MINUTES – 22 FEBRUARY 2022

PORT STEPHENS
COUNCIL

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 22 February 2022, commencing at 6:18pm.

PRESENT:	Mayor R Palmer, Councillors L Anderson, G Arnott, M Bailey, C Doohan, G Dunkley (via audio link), P Francis, P Kafer, S Tucker, J Wells, General Manager, Corporate Services Group Manager, Facilities and Services Group Manager, Development Services Group Manager and Governance Section Manager.

	There were no apologies or leave of absence applications received.

	Cr Kafer declared a less than significant non-pecuniary conflict of interest in Item 1. The nature of the interest is Cr Kafer's Aboriginal Heritage as a traditional custodian and ties to Mother Earth, his cultural and spiritual beliefs – his soul is Mother Earth. Cr Doohan declared a less than significant non-pecuniary conflict of interest in Item 1. The nature of the interest is the land adjoins Newcastle Airport which has a major employer and interested party of which Cr Doohan is an employee.

	Mayor Palmer declared a pecuniary conflict of interest in Item 1. The nature of the interest is Mayor Palmer is a Board member of Newcastle Airport Pty Limited and Greater Newcastle Aerotropolis Pty Limited. General Manager declared a pecuniary conflict of interest in Item 1. The nature of the interest is the General Manager is a Board member of Newcastle Airport Pty Limited and Greater Newcastle Aerotropolis Pty Limited.

001	**Councillor Chris Doohan** **Councillor Steve Tucker** It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 8 February 2022 be confirmed.

The motion was carried.

INDEX

SUBJECT PAGE NO

MAYORAL MINUTES 5

1. URGENT COMMUNITY WORKS PROGRAM - SALE OF LAND, LOT 95 DP26610, 109 FORESHORE DRIVE, SALAMANDER BAY 6
2. PORT STEPHENS DISASTER RECOVERY 2021 17

MOTIONS TO CLOSE 19

1. MOTION TO CLOSE.....20

COUNCIL REPORTS..... 21

1. DEVELOPMENT APPLICATION 16-2017-524-1 (EARTHWORKS - FILL) AT 52, 52A AND 40 CABBAGE TREE ROAD, WILLIAMTOWN (LOT: 7 DP 1059398, LOT: 7 DP: 4831, LOT: 3DP: 1106651) 22
2. QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2021 77
3. USE OF ANIMAL SHELTER TO TEMPORARILY HOUSE ANIMALS IN DOMESTIC VIOLENCE SITUATIONS 101
4. POLICY REVIEW: REZONING REQUEST POLICY.....107
5. REQUEST FOR FINANCIAL ASSISTANCE.....115
6. INFORMATION PAPERS 118

INFORMATION PAPERS 119

1. OCTOBER 2021 CASH AND INVESTMENTS.....120
2. NOVEMBER 2021 CASH AND INVESTMENTS.....122
3. DECEMBER 2021 CASH AND INVESTMENTS.....124
4. JANUARY 2022 CASH AND INVESTMENTS.....126
5. QUARTERLY GRANTS UPDATE TO 31 DECEMBER 2021.....128
6. DESIGNATED PERSONS' RETURN.....130
7. COUNCIL RESOLUTIONS 131

NOTICES OF MOTION 144

1. PUBLIC ACCESS 145
2. NEWSPAPER NOTICES 158
3. 109 FORESHORE DRIVE, SALAMANDER BAY.....162
4. LOCAL GOVERNMENT WEEK COUNCIL MEETINGS 166
5. WILLIAMTOWN CRG 168
6. VOTE RECORDING 186
7. MINOR DA MODIFICATION REPORTING.....189
8. ELECTION REPORT 192

CONFIDENTIAL 195

1. PROPOSED SALE OF COUNCIL OWNED LAND - 44B SQUIRE STREET, FINGAL BAY 196

MAYORAL MINUTES

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

	Councillor Giacomo Arnott **Councillor Leah Anderson** That Notice of Motion No. 3 be brought forward and dealt with as part of the Mayoral Minute.

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

MAYORAL MINUTE

ITEM NO. 1 **FILE NO: 22/55231**
EDRMS NO: PSC2015-01024

URGENT COMMUNITY WORKS PROGRAM - SALE OF LAND, LOT 95 DP26610, 109 FORESHORE DRIVE, SALAMANDER BAY

THAT COUNCIL:

1) Commits to the funding of the following community projects:

a) Urgent update to the Port Stephens Koala Plan of Management - $200,000.
b) Urgent funding for foreshore improvements and drainage pipes for a number of sites across the Tilligerry Peninsula including the Tanilba Foreshore and Lemon Tree Passage Foreshore - $150,000.
c) Urgent funding for the construction of a pathway along Kirrang Drive, Medowie - $400,000.
d) Urgent funding for the conversion of the croquet court in Boomerang Park - $25,000.
e) Urgent funding for a 7 Day Makeover in Raymond Terrace - $180,000.
f) Urgent funding for a 7 Day Makeover in Karuah - $180,000.
g) Urgent funding for the resealing, sealing and/or rehabilitation of priority roads including some car parks, re-sheeting of gravel roads and new pathways across Port Stephens to ensure the safety of our residents including school children – minimum $1,000,000 or balance of sale.
h) Urgent funding for the replacement of the toilet block at Fly Point - $140,000.
i) Urgent funding for the replacement of the toilet block at Shoal Bay boat ramp - $130,000.
j) Urgent funding for pathway connections for school children and the community in Hinton - $200,000.
k) Urgent funding for the continuation of the pathway through the Mallabula Sports Complex - $50,000.

2) Fund the urgent community works from the sale of residentially zoned land at 109 Foreshore Drive, Salamander Bay.
3) Authorise the sale of Council owned land described as Lot 95, DP26610, 109 Foreshore Drive, Salamander Bay in accordance with the Acquisition and Divestment of Land Policy.
4) Authorise the seller’s agent to sign the contract at auction, subject to the sale conditions established in accordance with the Acquisition and Divestment of Land Policy.
5) Authorise the General Manager to negotiate variations to contract conditions as required, excluding sale price outside of that set in accordance with the Acquisition and Divestment of Land Policy.
6) Authorise the Mayor and General Manager to affix the Council Seal and sign all documents necessary to complete the sale.

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7) Acknowledges that the sale of residential land at 109 Foreshore Drive, Salamander Bay does not hinder access to the foreshore at Salamander Bay, as there is access through the adjacent community land that will remain as community land and that there are 7 access points along this 950m section of properties, including the parkland next to the subject residentially zoned land.
8) Acknowledges that the above urgent community works program does not have an identified funding source for the next 10 years as a minimum.
9) Acknowledges that the above projects have been identified from extensive community engagement conducted over the previous term of Council and the start of this term from thousands of community responses.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

002	**Mayor Ryan Palmer** **Councillor Chris Doohan** It was resolved that Council: 1) Commits to the funding of the following community projects: a) Urgent update to the Port Stephens Koala Plan of Management - $200,000. b) Urgent funding for foreshore improvements and drainage pipes for a number of sites across the Tilligerry Peninsula including the Tanilba Foreshore and Lemon Tree Passage Foreshore - $150,000. c) Urgent funding for the construction of a pathway along Kirrang Drive, Medowie - $400,000. d) Urgent funding for the conversion of the croquet court in Boomerang Park - $25,000. e) Urgent funding for a 7 Day Makeover in Raymond Terrace - $180,000. f) Urgent funding for a 7 Day Makeover in Karuah - $180,000. g) Urgent funding for the resealing, sealing and/or rehabilitation of priority roads including some car parks, re-sheeting of gravel roads and new pathways across Port Stephens to ensure the safety of our residents including school children – minimum $1,000,000 or balance of sale. h) Urgent funding for the replacement of the toilet block at Fly Point - $140,000. i) Urgent funding for the replacement of the toilet block at Shoal Bay boat ramp - $130,000. j) Urgent funding for pathway connections for school children and the community in Hinton - $200,000. k) Urgent funding for the continuation of the pathway through the Mallabula Sports Complex - $50,000. 2) Fund the urgent community works from the sale of residentially zoned land at 109 Foreshore Drive, Salamander Bay.

	3) Authorise the sale of Council owned land described as Lot 95, DP26610, 109 Foreshore Drive, Salamander Bay in accordance with the Acquisition and Divestment of Land Policy. 4) Authorise the seller's agent to sign the contract at auction, subject to the sale conditions established in accordance with the Acquisition and Divestment of Land Policy. 5) Authorise the General Manager to negotiate variations to contract conditions as required, excluding sale price outside of that set in accordance with the Acquisition and Divestment of Land Policy. 6) Authorise the Mayor and General Manager to affix the Council Seal and sign all documents necessary to complete the sale. 7) Acknowledges that the sale of residential land at 109 Foreshore Drive, Salamander Bay does not hinder access to the foreshore at Salamander Bay, as there is access through the adjacent community land that will remain as community land and that there are 7 access points along this 950m section of properties, including the parkland next to the subject residentially zoned land. 8) Acknowledges that the above urgent community works program does not have an identified funding source for the next 10 years as a minimum. 9) Acknowledges that the above projects have been identified from extensive community engagement conducted over the previous term of Council and the start of this term from thousands of community responses.

Cr Giacomo Arnott and Mayor Ryan Palmer called for a division.

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

Those against the Motion: Crs Leah Anderson, Giacomo Arnott, Peter Francis, Peter Kafer and Jason Wells.

The motion was declared carried on the casting vote of the Mayor.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

	Councillor Giacomo Arnott **Councillor Leah Anderson** That a motion of dissent be moved.

Cr Giacomo Arnott and Cr Leah Anderson called for a division for dissent motion.

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

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

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

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
AMENDMENT

	Councillor Giacomo Arnott **Councillor Peter Francis** That Council: 1) Commits to the funding of the following community projects: a) Urgent update to the Port Stephens Koala Plan of Management - $200,000. b) Urgent funding for foreshore improvements and drainage pipes for a number of sites across the Tilligerry Peninsula including the Tanilba Foreshore and Lemon Tree Passage Foreshore - $150,000. c) Urgent funding for the construction of a pathway along Kirrang Drive, Medowie - $400,000. d) Urgent funding for the conversion of the croquet court in Boomerang Park - $25,000. e) Urgent funding for a 7 Day Makeover in Raymond Terrace - $180,000. f) Urgent funding for a 7 Day Makeover in Karuah - $180,000. g) Urgent funding for the resealing, sealing and/or rehabilitation of priority roads including some car parks, re-sheeting of gravel roads and new pathways across Port Stephens to ensure the safety of our residents including school children – minimum $1,000,000 or balance of sale. h) Urgent funding for the replacement of the toilet block at Fly Point - $140,000. i) Urgent funding for the replacement of the toilet block at Shoal Bay boat ramp - $130,000. j) Urgent funding for pathway connections for school children and the community in Hinton - $200,000. k) Urgent funding for the continuation of the pathway through the Mallabula Sports Complex - $50,000. 2) Fund the urgent community works from the sale of residentially zoned land at 109 Foreshore Drive, Salamander Bay. 3) Authorise the sale of Council owned land described as Lot 95, DP26610, 109 Foreshore Drive, Salamander Bay in accordance with the Acquisition and Divestment of Land Policy.

	4) Authorise the seller's agent to sign the contract at auction, subject to the sale conditions established in accordance with the Acquisition and Divestment of Land Policy. 5) Authorise the General Manager to negotiate variations to contract conditions as required, excluding sale price outside of that set in accordance with the Acquisition and Divestment of Land Policy. 6) Authorise the Mayor and General Manager to affix the Council Seal and sign all documents necessary to complete the sale. 7) Acknowledges that the sale of residential land at 109 Foreshore Drive, Salamander Bay does not hinder access to the foreshore at Salamander Bay, as there is access through the adjacent community land that will remain as community land and that there are 7 access points along this 950m section of properties, including the parkland next to the subject residentially zoned land. 8) Acknowledges that the above urgent community works program does not have an identified funding source for the next 10 years as a minimum. 9) Acknowledges that the above projects have been identified from extensive community engagement conducted over the previous term of Council and the start of this term from thousands of community responses. 10) Notes that the Mayor supported a 66% or $700/year rate rise in the last term of Council, with the funding to be used for capital projects. 11) Notes that this proposal is to sell a block of valuable community land to spend on capital projects. 12) Notes that this calculated decision to use a Mayoral Minute to put this forward is some of the most sad behaviour Council has seen coming from someone sitting in the Mayor's chair. 13) Notes that there's a reason this is being proposed early in the term - it's because the Mayor knows if he proposed this just before an Election, he would have been crucified. He didn't talk about this during the election campaign, because he knew it'd be unpopular and hurt his chances. 14) Notes that this motion is pure gutter politics and sets the scene for what is now apparent will be a Council that continues to disrespect the community and continues its efforts to undermine our community groups and community members who organise together and work for our collective benefit. 15) Notes that Councillors should not fall for the very obvious ploy being perpetrated here. Mayor Palmer tried it with the rate rise, he tried to guilt Councillors and the community into accepting a bad outcome by bribing us with projects and all sorts of money, but there are ways to fund projects without destroying our community in the process. 16) Agrees that this is not a good outcome for the community.

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

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
FORESHADOWED AMENDMENT

	Councillor Peter Kafer **Councillor Giacomo Arnott** That Mayoral Minute No. 1 be deferred for 2 weeks.

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

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

	Councillor Leah Anderson **Councillor Giacomo Arnott** That Council notes for the record that Councillors were not given sufficient notice to appropriately liaise with members of the community who we are elected to represent.

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

BACKGROUND

The purpose of this report is to request Council to commit funding to community projects.

Based on the ongoing impacts of COVID-19 on Council's financial position, the ability to provide ongoing funding to significant community infrastructure, important maintenance and key programs will continue to be highly constrained.

The matters listed for funding either have no current identified funding source and/or are scheduled for funding in the medium to long term. Providing funding to these items through the proposed asset sale is a means to ensure that these projects, maintenance activities and programs are implemented in the short term.

The recent consultation through the Liveability Index and Place Plans has highlighted the community's desire for a range of infrastructure, maintenance projects and programs across the Local Government Area. Moreover, a number of the projects have been previously considered by Council for further investigation.

The recent success of 7 Day Makeovers in Anna Bay and Medowie has highlighted the benefits to town centres and communities from these initiatives. Missing link

pathways, such as along Kirrang Drive, have also been identified by Council to improve the safety of users.

There are a number of low lying areas in the Local Government Area that require drainage and footpath works to improve public amenity and useability. Areas such as the Tilligerry Peninsula are subjected to tidal influences and stormwater during heavy events. The allocation of funds to these assets would improve the useability and amenity of these areas.

Part of the Council's total infrastructure backlog is the resurfacing of gravel roads and car parks. The speed limits in car parks are low and, hence, are considered a low risk priority environment. This low risk can result in limited funding opportunities and are not undertaken as often as desired. Similar, funds for the resurfacing of gravel roads is difficult to attract and gain. Allocation of monies would not only improve the asset, but lift the amenity and safety for users of these assets.

In addition, there are a range of other significant programs of works that are unfunded. This includes a continuation of a significant update to the Comprehensive Koala Plan of Management and also the continuation of support to the visitor economy of Port Stephens which is still impacted by the ongoing effects of COVID-19.

Council has a range of options available to fund priority projects, including the sale of surplus operational land. The sale of surplus operational land has the dual effect of reducing Council's maintenance requirements as well as creating funding available for specific projects and programs.

Lot 95 in Deposited Plan 26610 described as 109 Foreshore Drive, Salamander Bay is a standalone parcel of operational land with an area of 557m^2 and zoned Residential R2 as shown in white in **(ATTACHMENT 1)**. Immediately adjacent to this property is a parcel of community land which extends from Foreshore Drive to and along the beach front **(ATTACHMENT 2)**. As shown on **(ATTACHMENT 1)** this parcel of land links to a large area of community land extending both west and east along the foreshore which provides multiple direct access to the Port.

The parcels of land were created along with 55 other lots in DP26610 along Foreshore Drive. The allotment at 109 Foreshore Drive has been in Council ownership for over 42 years and adjoins open space to the west and to the north and residential development to the east.

Under the provisions of the Local Government Act 1993, Lot 95 DP 26610 described as 109 Foreshore Drive, Salamander Bay is classified "operational" which allows the use of the land for Council's operations and also for the sale of the land.

A recent valuation undertaken in February 2022 placed an estimated value on the land of circa $2.65 million under its current zoning. This is a significant increase from the previous independent value of land of circa $1.5 million in January 2020. Should

Council resolve to sell the property it would be via a public marketing campaign and affected through public auction or private treaty.

A number of community groups including the Mambo-Wanda Wetlands Conservation Group have made representations to Council regarding the environmental value of this parcel of land. In summary, this has related primarily to the potential use of this site by Koalas and proximity to the Mambo Wetlands.

Council undertakes regular assessments of land holdings, including 109 Foreshore Drive, to determine environmental values of parcels of land in accordance with relevant standards and recognised professional practice. The outcomes of this assessment identified that 1 Koala feed tree exists on 109 Foreshore Drive, with the community land adjacent to 109 Foreshore Drive and along the foreshore containing some 15 Koala feed trees in proximity to the subject land. As this exists on Community classified land it cannot be sold and remains under Council management.

The potential future development of 109 Foreshore Drive would not have a direct impact on the Koala feed trees located on the surrounding community land. Impacts on the single Koala feed tree on 109 Foreshore Drive and potential indirect impacts could also be managed as part of further detailed assessments undertaken as part of any potential future development process.

In addition, the community land located to the east of 109 Foreshore Drive **(ATTACHMENT 1)** also contains preferred Koala habitat and provides a direct link between the foreshore, the beach and the Mambo Wetlands conservation area for this species.

ATTACHMENTS

1) Locality Map - 109 Foreshore Drive, Salamander Bay.
2) Land adjacent 109 Foreshore Drive, Salamander Bay.

ITEM 1 - ATTACHMENT 1 LOCALITY MAP - 109 FORESHORE DRIVE, SALAMANDER BAY.

109 Foreshore Drive, Salamander Bay

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W E
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MGA 56

PORT STEPHENS
COUNCIL

LEGEND
109 Foreshore Drive
Community Land

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

DISCLAIMER

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SHEET LOCALITY

ITEM 1 - ATTACHMENT 2 LAND ADJACENT 109 FORESHORE DRIVE, SALAMANDER BAY.

109 FORESHORE DRIVE, SALAMANDER BAY

109 Foreshore Drive, Salamander Bay

Community Land

Councillor Peter Kafer left the meeting at 7:37pm.

MAYORAL MINUTE

ITEM NO. 2 **FILE NO: 22/55199**
EDRMS NO: PSC2015-0102

PORT STEPHENS DISASTER RECOVERY 2021

THAT COUNCIL:

1) Acknowledges that it has been almost 12 months since the March 2021 storm event that caused significant damage across Port Stephens.
2) Acknowledges there is in excess of $5.5 million in emergency repairs required to be completed by NSW Government agencies and Port Stephens Council as a result of the March 2021 storm event.
3) Expresses its frustration and concerns on behalf of the community that, to date, the works to be completed have not been scheduled or funded due to inaction by NSW Government agencies.
4) Writes to the NSW Premier - The Hon. Dominic Perrottet, the NSW Treasurer - The Hon. Matt Kean and the Commissioner of Resilience NSW - Shane Fitzsimmons, requesting urgent action on funding the disaster recovery works across Port Stephens.
5) Acknowledges the inaction of the NSW Government agencies is having a profound negative effect on the Port Stephens Community and Port Stephens Council.

Councillor Peter Kafer returned to the meeting at 7:41pm.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

003	**Mayor Ryan Palmer** It was resolved that Council: 1) Acknowledges that it has been almost 12 months since the March 2021 storm event that caused significant damage across Port Stephens. 2) Acknowledges there is in excess of $5.5 million in emergency repairs required to be completed by NSW Government agencies and Port Stephens Council as a result of the March 2021 storm event. 3) Expresses its frustration and concerns on behalf of the community that, to date, the works to be completed have not been scheduled or funded due to inaction by NSW Government agencies.

	4) Writes to the NSW Premier - The Hon. Dominic Perrottet, the NSW Treasurer - The Hon. Matt Kean and the Commissioner of Resilience NSW - Shane Fitzsimmons, Leader of the Opposition – Chris Minns, the Shadow Treasurer – Daniel Mookhey and the Member for Port Stephens - Kate Washington, requesting urgent action on funding the disaster recovery works across Port Stephens. 5) Acknowledges the inaction of the NSW Government agencies is having a profound negative effect on the Port Stephens Community and Port Stephens Council.

The motion was carried.

BACKGROUND

The purpose of this report is to acknowledge the emergency repairs required as a result of the 2021 March storm event.

Similar to other areas in eastern NSW, Port Stephens Council sustained a natural disaster in March 2021. Some areas of the Port Stephens Local Government Area were hit with rain in excess of what is commonly known as a 1 in 500 year event. The storm event was greater than usual engineering design criteria and definitely qualifies as a Natural Disaster. The event resulted in flooding and fast-moving water that caused damage to not only private property, but damage to Council infrastructure as land subsidence impacted assets, undermined culverts, collapsed roads, increased pot holes, damaged pumps stations and failed retaining walls, to name a few.

Following the initial clean-up, planning commenced to scope works and seek approvals from relevant Natural Disaster Funding agencies to undertake these works. While Council understands that Natural Disaster Funds are a contribution, the scale of works required and the associated funds is in excess of Council's ability to carry this cost. Nearing 1 year since the event, Council staff are still working through the scoping of works to meet the requirements of the funding agencies and to seek approvals to undertake these works.

While the initial clean-up claim has been made and approved, there are a number of expenses such as temporary pump placements that were placed to protect private properties that have been rejected for funding.

The March 2021 event has resulted in 16 main projects with a total in excess of $5.5 million worth of works that are in varying stages that Council is still seeking funds for.

ATTACHMENTS

Nil.

MOTIONS TO CLOSE

ITEM NO. 1 **FILE NO: 22/48911**
EDRMS NO: PSC2021-00070

MOTION TO CLOSE

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

RECOMMENDATION:

1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **Proposed sale of Council owned land - 44B Squire Street, Fingal Bay**.
2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:

- information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

004	**Councillor Chris Doohan** **Councillor Peter Kafer** It was resolved that Council: 1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **Proposed sale of Council owned land - 44B Squire Street, Fingal Bay**. 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing: • information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

The motion was carried.

COUNCIL REPORTS

Mayor Ryan Palmer vacated the Chair and left the meeting at 7:45pm. Deputy Mayor, Cr Steve Tucker chaired the meeting.
Councillor Chris Doohan left the meeting at 7:45pm.
The General Manager left the meeting at 7.45pm.

ITEM NO. 1 **FILE NO: 22/46492**
EDRMS NO: 16-2017-524-1

DEVELOPMENT APPLICATION 16-2017-524-1 (EARTHWORKS - FILL) AT 52, 52A AND 40 CABBAGE TREE ROAD, WILLIAMTOWN (LOT: 7 DP 1059398, LOT: 7 DP: 4831, LOT: 3DP: 1106651)

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

RECOMMENDATION IS THAT COUNCIL:

1) Refuse DA No. 16-2017-524-1 for Earthworks – Fill at 52, 52A and 40 Cabbage Tree Road, Williamtown (LOT: 7 DP: 1059398, LOT: 7 DP: 4831 and LOT: 3 DP: 1106651) for the reasons contained in **(ATTACHMENT 3)**.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

005	**Councillor Peter Kafer** **Councillor Glen Dunkley** It was resolved that Council refuse DA No. 16-2017-524-1 for Earthworks – Fill at 52, 52A and 40 Cabbage Tree Road, Williamtown (LOT: 7 DP: 1059398, LOT: 7 DP: 4831 and LOT: 3 DP: 1106651) for the reasons contained in **(ATTACHMENT 3)**.

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

Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present Development Application (DA) No. 16-2017-524-1, for Earthworks – Fill, to Council for determination. The DA is being referred to Council in accordance with the Call to Council Policy **(ATTACHMENT 4)**.

The DA was reported to Council at its meeting of 8 February 2022 (**ATTACHMENT 6**) with a recommendation for refusal. At that meeting Council resolved to defer consideration of the DA for a 2 week period.

The below is unchanged from the report tabled at the 8 February 2022 meeting.

The DA was reported to Council at its meeting of 11 September 2018 **(ATTACHMENT 5)** with a recommendation for refusal. The refusal recommendation by Council staff was as a result of key issues arising through the assessment of the DA, including impacts to flooding, ecology and rural character.

At the September 2018 meeting, Council resolved to defer consideration of the DA for a site inspection. Subsequent to that meeting, the applicant has provided additional information relating to the development characteristics, earthworks, flooding and ecology**.**

The application was not immediately reported back to Council to allow for a Planning Proposal associated with the site and the Williamtown Special Activation Precinct (SAP) Masterplan to progress through assessment and determination.

The Planning Proposal associated with the site was rejected at the Gateway determination stage. A subsequent rezoning review was conducted by the Joint Regional Planning Panel (now Hunter and Regional Planning Panel) at the request of the applicant in 2020. The Gateway review by the Panel rejected the Planning Proposal, determining that the proposal did not have strategic merit. It is anticipated the Williamtown SAP Masterplan will be placed on public exhibition in the first quarter of 2022.

Since the September 2018 deferral, Council staff identified that earthworks, even if utilising clean fill, are classified as ‘waste management works’. Clause 32 within Schedule 3 of the Environmental Planning and Assessment Regulation states that waste management works (earthworks), where not ancillary to any other development activity, is Designated Development when located on a floodplain, an area of high water table and within 250m of a dwelling not associated with the development. As a result, Council staff cannot support the proposal without the applicant obtaining the Secretary’s Environmental Assessment Requirements (SEARs) from the Department of Planning, Industry and Environment (DPIE) and preparing an Environmental Impact Statement. On this basis, the application is invalid.

The applicant has been requested to withdraw the application on a number of occasions however, to date, no withdrawal request has been received.

Further details regarding the statutory framework for designated development and other key issues relating to the DA are detailed in the Planners Assessment Report contained in **(ATTACHMENT 2)**.

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

Subject land:	52, 52A and 40 Cabbage Tree Road, Williamtown (LOT: 7 DP: 1059398, LOT: 7 DP: 4831 and LOT: 3 DP: 1106651)
Total area:	7.5ha
Zoning:	RU2 – Rural Landscape
Permissibility:	Earthworks are permissible under Clause 7.2 of PSLEP 2103
Submissions:	7
Key issues:	Designated Development Requirements - The DA is classified as Designated Development. Designated Development applications require an Environmental Impact Statement (EIS) and consultation with Department of Planning, Industry and Environment through obtaining SEARs. As a result, Council staff are unable to support the DA without the applicant obtaining the Secretary's Environmental Assessment Requirements (SEARs) from the Department of Planning, Industry and Environment (DPIE) and preparing an Environmental Impact Statement. On this basis, the application is invalid. Impacts to Rural Character – The DA will impact on the rural landscape character of the site and surrounding context, and is consequently inconsistent with the RU2 zone objectives.

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

Proposal

The DA is seeking consent for earthworks comprising the placement of fill in a single stockpile on the subject site to achieve the Flood Planning Level (FPL) of 4.0 metres Australian Height Datum (AHD). The proposed storage of fill is intended for the future use and development of the site in relation to business and airport related development, contingent upon a future rezoning occurring as part of the Williamtown SAP, or rezoning via a Planning Proposal.

The DA comprises:

- Delivery of fill on-site over a 5 year timeframe (maximum 50 movements per day)
- Maximum height of fill up to 4.0 metres (measured from existing ground level)
- Stockpile surface area is 16,223m^2
- Fill volume approx. 53,698m^3
- Batter at a 1:4 gradient with the following setbacks to property boundaries:

  - Eastern side boundary - varied setback of 10 metres to 26.7 metres.
  - Western side boundary - over 40 metres.
  - South-western boundary (adjacent No. 50 Cabbage Tree Road) – varied setback of 15.6 metres and 22.7 metres.
- Proposed access road to be setback 43.22 metres from the existing dwelling located at No. 50 Cabbage Tree Road
- Fill material will comprise Virgin Excavated Natural Material (VENM) and/or Excavated Natural Material (ENM).

Site Description

The site consists of 3 lots with a combined area of 7.5 hectares and is located adjacent to the Defence and Airport Related Employment Zone (DAREZ) and identified within the Williamtown SAP investigation area. Vehicular access to the site is proposed via 40 Cabbage Tree Road. The site is constrained by environmental and neighbouring operational factors, including: flooding, contamination (PFAS), RAAF Base operations, ecology and bushfire. The site is currently vacant, partly cleared of vegetation, with the northern section containing dense vegetation. Existing drainage corridors traverse the site through the centre from east to west and along the eastern boundary.

The site is surrounded by rural land to the east, west and south. To the north, the site adjoins an approved 103 lot special purpose subdivision for Defence and airport related employment development, adjacent the Newcastle Airport, known as the 'Astra Aerolab'. A small lot, containing a single storey dwelling is located at the Cabbage Tree Road frontage, adjacent the subject site between 52 and 40 Cabbage Tree Road.

Key issues

The key issues that arose during the DA assessment related to the classification of the proposed works as Designated Development, rural character and visual amenity impacts, as outlined in further detail below. A detailed assessment of the development is provided in the Planners Assessment Report contained in **(ATTACHMENT 2)**.

Designated Development

The application is classified as Designated Development in accordance with Clause 4.10 of the Environmental Planning and Assessment Act 1979 (EP&A Act), as the development is categorised as a waste management facility located on a floodplain, an area of high water table and dwellings within 250m not associated with the development in accordance with Schedule 3, Clause 32 of the Environmental Planning and Assessment Regulation 2000 (the Regulations).

Section 4.12(8) of the EP&A Act 1979 stipulates that a DA for Designated Development is to be accompanied by an Environmental Impact Statement (EIS) prepared in the form prescribed by the regulations, which includes a written

application to the DPIE to obtain SEARs. There is no opportunity to obtain SEARs and prepare an EIS through an amendment to this current application.

The applicant has not correctly classified the DA as Designated Development, nor has the applicant sought SEARs from DPIE or prepared an EIS. As a result, the DA does not meet the minimum application requirements of the EP&A Act 1979.

Rural Character and Visual Impacts

The subject site is zoned RU2 Rural Landscape and the objectives of the zone encourage sustainable primary industry production by maintaining and enhancing the natural resource base, maintain the rural landscape character of the land and provide for a range of compatible land uses, including extensive agriculture.

Given the DA includes fill that extends to heights up to 4.0 metres, the development will be highly visible from Cabbage Tree Road and surrounds across Williamtown. A landscape plan was submitted with the amended application to demonstrate the visual impact of the development. This plan identifies the establishment of native plant layers to screen the proposed stockpile, by planting taller species at the base of the mound and graduating to small species such as turf at the top. However, the proposed visual screening will take time to achieve as vegetation will need to reach maturity. Through the progressive delivery of new fill on-site, seedlings and vegetation are likely to be disrupted or destroyed, which could result in a failure to achieve mature height and subsequent visual impact mitigation.

The applicant has failed to demonstrate a nexus for which the DA would be required to support any current permissible land use within the current RU2 Rural Landscape zone and as a result, the visual and rural character impacts are not considered appropriate or suitable for the site. Subsequently, the proposed development does not satisfy the zone objectives as the height, extent and visual impact of the earthworks are out of keeping with the rural character of the surrounding locality.

Williamtown SAP Master Plan

The Williamtown SAP Master Plan has not been publically exhibited and accordingly there is no strategic or economic purpose for which the proposed earthworks would warrant support. Moreover, the establishment of an isolated and unplanned fill pad may compromise flood modelling and infrastructure planning for potential future works under the SAP.

For the above reasons, the DA does not adequately consider the impacts on the rural landscape character of the site and surrounding context and therefore is inconsistent with the zone objectives.

Conclusion

Based on the assessment by Council staff, the DA is inconsistent with the following legislation and policies:

- Environmental Planning and Assessment Act 1979 – Section 1.3 (Objects of Act), Section 4.12 (Application), Section 4.15(1)(b) (The likely impacts of the development), Section 4.15(1)(c) (Site Suitability), Section 4.14(1)(e) (Public Interest).
- Port Stephens Local Environmental Plan 2013 (PSLEP 2013) – Clause 2.3 (Zone Objectives) and Clause 7.2 (Earthworks).

A detailed assessment of the DA has been undertaken, and with consideration to the inconsistences identified against the Environmental Planning and Assessment Act 1979 and PSLEP 2013, the DA is recommended for refusal for the reasons contained in **(ATTACHMENT 3)**.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding ($)	Comment
Existing budget	Yes		There is scope within Council's existing budget to defend Council's determination if challenged.
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The DA is inconsistent with the relevant planning instruments including the EP&A Act and PSLEP 2013.

