

# NOTICE OF ORDINARY MEETING

## 12 MARCH 2024



The Mayor and Councillors attendance is respectfully requested:

Mayor: R Palmer (Chair).

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

### SCHEDULE OF MEETINGS

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

### Please Note:

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

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

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

Food and beverages are not permitted in the Council Chamber.

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## **BUSINESS**

1) Opening meeting.

2) Acknowledgement of Country

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

3) Prayer

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

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

5) Disclosures of interests.

6) Confirmation of minutes Ordinary Meeting of 27 February 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 MARCH 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 <sup>1</sup>	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) <sup>2</sup> [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]	

<sup>1</sup> 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.

<sup>2</sup> 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"/>	<b>pecuniary</b> conflict of interest
<input type="checkbox"/>	<b>significant</b> non pecuniary conflict of interest
<input type="checkbox"/>	<b>less than significant</b> non- pecuniary conflict of interest

in this item. The nature of the interest is \_\_\_\_\_

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**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.)**

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**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: 24/42427  
EDRMS NO: PSC2023-00257

**MOTION TO CLOSE**

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

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**RECOMMENDATION:**

- 1) That pursuant to section 10A(2) (d)ii of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **Purchase of property - Tomago**.
  - 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 competitor of the council.
  - 3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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# COUNCIL REPORTS

**ITEM NO. 1****FILE NO: 24/30305  
EDRMS NO: 16-2021-888-3****DEVELOPMENT APPLICATION 16-2021-888-3 FOR MODIFICATION OF 3 STOREY DWELLING, POOL AND LANDSCAPING AT 3 GYMEA WAY, NELSON BAY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves Development Application DA No. 16-2021-888-3 for modification of 3 storey dwelling, pool and landscaping at 3 Gynea Way Nelson Bay (Lot 3 DP285941, subject to the conditions contained in **(ATTACHMENT 1)**.
- 2) Supports the Clause 4.6 variation request to the building height for the reasons outlined within this report.

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**BACKGROUND**

The purpose of this report is to present a modification to development application (DA) 16-2021-888-3 for a 3 storey dwelling, pool and landscaping to Council for determination.

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

Subject Land:	3 Gynea Way, Nelson Bay (Lot: 3 DP: 285941)
Total Area:	1,166.68 <sup>2</sup>
Zoning:	R2 Low Density Residential Zone
Submissions:	0
Key Issues:	The key issues identified throughout the assessment of the DA relate to building height. The development standard is Clause 4.3 – Height of Buildings and the extent of the variation is 12.2% (1.252m).

The DA has been reported to Council in accordance with Council's 'Council Related Planning Matters Policy' as the DA includes a request to vary a development standard by greater than 10%. The development standard is Clause 4.3 – Height of Buildings and the extent of the variation is 12.2% (1.252m). A locality plan is provided at **(ATTACHMENT 2)**.

### Proposal

The DA modification seeks consent to increase the height of a 3 storey dwelling (DA 16-2021-888-2). The proposed design modification will include blade walls to the back of the upper floor, side elevations of the dwelling. The blade walls are to increase the privacy of adjoining neighbours and enhance the architectural design of the dwelling.

### Site Description and History

The subject site is legally identified as Lot 3 DP 285941 and is generally known as 3 Gynea Way, Nelson Bay. The site has a significant fall from the west to the east and is currently vacant of any structures. The site is accessed from Gynea Way to the east. The site is largely surrounded by low density residential development.

### Key Issues

The key issues identified throughout the assessment of the DA relate to the proposed exceedance of the building height. A detailed assessment of the DA is contained within the Assessment Report (**ATTACHMENT 3**).

### Building Height

The Development Application (DA) exceeds the prescribed maximum building height for the site as outlined in Clause 4.3 of the Port Stephens Local Environmental Plan 2013 (LEP). The proposed maximum building height is 10.252m, surpassing the 9m limit by 1.252m, constituting a 12.2% variation to the development standard.

The applicant has formally requested a variance to the building height development standard, as permitted by Clause 4.6 of the LEP. Council staff has reviewed and supported the proposed height variation based on the following considerations:

- a) The proposed development is considered to be appropriate for the context of the area in that many dwellings located on the ridge have been designed in such a way that responds to the slope of the land (cl 4.6(4)(a)(ii))
- b) The height variation is restricted to the roof components of the proposed dwelling and does not result in impacts to existing view corridors nor result in adverse amenity or overshadowing impacts to neighbouring properties (cl 4.6(4)(a)(ii))
- c) The proposed development exceeds the maximum height of building limit due to the steep topography of the land. The dwelling steps down with the topography of the land to reduce the scale and overall height of the development which is consistent with other development in the locality and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii))
- d) The height non-compliance does not result in the building being out of scale in the context of surrounding development and is not likely to have an adverse impact

on local amenity and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii)). Moreover, the building height variation is considered appropriate as the building heights for dwellings along Gynea Way and within the locality are constructed or approved over the 9m LEP height limit, which informs the impact of the proposed development on the existing and future character. This includes an approved dwelling at 7 Gynea Way with an approved height of 10.24m, 21 Tareebin Road that has an approved height of 11.23m and a dual occupancy at 21C Tareebin Road, which has an approved height of 11.32m.

