

MINUTES – 24 OCTOBER 2023



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 24 October 2023, commencing at 6:20pm.

PRESENT:

Mayor Ryan Palmer
Cr Leah Anderson
Cr Giacomo Arnott
Cr Chris Doohan
Cr Glen Dunkley
Cr Peter Francis
Cr Peter Kafer
Cr Steve Tucker
Cr Jason Wells
General Manager
Director Community Futures
Director Corporate Strategy and Support
Acting Director Facilities and Infrastructure
Governance Section Manager

244	Councillor Chris Doohan Councillor Jason Wells It was resolve that the apology from Cr Matthew Bailey be received and noted.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

	<p>Cr Peter Francis declared a pecuniary conflict of interest in Items 1 and 3. The nature of the interest is that Cr Francis' wife is a 100% owner of a property that may have its value affected by the changes.</p> <p>Cr Peter Kafer declared a significant non-pecuniary conflict of interest in Item 7. The nature of the interest is the relationship with Directors of this organisation – Aboriginality.</p> <p>Cr Leah Anderson declared a pecuniary conflict of interest in Notice of Motion 1. The nature of the interest is:</p> <ol style="list-style-type: none">1) It is important that we operate and comply with the Code of Conduct, therefore I must declare a conflict of interest and leave the room when the Notice of Motion titled "Port Stephens Offshore Wind Power Zone" is tabled at tonight's Council meeting.2) The reason I will leave the room is because I currently have a work contract with State MP the Hon. Minister Kate Washington that ceases in late December 2023, therefore, I declare a pecuniary interest, and leave the room during Public Access on this item, and whilst this Notice of Motion is discussed.3) I do believe Council already holds a position on this topic due to the Council resolution from the urgency motion at the last Council meeting.4) It is disappointing that I will not be able to hear the Public Access speakers, or remain in the room during this item, due to this pecuniary conflict of interest.5) I care for our community, and I want to be sure the decision we all make will be in the best interests of our community, our children, and our children's children, and all future generations.
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MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

	Cr Jason Wells declared a pecuniary conflict of interest in Item 7. The nature of the interest is Cr Wells works for the NSW Department of Education which is a recipient of Mayoral Funds, as Shoal Bay Public School is a part of this organisation.
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245	Councillor Peter Francis Councillor Leah Anderson It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 10 October 2023 be confirmed.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Chris Doohan, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Crs Glen Dunkley and Peter Kafer.

The motion was carried.

DECLARATION OF INTEREST



Declaration of Interest form

Agenda item No. 1 and 3

Report title **DEVELOPMENT APPLICATION 16-2022-1046-1 FOR A 1 INTO 17 LOT TORRENS TITLE SUBDIVISION AT 41 LAKE VIEW CRESCENT, RAYMOND TERRACE**

DRAFT PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014 - CHAPTER D12 RICHARDSON ROAD

_declared a Tick the relevant response:

CR FRANCIS

<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 _ My wife is a 110% owner of a property that may have its value affected by the changes.

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.

ORDINARY COUNCIL - 24 OCTOBER 2023



Declaration of Interest form

Agenda item No.

1. NOTICE OF MOTION - PORT STEPHENS OFFSHORE WIND POWER ZONE.

Report title

Mayor/Councillor

LEAH ANDERSON

declared a

Tick the relevant response:

<input checked="" 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:

* PLEASE READ THE ATTACHED *

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.

- *It is important that we operate and comply with the Code of Conduct, therefore I must declare a conflict of Interest and leave the room when the Notice of Motion titled "Port Stephens Offshore Wind Power Zone" is tabled at tonight's Council meeting.*
- *The reason I will leave the room is because I currently have a work contract with State MP the Hon. Minister Kate Washington that ceases in late December 2023, therefore I declare a Pecuniary Interest, and leave the room during Public Access on this item, and whilst this Notice of Motion is discussed.*
- *I do believe Council already holds a position on this topic due to the Council resolution from the Urgency motion at the last Council meeting.*
- *It is disappointing that I will not be able to hear the Public Access Speakers, or remain in the room during this item, due to this Pecuniary conflict of Interest.*
- *I care for our community, and I want to be sure the decisions we all make will be in the best interests of our Community, Our children, and our children's children, and all future generations.*



Leah Anderson
Deputy Mayor - East Ward Councillor

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ORDINARY COUNCIL - 24 OCTOBER 2023



Declaration of Interest form

Agenda item No. 7

Report title Request for Financial Assistance

Mayor/Councillor Wells 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 I work for NSW Department of Education, which is a recipient of Mayoral funds, as Shool Bay Public School is a part of this organisation.

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.

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MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: 23/254415
EDRMS NO: PSC2022-01790

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (d)i of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **Proposed Sale - 155 Salamander Way, Salamander Bay**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 24 OCTOBER 2023
MOTION

246	<p>Councillor Peter Kafer Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (d)i of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely Proposed Sale - 155 Salamander Way, Salamander 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">• commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

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

Those against the Motion: Nil.

The motion was carried.

ITEM NO. 2

FILE NO: 23/254415
EDRMS NO: PSC2022-00857

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (i) 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 **Code of Conduct**.
- 2) That the reason for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - alleged contraventions of any code of conduct requirements applicable under section 440.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 24 OCTOBER 2023
MOTION

247	<p>Councillor Peter Kafer Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (i) 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 Code of Conduct.2) That the reason 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">• alleged contraventions of any code of conduct requirements applicable under section 440.3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

Those against the Motion: Nil.

The motion was carried.

ORDINARY COUNCIL MEETING - 24 OCTOBER 2023 MOTION

248	Councillor Chris Doohan Councillor Peter Kafer It was resolved that Notice of Motion No. 1 be brought forward and dealt with prior to Item 1 in the Council Reports.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

Councillor Leah Anderson left the meeting at 6:25pm.

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: 23/261922

EDRMS NO: PSC2021-04195

PORT STEPHENS OFFSHORE WIND POWER ZONE

COUNCILLOR: CHRIS DOOHAN

THAT COUNCIL:

- 1) Acknowledges the Circa 2,000 people that rallied against a Port Stephens Offshore Wind Power Zone on Saturday 7 October 2023.
 - 2) Opposes the issuing of any exploration licences for the proposed offshore wind power zones.
 - 3) Supports local efforts by community groups seeking to stop the offshore wind power zones.
 - 4) Writes to the Hon. Chris Bowen MP, Minister for Climate Change and Energy seeking a moratorium on any currently unapproved offshore wind power zones.
 - 5) Writes to Ms Meryl Swanson MP, Member for Paterson and the Hon. Kate Washington MP, Member for Port Stephens to secure their support for the opposition to the offshore wind power zone and ask for a response confirming or rejecting support by 3 November 2023 and, if rejecting, state reasons why.
-

ORDINARY COUNCIL MEETING - 24 OCTOBER 2023
MOTION

249	<p>Councillor Chris Doohan Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Acknowledges the Circa 2,000 people that rallied against a Port Stephens Offshore Wind Power Zone on Saturday 7 October 2023.2) Opposes the issuing of any exploration licences for the proposed offshore wind power zones.3) Supports local efforts by community groups seeking to stop the offshore wind power zones.4) Writes to the Hon. Chris Bowen MP, Minister for Climate Change and Energy seeking a moratorium on any currently unapproved offshore wind power zones.5) Writes to Ms Meryl Swanson MP, Member for Paterson and the Hon. Kate Washington MP, Member for Port Stephens to secure their support for the opposition to the offshore wind power zone and ask for a response confirming or rejecting support by 3 November 2023 and, if rejecting, state reasons why.
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MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

	6) Organise a delegation from Council, including the Mayor and other councillors such to their availability, to visit Parliament House to meet with the Hon. Chris Bowen MP and relevant departmental officers about the Offshore Wind Power proposal.
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The inclusion of point 6 in the motion was accepted by the mover and seconder.

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

Those against the Motion: Crs Peter Francis and Jason Wells.

The motion was carried.

ORDINARY COUNCIL MEETING - 24 OCTOBER 2023 AMENDMENT

	Councillor Giacomo Arnott Councillor Peter Francis That Council: 1) Re-affirms its support for the 10 October 2023 resolution of Council relating to the offshore wind zone matter, which opposes the wind farm proposal, with a review of that position when the environmental studies are received. 2) Organise a delegation from Council, including the Mayor and other councillors subject to their availability, to visit Parliament House to meet with the Hon. Chris Bowen MP and relevant departmental officers about the Offshore Wind Power proposal.
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Cr Peter Kafer foreshadowed amendment.

“Organise a delegation from Council, including the Mayor and other councillors to confirm their availability, to visit Parliament House to meet with the Hon. Chris Bowen MP and relevant departmental officers about the Offshore Wind Power proposal.”

The inclusion of point 2 in the amendment was accepted by the mover and seconder.

Those for the amendment: Crs Giacomo Arnott, Peter Francis, Peter Kafer and Jason Wells.

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

The amendment was lost on the casting vote of the Mayor.

BACKGROUND REPORT OF: JANELLE GARDNER – COMMUNICATIONS AND CUSTOMER EXPERIENCE SECTION MANAGER**BACKGROUND**

Port Stephens Council (Council) made a submission to the Federal Government on 28 April 2023 as part of the Offshore Wind Declaration consultation process **(ATTACHMENT 1)**.

The submission noted that Council supports the development of renewable energy infrastructure in our region and recognises the potential benefits these projects can provide to our community.

The submission noted that with regard to the Federal Government's Offshore Wind proposal, there remains a number of concerns expressed by the Port Stephens community that Council encourages the Department of Climate Change, Energy, the Environment and Water to continue to engage on in detail.

Council supports an extensive consultation process and requests careful consideration of the concerns raised by Port Stephens residents, businesses and industry bodies.

Further to this submission, Council also raised an urgency motion at the 10 October 2023 Council meeting in relation to the Offshore Wind Declaration.

The urgency motion noted the ongoing consultative process the Federal Government is undertaking with the community and other stakeholders into whether an offshore wind farm industry should be established off the coast of Port Stephens and Newcastle.

The urgency motion also noted the concerns raised by the community about the project, including its potential impact on the fishing industry in Port Stephens, potential impact on the environment including marine life, potential noise pollution, potential impact on the tourism industry, and what such an industry would look like when viewed from Port Stephens.

The urgency motion also noted that until environmental impact statements and other scientific evidence are made available to the community in a full, open and transparent manner, it is opposed to the construction of any wind farm off the coast of Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

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

ATTACHMENTS

- 1) Submission - Hunter Offshore Renewable Energy Zone.

ITEM 1 - ATTACHMENT 1 SUBMISSION - HUNTER OFFSHORE RENEWABLE ENERGY ZONE.



The Hon Chris Bowen MP
Minister for Climate Change and Energy
Department of Climate Change, Energy, the Environment and Water
GPO Box 3090
Canberra ACT 2601

Via: DCCEEW Consultation Hub (<https://consult.dcceew.gov.au/oei-hunter>)

Dear Minister,

Re: Proposal to Declare an Area - Pacific Ocean off Hunter, New South Wales

Thank you for the opportunity to provide feedback on the proposed area being considered off the Hunter Coast for offshore wind and other renewable energy projects.

Port Stephens Council (Council) supports the development of renewable energy infrastructure in our region and recognises the potential benefits these projects can provide to our community. Whilst the current round of consultation is welcomed, there remains a number of concerns expressed by the Port Stephens community that we encourage the Department to continue to engage on in detail. Council supports an extensive consultation process and requests careful consideration of the concerns raised by Port Stephens residents, businesses and industry bodies.

In consideration of the proposal, Council would request that the following matters be reviewed and integrated into the next stages of the process.

Visual amenity

The location of the north-western most point of the declared area is shown as 10km off the Port Stephens coastline. The construction of offshore energy infrastructure with a height of 250m at this distance is expected to be clearly visible from the coastline. Council requests that a distance of greater than 20km from the Port Stephens coastline is explored to protect visual amenity and any potential effects on tourism operations.

Continued consultation with Port Stephens residents, businesses and industry bodies is strongly encouraged to ensure adequate protection of visual amenity during the next stages of the proposal.

Cultural heritage

The coastline and waters of Port Stephens are culturally significant to the traditional custodians of Port Stephens. Continued consultation with the Worimi Local Aboriginal

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ITEM 1 - ATTACHMENT 1**SUBMISSION - HUNTER OFFSHORE RENEWABLE ENERGY ZONE.**

Land Council and broader representation from the Worimi people is strongly encouraged to ensure adequate protection of cultural heritage during the next stages of the proposal.

Marine and coastal environment

The proposed area sits within the Australian East Coast Migration Corridor which is identified as an Important Marine Mammal Area (IMMA) by the International Union for Conservation of Nature (IUCN) for its critical role for migratory marine species including the threatened Humpback Whale and Dwarf Minke Whale.

The Hunter region is also nationally and internationally significant for a number of migratory marine and shorebird species. Port Stephens estuaries, islands and shorelines are identified as critically important sites within NSW for migratory and endemic shore bird species. Council strongly encourages careful consideration of these matters during the next stages of the proposal.

Local industry and business

Port Stephens is an internationally recognised tourist destination. It is identified as a hero destination under the NSW Government's Statewide Destination Management Plan developed and endorsed by Destination NSW. Hero destinations are accessible, have appropriate infrastructure and developed world-class products and experiences that are available all year round, providing visitors with outstanding unforgettable experiences.

Tourism and industry in Port Stephens work side by side to deliver the experiences that domestic and international tourists expect when visiting the region. Ecotourism, commercial and recreational fishing, sailing, snorkelling and scuba diving, education and research activities form the basis of the world-class products that Port Stephens provides.

The location of, and any exclusion zones applied to offshore renewable energy infrastructure would need to be carefully considered as current business and industry operations have the potential to be disrupted. This would include any temporary exclusion zones during construction or maintenance activities.

Continued consultation with Port Stephens businesses, industry bodies, Newcastle Airport, Department of Defence, Port of Newcastle and local tourism operators is strongly encouraged to ensure adequate protection of business operations during the next stages of the proposal.

Council looks forward to continued communication and consultation as the assessment process for the proposal continues.

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ITEM 1 - ATTACHMENT 1 SUBMISSION - HUNTER OFFSHORE RENEWABLE ENERGY ZONE.



If you would like to discuss the matters raised in this submission, please contact Brock Lamont, Strategy and Environment Section Manager, on 4988 0243 or by email at brock.lamont@portstephens.nsw.gov.au.

Yours sincerely,



Tim Crosdale
General Manager

28 April 2023

Telephone enquiries
02 4988 0246
Please quote file no: PSC2023-01784



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COUNCIL REPORTS

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

Councillor Leah Anderson returned to the meeting at 7:10pm.
Cr Jason Wells declared a pecuniary conflict of interest in Item 7.
Councillor Peter Francis left the meeting at 7:10pm.
Councillor Peter Kafer left the meeting at 7:10pm.

ITEM NO. 1

FILE NO: 23/227519
EDRMS NO: 16-2022-1046-1

DEVELOPMENT APPLICATION 16-2022-1046-1 FOR A 1 INTO 17 LOT TORRENS TITLE SUBDIVISION AT 41 LAKE VIEW CRESCENT, RAYMOND TERRACE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2022-1046-1 for a 1 into 17 lot Torrens title subdivision at 41 Lake View Crescent, Raymond Terrace subject to the conditions contained in **(ATTACHMENT 1)**.

ORDINARY COUNCIL MEETING - 24 OCTOBER 2023 MOTION

250	<p>Councillor Giacomo Arnott Councillor Glen Dunkley</p> <p>It was resolved that Council approve Development Application DA No. 16-2022-1046-1 for a 1 into 17 lot Torrens title subdivision at 41 Lake View Crescent, Raymond Terrace subject to the conditions contained in (ATTACHMENT 1).</p>
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Councillor Chris Doohan left the meeting at 7:11pm.

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, Glen Dunkley, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present development application (DA) 16-2022-1046-1 for a 1 into 17 lot Torrens title subdivision to Council for determination.

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

Subject Land:	41 Lake View Crescent, Raymond Terrace (Lot 2 DP 1233789)
Total Area:	21,277m ²
Zoning:	R2 Low Density Residential
Submissions:	None
Key Issues:	The key issues identified throughout the assessment of the development relate to aircraft noise and ecological impacts.

The DA has been reported to Council in accordance with 'Council's Planning Matters to be Reported to Council Policy' as the DA has been called up by Councillor Arnott and Councillor Anderson (**ATTACHMENT 2**).

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

Proposal

The proposed development is for a 1 into 17 lot Torrens title subdivision and associated site works, including roads, stormwater infrastructure, reticulated services, clearing and earthworks. The subject site is currently identified as Lot 2 in DP1233789, known as 41 Lake View Crescent, Raymond Terrace. The proposed 1 into 17 lot subdivision will occur on approved Lot 4 of DA 16-2022-1043-1, which was a 1 into 2 lot subdivision of the subject site to annex the existing residential dwelling from the future development. The removal of 0.6ha of native vegetation and 1ha of exotic vegetation is proposed to enable the road construction and future dwellings. The proposal originally included an alternative lot layout, although, the application was amended in May 2023, to include a new layout that avoids impacts to areas of high biodiversity value, including swift parrot and koala habitat.

Site Description and History

The subject site, legally identified as Lot 2 DP 1233789 is an irregular shaped lot measuring 21,277m². The site is sparsely vegetated and slopes gently upwards from the front to rear of the site. The site contains an existing dwelling with vehicular access to the 60m frontage to Lake View Crescent, which was constructed in 2018.

The site is located within an area zoned R2 Low Density Residential, within the site specific Port Stephens Development Control Plan 2014 (DCP) area – D12 Richardson Road – Raymond Terrace. Land to the west has been developed for low density residential purposes, in line with the D12 chapter of the DCP. To the east and south, the land is occupied by large lot residential housing, which is yet to be

developed in line with the 500m² minimum lot size. To the north of the site is land zoned SP1 – Hunter Water Corporation, which includes the Grahamstown Dam.

Development approval for a 2 into 23 lot subdivision (DA 16-2021-16-1) exists immediately to the south of the site on Lot 4 and 5 DP 239141. The development was approved by the Land and Environment Court (LEC) in September 2021 *Land Specialists v Port Stephens Council* [2021] NSW LEC 1681. The proposed development relies on the downstream drainage infrastructure approved under that development to the south. This LEC decision examined the suitability of residential development in the locality with regard to aircraft noise impacts and is discussed in more detail against Clause 7.5 of the Port Stephens Local Environmental Plan 2014 (LEP) and Chapter B6 of the DCP.

Key Issues

The key issues identified throughout the assessment of the development primarily relate to aircraft noise and ecological impacts.

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

Aircraft Noise

The site is aircraft noise affected, as it is located within an area mapped in the 25-30 contour on the Aircraft Noise Exposure Forecast (ANEF) for Royal Australian Air Force (RAAF) Base Williamtown. Department of Defence have assessed the application and in referral correspondence identified that the site is subject to an Aircraft Noise Level of 90 decibels caused by the operation of Defence aircraft.

The PSDCP identifies that development for residential accommodation in the ANEF 25 contour or greater is generally unacceptable. However, in a recent Land and Environment Court decision (*Land Specialists v Port Stephens Council* 2021 NSW LEC 1681) established that a merit assessment is appropriate given the Port Stephens Local Environmental Plan 2013 PSLEP and the Australian Standard for Aircraft Noise Intrusion do not prohibit development in the ANEF 25 contour or greater, despite the non-compliance with the PSDCP. The Land and Environment Court decision related to a similar proposal for residential subdivision on land immediately to the south of the site at 171 and 173 Richardson Road. While each development application must be determined on its own set of circumstances (and merit appeals in the Land and Environment Court are not precedent), the findings in *Land Specialists* are of particular assistance to consider of the current application.

The Australian Standard specifies maximum noise exposure levels for dwellings, which if complied with, would afford residents an acceptable level of protection from aircraft noise. The application included an acoustic report and other supporting information that showed dwellings could be constructed with certain noise reducing materials, insulation, glazing, roof construction methods and the like to reduce the

aircraft noise level of 90 decibels down to an acceptable level in accordance with the Australian Standard.

Despite the acoustic assessment demonstrating the impact of aircraft noise could be adequately mitigated, Defence objected to the application. However, Defence recommended conditions of consent in the event the application was supported, noting the outcome of the recent Land and Environment Court decision established dwellings in the 25-30 ANEF contour are conditionally acceptable. In line with the Defence advice and the Land and Environment Court Decision, a condition is recommended that a Section 88B restriction on the title of each lot be imposed that future dwellings must be built to comply with the Australian Standard.

An advisory note is also recommended so that prospective purchasers of the lots are provided with an information pamphlet that highlights the lots are aircraft noise affected, the required Aircraft Noise Reduction construction standards required for each room, and the estimated cost involved to achieve compliance with the Australian Standard. The recommended conditions of consent are available at **(ATTACHMENT 1)**.

Based on the information provided in the applicant's acoustic report and the findings of the Land and Environment Court decision, the impacts of aircraft noise are satisfactorily mitigated.

Ecology

The development application seeks consent for the removal of 0.57ha of native vegetation and 0.99ha of exotic vegetation. The majority of native vegetation is proposed to be retained and the remaining vegetation proposed to be removed has been assessed for biodiversity impacts in a Streamlined Biodiversity Development Assessment Report (BDAR). The exotic vegetation proposed to be removed represents minimal retention value and is proposed to be offset with 25 'Ivory Curl Tree' street tree plantings, consistent with Council's tree technical specifications.

The site contains areas of environmental significance including Koala habitat and Swift Parrot habitat, which is a threatened species listed under the Biodiversity Conservation Act with potential for serious and irreversible impacts. The development originally proposed removal of the majority of native trees on the site. Following a request from Council staff, the development was amended to retain the majority of native trees, including all 19 Koala and Swift Parrot habitat trees whilst maintaining the same number of lots. Following this amendment to the subdivision layout, the proposal is consistent with Council's Comprehensive Koala Plan of Management (CKPoM) and avoids serious and irreversible impacts to the Swift Parrot.

Overall, Council's Natural Systems Officer found the development would have no adverse impacts to biodiversity, subject to conditions relating to the protection of trees during construction and ongoing residential occupation of the lots. Conditions have also been recommended requiring the payment of ecosystem/species credits to

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the Biodiversity Conservation Fund in accordance with the Biodiversity Conservation Act 2016.

Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 4**), the proposed development is considered to be consistent with the aims and objectives of the relevant environmental planning instruments applicable to the subject site.

It is considered that the DA has been suitably designed to address the site constraints and despite the proposed variation to the PSDCP relating to aircraft noise, the impacts of aircraft noise are satisfactorily mitigated.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	Yes		Should Council determine to approve the DA, s.7.11 development contributions would be applicable and would be levied in accordance with conditions of consent.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The proposed development is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act), the Biodiversity Conservation Act 2016, PSLEP 2013, PSDCP 2014 and associated State Environmental Planning Policies. Despite the proposed variation the PSDCP relating to aircraft noise exposure, the development is consistent with the relevant Australian Standard and findings from the recent Land and Environment Court decision for a similar type of development on the adjoining site. A detailed assessment against these environmental planning instruments is contained within the assessment report contained at (**ATTACHMENT 4**).

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused the determination of the DA may be challenged by the applicant in the Land and Environment Court. If the applicant was successful in the appeal, Council may be required to pay the applicants legal costs.	High	Accept the recommendation.	Yes
There is a risk that the determination of the DA may be challenged by a third party in the Land and Environment Court.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

There are positive social and economic impacts as a result of the development. The development includes 16 additional lots, capable of supporting residential dwellings to meet the housing needs of the locality. Aircraft noise impacts can be suitably mitigated in future dwelling designs in accordance with the relevant Australian Standard.

Impacts on the Built Environment

The development is consistent with the existing subdivision pattern to the west of the site. The proposed lot layout maximises the retention of high value biodiversity trees and follows the topography of the land, minimising the need for large retaining walls or earthworks. The proposed lots are capable of supporting future dwellings of a suitable size and configuration, as illustrated on the building envelopes shown on the subdivision plans submitted with the application.

Based on these characteristics, the proposal is considered to be compatible with the existing built form character of the area.

Impacts on the Natural Environment

The site holds high value environmental features, including an endangered ecological community, being Swift Parrot habitat and Koala habitat. The proposed subdivision layout has been designed to avoid and minimise impacts to native vegetation which has allowed for the retention of all swift parrot habitat and koala habitat.

Overall, Council's Natural Systems Officer found the proposed development would have no adverse impacts to biodiversity, subject to conditions relating to the protection of trees during construction and ongoing residential occupation of the lots. Conditions have also been recommended requiring the payment of ecosystem/species credits, in accordance with the Biodiversity Conservation Act 2016.

In addition, bushfire threat has been appropriately mitigated as confirmed by the General Terms of Approval issued by the RFS and subject to subdivision design mitigation measures.

Overall, the proposed development is unlikely to result in adverse impacts to biodiversity, subject to the recommended conditions.

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 and advertising process.

Internal

Consultation was undertaken with Council's Development Engineering, Natural Systems, Infrastructure Contributions and Spatial Services Teams. The referral comments provided by these officers were considered as part of the Planners Assessment Report (**ATTACHMENT 4**). All internal referral officers supported the DA subject to the recommended conditions of consent (**ATTACHMENT 1**).

External

Consultation was undertaken with the NSW Rural Fire Service, Hunter Water Corporation, Ausgrid and the Department of Defence. The comments provided by the external agencies were considered during the detailed assessment and are discussed within the Planners Assessment Report (**ATTACHMENT 4**). As outlined in the key issues section above, Defence objected to the DA on aircraft noise related grounds. Despite the Defence objection, it is considered impacts relating to aircraft noise have been suitably mitigated based on the key findings from the Land and Environment Court judgement on the adjoining site. Defence recommended conditions in the event the application is approved, which have been included in the recommended conditions of consent (**ATTACHMENT 1**).

Public Exhibition

The application was exhibited from 17 January 2023 to 31 January 2023 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. No submissions were received with relation to the subject development proposal.

OPTIONS

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

ATTACHMENTS

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

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 16-2022-1046-1

1.0 - General Conditions of Consent

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

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

The General Terms of Approval are:

1. NSW Rural Fire Service – Reference no. DA20230109000097-CL55-1, dated 28 June 2023.

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

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

The Requirements are:

1. Ausgrid – Reference no. 1900119050, dated 24/01/2023.

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

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

Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
37910 PSP Stage 2	Proposed Subdivision	North Point Surveys	7/7/2023
22077-CI-010, 032, 200, 300, 500 & 501 Rev 3	Civil Engineering Plans	Cubo	25/7/2023
L/01 & L/02 Revision B	Landscape Plan	Bluegum Design	3/7/2023

Document Title	Version No.	Prepared by	Date
Arborist Report	-	Hunter Horticultural Services	11 April 2023

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

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

- (4) **Tree removal/pruning** – All trees/vegetation (except those required to be retained as per condition 1.0(6)) are approved for removal.

- (5) **Tree Pruning** - All trees required to be retained are approved for minimal pruning to achieve bushfire protection standards. This is limited to:

- Pruning of lower limbs up to a height of 2m above the ground; and
- Pruning the edges of tree canopies to establish a 2m canopy separation distance, where possible to do so.

Approval to prune retained trees is subject to all pruning works being undertaken by an AQFL3 qualified arborist as specified in Condition E402 of this consent.

- (6) **Protect existing vegetation and natural landscape features** - Removal of existing vegetation is not to occur until the issue of the Subdivision Works Certificate.

All trees identified for both retention and removal on the 'Proposed Subdivision Plan', prepared by North Point Surveys, dated 18 May 2023 must be retained.

This condition overrides the provisions of the NSW Rural Fire Service 10/50 entitlement as well as the exempt provisions for tree removal specified in Section B1 of the Port Stephens Development Control Plan 2014.

2.0 - Prior to Issue of a Subdivision Works Certificate

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

- (1) **Staging of Subdivision works** – The Subdivision Certificate for DA 16-2021-16-1 for a two (2) into twenty two (22) lot Torrens title subdivision at 171 and 173 Richardson Road Raymond Terrace, and DA 16-2022-1043-1 for a one (1) into two (2) lot Torrens title subdivision at 41 Lake View Crescent, Raymond Terrace is to be issued and the lots formally registered with LRS. Satisfactory evidence is to be provided to the principal certifying authority.

- (2) **Subdivision Works Certificate Required** – In accordance with the provisions of Section 6.13 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 Subdivision Works 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.

- (3) **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.

- (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 and an accompanying report/model 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).

The detailed stormwater drainage plans and report/model must include details for the upgrade of the water quality infrastructure approved under Subdivision Works Certificate 6-2021-16-1 (171 Richardson Road, Raymond Terrace) to cater for the discharge from this development (DA 16-2022-1046-1) to meet Council's water quality stripping targets prior to discharge from the basin.

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) **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.

- (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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

- (8) **Retaining walls** – All retaining walls must be designed and certified by a suitably qualified Structural Engineer in accordance with Council's Infrastructure Specifications.

Details demonstrating compliance must be provided to the Certifying Authority.

- (9) **Soil, erosion, sediment and water management** – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council's Infrastructure Specifications, "*Managing Urban Stormwater: Soils and Construction*" (the Blue Book), and "Planning for Erosion and Sediment Control on Single Residential Allotments". Details demonstrating compliance must be provided to the Certifying Authority.

- (10) **Road naming application** – An application (together with a plan) must be submitted to Council for road names. The suggested names must be supported with reasons (historical or otherwise) for the chosen names.

- (11) **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 Roads Act Approval Certificate under Section 138B of the Roads Act 1993.

- (12) **Ecosystem and species credit retirement** – The class and number of ecosystem/species credits in the following tables must be retired to offset the residual impacts (ecosystem) and impact (species) of development, prior to the issue of a Subdivision Works Certificate.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits or number of species credits, as calculated by the Biodiversity Conservation Fund Charge System.

Ecosystem Credits:

Impact plant community type	No. of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
1598-Forest Red Gum grassy open forest on floodplains of the lower Hunter	11	Hunter, Ellerston, Karuah Manning, Kerrabee, Liverpool Range, Peel, Tomalla, Upper Hunter, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometres of the outer edge of the	Hunter Lowland Redgum Forest in the Sydney Basin and New South Wales North Coast Bioregions. This includes PCT's: 1591, 1598, 1603, 1605, 1691, 1692, 1749, 3328, 3446, 3634

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

		impacted site.	
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Species Credits:

Impacted species	species credit	Number of species credits	IBRA sub-region
Lathamus discolor / Swift Parrot		16	Anywhere in NSW

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior the issue of a Subdivision Works Certificate.

- (13) **Subdivision Works Certificate** - The following information must be provided to the Certifying Authority with the Subdivision Works Certificate application:
- The road verge width shown on the approved Civil Engineering Plans prepared by Cubo, Reference no. 22077-CI and dated 25/7/2023 is to be amended to a minimum width of 16m, as shown on the approved Proposed Subdivision Plan, prepared by North Point Surveys, Reference 37910PSP Stage 2, dated 7/7/2023.
 - Driveway design for the entire extent of the Lot 9 access handle in accordance with Australian Standard 2890.1.
- (14) **Construction Site Management Plan** - Before the issue of a Subdivision Works 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:
- location and materials for protective fencing and hoardings to the perimeter on the site
 - provisions for public safety
 - pedestrian and vehicular site access points and construction activity zones
 - 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
 - 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)
 - details of any bulk earthworks to be carried out
 - location of site storage areas and sheds
 - equipment used to carry out all works
 - a garbage container with a tight-fitting lid
 - dust, noise and vibration control measures
 - 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.

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;

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

- 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) **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.

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

- d) a Subdivision Works Certificate has been issued by a Consent Authority;
- e) 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
- f) 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) **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).

- (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.

- (10) **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.

4.0 - During Works

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

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

7.00am to 5.00pm on Monday to Saturday

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

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

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

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

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

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

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

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

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

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

- (4) **Construction Site Management Plan implementation** - All construction site management procedures and systems identified in the approved Construction Site Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.

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

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

- (6) **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.

- (7) **Tree protection** – While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of *AS 4970-2009 Protection of trees on development sites* and the recommendations of the Arborist Report, prepared by Hunter Horticultural Services, dated 11 April 2023 approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF 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'.
- (9) **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.
- (10) **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.
- (11) **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.
- (12) **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.
- (13) **Cut and fill** – While work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:
- (a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
- All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the NSW EPA.
- (14) **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.

(15) **Approved Biodiversity Report Recommendations** – Construction of the development must comply with the recommendations of the “Streamlined Biodiversity Development Assessment Report”, Ref. No. 3015, prepared by Anderson Environment and Planning, dated December 2022, detailed as follows:

- Where possible, vegetation clearing is to be timed to avoid extended cold weather periods.
- Prior to clearing of any vegetation, and ecologist is to inspect the area for any signs of resident fauna requiring attention, and in particular nesting birds. Where such is identified, appropriate strategies are to be developed and instigated to minimise impacts.
- Any fauna rescued during vegetation clearing is to be assessed for injuries, and subsequently released to a suitable nearby location; this may require holding fauna until dusk for release in accordance with relevant animal ethics licencing and standards. If any fauna is injured during vegetation clearing, they are to be taken promptly to a nearby veterinarian or suitable wildlife carer contact.
- A staged approach to clearing is to be undertaken to provide fauna the opportunity to disperse outside the area of impact. Staging to include;
 - Phase 1 Clearing: Under scrubbing;
 - Phase 2 Clearing: Removal of non-habitat trees; and
 - Phase 3 Clearing: If habitat features are identified during pre-clearance surveys, removal of habitat trees must be undertaken 48 hours after clearing of other non-habitat trees;
 - All clearing works (phase 1, 2 and 3 to be undertaken under the supervision of the Project Ecologist.
- Clearing should occur in a direction from previously disturbed lands towards retained vegetation.

- Civil Construction staff to be inducted into pre-clearing and clearing protocols, and to identify environmental features for protection.
- If practical, all cleared vegetation is to be mulched on site and spread to help stabilise any exposed soil and minimise offsite movement of biomass.
- Implement hygiene protocols for machinery to prevent the spread of weeds outside the development site.
- Best practice erosion and sedimentation (ERSED) and dust suppression control methods are to be adopted, enforced and maintained throughout any vegetation clearing works, particularly for downstream areas. Such are to be in accordance with "Managing Urban Stormwater, 3rd Edition (1998)" published by NSW Department of Housing, and Council requirements;
- Development of a Construction Environmental Management Plan (CEMP) that incorporates pre, during and post construction mitigation measures to reduce both direct and indirect, such as lighting, vehicle strike, runoff etc.

5.0 - Prior to Issue of a Subdivision Certificate

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

- (1) **Bushfire safety – Subdivision** – The site is located within a bushfire prone area. Certification from a NSW suitability qualified Bushfire Consultant must be provided to certify that the development complies with:
- a) the NSW RFS' General Terms of Approval for the DA; and
 - b) the latest version of NSW Rural Fire Service publication "Planning for Bush Fire Protection - 2019."

- (2) **Requirement for a Subdivision Certificate** - The application for Subdivision Certificate(s) must be made in accordance with the requirements of Section 54 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 and Section 6.33(1) Environmental Planning and Assessment Act 1979.

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 DA 16-2022-1046-1, and of compliance with the relevant conditions of consent, prior to the issuing of a Torrens Plan of Subdivision.

In addition, one signed original copy of the original plans and/or documents, and final plan of survey/title, must be submitted to Council. A USB containing an electronic copy of all relevant documents must also be provided.

- (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) **Burdened lots to be identified** - Any lots subsequently identified during construction of the subdivision as requiring restrictions must also be suitably burdened.
- (5) **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.
- (6) **Outstanding works** – The applicant is to lodge a bond with Council for the construction of outstanding works, including concrete footpath and/or pedestrian/cycle shared way and a bond can only be lodged once the agreement has been made with Council to accept this.
- (7) **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.
- (8) **Street lighting** - Street lighting must be provided within the subdivision in accordance with the relevant Australian Standards and to the satisfaction of the Principal Certifying Authority. All such work must be complete and operative.
- (9) **Soil classification** - A Soil Classification Report prepared by a qualified person in accordance with the AS 2870 'Residential Slabs and Footings', detailing the general classification of soil type generally found within the subdivision and verifying that compaction of any approved fill material on the lots is in accordance with AS3798 employing "level 1" inspection and testing must be provided to the Principal Certifying Authority.
- A classification must be provided for each lot within the subdivision. The Soil Classification Report must also be provided to Council.
- (10) **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.

- (11) **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) Restriction on title identifying that all lots are subject to ANEF2025 and shall require the submission of an Acoustic Report with any future development application for a dwelling or dwellings to Council.
 - b) A restriction identifying that any dwelling erected on the lot will need to be inspected by a qualified acoustic engineer prior to the issuing of an occupation certificate to confirm that the dwelling meets the criteria required to satisfy indoor sound levels as documented in Table 3.3 of AS2021-2015 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction).
 - c) A restriction as to the user stating that no tree is permitted to be removed within burdened lots (lot 6 -10) as required under this consent (DA 16-2022-1046-1). All building works must occur in a manner that does not impact upon trees required to be retained.
- (12) **Stormwater management facility** – A stormwater management facility must be constructed for the site in accordance with the approved plans and Council's Infrastructure Specification.
- (13) **Stormwater Management Facility Operation, Maintenance and Monitoring Manual/s** – Operation, Maintenance and Monitoring Manual/s ('Manuals') for the stormwater management facility must be provided for approval to the Principal Certifying Authority. The Manual(s) must be prepared by a qualified Engineer.
- (14) **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.
- (15) **Landscape plan / street tree plan** – Street tree species must be planted at no cost to Council and in the location(s) specified on the approved Landscape Plan, Sheet no. L/01 & L/02 Revision B, prepared by Bluegum Design and dated 3/7/2023.
Details demonstrating compliance must be provided to the Certifying Authority.
- (16) **Repair of infrastructure** – Before the issue of a Subdivision 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.
- (17) **Completion of Roads Act Approval works** - All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

reserve in accordance with the Roads Act Approval to the satisfaction of the Council as the Roads Authority.

- (18) **Works as Executed Plans and any other documentary evidence** - Before the issue of the Subdivision 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.
- (19) **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.
- (20) **Street tree planting** – All street trees must be planted in accordance with the approved Landscape plan.
- (21) **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 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.
- (22) **Battle-Axe Lot Access** – The driveway handle for Lot 9 is to be constructed for the full extent of the battle-axe handle. The driveway gradient and design must comply with Australian Standard 2890.1.
- (23) **Local Infrastructure Contributions** - A monetary contribution is to be paid to Council for the addition of 16 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	\$10,480
Civic Administration – Works Depot	\$1,268	\$20,288
Town Centre Upgrades	\$3,414	\$54,624
Public Open Space, Parks and Reserves	\$861	\$13,776
Sports & Leisure Facilities	\$1,846	\$29,536
Cultural & Community Facilities	\$443	\$7,088
Road Works	\$5,708	\$91,328

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

Shared Paths	\$4,239	\$67,824
Bus Facilities	\$18	\$288
Fire & Emergency Services	\$36	\$576
Flood & Drainage	\$720	\$11,520
Kings Hill Urban Release Area	\$792	\$12,672
TOTAL	\$20,000	\$320,000

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

- a) Prior to the issue of the Subdivision Certificate.

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.

Advice Note(s):

- (1) **Aircraft Noise Impacts** – Prospective purchasers of the proposed lots should be provided with an information pamphlet that highlights the lots are aircraft noise affected, the required Aircraft Noise Reduction required for each room, and the estimated cost involved (including testing) to achieve AS 2021:2015 compliance.
- (2) **'Dial Before you Dig Australia'** – Before any excavation work starts, contractors and others should phone the "Dial Before You Dig Australia" service to access plans/information for underground pipes and cables.
- (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.

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) **Works near/adjoining electricity network assets** – There are underground electricity network assets adjacent to the proposed development in Lake View Crescent. Any works undertaken adjacent to Ausgrid assets must be undertaken with care in accordance with Ausgrid Network Standard Document NS 156 – Work Near or Around Underground Cables
- (5) **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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

- (6) **Component certificates (where Council is PCA)** – Where Council is appointed as the Principal Certifying Authority for the development, the following component certificates, as relevant to the development, shall be provided prior to the issued of a final Occupation Certificate:
- a) Insulation installation certificates.
 - b) Termite management system installation certificates.
 - c) Smoke alarm installation certificate from installing licensed electrician.
 - d) Survey certificate(s), prepared by a registered land surveyor, certifying that the building has been correctly and wholly located upon the subject allotment.
 - e) Certification attesting that retaining walls have been constructed in accordance with Engineers details or manufacturers specifications as applicable.
 - f) All certificates or information relating to BASIX compliance for the development.
 - g) An 'Approval to Operate a Sewage Management System' issued by Council (for areas that are not serviced by a Sydney Water sewer).
 - h) A certificate certifying that the wet areas have been waterproofed in accordance with the requirements of the Building Code of Australia.
 - i) All certificates relating to salinity, as required by conditions of the Development Consent.
 - j) Any other certificates relating to the development (for example, engineering certification for foundations, piers, reinforcing steel or hydraulic certification for all stormwater drainage works).

Where the appointed PCA is not Council, the matters listed in this condition should be regarded as advisory only.

Note: The above certification does not override any requirements of the Environmental Planning & Assessment Act 1979 with respect to any required critical stage inspections.

