

ATTACHMENTS UNDER SEPARATE
COVER

ORDINARY COUNCIL MEETING
26 SEPTEMBER 2023



PORT STEPHENS
C O U N C I L

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DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

| | |
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| Application Number | 16-2023-14-1 |
| Development Description | Demolition of existing dwelling and construction of new residential flat building (3 apartments) with basement parking |
| Applicant | PERCEPTION PLANNING PTY LTD |
| Land owner | MIMS LOVE PTY LTD |
| Date of Lodgement | 23/01/2023 |
| Value of Works | \$5,524,302.00 |
| Submissions | 4 |

PROPERTY DETAILS

| | |
|--|--|
| Property Address | 70 Magnus Street NELSON BAY |
| Lot and DP | LOT: 12 DP: 15998 |
| 88B Restrictions on Title | N/A |
| Current Use | Residential dwelling |
| Zoning | R3 MEDIUM DENSITY RESIDENTIAL |
| Site Constraints | Acid Sulfate Soils – Class 5 Koala Habitat – Clear Coastal Management – Coastal Environment and Coastal Use Area Slope – 20% Stormwater Drainage Requirement Area |
| State Environmental Planning Policies | State Environmental Planning Policy (Resilience and Hazard) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development |

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| PLANNERS PRE-ASSESSMENT CHECKLIST | |
|--|-----------|
| OWNERS CONSENT | YES / N/A |
| Land owners consent | Yes |
| If the land owned by a corporation/company, relevant signatures have been provided (sole director, or director/director / director/company secretary). | Yes |
| For works occurring outside property, neighbouring consent provided. | N/A |
| For works occurring on common property within Strata, owner's consent from Strata body provided (common seal). | N/A |
| DA FORM AND AUTHORITY | |
| Applicant's description of proposal consistent with DA plans. | Yes |
| DA description correct in Authority (i.e. LEP definition). | Yes |
| DA lodged over all affected properties and Authority correct. | Yes |
| Satisfactory cost of works. | Yes |
| NOTIFICATION | |
| Application notified correctly (i.e. check properties notified). | Yes |
| REFERRALS | |
| Check referrals are correct and identify if additional required: i.e. Integrated Development (send within 14 days section 42(2) EPA Regs 2021 | Yes |
| Call applicant and send email acknowledgement. | Yes |

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PROPOSAL

The application seeks consent for the construction of a four (4) storey residential flat building (RFB) comprising three (3) apartments, ground floor lobby, basement carpark and strata subdivision. Specific, details of the proposal include:

- Demolition of an existing 2 storey dwelling and garage;
- Construction of a 17.5 meter high residential flat building containing 3 x 3-bedroom units (located throughout levels 1-4);
- Ground floor area containing pedestrian entrance, foyer, lobby, lift, utility rooms and communal area;
- Basement car parking level containing 6 spaces; and
- Site works, installation of services and landscaping throughout each level.

Photo montages and a site plan of the proposed development is shown in **Figure 1** and **Figure 2** below.



Figure 1. Proposed montages of elevations from Magnus Street (left) and Victoria Parade (right)

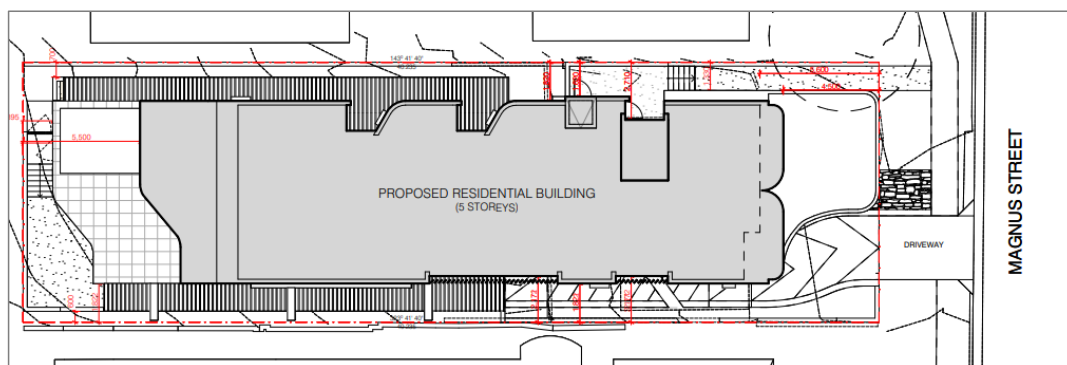


Figure 2. Proposed site plan

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SITE DESCRIPTION

The subject site is known as 70 Magnus Street, Nelson Bay and legally described as Lot 12 DP 15998. The site currently contains a two storey dwelling house located in the northern portion of the site and a detached three car space garage located in the southern portion of the site (refer to **Figure 3**). The site has direct frontage to Magnus Street to the south where vehicular access is provided. Laidler Walk Reserve is located directly to the sites north with Nelson Bay and the marina located further beyond.

The site is surrounded by a mixture of residential and tourist development existing along Magnus Street. The Port Stephens Marina Resort exists to the south of the site and the D'Albora Marina to the north west. Residential development within the sites vicinity is comprised of a mixture of single storey dwellings and apartment buildings.



Figure 3. Site Aerial

SITE HISTORY

There is one historic record of a combined BA/DA for additions to a dwelling (7-1980-19-1) which was approved by Council in October 1980.

SITE INSPECTION

A site inspection was carried out on 16 June 2023.

The subject site can be seen in **Photographs 1 – 3** below:



Photograph 1. Existing dwelling and garage from Magnus Street



Photograph 2. Existing dwelling from Victoria Parade Reserve



Photograph 3. Existing dwelling interface with existing residential flat building to the sites west

PLANNING ASSESSMENT

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

Internal

Development Engineer – The application was referred to Council's Development Engineer for assessment. Council's Development Engineer issued a request for further information (RFI) in relation to access, sight distances, swept paths and stormwater management. Amended civil plans and reports were prepared in response to this RFI, specifically addressing Chapter B4 'Drainage and Water Quality' of the Port Stephens Development Control Plan 2014 (the DCP). Notwithstanding, access issues relating to the driveway standard and gradient as prescribed in Chapter B8 'Road Network and Parking' of the DCP were not achieved as part of the amended design. The application was therefore not supported by Council's Development Engineer.

Building Surveyor – The application was referred to Council's Building Surveyor for assessment. Council's Building Surveyor noted that compliance with the NCC will need to be demonstrated through a Construction Certificate. Should the application be supported, conditions relating to compliance with BCA are required on the development consent.

Development Contributions – The application was referred to Council's Development Contributions Officer. A monetary contribution is required to be paid to Council for the provision of 2 additional dwellings, pursuant to Section 7.11 of the *Environmental Planning & Assessment Act 1979* and the Port Stephens Local Infrastructure Contributions Plan 2020. Should the application be

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supported, a condition for the payment of \$7.11 contributions will be recommended to be included on the consent.

Spatial Services – The application was referred to Council's Spatial Services. Addressing for the site and each subsequent unit was provided. An advice note with the allocated addresses will be included on the consent, should the application be supported.

Environmental Health – The application was referred to Council's Environmental Health Officer to assess the potential noise impacts of the development. A Noise Impact Assessment (NIA) was prepared with the application, which confirmed background noise level (RBL) and ambient noise levels for the site were appropriate for projected noise levels generated by the development. Council's Environmental Health Officer noted the NIA had been undertaken with a number of key assumptions. It is noted that additional noise sources from mechanical equipment including the swimming pool, air conditioning units and carpark barrier were not included within the NIA or modelling assumptions. With consideration to these deficiencies, the potential for the development to produce offensive noise has not been adequately assessed in accordance with the relevant legislative requirements outlined in Chapter B3.B 'Noise' of the DCP. The application was therefore not supported by Council's Environmental Health Officer.

External

Ausgrid – The application was referred to Ausgrid. The referral received from Ausgrid provided advice regarding the supply of electricity and working in proximity of network assets. The referral will form part of the conditions of consent, should the application be supported.

Environmental Planning and Assessment Act 1979

Section 4.46 - Integrated development

The proposed development is not integrated development.

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

The proposed development is not mapped as bushfire prone land.

Section 4.15 - Matters for consideration

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

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

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

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

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A valid BASIX certificate (certificate no. 1326820M_02, dated 29 November 2022) has been submitted with the development application which demonstrates that the water, thermal comfort and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP BASIX.

State Environmental Planning Policy (Biodiversity and Conservation) 2021**Chapter 2 Vegetation in Non-Rural Areas**

Chapter 2 Vegetation in Non-Rural Areas of the Biodiversity and Conservation SEPP aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. The chapter works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

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

An Arborist Report was prepared by Abacus Tree Services. The Arborist Report determined that the proposal does not require the removal of any existing vegetation on the site. Notwithstanding, it is noted there are two trees within close proximity to the site located on 68 and 72 Magnus Street. Both of these respective trees are proposed to be retained under the development proposal. Recommendations have been included in the Arborist Report relating to the protection of the root protection zones of these trees during construction. The arborist report recommendations will form part of a recommended condition of consent should the application be supported.

Chapter 4 Koala Habitat Protection 2021

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

The site is mapped as being clear of koala habitat and is clear of remnant vegetation. The proposal is therefore considered unlikely to impact koalas and is therefore consistent with this policy.

State Environmental Planning Policy (Resilience and Hazards) 2021**Chapter 2 Coastal Management**

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

Section 2.10 Development on land within the coastal environment area

In accordance with Section 2.10 of Chapter 2 of the Resilience and Hazards SEPP, development consent must not be granted for development within the coastal environment area unless the consent authority has considered whether the development will cause impact to the integrity of the biophysical and ecological environment, the values and natural coastal processes, marine

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vegetation, native vegetation and fauna and existing public open space and access to and along the foreshore.

The proposed development is sufficiently setback from the coastal environment area, being the Port Stephens – Great Lakes Marine Park, by approximately 80 metres. Water runoff from the building will be managed through site stormwater management measures and directed to the existing public stormwater network along Magnus Street, as will sediment runoff during the construction process.

Section 2.11 Development on land within the coastal use area

In accordance with Section 2.11 of Chapter 2 of the Resilience and Hazards SEPP, development consent must not be granted for development unless the consent authority has considered existing and safe access to and along the foreshore, overshadowing and loss of views, visual amenity and scenic qualities and heritage values. The consent authority must also be satisfied that the development is designed and sited to avoid adverse impacts and to ensure the development has taken into account the surrounding built environment in its design.

The proposed development will not impact the existing and safe access along the Nelson Bay foreshore. However, insufficient information has been provided to demonstrate that there will not be a significant loss of views or adverse impacts to the visual amenity and scenic quality of the surrounding coastal use area.

Council's Urban Design Panel (UDP) requested the Visual Impact Assessment (VIA) submitted with the application be further detailed to assess the proposed development within the broader context of the locality, which includes the coastal landscape. The VIA fails to include photomontages or renders of the building from viewpoints to the northern aspect (rear) of the site where the building will appear as a five storey built form and the most perceptible visual impact to the foreshore. Moreover, the VIA fails to include photomontages to inform an assessment of the impact of the proposed development on significant viewpoints identified in the DCP. The vertical bulk perceived from important rear viewpoints (such as Victoria Parade public reserve), is established by the proposed roof height of 18.17m (not including lift and overrun) across a street frontage of 12.19m. As such, a notable visual built form dissimilarity in vertical and horizontal proportions (approximately 1.5:1) is perceived when viewed from these important viewpoints. Taking this matter into consideration and the insufficient assessment provided in the VIA, the building envelope and scale of the development may not be compatible with the natural and foreshore setting, and may adversely impact important view corridors from the foreshore.

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Section 2.12 of Chapter 2 of the SEPP requires consideration to whether the development would increase the risk of coastal hazards. The proposed development is positioned within an established residential streetscape with no direct physical works to the coastal shoreline. Therefore, the proposed development is suitably designed and located to not increase risk to coastal hazards.

Overall with consideration to the provisions of the Resilience and Hazards SEPP, the proposed development satisfies Section 2.10 and 2.12, although is inconsistent with the aims and objectives of this Chapter with consideration to the matters stipulated under Section 2.11.

Chapter 4 Remediation of Land

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Section 4.6 of Chapter 4 of the Resilience and Hazards SEPP requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.

The NSW list of contaminated sites and list of notified sites published by the EPA does not identify the site as being contaminated, nor has previous record of contamination in Council's system and the site has historically be utilised for residential purposes which is not a contaminating land use. The land is not within an investigation area, there are no records of potentially contaminating activities occurring on the site, and the proposed residential use is not listed as a possible contaminating use, per Table 1 of the Contaminated Land Guidelines. Noting this, the proposed development satisfies the requirements of Chapter 4 of this SEPP.

State Environmental Planning Policy No. 65 – Quality Design of Residential Apartment Development

State Environmental Planning Policy State Environmental Planning Policy No. 65 – Quality Design of Residential Apartment Development (SEPP 65) aims to improve the quality of residential apartment development and provides an assessment framework ('the Apartment Design Guide) to facilitate the assessment of 'good design'.

SEPP 65 requires the consideration of any development application for residential accommodation to satisfy the applicable criteria against nine design quality principles. In addition, Section 6A of SEPP 65 states that any of the following ADG provision supersedes DCP controls in respect of the following matters:

- a) visual privacy;
- b) solar and daylight access;
- c) common circulation and spaces;
- d) apartment size and layout;
- e) ceiling heights;
- f) private open space and balconies;
- g) natural ventilation; and
- h) storage

In accordance with Section 4, SEPP 65 only applies where the building concerned is at least 3 storeys in height and the building contains 4 or more dwellings. The proposed development contains only 3 dwellings and therefore SEPP 65 does not strictly apply. Notwithstanding, SEPP 65 and the ADG has been used to assess the proposal on merit, in the absence of any other applicable DCP controls for residential flat buildings. Specifically, Chapter C5 of the PSDCP nominates any residential flat building should refer to SEPP 65 for design assessment considerations.

Section 28 of SEPP 65 requires the consent authority to take into consideration advice obtained from a formalised design review panel. The proposed development was reviewed by Council's Urban Design Panel (UDP) on 14 April 2022 prior to lodgement of the application and post lodgement on 9 March 2023. The design recommendations are outlined below.

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- The UDP acknowledged that the buildings aesthetic was well presented however, the built form and scale continue to be unsuitable for the narrow subject lot and that the proposed design is symptomatic of developing an undersized lot with a frontage of only 12.19 metres.
- The carpark remains beyond the footprint of the building above, and this will have visual and acoustic impacts and significantly limits deep soil opportunities for landscaping.
- The development has essentially no deep soil capable of supporting trees or even mid-sized shrubs, as it is built to the boundary front and rear. The side setbacks fail to meet the dimensional requirements to be considered deep soil. The landscape side setbacks are very narrow, and the garden beds will be further reduced due to structure and retaining requirements. The selected plant species are unlikely to survive in the proposed locations.
- The side setbacks of the development are substantially below the minimum 6 metre setback requirement under the ADG and even the 3 metre setback requirements under Chapter 5 Multi Dwelling Housing of the PSDCP. The average side setback is only 1.62 metres.

Density

- The UDP formed the view that the proposal is an overdevelopment of the site, that compromises the amenity of its neighbours and sets a concerning precedent for the development of narrow lots in the Nelson Bay locality.

Sustainability

- Sustainability was not identified in the documentation, nor was it presented at the meeting. However, the UDP recommended that the applicant consider carbon footprint including solar PV panels, EV charging and decarbonising energy supply.

Landscape

- The undersized lot and the size and number of dwellings have resulted in almost no landscaping. The only landscaped areas are along the side setbacks, where they will be mostly in shallow beds. The landscaping on the south-western setback is below the basement carpark's level and will be difficult to maintain and will not contribute to the development's amenity. The species proposed in these spaces are also unsuitable for tolerating long-term shade.
- The single storey element extending fully to the street proposes roof top planting. The proposed depth of this planter is inadequate to support contributory landscape, and irrigation would be essential to maintain even groundcovers.
- The carpark is built to the boundary and does not provide landscaping to soften the hard edge against the reserve. A landscaped setback is considered essential.
- The Visual Impact Assessment (VIA) submitted with the application needs to be further expanded to incorporate photomontages of the proposed development within its context.

Amenity

- The existing neighbour's privacy will be adversely impacted by the proposed reduced side setbacks which are significantly below the minimum required setback distances. The Multi Dwelling Housing DCP requires 3 metres and the ADG requires 6 metres; noting, the widest setback for the proposed development is only 2.175 metres, while the average is only 1.62 metres. These reduced setbacks will visually dominate the existing dwellings, resulting in the loss of sky views and result in actual and perceived overlooking. The design also impacts the outlook of the bedrooms, leaving bedrooms with views limited to side walls.

Safety

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- The ground floor and basement carpark create areas of concealment and entrapment on the northeast side of the building where the fire stairs and the fire pump room discharge. These types of areas were recommended to be removed or secured.
- The basement carpark is open and possibly accessible from the adjacent reserve. The UDP recommended the carpark be secured from the reserve, along with the carpark entry to the lift lobby and storage cages to reduce the risk of theft from vehicles, storage cages and access to units via the fire stairs.
- Any proposed lighting used to improve the development's safety and security should not impact adjoining neighbours both the lux levels and if sensor lights are used, which could become an annoyance. This is another reason for securing the carpark to reduce the impact on neighbours from lighting.

House Diversity and Social Interaction

- The recreational level provides a good space for social interaction.

Aesthetics

- The aesthetics of the development are well considered and if greater site capacity was available for appropriate landscape, the development could be a positive addition to the street. However the narrowness of the site creates negative impacts resulting from a partial four and five storey building with minimal setbacks.

Consequently, the UDP was unable to support the proposed development due to the design matters identified above. The UDP was of the opinion that a better outcome could be achieved if the adjacent site at No.68 could be included in an overall larger site, which could produce more appropriate setbacks and a better, more amenable design with respect to ADG, built form and amenity. It is suggested that amalgamation of the two sites is the optimum outcome, and would be likely to provide the best amenity and privacy outcomes for the development and adjoining properties. The narrow form of the subject site is a major constraint and a significant contributor to the concerns raised by the Panel in the sections above.

The proposal has been assessed against the nine design quality principles of SEPP 65 and the ADG below.

| SEPP 65 Schedule 1 - Design quality principles | |
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| Quality design principles | |
| Principle | Assessment |
| Principle 1: Context and neighbourhood character | <p>Principle 1 identifies that good design responds and contributes to its context, with context being established by the key natural and built features of an area. Responding to context involves identifying the desirable element of an area's existing or future character.</p> <p>The site is located on the northern side of Magnus Street on an elevated ridge overlooking Victoria Parade Reserve and Nelson Bay beyond. The site is zoned R3 medium density residential. As a result, Magnus Street contains a mixture of development, including a number of RFB's, single storey dwellings and tourist and visitor accommodation.</p> <p>The Nelson Bay foreshore exists further to the north of the</p> |

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| | <p>site with a commercial precinct to the east. Development within this locality must be compatible with the natural coastal setting whilst considering important view corridors to or from the foreshore.</p> <p>Given the sites small lot width, it is considered the proposal is inconsistent with the existing and desired future character and context of the area. Any development of the site should exhibit visually appropriate horizontal proportions compared to vertical proportions, to ensure the development does not impact on adjoining properties, the streetscape or prominent viewpoints within the locality.</p> |
| Principle 2: Built form and scale | <p>Principle 2 identifies that good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. The proposed development has characteristics of overdevelopment and fails to achieve an appropriate built form for the site.</p> <p>The proposed development has a maximum building height of 17.5m above existing ground level, which, is compliant with the Port Stephens Local Environmental Plan 2014 (LEP) height of building map. Despite compliance with the LEP height control, the sites narrow width results in a building height that is not proportionate to the overall horizontal form.</p> <p>The narrowness of the site results in substantial setback variations across all elevations, with the building exhibiting an average setback of only 1.62 metres. The impacts of these minimal setbacks are considered likely to result in a loss of amenity for both existing and future residents. The reduced setbacks are expected to exacerbate noise transfer across buildings, whilst visually dominating existing dwellings resulting in a loss of privacy. Furthermore, the sites narrow width also significantly limits opportunities for meaningful landscaping to assist in managing the scale of the proposed building.</p> <p>Noting the cumulative impact of the sites narrow street frontage and significant variations to ADG and DCP planning controls, the proposal will result in adverse impacts on adjoining properties and streetscape amenity, whilst likely sterilising future development of neighbouring sites.</p> <p>On this basis, the development is considered unsatisfactory with regard to built form and scale design principles.</p> |
| Principle 3: Density | <p>Principle 3 stipulates that good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>The proposed development has a floor space ratio (FSR) of</p> |

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| | <p>1.15:1 which is below the LEP permitted FSR of 2.5:1 for the site. Each apartment has a large floor area, appropriate solar access and private open space which will provide suitable amenity for future residents. However, given the reduced setbacks of the building and the large footprint of the basement, there is limited opportunity for deep soil landscaping, exacerbating the visual and acoustic impacts of the development on adjoining properties and the streetscape.</p> <p>Furthermore, the density of the development will likely sterilise future development of neighbouring sites with consideration to planning controls prescribed in the Apartment Design Guide (ADG) and Port Stephens Development Control Plan (DCP).</p> <p>The density of the site is not considered appropriate for the site and context as noted by the UDP.</p> |
| Principle 4: Sustainability | <p>Principle 4 identifies that good design combines positive environmental, social and economic outcomes. Further, that good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents.</p> <p>A valid BASIX certificate has been submitted with the development. Each unit achieves sufficient solar access and ventilation to reduce powered heating and cooling demand.</p> <p>Notwithstanding, no sustainability measures such as solar panels or electric vehicle (EV) charging stations have been provided.</p> |
| Principle 5: Landscape | <p>Principle 5 specifies that good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity.</p> <p>The proposal incorporates landscaped areas throughout each level, comprising a mixture of native and non-native species within planter beds. Notwithstanding, given the narrow lot width and excessive built form with limited setbacks, minimal deep soil planting areas have been provided across the side and rear boundaries. Accordingly, the proposed development fails to provide visual screening of the property from neighbouring residences and prominent viewpoints.</p> <p>The proposal does not provide acceptable landscaping with consideration to the development scale or site context. This was a key concern raised by the UDP.</p> |
| Principle 6: Amenity | <p>Principle 6 provides that good design positively influences internal and external amenity for residents and neighbours. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space,</p> |

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| | <p>efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.</p> <p>All apartments are provided appropriate amenity with generous floor areas, balconies and rooms of suitable size with access to natural light and ventilation. A communal open space has been provided on the ground floor of the building. The communal open space is provided with a gym, sauna, recreation area/seating area and pool.</p> <p>Notwithstanding, the proposal includes multiple and significant variations to planning controls as prescribed in the Apartment Design Guide (ADG) and Port Stephens Development Control Plan (DCP). Most importantly, the proposal includes substantial side and rear setback variations across all elevations. Noting the cumulative impact of the sites narrow street frontage and variations to planning controls, the proposal will result in adverse impacts on the amenity of adjoining properties through increased acoustic, privacy and overshadowing impacts.</p> |
| Principle 7: Safety | <p>Principle 7 identifies that good design optimises safety and security within the development and public domain.</p> <p>The proposal has been designed to optimise safety for future residents and the community. Pedestrian access to the building is proposed via two access points. One being the main access from Magnus Street and also the fire exit path located along the sites eastern boundary.</p> <p>Stair and lift access is also provided from each level of the car parking for residents.</p> <p>The balconies are proposed on the southern and northern elevations and therefore provide good passive surveillance to Magnus Street, the adjacent reserve and Victoria Parade beyond.</p> |
| Principle 8: Housing diversity and social interaction | <p>Principle 8 specifies that good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>The proposed development provides limited diversity or housing choice. The development only includes single level three bedroom apartments with no choice for different demographics, living needs or household budgets.</p> <p>The proposed communal open space located on the ground floor of the development is considered to be suitable for the proposed development and will encourage social interaction between future residents.</p> |
| Principle 9: Aesthetics | <p>Principle 9 provides that good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design also uses a variety of materials, colours and textures.</p> |

| | The design incorporates differing materials and colours providing visual interest to the building. | |
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| Assessment Criteria | | |
| Control / Requirement | Proposed | Compliance / Comment |
| <p><i>3A-1 – Site analysis</i></p> <p>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.</p> | Site analysis plan submitted. | Yes – provided. |
| <p><i>3B-1 Orientation</i></p> <p>Building types and layouts respond to the streetscape and site while optimising solar access within the development.</p> | <p>It is considered that the proposal has not appropriately responded to the sites constraints. The site has a maximum width of 12.2m and therefore notably reduced setbacks are proposed. This results in a perceived bulk and scale that is uncharacteristic of the desired future character of the Nelson Bay area. The impact of reduced setbacks on the adjoining properties, streetscape and amenity is not considered appropriate noting there will be adverse impacts on both the external and internal visual privacy of neighbouring properties, increased acoustic impacts, and the effect of limited deep soil landscaping which contributes to a greater bulk and scale.</p> <p>Noting the cumulative impact of the sites narrow street frontage and variations to planning controls, the proposal will create adverse impacts on adjoining properties and streetscape amenity, whilst potentially sterilising the future development of adjoining sites.</p> <p>On this basis, the development has not responded to the streetscape and site.</p> | No – non-compliant. |
| <p><i>3B-2 Overshadowing</i></p> <p>Overshadowing of neighbouring properties is</p> | Shadow diagrams have been submitted with the application. Given the orientation of the building, the overshadowing is primarily caused to the residential developments to the | Yes – complies. |