The height variations to these dwellings surrounding the site are attributed to the challenging topography of the immediate locality and requirement to establish building footprints capable of supporting a dwelling.

The proposed dwelling is considered to satisfy the objectives of Clause 4.6, as the design will achieve a better outcome in these particular circumstances, noting the objectives of the development standard are achieved notwithstanding the non-compliance. The proposed building is considered to be appropriate in the context of the site.

The applicant's Clause 4.6 variation request sufficiently demonstrate that there are valid environmental planning grounds justifying the deviation from the building height standard. Consequently, the building height variation finds support. A comprehensive evaluation against Clause 4.6 can be found in the Assessment Report **(ATTACHMENT 3)**.

### Conclusion

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

### **COMMUNITY STRATEGIC PLAN**

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

### **FINANCIAL/RESOURCE IMPLICATIONS**

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

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

**ORDINARY COUNCIL - 12 MARCH 2024**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

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

The non-compliances with the LEP and the Port Stephens Development Control Plan 2014 (DCP 2014) are considered acceptable and consistent with the relevant control objectives. A detailed assessment against the environmental planning instruments is contained within the Assessment Report contained at **(ATTACHMENT 3)**.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is approved, the determination of the DA may be challenged by a third party in the Land and Environment Court.	Low	Accept the Recommendation.	Yes
There is a risk that if the DA is refused, the determination of the DA may be challenged by the applicant in the Land and Environment Court.	Medium	Accept the Recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed development represents a modern residential development and will provide additional housing to service the needs of the community. The dwelling will allow for the development of currently vacant land in an already established residential area. The construction of the proposed development will provide employment opportunities in the locality during the short term and support the local



building and development industries. This will have direct monetary input to the local economy, and the increased number of residents in the locality will provide ongoing economic input through daily living activities.

As assessed throughout the report, the proposed development has been designed to respond to the site constraints whilst also reducing potential adverse impacts to neighbouring properties.

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

#### Impacts on the Built Environment

Whilst the height of the dwelling exceeds the maximum height limit, the development has been designed to correspond with the significant slope of the land without requiring significant earthworks or creating adverse amenity impacts to neighbouring properties. Overall, it is considered that the proposed development will make appropriate use of an existing vacant site with no adverse impacts to the surrounding built environment in terms of bulk or scale.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Proposed Conditions of Consent. [↓](#)
- 2) Locality Plan. [↓](#)
- 3) Assessment Report. [↓](#)

### **COUNCILLORS' ROOM/DASHBOARD**

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

### **TABLED DOCUMENTS**

Nil



## SCHEDULE 1 – CONDITIONS OF CONSENT

### 1.0 - General Conditions of Consent

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

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

Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
DA.01-DA.34	J	DA Modification s4.55	Greenbuild	11.10.23

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

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

- (2) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (3) **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:
- protect and support the adjoining premises from possible damage from the excavation; and
  - where necessary, underpin the adjoining premises to prevent any such damage.

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

#### PORT STEPHENS COUNCIL

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



- (4) **Sign on building** – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.

The sign must be maintained while the work is being carried out and is to be removed when the work is completed.

- (5) **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.

- (6) **Footpath crossing construction** – A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.

**Note:** A Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of such works.

- (7) **Swimming pools and spas** - The swimming pool/spa must comply with:

- a) the Swimming Pools Act 1992;
- b) the Swimming Pools Regulation 2018;
- c) AS 1926.1 'Swimming Pool Safety' Part 1: Safety barriers for swimming pools;
- d) AS 3500.2 'Plumbing and Drainage' – Sanitary plumbing and drainage';
- e) AS1926.3 'Water Recirculation Systems'; and
- f) the Building Code of Australia.

## 2.0 – Prior to Issue of a Construction Certificate

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

nil

## 3.0 - Prior to Commencement of Works

The following conditions of consent shall be complied with prior to any works commencing on the development site.

- (1) **Home Building Act requirements** - Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information —



- a) In the case of work for which a principal contractor is required to be appointed—
  - (i) the name and licence number of the principal contractor, and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- b) In the case of work to be done by an owner-builder—
  - (iii) the name of the owner-builder, and
  - (iv) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- (2) **Payment of development contributions-** In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (3) **Notice of Principal Certifying Authority appointment** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the Environmental Planning & Assessment Regulation 2000. The notice must include:
  - a) a description of the work to be carried out;
  - b) the address of the land on which the work is to be carried out;
  - c) the Registered number and date of issue of the relevant development consent;
  - d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;
  - e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
  - f) a telephone number on which the PCA may be contacted for business purposes.
- (4) **Notice commencement of work** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the Environmental Planning & Assessment Regulation 2000. The notice must include:
  - a) the name and address of the person by whom the notice is being given;
  - b) a description of the work to be carried out;
  - c) the address of the land on which the work is to be carried out;
  - d) the Registered number and date of issue of the relevant development consent and construction certificate;



- e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
- f) the date on which the work is intended to commence.