- (7) **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.
- (8) **Street Numbering** - Prior to the issue of the Subdivision Certificate, the approved dwellings are to be identified as follows:

HOUSE NUMBERING	
Proposed Lot/Unit Number	House Number/Street Address
Lot 1	8 *road yet to be named*, RAYMOND TERRACE 2324

Lot 2	9 *road yet to be named*, RAYMOND TERRACE 2324
Lot 3	11 *road yet to be named*, RAYMOND TERRACE 2324
Lot 4	13 *road yet to be named*, RAYMOND TERRACE 2324
Lot 5	15 *road yet to be named*, RAYMOND TERRACE 2324
Lot 6	17 *road yet to be named*, RAYMOND TERRACE 2324
Lot 7	19 *road yet to be named*, RAYMOND TERRACE 2324
Lot 8	21 *road yet to be named*, RAYMOND TERRACE 2324
Lot 9	23 *road yet to be named*, RAYMOND TERRACE 2324
Lot 10	25 *road yet to be named*, RAYMOND TERRACE 2324
Lot 11	22 *road yet to be named*, RAYMOND TERRACE 2324
Lot 12	20 *road yet to be named*, RAYMOND TERRACE 2324
Lot 13	18 *road yet to be named*, RAYMOND TERRACE 2324
Lot 14	16 *road yet to be named*, RAYMOND TERRACE 2324
Lot 15	14 *road yet to be named*, RAYMOND TERRACE 2324
Lot 16	12 *road yet to be named*, RAYMOND TERRACE 2324
Lot 17	10 *road yet to be named*, RAYMOND TERRACE 2324

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.



Call to Council form

Development Application

116 Adelaide Street,
Raymond Terrace NSW 2324

PO Box 42
Raymond Terrace NSW 2324

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

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

DEVELOPMENT APPLICATION (DA) CALL TO COUNCIL REQUEST

We (Mayor/Councillor/s)

Name:	Arnott
Name:	Anderson
Name:	
request that DA number:	2022-1046
for DA description:	1 into 17 lot Torrens title subdivision
located at:	41 Lake View Cr, Raymond Terrace 2324 NSW

be reported to Council for determination.

REASON

Public interest

SIGNATURE OF APPLICANT/S

Signature	
Signature	
Signature	

PRIVACY

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

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

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

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



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



APPLICATION REFERENCES

Application Number	16-2022-1046-1
Development Description	1 into 18 lot Torrens title subdivision
Applicant	LAND SPECIALISTS PTY LTD
Land owner	[REDACTED]
Date of Lodgement	23/12/2022
Value of Works	\$1,226,368.00
Submissions	0

PROPERTY DETAILS

Property Address	41 Lake View Crescent RAYMOND TERRACE (Approved Lot 4 of DA 16-2022-1043-1)
Lot and DP	LOT: 2 DP: 1233789
88B Restrictions on Title	Right of carriageway and easement for services 16 wide (A) & (B) Right of carriageway variable width (C)
Current Use	Residential – dwelling house
Zoning	R2 LOW DENSITY RESIDENTIAL
Site Constraints	Bushfire Prone Land – Category 3 and buffer Acid Sulfate Soils – Class 5 Koala habitat – Clear & other Endangered ecological communities – Lower Hunter spotted gum – Ironbark forest Biodiversity values map – Threatened species or communities with potential for serious and irreversible impacts ANEF 2025 – 20-25 & 25-30 contours Height Trigger Map – RAAF Base Williamtown – Refer structures higher than 15m Birdstrike – Group B

ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.

	Hunter Water special areas – Grahamstown Dam Drinking water draw zone – Grahamstown Dam hydro catchment Approved Water Sensitive Urban Design Strategy
State Environmental Planning Policies	STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.

PLANNERS PRE-ASSESSMENT CHECKLIST

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

PROPOSAL

The proposed development is for a one (1) into seventeen (17) lot Torrens title subdivision and associated site works, including roads, stormwater infrastructure, clearing and earthworks. The subject site is currently identified as Lot 2 in DP1233789, known as 41 Lake View Crescent, Raymond Terrace. The proposed 1 into 17 lot subdivision would occur on approved Lot 4 of DA 16-2022-1043-1, which was a 1 into 2 lot subdivision of the subject site to annex the existing residential dwelling from the future development area.

The proposed subdivision will be serviced by a 16m wide road connected to Lake View Crescent along with associated footpaths, drainage and sewer infrastructure. The removal of 0.57ha of native vegetation and 0.99ha of exotic vegetation is proposed to enable the road construction and provision of building envelopes and associated subdivision works. The proposed lot layout is shown in **Figure 1** below.

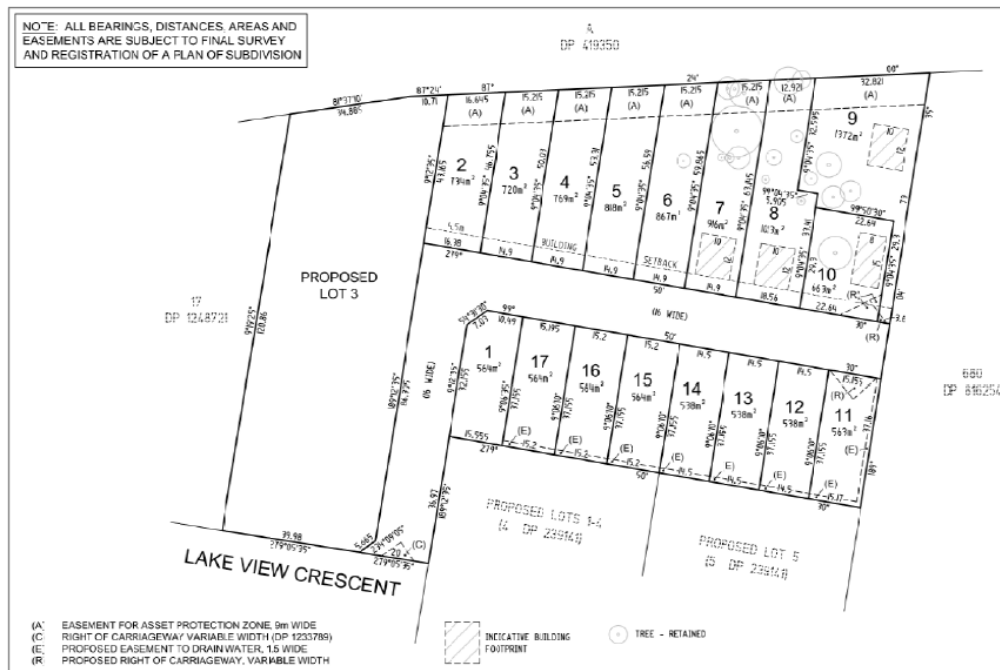


Figure 1: Proposed Lot Layout and Road Construction

The application originally proposed an alternative lot layout. However, the application was amended in accordance with clause 37 of the Environmental Planning and Assessment Regulation 2021 on 23 May 2023, to include a new layout that avoids impacts to areas of high biodiversity value, including swift parrot and koala habitat. The number of lots proposed in the amended application has not changed.

SITE DESCRIPTION

The subject site, legally identified as Lot 2 DP 1233789 is an irregular shaped lot measuring 21,277m² (see **Figure 2** below). The site is sparsely vegetated and slopes gently upwards from the front to rear of the site. The site contains an existing dwelling with vehicular access to the 60m frontage to Lake View Crescent, which was constructed in 2018.

The site is located within an area zoned R2 Low Density Residential, within the site specific Port Stephens Development Control Plan 2014 (DCP) area – D12 Richardson Road – Raymond Terrace. Land to the west has been developed for low density residential purposes, in line with the D12 chapter of the DCP. To the east and south, the land is occupied by large lot residential housing, which is yet to be developed in line with the 500m² minimum lot size. To the north of the site is land zoned SP1 – Hunter Water Corporation, which includes the Grahamstown Dam.

Development approval for a 2 into 23 lot subdivision (DA 16-2021-16-1) exists immediately to the south of the site on Lot 4 and 5 DP 239141. The development was approved by the Land and Environment Court (LEC) in September 2021 Land Specialists v Port Stephens Council [2021] NSW LEC 1681. The proposed development relies on the downstream drainage infrastructure approved under that development to the south. This LEC decision examined the suitability of residential development in the locality with regard to aircraft noise impacts and is discussed in more detail against Clause 7.5 of the Port Stephens Local Environmental Plan 2014 (LEP) and Chapter B6 of the DCP.



Figure 2: Satellite Image of Site

SITE HISTORY

The site was created by a 1 into 11 lot subdivision (DA 16-2011-603-5). Direct frontage was provided to the site when Lake View Crescent was extended in 2018 as part of DA 16-2016-747-2.

A single storey dwelling was approved on the site in January 2018 under DA 16-2018-38-1. An ancillary shed and swimming pool application followed in 2019.

Since lodgement of the subject DA, a 1 into 2 lot subdivision of the site has been approved by Council under DA 16-2022-1043-1 on 5th June 2023. The subject development is for the subdivision of approved Lot 4 of DA 16-2022-1043-1. The proposed subdivision works cannot occur until approved Lot 4 is registered with NSW Land Registry Services, which has been recommended as a condition of consent. The lot layout approved under DA 16-2022-1043-1 is shown in **Figure 3** below.

ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.

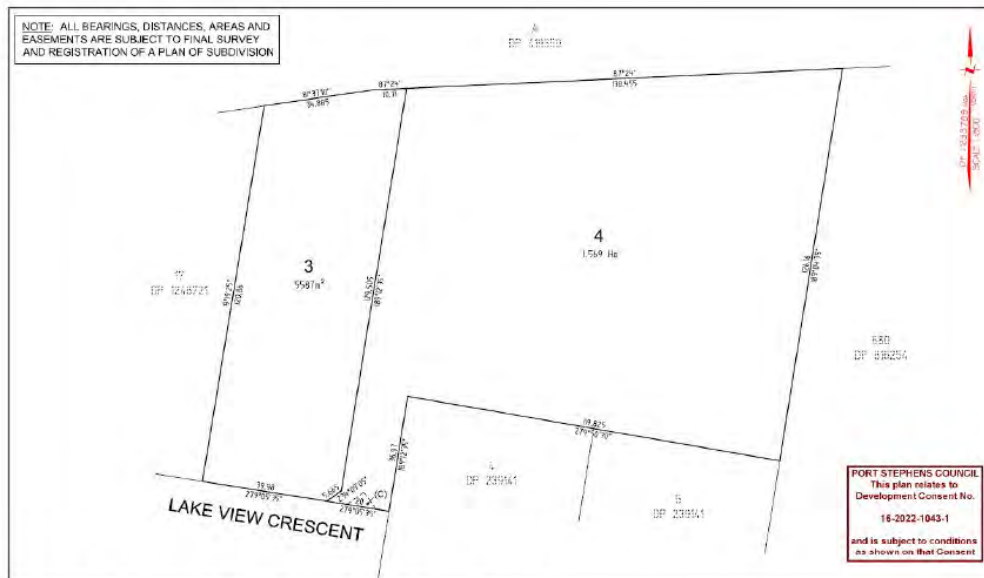


Figure 3: Approved Lot Layout DA 16-2022-1043-1

SITE INSPECTION

A site inspection was carried out on 17 February 2023. The subject site can be seen in the images below.



Image 1: View south west across site toward existing dwelling



Image 2: Existing Vegetation at Rear of Site



Image 3: Managed Hunter Water Corporation Land to Rear of Site



Image 4: Existing Dwelling to be Retained

PLANNING ASSESSMENT

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

Internal

Development Engineer – Supported with conditions.

Natural Systems – Supported with conditions.

Development Contributions – Supported with conditions for local infrastructure contributions for 16 new lots.

Spatial Services – Addressing details have been recommended by spatial services and included an advisory note in the recommended conditions of consent.

External

RFS – The application was referred to the NSW Rural Fire Service (RFS) as integrated development. In response, RFS supported the application and issued General Terms of Approval (GTAs) and a Bushfire Safety Authority. A condition of consent has been recommended requiring compliance with the RFS GTAs.

Hunter Water Corporation – The application was referred to Hunter Water Corporation (HWC) as the site is located within a drinking water catchment and draw zone. In response, HWC requested that the proposal not directly discharge into the hydrological catchment of the Grahamstown Dam. The applicant has provided details confirming the proposal does not drain into the hydrological catchment of the dam. HWC also recommended several conditions relating to construction management and water and sewer servicing which have been incorporated in the recommended conditions of consent.

ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.

Department of Defence – Defence objected to the proposal due to the sites location within the 25-30 ANEF contour on the “RAAF Base Williamtown & Salt Ash Air Weapons Range 2025 ANEF” map. Whilst Defence object to the application, in their letter dated 14 February 2023, Defence recommended 90dB(A) be adopted as the ANL for the subject site. Subsequent to the Defence Referral, the applicant has provided sufficient evidence to demonstrate that the ANL of 90dB(A) can be attenuated to the levels expressed in table 3.3 of AS 2021:2015. On this basis, the proposal is generally consistent with the requirements of AS 2021:2015 and the recent LEC decision in *Land Specialists v Port Stephens Council* [2021] NSW LEC 1681. Therefore the proposal is recommended to be supported regarding aircraft noise, despite the Defence objection.

The Defence referral includes recommended conditions, in the event the application is supported requiring that prospective purchasers of the lots be notified of the noise attenuating measures that would be required to support the construction of dwellings on the site in the future. Conditions generally to this effect have been included on the consent which are consistent with the conditions imposed in *Land Specialists v Port Stephens Council* [2021] NSW LEC 168. An advisory note has been included, advising that the applicant provide prospective purchasers a pamphlet that highlights the sites are noise affected, the required ANR for each room, and the estimated cost involved (including testing) to achieve AS 2021:2015 compliance. This has been included as an advisory note, rather than a condition of consent as such a requirement was not deemed necessary in *Land Specialists v Port Stephens Council* [2021] NSW LEC 168.

AUSGRID – The application was referred to Ausgrid due to the proposed subdivision works being located adjacent to existing Ausgrid electrical infrastructure. In response, Ausgrid made no objection to the application and made recommendations relating to safe working distances from electrical infrastructure and extension of electrical services.

Environmental Planning and Assessment Act 1979

Section 4.46 - Integrated development

The proposed development requires integrated referral under S.100b for a bushfire safety authority under the Rural Fires Act 1997 as the development is for a residential subdivision of bushfire prone land. The RFS responded on 19 April 2023 and requested additional information regarding the management of Hunter Water Corporation (HWC) land to the north and the provision of turning heads for the dead end road to facilitate fire truck movements. In response, additional information was provided, confirming HWC have previously agreed to manage the land as an inner protection area in perpetuity in accordance with an existing bushfire plan of management.

Following the submission of additional information responding to the above matters, no objection was made by RFS, subject to general terms of approval (GTAs) relating to the following:

- Establishment of a restriction requiring the establishment of a 9m wide easement at the rear of the site.
- Management of the entire site as an inner protection area.
- Upgrades to the construction standards of the existing dwelling.
- Road design.
- Provision of services and hydrants.
- Landscaping.

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).

ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.***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 2 Vegetation in Non-Rural Areas**

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

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

The development application seeks consent for the removal of 0.57ha of native vegetation and 0.99ha of exotic vegetation. The majority of native vegetation is proposed to be retained and the remaining vegetation proposed to be removed has been assessed for biodiversity impacts in a Streamlined Biodiversity Development Assessment Report (BDAR), Reference No. 3015, dated December 2022 and prepared by Anderson AEP. The exotic vegetation proposed to be removed represents minimal retention value and is proposed to be offset with 25 'Ivory Curl Tree' street tree plantings, consistent with Council's tree technical specifications.

The removal is supported as replacement plantings are proposed by the applicant, consistent with Council's tree technical specifications.

Chapter 4 Koala Habitat Protection 2021

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

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

The site is mapped as 'mainly cleared' and 'other vegetation' on Council's Koala Habitat Planning Map 2000. However, the BDAR submitted with the application identified 19 koala feed trees (*Eucalyptus tereticornis*) on the site, which are proposed to be retained. The site is not located in a koala corridor. The proposed development has been reviewed by Council's Natural Systems officer and found to be consistent with the CKPoM in terms of habitat loss and impact to movement. On this basis, the proposal is consistent with the requirements of Chapter 4.

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

ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.

contaminating activities occurring on the site, 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**

Section 2.48(2) requires consultation with the local power authority, being Ausgrid, where a development involves works in proximity to electrical utility infrastructure. The application was referred to Ausgrid, requesting comments about potential safety risks. In response, Ausgrid made no objection to the application and made recommendations relating to safe working distances from electrical infrastructure and extension of electrical services.

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

The land may be subdivided with consent in accordance with Clause 2.6 of the Port Stephens Local Environmental Plan 2013 (LEP). The site is located in the R2 Low Density Residential zone. The objectives of the zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To protect and enhance the existing residential amenity and character of the area.
- To ensure that development is carried out in a way that is compatible with the flood risk of the area.

The development addresses the objectives of the zone by providing additional lots suitable for future residential development to meet the housing needs of the community. The proposed subdivision layout will support the transition of the site from large lot residential to the desired higher residential density and character of the area, as set by the zoning and minimum lot size.

Clause 2.6 – Subdivision – Consent Requirements

The land may be subdivided with consent in accordance with Clause 2.6 of the LEP.

Clause 4.1 – Minimum Subdivision Lot Size

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

The proposed subdivision seeks to create allotments which exceed the 500m² minimum lot size specified under the Minimum Lot Size Map, with the minimum being 538m² and consequently achieve the objectives and requirements of this clause.

Clause 5.10 – Heritage conservation

The objectives of this clause are as follows:

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

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There are no local or state listed heritage items, located on or in proximity to the subject site. An AHIMS search confirms there are no previously recorded Aboriginal items located on the site. The site is not located within any Aboriginal sensitive landscape features.

Clause 6.1 – Arrangements for designated State public infrastructure

The objective of this clause is to ensure satisfactory arrangements are made for the provision of designated State public infrastructure before the subdivision of land in an urban release area. Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land, immediately before the land became, or became part of an urban release area.

The development is located within an infill area, rather than an urban release area and therefore state public infrastructure contributions are not applicable.

Clause 7.1 – Acid Sulfate Soils

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

The subject land is mapped as containing potential Class 5 acid sulfate soils. The proposed development is not anticipated to entail excavations below 1.9 metres and therefore it is not expected that acid sulfate soils would be encountered during works. On this basis, the proposal complies with the requirements of this clause.

Clause 7.2 – Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The application proposes earthworks to grade the site and for the installation of drainage infrastructure. No retaining is proposed due to the gentle slope of the site. A maximum of 1m of cut is proposed to grade the site. Excavation to a maximum depth of 1.9m is proposed to facilitate the installation of drainage infrastructure.

Given the topography of the site, the proposed earthworks are minor in nature and are not anticipated to result in any adverse impacts on the subject or adjoining land, or any public place. As outlined in the assessment against clause 5.10 above, the likelihood of disturbing relics is low.

Conditions of consent have been imposed relating to sediment and erosion control, stockpiling of materials, dewatering, quality of imported/exported fill materials and disposal of excavated materials in accordance with the EPA's Waste Classification Guidelines.

Subject to the above conditions of consent, the development accords with the requirements of this clause.

Clause 7.5 – Areas Subject to Aircraft Noise

Before determining a development application for development to which this clause applies, the consent authority—

- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and
- (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and
- (c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.

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The proposal is for a 1 into 17 lot subdivision, which could be used for future residential development, including dwelling houses, dual occupancies and multi-dwelling housing.

AS 2021—2000 has since been superseded by AS 2021 – 2015 but includes similar provisions to the previous edition. The site is located in the 25-30 ANEF contour, specifically the ANEF 25 and 26 contours, as shown in **Figure 4** below. However, the ANEF 26 contour only affects two of the proposed lots.



Figure 4: ANEF Contour Map

The proposed lots could each support a future dwelling, which is identified as 'unacceptable' in the AS as the lots are situated in an area above ANEF 25. Notwithstanding, as identified in *Land Specialists v Port Stephens Council* [2021] NSW LEC 1681, the AS the standard does not prohibit development in unacceptable areas and provides exceptions where the planning authority determines that "any development may be necessary within an existing built-up area designated as unacceptable". It was established in *Land Specialists v Port Stephens Council* [2021] NSW LEC 1681 that residential subdivision development of all the R2 zoned land north of Richardson Road, met the exception criteria, in that it is necessary within an existing built-up area in order to achieve the objectives of the R2 Low Density Residential zone.

Whilst the proposal meets the exception criteria for ANEF contours above 25, the noise reduction levels in table 3.3 of the AS must also be met. In this regard, the applicant has provided sufficient evidence to demonstrate that the Aircraft Noise Level (ANL) for the site of 90dB(A) (as identified by Defence) can be attenuated to the levels expressed in table 3.3 of the AS, which specifies the indoor design sound levels for houses and flats to be:

- Sleeping areas, dedicated lounges 50 dBA,
- Other habitable spaces [i.e., kitchens, rumpus rooms] 55 dBA,

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- c. Bathrooms, toilets, Laundries 60 dBA.

On this basis, the proposal satisfies clause 7.5. See assessment against B6 of the DCP for further details.

Clause 7.6 – Essential Services

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

The subject site is serviced by reticulated water, electricity and sewer, which is proposed to be extended from Lake View Crescent to service the 17 proposed lots. Referral correspondence with Hunter Water Corporation identified this existing service connection and advised that the applicant is required to submit a Development Assessment (Section 50) application for a notice of formal requirements. A condition of consent requiring a Section 50 application be sought has been recommended.

In addition, the application includes a stormwater management plan which includes adequate water quantity and quality controls to cater for the proposed subdivision and subsequent construction of dwellings. Each lot will have frontage to the proposed road, ensuring adequate vehicular access is available.

Clause 7.8 – Drinking Water Catchments

The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages.

The proposed development is located within a drinking water catchment and accordingly the requirements of this clause apply. The subject development has been designed so as not to result in adverse impacts on the quality or quantity of water entering the drinking water storage through the use of an on-site stormwater management system. The on-site system has been designed in accordance with Councils requirements to reduce the levels of potential pollutants to acceptable levels, prior to discharge from the site.

The application was referred to Hunter Water Corporation (HWC) as the site is located within a drinking water catchment and draw zone. In response, HWC requested that the proposal not directly discharge into the hydrological catchment of the Grahamstown Dam. The applicant has provided details confirming the proposal does not drain into the hydrological catchment of the dam. HWC also recommended a number of conditions relating to Construction management, water quality targets, and water and sewer servicing which have been incorporated in the recommended conditions of consent.

Subject to the recommended conditions of consent, the proposal includes adequate water quality controls to avoid adverse impacts to the drinking water catchment, in accordance with the requirements of this section.

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

There are no draft environmental planning instruments applicable to the proposal.

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

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

The development application seeks consent for the removal of 0.57ha of native vegetation and 0.99ha of exotic vegetation. The majority of native vegetation on the site is proposed to be retained and the remaining vegetation proposed to be removed has been assessed for biodiversity impacts in a Streamlined Biodiversity Development Assessment Report (BDAR), Reference No. 3015, dated December 2022 and prepared by Anderson AEP. The exotic vegetation proposed to be removed represents minimal retention value and is proposed to be offset with 25 'Ivory Curl Tree' street tree plantings, consistent with Council's tree technical specifications.

On this basis, the proposal is consistent with the requirements of this Chapter and supported by Council's Natural Systems section.

Chapter B2 – Natural Resources

The site is located in proximity to items of environmental significance including Endangered Ecological Communities (lower Hunter spotted gum – Ironbark forest) and threatened species with potential for serious and irreversible impacts (swift parrot habitat).

The development application seeks consent for the removal of 0.57ha of native vegetation and 0.99ha of exotic vegetation. The application includes a Streamlined Biodiversity Development Assessment Report (BDAR), Reference No. 3015, dated December 2022 and prepared by Anderson AEP, which assess the biodiversity impacts associated with the proposed tree removal.

The proposed vegetation removal triggers entry into the Biodiversity Offsets Scheme (BoS), despite the majority of native vegetation being retained. The subdivision design was amended to enable the retention of all 19 koala feed trees and swift parrot habitat trees (*Eucalyptus tereticornis*). The amended subdivision layout demonstrates adequate avoidance and minimisation of biodiversity impacts. The proposal also avoids serious and irreversible impacts to the swift parrot, through the retention of all swift parrot habitat trees.

Impacts to koala have also been assessed. The site is mapped as 'mainly cleared' and 'other vegetation' on Council's Koala Habitat Planning Map 2000. However, the BDAR submitted with the application identified 19 koala feed trees (*Eucalyptus tereticornis*), which are proposed to be retained. The site is not located in a koala corridor. The proposed development has been reviewed by Council's Natural Systems Officer and found to be consistent with the CKPoM.

Overall, Council's Natural Systems Officer found the proposed development would have no adverse impacts to biodiversity, subject to conditions relating to the protection of trees during construction and ongoing residential occupation of the lots. Conditions have also been recommended requiring the payment of ecosystem/species credits. Subject to the recommended conditions, the proposal is consistent with the requirements of this chapter.

Chapter B3 – Environmental Management

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

Acid Sulfate Soils

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

Noise

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The impacts of the development during construction could be limited through conditions of consent which limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. Subject to the recommended conditions, the application is satisfactory in regards to noise management.

Air Quality

Dust generated during construction is expected to be minimal, subject to conditions of consent requiring erosion and sediment control be carried out in accordance with the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

Earthworks

As discussed at clause 7.2 above, the proposed development involves earthworks to grade the site and for the installation of drainage infrastructure. No retaining walls are proposed due to the gentle slope of the site. A maximum of 1m of cut is proposed to grade the site. Excavation to a maximum depth of 1.9m is proposed to facilitate the installation of drainage infrastructure. The impacts of the proposed earthworks can be mitigated through the recommended conditions of consent. The proposal is therefore consistent with requirements outlined in the DCP relating to earthworks.

Chapter B4 – Drainage and Water Quality

This section applies to development that:

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

A stormwater management plan was submitted with the application and includes adequate quality and quantity control, in accordance with the requirements of this section. The stormwater drainage plan has been assessed by Council's Development Engineering section and found to be consistent with the Infrastructure Specification and a condition of consent has been recommended in the consent requiring the provision of detailed engineering plans, prior to the issue of a construction certificate.

Chapter B5 – Flooding

The subject land is not mapped as being within the Flood Planning Area, therefore the provisions of this chapter do not apply.

Chapter B6 – Williamstown RAAF Base - Aircraft Noise and Safety

This section applies to development that is situated within the 2025 Australian Noise Exposure Forecast (ANEF), bird strike zone, extraneous lighting area or the Royal Australian Air Force (RAAF) Base Williamstown Obstacle Limitation map.

Bird Strike

The site is located in zone 'Bird Strike Group B' which requires management of organic waste to minimise the attraction of birds. The proposed development is for subdivision only and does not include any change to land use posing an increased risk of bird strike. Conditions of consent regarding the management of organic waste could be included on future dwelling DAs to manage this risk.

Aircraft Noise

The impact of aircraft noise on the proposed development has been assessed against clause 7.5 of the LEP above, and found to be acceptable. Neither clause 7.5 of the LEP nor the AS prohibit

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development inside the ANEF 25 contour or greater, however, this is inconsistent with the provisions of the DCP, including Section B6.1, read together with Figure BL which identifies that development for residential accommodation in the ANEF 25 contour or greater as being generally unacceptable. Furthermore, noise attenuation levels that comply with Figure BM are not considered to be reasonable or practicable for a dwelling when seeking to achieve noise reduction greater than:

- 35 dB(A) for sleeping areas
- 30 dB(A) for habitable spaces

Despite the above, as detailed against Clause 7.5 above, *Land Specialists v Port Stephens Council* [2021] NSW LEC 1681, established that a merit assessment is appropriate given the LEP and AS do not prohibit development in the ANEF 25 contour or greater, despite the non-compliance with the DCP.

In this regard, consideration has been given to AS 2021:2015, including the indoor design sound levels relating to residential development, within Table 3.3 of AS 2021:2015 - Indoor Design Sound Levels for Determination of Aircraft Noise Reduction, to determine whether future dwellings could attenuate the sites Aircraft Noise Level (ANL) to a suitable level.

Whilst Defence object to the application, in their letter dated 14 April 2023, Defence recommended 90dB(A) be adopted as the ANL for the subject site. Subsequent to the Defence Referral, the applicant has provided sufficient evidence to demonstrate that the ANL of 90dB(A) can be attenuated to the levels expressed in table 3.3 of AS 2021:2015 and B6.2 of the DCP, which specifies the indoor design sound levels for houses and flats to be:

- a. Sleeping areas, dedicated lounges 50 dBA,
- b. Other habitable spaces [ie, kitchens, rumpus rooms] 55 dBA,
- c. Bathrooms, toilets, Laundries 60 dBA

To achieve the indoor design sound levels, an aircraft noise reduction (ANR) of 42 dBA is required for future dwellings. This exceeds the ANR found to be acceptable in *Land Specialists v Port Stephens Council* [2021] NSW LEC 1681 case which was 40 dB(A).

The evidence provided by the applicant supporting the 40 dB(A) aircraft noise reduction includes:

- In *Ryan v Port Stephens Council* [2008] NSWLEC 66 it was established that dwellings could provide attenuation from an ANL of 95dB(A) down to 50dB(A), being a 45dB(A) noise reduction.
- The applicant cites a study published by Narang and Butler (1996) In *Acoustic Australia*, Vol.24, No. 3 titles "Reducing Aircraft Noise Impact by Sound Insulation of Houses". In this study, it was concluded that an ANR of about 40 can be achieved for bedrooms in a brick house.

Based on the evidence provided by the applicant, it is evident that an ANR of 40dB(A) can be achieved in the construction of future dwellings.

As the proposal is for subdivision without the erection of any dwellings, future applications for dwellings will need to demonstrate that the proposed dwelling design can be constructed to attenuate an ANL of 90dBA to the levels expressed in table 3.3 of AS 2021:2015.

In accordance with Note 1 to Section 3.1.4 of AS 2021 to determine aircraft noise levels [dB(A)], the Aircraft Noise Reduction (ANR) must be measured at the completion of each residential building in accordance with Appendix D of AS2021:2015. This must be undertaken by a suitably qualified professional and the findings presented to Council prior to the issue of any Occupation Certificate.

Accordingly, a condition of consent has been recommended, requiring that through Section 88B restrictions on each title, all future dwellings must be built to comply with Table 3.3 of Australian Standard 2021:2015 - Indoor Design Sound Levels for Determination of Aircraft Noise Reduction as outlined above, and in line with the referral comments from Defence. An advisory note is also recommended so that prospective purchasers of the lots are provided with an information pamphlet

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that highlights the lots are aircraft noise affected, the required Aircraft Noise Reduction required for each room, and the estimated cost involved to achieve compliance with the Australian Standard.

The proposal is therefore generally consistent with AS 2021:2015, clause 7.6 of the LEP and the recent LEC decision in *Land Specialists v Port Stephens Council* [2021] NSW LEC 1681. On this basis, the proposed variation to B6.1 of the DCP is supported.

Chapter B7 – Heritage

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

There are no local or state listed heritage items, Aboriginal objects or places located on the subject site. An AHIMS search confirms there are no previously recorded Aboriginal items located on the site. The proposal is not located in proximity to any Aboriginal Sensitive Landscape Features.

Chapter B8 – Road Network and Parking

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

The proposed development includes a Traffic Impact Assessment (TIA), Reference N231, Issue A, prepared by TTPS and dated 29 November 2022.

The TIA estimates 133 daily trips would be generated by the development, based on the TfNSW Guide to Traffic Generating Developments. The TIA included a SIDRA analysis that confirms the existing road network is capable of supporting the traffic volumes expected to be generated by the proposal. The most impacted intersection is the existing Halloran Way and Richardson Road intersection. The TIA confirms that the intersection operates to a satisfactory level of service (Level of Service C) during the afternoon peak. As such, the intersection is expected to continue to operate satisfactorily with minimal queues and delays on all approaches, with a minor increase of delay up to 9 seconds per vehicle on the westbound right-turn movement of Halloran Way. A review undertaken by Council's Traffic Engineer concurred with the findings of the TIA and proposed impact to the surrounding road network.

Access to the site is proposed via new 'Access Street' (16m wide) road connecting to Lake View Crescent. The proposed road is compliant with the Port Stephens Technical Specification for roads as confirmed by the swept path diagrams provided with the application. The proposed road is also suitable for future extension eastward through adjoining land zoned R2 low density residential that is likely to be developed.

Pedestrian footpaths are proposed on the southern side of the proposed roads and subject to conditions, would comply with the Port Stephens Technical Specification.

The public transport bus routes generally run along Richardson Road or turn off Richardson Road to the east and west of the site to run along Benjamin Lee Drive. The nearest bus stop to the site is located on Richardson Road at the turn lane into Halloran. This existing bus stop is appropriately located to service the proposed development until such time that the bus network is extended through Balusters Street.

Chapter C – Development Types

C1 – SUBDIVISION	
The proposed development includes subdivision and this section of the DCP applies.	☒
C1.A – All Subdivision – Lot Size and Dimensions	

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Objective	
<ul style="list-style-type: none"> To ensure all new lots have a size and shape appropriate to their proposed use, and to allow for the provisions of necessary services and other requirements 	
Control	C1.1 – Lot size Lot sizes adheres with <i>Port Stephens Local Environmental Plan</i> Part 4 standards.
Assessment	All lots exceed the 500m ² minimum lot size that applies to the site.
Control	C1.2 – Rectangular footprint A residential lot is capable of supporting a rectangular building footprint of 15m x 8m or 10m x 12m as illustrated by Figure CA.
Assessment	Each residential lot is capable of supporting a rectangular building footprint of 15m x 8m or 10m x 12m. Building envelopes have been shown on the subdivision plans.
Control	C1.3 – Battle-axe lots All lots provide direct street frontage. <ul style="list-style-type: none"> Battle-axe lots are only considered when there is no practical way to provide direct street frontage. Right of carriageway is constructed prior to the issuing of subdivision certificate and is provided in accordance with Figure CB. <ul style="list-style-type: none"> Alternative solutions are to be considered to lots created prior to the Local Environmental Plan, but only where safety is not impeded.
Assessment	Each lot provides direct street frontage to the proposed road. Proposed Lot 9 includes a battle-axe handle to provide street frontage. The proposed battle-axe lot is acceptable due to the distance between the proposed road and rear boundary which is 73m long, which would otherwise require an unusually deep and underutilised lot. The proposed battle-axe handle enables a more efficient use of the land available, providing two residential lots instead of one with lot sizes closer to the minimum size of 500m ² . The proposed battle-axe lot also provides a layout which enables the retention of existing Swift Parrot vegetation.
Control	C1.4 – Splay corners Splay corners are provided for corner lots and must be a minimum of: <ul style="list-style-type: none"> 4m x 4m for residential zones; 8m x 8m for commercial and industrial zones; 6m x 6m or merit-based approach for other zones.
Assessment	A single side splay corner of 7m is provided to the only corner lot, which is compliant with Council's infrastructure specification.
C1.B – All Subdivision – Street Trees	
Objective	
<ul style="list-style-type: none"> To ensure street tree planting is of an appropriate species and undertaken in accordance with Council's guidelines 	
Control	C1.5 – Street tree requirements Street trees are required as a component of the road reserve for the following:

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	<ul style="list-style-type: none"> Residential subdivisions; Commercial subdivisions; Industrial subdivisions creating 10 or more lots. <ul style="list-style-type: none"> Street trees are provided in accordance with the tree technical specification. <ul style="list-style-type: none"> Tree Planting Guidelines of the tree technical specification provides guidance to the application of the tree technical specification to determine the total number of trees to be provided.
Assessment	The proposed development includes street tree plantings on each of the proposed roads. The proposed street tree plantings include Buckinghamia Celssissima 'Ivory Curl Tree' species which are consistent with Council's Tree Technical Specification.
Control	<u>C1.6 – Street tree replacement</u> Where street trees are required to be removed to facilitate development, they must be replaced in a practical location, in accordance with Section 4.6 of the tree technical specification.
Assessment	No existing street trees are proposed to be removed.
C1.C – All Subdivision – Solar Access	
Objective <ul style="list-style-type: none"> To maximise solar access for residential dwellings 	
Control	<u>C1.7 – Solar access</u> Residential subdivision addresses the following guidelines for solar access. Any inconsistency clearly justifies how alternative energy efficiency is achieved. <ul style="list-style-type: none"> Where possible, lots should be oriented to provide one axis within 30 degrees east and 20 west of true solar north; Where a northern orientation of the long axis is not possible, lots should be wider to allow private open space on the northern side of the dwelling; Topography and landform should inform the subdivision layout in order to maximise solar access opportunities.
Assessment	All proposed lots are oriented on a north/south axis within 30 degrees east and 20 west of true solar north. The topography of the site which has a gradual slope upward from south to north provides good solar access to the rear private open space of dwellings which have road frontages to the south. These lots make up 14 out of the 17 lots proposed
C1.D – All Subdivision – Public Scale Drainage	
Objective <ul style="list-style-type: none"> To ensure further guidance is provided for subdivision that is consistent with B4 Drainage and Water Quality and the Infrastructure Specification (where relevant) 	
Control	<u>C1.8 – Inter-allotment drainage</u> Each lot must be able to be gravity drained through the drainage system to public drainage.

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Assessment	Each lot gravity drains to the proposed stormwater system in the road verge, as shown on the civil plans submitted with the application.
Control	<u>C1.9 – Inter-allotment drainage</u> Inter-allotment drainage may be required for subdivision where a lot does not drain directly to the road kerb.
Assessment	Inter-allotment drainage in the form of an overland flow path, measuring 3m wide that discharges south through proposed lot 11 to a detention basin approved on the adjoining site.
Control	<u>C1.10 – Drainage reserves</u> An overland flow path is provided for the 1% Annual Exceedance Probability (AEP) storm event and is a drainage reserve dedicated to Council as operational land.
Assessment	The proposal includes an overland flow path, measuring 3m wide that discharges south through proposed lot 11 to a detention basin approved on the adjoining site.
C1.E – Major Subdivision – Block and Street Layout	
Objectives	
<ul style="list-style-type: none"> • To ensure local streets are well-connected to the street network with obvious pedestrian and cycle links to higher order streets • To ensure priority is provided to residents needs when designing local streets to encourage usability • To ensure pathways follow desire lines 	
Control	<u>C1.11 – Block dimensions</u> A block seeks to achieve the maximum dimensions identified in Figure CC of 80m deep and 160m long.
Assessment	The maximum block dimensions proposed, are to the south of the east-west road and measure 75m deep and 135m long, which complies with this control. A second block is also proposed to the north of the east-west road which has smaller dimensions than the one to the south. Upon further extension of the road eastward under a future application, the maximum block dimensions would be approximately 75m deep and 165m long, which is an acceptable block dimension, noting it is only a minor 5m exceedance of the control.
Control	<u>C1.12 – Technical Specifications</u> Street layout complies with the road network specifications in the Infrastructure Specification.
Assessment	The proposed road layout is consistent with the with Council's Infrastructure specification, subject to the recommended conditions.
Control	<u>C1.13 – Street layout attributes</u> The street layout addresses the following:

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	<ul style="list-style-type: none"> • All street components are integrated, such as kerbing, pavement type, width, street tree planting, footpaths, on road cycleway, shared paths, lighting and seating are provided as specified in infrastructure specific – design; • Road widths accommodate the necessary movements of service and emergency vehicles; • Driveways and footpaths are provided at subdivision as a part of the subdivision works; • Footpaths and shared paths follow desire lines; • Street layout is interconnected to provide a grid-like structure; • Street layout is informed by street connection for future subdivision on adjacent lands; • Street layout seeks to provide a perimeter road between residential dwellings and; <ul style="list-style-type: none"> - Bush fire prone land - Open space defined as a regional park, district park, or local park • Street layout ensures public access to public open space is maintained and encouraged. <p>Note: Development should have consideration for the Port Stephens Pathways Plan.</p>
Assessment	<p>The proposed road widths could be modified to meet the minimum specified in Council's Infrastructure specification, subject to recommended conditions. Conditions have been included requiring that kerbing, pavement type, width, street tree planting, footpaths, and lighting are provided in accordance with Council's Infrastructure Specification. No shared paths or cycle ways are proposed.</p> <p>The proposed street network is informed by possible connections to future subdivision on adjacent land. The proposed roads could be extended eastward, as demonstrated in the indicative plans provided with the application which show a potential future street layout for 183 and 185 Richardson Road to the east of the site, creating a grid like network.</p> <p>A perimeter road for the purposes of bushfire protection is not proposed, however, a 20m wide cleared area provides defensible space for firefighting on the Hunter Water land to the north of the site. Hunter Water Corporation have agreed to manage this land in perpetuity and on this basis, the NSW RFS have granted approval to the proposed development.</p>
Control	<p>C1.14 – Cul-de-sacs</p> <p>Cul-de-sacs are generally only supported where:</p> <ul style="list-style-type: none"> • The existing street layout does not permit a through street; • Connectivity to an adjoining street is not required; • The cul-de-sac has a maximum length of 75m; • Access is provided to no more than 10 allotments; • Clear line of sight is provided from the nearest intersection.
Assessment	The proposal does not include any cul-de-sacs.
C1.F – Major Subdivision – Public Open Space	

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<p>Objectives</p> <ul style="list-style-type: none"> To provide a hierarchy of public open space in accordance with public open space hierarchy To provide parks that are multi-functional To ensure parks achieve centrality by being located near transport nodes, public building, waterfronts, libraries or places of public worship To ensure public open space meets the demands of the local community to encourage usability and critical mass 	
Control	<p><u>C1.15 – Open space hierarchy</u></p> <ul style="list-style-type: none"> Council may require the provision of public open space in accordance with Figure CD.
Assessment	<p>The proposed development is not of a significant enough scale to warrant dedicated public open space. This is reflected in the site specific area chapter – D12 in the DCP, which does not nominate any public open space requirements for the locality. The site benefits from close proximity to existing public recreation facilities, including sporting fields and a Council owned and operated swimming pool which are located in a walkable distance on the southern side of Richardson Road.</p>
Control	<p><u>C1.16 – Open space reduction</u></p> <p>The quantity of public open space may be reduced if:</p> <ul style="list-style-type: none"> Accessibility is improved through such measures as providing extended connections to the wider pedestrian network; or Value of open space is improved through such measures as an increased amount and/or quality of park furniture, amenities, play equipment, sports infrastructure.
Assessment	<p>As noted against, Section C1.15 above, the proposed development is not of a significant enough scale to warrant dedicated public open space.</p>
Control	<p><u>C1.17 – Open space attributes</u></p> <p>Public open space for the purpose of a local park, district park, or regional park must:</p> <ul style="list-style-type: none"> Be of regular shape (rectangle/square) to maximise recreation opportunities. <p>Note: Long narrow open spaces are not acceptable unless used for linkages.</p> <ul style="list-style-type: none"> Be generally flat and centrally located near transport nodes, public buildings, waterfronts, libraries or places of public worship to maximise accessibility for all members of the public; Provide for safe and convenient access by being located on pedestrian cycle routes; Clearly demonstrate that is a public space and be bounded by a street and faced by lots zoned or used for residential or commercial purposes; Be designed with consideration to crime prevention through environmental design (CPTED) principles; Include access for services (e.g. garbage collection, maintenance, water, sewerage, and electricity).