Detailed assessment against these requirements are contained within the assessment report provided at **(ATTACHMENT 2)**.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
If the DA is supported, there is a risk that Council's decision will be ultra vires as the application requirements for Designated Development under Clause 4.12 of the Environmental Planning and Assessment Act 1979 have not been met.	High	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.	Low	Accept the recommendation.	Yes
If the DA is approved, a third party may appeal the determination.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The establishment of an isolated and unplanned fill pad may compromise flood modelling and infrastructure planning for potential future works under the SAP. This would have detrimental social, environmental and economic implications.

The applicant has failed to demonstrate a nexus for which the proposed earthworks would be required to support any current permissible land use within the current RU2 Rural Landscape zone and as a result, the disturbance created by the works and associated vehicle movements are not considered appropriate or suitable for the site. Furthermore, the proposed development does not satisfy the zone objectives as the height, extent and visual impact of the earthworks are out of keeping with the rural character of the locality.

Accordingly, through the assessment of the DA, it is considered the development will result in negative social, economic and environmental outcomes.

CONSULTATION

Internal

Consultation was undertaken with internal officers, including; Engineering, Natural Systems (Ecology and Weeds), Strategic Planning, and Environmental Health. The referral comments from these officers were considered as part of the assessment contained at **(ATTACHMENT 2)**. Following the submission of additional information, no objections were made, with the exception of the Strategic Planning, which highlighted that the land has not yet been rezoned for commercial or business related development.

External

Consultation with the Environment Protection Agency (EPA) was undertaken during the course of assessment. Subject to recommended conditions of consent being imposed with respect to landfill, the EPA did not object to the development. The EPA did however, object to the removal of any fill once placed on the site, noting that the fill would likely become contaminated by PFAS, if inundated during flood event. Based on this advice, the applicant's previous proposal to remove the fill from the site if the land is not rezoned in the future was not supported.

Public Exhibition

The application was originally notified for a period of 14 days between 9 August 2017 and 22 August 2017. During this time, 4 submissions were received with 5 signatories.

As a result of modifications made to the development, the application was re-notified for a period of 14 days between 9 January 2019 and 23 January 2019. During this time, 3 submissions were received with 5 signatories. The key issues raised within the submissions included; drainage, spread of contaminated water, ecological impacts, flooding, visual impact, traffic management and lack of information supporting the development application. These issues have been addressed in detail within the detailed assessment report contained at **(ATTACHMENT 2)**. The assessment has acknowledged some of these concerns are insurmountable and therefore, the application is recommended for refusal.

OPTIONS

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

ATTACHMENTS

1) Locality Plan.
2) Planners Assessment Report.
3) Reasons for Refusal.

4) Call to Council Form.
5) Ordinary Council Minutes - 11 September 2018.
6) 8 February 2022 - Ordinary Council Minutes. (Provided under separate cover)

COUNCILLORS ROOM

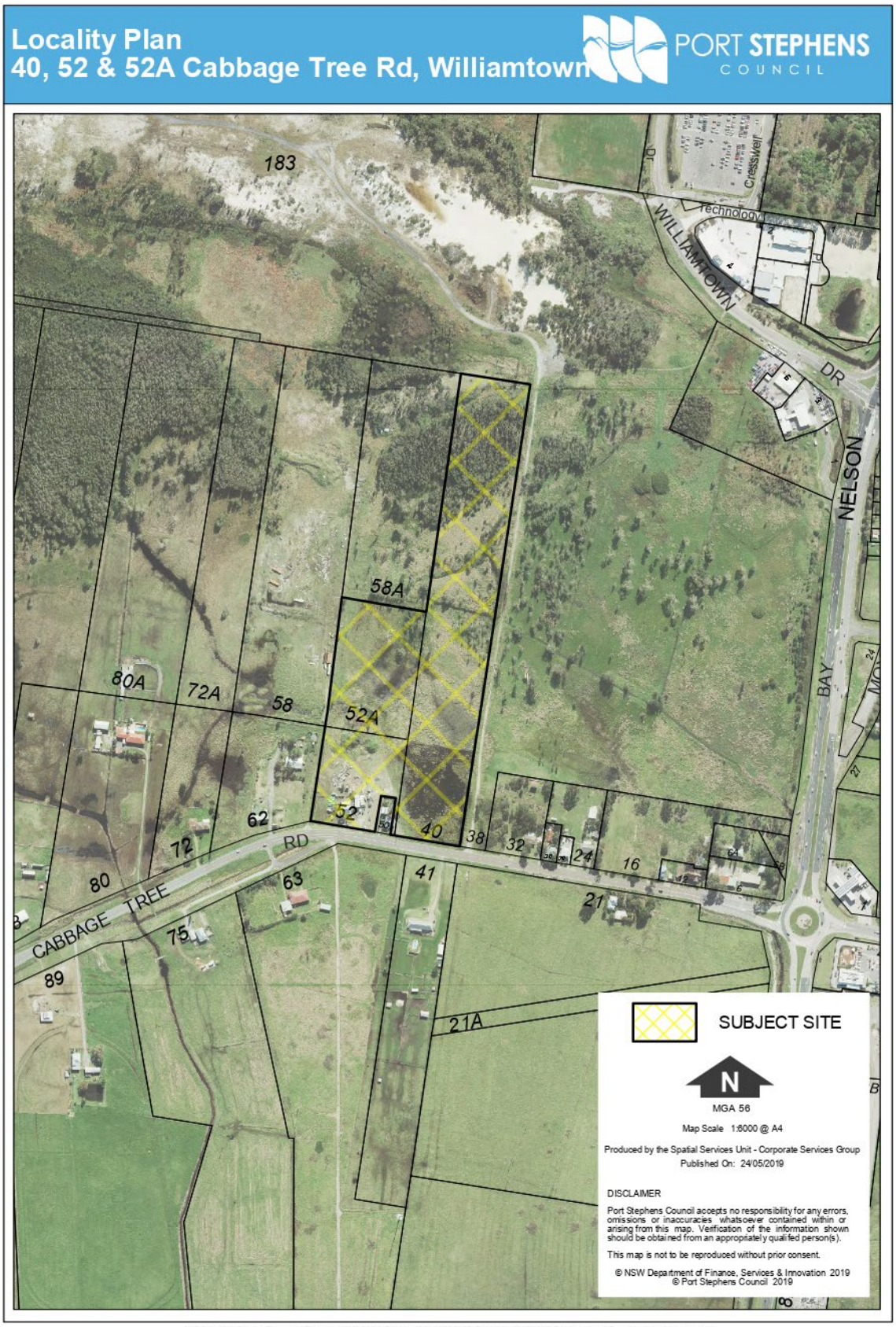
1) Development Plans.
2) Unredacted submissions.

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

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.



PORT STEPHENS COUNCIL

DEVELOPMENT ASSESSMENT REPORT

APPLICATION DETAILS

Application Number	16-2017-524-1
Development Description	Earthworks - fill
Applicant	Land Development Solutions
Date of Lodgement	03/08/2017
Value of Works	$20,000.00

Background

The development application (DA) was reported to Council at its meeting of 11 September 2018 with a recommendation for refusal. The recommendation of refusal by Council staff was as a result of key issues arising through the assessment, namely impacts to flooding, ecology and rural character. In this regard, the development was found to be inconsistent with the Environmental Planning and Assessment 1979 (EP&A Act), Port Stephens Local Environmental Plan (LEP2013), Port Stephens Development Control Plan 2014 (DCP2014), Council's Floodplain Risk Management Policy and the NSW Government Floodplain Development Manual 2005.

At the September 2018 meeting, Council resolved to defer consideration of this item for a site inspection. Subsequent to that meeting, the applicant has provided additional information relating to the development characteristics, including earthworks, flooding and ecology.

The application was not immediately reported back to Council to allow for both a Planning Proposal lodged on the site and the Williamtown Special Activation Precinct (SAP) Masterplan to progress through assessment and determination.

The Planning Proposal was rejected at the Gateway determination stage. A subsequent rezoning review was conducted by the Joint Regional Planning Panel (now Hunter and Regional Planning Panel) at the request of the applicant in 2020. The Gateway review by the Panel rejected the Planning Proposal, determining that the proposal did not have strategic merit. It is anticipated the Williamtown SAP Masterplan will be placed on public exhibition in the first quarter of 2022.

Furthermore, since the September 2018 deferral, Council staff identified that earthworks, even if utilising clean fill, is classified as "waste management works". Clause 32 within Schedule 3 of the Environmental Planning and Assessment Regulation states that waste management works (earthworks), where not ancillary to any other development activity, is Designated Development when located on a floodplain, an area of high watertable and within 250m of a dwelling not associated with the development. As a result, Council staff cannot support the proposal without the applicant obtaining the Secretary's Environmental Assessment Requirements (SEARs) from the Department of Planning, Industry and Environment (DPIE) and preparing an Environmental Impact Statement. On this basis, the application is invalid.

The assessment below provides further details regarding the statutory framework for designated development and includes the assessment of the application that has already occurred.

Development proposal

The applicant seeks approval for earthworks (waste management works) comprising the placement of fill in a single stockpile on the subject site to achieve the Flood Planning Level (FPL) of 3.0 metres Australian Height Datum (AHD) for the future use and development of the site in relation to business and airport related development, contingent upon a future rezoning occurring as part of the Williamtown SAP, or spot rezoning via a Planning Proposal.

The proposed development comprises:

- Delivery of fill on-site over a five year timeframe (maximum 50 movements per day);
- Maximum height of fill up to 4.0 metres (measured from existing ground level);
- Stockpile surface area is 16,223m^2;
- Fill volume approx. 53,698m^3;
- Batter at a 1:4 gradient with the following setbacks to property boundaries:
  - Eastern side boundary - varied setback of 10 metres to 26.7 metres.
  - Western side boundary - over 40 metres.
  - South-western boundary (adjacent No. 50 Cabbage Tree Road) – varied setback of 15.6 metres and 22.7 metres.
- Proposed access road to be setback 43.22 metres from the existing dwelling located at No. 50 Cabbage Tree Road; and
- Fill material will comprise Virgin Excavated Natural Material (VENM) and / or Excavated Natural Material (ENM).

An extract of the site plan is provided at **Figure 1** below.

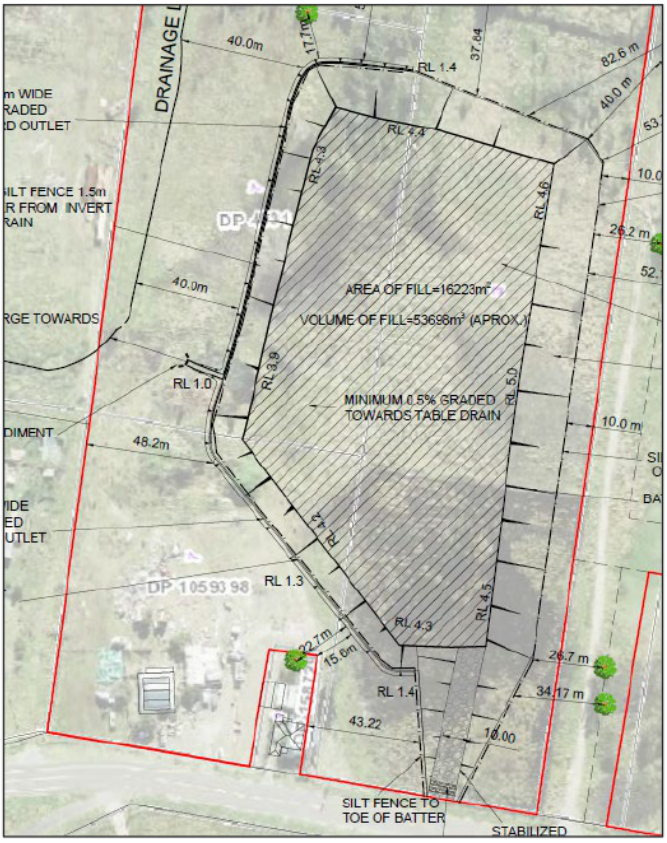


Figure 1: Site plan

PROPERTY DETAILS

Property Address	52A Cabbage Tree Road WILLIAMTOWN, 52 Cabbage Tree Road WILLIAMTOWN, 40 Cabbage Tree Road WILLIAMTOWN
Lot and DP	LOT: 7 DP: 4831, LOT: 7 DP: 1059398, LOT: 3 DP: 1106651
Current Use	Vacant land
Zoning	RU2 RURAL LANDSCAPE
Site Constraints	• Acid Sulfate Soils – Class 3; • Koala Habitat – Preferred; • Endangered Ecological Communities – Swamp Sclerophyll Forest; • RAAF Base Williamtown – ANEF 30-35; • RAAF Base Williamtown – Height Trigger; • RAAF Base Williamtown – Bird Strike Class C; • RAAF Base Williamtown – Extraneous Light; • Alligator Weed Affected Land; • Bushfire Prone Land – Category 3; • Flooding – High Hazard Storage; • Flooding – High Hazard Floodway; • Flooding – Low Hazard Storage; • Flooding – Low Hazard Fringe; • Williamtown PFAS Contamination Management Area – Primary Management Zone; and • Planning Strategy – DAREZ Business Park (adjoining the site).

Site Description

The subject site consists of three lots known as 40, 52 and 52A Cabbage Tree Road, Williamtown, with a combined area of 7.5 ha and is located adjacent to the Defence and Airport Related Employment Zone ('DAREZ'). The subject site is identified in **Figure 2** below. Vehicular access to the site is proposed via 40 Cabbage Tree Road (Lot 3 DP: 1106651). The site is heavily constrained by environmental and neighbouring operational factors, including: flooding, contamination by per- and poly-fluoroalkyl substances (PFAS), RAAF Base operations, ecology and bushfire.

The site is currently vacant, partly cleared of vegetation, with the northern section containing dense vegetation. Existing drainage corridors traverse the site through the centre from east to west and along the eastern boundary.

The site is surrounded by rural land to the east, west and south. To the north, the site adjoins an approved 103 lot industrial subdivision, adjacent the Newcastle Airport, known as the 'Astra Aerolab'. A small lot, containing a single storey dwelling is located at the Cabbage Tree Road frontage, adjacent the subject site between 52 and 40 Cabbage Tree Road.

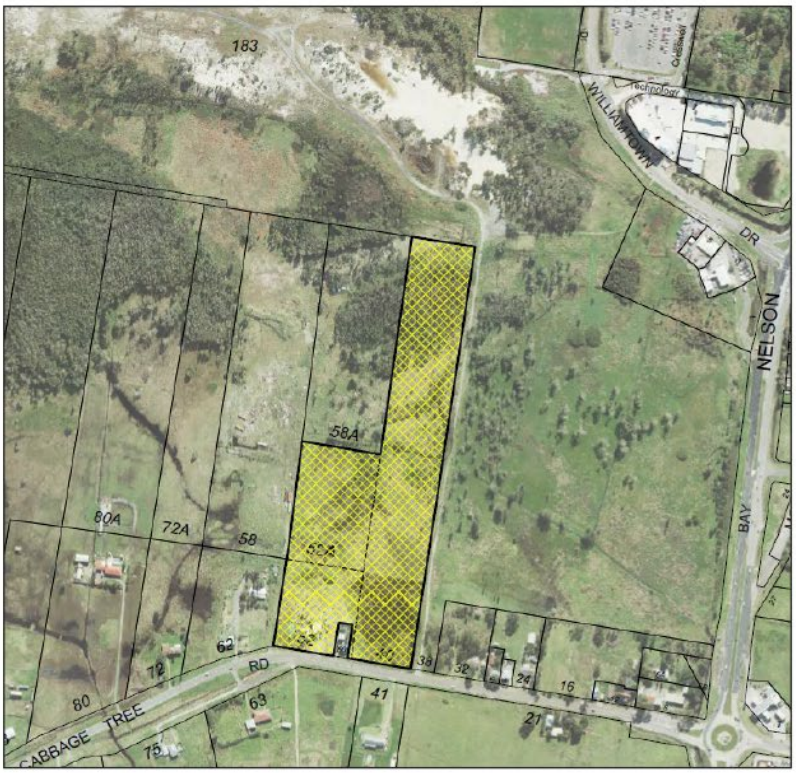


Figure 2: Aerial extent of subject site

Site History

The subject site has a history of agricultural activities. A current compliance matter is being investigated by Council relating to the placement of demountable structures on-site. This is however outside of the area affected by the proposed development, and has no bearing on the assessment of the current application.

A Planning Proposal to rezone the land from RU2 Rural Landscape to B7 Business Park was previously lodged with Council but did not progress to Gateway determination. A rezoning review conducted by the Joint Regional Planning Panel in 2020 determined that the proposal did not have site specific merit.

Site Inspection

A site inspection was carried out on **31 July 2018**. The subject site is depicted in the below images.

Image 1: 40 Cabbage Tree Road (looking west)

Image 2: 40 Cabbage Tree Road (looking north-west)

Image 3: 40 and 52 Cabbage Tree Road (looking west)

Image 4: 40 Cabbage Tree Road (looking west)

Image 5: 40 Cabbage Tree Road (looking west)

ASSESSMENT SUMMARY

Designated Development	The application is Designated Development in accordance with Clause 4.10 of the Environmental Planning and Assessment Act 1979 (EP&A Act), as the development is classified as a waste management facility located on a floodplain, an area of high water table and dwellings within 250m not associated with the development in accordance with Schedule 3, Clause 32 of the Environmental Planning and Assessment Regulation 2000 (the Regulations).
Integrated Development	The application does not require additional approvals listed under Section 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Concurrence	The application does not require the concurrence of another body

Internal Referrals

The proposed development was referred to the following internal specialist staff. The comments of the listed staff have been used to carry out the assessment against the Section 4.15 Matters for Consideration of the EP&A Act below.

Engineering Services

On 5 December 2018, a revised flood assessment prepared by Martens Consulting Engineers (ref: P1806741JR01V02 and dated December 2018) was submitted to Council. Amended plans were also received on 5 February 2018, which relocated the proposed fill 10 metres from the eastern boundary to minimise the offsite impact. The revised flood assessment and amended plans were referred to Council's Development Engineering Section for assessment.

The assessment of the amended information identified that the flooding conditions as a result of the proposed development are largely unchanged from the existing conditions. Further, that the proposed fill pad does not substantially alter the existing flood characteristics of the local area. As such, the proposed development is consistent with the LEP 2013, DCP 2014, the NSW Floodplain Development Manual 2005, and Council's existing Flood Study or Floodplain Risk Management Plan. In this regard, the proposed development was recommended for approval, subject to conditions.

Traffic Engineer

The application, including amended plans, was referred to Council's Traffic Engineer for assessment. The application was supported, subject to recommended conditions relating to the preparation of a Traffic Management Plan, Roads Act approval, restriction of vehicle movement and numbers to and from the site, and implementation of measures to ensure material is not transported off the subject site.

Strategic Planning

A Planning Proposal (PP) was lodged on 21 December 2018 that seeks to rezone the subject site from RU2 Rural Landscape to B7 Business Park was previously lodged with Council. The PP did not progress to Gateway approval as previously mentioned in this report.

Natural Resources

On 5 December 2018, an amended ecological report prepared by Kleinfelder (ref: NCA18L86696 and dated 4 December 2018) was submitted to Council. Further commentary was received on 5 February 2019 relating to the assessment of significance and Environmental Planning and Biodiversity Conservation Act 1999.

The amended / additional information was referred to Council's Natural Resources Section for assessment. In summary, the ecology assessment found the following:

- The buffer between the development and the drainage channel to the north increased from 16.5m to 40m.
- Two habitat trees (with hollows) are required to be removed within the proposed development footprint.
- Additional surveys and details on the Wallum Froglet were completed, concluding that no Wallum Froglets were identified on-site.

- Assessment of potential impacts to natural flow regimes, inclusive of hydrology description, dynamics of the vegetation community and potential groundwater interactions was completed, concluding that minimal impact will occur and all drains will be untouched by the fill.
- Details on potential pollution and water quality impacts from proposed fill were provided. The improved sediment control measures and water quality management system offers substantially more protection and it is considered that potential pollution and water quality impacts can be adequately addressed to avoid any significant impact to surrounding wetland and swamp forest, or to downstream coastal wetlands. A revised buffer from the drainage channel to the north (as noted above) that flows into the mapped watercourse was provided to ensure that sufficient protection is available in the event of a small bank collapse.
- Additional consideration of the impacts on Alligator Weed located on-site was provided.
- Additional consideration of mitigation measures, including potential offset measures for the loss of hollow bearing trees or procedures for vegetation removal was provided.
- Sufficient information has been provided to justify that a significant environmental impact is unlikely.
- Sufficient information has been provided to justify that a significant impact on Matters of National Environmental Significance is unlikely.
- Information was provided confirming that the proposal is unlikely to have a significant impact on the koala.

It was determined that the proposed development will not result in unacceptable environmental impact, subject to conditions, in the event the application is supported.

Weeds Officer

The application was referred to Council's Weeds Officer to assess the impact of development on notifiable noxious weeds as the site is located within an area identified as containing Mother of Millions and Alligator Weed. It is noted that once the fill is placed it is not intended to be transported or distributed off site in the future. A condition requesting the preparation of a weed management plan was recommended, in the event the application is supported.

External Referrals

The proposed development was referred to the following external agencies for comment:

Environment Protection Authority (EPA)

The subject site is located within the Williamtown Investigation Zone and as the EPA is the lead authority investigating the contamination issues in the area, the application was referred to the EPA for comment and/or conditions. Following submission of additional information by the applicant, a response was received from the EPA on 5 February 2018, which provided recommended conditions of consent, which relate to; the implementation of a Quality Assurance / Quality Control Plan for the importation, certification and supervision of fill and requirements for resource recovery orders to which an exemption applies.

Further comment was sought from EPA in May 2019 in relation to the implications of imposing a time limited consent, requiring the removal of all material from the site within seven years to address concerns relating to long-term visual impacts associated with the proposal. In response to the referral, EPA noted that due to the site being located on flood prone land, the fill may be inundated by floodwaters and consequently contaminated with per- and poly-fluoroalkyl substances (PFAS). EPA further advised that should the fill become contaminated the fill may

require disposal at a solid waste landfill or a hazardous waste facility, however disposal of large quantities of contaminated soil should be avoided.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 ASESSMENT

Section 4.10 – Designated Development

The application is classified as Designated Development in accordance with Clause 4.10 of the Environmental Planning and Assessment Act 1979 (EP&A Act), as the development is classified as a waste management facility located on a floodplain, an area of high water table and residential dwellings within 250m not associated with the development in accordance with Schedule 3, Clause 32 of the Environmental Planning and Assessment Regulation 2000 (the Regulations).

Section 4.12 – Application

Section 4.12(8) provides that a development application for designated development is to be accompanied by an Environmental Impact Statement (EIS) prepared in the form prescribed by the regulations, which includes a written application to the DPIE to obtain SEARs.

The applicant has not identified that the application is Designated Development and has not sought SEARs from DPIE. As a result, the proposal does not comply with Section 4.12 of the EP&A Act.

Section 4.15 – Matters for Consideration

s4.15(1)(a)(i) – The provisions of any EPI

State Environmental Planning Policies

State Environmental Planning Policy No. 44 – Koala Habitat Protection

SEPP 44 applies by virtue of savings provisions as the application was lodged and not determined before the commencement of State Environmental Planning Policy Koala 2020.

SEPP 44 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for Koalas to ensure a permanent free-living population over their present range and reverse the current trend of Koala population decline. The Ecology Assessment Report prepared by Wildthing Environmental Consultants (dated April 2018, ref: 12326) and ecological report prepared by Kleinfelder (ref: NCA18L86696 and dated 4 December 2018) submitted with the development application found the study area contained portions of ‘preferred’ habitat with linkages over cleared vegetation, as shown on the Koala Habitat Planning Map within the Port Stephens Council Comprehensive Koala Plan of Management (PSCKPoM). Based on the field surveys, no preferred koala habitat or habitat buffers were found. Conversely, the study area was found to contain 1.74 ha of supplementary koala habitat and no habitat linking areas. All other vegetation within the study area was classified as mainly cleared.

The proposed development will not require the removal of supplementary vegetation, and will be restricted to the designated footprint. A condition could be included requiring the inclusion of boundary fencing and vegetation removal requirements. Overall, the impact on koala habitat is low and the aims of SEPP 44 have been satisfied.

State Environmental Planning Policy No. 55 – Remediation of Land

The subject site is located within the Williamtown Environmental Investigation Area (Primary Management Zone), which is identified as possibly containing per- and poly-fluoroalkyl substances

(PFAS) within the soil, ground water and surface water. The proposed development does not incorporate any building works, change of use or excavation. The subject site has a history of land fill and agricultural activities and is not nominated within Council's records as being contaminated. However, the site is potentially contaminated given the possible presence of PFAS on the site. No site investigation or contamination report was submitted with the application.

A referral was sent to the EPA to review the application given the site is located within the Williamtown Environmental Investigation Area. Advice and general conditions were provided from the EPA relating to quality of fill and works within the investigation area. These conditions were provided on the basis that the fill storage was only for temporary purpose, whereby it is not proposed to remove the material from the site, although may be stockpiled or stored on different parts of the site until finally placed. EPA did not support removal of any material once placed on site.

State Environmental Planning Policy (Activation Precincts) 2020 (Activation Precincts SEPP)

The Activation Precincts SEPP facilitates a new planning framework for Special Activation Precincts (SAPs) in regional NSW, streamlining planning processes and guiding the delivery of the Precincts.

The site is located within the investigation area of the Williamtown Special Activation Precinct (SAP). The Department of Planning, Industry and Environemt (DPIE) is currently conducting technical studies of an area south of Newcastle Airport and the Williamtown RAAF base. The technical studies include topics such as environment and heritage, sustainability and infrastructure, flooding and drainage, to help inform the final size and location of the Williamtown Precinct area.

Whilst the Master Plan is yet to be finalised or exhibited, the establishment of an isolated 4.0m high waste storage facility in the vicinity of the RAAF Base could potentially compromise the SAP planning process, particularly for flooding and infrastructure planning.

Local Environmental Plan

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The proposed development is defined as "earthworks" and is permissible with consent in accordance with Clause 7.2 Earthworks of the LEP. The subject site is zoned RU2 Rural Landscape and the objectives of the zone encourage sustainable primary industry production by maintaining and enhancing the natural resource base, maintain the rural landscape character of the land and provide for a range of compatible land uses, including extensive agriculture.

Given the proposed fill extends to heights up to 4.0 metres, the development will be highly visible from Cabbage Tree Road and surrounds across Williamtown. A landscape plan was submitted with the amended application to demonstrate the visual impact of the development. This plan identifies the establishment of native plant layers to screen the proposed stockpile, by planting taller species at the base of the mound and graduating to the small species such as turf at the top. However, the proposed visual screening will take time to achieve as vegetation will need to reach maturity. Through the progressive delivery of new fill on-site, seedlings and vegetation are likely to be disrupted or destroyed, which could result in a failure to achieve mature height and subsequent visual impact mitigation.

The application provides consideration of the objectives of the zone, concluding that the proposed development is broadly consistent with the zone objectives. In review of this and subsequent further information requesting this be expanded upon, it is concluded that the proposed

development does not adequately consider the impacts on the rural landscape character of the site and surrounding context and therefore, remains inconsistent with the zone objectives. The establishment of a sizeable waste storage facility in a rural setting is considered non-confirming with the zone objectives.

Clause 5.10 – Heritage

Studies of the DAREZ area by GHD and surrounding land have identified that the subject site is not located within an area identified as being of Aboriginal Cultural Heritage significance and contains low archaeological potential. A AHIMS search (25 March 2018) has also been undertaken in respect of the subject site, which confirmed that no recorded Aboriginal items are located on or near the subject site.

The proposed earthworks shall be located within the southern portion of the subject site and will be largely contained within an area, which has been disturbed by heavy grazing for a long period of time. As such, the proposed development is not likely to result in adverse impacts to Aboriginal Cultural Heritage and is therefore satisfactory having regard to clause 5.10.

Clause 7.1 – Acid Sulfate Soils

The objective of Clause 7.1 is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The subject site is identified as containing class 3 acid sulfate soils. Development consent is required for the carrying out of works more than 1 metre below the natural ground surface, or works by which the water table is likely to be lowered more than 1 metre below the natural ground surface.

The proposed development includes earthworks by means of landfill, not excavation. In this regard, the disturbance or risk of exposing acid sulfate soils is unlikely, and an acid sulfate soil management plan would not be required.

Clause 7.2 – Earthworks

The objective of Clause 7.2 is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items, or features of the surrounding land. The proposed earthworks are not exempt development under this plan or any other applicable environmental planning instrument; therefore require consent from Council.

In response to the objective of Clause 7.2, the proposed landfill is satisfactory against the following matters for consideration under Clause 7.2(3), as it:

- Will not significantly disrupt or have a detrimental effect on drainage patterns and soil stability in the locality of the development;
- Will be restricted to fill which is VENM, ENM or any other waste-derived material the subject of a resource recovery exemption;
- Will include restrictions and/or quality assurance requirements relating to the source of fill material;
- Has a low likelihood of disturbing relics; and
- Has a low likelihood of adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area.

Despite this, the visual impacts of the proposal are anticipated to have detrimental impact to the existing and likely amenity of neighbouring properties. Given the proposed fill extends to heights of up to 4.0 metres, the development will be highly visible from adjoining properties. The landscape plan submitted with the amended application, while providing some visual screening of the development, does not provide sufficient short or long-term mitigation of visual impacts to adjoining properties. The proposed vegetation screening is expected to take considerable time to

reach maturity and through the progressive delivery of new fill on-site, seedlings and vegetation are likely to be disrupted or destroyed, resulting in a limited ability to achieve mature height. In consideration of the matters contained under Clause 7.2(3), the proposed development is not satisfactory and consent should not be granted.

Clause 7.3 – Flood Planning

Clause 7.3 was repealed and replaced by Clause 5.21 of the PSLEP on 14 July 2021, however, as the development was lodged before the commencement of Clause 5.21, saving provisions apply and Clause 7.3 remains the relevant clause for consideration.

The subject development is located on land mapped as being within the flood planning area and categorised as High Hazard – Flood Storage, High Hazard – Floodway, Low Hazard – Flood Storage and Low Hazard – Flood Fringe. Clause 7.3 therefore applies.

The Applicant has provided a flood study prepared by Martens Consulting Engineers (ref: P1806741JR01V02 and dated December 2018) which demonstrated that the flooding conditions as a result of the proposed development are largely unchanged from the existing conditions. Further, the proposed fill pad does not substantially alter the existing flood characteristics of the local area. In response to the objectives of Clause 7.3, the proposed landfill is considered to be satisfactory as it:

- Is compatible with the flood hazard of the land;
- Will not significantly adversely affect flood behavior resulting in detrimental increases in the potential flood affectation of other development or properties;
- Incorporates appropriate measures to manage risk to life from flood;
- Will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and
- Is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

To this extent, it is considered that development consent can be granted in accordance with Clause 7.3 of the LEP as the consent authority is satisfied that matters outlined in Clause 7.3(3) have been addressed.

s4.15(1)(a)(ii) – Any draft EPI

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

s4.15(1)(a)(iii) – Any DCP

Port Stephens Development Control Plan 2014

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

Section A.12 – Notification and advertising

In accordance with the requirements of chapter A.12, the DA was originally notified for a period of 14 days from 9 August 2017 to 22 August 2017. Upon review and submission of revised documentation, the DA was re-notified for a period of 14 days between 9 January 2019 and 23 January 2019. During the latest round of exhibition three submissions were received with five signatories. The submissions are addressed in detail elsewhere within this report.

Section B2 – Natural resources

The subject site has been subject to agricultural land use and largely cleared of remnant vegetation, and has been identified as containing the endangered ecological community ('EEC') Swamp Sclerophyll Forest towards the north. The vegetation located within proximity to the low lying area around the waterways and/or drains throughout the site may also provide habitat for the threatened wallum froglet (*Crinia tinnula*) that has been known to occur within the locality. Threatened species and endangered ecological communities as listed under state and/or Commonwealth legislation may also be present within the area, including; a RAMSAR listed wetland, key fish habitat (as listed under the *Fisheries Management Act 1994*) and preferred koala habitat as detailed under the Port Stephens Comprehensive Koala Plan of Management (PS CKPoM).

An ecological report prepared by Kleinfelder (ref: NCA18L86696 and dated 4 December 2018) was submitted to Council for review that adequately demonstrates that the proposed development will not result in a significant environmental impact. Two habitat trees (*Melaleuca quinquenervial*), one containing a large hollow (> 20 cm diameter entrance) and the other containing a medium-sized hollow (8 – 20 cm entrance) and three small hollows (<8 cm diameter entrance) will need to be removed as they occur within the stockpile footprint. Eleven other hollow-bearing trees (all *M. quinquenervia*) will not be impacted by the proposal. Accordingly, subject to recommended conditions, which relate to; NSW State Government permits, licences and statutory requirements relating to vegetation and fauna management, stormwater controls, weed removal and suppression and replacement of tree-hollows or implementation of nest boxes, the proposed development is considered satisfactory in respect to this matter.

