period of 28 days, in accordance with section 644A of the Local Government Act 1993. One submission, in support of the proposal, was received during the exhibition period and is detailed later in this report. The proposal, including the extension to the Medowie AFZ, is supported by the Port Stephens-Hunter Police District.

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.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
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 includes amending the existing AFZ signs and installing new signs to cover the extension to the Medowie AFZ and the public consultation and notification process. Funds to cover these costs will be sourced from operational 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 IMPLICATIONSLocal 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 have been addressed in the proposal at **(ATTACHMENT 2)**.

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

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.

CONSULTATIONInternal

Consultation has been undertaken with the Assets and Public Domain and Services sections of Council. These sections will be responsible for the requisite updates to signage and new signage required for the extension of the Medowie AFZ.

External

The proposal was exhibited in accordance with section 644A of the Local Government Act 1993, as follows:

- A notice was published on Council's website for a period of 30 days, advising that Council proposes to re-establish the AFZs and extend the Medowie AFZ boundaries, and how to make a submission.

ORDINARY COUNCIL - 23 AUGUST 2022

- A copy of the proposal was provided to the Port Stephens-Hunter Police District and local licensed premises within the AFZ areas were notified of the proposal, and were given 30 days to provide a response.

One submission was received from a resident in Shoal Bay who supports the re-establishment of the AFZs.

The Port Stephens-Hunter Police District provided verbal support for the proposal, including the extension to the Medowie AFZ.

OPTIONS

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

ATTACHMENTS

- 1) Proposal to re-establish AFZs in Medowie and Shoal Bay - Council report and minutes - 10 May 2022. [↓](#)
- 2) Proposal to re-establish Alcohol Free Zones at Medowie and Shoal Bay 2022 - 2026. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**ITEM 3 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH AFZS IN
MEDOWIE AND SHOAL BAY - COUNCIL REPORT AND MINUTES - 10 MAY 2022.****MINUTES ORDINARY COUNCIL - 10 MAY 2022**

Deputy Mayor, Cr Steve Tucker vacated the chair.
Mayor Ryan Palmer returned to the meeting at 6:47pm.

ITEM NO. 2**FILE NO: 22/113621
EDRMS NO: PSC2018-03515****RE-ESTABLISHMENT 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 years.

**ORDINARY COUNCIL MEETING - 10 MAY 2022
MOTION**

122	Councillor Chris Doohan Councillor Glen Dunkley It was resolved that Council: <ol style="list-style-type: none">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 years.
------------	--

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

ITEM 3 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH AFZS IN MEDOWIE AND SHOAL BAY - COUNCIL REPORT AND MINUTES - 10 MAY 2022.**MINUTES ORDINARY COUNCIL - 10 MAY 2022****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 four 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.

ITEM 3 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH AFZS IN MEDOWIE AND SHOAL BAY - COUNCIL REPORT AND MINUTES - 10 MAY 2022.**MINUTES ORDINARY COUNCIL - 10 MAY 2022**

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 IMPLICATIONSLocal 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

ITEM 3 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH AFZS IN MEDOWIE AND SHOAL BAY - COUNCIL REPORT AND MINUTES - 10 MAY 2022.**MINUTES ORDINARY COUNCIL - 10 MAY 2022**

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.

CONSULTATIONInternal

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 for 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.

**ITEM 3 - ATTACHMENT 1 PROPOSAL TO RE-ESTABLISH AFZS IN
MEDOWIE AND SHOAL BAY - COUNCIL REPORT AND MINUTES - 10 MAY 2022.**

MINUTES ORDINARY COUNCIL - 10 MAY 2022

- 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 3 - ATTACHMENT 2 PROPOSAL TO RE-ESTABLISH ALCOHOL FREE
ZONES AT MEDOWIE AND SHOAL BAY 2022 - 2026.**



ITEM 3 - ATTACHMENT 2 PROPOSAL TO RE-ESTABLISH ALCOHOL FREE ZONES AT MEDOWIE AND SHOAL BAY 2022 - 2026.**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. Shoal Bay Alcohol Free Zone
2. Medowie Alcohol Free Zone and proposed extension
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 exiting Alcohol Free Zones (AFZs) in Medowie and Shoal Bay and extend the Medowie AFZ. 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).

It is proposed to extend the Medowie AFZ west along Ferodale Rd to the intersection with Kirrang Drive, north on Peppertree and Medowie Roads to Muir Street and along the entire length of Muir Street as shown in red hatching in Figure 1.

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.

ITEM 3 - ATTACHMENT 2 PROPOSAL TO RE-ESTABLISH ALCOHOL FREE ZONES AT MEDOWIE AND SHOAL BAY 2022 - 2026.

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

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 and expand the Medowie AFZ. 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

**ITEM 3 - ATTACHMENT 2 PROPOSAL TO RE-ESTABLISH ALCOHOL FREE
ZONES AT MEDOWIE AND SHOAL BAY 2022 - 2026.**

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.

The AFZs will become operational 7 days after a notice advising of their establishment has been published on Council's website and the affected areas are adequately signposted.

PROPOSED LOCATION

ITEM 3 - ATTACHMENT 2 PROPOSAL TO RE-ESTABLISH ALCOHOL FREE ZONES AT MEDOWIE AND SHOAL BAY 2022 - 2026.

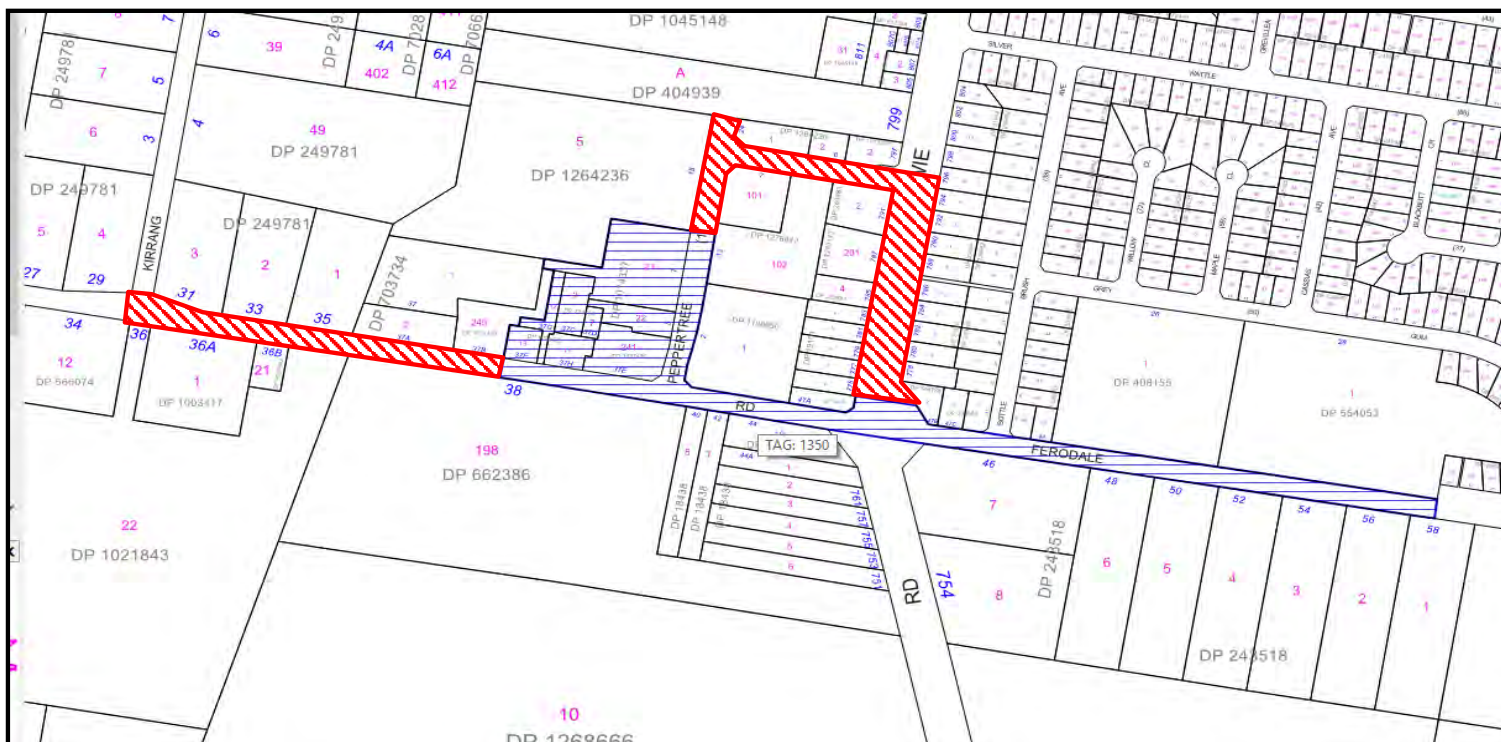


Figure 1: Medowie Alcohol Free Zone and proposed extension (shown in red hatching)



ITEM 3 - ATTACHMENT 2 PROPOSAL TO RE-ESTABLISH ALCOHOL FREE ZONES AT MEDOWIE AND SHOAL BAY 2022 - 2026.

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.

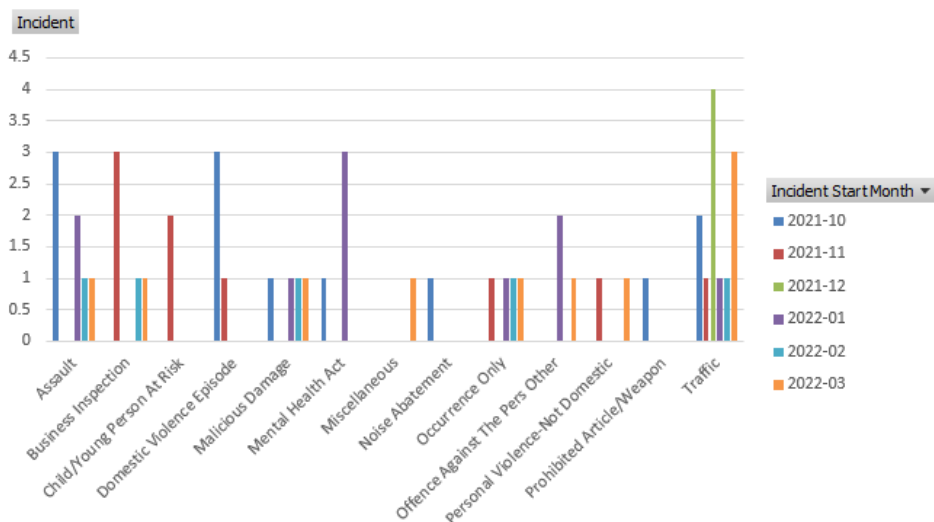


Figure 3: Incidents, by type, with an alcohol factor in Medowie (October 2021 – March 2022)

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.

ITEM 3 - ATTACHMENT 2 PROPOSAL TO RE-ESTABLISH ALCOHOL FREE ZONES AT MEDOWIE AND SHOAL BAY 2022 - 2026.

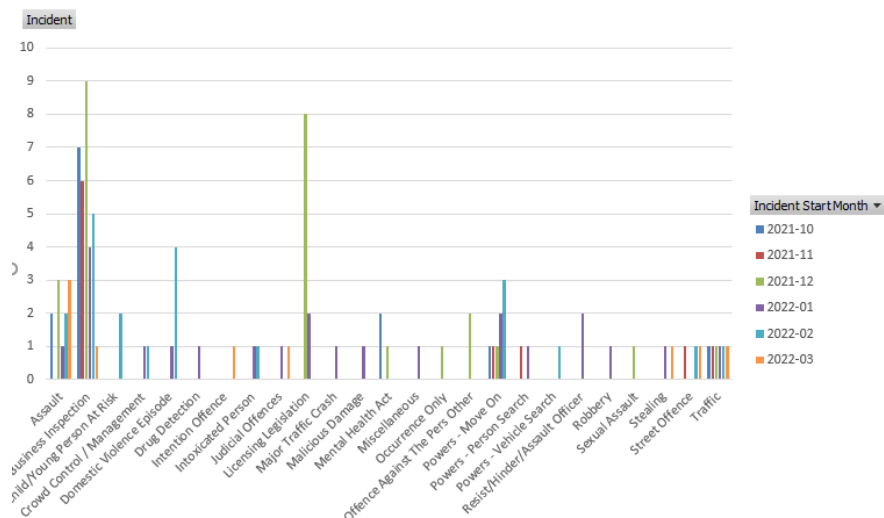


Figure 4: Incidents, by type, with an alcohol factor in Shoal Bay (October 2021 – March 2022)

CONCLUSION

The re-establishment of the AFZs in Medowie and Shoal Bay, and the extension of the Medowie AFZ, 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. 4

**FILE NO: 22/218108
EDRMS NO: PSC2021-02359**

OUR FUNDED FUTURE - PHASE 0 AND PHASE 1 ENGAGEMENT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Notes the outcomes of the community engagement for Phase 0 and Phase 1 of Our Funded Future, including a proposed Special Rate Variation **(ATTACHMENT 1)**.
- 2) Endorses the development of Our Funded Future Phase 2 Engagement Plan.
- 3) Endorses the development of revised Integrated Planning and Reporting documents, including Special Rate Variation options, to incorporate feedback gained from the community during Phase 0 and 1 whilst balancing Council's financial sustainability for further engagement with the community.

BACKGROUND

The purpose of this report is to advise Council on the outcomes of the Our Funded Future phase 0 and 1 community engagement undertaken to discuss the financial sustainability of the Council over the next 10 years with the community.

In June 2022, Council adopted its 2022-2023 Integrated Planning and Reporting (IP&R) documents which includes the Long Term Financial Plan. These documents stated Council's concern with its ongoing financial sustainability, and sought to inform the community of mitigation strategies that were already being undertaken, and predicted an \$80 million shortfall over the next 10 years.

In conjunction with the adoption of the IP&R documents Council considered the Financial Sustainability Report. The report detailed the financial history of the organisation, highlighted Council's reliance on non-rate revenues and external shocks faced by the organisation during and continued in the COVID-19 pandemic, as well as efforts made by the organisation and Councillors to address financial sustainability to date. With this report, Council endorsed to move forward with an engagement program to discuss financial sustainability with the community and seek feedback on a number of options to turn around the forecasted financial position.

The planned engagement approach consisted of 3 phases:

Phase 0 – inform the community about Council's financial situation and the current and short-term mitigation strategies that have been implemented to date.

Phase 1 – provide options to the community that create a financially sustainable Council.

Phase 2 - (dependent on outcomes of Phase 1) publically exhibit options within the Integrated Planning and Reporting documents and further discuss the community's views on the preferred path forward.

Phase 0 commenced on 29 June 2022 with Phase 1 following on 18 July 2022. During this period an extensive communication and engagement program, including a wide variety of methods, was undertaken and concluded on 8 August 2022.

The financial sustainability options that were put forward for community discussion included:

Potentially Reducing Service Delivery

- Explanation of what this means for the community and, if chosen, a further in-depth discussion with the community to identify what services that would see reduced or stopped in the future.

Non-rate Option

- Increase fees and charges by 10% for the 2023-2024 financial year.
- Remove exemption for local residents from smart parking in their towns and centres.
- Continue to seek additional grant funding via our dedicated grants office.
- Sell underperforming surplus assets.

Rate Income Options, Special Rate Variation (SRV)

All options have the key purpose of financial sustainability. Some options allow for additional funds to be used to enhance current services for areas that have been identified through the integrated engagement program over the past 2 years.

- Option 1 Steady Growth: 38.56% cumulative increase
Year 1 - 7%, Year 2 - 8%, Year 3 – 9%, Year 4 – 10%
- Option 2 Independent Recommendation: 34.92% cumulative increase
10.5% for 3 years
- Option 3 Short Term Solution: 29.68% cumulative increase
Year 1 – 11.5%, Year 2 – 5.5%, Year 3 – 4%, Year 4 – 6%
- Option 4 Single Year: 26% increase
26% for 1 year
- Option 5 Long Term Solution: 45.08% cumulative increase
9.75% for 4 years

A comprehensive report of all communications and engagement methods and outcomes is included in the Our Funded Future Phase 0 and 1 Engagement Report (**ATTACHMENT 1**).

Key themes identified through the Phase 0 and 1 engagement and response are summarised below.

Level of understanding of complex local government financial matters

Summary

Areas of Council's operations and finances were found complex by some members of the community. Issues surrounding Council's operating and capital budgets, rate capping, land re-valuation, and developer contributions, as well as concerns around the analytical level of the independent reports were raised. The community put forward many other options to assist in turning Council's financial situation around, generating more income from developers and tourists, such as a bed tax or paid parking at boat ramps.

Response

The local government sector is heavily regulated and many functions of Council's processes are legislated by either state government or, in a financial sense, Australian Accounting Standards with the Local Government Accounting Code.

Recognising this the engagement plan included:

- Facebook Live Q&A event.
- Detailed FAQs that were located on the Our Funded Future Website and hard copies were available at the face-to-face sessions.
- A summary video of the independent reports in 'plain-English' was promoted.
- During each information session the Executive Team and staff made themselves available to answer questions from our community directly.

During the engagement period, Council added Frequently Asked Questions Answered Videos to our socials and website that were provided in direct response to concerns and questions raised by the community, in efforts to explain the complexity and regulations surrounding common misunderstandings.

During the information sessions, there were numerous clarifications made surrounding regulations and Council functions resulting in 'light bulb moments' or a greater understanding from community members. Pre and post-polling of the attendees showed that 80% left 'a fair bit' informed, being the highest level of informed selection compared to 33% before the session. Whilst the survey size was small, these results clearly show that the communications and presentations delivered were informative and effective.

Council welcomes options from the community to combat the projected financial position and will work through the feasibility of any viable option however, unfortunately, most options put forward Council is unable to implement with respect to current legislation restrictions.

Efficiency and cost containment

Summary

There were concerns raised around Council's efficiency and containing costs internally prior to discussing increasing non-rate and rate income options with the community. Statements with the sentiment of 'Live within Council's means' were commonly put forward.

Response

Council strives to deliver services demanded by the community in the most efficient and best way possible. In 2010 Council introduced a Service Review program based on the Australian Business Excellence Framework to regularly review operations to ensure significant and sustainable savings. Improving efficiency and finding productivity enhancements are supported by dedicated teams that drive efficiency.

Independent experts Professor Dollery and Professor Drew were commissioned to assess Council's efficiency. A comparison to other similar NSW local Councils and whether the services we provide are considered good value for money was conducted. Our efficiency was very close to the typical score when assessed against 67 Councils. These reports concluded that ratepayers and Councillors can be assured that Council was conducting its operations efficiently and providing good value for money.

Over the years Council has committed to cutting internal costs and, as such, any further significant internal cost-cutting would directly result in reducing services to the community.

Should an SRV application be submitted, Council will be assessed on its past and planned productivity and cost containment strategies.

Hardship and economic factors

Summary

The affordability of increasing non-rate and rate income was of concern for many respondents during the engagement. The current economy and rising costs of living were highlighted.

Response

Council understands that affordability or capacity to pay is an issue for some sections of our community with some people being more financially vulnerable than others. For some of these people, even a small rate increase would have an impact. Within Council's range of hardship policies, there are a number of mechanisms to act fairly and flexibly to assist a ratepayer who is experiencing hardship, whether it be temporary or more enduring. With these policies, Council aims to ensure that hardship is recognised and people are treated with respect and compassion in considering their circumstances. The policies currently provide the following rate hardship assistance for all ratepayers including self-funded retirees:

- Flexible payment options
- Flexible repayments of overdue rates and charges
- Interest reduction
- Financial assistance in the year following a general revaluation
- Pensioner concession rebate
- Backdating and extenuation of pensioner concession rebates and
- Deferral of rates against estate

Council has an additional policy to assist its community experiencing hardship in the form of its Rates Assistance Program for non-pensioners. This program partners with local welfare and financial counselling services to act as referral points for ratepayers experiencing financial hardship and, through this process, Council can provide monetary rate relief.