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	<p>Note: The provision of playgrounds is assessed on a case by case basis by primarily considering proximity to other community and recreation facilities.</p> <p>Note: Further attributes specific to a local park, district park, and regional park are provided in Part E1 of the DCP.</p>
Assessment	As noted against, Section C1.15 above, the proposed development is not of a significant enough scale to warrant dedicated public open space.
Control	<p>C1.18 – Open space attributes Land that may be deemed unsuitable as public open space for the purposes of a local park, district park, or regional park includes:</p> <ul style="list-style-type: none"> • Contaminated land; • Land primarily used for stormwater management or drainage control purposes; • Land identifies as an asset protection zone (APZ).
Assessment	As noted against, Section C1.15 above, the proposed development is not of a significant enough scale to warrant dedicated public open space.
Control	<p>C1.19 – Open space attributes Corridor open spaces are drainage reserves classified as operational land under the <i>Local Government Act 1993</i>.</p>
Assessment	As noted against, Section C1.15 above, the proposed development is not of a significant enough scale to warrant dedicated public open space.
C1.G Major Subdivision – Infrastructure	
	<p>Objective</p> <ul style="list-style-type: none"> • To ensure detailed consideration is provided to the provision of integrated and quality public infrastructure
Control	<p>C1.20 – Technical specifications Infrastructure in accordance with the Infrastructure Specification is identified on the concept utility plans or more detailed preliminary engineering plans.</p>
Assessment	The proposed stormwater plans include infrastructure details generally in accordance with Council's Infrastructure Specification. Conditions of consent have been recommended requiring detailed plans in accordance with the Council's Infrastructure Specification are provided prior to the issue of a subdivision works certificate.
Control	<p>C1.21 – Public infrastructure Subdivision provides public infrastructure within the adjoining road or public land, including kerb/gutter, stormwater drainage, footpaths, street lighting, street trees and bus shelters, excluding:</p> <ul style="list-style-type: none"> • Public utilities, such as water and electricity, are kept within private lot boundaries and are not located within the road reserve.
Assessment	Public utility infrastructure is proposed in the road reserves and drainage reserves, consistent with the requirements of this control.

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Control	<p>C1.22 – Lifecycle and maintenance</p> <p>Lifecycle and maintenance costs are a key determinant when considering alternative methods, products and manufacturers to those specification in the Infrastructure Specification.</p> <ul style="list-style-type: none"> Council will request life cycle costing and maintenance manual details for infrastructure to assist in ongoing maintenance.
Assessment	Lifecycle and maintenance costs have been considered in the Development Engineering referral assessment and deemed appropriate.

Chapter D – Specific Areas

The site is located within the Specific Area Chapter D12 Richardson Road - Raymond Terrace, as shown in **Figure 5** below. The provisions of this chapter are outlined in the following table.



Figure 5: DCP Figure DW

D12 Richardson Road - Raymond Terrace	
The proposed development is located within a Specific Area nominated in the DCP and this section of the DCP applies.	
D12.A Street Layout and Transport Network	
Objectives	
<ul style="list-style-type: none"> To ensure that a well-planned and connected street layout for the area is delivered and not compromised by development on a single site To achieve efficient and equitable pedestrian, cycle, public transport and private vehicle connectivity between lots and precincts, the local centre and nearby service areas To ensure the street layout limits access to the Pacific Highway and Richardson Road 	
Control	<p>D12.1 – Street Layout</p> <p>Street layout is generally consistent with the locality controls map at Figure DW.</p>

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Assessment	<p>A street layout is not shown for the site in Figure DW. Despite this, the proposed street layout is consistent with the objectives of this section as follows:</p> <ul style="list-style-type: none"> • The proposed street layout provides a connection through the north of the D12 precinct, which could be extended in the future through 183 and 185 Richardson Road to loop back onto Lake View Crescent. The proposed street layout appropriately responds to the biodiversity values of the site and would provide appropriate through connectivity once extended in the future. • The proposal includes roadways and footpaths, which subject to conditions, would be consistent with the Port Stephens Council Infrastructure Specification. • The proposed street layout does not include any additional access points to Richardson Road or the Pacific Highway.
Control	<p>D12.2 – Street Layout No additional direct driveway access to and from Richardson Road is permitted.</p>
Assessment	The proposal does not include driveway access to Richardson Road.
Control	<p>D12.3 – Connectivity The subdivision of a lot that proposes a road layout that prevents the effective connectivity of the wider street network will not be supported. Development applications must provide for wider street network connectivity in a grid-like structure.</p>
Assessment	The proposed street layout provides a connection through the north of the D12 precinct, which could be extended in the future through 183 and 185 Richardson Road to loop back onto Lake View Crescent, thereby achieving grid like through connectivity in accordance with D12.3.
Control	<p>D12.4 - Connectivity Subdivisions that propose street networks are to be informed by road connections to future subdivisions on adjoining land. Development applications shall identify future road connections to adjacent land where necessary.</p>
Assessment	The proposed street network could be extended eastward, as demonstrated in the indicative plans provided with the application which show a potential future street layout for 183 and 185 Richardson Road to the east of the site.
Control	<p>D12.5 - Transport movement hierarchy Local roads connecting to Richardson Road, Halloran Way and Baluster Street are constructed as bus routes in accordance with Council's infrastructure specification¹².</p>
Assessment	The roads under the proposed development would not be utilised as a bus route. The bus route identified in Figure DW is shown following Lake View Crescent and Balusters Street.
Control	<p>D12.6 - Transport movement hierarchy Pedestrian and shared paths are provided in accordance with Council's Infrastructure specification¹².</p>

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Assessment	The proposed development includes pedestrian paths, which subject to the recommended conditions, would comply with Councils Infrastructure Specifications. No shared paths are proposed as part of the development, nor are they required in this location.
Control	D12.7 - Road connections to Richardson Road Access to Richardson Road must be provided in accordance with Figure DW.
Assessment	No additional access is proposed to Richardson Road. Richardson Road is proposed to be accessed via the existing Halloran Way/Richardson Road intersection. A second and third, future access to Richardson Road would be available once the road network is expanded further eastward and westward, in accordance with Figure DW.
Control	D12.8 - Street trees along Richardson Road Landscaping plans for subdivisions along Richardson Road must provide for an attractive and low maintenance landscape along the road frontage, and in accordance with the tree technical specification ¹ . Note: This requirement is in addition to the requirements under Part C1.
Assessment	The proposed development does not front Richardson Road and therefore this control does not apply.
D12.B Staging	
Objective	
<ul style="list-style-type: none"> To ensure that the staging of subdivision is informed by site analysis and infrastructure provision 	
Control	<p>D12.9 - Staging Stage 1 is completed prior to stage 2 commencing.</p> <p>D12.10 - Staging Stage 2 can occur prior to stage 1, if:</p> <ul style="list-style-type: none"> continuous road construction is provided to the western intersection of Benjamin Lee Drive and Richardson Road <p>D12.11 - Staging Stage 3 must:</p> <ul style="list-style-type: none"> Provide continuous road construction to Baluster Street; and Demonstrate the Halloran Way and Richardson Road intersection has adequate capacity to support traffic generated by the development. Development that exceeds the intersection capacity must provide a continuous road connection to Stage 4 and can only be completed once the eastern intersection at Benjamin Lee Drive and Richardson Road identified in Figure DW is operational. <p>D12.12 - Staging Stage 4 must provide continuous road construction to Richardson Road in accordance with Figure DW and the eastern intersection of Benjamin Lee Drive and Richardson Road must be operational.</p>

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Assessment	<p>The site is located within Stage 3 of the structure plan shown under D12.B and includes a continuous road connection to Baluster Street via Lake View Crescent.</p> <p>The TIA submitted with the application included a SIDRA analysis of the existing Halloran Way and Richardson Road intersection which confirms that the intersection operates to a satisfactory level of service (level of service C) during the afternoon peak. As such, the intersection is expected to continue to operate satisfactorily with minimal queues and delays on all approaches, with a minor increase of delay up to 9 seconds per vehicle on the westbound right-turn movement of Halloran Way. A review undertaken by Council's Traffic Engineer concurred with the findings of the TIA.</p>
D12.C Aircraft noise	
<p style="text-align: center;">Objective</p> <ul style="list-style-type: none"> • To ensure development satisfies the requirements of the Local Environmental Plan, clause 7.5 • To ensure appropriate consideration is given to land burdened by aircraft noise 	
Control	<p>D12.13 - Aircraft Noise Richardson Road is located within the 20-25 and 25-30 ANEF contours. Note: B6.1 details what is to be considered when development is located within the aircraft noise planning area.</p>
Assessment	<p>Aircraft noise has been elsewhere in this report, against Clause 7.6 of the LEP and Chapter B6 of the DCP. Based on this assessment, noise impacts generated by aircraft noise can be satisfactorily mitigated through the recommended conditions of consent.</p>
D12.D Stormwater Drainage and Water Quality	
<p style="text-align: center;">Objective</p> <ul style="list-style-type: none"> • To ensure environmentally sustainable and affordable water management solutions are implemented on a catchment-wide basis and not compromised by development on a single site. • To safeguard nearby sensitive wetlands by improving the quality of stormwater runoff. • To improve or maintain water quality within the Grahamstown Dam Drinking Water Catchment. • To ensure that stormwater from development is adequately managed to provide for common stormwater management infrastructure. 	
Control	<p>D12.4 – Stormwater Drainage On-site detention / on-site infiltration is required for all new development where impervious areas are proposed.</p>
Assessment	<p>The proposed development utilises a downstream detention basin approved under DA 16-2021-16-1 at 171 & 173 Richardson Road Raymond Terrace, to cater for stormwater from the proposed development. Subject to the recommended conditions, the basin will be suitably sized and designed to cater for the detention requirements of both developments.</p>
Control	<p>D12.5 - Stormwater Drainage The on-site detention / on-site infiltration is to be:</p>

ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.

	<ul style="list-style-type: none"> Sized so that the post-development flow rate and volume equals the predevelopment flow rate and volume for all storm events up to and including the 1% Annual Exceedance Probability (AEP) storm event; and, Provided by underground chambers, surface storage or a combination of the two. <p>Note: Part B4 provides further consideration towards on-site detention / on-site infiltration.</p> <p>Note: Pre-development is prior to any development occurring on the land.</p>
Assessment	The proposed development utilises a downstream detention basin to cater for stormwater from the proposed development. The downstream basin has been suitably sized to cater for the proposed development.
Control	D12.16 – Drainage Reserves Drainage reserves are located generally in accordance with the locality controls map at Figure DW.
Assessment	The proposed development utilises a drainage reserve already approved on the downstream lot. No new drainage reserves are proposed.
Control	D12.17 – Drainage Reserves All new developments must demonstrate that there would be no adverse impact on the operation of the drainage reserve or adjoining land on which stormwater is discharged.
Assessment	The proposed development includes a pip drainage network, which subject to the recommended conditions would be suitably sized to cater for stormwater flows without adverse impact to adjoining land.
Control	D12.18 – Water Quality When a development application is received for subdivision greater than three lots or would result in an impervious area greater than 60% of the site area, it must demonstrate that the quality of water that is released into public drainage achieves Council's water quality stripping targets for the area.
Assessment	The proposed development incorporates water quality controls which has been modelled to show that it achieves Council's water quality stripping targets

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

There are no regulations relevant 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

There are positive social and economic impacts as a result of the development. The proposal includes 16 additional lots, capable of supporting residential development to meet the housing needs of the locality.

Aircraft noise impacts can be suitably mitigated in future dwelling designs in accordance with the relevant Australian Standard.

ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.Impacts on the Built Environment

The proposed development is consistent with the existing subdivision pattern to the west of the site and in accordance with D12 of the DCP. The proposed lot layout maximises the retention of high value biodiversity trees and follows the topography of the land, minimising the need for large retaining walls. The proposed lots are capable of supporting future dwellings of a suitable size and configuration, as illustrated on the building envelopes shown on the plans submitted with the application.

Based on these characteristics, the proposal is compatible with the existing character of the area.

Impacts on the Natural Environment

The site holds high value environmental features, including an endangered ecological community, being swift parrot habitat and koala habitat. The proposed subdivision layout has been designed to avoid and minimise impacts to native vegetation which has allowed for the retention of all swift parrot habitat and koala habitat.

Overall, Council's Natural Systems Officer found the proposed development would have no adverse impacts to biodiversity, subject to conditions relating to the protection of trees during construction and ongoing residential occupation of the lots. Conditions have also been recommended requiring the payment of ecosystem/species credits, in accordance with the Biodiversity Conservation Act 2016.

In addition, bushfire threat has been appropriately mitigated as confirmed by the General Terms of Approval issued by the RFS and subject to subdivision design mitigation measures.

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

The proposed subdivision layout responds to the key site constraints including high value environmental features, bushfire threat and aircraft noise.

The proposed subdivision layout has been designed to avoid and minimise impacts to native vegetation which has enabled the retention of the majority of native vegetation on the site, including swift parrot habitat and koala habitat. In addition, the application includes indicative building envelopes which demonstrate that future dwellings could be constructed on the lots without further tree clearing.

Bushfire threat has been appropriately mitigated through the provision of an asset protection zone at the rear of the site as confirmed by the General Terms of Approval issued by the RFS.

Aircraft noise impacts can be suitably mitigated in future dwelling designs in accordance with the relevant Australian standard.

Overall, there are no site constraints that would prohibit the proposed development.

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

The application was exhibited from 17 January 2023 to 31 January 2023 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 includes 16 additional lots, capable of supporting residential development to meet the housing needs of the locality. The proposed subdivision layout will support the transition of the site from existing large lot residential to a higher residential density, consistent with the zoning and minimum lot size controls in the LEP.

The proposed development is consistent with the existing subdivision pattern to the west of the site and each lot is capable of supporting future dwellings of a suitable size and configuration. The

ITEM 1 - ATTACHMENT 4 PLANNERS ASSESSMENT REPORT.

proposed lot layout maximises the retention of trees and follows the topography of the land, minimising the need for large retaining walls. On this basis, the proposal is compatible with the existing character of the area.

The proposed subdivision layout has been designed to avoid and minimise impacts to native vegetation which has enabled the retention of the majority of native vegetation on the site, including swift parrot habitat and koala habitat. As a result, no adverse environmental impacts are anticipated to occur as a result of the proposal

Bushfire threat has been adequately mitigated, as confirmed by the General Terms of Approval issued by the RFS. Aircraft noise impacts can be suitably mitigated in future dwelling designs in accordance with the relevant Australian standard.

Essential services including, water, sewer, electricity and road can be conveniently extended the existing Lake View Crescent Road Reserve.

Overall, the proposal has been found to be consistent with the relevant environmental planning instruments.

On this basis, the proposal is in the public interest.

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

S.7.11 Local Infrastructure contributions apply to the proposal and have been included in the recommended conditions.

DETERMINATION

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

DYLAN MITCHELL

PRINCIPAL DEVELOPMENT PLANNER

ORDINARY COUNCIL MEETING - 24 OCTOBER 2023
MOTION

251	Councillor Giacomo Arnott Councillor Jason Wells It was resolved that Item 3 be brought forward and dealt with prior to Item 2 in the Council Reports.
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Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Glen Dunkley, Ryan Palmer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

ITEM NO. 3

**FILE NO: 23/236208
EDRMS NO: PSC2022-01211**

**DRAFT PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014 - CHAPTER
D12 RICHARDSON ROAD**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the draft Port Stephens Development Control Plan 2014 Chapter D12 Richardson Road (western precinct) **(ATTACHMENT 1)** as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
 - 2) Endorse the lots in the Richardson Road western precinct shown in **(ATTACHMENT 2)** for investigation as excess Council land for potential sale.
-

**ORDINARY COUNCIL MEETING - 24 OCTOBER 2023
MOTION**

252	<p>Councillor Giacomo Arnott Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Place the draft Port Stephens Development Control Plan 2014 Chapter D12 Richardson Road (western precinct) (ATTACHMENT 1) as amended on public exhibition for a period of 28 days.2) Endorse the lots in the Richardson Road western precinct shown in (ATTACHMENT 2) for investigation as excess Council land for potential sale.
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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, Glen Dunkley, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council endorsement to place draft amendments to the Port Stephens Development Control Plan 2014 (DCP) Chapter D12 Richardson Road (western precinct) (**ATTACHMENT 1**) on public exhibition for a period of 28 days.

This report also seeks Council endorsement to investigate the lots identified in (**ATTACHMENT 2**) as excess land for potential sale in the Richardson Road western precinct.

DCP Chapter D12 Richardson Road (western precinct)

On 14 March 2023, Minute No. 048 (**ATTACHMENT 3**), Council adopted the administrative amendment to the DCP. At this meeting, the need for DCP Chapter D12 Richardson Road to apply to the undeveloped western portion of the precinct was raised by Councillors. Council subsequently resolved to undertake a further review of DCP Chapter D12 Richardson Road with respect to the western portion of the precinct. This was to include the need to maintain the proposed road layout and the potential sale of excess land in this area.

The western precinct of Richardson Road is considered to be all land west of Lake View Crescent. The existing DCP Chapter D12 Richardson Road nominates a structure for this area that includes 2 roads, being, Halloran Way (Road 1) and a proposed northern loop road (Road 2) to facilitate the envisaged residential development of the precinct.

Following the review and consultation with property owners in the area, it is proposed to remove Road 2 from DCP Chapter D12 Richardson Road. The purpose is to assist in maintaining the existing amenity of the area and to reduce potential future traffic impacts on existing residents. There are currently no sites that require Road 2 for access. In addition to this, its proposed alignment is in close proximity to several existing dwellings.

Halloran Way (Road 1) is proposed to be retained in DCP Chapter D12 Richardson Road (western precinct). The purpose is to maintain existing and future potential access, should landowners choose to undertake future development consistent with the existing R2 Low Density Residential zoning of the land.

Council does not support the closure of Halloran Way (Road 1) as it is a dedicated public road, although not constructed, which provides access to a number of residential properties along it.

The DCP has been amended to include additional objectives and development controls with regard to landscaping, setbacks and fencing within the precinct to assist in protecting and enhancing the residential amenity and character of the area (**ATTACHMENT 1**).

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

Land already dedicated for Road 2 is identified as excess Council land for further investigation (**ATTACHMENT 2**) and may be considered for closure under the Roads Act 1993 and sale following a future resolution of Council.

Small strips of community land fronting Richardson Road (**ATTACHMENT 2**) have been identified for further investigation for a future reclassification project as excess Council land. Due to their small size, they are not developable as stand-alone lots and do not serve any recreational purpose under the existing RE1 Public Recreation zone.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

There are no known financial or resource implications for Council as a consequence of the proposed recommendations. The exhibition will be managed within the existing budget.

There are positive financial implications from the potential future sale of excess Council land identified in (**ATTACHMENT 2**).

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Division 3.6 of the EP&A Act relates to development control plans. Should Council resolve to proceed with the amendment, all necessary matters in preparing the plan will be carried out in accordance with the EP&A Act.

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

Environmental Planning and Assessment Regulation 2021 (EP&A Regulation)

Division 2 of Part 2 of the EP&A Regulations specifies the requirements for public participation. The recommendation is in accordance with the provisions of the EP&A Regulation.

Port Stephens Development Control Plan 2014 (DCP)

This report recommends the exhibition of proposed amendments to DCP Chapter D12 Richardson Road. The amendment proposes to remove the northern loop road (Road 2) from the western precinct and include additional objectives and development controls to seek to protect and enhance the residential amenity and character of the area.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the revised road layout and development controls are not supported by landowners in the DCP Chapter D12 Richardson Road (western precinct).	Low	Accept the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed amendments to DCP Chapter D12 Richardson Road western precinct have positive social, environmental and economic implications. The removal of Road 2 will lessen potential future amenity impacts to residents due to traffic. Its removal will also assist in retaining the existing character of the area.

Noting the difficulties in delivering Road 1, its retention in DCP Chapter D12 Richardson Road western precinct will provide for the potential future development of the land and provide for a safer connection to Richardson Road via the nearby roundabout. Should landowners seek to undertake further residential development permitted under the existing R2 Low Density Residential zone, this will result in a logical and planned development outcome.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section to identify and consider any issues prior to exhibition.

Internal

Internal consultation has been undertaken with the Development Planning team on the draft amendment to Chapter D12 Richardson Road western precinct and the Strategic Property section has been consulted on excess land in the area, including the need to retain Halloran Way (Road 1) which is a dedicated public road and provides access to a number of residential properties along it.

External

Prior to the preparation of this report, the Strategic Planning team wrote to all landowners within the DCP Chapter D12 Richardson Road western precinct to seek preliminary feedback on the existing development controls. 6 Responses were received.

Key themes raised in the responses received were:

- Desire to maintain the existing semi-rural large lot lifestyle and amenity
- Negative amenity impacts from future traffic (including buses) on Halloran Way
- Some acknowledgement of the potential connection benefits of Halloran Way
- Negative amenity and traffic impacts from Road 2
- Interest in purchasing potential excess adjoining land.

A preliminary submissions table is at **(ATTACHMENT 4)**.

Copies of the preliminary feedback received from landowners are provided in the **COUNCILLORS ROOM**.

Given the desired outcomes, preliminary consultation was also undertaken with the NSW Department of Planning and Environment (Department). The Department advised that the Government is focused on addressing the housing crisis and taking steps to provide more optimal density and more diverse housing typologies. **(ATTACHMENT 5)**.

If supported, the proposed draft amendments to the DCP will be placed on public exhibition for a period of 28 days.

The amendments will be made available on Council's website in accordance with the EP&A Regulation and the Port Stephens Community Participation Plan.

Submissions on the proposed draft amendments to the DCP will be invited during the public exhibition period and, if submissions are received, they will be considered in a future report back to Council including any recommended post-exhibition changes.

Landowners within DCP Chapter 12 Richardson Road western precinct will be notified in writing of the exhibition. This will provide the opportunity for landowners to make submissions during the formal exhibition period.

A submission summary table will be included with the post-exhibition report to Council.

OPTIONS

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

ATTACHMENTS

- 1) Draft DCP Chapter D12 Richardson Road (western precinct).
- 2) Excess Council land for investigation.
- 3) Minute No. 048, 14 March 2023.
- 4) Preliminary Submissions Summary Table.
- 5) NSW Department of Planning and Environment Advice.

COUNCILLORS ROOM

- 1) Copy of Preliminary Submission.

TABLED DOCUMENTS

Nil.

D12 Richardson Road - Raymond Terrace

Application

This Part applies to the land identified in Figure DV as Richardson Road - Raymond Terrace including additional objectives and controls for the Richardson Road Western Precinct.

D12.A Street layout and transport network

Objectives

- To ensure that a well-planned and connected street layout for the area is delivered and not compromised by **development** on a single site
- To achieve efficient and equitable pedestrian, cycle, public transport and private vehicle connectivity between lots and precincts, the local centre and nearby service areas
- To ensure the street layout limits access to the Pacific Highway and Richardson Road

Development controls

Street layout

- D12.1 Street layout is generally consistent with the locality controls map at Figure DW.
- D12.2 No additional direct **driveway** access to and from Richardson Road is permitted.

Connectivity

- D12.3 The **subdivision** of a lot that proposes a road layout that prevents the effective connectivity of the wider street network will not be supported. **Development applications** must provide for wider street network connectivity in a grid-like structure.
- D12.4 **Subdivisions** that propose street networks are to be informed by road connections to future **subdivisions** on adjoining land. **Development applications** shall identify future road connections to adjacent land where necessary.

Transport movement hierarchy

- D12.5 Local roads connecting to Richardson Road, Halloran Way and Baluster Street are constructed as bus routes in accordance with Council's infrastructure specification¹².
- D12.6 Pedestrian and shared paths are provided in accordance with Council's Infrastructure specification¹².

Road connections to Richardson Road

- D12.7 Access to Richardson Road must be provided in accordance with Figure DW.

Street trees along Richardson Road

- D12.8 **Landscaping plans** for **subdivisions** along Richardson Road must provide for an attractive and low maintenance landscape along the road frontage, and in accordance with the **tree technical specification**¹.

Note: This requirement is in addition to the requirements under Part C1.

ITEM 3 - ATTACHMENT 1
(WESTERN PRECINCT).

DRAFT DCP CHAPTER D12 RICHARDSON ROAD

D12

D12.B Staging

Objective

To ensure that the staging of **subdivision** is informed by site analysis and infrastructure provision

Development controls

Staging

D12.9 ~~Stage 1 is completed prior to stage 2 commencing~~ provides for continued road construction to the western intersection of Benjamin Lee Drive and Richardson Road.

Note: The **Local Environmental Plan** requires a staging plan

D12.10 ~~Stage 2 can occur prior to stage 1, if:~~

- ~~continuous road construction is provided to the western intersection of Benjamin Lee Drive and Richardson Road~~

D12.11 ~~Stage 23 must:~~

- D12.10
- provide continuous road construction to Baluster Street; and
 - demonstrate the Halloran Way and Richardson Road intersection has adequate capacity to support traffic generated by the **development**.
 - **development** that exceeds the intersection capacity must provide a continuous road connection to Stage 34 and can only be completed once the eastern intersection at Benjamin Lee Drive and Richardson Road identified in Figure DW is operational.

D12.12 ~~Stage 34 must provide continuous road construction to Richardson Road in accordance with Figure DW and the eastern intersection of Benjamin Lee Drive and Richardson Road must be operational.~~

D12.11

D12.C Aircraft noise

Objectives

- To ensure **development** satisfies the requirements of the **Local Environmental Plan**, clause 7.5
- To ensure appropriate consideration is given to land burdened by aircraft noise

Development controls

Aircraft noise

D12.13 Richardson Road is located within the 20-25 and 25-30 **ANEF** contours.

Note: B6.1 details what is to be considered when **development** is located within the aircraft noise planning area.

D12

D12.D Stormwater drainage and water quality

Objectives

- To ensure environmentally sustainable and affordable water management solutions are implemented on a catchment-wide basis and not compromised by development on a single site.
- To safeguard nearby sensitive wetlands by improving the quality of stormwater runoff.
- To improve or maintain water quality within the Grahamstown Dam Drinking Water Catchment.
- To ensure that stormwater from **development** is adequately managed to provide for common stormwater management infrastructure.

Development controls

Stormwater drainage

D12.14 **On-site detention / on-site infiltration** is required for all new development where impervious areas are proposed.

D12.15 The **on-site detention / on-site infiltration** is to be:

- Sized so that the post-development flow rate and volume equals the pre-development flow rate and volume for all storm events up to and including the **1% Annual Exceedance Probability (AEP)** storm event; and,
- Provided by underground chambers, surface storage or a combination of the two.

Note: Part B4 provides further consideration towards **on-site detention / on-site infiltration**.

Note: Pre-development is prior to any development occurring on the land.

Drainage reserves

D12.16 **Drainage reserves** are located generally in accordance with the locality controls map at Figure DW.

D12.17 All new **developments** must demonstrate that there would be no adverse impact on the operation of the **drainage reserve** or adjoining land on which stormwater is discharged.

Water quality

D12.18 When a **development application** is received for subdivision greater than three lots or would result in an impervious area greater than 60% of the site area, it must demonstrate that the quality of water that is released into public drainage achieves Council's **water quality stripping targets** for the area.

ITEM 3 - ATTACHMENT 1
(WESTERN PRECINCT).

DRAFT DCP CHAPTER D12 RICHARDSON ROAD

D12

D12.E Richardson Road Western Precinct

Objectives

- To protect and enhance the existing low density residential amenity and character of the area
- To ensure development provides appropriate landscaping cover and maintains established vegetation where possible
- To ensure residential development does not hinder the proper and orderly development of the area
- To ensure suitable access arrangements for residential development is provided

Development controls

Landscaping

D12.19 A landscape plan for any residential development is to be provided which shows:

- minimum of 30% landscaping area
- 50% of species are to be native species
- 30% of landscaped area within the front setback
- Existing trees are to be retained where possible
- Appropriate response to bushfire risk.

D12.20 Land adjoining Richardson Road must provide a landscape buffer 5m deep consisting of predominantly native and low maintenance species.

Setbacks

D12.21 Minimum front **setback** of 5m

D12.22 Minimum side **setback** of 2m

D12.23 Minimum upper storey **setback** of 3m

General

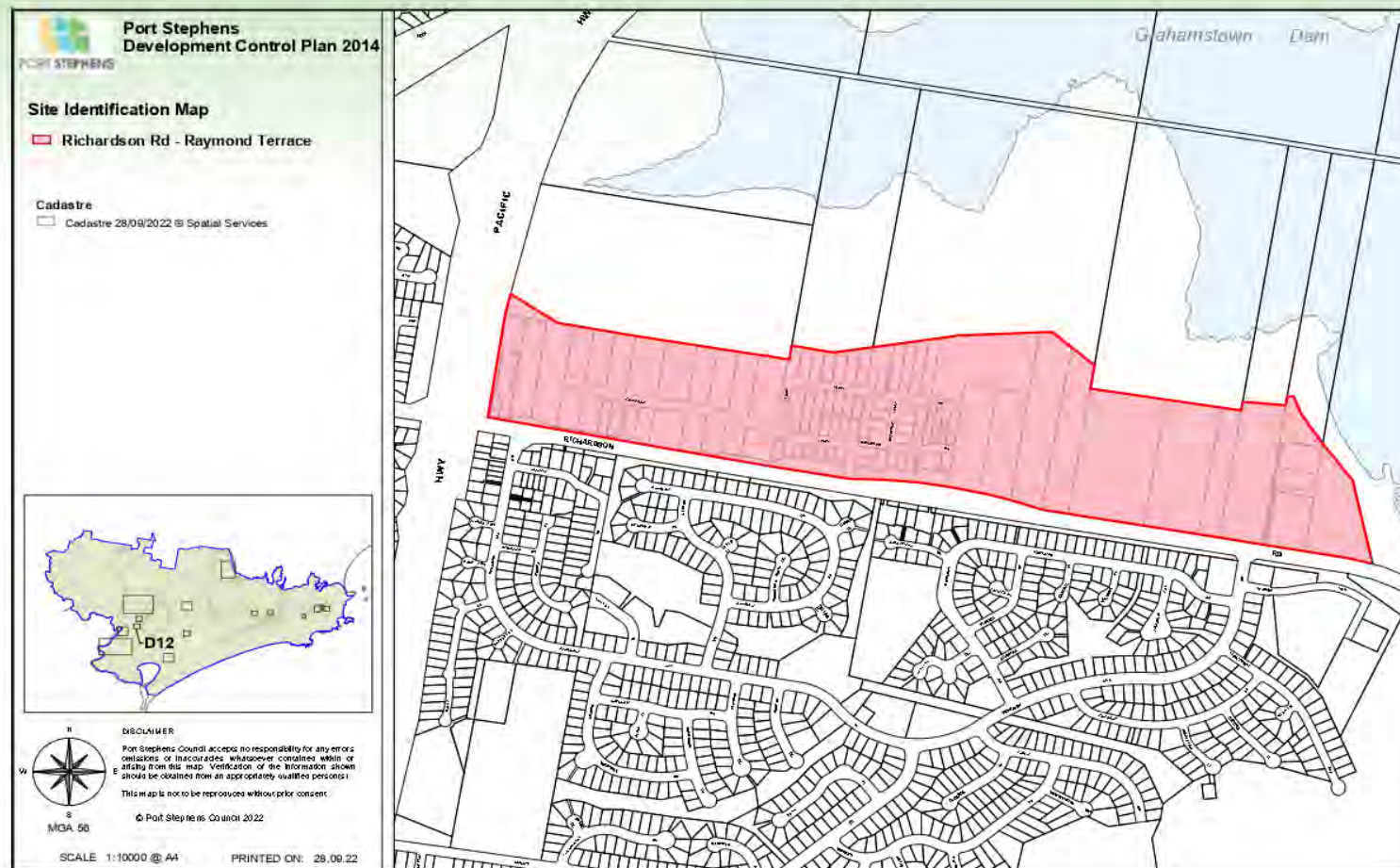
D12.24 Fencing forward of the building line is to have a maximum height of 1.2m and be in a rural style (such as post and rail fencing)

D12.25 Vehicle access must be via Halloran Way. **Subdivision development** that proposes access to Halloran Way must include road construction from the site frontage connecting to the existing road network in accordance with the road layout shown in Figure DW Richardson Road - Raymond Terrace locality controls map.

D12.26 **Subdivision development** should allow for road connection to neighbouring lots to provide consistent road development. Where this cannot be achieved, cul-de-sacs may be considered where they service no more than 10 lots and are no longer than 75 metres.

D12

Figure DV: Richardson Road - Raymond Terrace land application map



D12

Figure DW: Richardson Road - Raymond Terrace locality controls map



D12

Figure DW: Richardson Road - Raymond Terrace locality controls map (proposed)





ITEM 3 - ATTACHMENT 2 EXCESS COUNCIL LAND FOR INVESTIGATION.**Excess Council Land for Investigation - Richardson Road western precinct**

Street No.	Lot and Deposited Plan No.	Classification	Zoning
77A Richardson Road	Lot 573 DP 793280	Operational Land	RE1 Public Recreation
91B Richardson Road	Lot 603 DP 801962	Community Land	RE1 Public Recreation
97A Richardson Road	Lot 611 DP 1105622	Community Land	R2 Low Density Residential
99A Richardson Road	Lot 4 DP 789728	Community Land	RE1 Public Recreation
105A Richardson Road	Lot 4 DP 735177	Community Land	RE1 Public Recreation
119B Richardson Road	Lot 4 DP 818299	Community Land	RE1 Public Recreation
123A Richardson Road	Lot 1 DP 817760	Community Land	RE1 Public Recreation
127A Richardson Road	Lot 1 DP 715150	Community Land	RE1 Public Recreation
81B Richardson Road	Lot 3 DP 1069556	Operational Land	R2 Low Density Residential
Road 2	Public road	Public road	R2 Low Density Residential

MINUTES ORDINARY COUNCIL - 14 MARCH 2023

Councillor Peter Francis left the meeting at 6:26pm.

ITEM NO. 3

**FILE NO: 22/307845
EDRMS NO: PSC2022-01211**

DRAFT DEVELOPMENT CONTROL PLAN - HOUSEKEEPING

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submissions received during the exhibition period **(ATTACHMENT 1)**.
 - 2) Endorse the Port Stephens Development Control Plan 2014 – Housekeeping **(ATTACHMENT 2)**.
 - 3) Provide public notice that the amendment to the Port Stephens Development Control Plan 2014 has been approved in accordance with the Environmental Planning and Assessment Regulation 2000.
-

**ORDINARY COUNCIL MEETING - 14 MARCH 2023
MOTION**

048	<p>Councillor Giacomo Arnott Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Receive and note the submissions received during the exhibition period (ATTACHMENT 1).2) Endorse the Port Stephens Development Control Plan 2014 – Housekeeping (ATTACHMENT 2).3) Provide public notice that the amendment to the Port Stephens Development Control Plan 2014 has been approved in accordance with the Environmental Planning and Assessment Regulation 2000.4) Undertake further review of Chapter D12 – Richardson Road with respect to the western precinct, the need to maintain the proposed road layout and the potential sale of excess Council land in this area.
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Cr Giacomo Arnott moved the following amendment to add an item 4, which was accepted by the seconder and merged into the original motion.

MINUTES ORDINARY COUNCIL - 14 MARCH 2023

“Undertake further review of Chapter D12 – Richardson Road with respect to the western precinct, the need to maintain the proposed road layout and the potential sale of excess Council land in this area.”

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 Amott, Chris Doohan, Glen Dunkley, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to advise Council of the outcomes of the consultation undertaken on the draft Port Stephens Development Control Plan 2014 (DCP) – Housekeeping (**ATTACHMENT 2**) (the ‘amendment’) and to seek Council endorsement to make the amendment.

Housekeeping amendments are undertaken on a 2 year cycle to ensure Council’s planning framework remains current and contemporary. The last housekeeping review was undertaken in 2020.

The amendment seeks to improve and update the DCP by correcting errors and removing controls that have been superseded or are redundant. It also provides to improve clarity in response to questions frequently asked by members of the community through Council’s duty service. Some of the amendments include:

- Amending Chapter B1 Tree Management to align approval pathways and assessment requirements with Council policy and processes.
- Simplifying guidance on parking requirements in Chapter B8 Road Network and Parking to provide greater certainty and clarity.
- Amending Chapter B7 Heritage to be consistent with the Due Diligence Code of Practice for the protection of Aboriginal Objects in NSW.
- Inserting new development controls for carports in Chapter C8 Ancillary Structures.
- Amending Chapter D12 Richardson Road – Raymond Terrace to include additional land to the east and include new development controls to guide future development and ensure appropriate planning outcomes.

A detailed explanation of the amendments is provided within (**ATTACHMENT 3**).

At its meeting on 8 November 2022, Council endorsed the draft amendment for exhibition. The draft was publicly exhibited for 28 days from Friday 11 November 2022 to Thursday 8 December 2022 in accordance with the Environmental Planning and Assessment Regulations 2021 (NSW).

MINUTES ORDINARY COUNCIL - 14 MARCH 2023

3 submissions were received during the exhibition period, and a further 2 submissions following exhibition. The submissions are summarised and addressed in **(ATTACHMENT 1)**.

A number of minor changes were made to the amendment in response to submissions to improve clarity. These changes are detailed in the explanation of amendments **(ATTACHMENT 3)** and in the response to submissions **(ATTACHMENT 1)**.

Additionally, following further internal consultation, the proposed locality controls map for Chapter D12 Richardson Road – Raymond Terrace was revised to respond to environmental constraints. The exhibited and the revised map are detailed within the explanation of amendments **(ATTACHMENT 3)**.

No other post-exhibition changes have been made to amendment.

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

There are no known financial or resource implications for Council as a consequence of the proposed recommendations. The exhibition will be managed within the existing budget.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no known legal, policy or risk implications resulting from the proposed recommendations.

MINUTES ORDINARY COUNCIL - 14 MARCH 2023Environmental Planning and Assessment Act 1979 (EP&A Act)

Division 3.6 of the EP&A Act relates to development control plans. Should Council resolve to proceed with the amendment, all necessary matters in preparing the plan will be carried out in accordance with the EP&A Act.

Environmental Planning & Assessment Regulations 2000 (EP&A Regulations)

Division 2 of Part 3 of the EP&A Regulations specifies the requirements for public participation. The recommendation is in accordance with the provisions of the EP&A Regulations.

Port Stephens Development Control Plan 2014 (DCP)

Section B of the DCP outlines general provisions applicable to most development applications and development types, Section C of the DCP outlines requirements and objectives applicable to specific development types (such as ancillary development), and Section D applies to specifically mapped areas.

The amendment will align the DCP with recently updated processes, assessment guidelines and specifications of Council, State and Commonwealth agencies. The changes proposed in **(ATTACHMENT 2)** would make the DCP more readable, easier to use, and more accurate.

The last housekeeping review of the DCP was undertaken in 2020. This is consistent with Council's approach on a 2 year cycle to ensure Council's planning framework remains current and contemporary.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk if the amendment is not made, that the DCP will contain outdated requirements and provisions.	Medium	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

The amendment will increase the usability of the DCP and amend or remove unnecessary controls to assist with its functionality and accuracy. The amendment will reduce the complexity of the DCP for community members. This may also reduce resourcing and costs incurred by Council responding to community enquiries regarding development.

The proposed amendments, whilst relatively minor in nature, will result in positive economic and social outcomes. Environmental impacts as a result of the amendment are unlikely to be significant. In relation to tree removal, the amendment to Chapter

MINUTES ORDINARY COUNCIL - 14 MARCH 2023

B1 Tree Management provides clearer guidance on when trees can be removed or pruned and does not amend, reduce or expand these circumstances.

The amendments to Chapter D12 Richardson Road – Raymond Terrace will assist in the delivery of housing on existing residentially zoned land in Raymond Terrace.

CONSULTATION

Preliminary consultation with key stakeholders has been undertaken by the Strategic Planning team to identify and consider any issues prior to exhibition.

Internal

Internal consultation has been undertaken with the Natural Systems team, the Development and Compliance Section, and the Engineering Services team.

External

As a result of consultation, a total of 5 submissions were received – 1 agency submission and 4 community submissions. Further details are outlined below.

Agency Consultation

External consultation has been undertaken with Transport for NSW and Hunter Water during preparation of the draft Chapter D12 Richardson Road – Raymond Terrace and the draft Chapter B4 Drainage and Water Quality respectively. Further consultation was undertaken with Transport for NSW with an agency submission received during the exhibition period. As a result, minor amendments were made to Chapter D12 Richardson Road – Raymond Terrace. These changes are detailed in the explanation of amendments (**ATTACHMENT 3**) and in the response to submissions (**ATTACHMENT 1**).

Community

The amendment was publicly exhibited for 28 days from Friday 11 November 2022 to Thursday 8 December 2022 in accordance with the Environmental Planning and Assessment Regulations 2021. 2 community submissions were received during the exhibition period, and a further 2 submissions following exhibition. The submissions are summarised and addressed in (**ATTACHMENT 1**).

Changes have been made to the amendment in response to submissions to provide clarity around the definition of an approved structure. More detail is provided in the explanation of amendments (**ATTACHMENT 3**) and in the response to submissions (**ATTACHMENT 1**). The presentation of Chapter B1 Tree management was also edited to remove highlighting from content that was repositioned but otherwise has not changed, to better distinguish between draft and current content.

MINUTES ORDINARY COUNCIL - 14 MARCH 2023

OPTIONS

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

ATTACHMENTS

- 1) Submissions Table.
- 2) Development Control Plan 2014 - Housekeeping. (Provided under separate cover)
- 3) Explanation of Amendments.