Section B4 – Drainage and water quality

The proposed development does not require any specific water quality improvement measures. The submitted plans have demonstrated that the fill would be surrounded by sediment fencing and a "raingarden sediment trap", which satisfies sediment and water quality measures as required by Section B4. Further, sediment control during construction can be adequately addressed subject to recommended conditions. In this regard, the requirements of Section B4 have been satisfied.

Section B5 – Flooding

The subject land is mapped as being within the Flood Planning Area. As detailed within the assessment of Clause 7.3 of the LEP 2013 above, the proposed development is acceptable with respect to flood impacts. Accordingly, Section B5 is satisfied.

Section B8 – Road network and parking

To ensure that the impacts of the proposed development are considered and that the existing level of service of the road network (Cabbage Tree Road) is maintained, the provisions of Section B8 are required to be addressed.

It is noted that the delivery of fill material will occur over a period of five years depending on quantities available from local extractive industries, through the use of rigid trucks with dog trailer combinations not exceeding a Gross Combination Mass (GCM) of 42.5 tonnes. The total fill volume of 53,698m^3 proposed equates to 80,286 tonnes. If each truck has a GCM of 42.5 tonnes, this equates to 1895 trips required to fill the site to capacity, which is approximately 379 trips per year over five years. The applicant has proposed the maximum number of vehicle movements to include 50 per day. It is anticipated that the deliveries will be made from Monday to Friday between the hours of 9am and 7pm, and aims to capitalise on existing empty truck movements going past the site. A driveway access will be provided via 40 Cabbage Tree Road, which requires an application under Section 138 of the Roads Act 1993 to be conditioned under any consent. A 'shaker hump' is proposed within the access to ensure safe vehicle ingress and egress.

The noise and dust generated by the proposed vehicle movements are considered significant for the rural landscape of the locality. The fill storage is also without purpose at this time, given that the Planning Proposal to rezone the site has been rejected and the Williamtown SAP master planning process, including design for fill and earthworks is still being undertaken by DPIE.

If Council resolved to support the application, conditions could be included to restrict vehicle movements to 50 per day, require the preparation of a Traffic Management Plan, Roads Act approval, restriction of vehicle movements to left in left out of the site only, and implementation of measures to ensure material is not transported off the subject site.

s4.15(1)(a)(iiia) – Any planning agreement or draft planning agreement entered into under section 7.4

There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.

s4.15(1)(a)(iv) – The regulations

As discussed against Section 4.10 of the EP&A Act 1979 above, Schedule 3 of the EP&A Regulations includes the relevant triggers for Designated Development. Schedule 3, Clause 32 – Waste management facilities or works under the Regulations is applicable to the development as earthworks, whether comprising ENM or VENM are considered a type of “waste management works”. Clause 32 provides that waste management facilities or works are designated development when located within or in proximity to certain environmental constraints, including a floodplain, high watertable area and residential dwellings within 250m. The proposed development is located on Flood Prone Land (High Hazard Storage, High Hazard Floodway, Low Hazard Storage and Low Hazard Fringe) and therefore in accordance with Clause 32(1)(d) the proposal is Designated Development. The application submitted in its current form is invalid through the absence of an EIS prepared in accordance with SEARs.

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

The subject site is located within a strategic economic precinct due to its location within the Williamtown SAP investigation area. Despite this, the Williamtown SAP Master Plan has not been publically exhibited and accordingly there is no strategic or economic purpose for which the proposed earthworks would warrant support. Moreover, the establishment of an isolated and unplanned fill pad may compromise flood modelling and infrastructure planning for potential future works under the SAP.

In addition, the applicant has failed to demonstrate a nexus for which the proposed earthworks would be required to support any current permissible land use within the current RU2 Rural Landscape zone and as a result, the disturbance created by the works and associated vehicle movements are not considered appropriate or suitable for the site. Furthermore, the proposed development does not satisfy the zone objectives as the height, extent and visual impact of the earthworks are out of keeping with the rural character of the surrounding locality.

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

Based on the information provided, the proposed development is likely to have an adverse impact in respect to the visual amenity and rural character of the site and surrounding locality. Furthermore, the assessment has determined that the site is not suitable as the development:

- Is inconsistent with the objectives of the RU2 Rural Landscape zone applied to the land;

- Results in unacceptable visual impacts that are anticipated to have detrimental impact to the existing amenity of neighbouring properties.
- The Planning Proposal to rezone the land was rejected at Gateway determination;
- The Williamtwon SAP Master Plan has not been exhibited. Accordingly, there is currently no strategic purpose for which the proposed earthworks would warrant support; and
- The applicant has failed to demonstrate reasons for which the proposed earthworks would be required to support a permissible land use within the current RU2 Rural Landscape zone.

s4.15(1)(d) – Any submissions

The application was originally notified for a period of 14 days between 9 August 2017 and 22 August 2017. During this time, four submissions were received with 5 signatories.

As a result of modifications made to the development, the application was notified for a period of 14 days between 9 January 2019 and 23 January 2019. During this time, three submissions were received with five signatories. The concerns raised regarding the development during this period are summarised below:

	Submission Summary	Submission Response
1	Submission objects to the proposal, based on concerns relating to: • Disruption of existing drainage flows and spread of contaminated of water, the subject site is contaminated with PFAS, PFAO, PFAB in the high area of the "red zone". • Potential impact of proposed development on flood characteristics of neighbouring land. • Ongoing management of dust from proposed fill stockpiles.	• The revised flood assessment prepared by Martens Consulting Engineers (ref: P1806741JR01V02 and dated December 2018) demonstrated that the flooding conditions as a result of the proposed development are largely unchanged from the existing conditions. Further, the proposed fill pad does not substantially alter the existing flood characteristics of the local area. • The EPA have provided recommended conditions to manage the development within the Williamtown Investigation Area. • The fill is to be top dressed and seeded with fast growing native grasses and ground cover at all times to manage dust impacts. • Despite this, it is considered that the disturbance created by the works are without purpose at this time, given that there is no certainty of outcome relating to the Williamtown SAP.
2	Submission objects to the proposal, based on concerns relating to: • Disruption of existing drainage flows and spread of contaminated of water, the subject site is contaminated with PFAS, PFAO, PFAB in the high area of the "red zone".	• The revised flood assessment prepared by Martens Consulting Engineers (ref: P1806741JR01V02 and dated December 2018) demonstrated that the flooding conditions as a result of the proposed development are largely unchanged from the existing conditions. Further, the

	• Potential impact of proposed development on flood characteristics of neighbouring land. • Increase in truck movements and how they would access the subject site, and the associated impacts on the surrounding road network. • Disturbance of contaminated site due to large machinery and trucks. • Quality of the proposed fill.	proposed fill pad does not substantially alter the existing flood characteristics of the local area. • The EPA have provided recommended conditions to manage the development within the Williamtown Investigation Area. • A driveway is proposed over 40 Cabbage Tree Road to ensure safe delivery of fill and egress of vehicles. Impacts to the sourrounding road network have been assessed and found to be negligible. • No excavation is proposed, therefore high disturbance of contaminated land is unlikely. • Fill material will comprise Virgin Excavated Natural Material (VENM) and / or Excavated Natural Material (ENM). • Despite this, it is considered that the disturbance created by the works are without purpose at this time, given that there is no certainty relating to the Williamtown SAP Master Plan.
3	Submission objects to the proposal, based on concerns relating to: • Disruption of existing drainage flows and spread of contaminated of water, the subject site is contaminated with PFAS, PFAO, PFAB in the high area of the "red zone". • Potential impact of proposed development on flood characteristics of neighbouring land, particularly regarding ground and surface water. • There is no access to the property that would allow truck movements so one would need to be built. Cabbage Tree Road is already busy with truck movements. • Ongoing management of dust from proposed fill stockpiles. • Spread of alligator weed from large machinery and trucks. • Impact on native flora and fauna, particularly the Wallum Froglet. • Artist impression of mound inaccurate due	• The revised flood assessment prepared by Martens Consulting Engineers (ref: P1806741JR01V02 and dated December 2018) demonstrated that the flooding conditions as a result of the proposed development are largely unchanged from the existing conditions. Further, the proposed fill pad does not substantially alter the existing flood characteristics of the local area. • A driveway is proposed over 40 Cabbage Tree Road to ensure safe delivery of fill and egress of vehicles. Impacts to the surrounding road network have been assessed and found to be negligible. • The fill mound is to be top dressed and seeded with fast growing native grasses and ground cover at all times to manage dust impacts. • In the event the application is supported, a condition is recommended requiring the preparation of a weed management plan, to ensure the existing infestation of Alligator Weed is contained during works. • Additional surveys and details on the

	to intended use of the site.	Wallum Froglet were completed concluding that no Wallum Froglets were identified on-site. • The application does not adequately demonstrate that visual impacts as a result of the development have been appropriately mitigated. • It is considered that the disturbance created by the works are without purpose at this time, given that there is no certainty of outcome relating to the Williamtown SAP.

Comments

A response to each of the comments received from submission makers has been made in this report. The assessment has acknowledged some of these concerns cannot be overcome and therefore the application is recommended for refusal.

s4.15(1)(e) – The public interest

The application has not demonstrated that the development is consistent with the adopted statutory planning provisions and strategies that seek to promote the appropriate development of land. The DA provides minimal public benefit, given that the works are not related to a permissible land use within the current RU2 Rural Landscape zone. The fill would be highly visible from Cabbage Tree Road and adjoining properties, resulting in adverse impacts to visual amenity and rural landscape character. Further, the disturbance created by the works and associated vehicle movements are considered to be without merit at this time, given that there is no certainty relating to the Williamtown SAP Master Plan. Accordingly, the DA is not considered to be satisfactory in terms of the public interest on this basis.

ITEM 1 - ATTACHMENT 3 REASONS FOR REFUSAL.

PORT STEPHENS COUNCIL

REASONS FOR REFUSAL

1. The proposed development is inconsistent with the objectives contained in Section 1.3 of the Environmental Planning and Assessment (EP&A) Act 1979, as it fails to promote the orderly and economic use and development of land (s.1.3(c) of the EP&A Act 1979).

2. The proposed development is not supported by the necessary Environmental Impact Statement required for Designated Development under Section 4.12 of the EP&A Act 1979 (s.4.12(8) of the EP&A Act 1979).

3. The proposed development fails to satisfy Clause 2.3 (zone objectives) and Clause 7.2 (earthworks) of the Port Stephens Local Environmental Plan 2013 (LEP2013) as the development will result in unacceptable visual impacts and is likely to detract from the rural character of the locality (s.4.15(1)(b) of the EP&A Act 1979).

4. The proposed development is not considered to be suitable for the site (s.4.15(1)(c) of the EP&A Act 1979).

5. The DA is not considered to be in the public interest as the development is inconsistent with the adopted principles and strategies which seek to promote the appropriate development of land (s.4.15(1)(e) of the EP&A Act 1979).

ITEM 1 - ATTACHMENT 4 CALL TO COUNCIL FORM.

PORT STEPHENS COUNCIL

CALL TO COUNCIL FORM
DEVELOPMENT APPLICATION

I, Councillor Steve Tucker

require Development Application Number 2017-524

for Earthworks - Temporary Fill

at 40 Cabbage Tree Road Williamtown

to be subject of a report to Council for determination by Council.

Reason:

The reason for this call-up to Council is this D.A. submitted on 3/8/2017 is a precursor to proposed future development and access to Newcastle Airport.

Declaration of Interest:

I have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this development application on my part or an associated person.

I have a conflict of interest? ~~Yes~~/No (delete the response not applicable).

If **yes**, please provide the nature of the interest and reasons why further action should be taken to bring this matter to Council:

Signed: [redacted] **Date:** 30/1/2018

ITEM 1 - ATTACHMENT 5 ORDINARY COUNCIL MINUTES - 11 SEPTEMBER 2018.

MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

Councillor Chris Doohan left the meeting at 6:13pm.
Councillor Jaimie Abbott left the meeting at 6:14pm.

ITEM NO. 1 **FILE NO: 18/172131**
EDRMS NO: 16-2017-524-1

DEVELOPMENT APPLICATION 16-2017-524-1 (EARTHWORKS - FILL) AT 52, 52A AND 40 CABBAGE TREE ROAD WILLIAMTOWN (LOT: 7 DP: 1059398, LOT: 7 DP: 4831, LOT: 3 DP: 1106651)

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

RECOMMENDATION IS THAT COUNCIL:

1) Refuse the development application 16-2017-524-1 for Earthworks - fill at 52, 52A and 40 Cabbage Tree Road, Williamtown (LOT: 7 DP: 1059398, LOT: 7 DP: 4831 and LOT: 3 DP: 1106651) for the reasons contained in **(ATTACHMENT 4)**.

ORDINARY COUNCIL MEETING - 11 SEPTEMBER 2018
MOTION

281	**Councillor Steve Tucker** **Councillor Giacomo Arnott** It was resolved that Council defer item 1 for site inspection of development application 16-2017-524-1 for Earthworks - fill at 52, 52A and 40 Cabbage Tree Road, Williamtown (LOT: 7 DP: 1059398, LOT: 7 DP: 4831 and LOT: 3 DP: 1106651).

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

Those for the Motion: Mayor Ryan Palmer, Crs Giacomo Arnott, Glen Dunkley, Ken Jordan, Paul Le Mottee, John Nell, Ryan, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present development application (DA) No.16-2017-524-1, for earthworks - fill, to Council for determination. The development application was called to Council as detailed in **(ATTACHMENT 1)**.

The subject DA relates to land located at 52, 52A and 40 Cabbage Tree Road, Williamtown, legally identified as LOT: 7 DP: 1059398, LOT: 7 DP: 4831 and LOT: 3 DP: 1106651 (the 'subject site'). A locality plan is provided at **(ATTACHMENT 2)**.

Proposal

The applicant seeks approval for earthworks comprising the placement of fill in a single stockpile on the subject site, as follows and detailed in **(ATTACHMENT 3)**.

- The total stockpile surface area and volume are unspecified, however it is noted that the stockpile varies between 3 m and 4.5 m in height with a batter at a 1:4 gradient.
- The proposed batter extends to the eastern side boundary with an approximately 0 m setback, whist setbacks to the western side boundary exceed 40 metres.
- The fill is proposed to comprise virgin excavated natural material (VENM) and/or excavated natural material (ENM).

It is noted that the end purpose of the fill has not been specified by the applicant, with statements that the fill is required for 'future use and development of the site'. The applicant was requested to provide further information regarding the proposed end use, however this was not received.

Site Description

The subject site consists of three lots with a total area of 7.5 ha and is located adjacent to the Defence and Airport Related Employment Zone (DAREZ). Vehicular access to the site is available via 52 Cabbage Tree Road. The site is constrained by environmental and neighbouring operational factors, including: flooding, contamination (PFAS), RAAF Base operations, ecology and bushfire.

The site is currently vacant, partly cleared of vegetation, with the northern section containing dense vegetation. Existing drainage corridors traverse the site through the centre from east to west and along the eastern boundary.

Key Issues

The key issues resulting in the recommendation to refuse the application are outlined below. A detailed assessment of the development is contained at **(ATTACHMENT 3)**.

Flood impacts

The subject site is mapped as being within the flood planning area and falls within multiple flood categories as follows; High Hazard (Flood Storage), High Hazard (Floodway), Low Hazard (Flood Storage) and Low Hazard (Flood Fringe). The proposed earthworks are located primarily within land identified as High Hazard (Flood Storage). Council's Development Control Plan 2014 (DCP2014) Chapter B5

requires that a flood study be provided with development applications proposing fill within the High Hazard (Flood Storage) area.

The applicant provided a flood assessment (prepared by Forum Consulting dated 26 March 2018) in support of their application. The flood assessment did not provide sufficient information to enable a detailed assessment of the impacts of the proposed earthworks upon adjacent properties, particularly along Cabbage Tree Road. In addition the flood assessment did not adequately address the flood hazard, including consideration of depth of inundation, flow velocity, or required warning time for local catchment flooding.

It is noted that Clause 7.3 of Council's Local Environmental Plan 2013 (LEP2013) applies to the subject site as it is land at or below the flood planning level. Clause 7.3(3) provides that development consent must not be granted to development on land to which the clause applies unless the consent authority is satisfied of certain preconditions including that; the development is compatible with the flood hazard of the land (cl. 7.3(3)(a)) and that the development will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties (cl. 7.3(3)(b)).

The proposed earthworks are not considered to be compatible with the flood hazard of the land as the applicant has failed to demonstrate that the proposed development will not adversely affect flood behaviour or impact adjoining properties. On this basis, the development is considered to fail the 'test' set out within Clause 7.3(3) and accordingly Council as the consent authority is unable to grant consent to the proposal.

Ecological impacts

Whilst the subject site has been subject to agricultural land use and largely cleared of remnant vegetation, it has been identified as containing the endangered ecological community (EEC) Swamp Sclerophyll Forest towards the north. The vegetation located within proximity to the low lying area around the waterways and/or drains throughout the site may also provide habitat for the threatened wallum froglet (*Crinia tinnula*) that has been known to occur within the locality. Threatened species and endangered ecological communities as listed under state and/or Commonwealth legislation may also be present within the area, including; a RAMSAR listed wetland, key fish habitat (as listed under the *Fisheries Management Act 1994*) and preferred koala habitat as detailed under the Port Stephens Comprehensive Koala Plan of Management (PS CKPoM).

An ecological report undertaken by Wildthing Environmental Consultants (dated April 2018) was submitted to Council. However, the report has limited consideration of the impacts of alteration to natural flow regimes, stating that the proposed development is unlikely to significantly alter the flow of the ephemeral drainage lines. The importation of fill and placement of this fill into these low lying areas will alter the hydrology of the site, which could alter the dynamics of the vegetation community

existing onsite. Furthermore, the ecological report was considered to be unsatisfactory as identified in **(ATTACHMENT 3)**.

The information provided by the applicant has failed to provide a clear or accurate depiction of the impacts of the proposed development on the environmental characteristics of the land, therefore the application cannot be supported.

Rural character

The subject site is zoned RU2 Rural Landscape under Clause 2.3 of the LEP 2013 and the objectives of the zone include to maintain the rural landscape character of the land. The information provided with the application did not adequately consider the impacts on the rural landscape character of the area. Concern is raised that the height of the proposed fill will result in adverse visual impacts to locality and adjoining properties. Due to the height and scale of the proposed fill it is considered that mitigation measures would be unlikely to ameliorate the potential impact.

Conclusion

The development is inconsistent with the relevant environmental planning instruments applicable to the site, including:

- *Environmental Planning and Assessment Act 1979*, including Section 4.15(1)(c) regarding the suitability of the site.
- Port Stephens LEP2013; Clause 2.3 (Zone objectives), Clause 7.2 (Earthworks), and Clause 7.3 (Flood Planning).
- Port Stephens DCP2014; Chapter B2 (Natural Resources) and Chapter B5 (Flooding).
- Council's Floodplain Risk Management Policy.
- NSW Government Floodplain Development Manual 2005.

The key issues arising through the assessment of the application that have not be able to be overcome by the applicant (as discussed above) and for these reasons the proposed development is recommended for refusal for the reasons contained within **(ATTACHMENT 4)**.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live.	Provide land use plans, tools and advice that sustainably support the community. 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		There is scope within Council's existing budget to defend Council's determination if challenged.
Reserve Funds	No		
Development Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is inconsistent with the relevant planning instruments, flood development guidelines and studies including the *Environmental Planning and Assessment Act 1979* (EP&A Act), *Port Stephens Local Environmental Plan 2013* (LEP 2013), Port Stephens Development Control Plan 2014 (DCP 2014), *Local Government Act 1993* (LG Act 1993), Council's Floodplain Risk Management Policy and the NSW Government Floodplain Development Manual 2005. Detailed assessment against these requirements are contained within the assessment report provided at **(ATTACHMENT 3).**

In addition, Section 733 of the *Local Government Act 1993* (LG Act) provides Council with a general exemption from liability with respect to flood liable land only if the necessary studies and works are carried out in accordance with the principles contained in the NSW Floodplain Development Manual 2005.

The approval of the subject DA is considered to be inconsistent with the principles contained within the NSW Floodplain Development Manual 2005 and may negate the good faith immunity provisions in the LG Act. As such, individual Councillors may be personally accountable and responsible for any subsequent implications resulting from the decision. Further, in the event of any future claim, Council's insurers may determine not to cover Council should the application be approved, contrary to the recommendation of Council staff.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources ?
There is a risk if the application is approved that Council's decision will be ultra vires as Clause 5.10, Clause 7.3, Clause and Clause 7.5 of the LEP 2013 are preconditions to the granting of consent and have not been satisfied.	Medium	Determine the application in line with the recommendation.	Yes
There is a risk that if the application is approved, that Council may be liable for any damage or consequences to approving a development located on a site with a known flood risk.	Medium	Determine the application in line with the recommendation.	Yes
There is a risk the proposal will expose people and property to risk of damage and death as a consequence of approving fill in a site with a known flood and contamination risk.	High	Determine the application in line with the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS
Includes Social, Economic and Environmental Implications

The subject site is located within a strategic economic precinct due to its proximity to DAREZ and is currently zoned RU2 Rural Landscape and it is important to note that there are currently no planning proposals lodged with Council seeking to rezone the land. Accordingly there is no strategic or economic purpose for which the proposed earthworks would merit support.

In addition, the applicant has failed to identify a purpose for the extent of proposed fill and has not demonstrated reasons for which the proposed earthworks would be required to support a permissible land use within the current RU2 Rural Landscape zone. Furthermore, in its current form the proposed development does not satisfy the zone objectives as the height, extent and visual impact of the earthworks are out of keeping with the rural character of the surrounding locality.

As outlined in an above section of this report the applicant has failed to appropriately identify and mitigate the impacts to the environment including; flooding and ecology. As a result the environmental impacts of the development are unknown and the proposal cannot be supported.

CONSULTATION

Internal referral

Consultation was undertaken with internal officers, including; Engineering, Natural Resources (Ecology and Weeds), Strategic Planning, and Environmental Health. The referral comments from these officers were considered as part of the assessment contained at **(ATTACHMENT 3)** and accordingly the DA is recommended for refusal for the reasons contained within **(ATTATCHMENT 4)**.

External agency

Consultation with the Environment Protection Agency (EPA) was undertaken during the course of assessment. Subject to recommended conditions of consent being imposed with respect to landfill the EPA did not object to the development **(ATTACHMENT 4)**.

Public exhibition

In accordance with Council's notification requirements the DA was notified for a period of 14 days from 9 August 2017 to 22 August 2017. During the exhibition period four submissions were received. The key issues raised within the submissions included; drainage, spread of contaminated water, ecological impacts, flooding, visual impact, traffic management and lack of information supporting the development application. These issues have been addressed in detail within the detailed assessment report contained at **(ATTACHMENT 3)**. The assessment has acknowledged many of these concerns cannot be overcome and therefore the application is recommended for refusal.

OPTIONS

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

ATTACHMENTS

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

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 5 ORDINARY COUNCIL MINUTES - 11 SEPTEMBER 2018.

MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

ITEM 1 - ATTACHMENT 1 CALL TO COUNCIL FORM.

PORT STEPHENS COUNCIL

CALL TO COUNCIL FORM
DEVELOPMENT APPLICATION

I, Councillor Steve Tucker

require Development Application Number. 2017-524

for Earthworks - Temporary Fill

at 40 Cabbage Tree Road Williamtown

to be subject of a report to Council for determination by Council.

Reason:

The reason for this call-up to Council is this D.A. submitted on 3/8/2017 is a precursor to proposed future development and access to Newcastle Airport.

Declaration of Interest:

I have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this development application on my part or an associated person.

I have a conflict of interest? ~~Yes~~/No (delete the response not applicable).

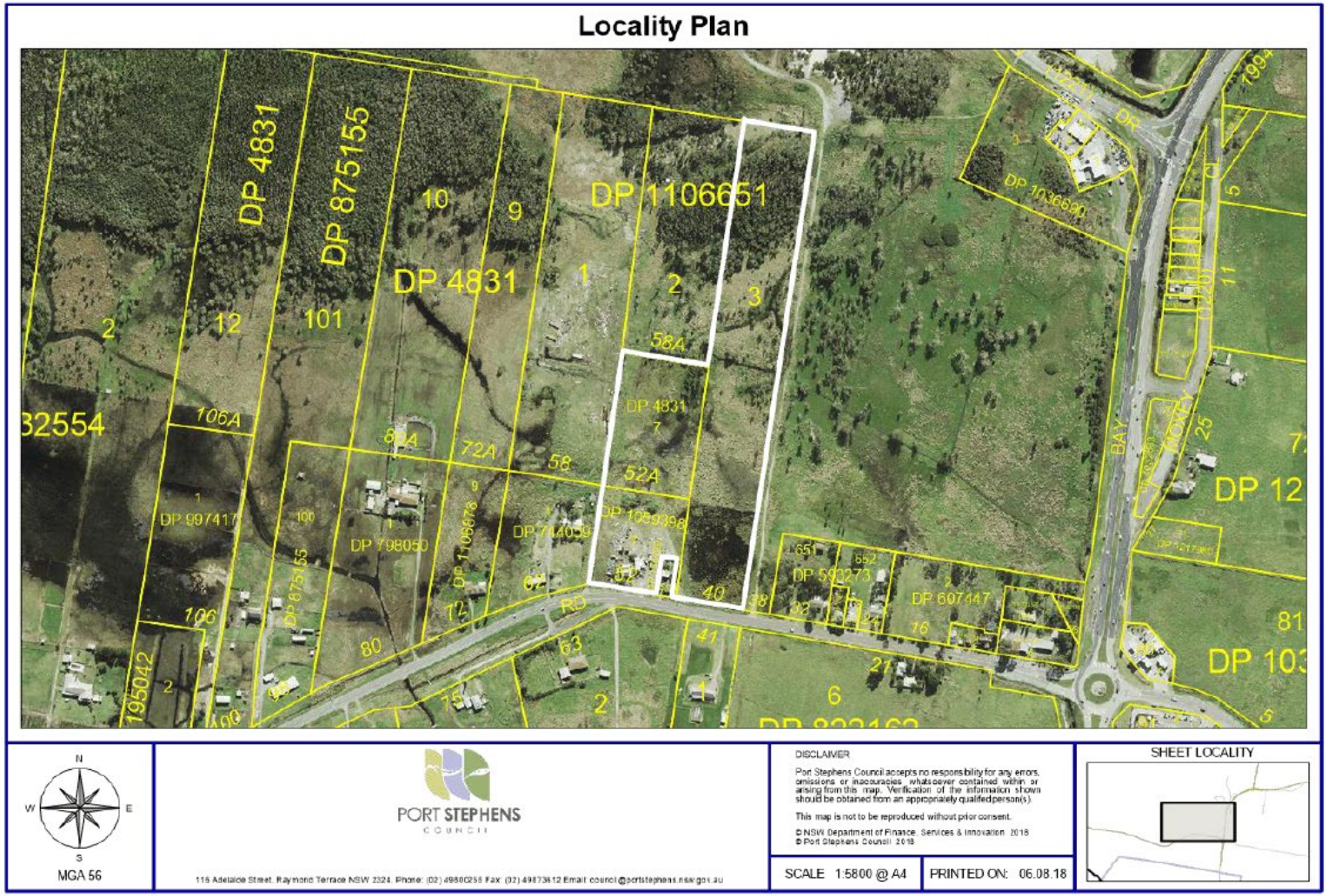
If **yes**, please provide the nature of the interest and reasons why further action should be taken to bring this matter to Council:

Signed: [redacted] **Date:** 30/1/2018

ITEM 1 - ATTACHMENT 5 ORDINARY COUNCIL MINUTES - 11 SEPTEMBER 2018.

MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

ITEM 1 - ATTACHMENT 2 LOCALITY PLAN.



MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

PORT STEPHENS COUNCIL

DEVELOPMENT ASSESSMENT REPORT

APPLICATION DETAILS

Application Number	16-2017-524-1
Development Description	Fill and associated earthworks
Applicant	UNTAPPED PLANNING
Date of Lodgement	03/08/2017
Value of Works	$20,000.00

Development Proposal

The applicant seeks approval for earthworks comprising the placement of fill in a single stockpile on the subject site, as follows:

- The total stockpile surface area and volume are unspecified, however it is noted that the stockpile varies between 3 m and 4.5 m in height with a batter at a 1:4 gradient.
- The proposed batter extends to the eastern side boundary with an approx. 0 m setback, whist setbacks to the western side boundary exceed 40 metres.
- The fill is proposed to comprise virgin excavated natural material ('VENM') and / or excavated natural material ('ENM').

It is noted that the end purpose of the fill has not been specified by the applicant, the applicant states that the fill is required for 'future use and development of the site'. The applicant was requested to provide further information regarding the proposed end use, however this was not received. An extract of the site plan is provided at **figure 1** below.

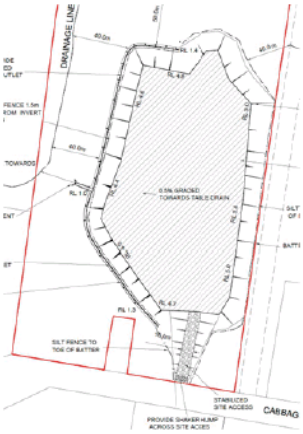


Figure 1: Site plan

ITEM 1 - ATTACHMENT 5 ORDINARY COUNCIL MINUTES - 11 SEPTEMBER 2018.

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

16-2017-524-1

PROPERTY DETAILS	
Property Address	52A Cabbage Tree Road WILLIAMTOWN, 40 Cabbage Tree Road WILLIAMTOWN, 52 Cabbage Tree Road, WILLIAMTOWN
Lot and DP	LOT: 7 DP: 4831, LOT: 3 DP: 1106651, LOT: 7 DP: 1059398
Current Use	Vacant land
Zoning	RU2 RURAL LANDSCAPE
Site Constraints	• Acid Sulfate Soils – Class 3; • Koala Habitat – Preferred; • Endangered Ecological Communities – Swamp Sclerophyll Forest; • RAAF Base Williamtown – ANEF 30-35; • RAAF Base Williamtown – Height Trigger; • RAAF Base Williamtown – Bird Strike Class C; • RAAF Base Williamtown – Extraneous Light; • Alligator Weed Affected Land; • Bushfire Prone Land – Category 3; • Flooding – High Hazard Storage; • Flooding – High Hazard Floodway; • Flooding – Low Hazard Storage; • Flooding – Low Hazard Fringe; • Williamtown PFAS Contamination Management Area – Primary Management Zone; and • Planning Strategy – DAREZ Business Park (adjoining the site).

Site Description

The subject site consists of three lots with a total area of 7.5 ha and is located adjacent to the Defence and Airport Related Employment Zone ('DAREZ'). Vehicular access to the site is available via 52 Cabbage Tree Road. The site is constrained by environmental and neighbouring operational factors, including: flooding, contamination (PFAS), RAAF Base operations, ecology and bushfire.

The site is currently vacant, partly cleared of vegetation, with the northern section of containing dense vegetation. Existing drainage corridors traverse the site through the centre from east to west and along the eastern boundary.

ITEM 1 - ATTACHMENT 5 ORDINARY COUNCIL MINUTES - 11 SEPTEMBER 2018.

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

16-2017-524-1

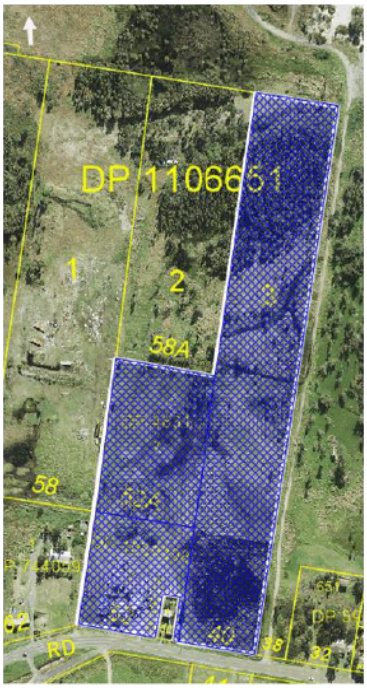


Image 1: Aerial extent of subject site

Site History

Compliance action associated with unauthorised land fill has occurred historically at the site (circa 2005), however this matter was resolved and has no bearing on the assessment of the current application.

Site Inspection

A site inspection was carried out on **31 July 2018**. The subject site is depicted in the below images.

ITEM 1 - ATTACHMENT 5 ORDINARY COUNCIL MINUTES - 11 SEPTEMBER 2018.

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

16-2017-524-1

Image 2: 40 Cabbage Tree Road (looking west)

Image 3: 40 Cabbage Tree Road (looking north-west)

ITEM 1 - ATTACHMENT 5 ORDINARY COUNCIL MINUTES - 11 SEPTEMBER 2018.

