

NOTICE OF ORDINARY MEETING

12 NOVEMBER 2024



The Mayor and Councillors attendance is respectfully requested:

Mayor: L Anderson (Chair).

Councillors: R Armstrong, G Arnott, C Doohan, N Errington, P Francis, P Le Mottee, B Niland, M Watson, J Wells.

SCHEDULE OF MEETINGS

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

Please Note:

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

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

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

Food and beverages are not permitted in the Council Chamber.

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1. RENEWAL OF LEASE - 49 WILLIAM STREET, RAYMOND
TERRACE

BUSINESS

1) Opening meeting.

2) Acknowledgement of Country

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

3) Prayer

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

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

5) Disclosures of interests.

6) Confirmation of minutes Ordinary Meeting of 22 October 2024.

7) Mayoral minute(s) – if submitted.

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

9) Reports to Council.

10) General Manager's reports – if submitted.

11) Questions with Notice – if submitted.

12) Questions on Notice.

13) Notices of motions – if submitted.

14) Rescission motions – if submitted.

15) Confidential matters – if submitted.

16) Conclusion of the meeting.

Statement of Ethical Obligations

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

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

PRINCIPLES FOR LOCAL GOVERNMENT

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

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

Guiding principles for Council

1) Exercise of functions generally

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

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

2) Decision-making

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

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

3) Community participation

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

Principles of sound financial management

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

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

Integrated planning and reporting principles that apply to Council

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

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

PORT STEPHENS COMMUNITY STRATEGIC PLAN

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

The Community Strategic Plan is organised into 4 focus areas:

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

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

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

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

BUSINESS EXCELLENCE

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

These outcomes align with the following Business Excellence principles:

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

MEETING PROCEDURES SUMMARY

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

Quorum – A quorum at Port Stephens Council is 6.

Declarations of Interest

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

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

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

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

Motions and Amendments

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

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

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

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

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

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

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

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

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

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

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

A Point of Order can be raised where:

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

Declarations of Conflict of Interest – Definitions

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

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

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

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



Form of Special Disclosure of Pecuniary Interest

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

Important information

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

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

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

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

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

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

ORDINARY COUNCIL - 12 NOVEMBER 2024

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

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

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

to be held on the _____ day of _____ 20__

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

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

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

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

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

Mayor/Councillor's signature _____

Date _____

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



Declaration of Interest form

Agenda item No. _____

Report title _____

Mayor/Councillor _____ declared a

Tick the relevant response:

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

in this item. The nature of the interest is _____

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

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

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

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

Mayor/Councillor left the Council meeting at _____ pm.

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

MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: 24/279912
EDRMS NO: A2004-0869

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **Renewal of Lease - 49 William Street, Raymond Terrace**.
 - 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
 - 3) That the report remain confidential and the minute be released in accordance with Council's resolution.
-

COUNCIL REPORTS

ITEM NO. 1

**FILE NO: 24/257608
EDRMS NO: 16-2023-403-1**

DEVELOPMENT APPLICATION (DA) NO. 16-2023-403-1 - SENIORS HOUSING DEVELOPMENT COMPRISING 51 INDEPENDENT LIVING UNITS, CAR PARKING, COMMUNAL CLUBHOUSE, LANDSCAPING, DEMOLITION AND SITE PREPARATION WORKS AT 48-54 PRESIDENT WILSON WALK, TANILBA BAY

REPORT OF: RYAN FALKENMIRE - ACTING DEVELOPMENT AND COMPLIANCE SECTION MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application (DA) No. 16-2023-403-1 for a seniors housing development comprising 51 single storey independent living units, car parking, communal clubhouse, landscaping, demolition and site preparation works at 48-54 President Wilson Walk, 35-37 Lloyd George Drive and 55 Beatty Boulevarde, Tanilba Bay (Lots 417, 418, 419, 420, 427, 426 & 431 DP 10716) subject to the recommended conditions contained in **(ATTACHMENT 1)**.

BACKGROUND

The purpose of this report is to present Development Application (DA) 16-2023-403-1 for a senior's housing development to Council for determination.

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

Subject Land:	48-54 President Wilson Walk, 35-37 Lloyd George Drive & 55 Beatty Boulevarde, Tanilba Bay (Lots 417, 418, 419, 420, 427, 426 & 431 DP 10716)
Total Area:	1.106ha
Zoning:	E1 Local Centre
Submissions:	2
Housing:	51 additional dwellings
Key Issues:	The key issues identified throughout the assessment of the DA relate to land contamination, flooding and provision of accessible parking.

The DA has been reported to Council in accordance with Council's 'Council Related Planning Matters Policy' as the development proposes a request to vary a development standard greater than 10%. The specified development standard is subclause 5(a) of Schedule 4 of the State Environmental Planning Policy (Housing) 2021, which requires all parking spaces in a seniors housing development to be designed as an accessible space. Of the 44 car parking spaces provided in the

proposed development, 19 are accessible spaces and therefore the extent of the variation is 56%.

Since the DA was lodged, subclause 5(a) has been amended by the Department of Planning, Industry and Environment (DPHI), to only require 15% of car spaces in senior's housing developments as accessible spaces. However, as the DA was lodged prior to the SEPP Housing amendment coming into effect, assessment against the former standard is required, as detailed within the Planner's Assessment Report (**ATTACHMENT 2**).

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

Proposal

The proposed development comprises the demolition of existing hardstand areas, removal of vegetation and staged construction of 51 Independent Living Units (ILUs) for seniors housing purposes, including communal facilities, landscaping, car parking, and associated site works. The demolition would involve the removal of all existing structures on the site and 16 existing trees.

The seniors housing consists of 5 x 1 bedroom units and 46 x 2 bedroom units for independent living. Forty-four (44) car parking spaces are provided to service the units, 14 of which will be provided as attached single car garages, 29 as external parking spaces along with a single stacked space. All dwellings are provided with private open space areas, bathroom, laundry, open plan kitchen, dining, and living areas. The two bedroom units contain an additional water closet (WC).

The communal facilities include a clubhouse, communal garden, and external landscaped areas dispersed across the site in the form of pocket parks. The clubhouse features a commercial kitchen, dining facilities, coffee and tea stations, nursing facilities/offices, and lounge areas.

Primary vehicular access to the site is proposed via President Wilson Walk with Beatty Boulevarde offering a secondary access point. Timber palisade fencing and retaining walls are proposed along the frontages of Beatty Boulevarde and Lloyd George Grove. Masonry and timber fencing, including signage, is proposed along the frontage of President Wilson Walk. Landscaping plantings are proposed across the development site, including screen plantings between neighbouring properties and street trees along President Wilson Walk, Beatty Boulevarde, and Lloyd George Grove.

The development is proposed to be undertaken across two stages, as follows:

- Stage 1: Site preparation works including the demolition of existing hardstand, removal of vegetation, earthworks, site remediation, installation of infrastructure and services, construction of the primary and secondary vehicle access, external parking areas, maintenance shed, and the construction of 42 units along with the communal clubhouse.

- Stage 2: Construction of 9 units and other site remediation works.

To service the needs of future residents, onsite staff will be provided consisting of a manager, care manager/registered nurse, receptionist, maintenance officer, chef, and other full-time care staff. Given the nature of the development being for seniors housing purposes, the site will operate 24 hours a day, 7 days a week, with entry gates proposed to be closed from 5:30pm to 7am in winter months and 6:30pm to 7am in summer months. A designated loading bay has been provided for any site deliveries.

Site Description and History

The site is comprised of Lots 417, 418, 419, 420, 426, 427 and 431 in DP 10716, generally known as 48-54 President Wilson Walk, 35-37 Lloyd George Grove, and 55 Beatty Boulevarde, Tanilba Bay. The site features an irregular shape, with 3 frontages, the primary of which is to President Wilson Walk, a secondary frontage to Beatty Boulevarde, and tertiary frontage to Lloyd George Grove. The site was developed as a shopping centre known as Tilligerry Plaza, which was abandoned in the 2000s and has recently been demolished. The site contains large portions of hardstand area associated with the parking and access areas for the former shopping centre and scattered vegetation.

The site is bounded by a mixture of commercial and residential land uses, with Tanilba Fuel station, residential dwellings, and a hardware store to the north, a mixture of commercial uses to the east, childcare centre and dwelling houses to the south, and residential dwellings to the west. In the broader locality, residential dwellings are located to the north, east, and west, the main shopping centre to the south-west, and a golf course and bushland to the south.

The site was previously developed as a retail centre known as Tilligerry Plaza, which was abandoned in the early 2000s. Tilligerry Plaza has since been demolished, in accordance with Demolition Order no. 40-2023-127-2 issued by Council on 23 May 2024.

Key Issues

The key issues identified throughout the assessment of the DA relate to land contamination, flooding and provision of accessible parking. A detailed assessment of the DA is contained within the Planner's Assessment Report (**ATTACHMENT 2**).

Provision of Accessible Parking

As the proposed development is for seniors housing, on-site parking provided is required to comply with the State Environmental Planning Policy (Housing) 2021 (SEPP Housing). At the time of lodgement, these requirements are stipulated under Clause 5 of Schedule 4 of the Housing SEPP. In particular, Subclause 5(a) required all parking spaces provided to comply with the requirements for parking for persons

with a disability set out in AS2890.6. The proposed development includes a total of 44 car parking spaces for residents, 19 of which comply with the requirements of AS2890.6. As such, this represents a 56% variation to Subclause 5(a). Of the 19 accessible spaces provided, 5 are located within the uncovered communal parking areas while the remaining 14 are located in lock-up garages dedicated to individual units.

In November 2022, the former Department of Planning and Environment (DPE) (now Department of Planning, Industry and Environment) proposed a draft amendment to this subclause, requiring only 10% of parking spaces to be constructed in accordance with AS2890.6 based on contemporary guidance on accessible car parking provisions for seniors housing.

DPE released an Explanation of Intended Effect (EIE), supporting an amendment to the Housing SEPP to reduce the accessible car parking requirements from 100%. Subsequently, in January 2024 an amendment to the Housing SEPP was made, which specified 15% of communal spaces should be designed as accessible spaces and at least 50% should be 3.8m wide.

While Council is unable to assess the proposed development against these amended Housing SEPP parking requirements as they were not in force at the time of lodgement, a merit based assessment was undertaken to consider the proposed parking standard variation submitted by the applicant.

The applicant has proposed 19 accessible car spaces (both communal and private) based on anticipated demand for the proposed development and to also meet the new SEPP Housing standard that commenced in January 2024.

All 14 private lock-up garages comply with the required dimensions and 17% (5 spaces) of the communal parking spaces are accessible. On this basis, the proposed development complies with the amended Housing SEPP parking requirements, with the exception of communal spaces meeting the 50% 3.8m width requirement. When considering the EIE released by DPE and the amended standards adopted in the Housing SEPP implemented in January 2024, requiring 100% accessible parking for the development is unnecessary to meet the mobility needs of future residents. Therefore, as 43% (19) of all 44 parking spaces, comprising 100% (14) of lock-up garages and 17% (5) of communal spaces are accessible spaces, it is determined that the underlying objective of the control has been met and requiring strict compliance would be both unnecessary and onerous.

On these grounds, the provision of accessible parking is considered to be acceptable for the proposed development. Further detail on the Clause 4.6 variation is contained within the Planner's Assessment Report (**ATTACHMENT 2**).

Land Contamination

Section 4.6 of Chapter 4 of the Resilience and Hazards SEPP requires a consent authority to consider whether land is contaminated, is in a suitable state despite

contamination, or requires remediation to be made suitable for the proposed development.

The application was supported by a Preliminary Site Contamination Assessment (PSCA) and a further Detailed Site Investigation (DSI) was requested.

As a result of the DSI findings, remediation of the site is required and a Remediation Action Plan (RAP) was prepared by the applicant. The RAP proposes to stage the development so that areas of the site unaffected by hydrocarbon contamination from the neighbouring service station can be constructed. Implementation with, and compliance with the approved remediation action plan has been included as a condition of consent.

Site Statement Audit

In response to the Detailed Site Investigation and associated RAP findings, a Site Audit Statement prepared by a NSW EPA accredited Site Auditor was requested to determine the adequacy of the site investigations and proposed remediation strategies.

The Auditor concurred with the staged approach to remediation, and found that the site contamination is appropriately characterised and the site can be made suitable for the intended use subject to the remediation outlined in the RAP.

The NSW EPA and Council's Environmental Health Officer were satisfied with the contamination approach and findings from the Auditor Advice Report. On this basis, the proposed development satisfies the requirements of Chapter 4 of the Resilience and Hazards SEPP given the land can be made suitable to support the proposed development.

Flooding

The site is partly located on land mapped as being flood planning area – low hazard flood fringe. The proposal is for seniors housing, which is a development type vulnerable to critical emergency response in accordance with the Port Stephens DCP. Taking this into consideration, the proposal incorporates a number of measures to mitigate risk to human life from flooding, including the following:

- The proposed filling of the site enables the floor level of each unit to be located above the PMF level (8.5m AHD) and FPL (8.7m AHD) and therefore each unit is flood free. The PMF level is lower than the FPL when accommodating for the 500mm freeboard.
- Access from the site to the road network matches the flood immunity of the road.
- Flood free land above the PMF is located a short distance from the site at a distance of approximately 230m by sealed road.
- The site would not be isolated by high hazard floodwaters, only low hazard flood fringe waters.

Based on the flood characteristics of the site and above mitigation measures, the site could readily be evacuated prior to flood inundation or alternatively refuge taken within dwellings above the PMF level, which is expected to only be for a short duration. Subject to the recommended conditions requiring the preparation of a flood emergency evacuation/refuge plan, sufficient measures have been incorporated to mitigate risk to life from flooding. It is noted the flood planning level is higher than the PMF level based on the inclusion of a 500mm freeboard.

With regard to offsite flood impacts, the proposed development involves some filling works to raise the height of dwellings. Hydraulic modelling has been submitted which demonstrates the post-development out-flows are equal to or lower than pre development out-flows for various AEP events, including the 20%, 10%, 5%, 2% and 1% AEP events. There would be no substantial loss of flood storage as a result of the proposal

Therefore, in considering the flood characteristics of the site and proposed mitigation measures, the site could be adequately evacuated prior to flood inundation or alternately residents would be able to refuge in place within the dwellings. As such, sufficient measures have been incorporated to suitably mitigate risk to life from flooding.

On this basis, the proposed development is considered to comply with the relevant provisions of the Port Stephens Local Environmental Plan 2013 (PSLEP) and Stephens Development Control Plan (DCP) with regard to flood planning controls.

Conclusion

The subject site is centrally located within the suburb of Tanilba Bay, adjacent commercial premises and established transport routes. Located within an established town centre area, the development would reinforce the urban form of the area and the development makes good use of the available brownfield land. Furthermore, the site is located within the Tilligerry Peninsula, which is identified in the adopted Port Stephens Housing Strategy as an area identified for renewal through new infill developments, such as the one proposed in this application. The site has limited biodiversity value given its location, and therefore, the development would have minimal environmental impact on the natural environment.

While the site features localised constraints, including flooding and contamination, subject to flood safe design methods and remediation works, the development would not impact on or be adversely impacted by these constraints. The development satisfies all elements required under the relevant planning instruments and policies and there are no anticipated adverse impacts on the locality as a result of the development. As such, the site is considered suitable for the proposed development.

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, s7.11 development contributions would be applicable and would be levied in accordance with the 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), State Environmental Planning Policy (Housing) 2021, Port Stephens Local Environmental Plan 2013 (PSLEP) and the Port Stephens Development Control Plan 2014 (DCP 2014).

Should the DA be refused against the recommendation, the decision could be challenged in the Land and Environment Court.

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The development will result in beneficial social and economic impacts. The proposed development would provide a significant increase in seniors housing accommodation for the locality to service the needs of the community, and satisfy the housing demand for the ageing population. The proposed development is consistent with the Port Stephens Housing Strategy adopted by Council, which identifies the Tilligerry Peninsula as a growth area around local centres through infill development. Additionally, the proposed development would provide local infrastructure in the locality, through the provision of additional footpaths to improve connectivity between urban areas and communal amenities, such as local shops. This is consistent with the goals identified within the liveability index assessment of the Tilligerry Peninsula. The development also includes CPTED principles throughout the design, minimising any potential adverse social impacts.

Furthermore, the construction of the proposed development would provide employment opportunities in the locality and support the local building and development industries. This would have a direct monetary input to the local economy, and the increased number of residents in the locality would provide ongoing economic input through daily living activities.

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

Built Environment

The proposed development has been designed to comprise a single storey design, which is consistent with surrounding residential developments in the area and is below the building height limit of 8m. The development contains three street frontages, being President Wilson Walk, Beatty Boulevard and Lloyd George Grove. The development incorporates access points, architectural features, landscaping and setbacks consistent with the existing built environment contributing to an improved and attractive streetscape character. Furthermore, the design implements colour and material choices, which are consistent with the coastal character of the area.

The proposed development is required to be filled to approximately 1-1.5m across the site, requiring retaining walls and ramping from street level to meet accessibility requirements. To address the visual impacts caused by the required filling, accessibility ramps at the entrance on President Wilson Walk and Lloyd George Grove are appropriately setback behind fencing and landscaping to soften their visual appearance from the street and mask the extent of retaining proposed. Retaining to boundaries shared with private land all interface commercial zoned (E1 Local Centre) land. The boundary retaining also adjoins residential development at 38 Pershing Place and 39 Lloyd George Grove. The interface with 38 Pershing Place consists of a 0.6m high retaining wall and 1.6m boundary fence, which does not cause any adverse overshadowing or unacceptable visual impacts. Similarly, the interface with 39 Lloyd George Grove comprises a 0.82m high retaining wall with a 1.6m high fence towards the rear, and a 1.8m high fence towards the front setback. This is not anticipated to result in any adverse overshadowing or unacceptable visual impacts.

Furthermore, the development proposes a landscape plan which includes buffers between neighbouring sites and boundary fencing. Ultimately, the development would improve the built environment of the area and aligns with the existing built character of the locality.

Natural Environment

The proposed development has been assessed by Council's Environmental Planner who confirmed that the site contains minimal biodiversity value, noting that it is heavily disturbed and located within a built up urban environment. A landscape plan has also been provided which includes predominately native vegetation.

Furthermore, the proposed development includes appropriate water quality and quantity control devices to reduce the impact of the development on the natural environment. These controls have been reviewed and supported by Council's Development Engineer. As such, the proposed development is considered to have no significant adverse impacts on the natural environment.

CONSULTATION

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

Internal

Consultation was undertaken with Council's Development Engineering, Natural Systems, Environmental Health, Waste Management, Development Contributions, Spatial Services and Building Certification teams. The referral comments from these officers have been considered as part of the Planner's Assessment Report **(ATTACHMENT 2)**. The internal referral officers supported the proposed development, subject to the recommended conditions of consent **(ATTACHMENT 1)**.

External

Consultation was undertaken with Ausgrid, NSW EPA and Water NSW. Neither agency raised significant objection to the DA. The comments provided by the external agencies are discussed within the Planner's Assessment Report (**ATTACHMENT 2**).

Public exhibition

The DA was exhibited from 31 July 2023 to 14 August 2023 in accordance with the Port Stephens Council Community Engagement Strategy. One submission was received during this exhibition period.

Following the submission of additional information, including amended plans, the application was exhibited again from 15 May 2024 to 19 June 2024. One submission was received during this exhibition period.

A detailed assessment of the submissions is outlined within the Planner's Assessment Report (**ATTACHMENT 2**).

OPTIONS

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

ATTACHMENTS

- 1) Recommended Conditions of Consent. [↓](#)
- 2) Planner's Assessment Report. [↓](#)
- 3) Locality Plan. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

All information relating to this development application (DA) is available on the Councillors' Dashboard.

TABLED DOCUMENTS

Nil.

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

General Conditions

1	Approved plans and supporting documentation				
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
	Approved plans				
	Plan number	Revision number	Plan title	Drawn by	Date of plan
	06	DA-F	Site and Roof Plan	O'Connell Architecture and Design	10/07/2024
	07	DA-F	Ground/Site Plan	O'Connell Architecture and Design	10/07/2024
	10	DA-F	Part Site Plan	O'Connell Architecture and Design	10/07/2024
	11	DA-F	Part Site Plan	O'Connell Architecture and Design	10/07/2024
	12	DA-F	Part Site Plan	O'Connell Architecture and Design	10/07/2024
	13	DA-F	Site Elevations	O'Connell Architecture and Design	10/07/2024
	14	DA-F	Site Elevations	O'Connell Architecture and Design	10/07/2024
	15	DA-F	Site Elevations	O'Connell Architecture and Design	10/07/2024
	16	DA-F	Site Elevations	O'Connell Architecture and Design	10/07/2024
	17	DA-F	Detailed Plans	O'Connell Architecture and Design	10/07/2024
	18	DA-F	Club House	O'Connell Architecture and Design	10/07/2024
	34	DA-F	Kiosk Clearances	O'Connell Architecture and Design	10/07/2024
	35	DA-F	Signage Details	O'Connell Architecture and Design	10/07/2024
	36	DA-F	Demolition Plan	O'Connell Architecture and Design	10/07/2024
	37	DA-F	Staging Plan	O'Connell Architecture and Design	10/07/2024
	L02	F	Site Plan & Plant Schedule	EMM Consulting Pty Limited	19/07/2024

L03	F	Landscape Plan	EMM Consulting Pty Limited	19/07/2024
L04	F	Landscape Plan	EMM Consulting Pty Limited	19/07/2024
C01	7	General Arrangement Plan	GCA Engineering Solutions	09/07/2024
C02	7	Levels Plan Sheet (1 of 2)	GCA Engineering Solutions	09/07/2024
C03	7	Levels Plan Sheet (2 of 2)	GCA Engineering Solutions	09/07/2024
C04	7	Drainage Plan Sheet (1 of 2)	GCA Engineering Solutions	09/07/2024
C05	7	Drainage Plan Sheet (2 of 2)	GCA Engineering Solutions	09/07/2024
C06	7	Soil and Water Management Plan	GCA Engineering Solutions	09/07/2024
C07	7	Pedestrian Crossing Plan	GCA Engineering Solutions	09/07/2024
Approved Documents				
Document title		Version No.	Prepared by	Dated
Appendix 4 – Site Plan		Arboricultural Impact Assessment Report for 48 President Wilson Walk Tanilba Bay	Joseph Pidutti	06 June 2023
Noise Impact Assessment Seniors Housing Development Tanilba Bay, NSW		202039-9963-R2	Neil Pennington, Spectrum Acoustics	19 September 2023
Access Report: Seniors Living Development 48 President Wilson Walk Tanilba Bay		PAA_23064 Revision 3	Lindsay Perry, Purple Apple Access	22 April 2024
Report on Remediation and Protection Measures – 48 President Wilson Walk, Tanilba Bay		1	Kostandreas Sykiotis – Stantec	17 April 2024
Plan of Management: The Caswell		Referenced: 23/179865	Applicant	14 July 2023
Site Waste Minimisation and Management Plan		-	de Witt Consulting Town Planning	5 July 2023

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

	<p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p> <p>Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>
2	<p>Approved Report Recommendations</p> <p>Construction of the development must comply with the recommendations of the Noise Impact Assessment, prepared by Neil Pennington (Spectrum Acoustics), Revision 2, dated 19 September 2023, detailed as follows:</p> <ul style="list-style-type: none"> • A 1.8m acoustic fence is to be constructed along the site boundary adjoining receiver R2, as indicated in Figure 4 of the Noise Impact Assessment or the external AC units of Units 34 to 37 are to be fitted with a partial acoustic enclosure. • 2.1m and 1.8m acoustic fences are to be constructed, as indicated in Figure 5 of the Noise Impact Assessment, except in the following circumstances: <ul style="list-style-type: none"> ○ Where a different height is specified on the approved architectural plans prepared by O'Connell Architecture and Design and dated 10/07/2024, the architectural plans prevail to the extent of the inconsistency. ○ Where a fence is located within the setback area to any road, the height of the fence must be no more than 1.2m above finished ground level. Setback area is defined in Section 1.5 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. <p>Condition reason: To ensure that development is carried out in accordance with specific recommendations of a report are required to be complied with, but not the full report.</p>
3	<p>External Agency Approvals</p> <p>The requirements from the following agencies must be complied with prior to, during, and at the completion of the development.</p> <p>The Requirements are:</p> <ol style="list-style-type: none"> 1. Ausgrid – Letter titled 'Proposed Development at 48 PRESIDENT WILSON WALK, TANILBA BAY 2319 Development Application No. DA 16-2023-403-1' Reference no. 1900123137_2 dated 29/09/2023 <p>A copy of the Requirements is attached to this determination notice.</p> <p>Condition reason: To ensure that development is carried out in accordance with conditions are required by other external agencies (i.e. DOD, CASA etc.).</p>
4	<p>General Terms of Approval</p> <p>The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development.</p> <p>The General Terms of Approval are:</p>

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

	<p>1. Water NSW, referenced IDAS1154900 and dated 17 July 2024.</p> <p>A copy of the General Terms of Approval is attached to this determination notice.</p> <p>Condition reason: To ensure that the development is carried out in accordance with the General Terms of Approval issues by Integrated Development / Concurrence Agencies</p>
5	<p>Protection of existing vegetation and natural landscape features</p> <p>No vegetation or natural landscape features other than that authorized for removal, pruning by this Consent must be disturbed, damaged, or removed. No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval.</p> <p>Condition reason: To ensure that vegetation is protected during works</p>
6	<p>Building Code of Australia</p> <p>All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.</p> <p>Condition reason: To ensure that all building works are completed in accordance with the Building Code of Australia.</p>
7	<p>Sign on Building</p> <p>Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.</p> <p>The sign must be maintained while the work is being carried out and is to be removed when the work is completed.</p> <p>Condition reason: To require signage that details the relevant contacts of a development during construction</p>
8	<p>Separate Approval for signs</p> <p>A separate development application for any proposed signs additional to those signs approved as part of this development consent, must be provided to, and approved by, the Consent Authority or not require approval under the provisions of the <i>State Environmental Planning Policy (Exempt and Complying Codes) 2008</i> if applicable, prior to the erection or display of any such signs.</p> <p>Condition reason: To ensure that the development is restricted to the approved signage within the development consent or that signage is permitted in accordance with <i>State Environmental Planning Policy (Exempt and Complying Codes) 2008</i>.</p>

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9	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:
	<ul style="list-style-type: none"> 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.
10	Excavation for Residential Building Works
	If the approved development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the consent must, at the person's own expense:
	<ul style="list-style-type: none"> a) protect and support the adjoining premises from possible damage from the excavation; b) where necessary, underpin the adjoining premises to prevent any such damage.
	This condition does not apply if the person having the benefit of the consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying, and a copy of that written consent is provided to the PCA prior to the excavation commencing.
11	Tree Removal/Retention
	The trees identified as "1-13" on Appendix 4 – Site Plan of Arboricultural Impact Assessment Report for 48 President Wilson Walk Tanilba Bay, prepared by Joseph Pidutti, dated 06 June 2023 are approved for removal.
	Condition reason: To confirm the trees approved for removal or retention.
12	Demolition Works
	All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility.
	Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed to an appropriately licenced waste facility.

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	<p>Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.</p> <p>Condition reason: To ensure a development is carried out in accordance with the Australian Standard AS 2601 'The demolition of Structures', and all waste materials are appropriately removed.</p>
13	<p>Staging</p> <p>The demolition and construction of the development is to be completed in numerical stages in accordance with plan Drawing No. 37 (Staging Plan), prepared by O'Connell Architecture and Design, and dated 10/07/2024.</p> <p>Condition reason: To ensure that the development is completed in accordance with the approved staging and stamped plans.</p>
14	<p>Site Audit Statement</p> <p>All remediation works and the Validation Reports must be reviewed by a NSW EPA Accredited Site Auditor (Site Auditor) as defined under the Contaminated Land Management Act 1997 at the conclusion of each stage of the remediation works.</p> <p>The Site Auditor must provide a Site Audit Statement (SAS) in accordance with the EPA contaminated lands planning guidelines, Contaminated Lands Management Act 1997, State Environmental Planning Policy (Resilience and Hazards) 2021, confirming the land is suitable for the intended use.</p> <p>The SAS must be provided to the Consent Authority within 30 days following the completion of each stage of the remediation works and submission of the Validation Report.</p> <p>Condition reasons: To ensure that the proposed remediation measures are appropriate and remediation works are undertaken in accordance with the approval.</p>

Building Work**Before issue of a construction certificate**

15	<p>Construction Certificate</p> <p>The following information must be provided to the Certifying Authority with the Construction Certificate application:</p> <ul style="list-style-type: none"> a) Plans showing internal pedestrian pathway lighting is designed in accordance with the appropriate Australian Standards. b) Amended Remediation Action Plans (RAP) for Stage 1 and Stage 2 works are to be provided before the issue of the Construction Certificate of each respective stage. The amended RAPs are to incorporate the recommendations made in the 'Updated Interim Auditor Advice letter', reference C2a_EA1136 and dated 14 August 2024. The amended RAPs are to be reviewed by a NSW Environmental Protection Authority
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	<p>accredited Site Auditor to confirm the proposed remedial options and validation procedures are appropriate. Details confirming the Site Auditors support of the amendments is to be provided</p> <p>Condition reason: To ensure that specific information is provided to the Certifying Authority prior to the issue of the Construction Certificate.</p>
16	<p>Erosion and sediment controls plan</p> <p>Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the certifier:</p> <ol style="list-style-type: none"> 1. the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and 2. 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) (as amended from time to time). <p>Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways.</p>
17	<p>Waste Management Plan requirements</p> <p>Before the issue of a Construction Certificate, a waste management plan for the development must be prepared and provided to the certifier. The plan must be prepared:</p> <ol style="list-style-type: none"> a. in accordance with <ol style="list-style-type: none"> i. the Environment Protection Authority's Waste Classification Guidelines as in force from time to time; and ii. a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out; and b. include the following information — <ol style="list-style-type: none"> i. the contact details of the person removing waste (if known); ii. an estimate of the type and quantity of waste; iii. whether waste is expected to be reused, recycled or sent to landfill; iv. the address of the disposal location for waste (if known). <p>A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.</p> <p>Condition reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>
18	<p>Construction Noise and Vibration Management Plan</p> <p>Before the issue of a Construction Certificate, a Construction Noise and Vibration Management Plan (CNVMP) is to be provided which details how noise and vibration impacts</p>

will be managed throughout all stages of works, including demolition, and monitoring measures to be implemented during site works.

Condition reason: To ensure the development does not adversely impact the amenity of the locality during any stages of work.

19

Section 7.11 development contributions

A monetary contribution is to be paid to Council for the provision of 44 additional lots / dwellings, 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	\$329	\$14,476
Civic Administration – Works Depot	\$637	\$28,0285
Town Centre Upgrades	\$1,716	\$75,504
Public Open Space, parks and reserves	\$1,154	\$50,776
Sports and Leisure facilities	\$1,443	\$63,492
Cultural and Community Facilities	\$223	\$9,812
Road Works	\$1,625	\$71,500
Medowie Traffic & Transport	\$1,569	\$69,036
Shared Paths	\$240	\$10,560
Bus Facilities	\$16	\$704
Flood & Drainage	\$897	\$39,468
Kings Hill Urban Release Area	\$152	\$6,688
Total	\$10,001	\$440,044

STAGE 1 – 37 additional lots/dwellings (5 credits)

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$329	\$12,173
Civic Administration – Works Depot	\$637	\$23,569
Town Centre Upgrades	\$1,716	\$63,492
Public Open Space, parks and reserves	\$1,154	\$42,698
Sports and Leisure facilities	\$1,443	\$53,391
Cultural and Community Facilities	\$223	\$8,251
Road Works	\$1,625	\$60,125
Medowie Traffic & Transport	\$1,569	\$58,053
Shared Paths	\$240	\$8,880
Bus Facilities	\$16	\$592
Flood & Drainage	\$897	\$33,189
Kings Hill Urban Release Area	\$152	\$5,624

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	Total	\$10,001	\$370,037
	STAGE 2 –7 additional lots/dwellings (2 credits)		
	Facility	Per Lot/Dwelling	Total \$
	Civic Administration – Plan Management	\$329	\$2,303
	Civic Administration – Works Depot	\$637	\$4,459
	Town Centre Upgrades	\$1,716	\$12,012
	Public Open Space, parks and reserves	\$1,154	\$8,078
	Sports and Leisure facilities	\$1,443	\$10,101
	Cultural and Community Facilities	\$223	\$1,561
	Road Works	\$1,625	\$11,375
	Medowie Traffic & Transport	\$1,569	\$10,983
	Shared Paths	\$240	\$1,680
	Bus Facilities	\$16	\$112
	Flood & Drainage	\$897	\$6,279
	Kings Hill Urban Release Area	\$152	\$1,064
	Total	\$10,001	\$70,007
	Payment of the above must apply to the Development Application as follows:		
	a) Prior to the issue of the Construction Certificate for each stage.		
	Note: The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount must be indexed at the time of actual payment in accordance with the applicable Index.		
	Condition reason: To ensure that a monetary contribution as specified is paid to Council in accordance with Section 7.11 of the EP&A Act 1979, and the Port Stephens Council Local Infrastructure Contributions Plan 2020.		
20	Long Service Levy		
	Before the issue of a Construction Certificate, the long service levy of \$24,955.00, as calculated at the date of this consent, must be paid to the Long Service Corporation under the <i>Building and Construction industry Long Service Payments Act 1986</i> , section 34, and evidence of the payment is to be provided to the principal certifier		
	Condition reason: To ensure the Long Service Levy is paid.		
21	Civil engineering plans		
	Civil engineering plans prepared by a qualified Engineer, indicating any required drainage, roads, accessways, earthworks, pavement design, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be		

	<p>prepared in accordance with the approved plans and Council's Infrastructure Specifications.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>Note: Under the <i>Roads Act 1993</i>, only the Roads Authority can approve commencement of works within an existing road reserve.</p> <p>Condition reason: To ensure that civil engineering plans have been prepared by a qualified engineers prior to the issue of the Construction Certificate.</p>
22	<p>Roads Act Approval</p> <p>For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage. An application must be made for a Roadworks Permit under Section 138B of the <i>Roads Act 1993</i> and include the following information:</p> <ul style="list-style-type: none"> a) Detailed civil plans for the construction of a footpath on Lloyd George Grove from the site frontage at 35 and 37 Lloyd George Grove to the existing footpath at the corner of Lloyd George Grove and President Wilson Walk. b) Detailed civil plans for a raised pedestrian crossing across President Wilson Walk is required in accordance with Australian Standards, Austroads guide to road design and Transport for NSW technical specifications as shown on plan the approved Pedestrian Crossing Plan, prepared by GCA Engineering Solutions, Project no. 23079C, Drawing C07, revision 7 and dated 09/07/2024. All connections including existing kerb ramps are to be upgrade where required to ensure accessible path of travel is complying with the Disability Discrimination Act c) Details of all new driveway crossovers, including replacement of the driveway crossover to 56 President Wilson Walk. d) Where new pathways are connected to existing infrastructure, the existing infrastructure is to be upgraded at the connection to ensure it is DDA compliant including the application of tactile indicators. <p>All plans for public infrastructure are to be in accordance with the relevant Port Stephens Council Technical Specification.</p> <p>Condition reason: To ensure that works within the road reserve are approved by a Section 138B Approval of the <i>Roads Act 1993</i> and satisfy the relevant provisions of State Environmental Planning Policy (Housing) 2021.</p>
23	<p>Stormwater/Drainage Plans</p> <p>Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p>

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	<p>Note: Under the <i>Roads Act 1993</i>, only the Roads Authority can approve commencement of works within an existing road reserve.</p> <p>Condition reason: To ensure that the development is carried out in accordance with the Port Stephens Development Control Plan 2014.</p>
24	<p>Construction Site Management Plan</p> <p>Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the principal certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> a. The location and materials for protective fencing and hoardings on the perimeter of the site; b. Provisions for public safety; c. Pedestrian and vehicular site access points and construction activity zones; d. Details of construction traffic management including: <ul style="list-style-type: none"> i. Proposed truck movements to and from the site; ii. Estimated frequency of truck movements; and iii. Measures to ensure pedestrian safety near the site; e. Details of bulk earthworks to be carried out; f. The location of site storage areas and sheds; g. The equipment used to carry out works; h. The location of a garbage container with a tight-fitting lid; i. Dust, noise and vibration control measures, including specific dust noise and vibration control measures for the adjacent childcare centre on Lot: 1 DP: 1295669; j. The location of temporary toilets; k. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: <ul style="list-style-type: none"> i. AS 4970 – Protection of trees on development sites; ii. An applicable Development Control Plan; iii. An arborist's report approved as part of this consent <p>A copy of the construction site management plan must be kept on site at all times while work is being carried out.</p> <p>Condition reason: To require details of measures to be undertaken that will protect the public, and the surrounding environment, during site works and construction.</p>
25	<p>Dilapidation Report</p> <p>Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works, and public land to the satisfaction of the principal certifier.</p> <p>Where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the principal certifiers, that all reasonable steps were taken to obtain access to the adjoining properties.</p>

	<p>Condition reason: To establish and document the structural condition of adjoining properties and existing structures on the subject site for comparison as site work progresses and is completed.</p>
26	<p>Compliance with Accessibility Report</p> <p>Prior to the issue the Construction Certificate for each stage, documents and plans for the relevant stage which demonstrate compliance with the requirements of the Access Report prepared by Lindsey Perry Access, reference no. PAA_23064 and dated 22 April 2024 and the applicable design requirements applied under Schedule 4 of State Environmental Planning Policy (Housing) 2021 concerning accessibility and useability for hostels and self-contained dwellings must be submitted to and deemed to be satisfactory by the Principal Certifying Authority. A copy of the documents and plans are to be submitted to Council within 14 days of lodgement with the Principal Certifying Authority.</p> <p>Condition reason: To ensure the development is constructed in accordance with the requirements of the approved accessibility report.</p>
27	<p>Retaining Walls</p> <p>All retaining walls within 1m of a boundary and exceeding 600mm in height must be designed and certified by a suitably qualified Structural Engineer.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority</p> <p>Condition reasons: To ensure that retaining walls in proximity to the boundary and over a height are designed and certified by a suitably qualified engineer.</p>
28	<p>Flood Risk Management Plan</p> <p>A Flood Risk Management Plan prepared by a qualified Flood Engineer must be provided to the Certifying Authority demonstrating compliance with the following:</p> <ul style="list-style-type: none"> a) Certification that the proposed development/ building flood refuge is capable of withstanding the force of any flood waters experienced up to the Probable Maximum Flood Event (PMF). b) Certification demonstrating that any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property. c) Certification demonstrating that the rainwater tank, finishes, plant fittings and equipment and any other buoyant fixtures will be of materials and functional capacity to withstand the forces of floodwater in events up to and including the 1% AEP event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces. <p>Details demonstrating compliance must be provided to the Certifying Authority</p> <p>Condition reasons: To ensure that flood risk is appropriate mitigated.</p>
29	<p>Validation Report – Stage 2</p>

	<p>Prior to the issue of any Construction Certificate for Stage 2 works, as identified in Drawing No. 37 (Staging Plan), prepared by O'Connell Architecture and Design, and dated 10/07/2024, a Validation Report prepared by a suitably qualified person must be provided to the Certifying Authority and Council within 30 days following completion of the remediation works required for Stage 2, which demonstrates:</p> <ul style="list-style-type: none"> a) compliance with the approved Remediation Action Plan (RAP); b) that the remediation acceptance criteria (in the approved RAP) has been fully complied with; c) that all remediation works undertaken comply with the Contaminated Lands Planning Guidelines, Contaminated Lands Management Act 1997, State Environmental Planning Policy (Resilience and Hazards) 2021 and Council's Management of Contaminated Lands Policy; <p>and includes:</p> <ul style="list-style-type: none"> a) Works As Executed Plan(s) that identify the extent of the remediation works undertaken (that includes any encapsulation work) prepared by a Registered Surveyor; b) a "notice of completion of remediation work" as required under Clause 4.15 of the Resilience and Hazards SEPP; and c) a statement confirming that the site following remediation of contamination is suitable for the intended use. <p>Condition reasons: To ensure that the site has been remediated to be suitable for the approved use.</p>
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Before building work commences

30	<p>Erosion and sediment controls in place</p> <p>Before any site work commences, the certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been re-stabilized in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).</p> <p>Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>
31	<p>Flood Design Measures</p> <p>Evidence of certification demonstrating that the following flood related design precautions have been adhered to in the design must be submitted to the Principal Certifying Authority:</p> <ul style="list-style-type: none"> a) In sewered areas some plumbing fixtures may be located below the Flood Planning Level (FPL). Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge; b) All materials stored at the site and capable of causing harm to the environment must be stored at a level not less than the FPL or suitable bunding must be placed around such materials to a minimum of the FPL;

	<ul style="list-style-type: none"> c) All building materials, equipment, ducting, etc., below the FPL must be flood compatible and ducting must be provided with openings for drainage and cleaning; d) All main power supply, heating and air conditioning service installations, including meters must be located above the FPL. All electrical equipment installed below the FPL must be capable of disconnection by a single plug from the power supply; e) All electrical wiring below the FPL must be suitable for continuous submergence in water. All conduits below the FPL must be self-draining. Earth core leakage systems or safety switches are to be installed; f) Wherever possible, the premises must be designed to ensure that plant, equipment, storage tanks or other fixtures or fittings liable to damage by floods are located above the FPL or be moveable to levels above the FPL. Should this not have the ability to occur, they shall be suitable for submergence in water and securely anchored to overcome buoyancy and movement. All storage tanks must be vented to an elevation above the FPL.
	Condition reason: To ensure that the development appropriately mitigates flood risk.
32	Tree protection measures
	Before any site work commences, the principal certifier, or Council where a principal certifier is not required, must be satisfied the measures for tree protection detailed in the construction site management plan are in place.
	Condition reason: To protect and retain trees.
33	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.
	Condition reason: To ensure that adequate vehicular access is provided to and from the site, prior to the commencement of works.
34	Construction Certificate Required
	In accordance with the provisions of Section 6.7 of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:
	<ul style="list-style-type: none"> a) A Construction Certificate has been issued by a Consent Authority; b) A Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the EP&A Act 1979; and c) The PCA is notified in writing of the name and contractor license number of the owner/building intending to carry out the approved work.