COUNCILLORS ROOM

- 1) Submissions.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 4 PRELIMINARY SUBMISSIONS SUMMARY TABLE.

Submissions Table: Port Stephens Development Control Plan D12 Richardson Road (western precinct)

Author	Summary	Response
Resident	The submission notes the long history of planning issues in the vicinity of Halloran Way.	Noted. The revised draft DCP for exhibition proposes amendments to seek to resolve planning outcomes in the area
	The submission notes the main issue is the lack of desire, as most of the subject area does not want to subdivide.	The desire to retain the semi-rural character of the subject area is acknowledged.
	The submission supports the creation of Halloran Way as means of reducing the number of access points to Richardson Road. Traffic flow can be problematic for residents and an exit by a roundabout would be beneficial.	Noted. Halloran Way is proposed to be retained to facilitate existing and future access to the Richardson Road western precinct.
	Road 2 (the northern loop road) will put residents at risk of negative amenity and security impacts and will decrease privacy.	Noted. The revised draft DCP for exhibition proposes to remove Road 2.
Resident	The writer constructed their residence in the 1990s under the original DCP, which allowed for the allocation of land to Council for the future construction of Halloran Way from the subdivision of original land holdings.	Noted. Review confirms the area has comprised large lots zoned for residential development since at least the Port Stephens Local Environmental Plan 1987. The accompanying DCP at the time included Halloran Way.
	The area provides an opportunity to secure a large and unique lot close to the centre of Raymond Terrace. The submission seeks to retain the large lot amenity of the area and does not support further subdivision.	The desire to in retain the rural residential character of the precinct is acknowledged. The existing R2 Low Density Residential zoning provides landowners with the option to subdivide at a future time if desired.
	The submission notes the future construction of Halloran Way appears problematic. Whilst Council has progressively secured ownership of land for Halloran Way, it is unclear how the cost of construction can be funded through any further subdivision of current properties. It would appear that Council may need to meet the cost of constructing the road in advance of any future additional subdivisions and potentially recover some of these costs through development fees. The submission notes the same dilemma	Noted. It is acknowledged that the construction of Halloran Way is challenging. The revised draft DCP for exhibition includes a requirement for future development to provide for the progressive construction of Halloran Way to any land proposed to be developed. The cost of constructing Halloran Way to a development site is to be borne by developers with any future development.

ITEM 3 - ATTACHMENT 4 PRELIMINARY SUBMISSIONS SUMMARY TABLE.

Author	Summary	Response
	would apply to construction of additional stormwater infrastructure.	The revised draft DCP retains the identification of common stormwater basins as a preferred stormwater solution.
	The submission notes the current DCP identifies Halloran Way as a potential (indicative) bus route and this would suggest that future construction of Halloran Way may demand higher standards than would otherwise be required.	The sections of road identified in Figure DW as an indicative bus route will need to be constructed in accordance with Council's Infrastructure Specification. This will require a road width of 12m. This is wider than some existing sections of Halloran Way, but will provide improved access for all residents.
	The submission notes Road 2 in the DCP has been recognised when positioning existing dwellings. It is unclear what subdivision guidelines would be required for further subdivision development along proposed Road 2 to occur, noting the difficulties in constructing Halloran Way.	The revised draft DCP for exhibition proposes to remove Road 2. The purpose is to seek to maintain amenity and safety for existing residents.
	The concept of staging future subdivision development in the greater Richardson Road area is a sensible requirement to ensure efficient allocation of Council and private resources to deliver consolidated infrastructure for existing residents at each stage	Noted. The revised draft DCP for exhibition includes provisions for staging the delivery of infrastructure with any future development.
	The submission sees the current DCP working in the interests of landowners to protect the Richardson Road precinct from ad-hoc subdivision with little or no consideration of existing residents. The writer would like to participate in any further formal review of the DCP.	Noted. The DCP seeks to provide guidance to the potential future development of the Richardson road area. Landowners within the western precinct will be directly notified of the exhibition of the revised draft DCP. This will provide further opportunity for landowners to make a submission.
Resident	The submission strongly objects to the proposed development outlined in the DCP. The writer has reviewed the current DCP and believes it will have detrimental effects on the local community.	Noted.
	The submission emphasises that when property was purchased in the area, the intention was to reside in a rural	Noted. The existing R2 Low Density Residential zoning is proposed to be retained. This will enable

ITEM 3 - ATTACHMENT 4 PRELIMINARY SUBMISSIONS SUMMARY TABLE.

Author	Summary	Response
	setting and there is no intention to develop.	landowners to subdivide should they seek to at a future time.
	Further development would disrupt the semi-rural amenity of the area and undermine the reasons why the writer located in this area.	The revised draft DCP for exhibition proposes amendments to balance potential future development and the existing large lot character of the area. It does this by proposing amendments to the DCP including additional landscaping and setback requirements and the removal of Road 2.
	The submission highlights the efforts of residents in maintaining a laneway in the precinct. They have diligently maintained adjoining land, contributing to the appeal of the area. It is important to acknowledge the value and importance of preserving such community spaces.	The efforts of landowners within the Richardson Road (western precinct) in maintaining the area is acknowledged and appreciated by Council.
	The submission requests the opportunity to purchase adjoining potential excess Council land. This would enable the landowner to secure a fence line and protect property boundaries.	Attachment 2 Excess council land identifies land for investigation for potential sale. Subject to detailed future review, if the identified land is confirmed as excess to requirements, there may be opportunity for adjoining landowners to purchase additional land.
	The submission notes there are numerous established rural properties, which serve as homes, agricultural land, and places of business for families. These properties contribute to the character and identity of the area, and their preservation should be a priority. The submission urges Council to reconsider Halloran Way, taking into account the potential adverse impacts on the existing community.	Halloran Way (Road 1) is proposed to be retained. The purpose is to maintain existing and future potential access, should landowners choose to undertake development in the future. The closure of Halloran Way is not recommended, as it is a dedicated public road, although not constructed, which provides access to a number of residential properties along it.
	The submission requests re-evaluation of the proposed development of the area and gives due consideration to the views and interests of affected residents. The writer looks forward to receiving Council's response and updates regarding the progress of the DCP.	Noted. The revised draft DCP for exhibition seeks to take into consideration the concerns of landowners raised in preliminary submissions.
Resident	The submission objects to Road 2 (the northern loop road) in the current DCP, raising concerns about negative	Noted. The revised draft DCP for exhibition proposed to remove Road 2.

ITEM 3 - ATTACHMENT 4 PRELIMINARY SUBMISSIONS SUMMARY TABLE.

Author	Summary	Response
	amenity, security risk, traffic, servicing and cost impacts on existing residents.	
	The submission supports the retention of the existing rural lifestyle of the precinct.	Noted. The existing R2 Low Density Residential zoning is proposed to be retained. This will enable landowners to subdivide should they seek to at a future time.
	The submission is not aware of any accidents on Richardson Road from a private driveway.	Noted. It is not proposed to remove any existing legal access rights with the revised draft DCP for exhibition.
	The submission suggests for consideration alternate bus route and footpath suggestions, including use of existing bus stops and the bus route on Benjamin Lee Drive; extension of the footpath on both sides of Richardson Road; an additional bus stop near Halloran Way.	Under the Port Stephens Development Control Plan 2014, large subdivisions are required to demonstrate bus stops are located within 400m walking distance and accessible via footpaths. Much of the precinct is not located within 400m of an existing bus stop. Where applicable, existing footpaths will be extended to access new or existing bus stops. The Benjamin Lee Drive bus stop is not considered appropriate to service the precinct due to the need to cross Richardson Road.
	The submission writes the proposed bus route could enter via the existing Halloran Way, onto Balusters Street then exit onto the proposed intersection on Richardson Road (Stage 4 -Grahamstown Dam end) to accommodate the residents in Stages 3 & 4. The residents in Stage 1 & 2 could use existing bus stops located on Richardson Road or on Benjamin Lee Drive.	The existing intersection of Halloran Way and Baluster Street can support a bus, but is quite narrow. If stages 3 and 4 are developed prior to Stages 1 and 2, the bus route will enter at the existing Halloran way intersection. The intention to extend the bus route to the west into stages 1 and 2 is to provide a more accessible handle for buses. The need for the bus route through Stages 1 and 2 will be dependent on future development and will be determined during the development application stage.
	The submission understands the extension of Halloran Way (Stage 1) may be developed but there is no need for the additional access road in Stage 2.	Noted. The revised draft DCP for exhibition proposes to retain Road 1 (Halloran Way) and proposes to remove Road 2 (the northern loop road).
Resident	The submission notes the writer chose to live in this location due to the existing character of the area, which includes large lots, privacy, semi-rural	The large lot amenity of the western precinct of Richardson Road is acknowledged as a key feature of the area that local residents enjoy.

ITEM 3 - ATTACHMENT 4 PRELIMINARY SUBMISSIONS SUMMARY TABLE.

Author	Summary	Response
	character, natural flora and fauna and access to Richardson Road, and would be disappointed to see this character change with further development.	The existing zoning R2 Low Density Residential is proposed to be retained should landowners seek to undertake development at a future time.
	The submission raises concerns about Road 1 (Halloran Way) which suggests a local street and bus route and would create unnecessary traffic, noise, and privacy concerns.	Halloran Way (Road 1) is proposed to be retained. The purpose is to maintain existing and future potential access, should landowners choose to undertake development in the future. It is acknowledged that this will create additional traffic and amenity impacts, and that bus access may be required.
	The submission is concerned that large trees on private and Council property would be removed to make way for development, effecting the local wildlife population.	The revised draft DCP for exhibition proposes to increase landscaping and building setback requirements to encourage retention of tree cover and future tree planting. It is acknowledged that there may be necessary removal of some trees with the future construction of Halloran Way.
	The submission understands why the DCP may be necessary in Sections 3 and 4 as it includes parcels of land that are more suitable to development. In comparison, Section 1 is comprised of dwellings on comparatively smaller lots.	Noted. No changes are proposed to the DCP for the Richardson Road (eastern precinct). It is acknowledged the Richardson Road (western precinct) is comprised of comparatively smaller lots, and may be more challenging to develop.
	The submission notes that if the opportunity arises the writer would be interested in purchasing any adjacent excess land.	Attachment 2 Excess council land identifies land for investigation for potential sale. Subject to detailed review, if the identified land is confirmed as excess, there is likely to be opportunity for sale to adjoining landowners.
Resident	The submission objects to the proposed road development in the current DCP and emphasises the negative implications it would have on residents.	Noted. The objections to the proposed roads in the existing DCP is acknowledged.
	The submission notes the proposed development site is situated in an area that is disconnected from the writer's property. The construction of a road in this location would serve no logical purpose, is unnecessary, will have	The revised draft DCP for exhibition proposes to remove Road 2. The purpose is to improve amenity and safety for existing residents. The large lot amenity of the western precinct of Richardson Road is

ITEM 3 - ATTACHMENT 4 PRELIMINARY SUBMISSIONS SUMMARY TABLE.

Author	Summary	Response
	amenity impacts, create security issues and devalue property. The submission supports the retention of the existing semi-rural character of the area and the lifestyle, amenity and safety benefits (including for children) of the location.	acknowledged as a key feature of the area that local residents enjoy.
	The submission requests reconsideration of the decision to proceed with the construction of the proposed road and that the interest of existing residents are taken into account, and alternative solutions explored.	It is a recommendation of this report that landowners within the western precinct will be directly notified of the formal exhibition of the revised draft DCP. This will provide further opportunity for landowners to make a further submission to the review of the DCP.

ITEM 3 - ATTACHMENT 5 NSW DEPARTMENT OF PLANNING AND ENVIRONMENT ADVICE.

Department of Planning and Environment



Matthew Egan
Port Stephens Council
mathew.egan@portstephens.nsw.gov.au

20 September 2023

Richardson Road Area, Raymond Terrace – Potential planning proposal

Dear Mr Egan,

Thank you for the opportunity to provide advice regarding a potential planning proposal for land along Richardson Road, Raymond Terrace, as indicated in Attachment A. I understand Port Stephens Council is considering options to back zone the existing R2 Low Density Residential area and/or increase minimum lot size.

Our collective decisions about where and how to accommodate housing will influence people's lifestyles, our natural environment, carbon emissions, public infrastructure costs, public health costs and outcomes, social equity and economic competitiveness.

The options under consideration would reduce the housing potential of an area within 15-minute walk and cycle to some everyday needs. As such, I would consider the proposal does not appear consistent with the following matters.

Firstly, the *Hunter Regional Plan 2041* is seeking for neighbourhoods to become more nimble to accommodate different demographics. Rigid and difficult to change planning controls can limit these choices. For this reason, the regional plan sets requirements for the housing typologies that will not be prohibited in residential zones. This includes dual occupancies, semi-detached dwellings and multi-dwelling housing.

Rather than reducing the housing potential of the area, the department would be supportive of a more optimal density and more diverse housing typologies up to four stories. Particularly, if this may lead to an overall improvement in public benefit for the community, more efficient use of public infrastructure and protection of the drinking water catchment.

Secondly, reducing the housing potential of the area would be inconsistent with section 9.1 Ministerial direction 6.1 Residential Zones. This direction requires any planning proposal to broaden housing types (subclause 1a), make more efficient use of existing infrastructure and services (subclause 1b) and not reduce the permissible residential density of land (subclause 2b).

Thirdly, we have a shared responsibility to address the housing crisis and meet the goals of the National Housing Accord, and I want to thank council for the collaborative effort you have made and continue to make on behalf of the communities you represent. There is an immediate need for us to make sure the planning system presents no impediment to dwelling approvals and construction in appropriate locations.

6 Stewart Ave, Newcastle West NSW 2300
PO Box 1226, Newcastle NSW 2300

www.dpie.nsw.gov.au 1

ITEM 3 - ATTACHMENT 5 NSW DEPARTMENT OF PLANNING AND ENVIRONMENT ADVICE.

Department of Planning and Environment



The Minister is asking councils to factor this into their decision-making and prioritise the delivery of housing when assessing development applications and rezoning schemes, so that the entire planning system is geared to addressing the housing shortfall.

We thank council for the opportunity to provide early advice on this matter.

Yours sincerely

Dan Simpkins
Director, Central Coast and Hunter
Local and Regional Planning

Enc. Attachment A



ITEM NO. 2

**FILE NO: 23/230763
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
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the amendments to the planning proposal (**ATTACHMENT 1**) for Lot 51 DP 1175028, 4011 Nelson Bay Road, Bobs Farm Lot 3622 DP 622485, 4029 Nelson Bay Road, Bobs Farm and Lot 2 DP 622229, 4045 Nelson Bay Road, Bobs Farm.
- 2) Receive and note the submissions received during public exhibition of the planning proposal (**ATTACHMENT 2**).
- 3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).

Councillor Chris Doohan returned to the meeting at 7:14pm.
Councillor Peter Francis returned to the meeting at 7:15pm.

**ORDINARY COUNCIL MEETING - 24 OCTOBER 2023
MOTION**

253	<p>Councillor Leah Anderson Councillor Jason Wells</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Note the amendments to the planning proposal (ATTACHMENT 1) for Lot 51 DP 1175028, 4011 Nelson Bay Road, Bobs Farm Lot 3622 DP 622485, 4029 Nelson Bay Road, Bobs Farm and Lot 2 DP 622229, 4045 Nelson Bay Road, Bobs Farm.2) Receive and note the submissions received during public exhibition of the planning proposal (ATTACHMENT 2).3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).
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Councillor Peter Kafer returned to the meeting at 7:15pm.

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, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to advise Council of the outcome of the exhibition of the planning proposal to amend the Port Stephens Local Environmental Plan 2013 (LEP) **(ATTACHMENT 1)** and note the submissions received **(ATTACHMENT 2)**.

The proposal seeks to regularise the existing approved use of a caravan park on 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.

The report seeks authorisation to exercise delegations to make the amendment to the Port Stephens Local Environmental Plan 2013.

The existing caravan park (Sunrise Lifestyle Village) was approved under Port Stephens Local Environmental Plan 2000 and is permissible under existing use rights. The planning proposal would regularise the use by amending Schedule 1 of the LEP 2013 to include 'caravan park' as an additional permitted use over the subject land.

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. Any further development of these lots would be subject to a future development application (DA).

This additional permitted use would apply to the site, as shown on the site plan **(ATTACHMENT 3)** only and does not apply to other similar style developments or locations throughout Port Stephens.

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 habitat corridor connecting vegetation to the north and south of the site. An existing

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

wildlife crossing is located approximately 10m from the site's eastern boundary. There is also an opportunity to connect to the existing fauna crossing that underpasses Nelson Bay Road, installed by Transport for NSW.

At its meeting on 28 February 2023, Minute No. 017 (**ATTACHMENT 4**), Council resolved to adopt the planning proposal and forward it to the Department of Planning, Industry and Environment (DPIE) to seek a Gateway determination and delegated authority to make the plan.

The planning proposal was publicly exhibited from 5 July to 2 August 2023. 2 submissions were received. In accordance with the Gateway determination, the planning proposal was referred to relevant public authorities, and 4 submissions were received. All submissions have been addressed within (**ATTACHMENT 2**).

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: <ul style="list-style-type: none">• Lot 51 – 10.18ha• Lot 3662 – 2.04ha• Lot 2 – 1.49ha
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 LEP 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.

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

	The existing approved caravan park comprises 193 dwelling sites.
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Suitability of the site

The site 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.

The proposal is supported by a Streamlined Biodiversity Development Assessment Report (SBDAR). Council's Natural System Unit 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 key component of the 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, Bobs Farm is for fauna (including potential koalas) that occur within the area has been considered. In order to secure the Eastern portion of the site as fauna connectivity corridor, 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 Corporation have advised that there is sufficient capacity in the existing network to support the proposed development.

Aboriginal Heritage Information Management System

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.

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

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

FINANCIAL/RESOURCE IMPLICATIONS

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

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		
External Grants	No		
Other	Yes		Planning Proposal fees: Stage 1 \$13,860 Stage 2 \$32,100 Stage 3 \$7,490

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 without the proposed C2 Environmental Conservation zone, the wildlife corridor will not be secured into the future.	Low	Accept the recommendation.	Yes.
There is a risk that demand for proposed housing typology is not met.	Medium	Accept the recommendation.	Yes.

SUSTAINABILITY IMPLICATIONS

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

The planning proposal is being processed in accordance with Part 3 of the EP&A Act, which provides the framework for amending a local environmental plan. DPIE issued a Gateway determination under section 3.34 of the EP&A Act specifying that the planning proposal should proceed to exhibition, subject to conditions and consultation requirements. Council is authorised to act as the local plan making authority to make the plan by the Gateway determination. Should Council accept the recommendations, arrangements will be made for the drafting of the amendment to the LEP to give effect to the planning proposal.

State Environmental Planning Policy (Housing) 2021 (Housing SEPP)

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 DA 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 (PSLEP2013)

The site is currently zoned RU2 Rural Landscape under the PSLEP2013. This zoning does not permit caravan parks, with the current development on the site relying upon 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 the PSLEP 2013 to include 'caravan park' as a permissible form of development on the subject land. This would not apply to 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 regular bus services 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 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 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.

CONSULTATION

Internal

Consultation with internal stakeholders has been undertaken to inform the planning proposal Natural Systems and Development Engineering units. No objections were raised.

External

The following public authorities were consulted on the planning proposal and DCP in accordance with the Gateway determination:

- NSW Rural Fire Service
- NSW Department of Planning, Industry and Environment
- Worimi Local Aboriginal Land Council
- Transport for NSW
- NSW State Emergency Service

No public authorities objected to the planning proposal. A summary of submissions is within **(ATTACHMENT 2)**.

In order to satisfy concerns raised by the NSW Biodiversity and Conservation Division and the NSW State Emergency Service, a Flood Emergency Evacuation Plan was prepared to address the draft shelter-in-place guidelines and Ministerial Direction 4.1 – Flooding. The planning proposal has been updated to include this information.

Community

In accordance with the Gateway determination, the planning proposal was exhibited for 28 days, from 5 July 2023 to 2 August 2023. 2 submissions were received. Matters raised in the submissions include:

- Concern about the impact on koala / wildlife corridors and the ongoing implications for local Koala populations
- Incorrect data used to determine the presence of koalas in the area
- Request for specific landscaping, fencing and mitigation measures to be included as part of the development
- Inconsistency with objectives of the Port Stephens Local Environment Plan 2013.

- Concern that the proposal will set an undesirable precedent for urban development to be built on rural land, which is not suitable for higher density developments
- Concern about the lack of rates payable by these types of developments.

The submission summary and response table within **(ATTACHMENT 2)**. The planning proposal has not been amended as a result of the submissions.

OPTIONS

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

ATTACHMENTS

- 1) Planning Proposal.
- 2) Submissions Table.
- 3) Locality Plan.
- 4) Minute No. 017, 28 February 2023.

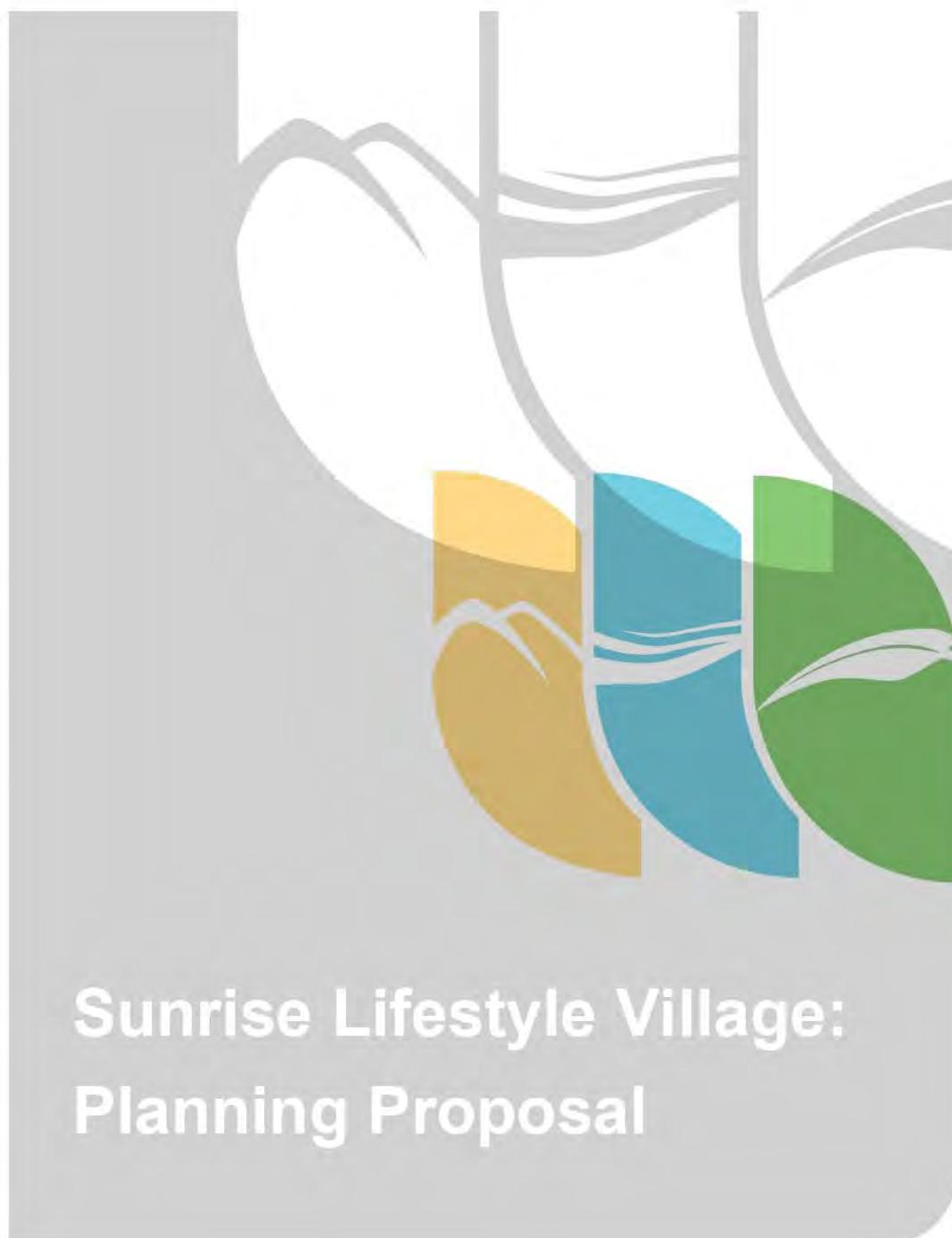
COUNCILLORS ROOM

- 1) Copy of Submissions.

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

TABLED DOCUMENTS

Nil.



Proposed Amendment to Port Stephens LEP 2013

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



ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.**ATTACHMENTS**

ATTACHMENT 1 – Locality Plan
ATTACHMENT 2 – Aboriginal Due Diligence Assessment
ATTACHMENT 3 – Streamline Biodiversity Development Assessment Report
ATTACHMENT 4 – Strategic Bushfire Study & Bushfire Assessment Report
ATTACHMENT 5 – Traffic and Parking Assessment
ATTACHMENT 6 – Concept Plan
ATTACHMENT 7 – Ausgrid Servicing Advice
ATTACHMENT 8 – Hunter Water Servicing Advice
ATTACHMENT 9 – Stormwater Strategy
ATTACHMENT 10 – Preliminary Contamination Assessment
ATTACHMENT 11 – Preliminary Acid Sulfate Soil Assessment
ATTACHMENT 12 – Response Table
ATTACHMENT 13 – Hunter Regional Plan 2041 Compliance Table
ATTACHMENT 14 – Flood Emergency Response Plan

VERSION CONTROL

Version	Date	Author	Details
Final	7 November 2022	Jessica Bayley (ADW Johnson)	Final for submission to Council
Amended Final	21 March 2023	Stephanie van Dissel (ADW Johnson)	Amended Final for submission to DPE
Post Gateway	8 May 2023	Stephanie van Dissel (ADW Johnson)	Amended Final post Gateway
Post Gateway	12 May 2023	Jessica Bayley (ADW Johnson)	Amended Final Post Gateway (Minor Updates for Flooding)
Pre Exhibition	30 June 2023	Stephanie van Dissel (ADW Johnson)	Amended Final Post Gateway Agency Consultation
Post Exhibition	5 September 2023	Jessica Bayley / Mitchell Knox (ADW Johnson)	Amended Final Post Gateway (response to BCD flood comments)
Post Exhibition	6 September 2023	Jessica Bayley (ADW Johnson)	Amended Post Gateway (insert community consultation details)

FILE NUMBERS

Council: 38-2021-20-1

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

SUMMARY

Subject Land:	Lot 51 DP 1175028 ("Lot 51") 4011 Nelson Bay Road, Bobs Farm Lot 3622 DP 622485 ("Lot 3622") 4029 Nelson Bay Road, Bobs Farm Lot 2 DP 622229 ("Lot 2") 4045 Nelson Bay Road, Bobs Farm
Proponent:	Hometown Australia c/- ADW Johnson Pty Ltd 5 Pioneer Avenue Tuggerah NSW 2259
Proposed Changes:	Inclusion of the Subject Land within Schedule 1 as an Additional Permitted Use to permit a Caravan Park. Rezone part of site to C2 Environmental Conservation.
Area of Land:	13.715 ha
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.

BACKGROUND

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

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

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

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

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

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

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

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

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

SITE***Size and Configuration***

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

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



Figure 1: Site Plan (Source: NearMap Aerial dated 8th July 2021)

Current Zoning

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

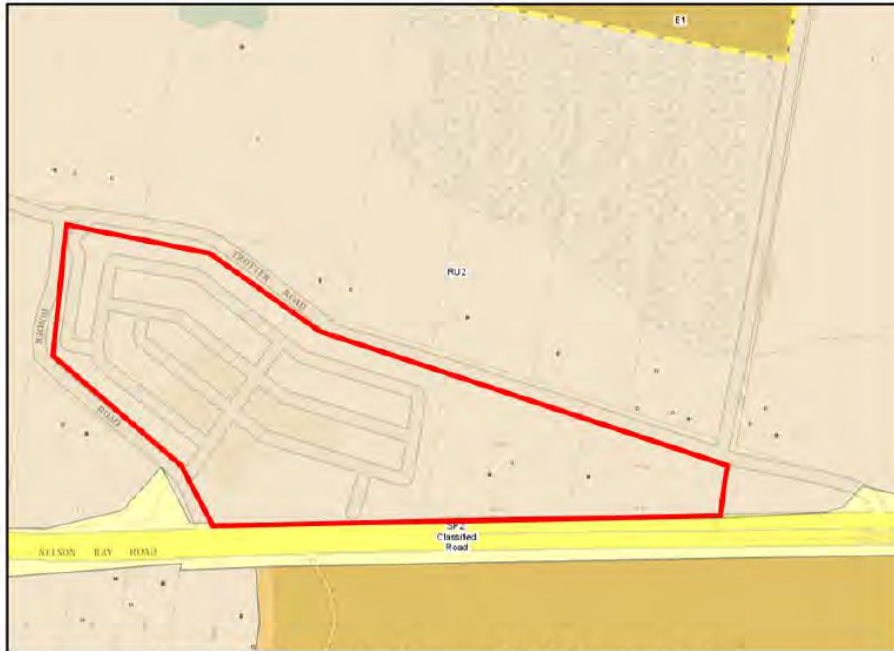


Figure 2: Site Zoning (Source: NSW Planning Portal)

Location

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

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



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

Adjoining Land Uses

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

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

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

History of Land Use

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

Current Use and Existing Improvements

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

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

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.

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

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

Site Attributes

- **Heritage**

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

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

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

- **Bushfire**

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

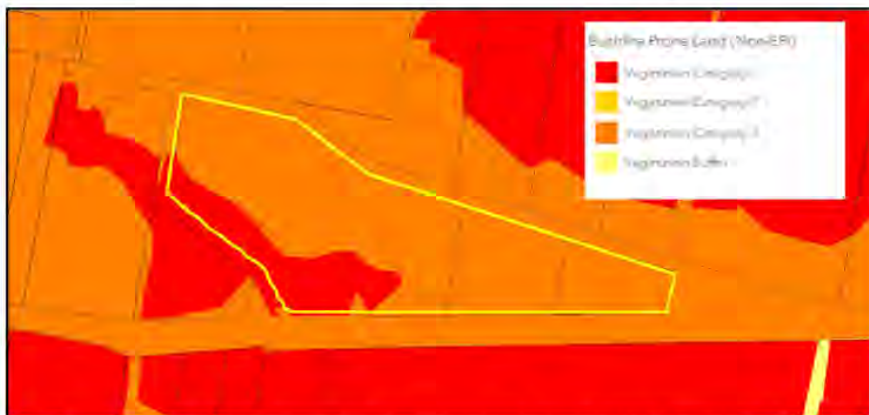


Figure 4: Bushfire Prone Land Mapping (Source: NSW Planning Portal)

A Strategic Bushfire Study (SBS) and Bushfire Assessment Report (BAR) has been prepared in accordance with the requirements of Part 4 of NSW Rural Fire Service, Planning for Bushfire Protection 2019 which concluded that the site would require asset protection zones (APZ) as shown in **Figure 5** below. It is acknowledged that some sites are located within the nominated APZ; however, the

layout proposed is only a concept at this stage and can be adjusted following a more detailed assessment as part of the DA. The site is, however, suitable for the intended use and proposed rezoning to allow for the extension of the Sunrise Caravan Park.

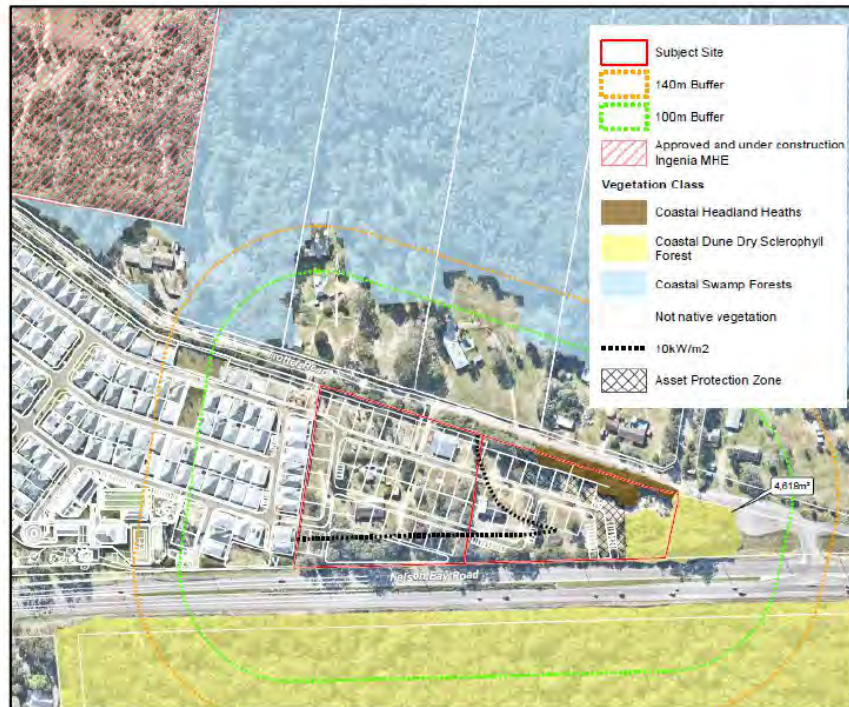


Figure 5: Asset Protection Zones

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

- **Hydrology / Flooding**

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

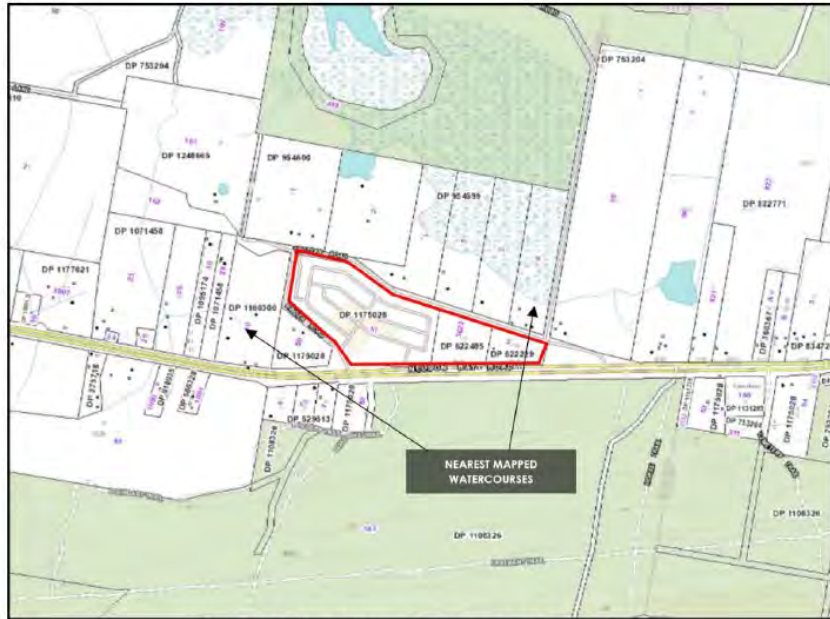


Figure 6: Location of Nearest Watercourses
(Source: Six Maps, 3rd November 2021)

A coastal wetland exists to the north of the site, as depicted by the darker blue hatch on **Figure 7** below.



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

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

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.

In relation to flooding, reference is made to the *Anna Bay and Tilligerry Flood Study* (Jacobs, 4th December 2017) and PSC Online Mapping Tool. As demonstrated in **Figures 8 and 9** below, the subject site itself is largely unaffected by flooding. Only small portions of land at the periphery of the existing Lifestyle Village are mapped within the Flood Planning Area (FPA) or being affected in the Probable Maximum Flood (PMF) event.

The vacant portion of the site identified for future development is not mapped as being flood affected in either event.

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



Figure 8: Flood Prone Land and Flood Planning Area (Source: PSC Online Mapping Tool, accessed 11 May 2023)

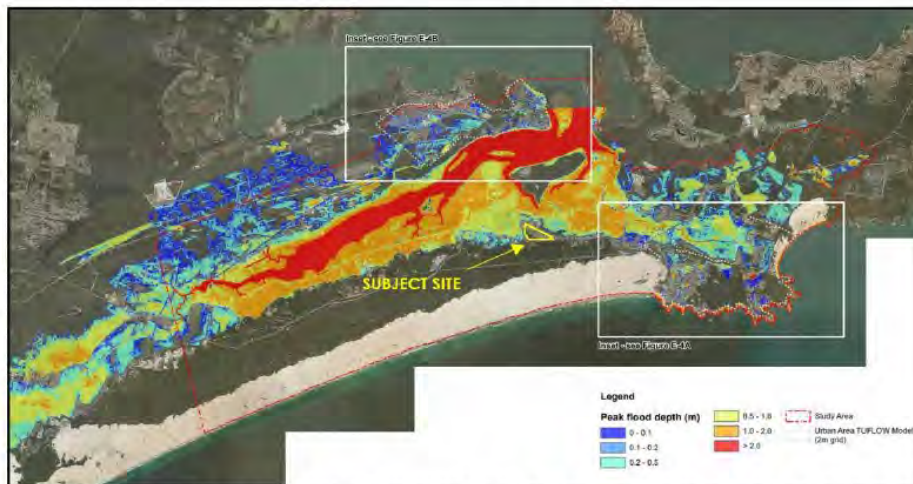


Figure 9: 1% AEP Flood Depth (Source: Anna Bay and Tilligerry Creek Flood Study, Jacobs 2017)

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.

Full details in this regard are provided within the Stormwater Strategy within **Attachment 9** and the Flood Emergency Response Plan (FERP) within **Attachment 14**.

• **Ecology**

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

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

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

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

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



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

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.

- **Acid Sulfate Soils**

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

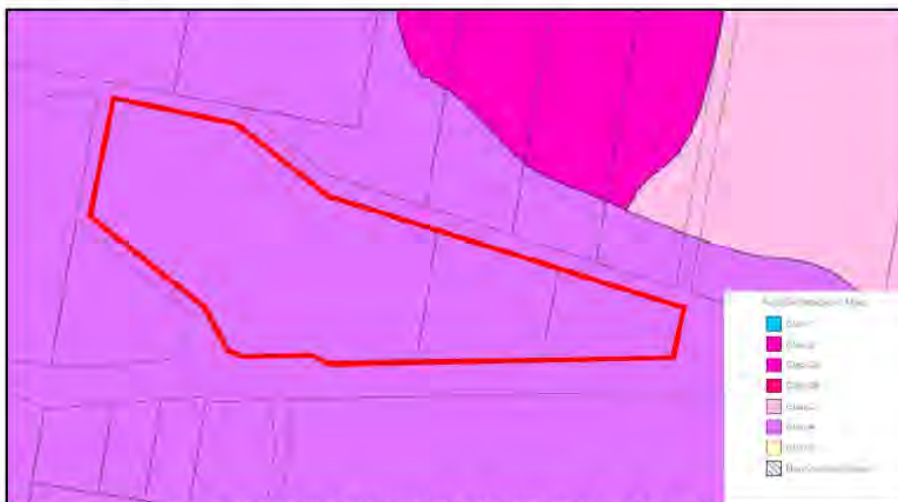


Figure 11: Acid Sulfate Soils (Source: PSLEP 2013)

- **Traffic and Access**

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

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

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

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

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

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

- **Utility Services**

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

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.**PART 1 – Objectives or Intended Outcomes**

The Planning Proposal seeks to achieve the following outcomes:

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

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

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

PART 2 – Explanation of Provisions

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

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

Schedule 1 – Additional permitted uses

10 Use of certain land at Bobs Farm

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

The PSLEP contains the following definition for caravan parks:

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

- Amend Land Zoning Map Sheet LZN_004 for part of Lot 2 DP 622229 from RU2 Rural Landscape to C2 Environmental Conservation, to reflect **Figure 12** below.



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

PART 3 – Justification of Strategic Merit and Site Specific Merit

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

Strategic Merit

Section A – Need for the Planning Proposal

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

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

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

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

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.**Q2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- ***Use of Other Zonings***

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

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

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

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

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

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

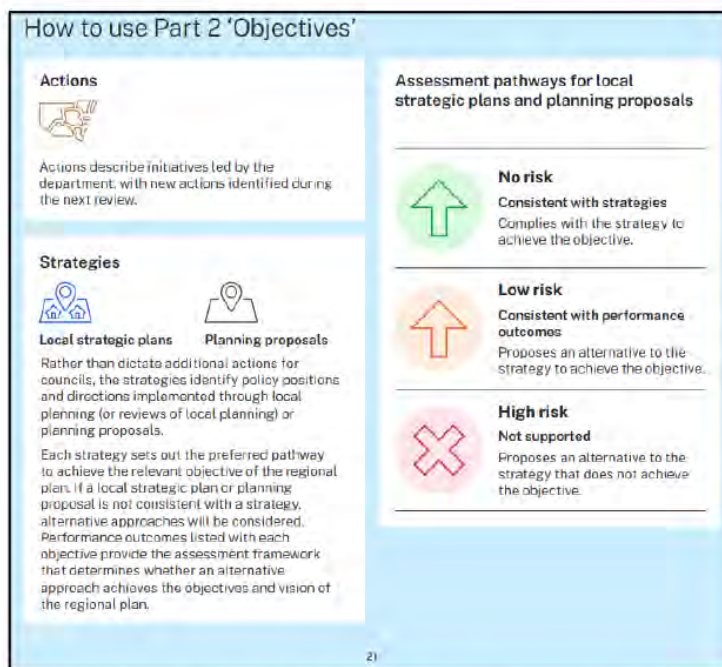
Section B – Relationship to Strategic Planning Framework

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

Hunter Regional Plan 2041

The Hunter Regional Plan 2041 (HRP) was placed on exhibition last year and on 7 December 2022 was adopted. Given the HRP has now been adopted, it is appropriate to specifically address how the Planning Proposal achieves the Objectives within this plan.