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

16-2017-524-1

Image 4: 40 and 52 Cabbage Tree Road (looking west)

Image 5: 40 Cabbage Tree Road (looking west)

MINUTES ORDINARY COUNCIL - 11 SEPTEMBER 2018

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

16-2017-524-1

Image 6: 40 Cabbage Tree Road (looking west)

ASSESSMENT SUMMARY	
Designated Development	The application is not designated development
Integrated Development	The application requires additional approvals listed under Section 4.46 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and requires assessment by the Environmental Protection Agency under Section 43 the *Protection of the Environment Operations Act 1997* (POEO Act).
Concurrence	The application does require the concurrence of another body

Internal Referrals

The proposed development was referred to the following internal specialist staff. The comments of the listed staff have been used to carry out the assessment against the Section 4.15 Matters for Consideration of the EP&A Act below.

Engineering Services

Additional information was requested on 15 September 2017 outlining the requirements for further detail on the proposed water quality measures (including erosion and sediment control measures), proximity of the proposed fill to the First Order stream passing through each lot and provision of a flood report to adequately address the impact of the proposed fill on the flood characteristics and arrangements of the land.

On 16 November 2017 a flood assessment prepared by Forum Consulting (Ref: 71520 and dated 14 November 2017) and response to the additional requirements was received. Amended plans

16-2017-524-1

were also received, which relocated the proposed fill a minimum of 40m from waterfront land to negate a referral to DPI – Water and requirement for a controlled activity permit under the *Water Management Act 2000* (WM Act).

A review of the information, inclusive of the flood assessment provided on 16 November 2017 identified inadequacies and inconsistencies with the Port Stephens Council Development Control Plan 2014 (DCP 2014), the NSW Floodplain Development Manual 2005, and Council's existing Flood Study or Floodplain Risk Management Plan for the subject site in relation to numerical flood modelling, flood characteristics, flood planning level(s), flood storage impacts, velocity (including direction) and hazard and hydraulic categories. In addition, no information on the location of the 'future' redistribution of the proposed fill on-site was provided, therefore long term flooding impacts could not be considered.

On 30 January 2018, the applicant was requested to provide further information on the impacts on the flood characteristics of the land in line with the above comments. A response was received from the applicant on 20 April 2018, including an amended flood assessment, prepared by Forum Consulting (ref: 71520 and dated 26 March 2018). The information was reviewed by Council's Flood Advisory Review Panel at its meeting of 3 July 2018; however, the level of detail in the updated flood assessment was not sufficient enough to make an assessment on the impacts of flooding on adjacent properties. The application is yet to adequately consider the flood hazard, including consideration of depth of inundation, flow velocity and warning time for local catchment flooding and the impact of the proposal on the local residents, particularly along Cabbage Tree Road.

The application in its current form is not supported, and consequently recommended for refusal.

Strategic Planning

The statement of environmental effects submitted with the application noted that the objective of the development is to stockpile clean fill on the site for the future use and development of the site. The site is located within the DAREZ. In relation to the future use of the site, Strategic Planning have commented that the State government supports the expansion of aerospace and other compatible adjoining land uses at Williamtown. Direction 7 of the Hunter Regional Plan also contains actions to 'facilitate development opportunities on land surrounding Newcastle Airport to cluster emerging high-technology industry, defence and aerospace activities'.

Further, the draft Greater Newcastle Metropolitan Plan requires Council to align local plans to provide for high tech land uses and aerospace related industries to manage environmental constraints (including remediation) to plan for the staged release of land to facilitate the future expansion of DAREZ.

A pre-lodgement meeting was held with the applicant of the subject DA on 31 July 2018 in relation to the lodgement of a planning proposal that would seek to rezone the subject site (and, it is understood, other surrounding land) as part of the second stage of the development of the DAREZ precinct. Council advised that any planning proposal would need to address the environmental constraints including flooding, drainage, ecology, contamination, bushfire, and traffic and also the economic impacts of the proposal, including consideration of the staging of the DAREZ precinct and the existing development consent for Stage 1 DAREZ (construction of Stage 1 has not been finalised), as well as consistency with the Newcastle Airport Masterplan in relation to a proposed second access road.

A number of studies have been carried out looking at drainage in Williamtown, including the Commonwealth Defence Drainage Study currently being undertaken. Generally studies show the Williamtown/Fullerton Cove Drainage Catchment is at capacity as a result of approved developments, including the Stage 1 DAREZ. The studies have considered options to improve drainage in the area and to increase the drainage capacity in order to support the development of

ITEM 1 - ATTACHMENT 5 ORDINARY COUNCIL MINUTES - 11 SEPTEMBER 2018.

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

Williamtown and Council continues to be involved with State agencies in working towards solutions for improving drainage in the area to facilitate future development in accordance with the directions and actions in the Hunter Regional Plan and draft Greater Newcastle Metropolitan Plan.

No planning proposal has been lodged with Council, and thus cannot be considered as part of the assessment of the subject application.

Building Surveyor

No objections were made, application is supported unconditionally.

Natural Resources

Additional information was requested on 11 September 2017 requiring the provision of an ecology assessment in accordance with the provisions of Section B2 of the DCP 2014. A response was received on 14 November 2017, noting that under the *Local Land Services Act 2013* (LLS Act), the rear of the site is mapped as being Category 2 – Sensitive Regulated Land. The proposed location of the fill was amended to avoid these areas and any waterways on the site. The remainder of the site was considered as Category 1 – Exempt Land, whereby clearing of native vegetation is not regulated under Part 5 of the LLS Act. An ecology report, as requested, was not provided by the applicant.

A review of this information was carried out by Council's Natural Resource Section. A second request for the provision of an ecology report occurred on 30 January 2018. Whilst it was acknowledged that the subject site has been subject to agricultural land use and largely cleared of remnant vegetation, the site has ecological values associated not only with the Swamp Sclerophyll Forest located towards the rear of the site but also with the low lying area around the waterways and/or drains throughout the site. These latter areas may provide habitat for the threatened wallum froglet (*Crinia tinnula*) that has known to occur on the subject site and in the area immediately to the north of the site. The site is also known to support threatened species and endangered ecological communities as listed under state and/or Commonwealth legislation. It is within the catchment of key fish habitat as mapped under the *Fisheries Management Act 1994*, *State Environmental Planning Policy (Coastal Management) 2018* and an internationally important RAMSAR listed wetland. The site also supports preferred koala habitat as detailed under the Port Stephens Comprehensive Koala Plan of Management (PS CKPoM) and is at the outer edge of a current generational persistence area for the koala. Demonstration of how the proposed development complies with the performance criteria of the PS CKPoM was requested.

An ecology report was submitted to Council on 20 April 2018, prepared by Wildthing Environmental Consultants (dated April 2018, ref: 12326). Through a review of this report, Councils Natural Resource Section recommended refusal, unless additional information was received relating to:

a) The exact fill boundary in relation to habitat trees;

b) Additional surveys and details on the Wallum Froglet;

c) Assessment of potential impacts to natural flow regimes, inclusive of hydrology description, dynamics of the vegetation community and potential groundwater interactions;

d) Details on potential pollution and water quality impacts from proposed filling including erosion and sedimentation;

e) Additional consideration of the impacts on Alligator Weed located on-site;

f) Additional consideration of mitigation measures, including potential offset measures for the loss of hollow bearing trees or procedures for vegetation removal;

g) Consideration of the future management or tenure of the site to protect the remaining ecological attributes of the site;

h) Further information against the 'assessment of significance' to demonstrate that no significant impact will be likely;

i) Justification for the determination that the proposal is unlikely to have a significant impact on Matters of National Environmental Significants in accordance with the associated guidelines;

j) Further assessment on the impact on koala habitat; and

k) Assessment of the cumulative impacts of the proposed development.

The provision of information on two occasions has not provided a clear or accurate depiction on the impacts of the proposed development on the environmental characteristics of the land. Based on the information provided, and known likely impacts, the application is recommended for refusal.

Environmental Health

Additional information was requested to outline and clarify the purpose and intended future use of the fill. In response to the information provided, the Environmental Health team made note to defer consideration of the application to the EPA in accordance with Section 43 of the POEO Act.

Weeds Officer

Additional information was requested on 15 August 2017 to clarify the impact of development on notifiable noxious weeds. The site is located within an area identified as containing the notifiable noxious weed infestation including Mother of Millions and Alligator Weed. Any VENM/ENM classified soil transported to the site would void the 'clean' fill classification, which will limit the potential transportation of fill to other sites. The application is unclear with respect to whether the proposal involves the temporary storage of fill for future removal to different sites or temporary filling of the identified areas for redistribution on site at a later stage. Additional information was received on 30 August 2017 noting that the intent of the fill is to utilise it on site in the future, so the fill is not intended to leave the site to be utilised elsewhere. A condition requesting the preparation of a weed management plan was recommended, in the event the application is supported.

External Referrals

The proposed development was referred to the following external agencies for comment:

Environment Protection Agency (EPA)

The application was referred to the EPA as integrated development under Section 4.46 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to complete an assessment under Section 43 the POEO Act. Following submission of additional information by the applicant the EPA provided a response on 5 February 2018 which provided recommended conditions of consent.

MATTERS FOR CONSIDERATION – SECTION 4.15

s4.15(1)(a)(i) – The provisions of any EPI

Port Stephens Local Environmental Plan 2013 (LEP 2013)

Clause 2.3 – Zone Objectives and Land Use Table

The proposed development is defined as "earthworks" and is permissible with consent as an innominate use and under Clause 7.2 Earthworks of the LEP 2013.

16-2017-524-1

The subject site is zoned RU2 Rural Landscape. The application provided a basic consideration of the objectives of the zone, concluding that the proposed development is broadly consistent with the zone objectives. In review of this and subsequent further information requesting this be expanded upon, it is concluded that the proposed development does not adequately consider the impacts on the rural landscape character of the site and surrounding context. Given the proposed fill extends to heights of 3.5m to 4m, the development will likely be visible from Cabbage Tree Road and surrounds across Williamtown. No visual impact assessment been undertaken to demonstrate consistency with the objectives of the RU2 zone and therefore remains inconsistent with the zone objectives.

Clause 5.10 – Heritage

The Williamtown Defence and Airport Related Zone (DAREZ) Land Use Development Strategy prepared by GHD in December 2007 identified Aboriginal objects and Aboriginal places recorded on the land immediately adjacent (to the north) of the subject site. In accordance with Clause 2(3), additional information was requested from the applicant to investigate the potential for Aboriginal Heritage on the subject site and associated impacts of the proposed development. In response, the applicant noted that in March 2008, McCardle Cultural Heritage Pty Ltd undertook an Indigenous Archaeological Desk Top Assessment of the Airport/ Defence related employment zone at Williamtown to accompany the DAREZ rezoning which included the subject site. The study concluded that *'the area of highest archaeological potential is that in the northern portion of the study area. Within this area, it is suggested that sites will be artefact scatters and middens within the dunal and ridge formations as they are located to well-resourced areas and also provide excellent viewpoints'*. The applicant noted that while included in the study area, the subject site is located south of the area identified as being of significance and that no further investigation was required.

In response to this, a copy of the McCardle findings was requested to enable further comprehensive assessment of heritage impacts. A screenshot of the study area from the report was provided, indicating that the subject site were of low archaeological potential. An AHIMS search was also carried out on 25 March 2018, which determined that no artefacts or items of interest are located on or near the subject site. The applicant has also noted that the fill is to be located to the south of the subject site, which has been disturbed by heavy grazing for a long period of time.

The information provided with the application is sufficient to enable assessment of the application against Clause 5.10 and subject to conditions of consent with respect to this matter the development is considered to be satisfactory.

Clause 7.1 – Acid Sulfate Soils

The objective of Clause 7.1 is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The subject site is identified as containing class 3 acid sulfate soils. Development consent is required for the carrying out of works more than 1 metre below the natural ground surface, or works by which the water table is likely to be lowered more than 1 metre below the natural ground surface. It is noted that the proposed development includes earthworks by means of landfill, not excavation. However, there is a risk of exposing potential acid sulfate soils through the movement of soils on-site to facilitate the development. A geotechnical report would be required, if development consent was granted in order to comply with the requirements of this clause.

Clause 7.2 – Earthworks

The objective of Clause 7.2 is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items, or features of the surrounding land. The proposed earthworks are not exempt development under this plan or any other applicable environmental

planning instrument; therefore require consent from Council, and consideration of the matters specified under Clause 7.2(3).

The flood assessment submitted with the application outlines that the earthworks are not anticipated to impact adjoining properties. Soil stability conditions would be incorporated into any conditions of consent issued to ensure scour protection, which would include but not limited to landscaping. The use of clean fill would also be conditioned.

As discussed under Clause 5.10 of this report, the likelihood of disturbing relics as a result of the proposed development is unknown. Economically, the proposed development could increase the use of the land for agricultural purposes or the expansion of DAREZ in the future, however as no planning proposal has been lodged for this purpose, the impacts are unknown.

Measures to avoid, minimise or mitigate the impacts of the development have not been widely assessed or considered within the documentation submitted as part of the development application.

In consideration of the matters contained under Clause 7.2(3), the proposed development is not satisfactory and consent should not be granted.

Clause 7.3 – Flood Planning

The subject development is located on land mapped as being within the flood planning area and categorised as High Hazard – Flood Storage, High Hazard – Floodway, Low Hazard – Flood Storage and Low Hazard – Flood Fringe. Clause 7.3 therefore applies.

As noted under the internal referrals section above, the level of detail in the updated flood assessment was not sufficient enough to make an assessment on the impacts of flooding on the subject land or adjacent properties. The proposed development has not responded to the objectives of Clause 7.3, and development consent should not be granted as the documentation submitted with the development application has not demonstrated that the proposed landfill:

a) *Is compatible with the flood hazard of the land;*

   As noted in the flood assessment prepared by Forum Consulting Engineers (dated 26 March 2018, ref: 71520), the location of the proposed landfill is clear of any floodway issues and is wholly located in the area marked as High Hazard – Flood Storage. Through the provision of a detailed flood report, compatibility with the flood hazard of the land may be determined, however based on the information provided, it has been determined that the proposed development is not compatible with the flood hazard.

b) *Will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties;*

   As noted under the internal referrals section above, the level of detail in the updated flood assessment was not sufficient enough to make an assessment on the impacts of flooding on the subject land or adjacent properties.

c) *Incorporates appropriate measures to manage risk to life from flood;*

   No measures have been proposed to manage risk to life from flood.

d) *Will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses;*

   The requirements of subclause (d) have partially been addressed. The flood assessment prepared by Forum Consulting Engineers (dated 14 November 2017, ref: 71520), outlined that the location of the landfill is a minimum of 40m from any identified water course. Soil stability conditions would be incorporated into any conditions of consent issued to ensure

scour protection, which would include but not limited to landscaping. The use of clean fill would also be conditioned. The ecology report prepared by Wildthing Environmental Consultants (dated April 2018, ref: 12326) has limited consideration of the impacts of alteration to natural flow regimes, stating that the proposed development is unlikely to significantly alter the flow of the ephemeral drainage lines. The importation of fill and placement of this fill into these low lying areas will alter the hydrology of the site, which could significantly alter the dynamics of the vegetation community existing onsite.

e) *Is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

The social and economic impacts of flooding are well documented local and State wide. Polices and strategies have been implemented by Council to adequately mitigate the adverse impacts of flooding within the Local Government Area. The proposed development has limited consideration of the social and economic costs to the community as a result of offset flooding and cumulative flood impacts on other development or properties that are likely to occur in the same floodplain.

To this extent, it is considered that development consent cannot be granted in accordance with Clause 7.3 of LEP2013 – Flood Planning as the consent authority is not satisfied that matters outlined in Clause 7.3(3) are satisfied.

s4.15(1)(a)(ii) – Any draft EPI

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

s4.15(1)(a)(iii) – Any DCP

Port Stephens Development Control Plan 2014

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

Chapter A.12 – Notification and Advertising
In accordance with the requirements of chapter A.12, the development application was notified for a period of fourteen (14) days from 9 August 2017 to 22 August 2017.

Section B2 – Natural Resources
As noted above whilst the subject site has been subject to agricultural land use and largely cleared of remnant vegetation, it has been identified as containing the endangered ecological community ('EEC') Swamp Sclerophyll Forest towards the north. The vegetation located within proximity to the low lying area around the waterways and/or drains throughout the site may also provide habitat for the threatened wallum froglet (*Crinia tinnula*) that has been known to occur within the locality. Threatened species and endangered ecological communities as listed under state and/or Commonwealth legislation may also be present within the area, including; a RAMSAR listed wetland, key fish habitat (as listed under the *Fisheries Management Act 1994*) and preferred koala habitat as detailed under the Port Stephens Comprehensive Koala Plan of Management (PS CKPoM).

An ecological report undertaken by Wildthing Environmental Consultants (dated April 2018) was submitted to Council. However, the report has limited consideration of the impacts of alteration to natural flow regimes, stating that the proposed development is unlikely to significantly alter the flow of the ephemeral drainage lines. The importation of fill and placement of this fill into these low lying areas will alter the hydrology of the site, which could significantly alter the dynamics of the vegetation community existing onsite. Furthermore, the ecological report was considered to be unsatisfactory as it failed to provide the information necessary for Council's Natural Resource section to complete a detailed assessment.

16-2017-524-1

Section B4 – Drainage and Water Quality
Council's Development Engineering Section noted that landfill and earthworks isolated from the use of land or impervious area increase does not trigger any specific water quality measures. The proposed plans have indicated that the landfill would be surrounded by sediment fencing and a "raingarden sediment trap" which satisfies sediment and water quality measures. However, sediment control during construction would still need to be addressed. In this regard, the requirements of Section B4 have been satisfied.

Section B5 – Flooding
The subject land is mapped as being within the Flood Planning Area. Following from the discussion against Clause 7.3 of the LEP 2013 above, the proposed development is not acceptable in this regard.

s4.15(1)(a)(iiia) – Any planning agreement or draft planning agreement entered into under section 7.4

There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.

s4.15(1)(a)(iv) – The regulations

There are no clauses of the regulations relevant to the proposed development.

s4.15(1)(a)(v) – Any coastal management plan

There are no coastal management plans applicable to the proposed development.

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

The subject site is located within a strategic economic precinct due to its proximity to DAREZ and is currently zoned RU2 Rural Landscape and it is important to note that there are currently no planning proposals lodged with Council seeking to rezone the land. Accordingly there is no strategic or economic purpose for which the proposed earthworks would merit support.

In addition, the applicant has failed to identify a purpose for the extent of proposed fill and has not demonstrated reasons for which the proposed earthworks would be required to support a permissible land use within the current RU2 Rural Landscape zone. Furthermore, in its current form the proposed development does not satisfy the zone objectives as the height, extent and visual impact of the earthworks are out of keeping with the rural character of the surrounding locality.

As outlined in an above section of this report the applicant has failed to appropriately identify and mitigate the impacts to the environment including; flooding and ecology. As a result the environmental impacts of the development are unknown and the proposal cannot be supported.

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

Based on the information provided, the proposed development is likely to have adverse impact particularly in respect to the flood characteristics and ecological value of the site. Furthermore, the assessment has determined that the site is not suitable as the development:

- Encourages the improper management, development and conservation of the natural and artificial resources of agricultural land;

16-2017-524-1

- Is inconsistent with the objectives of the RU2 Rural Landscape zone applied to the land;
- May result in unacceptable an potentially irreversible impact to the natural environment by way of altering the flood characteristics of the subject and neighbouring sites; and
- Will incur and unacceptable and potential irreversible impact on the natural environment by way of altering the existing hydrology and fauna and flora characteristics of the land.

s4.15(1)(d) – Any submissions

Four submissions have been received in relation to the proposed development during the notification period and are summarised below:

	Submission Summary
1	Submission objects to proposal, based on concerns relating to: • Disruption of existing drainage flows and spread of contaminated of water, the subject site is contaminated with PFAS, PFAO, PFAB in the high area of the "red zone". • Ecological impacts on lower section of site, containing birds of prey and nesting locations. • Flood impacts of proposed fill on broader Tomago area and cumulative impacts if fill is used to manage flooding across neighbouring sites. Any approval of fill activities may create a precedent for managing flood impacts through placement of fill. • Visual impacts of proposal with fill dimensions reaching height 6m may create undesirable impacts on tourism value of broader Port Stephens. • Ongoing management of dust from proposed fill stockpiles.
2	Submission objects to proposal, based on concerns relating to: • Disruption of existing drainage flows and spread of contaminated of water, the subject site is contaminated with PFAS, PFAO, PFAB in the high area of the "red zone". • Potential impact of proposed development on flood characteristics of neighbouring land. • Increase in truck movements and how they would access the subject site, and the associated impacts on the surrounding road network. • Quality of the proposed fill.
3	Submission objects to proposal, based on concerns relating to: • Disruption of existing drainage flows and spread of contaminated of water, the subject site is contaminated with PFAS, PFAO, PFAB in the high area of the "red zone". • Potential impact of proposed development on flood characteristics of neighbouring land. • There is no access to the property that would allow truck movements so one would need to be built. Cabbage Tree Road is already busy with truck movements. • Demolition of house or disturbance of existing asbestos containing fill pile should not be permitted.
4	Submission objects to proposal, based on concerns relating to: • The permissibility of land filling in the zone where not ancillary to a permitted land

ITEM 1 - ATTACHMENT 5 ORDINARY COUNCIL MINUTES - 11 SEPTEMBER 2018.

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

16-2017-524-1

	use. • The lack of clarity on what the proposal entails. • How the development responds to known environmental constraints. • The long term objectives and management of the site. • Impact on Aboriginal Cultural Heritage of the site. • The 'preloading' will result in the migration of contaminated groundwater from the site. • Potential impact of proposed development on flood characteristics of neighbouring land. • Truck movements and road safety, inclusive of number of movements and timeframes. • Impact on threatened vegetation located on the site.

Comments

A response to each of the comments received from submission makers has been made in this report. The assessment has acknowledged many of these concerns cannot be overcome and therefore the application is recommended for refusal.

s4.15(1)(e) – The public interest

The proposed development is not considered to be in the public interest as it is inconsistent with the adopted principles and strategies which seek to promote the appropriate development of land.

ITEM 1 - ATTACHMENT 5 ORDINARY COUNCIL MINUTES - 11 SEPTEMBER 2018.

ITEM 1 - ATTACHMENT 4 REASONS FOR REFUSAL.

PORT STEPHENS COUNCIL

REASONS FOR REFUSAL

1. The proposed development fails to satisfy Clause 2.3 (zone objectives) and Clause 7.2 (earthworks) of the Port Stephens Local Environmental Plan 2013 (LEP2013) as the development will result in unacceptable visual impacts and is likely to detract from the rural character of the locality (s.4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* ('*EP&A Act*);

2. The proposed development fails to satisfy Clause 7.3 (Flood Planning) of LEP2013 as insufficient information has been provided to demonstrate that the development is compatible with the flood characteristics of the site, including potential impacts to adjoining properties (s.4.15(1)(a)(i) of the *EP&A Act*);

3. The development fails to comply with the controls contained within Port Stephens Development Control Plan (Chapter B2 Natural Resources and Chapter B5 Flooding) (s.4.15(1)(a)(i) *EP&A Act 1979*);

4. Insufficient information has been provided to demonstrate that the site is suitable for the development given the flood characteristics and ecological value of the land (s.4.15(1)(c) of the *EP&A Act*); and

5. The proposed development is not considered to be in the public interest as the development is inconsistent with the adopted principles and strategies which seek to promote the appropriate development of land (s.4.15(1)(e) of the *EP&A Act*).

Mayor Ryan Palmer returned to the meeting and resumed the Chair at 7:56pm.
Councillor Chris Doohan returned to the meeting at 7:56pm.
The General Manager returned to the meeting at 7.56pm.

ITEM NO. 2 **FILE NO: 22/14305**
EDRMS NO: PSC2017-00180

QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2021

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

RECOMMENDATION IS THAT COUNCIL:

1) Approve the discretionary changes to the adopted budget **(ATTACHMENT 1)** presented as the Quarterly Budget Review to 31 December 2021.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

006	**Councillor Chris Doohan** **Councillor Glen Dunkley** It was resolved that Council approve the discretionary changes to the adopted budget **(ATTACHMENT 1)** presented as the Quarterly Budget Review to 31 December 2021.

The motion was carried.

BACKGROUND

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

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

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

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

Council's anticipated underlying result is as follows:

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

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

LEGAL, POLICY AND RISK IMPLICATIONS

Council's financial position is precarious as a result of the COVID-19 pandemic. Despite an improvement seen in the underlying result for the financial year 2020 – 2021, it is prudent that Council continues to monitor the budget carefully to ensure minimal risk to the organisation and community.

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

SUSTAINABILITY IMPLICATIONS
Includes Social, Economic and Environmental Implications

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

CONSULTATION

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

Formal communication and meetings have been held and it is recommended to submit the Quarterly Budget Review to 31 December 2021 to Council for formal adoption.

Internal

- Executive Team.

External

- Nil.

OPTIONS

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

ATTACHMENTS

1) Quarterly Budget Review to 31 December 2021.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

PORT STEPHENS
COUNCIL

"A great lifestyle in a treasured environment"

2021 – 2022
Quarterly Budget Review Statement
December 2021

TABLE OF CONTENTS

1.	EXECUTIVE SUMMARY	1
2.	INTRODUCTION	3
3.	RESPONSIBLE ACCOUNTING OFFICER'S STATEMENT	4
4.	INCOME & EXPENSES BUDGET REVIEW STATEMENT	5
5.	CAPITAL BUDGET REVIEW STATEMENT	9
6.	RESERVE BALANCES	13
7.	CASH FLOW STATEMENT & ANALYSIS	14
8.	BUDGET REVIEW CONTRACTS AND OTHER EXPENSES	17

1) Executive Summary

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

Profit & Loss Statement – operational budget

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

The increment of $1,396k is primarily due to:

Increased income from:

Holiday Parks	$1,000k
Grants	$700k

Decreased income from:

Rental Income	($280k)

Decreased expenditure from:

Capitalisation of website costs	$60k

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRS.

Page 1 of 19

Capital Works Program – capital budget

	Gross	Contribution	Net
Original budget – total spend	$28,402k	$12,122k	$16,280k
September 2021 review	$67,439k	$28,607k	$38,832k
December 2021 review	$77,532k*	$30,398k	$47,134k

The increase of $10,093k is principally due to:

Purchase and development of properties:	
• 38 Ferodale Road, Medowie	$2,000k
• 6 John Parade, Lemon Tree Passage	$750k
• 44B Squire Street, Fingal Bay	$400k
• Other	$320k
Roads rehabilitation	$6,000k
Depot renovations	$2,200k
Other capital projects reallocations	($1,620k)

*Total capital works program includes $3,850k for airport works. The net program for Council is $77,532k - $3,850k = $73,682k.

Cash flow

Original budget – cash projected	$65,443k
September 2021 review	$40,946k
December 2021 review	$30,519k

The decline in the anticipated cash position to 30 June 2022 is principally due to the decrease in income resulting from the COVID-19 pandemic and the increase in capital works as detailed above.

1) Executive Summary - continued

Categorising the changes by Group:

Corporate Services: The operating budget change in this Group was $851k (favourable). The operating budget changes predominately relate to the increase in holiday parks income. This is in response to the increase in occupancy due to lockdown ending, the decrease in rental income from properties due to vacancies and sale of 19 Bagnall Beach Road, Salamander Bay.

Capital budget changes were $3.5m (unfavourable) and mainly relate to the purchase and development of properties; 38 Ferodale Road Medowie, 6 John Parade Lemon Tree Passage and 44B Squire Street, Fingal Bay.

Development Services: Operating budget changes for this Group were $51k (favourable). The operating budget changes predominately relate to the website costs being capitalised.

There were no capital budget changes for the quarter.

Facilities & Services: The operating budget change in this Group was $494k (favourable). This is due to the increase in recreation and cultural grants, two new OOSH opening in the New Year and centralising PPE.

Changes in the capital budget were $5.5m (unfavourable) which is mainly due to the increase in roads rehabilitation and depot renovations.

General Manager's Office: There were no budget changes for the quarter.

Newcastle Airport: The budget change in this Group was $3.2m (unfavourable). The budget changes relate to adopting the Airports revised budget, which has been impacted by COVID-19. The Newcastle Airport operations are excluded for the purposes of calculating Councils underlying operating result.

ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2021.

Operating Budget	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	$'000	$'000	$'000	$'000	$'000	$'000	$'000
Corporate Services	52,259	-	(2,044)	851	-	51,066	42,902
Development Services	(8,104)	-	(50)	51	-	(8,103)	(4,075)
General Manager's Office	(7,007)	(31)	50	-	-	(6,988)	(4,325)
Facilities & Services	(32,448)	433	(294)	494	-	(31,815)	(6,440)
Newcastle Airport	244	-	-	(3,869)	-	(3,625)	(1,813)
Operating Surplus/(Deficit) before capital grants	**4,944**	**402**	**(2,338)**	**(2,473)**	**-**	**535**	**26,249**
Less: Gain on sale	(3,750)	-	-	-	-	(3,750)	(136)
Less: Fair value increases & royalties	(1,485)	-	(500)	-	-	(1,985)	(1,011)
Less: Newcastle Airport	(244)	-	-	3,869	-	3,625	1,813
Add: NAP Dividend	-	-	-	-	-	-	-
Add: Local election costs	600	-	-	-	-	600	4
Underlying Operating Surplus/(Deficit)	**66**	**402**	**(2,838)**	**1,396**	**-**	**(974)**	**26,919**

Capital Budget	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	$'000	$'000	$'000	$'000	$'000	$'000	$'000
Corporate Services	(4,690)	(4,539)	906	(3,456)	-	(11,779)	(2,947)
Development Services	4,520	-	-	-	-	4,520	3,648
Facilities & Services	(12,260)	(14,338)	(4,581)	(5,482)	-	(36,660)	(9,852)
General Manager's Office	-	-	-	-	-	0	-
Newcastle Airport	(3,850)	-	-	634	-	(3,216)	-
Total	**(16,280)**	**(18,876)**	**(3,675)**	**(8,303)**	**-**	**(47,134)**	**(9,150)**

Note - + = inflow () = outflow

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRS.

2) Introduction

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

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

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

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

The QBRS is composed of the following components:

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

3) Responsible Accounting Officer's Statement

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

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

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter end 31/12/2021 indicates that Council's projected financial position will not be satisfactory at year-end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure. The impact of the COVID-19 pandemic continues to be monitored and used to model the potential financial impacts on the organisation. A range of austerity measures have been implemented, aimed at reducing the potential deficit to break even or better. These measures and the impact are monitored on a weekly basis and reported to the Executives and Council on a regular basis. The cash position is being critically examined and monitored to ensure that the maximum amount of cash is being retained within the organisation. Potential delays to the capital works program are being examined and will be separably reported as appropriate.

Name: Tim Hazell

Responsible Accounting Officer, Port Stephens Council

4) Income & Expenses Budget Review Statement

Consolidated Income Statement	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	$'000	$'000	$'000	$'000	$'000	$'000	$'000
Rates and Annual Charges	66,079	-	-	-	-	66,079	66,068
User Charges & Fees Income	48,862	-	(3,037)	(4,888)	-	40,937	12,154
Interest & Investment Income	1,237	-	-	(201)	-	1,037	285
Other Income	7,493	-	228	(359)	-	7,361	3,423
Grants and Cont.	12,161	433	235	699	-	13,528	4,821
Grants and Cont.(Capital)	12,122	8,891	7,594	1,791	-	30,398	12,896
Fair value gains	835	-	-	-	-	835	-
Net Gain on Sale	3,750	-	-	-	-	3,750	136
Total Revenue	**152,539**	**9,324**	**5,019**	**(2,958)**	**-**	**163,924**	**99,783**
Employee Costs	53,672	-	161	1,480	-	55,313	26,349
Borrowing Costs	882	-	-	168	-	1,050	199
Materials & Contracts	57,994	-	(164)	(4,273)	-	53,557	23,937
Other Expenses	4,678	31	(235)	-	-	4,474	2,788
Depreciation & Impairment	18,247	-	-	350	-	18,596	7,365
Total Expenditure	**135,472**	**31**	**(237)**	**(2,275)**	**-**	**132,991**	**60,639**
Operating Surplus/(Deficit) after capital grants	**17,067**	**9,293**	**5,256**	**(682)**	**-**	**30,933**	**39,145**
Operating Surplus/(Deficit) before capital grants	**4,944**	**402**	**(2,338)**	**(2,473)**	**-**	**535**	**26,249**
Less: Net Gain on sale	(3,750)	-	-	-	-	(3,750)	(136)
Less: Fair value increases & royalties	(1,485)	-	(500)	-	-	(1,985)	(1,011)
Less: Newcastle Airport	(244)	-	-	3,869	-	3,625	1,813
Add: NAP Dividend	-	-	-	-	-	-	-
Add: Local election costs	600	-	-	-	-	600	4
Underlying Operating Surplus/(Deficit)	**66**	**402**	**(2,838)**	**1,396**	**-**	**(974)**	**26,919**

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRS.