	Condition reason: To ensure that a Construction Certificate has been issued for the building works prior to the commencement of work.
35	<p>Notice Commencement of Work</p> <p>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:</p> <ul style="list-style-type: none"> a) The name and address of the person; b) A description of the work to be carried out; c) The address of the land on which the work is to be carried out; d) The Registered numbers and date of issue of the development consent and construction certificate; e) A statement signed by or on behalf of the principal certifier that all conditions of the consent that must be satisfied before work commences have been satisfied; and f) The date on which the work is intended to commence. <p>The notice must be lodged on the NSW Planning Portal.</p> <p>Condition reason: To ensure that the Principal Certifier has given notice to the Consent Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certificate and Fire Safety) Regulation 2021.</p>
36	<p>Notice of Principal Certifying Authority Appointment</p> <p>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:</p> <ul style="list-style-type: none"> 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 <ul style="list-style-type: none"> i) The certifier's registration number, and ii) A statement signed by the registered certifier to the effect that the certifier consents to be appointed as principal certifier, and iii) A telephone number on which the certifier may be contacted for business purposes.

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	<p>The notice must be lodged on the NSW Planning Portal.</p> <p>Condition reason: To ensure that the Principal Certifier has given notice that they will be the Principal Certifier to the Consent Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the Environmental Planning and Assessment Act 1979</p>
37	<p>Damage report – Public Infrastructure</p> <p>The applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists</p> <p>Condition reason: Small-scale development - Where the development is in close proximity to Council infrastructure.</p>
38	<p>Notice regarding dilapidation report</p> <p>Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property(ies) no less than seven (7) days before the commencement of any site or building works and provide a copy of the report to the Council at the same time.</p> <p>Condition reason: To ensure the structural safety of adjoining buildings as a result of the proposed development.</p>
39	<p>Rubbish Generated from the Development</p> <p>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.</p> <p>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.</p> <p>Condition reason: To ensure that construction waste is appropriately stockpiled and removed from the site.</p>
40	<p>Site is to be secured</p> <p>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.</p> <p>Condition reason: To restrict access to the site by the public and ensure that the site is adequately secured prior to the commencement of works.</p>
41	<p>Roads Act Approval</p>

	For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138B of the Roads Act 1993
	Condition reason: To ensure that works within the road reserve are approved by a Section 138B Approval of the Roads Act 1993.

During building work

42	Discovery of relics and Aboriginal objects
	While site works is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered: <ul style="list-style-type: none"> a. The work in the area of the discovery must cease immediately; b. The following must be notified – <ul style="list-style-type: none"> i. For a relic – the Heritage Council; or ii. For an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, Section 85. Site works may recommence at a time conformed in writing by: <ul style="list-style-type: none"> a. For a relic – the Heritage Council; or b. For an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85
	Condition reason: To ensure the protection of objects of potential significance during works.
43	Compliance with the approved Remediation Action Plan
	While site work is being carried out, all recommendations, strategies and protection measures within the approved RAP are to be complied with at all times.
	Condition reason: To ensure that the development is undertaken in accordance with the approved Remediation Action Plan.
44	Responsibility for changes to public infrastructure
	While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.
	Condition reason: To ensure payment of approved changes to public infrastructure
45	Construction Noise
	While site works are being carried out, the applicant is to ensure all measures required by a Construction Noise and Vibration Management Plan (CNVMP) are maintained throughout the

	<p>entire duration of works, including any required monitoring. Any additional requirements for the adjoining childcare centre must be maintained at all times during site works. Should adverse noise impact occur during works and reasonable noise complaints be received by Council, the applicant will be required to install noise monitoring equipment on the boundary of the affected property and implement construction noise reduction measures to the satisfaction of Council.</p> <p>Condition reason: To ensure that developments do not give rise to offensive noise impacts during works.</p>
46	<p>Finished Floor Level</p> <p>The finished floor level of all buildings must be a minimum level of Reduced Level 8.7 metres Australian Height Datum in accordance with the approved plans.</p> <p>A survey report prepared by a Registered Surveyor confirming that the finished floor level complies with the approved plans or floor levels specified by the development consent, must be provided to Principal Certifying Authority prior to the development proceeding beyond floor level stage.</p> <p>Condition reason: To ensure that development minimises flood risk to life and property.</p>
47	<p>Hours of work</p> <p>Site work must only be carried out between the following times –</p> <p>7:00am to 5:00pm on Monday to Saturday</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p>Condition reason: To protect the amenity of the surrounding area</p>
48	<p>Unexpected Finds Contingency (General)</p> <p>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.</p> <p>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.</p> <p>Where remediation work is required, the applicant will be required to obtain consent for the remediation works.</p> <p>Condition reason: To ensure that works relating to a development are to cease if any suspect materials are identified and remediated in accordance with Council requirements</p>

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49	Unexpected Finds Contingency (Remediation)
	Should any additional contamination or hazardous materials be encountered during any stage of the remediation process, all remediation works in the vicinity of the findings must cease and compliance with the contingency recommendations in the approved RAP must be adopted.
	Condition reason: To ensure that works relating to a development are to cease if any suspect materials are remediated in accordance with Council requirements
50	Potential Acid Sulfate Soils
	Should Acid Sulfate Soils (ASS) be encountered within the zone of works, an ASS Management Plan is to be prepared by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority.
	The recommendations and/or mitigation measures contained within the ASS Management Plan must be complied with during works.
51	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: <ul style="list-style-type: none"> 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 owners before excavating, or of the intention to excavate. <p>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.</p> <p>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.</p>
52	Offensive noise, dust, odour, and vibration

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	<p>No work must not give rise to offensive noise, odour, or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.</p> <p>Condition reason: To ensure that developments do not give rise to offensive noise, dust, odour, or vibration.</p>
53	<p>Cut and Fill (if applicable)</p> <p>While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <ul style="list-style-type: none"> 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. b) 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. <p>Condition reason: To ensure that all imported and/or exported fill is Virgin Excavated Natural Material.</p>
54	<p>Disposal of Stormwater</p> <p>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.</p> <p>Condition reason: To ensure that stormwater disposal from a development is managed in accordance with Council requirements.</p>
55	<p>Implementation of BASIX Commitments</p> <p>While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.</p> <p>Condition reason: To ensure that while building work is being carried out, the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent.</p>
56	<p>Implementation of Site Management Plans</p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> a) the measures required by the construction management plans and the erosion and sediment control plan (plans) must be implemented at all times, and

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	<p>b) a copy of these plans must be kept on site at all times and made available to council officers upon request.</p> <p>Condition reason: To ensure site management measures are implemented during the carrying out of site work</p>
57	<p>Stormwater Disposal</p> <p>Following the installation of any roof, collected stormwater runoff from the structure must be:</p> <p>a) Diverted through a first flush system or leaf/debris prevention system before being connected to an approved stormwater easement/system/street. Before draining to the public system, stormwater must be connected to an approved stormwater quality improvement device such as an infiltrating raingarden in accordance with Council's Standard Drawing S161 (or latest revision of this drawing).</p> <p>Condition reason: To ensure stormwater is managed in accordance with Council's controls and does not generate nuisance flows onto adjoining properties.</p>
58	<p>Fencing Design</p> <p>The timber palisade fences nominated on the Landscape plan, prepared by EMM, Revision F dated 19/07/2024 for the Lloyd George Grove, President Wilson Walk and Beatty Boulevard frontages of the site are not to exceed more than 1.2m in height (not including retaining walls) and are to be open for at least 20% of the area of the fence with a minimum 25mm gap between palings.</p> <p>Condition reason: To ensure that the design intent of street facing fences is met.</p>
59	<p>Toilet Facilities</p> <p>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.</p> <p>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.</p> <p>Condition reason: To ensure adequate amenity facilities are provided to the site during construction.</p>
60	<p>Tree Removal/Pruning</p> <p>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'.</p> <p>Condition reason: To ensure that vegetation removal/pruning is undertaken by a qualified arborist and in accordance with the Australian Standard.</p>

Before issue of an Occupation Certificate

61	Occupation Certificate Required
	An Occupation Certificate must be obtained prior to any use or occupation of the development.
	The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.
	Condition reason: To ensure that an Occupation Certificate relating to the development is obtained from the Principal Certifying Authority prior to occupation or use
62	Repair of infrastructure
	Before the issue of an Occupation Certificate:
	<ol style="list-style-type: none"> any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council; or if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.
	Condition reason: To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.
63	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.
	Condition reason: To ensure that landscape and tree works have been completed in accordance with the approved plans prior to the issue of an Occupation Certificate.
64	Completion of Roads Act Approval works
	All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the Roads Act Approval to the satisfaction of the Council as the Roads Authority.
	Condition reason: To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.
65	Removal of waste upon completion

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	<p>Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.</p> <p>Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.</p> <p>Condition reason: To ensure that all waste is appropriately removed from the subject site prior to the issue of an Occupation Certificate.</p>
66	<p>Stormwater/drainage works</p> <p>All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.</p> <p>The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.</p> <p>Condition reason: To ensure stormwater and drainage works have been undertaken in accordance with the approved plans.</p>
67	<p>Water authority certification</p> <p>A Section 50 Application under the Hunter Water Act 1991 must be lodged with the Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.</p> <p>Condition reason: To ensure compliance with the water supply authority's requirements</p>
68	<p>Car parking requirements</p> <p>A minimum of 29 external car parking spaces, including 5 disabled car parking spaces are to be provided in accordance with AS2890.6, and the approved plans. Parking must be permanently marked on the pavement surface.</p> <p>Any parking spaces allocated as visitor parking must be signposted as "visitor parking".</p> <p>Condition reason: To ensure that a specified number of car parking spaces is provided in accordance with the approved plans and they are compliant with Council requirements.</p>
69	<p>Lot Consolidation</p> <p>Lots 417, 418, 419, 420, 426, 427 and 431 of DP 10716 are to be consolidated and registered with Land Registry Services prior to the issue of the Occupation Certificate for Stage 1.</p> <p>A copy of the Registered Plan of consolidation must be provided to the Principal Certifying Authority.</p>

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	Condition reason: To ensure lots are consolidated before the issue of the occupation certificate.
70	<p>Post-construction dilapidation report</p> <p>Prior to the issue of an occupation certificate, a post-construction dilapidation report must be prepared by a suitably qualified engineer, to the satisfaction of the principal certifier, detailing whether:</p> <ul style="list-style-type: none"> a) After comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and b) Where there has been structural damage to any adjoining buildings, that it is a result of the work approved under this development consent, and c) A copy of the post-construction dilapidation report must be provided to Council (where council is not the principal certifiers or a principal certifier is not required) and to the relevant adjoining property owner(s). <p>Condition reason: To identify any damage to adjoining properties resulting from site work on the development site.</p>
71	<p>Smoke Alarms</p> <p>In accordance with Part 13 of the Environmental Planning and Assessment (Development Certification and Fire Safety Regulation) 2021. Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>Condition reason: To ensure compliance and with the Environmental Planning and Assessment (Development Certification and Fire Safety Regulation) 2021.</p>
72	<p>Services</p> <p>Evidence is to be provided to Council demonstrating that the following reticulated services are available to each dwelling:</p> <ul style="list-style-type: none"> a) Electricity; b) Water; c) Sewer; and d) Gas (where available). <p>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.</p> <p>Condition reason: To verify that reticulated services are provided to the dwellings.</p>
73	<p>Survey Certificate</p> <p>A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as</p>

	<p>specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.</p> <p>Condition reason: To ensure that the building is located in accordance with the approved plans and evidence from a Registered Surveyor is provided to the Principal Certifying Authority.</p>
74	<p>Restriction on the Use of Land</p> <p>A Section 88B Instrument must be prepared which incorporates the following easements, and restrictions to user where necessary:</p> <p>a) A restriction as to user must be limiting the use of any accommodation on the property to seniors housing as defined under State Environmental Planning Policy (Housing) 2021.</p> <p>The authority to release vary or modify the restriction is Port Stephens Council.</p> <p>Condition reason: To limit the use of the dwellings only for seniors housing in accordance with Section 88 of State Environmental Planning Policy (Housing) 2021.</p>
75	<p>Fire Safety Certificate</p> <p>A Fire Safety Certificate must be provided to the PCA in accordance with the requirements of the (Development Certification and Fire Safety Regulation) 2021.</p> <p>Condition reason: To ensure compliance with the fire safety regulations specified in the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.</p>
76	<p>Flood Emergency Response Plan</p> <p>A Flood Emergency Response Plan (FERP) for the proposed development must be provided to the Principal Certifying Authority. The FERP must include the following as a minimum:</p> <p>a) A map of the proposed evacuation route to a suitable location above the Probable Maximum Flood (PMF) that provides adequate shelter from the storm, including the route direction and description and identification of the depth of floodwater along the evacuation route in the 1% Annual Exceedance Probability flood and PMF events;</p> <p>b) Management strategies for refuge in place on the site;</p> <p>c) Specific trigger heights linked to the nearest river and tidal gauges used for flood warnings and the specific evacuation route cut-off times linked to the gauge height;</p> <p>d) Description of the specific flood inundation at the site and the relevant surrounding area, including flood depths, direction of flow, velocities, hazard and specific relevant vulnerabilities;</p> <p>e) Consideration of and strategies for the needs of the elderly, disabled and vulnerable people who may be on the site;</p> <p>f) A realistic time period for evacuation preparations linked to the trigger heights and evacuation route cut-off times, which includes:</p> <p>i) Locating important papers, valuables etc., that will be evacuated;</p>

	<ul style="list-style-type: none"> ii) Locating and stacking possessions that are to be left behind, well above the predicted flood level; iii) Dealing with all applicable utilities such as electricity, gas, water, fuel, toilets, showers, wastewater systems (including removal fuses) and moving pumps and machinery above the predicted flood level; g) Determining the vehicular needs of the site to appropriately respond to the flood risk; and h) A strategy for effective flood risk management when electricity, internet, telecommunications etc., are unavailable. <p>Note: Digital elevation data is available from Geosciences Australia, current flood studies are available on Council's website and river gauge/ tidal gauge data is available from the Bureau of Meteorology website.</p> <p>Condition reason: To ensure that the flood risk to life and property is effectively managed.</p>
77	<p>Protection and Certification of Electrical Services</p> <p>All power points, fittings, electrical connections and the incoming meter box are to be located above the Flood Planning Level (FPL) which is RL 8.7m AHD.</p> <p>Switches, light fittings and power points may be located below the FPL provided they are capable of being isolated by a single Residual Current Device (RCD) protected switch that is located above the FPL. Certification of these works are to be provided to the Principal Certifying Authority.</p> <p>Condition reason: To ensure that the flood risk to life and property is effectively managed.</p>
78	<p>Flood Risk Measures</p> <p>A Certificate of Compliance prepared by a suitably qualified Flood engineer must be provided to the Principal Certifying Authority stating that all aspects of the approved Flood Risk measures required under this consent have been completed and/or implemented in accordance with the approved Plan.</p> <p>Condition reason: To ensure that the flood risk to life and property is effectively managed.</p>
79	<p>Food Safety</p> <p>The design, construction and fit-out of the clubhouse food preparation and/or storage area must comply with:</p> <ul style="list-style-type: none"> a) AS 4674 'Design, Construction and Fit out of Food Premises'; and b) AS 1668 'The Use of Ventilation and Air Conditioning in Buildings' <p>Prior to the sale or serving of food, Council must be notified that the business is being used for the handling of food intended for sale, or the sale of food. A Business Registration form can be located on Council's website.</p> <p>Condition reason: To ensure that food preparation areas comply with the relevant Australian Standards.</p>

80	Validation Report – Stage 1
	<p>Prior to the issue of any Occupation Certificate for Stage 1 works, as identified in Drawing No. 37 (Staging Plan), prepared by O’Connell Architecture and Design, and dated 10/07/2024, evidence is to be provided that a Validation Report prepared by a suitably qualified person was provided to the Certifying Authority and Council within 30 days following completion of the remediation works required for Stage 1, which demonstrates:</p> <ul style="list-style-type: none"> d) compliance with the approved Remediation Action Plan (RAP); e) that the remediation acceptance criteria (in the approved RAP) has been fully complied with; f) that all remediation works undertaken comply with the Contaminated Lands Planning Guidelines, Contaminated Lands Management Act 1997, State Environmental Planning Policy (Resilience and Hazards) 2021 and Council’s Management of Contaminated Lands Policy; <p>and includes:</p> <ul style="list-style-type: none"> d) Works As Executed Plan(s) that identify the extent of the remediation works undertaken (that includes any encapsulation work) prepared by a Registered Surveyor; e) a “notice of completion of remediation work” as required under Clause 4.15 of the Resilience and Hazards SEPP; and f) a statement confirming that the site following remediation of contamination is suitable for the intended use.
	Condition reasons: To ensure that the site has been remediated to be suitable for the approved use.
81	Open Air Drying Area
	A suitable space is to be provided for an open air clothes drying area in the principal private open space of each dwelling.
	Condition reason: To ensure that the development is consistent with the DCP and suitable amenity is provided for residents.

Occupation and Ongoing Use

82	Driveways to be maintained
	All access crossings and driveways must be maintained in good order for the life of the development.
	Condition reason: To ensure that access and driveways are maintained for the life of the development.
83	Impact to adjoining properties

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

	<p>The development must not undertake activities which may restrict, obstruct or inconvenience the use of the land by other users, outside of the approved development location.</p> <p>Condition reason: To ensure that the development does not undertake activities which may restrict, obstruct or inconvenience the use of the land by other users, outside of the approved development location.</p>
84	<p>Loading to occur on site</p> <p>All loading and unloading operations are to be carried out wholly within the building/site and in accordance with the approved plans. The loading dock (if provided) must be used for loading and unloading operations in connection with the approved use.</p> <p>Condition reason: To ensure that all loading and unloading operations are carried out wholly within the building or site in accordance with the approved plans.</p>
85	<p>Maintenance of Landscaping</p> <p>Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.</p> <p>If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.</p> <p>Condition reason: To ensure that landscaping is maintained in accordance with the approved landscape plan and the relevant development consent.</p>
86	<p>Manoeuvring of Vehicles</p> <p>All vehicles must enter and exit the site in a forward direction</p> <p>Condition reason: To ensure that vehicles enter and leave the site in a forward direction.</p>
87	<p>Approved Signage Maintenance</p> <p>The approved signs must be maintained in a presentable and satisfactory state of repair.</p> <p>The level of illumination and/or lighting intensity used to illuminate the sign/s must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.</p> <p>Condition reason: To ensure that approved signage does not detract from the amenity of the area.</p>
88	<p>Offensive Noise</p> <p>The use and occupation of the premises including all plant and equipment must not give rise to any offensive noise within the meaning of the <i>Protection of the Environment Operation Act 1997</i> and must comply with the <i>NSW Noise Policy for Industry 2017</i> (as amended).</p>

	Condition reason: To control noise in order to ensure it is not offensive.
89	Storage of goods
	The storage of goods and materials must be confined within the building. At no time must goods, materials or advertising signs be displayed or placed within the designated car parking spaces, landscaped areas or road reserve.
	Condition reason: To ensure that the storage of goods and materials is confined within the building so as to not be a hazard or nuisance
90	Maintenance of wastewater and stormwater treatment device/s
	During occupation and ongoing use of the development, the applicant must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained to remain effective and in accordance with any positive covenant (if applicable).
	Condition reason: to ensure wastewater and stormwater systems are maintained
91	Location of Mechanical Ventilation
	During occupation and ongoing use of the building, the applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plant and equipment that generates noise are in an appropriate location on the site (including a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBa at the boundary adjacent to any habitable room of an adjoining residential premises.
	Condition reason: For all applications requiring air conditioning units.
92	Use Limitations
	Garden sheds, carports, garages, outbuildings, rural sheds and the like must not be adapted, converted or used for commercial, industrial or residential purposes without the prior approval of Council.
	Note: Carports must not be enclosed in any manner, including solid gates or door, without the prior consent from Council.
	Condition reason: To restrict the use of structures for a purpose that has not been approved by the Council.
93	CPTED Measures
	The following crime prevention through environmental design (CPTED) features are to be implemented on an ongoing basis: <ul style="list-style-type: none"> a) CCTV cameras are to be installed and maintained in perpetuity. b) Pedestrian paths, driveways and outdoor communal spaces are to be lit with time controlled or sensor lighting to minimise opportunities for concealment and shadowing.

	<p>c) Landscaping, with the exception of trees and large shrubs are to generally be maintained at a low height to improve sightlines and minimise concealment areas.</p> <p>d) Access controls at the site gates, restricting night-time access to staff, residents and guests. Access is not to be restricted during daylight hours.</p>
	<p>Condition reason: To accord with the CPTED measures identified within the Crime Risk Assessment submitted with the application.</p>
94	<p>Plan of Management</p> <p>The ongoing operation of the development is to be carried out generally in accordance with the 'Plan of Management The Caswell', referenced 23/179865 and dated 14 July 2023.</p> <p>Condition reason: To ensure the site the site is operated in a safe and orderly manner, consistent with the approved Plan of Management.</p>
95	<p>Ongoing Waste Management</p> <p>The ongoing management of waste is to be carried out generally in accordance with the Site Waste Minimisation and Management Plan, prepared by de Witt Consulting Town Planning, dated 5 July 2023.</p> <p>Condition reason: To ensure that operational waste is managed in a safe and orderly manner, consistent with the approved management plan.</p>
96	<p>Fire Safety Schedule</p> <p>At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of New South Wales Fire Brigades in accordance with the (Development Certification and Fire Safety Regulation) 2021.</p> <p>Condition reason: To ensure compliance with the fire safety regulations specified in the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.</p>
97	<p>Acoustic Fencing</p> <p>Acoustic fencing is to be designed and approved by a suitably experienced Acoustic Consultant and constructed in line with Figures 4 & 5 of the Acoustic Report by Spectrum Acoustics, Document No: 232309-9963-R2 dated 19 September 2023, except where modified by a condition of consent. The acoustic fence is to be maintained in perpetuity.</p> <p>The use and occupation of the development, including all plant and equipment, must not give rise to offensive noise within the meaning of the Protection of the Environment Operations Act 1997 and must not exceed the project specific noise trigger levels as identified under Section 2 of the Acoustic Report by Spectrum Acoustics, Document No: 232309-9963-R2 dated 19 September 2023:</p> <ul style="list-style-type: none"> • Day: 40 dB(A) Leq (15min) • Evening, night: 35 dB(A) Leq (15min) <p>Condition reason: To ensure compliance with the approved acoustic report.</p>

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Council advisory notes

1. **'Dial Before you Dig Australia'** – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig Australia” service to access plans/information for underground pipes and cables.
2. **Premise Standard** – It is the Applicants responsibility to ensure compliance with the requirements of the Disability Discrimination Act 1992 (DDA). Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.
3. **Flood Information Subject to Change** – You are advised that flood information is subject to change if more accurate data becomes available to Council. It is the responsibility of the applicant to use the most up-to-date flood information.
4. **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 applicant's agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.
5. **Bird strike advice** – As the subject site is located in an area mapped by the Department of Defence as “Birdstrike Group B”, organic waste and/or the storage of bins associated with any future development must be covered and/or enclosed and limited on-site.
6. **Approved Plans to be on-site** – A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.

7. **Council as PCA, PCA sign** – It is the responsibility of the applicant to erect a PCA sign. Where Council is the PCA, the sign is available free of charge, from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay. The applicant is to ensure the PCA sign remains in position for the duration of works.
8. **Street Numbering** - Prior to Subdivision Certificate release for consolidation of the lots, the consolidated lot is to be identified as follows:
 - a. **Consolidated Lot:** 54 President Wilson Walk, TANILBA BAY

For secondary addressing for all other units, 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 unit numbering.
9. **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.
10. **Building Materials not Permitted on Council's Footpath/Road Reserve** - No building materials, plant, equipment, refuse or spoil is to be deposited on or be allowed to remain on Council's footpath or outside the boundaries of the development site unless approved by Council in writing. Where building activity cannot avoid occupation of the public road reserve, (such as, for the erection of hoarding, scaffolding, partial closure) separate approval from Council for the use of the road reserve is required.



DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2023-403-1
Development Description	Seniors housing - 51 Independent Living Units (ILUs) and associated services including car parking, communal club house, landscaping, demolition and site preparation works
Applicant	SNL BUILDING CONSTRUCTIONS PTY LTD
Land owner	CARSEEM PTY LTD
Date of Lodgement	20/07/2023
Value of Works	\$9,982,021.00
Submissions	2

PROPERTY DETAILS

Property Address	48 President Wilson Walk TANILBA BAY, 50 President Wilson Walk TANILBA BAY, 52 President Wilson Walk TANILBA BAY, 54 President Wilson Walk TANILBA BAY, 37 Lloyd George Grove TANILBA BAY, 35 Lloyd George Grove TANILBA BAY, & 55 Beatty Boulevard TANILBA BAY
Lot and DP	LOTS: 417, 418, 419, 420, 426, 427 & 431 DP: 10716
88B Restrictions on Title	Right of carriageway (multiple); Easement to park vehicles (multiple); Right of carriageway (multiple); Easement to drain water; Easement for effluent and effluent treatment; and Easement for electricity and other purposes.
Current Use	Vacant shopping centre
Zoning	E1 LOCAL CENTRE
Site Constraints	Weed Infestations – Mother of Millions; Acid Sulfate Soils – Class 4; Koala Habitat Map – Mainly Cleared Land; Stormwater Drainage Requirement Area; and Flood Planning Area.

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State Environmental Planning Policies	State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy (Housing) 2021; State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; State Environmental Planning Policy (Industry and Employment) 2021; State Environmental Planning Policy (Transport and Infrastructure) 2021; and State Environmental Planning Policy (Biodiversity and Conservation) 2021.
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PROPOSAL

The proposed development comprises the demolition of existing hardstand areas, removal of vegetation and staged construction of 51 Independent Living Units (ILUs) for seniors housing, including communal facilities, car parking, and associated site works (refer to **Figure 1**). The demolition would involve the removal of all existing structures on the site and the removal of 16 existing trees.

The seniors housing consists of 5 x 1 bedroom units and 46 x 2 bedroom units for independent living. Forty-four (44) car parking spaces are provided to service the units, 14 of which will be provided as attached single car garages, 29 as external parking spaces along with a single stacked space. All dwellings are provided with private open space areas, bathroom, laundry, open plan kitchen, dining, and living areas. The two bedroom units contain an additional water closet (WC). **Figure 2** below illustrates the typical floor plan for each dwelling layout.

The communal facilities include a clubhouse, communal garden, and external landscaped areas dispersed across the site in the form of pocket parks. The clubhouse features a commercial kitchen, dining facilities, coffee and tea stations, nursing facilities/offices, and lounge areas. The clubhouse floor plan can be seen in **Figure 3**.

Primary vehicular access to the site is proposed via President Wilson Walk with Beatty Boulevard offering a secondary access point. Timber palisade fencing and retaining walls are proposed along the frontages of Beatty Boulevard and Lloyd George Grove. Masonry and timber fencing, including signage, is proposed along the frontage of President Wilson Walk (refer to **Figures 4-6**).

Landscaping plantings are proposed across the development site, including screen plantings between neighbouring properties and street trees along President Wilson Walk, Beatty Boulevard, and Lloyd George Grove. The proposed landscape plan can be seen in **Figure 7**.

The development is proposed to be undertaken across two stages, as follows:

- Stage 1: Site preparation works including the demolition of existing hardstand, removal of vegetation, earthworks, site remediation, installation of infrastructure and services, construction of the primary and secondary vehicle access, external parking areas, maintenance shed, and the construction of 42 units along with the communal clubhouse.
- Stage 2: Construction of 9 units and other site remediation works.

The proposed staging can be seen in **Figure 8**.

To service the needs of future residents, onsite staff will be provided consisting of a manager, care manager/registered nurse, receptionist, maintenance officer, chef, and other full-time care staff. Given the nature of the development being for seniors housing purposes, the site will operate 24

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hours a day, 7 days a week, with entry gates proposed to be closed from 5:30pm to 7am in winter months and 6:30pm to 7am in summer months. A designated loading bay has been provided for any site deliveries. A Plan of Management (PoM) has been provided with the application, outlining specific operational details of the proposal.



Figure 1: Proposed site plan

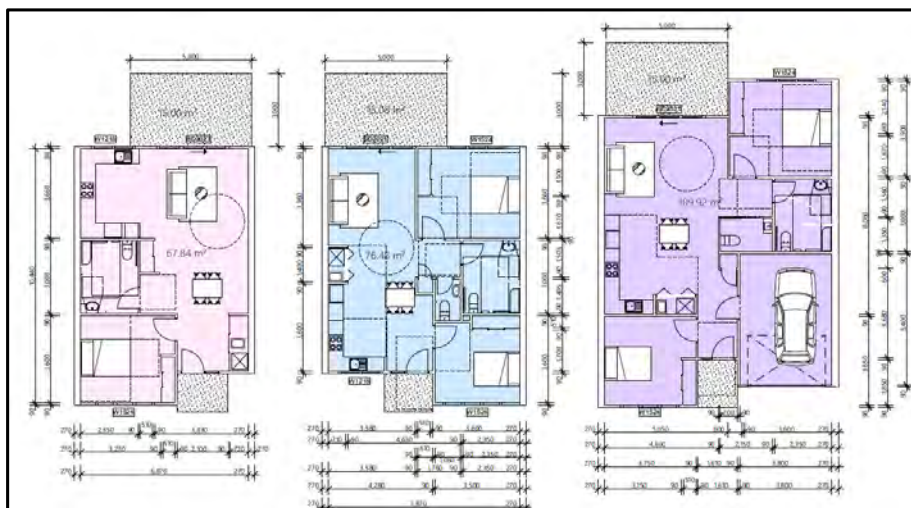


Figure 2: Typical floor plan for one bed, two bed, and two bed with garage units

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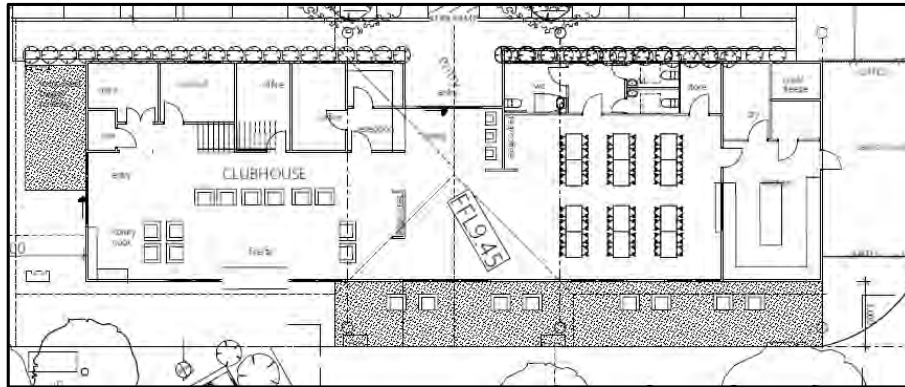


Figure 3: Clubhouse floor plan

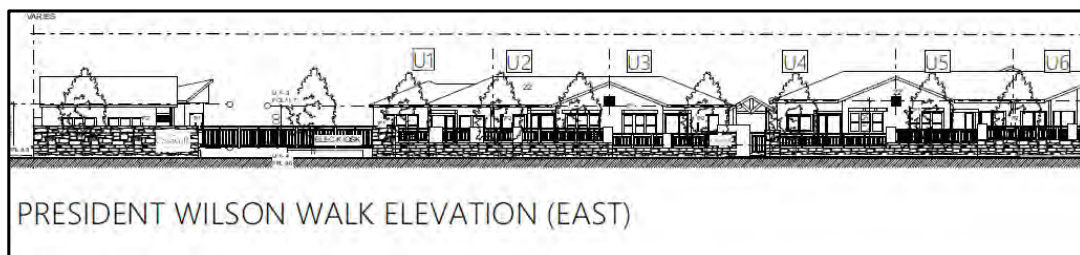


Figure 4: President Wilson Walk elevation

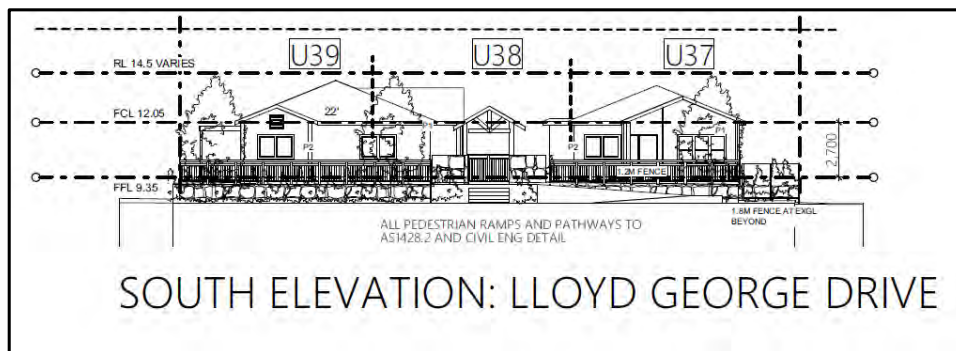


Figure 5: Lloyd George Grove elevation

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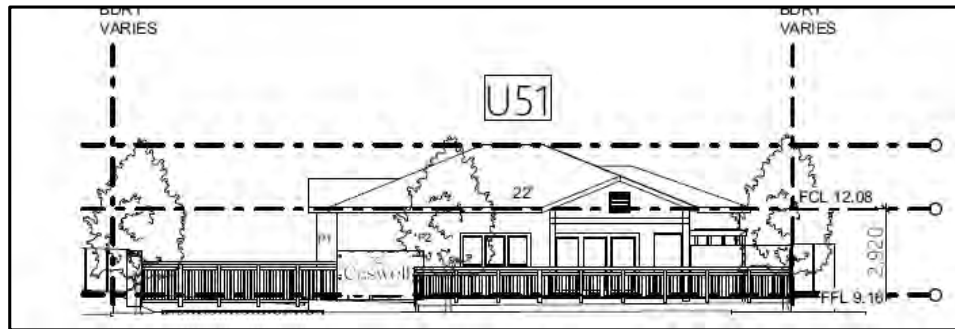


Figure 6: Beatty Boulevard elevation



Figure 7: Proposed landscape plan

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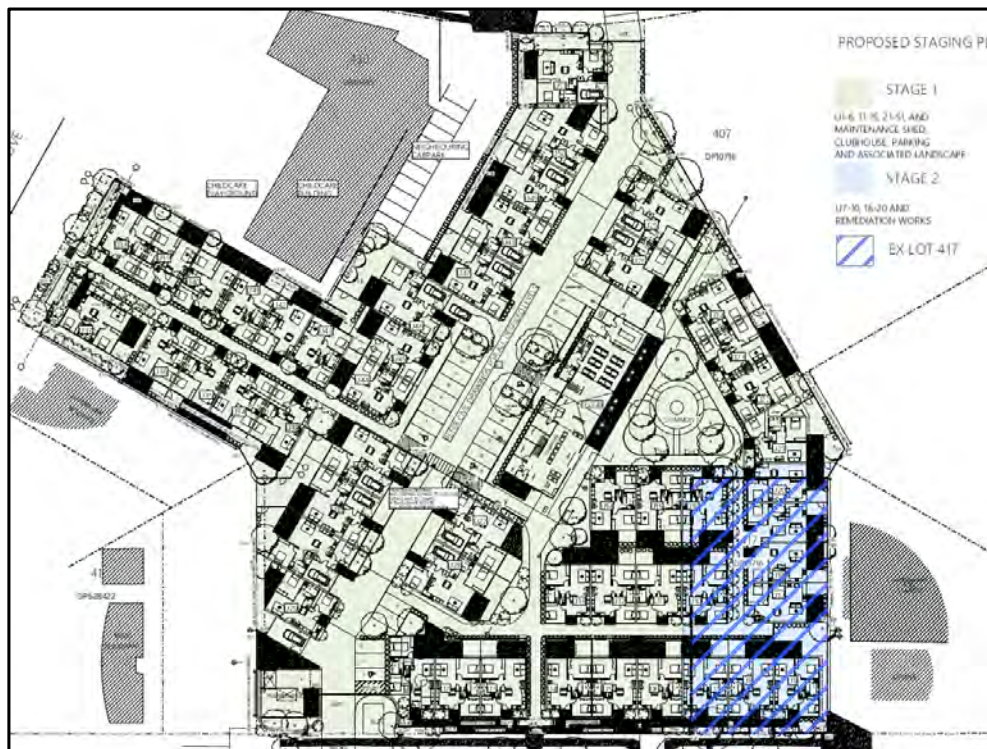


Figure 8: Proposed staging plan

SITE DESCRIPTION

The site is comprised of Lots 417, 418, 419, 420, 426, 427 and 431 in DP 10716, generally known as 48-54 President Wilson Walk, 35-37 Lloyd George Grove, and 55 Beatty Boulevard, Tanilba Bay. The site features an irregular shape, with three frontages, the primary of which is to President Wilson Walk, a secondary frontage to Beatty Boulevard, and tertiary frontage to Lloyd George Grove. The site was developed as a shopping centre known as Tilligerry Plaza, which was abandoned in the 2000s and has recently been demolished. The site contains large portions of hardstand area associated with the parking and access areas for the former shopping centre and scattered vegetation, as seen in **Figure 9**.