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

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

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

- (6) **Erosion and sediment controls in place** – Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- (7) **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.
- (8) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.
- No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.
- (9) **Damage report – Public Infrastructure** – The applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.



- (10) **Roads Act Approval** – For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roads Act Approval Certificate under Section 138B of the Roads Act 1993.
- (11) **Surface water collection from swimming pools and spas** - Swimming pool surrounds and/or paving must be constructed so as to ensure water from the pool overflow or surge does not discharge onto neighboring properties.  
Details demonstrating compliance must be provided to the Certifying Authority.
- (12) **Construction Certificate Required** – In accordance with the provisions of Section 6.7 of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:
  - a) a Construction Certificate has been issued by a Consent Authority;
  - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the EP&A Act 1979; and
  - c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

#### 4.0 - During Works

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

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

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



- (3) **Hours of work** – The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:  
7.00am to 5.00pm on Monday to Saturday  
The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.  
Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.  
**Note:** Any variation to the hours of work requires Council's approval.
- (4) **Toilet facilities** – Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.  
The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.
- (5) **Compliance with the Building Code of Australia** – Building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (6) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:  
a) Diverted through a first flush system before being connected to an existing stormwater easement/system/street.
- (7) **Placement of fill** - Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.  
Further, any alterations to the natural surface contours must not impede or divert natural surface water runoff so as to cause a nuisance to adjoining property owners.
- (8) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.
- (9) **Uncovering relics or Aboriginal objects** - While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.  
In this condition:



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

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

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

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

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

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

- (11) **Waste water from swimming pools and spas** – All swimming pool waste water must be disposed of as follows:

- a) Where a Hunter Water sewer is available – waste water must be drained or pumped to the sewer.
- b) Where a Hunter Water sewer is not available (such as rural areas) – waste water must be disposed of as follows:

Chlorinated pool waste water:

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

Saltwater pool waste water:





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

All pool types:

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

**(12) CONDITION DELETED UNDER 16-2021-888-2**

- (12.1) **Bushfire Safety** – The development shall be constructed in accordance with the recommendations of the bushfire assessment report prepared by BEMC, Reference No.231043 and dated 1 March 2023.

- (13) **Building Height** – A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.  
Building height is not to exceed 9.9m above ground level existing.

**5.0 - Prior to Issue of a Subdivision Certificate**

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

nil

**6.0 - Prior to Issue of an Occupation Certificate**

The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.

- (1) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development.  
The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.
- (2) **Stormwater/drainage works** – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.  
The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.
- (3) **Repair of infrastructure** – Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works(including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the



written satisfaction of Council, and at no cost to Council.

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

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

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

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

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

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

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

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

## **7.0 – Ongoing Use**

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

- (1) **Residential air conditioning units** – During occupation and ongoing use of the building, the applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plant and equipment that generates noise are in an appropriate location on the site (including a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBA at the boundary adjacent to any habitable room of an adjoining residential premises.

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

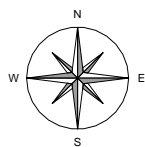
The location of equipment that causes offensive noise may require the equipment to be located within a suitable acoustic enclosure, or the relocation of such equipment.



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



## GIS Plot



MGA 56



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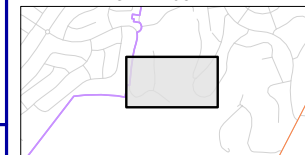
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### SHEET LOCALITY







**PORT STEPHENS**  
COUNCIL

## S4.55(1A) MODIFICATION APPLICATION ASSESSMENT REPORT

### APPLICATION REFERENCES

<b>Modification Application Number</b>	16-2021-888-3
<b>Development Description</b>	Three storey dwelling and swimming pool
<b>Modification Description</b>	S4.55 (1A) modification to three storey dwelling and swimming pool, re-design of dwelling and pool - amendment to rear facade, roof design & overall configuration
<b>Applicant</b>	GREENBUILD CONSTRUCTIONS PTY LIMITED
<b>Date Of Lodgement</b>	19/09/2023

### PROPERTY DETAILS

<b>Property Address</b>	3 Gynea Way NELSON BAY
<b>Lot and DP</b>	LOT: 3 DP: 285941
<b>Zoning</b>	R2 LOW DENSITY RESIDENTIAL
<b>Site constraints that affect the modification</b>	

### PRE-ASSESSMENT CHECKLIST

OWNERS CONSENT	YES	N/A
Check if S.4.55 to be reported to Council (original DA determined by Council)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Check whether consent is still valid (check lapse date).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NOTIFICATION	YES	N/A
S.4.55 application only - notify previous objectors.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REFERRALS	YES	N/A
S.4.55 Application only - Integrated referral bodies notified.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### MODIFICATION PROPOSAL

## ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

16-2021-888-3

Application to increase height, due to the steep sites slope. The design presents as terraced three floor dwelling on the south elevation.

