

NOTICE OF ORDINARY MEETING

14 NOVEMBER 2023



The Mayor and Councillors attendance is respectfully requested:

Mayor: R Palmer (Chair).

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

SCHEDULE OF MEETINGS

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

Please Note:

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

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

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

Food and beverages are not permitted in the Council Chamber.

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BUSINESS

1) Opening meeting.

2) Acknowledgement of Country

We acknowledge the Worimi people as the original Custodians and inhabitants of Port Stephens. We acknowledge and pay respects to Worimi elders past and present. May we walk the road to tomorrow with mutual respect and admiration as we care for the beautiful land and waterways together.

3) Prayer

We recognise the rich cultural and religious diversity in Port Stephens and pay respect to the beliefs of all members of our community, regardless of creed or faith.

4) Apologies and applications for a leave of absence by Councillors.

5) Disclosures of interests.

6) Confirmation of minutes Ordinary Meeting of 24 October 2023.

7) Mayoral minute(s) – if submitted.

8) Motions to close meeting to the public – if submitted.

9) Reports to Council.

10) General Manager's reports – if submitted.

11) Questions with Notice – if submitted.

12) Questions on Notice.

13) Notices of motions – if submitted.

14) Rescission motions – if submitted.

15) Confidential matters – if submitted.

16) Conclusion of the meeting.

Statement of Ethical Obligations

The Mayor and Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the commencement of this Council term to undertake their civic duties in the best interests of the people of Port Stephens and Port Stephens Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act 1993 or any other Act, to the best of their skill and judgement.

The Mayor and Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Meeting Practice and Code of Conduct.

PRINCIPLES FOR LOCAL GOVERNMENT

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

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

Guiding principles for Council

1) Exercise of functions generally

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

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

2) Decision-making

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

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

3) Community participation

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

Principles of sound financial management

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

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

Integrated planning and reporting principles that apply to Council

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

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

PORT STEPHENS COMMUNITY STRATEGIC PLAN

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

The Community Strategic Plan is organised into 4 focus areas:

OUR COMMUNITY – An accessible and welcoming community respecting diversity, heritage and culture.

OUR PLACE – A liveable and connected place supporting community wellbeing and local economic growth.

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

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

BUSINESS EXCELLENCE

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

These outcomes align with the following Business Excellence principles:

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

MEETING PROCEDURES SUMMARY

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

Quorum – A quorum at Port Stephens Council is 6.

Declarations of Interest

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

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

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

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

Motions and Amendments

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

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

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

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

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

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

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

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

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

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

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

A Point of Order can be raised where:

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

Declarations of Conflict of Interest – Definitions

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

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

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

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



Form of Special Disclosure of Pecuniary Interest

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

Important information

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

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

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

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

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

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

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

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

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

to be held on the _____ day of _____ 20__

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

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

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

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

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

Mayor/Councillor's signature _____

Date _____

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



Declaration of Interest form

Agenda item No. _____

Report title _____

Mayor/Councillor _____ declared a

Tick the relevant response:

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

in this item. The nature of the interest is _____

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

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

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

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

Mayor/Councillor left the Council meeting at _____ pm.

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

COUNCIL REPORTS

ITEM NO. 1

**FILE NO: 23/154449
EDRMS NO: 16-2022-544-1**

DEVELOPMENT APPLICATION 16-2022-544-1 FOR A CARAVAN PARK AT 4473 NELSON BAY ROAD, ANNA BAY

REPORT OF: EVERT GROBBELAAR - DEVELOPMENT AND COMPLIANCE
SECTION MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves Development Application DA No. 16-2022-544-1 for a Caravan Park (Residential Lifestyle Community) comprising 171 long term sites, 2 short term sites, community building and associated infrastructure at 4473 Nelson Bay Road, Anna Bay and 70A Latitude Drive, Anna Bay (LOT: 25 DP: 852410 and LOT: 4 DP: 398888) subject to the conditions contained in **(ATTACHMENT 1)**.

BACKGROUND

The purpose of this report is to present a Development Application (DA) 16-2022-544-1 for a Caravan Park (Residential Lifestyle Community) comprising 171 long term sites, 2 short term sites, and community building and associated infrastructure to Council for determination.

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

Subject Land:	4473 Nelson Bay Road, Anna Bay (LOT: 25 DP: 852410) 70A Latitude Drive, Anna Bay (LOT: 4 DP: 398888)
Total Area:	13.14ha
Zoning:	RU2 Rural Landscape / C2 Environmental Conservation
Submissions:	47 including 1 petition with 10 signatures
Key Issues:	The key issues identified throughout the assessment of the development relate to ecology, stormwater and traffic.

The DA has been reported in accordance with Council's Planning Matters to be Reported to Council Policy as it has been called up by Councillors Leah Anderson and Jason Wells **(ATTACHMENT 2)**.

A locality plan is provided at **(ATTACHMENT 3)**.

Proposal

The proposed development seeks consent for the construction of a caravan park for the purposes of a residential lifestyle community. The development proposes the following:

- Site preparation works including regrading and vegetation clearing
- Construction of 171 long term sites and 2 short term sites
- Construction of a community building
- Construction of a maintenance and storage shed
- Associated infrastructure and site preparation works including earthwork, site servicing, landscaping and fencing
- Construction of a new vehicular access point from the sites northern boundary via Latitude Drive
- Improvements to the existing site access from Nelson Bay Road. This access road is proposed to be used for maintenance vehicles and emergency egress
- Establishment of a biodiversity corridor.

The site is located directly to the east of the existing Latitude One lifestyle village (same operator) and seeks to expand to create a larger village. The proposed development includes some works on the adjoining village site (70A Latitude Drive, Anna Bay), although these works are limited to stormwater drainage works to support the proposed development.

The proposed development is to be constructed over 4 stages, as outlined in the Planner's Assessment Report provided at **(ATTACHMENT 4)**.

Site Description

The subject site is identified as Lot 2 DP 852410 and generally known as 4473 Nelson Bay Road, Anna Bay. The site has 2 road frontages, 1 to Nelson Bay Road to the east and 1 to Latitude Drive to the north. The site has an area of approximately 13.14ha and contains sparse vegetation predominately along its southern boundary. An access and driveway exists on the site from the Nelson Bay Road frontage. The western portion of the site is currently being utilised for caravan park storage. The site was historically used for sand mining activities and other rural type land uses.

The site is located to the east of the existing lifestyle village known as Latitude One. The proposed development includes works on the adjoining site (70A Latitude Drive, Anna Bay), although these works are limited to stormwater drainage works to support the proposed development.

Other surrounding land uses are of a rural and rural residential nature. The site is approximately 2.5km from the Anna Bay Town Centre.

Site History

The subject site was historically sand mined or used for sand mining associated activities from the mid-1970s to the early 1980s. Since this time the site has largely been utilised for rural residential purposes. A caravan storage area currently exists in the eastern portion of the site. This is associated with the existing Latitude One development to the east. The site supports a number of historical development applications on file which includes drainage works, earthworks fencing and business identification signage.

The site was subject to a recent Planning Proposal (58-2018-25-1) to allow for an additional permitted use on the site, being for the purpose of a 'caravan park'. The Planning Proposal was gazetted in May 2022 and the subject DA seeks to develop the site in accordance with the additional permitted use.

Key Issues

The key issues identified throughout the assessment of the proposed development relate to ecology, stormwater and traffic impacts. A detailed assessment of these matters is contained within the Planner's Assessment Report (**ATTACHMENT 4**).

Ecology

The proposed development involves the removal of 6.73ha of exotic vegetation and 0.30ha of native vegetation. The site is mapped as containing biodiversity value (BV) mapped vegetation. Notwithstanding, no vegetation removal is proposed within the BV mapped areas and therefore entry into the Biodiversity Offset Scheme (BOS) is not triggered.

A Biodiversity Assessment Report (BAR) was prepared in support of the development application. The BAR identified that no threatened fauna species listed under the BC Act 2016 and EPBC Act 1999 were recorded within the development footprint or impact area. Recent koala feed trees and scats were detected at multiple trees within the vegetation to the south of the development area. The vegetation in this area is proposed to be retained, this is discussed in detail within the Planners Assessment Report (**ATTACHMENT 4**). A Wallum Froglet was also recorded in the adjacent properties to the north and south of the subject site.

The BAR concluded that the proposal was unlikely to have a significant impact on the threatened entities assessed. The BAR findings and recommendations were supported by Council's Natural Systems Officer.

As noted above, the proposed development seeks to retain high value vegetation located in the southern and eastern portions of the site. This vegetation is intended to be managed and rehabilitated to act as a Koala Corridor under a Vegetation Management Plan (VMP) that is required to be approved by Council prior to works commencing. The vegetation to be retained includes:

- 1.13ha of Exotic Vegetation
- 1.74ha of Native Vegetation.

This conservation area includes the area where koala scats were detected. In addition to the VMP for the rehabilitation of the koala corridor, koala friendly fencing has also been incorporated into the landscape design. Exclusionary fencing is proposed to address concerns for koala movement and interactions with the operations of the proposed development. The exclusionary fencing will deter koalas from entering the area of the site where the dwelling sites and the community facilities are proposed. The exclusionary fencing is proposed to be located along the perimeter of the development area. A koala grid is also proposed to be provided along the access driveway that connects to Nelson Bay Road to deter koalas from moving toward the road. Koala friendly fencing is proposed to be provided along the sites northern boundary to align with the C2 zoned portion of the site. The fencing has been designed to deter koalas from moving toward Nelson Bay Road and conversely encourage koala movement toward vegetated areas in the north.

A condition has been included in the recommended conditions requiring the preparation of a Vegetation Management Plan (VMP). The condition requires that the VMP be submitted to and endorsed by Council prior to the commencement of works.

Overall, the proposed development has given adequate consideration to the avoidance, protection and conservation of areas of environmental significance on the site. The preservation and rehabilitation of high value koala and ecological areas accords with objectives and requirements of the Comprehensive Koala Plan of Management (CKPoM) and Biodiversity Conservation Act 2016.

Stormwater

The development seeks to significantly increase impervious areas on the site and therefore a stormwater management plan was submitted with the proposal to demonstrate water run-off will be managed and treated in accordance with Councils infrastructure specifications and B4 of the PSDCP. The stormwater design includes a conventional piped drainage network throughout the internal road systems which are conveyed to an infiltration basin in the south of the site which intended to treat and detain runoff from minor rainfall events and attenuate runoff from less frequent major events up to and including the 1% AEP. The proposed design was assessed and supported by Council's Development Engineer.

Traffic and Access

The development proposes the main access to the site from Latitude Drive rather than Nelson Bay Road. There is a secondary access road from Nelson Bay Road, which is existing and will only be used to access the proposed storage and maintenance sheds for workers. No residents will utilise this access point and will be utilised during emergencies as required.

A Traffic Impact Assessment (TIA) was prepared for the proposed development. The TIA provided an assessment of the likely traffic impacts of the proposal on the adjacent road network. It was identified that the proposal is likely to generate an additional 40 AM and 45 PM vehicle trips per hour during peak. The TIA found that the existing road network surrounding the site is currently operating below capacity and therefore has spare capacity to cater for additional traffic resulting from the proposed development.

SIDRA modelling was also undertaken to determine whether the proposal would impact the intersection between Nelson Bay Road and Latitude Drive. It was concluded that this intersection also has sufficient spare capacity to cater for the development without requiring upgrades. It was however identified that the sight lines are currently compromised by vegetation and therefore a condition has been recommended requiring that a minimum sight distance of 226m is maintained in perpetuity.

In addition to the above, the application was also referred to TfNSW, with no concern raised with respect to the proposed development. TfNSW provided matters for Council to consider in the assessment regarding potential acoustic impacts from nearby road noise, consideration for construction traffic management and the internal road network, as well as stormwater discharge to Nelson Bay Road. These matters have been addressed in further detail within the Planner's Assessment Report **(ATTACHMENT 4)**.

Overall, the proposed development was considered appropriate from a traffic and access perspective and was supported by Council's Traffic Engineer and TfNSW.

Conclusion

As detailed in the Planner's Assessment Report **(ATTACHMENT 4)**, the application is considered to be consistent with the aims and objectives of the relevant environmental planning instruments and Council policies applicable to the subject site. There will be no adverse impact to the natural or built environment.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and Safe Place to Live	Support sustainable business development in Port Stephens

FINANCIAL/RESOURCE IMPLICATIONS

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

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Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (S7.11)	Yes		Should Council determine to approve the DA, s.7.11 development contributions would be applicable. The applicable S7.11 development contributions are \$3,440,000.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act), State Environmental Planning Policy (Housing) 2021, the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2021, Port Stephens Local Environmental Plan 2013 (PSLEP) and the Port Stephens Development Control Plan 2014 (DCP 2014).

A detailed assessment against these environmental planning instruments is contained within the assessment report contained at **(ATTACHMENT 4)**.

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposal will provide for additional accommodation in the locality to service the needs of the community, and satisfy the housing demand of the ageing population. 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. The proposal will contribute to in-fill housing supply, which is in-line with Council's predicted housing supply target.

Impacts on the Built Environment

The proposed development is compatible with the existing built environment and surrounding character. The development is located surrounding another lifestyle caravan park type village and of a similar design and scale. The built form is setback significantly from the Nelson Bay Road frontage and screened by landscaping and vegetation plantings and will therefore not impact upon the existing character along this frontage. The development is therefore considered suitable for the built environment.

Impacts on the Natural Environment

The proposed development has given adequate consideration to the avoidance, protection and conservation of areas of environmental significance on the site. The preservation and rehabilitation of high value koala and ecological areas will provide a positive impact to the existing natural environment contained on the site that has been previously cleared and historically impacted by sand mining activities. The proposal seeks to retain important vegetation on the site whilst also rehabilitating and managing it to form a koala corridor to be managed under a Vegetation Management Plan (VMP). Accordingly, the proposed development is considered that the proposal will have a positive contribution to the natural environment.

CONSULTATION

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

Internal

Consultation was undertaken with Council's Development Engineering, Natural Systems, Development Contributions, Waste Management, Environmental Health, Heritage and Building Surveying teams. The referral comments from these officers have been considered as part of the Planner's Assessment Report (**ATTACHMENT**

4). The internal referral officers supported the DA, subject to the recommended conditions of consent (**ATTACHMENT 1**).

External

Consultation was undertaken with the NSW Rural Fire Service (RFS), Transport for NSW (TfNSW), Heritage NSW, Ausgrid and the Department of Planning and Environment - Water. The application was supported by all external referral agencies with General Terms of Approval being issued by the NSW RFS, Heritage NSW and DPE – Water. The comments provided by the external agencies are discussed within the Planners Assessment Report (**ATTACHMENT 4**).

Public exhibition

The DA was advertised and notified in accordance with the requirements of the Port Stephens Council Community Engagement Strategy. The application was exhibited for a period of 28 days from 11 October 2022 to 7 November 2022. On receipt of amended plans, the application was re-notified for a period of 14 days from 5 April 2023 to 19 April 2023.

During the initial notification period, 40 submissions including 1 petition with 10 signatures was received objecting to the proposal. During the second notification period, 7 submissions objecting to the development were received. The key issues raised from the public exhibition are outlined in the Planners Assessment Report (**ATTACHMENT 4**).

OPTIONS

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

ATTACHMENTS

- 1) Recommended Conditions of Consent. [↓](#)
- 2) Call to Council form. [↓](#)
- 3) Locality Plan. [↓](#)
- 4) Planner's Assessment Report. (Provided under separate cover) [⇒](#)

COUNCILLORS ROOM

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

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

TABLED DOCUMENTS

Nil.

RECOMMENDED CONDITIONS OF CONSENT

1.0 - General Conditions of Consent

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

- (1) **General terms of approval** – The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development.

The General Terms of Approval are:

1. NSW Rural Fire Service, Reference: DA20220930010947-Original-1, dated 23 January 2023.
2. Heritage NSW, Reference: DOC22/883995-20, dated 11 May 2023.
3. Department of Planning and Environment – Water, Reference: IDAS-2022-10627, dated 22 March 2023.

A copy of the General Terms of Approval is attached to this determination notice.

- (2) **External agency approvals** – The requirements from the following agencies must be complied with prior to, during, and at the completion of the development.

The Requirements are:

1. Transport for New South Wales, reference: NTH22/00660/02, dated 10 October 2022
2. Ausgrid, reference: 1900117378, dated 22 October 2022.

A copy of the Requirements is attached to this determination notice.

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

Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
CSK10.01	9	Masterplan	Northrop Consulting Engineers Pty Ltd	30.06.2023
DA-C02.51	1	Staging Plan	Northrop Consulting Engineers Pty Ltd	31.08.2023
DA02	C	Location Plan	NBRS Architecture	01.07.2022
DA04	C	Ground Floor Plan - Overall	NBRS Architecture	01.07.2022
DA05-DA06	B	Ground Floor Plan – Building A and B	NBRS Architecture	06.05.2022
DA07-DA08	C	Roof plan and Elevation	NBRS Architecture	01.07.2022
DA10	B	External Material Selections	NBRS Architecture	06.05.2022

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

N/A	B	Proposed Shed (maintenance and storage)	Ingenia Lifestyle	7.11.2018
DA-C03.01	6	Erosion and sediment control plan	Northrop Consulting Engineers Pty Ltd	30.06.2023
DA-C03.11	3	Erosion and Sediment Control Details and Notes	Northrop Consulting Engineers Pty Ltd	16.03.2023
DA-C04.01	7	Concept Bulk Earthworks Cut and Fill Plan	Northrop Consulting Engineers Pty Ltd	16.03.2023
DAC04.02	5	Bulk Earthworks Site Sections – Sheet 1	Northrop Consulting Engineers Pty Ltd	16.03.2023
DAC04.03	4	Proposed Caravan Park	Northrop Consulting Engineers Pty Ltd	16.03.2023
DA-C05.01	8	Concept Stormwater Management and Levels Plan	Northrop Consulting Engineers Pty Ltd	30.06.2023
DA-C06.01	7	Stormwater Extension Inset and Detail	Northrop Consulting Engineers Pty Ltd	29.08.2023
DA-C06.02	2	Stormwater Extension Long section and Capacity Calculation	Northrop Consulting Engineers Pty Ltd	04.08.2023
DA-C06.02	1	Stormwater Extension Cross Sections	Northrop Consulting Engineers Pty Ltd	04.08.2023
DA-C07.01 – DA-C07.02	5	Road Longitudinal Sections – Sheet 1 and 2	Northrop Consulting Engineers Pty Ltd	30.06.2023
DA-C07.03 - DA-C07.03	3	Road Longitudinal Sections – Sheet 3 and 4	Northrop Consulting Engineers Pty Ltd	16.03.2023
DA-C08.01	7	Civil Details – Sheet 1	Northrop Consulting Engineers Pty Ltd	29.08.2023
DA-C08.02	1	Civil Details – Sheet 2	Northrop Consulting Engineers Pty Ltd	29.08.2023
N/A	3	Proposed Vegetation Management Plan Area	MJD Environmental	20.02.2023
L.DA.101	H	Landscape Plan 01 – Estate	NBRS Architecture	26.06.2023

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ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

		Works		
L.DA.102	I	Landscape Plan 01 – Estate Works	NBRS Architecture	26.06.2023
L.DA.102a	C	Entry Gate – Elevation	NBRS Architecture	26.06.2023
L.DA.103	E	Typical Lot Landscape Plan	NBRS Architecture	26.06.2023
L.DA.104	G	Detailed Landscape Plan – Club House	NBRS Architecture	26.06.2023
L.DA.105 – L.DA. 109	E	Detailed Landscape Plan, Planting Palette and Schedule, General Notes	NBRS Architecture	26.06.2023
L.DA.110	F	VMP Strategy	NBRS Architecture	26.06.2023

Document title	Version No.	Prepared by	Dated.
Preliminary Engineering Design Report	E	Northrop Consulting Engineers Pty Ltd	29 August 2023
DA-C02.51 Staging Plan	1	Northrop Consulting Engineers Pty Ltd	31.08.2023
Flood Risk Assessment Report	A	Northrop Consulting Engineers Pty Ltd	3 March 2023
Bushfire Assessment Report	V3	MJD Environmental	June 2022

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

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

- (4) **Plan amendments** - The following amendment to the approved plans and supporting documentation are required to be undertaken prior to the commencement of any works:
- Basin design is to comply with the latest version of Council's detention basin risk mitigation assessment guideline.
 - All habitable floor levels should be constructed above Flood Planning Level.
 - Internal pedestrian connections are to be designed to connect the proposed development to existing development consistent with the approved plans.

- d) No structures are to be located within the proposed easement for drainage of water burdening lot 4, DP398888 that impede the flow of water. All structures currently located within the drainage easement, which conflict with the maintenance or operation of the easement, are to be relocated.
 - e) The swale within the 10m wide easement is to be constructed of part rock and part grass to ensure free movement of koala is not impeded.
 - f) Operational and maintenance plan is to be provided for all stormwater components, including locations adjacent to boardwalk whereby removable panels are proposed.
 - g) Any battering proposed must not extend into the revegetation area or 'no go zone' as identified on the Civil Plans prepared by Northrop Consulting unless it has been designed to ensure the approved Koala exclusionary fencing is not compromised.
- (5) **Tree removal/pruning** – Only the trees/vegetation identified as follows are approved for removal:
- a) Within the 'Development Footprint' identified on the Figure titled 'Proposed Vegetation Management Plan Area' of the 'Re: Ecology RFI Response - 4473 Nelson Bay Road, Anna Bay (DA 16-2022-544-1) (Ref: 20092 Ecology RFI Response 4473 Nelson Bay Road, Anna Bay 1-3-2023)', prepared by MJD Environmental, dated 1 March 2023.
 - b) Any trees identified for removal within the Vegetation Management Plan, as approved by Council.
- (6) **Protect existing vegetation and natural landscape features** - All native trees / vegetation within the 'Proposed VMP Area' identified on the Figure titled 'Proposed Vegetation management Plan Area' of the 'Re: Ecology RFI Response - 4473 Nelson Bay Road, Anna Bay (Da 16-2022-544-1) (Ref: 20092 Ecology RFI Response 4473 Nelson Bay Road, Anna Bay 1-3-2023)', prepared by MJD Environmental, dated 1 March 2023, must be retained.
- (7) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (8) **Sign on building** – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.
- The sign must be maintained while the work is being carried out and is to be removed when the work is completed.
- (9) **Footpath construction** – A footpath plan is to be submitted to Council for approval providing a pedestrian footpath from the eastern boundary of Lot 1 DP 1225542 along Latitude Drive to the intersection with Nelson Bay Road in accordance with

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Council specifications prior to use or occupation of the development. Any works within the road reserve are to be approved under section 138 of the roads act.

- (10) **Swimming pools and spas** - The swimming pool/spa must comply with:
- the Swimming Pools Act 1992;
 - the Swimming Pools Regulation 2018;
 - AS 1926.1 'Swimming Pool Safety' Part 1: Safety barriers for swimming pools;
 - AS 3500.2 'Plumbing and Drainage' – Sanitary plumbing and drainage';
 - AS1926.3 'Water Recirculation Systems'; and
 - the Building Code of Australia.
- (11) **Approval of manufactured home under LG Act** – An approval under Section 68 of the Local Government Act 1993 is to be obtained from Council prior to the occupation of each relevant stage.
- (12) **Approval of OSMS under LG Act** - An approval under Section 68 of the Local Government Act 1993 is to be obtained from Council for the installation of an on-site sewage management system (OSMS) prior to the issue of a Construction Certificate.
- (13) **Approved Report Recommendations (Ecology)** - Construction of the development must comply with the recommendations of the 'Re: Ecology RFI Response - 4473 Nelson Bay Road, Anna Bay (Da 16-2022-544-1) (Ref: 20092 Ecology RFI Response 4473 Nelson Bay Road, Anna Bay 1-3-2023)', prepared by MJD Environmental, dated 1 March 2023, as follows:
- Measures listed under item 6 of under sub-headings:
 - Pre-clearance Survey
 - Fauna Handling
 - Pathogen Management
 - General Vehicle and Machinery Clean-down Procedure
 - General Hygiene
 - Fungal Spores/ Plant Disease Hygiene – Phytophthora dieback (*Phytophthora cinnamomi*) & Myrtle Rust (*Puccinia psidii*)
- And
- The recommendations of the 'Biodiversity Assessment, Latitude One Extension - Lot 25 DP852410, Anna Bay', prepared by MJD Environmental, dated August 2021 as follows:
- Measures listed under 'Section 6 – Recommendations' under sub-headings:
 - General Mitigation Measures for the Construction Phase
 - Erosion and Sedimentation Control
 - Vegetation Management Area/Koala Corridor Augmentation
- (14) **Vegetation Management Plan** - A Vegetation Management Plan (VMP) must be developed for the areas identified as 'Proposed VMP Area' on the approved plans, and submitted to Council for approval prior to any clearing works occurring on site.

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The VMP must be prepared and commenced by a qualified Environmental Consultant.

The plan should include clear management objectives, a schedule of works and maps. The Vegetation Management Plan is to be prepared and implemented prior to the commencement of works on the site.

- (15) **Koala Friendly fencing** - Fencing must not restrict the potential for safe movement of koalas across the site. Fencing must be installed in accordance with Plan No. L.DA.110, Revision F dated 26.06.2023 prepared by NBR Architecture.
- (16) **Outdoor lighting** - All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.
- (17) **Staging of construction works** – The development is to be completed in Stages in accordance with the approved Staging Plan (Plan No. DA-C02.51, Revision 1, prepared by Northrop Consulting Engineers Pty Ltd, dated 31.08.2023).
One Construction Certificate may be issued for all stages, or a single Construction Certificate may be issued.

2.0 – Prior to Issue of a Construction Certificate

The following conditions of consent shall be complied with prior to the issue of a Construction Certificate for each stage (where required).

- (1) **Civil engineering plans** – Civil engineering plans (as relevant to each stage) prepared by a qualified Engineer, indicating drainage, roads, access ways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans.
Details demonstrating compliance must be provided to the Certifying Authority.
Note. Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.
- (2) **Stormwater/drainage plans** – Detailed stormwater drainage plans (as relevant to each stage) must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).
Details demonstrating compliance must be provided to the Certifying Authority.
Note. Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.
- (3) **Erosion and sediment control plan** – Before the issue of a construction certificate the applicant is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:

- Council's development control plan,
- the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the BlueBook), 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 applicant must ensure the erosion and sediment control plan is kept on-site at all times during site works and construction.

3.0 - Prior to Commencement of Works

The following conditions of consent shall be complied with prior to any works commencing on the development site, for each relevant stage.

- (1) **Section 7.11 Development contributions** – A monetary contribution is to be paid to Council for the provision of 172 additional sites pursuant to Section 7.11 of the *Environmental Planning & Assessment Act 1979* and the Port Stephens Local Infrastructure Contributions Plan 2020 towards the provision of the following public facilities:

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$655	\$112,660
Civic Administration – Works Depot	\$1,266	\$217,752
Town Centre Upgrades	\$3,412	\$586,864
Public Open Space, Parks and Reserves	\$2,085	\$358,620
Sports & Leisure Facilities	\$1,961	\$337,292
Cultural & Community Facilities	\$1,332	\$229,104
Road Works	\$3,570	\$614,040
Shared Paths	\$3,286	\$565,192
Bus Facilities	\$9	\$1,548
Fire & Emergency Services	\$245	\$42,140
Flood & Drainage	\$1,877	\$322,844
Kings Hill Urban Release Area	\$302	\$51,944
TOTAL	\$20,000	\$3,440,000

Stage 1 - 47 additional sites (including a one site credit)

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$655	\$30,785
Civic Administration – Works Depot	\$1,266	\$59,502
Town Centre Upgrades	\$3,412	\$160,364
Public Open Space, Parks and Reserves	\$2,085	\$97,995
Sports & Leisure Facilities	\$1,961	\$92,167
Cultural & Community Facilities	\$1,332	\$62,604
Road Works	\$3,570	\$167,790
Shared Paths	\$3,286	\$154,442
Bus Facilities	\$9	\$423
Fire & Emergency Services	\$245	\$11,515
Flood & Drainage	\$1,877	\$88,219
Kings Hill Urban Release Area	\$302	\$14,194

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ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

TOTAL	\$20,000	\$940,000
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Stage 2 – There is no requirement to pay local infrastructure contributions within this stage

Stage 3 – 56 additional sites

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$655	\$36,680
Civic Administration – Works Depot	\$1,266	\$70,896
Town Centre Upgrades	\$3,412	\$191,072
Public Open Space, Parks and Reserves	\$2,085	\$116,760
Sports & Leisure Facilities	\$1,961	\$109,816
Cultural & Community Facilities	\$1,332	\$74,592
Road Works	\$3,570	\$199,920
Shared Paths	\$3,286	\$184,016
Bus Facilities	\$9	\$504
Fire & Emergency Services	\$245	\$13,720
Flood & Drainage	\$1,877	\$105,112
Kings Hill Urban Release Area	\$302	\$16,912
TOTAL	\$20,000	\$1,120,000

Stage 4 – 69 sites

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$655	\$45,195
Civic Administration – Works Depot	\$1,266	\$87,354
Town Centre Upgrades	\$3,412	\$235,428
Public Open Space, Parks and Reserves	\$2,085	\$143,865
Sports & Leisure Facilities	\$1,961	\$135,309
Cultural & Community Facilities	\$1,332	\$91,908
Road Works	\$3,570	\$246,330
Shared Paths	\$3,286	\$226,734
Bus Facilities	\$9	\$621
Fire & Emergency Services	\$245	\$16,905
Flood & Drainage	\$1,877	\$129,513
Kings Hill Urban Release Area	\$302	\$20,838
TOTAL	\$20,000	\$1,380,000

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

- a) Contributions are to be paid prior to approval to operate under Section 68 of the *Local Government Act, 1993* for each stage.

Note: The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount must be indexed at the time of actual payment in accordance with the applicable Index.

- (2) **Payment of building and construction industry long service levy** - Before the commencement of works or release of a construction certificate (whichever occurs first), the applicant is to ensure that the person liable pays the long service levy of

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\$61,300.00 as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* and provides proof of this payment to the certifier.

Note. Condition only applies to developments with a cost of works over \$250,000.

- (3) **Potential Acid Sulfate Soils** – As per the recommendations of the Preliminary Site Investigation prepared by Douglas Partners, dated July 2022, an Acid Sulfate Soil Management Plan (ASSMP) is to be prepared prior to the commencement of works or release of a construction certificate to manage potential disturbance of ASS in the areas not subject to sand mining in the north-eastern and south eastern parts of the site as identified in Figure 7 of the report.

The recommendations and/or mitigation measures contained within the ASSMP must be complied with during works.

- (4) **Construction site management plan** – Before the issue of a construction certificate or the commencement of works (whichever occurs first), applicant must ensure a construction site management plan is prepared. The plan must include the following matters:
- a) location and materials for protective fencing and hoardings to the perimeter on the site
 - b) provisions for public safety
 - c) pedestrian and vehicular site access points and construction activity zones
 - d) details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
 - e) protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
 - f) details of any bulk earthworks to be carried out
 - g) location of site storage areas and sheds
 - h) equipment used to carry out all works
 - i) a garbage container with a tight-fitting lid
 - j) dust, noise and vibration control measures
 - k) location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

Note. Condition only applies to dual occupancy developments and above.