The site is bounded by a mixture of commercial and residential land uses, with Tanilba Fuel station, residential dwellings, and a hardware store to the north, a mixture of commercial uses to the east, childcare centre and dwelling houses to the south, and residential dwellings to the west. In the broader locality, residential dwellings are located to the north, east, and west, the main shopping centre to the south-west, and a golf course and bushland to the south.

The site is burdened by a number of easements and right of carriageways which are described in detail against Section 1.9A of the LEP elsewhere in this report.

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Figure 9: Aerial imagery of the site

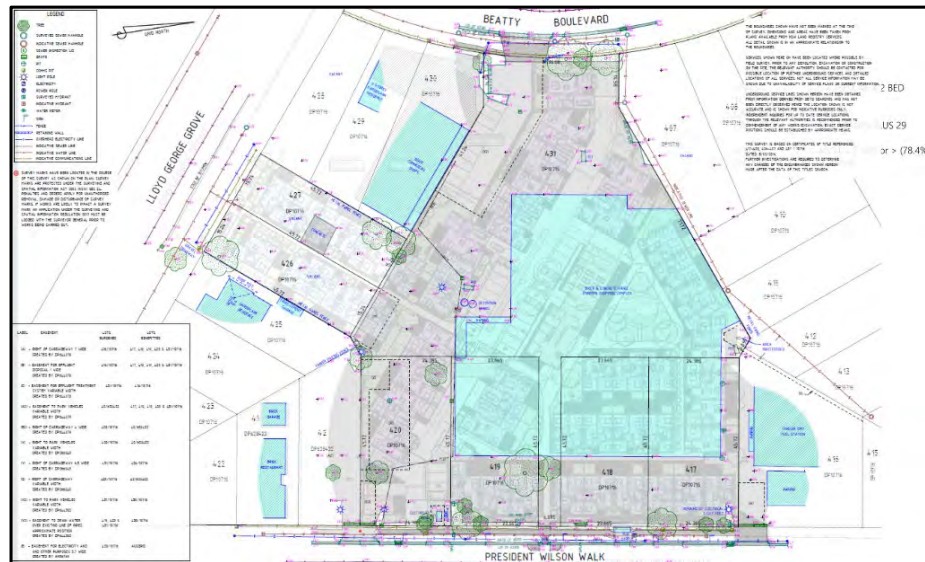


Figure 10: Survey Plan Overlayed with Proposed Site Plan

SITE HISTORY

The subject site was historically used as a shopping centre, known as Tilligerry Plaza. The shopping centre ceased operations in the mid-2000s and remained abandoned, falling into a state of disrepair. A demolition order for the removal of the existing shopping centre building was issued by Council on 23 May 2024.

Several pre-lodgement meetings were held with the landowner and Council regarding the redevelopment of the site. A review of the historical approvals on Council's records for the site are outlined below.

Historical Applications			
File Number	Description	Outcome	Date
7-1983-1826-1	Shopping complex – stage 2	Approved	15/09/1983
7-1983-61009-1	Fit out of shops	Approved	07/10/1983
7-1983-2135-1	Four shops and storeroom	Approved	09/12/1983
7-1985-2941-1	Commercial additions	Approved	15/10/1985
7-1989-4562-1	Convert shops to Westpac branch	Approved	13/10/1989
7-1991-5387-1	Shops – additions	Approved	09/10/1991
7-1991-61495-1	Adds to retail shops	Approved	26/02/1992
7-1995-61891-1	Alteration to supermarket	Approved	22/12/1995
7-1996-504-1	Three shops	Approved	17/05/1996
7-1998-60512-1	Bi-Lo store upgrade	Approved	13/05/1998
16-1999-247-1	Advertising sign	Approved	18/06/1999
16-1999-720-1	Florist/refreshments	Approved	04/06/1999
16-2004-1166-1	Temporary use of land (markets)	Approved	28/09/2004
16-2004-1849-1	New doorway & frame & rear external access	Approved	21/01/2005
16-2004-1166-2	Modification to markets to extent consent	Approved	04/07/2005

Of particular relevance, is an approval for a change of use of a commercial premises to a childcare centre (DA 16-2016-831-2) on the neighbouring site at 57 Beatty Boulevard, which includes car parking built to the site boundary and part of the building within 0.6m of the boundary.

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SITE INSPECTION

A site inspection was carried out on 23 August 2023. The subject site can be seen in the images below.



Image 1: Existing building (now removed under demolition order)



Image 2: President Wilson Walk frontage with 'Kooindah' shopping centre to the right of picture

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Image 3: Interface with neighbouring restaurant and car park



Image 4: Interface with service station to the north

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Image 5: Lloyd George Grove frontage



Image 6: Dilapidated interior of building since demolished

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Image 7: View of the site from Beatty Boulevard



Image 8: Interface with childcare centre under construction at the time of site visit

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ITEM 1 - ATTACHMENT 2 PLANNER'S ASSESSMENT REPORT.

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Since the site inspection was undertaken, the existing buildings on site, shown in the above images, have been demolished in accordance with Demolition Order no. 40-2023-127-2, issued by Council on 23 May 2024, in accordance with Section 9.34 of the EP&A Act.

PLANNING ASSESSMENT

The proposed development was referred to the following internal specialists and external agencies. The comments provided by the specialist staff and external agencies have been relied upon to carry out the assessment against the S4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Building Surveyor	
Comment:	The application was referred to Council's Building Certifier for consideration of the Building Code of Australia (BCA), relevant Australian Standards, legislation and Environmental Planning and Assessment Regulation 2021. The referral noted that the proposed development can be constructed in accordance with the relevant requirements and the application was supported with conditions.
Development Engineering	
Comment:	<p>The application was referred to Council's Development Engineer to comment on traffic/access, flooding, and stormwater.</p> <p><u>Traffic/Access</u></p> <p>In regard to traffic and access, there were several concerns raised pertaining as to whether the development was adequately designed to cater for vehicle access, parking and manoeuvring and internal pedestrian movement. As such, a request for information was requested to include dimensioned detailing of parking spaces and pathways, the inclusion of additional internal pathways, additional accessible parking spaces, separation of vehicle and pedestrian movement areas, driveway separation, and additional pedestrian crossings. The applicant provided amended plans to address the above items, with Council's Development Engineer supporting the application. It was noted that the proposed external footpaths did not extend along Lloyd George Grove and it was recommended that this be included as a condition of consent to ensure suitable connectivity is achieved for residents. A condition has been included requiring the construction of a footpath from the Lloyd George Grove frontage to the corner of President Wilson Walk.</p> <p><u>Flooding</u></p> <p>The referral reviewed the flood risk of the site and raised concerns regarding the initial design of the development in relation to flood compatibility. The referral noted that applicable flood levels differed across the site due to its size, with a Flood Planning Level (FPL) of 8.4m AHD applicable for the portion fronting President Wilson Walk and FPL of 8.7m AHD applying to the portion fronting Beatty Boulevard. Additionally, as seniors housing is considered development vulnerable to emergency response, site levels were requested to be at or above the Probable Maximum Flood Event (PMF Event). As such, a request for information was recommended to address these issues. Amended plans were provided by the applicant which raised the Finished Floor Level (FFL) of all units above 8.7m AHD. As such, the flooding concerns were considered to be suitably addressed and development was supported by Council's Development Engineer.</p>

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	<p><u>Stormwater</u></p> <p>Council's Development Engineer raised concerns with respect to the following for stormwater:</p> <ul style="list-style-type: none"> • Maintenance of the stormwater system beneath hardstand areas; • Depth of groundwater and provision of a 1m buffer between the predicted water table and base of the infiltration system; • Accuracy of proposed infiltration rate and lack of evidence that the infiltration system complies with Council's Soil Infiltration Technical Information Sheet; and • Lack of modelling, including DRAINS and MUSIC modelling. <p>The applicant provided an amended stormwater management plan, including the replacement of Atlantis Cells with concrete block infiltration tanks, provision of a 1m buffer between the infiltration system and predicted water table, further details regarding the predicted infiltration rate, further stormwater modelling, further detail regarding treatment of stormwater runoff and a Plan of Management for stormwater infrastructure. The response was considered to sufficiently address the concerns raised by Council and Council's Development Engineer.</p> <p><u>Conclusion</u></p> <p>The additional information provided by the applicant was considered to suitably address the respective engineering matters identified through the assessment. As such, the proposed development was supported with conditions.</p>
Natural Resources	
Comment:	<p>The application was referred to Council's Environmental Planner to review the proposed tree removal. Council's Environmental Planner advised that the Arborist Report submitted with the application was sufficient with regard to retention and assessing tree health. Three infant koala feed trees are present on the site, although have no retention potential given the fill works proposed to raise the site above the Flood Planning Level. The koala feed trees are located within the Tanilba Bay town centre with no fauna linkages to the site. There are also no records of koala movements or sightings in the immediate area. As such, the application was supported with conditions. The trees proposed for removal are not of high biodiversity value.</p>
Environmental Health	
Comment:	<p>The application was referred to Council's Environmental Health Officer for consideration of food regulations, noise impacts, land contamination and waste management. The assessment against these items is provided below.</p> <p><u>Food Preparation</u></p> <p>Council's Environmental Health Officer noted that the development intended to provide a meal service, with a commercial kitchen located within the clubhouse. As such, it was recommended that standard food conditions are included in the determination.</p> <p><u>Noise</u></p>

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	<p>Council's Environmental Health Officer assessed noise sources from the proposed development as well as potential noise impacts on future residents of the site. Council's Environmental Health Officer assessed the Acoustic Report, supporting the findings and recommending construction and ongoing noise management conditions, in addition to the installation of acoustic fencing along the site boundary to minimise potential noise impacts on residents.</p> <p><u>Land Contamination</u></p> <p>Council's Environmental Health Officer reviewed the provided Preliminary Site Investigation (PSI) prepared by RCA and the potential contamination risk of the site, including previous land uses, acid sulfate soils and groundwater. It was noted that the PSI did not sufficiently address the potential contamination risk of the site noting the following matters:</p> <ul style="list-style-type: none"> • Potential asbestos associated within building materials and historic site filling of the site; • Hydrocarbons and metals associated with proximity to the service station to the north; • Biological compounds associated with historical use of septic tanks/proximity to active wastewater treatment plan; and • Subsequent contamination of groundwater. <p>In response, the referral requested the preparation of a Detailed Site Investigation (DSI) prepared by Stantec to identify other potential contaminants and a Remediation Action Plan (RAP) in line with the NSW EPA Contaminated Land Guidelines. The DSI and RAP were provided by the applicant and are discussed in detail under the State Environmental Planning Policy (Resilience and Hazards) 2021 section of the report.</p> <p>In addition, a Dangerous Goods Report was requested due to the proximity of the seniors housing to the adjoining service station. This information was included as part of the provided DSI.</p> <p><u>Conclusion</u></p> <p>The additional information provided by the applicant, including an interim advice letter from a NSW Environmental Protection Agency (NSW EPA) accredited site auditor adequately satisfied the relevant contamination guidelines. As such, the outstanding contamination matters were satisfactorily addressed and the development is supported with conditions.</p>
Vegetation Management	
Comment:	The application was referred to Council's Vegetation Management Officer to review the submitted landscape plan. A request for information was issued regarding species selection in the landscape plan. Following amendment to the landscape plan the application was supported with conditions relating to ongoing management of site landscaping.
Local Infrastructure Contributions	
Comment:	The application was referred to Council's Development Contributions Officer. The referral noted that contributions are applicable, with a 7 lot credit applicable, as the development site includes 7 existing lots. Contributions are applicable for 44 of the proposed units, in accordance with the Port Stephens Council Local

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	Infrastructure Contributions Plan. As such, a condition of consent has been imposed regarding Local Infrastructure Contributions. The contributions are to be paid prior to the issue of the Construction Certificate for each relevant stage.
Waste Management	
Comment:	The application was referred to Council's Waste Management Officer who supported the application unconditionally as private waste servicing is proposed.
Spatial Services	
Comment:	Addressing for the proposed development was provided, which has been included as an advisory note in the determination.

External

Ausgrid	
Comment:	Ausgrid requested the proposal be amended due to the close proximity of a proposed building to an electricity substation. Following an amendment to the design, which relocated the building further from the kiosk, Ausgrid supported the proposed development subject to conditions relating to works near electricity infrastructure.
Water NSW	
Comment:	The application was referred Water NSW as measures within the Remediation Action Plan (RAP) require a water supply work approval under Section 90(2) of the Water Management Act 2000. The outcome of this referral is discussed below under Section 4.46 of the Environmental Planning and Assessment Act 1979.
NSW EPA	
Comment:	A referral was sent to the EPA for informal advice relating to the contamination of the site. The EPA advised Council is the relevant regulatory authority although recommended a Site Auditor be engaged to review the Remediation Action Plan. The EPA recommendation was incorporated as part of Council's consideration of the development application.

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

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

Department of Water NSW	
Comment:	The proposed development required an integrated referral under s90(2) of the Water Management Act 2000 as the development requires a water supply work approval. Accordingly, the application was referred to the Water NSW and was subsequently supported with conditions under Division 4.8 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).

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	<p>General Terms of Approval (GTA), were issued by Water NSW, dated 17 July 2024, and include conditions related to the following:</p> <ul style="list-style-type: none"> • Dewatering of the construction site, including an application for approval from Water NSW under the Water Management Act 2000; and • Management and monitoring of extracted groundwater. <p>The GTAs will be attached to the determination.</p>
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Section 4.14 – Consultation and development consent (certain bushfire prone land)

The proposed development is not mapped as bushfire prone land, and therefore this section does not apply.

Section 4.15 - Matters for consideration

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

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (b) *that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

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

The relevant environmental planning instruments (EPIs), proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are assessed below.

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

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

Section 6(1) requires that a development application for BASIX affected development be accompanied by a BASIX certificate. A valid BASIX certificate has been submitted with the development application which demonstrates that the water, thermal comfort and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP BASIX.

Since lodgement of the subject application, State Environmental Planning Policy (Sustainable Buildings) 2022 a revised policy came into effect on 1 October 2023, which stipulated additional climate change and sustainable building measures. However, given the subject application was lodged prior to the commencement of SEPP (Sustainable Buildings) 2022, the former provisions under State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 are applicable by virtue of savings and transitional provisions.

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 16 trees, which has been assessed in an Arboricultural Assessment Report, prepared by Joseph Pidutti, dated 06 June 2023. The Arboricultural Assessment supported the removal of all trees on the site due to either the development encroaching on their structural root zones or due to defects in the trees. The proposed tree removal was assessed by Council's Vegetation Management Section who confirmed the proposed tree removal is consistent with the Port Stephens Tree Technical Specification subject to replacement plantings.

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 on Council's Koala Habitat Planning Map. Although, 3 infant koala feed trees were identified as being present on the development site. These trees have no retention potential given the fill works required to raise the site above the Flood Planning Level.

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The koala feed trees are located within the Tanilba Bay town centre and maintain no fauna linkages to nearby conservation areas. The area is highly trafficable and there are no records of koala movements or sightings in the immediate area. The infant koala feed trees proposed for removal are therefore not of high biodiversity value. Consequently, no adverse impacts are expected to occur to the local koala population and the proposal is consistent with the objectives of Comprehensive Koala Plan of Management. Given the context of the site being located within the Tanilba Bay town centre, there is no practical opportunity for replacement plantings.

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.

The application includes a Preliminary Site Contamination Assessment (PSCA) prepared by RCA, Project no. 16040-202/2, dated 12 July 2023. The PSCA assessed the potential for the site to be contaminated from previous activities and also the adjacent service station.

Council's Environmental Health Officer assessed the PSCA, finding that the report did not sufficiently consider the contamination risk of the site. As such, a further Detailed Site Investigation (DSI) was requested, with the resulting DSI finding the presence of contamination associated with a hydrocarbon plume from the neighbouring service station. The DSI noted that PFAS contamination was also identified in the broader regional aquifer although was a minor presence and would not require remediation. The hydrocarbon plume was identified as affecting only a small portion of the site in the north-east corner. Nonetheless, as a result of the DSI findings, remediation of the site is required and a Remediation Action Plan (RAP) was prepared. The RAP proposes to stage the development so that areas of the site unaffected by hydrocarbon contamination from the neighbouring service station can be constructed. The following remedial works would be undertaken during each stage as follows:

Stage 1

Remedial works for Stage 1 would involve the removal of fill containing asphalt from the southern portion site and any surface rubbish for disposal at a licenced facility. Additionally, this stage would involve validation sampling of the remaining soils, further remedial works to remove any anthropogenic material for offsite disposal and the preparation of a validation report for Stage 1 once validation works are finalised. Stage 1 would also include preparatory works for Stage 2 remediation, involving the construction of a sub-surface soil-bentonite cut off wall to prevent further migration of hydrocarbons on to the site from the neighbouring service station.

Stage 2

Remedial works for Stage 2 involves addressing dissolved hydrocarbons within groundwater. The RAP notes that as the hydrocarbons are migrating from an adjoining site, they are unable to address the source of the contamination. As such, the RAP proposes prevention measures, including the construction of a cut off wall along the northern boundary during Stage 1 to allow construction of the development to proceed and prevent further hydrocarbon migration.

Once the cut off wall is constructed, quarterly groundwater sampling would be undertaken to track attenuation of the contamination during Stage 1 civil construction works. Following this monitoring, once there is confirmation that the hydrocarbons within groundwater beneath the site have fallen to a level that no longer represents a human health risk, a Validation Report would be prepared. Following the submission of this Validation Report to Council, it is proposed that construction for Stage 2 of the development could commence.

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Following a review of the proposed RAP provided by the applicant, it was determined that a NSW Environmental Protection Authority (NSW EPA) accredited Site Auditor must be appointed to oversee and audit the contamination land assessment and remediation reports compiled as part of the proposed development. The applicant appointed a Site Auditor who prepared an Interim Auditor Advice report as outlined below.

Site Statement Audit

In response to the Detailed Site Investigation and associated RAP findings, a Site Audit Statement prepared by a NSW EPA accredited Site Auditor was requested to determine the adequacy of the site investigations and proposed remediation strategies. In response, the applicant provided an Interim Auditor Advice report, prepared by Australian Environmental Auditors and dated 14 August 2024.

The Auditor concurred with the staged approach to remediation, noting that each stage would feature separate requirements and the overall low risk of Stage 1 which can be managed through the development process. Furthermore, the Auditor Advice found that measures proposed in the RAP for Stage 2 are reasonable subject to minor revisions. Ultimately, the Interim Auditor Advice prepared by the Site Auditor found that the site contamination is appropriately characterised and the site can be made suitable for the intended use subject to the remediation outlined in the RAP.

The EPA and Council's Environmental Health Officer were satisfied with the contamination approach and findings from the Interim Auditor Advice report.

On this basis, the proposed development satisfies the requirements of Chapter 4 of this SEPP given the land can be made suitable to support the proposed development.

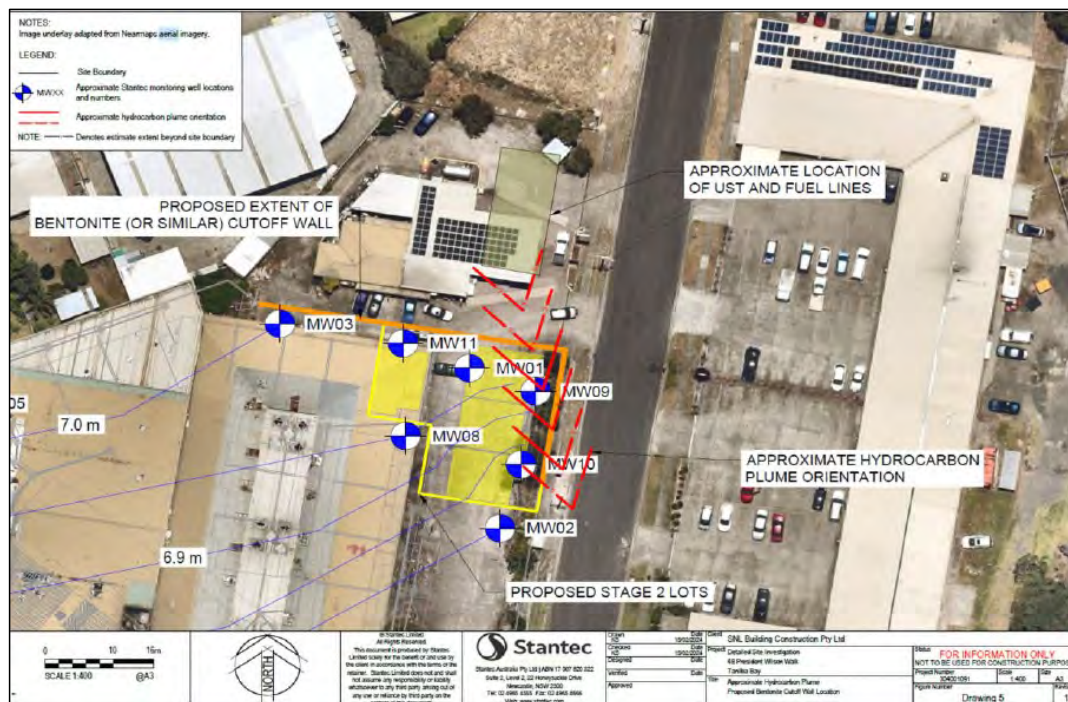


Figure 11: Contaminated site area

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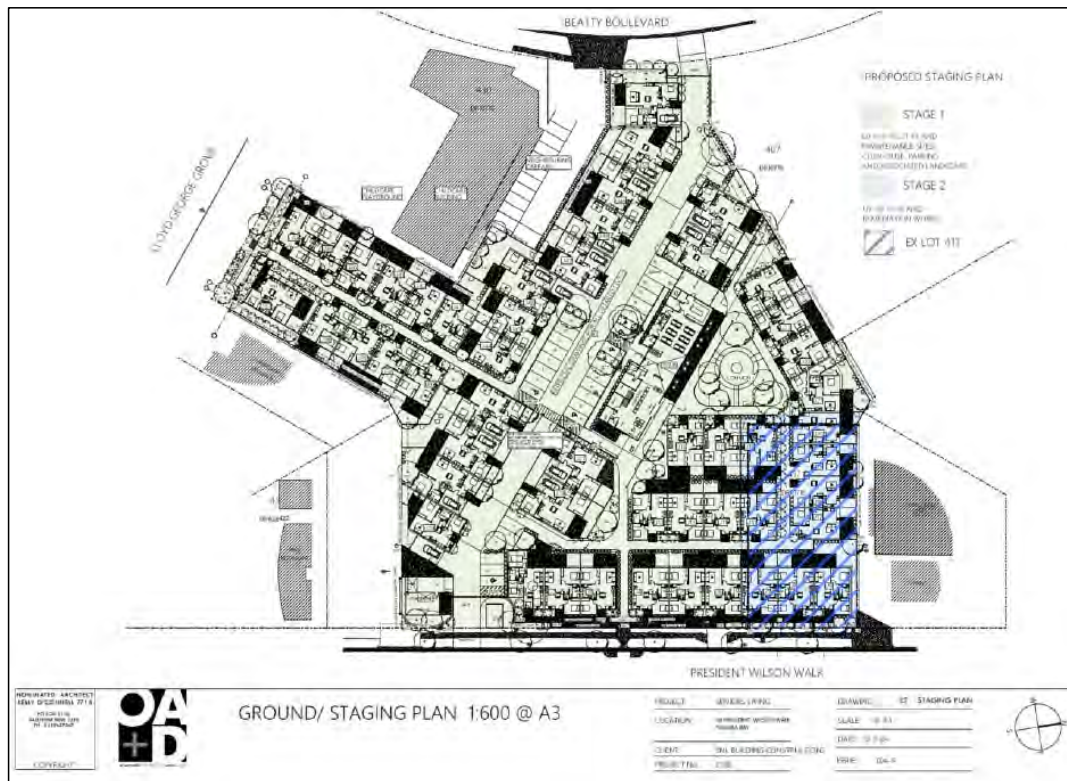


Figure 12: Staging of development

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Section 2.48(2) requires consultation with the local power authority – 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 requested the proposal be amended due to the close proximity of a proposed building to an electricity substation. Following an amendment to the design which relocated the building further from the kiosk, Ausgrid supported the proposed development. Ausgrid also provided advice regarding safe working distances from electrical infrastructure, which has been incorporated as a condition of consent.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 Advertising and signage

Chapter 3 of State Environmental Planning Policy (Industry and Employment) 2021 sets out planning controls for advertising and signage in NSW. The SEPP requires signage to be compatible with the future character of an area, provide effective communication in suitable locations and be of high quality design and finish.

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The proposed development includes two (2) identification signs along the President Wilson Walk frontage at the primary entrance to the site to support wayfinding for residents, staff and visitors. The proposed signage is shown in **Figure 13** below. The signs are flush mounted on the sites fencing and measure 1.2m x 2.4m and 0.7m x 1.4m.

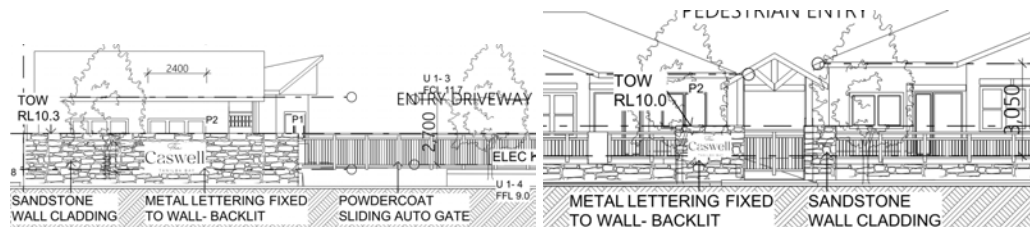


Figure 13: Proposed Signage

Section 3.6 provides that a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied the proposal is consistent with the aims and objectives of section 3.1 and satisfies the assessment criteria in Schedule 5. An assessment of the proposed signage scheme against the relevant matters for consideration is outlined in the table below.

Matters for consideration	Assessment comment
<p><i>Section 3.1 – Aims and objectives</i></p> <p>This Chapter aims—</p> <p>(a) to ensure that signage (including advertising)—</p> <ul style="list-style-type: none"> (i) is compatible with the desired amenity and visual character of an area, and (ii) provides effective communication in suitable locations, and (iii) is of high quality design and finish, and <p>(b) to regulate signage (but not content) under Part 4 of the Act, and</p> <p>(c) to provide time-limited consents for the display of certain advertisements, and</p> <p>(d) to regulate the display of advertisements in transport corridors, and</p> <p>(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.</p>	<p>The proposed signage is compatible with the desired amenity and visual character of an area, and, provides effective communication in suitable locations, and is of high quality design and finish.</p>
Schedule 5 - Assessment criteria	
<p><i>1 Character of the area</i></p> <p>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p>	<p>The character of the area is established by the E1 Local Centre zoning of the site, which permits a number of commercial oriented uses. Noting the commercial nature of the locality, the</p>

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ITEM 1 - ATTACHMENT 2 PLANNER'S ASSESSMENT REPORT.

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Matters for consideration	Assessment comment
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	proposed signage is of a type, size and scale that is compatible with the character of the area. Existing signage in the locality is associated with the commercial and retail centre on the opposite side of President Wilson Walk, known as the Kooindah Centre. The proposed signage is consistent in type and size as the existing signage at the Kooindah centre.
<i>2 Special areas</i> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal is not located in the vicinity of any special areas and regardless is of a modest scale that would not detract from the amenity or visual quality of the locality.
<i>3 Views and vistas</i> Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not obscure or compromise important views. The proposed signage is flush mounted to a 1.5m high wall and therefore does not dominate the skyline or reduce the quality of vistas. The proposal does not obscure or detract from any existing signage.
<i>4 Streetscape, setting or landscape</i> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality? Does the proposal require ongoing vegetation management?	The proposed signage is of a type, size and scale that is compatible with the commercial streetscape setting. The proposed business identification signage is complementary to the textured sandstone wall on which it is to be attached. The proposed signage does not involve the rationalising or simplifying of existing advertising. The proposed signage does not screen unsightliness. The signage is proposed to be attached a textured sandstone wall. The proposed signage does not protrude above tree canopies or buildings, as it is flush mounted on a 1.5m wall. The signage is not located behind or integrated with any vegetation.

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ITEM 1 - ATTACHMENT 2 PLANNER'S ASSESSMENT REPORT.

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Matters for consideration	Assessment comment
<p><i>5 Site and building</i></p> <p>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</p> <p>Does the proposal respect important features of the site or building, or both?</p> <p>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</p>	<p>The proposed signage is of a type, size and scale that is compatible with the 1.5m high wall on which it is to be attached and the single storey buildings that form part of the proposal.</p> <p>The proposed signage is of a modest scale that does not impact any important features of the site or building.</p> <p>The proposal does not showcase innovation, however it is appropriately integrated with the proposed 1.5m wall on which it is to be attached.</p>
<p><i>6 Associated devices and logos with advertisements and advertising structures</i></p> <p>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</p>	<p>The proposal does not include and safety devices, platforms or externally mounted lighting.</p>
<p><i>7 Illumination</i></p> <p>Would illumination result in unacceptable glare?</p> <p>Would illumination affect safety for pedestrians, vehicles or aircraft?</p> <p>Would illumination detract from the amenity of any residence or other form of accommodation?</p> <p>Can the intensity of the illumination be adjusted, if necessary?</p> <p>Is the illumination subject to a curfew?</p>	<p>Low level illumination of the signage is proposed.</p> <p>Subject to conditions requiring The level of illumination and/or lighting intensity used to illuminate the sign/s must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting', the proposed illumination would not cause unacceptable glare.</p> <p>Subject to conditions requiring the level of illumination and/or lighting intensity used to illuminate the sign/s must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting', the proposed illumination would not cause any safety impacts to pedestrian vehicles of aircraft.</p> <p>The low level of illumination on the modest sized signage would not cause any amenity impacts.</p> <p>The applicant submits that the level of illumination can be adjusted.</p> <p>The proposal includes low level illumination for wayfinding during the night. The low level of illumination proposed is suitable without a curfew given the site's setting within a</p>

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ITEM 1 - ATTACHMENT 2 PLANNER'S ASSESSMENT REPORT.

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Matters for consideration	Assessment comment
	commercial centre and lack of impacts to any nearby residents.
<p>8 Safety</p> <p>Would the proposal reduce the safety for any public road?</p> <p>Would the proposal reduce the safety for pedestrians or bicyclists?</p> <p>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</p>	<p>The proposed signage does not include any motion or scrolling images.</p> <p>Subject to conditions requiring the level of illumination and/or lighting intensity used to illuminate the sign/s must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting', the proposed illumination would not cause any impacts to road safety.</p> <p>Subject to conditions requiring the level of illumination and/or lighting intensity used to illuminate the sign/s must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting', the proposed illumination would not cause any impacts to pedestrian or cyclist safety.</p> <p>The proposed signage is flush mounted to a wall and therefore would not obscure sightlines.</p>

As outlined in the above table, the proposal is consistent with the aims and objectives of Section 3.1 and the assessment criteria, in Schedule 5.

The proposed signage is for business identification purposes, therefore the provisions relating to advertisements within Part 3.3 of the SEPP do not apply.

On this basis, the proposal is consistent with the requirements of SEPP (Industry and Employment) 2021.

State Environmental Planning Policy (Housing) 2021

In January 2024 an amendment was made to SEPP Housing, including changes to the provisions of Part 5, which relate to Seniors Housing. The application was lodged but not determined prior to the amending instrument commencing, and therefore the amendments made in January 2024 do not apply.

Part 5 of the Housing SEPP specifically relates to housing for seniors and people with a disability and therefore applies to the proposal.

Part 5 Housing for seniors and people with a disability

Division 1 Land to which Part applies

79 Land to which Part applies

The site is located within the E1 Local Centre zone, where part 5 of SEPP Housing applies.

81 Seniors housing permitted with consent

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Seniors housing is permitted with consent in accordance with this section, if the site is located within land to which Part 5 of SEPP Housing applies. As outlined against section 79 above, site is located within land to which Part 5 of SEPP Housing applies.

Division 3 Development Standards

84 Development Standards – General

The proposed development is consistent with Section 84 in that:

- The site area is 11,058m² which exceeds the 1000m² requirement.
- The site has 3 frontages, the smallest of which measures 22.7m at the building line meeting, which exceeds the 20m minimum requirement.
- Residential flat buildings are permitted with consent in the E1 Local Centre zone and therefore Section 84(c) does not apply.
- Servicing equipment has been integrated into the development and is suitably screened from public places.

85 Development standards for hostels and independent living units

Section 85 notes that development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the relevant standards specified in Schedule 4. An assessment against Schedule 4 is provided below.

An Access Report prepared by Purple Apple Access, Reference no. PAA_23064, dated 22 April 2024 was submitted with the application and includes an assessment of the proposal against the requirements of Schedule 4. The report confirms compliance with requirements.

A condition of consent is has been recommended requiring the requirements of Schedule 4 be complied with.

Part 1 Standards applying to hostels and independent living units	
Development Standard	Assessment
1 Application of standards in this Part The standards set out in this Part apply to any seniors housing that consists of hostels or independent living units.	The proposed development consists of independent living units and therefore Schedule 4 applies.
2 Siting Standards (1) Wheelchair access If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road. (2) If the whole of the site does not have a gradient of less than 1:10— (a) the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and	An Access Report was prepared for the proposed development by Purple Apple Access, Reference no. PAA_23064, dated 22 April 2024. The report found that the site has an overall gradient less than 1:10 and therefore Section (1) applies. The report confirmed that all of the dwellings on the site are accessible to people with disabilities via a continuous path of travel to an adjoining public road. In addition, each dwelling has direct access to the internal

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Part 1 Standards applying to hostels and independent living units	
<p>(b) the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway that is accessible to all residents.</p> <p>(3) Common areas Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.</p>	<p>roadway and pedestrian footpath which enables access to the club house and common garden.</p>
<p>3 Security</p> <p>Pathway lighting—</p> <p>(a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and</p> <p>(b) must provide at least 20 lux at ground level.</p>	<p>The access report notes that this requirement is to be addressed during the detailed design phase. As such, a condition of consent has been recommended requiring that the development is to be constructed in accordance with this policy. This requirement can therefore be addressed through this condition.</p>
<p>4 Letterboxes</p> <p>(a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel (within the meaning of AS 1428.1), and</p> <p>(b) must be lockable, and</p> <p>(c) must be located together in a central location adjacent to the street entry or, in the case of independent living units, must be located together in one or more central locations adjacent to the street entry.</p>	<p>The letter boxes are located centrally adjacent the Clubhouse, are located on a hard stand surface, and are lockable. The letterboxes are wheelchair accessible via the internal pathways.</p> <p>Access to the letterboxes is connected directly to the street entry pathway.</p>
<p>5 Private car accommodation</p> <p>If car parking (not being car parking for employees) is provided—</p> <p>(a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890.6, and</p> <p>(b) 10% of the total number of car parking spaces (or at least one space if there are fewer than 10 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and</p> <p>(c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a</p>	<p>The proposed development includes a total of 44 car parking spaces, 14 of which are provided via attached garages, 1 as a stacked space and 29 provided via communal parking across the site.</p> <p>19 of the 44 parking spaces proposed comply with subclause 5(a). The non-compliance is addressed in a clause 4.6 variation report submitted with the application which is assessed elsewhere in this report.</p> <p>Three communal car parking spaces are designed to enable the width of spaces to be increased to 3.8m, representing 10.34% of the</p>

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power-operated door to be installed at a later date.	communal car parking spaces. In addition, all garage parking spaces have a width of 3.8m. As such, the proposal is compliant with subclause 5(b). Garages are to have a power operated door.
6 Accessible entry Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with clauses 4.3.1 and 4.3.2 of AS 4299.	The Access Report confirmed that each entry door meets the required weather protection, gradient, wheelchair manoeuvrability, door circulation area and that a level transition is achievable. The door hardware was recommended to be implemented throughout detailed design.
7 Interior: general (1) Internal doorways must have a minimum clear opening that complies with AS 1428.1. (2) Internal corridors must have a minimum unobstructed width of 1,000 millimetres. (3) Circulation space at approaches to internal doorways must comply with AS 1428.1.	All corridors within the dwellings meet the required width of 1000mm minimum. Doorways achieve the required circulation areas for the main (accessible) bedroom and bathroom areas.
8 Bedroom At least one bedroom within each dwelling must have— (a) an area sufficient to accommodate a wardrobe and a bed sized as follows— (i) in the case of a dwelling in a hostel—a single-size bed, (ii) in the case of an independent living unit—a queen-size bed, and (b) a clear area for the bed of at least— (i) 1,200 millimetres wide at the foot of the bed, and (ii) 1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and (c) 2 double general power outlets on the wall where the head of the bed is likely to be, and (d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and	The main bedroom within each unit is provided with a robe and adequate circulation areas around the bed. The remainder of the design is achievable and can be included in the detailed design.

Part 1 Standards applying to hostels and independent living units	
<p>(e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and</p> <p>(f) wiring to allow a potential illumination level of at least 300 lux.</p>	
<p>Bathroom</p> <p>(1) At least one bathroom within a dwelling must be on the ground (or main) floor and have the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS 1428.1—</p> <p>(a) a slip-resistant floor surface,</p> <p>(b) a washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with AS 1428.1,</p> <p>(c) a shower that complies with AS 1428.1, except that the following must be accommodated either immediately or in the future—</p> <p>(i) a grab rail,</p> <p>(ii) portable shower head,</p> <p>(iii) folding seat,</p> <p>(d) a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it,</p> <p>(e) a double general power outlet beside the mirror.</p> <p>(2) Subsection (1)(c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility.</p>	<p>The Access Report concluded that the bathroom configuration within each of the units is capable of meeting the requirements of an accessible bathroom including shower and washbasin circulation areas and therefore compliant with the SEPP. It was noted that the other requirement can be addressed at detail design stage.</p>
<p>10 Toilet</p> <p>A dwelling must have at least one toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.</p>	<p>The access report confirms each unit has one toilet on the main floor and is visitable.</p>
<p>11 Surface finishes</p> <p>Balconies and external paved areas must have slip-resistant surfaces.</p>	<p>To be addressed at detailed design.</p>
<p>12 Door hardware</p> <p>Door handles and hardware for all doors (including entry doors and other external</p>	<p>To be addressed at detailed design.</p>

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doors) must be provided in accordance with AS 4299.	
13 Ancillary items Switches and power points must be provided in accordance with AS 4299.	To be addressed at detailed design.
Part 2 Additional standard for independent living units	
14 Application of standards in this Part The standards set out in this Part apply in addition to the standards set out in Part 1 to any seniors housing consisting of independent living units.	This applies given the proposal is for independent living units.
15 Living room and dining room (1) A living room in an independent living unit must have— (a) a circulation space in accordance with clause 4.7.1 of AS 4299, and (b) a telephone adjacent to a general power outlet. (2) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.	<p>The Access Report confirms that the living areas within each of the units provides sufficient area to satisfy SEPP requirements for circulation spaces within a living room.</p> <p>The requirement for telephone outlet, general purpose outlet and lux levels can be implemented during detailed design through conditions.</p>
16 Kitchen A kitchen in an independent living unit must have— (a) a circulation space in accordance with clause 4.5.2 of AS 4299, and (b) a circulation space at door approaches that complies with AS 1428.1, and (c) the following fittings in accordance with the relevant subclauses of clause 4.5 of AS 4299— (i) benches that include at least one work surface at least 800 millimetres in length that comply with clause 4.5.5(a), (ii) a tap set (see clause 4.5.6), (iii) cooktops (see clause 4.5.7), except that an isolating switch must be included, (iv) an oven (see clause 4.5.8), and	<p>The Access Report confirmed that the kitchens within each of the units have adequate width to accommodate 1550mm clear between opposing benches.</p> <p>Other components can be addressed at detailed design stage.</p>

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Part 1 Standards applying to hostels and independent living units	
<p>(d) "D" pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and</p> <p>(e) general power outlets—</p> <p>(i) at least one of which is a double general power outlet within 300 millimetres of the front of a work surface, and</p> <p>(ii) one of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed.</p>	
<p>17 Access to kitchen, main bedroom, bathroom and toilet</p> <p>In a multi-storey independent living unit, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.</p>	N/A
<p>18 Lifts in multi-storey buildings</p> <p>In a multi-storey building containing separate independent living units on different storeys, lift access must be provided to dwellings above the ground level of the building by way of a lift complying with clause E3.6 of the <i>Building Code of Australia</i>.</p>	N/A
<p>19 Laundry</p> <p>An independent living unit must have a laundry that has—</p> <p>(a) a circulation space at door approaches that complies with AS 1428.1, and</p> <p>(b) provision for the installation of an automatic washing machine and a clothes dryer, and</p> <p>(c) a clear space in front of appliances of at least 1,300 millimetres, and</p> <p>(d) a slip-resistant floor surface, and</p> <p>(e) an accessible path of travel to any clothes line provided in relation to the dwelling.</p>	<p>Laundries are provided within each unit. Adequate circulation area has been provided in front of the appliances.</p> <p>Design finishes and appliance requirements can be addressed through detailed design and Occupation Certificate compliance.</p>
<p>20 Storage for linen</p> <p>An independent living unit must be provided with a linen storage in accordance with clause 4.11.5 of AS 4299.</p>	Each unit is provided with a compliant linen storage cupboard.

