

ATTACHMENTS UNDER SEPARATE  
COVER

ORDINARY COUNCIL MEETING  
28 FEBRUARY 2023



**PORT STEPHENS**  
C O U N C I L

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**ITEM 1 - ATTACHMENT 4 MINUTES - ORDINARY COUNCIL MEETING 13 DECEMBER 2022.****MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022**

Councillor Peter Francis left the meeting at 7:19pm.

**ITEM NO. 1**

**FILE NO: 22/290752  
EDRMS NO: 16-2019-598-2**

**DEVELOPMENT APPLICATION 16-2019-598-2 FOR A S4.55(1A) MODIFICATION TO APPROVED CAMPING GROUND AT 47 THE BUCKETTS WAY, TWELVE MILE CREEK**

REPORT OF: KATE DRINAN - DEVELOPMENT AND COMPLIANCE SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application DA No. 16-2019-598-2 for a s4.55(1A) modification to the approved camping ground at 47 The Bucketts Way, Twelve Mile Creek (Lot 9 DP 243144) subject to the conditions contained in **(ATTACHMENT 1)**.
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**ORDINARY COUNCIL MEETING - 13 DECEMBER 2022  
MOTION**

<b>322</b>	<p><b>Councillor Giacomo Arnott Councillor Peter Kafer</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Defer Development Application No. 16-2019-598-2 for a S4.55(1A) modification to approved camping ground at 47 The Bucketts Way, Twelve Mile Creek, for Council to receive more information regarding the definition of area for a primitive camp ground.</li><li>2) The Detention Basin Wall – The construction of the detention basin wall along the southern boundary of the site must be completed in accordance with Condition 2.15 to the satisfaction of Council.</li></ol> <p>The final pad shape, levels and location of the detention basin wall will be confirmed by the submission of a detailed survey plan prepared by a Registered Surveyor. The detailed works as executed survey plan must be provided in accordance with Council's Infrastructure Specification to Council. Written confirmation that the works have been undertaken to the satisfaction of Council must be provided prior to reporting back to Council meeting.</p>
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**ITEM 1 - ATTACHMENT 4 MINUTES - ORDINARY COUNCIL MEETING 13 DECEMBER 2022.****MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022**

Cr Steve Tucker moved the following amendment, which was accepted by the mover and seconder and merged into the original motion:

- 1) Defer Development Application No. 16-2019-598-2 for a S4.55(1A) modification to approved camping ground at 47 The Bucketts Way, Twelve Mile Creek, for Council to receive more information regarding the definition of area for a primitive camp ground.
- 2) The Detention Basin Wall – The construction of the detention basin wall along the southern boundary of the site must be completed in accordance with Condition 2.15 to the satisfaction of Council.

The final pad shape, levels and location of the detention basin wall will be confirmed by the submission of a detailed survey plan prepared by a Registered Surveyor. The detailed works as executed survey plan must be provided in accordance with Council's Infrastructure Specification to Council. Written confirmation that the works have been undertaken to the satisfaction of Council must be provided prior to reporting back to Council meeting.

Cr Giacomo Arnott foreshadowed a matter arising.

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

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

Those against the Motion: Mayor Ryan Palmer and Cr Steve Tucker.

The motion was carried.

Councillor Peter Francis returned to the meeting at 7:33pm.

**ORDINARY COUNCIL MEETING - 13 DECEMBER 2022  
MATTER ARISING**

<b>323</b>	<b>Councillor Giacomo Arnott Mayor Ryan Palmer</b>  It was resolved that Council request the General Manager to ensure that any submitters 'for' or 'against' a development application, which is then reported to Council, are notified and invited to put forward an application for public access.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.



**ITEM 1 - ATTACHMENT 4 MINUTES - ORDINARY COUNCIL MEETING 13 DECEMBER 2022.****MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022**

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to present Development Application (DA) 16-2019-598-2 for a 4.55(1A) modification to the approved Camping Ground at 47 The Bucketts Way, Twelve Mile Creek to Council for determination.

A summary of the application and property is provided below:

Subject Land:	47 The Bucketts Way, Twelve Mile Creek
Total Area:	10.12ha
Zoning:	RU2 Rural Landscape
Submissions:	2
Key Issues:	Substantially the same test for S4.55(1A) modifications and compliance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.

The modification 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, Giacomo Arnott and Peter Kafer (**ATTACHMENT 2**).

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

Proposal

This S4.55(1A) modification application proposes to convert the approved camping ground from 50 campsites to 20 'primitive' camp sites. The specific amendments proposed are as follows:

- Reduce the total number of camp sites from 50 to 20
- Convert the use of the sites to 'primitive' camp sites rather than 'camp sites'
- Deletion of the approved storage shed and associated hardstand space located within the north eastern portion of the site.

No other changes to the approved development are proposed.

Site Description and History

The subject site is legally identified as Lot 9 DP 243144. The site is rectangular in shape and has an area of approximately 10.12ha, refer to Figure 4 in the Planners Assessment Report (**ATTACHMENT 4**). The site currently contains 2 dwellings and a number of outbuildings. The amenities, camp kitchen and water tanks associated with the original consent have already been constructed on the site.

**ITEM 1 - ATTACHMENT 4 MINUTES - ORDINARY COUNCIL MEETING 13 DECEMBER 2022.****MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022**

The site contains dense vegetation to the west. The vegetation density reduces to the east in the vicinity of the camping ground. The site is accessible from The Bucketts Way, which is approximately 550m from an intersection with the Pacific Highway. The surrounding locality is characterised by rural residential land uses.

The site has historically been utilised for rural residential purposes with historic DA's relating to a farm shed, dual occupancy and swimming pool.

The original DA (16-2019-598-1) was lodged with Council on 16 September 2019. The DA was for a camping ground consisting of 50 camp sites with amenities and a camp kitchen. The application was approved by Council on 25 August 2020.

Key Issues

The key issues identified throughout the assessment of the modification application relate to the substantially the same test under S4.55(1A) of the EP&A Act and compliance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021. A detailed assessment of the relevant planning matters associated with the DA is contained within the Planners Assessment Report (**ATTACHMENT 4**).

Modification Application Considerations

A development consent can only be modified if the consent authority is satisfied that the development is substantially the same development as the development for which the consent was originally granted. The modified development is considered to be substantially the same as the approved development for the following reasons:

- The development is materially the same in essence, with the use now a 'primitive campground' rather than a 'campground'. A primitive campground is a type of campground as defined under the PSLEP2013; Accordingly, there is no modification to the approved use
- There are no significant changes to the approved amenities, camp kitchen or road layout
- When considering all components of the original development consent, the quantitative and qualitative changes are considered minor and therefore, substantially the same as the original development.

On the basis of the above, the application is considered to be substantially the same under the provisions of S4.55(1A)(b).

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021

The Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2021 (LG Regulations) contains

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standards for primitive campgrounds. Subdivision 9 specifically relates to primitive campgrounds.

The proposed modification was assessed against the relevant controls identified within Subdivision 9 of the LG Regulations and found to be compliant. Conditions have been recommended to address specific requirements under the LG Regulations in relation to the placement of tents, annexes and general camping restrictions. It is noted that these controls must also be considered by Council prior to the issue of an Approval to Operate.

Two submissions were received by Council during public notification raising concern regarding the number of primitive sites proposed and noted it was non-compliant with the LG Regulations. Section 131(1) of the LG Regulations states that 'the maximum number of designated camp sites in a primitive camping ground must not exceed an average of 2 for each hectare in the camping ground'. The site has a total area of 10.2 hectares, therefore 20 designated campsites are permitted. The modified development seeks consent for 20 primitive campsites, which is considered to be consistent with the LG Regulations. Additionally, Planning Circular (PS 06-001) released by the Department of Planning and Environment establishes guidelines for primitive campgrounds. The Planning Circular acknowledges that where campsites are designated sites within a campground (as proposed), they may be concentrated within a specific area of a campground. There is no requirement for the camping sites to be distributed across the entire site.

It is noted that where camp sites are designated as part of an approval, camping is not permitted elsewhere on the site. This approach aims to preserve the natural environment and encourage campers to utilise facilities provided on the site. The proposed development seeks to consolidate the 20 camp sites within a 2 hectare area, which are in close proximity to the approved and now constructed amenities, including the camp kitchen which serves a dual purpose as a fire refuge.

#### Conclusion

The proposed modifications are considered to be of minimal environmental impact and result in substantially the same development as that originally approved. The modification is therefore supported by Council staff, subject to the recommended conditions of consent in **(ATTACHMENT 1)**.

#### **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Strong Economy, Vibrant Businesses, Active Investment	Support sustainable business development in Port Stephens.

**ITEM 1 - ATTACHMENT 4 MINUTES - ORDINARY COUNCIL MEETING 13 DECEMBER 2022.****MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022****FINANCIAL/RESOURCE IMPLICATIONS**

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	Yes		The development is subject to \$7.12 contributions.
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The modification application is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act), Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and 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 Planners Assessment Report contained at **(ATTACHMENT 4)**.

Risk	<a href="#">Risk Ranking</a>	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 through a judicial review.	Low	Accept the recommendation.	Yes
If the DA is refused, there is a risk that the determination of the DA may be challenged by the applicant in the Land and Environment Court.	Medium	Accept the recommendation.	Yes

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DECEMBER 2022.****MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022****SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The site will provide a location for short term tourist accommodation within the locality. The modified proposal is not expected to result in any social or economic impacts not already assessed in the previous approval.

Built Environment

The proposed development reduces the overall footprint through the removal of the storage shed and reduction in the number of camp sites. No other changes are sought and as such, there are no expected adverse impacts to the built environment.

Natural Environment

No additional vegetation is proposed to be removed as part of the application. The location of the 20 primitive camp sites is within the same footprint as the 50 originally approved camp sites, and therefore no additional clearing or disturbance is proposed.

**CONSULTATION**

Consultation with key stakeholders including internal referral officers has been undertaken for the purposes of the assessment of the application. Consultation with the public occurred as part of the notification process.

Public exhibition

The application was notified in accordance with Councils Community Engagement Strategy from 24 October 2022 until 7 November 2022. During this period, 2 submissions have been received.

A detailed response to the submissions is outlined within the Planners Assessment Report (**ATTACHMENT 4**).

**OPTIONS**

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

**ATTACHMENTS**

- 1) Recommended Conditions of Consent.
- 2) Call to Council form.
- 3) Locality Plan.
- 4) Planners Assessment Report.

**MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022**

**COUNCILLORS ROOM**

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

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

**TABLED DOCUMENTS**

Nil.

## ITEM 1 - ATTACHMENT 4 MINUTES - ORDINARY COUNCIL MEETING 13 DECEMBER 2022.

MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022

## ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



## RECOMMENDED CONDITIONS OF CONSENT

## 1.0 - General Conditions of Consent

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

- (1A) **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, DA-2019-03512-S4.55-1, 28 October 2022.

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

- (2A) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference	Name of plan	Prepared by	Date
1902748 Issue 1	Proposed Site Plan (2 of 5)	Sorensen Design & Planning	29/08/2022
1902748	Amenities Plan (3 of 4)	Sorensen Design & Planning	24/05/2020
1902748	Camp Kitchen Plan (4 of 4)	Sorensen Design & Planning	24/05/2020
190203	Stormwater Management Plan (Sheets CIV00 to CIV06)	DRB Consulting Engineers	15/05/2020
190203	Cut/Fill Plan (Sheets CIV13 to CIV21)	DRB Consulting Engineers	15/05/2020

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

- (3) **Amendments to documents and plans** – The development must be amended as follows:

- a) As per the annotations on Civil Plans, Ref 190203 by DRB Consulting Engineers, dated 15/05/2020.

Amended plans or documentation demonstrating compliance must be provided to the Certifying Authority and Council prior to the issue of a Construction Certificate.

## PORT STEPHENS COUNCIL

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(4) **Tree removal/pruning** – The trees identified below are approved for removal:

- a) The trees identified for removal as shown on Proposed Site Plan - Proposed Campground & Eco Tourist Facility (Sheet 2 of 4; Document Reference no. 1902748) prepared by Sorensen Design and Planning, dated 24 May 2019 are approved for removal.
- b) Eucalyptus opposite proposed site entry within the road reserve.

(5) **Removal of Vegetation** - No vegetation or natural landscape features other than that authorised for removal or pruning by this Consent must be disturbed, damaged or removed. No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval. A map indicating the location of protected vegetation is available from Council upon request.

(6) **Separate approval for signs** – A separate development application for any proposed signage, must be provide to, and approved by, the Consent Authority or under the provision of the *State Environmental Planning Policy (Exempt and Complying Codes) 2008* if applicable prior to the erection or display of any such signs.

(7) **Building Code of Australia** – All building work must be carried out in accordance with the BCA and where applicable the Disability (Access to Premises – Buildings) Standards 2010. 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) **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'.

(9.1) **Prior to Commencement of Use** – Prior to the commencement of use, an Approval to Operate under section 68 of the Local Government Act 1993 must be issued by Council.

## 2.0 – Prior to Issue of a Construction Certificate

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

- (1) **Structural engineer's Certificate** A certificate must be prepared by a qualified Structural Engineer certifying that the building design is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy, impact and loading from debris up to and including the future 1% Annual Exceedance Probability (AEP) event.



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Details demonstrating compliance must be provided to the Certifying Authority.

- (2) **Free flow of water** - The location and design of the proposed doors must allow free access and escape of floodwaters without causing damage to the building. Details demonstrating compliance must be provided to the Certifying Authority.
- (3) **Potential acid sulfate soils** - A geotechnical assessment of the site is to be undertaken to determine whether the development works will disturb Potential Acid Sulfate Soils (ASS). Should ASS be encountered within the zone of works, an ASS Management Plan is to be prepared by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority.

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

- (4) **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. 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.

- (5) **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). 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.

- (6) **Flood Risk Management Plan** - A Flood Risk Management Plan prepared by a suitably qualified Engineer must be provided to the Certifying Authority demonstrating compliance with the following:
  - a) The design must show that the proposed development is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy and impact and loading from debris up to and including the 1% Annual Exceedance Probability (AEP) event.
  - b) Certification that the proposed development/ building flood refuge is capable of withstanding the force of any flood waters experienced up to the Probable Maximum Flood Event (PMF).
  - c) Certification demonstrating that any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property
  - d) Certification demonstrating that the rainwater tank, finishes, plant fittings and equipment and any other buoyant fixtures will be of materials and functional

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capacity to withstand the forces of floodwater in events up to and including the 1% AEP event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces.

- (7) **Stormwater system Operation and Maintenance Procedure Plan** – An Operation and Maintenance Plan for the stormwater system must be prepared by a qualified engineer detailing a regular maintenance programme for pollution control devices, covering inspection, cleaning and waste disposal. Details demonstrating compliance must be provided to the Certifying Authority.
- (8) **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.
- (9) **Soil, erosion, sediment and water management** – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council's Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.
- (10) **Roads Act Approval** – For construction/reconstruction of Council infrastructure, including vehicular crossings, Footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138B of the *Roads Act 1993*.
- (11) **Construction Management Plan** – A Construction Management Plan must be submitted to and approved by to the Certifying Authority and Council. The required CMP must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging, waste management, noise and dust management, traffic management and environmental management
- (12) **Section 7.12 development contributions** – A monetary contribution is to be paid to Council, pursuant to Section 7.12 of the *Environmental Planning & Assessment Act 1979* and the Port Stephens Council Fixed Local Infrastructure Contributions Plan, related to the Capital Investment Value (CIV) of the development as determined in accordance with clause 25j of the *Environmental Planning and Assessment Regulation 2000* and outlined in the table below.

Capital Investment Value	Levy Rate (\$ of CIV)
Up to and including \$100,000	Nil
More than \$100,000 and up to and including \$200,000	0.5%
More than \$200,000	1%

The payment of the fixed development consent levy is to be accompanied by a Cost Summary Report Form setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Council Fixed Local Infrastructure Contributions Plan.

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Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a Registered Associate member or above, of the Australian Institute of Quantity Surveyors.

This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition.

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

- a) Building work only - prior to issue of the Construction Certificate.

- (13) **Long service levy** – In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.
- (14) **Site access / egress** - Prior to the issue of a Construction Certificate, plans are to be prepared demonstrating a BAL/BAR intersection treatment, in accordance with current Austroads Guides, at the proposed main entry to the site (this may include tree removal within the clear zone at the Direction of the Roads Authority).
- (15) **Amenity** – The detention basin wall along the southern boundary of the site must be redesigned to have a finished height of 1.2m above existing ground level.

### 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.

- (1) **Public liability insurance** – The owner or contractor must take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc.) for the full duration of the proposed works.

Evidence of this Policy must be provided to Council and the Certifying Authority.

- (2) **Notice of Principal Certifying Authority appointment** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the *Environmental Planning & Assessment Regulation 2000*. 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 Certifying Authority (PCA), and of the person by whom the PCA was appointed;
  - e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
  - f) a telephone number on which the PCA may be contacted for business purposes.



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- (3) **Notice commencement of work** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:

- a) the name and address of the person by whom the notice is being given;
- 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 number and date of issue of the relevant development consent and construction certificate;
- e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
- f) the date on which the work is intended to commence.

- (4) **Sign of PCA and contact details** – A sign must be erected in a prominent position on the site stating the following:

- a) that unauthorised entry to the work site is prohibited;
- b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
- c) the name, address and telephone number of the Principal Certifying Authority.

The sign must be maintained while the work is being carried out and must be removed upon the completion of works. Where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge.

- (5) **Construction Certificate Required** – In accordance with the provisions of Section 6.7 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*, construction or subdivision works approved by this consent must not commence until the following has been satisfied:

- a) a Construction Certificate has been issued by a Consent Authority;
- b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the *EP&A Act 1979*; and
- c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

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

- (7) **Soil erosion and sediment control** – Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.

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Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).

- (8) **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.

- (9) **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. Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.

- (10) **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 sewerage 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*.

- (11) **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,

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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.

- (12) **Vegetation Management Plan** – A Vegetation Management Plan (VMP) must be developed for the retained areas of native vegetation, and submitted to Council for approval prior to any clearing works occurring on site.

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

The plan should include clear management objectives, a schedule of works and maps in accordance with Port Stephens 'Technical Specification Vegetation' (May 2014), and shall include detailed management measures for the on-going management of habitat for the threatened orchid species *Pterostylis chaetophora* (mapped areas of habitat available from Council on request) including:

- Fencing to exclude visitor access.
- Backfilling of existing trenches by manual methods.
- 'Ecologically Sensitive Area' signage.
- Restrictions on maintenance activities (slashing/mowing) i.e. timing, frequency, slashing height.
- Weed and pathogen hygiene protocols.
- Prohibiting the use of heavy machinery or vehicle parking.
- Prohibiting the introduction of fill material or topsoil.

The Vegetation Management Plan must be approved prior to the commencement of works on the site.

#### 4.0 - During Works

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

- (1) **Construction hours** – Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-

- Monday to Friday, 7am to 6pm;
- Saturday, 8am to 1pm;
- No construction work to take place on Sunday or Public Holidays.

All possible steps should be taken to silence construction site equipment.

- (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.



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- (3) **Compliance with BCA** – All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (4) **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.

- (5) **Finished floor level** – 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. A Flood Certificate is to be sought from Council to determine the finished floor level of the site.
- (6) **Survey report** – The building must be set out by a Registered land surveyor. A peg out survey detailing the siting of the building in accordance with the approved plans must be provided to the Principal Certifying Authority prior to the pouring of concrete.
- (7) **Traffic Management Plan implementation** – All construction traffic management procedures and systems identified in the approved Construction Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.
- (8) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:
- a) Dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties. The discharge location must be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.
- (9) **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.

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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.

- (10) **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.
- (11) **Tree protection measures** – All trees to be retained must be protected in accordance with AS4970 'Protection of Trees on Development Sites' for the duration of construction.
- (12) **Tree Removal** - All approved tree removal/ pruning is subject to all works being undertaken by a qualified arborist with a minimum Australian Qualification Framework Level 3 qualifications or higher. All works are to be undertaken in accordance with the relevant provisions of AS 4373 'Pruning of Amenity trees'.
- (13) **Vegetation Management Plan** - All works must be undertaken in accordance with the approved Vegetation Management Plan.
- (14) **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.

- (15) **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.
- (16) **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.

#### 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.

- (1) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development.

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

- (2) **Approval to Operate (Waste Treatment)** - An Approval to Operate must 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.
- (3) **Fire Safety Certificates** - A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council. If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.
- (4) **Survey Certificate** - A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.
- (5) **Services** - Evidence is to be provided to Council demonstrating that sufficient capacity of the following services are available to the development:
  - a) Electricity;
  - b) Water (including potable water), and;
  - c) 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.

- (6) **Stormwater/drainage works** - All stormwater and drainage works required to be undertaken in accordance with this consent must be completed. The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.
- (7) **Rectification damage to public infrastructure** - The applicant must rectify any new damage to public infrastructure to the satisfaction of the Council as the Roads Authority.
- (8) **Completion of Roads Act Approval works** - All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the Roads Act Approval to the satisfaction of the Council as the Roads Authority.
- (9) **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).

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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.

- (10) **Flood signage** – A flood marker sign of durable material having minimum dimensions of 600mm x 600mm, is to be installed within a prominent location indicating the expected future 1% Annual Exceedance Probability and Probable Maximum Flood levels, and the date of installation.

The level indicated on the sign shall be certified by a Registered Surveyor. Evidence of such certification shall be submitted to the Certifying Authority.

- (11) **Flood Risk Management Plan** – A Certificate of Compliance prepared by a suitably qualified Flood engineer must be provided to the Principal Certifying Authority stating that all aspects of the Flood Risk Management Plan have been completed and/or implemented in accordance with the approved Plan.

- (12) **Flood Emergency Response Plan** - A Flood Emergency Response Plan (FERP) for the proposed development must be provided to the Principal Certifying Authority. The FERP must include the following as a minimum:

- a) A map of the proposed evacuation route to a suitable location above the Probable Maximum Flood (PMF) that provides adequate shelter from the storm, including the route direction and description and identification of the depth of floodwater along the evacuation route in the 1% Annual Exceedance Probability flood and PMF events;
- b) Specific trigger heights linked to the nearest river and tidal gauges used for flood warnings and the specific evacuation route cut-off times linked to the gauge height;
- c) Description of the specific flood inundation at the site and the relevant surrounding area, including flood depths, direction of flow, velocities, hazard and specific relevant vulnerabilities;
- d) Consideration of and strategies for, the needs of the elderly, disabled and vulnerable who may be on site;
- e) A realistic time period for evacuation preparations linked to the trigger heights and evacuation route cut-off times, which includes:
  - Locating important papers, valuables etc., that will be evacuated
  - Locating and stacking possessions that are to be left behind, well above the predicted flood level
  - Dealing with all utilities such as electricity, gas, water, fuel, toilets, showers, wastewater system (including removal fuses) and moving pumps and machinery above the predicted flood level
  - Time to gather, identify and load animals (pets, livestock and other animals), including the possible need for additional assistance in handling your animals in an emergency.
- f) Determining the vehicular needs of the site to appropriately respond to the flood risk;
- g) A strategy for a night time flood emergency; and
- h) A strategy for effective flood risk management when the electricity, internet, telecommunications etc., are unavailable.

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**Note:** Digital elevation data is available from Geosciences Australia, current flood studies are available on Council's website and river gauge/tidal gauge data is available from the Bureau of Meteorology website.

- (13) **Geotechnical Compliance Certificate** – A Certificate of Compliance prepared by a qualified Geotechnical Engineer must be provided to the Principal Certifying Authority stating that the works detailed in the Geotechnical Report have been undertaken under the Engineer's supervision and to the Engineer's satisfaction, and that the assumptions relating to site conditions made in preparation of the report were validated during construction.

This certificate must accompany the Works as Executed plans.

- (14A) **Car parking requirements** – A minimum of 20 car parking spaces are to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked on the pavement surface.

Two additional parking spaces are required for visitors and must be signposted as "visitor parking".

- (15) **Waste disposal** – The building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on public land (e.g. footpaths, roadways, plazas, reserves) at any time.

#### 6.0 – Prior to the Issue of an Approval to Operate (Camping Ground)

The following conditions are to be complied with prior to the issue of an Approval to Operate under Section 68 of the Local Government Act 1993.

- (1) **Occupation Certificate required** - An Occupation Certificate for the amenities block and camp kitchen must be obtained prior to any issue of an approval to operate the development. The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.
- (2) **Site Entry** - A BAL/BAR entry in accordance with current Austroads Guides is to be constructed at the proposed new entry to the site.
- (3) **Local Government Regulations** - The camping ground must be constructed and operated in accordance with the requirements of the Local Government Regulations (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005, excluding any objection approved in accordance with Section 82 of the *Local Government Act 1993*.
- (4) **Ecological Assessment** - Construction of the development must comply with the recommendations of *Ecological Assessment Report for Proposed Campground & Eco Tourist Facility at 47 The Bucketts Way Twelve Mile Creek, NSW*, prepared for: Tudor Property Services c/- Perception Planning, by Anderson Ecology and Planning, dated March 2020 (Document reference no. 1950), detailed as follows:



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- Appropriate sediment and erosion controls should be enacted to ensure that the development does not impact on the EEC and Twelve Mile Creek in the western portion of the lot, outside the subject site.
- Clearing of trees should be undertaken to ensure that trees with hollows or potential to offer nesting or roosting habitat be felled under the instruction of a suitably qualified ecologist/fauna catcher and that soft felling techniques be utilised.
- Equipment used in the felling of trees should be cleaned thoroughly and disinfected before entering site to prevent weed and disease introduction such as exotic grasses, *Phytophthora cinnamomi* (Root-rot fungus), Frog Chytrid fungus and others.
- A weed management plan should be enacted to ensure that weeds are not introduced to EEC vegetation or creek lines in the western section of the lot.

(5) **Revegetation planting** – The applicant must plant within the following areas:

- along the southern boundary;
- along the northern boundary of the lot between the new shed (east) and the parking area (west). No planting must occur within the areas of the mapped habitat area for *Pterostylis chaetophora*; and
- along the northern edge of the access road between the eastern extent of the amenities building camping site 43 (west). Planting in this area should consist of shrubs only.

The following plant species must be planted at no cost to Council:

Species name	Common name	Pot size	Density
<b>Trees</b>			
<i>Corymbia maculata</i>	Spotted Gum	Tube stock	1 per 6 m <sup>2</sup>
<i>Eucalyptus tereticornis</i>	Forest Red Gum	Mature tree stock (20 litre pot size)	1 per 10 m <sup>2</sup>
<i>Eucalyptus fibrosa</i>	Broad-leaved Ironbark		
<b>Shrubs</b>			
<i>Melaleuca decora</i>	White Feather Honey Myrtle	Tube stock	1 per 4 m <sup>2</sup>
<i>Melaleuca stypheloides</i>	Prickly-leaved Paperbark	Mature tree stock (20 litre pot size)	1 per 10 m <sup>2</sup>
<i>Callistemon salignus</i>	Willow Bottlebrush		
<b>Groundcover</b>			
<i>Lomandra longifolia</i>	Spiny-headed Mat-rush	Tube stock / hiko	1 per 2 m <sup>2</sup>

Planting must include at least 30% mature tree stock.

Details demonstrating compliance must be provided to the Certifying Authority.

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- (6) **Construction to be in accordance with Acoustic Report** – Certification is to be submitted to the Principal Certifying Authority to certify that the construction of the development complies with the recommendations of the Acoustic Assessment Report, prepared by RAPT Consulting dated 11 February 2020.
- (7) **Operational Plan of Management** – An Operation Plan of Management for the site is to be drafted and provided to Council outlining proposed management actions in relation to:
- 24 hour on-site management
  - Noise management and abatement
  - Emergency procedures
  - Emergency and after hours contact numbers for visitors and nearby residents
  - Security
  - Antisocial behaviour of visitors
  - Visitor arrival and departure times
  - Maximum onsite stay of four (4) consecutive nights for visitors
  - Restriction on individual campsite fires
  - Litter Management Strategy (with the intent to reduce the impact on the site and neighbouring sites)
  - Restraining animals at all times.
- (7.1) **On-site Sewerage Management** – Prior to the issue of an Approval to Operate under Section 68 of the Local Government Act 1993, a report must be approved by Council detailing the intended use of the on-site sewerage management system and any required adaptations in order for the on-site sewerage management system to function at intended levels that achieve appropriate effluent quality. The report should also detail the service requirements and frequency.

**7.0 – Ongoing Use**

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

- (1) **Manoeuvring of vehicles** – All vehicles must enter and exit the site in a forward direction.
- (2) **Parking areas to be kept clear** – At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.
- (3) **Fire Safety Schedule** – At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of New South Wales Fire Brigades in accordance with the *Environmental Planning & Assessment Regulations 2000*.
- (4) **Fire Safety Schedule** – At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:

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- a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
  - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.
- (5) **Amenity** – The business must be conducted, and customers controlled at all times so that no interference occurs to the amenity of the area, the footpath, adjoining occupations and residential premises.
- (6) **Wastewater 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** - Monitoring reports in accordance with the approved Vegetation Management Plan must be prepared and submitted to Council.
- (8) **Maintenance of Plantings** - Commencing from the date of practical completion, a 12-month maintenance establishment period applies. This includes the establishment, care and repair of all plantings.  
  
The date of Practical Completion is taken to mean completion of all civil works, soil preparation and treatment and initial weed control, and completion of all planting.
- (9A) **Use of Caravans** – A caravan is not to stay onsite for any longer than four (4) consecutive nights. The use of caravans must comply with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.
- (9.1) **Camping Restricted to Designated Sites** – Camping is not permitted outside of the designated sites identified in grey hatch on the sites plans prepared by Sorensen Design and Planning, Revision I, Dated 29/08/2022.
- (9.2) **Location of Caravans, Annexe and Campervans** – A caravan, annexe or campervan must not be installed within 6 metres of another caravan, annexe, campervan or tent.
- (9.3) **Location of Tents** – A tent must not be permitted to be installed within 6 metres of a caravan, campervan or an annexe or within 3 metres of another tent.
- (9.4) **Unoccupied caravans, campervans and tents** – Unoccupied caravans, campervans and tents are not permitted to remain in the camping ground for more than 24 hours.
- (9.5) **Water Use** – Any time the private water supply is being used for any part of the primitive camp ground it must be provided in accordance with the Quality Assurance Program.

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(9.6) **Site Capacity** – As per the NSW RFS General Terms of Approval (reference DA-2019-03512-S4.55-1, dated 28 October 2022), the camping ground is limited to having a maximum of 81 persons on site.


**Advice Note(s):**

- A. **'Dial Before you Dig'** – Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables.
- B. **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act.
- C. **Aboriginal archaeological deposit** – In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Biodiversity Conservation Division (BCD) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.
- D. **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.
- E. **Flood Evacuation Plan** – A flood evacuation plan indicating that permanent, fail-safe, maintenance free measures are incorporated in the development to ensure that timely, orderly and safe evacuation of people and potential pollutant material from the buildings on-site should a flood occur. Details demonstrating compliance must be provided to the Certifying Authority with the Construction Certificate application.
- F. **Signage** – You are advised that any proposed advertising signs that are not shown on the approved plans, or classified as exempt development, are subject to a separate Development Application to Council.
- G. **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.

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## ITEM 1 - ATTACHMENT 2 CALL TO COUNCIL FORM.