The following section has been structured to address the HRP's key themes as well as directly addressing each Objective and Strategy in accordance with the "How to use Part 2 'Objectives'" through a compliance table which provides a risk assessment against each objective (refer **Attachment 13**). Only those strategies applicable to Planning Proposals have been addressed, noting that those applicable to local strategic plans are to be considered by Council in their future planning.



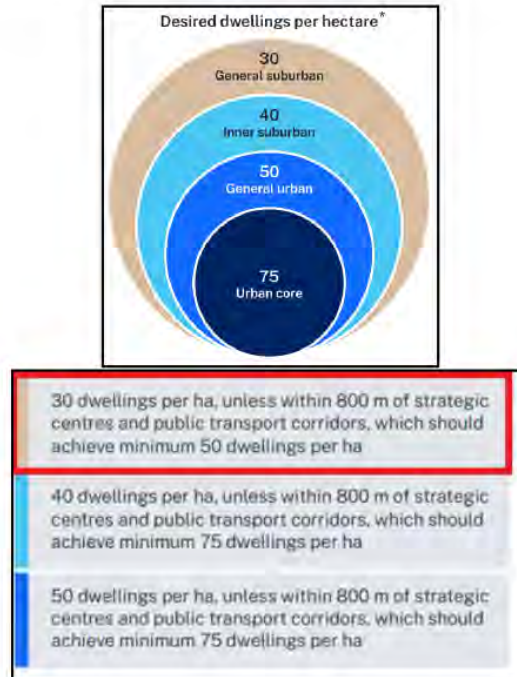
The subject document will give Council and the Department of Planning and Environment (DPE) assurance that the Planning Proposal will assist New South Wales and the Greater Newcastle region in alleviating the current housing shortage crisis whilst continuing to respect the biological sensitivities of the site.

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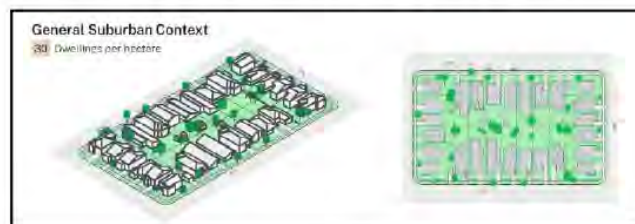
Optimum Density

'Optimum density' is a newly introduced term referring to the ideal number of dwellings per hectare. The intention is to ensure development is delivered efficiently with regards to supporting infrastructure, open space and amenity, housing diversity and affordability, and allows for reduced car dependency.

The HRP identifies these optimum densities as being:



Whilst the HRP tasks Council's with identifying what is considered general suburban, inner suburban, general urban, and urban core, it has been assumed that noting the nature of the site and its surrounding setting, that it falls within the **general suburban** category where the following figure applies:



Excluding roads, the retained proposed C2 zone, stormwater management areas, parking and area for community facilities, the net developable area of the site is approximately 2 hectares. The site is able to accommodate between 60-65 lifestyle living sites or the equivalent of 30-32.5 dwellings per hectare, in accordance with the desired density.

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.*Housing Diversity and Affordability*

Diverse housing types are identified as a way to facilitate housing which suits various individuals' needs as well as contributing to housing affordability by providing the right type of housing.

Caravan parks are not generally considered "affordable housing", pursuant to EP&A Act definitions, owing to the fact that they cannot support a mortgage. They do; however, contribute to housing affordability through providing housing options at a lower price point than other housing that benefits from the same level of access to recreation and community facilities.

Further, the provision of additional housing through increasing supply of smaller sites, encourages people to downsize from their family home which frees up larger homes more suited to families. This increase in housing supply has a direct result in lowering the cost of both the proposed caravan park sites but also existing larger homes.

Finally, caravan parks such as those offered by the proponent, provide a sense of community and increased ability to age in place making them an attractive housing choice for older residents.

Infrastructure Before Growth

The HRP introduces an 'infrastructure-first and place-based delivery framework'. This framework will help to integrate future land use and infrastructure investment early in the planning process to ensure coordination and collaboration across development fronts and infrastructure sectors.

The subject site is in an ideal position to take advantage of existing infrastructure in this regard, as follows:

- **Traffic and Roads:** The site is surrounded by roads, requiring only the extension of minor internal accessways. No road upgrades are required to accommodate the development with this being confirmed through consultation with Transport for New South Wales (TfNSW).
- **Servicing:** Public utility services including telecommunications, electricity, water and sewer will be available to service the future development on the site, requiring only connections to existing infrastructure.

Noting the above it is evident that the planning proposal is well positioned in terms of critical infrastructure.

15-Minute Neighbourhoods

The HRP introduces the concept of '15-minute neighbourhoods' to support mixed, multi-model, inclusive and vibrant communities.

The premise is rather than cities, towns, villages and communities being separate zones for living, working, education, recreation and entertainment, they can be mixed neighbourhoods where people can generally access most everyday needs within a 15-minute walk or cycle from where they live with mixed use, access, and a density of human activity to support neighbourhood uses and services.

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Different scenarios for the attainment of a 15-minute neighbourhood are provided below. In the subject case, noting the site's general suburban context, it is necessary to ensure that all dwellings are within a walk or cycle to daily needs; public transport to weekly needs; and public transport to infrequent and specialised needs.

Context	Neighbourhood scale Homes are within a 15-minute	Strategic centre scale Homes are within a 30-minute
Urban	Urban core • walk or bike to most daily and weekly needs	• public transport to infrequent and specialised needs
	General urban • walk or bike to many daily needs • public transport to daily and weekly needs	• public transport to infrequent and specialised needs
Suburban	Inner suburban • walk or bike to many daily needs • public transport to daily and weekly needs	• public transport to infrequent and specialised needs
	General suburban • walk, bike or public transport to some daily and weekly needs	• public transport to infrequent and specialised needs
Rural	Villages • walk, bike or drive to some daily and weekly needs	• drive to infrequent and specialised needs
	Rural residential • drive to most daily and weekly needs	• drive to infrequent and specialised needs
	True rural • 30-minute drive to most daily and weekly needs	• drive to infrequent and specialised needs

The planning proposal will accommodate additional housing opportunities within a site with access to onsite community facilities. The ability to build the additional sites will allow Hometown Australia to not only improve the existing facilities in the west but also provide additional facilities in the east. This will ensure that all sites are within an accessible 400m walk to community facilities.

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

Prioritising infill development over greenfield development

To minimise biodiversity impacts and take advantage of existing infrastructure, the HRP encourages a higher proportion of planning proposals to be located within infill areas. In the Port Stephens area, this proportion equates to 80%. Noting the subject site currently accommodates two (2) dwellings, its development for the proposed purpose is considered infill and can take advantage of the sites relatively cleared nature and access to all existing services and infrastructure.

Part of accommodating growth under the draft plan is acknowledging that providing for a growing population does not need to come at the expense of the environment. The plan is clear in its intention to increase density, but reduce impact (i.e., reduce footprint).

The subject proposal has taken this into consideration as part of the "avoid and minimise" strategy and as a result retains vegetation in the east and along a portion of the northern boundary to provide for a corridor connection in alignment with the fauna underpass on Nelson Bay Road.

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It is considered that the Planning Proposal is consistent with the relevant principles of the HRP 2041.

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

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

Port Stephens Local Strategic Planning Statement (LSPS)

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

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

Priority 4 Ensure suitable land supply (for housing)

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

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

Priority 5 Increase diversity of housing choice

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

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

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

Port Stephens Local Housing Strategy (LHS)

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

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

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.*Priority 1.1 Ensure adequate supply of new housing*

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

Priority 2.1 Respond to housing stress

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

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

Priority 3.2 Encourage a range of housing types and sizes

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

Priority 3.3 Enable better planning for diverse lifestyles.

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

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

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

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

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

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

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

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

Priority 4.2 Communities are connected.

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

Priority 4.3 Grow connections between people.

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

Port Stephens Community Strategic Plan 2018 – 2028 (CSP)

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

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

Table 1: Port Stephens CSP Strategic Directions and Objectives

Strategic Directions and Objectives		Commentary
Focus Area One: Our Community		
C1	Community Diversity Our community accesses a range of services that support diverse community needs	The proposed development would provide for the expansion of an approved residential community, which provides housing and associated community and recreational facilities for over 55s, thus supporting the needs of an ageing population (C.1.4).
C2	Recognised Traditions and Lifestyles Our community supports the richness of its heritage and culture	An Aboriginal Due Diligence assessment has been prepared by McCardle Heritage which concludes that the site does not contain any sites or potential archaeological deposits (PADs) of Aboriginal heritage significance, and as a result an Aboriginal Heritage Impact Permit (AHIP) would not be required for the future development. This conclusion was made based on the fact that the site had been previously cleared with

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Strategic Directions and Objectives		Commentary:
		the historic upper dune characteristics being entirely removed to make the site level. Full details in this regard are provided within Attachment 2 .
C4	Community Partnerships Our community works with Council to foster creative and active communities	The Planning Proposal relates to an existing lifestyle village, which provides community and recreational facilities on site for its residents (C3.4). Such facilities could be expanded, subject to development consent.
Focus Area Two: Our Place		
P1	Strong Economy, Vibrant Local Businesses, Active Investment Our community has an adaptable, sustainable and diverse economy	The proposed development will result in economic benefits through the provision of housing with new residents supporting the ongoing growth of the local economy.
P2	Infrastructure and Facilities Our community's infrastructure and facilities are safe, convenient, reliable and environmentally sustainable	The proposal will make use of existing infrastructure on an existing disturbed and relatively unconstrained site. Provision of additional housing under these circumstances relieves pressure on Council to support housing on less suited sites requiring extensive lead-in infrastructure and vegetation removal.
P3	Thriving and Safe Place to Live Our community supports a healthy, happy and safe place	The proposed development would provide for the expansion of an approved residential community which places the safety of residents as a high priority. Opportunity for casual surveillance through the development is encouraged to contribute toward a feeling of safety for residents. Consideration of natural hazards (i.e., bushfire) will be managed through the development application design process, to ensure appropriate protection measures are established.
Focus Area Three: Our Environment		
E1	Ecosystem Function Our community has healthy and dynamic environmental systems that support biodiversity conservation	It likely that future proposed development can be undertaken without resulting in unreasonable adverse environmental impacts. The protection of an important fauna corridor through the site under a C2 zone is likely to have long term benefits to biodiversity conservation.
E2	Environmental Sustainability Our community uses resources sustainably, efficiently and equitably	Future development applications for any expansion of the lifestyle village will address sustainability measures such as water and energy consumption, and waste management.

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

Anna Bay Strategy and Town Plan (December 2008)

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

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

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

Notwithstanding, the proposed development will contribute to the vision established for Anna Bay by providing additional residents within the proximity

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of the Anna Bay Town Centre, to provide patronage to the expanding commercial uses within the town centre.

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

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

Q6. Is the Planning Proposal consistent with applicable SEPPs?

An assessment of the relevant applicable SEPPs against the Planning Proposal is provided in the table overleaf.

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Table 2: Relevant State Environmental Planning Policies

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

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SEPP	Consistency and Implications
	<p>Further, the Planning Proposal is consistent with the overarching principles of the Housing SEPP, as it will:</p> <ul style="list-style-type: none"> • 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 will use existing and planned infrastructure and services; and • Minimises environmental impacts through the use of largely disturbed land.
<p>SEPP (Resilience and Hazards) 2021 Chapter 2 Coastal Management</p> <p>Promotes an integrated and co-ordinated approach to land use planning in the coastal zone consistent with the objects of the <i>Coastal Management Act 2016</i>.</p>	<p>This Chapter is relevant as northern parts of the site are mapped as Coastal Environment Area, and a small portion of Lot 2 DP 622229 is identified within the Proximity Area for Coastal Wetlands (north-eastern corner). Refer to Figure 7 earlier in this report for mapping.</p> <p>Division 3 of Chapter 2 contains provisions for development on land within the Coastal Environment Area, to be considered by the consent authority as part of development applications. These include matters such as the biophysical, hydrological and ecological environment, coastal values and natural processes, public access and Aboriginal heritage.</p> <p>Although Lot 51 is mapped as Coastal Environment Area, development consent has been granted for a caravan park on this lot and construction is underway. The Planning Proposal will not result in any additional impact on the matters listed in Section 2.10 on Lot 51.</p> <p>Future development applications on Lot 3622 and Lot 2 that encroach the Coastal Environment Area will need to address Section 2.10. However, it is noted that this represents a small part of the site and the matters raised in Section 2.10 can be considered and, where required, managed through its design and siting.</p> <p>Section 2.8 contains provisions relating to development on land mapped as being in proximity to coastal wetlands or littoral rainforests. It outlines that a consent authority must not grant development consent for development on land identified as a proximity area unless the proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland, or the quantity or quality of surface and ground water flows to and from the adjacent coastal wetland.</p>

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SEPP	Consistency and Implications
	<p>A small portion of Lot 2 is mapped within the Proximity Area for Coastal Wetlands. This occurs in the north-eastern corner of the lot, adjoining Trotters Road. The portion of the site will be located within a C2 zoning and as a result will be protected.</p> <p>A Stormwater Strategy has been undertaken by ADW Johnson which concludes that the future development will not significantly impact on the biophysical, hydrological, or ecological integrity of the adjacent coastal wetland, or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.</p> <p>Full details in this regard are provided within Attachment 9.</p> <p>Based on the above, the Planning Proposal is considered to be consistent with the aims and objectives of Chapter 2, and the provisions of Chapter 2 and will not have any significant implications to future development.</p>
<p>Chapter 4 Remediation of Land</p> <p>This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.</p>	<p>Section 4.6 of Chapter 4 requires that consideration be given to whether the land is contaminated as part of a development application.</p> <p>With respect to Lot 51, this land has been developed for the purposes of a caravan park under an existing development consent. This Planning Proposal seeks to regularise the approved existing use, and in this regard Chapter 4 of the SEPP would not pose limitations on the land.</p> <p>With respect to Lot 3622 and Lot 2, a Preliminary Contamination Assessment (PCA) has been undertaken by Qualtest which concludes that whilst the site contains potential sources of contamination, standard mitigation measures would be able to be adopted to ensure the site is suitable for the purposes of a caravan park. Full details in this regard are provided within Attachment 10.</p>
<p>SEPP (Transport and Infrastructure) 2021</p> <p>Chapter 2 Infrastructure</p> <p>Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.</p>	<p>Subdivision 2 of Chapter 2 contains considerations for development in or adjacent to road corridors and road reservations, including provisions relating to classified roads and traffic generating development.</p> <p>The Traffic and Parking Assessment undertaken for the proposal indicates that a maximum of 21 vehicle trips per hour would result from the expansion.</p> <p>With respect to the requirements of the Infrastructure SEPP, it is noted that future development would not constitute traffic-generating development, and therefore referral of</p>

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SEPP	Consistency and Implications
	<p>the future development application to Transport for New South Wales (TfNSW) for consideration under Section 2.121 would not be required.</p> <p>As the site has frontage to a classified road, Clause 2.118 will need to be considered by the consent authority as part of future development applications, to ensure that the new development does not compromise the effective and ongoing operation and function of classified roads, and to prevent or reduce the potential impact of traffic noise or vehicle emission on the development.</p> <p>Clause 2.118 will be addressed as part of any future development application; however, it is noted that the concept plan provided (Attachment 6) identifies access via Trotter Road (a local road) rather than Nelson Bay Road (a Classified Road), consistent with the requirements of Section 2.118. Further, the Traffic and Parking Assessment (Attachment 5) confirms that the proposed development will not adversely impact the operation of the road network.</p> <p>Further to the above, it is understood that TfNSW's key concern surrounds the uncertainty of the timing of the new Trotter Road access. In this regard it is noted that Trotter Road requires upgrades as part of an approved caravan park directly north of the site at 16 Trotter Road (DA-16-2007-15-1). This development is significantly further advance than the subject site and as such will be constructed prior to occupation of the future caravan park. If, for unforeseen circumstances, Trotter Road is not upgraded in time, the proposed caravan park extension can use the existing access arrangements off Binder Road.</p>

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

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Q7. Is the Planning Proposal consistent with applicable Ministerial Directions (Section 9.1 Directions)?

An assessment of relevant Ministerial Directions against the Planning Proposal is provided in the table below. The Ministerial Directions were obtained from DPE website on 4th May 2022; however, the document is undated.

Table 3: Relevant Ministerial Directions

Ministerial Direction	Consistency and Implications
1. PLANNING SYSTEMS	
1.1 Implementation of Regional Plans The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	<p>The Hunter Regional Plan 2041 applies to the Planning Proposal and is addressed in detail elsewhere in this proposal (Refer Part 3 - Section B - Q3).</p> <p>Whilst the subject site is not located in an identified or emerging growth area identified in the Hunter Regional Plan 2041 (HRP), the proposed development is consistent with the vision and goals outlined in the HRP as it will provide additional housing choice within an existing, well designed community that is accessible to a range of facilities and services. The construction phase will contribute towards economic growth and in the longer term, the provision of additional housing will provide broader economic benefits via increased demand for goods and services and patronage of local business as well as providing housing for a growing workforce.</p> <p>The Planning Proposal is considered to be consistent with this direction as it achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.</p>

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

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Ministerial Direction	Consistency and Implications
4. RESILIENCE AND HAZARDS	
4.1 Flooding The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.	<p>Although minor encroachments at the periphery of the existing Lifestyle Village have been mapped within the FPA and PMF extents (as shown in Figure 8 of this report), the land identified for future development (known as Stage 2) is not located within Council's FPA and is not liable to the PMF. This is confirmed by site-specific advice prepared by Torrent Consulting (Attachment 14), which confirms that the site is flood free for all flood events up to and including the PMF. In terms of access to the site during flood events, Torrent Consulting confirms it is maintained up to the 1% AEP event along Nelson Bay Road to the local towns of Medowie and Nelson Bay. Potential isolation may occur, however, for an Extreme Hunter River flood event.</p> <p>With respect to 4.1(1), the Planning Proposal is consistent with the relevant flood policies, as described in the FERP (Attachment 14).</p> <p>Directions 4.1(2) provides that a Planning Proposal must not rezone land within the FPA from a Rural Zone to a Residential Zone. The Planning Proposal is not a rezoning per-se, however, it will have the same effect in principle given the APU will enable residential development on the land. In response to this Direction, it is noted that the mapped FPA only affects land within the existing Lifestyle Village, at the north-western periphery of the site. Stage 2, being the land proposed for future residential development, is located entirely outside of the FPA and therefore compliant with 4.1(2). Accordingly, it is considered that this inconsistency with the direction is of minor significance as the Planning Proposal will not give rise to any new residential development occurring within the FPA.</p> <p>With respect to Directions 4.1(3), as explained above, parts of the site mapped within the FPA occur within the existing Lifestyle Village and future development on the land will not be within the FPA. As such, in effect, 4.1(3) is not relevant to the Planning Proposal and will not result in any material inconsistency with the direction.</p> <p>Similarly, having regard to 4.1(4), only the existing Lifestyle Village is mapped within the FPA or as being affected by the PMF, and this is at the very periphery of the site. Land identified for future development is located entirely outside of the FPA and PMF. Further to this, it is noted that Council has not adopted the optional 'special flood consideration' (SFC) in its LEP; therefore, it is understood that, strictly speaking, 4.1(4) does not apply.</p> <p>Notwithstanding, consideration has been given to access to the site during flood events. As described above, access is maintained up to the 1% AEP event along Nelson Bay Road to the local towns of Medowie and Nelson Bay. Potential isolation may occur, however, for an Extreme Hunter River flood event. In saying this, such an event can only be generated by runoff from the Upper Hunter and</p>

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Ministerial Direction	Consistency and Implications
	<p>Goulburn River catchments. In these circumstances, the potential for isolation of the site would be known and communicated to the region a long time in advance. In this regard, no formal Flood Emergency Response Plan is required to effectively manage the risk at the site. Refer to Attachment 14 for further detail.</p> <p>In response to Direction 4.1(5), the FPA is consistent with Council's adopted flood study, <i>Anna Bay and Tilligerry Creek Flood Study</i> (Jacobs 2017).</p> <p>Overall, the likelihood and consequence of flooding impacting the site is very low, is acceptable and does not require specific mitigation or management.</p> <p>Noting the above, the Planning Proposal is consistent with the relevant considerations of Direction 4.1, and any inconsistency derives from the existing site conditions where development is already approved and constructed, and is deemed to be of minor significance.</p>
<p>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.</p>	<p>This direction applies as the site is mapped as a proximity area for a coastal wetland and coastal environment area.</p> <p>With respect to Direction 4.2(1), the Planning Proposal does not include provisions giving effect the matters identified in (a) – (d); however, future development will be required to address requirements of Chapter 2 of SEPP (Hazards and Resilience) 2021 in relation to Proximity Areas to Coastal Wetlands. Consideration of the SEPP is provided in the SBDAR attached to this report.</p> <p>The site is not located within mapped coastal vulnerability areas or littoral rainforests, identified in the SEPP. Nor is the site affected by a current or future hazard mapped in the LEP or Development Control Plan (DCP). As such, Direction 4.2(2) does not apply.</p> <p>With respect to Direction 4.2(3), strictly speaking the Planning Proposal does not propose to rezone land. However, it will enable increased development or more intensive land-use on land within a Proximity Area for a Coastal Wetland. The site is not mapped as containing Coastal Wetlands. The Proximity Area affects a small portion of Lot 2 DP 622229, occurring in its north-eastern corner; however, this will be retained in the fauna corridor and therefore not subject to development.</p> <p>The site is separated from the Coastal Wetland itself by road infrastructure and land cleared and developed for rural residential properties. Further, no waterways pass through the site.</p> <p>Direction 4.3(4) is not relevant as the Planning Proposal does not seek to amend SEPP (Resilience and Hazards) 2021 mapping.</p>

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Ministerial Direction	Consistency and Implications
<p>4.3 Planning for Bushfire Protection</p> <p>The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.</p>	<p>The site is identified as bushfire prone land.</p> <p>Lot 51 is the subject of an existing approval, and was required to incorporate appropriate bushfire protection measures.</p> <p>A SBS and BAR for the proposed development on Lot 3622 and Lot 2 has been undertaken by Bushfire Planning Australia (BPA) which confirms that the site will be able to accommodate all requirements of Planning for Bushfire Protection 2019 (refer Attachment 4).</p> <p>Further, a potential secondary access onto Trotters Road will improve access / egress arrangements for residents and emergency services in the event of a bushfire.</p>
<p>4.4 Remediation of Contaminated Land</p> <p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by Planning Proposal authorities.</p>	<p>Lot 51 is the subject of an existing approval which has previously addressed matters of potential contamination.</p> <p>A PCA has been undertaken by Qualtest with respect to Lot 3622 and Lot 2 which concludes that the site can be made suitable whilst the site contains numerous potential sources of contamination, these were all typical of a rural residential site. Qualtest have advised that provided standard mitigation measures are adopted, the site is considered suitable for the purposes of a caravan park (refer to Attachment 10).</p>
<p>4.5 Acid Sulfate Soils</p> <p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.</p>	<p>The site is mapped as Class 4 Acid Sulfate Soils under the PSLEP.</p> <p>Acid sulfate soils were considered and deemed appropriate across Lot 51 as part of the approval for the caravan park, which is currently under construction and operational.</p> <p>Further assessment of acid sulfate soils on Lot 3622 and Lot 2 has been undertaken within the PASSA which concludes no ASS was discovered within 2m below ground level (refer to Attachment 11).</p>

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

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


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

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

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Ministerial Direction	Consistency and Implications
	<p>(f) Support farmers in exercising their right to farm.</p> <p>The site is presently not utilised nor considered suitable for rural purposes.</p> <p>(g) Prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses.</p> <p>The site is considered to be fragmented in its current form, by virtue of the approved caravan park development and the residual land being landlocked by surrounding roads.</p> <p>(h) Consider State significant agricultural land identified in Chapter 2 of the SEPP (Primary Production) 2021 for the purpose of ensuring the ongoing viability of this land.</p> <p>Land that is deemed to be State significant agricultural land (SSAL) is identified in Schedule 1 of the SEPP. At the time of writing this report, there were no areas listed in Schedule 1 of the SEPP.</p> <p>It is noted that early draft mapping was released in November 2021. The site was not identified as SSAL on the draft map, nor was any land in the vicinity of the site (refer to Figure 14 overleaf).</p>  <p>Figure 14: Draft SSAL Exhibition Mapping (Source: NSW DPI, 10th November 2021)</p>

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Ministerial Direction	Consistency and Implications
	<p><i>(i) Consider the social, economic and environmental interests of the community.</i></p> <p>The Planning Proposal provides opportunity to increase housing diversity within the Port Stephens LGA and to provide greater housing choice, on land that is largely unconstrained with respect to environmental values.</p>

Site-Specific Merit

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

Section C – Environmental, Social and Economic Impact**Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

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

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

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

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

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

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

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

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

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

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

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.**Traffic**

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

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

The findings of the traffic impact assessment indicate the following:

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

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

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

Bushfire Risk

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

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

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

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

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

Aboriginal Cultural Heritage

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

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

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

Acid Sulphate Soils and Contamination

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

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

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

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

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

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

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

Stormwater and Flooding

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

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

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

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

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

The site is situated above the regional Probable Maximum Flood. The proposed development provides favourable conditions for refuge-in-place subject to extreme flood events. It is noted that the likely long warning times for the flood type would allow residents to 'stock up' or seek medical treatment prior to the peak of an event.

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

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

Full details in this regard are provided within **Attachment 9** and **Attachment 14**.

Services

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

Q10. Has the Planning Proposal adequately addressed any social and economic effects?

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

Social Effects

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

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

Economic Effects

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

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

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

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

The caravan park is accessed off Binder Road, which intersects Nelson Bay Road. The intersection was constructed specifically to cater for the caravan park development.

The existing access arrangements are capable of accommodating demand associated with the proposed development; however, it is intended to provide a secondary access via Trotter Road as part of future development on the land.

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

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

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

- There is currently sufficient capacity in the local water network to cater for the proposed development;
- There is currently sufficient capacity in the local wastewater network to cater for up to 5L/s from the proposed development; and

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- There is sufficient capacity in the Boulder Bay Waste Water Treatment Works (WWTW), which is the most feasible option for wastewater discharge.

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

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

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

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

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

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

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

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

Following the issue of the Gateway determination, the Planning Proposal was sent to the following agencies:

- Transport for NSW;
- Rural Fire Service NSW;
- NSW State Emergency Service; and
- Biodiversity Conservation Division.

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Transport for NSW and Rural Fire Service NSW raised no objection to the proposal. NSW State Emergency Service and Biodiversity Conservation Division requested additional information with regards to undertaking a risk assessment surrounding the probable maximum flood (PMF) and addressing the evacuation and/or shelter-in-place arrangements.

In a letter dated 13th June 2023, BCD advised that the Stormwater Strategy did not satisfy the Gateway Determination requirement to demonstrate that shelter-in-place arrangements do not pose a significant risk to life. Specifically, BCD was of the view that insufficient information was provided to assess the appropriateness of the proposed flood emergency response strategy. Following a meeting with BCD's officers (12th July 2023), a Flood Emergency Response Plan (**FERP**) was developed by Torrent Consulting which addressed BCD's specific requirements (**Attachment 14**).

The FERP determined that access to the site is maintained via Nelson Bay Road up to the 1% AEP design flood. Prolonged isolation of the site is only a potential impact of an Extreme Flood event condition of the Hunter River. During such an event there would be multiple days of warning time available to respond to potential isolation accordingly. The communication and response for evacuation of the site in a flood emergency is the responsibility of the emergency services and is consistent with the existing communities across the region.

It is understood that BCD has advised Council that its comments have been appropriately addressed.

PART 4 – Mapping

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

PART 5 – Community Consultation

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

Community Consultation

In accordance with the Gateway determination, the planning proposal was exhibited for 28 days, from 5 July 2023 to 2 August 2023. Two community submissions were received. Matters raised in the submissions include:

- Concern about the impact on koala/ wildlife corridors and the ongoing implications for local Koala populations;
- Incorrect data used to determine the presence of koalas in the area;
- Request for specific landscaping, fencing and mitigation measures to be included as part of the development;
- Inconsistency with objectives of the Port Stephens Local Environment Plan 2013;

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.

- Concern that the proposal will set an undesirable precedent for urban development to be built on rural land, which is not suitable for higher density developments; and
- Concern about the lack of rates payable by these types of developments.

The planning proposal has not been amended as a result of the submissions.

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

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

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

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

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

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

Pre-Lodgement Consultation with Council and State Agencies/Authorities

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

- **Port Stephens Council**

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

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

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL.

The Planning Proposal was submitted to PSC for review on 3rd December 2021. Noting the change in legislation and introduction of the LEP Making Guidelines in March 2022, the original Planning Proposal submitted in December 2021 was amended so as to be considered the scoping document.

Key issues discussed with Council to date include:

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

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

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

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

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

Hunter Water / Ausgrid

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

PART 6 – Project Timeline

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

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

Attachment 1 – Locality Plan

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

Attachment 2 – Aboriginal Due Diligence Assessment

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

Attachment 3 – Streamline Biodiversity Development Assessment Report

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

Attachment 4 – Strategic Bushfire Study & Bushfire Assessment Report

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

Attachment 5 – Traffic and Parking Assessment

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

Attachment 6 – Concept Plan

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

Attachment 7 – Ausgrid Servicing Advice

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

Attachment 8 – Hunter Water Servicing Advice

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

Attachment 9 – Stormwater Strategy

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

Attachment 10 – Preliminary Contamination Assessment

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

Attachment 11 – Preliminary Acid Sulfate Soil Assessment

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

Attachment 12 – Response Table

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

Attachment 13 – Hunter Regional Plan 2041 Compliance Table

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

Attachment 14 – Flood Emergency Response Plan

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

ITEM 2 - ATTACHMENT 2 SUBMISSIONS TABLE.

Submissions Table: Planning Proposal for Sunrise Lifestyle Village, 4011, 4029 and 4045 Nelson Bay Road, Bobs Farm

Author	Summary	Response
Agency comments		
Transport for NSW	TfNSW notes that the TIA addressed the upgrade of Trotters Road as part of the approval of the adjoining caravan park and that it will be used as access for this proposal.	Noted. These matters will be addressed at the Development Application stage.
	The developer is responsible for mitigating any noise and vibration impacts of Nelson Bay Road on sensitive developments which may be introduced by the Planning Proposal.	
	The proposal should consider active transport connectivity to existing walking and cycling paths.	
Rural Fire Service	Based upon an assessment of the information provided, NSW RFS raises no objections to the proposal subject to a requirement that the future subdivision/development of the land complies with <i>Planning for Bush Fire Protection 2019</i> .	Noted. <i>Planning for Bush Fire Protection 2019</i> will be addressed in the Development Application.
Biodiversity and Conservation Division	The BDAR should be updated to refer to and utilise the revised Eastern NSW Plant Community Types (PCTs).	Following this initial advice, on 3 July 2023, BCD advised that the BDAR for the Sunrise Lifestyle Village Scoping Proposal will not need to apply the revised Eastern NSW PCTs due to transitional arrangements for the BAM-C cases.
	The proponent has not satisfactorily demonstrated that there are appropriate arrangements for shelter-in-place and evacuation in a probable maximum flood event (PMF), in consideration of the draft shelter-in-place guideline, required by the Gateway Determination conditions. The Stormwater Strategy, prepared by ADW Johnson, found that the site would be isolated for 14 hours, which exceeds the draft guideline's maximum	Following this initial advice, the proponent provided a Flood Emergency Response Plan to address concerns raised by BCD. BCD advised that they have reviewed the revised Flood Emergency Response Plan for Sunrise Stage 2 Development At Anna Bay, 23 Aug 2023, prepared by Torrent Consulting, and is satisfied BCD's comments, dated 13

ITEM 2 - ATTACHMENT 2 SUBMISSIONS TABLE.

Author	Summary	Response
	<p>of six hours. The report claims that the long duration of isolation does not pose a significant risk to life.</p> <p>However, BCD does not consider that the report has appropriately considered the risks of sheltering in place. The period of isolation for future residents is over double the acceptable limit during a PMF event. Further, it suggests that the period of isolation exceeds the acceptable limit for flood events with AEP's as small as 5% AEP. Consequently, a detailed assessment of the risks is required.</p> <p>BCD advises that the Stormwater Strategy does not satisfy the Gateway Determination requirement to demonstrate that the shelter-in-place arrangements do not pose a significant risk to life.</p>	<p>June 2023 have been appropriately addressed.</p>
SES	<p>The NSW State Emergency Service (NSW SES) is the agency responsible for dealing with floods, storms, and tsunami in NSW. This role includes, planning for, responding to, and coordinating the initial recovery from floods. As such, the NSW SES has an interest in the public safety aspects of the development of flood prone land, particularly the potential for changes to land use to either exacerbate existing flood risk or create new flood risk for communities in NSW.</p> <p>The consent authority will need to ensure that the planning proposal is considered against the relevant Ministerial Section 9.1 Directions, including 4.1 – Flooding and is consistent with the NSW Flood Prone Land Policy as set out in the NSW Floodplain Development Manual, 2005 (the Manual).</p>	<p>Following this advice, the proponent provided a Flood Emergency Response Plan to address concerns.</p> <p>With the inclusion of the Flood Emergency Response Plan, it is considered that the planning proposal adequately addresses Ministerial Direction No. 4.1 – Flooding. Council is satisfied that residents can shelter-in-place during a PMF event.</p>

ITEM 2 - ATTACHMENT 2 SUBMISSIONS TABLE.

Author	Summary	Response
Community		
Resident	<p>The previous Port Stephens LEP permitted caravan parks on rural land. Various loopholes in legislation allowed developers to exploit these weaknesses and build high density urban developments on rural zoned land.</p> <p>The weakness of the LEP removed essential planning control measures, and took control away from community minded councils, rendering them powerless against the demands of the developer.</p> <p>This time the Council is under no pressure to accept the planning proposal which, if accepted, would set a dangerous precedent for further expansion of all similar developments in Port Stephens.</p> <p>The developer has tactfully created a report that is over 500 pages long to create the impression that they have a case for development and suggested that any other method of re-zoning would be less beneficial to the community. The report is unquestionably biased and just does not make sense.</p> <p>During previous correspondence on this DA, we were told by the duty planner that they realised that the LEP was lacking, and that if they had their time again, they would ensure such loopholes were closed to prevent similar developments.</p> <p>The Mayor Ryan Palmer also reassured us that the approval of the Sunrise development and the Ingenia site at 16 Trotter Road were the last of their kind. These comments are meaningless if this development that is at odds with the local zoning, is allowed to expand further.</p>	<p>Objection is noted.</p> <p>The Port Stephens Local Environmental Plan 2000 (superseded) permitted caravan parks on some rural land. Under the</p> <p>Local Government (Manufactured Home Estates, Caravan Parks, Camping Ground and Movable Dwellings) Regulation and the State Environmental Planning Policy No 21 – Caravan Parks and State Environmental Planning Policy No 36 – Manufactured Home Estates (now consolidated into the Housing SEPP), caravan parks can be developed as Manufactured Home Estates.</p> <p>A number of manufactured home estates were created in Port Stephens through this pathway.</p> <p>Caravan parks are no longer permitted with consent on rural land under the Port Stephens LEP 2013.</p> <p>On 28 February 2023, Council resolved to adopt the planning proposal. The subject land is considered suitable for the proposed future use given that part of the land is already utilised for this use. The proposal will provide approximately 60 additional houses on unconstrained land and will contribute to the supply of housing in Port Stephens, while recognising the environmental value of part of the site through the proposed C2 zone.</p> <p>Each planning proposal is considered on its merit, rather than precedent created by other proposals. Caravan parks are no longer permitted on rural land under LEP 2013, however it is considered that this proposal provides adequate</p>

ITEM 2 - ATTACHMENT 2 SUBMISSIONS TABLE.

Author	Summary	Response
	<p>So, we commend the Council for revising the LEP and for reassuring us that this will not happen again.</p> <p>We vehemently oppose the proposal by Hometown Australia to use the outdated LEP to grant the expansion. The LEP was changed for good reason and these reasons have not changed. If the developer wants to build more high-density housing, then it should seek appropriate zoning to allow more urban style dwellings to be built. Appropriate zoning will also ensure that any future residents of the Port Stephens electorate will be contributing by paying rates, rather than via an indirect rent to the developer who must only then contributes a fraction of the amount.</p> <p>The Council are under no duress or obligation to approve this planning proposal. We therefore urge the Council to rescind the proposal and take control of planning in the community under their terms, planning guidelines and legislation.</p>	<p>strategic justification to amend the LEP to permit the development (with consent).</p> <p>The planning proposal was prepared in accordance with the Department of Planning's Local Environmental Plan Making Guideline and has been subject to the Gateway and referrals process. It contains the level of information as required by the guide.</p> <p>Clause 121 of the <i>Local Government (General) Regulation 2021</i> provides that land used for a caravan park or a manufactured home estate is to be categorised as business for rating purposes. The owner of the estate pays the business rate, based on the land value of the entire estate as determined by the NSW Valuer General.</p> <p>Any future installation of moveable dwellings as a result of the planning proposal will be subject to developer contributions for each dwelling at the same value as a single dwelling on a residential lot, in accordance with the Port Stephens Development Contribution Plan.</p>
Koala Coalition EcoNetwork Port Stephens	<p>The Koala Coalition EcoNetwork Port Stephens (KKEPS) are mainly concerned with environmental considerations of this application because this property is in a very important situation contributing to koala/ wildlife corridors. With the beach to the south of the property, and the Tilligerry Creek to the north, this area provides a critical link for fauna travel east/west to/from the Tomaree peninsula. Without continued movement across this area, the genetic diversity of local populations is likely to reduce which in turn will decrease their chances of survival and</p>	<p>Noted. The planning proposal recognises the importance of this corridor by zoning the land C2.</p>

ITEM 2 - ATTACHMENT 2 SUBMISSIONS TABLE.

Author	Summary	Response
	<p>their ability to adapt to environmental and climate change.</p>	
	<p>The importance of connectivity through this site was recognised when the RTA (TfNSW) widened Nelson Bay Road and built two fauna underpasses near Binder Road and Trotter Road. Only the Trotter Road underpass seems to be mentioned in the documents.</p> <p>Regardless, it seems that both underpasses are no longer navigable at the northern entrances near Sunrise. It is our opinion that both underpasses need attention, sooner rather than later, so they can become operable prior to any further escalation in human activity on the site.</p>	<p>Maintenance of underpasses is the responsibility of TfNSW.</p>
	<p>KKEPS has been heartened by our previous communications with the Ingenia Natura construction team on the importance of koala movement and pleased to see how discussions have translated into plans to rejuvenate a corridor to the north of their property; Ingenia have provided an area for koala food tree plantings, paying particular attention to the native species of plants with a focus on local species. It is hoped that the Hometown team will be similarly interested in preserving the corridor that they have already recognised by allocating a C2 Zone to retain vegetation connecting the north and south of the site as part of the 'avoid and minimise' assessment.</p>	<p>The C2 Zone will ensure that the corridor is preserved.</p> <p>A landscaping plan will be prepared as part of the development application and will consider treatment / planting of the corridor.</p>
	<p>The Port Stephens Council minutes of 28/2/23 state the "eastern portion of 4045 Nelson Bay Road is critical to fauna (including koalas) that occur within the area". The minutes also noted that the quality of the habitat being 'supplementary' or otherwise, does not detract from the vegetation being a critical component of the</p>	<p>Noted.</p>

ITEM 2 - ATTACHMENT 2 SUBMISSIONS TABLE.

Author	Summary	Response
	landscape by providing connectivity from the dry landscape to the south, to preferred coastal swamp forest to the north. As the climate warms, this corridor will become more valuable.	
	While the conclusion in the reports stating that there are no particularly palatable food trees for koalas on this site is accurate, koalas will shelter in PCT 1646 and can eat Blackbutt and Bloodwood. The nearby preferred koala habitat is eloquently shown in the SBDAR and the bushfire report. KKEPS would like to emphasise that koalas will cross open ground to reach more suitable habitat. The remaining habitat either side of Fenninghams Island Rd, and the properties opposite, provide suitable refuge along the way to the forest.	Noted.
	<p>The SBDAR Table 2 - EPBC listed species, wrongly lists the most recent record of Koala being in 2058. This appears to be an error by repeating the number of local records of koalas within 10km, listed in the previous column.</p> <p>The SBDAR Table 6 - Predicted Ecosystem Credit Species of EPBC listed species on page 32, wrongly records that "No" koalas have been recorded within the site nearby surrounds. This claim is refuted; this conclusion may have been drawn from the fact that no koalas were observed or heard on one single night of surveying.</p>	Noted. Notwithstanding, the planning proposal is considerate of the site's significance as a koala corridor.
	Port Stephens Koala Hospital data and publicly available BioNet data show that rescues and releases have been made within the last two years. Large numbers of incidents go back many years so there is unequivocal evidence that an active koala population inhabits this area, even if not recorded on the	Noted.

ITEM 2 - ATTACHMENT 2 SUBMISSIONS TABLE.