- (5) **Waste management plan** - Before the issue of a construction certificate or the commencement of work, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

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(a) details the following:

- the contact details of the person(s) removing the waste
- an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill
- the address of the disposal location(s) where the waste is to be taken

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

(6) **Notice of Principal Certifying Authority appointment (where required)** – The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to civil works and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:

- a) a description of the work to be carried out;
- b) the address of the land on which the work is to be carried out;
- c) the Registered number and date of issue of the relevant development consent;
- d) the name and address of the Principal Certifier and the person who appointed the principal certifier;
- e) if the principal certifier is a registered certifier
 - i) the certifier's registration number, and
 - ii) a statement signed by the registered certifier to the effect that the certifier consents to being appointed as principal certifier, and
 - iii) a telephone number on which the certifier may be contacted for business purposes.

The notice must be lodged on the NSW planning portal.

(7) **Notice commencement of work**– Notice must be given to Council and the Principal Certifier, if not the Council, of the person's intention to commence the erection of the building or undertake civil work at least two days prior to civil and/or building works commencing in accordance with Sections 6.6 (2) and 6.12 (2) (c) of the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:

- a) the name and address of the person;
- b) a description of the work to be carried out;
- c) the address of the land on which the work is to be carried out;
- d) the Registered numbers and date of issue of the development consent and construction certificate;
- e) a statement signed by or on behalf of the principal certifier that all conditions of the consent that must be satisfied before the work commences have been satisfied; and

- f) the date on which the work is intended to commence.

The notice must be lodged on the NSW planning portal.

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

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

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

- (9) **Site is to be secured** – The site must be secured and fenced. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.

- (10) **Erosion and sediment control plan** – Before the commencement of works, the applicant is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents:

- Council's development control plan,
- the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the BlueBook), 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 applicant must ensure the erosion and sediment control plan is kept on-site at all times during site works and construction.

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

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

- (12) **Protection of trees /existing street trees** – Protection of trees to be retained must be in accordance with AS490 'Protection of Trees on Development Sites' and the following:

- a) No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) must be disturbed, relocated, removed or damaged during earthworks, demolition, excavation

(including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.

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

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

- (14) **Damage report – Public Infrastructure** – The applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.

- (15) **Surface water collection from swimming pools and spas** - Swimming pool surrounds and/or paving must be constructed so as to ensure water from the pool overflow or surge does not discharge onto neighboring properties.

Details demonstrating compliance must be provided to the Certifying Authority.

- (16) **Bushfire asset protection zones (if applicable)** - Before the commencement of any vegetation removal, or site or building work, a registered surveyor must survey the boundaries of the asset protection zone (APZ) and mark these on the ground. The clearing of vegetation to establish the APZ must only occur within the marked APZ boundaries, and in accordance with the supporting documentation approved under this consent.

- (17) **Dilapidation Report (if applicable)** – Before the commencement of works, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties.

Note. Condition only applies to developments in a high slip area, significant topography with close nearby properties and building works proposed on boundaries.

- (18) **Civil engineering plans** – Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, access ways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.

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

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

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

4.0 - During Works

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

- (1) **Hours of work** – The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

7.00am to 5.00pm on Monday to Saturday

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

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

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

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

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

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

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

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

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

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

- (4) **Placement of fill** - Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.

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

- (5) **Disposal of stormwater** – Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant Environmental Protection Agency and Australian and New Zealand Environment and Conservation Council standards for water quality discharge.

- (6) **Location of stockpiles** – Stockpiles of soil must not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials must be suitably covered to prevent dust and odour nuisance.

- (7) **Tree protection** – While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of *AS 4970-2009 Protection of trees on development sites* and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

- (8) **Soil, erosion, sediment and water management** – All requirements of the Erosion and Sediment Control Plan or Soil and Water Management Plan must be maintained at all times during the works and any measures required by the plan must not be removed until the site has been stabilised.

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

- (10) **Delivery register** - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered.

This register must be made available to Council officers on request and be provided to the Council at the completion of the development.

- (11) **Cut and fill (if applicable)** – While work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- (a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.

All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the NSW EPA.

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

In this condition:

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

- (14) **Finished floor level** - The finished floor level of the site must be a minimum level of RL 2.9m Australian Height Datum in accordance with the approved plans.

A survey report prepared by a Registered Surveyor confirming that the finished floor level complies with the approved plans or floor levels specified by the development consent, must be provided to Principal Certifying Authority prior to the development proceeding beyond floor level stage for each relevant stage.

- (15) **Waste water from swimming pools and spas** – All swimming pool waste water must be disposed of as follows:
- a) Where a Hunter Water sewer is available – waste water must be drained or pumped to the sewer.
 - b) Where a Hunter Water sewer is not available (such as rural areas) – waste water must be disposed of as follows:

Chlorinated pool waste water:

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

Saltwater pool waste water:

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

All pool types:

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

(16) **Installation of manufactured home** – The manufactured home must be constructed in accordance with the requirements of the Local Government (Manufactured Home Estate, Caravan Parks, and Camping Grounds) Regulation 2021.

(17) **Swimming pool fence design** – The swimming pool or spa must be fenced so that the pool is effectively isolated from the dwelling and adjoining lands. The swimming pool fence & gate must:

- a) Comply with the provision of the Swimming Pools Act 1992;
- b) Strictly comply with AS1926 'Swimming Pool Safety' – Part 1: Safety barriers for swimming pools.

The swimming pool safety fencing must be installed prior to the swimming pool being filled with water. The Principal Certifying Authority, or an accredited certifier must inspect the swimming pool safety fencing.

(18) **Construction Management Plan implementation** - All construction management procedures and systems identified in the approved Construction Management Plan must be introduced during construction of the development.

(19) **Clearing for asset protection zones (APZ) (if required)** - While building work is being carried out, the applicant must ensure the clearance of vegetation to establish the APZ is confined within the marked APZ boundary, to the satisfaction of the principal certifier.

(20) **Unexpected finds contingency (general)** – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.

Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

- (21) **Waste management** – While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.

Upon disposal of waste, the applicant is to compile and provide records of the disposal to the principal certifier, detailing the following:

- The contact details of the person(s) who removed the waste
- The waste carrier vehicle registration
- The date and time of waste collection
- A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill
- The address of the disposal location(s) where the waste was taken
- The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the applicant is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.

- (22) **Implementation of the site management plans** - While vegetation removal, demolition and/or building work is being carried out, the applicant must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times.

The applicant must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.

5.0 - Prior to Issue of an Occupation Certificate

The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate for each stage (where required).

- (1) **Hunter Water Corporation approval** - A Section 50 Application under the Hunter Water Act 1991 must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.
- (2) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development.

The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.

- (3) **Stormwater/drainage works** – All stormwater and drainage works required to be undertaken in accordance with this consent for any stage requiring a Construction Certificate and/or Occupation Certificate must be completed.

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

- (4) **Flood design measures** – Evidence of certification demonstrating that the following flood related design precautions have been adhered to in the design must be submitted to the Principal Certifying Authority:

- a) In sewerred areas some plumbing fixtures may be located below the Flood Planning Level (FPL). Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge;
- b) All materials stored at the site and capable of causing harm to the environment must be stored at a level not less than the FPL or suitable bunding must be placed around such materials to a minimum of the FPL;
- c) All building materials, equipment, ducting, etc., below the FPL must be flood compatible and ducting must be provided with openings for drainage and cleaning;
- d) All main power supply, heating and air conditioning service installations, including meters must be located above the FPL. All electrical equipment installed below the FPL must be capable of disconnection by a single plug from the power supply;
- e) All electrical wiring below the FPL must be suitable for continuous submergence in water. All conduits below the FPL must be self-draining. Earth core leakage systems or safety switches are to be installed;
- f) Wherever possible, the premises must be designed to ensure that plant, equipment, storage tanks or other fixtures or fittings liable to damage by floods are located above the FPL or be moveable to levels above the FPL. Should this not have the ability to occur, they shall be suitable for submergence in water and securely anchored to overcome buoyancy and movement. All storage tanks must be vented to an elevation above the FPL.

- (5) **Protection and certification of electrical services** – All power points, fittings, electrical connections and the incoming meter box are to be located above the Flood Planning Level (FPL).

Switches, light fittings and power points may be located below the FPL provided they are capable of being isolated by a single Residual Current Device (RCD) protected switch that is located above the FPL. Certification of these works are to be provided to the Principal Certifying Authority.

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

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

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

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

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

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

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

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

- (10) **Services** – Evidence is to be provided to Council demonstrating that the following reticulated services are available to relevant buildings in each stage: :

- a) Electricity;
- b) Water;
- c) Sewer; and
- d) Gas (where available).

Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.

- (11) **Car parking requirements** – A minimum of 1 car parking spaces per site and 10 visitor car parking spaces are to be provided in accordance with AS2890 and the approved plans.

- (12) **Approved Report Recommendations (Acoustic)** – In accordance with the Noise Impact Report (prepared by Spectrum Acoustics, dated February 2023, Project No. 212247R), the type and location of the air conditioning plant associated with the Community Building is to be approved by an acoustic consultant prior to installation.

6.0 - Prior to Issue of an Approval to Operate a Caravan Park under Section 68 of the Local Government Act 1993

The following conditions of consent shall be complied with prior to the issue of any Approval to Operate or occupation of site for each stage.

- (1) **Hunter Water Corporation approval** - A Section 50 Application under the Hunter Water Act 1991 must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.

- (2) **Stormwater/drainage works** – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed for each relevant stage.

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

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

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

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

- (5) **Flood design measures** – Evidence of certification demonstrating that the following flood related design precautions have been adhered to in the design must be submitted to the Principal Certifying Authority:

- g) In sewerred areas some plumbing fixtures may be located below the Flood Planning Level (FPL). Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge;
- h) All materials stored at the site and capable of causing harm to the environment must be stored at a level not less than the FPL or suitable bunding must be placed around such materials to a minimum of the FPL;
- i) All building materials, equipment, ducting, etc., below the FPL must be flood compatible and ducting must be provided with openings for drainage and cleaning;
- j) All main power supply, heating and air conditioning service installations, including meters must be located above the FPL. All electrical equipment installed below the FPL must be capable of disconnection by a single plug from the power supply;
- k) All electrical wiring below the FPL must be suitable for continuous submergence in water. All conduits below the FPL must be self-draining. Earth core leakage systems or safety switches are to be installed;

- l) Wherever possible, the premises must be designed to ensure that plant, equipment, storage tanks or other fixtures or fittings liable to damage by floods are located above the FPL or be moveable to levels above the FPL. Should this not have the ability to occur, they shall be suitable for submergence in water and securely anchored to overcome buoyancy and movement. All storage tanks must be vented to an elevation above the FPL.
- (6) **Protection and certification of electrical services** – All power points, fittings, electrical connections and the incoming meter box are to be located above the Flood Planning Level (FPL).
- Switches, light fittings and power points may be located below the FPL provided they are capable of being isolated by a single Residual Current Device (RCD) protected switch that is located above the FPL. Certification of these works are to be provided to the Principal Certifying Authority.
- (7) **Installation of manufactured home** – The development is to be operated in accordance with the provisions of Local Government (Manufactured Home Estate, Caravan Parks, and Camping Grounds) Regulation 2021.
- Once the manufactured home has been installed and is fully ready for occupation, Council is to be notified so that a final inspection can be carried out.
- The development will not have approval to operate until such time as a satisfactory final inspection has been completed and the manufactured home is given approval to be occupied.
- Compliance plates are to be provided and attached to an accessible part of the manufactured home in accordance with the Local Government (Manufactured Home Estate, Caravan Parks, and Camping Grounds) Regulation 2021 and prior to the final inspection.
- (8) **On-Site sewerage management inspection** – An onsite sewage management system/waste treatment device is to be installed and obtain approval to operate from Council in accordance with Local Government Act 1993 (Section 68A) prior to the issue of any Occupation Certificate
- (9) **Survey Certificate** – A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building and moveable dwellings in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.
- (10) **Footpath crossing construction** – A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.
- Note:** This condition applies to works on public infrastructure. As such Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of such works.

- (11) **Services** – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each site:

- a) Electricity;
- b) Water;
- c) Sewer; and
- d) Gas (where available).

Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.

- (12) **Completion of landscape and tree works** – The principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with *AS 4373-2007 Pruning of amenity trees* and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

- (13) **Car parking requirements** – A minimum of 1 car parking spaces per site and 10 visitor car parking spaces are to be provided in accordance with AS2890 and the approved plans.

- (14) **Section 88B Instrument** – The applicant must prepare a Section 88B Instrument which incorporates the following easements, positive covenants and restrictions to user where necessary:

- a) A 10m wide easement to drain water as shown on the approved plans (plan no. DA-C06.01, Revision 7, dated 29.08.2023 prepared by Northrop Consulting Engineers).

- (15) **Koala Friendly fencing** – Evidence demonstrating that fencing has been installed in accordance with Plan No. L.DA.110, Revision F dated 26.06.2023 prepared by NBRIS Architecture must be provided to the certifying authority.

- (16) **Footpath construction** – Prior to the issue of an approval to operate or occupation of the development, evidence must be provided demonstrating that the footpath required by Condition 1.4(c) of this consent has been constructed in accordance with this consent and the s138 approval issued by Council.

7.0 – Ongoing Use

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

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

The location of equipment that causes offensive noise may require the equipment to be located within a suitable acoustic enclosure, or the relocation of such equipment.

- (2) **Prohibitions within swimming pool enclosure** – The area contained within the swimming pool safety fencing enclosure must not be used for other non-related activities or equipment, such as the installation of children's play equipment or clothes drying lines, entertaining or BBQ areas.

- (3) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.

If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

- (4) **Management of asset protection zones (if applicable)** - During occupation and ongoing use of the site, the applicant must ensure the site is managed, in accordance with the NSW RFS General Terms of Approval (Reference: DA20220930010947-Original-1, dated 23 January 2023), Planning for Bushfire Protection 2019 and the NSW Rural Fire Service's document Standards for Asset Protection Zones.

- (5) **Offensive noise** – The use and occupation of the premises including all plant and equipment must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act 1997 and must comply with the NSW Noise Policy for Industry 2017 (as amended).

- (6) **Waste water treatment devices** – All wastewater treatment devices (including drainage systems, sumps, traps and pumps) must be regularly maintained in good working order to ensure that they remain effective.

A maintenance schedule must be developed and incorporated into a Plan of Management (PoM) and kept on-site at all times for staff to comply with. All liquid and solid wastes collected from the treatment device must be disposed of in accordance with relevant environmental protection and waste control Legislation.

- (7) **Vegetation Management Plan**– The area on the site impacted by the approved Vegetation Management Plan (VMP) required by Condition 1.14 of this consent must be maintained in accordance with the approved VMP for a period of 5 years.

Monitoring reports in accordance with the Vegetation Management Plan must be prepared by or on behalf of the operator and provided to Council on request.

- (8) **Koala Friendly fencing** – The approved koala friendly fencing must be maintained for the life of the development.

- (9) **Internal Roads and Stormwater Infrastructure** – The approved internal access roads and stormwater infrastructure must be maintained to a suitable standard for the life of the development.

Advice Note(s):

- (1) **'Dial Before you Dig Australia'** – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig Australia” service to access plans/information for underground pipes and cables.
- (2) **Responsibility for damage for tree removal/pruning** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.
- (3) **Approved Plans to be on-site** – A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.
- (4) **Council as PCA, PCA sign** – It is the responsibility of the applicant to erect a PCA sign. Where Council is the PCA, the sign is available free of charge, from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay. The applicant is to ensure the PCA sign remains in position for the duration of works.
- (5) **Hunter Water Infrastructure - Hunter Water stamped plans– Prior to the commencement of works**, the person having the benefit of this consent shall contact Hunter Water Corporation (HWC) to ensure that the approved works do not impact upon existing or proposed HWC infrastructure. A copy of the information received by HWC shall be provided to Council within 10 days of receipt. Should HWC require modification to the approved development a Section 4.55 Modification Application and/or modified Construction Certificate Application should be lodged.
- (6) **Building materials not permitted on Council's footpath/road reserve–** No building materials, plant, equipment, refuse or spoil is to be deposited on or be allowed to remain on Council's footpath or outside the boundaries of the development site unless approved by Council in writing. Where building activity cannot avoid occupation of the public road reserve, (such as, for the erection of hoarding, scaffolding, partial closure) separate approval from Council for the use of the road reserve is required.
- (7) **Requirements of PCA - Issuing of OC – Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.

Note: The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.

- (8) **Flood information is subject to change** – You are advised that flood information is subject to change if more accurate data becomes available to Council. It is the responsibility of the applicant to use the most up-to-date flood information. Prior to applying for a construction certificate, Council should be contacted to verify the currency of the flood information.



PORT STEPHENS
COUNCIL

CALL TO COUNCIL FORM DEVELOPMENT APPLICATION

Development application (DA) call to Council request:

I/We (Mayor/Councillor/s) Leah Anderson & Jason Wells request
that DA number DA 2022-544 for DA
description Latitude One expansion located at
_____ be reported to Council for determination.

Reason:

Public Interest

Declaration of Interest:

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

I/We (Mayor/Councillor/s) Leah Anderson & Jason Wells have a conflict of interest:

☒ No

☐ Yes

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

Signed

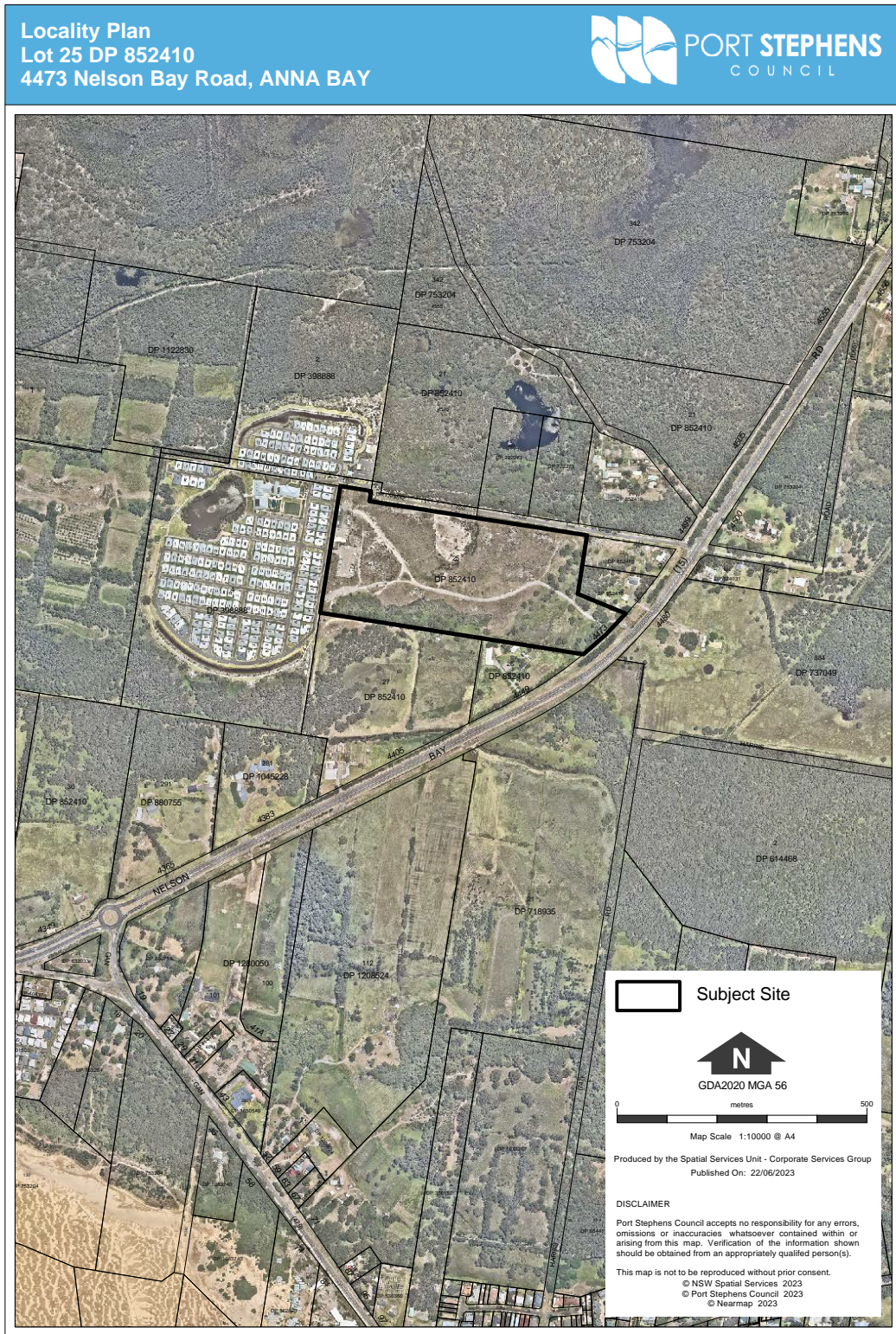
Please sign or
type name &
attached to
an email.

Date: 20/4/2024

Signed:

Please sign or
type name &
attached to

Date: 20/4/2024



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

ITEM NO. 2**FILE NO: 23/245700
EDRMS NO: 16-2022-529-1****DEVELOPMENT APPLICATION 16-2022-529-1 FOR A DWELLING AT 509 GAN GAN ROAD, ONE MILE**

REPORT OF: EVERT GROBBELAAR - DEVELOPMENT AND COMPLIANCE
SECTION MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves Development Application DA No. 16-2022-529-1 for a 2 storey dwelling and swimming pool at 509 Gan Gan Road, One Mile (LOT: 2 DP: 810866) subject to the conditions contained in **(ATTACHMENT 1)**.

BACKGROUND

The purpose of this report is to present a development application (DA) 16-2022-529-1 for a 2 storey dwelling and swimming pool to Council for determination.

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

Subject Land:	509 Gan Gan Road, One Mile (LOT: 2 DP: 810866)
Total Area:	8.4 hectares (84,160m ²)
Zoning:	C4 Environmental Living
Submissions:	6 Submissions – oppose
Key Issues:	The key issues identified throughout the assessment of the DA relate to environmental impacts, objectives of the subject zone, visual impact and amenity impacts.

The development application has been reported in accordance with Council's Planning Matters to be Reported to Council Policy as it has been called up by Councillors Leah Anderson, Matthew Bailey and Giacomo Arnott **(ATTACHMENT 2)**.

A locality plan is provided at **(ATTACHMENT 3)**.

Proposal

The proposed development seeks consent for the construction of a 2 storey dwelling house, swimming pool with associated safety barriers, retaining structures and associated landscaping works. The dwelling includes 5 bedrooms with ensuites, a guest suite, combined kitchen, living and dining area, laundry, theatre room, IT room and powder room on the upper level. Outdoor areas accessible from the upper level include outdoor living area, pool terrace, above ground concrete swimming pool and

fire pit. The basement level includes a garage and storage area, gym, sauna and shower facilities, vault, kitchenette, patio, drying court and an internal lift.

Site Description and History

The subject site is located at 509 Gan Gan Road, One Mile and legally described as Lot 2 DP 810866. The site is approximately 8.4 hectares (84,160m²) in area and is heavily vegetated, with an existing shed associated with a horticultural use currently on the site (under construction). The site has 3 road frontages, to Gan Gan Road, Eucalyptus Drive and Reflections Drive. The site benefits from a right of carriageway measuring 15m wide over Lot 1125 DP 788377.

The site is surrounded largely by residential uses. A largely cleared vacant lot is located directly to the south of the site and One Mile beach is located further to the east.

Key Issues

The key issues identified throughout the assessment of the DA relate to environmental impacts, impacts to core koala habitat, inconsistencies with the objectives of the subject zone, visual impact and amenity impacts.

A detailed assessment of the DA is contained within the Planner's Assessment Report (**ATTACHMENT 4**).

Environmental impacts (including Biodiversity Values and Koala Habitat)

The application was referred to Council's Natural Systems team to review the proposed environmental constraints of the site. Overall, the application was supported subject to conditions, which have been included within the recommended conditions attached to this report.

The Proposed development has been assessed under the NSW Biodiversity Offsets Scheme (BOS) framework. A detailed assessment of biodiversity values has been provided in the Biodiversity Development Assessment Report (BDAR). Biodiversity values that occur on site include:

- Threatened species and their habitat, specifically Koala, Squirrel Glider and Wallum Froglet
- Swamp Oak Floodplain Forest Endangered Ecological Community (EEC)
- Preferred koala habitat as defined under the Port Stephens Comprehensive Koala Plan of Management
- Habitat for fauna species generally, including hollow bearing trees
- Wetlands mapped under the Port Stephens Local Environment Plan 2013 (PSLEP).

Under the BOS framework, a development is required to first avoid impacts to biodiversity values as far as is reasonably practical, then minimise impacts through

mitigation measures. Only after these 2 requirements are satisfied can offsets be applied to offset the residual impact on biodiversity.

Council's Natural Systems officers were satisfied the avoid criteria had been satisfied by the siting of the proposed development. The location of the dwelling avoids impacts to PSLEP wetlands, Wallum Froglet habitat and Swamp Oak Floodplain Forest EEC. Whilst there will be impacts to Koala and Squirrel Glider habitat (including hollow bearing trees), mitigation measures have been proposed that include the installation of nest boxes and planting of Koala feed trees on site.

Inconsistencies with the objectives of the subject zone

The objectives of Zone C4 Environmental Living, as listed in the PSLEP, are as follows:

Objectives of zone:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values
- To ensure that residential development does not have an adverse effect on those values.

The development footprint of the proposed dwelling is approximately 951m², and the total area of the subject site is approximately 84,160m². Therefore, the proposed footprint itself equates to approximately 1.13% of the total site area. When considering the impacted area of the site and the supporting ecological studies which accompany the application, it has been concluded that the proposed development aligns with the objectives of the zone.

Visual Impact

The design utilises the natural topography of the site and excavation of the basement level to step the building with the slope and reduce the visual height. This mitigates the perceived bulk of the building presenting predominantly as a single storey building from the western and northern elevations and 2 storey from the northern and southern elevations.

The provided articulation and use of varying materials incorporated throughout the dwelling design helps to minimise the bulk and scale viewed from the public domain and neighbouring properties.

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

Amenity impacts

It is considered the design provides adequate separation between the proposed and adjoining dwellings. The design includes well-articulated elevations combined with

increased setbacks that exceed the minimum requirement as stipulated in the Port Stephens Development Control Plan 2014 (DCP2014). The proposal complies with the general DCP2014 development controls for a dwelling and the PSLEP 9m height limit for the subject lot.

Overall, the siting and the design approach minimises the perceived bulk viewed from the public domain and neighbouring properties. The proposed development is considered suitable for the surrounding built environment.

Conclusion

As detailed in the Planner's Assessment Report (**ATTACHMENT 4**), the application is considered to be consistent with the aims and objectives of the relevant environmental planning instruments and Council policies applicable to the subject site. Impacts to the natural and built environment have been minimised.

It is considered that the DA has been suitably designed to address the site constraints and promotes for the orderly and economic use and development of land.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Program to develop and implement Council's key planning documents

FINANCIAL/RESOURCE IMPLICATIONS

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

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

The proposed development is considered to satisfactorily address the PSLEP and the DCP2014. A detailed assessment against the environmental planning instruments is contained within the Planner's Assessment Report contained at **(ATTACHMENT 4)**.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is refused, the determination of the DA may be challenged by a third party in the Land and Environment Court.	High	Accept the recommendation.	Yes
There is a risk that if the DA is approved, people and property may be exposed to an unacceptable level of risk.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed development represents a modern residential development and will result in additional housing to service the needs of the community. The construction of the proposed development will provide employment opportunities in the locality during the short term and support the local building and development industries. This will have direct monetary input to the local economy. As assessed throughout the report, the proposed development has been designed to reduce potential adverse impacts to neighbouring properties from an amenity perspective. Overall, there are no anticipated adverse social or economic impacts as a result of the proposed development.

Impacts on the Built Environment

It is considered the design provides adequate separation between the proposed and adjoining dwellings. The design includes significant articulation including increased setbacks that exceed the minimum requirement stipulated in the DCP2014. The provided articulation minimises the presentation of bulk as viewed from the public domain and neighbouring properties. Overall, the proposed development is considered suitable for the surrounding built environment.

Impacts on the Natural Environment

It is considered that potential impacts on the natural environment and locality have been minimised. As noted throughout this assessment the environmental impacts of the proposed development have been addressed through an internal referral process to Council's Natural Systems team. Appropriate protection measure conditions have been recommended.

CONSULTATION

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

Internal

Consultation was undertaken with Council's Natural Systems Teams. The referral comments have been considered as part of the Planner's Assessment Report **(ATTACHMENT 4)**. The internal referral officers supported the DA, subject to the recommended conditions of consent **(ATTACHMENT 1)**.

External

The DA was notified in accordance with the requirements of the Port Stephens Council Community Engagement Strategy. The application was notified from 12 July 2022 to 2 August 2022 (extended date). During the exhibition period, 6 submissions were received. The submissions oppose the DA.

OPTIONS

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

ATTACHMENTS

- 1) Proposed Conditions of Consent. (Provided under separate cover) ➡
- 2) Call to Council form. [↓](#)
- 3) Locality Plan. [↓](#)
- 4) Planner's Assessment Report. [↓](#)

COUNCILLORS ROOM

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

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

TABLED DOCUMENTS

Nil.



Call to Council form

Development Application

116 Adelaide Street,
Raymond Terrace NSW 2324

PO Box 42
Raymond Terrace NSW 2324

p (02) 4988 0255 | **f** (02) 4987 3612
e council@portstephens.nsw.gov.au

DX 21406 | **ABN** 16 744 377 876

DEVELOPMENT APPLICATION (DA) CALL TO COUNCIL REQUEST

We (Mayor/Councillor/s)

Name:	Leah Anderson
Name:	Matthew Bailey
Name:	Giacomo Arnott
request that DA number:	DA 16-2022-529-1
for DA description:	509 Gan Gan Rd, One Mile 2316 NSW Two storey dwelling and swimr
located at:	509 Gan Gan Rd, One Mile 2316

be reported to Council for determination.

REASON

ResidentObjection-A subsequent DA was lodged last week for an enormous dwelling (>1500sqm) to be built on the top of "Harris Hill" (part of 509 Gan Gan Rd); and concernedly the DA includes the removal of 123 trees from the hill top which will effectively decimate the ridge line from a visual perspective and destroy what is left of the wildlife / koala corridor.