Through the independent report that assessed the community's capacity to pay it was again highlighted that Port Stephens residents pay the lowest average residential rates by a significant 30 to 35% compared to similar and neighbouring councils and our outstanding rates ratio is far lower than the state benchmark.

The centre of this discussion with the community is financial sustainability and the financial outlook of Council. Issues are faced both by our community and Council itself. Council will need to balance the concerns raised by the community with its responsibility of being financially sustainable.

Should an SRV application be submitted, Council will be assessed on the impact on its ratepayers and Council's hardship provisions. Council will commit to strengthening/reviewing our Hardship Policy.

Opposing service levels preferences

Summary

Throughout all communication and engagement methods, there was mixed sentiments around service levels. Views held of 'cutting back to basic' were alongside the desire for enhancing current services and seeking more grant funding. The recurrent issue of the condition of roads was a key focus.

Response

Council serves many different stakeholders with a wide range of values and desires. It also has been combatting natural disasters, severe weather events, and financial pressures that have impacted our ability to deliver services. The path forward needs to balance all community views but reflect the community's message of focusing on current services and an ongoing commitment to focusing on services that meet expectations.

It is therefore considered imperative that the dialogue with the community continues and phase 2 of the Our Funded Future program, including revised Integrated Planning and Reporting documents, is developed. These documents would detail a narrow-down selection of options for further community consultation.

Inclusion of:

- Base Scenario: 2.5% rate cap and next steps towards reducing service delivery to meet projected deficits
- Scenario 1: SRV - Independent Recommendation 10.5% for 3 years
- Scenario 2: SRV – Single Year 26% for 1 year
- Increase of fees and charges for the 2023-2024 financial year at 5 percent
- Continue seeking grant funding
- Continue investigations and community consultation of selling underperforming assets, with any profits to be placed in the Resilience Fund
- Consideration of any further expansion of the paid parking outside of identified areas.

Exclusion of:

- Removal of residential exemption for paid parking.

Balancing feedback gained from Phase 0 and 1 with the financial sustainability of the organisation the above are to be modelled and reflected in the Integrated Planning and Reporting documents for further community consultation.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Maintain strong financial sustainability.

FINANCIAL/RESOURCE IMPLICATIONS

Council will continue to implement strategies, initiatives and plans to achieve the financial key directions as adopted in October 2021 and planned works with the Councillors.

The costs for the community consultation have been absorbed by Council's operational budget. If Council proceeds with the Our Funded Future Engagement

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Plan, not limited to a Special Rate Variation application, these costs will also be absorbed by Council's operating 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

Under the Local Government Act 1993, councils may apply to IPART for a Special Rate Variation under s508 (2) or s508A of the Act. IPART assesses these applications against criteria in guidelines set by the Office of Local Government.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council does not have adequate funding to ensure ongoing operations without a significant change in service levels.	High	Adopt the recommendations. Commence Phase 2 of the Our Funded Future Engagement Plan surrounding financial sustainability.	Yes
There is a risk if no action is taken that Council will face an increasingly uncertain long term financial outlook that will directly impact ongoing financial sustainability.	High	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The continued attainment and enhancement of financial sustainability is central to Council's ability to continue to deliver services valued by the community in the best possible way.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section in consultation with the Communications and Customer Experience Section.

The objectives of the consultation included:

- Increase community awareness of Council's financial situation and its journey to date.
- Inform the community about Council's financial sustainability options.
- Seek community feedback on options for Council's financial sustainability.
- Identify the community's views on options for financial sustainability.

Internal

- Executive Team
- Senior Leadership Team
- Project Control Group – Financial Sustainability
- Councillor workshops

External

- Our Funded Future Engagement Program Phase 0
- Our Funded Future Engagement Program Phase 1

OPTIONS

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

ATTACHMENTS

- 1) Our Funded Future Phase 0 and 1 Engagement Report. (Provided under separate cover) [↗](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5**FILE NO: 22/207504
EDRMS NO: PSC2017-00180****BUDGET ITEMS CARRIED FORWARD FROM 2021-2022****REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the revotes from the 2021-2022 budget as detailed in **(ATTACHMENT 1)** and vote the necessary funds to meet expenditure.

BACKGROUND

The purpose of this report is to advise of the budget items from 2021-2022 that were not completed in that financial year and are proposed to be carried forward to 2022-2023 **(ATTACHMENT 1)**.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Maintain strong financial sustainability.

FINANCIAL/RESOURCE IMPLICATIONS

The works included in this report were partially or wholly unexpended at the end of the 2021-2022 financial year, however, the funds are not automatically carried forward and require Council resolution. The majority of the works are funded from reserves and grants, and have limited impact on Council's Long Term Financial Plan.

Council has traditionally had a number of projects that have been unable to be completed within the given financial year. The program **(ATTACHMENT 1)** is generally in line with this trend, but has been extended due to the cash flow implications caused by the COVID-19 pandemic.

The carried forward items have been factored into the new capital works program and a cash flow forecast has been amended to account for the extended program.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes		Budget from 2021-2022

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Source of Funds	Yes/No	Funding (\$)	Comment
Developer Contributions (\$7.11)	Yes		Budget from 2021-2022
External Grants	Yes		Budget from 2021-2022
Other	Yes		Budget from 2021-2022

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with the Local Government Act 1993 (NSW) and the Local Government (General) Regulations 2021, all budgets lapse at the end of the financial year and require a Council resolution to be reinstated. Failure to reinstate these budget votes would result in these projects being cancelled. It must be noted that the figures listed in (**ATTACHMENT 1**) are indicative only.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that unspent grant funds may have to be returned.	Low	Adopt the recommendation.	Yes
There is a risk that should the rollovers not occur then the works cannot be completed.	High	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no sustainability implications.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section for the purpose of peer reviewing the need for projects to be carried forward.

Internal

- Strategic Property Coordinator
- Assets Section Manager
- Community Services Section Manager
- Holiday Parks Section Manager
- Organisation Support Section Manager

External

Nil.

OPTIONS

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

ATTACHMENTS

- 1) Budget Items Carried Forward from 2021-2022. [!\[\]\(79de0df6c6ddd2d4eb74f1cc5f48ec50_img.jpg\)](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 BUDGET ITEMS CARRIED FORWARD FROM 2021-2022.

Rollovers/Carried Forward – 2022 to 2023

Classification	Description	Rollover Value	Grants and Contributions	Reserve
Bridges	Replacement of Notts Creek Bridge - Glen Oak	212,590	212,590	-
Buildings	Depot relocation	8,696,497	-	8,696,497
Buildings	Boyd Oval Clubhouse - new amenities building	100,248	-	100,248
Buildings	Tomaree Sports Complex amenities replacement – Salamander Bay	212,529	-	212,529
Buildings	Amenities/clubhouse upgrade – Stuart Park, Hinton	138,835	-	138,835
Buildings	Raymond Terrace activity van - roof replacement and external renovation	35,600	-	35,600
Buildings	Fly Point Amphitheatre - metal treatment and external renovation	66,551	-	66,551
Buildings	Little Beach, Nelson Bay – amenities replacement	147,518	-	147,518
Buildings	Mallabula Soccer amenities upgrade and sewer connect 2022	229,216	67,216	162,000
Buildings	Tomaree Matchfield upgrades - Elizabeth Waring	366,793	216,793	150,000
Buildings	King Park Sports Complex upgrades - seating and building (excludes pathway)	395,805	395,805	-
Buildings	Tomaree Library and Community Centre - fip upgrade	60,000	-	60,000
Buildings	Fern bay community centre fip upgrades	10,000	-	10,000
Buildings	Administration building lift upgrade	38,112	-	38,112
Carparks	Birubi Point aboriginal place tourism interchange	4,789,542	4,737,044	52,498
Drainage	65 Sturgeon Street, Raymond Terrace – upgrade drainage system	80,577	-	80,577
Holiday Parks	Fingal Bay - electrical upgrade and audit	176,592	-	176,592
Holiday Parks	Halifax - air conditioning	10,570	-	10,570
Holiday Parks	Shoal Bay - air conditioning	6,415	-	6,415
Holiday Parks	Thou Walla - refurbishment glam tents	88,890	-	88,890
ICT	Desktop infrastructure rollover	21,897	-	21,897
ICT	Server storage and upgrade	568,382	-	568,382
ICT	Telephone upgrade	70,509	-	70,509
ICT	Gis improvement program	148,812	-	148,812
Open spaces	Spencer Park Soldiers Point playground and amenities	187,176	57,176	130,000
Open spaces	Little Beach Reserve - timber retaining wall	33,040	-	33,040
Open spaces	Foster Park shelters - replace shelters and tables	39,166	4,166	35,000
Open spaces	Longworth Park BBQs - replace electric barbecues	19,803	-	19,803
Open spaces	Kittyhawk Park playground - wip upgrade 2021	109,910	-	109,910
Open spaces	Henderson Park shade sail	33,355	-	33,355
Open spaces	King Park irrigation	27,500	-	27,500
Open spaces	Birubi sand dune stabilisation 2021	29,634	-	29,634
Open spaces	Williamtown tennis court - replace existing fencing	15,000	-	15,000
Open spaces	Little Beach inclusive play space	164,940	74,940	90,000
Open spaces	Anzac Park Raymond Terrace redevelopment	60,000	60,000	-
Pathways	Lemon Tree Passage Road, Mallabula to Lemon Tree Passage (missing link) – shared pathway	176,172	-	176,172
Pathways	William Street, Raymond Terrace - public spaces legacy – stage 2	635,613	635,613	-
Pathways	Stockton Street - pedestrian and pathway upgrade	50,000	-	50,000
Pathways	Nelson Bay Road, Fern Bay - shared pathway - stage 2	901,666	-	901,666
Pathways	Lemon Tree Passage - stage 2 2022	545,009	545,009	-
Pathways	Nelson Bay - Fly Point to Halifax – new pathway - 2022	801,903	801,903	-
Pathways	Raymond Terrace highway underpass – shared pathway	162,714	-	162,714
Pathways	Ferodale to Silver Wattle, Medowie – shared pathway	80,135	-	80,135
Pathways	Lemon Tree Passage town square upgrade - public legacy	489,500	489,500	-
Pathways	King Park sports complex - pathway upgrades	486,328	336,328	150,000
Roads	Newline Road, Raymond Terrace - Safer Roads Grant	578,909	578,909	-
Roads	Mustons Road, Karuah – road upgrade	326,989	-	326,989
Roads	William Street, Raymond Terrace Town Centre improvements - stage 1	796,351	217,292	579,059
Roads	James Road	31,060	-	31,060

ITEM 5 - ATTACHMENT 1 BUDGET ITEMS CARRIED FORWARD FROM 2021-2022.

Rollovers/Carried Forward – 2022 to 2023

Roads	Duns Creek Road near Wallaby Close, Duns Creek - blackspot	23,846	-	23,846
Roads	Gan Gan Road, Campbell Avenue, Anna Bay - blackspot	22,340	22,340	-
Roads	Kula Road - Fixing Local Roads Grant	50,701	-	50,701
Roads	Newline Road (Seaham end) – Fixing Local Roads Grant	609,693	509,693	100,000
Roads	Medowie Road, Campvale	66,781	21,107	45,673
Roads	Tanilba Road, Mallabula - Caswell Reserve to the Parkway North	854,017	-	854,017
Roads	Oakendale Road to Hunter Water Crossing - Clarencetown Road Grant	23,813	23,813	-
Roads	Curves South to Croft Road - Clarencetown Road Grant	182,040	120,753	61,287
Roads	Warren Street, Seaham - house no 44 to no 86 - Clarencetown Road Grant	12,234	12,234	-
Roads	Port Stephens Drive - Koala blackspot project 2021	609,666	609,666	-
Roads	Hannah Parade, One Mile - rehab	470,631	170,631	300,000
Roads	East Seaham Road – gravel roads resheet	31,253	-	31,253
Roads	Victoria Parade pedestrian overpass improvements	70,500	-	70,500
Roads	Swan Bay Road	396,974	-	396,974
Roads	Nelson Bay Road / Port Stephens Drive - roundabout entrance beautification	13,335	-	13,335
Roads	Nelson Bay Road, Nelson Bay – event signage	20,000	-	20,000
Roads	Clarencetown Road, Wattle Creek bridge to Landlands Road - grant	40,093	40,093	-
Roads	Clarencetown Road, Mooghin Road to Dixon Street - grant	43,339	43,339	-
Roads	Seaham Road and Hinton Road intersection upgrade - Clarencetown Road Grant	54,149	54,149	-
Roads	Beach Road / Victoria Parade - blackspot	350,000	350,000	-
Roads	Nelson Bay Town Centre high pedestrian activity - blackspot	409,885	409,885	-
Roads	East Seaham Road (3m Mayor fund) - Rock Wall and Guardrail	74,956	-	74,956
Roads	Six Mile Road, Eagleton - Fixing Local Roads Round 3 (3m Mayor fund)	1,017,755	642,183	375,572
Roads	Gan Gan Road - Fixing Local Roads Round 3 (3m Mayor fund)	511,714	361,714	150,000
Roads	East Seaham Road – rehab - (3m Mayor fund)	16,468	-	16,468
Roads	Swan Bay rehab - (3m Mayor fund)	455,051	-	455,051
Roads	97 Gan Gan Road - Bus Shelter replacement (3m Mayor fund)	18,511	-	18,511
Roads	McClymont Swamp Road - (3m Mayor fund)	150,000	-	150,000
Roads	King Albert Avenue, Tanilba Bay Public School	45,868	45,868	-
Roads	Bagnalls Avenue, Soldiers Point Public School	8,976	8,976	-
Roads	Geer Street, Irrawang Public School	8,047	8,047	-
Roads	Mount Hall Road, Irrawang High School	16,904	16,904	-
Roads	Wahgunyah Road, St Michael's Catholic Primary School	15,736	15,736	-
Roads	South Street, Medowie – Bus shelter	11,000	11,000	-
	Total	30,122,517	12,868,415	17,254,102

ITEM NO. 6**FILE NO: 22/207509
EDRMS NO: PSC2017-00180****2021-2022 GENERAL PURPOSE FINANCIAL REPORTS**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Ratify the referring of the draft 2021-2022 General Purpose Financial Reports for audit.
- 2) Sign the statement of the General Purpose Financial Reports as shown at **(ATTACHMENT 1)**.

BACKGROUND

The purpose of this report is to advise Council that the draft General Purpose Financial Reports for the period ended 30 June 2022 will be prepared in accordance with the relevant legislation and the audit will commence on 5 September 2022. The draft General Purpose Financial Reports will be referred to audit in the interim.

To ensure that legislative requirements are upheld and compliance is met, the current elected Council and management must sign the statement to confirm that the General Purpose Financial Reports will be prepared in accordance with all applicable regulations.

Under Section 413 of the Local Government Act 1993 (NSW) Council is required to submit with the General Purpose Financial Reports, a statement by the Mayor, Councillor and management as to its opinion on the reports **(ATTACHMENT 1)**.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Maintain strong financial sustainability.

FINANCIAL/RESOURCE IMPLICATIONS

The 2021-2022 General Purpose Financial Reports will be prepared in compliance with the Local Government Act, the Local Government Code of Accounting Practice and Financial Reporting, and the Australian Accounting Standards.

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All revenues for 2021-2022 will be recognised together with any revenues due but not yet received, which have been raised as debtors for the period.

All expenditure incurred for the period will be recognised.

Provision will be made for all unpaid creditors.

Funds received for specific purposes but not expended during the period will be identified as either an external or internal restriction.

All known assets of Council will be recognised and brought to account.

All known assets acquired during the period will be recognised at actual cost, or at fair value in line with fair value accounting for assets.

All known liabilities incurred during the period will be recognised at actual or committed cost.

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

Signing of the statement giving Council's opinion on the impending financial reports will comply with Section 413 of the Local Government Act 1993.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that failure to sign the statement for the General Purpose Financial Reports will result in non-compliance with legislation leading to potential reputational and financial loss.	Low	Adopt the recommendations and sign the statement on the General Purpose Financial Reports.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no significant sustainability implications.

CONSULTATION

No consultation is required as this is a statement by Council and management that the General Purpose Financial Reports will be prepared in accordance with applicable regulations.

Internal

Nil.

External

Nil.

OPTIONS

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

ATTACHMENTS

- 1) Statement by Councillors and Management. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**ITEM 6 - ATTACHMENT 1 STATEMENT BY COUNCILLORS AND
MANAGEMENT.**

Port Stephens Council

General Purpose Financial Statements

for the year ended 30 June 2022

Statement by Councillors and Management

Statement by Councillors and Management made pursuant to Section 413(2)(c) of the *Local Government Act 1993* (NSW)

The attached general purpose financial statements have been prepared in accordance with:

- the *Local Government Act 1993* and the regulations made thereunder,
- the Australian Accounting Standards and other pronouncements of the Australian Accounting Standards Board
- the Local Government Code of Accounting Practice and Financial Reporting.

To the best of our knowledge and belief, these statements:

- present fairly the Council's operating result and financial position for the year
- accord with Council's accounting and other records.

We are not aware of any matter that would render these statements false or misleading in any way.

Signed in accordance with a resolution of Council made on 23 August 2022.

Ryan Palmer
Mayor
23 August 2022

Councillor
23 August 2022

Tim Crosdale
Acting General Manager
23 August 2022

Tim Hazell
Responsible Accounting Officer
23 August 2022

ITEM NO. 7**FILE NO: 22/199581
EDRMS NO: PSC2011-02657****SIX MONTH PROGRESS REPORT: JANUARY TO JUNE 2022 AGAINST THE
PORT STEPHENS COUNCIL DELIVERY PROGRAM 2018-2022**

REPORT OF: ZOE PATTISON - ACTING GROUP MANAGER CORPORATE
SERVICES
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Six Month Progress Report for January to June 2022
(**ATTACHMENT 1**) on the progress of Port Stephens Council's Delivery
Program 2018-2022.
-

BACKGROUND

The purpose of this report is to provide Council and the community with an update of the progress of Council's Delivery Program 2018-2022.

This is the eighth and last progress report of the Delivery Program 2018-2022, originally adopted by Council in June 2018.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

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

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

LEGAL, POLICY AND RISK IMPLICATIONS

Essential Element 4.9 of the Integrated Planning and Reporting Guidelines for Local Government in NSW, September 2021 stipulates that: 'The General Manager must ensure that progress reports are provided to the Council, with respect to the principal activities detailed in the Delivery Program, at least every 6 months'.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will not adopt the Six Month Progress Report January to June 2022 placing Council in breach of legislation leading to reputational loss.	Low	Adopt the recommendation.	Yes
There is a risk that as our audited financial statements have not been completed for the 2021-2022 financial year that the figures included in the report are not correct and may be incorrectly referenced by Council and other parties.	Low	Adopt the recommendation. Provision included in the Six Month Progress Report that all financial figures are preliminary, unaudited and subject to review as part of the 2021-2022 Audited Financial Statements.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

Due to the timing of this report, some of the annual results for our key result measures such as community satisfaction, infrastructure backlog and financial sustainability have not been finalised and will be reported in the 2021 to 2022 Annual Report.

To date, Council has exceeded the targets set for employee engagement (83% against a target of 70%), governance (98% against a target of 95%) and risk management (87% against a target of 80%).

The ongoing impacts of COVID-19, rising prices, continued wet weather and significant storm events have continued to impact Council's operations, with Council reallocating resources and implementing a number of financial austerity measures in order to deliver services that our community needs most. As a result only a small underlying surplus is anticipated for 2021-2022 and our service delivery measure is tracking at 94% against a target of 95%. The infrastructure backlog measure for 2021-2022 has not been finalised and will be reported as part of the annual audited financial statements.