Part 1 Standards applying to hostels and independent living units	
21 Garbage A garbage storage area must be provided in an accessible location.	A central garbage storage area is provided at the front of the site adjacent to the maintenance shed along President Wilson Walk. An accessible path of travel is afforded to this area.

86 Development standards for seniors housing – zones RE2, SP1, SP2 and RU5

N/A - the site is zoned E1 Local Centre.

87 Additional floor space ratios

The proposal complies with Section 87 in that:

- The site area is 11,058m² which exceed the 1,500m² minimum.
- Section 87(2)(a) and (b) does not apply as there are no floor space ratio limits pertaining to the site.
- The proposal has a maximum height limit of 7.84m which is below the 8m LEP height limit.

88 Restriction of occupation of seniors housing

Noted. The proposed development has been designed to accommodate for seniors and a condition consent has been included requiring that an 88b restriction be created, which limits the use of the dwellings only for seniors housing.

89 Use of ground floor of seniors housing in business zones

The proposed development is located on land in a business zone being E1 Local Centre. Nonetheless, subsection (2) does not apply as residential flat buildings are permissible under the Port Stephens Local Environmental Plan 2013, which allows for use of the ground floor for residential purposes.

90 Subdivision

Subdivision is not proposed as part of this application.

Division 4 Site-related requirements

93 Location and access to facilities and services – independent living units

Development consent must not be granted for development for the purposes of an independent living unit unless the consent authority has considered whether residents will have adequate access to facilities and services—

- by a transport service that complies with subsection (2), or
- on-site.

The site is within direct walking distances to adequate access to facilities and services available at Kooindah Centre. The Kooindah centre contains a medical centre, newsagents, butcher, and community services and is entirely within 400m walking distance from the main pedestrian entrance to the site along President Wilson Walk. The pathway to the centre does not currently have a compliant accessible gradient, suitable for access by means of an electric wheelchair, motorised cart, or the like. Accordingly, a condition of consent has been included requiring the installation of a pedestrian crossing over President Wilson Walk. The site is also within walking distance to additional facilities and services available at The Tanilba Bay Shopping Centre via an existing footpath. However, this is currently restricted by the lack of a pedestrian footpath on Lloyd

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George Grove and accordingly, a condition has been imposed for the construction of a footpath at this location.

In addition, the site also has a bus stop along the primary frontage (President Wilson Walk) which is known as 'President Wilson Walk opposite Tilligerry Shopping Plaza' (Stop ID 231959) and is serviced by the 137, 138, and 0011 buses which operate the following services:

- Lemon Tree Passage to Raymond Terrace via Medowie
- Raymond Terrace to Lemon Tree Passage via Medowie
- Lemon Tree Passage to Newcastle Interchange via Airport
- Newcastle Interchange to Lemon Tree Passage via Airport
- Lemon Tree Passage to Tanilba Bay PS
- Tanilba Bay to Oyster Cove

On this basis, the development is compliant with this requirement.

95 Water and Sewer

The site has appropriate access to reticulated sewer and water as confirmed by the Hunter Water stamped plans and Water and Sewer Design Reticulation Plan provided with the application. The proposal therefore intends to connect each unit to these services in accordance with Hunter Water requirements. A condition has been recommended that requires the application to obtain a Section 50 Application from Hunter Water prior to the issue of an Occupation Certificate.

96 Bushfire prone land

The site is not bushfire prone land.

Division 5 Design Requirements

97 Design of in-fill self-care housing

This section requires the development in-fill self-care housing must consider the *Seniors Living Policy: Urban Design Guideline for Infill Development*, March 2004, published on the Department's website.

The proposal includes meals and nursing care and is therefore not defined as in-fill self-care housing under Section 82 of the SEPP. As such, this section does not apply.

98 Design of seniors housing

This section notes that a consent authority must not consent to development for the purposes of seniors housing unless the consent authority is satisfied that the design of the seniors housing demonstrates adequate consideration has been given to the principles set out in Division 6.

The principles of Division 6 have been considered and addressed below.

Division 6 Design principles

99 Neighbourhood amenity and streetscape

The proposed development compliments the neighbourhood amenity and streetscape through:

- Providing unit orientations that present to all three street frontages, to be consistent with surrounding residential development and to provide passive surveillance.
- A maximum building height of 7.84m which is below the maximum building height of 8m and consistent with development in the immediate locality.
- Includes material and design choices that complement the existing coastal character of Tanilba Bay and contribute to the quality and identity of the area.
- Generally compliant setbacks as per Section C5 of Port Stephens Development Control Plan (PSDCP) ensuring neighbourhood amenity and residential character is retained and the proposals bulk and overshadowing is reduced.

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- The setback of the front building on the site is generally in line with the existing building line along President Wilson Walk.
- A landscape plan has been provided with the application which includes plantings similar to those within the locality.

100 Visual and acoustic privacy

Seniors housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and residents by—

- (a) using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping, and
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.

In considering the potential visual and acoustic privacy impacts from the proposal, a number of design elements were incorporated into the design of the proposed development. Design incorporations included:

- A single storey design that has a maximum building height of 7.84m to minimise overshadowing and privacy impacts.
- The use of landscape screening and buffer areas between adjoining properties.
- Generally compliant setbacks in accordance with the PSDCP.
- The use of acoustic fencing along the site boundary adjoining the residential receivers at 39 Lloyd George Grove for units 34-37 to reduce noise impacts for air conditioning units to an acceptable level. Additionally, acoustic fencing will be installed along the common boundaries adjoining the existing childcare centre, restaurant, service station and hardware store to reduce daytime noise impacts for residents. These recommendations have been included as a condition of consent.

101 Solar access and design for climate

The dwellings have been orientated and designed to ensure each dwellings private open space (POS) and living areas are able to receive appropriate sunlight with most units POS orientated north / north east. Approximately 78% of dwellings achieve 2 hours solar access or greater during mid-winter. Units 30-36 and 46-49 do not achieve 2 hours, however, each dwelling will obtain at-least some sunlight during mid-winter and will have access to common gardens. In addition, the living areas have direct access to the outdoor private open space.

102 Stormwater

A stormwater management plan was submitted with the application and includes adequate quality and quantity controls as required by Councils policy, as confirmed by Council's Development Engineer.

103 Crime Prevention

A crime risk assessment was prepared by GYDE as part of the Statement of Environmental Effects (SEE) dated 14 July 2023. The Crime Risk Assessment addressed the Crime Prevention through Environmental Design (CPTED) principles and established how the proposed development responds to each principle.

Surveillance

The Crime Risk Assessment identified that the proposal will provide suitable surveillance through:

- The installation of CCTV cameras in and around the site which will record 24/7 and be stored for a minimum of 1 month.

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- Units with street frontages provide habitable rooms towards the front of the units to allow for passive surveillance of public spaces. Additionally, units have been orientated to enable passive surveillance of internal pedestrian spaces and communal areas.
- Clearly delineating between the public and private space through building location, landscaping and boundary fencing.
- Access control to be implemented through gates and fencing, open during the day-time and access controlled at night.

Subject to the recommended conditions of consent, sensor lighting would also be provided to the pedestrian entry point to provide additional levels of surveillance and that landscaping be designed to avoid providing areas of concealment.

Access Control

The Crime Risk Assessment identified that the proposal will provide suitable access control through:

- The site will be fenced and gated creating physical barriers to control access to the premises.
- The gates are to be automated, closing from 5:30pm to 7am in summer months and from 6:30pm to 7am in winter months to restrict unauthorised access at night time while still allowing residents and guests to enter the site during the day without hindrance.

Space Management

The Crime Risk Assessment provided within the SEE notes that a dedicated staff team will be employed consisting of a manager, care manager/registered nurse, receptionist, maintenance officer, chef, and 24/7 care staff. The staff team will ensure that the space is appropriately utilised and maintain the cleanliness and tidiness of the premises and landscaped areas. Additionally, private landscaping services will be available to residents helping to ensure private spaces are appropriately maintained.

Waste management has been incorporated throughout the site to encourage proper waste disposal and maintain a clean and sanitary environment. These measures will help create a well-cared for environment that reduces the risk of crime and antisocial behaviour.

Territorial Reinforcement

The Crime Risk Assessment identified that the proposal will provide territorial reinforcement through:

- Lighting will be used throughout the site including pathways to help prevent concealment and shadowing, ensuring potential hiding spots for criminals are minimised.
- As mentioned above, units and communal spaces have been orientated to enable the passive surveillance of internal pedestrian spaces and external street frontages.

A condition has been recommended requiring that the above CPTED controls be incorporated into the design and ongoing use of the development.

104 Accessibility

The site is within direct walking distances to adequate access to facilities and services available at Kooindah Centre. The Kooindah centre contains a medical centre, newsagents, butcher, and community services and is entirely within 400m walking distance from the main pedestrian entrance to the site along President Wilson Walk. The pathway to the centre does not currently have a compliant gradient, suitable for access by means of an electric wheelchair, motorised cart,

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or the like. Accordingly, a condition of consent has been included requiring the installation of a pedestrian crossing over President Wilson Walk. The site is also within walking distance to additional facilities and services available at The Tanilba Bay Shopping Centre via an existing footpath. However, this is currently restricted by the lack of a pedestrian footpath on Lloyd George Grove and accordingly, a condition has been imposed for the construction of a footpath at this location.

105 Waste Management

The proposal includes an appropriately sized and screened waste storage area adjacent the main entrance at President Wilson Walk. The proposal includes waste management through a private waste contractor.

Division 7 Non-discretionary developments standards

Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the design of the seniors housing does not demonstrate that adequate consideration has been given to the principles set out in Division 6.

107 Non-discretionary development standards for hostels and residential care facilities—the Act, s 4.15

N/A - the site is not a hostel or residential aged care facility.

108 Non-discretionary development standards for independent living units—the Act, s4.15

The objective of this section is to identify development standards for particular matters relating to development for the purposes of independent living units that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

The table below provides an assessment against the non-discretionary development standards in relation to development for the purposes of independent living units.

Development Standard	Assessment
No building has a height of more than 9.5m, excluding servicing equipment on the roof of a building.	The development has a maximum height of 7.84m and is therefore compliant.
(b) servicing equipment on the roof of a building, which results in the building having a height of more than 9.5m— (i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and (ii) is limited to an area of no more than 20% of the surface area of the roof, and (iii) does not result in the building having a height of more than 11.5m,	As above, the development has a maximum height of 7.84m and is therefore compliant.
The density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or	A floor space ratio (FSR) of 0.41:1 is proposed

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less.	which is compliant.
For a development application made by a social housing provider—at least 35m ² of landscaped area per dwelling,	N/A
If paragraph (d) (above) does not apply—at least 30% of the site area is landscaped.	32.1% of the site is proposed to be landscaped which is compliant.
A deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site,	15.98% of the site area is proposed as a deep soil zone which is compliant. The deep soil landscaping is appropriately spread throughout the site.
At least 70% of the dwellings receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces,	40 of the 51 units, which represents 78.43%, maintain 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces which is compliant.
For a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building— (i) at least 15m ² of private open space per dwelling, and (ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor	All units have 15m ² a private open space accessible from a living area with dimensions 5m x 3m which is compliant.
For a dwelling in a multi-storey building not located on the ground floor—a balcony accessible from a living area with minimum dimensions of 2m and— (i) an area of at least 10m ² , or (ii) for each dwelling containing 1 bedroom—an area of at least 6m ²	N/A
(j) for a development application made by, or made by a person jointly with, a social housing provider—at least 1 parking space for every 5 dwellings, (k) if paragraph (j) does not apply—at least 0.5 parking spaces for each bedroom.	A total of 97 bedrooms are proposed to be provided and therefore 49 car parking spaces are required to be provided, rounded to the nearest whole number. The development is non-compliant with this in that 44 spaces are provided. While the total parking supply is less than required under the SEPP, the provision of 44 spaces allows a suitable level of parking, taking into consideration the location and proximity of the site to essential services and public transport. In this case, it is considered that the minor

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	non-compliance is acceptable.
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Port Stephens Local Environmental Plan 2013 (LEP)

Clause 1.9A - Suspension of covenants, agreements and instruments

Clause 1.9A of the Port Stephens Local Environmental Plan 2014 states that for the purpose of enabling development certain covenants, agreements and instruments or similar do not apply to the extent necessary to serve that purpose.

The site contains a number of easements that would be impacted by the proposed development. The impacted easements benefit private parties and the beneficiaries are responsible for protecting their interests. An assessment of each easement/right of carriageway against clause 1.9A is provided in the following table.

Easements and Right of Carriageways		
Easement/Right of Carriageway	Lot Benefited	Impact to Development
Right of carriageway (A): This easement allows for a 7m wide passage for vehicles.	417, 418, 419, 420 & 431	No impact. Easement is located on neighbouring service station site and is not required to support the proposed development.
Easement for effluent (B): This easement permits the passage or installation of effluent-related infrastructure within a 1m wide area.	417, 418, 419, 420 & 431	No impact. The easement is not located within the development site.
Easement for effluent treatment (C): this easement allows for the passage or installation of infrastructure related to effluent treatment, with the width varying as necessary.	416	<p>The easement is located within the proposed private open space area of unit 21. The easement benefits neighbouring Lot 416.</p> <p>Additional information furnished confirming that the easement relates to an old septic tank that was made redundant when Hunter Water Corporation installed reticulated sewer infrastructure in the street. This information was verified by Council's Environmental Health Officer. As a result, the infrastructure is no longer required and in accordance with clause 1.9A of the PSLEP does not apply.</p> <p>The easement is a private interest to be negotiated</p>

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Easements and Right of Carriageways		
		between the benefitted and burdened parties.
Easement to park vehicles (A2): This easement grants the right to park vehicles.	417, 418, 419, 420 & 431	No impact. The easement is not located within the development site.
Right of carriageway (B2): This easement provides a 4m wide right of passage for vehicles.	42	<p>The right of carriageway is located within the proposed maintenance shed. The easement benefits neighbouring lot 42.</p> <p>Despite the proposal impacting the right of carriageway which covers an existing shared driveway, the remaining driveway width of 4.56m is compliant with the requirements of the DCP. As a result, the full driveway width is no longer required and in accordance with clause 1.9A of the PSLEP does not apply.</p> <p>The right of carriageway is a private interest to be negotiated between the relevant parties.</p>
Right to park vehicles (X): This easement allows for the parking of vehicles.	42	<p>The right to park vehicles is located within proposed units 29-32. The easement benefits neighbouring Lot 42 which is in the same ownership as the restaurant and dwelling on Lot 41.</p> <p>The restaurant is serviced with 14 car spaces within Lot 41 and 42 with an additional single garage car space for the dwelling within the site. The 14 spaces provided is in excess of the 12 spaces required in accordance with B8 of the DCP (12 car spaces per 100m² floor area). As a result, the easement to park vehicles is not required to satisfy the DCP and therefore in accordance with clause 1.9A</p>

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Easements and Right of Carriageways		
		<p>of PSLEP the easement does not apply.</p> <p>The easement is a private interest to be negotiated between the relevant parties.</p>
Right of carriageway (Y): This easement permits a 6.5m wide right of passage for vehicles.	426	No impact. Lot 426 forms part of the development site and the right of carriageway will no longer be required if the development is carried out.
Right of carriageway (Z): This easement grants a right of passage for vehicles.	42	<p>The right of carriageway is located within proposed units 29-31. The right of carriageway benefits neighbouring Lot 42 and provides right of passage for vehicles to access the car parking identified in easement (X). As noted above, the car parking in easement (X) are not required to meet the minimum car parking requirements of the restaurant on Lot 41. Therefore, in accordance with clause 1.9A of PSLEP the easement does not apply.</p> <p>The easement is a private interest to be negotiated between the relevant parties.</p>
Right to park vehicles (X2): This easement allows for the parking of vehicles.	430	The easement to park is predominately outside the proposed development footprint, with the exception of a narrow strip which includes the rear private open space area of dwellings 47-51 and landscape buffer. The easement benefits neighbouring Lot 430 which contains a recently constructed childcare centre. Despite the encroachment into the easement, there would be no loss of car parking and a 6.1m isle width remains available for manoeuvring of vehicles out of the child care centre car park.

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Easements and Right of Carriageways		
Easement to drain water (Y2): This easement enables the drainage of water on the site from Lot 430.	430	<p>The easement is located within proposed units 44-46. The easement benefits neighbouring Lot 430 and therefore cannot be altered without their agreement and without the establishment of an alternate easement to drain water.</p> <p>The easement is no longer functioning as a new stormwater system has been installed to service Lot 430, which contains a recently constructed childcare centre. The applicant has submitted documentary evidence that the easement has now been extinguished.</p>
Easement for electricity (E) This easement allows for the installation and maintenance of electricity-related infrastructure.	Ausgrid	No impact. The proposed development retains access to the Ausgrid infrastructure.

Clause 2.3 – Zone Objectives and Land Use Table

The proposed development is defined as a seniors housing which is not permissible with consent in the E1 Local Centre zone. However, the savings and transitional provisions associated with the Employment Zones Reform allow land uses that were previously permitted in the B2 Local Centre zone to continue for a 2-year period. As seniors housing was a permitted land use in the previous B2 Local Centre zone, the savings and transitional provisions apply. Consequently, the proposed development is permissible within the E1 Local Centre zone on these grounds.

In addition, the development is permitted with consent in accordance with Section 81 of SEPP Housing, as the E1 Local Centre zone is listed as a zone to which Part 5 of SEPP Housing applies.

The development addresses the objectives of the zone as follows:

- The proposed seniors housing will increase the residential population of the locality which will increase patronage of local retail, business and community uses.
- The increased spending and use of local retail, business and community uses will result in flow on employment generation and economic growth for the local centre.
- The proposal activates land that is currently vacant and disused, improving the quality of the built environment and vibrancy of the local centre.
- The proposed development does not include ground floor non-residential land-uses, however, this is not required as per section 89 of SEPP Housing, which prevails over the LEP.

On this basis, the proposal is consistent with the requirements of this section.

Clause 2.7 – Demolition requiring development consent

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

The proposed development proposed the demolition of all existing structures on the site, including the dilapidated shopping centre. However, since the application was lodged, the existing buildings on site, shown in the above photos have been demolished in accordance with demolition order no. 40-2023-127-2 issued by Council on 23 May 2024, in accordance with Section 9.34 of the EP&A Act. The concrete slab and below ground infrastructure remains in-situ and accordingly still requires demolition.

Clause 4.3 – Height of Buildings

The objectives of this clause are to ensure the height of buildings is appropriate for the context and character of the area and to ensure building heights reflect the hierarchy of centres and land use structure. Clause 4.3(2) provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The proposed development has a maximum height of 7.84 metres, which is below the maximum permissible building height of 8 metres specified on the Height of Buildings Map.

Clause 4.6 – Exceptions to development standards

Clause 4.6 provides a mechanism to vary development standards prescribed within Port Stephens Local Environmental Plan (PSLEP) 2013 or any other environmental planning instrument. The objectives of the clause are as follows:

- a) To provide an appropriate degree of flexibility applying certain development standards to particular development.*
- b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

On November 1 2023, reforms were implemented amending Clause 4.6 of the Standard Instrument LEP. Clause 4.6 was amended to remove specific references to considering the public interest in the clause and remove the requirement to obtain the Planning Secretary's concurrence for a variation. Although given the reforms came into effect after the lodgement of the subject application, the former Clause 4.6 provisions still apply relying on savings and transitional provisions in accordance with Clause 1.8A. On this basis, the parking variation has been assessed against the former Clause 4.6 provisions.

The proposal includes a variation to subclause 5(a) of Schedule 4 of the Housing SEPP, which is as follows:

5 Private car accommodation

If car parking (not being car parking for employees) is provided—

- (a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890.6, and*
- (b) 10% of the total number of car parking spaces (or at least one space if there are fewer than 10 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and*
- (c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date*

This clause requires that all car parks are designed as accessible spaces that comply with AS 2890.6. The proposal includes 19 out of 44 car parking spaces compliant with AS2890.6. This represents a 56% variation to the standard, with 25 non-compliant parking spaces.

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The proposed parking standard variation has been assessed through a Clause 4.6 Variation Report, prepared by GYDE, dated 24 April 2024 that was submitted with the application. A detailed review of the proposed variation against Clause 4.6 is provided at **Attachment 1**. The assessment in Attachment 1 concludes that the proposed variation is acceptable on the following grounds:

- The underlying objective of the Private Car Accommodation standard is to ensure adequate accessible parking for self-contained dwellings or independent living units (ILUs) within a seniors living development. While a strict interpretation of the standard suggests that all car parking spaces for ILUs must be accessible, this is frequently interpreted differently between Councils and requiring 100% compliance is unnecessary to meet demand for ILUs.
- There is no accessible car parking requirement for Independent Living Units under the Building Code of Australia.
- The then Department of Planning and Environment (DPE) (now DPHI) in November 2022 released a draft amendment to the Housing SEPP parking clause to require only 10% of car spaces to be constructed to with the requirements for parking for persons with a disability set out in AS/NZS 2890.6.
- The Explanation of Intended Effect (EIE) prepared by DPE supporting the draft amendment to the Housing SEPP Housing clause states that “feedback from industry indicates that the current resident car parking design requirements are out-of-date, do not reflect the resident mobility profile or the design and functionality of independent living units.”
- Subsequent to the EIE, a new provision was included in an amendment to SEPP Housing in January 2024, which ultimately specified that 15% of car spaces in communal car parks should be designed as accessible spaces. The proposal has been amended to include 15% accessible spaces in the communal car park, which is compliant with the contemporary requirement in the new SEPP Housing provision. Should the application have been lodged after the SEPP reforms came into effect after January 2024, the development would have been compliant with the parking standard in the Housing SEPP and no Clause 4.6 variation required.
- Compliance with the standard would result in additional unnecessary hardstand areas, detracting from the built environment and causing urban heat island effects which are unjustified, given the provision of accessible car parking would be in excess of the needs of the future residents. The proposed variation balances demand for accessible parking spaces and minimising adverse environmental impacts.

On this basis, the applicant's Clause 4.6 variation request adequately addresses the requirements of this clause and compliance with the standard is considered unnecessary in the circumstances. The report identifies sufficient environmental planning grounds to support the variation and the proposal is in the public interest.

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

The proposed development is not located within or in proximity to any local or state listed heritage items or conservation areas. A search of the Aboriginal Heritage Management Systems did not reveal any previously recorded Aboriginal sites in proximity to the proposed development. The site is not located within any Aboriginal sensitive landscape features and the site is subject to prior ground disturbance as a result of the construction of the existing shopping centre. A condition is recommended relating to unexpected finds procedures for items of Aboriginal heritage.

Clause 5.21 – Flood Planning

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

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

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

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

The site is partly located on land mapped as being Flood Planning Area – low hazard flood fringe. The proposal is for seniors housing, which is a development type vulnerable to critical emergency response. Taking this into consideration, the proposal incorporates a number of measures to mitigate risk to human life from flooding, including the following:

- The proposed filling of the site enables the floor level of each unit to be located above the PMF level (8.5m AHD) and FPL (8.7m AHD) and therefore each unit is flood free. The PMF level is lower than the FPL when accommodating for the 500mm freeboard.
- Access from the site to the road network matches the flood immunity of the road.
- Flood free land above the PMF is located a short distance from the site at a distance of approximately 230m by sealed road.
- The site would not be isolated by high hazard floodwaters, only low hazard flood fringe waters.

Based on the flood characteristics of the site and above mitigation measures, the site could readily be evacuated prior to flood inundation or alternatively refuge taken within dwellings above the PMF level, which is expected to only be for a short duration. Subject to the recommended

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conditions requiring the preparation of a flood emergency evacuation/refuge plan, sufficient measures have been incorporated to mitigate risk to life from flooding.

With regard to offsite flood impacts, the proposed development involves some filling works to raise the height of dwellings. Hydraulic modelling has been submitted which demonstrates the post-development out-flows are equal to or lower than pre development out-flows for various AEP events, including the 20%, 10%, 5%, 2% and 1% AEP events. There would be no substantial loss of flood storage as a result of the proposal.

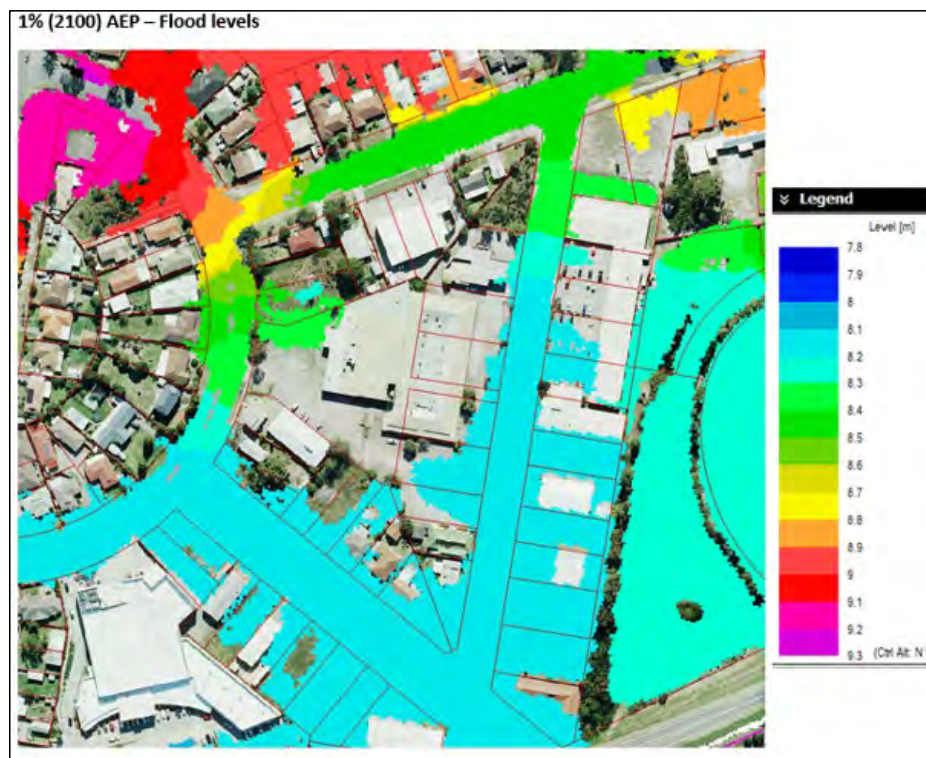


Figure 13: Flood mapping

On this basis, the proposed development is consistent with the requirements of this clause.

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 (ASS) and cause environmental damage.

The subject land is mapped as containing potential Class 4 ASS and the proposed development involves excavation to a depth of 3m.

The Preliminary Contamination Site Contamination Assessment (PSCA) prepared by RCA, Project no. 16040-202/2, dated 12 July 2023 submitted with the application, assessed the likelihood of the proposed construction works intercepting ASS. The PSCA concludes that the ASS analysis were below the relevant criteria for management and therefore no ASS management plan is necessary in accordance with subclause 4(a). A condition of consent has been imposed requiring an Acid Sulfate Soils Management Plan to be prepared, in the unlikely event ASS be encountered during works.

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Clause 7.2 – Earthworks

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

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

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

The development proposes earthworks associated with the installation of service and drainage infrastructure to a depth of approximately 1.5m and minor site levelling works. The proposed earthworks are minor in nature and are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place. As outlined in the assessment against Clause 5.10 above, the likelihood of disturbing relics is low.

Conditions of consent have been recommended 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.

Due to the proximity of the proposed excavations to buildings on the adjoining allotment, a condition of consent has also been recommended requiring the persons undertaking the excavations:

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

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

Clause 7.6 – Essential Services

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

- (a) the supply of water,*
- (b) the supply of electricity,*

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- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

The subject site is serviced by reticulated water, electricity and sewer. The application includes a Design Reticulation Plan and Power Reticulation Plan which includes the proposed alignment of sewer, water and power extensions. In addition, the application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Councils requirements. The subject land also maintains direct access to President Wilson Walk, Lloyd George Grove and Beatty Boulevarde, meeting the requirements of this clause.

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

State Environmental Planning Policy (Sustainable Buildings) 2022 was a draft exhibited instrument at the time the DA was lodged.

SEPP (Sustainable Buildings) 2022 commenced on 1 October 2023. The SEPP builds on and strengthens the existing BASIX SEPP to improve the energy efficiency of new residential development and broadens the policy to industrial and commercial development.

The new SEPP does not apply to the proposal as the DA was lodged prior to 1 October 2023. A valid BASIX has been submitted in accordance with SEPP (BASIX) 2004 as outlined elsewhere in this report.

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

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 requires the removal of 16 trees, which has been assessed in an Arboricultural Assessment Report, Prepared by Joseph Pidutti, dated 06 June 2023. The Arboricultural Assessment supported the removal of all trees on the site due to either the development encroaching on their structural root zones or due to defects in the trees. Council's Vegetation Management Officer raised no objection to the proposed tree removal.

Chapter B2 – Natural Resources

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

The proposal is located within 500m of an area mapped as containing preferred koala habitat and the site is mapped as containing noxious weeds (Mother of Millions), therefore the provisions of this Chapter applies.

The proposal includes the removal of 16 trees which are predominately native trees. The proposed tree removal does not trigger entry into the Biodiversity Offset Scheme as the area is not Biodiversity Value mapped and the removal does not exceed the clearing threshold of the site. Moreover, Council's Environmental Planner has confirmed that the site contains minimal

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biodiversity value, noting its heavily disturbed nature and location within a built up urban environment. As a result, the removal of all trees will have no adverse impact to local biodiversity.

Conditions of consent have been included requiring the management of weeds in accordance with the Biosecurity Act 2015.

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 section is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage. The subject land is mapped as containing potential Class 4 ASS and the proposed development involves excavation to a depth of 3m. As detailed within Clause 7.1 discussion above, the proposed development could be undertaken, subject to conditions of consent, without resulting in adverse impact to ASS.

The Preliminary Contamination Site Contamination Assessment submitted with the application, assessed the likelihood of the proposed construction works intercepting ASS and concludes that the ASS analysis were below the relevant criteria for management and therefore no ASS management plan is necessary.

In this regard the development is consistent with the objectives and requirements of the DCP.

Noise

A Noise Impact Assessment, reference no. 232309-9963-R2, prepared by Spectrum Acoustics and dated 19 September 2023, which assessed impacts to the development from nearby existing noise sources including the adjoining service station, hardware store, restaurant carpark and approved childcare centre. The Noise Impact Assessment, recommends the following noise mitigation measures be incorporated in the proposed development:

- Construction of a 2.1m high acoustic fences along the shared boundaries with the noise generating sources.
- Construction of a 1.8m high fence along the common boundary with the restaurant car park.

Subject to the recommended measures, future residents of the development would not experience adverse noise impacts from neighbouring development.

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

Air Quality

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

Earthworks

As discussed at Clause 7.2 above the proposed development involves earthworks associated with the installation of service and drainage infrastructure to a depth of approximately 1.5m and minor site levelling works. The proposed earthworks are minor in nature and are not anticipated to result

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in any negative impacts on the subject or adjoining land, or any public place. The impacts of the proposed earthworks can be mitigated through conditions of consent. The proposal is therefore consistent with requirements outlined in Councils DCP relating to earthworks.

Chapter B4 – Drainage and Water Quality

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 controls in accordance with the requirements of this section. The stormwater drainage plan has been assessed as being consistent with Council's Infrastructure Specification and a condition of consent has been included in the consent requiring the provision of detailed engineering plans, prior to the issue of a construction certificate.

Chapter B5 – Flooding

This Chapter applies to all development on flood prone land. The subject land is mapped as being within the Flood Planning Area – low hazard flood fringe and the proposed development is for seniors housing, which is a development type vulnerable to emergency response. Development vulnerable to emergency response is nominated as unsuitable when located on land mapped as low hazard flood fringe, in accordance with Figure BI of the DCP. The proposal has been assessed in detail against the provisions of Chapter B5 below.

Chapter B5 - Flooding Assessment		
Development Control	Assessment	Complies
Site Selection		
B5.1 - Development is in accordance with Figure BI.	<p>The proposal is a development type vulnerable to emergency response. Development vulnerable to emergency response is nominated as unsuitable when located on land mapped as low hazard flood fringe, in accordance with Figure BI of the DCP. Notwithstanding, the proposal incorporates the following measures to mitigate risk to human life from flooding:</p> <ul style="list-style-type: none"> • The proposed filling of the site enables the floor level of each unit to be above the PMF level (8.5m AHD) and FPL (8.7m AHD) and therefore each unit is flood free. • Access from the site to the road network is compliant with B5.11 in that it matches the flood immunity of the road. • Flood free land above the PMF is located a short distance from the site at a distance of 	Non-compliance supported

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Chapter B5 - Flooding Assessment		
	<p>approximately 230m by sealed road.</p> <ul style="list-style-type: none"> The site is located centrally within the Tanilba Bay town centre. The flood risk category is low. <p>Based on the flood characteristics of the site and above mitigation measures, the site could readily be evacuated prior to flood inundation or alternatively refuge taken within dwellings above the PMF level, which is expected to be for a short duration. Subject to the recommended conditions requiring the preparation of a flood emergency evacuation/refuge plan, sufficient measures have been incorporated to mitigate risk to life from flooding.</p>	
B5.2 - If multiple flood hazard categories are specified for a site on a flood certificate, the proposed development must be located on the land with the lowest flood risk	The entire site is mapped as low hazard flood fringe area and therefore the location represents the lowest flood risk.	Yes
Finished Floor Level (FFL)		
B5.3 - Development must meet the minimum FFL as specified in Figure BJ.	The proposed floor level of dwellings exceeds the PMF level of 8.5m.	Yes
Flood Compatible Design		
B5.4 - Development for a building (and/or an associated driveway or access) must be of a flood compatible design and construction and shall meet the relevant requirements in the Construction of Buildings in Flood Hazard Areas (Australian Building Codes Board). Council may also require structural certification for development proposed on land which becomes a floodway in the PMF.	The proposed building would be of a flood compatible design, subject to standard conditions relating to storage of materials and structural adequacy.	Yes
B5.5 - Fencing on flood prone land should be stable in events up to the current day 1% AEP flood event and not obstruct the flow of floodwater.	The proposed fencing could be of a flood compatible design subject to the recommended conditions.	Yes
B5.6 - All incoming main power service equipment, including all metering equipment, and all electrical fixtures, such as power points, light fittings, switches, heating, ventilation and other service	Conditions of consent are recommended requiring compliance with the requirements of this control.	Yes

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Chapter B5 - Flooding Assessment		
facilities must be located above the FPL, or where possible above the PMF. Where the above cannot be achieved, the following features shall be used: <ul style="list-style-type: none"> Electrical cabling is not to be installed within walls, or chased into walls; and Any circuit containing switches, power points or any other electrical fitting that are located below the FPL, shall connect to the power supply through an individual Residual Current Device (RCD), located in the meter box. 		
B5.7 - The storage of hazardous or potentially hazardous materials, potentially polluting material or material that could be washed from site and cause harm downstream must be stored above the FPL with appropriate bunding.	The proposal is not a type that typically utilises large volumes of hazardous materials. Conditions of consent are recommended requiring compliance with the requirements of this control.	Yes
B5.8 - Items that may wash away during flood events (e.g. rainwater tanks, hot water tanks, gas cylinders, shipping containers) must be elevated above the 1% AEP flood event level in the year 2100 (without freeboard) or anchored to resist buoyancy and impact forces.	Conditions of consent are recommended requiring compliance with the requirements of this control.	Yes
Flood Impact and Risk Assessment		
B5.9 - A flood impact and risk assessment is required for: <ul style="list-style-type: none"> Any fill on land identified as floodway. Any fill located in a flood storage area 	The proposed development involves some filling works to raise the height of dwellings. Hydraulic modelling has been submitted with the application which demonstrates the post-development out-flows are equal to or lower than pre development outflows for various AEP events, including the 10%, 20%, 10%, 5%, 2% and 1% AEP events.	N/A
B5.10 - For residential accommodation, subdivision, commercial premises, industrial premises, garages, open car parking spaces and carports, a reduced planning horizon of 50 years from the date of determination will be accepted where the design facilitates ongoing flood adaptation (ie the future raising of the building).	The proposal does not include flood adaptable design, therefore this clause does not apply.	N/A
B5.11 - Where proposed alterations and additions to existing residential accommodation is less than 40% of the gross floor area of the existing residential	N/A	N/A

Chapter B5 - Flooding Assessment		
accommodation, and does not involve a net increase in the number of bedrooms, Council will consider a FFL lower than the flood planning level (FPL), but not lower than the existing floor level. Any additional flood risk must include mitigation measures to reduce the overall flood risk of the development.		
B5.12 - Access from the building envelope to the public road is to have a minimum finished access level of: <ul style="list-style-type: none"> The flood immunity of the connecting public road; or The current day 1% AEP flood event level for the site. 	The proposed driveway matches the flood immunity of the adjoining road.	Yes
B5.13 - Earthworks for driveways and access must satisfy the objectives of B3.D of the DCP and LEP.	Complies as per B3.D assessment above.	Yes
B5.14 - Subdivision that creates the ability to erect additional dwellings is to indicate building envelopes above the FPL and comply with the requirements of B5.11, B5.12 and B5.14 of this Part.	The proposal is not for subdivision and therefore this clause does not apply. Notwithstanding, the finished floor level of each unit is above the PMF level of 8.5m.	Yes
B5.15 - If evacuation egress from residential accommodation, a commercial premises, an industrial premises, fill or development vulnerable to emergency response and critical infrastructure to flood free areas cannot be achieved via a route that is flood free in the current day 1% AEP flood event or is a low hazard flood area, an onsite flood refuge must be provided meeting the following criteria: <ul style="list-style-type: none"> Is located above the PMF level; Is intrinsically accessible to all people on the site, plainly evident and self-directing; Is accessible in sufficient time for all occupants with fail safe access and no reliance on elevators; Has unobstructed external access for emergency boats during flooding; Caters for the number of persons that could reasonably be expected on-site at any one time (approx. 2m² per person); 	The proposed access and adjacent road are above the current day 1% AEP flood level.	Yes

Chapter B5 - Flooding Assessment		
<ul style="list-style-type: none"> Provides adequate shelter from the storm and has natural lighting and ventilation; and Contains sufficient clean water, a first aid kit, portable radio with spare batteries and a torch with spare batteries. <p>Note: If a flood refuge is required, the DA must be accompanied by structural certification.</p>		
<p>B.16 - A site based overland flow report must be submitted for development located within a designated overland flow path. The purpose of this report is to demonstrate that the development:</p> <ul style="list-style-type: none"> Will not result in material increase in flood level or flood hazard upstream, downstream or surrounding properties; and Will provide acceptable management of flood risk with appropriate development levels to ensure the safety of people. 	N/A the site is not located in an overland flow path.	N/A
Development on land identified as floodway		
B5.17 - Development other than farm buildings and/or fill is not supported on land identified as either low hazard floodway or high hazard floodway.	N/A - the site is not mapped as a floodway.	N/A
B5.18 - Fencing in a floodway should not include non-permeable materials or fencing types that could restrict or redirect flood waters.	The proposed fencing consists of some solid materials, however, the site is a flood fringe area with low flood velocities. As a result, any redirection of floodwaters would be negligible and would not be hazardous.	Non-compliance supported

Despite being categorised as unsuitable in accordance with Figure BI of the DCP, as outlined above, the proposal is generally consistent with the requirements of this chapter and risk to life and property are adequately mitigated.