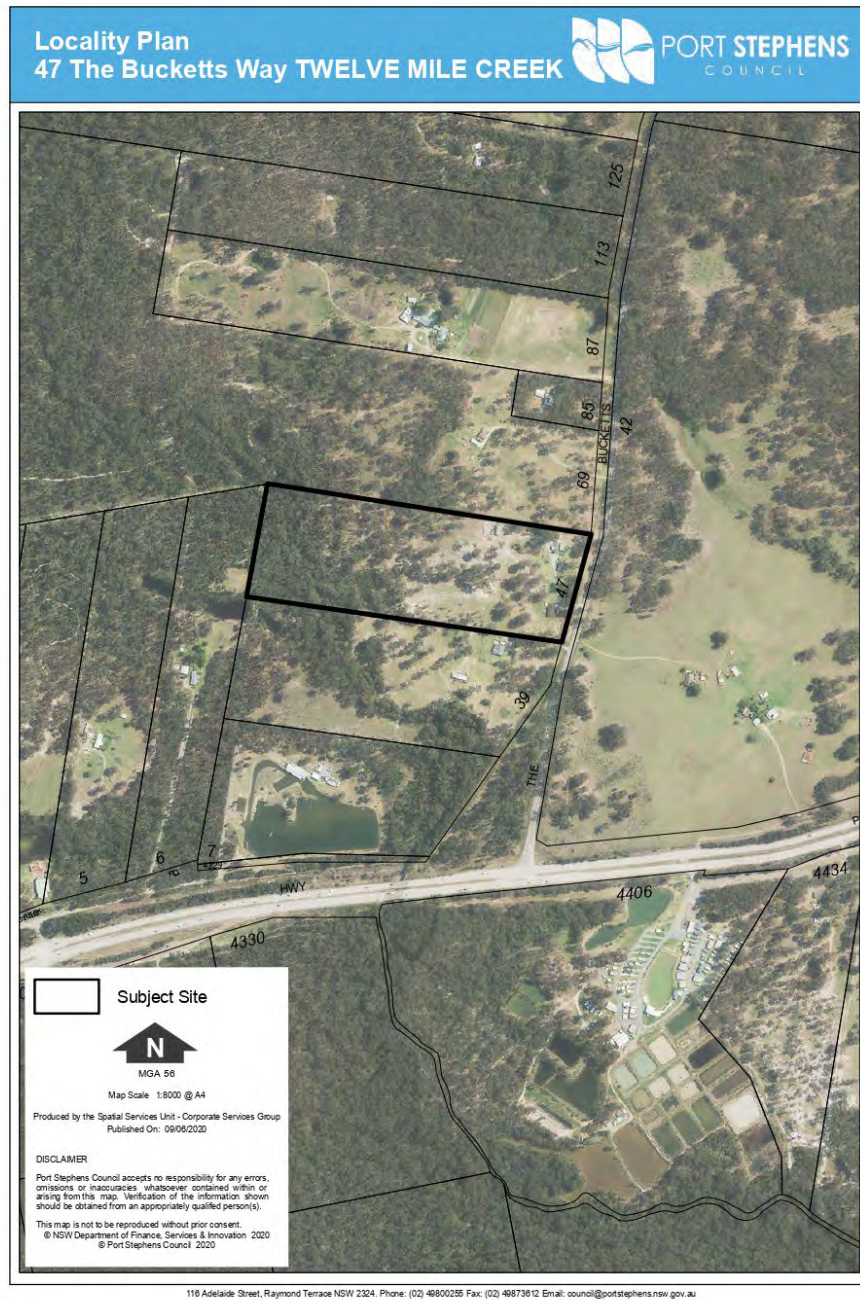
 <b>PORT STEPHENS COUNCIL</b>		<b>CALL TO COUNCIL FORM DEVELOPMENT APPLICATION</b>	
<b>Development application (DA) call to Council request:</b>			
I/We (Mayor/Councillor/s) <u>Arnott, Anderson and Kafer</u> request that DA number <u>16-2019-598-2</u> for DA description <u>s4.55(1A) modification to the approved camping ground</u> located at <u>47 The Bucketts Way, Twelve Mile Creek</u> be reported to Council for determination.			
<b>Reason:</b>			
Public Interest			
<b>Declaration of Interest:</b>			
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) <u>Arnott, Anderson and Kafer</u> have a conflict of interest:			
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
If <b>yes</b> , please provide the nature of the interest and reasons why further action should be taken to bring this DA to Council:			
<b>Signed:</b> <small>Please sign or type name &amp; attach to an email.</small>		<b>Date:</b> <u>5/8/2022</u> <small>enter a date.</small>	
<b>Signed:</b> <small>Please sign or forward supporting email.</small>		<b>Date:</b> <u>14/11/2022</u> <small>enter a date.</small>	
<b>Signed:</b> <small>Please sign or forward supporting email.</small>		<b>Date:</b> <u>14/11/2022</u> <small>enter a date.</small>	



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ITEM 1 - ATTACHMENT 3 LOCALITY PLAN.



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## ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.



## APPLICATION DETAILS

<b>Modification application no.</b>	16-2019-598-2
<b>Development description</b>	Camping Ground (50 camp sites) with amenities and kitchen
<b>Modification description</b>	S4.55(1A) Modification to approved camping ground (50 camp sites) – convert camping ground to 20 primitive camp sites
<b>Applicant</b>	PERCEPTION PLANNING PTY LTD
<b>Date of lodgement</b>	02/08/2022

**Modification proposal**

This modification application proposes to convert the approved camping ground from 50 camp sites to 20 primitive camp sites. The amendments proposed are as follows:

- Reduce the total number of camp sites from 50 to 20;
- Convert the use of the sites to 'primitive' camp sites rather than 'camp sites'. The site plan is identified in Figure 1 with the 'primitive' camp sites shown in grey.
- Deletion of the approved storage shed and associated hard stand space located within the north eastern portion of the site. Figure 2 identifies the approved location of the shed and Figure 3 identifies the amended site plan.

No other changes to the approved development are proposed.

The conditions of consent proposed to be modified have been discussed in further detail below.

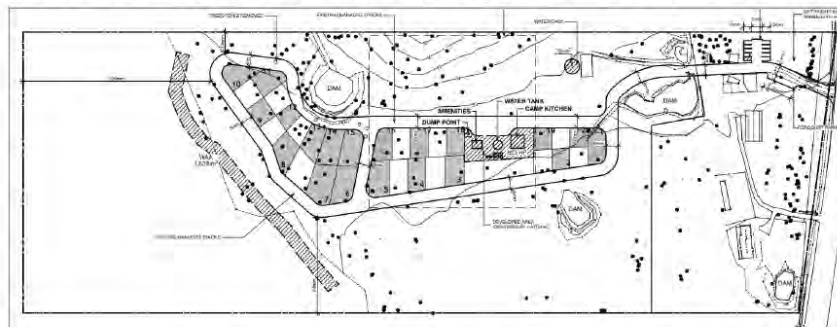


Figure 1. Proposed primitive sites identified shown in grey

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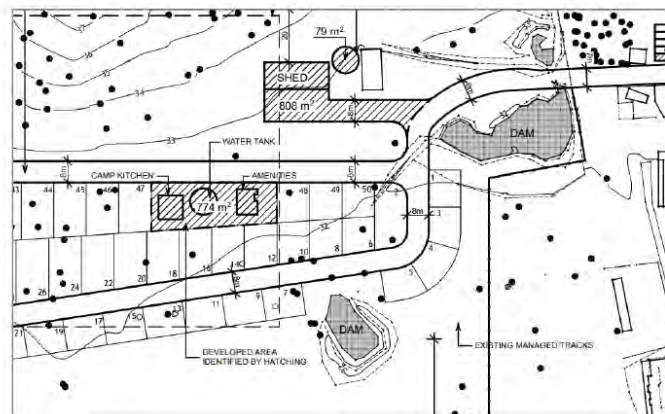


Figure 2. Approved site plan showing location of shed

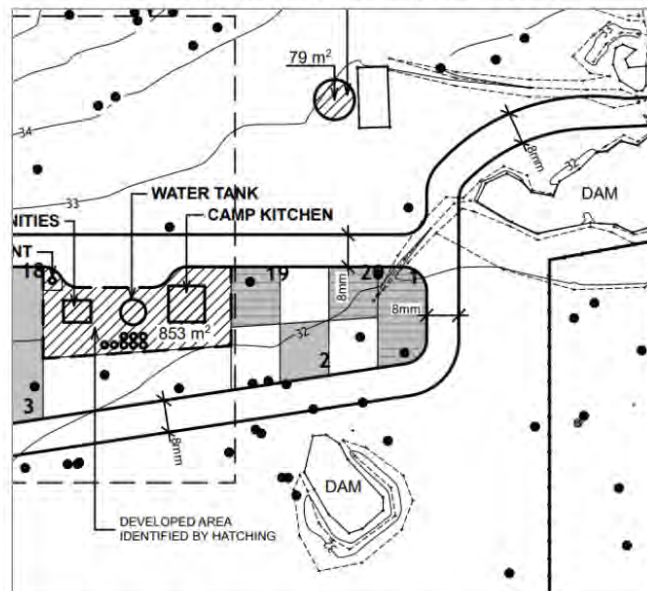


Figure 3. Proposed modified site plan with shed removed



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**Site Description**

The subject site is legally identified as Lot 9 DP 243144. The site is rectangular in shape and has an area of approximately 10.12ha, refer to Figure 4. The site currently contains two dwellings and a number of outbuildings. The amenities, camp kitchen and water tanks associated with the original consent have already been constructed on the site.

The site contains dense vegetation to the west. The vegetation density reduces to the east in the vicinity of the camping ground. The site is accessible from The Bucketts Way, which is approximately 550m from an intersection with the Pacific Highway.

The surrounding locality is characterised by rural residential land uses.



**Figure 4. Site Aerial**

**Site History**

The site has historically been utilised for rural residential purposes with historic Development Application's (DA) relating to a farm shed, dual occupancy and swimming pool.

The original DA (16-2019-598-1) was lodged with Council on 16 September 2019. The DA was for a camping ground consisting of 50 camp sites with amenities and a camp kitchen. The application was approved by Council on 25 August 2020.

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## PROPERTY DETAILS

Property address	47 The Bucketts Way TWELVE MILE CREEK
Lot and DP	LOT: 9 DP: 243144
Zoning	RU2 RURAL LANDSCAPE
Site constraints that affect the modification	Bushfire Prone Land – Vegetation Category 1 and 3

## ASSESSMENT SUMMARY

Designated Development	The application is not designated development
Integrated Development	The initial application was referred to the Rural Fire Service (RFS) as integrated development under Section 100B of the <i>Rural Fires Act 1997</i> for Special Fire Protection Purpose (SFPP). The proposed modification seeks to amend the approved camping ground to be only 20 primitive camp sites. As such, the proposed modification was referred to the RFS for comment. Revised General Terms of Approval (GTA's) were provided from RFS to reflect the amended configuration.
Concurrence	The application does not require the concurrence of another body

Internal Referrals

The proposed modification was referred to the following internal specialist staff. The advice have been used to carry out the assessment against the S4.15 Matters for Consideration.

Environmental Health – The application was referred to Council's Environmental Health Officer (EHO) for comment. It was noted in the referral that the previously approved (and now constructed) on-site sewerage management system (OSMS) was designed to service 50 camping sites. Given the reduction in camping sites proposed, concern was raised in regard to the partial use of the OSMS as when the system is not fully functioning it may not be able to be tested appropriately. Council's EHO therefore recommended that a new condition be added to the consent requiring the submission of a report to Council, written by a suitably qualified wastewater specialist, detailing the intended use of the OSMS including any modifications or adaptations to allow the system to operate in an environmentally satisfactory manner achieving effluent quality parameters. This condition has been added to the recommended conditions of consent.

In regard to the proposed use of the site as a primitive campground, Council's EHO noted that the proposal must be undertaken in accordance with Part 3 Subdivision 9 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021. An assessment against this section has been undertaken below.

External Referrals

The proposed modification was referred to the following external agencies in accordance with Clause 109 of the *EP&A Regulations 2021*:

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Rural Fire Service (RFS) – The initial application was referred to the RFS as integrated development under Section 100B of the *Rural Fires Act 1997* as the proposed development was for a Special Fire Protection Purpose. The proposed modification seeks to reduce and convert the approved 50 camp sites to a total of 20 'primitive' camping sites. As such, the proposed modification was referred to the RFS for comment. Revised General Terms of Approval (GTA's) were provided by the RFS to reflect the amended camping ground layout. The revised GTAs have been incorporated through an amended condition of consent.

## MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT – S4.55(1A)

**S4.55(1A)(a) – Minimal Environmental Impact**

The modification does not propose the removal of any additional vegetation and reduces the overall development footprint on the site by reducing the number of total sites and deletion of the shed. The modified development reduces the overall capacity of the camping ground and does not propose to amend the operational components or the approved amenities.

Accordingly, no adverse environmental impacts are anticipated to occur as a result of the modification. As such, the proposal is considered to be of minimal environmental impact.

**S4.55(1A)(b) – Substantially The Same Development**

The development as modified is substantially the same as the approved development on the following grounds:

- The development is materially the same in essence, with the use now a 'primitive campground' rather than a 'campground'. A primitive campground is considered to be a type of campground as defined under the PSLEP2013; Accordingly, there is no modification to the approved use;
- There are no significant changes to the approved amenities, camp kitchen or road layout;
- When considering all components of the original development consent, the quantitative and qualitative changes are considered minor and therefore, substantially the same as the original development.

On this basis, the application is considered to be substantially the same under the provisions of S4.55(1A)(b).

**S4.55(1A)(c) – Notification**

The application was notified from 24 October 2022 until 7 November 2022 in accordance with Councils Community Engagement Strategy.

**S4.55(1A)(d) – Submissions**

There was two submissions we received during the notification period. The matters raised in the submissions objecting to the development are discussed in the table below:

Objection	Comments
<b>Submission 1</b>	
<u>Failure to comply with maximum number of designated campsites</u> The submission references that the Local	Council have assessed the total number of allowable primitive camp sites based on the total area of the site. The total area of the site

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<p>Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 states that "if an approval to operate a primitive camping ground designates one or more camp sites within that ground, then the maximum number of designated camp sites is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground)." The submission notes that the plans provided with the application reference the campground area to be 2.079ha and therefore the maximum number of campsites allowable should be 4 rather than 20 as proposed.</p>	<p>is 10.2 hectares, permitting 20 primitive camp sites, as proposed. The planning circular for primitive campgrounds (PS 06-001) acknowledges that where camp sites are designated (as proposed) they may be concentrated within a specific area of a campground using the example that:</p> <p><i>In a five-hectare primitive camp ground with designated camp sites there might be ten sites all within a two hectare section of the camping ground.</i></p> <p>It is noted that where camp sites are designated, camping is not permitted elsewhere on the site. The intention of this approach is to conserve the natural environment and encourage campers to utilise facilities required by the regulation. The proposed development seeks to concentrate the 20 camp sites within a 2 hectare area, which are located in close proximity to the approved and constructed amenities including the camp kitchen, which is required to serve a dual purpose as a fire refuge.</p> <p>A condition has been recommended to be added to the consent noting that camping outside of the designated sites is prohibited.</p> <p>It is further noted that the campground, as modified, is capable of complying with the required setbacks from neighbouring sites as identified in Section 131 (3)(c) and (d) of the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021</i>.</p>
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<p><u>Amenity, Rural Landscape and Character</u></p> <p>The submission raised concern regarding the proposals impacts on amenity, rural landscape and character.</p> <p>The submission notes that a number of conditions on the consent have failed to be satisfied despite the issuing of a Construction Certificate (CC).</p> <p>The submission questioned the cost of works associated with the modification noting that there is still outstanding works which have costs associated with them.</p> <p>The submission requested that the width of planting be expanded to provide reasonable protection to their properties amenity.</p>	<p>The proposal seeks to reduce the total number of camp sites from 50 to 20 and remove the approved storage shed from the approved plans. It is considered that the reduction in sites will not exacerbate potential negative impacts on the amenity of the area, nor the surrounding rural landscape or character.</p> <p>Non-compliance with conditions of consent and potential unlawful issuing of a CC is not a matter assessed through the DA modification process, but is rather a compliance matter which is dealt with separately.</p> <p>The modification seeks to reduce the total number of camp sites from 50 to 20 and remove the approved storage shed from the plans. The costs associated with outstanding works under the original approval is a separate matter to the modifications proposed.</p> <p>The majority of the outstanding works identified within the submission would have been taken into consideration in the cost of works associated with the original DA minus those costs associated with conditions added to the consent. It is noted that cost of works are required for Development Applications (DA) as this is how DA fees are estimated. S4.55 fees are then estimated based on cost of works associated with the original DA.</p> <p>The proposal seeks to reduce the capacity of the campground. The proposed modification is therefore not considered likely to exacerbate amenity impacts to neighbouring properties. The existing condition relating to planting remains appropriate.</p>
<p><u>Ongoing issues with the development</u></p> <p>The submission noted that sites unlawful operations and non-compliance with conditions outlined in the consent. The submission raised concern regarding the continued unlawful use of the site despite the modifications proposed. It was requested that an additional condition be added to the consent noting that camping must not occur outside the designated area and that fencing be constructed around the designated</p>	<p>A condition has been added to the consent noting that camping is not to occur outside of the designed camp sites. It is not considered necessary to require additional fencing around the permitter of the designated camping area. There is no requirement for this measure under the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation</i></p>

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<p>campground area.</p> <p>The submission noted that patrons of the campground have entered into their property. The submission requested assurance from Council that patrons are unable to enter their property. It was recommended that this be done through perimeter fencing around the designated campground area or enhanced barriers between the campground and their property.</p> <p>The submission noted that animals of been unrestrained and there have been individual campfires despite conditions of consent. It has been requested that both animals and individual campsites be made prohibited due to the historic non-compliances.</p>	<p>2021.</p> <p>Neither the existing nor modification provides consent for patrons of the campground to enter neighbouring properties. This is a trespassing matter.</p> <p>Condition 6.7 remains on the consent relating to the requirement for an Operational Management Plan to address matters of this nature. The Management Plan is required to be provided to Council prior to issue of an Approval to Operate.</p>
<b>Submission 2</b>	
<p>The submission raised concern regarding failure to comply with the Regulations in that 20 campsites are proposed to be provided within a 2 hectare area.</p> <p>Concern was also raised that the septic system would not be designed appropriately to cater for the 20 primitive sites.</p>	<p>As noted above, Council have assessed the total number of allowable primitive camp sites based on the total area of the site. The total area of the site is 10.2 hectares, permitting 20 primitive camp sites, as proposed. The planning circular for primitive campgrounds (PS 06-001) acknowledges that where camp sites are designated (as proposed) they may be concentrated within a specific area of a campground using the example that:</p> <p><i>In a five-hectare primitive camp ground with designated camp sites there might be ten sites all within a two hectare section of the camping ground.</i></p> <p>It is noted that where camp sites are designated, camping is not permitted elsewhere on the site. The intention of this approach is to conserve the natural environment and encourage campers to utilise facilities required by the regulation. The proposed development seeks to concentrate the 20 camp sites within a 2 hectare area, which are located in close proximity to the approved and constructed amenities including the camp kitchen, which is required to serve a dual purpose as a fire refuge.</p> <p>A condition has been recommended to be added to the consent noting that camping outside of the designated sites is prohibited.</p>

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	<p>It is further noted that the campground, as modified, is capable of complying with the required setbacks from neighbouring sites as identified in Section 131 (3)(c) and (d) of the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021</i>.</p> <p>In regard to the septic system, it was approved and has since been constructed to service the originally approved 50 sites. Given the campground capacity is proposed to be reduced, a condition has been recommended to be added to the consent requiring that a report be provided to Council prior to the approval to operate detailing the required adaptations in order for the on-site sewerage management system to function at intended levels that achieve appropriate effluent quality.</p>
<p>Given the non-compliance with the Regulations, the submission requested that Council reduce the number of campsites proposed to be compliant with the Regulations.</p> <p>It was also requested that caravans not be allowed to be located on the campground.</p>	<p>As noted above, Council have assessed the proposed number of campgrounds against the Regulations and note that given the total area of the site is 10.2 hectares, it is considered that 20 primitive camp sites are permitted. This proposed modification reduces the number of sites from 50 to 20 therefore significantly reducing the sites capacity. It is further noted that as per the RFS General Terms of Approval, only 81 patrons are permitted on site at any one time. A condition has also been recommended to be added to consent noting this maximum number of persons. A condition has also been recommended to be added to the consent restricting the maximum number of patrons to use the campground.</p> <p>The Regulations note that the installation of tents, caravans and annexes is permitted within a primitive campground as long as the appropriate setbacks are achieved. It is considered that the setbacks are achieved and conditions regarding the setbacks have been recommended to be added to the consent.</p>
<p>The submissions notes that requirements of the originally application such as landscaping along the northern and southern boundary and creation of a mound has not been completed. It was requested that these requirement be bet</p>	<p>The landscaping is required to be completed prior to the issue of an Approval to Operate despite the modification. Details demonstrating compliance is required to be provided to Council.</p>

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before any further operation of the campground takes place.	
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**S4.55(3) – S4.15(1) Assessment****s4.15(1)(a)(i) – The provisions of any EPI**

The modification is consistent with the provision of the PSLEP 2013 and all relevant SEPPs applicable to the development.

Port Stephens Local Environmental Plan 2013Clause 2.3 – Zone Objectives and Land Use Table

The site is zoned RU2 Rural Landscape. The proposed modification seeks to convert the 50 approved camp sites to 20 'primitive' camping sites. A primitive camping ground is considered to be a type of camping ground, which is permissible with consent in the RU2 Rural Landscape zone.

The proposed modification is considered to be consistent with the zoning objectives.

Clause 7.6 – Essential Services

The site is not connected to reticulated sewer and therefore relies on an on-site sewerage management system (OSMS). The OSMS approved under the original consent was designed to cater for 50 camp sites. Given the reduction in camping sites proposed, concern was raised by Council's Environmental Health Officer (EHO) with regard to the partial use of the OSMS. When the system is not fully functioning, it may not be able to operate appropriately. Council's EHO therefore recommended that a new condition be added to the consent, requiring a report written by a suitably qualified wastewater consultant be provided to Council detailing the intended use of the OSMS. This report must include any modifications or adaptations to enable the system to operate in an environmentally satisfactory manner, achieving effluent quality parameters. This condition has been incorporated into the recommended conditions of consent.

**s4.15(1)(a)(ii) – Any Draft EPI**

		Notes (what draft EPI if needed and comments where not compliant)
	<input checked="" type="checkbox"/> There are no draft EPI's that are relevant to the proposed development	
	<input type="checkbox"/> A draft EPI is relevant to the proposed development however the application is consistent with the aims and objectives of the document.	

**s4.15(1)(a)(iii) – Port Stephens Development Control Plan 2014**

Chapter	Compliant	Notes (where needed or if not compliant)
B	<input checked="" type="checkbox"/> General Controls	<u>Chapter B3 Environmental Management</u> <u>B3.C Noise</u> The proposed modification seeks to reduce the overall number of camp sites on the site from

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		<p>50 to 20. It is therefore considered that noise impacts will not be increased as a result of the modification.</p> <p><u>B8 Road Network and Parking</u></p> <p>Figure BU of this Chapter identifies that a camping ground is to provide:</p> <ul style="list-style-type: none"> <li>• 1 car space per site; and</li> <li>• 1 visitor space for every 10 sites.</li> </ul> <p>Condition 5.0(14) addressed the required car parking under the original consent. This condition has been recommended to be updated to reflect number of parking spaces required for the modified camp sites which is:</p> <ul style="list-style-type: none"> <li>• 20 car spaces;</li> <li>• 2 visitor spaces.</li> </ul>
C	<input checked="" type="checkbox"/> Development Types	No applicable requirements.
D	<input checked="" type="checkbox"/> Specific Areas	No applicable requirements.

s4.15(1)(a)(iia) – Any planning agreement or draft planning agreement entered into under section 93F

	Notes (where needed)
<input checked="" type="checkbox"/> There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.	Nil applicable.

s4.15(1)(a)(iv) – The regulations

*Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*

*Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2021* (LG Regulations) contains standards for primitive campgrounds. Clause 71 of the LG Regulations stipulate that Council must not grant an approval to operate a primitive campground, under the Local Government Act 1993 (LG Act) unless it is satisfied that it will be designed, constructed, maintained and operated in accordance with the relevant requirements of Division 3, Subdivision 9.

The relevant matters relate to the design and operation of the site. A Section 68 approval cannot be granted to an operation that is inconsistent with the approved development, therefore, consideration has been given to the relevant provisions of the LG Regulations in Table 1 below.

**Table 1.** Subdivision 9 – Primitive camping grounds

Clause	Comment	Complies
<b>Subdivision 9 – Primitive Camping Grounds</b>		
<b>Section 131 Primitive Camping Grounds</b>		

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Clause	Comment	Complies
(1) The maximum number of designated camp sites in a primitive camping ground must not exceed an average of 2 for each hectare in the camping ground.	The site has an area of 10 hectares and therefore is able to support a total of 20 primitive sites. The proposal seeks to modify the consent from 50 camp sites to a total of 20 primitive camp sites, which is compliant with this control.	Yes
(2) If the approval to operate a primitive camping ground does not designate camp sites, a council may impose a condition on the approval that the installation of tents, caravans, campervans and annexes is not permitted in specified areas of the primitive camping ground—  (a) for the health and safety of occupiers of the camping ground, or  (b) to ensure consistency with the principles of ecologically sustainable development, or  (c) for another purpose.	N/A - the proposal designates the 20 primitive camp sites as per the proposed site plan.	Yes
(3) The following conditions apply to a primitive camping ground—  (a) if at least 1 camp site is designated—camping is not permitted within the primitive camping ground other than on the designated camp site or sites,  (b) if no camp sites are designated—the maximum number of caravans, campervans and tents permitted to use the camping ground at the same time must not exceed an average of 2 for each hectare in the camping ground,  (c) a caravan, annexe or campervan must not be permitted	The proposal designates campground area. A condition has been recommended that camping is not permitted outside of the designated camp sites.  N/A  A condition has been recommended to be	Yes

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Clause	Comment	Complies
to be installed within 6 metres of another caravan, annexe, campervan or tent,	added to the consent to this regard.	
(d) a tent must not be permitted to be installed within 6 metres of a caravan, campervan or an annexe or within 3 metres of another tent,	A condition has been recommended to be added to the consent to this regard.	
(e) the camping ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approval for the camping ground,	The site is provided with appropriate amenities as originally approved.	
(f) unoccupied caravans, campervans and tents are not permitted to remain in the camping ground for more than 24 hours,	A condition has been recommended to be added to the consent to this regard.	
(g) if a fee is charged for camping—a register must—	Noted. To be managed as part of the s68 approval to operate.	
(i) be kept in accordance with section 121, and		
(ii) must specify the size of the group accompanying the registered person,		
(h) fire fighting facilities required by the approval must be provided at the primitive camping ground.	Noted. To be managed as part of the s68 approval to operate.	
(4) Subdivisions 1–8 do not apply to a primitive camping ground.	Noted.	N/A
(5) The general manager of the council for the area in which a primitive camping ground is located may modify the conditions applying to the camping ground if the general manager is reasonably satisfied that it is necessary to accommodate displaced persons.	Noted.	

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Clause	Comment	Complies
(6) In subsection (3)(b), 2 or more tents occupied by no more than 12 persons camping together must be counted as 1 tent.	Noted. To be managed through the s68 approval to operate.	Yes

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

	Notes (where needed)
<input checked="" type="checkbox"/> Social and Economic Environment: There would be beneficial impacts as a result of the development.	The site will provide a location for short term tourist accommodation within the locality. The modified proposal is not expected to result in any social or economic impacts not already assessed in the previous approval.
<input checked="" type="checkbox"/> Built Environment: The proposed development would not cause harm to the existing character.	The proposed development reduces the overall footprint through the removal of the storage shed and reduction in the number of camp sites. No other changes are sought and as such, there are no expected adverse impacts to the built environment.
<input checked="" type="checkbox"/> Natural Environment: There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added.	No additional vegetation is proposed to be removed as part of the application. The location of the 20 primitive camp sites is within the same footprint as the 50 originally approved camp sites, and therefore no additional clearing or disturbance is proposed.

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

The site suitability considerations assessed under the original application remain unchanged as a result of the proposed modification.

s4.15(1)(d) – Any submissions

Consideration of submissions has been given against section S4.55(1A)(d) above.

s4.15(1)(e) – The public interest

The proposed modification is considered to be in the public interest as it will continue to provide tourist and visitor accommodation within the locality.

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## MODIFIED CONDITIONS

## Existing condition

## 1.0 - General Conditions of Consent

(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, DA-2019-03512-CL55-1, 25 May 2020

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

## Modified Condition

## 1.0 - General Conditions of Consent

(1A) **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, DA-2019-03512-S4.55-1, 28 October 2022.

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

## Existing Condition

## 1.0 - General Conditions of Consent

(2) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference	Name of plan	Prepared by	Date
1902748	Proposed Site Plan (2 of 4)	Sorensen Design & Planning	24/05/2020
1902748	Amenities Plan (3 of 4)	Sorensen Design & Planning	24/05/2020
1902748	Camp Kitchen Plan (4 of 4)	Sorensen Design & Planning	24/05/2020
190203	Stormwater Management Plan (Sheets CIV00 to CIV06)	DRB Consulting Engineers	15/05/2020
190203	Cut/Fill Plan (Sheets CIV13 to CIV21)	DRB Consulting Engineers	15/05/2020

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

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**Modified Condition****1.0 - General Conditions of Consent**

(2A) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference	Name of plan	Prepared by	Date
1902748 Issue 1	Proposed Site Plan (2 of 5)	Sorensen Design & Planning	29/08/2022
1902748	Amenities Plan (3 of 4)	Sorensen Design & Planning	24/05/2020
1902748	Camp Kitchen Plan (4 of 4)	Sorensen Design & Planning	24/05/2020
190203	Stormwater Management Plan (Sheets CIV00 to CIV06)	DRB Consulting Engineers	15/05/2020
190203	Cut/Fill Plan (Sheets CIV13 to CIV21)	DRB Consulting Engineers	15/05/2020

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

**New Condition****1.0 – General Conditions of Consent**

(9.1) **Prior to Commencement of Use** – Prior to the commencement of use, an Approval to Operate under section 68 of the Local Government Act 1993 must be issued by Council.

**Existing Condition****5.0 - Prior to Issue of an Occupation Certificate**

(14) **Car parking requirements** – A minimum of 50 car parking spaces are to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked on the pavement surface.

Five additional parking spaces are required for visitors, and must be signposted as "visitor parking".

**Modified Condition****5.0 - Prior to Issue of an Occupation Certificate**

(14A) **Car parking requirements** – A minimum of 20 car parking spaces are to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked on the pavement surface.

Two additional parking spaces are required for visitors, and must be signposted as "visitor parking".

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## ITEM 1 - ATTACHMENT 4 MINUTES - ORDINARY COUNCIL MEETING 13 DECEMBER 2022.

MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022

## ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.

16-2019-598-2

parking"

**Comment:**

Condition amended to ensure required car parking reflects the updates number of sites proposed.

**New Conditions****6.0 – Prior to the Issue of an Approval to Operation (Camping Ground)**

- (7.1) **On-site Sewerage Management** – Prior to the issue of an Approval to Operate under Section 68 of the Local Government Act 1993, a report must be approved by Council detailing the intended use of the on-site sewerage management system and any required adaptations in order for the on-site sewerage management system to function at intended levels that achieve appropriate effluent quality. The report should also detail the service requirements and frequency.