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| minimised during mid-winter. | <p>sites east and west.</p> <p>The proposed development will result in increased overshadowing to the Magnus Street road reserve, adjoining properties at No. 68 and No. 72 Magnus Street.</p> <p>The eastern dwelling is not notably impacted by shadowing from the development between the hours of 9:00am – 12:00pm in the winter solstice. The majority of the dwelling is however impacted by overshadowing between at 3:00pm.</p> <p>The western property is primarily impacted by shadowing in the morning between 9:00am – 12:00pm.</p> <p>The private open space for each of the adjoining developments are orientated north facing Nelson Bay and are not likely to be impacted by shadowing from the proposed development. There will however be solar access loss to the adjoining property windows and side elevations. The small scale of the subject site, proposed narrow setbacks and height contribute to this overshadowing impact.</p> | |
| <p><i>3C-1 Public Domain Interface</i></p> <p>Transition between private and public domain is achieved without compromising safety and security.</p> | <p>The proposed development provides nominal landscaping areas between the sites pedestrian entrance and the Magnus Street frontage providing a transition between the private and public domain.</p> <p>Each unit is provided with a balcony that fronts Magnus Street and therefore provides passive surveillance.</p> | Yes – complies. |
| <p><i>3C-2 Public Domain Interface</i></p> <p>Amenity of the public domain is retained and enhanced.</p> | <p>The provision of a landscaped transition area between the front entry of the development and Magnus Street will contribute to the Magnus Street streetscape.</p> | Yes – complies. |

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| <p><i>3D-1 Communal and Public Open Space</i></p> <p>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> Communal open space has a minimum area equal to 25% of the site area. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (midwinter). | <p>The proposal provides 24.25% of the total site area in communal open space, which presents as a minor non-compliance with the 25% requirement. The non-compliance in this regard is considered to be acceptable given the generous private open space provided to each unit and the minor numerical variation non-compliance.</p> <p>The communal open space achieves good solar access equating to more than 50% direct sunlight for a minimum of 2 hours between 9:00am and 3:00pm on 21 June (midwinter) as illustrated on the shadow diagrams.</p> | <p>No – minor non-compliance supported.</p> |
| <p><i>3D-2 Communal and Public Open Space</i></p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p> | <p>The communal open space has been situated within the ground floor of the development. The communal open space would be accessible via the main lobby which provides direct access from Magnus Street and the lift.</p> <p>The communal open space provides a gym, sauna, BBQ, seating area and a pool and therefore allows for a range of activities.</p> | <p>Yes – complies.</p> |
| <p><i>3D-3 Communal and Public Open Space</i></p> <p>Communal open space is designed to maximise safety.</p> | <p>Passive surveillance of open spaces is provided from nearby apartments, pathways and corridors.</p> | <p>Yes – complies.</p> |
| <p><i>3D-4 Communal and Public Open Space</i></p> <p>Public open space, where</p> | <p>N/A – no public open space is provided.</p> | <p>N/A.</p> |

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| provided, is responsive to the existing pattern and uses of the neighbourhood. | | |
| <p><i>3E-1 Deep Soil Zones</i></p> <p>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> Site area less than 650m² – no minimum dimension and 7% of site area. <p>However, the design criteria may not be possible on some sites including:</p> <ul style="list-style-type: none"> Central business district. Constrained sites. High density areas. Commercial centres. Where there is 100% site coverage or non-residential uses at ground floor. | <p>Given the site area is less than 650m², there is no minimum dimensions for landscape areas and the site is required to provide a minimum of 7% of the site area for deep soil landscaping.</p> <p>Deep soil landscaping calculations were not provided in landscaping plans. On review of the landscaping plans, a total of 6.2m² of deep soil landscaping has been provided for the development, which equates to 1.3% of the site area and does not meet the 7% requirement. The lack of landscaped areas corresponds to the small and narrow characteristic of the subject site and excessive built form proposed.</p> | No – non-compliant. |
| <p><i>3F-1 Visual Privacy</i></p> <p>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> Building height up to | <p>The proposed development provides the following minimum setbacks:</p> <p><u>Boundary setbacks</u></p> <p>Eastern (side):</p> <ul style="list-style-type: none"> Basement (non-habitable) – 0.7m Ground Level – 1.3m Level 1 – 1.6m Level 2 & 3 – 1.6m <p>Western (side):</p> <ul style="list-style-type: none"> Basement (non-habitable) – 0.6m Ground Level – 1.8m Level 1 – 1.8m | No – non-compliant. |

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| <p>12m (4 storeys):</p> <ul style="list-style-type: none"> • Habitable rooms and balconies - 6m. • Non habitable rooms – 3m. • Building height up to 25 metres (5-8 storeys): • Habitable rooms and balconies - 9m. • Non habitable rooms – 4.5m. • Building height over 25m (9+ storeys): • Habitable rooms and balconies - 12m. • Non habitable rooms – 6m. • No separation is required between blank walls. • An additional 3 m separation is required when adjacent to a different zone which permits lower density residential development to provide a transition in scale and increased landscaping. | <ul style="list-style-type: none"> - Level 2 & 3 – 1.8m <p>Southern (rear):</p> <ul style="list-style-type: none"> - Basement – 0m - Ground Level – 1.1m - Level 1 – 5.5m - Level 2 & 3 – 5.5m <p>Side setback distances between windows and balconies of adjoining development</p> <p>68 Magnus Street, Nelson Bay:</p> <ul style="list-style-type: none"> - Basement (non-habitable) – N/A - Ground Level – 0.9m (window) and 1.7m (balcony) - Level 1– 2.5m (window) - Level 2 & 3 – N/A <p>72 Magnus Street, Nelson Bay:</p> <ul style="list-style-type: none"> - Basement (non-habitable) – 2.2m (window and balcony) - Ground Level – 3.5m (window and balcony) - Level 1 – 3.3m (window and balcony) - Level 2 – 2.7m (window) - Level 3 – N/A. <p>There are no minimum setback requirements for basement levels or blank walls noted within the ADG. With regard to the remaining side and rear setbacks, the proposal includes large variations to ADG building separation requirements as outlined above. The impacts of these minimal setbacks are considered severe and likely to result in loss of amenity for both existing and future residents for reasons outlined below:</p> <ul style="list-style-type: none"> - The proposed setbacks are expected to exacerbate noise transfer across buildings, with minimal distances between windows and balconies of adjoining development proposed. A lack of existing noise attenuation measures (such as acoustic barriers, screening or deep soil landscaping) exists between these sites. - These proposed setbacks will | |
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| | <p>visually dominate the existing dwellings through expansive sections of unarticulated wall, resulting in an overall loss of sky views and amenity. The design also impacts the outlook of the bedrooms, leaving existing and proposed bedrooms with views limited to side walls.</p> <ul style="list-style-type: none"> - The proposed setbacks significantly limits opportunities for meaningful landscaping to assist in managing the bulk, scale and noise transfer of the proposed building. - The proposed setbacks are likely to sterilise the future development of neighbouring sites. - The UDP raised a number of concerns with respect to the reduced side setbacks and perceived overdevelopment of the site. The Panel was of the opinion that a better outcome could be achieved if the adjacent site at No.68 could be included in an overall larger site, which could produce more appropriate setbacks and a better, more suitable design. | |
| <p><i>3F-2 Visual Privacy</i></p> <p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p> | <p>Visual privacy will be adversely impacted by the reduced side setbacks which are significantly below the minimum required setback distances. Furthermore, minimal distances between windows and balconies of adjoining development are proposed. These reduced setbacks will visually dominate the existing dwellings, resulting in the loss of sky views and result in actual and perceived overlooking. A lack of existing attenuation measures (such as acoustic barriers, privacy screens or deep soil landscaping) exacerbates visual privacy impacts between adjoining sites. The design also impacts the outlook of the bedrooms, leaving bedrooms with views limited to side walls.</p> | No – non-compliant. |

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| <p><i>3G-1 Pedestrian Access and Entries</i></p> <p>Building entries and pedestrian access connects to and addresses the public domain.</p> | <p>The proposed development includes a clearly defined entry lobby off Magnus Street.</p> <p>Landscaping is provided within the front setback to provide a transition between the public domain and the subject site.</p> | Yes – complies. |
| <p><i>3G-2 Pedestrian Access and Entries</i></p> <p>Access, entries and pathways are accessible and easy to identify.</p> | <p>As noted above, the entry lobby has been clearly defined, this has been achieved through the use of landscaping and differing coloured materials to celebrate the entrance point to the building.</p> <p>A walkway, which is provided as a fire exit path exists along the sites eastern boundary.</p> | Yes – complies. |
| <p><i>3G-3 Pedestrian Access and Entries</i></p> <p>Large sites provide pedestrian links for access to streets and connection to destinations.</p> | <p>Pedestrian access to the street is provided from the entry lobby and the fire exit path located along the sites eastern boundary providing an additional pedestrian link to Magnus Street.</p> | Yes – complies. |
| <p><i>3H-1 Vehicle Access</i></p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p> | <p>The proposed vehicle access point and pedestrian access via the entry lobby a separated appropriately.</p> | Yes – complies. |
| <p><i>3J-1 Bicycle and Car Parking</i></p> <p>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> on sites that are within 800m of a railway | <p>As per Chapter B8 of the DCP, a total of 7 car parking spaces are required. The proposed development provides a total of 6 spaces and is therefore not compliant. Further discussion is provided against Chapter B8 of the PSDCP.</p> | No – non-compliant. |

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| <p>station or light rail stop in the Sydney Metropolitan Area; or</p> <ul style="list-style-type: none"> on land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever less.</p> <p>The car parking need for a development must be provided off-street.</p> | | |
| <p><i>3J-2 Bicycle and Car Parking</i></p> <p>Parking and facilities are provided for other modes of transport.</p> | Bicycle parking is not provided. | No – non-complaint |
| <p><i>3J-3 Bicycle and Car Parking</i></p> <p>Car park design and access is safe and secure</p> | It is not clear whether access to the car park is remote / key card controlled. This could be conditioned should the application be supported. | Yes – complies |
| <p><i>3J-4 Bicycle and Car Parking</i></p> <p>Visual and environmental impacts of underground car parking are minimised.</p> | <p>It is considered that the visual impacts of the basement car park have not been minimised through design particularly at the Victoria Parade Reserve interface.</p> <p>Whilst additional deep soil landscaping was provided across the rear elevation partially screening the basement level car park; the applicants Visual Impact Assessment did not include adequate photomontages of the building from</p> | No – non-compliant |

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| | this viewpoint as requested by the UDP. Given the sites steep topography, the building podium will be visually dominant from viewpoints to the rear of the site. Taking this into consideration, Council cannot be satisfied that visually, the impacts of underground car parking have been minimised. | |
| <p><i>3J-5 Bicycle and Car Parking</i></p> <p>Visual and environmental impacts of on-grade car parking are minimised.</p> | No on-grade car parking is proposed. | N/A. |
| <p><i>3J-6 Bicycle and Car Parking</i></p> <p>Visual and environmental impacts of above ground enclosed car parking area minimised.</p> | No above ground car parking is proposed. | N/A. |
| <p><i>4A-1 Solar and Daylight Access</i></p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> In all other areas (i.e. areas outside Sydney metropolitan area, Newcastle and Wollongong local government areas), living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid- | All three units receive 3 hours of solar access to the living areas during the mid-winter solstice. | Yes – complies |

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| <p>winter</p> <ul style="list-style-type: none"> A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. | | |
| <p><i>4A-2 Solar and Daylight Access</i></p> <p>Daylight access is maximised where sunlight is limited.</p> | <p>The development suitably captures solar access opportunities through siting of balconies and windows.</p> | <p>Yes – complies.</p> |
| <p><i>4A-3 Solar and Daylight Access</i></p> <p>Design incorporates shading and glare control, particularly for warmer months.</p> | <p>Adequate shading and glare control is incorporated throughout the development, including shade screens.</p> | <p>Yes – complies.</p> |
| <p><i>4B-1 Natural Ventilation</i></p> <p>All habitable rooms are naturally ventilated.</p> | <p>All habitable rooms can be naturally ventilated.</p> | <p>Yes – complies.</p> |
| <p><i>4B-2 Natural Ventilation</i></p> <p>The layout and design of single aspect apartments maximises natural ventilation.</p> | <p>There are no single aspect apartments.</p> | <p>Yes – complies.</p> |
| <p><i>4B-3 Natural Ventilation</i></p> <p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> At least 60% of apartments are naturally cross | <p>All units are cross ventilated.</p> | <p>Yes – complies.</p> |

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| <p>ventilated in the first nine storeys of the building.</p> <ul style="list-style-type: none"> Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line. | | |
| <p><i>4C-1 Ceiling Heights</i></p> <p>Ceiling height achieves sufficient natural ventilation and daylight access.</p> <p>Numerical design criteria: Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> Habitable rooms – 2.7m. Non-habitable rooms – 2.4m, Two storey apartments – 2.7m for main living area floor and 2.4 m for second floor where it does not exceed 50% of the apartment area. Attic spaces – 1.8m at the edge of the room with a 30 degree minimum ceiling slope. If located in mixed use areas – 3.3m for ground floor and first floor to promote future flexibility of use. | <p>Habitable rooms on each floor have a ceiling height of 2.7m.</p> | <p>Yes - complies.</p> |
| <p><i>4C-2 Ceiling Heights</i></p> <p>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.</p> | <p>Ceiling heights of 2.7m meet the minimum requirement and effectively create a sense of space in apartments.</p> | <p>Yes - complies.</p> |

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| <p><i>4C-3 Ceiling Heights</i></p> <p>Ceiling heights contribute to the flexibility of building use over the life of the building.</p> | <p>The building is not in a commercial area and therefore flexible use is not considered necessary.</p> | N/A. |
| <p><i>4D-1 Apartment Size and Layout</i></p> <p>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</p> <p>Numerical design criteria: Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> • Studio – 35 m² • One bedroom – 50 m² • Two bedroom – 70m² • Three bedroom – 90m² • An additional 5m² is required for apartments with more than one bathroom. • An additional 12m² is required for a fourth, and further additional bedrooms. • Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms. | <p>The following minimum internal areas have been proposed:</p> <ul style="list-style-type: none"> • Three bedroom – 186m². <p>All of the proposed apartments comply with the minimum areas required by the design criteria.</p> <p>All habitable rooms include a window on an external wall.</p> | Yes – complies. |

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| <p><i>4D-2 Apartment Size and Layout</i></p> <p>Environmental performance of the apartment is maximised.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan layout (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window. | <p>All apartments have been designed with an open plan layout.</p> | <p>Yes – complies.</p> |
| <p><i>4D-3 Apartment Size and Layout</i></p> <p>Apartment layouts are designed to accommodate a variety of household activities and needs.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space). Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> - One bedroom apartments - 3.6m. | <p>Proposed master bedrooms have a minimum area of 10m² and all other bedrooms have been provided with a minimum area of 9m².</p> <p>All bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>All living rooms have a minimum width of 4m.</p> | <p>Yes – complies.</p> |

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| <ul style="list-style-type: none"> - Two or three bedroom apartments – 4m. • The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts. | | |
| <p><i>4E-1 Private Open Space and Balconies</i></p> <p>Apartments provide appropriately sized private open space and balconies to enhance residential amenity.</p> <p>Numerical design criteria – all apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> • Studio apartments – 4m². • One bedroom apartments – 8m² with a depth of 2m. • Two bedroom apartments – 10m² with a depth of 2m. • Three + bedroom apartments – 12m² with a depth of 2.4m. • For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m | <p>The units are provided with balconies that are 28m² in area with a depth of 3.5m. The units are therefore compliant in this regard.</p> | <p>Yes – complies.</p> |

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| <p><i>4E-2 Private Open Space and Balconies</i></p> <p>Primary private open space and balconies are appropriately located to enhance liveability for residents.</p> | <p>All balconies are located adjacent to open plan living/dining spaces.</p> | <p>Yes – complies.</p> |
| <p><i>4E-3 Private Open Space and Balconies</i></p> <p>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</p> | <p>The private open space design for each dwelling contributes to the overall built form.</p> | <p>Yes – complies.</p> |
| <p><i>4E-4 Private Open Space and Balconies</i></p> <p>Private open space and balcony design maximises safety.</p> | <p>The proposed balcony design achieves an adequate level of safety.</p> | <p>Yes – complies.</p> |
| <p><i>4F-1 Common Circulation and Spaces</i></p> <p>Common circulation spaces achieve good amenity and properly service the number of apartments.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> For buildings less than ten storeys in height the maximum number of apartments off a circulation core on a single level is eight. | <p>The maximum number of apartments off a circulation core on a single level is 1.</p> | <p>Yes – complies.</p> |

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| <p><i>4F-2 Common Circulation and Spaces</i></p> <p>Common circulation spaces promote safety and provide for social interaction between residents.</p> | <p>Common circulation are of a size that will provide for social intersection and promote safety.</p> | <p>Yes – complies.</p> |
| <p><i>4G-1 Common Circulation and Spaces</i></p> <p>Adequate, well designed storage is provided in each apartment.</p> <p>Numerical design criteria –in addition to storage in kitchens, bathrooms and bedrooms the following storage is provided:</p> <ul style="list-style-type: none"> • Studio apartments – 4m². • One bedroom apartments – 6m². • Two bedroom apartments – 8m². • Three + bedroom apartments – 10m². • At least 50% of the required storage is to be located within the apartment. | <p>Each unit is provided with 15m² of storage with 50% of this provided in the carpark storage area.</p> | <p>Yes – complies.</p> |
| <p><i>4G-2 Common Circulation and Spaces</i></p> <p>Additional storage is conveniently located, accessible and nominated for individual apartments.</p> | <p>Additional storage is located within the car park and will be nominated for individual apartments and easily accessible.</p> | <p>Yes – complies.</p> |
| <p><i>4H-1 Acoustic Privacy</i></p> | <p>Noting the minimal setbacks proposed across all habitable levels of the</p> | <p>Yes – complies.</p> |

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| Noise transfer is minimised through the siting of buildings and building layout. | building, increased noise transfer across neighbouring buildings and the streetscape is expected. A Noise Impact Assessment (NIA) was prepared for the development to assess acoustic impact. Council's Environmental Health Officer noted the NIA had been undertaken with a number of key assumptions, with additional noise sources from mechanical equipment (e.g. swimming pool and air conditioning units) not included within the assessment. As a result, adverse noise transfer to adjoining sites could occur as a result of the development. | |
| <i>4H-2 Acoustic Privacy</i> Noise impacts are mitigated within apartments through layouts and acoustic treatments. | The design of the building was amended to include noise mitigation measures including block walls and concrete ceiling throughout the basement level and acoustic glazing across the side boundaries of the ground floor level communal open space. Council's Environmental Health Officer noted the Noise Impact Assessment (NIA) had been undertaken with a number of key assumptions, with additional noise sources from mechanical equipment (e.g. swimming pool and air conditioning units) not included within noise calculations. All assumptions identified in the NIA would be required as conditions of consent, with noise limitations implemented for mechanical equipment. | Yes – complies. |
| <i>4J-1 Noise and Pollution</i> In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings. | The proposal is not located in proximity to any noisy or hostile environments. | N/A. |

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| <p><i>4J-2 Noise and Pollution</i></p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p> | <p>The design of the building was amended to include noise mitigation measures including block walls and concrete ceiling throughout the basement level and acoustic glazing across the side boundaries of the ground floor level communal open space. Notwithstanding this, the NIA was undertaken with a number of key assumptions and does not provide noise mitigation measures for additional noise sources generated by mechanical equipment (e.g. swimming pool and air conditioning units). Council cannot be satisfied, appropriate noise shielding or attenuation measures have been implemented throughout the building.</p> | <p>No – non-complaint</p> |
| <p><i>4K-1 Apartment Mix</i></p> <p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p> | <p>No diversity in apartment mix is provided.</p> | <p>No – non-compliant.</p> |
| <p><i>4K-2 Apartment Mix</i></p> <p>The apartment mix is distributed to suitable locations within the building.</p> | <p>N/A</p> | <p>N/A.</p> |
| <p><i>4L-1 Ground Floor Apartments</i></p> <p>Street frontage is maximised where ground floor apartments are located.</p> | <p>N/A - no ground floor apartments are proposed.</p> | <p>N/A.</p> |
| <p><i>4L-2 Ground Floor Apartments</i></p> <p>Design of ground floor apartments delivers amenity</p> | <p>N/A - no ground floor apartments are proposed.</p> | <p>N/A.</p> |

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| and safety for residents. | | |
| <p><i>4M-1 Facades</i></p> <p>Building facades provide visual interest along the street while respecting the character of the local area.</p> | <p>The design includes articulation and variety in the colour of materials which consists of glass, rendered painted concrete, lightweight powder coated aluminium batten screening and podium planting. It is considered that the building façade is modern and respects the character of the site.</p> | Yes – complies. |
| <p><i>4M-2 Facades</i></p> <p>Building functions are expressed by the façade.</p> | <p>Building entries are clearly defined.</p> | Yes – complies. |
| <p><i>4N-1 Roof Design</i></p> <p>Roof treatments are integrated into the building designed and positive respond to the streets.</p> | <p>The development proposes a flat roof. All plant and services are located within the basement level car parking and therefore are not visible on the roof. The lift over run is not screened however centralised within the building and setback from street view. Notwithstanding, the Visual Impact Assessment (VIA) does not assess the visual impact of the roof design when viewed from important vistas along the Nelson Bay Marina break wall, where the building will appear in a five storey form. On this basis, it is not considered that roof treatments are integrated into the building design and appropriately respond to the street.</p> | No – non-compliant. |
| <p><i>4N-2 Roof Design</i></p> <p>Opportunities to use roof space for residential accommodation and open space are maximised.</p> | <p>Roof space has not been utilised for these purposes. However, given the generous amount of communal open space available, rooftop open space is not considered necessary.</p> | Yes – complies. |
| <p><i>4N-3 Roof Design</i></p> <p><i>Roof design incorporates sustainability features.</i></p> | <p>The design has not incorporated sustainability features on the roof. If the application is supported, the provision of solar PV panels on the roof could be conditioned.</p> | Yes – complies. |

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| <p><i>4O-1 Landscape Design</i></p> <p>Landscape design is viable and sustainable.</p> | <p>As identified by the UDP, the landscaping design as proposed is not viable nor sustainable as there is minimal room for deep soil planting and the landscaping provided along the side setbacks is narrow with the selected plants unlikely to survive.</p> <p>Updated landscape plans in response to the UDP comments were provided to Council, and incorporated a very minor increase in deep soil landscaping area to the rear of the site and minor variations to the planting schedule. Despite these amendments, the landscape design is still not considered viable or sustainable for the scale of development proposed as advised by the UDP.</p> | No – non-compliant. |
| <p><i>4O-2 Landscape Design</i></p> <p>Landscape design contributes to the streetscape and amenity.</p> | <p>As outlined above, the landscape design does not adequately contribute to the streetscape and amenity due to the scale of development proposed.</p> | No – non-compliant. |
| <p><i>4P-1 Planting on Structures</i></p> <p>Appropriate soil profiles are provided.</p> | <p>The proposed landscaping plan indicates appropriate soil profiles are provided.</p> | Yes – complies. |
| <p><i>4P-2 Planting on Structures</i></p> <p>Plant growth is optimized with appropriate selection and maintenance.</p> | <p>Plant growth and maintenance has not been appropriately considered. As identified by the UDP, the original landscape design proposed shallow garden beds and landscaping below the basement car parking level which are unlikely to be able to be maintained and species that will not be able to tolerate long-term shade. Updated landscape plans were provided to Council, and incorporated minor variations to the planting schedule. Despite these amendments, the landscape design does not optimize plant growth based on plant selection and future maintenance requirements.</p> | No – non-compliant. |