SIGNATURE OF APPLICANT/S

Signature		Date	
Signature		Date	
Signature		Date	

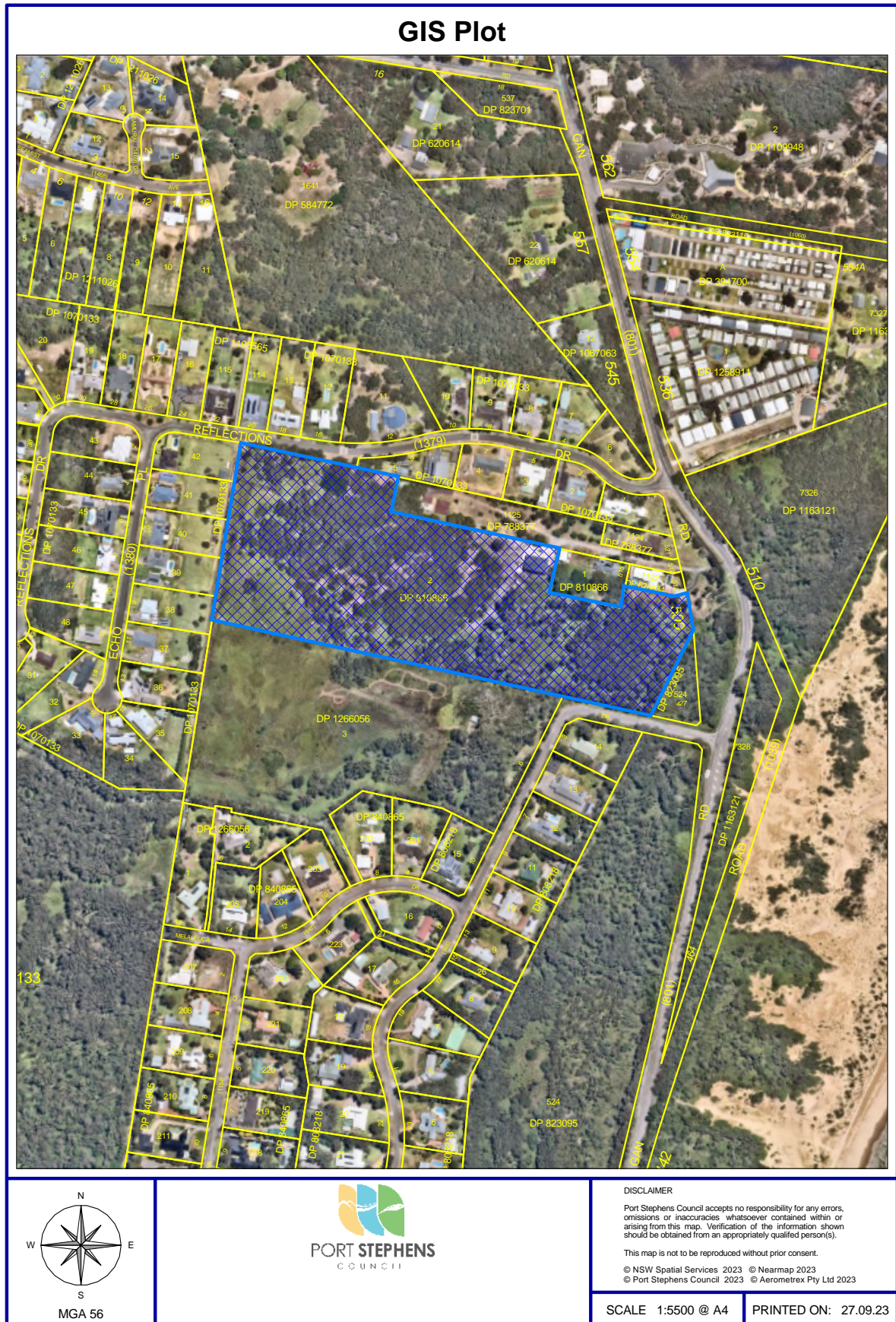
PRIVACY

Port Stephens Council is committed to protecting your privacy. We take reasonable steps to comply with relevant legislation and Council policy. **Purpose:** The purpose of this form is to enable Council to record the matter raised and taken appropriate action.

Intended recipients: Council employees, contractors and other third parties where appropriate. **Supply:** Voluntary.

Consequence of Non Provision: Council may not take action on the matter raised. **Storage and security:** This document will be placed on the relevant file and/or saved in Council's records management system in accordance with Council policy and relevant legislation.

Access: Please contact Council on 02 4988 0255 to enquire how you can access information.



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



DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2022-529-1
Development Description	Two storey dwelling and swimming pool
Applicant	PERCEPTION PLANNING PTY LTD
Land owner	G D Wells and H Picot Walker
Date of Lodgement	04/07/2022
Value of Works	\$3,143,613
Submissions	6

PROPERTY DETAILS

Property Address	509 Gan Gan Road ONE MILE
Lot and DP	LOT: 2 DP: 810866
88B Restrictions on Title	The site contains a right of carriageway fronting Gan Gan Road - measuring 20m wide and is located on Lot 1125 DP 788377 (created under DP 646893). The proposed development will not impact this right of carriageway.
Current Use	Horticulture purposes – under construction.
Zoning	C4 ENVIRONMENTAL LIVING
Site Constraints	Bushfire prone land – Category 1 and 3, and Buffer. Koala Habitat – Cleared, buffer over cleared, preferred Endangered Ecological Communities Biodiversity Values Acid Sulfate Soils – Class 3, 4 and 5 LEP wetlands Flood Prone Land (PMF) Weed infestations Natural Watercourse
State Environmental Planning Policies	State Environmental Planning Policy (Biodiversity and Conservation) 2021

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	State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
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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 type="checkbox"/>	<input checked="" 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 (additional fees charged)	<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 seeks consent for the construction of a two storey dwelling house, swimming pool with associated safety barriers, and retaining structures.

The application received a 'Call to Council Request' which was supported by three Councillors (L. Anderson, G. Arnott and M. Bailey).

Plan extracts of the proposed development can be found in Figures 1, 2 and 3 below:

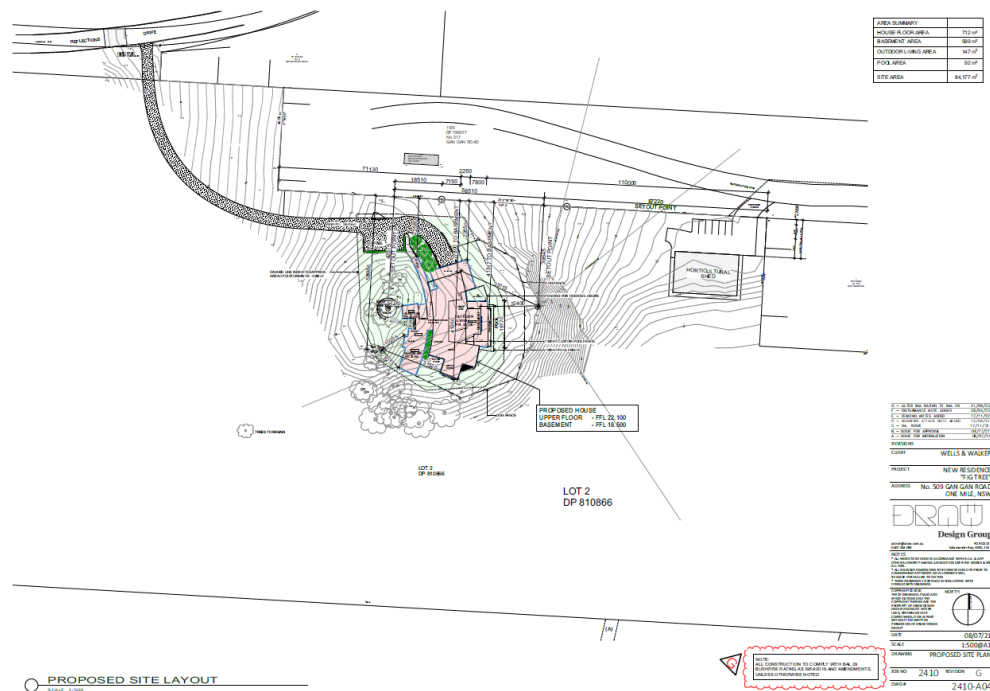


Figure 1 – Proposed site layout

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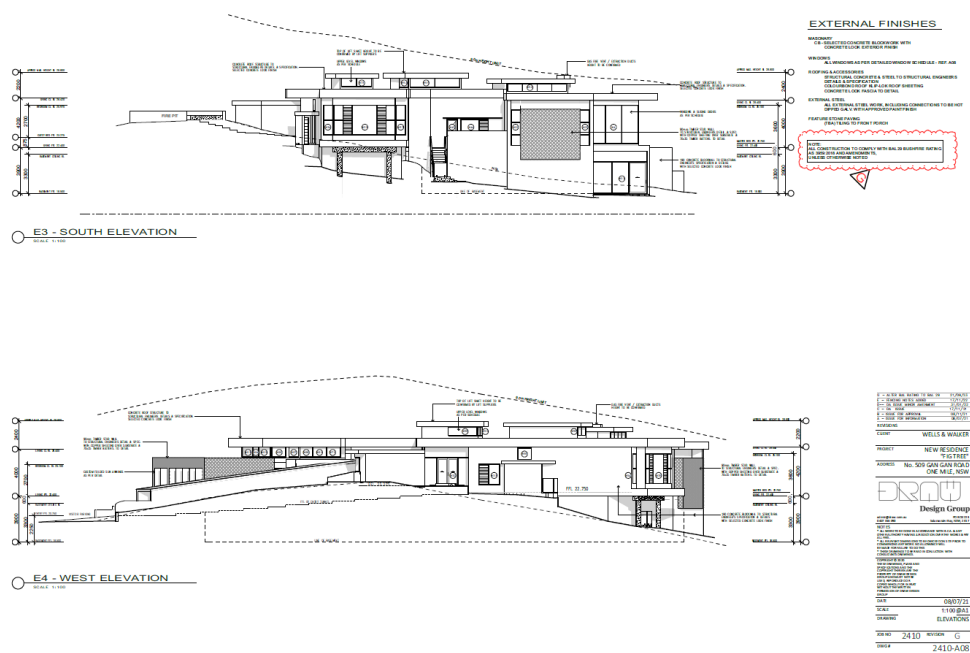


Figure 2 – Southern and western elevations

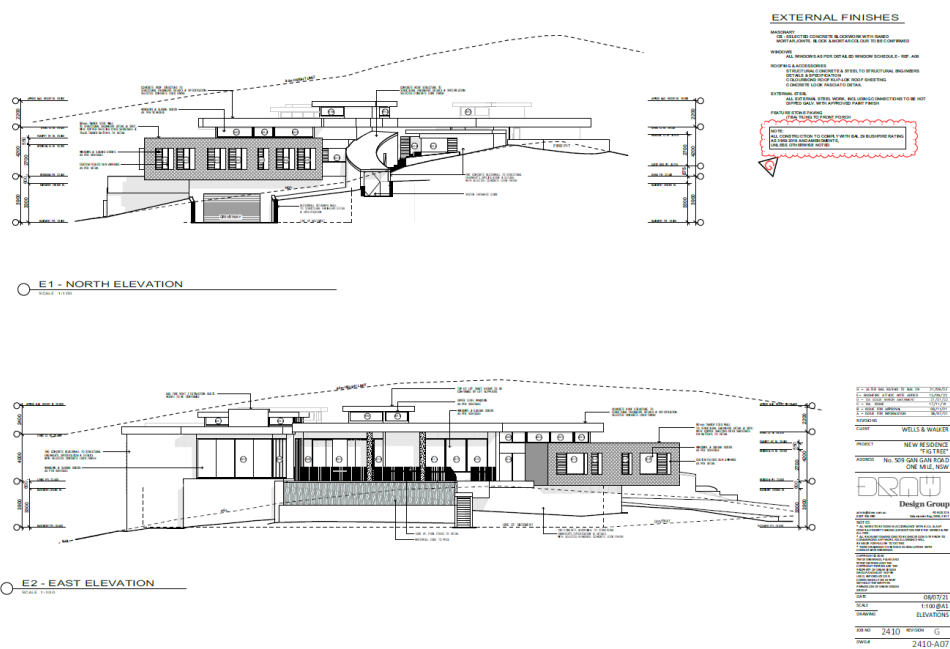


Figure 3 – Northern and eastern elevations

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SITE DESCRIPTION

The subject site is located at 509 Gan Gan Road, One Mile and legally described as Lot 2 DP 810866. The site is approximately 8.416 hectares (84,160m²) in area and is heavily vegetated, with an existing shed associated with a horticultural use currently on the site (under construction). The site has three road frontages, to Gan Gan Road, Eucalyptus Drive and Reflections Drive. The site benefits from a right of carriageway measuring 20m wide over Lot 1125 DP 788377.

The site is surrounded largely by residential uses. A largely cleared vacant lot is located directly to the south of the site and One Mile beach is located further to the east.



Figure 4 – Aerial imagery of the development site

SITE HISTORY

There are a number of applications relating to the subject site on Council's system:

- BA/DA 7-1985-2986-1 – Subdivision – 2 Lots – Approved
- BA/DA 7-1985-3012-1 – Strata Subdivision – 2 Lots- Approved
- BA/DA 7-1991-5070-1 – Subdivision 2 Lots – Approved
- BA/DA 7-1991-60429-1 – Dwelling – Approved
- BA/DA 7-1991-5189-1 – Dwelling – Approved
- DA 16-2000-1048-1 – 19 Lot Subdivision – Approved
- DA 16-2014-628-1 – Drainage works – Approved
- DA 16-2021-92-1 – Horticulture and ancillary shed - Approved

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SITE INSPECTION

Site inspections were carried out on 28 July 2022, and 6 September 2023.

The subject site can be seen in figures 5, 6 and 7 below:



Figure 5 – Access off Reflections Drive



Figure 6 – Development Area (Sourced from BDAR)



Figure 7 – Site view from right of carriageway (Sourced from Visual Impact Assessment)

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PLANNING ASSESSMENT

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

Internal

Natural Resources	
Comment:	<p>The application was referred to Council's Natural Systems team to review the proposed environmental constraints of the site. Overall, the application was supported subject to conditions, which have been included within the recommended conditions attached to this report. Environmental constraints have been further addressed throughout this assessment report – below.</p> <p>The Proposed development has been assessed under the NSW Biodiversity Offsets Scheme (BOS) framework. A detailed assessment of biodiversity values has been provided in the Biodiversity Development Assessment Report (BDAR). Biodiversity values that occur on site include:</p> <ul style="list-style-type: none"> • Threatened species and their habitat, specifically Koala, Squirrel Glider and Wallum Froglet. • Swamp Oak Floodplain Forest Endangered Ecological Community (EEC) • Preferred koala habitat as defined under the Port Stephens Comprehensive Koala Plan of Management. • Habitat for fauna species generally, including hollow bearing trees. • Wetlands mapped under the Port Stephens Local Environment Plan. <p>Under the BOS framework, a development is required to first avoid impacts to biodiversity values as far as is reasonably practical, then minimise impacts through mitigation measures, and only after these two requirements are satisfied can offsets be applied to offset the residual impact on biodiversity. Natural Systems were satisfied the avoid criteria had been satisfied by the siting of the proposed development. The location of the dwelling avoids impacts to LEP wetlands, Wallum Froglet habitat and Swamp Oak Floodplain Forest EEC. Whilst there will be impacts to Koala and Squirrel Glider habitat (including hollow bearing trees), mitigation measures have been proposed that include the installation of nest boxes and the planting of Koala feed trees on site.</p>

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

The proposed development does not trigger the requirements for integrated development in accordance with Section 4.46 of the EP&A Act.

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

The proposed development is mapped as bushfire prone land, category 1, 3 and buffer, and as such triggers assessment under the NSW RFS Planning for Bushfire Protection 2019. The proposed development has been identified as being - Class 1a and 10b buildings under the NCC and therefore has been assessed under Section 7 of the PBP 2019.

During the assessment the applicant was advised of the following requirements (due to an incomplete BDAR being submitted):

The additional information you have recently provided for the above mentioned application was referred to Council's Natural Systems team. The completed referral outlines a number of issues with the BDAR - with regards to incomplete surveys for threatened species. Currently there are 18 candidate species that have been incorrectly excluded and have not been surveyed for. Surveys for species is time constrained and surveys cannot be completed until at least September 2023. Due to this timeframe, the DA would likely need to be withdrawn until completion of the required surveys. There are several other RFI items (see RFI summary below), however, these appear to be minor issues that can be easily resolved. An officer from Council's Natural Systems team can speak directly with your ecologist if any further assistance or clarification is required with regard to the BDAR requirements.

As a result, Council can provide the following pathways forward for the subject application:

1. *The BDAR is triggered due to the area clearing threshold of 0.5 ha. If impacts can be reduced to <0.5 ha, the BDAR requirements for surveys are no longer a legislative requirement. This could be achieved by increasing the BAL rating e.g. Flame Zone or a combination of BAL-40 and Flame Zone. This option would enable the application to proceed currently, and would also improve biodiversity outcomes by reducing impacts to a non-significant level.*
2. *Retain current BAL-29 rating and applicable APZs. Withdraw the DA and resubmit once all required surveys are complete*

The applicant initially pursued option 1, and provided a Bushfire Threat Assessment (BTA), prepared by Firebird ecoSultants Pty Ltd, dated 09/05/2023, proposing BAL-FZ Construction. This BTA was referred to the NSW RFS. The RFS provided recommendations to increase the APZ distances to achieve a BAL 40 as a preferred level of construction, if this could not be achieved a BAL FZ was also supported. The following comments were provided:

The proposed APZ is for BAL 40 construction. Where the above APZ is unacceptable to Council the requirements for BAL Flame zone may be used as per the Bushfire report by Firebird ecoSultants Pty Ltd, dated 09-05-23 proposing an APZ of 10m in all directions.

The applicant then opted to pursue option 2 – and retain BAL-29 rating as proposed on the initial BTA, prepared by Building Code & Bushfire Hazard Solutions Pty Ltd, dated 11/03/2022.

It is considered that the proposed development is compliant with the PBP 2019 in that, the author of the BTA has provided the following conclusion:

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I Stuart McMonnies of Building Code and Bushfire Hazard Solutions Pty Ltd hereby certify, in accordance with Part 4 Division 4.3 Section 4.14 of the Environmental Planning and Assessment Act 1979 No 203:

- 1. That I am a person recognised by the NSW Rural Fire Service as a qualified consultant in bushfire risk assessment; and*
- 2. That subject to the recommendations contained in the Bushfire Risk Assessment Report the proposed development conforms specifications and requirements of the documents entitled Planning for Bush Fire Protection prepared by the NSW Rural Fire Service in co-operation with the Department of Planning and any other documents as prescribed by Part 4 Division 4.3 Section 4.14 of the Environmental Planning and Assessment Act 1979 No 203.*

As per the above, the proposal is considered to be consistent with the PBP 2019 and therefore Clause 4.14 (1)(a).

Section 4.15 - Matters for consideration

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

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

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

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

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

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in Non-Rural Areas

Chapter 2 Vegetation in Non-Rural Areas of the Biodiversity and Conservation SEPP aims to protect biodiversity values and preserve the amenity of 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.

The SEPP requires that native vegetation in non-rural areas can only be cleared where a permit or approval is granted.

The development application seeks approval under Part 4 of the EP&A Act for the removal of existing native vegetation within the footprint of the propose dwelling and associated Asset

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Protection Zone.

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 Koala SEPP requires that development is consistent with Council's approved Comprehensive Koala Plan of Management. A summary of the Koala Assessment is provided in the table below.

CKPoM Performance criteria	Assessment of development
The Performance Criteria are as follows: Proposed development (other than agricultural activities) must:	
a) Minimise the removal or degradation of native vegetation within Preferred Koala Habitat or Habitat Buffers;	Two Swamp Mahoganies and thirty-six Forest Red Gum were identified on the proposal site, by the applicant's ecologist. Nine Forest Red Gums are proposed for removal and twenty-seven or 75% are to be retained and protected. The Two Swamp Mahoganies are also proposed for retention. The subject property supports many more Swamp Mahoganies which have been identified for retention within the eastern portion of the subject property. The CKPoM allows for the establishment of a building envelope and associated APZs within koala habitat provided that the proponent can demonstrate that: 1. The building envelope and associated zones cannot be located in such a way that would avoid the removal of native vegetation within Preferred or Supplementary Koala Habitat, Habitat Buffers, or Habitat Linking Areas, or removal of preferred koala food trees; and 2. That the location of the building envelope and associated works minimises the need to remove vegetation.
b) Maximise retention and minimise degradation of native vegetation within Supplementary Koala Habitat and Habitat Linking Areas;	
c) Minimise the removal of any individuals of preferred koala food trees, where ever they occur on a development site. In the Port Stephens LGA these tree species are Swamp Mahogany (<i>Eucalyptus robusta</i>), Parramatta Red Gum (<i>Eucalyptus parramattensis</i>), and Forest Red Gum (<i>Eucalyptus tereticornis</i>), and hybrids of any of these species. An additional list of tree species that may be important to koalas based on anecdotal evidence is included in Appendix 8.	
e) Make provision for long term management and protection of koala habitat including both existing and restored habitat;	To mitigate impacts to Koala habitat, 100 Koala feed trees will be planted on site outside of the APZ area within degraded areas of Swamp Forest. These planting are required to be maintained in perpetuity.
f) Not compromise the potential for safe movement of koalas across the site. This should include maximising tree retention generally and minimising the likelihood that the proposal would result in the creation of barriers to koala movement, such as would be imposed by certain types of fencing. The preferred option for	Fencing already exists on site and is not subject to assessment under this development application. A conditions will be imposed that if any future fencing is required, that it be Koala friendly.

ITEM 2 - ATTACHMENT 4 PLANNER'S ASSESSMENT REPORT.

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<p>minimising restrictions to safe koala movement is that there be no fencing (of a sort that would preclude koalas) associated with dog free developments within or adjacent to Preferred or Supplementary Koala Habitat, Habitat Buffers or Habitat Linking Areas. Suitable fencing for such areas could include:</p> <p>i) fences where the bottom of the fence is a minimum of 200 mm above ground level that would allow koalas to move underneath;</p> <p>ii) fences that facilitate easy climbing by koalas; for example, sturdy chain mesh fences, or solid style fences with timber posts on both sides at regular intervals of approximately 20m; or</p> <p>iii) open post and rail or post and wire (definitely not barbed wire on the bottom strand). However, where the keeping of domestic dogs has been permitted within or adjacent to Preferred or Supplementary Koala Habitat, Habitat Buffers or Habitat Linking Areas, fencing of a type that would be required to contain dogs (and which may also preclude koalas) should be restricted to the designated building envelope. Fences which are intended to preclude koalas should be located away from any trees which now or in the future could allow koalas to cross the fence.</p>	<p>It has been proposed that where dogs are kept on site, dogs must be restricted to and contained within a fenced area within the designated building as shown on the 'Proposed Site Layout' plan, Revisions F, Drawing No. 2410-A04, prepared by Draw Design Group, dated 28 April 2023. Dog enclosure fencing must be of a type that precludes koalas and is to be located away from any trees which now or in the future could allow koalas to cross the fence.</p>
<p>g) Be restricted to identified envelopes which contain all buildings and infrastructure and fire fuel reduction zone. Generally there will be no clearing on the site outside these envelopes. In the case of applications for subdivision, such envelopes should be registered as a restriction on the title, pursuant to the Conveyancing Act 1919</p>	<p>Outside of the proposed dwelling and APZ no further clearing shall be permitted. This shall be further enforced by the use of an 88B instrument.</p>
<p>h) Include measures to effectively minimise the threat posed to koalas by dogs, motor vehicles and swimming pools by adopting the following minimum standards.</p> <p>i) The development must include measures that effectively abate the threat posed to koalas by dogs through prohibitions or restrictions on dog ownership. Restrictions on title may be appropriate.</p> <p>ii) The development must include measures that effectively minimise the threat posed to koalas from traffic by restricting motor vehicle speeds, where appropriate, to 40 kph or less.</p>	<p>Where dogs are kept on site, they shall be contained and restricted to a fenced area.</p> <p>Traffic is not considered to pose a threat as the proposal does not include the construction of roads. There will be driveway access only.</p> <p>The pool area will not be accessible to koalas and is not considered to pose a threat.</p>

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<p>iii) The development must reduce the risk of koala mortality by drowning in backyard swimming pools. Appropriate measures could include: trailing a length of stout rope (minimum diameter of 50mm), which is secured to a stable poolside fixture, in the swimming pool at all times; designing the pool in such a way that koalas can readily escape; or enclosing the pool with a fence that precludes koalas. This last option should include locating the fence away from any trees which koalas could use to cross the fence.</p>	
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State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 Coastal Management

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

As per Section 2.10 of Chapter 2 of the SEPP, development consent must not be granted for development within the coastal environment area unless the consent authority has considered whether the development will cause impact to the integrity of the biophysical and ecological environment, the values and natural coastal processes, marine vegetation, native vegetation and fauna and existing public open space and access to and along the foreshore.

Whilst portions of the site have been identified as being within a coastal use area, the proposed development is not. It is considered that the proposal will not impact the safe access to the coastal area nor will it impact views, visual amenity and scenic qualities and heritage values. Therefore the application would generally comply with the aims of the SEPP and the other matters for consideration, and can therefore be supported.

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.

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

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The proposed development is defined as a dwelling house which is permissible with consent in the C4 Environmental Living zone. The development addresses the objectives of the zone by providing for low-impact residential development in areas with special ecological, scientific or aesthetic values. And by ensuring that residential development does not have an adverse effect on those values.

ITEM 2 - ATTACHMENT 4 PLANNER'S ASSESSMENT REPORT.

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The development footprint of the proposed dwelling is approximately 951m², and the total area of the subject site is approximately 84,177m². Therefore, the proposed dwelling equates to approximately 1.13% of the total site area. When considering the impacted area of the site, and the supporting ecological studies provided with the application, it has been concluded that the proposed development aligns with the objectives of the zone.

Clause 2.7 – Demolition requiring development consent

Not applicable

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 10 ha. The existing site area is 8.42 ha which is less than the minimum lot size, however, there is no proposed subdivision within this development application – and dwelling entitlement exists on the subject site.

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

Not applicable

Clause 4.3 – Height of Buildings

The proposed development has a maximum height of 9 metres, which is not more than the maximum permissible building height 9 metres specified on the Height of Buildings Map.

Clause 4.6 – Exceptions to development standards

Not applicable

Clause 5.6 – Architectural Roof Features

Not applicable

Clause 5.10 – Heritage conservation

Aboriginal archaeology

The subject site does not have any state or locally listed heritage items nor is it within a heritage conservation area in accordance with the PSLEP. However, it was identified that the site previously contained one listed Aboriginal heritage item, being a 'ceremonial ring'. The item was located within the north western portion of the site on top of the existing ridge, refer to Figure 8 below.

Following further investigation carried by Myall Coast Archaeological Services, the Department of Planning, Industry and Environment (Aboriginal Heritage Information Management System), changed the status on AHIMS database to "Not a Site". Subsequently, Council's external Heritage Consultant, provided the following advice:

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Given it is no longer registered as a site no Aboriginal Heritage constraints or permits apply, and there are no heritage impediments to the proposal moving ahead.

Noting this, any potential impact to the heritage significance of the site is considered reasonably avoided and/or mitigated. Subsequently, the development is consistent with the objectives of this clause.



Figure 8. Location of existing Aboriginal Heritage item on the site

Clause 5.21 – Flood Planning

The proposed development is located on land mapped as being Flood Planning Area. However, the development area (include driveway access) is clear of the Flood Planning Area, and no further investigation is required for this part.

Clause 6.1 – Arrangements for designated State public infrastructure

Not applicable

Clause 6.2 – Public utility infrastructure

Not applicable

Clause 7.1 – Acid Sulfate Soils

The subject land is mapped as containing potential Class 3, 4 and 5 acid sulfate soils. The development area is mapped as Class 5 acid sulfate soils. The proposed development is not anticipated to entail excavations which are below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre, and therefore it is not expected that acid sulfate soils would be encountered during works

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Clause 7.2 – Earthworks

The application proposes earthworks on the site to achieve a building platform through the use of balanced cut and fill. The proposed earthworks are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place. The proposed development is considered to appropriately respond to the existing topography of the site.

Clause 7.5 – Areas Subject to Aircraft Noise

Not applicable

Clause 7.6 – Essential Services

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

Additionally, the applicant has provided a Hunter Water Corporation (HWC) Developer Works Deed, which endorses a Packaged Sewer Pump Station on the subject site. The Deed confirms transfer of ownership of the asset (Packaged Sewer Pump Station) to HWC on completion of works.

Therefore, an approval under Section 68 of the Local Government Act 1993 for an on-site sewage management system (OSMS), is not required for the proposed development.

Additionally, a condition of consent has been recommended which stipulates the applicant must contact Hunter Water (prior to the issue of a Construction Certificate) for confirmation that a reticulated sewer connection via Hunter Water Corporation owned/managed asset is available. As follows:

Prior to the issue of a Construction Certificate provide evidence demonstrating reticulated sewer connection availability via Hunter Water Corporation owned/managed assets. Evidence may include –

- a) Written advice from Hunter Water Corporation confirming sewer connection availability, reflective of development subject to this determination. Advice is to include persons/Authority responsible for all components of the sewage management system, including any part of the system prior to and inclusive of any boundary kit; and
- b) Section 50 Compliance Certificate reflective of development subject to this determination (where applicable)

Whereby the management of wastewater subject to this development comprises 'on-site' components of whom the property owner/occupant is responsible for (as determined by Hunter Water Corporation): A separate Section 68 Application for the installation of a waste treatment device/human waste storage facility shall be approved by Council under provisions of the Local Government Act 1993 **AND** Prior to OC an Approval to Operate shall be obtained by Council in accordance with the *Local Government Act, 1993* (Section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility.

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Clause 7.8 – Drinking Water Catchments

Not applicable

Clause 7.9 – Wetlands

The proposal is located on land identified as wetland. The application has been assessed by Councils Natural Resources Officer who has determined that the development will not have a negative impact on the flora and fauna of the wetland, including either native and migratory species, or the characteristics of the ground or surface water.

Clause 7.10 – Williams River Catchment

Not applicable

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 planPort 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

Not applicable

Chapter B2 – Natural Resources

Chapter B2 of the DCP requires that proposed development within 500 m of areas of environmental significance are accompanied by the appropriate level of biodiversity assessment. This chapter of the DCP also requires the consideration of compensatory mitigation measures including the planting of trees and nest box installation. The proposed development has been assessed under the NSW Biodiversity Offsets Scheme framework and a Biodiversity Development Assessment Report (BDAR) was submitted to Council. The BDAR submitted is considered to meet the requirements of Chapter B2 of the DCP.

Chapter B3 – Environmental ManagementAcid Sulfate Soils

The objective of this DCP Chapter is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage. As detailed within clause 7.1 discussion above, the proposed development could be undertaken, subject to conditions of consent, without resulting in adverse impact to ASS. In this regard the development is consistent with the objective and requirements of the DCP.

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Noise

The separation distances incorporated into the development will limit any significant 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.

