

MINUTES – 28 FEBRUARY 2023



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 28 February 2023, commencing at 6:19pm.

PRESENT:

In Person

Mayor Ryan Palmer
Cr Leah Anderson
Cr Giacomo Arnott
Cr Matthew Bailey arrived at 7:31pm
Cr Peter Francis
Cr Peter Kafer arrived at 6:20pm
Cr Steve Tucker
Cr Jason Wells
General Manager
Acting Corporate Services Group Manager
Development Services Group Manager
Facilities and Services Group Manager
Governance Section Manager

009	<p>Councillor Peter Kafer Councillor Peter Francis</p> <p>It was resolved that the apologies from Cr Chris Doohan and Cr Glen Dunkley be received and noted.</p>
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MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Cr Giacomo Arnott.

The motion was carried.

010	Councillor Leah Anderson Councillor Jason Wells It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 14 February 2023 be confirmed.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Cr Peter Kafer.

The motion was carried.

	<p>Cr Francis declared a pecuniary conflict of interest in Item 1. The nature of the interest is that the proponent could be considered either a competitor or colleague as we are both in the same line of tourism business.</p> <p>Cr Bailey declared a significant non-pecuniary conflict of interest in Item 1. The is that Madison Sorensen ran on Cr Bailey's ticket at the Council election, and Sorensen Designs prepared plans for the camping ground.</p> <p>Cr Francis declared a significant non-pecuniary conflict of interest Item 2. The nature of the interest is that Cr Francis feels that, due to the proponents statements in the media, he is being threatened by the proponent to vote in their favour on this matter. Cr Francis does not take these threats lightly and therefore will not be casting a vote in this matter. The proponent has right to have their development receive due consideration under due process, not in the public arena under threat.</p> <p>Cr Arnott declared a significant non-pecuniary conflict of interest in Item 2. The nature of the interest being, in an article in the Port Stephens Examiner on 20 October 2022, developer and site owner Rod Salmon was quoted as saying: <i>"Developer Rod Salmon says he will "walk away" from three Nelson Bay development projects worth \$120 million if the redesign of the contentious Ascent apartment building was not approved when it next goes before Port Stephens Council."</i> <i>"If this doesn't go through then I'm taking my \$120 million and leaving. My three development sites, we'll go."</i></p>
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As a Councillor, he take my responsibility when it comes to Development Applications very seriously. He doesn't believe it is appropriate for any proponent to make threats like this. It could have had the effect of calling into question the decision-making capacity of every single Councillor, and on the perception of Council staff when it comes to assessing an application.

While each person involved will need to make their own decision about whether something like this does in fact impose on their decision-making, he is confident that these kinds of comments have led to a perception and concern in the public about whether Council officials are able to discharge their duties without being compromised.

He has determined that in his case, even this perception is unacceptable, and as such, he cannot remain in the room to determine the matter. This is a major disappointment to many people in the community who are relying on their Councillors to vote on items like this. For him to not be able to do so in good conscience is unusual and means one less voice of the community being in the room for this item.

He feels as though if he votes in favour of the item, it could be perceived that he is only doing that in response to the proponent's public threats. While there is any question about my integrity on an item, no matter which way he end up voting, it is not appropriate for him to remain in the room.

He hopes that the developer, and other developers, think long and hard before they have petty outbursts like this. It is not appropriate for anyone to attack Councillors or the Council itself, especially when it's unfounded, and causes issues around integrity.

He apologises to the community for feeling the need to declare this conflict of interest and to not participate in the item, but feel it is the only option left for him in light of the behaviour of Mr Salmon.

Cr Anderson declared a less than significant non-pecuniary conflict of interest in Item 2. The nature of the interest is that it came to light by email that Cr Anderson received after the Council meeting on Tuesday 13 September that my next door neighbour is the architect of this building. Even though I felt uncomfortable with the comments made in the email, I am here to represent my community.

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DECLARATION OF INTEREST



Declaration of Interest form

Agenda item No. 1. _____

Report title **DEVELOPMENT APPLICATION 16-2019-598-2 FOR A S4.55(1A) MODIFICATION TO APPROVED CAMPING GROUND AT 47 THE BUCKETTS WAY, TWELVE MILE CREEK** /Councillor Francis declared a Tick the relevant response:

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

in this item. The nature of the interest is ____
That the proponent could be considered either a competitor or colleague as we are both in the same line of tourism business.

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

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

Mayor/Councillor left the Council meeting in Committee of the Whole at N/A pm.

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

Mayor/Councillor left the Council meeting at 6.29 pm.

Mayor/Councillor returned to the Council meeting at 6.46 pm.

ORDINARY COUNCIL - 28 FEBRUARY 2023



Declaration of Interest form

Agenda item No. 4

Report title D.A. CAMPING AROUND TWENTY MILE CREEK.

Mayor/Councillor MATTHEW BAZLEY declared a

Tick the relevant response:

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

in this item. The nature of the interest is

- ① Madison Sorensen ran on my Council election ticket.
- ② Sorensen Designs have the 33% share for the camping ground.

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

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

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

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

Mayor/Councillor left the Council meeting at _____ pm.

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

Not present when item was considered by Council.



Declaration of Interest form

Agenda item No. 2 _____

Report title **DEVELOPMENT APPLICATION (DA) 16-2021-703-1 FOR A RESIDENTIAL FLAT BUILDING AT 11 TO 15 CHURCH STREET, NELSON BAY** /Councillor

Francis

_declared a Tick the relevant response:

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

in this item. The nature of the interest is _

I feel that, due to the proponents statements in the media, I am being threatened by the proponent to vote in their favour on this matter. I do not take these threats lightly and therefore will not be casting a vote in this matter. The proponent has a right to have their development receive due consideration under due process, not in the public arena under threat.

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

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

Mayor/Councillor left the Council meeting in Committee of the Whole at N/A pm.

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

Mayor/Councillor left the Council meeting at 8.25 pm.

Mayor/Councillor returned to the Council meeting at 8.51 pm.



Declaration of Interest form

Agenda item No. 2 _____

Report title **DEVELOPMENT APPLICATION (DA) 16-2021-703-1 FOR A RESIDENTIAL FLAT BUILDING AT 11 TO 15 CHURCH STREET, NELSON BAY** /Councillor

Arnott declared a:

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

in this item. The nature of the interest is

In an article in the Port Stephens Examiner on 20 October 2022, developer and site owner Rod Salmon was quoted as saying:

"Developer Rod Salmon says he will "walk away" from three Nelson Bay development projects worth \$120 million if the redesign of the contentious Ascent apartment building was not approved when it next goes before Port Stephens Council."

"If this doesn't go through then I'm taking my \$120 million and leaving. My three development sites, we'll go."

As a Councillor, I take my responsibility when it comes to Development Applications very seriously. I don't believe it is appropriate for any proponent to make threats like this. It could have had the effect of calling into question the decision-making capacity of every single Councillor, and on the perception of Council staff when it comes to assessing an application.

While each person involved will need to make their own decision about whether something like this does in fact impose on their decision-making, I am confident that these kinds of comments have led to a perception and concern in the public about whether Council officials are able to discharge their duties without being compromised.

I have determined that in my case, even this perception is unacceptable, and as such, I cannot remain in the room to determine the matter. This is a major disappointment to many people in the community who are relying on their Councillors to vote on items like this. For me to not be able to do so in good conscience is unusual and means one less voice of the community being in the room for this item.

I feel as though if I vote in favour of the item, it could be perceived that I am only doing that in response to the proponent's public threats. While there is any question about my integrity on an item, no matter which way I end up voting, it is not appropriate for me to remain in the room.

I hope that the developer, and other developers, think long and hard before they have petty outbursts like this. It is not appropriate for anyone to attack Councillors or the Council itself, especially when it's unfounded, and causes issues around integrity.

I apologise to the community for feeling the need to declare this conflict of interest and to not participate in the item, but feel it is the only option left for me in light of the behaviour of Mr Salmon.

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

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

Mayor/Councillor left the Council meeting in Committee of the Whole at N/A pm.

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

Mayor/Councillor left the Council meeting at 8.25 pm.

Mayor/Councillor returned to the Council meeting at 8.51 pm.

ORDINARY COUNCIL - 28 FEBRUARY 2023



Declaration of Interest form

Agenda item No. 2

Report title DA, 11-15 CHURCH ST, NELSON BAY.

Mayor/Councillor ANDERSON declared a

Tick the relevant response:

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

in this item. The nature of the interest is IT CAME TO LIGHT BY AN EMAIL I RECEIVED AFTER THE COUNCIL MEETING ON TUESDAY 13TH SEPTEMBER THAT MY NEXT DOOR NEIGHBOUR IS THE ARCHITECT OF THIS BUILDING.

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

EVEN THOUGH I FELT UNCOMFORTABLE WITH THE COMMENTS MADE IN THE EMAIL, I AM HERE TO REPRESENT MY COMMUNITY.

OFFICE USE ONLY: (Committee of the Whole meetings.)

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

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

Mayor/Councillor left the Council meeting at _____ pm.

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

MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: 23/33562
EDRMS NO: PSC2007-0025-311

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **Acquisition of Easement to Drain Water - Nelson Bay**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023
MOTION

011	<p>Councillor Peter Kafer Councillor Peter Francis</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely Acquisition of Easement to Drain Water - Nelson Bay.2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none">• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023
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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.

Those against the Motion: Nil.

The motion was carried.

ITEM NO. 2

FILE NO: 23/33607
EDRMS NO: PSC2021-01584

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary agenda namely **Proposed Closure and Sale of Pathway in Boat Harbour**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023
MOTION

012	<p>Councillor Peter Kafer Councillor Peter Francis</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary agenda namely Proposed Closure and Sale of Pathway in Boat Harbour.2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none">• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023
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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.

Those against the Motion: Nil.

The motion was carried.

ITEM NO. 3

**FILE NO: 23/42209
EDRMS NO: PSC2013-01853**

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c), (d)i and (d)ii of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 3 on the Ordinary agenda namely **NEWCASTLE AIRPORT**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,
and
 - commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it,
and
 - information that would, if disclosed, confer a commercial advantage on a competitor of the council.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

**ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023
MOTION**

013	<p>Councillor Peter Kafer Councillor Peter Francis</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (c), (d)i and (d)ii of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 0 on the Ordinary agenda namely NEWCASTLE AIRPORT.2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
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MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

	<ul style="list-style-type: none">• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business, and• commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it, and• information that would, if disclosed, confer a commercial advantage on a competitor of the council. <p>3) That the report remain confidential and the minute be released in accordance with Council's resolution.</p>
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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.

Those against the Motion: Nil.

The motion was carried.

ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023 MOTION

014	Mayor Ryan Palmer Councillor Jason Wells It was resolved that Item 2 be deferred to the end of the meeting.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

COUNCIL REPORTS

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Councillor Peter Francis left the meeting at 6:29pm.

ITEM NO. 1

FILE NO: 23/15834
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

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)**.
-

ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023 MOTION

015	<p>Councillor Steve Tucker Councillor Jason Wells</p> <p>It was resolved that Council 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).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Cr Giacomo Arnott.

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:	Satisfying the 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**).

This DA was previously reported to the 13 December 2022 Council meeting (**ATTACHMENT 4**). Council resolved to defer the s4.55(1A) modification application for the following reasons:

1. Council to receive further information regarding the definition of area for a primitive camp ground.
2. 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 (WAE) 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.

The modified application is being reported back to Council following consideration of, and amendments to address, the above matters.

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
- Amend the nominated campground to cover the entire 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 5**). 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.

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 addressed in this report relate to the Council resolution of 13 December 2022. A detailed assessment of all relevant planning matters associated with the DA is contained within the Planners Assessment Report (**ATTACHMENT 5**).

Area of a Primitive Campground

Council staff have relied on Planning Circular PS 06-001 'Regulation of camping density in primitive camping grounds' to guide the assessment of the area permitted for the primitive campground under the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 (the Regulations).

Section 131 of the Regulations, provides 2 options to regulate density for primitive campgrounds, these are as follows:

1. **designate** camp sites where tents, caravans and campervans may be located - in which case the maximum number of camp sites is not to exceed an average of 2

per hectare (that average being calculated over the total area of the primitive campground), or

2. **not designate** camp sites - in which case the maximum number of tents, caravans and campervans permitted to use the ground at any one time is not to exceed an average of 2 per hectare (that average being calculated over the total area of the primitive campground); with a concession that 2 or more tents occupied by not more than 12 persons camping together as a group are to be counted as only 1 tent.

The primitive campground seeks to designate sites and therefore Section 131(1) above is applicable. The total area of the primitive campground is taken to mean the total area of the site to which the primitive campground operates. The submitted plans reported to Council previously referenced the campground area as being 2.079 hectares. The plans have since been amended by the applicant to nominate the entire site as being a primitive campground with designated sites. As such, the total area of the campground is 10.12 hectares and therefore 20 sites are permitted as per Section 131(1) of the Regulations.

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 a type of campground as defined under the PSLEP2013 and as such there is no modification to the approved use
- There are no significant changes to the approved amenities, camp kitchen or road layout
- The amended area of the campground does not impact the approved use nor require any additional vegetation clearing to what has been approved
- When considering all components of the original development consent, the quantitative and qualitative changes are considered minor and therefore the modified development is 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)

Detention Basin Wall

Works as Executed (WAE) plans dated 10 January 2023 prepared by a registered surveyor have been provided to Council. The WAE plans show that the detention basin wall located along the southern boundary of the site has been constructed to a finished height of 1.2m above the existing ground level as required by Condition 2.15 of the existing consent. The proposal is therefore considered to satisfy this condition and the resolution of deferral from the 13 December 2022 Council meeting.

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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

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

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 5)**.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is approved, 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

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The 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 were received.

A detailed response to the submissions is outlined within the Planners Assessment Report (**ATTACHMENT 5**).

OPTIONS

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

ATTACHMENTS

- 1) Recommended Modified Conditions.
- 2) Call to Council Form.
- 3) Locality Plan.
- 4) Minutes - Ordinary Council Meeting 13 December 2022. (Provided under separate cover)
- 5) Planners Assessment Report.

COUNCILLORS ROOM

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

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

TABLED DOCUMENTS

Nil.



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 I	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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED MODIFIED CONDITIONS.

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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED MODIFIED CONDITIONS.

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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED MODIFIED CONDITIONS.



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 sewered 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,

ITEM 1 - ATTACHMENT 1 RECOMMENDED MODIFIED CONDITIONS.

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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED MODIFIED CONDITIONS.

- (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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED MODIFIED CONDITIONS.



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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED MODIFIED CONDITIONS.



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).

ITEM 1 - ATTACHMENT 1 RECOMMENDED MODIFIED CONDITIONS.



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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED MODIFIED CONDITIONS.

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:

ITEM 1 - ATTACHMENT 1 RECOMMENDED MODIFIED CONDITIONS.



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

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:

ITEM 1 - ATTACHMENT 1 RECOMMENDED MODIFIED CONDITIONS.



- 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.



(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.



PORT STEPHENS
COUNCIL

CALL TO COUNCIL FORM DEVELOPMENT APPLICATION

Development application (DA) call to Council request:	
<p>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.</p>	
Reason:	
Public Interest	
Declaration of Interest:	
<p>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.</p> <p>I/We (Mayor/Councillor/s) <u>Arnott, Anderson and Kafer</u> have a conflict of interest:</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p>If yes, please provide the nature of the interest and reasons why further action should be taken to bring this DA to Council:</p>	
Signed: Please sign or type name & attached to an email.	Date: <u>5/8/2022</u> <small>Click here to enter a date.</small>
Signed: Please sign or forward supporting email.	Date: <u>14/11/2022</u> <small>Click here to enter a date.</small>
Signed: Please sign or forward supporting email.	Date: <u>14/11/2022</u> <small>Click here to enter a date.</small>

ITEM 1 - ATTACHMENT 3 LOCALITY PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800253 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au



PORT STEPHENS
COUNCIL

S4.55(1A) MODIFICATION APPLICATION ASSESSMENT REPORT

APPLICATION DETAILS

Modification application no.	16-2019-598-2
Development description	Camping Ground (50 camp sites) with amenities and kitchen
Modification description	S4.55(1A) Modification to approved camping ground (50 camp sites) – convert camping ground to 20 primitive camp sites
Applicant	PERCEPTION PLANNING PTY LTD
Date of lodgement	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.
- Amend the site plan to include the entirety of the site as a campground.
- 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.

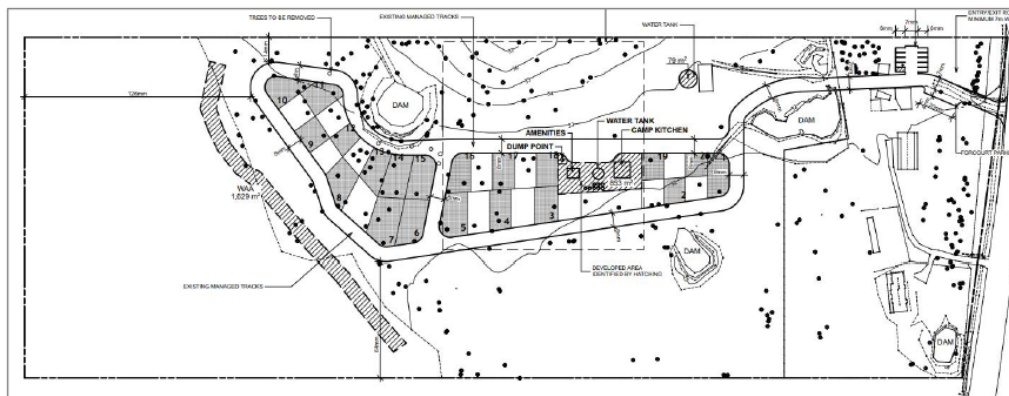


Figure 1. Proposed primitive sites identified shown in grey

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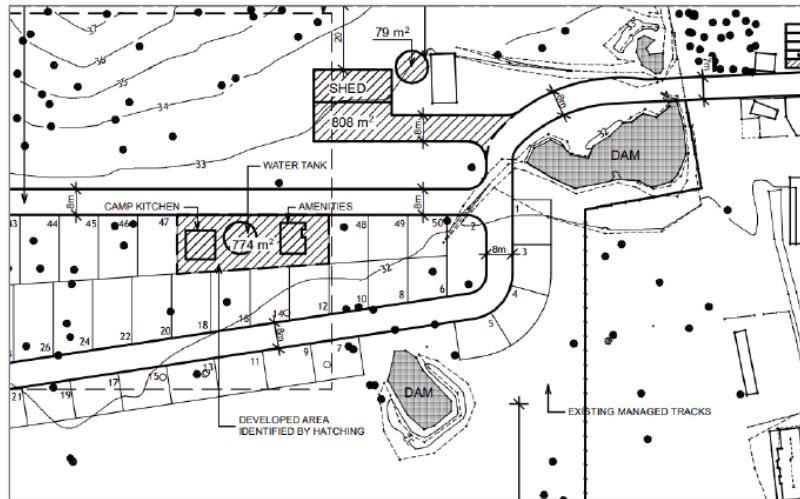


Figure 2. Approved site plan showing location of shed

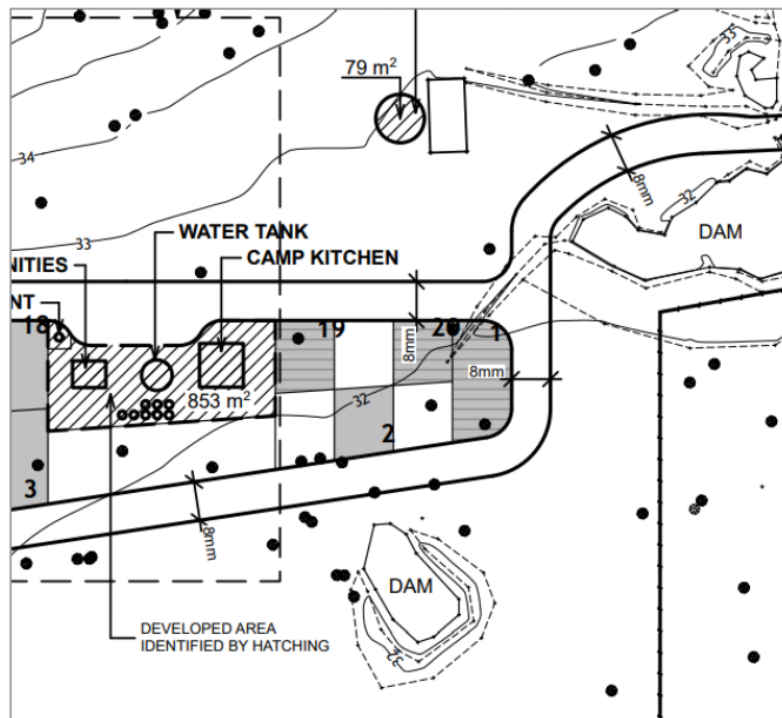


Figure 3. Proposed modified site plan with shed removed

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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.

ITEM 1 - ATTACHMENT 5 PLANNERS ASSESSMENT REPORT.

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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 able to be tested appropriately. Councils 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, Councils 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;
- The amended area of the campground does not impact the approved use nor require any additional vegetation clearing to what has been approved.
- 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
Submission 1	
Failure to comply with maximum number of	Council have assessed the total number of

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<p><u>designated campsites</u></p> <p>The submission references that the Local 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>allowable primitive camp sites based on the total area of the site. The plans have been amended to include the entirety of the site as a campground. The total area of the site/campground is 10.12 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. \$4.55 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>
<p>Submission 2</p>	
<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 plans have been amended to include the entirety of the site as a campground. The total area of the site/campground is 10.12 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>

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	<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> <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 campground is proposed to be 10.12 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</p>	<p>The landscaping is required to be completed prior to the issue of an Approval to Operate</p>

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along the northern and southern boundary and creation of a mound has not been completed. It was requested that these requirement be bet before any further operation of the campground takes place.	despite the modification. Details demonstrating compliance is required to be provided to Council.
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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 2013

Clause 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 be operate appropriately. Councils 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>

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		<p><u>B3.C Noise</u></p> <p>The proposed modification seeks to reduce the overall number of camp sites on the site from 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"> • 1 car space per site; and • 1 visitor space for every 10 sites. <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"> • 20 car spaces; • 2 visitor spaces.
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
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Clause	Comment	Complies
Subdivision 9 – Primitive Camping Grounds		
Section 131 Primitive Camping Grounds		
(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	The proposal designates campground area. A condition has been recommended that camping is not permitted outside of the designated camp sites. N/A	Yes

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Clause	Comment	Complies
<p>ground,</p> <p>(c) a caravan, annexe or campervan must not be permitted to be installed within 6 metres of another caravan, annexe, campervan or tent,</p> <p>(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,</p> <p>(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,</p> <p>(f) unoccupied caravans, campervans and tents are not permitted to remain in the camping ground for more than 24 hours,</p> <p>(g) if a fee is charged for camping—a register must—</p> <p>(i) be kept in accordance with section 121, and</p> <p>(ii) must specify the size of the group accompanying the registered person,</p> <p>(h) fire fighting facilities required by the approval must be provided at the primitive camping ground.</p>	<p>A condition has been recommended to be added to the consent to this regard.</p> <p>A condition has been recommended to be added to the consent to this regard.</p> <p>The site is provided with appropriate amenities as originally approved.</p> <p>A condition has been recommended to be added to the consent to this regard.</p> <p>Noted. To be managed as part of the s68 approval to operate.</p> <p>Noted. To be managed as part of the s68 approval to operate.</p>	
(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	Noted.	

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Clause	Comment	Complies
reasonably satisfied that it is necessary to accommodate displaced persons.		
(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 I	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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<p>parking”</p> <p>Comment:</p> <p>Condition amended to ensure required car parking reflects the updates number of sites proposed.</p>
<p>New Conditions</p>
<p>6.0 – Prior to the Issue of an Approval to Operation (Camping Ground)</p> <p>(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.</p>
<p>Existing Condition</p>
<p>7.0 – Ongoing Use</p> <p>(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.</p>
<p>Modified Condition</p>
<p>7.0 – Ongoing Use</p> <p>(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.</p> <p>Comment:</p> <p>Condition 9.2 has been added to limit the number of caravans in accordance with the Local Government Regulations.</p>
<p>New Conditions</p>
<p>7.0 – Ongoing Use</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>

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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.

DETERMINATION

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

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MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Councillor Peter Francis returned to the meeting at 6:46pm.

ITEM NO. 3

FILE NO: 23/12673
EDRMS NO: 16-2022-223-1

DEVELOPMENT APPLICATION (DA) 16-2022-223-1 FOR A RESIDENTIAL FLAT BUILDING AT 18 TO 20 SOLDIERS POINT ROAD, SOLDIERS POINT

REPORT OF: KATE DRINAN - DEVELOPMENT AND COMPLIANCE SECTION
MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122), subject to the conditions contained in **(ATTACHMENT 1)**.
 - 2) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.
-

ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023 MOTION

	<p>Councillor Leah Anderson Councillor Jason Wells</p> <p>That Council:</p> <ol style="list-style-type: none">1) Approve Development Application DA No. 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122), subject to the conditions contained in (ATTACHMENT 1).2) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.
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**ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023
AMENDMENT**

016	Councillor Leah Anderson Councillor Jason Wells It was resolved that Council defer Development Application DA No. 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122), to allow for conversations between Council staff and the proponent, with the aim of reducing the building height to comply with the 15m height limit.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present a Development Application (DA) 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point, to Council for determination.