CONSULTATION

The Six Month Progress Report January to June 2022 has been compiled from information and data provided across Council's operations and reviewed by the Executive Team of Council.

Following Council consideration the report will be made available on Council's website and distributed across a number of communication channels.

OPTIONS

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

ATTACHMENTS

- 1) Six Month Progress Report - January to June 2022. (Provided under separate cover) [!\[\]\(8d139a66f540002704b5c70b7fe6cc7a_img.jpg\)](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 8

**FILE NO: 22/207148
EDRMS NO: PSC2005-1592**

POLICY REVIEW: PUBLIC ACCESS TO RECORDS AFTER 30 YEARS

REPORT OF: MELISSA RODWAY - ACTING ORGANISATION SUPPORT
SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Public Access to Records after 30 Years Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Public Access to Records after 30 Years Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revoke the Public Access to Records after 30 Years Policy dated 27 October 2020 (Minute No. 223), should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Public Access to Records after 30 Years Policy (the 'policy') shown at **(ATTACHMENT 1)**.

The purpose of this policy is to allow for the public to have greater access to records older than 30 years.

The policy has been reviewed as part of Council's ongoing policy review program, with very minor changes made to the policy.

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

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications. All costs associated with the development and implementation of the policy are within the existing budget.

ORDINARY COUNCIL - 23 AUGUST 2022

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

LEGAL, POLICY AND RISK IMPLICATIONS

The revised policy meets Council's requirement and is in accordance with the State Records Act 1998 and the Government Information (Public Access) Act 2009.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council's administrative processes will become outdated.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no known social, economic or environmental implications.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Organisation Support Section.

Internal

The Executive Team has been consulted to seek management endorsement.

External

In accordance with local government legislation the revised Public Access to Records after 30 Years Policy will go on public exhibition for a period of 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Public Access to Records after 30 Years Policy. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 8 - ATTACHMENT 1**REVISED PUBLIC ACCESS TO RECORDS AFTER 30 YEARS POLICY.****Policy****FILE NO: PSC2005-1592****TITLE: PUBLIC ACCESS TO RECORDS AFTER 30 YEARS****POLICY OWNER: ORGANISATION SUPPORT SECTION MANAGER****1. PURPOSE:**

- 1.1 This policy allows for the public to have greater access to records older than 30 years. This means the public are not required to request these records through a Government Information (Public Access) request.

2. CONTEXT/BACKGROUND:

- 2.1 The State Records Act 1998 promotes the principles of accountability and access by requiring public sector office(s), including local government councils, to create full and accurate records of their business and administrative transactions, and ensuring that records of significant value are preserved. Councils will ensure that all records of continuing value are considered for public access in due course and in accordance with the Attorney General's 'Guidelines on Making Access Directions under Part 6 of the State Records Act 1998'.

3. SCOPE:

- 3.1 This policy relates to all person(s) who request either personal information or a record from Port Stephens Council that is deemed older than 30 years. A record is taken to be 30 years old, when 30 years have elapsed since it came into existence or since the original record of which it is a copy came into existence.
- 3.2 The fact that a record is not open to public access under this Act does not affect any entitlement to obtain access to information contained in the record under the Government Information (Public Access) Act 2009.

4. DEFINITIONS:

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

Disclose	Make information available and release or provide access to information.
Exercise	A function includes perform a duty.

Policy

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ITEM 8 - ATTACHMENT 1**REVISED PUBLIC ACCESS TO RECORDS AFTER 30 YEARS POLICY.****Policy**

Person	Includes an agency, the government or another jurisdiction (including a jurisdiction outside Australia) and an agency of the government of another jurisdiction.
Public Office	An office established or continued for a public purpose by or under the provisions of a legislative instrument.
Personal Information	Information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.
Record	Information created, received and maintained as evidence and as an asset by an organisation or person, in pursuit of legal obligations or in the transaction of business.
OPA	Open to Public Access.
CPA	Closed to Public Access.

5. POLICY STATEMENT

- 5.1 The policy is intended to outline the access provisions of the State Records Act, 1998 and to explain the rights and obligations of Council and the public, under Part 6 of the Act.
- 5.2 Assessment as to whether records should be open or closed to public access will be made on the basis of the known or likely contents of a series, group or class of records, not on an individual record basis.
- 5.3 Criteria for an OPA direction include public interest, whether similar records are already available, OPA precedents, appropriate elapse of time and whether the records are already public knowledge or are available elsewhere. An OPA direction will remain in force until it is revoked.
- 5.4 Criteria for a CPA direction include whether the information has been provided under an expectation of confidentiality, information protected under other legislation, unreasonable disclosure of sensitive personal information, safety and security. A CPA direction will remain in force for the period (up to 5 years) specified in the direction and will be reviewed every 5 years.
- 5.5 Application for access to records must be in writing, specifying that access be requested under s.54 of the State Records Act and detailing the records to which access is required.
- 5.6 No fee will be payable for Public Access requests.

Policy

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ITEM 8 - ATTACHMENT 1 REVISED PUBLIC ACCESS TO RECORDS AFTER 30 YEARS POLICY.

Policy



- 5.7 Council will notify applicants of its access decision on their requested record/s in writing.
- 5.8 Documentation of Access Directions will contain sufficient detail to help meet Council's statutory obligations under the State Records Act 1998.
- 5.9 A CPA direction does not affect an individual's entitlement to access a record under the Government Information (Public Access) Act 2009.

6. POLICY RESPONSIBILITIES:

- 6.1 ~~Senior Records Team Leader~~ **Organisation Support Section Manager** - Responsible for the implementation and review of this policy.

7. RELATED DOCUMENTS

- 7.1 State Records Act 1998 No 17 (Part 6).
- 7.2 Government Information (Public Access) Act 2009.

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No	PSC2005-1592	EDRMS record No	TBA
Audience	Port Stephens community and Council employees		
Process owner	Organisation Support Section Manager		
Author	Organisation Support Section Manager		
Review timeframe	2 3 years	Next review date	TBA
Adoption date	16 May 2000		

ITEM 8 - ATTACHMENT 1
30 YEARS POLICY.

REVISED PUBLIC ACCESS TO RECORDS AFTER

Policy



VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	16/5/2000	Information Services Coordinator		267
2.0	24/6/2003	Information Services Coordinator		245
3.0	24/7/2007	Information Services Coordinator		198
4.0	27/9/2011	Information Services Coordinator		344
5.0	14/10/2014	Information Services Coordinator		266
6.0	21/09/2016	Information Services Coordinator	<p>Definition of scope, namely what constitutes which documents are available under the State Records Act 1998 and the Government Information (Public Access) Act 2009 inserted.</p> <p>Scope to include legislative direction for access to records under 30 years old (Government Information (Public Access) Act 2009 inserted.</p> <p>The relevant legislation being State Records Act 1998 No 17 current version for 15 January 2016 inserted.</p> <p>Formatted in accordance with PSC Policy template released May 2016.</p> <p>Note: no change in legislation since policy last reviewed in 2014.</p>	
7.0	25/10/2016	Information Services Coordinator	Adopted by Council.	314

Policy

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ITEM 8 - ATTACHMENT 1
30 YEARS POLICY.

REVISED PUBLIC ACCESS TO RECORDS AFTER

Policy



8.0	27/11/2018	Business Systems Support Section Manager	No changes to Policy. Template updated to include numbering. Updated EDRMS reference number.	160
9.0	27/10/2020	Organisation Support Section Manager	The Public access to records after 30 years was reviewed and updated in the new template. Updated Policy Owner to Organisation Support Section Manager. 4.1 – Updated Records definition to be in line with the Business Operating System. 6.1 – Updated Information Services Coordinator to Senior Records Team Leader. Updated EDRMS reference number.	223
10.	TBA	Organisation Support Section Manager	6.1 – Deleted 'Senior Records Team Leader' and added 'Organisation Support Section Manager' to reflect current organisation structure.	TBA

Policy

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ITEM NO. 9**FILE NO: 22/210327
EDRMS NO: A2004-0984****POLICY REVIEW: GIFTS AND BENEFITS****REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Gifts and Benefits policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Gifts and Benefits policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revoke the Gifts and Benefits policy dated 22 September 2020, Minute No. 192, should no submissions be received.

BACKGROUND

The purpose of this report is seek Council's endorsement of the revised Gifts and Benefits Policy (the 'policy') shown at **(ATTACHMENT 1)**.

This policy supports the Code of Conduct in the management of gifts and benefits provided to council officials, and provides a framework of when it is acceptable to accept a gift or benefit in the capacity of a council official.

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

The policy is presented for Council's consideration.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Provide strong civic leadership and government regulations.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		

ORDINARY COUNCIL - 23 AUGUST 2022

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

LEGAL, POLICY AND RISK IMPLICATIONS

All council officials are bound by the adopted Code of Conduct, and it is considered good practice to have a policy framework in place to manage of gifts and benefits.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that without a clear policy framework, there may be potential for a breach of the Code of Conduct.	Low	Adopt the recommendations.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

Internal

- The Executive Team.
- The General Manager.

External

- Following Council adoption, the policy will be placed on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

1) Revised Gifts and Benefits policy. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: A2004-0984

TITLE: GIFTS AND BENEFITS POLICY

OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this Policy is to ensure that all Port Stephens Council officials are aware of and adhere to the obligations of a Council official under the adopted Port Stephens Council Code of Conduct, in particular, to gifts and benefits.
- 1.2 The Policy will clearly define the behaviour required as a Council official. It will also provide a transparent and accountable process with regard to gifts and benefits that promotes confidence in the good governance of Port Stephens Council.

2. CONTEXT/BACKGROUND:

- 2.1 Port Stephens Council and its Council officials are required to adhere to the requirements of the model Code of Conduct, as a minimum, published by the Office of Local Government. Council has adopted the model Code of Conduct with a number of enhancements, which are not inconsistent with the provisions of the model Code of Conduct.
- 2.2 This Policy has been developed in order to recognise that the conduct of Council business may give rise to gifts or benefits of appreciation being offered to Council officials.

3. SCOPE:

- 3.1 This Policy applies to all Council officials. Council officials must avoid situations that give rise to the appearance that a person or body, through the provision of gifts, benefits, bribes or hospitality of any kind, is attempting to gain favourable treatment from a Council official or the Council.
- 3.2 Council officials must ensure that all reasonable steps are taken to ensure that immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.

Policy

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Policy



- 3.3 If a Council official is offered a bribe, the incident must immediately be reported to the General Manager, the ICAC and where relevant, the police.
- 3.4 Council officials must not solicit personal gifts or benefits. Any person aware of a Council official soliciting gifts or benefits must immediately report the matter to either the General Manager, relevant Group Manager, the Public Officer and/or the Mayor.
- 3.5 Any circumstance where a Council official believes a gift or benefit has been offered for the purpose of influencing the conduct of a Council official in their official capacity, the gift or benefit must be declined and a report must be made to either the General Manager, relevant Group Manager, the Public Officer and/or the Mayor.
- 3.6 The Code of Conduct prohibits any gifts or benefits in the form of money.
- 3.7 Any offer of a gift in the form of money is to be refused and reported to either the General Manager, relevant Group Manager, the Public Officer and/or the Mayor. Should the gift be received in any other way other than in person (ie by mail), the gift is to be declared and surrendered to Council.
- 3.8 All gifts and benefits offered to a Council official are to be declined and declared to Council, unless otherwise permitted under the Code of Conduct or this policy (ie items with a value of less than \$10). Any gifts or benefits unable to be declined and/or exceeds \$100 in value, during the same 12 month period, must be surrendered to Council.
- 3.9 Should a Council official receive a gift, benefit or prize as a result of entering (or being included) in a competition during the course of their official duties, the gift, benefit or prize is to be surrendered to Council and will become the property of Port Stephens Council.
- 3.10 Any gift or benefit received when procuring products, services or other on behalf of Council are to be declared and surrendered, and will become the property of Port Stephens Council.
- 3.11 All gift and/or benefits with a value of \$10 or more offered to a Council official are to be declared (unless permitted under the Code of Conduct) and surrendered to Council, and entered in the Gifts and Benefits Register.

4. DEFINITIONS:

Benefit	May include, but is not limited to, hospitality, preferential treatment, access to confidential information, free access to services which are normally charged a fee, or access
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Policy



	to a private spectator box at a sporting or entertainment event.
Bribes	Gift or benefits given to specifically for the purpose of winning favours or to influence the decision or behaviour of a Council official to benefit someone or something.
Code	Code of Conduct.
Council	Port Stephens Council.
Council official	Mayor, Councillors, General Manager, Council employees, administrators, Council committee members, delegates of Council (volunteers) and contractors of Port Stephens Council.
Gift	May include, but is not limited to, items such as cash or cash-like gift, alcohol, clothes, products to tickets to a sporting or entertainment event.
ICAC	Independent Commission Against Corruption.
Immediate family	Ordinarily means grandparents, parents, spouses, partners, children or siblings.
Money	Credit or cash-like gifts such as but not limited to; cash cheques, bank deposits, gift vouchers, credit cards, debits cards with credit on them, prepayment such as phone or internet credit, lottery tickets, memberships or entitlements to discounts regardless of the amount of value.

5. POLICY STATEMENT:

- 5.1 Council is committed to open and transparent government, in particular, ensuring that Council is free from any reputation damage concerning gifts, benefits or bribes.
- 5.2 All Council officials must adhere to the requirements of the Code of Conduct and this Policy. Any departure from the Code or this Policy will result in consideration of the matter under the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW.

6. POLICY RESPONSIBILITIES:

Policy

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Policy



- 6.1 All Council officials are required to comply with this Policy. The Executive Team and section managers will be responsible for day to day management of compliance within their areas.
- 6.2 The Governance Section Manager will monitor, evaluate, review and provide advice on this Policy.

7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993.
- 7.2 Local Government (General) Regulation 2015.
- 7.3 Port Stephens Council Code of Conduct, as amended.
- 7.4 Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, as amended.
- 7.5 Payment of Expenses and Provision of Facilities to Mayor and Councillors.
- 7.6 Internal Reporting Policy.

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	A2004-0984	EDRMS record No.	20/341553 TBC
Audience	Council officials		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	2 3 years	Next review date	30 September 2022 30 September 2025
Adoption date	25 August 2015		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	25.8.2015	Governance Manager	New policy adopted by Council	256

Policy

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Policy



Version	Date	Author	Details	Minute No.
1.1	24.10.2017	Governance Manager	Minor typographical correction. Updated the definition of a council official to include 'Port Stephens Council'	258
1.2	26 March 2019	Governance Section Manager	Reviewed the policy, included numbering to each paragraph and updated the version control. Updated title of policy owner to Governance Section Manager. After 3.2, delete the reference to token or nominal gifts. 3.3 – new paragraph added. After 3.3, delete reference to sporting events. 3.4 – add clauses f, g, h and i. 3.5 to 3.10 – new paragraphs added. 3.11 and 3.12 – update title to Governance Section Manager. 4 – update 'cash-like gift' definition and delete 'token/nominal value gifts' definition. 6.2 - updated Governance Section Manager title. 7.2 and 7.3 –'as amended' added.	062

Policy

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Policy



Version	Date	Author	Details	Minute No.
1.3	22 September 2020	Governance Section Manager	Policy reviewed, including the version control: 3.3 to 3.13 – delete clauses 3.3 to 3.11 – insert new clauses Definitions – insert “money”, delete “cash like gifts” and “hospitality”. Renumber 7.1 to 7.6 7.2 – insert “Local Government (General) Regulation 2005”. 7.5 – insert “Payment of Expenses and Provision of Facilities to Mayor and Councillors”. 7.6 – insert “Internal Reporting Policy”.	192
1.4		Governance Section Manager	Policy review includes updating version control: 2.2 – insert “as a minimum”. 7 – updated related documents. Amended minor grammatical errors throughout policy.	

Policy

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ITEM NO. 10

**FILE NO: 22/210317
EDRMS NO: PSC2010-00008**

POLICY REVIEW: MANAGING UNREASONABLE COMPLAINANT CONDUCT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Managing Unreasonable Complainant Conduct policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Managing Unreasonable Complainant Conduct policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revoke the Managing Unreasonable Complainant Conduct policy dated 11 August 2022, Minute No. 145 should no submissions be received.

BACKGROUND

The purpose of this report is seek Council's endorsement of the revised Managing Unreasonable Complainant Conduct Policy (the 'policy'). The policy is part of Council's ongoing policy review program.

The policy is based on the model managing unreasonable complainant conduct policy (model policy) developed by the NSW Ombudsman.

It provides a framework for managing unreasonable conduct by complainants. The policy details roles and responsibilities of all parties to a complaint, expected behaviours and how the process will be managed by Council.

There have been a number of changes to the policy due to the revised model policy being released in July 2022.

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

The policy is presented for Council's consideration.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Provide strong civic leadership and government regulations.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

This policy will support Council's complaint management framework and assist to reduce unnecessary diversion of Council resources in complaint management. Council strives to provide the best outcome for all parties within the relevant legislative framework.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without such a policy Council may have situations where Council resources are unnecessarily utilised in resolving matters due to unreasonable conduct by complainants, and places Council officers at risk, which may result in a breach of the Work Health and Safety Act.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

Internal

- The Executive Team.
- The General Manager.

External

- Following Council adoption, the policy will be placed on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Managing Unreasonable Complainant Conduct policy. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 10 - ATTACHMENT 1 REVISED MANAGING UNREASONABLE
COMPLAINANT CONDUCT POLICY

Policy



FILE NO: PSC2010-00008

TITLE: MANAGING UNREASONABLE COMPLAINANT CONDUCT
POLICY

OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 This policy is to assist all staff members to better manage unreasonable complainant conduct ('UCC').
- 1.2 Its aim is to ensure that all staff:
- a) Feel confident and supported in taking action to manage UCC.
 - b) Act fairly, consistently, honestly and appropriately when responding to UCC.
 - c) ~~Are aware of~~ Understand their roles and responsibilities in relation to the management of UCC and how this policy will be used.
 - d) Understand the types of circumstances when it may be appropriate to manage UCC using one or more of the following mechanisms:
 - The strategies provided in the Managing Unreasonable Complainant Conduct Practice Manual (2nd 3rd edition) ('practice manual') including the strategies to change or restrict a complainant's access to our services.
 - Alternative dispute resolution strategies to deal with conflicts involving complainants and members of our organisation.
 - Legal instruments such as trespass laws/legislation to prevent a complainant from coming onto our premises and orders to protect specific staff members from any actual or apprehended personal violence, intimidation or stalking.
 - e) Have a clear understanding of the criteria that will be considered before we decide to change or restrict a complainant's access to our services.
 - f) Are aware of the processes that will be followed to record and report UCC incidents as well as the procedures for consulting and notifying complainants about any proposed actions or decisions to change or restrict their access to our services.
 - g) ~~Are familiar with~~ Understand the procedures for reviewing decisions made under this policy, including specific timeframes for review.

Policy

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ITEM 10 - ATTACHMENT 1 REVISED MANAGING UNREASONABLE COMPLAINANT CONDUCT POLICY

Policy



2. CONTEXT/BACKGROUND:

- 2.2 **2.1** This policy is based on the NSW Ombudsman's Unreasonable Complainant Conduct Model Policy.
- 2.3 **2.2** The policy provides an open and transparent process for the management of UCC at Council.
- 2.4 **2.3** Council has developed this policy to support the Complaint Handling Policy.