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

This statement sets out the details of variations between Council's original operating budget and the revised budget as part of the December Quarterly Budget Review. This has altered from an original projected underlying surplus of $66,000 to a revised deficit of $974,000.

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

REVENUE	Budget Change $'000	F/U
Rates and Annual Charges	**-**	**-**
No change		
User Charges and Fees	**4,888**	**U**
User charges and fees has decreased due to the reduction in Newcastle Airport income upon adoption of their revised budgets.		
Grants and Contributions provided for Operating Purposes	**699**	**F**
Income has increased due to new grants for recreation & culture.		
Interest and Investment Revenue	**201**	**U**
Interest and Investment revenue has decreased due to the reduction in Newcastle Airport income upon adoption of their revised budgets.		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRS.

Page 8 of 19

Other Revenues	**359**	**U**

Other revenue has decreased primarily due to the decrease in rental income due to vacancies and the sale of 19 Bagnall Beach Road, Salamander Bay.

Grants and Contributions provided for Capital Purposes	**1,791**	**F**

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

- Six Mile road upgrade - $790k
- Gan Gan road upgrade - $600k
- Newcastle Airport - $634k

Net Gains from the Disposal of Assets	**-**	**-**

No change

EXPENDITURE	$'000	Budget Change F/U
Borrowing Costs	**168**	**U**
Interest expense has increased due to the adoption of revised budgets from Newcastle Airport.		
Depreciation, Amortisation and Impairment	**350**	**U**
Interest expense has increased due to the adoption of revised budgets from Newcastle Airport.		
Employee Benefits and On-Costs	**1,480**	**U**
Employee benefits and on-costs have increased primarily due to the adoption of revised budgets from Newcastle Airport, bringing in budgets for two new OOSHs, reallocations from contractors and ADRI changes.		
Materials and Contracts	**4,273**	**F**
Materials and contracts have been decreased primarily due to the adoption of revised budgets from Newcastle Airport and due to reallocation to salaries.		
Other Expenses	**-**	**-**
No change		

5) Capital Budget Review Statement

Consolidated - Summary	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	$'000	$'000	$'000	$'000	$'000	$'000	$'000
Grants and Cont.(Capital)	12,122	8,891	7,594	1,791	-	30,398	12,896
Total Receipts	**12,122**	**8,891**	**7,594**	**1,791**	**-**	**30,398**	**12,896**
Capital Equipment & Contracts	28,402	27,768	11,269	6,624	-	74,062	21,555
Property Acquisition & Development	-	-	-	3,470	-	3,470	490
Total Payments	**28,402**	**27,768**	**11,269**	**10,094**	**-**	**77,532**	**22,045**
Capital Surplus/(Deficit)	**(16,280)**	**(18,876)**	**(3,675)**	**(8,303)**	**-**	**(47,134)**	**(9,150)**

This statement sets out the details of variations between Council's original capital budget and revised capital budget. There are budgetary changes proposed in this quarter, which result in a further increase in the capital program by the value of $10m.

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

INCOME	$'000	Budget Change F/U
Capital Grants & Contributions	**1,791**	**F**

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

- Six Mile road upgrade - $790k
- Gan Gan road upgrade - $600k
- Newcastle Airport - $634k

EXPENDITURE	$'000	Budget Change F/U
Property Acquisition and Development	**3,470**	**U**

Property acquisition and development have increased primarily due to the following projects:

- 38 Ferodale Road Medowie - $2m
- 6 John Parade Lemon Tree Passage - $750k
- 44B Squire Street Fingal Bay - $400k
- Other properties - $320k

Capital Equipment and Contracts	**6,624**	**U**

Capital equipment and contracts have increased primarily due to the following projects:

- Sealed roads - $6m (mainly Six Mile Road, Austral Street, Gan Gan Road, Swan Bay and future works program)
- Depot & store buildings - $2.2m
- Regional roads - $580k (Warren Street and Lemon Tree Passage Road)
- Aquatic & waterway structures - $325k (Little Beach Boat Ramp upgrade)
- Unsealed roads - $305k (Port Stephens Drive rehabilitation)
- Plant - $2.2m (reallocated to other projects)
- Cycleways & pathways - $630k (reallocated to other projects)

The capital works program by section is as follows:

Consolidated - Detailed	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	$'000	$'000	$'000	$'000	$'000	$'000	$'000
Capital Funding							
Capital Grants & Contributions	12,122	8,891	7,594	1,791	-	30,398	12,896
Total Capital Funding	**12,122**	**8,891**	**7,594**	**1,791**	**-**	**30,398**	**12,896**
Capital Expenditure							
Corporate Services Group							
Commercial Property Reserve & Cluster Plan							
Fingal Bay Holiday Park	2,019	679	(1,396)	248	-	1,550	1,186
Halifax Holiday Park	490	53	(64)	(70)	-	409	242
Shoal Bay Holiday park	481	150	(360)	(9)	-	262	246
Thou Walla Sunset Retreat	300	-	(105)	5	-	200	111
Koala Sanctuary	350	124	62	-	-	536	156
Office and Chambers	-	-	-	-	-	-	-
Property Development & Land Acquisitions	-	-	-	3,470	-	3,470	490
Administration Building	250	3,000	-	-	-	3,250	280
Property Investments	-	93	1,107	(250)	-	950	-
Commercial Property Total	**3,890**	**4,099**	**(756)**	**3,394**	**-**	**10,627**	**2,712**
Business Improvement Technology	800	439	-	62	-	1,301	295
Corporate Services Group Total	**4,690**	**4,539**	**(756)**	**3,456**	**-**	**11,929**	**3,007**

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRS.

ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2021.

Consolidated - Detailed	2022 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2022 Revised Budget	2022 YTD Actuals
	$'000	$'000	$'000	$'000	$'000	$'000	$'000
General Manager's Office							
Software	-	-	-	-	-	-	-
General Manager's Office Total	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Facilities and Services							
Assets							
Fleet Maintenance	2,213	1,340	-	(2,213)	-	1,340	-
Drainage and Flooding	600	196	200	-	-	996	617
Assets Total	**2,813**	**1,536**	**200**	**- 2,213**	**-**	**2,336**	**617**
Community Services							
Domestic Waste Management	-	17	-	-	-	17	0
Library Services	250	-	-	-	-	250	104
Community Services	**250**	**17**	**-**	**-**	**-**	**267**	**104**
Capital Works							
Capital Works Construction	16,799	21,675	11,825	8,851	-	59,150	18,318
Capital Works Total	**16,799**	**21,675**	**11,825**	**8,851**	**-**	**59,150**	**18,318**
Facilities and Services Total	**19,862**	**23,229**	**12,025**	**6,638**	**-**	**61,753**	**19,039**
Newcastle Airport	3,850	-	-	-	-	3,850	-
Total Capital Expenditure	**28,402**	**27,768**	**11,269**	**10,094**	**-**	**77,532**	**22,045**
Net Outlay	**16,280**	**18,876**	**3,675**	**8,303**	**-**	**47,134**	**9,150**

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRS.

6) Reserve Balances

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

Reserves	Opening Balance	Rollover Transfers	Operating Transfers in / (out)	Financing Transfers in / (out)	Transfers between Reserves	Original Budget	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	Closing Balance
	$'000	$'000	$'000	$'000	$'000	$'000	$'000	$'000	$'000	$'000
Administration Building Reserve	502	-	(181)	-	-	(250)	-	-	-	71
Asset Rehabilitation Reserve	1,352	(854)	4,100	(500)	-	(3,600)	(74)	(14)	-	222
Commercial Properties Reserve	5,605	(2,046)	6,583	(1,798)	(100)	-	(651)	(5,178)	-	2,416
Community Loans	200	-	-	-	-	-	-	-	-	200
Crown Reserves	2,891	(1,380)	2,777	(401)	-	(3,640)	(754)	1,346	-	840
Developer contributions	11,481	(33)	4,389	-	-	(632)	(474)	(1,629)	-	13,101
Domestic Waste	3,744	(197)	(77)	-	-	(270)	-	-	-	3,201
Drainage Reserve	196	(196)	1,417	-	-	(675)	(200)	-	-	542
Election Reserve	600	-	(600)	-	-	-	-	-	-	-
Federal Assistance Grant Reserve	3,459	-	(3,459)	-	-	-	-	-	-	-
Fleet Reserve	2,410	(1,357)	2,180	-	-	(2,213)	-	17	-	1,038
IT Reserve	684	(439)	800	-	-	(800)	-	-	-	245
Newcastle Airport	10,542	-	2,916	-	-	(3,850)	-	(2,885)	-	6,723
Other Waste Services Reserve	422	(185)	(96)	-	-	-	-	-	-	142
Parking Meters Reserve	178	(47)	1,128	-	-	(130)	(500)	45	-	674
Repealed Funds Reserve	5,581	(2,765)	-	-	-	-	(997)	(1,819)	-	-
Roads / Environmental Reserve	46	(44)	425	-	-	(425)	-	-	-	3
Section 355C committees	626	-	-	-	-	-	-	-	-	626
Unexpended Grants Reserve	4,779	(1,173)	-	-	-	-	(3,606)	5,000	-	5,000
Sustainable energy and water reserve	171	-	0	-	-	-	-	-	-	171
Unexpended Loan Funds Reserve	5,000	(13,424)	(1,576)	10,000	-	-	(110)	110	-	0
Ward Funds Reserve	26	(100)	(26)	-	100	-	-	-	-	-
Bonds and Retentions	1,034	-	0	-	-	-	-	-	-	1,034
Total	**61,531**	**(24,240)**	**20,701**	**7,302**	**0**	**(16,485)**	**(7,365)**	**(5,008)**	**-**	**36,248**

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRS.

7) Cash Flow Statement (Consolidated)	Original Budget	Revotes & Carried Forward	Budget Revision Sept	Budget Revision Dec	Budget Revision Mar	Revised Budget
Cash Flows from Operating Activities	**$'000**	**$'000**	**$'000**	**$'000**	**$'000**	**$'000**
Receipts:						
Rates and Annual Charges	64,640	-	-	-	-	64,640
User Charges & Fees Income	48,272	-	(3,037)	(4,888)	-	40,347
Interest & Investment Revenue Received	1,237	-	-	(201)	-	1,036
Other	8,138	-	228	(359)	-	8,007
Grants and Contributions	21,735	9,324	7,828	2,490	-	41,377
Payments:						
Employee Benefits & On-Costs	(52,134)	-	(161)	(1,480)	-	(53,775)
Borrowing Costs	(872)	-	-	(168)	-	(1,040)
Materials & Contracts	(47,679)	-	164	4,273	-	(43,242)
Other	(18,633)	(31)	235	-	-	(18,429)
Net Cash provided (or used in) Operating Activities	**24,704**	**9,293**	**5,256**	**(333)**	**-**	**38,920**
Cash Flows from Investing Activities						
Receipts:						
Proceeds from disposal of Property Plant & Equipment	3,750	-	-	-	-	3,750
Proceeds from development & land sales	-	-	-	-	-	-
Payments:						
Purchase of Real Estate, Infrastructure, Property Plant & Equipment and Intangibles	(28,402)	(27,768)	(11,269)	(10,094)	-	(77,532)
Net Cash provided (or used in) Investing Activities	**(24,652)**	**(27,768)**	**(11,269)**	**(10,094)**	**-**	**(73,782)**
Cash Flows from Financing Activities						
Receipts:						
Proceeds from borrowings	10,000	-	-	-	-	10,000
Payments:						
Repayment of Leases, Borrowings & Advances	(3,408)	-	-	-	-	(3,408)
Net Cash provided (or used in) Financing Activities	**6,592**	**-**	**-**	**-**	**-**	**6,592**
Net Increase/(Decrease) in Cash & Cash Equivalents	6,644	(18,474)	(6,013)	(10,426)	-	(28,270)
plus: Cash & Investments - beginning of year (*)	58,789	-	-	-	-	58,789
Cash & Investments - end of the year	**65,433**	**(18,474)**	**(6,013)**	**(10,426)**	**-**	**30,519**

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRS.

Page 16 of 19

Cash Flow Statement Funding Reconciliation

The 'Recommended Changes to Budget' in the December QBR constitute an overall decrease in Council's cash flow position by $10m (unfavourable) after the use of internal reserves and external funding sources are factored in.

PSC is clearly solvent based on the current and estimated cash position from the review changes. PSC's current cash position as per the December investment report was $44.5m.

8) Budget Review Contracts and Other Expenses

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

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

- Were entered into during the quarter ending 31/12/2021; and
- Have a value equal to or more than $50,000.

Part B of the report shows expenditure as at 31/12/2021 for:

- Consultancies
- Legal fees

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

Part A

Contracts Listing

Contractor	Contract Details and Purpose	Contract Value IncGST	Contract Commencement Date	Contract End Date	Budgeted (Y/N)
BORAL CONSTRUCTION MATERIALS GROUP LTD	RFQ134-2021 TfNSW RESEALS	467,419	16/11/2021	28/02/2022	Y
ANA ASPHALT	RFQ129-2021 TfNSW RESEAL PREP HEAVY PATCHING	327,967	05/10/2021	17/11/2021	Y
FENWORX PTY LTD	RFQ151-2021 PORT STEPHENS DR ROAD REHAB	315,630	08/11/2021	8/12/2021	Y
FENWORX PTY LTD	RFQ155-2021 EAST SEAHAM RD - ASPHALT OVERLAY	140,057	10/11/2021	13/12/2021	Y
FENWORX PTY LTD	RFQ153-2021 FERODALE RD MEDOWIE - ROAD REHAB	133,643	01/11/2021	16/11/2021	Y
ANA ASPHALT	RFQ167-2021 LOCAL ROAD RESEAL ASPHALT PATCHING	132,622	29/11/2021	28/02/2022	Y
FENWORX PTY LTD	GAN GAN RD ONE MILE - ROAD REHAB	131,785	01/11/2021	12/11/2021	Y
EARTHMOVING EQUIPMENT AUSTRALIA PTY LTD	RFQ094-2021 - AWARDED 8/12/2021 - SUPPLY & DE, etc.	116,088	13/12/2021	31/03/2022	Y
MULLANE CONSTRUCTION PLUMBING PTY	RFQ147-2021 ONE MILE BEACH AMENITIES - WASTEWATER	108,889	17/11/2021	31/03/2022	Y
BCP PRECAST	QT00193 - 26/11/2021 - TANILBA RD, MALLABULA, etc.	97,657	26/11/2021	31/03/2022	Y
PORT STEPHENS KOALA & WILDLIFE	SEP TO DEC 21/22 PSS870-00353 DIRECT CONTRIBUTIONS	97,500	15/10/2021	31/12/2021	Y
ANA ASPHALT	RFQ154-2021 LEMON TREE PASSAGE RD REHAB	91,460	01/11/2021	28/02/2022	Y
ANA ASPHALT	RFQ165-2021 LTP RD - ROAD REHAB - MISSING LINK	81,596	22/11/2021	31/03/2022	Y
SCONE OUTDOORS	RFQ139-2021 - 29/11/2021 - MOWER 72" CUT	79,125	03/12/2021	28/02/2022	Y
ENVIROCULTURE MAINTENANCE SERVICES PTY	ANNA BAY CEMETERY MAINTENANCE, CARUMBAH CEMETERY	69,960	17/11/2021	28/02/2022	Y
BORAL CONSTRUCTION MATERIALS GROUP LTD	RFQ158-2021 WARREN ST SEAHAM - ASPHALT WORKS	69,177	11/11/2021	28/02/2022	Y
BROCKS ARTIFICIAL TURF & PLUMBING	HALIFAX - ARTIFICIAL TURF INSTALLATION (DEPOSIT)	57,175	04/11/2021	14/12/2021	Y
BROCKS ARTIFICIAL TURF & PLUMBING	HALIFAX - ARTIFICIAL TURF PROJECT (FINAL)	57,175	14/12/2021	14/12/2021	Y
MR M KOUTSOUKOS	KOUTS - GOVERNMENT RD CARPARK RENT OCT21-JUNE22	55,072	05/11/2021	30/06/2022	Y
ANA ASPHALT	RFQ164-2021 GAN GAN & CAMPBELL - RAISED THRESHOLD	50,580	06/12/2021	31/03/2022	Y

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRS.

Page 18 of 19

Part B

Consultancy & Legal Expenses

Expense	Expenditure YTD ($)	Budgeted (Y/N)
Consultancies		
HR	28,218	Y
Engineering	76,523	Y
IT	7,890	Y
Property	25,270	Y
Other	114,245	Y
Total consultancies	**252,146**	
Legal Fees		
Advice	52,254	Y
Litigation	115,890	Y
Total legal fees	**168,144**	

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRS.

Page 19 of 19

ITEM NO. 3 **FILE NO: 22/15116**
EDRMS NO: PSC2017-00019

USE OF ANIMAL SHELTER TO TEMPORARILY HOUSE ANIMALS IN DOMESTIC VIOLENCE SITUATIONS

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

RECOMMENDATION IS THAT COUNCIL:

1) Note that the provision of service for temporary animal housing in domestic violence scenarios is currently provided by a number of welfare organisations.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

007	**Councillor Giacomo Arnott** **Councillor Chris Doohan** It was resolved that Council: 1) notes that the provision of service for temporary animal housing in domestic violence scenarios is currently provided by a number of welfare organisations. 2) makes the report available to Council's Customer Services area, the Rangers and Port Stephens Animal Shelter to assist with enquiries.

The motion was carried.

BACKGROUND

At the Council meeting of 28 September 2021, following consideration of a Notice of Motion **(ATTACHMENT 1)** relating to the housing of pets from domestic violence situations it was resolved that Council:

1) Notes that it can be difficult for people fleeing domestic violence to keep family pets.
2) Prepare a report to investigate options for Port Stephens Animal Shelter to temporarily hold onto family pets for up to 1 week where the pet's owner is fleeing a domestic violence situation.
3) Investigate the option to partner with the new service provider at Fullerton Cove.

Subsequent to the above resolution, discussions have occurred between Council staff and both the Port Stephens Animal Shelter and Dog Rescue Newcastle (DRN).

In September 2021, Council finalised a contract with a new Animal Shelter provider – Port Stephens Animal Shelter (PSAS). The contract terms did not include the temporarily holding of pets where the pet's owner was fleeing a domestic violence situation. In discussions with PSAS they noted that there are a number of programs that are set up to specifically provide this service which they could direct enquiries to. Further it was noted that in their experience, the holding of an animal for a 1 week period is not a sufficient enough time in these situations. The temporary care is often required for months rather than weeks.

Dog Rescue Newcastle (DRN) is in the process of establishing a permanent facility at Fullerton Cove. DRN currently utilise volunteer foster carers to provide a 'Safe and Sound Program' that is offered to victims of domestic violence free of charge. DRN is a not-for-profit organisation, run by volunteers. DRN provides care for approximately 20 animals in a year where domestic violence is present. Animals often stay for several months.

There are also a number of other programs that are set up to provide a similar service. Examples of these programs include:

- The RSPCA - Community Domestic Violence Program
- DV Connect - Pets in Crisis Program
- Australian Pet Welfare Foundation - Pets in crisis program.

These organisations, including DRN, accept donations.

Given the above, it is recommended that Council note that the provision of service for temporary animal housing in domestic violence scenarios is currently provided by a number of welfare organisations.

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

If Council was to engage PSAS to provide this additional service, a new or amended contract would need to be negotiated. This would involve additional costs to Council for the setup and ongoing care of the animals. There is no existing budget for this service.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are some legal and financial risks associated with Council providing this service as outlined in the table below:

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that PSAS may be required to hold an animal that is the subject of a domestic violence scenario for longer than agreed and longer than the companion animal legislation requires. This could cost Council more than was anticipated and impact upon the resourcing of PSAS. Further, there are welfare and legal issues associated with the long term care if the owner does not return.	Medium	That the recommendation be adopted.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The provision of a service for temporary animal housing in domestic violence scenarios would have positive social implications.

CONSULTATION

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

Internal

Consultation was undertaken with the contractor of the Port Stephens Animal Shelter (the Contractor).

External

Consultation was also undertaken with DRN to understand their service offering that is described above.

OPTIONS

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

ATTACHMENTS

1) Notice of Motion - 28 September 2021.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 28 SEPTEMBER 2021

NOTICE OF MOTION

ITEM NO. 1 **FILE NO: 21/247271**

EDRMS NO: PSC2017-00019

ANIMAL SHELTER

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

1) Notes that it can be difficult for people fleeing domestic violence to keep family pets.
2) Prepare a report to investigate options for Port Stephens Animal Shelter to temporarily hold onto family pets for up to 1 week where the pet's owner is fleeing a domestic violence situation.

ORDINARY COUNCIL MEETING - 28 SEPTEMBER 2021
MOTION

253	**Councillor Giacomo Arnott** **Councillor Steve Tucker** It was resolved that Council: 1) Notes that it can be difficult for people fleeing domestic violence to keep family pets. 2) Prepare a report to investigate options for Port Stephens Animal Shelter to temporarily hold onto family pets for up to 1 week where the pet's owner is fleeing a domestic violence situation. 3) Investigate the option to partner with the new service provider at Fullerton Cove.

The motion was carried.

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

BACKGROUND

Council has just finalised a contract with a new Animal Shelter provider. The service provided by the Animal Shelter does not include the temporarily holding of pets where the pet's owner is fleeing a domestic violence situation. If Council was to

provide this service a new or amended contract would need to be negotiated with our current provider. This would involve additional costs to Council for the setup and ongoing care of the animals.

The Animal Shelter, whilst adequate for short term accommodation, is not set up for long term stays. However, there are a number of programs that are set up to specifically provide this service. They provide a service that is specific to the needs of the animals and persons affected. These programs use a number of volunteers that foster animals and care for them at their homes. This provides a much better environment for the animals over the longer term. Examples of these programs include:

- The RSPCA - Community Domestic Violence Program
- DV Connect - Pets in Crisis Program
- Australian Pet Welfare Foundation - Pets in crisis program
- Dog Rescue Newcastle

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.

ITEM NO. 4 **FILE NO: 22/16390**
EDRMS NO: PSC2017-00180

POLICY REVIEW: REZONING REQUEST POLICY

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

RECOMMENDATION IS THAT COUNCIL:

1) Endorse the revised Rezoning Request policy shown at **(ATTACHMENT 1)**.
2) Place the revised Rezoning Request 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 Rezoning Request policy dated 25 February 2020, Minute No. 034 should no submissions be received.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

008	**Councillor Steve Tucker** **Councillor Chris Doohan** It was resolved that Council: 1) Endorse the revised Rezoning Request policy shown at **(ATTACHMENT 1)**. 2) Place the revised Rezoning Request 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 Rezoning Request policy dated 25 February 2020, Minute No. 034 should no submissions be received.

The motion was carried.

BACKGROUND

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

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

The policy aims to provide a framework for the process and assessment of requests to amend the Port Stephens Local Environmental Plan 2013 (LEP 2013). The policy is consistent with the Department of Planning, Industry and Environment aims to streamline the LEP making process to reduce delays while also ensuring that strategic led and quality place-based planning outcomes are achieved.

The review of the Rezoning Request Policy results in no fundamental changes to the policy adopted in February 2020, other than updating the reference to the State guidelines on preparation of a planning proposal. There have been no other major legislative changes that require a revised position of Council. Other changes made are administrative corrections.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

There are no direct financial/resource implications, as the policy will continue to be implemented as part of ongoing operations.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy implications.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that rezoning requests are lodged that are inconsistent with DPIE guidelines and contain inadequate information for assessment.	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS
Includes Social, Economic and Environmental Implications

The policy enables efficient assessment and processing of rezoning requests in accordance with the relevant planning legislation and relevant State guidelines. No changes are proposed that impact notification and public exhibition requirements under planning legislation.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section to ensure the Rezoning Request policy provided accurate information.

Internal

Consultation has been undertaken with the Development Planning unit. The Executive Team has been consulted to seek management endorsement for the revised policy.

External

In accordance with local government legislation the draft Rezoning Request policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

1) Revised Rezoning Request Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy

PORT STEPHENS COUNCIL

FILE NO: 21/345716

TITLE: REZONING REQUEST POLICY

OWNER: STRATEGY AND ENVIRONMENT SECTION MANAGER

1. PURPOSE:

1.1 The purpose of this Policy is to provide a framework for the process and assessment of requests to amend the Port Stephens Local Environmental Plan 2013 (LEP 2013) ~~(Rezoning Requests)~~.

2. CONTEXT/BACKGROUND:

2.1 Part 3 of the Environmental Planning and Assessment Act 1979 (the Act) enables Council to prepare and make amendments to the LEP 2013. Generally, amendments consist of changes to zoning, but may also include changes to development standards, or other matters in the LEP 2013 that regulate the use of land.

2.2 When Council is initially requested to amend the LEP 2013 (a Rezoning Request), the Act enables Council to require the provision of studies or other information in order to assess the request. This Policy sets out the process and minimum requirements for Rezoning Requests.

2.3 Before the LEP 2013 can be amended, a Planning Proposal is required to be prepared, setting out the justification for the proposed change and an explanation of the intended effect (Planning Proposal). The NSW Department of Planning, Industry & Environment (DPIE) requires Planning Proposals to be prepared in accordance with their published guidelines ~~(Planning Proposals – a guide to preparing Planning Proposals)~~ (Local Environmental Plan Making Guideline). This Policy is consistent with DPIE requirements.

2.4 The use of delegated authority provides an opportunity for effective and timely decision making in relation to Rezoning Requests, however, it is appropriate that Council is informed of the exercise of delegated authority. In all circumstances, Council may request staff delegation be withdrawn and a Rezoning Request be reported to Council.

2.5 In all circumstances, a final amendment to the LEP 2013 will be reported to Council for adoption prior to being made.

3. SCOPE:

3.1 This Policy applies to all Rezoning Requests.

Policy

PORT STEPHENS COUNCIL

3.2 This Policy applies to the administration and exercise of Council's functions under Division 3.4 of Part 3 of the Act.

4. DEFINITIONS:

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

Lodgement	Lodgement of a Rezoning Request occurs on the date the relevant fee is paid, or if no fee is charged, on the date the Rezoning Request is submitted in accordance with the Port Stephens Rezoning Request Guide.
Planning Proposal	A report prepared in accordance with the DPIE's ~~Planning Proposals – a guide to preparing Planning Proposals~~ Local Environmental Plan Making Guideline and the Port Stephens Rezoning Request Guide setting out the justification for the proposed change to the LEP 2013 and an explanation of the intended effect.
Rezoning Request	A formal request for Council to amend the LEP 2013, received from a third party (eg landowner or consultant) and prepared in accordance with the Port Stephens Rezoning Request Guide.

5. STATEMENT:

5.1 This Policy aims to ensure Rezoning Requests are processed in a consistent, timely and efficient manner.

5.2 A Rezoning Request must be lodged in accordance with the Port Stephens Rezoning Request Guide. Requests that are not lodged in accordance with the Guide will not be accepted for lodgement.

5.3 Council is notified of all lodged Rezoning Requests via PS Newsletter to the Mayor/Councillors.

5.4 Proponents will be notified following a preliminary assessment of the Planning Proposal against the criteria and requirements set out in the DPIE's ~~(Planning Proposals – a guide to preparing Planning Proposals)~~ Local Environmental Plan Making Guideline and a Strategic Planning Assessment Report will be prepared.

5.5 Rezoning Requests that are consistent with adopted Council policies and strategies (including place plans) will be forwarded to the DPIE for a Gateway Determination under delegated authority. All other Rezoning Requests will be reported to Council. The Group Manager Development Services and/or

Policy

PORT STEPHENS COUNCIL

Strategy and Environment Section Manager, at their discretion, may also report any Rezoning Requests to Council.

5.6 Council will be notified of all Rezoning Requests prior to being forwarded to DPIE under delegated authority via PS Newsletter to the Mayor/Councillors.

5.7 All final amendments to the LEP 2013 will be reported to Council for adoption prior to being made.

5.8 The community can access all Rezoning Requests via a link on Council's website to the ~~DPIE 'LEPs Online System'~~ ~~http://leptracking.planning.nsw.gov.au/.~~ NSW Planning Portal https://www.planningportal.nsw.gov.au/ppr

5.9 Rezoning Requests for minor matters will be consolidated and progressed as a single Planning Proposal forwarded to the DPIE under delegated authority periodically. Minor matters likely to be considered appropriate for inclusion are set out in the Port Stephens Rezoning Request Guide and include administrative amendments such as zone boundary adjustments and mapping updates to correct errors.

6. RESPONSIBILITIES:

6.1 The Strategy and Environment Section is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the Policy.

7. RELATED DOCUMENTS:

7.1 Environmental Planning and Assessment Act 1979.
7.2 Port Stephens Local Environmental Plan 2013.
7.3 NSW Department of Planning, Industry & Environment's ~~Planning Proposals – a guide to preparing Planning Proposals~~ Local Environmental Plan Making Guideline.
~~7.4 NSW Department of Planning, Industry & Environment's Local Environmental Plans – a guide to preparing local environmental plans~~
~~7.5~~ 7.4 Port Stephens Rezoning Request Guide.

Policy

PORT STEPHENS COUNCIL

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website: www.portstephens.nsw.gov.au .			
EDRMS container No.	PSC2019-03541	**EDRMS record No.**	TBA
Audience	Council, Development Services Group and public		
Process owner	Strategy and Environment Section Manager		
Author	Strategic Planning Coordinator		
Review timeframe	3 years	**Next review date**	TBD
Adoption date	25 February 2020		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	25 February 2020	Strategic Planning Coordinator.	New Policy. First draft.	034
2	Council meeting Date	Strategic Planning Coordinator	Reformatted the policy into the new policy template. Updated link to NSW Department of Planning, Infrastructure & Environment website. Minor corrections in spelling and grammar. Updated 5.5 by including a reference to place plans. Updated reference to the new NSW Department of Planning, Industry & Environment's Local Environmental Plan Making Guideline.	TBD

ITEM NO. 5 **FILE NO: 22/39284**
EDRMS NO: PSC2017-00178

REQUEST FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Ward funds to the following:-

a. Greater Port Stephens Dragon Boat Club – Cr Glen Dunkley – Rapid Response - $500 donation towards launch of new boat as part of mental health program.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

009	**Councillor Chris Doohan** **Mayor Ryan Palmer** It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Ward funds to the following:- a. Greater Port Stephens Dragon Boat Club – Cr Glen Dunkley – Rapid Response - $500 donation towards launch of new boat as part of mental health program.

The motion was carried.

BACKGROUND

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

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

1) Mayoral Funds

2) Rapid Response
3) Community Capacity Building

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

The requests for financial assistance are shown below:

WARD FUNDS

Greater Port Stephens Dragon Boat Club	The club provides competitive and social dragon boat activities which are fun and build fitness.	$500	Donation towards the launch of new boat as part of mental health program.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding ($)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	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	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those funds will always be available.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS
Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

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

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6 **FILE NO: 22/44433**
EDRMS NO: PSC2017-00015

INFORMATION PAPERS

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

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 22 February 2022.

No:	Report Title	Page:
1	October 2021 Cash and Investments	120
2	November 2021 Cash and Investments	122
3	December 2021 Cash and Investments	124
4	January 2022 Cash and Investments	126
5	Quarterly Grants Update to 31 December 2021	128
6	Designated Persons' Return	130
7	Council Resolutions	131

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

010	**Councillor Giacomo Arnott** **Councillor Chris Doohan** It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 22 February 2022. **No: Report Title** 1 October 2021 Cash and Investments 2 November 2021 Cash and Investments 3 December 2021 Cash and Investments 4 January 2022 Cash and Investments 5 Quarterly Grants Update to 31 December 2021 6 Designated Persons' Return 7 Council Resolutions

The motion was carried.

INFORMATION PAPERS

ITEM NO. 1 **FILE NO: 22/26887**
EDRMS NO: PSC2006-6531

OCTOBER 2021 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 October 2021.

ATTACHMENTS

1) October 2021 Cash and Investments.

ITEM 1 - ATTACHMENT 1 OCTOBER 2021 CASH AND INVESTMENTS.