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

Subject Land:	18 and 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122)
Total Area:	1,339.4m ²
Zoning:	B1 Neighbourhood Centre
Submissions:	First notification - 8 in objection of development and 1 in support. Second notification – 2 in objection of development and 2 in support.
Key Issues:	The key issues identified throughout the assessment of the DA relate to building height, overshadowing, traffic and parking.

	The proposed development at its highest point is 17.4m which exceeds the 15m height limit and represents a 16% (2.4m) variation to the development standard.
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A locality plan is provided at **(ATTACHMENT 2)**.

Proposal

The application seeks consent for the construction of a 5 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)
- 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.

Site Description and History

The subject site is located at 18 and 20 Soldiers Point Road, Soldiers Point which will be consolidated to form an irregular shaped lot with a relatively flat topography and a total area of 1,339.4m². 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 3 and 4 storey walk-up residential flat buildings, single dwellings and modern high density infill developments.

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 have commenced on this development consent, and the consent is active.

Key Issues

The key issues identified throughout the assessment of the DA relate to the proposed exceedance of the building height development standard, overshadowing, traffic and parking. A detailed assessment of the DA is contained within the Planners Assessment Report (**ATTACHMENT 3**).

Building Height

The proposal exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the Port Stephens LEP 2013 (PSLEP). The proposed development at its highest point is 17.4m which exceeds the 15m height limit and represents a 16% (2.4m) variation to the development standard. The building design has undergone multiple iterations from the pre-lodgement concept stage through consultation with Council staff and the Urban Design Panel (UDP) to the final design presented to Council in this DA. Through consultation with Council staff and the UDP, the architect has reduced the overall building height by removing the rooftop communal area and associated lift and stair access. Despite the removal of the rooftop communal area, the building still exceeds the LEP height limit by 2.4m.

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP. That request has been reviewed and the following is noted:

- The proposed height of the development is consistent with the 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;
- Strict compliance with the standard would result in an inferior built form and planning outcome for the subject site, exposing the lift overrun and plant equipment creating unsightly visual impacts on the surrounds as is typical with older style high rise and unit blocks;
- 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.

Overshadowing

A shadow diagram analysis was submitted with the application. Due to the orientation of the lot, overshadowing is primarily concentrated 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.

It is noted there will be solar access impact to the private open space (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 that achieves 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.

Some overshadowing of the dwellings at 21, 23 and 25 Sunset Boulevard to the west of the site would occur between the hours of 9:00am to 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 requirements.

Traffic Impact 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 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 (vtph) in the AM and 12 vtph in the PM peak periods. The local and state road network has sufficient spare capacity to cater for the additional traffic without adversely impacting on the 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 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.

Car parking provision for the proposed development comprises 47 on-site car parking spaces to cater for the residential apartments and café tenancy with access provided via Soldiers Point Road. The parking provision complies with the Port Stephens DCP

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

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.

Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 3**), the DA is considered to be consistent with the aims and objectives of the relevant environmental planning instruments and Council policies applicable to the subject site. There will be no adverse impact to the natural or built environment.

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

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	Yes		Should Council determine to approve the DA, s.7.11 development contributions amounting to \$360,000.00 would be applicable, and would be levied in accordance with conditions of consent
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with relevant planning instruments including the EP&A Act, LEP 2013 and DCP 2014.

Detailed assessments against these requirements are contained within the Planners Assessment Report provided at (**ATTACHMENT 3**).

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is approved, a third party may appeal the determination.	Low	Accept the recommendation.	Yes
There is a risk that if the DA is refused, Council will be held liable for damage or consequences.	Medium	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed development represents a 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 contribution 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.

CONSULTATION

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

Internal

Internal Consultation was undertaken with Council's Development Engineering, Building Surveying, Development Contributions, Spatial Services teams and Councils Urban Design Panel (UDP). The referral comments from these officers have been considered as part of the Planners Assessment Report (**ATTACHMENT 3**). The internal referral officers supported the DA, subject to the recommended conditions of consent (**ATTACHMENT 1**).

External

External Consultation was undertaken with Ausgrid due to the sites proximity to overhead power lines. In response, no objection to the DA was made. The comments provided by Ausgrid were considered during the detailed assessment and are discussed within the Planners Assessment Report (**ATTACHMENT 3**).

Public Exhibition

The application was exhibited from 10 May 2022 to 24 May 2022, in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. There were 9 submissions received during this period.

The application was re-notified after the submission of amended plans and documentation from the applicant from 11 November 2022 to 24 November 2022, with notification extended for a further 14 days. During this notification period, 2 submissions in support of the amended design and 2 submissions opposing the amended design were received by Council.

A detailed response to these submissions is provided in the Planners Assessment Report in (**ATTACHMENT 3**).

OPTIONS

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

ATTACHMENTS

- 1) Recommended Conditions of Consent.
- 2) Locality Plan.

3) Planners Assessment Report. (Provided under separate cover)

COUNCILLORS ROOM

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

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

TABLED DOCUMENTS

Nil.



RECOMMENDED CONDITIONS OF CONSENT

1.0 - General Conditions of Consent

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

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

Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
2070-DA1 -1	I	Site and Roof Plan	OA+D	21/10/2022
2070-DA1 - 07	I	Basement	OA+D	21/10/2022
2070-DA1 - 08	I	Ground	OA+D	21/10/2022
2070-DA1 - 09	I	Level 1	OA+D	21/10/2022
2070-DA1 – 10	I	Level 2	OA+D	21/10/2022
2070-DA1 - 11	I	Level 3	OA+D	21/10/2022
2070-DA1 - 12	I	Level 4	OA+D	21/10/2022
2070-DA1 - 13	I	Level 5	OA+D	21/10/2022
2070-DA1 - 14	I	Section	OA+D	21/10/2022
2070-DA1 – 15	I	Elevations	OA+D	21/10/2022
2070-DA1 – 16	G	Elevations	OA+D	21/10/2022
6689-HYDRO-2 1	B	Stormwater Management Plan	Land Development Solutions	2/08/2022
6689-HYDRO-2 2	B	Stormwater Management Plan	Land Development Solutions	2/08/2022
6689-SEDIMENT-1.dwg 1 of 2	A	Erosion and Sediment Control Plan	Land Development Solutions	17/02/2022
6689-SEDIMENT-1.dwg 2 of 2	A	Erosion and Sediment Control Plan	Land Development Solutions	17/02/2022

PORT STEPHENS COUNCIL

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6689-REGRADING -1.dwg 1 of 2	A	Site Regrading Plan	Land Development Solutions	17/02/2022
6689-SP1 – Sheets 1-8	-	Draft Strata Subdivision Plans	Jason Lee Harman	-
2109 DA02	B	Landscape Concept Plan – Groundlevel	The Garden Craftsman	16/02/2022
2109 DA03	B	Planting Plan – Groundlevel	The Garden Craftsman	16/02/2022
2109 DA04	B	Concept & Planting Plan – Level 1	The Garden Craftsman	16/02/2022
2109 DA05	B	Concept & Planting Plan – Level 2	The Garden Craftsman	16/02/2022
2109 DA06	B	Concept & Planting Plan – Level 3	The Garden Craftsman	16/02/2022
2109 DA07	B	Concept & Planting Plan – Level 4	The Garden Craftsman	16/02/2022
2109 DA09	B	Site Construction Details	The Garden Craftsman	16/02/2022
2109 DA10	B	Public Domain Construction Details – Street Trees	The Garden Craftsman	16/02/2022

Document Title.	Prepared By.	Dated.
Arborist Report Impact Assessment	Area Tree Vet	23 August 2022

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

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

- (2) **Surrender of Development Consent** – The applicant must surrender the consent relating to **DA No. 16-2002-1220-1** for a 4 Storey Mixed Use Development (Residential/Commercial Building and Carpark) by submitting an application for

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'Surrender of a Consent' to Port Stephens Council in accordance with *Clause 68 of the Environmental Planning & Assessment Regulation 2021*. This must be done prior to the issue of the first Construction Certificate.

- (3) **Limits of consent** – This consent does not approve:

- a) The fit out or hours of operation of the café tenancy.
- b) Signage.

The above must be approved under a separate development application.

- (4) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

- (5) **Excavation for residential building works** – If the approved development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation; and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

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

- (6) **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.

- (7) **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'.

- (8) **Roof mounted equipment** – All roof mounted equipment such as air conditioning units, service pipes and vents etc., required to be installed must be concealed within the external walls of the development or adequately screened so as not to be visible from a public place.

- (9) **Design quality of development** - The approved design (including an element or detail of that design) or materials finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building without the approval of Council.



- (10) **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.
- (11) **External agency approvals** – The requirements from the Ausgrid Referral (dated 7 December 2021. Reference 1900111251 must be complied with prior to, during, and at the completion of the development.

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

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) **Design amendments** – Before the issue of a construction certificate, the applicant must submit, to the satisfaction of Council, construction certificate plans (and specifications) detailing the following amendments to the approved plans and supporting documentation stamped by Council.
- a) Swept paths are to be updated taking into consideration the location of columns and any other obstructions.
 - b) Swept path for MRV vehicle to be provided showing forward entry and exit.
 - c) Calculations to be provided showing that that the post-development flow rate and volume is less than the predevelopment flow rate and volume for all storm events up to and including the 1% annual exceedance probability (AEP) storm event. Any top up system volume is not to be included in the volume for OSD.
 - d) The driveway ramp long-section to provide dimensions. Ramp to be in accordance with AS2890.1
 - e) The awning area is bypassing any water quality or detention and discharges directly to the kerb. The awning area is to be incorporated into the MUSIC model to ensure water quality targets are achieved.
- (2) **Driveway Gradients and Design** – For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design must comply with AS 2890.1 'Off street Car Parking' and:
- a) the driveway must be at least 1m from any street tree, stormwater pit or service infrastructure; and
 - b) a Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of any works.

Details demonstrating compliance must be provided to the Certifying Authority.



- (3) **Civil engineering plans** - Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, accessways, 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.

- (4) **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.

- (5) **Footings and Excavation near Council Property** – All works proposed within the zone of influence of Council's asset/s are to be designed and certified by a qualified Geotechnical or Structural Engineer.

Plans and specifications demonstrating compliance with this requirement must be submitted to the Certifying Authority.

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

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

- (7) **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.

- (8) **Erosion and sediment control plan** – Before the issue of a construction certificate, the applicant is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:

- Council's development control plan,

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- the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the BlueBook), and
- the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The applicant must ensure the erosion and sediment control plan is kept on-site at all times during site works and construction.

- (9) **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.
- (10) **Landscape plan / street tree plan** – Street trees must be planted at no cost to Council and in the location(s) specified on the Landscape Plan prepared by The Garden Craftsman, dated 16 February 2022 Rev B.
Details demonstrating compliance must be provided to the Certifying Authority.
- (11) **Design verification – SEPP 65** – A design verification statement from a qualified NSW Registered Architect must be submitted to the Certifying Authority confirming the Construction Certificate plans and specifications are consistent with the Development Application approval.
- (12) **Garbage room** – Rooms used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, must be constructed in accordance with the approved plans and the following:
 - a) The room must be constructed of solid material, cement rendered and trowelled to a smooth even surface;
 - b) The floor must be impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room; and
 - c) Garbage rooms must be vented to the external air by natural or mechanical ventilation.
 Details demonstrating compliance must be provided to the Certifying Authority.
- (13) **Car parking details** – Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans, which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 Parking Facilities- Off- Street Carparking and Council's development control plan.
- (14) **Construction site management plan** - Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:
 - a) location and materials for protective fencing and hoardings to the perimeter on the site
 - b) provisions for public safety

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- c) pedestrian and vehicular site access points and construction activity zones
- d) details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- e) protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- f) details of any bulk earthworks to be carried out
- g) location of site storage areas and sheds
- h) equipment used to carry out all works
- i) a garbage container with a tight-fitting lid
- j) dust, noise and vibration control measures
- k) location of temporary toilets.

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

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

- (15) **Section 7.11 Development 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
TOTAL		\$360,000

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

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- a) Building work - prior to the issue of the Construction Certificate, or Subdivision Certificate, whichever occurs first.

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

- (16) **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.

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (2) **Home Building Act – Insurance** - In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (3) **Notice of Principal Certifying Authority appointment** – The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the



Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:

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

The notice must be lodged on the NSW planning portal.

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

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

The notice must be lodged on the NSW planning portal.

- (5) **Signs on site** – A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a) showing the name, address and telephone number of the principal certifier for the work, and
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being



carried out, but must be removed when the work has been completed.

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

- (6) **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.
- (7) **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.
- An awning is to be erected that would sufficiently prevent any substance from the construction work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.
- (8) **Demolition work** – All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility.
- Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility.
- Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.
- (9) **Erosion and sediment controls in place** – Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- (10) **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.
- (11) **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.

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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.

- (12) **Hazardous Building Materials Assessment** – A Hazardous Building Material Assessment (HBMA) must be undertaken on all buildings and structures to be demolished that identifies all hazardous components on site. A HBMA report must be provided to the PCA and Council.

Once hazardous components are identified, all demolition works that involve the demolition and removal of the hazardous materials must ensure that all site personnel are protected from risk of exposure in accordance with relevant SafeWork NSW and NSW Demolition Guidelines. Premises and occupants on adjoining land must also be protected from exposure to any hazardous materials.

- (13) **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.

4.0 - During Works

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

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

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

- (3) **Hours of work** – The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:
7.00am to 5.00pm on Monday to Saturday

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

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

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

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

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

- (5) **Compliance with the Building Code of Australia** – Building work must be carried out in accordance with the requirements of the Building Code of Australia.

- (6) **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.

- (7) **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.

- (8) **Surveys by a registered surveyor** – While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —

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- a) All footings/ foundations
 - b) At other stages of construction – any marks that are required by the principal certifier.
- (9) **Construction Management Plan implementation** - All construction management procedures and systems identified in the approved Construction Management Plan must be introduced during construction of the development.
- (10) **Traffic Management Plan implementation** - All construction traffic management procedures and systems identified in the approved Construction Traffic Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.
- (11) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:
 - a) Connected to an approved stormwater management system.
- (12) **Disposal of stormwater** - Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant Environmental Protection Agency and Australian and New Zealand Environment and Conservation Council standards for water quality discharge.
- (13) **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.
- (14) **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.
- (15) **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.
- (16) **Construction noise** – While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.



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

In this condition:

- "relic" means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
 - "Aboriginal object" means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.
- (18) **Building height** – A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.
- (19) **Delivery register** - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered.
- This register must be made available to Council officers on request and be provided to the Council at the completion of the development.
- (20) **Cut and fill (if applicable)** – While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:
- (a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.

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

5.0 - Prior to Issue of a Subdivision Certificate

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

- (1) **Strata Plan of Subdivision** – Sections 37 and 37A of the Strata Schemes (Freehold Development) Act 1973 require an application to be provided to Council for approval prior to the issue of the certified Strata Plan of subdivision.

The applicant will be required to submit documentary evidence that the property has been developed in accordance with the plans approved by this development consent 16-2022-223-1 and of compliance with the relevant conditions of consent, prior to the issuing of a Strata Plan of Subdivision.

Note: The final Strata Plan of Subdivision must be prepared to a quality suitable for lodgement with the NSW Land Registry Services.

- (2) **Restriction on issue of Strata Plan of Subdivision** – An Occupation Certificate for the building must be issued by the PCA prior to the issue of any Strata Plan of subdivision associated with this development consent 16-2022-223-1.

Documentary evidence of the issue of the Occupation Certificate must be provided to Council in conjunction with the application for the Strata Plan of Subdivision.

- (3) **Show easements / restrictions on the Plan of Subdivision** - The developer must acknowledge all existing easements and/or restrictions on the use of the land on the final plan of subdivision.

- (4) **Subdivision Certificate** – The issue of a Subdivision Certificate is not to occur until all conditions of this development consent have been satisfactorily addressed and all engineering works are complete.

Works As Executed Plans must be prepared and provided to the Principal Certifying Authority in accordance with Council's Infrastructure Specifications and approved plans.

- (5) **Surveyor's Report** – A certificate from a Registered Surveyor must be provided to the Principal Certifying Authority, certifying that all drainage lines have been laid within their proposed easements.

Certification is also to be provided stating that no services or accessways encroach over the proposed boundary other than as provided for by easements as created by the final plan of subdivision.

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

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

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

ITEM 3 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



- (7) **Section 88B Instrument** – The applicant must prepare a Section 88B Instrument which incorporates the following easements, positive covenants and restrictions to user where necessary:
- a) easement for services;
 - b) easement to drain water and drainage easement/s over overland flow paths;
 - c) easement for on-site detention;
 - d) positive covenant over the on-site detention / water quality facility for the maintenance, repair and insurance of such a facility;
 - e) retaining wall, positive covenant, and restriction to user;
 - f) restriction as to user over sub-surface drainage pipes contained within the building area of allotments;
 - g) restriction as to user over any lots adjacent to a public reserve stipulating dividing fence type;
 - h) restriction as to user preventing the alteration of the final overland flow path shape, and the erection of any structures (other than open form fencing) in the overland flow path without the written permission of Council;
 - i) restriction as to user creating an easement for support and maintenance 900mm wide adjacent to the “zero” lot line wall;

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.
- 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) **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.
- (3) **Footpath crossing construction** – A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.
- Note:** A Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of such works.
- (4) **Services** – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:
- a) Electricity;

ITEM 3 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



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

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

- (5) **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.

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

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

- (7) **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.

- (8) **Works as Executed Plans and any other documentary evidence** - Before the issue of the relevant occupation certificate, the applicant must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:

- (a) All stormwater drainage systems and storage systems

The principal certifier must provide a copy of the plans to Council with the occupation certificate.

- (9) **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.

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



- (11) **Car parking requirements** – A minimum of 9 car parking spaces including 2 disabled car parking spaces are to be dedicated to the Commercial Premises (café). Parking must be permanently marked on the pavement surface.

There are to be a minimum 6 parking spaces marked for visitors, which must be signposted as "visitor parking".

Car parking for residential units must be provided in accordance with the following minimums:

- One bedroom unit – 1 car space
- Two bedroom unit – 1 car space
- Three bedroom unit – 2 car spaces
- Four bedroom unit – 2 car spaces

Residential car parking is to be permanently numbered on the pavement.

There are to be 2 motorcycle parking spaces provided in accordance with the approved plans.

All car parking is to be provided in accordance with AS2890 and the approved plans.

- (12) **Car Parking Design** - Before the issue of any occupation certificate, Council's Development Engineer must be satisfied height clearance warnings and safety devices such as safety mirrors, have been incorporated into the car parking area.
- (13) **Hunter Water Corporation approval** - A Section 50 Application under the Hunter Water Act 1991 must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.
- (14) **Roof Design** – The roof design must include the installation of PV Solar Panels.
- (15) **Lot Consolidation** - Before the issue of any occupation certificate, Lot 8 DP 26597 and Lot 92 DP 577122 are to be consolidated.

A copy of the Registered Plan of consolidation must be provided to the Principal Certifying Authority.

6.0 – Ongoing Use

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

- (1) **Maneuvering of vehicles** – All vehicles must enter and exit the site in a forward direction.
- (2) **Removal of graffiti** – The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.
- (3) **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.

ITEM 3 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

- (4) **Privacy screen** – Any privacy screen/s must be permanently maintained in accordance with the approved plans for the life of the development.
- (5) **Residential air conditioning units** – During occupation and ongoing use of the building, the applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plant and equipment that generates noise are in an appropriate location on the site (including a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBa at the boundary adjacent to any habitable room of an adjoining residential premises.
- (6) **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 Fire and Rescue NSW in accordance with the *Environmental Planning & Assessment Regulations 2000*.
- (7) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.

If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.
- (8) **Waste management and collection** – 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.
- (9) **Communal Area Access** – All residents of the development are to have access to all communal areas, including the open communal area on Level 1.

Advice Note(s):

- (1) **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 Heritage NSW shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by HNSW to proceed.
- (2) **'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.
- (3) **Dividing fences** – The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

ITEM 3 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.

- (4) **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.

- (5) **Premise standard** – It is the Applicants responsibility to ensure compliance with the requirements of the Disability Discrimination Act 1992 (DDA).

Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.

- (6) **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.

- (7) **Council must be nominated as PCA for subdivision works** – Under Section 6.5 of the *Environmental Planning & Assessment Act 1979*, Council shall be nominated as the Principal Certifying Authority for subdivision work and has the option of undertaking inspection of physical construction works.

- (8) **Street Addressing** - Prior to occupying the development or release of subdivision certificate (whichever occurs first) the approved dwellings are to be identified as follows:

CP – 20 Soldiers Point Road, SOLDIERS POINT
 PT 1 – 101/20 Soldiers Point Road, SOLDIERS POINT
 PT 2 – 102/20 Soldiers Point Road, SOLDIERS POINT
 PT 3 – 103/20 Soldiers Point Road, SOLDIERS POINT
 PT 4 – 104/20 Soldiers Point Road, SOLDIERS POINT
 PT 5 – 105/20 Soldiers Point Road, SOLDIERS POINT
 PT 6 – 106/20 Soldiers Point Road, SOLDIERS POINT
 PT 7 - 201/20 Soldiers Point Road, SOLDIERS POINT
 PT 8 - 202/20 Soldiers Point Road, SOLDIERS POINT
 PT 9 - 203/20 Soldiers Point Road, SOLDIERS POINT
 PT 10 - 204/20 Soldiers Point Road, SOLDIERS POINT
 PT 11 - 301/20 Soldiers Point Road, SOLDIERS POINT



PT 12 – 302/20 Soldiers Point Road, SOLDIERS POINT
PT 13 – 303 /20 Soldiers Point Road, SOLDIERS POINT
PT 14 - 304/20 Soldiers Point Road, SOLDIERS POINT
PT 15 – 401/20 Soldiers Point Road, SOLDIERS POINT
PT 16 - 402/20 Soldiers Point Road, SOLDIERS POINT
PT 17 – 403/20 Soldiers Point Road, SOLDIERS POINT
PT 18 - 404/20 Soldiers Point Road, SOLDIERS POINT
PT 19 – G01/20 Soldiers Point Road, SOLDIERS POINT

Council's Spatial Services Team should be contacted via email at:
addressing@portstephens.nsw.gov.au to obtain correct property addressing details.

Please state your Development Approval number and property address in order to obtain the correct house numbering.

Note: Any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.

- (9) **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.

**SCHEDULE 2 - REASONS FOR DETERMINATION AND REASONS FOR CONDITIONS****REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS**

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Port Stephens Local Environmental Plan 2013 (PSLEP), State Environmental Planning (Resilience and Hazards) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Biodiversity and Conservation) 2021 and State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Port Stephens Council Development Control Plan 2014 (PSDCP).
- Subject to the recommended conditions the proposed development will be provided with adequate essential services required under the PSLEP.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- Any submission issues raised have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination. Council has given due consideration to community views when making the decision to determine the application.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

1. Confirm and clarify the terms of Council's Approval;
2. Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
3. Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
4. Set standards and performance measures for acceptable environmental performance; and
5. Provide for the ongoing management of the development.

SCHEDULE 3 – RIGHT OF APPEAL AND REVIEW**RIGHT OF APPEAL**

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Section 8.7 and 8.10 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after:



- a) the date on which you receive this notice, or
- b) the date on which that application is taken to have been determined under Section 8.11.

Section 8.8 of the Environmental Planning and Assessment Act 1979, does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development). The objector may, within 28 days after the date on which the notice of the determination was given in accordance with the regulations, and in accordance with rules of the Court, appeal to the Court.

RIGHT OF REVIEW

Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within six months after the date as specified in this notice of determination, together with payment of the appropriate fee. **(See exclusions note below).**

Exclusions: A request to review the determination of a development application pursuant to Section 8.2 of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:

- a) A determination to issue or refuse to issue a complying development certificate, or
- b) A determination in respect of designated development, or
- c) A determination made by the Council under Division 4 in respect of an application by the Crown.

ITEM 3 - ATTACHMENT 2 LOCALITY PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800253 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM NO. 4

**FILE NO: 22/241877
EDRMS NO: 16-2022-626-1**

**DEVELOPMENT APPLICATION (DA) 16-2022-626-1 - SOLAR ENERGY SYSTEM
AT 8 LEISURE WAY, RAYMOND TERRACE**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2022-626-1 for a solar energy system at 8 Leisure Way, Raymond Terrace (Lot 2 DP 1006266) subject to the conditions contained in **(ATTACHMENT 1)**.
-

ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023

	Item 4 was withdrawn with the consent of the Chairperson.
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BACKGROUND

The purpose of this report is to present Development Application (DA) 16-2022-626-1 for a solar energy system to Council for determination.

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

Subject Land:	8 Leisure Way, Raymond Terrace (Lot 2 DP 1006266)
Total Area:	20,036m ²
Zoning:	RE1 Public Recreation
Submissions:	0
Key Issues:	The key issues identified throughout the assessment of the DA relate to tree removal, visual impacts and glare impacts to aircraft.

The DA has been reported in accordance with Council's 'Planning Matters to be Reported to Council Policy' as the DA is proposed on Council owned land with a cost of works over \$250,000.

A Locality Plan is provided at **(ATTACHMENT 2)**.