Chapter B7 – Heritage

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

The proposed development is not located within or in proximity to any local or state listed heritage items or conservation areas. A search of the Aboriginal Heritage Management Systems did not reveal any previously recorded Aboriginal sites in proximity to the proposed development. The site is not located within any Aboriginal sensitive landscape features and the site is subject to prior ground disturbance as a result of the construction of the existing shopping centre. A condition is recommended relating to unexpected finds procedures for items of Aboriginal heritage.

Chapter B8 – Road Network and Parking

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

Traffic Impacts

The application includes an assessment of traffic impacts in a Traffic Impact Statement prepared by SECA Solution, dated 23 April 2024.

President Wilson Walk, Beatty Boulevard and Lloyd George Grove are local roads managed by Port Stephens Council and operate with an urban speed limit of 50km/h.

In addition to school buses, there are two bus routes operating along Lemon Tree Passage Road and President Wilson Walk. Route 137 Raymond Terrace to Lemon Tree Passage via Medowie and Route 138 Lemon Tree Passage to the Newcastle Interchange. There are bus stops on both sides of President Wilson Walk within the immediate vicinity of the site. Both have seating with the northbound stop also having a shelter.

President Wilson Walk has footpaths connecting to Lemon Tree Passage Road to the south and to neighbourhood shops including a medical centre and local bus stops to the north. There is a pedestrian refuge to the north of the site, however, this crossing does not meet current standards. On Beatty Boulevard there are footpaths south of the site only. To the west of the site there is a shared pathway running along the Avenue of the Allies.

The Guide to Traffic Generating Developments specifies the following traffic generation rates for seniors living residential developments:

- Morning and afternoon peak hour trips - 0.4 trips per dwelling
- Daily trips – 2.1 per dwelling

Modelling for the 51 dwellings, this gives 21 trips in the afternoon peak period and 107 trips per day, with morning demands typically not coinciding with the AM road peak based on the seniors housing land-use which differ from typical residential developments.

These traffic movements will be distributed across the various frontage roads with the majority via President Wilson Walk whilst flows on Beatty Boulevard will be a lower volume.

The Traffic Statement models the efficiency of key intersections comparing scenarios before and after the proposed development. The assessment concludes that with regard to the most impacted roads and the intersection of President Wilson Walk and Lemon Tree Passage Road, that the network capacity would not be exceeded.

The Traffic Statement was reviewed by Council's Traffic Engineer who concurred with the findings of the traffic assessment. On this basis, the proposal would not cause any adverse traffic impacts and is consistent with the requirements of this section.

On-site Parking Provisions

Figure BU of the DCP requires the provision of 0.5 parking spaces for each bedroom. A total of 97 bedrooms are proposed and therefore 49 car parking spaces are required in accordance with the DCP.

The proposal consists of 5 x 1 bedroom units and 46 x 2 bedroom units. A total of 44 car parking spaces are proposed to service the units, 14 of which will be provided as attached single car garages, 1 as a stacked space and 29 as external parking spaces located across the site.

The development is non-compliant with the Figure BU rate in that only 44 spaces are provided. While the total parking supply is less than required under Figure BU, the provision of 44 spaces allows a suitable level of parking, taking into consideration the location and proximity of the site to

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essential services and public transport. On these grounds, it is considered that the minor non-compliance is acceptable in the context of the merits of the development and site context.

On-site Parking Access

Access to the site is proposed via a two-way driveway crossover, which extends through the site from President Wilson Walk to Beatty Boulevard. The proposed access includes appropriate site distances, consistent with the requirements of this Chapter.

Chapter C – Development Types

The proposed development is for a seniors housing development therefore the provisions of chapter C5 are applicable.

C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
The proposed development includes a Multi-Dwelling Housing or Seniors Housing component and this section of the DCP applies.	<input checked="" type="checkbox"/>
C5.A – Landscaping	
Objectives	
<ul style="list-style-type: none"> To enhance the appearance and amenity of developments through the retention and/or planting of large and medium sized trees To encourage landscaping between buildings for screening To ensure landscaped areas are consolidated and maintainable spaces that contribute to the open space structure of the area To add value and quality of life for residents and occupants within a development in terms of privacy, outlook, views and recreational opportunities To reduce energy consumption through microclimate regulation To reduce air borne pollution by reducing the heat island effect To intercept stormwater to reduce stormwater runoff 	
Control	<u>C5.1 – Landscaping coverage</u> Landscaped area is provided as follows: <ul style="list-style-type: none"> 15% of the site area consisting of deep soil planting where the lot is equal to or less than 250m² and zoned R1 General Residential or R2 Low Density Residential; or 20% of the site area consisting of deep soil planting where the lot is greater than 250m² and zoned R1 General Residential or R2 Low Density Residential 10% of the site area consisting of deep soil planting when the site is zoned R3 Medium Density or B4 Mixed Use; and 50% of the landscaped area must be located behind the building line to the primary road; and 30% shading over uncovered park areas.
	Assessment The proposed development is not located in any of the zones listed against this control. Notwithstanding, 32% of the site is proposed to be landscaped, with 16% comprising deep soils which is compliant with SEPP Housing. Over 50% of the landscaping is located behind the building line and approximately 30% shade coverage is provided for car parking areas. Accordingly, the development incorporated sufficient landscaped areas.
Control	<u>C5.2 – Landscaping dimensions</u>

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
	To be counted as part of the total landscaping coverage the landscape area must be at least 1.5m wide and 3m long.
Assessment	The site comprises 30% landscaping, which is made up of areas measuring at least 1.5m wide and 3m long.
Control	<p><u>C5.3 – Landscaping qualities</u> Landscaping is in accordance with the following:</p> <ul style="list-style-type: none"> • Landscaping works incorporate adequate screening from the street and adjacent neighbours; • Corner lots provide landscaping to both street frontages; • Front boundary structures (e.g. fencing and retaining walls) provide visual relief with the use of landscape planting; • Structural soil and/or structural cells should be used to reduce competition between specimen trees and infrastructure; • Street trees are to be within the footpath, verge, or in the parking and be consistent with the Port Stephens Council tree technical specification.
Assessment	The proposed landscaping includes screen buffers where appropriate between neighbouring sites and boundary fencing. Structural soil/cells have been adopted for tree plantings in hardstand areas and street trees have been proposed consistent with the Port Stephens Council tree technical specification.
C5.B – Height	
<p style="text-align: center;">Objectives</p> <ul style="list-style-type: none"> • To ensure building height is appropriate for the context and character of the area • To ensure building heights reflect the hierarchy of centres and land use structure • To ensure ceiling heights achieve sufficient ventilation and daylight access • To ensure ceiling heights increase the sense of space and provides for well-proportioned rooms • To ensure ceiling heights contribute to the flexibility of building use over the life of the building 	
Control	<p><u>C5.4 – Building height</u> Maximum height limit of 8m or a merit-based approach is taken where no height limit is specified under the <i>Local Environment Plan</i> clause 4.3.</p>
Assessment	The proposal has a maximum height limit of 7.84m which is below the 8m LEP and DCP height limit.
Control	<p><u>C5.5 – Floor to ceiling height</u> Minimum floor to ceiling heights of 2.4m.</p>
Assessment	The minimum floor to ceiling heights proposed are 2.7m.
C5.C – Setbacks	
<p style="text-align: center;">Objectives</p> <ul style="list-style-type: none"> • To ensure development provides continuity and consistency to the public domain • To ensure adequate space between buildings to enable effective landscaping 	

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
<ul style="list-style-type: none"> To alleviate impacts on amenity including privacy, solar access, acoustic control and natural ventilation To reduce the visual bulk of buildings from the street To maintain the rhythm and built form on the street 	
Control	<u>C5.6 – Front setback</u> Minimum 4.5m front setback from the front property line or the existing average building line (whichever is less).
Assessment	<p>The site has three frontages, which are considered to form the front setback areas of this site, given this is where the development presents to the street. The front setback for each frontage is as follows:</p> <p><u>President Wilson Walk</u></p> <p>The proposed front setback is 3m which is consistent with the established average building line of 3m. The proposed setback complies with this control.</p> <p><u>Lloyd George Grove</u></p> <p>The proposed front setback is 4.5m which is less than the established building line which is approximately 6m. The proposed setback complies with this control.</p> <p><u>Beatty Boulevard</u></p> <p>The proposed front setback is 3.2m which is less than 4.5m and less than the established average building line of 10m for the block. Despite the variation, the proposed front setback is acceptable as a number of lots along this street are undeveloped and the existing front setbacks on this street range between 4 and 20 metres. The proposed 3.2m setback sets a desirable building line for future development, taking into account the E1 Local centre zoning and proximity to existing commercial development which typically have very narrow front setbacks. The development will not present as overly bulky from the Beatty Boulevard frontage and will be visually compatible with the streetscape.</p>
Control	<u>C5.7 – Front setback</u> Podium structures and basement car parks are not to be within the front setback area.
Assessment	The proposal does not include any podium structures or basement car park areas.
Control	<u>C5.8 – Front setback</u> Setback areas not to be used for at grade parking.
Assessment	The front setback area is not proposed to be used for at grade parking.
Control	<u>C5.9 – Front setback</u> Minimum 5.5m front setback from the front property line for a garage to enable a parked car to be situated in front of the garage.
Assessment	There are no garages which front the street.

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
Control	<u>C5.10 – Front setback encroachment</u> Maximum 1.5m encroachment of front setback for architectural features such as an entry porch or deck.
Assessment	The proposal does not incorporate encroaching architectural features.
Control	<u>C5.10 – Secondary setback (corner lots)</u> Minimum 3m secondary setback, except for an open veranda, porch, or deck which must be setback a minimum of 2m.
Assessment	The site is not a corner lot.
Control	<u>C5.11 – Side setbacks</u> Minimum 0.9m side boundary setback for any part of a building at or below 5.5m in height.
Assessment	The proposed side setbacks range in distance and are no less than 0.9m from all units to the respective side boundary.
Control	<u>C5.12 – Side setbacks</u> Minimum 3m side boundary setback for any part of a building above 5.5m in height.
Assessment	The proposed dwellings do not exceed 5.5m in height. The proposed clubhouse exceeds 5.5m in height but is setback a significant distance from the nearest boundary, in excess of the 3m control.
Control	<u>C5.13 – Side setbacks</u> Despite the above requirements, a dwelling may be built to a side boundary if within a commercial zone or the zone R3 Medium Density Residential, if the following is achieved: <ul style="list-style-type: none"> • The maximum wall height is 6m and the maximum wall length is 6m and there will be no impact on privacy, use of private open space and solar access for adjoining properties unless these properties have approval/are proposed for medium density residential; • Wall openings comply with the fire resistance levels of the BCA; • The wall height and length match a similarly constructed wall on the adjoining side.
Assessment	The proposed development does not include any dwellings built to the boundary.
Control	<u>C5.14 – Rear setbacks</u> For the ground level (finished), rear setback must not exceed whichever of the following is greater: <ul style="list-style-type: none"> • Minimum 3m from the rear boundary; or • 25% of the average length of the side boundaries.
Assessment	All dwellings are setback 3m from the respective boundaries, with the exception of Units 47 to 50 which will have a setback of 2.8m. The proposed 0.2m setback variation is minor and considered to be acceptable as a 1m wide strip of land is proposed to be dedicated to the neighbouring childcare centre site to incorporate

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
	<p>a small landscape buffer between the existing car park and the proposed fencing. In addition, the fencing on this boundary is proposed to be acoustically treated which will mitigate any acoustic and privacy impacts.</p> <p>A minimum 2m setback is proposed for Unit 25, however, this only relates to the corner of the building and as a result there are no amenity impacts.</p>
Control	<p><u>C5.15 – Rear setbacks</u> Minimum 4m rear setback for the upper levels.</p>
Assessment	The proposal does not include any upper levels.
Control	<p><u>C5.16 – Rear setbacks</u> Despite the above requirements, development may be built to the rear boundary on lots that have rear lane access.</p>
Assessment	The site does not have access to a rear lane.
Control	<p><u>C5.17 – Rear setbacks</u> Podium structures and basement car parks are not to be placed in the rear setback.</p>
Assessment	The proposal does not include any podium structure or basement car parks.
Control	<p><u>C5.18 – Driveway setback</u> Minimum 0.9m side boundary setback to provide for landscaping, which can be used in calculations.</p>
Assessment	Each proposed driveway is setback to enable the provision of a landscaping strip to the boundary.
C5.D – Natural Ventilation	
<p style="text-align: center;">Objectives</p> <ul style="list-style-type: none"> • To ensure all habitable rooms are naturally ventilated • To ensure a comfortable indoor environment is created for residents 	
Control	<p><u>C5.19 – Natural ventilation</u> The buildings orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms.</p>
Assessment	The majority of units are oriented to capture the prevailing summer breeze.
Control	<p><u>C5.20 – Natural ventilation</u> Depths of habitable rooms support natural ventilation.</p>
Assessment	Each unit includes a layout capable of supporting adequate cross ventilation.
Control	<p><u>C5.21 – Natural ventilation</u> Doors and openable windows maximise natural ventilation opportunities by using the following design solutions:</p> <ul style="list-style-type: none"> • Adjustable windows with large effective openable areas;

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
	<ul style="list-style-type: none"> A variety of window types that provide safety and flexibility such as awnings and louvres; and Windows which the occupants can reconfigure to funnel breezes into the dwelling such as vertical louvres, casement windows and externally opening doors.
Assessment	The proposed window configuration of dwellings maximises ventilation opportunities through the use of a variety of window types.
C5.E – Streetscape and Privacy	
Objective	
<ul style="list-style-type: none"> To ensure development activates streetscape to provide passive surveillance and privacy 	
Control	<p><u>C5.22 – Access</u> Dwellings that have street frontage provide direct and legible pedestrian access from the street to the front entry.</p> <p>Note: Development should have consideration for the Port Stephens Pathways Plan.</p>
Assessment	Each dwelling fronting the street includes a dedicated pedestrian footpath from the front door to the street.
Control	<p><u>C5.23 – Openings</u> The front door entrance of each dwelling must be sheltered and be located forward of the designated car parking space.</p>
Assessment	<p>The majority of front door entrances are sheltered, with the exception of several of the dwellings fronting President Wilson Walk, which feature arbours, as an architectural design feature instead. The use of the architectural design features, in lieu of a covered porch is supported, due to the improved visual interest this design form provides to the streetscape.</p> <p>All proposed porches are forward of garages where proposed.</p>
Control	<p><u>C5.24 – Openings</u> Windows and walls are located to avoid noise sources from adjacent lots and streets.</p>
Assessment	Windows and walls are located to minimise noise transfer where appropriate.
Control	<p><u>C5.25 – Openings</u> Windows on the second floor considers impacts on the privacy or amenity of neighbouring buildings.</p>
Assessment	N/A - the proposal consists of single storey buildings only.
Control	<p><u>C5.26 – Openings</u> Privacy screens, high-light windows or opaque glass is to be used for windows of habitable rooms (other than bedrooms) which overlook adjoining properties.</p>

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ITEM 1 - ATTACHMENT 2 PLANNER'S ASSESSMENT REPORT.

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
Assessment	N/A - the proposal consists of single storey buildings only and there is no overlooking expected noting the inclusion of boundary landscaping, fencing and sufficient building setbacks incorporated into the design.
Control	<u>C5.27 – Colour schemes</u> Building colours should adopt a colour scheme to express building massing, articulation, and detailed façade elements.
Assessment	The proposed building colours appropriately express building massing, articulation, and detailed façade elements.
Control	<u>C5.28 – Corner lots</u> Development on a corner lot has one or more dwellings facing each street frontage.
Assessment	N/A - the site is not a corner lot.
Control	<u>C5.29 – Façade</u> The façade of each dwelling within a building should be identifiable as such to indicate that the building consists of separate dwellings. Subtle changes provide individuality between the proposed dwellings while seeking to maintain pattern continuity of the overall building.
Assessment	The façade treatment of dwellings facing the street features sufficient variation in design, type and colour to provide individuality the proposed building, whilst maintaining a pattern of continuity for the overall building.
Control	<u>C5.30 – Façade</u> Unbroken roof ridgelines should not exceed 10m in length and blank walls without a window should not exceed 5m in length.
Assessment	The proposal does not include any large unbroken rooflines or blank walls.
Control	<u>C5.31 – Façade</u> The dwelling with street frontage provides a recognisable pedestrian entry point from the street.
Assessment	Each dwelling fronting the street includes a dedicated pedestrian footpath from the front door to the street. The front doors are cover by either patios or arbours which signify the entry point.
Control	<u>C5.32 – Privacy</u> Balconies, terraces and decks must include privacy screens where they face onto side boundaries or are orientated to avoid direct overlooking onto adjoining properties.
Assessment	There are no balconies, terraces or decks that would cause overlooking of adjoining properties.
C5.F – Noise	
Objective	

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
<ul style="list-style-type: none"> To minimise noise transfer through the siting of buildings and building layout To ensure noise impacts are mitigated within units through layout and acoustic treatments 	
Control	C5.33 – Noise Window and door openings are generally oriented away from noise sources.
Assessment	Windows and door opening are generally oriented away from noise sources.
Control	C5.34 – Noise Noisy areas within building including building entries and corridors should be located next to or above each other, and quieter areas next to or above quieter areas.
Assessment	Building entries are generally co-located with garages to minimise noise transfer to habitable rooms.
Control	C5.35 – Noise Storage, circulation areas, and non-habitable rooms should be located to buffer noise from external sources.
Assessment	Storage, circulation areas, and non-habitable rooms are located with sufficient buffers from external noise sources.
Control	C5.36 – Noise The number of party walls are limited and are appropriately insulated.
Assessment	The attached nature of the development results in a number of party walls that will be appropriately insulated.
C5.G – Car Parking and Garages	
<p style="text-align: center;">Objectives</p> <ul style="list-style-type: none"> To ensure car parking caters for anticipated vehicle movements to and from the development and does not adversely impact on building articulation. To ensure vehicular access has minimal impacts on neighbouring dwellings. To ensure that vehicular access points and parking is safe and convenient for residents, visitors and service providers. 	
Control	C5.37 – Driveway width and access Where a common driveway is to be provided it is to have a minimum width of 3.6m.
Assessment	The proposed driveways includes widths exceeding 3.6m.
Control	C5.38 – Driveway width and access Where a common driveway is not provided and individual driveways connect to the street, the garage is to be setback 5.5m to allow for a parked car to be situated in front of the driveway door.
Assessment	There are no individual driveways which connect to the street.

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
Control	<u>C5.39 – Driveway width and access</u> Visual impact of long driveways should be minimised through changing alignments and screen planting.
Assessment	The alignment of the proposed driveway is an 'S' shape and features landscape plantings along its entire extent.
Control	<u>C5.40 – Driveway width and access</u> Traffic calming devices, such as changes in paving material or textures, should be used where appropriate.
Assessment	The proposed driveway encourages a low speed traffic environment, encouraged through changes in carriage widths and line marking to delineate adjacent pedestrian pathways and crossings.
Control	<u>C5.41 – Driveway width and access</u> Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include: <ul style="list-style-type: none"> • Changes in surface materials; • Level changes; • The use of landscaping for separation.
Assessment	The proposed driveway encourages a low speed traffic environment, encouraged through changes in carriage widths and line marking to delineate adjacent pedestrian pathways and crossings.
C5.H – Private Open Space	
Objective <ul style="list-style-type: none"> • To ensure private open space with solar access is provided to allow the opportunity for passive and active outdoor recreation 	
Control	<u>C5.42 – Private open space dimensions</u> Minimum of 16m ² of ground floor private open space for each dwelling containing one or two bedrooms that: <ul style="list-style-type: none"> • Has minimum dimensions of 4m x 4m; • Has direct access from internal living areas; • Is not located within a front setback; • Has a northerly aspect.
Assessment	N/A – the proposed development is for seniors housing therefore C5.45 applies for POS controls.
Control	<u>C5.43 – Private open space dimensions</u> Minimum area of 25m ² of ground floor private open space for each dwelling containing three or more bedrooms that: <ul style="list-style-type: none"> • Has minimum dimensions of 4m x 4m; • Has direct access from internal living areas; • Is not located within a front setback; • Has a northerly aspect.

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ITEM 1 - ATTACHMENT 2 PLANNER'S ASSESSMENT REPORT.

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
Assessment	N/A – the proposed development is for seniors housing therefore C5.45 applies for POS controls.
Control	<u>C5.44 – Private open space dimensions</u> Where development cannot provide private open space on the ground floor, provisions shall be made for a balcony of not less than 16m ² with a minimum width of 2.4m and minimum depth of 1.5m for the use as private open space.
Assessment	N/A – the proposed development is for seniors housing therefore C5.45 applies for POS controls.
Control	<u>C5.45 – Private open space dimensions for seniors housing</u> Despite the above requirements, ground floor private open space for each dwelling in development for seniors housing may be reduced to a minimum area of 9m ² and minimum dimensions of 3m x 3m.
Assessment	All units have at least 15sqm of private open space per dwelling with minimum areas measuring at least 3m x 3m.
Control	<u>C5.46 – Solar access</u> Minimum of two hours sunlight to the private open space area between the hours of 9am – 3pm midwinter.
Assessment	Approximately 78% of dwellings achieve 2 hours solar access or greater during mid-winter, which does not comply with the requirements of this control. Units 30-36 and 46-49 do not achieve 2 hours, however, each dwelling will obtain at least some sunlight during mid-winter and will have access to common gardens which receive good solar access. As the proposal is for seniors housing, the non-discretionary development standards within SEPP Housing apply and if complied with, prevent the consent authority from requiring more onerous standards for the matters. The non-discretionary standards include a provision for solar access, which provides that 70% of dwellings receive 2 hours of solar access or more. As the proposed development exceeds the 70% requirement of the SEPP and due to the SEPP prevailing over the DCP to the extent of the inconsistency, the variation to C5.46 is supported.
Control	<u>C5.47 – Solar access</u> Minimum of 50% of private open space of adjoining dwellings is not affected by any shadow for a minimum of three hours between 9am – 3pm.
Assessment	The proposed development would cause negligible overshadowing to adjoining dwellings due to the single storey nature of the development, thereby maintaining the minimum solar access requirements for the neighbouring dwellings.
C5.I – Site Facilities and Services	
Objective	
<ul style="list-style-type: none"> To ensure development provides appropriate facilities and services in the most appropriate site location 	

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
Control	<u>C5.48 – Equipment</u> Equipment, such as water tanks, pool pumps and air conditions, are to be located and shielded to minimise the impact of noise on adjoining dwellings.
Assessment	A condition of consent has been imposed requiring air conditioning units are appropriately located to minimise noise transfer to adjoining unit/dwellings.
Control	<u>C5.49 – Waste storage</u> Adequately screen waste storage and recycling areas are to be provided behind the building line or setback of a dwelling.
Assessment	A screened waste storage area is located behind the building line.
Control	<u>C5.50 – Mail boxes</u> Mail boxes are adjacent to the major entrance.
Assessment	The mailbox is proposed in a central location accessible from the main driveway entrance.
Control	<u>C5.51 – Street numbers</u> Street/unit numbers are identifiable from the street.
Assessment	Street unit numbers would be visible from the main driveway entrance.
Control	<u>C5.52 – Clothes drying</u> A suitable open-air area for clothes drying is to be provided for each dwelling behind the building line or setback with a northerly aspect.
Assessment	Each unit includes a rear POS area with sufficient space for clothes drying. A condition has been recommended requiring the provision of a private open-air clothes line for each unit.
Control	<u>C5.53 – Site facilities and services</u> The provision of electricity and gas for new dwelling should be provided underground.
Assessment	All services are proposed underground.
Control	<u>C5.54 – Storage</u> In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: <ul style="list-style-type: none"> • 6m³ for one bedroom units; • 8m³ for two bedroom units; • 10m³ for three or more bedroom units.
Assessment	Each unit is provided with or is capable of supporting compliant storage space.
C5.J – Additional Requirements for Seniors Housing	
Objectives	
<ul style="list-style-type: none"> • To establish additional requirements for seniors housing development 	

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
<ul style="list-style-type: none"> To ensure development for seniors housing provides adequate area for communal open space To provide communal open space within seniors housing development that is accessible from dwellings and promotes interaction between residents To allow a merits based assessment of communal open space dependant on the quality of facilities, accessibility, furniture, and landscaping and feature elements To ensure adequate community facilities are provided for residents in seniors housing development 	
Control	<p><u>C5.55 – Communal open space</u> Development for seniors housing must provide communal open space that:</p> <ul style="list-style-type: none"> Has a minimum area equal to 25% of the site or a merit based approach; Is clearly identifiable and easily accessible to all residents; Is overlooked by windows of habitable rooms; Incorporates a landscaped area between 10% and 25% of the total communal open space area. Landscaped areas should be vegetated with native species; Provides seating areas connected to dwellings by a continuous sealed pathway according with AS 1428.1 – Design for access and mobility; Contains ornamental features such as sculptures, ponds, water features, art work and the like; Provides a barbeque area for development of 20 or more dwellings.
Assessment	The proposed communal facilities include a clubhouse, a main communal garden, and external landscaped areas dispersed across the site in the form of pocket parks. The clubhouse will feature a commercial kitchen, dining facilities, coffee and tea stations, nursing facilities/offices, and lounge areas. The total communal space area is less than 25%, however the type and quality of communal space is appropriate and consistent with the objectives of this control.
Control	<p><u>C5.56 – Community facilities</u> Community facilities such as common rooms, libraries, gyms and the like are to facilitate use by on-site residents and should comply with the following:</p> <ul style="list-style-type: none"> A minimum floor to ceiling height of 3m; Be accessible from common areas; Be serviced by a minimum of three on-site car parking spaces or spaces provided at a rate of one space per twenty dwellings, whichever is the greater; Meet enhanced access and mobility requirements of AS 1428.2 – Design for access and mobility;
Assessment	The proposed community facility building has a ceiling height of 3m, is accessible from common areas and meets the enhanced access and mobility requirements of AS 1428.2 – Design for access and mobility, as outlined in the access report submitted with the application.
Control	<p><u>C5.57 – Community facilities</u> Outdoor community or common facilities/spaces are to meet the requirements of AS 1427.1 and to include accessible access options such as ramps or lifts into swimming pools.</p>

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C5 – MULTI-DWELLING HOUSING OR SENIORS HOUSING	
Assessment	The proposed outdoor community or common facilities/spaces meet the requirements of AS 1427.1, as confirmed in the access report submitted with the application.
Control	C5.58 – Community facilities Where dwellings are serviced by contractors such as cleaners, rubbish collectors or the like, storage and support structures may be centralised.
Assessment	A screened waste storage area is located behind the building line. The waste area is accessible for pick-up by a private contractor, in a location that minimises disruption to residents.

Chapter D

The site is not located in an area subject to a site specific DCP Chapter.

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

The proposal does not include a planning agreement.

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

Section 61 provides that in determining a development application for the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: The Demolition of Structures. The proposed development includes a demolition plan and conditions of consent have been included requiring all demolition works be carried out in accordance with Australian Standard AS 2601—2001.

Section 62 (consideration of fire safety) of the 2021 EP&A Regulation are relevant the proposal. These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary). Council's Building Surveyor raised no objection in this regard.

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

Social and Economic Impacts

The development will result in beneficial social and economic impacts. The proposed development would provide a significant increase in seniors housing accommodation in the locality to service the needs of the community, and satisfy the housing demand for the ageing population. The proposed development is consistent with the Port Stephens Housing Strategy adopted by Council, which identifies the Tilligerry Peninsula as a growth area around local centres through infill development.

Additionally, the proposed development would provide local infrastructure in the locality, through the provision of additional footpaths to improve connectivity between urban areas and communal amenities, such as local shops. This is consistent with the goals identified within the liveability

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index assessment of the Tilligerry Peninsula. The development also includes CPTED principles throughout the design, minimising any potential adverse social impacts.

Furthermore, the construction of the proposed development would provide employment opportunities in the locality and support the local building and development industries. This would have a direct monetary input to the local economy, and the increased number of residents in the locality would provide ongoing economic input through daily living activities.

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

Impacts on the Built Environment

The proposed development has been designed to comprise a single storey design, which is consistent with surrounding residential developments in the area and is below the building height limit of 8m. The development contains three street frontages, being President Wilson Walk, Beatty Boulevard and Lloyd George Grove. The development incorporates access points, architectural features, landscaping and setbacks consistent with the existing built environment contributing to an improved and attractive streetscape character. Furthermore, the design implements colour and material choices which are consistent with the coastal character of the area.

The proposed development is required to be filled to approximately 1-1.5m across the site, requiring retaining walls and ramping from street level to meet accessibility requirements. To address the visual impacts caused by the required filling, accessibility ramps at the entrance on President Wilson Walk and Lloyd George Grove are appropriately setback behind fencing and landscaping to soften their visual appearance from the street and mask the extent of retaining proposed. Retaining to boundaries shared with private land all interface commercial zoned (E1 Local Centre) land. The boundary retaining also adjoins residential development at 38 Pershing Place and 39 Lloyd George Grove. The interface with 38 Pershing Place consists of a 0.6m high retaining wall and 1.6m boundary fence, which does not cause any adverse overshadowing or unacceptable visual impacts. Similarly, the interface with 39 Lloyd George Grove comprises a 0.82m high retaining wall with a 1.6m high fence towards the rear, and a 1.8m high fence towards the front setback. This is not anticipated to result in any adverse overshadowing or unacceptable visual impacts. Furthermore, the development proposes a landscape plan which includes buffers between neighbouring sites and boundary fencing. Ultimately, the development would improve the built environment of the area and aligns with the existing built character of the locality.

Impacts on the Natural Environment

The proposed development has been assessed by Council's Environmental Planner who confirmed that the site contains minimal biodiversity value, noting that it is heavily disturbed and located within a built up urban environment. A landscape plan has also been provided which includes predominately native vegetation.

Furthermore, the proposed development includes appropriate water quality and quantity control devices to reduce the impact of the development on the natural environment. These controls have been reviewed and supported by Council's Development Engineer. As such, the proposed development is considered to have no significant adverse impacts on the natural environment.

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

The subject site is centrally located within the suburb of Tanilba Bay, adjacent commercial premises and established transport routes. Located within an established town centre area, the development would reinforce the urban form of the area and the development makes good use of the available brownfield land. Furthermore, the site is located within the Tilligerry Peninsula, which is identified in the adopted Port Stephens Housing Strategy as an area identified for renewal through new infill developments, such as the one proposed in this application. The site has limited

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biodiversity value given its location, and therefore, the development would have minimal environmental impact on the natural environment.

While the site features localised constraints, including flooding and contamination, subject to flood safe design methods and remediation works, the development would not impact on or be adversely impacted by these constraints. The development satisfies all elements required under the relevant planning instruments and policies and there are no anticipated adverse impacts on the locality as a result of the development. As such, the site is considered suitable for the proposed development.

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

Public Submissions

The application was exhibited from 31 July 2023 to 14 August 2023 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. One submission was received during this time.

Following the submission of additional information, including amended plans, the application was exhibited further from 15 May 2024 to 19 June 2024. One submission was received during this time.

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

Matter raised	Response
<p>Landscaping</p> <p>The submission received during the first notification period highlights that a preference for use of native and endemic landscape plantings and lists a number of species that could be incorporated in the landscape plan in place of less appropriate species.</p>	<p>The landscape plan and submission were reviewed by Council's Vegetation Management Officer who recommended the replacement of two species – Indian Hawthorn and <i>Murraya peniculata</i> which are invasive species.</p> <p>The landscape plan was otherwise deemed to include a reasonable mix of native and exotic plantings, noting there are no specific DCP provisions which require the exclusive planting of native and endemic species.</p>
<p>Interface with Adjoining Properties</p> <p>The submission received during the re-notification period raised concerns regarding the submitted plans and how the development would appear from adjoining properties.</p>	<p>The proposed development requires retaining and fill across the site to ensure the development can be constructed in a manner compatible with local flooding events. To minimise the impact of retaining walls on adjoining properties, walls have been restricted to a maximum height of 1m and any fencing located on top of the retaining walls would have a maximum height of 1.6m. Furthermore, the use of landscaping will further soften any potential impacts. As such the development would not have any significant adverse overshadowing or visual impacts on adjoining properties.</p>

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Section 4.15(1)(e) the public interest

The proposed development would provide a significant increase in residential accommodation for the local Tanilba Bay area in the form of seniors housing. This would provide purpose built housing to service the needs of the community and additional housing supply to cater for the growing demand of the ageing population. Furthermore, the development is located within a renewal area, as identified by the Port Stephens Housing Strategy. The development would also provide new public infrastructure, in the form of footpaths and crossings, which would benefit the broader locality. The development has been designed and planned so as to not impact on or be impacted by any applicable site constraints and the development is not anticipated to have any significant adverse impacts on adjoining properties or the amenity of the locality. On these grounds, the development is considered to be in the public interest.

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

The proposal attracts local infrastructure contributions associated with the 51 independent living units proposed. A credit of 7 lots has been applied, due to the existing 7 lots the development is located over. As such, a condition of consent has been included, requiring the payment of contributions prior to the issue of a construction certificate for each stage.

DETERMINATION

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

CHRISTOPHER PRIMROSE

Development Planner

(Community Futures Directorate)

PORT STEPHENS
COUNCILAttachment 1 – Clause 4.6
Assessment Report**Clause 4.6 – Exceptions to Development Standards****CLAUSE OBJECTIONS AND EXCLUSIONS****Clause 4.6(1) – Clause Objectives**

Clause 4.6 provides a mechanism to vary development standards prescribed within Port Stephens Local Environmental Plan (PSLEP) 2013 or any other environmental planning instrument.

The objectives of the clause are as follows:

- c) *To provide an appropriate degree of flexibility applying certain development standards to particular development.*
- d) *To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(2) – Exclusions to the operation of clause 4.6

Development consent may be granted even though the development would contravene a development standard imposed by the PSLEP, or any other environmental planning instrument, unless the development standard is expressly excluded under Clause 4.6 (8). Subclause 5(a) of Schedule 4 of State Environmental Planning Policy (Housing) 2021 (SEPP Housing) is not excluded from the operation of Clause 4.6, and therefore request can be considered by Council as the consent authority.

PROPOSED REQUEST**Clause 4.6(3) – Request to vary development standards**

The development application includes a written request to vary development standard(s) in the PSLEP 2013. On November 1 2023, reforms were implemented amending Clause 4.6 of the Standard Instrument LEP. Clause 4.6 was amended to remove specific references to considering the public interest in the clause and remove the requirement to obtain the Planning Secretary's concurrence for a variation. Although given the reforms came into effect after the lodgement of the subject application, the former Clause 4.6 provisions still apply relying on savings and transitional provisions in accordance with Clause 1.8A. On this basis, the parking variation has been assessed against the former Clause 4.6 provisions.

The proposal includes a variation to subclause 5(a) of Schedule 4 of the SEPP Housing, which is as follows:

5 Private car accommodation

If car parking (not being car parking for employees) is provided—

(a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890.6, and

ITEM 1 - ATTACHMENT 2 PLANNER'S ASSESSMENT REPORT.

16-2023-403-1

(b) 10% of the total number of car parking spaces (or at least one space if there are fewer than 10 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and

(c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date

This clause requires that all car parks are designed as accessible spaces that comply with AS 2890.6. The proposal includes 19 out of 44 car parking spaces compliant with the accessible requirements of AS2890.6. This represents a 56% variation to the standard. As a result, concurrence of the secretary cannot be assumed and the determination must be made by the elected Council.

A total of 5 of the proposed accessible car spaces are located within an uncovered communal car park (communal spaces), while the remaining 14 are located in lock-up garages (private spaces), dedicated to individual units.

Clause 4.6(3)(a) – Compliance is unreasonable or unnecessary

Clause 4.6(3)(a) requires the applicant to justify the contravention of the development standard(s) by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

In *Wehbe v Pittwater Council* (2007) LEC 827 (*Wehbe*), Chief Justice Preston identified five ways in which a request to vary a development standard may be determined to be well founded. These reasons include:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard,
2. The underlying objective or purpose of the development standard is not relevant to the development,
3. The objective or purpose of the development standard would be defeated or thwarted if compliance was required,
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard, and
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary as applied to the land.

The Clause 4.6 request makes reference to reasons 1 and 3 identified in *Wehbe v Pittwater Council*. The key reasons provided by the applicant are summarised below:

- In November 2022 the then Department of Planning and Environment (DPE) released a draft amendment to the SEPP Housing clause to require only 10% of car spaces be constructed as accessible spaces compliant with AS/NZS 2890.6.
- The DPE Explanation of Intended Effect (EIE) supporting the draft amendment to the SEPP Housing clause states that "the current resident car parking design requirements are out-of-date, do not reflect the resident mobility profile or the design and functionality of independent living units."
- Subsequent to the EIE, a new provision was included in an amendment to SEPP Housing in January 2024, which ultimately specified that for communal spaces:
 - 15% of car spaces in communal car parks should be designed as accessible spaces and at least 50% 3.8m wide.

And for private lock-up spaces:

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- A minimum width of 3.8m, a length of 5.4m, and a vertical clearance of 2.5m.

The proposal has been amended to include 17% communal accessible spaces and all private lock-up spaces are compliant with the specified dimensions. This brings the proposal to be largely compliant with the new SEPP provisions, however, the communal spaces do not meet the 50% 3.8m width requirement.

- There are no accessible car parking requirement for ILUs under the Building Code of Australia.
- The underlying objective of the private car accommodation standard is to ensure appropriate accessible parking for self-contained dwellings or independent living units (ILUs) within a seniors living development. While a strict interpretation of the standard suggests that all car parking spaces for ILUs must be accessible, requiring 100% compliance is onerous, unnecessary to meet demand, and not feasible.
- There is no accessible car parking requirement for Independent Living Units under the Building Code of Australia. The proposed number of spaces is based on precedents set in other seniors accommodation developments.

Clause 4.6(3)(b) – Sufficient environmental planning grounds

Clause 4.6(3)(b) requires an applicant to justify the contravention of the development standard(s) by demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard.