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| <p><i>4P-3 Planting on Structures</i></p> <p>Planting on structures contributes to the quality and amenity of communal and public open spaces.</p> | <p>There is planting proposed on the structure in the front setback. The UDP identified that the planter depth is inadequate to support any form of contributory landscaping. No further consideration has been given to this by the applicant and therefore insufficient information has been provided to determine whether this planting is suitable.</p> | <p>No – non-compliant.</p> |
| <p><i>4Q-1 Universal Design</i></p> <p>Universal design features are included in apartment design to promote flexible housing for all community members.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> A benchmark of 20% of the total apartments incorporate the Liveable Housing Guidelines silver level universal design features. | <p>An access reported prepared by Lindsay Perry Access (reference: LP_23072, dated 7 March 2023) was provided to Council. As outlined in the report, the apartments are capable of incorporating the Liveable Housing Guidelines silver level universal design features subject to implementation of report recommendations.</p> | <p>Yes – complies.</p> |
| <p><i>4Q-2 Universal Design</i></p> <p>A variety of apartments with adaptable designs are provided.</p> | <p>An access reported prepared by Lindsay Perry Access (reference: LP_23072, dated 7 March 2023) was provided to Council. As outlined in the report, the apartments are capable of incorporating the Liveable Housing Guidelines silver level universal design features subject to implementation of report recommendations.</p> | <p>Yes – complies.</p> |
| <p><i>4Q-3 Universal Design</i></p> <p>Apartment layouts are flexible and accommodate a range of lifestyle needs.</p> | <p>The apartment layouts are flexible and accommodate a range of lifestyle needs.</p> | <p>Yes – complies.</p> |
| <p><i>4R-1 Adaptive Reuse</i></p> <p>New additions to existing buildings are contemporary and complementary and enhance an area's identity</p> | <p>The proposed development does not involve any additions to existing buildings.</p> | <p>N/A.</p> |

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| and sense of place. | | |
| <p><i>4R-2 Adaptive Reuse</i></p> <p>Adapted buildings provide residential amenity while not precluding future adaptive reuse.</p> | The proposed development does not involve any additions to existing buildings. | N/A. |
| <p><i>4S-1 Mixed Use</i></p> <p>Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.</p> | N/A - the proposal is not a mixed use development. | N/A. |
| <p><i>4S-2 Mixed Use</i></p> <p>Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.</p> | N/A - the proposal is not a mixed use development. | N/A. |
| <p><i>4T-1 Awnings and Signage</i></p> <p>Awnings are well located and complement and integrate with the building design.</p> | Awnings are provided over entries and integrated into the building design. | Yes – complies. |
| <p><i>4T-2 Awnings and Signage</i></p> <p>Signage responds to the context and desired streetscape character.</p> | N/A - no signage is proposed. | N/A. |

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| <p><i>4U-1 Energy Efficiency</i></p> <p>Development incorporates passive environmental design.</p> | <p>A valid BASIX certificate has been submitted. Adequate natural light will be provided to habitable rooms.</p> | <p>Yes – complies.</p> |
| <p><i>4U-2 Energy Efficiency</i></p> <p>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.</p> | <p>A valid BASIX certificate has been provided. The development is considered to incorporate sufficient passive solar design to optimise heat storage in winter and reduce heat transfer in summer.</p> | <p>Yes – complies.</p> |
| <p><i>4U-3 Energy Efficiency</i></p> <p>Adequate natural ventilation minimises the need for mechanical ventilation.</p> | <p>The proposed development is generally compliant with the ADG's design criteria for 4B-3 Natural Ventilation.</p> | <p>Yes – complies.</p> |
| <p><i>4V-1 Water Management and Conservation</i></p> <p>Potable water use is minimised.</p> | <p>A valid BASIX certificate has been provided. Should the application be supported, a condition of consent requiring compliance with the BASIX has been imposed.</p> | <p>Yes – complies.</p> |
| <p><i>4V-2 Water Management and Conservation</i></p> <p>Urban stormwater is treated on site before being discharged to receiving waters.</p> | <p>The proposed development includes a stormwater management system that ensures stormwater is appropriately treated on site prior to discharge offsite.</p> | <p>Yes – complies.</p> |
| <p><i>4V-3 Water Management and Conservation</i></p> <p>Flood management systems are integrated into the site design.</p> | <p>The proposed development includes a stormwater management system that ensures stormwater is appropriately treated on site prior to discharge offsite.</p> | <p>Yes – complies</p> |

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| <p><i>4W-1 Waste Management</i></p> <p>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</p> | <p>A waste room has been provided on the ground floor, which can be accessed via the pedestrian entry, eastern access and the access lobby. The waste room is appropriately screened from the street.</p> | <p>Yes – complies.</p> |
| <p><i>4W-2 Waste Management</i></p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling.</p> | <p>Domestic and recycling waste bins will be provided to ensure no co-mingling.</p> | <p>Yes – complies.</p> |
| <p><i>4X-1 Building Maintenance</i></p> <p>Building design detail provides protection from weathering.</p> | <p>The proposal includes the use of natural stone, rendered facades and powder coated aluminium windows and privacy screening to ensure longevity and minimise weathering.</p> | <p>Yes – complies.</p> |
| <p><i>4X-2 Building Maintenance</i></p> <p>Systems and access enable ease of maintenance.</p> | <p>Accessible services areas have been proposed.</p> | <p>Yes – subject to conditions.</p> |
| <p><i>4X-3 Building Maintenance</i></p> <p>Material selection reduces ongoing maintenance costs.</p> | <p>Robust materials that will weather well have been proposed.</p> <p>Conditions requiring graffiti removal have been imposed.</p> | <p>Yes – complies, subject to conditions of consent.</p> |

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The site is zoned R3 Medium Density Residential. Residential flat buildings are permissible with consent in the zone. The proposal is considered to be consistent with the objectives of the zone in that it will contribute to providing a variety of housing types within the area and therefore respond to the needs of the community.

Clause 2.6 Subdivision—consent requirements

Clause 2.6 provides that land to which this Plan applies may be subdivided, but only with development consent. The proposed development includes strata subdivision, which is permitted, in accordance with this clause.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**Clause 2.7 – Demolition requiring development consent**

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

A complying development certificate was issued for the demolition of the existing structure on the site. This clause therefore does not apply as demolition is not proposed as part of the application.

Clause 4.1 – Minimum Subdivision Lot Size

Clause 4.1 outlines the minimum lot size applicable to the subject sites, as identified on the minimum lot size map, to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with the relevant development control. The proposed subdivision is strata subdivision and therefore this clause does not apply.

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

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

Clause 4.1B requires the RFB's in R3 Medium Density Residential zoned land are required to have a minimum lot size of 450m². The subject site has a total area of approximately 490.7m² which is compliant with the numeric standard of this clause.

Clause 4.3 – Height of Buildings

The proposed development has a maximum height of 17.5 metres, consistent with the maximum permissible building height of 17.5 metres specified on the Height of Buildings Map.

Clause 4.6 – Exceptions to development standards

The proposed development includes a variation to the minimum building street frontage control under Clause 7.23 of the PSLEP 2013. The objective of Clause 7.23 is to ensure that, visually, buildings have appropriate overall horizontal proportions compared to their vertical proportions. Given the site is zoned R3 medium density residential and is located within the Nelson Bay Precinct Area, a building erected on land to which this clause applies must have at least one street frontage of 15m or more. Noting the development standard under Clause 7.23 is 15m and the site only has a frontage to Magnus Street of 12.19m, the proposal fails to comply with the numerical control of this Clause. This non-compliance represents an 18.7% variation to Clause 7.23.

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP 2013. The proposed variation is however not considered to be consistent with the objectives of Clause 7.23 on the following grounds:

- Given the narrow nature of the site, the proposed building's height proportions are not appropriate or proportionate to the overall horizontal form. In particular, the Clause 4.6 Variation report does not consider the appropriateness of the building's proportions when viewed from the Victoria Parade public reserve to the rear of the site, (referred to as viewpoint 2 in the VIA). The vertical bulk perceived from Victoria Parade public reserve is

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set by the roof height of 18.17m (not including lift and overrun) across a street frontage of only 12.19m, with a building podium width of 11.75m. As such, a significant difference in vertical and horizontal proportions (approximately 1.5:1) is perceived when viewed from the Victoria Parade public reserve and Magnus Street, which is inconsistent with the objectives of Clause 7.23.

- The site forms part of a short row of 12 metre wide lots, beyond which lot widths increase on both sides of the street. Building heights over these lots respond to lot widths, to establish a built form commensurate with lot dimensions. The built form throughout Magnus Street is characterised by lower scaled single dwellings and medium rise apartments over narrow lots (15m or less), and high rise apartments on consolidated lots with wider street frontages. The proposed building height will present 3.08m taller than the adjoining apartment building at 72 Magnus Street, consequently resulting in inconsistent height proportions with the built character of Magnus Street.
- The narrow street frontage and non-conformance with the street frontage standard results in numerous variations to ADG and DCP planning controls, and these cumulative impacts would cause unacceptable impacts on adjoining properties and streetscape amenity, whilst rendering the development of neighbouring sites difficult.
- A reduction in building height or amalgamation of the adjoining site would achieve the objective and underlying purpose of the Clause, and likely reduce impacts in terms of privacy, visual impact, overshadowing and view loss for the adjoining properties. The Clause 4.6 Variation Report was not supported by any architectural plans to demonstrate that the proposal would result in an equal or better planning outcome than a complying development with a 15m site frontage; and consequently fails to demonstrate how the objective of the standard is achieved despite the non-compliance.
- The Clause 4.6 notes that a compliant 15m street frontage would not result in any notable improved compliance with the ADG objectives. Contrariwise, a wider street frontage would enable greater setback distances to be incorporated in the design, reducing privacy, overshadowing and amenity impacts to neighbouring properties, in accordance with the ADG.
- The cumulative impact of the sites narrow street frontage and variations to planning controls, it is considered very likely that the proposal will exacerbate adverse impacts on adjoining properties and the streetscape amenity, whilst rendering the development of neighbouring sites difficult.
- The minimum street frontage control was adopted in 2020 as part of the Nelson Bay Town Centre Planning Proposal which sought to increase building heights, floor space ratio controls and establish an urban design framework for the Nelson Bay Town Centre. Providing a minimum primary street frontage was intended to align with other development standards to ensure appropriate vertical to horizontal proportions of new buildings in the Town Centre as set out in the Delivery Program. The proposed development provides a scale and form that contravenes the purpose and objectives of the clause given the carpark area remains beyond the footprint of the building above, there is no deep soil capable of supporting trees or even mid-sized shrubs, the side setbacks fail to comply with ADG requirements and result in adverse visual and amenity impacts. Noting the development fails to comply with Clause 7.23 and other design requirements in the ADG, it is evident the site is not a sufficient size to accommodate a residential flat building of this scale.

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- The purpose of the minimum street frontage control is to encourage lot consolidation to improve design outcomes in terms of character and visual impact. There are no physical site constraints along Magnus Street that would preclude lot amalgamation for the subject site and adjoining property, which would allow for a building form that achieves ADG setback and landscape requirements and also an appropriate overall horizontal proportion compared to the vertical proportions. This in effect would satisfy the objective and numerical standard of Clause 7.23.

A detailed assessment against Clause 4.6 can be found at Attachment 1 of this report.

Clause 5.10 – Heritage conservation

The site is not a heritage listed item, nor is it within a conservation area or in proximity to listed items. The site has been utilised for residential purposes for some time and therefore Aboriginal artefacts are unlikely to be found on the site. An AHIMS search was undertaken confirming no Aboriginal sites or places are recorded in or near the location. Notwithstanding, a condition will be added to the consent noting that works are to cease if artefacts are found.

Clause 5.21 – Flood Planning

The site is not mapped as being flood prone.

Clause 7.1 – Acid Sulfate Soils

The subject land is mapped as containing potential Class 5 acid sulfate soils. Excavations below 3.1m are required to construct the basement level. Given the excavations are not below 5m, it is not expected that acid sulfate soils would be encountered during works.

Clause 7.2 – Earthworks

The development incorporates significant earthworks (cut) to a depth of approximately 3m below ground level to construct the basement car park. Given the location and topography of the site within an established residential area, engineering plans were prepared in conjunction with the findings and recommendations of the Geotechnical Investigation prepared by Hunter Civilab (reference: C1564-GI-001-Rev1, dated 24 March 2023) provided with the application. Should the application be approved, a condition of consent requiring preparation of a dilapidation report pre and post construction will be included.

It is expected that the required earthworks can be accommodated on the site without resulting in unreasonable adverse off-site impacts. Appropriate erosion and sediment controls will be in place during earthworks, in accordance with the Erosion and Sediment Control Plan and Geotechnical Investigation. The Stormwater Management Plans prepared for the proposed development gives due consideration to the proposed earthworks and incorporates appropriate measures to ensure the earthworks will not result in any adverse impacts in relation to drainage patterns.

Clause 7.6 – Essential Services

The subject site is serviced by road access, reticulated water, electricity and sewer. The application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Council DCP requirements. The proposed development therefore satisfies the requirements of this clause.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**Clause 7.23 Minimum building street frontages for development in Zones R3 and B2**

The objective of Clause 7.23 is to ensure that, visually, buildings have appropriate overall horizontal proportions compared to their vertical proportions. Given the site is zoned R3 medium density residential and is located within the Nelson Bay Precinct Area, this clause applies to the development. The clause requires that a building erected has at least one street frontage of 15m or more.

The site maintains one street frontage to Magnus Street of 12.19m and therefore does not comply with the numerical control of this Clause, representing an 18.7% variation. A Clause 4.6 written request to vary this development standard has been prepared for the proposal and is provided at Attachment 1 of this report.

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

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

Section 4.15(a)(iii) – any development control plan**Port Stephens Development Control Plan 2014**

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

Chapter B1 – Tree Management

An Arborist Report was prepared for the proposal by Abacus Tree Services. The site is currently vacant of remnant vegetation and the Arborist Report determined that the development does not require the removal of any vegetation. There are however two trees within proximity to the site located on No. 68 and 72 Magnus Street. Both trees are proposed to be retained on the adjoining properties. The Arborist Report includes construction recommendations to ensure the protection of these trees. The recommendations of the Arborist Report will form part of a condition of consent, should the application be supported.

Chapter B2 – Natural Resources

The site is located within 500m of items of environmental significance including a mapped LEP wetland located to the north (Nelson Bay), supplementary koala habitat and biodiversity values (BV) mapped vegetation to the south. Therefore, this chapter applies.

In regard to the nearby supplementary koala habitat and the BV mapped vegetation, the site is currently cleared of vegetation and is largely surrounded by established residential development. Given the cleared nature of the site and no impact to existing vegetation, the proposal is not considered likely to impact upon the significance of nearby habitat in both the supplementary koala habitat and BV mapped areas.

Whilst the site does not contain mapped wetlands, surface flows from the site are directed to mapped wetlands identified as Port Stephens – Great Lakes Marine Park, located approximately 80 metres north of the site. As confirmed by Council's Development Engineer, stormwater will be appropriately managed on site with discharge from the development to be designed as a level spreader to mimic sheet-flow conditions, similar to the runoff from the pre-developed site.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**Chapter B3 – Environmental Management**Noise

The proposed development will result in noise emissions during construction and operation of the development. A Noise Impact Assessment (NIA) was prepared for the proposal by Rapt Consulting, dated June 2023, reference: 2223456_230613. Council's Environmental Health Officer noted the NIA had been undertaken with a number of key assumptions, with additional noise sources from mechanical equipment (e.g. swimming pool and air conditioning units) not included within the assessment. Given the insufficient information provided in the NIA in terms of noise assumptions, the extent of impact from the development on nearby receivers is not able to be considered. Should the application be approved, all assumptions identified in the NIA would be included as conditions of consent, with noise limitations imposed for mechanical equipment as part of detailed building design.

Earthworks

As discussed in Clause 7.2 above, the proposed development involves earthworks (cut) to a depth of approximately 3m below ground level to construct the basement car park. Should the application be supported, the impacts of the proposed earthworks can be mitigated through conditions of consent and construction management measures. The proposal is therefore consistent with requirements outlined in Council's DCP relating to earthworks.

Chapter B4 – Drainage and Water Quality

A stormwater management plan was submitted with the application and includes adequate quality and quantity controls as required by Council's policy. The stormwater drainage plan has been assessed as being consistent with Council's DCP and Infrastructure Specifications. Should the application be supported, a condition of consent will be recommended requiring provision of detailed engineering plans prior to the issue of a construction certificate.

Chapter B8 – Road Network and ParkingTraffic

A Traffic Impact Assessment (TIA) was prepared by Amber Organisation, reference: 481, dated 30 May 2023. The TIA found that the proposed development would result in traffic generation of 18 vehicle movements per day. Given the low traffic generation, the TIA determined that the proposal is expected to have a negligible impact on the surrounding road network and would be less than the typical daily variation in road volumes.

Access

The proposal includes a 3m cross over off Magnus Street, plus 300mm wide kerbs on both sides of the access. Council's Development Engineer noted that although access/egress has been adequately demonstrated, the drainage aspects of this access arrangement have not been suitably mitigated. The PSC standard drawing S105B requires a crest 150mm above the invert (with the preferred 240mm) on a downward grade. The design for the proposed development provides only 117mm, and is therefore susceptible to stormwater entering the basement from the road and the upstream footpath. This will result in adverse impacts to property and building

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materials. Furthermore, the driveway does not meet the required standard for footpath grade and poses a subsequent safety risk for safe pedestrian passage at the frontage of the site.

Parking

Figure BU identifies the on-site parking requirements for the development as follows:

| Development type | DCP requirement | Parking requirement | Proposed |
|---------------------------|---|--|---|
| Residential flat building | <ul style="list-style-type: none"> 1 car space for one and two bedroom dwellings 2 car spaces for three > bedroom dwellings 1 visitor space for every three dwellings | <p>Each unit has three bedrooms and therefore 6 car parking spaces are required for the units.</p> <p>1 visitor space is required.</p> | <p>A total of 6 spaces are proposed for the dwellings which is compliant with the DCP parking requirement.</p> <p>No visitor space has been provided.</p> |

In determining the appropriateness of this parking shortfall, the TIA states that a parking occupancy survey that utilised aerial photographs was undertaken to determine the existing on-street parking demand within the vicinity of the site. The parking survey results indicate that the on-street parking supply typically has a low parking demand and can readily accommodate an increase in parking demand. Notwithstanding these results, the TIA does not give consideration to the Magnus Street bus route where existing conditions do not provide sufficient room for vehicles to park on either side of the road. The development has not appropriately considered impacts on existing transit movements. The development therefore fails to cater for the generated parking demand and will result in increased parking burden on public roads.

Taking the above into consideration, the proposed variation to DCP car parking requirements is not supported.


Chapter C – Development Types

The proposed development is that of a residential flat building. As such, SEPP 65 - Design Quality of Residential Flat Development and the Apartment Design Guide supersedes the controls contained in this chapter.

Chapter D5 – Nelson Bay Centre

The site is located within the Nelson Bay Centre and therefore Chapter D5 of the DCP applies. The subject site is specifically located within the 'Foreshore Town Living' precinct.

| Reference | Control | Assessment |
|------------------------------------|--|---|
| Objective D5.A Requirement D5.1 | <p>Significant vistas</p> <ul style="list-style-type: none"> Development preserves the important vistas identified by Figure DJ. | The site is located within the visual catchment of two significant vistas, as shown in Figure 4 below. The two significant vistas are captured from the Nelson Bay Marina break wall. |

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| | |  <p>Figure 4: Nelson Bay Centre Significant Vistas</p> <p>The Visual Impact Assessment (VIA) does not assess the visual impacts of the building when viewed from these vistas or other important view points including Victoria Parade public reserve, which is located directly to the rear of the site, where the building will appear in a five storey form. The photomontage provided in the VIA is taken from a substantial distance from the site, where the building is partially obscured, which underrepresents the visual prominence of the development.</p> <p>As the VIA does not examine impacts from the nominated vistas, insufficient information is available to determine if the development will adversely impact the vistas identified by Figure DJ.</p> |
| D5.2 | Street layout <ul style="list-style-type: none"> The street layout is consistent with Figure DJ | The street layout is consistent with Figure DJ. |
| D5.3 | Roof Design Development is to ensure that roof tops do not adversely impact on the public domain when: <ul style="list-style-type: none"> Viewed from buildings at higher elevations When approaching the town centre Viewed from the street | The proposed roof design is not considered to adversely impact upon the public domain. |
| D5.4 | NSW Coastal Planning guidelines <ul style="list-style-type: none"> Building materials are reflective of existing buildings with reference made to the Coastal Design Guidelines for NSW | The building design materials have been appropriately designed in accordance with Coastal Design Guidelines. |
| D5.5 | Design Excellence | The proposed design fails to exhibit |

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| | <p>Development is to demonstrate design excellence, including:</p> <ul style="list-style-type: none"> • Consistency with the desired character statements set out in this Part; • Consideration of impacts on the public domain including views, overshadowing and the scale of the streetscape; and • Architectural merit, for example by addressing local topography, the surrounding natural environment and waterways, green spaces, or vegetated ridgelines in the design of the development. <p>Development in a prominent location and of a prominent scale, or where Council deems necessary, will be referred to the Urban Design Panel.</p> | <p>design excellence. The development is not consistent with the desired future character of the area as assessed by Councils UDP and throughout this report. The development proposes an envelope and scale incompatible with the natural setting and may adversely impact important view corridors to and from the foreshore. The proposed development may create visual unsightliness from nearby foreshore areas and has not been designed to a height appropriate for the lot dimensions.</p> <p>The UDP maintains concerns that the proposal for the site is an overdevelopment, that compromises the amenity of its neighbours and sets a concerning precedent for the development of narrow lots.</p> |
| Objective D5.G D5.11 | <p>Desired character – Foreshore Town Living Precinct</p> <p>Development within the Foreshore Town Living Precinct as identified on Figure DJ has regard for the following desired character statements:</p> <ul style="list-style-type: none"> • Development is designed to ensure the natural setting of the town centre, as viewed from the water, is retained • Development will have regard for adjacent precincts that provide a change in scale • Mature street plantings are to assist in shading the street for pedestrians and reducing the perception of the scale of development | <p>The site has been identified as being within the Foreshore Town Living Precinct. The development is not consistent with this section of the DCP in that:</p> <ul style="list-style-type: none"> • The development exhibits an envelope and scale incompatible with the natural setting and may adversely impact important view corridors to and from the foreshore. Insufficient information is available to confirm the extent of these impacts. • The development is likely to create visual unsightliness from nearby foreshore areas and has not been designed to a height appropriate for the lot dimensions. • The development's built form and scale are unsuitable for the narrow lot. The design issues are symptomatic of developing an undersized lot with a frontage of only 12.19m. • The development is not an appropriate scale for the site and fails to have regard to precinct character. • The development provides limited opportunity for deep soil landscaping, exacerbating visual impacts on adjoining properties and the streetscape. |

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

There are no matters within the regulations that are relevant to the determination of the application.

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

The proposed development represents a modern residential flat building that will provide additional infill housing opportunities in the Nelson Bay area. The proposal will allow for the use of existing services and facilities in the locality without requiring upgrades that burden the public. The construction of the proposed development will provide employment opportunities in the locality and support the local building and development industries. This will have direct monetary input to the local economy, and the increased number of residents in the locality will provide ongoing economic input through daily living activities. There could however be adverse social outcomes to neighbours given the likely impacts of the development in terms of privacy and visual impact. The proposed development may also result in adverse social impacts as the development may reduce long-term housing supply prospects in Nelson Bay by sterilising the adjoining site from developing to its full capacity.