3. SCOPE:

3.1 Defining unreasonable **conduct by a complainant conduct**

3.1.1 Unreasonable **conduct by a complainant conduct**

3.1.2 Most complainants who come to our organisation act reasonably and responsibly in their interactions with us, even when they are experiencing high levels of distress, frustration and anger about their complaint. However in a very small number of cases some complainants behave in ways that are inappropriate and unacceptable — despite our best efforts to help them. They are aggressive and verbally abusive towards our staff. They threaten harm and violence, bombard our organisation with unnecessary and excessive phone calls and emails, make inappropriate demands on our time and our resources and refuse to accept our decisions and recommendations in relation to their complaints. When complainants behave in these ways we consider their conduct to be 'unreasonable'.

3.1.2 Most complainants act reasonably and responsibly in their interactions with us, even when they are experiencing high levels of distress, frustration, and anger about their complaint. However, despite our best efforts to help them, in a very small number of cases complainants display inappropriate and unacceptable behaviour. They can be aggressive and verbally abusive towards our staff, threaten harm and violence or bombard our offices with unnecessary and excessive phone calls and emails. They may make inappropriate demands on our time and resources or refuse to accept our decisions and recommendations in relation to their complaints. When complainants behave in these ways (and where there are no cultural factors that could reasonably explain their behaviour) we consider their conduct to be 'unreasonable'.

3.1.3 Unreasonable complainant conduct ('UCC') is any behaviour by a current or former complainant which, because of its nature or frequency raises substantial health, safety, resource or equity issues for our organisation, our staff, other service users and complainants or the complainant himself/herself **themselves**.

Policy

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ITEM 10 - ATTACHMENT 1 REVISED MANAGING UNREASONABLE COMPLAINANT CONDUCT POLICY

Policy



3.1.4 UCC can be divided into five categories of conduct:

- a) Unreasonable persistence
- b) Unreasonable demands
- c) Unreasonable lack of cooperation
- d) Unreasonable arguments
- e) Unreasonable behaviours

3.1.5 Unreasonable persistence

3.1.6 Unreasonable persistence is continued, incessant and unrelenting conduct by a complainant that has a disproportionate and unreasonable impact on our organisation, staff, services, time and/or resources. Some examples of unreasonably persistent behaviour include:

- a) An unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with (even when it is evident the complainant does understand the information provided).
- b) Persistently demanding a review simply because it is available and without arguing or presenting a case for one.
- c) Pursuing and exhausting all available review options, even after we have explained that a review when it is not warranted and refusing to accept further action cannot or will not be taken further action on their complaints.
- d) Reframing a complaint in an effort to get it taken up again.
- e) Bombarding our staff/organisation with Multiple and repeated phone calls, visits, letters, and emails (including cc'd correspondence) after repeatedly being asked not to do so.
- f) Contacting different people within or outside our organisation and/or externally to get a different outcome or more sympathetic response to their complaint – this is known as internal and external forum shopping.

3.1.7 Unreasonable demands

3.1.8 Unreasonable demands are any demands (express or implied) expressly that are made by a complainant that have a disproportionate and unreasonable impact on our organisation, staff, services, time and/or resources. Some examples of unreasonable demands include:

- a) Issuing instructions and making demands about how we have/should to handle their complaint, the priority it was/should be given, or the outcome that was/should to be achieved.

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- b) Insisting on talking to a senior manager or the General Manager personally when the reasons that this is not appropriate or warranted have been carefully explained to the complainant.
- c) Emotional blackmail and manipulation with the intention to guilt trip, intimidate, harass, shame, seduce or portray resulting in intimidation, harassment, shaming, seduction or portraying themselves as being victimised – when this is not the case.
- d) Insisting on outcomes that are not possible or appropriate in the circumstances, – eg. for example asking for someone to be fired sacked or prosecuted, or for an apology and/or compensation when no reasonable basis for expecting this.
- e) Demanding services that are of a nature or scale that we cannot provide, when this has been explained to them repeatedly even after we have explained this to them repeatedly.

3.1.9 Unreasonable lack of cooperation

- 3.1.10 Unreasonable lack of cooperation is when the complainant is an unwillingness and/or inability by a complainant or unable to cooperate with our organisation, staff, or complaints system and processes that - resulting in a disproportionate and unreasonable use of our services, time and/or resources. Some examples of unreasonable lack of cooperation include:
 - a) Sending a constant stream of comprehensive and/ or complex or disorganised information without clearly defining any issues of complaint at hand or explaining how they relate to the core issues being complained about the material provided relates to the complaint – only where the complainant is clearly capable of doing this.
 - b) Providing little or no detail with a complaint or presenting providing information in 'drips and drabs'.
 - c) Refusing to follow or accept our instructions, suggestions, or advice without a clear or justifiable reason for doing so.
 - d) Arguing frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments and explanations.
 - e) Displaying unhelpful behaviour – such as withholding information, acting dishonestly, and misquoting others, and so forth.

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3.1.11 Unreasonable arguments

3.1.12 Unreasonable arguments include any arguments that are not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or delirious and that disproportionately and unreasonably impact upon our organisation, staff, services, time, and/or resources. Arguments are unreasonable when they:

- a) fail to follow a logical sequence that the complainant is able to explain to staff
- b) are not supported by any evidence and/or are based on conspiracy theories
- c) lead a complainant to reject all other valid and contrary arguments
- d) are trivial when compared to the amount of time, resources and attention that the complainant demands
- e) are false, inflammatory or defamatory.

3.1.13 Unreasonable behaviour

3.1.14 Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated that a complainant is – because it unreasonably compromises the health, safety and security of our staff, other service users or the complainant himself/herself themselves. Some examples of unreasonable behaviours include:

- a) Acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks
- b) Harassment, intimidation or physical violence.
- c) Rude, confronting and threatening correspondence.
- d) Threats of harm to self or third parties, threats with a weapon or threats to damage property including bomb threats.
- e) Stalking (in person or online).
- f) Emotional manipulation.

3.1.15 All staff should note that Port Stephens Council has a zero tolerance policy towards any harm, abuse or threats directed towards them. Any conduct of this kind will be dealt with under this policy and in accordance with our duty of care and work, health and safety responsibilities.

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3.2 Roles and responsibilities

3.2.1 All staff

3.2.2 All staff are responsible for familiarising themselves with this policy as well as the Individual Rights and Mutual Responsibilities of the Parties to a Complaint in Appendix A. Staff are also encouraged to explain the contents of this document to all complainants particularly those who engage in UCC or exhibit the early warning signs for UCC.

3.2.3 Staff are also encouraged and authorised to use the strategies and scripts provided in Part 5 of the practice manual to manage UCC at the NSW Ombudsman's website – see Part 2 of the Managing unreasonable conduct by a complainant Manual (3rd Edition); in particular:

- a) Strategies and script ideas for managing unreasonable persistence.
- b) Strategies and script ideas for managing unreasonable demands.
- c) Strategies and script ideas for managing unreasonable lack of cooperation.
- d) Strategies and script ideas for managing unreasonable arguments.
- e) Strategies and script ideas for managing unreasonable behaviours.

3.2.4 However, it must be emphasised that any strategies that effectively change or restrict a complainant's access to our services must be considered at the senior management level or higher as provided in this policy.

3.2.5 Staff are also responsible for recording and reporting all UCC incidents they experience or witness (as appropriate) to the Governance Section Manager within 24 hours of the incident occurring, using the UCC incident form. A file note of the incident should also be recorded in Council's records management system.

3.2.6 The Governance Section Manager

3.2.7 The Governance Section Manager, in consultation with relevant staff, has the responsibility and authority to change or restrict a complainant's access to our services in the circumstances identified in this policy. When doing so they will take into account the criteria in Section 3.5.4 below and will aim to impose any service changes/ or restrictions in the least restrictive ways possible. Their aim, when taking such actions will not be to punish the complainant, but rather to manage the impacts of their behaviour.

3.2.8 When applying this policy the Governance Section Manager will also aim to keep at least one open line of communication with a complainant. However, we do recognise that in extreme situations all forms of contact may need to be restricted for some time to ensure the health, and safety and security of our staff and/or third parties.

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3.2.9 The Governance Section Manager is also responsible for recording, monitoring and reviewing all cases where this policy is applied to ensure consistency, transparency and accountability for the application of this policy. They will also manage and keep a file record of all cases where this policy is applied.

3.2.10 Senior Managers

3.2.11 All senior managers are responsible for supporting staff to apply the strategies in this policy, as well as those in the ~~practice~~ manual. Senior managers are also responsible for ensuring compliance with the procedures identified in this policy and ensuring that all staff members are trained to deal with UCC – including on induction.

3.2.12 ~~Following a UCC and/or~~ After a stressful interaction with a complainant, senior managers ~~are responsible for providing~~ should provide affected staff members with the opportunity to debrief and vent their concerns either formally or informally. Senior managers will also ensure that staff are provided with proper support and assistance including medical and/or police assistance and support through programs such as Employee Assistance Program (EAP), if necessary.

3.2.13 ~~Depending on the circumstances senior managers may also be responsible for arranging other forms of support for staff which are detailed in Section 3.10 of this policy.~~

3.2.13 Senior managers may also be responsible for arranging other forms of support for staff, such as appropriate communication or intercultural training.

3.3 Responding to and managing unreasonable complainant conduct (UCC)

3.3.1 Changing or restricting a complainant's access to our services

3.3.2 UCC incidents will generally be managed by limiting or adapting the ways that we interact with and/or deliver services to complainants by restricting:

- a) **Who they have contact with** – eg. limiting a complainant to a sole contact person/staff member in our organisation.
- b) **What they can raise with us** – eg. restricting the subject matter of communications that we will consider and respond to.
- c) **When they can have contact** – eg. limiting a complainant's contact with our organisation to a particular time, day, or length of time, or curbing the frequency of their contact with us.
- d) **Where they can make contact** – eg. limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office.
- e) **How they can make contact** – eg. limiting or modifying the forms of contact that the complainant can have with our organisation. This can include

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modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to our premises, contact through a representative only, taking no further action or terminating our services altogether.

- 3.3.3 When using the restrictions provided in this section we recognise that discretion will need to be used to adapt them to suit a complainant's personal circumstances, level of competency, literacy skills, etc. In this regard, we also recognise that more than one strategy may need to be used in individual cases to ensure their appropriateness and efficacy.
- 3.3.4 Who – limiting the complainant to a sole contact point**
- 3.3.5 Where a complainant tries to forum shop internally within our organisation, changes their issues of complaint repeatedly, reframes their complaint, or raises an excessive number of complaints it may be appropriate to restrict their access to a single staff member (a sole contact point) who will exclusively manage their complaint(s) and interactions with our organisation. This may **help** ensure they are dealt with consistently and may minimise the ~~chances~~ **incidences** for misunderstandings, contradictions and manipulation.
- 3.3.6 To avoid staff 'burn out' the sole contact officer's supervisor will provide them with regular support and guidance – as needed. Also, the Governance **Section** Manager will review the arrangement every ~~six~~ **6** months to ensure that the officer is managing/coping with the arrangement.
- 3.3.7 Complainants who are restricted to a sole contact person will however be given the contact details of one additional staff member who they can contact if their primary contact is unavailable – eg. they go on leave or are otherwise unavailable for an extended period of time.
- 3.3.8 What – restricting the subject matter of communications that we will consider**
- 3.3.9 Where complainants repeatedly send written communications, letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content or relate to a complaint/issue that has already been comprehensively considered and/or reviewed (at least once) by our office, we may restrict the issues/subject matter the complainant can raise with us/~~we will respond to~~. For example, ~~our organisation~~ **we** may:
- a) Refuse to respond to correspondence that raises an issue that has already been dealt with ~~comprehensively~~, that raises a trivial issue, or is not supported by ~~clear/any~~ evidence. The complainant will be advised that future correspondence of this kind will be read and filed without acknowledgement

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unless our organisation **we** decides that we need to pursue it further in which case, we may do so on our 'own motion'.

- b) Restrict the complainant to one complaint/issue per month. Any attempts to circumvent this restriction, for example by raising multiple complaints/issues in the one complaint letter may result in modifications or further restrictions being placed on the complainant's access.
- c) Return correspondence to the complainant and require them to remove any inappropriate content before our organisation will **we** agree to consider its contents. A copy of the inappropriate correspondence will also be made and kept for our records to identify repeat/further UCC incidents.

3.3.10 When **and how** – limiting when and how a complainant can contact our organisation

- 3.3.11 If a complainant's ~~telephone, written or face-to-face~~ contact with our organisation places an unreasonable demand on our time or resources ~~because it is overly lengthy (eg. disorganised and voluminous correspondence)~~ or affects the health, safety and security of our staff because it involves behaviour that is persistently rude, threatening, abusive or aggressive, we may limit when and/or how the complainant can interact with us. This may include:

- a) Limiting their telephone calls or face-to-face interviews to a particular time of the day or days of the week.
- b) Limiting the length or duration of telephone calls, written correspondence or face-to-face interviews. For example:
Telephone calls may be limited to [10] minutes at a time and will be politely terminated at the end of that time period.
Lengthy written communications may be restricted to a maximum of [15] typed or written pages, single sided, font size 12 or it will be sent back to the complainant to be organised and summarised – This option is only appropriate in cases where the complainant is capable of summarising the information and refuses to do so.
Limiting face-to-face interviews to a maximum of [45] minutes.
- c) Limiting the frequency of their telephone calls, written correspondence or face-to-face interviews. Depending on the natures of the service(s) provided we may limit:
Telephone calls to [1] every two weeks/ month.
Written communications to [1] every two weeks/month.
Face-to-face interviews to [1] every two weeks/month.

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- 3.3.12 For irrelevant, overly lengthy, disorganised or frequent written correspondence we may also:
- Require the complainant to clearly identify how the information or supporting materials they have sent to us relate to the central issues that we have identified in their complaint.
 - Restrict the frequency with which complainants can send emails or other written communications to our organisation.
 - Restrict a complainant to sending emails to a particular email account (eg. the organisation's main email account) or block their email access altogether and require that any further correspondence be sent through Australia Post only.

3.3.14 Writing only restrictions

- 3.3.15 When a complainant is restricted to 'writing only' they may be restricted to written communications through:
- Australia Post only
 - Email only to a specific staff email or our general office email account
 - Fax only to a specific fax number
 - Some other relevant form of written contact, where applicable.
- 3.3.16 If a complainant's contact is restricted to 'writing only', the Governance **Section** Manager will clearly identify the specific means that the complainant can use to contact our office (eg. Australia Post only). ~~Also if it is not suitable~~ **If it is not appropriate** for a complainant to enter our premises to hand deliver their written communication; this must be communicated to them as well.
- 3.3.17 Any communications ~~that are~~ received by our office in a manner that contravenes a 'writing only' restriction will either be returned to the complainant or read and filed without acknowledgement.

3.3.18 Where – limiting face-to-face interviews to secure areas

- 3.3.19 If a complainant is violent or overtly aggressive, unreasonably disruptive, threatening or demanding or makes frequent unannounced visits to our premises, we may consider restricting our face-to-face contact with them.
- 3.3.20 These restrictions may include:
- Restricting access to particular secured premises or areas of our premises – such as the reception area or secured room/facility.
 - Restricting their ability to attend our premises to specified times of the day and/or days of the week only – for example, when additional security is available or to times/days that are less busy.

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- c) Allowing them to attend our office on an 'appointment only' basis and only with specified staff. Note – during these meetings staff should always seek support and assistance of a colleague for added safety and security.
- d) Banning the complainant from attending our premises altogether and allowing some other form of contact – eg. 'writing only' or 'telephone only' contact.

3.3.21 Contact through a representative only

- 3.3.22 In cases where our organisation ~~we~~ cannot completely restrict our contact with a complainant and their conduct is particularly difficult to manage, we may ~~also restrict their contact to~~ require them to contact us through a support person or representative only. The support person may be nominated by the complainant but must be approved by the Governance Section Manager.
- 3.3.23 When assessing a representative/support person's suitability, the Governance Section Manager should consider factors like: the nominated representative/support person's competency and literacy skills, demeanour/behaviour and relationship with the complainant. If the Governance Section Manager determines that the representative/support person may exacerbate the situation with the complainant, the complainant will be asked to nominate another person or our organisation may assist them in this regard.

3.3.24 Completely terminating a complainant's access to our services

- 3.3.25 In rare cases, and as a last resort when all other strategies have been considered and/or attempted, the General Manager may decide that it is necessary for our organisation to completely restrict a complainant's contact/access to our services.
- 3.3.26 A decision to have no further contact with a complainant will only be made if it appears that the complainant is unlikely to modify their conduct and/or their conduct poses a significant risk for our staff or other parties because it involves one or more of the following types of conduct:
 - a) Acts of aggression, verbal and/or physical abuse, threats of harm, harassment, intimidation, stalking, assault.
 - b) Damage to property while on our premises.
 - c) Threats with a weapon or common office items that can be used to harm another person or themselves.
 - d) Physically preventing a staff member from moving around freely either within their office or during an off-site visit – eg. entrapping them in their home.
 - e) Conduct that is otherwise unlawful.

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- 3.3.27 In these cases the complainant will be sent a letter notifying them that their access has been restricted as outlined in Section 3.5.9 below.
- 3.3.28 A complainant's access to our services and our premises may also be restricted (directly or indirectly) using the legal mechanisms such as trespass laws/ **and other** legislation or legal orders to protect members of our staff from personal violence, intimidation or stalking by a complainant.
- 3.4 Alternative dispute resolution**
- 3.4.1 Using alternative dispute resolution strategies to manage conflicts with complainants**
- 3.4.2 If the General Manager determines that we cannot terminate our services to a complainant in a particular case or that we/our staff bear some responsibility for causing or exacerbating their conduct, they may consider using alternative dispute resolution strategies ('ADR') such as mediation and conciliation to resolve the conflict with the complainant and attempt to rebuild our relationship with them. If ADR is considered to be an appropriate option in a particular case, the ADR will be conducted by an independent third party to ensure transparency and impartiality.
- 3.4.3 However, we recognise that in UCC situations, ADR may not be an appropriate or effective strategy particularly if the complainant is uncooperative or resistant to compromise. Therefore, each case will be assessed on its own facts to determine the appropriateness of this approach.
- 3.4.4 Council has an existing Alternative Dispute Resolution policy in these circumstances.
- 3.5 Procedure to be followed when changing or restricting a complainant's access to our services**
- 3.5.1 Consulting with relevant staff**
- 3.5.2 When the Governance Section Manager receives a UCC incident form from a staff member they will contact the staff member to discuss the incident. They will discuss:
- The circumstances that gave rise to the UCC/incident, **including the complainant's situation, personal and cultural background, and perspective.**
 - The impact of the complainant's conduct on our organisation, relevant staff, our time, resources, etc.
 - The complainant's responsiveness to the staff member's warnings/ **or** requests to stop the behaviour.
 - ~~The actions~~ **What** the staff member has **done** ~~taken~~ to manage the complainant's conduct, if **any applicable.**

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- e) The suggestions made by relevant staff on ways that the situation could be managed.

3.5.3 Criteria to be considered

3.5.4 Following a consultation with relevant staff the Governance Section Manager will search the case management system for information about the complainant's prior conduct and history with our organisation. They will also consider the following criteria:

- a) Whether the conduct in question involved overt anger, aggression, violence or assault (which is unacceptable in all circumstances).
- b) Whether the complainant's case has merit.
- c) The likelihood that the complainant will modify their unreasonable conduct if they are given a formal warning about their conduct.
- d) Whether changing or restricting access to our services will be effective in managing the complainant's behaviour.
- e) Whether changing or restricting access to our services will affect the complainant's ability to meet their obligations, such as reporting obligations.
- f) Whether changing or restricting access to our services will have an undue impact on the complainant's welfare, livelihood or dependents etc.
- g) Whether the complainant's personal circumstances have contributed to the behaviour? - For example, the complainant's cultural background may mean this communication patterns differ from those of our staff or organisation standards, or the complainant is a vulnerable person who is under significant stress as a result of one or more of the following:
 - h) homelessness
 - i) physical disability
 - j) illiteracy or other language or communication barrier
 - k) mental or other illness
 - l) personal crises
 - m) substance or alcohol abuse.
- n) Whether the complainant's response/ or conduct in the circumstances was moderately disproportionate, grossly disproportionate or not at all disproportionate.
- o) Whether there any statutory provisions that would limit the types of limitations that can be put on the complainant's contact with, / or access to our services.