CASH AND INVESTMENTS HELD AS AT 31 OCTOBER 2021

ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
AMP BANK	LAMINAR	BBB+	TD	0.75%	365	25-Nov-21	1,250,000	1,250,000
DEFENCE BANK	CURVE	BBB	TD	0.60%	367	6-Dec-21	600,000	600,000
AMP BANK	LAMINAR	BBB	TD	0.75%	371	8-Dec-21	550,000	550,000
AMP BANK	LAMINAR	BBB	TD	0.75%	376	15-Dec-21	350,000	350,000
JUDO BANK	LAMINAR	BBB	TD	0.84%	385	22-Dec-21	350,000	350,000
JUDO BANK	LAMINAR	BBB	TD	0.85%	383	22-Dec-21	550,000	550,000
NAB	LAMINAR	AA	TD	0.50%	386	23-Dec-21	1,000,000	1,000,000
DEFENCE BANK	CURVE	BBB	TD	0.60%	399	5-Jan-22	1,000,000	1,000,000
NAB	LAMINAR	AA	TD	0.50%	399	5-Jan-22	1,000,000	1,000,000
NAB	LAMINAR	AA	TD	0.50%	413	19-Jan-22	1,000,000	1,000,000
BANK OF SYDNEY	LAMINAR	NR	TD	0.70%	391	19-Jan-22	750,000	750,000
MACQUARIE BANK	LAMINAR	A	TD	0.70%	385	1-Feb-22	1,000,000	1,000,000
AUSWIDE BANK	RIM	BBB	TD	1.73%	701	2-Feb-22	1,250,000	1,250,000
JUDO BANK	RIM	BBB	TD	0.70%	294	12-Apr-22	1,000,000	1,000,000
DEFENCE BANK	CURVE	BBB	TD	0.65%	539	25-May-22	1,000,000	1,000,000
DEFENCE BANK	CURVE	BBB	TD	0.65%	550	7-Jun-22	600,000	600,000
MOVE BANK	RIM	NR	TD	0.65%	384	21-Jun-22	1,000,000	1,000,000
MOVE BANK	RIM	NR	TD	0.65%	391	28-Jun-22	500,000	500,000
JUDO BANK	RIM	BBB	TD	0.75%	392	19-Jul-22	1,000,000	1,000,000
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
JUDO BANK	LAMINAR	BBB	TD	0.80%	390	28-Sep-22	875,000	875,000
AMP BANK	LAMINAR	BBB	TD	0.80%	361	11-Oct-22	750,000	750,000
SUB TOTAL ($)							**20,125,000**	**20,125,000**
TCORP CASH FUND	TCORP	AAA					8,000,000	7,991,185
TCORP SHORT TERM INCOME FUND	TCORP	AAA					5,000,000	5,008,726
TCORP MEDIUM TERM GROWTH FUND	TCORP	AAA					500,000	822,898
TCORP LONG TERM GROWTH FUND	TCORP	AAA					0	284,561
INVESTMENTS TOTAL ($)							**33,625,000**	**34,232,370**
CASH AT BANK ($)							**4,190,964**	**4,190,964**
TOTAL CASH AND INVESTMENTS ($)							**37,815,964**	**38,423,334**

CASH AT BANK INTEREST RATE	0.20%
BBSW FOR PREVIOUS 3 MONTHS	0.02%
AVG. INVESTMENT RATE OF RETURN ON TDs	0.76%

TD = TERM DEPOSIT
AC = AT CALL CASH ACCOUNT
FRTD = FLOATING RATE TERM DEPOSIT
*STANDARD AND 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

T HAZELL

ITEM NO. 2 **FILE NO: 22/26893**
EDRMS NO: PSC2006-6531

NOVEMBER 2021 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 30 November 2021.

ATTACHMENTS

1) November 2021 Cash and Investments.

ITEM 2 - ATTACHMENT 1 NOVEMBER 2021 CASH AND INVESTMENTS.

CASH AND INVESTMENTS HELD AS AT 30 NOVEMBER 2021

ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
DEFENCE BANK	CURVE	BBB	TD	0.60%	367	6-Dec-21	600,000	600,000
AMP BANK	LAMINAR	BBB	TD	0.75%	371	8-Dec-21	550,000	550,000
AMP BANK	LAMINAR	BBB	TD	0.75%	376	15-Dec-21	350,000	350,000
JUDO BANK	LAMINAR	BBB	TD	0.84%	385	22-Dec-21	350,000	350,000
JUDO BANK	LAMINAR	BBB	TD	0.85%	383	22-Dec-21	550,000	550,000
NAB	LAMINAR	AA	TD	0.50%	386	23-Dec-21	1,000,000	1,000,000
DEFENCE BANK	CURVE	BBB	TD	0.60%	399	5-Jan-22	1,000,000	1,000,000
NAB	LAMINAR	AA	TD	0.50%	399	5-Jan-22	1,000,000	1,000,000
NAB	LAMINAR	AA	TD	0.50%	413	19-Jan-22	1,000,000	1,000,000
BANK OF SYDNEY	LAMINAR	NR	TD	0.70%	391	19-Jan-22	750,000	750,000
MACQUARIE BANK	LAMINAR	A	TD	0.70%	385	1-Feb-22	1,000,000	1,000,000
AUSWIDE BANK	RIM	BBB	TD	1.73%	701	2-Feb-22	1,250,000	1,250,000
JUDO BANK	RIM	BBB	TD	0.70%	294	12-Apr-22	1,000,000	1,000,000
ILLAWARRA CREDIT UNION	LAMINAR	NR	TD	0.86%	175	10-May-22	2,000,000	2,000,000
DEFENCE BANK	CURVE	BBB	TD	0.65%	539	25-May-22	1,000,000	1,000,000
DEFENCE BANK	CURVE	BBB	TD	0.65%	550	7-Jun-22	600,000	600,000
MOVE BANK	RIM	NR	TD	0.65%	384	21-Jun-22	1,000,000	1,000,000
MOVE BANK	RIM	NR	TD	0.65%	391	28-Jun-22	500,000	500,000
JUDO BANK	RIM	BBB	TD	0.75%	392	19-Jul-22	1,000,000	1,000,000
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
JUDO BANK	LAMINAR	BBB	TD	0.80%	390	28-Sep-22	875,000	875,000
AMP BANK	LAMINAR	BBB	TD	0.80%	361	11-Oct-22	750,000	750,000
ARAB BANK	LAMINAR	NR	TD	0.86%	369	8-Nov-22	1,000,000	1,000,000
AMP BANK	LAMINAR	BBB	TD	1.00%	375	22-Nov-22	750,000	750,000
AMP BANK	LAMINAR	BBB	TD	1.00%	368	22-Nov-22	750,000	750,000
AMP BANK	LAMINAR	BBB	TD	1.00%	390	20-Dec-22	1,000,000	1,000,000
MACQUARIE BANK	LAMINAT	A+	AT CALL	0.35%			2,000,000	2,000,000
SUB TOTAL ($)							**26,375,000**	**26,375,000**
TCORP CASH FUND	TCORP	AAA					2,000,000	1,994,746
TCORP SHORT TERM INCOME FUND	TCORP	AAA					3,000,000	3,015,038
TCORP MEDIUM TERM GROWTH FUND	TCORP	AAA					5,500,000	5,800,610
TCORP LONG TERM GROWTH FUND	TCORP	AAA					3,000,000	3,245,300
INVESTMENTS TOTAL ($)							**39,875,000**	**40,430,694**
CASH AT BANK ($)							**5,811,594**	**5,811,594**
TOTAL CASH AND INVESTMENTS ($)							**45,686,594**	**46,242,288**

CASH AT BANK INTEREST RATE	0.20%
BBSW FOR PREVIOUS 3 MONTHS	0.03%
AVG. INVESTMENT RATE OF RETURN ON TDs	0.77%

TD = TERM DEPOSIT
*STANDARD AND 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

T HAZELL

ITEM NO. 3 **FILE NO: 22/26905**
EDRMS NO: PSC2006-6531

DECEMBER 2021 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 December 2021.

ATTACHMENTS

1) December 2021 Cash and Investments.

ITEM 3 - ATTACHMENT 1 DECEMBER 2021 CASH AND INVESTMENTS.

CASH AND INVESTMENTS HELD AS AT 31 DECEMBER 2021

ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
DEFENCE BANK	CURVE	BBB	TD	0.60%	399	5-Jan-22	1,000,000	1,000,000
NAB	LAMINAR	AA	TD	0.50%	399	5-Jan-22	1,000,000	1,000,000
NAB	LAMINAR	AA	TD	0.50%	413	19-Jan-22	1,000,000	1,000,000
BANK OF SYDNEY	LAMINAR	NR	TD	0.70%	391	19-Jan-22	750,000	750,000
MACQUARIE BANK	LAMINAR	A	TD	0.70%	385	1-Feb-22	1,000,000	1,000,000
AUSWIDE BANK	RIM	BBB	TD	1.73%	701	2-Feb-22	1,250,000	1,250,000
JUDO BANK	RIM	BBB	TD	0.70%	294	12-Apr-22	1,000,000	1,000,000
ILLAWARRA CREDIT UNION	LAMINAR	NR	TD	0.86%	175	10-May-22	2,000,000	2,000,000
DEFENCE BANK	CURVE	BBB	TD	0.65%	539	25-May-22	1,000,000	1,000,000
DEFENCE BANK	CURVE	BBB	TD	0.65%	550	7-Jun-22	600,000	600,000
MOVE BANK	RIM	NR	TD	0.65%	384	21-Jun-22	1,000,000	1,000,000
MOVE BANK	RIM	NR	TD	0.65%	391	28-Jun-22	500,000	500,000
JUDO BANK	RIM	BBB	TD	0.75%	392	19-Jul-22	1,000,000	1,000,000
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
JUDO BANK	LAMINAR	BBB	TD	0.80%	390	28-Sep-22	875,000	875,000
AMP BANK	LAMINAR	BBB	TD	0.80%	361	11-Oct-22	750,000	750,000
ARAB BANK	LAMINAR	NR	TD	0.86%	369	8-Nov-22	1,000,000	1,000,000
AMP BANK	LAMINAR	BBB	TD	1.00%	375	22-Nov-22	750,000	750,000
AMP BANK	LAMINAR	BBB	TD	1.00%	368	22-Nov-22	750,000	750,000
AMP BANK	LAMINAR	BBB	TD	1.00%	390	20-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
AMP BANK	LAMINAR	BBB	TD	1.00%	405	17-Jan-23	800,000	800,000
MUTUAL BANK	CURVE	NR	TD	1.25%	551	6-Jun-23	1,000,000	1,000,000
AMP BANK	LAMINAR	BBB	TD	1.35%	550	20-Jun-23	585,000	585,000
MACQUARIE BANK	LAMINAT	A+	AT CALL	0.35%			2,000,000	2,000,000
SUB TOTAL ($)							**26,360,000**	**26,360,000**
TCORP CASH FUND	TCORP	AAA					2,000,000	1,995,069
TCORP SHORT TERM INCOME FUND	TCORP	AAA					3,000,000	3,017,916
TCORP MEDIUM TERM GROWTH FUND	TCORP	AAA					5,500,000	5,847,724
TCORP LONG TERM GROWTH FUND	TCORP	AAA					3,000,000	3,286,288
INVESTMENTS TOTAL ($)							**39,860,000**	**40,506,997**
CASH AT BANK ($)							**4,020,884**	**4,020,884**
TOTAL CASH AND INVESTMENTS ($)							**43,880,884**	**44,527,881**

CASH AT BANK INTEREST RATE	0.20%
BBSW FOR PREVIOUS 3 MONTHS	0.06%
AVG. INVESTMENT RATE OF RETURN ON TDs	0.83%

TD = TERM DEPOSIT
*STANDARD AND 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

T HAZELL

ITEM NO. 4 **FILE NO: 22/38382**
EDRMS NO: PSC2006-6531

JANUARY 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 January 2022.

ATTACHMENTS

1) January 2022 Cash and Investments.

ITEM 4 - ATTACHMENT 1 JANUARY 2022 CASH AND INVESTMENTS.

CASH AND INVESTMENTS HELD AS AT 31 JANUARY 2022

ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
MACQUARIE BANK	LAMINAR	A	TD	0.70%	385	1-Feb-22	1,000,000	1,000,000
AUSWIDE BANK	RIM	BBB	TD	1.73%	701	2-Feb-22	1,250,000	1,250,000
JUDO BANK	RIM	BBB	TD	0.70%	294	12-Apr-22	1,000,000	1,000,000
ILLAWARRA CREDIT UNION	LAMINAR	NR	TD	0.86%	175	10-May-22	2,000,000	2,000,000
DEFENCE BANK	CURVE	BBB	TD	0.65%	539	25-May-22	1,000,000	1,000,000
DEFENCE BANK	CURVE	BBB	TD	0.65%	550	7-Jun-22	600,000	600,000
MOVE BANK	RIM	NR	TD	0.65%	384	21-Jun-22	1,000,000	1,000,000
MOVE BANK	RIM	NR	TD	0.65%	391	28-Jun-22	500,000	500,000
JUDO BANK	RIM	BBB	TD	0.75%	392	19-Jul-22	1,000,000	1,000,000
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
JUDO BANK	LAMINAR	BBB	TD	0.80%	390	28-Sep-22	875,000	875,000
AMP BANK	LAMINAR	BBB	TD	0.80%	361	11-Oct-22	750,000	750,000
ARAB BANK	LAMINAR	NR	TD	0.86%	369	8-Nov-22	1,000,000	1,000,000
AMP BANK	LAMINAR	BBB	TD	1.00%	375	22-Nov-22	750,000	750,000
AMP BANK	LAMINAR	BBB	TD	1.00%	368	22-Nov-22	750,000	750,000
AMP BANK	LAMINAR	BBB	TD	1.00%	390	20-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
AMP BANK	LAMINAR	BBB	TD	1.00%	405	17-Jan-23	800,000	800,000
JUDO BANK	LAMINAR	BBB	TD	0.99%	368	31-Jan-23	470,000	470,000
BANK OF QUEENSLAND	BANK OF QLD	BBB	TD	0.80%	382	14-Feb-23	955,000	955,000
MUTUAL BANK	CURVE	NR	TD	1.25%	551	6-Jun-23	1,000,000	1,000,000
AMP BANK	LAMINAR	BBB	TD	1.35%	550	20-Jun-23	585,000	585,000
WESTPAC	WESTPAC	A	TD	1.53%	732	30-Jan-24	1,000,000	1,000,000
WESTPAC	WESTPAC	A	TD	1.53%	746	13-Feb-24	1,000,000	1,000,000
MACQUARIE BANK	LAMINAT	A+	AT CALL	0.35%			2,000,000	2,000,000
SUB TOTAL ($)							**26,035,000**	**26,035,000**
TCORP CASH FUND	TCORP	AAA					2,000,000	1,995,065
TCORP SHORT TERM INCOME FUND	TCORP	AAA					5,000,000	5,013,346
TCORP MEDIUM TERM GROWTH FUND	TCORP	AAA					3,500,000	3,761,043
TCORP LONG TERM GROWTH FUND	TCORP	AAA					1,000,000	1,188,221
INVESTMENTS TOTAL ($)							**37,535,000**	**37,992,675**
CASH AT BANK ($)							**1,947,332**	**1,947,332**
TOTAL CASH AND INVESTMENTS ($)							**39,482,332**	**39,940,007**

CASH AT BANK INTEREST RATE	0.20%
BBSW FOR PREVIOUS 3 MONTHS	0.06%
AVG. INVESTMENT RATE OF RETURN ON TDs	0.92%

TD = TERM DEPOSIT
*STANDARD AND 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

T HAZELL

ITEM NO. 5 **FILE NO: 22/30007**
EDRMS NO: PSC2017-00180

QUARTERLY GRANTS UPDATE TO 31 DECEMBER 2021

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

BACKGROUND

The purpose of this report is to provide Council with a quarterly update on its Grants status.

ATTACHMENTS

1) Quarterly Grants Update to 31 December 2021.

ITEM 5 - ATTACHMENT 1 QUARTERLY GRANTS UPDATE TO 31 DECEMBER 2021.

Quarterly Grants Status Summary

1 October 2021 - 31 December 2021

Successful				
Grant	**Section / Department**	**Project Title**	**Project Summary**	**Value**
Australia Day 2022 Community Grants Program	Communications - Community Development and Engagement	Port Stephens Australia Day	Council will use this grant to put in place COVID 19 measures, host a full day of activities for all its events, and aims to have a strong focus on aboriginal culture this year.	$25,000
Coastal and Estuary Grants Program 2021-22	Strategy and Environment - Natural Resources	Nelson Bay Eastern Groyne Dune Erosion	The works to be undertaken will be to relocate sand from Little Beach Boat Ramp just north of the site and nourish key areas of erosion. This activity will assist in preserving the biological and structural council assets at the site.	$19,275
NSW Small Business Month Grants Program 2022	Strategy and Environment - Economic Development and Tourism	Small Business Month	Port Stephens Council, in collaboration with Business Port Stephens and Port Stephens Women in Business will host a working lunch for approx. 100 small business owners and managers.	$2,500
Regional Sport Facility Fund 2021-22 - Round 2	Assets - Community and Recreation	Brandon Park Upgrades	Upgrade amenities, car park and floodlighting as well as conversion of tennis court into multisport and provision of supporting infrastructure.	$693,100
Regional Sport Facility Fund 2021-22 - Round 2	Assets - Community and Recreation	Yulong Oval Upgrades	This project will involve the replacement of existing amenities with a new contemporary, inclusive and multipurpose facility.	$999,980
Stronger Country Communities Fund Round 4	Assets - Community and Recreation	Salamander Sports Complex Upgrade	Includes building upgrades with the installation of cubicles in the change rooms and field surface improvements.	$230,000
Stronger Country Communities Fund Round 4	Assets - Community and Recreation	Lakeside Leisure Centre Playground and Shade Sail	Includes installation of a new playground and shade sail.	$160,000
Stronger Country Communities Fund Round 4	Assets - Community and Recreation	Fingal Bay Amenities Replacement	The project will transform the experience of beach and foreshore users through the construction of a new amenities building including a fully accessible toilet.	$250,000
Summer Night Fund Program	Communications - Community Development and Engagement	Endless Summer Nights	The program includes a range of covid safe activities such as markets, kids activation zones, music performances, public art workshops and food trucks.	$15,000
				$2,394,855

Awaiting Outcome				
Grant	**Section / Department**	**Project Title**	**Project Summary**	**Value**
Crown Reserves Improvement Fund 2021-22	Assets - Community and Recreation	Longworth Park BBQ	Replacement of Longworth Park BBQ.	$12,500.00
Crown Reserves Improvement Fund 2021-22	Assets - Community and Recreation	Tanilba Foreshore Park Furniture	Replacement of park furniture along Tanilba Foreshore	$35,000.00
Crown Reserves Improvement Fund 2021-22	Strategy and Environment - Natural Res	Fox Control in Anna Bay Koala Hub	To protect the Koala population within the Anna Bay Koala Hub.	$18,000.00
Crown Reserves Improvement Fund 2021-22	Strategy and Environment - Natural Res	Spiny Bur Grass and Mossman River Grass Control	Funding will be used to engage a contractor to treat Spiny Burr Grass and Mossman River Grass.	$14,301.44
Crown Reserves Improvement Fund 2021-22	Strategy and Environment - Natural Res	One Mile Beach Weed Control and Revegetation	Funding will be used to engage a contractor to undertake restoration & planting works on Crown Land that has significant environmental values.	$39,487.00
Crown Reserves Improvement Fund 2021-22	Strategy and Environment - Natural Res	Ludwigia	Funding will be used to engage a contractor to undertake restoration works on Crown Land that has significant environmental values.	$27,596.00
Crown Reserves Improvement Fund 2021-22	Strategy and Environment - Natural Res	Lemon Tree Foreshore	Funding will be used to engage a contractor to control Ludwigia on Crown Land.	$20,253.00
Crown Reserves Improvement Fund 2021-22	Strategy and Environment - Natural Res	Chinese Violet	Funding will be used to engage a contractor to control Chinese violet on Crown Land.	$25,759.00
Crown Reserves Improvement Fund 2021-22	Strategy and Environment - Natural Res	Bitou Bush	Funding will be used to engage a contractor to control Bitou bush on Crown Land.	$17,739.00
Crown Reserves Improvement Fund 2021-22	Strategy and Environment - Natural Res	Aquatic Weed Control	Through this program PSC and Crown lands work together to maintain waterways free from aquatic weeds, facilitating environmental social and economic outcomes.	$35,344.00
Environmental Restoration and Rehabilitation Grants 2021-22	Strategy and Environment - Natural Res	Worimi LALC Mallabula Point Restoration	This proposal is targeted at restoring and maintaining the native vegetation at Mallabula Point which contains preferred koala habitat and the endangered ecological community Swamp Sclerophyll Forest.	$142,203.00
Environmental Restoration and Rehabilitation Grants 2021-22	Strategy and Environment - Natural Res	Anna Bay Koala Hub - Protection and Connectivity	This proposal is targeted at maintaining the Anna Bay koala hub, which is instrumental to the local survival of this iconic threatened species.	$148,724.00
Public Library Infrastructure Grants 2021-22	Community Services - Library Services	Mobile Library Refurbishment	Port Stephens Library is seeking funding to refurbish the Mobile Library in order to extend the life of the existing trailer and meet ongoing community needs and expectations.	$68,540.00
Refresh and Renew Fund 2021-2022	Holiday Parks	Fingal Bay Holiday Park Wi-Fi Upgrade	This project will improve the reliability and functionality of the complimentary guest wi-fi service situated accross the 9 hectres at Fingal Bay Holiday Park.	$30,000.00
Streets as Shared Spaces - Round 2	Assets - Community and Recreation	William Street Urban Park	Short-term improvement program at corner of William and Sturgeon Streets including the provision of public open space in the Raymond Terrace CBD and flexible community event space.	$269,125
Stronger Country Communities Fund Round 4	Assets - Community and Recreation	Aliceton Reserve Playground and Amenities	Includes removal of existing playground and amenities at Memorial Park and installing a new playground and amenities at Aliceton Reserve, Karuah	$350,000
Stronger Country Communities Fund Round 4	Assets - Community and Recreation	Birubi SLSC Air-conditioning	Involves an upgrade of existing air-conditioning throughout Birubi Surf Life Saving Club	$190,000
				$1,444,571

There were 4 unsuccessful grants to report for period 1 October 2021 to 31 December 2021

ITEM NO. 6 **FILE NO: 22/42060**
EDRMS NO: PSC2021-01880

DESIGNATED PERSONS' RETURN

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

BACKGROUND

The purpose of this report is to table Designated Persons' Return/s (return) submitted.

In accordance with the Part 4 – Pecuniary Interest of the Code of Conduct, all designated persons are required to submit a return. Returns are to be tabled at the first Council meeting after the lodgement date.

The following is a list of position/s who have submitted return/s:

- Building Surveyor (PSC439)

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

1) Designated Persons' Return.

ITEM NO. 7 **FILE NO: 22/39289**
EDRMS NO: PSC2017-00106

COUNCIL RESOLUTIONS

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

BACKGROUND

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

ATTACHMENTS

1) Corporate Services Resolutions Report.
2) Development Services Resolutions Report.
3) Facilities & Services Resolutions Report.
4) General Manager's Office Resolutions Report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

PORT STEPHENS COUNCIL

	Division: Corporate Services	**Date From:**	27/08/2013
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Monday, 14 February 2022**

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/05/2021	Crosdale, Timothy	Car parking in Shoal Bay	30/06/2022	12/05/2021	
1		Crosdale, Timothy				21/123694

11 Feb 2022

In principle approval received from Crown Lands. Plan of Management to be addressed before progressing works.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/08/2013	Crosdale, Timothy	Campvale Drain	30/12/2022		
243		Crosdale, Timothy				

11 Feb 2022

Hunter Water Corporation, National Parks and Wildilfe Service (NPWS) and two private owners involved. Matter ongoing.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Crosdale, Timothy	Newline Road, Raymond Terrace	30/04/2022		
2 199		Crosdale, Timothy				20/288489

11 Feb 2022

Approved. Contracts prepared. Finalising survey levels in contract.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/04/2021	Crosdale, Timothy	PROPOSED CLOSURE AND SALE OF PATHWAY IN BOAT HARBOUR	30/04/2022	14/04/2021	
2 090		Crosdale, Timothy				21/96728

11 Feb 2022

Matter progressing.

ITEM 7 - ATTACHMENT 2 DEVELOPMENT SERVICES RESOLUTIONS REPORT.

PORT STEPHENS COUNCIL

	Division: Development Services	**Date From:**	13/07/2021
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Tuesday, 15 February 2022**

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 1 026	Ordinary Council 8/02/2022	Drinan, Kate Peart, Steven	Caravan Park Communities	26/04/2022	14/02/2022	22/45826

15 Feb 2022
Target date changed from 22 February 2022 to 26 April 2022 – A report is being drafted to be put to Council on 26 April 2022.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 1 014	Ordinary Council 8/02/2022	Drinan, Kate Peart, Steven	DEVELOPMENT APPLICATION 16-2017-524-1 (EARTHWORKS - FILL) AT 52, 52A AND 40 CABBAGE TREE ROAD, WILLIAMTOWN (LOT: 7 DP 1059398, LOT: 7 DP: 4831, LOT: 3DP: 1106651)	22/02/2022	14/02/2022	22/45826

14 Feb 2022
Target date changed to 22 February 2022 - At the Council meeting of 8 February 2022, it was resolved to defer this application for 2 weeks. Reported back to Council on 22 February 2022.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 7 032	Ordinary Council 8/02/2022	Lourens, Rean Peart, Steven	FLYING-FOX ISSUES AT ROSS WALLBRIDGE RESERVE	15/04/2022	14/02/2022	22/45826

14 Feb 2022
Action reassigned to Natural Systems Coordinator.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 11	Ordinary Council 8/02/2022	Lourens, Rean Peart, Steven	AIR QUALITY MONITORING AT EXTRACTIVE INDUSTRIAL OPERATIONS	15/04/2022	14/02/2022	22/45826

14 Feb 2022
Natural Systems Team will:
* Prepare a letter to the Minister for Energy and Environment to request that: Independent monitoring is undertaken at the extractive industry operations in the LGA to ensure that accurate data is provided to the community.
* Ensure the data is made available to Port Stephens Council to publish on its website.

ITEM 7 - ATTACHMENT 2 DEVELOPMENT SERVICES RESOLUTIONS REPORT.

PORT STEPHENS COUNCIL

	Division: Development Services	**Date From:**	13/07/2021
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Tuesday, 15 February 2022**

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 10 035	Ordinary Council 8/02/2022	Drinan, Kate Peart, Steven	Illegal Dumping	26/04/2022	14/02/2022	22/45826
15 Feb 2022 Target date from 22 February 2022 to 26 April 2022 - A report is being drafted to be put to Council on 26 April 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 3 285	Ordinary Council 26/10/2021	Connell, Sarah Peart, Steven	Karuah Place Plan	31/03/2022	28/10/2021	21/286560
14 Feb 2022 Action reassigned to Senior Strategic Planner.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 4	Ordinary Council 13/07/2021	Drinan, Kate Peart, Steven	Publication of Development Application Submissions	30/04/2022		21/190429
14 Feb 2022 Target date changed to 30 April 2022. Seeking further clarification.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 3 178	Ordinary Council 13/07/2021	Drinan, Kate Peart, Steven	Publication of Development Application Information	30/04/2022		21/190429
14 Feb 2022 Target date changed to 30 April 2022. Seeking further clarification.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 1 240	Ordinary Council 14/09/2021	Connell, Sarah Peart, Steven	Port Stephens Waterway Strategy	31/03/2022	15/09/2021	21/252518
14 Feb 2022 Action reassigned from Natural Systems to Strategic Planning.						

ITEM 7 - ATTACHMENT 2 DEVELOPMENT SERVICES RESOLUTIONS REPORT.

PORT STEPHENS COUNCIL

	Division: Development Services	**Date From:**	13/07/2021
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Tuesday, 15 February 2022**

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Lourens, Rean	Carbon Neutrality	31/03/2023	13/10/2021	
2 275		Peart, Steven				21/274186
14 Feb 2022						
Action reassigned to Natural Systems Coordinator.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/09/2021	Drinan, Kate	Animal Shelter	31/03/2022	29/09/2021	
1 253		Peart, Steven				21/263230
14 Feb 2022						
Target date changed to 31 March 2022 - Reported back to Council on 22 February 2022.						

PORT STEPHENS COUNCIL

	Division: Facilities & Services	**Date From:**	27/11/2020
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Monday, 14 February 2022**

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	26/07/2022	14/02/2022	
6 018		Kable, Gregory				22/45826

14 Feb 2022
Report with requested information shall be provided to Council.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	Medowie Library	28/06/2022	14/02/2022	
2 027		Kable, Gregory				22/45826

14 Feb 2022
Report will be provided to Council.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	Ford Avenue, Medowie, Sturgeon Street, Raymond Terrace, Nelson Bay Road and Gan Gan Road	29/03/2022	14/02/2022	
3 028		Kable, Gregory				22/45826

14 Feb 2022
As requested an update will be provided to Councillors via PS News.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	POLICY REVIEW - ASSET MANAGEMENT POLICY	30/04/2022	14/02/2022	
5		Kable, Gregory				22/45826

14 Feb 2022
The Asset Management Policy has been placed on Public Exhibition until the 10 March 2022.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Burton , Paul	Raymond Terrace Indoor Sports Facility	30/06/2022	13/10/2021	
9 271		Kable, Gregory				21/274186

11 Feb 2022
Item will be added to Works Program Plus, advocacy documentation and staff will seek to identify suitable grant funding for the options analysis.

PORT STEPHENS COUNCIL

	Division: Facilities & Services	**Date From:**	27/11/2020
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Monday, 14 February 2022**

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Burton , Paul	Naming of Fields at Yulong Oval	30/06/2022	13/10/2021	
1 274		Kable, Gregory				21/274186

11 Feb 2022
Signage is ready to install. Currently awaiting direction from the club to confirm location of installation.

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

14 Feb 2022
A report will be prepared once the extension of the trial period has been completed.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	Raymond Terrace Lakeside Pathway	24/05/2022	14/02/2022	
4 029		Kable, Gregory				22/45826

14 Feb 2022
Preliminary investigation was undertaken to form part of the NOM background. Additional investigation with assistance from NSW Police will be undertaken and report will be presented to Council.

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

14 Feb 2022
Report will be provided to Council.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	Basketball Backboard and Rings - Croquet Court, Boomerang Park	24/05/2022	14/02/2022	
15 039		Kable, Gregory				22/45826

14 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.

PORT STEPHENS COUNCIL

	Division: Facilities & Services	**Date From:**	27/11/2020
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Monday, 14 February 2022**

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

14 Feb 2022
Staff to prepare a report and schedule a two-way conversation as advised.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 12 036	Ordinary Council 8/02/2022	Maretich, John Kable, Gregory	Iris Moore Reserve	29/03/2022	14/02/2022	22/45826

14 Feb 2022
As requested Council staff shall write to National Parks.

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

14 Feb 2022
Report shall be provided to Council.

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

14 Feb 2022
Waste staff are currently investigating reusable menstrual and sanitary products, as well as investigating the schemes other Councils have in place regarding these products going into landfill, will also liaise with current waste providers. Council currently offers free menstrual products available at Raymond Terrace Library.

PORT STEPHENS COUNCIL

	Division: Facilities & Services	**Date From:**	27/11/2020
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Monday, 14 February 2022**

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 9 034	Ordinary Council 8/02/2022	Maretich, John Kable, Gregory	Boomerang Park BBQs	28/06/2022	14/02/2022	22/45826

14 Feb 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 2 126	Ordinary Council 25/05/2021	Maretich, John Kable, Gregory	Anna Bay Drainage Union	1/06/2022	26/05/2021	21/138820

11 Feb 2022
The State Government agency responsible for Anna Bay Drainage Union shall be consulted with.

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	31/05/2022	26/05/2021	21/138820

11 Feb 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 2 143	Ordinary Council 8/06/2021	Burton , Paul Kable, Gregory	Sand Movement from Shoal Bay to Fly Point	31/12/2022	9/06/2021	21/156213

11 Feb 2022
Council shall apply for grants in accordance with associated criteria.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 2 012	Ordinary Council 9/02/2021	Burton , Paul Kable, Gregory	MEDOWIE REGIONAL PLAYGROUND AND TOWN CENTRE	31/08/2022		21/33235

14 Feb 2022
Two-Way Council briefing will be scheduled in the near future to discuss the future of this land.

PORT STEPHENS COUNCIL

	Division: Facilities & Services	**Date From:**	27/11/2020
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Monday, 14 February 2022**

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/11/2020	Miles, Philip	Disposal of Surplus Excavated Materials at Newcastle Airport Development Project Site.	30/06/2022		
11 261		Kable, Gregory				20/358525

11 Feb 2022
Council response to Newcastle Airport DA modification is expected in coming weeks. Legal Contracts have been drafted in preparation for DA modification approval.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/12/2020	Stewart, Adam	Fly Point and Little Beach Parking/SMART Parking	31/05/2022		
3		Kable, Gregory				20/391301

11 Feb 2022
A Two-Way Briefing has been scheduled for 26 April 2022.

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

11 Feb 2022
Discussions have commenced with Telstra.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/07/2021	Stewart, Adam	Hydrogen and Electric Vehicles in Council's Fleet	30/06/2022		
2 177		Kable, Gregory				21/190429

14 Feb 2022
Staff are currently in consultation with suppliers on how to introduce new fuel sources for our vehicles.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Burton , Paul	Raymond Terrace Seven Day Makeover	31/12/2022		
17 228		Kable, Gregory				21/218740

11 Feb 2022
This will be discussed with the Councillors in the lead up to William St, Stage 2 which funded through the Streets of Shared Spaces grant.