**Existing Condition****7.0 – Ongoing Use**

- (9) **Use of Caravans** – No more than 25 caravans are permitted on site at any one time. A caravan is not to stay onsite for any longer than four (4) consecutive nights.

**Modified Condition****7.0 – Ongoing Use**

- (9A) **Use of Caravans** – ~~No more than 25 caravans are permitted on site at any one time.~~ A caravan is not to stay onsite for any longer than four (4) consecutive nights. The use of caravans must comply with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.

**Comment:**

Condition 9.2 has been added to limit the number of caravans in accordance with the Local Government Regulations.

**New Conditions****7.0 – Ongoing Use**

- (9.1) **Camping Restricted to Designated Sites** – Camping is not permitted outside of the designated sites identified in grey hatch on the sites plans prepared by Sorensen Design and Planning, Revision I, Dated 29/08/2022.
- (9.2) **Location of Caravans, Annexe and Campervans** – A caravan, annexe or campervan must not be installed within 6 metres of another caravan, annexe, campervan or tent.
- (9.3) **Location of Tents** – A tent must not be permitted to be installed within 6 metres of a caravan, campervan or an annexe or within 3 metres of another tent.
- (9.4) **Unoccupied caravans, campervans and tents** – Unoccupied caravans, campervans and tents are not permitted to remain in the camping ground for more than 24 hours.
- (9.5) **Water Use** – Any time the private water supply is being used for any part of the primitive camp ground, it must be provided in accordance with the Quality Assurance Program.

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**ITEM 1 - ATTACHMENT 4 MINUTES - ORDINARY COUNCIL MEETING 13  
DECEMBER 2022.**

**MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022**

**ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.**

16-2019-598-2

(9.6) **Site Capacity** – As per the NSW RFS General Terms of Approval (reference DA-2019-03512-S4.55-1, dated 28 October 2022), the camping ground is limited to having a maximum of 81 persons on site.

**DETERMINATION**

The modification application is recommended to be approved by Council, subject to the recommended amended conditions as shown above.

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## DEVELOPMENT ASSESSMENT REPORT

### APPLICATION REFERENCES

<b>Application Number</b>	16-2022-223-1
<b>Development Description</b>	Demolition of existing dwelling and associated structures, construction of a five storey residential flat building with ground floor cafe and strata subdivision
<b>Applicant</b>	Soldier Pty Ltd
<b>Land owner</b>	Soldier Pty Ltd
<b>Date of Lodgement</b>	22/04/2022
<b>Value of Works</b>	\$7,149,200.00
<b>Submissions</b>	9 (original notification) 4 (amended application) (Total 13)

### PROPERTY DETAILS

<b>Property Address</b>	18 Soldiers Point Road SOLDIERS POINT, 20 Soldiers Point Road SOLDIERS POINT
<b>Lot and DP</b>	LOT: 8 DP: 26597, LOT: 92 DP: 577122
<b>88B Restrictions on Title</b>	Nil
<b>Current Use</b>	Vacant land / residential
<b>Zoning</b>	B1 NEIGHBOURHOOD CENTRE
<b>Site Constraints</b>	Acid Sulfate Soils – Category 4; Koala Habitat Planning Map – Preferred; Coastal Environment Area Map / Coastal Use Area Map; and Height of Buildings – 15m.
<b>State Environmental Planning Policies</b>	State Environmental Planning Policy (Biodiversity and Conservation) 2021; State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; State Environmental Planning Policy (Resilience and Hazards) 2021; and



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

#### PLANNERS PRE-ASSESSMENT CHECKLIST

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

**ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.****PROPOSAL**

The application seeks consent for the construction of a five storey residential flat building (RFB) comprising 18 apartments, ground floor café, demolition of an existing dwelling and shed, associated landscaping, civil works, car parking and 19 lot strata subdivision. Specific, details of the proposal include:

- 1 x café tenancy with internal and external seating (located on ground level);
- 4 x 2-bedroom units, 11 x 3-bedroom units and 3 x 4-bedroom units (located throughout levels 1-4);
- Car parking area containing 47 spaces (located on ground level and basement level);
- Communal area (located on Level 1); and
- Ground level foyer, lobby, lift and pedestrian entrance.

The entry and exit point to the car parking area is provided via Soldiers Point Road. Landscaping has been provided in the front and rear setback to provide visual screening from the street frontage and adjoining properties and to increase the amenity qualities of the development for future occupants and the streetscape.

Visual renders of the proposed development are shown in **Figure 1** and **Figure 2** below.



**Figure 1:** Soldiers Point Road perspective (front)



**Figure 2:** Bennett Lane perspective (side)

### SITE DESCRIPTION

The subject site is located at 18 and 20 Soldiers Point Road, Soldiers Point which shall be consolidated to form an irregular shaped lot with a relatively flat topography and a total area of 1,339.4m<sup>2</sup> (**Figure 3**). The site is located on the corner of Soldiers Point Road and Bennett Lane, within a well-established residential and commercial area. The site has an eastern frontage of 20.57m to Soldiers Point Road and a northern frontage of 50.935m to Bennett Lane. The site is largely undeveloped with a double storey brick dwelling and ancillary metal shed located over the south west corner of the site.

Soldiers Point Road is an established urban centre, undergoing a transition from low density residential to medium rise multi-dwelling and apartment type developments. The character of the area is typified by medium and low density developments, comprising older apartment stock in the form of three and four storey walk-up residential flat buildings, single dwellings and modern high density infill developments.

The development in the immediate vicinity consists of a range of built form elements, including:

North – To the north of the subject site at 16 Soldiers Point Road is a three-storey brick apartment complex that receives vehicular access from Bennett Lane adjoining the subject site. Development further north of the site is characterised by multiple five storey shop-top housing developments.

South – To the south of the subject site at 20A Soldiers Point is a single storey brick building operating as a hair salon, beyond is 22 Soldiers Point Road which is occupied by a single-storey brick dwelling with garage.

West – To the west of the subject site at 21 Sunset Boulevard is a double storey brick dwelling with double garage. To the southwest is a currently vacant site at 23 Sunset Boulevard, which benefits from development approval for a 3 x lot subdivision and associated dwellings.

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

East – To the east of the subject site beyond Soldiers Point Road, includes a various forms of residential housing, including a mixture of dwellings, dual occupancies, multi dwelling housing and residential flat buildings.

The original form of dwellings in the area enjoy generous, landscaped gardens that integrate well with the highly attractive, leafy visual context of the Soldiers Point area. Furthermore, there are a number of comparable development types in close proximity to the site, including a five storey mixed use development at 12 Soldiers Point Road, a five storey apartment development at 6 Soldiers Point Road and a 5 storey apartment building at 2 Soldiers Point Road.



Figure 3: Aerial image of subject site

#### SITE HISTORY

DA 16-2022-223-1

**30 September 2021** - a Pre-DA Meeting was held for a 'Shop Top Housing' development (incorporating a 5 storey apartment complex, with a café and underground parking). The conceptual development included 18 residential apartments with a building height of 19.62m above ground level.

**15 October 2021** - Urban Design Panel (UDP) review meeting was held for the conceptual 'Shop Top Housing' development. The development was conceptually supported by the UDP, subject to minor amendments including; adjustment of balcony layouts, re-orientation of bedroom windows, increased setbacks to the commercial space street façade, alterations to landscaped communal open space, sun shading opportunities and consideration to the redevelopment potential of 20A Soldiers Point Road, Soldiers Point, adjoining the site.

**22 April 2022** - Development Application 16-2022-223-1 for 'Mixed Use Residential Flat Building' development (incorporating a 5 storey apartment complex, with a café and underground parking

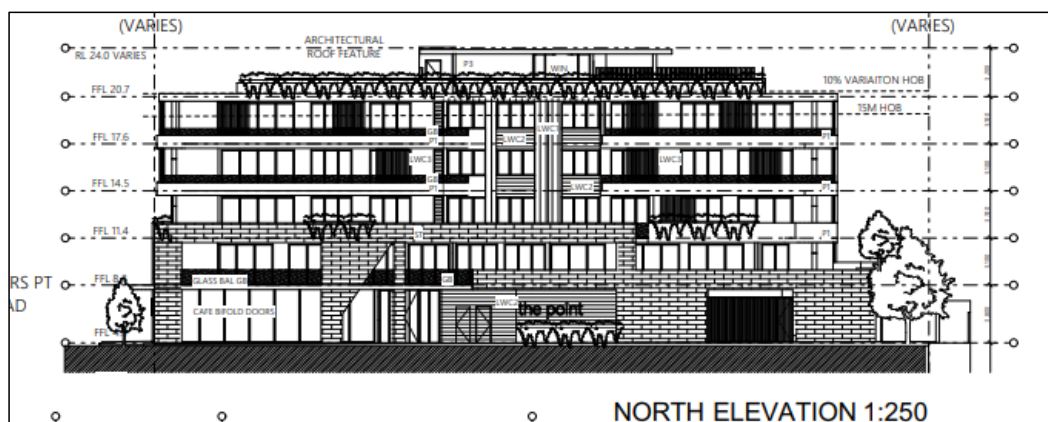


## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

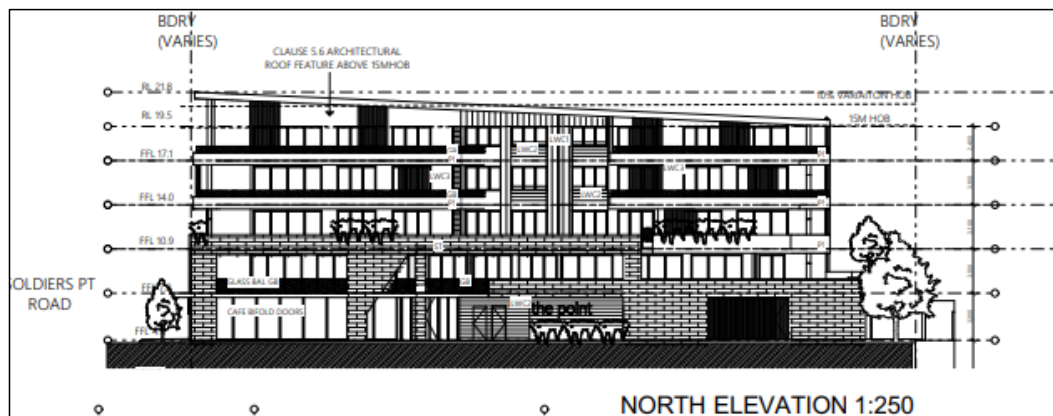
was lodged with Council (see **Figure 4 below**). The DA was reviewed by Council staff and UDP, with additional information requested in relation to engineering, planning and architectural components of the application. The DA was notified from 10 May 2022 - 24 May 2022, with eight (8) submissions opposing the development. The DA was subsequently called to Council on 13 July 2022 in accordance with the 'Planning Matters Reported to Council' policy.

In response to community concerns regarding the overall height of the development, revised architectural plans were received by Council on 24 October 2022 (see **Figure 5 below**). The revised architectural plans included a 2.32m overall building height reduction, attributed to the removal of the rooftop communal area and associated lift and stair access.

On receipt of amended plans, the DA was re-notified from 11 November 2022 – 24 November 2022, with a 14 day extension granted. During this notification period, two (2) submissions in support of the amended design and two (2) submissions opposing the amended design was received by Council. The amended plans are being presented for determination at the 28 February 2023 Ordinary Council Meeting.



**Figure 4:** Original plans lodged with Council



**Figure 5:** Amended plans with rooftop communal space removed

**ITEM 3 - ATTACHMENT 3      PLANNERS ASSESSMENT REPORT.**DA 16-2002-1220-1

The site benefits from an existing development consent (16-2002-1220-1) for a similar development (4 Level Residential/Commercial Building and Carpark) on 18 Soldiers Point Road, which utilised Bennett Laneway for 2 car access points/driveways. Physical works commenced on the associated development consent within five (5) years of the date of issue, and therefore the consent is active.

The previous approval included a zero laneway setback with minimal articulation for 4 storeys, with a western setback of approximately 2m at ground, 5m to balconies and approximately 5.5m to walls.



**Figure 6:** Visual render of approved development DA 16-2002-1220-1

**SITE INSPECTION**

A site inspection was carried out on 19 September 2022.

The subject site can be seen in the photos below:



**Photo 1:** View of the site from Soldiers Point Road



**Photo 2:** View of Bennett Lane adjoining the site





**Photo 3:** Battle-axe handle to 20 Soldiers Point Road, Soldiers Point. Hairdressing salon at 20A Soldiers Point Road, Soldiers Point adjoining access handle to the south.



**Photo 4:** Existing two-storey brick dwelling as viewed from the rear of 20 Soldiers Point Road, Soldiers Point





**Photo 5:** View of existing 5 storey mixed use building at 12-14 Soldiers Point Road, Soldiers Point



**Photo 6:** View of existing 5 storey mixed use buildings at 2- 8 Soldiers Point Road, Soldiers Point



**ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.****PLANNING ASSESSMENT**

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

Internal

Development Engineer – Further information was requested regarding; road access and car parking layout and water disposal/management. Further information including revised civil plans and a water sensitive urban design report was prepared in response to the further information request. The additional information provided addressed all requirements, and the application was subsequently supported subject to conditions.

Development Contributions – The application was referred to Council's contributions officer. It was determined that \$7.11 contributions apply and a condition has been recommended.

Building Surveyor – The application was referred to Council's Building Surveyor. It was determined that the development was capable of meeting the provisions of the BCA.

Spatial Services – The application was referred to Spatial Services for addressing details. Addressing has been provided for each unit.

External

Ausgrid – Given the site is located within the vicinity of Ausgrid assets the development was referred to Ausgrid for comment. Ausgrid's referral response noted supply of electricity requirements as well as construction requirements for development near Ausgrid assets. Overall, the application was supported, subject to conditions.

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

Section 4.46 EP&A Act provides that development is integrated development if in order to be carried out, the development requires development consent and one or more other approvals. The proposed development is integrated as it requires approval under the following Acts:

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

The site is not mapped as bushfire prone land.

***Section 4.15 - Matters for consideration***

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

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

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

**State Environmental Planning Policy (Biodiversity and Conservation) 2021**

**ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.**Chapter 2 Vegetation in Non-Rural Areas

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

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

The development application seeks consent for the removal of existing trees located along the access handle of 20 Soldiers Point Road and in the rear portion of the site. The removal is supported as the trees have limited ecological or amenity value and replacement plantings are proposed as part of the development consistent with Council's landscape technical specifications.

Chapter 4 – Koala habitat protection 2021

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

The site is incorrectly mapped as 'preferred koala habitat' on the koala habitat map. The site has been largely cleared of vegetation and exists in a highly altered state within an established urban area. The scattered vegetation to be cleared as part of the proposal have not been identified as koala habitat or koala feed-trees. One (1) koala feed tree '*Lophostemon confertus*' located on the adjoining site at 20A Soldiers Point Road, was identified as a tree potentially impacted through earthworks associated with the proposal. An arborist report was submitted to assess the impact of the development on this tree. The arborist report confirmed the tree is retainable during works for the proposed development subject to tree protection measures outlined in the arborist report.

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

A BASIX Certificate has been submitted for the proposed development, which demonstrates that the proposal can achieve required water and energy saving targets compared to the standard model house. A condition of consent has been included in the notice of determination requiring the development to be carried out in accordance with the BASIX Certificate.

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

The subject land is located with the Coastal Environment Area and Coastal Use Area, as such the following 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

**ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.**

environment, the values and natural coastal processes, marine vegetation, native vegetation and fauna and existing public open space and access to and along the foreshore.

The proposed development is sufficiently setback from the coastal environment area, being the Port Stephens – Great Lakes Marine Park, by approximately 120 metres. Water runoff from the building will be managed on site and through the public drainage network, as will sediment runoff during the construction process.

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

The proposed development represents an appropriate scale and design for the surrounding coastal setting. The proposed building comprises a sustainable built form to ensure that the visual amenity of the coastal landscape is maintained. The building materiality, including the incorporation of white rendered balustrades, timber lining and sandstone blocks on the podium will create a casual coastal colour palette. The building envelope and scale of the development is compatible with the natural setting and will not adversely impact important view corridors to or from the foreshore. The proposed development will not create visual unsightliness from nearby foreshore areas and has been designed to a height comparable with existing developments to the north. Moreover, the site is located centrally within the Soldiers Point peninsula, consequently when viewing the development from the foreshore areas at a human scale, the proposed building would be screened by existing dwellings and buildings constructed along the foreshore areas.

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

Therefore the application would generally comply with the aims of the SEPP and the other matters for consideration stipulated under Section 2.10, 2.11 and 2.12, and can therefore be supported.

#### Chapter 4 Remediation of Land

The object of this Chapter is to provide for a State-wide planning approach to the remediation of contaminated land. Section 4.6 requires that a consent authority must consider whether land is contaminated prior to granting development consent.

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 and cafe uses are not listed as potentially contaminating uses under Table 1 of the Contaminated Land Planning Guidelines. Noting the site history and ongoing use for residential purposes, the proposed development satisfies the requirements of this chapter.

#### **State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development**

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

State Environmental Planning Policy State Environmental Planning Policy No. 65 – Quality Design of Residential Apartment Development (SEPP 65) aims to improve the quality of residential apartment development and provides an assessment framework in the Apartment Design Guide (ADG) to facilitate the assessment of 'good design'. This policy applies, as the development is for a residential flat building that is more than three storeys in height and contains at least four dwellings. The application was referred to Councils Urban Design Panel (UDP) for assessment against the ADG and the principles of Schedule 1 of this SEPP.

The application was initially reviewed by the UDP in a Pre-DA Meeting (18-2021-47-1) prior to DA lodgement on 15 October 2021. The plans were conceptual at this stage, however the UDP gave recommendations such as; adjustment of balcony layouts, re-orientation of bedroom windows, increased setbacks to the commercial space street façade, alterations to landscaped communal open space, sun shading opportunities and consideration to the redevelopment potential of 20A Soldiers Point Road, Soldiers Point, adjoining the site.



**Figure 7:** Pre-DA concept

The UDP reviewed the submitted DA design on 9 June 2022, and provided the following comments:

- The concept plan representing a possible re-development option for 20A Soldiers Point Road, Soldiers Point, demonstrates future development over this site can be integrated with the proposed development at 18-20 Soldiers Point Road, Soldiers Point.
- Generally supportive of the height exceedance – in part due to the high quality communal open space provided on the rooftop, and there being no evident adverse impacts arising from the additional height involved. Notwithstanding, the Panel recommended amended shadow diagrams be prepared to compare the impact of shadows from a 15m high building and the proposed 19.62m high building.
- Balcony setbacks and layouts have been adjusted and bedroom windows reorientated in alignment with UDP initial recommendations.
- Reiterated that increased setbacks to the commercial space street façade should be implemented.

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

- Generally supportive of the proposed landscaping plans, however recommended arborist report be provided for potential impact to existing tree proposed to be retained at 20A Soldiers Point Road, Soldiers Point. Additional detail regarding soil volumes for each level and discrepancies between architectural plans and landscaping plans was identified.
- Allocation of separate storage areas for bulky items and bicycles within the basement level recommended.
- Sun shading opportunities for glazed areas reiterated.



**Figure 8:** DA lodged concept

The applicant incorporated the UDP recommendations into a revised design and supplied additional documentation on 8 September 2022. The additional documentation addressed the design amendments as suggested by the UDP, including an assessment of the potential impact of the development on the existing tree to be retained at 20A Soldiers Point Road. Amended architectural plans and documentation addressed all UDP recommendations, and further review of the proposal by the UDP was not requested.

Considering the final iteration of plans, the following table outlines each objective and how the final design has addressed each principle.

**Table 1:** SEPP 65 Schedule 1 Design Quality Principles

Criteria	Comments
Principle 1: Context and neighbourhood character	<p>Principle 1 identifies that good design responds and contributes to its context, with context being established by the key natural and built features of an area. Responding to context involves identifying the desirable element of an area's existing or future character.</p> <p>The site is zoned B1 Neighbourhood Centre.</p>



## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Criteria	Comments
	<p>Soldiers Point Road is an established urban center, undergoing a transition from low density residential to medium rise multi-dwelling and apartment type developments. The character of the area is typified by medium and low density developments, comprising older apartment stock in the form of three and four storey walk-up residential flat buildings, single dwellings and modern high density infill developments.</p> <p>Development to the north of the subject site includes a three-storey brick apartment complex and multiple five-storey mixed use shop top housing developments beyond, reflective of the 15m building height for land zoned B1 Neighbourhood Centre. Adjoining development to the east and west of the site include a mixture of detached and semi-detached dwellings and dual occupancies, reflective of the 9m building height limitation.</p> <p>The proposal is considered compatible with the larger scale apartment buildings in the locality. Furthermore, the development has been designed for integration with future redevelopment of the adjoining B1 zoned site to the south.</p> <p>The proposal responds to the emerging design trends by providing a high quality building design which is compatible with the future desired character of Soldiers Point.</p>
Principle 2: Built form and scale	<p>Principle 2 identifies that good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>There are several comparatively tall buildings in the immediate visual catchment of the site. Consequently, the proposal is considered to achieve a scale, bulk and height appropriate for the area. The proposal is of a similar height to the adjoining development to the north. The perceived bulk and scale of the building is adequately addressed through the use of articulation to the façade and side walls. The bulk of the large side walls of the building are effectively broken up through changes in material, colour and through the inclusion of</p>

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Criteria	Comments
	<p>recessed and protruding wall features. The upper most storey appears to be visually recessed through the changes in material finish.</p> <p>On this basis, the development is considered satisfactory with regard to built form and scale.</p>
Principle 3: Density	<p>Principle 3 stipulates that good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>In the absence of a FSR control for the site, an appropriate density of development is determined by the achievement of reasonable setbacks, provision of open space and deep soil for landscape and height.</p> <p>Despite the variations to the numerical ADG setback requirements, the variations are not considered to be of an extent that would unacceptably compromise communal open space, amenity or landscaping. Similarly, the proposed development maintains acceptable privacy and solar access to neighbouring properties, consistent with the requirements of the ADG.</p> <p>The proposed apartments are generously sized, with open plan dining, living and kitchen. Each apartment has access to appropriate levels of sunlight and natural ventilation. Appropriate levels of storage are allocated internally to each apartment, both at basement level and within the apartments.</p> <p>The proposed density of the development is reflective of other existing development in both the immediate locality and broader Soldiers Point area.</p>
Principle 4: Sustainability	<p>Principle 4 identifies that good design combines positive environmental, social and economic outcomes. Further, that good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents.</p> <p>A valid BASIX certificate has been submitted with the development. All apartments achieve</p>

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Criteria	Comments
	adequate levels of solar access and can be cross ventilated to maximise amenity and minimise reliance on powered heating and cooling.
Principle 5: Landscape	<p>Principle 5 specifies that good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity.</p> <p>The proposal includes 26% total landscaped area, achieving the 25% numerical requirement. The proposal incorporates ample landscaping in the communal areas on the ground level and first level, as well as being interspersed on the outdoor areas on other levels.</p> <p>Deep soil planting areas have been provided across the rear and southern side boundary to provide visual screening of the property from neighbouring residences.</p> <p>Subject to the recommended conditions requiring native tree plantings and maintenance of landscaping in perpetuity, the proposal provides acceptable landscaping.</p>
Principle 6: Amenity	<p>Principle 6 provides that good design positively influences internal and external amenity for residents and neighbours. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.</p> <p>The proposed apartments are generously sized, with open plan dining, living and kitchen. Each apartment has access to appropriate levels of sunlight and natural ventilation. Appropriate levels of storage are allocated internally to each apartment, both at ground level and within the apartments. Generous sized balconies provide private open space and screened clothes drying areas. Roof and ground level communal open space is provided to the site.</p>

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Criteria	Comments
	<p>Overall, the amenity of for the apartments is acceptable, providing for an appropriate level of solar access, natural ventilation, privacy and outlook. In addition, the UDP confirmed the layout of the proposed residential apartments is considered appropriate and generally compliant with the criteria specified by the ADG.</p>
Principle 7: Safety	<p>Principle 7 identifies that good design optimises safety and security within the development and public domain.</p> <p>The proposed balcony arrangement activates both street frontages, providing for good passive surveillance opportunities. The proposal includes a lobby area fronting the street, promoting further passive surveillance.</p>
Principle 8: Housing diversity and social interaction	<p>Principle 8 specifies that good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>The development provides housing choice, with a mix of apartment sizes proposed including the following:</p> <ul style="list-style-type: none"> <li>- 4 x 2 bed</li> <li>- 11 x 3 bed</li> <li>- 3 x 4 bed</li> </ul> <p>The UDP considered the housing mix as acceptable for a relatively small apartment building. Furthermore, the development includes multiple areas designated for communal use. These areas provide residents and guests an opportunity to utilise and interact within shaded open space.</p>
Principle 9: Aesthetics	<p>Principle 9 provides that good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design also uses a variety of materials, colours and textures.</p> <p>The amended proposal includes articulated façades facing both street frontages, which is well proportioned and includes an appropriate mix of material finishes and colour choice.</p>

Criteria	Comments
	<p>Balconies comprise a mix of varied materials, including glass and solid balustrades and colours, which provide articulation to the front façade. The upper most storey is visually recessed through the changes in material finish.</p> <p>The bulk of the large side walls of the building are effectively broken up through changes in material, colour and through the inclusion of recessed and protruding wall features.</p> <p>The proposed roof will be an identifiable expression on the skyline and from the streetscape, its curved and expressive shape with timber look lining referencing the casual coastal colour palette of the area. The roof provides a good level of integration between the roof feature and equipment for servicing the building including the lift overrun and plant equipment, thus minimising any adverse visual impact which might otherwise be a consequence of the equipment itself.</p>

Table 2: Apartment Design Guide Assessment

Apartment Design Guide		
Quality design principles		
Principle	Assessment	
Assessment Criteria		
Control / Requirement	Proposed	Compliance / Comment
<b>3A-1 – Site analysis</b>  Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	Site analysis plan submitted.	Yes – provided.
<b>3B-1 Orientation</b>  Building types and layouts respond to the streetscape and site while optimising solar access within the development.	The orientation of the development is pre-determined by the site, however the apartment layout has responded by locating the living spaces of the front apartments (facing Soldiers Point Road) on the sun exposed eastern alignments. Rear apartments (facing Bennett Lane) have been designed for living spaces to gain morning and afternoon sun from the north and west,	Yes – complies.



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	which is largely unobstructed by building elements.	
<p><i>3B-2 Overshadowing</i></p> <p>Overshadowing of neighbouring properties is minimised during mid-winter.</p>	<p>A shadow diagram analysis has been submitted with the application. Due to the orientation of the lot, overshadowing is primarily caused to the neighbouring single storey buildings (20A and 22 Soldiers Point Road) to the south. Some overshadowing would also occur in the morning to the dwellings at 21, 23 and 25 Sunset Boulevard to the west.</p> <p>It is noted there will be solar access impact to the POS of neighbouring sites to the south, however the POS of 22 Soldiers Point Road is already constrained by solar access in that it is located on the southern aspect and already impacted by the existing dwelling on the subject site and neighbouring dwelling on 20A Soldiers Point Road. Notwithstanding, most north facing windows of the affected buildings would receive direct sunlight during mid-winter. The overshadowing is considered reasonably unavoidable given the orientation of the lot is such that overshadowing of this extent is inevitable from any development to the 15m height limit. The site is also characterised by being the southernmost landholding located within the B1 zoned precinct in Soldiers Point, therefore any building height above 9m is likely to result in some form of overshadowing to 22 Soldiers Point Road.</p> <p>Some overshadowing of the dwellings at 21, 23 and 25 Sunset Boulevard to the west of the site would occur between the hours of 9:00 – 11:00am mid-winter. However, all POS, open space and living areas would maintain a minimum of 2 hours solar access, in accordance with the requirements of this section.</p>	Yes – satisfactory.
<i>3C-1 Public Domain Interface</i>	The development provides a ground level lobby, which provides passive	Yes – complies.

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Transition between private and public domain is achieved without compromising safety and security.	surveillance to the street. The upper storey balconies also provide for further passive surveillance.	
<b>3C-2 Public Domain Interface</b>  Amenity of the public domain is retained and enhanced.	The amenity of the public domain will be enhanced through the provision of landscape treatment.	Yes – complies.
<b>3D-1 Communal and Public Open Space</b>  An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.  Numerical design criteria: <ul style="list-style-type: none"> <li>• Communal open space has a minimum area equal to 25% of the site area.</li> <li>• Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (midwinter).</li> </ul>	<p>The previous design provided 359m<sup>2</sup> of communal open space via a landscaped rooftop terrace with multiple communal areas. Due to community concerns regarding the overall height of the development this rooftop communal area was removed, and revised architectural plans were provided that included a 2.2m overall building height reduction.</p> <p>Amended plans include a paved and landscaped communal open space area provided on the first level of the site with deep soil landscaping on the ground level. The communal space area measures a total area of 121.36m<sup>2</sup>, representing 9% of site area.</p> <p>Despite the communal open space non-compliance, given the generous sized balconies afforded to each apartment with a floor area of 26m<sup>2</sup> and north facing aspect for solar access, the design is considered sufficient to meet open space requirements.</p>	Yes – satisfactory.
<b>3D-2 Communal and Public Open Space</b>  Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting	The proposed communal open space will provide for a range of activities and includes areas for seating. Additionally, a communal garden area is proposed within the first floor level and contributes to a natural outlook.	Yes – satisfactory.
<b>3D-3 Communal and Public Open Space</b>  Communal open space is designed to maximise safety.	The proposed communal open spaces are well defined, appropriately lighted and situated away from the streetscape. The communal garden area will be overlooked by the balconies of south facing apartments.	Yes – satisfactory.