Earthworks

As discussed at clause 7.2 above, the proposed development involves earthworks on the site to achieve a building platform through the use of balanced cut and fill. The impacts of the proposed earthworks can be mitigated through conditions of consent. The proposal is therefore consistent with requirements outlined in Councils DCP relating to earthworks.

Chapter B4 – Drainage and Water Quality

A stormwater management plan was submitted with the application and includes adequate quality and quantity controls as required by Councils policy. The stormwater drainage plan has been assessed as being consistent with the Infrastructure Specification and a condition of consent has been included in the consent requiring the provision of detailed engineering plans, prior to the issue of a construction certificate.

Chapter B5 – Flooding

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.

Chapter B6 – Williamstown RAAF Base - Aircraft Noise and Safety

Not applicable

Chapter B7 – Heritage

Aboriginal archaeology

The subject site does not have any state or locally listed heritage items nor is it within a heritage conservation area in accordance with the PSLEP. However, it was identified that the site previously contained one listed Aboriginal heritage item, being a 'ceremonial ring'. The item was located within the north western portion of the site on top of the existing ridge, refer to Figure 9 below.

Following further investigation carried by Myall Coast Archaeological Services, the Department of Planning, Industry and Environment (Aboriginal Heritage Information Management System), changed the status on AHIMS database to "Not a Site". Council's external Heritage Consultant, provided the following advice:

Given it is no longer registered as a site no Aboriginal Heritage constraints or permits apply, and there are no heritage impediments to the proposal moving ahead.

Noting this, any potential impact to the heritage significance of the site is considered reasonably avoided and/or mitigated. Subsequently, the development is consistent with the objectives of this clause.

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Figure 9. Location of existing Aboriginal Heritage item on the site

Chapter B8 – Road Network and Parking

The potential impacts of the development to the local road network have been assessed and it has been determined that subject to conditions of consent the development is satisfactory.

The proposed access arrangements are considered to be suitable and compliant with Council requirements. The proposed access to the development site is nominated on the architectural plans to be from Reflections Drive. This has additionally been recommended as a condition of consent. The reason for this condition, is that this is the only access that has been considered during this assessment, with regard to ecological impacts of the development, and impacts on the existing built environment, and subsequent amenity. Further, there has been significant opposition to the use of the right of carriage way fronting Gan Gan Road for the construction purposes of the subject development, due to the amenity impacts on the other residents adjoining the right of carriage way. It should be clarified, that the proposed condition does not restrict the owner from using the right of carriageway for site access for other purposes not related to this proposed development/application.

Furthermore, the applicant's Statement of Environmental Effects outlines states:

"...however access may be best achieved from Reflections Drive due to the other locations lacking adequate site distances for safe ingress and egress and dense vegetation adjoining the property boundaries with wetland affectation."

However, it also states:

"Access is proposed via an 'existing right of way' over Lot 1125 DP 788377, which benefits the subject site."

With the imposition of a condition of development consent, it will further clarify this discrepancy.

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

Development Type	Parking Requirement	Accessible Parking	Proposed
dwelling house , dual occupancy and semi-detached dwellings	<ul style="list-style-type: none"> • 1 car space for one and two bedroom dwellings • 2 car spaces for three > bedroom dwellings 	No requirement	The proposed garaging can accommodate multiple vehicles, exceeding the minimum DCP requirement.

C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy	
The proposed development includes a dwelling house, secondary dwelling, or dual occupancy component and this section of the DCP applies.	<input checked="" type="checkbox"/>
C4.A – Height	
Objectives	
<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 	
Control	<p>C1.1 – Building height Maximum height limit of 8m or a merit-based approach is taken where no height limit is specified under the Local Environmental Plan clause 4.3</p> <p>Note: C2.4 requires a minimum first floor and above ceiling height for residential accommodation in a commercial zone of 2.7m</p>
Assessment	The proposed development has a maximum height of 9 metres, which is not more than the maximum permissible building height 9 metres specified on the Height of Buildings Map.
C4.B – Setbacks	
Objectives	
<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 	

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Control	<u>C4.2 – Setback requirements</u> Development is to be setback from the subject property boundary, in accordance with the provisions outlined in Figure C1.
Assessment	The proposed setbacks comply with Figure C1.
Control	<u>C4.3 – Front setback encroachment</u> Maximum 1.5m encroachment of front setback for architectural features, such as an entry porch or deck
Assessment	No building elements proposed within the front setback.
Control	<u>C4.4 – Secondary dwelling setback</u> Development for a secondary dwelling must be located behind the building line of the principal dwelling it is in conjunction with.
Assessment	Not applicable – no secondary dwelling proposed within this application.
Control	<u>C4.5 – Secondary setback encroachment</u> Maximum 1m encroachment to secondary setback for architectural features, such as an entry porch or deck.
Assessment	Not applicable – no encroachment is proposed to a secondary setback
Control	<u>C4.6 – Garage setback</u> Garage setback minimum 1m behind the building line or setback.
Assessment	The proposed garage is setback greater than 1m from the upper floor of the dwelling. This ensures the garage is integrated into the dwelling design, without compromising street character.
Control	<u>C4.7 – Public reserve and waterfront setback</u> Minimum 3m setback from a public reserve boundary.
Assessment	Not applicable to this site.
Control	<u>C4.8 – Public reserve and waterfront setback</u> Minimum 4.5m setback from a waterfront reserve boundary.
Assessment	Not applicable to this site.
Control	<u>C4.9 – Public reserve and waterfront setback</u> Minimum 1m setback from waterfront land from the access boundary.
Assessment	Not applicable to this site.

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Control	<p><u>C4.10 – Battle-axe lot handle</u> Minimum 1m setback from a battle-axe lot handle, access corridor or easement that is required for access</p> <p>Note: C1.3 details when battle-axe lots are provided</p>
Assessment	Not applicable to this site (dwelling access is proposed off Reflections Drive)
Control	<p><u>C4.11 – Adjoining agricultural buffers</u> An agricultural buffer of 150m or greater should be provided between a rural dwelling house, secondary dwelling or an ancillary structure for habitable purposes to adjoining land in separate ownership that is used or capable of being used for agricultural purposes</p> <ul style="list-style-type: none"> Where the 150m buffer or greater cannot be achieved the planting of a 30m wide native vegetation strip is to be provided between the proposed development building envelope and the adjacent agricultural land <p>Note: B2.1 requires a suitable buffer on the land which is the subject of development to items of environmental significance</p>
Assessment	Not applicable to this site.
C4.C – Streetscape and privacy	
<p style="text-align: center;">Objective</p> <ul style="list-style-type: none"> To ensure development activates the streetscape to provide passive surveillance and privacy. 	
Control	<p><u>C4.12 – Passive surveillance</u> Development is to address the street by having at least one habitable room front the street and/or adjoining public spaces.</p> <p>Passive Surveillance is achieved in accordance with Councils DCP controls.</p>
Assessment	The dwelling includes habitable spaces (bedrooms) with openings facing in the general direction of Reflections Drive.
Control	<p><u>C4.13 – Passive surveillance</u> Development on corner lots is to address both street frontages by having habitable rooms face both streets.</p>
Assessment	While it is acknowledged that the subject site has dual road frontages, for the purposes of the subject development the site is not considered to be a corner lot.
Control	<u>C4.14 – Streetscape character</u>

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	To be sympathetic to the existing landscape character and built-form with regard to design, bulk, scale, form, materials and roof configuration.
Assessment	It is considered that the design is sympathetic to the existing landscape character and built form, and that the dwelling provides an appropriate level of passive surveillance.
Control	<u>C4.15 – Privacy and two-storey development</u> Two storey development is to include a balcony or deck facing the street on the upper floor at least 1.5m deep across 25% of the dwelling frontage.
Assessment	While a balcony has not been provided for the upper floor, when considering that extensive street setback - it is not considered necessary or relevant in this instance. The development design is considered to contribute to the streetscape through built form and landscape that respects and responds to the local context, and the desired streetscape of the area.
Control	<u>C4.16 – Privacy and two-storey development</u> Balconies are to be located to minimise overlooking of adjoining properties.
Assessment	As per C4.15
Control	<u>C4.17 – Privacy and two-storey development</u> Privacy screens are required for balconies and patios, which result in unreasonable privacy impacts to properties.
Assessment	Due to the increased setbacks from the allotment boundaries, it is considered that the proposed development will not unreasonably impact on adjoining properties with regards to visual privacy.
Control	<u>C4.18 – Privacy and two-storey development</u> Privacy screens, high-light windows or opaque glass is to be used for windows of habitable rooms (other than bedrooms) which overlook adjoining properties.
Assessment	As per C4.17
C4.D – Private open space	
Objective	
<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 	
Control	<u>C4.19 – Private open space dimensions</u> Minimum of 50m ² of ground floor private open space comprising a minimum of 35m ² that is usable. Private open space is considered usable if it:

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	<ul style="list-style-type: none"> • has minimum dimensions of 4m x 4m; • has direct access from internal living areas; • is not located within a front setback; and • has a northerly aspect.
Assessment	Private open space is provided to the dwelling that meets the DCP objectives and exceeds the controls.
Control	<u>C4.20 – Private open space</u> Where development cannot provide private open space on the ground floor, provisions shall be made for a balcony of not less than 20m ² with a minimum width of 3m for the use as private open space.
Assessment	Not applicable – suitable areas for private open space can be achieved on the ground floor.
Control	<u>C4.21 – Solar access</u> Minimum of 2 hours sunlight to the principal private open space area between the hours of 9am-3pm midwinter.
Assessment	Solar access is achieved to areas of private open space.
Control	<u>C4.22 – Solar access</u> Minimum of 30% of private open space of adjoining dwellings must remain unaffected by any shadow for a minimum of 3 hours between 9am-3pm midwinter.
Assessment	Adjoining neighbour's private open space will not be adversely impacted by the proposal.
C4.E – Car parking and garages	
Objective <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 	
Control	<u>C4.23 – Driveway width</u> A driveway should have a minimum width of 3m Note: B8.12 requires ingress/egress widths to provide the listed dimensions
Assessment	The driveway location and size is considered satisfactory.
Control	<u>C4.24 – Garage dimensions</u> Maximum garage door width of 6m for residential lots or 50% of the building frontage, whichever is less.

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Assessment	See C1.13 below.
Control	<u>C1.13 – Street layout attributes</u> Maximum garage width of 9m for lots exceeding 1,500m ² .
Assessment	The garage door width does not exceed 9m.
C4.F – Landscaping	
<p style="text-align: center;">Objectives</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 • 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 	
Control	<p><u>C4.26 – Dwelling house</u> Development located on land that slopes at more than 18 degrees to the horizontal or that is within 50m of land that contains:</p> <ul style="list-style-type: none"> • a Coastal Wetland identified in SEPP (Biodiversity and Conservation) 2021; or • koala habitat; or • species or communities listed within the Biodiversity Conservation Act 2016 <p>must provide landscaping that:</p> <ul style="list-style-type: none"> • will enhance the environmental constraints of the site; • retains trees within the outer protection area of the APZ identified by a bushfire report; and • constrains turf areas within the inner protection area of the APZ identified by a bushfire report.
Assessment	Landscaping has been proposed that is considered to complement the proposed development, and contributes to the streetscape character.
Control	<p><u>C4.27 – Dual occupancy landscaping coverage</u> Landscaping is provided as follows:</p> <ul style="list-style-type: none"> • 20% of the site area; or • 40% of the site area where development is located within 50m of:

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	<ul style="list-style-type: none"> - a Coastal Wetland identified in SEPP (Biodiversity and Conservation) 2021; or - koala habitat; or - species or communities listed within the Biodiversity Conservation Act 2016; or - a public reserve; and • 30% shading over uncovered car park areas
Assessment	Not applicable
Control	<p><u>C4.28 – Dual occupancy landscaping dimensions</u></p> <p>To be counted as part of the total landscaping coverage, the landscaped area must be at least 1.5m wide and 3m long.</p>
Assessment	Not applicable
Control	<p><u>C4.29 – Dual occupancy landscaping qualities</u></p> <p>Landscaping is in accordance with the following:</p> <ul style="list-style-type: none"> • Landscape works incorporate adequate screening from the street and adjacent neighbours. • Corner lots provide landscaping to both street frontages. • Front boundary structures (e.g. fencing and retaining walls) provide visual relief with the use of landscape planting. • Street trees are to be within the footpath, verge or in the parking lane and be consistent with the Port Stephens Council tree technical specification¹ • Landscape planting must provide adequate shading to the eastern and western aspects of private open space • Structural soil and/or structural cells should be used to reduce competition between specimen trees and infrastructure <p>Note: The canopy coverage of specimen trees can be used to calculate deep soil landscaping</p>
Assessment	Not applicable
Control	<p><u>C4.30 – Species selection</u></p> <p>Landscape species are to be selected in accordance with the landscape technical specification.</p>
Assessment	Landscaping has been proposed that is considered to complement the proposed development, and contributes to the streetscape character.
C4.G – Site facilities and services	
Objective	
<ul style="list-style-type: none"> • To ensure development provides appropriate facilities and services in the most appropriate site location 	

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Control	<u>C4.31 – Waste storage</u> An adequately screened waste storage and recycling area is to be provided behind the building line.
Assessment	Appropriate space is provided/available for waste storage.
Control	<u>C4.32 – Clothes drying</u> A suitable open-air area for clothes drying is to be provided for each dwelling behind the building line with a northerly aspect.
Assessment	Appropriate space is provided/available for clothes drying.

C8 – ANCILLARY STRUCTURES	
The proposed development includes ancillary structures and this section of the DCP applies.	<input checked="" type="checkbox"/>
C8.A – Ancillary Structures	
Objectives	
<ul style="list-style-type: none"> To provide further guidance for ancillary structures to ensure consistent and desired amenity is attained To ensure ancillary structures do not adversely impact upon the amenity of the surrounding area To ensure ancillary structures are consistent in terms of height, bulk and scale with the surrounding area 	
Control	<u>C8.13 – Swimming pools</u> The water edge must be setback at least 1m from the side and rear boundaries.
Assessment	The swimming is setback at least 1m from the rear and side boundaries.
Control	<u>C8.14 – Swimming pools</u> Maximum decking height of 1.4m in height if the pool is located more than 600mm above the ground level (finished).
Assessment	The proposed swimming pool surrounds exceed the maximum height as stipulated in C8.14. The intention of this part is to ensure an acceptable level of visual privacy is maintained for the subject and adjoining properties. There are no foreseen impacts anticipated as a result of this variation when considering the swimming pool is setback approximately 40m from the closest allotment boundary.

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Control	<u>C8.22 – Retaining walls</u> Maximum height of 1m.
Assessment	The proposed development is considered to appropriately respond to the topography. The proposal follows the natural contours of the land, by stepping the design to ensure the cumulative height is minimised. The retaining structures are supported as proposed.
Control	<u>C8.23 – Retaining walls</u> Masonry construction within 0.9m of the property boundary when greater than 0.6m in height.
Assessment	There aren't any proposed retaining walls within 0.9m of the property boundaries.
Control	<u>C8.24 – Retaining walls</u> Retaining walls are wholly contained within the site.
Assessment	All retaining walls are wholly within the subject site.

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

Not applicable

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

Not applicable

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

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The proposed development represents a modern residential development and will result in additional housing to service the needs of the community.

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

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

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

Impacts on the Built Environment

It is considered the design provides adequate separation between the proposed and adjoining dwellings. The design includes significant articulation including increased setbacks that exceed the minimum requirement as stipulated in the PSDCP. The provided articulation minimises the presentation of bulk as viewed from the public domain and neighbouring properties.

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

Impacts on the Natural Environment

It is considered that potential impacts on the natural environment and locality have been minimised. As noted throughout this assessment the environmental impacts of the proposed development have been addressed through an internal referral process to Council's Natural Systems team. The completed referral includes recommended conditions of consent.

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

The site is considered suitable for supporting the proposed residential development. As assessed throughout the report, potential impacts on the locality have been minimised. The proposal is compliant with the objectives of the applicable planning framework and policies, and on these grounds, the site is suitable for the development.

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

Public Submissions

The application was exhibited from 12 July 2022 to 2 August 2022 (extended date), in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. Six submissions were received during this time. The matters raised during the exhibition period have been detailed in the table below.

Matter raised	Response
<u>Inaccuracy of the cost of works</u> Based on the size and scale of the structure and ancillary works proposed it is likely that the cost of works would exceed	The applicant was requested to provide a cost report prepared by a registered quantity surveyor to verify the cost of the development. Additional DA fees would be payable based on the difference between the

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<p>\$3,000,000.00. This should require a detailed cost report prepared by a registered quantity surveyor verifying the cost of the development.</p>	<p>provided cost of works and the registered quantity surveyor's estimate.</p> <p>The applicant provided a quantity surveyors report outlining the cost of works as \$3,143,613.</p> <p>Additional application fees have subsequently been charged and received.</p>
<p><u>Inconsistent with the objectives of the zone</u></p> <p>The proposed development is inconsistent with the objectives of the zone. The development seeks to develop an unnecessarily large single dwelling house to the detriment of the special ecological values associated with the site.</p>	<p>The applicant has provided the following response to this submission item:</p> <p><i>The site is Zoned C4 – Environmental Living. Pursuant to Clause 2.3 of the Land Use Table construction of a dwelling house is permissible with consent. The proposed development will maintain and enhance the natural amenity and ecological values of the land through its planned use and management. The development will provide a positive outcome for the local community as it will allow for a more planned use of the property, increasing active land management and the retention of ecological values. The proposed development is sympathetic to the existing rural residential amenity and character and has been designed in a way to ensure it fits within its locality and surrounding area. Construction of the dwelling and associated habitation will enable the highest and best use of the site to be achieved, to ensure proper maintenance of the land and associated environmental characteristics.</i></p> <p>The development footprint of the proposed dwelling is approximately 951m², and the total area of the subject site is approximately 84,160m². Therefore, the proposed footprint itself equates to approximately 1.13% of the total site area. When considering the impacted area of the site, and the supporting ecological studies which accompany the application, it has been concluded that the proposed development aligns with the objectives of the zone.</p>
<p><u>Inaccuracy within the Arborist Report</u></p> <p>To summarise, of the 123 trees proposed to be removed, 79 are suitable koala habitat trees and are only proposed to be removed as a direct result of the proposed development. The Arborist Report and</p>	<p>An amended arborists report was requested to include a figure clearly displaying hollow-bearing trees proposed for removal and retention in plant community type 1648 located within Lot 2 DP 810866, and clearly</p>

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Statement of Environment Effects explicitly state that the removal of the 123 trees are a direct result of "poor/declining health and/or structural conditions and/or unsuitability to the site" which is proven to be an incorrect statement as discussed within our previous submission.	<p>indicates trees that are to be retained and trees that are to be removed.</p> <p>Council's Natural Systems team have concluded that the Arborist Report is considered to provide sufficient detail to direct tree clearing activities. No further information required.</p>
<p><u>Inaccuracy within the Biodiversity Development Assessment Report (BDAR)</u></p> <p>The Biodiversity Conservation Act 2016 (BC Act) lists and protects threatened species, populations and ecological communities that are under threat in NSW. Impacts to threatened species and endangered ecological communities listed under the BC Act are required to be assessed in accordance with Section 7.3 of the BC Act and applicants must also consider whether their proposal will exceed the following Biodiversity Offset Scheme Development Thresholds and require the preparation of a Biodiversity Development Assessment Report (BDAR):</p> <ul style="list-style-type: none"> The BDAR states that "existing connectivity to large tracts of habitat is considered suitable only for mobile species such as birds and bats" 25 which seems at odds with the plans to clear the site in a way that fauna can move to adjacent habitat. A lack of consideration of Chapter 4 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP) and the endorsed Port Stephens Comprehensive Koala Plan of Management (CKPoM) is clearly demonstrated within the submitted documentation. Fundamentally, the proposed development is inconsistent with the aims of the chapter. 	<p>An amended BDAR was requested to be provided, as the original report was found to be unsatisfactory with regards to incomplete surveys for threatened species.</p> <p>An amended BDAR was provided, which was subsequently reviewed by Council's Natural Systems team, with the following comments provided:</p> <p><i>Whilst there are still substantial deficiencies in the survey effort undertaken for the BDAR, a further review of the BDAR threshold triggers has revealed that the proposed development would qualify for the streamlined assessment module of the Biodiversity Assessment Method 2020, which has much reduced survey requirements. As the proposed development is not within an area of core koala habitat mapped on the NSW Biodiversity Values Map and the lot size and impact area are within the allowable thresholds, the streamlined assessment module for a small area development is available.</i></p> <p><i>As such, survey requirements have been considered by the assessing officer under the streamlined module rather than the requirements for a full BDAR. Within this framework, the BDAR can be accepted without the requirement for further survey of the site.</i></p> <p>It is therefore concluded that the BDAR has been assessed against the requirements of 'Appendix C: Streamlined assessment module – Small area' of the BAM 2020. No further surveys are required.</p>
<p><u>Visual Impact</u></p> <p>Concerns with the visual impact assessment and find the conclusion that there will be no visual impact at all highly questionable.</p>	<p>It is considered the design provides adequate separation between the proposed and adjoining dwellings. The design includes significant articulation, including increased setbacks which exceed the minimum</p>

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	<p>requirements as stipulated in the PSDCP.</p> <p>The provided articulation minimises the presentation of bulk as viewed from the public domain and neighbouring properties.</p> <p>The design utilises the natural topography of the site to help step the building with the slope. This helps mitigate the perceived bulk of the building as it appears as a single storey building on the ridge from a number of elevations with the two storey component following the slope of the site.</p> <p>Overall, the proposed development is considered suitable for the surrounding built environment.</p>
<p><u>Proposed Construction Access to the site</u></p> <p>Concerns over construction access to the site utilising the existing right of carriageway. And the subsequent ongoing damage to the right of carriageway, and residents safety.</p>	<p>The proposed access to the development site is nominated on the architectural plans to be from Reflections Drive. This has additionally been recommended as a condition of consent. The reason for this condition, is that this is the only access that has been considered during this assessment, with regard to ecological impacts of the development, and impacts on the existing built environment, and subsequent amenity. Further, there has been significant opposition to the use of the right of carriage way fronting Gan Gan Road for the construction purposes of the subject development, due to the amenity impacts on the other residents adjoining the right of carriage way. It should be clarified, that the proposed condition does not restrict the owner from using the right of carriageway for site access for other purposes not related to this proposed development/application.</p> <p>Furthermore, the applicant's Statement of Environmental Effects outlines states:</p> <p><i>"...however access may be best achieved from Reflections Drive due to the other locations lacking adequate site distances for safe ingress and egress and dense vegetation adjoining the property boundaries with wetland affectation."</i></p> <p>However, it also states:</p> <p><i>"Access is proposed via an 'existing right of way over Lot 1125 DP 788377, which benefits the subject site."</i></p>

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ITEM 2 - ATTACHMENT 4 PLANNER'S ASSESSMENT REPORT.

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	<p>With the imposition of a condition of development consent, it will further clarify this discrepancy.</p> <p>This assessment report addresses the proposed dwelling and swimming pool. It does not include consideration of existing matters in relation to the previous approval for the Horticulture and ancillary shed (16-2021-92-1).</p>
<p><u>Koalas</u></p> <p>State Environmental Planning Policy (Biodiversity and Conservation) 2021 Chapter 4 Koala Habitat Protection 2021 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP) requires that Council's determination of the development application must be consistent with the approved koala plan of management that applies to the land.</p>	<p>The potential impacts on Koala habitat have been reviewed Council's Natural Systems team, with the following comments provided:</p> <p><i>The CKPoM allows for the establishment of a building envelope and associated APZs within koala habitat provided that the proponent can demonstrate that:</i></p> <ol style="list-style-type: none"> <i>1. The building envelope and associated zones cannot be located in such a way that would avoid the removal of native vegetation within Preferred or Supplementary Koala Habitat, Habitat Buffers, or Habitat Linking Areas, or removal of preferred koala food trees; and</i> <i>2. That the location of the building envelope and associated works minimises the need to remove vegetation.</i> <p><i>To mitigate impacts to Koala habitat, 100 Koala feed trees will be planted on site outside of the APZ area within degraded areas of Swamp Forest. These planting are required to be maintained in perpetuity.</i></p> <p>Further discussion can be found above – please refer to Chapter 4 Koala Habitat Protection 2021.</p>
<p><u>On-site wastewater management</u></p> <p>No information as to how the on-site sewage treatment system will be placed and managed to ensure there is no discharge to the local wetlands</p>	<p>A condition of consent has been recommended which stipulates the applicant must contact Hunter Water (prior to the issue of a Construction Certificate) for confirmation that a reticulated sewer connection via Hunter Water Corporation owned/managed asset is available.</p>

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<p><u>Commonwealth Legislation</u></p> <p>Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).</p> <p>The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) applies where it is considered that an impact on a 'matter of National Environmental Significance (NES)' is likely, triggering referral of the application to the Australian Government Department of Climate Change, Energy, the Environment and Water.</p>	<p>The BDAR has included consideration of EPBC matters and concluded that significant impacts to matter of National Environmental Significance are unlikely to occur.</p> <p>Council's Natural System's team agree with this conclusion.</p> <p>Further, there is no official referral requirement between Council and the Commonwealth Government on EPBC matters. It is the responsibility of the applicant to refer in instances where a significant impact is considered likely to occur.</p>
<p><u>Impacts on amenity</u></p> <p>Our rights to the quiet enjoyment of our property and the amenity and safety of our family, our neighbours and the local community is maintained.</p>	<p>It is considered the design provides adequate separation between the proposed and adjoining dwellings. The design includes significant articulation including increased setbacks that exceed the minimum requirement as stipulated in the PSDCP. The provided articulation minimises the presentation of bulk as viewed from the public domain and neighbouring properties.</p> <p>Overall, the proposed development is considered suitable for the surrounding built environment.</p>

Section 4.15(1)(e) the public interest

The proposal is considered to be in the public interest as it involves the construction of a dwelling house within an established area, which will provide for residential accommodation in the locality to service the needs of the community. In addition, the development is not anticipated to have any significant adverse impacts on surrounding properties or the natural environment.

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

Not applicable

DETERMINATION

16-2022-529-1

The application is recommended to be approved by Council, subject to recommended conditions of consent provided as contained in the notice of determination.

MICHAEL JACOBSON

Principal Building Surveyor

ITEM NO. 3

FILE NO: 23/253338
EDRMS NO: PSC2023-02759

PLANNING PROPOSAL FOR COASTAL RISK PLANNING CLAUSE

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the planning proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 to insert a coastal risk planning clause and accompanying coastal risk planning map.
- 2) Forward the planning proposal to the NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan.

BACKGROUND

The purpose of this report is to seek Council's endorsement to adopt a planning proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 (LEP) to insert a coastal risk planning clause and coastal risk planning map. The endorsement would allow for the forwarding of the planning proposal to the NSW Department of Planning and Environment (DPE) for a Gateway determination and request authority to make the plan.

The preparation of the planning proposal responds to a key aspect of the forthcoming Port Stephens Coastal Management Program (CMP). The intent of the proposal is to incorporate provisions to manage the risk to life and properties from coastal hazards in the LEP and Development Control Plan (DCP).

The planning proposal is based upon the technical investigations undertaken for the CMP, including hazard mapping identifying properties at risk of coastal inundation, tidal inundation, coastal erosion and dune transgression. The hazard mapping is publicly available and was subject to community consultation in April and May 2023.

The purpose of reporting the planning proposal prior to the CMP is to seek a Gateway determination from DPE. This would facilitate the intended concurrent public exhibition of the planning proposal with the CMP in 2024. It is noted that CMPs are not subject to the Gateway determination process.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Program to develop and implement Council's key planning documents

FINANCIAL/RESOURCE IMPLICATIONS

There are no additional identified financial/resource implications identified for the preparation of the planning proposal.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The preparation of the planning proposal has some legal, policy and risk implications for Council.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council does not consider the impacts of coastal risk in the assessment of planning applications.	Medium	Accept the recommendation.	Yes
There is a risk that landowners and applicants do not support the insertion of the coastal risk planning clause and coastal risk planning map in the LEP.	Medium	Accept the recommendation.	Yes

Environmental Planning and Assessment Act 1979 (EP&A Act)

The planning proposal is being processed in accordance with Part 3 of the EP&A Act. Should Council resolve to endorse the planning proposal, it will be forwarded to DPE for a Gateway determination, including a request for Council to be made the plan making authority.

NSW Ministerial Direction 4.2 Coastal Management

Preparing the planning proposal is consistent with NSW Ministerial Direction 4.2 Coastal Management issued under section 9.1 of the EP&A Act. The Direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone. The Direction requires planning proposals to include provisions that give effect to and are consistent with, any relevant Coastal Management Program that has been certified by the Minister.

Port Stephens Local Environmental Plan 2013

The planning proposal is to amend the LEP by inserting a coastal risk planning clause and accompanying coastal risk planning map.

The objectives of the intended LEP clause are:

- To avoid significant adverse impacts from coastal hazards
- To ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards
- To enable the evacuation of land identified as coastal risk in an emergency
- To avoid development that increases the severity of coastal hazards.

The clause would apply to development on land identified on a coastal risk planning map comprised of the following map layers:

- Coastal inundation
- Tidal inundation
- Coastal erosion
- Dune transgression.

The above risks are mapped to the year 2120, with the exception of dune transgression, which is mapped to the year 2070. The coastal risk planning map is included in the planning proposal **(ATTACHMENT 1)**.

The coastal risk planning map layers have been made publicly available during preliminary public consultation on the CMP. These map layers are available on the Council website, along with other information on the CMP.

Amending the LEP to introduce a coastal risk planning clause and inclusion of a coastal risk planning map is consistent with the approach undertaken by other NSW coastal councils and the NSW planning framework for managing coastal risk.

Port Stephens Development Control Plan 2014 (DCP)

The preliminary management option in the CMP is to prepare a planning proposal including a recommendation to incorporate provisions to manage the risk to life and properties from coastal hazards for inclusion in the DCP. Should the planning proposal progress, Council staff would prepare a draft amendment to the DCP to incorporate a new DCP chapter addressing coastal risk.

Port Stephens Local Strategic Planning Statement (LSPS)

The planning proposal would give effect to the following planning priority in the LSPS:

- Planning Priority 8: Improve resilience to hazards and climate change
- Action 8.3: Council will prepare and implement a Coastal Management Program to mitigate natural hazards and incorporate resilience measures that promote ecologically sustainable development.

Hunter Regional Plan 2041 (HRP)

The planning proposal is consistent with the HRP Objective 7 'Reach net zero and increase resilience and sustainable infrastructure'. The planning proposal achieves this by introducing a coastal risk planning clause to the LEP. This would increase the resilience of future development and facilitate the creation of more sustainable infrastructure.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The planning proposal would have positive social, economic and environmental risk implications for Council through the consideration of coastal risks in the assessment of development applications, consistent with the approach taken by other NSW coastal councils and with the NSW planning framework for managing coastal risk.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section. The objective of the consultation is to align with the intended outcomes of the CMP and LSPS.

Internal

Consultation has been undertaken with the CMP Working Group comprised of the Natural Systems, Strategic Planning, Development Planning, Building and Certification, and Flooding and Drainage teams.