Impacts on the Built Environment

The proposed development will have a detrimental impact on the built environment. Nelson Bay foreshore exists further to the north of the site with the commercial precinct to the east. Development within this locality must be compatible with the natural coastal setting whilst considering important view corridors to or from the foreshore. Due to the sites small lot width, the proposal does not comply with numerous ADG and DCP controls and is inconsistent with the existing and desired future character of the area. Any development of the site should exhibit visually appropriate horizontal proportions compared to vertical proportions, to ensure the development does not impact on adjoining properties, the streetscape or prominent viewpoints within the locality. The vertical bulk perceived from important viewpoints, including the Victoria Parade public reserve to the rear, is set by a proposed roof height of 18.17m (not including lift and overrun) across a street frontage of 12.19m. As such, a significant difference in vertical and horizontal proportions (approximately 1.5:1) is perceived when viewed from these important viewpoints.

Taking this into consideration, the proposed building envelope and scale of the development is not compatible with the natural setting and will adversely impact important view corridors to or from the foreshore. The proposed development is likely to create visual unsightliness from nearby foreshore areas and adversely impact on the built environment.

Impacts on the Natural Environment

The proposed development would not adversely impact upon the natural environment as it does not contain any significant vegetation, koala habitat or threatened species habitat. The stormwater management system has been appropriately designed to reduce potential impacts on the natural environment.

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

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The subject site is zoned R3 – Medium Density Residential, with residential flat buildings a permissible land use. Notwithstanding, the site is not considered suitable for the proposed development due to its narrow street frontage and consequent variations to the majority of ADG and DCP setback planning controls. The proposal will cause adverse privacy, visual and amenity impacts to adjoining properties and the streetscape character, whilst potentially sterilising the development of neighbouring. The building envelope and scale of the development is not compatible with the natural coastal setting and insufficient information is provided to confirm the extent of impacts on important view corridors from the foreshore are acceptable. The proposed development is likely to create visual unsightliness from nearby foreshore areas and has not been designed to a height appropriate for the lot dimensions. The subject site is therefore unsuitable for the proposed development.

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

Public Submissions

The application was exhibited from 9 February 2023 to 22 February 2023, in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. Four submission were received during this time. The matters raised during the exhibition period have been detailed in the table below.

| Comment | Council response |
|--|---|
| <p>Height of Building</p> <ul style="list-style-type: none"> - The proposed height of the building is out of character with the area | <ul style="list-style-type: none"> - The proposed development has a maximum height of 17.5 metres, consistent with the maximum permissible building height of 17.5 metres specified on the Height of Buildings Map. - Despite complying the LEP height standard, the height of the development is not appropriate for the context and character of the area noting the narrow nature of the lot and non-compliance with site frontage controls. |
| <p>Privacy</p> <ul style="list-style-type: none"> - Privacy impacts to neighbouring residential buildings. | <ul style="list-style-type: none"> - The proposal includes multiple variations to planning controls as prescribed in the Apartment Design Guide (ADG) and Port Stephens Development Control Plan (DCP). Most importantly, the proposal includes substantial side and rear setback variations across all elevations. Noting the cumulative impact of the sites narrow street frontage and variations to planning requirements, the proposal will exacerbate privacy impacts to neighbouring properties. |
| <p>Parking and Access</p> <ul style="list-style-type: none"> - Parking shortfall and justification for on-street parking is not supported due to existing site conditions. | <ul style="list-style-type: none"> - In determining the appropriateness of the proposed parking shortfall, the Traffic Impact Assessment (TIA) states that a parking occupancy survey that utilised aerial photographs was undertaken to determine the existing on-street parking demand within the vicinity of the site. The parking survey results indicate that the on-street parking supply typically has a low parking demand and can readily accommodate an increase in parking demand. |

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| | <p>Notwithstanding these results, the TIA does not give consideration to the Magnus Street bus route where existing conditions do not provide sufficient room for vehicles to park on either side of the road. The development has not appropriately considered impacts on existing transit movements. Moreover, failing to provide sufficient on-site parking will result in increased parking burden on public road areas.</p> |
| <p>Acoustics</p> <ul style="list-style-type: none"> - The design and future use of the development has the potential to create adverse acoustic assessments on nearby residences. Potential noise sources include noise from communal open space, private balconies and basement level car parking (e.g. tyres screeching). | <ul style="list-style-type: none"> - The proposed development will result in noise emissions during construction and operation of the development. A Noise Impact Assessment (NIA) was prepared for the proposal by Rapt Consulting, dated June 2023, reference: 2223456_230613. Council's Environmental Health Officer noted the NIA had been undertaken with a number of key assumptions, with additional noise sources from mechanical equipment (e.g. swimming pool and air conditioning units) not included within the assessment. Given the insufficient information provided in the NIA in terms of noise assumptions, the extent of impact from the development on nearby receivers is not able to be considered. Should the application be approved, all assumptions identified in the NIA would be included as conditions of consent, with noise limitations imposed for mechanical equipment as part of detailed building design. - Noise disturbance caused by mechanical operations (e.g. swimming pool pumps and air conditioning units) can be controlled and monitored by the Protection of the Environment Operations Act (POEO Act). |
| <p>Overshadowing</p> <ul style="list-style-type: none"> - Overshadowing impacts to neighbouring properties, due to the height of the development. | <ul style="list-style-type: none"> - Shadow diagrams have been submitted with the application. Given the orientation of the building, the overshadowing is primarily caused to the residential developments to the sites east and west. The eastern property is largely not impacted by shadowing from the development between the hours of 9:00am – 12:00pm in the winter solstice. The western property is not impacted by shadowing between 12:00pm – 3:00pm. - There will however be solar access loss to the adjoining property windows and side elevations. The small scale of the subject site, proposed narrow setbacks and height contribute to this overshadowing impact. |
| <p>Visual Impact</p> <ul style="list-style-type: none"> - The proposed development is likely to create visual unsightliness from streetscape and nearby foreshore areas | <ul style="list-style-type: none"> - The appropriateness of the building's proportions, when considered from prominent viewpoints has not be demonstrated. The Visual Impact Assessment (VIA) does not consider the appropriateness of the building's proportions when |

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| | <p>viewed from the Victoria Parade public reserve to the rear of the site, (referred to as viewpoint 2 in the VIA). The vertical bulk perceived from Victoria Parade public reserve is set by the roof height of 18.17m (not including lift and overrun) across a street frontage of 12.19m, with a building podium width of 11.75m. As such, a significant difference in vertical and horizontal proportions (approximately 1.5:1) is perceived when viewed from Victoria Parade public reserve. Inadequate photomontages of the building were provided from this viewpoint, where the building will appear in a five storey form. Similarly, the VIA did not assess impacts to the significant vistas identified in Chapter D5 of the DCP.</p> <ul style="list-style-type: none"> - The site forms part of a short row of 12 metre wide lots, beyond which lot widths increase on both sides of the street. Building heights over these lots respond to lot widths, to establish a built form commensurate with lot dimensions. The built form throughout Magnus Street is characterised by lower scaled single dwellings and medium rise apartments over narrow lots (15m or less), and high rise apartments on consolidated lots with wider street frontages. The proposed building height will present 3.08m taller than the adjoining apartment building at 72 Magnus Street, consequently resulting in inconsistent height proportions with the built character of Magnus Street. |
| <p>Construction</p> <ul style="list-style-type: none"> - Potential damage to foundations of adjoining buildings. - Request for insurance coverage for damaged caused by construction. | <ul style="list-style-type: none"> - Should the application be supported, a condition of consent is recommended requiring a dilapidation report by a structural engineer for neighbouring properties pre and post development. - A Geotechnical Investigation prepared by Hunter Civilab (reference: C1564-GI-001-Rev1, dated 24 March 2023) was provided to Council. As outlined in the report, the proposed earthworks can be undertaken safely and therefore the development is considered suitable for construction based on the proposed design. - Should the application be supported, a condition of consent is recommended requiring there to be a contract of insurance in force before any building work, in accordance with Part 6 of the <i>Home Building Act 1989</i>. |
| <p>Building Design</p> <ul style="list-style-type: none"> - Cladding details have not been provided to ensure fire rating compliance per BCA standards. | <ul style="list-style-type: none"> - The application was referred to Council's Building Surveyor for comment. Council's Building Surveyor noted that compliance with the NCC will need to be demonstrated through a Construction Certificate |

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| - Plans do not demonstrate compliance with fire safety requirements of the BCA. | (CC). Should the application be supported, appropriate conditions will be included requiring CC plans to demonstrate BCA compliance. |
| Architectural Elements - The vertical cladding / privacy screens are not in keeping with the streetscape. | - The UDP acknowledged that the architectural elements contributing to the buildings coastal aesthetic were consistent with the character and streetscape. |

Section 4.15(1)(e) the public interest

The proposal is not considered to be in the public interest, as the proposal will cause adverse, privacy, visual, character and amenity impacts on adjoining properties and the streetscape, whilst also potentially sterilising future development of neighbouring sites.

The design of the building has been assessed in detail and is considered to be inconsistent with the developing character of Nelson Bay. The proposed development is likely to create visual unsightliness from nearby foreshore areas along with Magnus Street and has not been designed to a height appropriate for the lot dimensions. The proposed development is also not in the public interest as the development may reduce long-term housing supply prospects in Nelson Bay by sterilising the adjoining site from developing to its full capacity.

On these grounds, the proposed development is not considered to be in the public interest.

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

Should the application be approved, S7.11 contributions apply for the creation of an additional two lots.

| Facility | Per Lot/Dwelling | Total \$ |
|--|------------------|-----------------|
| Civic Administration – Plan Management | \$655 | \$1,310 |
| Civic Administration – Works Depot | \$1,266 | \$2,532 |
| Town Centre Upgrades | \$3,412 | \$6,824 |
| Public Open Space, Parks and Reserves | \$2,085 | \$4,170 |
| Sports & Leisure Facilities | \$1,961 | \$3,922 |
| Cultural & Community Facilities | \$1,332 | \$2,664 |
| Road Works | \$3,570 | \$7,140 |
| Shared Paths | \$3,286 | \$6,572 |
| Bus Facilities | \$9 | \$18 |
| Fire & Emergency Services | \$245 | \$490 |
| Flood & Drainage | \$1,877 | \$3,754 |
| Kings Hill Urban Release Area | \$302 | \$604 |
| TOTAL | \$20,000 | \$40,000 |

DETERMINATION

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



DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

| | |
|--------------------------------|---|
| Application Number | 16-2023-29-1 |
| Development Description | One into two lot subdivision and construction of dwelling |
| Applicant | PERCEPTION PLANNING PTY LTD |
| Land owner | NOVI PROJECTS PTY LTD |
| Date of Lodgement | 30/01/2023 |
| Value of Works | \$700,000.00 |
| Submissions | 3 |

PROPERTY DETAILS

| | |
|--|--|
| Property Address | 226 Sandy Point Road SALAMANDER BAY |
| Lot and DP | LOT: 256 DP: 730353 |
| 88B Restrictions on Title | Easement to Drain Water 2m Wide. The easement is located at the rear of the site and the proposed development seeks to use this as a legal point of discharge. |
| Current Use | Residential Accommodation - Dwelling |
| Zoning | R2 LOW DENSITY RESIDENTIAL |
| Site Constraints | Bush Fire Prone Land – Vegetation Buffer and Category 2; SEPP Coastal Wetlands Proximity Area; SEPP Land Application Map – Coastal Zone Footprint; Acid Sulfate Soils – Class 4; Koala Habitat Planning Map – Preferred Koala Habitat Buffer Over Cleared Land; High Environmental Value Mapping; Stormwater Drainage Requirement Area; Property Vegetation Plan; and Flood Planning Area. |
| State Environmental Planning Policies | State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy (Biodiversity and Conservation) 2021; and |

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| | |
|--|--|
| | State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. |
|--|--|

PLANNERS PRE-ASSESSMENT CHECKLIST

| OWNERS CONSENT | YES | N/A |
|--|-------------------------------------|-------------------------------------|
| Land owners consent | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If the land owned by a corporation/company, relevant signatures have been provided (sole director, or director/director / director/company secretary). | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| For works occurring outside property, neighbouring consent provided. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| For works occurring on common property within Strata, owner's consent from Strata body provided (common seal). | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| DA FORM AND AUTHORITY | | |
| Applicant's description of proposal consistent with DA plans. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| DA description correct in Authority (i.e. LEP definition). | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| DA lodged over all affected properties and Authority correct. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Satisfactory cost of works. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| NOTIFICATION | | |
| Application notified correctly (i.e. check properties notified). | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| REFERRALS | | |
| Check referrals are correct and identify if additional required: i.e. Integrated Development (send within 14 days section 42 (2) EPA Regs 2021 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Call applicant and send email acknowledgement. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

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PROPOSAL

The proposed development is for the retention of an existing dwelling, construction of a new two storey dwelling, swimming pool and one into two lot Torrens title subdivision, as seen in **Figure 1**. The development is proposed to be undertaken in two stages as follows:

- Stage 1: One into two lot Torrens title subdivision creating the following lots:
 - Lot 1: 297.7m²
 - Lot 2: 500.1m²
- Stage 2: Construction of the new dwelling on proposed Lot 2.

The new two storey dwelling located on proposed Lot 2 will comprise of four bedrooms, two bathrooms, open plan living/kitchen and dining area, rumpus room, office, and an attached double garage, as seen in **Figures 2 & 3**. The removal of five trees and demolition of ancillary structures is proposed to accommodate the dwelling.

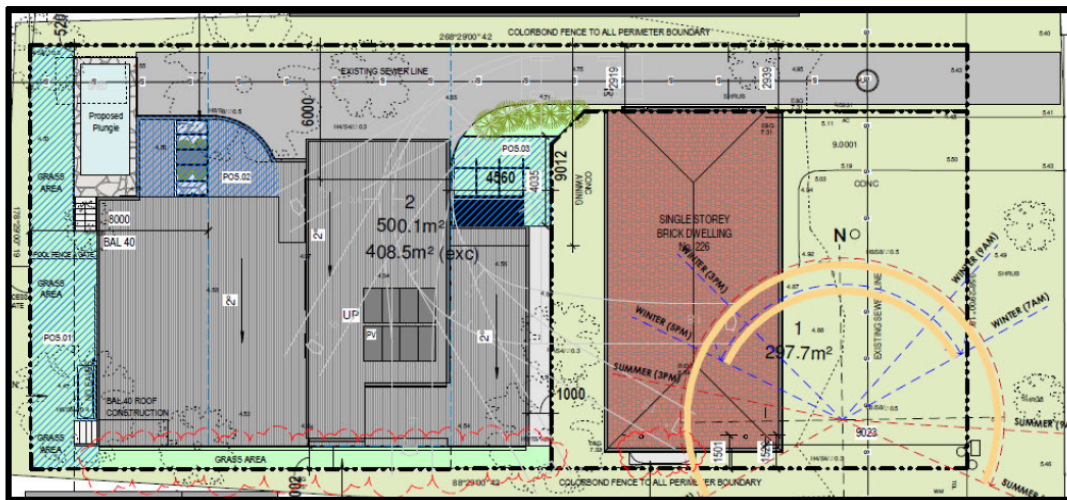


Figure 1: Proposed site plan

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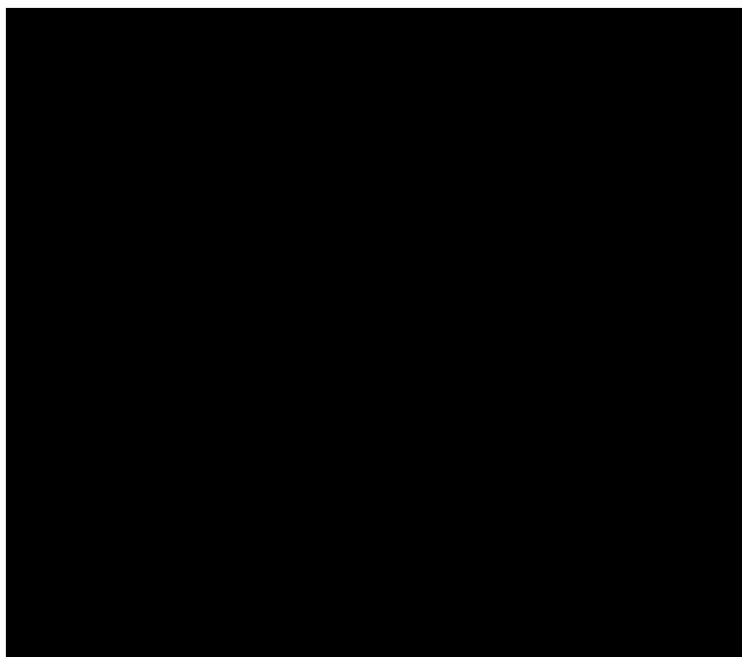


Figure 2: Proposed lower floor plan

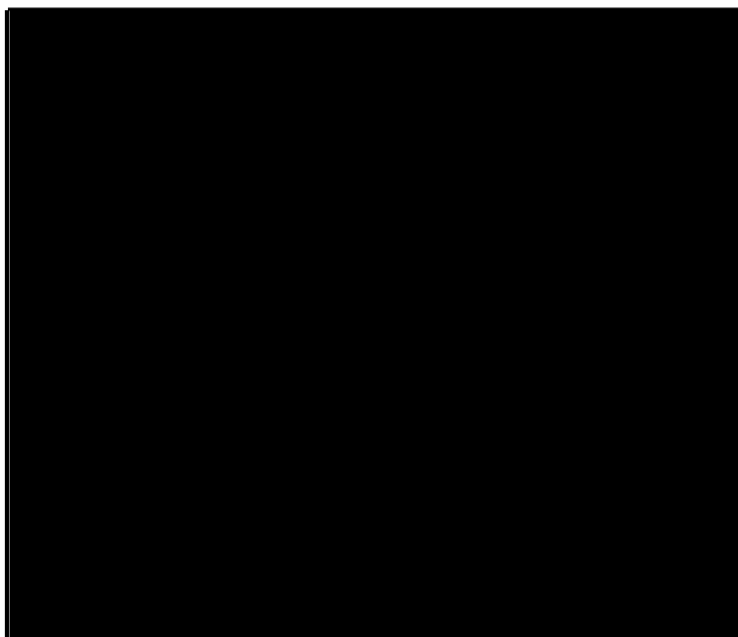


Figure 3: Proposed upper floor plan

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SITE DESCRIPTION

The subject site is a rectangular lot legally identified as Lot 256 DP 730353 with a total area of 797.8m². The site contains an existing single storey dwelling, landscaped areas, and ancillary structures as seen in **Figure 4**. Developments to the north, east, and south comprise of similar low density residential developments with Mambo Wetlands located immediately to the west. Vehicular access to the site is available via Sandy Point Road.



Figure 4: Aerial GIS imagery of the subject site outlined in red

SITE HISTORY

The subject site has 3 applications on Councils digital records, which have been detailed below.

| Historical Applications | | | |
|-------------------------|---------------------------------------|----------|------------|
| File Number | Description | Outcome | Date |
| 7-1985-2810-1 | Subdivision 3 lots | Approved | 01/07/1985 |
| 7-1987-60539-1 | N/A | Approved | 17/06/1987 |
| 16-2022-563-1 | Alterations and additions to dwelling | Approved | 14/07/2022 |

SITE INSPECTION

A site inspection was carried out on 2 March 2023

The subject site can be seen in the images below:

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Figure 5: Proposed access to rear lot



Figure 6: Proposed location of new dwelling

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Figure 7: Proposed location of dwelling



Figure 8: Trees and shed proposed to be removed

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Figure 9: Trees proposed to be removed

PLANNING ASSESSMENT

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

| Internal | |
|---------------------------|--|
| Development Engineering | |
| Comment: | The proposal was referred to development engineering to consider flooding, stormwater, and access. A request for additional information was requested regarding the width of the driveway, stormwater discharge of the swimming pool, and discharge of stormwater from the existing dwelling. An amended stormwater management plan was provided noting a discharge point for the swimming pool and increasing the stormwater detention for the existing dwelling. The applicant was unable to provide a greater driveway width due to current dwelling onsite. Notwithstanding, this variation can be supported on a merits basis and is discussed further below. Ultimately, the application was supported with conditions with regard to engineering matters. |
| Development Contributions | |
| Comment: | If the application was supported for approval, Section 7.11 contributions would apply for the provision of one addition lot/dwelling. |
| Spatial Services | |
| Comment: | Addressing was allocated for the proposed lots. |

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All internal referral officers have supported the application with conditions.

| External | |
|--------------------|--|
| Rural Fire Service | |
| Comment: | The proposal was referred to the RFS an integrated development. This is discussed below. |

Environmental Planning and Assessment Act 1979

Section 4.46 - Integrated development

Section 4.46 EP&A Act provides that development is integrated development if in order to be carried out, the development requires development consent and one or more other approvals. The proposed development is integrated as it requires approval under the separate Acts. The proposed development requires an integrated referral under s100B of the *Rural Fires Act 1997* as the development includes the subdivision of bush fire prone land that could lawfully be used for residential purposes.

The proposed development requires an integrated referral under s100B of the *Rural Fires Act 1997* as the development proposes the subdivision of bush fire prone land that could lawfully be used for residential purposes. The application was not supported by the RFS and subsequently no General Terms of Approval (GTAs) or Bushfire Safety Authority were issued. The application was not supported as it could not be demonstrated the development will comply with the specifications and requirements of the Planning for Bushfire Protection 2019 (PBP 2019), as outlined below.

The Bush Fire Assessment Report, prepared by Bushfire Environmental Management Consultancy and dated 26/01/2023, and Bush Fire Design Brief, prepared by Bushfire Environmental Management Consultancy and dated 02/12/2022, proposes a 14m wide Asset Protection Zone (APZ) on the adjoining western lot owned by Council to achieve the applicable bushfire construction standards ratings. Under Section 3.2 of the PBP 2019, a fundamental premise for APZs is that they are contained within the development site, and not on adjoining land, to guarantee that the owner/occupant will be able to maintain the area in perpetuity. In situations where an APZ is proposed on adjoining land, it is considered a performance based solution and requires a guarantee that the land will be managed in perpetuity. The written consent of the owner of the adjoining land for an easement must be provided with the application to guarantee the in perpetuity maintenance of the APZ. Generally, the owner/occupier of the land who has benefitted from the easement shall be responsible for maintaining the APZ. Section 3.2 of the PBP 2019 outlines certain land which easements should not be considered, including:

- Land used for a public purpose; and
- Where vegetation management is not likely or cannot be legally granted (e.g. National Park, bushland reserve, critical habitat, 'coastal wetlands' or 'littoral rainforests' mapped in the Coastal Management SEPP).

The Mambo Wetland is Council owned land used for public purposes, supports coastal wetlands and sensitive environmental areas, and therefore should not be utilised to support an APZ easement in accordance with Section 3.2 of the PBP 2019.

Plans of Management (PoM) are required where APZs are proposed off site on lands belonging to Council that may have periodic management but may not meet the ongoing requirements of an APZ. As such, PoM are generally subject to change and cannot be relied upon for perpetuity, without the

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Council/owner's confirmation in writing and a covenant over that part of the land to ensure that future management will be carried out in perpetuity.

Therefore, when considering requests for establishments of an APZ on Council land, Council as the landholder affected must consider the in-perpetuity obligation to manage the land in the specified standard and the requirement for the establishment of a legally binding easement over the land. This must include consideration of costs associated with establishing and monitoring compliance with any binding agreement and available resourcing/funding to maintain the land in accordance with the developments bushfire planning requirements in perpetuity.

In regard to the development subject in this assessment, Council currently maintains an APZ to the width of 10m on the land adjoining 226 Sandy Point Road. This APZ is maintained four times per year, in accordance with the Lower Hunter Bushfire Risk Management Plan. This management plan is updated within a five year period, and therefore is not guaranteed in perpetuity and should not be relied upon as an in-perpetuity measure for APZ management. Furthermore, the APZ proposed in the Bush Fire Assessment Report extends beyond the current area required to be maintained by Council under the Lower Hunter Bushfire Risk Management Plan. As such, RFS requested the creation of an easement under section 88B of the *Conveyancing Act 1919* to provide assurance of the in perpetuity management of the APZ as a legally binding agreement. The easement is not recommended on Lot 1 DP 112502 (Mambo Wetland) as it will be located on land that is not suitable for the creation of an easement, in that it is classified as community land under the *Local Government Act 1993*, within biodiversity value mapped areas, mapped as core koala habitat, a bushland reserve, and within proximity to coastal wetlands. These matters are discussed in more detail below. Based on these reasons, the establishment of an APZ on the adjoining Mambo Wetland land is not supported. Moreover, an APZ on the Mambo Wetland is inconsistent with the objectives and requirements of the PBP 2019.