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<p><i>3D-4 Communal and Public Open Space</i></p> <p>Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.</p>	<p>Public open space is not proposed as part of the application.</p>	<p>N/A</p>
<p><i>3E-1 Deep Soil Zones</i></p> <p>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> <li>• Site area less than 650m<sup>2</sup> – no minimum dimension requirement and 7% of site area deep soil planting.</li> </ul> <p>However, the design criteria may not be possible on some sites including:</p> <ul style="list-style-type: none"> <li>• Central business district.</li> <li>• Constrained sites.</li> <li>• High density areas.</li> <li>• Commercial centres.</li> <li>• Where there is 100% site coverage or non-residential uses at ground floor.</li> </ul>	<p>The area of deep soil provided is 111.73m<sup>2</sup> (8.3%) of the site area with a 3m width across the rear and southern side boundary, satisfying the requirements of this section. The deep soil area includes 19 plantings which provide screening to properties adjoining the site. Two trees and multiple shrubs are proposed across the street elevations as amenity planting.</p>	<p>Yes – complies.</p>
<p><i>3F-1 Visual Privacy</i></p> <p>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> <li>• Building height up to 12m (4 storeys): <ul style="list-style-type: none"> <li>• Habitable rooms and balconies - 6m.</li> <li>• Non habitable rooms – 3m.</li> </ul> </li> <li>• Building height up to 25 metres (5-8 storeys):</li> </ul>	<p>The DCP provides setbacks for commercial buildings, generally requiring zero street setback for the first 2 levels with a 3.5m setback above. The proposed basement carpark, ground floor (café and carpark) and Levels 1 and 2 (apartment units) of the development, has been designed as a solid podium. This podium proposes a zero front and side setback to Soldiers Point Road and Bennett Lane respectively from Level 1, and is consistent with the established pattern of commercial development in the street. Notwithstanding this podium design, the café component of the building includes generous setbacks</p>	<p>Yes – complies.</p>

<ul style="list-style-type: none"> <li>• Habitable rooms and balconies - 9m.</li> <li>• Non habitable rooms – 4.5m.</li> <li>• Building height over 25m (9+ storeys):             <ul style="list-style-type: none"> <li>- Habitable rooms and balconies - 12m.</li> <li>- Non habitable rooms – 6m.</li> </ul> </li> <li>• No separation is required between blank walls.</li> <li>• An additional 3 m separation is required when adjacent to a different zone which permits lower density residential development to provide a transition in scale and increased landscaping.</li> </ul>	<p>along the north and east elevations (2.2m and 1.2m respectively), creating a passive corner element at ground level whilst creating sufficient area to accommodate alfresco seating.</p> <p>The ground level podium is setback 3m from the southern side and rear boundaries (adjoining R2 zoned land), 5m from Level 1 and 6m for Levels 2-4, thus complying with ADG requirements. All levels of the building have been designed to the boundary on the southern boundary (adjoining B1 zoned land), allowing for development potential on the adjoining commercial site to be achieved.</p> <p>Upper-levels of the building (Levels 3-5) are setback from the eastern boundary and northern boundary to improve privacy, amenity and solar access for balconies on these levels. Encroachments are allowed within the upper setback for articulation purposes, and the proposed variation to the 3.5m setback requirement for these upper setbacks is supported.</p> <p>The building setbacks comply with the separation distances required by the ADG. It is considered that these setbacks meet the intent of Objective 3F-1 and is therefore supportable on merit.</p>	
<p><i>3F-2 Visual Privacy</i></p> <p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p>	<p>The development incorporates a number of features including; orientation, siting, setbacks, privacy screens and window offsets, to achieve a reasonable level of privacy without compromising solar access and ventilation.</p>	<p>Yes – complies.</p>

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<p><i>3G-1 Pedestrian Access and Entries</i></p> <p>Building entries and pedestrian access connects to and addresses the public domain.</p>	<p>The development includes clearly defined pedestrian entries for both the commercial and residential component of the development. Pedestrian access to the café is proposed from Soldiers Point road, and pedestrian access to the apartments is proposed from Bennett Lane.</p>	<p>Yes – complies.</p>
<p><i>3G-2 Pedestrian Access and Entries</i></p> <p>Access, entries and pathways are accessible and easy to identify.</p>	<p>Awnings, blade walls and signage has been incorporated into the development design to ensure building entries are clearly identifiable from the street.</p>	<p>Yes – complies.</p>
<p><i>3G-3 Pedestrian Access and Entries</i></p> <p>Large sites provide pedestrian links for access to streets and connection to destinations.</p>	<p>The proposed development does not require the provision of a pedestrian link through the site.</p>	<p>N/A.</p>
<p><i>3H-1 Vehicle Access</i></p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p>	<p>The driveway is located along the south-eastern boundary. The driveway achieves adequate manoeuvrability and sight lines.</p> <p>Separate pedestrian entry has been provided to ensure there are no conflicts with vehicles.</p> <p>The driveway door is largely imperceptible when viewed from Soldiers Point Road, and supports appropriate finishes to help reduce visual prominence.</p>	<p>Minor non-compliance supported.</p>
<p><i>3J-1 Bicycle and Car Parking</i></p> <p>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> <li>• on sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>• on land zoned, and sites within 400m of land zoned, B3</li> </ul>	<p>Sufficient car and bicycle parking is provided as detailed elsewhere in this report, against Chapter B8 of the DCP.</p>	<p>Yes – complies.</p>



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<p>Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</p> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever less.</p> <p>The car parking need for a development must be provided off-street.</p>		
<p><i>3J-2 Bicycle and Car Parking</i></p> <p>Parking and facilities are provided for other modes of transport.</p>	<p>Bicycle parking is available within storage areas provided in the basement carpark.</p>	<p>Yes – complies.</p>
<p><i>3J-3 Bicycle and Car Parking</i></p> <p>Car park design and access is safe and secure</p>	<p>The car parking area is access via a security gate.</p>	<p>Yes – complies.</p>
<p><i>3J-4 Bicycle and Car Parking</i></p> <p>Visual and environmental impacts of underground car parking are minimised.</p>	<p>The application includes a basement level car park, which aids in concealing much of the visual bulk associated with the basement car parking level.</p>	<p>Yes – complies.</p>
<p><i>3J-5 Bicycle and Car Parking</i></p> <p>Visual and environmental impacts of on-grade car parking are minimised.</p>	<p>The on-grade car parking proposed will be largely screened from the site's two road frontages, through a combination of building design features including; car-park location, blade walls, privacy screens and landscaping.</p>	<p>N/A.</p>
<p><i>3J-6 Bicycle and Car Parking</i></p> <p>Visual and environmental impacts of above ground enclosed car parking area minimised.</p>	<p>The application includes a basement level car park, which aids in concealing much of the visual bulk associated with the basement car parking level.</p>	<p>Yes – complies.</p>
<p><i>4A-1 Solar and Daylight Access</i></p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</p> <p>Numerical design criteria:</p>	<p>The design has demonstrated that 100% of dwellings achieve 2hrs of midwinter sun to decks and 72.2% of dwellings receive 2hrs or greater mid-winter sun to living areas. Due to the inclusion of deeper balconies, a smaller number of units receive 3hrs within the living room however it is clear that this is not due to compromised amenity, but</p>	<p>Minor non-compliance supported.</p>

<ul style="list-style-type: none"> <li>In all other areas (i.e. areas outside Sydney metropolitan area, Newcastle and Wollongong local government areas), living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter</li> <li>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</li> </ul>	rather from the luxury of having extensive outdoor living areas with excellent access to sun during the day. In this coastal location and mild climate this is considered to be an appropriate design response.	
<p><i>4A-2 Solar and Daylight Access</i></p> <p>Daylight access is maximised where sunlight is limited.</p>	The development suitably captures solar access opportunities through siting of balconies and windows.	Yes – complies.
<p><i>4A-3 Solar and Daylight Access</i></p> <p>Design incorporates shading and glare control, particularly for warmer months.</p>	A number of design features have been incorporated including; balconies that extend far enough to shade summer sun but still enable winter sun to penetrate living areas, shading devices such as eaves, awnings, balconies, plantings, screens and horizontal shading to north facing windows.	Yes – complies.
<p><i>4B-1 Natural Ventilation</i></p> <p>All habitable rooms are naturally ventilated.</p>	Each habitable room can be naturally ventilated.	Yes – complies.
<p><i>4B-2 Natural Ventilation</i></p> <p>The layout and design of single aspect apartments maximises natural ventilation.</p>	The development does not include any single aspect apartments.	N/A.
<p><i>4B-3 Natural Ventilation</i></p> <p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for Residents.</p> <p>Numerical design criteria:</p>	16 of 18 units are cross flow units, with windows provided on multiple orientations.	Yes – complies.

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<ul style="list-style-type: none"> <li>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</li> <li>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</li> </ul>		
<p><b>4C-1 Ceiling Heights</b></p> <p>Ceiling height achieves sufficient natural ventilation and daylight access.</p> <p>Numerical design criteria: Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> <li>Habitable rooms – 2.7m.</li> <li>Non-habitable rooms – 2.4m,</li> <li>Two storey apartments – 2.7m for main living area floor and 2.4 m for second floor where it does not exceed 50% of the apartment area.</li> <li>Attic spaces – 1.8m at the edge of the room with a 30 degree minimum ceiling slope.</li> <li>If located in mixed use areas – 3.3m for ground floor and first floor to promote future flexibility of use.</li> </ul>	<p>The following ceiling heights have been provided:</p> <ul style="list-style-type: none"> <li>Habitable rooms (levels 1-4) – 3.1m,</li> <li>Non-habitable (basement, ground floor and roof) – 3m, 3.8m and 3.2m respectively.</li> </ul> <p>There are no two storey apartments or attic spaces proposed.</p>	Yes – complies.
<p><b>4C-2 Ceiling Heights</b></p> <p>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.</p>	<p>The proposed ceiling heights comply with the 2.7m height requirement, which combined with the open plan dining/living provides an adequate sense of space.</p>	Yes – complies.
<p><b>4C-3 Ceiling Heights</b></p> <p>Ceiling heights contribute to the flexibility of building use over the life of the building.</p>	<p>A 3.8m ceiling height has been proposed for the ground floor of the building, ensuring flexibility of the commercial unit over the life of the building.</p>	Yes – complies.
<p><b>4D-1 Apartment Size and Layout</b></p> <p>The layout of rooms within an apartment is functional, well</p>	<p>As outlined in Table 3 below, each apartment includes an internal floor area which exceeds the requirements of this clause.</p>	Yes – complies.

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<p>organised and provides a high standard of amenity.</p> <p>Numerical design criteria: Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"><li>• Studio – 35 m<sup>2</sup></li><li>• One bedroom – 50 m<sup>2</sup></li><li>• Two bedroom – 70m<sup>2</sup></li><li>• Three bedroom – 90m<sup>2</sup></li><li>• An additional 5m<sup>2</sup> is required for apartments with more than one bathroom.</li><li>• An additional 12m<sup>2</sup> is required for a fourth, and further additional bedrooms.</li><li>• Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</li></ul>	<p><b>Table 3:</b> Internal floor areas of proposed dwellings</p> <table><tr><th colspan="4">Internal floor areas</th></tr><tr><th>Level</th><th>2br-dwelling(s)</th><th>3-br dwelling(s)</th><th>4br dwelling(s)</th></tr><tr><td>Level 1</td><td>89.38m<sup>2</sup> – 95.04m<sup>2</sup></td><td>136m<sup>2</sup> – 151.8m<sup>2</sup></td><td>N/A</td></tr><tr><td>Level 2</td><td></td><td>147.04m<sup>2</sup> - 154.04m<sup>2</sup></td><td>159.14m<sup>2</sup></td></tr><tr><td>Level 3</td><td></td><td>147.04m<sup>2</sup> - 156.99m<sup>2</sup></td><td>159.14m<sup>2</sup></td></tr><tr><td>Level 4</td><td></td><td>147.04m<sup>2</sup> - 156.99m<sup>2</sup></td><td>159.14m<sup>2</sup></td></tr></table> <p>Each habitable room can be naturally ventilated and receive natural light.</p>	Internal floor areas				Level	2br-dwelling(s)	3-br dwelling(s)	4br dwelling(s)	Level 1	89.38m <sup>2</sup> – 95.04m <sup>2</sup>	136m <sup>2</sup> – 151.8m <sup>2</sup>	N/A	Level 2		147.04m <sup>2</sup> - 154.04m <sup>2</sup>	159.14m <sup>2</sup>	Level 3		147.04m <sup>2</sup> - 156.99m <sup>2</sup>	159.14m <sup>2</sup>	Level 4		147.04m <sup>2</sup> - 156.99m <sup>2</sup>	159.14m <sup>2</sup>	
Internal floor areas																										
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Level 4		147.04m <sup>2</sup> - 156.99m <sup>2</sup>	159.14m <sup>2</sup>																							
<p><b>4D-2 Apartment Size and Layout</b></p> <p>Environmental performance of the apartment is maximised.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"><li>• Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</li><li>• In open plan layout (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</li></ul>	<p>Each habitable room includes the appropriate depth dimensions.</p> <p>Adequate lighting is afforded to each habitable room.</p>	Yes – complies.																								
<p><b>4D-3 Apartment Size and Layout</b></p> <p>Apartment layouts are designed to accommodate a variety of household activities and needs.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"><li>• Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).</li></ul>	<p>Each room contains the following dimensions:</p> <ul style="list-style-type: none"><li>• Master bedrooms – 15m<sup>2</sup></li><li>• Other bedrooms - minimum 9m<sup>2</sup></li><li>• Each bedroom exceeds the minimum dimension of 3m.</li><li>• Combined living/dining exceeds the minimum width requirement of 4m.</li></ul>	Yes – complies.																								

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<ul style="list-style-type: none"> <li>• Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</li> <li>• Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>- One bedroom apartments - 3.6m.</li> <li>- Two or three bedroom apartments – 4m.</li> </ul> </li> <li>• The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</li> </ul>	<ul style="list-style-type: none"> <li>• All apartments with a cross-over typology are at-least 4m in width.</li> </ul>	
<p><i>4E-1 Private Open Space and Balconies</i></p> <p>Apartments provide appropriately sized private open space and balconies to enhance residential amenity.</p> <p>Numerical design criteria – all apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> <li>• Studio apartments – 4m<sup>2</sup>.</li> <li>• One bedroom apartments – 8m<sup>2</sup> with a depth of 2m.</li> <li>• Two bedroom apartments – 10m<sup>2</sup> with a depth of 2m.</li> <li>• Three + bedroom apartments – 12m<sup>2</sup> with a depth of 2.4m.</li> <li>• For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m</li> </ul>	<p>Apartments 13 and 18 have been provided with two balconies, exceeding ADG requirements. All balconies exceed the numerical design criteria for two and three bedroom apartments.</p>	<p>Yes – complies.</p>
<p><i>4E-2 Private Open Space and Balconies</i></p> <p>Primary private open space and balconies are appropriately located to enhance liveability for residents.</p>	<p>Each apartment includes a balcony that is accessible via stacked sliding doors from the open plan living/dining area.</p>	<p>Yes – complies.</p>

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<p><i>4E-3 Private Open Space and Balconies</i></p> <p>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</p>	<p>Balconies comprise a mix of varied materials, including glass, solid balustrades and colours which provide articulation of the front façades. The upper three levels of the building are visually recessed through changes in material finish (sandstone to colorbond cladding).</p>	<p>Yes – complies.</p>
<p><i>4E-4 Private Open Space and Balconies</i></p> <p>Private open space and balcony design maximises safety.</p>	<p>BCA compliant balustrades are provided to balcony areas. The balconies also provide for passive surveillance to Soldiers Point Road and Bennett Lane.</p>	<p>Yes – complies.</p>
<p><i>4F-1 Common Circulation and Spaces</i></p> <p>Common circulation spaces achieve good amenity and properly service the number of apartments.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> <li>For buildings less than ten storeys in height the maximum number of apartments off a circulation core on a single level is eight.</li> </ul>	<p>The proposed lobby fronting Bennett Lane provides a reasonable level of amenity to residents and is sufficiently sized to cater for the 18 proposed apartments. A total of six apartments are accessed off an internal corridor throughout Level 1, with four apartments per level accessed off an internal corridor throughout Levels 2-4.</p>	<p>Yes – complies.</p>
<p><i>4F-2 Common Circulation and Spaces</i></p> <p>Common circulation spaces promote safety and provide for social interaction between residents.</p>	<p>The proposal includes multiple common circulation spaces including a ground floor lobby, commercial café and four internal corridors providing safe social interaction opportunities for residents. Safety through environmental design is incorporated throughout these areas including, legible signage, lighting at night, separate commercial and residential entries and splays of tight corners and spaces.</p>	<p>Yes – complies.</p>
<p><i>4G-1 Storage</i></p> <p>Adequate, well designed storage is provided in each apartment.</p> <p>Numerical design criteria –in addition to storage in kitchens,</p>	<p>Internal layouts allow for ample storage, with further space available within the laundry for freestanding furniture. An additional 14 storage units are allocated in the basement car park.</p>	<p>Yes – complies.</p>



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bathrooms and bedrooms the following storage is provided: <ul style="list-style-type: none"> <li>• Studio apartments – 4m<sup>2</sup>.</li> <li>• One bedroom apartments – 6m<sup>2</sup>.</li> <li>• Two bedroom apartments – 8m<sup>2</sup>.</li> <li>• Three + bedroom apartments – 10m<sup>2</sup>.</li> <li>• At least 50% of the required storage is to be located within the apartment.</li> </ul>		
<b>4G-2 Storage</b>  Additional storage is conveniently located, accessible and nominated for individual apartments.	Storage is conveniently located within apartments and garage areas to maximise accessibility and usability.	Yes – complies.
<b>4H-1 Acoustic Privacy</b>  Noise transfer is minimised through the siting of buildings and building layout.	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses. The design of the building has been carefully considered with window and door openings generally orientated away from noise sources including the ground floor café and communal areas. Separation distances between buildings on adjoining sites are adequate to limit noise transfer between lots.	Yes – complies.
<b>4H-2 Acoustic Privacy</b>  Noise impacts are mitigated within apartments through layouts and acoustic treatments.	As explained above, noise impacts are effectively mitigated via the building design and separation distances.	Yes – complies.
<b>4J-1 Noise and Pollution</b>  In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.	The proposal is not located in proximity to any noisy or hostile environments.	N/A.
<b>4J-2 Noise and Pollution</b>  Appropriate noise shielding or attenuation techniques for the building design, construction and	The proposal is not located in proximity to any noisy or hostile environments.	N/A.

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choice of materials are used to mitigate noise transmission.		
<p><b>4K-1 Apartment Mix</b></p> <p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p>	The development provides a range of two and three bedroom apartments with unique layouts and style, effectively catering for different household types now and into the future.	Yes – complies.
<p><b>4K-2 Apartment Mix</b></p> <p>The apartment mix is distributed to suitable locations within the building.</p>	The apartment mix is suitably distributed throughout the development.	Yes – complies.
<p><b>4L-1 Ground Floor Apartments</b></p> <p>Street frontage is maximised where ground floor apartments are located.</p>	The proposal does not include any ground floor apartments.	N/A.
<p><b>4L-2 Ground Floor Apartments</b></p> <p>Design of ground floor apartments delivers amenity and safety for residents.</p>	The proposal does not include any ground floor apartments.	N/A.
<p><b>4M-1 Facades</b></p> <p>Building facades provide visual interest along the street while respecting the character of the local area.</p>	<p>The proposal includes articulated façades facing Soldiers Point and Bennett Lane, which is well proportioned and includes an appropriate mix of material finishes and colour choice fitting for a waterside setting.</p> <p>The bulk of the large side walls of the building are effectively broken up through changes in material, colour and through the inclusion of recessed and protruding wall features.</p>	Yes – complies.
<p><b>4M-2 Facades</b></p> <p>Building functions are expressed by the façade.</p>	Commercial and residential functions of the building are distinguished through a combination of signage, design features (including blade walls, street awnings and outdoor seating), materials and colour selection. These components assist in defining building	Yes – complies.

	function, whilst providing articulation and improving visual interest from both street frontages.	
<p><i>4N-1 Roof Design</i></p> <p>Roof treatments are integrated into the building designed and positive respond to the streets.</p>	<p>The proposed roof achieves a more aesthetic form than a flat concrete roof, expressing the dynamic nature of the corner site. The proposed roof will be an identifiable expression on the skyline and from the streetscape, its curved and expressive shape with timber look lining references the coastal and nautical character of the Soldiers Point area. The roof design provides a good level of integration between the roof and equipment for servicing the building including the lift overrun and plant equipment, thus minimising any adverse visual impact which might otherwise be a consequence of the equipment itself.</p> <p>A condition of consent has been imposed to ensure that all roof mounted equipment is concealed within the external walls of the development or adequately screened so as not to be visible from a public place.</p>	Yes – complies.
<p><i>4N-2 Roof Design</i></p> <p>Opportunities to use roof space for residential accommodation and open space are maximised.</p>	Utilisation of the rooftop area for communal space has been removed due to the height limit of the site. Communal space has been reduced due to the community's preference for a reduced building height.	Yes – complies.
<p><i>4N-3 Roof Design</i></p> <p><i>Roof design incorporates sustainability features.</i></p>	The roof design incorporates sustainability features such as PV solar panels, as identified on the BASIX report.	Yes – complies.
<p><i>4O-1 Landscape Design</i></p> <p>Landscape design is viable and sustainable.</p>	The landscape design consists of mainly native plantings installed as a combination of deep soil and planter boxes over multiple levels of the building. This landscape design can be sustained over the life of the development, subject to the recommended conditions for maintenance.	Yes – subject to conditions.

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<p><i>4O-2 Landscape Design</i></p> <p>Landscape design contributes to the streetscape and amenity.</p>	<p>Subject to the recommended conditions of consent, the proposed landscape design is considered to contribute to the streetscape.</p>	<p>Yes – subject to conditions.</p>
<p><i>4P-1 Planting on Structures</i></p> <p>Appropriate soil profiles are provided.</p>	<p>The proposal includes a total of 121.36m<sup>2</sup> of landscaped area. Landscaping plans and the design report demonstrates appropriate soil profiles have been provided for the combination of deep soil plantings, street tree plantings and planter boxes proposed over the site.</p>	<p>Yes – subject to conditions.</p>
<p><i>4P-2 Planting on Structures</i></p> <p>Plant growth is optimized with appropriate selection and maintenance.</p>	<p>Species selection is appropriate for the coastal climate and can be maintained subject to the recommended conditions.</p>	<p>Yes – subject to conditions.</p>
<p><i>4P-3 Planting on Structures</i></p> <p>Planting on structures contributes to the quality and amenity of communal and public open spaces.</p>	<p>Mass planting beds are proposed along the northern boundary (along Bennett Lane) over several floors, with communal garden areas proposed on level 1.</p>	<p>Yes – subject to conditions.</p>
<p><i>4Q-1 Universal Design</i></p> <p>Universal design features are included in apartment design to promote flexible housing for all community members.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> <li>• A benchmark of 20% of the total apartments incorporate the Liveable Housing Guidelines silver level universal design features.</li> </ul>	<p>There are eighteen (18) residential units, with four (4) units required to be capable of achieving silver level livable housing requirements per the Livable Housing Design Guidelines – Fourth Edition. The adaptable units – Unit 203 and Unit 303 – achieve the requirements for Silver Level Livable housing. In addition, Unit 204 and Unit 304 have a floor plan arrangement that meets the universal housing requirements.</p> <p>The building does not satisfy the ADG's 20% benchmark, however this variation is supported based on all units general capacity to comply with Silver Level Livable housing design features.</p>	<p>Non-compliance supported.</p>

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<p><i>4Q-2 Universal Design</i></p> <p>A variety of apartments with adaptable design are provided.</p>	<p>The building provides a variety of apartments with adaptable design solutions as identified in the access report. Furthermore, two larger car parking spaces for accessibility have been provided at basement level for residents, and one disabled visitor parking space has been provided at ground level.</p>	<p>Yes – complies.</p>
<p><i>4Q-3 Universal Design</i></p> <p>Apartment layouts are flexible and accommodate a range of lifestyle needs.</p>	<p>As identified in the access report, Unit 204 and Unit 304 have a floor plan arrangement that meets the universal housing requirements, with Unit 203 and Unit 303 achieving the requirements for Silver Level Livable housing.</p>	<p>Yes – complies.</p>
<p><i>4R-1 Adaptive Reuse</i></p> <p>New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.</p>	<p>The proposal does not involve adaptive re-use.</p>	<p>N/A.</p>
<p><i>4R-2 Adaptive Reuse</i></p> <p>Adapted buildings provide residential amenity while not precluding future adaptive reuse.</p>	<p>The proposal does not involve an adaptive re-use.</p>	<p>N/A.</p>
<p><i>4S-1 Mixed Use</i></p> <p>Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.</p>	<p>The building is identified as mixed use development (shop top housing), with a café located at ground level and residential units located above. The building is appropriately located within a retail strip of Soldiers Point, and has incorporated a suite of design features such as; separate entrances, active street frontage and effective articulation to encourage pedestrian movement.</p>	<p>Yes – complies.</p>
<p><i>4S-2 Mixed Use</i></p> <p>Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.</p>	<p>Residential levels of the building are effectively integrated within the building, as evident through features including; separate entrances to the café and residential lobby (both directly accessible from the street), separate parking areas and a lack of concealment opportunities. Landscaped communal open space</p>	<p>Yes – complies.</p>

	provided at level one, further enhances safety and amenity for residents.	
<p><i>4T-1 Awnings and Signage</i></p> <p>Awnings are well located and complement and integrate with the building design.</p>	The building includes a continuous awning that wraps around the sites two street frontages. This awning is located over both entries to the building and provides protection to residents and pedestrian from the natural elements (sun, wind and rain). The height, depth, material and form of this awning has been carefully selected to ensure continuity with the area.	Yes – complies.
<p><i>4T-2 Awnings and Signage</i></p> <p>Signage responds to the context and desired streetscape character.</p>	The building includes a single wall sign identified as ‘the point’, on the building’s Bennett Lane street frontage. The sign provides a legible means of identifying the residential component of the building, and is proportionate to the scale of the building.	Yes – complies.
<p><i>4U-1 Energy Efficiency</i></p> <p>Development incorporates passive environmental design.</p>	<p>A valid BASIX certificate has been submitted. Adequate natural light will be provided to habitable rooms.</p> <p>A screened clothes drying areas is provided on balcony areas.</p>	Yes – complies.
<p><i>4U-2 Energy Efficiency</i></p> <p>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.</p>	The proposed building layout and orientation provides for good cross ventilation and solar access. A valid BASIX certificate has been submitted.	Yes – Complies.
<p><i>4U-3 Energy Efficiency</i></p> <p>Adequate natural ventilation minimises the need for mechanical ventilation.</p>	Adequate window openings are provided with the opportunity for cross ventilation available.	Yes – Complies.
<p><i>4V-1 Water Management and Conservation</i></p> <p>Potable water use is minimised.</p>	A valid BASIX certificate has been provided. A condition of consent is recommended requiring compliance with the BASIX requirements has been recommended.	Yes – complies subject to conditions of consent.



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<p><i>4V-2 Water Management and Conservation</i></p> <p>Urban stormwater is treated on site before being discharged to receiving waters.</p>	<p>The proposed development includes a stormwater treatment system to ensure that stormwater is appropriately treated prior to discharge.</p>	<p>Yes – complies.</p>
<p><i>4V-3 Water Management and Conservation</i></p> <p>Flood management systems are integrated into the site design.</p>	<p>The proposed development includes a stormwater treatment system to ensure that stormwater is appropriately treated prior to discharge.</p>	<p>Yes – complies.</p>
<p><i>4W-1 Waste Management</i></p> <p>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</p>	<p>The proposal includes a ground level garbage room which measures 17.4m<sup>2</sup>. The garbage room provides for a screened bin storage location with external access to enable transport of bins to the kerbside.</p>	<p>Yes – complies.</p>
<p><i>4W-2 Waste Management</i></p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling.</p>	<p>The basement level garbage room provides sufficient space for sorting and separation of garbage between Council 240L general and recycling waste bins.</p>	<p>Yes – complies.</p>
<p><i>4X-1 Building Maintenance</i></p> <p>Building design detail provides protection from weathering.</p>	<p>Robust materials have been proposed and design solutions.</p>	<p>Yes – complies, subject to conditions of consent.</p>
<p><i>4X-2 Building Maintenance</i></p> <p>Systems and access enable ease of maintenance.</p>	<p>Accessible service areas have been proposed.</p>	<p>Yes – subject to conditions.</p>
<p><i>4X-3 Building Maintenance</i></p> <p>Material selection reduces ongoing maintenance costs.</p>	<p>A condition has been recommended requiring graffiti removal. Robust materials have been proposed and design solutions.</p>	<p>Yes – subject to conditions.</p>

Port Stephens Local Environmental Plan 2013 (LEP)

#### **Clause 2.3 – Zone Objectives and Land Use Table**

The subject site is zoned B1 Neighbourhood Centre in accordance with the PSLEP 2013. The proposed development is defined as 'shop top housing' given a commercial premise is proposed to be located on the ground floor and dwellings located above. Shop top housing is permissible with consent in the B1 Neighbourhood Centre zone.

It is noted that a cafe is considered to be a 'retail premises' which is proposed to be located on the ground floor of the development. Retail premises falls within the broader definition of a 'commercial

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premise' and are therefore permissible with consent in the B1 Neighbourhood Centre zone. The proposal is considered to be consistent with the objective of this zone, in that it will contribute to providing a small scale retail use (cafe) that will service the needs of the people who live or work in the Soldiers Point area.

**Clause 2.7 – Demolition requiring development consent**

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

The proposed development requires the demolition of the existing double storey brick dwelling and ancillary metal shed. Accordingly, conditions of consent have been included in order to mitigate potential impacts to adjoining properties and the locality during demolition works.

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

Clause 4.1B specifies the minimum lot size required to facilitate development for the purposes of dual occupancies, multi dwelling housing and residential flat buildings in order to achieve planned residential density in certain zones. This clause does not apply to land zoned B1 Neighbourhood Centre.

**Clause 4.3 – Height of Buildings**

Clause 4.3 aims to ensure that the height of buildings is appropriate for the context and character of the area, and to ensure that building heights reflect the hierarchy of centres and land use structure. To achieve these aims, clause 4.3(2) specifies that the height of a building on any land is not to exceed the maximum height shown for the land on the 'height of buildings map' (HBM). The HBM identifies a 15m height limit applies to the subject development.

The proposed development has a maximum height of 17.4m above existing ground level, which is above the maximum permissible building height of 15m metres specified on the height of buildings map. The applicant submitted a Clause 4.6 exception to development standard request in support of the variation.

The proposed height of the development is consistent with the modern high density infill developments located north of the site. It is noted two comparable mixed-use residential flat buildings located north of the site at 12-14 Soldiers Point Road (17.15m) and 6-8 Soldiers Point Road (18.8m) exceed the 15m height controls prescribed for the B1 Neighbourhood Centre Zone.

The Land and Environment Court decision in *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020], established that adjacent buildings, which also exceeded the height controls should be considered when determining desired future character. The proposed development demonstrates consistency with the surrounding context and character of the area, and reflects the hierarchy of centres and land use structure.

**Clause 4.6 – Exceptions to development standards**

As discussed against Clause 4.3 above, the application includes a variation to the maximum height limit. The development standard is 15m and the proposed height is 17.4m, representing a 16% variation. A request to vary the building height development standard has been submitted by the

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applicant in accordance with Clause 4.6 of the PSLEP. The request has been reviewed and the following is noted:

- The proposed height is considered to be appropriate for the context and character of the area as surrounding development along the commercial strip is characterised by 4 and 5 storey developments in the form of 'shop top housing' similar to the proposal.
- The existing and approved development along the Soldiers Point Road commercial strip demonstrates a higher density transition in the context and character of the locality, in which the proposal is consistent with. Moreover, the existing residential development in its current form is out of context with the character of the area having regard to the existing and approved shop top housing developments to the north.
- Despite the proposed height variation, the proposal results in negligible off site impacts including visual and amenity impacts, overshadowing and view loss as demonstrated by shadow diagrams prepared by the applicant.
- The proposal is generally compliant with the Apartment Design Guidelines and the Port Stephens Council Development Control Plan (DCP) controls.
- The objectives of Clause 4.3 are achieved despite the non-compliance with the numerical standard.

It is considered that the applicant's written Clause 4.6 variation request adequately demonstrates that there are sufficient environmental planning grounds to justify contravening the maximum building height standard and compliance with the standard is unnecessary in the circumstances of this application.

On this basis, the height variation is supported. A detailed assessment against clause 4.6 can be found at Attachment 1 of this report.

**Clause 5.10 – Heritage conservation**

The site has not been identified as heritage listed item nor is it within a heritage listed area or within proximity to an item of heritage significance. The site is subject to significant prior ground disturbing works, which indicate a low likelihood of uncovering undiscovered Aboriginal artefacts. Notwithstanding, an advisory note has been included in the recommended conditions regarding stop work procedures to be adopted in the event an Aboriginal object is uncovered.

**Clause 5.21 – Flood Planning**

The subject site is not flood prone land.