3.5.5 Once the Governance Section Manager has considered these factors criteria, they will decide on the appropriate course of action. They may suggest formal or informal options for dealing with the complainant's conduct which may include one or more of the strategies provided in the practice manual and this

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3.5.6 Providing a warning letter

3.5.7 Unless a complainant's conduct poses a substantial risk to the health and safety of staff or other third parties, the Governance Section Manager will provide them with a written warning about their conduct in the first instance. **If the complainant is unable to read the letter, it will be followed/accompanied by a telephone call, using an interpreter if necessary.**

3.5.8 The warning letter will:

- a) Specify the date, time and location of the UCC incident(s).
- b) Explain why the complainant's conduct/ UCC incident is problematic.
- c) List the types of access changes and/or restrictions that may be imposed if the behaviour continues. (Note: not every possible restriction should be listed only those that are most relevant).
- d) Provide clear and full reasons for the warning being given
- e) Include an attachment of the organisation's ground rules and/or briefly state the standard of behaviour that is expected of the complainant. See Appendix A.
- f) Provide the name and contact details of the staff member who they can contact about the letter.
- g) Be signed by the Governance Section Manager.

3.5.9 Providing a notification letter

3.5.10 If a complainant's conduct continues after they have been given a written warning or in extreme cases of overt aggression, violence, assault or other unlawful/unacceptable conduct the Governance **Section** Manager has the discretion to send a notification letter immediately restricting the complainant's access to our services (without prior written warning). **If the complainant is unable to read the letter (due to literacy issues, non-English speaking, etc.) the letter will be followed or accompanied by a telephone call, using an interpreter if necessary.**

3.5.11 This notification letter will:

- a) Specify the date, time and location of the UCC incident(s).
- b) Explain why the complainant's conduct/UCC incident(s) is problematic.
- c) Identify the change and/or restriction that will be imposed and what it means for the complainant.
- d) Provide clear and full reasons for this restriction.
- e) Specify the duration of the change or restriction imposed, which will not exceed 12 months, without a review of the circumstances.

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- f) Indicate a time period for review.
- g) Provide the name and contact details of the senior officer who they can contact about the letter and/or request a review of the decision.
- h) Be signed by the General Manager.

3.5.12 Notifying relevant staff about access changes/restrictions

- 3.5.13 The Governance Section Manager will notify relevant staff about any decisions to change or restrict a complainant's access to our services, in particular reception and security staff in cases where a complainant is prohibited from entering our premises.
- 3.5.14 The Governance Section Manager will also update the case management system with a record outlining the nature of the restrictions imposed and their duration.

3.5.15 Continued monitoring/oversight responsibilities

- 3.5.16 Once a complainant has been issued with a warning letter or notification letter the Governance Section Manager will review the complainant's record/restriction every 3 months, on request by a staff member, or following any further incidents of UCC that involve the particular complainant to ensure that they are complying with the restrictions/the arrangement is working.
- 3.5.17 If the Governance Section Manager determines that the restrictions have been ineffective in managing the complainant's conduct or are otherwise inappropriate they may decide to either modify the restrictions, impose further restrictions or terminate the complainant's access to our services altogether.

3.6 Appealing a decision to change or restrict access to our services

3.6.1 Right of appeal

- 3.6.2 ~~Complainants~~ **People who have their access changed or restricted** are entitled to one appeal of a decision to change ~~or~~ restrict their access to our services. This review will be undertaken by a senior staff member who was not involved in the original decision to change or restrict the complainant's access. This staff member will consider the complainant's arguments **and personal circumstances, including cultural background**, along with all relevant records regarding the complainant's past conduct. They will advise the complainant of the outcome of their appeal by letter, which must be signed off by the General Manager. The staff member will then refer any materials/records relating to the appeal to the Governance Section Manager to be kept in the appropriate file.
- 3.6.3 If a complainant continues to be dissatisfied after the appeal process, they may seek an external review from an oversight agency such as the Ombudsman. The Ombudsman may accept the review (in accordance with its

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administrative jurisdiction) to ensure that we have acted fairly, reasonably and consistently and have observed the principles of good administrative practice including, procedural fairness.

3.7 Non-compliance with a change or restriction on access to our services

3.7.1 Recording and reporting incidents of non-compliance

3.7.2 All staff members are responsible for recording and reporting incidents of non-compliance by complainants. This should be recorded in a file note and filed in Council's Records Management System, and a copy forwarded to the Governance Section Manager who will decide whether any action needs to be taken to modify or further restrict the complainant's access to our services.

3.8 Periodic reviews of all cases where this policy is applied

3.8.1 Period for review

3.8.2 All UCC cases where this policy is applied will be reviewed every 3 months or 6 months (depending on the nature of the service provided) and not more than 12 months after the service change or restriction was initially imposed or continued/upheld.

3.8.3 Notifying the complainant of an upcoming review

3.8.4 The Governance Section Manager will ~~invite all~~ ask complainants **if they would like** to participate in the review process unless they determine that this invitation will provoke a negative response from the complainant (ie. further UCC). The invitation will be given and the review will be conducted in accordance with the complainant's access restrictions ~~(eg. if contact has been restricted to writing only then the invitation to participate will be done in writing).~~

3.8.5 Criteria to be considered during a review

3.8.6 When conducting a review the Governance Section Manager will consider:

- a) Whether the complainant has had any contact with the organisation during the restriction period.
- b) The complainant's conduct during the restriction period.
- c) Any information **or** arguments put forward by the complainant for review.
- d) Any other information that may be relevant in the circumstances.

3.8.7 The Governance Section Manager may also consult any staff members who have had contact with the complainant during the restriction period.

3.8.9 ~~Note~~— Sometimes a complainant may not have a reason to contact our organisation during their restriction period. As a result, a review decision that is based primarily on the fact that the complainant has not contacted our

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organisation during their restriction period (apparent compliance with our restriction) may not be an accurate representation of their level of compliance/reformed behaviour. This should be taken into consideration, in relevant situations.

3.8.10 Notifying a complainant of the outcome of a review

3.8.11 The Governance Section Manager will notify the complainant of the outcome of their review using the appropriate/relevant method of communication as well as a written letter explaining the outcome, as applicable. The review letter will:

- a) Briefly explain the review process.
- b) Identify the factors that have been taken into account during the review.
- c) Explain the decision/outcome of the review and the reasons for it.

3.8.12 If the outcome of the review is to maintain or modify the restriction the review letter will also:

- a) Indicate the nature of the new or continued restriction.
- b) State the duration of the new restriction period.
- c) Provide the name and contact details of the Governance **Section** Manager who the complainant can contact to discuss the letter.
- d) Be signed by the Governance Section Manager.

3.8.13 Recording the outcome of a review and notifying relevant staff

3.8.14 ~~Like all other decisions made under this policy,~~ The Governance Section Manager is responsible for keeping a record of the outcome of the review, updating case management system and notifying all relevant staff of the outcome of the review including if the restriction has been withdrawn.

3.8.15 See Sections 3.2.6-3.2.9 and 3.5.12-3.5.14.

3.9 Managing staff stress

3.9.1 Staff reactions to stressful situations

3.9.2 ~~Dealing with complainants who are demanding, abusive, aggressive or violent~~ **complainants** can be extremely stressful and at times distressing or even frightening for all our staff ~~— both experienced and inexperienced.~~ It is perfectly normal to get upset or experience stress when dealing with difficult situations.

3.9.3 As an organisation, we have a responsibility to support staff members who experience stress as a result of situations arising at work and we will do our best to provide staff with debriefing and counselling opportunities, when needed. However, to do this we also need help of all Port Stephens Council

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staff to identify stressful incidents and situations. ~~As a result, a~~ All staff have a responsibility to notify relevant supervisors/senior managers of UCC incidents and any stressful incidents that they believe require management involvement.

3.9.4 Debriefing

3.9.5 Debriefing means talking things through following a difficult or stressful incident. It is an important way of 'off-loading' or dealing with stress. Many staff members naturally do this with colleagues after a difficult telephone call, but debriefing can also be done with a supervisor or senior manager or as a team following a significant incident. We encourage all staff to engage in an appropriate level of debriefing, when necessary.

3.9.6 Staff may also access an external professional service on a needs basis. All staff can access the Employee Assistance Program with AccessEAP – a free, confidential counselling service. To make an appointment call: 1800 81 87 28 or (02) 8247 9191

3.10 Other remedies

3.10.1 Compensation for injury

~~3.10.2 Any staff member who suffers injury as a result of aggressive behaviour from complainants is entitled to make a workers' compensation claim. Governance will assist wherever possible in processing claims. If you are the victim of an assault, they may also be able to apply to the Victim's Compensation Tribunal for compensation.~~

3.10.3 Compensation for damage to clothing or personal effects

~~3.10.4 Where damage is suffered to clothing or personal effects as a result of aggression by a complainant, compensation may be sought. A written application should be lodged with Council detailing the circumstances and the value of the loss.~~

3.10.5 Legal Assistance

~~3.10.6 If a staff member is physically attacked, or is a victim of employment generated harassment and the police do not lay charges, the General Manager will consider providing reasonable legal assistance if the staff members wishes to take civil action. This will be at the discretion of the General Manager.~~

3.10.7 Threats outside the office or outside working hours

~~3.10.8 Where threats are directed at a particular staff member and it appears those threats may be carried out outside normal working hours or outside the office, the staff member will receive the support of the office. Requests for such assistance should be made to the Governance Section Manager.~~

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3.10.9 Escorts home

~~3.10.10 When a staff member fears for their safety following a threat from a complainant, another staff member may accompany them home or the organisation can meet the cost of the staff member going home in a taxi. Enquiry with the Governance Section Manager for more information.~~

3.10.11 Telephone threats on home numbers

~~3.10.12 If a staff member or their family have been harassed by telephone at their home and they believe it is connected with their employment they may apply to have the office meet the cost of having their telephone number changed and/or made silent. The staff member should also contact their telephone carrier, as they may provide an interception/monitoring service.~~

~~3.10.13 If assistance is approved, the office will meet the cost incurred for a period up to 12 months. Once approval is given, the staff member is responsible for making the necessary arrangements and will be reimbursed after producing a paid account.~~

~~3.10.14 Applications for reimbursement must be approved by the Governance Section Manager and/or the General Manager.~~

3.10.15 Other security measures

~~3.10.16 If other security measures are necessary, the office will give consideration to providing all reasonable support to ensure the safety and welfare of the staff member.~~

3.11 Training and awareness

3.11.1 Port Stephens Council is committed to ensuring that all staff are aware of and know how to use this policy. All staff who deal with complainants in the course of their work will also receive appropriate training and information on using this policy and on managing UCC on a regular basis in particular, on induction. **This should include training to support culturally appropriate communication.**

3.12 Ombudsman may request copies of our records

~~3.12.1 Port Stephens Council will keep records of all cases where this policy is applied, including a record of the total number of cases where it is used every year. This data may be requested by the Ombudsman to conduct an overall audit and review in accordance with its administrative functions and/or to inform its work on UCC.~~

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4. DEFINITIONS:

Complaint	<p>Expression of dissatisfaction made to or about us, our services, staff or the handling of a complaint where a response or resolution is explicitly or implicitly expected or legally required.</p> <p>A complaint covered by this Policy can be distinguished from:</p> <ul style="list-style-type: none"> • staff grievances [see our grievance procedure] • public interest disclosures made by our staff [see our internal reporting policy] • code of conduct complaints [see our code of conduct] • responses to requests for feedback about the standard of our service provision [see the definition of 'feedback' below] • reports of problems or wrongdoing merely intended to bring a problem to our notice with no expectation of a response [see definition of 'feedback'] • service requests [see definition of 'service request' below], and • requests for information [see our access to information policy].
Complaint management system	All policies, procedures, practices, staff, hardware and software used by Council the management of complaints.
Complainant	Person/s who makes a complaint.
Dispute	An unresolved complaint escalated either within or outside of the organisation.
Feedback	Opinions, comments and expressions of interest or concern, made directly or indirectly, explicitly or implicitly, to or about us, about our services or complaint handling where a response is not explicitly or implicitly expected or legally required.
Grievance	A clear, formal written statement by an individual staff member about another staff member or a work related problem.
Organisation	Port Stephens Council
Policy	An endorsed statement or instruction that sets out how we should fulfil our vision, mission and goals.
Practice Manual	The NSW Ombudsman's Managing Unreasonable Complainant Conduct Practice Manual (2nd 3rd edition)
Premises	Any property or land owned by Port Stephens Council.
Procedure	A statement or instruction that sets out how our policies will be implemented and by whom.
Senior Manager	Group Managers and Section Managers of Port Stephens Council.

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Service request	<p>Service request includes:</p> <ul style="list-style-type: none"> • requests for approval • requests for action • routine inquiries about the organisation's business • requests for the provision of services and assistance • reports of failure to comply with laws regulated by the organisation • requests for explanation of policies, procedures and decisions.
Unreasonable complainant conduct (UCC)	<p>Any behaviour by a current or former complainant which, because of its nature or frequency raises substantial health, safety, resource or equity issues for our organisation, our staff, other service users and complainants or the complainant himself/herself.</p> <p>UCC can be divided into five categories of conduct:</p> <ul style="list-style-type: none"> • Unreasonable arguments • Unreasonable behaviour • Unreasonable demands • Unreasonable lack of cooperation • Unreasonable persistence

5. POLICY STATEMENT:

- 5.1 Port Stephens Council is committed to being accessible and responsive to all complainants who approach our organisation ~~for assistance and/or with a complaint~~ regardless of ethnic identity, national origin, religion, linguistic background, sex, gender expression, sexual orientation, physical ability or other cultural or personal factors. At the same time, the success of our office depends on:
- a) our ability to do our work and perform our functions in the most effective and efficient ways possible
 - b) the health, safety and security of our staff, and
 - c) our ability to allocate our resources fairly across all the complaints we receive.
- 5.2 When complainants behave unreasonably ~~in their dealings with us~~, their conduct can significantly affect ~~our success~~ the successful conduct of our work. As a result, Port Stephens Council will ~~take~~ ~~act~~ proactively and decisively action to manage any complainant conduct that negatively and unreasonably affects us and will support our staff to do the same in accordance with this policy.

6. POLICY RESPONSIBILITIES:

- 6.1 All staff are responsible for implementing and complying with this policy, in their respective roles outlined in the policy.
- 6.2 The Governance Section Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.

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7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993
- 7.2 Public Interest Disclosure Act 1994
- 7.3 Ombudsman Act 1974
- 7.4 Independent Commission Against Corruption 1988
- 7.4 Government Information (Public Access) Act 2009
- 7.5 Code of Conduct
- 7.6 This policy is compliant with and supported by the following documents:
 - a) Work, Health and Safety Management Directive
 - b) Complaint Handling Policy
 - c) Alternative Dispute Resolution Policy
 - d) NSW Ombudsman - Managing Unreasonable Complainant Conduct ~~Practice~~ Manual

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Appendix A

1. Individual Rights and Mutual Responsibilities of the Parties to a Complaint

- 1.1 In order for Port Stephens Council to ensure that all complaints are dealt with fairly, efficiently and effectively and that work health and safety standards and duty of care obligations are adhered to, the following rights and responsibilities must be observed and respected by all of the parties to the complaint process.

2. Individual rightsⁱⁱ

2.1 Complainants have the right:

- a) to make a complaint and to express their opinions in ways that are reasonable, lawful and appropriate, regardless of cultural background, national origin, sex, sexual orientation, gender expression, disability or other cultural or personal characteristicsⁱⁱⁱ
- b) to a reasonable explanation of the organisation's complaints procedure, including details of the confidentiality, secrecy and/or privacy rights or obligations that may apply
- c) to a fair and impartial assessment and, where appropriate, investigation of their complaint based on the merits of the case^{iv}
- d) to a fair hearing^v
- e) to a timely response
- f) to be informed in at least general terms about the actions taken and outcome of their complaint^{vi}
- g) to be given reasons that explain decisions affecting them
- h) to at least ~~one~~ 1 right of review of the decision on the complaint^{vii}
- i) to be treated with courtesy and respect
- j) to communicate valid concerns and views without fear of reprisal or other unreasonable response.^{viii}

2.2 Staff have the right:

- a) to determine whether, and if so how, a complaint will be dealt with
- b) to finalise matters on the basis of outcomes they consider to be satisfactory in the circumstances^{ix}
- c) to expect honesty, cooperation and reasonable assistance from complainants
- d) to expect honesty, cooperation and reasonable assistance from organisations and people within jurisdiction who are the subject of a complaint

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- e) to be treated with courtesy and respect
- f) to a safe and healthy working environment^x
- g) to modify, curtail or decline service (if appropriate) in response to unacceptable behaviour by a complainant.^{xi}

2.3 Subjects of a complaint have the right:

- a) to a fair and impartial assessment and, where appropriate, investigation of the allegations made against them
- b) to be treated with courtesy and respect by staff of Port Stephens Council to be informed (at an appropriate time) about the substance of the allegations made against them that are being investigated^{xii}
- c) to be informed about the substance of any proposed adverse comment or decision
- d) to be given a reasonable opportunity to put their case during the course of any investigation and before any final decision is made^{xiii}
- e) to be told the outcome of any investigation into allegations about their conduct, including the reasons for any decision or recommendation that may be detrimental to them
- f) to be protected from harassment by disgruntled complainants acting unreasonably.

2.4 Mutual responsibilities

2.4.1 Complainants are responsible for:

- a) treating staff of Port Stephens Council with courtesy and respect
- b) clearly identifying to the best of their ability the issues of complaint, or asking for help from the staff of Port Stephens Council to assist them in doing so
- c) providing to the best of their ability Port Stephens Council with all the relevant information available to them at the time of making the complaint
- d) being honest in all communications with Port Stephens Council
- e) informing Port Stephens Council of any other action they have taken in relation to their complaint^{xiv}
- f) cooperating with the staff who are assigned to assess/ investigate/resolve/determine or otherwise deal with their complaint.

- 2.4.2 If complainants do not meet their responsibilities, Port Stephens Council may consider placing limitations or conditions on their ability to communicate with staff or access certain services.

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2.4.3 Port Stephens Council has a zero tolerance policy in relation to any harm, abuse or threats directed towards its staff. Any conduct of this kind may result in a refusal to take any further action on a complaint or to have further dealings with the complainant.^{xv} Any such conduct of a criminal nature will be reported to police and in certain cases legal action may also be considered.

2.4.4 Staff are responsible for:

- a) providing reasonable assistance, **including cultural background and linguistic assistance**, to complainants who need help to make a complaint and, where appropriate, during the complaint process
- b) dealing with all complaints, complainants and people or organisations the subject of complaint professionally, fairly and impartially
- c) giving complainants or their advocates a reasonable opportunity to explain their complaint, subject to the circumstances of the case and the conduct of the complainant
- d) giving people or organisations the subject of complaint a reasonable opportunity to put their case during the course of any investigation and before any final decision is made^{xvi}
- e) informing people or organisations the subject of investigation, at an appropriate time, about the substance of the allegations made against them^{xvii} and the substance of any proposed adverse comment or decision that they may need to answer or address^{xviii}
- f) keeping complainants informed of the actions taken and the outcome of their complaints^{xix}
- g) giving complainants reasons that are clear and appropriate to their circumstances and adequately explaining the basis of any decisions that affect them
- h) treating complainants and any people the subject of complaint with courtesy and respect at all times and in all circumstances
- i) taking all reasonable and practical steps to ensure that complainants^{xx} are not subjected to any detrimental action in reprisal for making their complaint^{xxi}
- j) giving adequate warning of the consequences of unacceptable behaviour.