RFS as the approval body under Section 100B of the *Rural Fires Act 1997*, took into consideration the above reasons in making their assessment. The proposed development results in an increase in residential density, with the new dwelling sited closer to the bushfire hazard, which requires the establishment of an APZ on Council owned land to achieve the required bushfire construction standards (BAL-29). The APZ on Council land cannot be guaranteed to be managed in perpetuity and the proposal is therefore inconsistent with the strategic principles and objectives in PBP, specifically sections 1.1, 1.2, 3.2, 3.2.5, 3.2.6, 5.2, and 5.3.1. As such, the application is not supported by the RFS and GTAs cannot be issued. Pursuant to section 4.47(2) of the *Environmental Planning and Assessment Act 1979*, Council as the consent authority cannot grant development consent without GTAs from the RFS.

Section 4.15 - Matters for consideration

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the EP&A Act. The matters of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*

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- (iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

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

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

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

Section 6(1) requires that a development application for BASIX affected development be accompanied by a BASIX certificate. A valid BASIX certificate (certificate no. 1366742S) has been submitted with the development application which demonstrates that the water, thermal comfort and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP BASIX.

State Environmental Planning Policy (Biodiversity and Conservation) 2021**Chapter 2 – Vegetation in Non-Rural Areas**

Chapter 2 Vegetation in Non-Rural Areas of the Biodiversity and Conservation SEPP aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. The chapter works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

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

The development application seeks consent for the removal of an existing vegetation and trees on the site. The removal of this vegetation is supported as outlined in this report.

Chapter 4 – Koala Habitat Protection 2021

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

Chapter 4 applies to all zones other than RU1 (Primary Production), RU2 (Rural Landscape) and RU3 (Forestry) in the Port Stephens Local Government Area. Section 4.8 requires that the application must be consistent with the approved koala plan of management that applies to the site. In Port Stephens, the relevant plan is the Comprehensive Koala Plan of Management (CKPoM).

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The subject site is mapped as a preferred habitat buffer over cleared land on Council's Koala Habitat Planning Map. Furthermore, the APZ located on the adjoining Council owned land is mapped as preferred koala habitat. The vegetation proposed to be removed on site does not comprise of koala habitat and will therefore not adversely impact koala habitat. However, no assessment or detail has been provided to note whether koala habitat vegetation removal is required to establish the proposed APZ on Council land. As such, there is insufficient information to fully assess the potential ecological impacts on koala habitat as a result of the proposed development.

State Environmental Planning Policy (Resilience and Hazards) 2021**Chapter 2 – Coastal Management**

The subject site is identified as land within proximity to coastal wetlands; as such the following general matters are required to be considered when determining an application.

Section 2.8 – Proximity to coastal wetlands

As per Section 2.8 of Chapter 2 of the SEPP, development consent must not be granted to development on land identified as 'proximity area for coastal wetlands' unless the consent authority (Council) is satisfied that the proposed development will not significantly impact the biophysical or ecological integrity of the adjacent coastal wetland or the quantity/quality of surface and ground water flows to and from the adjacent wetland.

The proposed development is not considered to impact the biophysical or ecological integrity of the adjacent wetland nor is it considered to impact the quantity/quality of the surface and ground water flows to and from said wetlands. Nonetheless, the full extent of impacts outside of the development on the Mambo Wetlands have not been assessed, noting the proposed APZ on Council land may require the removal of native vegetation in sensitive biodiversity areas. As such, the application has not demonstrated the full extent of potential impacts to the adjoining coastal wetlands have been minimised in terms of vegetation removal.

Section 2.12 – Coastal hazards

Section 2.12 of Chapter 2 of the SEPP requires consideration to whether the development would increase the risk of coastal hazards. The proposed development is suitably designed and located to not increase risk to coastal hazards.

Chapter 4 – Remediation of Land

Section 4.6 of Chapter 4 of the Resilience and Hazards SEPP requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.

A review of Council's records and historical aerial imagery has been undertaken to determine if any potentially contaminating activities have occurred on-site. The aerial imagery and Council's records indicate the land was historically vegetated bushland before being developed for residential purposes in the 1980s. There is no indication that potentially contaminating activities have occurred on-site. Additionally, the site is not listed on the NSW list of contaminated and notified sites published by the EPA. As such, the site is considered suitable for the proposed residential use in its current state. The proposal is for a dwelling and subdivision which is not listed as a potentially contaminating land use. The development therefore accords with the provisions of Chapter 4 of SEPP Resilience and Hazards.

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

The proposed development is defined as a dwelling house and Torrens title subdivision which is permissible with consent in the R2 Low Density Residential zone. The development addresses the objectives of the zone as it provides housing to service the needs of the community, enhances the

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residential amenity of the area, and has been designed so to be compatible with the flood risk of the site.

Clause 2.6 – Subdivision—consent requirements

Land to which this Plan applies may be subdivided, but only with development consent. The proposed development involves Torrens title subdivision which is permitted by this clause.

Clause 2.7 – Demolition requiring development consent

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

The proposed development requires the demolition of garden shed. Accordingly, if supported for approval, conditions of consent would be included in order to mitigate potential impacts to adjoining properties and the locality during demolition works.

Clause 4.1 – Minimum Subdivision Lot Size

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

The subject site includes a minimum lot size of 500m², and proposes a one into two lot subdivision. The proposed allotments as a result of the subdivision are as follows:

- Proposed lot 1 – 297.7m²
- Proposed lot 2 – 500.1m²

In accordance with the above, the proposed subdivision seeks to create allotments of which do not comply the minimum lot size specified under the Minimum Lot Size Map. Nonetheless, the proposed small lot subdivision is still permitted under clause 4.1C which is discussed below.

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

Clause 4.1C allow for exceptions to the minimum lot size despite Clause 4.1 for certain residential development and certain zones.

Clause 4.1C applies to the R2 Low Density Residential zones and therefore to this application. The Clause notes that development must include:

- (a) the subdivision of land into 2 lots for the purpose of an attached dwelling, a dwelling house or a semi-detached dwelling,
- (b) the erection of a dwelling on each lot resulting from the subdivision, if the size of each lot is equal to or greater than—
 - (i) for the erection of an attached dwelling—200 square metres, or
 - (ii) for the erection of a dwelling house—250 square metres, or
 - (iii) for the erection of a semi-detached dwelling—250 square metres.

The proposed development seeks to subdivide the land into two lots for the purposes of detached dwellings. The proposed lots exceed the minimum 250m² requirement specified in (b)(iii) above, with the proposed lots being 297.7m² (Lot 1) and 500.1m² (Lot 2). Therefore, the proposal is considered to be compliant with Clause 4.1C.

Clause 4.3 – Height of Buildings

The objectives of this clause are to ensure the height of buildings is appropriate for the context and character of the area and to ensure building heights reflect the hierarchy of centres and land use

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structure. Clause 4.3(2) provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The proposed development has a maximum height of 7.6 metres, which is below the maximum permissible building height of 9 metres specified on the Height of Buildings Map.

Clause 5.10 – Heritage conservation

The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of Port Stephens,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

In accordance with Clause 5.10.(4) the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

The proposed development is not located within or in proximity to any local or state listed heritage items or conservation areas. A search of the Aboriginal Heritage Management Systems did not reveal any previously recorded Aboriginal sites in proximity to the proposed development. The site is not identified as being located within 200m of any Aboriginal sensitive landscape features.

Clause 5.21 – Flood Planning

Clause 5.21(2) provides that the consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development complies with the following matters—

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses*

Clause 5.21(3) provides that in deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

The proposed development is located on land mapped as being Flood Planning Area. The flood planning level relevant to the land is RL 5.7 metres AHD. The development plans submitted with the proposal show the finished floor level of the development at RL 5.7 meters AHD which is consistent with the noted flood planning level. Flood free access above the 1% AEP level is also available to the site. Based on these two characteristics, the proposal appropriately mitigate risk to life and

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property. In addition, as the flood hazard category identified for the site is a low hazard flood fringe area and the development comprises a minor residential development it is considered that there would be no adverse offsite impacts to local flooding characteristics.

Clause 7.1 – Acid Sulfate Soils

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The subject land is mapped as containing potential Class 4 acid sulfate soils. The proposed development is not anticipated to entail excavations below 1m metres and therefore it is not expected that acid sulfate soils would be encountered during works.

Clause 7.2 – Earthworks

The objective of this clause 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.

In accordance with Clause 7.2(3) before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) the effect of the development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The application proposes earthworks on the site to achieve a level building platform through the use of balanced cut and fill. Earthworks are minor in nature and are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place. As outlined in the assessment against clause 5.10 above, the likelihood of disturbing subsurface relics is low.

If supported for approval, conditions of consent would be imposed relating to sediment and erosion control, stockpiling of materials, dewatering, quality of imported/exported fill materials and disposal of excavated materials in accordance with the EPA's Waste Classification Guidelines.

Clause 7.6 – Essential Services

Cause 7.6 provides that development consent must not be granted to development unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required. The essential services include the following:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*

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(d) *stormwater drainage or on-site conservation,*

(e) *suitable vehicular access.*

The subject site is serviced by reticulated water, electricity and sewer. Furthermore, the application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Councils requirements. The subject land also maintains direct access to Sandy Point Road, meeting the requirements of this clause.

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

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

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

Port Stephens Development Control Plan 2014 (PSDCP 2014)

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

CHAPTER B – GENERAL PROVISIONS

The proposed development includes a dwelling vegetation removal, earthworks, a stormwater management system and is located within the flood planning area and therefore Sections B1, B2, B3, B4, B5, B8 are applicable.

B1 – TREE MANAGEMENT

This chapter applies to the removal or pruning of trees or other vegetation within non-rural areas and gives effect to SEPP (Biodiversity and Conservation) 2021 by listing those trees or other vegetation that require approval.

The proposal involves the removal of 5 trees currently on-site. The trees are used for landscaping purposes and represent minimal ecological value, noting they contain no hollows and are not identified as koala feed trees. As such, the removal of these trees is supported subject to conditions should the development be approved.

B2 – NATURAL RESOURCES

This chapter applies to development located within 500m of environmentally sensitive areas, development that contains koala habitat, noxious weeds or development that is seeking to use biodiversity credits.

The site is within 500m of environmental significance, being mapped as core koala habitat and coastal wetlands. The full extent of the impacts are not known for the development, noting that the proposal includes an APZ over Council owned land, which is identified as preferred koala habitat and biodiversity values mapped areas. The clearing of trees and/or native understorey is required to establish this APZ, with the ecological impact not detailed in the application. Any clearing required for the APZ may trigger the need for the preparation of a Biodiversity Development Assessment Report (BDAR), which has not been provided. Therefore, there is insufficient information to fully assess the development under this section.

B3 – ENVIRONMENTAL MANAGEMENT

Chapter B3 contains provisions relating to noise, air quality and earthworks, as outlined in the following sections.

Noise

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The separation distances incorporated into the development will limit any adverse impacts on the adjoining development. The impacts of the development during construction could be limited through conditions of consent which limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. Subject to conditions, the application is satisfactory in regards to noise management.

Air Quality

Dust generated during construction is expected to be minimal, subject to conditions of consent requiring erosion and sediment control be carried out in accordance with the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust). The proposed dwelling land use would not cause any ongoing air quality impacts during the operational phase of the development.

Earthworks

As discussed at Clause 7.2 above, the proposed development involves minor cut and fill, not exceeding more than 1m below natural ground level. The impacts of the proposed earthworks can be mitigated through conditions of consent. The proposal is therefore consistent with requirements outlined in Councils DCP relating to earthworks.

B4 – DRAINAGE AND WATER QUALITY

This section applies to development that:

- Increases impervious surfaces; or
- Drains to the public drainage system; or
- Involves a controlled activity within 40m of waterfront land.

The proposed development exceeds 60% impervious area and is located within a stormwater requirement area. The application has been supported with a stormwater management plan and calculations to demonstrate water can be detained on-site up to and including a 1% AEP storm event. The calculations provided also demonstrate post development flows from the site are less than pre development flows. As such, the development is consistent with the requirements of this sections and the proposed stormwater management plan has been supported by development engineering. Additionally, while the application has not provided details or modelling to demonstrate how water quality targets will be achieved, given the minor scale of the development, if supported for approval, satisfactory water quality modelling could likely be achieved through a condition of consent.

B5 – FLOODING

This section applies to all development on flood prone land. The subject land is mapped as being within the Flood Planning Area. Following from the discussion against Clause 5.21 of the PSLEP above, the proposed development is acceptable in this regard.

The proposed development is for a dwelling house, which is nominated as suitable, in accordance with Figure BI of the DCP.

The flood planning level relevant to the land is RL 5.7 metres AHD. The development plans submitted with the proposal show the finished floor level of the development at RL 5.7 meters AHD which is consistent with the noted flood planning level. Flood free access above the 1% AEP level is also available to the site. Based on these two characteristics, the proposal appropriately mitigate risk to life and property. In addition, as the flood hazard category identified for the site is a low hazard flood fringe area and the development comprises a minor residential development it is considered that there would be no adverse offsite impacts to local flooding characteristics. Therefore, the proposal is consistent with requirements outlined in Council's DCP relating to flooding.

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B7 – HERITAGE

This section applies to development that is situated on land that contains a heritage item or within a heritage conservation area.

The site is not located on land that contains any local or state listed heritage items and therefore the provisions of this section do not apply. In addition, the proposed development is not located within or in proximity to any local or state listed heritage items or conservation areas. A search of the Aboriginal Heritage Management Systems did not reveal any previously recorded Aboriginal sites in proximity to the proposed development. The site is not mapped as being located within 200m of any Aboriginal sensitive landscape features.

B8 – ROAD NETWORK AND PARKING

This section applies to development with the potential to impact on the existing road network or create demand for on-site parking.

Traffic Impacts

The proposed development will not have any adverse traffic impacts as it includes only one new dwelling house.

On-site Parking Provisions

The development includes a four bedroom dwelling and is therefore required to provide two on-site car parking space. Two car parking spaces have been provided in the form of a double garage and therefore the development is consistent with the DCP parking requirements.

On-site Parking Access

Suitable on-site parking access is provided via Sandy Point Road.

CHAPTER C – DEVELOPMENT TYPES

The proposed development includes subdivision, construction of a dwelling house and ancillary structures, and therefore Sections C1, C4, and C8 are applicable.

Chapter C1 – Subdivision

| Reference | Control | Assessment |
|---|--|---|
| Objective C1.A Requirement C1.1-C1.4 | All subdivision – lot size and dimensions <ul style="list-style-type: none"> To ensure all new lots have a size and shape appropriate to their proposed use, and to allow for the provisions of necessary services and other requirements. | <p>The proposed lots meet the lot size requirements as per Clause 4.1C of the PSLEP.</p> <p>The plans demonstrate that the lots are able to support a rectangular building footprint as illustrate by Figure CA. The development proposes a battle-axe entry width of 2.959m, below the 3.6m required for a battle-axe lot.</p> <p>Nonetheless, this is supported being of a minor variation and consistent with the access arrangements of surrounding developments. Moreover, the exit has suitable sight lines, entry and exit to the site is possible in a forward direction, and the width is suitable for the proposed residential use.</p> |

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| Objective C1.B Requirement C1.5–C1.6 | All subdivision – street trees <ul style="list-style-type: none"> To ensure street tree planting is of an appropriate species and undertaken in accordance with Council's guidelines. | The application did not propose any street trees, however, if supported for approval, a condition of consent requiring the planting of one (1) street tree along Sandy Point Road would be included in the determination. |
| Objective C1.C Requirement C1.7 | All subdivision - Solar Access <ul style="list-style-type: none"> To maximise solar access for residential dwellings | Appropriate solar access is provided to each lot. |
| Objectives C1.D Requirement C1.8-C1.10 | All subdivision – public scale drainage <ul style="list-style-type: none"> To ensure further guidance is provided for subdivision that is consistent with B4 Drainage and Water Quality and the infrastructure specification – design (where relevant) | Both lots have provided sufficient stormwater drainage and were supported by Council's Development Engineer. The existing dwelling on proposed Lot 1 will connect to a 6,000L rainwater tank with overflow directed to Sandy Point Road. Water from Lot 2 will be detained on-site up to and including a 1% AEP storm event with overflow discharged via a level spreader to the existing drainage easement at the rear of the site. |
| Objectives C1.E Requirement C1.11-C1.14 | Major subdivision – block and street layout <ul style="list-style-type: none"> To ensure local streets are well-connected to the street network with obvious pedestrian and cycle links to higher order streets To ensure priority is provided to residents' needs when designing local streets to encourage usability. To ensure pathways follow desire lines | N/A - the proposed development is not considered to be a major subdivision. |
| Objective C1.F Requirement C1.15-C1.19 | Major subdivision – public open space <ul style="list-style-type: none"> To provide a hierarchy of public open space in accordance with public open space hierarchy To provide parks that are multi-functional To ensure parks achieve centrality by being located near transport nodes, public buildings, waterfronts, libraries or places of public worship To ensure public open space meets the demands of the local | N/A - the proposed development is not considered to be a major subdivision. |

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| | community to encourage usability and critical mass | |
| Objective C1.G Requirement C1.20 – C1.22 | Major subdivision – infrastructure <ul style="list-style-type: none"> To ensure detailed consideration is provided to the provision of integrated and quality public infrastructure | N/A - the proposed development is not considered to be a major subdivision. |

Chapter C4 – Dwelling House, Secondary Dwelling, or Dual occupancy

| Reference | Control | Assessment |
|--|--|---|
| Objective C4.A Requirement C4.1 | Height <ul style="list-style-type: none"> To ensure the height of buildings is appropriate for the context and character of the area To ensure building height reflects the hierarchy of centres and land use structure | The proposed development has a total height of 7.6m, which is below the maximum building height permitted of 9m under clause 4.3. |
| Objective C4.B Requirement C4.2-C4.11 | Setbacks <ul style="list-style-type: none"> To ensure development provides continuity and consistency to the public domain To ensure development contributes to the streetscape and does not detract from the amenity of the area | <p>The proposed dwelling provides the following minimum setbacks:</p> <ul style="list-style-type: none"> Front: N/A – the proposal is located on a rear battle-axe lot and therefore does not have direct frontage to the street Side (Ground): 1.002m Side (Upper): 1.34m Rear (Ground): 3m Rear (Upper): 12.37m <p>The development is compliant with front, rear, and ground floor side setbacks. The development includes a minor variation to the upper side setback of 2m required under Figure CI. The majority of the upper floor is setback approximately 3.7m from the side boundary and compliant with the DCP. A minor encroachment across 2.4m occurs due to the stairway required to access the upper floor, which is setback 1.34m from the side boundary. Noting that this variation relates to a non-habitable and low use area of the house and occurs only over a small portion of the side boundary, the variation been supported on a merits basis as it would not result in</p> |

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| | | <p>adverse privacy or overshadowing impacts and is consistent with the controls objectives.</p> <p>The proposed garage is setback more than 1m behind the building line.</p> <p>The existing dwelling on Lot 1 is not setback at least 1m from the battle-axe lot handle. Nonetheless, this is supported on a merits basis as it is consistent with surrounding developments, will not result in adverse amenity impacts to the existing dwelling and there are no eaves overhanging the proposed access handle.</p> |
| <p>Objective C4.C</p> <p>Requirement C4.12-4.18</p> | <p>Streetscape and privacy</p> <ul style="list-style-type: none"> To ensure development activates the streetscape to provide passive surveillance and privacy. | <p>The dwelling is located at the rear of the site and therefore provides minimal passive surveillance. Nonetheless, passive surveillance is achieved by the existing dwelling located on Lot 1.</p> <p>The proposed development is a similar bulk, scale and design as other developments in the locality. The battle-axe arrangement is similar to the development located on the adjoining lot to the south and mitigation measures have been implemented to minimise any privacy impacts, as discussed below.</p> <p>Highlight windows and obscure glazing has been implemented on windows located on the upper floor to minimise privacy impacts to adjoining properties.</p> |
| <p>Objective C4.D</p> <p>Requirement C4.19-C4.22</p> | <p>Private open space</p> <ul style="list-style-type: none"> To ensure private open space with solar access is provided to allow opportunity for passive and active outdoor recreation | <p>The development includes sufficient private open space that is consistent with the controls in this DCP section. A portion of private open space has been located within the front setback of the proposed dwelling. Nonetheless, this is supported on a merits basis as the proposal is located behind an existing dwelling, not visible from the street, and has sufficient screening as to allow it to be used as private open space.</p> <p>In regards to solar access, the principal private open space for the dwelling receives sunlight between 9:00am – 3:00pm (6 hours) between mid-winter</p> |

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| | | <p>which exceeds to the minimum 2 hour requirement.</p> <p>The application includes shadow diagrams that demonstrates adjoining dwellings retain solar access to their private open space in accordance with the DCP.</p> |
| <p>Objective C4.E</p> <p>Requirement C4.23-C4.25</p> | <p>Car parking and garages</p> <ul style="list-style-type: none"> To ensure car parking caters for anticipated vehicle movements to and from the development and does not adversely impact on building articulation | <p>The proposed driveway width is 2.919m, which does not comply with the 3m required by the DCP. This variation is supported on a merits basis as:</p> <ul style="list-style-type: none"> Due to existing structures on site, it is not possible to increase the driveway width; The driveway will be suitable for the proposed use, as there are no eaves overhanging it that would present a potential risk to the vehicles entering the site; and Vehicles will be able to enter and leave in a forward direction. <p>The proposed garage door has a maximum width of 5.41m which is less than 50% of the building frontage.</p> |
| <p>Objective C4.F</p> <p>Requirement C4.26-C4.30</p> | <p>Landscaping</p> <ul style="list-style-type: none"> To enhance the appearance and amenity of developments through the retention and/or planting of large and medium sized trees To encourage landscaping between buildings for screening To ensure landscaped areas are consolidated and maintainable spaces that contribute to the open space structure of the area To add value and quality of life for residents and occupants within a development in terms of privacy, outlook, views and recreational opportunities | <p>The application does not include landscaping that is compliant with the DCP. Nonetheless this can be accepted on a merits basis as:</p> <ul style="list-style-type: none"> The site is heavily constrained by the risk of bush fire which limits the viability of landscaping; Developments in the surrounding area have similar levels of landscaping; and <p>The development will still enhance the overall amenity and character of the site.</p> |

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| | <ul style="list-style-type: none"> To create and enhance vegetation links between natural areas and reduce weed potential to environmentally sensitive areas To reduce energy consumption through microclimate regulation To reduce air borne pollution by reducing the heat island effect To intercept stormwater to reduce stormwater runoff | |
| Objective C4.G Requirement C4.31-C4.32 | Site facilities and services <ul style="list-style-type: none"> To ensure development provides appropriate facilities and services in the most appropriate site location | Appropriate space is provided for waste storage and clothes drying. |

Chapter C8 – Ancillary Structures – Sheds, Swimming Pools, Fencing, Retaining Walls and Shipping Containers

| Reference | Control | Assessment |
|---|---|--|
| Objective C4.H Requirement C8.6-C8.7 | Swimming Pools <ul style="list-style-type: none"> The water edge must be setback at least 1m from the side and rear boundaries Maximum decking height of 1.4m in height if the pool is located more than 600mm above the ground level (finished) | <p>The water edge is setback approximately 0.82m from the northern side boundary and 2.33m from the western rear boundary. The variation to the side setback can be supported on a merits basis as it represents a minor variation and the rear setback exceeds the minimum requirement.</p> <p>Decking around the pool has a maximum height of 0.9m which is compliant with this control.</p> |
| Requirement C8.8-C8.10 | Front Fences <ul style="list-style-type: none"> Maximum height of 1.2m and is not of solid infill construction Maximum height of 1.5m along main roads and secondary street frontages Compatible with street facilities, such as mailboxes, | N/A – not front fencing is proposed. |

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| | and allow easy access to public utilities | |
| Requirement C8.11 – C8.14 | Side and Rear Fences <ul style="list-style-type: none"> Maximum height of 1.8m Side fences must not encroach on the front setback area of any dwelling Fencing materials should reflect context and character of the area Fences within the root zone of an existing tree must be constructed of light weight suspended panels supported by posts with pier footings | <p>The fences noted on the plans do not encroach on the front setback area of any dwelling.</p> <p>Colourbond fencing has been proposed which is consistent with fencing in the immediate locality.</p> <p>The fencing is not located within the root zone of any existing trees</p> |

CHAPTER D – SPECIFIC AREAS

The proposed development is not located within any DCP Specific Area.