## PLANNING ASSESSMENT

## REFERRALS

The proposed development was referred to the following internal specialists and external agencies.

## Internal

No internal referral were required as part of the modification assessment.

## External (non-integrated)

No internal referral were required as part of the modification assessment.

## Section 4.55(1A) – Modifications involving minimal environmental impact

## Section 4.55(1A)(a) – Minimal environmental impact

The comments provided by the special staff and external agencies have been used to carry out the assessment against the S4.15 Matters for Consideration below:

The application proposes an increased height due to the sites slope. The design presents as a terraced three storey dwelling on the south elevation. The amended design increases the height encroachment above the 9m allowable height limit.

The design is approved at 9.9m by council staff under DA No: 16-2021-888-2. The new proposed height on the southern elevation is now proposed at 10.252m, representing a (12.2%) variation.

The total area of encroachment above 9m represents 5.737m<sup>2</sup> across the south elevation. The minor numerical change due to the new blade wall will enhance privacy to both the occupants and the future southern neighbours. This design will not impact on the privacy, light or amenity of the future southern neighbour.

As the proposed variation is greater than 10%, the development application will be determined by the elected Council.

**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.

The relevant development standard(s) and the extent of the proposed variation(s) is:

Development Standard	Proposed Variation	Extent of Variation (%)
Clause 4.3 of the PSLEP	1.252m	12.2%

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP. Council staff are satisfied with the proposed height variation on the following grounds:

## ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

16-2021-888-3

(a) the proposed development is considered to be appropriate for the context of the area in that many dwellings located on the ridge have been designed in such a way that responds to the slope of the land (cl 4.6(4)(a)(ii));

(b) the height variation is restricted to the roof components of the proposed dwellings and does not result in impacts to existing view corridors nor result in adverse amenity or overshadowing impacts to neighbouring properties (cl 4.6(4)(a)(ii));

(c) the proposed development exceeds the maximum height of building limit due to the steep topography of the land. The dwelling steps down with the topography of the land to reduce the scale and overall height of the development which is consistent with other development in the locality and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii));

(d) the height non-compliance does not result in the building being out of scale in the context of surrounding development and is not likely to have an adverse impact on local amenity and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii)).

The proposed development is considered to satisfy the objectives of Clause 4.6, as the design will achieve a better design outcome in these particular circumstances, noting the objectives of the development standard are achieved notwithstanding the non-compliance. The proposed building is considered to be appropriate in the context of the site.

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

**s4.15(1)(a)(ii) – Any Draft EPI**

Assessment	
There are no draft EPI's that are relevant to the proposed development	<input checked="" type="checkbox"/>
<b>Comment:</b>	
A draft EPI is relevant to the proposed development however the application is consistent with the aims and objectives of the document.	<input type="checkbox"/>
<b>Comment:</b>	

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

DCP Chapter	Compliant
<b>B – General Controls</b>	<input checked="" type="checkbox"/>
<b>Comment:</b>	
<b>C Development Type</b>	<input checked="" type="checkbox"/>
<b>Comment:</b>	A clause 4.6 LEP variation has been submitted to support the application.
<b>D Specific Areas</b>	<input checked="" type="checkbox"/>
<b>Comment:</b>	D6 Nelson Bay West DCP applies

Page 3 of 4

## ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

16-2021-888-3

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

Assessment	
There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.	<input checked="" type="checkbox"/>
Comment:	

**s4.15(1)(a)(iv) – The regulations**

Assessment	
There are no matters within the regulations that are relevant to the determination of the application.	<input checked="" type="checkbox"/>
Comment:	

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

Assessment	
Social and Economic Environment	
Comment:	There would be beneficial impacts as a result of the development.
Built Environment	
Comment:	The proposed development would not cause harm to the existing character.
Natural Environment	
Comment:	There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added.

**MODIFIED CONDITIONS**

No Modification to conditions of consent required.

**DETERMINATION**

The modification application is recommended to be approved subject to amended conditions as shown above.

CHRISTOPHER GWYNNE

**Building Surveyor**

(Community Futures Directorate)



ITEM NO. 2

FILE NO: 24/18791  
EDRMS NO: 16-2023-379-1

**DEVELOPMENT APPLICATION 16-2023-379-1 FOR A 6 STOREY RESIDENTIAL FLAT BUILDING WITH BASEMENT CAR PARKING AT 5 DONALD STREET, NELSON BAY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves Development Application 16-2023-379-1 for a 6 storey residential flat building with basement car parking, subject to the conditions contained in **(ATTACHMENT 1)**.
- 2) Supports the Clause 4.6 variation request to vary the minimum building street frontage control, for the reasons outlined in the Planners Assessment Report **(ATTACHMENT 2)**.

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**BACKGROUND**

The purpose of this report is to present development application (DA) 16-2023-379-1 for a 6 storey residential flat building with basement car parking, to Council for determination.

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

Subject Land:	5 Donald Street, Nelson Bay, (Lot 49 DP 15998)
Total Area:	1,128m <sup>2</sup>
Submissions:	3
Key Issues:	The key issues identified throughout assessment of the development relate to the proposed variation to the minimum street frontage development standard and variations to building setback requirements.