PORT STEPHENS COUNCIL

	Division: Facilities & Services	**Date From:**	27/11/2020
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Monday, 14 February 2022**

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Burton , Paul	Shade Sail at Robinson Reserve, Anna Bay	30/06/2022	13/10/2021	
7 269		Kable, Gregory				21/274186

11 Feb 2022

Item will be added to Works Program Plus and staff will seek to identify suitable grant funding for the project.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Gutsche, Tammy	Change to Lease Arrangements for Fingal Bay Surf Life Saving Club and Commercial Tenancies	31/03/2022	13/10/2021	
8 270		Kable, Gregory				21/274186

14 Feb 2022

Paperwork currently being prepared for the Mayor and General Manager for the official seal.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Stewart, Adam	Australia Post Mail Box, 14A William Street, Raymond Terrace	30/06/2022	13/08/2021	
20 229		Kable, Gregory				21/218740

11 Feb 2022

There are a variety of site specific constraints and factors which need to be taken into account including compliance with the Disability Discrimination Act, NSW Road Rules in regard to stopping near a post box, and Council's Stage 2 works for William Street which will seek to relocate and optimise the location of street furniture including mail boxes.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Maretich, John	DEDICATION AS PUBLIC ROAD OF PART LOT 491 DP 27846 - 18C CROMARTY ROAD, SOLDIERS POINT	31/12/2022	13/08/2021	
1 210		Kable, Gregory				21/218740

11 Feb 2022

Council staff will commence transfer of land parcel to the road reserve.

PORT STEPHENS COUNCIL

	Division: Facilities & Services	**Date From:**	27/11/2020
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Monday, 14 February 2022**

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Maretich, John	Agreement with Community Association DP270468 - Lagoons Estate, Nelson Bay	30/06/2022		
4 208		Kable, Gregory				21/218740

14 Feb 2022
Council to enter agreement with the Community Association DP 270468 in accordance with the confidential terms as per Council report.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Stewart, Adam	Kirrang Drive, Medowie Shared Pathway	30/06/2022	13/08/2021	
8 217		Kable, Gregory				21/218740

14 Feb 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.

ITEM 7 - ATTACHMENT 4 GENERAL MANAGER'S OFFICE RESOLUTIONS REPORT.

PORT STEPHENS COUNCIL

	Division: General Manager's Office	**Date From:**	10/08/2021
	Committee:	**Date To:**	08/02/2022
	Officer:		
Action Sheets Report		**Printed:**	**Monday, 14 February 2022**

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Wickham, Tony	Public Access	31/03/2022	13/08/2021	
23 230		Wallis, Wayne				21/218740
11 Feb 2022 Being reviewed in line with the new model Code of Meeting Practice.						

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1 **FILE NO: 22/45879**

EDRMS NO: PSC2021-04195

PUBLIC ACCESS

COUNCILLOR: LEAH ANDERSON

THAT COUNCIL:

1) That Council rescind its decision of 10 August 2021 (Minute No. 230) on Notice of Motion Item No.23 – Public Access.
2) Asks the General Manager to initiate a general review of the Public Access:

a) Invite all Public Access speakers in the last four years, all current Councillors, and any Council staff who have been asked questions during Public Access, and invite the general public, to provide feedback on the process, including:

i) Ease of presentation display (if used)
ii) Time limit of 5 minutes (is this too constraining?)
iii) Are questions from Councillors useful?
iv) Whether they would have agreed for their contribution to be broadcast on the Council webcast to raise more awareness?
v) How did they find the experience? Whether they were shaky/nervous/anxious while presenting?
vi) Whether being seated while presenting would have helped with nerves?
vii) Any other feedback they have on the current Public Access process?
viii) Any suggestions they have for an improved Public Access process?

3) Provide recommended changed to the Code of Meeting Practice to Council as a result of review.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

011	**Councillor Leah Anderson** **Councillor Giacomo Arnott** It was resolved that Council: 1) That Council rescind its decision of 10 August 2021 (Minute No. 230) on Notice of Motion Item No. 23 – Public Access. 2) Asks the General Manager to initiate a general review of the Public Access:

	a) Invite all Public Access speakers in the last four years, all current Councillors, and any Council staff who have been asked questions during Public Access, and invite the general public, to provide feedback on the process, including: i) Ease of presentation display (if used) ii) Time limit of 5 minutes (is this too constraining?) iii) Are questions from Councillors useful? iv) Whether they would have agreed for their contribution to be broadcast on the Council webcast to raise more awareness? v) How did they find the experience? Whether they were shaky/nervous/anxious while presenting? vi) Whether being seated while presenting would have helped with nerves? vii) Any other feedback they have on the current Public Access process? viii) Any suggestions they have for an improved Public Access process? 3) Provide recommended changed to the Code of Meeting Practice to Council as a result of review.

The motion was carried.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
FORESHADOWED MOTION

	Councillor Giacomo Arnott That Council rescind its decision of 10 August 2021 (Minute No. 230) on Notice of Motion Item No. 23 – Public Access.

BACKGROUND REPORT OF: TONY WICKHAM – GOVERNANCE SECTION MANAGER

BACKGROUND

Council at its meeting on 10 August 2021 **(ATTACHMENT 1)** resolved to amend the Code of Meeting Practice to remove the opportunity for questions.

This resolution has not been actioned due to the timing of the local government election and the release of a new Model Code of Meeting Practice (new Model Code) in late 2021. It is proposed that Council will consider the new Model Code at its meeting on 22 March 2022.

Council's current Code of Meeting Practice is based on the Model Code of Meeting Practice (the Model Code) released by the Office of Local Government in 2018. The

Model Code includes mandatory and non-mandatory clauses. The non-mandatory clauses are optional.

This Notice of Motion refers to the "Public Forums (Public Access)" provisions in the adopted Code of Meeting Practice (the Code). Council adopted the public access non-mandatory provisions in the Code of Meeting Practice in June 2020. An extract of the Code is shown at **(ATTACHMENT 2).**

Clause 4.12 states:

"Each speaker will be allowed 5 minutes to address the Council. This time is to be strictly enforced by the chairperson."

Clause 4.14 states:

"A Councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument."

Clause 4.15 states:

"Speakers are under no obligation to answer a question put under clause 4.14. Answers by the speaker, will be regulated by the chairperson."

The intent of these provisions is to facilitate a 'question and answer' forum, through the chairperson, rather than a platform for statements and/or comments on the subject topic. A speaker is not permitted to put questions to Council, Councillors or Council staff.

Given the public access forum is a non-mandatory provision in the Model Code, Council does have the ability to amend the provisions contained in clauses 4.1 to 4.23. If Council was of the mind to amend the Code of Meeting Practice at clause 4.14, consideration would need to be given to the impact of clause 4.17 as a result.

Any amendment to the Code would require public exhibition for a period of 28 days, and allow a total of 42 days for submissions to be received.

FINANCIAL/RESOURCE IMPLICATIONS

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

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

ATTACHMENTS

1) 10 August 2021 - Notice of Motion.
2) Extract - Part 4 of the Code of Meeting Practice.

MINUTES ORDINARY COUNCIL - 10 AUGUST 2021

NOTICE OF MOTION

ITEM NO. 23 **FILE NO: 21/206293**

EDRMS NO: PSC2017-00019

PUBLIC ACCESS

COUNCILLOR: KEN JORDAN

THAT COUNCIL:

1) Changes the Public Access to remove the opportunity for questions. This will allow speakers to be limited to 5 minutes. This will allow for an accurate Council meeting start time.

ORDINARY COUNCIL MEETING - 10 AUGUST 2021
MOTION

230	**Councillor Ken Jordan** **Councillor Chris Doohan** It was resolved that Council changes the Public Access to remove the opportunity for questions. This will allow speakers to be limited to 5 minutes. This will allow for an accurate Council meeting start time.

Cr Giacomo Arnott and Cr John Nell called for a division.

Those for the Motion: Mayor Ryan Palmer, Crs Chris Doohan, Glen Dunkley, Ken Jordan, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Crs Jaimie Abbott and Giacomo Arnott.

The motion was carried.

ORDINARY COUNCIL MEETING - 10 AUGUST 2021
MOTION

231	**Councillor Chris Doohan** **Councillor Glen Dunkley** It was resolved that the motion be put.

The motion was carried.

MINUTES ORDINARY COUNCIL - 10 AUGUST 2021

Cr Giacomo Arnott requested his vote be recorded opposing the motion.

BACKGROUND REPORT OF: TONY WICKHAM – GOVERNANCE SECTION MANAGER

BACKGROUND

The Model Code of Meeting Practice (the Model Code) was released by the Office of Local Government in 2018. The Model Code includes mandatory and non-mandatory clauses. The non-mandatory clauses are optional.

This Notice of Motion refers to the "Public Forums (Public Access)" provisions in the adopted Code of Meeting Practice (the Code). Council adopted the public access non-mandatory provisions in the Code of Meeting Practice in June 2020. An extract of the Code has been attached for reference.

Clause 4.12 states:

"Each speaker will be allowed 5 minutes to address the Council. This time is to be strictly enforced by the chairperson."

Clause 4.14 states:

"A Councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument."

Clause 4.15 states:

"Speakers are under no obligation to answer a question put under clause 4.14. Answers by the speaker, will be regulated by the chairperson."
The intent of these provisions is to facilitate a 'question and answer' forum, through the chairperson, rather than a platform for statements and/or comments on the subject topic. A speaker is not permitted to put questions to Council, Councillors or Council staff.

Given the public access forum is a non-mandatory provision in the Model Code, Council does have the ability to amend the provisions contained in clauses 4.1 to 4.23. If Council was of the mind to amend the Code of Meeting Practice at clause 4.14, consideration would need to be given to the impact of clause 4.17 as a result.

Any amendment to the Code would require public exhibition for a period of 28 days and allow a total of 42 days for submissions to be received. This requirement would need to be included in any resolution to amend the Code.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

1) Extract - Part 4 of the Code of Meeting Practice.

MINUTES ORDINARY COUNCIL - 10 AUGUST 2021

ITEM 23 - ATTACHMENT 1 EXTRACT - PART 4 OF THE CODE OF MEETING PRACTICE.

4 PUBLIC FORUMS (Public Access)

4.1 The Council may hold a public forum prior to each ordinary meeting of the Council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting and/or other matters at the discretion of the Mayor. Public forums may also be held prior to extraordinary Council meetings and meetings of committees of the Council.

4.2 Public forums are to be chaired by the Mayor or their nominee.

4.3 To speak at a public forum, a person must first make an application to the Council in the approved form. Applications to speak at the public forum must be received by 12 noon on the Monday before the date on which the public forum is to be held, and must identify the item of business on the agenda of the Council meeting the person wishes to speak on, if applicable, and whether they wish to speak 'for' or 'against' the item.

4.4 A person may apply to speak on no more than 2 items of business on the agenda of the Council meeting.

4.5 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.

4.6 The Mayor or their delegate may refuse an application to speak at a public forum. The Mayor or their delegate must give reasons in writing for a decision to refuse an application.

4.7 No more than 2 speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the Council meeting, with the total number of speakers at any one meeting being 12.

4.8 If more than the permitted number of speakers' apply to speak 'for' or 'against' any matter, those permitted to speak will be determined by the order the applications were received by Council.

4.9 If more than the permitted number of speakers apply to speak 'for' or 'against' any matter, the Mayor or their delegate may, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the Council to hear a fuller range of views on the relevant item of business.

4.10 Council may require approved speakers at the public forum to register with the Council any written, visual or audio material to be presented in support of their address to the Council at the public forum, and to identify any equipment needs by 2pm the day of the public forum. The Mayor or their delegate may refuse to allow such material to be presented.

MINUTES ORDINARY COUNCIL - 10 AUGUST 2021

ITEM 23 - ATTACHMENT 1 EXTRACT - PART 4 OF THE CODE OF MEETING PRACTICE.

4.11 The Mayor or their delegate is to determine the order of speakers at the public forum.

4.12 Each speaker will be allowed 5 minutes to address the Council. This time is to be strictly enforced by the chairperson.

4.13 Speakers at public forums must not digress from the item on the agenda, if applicable, of the Council meeting they have applied to address the Council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

4.14 A Councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.

4.15 Speakers are under no obligation to answer a question put under clause 4.14. Answers by the speaker, will be regulated by the chairperson.

4.16 Speakers at public forums cannot ask questions of the Council, Councillors or Council staff.

4.17 The General Manager or their nominee may, with the concurrence of the chairperson, address the Council in response to an address to the Council at a public forum after the address and any subsequent questions and answers have been finalised.

4.18 Where an address made at a public forum raises matters that require further consideration by Council staff, the General Manager may recommend that the Council defer consideration of the matter pending the preparation of a further report on the matters.

4.19 When addressing the Council, speakers at public forums must comply with this Code and all other relevant Council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the Council's Code of Conduct or making other potentially defamatory statements.

4.20 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.19, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.

4.21 Clause 4.20 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this Code.

MINUTES ORDINARY COUNCIL - 10 AUGUST 2021

ITEM 23 - ATTACHMENT 1 EXTRACT - PART 4 OF THE CODE OF MEETING PRACTICE.

4.22 Where a speaker engages in conduct of the type referred to in clause 4.19, the Mayor or their delegate may refuse further applications from that person to speak at public forums for such a period as the Mayor or their delegate considers appropriate.

4.23 Councillors (including the Mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a Council or committee meeting. The Council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the Councillor who made the declaration.

Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council.

ITEM 1 - ATTACHMENT 2 EXTRACT - PART 4 OF THE CODE OF MEETING PRACTICE.

4 PUBLIC FORUMS (Public Access)

4.1 The Council may hold a public forum prior to each ordinary meeting of the Council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting and/or other matters at the discretion of the Mayor. Public forums may also be held prior to extraordinary Council meetings and meetings of committees of the Council.

4.2 Public forums are to be chaired by the Mayor or their nominee.

4.3 To speak at a public forum, a person must first make an application to the Council in the approved form. Applications to speak at the public forum must be received by 12 noon on the Monday before the date on which the public forum is to be held, and must identify the item of business on the agenda of the Council meeting the person wishes to speak on, if applicable, and whether they wish to speak 'for' or 'against' the item.

4.4 A person may apply to speak on no more than 2 items of business on the agenda of the Council meeting.

4.5 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.

4.6 The Mayor or their delegate may refuse an application to speak at a public forum. The Mayor or their delegate must give reasons in writing for a decision to refuse an application.

4.7 No more than 2 speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the Council meeting, with the total number of speakers at any one meeting being 12.

4.8 If more than the permitted number of speakers' apply to speak 'for' or 'against' any matter, those permitted to speak will be determined by the order the applications were received by Council.

4.9 If more than the permitted number of speakers apply to speak 'for' or 'against' any matter, the Mayor or their delegate may, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the Council to hear a fuller range of views on the relevant item of business.

4.10 Council may require approved speakers at the public forum to register with the Council any written, visual or audio material to be presented in support of their address to the Council at the public forum, and to identify any equipment needs by 2pm the day of the public forum. The Mayor or their delegate may refuse to allow such material to be presented.

ITEM 1 - ATTACHMENT 2 EXTRACT - PART 4 OF THE CODE OF MEETING PRACTICE.

4.11 The Mayor or their delegate is to determine the order of speakers at the public forum.

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4.14 A Councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.

4.15 Speakers are under no obligation to answer a question put under clause 4.14. Answers by the speaker, will be regulated by the chairperson.

4.16 Speakers at public forums cannot ask questions of the Council, Councillors or Council staff.

4.17 The General Manager or their nominee may, with the concurrence of the chairperson, address the Council in response to an address to the Council at a public forum after the address and any subsequent questions and answers have been finalised.

4.18 Where an address made at a public forum raises matters that require further consideration by Council staff, the General Manager may recommend that the Council defer consideration of the matter pending the preparation of a further report on the matters.

4.19 When addressing the Council, speakers at public forums must comply with this Code and all other relevant Council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the Council's Code of Conduct or making other potentially defamatory statements.

4.20 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.19, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.

4.21 Clause 4.20 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this Code.

ITEM 1 - ATTACHMENT 2 EXTRACT - PART 4 OF THE CODE OF MEETING PRACTICE.

4.22 Where a speaker engages in conduct of the type referred to in clause 4.19, the Mayor or their delegate may refuse further applications from that person to speak at public forums for such a period as the Mayor or their delegate considers appropriate.

4.23 Councillors (including the Mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a Council or committee meeting. The Council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the Councillor who made the declaration.

Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council.

NOTICE OF MOTION

ITEM NO. 2 **FILE NO: 22/45926**

EDRMS NO: PSC2021-04195

NEWSPAPER NOTICES

COUNCILLOR: LEAH ANDERSON

THAT COUNCIL:

1) Notes that on 30 April 2020, by "operational decision", the General Manager directed that advertisement of community notices, including Development Applications, be removed from the Port Stephens Examiner.
2) Agrees that this should not have occurred, considering the older demographic in Port Stephens, and those less fortunate than others, who rely on public information appearing in the free local newspaper to stay informed.
3) Requests a report from the General Manager:

a) Outlining savings since 30 April 2020, by ceasing the purchasing of a full page advertisement in the Port Stephens Examiner

b) Outlining the number of editions of the Port Stephens Examiner printed since then, and details about the size and cost of Council's advertising in each of those editions.

c) Outlining the cost of both a half page, and a full page advert in each weekly edition of both the Port Stephens Examiner and Port Stephens News of the Area, which is to be gained through a written quote from each publication.

d) Providing a report and a recommendation as to whether Council should re-commence advertising in the Port Stephens Examiner and extend it to Port Stephens News of the Area

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ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

012	**Councillor Leah Anderson** **Councillor Giacomo Arnott** It was resolved that Council: 1) Notes that on 30 April 2020, by "operational decision", the General Manager directed that advertisement of community notices, including Development Applications, be removed from the Port Stephens Examiner.

	2) Agrees that this should not have occurred, considering the older demographic in Port Stephens, and those less fortunate than others, who rely on public information appearing in the free local newspaper to stay informed. 3) Requests a report from the General Manager: a) Outlining savings since 30 April 2020, by ceasing the purchasing of a full page advertisement in the Port Stephens Examiner b) Outlining the number of editions of the Port Stephens Examiner printed since then, and details about the size and cost of Council's advertising in each of those editions. c) Outlining the cost of both a half page, and a full page advert in each weekly edition of both the Port Stephens Examiner and Port Stephens News of the Area, which is to be gained through a written quote from each publication. d) Providing a report and a recommendation as to whether Council should re-commence advertising in the Port Stephens Examiner and extend it to Port Stephens News of the Area

Councillor Peter Francis left the meeting at 8:22pm.
Councillor Peter Francis returned to the meeting at 8:25pm.

The motion was carried.

BACKGROUND REPORT OF: JANELLE GARDNER – COMMUNICATIONS SECTION MANAGER

BACKGROUND

Port Stephens Council is home to 74,506 people with a median age of 45 years. As part of Council's commitment to engaging and informing the local community, Council publishes Public Notices in print and/or online depending on the type of notice and the legislative requirements surrounding the communication of such notices.

In April 2020, changes to legislation in NSW no longer required Council to publish all Public Notices in print. This change was implemented to help Councils across NSW reduce costs, and redirect funds to higher priority services. This period also coincided with the Covid-19 pandemic; which placed significant financial constraints on the

organisation. At this time, Council reduced its print advertising; saving approximately $63,000 in the first year.

The Port Stephens Examiner is part of the Australian Community Media Group and is published every Thursday. The paper has an average readership of 28,630. The Port Stephens News of the Area has a circulation of approximately 10,000.

The Port Stephens Examiner continues to increase its online presence and as at February 2022, has a digital readership of 36,837. News of the Area has approximately 8,000 followers on Facebook.

Although Port Stephens has a higher population of older residents, data indicates that 79.6% of the Port Stephens population have internet access available from their dwelling (Remplan 2022). Based on the data, and an analysis of costs surrounding distribution and readership, the following changes were implemented in April 2020:

- Reduce the size of print advertising
- Remove the weekly advertising of Development Applications from print media
- Email or mail distribution of Public Notices to community members who can only access information in specific formats
- Distribute hard copies of all public notices to all Council libraries for public display each week.

Since this time, Council has continued to advertise a range of public notices and general information to the community. From 30 April 2020 to 30 January 2022, 91 editions of the Port Stephens Examiner have been printed. Port Stephens Council has advertised in 80 of these editions with a total of 155 individual advertisements at a cost of $116,745.

More recently, Council has reviewed opportunities to increase advertising in local print publications, however, costs for print advertising remain high. Based on current advertising rates, a full page advertisement in the Port Stephens Examiner is estimated at $162,000 per year and a half page $81,224 per year, whilst the Port Stephens News of the Area is estimated at $109,200 per year for a full page advertisement, and $65,884 for a half page advertisement.

By reducing the scale of print advertising since April 2020, Council has made savings of approximately $200,000. Savings made have been redirected into projects which deliver long term communication outcomes, including the upgrade of the public website, our Integrated Engagement Program and an increased digital presence.

As part of the development of a new Communications and Engagement Strategy, Council continues to test and trial methods to increase opportunities for Port Stephens residents and business to contribute to broader decision making.

A key element of this program will be increasing the community's understanding of the Development Application (DA) process and communicating how they can register

for notifications and access information on DAs from both Council and the State government. As part of this, from March 2022, the following actions will be trialed:

- Individual advertising of DAs on exhibition via social media including paid boosts for residents within the locality of the proposed development
- General advertising of weekly DAs approved via social media
- Paid social media awareness campaign to encourage a greater understanding of the DA process and NSW Planning Portal
- Regular communications via social media, newsletters and other communications platforms on the opportunities for residents to submit feedback on developments.

Council's Communications and Engagement Team is currently investigating paid social media advertising on local news platforms (including News of the Area and Port Stephens Examiner) to increase online readership and engagement across the community.

If Council was to recommence advertising in the Port Stephens Examiner and extend this to the Port Stephens News of the Area, it is estimated that an additional $174,000 would be required to secure a weekly full page advertisement in both publications. This would have a significant impact on the Communications and Customer Experience budget, and reduce Council's ability to engage via digital platforms with a broader cross section of the community.

As such, Council officers suggest the following processes be implemented:

1) Maintain the current process for print advertising of Public Notices.
2) Implement new strategies to increase awareness and engagement with the community on the notification of DAs.
3) Engage with local print media to seek opportunities for increasing awareness through their digital platforms.

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: 22/45945**

EDRMS NO: PSC2021-04195

109 FORESHORE DRIVE, SALAMANDER BAY

COUNCILLOR: LEAH ANDERSON

THAT COUNCIL:

1) Notes the importance of protecting our local environment.
2) Notes the long-running campaign from the local community to protect 109 Foreshore Drive, Salamander Bay.
3) Supports 109 Foreshore Drive being reclassified to community land.
4) Agrees to place on public exhibition, a proposal to reclassify 109 Foreshore Drive to community land.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

	Councillor Leah Anderson **Councillor Giacomo Arnott** That Council: 1) Notes the importance of protecting our local environment. 2) Notes the long-running campaign from the local community to protect 109 Foreshore Drive, Salamander Bay. 3) Supports 109 Foreshore Drive being reclassified to community land. 4) Agrees to place on public exhibition, a proposal to reclassify 109 Foreshore Drive to community land.

Councillor Peter Kafer left the meeting at 8:40pm.
Councillor Peter Kafer returned to the meeting at 8:43pm.

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

BACKGROUND REPORT OF: TIMOTHY CROSDALE – GROUP MANAGER CORPORATE SERVICES

BACKGROUND

Lot 95 in Deposited Plan 26610 described as 109 Foreshore Drive, Salamander Bay is a standalone parcel of operational land with an area of 557m2 and zoned Residential R2 as shown in white in **(ATTACHMENT 1)**.

The parcel of land was created along with 55 other lots in DP26610 along Foreshore Drive. The allotment has been in Council ownership for 42 years and adjoins open space to the west and to the north and residential development to the east. Under the provisions of the Local Government Act 1993, the land is classified "operational" which allows the use of the land for Council's operations and also for the sale of the land.

A recent valuation undertaken in February 2022 placed an estimated value on the land of circa $2.65 million under its current zoning. This is a significant increase from the previous independent value of land of circa $1.5 million in January 2020.

In previous considerations of the classification of this parcel of land, 2 key issues have arisen being the potential use of proceeds of sale of the lands (should Council resolve to do so) and the environmental value of this land.

In relation to the use of potential sale proceeds, Council has previously discussed the use of proceeds to fund significant community infrastructure projects including part of the Tomaree Sports Complex infrastructure.

The Tomaree Sports Complex Master Plan was adopted by Council late in 2018. The plan proposes a number of stages of infrastructure works and has been costed in the order of $65 million. Early stages are funded with projects recently being completed through existing Council funding.

Based on the ongoing impacts of COVID-19 on Council's financial position, the ability to provide ongoing funding to significant community infrastructure will continue to be highly constrained.

A number of community groups including the Mambo-Wanda Wetlands Conservation Group have made representations to Council regarding the environmental value of this parcel of land. In summary, this has related primarily to the potential use of this site by Koalas and proximity to the Mambo Wetlands.

Council undertakes regular assessments of land holdings, including 109 Foreshore Drive, to determine environmental values of parcels of land in accordance with relevant standards and recognised professional practice. The outcomes of these assessments would be an important consideration of Council in this matter.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

1) Locality Plan.

ITEM 3 - ATTACHMENT 1 LOCALITY PLAN.

NOTICE OF MOTION

ITEM NO. 4 **FILE NO: 22/45953**

EDRMS NO: PSC2021-04195

LOCAL GOVERNMENT WEEK COUNCIL MEETINGS

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

1) Recognises the importance of bringing democracy to our community at every opportunity.
2) Agrees to hold the closest Council meeting to Local Government Week each year, in a part of Port Stephens outside of Raymond Terrace:
   a. For 2022, the location is to be at Karuah (Central Ward).
   b. For 2023, the location is to be at Shoal Bay or Fingal Bay (East Ward).
   c. For 2024, the location is to be at Fern Bay Community Hall (West Ward).

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

013	**Councillor Giacomo Arnott** **Councillor Jason Wells** It was resolved that Council: 1) Recognises the importance of bringing democracy to our community at every opportunity. 2) Agrees to hold the closest Council meeting to Local Government Week each year, in a part of Port Stephens outside of Raymond Terrace: a. For 2022, the location is to be at Medowie (Central Ward). b. For 2023, the location is to be at Shoal Bay or Fingal Bay (East Ward). c. For 2024, the location is to be at Fern Bay Community Hall (West Ward).

The motion was carried.

BACKGROUND REPORT OF: TONY WICKHAM – GOVERNANCE SECTION MAAGER

BACKGROUND

Local Government Week is an annual celebration to promote the importance of local government to ratepayers, residents, businesses – the whole community.

Local Government Week is normally held during late July/early August each year.

Council has the ability to hold its Council meetings around the local government area on occasion, by resolution.

Council meetings were held remotely during the last term of Council as follows:

Date	Location
24 July 2018	Birubi Surf Life Saving Club
23 July 2019	Elizabeth Waring Room, Nelson Bay Sports Ground
July 2020	Cancelled due to COVID-19
July 2021	Cancelled due to COVID-19

The Code of Meeting Practice requires Council meetings to be recorded and available from the Council website. In the case of a meeting held outside the Council Chamber, the meeting is recorded and uploaded to the website after the meeting.

Council incurs a direct cost of approximately $1,000 per meeting to record the meeting and the hire of microphones and associated equipment. Indirect costs associated with the set-up for the meeting would be covered under the existing budget.

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. 5 **FILE NO: 22/46053**

EDRMS NO: PSC2021-04195

WILLIAMTOWN CRG

COUNCILLOR: GIACOMO ARNOTT
JASON WELLS

THAT COUNCIL:

1) Notes that the people of Williamtown, Salt Ash and Fullerton Cove are still being affected by Perfluorinated Chemicals contaminating their properties, emanating from Williamtown RAAF Base.

2) Notes that in October 2019, the NSW Government shut down the "Community Reference Group", a body that provided the only form of direct communication between agencies, Council and affected residents.

3) Notes that for an NBN News story on 9 October 2019, Port Stephens Council declared that it was "unable to comment" on the news of the group being shut down.

4) Agrees that a new group should be formed, with the following aims:

   a. To keep the community informed about the latest development on the issue.

   b. To provide a direct line of communication between relevant agencies and the community.

   c. To force agencies and elected representatives, on a regular basis, to face the people the contamination is affecting.

   d. To stop the contamination from leaving Williamtown RAAF Base.

   e. To clean up the drainage system that is allowing the contamination to spread.

   f. To protect the health and financial welfare of those affected by the contamination.

5) Agrees that the group should be formed with every agency and representative that was already on it, with the addition of:

---

a. Federal Member for Paterson

b. State Member for Port Stephens

c. Mayor of Port Stephens

d. Two (2) other nominated Councillors from Port Stephens Council, one representing West Ward and one representing Central Ward

6) Sends this motion and a formal demand for this group's creation to:

a. The Prime Minister

b. The Federal Opposition Leader

c. The Premier

d. The State Opposition Leader

e. The Member for Paterson

f. The Member for Port Stephens

g. The General Manager of Hunter Water

h. The Chief of the Australian Defence Force

i. The Head of the NSW Environmental Protection Agency

j. The Secretary of New South Wales Health

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

014	**Councillor Giacomo Arnott** **Councillor Jason Wells** It was resolved that Council: 1) Notes that the people of Williamtown, Salt Ash and Fullerton Cove are still being affected by Perfluorinated Chemicals contaminating their properties, emanating from Williamtown RAAF Base. 2) Notes that in October 2019, the NSW Government shut down the "Community Reference Group", a body that provided the only form of

direct communication between agencies, Council and affected residents.

3) Notes that for an NBN News story on 9 October 2019, Port Stephens Council declared that it was “unable to comment” on the news of the group being shut down.

4) Agrees that a new group should be formed by government, with the following aims:

   a. To keep the community informed about the latest development on the issue.

   b. To provide a direct line of communication between relevant agencies and the community.

   c. To force agencies and elected representatives, on a regular basis, to face the people the contamination is affecting.

   d. To stop the contamination from leaving Williamtown RAAF Base.

   e. To clean up the drainage system that is allowing the contamination to spread.

   f. To protect the health and financial welfare of those affected by the contamination.

5) Agrees that the group should be formed with every agency and representative that was already on it, with the addition of:

   a. Federal Member for Paterson

   b. State Member for Port Stephens

   c. Mayor of Port Stephens

   d. Two (2) other nominated Councillors from Port Stephens Council, one representing West Ward and one representing Central Ward

6) Sends this motion and a formal demand for this group’s creation to:

   a. The Prime Minister

   b. The Federal Opposition Leader

   c. The Premier

	d. The State Opposition Leader e. The Member for Paterson f. The Member for Port Stephens g. The General Manager of Hunter Water h. The Chief of the Australian Defence Force i. The Head of the NSW Environmental Protection Agency j. The Secretary of New South Wales Health

Councillor Glen Dunkley left the meeting at 9:00pm and did not return to the meeting. Councillor Matthew Bailey left the meeting at 9:04pm.

The motion was carried.

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

BACKGROUND

The Williamtown Community Reference Group (CRG) was established by the NSW State Government (the Government) in September 2015 to facilitate communication between Government agencies and communities affected by PFAS contamination from the RAAF base in Williamtown. The Government convened and chaired more than 40 regular meetings of the group since its inception with Council represented by the General Manager at these meetings.

On 6 July 2018, Council provided a submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade PFAS Sub-Committee (the 'Committee') Inquiry into the Commonwealth Government's management of per- and polyfluoroalkyl substances (PFAS) contamination in and around Defence bases (the 'Inquiry').

Council's submission endeavoured to express the concerns that the community has experienced with the management of PFAS around RAAF Base Williamtown. Key matters raised related to the coordination of the response between the Federal and State Government and the submission made a range of suggestions for improvement in this approach. In addition, the Inquiry provided an opportunity for Council to again advocate on the community's behalf for the consideration of further compensation and buy back of properties located within the Williamtown Management Area.

The submission was informed by Council's involvement with the Williamtown Community Reference Group, as well as the significant feedback that Council has

received from the various affected community members in and around Williamtown. This included the results of a number of community and business surveys completed within the Williamtown Management Area by Council since 2015. In addition, the submission detailed Council's efforts to assist the Williamtown community through the recently adopted rate sub category for residential and farmland areas within the Williamtown Management Area.