Section 4.15(1)(a)(iia) – Any planning agreement or draft planning agreement entered into under section 7.4

N/A

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

Demolition

In regard to Clause 61(1) Council has considered the Australian Standard AS 2601—2001: The Demolition of Structures in the assessment of this application with appropriate conditions being included on the consent.

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

Social and Economic Impacts

The development proposes a contemporary residential development and will marginally result in additional housing to service the needs of the community. Additionally, the construction of the proposed development will provide employment opportunities in the locality during the short-term and support the local building and development industries. This will have a direct and indirect monetary input to the local economy, while the increased number of residents in the locality will provide ongoing economic input through daily living activities.

Notwithstanding, as outlined throughout the report, the proposed development will result in adverse economic and social impacts. The establishment of an APZ easement on Council owned community land is not currently permitted under the Mambo Wetland PoM and this land may need to be reclassified as operational land. This undertaking would place a financial and resource burden on Council for private development interest. There is limited opportunity for economic return through reclassifying the land as operational, noting this land is zoned C2 Environmental Conservation and contains ecological, bushfire, and flooding constraints. Furthermore, this APZ may need to be

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maintained by Council in perpetuity, resulting in a potential long term financial and resource burden on Council for private development benefit. Overall, the development would not result in adverse social impacts, however, would result in adverse and ongoing economic impacts to Council.

Impacts on the Built Environment

The proposed development would reinforce the residential nature of the locality and is characteristic of other developments both in the local and wider community. The development includes relevant construction methods and built form design such as opaque glazing and an on-site stormwater management system to minimise any potential adverse impacts to adjoining properties.

Impacts on the Natural Environment

The impacts to the natural environment are unknown due to insufficient information being provided by the applicant. As noted throughout this report, the development site does not contain vegetation of environmental significance and vegetation proposed to be removed comprises of minor landscaped trees. Nonetheless, the development relies on the establishment of an APZ on Council owned land in the Mambo Wetland. A significant portion of this APZ area is biodiversity values mapped for core koala habitat and within proximity to coastal wetlands. As tree removal or the clearing of undergrowth may be required, it is likely that a BDAR will need to be prepared to understand the full extent of impacts on the natural environment. A BDAR has not been provided with the application and therefore these impacts cannot be fully assessed.

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

The subject site is located within an existing residential area and does not contain any substantial vegetation. Nonetheless, the site is not considered suitable for the proposed development due to the bushfire hazard from the west. To achieve the required bushfire construction standards of the PBP 2019 for the proposed development, a 14m APZ (as referenced in the Bushfire Threat Assessment) is required to be established on the adjoining community land owned by Council through an 88B agreement. This land is not considered suitable for the establishment of this easement for APZ purposes and is therefore not supported. Alternatively, in the event that the APZ was located wholly within the lot boundaries, a BAL-FZ construction would be required, which is inconsistent with section 5.2 and 5.3.7 of the PBP 2019 and is not supported by the RFS. Therefore, the site is not considered suitable for the proposed development as it would create an unacceptable bushfire risk that is inconsistent with PBP 2019 and RFS agency advice.

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

The application was exhibited from 8 February 2023 to 22 February 2023 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. Three (3) submissions were received in relation to the subject development proposal and are outlined below.

Matter raised**Response**

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| Stormwater/Flooding | All submissions received raised concerns regarding adverse impacts on adjoining properties from additional stormwater discharge and localised flooding. The proposal includes a stormwater management plan and modelling that demonstrates stormwater runoff can be detained on-site up to and including a 1% AEP storm event and post developed flows are less than pre developed flows. Additionally, a 6,000L rainwater tank is proposed to detain stormwater runoff from the existing dwelling. As such, if supported for approval, the proposed development will not result in additional stormwater or flooding impacts on adjoining properties. |
| Privacy | Privacy impacts from windows located on the upper floor have been minimised through the use of opaque glass. |
| Overshadowing | The applicant has provided shadow diagrams that demonstrate the private open space of adjoining properties is unaffected by shadows in accordance with the DCP. |
| Property Value | Property value is not a relevant planning consideration under section 4.15 of the EP&A Act 1979. |

Section 4.15(1)(e) the public interest

The proposed development is inconsistent with the strategic principles and objectives of PBP 2019 as it relies on the establishment of an APZ on adjoining Council owned community land through an 88B agreement. The creation of an easement for this APZ is not permitted on the land as it is currently categorised as community land and the Mambo Wetlands Plan of Management does not expressly allow for the creation of the APZ to service development along Sandy Point Road. To allow the easement, this land may need to be reclassified as operational land. Furthermore, the maintenance and monitoring of an APZ has the potential to place a financial and resource burden on Council for private development benefit. Finally, as the proposal is inconsistent with the PBP 2019 and would create an unacceptable bushfire risk, the proposed development has the potential to place additional burden on emergency services during a bushfire event. Therefore, for these reasons the proposed development is not considered to be in the public interest.

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

Development Contributions under S7.11 apply to the development.

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DETERMINATION

The application is recommended to be refused under delegated authority, subject to reasons for refusal provided in the notice of determination.

CHRISTOPHER PRIMROSE

Development Planner

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ITEM 4 - ATTACHMENT 1 NELSON BAY COMMUNITY ENGAGEMENT
REPORT SMART PARKING - SEPTEMBER 2022.

Nelson Bay parking and pedestrian Engagement Report

September 2022



August 2022 – September 2022



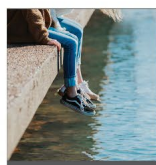
ITEM 4 - ATTACHMENT 1 NELSON BAY COMMUNITY ENGAGEMENT REPORT SMART PARKING - SEPTEMBER 2022.



Nelson Bay parking and pedestrian Engagement snapshot

The lease on the carpark at the corner of Yacaaba and Donald Streets, Nelson Bay ended on Wednesday 31st August. It was resolved at the two-way conversations with Councilors (Tuesday 23rd August) that Port Stephens Council would use the announcement regarding this closure as an opportunity to engage with the local business community about a number of changes relating to parking and pedestrian access in the Nelson Bay area.

What we've been up to



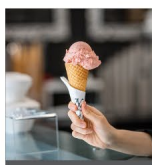
Zoom briefing

11 attendees
446 distributed



Surveys

67 completed



Factsheets

665 delivered



Direct emails

293 sent



Social media

10175 reached

Survey Results - most popular responses



40%

How do you feel about Smart Parking in general?

AVERAGE



36%

How do you feel about Smart Parking for businesses

AVERAGE



55%

Is Laman St suitable for Business Parking?

YES



72%

What's the primary use for the Fly Point parking area?

TOURISTS



56%

Is access adequate without the footbridge?

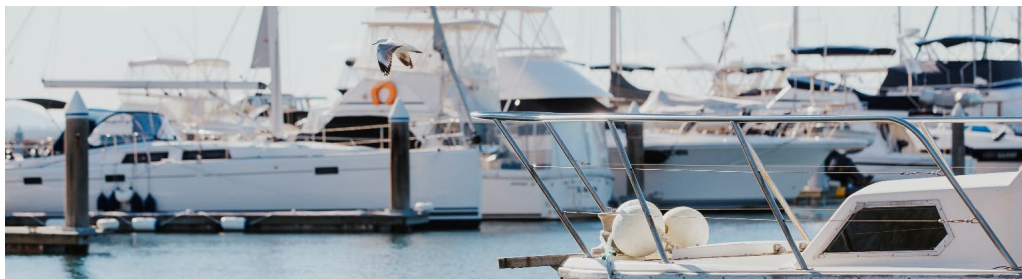
NO

Key quotes

Great initiative but like all initiatives, keep monitoring and improving.

**ITEM 4 - ATTACHMENT 1 NELSON BAY COMMUNITY ENGAGEMENT
REPORT SMART PARKING - SEPTEMBER 2022.**

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- **Appendix C: Facebook post and reach**

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Summary

The lease on the carpark at the corner of Yacaaba and Donald Streets, Nelson Bay ended on Wednesday 31st August. It was resolved at the two-way conversations with Councilors (Tuesday 23rd August) that Port Stephens Council would use the announcement regarding this closure as an opportunity to engage with the local business community about a number of changes relating to parking and pedestrian access in the Nelson Bay area.

The changes we discussed with local business owners were as follows:

- Due to the closure of the carpark on the corner of Yacaaba and Donald Streets, Smart Parking for business would be extended into two places along Yacaaba Street and Victoria Parade
 - Yacaaba Street parking: primarily from Donald Street intersection to Tomaree Street intersection. This added 48 replacement parking spaces
 - Victoria Parade parking: angle parking North-East of the roundabout adjacent to the dog on-lead exercise area. This will add 22 replacement parking spaces.
- It is proposed that Smart Parking will be extended into other areas in Nelson Bay. In this engagement we asked business owners and some select residents what they thought about extending Smart Parking into both Laman St and the Fly Point area.
- The Victoria Parade skybridge was removed in April due to structural issues. Its removal (for was already alluded to as Nelson Bay Public Domain Plan published in 2019. Feedback was sought regarding the impact the removal of the footbridge has had on businesses in the area.






The engagement was timed to coincide with the closure of the carpark and was targeted at businesses south of the Port Stephens Visitor Information Centre, as well as residents who live on Laman St and at Fly Point.

Business owners were given an opportunity to ask questions of the Assets team from Port Stephens Council via a Zoom briefing. Following this, a factsheet was distributed by hand to businesses and residents affected by the changes. This factsheet was also distributed digitally to both the Council's and Business Port Stephens' email lists of Nelson Bay business owners.

To finalize the engagement, a survey was created in Survey Monkey to gauge the sentiment of affected business owners and residents regarding the 3 changes outlined above.

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Communication and engagement methods

| COMMUNICATIONS METHODS | | |
|--|--|--|
| ACTIVITY | DESCRIPTION | REACH |
|  Zoom briefing | Zoom briefing was held for Nelson Bay business owners to ask questions regarding the closure of Yacaaba St carpark and the removal of the Nelson Bay pedestrian footbridge. Attended by Darren Mitchell and Joshua Chapman from Assets, Sophie Jordan and Julian Honeywill from Communications and Engagement, Mel Turner and Kerri Rodley from Business Port Stephens, Cr Leah Anderson and 4 business owners from Nelson Bay | 7 external stakeholders in the Zoom briefing Zoom recording Link sent to 446 newsletter subscribers |
|  Direct emails | Direct emails via converse@portstephens.nsw.gov.au to identified known Nelson Bay business owners Emails to members sent by Business Port Stephens | 73 emails sent 220 emails sent |
|  Social media | Port Stephens Council Facebook Post regarding carpark closure published 27 August at 8:00am | 10175 reached 928 post clicks |
|  Nelson Bay parking and pedestrian survey | Local businesses were asked to complete a survey regarding changes to Smart Parking and the impact of the removal of the Victoria Parade footbridge. Created in Survey Monkey and open from 26 August – 11 September. | 67 respondents |
|  Factsheets | Factsheets delivered by hand to businesses and residents (Laman St + Flypoint only) in Nelson Bay Business Port Stephens newsletters distributed containing the factsheet | 219 factsheets delivered Sent to 446 subscribers |

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Findings

SURVEY DATA

The Nelson Bay parking and pedestrian survey was created in Survey Monkey and was accessible from 26 August – 11 September 2022 via QR code or embedded link in the factsheet. 67 people completed it.

Summary of Survey Responses

The closure of the carpark on the corner of Yacaaba and Donald Streets, Nelson Bay, was the catalyst for this engagement. The original purpose of the survey was to determine how Smart Parking was working for businesses in Nelson Bay due to the impact that this closure would have on access to Smart Parking. It also sought community feedback on areas for extension of Smart Parking, looking at Laman Street and Fly Point specifically. Despite this being the original focus, the opportunity was taken to also seek feedback on the impact of the Victoria Parade footbridge removal, given the target stakeholder group.

Respondents were a lot more vocal regarding the removal of the Victoria Parade footbridge than around any proposed changes to Smart Parking. It is possible that this is the result of campaigning by local business in Nelson Towers. Anecdotal evidence provided by the community was that shop-owners were asking shoppers to fill out the survey, with the particular intention of highlighting the impact of the footbridge's removal. This may have caused bias of the survey data for certain responses as the survey was not widely publicised and was directed at a specific target audience of local businesses and residents.

Smart Parking

The public sentiment around Smart Parking was divided, with a very slight skew towards the negative. Smart Parking in general was more positively received than Smart Parking for businesses but only marginally. Most respondents who took the time to comment on the first two questions were coming from a negative stance with the general themes of their comments listed below:

- The Smart Parking process is confusing (particularly for tourists)
- Cost of parking is driving tourists and visitors away
- It is hard to work out where the free parks are from the signs
- Smart Parking should adapt to the peak and off-peak periods

Locals that were happy with the initiative provided the caveat that it was only as long as it remained free for residents. Some respondents also put forward ideas of having variable parking based on need eg shopping, dining, cruises, tourist, local etc.

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Data from the survey showed a fairly even split between the three proposed use-cases of visitors & tourists (37%), businesses (28%) and local residents (35%), with respondents slightly in favour of it being used by visitors. Respondents also leaned towards a 4 hour parking limit for Laman St (45%), though 27% thought a 2 hour limit would be more suitable. The majority of people (42%) felt that Laman Street was suitable for business parking but those that didn't agree (34%) made mention of the distance from the Nelson Bay CBD. 24% of respondents weren't sure whether the area was suitable for business parking or not.

Fly Point

Over three-quarters of respondents (79%) saw the primary use of the Fly Point area being for tourists and visitors, with almost half (48%) choosing 4 hours as the most appropriate timing for parking in this location. As this space is a fair way removed from the Nelson Bay CBD, there was no underlying negativity around this questioning.

Victoria Parade Footbridge

Survey respondents provided strong support for the return of the Victoria Parade footbridge, where 71% felt that pedestrian access was inadequate it. 45% of people claimed to use the bridge daily before its removal, 18% used it weekly, 11% used it monthly, 15% used it a few times a year and 11% had never used it. Anecdotal evidence provided by the community suggests that the data collected regarding the removal of the Victoria Parade footbridge has been negatively skewed by a targeted campaign from shop owners in Nelson Towers. The survey was aimed towards business owners and select residents, however reports have identified that shop-owners were asking customers to fill out the survey, which was outside the intended scope of the engagement. The results from the survey also do not reflect the general feeling that came from engaging with the community during the factsheet drop-off.

The majority of business owners didn't seem affected by the removal of the bridge, with some not even knowing that it had been removed. A lot of people mentioned that since the traffic lights had been added at the intersection of Government Road and Stockton Street, it had improved access for pedestrians and most people would access the CBD from that point. During the face-to-face exchanges far more people seemed concerned about Smart Parking affecting their business than the removal of the footbridge, though this was not reflected in the survey. The 3 open-ended questions about the removal of the footbridge had an average of 53 responses, whereas the 3 open-ended questions regarding Smart Parking had only 24.

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Whilst the shop-owners in Nelson Towers have articulated a loss in revenue to Business Port Stephens, they haven't provided any data to substantiate the impact on their business. On top of that, it would be hard to reconcile any figures provided due to the unprecedented circumstances surrounding the reporting period. With lockdowns and border closures impacting tourism and small businesses for the last two years, as well as local weather events of historical proportions, it would be hard to ascertain just how much of a financial impact the removal of the footbridge has caused.

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APPENDIX A

Nelson Bay parking and pedestrian factsheet



FACT SHEET



Nelson Bay parking and pedestrian changes



Changes to the existing parking arrangements

- The lease on the carpark at the corner of Yacaaba and Donald Streets, Nelson Bay will end shortly.
- Smart Parking infrastructure at the site will need to be removed, including sensors and electronic signage.
- Businesses in the area will need to find other parking arrangements from Wednesday 31 August 2022
- We have arranged for alternative areas for business parking along Yacaaba Street and Victoria Parade.
- **Yacaaba Street parking:** primarily from Donald Street intersection to Tomaree Street intersection. This will add 48 replacement parking spaces.
- **Victoria Parade parking:** angle parking North-East of the roundabout adjacent to the dog on-lead exercise area. This will add 22 replacement parking spaces.




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PORT STEPHENS
COUNCIL

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Proposed extension to smart parking arrangements in Nelson Bay

- We are investigating the extension of Smart Parking to Laman Street (approximately 55 car spaces) and the Fly Point area (approximately 50 car spaces). Find out more from the Council meeting on Tuesday 26 July 2022 pscouncil.info/minutes260722
- It is proposed that these new parking arrangements may be 4 hour parking similar to the majority of the other areas along the Nelson Bay foreshore.
- We want to understand your opinion around the proposed extension to Smart Parking in Nelson Bay. Please complete the Nelson Bay parking and pedestrian survey below



Pedestrian access changes from the Public Domain Plan

- The Nelson Bay skybridge (pedestrian footbridge) was removed on the 27th of April 2022 due to structural issues.
- The Nelson Bay Public Domain Plan (2019) recommends the removal of the skybridge to create a more generous pedestrian environment.
- As part of our Nelson Bay parking and pedestrian survey we would like to understand more about how the changes to the footbridge have impacted you, checking in to ensure community input still aligns with the Nelson Bay Public Domain Plan recommendation.

Nelson Bay parking and pedestrian survey

We would love to hear from you. Complete the survey on how the changes to parking and pedestrian traffic in Nelson Bay are affecting you via the QR code or the link below.

pscouncil.info/NBSurvey



To learn more about Smart Parking in Port Stephens

pscouncil.info/smartparking

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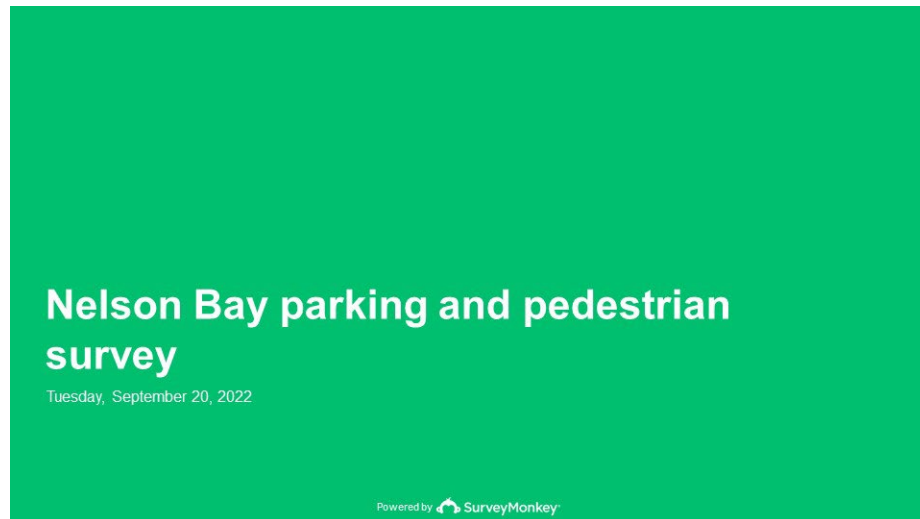


PORT STEPHENS
COUNCIL

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APPENDIX B

Survey data



67

Total Responses

Date Created: Wednesday, August 24, 2022

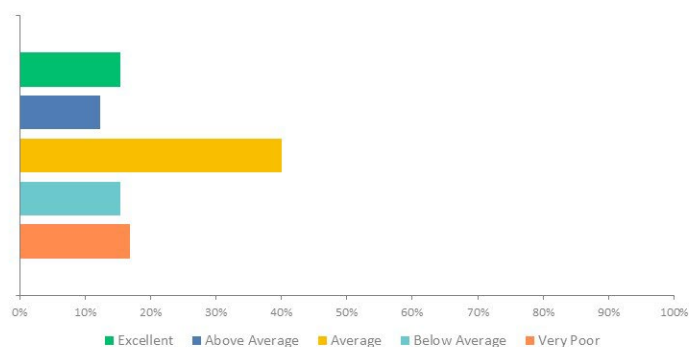
Complete Responses: 67

Powered by  SurveyMonkey

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Q1: How do you feel Smart Parking is working in the Nelson Bay area in general?

Answered: 65 Skipped: 2



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| | EXCELLENT | ABOVE AVERAGE | AVERAGE | BELOW AVERAGE | VERY POOR | TOTAL | WEIGHTED AVERAGE |
|------------|--------------|---------------|--------------|---------------|--------------|-------|------------------|
| (no label) | 15.38% 10 | 12.31% 8 | 40.00% 26 | 15.38% 10 | 16.92% 11 | 65 | 3.06 |

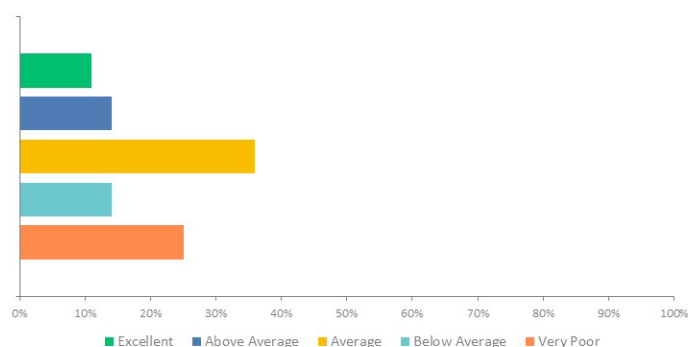
| # | COMMENTS | DATE |
|---|--|-------------------|
| 1 | I don't really know. As a resident I don't use it. | 9/8/2022 1:25 PM |
| 2 | Makes it harder to get a park in certain areas at particular times.... | 9/3/2022 11:06 AM |
| 3 | Too many people can't workout how to use | 9/3/2022 10:06 AM |
| 4 | It is good that residents of the area can park free for the first amount of time allocated on the signs; this allows us to go to the Post Office, Chemist, Newsagent and do quick shopping. Take away our ability to park and Nelson Bay will die and so will the elderly who cannot walk long distances; I am not convinced it alleviates congestion if that was the intent other than to make money for the council. If anything it deters holiday makers from accessing the shops | 9/1/2022 1:07 PM |
| 5 | As a resident, very good | 9/1/2022 12:00 PM |
| 6 | Very nice | 9/1/2022 10:56 AM |
| 7 | All this archives is taking parking off customers/shoppers and giving the parking to staff and employees that normally parked on the corner car park now to be removed. | 9/1/2022 7:49 AM |
| 8 | Neutral - no information has been published by Council to show whether the objectives of the new system of paid parking management are being achieved, or not. Because no information has been provided, my guess is that the financial performance has not been as expected and my impression is that the winner has been the system supplier (tech and electronic signs) rather than the community. | 9/1/2022 6:29 AM |
| 9 | It's driving tourists out especially Sunday morning. Lots of complaints about it been confusing and to expensive. | 8/31/2022 5:58 PM |

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| | | |
|----|---|--------------------|
| 10 | Why did you have to spend so much money on " smart parking " wen motorists can do the speed limit and find a park. You wonder why the businesses in the Bay are dying wen the very people they are relying on have to pay to duck into a shop. Why has Nelson Bay all of a sudden become the money spinner for Port Stephens. Why not put meters in William St Raymond Terrace or is that because everyone who lives on the Penninsula is cashed up. Stop killing Nelson Bay!!!! | 8/31/2022 5:43 PM |
| 11 | Some local people still think they have to pay and therefore avoid coming into Nelson Bay, they go to Salamander Bay instead where you do not have to pay. | 8/31/2022 3:57 PM |
| 12 | I guess its working for the council, as long as locals are exempt from paying. | 8/31/2022 2:33 PM |
| 13 | The illuminated signs which (I think) are intended to display the number of parking spaces available in an area are confusing to say the least. For example, the one beside the intersection of Laman Street and Government Road faces traffic coming uphill toward that intersection and is clearly indicating that traffic should proceed the wrong way up Laman Street (a one way street) to reach parking. This probably accounts for the increased number of cars driving the wrong way up Laman Street ever since the sign was put there. | 8/31/2022 11:59 AM |
| 14 | When you are driving it is hard to work out where the spaces are. | 8/31/2022 11:50 AM |
| 15 | A great idea as long as the proceeds go towards improvements to the CBD | 8/30/2022 5:42 PM |
| 16 | hard on businesses in off peak season that people are still paying for parking | 8/29/2022 11:34 AM |
| 17 | While it has rectified the issue of a lack of available parking, it has caused a host of negative impacts - mainly in respect to local business. However, my biggest concern about smart parking right now is the proposal to remove resident and ratepayer permits. | 8/28/2022 10:53 AM |
| 18 | People are leaving our shop because they need to top up their parking. People can't work out the machines | 8/26/2022 2:19 PM |

Q2: How do you feel Smart Parking is working in the Nelson Bay area for businesses?