2.4.5 If Port Stephens Council or its staff fail to comply with these responsibilities, complainants may complain to the NSW Ombudsman.

2.4.6 Subjects of a complaint are responsible for:

- a) cooperating with the staff of Port Stephens Council who are assigned to handle the complaint, particularly where they are exercising a lawful power in relation to a person or body within their jurisdiction^{xxii}

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- b) providing all relevant information in their possession to Port Stephens Council or its authorised staff when required to do so by a properly authorised direction or notice
- c) being honest in all communications with Port Stephens Council and its staff
- d) treating the staff of Port Stephens Council with courtesy and respect at all times and in all circumstances
- e) refraining from taking any detrimental action against the complainant^{xxiii} in reprisal for them making the complaint.^{xxiv}

2.4.7 If subjects of a complaint fail to comply with these responsibilities, action may be taken under relevant laws and/or codes of conduct.

2.4.8 Port Stephens Council is responsible for:

- a) having an appropriate and effective complaint handling system in place for receiving, assessing, handling, recording and reviewing complaints
- b) making decisions about how all complaints will be dealt with
- c) ensuring that all complaints are dealt with professionally, fairly and impartially^{xxv}
- d) ensuring that staff treat all parties to a complaint with courtesy and respect
- e) ensuring that the assessment and any inquiry into the investigation of a complaint is based on sound reasoning and logically probative information and evidence
- f) finalising complaints on the basis of outcomes that the organisation, or its responsible staff, consider to be satisfactory in the circumstances^{xxvi}
- g) implementing reasonable and appropriate policies/procedures/practices to ensure that complainants^{xxvii} are not subjected to any detrimental action in reprisal for making a complaint^{xxviii}, including maintaining separate complaint files and other operational files relating to the issues raised by individuals who make complaints
- h) giving adequate consideration to any confidentiality, secrecy and/or privacy obligations or responsibilities that may arise in the handling of complaints and the conduct of investigations.

2.4.9 If Port Stephens Council fails to comply with these responsibilities, complainants may complain to the NSW Ombudsman:

In person or mail: Level 24, 580 George Street, Sydney NSW 2000
Telephone: 1800 451 524
Email: nswombo@ombo.nsw.gov.au
Website: www.ombo.nsw.gov.au

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- ⁱⁱ The word 'rights' is not used here in the sense of legally enforceable rights (although some are), but in the sense of guarantees of certain standards of service and behaviour that a complaint handling system should be designed to provide to each of the parties to a complaint.
- ⁱⁱⁱ Differences of opinion are normal: people perceive things differently, feel things differently and want different things. People have a right to their own opinions, provided those opinions are expressed in acceptable terms and in appropriate forums.
- ^{iv} While degrees of independence will vary between complaint handlers, all should assess complaints fairly and as impartially as possible, based on a documented process and the merits of the case.
- ^v The 'right to be heard' refers to the opportunity to put a case to the complaint handler/decision-maker. This right can be modified, curtailed or lost due to unacceptable behaviour, and is subject to the complaint handler's right to determine how a complaint will be dealt with.
- ^{vi} Provided this will not prejudice on-going or reasonably anticipated investigations or disciplinary/criminal proceedings.
- ^{vii} Such a right of review can be provided internally to the organisation, for example by a person not connected to the original decision.
- ^{viii} Provided the concerns are communicated in the ways set out in relevant legislation, policies and/or procedures established for the making of such complaints/allegations/disclosures/etc.
- ^{ix} Some complaints cannot be resolved to the complainant's satisfaction, whether due to unreasonable expectations or the particular facts and circumstances of the complaint [see also Endnote 25 **xxvi**].
- ^x See for example WH&S laws and the common law duty of care on employers.
- ^{xi} Unacceptable behaviour includes verbal and physical abuse, intimidation, threats, etc.
- ^{xii} Other than where there is an overriding public interest in curtailing the right, for example where to do so could reasonably create a serious risk to personal safety, to significant public funds, or to the integrity of an investigation into a serious issue. Any such notifications or opportunities should be given as required by law or may be timed so as not to prejudice that or any related investigation.
- ^{xiii} Depending on the circumstances of the case and the seriousness of the possible outcomes for the person concerned, a reasonable opportunity to put their case, or to show cause, might involve a face to face discussion, a written submission, a hearing before the investigator or decision maker, or any combination of the above.
- ^{xiv} For example whether they have made a similar complaint to another relevant person or body or have relevant legal proceedings at foot.
- ^{xv} Other than in circumstances where the organisation is obliged to have an ongoing relationship with the complainant.
- ^{xvi} See Endnote 44 **xii**.
- ^{xvii} Other than where an allegation is so lacking in merit that it can be dismissed at the outset.
- ^{xviii} See Endnote 44 **xii**.
- ^{xix} See Endnote 5 **vi**.
- ^{xx} 'Complainants' include whistleblowers/people who make internal disclosures.
- ^{xxi} 'Complaints' includes disclosures made by whistleblowers/people who make internal disclosures.
- ^{xxii} This does not include any obligation to incriminate themselves in relation to criminal or disciplinary proceedings, unless otherwise provided by statute.
- ^{xxiii} See Endnote 49 **xx**.
- ^{xxiv} See Endnote 20 **xxi**.
- ^{xxv} See Endnote 3 **iv**.
- ^{xxvi} Once made, complaints are effectively 'owned' by the complaint handler who is entitled to decide (subject to any statutory provisions that may apply) whether, and if so how, each complaint will be dealt with, who will be the case officer/investigator/decision-maker/etc, the resources and priority given to actioning the matter, the powers that will be exercised, the methodology used, the outcome of the matter, etc. Outcomes arising out of a complaint may be considered by the complaint handler to be satisfactory whether or not the complainants, any subjects of complaint or the organisation concerned agrees with or is satisfied with that outcome.
- ^{xxvii} See Endnote 19 **xx**.

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xxviii See Endnote 20 **xxi**.

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No	PSC2010-00008	EDRMS record No	20/283188 TBC
Audience	Port Stephens community and Council employees		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	Two 3 years	Next review date	11 August 2022 31 August 2025
Adoption date	12 July 2016		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	12/07/2016	Governance Manager	Drafted new policy based on the model policy of the NSW Ombudsman.	208

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1.1	14 August 2018	Governance Manager	<p>Reviewed the policy, included numbering to each paragraph and updated version control.</p> <p>3.2.5 – delete reference to RM8.</p> <p>3.2.7 – replace Part 5.2 with Section 3.5.4.</p> <p>3.2.13 – replace Part 10 with Section 3.10.</p> <p>3.3.27 – replace Part 5.4 with Section 3.5.9.</p> <p>3.7.2 – delete reference to RM8 and replace with Records Management System.</p> <p>3.8.15 – replace Parts 2.2. and 5.5 with Sections 3.2.6-3.2.9 & 3.5.12-3.5.14.</p> <p>7.6 – delete reference to 2nd edition.</p> <p>2.3. of Appendix A – insert Port Stephens Council.</p>	249
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1.2	11 August 2020	Governance Section Manager	<p>Reviewed the policy, included numbering to each paragraph and updated version control.</p> <p>Updated policy owner title.</p> <p>3.2.6 to 3.2.9, 3.3.22, 3.3.23, 3.5.2, 3.5.4, 3.5.5, 3.5.7, 3.5.8, 3.5.13 to 3.6.2, 3.7.2, 3.8.4, 3.8.6, 3.8.7, 3.8.11, 3.8.12, 3.8.14, 3.10.8, 3.10.10, 3.10.14, 6.2– insert 'section' into manager's title.</p> <p>3.10.2 – replace 'Organisation Development with Governance'.</p> <p>4 – insert the word 'endorsed' under the policy definition.</p>	145
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1.3		Governance Section Manager	<p>Reviewed the policy following the release of a new model policy from the NSW Ombudsman, grammatical corrections and updated version control.</p> <p>1.2, 3.1, 3.1.2, 3.1.3, 3.1.6a), c), d), e), f), 3.1.8, 3.1.8a), b), c), d), 3.1.10, 3.1.10a), b), e), 3.1.12a), 3.1.14, 3.2.3, 3.2.4, 3.2.5, 3.2.12, 3.2.13, 3.3, 3.3.5, 3.3.6, 3.3.9, 3.3.9a), c), 3.3.10, 3.3.11, 3.3.16, 3.3.22, 3.3.23, 3.3.28, 3.4.4, 3.5.2a), c), d), 3.5.4g), m), o), 3.5.5, 3.5.7, 3.5.8a), 3.5.10, 3.6.2, 3.8.4, 3.8.6c), 3.8.9, 3.8.12c), 3.8.14, 3.9.2, 3.9.3, 3.9.5, 3.11.1, 5.1, 5.2, 6.1 – updated the language to align with the model policy.</p> <p>1.2d) – updated reference to the manual.</p> <p>2 – renumbered section 2.</p> <p>3.10 to 3.10.16, 3.12, 13.12.1 – deleted.</p> <p>4 – updated definitions.</p>	
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			Appendix A – updated.	
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ITEM NO. 11**FILE NO: 22/211646
EDRMS NO: PSC2021-04206****REQUEST FOR FINANCIAL ASSISTANCE**

REPORT OF: TIMOTHY CROSDALE - ACTING GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral and Ward funds to the following:-
 - a. Salamander Bay Men's Shed – Mayoral funds - \$974 donation towards DA fees associated with new Covered Outdoor Learning Area (COLA) structure.
 - b. Lions Club of the Tilligerry Peninsula – Cr Steve Tucker – Rapid response - \$500 donation towards the Port Stephens Literature Awards.
 - c. Endorse the provision of funds to Irene Gill (Boomerang Bags) – Cr Giacomo Arnott – Rapid Response - \$300 donation towards red labels for bags and place the proposal on public exhibition for a period of 28 days, in accordance with the Local Government Act 1993 to seek public comment.
- 2) Should no submissions be received as a result of the public exhibition stated in 1c) above, the funds be approved.

BACKGROUND

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

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

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

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

ORDINARY COUNCIL - 23 AUGUST 2022

The requests for financial assistance are shown below:

MAYORAL FUNDS – Mayor Palmer

Salamander Bay Men's Shed	The Men's Shed supports men's health and wellbeing and helps men become valued and productive members of the community.	\$974	Donation towards DA fees for new Kola structure.
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WARD FUNDS

Lions Club of the Tilligerry Peninsula	Lions Club members are men and women who strive to make a difference in their local community as well as in communities worldwide.	\$500	Donation towards the Port Stephens Literature Awards.
Irene Gill (Boomerang Bags)	Boomerang Bags is a grassroots movement empowering local communities to tackle plastic pollution at its source.	\$300	Donation towards red labels for bags.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Provide the Community Financial Assistance Program

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. 12**FILE NO: 22/210108
EDRMS NO: PSC2022-02308****INFORMATION PAPERS**

REPORT OF: TIMOTHY CROSDALE - ACTING GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 23 August 2022.

No:	Report Title	Page:
1	July 2022 Cash and Investments	143
2	Taylors Beach	146
3	Port Stephens Council 2021 Local Government Election Report	153
4	Delegations Report	160
5	Nelson Bay Road Petition	162
6	Council Resolutions	163

INFORMATION PAPERS

ITEM NO. 1**FILE NO: 22/191724
EDRMS NO: PSC2017- 00180****JULY 2022 CASH AND INVESTMENTS****REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES****BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 31 July 2022.

The invested funds are set aside for:

Unexpended grant funds	10,435,000	
Developer contributions	18,022,000	
Domestic Waste	3,535,000	
Crown Reserves	1,754,000	
Commercial Properties	8,555,000	
Federal Grant in advance	5,507,000	
Fleet	3,478,000	
Asset rehabilitation	1,704,000	
Information Technology	1,032,000	
Deposits, Bonds	731,000	
Other	2,247,000	57,000,000

ATTACHMENTS

1) Cash and Investments - July 2022. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 CASH AND INVESTMENTS - JULY 2022.

Cash and Investments Held as at 31 July 2022

ISSUER	Broker	Rating*	Type	Yield (%)	Term (days)	Maturity Date	Amount Invested	Market Value
BNK Bank	RIM	NR	TD	1.02%	356	2-Aug-22	1,000,000	1,000,000
Judo Bank	Laminar	BBB	TD	0.80%	349	18-Aug-22	875,000	875,000
BNK Bank	Laminar	NR	TD	0.77%	376	14-Sep-22	875,000	875,000
Southern Cross Credit Union	Curve	NR	TD	2.50%	95	27-Sep-22	1,000,000	1,000,000
Judo Bank	Laminar	BBB	TD	0.80%	390	28-Sep-22	875,000	875,000
National Australia Bank	Curve	AA-	TD	1.20%	181	11-Oct-22	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	2.86%	131	26-Oct-22	1,000,000	1,000,000
Arab Bank	Laminar	NR	TD	0.86%	369	8-Nov-22	1,000,000	1,000,000
Australian Unity Bank	Laminar	BBB	TD	3.50%	159	14-Dec-22	1,000,000	1,000,000
Mutual Bank	Curve	NR	TD	1.10%	397	3-Jan-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	1.57%	271	10-Jan-23	1,000,000	1,000,000
Judo Bank	Laminar	BBB	TD	0.99%	368	31-Jan-23	470,000	470,000
Bank of Queensland	BOQ	BBB	TD	0.80%	382	14-Feb-23	955,000	955,000
Westpac	Westpac	AA-	TD	0.95%	391	14-Mar-23	1,000,000	1,000,000
Australian Unity Bank	Laminar	BBB	TD	3.80%	257	22-Mar-23	1,000,000	1,000,000
G & C Mutual Bank	IAM	BBB	TD	1.00%	397	29-Mar-23	1,000,000	1,000,000
Australian Unity Bank	Laminar	BBB	TD	3.80%	264	29-Mar-23	1,000,000	1,000,000
G & C Mutual Bank	IAM	BBB	TD	1.00%	411	12-Apr-23	1,000,000	1,000,000
Judo Bank	Curve	BBB	TD	1.05%	425	26-Apr-23	650,000	650,000
G & C Mutual Bank	IAM	BBB	TD	1.00%	432	3-May-23	600,000	600,000
Commonwealth Bank of Australia	CBA	AA	TD	3.17%	365	9-May-23	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	1.12%	454	16-May-23	1,000,000	1,000,000
Mutual Bank	Curve	NR	TD	1.25%	551	6-Jun-23	1,000,000	1,000,000
Bank of Queensland	BOQ	BBB	TD	3.40%	389	26-Jun-23	1,500,000	1,500,000
Macquarie Bank	Curve	A+	TD	0.95%	487	4-Jul-23	1,000,000	1,000,000
Defence Bank	IAM	BBB	TD	4.38%	379	5-Jul-23	1,000,000	1,000,000
Illawarra Credit Union	Laminar	NR	TD	3.52%	403	11-Jul-23	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	1.30%	517	18-Jul-23	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	3.28%	424	1-Aug-23	1,000,000	1,000,000
Maitland Mutual	Curve	NR	TD	3.40%	438	14-Aug-23	1,000,000	1,000,000
AMP Bank	Laminar	BBB	TD	4.45%	382	15-Aug-23	1,000,000	1,000,000
Australian Unity Bank	Curve	BBB+	TD	3.40%	468	12-Sep-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	4.39%	467	27-Sep-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	4.41%	481	11-Oct-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	4.42%	495	25-Oct-23	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	1.48%	629	7-Nov-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	4.45%	524	23-Nov-23	1,000,000	1,000,000
ING Bank	ING	A	TD	4.22%	531	7-Dec-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	4.48%	552	21-Dec-23	1,000,000	1,000,000
ING Bank	ING	A	TD	4.33%	559	4-Jan-24	1,000,000	1,000,000
ING Bank	ING	A	TD	4.35%	566	16-Jan-24	1,000,000	1,000,000

ITEM 1 - ATTACHMENT 1 CASH AND INVESTMENTS - JULY 2022.

Cash and Investments Held as at 31 July 2022

ISSUER	Broker	Rating*	Type	Yield (%)	Term (days)	Maturity Date	Amount Invested	Market Value
Westpac	Westpac	AA-	TD	1.53%	732	30-Jan-24	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	1.53%	746	13-Feb-24	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	1.72%	741	27-Feb-24	1,000,000	1,000,000
Bank of Queensland	BOQ	BBB	TD	2.60%	727	26-Mar-24	900,000	900,000
Suncorp	Suncorp	AA-	TD	2.71%	735	8-Apr-24	1,000,000	1,000,000
Judo Bank	IAM	BBB	TD	3.35%	732	23-Apr-24	825,000	825,000
Judo Bank	IAM	BBB	TD	3.35%	746	7-May-24	825,000	825,000
Total Term Deposits (\$)							46,350,000	46,350,000
Macquarie Bank	Laminar	A+	At Call	1.30%			3,000,000	3,005,703
Total Investments (\$)							49,350,000	49,355,703
Cash at Bank (\$)							9,710,718	9,710,718
Total Cash and Investments (\$)							59,060,718	59,066,421
Cash at Bank Interest Rate 1.45% 3 month BBSW 2.07% Average Investment Rate of Return on TD's 2.30% TD = Term Deposit *Standard & Poors Long Term Rating Certificate of Responsible Accounting Officer I hereby certify that the investments listed above have been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulation (2005) and Council's Cash Investment Policy. Tim Hazell Financial Services Section Manager								

ITEM NO. 2

**FILE NO: 22/171014
EDRMS NO: PSC2019-05143**

TAYLORS BEACH

REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES

BACKGROUND

The purpose of this report is to provide information on the requested works at Taylors Beach in response to the Council resolution (Minute No.140) at the Council meeting of 24 May 2022 **(ATTACHMENT 1)**.

The Council adopted resolution is tabulated together with Council responses in **(ATTACHMENT 2)**.

ATTACHMENTS

- 1) Council Resolution - Minute No. 140, 24 May 2022 - Taylors Beach. [↓](#)
- 2) Council Action Responses - Taylors Beach. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 24 MAY 2022

NOTICE OF MOTION

ITEM NO. 3

FILE NO: 22/126027

EDRMS NO: PSC2021-04195

TAYLORS BEACH

COUNCILLOR: JOHN MARETICH

THAT COUNCIL:

- 1) Acknowledges the community group, Taylors Beach Residents Committee, invited all 3 East Ward Councillors to a meeting on Thursday 5 May 2022 at the rotunda in the park.
- 2) Notes that Councillor Anderson and Councillor Bailey attended the meeting.
- 3) Notes that the residents of Taylors Beach feel that Taylors Beach looks tired and residents feel neglected and have the following issues that need to be addressed:-
 - a. Electricity to the rotunda.
 - b. Walking path along Taylors Beach Road. They advised that Taylors Beach residents and visitors have to walk on the side of a windy and dangerous road (that also requires pothole maintenance) and push bike riders also have concerns for their safety.
 - c. Extension of concrete boat ramp. Residents advise it is a very popular boat ramp for locals and other residents of the LGA plus visitors and the boat ramp is not long enough, people are often getting stuck in the sand.
 - d. Road repairs are required down to the boat ramp, the roadside is cracked and falling away due to the amount of people taking boats down to the ramp.
 - e. Notes that some of the Norfolk Island Pines are dangerous with falling branches. Recent events had branches on 1 resident's pergola and a shade sail potentially saved the family from injury when they fell.
 - f. Thanks Sam from the Natural Systems team who met and spoke with Councillors Anderson, Bailey and the concerned residents and is investigating the health and safety of the Norfolk Island Pines along the front of the residents' houses.
 - g. Requests the General Manager to provide a report on the maintenance concerns of Taylors Beach and how council will fund the above requests from tired Taylors Beach locals.