External

Initial community consultation on the CMP including the hazard mapping has been undertaken. This consultation included a mail out to all affected landowners, community drop-in sessions and information on the Council website including coastal hazard mapping.

Referral of the planning proposal to public authorities may be required after the Gateway determination, as set out under section 9.1 of the EP&A Act. A Gateway condition may be imposed where a public authority has an interest in the proposal.

The planning proposal is intended to be publicly exhibited in concurrence with the CMP and in accordance with a Gateway determination.

OPTIONS

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

ATTACHMENTS

- 1) Planning Proposal - Coastal Risk Planning Clause. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



Coastal Risk Planning Clause Planning Proposal

**Proposed amendment to Port Stephens Local
Environmental Plan 2013**



ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK PLANNING CLAUSE.

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**ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK
PLANNING CLAUSE.****VERSION CONTROL**

Version	Date	Details
1.0	14/11/2023	Planning Proposal Council 14/11/2023

ATTACHMENTS

ATTACHMENT 1 – Coastal Risk Planning Map**FILE NUMBERS**

Council: PSC 2023-02759

Department: To be provided at lodgement in the NSW Planning Portal

SUMMARY

Subject land: Refer to Coastal Risk Planning Map

Proponent: Port Stephens Council

Proposed changes: Insert a Coastal Risk Planning Clause to the Port Stephens Local Environmental Plan 2013.

Insert a Coastal Risk Planning Map which is a combination of the following map layers:

- Coastal inundation
- Tidal inundation
- Coastal erosion
- Dune transgression.

Area of land: Refer to **Attachment 1 – Coastal Risk Planning Map**

BACKGROUND

The planning proposal seeks to introduce provisions to the Port Stephens Local Environmental Plan 2013 (LEP) for coastal risk planning.

The following amendments to the LEP are proposed:

- Introduction of a Coastal Risk Planning Clause

**ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK
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- Introduction of a Coastal Risk Planning Map

The preparation of the planning proposal is a key implementation action from the separate related Port Stephens Coastal Management Program (CMP).

The CMP is prepared under the NSW coastal management framework. The purpose of the CMP is to provide a framework for the long-term strategic and integrated management of priority threats to the Port Stephens coastal zone in line with community needs, state objectives and relevant legislation.

The planning proposal to amend the LEP is consistent with the following CMP outcomes, which are:

- Risk management approach to identify coastal management issues. Identify built, social, natural and cultural assets under threat now and in 20, 50 and 100 years.
- Integration of coastal considerations into land-use, infrastructure and asset planning frameworks and decision-making.
- Transparent, informed and supported strategic planning decisions.
- Clear development controls and guidance.

The preparation of this planning proposal is consistent with the CMP and is based upon its technical investigations and mapping.

SITE

The planning proposal applies to land shown in **Attachment 1 – Coastal Risk Planning Map** to this planning proposal.

**ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK
PLANNING CLAUSE.****PART 1 – Objectives or intended outcomes**

The planning proposal seeks to achieve the following outcomes:

- to avoid significant adverse impacts from coastal hazards
- to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards
- to enable the evacuation of land identified as coastal risk in an emergency
- to avoid development that increases the severity of coastal hazards.

PART 2 – Explanation of provisions

The objectives of the planning proposal will be achieved by amending the LEP to include a Coastal Risk Planning Clause and accompanying Coastal Risk Planning Map.

The coastal risk planning clause is intended to provide that development consent must not be granted to development on land to which the clause applies unless the consent authority is satisfied that the development:

- is not likely to cause detrimental increases in coastal risks to other development or properties, and
- is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and
- incorporates appropriate measures to manage risk to life from coastal risks, and
- is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line, and
- provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards, and
- has regard to the impacts of sea level rise.

The clause will apply to development on land identified on the Coastal Risk Planning Map which is comprised of several map layers. These layers are listed and described in the following table.

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Table 1 Coastal Risk Planning Map Layer Descriptions

Map Layer	Description
Coastal Inundation	<p>Coastal inundation is also known as storm tide inundation (STI) and this is presented in terms of a 'design storm' event. For the Port Stephens CMP the two design storm events considered were:</p> <ul style="list-style-type: none"> • 5% Annual Exceedance Probability (AEP) • 1% Annual Exceedance Probability (AEP) <p>The AEP describes the likelihood of that design storm occurring in any given year. Therefore, a 1% AEP storm tide event has a 1% chance of occurring in any given year and is otherwise known as the '1 in 100 year event'. There is at least a 50% chance that you will experience a 1% AEP coastal inundation event in your lifetime. A 5% AEP storm tide event has a higher likelihood of occurrence, translating to a 97% chance you will experience at least once such event in your lifetime.</p> <p>Each AEP level has been mapped for each planning period - 2020, 2040, 2070 and 2120.</p>
Tidal Inundation	<p>Tidal inundation is mapped against each planning period of 2020, 2040, 2070 and 2120.</p> <p>With tidal inundation Highest Astronomical Tide (HAT) as is used as the measure. The tidal inundation mapping (HAT mapping) shows the highest possible tidal water level that could occur and corresponds roughly to the extent of inundation that you might witness once or twice a year. Low-lying land would be inundated for a period of hours during HAT.</p>
Coastal erosion	<p>Coastal erosion is mapped against each planning period - 2020, 2040, 2070 and 2120.</p> <p>The current mapping covers the 'open coast' area, not the 'outer port' or 'inner port' of Port Stephens.</p>
Dune transgression	<p>Dune transgression is mapped against planning periods 2020, 2040 and 2070.</p> <p>The mapping only applies to the sand dunes in the Stockton Bight and due to the unpredictable nature of dune transgression is only mapped until 2070.</p>

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PLANNING CLAUSE.**

PART 3 – Justification of strategic merit and site specific merit

Strategic merit

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The planning proposal is a result of the Port Stephens Local Strategic Planning Statement (LSPS).

The planning proposal will implement LSPS Planning Priority 8 'Improve resilience to hazards and climate change'. It will achieve this by requiring development to consider coastal risk planning through the LEP.

The planning proposal will implement LSPS Action 8.3 'Council will prepare and implement a Coastal Management Program to mitigate natural hazards and incorporate resilience measures that promote ecologically sustainable development'.

The preparation of this planning proposal is a key implementation action from the Port Stephens Coastal Management Program (CMP).

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The introduction of a clause into the LEP is the best means to implement the objectives for coastal risk planning in land use planning decisions. The clause will require the consideration of coastal risk in the assessment of development applications on land mapped as being at risk of coastal processes.

The inclusion of an accompanying coastal risk-planning map is the best means to identify land subject to the proposed LEP clause.

Section B – Relationship to strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the Hunter Regional Plan and/or Greater Newcastle Metropolitan Plan (or any exhibited draft plans that have been prepared to replace these)?

Hunter Regional Plan 2041

The planning proposal is consistent with the Hunter Regional Plan 2041 (HRP) Objective 7 'Reach net zero and increase resilience and sustainable infrastructure'. The planning proposal achieves this by introducing a clause to the LEP requiring development on affected land to consider coastal risk planning. This will increase the resilience of future development and facilitate the creation of more sustainable infrastructure against coastal risk processes.

ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK PLANNING CLAUSE.

The following table lists the applicable HRP strategies and how the planning proposal achieves consistency with it:

HRP 2041 Strategy	Planning Proposal Response
HRP 2041 Strategy 7.6 Local strategic planning will consider pathways to build resilience, reduce vulnerabilities, and support initiatives that can transform the region.	The planning proposal will introduce planning controls to the LEP to ensure that development applications on land that subject to coastal processes consider and are assessed for coastal hazard related resilience and to reduce vulnerabilities. The planning proposal is consistent with Strategy 7.6 of the HRP 2041.
HRP 2041 Strategy 7.7 Local strategic planning will demonstrate alignment with the NSW Government's natural hazard management and risk mitigation policy framework including: <ul style="list-style-type: none"> • Planning for Bushfire Protection 2019 • NSW Coastal Management Framework • Floodplain Development Manual and the Flood Prone Land Policy • Planning for a more resilient NSW: A strategic guide to planning for natural hazards • any other natural hazards guidance that is released 	Preparing the planning proposal to amend the LEP is an action within the Port Stephens Coastal Management Program. The Coastal Management Program has been prepared consistent with the NSW Coastal Management Framework. The planning proposal introduces planning controls to the LEP that align with the NSW Government's natural hazard risk management framework in coastal areas. The planning proposal is consistent with Strategy 7.7 of the HRP 2041.
HRP 2041 Strategy 7.8 Local strategic planning will ensure future residential areas are not planned in areas where: <ul style="list-style-type: none"> • residents are exposed to a high risk from bushfire, flood and/or coastal hazards, considerate of how these may impacted by climate change • evacuation is likely to be difficult during a bushfire or flood due to its siting in the landscape, access 	The planning proposal will introduce planning controls to the LEP to ensure that development applications on land subject to coastal processes considers and is assessed for related resilience and reduces vulnerabilities. It does not identify future residential areas for rezoning. Any planning proposals seeking to rezone land for future residential purposes, will be assessed against the range of site and strategic

ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK PLANNING CLAUSE.

<p>limitations, hazard event history and/or size and scale</p> <ul style="list-style-type: none"> any existing residential areas may be placed at increased risk increased development may cause evacuation issues for both existing or new occupants 	<p>planning considerations. These include Ministerial Direction 4.2 Coastal Planning 4, SEPP (Resilience and Hazards) 2021 Chapter 2 Coastal Management, and local and regional strategic plans as the Hunter Regional Plan 2041 and Port Stephens Local Strategic Planning Statement.</p> <p>The planning proposal is consistent with Strategy 7.8 of the HRP 2041.</p>
<p>HRP 2041 Strategy 7.9 Local strategic planning will:</p> <ul style="list-style-type: none"> map areas that are projected to be affected by sea level rise and other coastal hazards to limit the potential exposure of new development to these hazards be consistent with any relevant coastal management program adopted and certified for that area consider opportunities to adapt existing settlements at risk of exposure to sea level rise and coastal hazards in accordance with the NSW Coastal Management Framework, such as: <ul style="list-style-type: none"> raising houses and roads relocating or adapting infrastructure to manage coastal hazard risks, such as ingress of tidal water into stormwater systems and/or undertaking beach nourishment consider opportunities to maintain natural coastal defences against sea level rise, such as: <ul style="list-style-type: none"> maintaining or expanding coastal and riparian buffer zones. 	<p>The planning proposal includes maps identify areas that are projected to be affected by coastal hazards including coastal inundation and tidal inundation.</p> <p>The planning proposal is consistent with the Coastal Management Program being undertaken for Port Stephens, under the NSW Coastal Management Program processes.</p> <p>The Port Stephens Coastal Management Program will require certification.</p> <p>The planning proposal will amend the LEP to ensure that future development applications and their assessment provides consideration of coastal hazards.</p> <p>This planning proposal to amend the LEP to include a coastal risk planning clause for development applications is one of the actions of the CMP.</p> <p>The CMP includes a range of other actions to consider for implementation, outside of the LEP and development application process.</p> <p>The planning proposal is consistent with Strategy 7.9 of the HRP 2041.</p>

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<ul style="list-style-type: none"> ○ replanting and protecting coastal dune systems. ○ fencing creeks and rivers to keep livestock out, limit erosion and protect water quality ○ controlling invasive species and/or ○ protecting and restoring mangroves and salt marsh areas to limit flooding, inundation and erosion. 	
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Greater Newcastle Metropolitan Plan 2036

Parts of the Port Stephens LGA are within the Greater Newcastle Metropolitan Plan area and on the proposed Coastal Risk Planning Map to be included with the LEP.

The planning proposal is consistent with the GNMP Outcome 'Enhance environment, amenity and resilience for quality of life' and related strategy 14 'Improve resilience to natural hazards'.

GNMP 2036 Actions	Planning Proposal Response
<p>14.1 Greater Newcastle councils will apply the following principles to land use planning and development assessment decisions:</p> <ul style="list-style-type: none"> • employ risk responsive land use controls so that new development does not occur in high risk areas • ensure coastal dependent development mitigates natural hazards and incorporates resilience measures that have triple bottom line benefits • prevent intensive urban development in the Blue and Green Grid • ensure the planning for urban development adjoining or interfacing with the Blue and Green Grid addresses the impact of extreme events. 	<p>The planning proposal is consistent with this objectives because it will:</p> <ul style="list-style-type: none"> • introduce a clause to the LEP to provide risk responsive controls for development in coastal risk areas. • Introduce a clause to the LEP to ensure coastal dependent development considers coast risk planning objectives. • Introduce a clause to the LEP to ensure coastal development addresses the impact of extreme events. <p>The planning proposal is consistent with Action 14.1 of the GNMP 2036.</p>

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PLANNING CLAUSE.**

Q4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Port Stephens Local Strategic Planning Statement (2020)

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

The planning proposal is consistent with the Port Stephens Local Strategic Planning Statement (LSPS). The planning proposal will implement Planning Priority 8 'Improve resilience to hazards and climate change of the LSPS'. The following description of this planning priority is provided in the LSPS:

Port Stephen experiences a wide range of natural hazards such as flooding, coastal inundation, erosion and bushfires. Natural hazard and risk management influence how we plan for future growth and new development in Port Stephens.

Strategies to build community and environmental resilience to natural hazards and climate change support positive economic, environmental and social outcomes. Reducing risk exposure and increasing resilience to natural hazards ensures that people, property, infrastructure, the economy and the environment can withstand future hazard events.

Where and how we build communities can impact resilience to hazards and climate change. Planning for land use can include taking into consideration evacuation planning principles to minimise risk to life or reduce the burdens on emergency services. Choice of materials, design and efficient use of water and energy can make the built environment more resilient and promote ecologically sustainable development.

(LSPS, page 31)

By proceeding with the planning proposal and requiring future development to consider coastal risk planning through the LEP, Council will be responding to this planning priority to improve resilience to natural hazards and climate change.

The planning proposal is consistent with LSPS Action 8.3 'Council will prepare and implement a Coastal Management Program to mitigate natural hazards and incorporate resilience measures that promote ecologically sustainable development'. The preparation of this planning proposal is a related implementation action from the CMP.

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PLANNING CLAUSE.**

Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

The preparation of the planning proposal is an action in the Port Stephens Coastal Management Program (CMP).

CMPs aim to do the following:

- Set the long-term strategy for the coordinated management of the coast, with a focus on achieving the objects and objectives of the *Coastal Management Act 2016* (CM Act).
- Identify coastal management issues and the actions required to address these issues in a strategic and integrated way.
- Detail how and when those actions are to be implemented, their costs and proposed cost-sharing arrangements and other viable funding mechanisms.

The CM Act (and other relevant legislation) establishes specific roles and responsibilities for relevant Ministers, the NSW Coastal Council, public authorities and local councils, as well as providing opportunities for communities to participate when preparing and implementing a CMP.

ITEM 3 - ATTACHMENT 1
PLANNING CLAUSE.

PLANNING PROPOSAL - COASTAL RISK

Q6. Is the planning proposal consistent with applicable SEPPs?

An assessment of the relevant applicable SEPPs against the planning proposal is provided in the table below.

Table 1 – Relevant State Environmental Planning Policies

SEPP	Consistency and Implications
SEPP (Resilience and Hazards) 2021	
Chapter 2 Coastal Management Promotes an integrated and co-ordinated approach to land use planning in the coastal zone consistent with the objects of the <i>Coastal Management Act 2016</i> .	<p>The planning proposal complements the existing provisions of Chapter 2 Coastal management of SEPP (Resilience and Hazards) 2021.</p> <p>The Aim of the chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:</p> <ol style="list-style-type: none"> managing development in the coastal zone and protecting the environmental assets of the coast, and establishing a framework for land use planning to guide decision-making in the coastal zone, and mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016. <p>The provisions of the SEPP including associated SEPP mapping already apply to land within the Coastal Zone. SEPP maps that apply within the Port Stephens LGA include and available on the NSW e-Planning Spatial Viewer are:</p> <ul style="list-style-type: none"> Coastal Wetland Area Map Littoral Rainforests Area Map Coast Use Area Map Coastal Environment Area Map <p>The planning proposal is consistent with the Aim of the SEPP (Resilience and Hazards) 2021. It introduces a clause and mapping to the LEP to ensure future development identified on the proposed Coastal Risk Planning Map considers coastal hazards.</p> <p>The planning proposal is consistent Chapter 2 Coastal Management of the SEPP (Resilience and Hazards) 2021.</p>

ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK PLANNING CLAUSE.

Q7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

An assessment of relevant Ministerial Directions against the planning proposal is provided in the table below.

Table 2 – Relevant Ministerial Directions

Ministerial Direction	Consistency and Implications
1. PLANNING SYSTEMS	
1.1 Implementation of Regional Plans The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	<p>This direction applies because Port Stephens is located within the Hunter region identified by the Hunter Regional Plan 2041 (HRP 2041).</p> <p>The planning proposal is consistent with this direction. It will introduce to the LEP a Coastal Risk Planning Clause and associated Coastal Hazard Planning Map to ensure that coastal risk is appropriately planned for and assessed for future development. This will meet the applicable directions for coastal risk including the following strategies in the HRP 2041:</p> <p>7.6 Local strategic planning will consider pathways to build resilience, reduce vulnerabilities, and support initiatives that can transform the region.</p> <p>7.7 Local strategic planning will demonstrate alignment with the NSW Government's natural hazard management and risk mitigation policy framework including:</p> <ul style="list-style-type: none"> • Planning for Bushfire Protection 2019 • NSW Coastal Management Framework • Floodplain Development Manual and the Flood Prone Land Policy • Planning for a more resilient NSW: A strategic guide to planning for natural hazards • any other natural hazards guidance that is released <p>7.8 Local strategic planning will ensure future residential areas are not planned in areas where:</p> <ul style="list-style-type: none"> • residents are exposed to a high risk from bushfire, flood and/or coastal hazards, considerate of how these may impacted by climate change • evacuation is likely to be difficult during a bushfire or flood due to its siting in the landscape, access limitations, hazard event history and/or size and scale

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PLANNING PROPOSAL - COASTAL RISK

	<ul style="list-style-type: none"> any existing residential areas may be placed at increased risk <p>7.9 Increased development may cause evacuation issues for both existing or new occupants.</p> <p>Responses demonstrating consistency with each of these strategies is provided in 'Section B – Relationship to strategic planning framework' of this planning proposal.</p> <p>The planning proposal is consistent with Direction 1.1 Implementation of Regional Plans.</p>
4. RESILIENCE AND HAZARDS	
<p>4.2 Coastal Management</p> <p>The objective of this direction is to protect and manage coastal areas of NSW. This direction applies to land within the coastal zone.</p>	<p>This direction applies because the planning proposal applies to land within the coastal zone, as defined under the Coastal Management Act 2016 (NSW) and as identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.</p> <p>The planning proposal will introduce a coastal risk planning clause to the LEP with the following objectives:</p> <ul style="list-style-type: none"> to avoid significant adverse impacts from coastal hazards to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards to enable the evacuation of land identified as coastal risk in an emergency to avoid development that increases the severity of coastal hazards. <p>The clause will apply to development within the Coastal Risk Planning Map.</p> <p>Preparing the planning proposal is an Action in the LSPS and in the CMP.</p> <p>The following provisions of the Ministerial Direction and assessment of consistency are provided.</p> <p><i>(1) A planning proposal must include provisions that give effect to and are consistent with:</i></p> <p><i>(a) the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas;</i></p> <p><i>(b) the NSW Coastal Management Manual and associated Toolkit;</i></p> <p><i>(c) NSW Coastal Design Guidelines 2003; and</i></p>

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	<p><i>(d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land.</i></p> <p>The planning proposal is consistent with the above provisions. The planning proposal includes provisions that are consistent with the CMP (including CMP mapping). The CMP has been prepared to be consistent with the coastal planning framework for NSW.</p> <p><i>(2) A planning proposal must not rezone land which would enable increased development or more intensive land-use on land:</i></p> <p><i>(a) within a coastal vulnerability area identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021; or</i></p> <p><i>(b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:</i></p> <p><i>i. by or on behalf of the relevant planning authority and the planning proposal authority, or</i></p> <p><i>ii. by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority.</i></p> <p>The planning proposal does not rezone any land and will not enable increased development or more intensive land-use within a coastal vulnerability area or that has been identified as land affected by a current or future coastal hazard.</p> <p><i>(3) A planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a coastal wetlands and littoral rainforests area identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.</i></p> <p>The planning proposal does not rezone any land and will not enable increased development or more intensive land use on land within a coastal wetland and littoral rainforest.</p> <p><i>(4) A planning proposal for a local environmental plan may propose to amend the following maps, including increasing or decreasing the land within these maps, under chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021:</i></p>
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ITEM 3 - ATTACHMENT 1
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PLANNING PROPOSAL - COASTAL RISK

	<p>(a) Coastal wetlands and littoral rainforests area map;</p> <p>(b) Coastal vulnerability area map;</p> <p>(c) Coastal environment area map; and</p> <p>(d) Coastal use area map.</p> <p>Such a planning proposal must be supported by evidence in a relevant Coastal Management Program that has been certified by the Minister, or by a Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.</p> <p>Note: Under section 10(2) of the Coastal Management Act 2016, any provision of an LEP that identifies a coastal management area (or part of such an area) must not be made without the recommendation of the Minister administering the Coastal Management Act 2016.</p> <p>The planning proposal seeks to include a Coastal Risk Planning Map in the LEP. The coastal risk planning mapping has been prepared as part of the CMP process and it will be subject to the CMP certification process.</p> <p>The planning proposal is consistent with Direction 4.2 Coastal Management.</p>
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**ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK
PLANNING CLAUSE.****Site-specific merit****Section C – Environmental, social and economic impact**

The planning proposal will introduce a Coastal Risk Planning Clause to the LEP and will apply to land identified on the Coastal Risk Planning Map.

The proposal will ensure that coastal risks are considered in future land use planning development application decisions.

Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is no likelihood that the planning proposal will adversely affect critical habitat or threatened species, populations or ecological communities. No ecological studies are required.

Q9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no other likely environmental effects as a result of the planning proposal.

Q10. Has the planning proposal adequately addressed any social and economic effects?

The planning proposal is a key action for implementation in the LSPS and the CMP. It will contribute to a framework for the management of coastal risks, issues and risks in line with community needs, and state objectives and legislation. Management objectives for the CMP listed from Council's website are:

- Collaboration - Encourage collaboration and partnership with government, agencies and our community to manage and protect the coastal zone.
- Biodiversity and ecosystem integrity - Protect biological diversity and ecosystem integrity by maintaining and improving water quality and estuary health.
- Climate change - Mitigate and build resilience to current and future coastal hazards and risks.
- Land use planning - Facilitate ecologically sustainable development in the coastal zone and prioritise sustainable land use planning in decision-making to maintain and improve public access, amenity and use.
- Aboriginal Custodianship - Support and protect our Aboriginal community's spiritual, social, customary and economic use of the coastal zone.
- Coastal economies - Support sustainable economic opportunities within the coastal zone.

ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK PLANNING CLAUSE.

By introducing coastal risk planning provisions to the LEP to for future development, the planning proposal will assist in addressing the social and economic effects of development of land subject to coastal risks.

Section D – Infrastructure (Local, State and Commonwealth)**Q11. Is there adequate public infrastructure for the planning proposal?**

There is adequate public infrastructure for the planning proposal. It is only seeking to propose matters to consider when development is proposed on land that that is subject to Coastal Risk Planning Map.

Section E – State and Commonwealth Interests**Q12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?**

Consultation with relevant State and Commonwealth agencies can be undertaken following a Gateway determination. It is proposed to consult with the following agencies:

- NSW Department of Planning and Environment

PART 4 – Mapping

The proposed map layer amendments are included as attachments to the planning proposal as follows:

Attachment 1 – Coastal Risk Planning Map

The Coastal Risk Planning Map is comprised of the following layers:

- Coastal inundation
- Tidal inundation
- Coastal erosion
- Dune transgression.

PART 5 – Community consultation

Community consultation on the planning proposal will be undertaken in accordance with the Gateway determination.

Planning proposal exhibition material will be on display at the following locations during normal business hours:

- Council's Administration Building, 116 Adelaide Street, Raymond Terrace

**ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK
PLANNING CLAUSE.**

- Raymond Terrace Library, Port Stephens Street, Raymond Terrace
- Tomaree Library, Town Centre Circuit, Salamander Bay

The planning proposal will be made available on the Council website.

It is intended to exhibit the planning proposal at the same time as the CMP in year 2024.

Initial consultation on the CMP has already been undertaken. This has included:

- Community drop in sessions
- Fact sheet mail-out to landowners
- Council CMP website including:
 - General CMP information
 - Technical reports
 - Maps including:
 - Coastal inundation
 - Tidal inundation
 - Coastal erosion
 - Dune transgression

The Council CMP website including mapping remains publicly available at <https://www.portstephens.nsw.gov.au/environment/coastal-management-program>

Further consultation on the CMP is proposed to be undertaken in year 2024.

ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK PLANNING CLAUSE.

PART 6 – Project timeline

The following timeline (indicative) is proposed:

	Nov 2023	Dec 2023	Jan 2024	Feb 2024	Mar 2024	April 2024	May 2024	June 2024	July 2024	Aug 2024	Sept 2024	Oct 2024	Nov 2024	Dec 2024
<i>Council decision</i>														
<i>Gateway determination</i>														
<i>Pre-exhibition</i>														
<i>Public Exhibition</i>														
<i>Consider submissions</i>														
<i>Post-exhibition review</i>														
<i>Council Report</i>														
<i>Submission to DPE for finalisation</i>														
<i>Gazettal of LEP amendment</i>														

ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK
PLANNING CLAUSE.

Attachment 1 – Coastal Risk Planning Map

Figure 1. Coastal Risk Planning Map (Fern Bay area)

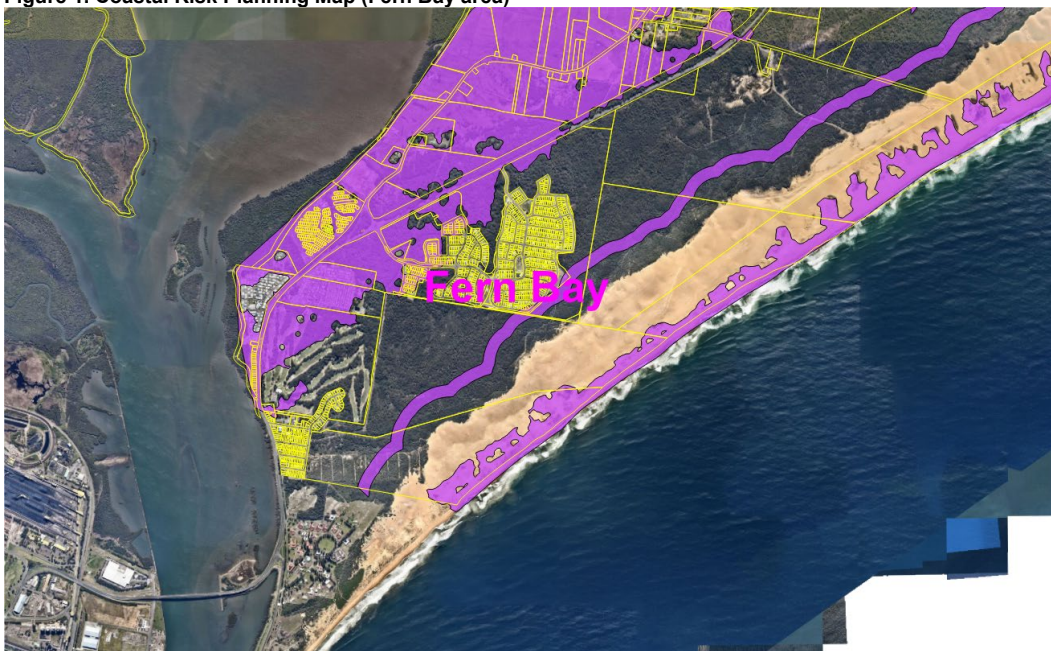
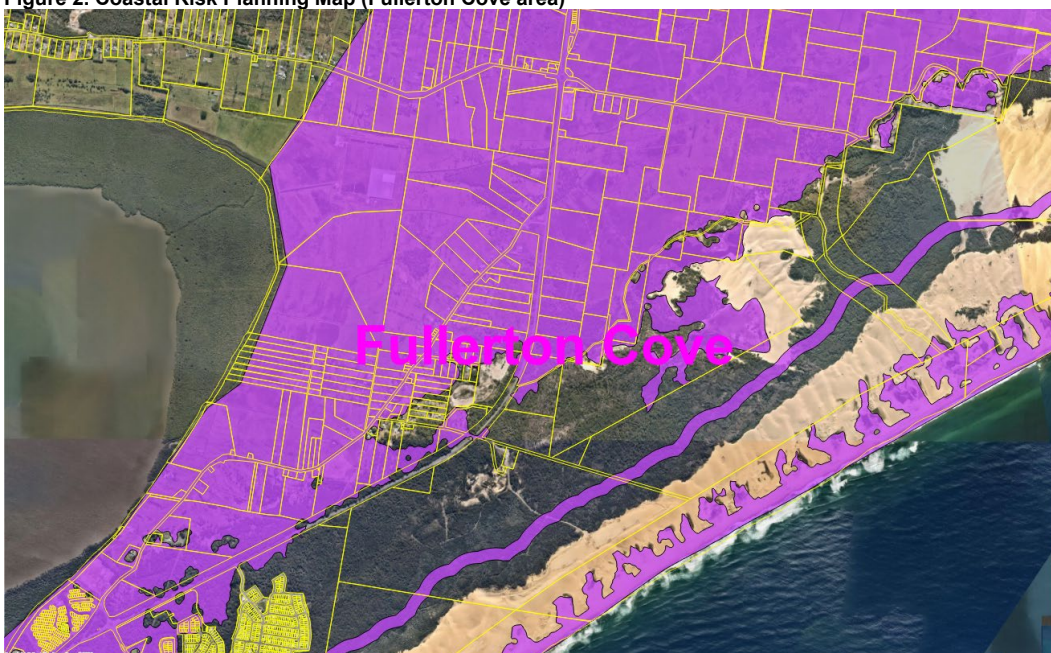


Figure 2. Coastal Risk Planning Map (Fullerton Cove area)



ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - COASTAL RISK
PLANNING CLAUSE.