The DA has been reported to Council in accordance with Council's 'Planning Matters to be Reported to Council Policy' as the DA includes a request to vary a development standard by greater than 10%. The development standard is Clause 7.23 – 'Minimum building street frontages for development in Zones R3 and B2', and the extent of the variation proposed is 18% (2.7m). The minimum building street frontage control requirement is 15m and the site street frontage is 12.3m. A locality plan is provided at **(ATTACHMENT 3)**.

### Proposal

The application seeks consent for construction of a 6 storey residential flat building (RFB) comprising 5 apartments, ground floor lobby, basement carpark and strata subdivision. Specific details of the proposal include:

- Removal of an existing 2 storey dwelling, ancillary structures (retaining walls, shed and concrete driveway) and vegetation (14 trees)
- Construction of a 17.5m RFB containing 5 x 3-bedroom units (located throughout levels 1-6)
- Ground / basement level containing pedestrian entrance, lobby, lift, utility rooms, communal area and 12 space carpark
- Site works, installation of services and landscaping throughout each level.

### Site Description and History

The subject site is located at 5 Donald Street, Nelson Bay, legally identified as Lot: 49 DP 15998. The site is an irregular 'wedge' shaped allotment with a 12.3m curved frontage to Donald Street, southern and northern boundary lengths of 62.81m and 68.81m respectively and a rear boundary of 24.39m totalling an area of 1128m<sup>2</sup>. The site slopes away from its central portion to the front boundary with a fall of approximately 2m, and from its central portion to the rear boundary (south-eastern corner) with a fall of approximately 5m.

The site is located on the eastern side of Donald Street, within a well-established residential area comprising older apartment stock in the form of 3 and 4 storey walk-up residential flat buildings, single dwellings and modern high density infill developments. The site is largely undeveloped with a double storey weatherboard dwelling and ancillary metal shed located over the central portion of the site. A number of large trees are located within the front and rear portions of the site.

### Key Issues

The key issues identified throughout assessment of the development relate to the proposed variation to the minimum street frontage development standard and variations to building setback requirements. A detailed assessment of the DA is contained within the Planners Assessment Report (**ATTACHMENT 2**).

### Minimum street frontage

The objective of Clause 7.23 of the Port Stephens Local Environmental Plan 2013 (PSLEP 2013) is to ensure that, visually, buildings have appropriate overall horizontal proportions compared to their vertical proportions. The strategic purpose of the street frontage standard was to encourage lot amalgamation with an aim to enhance design outcomes and density.

Given the site is zoned R3 medium density residential and is located within the Nelson Bay Precinct Area, a building erected on land to which this clause applies

must have at least one street frontage of 15m or more. Noting the development standard under Clause 7.23 is 15m and the site only has a frontage to Donald Street of 12.3m, the proposal fails to comply with the numerical control of this Clause. This non-compliance represents an 18% variation to Clause 7.23.

The minimum street frontage control was adopted in 2020 as part of the Nelson Bay Town Centre Planning Proposal, which sought to increase building heights, floor space ratio controls and establish an urban design framework for the Nelson Bay Town Centre. As part of the Planning Proposal and subsequent LEP amendment in 2020, the LEP introduced a requirement for new development in the Town Centre precinct to have a minimum primary street frontage. The purpose of the street frontage LEP requirement is outlined below:

- To ensure that, visually, buildings have appropriate overall horizontal proportion compared to their vertical proportions
- To provide appropriate dimensions and spacing to ensure adequate privacy between any residential component and the adjoining land use
- To provide appropriate dimensions for the design of car park levels and ensure access is reasonably spaced along roads and lanes
- To encourage consolidation of lots to facilitate development of commercial office, business, residential and mixed use buildings provided for under the PSLEP.

Providing a minimum primary street frontage was intended to align with other development standards to ensure appropriate vertical to horizontal proportions of new buildings in the Town Centre as set out in the Delivery Program. The proposed variation to the standard is considered to be consistent with the objectives of Clause 7.23 on the following grounds:

- The variation is a result of the inability to acquire the adjoining property to the south at 7 Donald Street to form part of the development site. In accordance with the site isolation planning principles established in *Karavellas v Sutherland Shire Council* [2004], a formal offer was made to purchase the adjoining property that was supported by an independent property valuation, with this offer subsequently refused by the adjoining landowner. Concept development plans for the adjoining site have been submitted to Council which demonstrate that the land is capable of achieving an appropriate built form that is consistent with the zoning of the land – R3 Medium Density Residential zone, and that provides a similar development yield and density as that proposed by the subject application. In effect, the proposed development has demonstrated it will not sterilise the adjoining site.
- The variation is a result of the irregular lot shape and curved street frontage of the site. The intent of the standard is to ensure lots are of a suitable width (15m) to accommodate a residential flat building development of appropriate horizontal proportions. In this circumstance, the site has an average lot width of 17.4m and the majority of the built form is proposed to be located within the portion of the site with a width greater than 15m. The site provides for a lot frontage of greater than 15m at the building line. It is also noted that an additional length of 2.7m along the curved frontage of the site would not provide significant additional usable site area

that would allow for a more horizontally proportioned building on the site, and as such the proposed building is consistent with the appearance of a development on the site that complies with the standard.