The Clause 4.6 request notes that there are sufficient environmental planning grounds to contravene the development standard as:

- The development is consistent with the objectives of the Environmental Planning and Assessment Act 1979 (EP&A Act).
- The development contributes to the orderly and economic use of land. It is not considered practical to facilitate the space required for providing 100% accessible parking spaces, given that there is no anticipated demand for such spaces.
- The proposed variation aligns with the objectives of promoting the social and economic welfare of the community, better land use planning, and addressing industry feedback.

The applicant submits that the potential environmental planning benefits justify the contravention of the development standard.

ASSESSMENT

Clause 4.6(4) – Assessment of request to vary development standards

Clause 4.6(4)(a)(i) - Adequacy of the applicant's request

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied the Clause 4.6 request has adequately addressed the matters set out in Clause 4.6(3) of the PSLEP 2013 listed above.

As stated in the preceding section, in *Wehbe* the Land and Environment Court identified five ways in which a request to vary a development standard may be determined to be well founded. The applicant relies on reasons 1 and 3 as described below.

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard*

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The applicant's Clause 4.6 variation request asserts that compliance with SEPP Housing is unreasonable or unnecessary having regard to the first test set down in *Wehbe*, being that the objectives of the standard are achieved notwithstanding non-compliance with the standard.

Whilst there are no objectives listed for the standards, the Clause 4.6 variation request appropriately identifies that the underlying objective of the standard is to ensure appropriate accessible parking that meets the mobility needs of residents living in self-contained dwellings and independent living units (ILUs) within seniors living developments.

Contemporary guidance on accessible car parking provision for seniors housing is provided in the November 2022 DPE Explanation of Intended Effect (EIE), supporting a draft amendment to the SEPP Housing to reduce the accessible car parking requirements from 100% to 10%. The EIE states that "the current resident car parking design requirements are out-of-date, do not reflect the resident mobility profile or the design and functionality of independent living units." Following the release of the EIE in November 2022, a new provision was included in an amendment to SEPP Housing in January 2024, which ultimately specified that 15% of car spaces in communal car parks should be designed as accessible spaces and 50% with a width of 3.8m wide with a level surface. The proposal has been amended to include 17% accessible spaces in the communal car park, which exceeds the 15% requirement in the new SEPP Housing provision, although the additional 3.8m width requirement for 50% of spaces is not met.

Noting the explanation in the EIE and the adoption of a new SEPP Housing requirement, it is considered that requiring 100% accessible parking is unnecessary to meet the mobility needs of residents. On this basis, the proposed provision of 19 accessible spaces is expected to meet the mobility needs of residents and the objectives of the development standard are achieved notwithstanding the non-compliance with the standard.

3. The objective or purpose of the development standard would be defeated or thwarted if compliance was required

The Clause 4.6 variation request also makes reference to reason 3 of *Wehbe*, being that the objective or purpose of the development standard would be defeated or thwarted if compliance was required.

Whilst there are no objectives listed for the standards, the underlying objective of the standard is to ensure appropriate accessible parking to meet the mobility needs of residents in self-contained dwellings or independent living units (ILUs) within a seniors living development. Strict interpretation of the standard requires that all car parking spaces for ILUs must be accessible. However, requiring 100% compliance is considered to be in excess of the demand required, going well beyond the needs of residents based on the November 2022 EIE and new SEPP provisions. Furthermore, there are no accessible car parking requirement for ILUs in a seniors housing development under the Building Code of Australia.

The applicant has proposed 19 accessible car spaces (both communal and private) based on anticipated demand for the development and to also meet the new SEPP Housing standard that commenced in January 2024 that requires 15% of communal car park spaces to be accessible. The communal car park includes 29 spaces, 5 of which are accessible spaces, equating to 17% and thereby exceeding the minimum requirement under the new SEPP provision.

The proposed variation, based on anticipated demand and recent changes to SEPP Housing that would be compliant with the SEPP parking standard if re-lodged with Council, allows for an efficient use of land and resources, avoiding excessive parking provision that would be underutilised.

Given these factors, it is reasonable to conclude that the underlying objective of the standard, which is to ensure appropriate accessible parking supply, would be thwarted by requiring a significant oversupply of parking that is not appropriate for the demand of residents.

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The final component of the applicant's Clause 4.6 variation request relates to there being sufficient environmental planning grounds to justify contravening the development standard. The applicant's request notes sufficient environmental planning grounds are achieved with reference to the objectives of the EP&A Act, relating to the orderly and economic development of land and the social and economic welfare of the community. Compliance with the standard would result in additional unnecessary hardstand areas, detracting from the built environment and causing urban heat island effects which are unjustified, given the provision of accessible car parking would be in excess of the needs of the community.

Clause 4.6(4)(a)(ii) - Public interest – consistency with objectives of the standard and objectives of the zone

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The proposed variation is considered to be in the public interest as the proposed accessible car parking provision, although not being fully compliant, ensures that the development meets the anticipated demand for accessible parking spaces.

Strict compliance with the standard, requiring all spaces to be fully accessible, would result in unnecessary environmental impacts and land consumption. Compliance with the standard would result in additional unnecessary hardstand areas, detracting from the built environment and causing urban heat island effects which are unjustified, given the provision of accessible car parking would be in excess of the needs of the community. The proposed variation, based on anticipated demand and recent changes to SEPP Housing that would be compliant with the SEPP parking standard if re-lodged with Council, allows for an efficient use of land and resources, avoiding excessive parking provision that would be underutilised.

The proposed variation strikes a balance between meeting the demand for accessible parking spaces and minimising adverse environmental impacts. It takes into account the specific circumstances of the proposed development on the particular site, ensuring that the environmental planning grounds are particular to this proposal.

Clause 4.6(4)(b) - Concurrence of the Secretary

In accordance with the Planning Circular PS 20-002, the concurrence of the Secretary can be assumed as the proposed variation is greater than 10% and is to be determined by Councillors at a Council meeting.

CONCLUSION

The proposed development is considered to be consistent with the objectives of Clause 4.6 given it will achieve better outcomes for the development in these particular circumstances because the proposed development demonstrates justifiable grounds for departing from the accessible car parking standard based on the specific circumstances of the proposal.



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ITEM NO. 2**FILE NO: 24/195724
EDRMS NO: PSC2017-00180****355C COMMITTEES ANNUAL FINANCIAL SUMMARY 2023**

REPORT OF: GLEN PETERKIN - FINANCIAL SERVICES SECTION MANAGER
DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

RECOMMENDATION IS THAT COUNCIL:

- 1) Receives the 355c Committees Annual Financial Statements for the period 1 January 2023 to 31 December 2023.
- 2) Notes that eligible 355c Committees will receive the 2024 annual operating subsidy.

BACKGROUND

The purpose of this report is to provide Council with the 355c Committees Annual Financial Statements for the period 1 January 2023 to 31 December 2023, and to note the disbursement of the 2024 annual operating subsidies to eligible committees and sports councils.

For the period 1 January 2023 to 31 December 2023, a summary of the total opening balance (including investment accounts) and closing balance of all 355c Committees is shown at **(ATTACHMENT 1)**. This summary also shows payment of the 2024 annual operating subsidy to eligible 355c Committees and the budget allocation for use by park and reserve group operation.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Manage implementation of the Long Term Financial Plan 2024 to 2034.

FINANCIAL/RESOURCE IMPLICATIONS

The total amount of funds held by the committees as at 31 December 2023 was \$737,686.68.

- 8 committees held over \$20,000 (total value of \$680,275.59).
- 4 committees held between \$10,000 and \$20,000 (total value of \$51,868.53).
- 1 committee held less than \$10,000 (total value \$5,542.56).

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The use of committee funds should be in line with Council's strategic directions and be committed to the objectives of each committee's appendix to the 355c Committee Terms of Reference. A focus on maintenance, renewal and rehabilitation of facilities and reserves will ensure the long term sustainability of these community assets.

Financial resources are available to support the establishment and operation of volunteer groups working in parks, reserves, natural areas and cemeteries. Their activities may include vegetation planting and management, mulching, weed control, facility maintenance and improvements, and educational initiatives to enhance the experience of users and guests.

Additionally, Council's Assets Section works with committees and sports councils to allocate committee funds to projects that assist in maintaining or upgrading Council's assets.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	Yes		Total funds held in bank accounts by 355c Committees / Sports Councils as at 31 December 2023.

LEGAL, POLICY AND RISK IMPLICATIONS

Section 355c of the Local Government Act 1993 allows Council to delegate certain functions. A section 355c Committee is an entity of Port Stephens Council and, as such, is subject to the same legislation, accountability and probity requirements as Council.

All funds and assets held by the committees belong to Council and each committee is responsible for the care and control of these funds. Funds administered by 355c Committees must meet Council's standards of compliance, management and transparency. Committees are required to comply with standard record keeping practices, including submission of financial reporting requirements by due dates.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that funds held in 355c Committee bank accounts may be subject to fraudulent acts resulting in legal, financial and reputational damage.	Medium	<p>This risk will be reduced by ensuring Council is noted on individual committee bank account names and there are 2 Council staff as signatories / authorised officers to committee accounts.</p> <p>The 355c Committee Terms of Reference and Appendix clearly outlines committee responsibilities with regard to recording and reporting on committee funds.</p> <p>Additional information has been provided to committees and is available on Council's website and includes meeting guidelines and templates, financial record keeping guide and purchasing guide.</p> <p>Financial training is also offered to relevant committee executive members.</p>	Yes
There is a risk that funds held in 355c Committee bank accounts are not used to contribute to the cost of asset renewal resulting in a greater drain on ratepayer revenue.	Low	This risk will be reduced as staff work with committees to combine asset and community input to develop asset management plans with agreed funding contributions from the facility income.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Volunteers provide strong social and community benefits including an avenue for communication, planning, strategic planning, community consultation as well as community capacity building and strong social networks for the community. A high

rate of participation in community activities is an indicator of a well-functioning community.

Council utilises 355c Committees to provide a link between Council and the community, and to assist in the management of facilities and delivery of community services and events. This is part of Council's commitment to community partnerships and provides opportunities for the community to be involved with the management of the facilities they use.

The provision of financial support to Council's 355c Committees and volunteer groups is provided within current resources. The annual operating subsidy to be paid to 355c Committees for 2024-2025 is \$54,000, while the internal budget allocation for volunteer parks and reserve groups is \$27,000.

Volunteers operate under direction from Council staff to ensure their activities are performed in accordance with recognised environmental practices. Projects and activities relating to the environment are encouraged and supported and often provide long term benefits to the environment.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section to ensure the provision of relevant and accurate information.

Internal

- Financial Services Section.
- Assets Section.

External

- 355c Committees and sports councils.

OPTIONS

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

ATTACHMENTS

- 1) 355c Committees Annual Financial Statement Summary – 1 January to 31 December 2023. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 355C COMMITTEES ANNUAL FINANCIAL STATEMENT SUMMARY – 1 JANUARY TO 31 DECEMBER 2023.
ATTACHMENT 1

355c Committees Annual Financial Statement Summary – 1 January to 31 December 2023

355c Committee		Opening Balance (Incl Investments) 1st January 2023	Closing Balance (Incl Investments) 31st December 2023	Annual Operating Subsidy July 2024
1.	Hinton School of Arts	\$ 6,467.92	\$ 5,542.56	\$ 1,000.00
2.	Karuah Community Hall	\$ 10,264.92	\$ 12,161.42	\$ 1,000.00
3.	Lemon Tree Passage Old School Centre	\$ 19,087.19	\$ 20,998.75	\$ 1,000.00
4.	Medowie Sports Council	\$ 103,898.93	\$ 139,687.16	\$ 9,000.00
5.	Nelson Bay Community Hall	\$ 8,262.91	\$ 35,920.59	\$ 1,000.00
6.	Port Stephens Sister Cities	\$ 12,763.80	\$ 11,876.80	\$ 1,000.00
7.	Raymond Terrace Senior Citizens Hall	\$ 13,487.66	\$ 31,693.79	\$ 1,000.00
8.	Salt Ash Community Hall	\$ 39,024.14	\$ 43,427.23	\$ 1,000.00
9.	Salt Ash Sports Ground	\$ 12,172.78	\$ 16,925.95	\$ 1,000.00
10.	Tanilba Bay Foreshore Hall	\$ 8,789.54	\$ 10,904.36	\$ 1,000.00
11.	Tilligerry Sports Council	\$ 47,619.21	\$ 62,521.76	\$ 9,000.00
12.	Tomaree Sports Council	\$ 105,017.94	\$ 219,315.77	\$ 9,000.00
13.	West Ward Sports Council	\$ 96,135.79	\$ 126,710.54	\$ 18,000.00
TOTALS		\$ 482,992.73	\$ 737,686.68	\$ 54,000.00

ITEM 2 - ATTACHMENT 1 355C COMMITTEES ANNUAL FINANCIAL STATEMENT SUMMARY – 1 JANUARY TO 31 DECEMBER 2023.

Volunteer Group Operating Budget (Former subsidy payments now retained with Council)		
1.	Anna Bay Landcare Group	\$ 1,500.00
2.	Boat Harbour Volunteers Group	\$ 1,500.00
3.	Corlette Reserves and Landcare Group	\$ 1,500.00
4.	Fingal Bay Parks Group	\$ 1,500.00
5.	Fly Point Nature Reserve Group	\$ 1,500.00
6.	Gan Gan Lookout Group	\$ 1,500.00
7.	Karuah Landcare Group	\$ 1,500.00
8.	Lemon Tree Passage Parks Reserves and Landcare Group	\$ 1,500.00
9.	Mallabula Parks and Environment Group	\$ 1,500.00
10.	Mambo Wanda Wetlands Reserves and Landcare Group	\$ 1,500.00
11.	Medowie Tidy Towns Group	\$ 1,500.00
12.	Nelson Bay West Landcare Volunteers Group	\$ 1,500.00
13.	Raymond Terrace Parks and Tidy Towns Group	\$ 1,500.00
14.	Shoal Bay Landcare Group	\$ 1,500.00
15.	Shoal Bay West Landcare Group	\$ 1,500.00
16.	Soldiers Point / Salamander Bay Landcare Group	\$ 1,500.00
17.	Tanilba Foreshore Park Group	\$ 1,500.00
18.	Tilligerry Landcare Group	\$ 1,500.00
TOTAL		\$ 27,000.00

ITEM NO. 3

**FILE NO: 24/257062
EDRMS NO: PSC2009-02488**

POLICY REVIEW: COMMUNITY GROUP LOANS POLICY

REPORT OF: GLEN PETERKIN - FINANCIAL SERVICES SECTION MANAGER
DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Community Group Loans Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Community Group Loans 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) Revoke the Community Group Loans Policy dated 26 October 2021, Minute No 286 should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Community Groups Loans Policy (the 'policy') **(ATTACHMENT 1)**.

The intent of the policy is to provide community, cultural and sporting groups in the local government area with access to low interest loan funding.

Supporting documents are proposed as part of the revisions to this policy. The documents aim is to provide greater transparency to the process of applying for a community loan.

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

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Manage implementation of the Long Term Financial Plan 2024 to 2034.

FINANCIAL/RESOURCE IMPLICATIONS

The policy has no known financial or resource implications and is within existing budget allocations.

ORDINARY COUNCIL - 12 NOVEMBER 2024

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

No adverse legal, policy or risk implications have been identified as a result of the policy review.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the revised policy is not adopted then Council could be vulnerable to defaulting loans.	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

By Council facilitating reasonable loans as a responsible lender to approved community groups, valuable facilities and services will be provided.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section.

Internal

- Assets Section.
- The Executive Team has been consulted to seek management endorsement.

External

In accordance with local government legislation the revised Community Groups Loans Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Community Group Loans Policy. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2009-02488

TITLE: COMMUNITY GROUP LOANS POLICY

OWNER: FINANCIAL SERVICES SECTION MANAGER

1. PURPOSE:

- 1.1 To provide access to funding through the provision of available loans for improvements to community, cultural, sport and recreation facilities in the Port Stephens local government area in an effective and equitable manner.

2. CONTEXT/BACKGROUND:

- 2.1 This policy applies to groups seeking to develop buildings or facilities that are Council owned, under Council's care, control or management, under Council's Trusteeship, provides services to the local community or responsibility has been devolved to Council by some form of legislation.

3. SCOPE:

- 3.1 The Community and Recreation Loans Reserve will be self-supporting over time with repayments to the reserve used to fund further allocation. The reserves upper limit will be \$200,000.
- 3.2 This policy assists community groups that are operating and providing services in the Port Stephens local government area and enables Council's assets to be enhanced, improved and maintained in a good state of repair.

4. DEFINITIONS:

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

Loan	The act of giving money, property or other material goods to another party in exchange for future repayment of the principal amount along with interest or other finance charges.
Interest	The charge for the privilege of borrowing money, typically expressed as an annual percentage rate.

5. STATEMENT:

- 5.1 The Community Group Loans program will provide funding through the provision of available loans for improvements to the community, cultural, sport and recreation facilities in the Port Stephens Local Government Area (LGA).

Policy

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Policy



- 5.2 This policy is made possible by a reserve of \$200,000 so loan funds can be drawn upon and Council's financial position managed appropriately.
- 5.3 This loan is available to groups seeking to develop buildings or facilities that are Council owned, under Council's care, control or management, or under Council's Trusteeship.
- 5.4 Applicants must be providing services to the local community or responsibility has been devolved to Council by some form of legislation.
- 5.5 Transparency and Equity
 - 5.5.1 The Community Loans Program will be administered in a transparent and equitable manner and be promoted across the district in a manner that will allow maximum opportunity for community groups to apply. The Community Group Loans Application Guidelines provide clear parameters around eligibility.
 - 5.5.2 Each funding program has a process for the assessment of applications with Council making the final decision.
- 5.6 Eligibility
 - 5.6.1 Local Sports Club:
 - a) Must be a current financial member of a Port Stephens Council Sports Council.
 - b) Must provide a business plan that clearly establishes the group's capacity to meet the commitments of a loan.
 - c) Must be up to date with any Council/Sports Council/Committee accounts.
 - d) Have appropriate Public Liability insurance cover.
 - 5.6.2 Community/Cultural Groups:
 - a) Must be a properly constituted, incorporated not-for-profit association operating and providing services in the Port Stephens LGA.
 - b) Must provide a business plan that clearly establishes the group's capacity to meet the commitments of a loan.
 - c) Have appropriate Public Liability insurance cover.
 - 5.6.3 355c Committee of Council:
 - a) Must be a current Committee of Council.
 - b) Must provide a business plan that clearly establishes the group's capacity to meet the commitments of a loan.
 - c) Must be up to date with financial accounts and record keeping requirements.

Policy

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Policy



5.6.4 The following groups are ineligible to apply:

- a) Groups which do not meet the above requirements.
- b) Groups which already have an outstanding Community Group Loan.
- c) Commercial organisations.
- d) Projects which will be carried out on private land or outside the Port Stephens LGA.

5.7 Application

5.7.1 Applicants will need to complete Council's Community Group Loans application form.

5.7.2 The following information may also be requested:

- a) Business case for applying for the funds.
- b) Cost estimates for any repairs, assets, or manual labour.
- c) Ongoing maintenance plans (where applicable).
- d) Proof of ability to service the loan.

5.7.3 Council staff will exercise discretion when requesting additional information. The Community and Recreation Assets Coordinator, in conjunction with the Financial Reporting Coordinator, will assess applications. Approval may also be required from the Community Development and Engagement Vibrant Places Coordinator.

5.7.4 All recommendations will be forwarded to the respective Section Manager and Group Manager Director for review. Final recommendations will be provided to Council for determination.

5.8 Assessment

5.8.1 Priority will be given to loans for projects that:

- a) Will benefit a wide range of people in the community.
- b) Have a long term benefit for the community.
- c) Have a clearly defined plan and budget.

5.8.2 The application must clearly demonstrate the capacity to repay the loan including:

- a) Detailed expenditure and revenue forecast budget for term of loan.
- b) Forecast repayment schedule for term of loan.
- c) Additional fundraising and income generating activities.
- d) Evidence of sound governance procedures.

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5.8.3 Applications made by sporting clubs must be for projects included on the relevant Sports Council's Sports Development Strategy. The relevant Sports Council must be supportive of the project and agree to:

- a) Be a signatory to the application; and
- b) Meet the repayments for the loan in the instance where the applicant fails to meet two (2) successive payments.

5.8.4 Applications will be prioritised by and assessed on:

- a) Financial ability to repay loan; and
- b) Having particular regard to projects identified as a part of the 10 year Capital Works Plan or Sports Development Strategy.

5.9 Terms of Loan

5.9.1 Loans to be a maximum of 84 months.

5.10 Value of Loan

5.10.1 Loans provided to be a minimum of \$20,000 and a maximum of \$75,000.

5.10.2 Loan funds cannot exceed more than 75% of the overall project value excluding in kind support, i.e. expected cash value of the project x 75% = maximum loan value.

5.10.3 Approval from the Executive Team is required to alter the terms of 5.10 on a case by case basis.

5.11 Interest

5.11.1 Interest on Community Group Loans will be calculated using the simple interest method.

5.11.2 Applicants can opt for a fixed or variable interest rate.

5.11.3 Interest rates will be calculated based on a weighed average of Council's loan portfolio at the loan's inception.

6. RESPONSIBILITIES:

6.1 The Financial Services Section Manager has overall responsibility for the implementation of this policy in consultation with the Assets Section Manager.

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- 6.2 Applications for Community Group Loans may be received and coordinated at coordinator level, if relevant to their role at Council. In all cases, consultation with the relevant Section Manager and ~~Group Manager~~ **Director** must occur prior to agreement being entered into.
- 6.3 The Financial Services Section Manager is responsible for reporting Community Group Loan requests over \$20,000 to a maximum of \$75,000 to Council for endorsement.
- 7. RELATED DOCUMENTS:**
- 7.1 Community Group Loans Application Guidelines.
- 7.2 Community Group Loans Application Form.
- 7.3 Other suitable documents, records and evidence of review will be retained in support of application, approval and management of loans.

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EDRMS container No.	PSC2009-02488	EDRMS record No.	TBA
Audience	Financial Services Section, PSC staff, local Community Groups and Sporting Clubs		
Process owner	Financial Services Section Manager		
Author	Financial Services Section Manager		
Review timeframe	34 years	Next review date	TBA
Adoption date	14 July 2015		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	26/06/2007	Jason Linnane		158
2	14/07/2015	John Maretich	Updated Community Group Loans Policy does not change the existing policy's intent and only updates the format of the policy.	196
3	12/11/2019	Finance – Reporting Coordinator	Updated policy into new template. Changed Policy Owner from Community & Recreation Coordinator to Financial Services Section Manager. 1.1 – Added “in an effective and equitable manner.” 5.1 – Removed “is to provide an accessible fund where groups and clubs can borrow funds at low interest rates for approved projects. This will assist community groups to improve and develop Council's facilities to support community activities in the Local Government Area.”	

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Version	Date	Author	Details	Minute No.
			<p>5.1 – Added “program will provide funding through the provision of available loans for improvements to the community , cultural, sport and recreation facilities in the Port Stephens Local Government Area (LGA).”</p> <p>5.2.1 - Removed “Interest rates are to be set at Indicative Borrowing Rate for Local Government Authorities (IBRLGA) applicable on the day of approval of recommendation by the Group Manager of the respective Group.”</p> <p>5.2.2 - Removed “For projects that are Asset Rehabilitation and are in Port Stephens Council’s Asset Management Plans, the interest rate will be 50% of the IBRLGA.”</p> <p>5.2.3 – Removed “The interest from Community and Recreation Loans Vote, being equal to Indicative Borrowing Rates for Local Government Authorities, is paid to Council on a quarterly basis (except for Asset Rehabilitation Projects).”</p> <p>5.3 – Removed “Interest to be fixed for the term of the loan.”</p> <p>5.3 – Added “This loan is available to groups seeking to develop buildings or facilities that are Council owned, under Council’s care, control or management, or under Council’s Trusteeship.”</p> <p>5.4 – Removed “Loans to be for a maximum of 84 months.”</p> <p>5.4 – Added “Applicants must be providing services to the local community or responsibility has been devolved to Council by some form of legislation.”</p>	

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Version	Date	Author	Details	Minute No.
			<p>5.5 – Removed “Loans have a minimum of \$2,000 and an upper limit of \$75,000. Any increase of this amount will require a formal resolution of Council.”</p> <p>Added new paragraphs 5.5 – 5.9.</p> <p>5.6 – Removed “Should a club or group default on loan payments, Council has the right to take whatever action it considers necessary to recover the funds. In extreme cases, Council may consider closing the use of the facilities to the club or community group in default and taking legal action to recover funds.</p> <p>5.7 – Added “The Financial Services Section Manager has overall responsibility for the implementation of this policy in consultation with the Assets Section Manager.”</p> <p>6.1 – Removed “Community & Recreation Coordinator – Responsible for the overall implementation of the policy.”</p> <p>6.1 – Removed “Management Accounting Coordinator – Responsible for monitoring the Community and Recreation Loans Reserve and ensuring payments are received.”</p> <p>6.2 – Added “Applications for Community Group Loans may be received and coordinated at coordinator level, if relevant to their role at Council. In all cases, consultation with the relevant section and group manager must occur prior to agreement being entered into.”</p>	

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Version	Date	Author	Details	Minute No.
			<p>6.3 – Added “The Financial Services Section Manager is responsible for reporting Community Group Loan requests over \$20,000 to a maximum of \$75,000 to Council for endorsement.”</p> <p>7.1 – Removed “LGA Act 1993”</p> <p>7.1 – Added “Suitable documents, records and evidence of review will be maintained in support of application, approval and management of loans.”</p> <p>7.2 - Removed “Code of Conduct”</p> <p>7.2 – Removed “PSC Financial Assistance Policy”.</p>	
4	26 October 2021	Financial Services Section Manager	<p>Updated policy into the new template.</p> <p>5.5.1 – Added ‘The Community Group Loans Application Guidelines provide clear parameters around eligibility.’</p> <p>5.7 – New paragraph - added whole segment with regards to the application process.</p> <p>5.10.3 – Added ‘Approval from the Executive Team is required to alter the terms of 5.10 on a case by case basis’.</p> <p>7.1 – Added ‘Community Group Loans Application Guidelines’.</p> <p>7.2 – Added ‘Community Group Loans Application Form’.</p> <p>Controlled document information: Amended review timeframe to 3 years in accordance with Council’s policy and management directive review process.</p>	286

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Version	Date	Author	Details	Minute No.
5	TBA	Financial Services Section Manager	<p>Update policy to new template.</p> <p>Minor updates to position titles and naming throughout.</p> <p>5.11-Interest paragraph added to outline how interest is calculated and applied to any Community Group loans.</p> <p>Controlled document information: Amended review timeframe to 4 years as per Council's policy review process.</p>	TBA

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ITEM NO. 4**FILE NO: 24/101397
EDRMS NO: PSC2009-02488****POLICY REVIEW: PROCUREMENT POLICY**

REPORT OF: GLEN PETERKIN - FINANCIAL SERVICES SECTION MANAGER
DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Procurement Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Procurement Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revoke the Procurement Policy dated 8 February 2022, Minute No. 017 should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Procurement Policy (the policy) **(ATTACHMENT 1)**.

The purpose of the policy is to outline the principles to be used in all aspects of procurement. The policy is required to ensure Council's procurement is ethical, transparent and accountable.

The subject policy was adopted in March 2014 and has been reviewed in accordance with the corporate policy review process. The current review has been brought forward to align with changes made to the Modern Slavery Act and also incorporates policy statements relating to confidentiality and compliance.

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

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Manage implementation of the Long Term Financial Plan 2024 to 2034.

FINANCIAL/RESOURCE IMPLICATIONS

The policy prescribes economical, efficient and effective procurement. Adoption of this policy will be within existing budget allocations.

ORDINARY COUNCIL - 12 NOVEMBER 2024

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 policy is written in accordance with the Local Government Act 1993 (NSW) and the Local Government (General) Regulation 2021.

Compliance with this policy and associated procedures will be audited and breaches will be dealt with in accordance with Council's Code of Conduct.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council will fail to secure goods and services at the most competitive price.	Low	Adopt the recommendations.	Yes
There is a risk that fraud and corruption will occur leading to financial and reputational loss.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council's procurement principles are to achieve best value for money whilst being ethical, ecologically sustainable, transparent, accountable and promote fairness and competition.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section.

Internal

The Executive Team was consulted to seek management endorsement.

External

In accordance with local government legislation, the revised Procurement Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Procurement Policy. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2009-02488

TITLE: PROCUREMENT POLICY

OWNER: FINANCIAL SERVICES SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to state Council's position on procurement matters and to provide clear direction to Council officials (Councillors, staff and delegates of Council) making procurement decisions.
- 1.2 Environmentally sustainable procurement results in minimisation of unnecessary purchasing, waste minimisation, water and energy saving, pollution minimisation, avoidance of toxic chemicals, reduction in greenhouse gases and decision making that incorporates biodiversity and conservation objectives.

2. CONTEXT/BACKGROUND:

- 2.1 Council procurement is required to achieve best value for money in the expenditure of public funds while being ethical, ecologically sustainable, transparent, accountable and promoting fairness and competition. This policy prescribes Council's approach to procurement and is supported by the Procurement Management Directive.

3. SCOPE:

- 3.1 This policy has been written considering the following principles:
 - a) All parties engaged in procurement activities will display high standards of behaviour and ethics.
 - b) Procurement activities aim to be efficient, effective and balance risk and total cost.
 - c) Due economy shall be exercised in all purchasing decisions.
 - d) Purchasing decisions shall consider relevant evaluation criteria including environmental sustainability, support of local suppliers, registered disability employers and Australian made goods.
 - e) Parties will conduct all procurement and business relationships with fairness and honesty.
 - f) The process for awarding contracts on government projects will be open, clear and defensible.
 - g) A party with a potential conflict of interest will declare and address that interest as soon as the conflict is known to that party.
 - h) Parties shall comply with all legal obligations.
 - i) Parties shall not engage in practices that are anti-competitive.

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- j) Parties shall not engage in practices that aim to give a party an improper advantage over another.
- k) Parties shall not seek or submit tenders without a firm intention and capacity to proceed with a contract.
- l) Parties will maintain business relationships based on open and effective communication, respect and trust and adopt a non-adversarial approach to dispute resolution.

4. DEFINITIONS:

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

Procurement	The act of obtaining or buying goods and services. The process includes preparation and processing of a demand as well as the end receipt and approval of payment.
Local Supplier	A business or contractor employing full-time staff permanently operating from established premises within the Port Stephens local government area for not less than 6 months prior to the procurement or tender being initiated.

5. STATEMENT:

5.1 Standards of behaviour

- 5.1.1 Council has adopted a Statement of Business Ethics Policy that sets out the high ethical standard expected of Council officials, contractors and business associates. In addition to this, the following statements are made in relation to procurement:
- a) Council processes shall be fully documented and defensible.
 - b) Council will treat all potential tenderers consistently.
 - c) All parties shall comply with the rule of law and avoid practices that are anti-competitive or collusive.
 - d) Council will not engage in practices that give one party improper advantage over another outside its local and Australian made preference and registered disability employer preference policies.
 - e) Council will not invite or submit tenders without a firm intention and capacity to proceed.
 - f) Parties shall maintain open, effective communication, respect and trust and adopt a non-adversarial approach to dispute resolution.
 - g) Staff involved in procurement of goods and services shall make themselves aware of and comply with all relevant policies, management directives and procedures. Related policies and management directives are listed at the end of this document.

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5.2 Environmental sustainability

5.2.1 Council is committed to "properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development" as per the Local Government Act 1993 (NSW) (the Act). The principles of ecologically sustainable development (ESD) are defined in the Act as the "effective integration of economic and environmental considerations in decision making processes". Prior to purchasing supplies staff must consider whether the purchase is necessary or whether it is possible to use or re-use existing resources including sharing with other sections.

5.2.2 Requisitioning Officers must consider the environmental impact associated with the manufacture, use and disposal of proposed supplies, eg. sustainability of raw materials, energy used, pollution, recyclability or biodegradability. Council is committed to effective implementation for the following principles of ESD in procurement decision making; the precautionary principle; intergenerational equity; conservation of biological diversity and ecological integrity; and improved valuation, pricing and incentive mechanisms.

5.3 Local preference

5.3.1 Best value for money does not always mean lowest price. Council functions contribute to the economic success of the Local Government Area and Council expends considerable amounts annually on local economic development. Council prefers to buy from local suppliers and contractors where possible as this supports Council's local economic development initiatives. Where it is cost effective to do so (that is, within the annual rate peg factor for the year) Council staff must purchase from local suppliers with all other criteria being equal.

5.4 Preference for Australian made products

5.4.1 Council prefers to buy goods made in Australia and encourages a culture of "buy Australian" in Council officials when evaluating the merits of purchases. Where it is cost effective to do so, staff must purchase Australian made/origin low value supplies.

5.5 Preference for registered disability employers

5.5.1 Council prefers to buy products made by registered disability enterprises and encourages such consideration in the evaluation of purchases. Where it is cost effective to do so, staff are encouraged to buy from registered disability employers.

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5.6 Purchase orders

- 5.6.1 Council will always issue a purchase order number for approved purchases. ~~This is to be obtained by entering an online requisition into the Authority software. An online requisition must be entered before supplies are ordered. Suppliers are expected to cooperate by quoting the purchase order number on invoices.~~ Council will not pay invoices where an approved purchase order number is absent. Council staff must refer to the Procurement Management Directive to ensure due process regarding purchases is followed.

5.7 Asset disposal

- 5.7.1 Council will dispose of surplus plant, vehicles, stores, materials, equipment, furniture, scrap metal, technology and other items in a competitive, transparent, cost effective and environmentally sustainable manner.

5.8 Confidentiality

- 5.8.1 Confidentiality of information relating to procurement such as intellectual property, proprietary information or commercial in confidence information must be maintained and not disclosed without the prior consent of a contractor, or where disclosure is required under the NSW Government Information (Public Access) Act 2009.

5.9 Compliance

- 5.9.1 Compliance with this policy and associated procedures will be audited and breaches will be dealt with in accordance with Council's Code of Conduct.

5.10 Modern Slavery

- 5.10.1 Council will ensure compliance with the Modern Slavery Act 2018 (Cth) and any associated legislation that may come into effect.
- 5.10.2 Council will undertake due diligence to eliminate or minimise the risk of modern slavery occurring within its supply chain. This due diligence will include:
- Systematic risk assessments of suppliers will be undertaken. Any supplier that is found to be engaging in modern slavery will not be engaged in Council procurement.
 - Including modern slavery criteria in terms and conditions.
 - Providing adequate training for all staff to ensure they are aware of what modern slavery is, what Council's modern slavery risks are and how to raise any identified or potential concerns.
 - Enable staff and others to raise concerns about modern slavery.

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- e) Engaging with our suppliers to identify which are committed to minimising the risk of modern slavery in their own supply chains and operations. This will primarily be done by asking suppliers to complete a modern slavery questionnaire.

6. RESPONSIBILITIES:

- 6.1 Section Managers generally.
- 6.2 Procurement and Contract Management Specialist.
- 6.3 ~~Financial Acquisitions~~ Expenditure Coordinator.

7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993 (NSW).
- 7.2 Local Government (General) Regulation 2021.
- 7.3 Competition and Consumer Act 2010 (Cth).
- 7.4 Government Information (Public Access) Act 2009 (NSW).
- 7.5 Modern Slavery Act 2018 (Cth).
- 7.6 NSW Government Procurement Code of Practice.
- 7.7 NSW Government Procurement Policy Framework.
- 7.8 NSW Government Sustainability Policy.
- 7.9 Port Stephens Council Code of Conduct.
- 7.10 Procurement Management Directive.
- 7.11 Financial Business Rules Management Directive.
- 7.12 Asset Disposal (other than property) Policy.
- 7.13 Petty Cash Management Directive.
- 7.14 Purchasing Card Management Directive.
- 7.15 Statement of Business Ethics Policy.
- 7.16 ~~Sustainability Policy.~~
- 7.17 ~~Sustainability Procurement Policy.~~

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EDRMS container No	PSC2009-02488	EDRMS record No	TBA
Audience	Council staff		
Process owner	Financial Services Section Manager		
Author	Financial Services Section Manager		
Review timeframe	3 4 years	Next review date	TBA
Adoption date	25 March 2014		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	25/03/14	Financial Services Section Manager	Policy adopted.	64
2	25/11/14	Financial Services Section Manager	Amended policy adopted.	317
3	27/11/15	Financial Services Section Manager	This policy has been reviewed and formatted into the new template. Port Stephens Code of Conduct added to related documents. Reference to Procurement Management Directive added to the Context / Background.	
4	09/02/16	Financial Services Section Manager	Amended policy adopted.	018

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Version	Date	Author	Details	Minute No.
5	12/12/17	Financial Services Section Manager	<p>Updated references from TRIM to RM8.</p> <p>Updated RM8 record from 487 to 17/210686.</p> <p>Removed NSW Government Procurement Code of Tendering from the Related Documents Section.</p> <p>Added NSW Government Procurement Policy Framework, Procurement Management Directive, Asset Disposal (other than property) Policy, and Financial Business Rules Management Directive to the Related Documents Section.</p>	319

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Version	Date	Author	Details	Minute No.
6	08/10/2019	Financial Services Section Manager	<p>Updated Policy into the new template.</p> <p>4.1 – Added 'Local Supplier'.</p> <p>Added; 5.1 g) –</p> <p>5.2.1 – Added 'Prior to purchasing supplies staff must consider whether the purchase is necessary or whether it is possible to use or re-use existing resources including sharing with other sections. Requisitioning Officers must consider the environmental impact associated with the manufacture, use and disposal of proposed supplies, eg. sustainability of raw materials, energy used, pollution, recyclability or biodegradability.'</p> <p>5.3.1 – Added 'Where it is cost effective to do so (that is, within the annual rate peg factor for the year), staff must purchase from local suppliers with all other criteria being equal.'</p> <p>5.6.1 – Added 'Council staff must refer to the Procurement Management Directive to ensure due process regarding purchases is followed.'</p> <p>Added: 7.11, 7.12, 7.13, 7.14 and 7.15 to 'Related Documents'.</p> <p>Updated EDRMS file number inversion history.</p>	185

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Version	Date	Author	Details	Minute No.
7	8/2/2022	Financial Services Section Manager	<p>Updated policy into the latest format.</p> <p>5.1.1 – Added 'Policy'.</p> <p>5.4.1 – Added 'low value' in line with Procurement Management Directive.</p> <p>6.2 – Updated 'Procurement and Contractor Management Specialist' to 'Procurement and Contract Management Specialist' to reflect current naming convention.</p> <p>6.3 – Updated 'Expenditure' to 'Financial Acquisitions Coordinator' to reflect current naming convention.</p> <p>7.2 – Added '2021'.</p> <p>7.13 – Added 'Policy'</p> <p>Controlled document information: amended review timeframe to 3 years in accordance with Council's policy review process.</p>	017
8	TBA	Financial Services Section Manager	<p>Updated policy to latest format.</p> <p>4.1 – Updated definition of Local Supplier – removed reference to 6 month timeframe.</p> <p>5.3.1 - added 'Council' when referencing staff.</p>	TBA

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Version	Date	Author	Details	Minute No.
			<p>5.6.1 – Removed operational tasks regarding requisitioning.</p> <p>5.8 – Added new clause relating to 'confidentiality'.</p> <p>5.9 – Added new clause relating to 'compliance'.</p> <p>5.10 – Added new clause relating to 'modern slavery'.</p> <p>6.3 - Replaced 'Financial Acquisitions' with 'Expenditure Coordinator' to reflect current title.</p> <p>7.4 - Addition of NSW Government Information (Public Access) Act 2009.</p> <p>7.5 – Addition of Modern Slavery Act 2018 (Cth).</p> <p>7.16- Deleted Sustainability Policy.</p> <p>7.17 – Deleted Sustainability Procurement Policy.</p> <p>Controlled document information - amended review timeframe to 4 years in accordance with Council's policy review process.</p>	

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ITEM NO. 5

**FILE NO: 24/226196
EDRMS NO: PSC2009-02488**

POLICY: DRAFT FINANCIAL RESERVES POLICY

REPORT OF: GLEN PETERKIN - FINANCIAL SERVICES SECTION MANAGER
DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the draft Financial Reserves Policy shown at **(ATTACHMENT 1)**.