Figure 3. Coastal Risk Planning Map (Williamstown area)

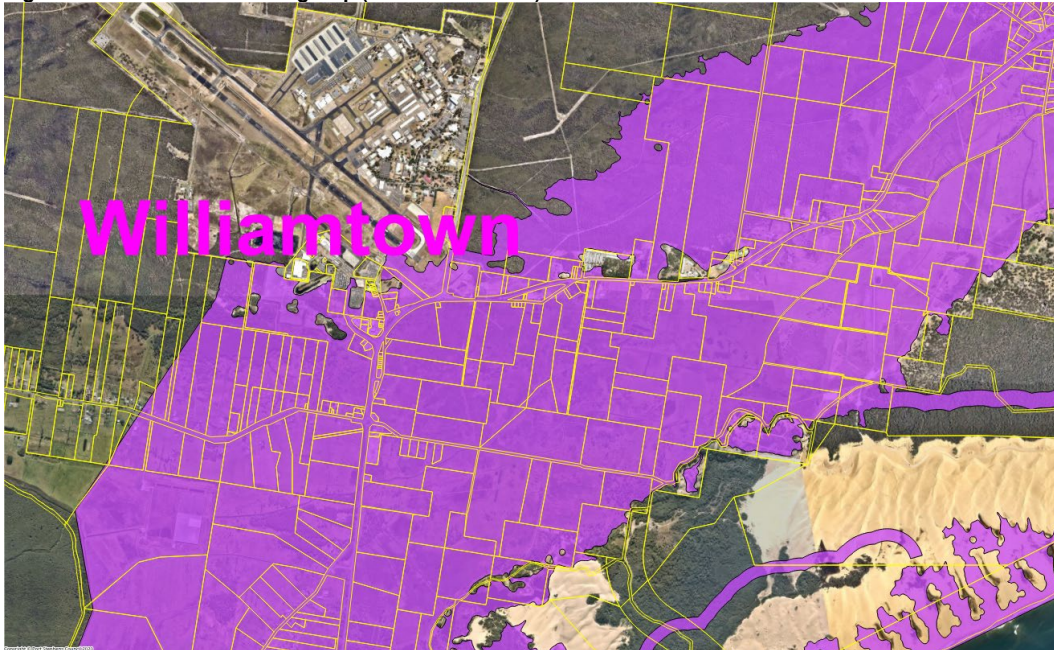


Figure 4. Coastal Risk Planning Map (Salt Ash area)

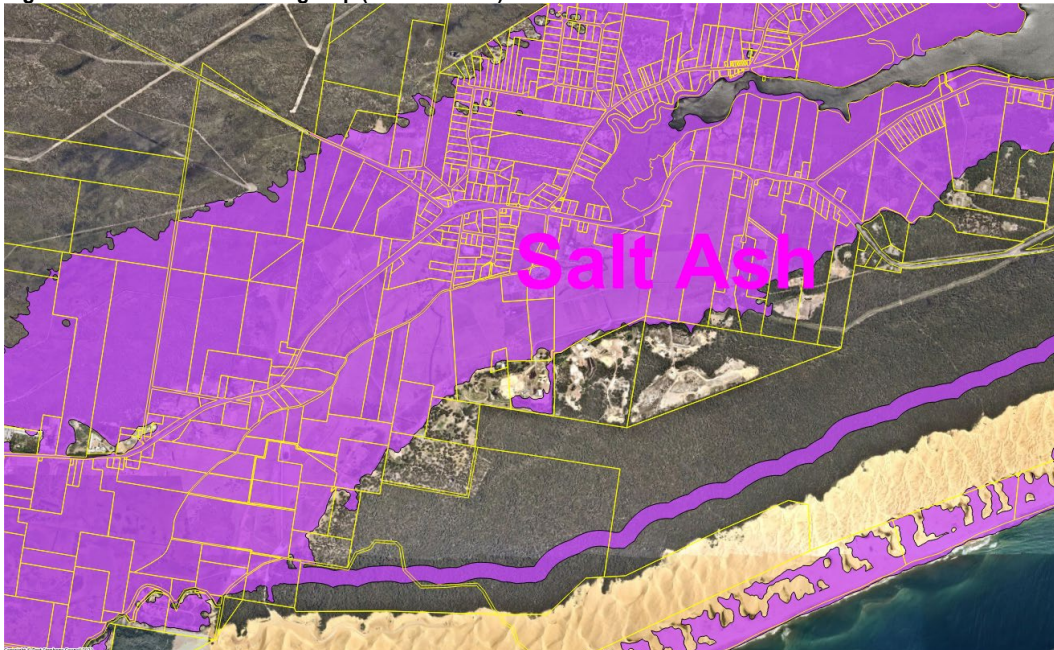


Figure 5. Coastal Risk Planning Map (Bobs Farm area)

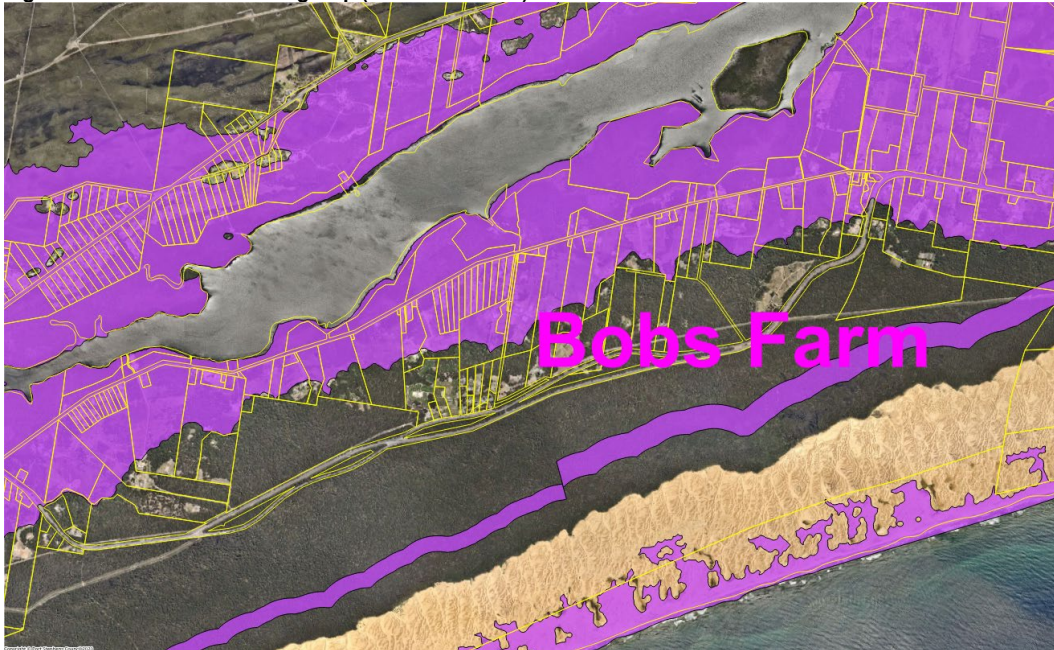
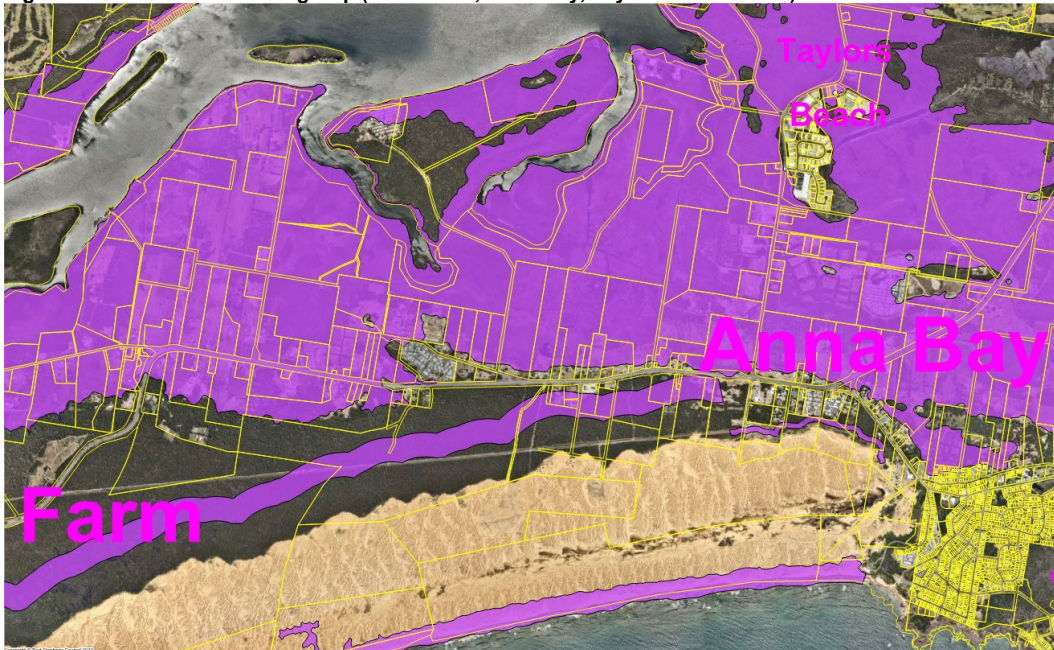


Figure 6. Coastal Risk Planning Map (Bobs Farm, Anna Bay, Taylors Beach areas)



ITEM 3 - ATTACHMENT 1
PLANNING CLAUSE.

PLANNING PROPOSAL - COASTAL RISK

Figure 7. Coastal Risk Planning Map (Anna Bay, One Mile areas)

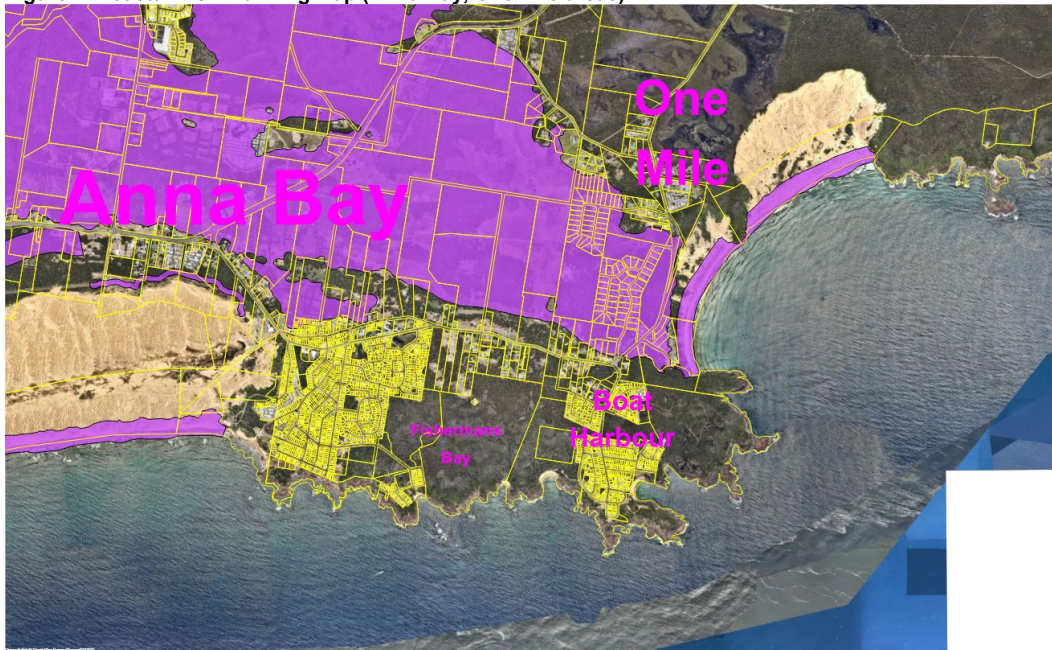


Figure 8. Coastal Risk Planning Map (Soldiers Point, Salamander Bay, Corlette areas)



ITEM 3 - ATTACHMENT 1
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PLANNING PROPOSAL - COASTAL RISK

Figure 9. Coastal Hazard Planning Map (Nelson Bay, Shoal Bay, Fingal Bay areas)

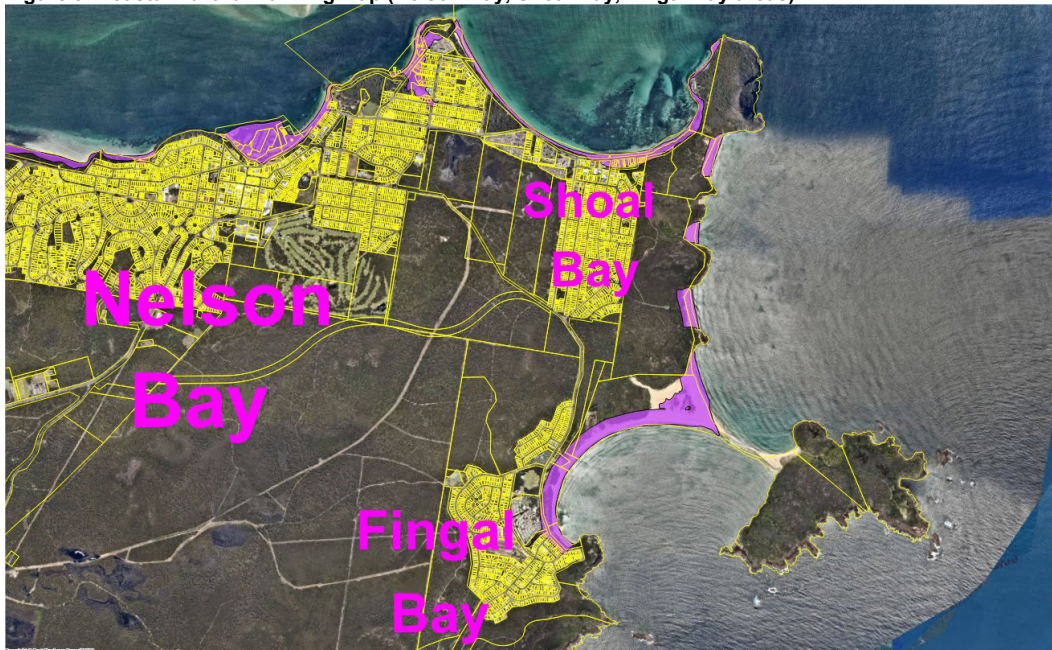


Figure 10. Coastal Risk Planning Map (Tanilba Bay, Mallabula, Lemon Tree Passage areas)

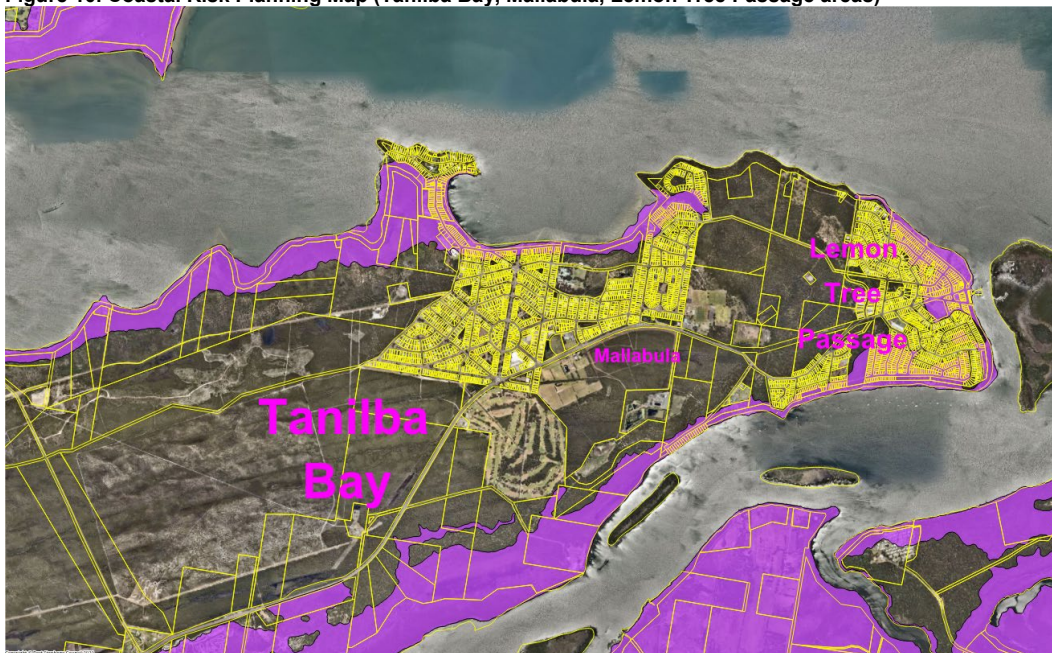


Figure 11. Coastal Risk Planning Map (Oyster Cove and Swan Bay areas)

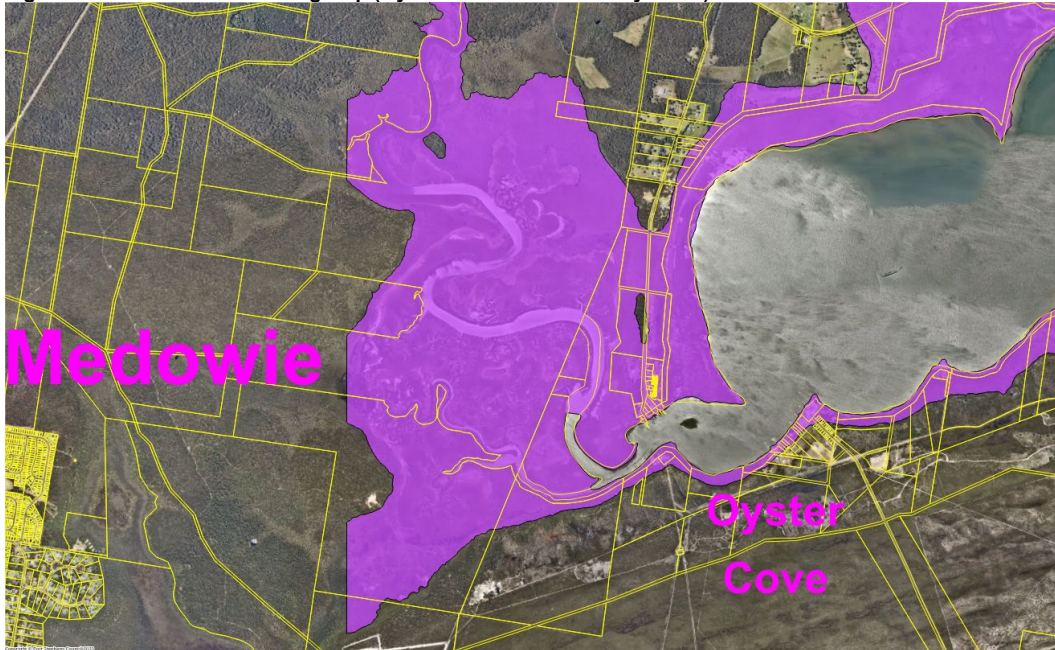


Figure 12. Coastal Risk Planning Map (Swan Bay area)

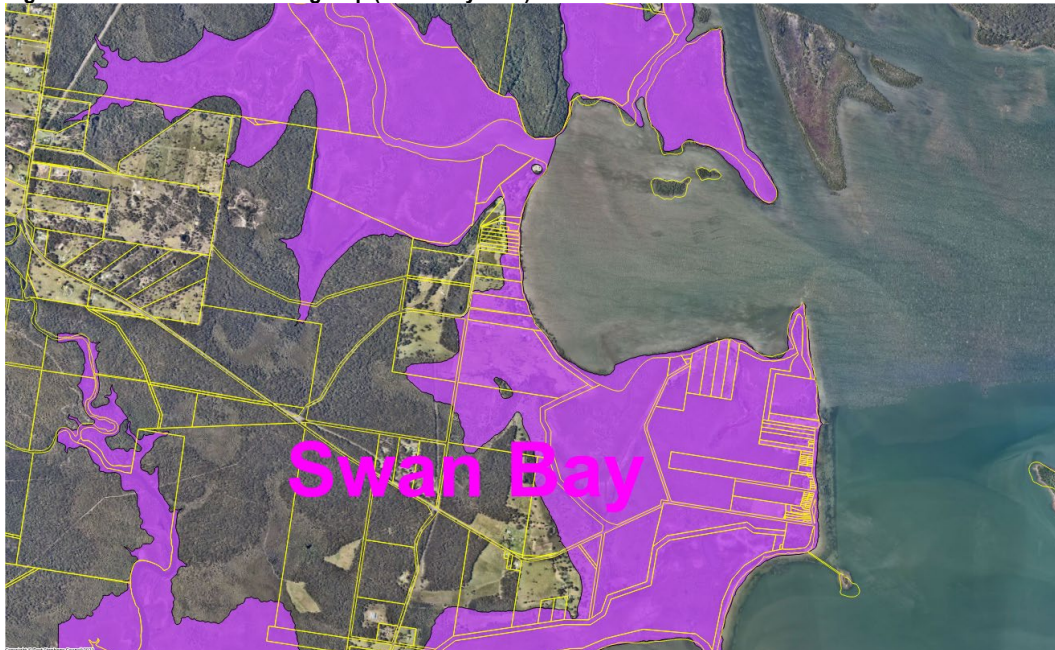


Figure 13. Coastal Risk Planning Map (Karuah area)

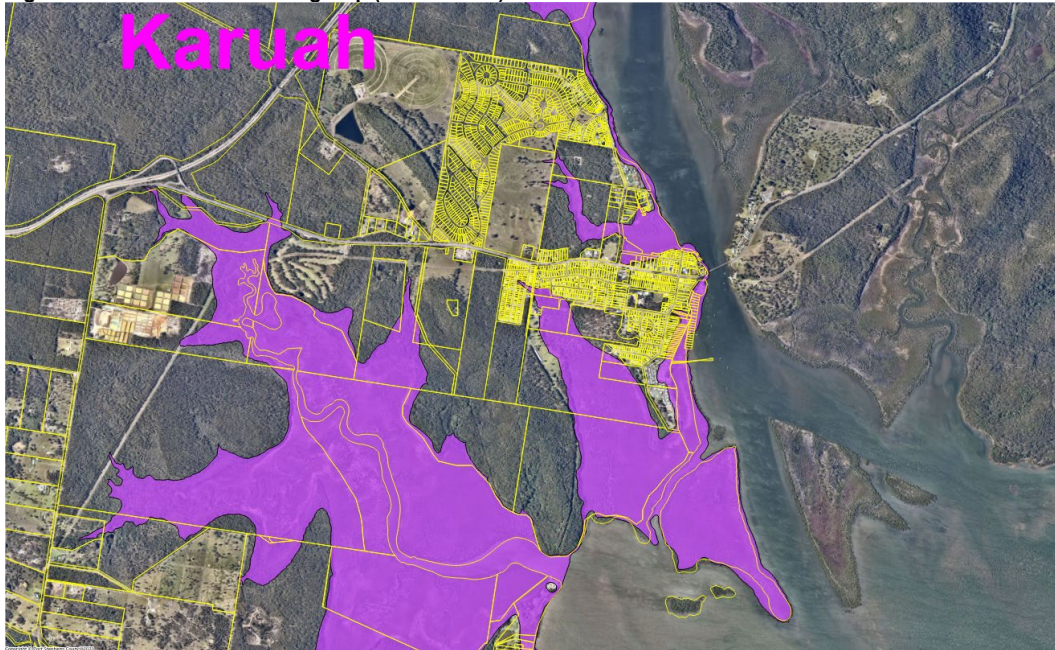
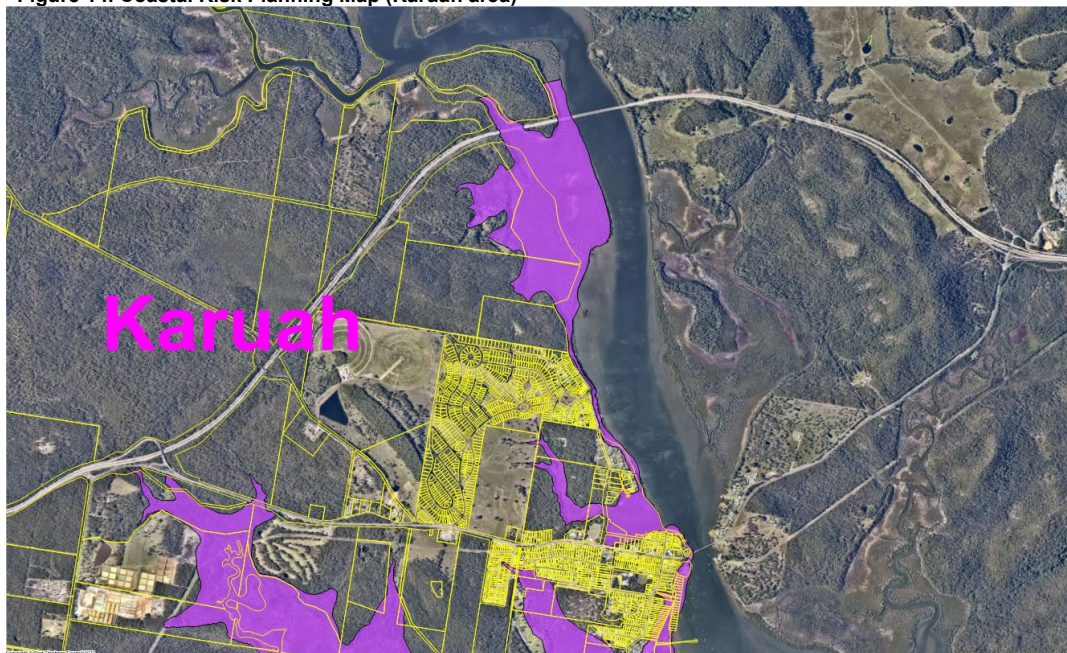


Figure 14. Coastal Risk Planning Map (Karuah area)



ITEM NO. 4

**FILE NO: 23/252131
EDRMS NO: PSC2018-02573-007**

REVISED EXCEPTIONS TO DEVELOPMENT STANDARDS POLICY

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorses the revised Exceptions to Development Standards policy shown at **(ATTACHMENT 1)**.
- 2) Places the revised Exceptions to Development Standards policy, as amended, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revokes the Exceptions to Development Standards policy dated 9 February 2021, Minute No. 007, should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council's endorsement to place the revised Exceptions to Development Standards Policy (the 'Policy') **(ATTACHMENT 1)** on public exhibition.

The Policy aims to provide guidance on the application and administration of Clause 4.6 Exceptions to Development Standards in the Port Stephens Local Environmental Plan 2013 (LEP).

The revised Policy has been updated to incorporate the reforms of the NSW Department of Planning and Environment (DPE) in relation to Clause 4.6 which will come into effect on 1 November 2023.

The key reforms that have been implemented are outlined below:

- 1) Proposed variations of greater than 10% are still required to be determined by the elected Council where there is no local planning panel
- 2) The reporting of Clause 4.6 exceptions to development standards is now through the NSW Planning Portal when the development application is lodged and quarterly reporting will cease to be required
- 3) Planning Circular PS 20-002 will be repealed on 1 November 2023.

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

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Program to develop and implement Council's key planning documents

FINANCIAL/RESOURCE IMPLICATIONS

The recommendation will not result in any financial or resource implications.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no known legal or policy implications as a result of the proposed recommendation.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the legislative process will not be clear to some applicants, resulting in delays in the development assessment process.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Policy is intended to:

- Set out the processes and requirements that apply when development applications are lodged that seek to vary development standards under Clause 4.6 of the LEP
- Create opportunities for greater transparency and community participation when decisions are made to vary development standards

Exhibition of the Policy will ensure the aims continue to be met.

CONSULTATION

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

Internal

Internal consultation was undertaken with the Development Assessment and Compliance section, and the units responsible for administering the Policy. No objections were raised.

The Executive Team has been consulted to seek management endorsement.

External

In accordance with local government legislation, the revised Exceptions to Development Standards Policy will go on public exhibition for a period of 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Exceptions to Development Standards Policy. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2018-02573-007

TITLE: EXCEPTIONS TO DEVELOPMENT STANDARDS

OWNER: ~~GROUP MANAGER DEVELOPMENT SERVICES~~ **DIRECTOR**
COMMUNITY FUTURES

1. PURPOSE:

- 1.1 The purpose of this policy is to provide guidance on the application and administration of Clause 4.6 Exceptions to development standards in the Port Stephens Local Environmental Plan 2013 (PSLEP).

2. CONTEXT/BACKGROUND:

- 2.1 Clause 4.6 Exceptions to Development Standards enables development standards such as minimum lot sizes, height and floor space ratio to be varied in certain circumstances. This **is a compulsory** clause ~~is~~ included in all local environmental planning instruments across NSW.
- 2.2 Clause 4.6 Exceptions to Development Standards aims to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for and from development in particular circumstances.

3. SCOPE:

- 3.1 This policy applies to development applications in the Port Stephens local government area.
- 3.1 The policy relates specifically to the following Council functions:
- a) Assessment of development applications
 - b) Review of provisions in the PSLEP and strategic planning.

4. DEFINITIONS:

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

Development application	An application for consent to carry out development, but does not include an application for a complying development certificate.
Development consent	Approval to carry out development the subject of a development application.

Policy

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Policy



Development standards	<p>The Environmental Planning and Assessment Act 1979 includes a legal definition of 'development standards' (See section 1.4).</p> <p>Development standards are provisions in an environmental planning instrument that guide development to be carried out in accordance with particular requirements under certain circumstances. For example maximum building heights in residential areas, or minimum lot sizes for subdivision in rural areas.</p> <p>Development standards are a means to achieve a particular environmental planning objectives in an area. Clause 4.6 of the PSLEP provides flexibility to allow planning objectives to be met by varying development standards in certain circumstances.</p> <p>Clause 4.6 of the PSLEP applies when applications are made for exceptions to development standards.</p>
Environmental planning instrument	<p>A legal instrument that guides development, such as a Local Environmental Plan (e.g. the PSLEP).</p>

5. STATEMENT:

- 5.1 This policy sets out the processes that apply when development applications are lodged that seek to vary the development standards ~~using under~~ Clause 4.6 of the PSLEP. Applicants are advised to refer to the Policy prior to lodging a development application that includes an application under Clause 4.6.
- 5.2 This policy aims to create opportunities for greater transparency and community participation when decisions are made to vary development standards and to achieve better decision making through robust assessments. It seeks to ensure the assessment and administration of applications to vary development standards includes consideration of the principles established by the NSW Land and Environment Court and the strategic planning context.
- 5.3 This policy adopts transparent reporting and other recommendations issued by the NSW Department of Planning and Environment and the NSW Independent Commission Against Corruption.
- 5.4 Council will implement the following actions:
- 5.4.1 Development applications that include a request under Clause 4.6 Exceptions to Development Standards of the PSLEP must be accompanied by the Clause

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ITEM 4 - ATTACHMENT 1 REVISED EXCEPTIONS TO DEVELOPMENT STANDARDS POLICY.

Policy



- 4.6 Application Form or similar format in accordance with section 35B of the Environmental Planning and Assessment Regulation 2021 (EPA Reg).
- 5.4.2 Council will exhibit the Clause 4.6 written request Application Form accompanying a development application when advertising or notifying an Application.
- 5.4.3 Development applications accompanied by a Clause 4.6 Application Form written request will be assessed in accordance with Varying Development Standards: A Guide (published August 2011 by the former NSW Department of Planning and Infrastructure) Guide to exclusions from clause 4.6 of the Standard Instrument (NSW Department of Planning and Environment).
- 5.4.4 Development applications which include a Clause 4.6 Application Form written request seeking to vary a development standard by greater than 10% will be determined by the Council (per NSW Department of Planning and Environment Fact Sheet: Upcoming changes related to clause 4.6 of the Standard Instrument).
- 5.4.5 Council will maintain a register of development consents that have included exceptions to development standards and the information will be made publicly available Council will update the NSW Planning Portal with variation requests as required by NSW Department of Planning and Environment Fact Sheet: Upcoming changes related to clause 4.6 of the Standard Instrument.
- 5.4.6 The Development Assessment and Compliance team will refer development standards that are the subject of frequent development consents that include exceptions to development standards to the Strategic Planning team for review. A review will be carried out to ensure the development standards in the PSLEP remain relevant to achieving the environmental planning objectives in an area.