- The overall height and scale of the development is consistent with that anticipated within the R3 Medium Density Residential zone as the proposal complies with the 17.5m height and 2.5:1 FSR principle development standards that apply to the site. The development is therefore consistent with the character envisaged by the planning standards for the site when viewed from Donald Street and the Nelson Bay Town Centre and Foreshore planning strategy. As a compliant site frontage would be unlikely to contribute significant additional area that would accommodate a more horizontally proportioned building, the variation does not result in a building appearance that is incompatible with the standard and is suitable for the subject site. The numerical variation is negligible and not in contravention of the objectives of Clause 7.23.
- The development is for a residential flat building development containing 5 x 3 bedroom dwellings within the Town Living and Commercial Precinct of the Nelson Bay Centre. The development will contribute to the provision of housing within the locality consistent with the desired future character for the locality in accordance with Part D5.5 of the Port Stephens DCP 2014.

#### Clause 4.6 Variation - Minimum street frontage

A written request to vary this development standard has been submitted by the applicant under Clause 4.6 of the PSLEP 2013. The submitted Clause 4.6 variation request adequately demonstrates that there are sufficient environmental planning grounds to justify varying the minimum building street frontage control as outlined within the Clause 4.6 Assessment Report (**ATTACHMENT 4**).

#### Building Separation and Setbacks

The proposed development does not achieve the design criteria contained at Objective 3F-1 of the ADG with respect to building separation (habitable and non-habitable setbacks to the adjoining property boundaries). In particular, the proposed habitable setback (average balconies of 3m to the northern boundary), (average non-habitable setback of 2m to the southern boundary) and habitable setback at the upper level to the eastern boundary do not achieve the required separation criteria. The proposed development has incorporated the design guidance of Part 3F of the Apartment Design Guidelines (ADG) with respect to building separation and the proposed building separation is considered acceptable based on the following:

- The building separation is acceptable for an infill development and the northern side elevation has been designed with screen elements at the building line where needed to preserve the amenity of the adjoining property at 1 Donald Street
- The upper level balconies have been designed with an outlook to the north-east and west to mitigate any overlooking across the northern side boundary, with the

balconies at the front and rear recessed from the northern building line to provide further separation to the northern side boundary

- The proposed building has a separation of 12m-15m from the existing residential flat building at 1 Donald Street, providing the required distance envisioned by the ADG with respect to separation between residential flat buildings. The existing canopy trees on this adjoining property, and proposed tree plantings within the northern side setback will further obscure any potential sightlines across the northern side boundary
- The proposed non-habitable setback at the southern boundary of 2m does not present any visual privacy impacts noting it is designed with non-habitable conditions, with the windows at this elevation designed with slender vertical proportions to minimise direct sightlines across the side boundaries of the site. The varying element at this elevation does not extend across the length of the building; rather the proposed central circulation corridor and southern building line are recessed to a setback of 3m to 3.5m with landscaped planters proposed at Level 1 and Level 5 which soften the visual impact of this elevation
- The proposed setback to the rear boundary is acceptable noting the development has been designed with an additional 3m separation beyond that required for habitable conditions where a site adjoins a lower density residential zone. The variation to the required design criteria results from the level 5 balcony that has a setback of 10m from the eastern boundary. The existing and proposed canopy tree plantings within the rear boundary serve to obscure direct sightlines towards the adjoining low-density residential zone to the east.

#### Urban Design Panel (UDP)

Section 28 of State Environmental Planning Policy State Environmental Planning Policy No. 65 – Quality Design of Residential Apartment Development (SEPP 65) requires the consent authority (Council) to take into consideration advice obtained from a formalised design review panel. The proposed development was reviewed by Council's Urban Design Panel (UDP) on 14 September 2023 following lodgement of the application.

The UDP did not support the original design noting 'although in many respects the design of the building is of a very high standard and would be a welcome addition to the area if it had a larger site, the narrowness of the actual site, combined with the building's height and scale, and corresponding lack of separation and useful deep soil landscape capacity, represent an unacceptable imposition on the surrounding context'.

In response, the applicant revised the design and the UDP subsequently reviewed the proposal as amended. The amended design incorporated changes as suggested by the UDP including a reduced building height, increased building separation and re-allocation of excess parking spaces for deep soil landscaping.

The UDP also acknowledged that attempts were made to purchase the adjoining property to the south in accordance with the planning principle established in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251. The UDP were also

satisfied with the prospective design and block models provided for 7 Donald Street, demonstrating the adjoining site is still capable of being developed without consolidation. It was demonstrated the proposed development would not sterilise the future development potential of the adjoining property at 7 Donald Street.

A more detailed discussion of UDP comments are contained within the Planners Assessment Report (**ATTACHMENT 2**).

### Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 2**), the proposed development is considered consistent with the aims and objectives of the relevant environmental planning instruments and Council policies applicable to the subject site.

It is considered that the DA has been suitably designed to address the site constraints and despite the proposed variation to the LEP relating to minimum street frontage, the objectives of this clause are achieved.

## **COMMUNITY STRATEGIC PLAN**

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

## **FINANCIAL/RESOURCE IMPLICATIONS**

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

## **LEGAL, POLICY AND RISK IMPLICATIONS**

The proposed development is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act), the

Biodiversity Conservation Act 2016, PSLEP 2013, PSDCP 2014 and associated State Environmental Planning Policies. Despite the proposed variation to the PSLEP relating to minimum street frontage, the objectives of this clause are achieved. A detailed assessment against these environmental planning instruments is contained within the Planners Assessment Report contained at **(ATTACHMENT 2)**.

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

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

### Social and Economic Impacts

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

### Impacts on the Built Environment

The proposed development is considered to result in a positive impact on the developing built form in Nelson Bay with acceptable offsite impacts. Whilst the building will create additional overshadowing in some instances, the increase is primarily in mid-winter and will not significantly decrease the amenity of neighbouring

properties, noting overshadowing already occurs to some capacity within these properties. The applicant provided detailed architectural plans for consideration as well as a Visual Impact Assessment (VIA), 3D renderings of the building within its adjacent context, and overshadowing diagrams. Based on this information, the proposed design and built form has been assessed by both the UDP and Council staff as being supportable. Overall, the development will provide a high quality architecturally designed building, which will have a positive impact on the streetscape and positive impact on the public domain.

#### Impacts on the Natural Environment

The proposed development includes water quantity and quality control devices to reduce the impact of the development on the natural environment. The site is substantially cleared of vegetation and is largely surrounded by established residential development. The proposal is not considered likely to impact upon the significance of sensitive habitat or high value ecological areas.

### **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

Internal consultation was undertaken with Council's Development Engineer, Building Surveyor, Environmental Planner, Development Contributions Officer, Environmental Health Officer and Council's Urban Design Panel (UDP). The referral comments from these officers have been considered as part of the Planners Assessment Report **(ATTACHMENT 2)**. All internal referral officers supported the DA subject to the recommended conditions of consent **(ATTACHMENT 1)**.

#### External

External consultation was undertaken with Ausgrid due to the sites proximity to overhead power lines and WaterNSW for dewatering requirements. In response, no objection was made. The comments provided by Ausgrid and WaterNSW were considered during the detailed assessment and are discussed within the Planners Assessment Report **(ATTACHMENT 2)**.

#### Public Submissions

The application was publically exhibited from 4 August 2023 to 31 August 2023, in accordance with the Port Stephens Council Community Engagement Strategy. During this time, 3 submissions opposing the development were received. A detailed response to these submissions is provided in the Planners Assessment Report in **(ATTACHMENT 2)**.



## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Recommended Conditions of Approval. [↓](#)
- 2) Planners Assessment Report. (Provided under separate cover) [⇒](#)
- 3) Locality Plan. [↓](#)
- 4) Clause 4.6 Assessment Report. [↓](#)

## **COUNCILLORS' ROOM/DASHBOARD**

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

## **TABLED DOCUMENTS**

Nil.

## RECOMMENDED CONDITIONS OF CONSENT

**1.0 - General Conditions of Consent**

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

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

Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
2705 – A0006	B	Demolition Plan	EMK	26/10/2023
2705 – A0009	B	Site Plan	EMK	26/10/2023
2705 – A0101	B	Ground Floor and Basement	EMK	26/10/2023
2705 – A0102	B	Level 1	EMK	26/10/2023
2705 – A0103	B	Level 2 – 4	EMK	26/10/2023
2705 – A0104	B	Level 5	EMK	26/10/2023
2705 – A0105	B	Level 6	EMK	26/10/2023
2705 – A0106	B	Roof Plan	EMK	26/10/2023
2705 – A0201	B	Elevations – Sheet 1	EMK	26/10/2023
2705 – A0202	B	Elevations – Sheet 2	EMK	26/10/2023
2705 – A0203	B	Elevations – Sheet 3	EMK	26/10/2023
2705 – A0301	B	Sections Sheet 1	EMK	26/10/2023
2705 – A0302	B	Sections Sheet 2	EMK	26/10/2023
2705 – A0303	B	Sections Sheet 3	EMK	26/10/2023
2705 – A0304	A	Sections Sheet 4 – Boundary Conditions	EMK	26/10/2023
2705 – A0310	A	Cut & Fill Plan	EMK	26/10/2023
2705 – A0640	B	Waste Management	EMK	26/10/2023