Answered: 64 Skipped: 3



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| | EXCELLENT | ABOVE AVERAGE | AVERAGE | BELOW AVERAGE | VERY POOR | TOTAL | WEIGHTED AVERAGE |
|------------|-------------|---------------|--------------|---------------|--------------|-------|------------------|
| (no label) | 10.94% 7 | 14.06% 9 | 35.94% 23 | 14.06% 9 | 25.00% 16 | 64 | 3.28 |

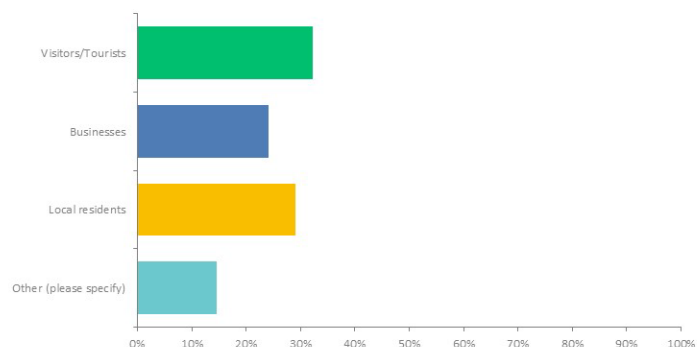
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| # | COMMENTS | DATE |
|----|--|--------------------|
| 1 | Not really in a position to judge this, but there still seems to be plenty of foot traffic in and around Nelson Bay suggesting that visitation rates haven't been adversely affected by the introduction of Smart Parking. | 9/8/2022 5:49 PM |
| 2 | Again, I wouldn't know | 9/8/2022 1:25 PM |
| 3 | We have lost Business due to people not wanting to pay for parking..GET RID OF IT! | 9/8/2022 9:22 AM |
| 4 | Even though it is free with time limits for local people it discourages them from going to the bay to look around better to go elsewhere.... | 9/3/2022 11:06 AM |
| 5 | Not very well | 9/3/2022 10:06 AM |
| 6 | Don't own a business | 9/2/2022 9:14 AM |
| 7 | A lot of people now go top Salamander and shop as holiday makers and residents are not free to stroll around Nelson Bay without having to pay in some way. Small businesses even are struggling, cafes, restaurants etc. Who wants to pay to go for a coffee and pay for parking as well; same as cinema. It is only working for Council to make money and where is that being spent?? | 9/1/2022 1:07 PM |
| 8 | No information available | 9/1/2022 12:00 PM |
| 9 | It's working good | 9/1/2022 10:56 AM |
| 10 | Between the smart parking and the bridge being removed there has been a definite down turn in trade in our retail store and this is across the CBD retailers. | 9/1/2022 7:49 AM |
| 11 | I have no observations positive or negative | 9/1/2022 6:29 AM |
| 12 | Driving tourists away. Very sad from a thriving town to be dead on Sundays. | 8/31/2022 5:58 PM |
| 13 | Why didn't you ask the businesses b4 you installed all of the meters!! | 8/31/2022 5:43 PM |
| 14 | Sometimes people will not hang around because they have to pay more for parking therefore may not visit other shops. | 8/31/2022 3:57 PM |
| 15 | People come to town to spend money and shouldn't have to pay for parking on top. | 8/31/2022 2:33 PM |
| 16 | Anecdotal evidence from visitors to the area is that, after arriving in Nelson Bay, they would rather avoid the town centre and stop for refreshment elsewhere if there is no free parking in the town centre. | 8/31/2022 11:59 AM |
| 17 | Visitors often need more time & are interrupted by time pressures | 8/31/2022 11:50 AM |
| 18 | People are used to it as other councils have been using it for some time | 8/30/2022 5:42 PM |
| 19 | The effect has been devastating! I can not tell you how heartbreaking it is as a small business owner when you constantly have visitors have to run out of your store because their parking is up and they have to run. Visitors are frustrated about the high cost - most believe it it was too expensive for a small regional holiday town. Another huge frustration is lack of long term spaces to be able to spend the day in town, or the ability to top up their parking without having to move the car. | 8/28/2022 10:53 AM |
| 20 | Reps can't print ticket's for there employer People are leaving our shop to top up the parking meter and NOT coming back ☹ | 8/26/2022 2:19 PM |

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Q3: How do you primarily see the parking area on Laman Street being used?

Answered: 62 Skipped: 5



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| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| Visitors/Tourists | 32.26% 20 |
| Businesses | 24.19% 15 |
| Local residents | 29.03% 18 |
| Other (please specify) | 14.52% 9 |
| TOTAL | 62 |

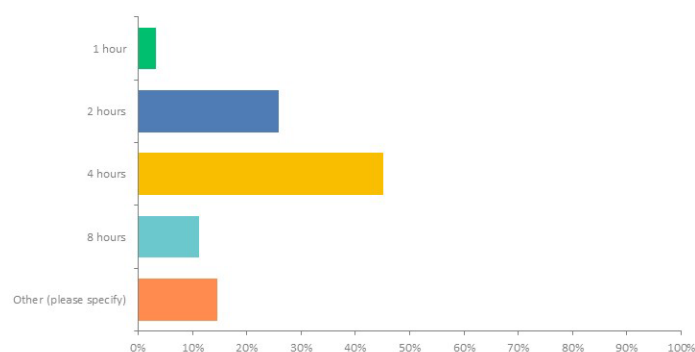
| # | OTHER (PLEASE SPECIFY) | DATE |
|---|---|-------------------|
| 1 | As there is VERY LITTLE free parking, workers or locals park here to go down to their respective jobs and or to shop; I live in Laman and it is the only place to park for my visitors local or out of the area; tourists only tend to use this on weekends or in summer holidays. I have v | 9/1/2022 1:07 PM |
| 2 | Mostly by local businesses people | 9/1/2022 10:56 AM |
| 3 | We live in the area and have direct observation of parking on Laman, Church and Thurlow in both peak and off peak times. During off peak, most of the time parking is by people who look like they work in the marina or on fishing boats (eg, all day according to a range of working hours, sometimes long term for several days). Tradies and mobile workers use the area for breaks. Residents who live on the street use it for resident parking including visitors to their households. Holiday rentals use street parking for overflow and longer term parking for the length of their stay. On Church and into Thurlow, it's primarily residents including holiday lets. During peak times - summer weekends, holiday periods, events - the balance shifts and there are more tourists in the area. On street parking is full and extends onto Church and Thurlow. Many of these seem to be day trippers. Regularly there are people who seem to be local to the area but not residents of the nearby streets, who park their caravans or RV buses on the street (Laman or Church) for days, or a week or more at a time. You can't isolate parking decisions about Laman without considering the impact on Church and Thurlow. | 9/1/2022 7:14 AM |
| 4 | And locals and residents | 8/31/2022 5:59 PM |

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| | | |
|---|---|--------------------|
| 5 | Don't have meters, have parking limit times. | 8/31/2022 5:48 PM |
| 6 | Presently it is a fairly even mixture of tourists/visitors and local residents | 8/31/2022 12:01 PM |
| 7 | There is little room around for workers to park long term | 8/31/2022 11:52 AM |
| 8 | Laman St is frequently used by business employees, local residents and visitors and many park there for at least 8 hours | 8/30/2022 10:56 AM |
| 9 | Its going to be a mix. I personally use it as a resident but im sure during peak tourist season its a popular parking spot for visitors too | 8/28/2022 10:57 AM |

Q4: What is the appropriate timing for the parking on Laman Street?

Answered: 62 Skipped: 5



Powered by SurveyMonkey

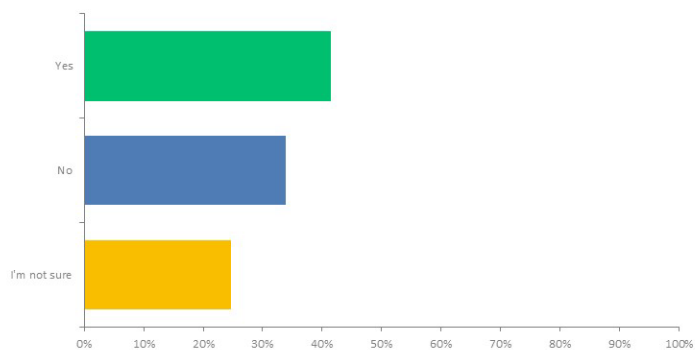
| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| 1 hour | 3.23% 2 |
| 2 hours | 25.81% 16 |
| 4 hours | 45.16% 28 |
| 8 hours | 11.29% 7 |
| Other (please specify) | 14.52% 9 |
| TOTAL | 62 |

| # | OTHER (PLEASE SPECIFY) | DATE |
|---|---|--------------------|
| 1 | All Day parking | 9/8/2022 9:24 AM |
| 2 | Unlimited | 9/3/2022 9:30 AM |
| 3 | I am totally against paid parking; this is a residential styreet | 9/1/2022 1:07 PM |
| 4 | 2 hours | 9/1/2022 10:56 AM |
| 5 | This shows the council has no idea where there going with the CBD parking problems. | 9/1/2022 7:52 AM |
| 6 | Unrestricted as it is today - this is a mixed use area though primarily residential and by locals. While it's more heavily used by tourists during peak periods, many of those day trippers also seem to be local area residents (based on the signage on their vehicles) | 9/1/2022 7:14 AM |
| 7 | Businesses use this to avoid main street parking or pay parking | 8/31/2022 3:58 PM |
| 8 | People who work need free parking | 8/31/2022 2:35 PM |
| 9 | No time restriction. Visitors are not as aware of free parking there so go elsewhere. | 8/31/2022 11:52 AM |

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Q5: Is Laman Street an appropriate area for business parking?

Answered: 65 Skipped: 2



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| ANSWER CHOICES | RESPONSES | |
|----------------|-----------|----|
| Yes | 41.54% | 27 |
| No | 33.85% | 22 |
| I'm not sure | 24.62% | 16 |
| TOTAL | | 65 |

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Q6 Why don't you think Laman Street is appropriate for business parking?

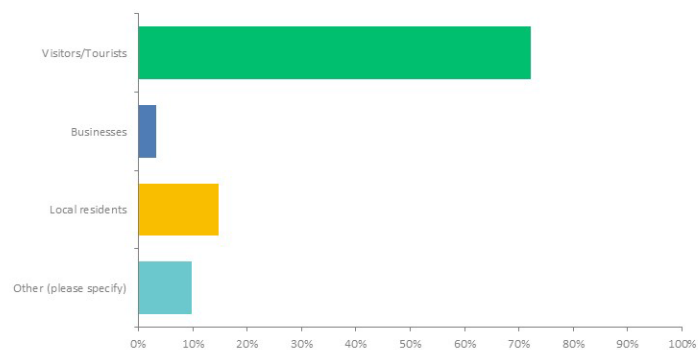
Answered: 21 Skipped: 46

| # | RESPONSES | DATE |
|----|---|--------------------|
| 1 | Too far away | 9/9/2022 5:08 PM |
| 2 | In Holiday time no workers will be able to get a park | 9/8/2022 9:25 AM |
| 3 | Access to CBD | 9/3/2022 11:06 AM |
| 4 | Because of proximity to tourist attractions | 9/3/2022 10:08 AM |
| 5 | Coz | 9/3/2022 9:31 AM |
| 6 | Not enough parking | 9/3/2022 8:17 AM |
| 7 | Day visitors tend to park close to the marina. There is alot of holiday accommodation in and around Laman St which rely on on-street parking. | 9/2/2022 3:23 PM |
| 8 | It is more of a residential area than a business parking area | 9/1/2022 1:20 PM |
| 9 | This is a holiday destination, that will only encourage the holiday residence to park in CBD. | 9/1/2022 7:55 AM |
| 10 | If by business parking, you mean by customers of nearby businesses, I would say not. Most customers of businesses in the marina and in the Nelson Bay business district will seek to park closer to the district for a business. Parking flow considerations, to keep customer flow moving, are not a primary criteria for this area. It's more a mixed use area and probably like most of Nelson Bay, affected by peak and off peak tourist impacts. Any change of term limits on Laman are highly likely to have negative flow on impacts for residents on Church and into Thurlow based on current observable patterns of use. | 9/1/2022 7:23 AM |
| 11 | There isn't enough car spaces as it is | 8/31/2022 11:27 PM |
| 12 | Should be left to tourists and residents. | 8/31/2022 6:00 PM |
| 13 | I don't think it's appropriate | 8/31/2022 5:50 PM |
| 14 | Laman Street is a residential area with no businesses in the street. Of 14 apartment in our block, only one is available for holiday letting.. | 8/31/2022 12:02 PM |
| 15 | Distance from town centre | 8/31/2022 7:50 AM |
| 16 | there is already parking in cbd for businesses | 8/30/2022 5:45 PM |
| 17 | Not close enough | 8/29/2022 1:45 PM |
| 18 | That close to the waterfront, its prime parking for both locals and visitors to access the marina and walking trails. Doesn't make sense to congest this area up with business parking | 8/28/2022 10:58 AM |
| 19 | Not enough save and not convenient for business parking | 8/27/2022 10:10 AM |
| 20 | Needs closer | 8/26/2022 3:26 PM |
| 21 | To far away from the main st | 8/26/2022 2:21 PM |

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Q7: How do you primarily see the parking area at the Fly Point area being used?

Answered: 61 Skipped: 6



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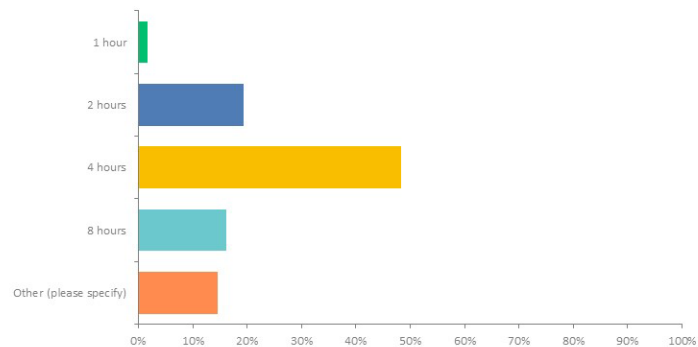
| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| Visitors/Tourists | 72.13% 44 |
| Businesses | 3.28% 2 |
| Local residents | 14.75% 9 |
| Other (please specify) | 9.84% 6 |
| TOTAL | 61 |

| # | OTHER (PLEASE SPECIFY) | DATE |
|---|--|--------------------|
| 1 | And businesses | 9/9/2022 7:43 AM |
| 2 | Outside of holiday season there are a lot of locals who park to go to the beach; to make them pay for parking is another kick in the teeth, cant we enjoy our surrounds without having to continually fork out money | 9/1/2022 1:07 PM |
| 3 | Tourist | 9/1/2022 10:58 AM |
| 4 | Both local residents who use the area for recreation and tourists who overflow from Victoria Parade and also use the area for recreation. | 9/1/2022 8:12 AM |
| 5 | visitors and local residents | 8/30/2022 11:00 AM |
| 6 | Again, its going to be a mix. I know locals use this area to visit the arks/beaches in the area and also that its a suer popular parking area during tourist season. | 8/28/2022 11:01 AM |

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Q8: What is the appropriate timing for the parking at the Fly Point area?

Answered: 62 Skipped: 5



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| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| 1 hour | 1.61% 1 |
| 2 hours | 19.35% 12 |
| 4 hours | 48.39% 30 |
| 8 hours | 16.13% 10 |
| Other (please specify) | 14.52% 9 |
| TOTAL | 62 |

| # | OTHER (PLEASE SPECIFY) | DATE |
|---|--|--------------------|
| 1 | No time limit | 9/8/2022 9:27 AM |
| 2 | FREE PARKING and no removal of vegetation. | 9/2/2022 6:59 PM |
| 3 | 4-5hrs | 9/2/2022 3:30 PM |
| 4 | Visiting Nbay is a problem and doesn't welcome tourists | 9/2/2022 10:37 AM |
| 5 | Should not have to pay | 9/1/2022 1:07 PM |
| 6 | 2 hours | 9/1/2022 10:58 AM |
| 7 | 6-8 hours; 4 hours is too short for both residents and tourists who are primarily using the area for recreation and while it's fair for tourists to contribute to the upkeep of the area, it feels unwelcoming to the Port Stephens brand to force people to move their cars or pay more if they are here to enjoy a day in the area | 9/1/2022 8:12 AM |
| 8 | As long as people like to stay | 8/31/2022 2:38 PM |
| 9 | All day to cope with those meeting boats & fishing etc. | 8/31/2022 11:56 AM |

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Q9 Do you have any other comments on Smart Parking in Nelson Bay?

Answered: 34 Skipped: 33

| # | RESPONSES | DATE |
|----|---|--------------------|
| 1 | Great initiative but like all initiatives keep monitoring and improving. | 9/9/2022 7:43 AM |
| 2 | It seems to be working well. I don't often need to take a vehicle into the town centre, but when I do I am usually able to find somewhere to park. Great that there is no cost for residents. | 9/8/2022 5:52 PM |
| 3 | Popular with locals as long as they continue to receive free access. Very unpopular otherwise. | 9/8/2022 2:35 PM |
| 4 | The timing needs to recognize its usage, eg, 4 hours for shopping and eating, 2 hours for local tourist, 8 hours for cruises | 9/8/2022 1:29 PM |
| 5 | You are making it harder for workers to find a park. Its getting ridiculous how do you expect us to work in the Businesses when there's no parking for us. Worst decision ever from the Council!!! | 9/8/2022 9:27 AM |
| 6 | Would be ok if council were smart with the money ... | 9/3/2022 11:07 AM |
| 7 | No | 9/3/2022 10:08 AM |
| 8 | A great way to push away tourists and decrease your tourism | 9/3/2022 10:07 AM |
| 9 | ABANDON IT BEFORE COUNCIL CHARGES RATEPAYERS AND RESIDENTS. | 9/2/2022 6:59 PM |
| 10 | Parking regulations need to remain area specific, with a mix of free short term spaces in high traffic areas, reasonable free mid-length parking in recreational areas (which allow people free access to public space - but also encourages a reasonable turnover which reflects the popularity of that particular area) - and free longer-term parking for day-trippers and workers within a reasonable distance from popular areas | 9/2/2022 3:30 PM |
| 11 | Yet to see any business case for it with cost benefit analysis from council to justify its implementation let alone expansion. | 9/1/2022 6:19 PM |
| 12 | Paid parking on Laman St will push residential and business parking and traffic on to Church St and Thurlow Ave creating more congestion in these residential areas | 9/1/2022 1:24 PM |
| 13 | ! On another note, is the Council prepared to publish in the Examiner the amount of money received from paid parking in the Nelson Bay area and what it is exactly spent on... surely not anything to give back to the community here that shouldn't be anyway; perhaps a start would be to put in a new bridge and fix up the roads properly. | 9/1/2022 1:07 PM |
| 14 | No | 9/1/2022 11:19 AM |
| 15 | Should be left as it is | 9/1/2022 10:58 AM |
| 16 | While it's fair to expect tourists and day trippers to contribute to the costs of maintenance in the area, it's important decision makers are careful not to get caught up by the tagline Smart Parking in framing the decision. The changes to paid parking were initially rolled out as a staged experiment in Nelson Bay with subsequent stages to be informed by experience and data. While we have all lived through unprecedented times recently, there has to be some data, qualitative and quantitative, that can be used to inform next-step decisions. From reading the fact sheet for this survey, my impression is that the loss of business parking from Donald St may shift some parking to Victoria Pd which may shift tourist parking to other areas. And that's the reason for wanting to expand paid parking now to Fly Point and Laman St (notwithstanding that these areas were part of the visioning 3 years ago - is that the real driver? If we're still in a 'test and learn' phase about the implications of increasing term limited, paid parking along the foreshore due to lack of data, can next steps be taken that are less expensive but still provide data so that learning can take place (eg, does it need to be so tech heavy to get a result)? Also, this survey looks like a pulse check and if change is planned regardless, I hope those directly impacted will have a voice in implementation decisions. | 9/1/2022 8:12 AM |
| 17 | YES get rid of it, this is another Council idea wasting ratepayers money. | 9/1/2022 7:58 AM |
| 18 | I have since moved out postal box from Nelson Bay to Salamander Bay since the | 8/31/2022 11:31 PM |

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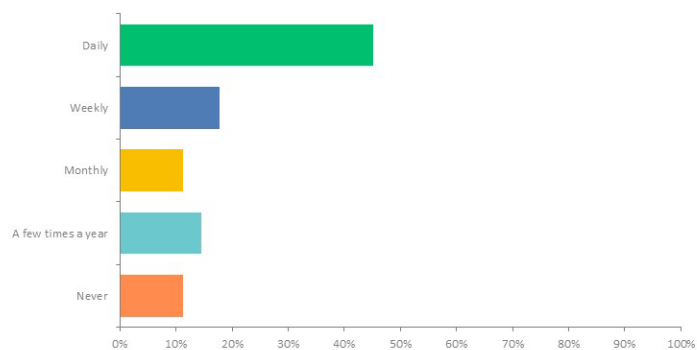
introduction of smart parking and limited parking in Nelson Bay. If council wants people to spend money in Nelson Bay, they will need to make parking more affordable to tourists and ensure the return of the foot bridge. I for one, only visit Nelson Bay for the cinema, whereas I used to shop when I collected post.

| | | |
|----|--|--------------------|
| 19 | Going well. Ignore the party politics and non-business entities like TRRA | 8/31/2022 7:41 PM |
| 20 | They should leave us alone and not become a casino with meters around the whole waterfront areas of the bay. | 8/31/2022 6:02 PM |
| 21 | I don't think you should apply it to Lamen St | 8/31/2022 3:59 PM |
| 22 | Parking should be free for all | 8/31/2022 2:38 PM |
| 23 | Do not remove the benefit to residence of free parking. Replicating the northern Beaches complimentary parking for rate payers. He's a good idea. | 8/31/2022 1:52 PM |
| 24 | Free Resident Parking is essential. | 8/31/2022 1:40 PM |
| 25 | If the council's intention is to accelerate the change from a pleasant small town which people like to visit, to a dreadful high rise holiday centre overlooked by its dreadful yellow crane (now a fixture for more than a decade), the paid parking is inevitable. However, even in that case, I believe that's not yet justified. | 8/31/2022 12:04 PM |
| 26 | Set up a replacement area in Stockton & Tomatee Sts to replace Yackaba & Donald loss. | 8/31/2022 11:56 AM |
| 27 | Nil | 8/31/2022 7:51 AM |
| 28 | No | 8/31/2022 7:49 AM |
| 29 | I consider the indicator sign at Eastern end of Laman st to be absolutely miss leading as to direction, and should be removed or corrected. | 8/30/2022 11:00 AM |
| 30 | we should be able to adjust to off peak season | 8/29/2022 11:35 AM |
| 31 | I maintain all of my concerns previously presented to council in writing and only have further fears and concerns about the viability of our small business if current smart parking proposals are moved forward. | 8/28/2022 11:01 AM |
| 32 | Don't agree | 8/26/2022 3:27 PM |
| 33 | We need to get rid of them | 8/26/2022 2:22 PM |
| 34 | It's great | 8/26/2022 2:03 PM |

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Q10: How often did you use the footbridge on Victoria Parade before it was removed?