Proposal

The DA is for the installation of a 202.4kW solar energy system to support the Lakeside Leisure Centre at Raymond Terrace. The DA includes the following key aspects:

- 150 solar panels flush mounted on the roof of the existing Lakeside Leisure Centre with an area of 387.65m²
- 310 ground mount panels located towards the southern side boundary (behind the building) with an area of 801.15m²
- Individual solar panels measure 2.279m (L) x 1.134m (W) x 0.34m (H) and 2.58m² in area
- Associated trenching for cable installation and fencing to exclude public access.

Site Description and History

The site comprises a single lot with a total area of 20,036m². The topography of the site has a slight cross fall from the northern side of the lot to the south-eastern side. The site is mostly clear of vegetation, comprising exotic grasses with some native vegetation scattered throughout. The site is zoned RE1 Public Recreation.

The site contains the Lakeside Leisure Centre including swimming pool, and a driveway for access. Residential development is located to the north, south, and west of the site. A commercial premise (Ten Pin Bowling), two sports fields (Lakeside Sports Complex and Lakeside Rugby Field), and a car park are to the east of the site with the Grahamstown Dam further to the north-east.

Key Issues

The key issues identified throughout the assessment of the DA relate to the proposed tree removal, glare and visual impacts. A detailed assessment of the DA is contained within the Planners Assessment Report (**ATTACHMENT 3**).

Tree Removal

The development requires the removal of 5 trees to install the ground-mounted panel bank. Two trees marked for removal are koala feed trees, which require off-set planting in accordance with the Port Stephens Comprehensive Koala Plan of Management (CKPoM). The proposed tree removal has been assessed by Council's Environmental Planner and found to be acceptable for the following reasons:

- The 2 koala feed trees marked for removal are young, do not contain any evidence of habitation and appear to be saplings from a row of trees located in the adjoining vegetated land to the south

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

- The site is identified as clear on the Koala Habitat Planning Map and therefore, there is no expectation of koalas traversing or habituating the subject site or areas adjoining the site
- The planting of 12 koala feed trees as replacement plantings is recommended as a condition of consent
- The ground-mounted panel bank has been located away from the heavily vegetated area to the south of the site.

As a result, the DA is consistent with the CKPoM and no adverse impacts would occur to koalas.

Visual Impacts

The ground-mounted panel bank and fencing will be partially visible from west-bound traffic along Richardson road, and from the adjoining carpark/sports fields to the east.

A condition requiring the installation of landscape screening around the ground-mounted panels has been recommended to screen the development and soften the interface with the existing landscape.

Glare Impacts to Aircraft

The DA was referred to the Department of Defence given the proximity of the site to the Williamstown RAAF Base. The Department of Defence requested that a condition of consent be imposed to ensure that solar panels do not comprise reflective materials and note that Defence may request modification to the panels should the panels be found to cause glare. A condition of consent reflecting these requirements has been included in the recommended conditions at **(ATTACHMENT 1)**.

Conclusion

As detailed in the Planners Assessment Report **(ATTACHMENT 3)**, the DA is consistent with the aims and objectives of the relevant environmental planning instruments and Council policies applicable to the subject site. Subject to the recommended conditions, there will be no adverse impact on the natural or built environment.

The DA has been suitably designed to address the site constraints and will not result in hazardous or offensive development.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The DA provides a renewable energy source that will service the energy demands of the Lakeside Leisure Centre, therefore assisting in the transition toward cleaner electricity generation. Furthermore, the proposal will generate direct employment opportunities during construction, therefore having a positive impact on the local economy. Overall, there are no anticipated adverse social or economic impacts as a result of the DA.

Impacts on the Built Environment

The solar panels are significantly setback from the road frontage and are located primarily out of public view. Landscape screening will further mitigate any adverse impacts to the built environment. Fencing is proposed to be provided to protect the panels and inverters from public access and potential vandalism. Overall, the DA is compatible with the surrounding built environment. The proposed solar panels are located over the proposed Stage 2 upgrade works associated with the Leisure Centre. The solar panels are of a construction material that can be relocated in the event Council receives funding to undertake the Stage 2 upgrade works at the Leisure Centre.

Impacts on the Natural Environment

The DA is not expected to adversely impact the natural environment. The proposed removal of 2 koala feed trees has been found to be acceptable by Council's Natural Systems Section, subject to offset planting of 12 trees. Overall, the DA has been found to have minimal impacts on the natural environment.

CONSULTATION

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

Internal

Consultation was undertaken with Council's Local Infrastructure Contributions and Natural Systems Sections. The referral comments have been considered as part of the Planners Assessment Report (**ATTACHMENT 3**). All internal referral officers supported the DA subject to the recommended conditions of consent (**ATTACHMENT 1**).

External

Consultation was undertaken with the Department of Defence and Ausgrid. The referral comments have been considered as part of the Planners Assessment Report (**ATTACHMENT 3**). Both external agency's supported the DA, subject to the recommended conditions of consent (**ATTACHMENT 1**).

Public Notification

The DA was notified in accordance with the requirements of the Port Stephens Council Community Participation Plan. The notification period was from 22 August 2022 to 6 September 2022. No submissions were received during this period.

OPTIONS

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

ATTACHMENTS

- 1) Recommended Conditions of Consent.
- 2) Locality Plan.
- 3) Planners Assessment Report.

COUNCILLORS ROOM

- 1) Development Plans.

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

TABLED DOCUMENTS

Nil.



RECOMMENDED CONDITIONS OF CONSENT DA 16-2022-626-1

1.0 - General Conditions of Consent

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

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

Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
PV100	A	Site Plan	The Green Guys Group	20/06/2022

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

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

- (2) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (3) **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.
- (4) **Protect existing vegetation and natural landscape features** – No vegetation or natural landscape features other than that authorised for removal, 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.
- (5) **Supply of Electricity** - Satisfactory arrangements are to be made with Ausgrid with respect to the proposed solar energy system which will form part of the development. It is the Applicant's responsibility to enter into the required connection contract. Information on how to apply for a connection to the network is provided on Ausgrid's website <https://www.ausgrid.com.au/Connections/Get-connected>
- (6) **Bushfire safety** – The site is located within a bushfire prone area and must comply

PORT STEPHENS COUNCIL

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Raymond Terrace NSW 2324

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Raymond Terrace NSW 2324

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with NSW Rural Fire Service document "Planning for Bushfire Protection 2019" (PBP2019). In this regard the following is required:

- a) A 10m asset protection zone is to be established and maintained as an inner protection area for the life of the development.
 - b) A Bushfire Emergency Management and Operations Plan is to be prepared that identifies all relevant risks and mitigation measures associated with the construction and operation of the solar farm. The Bushfire Emergency Management and Operations Plan is to include:
 - Detailed measures to prevent or mitigate fires igniting;
 - Work that should not be carried out during total fire bans;
 - Availability of fire-suppression equipment, access and water; storage and maintenance of fuels and other flammable materials;
 - Notification of the local NSW RFS Fire Control Centre for any works that have the potential to ignite surrounding vegetation, proposed to be carried out during a bush-fire fire danger period to ensure weather conditions are appropriate; and
 - Appropriate bush fire emergency management planning.
- (7) **Non-reflective material** – Solar panels are to comprise non-reflective materials.
- (8) **Tree Removal/Pruning** – Removal of two Swamp Mahogany at the northwest corner of the 'Ground Mounted Panel Bank' as shown on the 'Site plan', drawing number PV100, prepared by The Green Guys Group, dated 20/06/2022 and below are approved for removal/pruning:
- 3 x *Acacia terminalis*
 - 2 x *Eucalyptus robusta* (Swamp Mahogany)
- (9) **Protect Existing Vegetation and Natural Landscaping Features** – Approval to remove existing vegetation is not to occur until the issue of the Construction Certificate.
- No Vegetation or natural landscape features other than that authorised for removal, 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.
- (10) **Roof Mounted Equipment** – All roof mounted equipment such as solar panels, air conditioning units, service pipes and vents etc., required to be installed must be concealed within the external walls of the development or adequately screened so as not to be visible from a public place.

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.

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- (1) **Construction Certificate** – The following information must be provided to the Certifying Authority with the Construction Certificate application:
 - a) Detailed Landscape Plan detailing screening for the highlighted area on the site plan that complies with PBP 2019 and Council's Tree Technical Specifications.
- (2) **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.

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** – The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:
 - a) a description of the work to be carried out;
 - b) the address of the land on which the work is to be carried out;
 - c) the Registered number and date of issue of the relevant development consent;
 - d) the name and address of the Principal Certifier and the person who appointed the principal certifier;
 - e) if the principal certifier is a registered certifier
 - i) the certifier's registration number, and
 - ii) a statement signed by the registered certifier to the effect that the certifier consents to being appointed as principal certifier, and
 - iii) a telephone number on which the certifier may be contacted for business purposes.

The notice must be lodged on the NSW planning portal.

- (3) **Notice commencement of work** – Notice must be given to Council and the Principal Certifier, if not the Council, of the person's intention to commence the erection of the building or undertake subdivision work at least two days prior to subdivision and/or building works commencing in accordance with Sections 6.6 (2) and 6.12 (2) (c) of



the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:

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

The notice must be lodged on the NSW planning portal.

- (4) **Erosion and sediment controls in place** – Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- (5) **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.
- (6) **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.
- (7) **Tree protection measures** - Before the commencement of any site or building work, the PCA must ensure the measures for tree protection are in place.
- (8) **Fencing** – Before the commencement of any site or building work, the PCA must ensure that all fencing approved within this DA are a transparent type (e.g. chain link/mesh).

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4.0 - During Works

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

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

7.00am to 5.00pm on Monday to Saturday

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

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

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

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

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

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

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

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that



comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

- (6) **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.

- (7) **Protection of Trees /Existing Street Trees** - Protection of trees to be retained must be in accordance with AS490 'Protection of Trees on Development Sites' and the following:

- a) No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) must be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.

- (8) **Tree Removal/Pruning** - All approved tree removal/Pruning is subject to all pruning works being undertaken by a qualified arborist with minimum Australian Qualification Framework Level 3 qualifications or higher. All works are to be undertaken in accordance with the relevant provisions of AS 4373 'Pruning of Amenity trees'.

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. 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) **Completion of landscape works** – All landscape works are to be undertaken in accordance with the approved landscape plan and conditions of this Development Consent.
- (3) **Completion of landscape and tree works** - Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 and the removal of all noxious

ITEM 4 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

- (4) **Landscape Plan / Street Tree Plan** - The following tree species must be planted where there is sufficient land within Lot 2 DP 1006266, or a portion of the replacement trees may be replanted on receiving land as approved by Council:

a) 12 x *Eucalyptus robusta* Swamp Mahogany ≥ 10L pot size

The planting must be installed on the subject lot and/or land approved by Council prior to the operation of the development.

6.0 – Ongoing Use

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

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

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

- (2) **Asset Protection Zones** – The 10m Asset Protection Zone (APZ) must be maintained to the standard of an Inner Protection Area (IPA) for the life of the development.

- (3) **Maintenance of Replacement Plantings / Revegetation** - Replacement trees are to be maintained (e.g. through the use of mulch and watering) until maturity, or for a period of 5 years from planting.

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

- (4) **Glare** – It is advised that during operation, should the solar panels be found to cause glare problems for pilots, the Department of Defence (DoD) may request that the panels be suitably modified to extinguish glare as necessary.

Advice Note(s):

- (1) **'Dial Before you Dig'** – Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables.

- (2) **Responsibility for damage for tree removal/pruning** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public

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roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.

- (3) **Approved Plans to be on-site** – A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.
- (4) **Council as PCA, PCA sign** – It is the responsibility of the applicant to erect a PCA sign. Where Council is the PCA, the sign is available free of charge, from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay. The applicant is to ensure the PCA sign remains in position for the duration of works.
- (5) **Hunter Water Infrastructure - Hunter Water stamped plans – Prior to the commencement of works**, the person having the benefit of this consent shall contact Hunter Water Corporation (HWC) to ensure that the approved works do not impact upon existing or proposed HWC infrastructure. A copy of the information received by HWC shall be provided to Council within 10 days of receipt. Should HWC require modification to the approved development a Section 4.55 Modification Application and/or modified Construction Certificate Application should be lodged.
- (6) **Requirements of PCA - Issuing of OC – Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.
Note: The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.
- (7) **Works near/adjoining electricity network assets** – There are electricity network assets adjacent to the proposed development as per the easement identified on the deposited plan for the sites. Workcover Document "Code of Practice - Work Near Overhead Powerlines" outlines the minimum safety separation requirements between overhead power lines to plant, equipment and scaffolding within the development during construction. It is a statutory requirement that this document is followed at all times throughout the construction phase.
- (8) **Bird Strike Advice** – As the subject site is located in an area mapped by the Department of Defence as "Birdstrike Group B", organic waste and/or the storage of bins associated with any future development must be covered and/or enclosed and limited on-site.

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ITEM 4 - ATTACHMENT 2 LOCALITY PLAN.



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PORT STEPHENS
COUNCILDEVELOPMENT
ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2022-626-1
Development Description	Installation of solar energy system
Applicant	PORT STEPHENS COUNCIL
Land owner	PORT STEPHENS COUNCIL
Date of Lodgement	11/08/2022
Value of Works	\$334,479.00
Submissions	0

PROPERTY DETAILS

Property Address	8 Leisure Way RAYMOND TERRACE
Lot and DP	LOT: 2 DP: 1006266
88B Restrictions on Title	Nil
Current Use	Community Facility
Zoning	RE1 PUBLIC RECREATION
Site Constraints	Bush Fire Prone Land – Vegetation Buffer; Stormwater Drainage Requirement Area - Infiltration; Combined Corridor Map – Stepping Stone; NSW Wild Life Atlas – Fauna; Acid Sulfate Soil – Class 5, 4; Koala Habitat Planning Map – Clear; ANEF2025 – 25-30; RAAF Height Trigger Map – Runway centre-line, 15m; RAAF Bird Strike – Group B; Flood Prone Land.
State Environmental Planning Policies	State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 4 Koala Habitat Protection; State Environmental Planning Policy (Resilience and

Hazards) 2021 – Chapter 2 Remediation of Land;
State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 2 Infrastructure.

PROPOSAL

The proposed development seeks consent to install a 202.4kW solar energy system at the Lakeside Sports Complex. This large-scale system consists of 150 solar panels flush mounted on the roof of the existing Lakeside Leisure Centre with an area of 387.65m² and a separate bank of 310 ground mount panels located towards the southern side boundary (behind the building) with an area of 801.15m². The individual solar panels measure 2.279m (L) x 1.134m (W) x 0.34m (H) and 2.58m² in area. The ground-mounted panel bank will be installed on raised concrete piers that are anchored into an S-Rack mounting device that will be 670mm (L) x 670mm (W) x 760mm (H) and 801.15m² in area. Associated works include trenching for cable installation and fencing to restrict access. The proposed site plan is shown in Figure 1 below. Port Stephens Council is the landowner and proponent of the project.

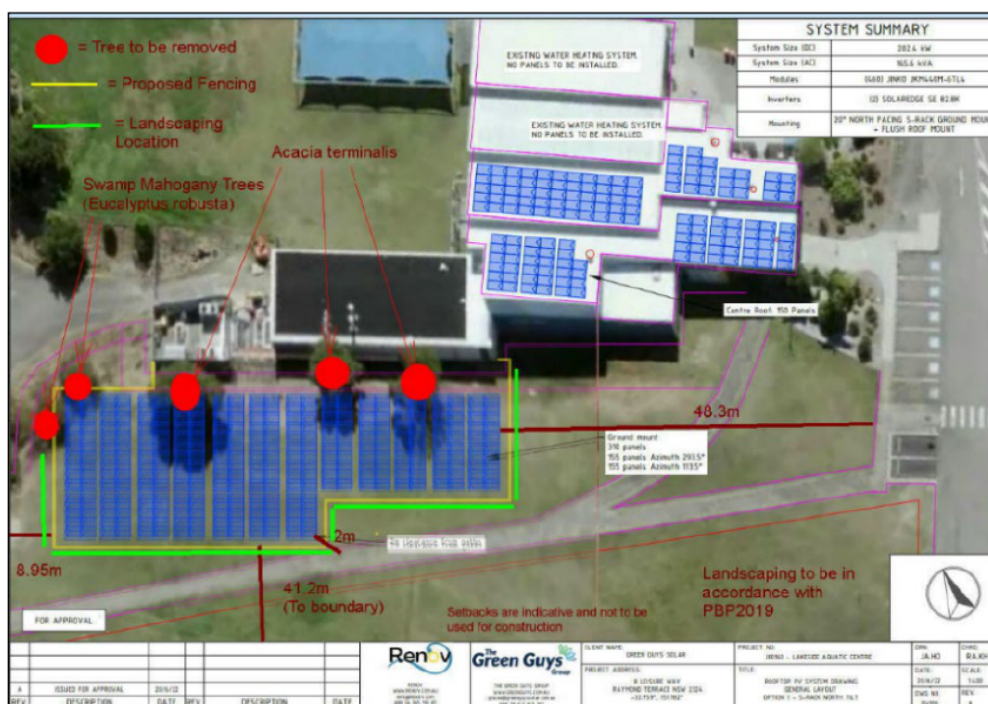


Figure 1: Proposed site plan

SITE DESCRIPTION

The subject site is legally identified as Lot 2 DP 1006266 at 8 Leisure Way, Raymond Terrace (the 'site'). The topography of the site has a slight cross fall from the northern side of the lot to the south eastern side. The site contains the Council owned Lakeside Leisure Centre, a swimming pool, and a driveway for access as shown in Figure 2 below. Residential development is located to the north, south, and west of the site. A commercial premise (Ten Pin Bowling), two sports fields (Lakeside Sports Complex and Lakeside Rugby Field), and a car park are to the east of the site with the Grahamstown Dam further to the east.



Figure 2: Aerial GIS imagery of the subject site shaded in blue

SITE HISTORY

The site has a number of applications on Council's digital records. These are detailed below:

File Number	Description	Outcome	Date
16-1998-1786-1	Leisure and Aquatic Centre	A	01/03/1999
16-2000-862-1	Amenities Building	AC	06/07/2000
16-2003-1192-1	Aluminium Awnings – Additions to Existing Recreation Facility	AC	04/09/2003
16-2012-415-1	2012 Annual NSW Aboriginal Rugby League Knockout Event	AC	25/09/2012

There is no history of contamination or previous approvals that would impact the proposed development.

SITE INSPECTION

A site inspection was carried out on 08/09/2022. The subject site can be seen in the images below:



Image 1: Proposed location of the ground mounted panel bank



Image 2: View towards the leisure centre carpark and location of the ground mounted panels



Image 3: View towards buildings proposed for roof mounted panels



Image 4: View towards the entrance of the leisure centre and buildings proposed for roof-mounted panels



Image 5: View from the existing pedestrian path to buildings proposed for roof mounted panels and section of ground mounted panels



Image 6: Swamp Mahogany tree proposed for removal



Image 7: Proposed location for replacement tree planting



Image 8: Second Swamp Mahogany tree proposed for removal

ITEM 4 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.**PLANNING ASSESSMENT**

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

Internal

Local Infrastructure Contributions – The application was referred to the Local Infrastructure Contributions section to calculate any applicable development contributions. The referral notes that in accordance with the Port Stephens Local Infrastructure Contributions Plan, S7.12 contributions are not applicable to public infrastructure carried out by or on behalf of Council.

Natural Systems – The application was referred to the Natural Systems Section to assess the proposed tree removal. Councils Environmental Planner conducted a site inspection on 21 September 2022. Five trees are proposed for removal to facilitate the proposal. The five tree species include:

- 3 x *Acacia terminalis*
- 2 x *Eucalyptus robusta* (Swamp Mahogany)

Eucalyptus robusta is a preferred Koala feed tree, as such, 12 replacement trees must be planted in accordance with the Port Stephens Tree Technical Specification. No hollows or nests were observed in the above trees. Subject to conditions of consent, the application is supported by the Natural Systems Section.

Comment: All referral officers have supported the application.

External

Department of Defence – The application was referred to the Department of Defence given the sites proximity to the Williamtown RAAF Base. The initial referral response raised concern regarding potential glare impacts resulting from the proposed solar panels. Defence requested that an appropriate condition to ensure that potential glare impacts are mitigated and monitored during and following installation to ensure that aircraft safety for operations from RAAF Base Williamtown are not compromised, be included in any approval. As a result, a condition of consent has been recommended to address the Department of Defence's concerns.

Ausgrid – The application was referred to Ausgrid for comment due to the proximity of the development to overhead power lines and a connection application. Ausgrid raised no objection to the proposal. Advice was provided noting minimum clearances to Ausgrid assets appear to not be encroached by the development. Advice was also provided regarding a connection application. An advisory note reflecting the Ausgrid comments has been included in the recommended conditions of consent.

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 does not require any of the approvals listed under S.4.46 and therefore is not integrated development.

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

The site is mapped as bushfire prone land - vegetation buffer and as such triggers assessment under the NSW RFS Planning for Bushfire Protection 2019 (PBP 2019).

ITEM 4 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Section 8.3.5 of PBP 2019 applies to wind and solar farms. While the PBP does not specifically mention solar energy systems, it is deemed appropriate to apply the development criteria to this development for the following reasons:

- The Transport and Infrastructure SEPP was brought into effect in 2022 and included a new definition of Solar Energy System, the PBP however, was last updated in 2019 before the creation of the definition for a Solar Energy System. Under the previous SEPP, the application would have been defined as a Solar Farm, which is consistent with the PBP 2019 definition.
- Given the Solar Energy System is of a comparable size in power generation as Solar Farms that have been approved recently in the LGA, it is considered that the provisions for a wind and solar farms are applicable to the development.
- There is sufficient vegetation in the surrounding area of the proposed ground mounted panel bank that warrants consideration of potential bushfire risks to the proposal.

PBP 2019 states that the following should be provided for wind and solar farms:

- A minimum 10m APZ for the structures and associated buildings/infrastructure; and
- The APZ must be maintained to the standard of an IPA for the life of the development. Infrastructure for the purposes of requiring APZ excludes:
 - Road access to the site; and
 - Power or other services to the site and associated fencing.

Due to the development requiring vegetation management for the creation of the APZ, it is recommended that a condition of consent be imposed requiring the preparation of a Vegetation Management Plan, and a Bushfire Emergency Management and Operations Plan.

Through the establishment and maintenance of a 10m APZ and the recommended conditions requiring compliance with PBP 2019, the proposal conforms to the requirements of PBP 2019.

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**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 has been identified as 'clear' on the koala habitat mapping, however it was noted on a site inspection that two of the trees are preferred koala habitat. The development proposes to remove five trees of the following varieties:

- 3 x *Acacia terminalis*
- 2 x *Eucalyptus robusta* (Swamp Mahogany)

Eucalyptus robusta is a preferred Koala feed tree, as such, 12 replacement trees with a ≥ 10L pot size must be planted as per the Port Stephens Tree Technical Specification. A condition of consent has been recommended to this effect.

ITEM 4 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Additionally, conditions have been recommended relating to the retention of all trees not marked for removal on the Site Plan, the planting of landscaping, and the on-going maintenance of the landscaping.

Subject to the recommended conditions of consent, the proposed development will not result in any adverse impacts to koala habitat and the proposal is consistent with the requirements of the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

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

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

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

The aim of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* is to facilitate the effective delivery of infrastructure across the State by –

- (a) *improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) *providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) *allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) *identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) *identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (g) *providing opportunities for infrastructure to demonstrate good design outcomes.*

Pursuant to Division 4 of the SEPP, the proposal is a 'solar energy system', which is defined as:

Solar energy system means any of the following systems—

- (a) *a photovoltaic electricity generating system used for the primary purpose of generating electricity for a land use—
 - i. carried out on the land on which the system is located, or
 - ii. carried out by the owner of the system on adjoining land,*
- (b) *a solar hot water system,*
- (c) *a solar air heating system.*

ITEM 4 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

In accordance with Clause 2.36, development for the purpose of a solar energy system may be carried out by any person with consent on any land. The subject site is zoned RE1 Public Recreation. Therefore, in accordance with Clause 2.36, the proposed solar farm energy system is permissible with consent.

As per Clause 2.122 of the SEPP, the proposal is not classed as a traffic-generating development under Schedule 3. A referral under this Clause to Transport for NSW is therefore not required.

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The proposed development is defined as a 'solar energy system' which is not permissible with consent in the RE1 Public Recreation zone under the PSLEP 2013. Notwithstanding, in accordance with Clause 2.36 of the Transport and Infrastructure SEPP, development for the purpose of solar energy system may be carried out by any person with consent on prescribed non-residential zone (including RE1 Public Recreation). The Transport and Infrastructure SEPP prevails over the land use permissibility of the PSLEP 2013 under the overriding provisions of Section 2.7 of the SEPP.

The objectives of the RE1 Public Recreation zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The development addresses the objectives of the zone by facilitating a compatible land use whilst continuing to maintain the public recreation character of the land. The site would still be able to be utilised for public recreation, with the solar farm providing electricity generation for the existing facilities. On this basis, the proposal aligns with the objectives of the zone.

Clause 4.3 – Height of Buildings

The site is not identified on the Height of Buildings map. The solar panels are to be located flush on the roof of the existing building, and therefore will not result in any significant increase to the building height. The ground-mounted solar panels will have a maximum height of 0.76m, which is less than the height of existing structures on the subject site and will the ground-mounted panel bank will surrounded by a 2.1m chain-link fence that is screened with compliant landscaping. The ground-mounted panel bank is also primarily out of view of any residential housing to the south or west of the site and it is considered unlikely to cause adverse impacts to the amenity or character of the area. Given this, the height of the proposed development is considered to be consistent with the character of the area, and will reflect the hierarchy of centres and land use structures. The existing buildings will remain unchanged and is compliant with this clause.