The submission was formally considered, accepted and authorised for publication on 13 July 2018 and was made available to the public on the Inquiry web page at: Joint Foreign Affairs Defence and Trade Inquiry into PFAS Submissions. Council's submission is provided at **(ATTACHMENT 1)**.

On 24 July 2018, the Committee held a public hearing for the Inquiry at Williamtown. The General Manager appeared at the public hearing to address the Terms of Reference of the Inquiry and to answer questions from the Committee.
The Committee canvassed Council's views as detailed in the submission made to the Inquiry. A number of matters for further information were raised through Council's appearance at the hearing in which clarification was sought. Council provided a response in relation to the specific matters requested at the public hearing on 30 July 2018.

The Government concluded its investigation into PFAS contamination in Williamtown in 2019 with the focus shifting to ongoing monitoring and remediation efforts. The Government determined a new approach for ongoing communication and engagement with PFAS-affected communities through the NSW Environmental Protection Authority (EPA) as the lead agency. Information regarding the Government's PFAS Investigation Program is available on the EPA website – RAAF Base Williamtown PFAS contamination.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

1) PFAS Sub-committee submission.

PORT STEPHENS
COUNCIL

Mr James Rees
Committee Secretary
Joint Standing Committee on Foreign Affairs, Defence and Trade
PFAS Sub-Committee
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Mr Rees,

Re: Joint Standing Committee on Foreign Affairs, Defence and Trade PFAS Sub-Committee Inquiry Commonwealth Government's management of per- and polyfluoroalkyl substances (PFAS) contamination in and around Defence bases

Port Stephens Council (Council) is appreciative to the Joint Standing Committee on Foreign Affairs, Defence and Trade PFAS Sub-Committee for the opportunity to make a submission to the Inquiry into the Commonwealth Government's management of per- and polyfluoroalkyl substances (PFAS) contamination in and around Defence bases (the Inquiry).

Royal Australian Air Force (RAAF) Base Williamtown is located within the Port Stephens Local Government Area (LGA) and has been a high profile location in relation to the issue of PFAS contamination at Defence force bases.

Council's role since the emergence of this issue has been to facilitate information with the community through working with the NSW Government and Department of Defence (DoD). In 2015, Council made a submission to the Senate Foreign Affairs, Defence and Trade References Committee's inquiry into the Contamination of Australia's Defence Force facilities and other Commonwealth, state and territory sites in Australia (2015 Inquiry). As outlined in Council's submission to the 2015 Inquiry, there was, and continues to be, significant concern, frustration and anger within the community surrounding the RAAF Base Williamtown in relation to the management of this issue.

Whilst it is acknowledged that there has been progress to the responses from the DoD and whole of Government in relation to this issue, there remains a great deal of uncertainty within the community. In its representations to Council, the community surrounding the RAAF Base Williamtown maintain that certainty in terms of compensation and / or buy back of land affected by contamination within the Williamtown Management Area should be a central aspect of any further management of this issue by the Commonwealth.

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Moreover, Council notes that the Terms of Reference for this Inquiry are essentially the same as that for the 2015 Inquiry. Again, whilst there has been further progress in a range of areas associated with the management of this issue, it requested that the Commonwealth seek to implement direct compensation measures to provide greater certainty to the community surrounding RAAF Base Williamtown.

As outlined in our submission below, along with a commitment from DoD and the Commonwealth to direct compensation to affected landholders, Council encourages any improvement measures in the communications between levels of government and the community on this issue to make this more timely, simple and direct.

Council provides the following feedback in relation to the specific points in the Terms of Reference, in the order in which they are tabled.

a) the extent of contamination in and around Defence bases, including water, soil, other natural assets and built structures;

Since the 2015 Inquiry, DoD has been completing a range of studies and investigations into contamination around RAAF Base Williamtown. It is noted that the scope and timing of the investigation program has been long and undertaken in the context of unclear and changing expectations and guidance on the relevant limits to define areas affected by PFAS. Unfortunately, information in terms of what land may be potentially contaminated has not been disclosed to Council or the community in a coordinated and systematic way.

In relation to the testing program in a broader context, Council makes the general observation that it has been slow, confusing and complicated. Anecdotal feedback received by Council staff at community sessions and via customer service channels suggests that these shortcomings have made it difficult for the community to understand what is required in regard to the testing and what the likely impacts on their properties and health may be. Various community members have articulated to Council that this could prove to be the most catastrophic event to occur in their lives and the response that testing could take months, or even longer, has not been appropriate in their view.

The process of identifying the extent of contamination off RAAF Base Williamtown has been primarily left with the NSW Environment Protection Authority (NSW EPA), on the basis of testing and advice developed by the Commonwealth. This separation of responsibilities has further contributed to the lack of a consistent and coordinated dissemination of this critical information to Council or the community. At a number of critical times through the investigation process the lack of a coordinated and clear definition of the extent of contamination has created significant uncertainty and distrust within the community, including:

- The initial identification of the Williamtown and Surrounds Investigation Area (Investigation Area) in September 2015 identified areas that were potentially affected by PFAS contamination without information on the full extent and potential harm of identified contamination.

- The Investigation Area was substantially increased to the Williamtown Management Area on the basis of further sampling. This increase in extent was a significant change to that established in 2015, which in effect substantially increased the number of additional properties potentially affected by PFAS contamination.

On this basis, it has been difficult to understand the extent of the contamination, due to the results not being communicated in a consistent manner. Coupled with this, the guidelines to determine the definition of whether contamination exists, and related health risks, was undertaken concurrently with the investigation process. This has meant that there was no clear guidance at the outset of the investigation program as to what constituted contamination, and the related health effects. This remains an area of significant community angst and is an ongoing issue for Council in liaising with the community around this matter.

In addition to this, the NSW EPA have advised that the land is not identified as contaminated in relation to relevant NSW legislation and established management and mitigation requirements. This creates significant disconnect and confusion, particularly in cases where landowners have been advised their land is contaminated, without the formal requirements for remediation and mitigation works under the relevant NSW legislation. This disconnect only serves to create further confusion and concern for the community.

b) the response of, and coordination between, agencies of the Commonwealth Government, including, but not limited to, the Department of Prime Minister and Cabinet, the Department of Health, the Department of the Environment and Energy, the Department of Defence and the Australian Defence Force;

In its submission to the 2015 Inquiry, Council detailed a range of issues with the communication and coordination of the management of this issue from DoD as outlined below.

Council officers were first briefed on the issue from DoD in 2012. This briefing was confidential in nature and the next information received by Council was via a letter from DoD dated 20 May 2013 outlining the results of stage one of the investigation initiated the previous year.

The letter stated that detectable levels of Perflurooctane sulfonate (PFOS) and Perfluorooctanoic acid (PFOA) were found in on-site and off-site surface water and drain sediments at RAAF Base Williamtown. It also stated off-site ground water samples showed no detectable PFOS or PFOA. The letter alerted Council officers to the issue but indicated that, at that early stage, further research was needed to understand the possible risks. The initial advice did not indicate immediate cause for alarm and that further investigations were underway. A further follow up email from DoD requested the matter be kept confidential by Council.

Council received subsequent correspondence in 2014 advising that the stage two research was underway. Council received a report in August 2015 after which it was considered by Council there was enough information to pass on to Councillors and the public after the NSW EPA and DoD had completed press releases.

Council considers there were a number of key process gaps which amounted to a communication breakdown in the DoD in articulating this information to Council.

These gaps included:

- The initial instruction made to Council staff that the matter was confidential in nature, an instruction staff honoured.
- The piecemeal nature of the information flow from DoD to Council after the initial briefing.
- The failure to produce, or failure to provide to Council, a community information flyer which Council staff were advised at the initial briefing was to be compiled and distributed by DoD to residents nearby RAAF Base Williamtown. A search of Council records indicates no flyer and/or enquires from the public were received about such a document.
- The advice, again provided to Council staff at the 2012 briefing that a government agency stakeholder group would be established where the issue would be further progressed. Council received no further correspondence regarding the stakeholder group.

Since this time Council acknowledges that there have a range of responses from various Commonwealth Departments which the Committee would be aware. Specifically Council recognise that the establishment of a dedicated Senior Defence Officer at RAAF Base Williamtown has been an important step in ensuring that this issue is prioritised and actioned whilst the base continues to perform its critical functions in the protection national interests.

In the context of the ongoing assessment and investigation the Commonwealth's response has been largely undertaken by DoD and Department of Health. This has been in relation to undertaking the investigation process and also the establishment of relevant health based guidance values for PFAS. The establishment of interim health guidance in June 2016, some 9 months after the declaration of the Investigation Area, through to the adoption of the current guidelines in April 2017, is an indication of a lack of coordination between the agencies of the Commonwealth.

In consideration that the issue of potential contamination was effectively known from 2012, the five (5) year delay in the establishment of relevant guidance on risk based values for PFAS contamination is a major deficiency in the Commonwealth's response to this matter. As established previously in this submission, this misalignment on timing and consistency of advice to the community on this matter continues to be of significant concern to the community.

In order to rectify these issues and improve the process going forward, Council strongly urges the Commonwealth to establish an appropriately defined and resourced body with the authority to genuinely coordinate between agencies of the Commonwealth in relation to the management of this issue. These coordinating powers should also be extended to a range of regulatory powers to ensure not only consistency in the definition of the extent of contamination but to enforce the corrective actions to remediate and mitigate impacts.

c) communication and coordination with state and territory governments, local councils, affected local communities and businesses, and other interested stakeholders;

In Council's experience, while there has been a willingness on many fronts to work together, consultation and coordination between the relevant agencies and stakeholders has been disjointed and cumbersome in places.

The community has expressed to Council its frustration in relation to not knowing who to contact in certain situations. Put simply, many affected or potentially affected residents have reported the impression they are 'getting the run around' from agencies including DoD.

The chain of command and hierarchy across government agencies during project deployment was not clear. With a large number of agencies involved, from Council's perspective it appeared as though the community and agencies were confused as to who does what. For example, the Office of Chief Scientist issued media releases on similar content areas before the EPA, which was confusing for the community. It was apparent from a Council perspective that there were too many players, too many subcommittees and no clear and defined leadership and ultimate accountability.

Further, no clear strategies or project plan exists that Council has seen spanning the entire scope of works across various agencies. There has also been concern about the relationship between regulator and polluter, which has been seen in some quarters as being too close, while the legislative capacity for the NSW Government to regulate the Commonwealth is seen to be insufficient.

Council again suggests the appointment of a coordinated, staffed body which is seen to be independent of government to allow for the necessary actions to be determined and allocated ensuring each agency knows exactly what is expected of it.

Council also has concerns that the agencies with lead communication responsibility are also those furthest removed from the public, meaning they were somewhat out of touch with the needs of the local community. In its submission to the 2015 Inquiry, Council identified a range of specific deficiencies in relation to consultation between government and the community, particularly in the initial stages this issue becoming public.

From Council's viewpoint, the main focus remains with the contamination issue directly rather than the broader long term strategic issues and impacts on livelihoods. Again it is requested that the Commonwealth seek direct action in relation to financial assistance, impacts on property values, and remediation of contaminated land as a matter of priority. This is of critical importance to the community.

As it is not the lead or regulatory agency in this matter, Council's primary role has been to represent the interests of the community, the provision of information via various channels, and to convey residents' concerns to DoD, the NSW EPA and other agencies via the various reference groups. Council does not have an active role in the investigation and management of this issue however the General Manager is Council's representative on the Williamtown Contamination Investigation Community Reference Group (WCICRG).

Whilst it is acknowledged the WCICRG provides an appropriate forum for the coordination and communication of government responses, it remains a forum established and administered by the NSW Government, and there have been a number of issues in relation to misalignment in release of information by DoD outside of this established process. This again contributes to a general sense of lack of alignment and genuine collaboration between levels of Government in managing this issue.

(d) the adequacy of health advice and testing of current and former defence and civilian personnel and members of the public exposed in and around Defence bases identified as potentially affected by contamination;

Council's observation of the health advice and testing is that it is been slow and not clearly rolled out. The wellbeing of Port Stephens residents is critically important and this includes all the implications of the contamination that are now being raised including psychological and socioeconomic. Residents have articulated to Council on many occasions that it's the cruelty of uncertainty and time delays that is hardest for them to deal with.

It is also understood that there had been a delay to the implementation of broad scale blood testing owing to lack of clarity on the intent and value of this approach from a medical / epidemiological perspective. Regardless of these broader matters for consideration, the ability to provide responsive and effective guidance to the community that may have been exposed to PFAS contamination is a key community need and should be prioritised into the future to provide ongoing advice and guidance.

(e) the adequacy of Commonwealth and state and territory government environmental and human health standards and legislation, and any other relevant legislation;

Since the 2015 Inquiry Council understands that a significant amount of work has been undertaken by various Commonwealth and State organisations concerning environmental and human health related criteria relating to perfluorinated chemicals. This work has resulted in the establishment of final environmental, ecological and Health Based Guidance Values (HBGV) in April 2017.

Whilst Council does not express a view on the adequacy of the adopted guidance we believe that the Commonwealth must ensure that continued scientific work is undertaken in this area. We believe it is critically important that the nationally adopted guidelines continue to be evaluated against national and international standards, studies and scientific advances and where appropriate are amended to reflect those advances.

Council also believes that there is a need for the Commonwealth to continue to provide to the community accessible and meaningful information, in plain language, on environmental and human health standards and what that means for affected residents.

In relation to other legislation, it appears that DoD is a self-regulating entity without oversight from an independent environmental regulator. The lack of any connection between Commonwealth and state legislative provisions relating to significant pollution and contamination situations on Commonwealth land has contributed to the current inadequately managed situation. In addition, this will also affect a coordinated and regulated approach to remediation and mitigation works both on and off RAAF Base Williamtown.

Council believes there are very real opportunities to improve the legislative link between the Commonwealth and the states to ensure environmental pollution and contamination incidents are appropriately managed.

Specifically;

- Consideration should be given to the appointment of a Commonwealth environmental regulator and implementation of an environmental regulatory framework overseeing DoD activities on Commonwealth land. This regulator should have the necessary provisions to enforce specific remediation and mitigation measures to be implemented for contaminated land similar to the provisions of relevant NSW legislation.

- Consideration should be given to a comprehensive review of Commonwealth and state legislation relating to mandatory notifications to environmental agencies across all states when pollution and contamination incidents result from Commonwealth activities.

- Consideration should be given to a comprehensive review of legislative provisions to allow state-based environmental agencies (i.e. NSW EPA) to have a greater regulatory role in environmental and contamination incidents where incidents have originated from Commonwealth land. This review must consider a broader regulatory role for the state environmental agencies in the investigation and management of pollution and contamination situations where the pollution and contamination has caused significant impacts off Commonwealth land.

(f) remediation works at the bases; and

Council understands that DoD are implementing a range of mitigation works at RAAF Base Williamtown. This includes a number of treatment plants focussed on treatment of contaminated surface waters at RAAF Base Williamtown prior to the movement of this water off base. Whilst these measures are acknowledged, it is understood that there may still be gaps in treatment for potentially contaminated water draining from RAAF Base Williamtown. Council urges DoD to close these treatment gaps to provide greater confidence in the community that contamination is no longer draining from the base.

Council also acknowledges that DoD have implemented trial treatment plants to treat potentially contaminated groundwater. Whilst it is appreciated that this is highly technical in nature and therefore largely trial based at this stage, Council urges DoD to continue to expedite this process and seek to expand the treatment process to as many places as necessary outside of RAAF Base Williamtown.

Despite progress with these treatment measures, there remains the current issue of an extended period of time to implement these measures across land located within the Williamtown Management Area off RAAF Base Williamtown. This further contributes to the anxiety in the community as well as leaves a broad management issue within the Williamtown Management Area that is affecting other agencies, including Council in the management of their assets in this area.

A specific example of this is the impact on routine drainage maintenance undertaken by Council. At present the open drains surrounding RAAF Base Williamtown are owned and managed by NSW Office of Environment and Heritage (OEH), Council and some private property owners. A significant role of Council is the routine maintenance of surface water drains under its control. The type of maintenance work performed can include the removal of vegetation and sediments.

Council has significant concerns relating to the continued movement of potentially contaminated water through the open drain network either through further contaminated groundwater movement (which in many instances is directly connected to the open drains) and the lack of remediation of potentially contaminated land. These concerns relate to a potential increased risk to residents and to Council staff involved in the maintenance and the additional financial costs associated with assessment, removal, transport and disposal of contaminated materials through these activities.

Prior to any open drain maintenance works within the Williamtown Management Area, Council undertakes testing of the sediments at the base of the open drain, the water and the embankment. If there is an unsafe presence of PFAS, the spoil/vegetation is removed and disposed of at licenced landfills. To date this testing has not shown any unsafe detectable PFAS and hence the material has not left the site.

To date the cost of testing and assessment to Council has been in the order of $30,000 though it should be noted that required drainage maintenance works have been very minimal. A typical annual testing maintenance program would far exceed $30,000. Moreover, if spoil material was required to leave the site, the cost to Council could exceed $150,000. These are significant additional costs to Council as part of regular drain maintenance activities.

Furthermore, Council is currently preparing future open drain maintenance plans in the Williamtown Management Area. These works need to meet the obligations under the "PFAS National Environmental Management Plan – January 2018". It should be noted that the "PFAS National Environmental Management Plan – January 2018" has deemed PFAS contaminated material as Dangerous Goods Class 9 which has resulted in spoil material having to leave the site. This will further exacerbate the requirement for Council to remove spoil material from these maintenance activities and will result in an increase in open drain maintenance costs measured in the $100,000s.

(g) what consideration has been given to understanding and addressing any financial impact to affected businesses and individuals.

In Council's view, not enough has been done by the Commonwealth to understand and support affected residents particularly in relation to compensation, the opportunity for land acquisition and other financial impacts. There continues to be an urgent need for a coordinated approach by relevant authorities.

In lieu of any feedback sought by the Commonwealth, in 2015 Council distributed a business survey to gauge the impacts of the contamination issue on businesses within the then Investigation Area. The survey was emailed and mailed to around 3,000 registered businesses and property owners within the Investigation area. Over 50% of businesses surveyed indicated that they have been impacted by PFAS contamination, of which, over 25% indicated were of a major or significant impact.

These statistics should be considered in the context of the specific responses provided by survey respondents in relation to the impacts created with PFAS contamination around RAAF Base Williamtown, such as:

> *"As a result of the closure we were unable to harvest oysters from our finishing off oyster leases in the affected area during our prime sales period for approx. 5-6 weeks. This has caused loss of income and considerable expense. Because of the closure we were unable to move stock to other oyster leases resulting in a bank up of oysters on affected leases. Extra infrastructure was required to be built to cater for these oysters. We were also put into a position of having to sell semi mature stock at a lesser price from other oyster leases in order to keep our business operating."*

Moreover, the feedback from residents has been that the financial assistance that has been on offer is not sufficient. Council was advised by fishermen soon after the Federal financial assistance package was announced that they could not win an income at all and the government's initial response was that their fishing license fees would be waived. Whilst a nice gesture, the reality is the fisherman could not fish anyway, and waiving the fishing license did little in real terms.

In addition to business impacts, many residents have raised the issue around the impact of the contamination on land values and the ability for residents to relocate out of the Williamtown Management Area.

The NSW Valuer General has conducted two reviews of land values in the area surrounding RAAF Base Williamtown. Firstly within the Investigation Area in June 2016 where the Valuer-General determined land values had declined on average 15%. Secondly within the Williamtown Management Area in May 2018 where the Valuer-General determined that those properties that were added to the expanded management area had declined on average 15%. This is a significant impact to the value of assets within the Williamtown Management Area.

With regard to financial assistance and the potential for compensation, while Defence has publicly said that as polluter it would pay, there has been to Council's knowledge no formal commitment or communication of this to residents. Timing of potential compensation payment remains the key issue for most affected residents.

Residents have also expressed confusion around mixed messages in relation to matters like insurance and banking/mortgage issues. Anecdotally, Council is aware that some insurance companies are advising residents that they would not be able to rebuild if something was happen to their dwelling while this uncertainty exists. Council has also had reports of lending authorities advising they wouldn't enable properties within the contaminated area to be used as security at this time.

Council understands that it has limited ability and resources to effect significant measures to assist in mitigating the financial impact to residents and businesses. Notwithstanding, Council has resolved to create a sub-category in the rating system for 2018-2019 that effectively provides up to a 50% reduction in rates for affected residents and farmland. In order to implement this, the approximate $100,000 reduction in rates levied from the Williamtown Management Area will be provided for by the remaining ratepayers of Port Stephens. Whilst Council submits that this gesture provides some level of relief to the community, this is not significant in terms of the overall impacts to business and value of land for the community within the Williamtown Management Area.

The financial impacts of PFAS contamination are not only evident on existing residents and businesses, but are also having a significant impact on future land use within the Williamtown Management Area. Newcastle Airport is located on RAAF Base Williamtown and is a regionally significant transport infrastructure as well as employer. In addition, Newcastle Airport is undergoing a period of unprecedented growth and expansion with not only flying operations and aviation services but also through the development of tourism and business related developments in the surrounding area.

In recognition of the importance of the future development of Newcastle Airport and associated industries to the Port Stephens region, in 2008 Council created a Defence and Airport Related Enterprise Zone (DAREZ), which is an approximate 90ha of land specifically zoned to encourage specific industry and commercial development which has been progressively developed since that time. The DAREZ lands and surrounds are particularly valuable to the future economic development of the region with the continued expansion of Newcastle Airport, and also the expected increase in servicing and infrastructure associated with the introduction of the Joint Strike Fighter at RAAF Base Williamtown from 2020.

The financial impacts associated with the PFAS contamination on the future development of this area are generally twofold:

- Pursuant to *State Environmental Planning Policy No 55 Contamination (SEPP 55),* the current EPA position is that the land is not contaminated. Given there is no broad formal classification of contaminated land within the Williamtown Management Area, Council refers all development applications to the NSW EPA for assessment. Whilst Council agrees that this is an important process in terms of mitigating further risk of contamination spread through new development, it also generally increases the costs of development within this area on the basis of additional resources for assessments and, in many cases, additional mitigation and controls required as part of the approved development.

- A regional drainage solution is required to realise the full development of the DAREZ area and surrounding land. From studies completed in 2014, an option has been identified for Council to undertake relatively modest augmentation works to the existing open drain system to remove this development constraint and facilitate the development of this critical area. The declaration of the Investigation Area and subsequent Williamtown Management Area, coupled with the large uncertainties in the movement and management of PFAS contamination within the drainage system, places the future development of this area under significant uncertainty. Fully developed, the DAREZ and surrounds is expected to provide billions of dollars in economic impact and jobs to Port Stephens and the region.

Council again thanks the Joint Committee for the opportunity to provide this information for consideration as part of the Inquiry. If the Joint Committee requires further information, please contact my office of (02) 4980 0246 or by email at wayne.wallis@portstephens.nsw.gov.au.

Yours sincerely

GENERAL MANAGER

6 July 2018

Telephone enquiries
(02) 4988 0246
Please quote file no: PSC2013-02086

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

015	**Councillor Giacomo Arnott** **Councillor Steve Tucker** It was resolved that the Council meeting be extended to 11pm.

The motion was carried.

NOTICE OF MOTION

ITEM NO. 6 **FILE NO: 22/46084**

EDRMS NO: PSC2021-04195

VOTE RECORDING

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

1) Notes that the model code of meeting practice includes an optional provision for Councillor votes to be recorded for each item before Council.

2) Notes that the microphone system used in the Chamber has capacity to conduct voting in a way that would feed voting information to the Governance Manager quickly and accurately.

3) Agrees to conduct a trial of voting using the microphone system's in-built voting system on the terms as follows:

   a. The trial will be for 4 Council meetings once the voting system is set up.

   b. The meeting minutes will include a list of who voted for each item, for the duration of the trial.

   c. Planning matters will continue to be voted on through the normal method of standing up, and the trial will not impact the normal arrangements for those matters.

   d. A report will be provided at the final Council meeting of the trial, for determination on whether to proceed with this provision on a regular basis, via an amendment to the Code of Meeting Practice in line with the optional provision provided by the Office of Local Government.

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4) Notes that the aim of this trial is to determine whether it is cost effective and practical for implementation on an ongoing basis.

Councillor Matthew Bailey returned to the meeting at 9:06pm.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

016	**Councillor Giacomo Arnott** **Mayor Ryan Palmer** It was resolved that Council: 1) Notes that the model code of meeting practice includes an optional provision for Councillor votes to be recorded for each item before Council. 2) Notes that the microphone system used in the Chamber has capacity to conduct voting in a way that would feed voting information to the Governance Manager quickly and accurately. 3) Agrees to conduct a trial of voting using show of hands on the terms as follows: a. The trial will be for 4 Council meetings. b. The meeting minutes will include a list of who voted for each item, for the duration of the trial. c. A report will be provided at the final Council meeting of the trial, for determination on whether to proceed with this provision on a regular basis, via an amendment to the Code of Meeting Practice in line with the optional provision provided by the Office of Local Government. 4) Notes that the aim of this trial is to determine whether it is cost effective and practical for implementation on an ongoing basis.

The motion was carried.

BACKGROUND REPORT OF: TONY WICKHAM – GOVERNANCE SECTION MANAGER

BACKGROUND

Section 375A of the Local Government Act 1993 and the Code of Meeting Practice requires Council to record who voted for and against each planning decision.

The Model Code of Meeting Practice 2018 includes a non-mandatory provision to record who votes for and against on each item listed in the business paper. This non-mandatory provision is not included in Council's adopted Code of Meeting Practice.

The current technology does allow for electronic voting, however, the system would require some upgrade and additional licencing costs to activate the voting feature. The costs to upgrade the system and licencing would be approximately $15,000 to $20,000.

The technology would not be available when Councillors attend a Council meeting remotely by video conference.

A funding source for the additional licencing costs to utilise the features has not been identified and will require a further report to Council should Council determine to proceed with the trial.

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. 7 **FILE NO: 22/46118**

EDRMS NO: PSC2021-04195

MINOR DA MODIFICATION REPORTING

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

1) Acknowledges that when the elected Council puts a condition on a Development Application that it decides, it is important for that condition to be followed.

2) Notes that several proponents have had conditions imposed on them by the elected Council, who have then submitted a minor modification (4.55(1A)) application, which does not require report back to the elected Council per the Planning Matters to be Reported to Council Policy.

3) Agrees that 5.1(g) of the Planning Matters to be Reported to Council Policy should be amended to read:

   a. Section 4.55(1A) modification applications where the original DA was determined by Council, will be reported to Council for determination.

4) Places the amended policy on exhibition in line with regular exhibition requirements, to be reported back to Council should there be any submissions. Otherwise, it will be amended without report-back in line with existing practice.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

017	**Councillor Giacomo Arnott** **Councillor Steve Tucker** It was resolved that Council: 1) Acknowledges that when the elected Council puts a condition on a Development Application that it decides, it is important for that condition to be followed. 2) Notes that several proponents have had conditions imposed on them by the elected Council, who have then submitted a minor modification (4.55(1A)) application, which does not require report back to the

	elected Council per the Planning Matters to be Reported to Council Policy. 3) Agrees that 5.1(g) of the Planning Matters to be Reported to Council Policy should be amended to read: a. Section 4.55(1A) modification applications where the proposed modification is an amendment to a condition moved on the floor of Council and approved by the Council, it will be reported to the Council for determination. 4) Places the amended policy on exhibition in line with regular exhibition requirements, to be reported back to Council should there be any submissions. Otherwise, it will be amended without report-back in line with existing practice.

The motion was carried.

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

BACKGROUND

Currently, in accordance with the Planning Matters to be Reported to Council Policy, where the original DA was determined by Council, Councillors are advised via PS Newsletter prior to the determination of Section 4.55(1A) modification application. On notification of the 4.55(1A) modification application, Councillors may elect to have the matter called to Council for determination subject to the support of 2 other Councillors.

Section 4.55 (1A) modification applications involve minimal environmental impact changes from the original approval.

Section 4.55(2) modification applications are automatically reported to Council in accordance with the Planning Matters to be Reported to Council Policy. Section 4.55(2) applications involve more significant environmental impacts changes from the original approval.

Reporting a 4.55(1A) modification application to Council may add significant additional time to the assessment of the application noting the 6 week lead time to report a matter to Council.

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. 8 **FILE NO: 22/46131**

EDRMS NO: PSC2021-04195

ELECTION REPORT

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

1) Acknowledges the 2021 Council Elections were held on 4 December 2021.
2) Agrees to prepare a report for submission to the NSW Electoral Commission, the State Member for Port Stephens, the Minister for Local Government and the Shadow Minister for Local Government.
3) Writes to all candidates at that Election inviting them to provide submissions to the Council on:

   a. What worked well
   b. What did not work well
   c. What could be done better
   d. What could be done differently
   e. Anything else they wish to comment on in relation to the Election.

4) Request the General Manager prepare a report for consideration by Council following receipt of the responses from the candidates.

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

018	**Councillor Giacomo Arnott** **Councillor Peter Francis** It was resolved that Council: 1) Acknowledges the 2021 Council Elections were held on 4 December 2021. 2) Agrees to prepare a report for submission to the NSW Electoral Commission, the State Member for Port Stephens, the Minister for Local Government and the Shadow Minister for Local Government. 3) Writes to all candidates at that Election inviting them to provide submissions to the Council on: a. What worked well b. What did not work well

	c. What could be done better d. What could be done differently e. Anything else they wish to comment on in relation to the Election. 4) Request the General Manager prepare a report for consideration by Council following receipt of the responses from the candidates.

Councillor Matthew Bailey left the meeting at 9:20pm.
Councillor Matthew Bailey returned to the meeting at 9:23pm.

The motion was carried.

BACKGROUND REPORT OF: TONY WICKHAM – GOVERNANCE SECTION MANAGER

BACKGROUND

The Port Stephens Council local government election was held on Saturday 4 December 2021.

A total of 36 candidates (Mayoral – 2, East Ward – 11, Central Ward – 13 and West Ward – 10) nominated for the 2021 election in Port Stephens.

Pursuant to section 393AA of the Local Government Act 1993, the NSW Electoral Commissioner is required to provide the Minister with a report on the conduct of the election within 6 months after the election day.

The report is required to include, but not limited to:

(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.

In addition to the above, the NSW Electoral Commission also surveys all candidates, general managers of the councils and the Commission's employees on the election process to inform the report.

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.

CONFIDENTIAL ITEMS

In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2022
MOTION

019	**Councillor Giacomo Arnott** **Councillor Peter Francis** It was resolved that Council move into confidential session.

The motion was carried.

CONFIDENTIAL

ITEM NO. 1 **FILE NO: 21/348333**
EDRMS NO: PSC2021-00070

PROPOSED SALE OF COUNCIL OWNED LAND - 44B SQUIRE STREET, FINGAL BAY

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

ORDINARY COUNCIL MEETING - 22 FEBRUARY 2022
MOTION

020	**Councillor Giacomo Arnott** **Councillor Peter Francis** It was resolved that Council: 1) Authorise the sale of Council owned land on the confidential terms and conditions set out in this report. 2) Authorise the seller's agent to sign the contract at the auction, subject to the sale conditions of this report. 3) Authorise the General Manager to negotiate variations to contract conditions as required, excluding the sale price outside of the range identified in the body of this report. 4) Authorise the Mayor and General Manager to affix the Council Seal and sign all documents necessary to complete the sale. 5) Commits to the funding of the following community projects: a) Urgent update to the Port Stephens Koala Plan of Management - $200,000. b) Urgent funding for foreshore improvements and drainage pipes for a number of sites across the Tilligerry Peninsula including the Tanilba Foreshore and Lemon Tree Passage Foreshore - $150,000. c) Urgent funding for the construction of a pathway along Kirrang Drive, Medowie - $400,000. d) Urgent funding for the conversion of the croquet court in Boomerang Park - $25,000. e) Urgent funding for a 7 Day Makeover in Raymond Terrace - $180,000. f) Urgent funding for a 7 Day Makeover in Karuah - $180,000. g) Urgent funding for the resealing, sealing and/or rehabilitation of priority roads including some car parks, re-sheeting of gravel roads and new pathways across Port Stephens to ensure the safety of our residents including school children – minimum $1,000,000 or balance of sale.

	h) Urgent funding for the replacement of the toilet block at Fly Point - $140,000. i) Urgent funding for the replacement of the toilet block at Shoal Bay boat ramp - $130,000. j) Urgent funding for pathway connections for school children and the community in Hinton - $200,000. k) Urgent funding for the continuation of the pathway through the Mallabula Sports Complex - $50,000.

The motion was carried.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2022
MOTION

021	**Councillor Giacomo Arnott** **Councillor Chris Doohan** It was resolved that Council move out of confidential session.

There being no further business the meeting closed at 9:31pm.