ITEM 2 - ATTACHMENT 1 COUNCIL RESOLUTION - MINUTE NO. 140, 24 MAY 2022 - TAYLORS BEACH.**MINUTES ORDINARY COUNCIL - 24 MAY 2022****ORDINARY COUNCIL MEETING - 24 MAY 2022
MOTION**

140	<p>Councillor Leah Anderson Councillor Matthew Bailey</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Acknowledges the community group, Taylors Beach Residents Committee, invited all 3 East Ward Councillors to a meeting on Thursday 5 May 2022 at the rotunda in the park.2) Notes that Councillor Anderson and Councillor Bailey attended the meeting.3) Notes that the residents of Taylors Beach feel that Taylors Beach looks tired and residents feel neglected and have the following issues that need to be addressed:-<ol style="list-style-type: none">a. Electricity to the rotunda.b. Walking path along Taylors Beach Road. They advised that Taylors Beach residents and visitors have to walk on the side of a windy and dangerous road (that also requires pothole maintenance) and push bike riders also have concerns for their safety.c. Extension of concrete boat ramp. Residents advise it is a very popular boat ramp for locals and other residents of the LGA plus visitors and the boat ramp is not long enough, people are often getting stuck in the sand.d. Road repairs are required down to the boat ramp, the roadside is cracked and falling away due to the amount of people taking boats down to the ramp.e. Notes that some of the Norfolk Island Pines are dangerous with falling branches. Recent events had branches on 1 resident's pergola and a shade sail potentially saved the family from injury when they fell.f. Thanks Sam from the Natural Systems team who met and spoke with Councillors Anderson, Bailey and the concerned residents and is investigating the health and safety of the Norfolk Island Pines along the front of the residents' houses.g. Requests the General Manager to provide a report on the maintenance concerns of Taylors Beach and how council will fund the above requests from tired Taylors Beach locals.
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Councillor Glen Dunkley left the meeting at 8:53pm and did not return.

ITEM 2 - ATTACHMENT 1 COUNCIL RESOLUTION - MINUTE NO. 140, 24 MAY 2022 - TAYLORS BEACH.**MINUTES ORDINARY COUNCIL - 24 MAY 2022**

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 24 MAY 2022
MOTION**

141	Mayor Ryan Palmer Councillor Giacomo Arnott It was resolved that the Council meeting be extended to 9.30pm.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND REPORT OF: JOHN MARETICH – ASSETS SECTION MANAGER

The purpose of this background is to supply information in relation to the Notice of Motion.

Port Stephens Council (like most councils) has a financial infrastructure funding gap.

Council currently requires \$14.4 million to return our community assets back to an original satisfactory condition. To prioritise these works, inspections are undertaken to assess the condition, compliance and public safety risk on our assets.

Maintenance works and future capital rehabilitation / upgrade works are prioritised based on these assessments. Works are completed in priority order within budgetary constraints.

Council has recently been fortunate to obtain a grant to undertake a review of our boating infrastructure to prioritise future works across our local government area. This review will be used to seek funding to physically undertake works on our boating infrastructure.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		

ITEM 2 - ATTACHMENT 1 COUNCIL RESOLUTION - MINUTE NO. 140, 24 MAY 2022 - TAYLORS BEACH.**MINUTES ORDINARY COUNCIL - 24 MAY 2022**

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

ATTACHMENTS

Nil.

ITEM 2 - ATTACHMENT 2 COUNCIL ACTION RESPONSES - TAYLORS BEACH.

Attachment 2: Responses to Council Resolution Items – Taylors Beach

Notice of Motion Points	Council Response
1) Electricity to the rotunda.	To supply electricity at this location will require thrust boring under the road and is estimated at up to \$10K. At present there are no allocated funds to place an electricity supply at this location.
2) Walking path along Taylors Beach Road. They advised that Taylors Beach residents and visitors have to walk on the side of a windy and dangerous road (that also requires pothole maintenance) and push bike riders also have concerns for their safety.	At present there are no allocated funds for a pathway along this section of the road. Council has an adopted Pathways Plan that has in excess of \$80million dollars of footpath and pathway works. While this requested pathway is outside of the Pathways Plan, this suggestion certainly has merits to improve pedestrian safety and visitor experience. At the next review of the Pathways Plan, we will consider its inclusion.
3) Extension of concrete boat ramp. Residents advise it is a very popular boat ramp for locals and other residents of the LGA plus visitors and the boat ramp is not long enough, people are often getting stuck in the sand.	Council has recently been fortunate to obtain a grant to undertake a review of our boating infrastructure to prioritise future works across our local government area. This is done in consultation with the maritime section of Transport for NSW. This review will be used to seek funding to physically undertake works on our boating infrastructure, including Taylors Beach.
4) Road repairs are required down to the boat ramp, the roadside is cracked and falling away due to the amount of people taking boats down to the ramp.	The road has been inspected and scheduled for maintenance. Noting that due to excessive rain our road network is deteriorating faster than normal and currently have a backlog of maintenance.
5) Notes that some of the Norfolk Island Pines are dangerous with falling branches. Recent events had branches on 1 resident's pergola and a shade sail potentially saved the family from injury when they fell.	Council is currently consulting with local community groups and residents in regards to the removal of two of the seven Norfolk Island pine. All seven have had a ground inspection by a qualified arborist and two (rear of 30 and 32 Albert) are presenting with health issues. Permits for removal are expected to be issued

ITEM 2 - ATTACHMENT 2 COUNCIL ACTION RESPONSES - TAYLORS BEACH.

	early next week. Replacement pines will be required and planted further away from the houses.
6) Thanks Sam from the Natural Systems team who met and spoke with Councillors Anderson, Bailey and the concerned residents and is investigating the health and safety of the Norfolk Island Pines along the front of the residents' houses.	Council is currently consulting with local community groups and residents in regards to the removal of two of the seven Norfolk Island pine. All seven have had a ground inspection by a qualified arborist and two (rear of 30 and 32 Albert) are presenting with health issues. Permits for removal are expected to be issued early next week. Replacement pines will be required and planted further away from the houses.
7) Requests the General Manager to provide a report on the maintenance concerns of Taylors Beach and how council will fund the above requests from tired Taylors Beach locals.	Noted. Council currently has an infrastructure backlog in excess of \$14.4 million to return our community assets back to an original satisfactory condition. To prioritise these works, inspections are undertaken to assess the condition, compliance and public safety risk on our assets. Maintenance works and future capital rehabilitation / upgrade works are prioritised based on these assessments. Works are completed in priority order within budgetary constraints.

ITEM NO. 3

**FILE NO: 22/212820
EDRMS NO: PSC2018-00494**

PORT STEPHENS COUNCIL 2021 LOCAL GOVERNMENT ELECTION REPORT

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

BACKGROUND

The purpose of this report is to provide Council with the NSW Electoral Commission's (NSWEC) Report on the conduct of the 2021 Local Government elections, in particular in relation to Port Stephens Council.

The 2021 local government election was conducted by the NSWEC on Council's behalf. In accordance with clause 393AA of the Local Government (General) Regulation 2021, the NSWEC Commissioner is required to provide a report on the conduct of the election to the Minister for Local Government within 6 months of the Election Day.

Extract - Clause 393AA, Local Government (General) Regulation 2021

- (1) After each ordinary election of councillors and each first election for an area after its constitution, the Electoral Commissioner must provide the Minister with a written report on the conduct of the election, including (but not limited to) a report on the following:
 - (a) the names of the areas whose elections were conducted by the Electoral Commissioner,
 - (b) details of the declared results in those elections,
 - (c) details of any requests for recounts of ballot-papers in those elections,
 - (d) details of any proceedings commenced in a court or tribunal relating to those elections,
 - (e) any recommendations by the Electoral Commissioner to the Minister regarding changes to the Act or this Regulation relating to the conduct of elections.
- (2) The report must be provided to the Minister and displayed on the Electoral Commission's website within 6 months after the election day concerned, unless the Minister is satisfied that special circumstances exist.

The NSWEC has produced 2 reports which are available from the NSWECs website:

- 1) Report on the conduct of the 2021 NSW Local Government Elections.
- 2) Report on the conduct of the 2021 Local Government Elections Part two (c) includes Port Stephens Council.

NSWEC website

<https://www.elections.nsw.gov.au/About-us/Reports/Election-reports>

ATTACHMENTS

- 1) Extract from the NSWECs Report on the Local Government Election 2021 - Supplementary Report for Port Stephens Council. [↓](#)

COUNCILLORS ROOM

Nil.

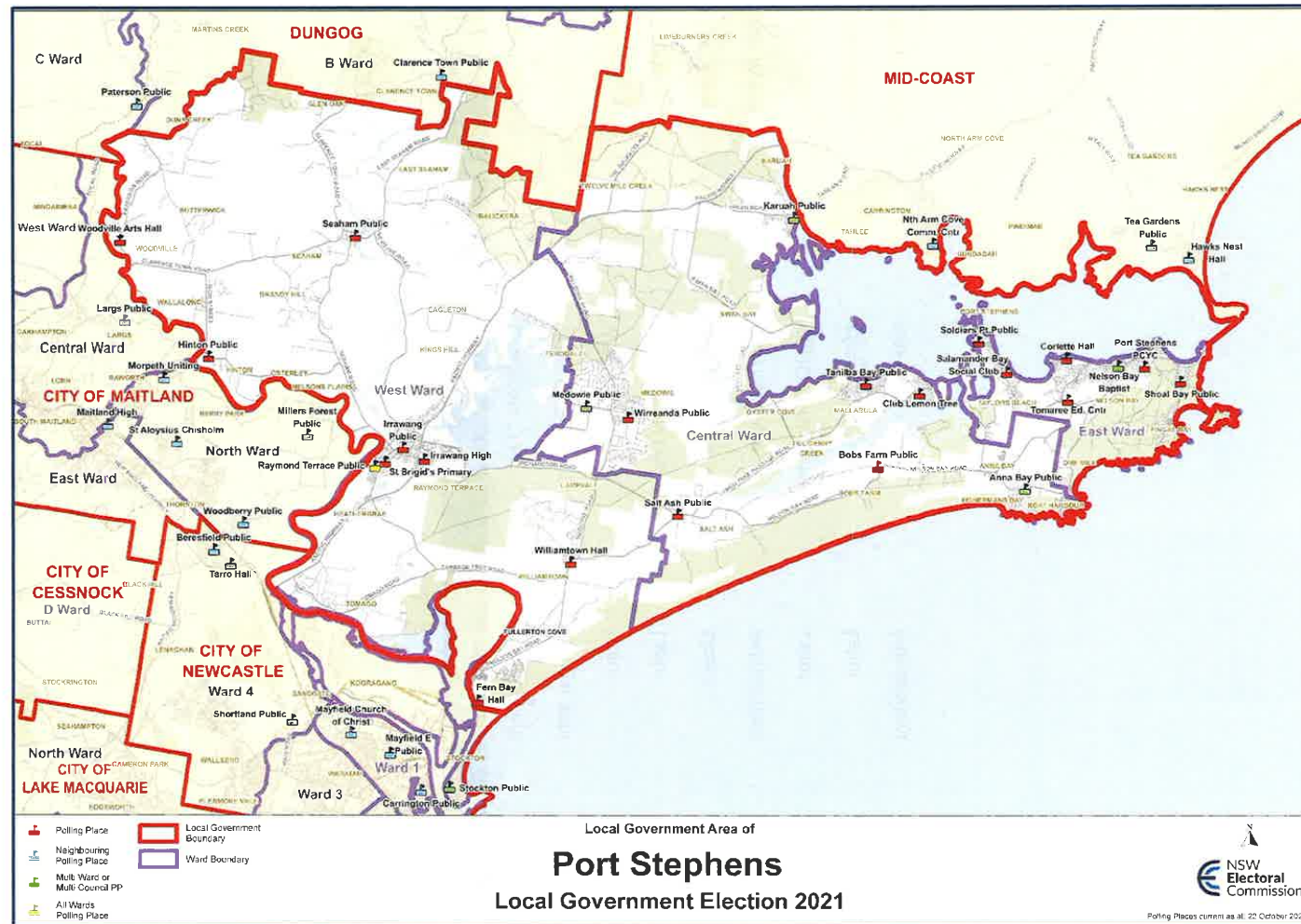
TABLED DOCUMENTS

- 1) Report on the conduct of the 2021 NSW Local Government Elections.

ITEM 3 - ATTACHMENT 1 EXTRACT FROM THE NSWECs REPORT ON THE LOCAL GOVERNMENT ELECTION 2021 - SUPPLEMENTARY REPORT FOR PORT STEPHENS COUNCIL.

NSW Electoral Commission

Port Stephens Council



ITEM 3 - ATTACHMENT 1 EXTRACT FROM THE NSW ECS REPORT ON THE LOCAL GOVERNMENT ELECTION 2021 - SUPPLEMENTARY REPORT FOR

Report on the conduct of the 2021 NSW Local Government elections

Election summary

Divided: Central Ward | East Ward | West Ward

Type of election conducted: Councillor (9 councillors to be elected, 3 from each ward) | Mayor

Enrolment: 57,639 **Residential roll:** 57,626 **Non-residential roll:** 13

Councillor election total votes: 49,570 **Formal:** 46,527 (93.86%) **Informal:** 3,043 (6.14%)

Turnout rate: 86%

Mayor election total votes: 49,528 **Formal:** 47,807 (96.53%) **Informal:** 1721 (3.47%)

Turnout rate: 85.93%

Elected mayor (result declared Tuesday, 21 December 2021)

PALMER Ryan, Independent

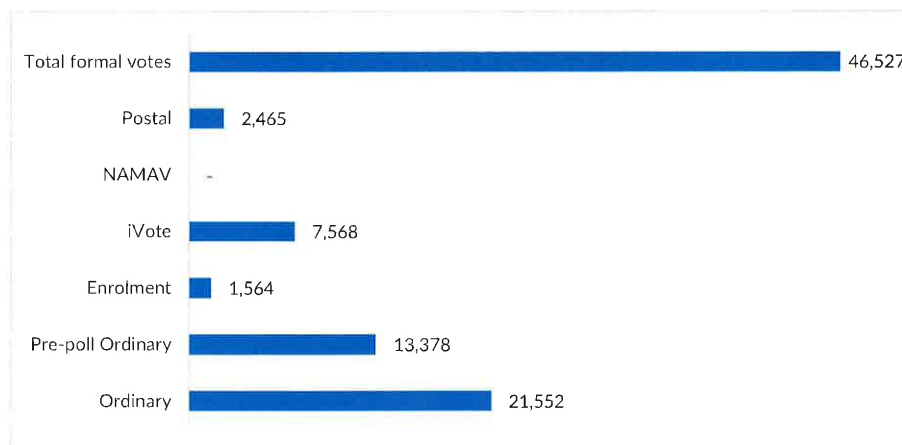
Elected councillors (result declared Thursday, 23 December 2021)

Ward	Councillor name	Affiliation
Central Ward	DOOHAN Chris	Independent
Central Ward	TUCKER Steve	Independent
Central Ward	WELLS Jason	Labor
East Ward	ANDERSON Leah	Labor
East Ward	BAILEY Matthew	Liberal
East Ward	DUNKLEY Glen	Independent
West Ward	ARNOTT Giacomo	Labor
West Ward	FRANCIS Peter	Labor
West Ward	KAFER Peter	Independent

ITEM 3 - ATTACHMENT 1 EXTRACT FROM THE NSW ECS REPORT ON THE LOCAL GOVERNMENT ELECTION 2021 - SUPPLEMENTARY REPORT FOR

NSW Electoral Commission

Formal votes cast by vote type (councillor elections)



Apparent failure to vote notices issued: 6,356

Mayoral nominations

Name	Affiliation
ANDERSON Leah	Labor
PALMER Ryan	Independent

Mayor nominations withdrawn or rejected: 0

Candidate nominations

Ward	Name	Affiliation
Central Ward	BRENNAN Sean	Independent
Central Ward	COLLINS Michael	The Greens
Central Ward	DOOHAN Chris	Independent
Central Ward	DOOHAN Holly	Independent
Central Ward	DORAN Bill	Independent
Central Ward	HAMMOND Kelly	Labor
Central Ward	HAMPTON Ross	The Greens
Central Ward	NILAND Ben	Independent
Central Ward	OAKHILL Kim	Labor

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ITEM 3 - ATTACHMENT 1 EXTRACT FROM THE NSW ECS REPORT ON THE LOCAL GOVERNMENT ELECTION 2021 - SUPPLEMENTARY REPORT FOR

Report on the conduct of the 2021 NSW Local Government elections

Ward	Name	Affiliation
Central Ward	SPILLER Caitlin	The Greens
Central Ward	TUCKER Helen	Independent
Central Ward	TUCKER Steve	Independent
Central Ward	WELLS Jason	Labor
East Ward	ABBOTT Jaimie	Liberal
East Ward	ANDERSON Leah	Labor
East Ward	ARMSTRONG Roz	Labor
East Ward	BAILEY Matthew	Liberal
East Ward	BASTIC Chris	Labor
East Ward	DIEMAR Nicholas	Independent
East Ward	DUNKLEY Glen	Independent
East Ward	PALMER Ryan	Independent
East Ward	SCOTT Bruce	Independent
East Ward	SORENSEN Madison	Liberal
East Ward	VOGTMANN Natalie	Independent
West Ward	ARNOTT Giacomo	Labor
West Ward	BAGULEY Christopher	Independent
West Ward	COLE Andrew	Independent
West Ward	FRANCIS Peter	Labor
West Ward	KAFER Peter	Independent
West Ward	LE MOTTEE Danielle	Independent
West Ward	MALONE Monique	Independent
West Ward	MCLAUGHLIN Vicki	Labor
West Ward	SMITH Lea	Independent
West Ward	SMITH Reyna	Independent

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ITEM 3 - ATTACHMENT 1 EXTRACT FROM THE NSW ECS REPORT ON THE LOCAL GOVERNMENT ELECTION 2021 - SUPPLEMENTARY REPORT FOR

NSW Electoral Commission

Councillor nominations withdrawn or rejected

Ward	Rejected	Withdrawn
Central Ward	0	0
East Ward	0	0
West Ward	1	0

Election operations

Election day staffing

Position	Number
Declaration vote issuing officers	25
Deputy polling place managers	25
Election officials	200
Polling place managers	25
Total	275

Number of polling places

Type	Number
Pre-poll (early voting) centres	2
Election day polling places	25

Returning Officer's office

- Shops 1 & 6-8, 42 William Street, Raymond Terrace NSW 2324

Election costs

- Invoiced election cost: \$538,761
- Cost per elector: \$9.35

NSW Electoral Commission website analytics

- 17,347 visitors to the Port Stephens Council election web page

ITEM NO. 4

FILE NO: 22/210284
EDRMS NO: PSC2009-00965

DELEGATIONS REPORT

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

BACKGROUND

The purpose of this report is to advise Council of each occasion the Mayor and/or General Manager have exercised their delegations, other than under section 226 and 335 of the Local Government Act 1993, which are conferred on each role.

The report at **(ATTACHMENT 1)** provides details of the delegation exercised, such as the delegated authority, the date and the reason for exercising the delegation.

ATTACHMENTS

1) Delegations Report. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MAYOR AND GENERAL MANAGER DELEGATION REPORT

Date exercised	Delegations exercised	Purpose	Role exercising delegation
1 August 2022	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of a tender - supply and install swimming pool heat pumps	General Manager

ITEM NO. 5

**FILE NO: 22/219154
EDRMS NO: PSC2015-03017**

NELSON BAY ROAD PETITION

REPORT OF: TIMOTHY CROSDALE - ACTING GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to advise Council of a petition submitted to Transport for NSW in support of the current online option upgrade of Nelson Bay Road.