6. RESPONSIBILITIES:

- 6.1 Development Assessment and Compliance team (development application assessment).
- 6.2 Strategic Planning team (policy review and local environmental plan review).

7. RELATED DOCUMENTS:

- 7.1 Clause 4.6 Application Form.
- 7.2 Port Stephens Local Environmental Plan 2013 (NSW).
- 7.3 Environmental Planning and Assessment Act 1979 (NSW).

Policy

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ITEM 4 - ATTACHMENT 1 REVISED EXCEPTIONS TO DEVELOPMENT
STANDARDS POLICY.

Policy



- 7.4 ~~Varying Development Standards: A Guide (Former NSW Department of Planning and Infrastructure).~~ Guide to exclusions from clause 4.6 of the Standard Instrument (NSW Department of Planning and Environment).
- 7.5 ~~NSW Department of Planning and Environment Circular PS-08-003 Variations to Development Standards.~~ NSW Department of Planning and Environment Fact Sheet: Upcoming changes related to clause 4.6 of the Standard Instrument
- 7.6 Corruption Risks in NSW Development Approval Process: Position Paper (NSW Independent Commission Against Corruption).
- 7.7 Development Assessment Internal Audit Tool (NSW Independent Commission Against Corruption).
- 7.8 Port Stephens Council Discussion Paper – Progress of the Nelson Bay Town Centre & Foreshore Strategy.
- 7.9 Environmental Planning and Assessment Regulation 2021 (EPA Reg).

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ITEM 4 - ATTACHMENT 1 REVISED EXCEPTIONS TO DEVELOPMENT STANDARDS POLICY.

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CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2018-02573-007	EDRMS record No.	TBC
Audience	Councillors, staff and the community		
Process owner	Group Manager Development Services Strategy and Environment Section Manager		
Author	Strategic Planning Coordinator		
Review timeframe	23 years	Next review date	TBC
Adoption date	25 September 2018		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.	25 September 2018	Strategic Planning Coordinator	First draft version placed on public exhibition in February 2018. Updated to new template to include paragraph numbering. 5.4.4 – Updated following public exhibition period.	095
2.	9 February 2021	Strategic Planning Coordinator	References to Planning Circulars and version control has been updated. Updated review date to reflect new policy review process.	007
3.	TBC	Principal Strategic Planner	OWNER – Updated to Director Community Futures 2.1 – Added 'is a compulsory', removed 'is'. 4 – Added '1.4' 5.1 – Removed 'the', added 'using', removed 'under'.	TBC

Policy

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Policy



Version	Date	Author	Details	Minute No.
			<p>5.4.1 – Added 'or similar format in accordance with section 35B of the Environmental Planning and Assessment Regulation 2021 (EPA Reg).</p> <p>5.4.2 – Added 'written request', removed 'application form'.</p> <p>5.4.3 – Removed 'application form', added 'written request', remove 'Varying Development Standards: A Guide (published August 2011 by the former NSW Department of Planning and Infrastructure)', add 'Guide to exclusions from clause 4.6 of the Standard Instrument (NSW Department of Planning and Environment)'.</p> <p>5.4.4 – Removed 'application form', added 'written request', added (per NSW Department of Planning and Environment Fact Sheet: Upcoming changes related to clause 4.6 of the Standard Instrument).</p> <p>5.4.5 Remove 'Council will maintain a register of development consents that have included exceptions to development standards and the information will be made publicly available', add 'Council will update the NSW Planning Portal with variation requests as required by NSW Department of Planning and Environment Fact Sheet: Upcoming changes related to clause 4.6 of the Standard Instrument'.</p> <p>5.4.5 – Replace with 5.4.6 due to complete clause removal.</p>	

Policy

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Policy



Version	Date	Author	Details	Minute No.
			<p>7.4 – Remove 'Varying Development Standards: A Guide (Former NSW Department of Planning and Infrastructure', add 'Guide to exclusions from clause 4.6 of the Standard Instrument (NSW Department of Planning and Environment)'.</p> <p>7.5 – Remove 'NSW Department of Planning and Environment Circular PS 08-003 Variations to Development Standards' add 'NSW Department of Planning and Environment Fact Sheet: Upcoming changes related to clause 4.6 of the Standard Instrument'.</p> <p>7.9 – Add 'Environmental Planning and Assessment Regulation 2021 (EPA Reg)'.</p> <p>Controlled document information has been updated including process owner, author and dates. Version history updated to reflect changes.</p>	

Policy

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ITEM NO. 5**FILE NO: 23/148961
EDRMS NO: PSC2020-00033****HINTERLAND PLACE PLAN**

REPORT OF: JANELLE GARDNER - COMMUNICATIONS AND CUSTOMER
EXPERIENCE SECTION MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Notes the submissions received during the exhibition of the draft Hinterland Place Plan and the response to the public submissions **(ATTACHMENT 1)**.
- 2) Adopts the Hinterland Place Plan, as amended **(ATTACHMENT 2)**.

BACKGROUND

The purpose of this report is to advise Council on the outcome of the public exhibition process for the draft Hinterland Place Plan (the Place Plan) and note the response to submissions **(ATTACHMENT 1)**. The report recommends that Council adopt the Place Plan, as amended **(ATTACHMENT 2)**.

At its meeting on 25 July 2023, Minute No. 006 **(ATTACHMENT 3)**, Council resolved to exhibit the draft Hinterland Place Plan for a minimum of 28 days. The Place Plan was exhibited from 7 August 2023 to 4 September 2023. During this period, 3 written submissions and 8 survey responses were received. These survey responses are considered submissions.

In response to submissions, some minor changes were made to the Place Plan. The changes provide consistency in wording across actions in other adopted Place Plans, clarification on lead and support roles for actions and updates on investments proposed in the Hinterland, in accordance with the 5 year timeframe. Post exhibition amendments are included in the Place Plan, as amended **(ATTACHMENT 2)**.

Further details about the community engagement are outlined in the consultation section below.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Develop and implement Place Plans for key locations

FINANCIAL/RESOURCE IMPLICATIONS

Actions identified in the Place Plan will be funded via a combination of sources, including existing budgets, Local Infrastructure Contributions, grant funds, sponsorships and partnerships in line with existing work programs.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Hunter Regional Plan 2041 (HRP) The draft Hinterland Place Plan is consistent with the Hunter Regional Plan 2041 (HRP) including objective (8) 'Plan for businesses and services at the heart of healthy, prosperous and innovative communities' and objective 9 'Sustain and balance productive rural landscapes'.

The Hinterland Place Plan is located within the Hinterland District of the HRP. The Hinterland Place Plan aligns with the HRP Hinterland District Planning Priority 2 'Promote rural enterprises and diversification'.

Port Stephens Local Environmental Plan 2013 (LEP)

No amendments to the LEP are required to implement the Hinterland Place Plan. The Hinterland Place Plan contains actions to build upon the Rural Economic Development LEP amendments already adopted by Council and implemented on 1 October 2022.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the Place Plan does not meet community expectations.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social

Place Plans aim to enhance the liveability of places in Port Stephens to improve community wellbeing. They respond to the community's values and aspirations. Place plans enable a collaborative approach between residents, business and Council to deliver great place outcomes. The Place Plan contains actions to inspire community involvement in creating a better place through community connection, beautification, connectivity and activation.

Economic

The Hinterland is ideally positioned to leverage the growing visitor economy. Its unique networks of waterways, wetlands, and bushland combined with agriculture and its unique history will not only attract new visitors but also attract new investment in infrastructure and services, improving the liveability and wellbeing of the broader community.

Environmental

Hinterland residents place a high value on the natural environment and the Place Plan aims to protect and celebrate this important asset. The Place Plan recognises that key habitat corridors need to be maintained, strengthened, and where possible, rehabilitated. The draft Hinterland Place Plan identifies a number of opportunities for conservation projects and the improvement of habitat corridors.

CONSULTATION

Internal

The Place Plan has been prepared in consultation with the relevant sections in the Community Futures Directorate, Facilities and Infrastructure Directorate, and Corporate Strategy and Support Directorate.

External

Council have worked extensively with the Hinterland community to prepare a Place Plan that accurately reflects the community's values and aspirations. The following engagement activities were undertaken to develop the Place Plan:

- A Liveability Index survey (146 completed)
- A series of community workshops and drop in sessions (303 attendees)
- A series of meetings with key stakeholders including Hunter Water Corporation, Maitland City Council, Transport for NSW, NSW State Forests, Maritime NSW, National Parks and Wildlife Service, Destination Port Stephens and Local Land Services

- A check-in survey seeking feedback on the draft Place Plan actions (166 completed surveys and 53 entries on social pinpoint)
- Online and hardcopy submission and survey during public exhibition (3 submissions, 8 surveys).

The Hinterland Place Plan Engagement Report 'Engagement Report' (**ATTACHMENT 4**) provides detailed information about the outcomes of this engagement process.

The Place Plan was exhibited from 7 August 2023 to 4 September 2023. During the exhibition period, Council officers attended a Place Plan information stand at the Brandon Park netball training (Seaham), Bowthorne Park (Wallalong) soccer finals day and Hinton markets. Officers engaged with 185 community members during these events.

An online survey was made available to help community members make a submission. 8 surveys were completed during the exhibition period. The response provided, via the survey, gave an indication of community support for each action in the Place Plan. Survey responses are available in the Engagement Report along with a further 3 written submissions (**ATTACHMENT 4**).

The majority of the feedback expressed support for the Place Plan. This feedback was considered when finalising the Place Plan, resulting in minor changes to provide more detail or clarification to actions, roles and timeframes.

The submissions table (**ATTACHMENT 1**) details the issues raised during the exhibition period and the response from Council, including whether an amendment was made to the Place Plan.

OPTIONS

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

ATTACHMENTS

- 1) Hinterland Place Plan - Submissions Table. [↓](#)
- 2) Draft Hinterland Place Plan. (Provided under separate cover) [⇒](#)
- 3) 25 July 2023, Minute No. 006. [↓](#)
- 4) Hinterland Place Plan Engagement Report. (Provided under separate cover) [⇒](#)

COUNCILLORS ROOM

- 1) Hinterland Place Plan Engagement Report.
- 2) Copy of submissions.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 HINTERLAND PLACE PLAN - SUBMISSIONS TABLE.

Submissions Table: Hinterland Place Plan

No.	Author	Summary	Response
1.	Community Group – Voices of Wallalong and Woodville (VOWW)	Retaining the rural character of the Hinterland, noting rural type tourism rather than large scale development as preference. Also note, the preservation of Hinterland to retain its uniqueness and character.	<p>Emerging theme of Character underpins the HPP and outlines the character in detail. (pg 14)</p> <p>Action 2 provides support opportunities by Council for helping to generate more rural business and tourism.</p> <p>Action 5 supports rural tourism mentoring/advice within the Agritourism Mentoring Program. (Additional wording added to Action 4 to provide a focus on keeping the rural character. This now reads “Council has taken steps to provide increased housing options in the Hinterland by allowing secondary dwellings while keeping in the rural character”.</p>
		Support for the development of cycle pathways and footpaths to enhance connectivity between villages and rural places. Submission acknowledges longer term projects which require larger costs. Also suggests formalized cycleways and pathways mapping which would prioritize and help with future connectivity of pathway infrastructure.	A review of the Pathways Plan is outlined in Action 9.
		Roads need to be assessed as far as speeds are concerned. Concern over hidden driveways and heavy vehicles speeding that are laden with heavy machinery or quarry product. An interim	Action 8 provides opportunity to address these issues

ITEM 5 - ATTACHMENT 1 HINTERLAND PLACE PLAN - SUBMISSIONS
TABLE.

No.	Author	Summary	Response
		suggestion made to provide solar powered speed signs in locations such as Seaham Road.	
		Sharing of information as a tourism product (including farm gate stalls and attractions) continues to develop.	<p>Addition to be provided to Action 5 to include: Council and DPS will work collaboratively with the community to develop new trails, touring itineraries and celebrate new products. This information will be shared with the community as well as visitor economy industry and travelers.</p> <p>Addition to be provided to Action 20 to include: Connecting with neighbours could also offer an opportunity for people and businesses to come together and learn more about each other.</p>
2.	Community Group – Seaham Park and Wetlands Committee (355C)	<p>The submission expresses strong support for this plan, stating the committee is pleased to see rural areas highlighted in council's planning.</p> <p>The submission suggests:</p> <p>Canoe Trails – opportunity to further expand and develop the canoe trails with neighbouring councils of Mid Coast and Dungog and establish trails of significance similar to Murray River Canoe Trail.</p> <p>BMX Track – Community interest in developing a BMX bike track for social riding in Seaham Park.</p>	<p>The following information is provided in response to the matters raised:</p> <p>Action 12 refers to continued collaboration with state and local agencies to explore opportunities and advocate for better access to waterways, state forests, and national parks. This could also include conversations to develop canoe trails. Action 5 also supports this submission with the development of new tourism businesses that could include watersport operators.</p> <p>Correspondence was sent to the group in 2020 identifying constraints including the proposed site being situated in Coastal Wetlands and a Flood Planning Area. Since this time a BMX</p>

ITEM 5 - ATTACHMENT 1 HINTERLAND PLACE PLAN - SUBMISSIONS TABLE.

No.	Author	Summary	Response
			track has been constructed early 2021 on Crown Road Reserve (Sinclair St).
		Amenities – group expressed concern over the lack of public toilets located in Seaham to service bird hide and canoe launch.	Additional toilet facilities are not currently included in the Strategic Asset Management Plan. Council will communicate with NPWS to raise this issue and advocate for facilities near the Seaham Bird Hide.
3	Resident	The submission seeks to provide opinion of the use of terms used throughout the document including: The name Hinterland	The name Hinterland was supported over the previous 'Rural West' by 57% of those surveyed
		The name Seaham Swamp	Seaham Swamp is the name of the gazetted parcel of land that is owned by NPWS.
		Suggestions made on a staged approach for the development of Hinterland tourism products and new experiences to encourage increased visitor numbers, time and money spent.	Noted. This has been considered as part of Action 2 and Action 5.
		Suggestions made on the marketing phrases and tag lines to assist promotion of the Hinterland in addition to the offer of photos.	Noted.

Survey Comments: Hinterland Place Plan

Question	Content Summary	Response
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ITEM 5 - ATTACHMENT 1 HINTERLAND PLACE PLAN - SUBMISSIONS TABLE.

Key comments throughout the survey questions reviewed under common themes	Respondents outline that they would like to see the plan address the balance of housing and quarry developments versus the keeping of rural character.	<p>Place Plans provide an important opportunity to consolidate Council's plans for an area and reflect the communities desires to improve the livability of their area. While do provide an opportunity to start a conversation with the community regarding land use change, place plans do not actually change land use.</p> <p>Quarries in the Hinterland are a permissible land use. With regard to the State Significant Development applications in the Hinterland Council has a role to review and assess and provide comments to the NSW Government to better inform their assessment and determination of these applications. A place plan does not fit within the matters of consideration for any such application.</p>
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ITEM 5 - ATTACHMENT 1 HINTERLAND PLACE PLAN - SUBMISSIONS TABLE.

	Respondents are concerned that we have not addressed specifics in relation to housing. (rezoning)	Action 4: Our bright future outlines the housing demands in Port Stephens and that this will be considered in the review of the Local Housing Strategy and the Housing Supply Plan.
	Feedback suggests that there needs to be a greater level of detail supplied in the plan before "ratepayer's money" is spent.	This is a plan that provides guiding actions for both Council and the community. As the plan progresses, projects develop more detail with community involvement enabling funding (internal and external) to be investigated. Not all actions are funded by rate income.
	Respondents reiterated their concerns for flood control, evacuation and traffic.	Flood control and evacuation plans are addressed in Action 21 and Action 18. Traffic is addressed in Action 8.

ITEM 5 - ATTACHMENT 1 HINTERLAND PLACE PLAN - SUBMISSIONS TABLE.

	Feedback to reiterate rural character being protected, opportunities to diversify new business, access to rivers. Informational signage and preservation of history. I.e. Areas of interest could be created, informational signage for historically significant areas	Emerging theme of Character underpins the HPP and outlines the character in detail on page 14. Existing Action 7 outlines how the local community could support the character of the region and celebrate its fascinating locations and sites of significance. Existing Action 16 outlines the preservation, improved access and signage of remarkable natural features and landscapes.
	More specific information and detail on specific activities taking place i.e. roads	Pages 20 and 21 have been updated to accurately reflect key infrastructure projects that are due to be delivered within the timeframe of the place plan.

ITEM 5 - ATTACHMENT 1 HINTERLAND PLACE PLAN - SUBMISSIONS TABLE.

	Concerned we have not been listening.	Extensive engagement process included a variety of opportunities for the community to be involved. The progress of the Place Plan will be clearly available for the community to view on Council's website. Reporting against the plan will also be undertaken in our 6 month progress reporting and annual report to the community.
	Various communities of Hinterland haven't been adequately identified.	All suburbs of the Hinterland are represented in the HPP. The plan covers all of the Hinterland area and has been informed by community members who provided feedback throughout the 4 phases of engagement.
	Concerns over public transport	Public transport concerns were acknowledged under the theme "management and safety". Wording has been changed to more broadly reflect all demographics, not just children. Public transport is not a function of local government, however council can continue to advocate on behalf of communities for provision of services.

**ITEM 5 - ATTACHMENT 1 HINTERLAND PLACE PLAN - SUBMISSIONS
TABLE.**

	Our environment is special and needs to be celebrated and protected. Hinterland can be developed to draw visitors in.	The place plan identifies that the community values most its' environment, open space and safety. The actions under these themes look to protecting and enhancing this asset.
	I believe that the traditional owners of the inland parts of the Shire are not Worimi lands.	Noted. According to AIATSIS mapping, Hinterland is Worimi land.

MINUTES ORDINARY COUNCIL - 25 JULY 2023**ITEM NO. 3****FILE NO: 23/131670
EDRMS NO: PSC2020-00033****DRAFT HINTERLAND PLACE PLAN**

REPORT OF: JANELLE GARDNER - COMMUNICATIONS AND CUSTOMER
EXPERIENCE SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the Hinterland Place Plan Engagement Report (**ATTACHMENT 1**).
 - 2) Endorse the draft Hinterland Place Plan (**ATTACHMENT 2**) to be placed on public exhibition for 28 days.
-

Councillor Peter Kafer left the meeting at 6:30pm.

**ORDINARY COUNCIL MEETING - 25 JULY 2023
MOTION**

006	Councillor Giacomo Arnott Councillor Peter Francis It was resolved that Council: <ol style="list-style-type: none">1) Note the Hinterland Place Plan Engagement Report (ATTACHMENT 1).2) Endorse the draft Hinterland Place Plan (ATTACHMENT 2) to be placed on public exhibition for 28 days and a further report be provided to Council following public exhibition.
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Cr Giacomo Arnott and Cr Peter Francis accepted the inclusion of a further report to Council following public exhibition into the motion.

Councillor Peter Kafer returned to the meeting at 6:33pm.

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

Those against the Motion: Nil.

The motion was carried.

MINUTES ORDINARY COUNCIL - 25 JULY 2023**BACKGROUND**

The purpose of this report is to seek Council's endorsement to exhibit the draft Hinterland Place Plan (**ATTACHMENT 2**) for a period of 28 days.

Place Plans are plans that put people and places first. Place Plans start with our community values and priorities, and identify the unique local character of a place and the ways our community can shape, enhance or protect these aspects.

A Place Plan is guided by strategic documents and puts a local filter on all of Council's existing strategies to make one easy-to-read, action-oriented plan. It also includes an analysis of potential opportunities for a place in line with the community's vision.

In 2022, the Department of Planning and Environment (DPE) implemented changes to simplify the planning process and approval pathways for small business activities and low-impact agricultural development on NSW farms. The changes were designed to respond to natural disasters such as droughts and bushfires, as well as the impacts of COVID-19, by supporting the recovery of regional communities by encouraging industries that are supplementary to, or based on, agriculture, such as agritourism.

At the same time, Council reviewed its planning controls on RU1 and RU2 zoned land to maximise the economic potential of rural land, without restricting agricultural uses. The Port Stephens Local Environmental Plan 2013 (LEP) was amended to include an increased number of bedrooms for farm stay accommodation and new land uses to include artisan food and drink industries, restaurants and cafes, function centres, secondary dwellings (granny flats), and recreation facilities.

The draft Hinterland Place Plan supports the delivery of these LEP changes. It provides a pathway for positive change by using the passion and determination of local champions. It supports a diversified economy, encourages new points of sale for local produce, and supports agritourism while respecting the history and lifestyle of Hinterland communities.

Events and new tourism opportunities are of particular focus and have been identified as largely untapped opportunities to date. This aligns closely with the direction of Destination Port Stephens to showcase Port Stephens being open all seasons and broadening their marketing focus on new locations in the Hinterland.

A phased engagement program of workshops, surveys, and meetings with community members, businesses, community groups, and key stakeholders explored the priorities and ideas for Hinterland in more detail and developed priority actions for the plan. The Hinterland Place Plan Engagement Report (**ATTACHMENT 1**) provides detailed information about the outcomes of this consultation.

MINUTES ORDINARY COUNCIL - 25 JULY 2023

The draft Hinterland Place Plan does not consider housing in our rural communities. Housing and its future in the Hinterland will be determined in consultation with the community through the 2024 review of the Port Stephens Housing Strategy.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Develop a strategic program for Place Plans

FINANCIAL/RESOURCE IMPLICATIONS

The public exhibition of the draft Hinterland Place Plan and associated community engagement activities will be undertaken using existing budgets.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Additional funding may be required for some actions contained in the plan following more detailed scoping.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS**Hunter Regional Plan 2041 (HRP)**

The draft Hinterland Place Plan is consistent with the Hunter Regional Plan 2041 (HRP) including objective (8) 'Plan for businesses and services at the heart of healthy, prosperous and innovative communities' and objective 9 'Sustain and balance productive rural landscapes'.

The Hinterland Place Plan is located within the Hinterland District of the HRP. The Hinterland Place Plan aligns with the HRP Hinterland District Planning Priority 2 'Promote rural enterprises and diversification'.

Port Stephens Local Environmental Plan 2013 (LEP)

No amendments to the LEP are required to implement the Hinterland Place Plan. The Hinterland Place Plan contains actions to build upon the Rural Economic

MINUTES ORDINARY COUNCIL - 25 JULY 2023

Development LEP amendments already adopted by Council and implemented on 1 October 2022.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the draft Hinterland Place Plan does not meet community expectations.	Low	<p>Adopt the recommendation to release the draft Hinterland Place Plan for exhibition to seek community feedback.</p> <p>Extensive community engagement during the exhibition period will assist Council to further understand community expectations and identify possible changes to be made to the draft place plan.</p>	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social

Place Plans aim to enhance the liveability of places in Port Stephens to improve community wellbeing. They respond to the community's values and aspirations. Place Plans enable a collaborative approach between residents, business and Council to deliver great place outcomes. The draft Hinterland Place Plan contains actions to inspire community involvement in creating a better place through conservation, beautification, connectivity and activation.

Economic

The Hinterland is ideally positioned to leverage the growing visitor economy. The unique networks of blue (waterways, wetlands) and green (trees, bushland and areas of significant biodiversity) combined with farmers, producers and the unique history of the location will not only attract new visitors but will also attract new investment in infrastructure and services that improves the liveability and wellbeing of the broader community.

Environmental

Hinterland residents place a high value on the natural environment and the draft Hinterland Place Plan aims to protect and celebrate this important asset. The draft Hinterland Place Plan recognises that key habitat corridors need to be maintained,

MINUTES ORDINARY COUNCIL - 25 JULY 2023

strengthened, and where possible, rehabilitated. The draft Hinterland Place Plan identifies a number of opportunities for conservation projects and the improvement of habitat corridors.

CONSULTATIONInternal

The draft Hinterland Place Plan has been prepared in consultation with the relevant sections in the Development Services Group, Facilities and Services Group, and Corporate Services Group.

External

Council officers have worked extensively with the Hinterland community to prepare a draft Place Plan that accurately reflects the community's values and aspirations.

The engagement activities included:

- Liveability Index survey
- Workshops with the Hinterland community
- Key stakeholder meetings including Hunter Water Corporation, Maitland City Council (regarding Hunter Estuary, Coastal Management Plan), Transport for NSW, NSW State Forests, Maritime NSW, National Parks and Wildlife Service, Destination Port Stephens and Local Land Services
- Online survey of the draft actions.

The Hinterland Place Plan Engagement Report (**ATTACHMENT 1**) provides detailed information about the outcomes of this consultation.

If endorsed, the draft Hinterland Place Plan will be exhibited for a period of 28 days with integrated engagement activities including a guided submission process and drop in sessions at locations to be determined.

Outcomes of the public exhibition process and any changes made to the draft would be reported to Council for endorsement with the final version of the Hinterland Place Plan.

OPTIONS

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

ATTACHMENTS

- 1) Hinterland Place Plan Engagement Report. (Provided under separate cover)
- 2) Draft Hinterland Place Plan. (Provided under separate cover)

MINUTES ORDINARY COUNCIL - 25 JULY 2023

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

FILE NO: 23/237127
EDRMS NO: PSC2014-00882

**REVIEW OF THE TERMS OF REFERENCE FOR THE PORT STEPHENS
BEACHSIDE HOLIDAY PARKS - HOLIDAY VAN CONSULTATIVE COMMITTEE**

REPORT OF: KIM LATHAM - HOLIDAY PARKS SECTION MANAGER
DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorses the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee (**ATTACHMENT 1**).
- 2) Revokes the Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee dated 13 July 2021.

BACKGROUND

The purpose of this report is to seek endorsement of the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee following a review.

The Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee, comprises Council staff and elected representatives from the Council managed Crown Holiday Parks. The purpose of the committee is to represent and inform the holiday van owners who hold occupancy agreements with Council to reside in mobile dwellings within Shoal Bay Holiday Park, Halifax Holiday Park and Fingal Bay Holiday Park.

In accordance with the Crown Land Management Act 2016 which came into effect on 1 July 2018, Council are recognised as Land Managers for our Crown Holiday Parks under the terms of the Local Government Act 1993 and are responsible for the approval of any changes to the Terms of Reference.

The revised Terms of Reference (**ATTACHMENT 1**) have been reviewed by the current members of the Holiday Van Consultative Committee prior to being presented to Council.

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

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Implement the 2022 to 2025 Delivery Plans for Beachside Holiday Parks and Koala Sanctuary

FINANCIAL/RESOURCE IMPLICATIONS

There are no known financial or resource implications and any activities will continue to be carried out in line with existing budgets.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The revised Terms of Reference provides greater clarity around membership, roles and responsibilities, and limits policy and governance risks to Council.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that not adopting the recommendation will limit the effective and timely communication between Council and the Holiday Van Owners.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no known implications.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Holiday Parks Section.

Internal

- Holiday Park Managers.

External

- Holiday Van Consultative Committee representatives.

OPTIONS

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

ATTACHMENTS

- 1) Revised Terms of Reference. [↓](#)

COUNCILLORS ROOM

- 1) Minutes – Holiday Van Consultative Committee – 21 July 2023.

TABLED DOCUMENTS

Nil.

Terms of Reference



PORT STEPHENS BEACHSIDE HOLIDAY VAN CONSULTATIVE COMMITTEE

1. PURPOSE

- 1.1 The purpose of the Holiday Van Consultative Committee (the Committee) is to provide a forum for meaningful discussion, facilitating appropriate consultation and engagement with Holiday Van Owners toward the implementation stages of development and change occurring across the Fingal Bay, Shoal Bay and Halifax Holiday Parks.
- 1.2 To ensure that Holiday Van Owners' concerns and issues are understood and accurately presented to the Committee for discussion.
- 1.3 To improve communication and act as an information channel between Holiday Van Owners, the Council and Park Management.
- 1.4 To act in a way that improves communication channels between Holiday Van Owners and Park Management.
- 1.5 To provide a forum for open discussion. Issues are to be of a collective nature only.
- 1.6 To consider relevant information to be circulated in the Quarterly Holiday Van Newsletter.

2. CONTEXT / BACKGROUND

- 2.1 Port Stephens Beachside Holiday Parks Consultative Committee was established in April 2014 to ensure an appropriate channel of communication was formed between Council and Holiday Van Owners at Fingal Bay, Shoal Bay and Halifax.

Under the Crown Land Management Act (2016) Council is recognised as the Crown Land Manager and as such has a responsibility to manage Crown Lands for the purposes for which the land is reserved or dedicated.

- 2.2 The Holiday Parks Long Term Casual Occupancy Act (2002) makes provision for the Park Owner to establish a consultative committee for its Holiday Parks. The formation of any such committee is at the discretion of the Council. It is also the right of the Council to determine procedural issues including the extent of representation on the Committee.

Terms of Reference



3. SCOPE

- 3.1 The scope of operation of this Committee is to actively promote discussion on agenda matters with the view of improving the quality and financial viability of the Holiday Parks and amenity of Holiday Van Owners, in keeping with the objectives set out in the approved Plans of Management.

4. DEFINITIONS

- 4.1 Park Owner means Council.
- 4.2 Council means Port Stephens Council and the officers of Council.
- 4.3 Crown Lands means NSW Government Department Industry, and the officers of Crown Lands.
- 4.4 Crown Land Manager means Council in its capacity as managers of Crown reserves.
- 4.5 Committee means the Port Stephens Holiday Van Consultative Committee.
- 4.6 Holiday Parks means Fingal Bay, Shoal Bay and Halifax Holiday Parks.
- 4.7 Park Management means the appointed Council personnel responsible for the strategic and operational management of Port Stephens Beachside Holiday Parks.
- 4.8 Holiday Van means a holiday van or caravan as defined in the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
- 4.9 Holiday Van Owner means a person or persons who own a holiday van and who has the right to occupy a site under a current occupation agreement.
- 4.10 Plans of Management means the plans approved by the Minister for the purpose of managing key objectives, strategies and performance targets established for the management of a Holiday Park on Council land or Crown reserve.
- 4.11 Port Stephens Caravan and Campers Association - "PSCCA" means the association representing Holiday Van Owners within the holiday parks.

5. AUTHORITY

- 5.1 The Committee may formulate recommendations and submit same to Council for its consideration and determination. There is no decision making authority delegated by ~~the~~ Council to the Committee.

6. TERM

- 6.1 The commencement date of the Holiday Van Consultative Committee was April 2014 and is ongoing.