Author	Summary	Response
	<p>actual site. This lack of recordings is not unusual for private properties where public sightings are less likely. The clearing and building works at 16 Trotter Road by Ingenia may also be part of the reason why very little koala activity recorded in the last 18 months.</p> <p>The reduction in koala sightings and koala activity highlights the need to preserve existing large trees and to carefully consider how to encourage use of the corridor both during and past the construction phase.</p>	
	<p>This area is mapped as Areas of Regional Koala Significance (ARKS). Other endangered and threatened species are also present according to the BioNet search using the KKEPS mapping viewer.</p> <p>Given that koalas will be drawn to koala food tree plantings now growing well at the front of the existing Sunrise village, it is disappointing to see the proposal will clear PCT 1646 at the southwestern side of the development footprint, seemingly only to provide a drainage sink. KKEPS requests that consideration be given to retain these trees for the sake of wildlife navigating along the southern side of the new development.</p>	<p>Given the current fencing arrangements at the existing Sunrise Estate, it is considered unlikely that koalas would move east-west across the site. Further, koalas should not be encouraged koalas to do so due to the threat of road strike along Nelson Bay Road.</p> <p>The southern side of Nelson Bay Road is fenced to prevent fauna access to Nelson Bay Road and to the site from the south, as such, the only fauna access to the site is from the north. If vegetation along the south of the site were to be retained, this area would be isolated and may potentially create conflict with fauna and human activity at the site. The key biodiversity value identified on site was fauna connectivity at the eastern end of the proposal site that links to the Transport for NSW road underpass. This key area of habitat will be retained under a conservation zoning and managed to ensure connectivity is preserved.</p>
	<p>The pool style black steel piping fencing at the front of the existing village is not suitable for preventing koalas entering or leaving the property as it is easy for adept arboreal koalas to climb. KKEPS requests that careful consideration and implementation of</p>	<p>Noted. To be considered in development application.</p>

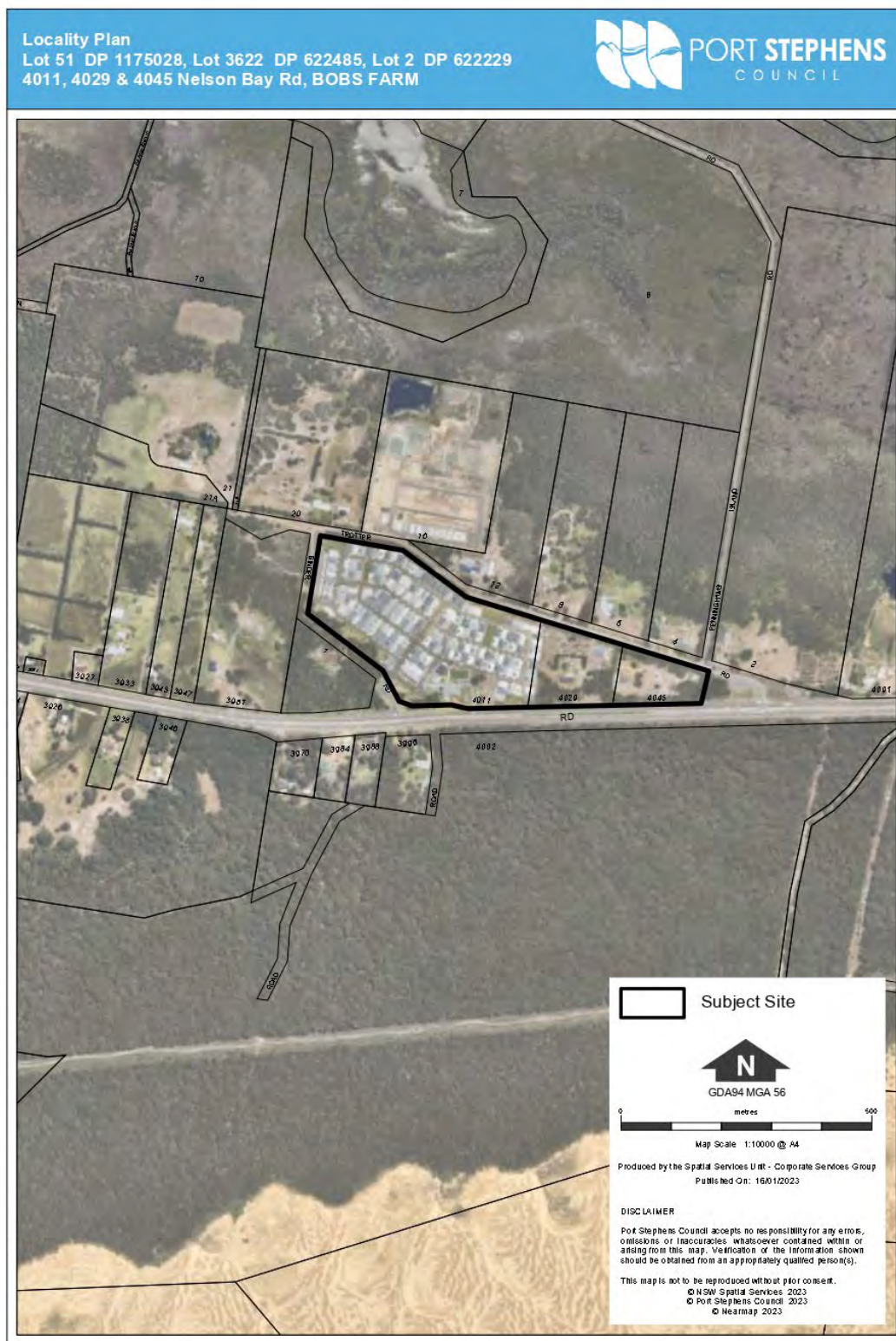
ITEM 2 - ATTACHMENT 2 SUBMISSIONS TABLE.

Author	Summary	Response
	more suitable fencing and plantings is undertaken to encourage and funnel wildlife to appropriately planned and vegetated corridors, and not to lead them to attempt to cross Nelson Bay Road or enter the village.	
	<p>Further mitigation efforts for fauna safety around the site, and for while they are crossing Trotter Road, would be supported by having no regular entry off Trotter Road for this extension of the Sunrise village.</p> <p>If fauna is being knowingly encouraged to follow a corridor that is severed by a road, they will be in higher mortal danger if more traffic is directed along Trotter Road than previously approved for the Ingenia Natura development.</p>	Noted. To be considered in development application.
	<p>Safe passage for fauna is particularly important from dusk to dawn when koalas are most active. KKEPS therefore submits that "a secondary access via Trotter Road" should be discouraged. A secondary access point should only be used for reasons referred to in the bushfire planning report Plate 4: Emergency egress. KKEPS supports the SBDAR conclusion that "Within the east of the site a buffer is proposed to mitigate any potential impacts and maintain functionality of the existing fauna crossing. The purpose of the buffer along the northern boundary is to provide an interface with the remnant vegetation to the north of Trotter Road. The retained buffer should be managed for biodiversity under a Biodiversity Management Plan to be provided at the time of a future development application." "Details within a Biodiversity Management Plan should include weed control, supplementary planting, fencing and nest boxes."</p>	Noted. To be considered in development application.

ITEM 2 - ATTACHMENT 2 SUBMISSIONS TABLE.

Author	Summary	Response
	<p>Brief discussions with AEP Ecologist during our 10/12/22 site visit, gave us assurance that biodiversity and landscaping plans (yet to be developed) will take into consideration the need for appropriate planting along the entire north boundary. KKEPS recommends these plans should take into consideration the entirety of Sunrise village (both existing and proposed).</p> <p>KKEPS recommends that Sunrise takes careful note of these two recent publications to encourage habitat connectivity using local native species of plants:</p> <ul style="list-style-type: none"> • Habitat Planting Guide Tomaree Peninsula – EcoNetwork Port Stephens (econetworkps.org) • Koala-Trees_Port-Stephens_FINAL_June-2023.pdf (econetworkps.org) <p>Given Ingenia's previous willingness to enter into discussions with us in order to maintain koala movement on their sites, we would like to suggest that Sunrise actively considers enhancing the corridor. Any efforts that could not only meet, but exceed what can formally be imposed by existing guidelines and policy, would be particularly welcome.</p>	<p>Noted. To be considered in preparation of the landscaping plans for the development application.</p>

ITEM 2 - ATTACHMENT 3 LOCALITY PLAN.



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MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023**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	Councillor Leah Anderson Councillor Steve Tucker It was resolved that Council: <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

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| | 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 Amott, 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

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

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

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

- 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.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023**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.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023**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.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

COUNCILLORS ROOM

Nil.

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

TABLED DOCUMENTS

Nil.

ITEM NO. 4

**FILE NO: 23/203671
EDRMS NO: PSC2017-00180**

ANNUAL FINANCIAL STATEMENTS 2022-2023

REPORT OF: GLEN PETERKIN - ACTING FINANCIAL SERVICES SECTION
MANAGER
DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the 2022-2023 Annual Financial Statements (**ATTACHMENT 1**) and accept the Auditor's reports, as submitted by the Audit Office of New South Wales.
 - 2) Place the 2022-2023 Annual Financial Statements on public exhibition, with submissions accepted until 5pm on 31 October 2023 in accordance with relevant legislation.
-

**ORDINARY COUNCIL MEETING - 24 OCTOBER 2023
MOTION**

254	Councillor Leah Anderson Councillor Glen Dunkley It was resolved that Council: 1) Adopt the 2022-2023 Annual Financial Statements (ATTACHMENT 1) and accept the Auditor's reports, as submitted by the Audit Office of New South Wales. 2) Place the 2022-2023 Annual Financial Statements on public exhibition, with submissions accepted until 5pm on 31 October 2023 in accordance with relevant legislation.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to advise Council that the 2022-2023 Annual Financial Statements have been prepared in accordance with Australian Accounting Standards, the Local Government Act 1993 (and associated regulations) and the Local Government Code of Accounting Practice.

The Audited Annual Financial Statements comprise:

- 1) General Purpose Financial Statements.
- 2) Special Schedule 1.

The 2022-2023 General Purpose Financial Statements and Special Schedule 1 have been reviewed by Council's Auditors (The Audit Office of NSW) and Council's Audit, Risk and Improvement Committee. This report is to formally present the Statements for the year ended 30 June 2023, together with the Auditor's Report, to the public in accordance with Sections 418 and 419 of the Local Government Act 1993.

Included with the 2022-2023 Audited Annual Financial Statements is Special Schedule 7 and the Holiday Parks and Investment Property Report. Special Schedule 7 is required to be prepared in accordance with Sections 418 and 419 of the Local Government Act 1993 however is not audited.

The Holiday Parks and Investment Property Report are voluntary reports that are prepared to show the financial result for all Holiday Parks operated by Council, together with the financial result for Council's investment property portfolio and Newcastle Airport.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Manage implementation of the Long Term Financial Plan 2023 to 2033.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no known legal or policy implications. The risk implications are listed in the table below.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council will contravene legislation if the Annual Financial Statements are not adopted.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Completion of the 2022-2023 Audited Annual Financial Statements provides Council with the information needed to facilitate prudent financial management decision making which will have a positive impact on the community.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section.

The 2022-2023 Audited Annual Financial Statements, including the Auditor's reports, have been circulated separately to the Mayor and Councillors for their information and a two-way conversation held to discuss the reports.

Internal

- Executive Team.
- Senior Leadership Team.
- Audit, Risk and Improvement Committee.

External

The Audit Office of New South Wales.

Public notice of the presentation of the 2022-2023 Audited Annual Financial Statements are advertised on Council's website from 17 October 2023 with copies of the Statements made available on Council's website.

Submissions from the public on the 2022-2023 Audited Annual Financial Statements will be accepted for 7 days after the Council meeting, from 25 October 2023 to 31 October 2023 inclusive, in accordance with relevant legislation.

OPTIONS

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

ATTACHMENTS

- 1) 2022-2023 Annual Financial Statements. (Provided under separate cover)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

Mayor Ryan Palmer vacated the chair and left the meeting at 7:24pm and the Deputy Mayor, Cr Leah Anderson chaired the meeting.

ITEM NO. 5

FILE NO: 23/180468
EDRMS NO: PSC2015-01492

AUDIT COMMITTEE ANNUAL REPORT 2022 TO 2023

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Audit Committee 2022 to 2023 Annual Report as presented **(ATTACHMENT 1)**.
-

ORDINARY COUNCIL MEETING - 24 OCTOBER 2023 MOTION

255	<p>Councillor Glen Dunkley Councillor Chris Doohan</p> <p>It was resolved that Council endorse the Audit Committee 2022 to 2023 Annual Report as presented (ATTACHMENT 1).</p>
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Mayor Ryan Palmer returned at 7:27pm and resumed the chair.

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present to Council the Audit Committee's Annual Report for the period 2022 to 2023.

The Audit Committee has been established in accordance with the Office of Local Government 'Best Practice Guidelines 08/64'.

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

The Annual Report to Council summarises the Audit Committee's activities for the 2022 to 2023 period in accordance with the Audit Committee Charter, item 5.1 Reporting to Council (**ATTACHMENT 1**).

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Deliver governance services and internal audit program

FINANCIAL/RESOURCE IMPLICATIONS

Costs associated with the activities of the Audit Committee and development of the Annual Report are covered within existing budget.

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

Audit Committee activities remain consistent with the Audit Committee Charter, all relative legislative requirements and the Office of Local Government Guidelines.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council is not compliant with the Audit Committee Charter and relevant legislation.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that the Audit Committee will continue to add significant rigour to Council's governance framework, risk control, compliance and financial reporting and will enhance Council's reputation, operations and financial sustainability.

CONSULTATION

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

Internal

- Executive Team.
- Audit Committee officers.

External

- Audit Committee members.

OPTIONS

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

ATTACHMENTS

- 1) Audit Committee Annual Report - 2022 to 2023.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT - 2022 TO 2023.

PORT STEPHENS
COUNCIL

Audit Committee Annual Report 1 July 2022 to 30 June 2023

FOREWORD

This annual report provides commentary on the operations and activities of the Audit Committee (Committee) for the 2022 to 2023 financial year.

The Port Stephens Council (PSC) local government area covers 860 sq km with 220 sq km (23%) National Park, State Forest and Nature Reserves. It has a resident population of 76,540 which is estimated to rise to 82,050 by 2041.

PSC has 580 (EFT) staff and an operational budget of \$129M plus a capital works program of \$61M.

At its meeting held on 9 February 2010, Port Stephens Council (PSC) resolved to establish a Section 355c Audit Committee in accordance with the Office of Local Government's Best Practice Guidelines 08/64.

The charter objective of the Committee is to enhance the corporate governance of PSC through the provision of independent oversight, review and advice. The Committee assists Council by providing independent assurance and assistance on the organisation's governance, risk, control and compliance frameworks.

AUDIT COMMITTEE STRUCTURE AND MEETING ATTENDANCE

The Committee has 5 voting members. Three are independent members in accordance with the Office of Local Government's Best Practice Guidelines, and 2 Councillors represent Council on the committee, with 1 additional Councillor appointed as an alternate delegate.

Non-voting members include the General Manager, group managers, the Financial Services Section Manager, the Governance Section Manager and Enterprise Risk Manager. Representatives from Council's internal audit provider PKF and external audit provider (former RSM Australia Pty Ltd and current Prosperity Advisors Group) also attend meetings as required. The Audit Office's Financial Audit Director attends meetings as appropriate.

A quorum was available for the 4 meetings held during the 2022 to 2023 period. The meetings were held on 28 July 2022, 6 October 2022, 23 February 2023 and 25 May 2023.

A list of Audit Committee members and non-voting members for 2022 to 2023 is detailed below noting the number of meetings attended by each member.

Voting Members	Number of meetings attended
Mr Ben Niland (independent Chair).	3
Mr Frank Cordingley (independent member).	4
Mr Shaun Mahony (independent member).	4
Councillor Leah Anderson.	4
Councillor Chris Doohan.	2
Councillor Glen Dunkley (alternate delegate).	0

ITEM 5 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT - 2022 TO 2023.



PORT STEPHENS
COUNCIL

Audit Committee Annual Report 1 July 2022 to 30 June 2023

Non-voting Members	Number of meetings attended
General Manager (or representative).	4
Corporate Services Group Manager (or representative).	4
Development Services Group Manager (or representative).	4
Facilities & Services Group Manager (or representative).	4
Financial Services Section Manager.	4
Governance Section Manager.	4
Enterprise Risk Manager	4
Internal Auditor representative.	4
External Auditor representative.	3
Financial Audit Director (Audit Office).	2

COMMITTEE'S PERFORMANCE REVIEW

The Committee continues to perform well overall against the core responsibilities contained in its charter. The Council is benefiting from a stable, skilled and experienced membership that is suitably qualified and works in a collegiate fashion.

Annual survey results are reported separately to the Committee. Completed by 5 respondents results of the 2022-2023 annual review showed that participants agreed that the Committee performed well against its core responsibilities.

SUMMARY OF RECOMMENDATIONS

The Audit Office made 2 recommendations in its external audit management letter for 2022, which was received in the 2022 to 2023 period.

1. Council's use of the consumption curve-based depreciation methodology

Recommendation: Management should:

- ensure the useful life estimates used under the consumption curve-based depreciation methodology are supported by Council's existing asset management data and plans.
- work with the audit team to complete the audit's review of depreciation methodology before 30 June 2023.

Management response: Disagree. Port Stephens Council has adopted the asset consumption method for some considerable time and has the appropriate supporting documentation to support its continued use. The use of this method has been vetted & accepted by multiple audit firms in the past, by external asset experts as well as being developed with the Institute of Public Works Engineering Australasia NSW Asset Management Panel. Asset consumption depreciation is widely considered to be best practice.

2. Enhancement of IT access management procedures

ITEM 5 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT - 2022 TO 2023.



PORT STEPHENS
COUNCIL

Audit Committee Annual Report 1 July 2022 to 30 June 2023

Recommendation: Management should perform user access reviews (privileged and general users) more frequently, preferably once a month.

Management response: Disagree. Council considers the current control of a 6 monthly review of system accesses is appropriate for the inherent risks and have been assessed. Council is confident that with our low turnover rates & our processes committed to the change management process controls the risk to acceptable levels.

There were 13 internal audit recommendations provided to the Committee as part of 6 internal audit reviews undertaken during this reporting period.

The following internal audit reviews were completed during the period, with no serious internal control weaknesses identified.

Audit Review	Risk Rating
Environmental risk	Low-Medium
Elected members reimbursements	Low
Risk management framework	N/A
Compliance Audits	
National Heavy Vehicle Accreditation Scheme	
RMS DRIVES	

OPINION: RISK/CONTROL FRAMEWORK

A key role of the committee is to review and monitor the effectiveness of the key controls in place to manage and mitigate the risks encountered by Council. These matters include operational, strategic, financial and fraud control environments, as well as ensuring adequate insurance coverage and business continuity planning.

During 2022 to 2023 the committee considered the high priority risks facing the organisation and monitored risk treatment plans established by management to reduce or mitigate those risk exposures.

Material risks in 2022 to 2023 have been dominated by the influence of the COVID-19 pandemic and natural disaster on Council's operations and the local government area (LGA). Those material risks included:

- Natural disaster (including pandemic and flooding) affecting the local government area.
- Financial risk regarding revenue streams.
- Injury to workers – including consideration of greater work-from-home presence and distancing implications on the workforce and operations.
- Effective management of contracts and contractors.
- Strategic and operational impacts of State and Federal government decisions (notably during COVID-19 pandemic period).
- Quality of data and management systems for effective decision-making.
- Relationships between Councillors and/or management.

ITEM 5 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT - 2022 TO 2023.**PORT STEPHENS
COUNCIL****Audit Committee Annual Report
1 July 2022 to 30 June 2023****SUMMARY OF WORK – HIGHLIGHTS****RISK MANAGEMENT**

- Received and reviewed Enterprise Risk reports focusing on the high priority risks facing the organisation and monitored risk treatment plans established by management to reduce or mitigate those risk exposures.

CONTROL FRAMEWORK

- Received and reviewed relevant policy, directives and procedures as required.

EXTERNAL ACCOUNTABILITY

- Completed a review of the financial statements prior to submission to the Office of Local Government.

COMPLIANCE

- Noted information provided in presentations and reports on credit cards in Local Government.
- Noted EFT Audit of payments made to employee bank accounts.

INTERNAL AUDIT

- Reviewed and endorsed the internal audit plan.
- Reviewed internal audit actions and implementation.
- Noted results of 3 completed internal audit reviews. No serious internal control weaknesses were reported.
- Noted results of 2 completed compliance audits.

EXTERNAL AUDIT

- Received and noted the Annual Engagement Plan.
- Reviewed the management letter and ensured corrective action was established in a suitable action plan.

LEGAL MATTERS

- As at 11 May 2023: 7 legal matters remained before the Courts; 4 matters remained with NCAT, and 8 court elected infringement notices are set to be heard before the Local Court.

COST OF AUDIT ACTIVITIES

- The total cost to Council for audit activities for the period is \$172,063 compared to \$150,645 for the previous 2021 to 2022 period.



PORT STEPHENS
COUNCIL

**Audit Committee Annual Report
1 July 2022 to 30 June 2023**

COMMENTS

1. The committee is very satisfied with the improvements made in the risk management space of Council's operations this year. On the back of the introduction of the new software package (ProTecht) last year, the reporting information has been well received by the Committee and provided a greater level of oversight.
2. The committee thanks the non-voting members (staff) for their regular attendance and willingness to be involved in open discussions with voting committee members.
3. This report will be the final report provided by me as part of this committee. I have enjoyed the collegiality of former voting members, the staff, the auditors, various subject matter experts providing advice to the committee. On reflection of 10 years being part of this committee, I believe the work of the group is of a high standard and monitors key risks well with staff never being afraid to discuss difficult or complex matters. I wish the future committee well in its future endeavours.

Ben Niland

18/09/2023

BEN NILAND – CHAIR

DATE

ITEM NO. 6

**FILE NO: 23/251606
EDRMS NO: PSC2010-00009**

POLICY: PUBLIC INTEREST DISCLOSURE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorses the new Public Interest Disclosures policy shown at **(ATTACHMENT 1)**.
- 2) Places the Public Interest Disclosures policy, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revokes the Internal Reporting policy dated 26 July 2022, Minute No. 196 should no submissions be received.

**ORDINARY COUNCIL MEETING - 24 OCTOBER 2023
MOTION**

256	<p>Councillor Chris Doohan Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorses the new Public Interest Disclosures policy shown at (ATTACHMENT 1).2) Places the Public Interest Disclosures policy, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.3) Revokes the Internal Reporting policy dated 26 July 2022, Minute No. 196 (ATTACHMENT 2) should no submissions be received.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is seek Council's endorsement of the new Public Interest Disclosures policy (the policy). The policy replaces the Internal Reporting policy.

The Public Interest Disclosures Act 2022 (PID Act) commences from October 2023, replacing the Public Interest Disclosures Act 1994. The PID Act only applies to public officials.

The policy is a requirement under the PID Act and will provide a framework from all council officials to report serious wrongdoing, protect those who speak up from detriment, take active steps to maintain the confidentiality of reports, impose duties on councils/agencies who receive reports of wrongdoing to take appropriate action to investigate.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Deliver governance services and internal audit program

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

The PID Act 2022 provides for public officials to have multiple pathways to report serious wrongdoing. This includes reporting to a disclosure officer, their manager and other agencies, such as integrity agencies.

The threshold for what is considered detrimental action has been lowered, and the associated penalties for the detrimental action offence have been increased, when compared to the 1994 Act.

Clarity is provided in the PID Act 2022 on what agencies are expected to do with a report when it is received, how they must deal with a report once it is identified that it is a PID and what they must do if serious wrongdoing is found to have occurred. The

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PID Act 2022 also outlines when an agency must communicate with a PID maker and with the NSW Ombudsman.

Under this framework, all agencies must ensure they have:

- systems in place to manage confidentiality
- welfare support mechanisms for PID makers and,
- procedures for assessing the risk of detrimental action and implementing risk mitigation strategies.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that in the absence of policy framework, Council would not meet the requirements of the Public Interest Disclosure Act 2022.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

- General Manager
- Executive Team

External

The policy will be placed on public exhibition for 28 days to seek community feedback.

OPTIONS

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

ATTACHMENTS

- 1) Public Interest Disclosures Policy.
- 2) Internal Reporting Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 6 – ATTACHMENT 1 – PUBLIC INTEREST DISCLOSURES POLICY

Policy



FILE NO: PSC2010-00009

TITLE: PUBLIC INTEREST DISCLOSURES

OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to ensure Port Stephens Council (Council) complies with section 42 of the Public Interest Disclosures Act 2022 (PID Act).
- 1.2 Council takes reports of serious wrongdoing seriously. Council is committed to building a 'speak up' culture where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

2. CONTEXT/BACKGROUND:

- 2.1 The previous Internal Reporting policy framework under the Public Interest Disclosures Act 1994 is now required to be replaced with this policy with the introduction of the PID Act.
- 2.2 The integrity of Council relies upon our staff, volunteers, contractors and subcontractors speaking up when they become aware of wrongdoing.
- 2.3 This policy sets out:
 - how Council will support and protect you if you come forward with a report of serious wrongdoing
 - how we will deal with the report and our other responsibilities under the PID Act
 - who to contact if you want to make a report
 - how to make a report
 - the protections which are available to you under the PID Act.
- 2.4 This policy also documents our commitment to building a speak up culture. Part of that speak up culture is having in place a framework that facilitates public interest reporting of wrongdoing by:
 - protecting those who speak up from detrimental action
 - imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.



Policy



- 2.5 In NSW, that framework is the PID Act.
- 2.6 This policy should be read in conjunction with a number other relevant policies such as the Code of Conduct, Fraud and Corruption Control policy, Gifts and Benefits policy, Pecuniary Interest Returns policy and the Statement of Business Ethics. These policies, together with this policy are available from Council's website at <https://www.portstephens.nsw.gov.au/council/policies-and-guidelines/policies>. Council employees will also be able to access the policies internally from Myport (the intranet).

3. SCOPE:

- 3.1 The policy applies to, and for the benefit of, all public officials within or engaged by Council. This definition may also extend to those external to Council. You are a public official if you are:
- a person employed in or by an agency or otherwise in the service of an agency
 - a person having public official functions or acting in a public official capacity whose conduct or activities an integrity agency is authorised by another Act or law to investigate
 - an individual in the service of the Crown
 - a statutory officer
 - a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer
 - an employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of an agency or exercises functions of an agency, and are involved in providing those services or exercising those functions
 - a judicial officer
 - a Member of Parliament (**MP**), including a Minister
 - a person employed under the Members of Parliament Staff Act 2013.
- 3.2 The General Manager, other nominated disclosure officers and managers within Council have specific responsibilities under the PID Act. This policy also provides information on how people in these roles will fulfil their responsibilities. Other public officials who work in and for the public sector, but do not work for Council may use this policy if they want information on who they can report wrongdoing to within Council.
- 3.3 Complaints that does not fall under the scope of the Act, may be considered under other complaint policies found on Council's website, such as the Complaints Handling Policy and the Code of Conduct.



Policy



3.4 How to make a report of serious wrongdoing

Reports, complaints and grievances

- 3.4.1 When a public official reports suspected or possible wrongdoing in the public sector, their report will be a Public Interest Disclosure (PID) if it has certain features which are set out in the PID Act.
- 3.4.2 Some internal complaints or internal grievances may also be PIDs, as long as they have the features of a PID. If an internal complaint or grievance is a report of serious wrongdoing, we will consider whether it is a PID. If it is a PID, we will deal with it as set out in this policy, but we will also make sure we follow the Code of Conduct.
- 3.4.3 It is important that we quickly recognise that we have received a PID. This is because once a PID is received, the person who has made the report is entitled to certain protections and we have certain decisions that we have to make on how we will deal with the PID and how we will protect and support the person who has made the report.

When will a report be a PID?

3.4.5 There are three types of PIDs in the PID Act. These are:

- a) **Voluntary PID:** This is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know.
- b) **Mandatory PID:** This is a PID where the public official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
- c) **Witness PID:** This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

3.4.6 This policy mostly relates to making a voluntary PID and how we will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in clause 3.5 of this policy.

3.4.7 You can find more information about mandatory and witness PIDs in the Ombudsman's guidelines 'Dealing with mandatory PIDs' and 'Dealing with witness PIDs'.



Policy



3.4.8 Voluntary PIDs are the kind of PIDs most people have in mind when they think about public interest reporting and 'whistleblowing'.

3.4.9 They involve a public official making a report because they have information that they believe shows (or tends to show) serious wrongdoing, where they are not under a legal obligation to make that report and where it is not an ordinary part of their role to report such wrongdoing.

3.4.10 A report is a voluntary PID if it has the following five features, which are set out in sections 24 to 27 of the PID Act:

1. A report is made by a public official

2. It is made to a person who can receive voluntary PIDs

3. The public official honestly and reasonably believes that the information they are providing shows (or tends to show) serious wrongdoing

4. The report was made orally or in writing

5. The report is voluntary (meaning it is not a mandatory or witness PID)

3.4.11 If the report has all five features, it is a voluntary PID.

3.4.12 You will not be expected to prove that what you reported actually happened or is serious wrongdoing. You do have to honestly believe, on reasonable grounds, that the information you are reporting shows or tends to show serious wrongdoing.

3.4.13 Even though you do not have to prove the serious wrongdoing happened or provide evidence, a mere allegation with no supporting information is unlikely to meet this test.

3.4.14 If we make an error and do not identify that you have made a voluntary PID, you will still be entitled to the protections under the PID Act.

3.4.15 If you make a report and believe we have made an error by not identifying that you have made a voluntary PID, you should raise this with a nominated disclosure officer or your contact officer for the report. If you are still not satisfied with this outcome, you can seek an internal review or we make seek to conciliate the matter. You may also contact the NSW Ombudsman. Further information on rights to internal review and conciliation is found in clause 3.10 of this policy.



Policy



Who can make a voluntary PID?

3.4.16 Any public official can make a voluntary PID — see clause 3.1 of this policy
You are a public official if:

- you are employed by Council
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of Council, or
- you work for an entity (such as a non-government organisation) who is contracted by Council to provide services or exercise functions on behalf of Council — if you are involved in undertaking that contracted work.

3.4.17 A public official can make a PID about serious wrongdoing relating to any agency, not just the agency they are working for. This means that we may receive PIDs from public officials outside Council. It also means that you can make a PID to any agency, including an integrity agency like the Independent Commission Against Corruption (ICAC) and the NSW Ombudsman. Annexure B of this policy has a list of integrity agencies.

What is serious wrongdoing?

3.4.18 Reports must be of one or more of the following categories of serious wrongdoing to be a voluntary PID (in addition to having the other features set out here). Serious wrongdoing is defined in the PID Act as:

- **corrupt conduct** — such as a public official accepting a bribe
- **serious maladministration** — such as an agency systemically failing to comply with proper recruitment processes when hiring staff
- **a government information contravention** — such as destroying, concealing or altering records to prevent them from being released under a Government Information Public Access application
- **a local government pecuniary interest contravention** — such as a senior council staff member recommending a family member for a council contract and not declaring the relationship
- **a privacy contravention** — such as unlawfully accessing a person's personal information on an agency's database
- **a serious and substantial waste of public money** — such as an agency not following a competitive tendering process when contracting with entities to undertake government work.

3.4.19 When you make your report, you do not need to state to Council what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing.

Who can I make a voluntary PID to?



Policy



3.4.20 For a report to be a voluntary PID, it must be made to certain public officials.

Making a report to a public official who works for Council.

3.4.21 You can make a report inside Council to:

- the General Manager
- a disclosure officer for Council — a list of disclosure officers for Council and their contact details can be found at Annexure A of this policy
- your manager this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer.

Making a report to a recipient outside of Council

3.4.22 You can also make your report to a public official in another agency (meaning an agency you do not work for) or an integrity agency. These include:

- the **head of another agency** — this means the head of any public service agency
- an **integrity agency** — a list of integrity agencies is located at Annexure B of this policy
- a **disclosure officer for another agency** — ways to contact disclosure officers for other agencies is located in an agency's PID policy which can be found on their public website
- a **Minister or a member of a Minister's staff** but the report must be made in writing.

3.4.23 If you choose to make a disclosure outside of Council, it is possible that your disclosure will be referred back to Council so that appropriate action can be taken.

Making a report to a Member of Parliament or journalist

3.4.24 Disclosures to MPs or journalists are different to other reports. You can only disclose a report of wrongdoing as a voluntary PID to an MP or journalist in the following circumstances:

- You must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.



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- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from Council:
 - notification that Council will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
 - the following information at the end of the investigation period:
 - notice of Council's decision to investigate the serious wrongdoing
 - a description of the results of an investigation into the serious wrongdoing
 - details of proposed or recommended corrective action as a result of the previous disclosure or investigation.

3.4.25 Investigation period means:

- after six months from the previous disclosure being made, or
- after 12 months if you applied for an internal review of the Council's decision within six months of making the disclosure.

3.4.26 If all the above requirements are met, your disclosure to an MP or journalist may be a voluntary PID.

What form should a voluntary PID take?

3.4.27 You can make a voluntary PID:

- **in writing** — this could be an email or letter to a person who can receive voluntary PIDs.
- **orally** — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually.
- **anonymously** — write an email or letter or call a person who can receive PIDs to make a report without providing your name or anything that might identify you as the maker of the report. A report will only be considered anonymous if there is no reasonable or practical way of communicating with the person making the report. Even if you choose to remain anonymous, you will still be protected under the PID Act. It may be difficult, however, for Council to investigate the matter(s) you have disclosed if we cannot contact you for further information.
- PIDs can be emailed to PID@portstephens.nsw.gov.au



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What should I include in my report?

3.4.28 You should provide as much information as possible so we can deal with the report effectively. The type of information you should include is:

- date, time and location of key events
- names of person(s) involved in the suspected wrongdoing, their role, title and how they are involved
- your relationship with the person(s) involved, such as whether you work closely with them
- your explanation of the matter you are reporting
- how you became aware of the matter you are reporting
- possible witnesses
- other information you have that supports your report.

What if I am not sure if my report is a PID?

3.4.29 You should report all wrongdoing you become aware of regardless of whether you think it is serious wrongdoing. It is important for Council to understand what is or may be occurring.

3.4.30 We are then responsible for making sure your report is handled appropriately under the PID Act, or if it is not a PID, in line with our other procedures. Even if your report is not a PID, it may fall within another one of Council's policies for dealing with reports, allegations or complaints.

Deeming that a report is a voluntary PID

3.4.31 The General Manager and/or the Governance Section Manager can, in certain circumstances, determine that a report is a voluntary PID even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'.

3.4.32 By deeming that a report is a voluntary PID, it ensures that reporters are provided with protections under the PID Act.

3.4.33 If you make a report that has not met all the requirements of a voluntary PID, you can refer your matter to the General Manager and/or Governance Section Manager to request that they consider deeming your report to be a voluntary PID.

3.4.34 A decision to deem a report to be a voluntary PID is at the discretion of the General Manager and/or Governance Section Manager. For more information



Policy



about the deeming power, see the Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

Who can I talk to if I have questions or concerns?

- 3.4.35 All enquiries can be directed to the Governance Section Manager, Legal Services Manager or the Governance Coordinator at Council.
- 3.4.36 Should you wish to raise concerns confidentially, it may be appropriate to contact the Governance Section Manager, Legal Services Manager or the Governance Coordinator to arrange a meeting at a suitable location and time.

3.5 Protections

How is the maker of a voluntary PID protected?

- 3.5.1 When you make a voluntary PID you receive special protections under the PID Act.
- 3.5.2 Council is committed to taking all reasonable steps to protect you from detriment as a result of having made a PID. We are also committed to maintaining your confidentiality as much as possible while the PID is being dealt with.
- 3.5.3 We will not tolerate any type of detrimental action being taken against you because you have made a report, might make a report or are believed to have made a report.
- 3.5.4 The maker of a voluntary PID is protected in the following ways:
- i) Protection from detrimental action
 - A person cannot take detrimental action against another person because they have made a voluntary PID or are considering making a PID. Detrimental action includes bullying, harassment, intimidation or dismissal.
 - Once we become aware that a voluntary PID by a person employed or otherwise associated with Council that concerns serious wrongdoing relating to Council has been made, Council will undertake a risk assessment and take steps to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.
 - It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.



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- A person may seek compensation where unlawful detrimental action has been taken against them.
- A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).

Note that a person who makes a PID can still be subject to reasonable management action (such as ordinary performance reviews and performance management). Provided such action is not taken because of the PID, it is not detrimental action under the PID Act.

ii) Immunity from civil and criminal liability

Some public officials are often subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, in order to make a PID, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued or criminally charged for breaching confidentiality.

iii) Confidentiality

Public officials and agencies must not disclose information tending to identify a person as the maker of a voluntary PID unless doing so is permitted by the PID Act.

iv) Protection from liability for own past conduct

The Attorney General can give the maker an undertaking that a disclosure of their own past conduct will not be used against them if a person discloses their own wrongdoing or misconduct while making a report. This undertaking can only be given on application by an integrity agency to the Attorney General.

Protections for people who make mandatory and witness PIDs

3.5.5 Apart from PIDs that are made voluntarily by public officials, there are other types of reports that are recognised as PIDs under the PID Act:

- **A mandatory PID:** This is a PID where the public official has made the report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
- **A witness PID:** This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.



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3.5.6 Protections for makers of mandatory and witness PIDs are detailed in the table below.

Protection	Mandatory PID	Witness PID
Detrimental action — It is an offence to take detrimental action against a person based on the suspicion, belief or awareness that a person has made, may have made or may make a PID.	✓	✓
Right to compensation — A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.	✓	✓
Ability to seek injunction — An injunction can be sought to prevent the commission or possible commission of a detrimental action offence against a person. For example, an order to prevent dismissal or to require reinstatement.	✓	✓
Immunity from civil and criminal liability — a person will not incur civil or criminal liability if the person breaches a duty of confidentiality while making a disclosure. This means that legal action cannot be taken against a person for: <ul style="list-style-type: none"> breaching a duty of secrecy or confidentiality, or breaching another restriction on disclosure. 	✓	✓

3.6 Reporting detrimental action

3.6.1 If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to Council, or to an integrity agency.

3.6.2 Reports of detrimental action may be reported to the Governance Section Manager, Legal Services Manager or the Governance Coordinator or alternatively through the confidential email address at pid@portstephens.nsw.gov.au

3.6.3 A list of integrity agencies is located at Annexure B of this policy.



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3.7 General support

- 3.7.1 Council will assign a key contact person to each maker of a PID at the time of lodgement. This person will support you through the process and take steps to protect your interest, specially in relation to the risk of detrimental action.
- 3.7.2 PID makers may also contact the Employee Assistance Program provider NewPsych by telephone 02 4926 5005 or <https://www.newpsych.com.au/eap-counselling>
- 3.7.3 Alternatively, you can contact the NSW Ombudsman should you have any questions about the PID Act and reporting generally. The NSW Ombudsman can be contacted at <https://www.ombo.nsw.gov.au/>

3.8 Roles and responsibilities of Council employees

3.8.1 General Manager

- a) The General Manager is responsible for:
 - fostering a workplace culture where reporting is encouraged
 - receiving disclosures from public officials
 - ensuring there is a system in place for assessing disclosures
 - ensuring the Council complies with this policy and the PID Act
 - ensuring that the Council has appropriate systems for:
 - overseeing internal compliance with the PID Act
 - supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action
 - implementing corrective action if serious wrongdoing is found to have occurred
 - complying with reporting obligations regarding allegations or findings of detrimental action
 - complying with yearly reporting obligations to the NSW Ombudsman.

b) Disclosure coordinator

The Disclosures Coordinator has a central role in the Council's internal reporting system. The Disclosures Coordinator can receive and assess reports, and is the primary point of contact in the Council for the reporter.



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The Disclosures Coordinator has a responsibility to:

- assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager)
- deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
- coordinate the Council's response to a report
- acknowledge reports and provide updates and feedback to the maker
- assess whether it is possible and appropriate to keep the maker's identity confidential
- assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensure the Council complies with the PID Act
- assist the General Manager with yearly reporting obligations to the NSW Ombudsman.

c) Disclosure officers

Disclosure officers are responsible for:

- receiving reports from public officials
- receiving reports when they are passed on to them by managers
- ensuring reports are dealt with appropriately, including by referring the matter to the Disclosure Coordinator
- ensuring that any oral reports that have been received are recorded in writing.

d) Managers

The responsibilities of managers include:

- receiving reports from persons that report to them or that they supervise
- passing on reports they receive to a disclosure officer or the disclosure coordinator.



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e) All employees

All employees must:

- report suspected serious wrongdoing or other misconduct
- use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary PID on behalf of Council
- treat any person dealing with or investigating reports of serious wrongdoing with respect.

All employees must not take detrimental action against any person who has made, may in the future make, or is suspected of having made, a PID.

3.9 How Council will deal with voluntary PIDs

How Council will acknowledge that we have received a report and keep the person who made it informed

3.9.1 When a disclosure officer in Council receives a report which is a voluntary PID, or looks like it may be a voluntary PID, they must ensure the PID is provided to the Disclosure Coordinator to ensure the person who made the report will receive the following information:

- i) You will receive an acknowledgment that the report has been received. This acknowledgement will:
 - a) state that the report will be assessed to identify whether it is a PID
 - b) state that the PID Act applies to how Council deals with the report
 - c) provide clear information on how you can access this PID policy
 - d) provide you with details of a contact person and available supports.
- ii) If the report is a voluntary PID, we will inform you as soon as possible how we intend to deal with the report. This may include:
 - a) that we are investigating the serious wrongdoing
 - b) that we will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If we do this, we will provide you with details of this referral
 - c) If we decide to not investigate the report and to not refer it to another agency for it to be investigated, we will tell you the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- iii) If we decide to investigate the serious wrongdoing, we will provide you with updates on the investigation at least every three months. During this time, if you would like more frequent updates, you should contact the contact person who was nominated when you made the report.



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- a) If we investigate the serious wrongdoing, we will provide you with the following information once the investigation is complete:
 - a description of the results of the investigation — that is, we will tell you whether we found that serious wrongdoing took place.
 - information about any corrective action as a result of the investigation/s — this means we will tell you what action we took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by Council, what we have put in place to address that serious wrongdoing.
- b) Corrective action could include taking disciplinary action against someone or changing the practices, policies and procedures that we have in place which led to the serious wrongdoing.
- iv) There may be some details about both the findings made as a result of the investigation and the corrective action taken that cannot be revealed to you. We will always balance the right of a person who makes a report to know the outcome of that report, with other legal obligations we have.
- v) If you have made an anonymous report, in many cases we may not be able to provide this information to you.

How Council will deal with voluntary PIDs

3.9.2 Once a report that may be a voluntary PID is received Council will look at the information contained in the report to see if it has the features of a voluntary PID. This assessment is undertaken to identify whether the report is a voluntary PID or another type of disclosure, and to make sure that the right steps are followed. If it is a voluntary PID, we will ensure that we comply with the requirements in the PID Act.