In addition, the building height definition within the PSLEP 2013 means:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

In accordance with part (b) of the definition, the roof mounted solar energy panels are considered to be of a similar characterisation to communication devices and therefore excluded from the building height calculation.

ITEM 4 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.**Clause 5.21 – Flood Planning**

The subject site is located on land mapped as being Flood Prone land, however, the proposed development is positioned outside the affected areas. As a result, the development does not require any flood controls.

Clause 7.1 – Acid Sulfate Soils

The subject land is mapped as containing potential Class 5 and 4 acid sulfate soils. The proposed development is not anticipated to entail excavations below 1 metre and therefore it is not expected that acid sulfate soils would be encountered during works. It is noted that the ground-mounted solar panel bank is installed above the existing ground level (EGL) into an S-PACK mounting system and is considered unlikely to disturb ASS.

Clause 7.2 – Earthworks

The proposal includes minor earthworks that will not extend below 1m from EGL. The works proposed include the construction of footings for the fencing and a trench to connect the wires from the ground-mounted panel bank to the wall-mounted inverter. The works are unlikely to disrupt drainage patterns, adversely impact neighbouring amenity or environmentally sensitive areas, subject to recommended conditions relating to sediment and erosion control.

Clause 7.5 – Areas Subject to Aircraft Noise

The proposed development is located on land identified as being within the 20-25 Australian Noise Exposure Forecast (ANEF) contour, however, the proposed development does not increase human exposure to aircraft noise. A referral was sent to the Department of Defence (DoD), and in response, no objection was made to the proposal regarding the impacts of aircraft noise.

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 hard stand areas can be catered for in accordance with Councils requirements. The subject land also maintains direct access to Leisure Way, meeting the requirements of this clause.

A referral was sent to Ausgrid, to which they raised no major concerns with the proposal but noted the developments proximity to Ausgrids assets and that the Workcover Code of Practice 2006 – Work Near Overhead Powerlines must be complied with during works. Advice was also provided regarding the need for a connection application. As a result, all essential services are available to the site and the proposal is compliant with 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 proposed development seeks to remove five trees and disturb exotic grassland and therefore the provisions of this Chapter apply. The five tree species include:

- 3 x *Acacia terminalis*
- 2 x *Eucalyptus robusta* (Swamp Mahogany)

ITEM 4 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Eucalyptus robusta is a preferred Koala feed tree, as such, 12 replacement trees with a pot size that is equal to or greater than 10L must be planted as per the Port Stephens Tree Technical Specification. No hollows or nests were observed in the above trees.

Subject to the recommended conditions of consent, the proposed tree removal satisfies the requirements of this chapter.

Chapter B2 – Natural Resources

The site contains environmentally sensitive features including koala habitat and therefore the requirements of this Chapter apply. The proposed development would result in no adverse environmental impacts and is therefore consistent with this Chapter, in that:

- A site inspection was conducted on 21 September 2022 that identified more than 5 *Eucalyptus robusta* (Swamp Mahogany) trees on the site, with 2 located inside the footprint of the ground mounded solar bank and are proposed for removal.
- The two (2) Swamp Mahogany trees marked for removal were young, fragmented from established patches of vegetation, not containing any habitat, and appeared to be saplings from a set of Swamp Mahogany trees located in the vegetated land directly to the south.
- The site is identified as 'clear' on the koala Habitat Planning Map and therefore, there is no expectation of koalas traversing or habituating the subject site or areas adjoining the site.
- The site contains minimal native vegetation, with much of the vegetation being disturbed and consisting of exotic grassland which provides limited habitat for threatened flora and fauna species.
- The planting of 12 Swamp Mahogany trees as a replacement for the 2 Swamp Mahogany trees that are approved for removal is recommended as a condition of consent.
- The ground-mounted panel bank has been located away from the heavily vegetated area to the south of the site.

As a result, the development is considered to be consistent with the CKPoM in that where possible impacts to significant vegetation have been avoided, and the provision of 12 offset plantings will ensure that there is no adverse impacts to the koala habitat of the local area.

Chapter B3 – Environmental ManagementAcid Sulfate Soils

The objective of this DCP Chapter is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage. As detailed within the clause 7.1 PSLEP 2013 discussion above, the proposed development could be undertaken, subject to conditions of consent, without resulting in adverse impact to ASS. In this regard, the development is consistent with the objective and requirements of the DCP.

Noise

The separation distances incorporated into the development will limit any significant impacts on the adjoining residential development. The impacts of the development during construction could be limited through conditions of consent which limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. Additionally, it is not expected that ongoing use of the solar panels will have adverse noise impacts as any inverters have been appropriately located away from residential areas. Subject to conditions, the application is satisfactory in regards to noise management.

Earthworks

As discussed at clause 7.2 of the PSLEP 2013 above, the proposed development involves minor earthworks. 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.

ITEM 4 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Waste

To ensure waste is managed responsibly during construction, a condition of consent has been recommended requiring a rubbish containment area to be established prior to the commencement of works on site.

Chapter B4 – Drainage and Water Quality

The proposal does not create any additional impervious area and does not trigger the requirement for any additional water quality or detention measures. Any run-off from the panels will either be captured by the existing approved stormwater management system of the Lakeside Leisure Centre, or fall directly to the ground as it currently does. Subject to conditions of consent, the development is compliant with the objectives of this control.

Chapter B5 – Flooding

The subject land is mapped as being within the Flood Planning Area. Following from the discussion against clause 5.21 of the PSLEP 2013 above, the proposed development is outside the flood affected area and therefore no specific flood controls apply.

Chapter B6 – Williamstown RAAF Base - Aircraft Noise and Safety

The impact of aircraft noise on the proposed development has been assessed in the discussion against clause 7.5 of the PSLEP 2013 above, and found to be acceptable in this instance.

Chapter B8 – Road Network and Parking

The proposal is not considered likely to result in adverse traffic impacts to the surrounding road network. The solar energy system will be accessed via the existing crossover from Leisure Way, which does not require any upgrade to support the proposal. There is sufficient parking supply available in the existing car park during construction and ongoing maintenance.

Chapter C – Development Types

The proposed development is defined as 'solar energy system'. The PSDCP 2014 does not contain controls that are applicable to the proposed use of the land and the subject site is zoned as RE1 Public Recreation which does not have a specific chapter in the DCP. Notwithstanding, a merits based assessment against the controls identified in Chapter C3 is considered to be the most appropriate as the nature of the Solar Energy System is a large scale energy production system that will act in an equivalent manner to industrial development such as Solar Farms.

Chapter C3 – Industrial

Reference	Control	Assessment
Objective C3.A Requirement C3.1	Building Height <ul style="list-style-type: none"> To ensure the height of buildings is appropriate for the context and character of the area To ensure building heights reflect the hierarchy of centres and land use structure 	<p>No changes to the existing buildings are proposed. The installation of the roof panels will be flush on the roof.</p> <p>It is considered to have an insignificant impact on the height of the building.</p>
Objective C3.B Requirement C3.2-C3.5	Building Siting and Design <ul style="list-style-type: none"> To ensure development is situated within an appropriate building envelope 	<p>No changes to the form, bulk, or style of the existing buildings are proposed. The proposed panels are located partially away from public view.</p> <p>The solar energy system does not detract from the amenity of the area and</p>

ITEM 4 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Reference	Control	Assessment
		the minor removal of vegetation is appropriate with offset planting to be imposed as a condition of consent. As a result, the development is considered to meet the objectives of this control.
Objective C3.D Requirement C3.9-C3.11	Fencing <ul style="list-style-type: none"> To avoid the dominance of fences on the streetscape and similar hostile design, and to soften the built environment in industrial areas 	The proposed security fencing is 2.1m from the existing ground level (EGL) and located 0.9m from the ground-mounted panel bank and connecting to the existing fencing and structures on site. The fencing is appropriately located to ensure that public access to the panels and inverters is restricted.
Objective C3.E Requirement C3.12-C.19	Facades and Articulation <ul style="list-style-type: none"> To ensure facades consist of appropriate materials and colours that contribute to streetscape amenity To ensure weather protection is provided at building entrances 	The panel and fencing colours will be conditioned to use materials that are sympathetic to the natural environment and existing site context.
Objective C3.F Requirements C3.20-C3.23	Landscaping <ul style="list-style-type: none"> To enhance the appearance and amenity of developments through the retention and/or planting of large and medium sized trees. To encourage landscaping between buildings for screening. To ensure landscaped areas are consolidated and maintainable spaces that contribute to the open space structure of the area. To minimise the visual impact and noise pollution generated by development on nearby residential areas and road contours To use land efficiently and minimise disturbance to the local natural environment To integrate existing landscape features and/or architecture into development To reduce energy consumption through microclimate regulation To reduce air borne pollution by reducing the heat island effect To intercept stormwater to reduce stormwater runoff 	The proposed fencing will be visible from the public areas surrounding the site and requires landscaping to soften the visual impact. Requirements for landscaping have been included as a recommended condition of consent, including compliance with the PBP 2019 and the PSC Tree specification guide.

ITEM 4 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Reference	Control	Assessment
Objective C3.G Requirement C3.24	<ul style="list-style-type: none"> To ensure signage is complimentary to its surroundings 	No signage is proposed.

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

There are no clauses of the regulations applicable to the proposed development

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 proposal will result in both positive social and economic impacts. The proposal will provide renewable energy sources that will service the Lakeside leisure Centre, therefore assisting in the transition towards cleaner electricity generation. Furthermore, the proposal will generate direct employment opportunities during both construction and operation, therefore having a positive impact on the local economy.

Impacts on the Built Environment

The proposed development is considered to be compatible with the public recreational context of the area. The solar panels are significantly setback from the road frontage or located on existing buildings, and have been designed and located so as to avoid adverse impacts on the use of or access to existing structures and facilities on the site. Appropriate fencing and landscaping will also be provided to protect the panels and inverters from public access and reduce visual impacts. Therefore, the proposal is not considered likely to result in adverse impacts to the built environment.

Impacts on the Natural Environment

The proposed development has been found to have minimal impacts on the natural environmental as detailed in throughout this report because:

- The site is identified as 'clear' koala habitat on the Koala Habitat Planning Map and therefore, there is no expectation of koalas traversing or habituating the subject site or areas adjoining the site;
- The proposed removal of 2 Swamp Mahogany trees will be offset by the planting of 12 Swamp Mahogany trees at an alternative location on site.
- The trees to be removed are young and do not contain any hollows or signs of habitation.

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

The subject site is suitable for the proposed development based on the site being suitably zoned (RE1 Public Recreation), and will not contribute to or result in land use conflict with surrounding development. The site also has sufficient space to allow for the proposal without restricting the current recreational use of existing facilities. The proposal is considered unlikely to have adverse environmental impacts on the subject site or surrounding areas.

ITEM 4 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.***Section 4.15(1)(d) any submissions made in accordance with this act or the regulations*****Public Submissions**

The application was exhibited from 22 August 2022 to 6 September 2022 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. No submissions were received with relation to the subject development proposal.

Section 4.15(1)(e) the public interest

The proposal is considered to be in the public interest for the following reasons:

- The proposed development is consistent with the objectives of the RE1 Public Recreation zone under the PSLEP 2013 and is also permissible with consent under the Transport and Infrastructure SEPP 2021;
- The on-going development of renewable energy is considered to be of social and economic importance to the wider LGA and will provide benefits to the local economy during construction and on completion;
- The proposal has been designed and sited to minimise its environmental impacts and conditions recommended to offset the proposed tree removal.

Section 7.12 – Fixed development consent levies

In accordance with the Local Infrastructure Contributions Plan, Section 7.12 contributions are not applicable to the proposed development as it is for Council-related development on Council owned land.

DETERMINATION

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

ITEM NO. 5

**FILE NO: 22/333955
EDRMS NO: 58-2022-5-1**

**PLANNING PROPOSAL FOR SUNRISE LIFESTYLE VILLAGE, 4011, 4029 AND
4045 NELSON BAY ROAD, BOBS FARM**

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the planning proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 to:
 - a. Regularise the existing approved use of a caravan park at Lot 51 DP 1175028, 4011 Nelson Bay Road, Bobs Farm.
 - b. Enable the extension of the use to adjoining land (subject to development consent) at Lot 3622 DP 622485, 4029 Nelson Bay Road, Bobs Farm and Lot 2 DP 622229, 4045 Nelson Bay Road, Bobs Farm.
 - c. Rezone part of the site from RU2 Rural Landscape to C2 Environmental Conservation.
- 2) Forward the planning proposal to the NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan.

**ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023
MOTION**

017	<p>Councillor Leah Anderson Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Adopt the planning proposal (ATTACHMENT 1) to amend the Port Stephens Local Environmental Plan 2013 to:<ol style="list-style-type: none">a. Regularise the existing approved use of a caravan park at Lot 51 DP 1175028, 4011 Nelson Bay Road, Bobs Farm.b. Enable the extension of the use to adjoining land (subject to development consent) at Lot 3622 DP 622485, 4029 Nelson Bay Road, Bobs Farm and Lot 2 DP 622229, 4045 Nelson Bay Road, Bobs Farm.c. Rezone part of the site from RU2 Rural Landscape to C2 Environmental Conservation.
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MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

	2) Forward the planning proposal to the NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is for Council to adopt the planning proposal **(ATTACHMENT 1)** to amend the Port Stephens Local Environmental Plan 2013 (PSLEP 2013). The proposal seeks to regularise the existing approved use of land at 4011 Nelson Bay Road, Bobs Farm, enable the extension of that use (subject to development consent) to adjoining land at 4029 and 4045 Nelson Bay Road, Bobs Farm and rezone part of the subject land from RU2 Rural Landscape to C2 Environmental Conservation.

Should Council resolve to adopt the planning proposal, it will be forwarded to the NSW Department of Planning and Environment (DPE) requesting a Gateway determination, and for Council to be made the plan making authority. Following issue of a Gateway determination, the planning proposal would be publicly exhibited in accordance with any gateway conditions, before being reported to Council to determine the proposal.

A locality map of the land the subject of the planning proposal is available at **(ATTACHMENT 2)**. A Strategic Planning Assessment Report (SPAR) for this planning proposal is available at **(ATTACHMENT 3)**.

The existing caravan park (Sunrise Lifestyle Village) was approved under previous Port Stephens Local Environmental Plan 2000 and is permissible under existing use rights. The planning proposal would reduce confusion by amending Schedule 1 of the PSLEP 2013 to include 'caravan park' as an additional permitted use over the subject land. This additional permitted use would apply to the subject site only and does not apply to other similar style developments or locations throughout Port Stephens.

The planning proposal would also extend the additional permitted use to the 2 lots adjoining Sunrise Lifestyle Village (Lot 3622 DP 622485 and Lot 2 DP 622229, known as 4029 and 4045 Nelson Bay Road, Bobs Farm) which are currently used for residential purposes. These lots form the land bounded by Nelson Bay Road, Trotter Road and the existing Sunrise Lifestyle Village. It is intended to extend the

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

development over part of these lots, for which a separate future development application would be required.

The remaining parts of the adjoining lots are proposed to be rezoned from RU2 Rural Landscape to C2 Environmental Conservation. This is for the purposes of retaining a vegetation corridor connecting vegetation to the north and south of the site. An existing wildlife crossing is located approximately 10m from the site's eastern boundary. The fauna crossing underpasses Nelson Bay Road and was previously installed by Transport for NSW.

A summary of the planning proposal and property details are provided below:

Date lodged:	6 December 2022
Proponent:	Hometown Australia C/- ADW Johnson
Subject property:	Lot 51 DP 1175028, 4011 Nelson Bay Road, Bobs Farm Lot 3622 DP 622485, 4029 Nelson Bay Road, Bobs Farm Lot 2 DP 622229, 4045 Nelson Bay Road, Bobs Farm
Total area:	Total site area (all lots combined) is approximately 13.72ha, comprised of: Lot 51 10.18 Lot 3622 2.04 Lot 2 1.49
Current zoning:	RU2 Rural Landscape
Current use:	Lot 51 comprises of an approved caravan park, comprising of 193 manufactured homes and community facilities approved under historic zoning, and currently operating under existing use rights. Lot 3622 and Lot 2 each contain a single dwelling and associated outbuildings.
Proposed changes:	Inclusion of the subject land within Schedule 1 of PSLEP as an additional permitted use to permit a Caravan Park. Rezone part of site to C2 Environmental Conservation.
Lot yield:	The planning proposal has potential for approximately 62 additional dwellings on the Subject Land. The existing approved caravan park comprises 193 dwelling sites.

Suitability of the site

The subject land is considered suitable for the proposed future use given that part of the land is already utilised for this use. The additional lots (Lot 3622 and Lot 2) that would accommodate an extension of the Sunrise Lifestyle Village (subject to development consent) are relatively unconstrained.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

The proposal is supported by a Streamlined Biodiversity Development Assessment Report (SBDAR). Council's Natural System Team advised that the SBDAR confirms that the site does not contain any koala feed trees and is not suitable habitat for koalas. Notwithstanding, maintaining north-south habitat connectivity is a critical component to this planning proposal and the future development of the site. Transport for NSW has undertaken extensive studies within this location in association with the road upgrade works that were completed in 2015. These works resulted in fauna fencing, fauna grids and fauna crossing structures being installed in the locality.

With the development of the current Sunrise Estate and the proposed future expansion, habitat connectivity through the eastern portion of 4045 Nelson Bay Road is critical to fauna (including koalas) that occur within the area. In order to secure the Eastern portion of the site as fauna connectivity tunnel, a C2 Environmental Conservation Zone is proposed.

Unlike typical residential developments, the development already includes a number of on-site community facilities and services, including a regular private bus service which connects residents with nearby town centres.

Servicing

Ausgrid and Hunter Water have advised that there is sufficient capacity in the existing network to support the proposed development.

AHIMS

A search of the Aboriginal Heritage Information Management System identified 1 Aboriginal site recorded near the subject land. The Aboriginal site is located south of Nelson Bay Road, within the Worimi National Park.

Due to the proximity of this site, a Due Diligence Aboriginal Heritage Assessment was prepared 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.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

Financial and resourcing implications for Council as a consequence of the recommendation of this report are outlined below.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		The planning proposal would change the highest and best use permitted on the land, which is likely to increase the land value. Consequently, rate income from the land is expected to increase.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		Development contributions are payable subject to an approved DA.
External Grants	No		
Other	Yes		Stage 1 Planning Proposal fees of \$13,860 (incl. GST) have been paid.

LEGAL, POLICY AND RISK IMPLICATIONS

There are no foreseen legal, policy or risk implications for Council as a result of the recommendation of this report.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that DPE will refuse the planning proposal at Gateway.	Low	Accept the recommendation.	Yes
There is a risk that the housing needs in Port Stephens are not met.	Medium	Accept the recommendation.	Yes.
There is a risk that without the proposed C2 Environmental Conservation zone, the wildlife corridor will not be secured into the future.	Low	Accept the recommendation.	Yes.

Environmental Planning and Assessment Act, 1979

The planning proposal is being processed in accordance with Part 3 of the EP&A Act. Should Council resolve to adopt the planning proposal, it will be forwarded to DPE for

a Gateway determination, including a request for Council to be made the Plan Making Authority.

State Environmental Planning Policy (Housing) 2021

Provisions in the Housing SEPP relating to caravan parks are applicable to development of the site. These provisions include matters for consideration when assessing a future development application for a caravan park, including a caravan park that comprises of manufactured homes. These matters include site suitability, location and character, and whether necessary community facilities and services are available.

Further, the planning proposal is consistent with the overarching principles of the Housing SEPP, as it would:

- Offer housing diversity
- Provide housing to meet the needs of more vulnerable members of the community (such as seniors)
- Provides a high level of amenity
- Promotes housing in a location where it would use existing and planned infrastructure and services
- Minimises environmental impacts through the use of largely disturbed land.

Port Stephens Local Environmental Plan 2013

The PSLEP 2013 zones the land RU2 Rural Landscape, which does not permit caravan parks. The current development on the site relies on the existing use rights to operate. An extension of that use to the adjoining parcel would not be permissible under the current zoning.

The planning proposal would amend Schedule 1 of PSLEP 2013 to include 'caravan park' as a permissible form of development on the subject land, other than the land proposed to be zoned C2 Environmental Conservation. This additional permitted use would apply to the subject site only and does not apply to other similar style developments or locations throughout Port Stephens.

Hunter Regional Plan 2041 (HRP)

The HRP outlines considerations for lifestyle villages, including that they should be located if possible within 800m of local and strategic centres or key transit corridors. Where lifestyle villages are proposed outside these locations, the village or community should be on unconstrained sites and have:

- Reticulated water and sewer
- Indoor and outdoor recreation facilities adequate for the number of proposed residents such as bowling greens, tennis courts, golf course, swimming pool, or off-leash dog park

- Community facilities that promote gathering and social connections such as a restaurant, community hall, or community garden
- Access to bus services providing frequent trips to local centres and shops.

The planning proposal is generally consistent with the visions and goals of the HRP. The proposal would make efficient use of the land, as it provides housing choice (including for seniors) with easy access to a range of community facilities and services within the lifestyle village. Furthermore, it is located on a major transit corridor and provides a regular bus service to transport residents to town centres.

Local Strategic Planning Statement 2020 (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 would 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 would contribute towards the provision of suitable land for additional housing in the LGA.

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.

The planning proposal is consistent with the LSPS as it would 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 (Live Port Stephens) 2020

The planning proposal is consistent with the Port Stephens Local Housing Strategy (Live Port Stephens). It responds directly to a number of priorities as it ensures adequate supply of new housing, responds to housing stress, and encourages a range of housing types and sizes. The site is consistent with the Greenfield Housing Criteria.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic

The planning proposal is likely to deliver a range of social and economic benefits, including:

- Additional housing choices in the Port Stephens LGA
- Employment through construction and the long-term employees within the lifestyle village
- Increased retail and service industry patronage for nearby town centres
- Efficient use of (private) community facilities and services provided at the existing approved caravan park.

With respect to housing choice, this form of housing continues to be highly sort after within the Port Stephens LGA. Sunrise and similar developments provide for a relatively compact form of housing supported by a range of community facilities and services. This is well suited to the aging demographic on Tomaree Peninsula.

The Port Stephens Housing Preference Study (2020) found that there is a gap between housing supply and housing preferences, and identified a need for more affordable, adaptable and smaller housing types than are currently supplied by the market, particularly for the older demographic. Market trends show a preference for lifestyle villages that enable higher density housing with significant incentives for owners, such as retaining Commonwealth rental assistance.

Since 2020, Port Stephens has experienced noticeable changes in housing demand. Impacts from COVID-19 have seen a growing desire for people to relocate from highly populated cities. This combined with rapidly changing working conditions such as remote working opportunities, have significantly increased demand for housing.

Although lifestyle villages have limited impact on housing affordability, uptake of these forms of housing has the benefit of seeing larger homes in established areas being on sold to accommodate other sectors of the community.

Environmental

It is 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 Environmental Conservation zone is likely to have long-term benefits to biodiversity conservation.

CONSULTATION

Internal

Internal consultation was undertaken with the Natural Systems, Development Engineering and Development Planning teams. The planning proposal reflects the advice received during this internal consultation.

Councillors were invited by the proponent to undertake a site visit on Friday, 9 December 2022 and Saturday, 10 December 2022.

External

In December 2022, the NSW Government introduced a new process for amending Local Environmental Plans (LEPs). In the Stage 1 Pre-lodgement phase, planning proposals are reviewed by Council and State agencies prior to formal lodgement on the NSW Planning Portal, and prior to seeking a Gateway determination.

Consultation with the following agencies was undertaken as part of the 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 addressed throughout the planning proposal. 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.

Further consultation with community and State Government agencies would be undertaken in accordance with the Gateway determination.

OPTIONS

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

ATTACHMENTS

- 1) Planning Proposal. (Provided under separate cover)
- 2) Locality plan.
- 3) Strategic Planning Assessment Report.

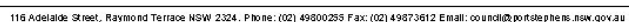
COUNCILLORS ROOM

Nil.

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

TABLED DOCUMENTS

Nil.