**Clause 7.1 – Acid Sulfate Soils**

The subject land is mapped as containing potential Class 4 acid sulfate soils. The proposal seeks to undertake bulk excavations to depths in the order of 2.5m to 3.5m to support the basement carpark. A geotechnical investigation report with acid sulfate soil recommendations, was prepared by 5QS Consulting Group. Borehole testing was undertaken at depths of up to 3.4m, with laboratory testing confirming soils with the potential to generate ASS conditions on site may be present at depths greater than 3m below the existing ground surface levels. A condition of consent is recommended requiring an acid sulfate soil management plan to be prepared prior to commencement of works.

**Clause 7.2 – Earthworks**

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The development incorporates earthworks (cut) to a depth of approximately 3.5m below ground level to construct the basement car park. The earthworks are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place, noting that all boundaries will be suitably stabilised by structurally designed walls with adequate drainage during and at completion of the works.

**Clause 7.6 – Essential Services**

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

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

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

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

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

**Chapter B1 – Tree Management**

The development application seeks consent for removal of 2 x existing trees located over the site. The removal is supported as the trees have low ecological value and replacement landscaping is proposed consistent with Council's landscape technical specifications. One (1) koala feed tree *Lophostemon confertus* located on the adjoining site 20A Soldiers Point Road, was identified as a tree potentially impacted through earthworks associated with the proposal. An arborist report was prepared to assess the impact of the proposal on this tree, which confirmed the tree is retainable subject to tree protection measures during works listed in the arborist report and Tree Protection Plan.

**Chapter B2 – Natural Resources**

There are no koala feed trees that are proposed for clearing as part of the proposal, with the proposal not expected to impact upon koala habitat or the koala population. Moreover, the site is not mapped as being likely to contain any environmentally significant vegetation. The proposed development is not considered likely to impact upon any area of environmental significance. Due to the nature, scale and location of the proposed development within the Soldiers Point neighbourhood centre, the proposed development, subject to the recommended conditions of consent, is not considered likely to have any adverse impacts upon the natural environment.

**Chapter B3 – Environmental Management**Acid Sulfate Soils

The objective of this DCP Chapter is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage. As detailed within clause 7.1 discussion

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above, the proposed development could be undertaken, subject to the recommended conditions of consent, without resulting in adverse impact to ASS. In this regard, the development is consistent with the objective and requirements of the DCP.

#### Noise

Residential balconies and outdoor dining areas are oriented to the street rather than toward adjoining properties, which would prevent direct and unimpeded noise travel between residences. 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 in clause 7.2 above, the proposed development involves earthworks (cut) to a depth of approximately 3.5m below ground level to construct the basement car park. 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 site is not identified as being with a flood planning area.

### **Chapter B7 – Heritage**

There are no Aboriginal sites or places located on the subject site, nor are there any heritage items listed under Schedule 5 of the PS LEP. The site displays evidence of prior ground disturbance and it is therefore unlikely that the proposal will impact upon Aboriginal relics. Notwithstanding, an advisory note is recommended providing that works should cease and that Heritage NSW be notified in the event that any Aboriginal relics are encountered during works.

### **Chapter B8 – Road Network and Parking**

The potential impacts from the proposed development to the local road network have been assessed as being satisfactory. The applicant submitted a Traffic Impact Assessment (TIA) report in support of the proposal, prepared by Intersect Traffic (dated January 2022) to assess the proposal with respect to access, parking, traffic generation and infrastructure capacity.

With regard to traffic generation, the TIA report calculated the additional traffic generated by the development will be up to 15 vehicle trips per hour (vtp) in the AM and 12 vtp in the PM peak periods. The local and state road network has sufficient spare capacity to cater for the additional development traffic without adversely impacting on the mid-block traffic flow levels of service (LoS) experienced by motorists on the road network. The minimal amount of traffic generated by the development will not adversely impact on intersections on the local and state road network. The



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new access onto Soldiers Point Road will operate with uninterrupted flow conditions. The TIA has been reviewed by Council's Traffic Engineer who endorsed the conclusions. To manage traffic during construction, a condition is recommended requiring that a traffic management plan be prepared prior to the issue of a Construction Certificate.

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

**Table 3:** Car parking calculations for proposed development

Development type	DCP requirement	Parking requirement	Proposed
Shop top housing	<ul style="list-style-type: none"> <li>1 car space for one and two bedroom dwellings.</li> <li>2 car spaces for three or more bedroom dwellings.</li> <li>1 visitor space for every three dwellings.</li> </ul>	<ul style="list-style-type: none"> <li>4 x (2-bedroom units) - 4 spaces required.</li> <li>11 x (3-bedroom units) – 22 spaces required.</li> <li>3 x (4-bedroom units) – 6 spaces required.</li> <li>(18 units / 3) – 6 spaces required.</li> </ul>	<ul style="list-style-type: none"> <li>4 spaces for 2-bedroom units.</li> <li>28 spaces for 3 and 4 bedroom units.</li> <li>6 visitor spaces.</li> </ul>
Commercial premises (café)	<ul style="list-style-type: none"> <li>1 car space per 25m<sup>2</sup> floor area.</li> <li>1 car space per 3 seats outside of commercial premises.</li> <li>1 bike space per 200m<sup>2</sup>.</li> <li>1 accessible parking space per 30 parking spaces.</li> </ul>	<ul style="list-style-type: none"> <li>103.42m<sup>2</sup> (floor area) / 25 = 4.25 spaces required.</li> <li>12 (external café seats) / 3 = 4.</li> <li>103.42 / 200 = 0.51 spaces required.</li> <li>47 / 30 = 1.5 accessible parking spaces required.</li> </ul>	<ul style="list-style-type: none"> <li>9 spaces provided for commercial (including 2 accessible spaces).</li> <li>2 bike spaces provided.</li> </ul>
<b>Total</b>		<ul style="list-style-type: none"> <li><b>38</b> – Shop top housing</li> <li><b>8.25</b> (including accessible space) – Commercial Premises</li> <li><b>0.51</b> (bike spaces) – Commercial premises</li> </ul>	<ul style="list-style-type: none"> <li><b>38</b> - Shop top housing</li> <li><b>9</b> - (including 2 accessible spaces) – Commercial Premises</li> <li><b>2</b> - (bike spaces) – Commercial Premises</li> </ul>

Car parking provided for the development includes: 38 spaces for the shop top housing; 9 spaces for the commercial premises and 2 bike spaces for the commercial premises. As demonstrated in Table 3 above, the parking provision complies with the Port Stephens DCP 2014 Section B8 – Road Network and Parking. Furthermore, the proposed on-site car park layout and dimensions comply with the Australian Standard AS2890.1-2004 *Parking facilities – Off-street car parking*. Council's Development Engineers have reviewed and endorsed car parking layout plans, subject to conditions of consent.

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## Chapter C – Development Types

The proposed development is defined as shop top housing. Chapter C does not provide specific controls for shop top housing. The proposed development was therefore assessed against SEPP 65 and the Apartment Design Guidelines (ADG). Notwithstanding, the proposal has also been assessed against Chapter C2 of the DCP given the proposed commercial premises on the ground floor and the site location being within a B1 Neighbourhood Centre zone.

## Chapter C2 – Commercial

Reference	Control	Assessment
Objective C2.A Requirement C2.1-2.5	<b>Height</b> <ul style="list-style-type: none"> <li>To ensure development is of an appropriate height that minimises privacy loss and over-shadowing</li> <li>To ensure that floor to ceiling height allows for flexible uses overtime</li> </ul>	<p>Building height has been discussed under Clause 4.3 of this report.</p> <p>The proposal is not considered to exacerbate privacy loss and over-shadowing given the generally compliant ADG setbacks to neighbouring residential developments, and the presence of Bennett Lane along the sites northern boundary, which provides an appropriate separation to the neighbouring three-storey brick apartment complex.</p> <p>Floor to ceiling heights for the residential levels are compliant with the DCP providing a minimum of 2.7m floor to ceiling heights.</p> <p>The commercial premise on the ground floor has a floor to ceiling height of 3.8m, compliant with the 3.5m requirement.</p>
Objective C2.B Requirement C2.6-C2.14	<b>Site Frontage and Setbacks</b> <ul style="list-style-type: none"> <li>To ensure development provides continuity and consistency to the public domain</li> </ul>	<p>The DCP provides setbacks for commercial buildings, generally requiring zero street setback for the first 2 levels with a 3.5m setback above. The café component of the building is slightly setback along the north and east elevations (2.2m and 1.2m respectively), creating a passive corner element at ground level whilst creating sufficient area to accommodate alfresco seating. The arrangement is acceptable given there is no continuous street wall along the streetscape and other developments to the north are not built to the boundary.</p>
Objective C2.C	<b>Building Form and Massing</b>	The proposed built form and massing is not considered to result in unreasonable

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Requirement C2.15-C2.16	<ul style="list-style-type: none"> <li>To ensure development reinforces, compliments and enhances the visual character of the street</li> </ul>	loss of amenity to adjacent properties or the public domain as discussed throughout this report. The commercial premise is consistent with other premises along Soldiers Point Road and is complementary to the character of the area.
Objective C2.D Requirement C2.17-C2.21	<b>Facades</b> <ul style="list-style-type: none"> <li>To ensure street activation and passive surveillance through active street frontage</li> <li>To facilitate development that is safe and secure for pedestrians and contributes to public domain safety by incorporating principles of CPTED, such as: <ul style="list-style-type: none"> <li>- Territorial re-enforcement</li> <li>- Surveillance</li> <li>- Access Control</li> <li>- Space/Activity Management</li> </ul> </li> <li>To ensure the bulk of large floor plate development is concealed by a sleeve of smaller buildings fronting the street</li> </ul>	As assessed under the ADG section, the proposed development has incorporated appropriate building materials, colours and architectural elements to assist in reducing the perceived bulk of the development whilst also providing visual interest. The ground floor commercial premise will provide an active street frontage and vibrant façade above.
Objective C2.E Requirement C2.22	<b>Awnings</b> <ul style="list-style-type: none"> <li>To ensure continuous awnings along pathways to provide shelter where most pedestrian activity occurs</li> <li>To ensure awning design is integrated with the building façade to integrate with adjoining buildings</li> </ul>	The building includes a continuous awning that wraps around the sites two street frontages. This awning is located over both entries to the building and provides protection to residents and pedestrian from the natural elements (sun, wind and rain). The height, depth, material and form of this awning has been carefully selected to ensure continuity with the area.
Objective C2.F Requirement C2.23-C2.24	<b>Building Entries</b> <ul style="list-style-type: none"> <li>To provide clear direction to access points</li> </ul>	The development includes clearly defined pedestrian entries for both the commercial and residential component of the development. Pedestrian access to the café is proposed from Soldiers Point Road, and pedestrian access to the apartments is proposed from Bennett Lane.
Objective C2.G Requirement C2.25-C2.26	<b>Building Facilities and Services</b> <ul style="list-style-type: none"> <li>To appropriately locate building facilities and services that do not adversely impact on the public domain</li> </ul>	Building facilities are not visible from the public domain.
Objective C2.H	<b>Public Art</b>	N/A – whilst the proposed development does have a cost of work exceeding \$2

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Requirement C2.27	<ul style="list-style-type: none"> <li>To ensure that features of the public domain contribute to identity, character, safety, amenity and accessibility</li> </ul>	million, the proposal also involves residential development rather than wholly commercial development. It is therefore not considered necessary to provide public art for this development given the commercial use is only a minor component.
Objective C2.I  Requirement C2.28-C2.30	<b>Shipping Container Stacks</b> <ul style="list-style-type: none"> <li>To ensure development that proposes the use of shipping containers does not impact upon the amenity of the area</li> </ul>	N /A – shipping containers are not proposed.
Objective C2.J  Requirement C2.31-C2.35	<b>Landscaping</b> <ul style="list-style-type: none"> <li>To enhance the appearance and amenity of developments through the retention and/or planting of large and medium sized trees</li> <li>To encourage landscaping between buildings for screening</li> <li>To ensure landscaped areas are consolidated and maintainable spaces that contribute to the open space structure of the area</li> <li>To improve the aesthetics of commercial areas, especially major commercial road corridors, through landscape works and co-ordination of architectural and signage elements</li> <li>To reduce hydrocarbon emission by providing shading of untendered vehicles</li> <li>To reduce energy consumption through microclimate regulation</li> <li>To reduce air borne pollution by reducing the heat island effect</li> <li>To intercept stormwater to reduce stormwater runoff</li> </ul>	The proposed landscaping scheme is considered appropriate for the proposed development and has been assessed against the provisions of the ADG.
Objective C2.K  Requirement C2.36	<b>Bulky good premises</b> <ul style="list-style-type: none"> <li>Establish requirements for bulky goods premises</li> <li>Ensure the design of bulky goods contributes positively to the streetscape and public domain through quality architecture, materials and finishes</li> </ul>	N/A – the proposed development is not a bulky good premise but rather a business premise.
Objective C2.L	<ul style="list-style-type: none"> <li>To ensure signage is complimentary to its surroundings</li> </ul>	The building includes a single wall sign identified as 'the point', on the building's Bennett Lane frontage. The sign provides a legible means of identifying the residential component of the

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

		building, and is proportionate to the scale of the building.
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***Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

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

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

The proposed development represents a modern mixed use development that will provide additional infill housing opportunities in the area as well as the provision of a new commercial premises, which will provide employment opportunities and contribute to the commercial viability of Soldiers Point.

The proposal will allow for the use of existing services and facilities in the locality without requiring upgrades that burden the public. The construction of the proposed development will provide employment opportunities in the locality and support the local building and development industries. This will have direct monetary input to the local economy, and the increased number of residents in the locality will provide ongoing economic input through daily living activities. There are no anticipated adverse social or economic impacts as a result of the proposed development.

Impacts on the Built Environment

The proposed development is considered to result in a positive impact to the built environment by providing a modern architecturally designed building within the Soldiers Point commercial centre. The proposal is considered to be compatible and appropriate for the context and character of the area as existing development along Soldiers Point Road is characterised by 4 and 5 storey developments in the form of 'shop top housing' similar to the proposal.

Impacts on the Natural Environment

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

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

The site is able to gain access to all relevant services and the proposed development makes good use of the available land. The proposal satisfies all provisions required under the relevant planning instruments and policies. Site specific studies prepared by the proponent have been provided to identify a suitable development footprint that accords with sustainable design principles, in addition to the relevant statutory instruments. The proposed development is compatible with other development along the Soldiers Point Road commercial strip. The site in its current form is underutilised and out of character with the existing and approved built context, accordingly the site is suitable for the proposed development.

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



## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Public Submissions

The application was notified and advertised from 10 May 2022 to 24 May 2022, in accordance with the Port Stephens Council Community Participation Plan. Nine (9) submissions were received during this period, comprised of eight (8) submissions in objection of the development, with one (1) submission in support.

On receipt of amended plans reducing the building height, the application was renotified from 11 November 2022 – 24 November 2022, with notification extended for a further 14 days. During this notification period, two (2) submissions in support of the amended design and two (2) submissions opposing the amended design was received by Council.

The matters of objection raised during the exhibition period have been detailed in the table below.

**Table 4:** Public submissions received for proposed development

Comment	Council response
<p><b>Height of Building</b></p> <ul style="list-style-type: none"> <li>- The proposed development exceeds the maximum building height control.</li> <li>- The proposed height of the building is out of character with the area</li> <li>- The clause 4.6 variation is unreasonable, misleading and extremely major in variation.</li> <li>- The proposal has not demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.</li> <li>- Council should consider the precedent set by undermining the building height control.</li> <li>- The objectives of the standard will not be thwarted if Council enforces the current height limit.</li> </ul>	<ul style="list-style-type: none"> <li>- In response to community concerns regarding the overall height of the development, revised architectural plans were received by Council on 24 October 2022. The revised architectural plans included a 2.2m overall building height reduction, attributed to removal of rooftop communal area and associated lift and stair access. The proposed development has a maximum height of 17.4m above existing ground level, which is above the maximum permissible building height of 15m specified on the Height of Buildings Map. An amended clause 4.6 'variation to development standards' report was prepared in support of the amended plans.</li> <li>- The proposal has been found to be consistent with the building height objectives of Clause 4.3 for the following reasons: <ul style="list-style-type: none"> <li>• The proposed height of the development is consistent with the modern high density infill developments located north of the site. It is noted two comparable mixed-use residential flat buildings located north of the site at 12-14 Soldiers Point Road (17.15m) and 6-8 Soldiers Point Road (18.8m) exceed the 15m height controls prescribed for the B1 Neighbourhood Centre Zone. The Land and Environment Court decision in <i>SJD DB2 Pty Ltd v Woollahra Municipal Council</i> [2020], established that adjacent buildings which also exceeded the height controls should be considered when determining desired future character. The proposed development demonstrates consistency with the surrounding context and</li> </ul> </li> </ul>

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

	<p>character of the area, and reflects the hierarchy of centres and land use structure.</p> <ul style="list-style-type: none"> <li>• The existing and approved development along the Soldiers Point Road commercial strip demonstrates a higher density transition in the context and character of the locality, in which the proposal is consistent with. Moreover, the existing residential dwelling on the site in its current form is out of context with the character of the area having regard to the existing and approved shop top housing developments to the north.</li> <li>• The proposal results in acceptable off site impacts including visual and amenity impacts, overshadowing and view loss as demonstrated by shadow diagrams prepared by the applicant.</li> <li>• The proposal is generally compliant with the Apartment Design Guidelines and the Port Stephens Council Development Control Plan (DCP) controls.</li> </ul> <p>- The additional reasons relevant to the application are as follows:</p> <ul style="list-style-type: none"> <li>• The exceedance of the height limit primarily results from the roof feature which enables the lift overrun and plant located on the rooftop to be concealed.</li> <li>• Amenity impacts relating to overshadowing, privacy, and streetscape setting are adequately addressed, demonstrating no additional benefit would be derived from a reduced building height.</li> </ul>
<p><b>Parking and Access</b></p> <ul style="list-style-type: none"> <li>- Potential for development to be re-designed to enable a two-way access onto Bennett Lane.</li> <li>- Development would increase traffic and parking issues within area.</li> <li>- The proposal has the potential to create adverse impacts on adjoining properties from construction traffic, with the majority of construction vehicles expected to utilise the lane for parking and access, potentially causing road blocks and traffic hazards.</li> </ul>	<ul style="list-style-type: none"> <li>- No vehicular access is proposed via Bennett Lane. Any future application to create a secondary access via Bennett Lane would be assessed on merit and subject to supporting information. It is noted the existing development approval on the site includes vehicular access from Bennett Lane.</li> <li>- Current traffic volumes on the local and state road network are below the technical capacities of the road network, as relevant, and as such there is spare capacity within the road network to cater for development in the area.</li> <li>- A condition is recommended requiring that a traffic management plan be prepared prior to the issue of a construction certificate. Construction traffic is a short term inconvenience for the surrounding neighbours as is any construction</li> </ul>

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

<ul style="list-style-type: none"> <li>- The majority of café patrons are likely to see the lane as a safer and more convenient parking location instead of utilising the on-site spaces provided.</li> <li>- As no on-site loading zones are provided, it is anticipated that servicing of the café is likely to occur in the lane.</li> <li>- The potential for waste collection via Bennett Lane, creating access issues for residents of this Lane.</li> </ul>	<p>related traffic. Parking is not permitted on either side of Bennett Lane and unauthorised parking within the laneway will be governed by Council.</p> <ul style="list-style-type: none"> <li>- The proposed café has been afforded 9 onsite parking spaces and complies with requirements prescribed under Figure BU of the DCP.</li> <li>- As stated in the TIA, servicing of the site will occur outside the commercial operation peak times, utilising the existing car spaces onsite or Soldiers Point Road. Any commercial servicing on the site must adhere to local road requirements, governed by Council.</li> <li>- The proposal does not seek to collect waste via Bennett Lane. Waste collection for the development has been assessed based off the TIA and Waste Management Plan provided. Waste servicing arrangements have been assessed and endorsed by Council engineers.</li> </ul>
<p><b>Acoustics</b></p> <ul style="list-style-type: none"> <li>- The design and future use of the development has the potential to create adverse acoustic assessments on nearby residences. Potential noise sources include use of the café and outdoor dining areas, the potential use of the laneway for vehicular access and parking, use of the roof top terrace, noise from car parking ventilation and air-conditioning plant, as well as noise from vehicles navigating the two level car parking (e.g. tyres screeching).</li> </ul>	<ul style="list-style-type: none"> <li>- The building separation distances incorporated into the development will limit any significant acoustic impacts on the adjoining development.</li> <li>- Residential balconies and outdoor dining areas have been oriented to the street rather than toward adjoining properties, which would prevent direct and unimpeded noise travel between residences.</li> <li>- Noise disturbance caused by air conditioning units can be controlled and monitored by the Protection of the Environment Operations Act (POEO Act).</li> </ul>
<p><b>Application of Clause 5.6 of LEP</b></p> <ul style="list-style-type: none"> <li>- The submitted documentation fails to consider or demonstrate how the proposed rooftop components comply with the requirements of Clause 5.6.</li> </ul>	<ul style="list-style-type: none"> <li>- Clause 5.6 has not been applied.</li> <li>- An amended clause 4.6 'variation to development standards' report was prepared for the amended plans.</li> </ul>
<p><b>Privacy</b></p> <ul style="list-style-type: none"> <li>- Privacy impacts to residential dwellings south of the site</li> <li>- Privacy impacts to apartment complex to the north (16 Soldiers Point Road, Soldiers Point).</li> </ul>	<ul style="list-style-type: none"> <li>- The proposed setbacks generally comply with the ADG requirements, as outlined elsewhere in this report. Notwithstanding, the privacy objectives are achieved through the use of highlight windows, appropriate window placement and privacy screening where appropriate.</li> </ul>

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

<p><b>Overshadowing</b></p> <ul style="list-style-type: none"> <li>- Overshadowing impacts to neighbouring properties, due to the height of the development.</li> </ul>	<ul style="list-style-type: none"> <li>- A shadow diagram analysis has been submitted with the application. Due to the orientation of the lot, overshadowing is primarily caused to the neighbouring single storey buildings (20A and 22 Soldiers Point Road) to the south. Some overshadowing would also occur in the morning to the dwellings at 21, 23 and 25 Sunset Boulevard to the west.</li> <li>- It is noted there will be solar access impact to the POS of neighbouring sites to the south, however the POS of 22 Soldiers Point Road is already constrained by solar access in that it is located on the southern aspect and already impacted by the existing dwelling on the subject site. Notwithstanding, most north facing windows of the affected buildings would receive direct sunlight during mid-winter. The overshadowing is considered acceptable given the orientation of the lot is such that overshadowing of this extent is inevitable from any development that achieves the 15m height limit.</li> <li>- Some overshadowing of the dwellings at 21, 23 and 25 Sunset Boulevard to the west of the site would occur between the hours of 9:00 – 11:00am mid-winter. However, all POS, open space and living areas would maintain a minimum of 2 hours solar access, in accordance with ADG guidelines.</li> </ul>
<p><b>Visual Impact</b></p> <ul style="list-style-type: none"> <li>- No images are presented from the foreshore or from the water from the east and west. The site is located along a slight ridge line, resulting in the buildings within this B1 zoned area being visible from long distances, even from Lemon Tree Passage.</li> </ul>	<ul style="list-style-type: none"> <li>- The main visibility of the building from pedestrians and in the local context is along Soldiers Point Road and the surrounding residential streets. The building will blend into the scale of built form in those views and will not obstruct identified vistas towards Sunset Beach or Sunrise Beach. The planning controls envisage taller buildings on the B1 zoned land, with other comparable developments to the north. Moreover, the site is located centrally within the Soldiers Point peninsula, consequently when viewing the development from the foreshore areas at a human scale, the proposed building would be screened by existing dwellings and buildings constructed along the foreshore areas.</li> </ul>
<p><b>Fencing</b></p> <ul style="list-style-type: none"> <li>- Lack of security to neighbouring properties during construction through removal of fencing.</li> </ul>	<ul style="list-style-type: none"> <li>- Conditions of consent have been recommended to ensure the site is secured to the satisfaction of the certifying authority throughout construction.</li> </ul>

ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

<p><b>Construction</b></p> <ul style="list-style-type: none"> <li>- Potential damage to foundations of adjoining buildings.</li> <li>- Acid sulfate soil management.</li> </ul>	<ul style="list-style-type: none"> <li>- A condition of consent is recommended requiring the undertaking of a dilapidation report of neighbouring properties prior to construction commencing.</li> <li>- A geotechnical investigation report with acid sulfate soil recommendations was prepared by 5QS Consulting Group. Borehole testing was undertaken at depths of up to 3.4m, with laboratory testing confirming soils with the potential to generate ASS conditions on site may be present at depths greater than 3m below the existing ground surface levels. A condition of consent is recommended requiring an acid sulfate soil management plan to be prepared prior to commencement of works.</li> </ul>
<p><b>Vacancies of commercial tenancies within Soldiers Point</b></p> <ul style="list-style-type: none"> <li>- A number of existing commercial tenancies within the B1 Neighbourhood Centre are not fully utilized and the closed and empty shops do not enhance the character of the area.</li> <li>- Assumption that new commercial tenancy will not be able to be staffed and contribute to the number of vacant or underutilised tenancies within the area.</li> </ul>	<ul style="list-style-type: none"> <li>- The development will contribute to the revitalisation of the area and satisfies the objectives of the B1 zone. The units have been designed as larger units to attract owner occupiers and therefore introduce more residents to the area that may help to support these struggling local businesses. Staffing and retail market characteristics are not a relevant planning consideration.</li> </ul>
<p><b>Building Design</b></p> <ul style="list-style-type: none"> <li>- Rooms have not been designed with appropriate clearances.</li> </ul>	<ul style="list-style-type: none"> <li>- All internal ceiling heights comply with ADG standards as outlined above.</li> </ul>
<p><b>SEPP Coastal Management 2018</b></p> <ul style="list-style-type: none"> <li>- Applicant has not addressed SEPP Coastal Management 2018</li> </ul>	<ul style="list-style-type: none"> <li>- The statement of environmental effects provided with the application included an assessment of the development against this SEPP.</li> <li>- The development has been designed with consideration to design guidelines for EPI's including <i>SEPP Resilience and Hazards 2021 – Chapter 2 Coastal Management</i> and SEPP 65 Schedule 1 Design Quality Principles.</li> </ul>
<p><b>Potential isolation and redevelopment potential of 20A Soldiers Point Road</b></p> <ul style="list-style-type: none"> <li>- Applicant has not sufficiently addressed this issue.</li> </ul>	<ul style="list-style-type: none"> <li>- Concept plans were provided to the UDP and Council demonstrating the potential future development options over 20A Soldiers Point Road, Soldiers Point. The UDP reviewed and endorsed the concept design, confirming the Planning Principle for 'amalgamation of sites and</li> </ul>

## ITEM 3 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

	isolation of sites through redevelopment' had been satisfied.
<b>Support of Development</b>	<ul style="list-style-type: none"> <li>- 3 submissions supported the development on the following grounds: <ul style="list-style-type: none"> <li>• Provision of a new commercial premises within the area.</li> <li>• Beneficial to Soldiers Point and the surrounding environment.</li> </ul> </li> </ul>

**Section 4.15(1)(e) the public interest**

The proposal is considered to be in the public interest as it will provide additional housing in the area as well as a business premise that will provide job opportunities and contribute to Soldiers Point's commercial viability without adverse impacts to neighbouring properties. The design of the building has been assessed in detail and is considered to be a positive addition to the developing character of Soldiers Point by both Council staff and the UDP. The proposed development is also consistent with the applicable planning instruments and relevant policies as demonstrated in this report.

On these grounds, the proposed development is considered to be in the public's interest.

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

A monetary contribution is to be paid to Council for the provision of 18 additional lots, 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:

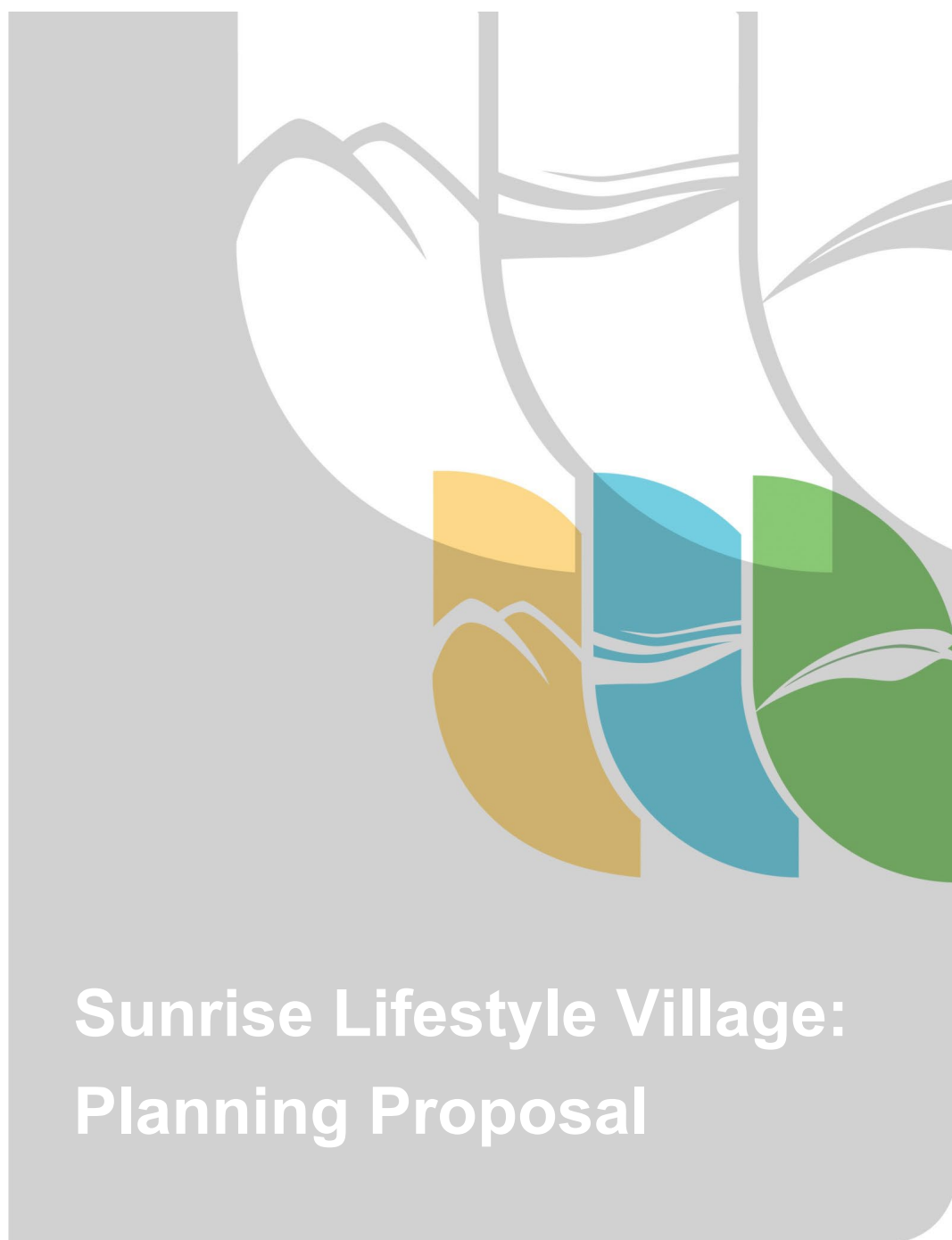
Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$655	\$11,790
Civic Administration – Works Depot	\$1,266	\$22,788
Town Centre Upgrades	\$3,412	\$61,416
Public Open Space, Parks and Reserves	\$2,085	\$37,530
Sports & Leisure Facilities	\$1,961	\$35,298
Cultural & Community Facilities	\$1,332	\$23,976
Road Works	\$3,570	\$64,260
Shared Paths	\$3,286	\$59,148
Bus Facilities	\$9	\$162
Fire & Emergency Services	\$245	\$4,410
Flood & Drainage	\$1,877	\$33,786
Kings Hill Urban Release Area	\$302	\$5,436
<b>TOTAL</b>	<b>\$20,000</b>	<b>\$360,000</b>

**DETERMINATION**

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



ISAAC LANCASTER  
Senior Development Planner



# Sunrise Lifestyle Village: Planning Proposal

**Proposed Amendment to Port Stephens LEP 2013**

APU and Rezoning for  
Lot 51 DP 1175028, Lot 3622 DP 622485 and Lot 2 DP 622229,  
Nelson Bay Road, Bobs Farm



**ITEM 5 - ATTACHMENT 1 PLANNING PROPOSAL.****ATTACHMENTS**

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**ATTACHMENT 1** – Locality Plan  
**ATTACHMENT 2** – Aboriginal Due Diligence Assessment  
**ATTACHMENT 3** – Streamline Biodiversity Development Assessment Report  
**ATTACHMENT 4** – Strategic Bushfire Study & Bushfire Assessment Report  
**ATTACHMENT 5** – Traffic and Parking Assessment  
**ATTACHMENT 6** – Concept Plan  
**ATTACHMENT 7** – Ausgrid Servicing Advice  
**ATTACHMENT 8** – Hunter Water Servicing Advice  
**ATTACHMENT 9** – Stormwater Strategy  
**ATTACHMENT 10** – Preliminary Contamination Assessment  
**ATTACHMENT 11** – Preliminary Acid Sulfate Soil Assessment  
**ATTACHMENT 12** – Response Table

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

**VERSION CONTROL**

Version	Date	Author	Details
Final	7 November 2022	Jessica Bayley (ADW Johnson)	Final for submission to Council

**FILE NUMBERS**

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**Council:** 38-2021-20-1

**Department:** To be provided at lodgement on the Planning Portal.

## ITEM 5 - ATTACHMENT 1 PLANNING PROPOSAL.

**SUMMARY**

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<b>Subject Land:</b>	<p>Lot 51 DP 1175028 ("Lot 51") 4011 Nelson Bay Road, Bobs Farm</p> <p>Lot 3622 DP 622485 ("Lot 3622") 4029 Nelson Bay Road, Bobs Farm</p> <p>Lot 2 DP 622229 ("Lot 2") 4045 Nelson Bay Road, Bobs Farm</p>
<b>Proponent:</b>	<p>Hometown Australia c/- ADW Johnson Pty Ltd 5 Pioneer Avenue Tuggerah NSW 2259</p>
<b>Proposed Changes:</b>	<p>Inclusion of the Subject Land within Schedule 1 as an Additional Permitted Use to permit a Caravan Park. Rezone part of site to C2 Environmental Conservation.</p>
<b>Area of Land:</b>	13.715 ha
<b>Lot yield:</b>	<p>The Planning Proposal has potential for approximately 62 additional dwellings on the Subject Land.</p> <p>The existing approved caravan park comprises 193 dwelling sites.</p>

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**ITEM 5 - ATTACHMENT 1 PLANNING PROPOSAL.****BACKGROUND**

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The Planning Proposal seeks to amend Port Stephens Local Environmental Plan 2013 (PSLEP) to permit 'caravan parks' on the Subject Land.