BACKGROUND

The purpose of this report is to seek Council's endorsement to adopt the draft Financial Reserves Policy (the policy) **(ATTACHMENT 1)**.

The policy was on public exhibition from 3 July 2024 to 30 July 2024. The exhibition period has closed and no submissions were received during this time.

The policy establishes the protocols and reporting frameworks for the responsible establishment and sustainable management of Council's financial reserves as well as providing transparency to the community regarding the purpose of Council's cash holdings.

Financial reserves are created when there is surplus cash (or equivalents) which are set aside for a specific purpose and are to be used in a future period. Reserves form an important part of Council's Financial Sustainability Strategy and overarching Integrated Planning and Reporting (IP&R) document.

Reserves are classified as either an external or internal restriction. An external restriction is created as a result of funds being attached to a legislative or contractual requirement, whereas an internal restriction is as a result of a Council resolution governing the use of funds for a specific purpose. Reserves enable Council to provide quality services, asset management, plan long term projects for the community and meet its legislative requirements.

All restrictions and cash balances are reported to the public in Council's Annual Report – Financial Statements, the monthly Cash and Investment Report and the Quarterly Budget Review Statement.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Manage implementation of the Long Term Financial Plan 2024 to 2034.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications with the adoption of this policy.

Further to our continued focus on ensuring financial stability of the organisation to deliver for the community, Council has previously resolved to establish a Resilience Fund reserve. As a key project under Council's Financial Sustainability Strategy, the basic premise of the Resilience Fund is to ensure that a fund is available for Council to invest in significant strategic projects across the LGA. This may include significant infrastructure, service or non-rate revenue investments, aligned to Council's strategic plans and priorities.

The Resilience Fund will be funded from surplus non-rate revenue sources of income which will include surplus commercial property revenue as well as the dividend from the operations from Newcastle Airport expected to return to Council as 50% shareholder once the current international terminal construction is completed.

Through the Resilience Fund Council is committed to ensuring ongoing value is provided to the community into the future through directing any surplus non-rate revenue to outcomes that will make a difference to our community.

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 legal, policy or risk implications with the adoption of this policy.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council's financial reserves are not accurately documented.	Low	Adopt the recommendation.	Yes
There is a risk that there is a lack of community understanding regarding Council's cash holdings.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no sustainability implications.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section.

Internal

The Executive Team have been consulted to seek management endorsement.

External

In accordance with local government legislation, the draft Financial Reserves Policy was on public exhibition from 3 July 2024 to 30 July 2024 and no submissions were received during this time.

OPTIONS

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

ATTACHMENTS

- 1) Draft Financial Reserves Policy. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2009-02488

TITLE: FINANCIAL RESERVES POLICY

OWNER: FINANCIAL SERVICES SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of the Financial Reserves Policy (the policy) is to provide a framework for the responsible establishment and sustainable management of Port Stephens Council's (Council's) financial reserves.

2. CONTEXT/BACKGROUND:

- 2.1 With Council having significant cash, cash equivalents, and investments, financial reserves are an important part of Council's Financial Sustainability Strategy. Reserves enable Council to provide quality services, asset management, longer term expenditure for the community, and meet its legislative requirements.
- 2.2 Reserves in a financial sense are an allocation of money set aside for specific purposes in future periods. Reserves do not have bank accounts of their own but are a theoretical split up of the accumulated cash surplus that a council has on hand and can be separately identified in the balance sheet as an asset.
- 2.3 Reserves should have a clear and specific purpose and relate back to the adopted Integrated Planning and Reporting (IP&R) strategies and plans of Council.

3. SCOPE:

- 3.1 The policy applies to all financial reserves held by Council including external and internal restrictions as well as unrestricted cash.
- 3.2 All restrictions and cash balances are reported annually to the public in Council's Annual Report – Financial Statements, the monthly Cash and Investment Report and the Quarterly Budget Review Statement.

4. DEFINITIONS:

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

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Policy

External Restrictions	Funds that are restricted as a result of a legislative requirement governing the use of the funds. These funds must be fully expended for the specific purpose defined and cannot be used by Council for general operations.
Internal Restrictions	Funds that are restricted as a result of a Council resolution governing the use of the funds for a specific purpose.
Unrestricted Cash	All cash and cash equivalents other than restricted funds that is available to meet daily business liquidity requirements and assist with unforeseen budget shocks.
Emergency	An event, actual or imminent, which endangers or threatens to endanger life, property or the environment, and which requires a significant and coordinated response.
Cash Back	Refers to the sufficient amount of cash and cash equivalents that Council has on hand at a given point in time to adequately cover the calculated balance of the reserves.

5. STATEMENT:

- 5.1 Consistent identification, administration and use of cash reserves will enable Council to:
 - a) Set funds aside to meet legislative requirements.
 - b) Allocate funds against future projects and operational activities.
 - c) Ensuring financial sustainability in the short, medium and long term.
- 5.1.1 Council will fully cash back all the external restrictions regardless of the circumstances. Internal restrictions can be adjusted in cases of insufficient cash, such as delays in receipts and payments.
- 5.2 Establishment
 - 5.2.1 The establishment and closure of any reserve may only be undertaken by resolution of Council, or through adoption of budgets via Quarterly Budget Reviews, Long Term Financial Plan, Annual Financial Statement or required by legislation or contract.
 - 5.2.2 The establishment of a reserve must be documented in **(APPENDIX 1)** and must include the following at a minimum:

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Policy



- a) Name of the reserve.
 - b) Purpose of the reserve, including the reasons for a restriction.
 - c) Source of funds and calculation basis.
 - d) Use of funds - what the reserve can be used for.
 - e) Optimum balance or minimum amount to be held.
 - f) Internal accountability.
 - g) Term of reserve.
- 5.2.3 In order to not dilute general revenue, any new internally restricted reserves are only to be established in conjunction with a new income stream and where the purpose of the reserve is not considered as part of the general operations and/or required for a specific use.
- 5.3 Transfer funds between reserves
- 5.3.1 The transfer of funds between reserves that differ from the original source of funds and must satisfy the agreed purpose for which the reserve was created.
- 5.3.2 Notification for such transfers may be given through:
- a) Budget process, by virtue of the adoption of the Long Term Financial Plan or the Quarterly Budget Review Statement or the Monthly Cash and Investment Statement.
 - b) Adoption of the Annual Financial Statements.
- 5.4 Use of funds and administration
- 5.4.1 Use of funds must be in accordance with **(APPENDIX 1)** and the establishment resolution for the reserve.
- 5.4.2 Unspent funds of a particular reserve will be returned to that reserve each financial year.
- 5.4.3 Any funds spent over may be drawn upon in the following financial year.
- 5.4.4 Internal and external reserves will have an annual administration charge applied, where appropriate, based on the function of the reserve.
- 5.5 Closure
- 5.5.1 The Council resolution to close a reserve must include the following at a minimum:
- a) Name of the reserve.
 - b) Purpose of the reserve.

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Policy

- c) Reason for closure.
- d) Treatment of any balance of funds, including transfer to another reserve.
- 5.6 Interest and Indexation
 - 5.6.1 Certain external restrictions require interest to be applied by legislation. The calculation of interest will be performed monthly and based on the 90 day Bank Bill Swap rate – BBSW (unless another rate or methodology is required by legislation).
 - 5.6.2 For internal reserves there will be no interest income applied. However where the source of funds is an allocation from general revenue that allocation will be indexed by the rate cap each year.
- 5.7 Borrowings
 - 5.7.1 Consent from the Minister of Local Government is required in order to borrow funds from externally restricted reserves.
 - 5.7.2 Council will be informed of any borrowings from internally restricted reserves through the Quarterly Budget Review Statements.
- 5.8 Order of funds – unforeseen economic event or natural disaster emergency
 - 5.8.1 Should Council encounter an unforeseen economic event or natural disaster the General Manager may approve access to reserves funds for an appropriate response.
- 5.9 Order of funds – multi funding projects
 - 5.9.1 Council makes every attempt to utilise external funding sources in the first instance to fund projects. The following order stipulates the preference in the order that funds should be accessed:
 - a) External restrictions.
 - b) Internal restrictions.
- 5.10 Liquidity Risk Management
 - 5.10.1 Council's operating bank account is to be kept at a level no greater than is required to meet immediate working capital requirements.
 - 5.10.2 Any surplus funds are to be applied to reduce debt or invested to generate more income in accordance with Council's Cash Investment Policy.

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5.11 Borrowing Risk Management

5.11.1 To manage the risk associated with borrowings:

- a) Council approval is required for all new loans. A cash reserve or repayment of the loan must be included at the time of the approval.
- b) The term of borrowings should match the need for funds.
- c) Loans are to be tendered to at least 3 Authorised Deposit Taking institutions.

6. **RESPONSIBILITIES:**

6.1 The Financial Services Section Manager shall:

- a) Provide guidance to Council, the Executive Team and Council staff as to the implementation of this policy.
- b) Be responsible for monitoring, evaluating and reviewing compliance with this policy.
- c) Submit Monthly Cash and Investment Statements, Quarterly Budget Review Statements, Long Term Financial Plans, and Annual Financial Statements to Council on the position of Council's financial reserves.

6.2 All managers are responsible for the budget provided to them by each reserve and complying with the policy.

7. **RELATED DOCUMENTS:**

- 7.1 Acquisition and Divestment of Land Policy.
- 7.2 Property Investment and Development Policy.
- 7.3 Cash Investment Policy.
- 7.4 Community Groups Loan Policy.
- 7.5 Financial Business Rules Management Directive.
- 7.6 Annual Financial Statements.
- 7.7 Quarterly Budget Review Statement.
- 7.8 Resourcing Strategy - Long Term Financial Plan.
- 7.9 Australian Accounting Standards.
- 7.10 Roads Act 1993.
- 7.11 Crown Lands Management Act 2016.
- 7.12 Environmental Planning and Assessment Act 1979.
- 7.13 Local Government Act (General) Regulation 2021.
- 7.14 Local Government Act 1993.
- 7.15 Local Government Code of Accounting Practice and Financial Reporting.

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EDRMS container No.	PSC2009-02488	EDRMS record No.	TBA
Audience	Elected Council and all Council staff		
Process owner	Financial Services Section Manager		
Author	Financial Services Section Manager		
Review timeframe	4 years	Next review date	TBA
Adoption date	TBA		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	TBA	Financial Services Section Manager	New policy.	TBA

Policy

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APPENDIX 1: LIST OF COUNCIL'S CASH RESTRICTIONS/ RESERVES

Given that the listing of reserves forms part of an Appendix to this policy, amendments to individual reserves may be made by Council resolution, as outlined in the policy, without the need to amend the policy itself.

Council will assess at least annually the adequacy of each internal cash restriction during the preparation of the Long Term Financial Plan and annual budget to ensure long term financial sustainability.

1. DEPOSITS, BONDS AND RETENTIONS

Restriction Type	External.
Source of Funds	Any person or company that has paid a deposit, retention monies or bond to Council.
Purpose	Council requires bonds or security deposits to be paid with development applications and contract works. Bonds are released when the relevant conditions of development consent have been met. Where these conditions are not met, Council retains the funds with the intent of undertaking the works in lieu of the developer.
Maximum balance or minimum amount	Minimum amount - 100% of total Security bonds, refundable deposits and retentions liabilities.
Term of the reserve	This reserve will operate in perpetuity.

2. SPECIFIC PURPOSE UNEXPENDED GRANTS

Restriction Type	External.
Source of Funds	External funding bodies.
Purpose	An external restriction is placed on grant funding that has been received for a specific purpose that has not been spent by the end of the financial year.
Maximum balance or minimum amount	Minimum amount - 100% of grant funds unspent that have a specific purpose and can only be spent on certain activities.
Term of the reserve	This reserve will operate in perpetuity.

3. DEVELOPER CONTRIBUTIONS

Reserve Type	External.
Source of Funds	Developer contributions as levied in accordance with Council's adopted Local Infrastructure Contributions Plan.
Purpose	By virtue of the Environmental Planning & Assessment Act 1979 (the Act), legislation enables consent authorities (councils) to levy developer contributions, as a condition of development consent, towards the cost of providing local public infrastructure and facilities required as a consequence of expanding local population. The Act requires Council to set these funds aside to be used specially for the provision of these facilities.
Maximum balance or minimum amount	Minimum amount - 3 months operational expenditure of civic administration, bank loan repayments and pre-committed capital expenditure. The remaining funds may be spent in accordance with the reserves purpose and the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

4. DOMESTIC WASTE MANAGEMENT

Restriction Type	External.
Source of Funds	Domestic Waste Services and Management Levy.
Purpose	By virtue of Section 496 of the Local Government Act 1993 (as amended), Council must levy a separate charge for domestic waste management services, which include garbage and recycling services. Under the legislation Council cannot finance these services from ordinary rates so the charge must be sufficient to recover reasonable costs of providing these services. Council is obliged to set these funds aside and use them for their specific purpose.
Maximum balance or minimum amount	Minimum amount – 3 months of domestic waste operational expenses, bank loan repayments and pre committed capital expenditure. The remaining funds may be spent in accordance with the reserves purpose and the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

ITEM 5 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.**5. CROWN RESERVE**

Restriction Type	External.
Source of Funds	Fees and charges from operations on Crown Lands.
Purpose	By virtue of the Crown Lands Management Act the net surplus derived from holiday parks and parking meters on Crown Land are retained for utilisation and reinvestment back into holiday parks or other assets on Crown Land.
Maximum balance or minimum amount	Minimum amount – 3 months of holiday park and parking meter operational expenses, bank loan repayments and pre committed capital expenditure. The remaining funds may be spent in accordance with the reserves purpose and the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

6. EMPLOYEE LEAVE ENTITLEMENTS (ELE)

Restriction Type	Internal.
Source of Funds	Employee on costs rate.
Purpose	Council shall restrict a portion of its accrued employee leave entitlements to pay for leave payments in excess of employee costs provided for in the annual budgets. Leave entitlements include annual leave, long service leave, accrued sick leave entitlements in accordance with the sick leave policy.
Maximum balance or minimum amount	Target balance is based on a calculation of outstanding ELE and the age profile of Council's employees.
Term of the reserve	This reserve will operate in perpetuity.

7. ADMINISTRATION BUILDING

Restriction Type	Internal.
Source of Funds	Annual allocation from general revenue.
Purpose	To provide funds for maintenance and future upgrades and improvement works to the Administration Building.
Maximum balance or minimum amount	Minimum amount – 3 months of administration building operational expenses, bank loan repayments and pre committed capital expenditure. The remaining funds may be spent in accordance with the reserves purpose and the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

8. ASSET REHABILITATION & ROAD RESEALING

Restriction Type	Internal.
Source of Funds	Annual allocation from general revenue. Net profit received from the sale of closed roads will be allocated to the Asset Rehabilitation reserve as per Section 43 of the Roads Act 1993.
Purpose	To ensure adequate funds are available to renew and rehabilitate existing civil and recreational assets to their previous level of service across the Council area.
Maximum balance or minimum amount	No minimum amount - funds may be spent in accordance with the reserves purpose and Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

9. COMMERCIAL PROPERTIES

Restriction Type	Internal.
Source of Funds	Surplus from Council's commercial property portfolio, net profits from land developments, bio banking credits, royalties, investments and sale of operational land.
Purpose	To set aside net proceeds received from commercial property activity and royalties for future reinvestment into income generating or cost reduction activities for Council.
Maximum balance or minimum amount	Minimum amount - 3 months of operational expenses for the Strategic Property business unit, bank loan repayments and pre-committed capital expenditure. The remaining funds may be transferred to the Resilience Fund for strategic projects spent in accordance with the reserves purpose under the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

10. COMMUNITY BUILDINGS

Restriction Type	Internal.
Source of Funds	Fees and Charges generated from the hiring of Council's community buildings that are not managed by a 355c Committee.
Purpose	To use the funds generated by hiring community buildings for the purpose of paying for operational, maintenance and capital costs of the asset class. Any funds received by the reserve directly from the dissolution of a 355c hall committee will be committed within the reserve for the future maintenance of that hall.
Maximum balance or minimum amount	Minimum amount - 3 months of operational expenses for community buildings not managed by a 355c Committee, bank loan repayments and pre committed capital expenditure. The remaining funds may be spent in accordance with the reserves purpose and the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

11. SURF CLUBS – CROWN LANDS

Restriction Type	External.
Source of Funds	Income generated from the leasing and hiring of Council's surf clubs on Crown Land.
Purpose	By virtue of the Crown Lands Management Act the net surplus generated by surf clubs for the purpose of paying for operational, maintenance and capital costs of the asset class.
Maximum balance or minimum amount	Minimum amount - 3 months of operational expenses for surf clubs, bank loan repayments and pre committed capital expenditure. The remaining funds may be spent in accordance with the reserves purpose and the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

12. COMMUNITY LOANS

Restriction Type	Internal.
Source of funds	Once off allocation from general revenue.
Purpose	To provide a low cost loan to community and recreational groups to assist with major asset upgrades on Council owned property subject to application.
Maximum balance or minimum amount	Maximum pools of funds available will be \$200,000 subject to any current loans provided for. Loan repayments from community groups will go back into the reserve annually until the target balance has been reached. Interest on the loan will be allocated to general revenue.
Term of the reserve	This reserve will operate in perpetuity.

13. DRAINAGE

Restriction Type	Internal.
Source of funds	3.065061% of ordinary Rates.
Purpose	Council charges a drainage levy to every household and business to improve drainage through the local government area (LGA). The levy allows Council to undertake significant improvements to the drainage system to provide a cleaner and safer environment for the benefit of owners, residents and visitors.
Maximum balance or minimum amount	No minimum - funds are to be fully expended in accordance with the reserves purpose and the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

14. ELECTION RESERVE

Restriction Type	Internal.
Source of Funds	Annual allocation from general revenue.
Purpose	To set aside funds for the local government elections which are normally conducted every 4 years.
Maximum balance or minimum amount	Minimum amount – estimated cost of the local government elections divided by the number of years in the Council term multiplied by the years passed.
Term of the reserve	This reserve will operate in perpetuity.

15. ENHANCED SERVICES FOCUS AREAS

Restriction Type	Internal.
Source of Funds	Special Rate Variation.
Purpose	To set aside a portion of funds generated from the Special Rate Variation applicable from 1 July 2023 for the purpose of enhancing services in the 4 focus areas set out in Council's Special Rate Variation Application. This does not include funds used for financial sustainability and to fund current services at existing levels.
Maximum balance or minimum amount	No minimum - funds are to be fully expended in accordance with the reserves purpose and the Delivery Program and Operational Plan.
Term of the reserve	This reserve will cease at the conclusion of the enhanced services works program.

16. FLEET

Restriction Type	Internal.
Source of Funds	Annual allocation from general revenue, plant hire, fuel rebates and fleet trade ins.
Purpose	To ensure sufficient funds are available to finance the ongoing replacement of Council's plant and fleet.
Maximum balance or minimum amount	Minimum amount – 3 months of fleet administration, operational expenses, bank loan repayments and pre-committed capital expenditure. The remaining funds may be spent in accordance with the reserves purpose and the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

17. RESILIENCE FUND

Restriction Type	Internal.
Source of Funds	Commercial property revenue surplus to needs and the Newcastle Airport Partnership dividends.
Purpose	To set aside funds from excess non-rate revenue for significant projects, investments or initiatives to achieve the key strategies of Council.
Maximum balance or minimum amount	<p>The fund can take any of the following forms of investment:</p> <ul style="list-style-type: none"> • Land or improvements to land. • Operations owned by Council with a commercial return. • Investments made in accordance with the prevailing Ministerial Investment Order and the Local Government Act, 1993 (the Act). <p>The fund will hold a minimum amount at all times based on the liquidity of the investment form. Financial returns from these investments or any amount above the minimum holding will form the amount available for distribution. The distribution of funds will only be available when the reserve holds \$5,000,000 or more in cash and investments. Only infrastructure projects listed on Council's Strategic Asset Management Plan (SAMP) will be considered for distribution.</p>
Term of the reserve	This reserve will operate in perpetuity.

18. GRANTS RECEIVABLE

Restriction Type	Internal
Source of Funds	Once off allocation.
Purpose	To provide a pool of funds that can be used on grant funded projects where Council is waiting on the funding body to pay outstanding claims without impacting on the progress of the project.
Maximum balance or minimum amount	Maximum pools of funds available will be \$3,000,000. The reserve will be reimbursed once the grant claim has been paid.
Term of the reserve	This reserve will operate in perpetuity.

19. IT RESERVE – BUSINESS TECHNOLOGY

Restriction Type	Internal.
Source of Funds	Annual allocation from general revenue.
Purpose	To ensure sufficient funds are available to finance the ongoing replacement and enhancement of Council's digital equipment and software.
Maximum balance or minimum amount	No minimum - funds are to be fully expended in accordance with the reserves purpose under the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

20. NATURAL DISASTER AND EMERGENCY

Restriction Type	Internal.
Source of Funds	Annual top up allocation when required.
Purpose	The reserve is for emergency response expenditure in relation to a declared natural disaster or significant natural event. The reserve will be reimbursed by any claims received from State and Federal Government for emergency response. Emergency works are defined as any urgent activities necessary to temporarily restore an essential public asset, enabling it to operate at an acceptable and safe level of efficiency to support the immediate recovery of a community.
Maximum balance or minimum amount	Minimum - \$3,000,000 Maximum - \$7,000,000. Emergency works funding is limited to works undertaken during the period of up to 3 months. For immediate reconstruction works or essential public asset reconstruction works the reserve will fund any non-claimable expenditure as well as timing differences between the work being performed and reimbursement from the State and Federal Government.
Term of the reserve	This reserve will operate in perpetuity.

21. OTHER WASTE SERVICES

Restriction Type	Internal.
Source of Funds	Fees and charges from Salamander Waste Transfer Station.
Purpose	To set aside the net proceeds from the Salamander Waste Transfer Station to fund future works at the transfer station.
Maximum balance or minimum amount	Minimum amount – 3 months of other waste operational expenses. The remaining funds may be spent in accordance with the reserves purpose under the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

22. PARKING METERS

Restriction Type	Internal.
Source of Funds	Fees and charges from parking meters (not on Crown Land).
Purpose	This restricted asset is to set aside funds that are collected from parking meters on Council land to fund future works within adopted infrastructure plans/ programs where the funds were collected for that individual parking precincts. Funds could be internally borrowed between parking precincts in order to bring forward any essential works which are accounted through individual parking precincts cost centres to track the total income and expenditure. Internally borrowed between precincts must be paid back within a reasonable timeframe.
Maximum balance or minimum amount	Minimum amount – 3 months of parking meter operational expenses. The remaining funds must be spent in accordance with the reserves purpose under the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

23. REPEALED FUNDS

Restriction Type	Internal.
Source of Funds	Unspent contributions levied on developments from previous Local Infrastructure Contributions Plans.
Purpose	Upon commencement of a new Local Infrastructure Contributions Plan any remaining unspent funds under the previous plans are rolled over in the repealed funds reserve and are expended in accordance with projects previously identified to support public infrastructure and facility requirements.
Maximum balance or minimum amount	No minimum amount - funds may be spent in accordance with the reserves purpose and Delivery Program and Operational Plan.
Term of the reserve	This reserve will cease once all funds are used.

24. SUSTAINABLE ENERGY AND WATER

Restriction Type	Internal.
Source of Funds	Once off allocation from general revenue.
Purpose	To set aside funds for the purpose of operating a Revolving Energy Fund (REF) is an internal fund that provides financing to implement energy efficiency, renewable energy, and other sustainability projects that generate cost savings.
Maximum balance or minimum amount	Maximum pools of funds available will be \$200,000 subject to any current projects provided for. Cost savings from the project will be used to repay the funds back into the reserve until the maximum balance has been reached. Once the project has repaid its capital outlay future savings will be absorbed by general revenue.
Term of the reserve	This reserve will operate in perpetuity.

25. TRANSPORT AND ENVIRONMENT

Restriction Type	Internal.
Source of Funds	Annual allocation from general revenue.
Purpose	To set aside revenue received from the roads and environmental special rate for those specific purposes. Funding will be split 50/50 towards road projects that reduce environmental impacts from road related infrastructure. The remaining balance will contribute towards natural services day to day operations.
Maximum balance or minimum amount	No minimum amount - funds may be spent in accordance with the reserves purpose and Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity.

26. UNEXPENDED LOAN FUNDS

Restriction Type	Internal.
Source of Funds	Bank loans.
Purpose	This reserve contains unspent loan funding tied to a specific purpose.
Maximum balance or minimum amount	No minimum - funds received are to be fully expended in accordance with the purpose of the bank loan taken out under the Delivery Program and Operational Plan.
Term of the reserve	This reserve will operate in perpetuity whilst there is unspent loans funds.

27. MAYORAL & WARD FUNDS

Restriction Type	Internal.
Source of Funds	Annual allocation from general revenue.
Purpose	To provide an annual allocation of funds to assist the Mayor and Councillors to provide financial assistance in each ward under section 356 of the NSW Local Government Act.
Maximum balance or minimum amount	No minimum - funds are to be fully expended in accordance with the reserves purpose and in accordance with section 356 of the NSW Local Government Act.
Term of the reserve	This reserve will operate in perpetuity.

28. FEDERAL ASSISTANCE GRANT IN ADVANCE

Restriction Type	Internal.
Source of Funds	Advance Federal Assistance Grant.
Purpose	To record the financial impact of receiving the Financial Assistance Grant (FAG) in advance for the following year. The FAG is paid to local councils to help them deliver services to their communities. The funds are paid annually by the Australian Government. Councils are free to use these funds at their discretion.
Maximum balance or minimum amount	No minimum – the reserve at the end of the financial year must reflect FAG received in advance (if applicable) for the following financial year.
Term of the reserve	This reserve will operate in perpetuity whilst there is advance FAG payments.

29. NEWCASTLE AIRPORT PARTNERSHIP

Restriction Type	Internal.
Source of Funds	Newcastle Airport Partnership.
Purpose	To record and disclose the impact on Council's cash balances upon preparing consolidated financial statements with the Newcastle Airport Partnership.
Maximum balance or minimum amount	No minimum – the reserve at the end of the financial year is a financial statement disclosure only and must reflect the balance of Newcastle Airport's cash balances that have been consolidated with Council's. The funds cannot be used by Council.
Term of the reserve	This reserve will operate in perpetuity.

30. SECTION 355C COMMITTEES

Restriction Type	Internal.
Source of Funds	User fees and charges.
Purpose	To record and disclose the impact on Council's cash balances upon preparing consolidated financial statements which includes the operations of Council's 355c Committees.
Maximum balance or minimum amount	No minimum – the reserve at the end of the financial year is a financial statement disclosure only and must reflect the balance of all 355c Committee cash balances under Council's control.
Term of the reserve	This reserve will operate in perpetuity.

ITEM NO. 6

**FILE NO: 24/185341
EDRMS NO: PSC2013-04570**

**POLICY REVIEW: MANAGEMENT OF COMPETITIVE NEUTRALITY
COMPLAINTS POLICY**

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
DIRECTORATE: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Management of Competitive Neutrality Complaints Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Management of Competitive Neutrality Complaints Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revoke the Management of Competitive Neutrality Complaints Policy dated 24 August 2021, Minute No. 236 should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Management of Competitive Neutrality Complaints Policy (policy) shown at **(ATTACHMENT 1)**.

The purpose of the Management of Competitive Neutrality Complaints Policy is to ensure Port Stephens Council has a framework to manage and investigate complaints received concerning competitive neutrality. Whilst Council does not have business units classified under the Competitive Neutrality Guidelines, Council needs to ensure a process is in place to deal with any complaints received.

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

The policy has been reviewed as part of Council's ongoing policy review program.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Deliver governance services and internal audit program

FINANCIAL/RESOURCE IMPLICATIONS

All costs associated with the development and implementation of the policy is 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

The policy has been developed to meet the requirements of the Office of Local Government.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be in breach of legislation without a policy framework in place.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy framework ensures that Council can meet the objectives of the National Competition Policy and maintains a business approach when competing with the private sector, where applicable.

CONSULTATION

Treasury announced in August of 2023 that a review ('The Competition Review') into government priorities for modernising the Australian economy has commenced. The Competition Review will provide advice to the government on how to improve competition across the economy.

The review will look at competition laws, policies and institutions to ensure they remain fit-for-purpose for the modern economy, with a focus on reforms that would increase productivity, reduce the cost of living and/or lift wages. Until the finalisation

of the review (expected to be in August 2025), Council will continue to monitor any findings or recommendations relevant to its business and operations.

In addition to this, consultation with key stakeholders has been undertaken by the Governance and Legal Services Unit.

Internal

The policy has been endorsed by Council's Executive Team.

External

In accordance with local government legislation, the revised Management of Competitive Neutrality Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Management of Competitive Neutrality Complaint Policy. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM 6 - ATTACHMENT 1 MANAGEMENT OF COMPETITIVE NEUTRALITY COMPLAINT POLICY.

Policy



FILE NO: PSC2013-04570

TITLE: MANAGEMENT OF COMPETITIVE NEUTRALITY COMPLAINTS

OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of the Management of Competitive Neutrality Complaints Policy is to ensure Port Stephens Council (Council) has a framework to manage and investigate complaints received concerning competitive neutrality.
- 1.2 Any complaints outside the limits of this policy will be managed under Council's Complaints Handling Policy.

2. CONTEXT/BACKGROUND:

- 2.1 This policy was adopted to comply with the former Division of Local Government requirements (now Office of Local Government).
- 2.2 Council recognises that the market has changed somewhat since the first adoption of the policy, and now has a number of business units actively operating in competition with the private sector. Council looks to ensure that the operations of Council are open and transparent when conducting commercial activities within the limits of the law, whilst maintaining a commercial business approach.

3. SCOPE:

- 3.1 Council is committed to the aims and objective of the National Competition Policy.
- 3.2 Council will remain accountable for its business to the community. The elected Council and staff will continue to have responsibility for ensuring that a service is being conducted effectively and that the Rates are being used responsibly.
- 3.3 All complaints should be forwarded to the General Manager. Complaints will generally be managed by the Governance Section Manager, subject to the General Manager direction. Should a complaint be investigated, a report will be prepared for the General Manager.
- 3.4 Staff investigating competitive neutrality complaints will not be involved in the area subject to the complaint.

Policy

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Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 6 - ATTACHMENT 1
COMPLAINT POLICY.

MANAGEMENT OF COMPETITIVE NEUTRALITY

Policy



- 3.5 A full response will be provided to the complainant following an investigation, providing details of the findings.
- 3.6 Should an investigation not be required, a response will be provided, giving details of **as to** why an investigation did not proceed.
- 3.7 Alternative avenues are available for making competitive neutrality complaints – such as the Independent Commission Against Corruption (ICAC), the NSW Ombudsman or the Australian Competition and Consumer Commission (ACCC).

4. DEFINITIONS:

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

ACCC	means Australian Competition and Consumer Commission.
Competitive neutrality complaint	A complaint that Council has not met its requirements under the P olicy or 'Pricing and Costing for Council Business – A Guide to Competitive Neutrality'. This includes a concern that Council has not established an effective complaints handling mechanism; and a complaint that e Council has not abided by the spirit of competitive neutrality in the conduct of a business activity.
Competitive neutrality complaint is not	A complaint regarding the level of service provided by a business activity (ie reserve requiring maintenance, a garbage bin not collected). A complaint regarding the cost of the service, unless it is that council has not costed its service to take competitive neutrality into account. A complaint regarding the trade practices laws and their application to councils. Such complaints should be managed under Council's Complaint Handling Policy.
Council	means Port Stephens Council.
ICAC	means Independent Commission Against Corruption.

5. STATEMENT:

- 3.1 Council is committed to:

Policy

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ITEM 6 - ATTACHMENT 1 MANAGEMENT OF COMPETITIVE NEUTRALITY COMPLAINT POLICY.

Policy



- a) Taking all reasonable steps to ensure that when conducting business in the market place it will not use its public position to gain an unfair advantage over a private sector competitor.
- b) Exercising its powers appropriately within the market.
- c) Be responsive to the complaints from the community.
- d) Resolving, without delay, all proven complaints.

6. RESPONSIBILITIES:

- 6.1 The General Manager, ~~group managers~~ Directors, ~~s~~Section ~~m~~Managers and ~~e~~Coordinators are responsible for complying with the policy.
- 6.2 The Governance Section Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.

7. RELATED DOCUMENTS:

- 7.1 Competition and Consumer Act 2010 (Cth).
- 7.2 Complaints Handling Policy.

Policy

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ITEM 6 - ATTACHMENT 1 MANAGEMENT OF COMPETITIVE NEUTRALITY COMPLAINT POLICY.

Policy



CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2013-04570	EDRMS record No.	XX
Audience	General public and Council officials		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	3 years	Next review date	31 August 2024 31 August 2027
Adoption date	23 December 1997		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	23 December 1997	Assistant General Manager	Adopted by Council.	1472
2.0	12 November 2013	Executive Officer	Adopted by Council.	323
2.1	24 October 2017	Governance Manager	Transferred policy to new corporate policy template. Reviewed the policy with a minor administrative amendment.	259

Policy

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ITEM 6 - ATTACHMENT 1
COMPLAINT POLICY.

MANAGEMENT OF COMPETITIVE NEUTRALITY

Policy



Version	Date	Author	Details	Minute No.
2.2	29 September 2019	Governance Section Manager	Reviewed the policy, included numbering to each paragraph and updated the version control. Updated title of policy owner to Governance Section Manager. 2.1 – Updated background reference to former Division of Local Government and Office of Local Government. 3.3 – Replaced Executive Officer title with Governance Section Manager. 4.1 – Inserted 'means' for ACCC and ICAC. 6.1.2 – Inserted 'Section' in title. 7.1.2 – Corrected spelling error 'handling'.	170
2.3	24 August 2021	Governance Section Manager	Reviewed the policy, included numbering to each paragraph and updated the version control. 2.1 – removed original date adopted. 4.1 – updated definitions.	236
2.4	TBA	Governance Section Manager	Reviewed the policy, included numbering to each paragraph and updated the version control. Transferred into correct policy template. Updated policy titling. Minor grammatical corrections. 3.6 – removed 'of' and added 'as to'. 4.1 – updated definitions. 6.1 – updated title changes 6.4 – added 'responsible for'	XX

Policy

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ITEM NO. 7**FILE NO: 24/280232
EDRMS NO: PSC2010-03190****OUR PORT STEPHENS 2021-2024 REPORT**

REPORT OF: ZOE PATTISON - DIRECTOR CORPORATE STRATEGY AND
SUPPORT
DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse Our Port Stephens 2021-2024 Report (**ATTACHMENT 1**).
-

BACKGROUND

The purpose of this report is to present to Council the 'Our Port Stephens 2021-2024 Report' (Report) as required by Section 406 of the Local Government Act 1993 and Essential Element 1.11 of the Integrated Planning and Reporting Guidelines (Guidelines). The Guidelines require a Report to be presented at the second meeting of the newly elected Council on the progress in implementing the Community Strategic Plan (CSP) over the previous term of Council.

The Report (**ATTACHMENT 1**) reflects on our key achievements during 2021-2024 for each of the CSP focus areas (Our Community, Our Place, Our Environment and Our Council) and key directions. It outlines the challenges experienced, future opportunities for improvement and how we are tracking towards success. We will use this reflection and Report as a foundation for reviewing the Community Strategic Plan 2025-2035.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Deliver the Integrated Planning and Reporting program.

FINANCIAL/RESOURCE IMPLICATIONS

Financial information pertaining to Council's operations within the Report relates to the financial years 2021-2022, 2022-2023 and 2023-2024, unless otherwise stated.

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

ORDINARY COUNCIL - 12 NOVEMBER 2024

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

LEGAL, POLICY AND RISK IMPLICATIONS

Essential Element 1.11 of the Guidelines require that this Report be compiled and presented at the second meeting of the newly elected Council.

The legislation intends the Our Port Stephens 2021-2024 Report to be a guide for the incoming Council to see what has been achieved and what still needs to be done towards achieving the community's goals (key directions). The Report is also required to be attached as an appendix to the Annual Report (Section 428) the year in which an ordinary election of Councillors is held.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that failure to provide the Report within the legislated timeframe could lead to reputational loss and a breach of the Local Government Act 1993.	Low	Endorse the recommendation at the second Council Meeting on 12 November 2024.	Yes
There is a risk that the Report contains errors of fact regarding information.	Low	Data obtained from internal sources and external websites has been crosschecked, where possible.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council is committed to transparent reporting and accountability to our community.

The Report provides information on Council's achievements, challenges and future opportunities for improvement in implementing the Community Strategic Plan across a range of social, economic, environmental and governance matters.

CONSULTATION

Consultation has been undertaken with the following key stakeholders:

Internal

- Executive Team.
- Section Managers.
- Council Officers.

The Report has been prepared using information from a range of sources within Council, such as Council's Annual and Six-monthly reports and other internal information.

OPTIONS

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

ATTACHMENTS

- 1) Our Port Stephens 2021-2024 Report. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

Our Port Stephens Report 2021 to 2024



This report reflects on our key achievements during 2021-2024 for each of our Focus Areas and Key Directions. It shows the challenges experienced, future opportunities for improvement and how we are tracking towards success.



GUUDJI YIGU

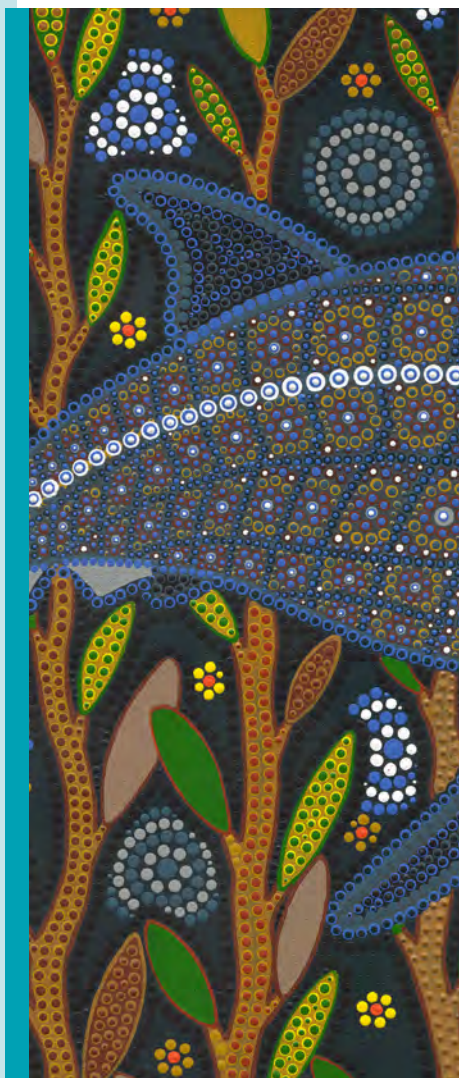
(GOO-JEE IK-KOO)

We welcome you to Port Stephens – part of the Worimi Aboriginal Nation. Port Stephens Council acknowledges the Worimi people as traditional owners and custodians of the lands and waterways on which we all live, learn, work and play.