STRATEGIC PLANNING ASSESSMENT REPORT (SPAR)

Application No.	58-2022-5-1
Applicant Name	Hometown Australia/ADW Johnson
Applicant Address	Level 9/28 Margaret St, Sydney NSW 2000
Site Location Details	4011, 4029 & 4045 Nelson Bay Road, Bobs Farm Extension to the Sunrise Lifestyle Village (4011 Nelson Bay Rd, Bobs Farm), by including the properties within Schedule 1 as an additional permitted to permit a Caravan Park and rezone part of site to C2 Environmental Conservation.
Proposal Summary	



Version History

	Date	Detail	Assessed by	Reviewed by
1.	September 2021	SPAR Part 1	Mia Galloway	Brett Gardiner
2.	November 2022	SPAR Part 2	Sarah Connell	Brett Gardiner
3.	December 2022	SPAR Part 3	Sarah Connell	Brett Gardiner
4.	December 2022	SPAR Part 4	Sarah Connell	Brett Gardiner

PART 1 – Rezoning Request Meeting

Form lodged: 16/09/2021

Consideration	Response Received	Assessment
'Rezoning request meeting' form received?	Yes	The information on the form is sufficient for meeting to proceed
Describe the intended outcome	Yes	The information lodged for the rezoning request meeting does include details of the objectives of the intended outcome.
Describe the proposed amendment	Yes	The information lodged for the rezoning request meeting adequately describes the proposed amendment
Describe the benefits of the amendment	Yes	The information lodged for the rezoning request meeting adequately describes

Consideration	Response Received	Assessment
		the benefits of the amendment
Can the intended outcome be achieved through alternative mechanisms?	Yes	The form does include consideration of appropriate alternative mechanisms
What are the relevant land based constraints?	Yes	The relevant land based constraints are adequately described
Are there other relevant matters to be considered?	Yes	The rezoning request meeting form does not need to address additional matters
Will the proposal give effect to the objectives and actions of the HRP or GNMP?	Yes	The proposal will give effect to the objectives and actions of the HRP and GNMP
Will the planning proposal give effect to the LSPS or a local area strategy?	Yes	The proposal does give effect to the LSPS or a local area strategy
Is there any other strategic report to consider?	Yes, consistency with LHS to be confirmed (to determine whether the proposal has to have Council resolution before sending to Gateway).	Information on other relevant strategic reports are adequately considered
Strategic Merit Test	Assessment	
Does the proposal seek to amend LEP controls that are less than 5 years old? If yes the proposal must answer 'yes' to one of the following questions	The proposal does not seek to amend controls that are less than 5 years old	

Consideration	Response Received	Assessment
Will the proposal give effect to the objectives and actions of the HRP or GNMP?	The proposal gives effect to the objections and actions of the HRP or GNMP	
Will the proposal give effect to a local strategy?	The proposal will give effect to a local strategy	
Is the proposal responding to a change in circumstances?	Yes - circumstances have changed and proposal is warranted	
Does the proposal have site-specific merit, having regard to the <ul style="list-style-type: none"> natural environment existing/approved and likely future uses of land in the vicinity of the proposal, and services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision. 	Yes - these merits are adequately addressed	

Supporting plans and studies	Required with draft PP	Risk assessment
Site specific DCP	N/A	N/A
Traffic impact assessment	Yes, TIA required to also address cumulative impacts of development at 16 Trotters Lane.	Low
Bushfire hazard assessment	N/A	Low
Air quality assessment	N/A	N/A
Flora and fauna assessment	Yes, BAM Stage 1 is required at this stage.	Low
Geotechnical assessment	N/A	N/A
Stormwater management analysis	N/A	N/A
Flood impact assessment	No	N/A

Supporting plans and studies	Required with draft PP	Risk assessment
Contamination assessment	No	N/A
Economic sensitivity analysis	No	N/A
Heritage impact assessment	No	Low
Social impact assessment	No	N/A
Infrastructure capacity analysis	Proposal should demonstrate evidence of servicing.	Low
Other?	No	N/A

Note: High risk indicates that the issue is unlikely to be resolved quickly or cheaply

RECOMMENDATION

The proposal has strategic merit and should proceed

**PART 2 – Draft Planning Proposal Lodgement Check**

Draft planning proposal lodged: 10/11/22

Information	Applicable	Lodged
Port Stephens Rezoning Request Guide		
Draft planning proposal in PSC template	Yes	Yes
Rezoning Request Meeting matters to be addressed		
1. Traffic Impact Assessment required at lodgement.	Yes	Yes
2. Stage 1 BAM Assessment required at lodgement.	Yes	Yes
3. Evidence of servicing capability required.	Yes	Yes
Department of Planning Guide to preparing planning proposals		
Part 1 – Objectives or intended outcomes	Yes	Yes
Part 2 – Explanation of the provisions	Yes	Yes
Part 3 – Justification of strategic merit and site specific merit		
Section A – Need for the planning proposal		
Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?	Yes	N/A
Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	Yes	Yes
Section B – Relationship to strategic planning framework		
Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?		
Assessment of consistency with the Hunter Regional Plan	Yes	Yes
Assessment of consistency with the Greater Newcastle Metropolitan Plan	Yes	Yes
b) Does the proposal have site-specific merit, having regard to the:		
Natural environment (including known significant environmental values, resources or hazards)	Yes	Yes
Existing uses, approved uses, and likely future uses of land in the vicinity of the proposal	Yes	Yes
Services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision	Yes	Yes

Q4. Is the planning proposal consistent with a council LSPS or another endorsed local strategy or strategic plan?			
Assessment of consistency with relevant precinct/structure/master plans		Yes	Yes
Assessment of consistency with the Port Stephens Local Strategic Planning Statement.		Yes	Yes
Assessment of consistency with the Port Stephens Local Housing Strategy.		Yes	Yes
Assessment of consistency with Anna Bay Strategy and Town Plan		Yes	Yes
Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?		Yes	Yes
Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies?		Yes	Yes
SEPP (Biodiversity and Conservation) 2021			
Chapter 2	Vegetation in non-rural areas	N/A	N/A
Chapter 3	Koala habitat protection 2020	Yes	Yes
Chapter 4	Koala habitat protection 2021	N/A	N/A
SEPP (Housing) 2021			
Chapter 3	Diverse housing	Yes	Yes
SEPP (Planning Systems) 2021			
Chapter 2	State and regional development	N/A	Yes
Chapter 3	Aboriginal land	N/A	N/A
SEPP (Precincts – Regional) 2021			
Chapter 2	State significant precincts	N/A	N/A
Chapter 3	Activation precincts	N/A	N/A
SEPP (Primary Production) 2021			
Chapter 2	Primary production and rural development	N/A	N/A
SEPP (Resilience and Hazards) 2021			
Chapter 2	Coastal management	Yes	Yes
Chapter 4	Remediation of land	Yes	Yes
SEPP (Resources and Energy) 2021			
Chapter 2	Mining, petroleum production and extractive industries	N/A	N/A
SEPP (Transport and Infrastructure) 2021			
Chapter 2	Infrastructure	Yes	Yes

Chapter 3	Educational establishments and child care facilities	N/A	N/A
Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1(2)directions)?			
Focus area 1: Planning Systems			
1.1 Implementation of Regional Plans		Yes	Yes
1.2 Development of Aboriginal Land Council land		N/A	N/A
1.3 Approval and Referral Requirements		Yes	Yes
Focus Area 3: Biodiversity and Conservation			
3.1 Conservation Zones		Yes	Yes
3.2 Heritage Conservation		Yes	Yes
3.5 Recreation Vehicle Areas		N/A	N/A
Focus area 4: Resilience and Hazards			
4.1 Flooding		Yes	Yes
4.2 Coastal Management		Yes	Yes
4.3 Planning for Bushfire Protection		Yes	Yes
4.4 Remediation of Contaminated Land		Yes	Yes
4.5 Acid Sulfate Soils		Yes	Yes
4.6 Mine Subsidence and Unstable Land		N/A	N/A
Focus area 5: Transport and Infrastructure			
5.1 Integrating Land Use and Transport		Yes	Yes
5.2 Reserving Land for Public Purposes		N/A	N/A
5.3 Development Near Regulated Airports and Defence Airfields		N/A	N/A
5.4 Shooting Ranges		N/A	N/A
Focus area 6: Housing			
6.1 Residential Zones		Yes	Yes
6.2 Caravan Parks and Manufactured Home Estates		Yes	Yes
Focus area 7: Industry and Employment			
7.1 Business and Industrial Zones		N/A	N/A
7.3 Commercial and Retail Development along the Pacific Highway, North Coast		N/A	N/A
Focus area 8: Resources and Energy			
8.1 Mining, Petroleum Production and Extractive Industries		Yes	Yes
Focus area 9: Primary Production			
9.1 Rural Zones		Yes	Yes
9.2 Rural Land		Yes	Yes
9.3 Oyster Aquaculture		N/A	N/A
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?	Yes	Yes
Q9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	Yes	Yes
Q10. Has the planning proposal adequately addressed any social and economic effects?	Yes	Yes
Section D – Infrastructure (Local, State and Commonwealth)		
Q11. Is there adequate public infrastructure for the planning proposal?	Yes	Yes
Section E - State and Commonwealth interests		
Q11. What are the views of state and Commonwealth public authorities consulted at scoping proposal?	Yes	Yes
Part 4 – Mapping	Yes	Yes
Part 5 – Community consultation	Yes	Yes
Part 6 – Project timeline	Yes	Yes

Supporting plans and studies	Lodged
Site specific DCP	No
Traffic impact assessment	Yes
Bushfire hazard assessment	Yes
Air quality assessment	N/A
Flora and fauna assessment	Yes
Geotechnical assessment	No
Stormwater management analysis	Yes
Flood impact assessment	N/A
Contamination assessment	Yes
Economic sensitivity analysis	No
Heritage impact assessment	Yes
Social impact assessment	No
Infrastructure capacity analysis	Yes
Other?	No

RECOMMENDATION

The information lodged is complete.

It is recommended that the planning proposal be lodged.

PART 3 – Draft Planning Proposal Assessment

Information	Assessment
Rezoning Request Meeting matters to be addressed	
1. Traffic Impact Assessment	Adequate
2. Stage 1 BAM	Adequate
3. Servicing capacity assessment	Adequate
Internal referrals	
Development Engineering	12/08/22 21/11/22
Natural Systems	25/01/22 18/11/22
State agency referrals – scoping proposal	Sent Received
Department of Planning and Environment	3/08/22 30/08/22
Transport for NSW	3/08/22 29/08/22
Rural Fire Service	3/08/22 17/08/22
Department of Primary Industries	3/08/22 2/09/22
Biodiversity Conservation Division	3/08/22 15/08/22

Information	Assessment
Department of Planning Guide to preparing planning proposals	
Part 1 – Statement of objectives or intended outcomes of the proposed instrument	The statement of objectives or intended outcomes of the proposed instrument is adequate
Part 2 – Explanation of the provisions that are to be included in the proposed instrument	The planning proposal adequately explains the provisions that are proposed to be included in the draft instrument.
Part 3 – Justification of strategic and site-specific merit	The justification provided for the objectives, outcomes and provisions of the proposed

Information	Assessment
	instrument, and whether it will give effect to, or is a product of, the local planning statement, is considered to be appropriate.
Section A – Need for the planning proposal	
Q1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?	The planning proposal is the result of an endorsed local strategic planning statement, strategic study or report
Q2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	The planning proposal is the best means of achieving the objectives or intended outcomes
Section B – Relationship to strategic planning framework	
Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?	The planning proposal does give effect to applicable regional, or district plan or strategy
Assessment of consistency with the Hunter Regional Plan.	The planning proposal is consistent with the HRP.
Assessment of consistency with the Greater Newcastle Metropolitan Plan.	The planning proposal is consistent with the GNMP
Give effect to a relevant local strategic planning statement or endorsed local strategy	The planning proposal does give effect to the relevant LSPS or endorsed local strategy
Responding to a change in circumstances	The planning proposal is responding to a change in circumstances and is an appropriate response.
Q4. Is the planning proposal consistent with a council LSPS, or another endorsed local strategy or strategic plan?	The planning proposal does give effect to the relevant LSPS or endorsed local strategy
Is the planning proposal consistent with relevant precinct plan(s) (including structure plans and master plans and any exhibited draft plan(s))	There are no applicable precinct plans.

Information	Assessment
Is the planning proposal consistent with relevant Council strategy, including an endorsed local strategic planning statement.	The planning proposal is consistent with the relevant council strategy.
Is the planning proposal consistent with the Local Housing Strategy?	The planning proposal is consistent with the relevant council strategy.
Is the planning proposal consistent with a relevant local area strategy	There is no applicable local area strategy.
Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?	Yes.

SEPP ASSESSMENT

Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

SEPP	Overview	Assessment
SEPP (Biodiversity and Conservation) 2021		
Chapter 2 - Vegetation in non-rural areas	Aims to protect the biodiversity values of trees and other vegetation in non-rural areas of NSW and preserve the amenity of such areas through the preservation of trees and other vegetation.	<p>The site does not contain native vegetation</p> <p>The information lodged for the proposal demonstrates consistency with the SEPP.</p>
Chapter 3 - Koala habitat protection 2020	<p>(Applies to land zoned RU1, RU2, or RU3 only)</p> <p>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>The site contains established vegetation and may contain potential koala habitat.</p> <p>The information lodged for the proposal demonstrates consistency with the SEPP.</p>
Chapter 4 - Koala habitat protection 2021	<p>(Applies to all land in Port Stephens except that zoned RU1, RU2, or RU3)</p> <p>Aims to help reverse the decline of koala populations by ensuring koala habitat is properly considered during the</p>	The site contains established vegetation and may contain potential koala habitat.

SEPP	Overview	Assessment
	development assessment process, and to provide a process for councils to strategically manage koala habitat through the development of koala plans of management.	The information lodged for the proposal demonstrates consistency with the SEPP.
SEPP (Housing) 2021		
Chapter 3 – Diverse housing	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>The LEP amendment proposal relates to housing for seniors.</p> <p>The information lodged for the proposal demonstrates consistency with the SEPP.</p>
SEPP (Planning Systems) 2021		
Chapter 2 – State and regional development	<p>Aims to identify development that is:</p> <ol style="list-style-type: none"> state significant development State significant infrastructure and critical State significant infrastructure Regionally significant development 	<p>The LEP amendment proposal does not relate to land within an existing or proposed State significant precinct.</p> <p>Consistency with the SEPP is not relevant.</p>
Chapter 3 – Aboriginal land	Provides for development delivery plans for areas of land owned by Local Aboriginal Land Councils to be considered when development applications are considered and enables the declaration of specified development carried	<p>The planning proposal does not relate to land owned by a LALC</p> <p>Consistency with the SEPP is not relevant to the planning proposal.</p>

SEPP	Overview	Assessment
	out on land owned by Local Aboriginal Land Councils to be regionally significant development.	
SEPP (Precincts – Regional) 2021		
Chapter 2 - State significant precincts	Facilitates the development, redevelopment and protection of important urban, coastal and regional sites of economic, environmental or social significance to the State, so as to facilitate the orderly use, development or conservation of those State significant precincts for the benefit of the State.	<p>The LEP amendment proposal does not relate to land within an existing or proposed State significant precinct.</p> <p>Consistency with the SEPP is not relevant.</p>
Chapter 3 – Activation precincts	Aims to identify Activation Precincts in order to promote economic development, industry investment and innovation and to create employment, and facilitate strategic and efficient development of land and infrastructure in those Precincts, and protect and enhance and in those Precincts that has natural and cultural heritage.	<p>The LEP amendment proposal does not relate to land within an existing or proposed activation precinct.</p> <p>Consistency with the SEPP is not relevant.</p>
SEPP (Primary Production) 2021		
Chapter 2 – Primary production and rural development	Aims to support sustainable agriculture and aquaculture by facilitating the orderly, environmentally sustainable, and economic use and development of land for primary production and rural development	<p>The LEP amendment proposal relates to land within an existing rural zone.</p> <p>The planning proposal demonstrates consistency with the SEPP.</p>
SEPP (Resilience and Hazards) 2021		
Chapter 2 – Coastal Management	Promotes an integrated and co-ordinated approach to land use planning in the coastal zone consistent with the objects of the <i>Coastal Management Act 2016</i> .	<p>The LEP amendment proposal relates to land identified within the Coastal Wetlands and Littoral Rainforests Area.</p> <p>The information lodged for the proposal demonstrates consistency with the SEPP.</p>

SEPP	Overview	Assessment
Chapter 3 – Hazardous and offensive development	Requires specified matters to be considered for proposals that are 'potentially hazardous' or 'potentially offensive' as defined in the SEPP.	The LEP amendment proposal does not relate to 'potentially hazardous' or 'potentially offensive' development. Consistency with the SEPP is not relevant to the proposal.
Chapter 4 – Remediation of land	Contains state-wide planning controls for the remediation of contaminated land. The policy requires councils to be notified of all remediation proposals and requires lodgement of information for rezoning proposals where the history of use of land is unknown or knowledge incomplete.	According to the study information for the LEP amendment proposal, the site contains contaminated land/potentially contaminated land. The information lodged for the proposal demonstrates consistency with the SEPP.
SEPP (Resources and Energy) 2021		
Chapter 2 - Mining, petroleum production and extractive industries	Provides for the proper management and development of mineral, petroleum and extractive material resources for the social and economic welfare of the State.	The LEP amendment proposal does not relate to an extractive industry proposal. The information lodged for the proposal demonstrates consistency with the SEPP.
SEPP (Transport and Infrastructure) 2021		
Chapter 2 – Infrastructure	Provides greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.	The LEP amendment proposal would affect implementation of the Infrastructure SEPP. The information lodged for the proposal demonstrates consistency with the SEPP.
Chapter 3 - Educational establishments and child care facilities	The policy aims to facilitate the effective delivery of educational establishments and early education and care facilities.	The LEP amendment proposal does not relate to educational establishments or child care facilities.

SEPP	Overview	Assessment
		Consistency with the SEPP is not relevant to the proposal
Chapter 4 – Major infrastructure corridors	The policy aims to to identify land that is intended to be used in the future as an infrastructure corridor, to establish appropriate planning controls for the land to allow the ongoing use and development of the land until it is needed for the future infrastructure corridor, and to protect the land from development that would adversely impact on or prevent the land from being used as an infrastructure corridor in the future.	<p>The LEP amendment proposal does not relate to land identified in an infrastructure corridor</p> <p>Consistency with the SEPP is not relevant to the proposal.</p>

MINISTERIAL DIRECTION ASSESSMENT

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

Ministerial Direction	Overview	Assessment
Focus area 1: Planning Systems		
1.1 Implementation of Regional Plans	Requires that planning proposals be consistent with relevant regional strategies released by the Minister for Planning, except where, in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate); the inconsistency is considered to be of minor significance and the intent of the strategy is not undermined.	<p>The Hunter Regional Plan 2041 (HRP) applies to the LEP amendment proposal.</p> <p>The information lodged for the proposal demonstrates consistency with the direction.</p>
1.2 Development of Aboriginal Land Council land	Seeks to provide for the consideration of development delivery plans prepared under State Environmental Planning Policy (Aboriginal Land) 2019 when planning proposals are	<p>The LEP amendment proposal does affect land to which this direction applies</p> <p>Consistency with the direction is not relevant to the proposal.</p>

Ministerial Direction	Overview	Assessment
	prepared by a planning proposal authority.	
1.3 Approval and Referral Requirements	Applies requirements for planning proposals, which seek to incorporate provisions into a Local Environmental Plan (LEP) that require concurrence, consultation or development application referral to a minister or public authority.	<p>The LEP amendment proposal does not seek to incorporate provisions into the instrument that require concurrence, consultation or development application referral to a minister or public authority.</p> <p>Consistency with the direction is not relevant to the proposal.</p>
1.4 Site Specific Provisions	Applies requirements for planning proposals seeking to incorporate provisions into an environmental planning instrument so as to amend another environmental planning instrument.	<p>The LEP amendment proposal does not seek to incorporate provisions into the instrument that would amend another environmental planning instrument.</p> <p>Consistency with the direction is not relevant to the proposal.</p>
Focus area 3: Biodiversity and Conservation		
3.1 Conservation Zones	Applies to all planning proposals. Provides for 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 in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	<p>The LEP amendment proposal relates to land within a proposed environmental protection zone.</p> <p>The information lodged for the proposal demonstrates consistency with the direction.</p>
3.2 Heritage Conservation	Requires relevant planning proposals to contain provisions to facilitate the conservation of items, areas, objects and places of environmental heritage significance and	There is the potential for the site to contain heritage items/places.

Ministerial Direction	Overview	Assessment
	indigenous heritage significance.	The information lodged for the proposal demonstrates consistency with the direction.
3.5 Recreation Vehicle Areas	Seeks to protect land with significant conservation values and other sensitive land from being developed for the purposes of recreation vehicle areas, unless they are suitably justified under a relevant strategy or study or considered to be of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	The LEP amendment proposal does not seek to enable land to be developed for the purposes of a recreational vehicle area. Consistency with the direction is not relevant to the proposal.
Focus area 4: Resilience and Hazards		
4.1 Flooding	Applies requirements for planning proposals that seek to create, remove or alter a zone or a provision that affects flood prone land except where non-compliance is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	The LEP amendment proposal does not relate to flood prone land within the meaning of the NSW Government's 'Floodplain Development Manual 2005'. The information lodged for the proposal demonstrates consistency with the direction.
4.2 Coastal Management	The objective of this direction is to protect and manage coastal areas of NSW. This direction applies to land within the coastal zone.	The LEP amendment does relate to land within the coastal zone as defined by the Coastal Management Act 2016 The information lodged for the proposal demonstrates consistency with the direction.
4.3 Planning for Bushfire Protection	Applies requirements for planning proposals affecting land mapped as being bushfire prone land (or land in proximity to such land); except where the Commissioner of the NSW Rural Fire Service has issued written advice to Council that, notwithstanding the noncompliance with the requirements; the NSW Rural Fire Service does not object to	The LEP amendment proposal relates to bushfire prone land. The information lodged for the proposal demonstrates consistency with the direction.

Ministerial Direction		Overview	Assessment
		progression of the planning proposal.	
4.4	Remediation of Contaminated Land	Seeks 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>The LEP amendment proposal affects land to which this direction applies</p> <p>The information lodged for the proposal demonstrates consistency with the direction.</p>
4.5	Acid Sulfate Soils	Requires the provisions of planning proposals must be consistent with the Acid Sulfate Soils Planning Guidelines and other such relevant provisions provided by the Director-General of the Department of Planning, except where the proposal is suitably justified under a relevant strategy or study or where non-compliance is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	<p>The site is mapped as containing Acid Sulfate Soils however the proposed LEP amendment is not likely to affect Acid Sulfate Soils.</p> <p>The information lodged for the proposal demonstrates consistency with the direction.</p>
4.6	Mine Subsidence and Unstable Land	Applies requirements to planning proposals that would have the effect of permitting development on land within a proclaimed Mine Subsidence District, except where the proposal is suitably justified under a relevant strategy or study or where non-compliance is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	<p>The LEP amendment proposal does not relate to land identified as being unstable by a known study, strategy or other assessment. The site is not within a designated mine subsidence district.</p> <p>Consistency with the direction is not relevant to the proposal.</p>
Focus area 5: Transport and Infrastructure			

Ministerial Direction	Overview	Assessment
5.1 Integrating Land Use and Transport	Requires planning proposals, which seek to create, alter or remove a zone or provision relating to urban land (including land zoned for residential, business, industrial, village or tourist purposes), to be consistent with the aims, objectives and principles of 'Improving Transport Choice – Guidelines for planning and development' and 'The Right Place for Business and Services – Planning Policy' or that they be suitably justified under a relevant strategy or study or be of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	<p>The planning proposal does propose to create, alter or remove a zone or provision relating to urban land</p> <p>The information lodged for the proposal demonstrates consistency with the direction.</p>
5.2 Reserving Land for Public Purposes	Applies requirements to planning proposals which seek to create, alter or reduce existing zonings or reservations of land for public purposes.	<p>The LEP amendment proposal does not seek to create, alter or reduce existing zonings or reservations of land for public purposes.</p> <p>Consistency with the direction is not relevant to the proposal.</p>
5.3 Development Near Regulated Airports and Defence Airfields	Applies development criteria and consultation requirements to planning proposals that seek to create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. Inconsistency with the development criteria and/or consultation requirements can be considered if the inconsistency is suitably justified under a relevant strategy or study or is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	<p>The LEP amendment proposal does not relate to land in the vicinity of the Newcastle-Williamstown Airport and RAAF base.</p> <p>Consistency with the direction is not relevant to the proposal.</p>

Ministerial Direction	Overview	Assessment
5.4 Shooting Ranges	Requires planning that proposals not rezone land adjacent to and/ or adjoining to an existing shooting range where it would permit more intensive land uses than those that are permitted under the existing zone or land uses that are incompatible with the noise emitted by the existing shooting, except where the proposal is suitably justified under a relevant strategy or study or where non-compliance is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	The LEP amendment proposal does not relate to land adjoining or adjacent to a shooting range. Consistency with the direction is not relevant to the proposal.
Focus area 6: Housing		
6.1 Residential Zones	Applies to planning proposals affecting existing or proposed residential zoned land or other zoned land upon, which significant residential development is or will be permitted. Requires relevant planning proposals to include provisions that encourage housing development, ensures satisfactory arrangements for servicing infrastructure and will not reduce the permissible residential density of land; unless it is suitably justified under a relevant strategy or study or is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	The LEP amendment proposal does not relate to land within an existing or proposed residential zone or land upon which significant residential development is or will be permitted. Consistency with the direction is not relevant to the proposal.
6.2 Caravan Parks and Manufactured Home Estates	Applies to planning proposals that seek to identify suitable zones and/or locations and/or provisions for caravan parks or manufactured home estates (excludes certain land reserved or dedicated under the <i>Crown</i>	The LEP amendment proposal seeks to introduce provisions into the instrument relating to caravan parks.