The Planning Proposal will regularise the approved existing use on part of the Subject Land (Lot 51), where an approved caravan park is located. The caravan park is approved under DA-16-2013-790-4 and comprises 193 sites on which manufactured homes are currently located, or being installed. It currently operates as an over 55s resort-style community, known as Sunrise Port Stephens.

Although approved, the current zoning of the site no longer permits this use and the development operates relying upon existing use rights.

The Planning Proposal seeks to facilitate the extension of this use to the two (2) parcels of land east of Lot 51 DP 1175028, being Lot 3622 DP 622485 and Lot 2 DP 622229. Subject to development consent and further approvals, an additional 62 manufactured homes could potentially be accommodated on the Subject Land. In addition, the LEP amendment has the potential to support an expansion of the existing community facilities on the Subject Land.

It is acknowledged that any expansion of the existing approved caravan park would be subject to future applications and assessment.

To achieve the above objectives, it is proposed to amend Schedule 1 of the PSLEP 2013 to include an additional permitted use over the Subject Land for the purposes of a 'caravan park'.

In addition to the Schedule 1 amendment, this Planning Proposal will also rezone part of the site from RU2 Rural Landscape to C2 Environmental Conservation for the purposes of retaining vegetation as a corridor to connect vegetation north and south of the site. The retention of this land has resulted in the loss of sites and was proposed as part of the ecological "avoid and minimise" process.

This Planning Proposal is supported by the following plans and studies, as requested by Council at the initial rezoning request meeting held on 27<sup>th</sup> September 2021 and as required following the submission of the Scoping Proposal in Council's correspondence of 16<sup>th</sup> September 2022:

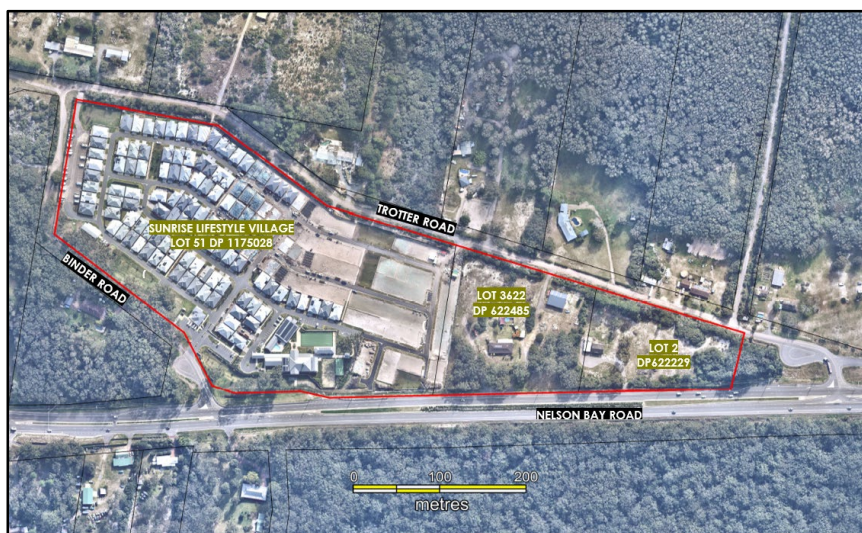
- Aboriginal Due Diligence Assessment;
- Streamline Biodiversity Development Assessment Report;
- Strategic Bushfire Study and Bushfire Assessment Report;
- Traffic and Parking Assessment;
- Concept Plan;
- Ausgrid Servicing Advice;
- Hunter Water Servicing Advice;
- Stormwater Strategy;
- Preliminary Contamination Assessment;
- Preliminary Acid Sulfate Soil Assessment.

## ITEM 5 - ATTACHMENT 1 PLANNING PROPOSAL.

**SITE*****Size and Configuration***

The site comprises the following lots, and is shown in **Figure 1** below. A copy of the Site Plan is also contained as **Attachment 1**.

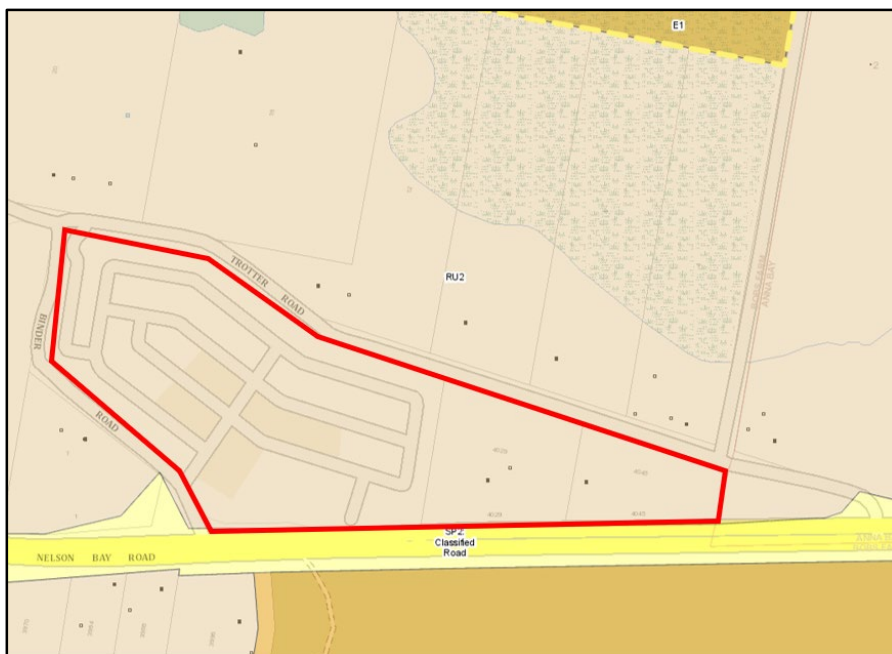
Lot	Address	Approx. Area (ha)
Lot 51 DP 1175028	4011 Nelson Bay Road, Bobs Farm	10.18
Lot 3622 DP 622485	4029 Nelson Bay Road, Bobs Farm	2.042
Lot 2 DP 622229	4045 Nelson Bay Road, Bobs Farm	1.493
<b>Total Site Area</b>		<b>13.715</b>



**Figure 1: Site Plan (Source: NearMap Aerial dated 8<sup>th</sup> July 2021)**

***Current Zoning***

The Subject Land is currently zoned RU2 Rural Landscape, as shown in **Figure 2** below.



**Figure 2: Site Zoning (Source: NSW Planning Portal)**

***Location***

The site is located on the northern side of Nelson Bay Road in the suburb of Bobs Farm. The site is approximately 4.5km north-west of the Anna Bay township. south of the site, beyond Nelson Bay Road, is Worimi National Park and Birubi Beach (refer to **Figure 3** overleaf).



The site has road frontage to Binder Road, Nelson Bay Road and Trotter Road.



Figure 3: Locality Map (Source: SixMaps, accessed 14 October 2021)

#### ***Adjoining Land Uses***

The site is largely surrounded by rural residential properties, comprising single dwellings, associated outbuildings and tracts of cleared land. Beyond the rural residential land uses, the land is predominately vegetated. Tilligerry Nature Reserve and Worimi National Park exist to the north and south of the site respectively.

Whilst not yet developed, land directly north of the site (16 Trotter Road) has approval for a caravan park accommodating 119 long term sites (DA-16-2007-15-1).

Land surrounding the site is predominately zoned RU2 Rural Landscape, with Tilligerry Nature Reserve and Worimi National Park zoned E1 National Parks and Nature Reserves. Nelson Bay Road is zoned SP2 Classified Road.

#### ***History of Land Use***

The site appears to have been utilised for rural-residential purposes. A search of the PSC DA tracker does not provide details of any historical land uses.

#### ***Current Use and Existing Improvements***

Approved development on Lot 51 consists of a caravan park, known as Sunrise Lifestyle Village.

## ITEM 5 - ATTACHMENT 1 PLANNING PROPOSAL.

It comprises 193 sites, with manufactured homes having been installed and occupied on a significant proportion of the individual sites. Lot 51 also comprises community facilities to support the residents of Sunrise Lifestyle Village.

This development (DA-16-2013-790-4) was approved under a historic zoning, and currently operates relying on that approval and existing use rights.

Lot 3622 and Lot 2 do not form part of the approved caravan park. Both parcels contain a single dwelling and associated outbuildings. The land is predominately vacant, comprising areas of grassland with scattered vegetation and denser vegetation along the road frontages and in the east.

#### **Site Attributes**

- **Heritage**

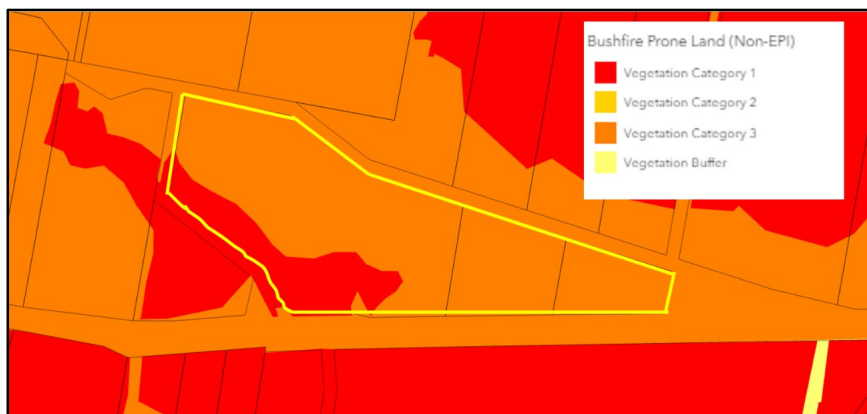
The site does not contain any historic heritage items, nor is it located within a heritage conservation area.

A search of the AHIMS Register on 16<sup>th</sup> September 2021 of the undeveloped portion of the land identified one (1) Aboriginal site recorded near the site. The site is located south of Nelson Bay Road, within Worimi National Park.

Due to the proximity of this site, Council has requested that a Due Diligence Aboriginal Heritage Assessment be prepared in accordance with the 'Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales'. This has been prepared by McCardle Heritage and concludes that the site does not contain any sites or potential archaeological deposits (PADs) of Aboriginal heritage significance, and as a result an Aboriginal Heritage Impact Permit (AHIP) would not be required for the future development.

- **Bushfire**

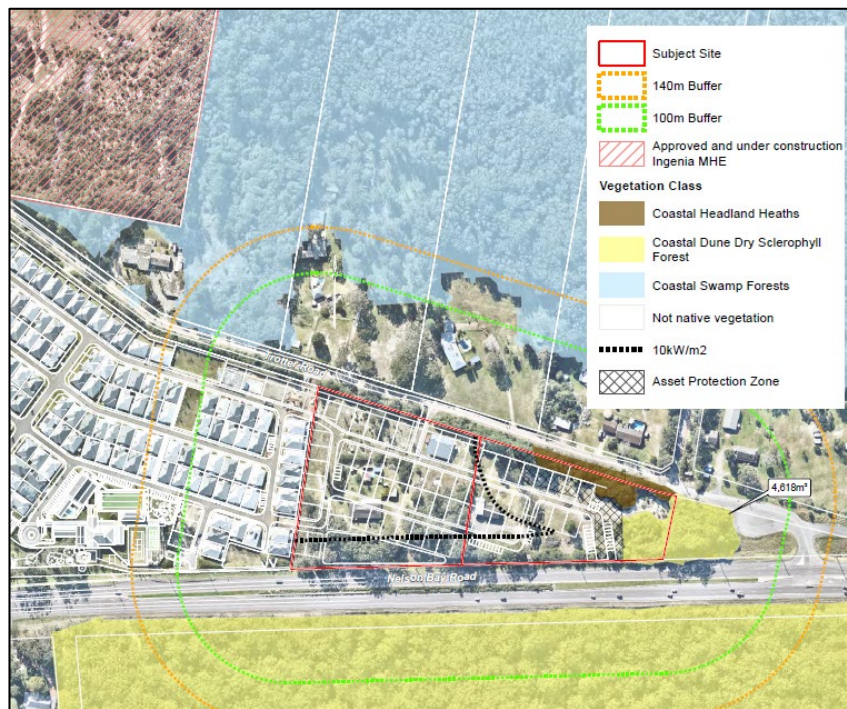
The site is mapped as bushfire prone land, as shown in **Figure 4** below.



**Figure 4: Bushfire Prone Land Mapping (Source: NSW Planning Portal)**

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A Strategic Bushfire Study (SBS) and Bushfire Assessment Report (BAR) has been prepared in accordance with the requirements of Part 4 of NSW Rural Fire Service, Planning for Bushfire Protection 2019 which concluded that the site would require asset protection zones (APZ) as shown in **Figure 5** below. It is acknowledged that some sites are located within the nominated APZ; however, the layout proposed is only a concept at this stage and can be adjusted following a more detailed assessment as part of the DA. The site is; however, suitable for the intended use and proposed rezoning to allow for the extension of the Sunrise Caravan Park.



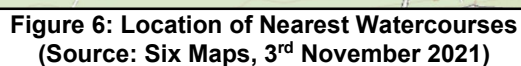
**Figure 5: Asset Protection Zones**

Full details in this regard are provided within the Bushfire Threat Assessment within **Attachment 4**.

- **Hydrology / Flooding**

The site is predominately flat, with minimal slope. The site does not contain any watercourses, with the nearest mapped watercourses being tributaries to Bobs Farm Creek further downstream. These watercourses are approximately 115m to the north and 135m to the west of the site, as shown on **Figure 6** overleaf.





**Figure 7: SEPP (Resilience and Hazards) 2021, Coastal Management Mapping (Source: NSW Planning Portal)**

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A Stormwater Strategy has been prepared by ADW Johnson which confirms that the proposed development will not adversely impact the hydrological integrity of coastal wetlands.

The site is not identified as being flood affected. The site sits outside of the flood planning level nominated by the PSLEP (refer to **Figure 8** below). Further, the *Anna Bay and Tilligerry Flood Study* (Jacobs, 4<sup>th</sup> December 2017) does not identify the site as being affected by flooding (refer to **Figure 9** overleaf).

As can be seen on **Figures 8 and 9**, the vast majority of properties along Nelson Bay Road are flood affected. The proposed development would therefore provide additional housing in a non-flood affected location.

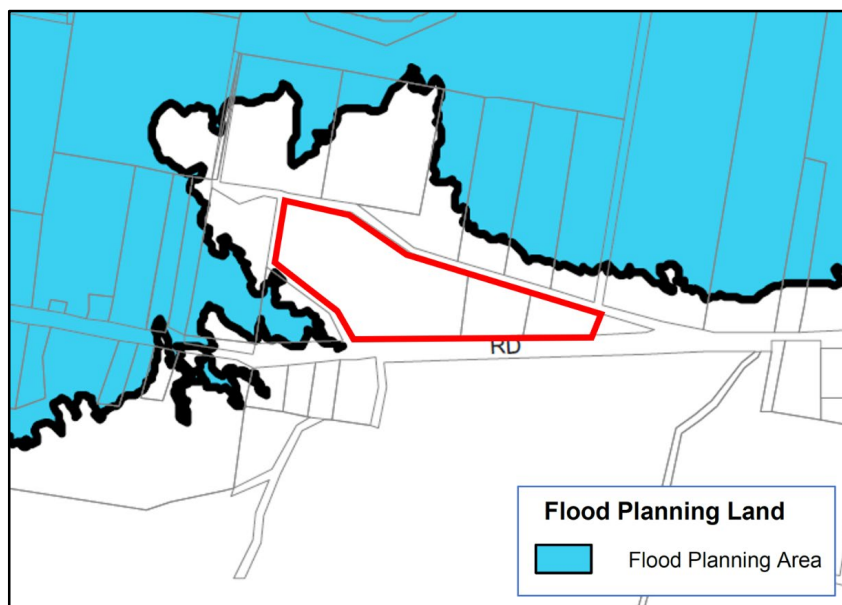
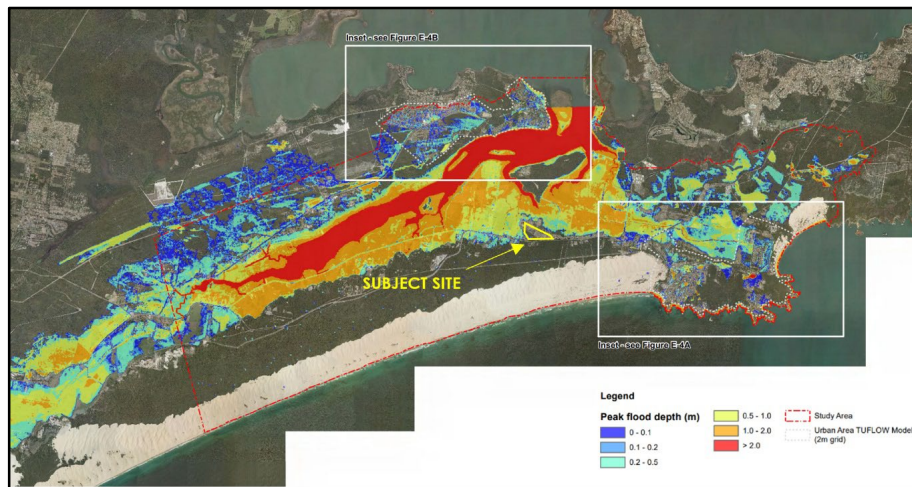


Figure 8: Flood Planning Area (Source: PSLEP 2013)



**Figure 9: 1% AEP Flood Depth (Source: Anna Bay and Tiligerry Creek Flood Study, Jacobs 2017)**

Full details in this regard are provided within the Bushfire Threat Assessment within **Attachment 4**.

- **Ecology**

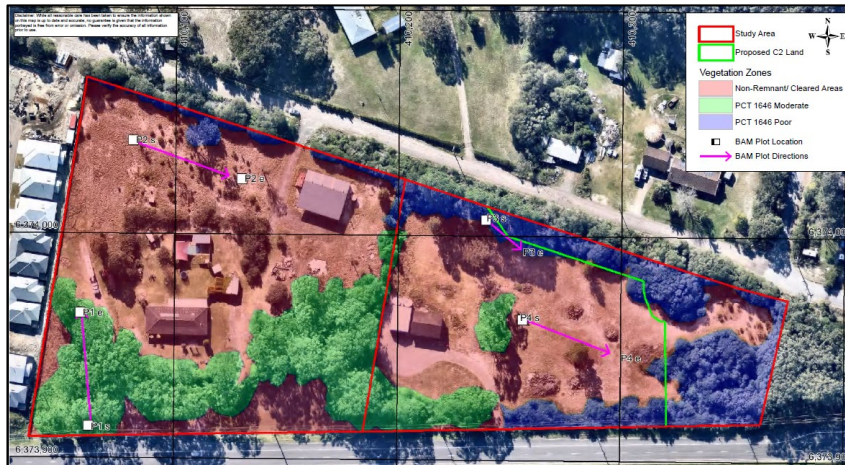
The site is predominately cleared, however the Streamlined Biodiversity Development Assessment Report (SBDAR) which accompanies this proposal has identified 1.66ha of poor to moderate Plant Community Type (PCT) 1646 *Smooth-barked Apple – Blackbutt – Old Man Banksia woodland on coastal sands of the Central and Lower North Coast* occurring on site. This does not represent a Threatened Ecological Community (TEC).

Reference to PSC Koala Habitat Mapping identifies the site as 'Mainly Cleared', with a strip of land identified as 'Unknown Quality' which has subsequently been developed as part of the approved caravan park development. The SBDAR confirms that the site does not contain any koala feed trees and is not suitable habitat for koalas.

Additional reporting was undertaken which identified an existing wildlife crossing approximately 10m from the site's eastern boundary. The fauna crossing underpasses Nelson Bay Road, and is understood to have been installed by Transport for NSW.

As part of the "avoid and minimise" assessment, the design of the caravan park has been amended to reduce the developments impact footprint and retain a large portion of the vegetation in the east as well as a 10m strip of vegetation across the northern boundary (see **Figure 10**). This land has been allocated a C2 Zone and will be retained as a corridor connecting vegetation north and south of the site.

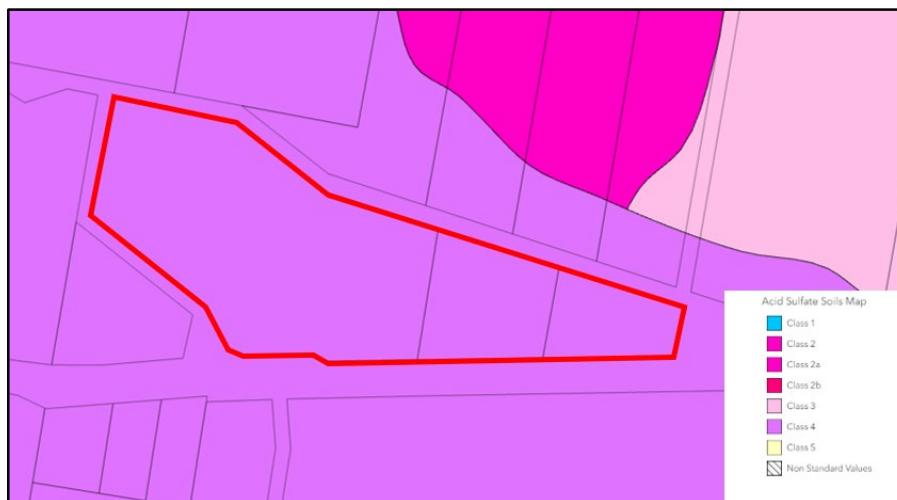
A copy of the SBDAR, and associated mapping, is provided as **Attachment 3**.



**Figure 10: Vegetation retained through Avoid and Minimise Assessment  
(See Green Proposed C2 Land)**

- **Acid Sulfate Soils**

The land is mapped as Class 4 Acid Sulfate Soils (ASS) (refer to **Figure 11** below). A Preliminary Acid Sulfate Soils Assessment (PASSA) has been undertaken in this regard which concludes that ASS were unlikely to be present and an ASS Management Plan is not required for excavation up to 2m. A copy of the Preliminary Acid Sulfate Soils Assessment, is provided as **Attachment 11**.



**Figure 11: Acid Sulfate Soils (Source: PSLEP 2013)**



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- ***Traffic and Access***

Vehicular access to the existing caravan park is obtained via the intersection of Binder Road and Nelson Bay Road, being a classified road.

Vehicular access to the residence on Lot 3622 DP 622485 is obtained via Trotter Road. Vehicular access to the residence on Lot 2 DP 622229 is obtained off Nelson Bay Road.

A turning bay exists at the intersection of Trotter Road and Nelson Bay Road.

Land directly north of the site (16 Trotter Road) has approval for a caravan park accommodating 119 long term sites (DA-16-2007-15-1). As part of this development, Trotter Road is required to be upgraded.

There appears to be minimal pedestrian or off-road cyclist facilities in the vicinity of the site; however, multiple bus stops exist within close proximity to the subject land along Nelson Bay Road, with a bus stop located directly south of the caravan park.

Further details regarding existing road infrastructure and access arrangements are provided in the Traffic and Parking Assessment (**Attachment 5**).

- ***Utility Services***

Utility services are available in the area, including sewer, water, electricity and telecommunications.

**ITEM 5 - ATTACHMENT 1 PLANNING PROPOSAL.****PART 1 – Objectives or Intended Outcomes**

The Planning Proposal seeks to achieve the following outcomes:

- To regularise the existing approved use of Lot 51 DP 1175028 as a caravan park;
- Enable the extension of the existing caravan park use to the adjoining land (Lot 3622 DP 622485 and Lot 2 DP 622229) in order to increase housing diversity; housing resilience; and provide for population growth within the Port Stephens LGA; and
- Rezone part of the site from RU2 Rural Landscape to C2 Environmental Conservation for the purposes of retaining vegetation as a corridor to connect vegetation north and south of the site.

The Planning Proposal will allow the current caravan park (Sunrise Lifestyle Village) to operate as a permissible use under the LEP, rather than rely upon existing use rights. Further, it will allow the remainder of site to be used for a caravan park (subject to development consent) accommodating approximately an additional 62 sites.

A Concept Plan for the extension is provided within **Attachment 6**.

**PART 2 – Explanation of Provisions**

The objectives of the Planning Proposal will be achieved by the following amendments to the PSCLEP 2013:

- Insert an additional clause under Schedule 1 (subject to drafting by NSW Parliamentary Counsel)

**Schedule 1 – Additional permitted uses*****10 Use of certain land at Bobs Farm***

- (1) *This clause applies to the following land –*
  - (a) *4011 Nelson Bay Road, Bobs Farm, being Lot 1, DP 1175028,*
  - (b) *4029 Nelson Bay Road, Bobs Farm, being Lot 3622 DP 622485,*
  - (c) *4045 Nelson Bay Road, Bobs Farm, being Lot 2, DP 622229.*
- (2) *The following development is permitted with development consent—a caravan park on Lot 1 DP 1175028, Lot 3622 DP 622485 and Lot 2 DP 622229.*

The PSLEP contains the following definition for caravan parks:

**caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

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- Amend Land Zoning Map Sheet LZN\_004 for part of Lot 2 DP 622229 from RU2 Rural Landscape to C2 Environmental Conservation, to reflect Figure 12 below.



Figure 12: Proposed Zone Amendment (Source: AEP, Nov 2022)

### PART 3 – Justification of Strategic Merit and Site Specific Merit

The Planning Secretary has issued requirements about the specific matters that must be addressed in Planning Proposals. Reference is made to the Department of Planning and Environment (DPE) published *LEP Making Guideline* (December 2021) which outlines the assessment criteria and matters for consideration in justifying the strategic and site-specific merit of a Planning Proposal.

#### Strategic Merit

##### Section A – Need for the Planning Proposal

Sections A and B demonstrate how the proposed amendment will give effect to the strategic planning framework, ensuring that the proposal has strategic merit, and demonstrates how and why strategic merit is achieved by addressing the relevant principles, objectives, and actions in the relevant strategic plans.

##### **Q1. Is the Planning Proposal a result of an endorsed LSPS, strategic study or report?**

The Planning Proposal is not the result of a specific strategic study or report. However, it relates to an approved development that has been the subject of a series of technical studies and subsequent assessment. The Planning Proposal seeks to expand upon the existing use on the subject land, and as appropriate at this stage in the process, key site constraints have been identified and considered as part of this Planning Proposal.

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A number of strategic planning documents are relevant to this Planning Proposal, including the Draft Hunter Regional Plan 2041, the Hunter Regional Plan 2036 (HRP), Port Stephens Local Planning Statement (LSPS) and Live Port Stephens (LPS). While these documents do not identify the site specifically, the Planning Proposal is consistent with the visions and goals established under these strategies. This is discussed in further detail in Section B below.

**Q2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The purpose of the Planning Proposal is to regularise the existing approved use on Lot 51, and to facilitate the future extension of that use to Lot 3622 and Lot 2.

Amending Schedule 1 of the PSLEP is considered the best means to achieve the intended outcome. This is on the basis that it limits the permitted additional uses to a 'caravan park' only.

As the Planning Proposal does not propose to amend the current minimum lot size, this option eliminates the scope for further uses or subdivisions that undermine the planning for existing centres.

In summary, an amendment to Schedule 1 of PSLEP is therefore considered the most effective means of achieving the intended outcome, on the basis that:

- It provides certainty regarding ongoing land use permissibly and security of tenure for the existing approved caravan park;
- It creates opportunity for an extension of that use to the adjoining lots;
- It prohibits unsuitable land uses and subdivision that could otherwise be made permissible through a direct rezoning of the land and changes to the minimum lot sizes;
- It creates consistency across all the land subject to this Planning Proposal, regarding land use permissibility; and
- A rural landscape character can be met through the use of rural style fencing (post and rail), buffer planting and generous setbacks between the external site boundaries and the building lines;
- The adoption of the C2 Environmental Conservation Zone over part of the site provides upfront assurance that habitat connectivity will be maintained.

The following alternative approaches to achieve the intended outcomes of the Planning Proposal were considered:

- ***Continuation of Existing Use Rights for Approved Caravan Park Development***

A reliance on existing use rights for the approved caravan park allows the approved land use to continue to be carried out on Lot 51. However, this option does not achieve the proposed outcome to extend the caravan park use to the adjoining land.