3.9.3 The report will be referred to the Disclosure Coordinator for assessment and the ongoing management of the report.

3.9.4 The maker of the PID may contact the Disclosure Coordinator at any time to make enquiries.

Report not a voluntary PID

3.9.5 Even if the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with Council's Code of Conduct or Complaints Handling Policy processes by the Governance Section.

3.9.6 If the report is not a voluntary PID, we will let you know that the PID Act does not apply to the report and how we will deal with the concerns raised in the report.



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- 3.9.7 If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review or request that the matter be conciliated. Council can, but do not have to, request the NSW Ombudsman to conciliate the matter.

Cease dealing with report as voluntary PID

- 3.9.8 Council may stop dealing with a voluntary PID because it is not actually a voluntary PID (meaning it does not have all the features of a PID).
- 3.9.9 Where Council ceases to deal with a PID the maker of the PID will be advised in writing and reasons will be provided as to why Council has ceased to deal with the PID.

Where a report is a voluntary PID

- 3.9.10 If the report is a voluntary PID:

- i) In most cases we will conduct an investigation to make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether the people involved, or the Council engaged, in serious wrongdoing. There may be circumstances where we believe an investigation is not warranted — for example, if the conduct has previously been investigated.
- ii) There may also be circumstances where we decide that the report should be referred to another agency, such as an integrity agency. For example, reports concerning possible corrupt conduct may be required to be reported to the ICAC in accordance with section 11 of the Independent Commission Against Corruption Act 1988.
- iii) Before referring a matter, we will discuss the referral with the other agency, and we will provide you with details of the referral and a contact person within the other agency.
- iv) If we decide not to investigate a report and to not refer the matter to another agency, we must let you know the reasons for this and notify the NSW Ombudsman.
- v) There may be occasions where Council will engage an external investigator to conduct the investigation. Where will occurs you will be notified and provided with a support person within Council to support you through the process.



Policy



How Council will protect the confidentiality of the maker of a voluntary PID

- 3.9.11 Council understand that people who make voluntary PIDs may want their identity and the fact that they have made a report to be confidential.
- 3.9.12 Under the PID Act, information tending to identify a person as the maker of a voluntary PID (known as identifying information) is not to be disclosed by a public official or an agency.
- 3.9.13 There are certain circumstances under the PID Act that allow for the disclosure of identifying information. These include:
- i) where the person consents in writing to the disclosure
 - ii) where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
 - iii) when the public official or Council reasonably considers it necessary to disclose the information to protect a person from detriment
 - iv) where it is necessary the information be disclosed to a person whose interests are affected by the disclosure
 - v) where the information has previously been lawfully published
 - vi) when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
 - vii) when the information is disclosed for the purposes of proceedings before a court or tribunal
 - viii) when the disclosure of the information is necessary to deal with the disclosure effectively
 - ix) if it is otherwise in the public interest to disclose the identifying information.
- 3.9.14 Council will not disclose identifying information unless it is necessary and authorised under the PID Act.
- 3.9.15 Council will put in place steps to keep the identifying information of the maker and the fact that a report has been made confidential. It may not be possible for Council to maintain complete confidentiality while we progress the investigation, but we will do all that we practically can to not unnecessarily disclose information from which the maker of the report can be identified. We will do this by:
- i) We will limit the number of people who are aware of the maker's identity or information that could identify them
 - ii) If we must disclose information that may identify the maker of the PID, we will still not disclose the actual identity of the maker of the PID, unless we have their consent to do so

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- iii) We will ensure that any person who does know the identity of the maker of a PID is reminded that they have a legal obligation to keep their identity confidential
- iv) We will ensure that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker
- v) We will undertake an assessment to determine if anyone is aware of the maker's identity and if those persons have a motive to cause detrimental action to be taken against the maker or impede the progress of the investigation
- vi) We will provide information to the maker of the PID about the importance of maintaining confidentiality and advising them how best to protect their identity, for example, by telling them not to discuss their report with other staff, family or friends.

3.9.16 If confidentiality cannot be maintained or is unlikely to be maintained, Council will:

- i) advising the person whose identity may become known
- ii) updating the Council's risk assessment
- iii) implementing strategies to minimise the risk of detrimental action
- iv) providing additional supports to the person who has made the PID
- v) reminding persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental action is a criminal offence and may also be a disciplinary matter.

How Council will assess and minimise the risk of detrimental action

3.9.17 Council will not tolerate any detrimental action being taken by any person against a person who has made a PID, investigators, witnesses or the person the report is about.

3.9.18 Council will assess and take steps to mitigate detrimental action from being taken against the maker of a voluntary PID, the person whose conduct is the subject of a PID, investigators and witnesses.

3.9.19 Council will take steps to assess and minimise the risk of detrimental action by:

- i) explaining that a risk assessment will be undertaken (including reassessing the risk throughout the entirety of the matter)
- ii) providing details of the unit/role that will be responsible for undertaking a risk assessment
- iii) explaining the approvals for risk assessment, that is, role of the person who has final approval
- iv) explaining how the Council will communicate with the maker to identify risks



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- v) listing the protections that will be offered, that is, the Council will discuss protection options with the maker which may including remote working or approved leave for the duration of the investigation
- vi) outlining what supports will be provided.

3.9.20 Detrimental action against a person is an act or omission that causes, comprises, involves or encourages detriment to a person or a threat of detriment to a person (whether express or implied). Detriment to a person includes:

- i) injury, damage or loss
- ii) property damage
- iii) reputational damage
- iv) intimidation, bullying or harassment
- v) unfavourable treatment in relation to another person's job
- vi) discrimination, prejudice or adverse treatment
- vii) disciplinary proceedings or disciplinary action, or
- viii) any other type of disadvantage.

3.9.21 Detrimental action does not include:

- i) lawful action taken by a person or body to investigate serious wrongdoing or other misconduct
- ii) the lawful reporting or publication of a finding of serious wrongdoing or other misconduct
- iii) the lawful making of adverse comment, resulting from investigative action
- iv) the prosecution of a person for a criminal offence
- v) reasonable management action taken by someone in relation to a person who made or may make a PID. For example, a reasonable appraisal of a PID maker's work performance.

How Council will deal with allegations of a detrimental action offence

3.9.22 If Council become(s) aware of an allegation that a detrimental action offence has occurred or may occur, Council will:

- i) take all steps possible to stop the action and protect the person(s)
- ii) take appropriate disciplinary action against anyone that has taken detrimental action
- iii) refer any evidence of a detrimental action offence to the Commissioner of Police and the ICAC or the Law Enforcement Conduct Commission (whichever is applicable)
- iv) notify the NSW Ombudsman about the allegation of a detrimental action offence being committed
- v) all referrals for alleged detrimental action offences will be undertaken by the General Manager and/or the Disclosure Coordinator



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- vi) the person subject of the detrimental action may contact the Disclosure Coordinator at any time concerns detrimental action/s.

What Council will do if an investigation finds that serious wrongdoing has occurred

3.9.23 If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, Council will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action.

3.9.24 Corrective action can include:

- i) a formal apology
- ii) improving internal policies to adequately prevent and respond to similar instances of wrongdoing
- iii) providing additional education and training to staff where required
- iv) taking employment action against persons involved in the wrongdoing (such as termination of employment, relocation, a caution or reprimand)
- v) payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

3.9.25 The procedure for taking corrective action will include:

- i) Only relevant manager/s will receive information about the findings of the investigation to assist with the implementation of any changes in process or policy. This may vary depending on the complexity of the investigation, however the sharing of information will be kept to a minimum.
- ii) The Disclosure Coordinator will liaise with the relevant areas of Council to ensure the corrective actions are implemented.
- iii) The Disclosure Coordinator will be responsible for notifying the maker of the corrective action/s.

3.10 Review and dispute resolution

Internal review

3.10.1 People who make voluntary PIDs can seek internal review of the following decisions made by Council:

- i) that Council is not required to deal with the report as a voluntary PID
- ii) to stop dealing with the report because Council decided it was not a voluntary PID
- iii) to not investigate the serious wrongdoing and not refer the report to another agency



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- iv) to cease investigating the serious wrongdoing without either completing the investigation or referring the report to another agency for investigation.
- 3.10.2 Council will ensure internal reviews are conducted in compliance with the PID Act.
- 3.10.3 If you would like to make an application for an internal review, you must apply in writing within 28 days of being informed of Council's decision. The application should state the reasons why you consider Council's decision should not have been made. You may also submit any other relevant material with your application.
- 3.10.4 Applications for an internal review can be confidentially emailed to pid@portstephens.nsw.gov.au
- 3.10.5 An internal review will be conducted by a delegate appointed by the General Manager, a person not involved in the initial decision.
- 3.10.6 An internal review will be completed within 28 business days. If this not be possible Council will contact the applicant.

Voluntary dispute resolution

- 3.10.7 If a dispute arises between Council and a person who has made a report which is, or may be, a voluntary PID, we may request the NSW Ombudsman to conciliate the dispute. Conciliation is a voluntary process and will only be suitable for disputes where Council and the maker of the report are willing to resolve the dispute.

3.11 Other obligations

Record-keeping requirements

- 3.11.1 Council must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that Council complies with its obligations under the State Records Act 1998.
- 3.11.2 Council records are stored in the Electronic Document Records Management System (EDRMS). Each PID will be allocated a separate file and appropriate security levels will be put in place to ensure confidentiality.

Reporting of voluntary PIDs and Council annual return to the Ombudsman

- 3.11.3 Each year Council provide an annual return to the NSW Ombudsman which includes:



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- information about voluntary PIDs received by Council during each return period (yearly with the start date being 1 July)
- action taken by Council to deal with voluntary PIDs during the return period
- how Council promoted a culture in the workplace where PIDs are encouraged.
- the Governance Section Manager will be responsible for ensuring the information mentioned above is collected, submitting the annual return and capturing the information within the EDRMS.

How Council will ensure compliance with the PID Act and this policy

3.11.4 Council will monitor the compliance of the PID Act and this policy through the internal audit program, the Governance Section, and reports to the Audit, Risk and Improvement Committee.

3.11.5 Council will seek to correct any non-compliance as soon as reasonable practicable to ensure non-compliance is not repeated.

4. DEFINITIONS:

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

Council	means Port Stephens Council
EDRMS	means Electronic Document Records Management System
ICAC	means Independent Commission Against Corruption
PID	means Public Interest Disclosure
PID Act	means Public Interest Disclosure Act

5. STATEMENT:

5.1 Port Stephens Council is committed to ensuring that disclosures of corruption, maladministration or serious and substantial waste are dealt with in an appropriate way; maintaining confidentiality and providing support for all parties. Council encourages individuals to come forward with any matter that they become aware where wrongdoing may have occurred.

6. RESPONSIBILITIES:

6.1 The Mayor and General Manager are responsible for implementing and complying with on the policy.



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- 6.2 The Governance Section Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.
- 6.3 Disclosure officers are responsible for complying with and providing advice on the policy.
- 6.4 Supervisors and managers are responsible for implementing, complying with, and providing advice on the policy.
- 6.5 Any error or issue found in the policy should be referred to the Governance Section Manager at Council.

7. RELATED DOCUMENTS:

- 7.1 Port Stephens Council Code of Conduct
- 7.2 Local Government Act 1993
- 7.3 Public Interest Disclosures Act 2022
- 7.4 Government Information (Public Access) Act 2009
- 7.5 Independent Commission Against Corruption Act 1988

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Annexure A — Names and worksites of disclosure officers for Council. Please refer to the MyPort for contact details.

Position	Work site	Contact
General Manager	<ul style="list-style-type: none"> Administration Building 	02 4988 0246
Governance Section Manager (Disclosure Coordinator)	<ul style="list-style-type: none"> Administration Building 	02 4988 0187 pid@portstephens.nsw.gov.au
Mayor	<ul style="list-style-type: none"> Administration Building 	02 4988 0245
Director Corporate Strategy and Support	<ul style="list-style-type: none"> Administration Building Soldiers Point Holiday Park Shoal Bay Holiday Park Thou Walla Sunset Retreat Port Stephens Koala Sanctuary 	02 4988 0255
Director Community Futures	<ul style="list-style-type: none"> Administration Building Visitor Information Centre 	02 4988 0255
Director Facilities and Infrastructure	<ul style="list-style-type: none"> Administration Building Raymond Terrace Depot Nelson Bay Depot Medowie Depot Port Stephens Children's Services OOSH Raymond Terrace OOSH Clarence Town OOSH Seaham OOSH Grahamstown OOSH Boomerang Park OOSH Fern Bay OOSH Tomaree OOSH Shoal Bay OOSH Medowie OOSH Wirreanda Family Day Centre 	02 4988 0255
Assets Section Manager	<ul style="list-style-type: none"> Administration Building Raymond Terrace Depot Nelson Bay Depot 	02 4988 0255



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	<ul style="list-style-type: none"> • Medowie Depot 	
Capital Works Section Manager	<ul style="list-style-type: none"> • Administration Building • Raymond Terrace Depot • Nelson Bay Depot • Medowie Depot 	024988 0255
Communications and Customer Experience Section Manager	<ul style="list-style-type: none"> • Administration Building • Visitor Information Centre 	02 4988 0255
Community Services Section Manager	<ul style="list-style-type: none"> • Administration Building • Salamander Waste Transfer Station • Raymond Terrace Library • Tomaree Library and Community Centre • Port Stephens Children's Services • OOSH Raymond Terrace • OOSH Clarence Town • OOSH Seaham • OOSH Grahamstown • OOSH Boomerang Park • OOSH Fern Bay • OOSH Tomaree • OOSH Shoal Bay • OOSH Medowie • OOSH Wirreanda • Family Day Centre 	02 4988 0255
Development and Compliance Section Manager	<ul style="list-style-type: none"> • Administration Building 	02 4988 0255
Financial Services Section Manager	<ul style="list-style-type: none"> • Administration Building 	02 4988 0255
Holiday Parks Section Manager	<ul style="list-style-type: none"> • Halifax Holiday Park • Soldiers Point Holiday Park • Shoal Bay Holiday Park • Thou Walla Sunset Retreat • Port Stephens Koala Sanctuary 	02 4988 0255

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Organisation Support Section Manager	<ul style="list-style-type: none"> Administration Building 	02 4988 0255
Public Domain and Services Section Manager	<ul style="list-style-type: none"> Administration Building Raymond Terrace Depot Nelson Bay Depot Medowie Depot 	02 4988 0255
Strategy and Environment Section Manager	<ul style="list-style-type: none"> Administration Building 	02 4988 0255
Legal Services Manager	<ul style="list-style-type: none"> Administration Building 	02 4988 0255
Governance Coordinator	<ul style="list-style-type: none"> Administration Building 	02 4988 0255
Enterprise Risk Manager	<ul style="list-style-type: none"> Administration Building 	02 4988 0255
HR Manager	<ul style="list-style-type: none"> Administration Building 	02 4988 0255
Mechanical Maintenance & Cleaning Coordinator	<ul style="list-style-type: none"> Raymond Terrace Depot 	02 4988 0255
Mechanical Maintenance & Cleaning Coordinator	<ul style="list-style-type: none"> Nelson Bay Depot 	02 4988 0255
Library Services Manager	<ul style="list-style-type: none"> Raymond Terrace Library Tomaree Library and Community Centre 	02 4988 0255
Waste Management Coordinator	<ul style="list-style-type: none"> Salamander Waste Transfer Station 	02 4988 0255
Children Services Coordinator	<ul style="list-style-type: none"> Port Stephens Children's Services OOSH Raymond Terrace OOSH Clarence Town OOSH Seaham OOSH Grahamstown OOSH Boomerang Park OOSH Fern Bay OOSH Tomaree OOSH Shoal Bay OOSH Medowie OOSH Wirreanda Family Day Centre 	02 4988 0255
Holiday Parks Operations Manager	<ul style="list-style-type: none"> Halifax Holiday Park 	02 4988 0255

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	<ul style="list-style-type: none">• Soldiers Point Holiday Park• Shoal Bay Holiday Park• Thou Walla Sunset Retreat• Port Stephens Koala Sanctuary	
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Annexure B — List of integrity agencies

Integrity agency	What they investigate	Contact information
The NSW Ombudsman	Most kinds of serious maladministration by most agencies and public officials (but not NSW Police, judicial officers or MPs)	Telephone: 1800 451 524 between 9am to 3pm Monday to Friday Writing: Level 24, 580 George Street, Sydney NSW 2000 Email: info@ombo.nsw.gov.au
The Auditor-General	Serious and substantial waste of public money by auditable agencies	Telephone: 02 9275 7100 Writing: GPO Box 12, Sydney NSW 2001 Email: governance@audit.nsw.gov.au
Independent Commission Against Corruption	Corrupt conduct	Telephone: 02 8281 5999 or toll free on 1800 463 909 (callers outside Sydney) between 9am and 3pm, Monday to Friday Writing: GPO Box 500, Sydney NSW 2001 or faxing 02 9264 5364 Email: icac@icac.nsw.gov.au
The Inspector of the Independent Commission Against Corruption	Serious maladministration by the ICAC or the ICAC officers	Telephone: 02 9228 3023 Writing: PO Box 5341, Sydney NSW 2001 Email: oiicac_executive@oiicac.nsw.gov.au
The Law Enforcement Conduct Commission	Serious maladministration by the NSW Police Force or the NSW Crime Commission	Telephone: 02 9321 6700 or 1800 657 079 Writing: GPO Box 3880, Sydney NSW 2001 Email: contactus@lecc.nsw.gov.au
The Inspector of the Law Enforcement Conduct Commission	Serious maladministration by the LECC and LECC officers	Telephone: 02 9228 3023 Writing: GPO Box 5341, Sydney NSW 2001 Email: oilcc_executive@oilcc.nsw.gov.au

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Office of the Local Government	Local government pecuniary interest contraventions	Email: olg@olg.nsw.gov.au
The Privacy Commissioner	Privacy contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au
The Information Commissioner	Government information contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au

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EDRMS container No.	PSC2010-00009	EDRMS record No.	TBC
Audience	Elected members, Council employees, Council contractors, volunteers		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	3 years	Next review date	30 October 2026
Adoption date	TBC		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0		Governance Section Manager	New policy in accordance with the Public Disclosure Act 2022 and the NSW Ombudsman's model policy.	



ITEM 6 – ATTACHMENT 2 – INTERNAL REPORTING POLICY

Policy



FILE NO: PSC2010-00009

TITLE: INTERNAL REPORTING

OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of the Internal Reporting Policy (the 'policy') is to establish an internal reporting system for staff and Councillors to report wrongdoing without fear of reprisal. The policy sets out who you can report wrongdoing to in Port Stephens Council (Council), what can be reported and how reports of wrongdoing will be dealt with by Port Stephens Council.
- 1.2 This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a public interest issue in accordance with this policy and the Public Interest Disclosures Act 1994 (PID Act).
- 1.3 This policy is just one in the suite of Port Stephens Council's complaint handling policies.
- 1.4 The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised through the staff grievance process. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to Human Resources to be dealt with in accordance with the staff grievance process.

2. CONTEXT/BACKGROUND:

- 2.1 The PID Act requires Council to establish an internal reporting system. This system allows for the reporting of disclosures of corrupt conduct, maladministration or serious and substantial waste of public money. The Act commenced operation on 1 March 1995.
- 2.2 A review of the Protected Disclosures Act 1994, in 2010 amended the title of the Act to the Public Interest Disclosures Act 1994.

3. SCOPE:

- 3.1 Who does this policy apply to?
 - 3.1.1 This policy will apply to:



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- a) Mayor and Councillors
- b) permanent employees, whether full-time or part-time, temporary or casual employees
- c) consultants
- d) individual contractors and their employees working for Port Stephens Council
- e) other people who perform council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.

3.1.2 The policy also applies to public officials of another council or public authority who report wrongdoing relating to Port Stephens Council.

3.2 Roles and responsibilities

A. The role of council staff and Councillors

3.2.1 Staff, and Councillors play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All council staff and Councillors are obliged to:

- a) report all known or suspected wrongdoing and support those who have made reports of wrongdoing
- b) if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality
- c) treat any staff member or person dealing with a report of wrongdoing with courtesy and respect
- d) respect the rights of any person the subject of reports.

3.2.2 Staff and Councillors must not:

- a) make false or misleading reports of wrongdoing
- b) victimise or harass anyone who has made a report.

3.2.3 Additionally, the behaviour of all Council staff and Councillors involved in the internal reporting process must adhere to Council's Code of Conduct. A breach of the Code could result in disciplinary action.



Policy



B. The role of Port Stephens Council

- 3.2.4 Council has a responsibility to establish and maintain a working environment that encourages staff and Councillors to report wrongdoing and supports them when they do. This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and manage workplace conflict.
- 3.2.5 Council will assess all reports of wrongdoing it receives from staff and Councillors and deal with them appropriately. Once wrongdoing has been reported, Council takes 'ownership' of the matter. This means it is up to Council to decide whether a report should be investigated, and if so, how it should be investigated and by whom. Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.
- 3.2.6 Council must report on our obligations under the PID Act and statistical information about public interest disclosures in our annual report and to the NSW Ombudsman every 6 months.
- 3.2.7 To ensure Council complies with the PID Act and deals with all reports of wrongdoing properly, all staff and Councillors with roles outlined below and elsewhere in this policy will receive training on their responsibilities.

C. Roles of key positions

General Manager

- 3.2.8 The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring the Council complies with the PID Act. The General Manager can receive reports from staff and Councillors and has a responsibility to:
 - a) assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
 - b) deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
 - c) ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
 - d) make decisions following any investigation or appoint an appropriate decision-maker
 - e) take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified



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- f) refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- g) refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

Disclosures Coordinator

3.2.9 The Disclosures Coordinator has a central role in the Council's internal reporting system. The Disclosures Coordinator can receive and assess reports, and is the primary point of contact in the Council for the reporter. The Disclosures Coordinator has a responsibility to:

- a) assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager)
- b) deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
- c) coordinate the Council's response to a report
- d) acknowledge reports and provide updates and feedback to the reporter
- e) assess whether it is possible and appropriate to keep the reporter's identity confidential
- f) assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- g) where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- h) ensure the Council complies with the PID Act
- i) provide 6 monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

Disclosures officers

3.2.10 Disclosures officers are additional points of contact within the internal reporting system. They can provide advice about the system and the Internal Reporting Policy, receive reports of wrongdoing and assist staff and Councillors to make reports.

3.2.11 Disclosures officers have a responsibility to:

- a) document in writing any reports received verbally, and have the document signed and dated by the reporter
- b) make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace
- c) discuss with the reporter any concerns they may have about reprisal or workplace conflict



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- d) carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment.

Mayor

3.2.12 The Mayor can receive reports from staff and Councillors about the General Manager. Where the Mayor receives such reports, the Mayor has a responsibility to:

- a) assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with
- b) deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
- c) refer reports to an investigating authority, where appropriate
- d) liaise with the Disclosures Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- e) refer actual or suspected corrupt conduct to the ICAC
- f) refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

Supervisors and managers

3.2.13 Supervisors and managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and managers are responsible for:

- a) encouraging staff to report known or suspected wrongdoing within the organisation and support staff when they do
- b) identify reports made to them in the course of their work which could be public interest disclosures, and assist the staff member to make the report to an officer authorised to receive public interest disclosures under this policy
- c) implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
- d) notify the Disclosures Coordinator or General Manager immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Mayor.

3.3 What should be reported?

3.3.1 You should report any suspected wrongdoing within Council, or any activities or incidents you see within Council that you believe are wrong.



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- 3.3.2 Reports about 5 categories of serious misconduct – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the Government Information (Public Access) Act 2009 (GIPA Act), and local government pecuniary interest contravention – which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID Act and according to this policy. See below for details about these types of conduct. More information about what can be reported under the PID Act can be found in the NSW Ombudsman's 'Guideline B2: What should be reported?'
- 3.2.3 All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the Code of Conduct.
- 3.2.4 Even if these reports are not dealt with as public interest disclosures, Council recognises such reports may raise important issues. We will respond to all reports and make every attempt to protect the staff member making the report from reprisal.
- A. Corrupt conduct
- 3.3.5 Corrupt conduct is the dishonest or partial exercise of official functions by a public official.
- 3.3.6 For example, this could include:
- a) the improper use of knowledge, power or position for personal gain or the advantage of others
 - b) acting dishonestly or unfairly, or breaching public trust
 - c) a council official being influenced by a member of public to use their position in a way that is dishonest, biased or breaches public trust.
- B. Maladministration
- 3.3.7 Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.
- 3.3.8 For example, this could include:
- a) making a decision and/or taking action that is unlawful
 - b) refusing to grant an approval for reasons that are not related to the merits of their application.



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C. Serious and substantial waste of public money

3.3.9 Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

3.3.10 For example, this could include:

- a) not following a competitive tendering process for a large scale contract
- b) having bad or no processes in place for a system involving large amounts of public funds.

D. Breach of the GIPA Act

3.3.11 A breach of the Government Information (Public Access) Act 2009 (GIPA Act) is a failure to properly fulfil functions under that Act.

3.3.12 For example, this could include:

- a) destroying, concealing or altering records to prevent them from being released
- b) knowingly making decisions that are contrary to the legislation
- c) directing another person to make a decision that is contrary to the legislation.

E. Local government pecuniary interest contravention

3.3.13 A local government pecuniary interest contravention is a failure to comply with requirements under the Local Government Act 1993 relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, disclose pecuniary interests at Council and Council committee meetings and leave the meeting while the matter is being discussed. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

3.3.14 For example, this could include:

- a) a senior Council staff member recommending a family member for a Council contract and not declaring the relationship
- b) a Councillor participating in consideration of a development application for a property they or their family have an interest in.



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3.4 Assessment of reports

3.4.1 All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure.

3.4.2 The Disclosures Coordinator is responsible for assessing reports, in consultation with the General Manager where appropriate. All reports will be assessed on the information available to the Disclosures Coordinator at the time. It is up to the Disclosures Coordinator to decide whether an investigation should be carried out and how that investigation should be carried out. In assessing a report the Disclosures Coordinator may decide that the report should be referred elsewhere or that no action should be taken on the report.

3.5 When will a report be treated as a public interest disclosure?

3.5.1 Council will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the PID Act. These requirements are:

- a) the report must be about one of the following 5 categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention
- b) the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing
- c) the report has to be made to either the General Manager or, for reports about the General Manager the Mayor, a position nominated in this policy (see section 3.6), an investigating authority or in limited circumstances to a Member of Parliament (MP) or journalist (see section 3.7).

3.5.2 Reports by staff are not public interest disclosures if they:

- a) mostly question the merits of government Policy (see section 3.15)
- b) are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (see section 3.16).

3.6 Who can receive a report within Port Stephens Council?

3.6.1 Staff are encouraged to report general wrongdoing to their supervisor. However the PID Act requires that, for a report to be a public interest disclosure, it must be made to certain public officials identified in this policy or any supporting procedures.



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- 3.6.2 The following positions are the only people within Council who are authorised to receive a public interest disclosure. Any supervisor who receives a report that they believe may be a public interest disclosure is obliged to assist the staff member to make the report to one of the positions listed below. The broader responsibilities of these positions are outlined under Roles and Responsibilities (section 3.2).
- 3.6.3 If your report involves a Councillor, you should make it to the General Manager. If your report relates to the General Manager, you should make it to the Mayor.
- a) General Manager – phone contact: 4988 0246
 - b) Mayor (for reports about the General Manager only) – phone contact: 4988 0245
 - c) Disclosures Coordinator – Governance Section Manager, phone contact: 4988 0187.

Disclosures Officers:

- a) Organisation Support Section Manager, phone contact: 4988 0371
 - b) Human Resources Manager, phone contact: 4988 0381
 - c) Legal Services Manager, phone contact: 4988 0377.
- 3.7. Who can receive a report outside of the Council?
- 3.7.1 Staff and Councillors are encouraged to report wrongdoing within Council, but internal reporting is not your only option. You can also make a public interest disclosure to:
- a) An investigating authority;
 - b) A Member of Parliament or a journalist, but only in the limited circumstances outlined below.
- A. Investigating authorities
- 3.7.2 The PID Act lists a number of investigating authorities in NSW that staff and Councillors can report wrongdoing to and the type of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example a report about either the General Manager or the Mayor.
- 3.7.3 The relevant investigating authorities for the Council are:
- a) the Independent Commission Against Corruption (ICAC) — for reports about corrupt conduct



Policy



- b) the Ombudsman — for reports about maladministration
- c) the Information Commissioner — for disclosures about a breach of the GIPA Act
- d) the Office of Local Government— for disclosures about local councils.

3.7.4 You should contact the relevant investigating authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.

3.7.5 You should be aware that the investigating authority may well discuss any such reports with Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff or Councillors who report wrongdoing to an investigating authority, if we are made aware that this has occurred.

B. Members of Parliament or journalists

3.7.6 To have the protections of the PID Act, staff reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- a) the General Manager
- b) a person nominated in this policy, including the Mayor for reports about the General Manager
- c) an investigating authority.

3.7.7 Also, the Council or the investigating authority that received your initial report must have either:

- a) decided not to investigate the matter
- b) decided to investigate the matter, but not completed the investigation within 6 months of the original report
- c) investigated the matter but not recommended any action as a result
- d) not told the person who made the report, within 6 months of the report being made, whether the matter will be investigated.

3.7.8 Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true (see section 3.15).



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C. Other external reporting

- 3.7.9 If you report wrongdoing to a person or authority that is not listed above, or make a report to an MP or journalist without following the steps outlined above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or the Code of Conduct – by, for example, disclosing confidential information.
- 3.7.10 For more information about reporting wrongdoing outside Council, contact the Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.
- 3.8. How to make a report.
- 3.8.1 You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.
- 3.8.2 If a report is made verbally, the person receiving the report will make a comprehensive record of the report and ask the person making the report to sign this record. The reporter should keep a copy of this record.
- 3.9. Can a report be anonymous?
- 3.9.1 There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.
- 3.9.2 It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues. If we do not know who made the report, it is very difficult for us to prevent any reprisal should others identify you.
- 3.10. Feedback to staff who report wrongdoing.
- 3.10.1 Staff and Councillors who report wrongdoing will be told what is happening in response to their report.
- A. Acknowledgement
- 3.10.2 When you make a report, the Council will contact you to confirm that your report has been received and to advise:



Policy



- a) the timeframe within which you will receive further updates
 - b) the name and contact details of the people who can tell you what is happening or handle any concerns you may have.
- 3.10.3 After a decision is made about how your report will be dealt with, the Council will send you an acknowledgement letter, providing:
- a) information about the action that will be taken in response to your report
 - b) the likely timeframes for any investigation or other action
 - c) information about the internal and external resources or services available that you can access for support.
- 3.10.4 We will provide this information to you within 10 working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.
- 3.10.5 Please note, if you make a report which meets the requirements of the PID Act but the report was made under a statutory or legal obligation or incidental to the performance of your day to day functions, you will not receive an acknowledgement letter or a copy of this policy.
- B. Progress updates
- 3.10.6 While your report is being dealt with, such as by investigation or making other enquiries, you will be given:
- a) information about the progress of the investigation or other enquiries and reasons for any delay
 - b) advice of any decision by the Council not to proceed with the matter
 - c) advice if your identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand.
- C. Feedback
- 3.10.7 Once the matter has been finalised you will be given:
- a) enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
 - b) advice about whether you are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.



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3.11. Maintaining confidentiality.

- 3.11.1 Council realises reporters may want their identity and the fact they have made a report to remain confidential. This can help to prevent any action being taken against them for reporting wrongdoing.
- 3.11.2 Where possible and appropriate we will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. We will discuss with you whether it is possible to keep your identity confidential.
- 3.11.3 If confidentiality cannot be maintained, we will develop a plan to support and protect you from reprisal in consultation with you.
- 3.11.4 If you report wrongdoing, it is important that you only discuss your report with those responsible for dealing with it. This will include the Disclosures Coordinator and the General Manager, or in the case of a report about the General Manager, the Disclosures Coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.
- 3.11.5 Any staff or Councillors involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

3.12. Managing the risk of reprisal and workplace conflict

- 3.12.1 When a staff member or Councillor reports wrongdoing, the Council will undertake a thorough risk assessment to identify the risk to you of detrimental action in reprisal for reporting, as well as indirect but related risks of workplace conflict or difficulties. The risk assessment will also identify strategies to deal with those risks and determine the level of protection and support that is appropriate.
- 3.12.2 Depending on the circumstances, Council may:
 - a) relocate the reporter or the staff member who is the subject of the allegation within the current workplace
 - b) transfer the reporter or the staff member who is the subject of the allegation to another position for which they are qualified
 - c) grant the reporter or the staff member who is the subject of the allegation leave of absence during the investigation of the disclosure.



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- 3.12.3 These courses of action are not punishment and will only be taken in consultation with the reporter.
- 3.13. Protection against reprisals.
- 3.13.1 Council will not tolerate any reprisal against staff or Councillors who report wrongdoing or are believed to have reported wrongdoing.
- 3.13.2 The PID Act provides protection for staff and Councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.
- 3.13.3 Detrimental action means action causing, comprising or involving any of the following:
- a) injury, damage or loss
 - b) intimidation or harassment
 - c) discrimination, disadvantage or adverse treatment in relation to employment
 - d) dismissal from, or prejudice in, employment
 - e) disciplinary proceedings.
- 3.13.4 A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action. Taking detrimental action in reprisal is also a breach of the Council's Code of Conduct which may result in disciplinary action. In the case of Councillors, such disciplinary action may be taken under the misconduct provisions of the Local Government Act 1993 and may include suspension or disqualification from civic office.
- 3.13.5 It is important for staff and Councillors to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects reporters from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect reporters from disciplinary or other management action where Council has reasonable grounds to take such action.



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A. Responding to allegations of reprisal

- 3.13.6 If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your supervisor, the Disclosures Coordinator or the General Manager immediately. In the case of an allegation of reprisal by the General Manager, you can alternatively report this to the Mayor.
- 3.13.7 All supervisors must notify the Disclosures Coordinator or the General Manager if they suspect that reprisal against a staff member is occurring or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the General Manager, the Mayor can alternatively be notified.
- 3.13.8 If Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, Council will:
- a) assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue
 - b) if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff
 - c) if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter
 - d) take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure
 - e) refer any breach of Part 9 of the Council's Code of Conduct (reprisal action) by a Councillor or the General Manager to the Office of Local Government
 - f) refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.
- 3.13.9 If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.
- 3.13.10 If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.



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B. Protection against legal action

3.13.11 If you make a public interest disclosure in accordance with the PID Act, you will not be subject to any liability, and no action, claim or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

3.14. Support for those reporting wrongdoing

3.14.1 Council will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.

3.14.2 Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the Disclosures Coordinator or by contacting Human Resources.

3.15. Sanctions for making false or misleading statements

3.15.1 It is important all staff and Councillors are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Council will not support staff or Councillors who wilfully make false or misleading reports. Such conduct may also be a breach of the Code of Conduct resulting in disciplinary action. In the case of staff and Councillors, disciplinary action may be taken under the misconduct provisions of the Local Government Act 1993 and may include suspension or disqualification from civic office.

3.16. The rights of persons the subject of a report

3.16.1 Council is committed to ensuring staff or Councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate.

3.16.2 If you are the subject of the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time you will be:

- a) advised of the details of the allegation
- b) advised of your rights and obligations under the relevant related policies and procedures



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- c) kept informed about the progress of any investigation
 - d) given a reasonable opportunity to respond to any allegation made against you
 - e) told the outcome of any investigation, including any decision made about whether or not further action will be taken against you.
- 3.17.1 Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.
- 3.17. Review.
- 3.17.1 This policy will be reviewed by Council every 3 years. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.
- 3.18. More information.
- 3.18.1 More information around public interest disclosures is available on our intranet. Staff can also seek advice and guidance from the Disclosures Coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.
- 3.19. Resources.
- 3.19.1 The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below.

For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)
Phone: 02 8281 5999
Toll free: 1800 463 909
For TTY Users: NRS Speak & Listen
Tel: 1300 555 727 and quote 02 8281 5999
Facsimile: 02 9264 5364
Email: icac@icac.nsw.gov.au
Web: www.icac.nsw.gov.au
Address: Level 7, 255 Elizabeth Street, Sydney NSW 2000
Postal: GPO Box 500, Sydney, NSW 2001.

For disclosures about maladministration:

NSW Ombudsman
Phone: 1800 451 524
For TTY Users: NRS Speak & Listen Tel: 1300 555 727 and quote 1800 451 524
Facsimile: 02 9283 2911
Email: nswombo@ombo.nsw.gov.au
Web: www.ombo.nsw.gov.au
Address: Level 24, 580 George Street, Sydney NSW 2000



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For disclosures about breaches of the GIPA Act:

Information Commissioner
Toll free: 1800 472 679
National Relay Service: 133 677
Email: ipcinfo@ipc.nsw.gov.au
Web: www.ipc.nsw.gov.au
Address: Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000
Postal address: GPO Box 7011 Sydney NSW 2001

For disclosures about local councils:

Office of Local Government
Phone: 02 4428 4100
Email: olg@olg.nsw.gov.au
Web: www.olg.nsw.gov.au
Address: 5 O'Keefe Avenue, Nowra, NSW 2541
Postal Address: Locked Bag 3015, Nowra, NSW 2541

4. DEFINITIONS:

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

Contractor	A person or organisation engaged by Port Stephens Council.
Contractor employee	A person employed by a contractor of Port Stephens Council.
Corruption	Corrupt conduct is the dishonest or partial exercise of official functions by a public official.
Council	Port Stephens Council.
Councillor	Means Mayor and/or Councillor
Council employee	A person employed by Port Stephens Council.
Disclosure Coordinator	The Governance Section Manager.
Disclosure officers	The Organisation Support Section Manager, Human Resources Manager and Legal Services Manager.
GIPA Act	Government Information (Public Access) Act 2009.
ICAC	Independent Commission Against Corruption.
Maladministration	Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.
PID Act	Public Interest Disclosure Act 1994.
Public interest disclosure	Is a disclosure of corruption, maladministration or serious and substantial waste.
Serious and substantial waste	Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

Policy

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Policy



5. STATEMENT:

- 5.1 Port Stephens Council is committed to ensuring that disclosures of corruption, maladministration or serious and substantial waste are dealt with in an appropriate way; maintaining confidentiality and providing support for all parties. Council encourages individuals to come forward with any matter that they become aware where wrongdoing may have occurred.

6. RESPONSIBILITIES:

- 6.1 The Mayor and General Manager are responsible for implementing, complying with, monitoring and providing advice on the policy.
- 6.2 The Governance Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.
- 6.3 Disclosure officers are responsible for complying with and providing advice on the policy.
- 6.4 Supervisors and managers are responsible for implementing, complying with, and providing advice on the policy.

7. RELATED DOCUMENTS:

- 7.1 Port Stephens Council Code of Conduct
- 7.2 Local Government Act 1993
- 7.3 Public Interest Disclosures Act 1994
- 7.4 Government Information (Public Access) Act 2009
- 7.5 Independent Commission Against Corruption Act 1988



Policy



CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No	PSC2010-00009	EDRMS record No	22/248048
Audience	Mayor, Councillors, staff, contractors, volunteers		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	3 years	Next review date	30 June 2025
Adoption date	14 December 2010		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	14/12/2010	Executive Officer	Adopted by Council	409
2.0	11/2/2014	Executive Officer	Adopted by Council	017
3.0	10/05/2016	Governance Manager	Updated with the new model policy of the NSW Ombudsman and transferred to the new policy template.	118
3.1	22/5/2018	Governance Manager	Policy review included numbering to paragraphs and update of version control. 1.1 – included the name of the policy. 3.6.3 – updated contact numbers. 3.5.1, 3.5.2, 3.6.2, 3.6.3, 3.7.8 – updates section	137



Policy



Version	Date	Author	Details	Minute No.
			<p>references to new paragraph numbering.</p> <p>3.19.1 – Updates contact details.</p> <p>4.1 – insert the definition of a councillor.</p>	
3.2	23/06/20	Governance Section Manager	<p>Policy review including:</p> <p>Policy Owner insert 'Section'.</p> <p>1.2 and 2.2 Insert 'Public Interest Disclosures Act 1994'.</p> <p>3.1.1, 3.2.1, 3.2.2, 3.2.8 3.2.9, 3.2.11, 3.2.12, 3.2.13, 3.3.6, 3.3.8, 3.3.10, 3.3.12, 3.3.14, 3.5.1, 3.5.2, 3.6.3, 3.7.1, 3.7.3, 3.7.6, 3.7.7 3.10.3, 3.10.6, 3.10.7, 3.12.2, 3.13.3, 3.13.8, 3.16.2 updated bullet points to alpha list.</p> <p>3.2.6 – delete 'six' insert '6'.</p> <p>3.2.9 i) – delete 'six' insert '6'.</p> <p>3.3.2 and 3.3.11 – insert 'Government Information (Public Access) Act 2009'.</p> <p>3.3.13 and 3.13.4 – insert 'Local Government Act 1993'.</p>	116

Policy

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Policy



Version	Date	Author	Details	Minute No.
			3.5.1 a) – delete 'five', insert '5'. 3.6.3 c) – insert 'Section'. 3.6.3 d) – insert 'Support Section'. 3.7.7 b) and d) – delete 'six', insert '6'. 3.19.1 – insert 'For TTY Users: NRS Speak & Listen Tel:'. Insert 'Address: Level 17, 201 Elizabeth ... NSW 2001'. 4 – Disclosure Coordinator – insert 'Section'. Disclosure officers – insert 'Organisation Support'.	
3.3	26/07/22	Governance Section Manager	The policy has been updated in the new policy template and updated the version control. Minor grammatical errors corrected. 3.2.10 – updated policy title. 3.13.8 e) – updated part 8 to part 9. 3.19.1 – updated agency contact details.	196

Policy

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MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

Councillor Peter Kafer left the meeting at 7:28pm.
Councillor Jason Wells left the meeting at 7:28pm.