Ministerial Direction	Overview	Assessment
	<p><i>Lands Act 1989 and National Parks and Wildlife Act 1974).</i></p> <p>Provides for a variety of housing types and opportunities for caravan parks and manufactured home estates, through application of requirements for relevant planning proposals.</p>	<p>The information lodged for the proposal demonstrates consistency with the direction.</p>
Focus area 7: Industry and Employment		
7.1 Business and Industrial Zones	<p>Applies to planning proposals affecting existing or proposed business or industrial zone land.</p> <p>By requiring consistency with the objectives of the direction, retention of areas of business and industrial zoned land, protection of floor space potential, and/or justification under a relevant strategy/study; the direction seeks to protect employment land in business and industrial zones, encourage employment growth in suitable locations and support the viability of identified centres.</p>	<p>The LEP amendment proposal does not relate to land within an existing or proposed business or industrial zone.</p> <p>Consistency with the direction is not relevant to the proposal.</p>
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	<p>Applies requirements to planning proposals that affect land that is traversed by the Pacific Highway to (inter-alia) protect the function of the highway and manage commercial and retail development along the highway; except where, in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate) non-compliance with the requirements of the direction is considered to be of minor significance.</p>	<p>The LEP amendment proposal does not relate to land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.</p> <p>Consistency with the direction is not relevant to the proposal.</p>
Focus area 8: Resources and Energy		
8.1 Mining, Petroleum Production and	<p>Seeks to ensure that the future extraction of State or regionally significant reserves of coal,</p>	<p>The LEP amendment proposal does not seek to implement provisions that would prohibit or</p>

Ministerial Direction	Overview	Assessment
Extractive Industries	other minerals, petroleum and extractive materials is not compromised by inappropriate development.	restrict the potential development/mining of coal, mineral or petroleum resources or other extractive materials of State/regional significance. Consistency with the direction is not relevant to the proposal.

Focus area 9: Primary Production

9.1	Rural Zones	Provides for protection of the agricultural production value of rural land by requiring planning proposals to be justified by a relevant strategy or study if they seek to rezone rural zoned land to a residential, business, industrial, village or tourist zone or increase the permissible density of rural (except RU5) zoned land.	The LEP amendment proposal relates to land within an existing rural zone. The information lodged for the proposal demonstrates consistency with the direction.
9.2	Rural Lands	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. Aims to support sustainable agriculture and aquaculture by facilitating the orderly, environmentally sustainable, and economic use and development of land for primary production and rural development	The LEP amendment proposal relates to land within an existing rural zone. The information lodged for the proposal demonstrates consistency with the direction.
9.3	Oyster Aquaculture	Provides for the protection of priority oyster aquaculture areas and surrounds from land uses that may adversely impact upon water quality and consequently, on the health of oysters and oyster consumers.	The LEP amendment proposal does not relate to land in the vicinity of a Priority Oyster Aquaculture Area or a current oyster aquaculture lease in the national parks estate. Consistency with the direction is not relevant to the proposal.

Information	Assessment
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?	N/A The proposal will have an impact on critical habit or threatened species, populations or ecological communities or their habitats located on the site. This impact is justified.
Q9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	There will likely be environmental effects as a result of the planning proposal. These effects are justified.
Q10. Has the proposal adequately addressed any social and environmental effects?	There will likely be positive social and economic effects as a result of the planning proposal.
Section D – Infrastructure (Local, State and Commonwealth)	
Q11. Is there adequate public infrastructure for the planning proposal?	There is adequate public infrastructure for the planning proposal.
Section E – State and Commonwealth Interests	
Q12. What are the views of state and federal public authorities consulted in order to inform the Gateway determination?	State and Commonwealth authorities support the planning proposal.
Part 4 – Maps containing sufficient detail to indicate the substantive effect of the planning proposal.	The maps included in the planning proposal adequately identify the substantive effect of the planning proposal.
Part 5 – Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument	The community consultation detailed in the planning proposal is considered appropriate.
Part 6 – Projected timeline of the plan making process	The projected timeline as detailed in the planning proposal is considered appropriate.

TECHNICAL CONTENT ASSESSMENT

Assessment of technical information

Supporting plans and studies	Assessment
Site specific DCP	N/A
Traffic impact assessment	Yes
Bushfire hazard assessment	Yes
Air quality assessment	N/A
Flora and fauna assessment	Yes
Geotechnical assessment	N/A
Stormwater management analysis	Yes
Flood impact assessment	Yes
Contamination assessment	Yes
Economic sensitivity analysis	N/A
Heritage impact assessment	Yes
Social impact assessment	N/A
Infrastructure capacity analysis	Yes
Other?	Choose an item.

RECOMMENDATION

Based on the information lodged with the rezoning request, the planning proposal is considered to have sufficient merit to proceed to Gateway.

ITEM 5 - ATTACHMENT 3 STRATEGIC PLANNING ASSESSMENT REPORT.
PART 4 – Fees and Charges Checklist

The proposal is a:

- ☐ A. low impact and low yield development
☒ B. locally significant urban release area or development
☐ C. large scale urban release area or development

The proposal requires a:

- ☐ A. low level of assessment, consultation and coordination
☒ B. medium to high level of assessment, consultation and coordination
☐ C. high level of assessment, consultation and coordination

The number of supporting studies required is:

- ☐ A. minimal or none
☒ B. medium
☐ C. high

A development control plan:

- ☒ A. is not required
☐ B. may be required
☐ C. is required

(If applicable) the proposal for additional permitted uses is:

- ☐ A. minor
☒ B. significant

	Category A	Category B	Category C
Total	1	4	0

RECOMMENDATION

The proposal is assessed to be in planning proposal fee Category B

PART 4 b) – Nominate Planning Proposal Category for Departments purpose

Planning Proposal Category	Description:	Assessment:
Basic	<ul style="list-style-type: none"> • Correct an administrative error • Minor housekeeping amendment • To list a local heritage item (supported by an OEH endorsed study) • Reclassify land (where Governors approval is not required) • Consistent with a Department endorsed/approved local strategy, such as LHS • Is a section 3.22 Expedited Amendment 	
Standard	<ul style="list-style-type: none"> • Change the land use zone where the proposal is consistent with the 	The planning proposal is a standard LEP

	<p>objectives identified in the LEP for that proposed zone</p> <ul style="list-style-type: none"> • That relates to altering the principal development standard of the LEP • That relates to the addition of a permissible land use or uses and/or any conditional arrangements under Schedule 1 • That is consistent with an endorsed District/Regional Strategic Plan and/or LSPS • Relating to classification or reclassification of public land through the LEP 	amendment – Category B
Complex	<ul style="list-style-type: none"> • Change the land use zone and/or principal development standards of the LEP, which would result in a significant increase in demand for supporting local, regional or State infrastructure and would require infrastructure funding • To respond to a new policy e.g. local character or new provision not in the standard instrument template • Inconsistent with a District/Regional Plan or council's endorsed LSPS • Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends • That is progressed under the Aboriginal Land SEPP 	
Principal	<ul style="list-style-type: none"> • To create a new LEP that applies to the whole LGA • To implement a change in local policy that effects the LGA • To consolidate one or more LEPs into a new comprehensive LEP • That includes multiple 'housekeeping' amendments or a combination of a number of planning proposals 	

PART 5 – Determination

The planning proposal has been prepared in accordance with section 3.33 of the Environmental Planning and Assessment Act 1979 and is considered to be consistent with relevant local and regional plans, State Environmental Planning Policies and Ministerial Directions. Where there is an inconsistency, this inconsistency is justified.

As delegate for Port Stephens Council and in accordance with the Rezoning Request Policy, I, Brett Gardiner, the Strategic Planning Coordinator at Port Stephens Council, endorse the planning proposal to include the subject land within Schedule 1 as an additional permitted use to permit a Caravan Park and rezone part of the site to C2 Environmental Conservation at 4011, 4029 & 4045 Nelson Bay Road, Bobs Farm, to be submitted to the Department of Planning & Environment, in accordance with section 3.34(1) of the Environmental Planning and Assessment Act 1979, with a request for a Gateway determination. Authorisation to make the plan under section 3.34(2)(g) of the EP&A Act is to be requested.

SIGNATURE**DATE**

Brett Gardiner, Strategic Planning Coordinator

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Councillor Jason Wells left the meeting at 7:22pm.

ITEM NO. 6

FILE NO: 23/20135
EDRMS NO: PSC2014-01592

ABORIGINAL PROJECTS FUND - 2022-2023

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorses the allocation of \$3,000 to the Worimi Knowledge Holders Aboriginal Corporation from the Aboriginal Projects Fund.
-

ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023 MOTION

018	<p>Councillor Leah Anderson Councillor Giacomo Arnott</p> <p>It was resolved that Council endorses the allocation of \$3,000 to the Worimi Knowledge Holders Aboriginal Corporation from the Aboriginal Projects Fund.</p>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Peter Francis, Peter Kafer and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council's endorsement for the allocation of funding from the Aboriginal Projects Fund for the Cultural Fishing Ground project as recommended by Council's 355c Aboriginal Strategic Committee.

The purpose of the Aboriginal Projects Fund is to support projects that empower the Aboriginal community in Port Stephens through the delivery of programs, events and other activities.

Applications for the 2022-2023 round of funding are open all year round. The total amount of annual funding available is \$35,000.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

The Worimi Knowledge Holders Aboriginal Corporation application was assessed and endorsed at the Aboriginal Strategic Committee meeting on 31 October 2022.

The proposed project meets the objectives of the fund. The project is focused on advocating for the Worimi people of Port Stephens to access their cultural fishing grounds, resulting in positive outcomes for the health and wellbeing of the Aboriginal community.

The recommended funding amount from the Aboriginal Strategic Committee to the Worimi Knowledge Holders Aboriginal Corporation is a total of \$3,000.

Worimi Knowledge Holders Aboriginal Corporation has successfully delivered and acquitted previously funded projects.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Recognised traditions and lifestyle	Implement the Yabang Gumba-Gu Agreement to recognise and support local Aboriginal and Torres Strait Islander people.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$3,000	Aboriginal Projects Fund.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no foreseen legal, policy or risk implications.

The recommendations have been made in accordance with the Local Government Act 1993 (NSW) (s356) and Council's adopted Grants and Donations Policy. The recommendations for funding also align with Council's relevant Fund Guidelines.

To qualify for assistance under section 356(1) of the Local Government Act 1993, the purpose must assist the Council in the exercise of its functions. Functions under the

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Act include the provision of community, culture, health, sport and recreation services and facilities.

Recipients of funding under the Aboriginal Projects Fund shall accept full responsibility for the liability of any programs or projects funded.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of adverse public perception regarding projects that are funded.	Low	Accept the recommendation.	Yes
There is a risk that some grant recipients may fail to comply with required terms of funding, reporting and acquittal processes.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Aboriginal Projects Fund directly supports organisations and groups involved in programs to empower the Aboriginal community. The proposed project aims to achieve this through the facilitation of:

- Partnerships and collaboration with Department of Primary Industry/Fisheries
- Involving Registered Traditional Owners and various government and community stakeholders in formalising Agreements for access to Aboriginal natural and traditional food.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Vibrant Places team with the aim of promoting the funding opportunity and explaining the guidelines and objective of the Aboriginal Projects Fund.

Internal

Internal meetings with Council staff responsible for the administration of the financial assistance programs were held.

The application was assessed by Council's 355c Aboriginal Strategic Committee on 31 October 2022.

External

The Communications team promotes the funding opportunity widely through social media, Council's website and notices appeared in Council pages of the Port Stephens Examiner.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

FILE NO: 23/1379
EDRMS NO: PSC2021-04195

HOMELESSNESS IN PORT STEPHENS

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Note findings and information within the report.
 - 2) Endorse the Terms of Reference for the Port Stephens Homelessness Stakeholder Advocacy Group (**ATTACHMENT 1**).
-

ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023
MOTION

019	<p>Councillor Leah Anderson Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Note findings and information within the report.2) Endorse the Terms of Reference of the Homelessness Stakeholder Advocacy Group (ATTACHMENT 1) with the inclusion of NSW Police, Karuah Local Aboriginal Land Council and Worimi Local Aboriginal Land Council representatives.
------------	--

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

- 1) Note findings and information within the report.
- 2) Endorse the Terms of Reference of the Homelessness Stakeholder Advocacy Group (**ATTACHMENT 1**) with the inclusion of NSW Police, Karuah Local Aboriginal Land Council and Worimi Local Aboriginal Land Council representatives.

Councillor Jason Wells returned to the meeting at 7:24pm.
Councillor Peter Kafer left the meeting at 7:24pm.
Councillor Peter Kafer returned to the meeting at 7:27pm.
Councillor Matthew Bailey entered the meeting at 7:31pm.

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present further information relating to the investigation of options to address homelessness presented to Council at the 13 December 2022 Ordinary Council meeting (**ATTACHMENT 2**). The report also presents the draft Terms of Reference for the endorsed Port Stephens Homelessness Stakeholder Advocacy Group (Stakeholder Advocacy Group) (**ATTACHMENT 1**).

Addressing homelessness is primarily a mandate of the NSW State Government. In 2019, the NSW Government committed to reduce street homelessness across NSW by 50% by 2025, with the target later becoming one of the NSW Premier's Priorities. The NSW Government also oversees the delivery of the NSW Homelessness Strategy.

It is recognised that Local Government is not best placed to act in the role of direct service providers, however, evidence shows that success can be achieved through collaboration at all levels of government and the community sector.

OUR CURRENT APPROACH

Port Stephens Council supports the rights of all of our community members to use public spaces, including people experiencing homelessness. We work closely with service providers and the community to address concerns about homelessness and implement actions to both support the homeless and reduce homelessness across Port Stephens.

Council has implemented a number of actions across key service areas as follows:

Sector Support

- Coordinate and support the delivery of actions from the monthly Interagency Network made up of key support services, including the housing sector.
- Provide support for homelessness day coordination, information sharing, grants and advocacy projects.
- Rent subsidies on Council owned buildings for eligible community organisations delivered through the Community Tenancy and Leasing Policy.
- Identified land for housing providers to situate emergency housing.
- Grant funding to support programs aimed at reducing issues related to homelessness.

Advocacy

- Drive awareness around homelessness through campaigns and communications.
- Support DCJ with annual street count and other advocacy projects.

Regulatory Support

- Manage community concerns and complaints about rough sleeping.
- Ensure a holistic approach to regulation by partnership with housing services.
- Clean up of sites deemed to be dangerous.

Local Infrastructure Contributions

- Housing affordability is supported via reduced local infrastructure contributions for diverse housing types such as secondary dwellings and long term caravans in caravan parks. These development types attract up to a 50% discount on the contribution.
- Locations for secondary dwellings have recently being expanded via the Rural Economic Development Planning Proposal. In summary, rural zoned properties are now able to build a secondary dwelling at a reduced contributions rate.

Strategic Planning

- The Port Stephens Housing Strategy aims to address housing affordability through Outcome 2 - Improve Housing Affordability. The key priorities within this focus area are responding to housing stress, providing more affordable housing near jobs and reducing the cost of new housing.
- Associated with these priorities are a number of actions that the Strategic Planning team are presently working on which are directly connected to the issues around homelessness. These include:
 - Identify and securing grant funding to create a framework that would allow for the renewal of existing social housing and the development of additional affordable housing in Raymond Terrace with NSW Land and Housing Corporation (NSW LAHC). This may also support the growth of additional social housing across other locations in Port Stephens.
 - Monthly meetings with Transport for NSW (TfNSW) to discuss projects, priorities and advocate for better transport outcomes to enable those most vulnerable to access employment and essential services.
 - Identify and securing grant funding solutions to support investment in infrastructure such as drainage to encourage infill housing.

NSW Core and Cluster crisis accommodation grant program

Port Stephens has recently been announced as a location for the delivery of a crisis accommodation project to support women and children experiencing domestic and family violence. Hume Housing, as the local community housing authority, will be

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

responsible for the delivery of the project. The project will be funded under the NSW Government's Core and Cluster program.

Core and Cluster is an innovative model that allows for independent living and privacy while also providing access to support services. Under the Core and Cluster model, self-contained accommodation is located next to a 'core', which provides access to services such as counselling, legal assistance, education and employment support. The sites may contain meeting rooms, audio-visual equipment for court appearances, communal kitchens, and playgrounds.

PROPOSED INITIATIVES

Initiative	Detail and Actions taken	Indicative Resourcing & Timeframes
Homelessness Stakeholder Advocacy Group	<p>A Terms of Reference has been drafted for the Stakeholder Advocacy Group (ATTACHMENT 1).</p> <p>The role of the group will be to:</p> <ul style="list-style-type: none">• Provide Council with strategic advice on homelessness and related issues that can be dealt with at a Local Government level.• Work with Council to address local issues, develop options and assist in identifying preferred solutions as part of Council's decision making process.• Advocate community views on homelessness issues.• Advocate to the different levels and departments of Government for Homelessness action and support. <p>Key stakeholders identified for membership include:</p> <ul style="list-style-type: none">• NSW Department of Communities and Justice• Member for Port Stephens• Member for Paterson• Hume Housing	<p>Managed within existing budgets and resourcing.</p> <p>Expected inception meeting March 2023.</p> <p>Expected timeframe to determine priority actions: 6 months.</p>

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Initiative	Detail and Actions taken	Indicative Resourcing & Timeframes
	<ul style="list-style-type: none"> • Port Stephens Family and Neighbourhood Services • Wahrenga Aboriginal Corporation • Yacaaba Centre • Hunter Tenants Advice and Advocacy Service • Salvation Army • Centre for Hope • 2 community representatives <p>Councillors Anderson and Kafer, and relevant staff would attend and chair meetings.</p> <p>Meetings are to be held twice a year.</p>	
<p>Access to Council Amenities (public) Council would open facilities outside regular usage to be used by people experiencing primary, secondary and tertiary homelessness in partnership with the community sector.</p>	<p>Staff have liaised with a local homelessness support service to better understand costs involved with running the program. The service indicated an annual cost of approximately \$45,000 (per amenities site) based on:</p> <ul style="list-style-type: none"> • 2 workers (community worker award rate) • 4 hours per day • 3 days per week • External cleaner at \$85 per hour. • 	<p>Council would be required to provide annual funding for this service.</p> <p>Should this initiative be supported, Council would need to identify a funding source of approximately \$45,000 per site per annum. Additional staff on costs would also need to be calculated.</p> <p>Additional maintenance of facilities may also be required.</p> <p>Pending interest from a service provider and budget commitment, it would be possible to establish and management agreement within 3 months.</p>

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Initiative	Detail and Actions taken	Indicative Resourcing & Timeframes
Access to Council Amenities (swimming pools)	Council staff have approached Belgravia Leisure (Council's swimming pool operator) to investigate the option of opening swimming pool amenities for showering.	Discussions have been positive with further investigation of options underway at the time of writing. Additional maintenance of facilities may also be required.
Targeted advocacy program	This item will be discussed by the Homelessness Stakeholder Advisory Group at the first meeting.	Managed within existing budgets.
Homelessness Policy	This item will be discussed by the Homelessness Stakeholder Advisory Group at the first meeting.	Managed within existing budget.
Temporary accommodation constructed on Council owned land	<p>The Strategic Property team have undertaken an assessment of sites that may be suitable for temporary housing. A total of 4 sites have been initially identified.</p> <p>Further investigation of suitability and feasibility is underway at the time of writing. Preliminary costings have been received for temporary accommodation (suitable only for short term emergency housing).</p> <p>Estimates range dependent on the type of accommodation and the size offered:</p> <ul style="list-style-type: none"> • Basic fit out style (shed/shipping container) – \$70,000 - \$85,000 • 1 bedroom granny flat style - \$90,000 – \$105,000 • 2 bedroom granny flat style - \$110,000 - \$150,000 <p>Council is not experienced or well qualified to provide ongoing</p>	<p>A business case would need to be prepared to further understand costs, scope and the suitability of site development.</p> <p>The project would potentially attract project costs, asset management costs, housing management costs and resourcing costs should Council operate any service.</p> <p>The continued collaboration with and support offered to NSW Land and Housing Corporation as well as housing providers can be resourced within existing budgets.</p> <p>This item will be discussed by the Homelessness Stakeholder Advisory</p>

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Initiative	Detail and Actions taken	Indicative Resourcing & Timeframes
	<p>housing services. The preferred model is to partner with a housing provider who would fund construction and ongoing management.</p> <p>To understand this further, staff have met with service providers to further discuss merits of this type of initiative. Through these discussions it was agreed that the most appropriate approach was for Council to continue to work with housing providers to identify suitable Council owned sites as well as privately held sites to develop and provide housing and management services.</p>	Group at the first meeting.
Council Holiday Parks Enable holiday parks to provide emergency housing.	<p>Staff have commenced the investigation of head leasing opportunities with housing service providers. This would relate to the potential short term leasing of cabins at Thou Walla Holiday Park.</p> <p>There is no available capacity at Council's other holiday parks to facilitate this type of service.</p>	<p>Managed within existing budgets.</p> <p>Further investigation of suitability and feasibility is underway at the time of writing.</p> <p>Expected timeframe to establish scope and commence program: 6 months to 1 year.</p>

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Deliver an annual program for Council to provide development services to enhance public safety, health and liveability.

FINANCIAL/RESOURCE IMPLICATIONS

Estimated costs and resource implications are outlined above. New funding sources would need to be identified to deliver a number of the new initiatives.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Noting that should Council resolve to undertake programs listed within this report without a defined funding source; that a funding source would need to be identified.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Any future actions would require an assessment of legal, policy and risk implications.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that unless action is taken, homelessness across Port Stephens will continue to increase.	Medium	Accept the recommendation.	Yes
There is a risk that Council is deviating from its role and function in addressing issues managed by State and Federal Governments.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

People experiencing and at risk of homelessness are our most vulnerable community members. Homelessness can expose people to violence, cause long-term unemployment and lead to the development of chronic ill health.

Homelessness results in significant social and economic costs not just to individuals and their families, but also to our local towns and the broader local government area and can negatively impact the liveability and wellbeing of our community.

CONSULTATION

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

Internal

Consultation allowed for a complete understanding of the diversity of tasks Council already undertake in relation to homelessness.

Stakeholders identified a number of potential initiatives that could be adopted to increase Council's level of service in addressing impacts of homelessness. To inform this report staff engaged with:

- Assets Section
- Strategic Property
- Strategy and Environment
- Regulatory Services
- Councillors.

External

Council engages with external stakeholders on an ongoing and needs basis. Council hosts a monthly community sector interagency meeting, meets regularly with housing providers and liaises with state government departments as matters arise.

To inform this report Council has engaged with:

- Port Stephens Family and Neighbourhood services
- Hume Housing
- Yacaaba Centre
- Department of Communities and Justice
- Wahrenga Aboriginal Corporation
- Belgravia Leisure.

OPTIONS

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

ATTACHMENTS

- 1) Terms of Reference - Homelessness Stakeholder Advocacy Group.
- 2) Minute No. 331, 13 December 2022.

**ITEM 7 - ATTACHMENT 1 TERMS OF REFERENCE - HOMELESSNESS
STAKEHOLDER ADVOCACY GROUP.**

TERMS OF REFERENCE



**PORT STEPHENS HOMELESSNESS STAKEHOLDER
ADVOCACY GROUP**

1. PURPOSE:

The purpose of the Stakeholder Advocacy Group is to support a coordinated approach to addressing the impacts of homelessness in Port Stephens.

2. CONTEXT/BACKGROUND:

2.1 Council resolved in 2022 to establish a Stakeholder Advocacy Group

2.2 It is recognised that Local Government is not best placed to act in the role of direct service providers however, evidence shows that success can be achieved through collaboration at all levels of government and the community sector.

3. SCOPE:

3.1 The role of the Stakeholder Advocacy Group is to:

- a) Provide Council with strategic advice on homelessness and related issues that can be dealt with at a Local Government level.
- b) Work with Council to address local issues, develop options and assist in identifying preferred solutions as part of Council's decision making process
- c) Advocate community views on homelessness issues

3.2 The Stakeholder Advocacy Group is not a decision making body. Council retains the final decision making authority on final actions to be carried out.

4. DEFINITIONS:

4.1 An outline of the key definitions included in the Terms of Reference.

Stakeholder Advocacy Group	Port Stephens Homelessness Stakeholder Advocacy Group
Council	Port Stephens Council

**ITEM 7 - ATTACHMENT 1 TERMS OF REFERENCE - HOMELESSNESS
STAKEHOLDER ADVOCACY GROUP.**

TERMS OF REFERENCE



5. AUTHORITY:

5.1 This Stakeholder Advocacy Group is responsible for:

- a) Provide Council with strategic advice on homelessness and related issues
- b) Provide Council with local insights and data on homelessness
- c) Advocate community priorities on homelessness issues and priorities
- d) Proposing preferred actions for Council undertake to addressing the impacts of homelessness

6. TERM:

6.1 Membership of the stakeholder advocacy group would remain for the term of Council. Subsequent membership would be determined within three months following a Local Government election.

7. MEMBERSHIP:

7.1 The Stakeholder Advocacy Group will comprise 15 core members (including 2 community members) and 1 occasional members.