We value and respect the Worimi people and the legacy 60,000 years of Aboriginal Nation traditions and culture brings with it. As part of Council's culture of acceptance, diversification and harmony we walk alongside the Worimi people on a journey of listening and learning.

Together we will strive to make this a better place for all people. As guardians of these lands, we ask that you tread lightly to help preserve the biodiversity and respect those who came before as well as those who will follow.

Artwork by Regan Lilley.



Contents

General Manager's message	4
Our 2022-2032 challenges	6
Our Community Strategic Plan	8
Our Community	10
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Our Environment	18
Our Council	22

We use the Integrated Planning and Reporting (IP&R) Framework in the Local Government Act 1993 (the Act) to report on Council's achievements in implementing the Community Strategic Plan. This report has been prepared considering Section 428 (2) of the Act and the NSW Government's IP&R Guidelines 2021.

We have made our best effort to provide the latest data available from external sources and Council's operations at the time of writing this report. The report has been prepared for the period ending 30 June 2024, with more detailed information on Council's financial and operational performance available in Council's Annual Reports available on its website.

Despite our best efforts, Port Stephens Council makes no statements, representations or warranties about the accuracy, completeness or reliability of any information contained in the report. The Council disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages and costs you might incur as a result of the information being inaccurate or incomplete in any way, and for any reason.



General Manager's message

As we look back on the past three years, I'm filled with a strong sense of pride in the progress we've made together.

We began this term with the challenges posed by COVID-19 and like many others, the impacts of the pandemic took their toll on both our organisation and our community.

Income from our holiday parks, childcare centres and the Newcastle Airport was cut, while at the same time, construction, transport and insurance costs continued to rise. This was further impacted by a series of natural disasters, which affected our community, our infrastructure and our natural environment.

At this time, we were facing economic uncertainty. As an organisation, we needed to strike a balance between the needs of the community and our long-term financial sustainability.

In partnership with our Council, we developed a Financial Sustainability Strategy. We developed strategies to diversify our non-rate revenue and make sure we were ready to manage future challenges. We expanded our Smart Parking Program, made strategic commercial property investments, and conducted a thorough review of our surplus assets. We also maximized grant funding opportunities.

Internally we drove operational efficiencies prioritising our ongoing business improvement programs, helping us to better manage resources while improving what we do and how we do it. We also established a Resilience Fund to direct surplus non-rate revenue to significant infrastructure projects and increase services – all aligned to Council's strategic plans and priorities.

Following one of our largest ever community engagement programs, we were successful

in our application for a Special Rate Variation (SRV) of 9.5% per year for three years.

We remained committed to reconnecting our community and were successful in securing funding to deliver a variety of events and activations to bring people together. Events like Karuah By Night, Illuminate Raymond Terrace and Night at the Beach provided an opportunity for our community to come together and celebrate our incredible place.

Looking ahead, we focused on setting strong foundations for a sustainable and vibrant future. We finalized a number of important strategies including the Port Stephens Local Housing Strategy, the Coastal Management Program and our Emission Reduction Action Plan. We also developed several Place Plans and a Community Wellbeing Strategy, which works to ensure all people across Port Stephens no matter their age, background, or ability, lead happy, healthy and connected lives.

As always, roads remained a top priority for our community. We advocated for increased funding from the Federal and State governments

to improve our infrastructure. By securing external funding and redirecting resources, we were able to repair more potholes and rehabilitate key roads, taking big steps towards making the Port Stephens road network safer for all. The 2024-2025 budget has more funding than ever allocated to roads, with over \$37m, inclusive of Special Rate Variation funding, for road repairs and works.

The achievements over the last three years have set a strong foundation for Council and our community. I would like to thank our Mayor, Councillors and staff for their commitment and efforts through this term.

Together with our newly elected Council, we'll shift our focus to our future, and direct our efforts to building a vibrant and liveable place for generations to come.

Tim Crosdale
General Manager of Port Stephens Council



Karuah by Night

Our challenges



Throughout the term of Council, we've been working to address the challenges predicted in our 2022-2032 Community Strategic Plan Focus Areas - Our Community, Our Place, Our Environment, and Our Council.



Financial sustainability

Meeting day-to-day needs now and in the future for families, businesses and local government



Climate change and coastal impacts

We must work together to preserve our environment



Community voice

Capturing a representative voice of the community



Diversity, inclusivity and accessibility

Improved wellbeing is at the heart of our community life now and in the future



Housing affordability

Affordable and sustainable housing is required to meet the diverse needs of our growing community



Resilience

We need to be able to prepare, respond and recover from unforeseen events



Sustainable development

Mitigating the impacts on our natural environment of development and future visitor growth to Port Stephens

We've also experienced many unpredicted challenges throughout the 2021 to 2024 term of Council. These are expected to continue into the future.



Ongoing impacts of COVID



Supply and labour shortages



Austerity measures



Multiple extreme weather events



Inflation and rising costs of living



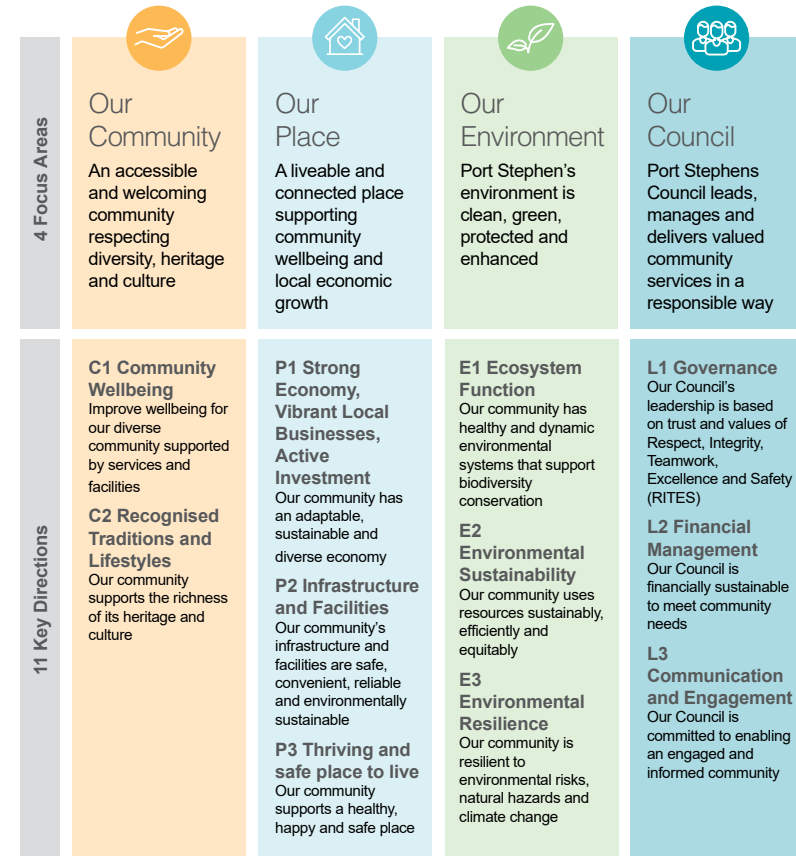
Workplace flexibility and a hybrid workforce

Our Community Strategic Plan



Our Community Strategic Plan has four Focus Areas to address social, economic, environmental and governance factors: Our Community, Our Place, Our Environment, Our Council. These Focus Areas and their 11 Key Directions help us achieve our shared community vision.

This report reflects on our key achievements during 2021-2024 for each of our Focus Areas and Key Directions. It shows the challenges experienced, future opportunities for improvement and how we are tracking towards success. Through this reflection, we'll use this report as a foundation for reviewing the Community Strategic Plan 2025-2035, with our new Council.



Our Community



C1 – Community Wellbeing

Improved wellbeing for our diverse community supported by services and facilities.



Reflection

After multiple COVID-19 lockdowns, our focus became the wellbeing and liveability of our community. We worked with key partners to deliver programs and services that helped reconnect the community, fostering a sense of belonging and support. We adopted an integrated approach to our new Community Wellbeing Strategy to make sure Port Stephens is a place where individuals, regardless of their age, background or ability can lead healthy, happy and connected lives.



Challenges

- Connecting our community
- Appropriate support for those most vulnerable
- Responding to the values and priorities of our community



Opportunities for the future

- Improve wellbeing, inclusivity and accessibility across our community
- Provide facilities and learning options for children and families
- Ensure equitable and safe access to sports, recreational, cultural and leisure activities
- Support volunteers to deliver community programs and increase social connections

Key achievements



320,000

Childcare places*



360+

New citizens welcomed to Port Stephens



\$1.35M+

Community financial assistance and sponsorship

* Provided throughout Port Stephens. Places takes into account the total number of sessions delivered across each year. For example, if a child attended OOSH every morning and afternoon for 40 weeks of the year it would be counted as 400 places filled.

C2 – Recognised traditions and lifestyles

Our community supports the richness of its heritage and culture.



Reflection

We've worked in partnership with our Aboriginal Strategic Committee to deliver actions from Yabang Gumba Gu including our Aboriginal Protocols. We have provided more than \$60,000 in grants for projects that support our aboriginal community. Our community has enjoyed a rich program of events with arts and culture an important element in activating our town centres. We've also invested in our community's future by expanding our technology use in our libraries, introducing new collections and revitalising our Mobile library to support lifelong learning.



Challenges

- The diversity of our community is acknowledged, respected and celebrated
- Understand and respect cultural heritage
- Accessible spaces that enable connection and learning



Opportunities for the future

- Recognise and support the values and priorities of local Aboriginal and Torres Strait Islander People
- Support and promote local cultural activities
- Provide vibrant and inclusive community spaces to support lifelong learning

Key achievements



806,953

Library items loaned



12

Grants awarded for Aboriginal projects*



1845

Library programs delivered

*Part of community financial assistance and sponsorship.



Our Place



Image credit: Destination NSW

P1 – Strong economy, vibrant local businesses, active investment

Our community has an adaptable, sustainable and diverse economy.



Reflection

We are committed to building a strong and resilient economy. We have actively supported the expansion of the Newcastle Airport and the growing defense, aviation and aerospace industries around Williamstown. We've supported local businesses with new procurement processes, grown awareness in the value of local spending and encouraged connections through training and networking events. We've also initiated a Commercial and Employment Lands Study to identify opportunities for economic growth and job creation.



Challenges

- Business sustainability in a challenging economy
- Seasonal fluctuations in the Visitor Economy
- External funding to support business, tourism and place



Opportunities for the future

- Invest in programs that support local business development, visitation and events
- Provide Strategic Funding Support for destination marketing
- Fund the delivery and maintenance of place based infrastructure
- Investment in Newcastle Airport to achieve international routes and significant industrial development

Key achievements



26%

increase in
number of
businesses*

2.5

MILLION
visitors nights**



\$783

MILLION
in visitor spend**



178

It's On!
events

* Trading in Port Stephens from June 2021 to April 2024. ** (TRA - year end March 2024)

P2 – Infrastructure and facilities

Our community's infrastructure and facilities are safe, convenient, reliable and environmentally sustainable.



Reflection

Safe roads and community infrastructure have been a top priority for our community. We've invested significantly in upgrading our local road network and secured \$10 million in State government funding for local repairs. We've delivered new sporting and recreation facilities across the region offering a diverse range of activities for everyone. Our town centres have been revitalized creating vibrant hubs, and we've introduced Smart Parking in busy beachside locations, improving parking accessibility, and funding sources for local projects by keeping the revenue in the areas it is collected.



Challenges

- Funding to undertake maintenance, repairs and upgrades of our Community's infrastructure and assets to acceptable condition
- Connecting communities through infrastructure and services
- Resourcing to support infrastructure delivery



Opportunities for the future

- Invest SRV funds into enhanced services (roads, drainage, natural environment, waterways and public space) and seek additional State/ Federal funding into infrastructure.
- Plan and advocate for improved connections between our communities (transport, roads and footpaths)
- Improve infrastructure delivery to strengthen workforce sustainability

Key achievements



100+ km

of roads resealed, rehabilitated, reconstructed



550 HECTARES

of open space maintained annually



12

new playgrounds and upgraded public amenities

P3 – Thriving and safe place to live

Our community supports a healthy, happy and safe place.



Reflection

As the impacts of housing supply, diversity and affordability continue to affect our community, we've worked across Port Stephens to deliver the Port Stephens Housing Strategy, the Port Stephens Housing Supply Plan, Place Plans and coordinated the Port Stephens Homelessness Stakeholder Action Group. We've also completed projects to minimise the impact of disasters across our community including Foreshore Drive, Teramby Road landslip and Marine Drive.



Challenges

- Housing supply diversity and affordability
- Investment in place based infrastructure to unlock housing
- Community resilience to natural disasters and rising cost of living



Opportunities for the future

- Provide land use plans, tools and advice to support sustainable investment
- Work with the State and Federal government to assist with the housing crisis
- Enhance public safety, health and liveability through regulatory controls and services
- Create, advocate and support connected and vibrant places that attract residents, workers and business
- Prioritise emergency services, disaster preparedness and the protection of community assets from natural disasters

Key achievements



2,400

development applications approved



WEATHERED

4 declared natural disasters



\$6 MILLION

in disaster funding secured

Our Environment



E1 – Ecosystem function

Our community has healthy and dynamic environmental systems that support biodiversity and conservation.



Reflection

To ensure our natural environment is protected for future generations, we've been safeguarding our koala populations through the Port Stephens Koala Strike Project, implementing our Comprehensive Koala Plan of Management and supporting the Port Stephens Koala Sanctuary. We've focused on keeping our environment healthy by controlling weeds and supporting traditional 'cool burn' practices. We've also fostered community involvement through education programs and volunteer initiatives dedicated to protecting wetlands and endangered species.



Challenges

- Maintaining continued and ongoing volunteer support
- Complexity of environmental legislation
- Balancing the demand for housing with the protection of our environment



Opportunities for the future

- Communicate the value of the natural environment
- Improve data and mapping accuracy to provide a better understanding of our environment
- Build better frameworks that enable a more proactive approach to environmental sustainability

Key achievements



**OVER
\$4 million**
in environmental grants/
funding received



**449.5
HECTARES**
regenerated



7,330
volunteer hours
dedicated to natural
area maintenance



21,000+
trees planted,
thanks to the help of
volunteers

E2 – Environmental Sustainability

Our community uses resources sustainably, efficiently and equitably.



Reflection

To protect and enhance the incredible natural beauty of our area we've focused on reducing landfill and greenhouse emissions and adapting to our changing climate. We've developed a Waste Management Strategy and implemented key actions to reducing landfill waste such as a new garden organics service, expanded polystyrene recycling, and a permanent drop-off for hazardous waste. We've also completed our Emissions Reduction Action Plan to guide our organisation to reduce our carbon footprint.



Challenges

- Changing regulatory environment for waste management
- A consistent approach to environmental sustainability regarding carbon emissions across all layers of government
- Enabling technology to support emissions reductions



Opportunities for the future

- Deliver actions that support renewable energy and alternative fuel use
- Invest in programs that improve resource recycling and reduction of waste
- A regional approach to waste management and renewal of waste collection and processing contract

Key achievements



33,000 recycling bins collected fortnightly

36,000 red lid bins collected fortnightly



40%

reduction in carbon emissions from Council Operations*



32,000

garden organic bins collected fortnightly



7,000 tonnes of garden organics reused, diverting from landfill through the introduction of Garden organics bin

* From 2020-2021 to 2021-2022 financial years

E3 – Environmental Resilience

Our community is resilient to environmental risks, natural hazards and climate change.



Reflection

Our environment is constantly changing and we've developed a Coastal Management Program to identify how we can protect our greatest coastal asset from coastal inundation, tidal inundation, coastal erosion and dune transgression over the next 10 years. We've also been working with partners across the Hunter region to develop the Hunter Estuary Coastal Management Program for our inland and river locations.



Challenges

- Protecting our coastline and waterways from natural disasters and longer term coastal processes
- A shared approach to asset protection
- Government funding to support environmental resilience



Opportunities for the future

- Seek funding from the State Government for the delivery of the Coastal Management Program to improve environmental resilience and asset protection
- Drive collaboration between coastal Councils to ensure better environmental outcomes
- Advocate for permanent protection high risk infrastructure in active coastal erosion areas such as Shoal Bay beach

Key achievements



\$4 million

in storm repair works on our coastlines



Endorsed

Coastal Management Plan in June 2024



Port Stephens Drive Koala Vehicle Strike Project received a **Highly Commended Award** at the 2024 NSW Local Government Excellence Awards

Our Council



L1 – Governance

Our Council's leadership is based on trust and values of Respect, Integrity, Teamwork, Excellence and Safety (RITES).



Reflection

The State and Federal Governments recognize Port Stephens as a regional economic driver. We've been advocating to State and Federal Ministers to raise awareness around key issues impacting our community, making sure Port Stephens is at the forefront of their planning. We have also strengthened our employee value proposition and continuous improvement program, to ensure we have engaged staff delivering the best value for our community.



Challenges

- Workforce attraction and retention
- Community Advocacy
- Increasing complexity of legislation and changing technology to support service delivery
- Increasing community satisfaction with Council services



Opportunities for the future

- Develop and encourage the capabilities and aspirations of Council's workforce
- Provide strong leadership, advocacy role and government relations
- Provide a strong ethical governance structure and systems for Council
- Invest in digital technologies to improve Council performance and support to customers

Key achievements



72

new online forms developed



60

service reviews completed



24

Apprentices, trainees and cadets employed

L2 – Financial Management

Our Council is financially sustainable to meet community needs.



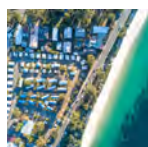
Reflection

We projected an \$80 million budget shortfall over the next 10 years due to COVID-19, natural disasters and rising operational costs despite providing the same level of service. We developed a Financial Sustainability Strategy focusing on increasing income and allocating resources wisely and successfully applied for a Special Rate Variation. With a strong focus on non-rate revenue we rolled out smart parking, focused on the performance of our investment portfolio and worked hard to attract grant funding. We've established a Resilience Fund which will be supported from the dividend we receive from our 50% share in the Newcastle Airport and will be used to invest in significant strategic projects across Port Stephens.



Challenges

- Financial sustainability
- Optimizing our investments
- Reliance on external funding sources



Opportunities for the future

- Enhance non rate revenue
- Optimise our investments
- Ensure Financial Resilience

Key achievements



5.06%*

Cash and investment portfolio return for the last 12 months

* 69 basis points better than Ausbond Bank Bill index
** Benchmark is <10%



Underlying result better than budget for the last

3 YEARS



<5%**

outstanding rates and annual charges

L3 – Communication and Engagement

Our Council is committed to enabling an engaged and informed community.



Reflection

We focused on transparent and timely communication, involving our community in meaningful community engagement. We've developed a Communications and Engagement Strategy to build trust and community participation in decision making of our place. We introduced the Communication and Engagement Advisory Group to provide input into how we engage with stakeholders for our major projects and created new opportunities for our community to connect with our Councillors with our Community Catch Ups. We've also improved the digital experience and online services to better reflect the diverse needs of our community.



Challenges

- Community expectations for meaningful participation in Council decision making
- Expanding our reach to a more diverse and representative audience
- Increasing demand for online services



Opportunities for the future

- Grow a customer first organisation through best practice processes and technology
- Provide genuine opportunities for the community and stakeholders to actively participate in council decision making

Key achievements



111

community engagement opportunities



514,488

users of the website*



70,760

Customer Service requests lodged



21,348

uses of text to voice software on our website

* For the period 1 July 2022 to 30 June 2024



PORT STEPHENS
COUNCIL

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ITEM NO. 8

**FILE NO: 24/289365
EDRMS NO: PSC2024-03159**

REQUESTS 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) Tomaree Residents and Ratepayers Association (TRRA) – Mayoral funds - \$1000 donation towards a new PA system.
 - b) Hunter Performance Academy – Mayoral funds - \$2000 donation towards Port Stephens Health & Fitness Expo.

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

Tomaree Residents and Ratepayers Association (TRRA)	TRRA represents the community on issues that affect the Tomaree Peninsula.	\$1000	Donation towards new PA system.
Hunter Performance Academy	Hunter Performance Academy provides health and fitness services to the community.	\$2000	Donation towards the Port Stephens Health & Fitness Expo.

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:

- a) applicants are carrying out a function, which it, the Council, would otherwise undertake.
- b) the funding will directly benefit the community of Port Stephens.
- c) 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.
- 2) Vary the dollar amount before granting each or any request.
- 3) Decline to fund the request.

ATTACHMENTS

Nil.

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 9

FILE NO: 24/279957
EDRMS NO: PSC2024-03232

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 12 November 2024.

No:	Report Title	Page:
1	Emission Reduction Action Plan - Progress Report	221
2	Delegations Report	230
3	Council Resolutions	232

INFORMATION PAPERS

ITEM NO. 1**FILE NO: 24/218271
EDRMS NO: 79-2022-3-1****EMISSION REDUCTION ACTION PLAN - PROGRESS REPORT**

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

BACKGROUND

The purpose of this report is to provide a quarterly update on the progress of the Port Stephens Emission Reduction Action Plan (ERAP) in accordance with the Council resolution from 11 April 2023, Minute No. 092 (**ATTACHMENT 1**).

On 12 October 2021 Council resolved to commit to a goal of achieving Carbon Neutrality for Council operations by 2025.

Through the implementation of the ERAP, Council has been working to reduce emissions to achieve Carbon Neutrality and prepare Council for a Net Zero future in alignment with State and Federal Government commitments. The ERAP identifies 101 actions to reduce Council's Carbon Footprint and offsetting liabilities over the short (2024-2026), medium (2027-2030) and long (2030+) term, with the short-term actions now being implemented across Council's operations.

PROGRESS REPORT

The ERAP identifies 101 actions to reduce Council's Carbon Footprint. Council is focusing on the short-term actions (2024-2026), with over 40% of these actions now in progress, table 1 below. There have also been 2 actions completed since the development of the ERAP, the installation of occupancy sensors at the Raymond Terrace Depot and the replacement of the indoor heat pump at Lakeside Leisure Centre.

Both completed actions relate to a key objective identified in the ERAP to optimise Council's electricity consumption. Council has already achieved zero emissions from electricity under the Power Purchase Agreement (PPA) for 100% renewable electricity. However, it is important Council continues to implement projects to reduce electricity usage to reduce costs and offset electrification in other areas for example upgrading gas hot water systems to electric and the move to electric power tools and vehicles.

Progress of ERAP Actions	Total in Plan	In Progress	Complete
Short-Term Actions (2024-2026)	52	22	2
Medium-Term Actions (2027-2030)	27	N/A	N/A

ORDINARY COUNCIL - 12 NOVEMBER 2024

Progress of ERAP Actions	Total in Plan	In Progress	Complete
Long-Term Actions (2030+)	21	N/A	N/A

CURRENT ACTIONS

Council has a range of projects underway to reduce emissions across the organisation. The roll out of energy efficiency projects continues with LED lighting upgrades completed at Bill Strong Oval and fields 2, 3, 4 and 5 at the Tomaree Sports Complex. Council has undertaken heat pump replacement at the Lakeside Leisure Centre and funding has been secured for upgrades to the heating ventilation and air conditioning (HVAC) system at the Tomaree Library. Council has started its fleet transition adding two electric vehicles and installing a new charging station at the Council administration building for fleet EVs.

The Holiday Parks have been upgrading to LED lighting, reducing reliance on gas, adding temperature control for air-conditioners and moving into the circular economy space during upgrades by diverting furniture from waste to local community support groups. The installation of new solar powered lighting at the waste depot has also helped to reduce Council's reliance on grid electricity.

EMISSIONS DATA REPORTING AS AT QUARTER 3 2024:

A key objective of the ERAP is to monitor changes to Council emissions over time. Council is developing new methods for collecting emissions data from across the organisation. Improving this process will enable better tracking and regular reporting of emissions data and support improved decision making.

As previously reported, Port Stephens Council's Carbon Footprint for FY2021-2022 and FY2022-2023, including annual emissions reductions, is presented in the below table.

Financial Year	Annual Emissions (t-CO ₂ e.p.a)	Annual Emission Reduction (%)
2021/22	12,547	Nil.
2022/23	7,586	39.6%

ATTACHMENTS

1) Minute No. 092, 11 April 2023. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023**ITEM NO. 2****FILE NO: 22/109005
EDRMS NO: 79-2022-3-1****CARBON NEUTRALITY PROJECT UPDATE**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the status update for the Carbon Neutrality project.
- 2) Endorse the allocation of funding for the preparation of the Port Stephens Carbon Neutral Action Plan.

**ORDINARY COUNCIL MEETING - 11 APRIL 2023
MOTION**

092	Councillor Leah Anderson Councillor Glen Dunkley It was resolved that Council: <ol style="list-style-type: none">1) Note the status update for the Carbon Neutrality project.2) Endorse the allocation of funding for the preparation of the Port Stephens Carbon Neutral Action Plan.3) Quarterly updates be provided in the Council Information Papers on the Carbon Neutrality Action Plan and how Council is tracking to meet the target in 2025.
------------	--

Councillor Peter Kafer returned to the meeting at 7:52pm.
Councillor Matthew Bailey returned to the meeting at 7:52pm.

Cr Anderson requested the following amendment, which was consented to be included in the motion.

"That quarterly updates be provided in the Council Information Papers on the Carbon Neutrality Action Plan and how Council is tracking to meet the target in 2025."

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

Those against the Motion: Nil.

PORT STEPHENS COUNCIL**69**

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

The motion was carried.

BACKGROUND

The purpose of this report is to provide a progress update and identify next steps in the development of a Carbon Neutral Action Plan for Port Stephens Council.

At its meeting of 12 October 2021, Minute No. 275 (**ATTACHMENT 1**), Council resolved to:

- 1) Commit to the goal of achieving carbon neutrality for Council operations by 2025.
- 2) Determine a suitable funding source to support Council in achieving this goal.
- 3) Provide a report to Council on a roadmap to achieving carbon neutrality.

Council has implemented a number of initiatives to reduce operational greenhouse gas (GHG) emissions. A summary of activities and initiatives is as follows:

- Participating in a Power Purchasing Agreement to secure 100% renewable energy from the electricity grid
- Installing a solar photovoltaic system on Council's Administration Building, reducing annual energy consumption by 25%
- Installing solar photovoltaic systems on many of Council's libraries, community centres and Rural Fire Service buildings
- Installing solar pool pre-heating at Lakeside Leisure Centre, Tomaree Aquatic Centre and Tilligerry Aquatic Centre
- Installing solar photovoltaic system and water tank at Salamander Waste Transfer Station
- Use of recycled glass 'greencrete' in capital works projects
- Installing Building Management Systems and Programmable Logic Controllers at our Administration Building, Lakeside Leisure Centre and many sports and community buildings to deliver energy efficiencies and lower operating costs
- Installing variable-speed drives (VSD) at Lakeside Leisure Centre, Kangaroo Street and Stockton Street flood pumps to reduce energy consumption
- Installing energy-saving LED field lighting at sports facilities
- Installing energy-saving LED lighting at Council's Administration Building, Tomaree Library and Community Centre, Council works depots, surf clubs, community centres and halls
- Reduction in overall waste to landfill through reuse of recycled materials and materials diversion. During the data collection period, Council saved 8,865 kg of CO₂-e of GHG emissions by utilising recycled materials over virgin materials
- Cross organisational consultation, data collection and gap analysis in partnership with NSW Sustainability Advantage to establish carbon baseline figures and establish key focus areas.

Whilst the initiatives that Council has put in place have greatly reduced the organisations GHG emissions, a number of areas remain as the focus for further

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

emissions reductions in order to achieve Carbon Neutral status by the target date of 2025.

The focus areas for continued and future GHG emission reductions include electricity consumption (51%), Councils operational waste to landfill (27%), commuting (13.2%), and fleet vehicles and machinery emissions (8.8%).

In order to progress the project further, Council requires specialist knowledge and expertise that is not resourced within the organisation. Sustainability specialist providers in this industry have been contacted to provide estimated costs for the services required by Council to continue to progress the project.

Should the recommendation be accepted, a sustainability specialist would be engaged through Council's procurement process to undertake the summarised scope of work below:

Deliverables	
Comprehensive Carbon Audits (10 to 15 sites)	<p>Audit of Council's highest emissions producers such as:</p> <ul style="list-style-type: none">• Aquatic centres• Waste facilities• Administration buildings• Holiday parks• Libraries• Depots
Comprehensive Cost Benefit Analysis	<p>Consideration and recommendation of emissions reduction options including:</p> <ul style="list-style-type: none">• Operational process efficiencies, data collection, monitoring and reporting improvements.• Projected emissions reductions and scenario modelling.• Estimated costs to implement actions.• Estimated costs to maintain operations.• Payback period from operational savings.
Carbon Neutral Action Plan	<p>Preparation of document and agreed action plan for Council endorsement.</p>

Council sought an estimated quote for the provision of the above services, with the assistance from carbon neutral experts. The provision of the above services is estimated at \$47,000 (inc. GST). Cost is subject to Council's procurement process to ensure best value of services, and therefore the final cost may change. To continue to progress this project, the allocation of funding for this purpose is requested.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023**COMMUNITY STRATEGIC PLAN**

Strategic Direction	Delivery Program 2022-2026
Environmental Sustainability	Develop and deliver a program for Council leading the way to a climate positive future and mitigating environmental risks.

FINANCIAL/RESOURCE IMPLICATIONS

There is an immediate financial implication for the Carbon Neutrality project to resource the requisite skills and expertise.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	Yes	Est. \$47,000	Sustainability Reserve. Adoption of the recommendation will resource the next phase of the Carbon Neutrality project.
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There is not a legal requirement for Council to achieve carbon neutrality. Local Government plays an important role in reducing Australia's GHG emissions in their role as community leaders and creating environmentally sustainable regions. This assists in working towards the NSW State Government's target of achieving net zero emissions by 2050.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a reputational risk that Council would not achieve its commitment to Carbon Neutrality of Council's operational emissions by 2025 should resources not be allocated.	Medium	Accept the recommendation.	Yes
There is a financial risk that Council would need to fund the emissions gap to achieve its commitment to Carbon Neutrality of Council's operational emissions by 2025 should resources not be allocated.	Medium	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council's commitment to achieving carbon neutrality for Council operations by 2025 is an ambitious target that requires sufficient resourcing to be reached. Responding to climate change protects the natural and built environment for the benefit of the community and generations to come. Resourcing this project would reduce potential damage to Council assets, reduce disruption to the delivery of Council's services, reduce future costs associated with GHG emissions and set the example for the Port Stephens community.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section for technical refinement and awareness of the intent of the plan.

Internal

- Community Services Section
- Assets Section
- Finance Section
- Organisational Support Section

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

External

- NSW Government – Sustainability Advantage

OPTIONS

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

ATTACHMENTS

- 1) Minute No. 275, 12 October 2021.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 2

FILE NO: 24/190179
EDRMS NO: PSC2009-00965

DELEGATIONS REPORT

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
DIRECTORATE: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to advise Council of each occasion the Mayor and/or General Manager have exercised their delegations, other than under section 226 and 335 of the Local Government Act 1993, which are conferred on each role.

The report at **(ATTACHMENT 1)** provides details of the delegation exercised, such as the delegated authority, the date and the reason for exercising the delegation.

ATTACHMENTS

1) Delegations Report. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 DELEGATIONS REPORT.

MAYOR AND GENERAL MANAGER DELEGATION REPORT

Date exercised	Delegations exercised	Purpose	Role exercising delegation	Reported to Council
22 July 2024	Code of Meeting Practice	Approval of Public Access Application - Pacific Highway Intersections.	Mayor	12 November 2024
23 July 2024	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of tender T033-2024 - Animal Impoundment Services.	General Manager	12 November 2024
31 July 2024	Roads and Maritime Services delegations	Authorises the installation, display, removal or alteration of the traffic control devices for the listed items identified in the minutes of the Port Stephens Local Traffic Committee report dated 2 July 2024.	General Manager	12 November 2024
15 August 2024	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of tender T040-2024 - Fingal Bay North Amenities Redevelopment	General Manager	12 November 2024
26 August 2024	Roads and Maritime Services delegations	Authorises the installation, display, removal or alteration of the traffic control devices for the listed items identified in the minutes of the Port Stephens Local Traffic Committee report dated 6 August 2024.	General Manager	12 November 2024
20 September 2024	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of Request for Quote RFQ069-2024 - TfNSW State Roads - Reseal Prep Heavy Patching.	General Manager	12 November 2024
8 October 2024	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of Quote RFQ074-2024 - Brandy Hill Shared Asphalt Path.	General Manager	12 November 2024
8 October 2024	Roads and Maritime Services delegations	Authorises the installation, display, removal or alteration of the traffic control devices for the listed items identified in the minutes of the Port Stephens Local Traffic Committee report dated 3 September 2024.	General Manager	12 November 2024
21 October 2024	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of Quote RFQ070-2024 - TfNSW State Roads - Reseal.	General Manager	12 November 2024
21 October 2024	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of tender RFQ079-2024 - Supply and delivery of One Fuso Canter e918 Electric Truck with Capital Works Body.	General Manager	12 November 2024

ITEM NO. 3

**FILE NO: 24/279893
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 resolutions. [↓](#)
- 2) Corporate Strategy and Support resolutions. [↓](#)
- 3) Facilities and Infrastructure resolutions. [↓](#)
- 4) General Manager's Office resolutions. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.



Action Sheets Report	Division:	Community Futures	Date From:	10/10/2023
	Committee:		Date To:	24/10/2024
	Officer:		Printed:	Thursday, 24 October 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 10/10/2023	Lamont, Brock	URGENCY MOTION: Wind Farm Industry	30/03/2025		
		Peart, Steven				
24 Oct 2024 On 22 October 2024 Council agreed to continue the position from the 10 October 2023 motion as Council's ongoing position, which is to oppose the offshore wind project.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	RAMSAR Listing for Mambo Wanda Wetlands	30/12/2025	29/11/2023	
4		Peart, Steven				23/324875
24 Oct 2024 A briefing will be undertaken next term following receipt of responses from State and Federal Ministers.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/02/2024	Lamont, Brock	Draft Port Stephens Development Control Plan - Road Network and Parking (Electric Vehicles)	28/03/2025	28/02/2024	
3 014		Peart, Steven				24/50158
24 Oct 2024 Council resolved to endorse the Port Stephens Development Control Plan 2014 Chapter B8 Road Network and Parking (electric vehicles) and provide public notice. Outstanding actions have been integrated into forward work plans. A briefing will be presented to Councillors.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 23/07/2024	Gardner, Janelle	URGENCY MOTION: Youth Interagency - see Minutes for actions.	28/02/2025		
4		Peart, Steven				
24 Oct 2024 The next Youth Interagency meeting will be hosted by Port Stephens Family Neighbourhood Centre. At this meeting, it is intended that the facilitation role will be handed over to Port Stephens Council to lead going forward. Council staff have been coordinating with PSFANS to confirm a date for the meeting, as it has not yet been scheduled. Additionally, the Raymond Terrace working group will be established during this meeting to support local youth initiatives. As part of the ongoing review of the Youth Action and Advisory Plan (YAAP), efforts are being made to reinvigorate the group, with a focus on incorporating younger members in the new year.						

ITEM 3 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.



Action Sheets Report	Division:	Corporate Strategy and Support	Date From:	11/10/2022
	Committee:	Ordinary Council	Date To:	24/10/2024
	Officer:		Printed: Thursday, 24 October 2024	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Property Investment and Development Policy	30/03/2025	12/10/2022	
1		Pattison, Zoe				22/273002
24 Oct 2024 Public Exhibition will commence once requested amendments are made and further clarification on the distribution of funds is resolved.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	30/03/2025	12/10/2022	
2		Pattison, Zoe				22/273002
24 Oct 2024 Report deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Pattison, Zoe	22 Homestead Street, Salamander Bay	30/06/2025	12/04/2023	
5 088		Pattison, Zoe				23/92450
24 Oct 2024 Council is investigating 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.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/08/2023	Pattison, Zoe	Raymond Terrace Gateway Site Masterplan	30/06/2025		
1 193		Pattison, Zoe				23/214729
24 Oct 2024 Following a two way conversation with Councillors in November 2023, the options presented will be included in the context of the broader Raymond Terrace town centre improvements.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2024	Peterkin, Glen	Proposed Sale or Lease of 528 Hunter Street, Newcastle	28/02/2025	29/05/2024	
1		Pattison, Zoe				24/131056
24 Oct 2024 Marketing underway for a sale or lease scenario. The outcome of the negotiations will be reported back to Council.						

ITEM 3 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.



Action Sheets Report	Division:	Corporate Strategy and Support	Date From:	11/10/2022
	Committee:	Ordinary Council	Date To:	24/10/2024
	Officer:		Printed: Thursday, 24 October 2024	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/06/2024	Dodds, Melissa	Policy Review: Public Access to State Records after 20 Years Policy	30/03/2025	12/06/2024	
4		Pattison, Zoe				24/145208
24 Oct 2024 The exhibition period has closed with no formal submissions being received during this time. The policy will go back to a future Council meeting.						

ITEM 3 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE RESOLUTIONS.



Division:	Facilities and Infrastructure	Date From:	27/08/2013
Committee:		Date To:	24/10/2024
Officer:		Printed:	Thursday, 24 October 2024
Action Sheets Report			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
243	27/08/2023	Maretich, John Kable, Gregory	Campvale Drain	30/06/2025		
24 Oct 2024 Awaiting final execution of easement documentation for 2 properties. All other properties (with exception of these 2) have been finalised.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Maretich, John Kable, Gregory	Naming Recreation Precinct at Medowie after Geoff Dingle	30/06/2025	12/04/2023	
2 085						23/92450
24 Oct 2024 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 28/11/2023	Maretich, John Kable, Gregory	Sale of closed roads in Raymond Terrace	30/06/2025	29/11/2023	
1						23/324875
24 Oct 2024 Two of the roads are being marketed. An Expression of Interest (EOI) for the remaining road is underway.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2024	Maretich, John Kable, Gregory	Bus Stop Infrastructure Plan	31/03/2025	29/05/2024	
1						24/131056
24 Oct 2024 As per Council resolution a review of the Bus Stop infrastructure will be undertaken.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2024	Maretich, John Kable, Gregory	Pathways Review	31/03/2025	29/05/2024	
2						24/131056
24 Oct 2024 As per Council resolution, staff will undertake a review of Council's pathways plans.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/07/2024	Maretich, John Kable, Gregory	Maintenance of Gravel Roads	31/03/2025	10/07/2024	
2						24/176219
24 Oct 2024 As per Council resolution, staff will undertake a review of the maintenance of gravel roads.						

ITEM 3 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE
RESOLUTIONS.

Action Sheets Report	Division:	Facilities and Infrastructure	Date From:	27/08/2013
	Committee:		Date To:	24/10/2024
	Officer:		Printed:	Thursday, 24 October 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/07/2024	Maretich, John	Raymond Terrace Boat Ramp	31/03/2025	24/07/2024	
6		Kable, Gregory				24/189773
24 Oct 2024						
Staff will investigate options to upgrade Raymond Terrace Boat Ramp and present in a two-way conversation.						



Action Sheets Report	Division:	General Manager's Office	Date From:	09/07/2024
	Committee:		Date To:	22/10/2024
	Officer:		Printed:	Thursday, 24 October 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/07/2024	Wickham, Tony	Initiation of a Proposal to Alter the Port Stephens Local Government Boundaries	28/02/2025	10/07/2024	
1		Crosdale, Timothy				24/176219
22 Oct 2024						
Engagement with neighbouring Councils is being undertaken.						

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.