ITEM NO. 7

FILE NO: 23/254746
EDRMS NO: PSC2021-04206

REQUEST FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral funds to the following:-
 - a) Shoal Bay Public School – Mayoral funds - \$250 donation towards awards for 2023 student presentation day.
 - b) Wahroonga Aboriginal Corporation – Mayoral funds - \$2000 donation towards renewal of lease for premises in Sturgeon Street, Raymond Terrace.
-

ORDINARY COUNCIL MEETING - 24 OCTOBER 2023 MOTION

257	<p>Councillor Chris Doohan Councillor Glen Dunkley</p> <p>It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral funds to the following:-</p> <ol style="list-style-type: none">a) Shoal Bay Public School – Mayoral funds - \$250 donation towards awards for 2023 student presentation day.b) Wahroonga Aboriginal Corporation – Mayoral funds - \$2000 donation towards renewal of lease for premises in Sturgeon Street, Raymond Terrace.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Chris Doohan, Glen Dunkley, Peter Francis and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

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

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

- 1) Mayoral Funds
- 2) Rapid Response
- 3) Community Financial Assistance Grants – (bi-annually)
- 4) Community Capacity Building

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

The requests for financial assistance are shown below:

MAYORAL FUNDS

Shoal Bay Public School	Shoal Bay Public School is a local school offering education and programs to children K-6.	\$250	Donation towards students' annual awards and presentation day.
Wahroonga Aboriginal Corporation	Wahroonga Aboriginal Corporation is an Indigenous organisation that is owned and operated by local people which endeavours to work with its clients through a range of programs.	\$2000	Donation towards renewal of lease for premises in Sturgeon Street, Raymond Terrace.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Provide the Community Financial Assistance Program

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

To qualify for assistance under Section 356(1) of the Local Government Act 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- applicants are carrying out a function, which it, the Council, would otherwise undertake.
- the funding will directly benefit the community of Port Stephens.
- applicants do not act for private gain.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those funds will always be available.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

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

OPTIONS

- 1) Accept the recommendations.
- 1) Vary the dollar amount before granting each or any request.
- 2) Decline to fund the request.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

Councillor Glen Dunkley left the meeting at 7:30pm.
Councillor Glen Dunkley returned to the meeting at 7:31pm.
Councillor Peter Kafer returned to the meeting at 7:31pm.
Councillor Jason Wells returned to the meeting at 7:31pm.

ITEM NO. 8

FILE NO: 23/266082
EDRMS NO: PSC2022-02308

INFORMATION PAPERS

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

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 24 October 2023.

No:	Report Title	Page:
1	Investment Portfolio – September 2023	285
2	Designated Persons Return	292
3	Annual Designated Persons Returns - Pecuniary Interest 1 July 2022 to 30 June 2023	293
4	Council Resolutions	296

ORDINARY COUNCIL MEETING - 24 OCTOBER 2023 MOTION

258	<p>Councillor Leah Anderson Councillor Giacomo Arnott</p> <p>It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 24 October 2023.</p> <hr/>										
	<table><tr><th>No:</th><th>Report Title</th></tr><tr><td>1</td><td>Investment Portfolio – September 2023</td></tr><tr><td>2</td><td>Designated Persons Return</td></tr><tr><td>3</td><td>Annual Designated Persons Returns - Pecuniary Interest July 2022 to 30 June 2023</td></tr><tr><td>4</td><td>Council Resolutions</td></tr></table>	No:	Report Title	1	Investment Portfolio – September 2023	2	Designated Persons Return	3	Annual Designated Persons Returns - Pecuniary Interest July 2022 to 30 June 2023	4	Council Resolutions
No:	Report Title										
1	Investment Portfolio – September 2023										
2	Designated Persons Return										
3	Annual Designated Persons Returns - Pecuniary Interest July 2022 to 30 June 2023										
4	Council Resolutions										

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

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

Those against the Motion: Nil.

The motion was carried.

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 22/325573
EDRMS NO: PSC2017-00180**

INVESTMENT PORTFOLIO – SEPTEMBER 2023

REPORT OF: GLEN PETERKIN - ACTING FINANCIAL SERVICES SECTION
MANAGER
DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 30 September 2023 (**ATTACHMENT 1**).

ATTACHMENTS

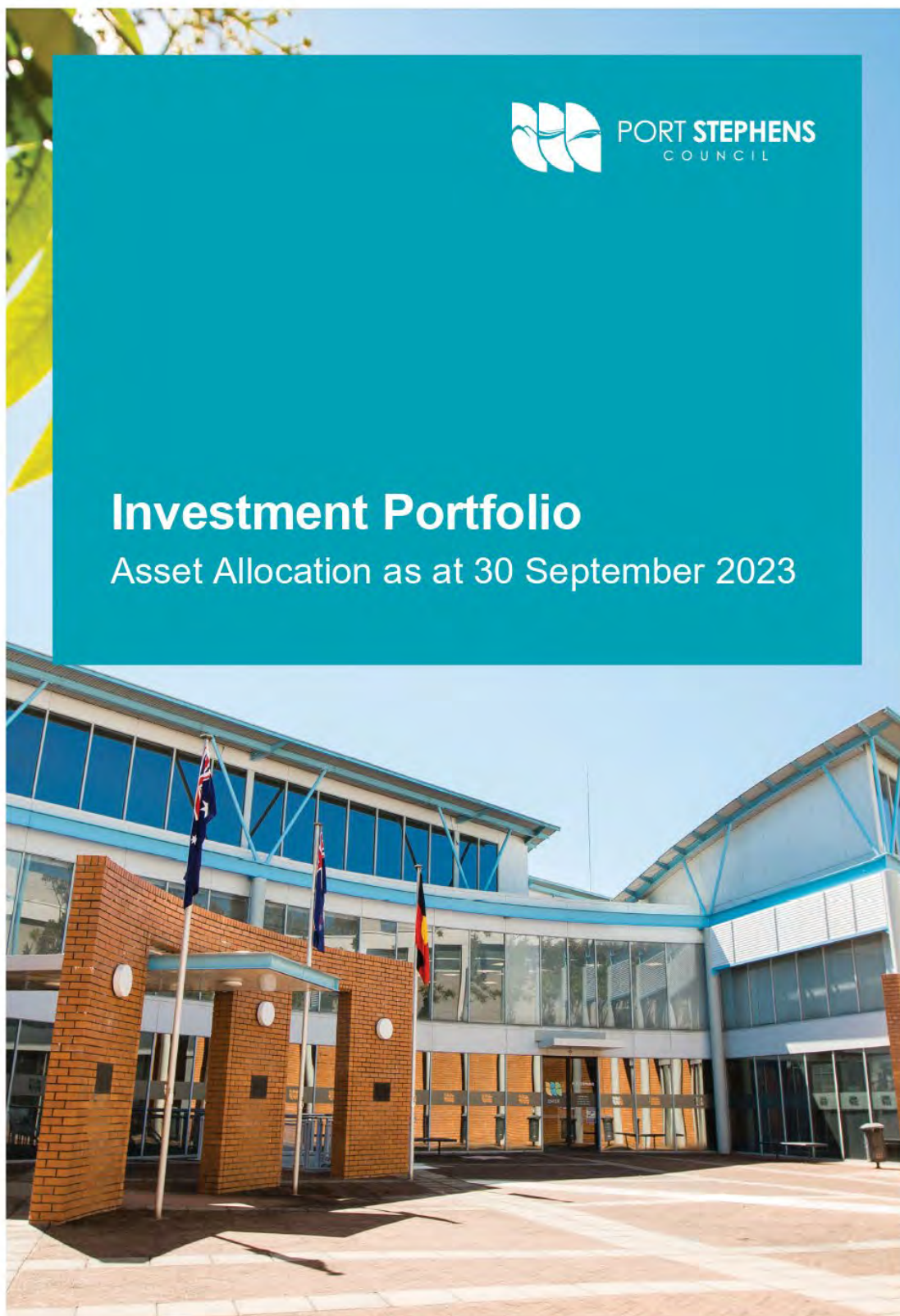
1) Investment Portfolio – September 2023.

COUNCILLORS ROOM

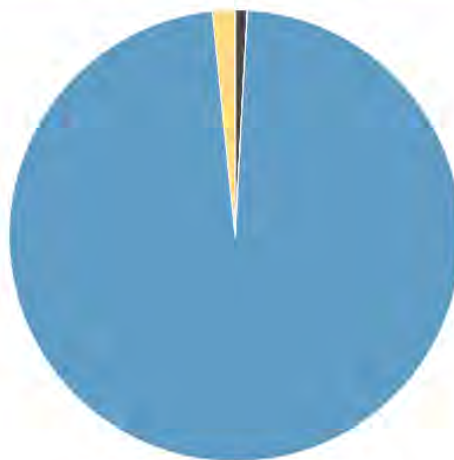
Nil.

TABLED DOCUMENTS

Nil.



Portfolio Holdings

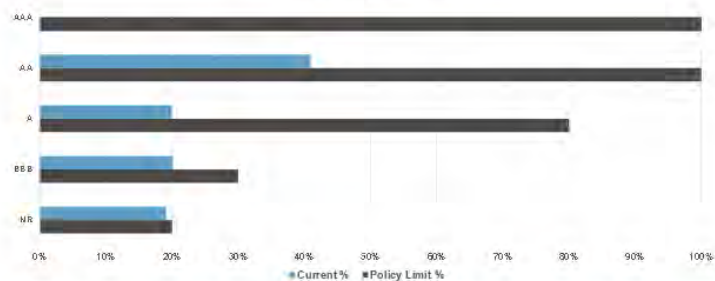


Product Type	Market Value (\$)	Compliance
At Call	-	
Cash	791,301	✓
Floating Rate TD	-	
TD	89,532,972	✓
Managed Fund	14,79,407	✓
	\$1,623,860	

✓ = compliant
x = non-compliant

Rating Exposure

Total Credit Exposure

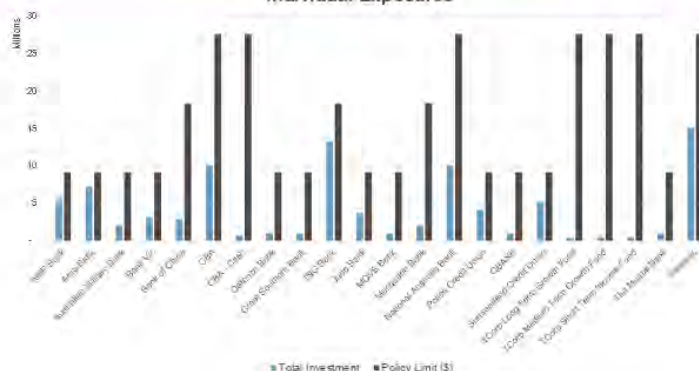


Credit Rating Group	Market Value (\$)	Current %	Policy Limit %	Compliance
AAA	-	0%	100%	✓
AA	37,525,189	41%	100%	✓
A	18,286,572	20%	80%	✓
BBB	18,445,382	20%	30%	✓
NR	17,553,531	19%	20%	✓
	\$1,623,860	100%		

✓ = compliant
x = non-compliant

Institution Exposure

Individual Exposures



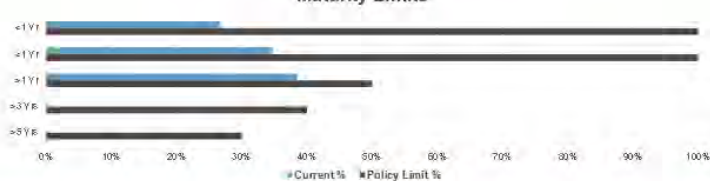
Institution	Rating	Total Investment	Exposure	Policy Limit	Remaining to Limit	Compliance
AMP Bank	BBB	5,572,973	6.07%	10%	3,809,395	✓
Arab Bank	NR	7,267,908	7.92%	10%	1,914,480	✓
Australian Military Bank	BBB	2,055,848	2.24%	10%	7,128,520	✓
Bank Vic	BBB	3,061,897	3.33%	10%	6,120,671	✓
Bank of China	A	3,012,204	3.28%	20%	15,352,532	✓
CBA	AA	10,100,820	11.00%	30%	17,448,284	✓
CBA - Cash	AA	791,301	0.86%	30%	26,755,803	✓
Defence Bank	BBB	1,020,071	1.11%	10%	8,182,287	✓
Great Southern Bank	BBB	1,004,171	1.09%	10%	8,178,197	✓
ING Bank	A	13,223,622	14.40%	20%	5,141,113	✓
Judo Bank	BBB	3,702,776	4.03%	10%	5,479,592	✓
MOVE Bank	NR	1,017,919	1.11%	10%	8,164,449	✓
Macquarie Bank	A	2,050,745	2.23%	20%	16,313,991	✓
National Australia Bank	AA	10,089,932	10.99%	30%	17,457,172	✓
Police Credit Union	NR	4,092,423	4.48%	10%	5,089,945	✓
QBank	BBB	1,012,915	1.10%	10%	8,166,452	✓
Summerland Credit Union	NR	5,185,280	5.65%	10%	3,987,088	✓
TCorp Long Term Growth Fd	AA	485,739	0.53%	30%	27,061,365	✓
TCorp Medium Term Growth	AA	492,268	0.54%	30%	27,054,848	✓
TCorp Short Term Income Fd	AA	501,410	0.55%	30%	27,045,694	✓
The Mutual Bank	BBB	1,014,937	1.11%	10%	8,167,431	✓
Westpac	AA	15,086,730	16.41%	30%	12,480,374	✓
Total		91,823,680				

✓ = compliant

* = non-compliant

Term to Maturity Limits

Maturity Limits

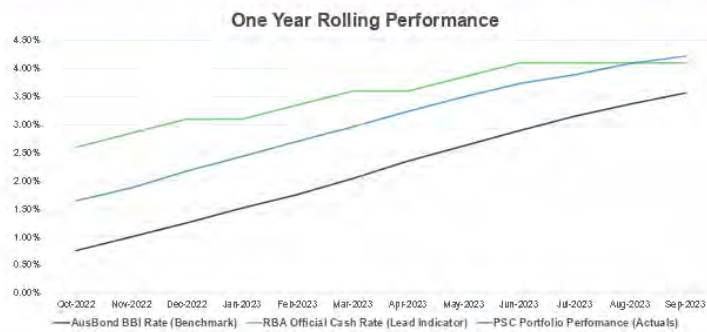


Detailed Maturity Profile	Face Value (\$)	%	Policy Limit	Compliance
Less than or equal 90 Days	23,951,963	27%	100%	✓
Between 90 Days and 365 Days	31,088,870	35%	100%	✓
Between 366 Days and 3 Years	34,512,138	39%	50%	✓
Between 3 Years and 5 Years	-	0%	40%	✓
Greater than 5 Years	-	0%	30%	✓
Total	89,552,972	100%		

✓ = compliant

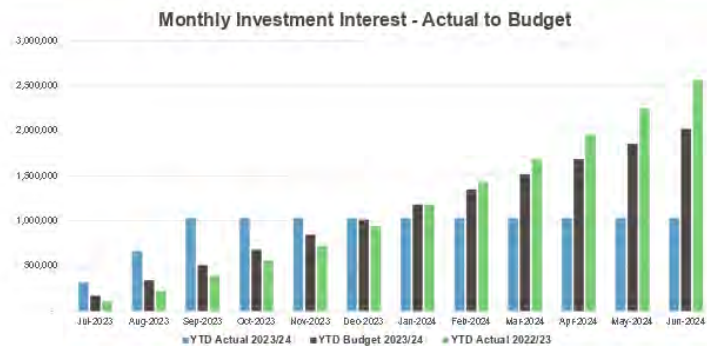
* = non-compliant

Term Deposit Portfolio Performance



Performance	1 month actual	3 months actual	6 months actual	FYTD actual	1 year % p.a. (Rolling)
Bloomberg AusBond BBI (Benchmark)	0.34%	1.08%	1.99%	1.08%	3.56%
PSC Investment Portfolio	0.43%	1.22%	2.34%	1.22%	4.22%
Outperformance/(underperformance)	0.09%	0.14%	0.35%	0.14%	0.66%

Interest Earned vs Budget



Investment Register

Institution	Market Value	Days Held	Interest Rate	Date Invested	Maturity Date	Rating
CBA - Cash	791,361	1		30/09/2023	1/10/2023	AA
CBA	1,010,985	481	4.41%	17/06/2022	11/10/2023	AA
Arab Bank	706,360	90	5.30%	27/07/2023	25/10/2023	NR
CBA	1,011,020	495	4.42%	17/06/2022	25/10/2023	AA
AMP Bank	2,522,575	90	5.15%	28/07/2023	26/10/2023	BBB
Arab Bank	2,523,321	90	5.32%	28/07/2023	26/10/2023	NR
National Australia Bank	5,044,966	91	5.05%	27/07/2023	26/10/2023	AA
National Australia Bank	5,044,966	91	5.05%	27/07/2023	26/10/2023	AA
Westpac	1,001,825	629	1.48%	16/02/2022	7/11/2023	AA
CBA	1,011,095	524	4.45%	17/06/2022	23/11/2023	AA
Summerland Credit Union	1,039,312	362	4.72%	30/11/2022	27/11/2023	NR
ING Bank	1,011,446	531	4.22%	24/06/2022	7/12/2023	A
QBank	1,012,915	374	4.70%	21/2/2022	11/12/2023	BBB
CBA	1,011,169	552	4.48%	17/06/2022	21/12/2023	AA
ING Bank	1,011,388	559	4.33%	24/06/2022	4/01/2024	A
ING Bank	1,011,084	566	4.35%	29/06/2022	16/01/2024	A
Westpac	1,007,452	532	4.00%	8/08/2022	22/01/2024	AA
Westpac	1,006,685	539	4.00%	8/08/2022	29/01/2024	AA
Westpac	1,002,683	732	1.53%	28/01/2022	30/01/2024	AA
Westpac	1,002,683	746	1.53%	28/01/2022	13/02/2024	AA
Westpac	1,002,121	741	1.72%	16/02/2022	27/02/2024	AA
Westpac	1,003,416	557	4.30%	1/09/2022	11/03/2024	AA
Bank Vic	1,030,252	409	4.62%	3/02/2023	18/03/2024	BBB
Westpac	1,008,681	542	4.53%	14/10/2022	8/04/2024	AA
Judo Bank	837,191	732	3.35%	22/04/2022	23/04/2024	BBB
Summerland Credit Union	1,039,195	523	4.80%	23/11/2022	29/04/2024	NR
Judo Bank	837,191	746	3.35%	22/04/2022	7/05/2024	BBB
Macquarie Bank	1,003,141	627	4.41%	1/09/2022	20/05/2024	A
CBA	1,011,583	475	4.65%	7/02/2023	27/05/2024	AA
ING Bank	972,900	377	5.05%	31/05/2023	11/06/2024	A
Macquarie Bank	1,047,604	649	4.41%	1/09/2022	11/06/2024	A
ING Bank	1,016,879	383	5.05%	31/05/2023	17/06/2024	A
The Mutual Bank	1,014,937	362	5.80%	28/06/2023	24/06/2024	BBB
ING Bank	1,016,208	384	5.10%	6/06/2023	24/06/2024	A
Westpac	1,004,529	685	4.35%	23/08/2022	8/07/2024	AA
ING Bank	1,013,515	376	5.67%	5/07/2023	15/07/2024	A
Westpac	1,004,529	692	4.35%	23/08/2022	15/07/2024	AA
Australian Military Bank	1,048,340	704	4.40%	25/08/2022	28/07/2024	BBB
Police Credit Union	1,031,358	538	5.02%	14/02/2023	5/08/2024	NR
Westpac	1,005,490	538	5.01%	21/02/2023	12/08/2024	AA
Defence Bank	1,020,071	479	4.95%	5/05/2023	26/08/2024	BBB
CBA	1,008,676	396	5.46%	3/08/2023	2/09/2024	AA
Bank Vic	1,027,369	544	5.02%	15/03/2023	9/08/2024	BBB
Police Credit Union	1,020,355	500	5.02%	5/05/2023	16/08/2024	NR
Police Credit Union	1,020,355	507	5.02%	5/05/2023	23/08/2024	NR
CBA	1,008,613	424	5.42%	3/08/2023	30/09/2024	AA
ING Bank	1,036,030	655	4.68%	23/12/2022	8/10/2024	A
Great Southern Bank	1,004,171	409	5.25%	1/09/2023	14/10/2024	BBB
ING Bank	1,036,184	661	4.70%	23/12/2022	14/10/2024	A
CBA	1,004,100	416	5.16%	1/09/2023	21/10/2024	AA
Westpac	1,007,786	732	4.90%	3/11/2022	4/11/2024	AA
Summerland Credit Union	1,039,621	719	4.65%	23/11/2022	11/11/2024	NR
Summerland Credit Union	1,039,621	726	4.65%	23/11/2022	18/11/2024	NR
ING Bank	1,037,233	724	4.50%	21/12/2022	25/11/2024	A
ING Bank	1,037,233	738	4.50%	21/12/2022	9/12/2024	A
CBA	1,011,743	731	4.71%	20/12/2022	20/12/2024	AA
TCorp Long Term Growth	485,739	483		5/09/2023	31/12/2024	AA
TCorp Medium Term Growth	492,258	483		5/09/2023	31/12/2024	AA
TCorp Short Term Income	501,410	483		5/09/2023	31/12/2024	AA
Police Credit Union	1,020,355	612	5.02%	5/05/2023	8/01/2025	NR
ING Bank	1,015,827	587	4.98%	6/06/2023	13/01/2025	A
Westpac	1,003,275	594	4.98%	6/06/2023	20/01/2025	AA
Judo Bank	1,014,808	579	5.75%	28/06/2023	27/01/2025	BBB
Westpac	1,003,275	602	4.98%	6/06/2023	28/01/2025	AA
Arab Bank	1,015,014	593	5.83%	28/06/2023	10/02/2025	NR
CBA	1,011,818	733	4.74%	8/02/2023	10/02/2025	AA
Bank Vic	1,004,076	535	5.13%	1/09/2023	17/02/2025	BBB
Arab Bank	1,004,100	542	5.16%	1/09/2023	24/02/2025	NR
Arab Bank	1,015,014	607	5.83%	28/06/2023	24/02/2025	NR
Bank of China	1,004,068	556	5.12%	1/09/2023	10/03/2025	A
Summerland Credit Union	1,027,533	726	5.05%	15/03/2023	10/03/2025	NR
Arab Bank	1,004,100	563	5.16%	1/09/2023	17/03/2025	NR
Westpac	1,001,302	550	5.28%	21/09/2023	24/03/2025	AA
AMP Bank	1,022,329	732	5.00%	20/04/2023	21/04/2025	BBB
AMP Bank	1,019,726	727	5.00%	9/05/2023	5/05/2025	BBB
MOVE Bank	1,017,919	731	5.15%	26/05/2023	26/05/2025	NR
Judo Bank	1,013,586	733	5.70%	5/07/2023	7/07/2025	BBB
AMP Bank	1,008,342	725	5.25%	3/08/2023	28/07/2025	BBB
Australian Military Bank	1,007,508	726	5.27%	9/08/2023	4/08/2025	BBB
ING Bank	1,007,696	734	5.30%	8/08/2023	11/08/2025	A
Bank of China	1,004,068	717	5.12%	1/09/2023	18/08/2025	A
Bank of China	1,004,068	724	5.12%	1/09/2023	25/08/2025	A
	91,823,680					

Restricted Cash

Reserve	As at September 2023
	\$'000
External	
Deposits, retentions and bonds	950
Grants and Contributions	9,859
Developer contributions (inc Haulage)	21,183
Domestic Waste Management	10,194
Crown Reserve	7,932
Internal	
Asset Rehab/Repairs	2,793
Drainage	873
Commercial Property	19,186
Election Reserve	408
Employee Leave Entitlements (ELE)	1,000
Federal Assistance Grant in Advance	5,188
Fleet	2,024
Resilience fund	3,000
Grants Co-contribution	815
Emergency & Natural Disaster	4,291
Other Waste	53
Council Parking	511
IT	2,526
Sustainable energy and water reserve	47
Unexpended loan funds	-
Repealed	2,455
Transport levy	63
Admin Building	572
Ward Funds	37
Community Halls	59
Community Loans	200
Total	96,217
Cash and Investment Report	91,823
Variance Cash Reserves to Bank Account	4,394
Variance Due to:	
Outstanding State Roads payments	82
Loans not funded through a reserve	62
Outstanding GST refund	459
Total Variance	602
Cash Shortfall (due to timing of income and expenditure)	3,792

ITEM NO. 2

FILE NO: 23/257489
EDRMS NO: PSC2022-01241

DESIGNATED PERSONS RETURN

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

BACKGROUND

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

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

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

- Development and Compliance Section Manager PSC624.
- Ranger PSC018.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Designated Persons' Return.

ITEM NO. 3

**FILE NO: 23/257423
EDRMS NO: PSC2022-01241**

**ANNUAL DESIGNATED PERSONS RETURNS - PECUNIARY INTEREST 1 JULY
2022 TO 30 JUNE 2023**

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

BACKGROUND

The purpose of this report is to advise Council of designated persons who have submitted returns for the 2022 to 2023 period.

Elected Members

Mayor Ryan Palmer
Cr Leah Anderson
Cr Giacomo Arnott
Cr Matthew Bailey
Cr Glen Dunkley
Cr Chris Doohan
Cr Peter Francis
Cr Peter Kafer
Cr Steve Tucker
Cr Jason Wells

General Manager's Office

General Manager
Governance Section Manager
Legal Services Manager
Lawyer

Corporate Strategy and Support Directorate

Director Corporate Strategy and Support
Organisation Support Section Manager
Financial Services Section Manager
Holiday Parks Section Manager
Business Development & Marketing Manager
Strategic Property Coordinator
Integrated Planning & Excellence Coordinator
Principal Property Planner

Community Futures Directorate

Building & Certification Coordinator
Building Surveyor (4)
Building Surveyor (Fire Safety)
Communications Section Manager
Compliance Coordinator
Development and Compliance Section Manager
Development Compliance Officer (3)
Development Planner (3)
Environmental Health Officer (2)
Environmental Health Team Leader
Environmental Officer (2)
Environmental Planner (2)
Director Community Futures
Natural Systems Coordinator
Development Planning Coordinator
Principal Building Surveyor
Principal Strategic Planner
Ranger (4)
Ranger Team Leader
Senior Building Surveyor
Senior Building Surveyor – Certifications
Senior Building Surveyor (Fire Safety)
Senior Development Planner (2)
Senior Environmental Health Officer
Senior Environmental Planner (2)
Senior Ranger
Senior Strategic Planner (2)
Senior Strategic Planner – Growth and Infrastructure
Strategic Planner (4)
Strategic Planning Coordinator
Strategy and Environment Section Manager
Vegetation Management Officer
Vibrant Places Coordinator
Compliance Team Leader

Facilities and Infrastructure Directorate

Assets Section Manager
Capital Works Section Manager
Community Services Section Manager
Director Facilities & Infrastructure
Public Domain and Services Section Manager
Senior Development Engineer

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Annual Designated Persons Returns - Pecuniary Interest 1 July 2022 to 30 June 2023.

ITEM NO. 4

**FILE NO: 23/254403
EDRMS NO: PSC2017-00106**

COUNCIL RESOLUTIONS

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

BACKGROUND

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

ATTACHMENTS

- 1) Community Futures Directorate resolutions.
- 2) Corporate Strategy and Support Directorate resolutions.
- 3) Facilities and Infrastructure Directorate resolutions.
- 4) General Manager's Office resolutions.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 4 - ATTACHMENT 1 COMMUNITY FUTURES DIRECTORATE RESOLUTIONS.


Action Sheets Report	Division:	Community Futures	Date From:	14/09/2021
	Committee:		Date To:	10/10/2023
	Officer:		Printed:	Wednesday, 11 October 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/10/2023	Lamont, Brock	Planning Proposal for 39, 39A and 41 Brocklesby Road, Medowie (Precinct F)	24/10/2023	11/10/2023	
1		Peart, Steven				23/262411
11 Oct 2023						
Council resolved to adopt the planning proposal to amend the Port Stephens Local Environmental Plan 2013 for land at 39A, 39 and 41 Brocklesby Road, Medowie (Lots 1 and 2 DP 1291794 and Lot 2 DP 508780). The planning proposal was forwarded to NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan. The draft DCP will be exhibited once a Gateway determination is received.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/10/2023	Lamont, Brock	Draft Port Stephens Development Control Plan - Road Network and Parking (electric vehicles)	29/02/2024	11/10/2023	
2		Peart, Steven				23/262411
11 Oct 2023						
Council resolved to place the draft Port Stephens Development Control Plan - Road Network on public exhibition. The exhibition period commenced Monday 16 October 2023, for a 28 day period. A return report is forecasted to be presented to Council in February 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/09/2023	Gardner, Janelle	Development Application Awareness Campaign	17/11/2023	27/09/2023	
3		Peart, Steven				23/250979
10 Oct 2023						
Council resolved to extend the advertising of the development applications in the Port Stephens Examiner and Port Stephens News of the Area and place the Development Application Awareness fee on public exhibition. The public exhibition period commenced Wednesday 27 September 2023, for a 28 day period.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/09/2023	Lamont, Brock	Draft Local Infrastructure Contributions Plan 2020 – Amendment No. 3	29/12/2023	13/09/2023	
2		Peart, Steven				23/238925
10 Oct 2023						
Council resolved to place the draft Port Stephens Local Infrastructure Contributions Plan - Amendment No. 3 on public exhibition. The exhibition period concludes at 5pm Thursday 12 October 2023. A report is being prepared and is forecasted to be presented to Council for consideration at the 28 November 2023 meeting.						

ITEM 4 - ATTACHMENT 1 COMMUNITY FUTURES DIRECTORATE RESOLUTIONS.



Division:	Community Futures	Date From:	14/09/2021
Committee:		Date To:	10/10/2023
Officer:		Printed:	Wednesday, 11 October 2023
Action Sheets Report			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/06/2023	Lamont, Brock	RAMSAR Listing for Mambo Wanda Wetlands	1/12/2023	14/06/2023	
1		Pearl, Steven				23/147603
137						
11 Oct 2023						
Council continues investigations and benchmarking to identify available options. A business paper is being prepared to be presented to Council at the 28 November 2023 meeting for consideration.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Lamont, Brock	Housing Affordability	30/03/2024	12/04/2023	
6		Pearl, Steven				23/92450
105						
11 Oct 2023						
Council's Local Housing Strategy (LHS) review will integrate all outstanding housing-related actions (including the Affordable Housing Action Plan). The draft LHS is expected to be presented to Council for consideration in March 2024. The final Councilor workshop was hosted on 28 September 2023, with targeted consultation and community awareness due to commence in October 2023.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Pearl, Steven	Development Application Information	12/04/2024	12/04/2023	
3		Pearl, Steven				23/92450
103						
11 Oct 2023						
'DA Tracker' has been updated with the addition of the owner's name. Council continues to investigate options to allow DA documents to be made available on 'DA Tracker'. A report is being prepared and is forecasted to be presented to Council at the 9 April 2024 meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/09/2021	Lamont, Brock	Port Stephens Waterway Strategy	29/12/2023	15/09/2021	
1		Pearl, Steven				21/252518
240						
11 Oct 2023						
Council was unsuccessful in the Regional NSW - Business Case and Strategy Development Fund grant. Other funding sources are currently being investigated. Council continues to investigate funding opportunities to engage consultants to prepare the Port Stephens Waterways Strategy.						

**ITEM 4 - ATTACHMENT 1 COMMUNITY FUTURES DIRECTORATE
RESOLUTIONS.**


Division:	Community Futures	Date From:	14/09/2021
Committee:		Date To:	10/10/2023
Officer:		Printed:	Wednesday, 11 October 2023
Action Sheets Report			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Ordinary Council	10/10/2023	Lamont, Brock	URGENCY MOTION:			
			1) Notes the ongoing consultative process the Federal Government is undertaking with the community and other stakeholders into whether an offshore wind farm industry should be established off the coast of Port Stephens and Newcastle.			
			2) Notes that the Federal Government Minister for Energy Chris Bowen states that an offshore wind farm in this location has the potential to create 3,000 construction jobs and 1,500 ongoing jobs, as well as 5 gigawatts of electricity for the East Coast Energy grid.	13/02/2024		
			3) Notes that there are 1,454 published responses to the proposal on the Australian Government Department of Climate Change, Energy, the Environment and Water consultation hub web page.			
			4) Notes that the Federal Government Minister for Energy Chris Bowen, the Federal Member for Paterson Meryl Swanson, and several MPs from the opposition and alternative parties have met with residents of Port Stephens to discuss this project.			

ITEM 4 - ATTACHMENT 1
RESOLUTIONS.

COMMUNITY FUTURES DIRECTORATE



	Division: Community Futures Committee: Officer:	Date From: 14/09/2021 Date To: 10/10/2023
Action Sheets Report		Printed: Wednesday, 11 October 2023

- 5) Notes that the Federal Government will still engage in 3 consultation phases before any works actually start, and that it is unlikely that any works would begin for several years from now due to the enormous amount of reports and consultation that is required to be undertaken.
- 6) Notes the concerns raised by the community about the project, including its potential impact on the fishing industry in Port Stephens, potential impact on the environment including marine life, potential noise pollution, potential impact on the tourism industry, and what such an industry would look like when viewed from Port Stephens.
- 7) Notes that Local Government, in particular Port Stephens Council, has had nothing to do with the proposal so far, and has no role to play in the consideration, approval or consultation of any offshore wind farm now or into the future.
- 8) Agrees that until environmental impact statements and other scientific evidence is made available to the community in a full, open and transparent

ITEM 4 - ATTACHMENT 1 COMMUNITY FUTURES DIRECTORATE
RESOLUTIONS.



Action Sheets Report	Division:	Community Futures	Date From:	14/09/2021
	Committee:		Date To:	10/10/2023
	Officer:		Printed: Wednesday, 11 October 2023	

		manner, it is opposed to the construction of any wind farm off the coast of Port Stephens.
	9)	Requests the General Manager write a letter to the Federal Minister for Energy Chris Bowen and Federal Member for Paterson Meryl Swanson, noting Council's position, and requesting their attendance at a Council briefing to allow Councillors to better understand the proposal and to pass on the concerns of the community.
	10)	Requests the General Manager provide a report to Council at each stage of the consultative process, outlining any recent progress on the matter.
	11)	Requests the General Manager provide a report to Council seeking the Council's opinion on whether to continue opposing the offshore wind farm, or whether to support it, at the following stages: a. When the Environmental Impact Statement has been made available, and b. At the first meeting at the start of the new term of Council in 2024 to reaffirm Council's position.
<p>11 Oct 2023</p> <p>Council is working to complete the actions as endorsed within the urgency motion.</p>		Peart, Steven

ITEM 4 - ATTACHMENT 1 COMMUNITY FUTURES DIRECTORATE
RESOLUTIONS.



Action Sheets Report	Division:	Community Futures	Date From:	14/09/2021
	Committee:		Date To:	10/10/2023
	Officer:		Printed:	Wednesday, 11 October 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary		Matter Arising - LEP			
	Council	Lamont, Brock	Amendment to review	15/12/2023		
	14/03/2023	Pearl, Steven	building height controls			
11 Oct 2023 Council is investigating height controls and objectives as a part of the administrative amendment of the LEP. A draft amendment is forecast to be presented to Council at the 12 December 2023 meeting, seeking endorsement to submit the planning proposal to the NSW Department of Planning and Environment for a Gateway determination.						

**ITEM 4 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT
DIRECTORATE RESOLUTIONS.**


Action Sheets Report	Division:	Corporate Strategy and	Date From:	27/08/2013
	Support		Date To:	10/10/2023
	Committee:			
	Officer:			
	Printed: Wednesday, 11 October 2023			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/08/2023	Pattison, Zoe	Raymond Terrace Gateway Site Masterplan	31/03/2024		
1						23/214729
193						
11 Oct 2023						
Recommendation endorsed. Council staff will undertake a Masterplan for part of the Gateway site in Raymond Terrace and provide a report back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Pattison, Zoe	22 Homestead Street, Salamander Bay	31/03/2024	12/04/2023	
5						23/92450
088						
11 Oct 2023						
Council investigated options for the rezoning of 22 Homestead Street, Salamander Bay and the development of a Vegetation Management Plan, to provide the best opportunity to enable a successful long-term rehabilitation of the site. A report is being prepared and will be presented to Council for consideration in due course.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	30/06/2024	12/10/2022	
2						22/273002
11 Oct 2023						
Report deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Property Investment and Development Policy	30/06/2024	12/10/2022	
1						22/273002
11 Oct 2023						
Public Exhibition deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Pattison, Zoe	Newline Road, Raymond Terrace	30/06/2024		
2						20/288489
199						
11 Oct 2023						
Contracts and survey plan are being prepared. Completion of the acquisition is subject to registration of the plan.						

ITEM 4 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT
DIRECTORATE RESOLUTIONS.



Action Sheets Report	Division:	Corporate Strategy and	Date From:	27/08/2013
	Support		Date To:	10/10/2023
	Committee:			
	Officer:			
Printed: Wednesday, 11 October 2023				

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
243	Ordinary Council 27/08/2013	Pattison, Zoe	Campvale Drain	30/06/2024		
11 Oct 2023 Awaiting final execution of easement documentation for 2 properties. All other properties (with exception of these 2) have been finalised.						

**ITEM 4 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE
DIRECTORATE RESOLUTIONS.**



Action Sheets Report	Division:	Facilities and Infrastructure	Date From:	10/08/2021
	Committee:		Date To:	10/10/2023
	Officer:		Printed:	Thursday, 12 October 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/09/2023	Maretich, John	Policy Review - Foreshore Vessel Storage Policy	30/11/2023	13/09/2023	
5		Kable, Gregory				23/238925
11 Oct 2023						
The Public Exhibition period ended on 10 October 2023. A report will be prepared for the Council meeting to be held on 28 November 2023.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Maretich, John	Naming Recreation Precinct at Medowie after Geoff Dingle	31/12/2023	12/04/2023	
2 085		Kable, Gregory				23/92450
11 Oct 2023						
Once the reserve has been subdivided as per the Medowie Place Plan, an application will be submitted to the Geographical Naming Board to name the recreation precinct after Geoff Dingle.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Maretich, John	Raymond Terrace Seven Day Makeover	25/12/2023		
17 228		Kable, Gregory				21/218740
11 Oct 2023						
A report will be presented to Council to allocate funds and commit to the project.						

**ITEM 4 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE
DIRECTORATE RESOLUTIONS.**


Division:	Facilities and Infrastructure	Date From:	10/08/2021
Committee:		Date To:	10/10/2023
Officer:		Printed:	Thursday, 12 October 2023
Action Sheets Report			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Ordinary Council	10/10/2023	Maretich, John	URGENCY MOTION –			
			1) Notes that Council has requested co-contributions from property owners at Marine Drive, Fingal Bay for works occurring on kerb and guttering, which are being reconstructed following storm damage.			
			2) Notes that the works have been fully grant funded, but that the funding agency has changed their mind about fully funding the works which has led to the co-contribution request of property owners.			
			3) Notes that Council is currently communicating with the funding agency to try and have them reverse their decision to pull funds after agreeing to provide those funds.	31/12/2023		
			4) Requests the General Manager write to all impacted residents informing them that no co-contribution will be required until the grant funding dispute is resolved.			
		Kable, Gregory	5) Requests the General Manager to, after the dispute is resolved, bring the outcome to Councillors at a two-way briefing for a discussion on what the next steps should be.			
11 Oct 2023 As per Council resolution, letters will be sent to all impacted residents advising that no co-contribution will be required until grant funding dispute has been resolved. Once grant funding dispute is resolved, the outcomes will be discussed via Councillor Two Way Conversation.						

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



Action Sheets Report	Division:	General Manager's Office	Date From:	11/04/2023
	Committee:		Date To:	10/10/2023
	Officer:		Printed:	Wednesday, 11 October 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Walker, Ashley	Financial Assistance	31/12/2023	12/04/2023	
3		Crosdale, Timothy				23/92450
083						
11 October 2023						
Awaiting necessary paperwork to process payments.						

CONFIDENTIAL ITEMS

In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL MEETING – 24 OCTOBER 2023 MOTION

259	Councillor Leah Anderson Councillor Peter Kafer It was resolved that Council move into confidential session.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

CONFIDENTIAL**ITEM NO. 1****FILE NO: 23/236334
EDRMS NO: PSC2022-01790****PROPOSED SALE - 155 SALAMANDER WAY, SALAMANDER BAY****REPORT OF: ZOE PATTISON - DIRECTOR CORPORATE STRATEGY AND
SUPPORT****GROUP: CORPORATE STRATEGY AND SUPPORT****ORDINARY COUNCIL MEETING - 24 OCTOBER 2023
MOTION**

260	Councillor Chris Doohan Mayor Ryan Palmer It was resolved that Council: <ol style="list-style-type: none">1) Notes the project update and options set out in the body of this report.2) Retains the land in Council ownership until the master planning process has been completed, then engage a suitably qualified agent to list the property for sale on the open market.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

CONFIDENTIAL**ITEM NO. 2****FILE NO:**
EDRMS NO: PSC2022-00857**CODE OF CONDUCT**

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION
MANAGER/COMPLAINTS COORDINATOR
DIRECTORATE: GENERAL MANAGER'S OFFICE

ORDINARY COUNCIL MEETING - 24 OCTOBER 2023
MOTION

262	Councillor Peter Francis Councillor Jason Wells It was resolved that Council reject the recommendation within the Investigation Report on the grounds that the evidence, including written advice from the Office of Local Government and, in particular, the respondent's submissions, it is not possible for the findings in the report to be sustained and, as such, all allegations are deemed to not be substantiated.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Glen Dunkley, Peter Francis, Ryan Palmer, Steve Tucker and Jason Wells

Those against the Motion: Crs Chris Doohan and Peter Kafer.

The motion was carried.

ORDINARY COUNCIL MEETING – 24 OCTOBER 2023
MOTION

263	Councillor Chris Doohan Councillor Steve Tucker It was resolved that Council move out of confidential session.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

MINUTES ORDINARY COUNCIL - 24 OCTOBER 2023

The motion was carried.

Councillor Giacomo Arnott returned to the meeting at 9:24pm.

Councillor Peter Kafer left the meeting at 9:24pm.

There being no further business the meeting closed at 9:25pm.