Organisation	Membership type (Core or Occasional)	Role
Port Stephens Council Elected Councillor 1	Core	Chairperson
Port Stephens Council Elected Councillor 2	Core	Member
NSW Department of Communities and Justice	Core	Member
Member for Port Stephens	Core	Member
Member for Paterson	Core	Member
Hume Housing	Core	Member
Port Stephens Family and Neighbourhood Services	Core	Member
Wahroonga Aboriginal Corporation	Core	Member
Yacaaba Centre	Core	Member
Hunter Tenants Advice and Advocacy Service	Core	Member
Salvation Army	Core	Member

**ITEM 7 - ATTACHMENT 1 TERMS OF REFERENCE - HOMELESSNESS
STAKEHOLDER ADVOCACY GROUP.****TERMS OF REFERENCE**

Organisation	Membership type (Core or Occasional)	Role
Centre for Hope	Core	Member
Community Member 1	Core	Member
Community Member 2	Core	Member
Port Stephens Council Officer	Core	Secretariat (administrative support)
NSW Department of Communities and Justice	Occasional	Guest

- 7.2 The Stakeholder Advocacy Group is comprised of one delegated representative from each of the approved organisations listed in Section 7.1. Each organisation must nominate a member annually at the start of the financial year or at a time an existing member resigns from their position.
- 7.3 The Committee must call for public expressions of interest to appoint the two (2) community representatives at the start of each Council term. The community representatives must be confirmed by a Stakeholder Advocacy Group vote.
- 7.4 The Stakeholder Advocacy Group may invite others to attend meetings as required.
- 7.5 Members who fail to meet the requirements of this Terms of Reference and the meeting code of cooperation (see Section 14), may be expelled from the Stakeholder Advocacy Group on recommendation of the Chair and General Manager of Port Stephens Council.

**ITEM 7 - ATTACHMENT 1 TERMS OF REFERENCE - HOMELESSNESS
STAKEHOLDER ADVOCACY GROUP.**

TERMS OF REFERENCE



8. ROLES AND RESPONSIBILITIES:

8.2 The roles and responsibilities of the Stakeholder Advocacy Group members are outlined below:

Role	Before meeting	During Meeting	Following Meeting
Secretariat (Council staff)	<ul style="list-style-type: none"> • Schedule meetings. • Call for agenda items. • Invite occasional members. • Distribute draft agenda. 	<ul style="list-style-type: none"> • Provide updates as per agenda. • Record action items and outcomes as required. 	<ul style="list-style-type: none"> • Finalise minutes. • Save a record to EDRMS. • Maintain list of Stakeholder Advocacy Group member contact details.
Chair	<ul style="list-style-type: none"> • Review agenda and read supporting information. 	<ul style="list-style-type: none"> • Chair Meeting 	
Members	<ul style="list-style-type: none"> • Produce and provide reports to the Secretariat. • Review agenda and read supporting information. 	<ul style="list-style-type: none"> • Actively participate in meetings. • Support collaborative information sharing. 	<ul style="list-style-type: none"> • Complete actions as required. • Communicate with staff as necessary.

9. ADMINISTRATION ARRANGEMENTS:

9.2 Meeting practices and cycles

- a) The Stakeholder Advocacy Group will meet twice per year, or at an interval deemed appropriate by the Stakeholder Advocacy Group. All attendees are required to comply with the Port Stephens Council Meeting Code of Cooperation listed in Section 14 of this Terms of Reference and appended to every agenda.
- b) Unless otherwise specified in this Terms of Reference and in accordance with any Local Government Act requirements, the Stakeholder Advocacy Group will determine its meeting practice, processes and protocols.

9.3 Secretariat

- a) The Strategy and Environment section of Port Stephens Council will provide administrative support to the Stakeholder Advocacy Group.

**ITEM 7 - ATTACHMENT 1 TERMS OF REFERENCE - HOMELESSNESS
STAKEHOLDER ADVOCACY GROUP.**

TERMS OF REFERENCE



9.4 Agenda and minutes

- a) The Secretariat will provide the meeting agenda to all members of the Stakeholder Advocacy Group no later than five (5) business days prior to the scheduled meeting date.
- b) The Secretariat will provide the meeting minutes to all members of the Stakeholder Advocacy Group no later than ten (10) working days following the scheduled meeting date.

9.5 Guests

- a) Core members may, with approval from the Chair, invite a guest to attend a meeting. Requests for guest attendance must be made to the Chair at least 1 week before the scheduled meeting.

9.6 Record keeping

- a) All record keeping will be made and maintained by the Secretariat.

10. CONFIDENTIALITY:

- 10.2 Members listed in this Terms of Reference may become acquainted with or have access to confidential and/or sensitive information. Members should not disclose such information to any other party unless specifically authorised to do so and should not make improper use of any information.

11. INTELLECTUAL PROPERTY:

- 11.2 The Stakeholder Advocacy Group acknowledges and agrees:

- a) It is important for Council to develop, maintain, protect and manage the organisation's intellectual property including copyrights, trademarks, registered designs, patents and databases.
- b) They have a duty to observe and help protect Council's intellectual property by not copying or supplying such property without the express permission of Council or the copyright owner.
- c) Council retains ownership of all intellectual property created by members in the course of their Stakeholder Advocacy Group work.
- d) Council will acknowledge the Stakeholder Advocacy Group if publishing or reproducing copies of Stakeholder Advocacy Group research, including images and historical data.

**ITEM 7 - ATTACHMENT 1 TERMS OF REFERENCE - HOMELESSNESS
STAKEHOLDER ADVOCACY GROUP.****TERMS OF REFERENCE**

11.3 The Stakeholder Advocacy Group refers to the Secretariat any questions relating to intellectual property rights or the use of another organisation's document.

12. MEDIA:

13. Any media liaison associated with the activities of the Stakeholder Advocacy Group shall be undertaken in accordance with Port Stephens Council protocols.

14. REVIEW:

14.2 The Terms of Reference will be reviewed in line with the Local Government election cycle, or on an as needs basis.

15. MEETING CODE OF COOPERATION:

- | | |
|---|--|
| <ul style="list-style-type: none">• We start on time and finish on time.• We focus on the strategic intent of the item.• We ensure that people attending meetings are provided with guidance and support.• We consider the risks and opportunities of each item.• We are prepared to have open and honest conversations about an issue even if it is uncomfortable.• We all participate fully and are prepared to challenge each other.• We use improvement tools that enhance meeting efficiency and effectiveness.• We actively listen to what others have to say, seeking first to understand then to be understood.• We consider the deployment of actions and programs through appropriate | <ul style="list-style-type: none">frameworks and communicate the consensus view through appropriate channels.• We follow up on the actions we are assigned responsibility for and complete them on time.• We give and receive open and honest feedback in a constructive manner.• We use data to make decisions (whenever possible).• We determine issues arising by consensus or refer to the Chair for consideration.• We strive to continually improve our meeting process and build time into each agenda for reflection and learning.• We will promote best practice, keeping open minds, combining our experiences and shared learnings to inform our deliberations. |
|---|--|

**ITEM 7 - ATTACHMENT 1 TERMS OF REFERENCE - HOMELESSNESS
STAKEHOLDER ADVOCACY GROUP.****TERMS OF REFERENCE****16. RELATED DOCUMENTS:**

16.2 Port Stephens Council's Code of Conduct:

<https://www.portstephens.nsw.gov.au/trim/policies?RecordNumber=19%2F102443>

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au			
EDRMS container No		EDRMS record No	TBC
Audience	Staff, Councillors and the Community		
Process owner	Vibrant Places Coordinator		
Author	Vibrant Places Coordinator		
Review timeframe	3 years	Next review date	TBC
Adoption date	TBC		

MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022**ITEM NO. 5****FILE NO: 22/263140
EDRMS NO: PSC2021-04195****HOMELESSNESS IN PORT STEPHENS**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Note findings and information within the report.
- 2) Request the General Manager to prepare a report after further investigation of the options outlined in this report.

**ORDINARY COUNCIL MEETING - 13 DECEMBER 2022
MOTION**

331	<p>Councillor Leah Anderson Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Note findings and information within the report.2) Request the General Manager to prepare a report after further investigation of the options outlined in this report for the Council meeting to be held on 28 February 2023.3) Establishes the Stakeholder Advocacy Group with key community, government and industry representatives as soon as possible.4) Councillor Leah Anderson and Councillor Peter Kafer be nominated to attend the Stakeholder Advocacy Group and extend an invitation to the Member for Port Stephens and the Member for Paterson.
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Cr Giacomo Arnott moved the following amendment, which was accepted by the mover and seconder and merged into the original motion:

‘That Councillor Leah Anderson and Councillor Peter Kafer be nominated to attend the Stakeholder Advocacy Group and extend an invitation to the Member for Port Stephens and the Member for Paterson.’

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

MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present available local data on homelessness, the current action that Council undertakes in this space, models of service provision and potential options available to further address the impacts of homelessness. This report follows a Notice of Motion at its meeting of 23 August 2022, Minute No. 229 (**ATTACHMENT 1**).

The Australian Bureau of Statistics (ABS) definition of homelessness identifies three categories within the homeless population:

- Primary homelessness – no conventional accommodation/shelter (e.g. sleeping rough, squatting, sleeping in cars)
- Secondary homelessness – temporary accommodation/shelter (e.g. staying with friends/relatives or in emergency/transitional accommodation)
- Tertiary homelessness – medium/long term accommodation that is below the minimum community standard (e.g. no bathroom, no kitchen, lack of secure tenure, severe overcrowding).

The ABS Census of Population and Housing's 2016 report 'Estimating Homelessness' found that across Australia:

- People sleeping rough made up just 7% of homeless people
- People living in severely overcrowded dwellings (44%) people in supported accommodation (18%)
- People staying temporarily with others (15%)
- People living in boarding houses (15%) being larger sub-groups of people experiencing homelessness.

Addressing homelessness is primarily a mandate of the NSW State Government. In 2019, The NSW Government committed to reduce street homelessness across NSW by 50% by 2025, with the target later becoming one of the NSW Premier's Priorities. The NSW Government also oversees the delivery of the NSW Homelessness Strategy.

LOCAL DATA

Obtaining clear evidence based data relating to homelessness in Port Stephens is difficult. Council does have access to ABS data however, this data is currently dated (2016) and we are awaiting the latest 2021 census data to provide a more accurate picture of homelessness in Port Stephens post COVID-19.

Whilst awaiting this data which is expected in mid-2023, Council have engaged with local support agencies to gain insights into the current impacts of homelessness in

MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022

Port Stephens. More detailed research is required to support a greater understanding of the specific causes of homelessness in Port Stephens, vulnerable location and local priorities.

NSW Department of Communities and Justice (DCJ)

DCJ conducts street counts of people experiencing street homelessness. Street counts provide a point-in-time of the number of people in a location who are observed to be experiencing street homelessness. Data has been collected for 3 years in Port Stephens:

- 2020 a total of 4 people were identified as sleeping rough
- 2021 a total of 12 people were identified as sleeping rough
- 2022 a total of 12 people were identified as sleeping rough

Port Stephens Family and Neighbourhood Services

Port Stephens Family and Neighbourhood Services provide early intervention and homelessness services to people experiencing or at risk of homelessness. In 2021/2022 they reported:

- 879 clients were allocated emergency housing including 337 children under 16 years of age
- 291 clients identified they are homeless directly due to domestic violence
- 202 people were identified as sleeping rough or in cars, an increase from 92 in 2019/2020.

And, in January to September 2022:

- 571 people experienced homelessness
- 54% are female
- 192 people were children under the age of 18
- 54 people were over the age of 55.

Hume Community Housing

Hume Community Housing provides homes and services to more than 9,000 customers across New South Wales. Hume Community Housing build new properties and project manages developments on behalf of government, provide tenancy management and maintenance and property management services.

In 2021/2022 Hume Community Housing reported that 323 households were provided with temporary accommodation. This is an increase from 86 in the previous year.

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BENCHMARKING

It is well recognised that Local Government is not best placed to act in the role of direct services providers however, evidence shows that success can be achieved through collaboration at all levels of government and the community sector.

Councils and the community sector can deliver a range of initiatives that seek to alleviate homelessness issues. The following benchmarking provides examples only of actions undertaken by others. Further reviews are required to understand the outcomes and value of these actions within their local communities.

Program	Description
Mobile Service – Orange Sky	<p>Orange Sky, a national organisation that provides free mobile regular laundry and shower services on a regular basis for people experiencing homelessness.</p> <p>Purpose built vans with laundry and shower services operate in locations where the homeless feel most comfortable, often co-located with existing service providers. This service also provides an outreach function directing users to other support services.</p>
Integrated Service Delivery - Our Backyard Car to Home Project	<p>Our Backyard Car to Home Project is a designated private car park space that allows men, couples, women or families who are sleeping in their cars a place to park and sleep, in the Newcastle and Lake Macquarie areas.</p> <p>Entry into the carpark is from 4pm each day and individuals need to be off-site by 10am the next day. Support workers assist individuals to access community support services and refer individuals to specialist homeless service providers. Security is also provided as part of this service.</p> <p>This service is run by the community sector and privately funded through Macquarie Care.</p>
Rate Concessions for Housing Providers – City of Newcastle	<p>In November 2021, NSW Land and Housing Corporation (LAHC) and the City of Newcastle signed a Memorandum of Understanding (MOU) aimed at increasing new social housing development in the region and create local jobs.</p> <p>The MOU sees the City of Newcastle supporting LAHC's redevelopment program through the provision of an annual payment equivalent to the rates paid to Council by LAHC in the Newcastle LGA for a period of three years. The payment will be reinvested into funding new social housing in the region during the same period.</p>
Community Forum – City of Newcastle	<p>In 2021 the City of Newcastle hosted two community forums inviting the community sector, socially responsible businesses</p>

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Program	Description
	and organisations to contribute to a collective Newcastle response to the affordable housing and homelessness matters.
Sector Coordination – City of Coffs Harbour	City of Coffs Harbour provides the backbone support to the Coffs Harbour Homelessness Sector Action Plan (HSAP). The HSAP aims to address the growing challenges relating to homelessness within the Coffs Harbour Local Government Area and work towards solutions. This involves: <ul style="list-style-type: none"> • Developing an evidence-based research report to identify the critical local issues and themes relating to homelessness. • Preparing an action plan with activities to address the identified issues. • Facilitating regular action-based meetings with sector representatives for each theme identified in the research report.
Homelessness Plan - Lake Macquarie Council	Lake Macquarie City Council adopted the draft Ending Homelessness Plan 2021-2024. The plan outlines a strategic direction for Council to support community organisations and government agencies, and will deliver on Council's commitment towards ending homelessness in Lake Macquarie.

OUR CURRENT APPROACH

Port Stephens Council supports the rights of all of our community members to use public spaces, including people experiencing homelessness. We work closely with service providers and the community to address concerns about homelessness and implement actions to both support the homeless and reduce homelessness across Port Stephens.

In 2021, Council hosted a community and housing sector workshop to respond to growing concerns around homelessness. The key priorities identified were as follows:

- Training and support for frontline workers
- Priority housing for women and families with children impacted by domestic violence
- Easy access to emergency accommodation
- Outreach service provision including meals, mental health support and drug and alcohol support
- Increased affordable, stable and appropriate housing supply that meet people's needs
- Coordinated engagement with stakeholders from real estates, developers and politicians
- Maintaining rental vacancy databases and/or living documents
- Increasing bulk billing services in the area through advocacy and incentives.

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From this, Council has implemented a number of actions across key service areas as follows:

Sector Support

- Coordinate and support the delivery of actions from the Interagency Network made up of key support services, including the housing sector.
- Provide support for homelessness day coordination, information sharing, grants and advocacy projects.
- Rent subsidies on Council owned buildings for eligible community organisations delivered through the Community Tenancy and Leasing Policy.
- Identified land for housing providers to situate emergency housing.
- Grant funding to support programs aimed at reducing issues related to homelessness.

Advocacy

- Drive awareness around homelessness through campaigns and communications.
- Support DCJ with annual street count and other advocacy projects.

Regulatory Support

- Manage community concerns and complaints about rough sleeping.
- Ensure a holistic approach to regulation by partnership with housing services.
- Clean up of sites deemed to be dangerous.

Local Infrastructure Contributions

- Housing affordability is supported via reduced local infrastructure contributions for diverse housing types such as secondary dwellings and long term caravans in caravan parks. These development types attract up to a 50% discount on the contribution.
- Locations for secondary dwellings have recently being expanded via the Rural Economic Development Planning Proposal. In summary, rural zoned properties are now able to build a secondary dwelling at a reduced contributions rate.

Strategic Planning

- The Port Stephens Housing Strategy aims to address housing affordability through Outcome 2 - Improve Housing Affordability. The key priorities within this focus area are responding to housing stress, providing more affordable housing near jobs and reducing the cost of new housing.
- Associated with these priorities are a number of actions that the Strategic Planning team are presently working on which are directly connected to the issues around homelessness. These include:
 - Identify and securing grant funding to create a framework that would allow for the renewal of existing social housing and the development of additional

MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022

affordable housing in Raymond Terrace with NSW Land and Housing Corporation (NSW LAHC). This may also support the growth of additional social housing across other locations in Port Stephens.

- Monthly meetings with Transport for NSW (TfNSW) to discuss projects, priorities and advocate for better transport outcomes to enable those most vulnerable to access employment and essential services.
- Identify and securing grant funding solutions to support investment in infrastructure such as drainage to encourage infill housing.

ACTIONS FOR CONSIDERATION

When working to resolve issues relating to homelessness, Council should consider the broader needs of individuals experiencing homelessness. The community support sector are the critical link providing not only housing support but also, health services and access to other community support providers.

The following provides options for consideration that facilitate connections to social, health and community services, increase opportunities for housing supply, policy frameworks and improved advocacy.

Further review of each option would be required to determine the most suitable outcomes to address homelessness in Port Stephens.

Options for Consideration	Action Required	Indicative Resourcing & Timeframes
Stakeholder Advocacy Group Work in partnership with community, government and industry to determine achievable solutions to homelessness in Port Stephens.	<ul style="list-style-type: none"> • Invite representatives to participate in a stakeholder group • Meet monthly to review opportunities, develop actions and review implementation 	Managed within existing operational budgets. Expected time frame to implement the stakeholder group : 3 months Expected timeframe to determine and deliver actions: 6 months to 2 years
Access to Council Amenities Council open facilities outside regular usage to be used by people experiencing primary, secondary and tertiary homelessness in partnership with the community sector.	In partnership with community sector organisations, a criteria would be developed to determine the most suitable facilities. This would include: <ul style="list-style-type: none"> • amenity numbers • Crime Prevention Through Environmental Design (CPTED) risk 	Council would be required to provide annual funding for this service. Additional maintenance of facilities may also be required. Based on one facility opened once per week it is estimated this would cost \$20,000 per annum.

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Options for Consideration	Action Required	Indicative Resourcing & Timeframes
	<ul style="list-style-type: none"> child safety risk distance to respective Central Business District car parking disability access key community and stakeholder input 	Expected time frame to delivery: 6 months to 1 year.
Targeted advocacy program Acknowledging the housing crisis is not something that Council can fix on its own, there are a number of key priorities for Council to advocate State and Federal governments on.	Develop an advocacy program to focus on the following priorities: <ul style="list-style-type: none"> build more social housing in Port Stephens invest in crisis housing build worker housing prior to major infrastructure projects 	Managed within existing operational budgets Expected timeframe to deliver advocacy program: 2 months
Homelessness Policy Develop a policy to establish key principles and identify council's role in addressing homelessness.	<ul style="list-style-type: none"> Source data on homelessness in Port Stephens Engage with community and key stakeholders on the purpose and outcomes of the policy Develop policy and seek Council endorsement 	Managed within existing operational budgets Expected timeframe to deliver a new policy: 6-12 months
Review of Council owned land Review Council owned land to assess sites that may be appropriate for temporary/emergency housing.	<ul style="list-style-type: none"> Undertake assessment of sites through the Strategic Property team Determine options for temporary/emergency housing Partner with housing provider to assess appropriate temporary housing type for site – may include converted shipping container or modular homes 	Managed within existing operational budgets Expected timeframe to deliver a report to Council: 6-12 months

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Council Holiday Parks Enable holiday parks to provide emergency housing.	<ul style="list-style-type: none"> • Consult with service providers to understand needs and identify appropriate facilities. • Establish a partnership model 	Costs of providing service would need to be determined following further review. Expected timeframe to establish scope and commence program: 6 months to 1 year.
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Affordable Housing Contribution Schemes and Local Environmental Plan (LEP) Provisions

Affordable housing contribution schemes are Council-led document which set out how, where and at what rate local infrastructure contributions can be collected by Council to reinvest in affordable housing.

To establish an affordable housing scheme a Council must:

- Establish an evidence base
- Identify areas for rezoning
- Establish an affordable housing contribution rate for the scheme
- Prepare the scheme
- Prepare a Planning Proposal to include the scheme in the LEP
- Amend the LEP
- Apply conditions of consent to applicable development applications
- Collect funds and allocate in accordance with the contribution scheme.

Funding for an affordable housing contribution scheme forms part of an additional fee paid by developers outside of the Local Infrastructure Contributions Plan (LIC). To access funds for affordable housing, a series of statutory changes is required to the LEP.

All funds collected under an affordable housing scheme must be reserved on affordable housing in what is recognised as an Accessible Area. There is currently no land in Port Stephens recognised as an Accessible Area.

In addition, any changes to the LEP are required to use standard terminology. Affordable housing is a defined term. LEP amendments which require delivery of an affordable housing outcome can only apply to locations defined as an Accessible Area.

Accessible Areas are determined by the NSW State Environmental Planning Policy (Housing). Accessible Areas must have a connection to major public transport nodes such as rail, light rail, ferries or major bus terminals or a combination of these.

MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022

Therefore, the delivery of a scheme such as this would be very difficult. Better outcomes could be delivered by increasing our focus on advocacy for public transport connections within Port Stephens.

Council is currently working with Transport for NSW to build transport connections and service frequency with a focus on Raymond Terrace. Once this is established, there will be opportunity for further investigation of affordable housing requirements for new development.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Deliver an annual program for Council to provide development services to enhance public safety, health and liveability.

FINANCIAL/RESOURCE IMPLICATIONS

Estimated costs and resource implications are outlined above. Items may require additional funding once further detail and scope has been determined.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Any future actions would require an assessment of legal, policy and risk implications.

MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that unless action is taken, homelessness across Port Stephens will continue to increase.	Medium	Maintain strong relationships with State and Federal government departments to ensure there is alignment. Recognise State and Federal policy and strategy frameworks when considering actions.	Yes
There is a risk that Council is deviating from its role and function in addressing issues managed by State and Federal Governments.	Low	Maintain strong relationships with State and Federal government departments to ensure there is alignment. Recognise State and Federal policy and strategy frameworks when considering actions.	Yes

SUSTAINABILITY IMPLICATIONS

People experiencing and at risk of homelessness are our most vulnerable community members. Homelessness can expose people to violence, cause long-term unemployment and lead to the development of chronic ill health.

Homelessness results in significant social and economic costs not just to individuals and their families, but also to our local towns and the broader local government area and can negatively impact the liveability and wellbeing of our community.

CONSULTATION

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

Internal

Consultation allowed for a complete understanding of the diversity of tasks Council already undertake in relation to homelessness. A range of opportunities were identified to expand the initiatives in responding to homelessness issues in Port Stephens.

MINUTES ORDINARY COUNCIL - 13 DECEMBER 2022

Stakeholders identified a number of potential initiatives that could be adopted to increase Council's level of service in addressing impacts of homelessness. To inform this report staff engaged with:

- Assets Section
- Strategic Property
- Strategy and Environment
- Regulatory Services

External

Council engages with external stakeholders on an ongoing and needs basis. Council hosts a monthly community sector interagency meeting, meets regularly with housing providers and liaises with state government departments as matters arise.

To inform this report Council has engaged with:

- Port Stephens Family and Neighbourhood services
- Hume Housing
- Yacaaba Centre
- Department of Communities and Justice

OPTIONS

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

ATTACHMENTS

- 1) Minutes of Council Meeting - 23 August 2022.

ITEM NO. 8

**FILE NO: 23/13687
EDRMS NO: PSC2017-00180**

QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the discretionary changes to the adopted budget (**ATTACHMENT 1**) presented as the Quarterly Budget Review to 31 December 2022.
-

**ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023
MOTION**

020	Councillor Leah Anderson Councillor Steve Tucker It was resolved that Council approve the discretionary changes to the adopted budget (ATTACHMENT 1) presented as the Quarterly Budget Review to 31 December 2022.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to amend the budget by bringing to Council's attention the issues that have affected the 2022 – 2023 budget. These issues are detailed in the Quarterly Budget Review to 31 December 2022 (**ATTACHMENT 1**). The statement sets out the details of the variations between Council's original budget and the proposed budget.

The latest Quarterly Budget Review to 31 December 2022 has shown a minor improvement to the projected surplus on the September 2022 quarter. This is primarily as a result of increased grants income and interest and investment income.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Adjustments to Council income and expenditure have already been made to ensure Council maintains its financial sustainability. Ongoing conservative financial management is required for the near future.

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

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Manage implementation of the Long Term Financial Plan 2022 to 2032

FINANCIAL/RESOURCE IMPLICATIONS

Council's anticipated underlying result is as follows:

	Surplus (\$)	Deficit (\$)
Budget 2022 - 2023		\$1,137,000
September 2022 review	\$202,000	
December 2022 review	\$346,000	
March 2023 review	-	-

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

LEGAL, POLICY AND RISK IMPLICATIONS

Council's financial position is precarious as a result of a number of economic factors. Despite an improvement seen in the underlying result for the financial year 2022 – 2023, it is prudent that Council continues to monitor the budget carefully to ensure minimal risk to the organisation and community.

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

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

Formal communication and meetings have been held and it is recommended to submit the Quarterly Budget Review to 31 December 2022 to Council for formal adoption.

Internal

- Executive Team.

External

Nil.