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- ***Rezoning the Land to RE2 Private Recreation***

Rezoning all of the subject land to RE2 would make the establishment of a caravan park on the site permissible with consent.

However, it would also permit with consent the full range of potential land uses that can be permitted in the RE2 zone that may not be consistent with Council's broader land using planning for the area. Such uses may increase the risk of undermining other locations zoned, or planned for future RE2 Private Recreation land uses.

In addition, although caravan parks are permissible with consent, the zone objectives do not currently align with lifestyle villages.

- ***Rezoning the Land to RE1 Public Recreation***

Rezoning all of the subject land to RE1 would make the establishment of a caravan park on the site permissible with consent.

However, it may be difficult to demonstrate consistency with the stated objectives of the zone, noting that the premises of the proposed future development is in private ownership and would not be made available to the wider public.

In addition, it would also permit, with consent, the full range of potential land uses that can be permitted within the RE1 zone, that may not be consistent with Council's broader land using planning for the area. Such uses may increase the risk of undermining other locations zoned, or planned for future RE1 Public Recreation uses.

In addition, retaining the current RU2 zoning will keep options open for rural land use should, for any reason, the proposed caravan park use not proceed.

- ***Use of Other Zonings***

Caravan parks are a prohibited land use in all other zonings under the PSLEP and consequently, no other zoning is considered suitable to achieve the objectives of the Planning Proposal.

- ***Other Mechanisms to retain Habitat Connectivity***

The Applicant expressed concern regarding the adoption of the C2 zone for the purposes of protecting the habitat corridor. This was on the basis that this approach could have implications for future development applications where further retention of vegetation may be required to demonstrate the principles of 'avoid and minimise' are achieved under the Biodiversity Conservation Act (BC Act), despite biodiversity outcomes being established as part of the LEP amendment.

The Applicant requested that other mechanisms be considered to ensure the habitat corridor was retained, such as a Development Control Plan (DCP), title restriction or Voluntary Planning Agreement.

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Council advised that in future development applications, it would interpret the C2 zone as part of the 'avoid and minimise' component under the BC Act. Council's interpretation is that because the Planning Proposal has been assessed under the BC Act framework, it would consider the area zoned C2 as contributing to the 'avoid criteria' at development application stage. Accordingly, Council recommended the adoption of the C2 zone.

As demonstrated above, alternative options to the Planning Proposal have been considered, however, have been discounted for various reasons, and are therefore not recommended options.

**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)?**

The Draft Hunter Regional Plan 2041 (DHRP) and Hunter Regional Plan 2036 (HRP) apply to the site, and are addressed below.

The site does not form part of the Greater Newcastle Metropolitan area, falling outside of the nominated Metro Frame. In this regard, the Greater Newcastle Metropolitan Plan does not apply to the Planning Proposal.

**Draft Hunter Regional Plan 2041**

The DHRP was placed on public exhibition from 6<sup>th</sup> December 2021 to 4<sup>th</sup> March 2022. Once adopted, the DHRP will reset priorities for the Hunter Region to ensure growth over the next 20 years occurs in appropriate locations focussed on environmental sustainability, connectivity and resilience.

The DHRP was prepared during a period of unprecedented housing supply and affordability pressures, as well as a numerous severe floods. These events have shaped the objectives of the plan, the key themes of which (as relevant to the subject proposal) can be summarised as:

- Planning for a 15-minute walk/cycle or bus ride to key services;
- Accommodating housing diversity;
- Providing infrastructure before housing; and
- Prioritising infill development over greenfield development.

The subject proposal wholeheartedly achieves the above as demonstrated below:

*Objective 3: Create a 15-minute region made up of mixed, multi-modal, inclusive and vibrant local communities*

The proposed caravan park extension will accommodate approximately 62 housing opportunities within a site which access to onsite community facilities.



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The ability to build the additional sites will allow Hometown Australia to not only improve the existing facilities in the west but also provide additional facilities in the east. This will ensure that all sites are within an accessible 400m walk to community facilities.

In addition to the above, multiple bus services, both public and provided by Hometown, allow for 15 minute access to numerous nearby centres. This is discussed in greater detail below.

*Objective 4: Plan for “Nimble Neighbourhoods”, diverse housing and sequenced development*

This objective will be achieved through planning for higher densities than traditionally seen in the regions, with optimum densities of 50-75 dwellings per hectare. The plan identifies this as being achieved through 70% infill development and only 30% green field development. The site at present is approximately 3.5ha and accommodates two (2) dwellings having a dwelling density of less than one (1) per hectare. The proposal will bring this up to 30 dwellings per hectare excluding roads; basins and the proposed C2 zone.

Further to the above, the plan specifically highlights lifestyle villages as playing a vital role in the attainment of the above objective through the following strategy:

Strategy 4.7: Lifestyle villages and communities are a popular housing choice across the Hunter, where residents share communal recreation and other facilities. This housing is convenient, attractive, and potentially a more affordable option. Lifestyle villages and communities should be promoted in locations within a 15-minute walk of services if in an urban setting or 15-minute bike ride if in a suburban setting.

*Objective 5: Increase green infrastructure and quality public spaces and improve the natural environment*

Part of accommodating growth under the draft plan is acknowledging that providing for a growing population does not need to come at the expense of the environment. The plan is clear in its intention to increase density, but reduce impact (i.e. reduce footprint). The subject proposal has taken this into consideration as part of the “avoid and minimise” strategy and as a result retains vegetation in the east and along a portion of the northern boundary to provide for a corridor connection in alignment with the fauna underpass on Nelson Bay Road. The proposal is therefore considered to achieve the following strategies:

Strategy 5.6: Strategic land use planning should identify and take account of the location and extent of areas of high environmental value, including areas of potential serious and irreversible impact species, threatened species, biodiversity corridors and koala habitat. Areas of high environmental value cover both public and privately owned lands. Development should promote enterprises, housing and other land uses that complement the biodiversity, scenic, and water quality outcomes of biodiversity corridors, particularly where it can help the safeguarding and care of natural areas on privately owned lands.

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Strategy 5.7: Responding to biodiversity values in new development areas should occur at the early stages of the planning process, leading to better biodiversity and development outcomes. This will also protect urban bushland sites alongside urban release areas, giving residents a direct link from new housing developments to surrounding natural landscapes.

Strategy 5.8: The 'avoid, minimise and offset' hierarchy will be applied to the development process. This requires development proposals to demonstrate how impacts on areas with high environmental value will be avoided and the appropriate offsets or other mitigation measures that will be in place where there are unavoidable impacts.

*Objective 6: Reach net zero and increase resilience and sustainable infrastructure*

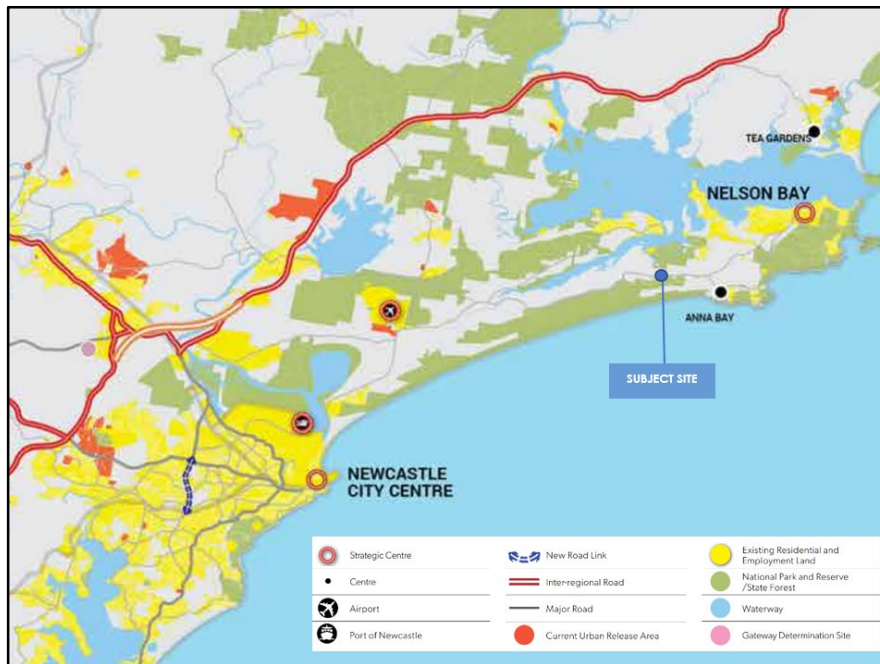
The draft plan tackles the challenges of accommodating growth in an era of climate change and unpredictable and damaging weather patterns through the facilitation of resilient housing and reduction in emissions. The accomplishment of this in a diverse and constrained environment is challenging and consequently when land does become available for housing which can mitigate these factors, it should be fostered to the fullest extent. The subject site is case in point in that it is one of the only sites in the area which is not flood affected; and is surrounded by roads on all sides effectively mitigating the threat of fire without additional vegetation removal.

#### Hunter Regional Plan 2036

The HRP has a vision for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart. To achieve this vision, the NSW Government has acknowledged the growing importance of Greater Newcastle (comprising the local government areas of Cessnock, Lake Macquarie, Maitland, Newcastle and Port Stephens) and set the following regionally focused goals:

- The leading regional economy in Australia;
- A biodiversity-rich natural environment;
- Thriving communities; and
- Greater housing choice and jobs.

The HRP is applicable to the area. While the subject site is not located in an identified or emerging growth area stated in the HRP, it is located near Anna Bay (an identified Centre) and Nelson Bay (an identified Strategic Centre), as well as existing residential and employment lands such as Salamander Bay. Anna Bay, being the closer of the two (2) centres, is a short drive/bus ride from the site, and offers services such as shops to cater for day-to-day needs. Refer to **Figure 13** overleaf.



**Figure 13: HRP Greater Newcastle Settlement Plan (Source: Hunter Regional Plan 2036)**

The Planning Proposal is considered to be consistent with the visions and goals of the HRP. The Planning Proposal will provide additional housing choice with easy access to a range of community facilities and services within a lifestyle village setting. The provision of additional housing will provide broader strategic benefits via increased demand for goods and services, as well as providing housing for a growing population.

The HRP projects that approximately 11,050 additional dwellings will be needed in the Port Stephens LGA by 2036. The proposed development will make a contribution towards meeting this projected demand.

The HRP also identifies a projected increase in the percentage of people aged over 65 years from 19% to 25% by the year 2036. The proposal will assist in meeting this demand through facilitating the provision of additional housing suitable for an ageing population.

It is also worthwhile noting, that the future sites able to be accommodated as a result of this proposal will likely “free-up” large family homes owing to the fact that they are catered towards over 55s looking to downsize. This additional housing will therefore have the added effect of provide housing to the market in an era of housing supply crises.

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There are a number of strategic actions in the HRP that support the Planning Proposal, including:

- 21.4 Create a well-planned, functional and compact settlement pattern that responds to settlement planning principles and does not encroach on sensitive land uses, including land subject to hazards, on drinking water catchments or on areas with high environmental values.
- 21.6 Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and Greenfield locations.
- 22.1 Respond to the demand for housing and services for weekend visitors, students, seasonal workers, the ageing community and resource industry personnel.
- 22.2 Encourage housing diversity, including studios and one and two-bedroom dwellings, to match forecast changes in household sizes.

In addition to the above, it is considered that the Planning Proposal is consistent with Direction 14 of the HRP, which relates to the protection and connection of natural areas. The Planning Proposal will protect habitat connection, and support wildlife movement through the adoption of the C2 zone.

It is considered that the Planning Proposal is consistent with the relevant principles of the HRP.

**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?**

The Port Stephens Local Strategic Planning Statement (LSPS), Live Port Stephens Local Housing Strategy (LHS) and other local strategies, such as Port Stephens Community Strategic Plan, have been considered in the context of this Planning Proposal.

Port Stephens Local Strategic Planning Statement (LSPS)

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

The Planning Proposal is considered to be consistent with, and will give effect to, the following planning priorities from the LSPS:

*Priority 4 Ensure suitable land supply (for housing)*

This priority identifies the need to prepare and implement a local housing strategy to ensure suitable land supply and other planning priorities for housing identified in the LSPS.

The Planning Proposal will contribute towards the provision of suitable land for additional housing in the LGA.

**ITEM 5 - ATTACHMENT 1      PLANNING PROPOSAL.***Priority 5      Increase diversity of housing choice*

This priority identifies that, based on what people value, planning is required for a range of housing types, sizes, tenures and price points to suit different lifestyles.

Housing choices in the Port Stephens LGA cover a wide range of options, including homes in retirement villages and lifestyle communities. Some models of home ownership can offer independent living in close knit communities for seniors.

The Planning Proposal is consistent with the LSPS as it will respond to the need for suitable land supply for housing and increase housing choice that suits the needs and lifestyle of current and future residents, particularly surrounding the aging community.

Port Stephens Local Housing Strategy (LHS)

The LHS is the overarching strategy to guide land use planning decisions for new housing in Port Stephens. It comprises four outcomes and 12 priorities. The outcomes will meet the directions set for Hunter councils in State planning strategies and the priorities identify the broad issues or policy areas that Port Stephens Council will need to focus on.

The Planning Proposal is consistent with the following planning priorities from the LHS:

*Priority 1.1      Ensure adequate supply of new housing*

The Planning Proposal creates opportunity to contribute to additional housing, on land that is largely unconstrained by environmental constraints and without the need for significant upgrade or extension to infrastructure.

*Priority 2.1      Respond to housing stress*

The LHS states that single and couple households are the dominant household size in Port Stephens and recent survey data indicates a preference for some existing residents to downsize, either to smaller homes or similar sized homes on smaller blocks, such as older households. The LHS also recognises that there are opportunities to improve housing affordability by aiming to increase the supply of smaller lots as well as lower-cost dwellings, and the positive effect it can have on the supply of larger homes on larger blocks for families.

The Planning Proposal relates to Sunrise Lifestyle Village, being an over 55s lifestyle village. The provision of additional housing in this context is consistent with the principles detailed in Priority 2.1 through increasing supply of smaller sites which frees up larger homes more suited to families. This increase in housing supply has a direct result in lowering the cost of both the proposed lifestyle sites but also existing larger homes.

**ITEM 5 - ATTACHMENT 1 PLANNING PROPOSAL.***Priority 3.2 Encourage a range of housing types and sizes*

The Planning Proposal creates opportunity for future development of a housing type and setting which is attractive to households seeking to downsize.

*Priority 3.3 Enable better planning for diverse lifestyles.*

The Planning Proposal relates to an existing lifestyle village, and will enable an extension of the existing use.

The LHS contains locational criteria for assessing rezoning requests for lifestyle villages. Lifestyle villages may be suitable where it meets walkability standards for liveable communities, for example within:

- 5-minute walk (400m) of a town or neighbourhood centre zoned B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core or B4 Mixed Use; or
- 5-minute walk (400m) of bus stops with frequent services to local centres; or
- 10-minute walk (800m) of local centres.

The existing lifestyle village is located within a 5-minute walk of an existing bus stop. The bus stop is located on Nelson Bay Road, and approximately 150m from the main entrance of the caravan park.

The site is located on Bus Routes 130, 131 and 135, operated by Port Stephens Coaches, providing access to Anna Bay, Salamander Bay and Nelson Bay to the east, and Newcastle Airport, Raymond Terrace, Fern Bay and Newcastle to the south and west.

In addition to the above, the operators of Sunrise Lifestyle Village offer a weekly bus service from the site to nearby locations, including Salamander Bay and Nelson Bay for the exclusive use of its residents. The Planning Proposal would further support this service.

With the above in mind, the proposal implicitly achieves the walkability standard of being within a 5-minute walk (400m) of a bus stop with frequent services to local centres.

On this basis, and noting that the site contains an existing lifestyle village, it is considered that the Planning Proposal satisfies the locational criteria under the LHS. Further assessment under Appendix 1 of the LHS is not required.

*Priority 4.2 Communities are connected.*

The Planning Proposal provides future opportunity for additional housing within an established lifestyle village. The existing lifestyle village provides community facilities on site, contributing to community cohesion.

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*Priority 4.3 Grow connections between people.*

The Planning Proposal creates opportunity for future development where people can connect, participate and socialise.

Port Stephens Community Strategic Plan 2018 – 2028 (CSP)

The Port Stephens Community Strategic Plan (CSP) sets out the community's vision for '*a great lifestyle in a treasured environment*'. It outlines the long-term goals agreed with the community of the Port Stephens LGA.

The Planning Proposal is consistent with the relevant objectives and delivery items of the CSP, as outlined in **Table 1** below.

**Table 1: Port Stephens CSP Strategic Directions and Objectives**

Strategic Directions and Objectives		Commentary:
<b>Focus Area One: Our Community</b>		
C1	<b>Community Diversity</b> Our community accesses a range of services that support diverse community needs	The proposed development would provide for the expansion of an approved residential community, which provides housing and associated community and recreational facilities for over 55s, thus supporting the needs of an ageing population (C.1.4).
C2	<b>Recognised Traditions and Lifestyles</b> Our community supports the richness of its heritage and culture	An Aboriginal Due Diligence assessment has been prepared by McCardle Heritage which concludes that the site does not contain any sites or potential archaeological deposits (PADs) of Aboriginal heritage significance, and as a result an Aboriginal Heritage Impact Permit (AHIP) would not be required for the future development. This conclusion was made based on the fact that the site had been previously cleared with the historic upper dune characteristics being entirely removed to make the site level. Full details in this regard are provided within <b>Attachment 2</b> .
C4	<b>Community Partnerships</b> Our community works with Council to foster creative and active communities	The Planning Proposal relates to an existing lifestyle village, which provides community and recreational facilities on site for its residents (C3.4). Such facilities could be expanded, subject to development consent.



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Strategic Directions and Objectives		Commentary:
<b>Focus Area Two: Our Place</b>		
P1	<b>Strong Economy, Vibrant Local Businesses, Active Investment</b> Our community has an adaptable, sustainable and diverse economy	The proposed development will result in economic benefits through the provision of housing with new residents supporting the ongoing growth of the local economy.
P2	<b>Infrastructure and Facilities</b> Our community's infrastructure and facilities are safe, convenient, reliable and environmentally sustainable	The proposal will make use of existing infrastructure on an existing disturbed and relatively unconstrained site. Provision of additional housing under these circumstances relieves pressure on Council to support housing on less suited sites requiring extensive lead-in infrastructure and vegetation removal.
P3	<b>Thriving and Safe Place to Live</b> Our community supports a healthy, happy and safe place	The proposed development would provide for the expansion of an approved residential community which places the safety of residents as a high priority. Opportunity for casual surveillance through the development is encouraged to contribute toward a feeling of safety for residents. Consideration of natural hazards (i.e. bushfire) will be managed through the development application design process, to ensure appropriate protection measures are established.
<b>Focus Area Three: Our Environment</b>		
E1	<b>Ecosystem Function</b> Our community has healthy and dynamic environmental systems that support biodiversity conservation	It likely that future proposed development can be undertaken without resulting in unreasonable adverse environmental impacts. The protection of an important fauna corridor through the site under a C2 zone is likely to have long term benefits to biodiversity conservation.
E2	<b>Environmental Sustainability</b> Our community uses resources sustainably, efficiently and equitably	Future development applications for any expansion of the lifestyle village will address sustainability measures such as water and energy consumption, and waste management.

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Strategic Directions and Objectives		Commentary:
E3	<b>Environmental Resilience</b> Our community is resilient to environmental risks, natural hazards and climate change	Future development applications for any expansion of the site will evaluate, and implement protection measures where required, with respect to environmental risks, natural hazards and climate change. In this regard it is worth noting that the site is not flood affected by the 1 in 100 year event, and it can accommodate all necessary APZs for fire protection purposes without requiring additional vegetation removal.
<b>Focus Area Four: Our Council</b>		
L1	<b>Governance</b> Our Council's leadership is based on trust and values of Respect, Integrity, Teamwork, Excellence and Safety	Not applicable to the Planning Proposal.
L2	<b>Financial Management</b> Our Council is financially sustainable to meet community needs	The proposed development will contribute financially to Council through the payment of rates and Section 7.11 contributions.
L3	<b>Communication and Engagement</b> Our community understands Council's services and can influence outcomes that affect them.	The Planning Proposal will be subject to community notification and consultation processes.

Anna Bay Strategy and Town Plan (December 2008)

The Anna Bay Strategy and Town Plan guides the management of future population growth and the building of neighbourhoods in Anna Bay. It establishes a context and policy direction for future rezoning requests and development controls in the Anna Bay area. It also integrates the location, timing and funding for community facilities and infrastructure.

The strategy sets out a town plan, which is a strategic response to the constraints and opportunities in Anna Bay and the policy and legal framework. The vision set out in the strategy for Anna Bay is a small and vibrant town offering a mix of dwelling types and business opportunities and a quality natural environment. It will have a pleasant main street with a mix of retail and office space for local and visitor patronage and shop top housing or tourist accommodation.

The subject site is not located within the Anna Bay Town Centre and therefore many of the key strategic directions outlined in the strategy are not directly relevant to the site or proposed development.

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Notwithstanding, the proposed development will contribute to the vision established for Anna Bay by providing additional residents within the proximity of the Anna Bay Town Centre, to provide patronage to the expanding commercial uses within the town centre.

**Q5. Is the Planning Proposal consistent with any other applicable State and regional studies or strategies?**

Consideration was given to other State and regional strategies, including *A 20 Year Economic Vision for Regional NSW* (updated February 2021) and the *Future Transport Strategy 2056* (updated November 2020). Although these documents do not strictly relate to the Planning Proposal, the Planning Proposal is not inconsistent with these high-level State strategies.

**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 overleaf.

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Table 2: Relevant State Environmental Planning Policies

SEPP	Consistency and Implications
<b>SEPP (Housing) 2021</b>	
To enable the development of diverse housing types, to encourage housing that will meet the needs of more vulnerable members of the community, to promote the planning and delivery of housing in locations to make use of existing and planned infrastructure, to minimise adverse climate and environmental impacts of new housing development, to support short-term rental accommodation as a home-sharing activity while managing the social and environmental impacts from this use, and to mitigate the loss of existing affordable rental housing.	<p>SEPP Housing was introduced on 26<sup>th</sup> November 2021. Whilst SEPP Housing repealed SEPP No 21 – Caravan Parks and SEPP No 36 – Manufactured Home Estates, it essentially transferred the provisions of the two (2) repealed SEPPs into the new SEPP.</p> <p>Part 8 of Chapter 3 of SEPP Housing contains provisions for manufactured home estates. These provisions are not applicable because they do not apply to Port Stephens, as it is excluded under Clause 7 of Schedule 6 to the SEPP.</p> <p>Part 9 of Chapter 3 contains provisions relating to caravan parks, and is applicable to this Planning Proposal.</p> <p>Part 9 provides matters for consideration when development consent is granted for a caravan park, including a caravan park that includes manufactured homes. These matters include site suitability, location and character, and whether necessary community facilities and services are available.</p> <p>This Planning Proposal seeks to amend the LEP to regularise the existing approved caravan park use and allow for the use to be extended to adjoining land.</p> <p>The approved use consists of a caravan park on which moveable dwellings are installed or being installed.</p> <p>The approval and following successful construction and occupation is confirmation that site is suitable for this use.</p> <p>The Planning Proposal is considered to be consistent with the aims and objectives of Part 9 relating to the provision of community facilities, the protection of the environment in the vicinity of the land, and the orderly and economic development of the land used for long term residents.</p> <p>Any future development applications on the subject site will need to consider the requirements of that Part.</p>

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SEPP	Consistency and Implications
	<p>Further, the Planning Proposal is consistent with the overarching principles of the Housing SEPP, as it will:</p> <ul style="list-style-type: none"> <li>• Offer housing diversity;</li> <li>• Provide housing to meet the needs of more vulnerable members of the community (such as seniors);</li> <li>• Provides a high level of amenity;</li> <li>• Promotes housing in a location where it will use existing and planned infrastructure and services; and</li> <li>• Minimises environmental impacts through the use of largely disturbed land.</li> </ul>
SEPP (Resilience and Hazards) 2021	
<p><b>Chapter 2 Coastal Management</b></p> <p>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>	<p>This Chapter is relevant as northern parts of the site are mapped as Coastal Environment Area, and a small portion of Lot 2 DP 622229 is identified within the Proximity Area for Coastal Wetlands (north-eastern corner). Refer to <b>Figure 7</b> earlier in this report for mapping.</p> <p>Division 3 of Chapter 2 contains provisions for development on land within the Coastal Environment Area, to be considered by the consent authority as part of development applications. These include matters such as the biophysical, hydrological and ecological environment, coastal values and natural processes, public access and Aboriginal heritage.</p> <p>Although Lot 51 is mapped as Coastal Environment Area, development consent has been granted for a caravan park on this lot and construction is underway. The Planning Proposal will not result in any additional impact on the matters listed in Section 2.10 on Lot 51.</p> <p>Future development applications on Lot 3622 and Lot 2 that encroach the Coastal Environment Area will need to address Section 2.10. However, it is noted that this represents a small part of the site and the matters raised in Section 2.10 can be considered and, where required, managed through its design and siting.</p>

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SEPP	Consistency and Implications
	<p>Section 2.8 contains provisions relating to development on land mapped as being in proximity to coastal wetlands or littoral rainforests. It outlines that a consent authority must not grant development consent for development on land identified as a proximity area unless the proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland, or the quantity or quality of surface and ground water flows to and from the adjacent coastal wetland.</p> <p>A small portion of Lot 2 is mapped within the Proximity Area for Coastal Wetlands. This occurs in the north-eastern corner of the lot, adjoining Trotters Road. The portion of the site will be located within a C2 zoning and as a result will be protected.</p> <p>A Stormwater Strategy has been undertaken by ADW Johnson which concludes that the future development will not significantly impact on the biophysical, hydrological, or ecological integrity of the adjacent coastal wetland, or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.</p> <p>Full details in this regard are provided within <b>Attachment 9</b>.</p> <p>Based on the above, the Planning Proposal is considered to be consistent with the aims and objectives of Chapter 2, and the provisions of Chapter 2 and will not have any significant implications to future development.</p>
<p><b>Chapter 4 Remediation of Land</b></p> <p>This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.</p>	<p>Section 4.6 of Chapter 4 requires that consideration be given to whether the land is contaminated as part of a development application.</p> <p>With respect to Lot 51, this land has been developed for the purposes of a caravan park under an existing development consent. This Planning Proposal seeks to regularise the approved existing use, and in this regard Chapter 4 of the SEPP would not pose limitations on the land.</p> <p>With respect to Lot 3622 and Lot 2, a Preliminary Contamination Assessment (PCA) has been undertaken by Qualtest which concludes that whilst the site contains potential sources of contamination, standard mitigation measures would be able to be adopted to ensure the site is suitable for the purposes of a caravan park. Full details in this regard are provided within <b>Attachment 10</b>.</p>

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SEPP	Consistency and Implications
<b>SEPP (Transport and Infrastructure) 2021</b>	
<b>Chapter 2 Infrastructure</b> Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	<p>Subdivision 2 of Chapter 2 contains considerations for development in or adjacent to road corridors and road reservations, including provisions relating to classified roads and traffic generating development.</p> <p>The Traffic and Parking Assessment undertaken for the proposal indicates that a maximum of 21 vehicle trips per hour would result from the expansion.</p> <p>With respect to the requirements of the Infrastructure SEPP, it is noted that future development would not constitute traffic-generating development, and therefore referral of the future development application to Transport for New South Wales (TfNSW) for consideration under Section 2.121 would not be required.</p> <p>As the site has frontage to a classified road, Clause 2.118 will need to be considered by the consent authority as part of future development applications, to ensure that the new development does not compromise the effective and ongoing operation and function of classified roads, and to prevent or reduce the potential impact of traffic noise or vehicle emission on the development.</p> <p>Clause 2.118 will be addressed as part of any future development application; however, it is noted that the concept plan provided (<b>Attachment 6</b>) identifies access via Trotter Road (a local road) rather than Nelson Bay Road (a Classified Road), consistent with the requirements of Section 2.118. Further, the Traffic and Parking Assessment (<b>Attachment 5</b>) confirms that the proposed development will not adversely impact the operation of the road network.</p> <p>Further to the above, it is understood that TfNSW's key concern surrounds the uncertainty of the timing of the new Trotter Road access. In this regard it is noted that Trotter Road requires upgrades as part of an approved caravan park directly north of the site at 16 Trotter Road (DA-16-2007-15-1). This development is significantly further advance than the subject site and as such will be constructed prior to occupation of the future caravan park. If, for unforeseen circumstances, Trotter Road is not upgraded in time, the proposed caravan park extension can use the existing access arrangements off Binder Road.</p>



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SEPP	Consistency and Implications
<b>SEPP (Biodiversity and Conservation) 2021</b>	
<p><b>Chapter 3 Koala Habitat Protection 2020</b> (Applies to land zoned RU1, RU2, or RU3 only) Encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.</p>	<p>Chapter 3 of SEPP (Biodiversity and Conservation) 2021 will be applicable to future development applications as the site is zoned RU2 Rural Landscape and it is located in Port Stephens LGA, and has, together with adjoining land in the same ownership, an area &gt;1ha.</p> <p>In accordance with Section 3.6, before granting consent, council must be satisfied as to whether or not the land is potential koala habitat.</p> <p>The SBDAR confirmed that the site did not contain any koalas or indication of koala habitation during the surveys for this species. Further, the site does not contain any koala feed trees. This aside, the proposal has nonetheless retained vegetation in the east. The SBDAR concluded that the proposal would have no impacts in this regard.</p> <p>Based on the above, the Planning Proposal is considered to be consistent with the aims and objectives of the Chapter 3 of the SEPP, and would not prevent Council from granting consent to future development.</p>
<b>SEPP (Planning Systems) 2021</b>	
<p><b>Chapter 2 State and Regional Development</b> Chapter 2 of SEPP (Planning Systems) identifies development that is State Significant development, State Significant infrastructure, critical State Significant infrastructure and development that is regionally significant.</p>	<p>The proposed development is not identified as State Significant development. Nor is it likely to be regionally significant development, based on the development types and thresholds contained in Schedule 6 of the SEPP.</p> <p>As such, the provisions of the SEPP do not present any limitation to this Planning Proposal.</p>

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**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. The Ministerial Directions were obtained from DPE website on 4<sup>th</sup> May 2022; however, the document is undated.