TERMS OF REFERENCE 2024³

Terms of Reference



7. MEMBERSHIP

7.1 Membership of the Committee will comprise up to 10 members.

7.1.1 Park Management – 5 appointed representatives:

- a) Holiday Park Section ~~Commercial Business~~ Manager or delegate
- b) Administration Officer / ~~Secretariat~~ or delegate
- c) Holiday Parks ~~Business Assistant~~ Manager – Fingal Bay
- d) Holiday Parks ~~Assistant Operations~~ Manager – Shoal Bay
- e) Holiday Park Assistant Manager - Halifax

7.1.2 Holiday Van Owner – 5 elected representatives:

- a) Halifax (1)
- b) Shoal Bay (1)
- c) Fingal Bay (3) – North Precinct – includes Amaroo, Toowoon, Karloo Gooyah and Yatamah Streets, South Precinct – includes 7 vans in Pinaroo (23-35 on South boundary), Muraban, Kalyan, Ruma, Orana Streets (#18-42) and West Precinct – includes Pinaroo (2-75 excludes 7 vans in South precinct), Orana (#2-16), Quandong Extension & Nowrainie Streets.

7.2 Holiday Van Owner representatives will be elected through elections conducted across the 3 Holiday Parks. If a Holiday Van Owner representative resigns their position on the Committee, a new delegate will be sought through an expression of interest. If a Holiday Van Owner representative is unable to attend any one meeting of the Committee a nominated delegate, preferably from the same precinct, or a PSCCA member or a current Holiday Van Owner in the park as approved by the Chairperson may attend in their place.

7.3 The 5 Holiday Van Owner representatives will be elected from the 5 established electorates:

- a) Halifax - representing all occupants on Halifax Holiday Park
- b) Shoal Bay - representing all occupants on Shoal Bay Holiday Park
- c) Fingal Bay – a minimum of 2 and a maximum of 3 representatives to represent Fingal Bay Holiday Park as a whole.

7.4 Elections

7.4.1 All Holiday Van Owners will be provided with the opportunity to nominate a van owner to represent their electorate to which they belong, as detailed in 7.1.2 above.

7.4.2 A Holiday Van Owner may nominate in one electorate only.

Terms of Reference



- 7.4.3 Nominators must supply, along with their nomination form:
- A short description of their background (half an A4 page maximum) and reasons for wanting to be elected to this Committee; and
 - A current head and shoulders photograph which will **both** be published with the ballot paper ~~to enable holiday van owners to make a considered choice when voting for their representative.~~
- 7.4.4 Nominations will be called giving 28 days' notice of closure of nominations.
- 7.4.5 Within 7 working days of the closure of nominations, Holiday Van Owners will be provided with details of those who have nominated and receive a ballot paper for return to Port Stephens Beachside Holiday Park Management, PO Box 147, Nelson Bay 2315, within 28 days of the date of issue.
- 7.4.6 Should multiple nominations not be received in any one electorate, the individual who has nominated will be declared the representative for that electorate.
- 7.4.7 If the vote for any one position is tied, then the representative will be decided by a random draw of names.
- 7.4.8 Holiday Van Owners will be given one vote per site occupancy agreement to elect a representative for their electorate.
- 7.4.9 The ballot process will be supervised and conducted by the nominated Returning Officer (Council's Public Officer).
- 7.4.10 Within 2 working days of the close of the ballot, Park Management will advise Holiday Van Owners in that precinct of the successful elected Holiday Van representatives for the Committee.
- 7.4.11 If no nominations are received, the Committee Chairperson may approach an individual Holiday Van Owner and recommend appointment to the vacant position to Committee to fill the casual vacancy until the next election period.
- 7.4.12 **The ballot process will occur each year prior to the September meeting. Two of the Fingal Bay electorates will occur one year with the third Fingal Bay electorate plus Halifax and Shoal Bay scheduled the following year to maintain the 2 year cycle.**
- 7.5 Term of Committee Members
- 7.5.1 Committee members will be elected for a 2 year **term**.
- 7.5.2 ~~During the first term of office (no earlier than 18 months from the Committee commencing) an election will be held for 2 of the members with an election for the remaining 3 to be held the following year (at the end of the 2 year term). This will ensure continuity of membership.~~ **Elections will be scheduled in accordance with 7.4.12 to ensure continuity of membership.**

Terms of Reference



- 7.5.3 The Committee will actively seek nominees for vacant positions as they become available.
- 7.5.4 A Committee member may resign at any time with notification in writing to the Chairperson.
- 7.5.5 Committee members may be re-elected for consecutive terms.
- 7.5.6 Election for any vacant committee member positions will occur annually, coinciding with timing of the election process described at 7.45.122 and in consideration of operational requirements.

8 ROLES AND RESPONSIBILITIES

- 8.1 The Committee will be chaired by Council's Holiday Parks ~~Section~~ **Commercial Business** Manager or nominated delegate.
 - 8.1.1 The Administration Officer or delegates role is to provide advice and general knowledge to the Committee members.
 - 8.1.2 The Holiday Park **Commercial Business** Managers and **Assistant Managers**, or delegates, roles are to provide advice and recommendations on the agenda items and to provide input and direction to ensure transparency and that all information is true and relevant.
 - 8.1.3 The Holiday Van Owners representative's roles are to ensure they provide appropriate consultation and engagement with Holiday Van Owners regarding development and change occurring across the Holiday Parks.
- 8.2 Members of the Committee are expected to:
 - a) Have a good understanding of the Committee's position within the Councils governance framework.
 - b) Understand the regulatory and legislative requirements appropriate to Council and Crown Lands.
 - c) Ensure effective communication exists between the Committee, Park Management and key stakeholders.
 - d) Provide professional competency to be able to meet the objectives of the Committee.
- 8.3 All Committee members are required to uphold the Council's values and behaviours, which are considered to be core requirements of Council. All Committee members are expected to demonstrate the following values and behaviours in their dealings with each other and with the Holiday Parks community:
 - a) Respect – the individual, the environment and our culturally diverse community. We will treat everyone fairly with equity of opportunity and access for all.
 - b) Integrity - The Committee members will be honest in all that we do.
 - c) Teamwork - Committee members will work within a network of people for the betterment of the community.

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- d) Excellence - Committee members will strive to excel at everything we do. We will aim for the highest standard of quality to achieve best value for our community and customers.
- e) Safety - Committee members will strive for a safer community. We do not put ourselves, or others at risk of injury and we will report hazards and make them safe.

8.4 Code of Conduct

- 8.4.1 Committee members are bound by the terms and conditions of Council's Code of Conduct.
- 8.4.2 Committee members must declare any conflicts of interest at the start of each meeting. Details of any conflicts of interest must be appropriately minuted.
- 8.4.3 Where members or invitees at Committee meetings are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from Committee deliberations on the issue where the conflict of interest may exist.

8.5 Induction

- 8.5.1 Park Management will ensure that new Committee members receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.

8.6 Performance Assessment

- 8.6.1 The Chair of the Committee will initiate an annual review of the performance of the Committee. The review will be conducted on a self-assessment basis (unless otherwise determined by the Committee), with appropriate input from relevant stakeholders, as determined by the Committee members.

9 ADMINISTRATION ARRANGEMENTS

9.1 Meeting practices and cycles

- 9.1.1 Unless otherwise specified in this Terms of Reference and in accordance with any Local Government or Crown Lands legislative requirements, the Committee will determine its meeting practice, processes and protocols.
- 9.1.2 The Committee will meet on the 3rd **third** week of ~~February, May, August and November~~ **March and September** of each year.
- 9.1.3 Extra-Ordinary meetings of the Committee may be convened only at the discretion of Council.
- 9.1.4 Meetings will be held at a time and date that is suitable for the majority of Committee members.

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Terms of Reference



- 9.1.5 Meeting duration shall not exceed a maximum of 1½ hours unless determined otherwise by the Committee.
- 9.1.6 To reach a quorum for the Committee at least 3 of the elected Committee members must be present and at least 3 Park Management representatives. If for any reason a quorum is not reached the meeting will be rescheduled.
- 9.1.7 Meeting Attendance - Committee members are expected to attend all Committee meetings.
- 9.1.8 Each participating member of the Committee shall meet all costs of their individual participation and attendance at Committee meetings.
- 9.1.9 Where a Committee member fails to attend 3 successive meetings without submitting a satisfactory explanation, a casual vacancy will be declared.
- 9.1.10 Persons other than Committee members/alternates/Council or Crown Land Officers shall not be permitted to attend meetings unless by invitation of the Committee Chairperson.
- 9.1.11 A suitable meeting place and facilities will be made available by Council for the purpose of conducting the Committee meetings.
- 9.1.12 Where a Committee member is unable to attend a meeting, a nominated delegate preferably from the same precinct, or a PSCCA member or a current Holiday Van Owner in the park as approved by the Chairperson may attend in their place. The nominated representative may attend the meeting via Zoom online video link.
- 9.1.13 By agreement with the Committee the meeting may be held via Zoom online video link.
- 9.2 Secretariat
 - 9.2.1 Park Management will provide the Secretariat to the Committee.
- 9.3 Agenda and minutes
 - 9.3.1 Any Committee member may submit Agenda items.
 - 9.3.2 A reminder of the date of the next meeting and the closing date for receipt of Agenda items will be sent by the Secretariat to all Committee members in advance of the next meeting.
 - 9.3.3 Agenda items shall be forwarded to the Secretariat at least 7 days prior to the next meeting.
 - 9.3.4 Representatives submitting items should ensure the content is given in sufficient detail to assist members to understand the issues raised or by providing additional supporting information.

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- 9.3.5 The Secretariat will ensure the Agenda for each meeting and supporting papers are circulated to members in sufficient time (at least 3 working days) before the meeting.
- 9.3.6 Circulation of the Agenda will be by electronic means as determined by the Committee.
- 9.3.7 Park Management at its discretion will approve/disapprove items submitted for inclusion in any Agenda. There will be no general business permitted at the meeting.
- 9.3.8 Only Agenda items of a collective nature will form the basis for discussion at Committee meetings – items of an individual nature i.e. items that relate to an individual Holiday Van Owner will not form discussion at Committee meetings.
- 9.3.9 Any additional information, which comes to hand after the preparation of Agenda papers, may be tabled at the meeting. The Secretariat will distribute papers to the Committee representatives prior to the Committee meeting, where possible.
- 9.3.10 Minutes - A formal record of the Committee meetings, including action responsibilities, shall be prepared by the Secretariat and circulated to all Committee members within 2 weeks of the meeting.
 - a) Any comments shall be submitted to the Secretariat within 24 weeks of circulation.
 - b) The final record draft will be settled by the Chairperson, circulated to all the members and published within the Beachside Holiday Parks website and Council's central electronic records system (EDRMS).

9.4 Voting

- 9.4.1 Matters under consideration by the Committee will be determined by consensus whenever possible. In the event that consensus cannot be achieved, an item is adopted by the Committee where a majority of members vote for the subject. If the voting is tied the Chairperson has a second (casting) vote which is used to break the deadlock.

9.5 Recordkeeping

- 9.5.1 The Secretariat will be responsible for minute taking and appropriate record keeping in line with Council policy.

10 **CONFIDENTIALITY**

- 10.1 Members listed in this Terms of Reference may become acquainted with or have access to confidential and/or sensitive information. Members should not disclose such information to any other party unless specifically authorised to do so and should not make improper use of any information.
- 10.2 Council has a common law and statutory obligation to protect the privacy and confidentiality of some information that may be shown to Committee Members. It is expected that Committee Members will accept and maintain the confidentiality of information so designated. Matters of a confidential nature will be identified during the meeting however if a member is unsure the confidentiality of the matter should be checked with the Chairperson.

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- 10.3 Letters from individuals addressed to Council will not be provided to the Committee nor will Council representatives provide names and addresses of any correspondence directed to Council.

11. INTELLECTUAL PROPERTY

- 11.1 The Committee acknowledges and agrees:
- a) It is important for Council to develop, maintain, protect and manage the organisation's intellectual property including copyrights, trademarks, registered designs, patents and databases.
 - b) The Committee has a duty to observe and help protect Council's intellectual property by not copying or supplying such property without the express permission of Council or the copyright owner.
 - c) Council retains ownership of all intellectual property created by Members in the course of their Committee work.
 - d) Council will acknowledge the Committee if publishing or reproducing a copy of Holiday Van Consultative Committee research, including images and historical data.
- 11.2 The Holiday Van Consultative Committee will refer to the Secretariat any questions relating to intellectual property rights or the use of another organisation's document.

12. MEDIA

- 12.1 Any media liaison associated with the activities of the Committee shall be undertaken in accordance with Council's protocols and with the approval of the Committee.
- 12.2 Council authorises delegated staff to make public statements on its behalf, however other than designated Council staff, Committee members are not permitted to make public statements on behalf of the Committee or Council including any media interviews and written material for publications e.g. the local newspaper, social media or radio.

13. REVIEW

- 13.1 The Terms of Reference will be reviewed ~~at the first meeting each calendar year~~ in accordance with Council's nominated review timeframes and recommendations made to Council of suggested changes, for its determination. Any changes to the Committee Terms of Reference must be approved by Council.

14. OTHER MATTERS

- 14.1 Dispute Resolution - Should issues arise about a Committee member continuing their representation on the Committee, the member's views will be sought with the aim of resolving the issue. Initially this will be the responsibility of the Chairperson of the Committee.
- 14.1.1 If after a genuine attempt to resolve the issue the Chairperson considers that the Committee members appointment should be reviewed the matter will be referred to Council's Senior Management to assist in conciliating the matter.

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14.1.2 The Committee Member may wish to have a support person during this process.

14.1.3 If conciliation is unsuccessful and a decision is made to discontinue representation, the Committee Member will be verbally informed of the decision with subsequent written confirmation from Council provided.

14.2 In carrying out its functions the Committee will be guided by existing processes and policies of Council.

15. MEETING CODE OF COOPERATION

- We start on time and finish on time.
- We focus on the strategic intent of the item.
- We ensure that people attending meetings are provided with guidance and support.
- We consider the risks and opportunities of each item.
- We are prepared to have open and honest conversations about an issue even if it is uncomfortable.
- We all participate fully and are prepared to challenge each other.
- We use improvement tools that enhance meeting efficiency and effectiveness.
- We actively listen to what others have to say, seeking first to understand then to be understood.
- We consider the deployment of actions and programs through appropriate frameworks and communicate the consensus view through appropriate channels.
- We follow up on the actions we are assigned responsibility for and complete them on time.
- We give and receive open and honest feedback in a constructive manner.
- We use data to make decisions (whenever possible).
- We determine issues arising by consensus or refer to the Chair for consideration.
- We strive to continually improve our meeting process and build time into each agenda for reflection and learning.
- We will promote best practice, keeping open minds, combining our experiences and shared learnings to inform our deliberations.

16. RELATED DOCUMENTS

- 16.1 Local Government Act 1993
- 16.2 Crown Land Management Act (2016)
- 16.3 Holiday Parks Long Term Casual Occupancy Act (2002)
- 16.4 Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 **2021**
- 16.5 Port Stephens Council's Code of Conduct.

Terms of Reference

**CONTROLLED DOCUMENT INFORMATION:**

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au			
EDRMS container No	PSC2014-00882	EDRMS record No	TBA
Audience	Council staff and community		
Process owner	Holiday Park Section Manager		
Author	Holiday Park Administration Officer		
Review timeframe	2 Years	Next review date	TBA
Adoption date	October 2019		

VERSION HISTORY:

Version	Date	Author	Details
1	October 2019	Holiday Park Administration Officer	Original document converted into new format.
2	13 July 2021	Holiday Park Administration Officer	Minor formatting changes. 7.1.1 – Updated Park Management members to reflect current position titles. 7.5.6 – Inserted new paragraph. 9.1.2 – Deleted Friday and inserted 'week'. 9.1.12 – added last sentence 'The nominated representative may attend the meeting via Zoom online video link'. 9.1.13 - Inserted new paragraph. Document control – Amended review timeframe to 2 years in accordance with Council's review process.

Terms of Reference



3	TBA	Holiday Park Administration Officer	<p>Minor formatting changes throughout.</p> <p>1.3 - deleted 'the' when referencing Council.</p> <p>1.6 – removal of the word 'Quarterly'.</p> <p>2.2 – deleted 'the' when referencing Council.</p> <p>5.1 - deleted 'the' when referencing Council.</p> <p>7.1 – inserted 'up to'.</p> <p>7.1.1 – Updated Park Management titles for currency.</p> <p>7.4.3 (b) – deleted 'to enable holiday van owners to make a considered choice when voting for their representative'.</p> <p>7.4.12 – inserted new clause.</p> <p>7.5.2 and 7.5.6 – updated paragraph to reference the inclusion of 7.4.12.</p> <p>8.1 – updated Park Management titles for currency.</p> <p>8.1.2 - updated Park Management titles for currency.</p> <p>8.3 - deleted 'the' when referencing Council.</p> <p>8.3 (b) - deleted 'the' when referencing Committee Members.</p> <p>9.1.2 – updated frequency of meetings.</p> <p>9.3.10 (a) – updated circulation of Minutes timeframe.</p> <p>13.1 – updated review timeframe to align with Council's review cycle.</p> <p>16.4 – Updated related document to current version '2021'.</p>
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ITEM NO. 7

FILE NO: 23/280799
EDRMS NO: PSC2022-02308

INFORMATION PAPERS

REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER
DIRECTORATE: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 14 November 2023.

No:	Report Title	Page:
1	Delegations Report	174
2	Council Resolutions	176

INFORMATION PAPERS

ITEM NO. 1

FILE NO: 23/279306
EDRMS NO: PSC2009-00965

DELEGATIONS REPORT

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

BACKGROUND

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

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

ATTACHMENTS

1) Delegations Report. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 DELEGATIONS REPORT.**MAYOR AND GENERAL MANAGER DELEGATION REPORT**

Date exercised	Delegations exercised	Purpose	Role exercising delegation	Reported to Council
15/10/2023	Code of Meeting Practice	Approval of Public Access application - Offshore Wind Power Zone.	Mayor	14/11/2023
22/10/2023	Code of Meeting Practice	Approval of Public Access application - DA for Sunrise Lifestyle Village, Bobs Farm.	Mayor	14/11/2023
23/10/2023	Code of Meeting Practice	Approval of Public Access applications - Offshore Wind Power Zone, DA for Sunrise Lifestyle Village, Bobs Farm and DA for 509 Gan Gan Road, One Mile Beach.	Mayor	14/11/2023
24/10/2023	Roads and Maritime Services delegations	Authorises the installation, display, removal or alteration of the traffic control devices for the listed items identified in the Port Stephens Local Traffic Committee report dated 3 October 2023.	General Manager	14/11/2023
24/10/2023	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of a quote for the provision of a Road Maintenance Truck.	General Manager	14/11/2023

ITEM NO. 2

**FILE NO: 23/269167
EDRMS NO: PSC2017-00106**

COUNCIL RESOLUTIONS

REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER
DIRECTORATE: GENERAL MANAGER'S OFFICE

BACKGROUND

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

ATTACHMENTS

- 1) Community Futures Directorate resolutions. [↓](#)
- 2) Corporate Strategy and Support Directorate resolutions. [↓](#)
- 3) Facilities and Infrastructure Directorate resolutions. [↓](#)
- 4) General Manager's Office resolutions. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 COMMUNITY FUTURES DIRECTORATE
RESOLUTIONS.

Action Sheets Report	Division:	Community Futures	Date From:	14/09/2021
	Committee:		Date To:	24/10/2023
	Officer:		Printed:	Thursday, 26 October 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/10/2023	Lamont, Brock	Port Stephens Offshore Wind Power Zone	30/11/2023	25/10/2023	
1		Pearl, Steven				23/278354
25 Oct 2023						
Council is working to complete the actions as endorsed within the motion.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/10/2023	Lamont, Brock	Draft Port Stephens Development Control Plan 2014 - Chapter D12 Richardson Road	16/02/2024	25/10/2023	
3		Pearl, Steven				23/278354
25 Oct 2023						
Council resolved to place the draft Port Stephens Development Control Plan 2014 - Chapter D12 Richardson Road on public exhibition. The exhibition period commenced Thursday 2 November 2023, for a 28 day period. A return report is forecasted to be presented to Council in February 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/10/2023	Lamont, Brock	Planning Proposal for 39, 39A and 41 Brocklesby Road, Medowie (Precinct F)	22/12/2023	11/10/2023	
1		Pearl, Steven				23/262411
25 Oct 2023						
Council resolved to adopt the planning proposal to amend the Port Stephens Local Environmental Plan 2013 for land at 39A, 39 and 41 Brocklesby Road, Medowie (Lots 1 and 2 DP 1291794 and Lot 2 DP 508780). The planning proposal was forwarded to NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan. The draft DCP will be exhibited once a Gateway determination is received.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/10/2023	Lamont, Brock	Draft Port Stephens Development Control Plan - Road Network and Parking (electric vehicles)	29/02/2024	11/10/2023	
2		Pearl, Steven				23/262411
25 Oct 2023						
Council resolved to place the draft Port Stephens Development Control Plan - Road Network on public exhibition. The exhibition period commenced Monday 16 October 2023, for a 28 day period. A return report is forecasted to be presented to Council in February 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/09/2023	Lamont, Brock	Draft Local Infrastructure Contributions Plan 2020 – Amendment No. 3	29/12/2023	13/09/2023	
2		Pearl, Steven				23/238925
25 Oct 2023						
Council resolved to place the draft Port Stephens Local Infrastructure Contributions Plan - Amendment No. 3 on public exhibition. The exhibition period closed Thursday 12 October 2023. A report is being prepared and is forecasted to be presented to Council for consideration at the 28 November 2023 meeting.						

ITEM 2 - ATTACHMENT 1 COMMUNITY FUTURES DIRECTORATE
RESOLUTIONS.

Action Sheets Report	Division:	Community Futures	Date From:	14/09/2021
	Committee:		Date To:	24/10/2023
	Officer:		Printed:	Thursday, 26 October 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/06/2023	Lamont, Brock	RAMSAR Listing for Mambo Wanda Wetlands	1/12/2023	14/06/2023	
1		Pearl, Steven				23/147603
137						
25 Oct 2023						
Council continues investigations and benchmarking to identify available options. A business paper is being prepared to be presented to Council at the 28 November 2023 meeting for consideration.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Pearl, Steven	Development Application Information	12/04/2024	12/04/2023	
3		Pearl, Steven				23/92450
103						
25 Oct 2023						
'DA Tracker' has been updated with the addition of the owner's name. Council continues to investigate options to allow DA documents to be made available on 'DA Tracker'. A report is being prepared and is forecasted to be presented to Council at the 9 April 2024 meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Lamont, Brock	Housing Affordability	30/03/2024	12/04/2023	
6		Pearl, Steven				23/92450
105						
25 Oct 2023						
Council's Local Housing Strategy (LHS) review will integrate all outstanding housing-related actions (including the Affordable Housing Action Plan). The draft LHS is expected to be presented to Council for consideration in March 2024. The final Councillor workshops were hosted in August and September 2023, and targeted consultation and community awareness commenced in October 2023.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/09/2021	Lamont, Brock	Port Stephens Waterway Strategy	29/12/2023	15/09/2021	
1		Pearl, Steven				21/252518
240						
25 Oct 2023						
Council was unsuccessful in the Regional NSW - Business Case and Strategy Development Fund grant, other funding sources are currently being investigated. Council continues to investigate funding opportunities to engage consultants to prepare the Port Stephens Waterways Strategy.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 10/10/2023	Lamont, Brock	URGENCY MOTION: Wind Farm Industry 1) Notes the ongoing consultative process the Federal Government is undertaking with the	13/02/2024		

ITEM 2 - ATTACHMENT 1
RESOLUTIONS.

COMMUNITY FUTURES DIRECTORATE



Action Sheets Report	Division:	Community Futures	Date From:	14/09/2021
	Committee:		Date To:	24/10/2023
	Officer:		Printed:	Thursday, 26 October 2023

	community and other stakeholders into whether an offshore wind farm industry should be established off the coast of Port Stephens and Newcastle.
2)	Notes that the Federal Government Minister for Energy Chris Bowen states that an offshore wind farm in this location has the potential to create 3,000 construction jobs and 1,500 ongoing jobs, as well as 5 gigawatts of electricity for the East Coast Energy grid.
3)	Notes that there are 1,454 published responses to the proposal on the Australian Government Department of Climate Change, Energy, the Environment and Water consultation hub web page.
4)	Notes that the Federal Government Minister for Energy Chris Bowen, the Federal Member for Paterson Meryl Swanson, and several MPs from the opposition and alternative parties have met with residents of Port Stephens to discuss this project.
5)	Notes that the Federal Government will still engage in 3 consultation phases before any works actually start, and that it is unlikely that any

ITEM 2 - ATTACHMENT 1
RESOLUTIONS.

COMMUNITY FUTURES DIRECTORATE



Action Sheets Report	Division:	Community Futures	Date From:	14/09/2021
	Committee:		Date To:	24/10/2023
	Officer:		Printed:	Thursday, 26 October 2023

	works would begin for several years from now due to the enormous amount of reports and consultation that is required to be undertaken.
6)	Notes the concerns raised by the community about the project, including its potential impact on the fishing industry in Port Stephens, potential impact on the environment including marine life, potential noise pollution, potential impact on the tourism industry, and what such an industry would look like when viewed from Port Stephens.
7)	Notes that Local Government, in particular Port Stephens Council, has had nothing to do with the proposal so far, and has no role to play in the consideration, approval or consultation of any offshore wind farm now or into the future.
8)	Agrees that until environmental impact statements and other scientific evidence is made available to the community in a full, open and transparent manner, it is opposed to the construction of any wind farm off the coast of Port Stephens.
9)	Requests the General Manager write a letter to the Federal Minister

ITEM 2 - ATTACHMENT 1 COMMUNITY FUTURES DIRECTORATE
RESOLUTIONS.

Action Sheets Report	Division:	Community Futures	Date From:	14/09/2021
	Committee:		Date To:	24/10/2023
	Officer:		Printed:	Thursday, 26 October 2023

	for Energy Chris Bowen and Federal Member for Paterson Meryl Swanson, noting Council's position, and requesting their attendance at a Council briefing to allow Councillors to better understand the proposal and to pass on the concerns of the community.
10)	Requests the General Manager provide a report to Council at each stage of the consultative process, outlining any recent progress on the matter.
11)	Requests the General Manager provide a report to Council seeking the Council's opinion on whether to continue opposing the offshore wind farm, or whether to support it, at the following stages:
a.	When the Environmental Impact Statement has been made available, and
b.	At the first meeting at the start of the new term of Council in 2024 to reaffirm Council's position.
Peart, Steven	
25 Oct 2023	
Council is working to complete the actions as endorsed within the urgency motion.	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/03/2023	Lamont, Brock Peart, Steven	Matter Arising - LEP Amendment to review building height controls	15/12/2023		
25 Oct 2023						
Council is investigating height controls and objectives as a part of the administrative amendment of the LEP. A draft amendment is forecast to be presented to Council at the 12 December 2023 meeting, seeking endorsement to submit the planning proposal to the NSW Department of Planning and Environment for a Gateway determination.						

**ITEM 2 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT
DIRECTORATE RESOLUTIONS.**



Division:	Corporate Strategy and Support	Date From:	27/08/2013
Committee:		Date To:	24/10/2023
Officer:			
Action Sheets Report		Printed:	Thursday, 26 October 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/09/2023	Pattison, Zoe	Development Application Awareness Campaign	30/11/2023	27/09/2023	
3						23/250979
25 Oct 2023						
Council resolved to extend the advertising of development applications in the Port Stephens Examiner and Port Stephens News of the Area and place the Development Application Awareness fee on public exhibition. The fee was on public exhibition from 27 September 2023 to 25 October 2023 with submissions being received. Council will review the submissions and provide a report back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/08/2023	Pattison, Zoe	Raymond Terrace Gateway Site Masterplan	31/03/2024		
1						23/214729
193						
25 Oct 2023						
Recommendation endorsed. Council staff will undertake a Masterplan for part of the Gateway site in Raymond Terrace and provide a report back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Pattison, Zoe	22 Homestead Street, Salamander Bay	31/03/2024	12/04/2023	
5						23/92450
088						
25 Oct 2023						
Council investigated options for the rezoning of 22 Homestead Street, Salamander Bay, and the development of a Vegetation Management Plan, to provide the best opportunity to enable a successful long-term rehabilitation of the site. A report is being prepared and will be presented to Council for consideration in due course.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	30/06/2024	12/10/2022	
2						22/273002
25 Oct 2023						
Report deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Property Investment and Development Policy	30/06/2024	12/10/2022	
1						22/273002
25 Oct 2023						
Public Exhibition deferred to allow for further clarification on the distribution of funds.						

**ITEM 2 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT
DIRECTORATE RESOLUTIONS.**

Action Sheets Report	Division:	Corporate Strategy and Support	Date From:	27/08/2013
	Committee:		Date To:	24/10/2023
	Officer:		Printed: Thursday, 26 October 2023	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Pattison, Zoe	Newline Road, Raymond Terrace	30/06/2024		20/288489
2 199						
25 Oct 2023						
Contracts and survey plan are being prepared. Completion of the acquisition is subject to registration of the plan.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/08/2013	Pattison, Zoe	Campvale Drain	30/06/2024		
243						
25 Oct 2023						
Awaiting final execution of easement documentation for 2 properties. All other properties (with exception of these 2) have been finalised.						

**ITEM 2 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE
DIRECTORATE RESOLUTIONS.**



Action Sheets Report	Division:	Facilities and Infrastructure	Date From:	10/08/2021
	Committee:		Date To:	24/10/2023
	Officer:		Printed:	Thursday, 26 October 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/09/2023	Maretich, John	Policy Review - Foreshore Vessel Storage Policy	30/11/2023	13/09/2023	
5		Kable, Gregory				23/238925
25 Oct 2023						
The Public Exhibition period ended on 10 October 2023. A report will be prepared for the Council meeting to be held on 28 November 2023.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Maretich, John	Naming Recreation Precinct at Medowie after Geoff Dingle	31/12/2023	12/04/2023	
2 085		Kable, Gregory				23/92450
25 Oct 2023						
Once the reserve has been subdivided as per the Medowie Place Plan, an application will be submitted to the Geographical Naming Board to name the recreation precinct after Geoff Dingle.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Maretich, John	Raymond Terrace Seven Day Makeover	25/12/2023		
17 228		Kable, Gregory				21/218740
25 Oct 2023						
A report will be presented to Council to allocate funds and commit to the project.						



Action Sheets Report	Division:	General Manager's Office	Date From:	24/10/2023
	Committee:		Date To:	24/102/2023
	Officer:		Printed:	Thursday, 26 October 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/10/2023	Wickham, Tony	Policy: Public Interest Disclosure	5/12/2023	25/10/2023	
6		Crosdale, Timothy				23/278354
26 Oct 2023						
Policy will be placed on public exhibition for 28 days.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Walker, Ashley	Financial Assistance	31/12/2023	12/04/2023	
3		Crosdale, Timothy				23/92450
083						
26 Oct 2023						
Awaiting necessary paperwork to process payments.						