Answered: 62 Skipped: 5



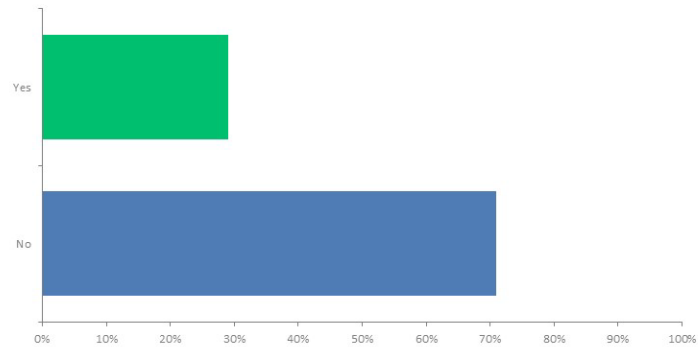
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| ANSWER CHOICES | RESPONSES | |
|--------------------|-----------|----|
| Daily | 45.16% | 28 |
| Weekly | 17.74% | 11 |
| Monthly | 11.29% | 7 |
| A few times a year | 14.52% | 9 |
| Never | 11.29% | 7 |
| TOTAL | | 62 |

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Q11: Do you feel pedestrian access is adequate without the footbridge on Victoria Parade?

Answered: 62 Skipped: 5



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| ANSWER CHOICES | RESPONSES | |
|----------------|-----------|----|
| Yes | 29.03% | 18 |
| No | 70.97% | 44 |
| TOTAL | | 62 |

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Q12 What are the positive impacts for you from not having a footbridge on Victoria Parade?

Answered: 54 Skipped: 13

| # | RESPONSES | DATE |
|----|---|-------------------|
| 1 | It has opened up the area and looks much better, and makes tourist info centre more visible | 9/9/2022 8:11 PM |
| 2 | None as we need easy access from the foreshore to the arcade and Magnus street | 9/9/2022 5:10 PM |
| 3 | None | 9/9/2022 10:22 AM |
| 4 | The footbridge is a dated heavy construction which appeared to be trying to imitate US design of the 70s. Removal of the bridge has cleaned up the airspace and fixed the 'seedy' view of the area. Next ask the Thai restaurant to retile the front of their business and remove all the remaining concrete to open up the tourist office..make it more glass. | 9/9/2022 7:56 AM |
| 5 | Removal of an unsightly structure. Eventual removal of the ramp/support structure on the marina side which would greatly improve the sight lines, enhance public amenity generally and remove the 'dead' space that always seemed to accumulate rubbish and was often used for anti-social behaviour. | 9/8/2022 6:03 PM |
| 6 | Less maintenance. Better appearance of the Street. Reducing litter in the area. | 9/8/2022 2:39 PM |
| 7 | Aesthetically appeal. Less anti-social behavior and rubbish under the northern ramp | 9/8/2022 1:32 PM |
| 8 | None | 9/8/2022 9:29 AM |
| 9 | None | 9/4/2022 1:20 PM |
| 10 | None | 9/4/2022 12:17 PM |
| 11 | None | 9/3/2022 11:08 AM |
| 12 | None | 9/3/2022 10:09 AM |
| 13 | No positive impact | 9/3/2022 10:09 AM |
| 14 | There is no positive impact to removing the footbridge. | 9/3/2022 9:37 AM |
| 15 | Nil | 9/3/2022 9:34 AM |
| 16 | N/A | 9/3/2022 8:19 AM |
| 17 | NONE. It was installed to compensate the shortfall of in-house parking by The Towers with overflow to external parking on Victoria Parade, Laman Street and marina parking. | 9/2/2022 7:07 PM |
| 18 | none | 9/2/2022 5:40 PM |
| 19 | Helps traffic flow | 9/2/2022 10:51 AM |
| 20 | None | 9/2/2022 10:47 AM |
| 21 | None | 9/2/2022 9:16 AM |
| 22 | None | 9/1/2022 7:40 PM |
| 23 | There aren't any | 9/1/2022 7:31 PM |
| 24 | None | 9/1/2022 7:05 PM |
| 25 | None | 9/1/2022 6:22 PM |
| 26 | More aesthetically pleasing | 9/1/2022 1:26 PM |
| 27 | Only visual | 9/1/2022 1:08 PM |
| 28 | None | 9/1/2022 11:29 AM |
| 29 | Nothing | 9/1/2022 10:59 AM |
| 30 | Look and feel of the area is better, more open, welcoming and modern; access from one precinct to the other is still effective. It's been coupled with investment in street appearance | 9/1/2022 8:26 AM |

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| | | |
|----|--|--------------------|
| | on the park side and the business district- please continue, this makes our town more liveable, including street tree retention. | |
| 31 | NIL | 9/1/2022 8:04 AM |
| 32 | Nil | 8/31/2022 8:48 PM |
| 33 | Nothing really | 8/31/2022 7:43 PM |
| 34 | None | 8/31/2022 6:05 PM |
| 35 | None | 8/31/2022 6:01 PM |
| 36 | Great way to get from one side to the other, nice feature too, good for businesses in arcade and town. | 8/31/2022 2:41 PM |
| 37 | Less ugly. | 8/31/2022 1:53 PM |
| 38 | It was an eyesore, tall boats trucks might have had trouble. | 8/31/2022 1:41 PM |
| 39 | A little less visual clutter. | 8/31/2022 12:06 PM |
| 40 | None | 8/31/2022 12:00 PM |
| 41 | None | 8/31/2022 11:59 AM |
| 42 | Not positive | 8/31/2022 7:54 AM |
| 43 | It's very difficult to survive the business | 8/31/2022 7:50 AM |
| 44 | None | 8/30/2022 8:01 PM |
| 45 | aesthetics. people have the traffic light crossing to use. | 8/30/2022 5:48 PM |
| 46 | can't imagine any positive impact of removal. Certainly better to use than holding up traffic at busy times at traffic lights | 8/30/2022 11:07 AM |
| 47 | None | 8/29/2022 1:49 PM |
| 48 | None | 8/29/2022 12:24 PM |
| 49 | nil | 8/29/2022 11:37 AM |
| 50 | I guess it was fairly cumbersome and unattractive, but on the same point, it was kind of an iconic part of the Bay's charm. | 8/28/2022 11:09 AM |
| 51 | None | 8/27/2022 11:12 AM |
| 52 | None | 8/26/2022 3:31 PM |
| 53 | None | 8/26/2022 2:23 PM |
| 54 | Opens up the area the bridge is useless | 8/26/2022 2:04 PM |

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Q13 What are the negative impacts for you from not having a footbridge on Victoria Parade?

Answered: 54 Skipped: 13

| # | RESPONSES | DATE |
|----|--|-------------------|
| 1 | None | 9/9/2022 8:11 PM |
| 2 | Restrictive access to town | 9/9/2022 5:10 PM |
| 3 | Not easily accessible to the park | 9/9/2022 10:22 AM |
| 4 | No negative impacts...only positive. The arcade is also a design of the 70s...close it and design more shop front facing roads. Wheelchair access would not then be an issue. | 9/9/2022 7:56 AM |
| 5 | None, as I didn't use the bridge once the traffic lights and pedestrian crossing were installed a few years ago. | 9/8/2022 6:03 PM |
| 6 | None. | 9/8/2022 2:39 PM |
| 7 | Absolutely none. | 9/8/2022 1:32 PM |
| 8 | It allows more flow of pedestrians to move safely from side to the other plus I bet the businesses up the top of the bridge has a lack of customers now with having to walk ALL the way around.. | 9/8/2022 9:29 AM |
| 9 | It is a high traffic area and I felt safer having the footbridge to cross with children and not having them to close to the road | 9/4/2022 1:20 PM |
| 10 | Have to walk further to and from shopping and eating in the arcade. Means won't visit as often. | 9/4/2022 12:17 PM |
| 11 | Easy access between foreshore, toilets and CBD... | 9/3/2022 11:08 AM |
| 12 | Traffic will only become more of a nightmare | 9/3/2022 10:09 AM |
| 13 | Heavy pedestrian traffic causing traffic congestion which will unfortunately end in pedestrian accidents and driver rage | 9/3/2022 10:09 AM |
| 14 | Disabled persons and children in strollers walking up to TOWN from traffic etc. I believe that the impact to trades in Nelson Towers and Magnas St shop would suffer | 9/3/2022 9:37 AM |
| 15 | Major reduction in foot traffic to Nelson Towers and Magnus St business | 9/3/2022 9:34 AM |
| 16 | Less access to shops | 9/3/2022 8:19 AM |
| 17 | Hurting failing businesses. It was knocked down by a truck with a crane on board back in 1993 or 1994 and a new one was built. | 9/2/2022 7:07 PM |
| 18 | need to cross busy road , not connected | 9/2/2022 5:40 PM |
| 19 | Not east access to shops in Magnus st | 9/2/2022 10:51 AM |
| 20 | Access from arcade not adequate to marina Summer will be horrendous | 9/2/2022 10:47 AM |
| 21 | Bad for local business | 9/2/2022 9:16 AM |
| 22 | It's difficult and unsafe crossing Victoria Parade. | 9/1/2022 7:40 PM |
| 23 | Can't use it | 9/1/2022 7:05 PM |
| 24 | Traffic flow etc from government road and discourages foot traffic from the park without navigating the traffic | 9/1/2022 6:22 PM |
| 25 | None | 9/1/2022 1:26 PM |
| 26 | I often walk down from my unit in Laman and prefer to cross over the bridge to get to that area of shopping and cafes. I believe it is much safer for elderly people rather than crossing at the lights where traffic is held up | 9/1/2022 1:08 PM |
| 27 | I don't think having to walk so much further is appropriate for elderly and disabled people . Also people using the arcade find it hard to across the public amenities across the road . | 9/1/2022 11:29 AM |

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| | | |
|----|--|--------------------|
| | People will try crossing without the lights and have a fatal accident . Please replace the bridge . | |
| 28 | Have to wait for traffic at the lights and enjoy looking at the shops that come thru to the bridge | 9/1/2022 11:21 AM |
| 29 | Business is down as there's no flow of people in the arcade | 9/1/2022 10:59 AM |
| 30 | No negative impacts | 9/1/2022 8:26 AM |
| 31 | The removal of the bridge is having a real impact on the businesses in the Towers arcade and retailers in Magnus Street. | 9/1/2022 8:04 AM |
| 32 | reduction of access. current access is 'adequate' but that's not good enough | 8/31/2022 7:43 PM |
| 33 | It Brings people halfway down Magnus st and the arcade needs the bridge for business. It will become a ghost arcade just like the other two. | 8/31/2022 6:05 PM |
| 34 | My children love walking over the foot bridge. It's easier than walking back through town. No traffic lights, no putting up with the loud mouths from the Hotel on the corner. | 8/31/2022 6:01 PM |
| 35 | Great feature lost, no crossing☹ | 8/31/2022 2:41 PM |
| 36 | None. | 8/31/2022 1:53 PM |
| 37 | None | 8/31/2022 1:41 PM |
| 38 | The occasional inconvenience of having to wait for traffic lights to change. | 8/31/2022 12:06 PM |
| 39 | Access to businesses and less distance to walk | 8/31/2022 12:00 PM |
| 40 | People moving from the park to shops do not slow passing traffic at the pedestrian crossing as much | 8/31/2022 11:59 AM |
| 41 | Business effected. Also the bridge is an iconic feature in if the bay area. | 8/31/2022 7:54 AM |
| 42 | No business | 8/31/2022 7:50 AM |
| 43 | Strong negative impact on Nelson Bay retail | 8/30/2022 8:10 PM |
| 44 | Killing tourism. Killing retail. Killing the cafes. We need more foot traffic, not less. There is a whole apartment/holiday rental block that is now a white elephant | 8/30/2022 8:01 PM |
| 45 | n/a | 8/30/2022 5:48 PM |
| 46 | More and more disruptions to traffic at busy times at traffic lights, some pedestrians tend to ignore lights | 8/30/2022 11:07 AM |
| 47 | Shops losing customers | 8/29/2022 1:49 PM |
| 48 | Pram access Inconvenience | 8/29/2022 12:24 PM |
| 49 | easy access with prams and bikes, also local businesses are affected by removal of access. footbridge also easier than ramps when in wheelchair | 8/29/2022 11:37 AM |
| 50 | It provides direct traffic to the businesses within the towers arcade and a flow on effect of bringing foot traffic down to the middle of Magnus St - which is currently cut off and thus directly impacts our business. Not as drastically as those business in that arcade which must be freaking out about the idea its not going to be replaced - but still impacts us and this area of the CBD in particular. | 8/28/2022 11:09 AM |
| 51 | The footbridge provided a safer and more convenient way of accessing the marina compared to the crossing at the lights. It also provided alot of passing trade for many shops and cafes I visit. | 8/27/2022 11:12 AM |
| 52 | Access need back the poor businesses are Bradley effected | 8/26/2022 3:31 PM |
| 53 | Loss of sale | 8/26/2022 2:23 PM |
| 54 | No negative comment | 8/26/2022 2:04 PM |

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Q14 Do you have any other comments on the removal of the footbridge on Victoria Parade?

Answered: 50 Skipped: 17

| # | RESPONSES | DATE |
|----|--|-------------------|
| 1 | The area underneath is a haven for drug users, unsavoury behaviour and depositing rubbish | 9/9/2022 8:11 PM |
| 2 | Maintain it and put it back | 9/9/2022 5:10 PM |
| 3 | We want our bridge back | 9/9/2022 10:22 AM |
| 4 | Removal of the footbridge has been psychologically liberating. Opening up the area and cleaning the front of the Thai restaurant can only improve the negative area that has been neglected. A 'seedy' area with dated accommodation garage entry, Thai Massage and Nelson Bay Hotel Bottle Shop. Tourist office also needs revamping. More glass taking in all the marine vista. Wheelchair access ramp from the ground level pedestrian crossing, linking to a ramp or lift to the tourist office. If a footbridge at all, maybe consider an 'arty' steel structure...but as a last resort. Don't waste anymore time and money...make a stand and get on with the improvement. | 9/9/2022 7:56 AM |
| 5 | Its removal would provide a fantastic opportunity to further enhance the aesthetics of the whole area around Apex Park. | 9/8/2022 6:03 PM |
| 6 | Good idea. | 9/8/2022 2:39 PM |
| 7 | Get on with it | 9/8/2022 1:32 PM |
| 8 | Why get rid of it.. | 9/8/2022 9:29 AM |
| 9 | This has greatly impacted families in the community and business. I'd hate to see what this crossing will look like come Christmas and new yr time. The impact on people and the traffic flow doesn't bear thinking of. I really hope for everyone that the footbridge is returned. | 9/4/2022 1:20 PM |
| 10 | If you want tourists to access shops and food outlets from the Marina it needs to return. The Arcade is so sad and like a ghost town. Having no banking in the Arcade is terrible! Need to at least have an ATM. Having only one ATM means impossible to withdraw money without going to Salamander which is a 45min round trip from Fingal Bay when Woolies is closed. | 9/4/2022 12:17 PM |
| 11 | Council has the opportunity to do something there that can be used by all.... | 9/3/2022 11:08 AM |
| 12 | Stupidly | 9/3/2022 10:09 AM |
| 13 | PUT IT BACK | 9/3/2022 10:09 AM |
| 14 | This is used a lot by children and tourists | 9/3/2022 9:34 AM |
| 15 | It has been removed due to the fact that it is not in the Public Domain Plan. THIS IS A SHONKY ACTION. | 9/2/2022 7:07 PM |
| 16 | I have often forgotten that the footbridge was there! When using the footbridge it has made crossing Government Road much easier, but has made navigating my way around the southern side (the shops) more difficult! If the footbridge were to be permanently removed, it could present the opportunity to create greater separation between vehicular and pedestrian traffic, but would require adequate planning for that to occur - including a safer pedestrian crossing and improved access for mobility scooters and wheelchairs between the shops and marina areas. | 9/2/2022 3:39 PM |
| 17 | We need the bridge | 9/2/2022 10:51 AM |
| 18 | An eyesore at the moment | 9/2/2022 10:47 AM |
| 19 | The Victoria Parade footbridge MUST be reinstalled. | 9/1/2022 7:40 PM |
| 20 | It needs to be there. | 9/1/2022 7:05 PM |
| 21 | Poor communication from council about status since removal or alternatives | 9/1/2022 6:22 PM |
| 22 | Businesses in the mall will suffer from the loss in foot traffic | 9/1/2022 1:26 PM |

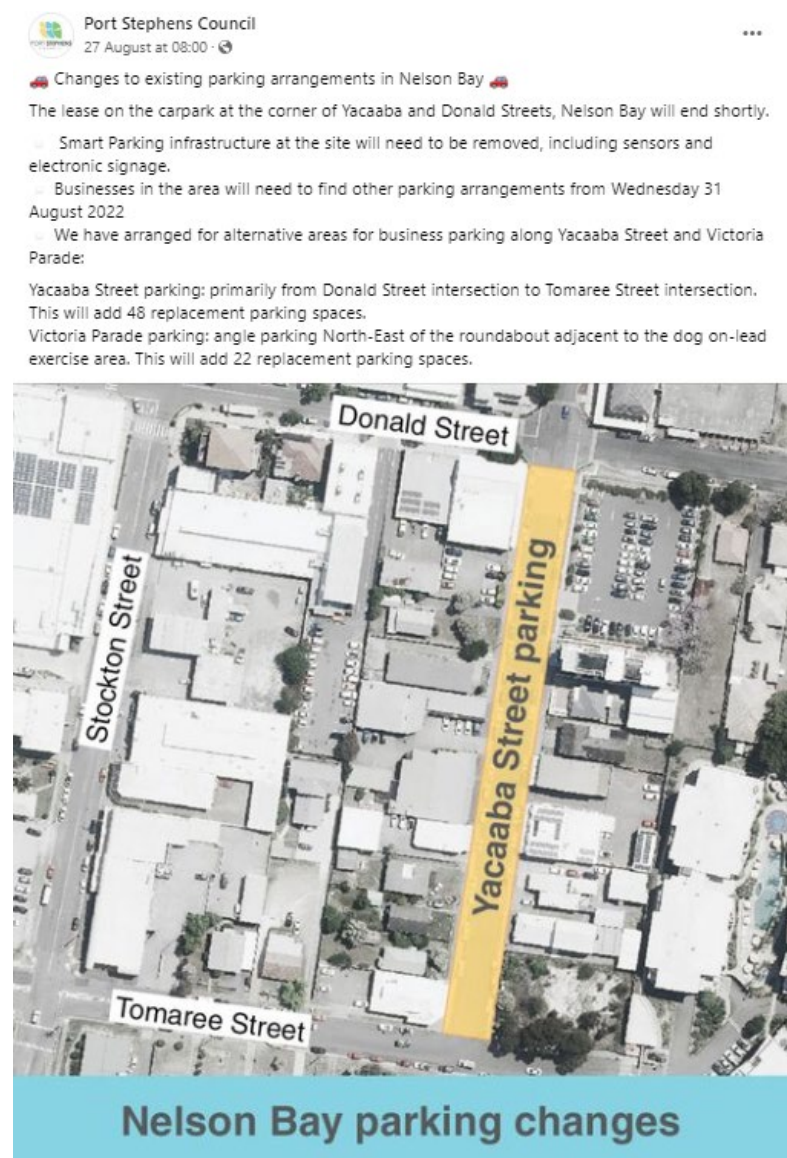
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| | | |
|----|---|--------------------|
| 23 | Bring it back; seems the Council can spend money on less important things and not what counts to residents;important things than wa local residents want | 9/1/2022 1:08 PM |
| 24 | It's a very bad idea to remove it . | 9/1/2022 11:29 AM |
| 25 | Replace it asap as it's needed | 9/1/2022 11:21 AM |
| 26 | It has impacted the whole business community of Nelsonbay | 9/1/2022 10:59 AM |
| 27 | There are natural ongoing improvements that could be made including to the Tourist Info Centre and amenities block. What can be done to help the second floor businesses in the opposite mini-mall who won't have through traffic from the footbridge - for both sides of the street, a possible topic for a design competition? | 9/1/2022 8:26 AM |
| 28 | The removal of the bridge is another setback for the town.It must be replaced. | 9/1/2022 8:04 AM |
| 29 | Promises by council that it will be returned underlies councils is not trustworthy | 8/31/2022 8:48 PM |
| 30 | Don't make it another political football for the Labor Party to carry on about - just get it fixed or replaced | 8/31/2022 7:43 PM |
| 31 | It should be put back as promised before it's removal. | 8/31/2022 6:05 PM |
| 32 | Please put it back | 8/31/2022 6:01 PM |
| 33 | I want it back | 8/31/2022 2:41 PM |
| 34 | The lights have gone in since the footbridge was installed, so the footbridge is no longer required. | 8/31/2022 1:53 PM |
| 35 | Do not replace | 8/31/2022 1:41 PM |
| 36 | Go for it! | 8/31/2022 12:06 PM |
| 37 | Keep it there. It helps with people moving in & around Nelson Bay | 8/31/2022 11:59 AM |
| 38 | It was user friendly, children enjoyed the walk and do does tourism | 8/31/2022 7:54 AM |
| 39 | It's very difficult for the business to survive | 8/31/2022 7:50 AM |
| 40 | Make it safe. Bring it back. Not having it is lunacy. | 8/30/2022 8:01 PM |
| 41 | i think it will look ugly | 8/30/2022 5:48 PM |
| 42 | obviously removal of bridge must have large affect on arcade business. | 8/30/2022 11:07 AM |
| 43 | Shouldn't happen | 8/29/2022 1:49 PM |
| 44 | Do not remove | 8/29/2022 12:24 PM |
| 45 | yes it should be returned as it makes flow of tourists thru both sides of the bay | 8/29/2022 11:37 AM |
| 46 | I'm feeling deceived by Council right now. Right now the line is that it was always part of the plan as per the Public Domain plan to remove the foot bridge. However, it was made very clear by Council at the time of the foot bridge removal that it was only being taken down for repairs and that the town's 'beloved bridge' was simply undergoing remedial works and would be replaced. PSC specifically stated this on their Facebook page on 26 April this year. It is absolutely infuriating to feel lied to. | 8/28/2022 11:09 AM |
| 47 | The removal of the footbridge will have a negative impact on businesses and also provide a less pedestrian friendly environment | 8/27/2022 11:12 AM |
| 48 | For the the elderly mums with kids and strollers access to the toilets sorry for all business that side | 8/26/2022 3:31 PM |
| 49 | Bring it back | 8/26/2022 2:23 PM |
| 50 | Children throw things at cars from this bridge | 8/26/2022 2:04 PM |

ITEM 4 - ATTACHMENT 1 NELSON BAY COMMUNITY ENGAGEMENT
REPORT SMART PARKING - SEPTEMBER 2022.

APPENDIX C

Facebook post and performance



ITEM 4 - ATTACHMENT 1 NELSON BAY COMMUNITY ENGAGEMENT
REPORT SMART PARKING - SEPTEMBER 2022.

| Performance for your post | Performance for your post |
|--|-----------------------------------|
| 10175 People reached | 10,175 People Reached |
| 83 Likes, comments and shares | 83 Reactions, comments & shares ⓘ |
| 928 Post clicks | |
| 128 Photo views | 26 Like |
| 0 Link clicks | 18 On post |
| 800 Other Clicks | 8 On shares |
| Distribution summary | 1 Haha |
| +1.5x higher than your other posts within 21+ days of being published. | 1 On post |
| ↑1.5x more Post impressions | 0 On shares |
| ↑1.2x more Post clicks | 5 Wow |
| ↓1.8x less Reactions | 3 On post |
| View More Details | 2 On shares |
| NEGATIVE FEEDBACK | 1 Sad |
| 0 Hide all posts | 0 On post |
| 0 Hide post | 1 On shares |
| 0 Report as spam | 3 Angry |
| 0 Unlike Page | 3 On post |
| 83 Likes, comments and shares | 0 On shares |
| BRANDED CONTENT DISTRIBUTION | 31 Comments |
| 10175 Total reach | 21 On Post |
| 10175 Organic reach | 10 On Shares |
| 0 Paid reach | 16 Shares |
| 11190 Total impressions | 16 On Post |
| 11190 Organic impressions | 0 On Shares |
| 0 Paid impressions | 928 Post Clicks |
| | 128 Photo views |
| | 0 Link clicks |
| | 800 Other Clicks ⓘ |

**ITEM 4 - ATTACHMENT 1 NELSON BAY COMMUNITY ENGAGEMENT
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PORT STEPHENS
COUNCIL

council@portstephens.nsw.gov.au | 02 4988 0255 | [PORTSTEPHENS.NSW.GOV.AU](https://www.portstephens.nsw.gov.au)    