OPTIONS

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

ATTACHMENTS

- 1) Quarterly Budget Review to 31 December 2022.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



"A great lifestyle in a treasured environment"

2022 – 2023
Quarterly Budget Review Statement
December 2022

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ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.**1) Executive Summary**

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

Profit & Loss Statement – operational budget

	Surplus ('000)	Deficit ('000)
Original budget – expected result		(\$1,137k)
September 2022 review	\$202k	
December 2022 review	\$346k	

The increment of \$144k is primarily due to:

Increased income from:

Grants	\$724k
Interest & Investment Income	\$653k

Decreased income from:

User Charges & Fees (refer page 8 for details)	\$812k
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Increased expenditure from:

Employee costs (refer to page 10 for details)	\$124k
Grant expenses	\$653k

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.**Decreased expenditure from:**

Materials and contracts – RMS works \$426k

Capital Works Program – capital budget

	<u>Gross</u>	<u>Contribution</u>	<u>Net</u>
Original budget – total spend	\$32,377k	\$19,573k	\$12,804k
September 2022 review	\$71,847k	\$36,585k	\$35,262k
December 2022 review	\$64,692k*	\$30,838k	\$33,853k

The decrease of \$7,156k is principally due to:

Construction of Yulong Oval amenities and Birubi Interchange moved into next financial year	\$8,815k (decrease)
Increase in fleet purchasing requirements	\$750k (increase)
New capital grants being recognised - Notts Creek bridge	\$270k (increase)
Aligning budget for increased scope – Italia road & Bruce Scott Pavilion	\$400k (increase)
Other minor capital projects	\$240k (Increase)

*Total capital works program includes \$5,140k for airport works. The capital program for Council is \$64,692k - \$5,140k = \$59,552k.

Cash flow

Original budget – cash projected	\$68,164k
September 2022 review	\$66,908k
December 2022 review	\$68,462k

The increase in the anticipated cash position to 30 June 2023 is principally due to the capital works as detailed above being moved to next year.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

1) Executive Summary - continued

Categorising the changes by Group:

Corporate Services: The operating budget change in this group was \$506k (favourable). The operating budget changes predominately relate to increase in employee costs and increase in interest income.

Capital budget changes were \$10k (favourable) and relates to the reallocation of budget from Holiday Parks.

Development Services: There were no operating budget changes for this quarter.

Capital budget changes were \$2,167k (favourable) and relates to the increase in developer contributions.

Facilities & Services: The operating budget change in this group was \$385k (unfavourable). The operating budget changes predominately relate to the decrease in parking fees income, decrease in library fines due to council motion and decrease in RMS income due to major works adjustments for Tomago Road.

Changes in the capital budget were \$768k (unfavourable) which is mainly due to the increase in budgets for fleet as purchase requirements have been brought forward.

General Manager's Office: Operating budget changes for this group were \$24k (favourable). The operating budget changes predominately relate to the reallocation of subscription costs to organisational spend in Corporate services.

Newcastle Airport: There were no budget changes for this quarter.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

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ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.

Operating Budget	2023 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2023 Revised Budget	2023 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Corporate Services	49,437	-	389	506	-	50,331	48,203
Development Services	(8,423)	-	-	-	-	(8,423)	(2,686)
General Manager's Office	(6,958)	-	88	24	-	(6,847)	(4,383)
Facilities & Services	(32,264)	-	1,638	(385)	-	(31,011)	(3,793)
Newcastle Airport	(1,156)	-	-	-	-	(1,156)	(578)
Operating Surplus/(Deficit) before capital grants	637	-	2,115	144	-	2,896	36,763
Less: Gain on sale	(250)	-	(776)	-	-	(1,026)	-
Less: Fair value increases	(843)	-	-	-	-	(843)	-
Less: Royalties	(1,836)	-	-	-	-	(1,836)	(1,280)
Less: Newcastle Airport	1,156	-	-	-	-	1,156	578
Add: NAP Dividend	-	-	-	-	-	-	-
Underlying Operating Surplus/(Deficit)	(1,137)	-	1,339	144	-	346	36,061

Capital Budget	2023 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2023 Revised Budget	2023 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Corporate Services	(4,200)	(1,092)	614	10	-	(4,668)	(395)
Development Services	4,633	-	-	2,167	-	6,800	5,796
Facilities & Services	(8,097)	(16,160)	(5,821)	(768)	-	(30,845)	(4,406)
General Manager's Office	-	-	-	-	-	-	-
Newcastle Airport	(5,140)	-	-	-	-	(5,140)	-
Total	(12,804)	(17,252)	(5,207)	1,409	-	(33,853)	995

Note - + = inflow () = outflow

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.**2) Introduction**

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

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

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

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

The QBRS is composed of the following components:

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRS.

3) Responsible Accounting Officer's Statement

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

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

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter end 31/12/2022 indicates that Council's projected financial position will be satisfactory at year-end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Name: Tim Hazell

Responsible Accounting Officer, Port Stephens Council

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.
4) Income & Expenses Budget Review Statement

Consolidated Income Statement	2023 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2023 Revised Budget	2023 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Rates and Annual Charges	68,994	-	-	-	-	68,994	68,925
User Charges & Fees Income	47,079	-	192	(812)	-	46,459	16,357
Interest & Investment Income	1,063	-	200	653	-	1,916	1,011
Other Income	7,412	-	(611)	-	-	6,802	4,349
Grants and Cont.	12,776	-	1,041	724	-	14,540	6,392
Grants and Cont.(Capital)	19,573	12,909	4,103	(5,746)	-	30,838	19,163
Fair value gains	843	-	-	-	-	843	-
Net Gain on Sale	250	-	776	-	-	1,026	-
Total Revenue	157,989	12,909	5,701	(5,181)	-	171,418	116,197
Employee Costs	56,552	-	(73)	124	-	56,603	25,699
Borrowing Costs	1,710	-	-	-	-	1,710	288
Materials & Contracts	55,932	-	(502)	(2,876)	-	52,554	22,655
Other Expenses	4,586	-	69	3,174	-	7,829	3,743
Depreciation & Impairment	18,999	-	(10)	-	-	18,989	7,885
Total Expenditure	137,779	-	(517)	422	-	137,684	60,270
Operating Surplus/(Deficit) after capital grants	20,210	12,909	6,218	(5,602)	-	33,734	55,927
Operating Surplus/(Deficit) before capital grants	637	-	2,115	144	-	2,895	36,764
Less: Net Gain on sale	(250)	-	(776)	-	-	(1,026)	-
Less: Fair value increases	(843)	-	-	-	-	(843)	-
Less: Royalties	(1,836)	-	-	-	-	(1,836)	(1,280)
Less: Newcastle Airport	1,156	-	-	-	-	1,156	578
Add: NAP Dividend	-	-	-	-	-	-	-
Underlying Operating Surplus/(Deficit)	(1,137)	-	1,339	144	-	346	36,061

Notes:

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.

Council's original operating budget for 2022-2023 was incorporated as part of the Integrated Plans that were adopted by Council on 28 June 2022.

This statement sets out the details of variations between Council's original operating budget and the revised budget as part of the December Quarterly Budget Review. This has altered from an original projected underlying deficit of \$1,137,000 to a revised surplus of \$346,000.

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

REVENUE	Budget Change	
	\$'000	F/U
Rates and Annual Charges	-	-
No change.		
User Charges and Fees	812	U
User charges and fees has decreased due to <ul style="list-style-type: none"> • Decrease in forecasted parking fees income • Decrease in library fees as per Council resolution • RMS income due to adjustment to major works which will now occur next financial year. 		
Grants and Contributions provided for Operating Purposes	724	F
Operating grants and contributions have increased due to <ul style="list-style-type: none"> • Increase in forecasted development contributions for civic admin – \$67k • New environmental grants – \$120k • New transport grants - \$94k • Rollover of unspent grants from the prior financial year – \$443k 		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.

Interest and Investment Revenue	653	F
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Investment revenue has been reforecasted as a result of increasing interest rates.

Other Income	-	-
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No change.

Grants and Contributions provided for Capital Purposes	5,746	U
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Capital grants & contributions have decreased primarily due to the following projects:

- Birubi Point Tourism & Yulong Oval Amenities grants being moved to next year - \$8,163k
 - Recognition of a new grant for Notts Creek Bridge - \$270k
 - Increase in the forecasted Developer Contributions - \$2,167k
-

Net Gains from the Disposal of Assets	-	-
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No change.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.

EXPENDITURE	\$'000	Budget Change F/U
Borrowing Costs	-	-
No change.		
Depreciation, Amortisation and Impairment	-	-
No change.		
Employee Benefits and On-Costs	124	U
Employee benefits and on-costs have increased as a result of drawing back on savings identified in the September QBR. These funds have now been returned to the Organisation Support section following a recent ADRI review.		
Materials and Contracts	2,876	F
Materials and contracts have decreased primarily due to: <ul style="list-style-type: none"> • Reclassification of expenditure budgets from contracts to other expenses – \$3,178k • Decrease in RMS project work budgets due to major works being moved into next financial year - \$426k • Increase in project expenditure with the new and rolled over operating grants – \$653k 		
Other Expenses	3,178	U
Other expenses have changed due to the reallocation of costs from materials and contracts.		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.
5) Capital Budget Review Statement

Consolidated - Summary	2023 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2023 Revised Budget	2023 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Grants and Cont.(Capital)	19,573	12,909	4,103	(5,746)	-	30,838	19,163
Total Receipts	19,573	12,909	4,103	(5,746)	-	30,838	19,163
Capital Equipment & Contracts	32,377	30,161	9,310	(7,156)	-	64,692	18,152
Property Acquisition & Development	-	-	-	-	-	-	16
Total Payments	32,377	30,161	9,310	(7,156)	-	64,692	18,168
Capital Surplus/(Deficit)	(12,804)	(17,252)	(5,207)	1,409	-	(33,853)	995

This statement sets out the details of variations between Council's original capital budget and revised capital budget. There are budgetary changes proposed in this quarter which result in a decrease in the capital program by the value of \$1.4m.

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

INCOME	\$'000	Budget Change F/U
Capital Grants & Contributions	5,746	U

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

- Birubi Point Tourism & Yulong Oval Amenities grants being moved to next year - \$8,163k
- Recognition of a new grant for Notts Creek Bridge - \$270k
- Increase in the forecasted Developer Contributions - \$2,167k

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.

EXPENDITURE	\$'000	Budget Change F/U
Property Acquisition and Development	-	-
No change.		
Capital Equipment and Contracts	7,156	F
Capital equipment and contracts has decreased primarily due to the following projects:		
• Construction of Yulong Oval amenities and Birubi Interchange moved into next financial year		\$8,815k (decrease)
• Increase in fleet purchasing requirements		\$750k (increase)
• New capital grants being recognised - Notts Creek bridge		\$270k (increase)
• Aligning budget for increased scope – Italia road & Bruce Scott Pavilion		\$400k (increase)
• Other minor capital projects		\$240k (Increase)

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.

The capital works program by section is as follows:

Consolidated - Detailed	2023 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2023 Revised Budget	2023 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Capital Funding							
Capital Grants & Contributions	19,573	12,909	4,103	(5,746)	-	30,838	19,163
Total Capital Funding	19,573	12,909	4,103	(5,746)	-	30,838	19,163
Capital Expenditure							
Corporate Services Group							
Commercial Property Reserve & Cluster Plan							
Fingal Bay Holiday Park	904	177	(614)	75	-	542	106
Halifax Holiday Park	180	11	-	-	-	191	86
Shoal Bay Holiday park	276	6	-	(85)	-	197	56
Thou Walla Sunset Retreat	160	89	-	-	-	249	74
Koala Sanctuary	180	-	-	-	-	180	36
Property Development	-	-	-	-	-	-	16
Property Investments	1,000	-	-	-	-	1,000	-
Commercial Property Total	2,700	282	(614)	(10)	-	2,358	374
Business Improvement Technology	1,500	810	-	-	-	2,310	21
Corporate Services Group Total	4,200	1,092	(614)	(10)	-	4,668	395

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.

Consolidated - Detailed	2023 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2023 Revised Budget	2023 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
General Manager's Office							
Software	-	-	-	-	-	-	-
General Manager's Office Total	-	-	-	-	-	-	-
Facilities and Services							
Assets							
Fleet Maintenance	2,000	-	-	750	-	2,750	1,185
Drainage and Flooding	1,200	81	-	-	-	1,281	759
Corporate & Community Buildings	250	38	1,260	-	-	1,548	497
Assets Total	3,450	119	1,260	750	-	5,579	2,441
Community Services							
Domestic Waste Management	98	-	852	30	-	980	59
Library Services	310	60	-	-	-	370	115
Community Services	408	60	852	30	-	1,350	174
Capital Works							
Capital Works Construction	19,179	28,890	7,812	(7,926)	-	47,955	15,158
Capital Works Total	19,179	28,890	7,812	(7,926)	-	47,955	15,158
Facilities and Services Total	23,037	29,069	9,924	(7,146)	-	54,884	17,773
Newcastle Airport	5,140	-	-	-	-	5,140	-
Total Capital Expenditure	32,377	30,161	9,310	(7,156)	-	64,692	18,168
Net Outlay	12,804	17,252	5,207	(1,409)	-	33,853	(995)

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.
6) Reserve Balances

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

Reserves	Opening Balance	Rollover Transfers	Operating Transfers in / (out)	Financing Transfers in / (out)	Transfers between Reserves	Original Budget	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	Closing Balance
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Administration Building Reserve	377	(38)	(59)	-	-	(250)	-	-	-	30
Asset Rehabilitation Reserve	1,704	(1,438)	4,100	(500)	-	(3,600)	(136)	-	-	129
Commercial Properties Reserve	1,986	(4,329)	2,527	(1,819)	-	(1,000)	13,253	-	-	10,619
Community Loans	-	-	200	-	-	-	-	-	-	200
Crown Reserves	1,744	(282)	2,648	(401)	-	(3,000)	664	10	-	1,383
Developer Contributions	13,928	(753)	4,924	-	-	(1,189)	(300)	2,194	-	18,804
Domestic Waste	3,335	-	2,222	-	-	(323)	(872)	-	-	4,362
Drainage Reserve	-	(81)	1,538	-	-	(1,200)	-	-	-	257
Election Reserve	-	-	258	-	-	-	-	-	-	258
Federal Assistance Grant Reserve	5,507	-	(5,507)	-	-	-	-	-	-	-
Fleet Reserve	384	(2,377)	5,131	-	-	(2,000)	-	(750)	-	388
IT Reserve	-	(810)	2,310	-	-	(1,500)	-	-	-	-
Newcastle Airport	13,144	-	4,323	-	-	(5,042)	-	-	-	12,425
Other Waste Services Reserve	250	-	(117)	-	-	-	(3)	(30)	-	100
Parking Meters Reserve	125	(20)	727	-	-	(50)	-	275	-	1,057
Repealed Funds Reserve	2,830	(1,052)	-	-	-	-	-	52	-	1,830
Roads / Environmental Reserve	358	(377)	425	-	-	(425)	18	-	-	-
Section 355C Committees	697	-	-	-	-	-	-	-	-	697
Unexpended Grants Reserve	10,162	-	(1,565)	-	-	(8,597)	-	-	-	-
Sustainable Energy and Water Reserve	-	-	217	-	-	-	-	-	-	217
Unexpended Loan Funds Reserve	269	(5,665)	397	5,000	-	-	-	-	-	-
Ward Funds Reserve	23	-	(23)	-	-	-	-	-	-	-
Natural Disaster	7,000	-	-	-	-	-	-	-	-	7,000
Grant Co Cont	3,000	-	-	-	-	-	-	-	-	3,000
Resilience	3,000	-	-	-	-	-	-	-	-	3,000
Community Halls	0	-	41.54	-	-	-	-	-	-	42
Bonds and Retentions	731	-	-	-	-	-	-	-	-	731
Total	70,553	(17,222)	24,716	2,280	-	(28,176)	12,625	1,752	-	66,528

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.

7) Cash Flow Statement (Consolidated)	Original Budget	Revotes & Carried Forward	Budget Revision Sept	Budget Revision Dec	Budget Revision Mar	Revised Budget
Cash Flows from Operating Activities	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Receipts:						
Rates and Annual Charges	66,623	-	-	-	-	66,623
User Charges & Fees Income	47,079	-	192	(812)	-	46,459
Interest & Investment Revenue Received	1,063	-	200	653	-	1,916
Other	7,427	-	(611)	-	-	6,816
Grants and Contributions	29,721	12,909	5,143	(5,022)	-	42,751
Payments:						
Employee Benefits & On-Costs	(57,259)	-	73	(124)	-	(57,310)
Borrowing Costs	(1,713)	-	-	-	-	(1,713)
Materials & Contracts	(55,795)	-	502	2,876	-	(52,417)
Other	(3,653)	-	(69)	(3,174)	-	(6,895)
Net Cash provided (or used in) Operating Activities	33,493	12,909	5,431	(5,602)	-	46,230
Cash Flows from Investing Activities						
Receipts:						
Proceeds from disposal of Property Plant & Equipment	250	-	14,875	-	-	15,125
Proceeds from development & land sales	-	-	-	-	-	-
Payments:						
Purchase of Real Estate, Infrastructure, Property Plant & Equipment and Intangibles	(32,377)	(30,161)	(9,310)	7,156	-	(64,692)
Net Cash provided (or used in) Investing Activities	(32,127)	(30,161)	5,565	7,156	-	(49,567)
Cash Flows from Financing Activities						
Receipts:						
Proceeds from borrowings	-	5,000	-	-	-	5,000
Payments:						
Repayment of Leases, Borrowings & Advances	(3,753)	-	-	-	-	(3,753)
Net Cash provided (or used in) Financing Activities	(3,753)	5,000	-	-	-	1,247
Net Increase/(Decrease) in Cash & Cash Equivalents	(2,387)	(12,252)	10,997	1,553	-	(2,089)
plus: Cash & Investments - beginning of year (*)	70,551	-	-	-	-	70,551
Cash & Investments - end of the year	68,164	(12,252)	10,997	1,553	-	68,462

*opening balance adjustment made to reflect 30 June 2022 actual closing balance

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.**Cash Flow Statement Funding Reconciliation**

The 'Recommended Changes to Budget' in the December QBR constitute an overall increase in Council's cash flow position by \$1,554k (favourable) after the capital projects being transferred to next year and the use of internal reserves and external funding sources are factored in.

PSC is clearly solvent based on the current and estimated cash position from the review changes. PSC's current cash position as per the December investment report was \$68.2m.

8) Budget Review Contracts and Other Expenses

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

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

- Were entered into during the quarter ending 31/12/2022; and
- Have a value equal to or more than \$50,000.

Part B of the report shows expenditure as at 31/12/2022 for:

- Consultancies
- Legal fees

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

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ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.
Part A
Contracts Listing

Contractor	Contract Details and Purpose	Contract Value inc GST	Contract Commencement Date	Contract End Date	Budgeted (Y/N)
ATCO STRUCTURES & LOGISTICS PTY LTD	RFQ111-2022 TRANSFER STATION - ADMIN/CHANGEROOM BL	138,386	1/04/2023	1/07/2023	Y
CUBO CONSULTING PTY LTD	RFQ099-2022 NELSON BAY LAGOON - PUMP & MAIN DESIGN	107,745	7/10/2022	7/01/2023	Y
ANNA BAY SAND & EARTHMOVING	RFQ107-2022 SOLDIERS POINT RD - RETAINING WALL	74,085	7/10/2022	24/10/2022	Y
AUSTRALIA PACIFIC VALUERS PTY LTD	2023 BUILDING REVALUATION , COMPREHENSIVE METHOD, ETC	57,118	13/10/2022	13/01/2023	Y
MANNING VALLEY MOTOR HOLDINGS PTY LTD	RFQ109-2022 - QUOTE 29539 - AWARDED 27/10/202, NEW 4x4 CREW UTE	52,500	27/10/2022	27/12/2022	Y
LEVANTA PTY LTD	LEVENTA PROPOSAL 16022-0 1x BM20200 MOBILE ROLLER	184,812	17/11/2022	17/01/2023	Y
PPT INVESTMENTS PTY LTD	RFQ120-2022 - SUPPLY and DELIVERY TWO 4x4 UTILITY'S	128,173	15/11/2022	15/01/2023	Y
DATA#3 LIMITED	SOPHOS MDR ADDITION TO EXISTING LICENSE	61,558	1/12/2022	30/11/2023	Y
SGS ECONOMICS AND PLANNING PTY LTD	CENTRES AND EMPLOYMENT LAND STUDY	58,058	1/12/2022	28/02/2023	Y
BARKER RYAN STEWART PTY LIMITED	RFQ124-2022 AVENUE OF THE ALLIES - CIVIL ENG DESIGN	54,890	28/03/2023	27/06/2023	Y
DRUMDERG SERVICES AUSTRALIA PTY LIMITED	RFQ122-2022 VICTORIA PDE FOOTBRIDGE DEMOLITION	247,200	2/12/2022	9/12/2022	Y
PKF (NS) AUDIT & ASSURANCE LIMITED PARTNERSHIP	2022/23 INTERNAL AUDIT SERVICES AS PER AUDIT PLAN	55,000	1/12/2022	30/11/2023	Y
COATES HIRE OPERATIONS PTY LTD	LAGOONS ESTATE - HIRE SCHEDULE VAR TO PO 186941/188026	53,718	30/09/2022	31/10/2022	Y
ANNA BAY SAND & EARTHMOVING	BILL STRONG OVAL, NELSON BAY - GROUND	50,050	8/12/2022	19/01/2023	Y
HUNTER FAUNA & FLORA CONTROLS PTY LTD	RFQ131-2022 PEST CONTROL SERVICES - HOLIDAY PARKS	59,092	1/01/2023	31/12/2023	Y

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRs.

ITEM 8 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2022.
Part B
Consultancy & Legal Expenses

Expense	Expenditure YTD (\$)	Budgeted (Y/N)
Consultancies		
Holiday Parks	33,522	Y
Engineering	51,019	Y
IT	25,235	Y
Environment	13,312	Y
Property	13,631	Y
Other	19,489	Y
Total consultancies	156,208	
Legal Fees		
Advice	29,945	Y
Litigation	141,768	Y
Total legal fees	171,713	

Expense - Litigation	Expenditure YTD (\$)
Local Government Law	67,328
Planning and Development Law	74,439
Total	141,768

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2022 and should be read in conjunction with other documents in the QBRS.

ITEM NO. 9**FILE NO: 22/263891
EDRMS NO: PSC2022-02922-0002****2024 LOCAL GOVERNMENT ELECTION****REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Pursuant to s296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
- 2) Pursuant to s296(2) and (3) of the Act, as applied and modified by s18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
- 3) Pursuant to s296(2) and (3) of the Act, as applied and modified by s18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

**ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023
MOTION**

021	Councillor Steve Tucker Councillor Leah Anderson It was resolved that Council: <ol style="list-style-type: none">1) Pursuant to s296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.2) Pursuant to s296(2) and (3) of the Act, as applied and modified by s18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.3) Pursuant to s296(2) and (3) of the Act, as applied and modified by s18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to allow Council to determine the method of conducting the 2024 local government election in Port Stephens.

The next NSW local government ordinary elections will be held in September 2024. Under the Local Government Act 1993, Council has the option of engaging the NSW Electoral Commission (NSWEC) or conducting the election 'in-house', by contract. Council conducted the 2012 local government election 'in-house', with the 2017 and 2021 local government elections conducted by the NSW Electoral Commission.

Council is required to pass a resolution 18 months from the next ordinary election (ie by 13 March 2023) should it wish to engage the NSWEC to conduct the 2024 local government election, and enter into a contract no later than 15 months from the next election.

If Council fails to pass a resolution before the abovementioned date, Council will be required to conduct the election 'in-house', by contract and seek tenders given the cost will exceed the \$250,000 threshold under the Local Government (General) Regulation 2021. Council would also be required to place a notice on its website stating that it has failed to pass a resolution on the method of conducting the election.

In 2021, 122 NSW councils (a total of 128 councils in NSW) engaged the NSWEC to conduct their elections. Of the remaining 6 councils, 4 did not hold elections and 2 engaged an alternate supplier.

It is recommended that Council engage the NSW Electoral Commission to conduct the 2024 local government election in Port Stephens, based on past experience of conducting local government elections and favourable costs.

The recommendation is worded specifically to engage the NSWEC. Whilst there is no timeframe within the recommendation, under the legislation it will not commence until the 2024 local government election and can be terminated immediately following the 2024 election should Council wish. Alternatively, it will remain in place until 18 months before the 2028 ordinary local government election and would include any by-elections should they occur.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Deliver governance services and internal audit program

FINANCIAL/RESOURCE IMPLICATIONS

The local government election is funded from an election reserve fund. It is anticipated the election costs will be in excess of \$730,000.

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

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with s296 and s296AA of the Local Government Act 1993, Council is required to pass a resolution of its intention in relation to conducting the 2024 local government election for Port Stephens.

Section 55 of the Local Government Act 1993 (the Act), requires tenders to be called for certain Council activities where the value will exceed \$250,000, and also provides exemptions that may apply. Section 55(3) (p) of the Act provides an exemption to the NSWEC – therefore NSWEC is not required to tender for an election contract.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will not be able to engage the NSWEC should this resolution not be passed before 13 March 2023.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

Internal

General Manager.

External

Council has consulted with the NSW Electoral Commission.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.