**Table 3: Relevant Ministerial Directions**

Ministerial Direction	Consistency and Implications
<b>1. PLANNING SYSTEMS</b>	
<b>1.1 Implementation of Regional Plans</b> 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>The Hunter Regional Plan 2036 (HRP) and Draft Hunter Regional Plan 2041 apply to the Planning Proposal and are addressed in detail elsewhere in this proposal (Refer Part 3 - Section B - Q3).</p> <p>Whilst the subject site is not located in an identified or emerging growth area identified in the Hunter Regional Plan 2036 (HRP), the proposed development is consistent with the vision and goals outlined in the HRP as it will provide additional housing choice within an existing, well designed community that is accessible to a range of facilities and services. The construction phase will contribute towards economic growth and in the longer term, the provision of additional housing will provide broader economic benefits via increased demand for goods and services and patronage of local business as well as providing housing for a growing workforce.</p> <p>The HRP projects that approximately 11,050 additional dwellings will be needed in the Port Stephens LGA by 2036. The proposed development will make a contribution towards meeting this projected demand.</p> <p>The HRP also identifies a projected increase in the percentage of people aged over 65 years from 19% to 25% by the year 2036. Housing supply in the region will need to adapt to cater for this increase. The proposal will assist with meeting this demand through the provision of additional housing catered to those over 55.</p> <p>The Planning Proposal is considered to be consistent with this direction as it achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.</p>

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Ministerial Direction	Consistency and Implications
<b>1.3 Approval and Referral Requirements</b> The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal is consistent with the terms of this direction as: <ul style="list-style-type: none"> <li>• It does not include provisions that require concurrence, consultation or referral of a development application to a Minister or public authority;</li> <li>• It does not contain provisions requiring concurrence, consultation or referral of a Minister or public authority prior to undertaking community consultation in satisfaction of Schedule 1 of the EP&amp; Act; and</li> <li>• It does not identify development as designated development.</li> </ul>
<b>1.4 Site Specific Provisions</b> The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The Planning Proposal is consistent with the terms of the direction as the proposed amendments to the LEP allow the proposed caravan park land use on the land without imposing any development standards or requirements in addition to those already contained in the LEP.  This report contains a potential concept layout for the vacant land for contextual purposes only.
<b>3. BIODIVERSITY AND CONSERVATION</b>	
<b>3.1 Conservation Zones</b> The objective of this direction is the protection and conservation of environmentally sensitive areas, by ensuring that Planning Proposals do not reduce the environmental protection standards applying to such land unless it is suitably justified by a relevant strategy or study or is of minor significance.	The Planning Proposal is consistent with this Direction as it includes provisions that facilitate the protection of the fauna movement corridor along the eastern boundary of the site.
<b>3.2 Heritage Conservation</b> The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The site does not contain any State or locally listed historic heritage items, nor is it located within a Heritage Conservation Area.  Lot 51 is highly disturbed as a result of construction of the approved caravan park.  An Aboriginal Due Diligence assessment has been prepared by McCardle Heritage for Lot 3622 and Lot 2 which concludes that the remainder of the site does not contain any sites or PADs of Aboriginal heritage significance, and as a result an AHIP would not be required for the future development (refer to <b>Attachment 2</b> ).

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Ministerial Direction	Consistency and Implications
	As the existing provisions of the LEP will continue to apply with respect to heritage conservation, it is considered that additional provisions are not required.
<b>4. RESILIENCE AND HAZARDS</b>	
<b>4.1 Flooding</b> The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.	The site is not affected by flooding, even up to the Probable Maximum Flood (PMF). Further, rising escape route exists along Trotter then Nelson Bay Road.
<b>4.2 Coastal Management</b> The objective of this direction is to protect and manage coastal areas of NSW. This direction applies to land within the coastal zone.	<p>This direction applies as the site is mapped as a proximity area for a coastal wetland and coastal environment area.</p> <p>With respect to Direction 4.2(1), the Planning Proposal does not include provisions giving effect the matters identified in (a) – (d); however, future development will be required to address requirements of Chapter 2 of SEPP (Hazards and Resilience) 2021 in relation to Proximity Areas to Coastal Wetlands. Consideration of the SEPP is provided in the SBDAR attached to this report.</p> <p>The site is not located within mapped coastal vulnerability areas or littoral rainforests, identified in the SEPP. Nor is the site affected by a current or future hazard mapped in the LEP or Development Control Plan (DCP). As such, Direction 4.2(2) does not apply.</p> <p>With respect to Direction 4.2(3), strictly speaking the Planning Proposal does not propose to rezone land. However, it will enable increased development or more intensive land-use on land within a Proximity Area for a Coastal Wetland. The site is not mapped as containing Coastal Wetlands. The Proximity Area affects a small portion of Lot 2 DP 622229, occurring in its north-eastern corner; however, this will be retained in the fauna corridor and therefore not subject to development.</p>

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Ministerial Direction	Consistency and Implications
	<p>The site is separated from the Coastal Wetland itself by road infrastructure and land cleared and developed for rural residential properties. Further, no waterways pass through the site.</p> <p>Direction 4.3(4) is not relevant as the Planning Proposal does not seek to amend SEPP (Resilience and Hazards) 2021 mapping.</p>
<p><b>4.3 Planning for Bushfire Protection</b></p> <p>The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.</p>	<p>The site is identified as bushfire prone land.</p> <p>Lot 51 is the subject of an existing approval, and was required to incorporate appropriate bushfire protection measures.</p> <p>A SBS and BAR for the proposed development on Lot 3622 and Lot 2 has been undertaken by Bushfire Planning Australia (BPA) which confirms that the site will be able to accommodate all requirements of Planning for Bushfire Protection 2019 (refer <b>Attachment 4</b>).</p> <p>Further, a potential secondary access onto Trotters Road will improve access / egress arrangements for residents and emergency services in the event of a bushfire.</p>
<p><b>4.4 Remediation of Contaminated Land</b></p> <p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by Planning Proposal authorities.</p>	<p>Lot 51 is the subject of an existing approval which has previously addressed matters of potential contamination.</p> <p>A PCA has been undertaken by Qualtest with respect to Lot 3622 and Lot 2 which concludes that the site can be made suitable whilst the site contains numerous potential sources of contamination, these were all typical of a rural residential site. Qualtest have advised that provided standard mitigation measures are adopted, the site is considered suitable for the purposes of a caravan park (refer to <b>Attachment 10</b>).</p>
<p><b>4.5 Acid Sulfate Soils</b></p> <p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.</p>	<p>The site is mapped as Class 4 Acid Sulfate Soils under the PSLEP.</p> <p>Acid sulfate soils were considered and deemed appropriate across Lot 51 as part of the approval for the caravan park, which is currently under construction and operational.</p> <p>Further assessment of acid sulfate soils on Lot 3622 and Lot 2 has been undertaken within the PASSA which concludes no ASS was discovered within 2m below ground level (refer to <b>Attachment 11</b>).</p>

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Ministerial Direction	Consistency and Implications
<b>5. TRANSPORT AND INFRASTRUCTURE</b>	
<p><b>5.1 Integrating Land Use and Transport</b></p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.</p>	<p>The Planning Proposal seeks to support the existing and future development of a medium density nature, with a range of community facilities and services provided on site.</p> <p>Consideration has been given to <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001). <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001) was reviewed; however, it is was not applicable given it relates to commercial / business development as opposed to residential.</p> <p>The Planning Proposal is considered to be generally consistent with the aims, objectives and principles of <i>Improving Transport Choice – Guidelines for planning and development</i> as outlined below.</p> <p>The site is located within 400m of an existing bus route, with a bus stop located on Nelson Bay Road, approximately 150m from the entrance to the caravan park. While it is not a major public transport node, the bus service provides linkages to nearby centres including Anna Bay and Nelson Bay, as well as more significant locations such as Newcastle Airport and Newcastle CBD.</p> <p>In addition, Sunrise Lifestyle Village offers a community bus service for its residents, providing connections to local centres and services, as discussed above.</p> <p>The site also provides a range of onsite community facilities (as listed in response to Question 3), which would typically be found in centres. The facilities are within walking distance to existing and future residents.</p> <p>The caravan park provides connectivity via a network of (low speed) internal roadways and pathway connections within the current and future proposed development, encouraging pedestrian movements and reduce reliance on cars.</p> <p>Noting the accessibility to public and private bus services, and provision of onsite services and facilities, it is expected that the Planning Proposal will reduce travel demand including the number of trips generated by development and the distances travelled, especially by car.</p>

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Ministerial Direction	Consistency and Implications
	<p>With respect to vehicular access, the existing caravan park is accessed from Nelson Bay Road. The Planning Proposal is supported by a traffic assessment that investigates the opportunity for a secondary access onto Trotters Road, improving circulation and accessibility.</p> <p>Further to the above, it is understood that TfNSW's key concern surrounds the uncertainty of the timing of the new Trotter Road access. In this regard it is noted that Trotter Road requires upgrades as part of an approved caravan park directly north of the site at 16 Trotter Road (DA-16-2007-15-1). This development is significantly further advance than the subject site and as such will be constructed prior to occupation of the future caravan park. If, for unforeseen circumstances, Trotter Road is not upgraded in time, the proposed caravan park extension can use the existing access arrangements off Binder Road.</p> <p>With the above in mind, it is considered that the proposal is generally consistent with the relevant aims, objectives and principles of <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001).</p>
<b>6. HOUSING</b>	
<b>6.2 Caravan Parks</b> The objectives of this direction are to provide for a variety of housing types and provide opportunities for caravan parks and manufactured home estates.	<p>This Planning Proposal reinforces the permissibility of the existing caravan park and provides for its extension over Lot 3622 DP 622485 and Lot 2 DP 622229.</p> <p>The Planning Proposal is consistent with this direction.</p>
<b>8: RESOURCES AND ENERGY</b>	
<b>8.1 Mining, Petroleum Production and Extractive Industries</b> The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	<p>The Proponent is not aware of the site being identified for future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials, and notes that the majority of the site is already developed for the purposes of a caravan park under an existing development consent.</p> <p>It noted that Council referred the Planning Proposal to the Department of Primary Industries (DPI) as part of the Scoping phase, and no objections were raised in this regard.</p>



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Ministerial Direction	Consistency and Implications
<b>9. PRIMARY PRODUCTION</b>	
<b>9.1 Rural Zones</b> The objectives of the direction are to protect the agricultural production value of rural lands. Applies to land that seeks to rezone rural zoned land to a residential, business, industrial, village or tourist zone or increase the permissible density of rural zoned land.	<p>This direction is not applicable to the Planning Proposal as it does not rezone land. This aside, it will increase residential density in a rural zone and so has nonetheless been addressed.</p> <p>Lot 51 has no agricultural production value as the land is being developed as a caravan park.</p> <p>Lots 3622 and Lot 2 are considered to have little value as productive rural land, primarily based on the lot areas (being 2.042ha and 1.493ha respectively) and being landlocked by road infrastructure and the caravan park on Lot 51.</p> <p>Further, DPI have advised that the subject land is Land and Soil Capability (LSC) class 6 and is highly constrained in terms of agricultural opportunities.</p>
<b>9.2 Rural Lands</b> The objective of this direction is to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes. Applies to Planning Proposals that will affect an existing or proposed rural or environmental protection zone or changes the existing minimum lot size within a rural or environment protection zone.	<p>This direction applies as the Planning Proposal will affect land within an existing rural zone.</p> <p>The Planning Proposal gives due consideration to the objectives of this direction, and the natural and physical constraints of the land.</p> <p>The site is considered to have minimal agricultural value. The Planning Proposal will not result in the fragmentation of rural zoned lands. Further, the site does not contain any significant environmental values.</p> <p>Compliance with Direction 9.2(1) is demonstrated below. Direction 9.2(2) does not apply as no changes are proposed to the existing minimum lot size.</p> <p>Accordingly, the provisions of this Direction are considered to be satisfied.</p> <p><b>Direction 9.2(1)</b>  <b>A Planning Proposal must:</b></p> <p><b>(a) Be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement.</b></p> <p>The Planning Proposal will enable a range of outcomes from the Draft HEP 2041; HRP 2036, as well as the Port Stephens CSP, Live Port Stephens LHS and Port Stephens LSPS, as outlined under Question 3 of this report.</p>

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Ministerial Direction	Consistency and Implications
	<p>The response to Question 3 also outlines the strategic merits of this Planning Proposal in accordance with the DPE Guide</p> <p><b><i>(b) Consider the significance of agriculture and primary production to the State and rural communities.</i></b></p> <p>The site is not presently utilised for rural purposes, nor is it likely to be suitable for agriculture and primary production.</p> <p>Lot 51, which makes up approximately 74% of the site, has no agricultural production value as the land has been developed as a caravan park.</p> <p>The remainder of the site, being Lot 3622 and Lot 2, are considered to have little to no value as productive rural land. This is based on their size, positioning of existing residential development on the sites and limited capacity to amalgamate with adjoining lands to create larger parcels suitable for commercial or intensive agricultural production.</p> <p><b><i>(c) Identify and protect environmental values, including, but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources.</i></b></p> <p>Consideration has been given to the environmental values of the site in the preparation of this Planning Proposal. It is noted that the site has been the subject of development to varying degrees, and displays minimal biodiversity and cultural heritage value. However, the Planning Proposal will protect a vegetated corridor on its eastern boundary which connects to an existing fauna underpass, which will be zoned C2 Environmental Conservation to ensure its protection.</p> <p><b><i>(d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</i></b></p> <p>Consideration has been given to the natural and physical constraints of the land throughout this Planning Proposal. There are no natural or physical constraints on the land that would prevent the Planning Proposal.</p>

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Ministerial Direction	Consistency and Implications
	<p><b>(e) Promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities.</b></p> <p>As per the response to (a) above, the site is not presently utilised nor considered suitable for rural purposes.</p> <p><b>(f) Support farmers in exercising their right to farm.</b></p> <p>The site is presently not utilised nor considered suitable for rural purposes.</p> <p><b>(g) Prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses.</b></p> <p>The site is considered to be fragmented in its current form, by virtue of the approved caravan park development and the residual land being landlocked by surrounding roads.</p> <p><b>(h) Consider State significant agricultural land identified in Chapter 2 of the SEPP (Primary Production) 2021 for the purpose of ensuring the ongoing viability of this land.</b></p> <p>Land that is deemed to be State significant agricultural land (SSAL) is identified in Schedule 1 of the SEPP. At the time of writing this report, there were no areas listed in Schedule 1 of the SEPP.</p> <p>It is noted that early draft mapping was released in November 2021. The site was not identified as SSAL on the draft map, nor was any land in the vicinity of the site (refer to <b>Figure 14</b> overleaf).</p>

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Ministerial Direction	Consistency and Implications
	 <p><b>Figure 14: Draft SSAL Exhibition Mapping (Source: NSW DPI, 10<sup>th</sup> November 2021)</b></p> <p><i>(i) Consider the social, economic and environmental interests of the community.</i></p> <p>The Planning Proposal provides opportunity to increase housing diversity within the Port Stephens LGA and to provide greater housing choice, on land that is largely unconstrained with respect to environmental values.</p>

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**Site-Specific Merit**

Sections C, D and E identify the potential environmental, social and economic impacts of the proposal and outline proposed mitigation measures and justification. The Planning Proposal demonstrates that the proposal is suitable for the site and the site is (or can be made) suitable for the resultant development.

**Section C – Environmental, Social and Economic Impact****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?**

The subject site does not contain land declared as critical habitat.

The Streamlined BDAR have been prepared for the Planning Proposal, with the outcomes summarised below.

The SBDAR included assessment of all relevant flora and fauna, including surveys within appropriate timeframes. The SBDAR concluded that the proposed development would not have a significant impact in terms of species listed under the BC Act or the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*;

An existing wildlife crossing exists approximately 10m east of the site. Avoid and minimise considerations within the Planning Proposal have been recommended to mitigate impacts and functionality of the underpass, with a variable width vegetation buffer being retained and zoned C2. The proposed buffer would result in the retention of approximately 0.32ha of PCT 1646 (*Smooth Barked Apple – Blackbutt – Old Man Banksia Woodland on Coastal Sands of the Central and Lower North Coast*). The widened buffer ensures approximately 95m of retained vegetation at the fauna crossing point.

In order to develop the land as intended under the Planning Proposal, removal of up to 1.3ha of native vegetation commensurate with PCT 1646 may be required. The quality of this vegetation varies between poor to moderate.

To offset residual impacts from the development, retirement of ecosystem credits is likely to be required, with this to be detailed as part of the future Development Application.

Noting the above, it is considered that no further flora and fauna assessment is required following gateway determination.

The SBDAR is provided within **Attachment 3**.

**ITEM 5 - ATTACHMENT 1 PLANNING PROPOSAL.****Q9. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

Technical studies have been undertaken to assess the likely environmental effects resulting from the Planning Proposal, and how these effects are proposed to be managed in relation to the following matters:

**Traffic**

The Planning Proposal is likely to result in additional traffic to the road network, as a result of additional housing on the site. Further, a secondary access is proposed on Trotters Road which requires consideration given its proximity to Nelson Bay Road, being a Classified Road.

A traffic and parking impact assessment has been prepared to inform this Planning Proposal.

The findings of the traffic impact assessment indicate the following:

- The proposed development would result in an additional 13 vtph AM and 21 vtph PM in the peak periods on the local road network;
- The proposed development, including the remaining sites to be developed over the existing village and the 119 sites yet to be constructed at 16 Trotters Road, Bobs Farm would generate, and additional 51 vtph AM and 83 vtph PM in the peak periods on the local road network; and
- Cumulative assessments for the above have concluded that the existing roads have ample mid-block and intersection capacity to accommodate the additional developments.

Further to the above Trotter Road will be upgraded as part of an approved caravan park directly north of the site at 16 Trotter Road (DA-16-2007-15-1). This development is significantly further advance than the subject site and as such will be constructed prior to occupation of the future caravan park.

Further discussion is included within **Attachment 5**.

**Bushfire Risk**

The subject land is identified as bushfire prone land, specifically Category 1 and 2 Vegetation (as shown in **Figure 4** previously).

Bushfire risk for the existing approved caravan park on Lot 51 was assessed as part of its respective development application, with appropriate bushfire protection measures being incorporated into its design.

Future proposed development on the remainder of the land will be integrated development and require referral to the NSW Rural Fire Service for consideration.

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A SBS and BAR has been carried out by BPA with regards to the Lot 3622 and Lot 2 which confirms that the site has suitable access arrangements in place and can accommodate appropriate APZs as detailed within **Figure 5** to ensure the future development will comply with the requirements of Planning for Bushfire Protection 2019. In this regard, it is highlighted that some sites are located within the nominated APZ; however, the layout proposed is only a concept at this stage and can be adjusted following a more detailed assessment as part of the DA. BPA have; however, advised that the site is suitable for the intended use and proposed rezoning to allow for the extension of the Sunrise caravan park

Full details in this regard are provided within **Attachment 4**.

**Aboriginal Cultural Heritage**

Aboriginal cultural heritage has been considered and addressed within Lot 51 as part of the approved development on the site.

An Aboriginal Due Diligence Assessment has been prepared by McCardle Heritage with regards to Lot 3622 and Lot 2 which concludes that the site does not contain any sites or potential archaeological deposits (PADs) of Aboriginal heritage significance, and as a result an AHIP would not be required for the future development. This conclusion was made based on the fact that the site had been previously cleared with the historic upper dune characteristics being entirely removed to make the site level.

Full details in this regard are provided within **Attachment 2**.

**Acid Sulphate Soils and Contamination**

Matters surrounding acid sulphate soils and contamination conditions have been considered and addressed within Lot 51 as part of the approved development on the site.

The PCA prepared by Qualtest for Lot 3622 and Lot 2 found that there were potential sources of contamination across the site including:

- Current and former buildings;
- Filling and stockpiling;
- Storage of equipment/waste materials;
- Septic tank located in centre of the site;
- Former sand mining carried out in the north and eastern portion of the site.

Qualtest concluded that for the purpose of the rezoning it is likely that the site could be made suitable for the proposed use, noting any remediation required for the above would adopt conventional techniques.

Full details in this regard are provided within **Attachment 10**.



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The PASSA undertaken by Qualtest concluded that no ASS was discovered within 2m below ground level and as such no acid sulfate soils management plan is required.

Full details in this regard are provided within **Attachment 11**.

**Stormwater and Flooding**

Matters surrounding stormwater management have been considered and addressed within Lot 51 as part of the approved development on the site.

A Stormwater Strategy has been prepared by ADW Johnson for Lot 3622 and Lot 2 which addresses both stormwater quantity and quality requirements.

Based on review of the existing site topography and geotechnical conditions, an infiltration-centric stormwater strategy has been recommended. End-of-line infiltration basins are proposed to both attenuate peak flows and improve runoff quality.

*DRAINS* modelling was undertaken to demonstrate that the proposed stormwater management system can be sized to meet Council's requirements in relation to stormwater detention and peak site discharges.

MUSIC modelling has demonstrated that a proposed treatment train of gross pollutant traps and infiltration basins can satisfy Council's water quality stripping targets within the development footprint.

The existing site is situated above the regional Probable Maximum Flood. The proposed development provides favourable conditions for refuge-in-place subject to extreme flood events.

The proposed development will not adversely impact the hydrological integrity of coastal wetlands or the quality of drinking water catchments.

This strategy report has concluded that appropriate stormwater controls can be readily implemented within the proposed site footprint. The stormwater strategy presented herein is considered to be well-suited to existing site conditions and is fully compliant with Council's Development Control Plan.

Full details in this regard are provided within **Attachment 9**.

**Services**

Public utility services including telecommunications, electricity, water and sewer will be available to service the future development on the site. Refer to **Part 3 – Section D – Q11** for details on the advice provided by Ausgrid and Hunter Water.

**ITEM 5 - ATTACHMENT 1 PLANNING PROPOSAL.****Q10. Has the Planning Proposal adequately addressed any social and economic effects?**

Anticipated social and economic effects are detailed below, and can be considered in further detail post gateway if required.

***Social Effects***

A range of social benefits associated with the development of the site are anticipated, including:

- Additional housing choices in the vicinity of Anna Bay and the Port Stephens LGA which caters for future population growth and responds to an ageing population in Port Stephens;
- The freeing up of larger family homes from downsizers moving into the caravan park;
- Efficient use of community facilities and services provided at an existing approved development; and
- Provide a critical mass which will enhance the viability of new services, facilities, and public transport in the Anna Bay area.

***Economic Effects***

A range of economic benefits associated with the development of the site are anticipated, including:

- Stimulation of local economic activity through increased local spending;
- Provision of smaller dwellings, which can improve housing affordability;
- Employment through construction and future maintenance of the development, and direct employment of employees servicing the development;
- Contribution toward investment in social infrastructure in the surrounding locality via additional funding through the Section 7.11 Contribution Plan; and
- Provision of additional dwellings with easy access to major employment precincts such as Newcastle Airport and Tomago.

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

Public infrastructure works, including access to Nelson Bay Road and utility services, have been carried out as part of the approved caravan park development.

The caravan park is accessed off Binder Road, which intersects Nelson Bay Road. The intersection was constructed specifically to cater for the caravan park development. The existing access arrangements are capable of accommodating demand associated with the proposed development; however, it is intended to provide a secondary access via Trotter Road as part of future development on the land.

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The Traffic Impact Assessment prepared to support this Planning Proposal indicates that the surrounding road network, including intersections can accommodate the proposed development without upgrades.

Further to the above, TfNSW was consulted as part of the Scoping phase of the proposal. As part of this consultation, TfNSW advised that their key concern surrounds the uncertainty of the timing of the new Trotter Road access. In this regard, it is noted that Trotter Road requires upgrades as part of an approved caravan park directly north of the site at 16 Trotter Road (DA-16-2007-15-1). This development is significantly further advance than the subject site and as such will be constructed prior to occupation of the future caravan park. If, for unforeseen circumstances, Trotter Road is not upgraded in time, the proposed caravan park extension can use the existing access arrangements off Binder Road.

Preliminary servicing enquiries have been made with Ausgrid and Hunter Water, regarding network capacity for the proposed development. Ausgrid confirms that there is capacity in the existing network to support the proposed development. Hunter Water confirms that:

- There is currently sufficient capacity in the local water network to cater for the proposed development;
- There is currently sufficient capacity in the local wastewater network to cater for up to 5L/s from the proposed development; and
- There is sufficient capacity in the Boulder Bay Waste Water Treatment Works (WWTW), which is the most feasible option for wastewater discharge.

A copy of the advice provided by Ausgrid and Hunter Water is provided as **Attachments 7 and 8**.

With respect to demand for local infrastructure, Port Stephens Local Infrastructure Contribution Plan applies to the site. The site is located within the Tomaree Catchment Area, and the s7.11 Plan collects funding from development for a range of infrastructure required to support future development in the catchment. Given that the Planning Proposal is unlikely to generate a significant population increase (i.e. approximately 62 dwellings), it is considered that it would not warrant an update to the Plan and it is anticipated that future development will be levied in accordance with the Plan to ensure a proportionate contribution towards local infrastructure is provided for items such as local roads, open space, recreation facilities and community facilities.

Noting the above, it is considered that there is adequate public infrastructure to support the Planning Proposal.

**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 will be undertaken throughout the Planning Proposal process with the relevant agencies.

The Planning Proposal was sent to the following agencies as part of Scoping assessment:

- Department of Planning and Environment;
- Transport for NSW;
- Rural Fire Service NSW;
- Department of Primary Industries – Agriculture;
- Biodiversity Conservation Division.

None of the agencies objected to the proposal. They did; however, request additional information which has been provided and address throughout the Planning Proposal. An itemised response to each matter raised is also provided within **Attachment 12**.

Further consultation or referral of the Planning Proposal to authorities and government agencies is anticipated after Gateway determination, as set out under Section 9.1 of the EP&A Act, a Gateway condition and / or where an authority or agency has an interest in the proposal.

**PART 4 – Mapping**

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It is anticipated that the proposed map layer amendments will be prepared by Council to accompany the Planning Proposal, consistent with the mapping provided earlier in this report, to satisfy LEP technical mapping and GIS data requirements.

**PART 5 – Community Consultation**

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This section of the Planning Proposal describes consultation and outcomes undertaken with Council, State agencies and authorities during the pre-lodgement stage, and any community consultation undertaken, or consultation with other key stakeholders.

**Community Consultation**

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

Notice of the public exhibition period will be placed on Council's website, The Examiner. The exhibition material will be on display at locations nominated by Council during normal business hours, including Council's Administration Building, 116 Adelaide Street, Raymond Terrace.

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The Planning Proposal will also be available on Council's website.

In addition to the above, the Proponent has voluntarily undertaken early consultation with the existing residents of Sunrise Lifestyle Village as part of the preparation of this Planning Proposal. This is on the basis that the Planning Proposal, and expansion of the caravan park will have a direct impact on these residents.

It is noted that 100% of the existing caravan park has been sold. Approximately 70% of the caravan park is occupied, and these sites are located at the western end of the site. That is, furthest away from the proposed extension. The Proponent has consulted with these residents directly.

With respect to the remaining sites which have been sold and deposits have been taken, the Proponent has sent letters informing future residents of its intention to expand the caravan park. The Proponent has provided the opportunity for these residents to withdraw from their respective sale, with a full deposit refund.

This correspondence was sent in October 2021, and at the time of writing this report, no future resident has taken up this offer and requested a refund. In this regard, it could be considered the future residents of the caravan park do not object to the proposal.

In terms of consultation with the existing residents, the Proponent has undertaken on large format community consultation session. Following that, the Proponent visited the village and was approached by a number of existing residents and undertook informal discussions in a smaller forum. Each forum allowed residents to raise concerns and ask questions.

The Proponent intends to host an Open Day in future, with displays and staff available to answer questions.

**Pre-Lodgement Consultation with Council and State Agencies/Authorities**

Pre-lodgement consultation has occurred with PSC, Hunter Water, Ausgrid and DPE, and is summarised below.

- **Port Stephens Council**

An initial meeting was held between Council and the Proponent on 27<sup>th</sup> September 2021. A Strategic Planning Assessment was provided by PSC on 30<sup>th</sup> September 2021 which, in summary, indicated the proposal has strategic merit and should proceed. Council advised it would require the Planning Proposal to be supported by a Traffic Impact Assessment (TIA), Stage 1 BAM Assessment and evidence of serviceability.

An additional meeting was held 24<sup>th</sup> May 2022 to discuss ecology matters specifically. Consultation with PSC has been ongoing since the initial meeting.

The Planning Proposal was submitted to PSC for review on 3<sup>rd</sup> December 2021. Noting the change in legislation and introduction of the LEP Making Guidelines

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## ITEM 5 - ATTACHMENT 1 PLANNING PROPOSAL.

in March 2022, the original Planning Proposal submitted in December 2021 was amended so as to be considered the scoping document.

Key issues discussed with Council to date include:

- **Pedestrian Connectivity:** PSC confirmed that its Traffic Engineer had no objections to the TIA, with the exception of improving pedestrian connectivity to adjacent bus stops on Nelson Bay Road. The proponent confirmed the pathway had been constructed in accordance with Condition 20.2b of the associated development consent, however, it had washed away as a result of its location within a stormwater channel, and notwithstanding, the Applicant is willing to accept a condition of any future DA to this effect. This approach was agreed by PSC (refer to email 15<sup>th</sup> February 2022).
- **Site Specific DCP:** PSC considered whether a DCP was required for the site to ensure the zone objectives of the RU2 zone could be met. Upon further internal review, PSC advised that no site specific DCP would be required; however, the Planning Proposal would need to include some detail about how future development could meet the rural zone objectives and fit in with the existing character of the land.
- **Ecology:** PSC raised concern about habitat connectivity across Nelson Bay Road, and the need to maintain north-south habitat connectivity in the eastern portion of the site. It was suggested the corridor be protected using the C2 Environmental Conservation Zone.

Additional information was provided by the Proponent on 4<sup>th</sup> May 2022, and concerns were flagged regarding the use of the C2 Zone in the context of the principles of 'avoid and minimise' under the BC Act. PSC advised its ecologist's interpretation is that no further avoidance or minimisation would be required as part of future DAs, if dealt with at the rezoning stage.

The Proponent submitted additional ecological information proposing increase retention of vegetation on the eastern part of the site, and PSC confirmed it supported the revised boundaries.

- **Planning Proposal Update:** PSC requested the Planning Proposal be updated in accordance with DPEs new LEP Making Guideline, and PSC updated template (refer to email 25<sup>th</sup> February 2022).
- **Scoping Phase:** The Scoping document was reviewed by DPE; TfNSW; Rural Fire Service; Department of Primary Industries – Agriculture; and Biodiversity Conservation Division in August 2022.

On 16<sup>th</sup> September 2022, Council issued correspondence requesting additional studies as required by these agencies. These studies have since been prepared and discussion throughout the above Planning Proposal report. A table highlighting how the Planning Proposal has addressed these issues is provided within **Attachment 12**.

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**Hunter Water / Ausgrid**

Consultation has occurred with Hunter Water and Ausgrid to confirm serviceability. Please refer to the response provided to Question 11 under Part 3, Section D of this report.

**PART 6 – Project Timeline**

The project timeline will be established following Gateway determination using the template below.

DPE stage and timeline	Working days		SEP 2022	OCT 2022	NOV 2022	DEC 2022	JAN 2023	FEB 2023	MAR 2023	APR 2023	MAY 2023	JUN 2023	JUL 2023	AUG 2023	SEP 2023
Stage 2: Planning proposal	95 days	Additional Studies Council review and Report													
Stage 3: Gateway determination	25 days	Gateway Determination													
Stage 4: Post Gateway	50 days	Agency Consultation													
Stage 5: Public Exhibition and Assessment	95 days	Public Exhibition Consider submissions Council Report													
Stage 6: Finalisation	55 days	Plan making													



**Attachment 1 – Locality Plan**

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

**Attachment 2 – Aboriginal Due Diligence Assessment**

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

**Attachment 3 – Streamline Biodiversity Development Assessment Report**

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

**Attachment 4 – Strategic Bushfire Study & Bushfire Assessment Report**

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

**Attachment 5 – Traffic and Parking Assessment**

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

**Attachment 6 – Concept Plan**

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

**Attachment 7 – Ausgrid Servicing Advice**

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



**Attachment 8 – Hunter Water Servicing Advice**

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

**Attachment 9 – Stormwater Strategy**

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

**Attachment 10 – Preliminary Contamination Assessment**

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

**Attachment 11 – Preliminary Acid Sulfate Soil Assessment**

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

**Attachment 12 – Response Table**

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