As this petition was submitted to Transport for NSW, it is not being reported as part of Council's Petitions policy and is provided for Council for information.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

1) Petition.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

**FILE NO: 22/210101
EDRMS NO: PSC2017-00106**

COUNCIL RESOLUTIONS

REPORT OF: TIMOTHY CROSDALE - ACTING 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 resolutions. [↓](#)
- 2) Development Services Group resolutions. [↓](#)
- 3) Facilities & Services Group resolutions. [↓](#)
- 4) General Manager's Office resolutions. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



Action Sheets Report	Division:	Corporate Services	Date From:	27/08/2013
	Committee:		Date To:	09/08/2022
	Officer:		Printed:	Monday, 15 August 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/05/2021	Pattison, Zoe	Car parking in Shoal Bay	30/12/2022	12/05/2021	
1		Crosdale, Timothy				21/123694
12 Aug 2022						
In principle approval received from Crown Lands.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/08/2013	Pattison, Zoe	Campvale Drain	30/12/2022		
243		Crosdale, Timothy				
12 Aug 2022						
Two private owners, Hunter Water Corporation and National Parks and Wildlife Service (NPWS). Matter ongoing.						

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

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/04/2021	Pattison, Zoe	Proposed Closure and Sale of Pathway in Boat Harbour	30/06/2023	14/04/2021	
2		Crosdale, Timothy				21/96728
090						
12 Aug 2022						
Matter ongoing.						

ITEM 6 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP
RESOLUTIONS.

Action Sheets Report	Division:	Development Services	Date From:	14/09/2021
	Committee:		Date To:	12/08/2022
	Officer:		Printed:	Monday, 15 August 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/06/2022	Gardner, Janelle	Communications & Engagement Strategy	31/10/2022	16/06/2022	
8		Peart, Steven				22/155619
12 Aug 2022						
Submissions received from public exhibition. Report being drafted for 25 October 2022 Council Meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/09/2021	Connell, Sarah	Port Stephens Waterway Strategy	1/07/2023	15/09/2021	
1		Peart, Steven				21/252518
240						
12 Aug 2022						
An application for a grant through the Regional NSW - Business Case and Strategy Development Fund to prepare the Waterways Strategy is being sought. If successful, Council will receive funding to cover the full cost of engaging a consultant to prepare the Waterways Strategy. Applications close on 24 August 2022, with successful applications being announced in October 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Whitfield, Hannah	Carbon Neutrality	30/09/2022	13/10/2021	
2		Peart, Steven				21/274186
275						
12 Aug 2022						
Councillor Briefing (Two Way) has been scheduled for 20 September 2022. Report scheduled to go to Council on 27 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 22/02/2022	Gardner, Janelle	Newspaper Notices	31/10/2022	25/02/2022	
2		Peart, Steven				22/57049
055						
12 Aug 2022						
Report on hold awaiting decision from the Financial Sustainability PCG.						



Division:	Facilities & Services	Date From:	25/05/2021
Committee:		Date To:	12/08/2022
Officer:		Printed:	Monday, 15 August 2022
Action Sheets Report			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/03/2022	Maretich, John	Identifying Potholes	30/09/2022	23/03/2022	
7 092		Kable, Gregory				22/81589
12 Aug 2022 Report is currently in progress.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/04/2022	Maretich, John	Lakeside Leisure Centre	31/01/2023	28/04/2022	
2 114		Kable, Gregory				22/109684
12 Aug 2022 Report to be prepared to go back to Council						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Gutsche, Tammy	Independent Audit of Financial Positions of 355c Hall Committees	30/09/2022	14/02/2022	
16 041		Kable, Gregory				22/45826
12 Aug 2022 Report is currently in progress.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Bridge, Clinton	Boomerang Park BBQs	30/09/2022	14/02/2022	
9 034		Kable, Gregory				22/45826
12 Aug 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	Bridge, Clinton	Basketball Backboard and Rings - Croquet Court, Boomerang Park	30/09/2022	14/02/2022	
15 039		Kable, Gregory				22/45826
18 Feb 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.						



Action Sheets Report	Division:	Facilities & Services	Date From:	25/05/2021
	Committee:		Date To:	12/08/2022
	Officer:		Printed:	Monday, 15 August 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/07/2022	Newall, Charlette	Koala Signage	31/10/2022	13/07/2022	
1		Kable, Gregory				22/186061
12 Aug 2022 Compliance approach to continue. Assets section to liaise with signage group to reach agreement on approach to signage moving forward. Staff are currently preparing a report for Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/07/2022	Maretich, John	Smart Parking	31/10/2022	27/07/2022	
2		Kable, Gregory				22/199431
12 Aug 2022 Staff compiling details to report back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/05/2022	Maretich, John	Review of Dog Off Lead Areas - Boat Harbour Beach	30/06/2023	27/05/2022	
4		Kable, Gregory				22/136825
12 Aug 2022 Report was endorsed by Council at its meeting held 24 May 2022, Minute No. 133. A review will be carried out in 12 months.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/05/2022	Maretich, John	World Menstruation Hygiene Day	30/09/2022	27/05/2022	
1		Kable, Gregory				22/136825
12 Aug 2022 A report will be prepared for 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	30/09/2022		
4 208		Kable, Gregory				21/218740
12 Aug 2022 Council to enter agreement with the Community Association DP 270468 in accordance with the confidential terms as per Council report.						



Action Sheets Report	Division:	Facilities & Services	Date From:	25/05/2021
	Committee:		Date To:	12/08/2022
	Officer:		Printed:	Monday, 15 August 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 8 217	Ordinary Council 10/08/2021	Newall, Charlette Kable, Gregory	Kirrang Drive, Medowie Shared Pathway	31/12/2022	13/08/2021	21/218740
12 Aug 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 2 177	Ordinary Council 13/07/2021	Newall, Charlette Kable, Gregory	Hydrogen and Electric Vehicles in Council's Fleet	30/09/2022		21/190429
12 Aug 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 2 012	Ordinary Council 9/02/2021	Bridge, Clinton Kable, Gregory	MEDOWIE REGIONAL PLAYGROUND AND TOWN CENTRE	30/12/2022		21/33235
12 Aug 2022 The regional playground will be addressed in the Medowie Place Plan Two-Way briefing scheduled for September 2022. A report will then be prepared.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 5 128	Ordinary Council 25/05/2021	Maretich, John Kable, Gregory	Bus Stop in Seaside Estate, Fern Bay	31/10/2022	26/05/2021	21/138820
12 Aug 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 2 027	Ordinary Council 8/02/2022	Maretich, John Kable, Gregory	Medowie Library	31/12/2022	14/02/2022	22/45826
12 Aug 2022 Investigation is still underway to determine viability as requested. Staff are currently consulting with Cr Wells.						



Action Sheets Report	Division:	Facilities & Services	Date From:	25/05/2021
	Committee:		Date To:	12/08/2022
	Officer:		Printed:	Monday, 15 August 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	Foreshore Reserves and Parking on Council Land	30/09/2022	14/02/2022	
5 030		Kable, Gregory				22/45826
12 Aug 2022 Report shall be provided to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY	28/02/2023	14/02/2022	
6 018		Kable, Gregory				22/45826
12 Aug 2022 This action is still under investigation. A report with requested information will be provided once the data is available.						

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

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	30/09/2022	13/10/2021	
8 270		Kable, Gregory				21/274186
12 Aug 2022 Paperwork currently being prepared for the Mayor and General Manager for the official seal.						



Action Sheets Report	Division:	General Manager's Office	Date From:	28/06/2022
	Committee:		Date To:	12/07/2022
	Officer:		Printed:	Monday, 15 August 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/07/2022	Wickham, Tony	POLICY REVIEW: INTERNAL REPORTING	31/08/2022	27/07/2022	
4		Crosdale, Tim				22/199431
12 Aug 2022						
On public exhibition until 30 August 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/06/2022	Wickham, Tony	CODE OF MEETING PRACTICE REVIEW	15/09/2022	29/06/2022	
5		Crosdale, Tim				22/171244
12 Aug 2022						
A submission has been received which will be reported back to Council.						

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: 22/214550

EDRMS NO: PSC2021-04195

HOMELESSNESS IN PORT STEPHENS

COUNCILLOR: LEAH ANDERSON

THAT COUNCIL:

- 1) Notes the increasing prevalence and risk of homelessness across the Port Stephens Local Government Area (LGA).
 - 2) Requests a report from the General Manager that:
 - a. Quantifies the issue within the Port Stephens LGA
 - b. Provides a comparative analysis of other Councils in the Hunter Region
 - c. Identifies actions that other Councils have taken to address this issue, and
 - d. Outlines potential options for Council to address this issue going forward.
 - 3) Resolves to write to all owners presently offering their dwellings for short term rental accommodation (ie Airbnb) asking them to consider putting their housing back into the long term rental market to assist in boosting supply.
-

BACKGROUND REPORT OF: BROCK LAMONT – STRATEGY AND ENVIRONMENT SECTION MANAGER

BACKGROUND

Homelessness Week 2022 took place on Monday 1 August to Sunday 7 August 2022. Homelessness Week aims to raise awareness of the impact of homelessness on Australia at both a national and local scale. Organised events seek to provide information on the importance of housing as a solution and educating communities on how they can make a difference.

In Australia, there are estimated to be over 116,000 people experiencing homelessness on any given night. Within the Port Stephens LGA, concerns regarding homelessness or the risk of homelessness have been raised by local non-government organisations and community housing providers. Factors such as COVID-19, the rising cost of living and broader social and economic changes are believed to have contributed to a shortage of accessible and affordable accommodation. This, in turn, has had an impact on the prevalence and risk of homelessness within the area.

ORDINARY COUNCIL - 23 AUGUST 2022

The NSW State Government is responsible for the provision of social housing stock through the Department of Communities and Justice and Land and Housing Corporation.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 22/214625

EDRMS NO: PSC2021-04195

CITIZENSHIP CEREMONIES

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Agrees that it would be a good opportunity for all Councillors, and the State and Federal MPs, to have a turn at playing central roles during citizenship ceremonies.
- 2) Notes that there are the following roles in citizenship ceremonies:
 - a. Read introduction and conclusion
 - b. Read out new citizen names
 - c. Supply certificate and take photo with new citizens
- 3) Agrees that a policy should be presented by the General Manager to Council codifying this motion and, in the meantime, this motion will set the roles.

These roles should be rotated between elected representatives on the following terms:

- If any elected representative is unable to attend a given meeting, the role will be offered to the next person on the list, and the elected representative who missed out will be next in line for that role for the next ceremony.
 - If any elected representative is in the rotation to perform more than 1 role at any given ceremony, the role will be offered to the next person on the list, and the elected representative who missed out will be next in line for that role for the next ceremony.
 - The Mayor or their delegate will always be responsible for the supply of certificates and photos at the Australia Day ceremony, but the other roles will be rotated in line with the below roster.
- 4) The roles are to be rotated on the roster as below:

Read introduction and conclusion – (excluding the Preamble):

- Cr Doohan
 - Cr Anderson
 - Cr Arnott
-

-
- Federal MP for Paterson
 - Cr Tucker
 - Cr Bailey
 - Cr Francis
 - Federal MP for Lyne
 - Cr Wells
 - Cr Dunkley
 - Cr Kafer
 - State MP for Port Stephens
 - Mayor Palmer
 - State MP for Newcastle

Read out new citizen names:

- Cr Francis
- Cr Kafer
- Cr Bailey
- Mayor Palmer
- Cr Dunkley
- Cr Tucker
- Cr Wells
- Cr Arnott
- Cr Anderson
- Cr Doohan
- State MP for Newcastle
- Federal MP for Paterson
- Federal MP for Lyne
- State MP for Port Stephens

Supply certificate and take photo with new citizens (excluding Australia Day):

- Mayor Palmer
- Cr Wells
- State MP for Newcastle
- Cr Anderson
- State MP for Port Stephens
- Cr Doohan
- Cr Tucker
- Federal MP for Paterson
- Cr Francis
- Cr Kafer
- Federal MP for Lyne
- Cr Arnott
- Cr Dunkley
- Cr Bailey

BACKGROUND REPORT OF: TIM CROSDALE – ACTING GENERAL MANAGER**BACKGROUND**

Council conducts a number of citizenship ceremonies throughout the year including on Australia Day. There is an Australian Citizenship Ceremonies Code that defines a number of requirements for holding citizenship ceremonies that Council will continue to comply with.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: 22/214597

EDRMS NO: PSC2021-04195

ANNUAL AWARDS POLICY

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Notes that Council has a policy titled "Port Stephens Annual Awards Policy".
- 2) Notes that this policy creates the Port Stephens Annual Awards Assessment Panel, which is comprised of the Mayor, the General Manager, 3 councillors (1 from each ward), 3 community representatives, and 1 Freeman of Port Stephens.
- 3) Notes that in 2021, for the 2022 Awards, the Mayor recommended an individual for Sports Person of the Year, to which the Panel unanimously agreed.
- 4) Notes with confusion and intense interest, that when the Awards were announced on Australia Day, the Mayor had used his power under the policy at 5.4, and the Delegations Instrument at Schedule 1 point 3, to provide that award to an organisation that was not discussed at the Panel meeting.
- 5) Agrees that the Panel should have the power to select the winners of the awards, without the Mayor overruling the panel at a later date with no oversight or consultation with those who gave up hours of their time to assess the nominees and meet to discuss and decide on the winners.
- 6) Agrees to amend 5.4 of the Policy to read as follows:
 - a. The Panel has final authority on who is to receive each Award. In the event a winner is not unanimous, a vote will be taken, and the Mayor or, in their absence, their delegate, will have a second vote to select the winner in the event of an equality of votes.
 - b. The Mayor retains delegated authority to determine the recipient of the Freeman of Port Stephens Award only, on recommendation from the Panel.
 - c. The Mayor and Council will be bound by the decision of the Panel, unless the Panel is recalled and agrees to change a recipient.

7) Agrees to amend Port Stephens Council's Delegation Instrument as follows:

a. Schedule 1 point 3 to read, "To make community awards in line with the recommendation".

8) Agrees to place the amendments on public exhibition for a period of 28 days, and should there be no submissions, make the changes. If any submissions are received, the policy amendment is to return to Council for endorsement.

BACKGROUND REPORT OF: BROCK LAMONT – ACTING STRATEGY & ENVIRONMENT SECTION MANAGER

BACKGROUND

Port Stephens Council recognises outstanding contributions of members of the Port Stephens community through the delivery of an annual awards program. These annual awards provide opportunity for Council to formally recognise people who provide outstanding or distinguished service to the community and enhance community pride and spirit.

The awards are guided by the Port Stephens Annual Awards Policy (**ATTACHMENT 1**) and Guidelines. In relation to determination of awards the current policy states:

5.2 The Port Stephens Annual Awards Assessment Panel is comprised of:

- a. the Mayor (Chair)
- b. the General Manager
- c. 3 Councillors (1 from each Ward), drawn from the 355(c) Port Stephens Australia Day Committee
- d. 3 community representatives, drawn from the 355(c) Port Stephens Australia Day Committee
- e. 1 Freeman of Port Stephens (by invitation of the Mayor).

5.3 The role of the panel is to receive and consider nominations in accordance with the criteria and recommend recipients for each category of award. Outstanding achievement or contribution towards Port Stephens' community values will be the principle basis for the awards.

The community values are:

- honesty
- safety
- fairness
- community spirit
- friendliness
- having a say

- support and connectedness
- tolerance of difference
- sustainability
- life choices.

5.4 The Mayor has delegated authority under this policy to determine the awards on the recommendation of the Port Stephens Annual Awards Assessment Panel.

The Policy is scheduled for review in November 2023.

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) Port Stephens Annual Awards Policy. [↓](#)

Policy



FILE NO: PSC2014-03407

TITLE: PORT STEPHENS ANNUAL AWARDS

OWNER: COMMUNICATIONS SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to recognise groups and individuals that contribute to the achievement of Council's vision of: Port Stephens - a great lifestyle in a treasured environment.
- 1.2 The awards recognise outstanding service, effort and achievements to groups, individuals and events that contribute to making our community a great place to live, work, play and grow.

2. CONTEXT/BACKGROUND:

- 2.1 Port Stephens Council recognises outstanding contributions of members of the Port Stephens community through the delivery of an annual awards program. The peak award is the Freeman of Port Stephens, followed by the Citizen of the Year, the Young Citizen of the Year, and other awards that acknowledge social, cultural and environmental achievements. These annual awards provide opportunity for Council to formally recognise people who provide outstanding or distinguished service to the community and enhance community pride and spirit.

3. SCOPE:

- 3.1 Council plays a role in supporting individuals and groups that benefit the Port Stephens community.
- 3.2 Eligibility for Port Stephens community awards is based on community values criteria to ensure awards recipients are determined following a merit-based approach.

4. DEFINITIONS:

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

Annual awards
program

Annual awards presented on Australia Day each year to formally recognise the efforts of groups and individuals from around our region.

Policy

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Policy



5. STATEMENT:

5.1 Port Stephens Council relies on community members to achieve its vision for Port Stephens. Council has a system of annual awards to recognise individuals and groups who, through outstanding effort, service and achievement, have contributed to the promotion of the community values of Port Stephens.

5.2 The Port Stephens Annual Awards Assessment Panel is comprised of:

- a) the Mayor (Chair)
- b) the General Manager
- c) 3 Councillors (one from each Ward), drawn from the 355(c) Port Stephens Australia Day Committee
- d) 3 community representatives, drawn from the 355(c) Port Stephens Australia Day Committee
- e) 1 Freeman of Port Stephens (by invitation of the Mayor).

5.3 The role of the panel is to receive and consider nominations in accordance with the criteria and recommend recipients for each category of award. Outstanding achievement or contribution towards Port Stephens' community values will be the principle basis for the awards. The community values are:

- a) honesty
- b) safety
- c) fairness
- d) community spirit
- e) friendliness
- f) having a say
- g) support and connectedness
- h) tolerance of difference
- i) sustainability
- j) life choices.

5.4 The Mayor has delegated authority under this policy to determine the awards on the recommendation of the Port Stephens Annual Awards Assessment Panel.

6. RESPONSIBILITIES:

6.1 The Community Development and Engagement unit are responsible for the implementation, monitoring, evaluating and reviewing the policy.

7. RELATED DOCUMENTS:

7.1 Port Stephens Annual Awards Guidelines.

Policy

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Policy



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EDRMS container No.	PSC2014-03407	EDRMS record No.	18/235005
Audience	Councillors, staff and community		
Process owner	Communications Section Manager		
Author	Community Development and Engagement Coordinator		
Review timeframe	3 years	Next review date	November 2023
Adoption date	28 November 2000		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.	28 November 2000		Port Stephens Community Awards	657
2.	27 August 2002		Port Stephens Community Awards	349
3.	8 February 2011		Port Stephens Community Awards	011
4.	24 February 2015	Communications Section Manager	Port Stephens Community Awards	027

Policy

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Policy



Version	Date	Author	Details	Minute No.
5.	11 September 2018	Communications Section Manager	<p>2.1 – Updated to reflect that each individual category was named in the context /background section of the policy. This was replaced with a general statement (see below) so changes can be made to award categories without the policy requiring review and further adoption by Council.</p> <p><i>'The peak award is the Freeman of Port Stephens, followed by the Citizen of the Year, the Young Citizen of the Year, and other awards that acknowledge social, cultural and environmental achievements'.</i></p>	285
6.	24 November 2020	Communications Section Manager	<p>2.1 - deleted 'will', 'further' and 'those' out of the paragraph.</p> <p>3.2 - deleted 'objective' and added 'community values' to this paragraph.</p> <p>4.1 - added into definitions: 'annual awards program'.</p>	254

Policy

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