		Plan		
21MB9165/D 01	B	Roof Drainage Plan	United Consulting Engineers	2/02/2024
21MB9165/D 02	B	Level 6 Drainage Plan	United Consulting Engineers	2/02/2024
21MB9165/D 03	B	Level 1 Drainage Plan	United Consulting Engineers	2/02/2024
21MB9165/D 04	B	Basement and Ground Floor Drainage Plan	United Consulting Engineers	2/02/2024
21MB9165/D 05	B	Stormwater Details	United Consulting Engineers	2/02/2024
L-02, L-2.1, L-03, L-03.1, L-04, L-05, L- 06, L-07, L- 07.1, L-08, L- 09, L-10	D	Landscape Works	SiteDesign + Studios	30/10/2023
2022195 SP1 Sheets 1-5	-	Proposed Plan of Subdivision of Lot 49 DP 15998	Brenton Hacknel	4/07/2023

<b>Document Title</b>	<b>Prepared By</b>	<b>Dated</b>
5 Donald Street, Nelson Bay - Noise Impact Assessment	Broadcrest Consulting Pty Ltd	October 2023
Pre-Demolition Hazardous Substances Management Plan	Practical Environmental Solutions	September 2023
Livable Housing Design Guidelines Assessment Report P222_471-2(LHA)RT	Design Confidence	13 June 2023
Geotechnical Investigation Report 16370-GR-1-1 Rev A	Alliance Geotechnical & Environmental Solutions	31 March 2023

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

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

- (2) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (3) **Excavation for residential building works** – If the approved development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the consent must, at the person's own expense:
- a) protect and support the adjoining premises from possible damage from the excavation; and
  - b) where necessary, underpin the adjoining premises to prevent any such damage.
- This condition does not apply if the person having the benefit of the consent owns the adjoining land or the owner of the adjoining land has given consent in writing that condition not applying, and a copy of that written consent is provided to the PCA prior to the excavation commencing.
- (4) **Sign on building** – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.
- The sign must be maintained while the work is being carried out and is to be removed when the work is completed.
- (5) **Outdoor lighting** - All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.
- (6) **Roof mounted equipment** – All roof mounted equipment such as air conditioning units, service pipes and vents etc., required to be installed must be concealed within the external walls of the development or adequately screened so as not to be visible from a public place.
- (7) **Design quality of development** - The approved design (including an element or detail of that design) or materials finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building without the approval of Council.
- (8) **Separate approval for signs** – A separate development application for any proposed signage, must be provide to, and approved by, the Consent Authority or under the provision of the State Environmental Planning Policy (Exempt and Complying Codes) 2008 if applicable prior to the erection or display of any such signs.

- (9) **External agency approvals** – The requirements from the Ausgrid Referral (dated 16 August 2023) must be complied with prior to, during, and at the completion of the development. A copy of the Requirements is attached to this determination notice.
- (10) **General terms of approval** – The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development.
- The General Terms of Approval are:
1. WaterNSW - IDAS-1151000, dated 18 October 2023.
- (11) **Approved Report Recommendations** - Construction of the development must comply with the recommendations of Arboriculture Impact Assessment, 5 Donald Street Nelson Bay, Final Issue V2, prepared by Assurance Trees dated 31 May 2023 detailed as follows:
- a) The following activities are excluded from within the TPZ of all retained trees, without supervision from the consulting Arborist (AQF Level 5):
    - machine excavation including trenching;
    - excavation for silt fencing;
    - cultivation;
    - storage;
    - preparation of chemicals, including preparation of cement products;
    - parking of vehicles and plant;
    - refuelling;
    - dumping of waste;
    - wash down and cleaning of equipment;
    - placement of fill;
    - lighting of fires;
    - soil level changes;
    - temporary or permanent installation of utilities and signs, and
    - physical damage to the tree.
  - b) Prior to commencement of works, tree protective fencing is to be erected and maintained for the duration of works in accordance with AS 4687. Once erected, protective fencing must not be removed or altered without approval by the project arborist until project completion.
  - c) Signage identifying the TPZ should be placed around the edge of the TPZ and be visible from within the development site.
  - d) where tree protection fencing cannot be installed, or requires temporary removal, alternative tree protection measures must be used, as detailed in Appendix F of Arboriculture Impact Assessment, 5 Donald Street Nelson Bay, Final Issue V2, prepared by Assurance Trees dated 31 May 2023.
  - e) Any excavation works within the TPZ of any retained trees must be undertaken by hand carried out using hand tools only, or, if not practical, a trench at the extent of the works within the TPZ shall be dug using hand tools to the required depth to check for the presence of significant roots (roots which are greater than 40mm diameter), alternatively; any excavations within the TPZ of any retained tree are to be undertaken under supervision by the consulting Arborist (AQF level 5) (including all excavations and piercing works within the TPZ of any retained trees).

- f) In the event that any roots greater than 40mm are encountered during works, work is to cease and the consulting arborist (AQF 5) is to be contacted for inspection and advice.
  - g) All underground services should be routed outside the TPZ. If underground services must be routed within the TPZ, they should be installed under supervision of a consulting Arborist (AQF level 5) by directional drilling or in manually excavated trenches.
  - h) Where scaffolding is required, it should be erected outside the TPZ. Where it is essential for scaffolding to be erected within the TPZ, branch removal should be minimized. This can be achieved by designing scaffolding to avoid branches or tying back branches. Where pruning is unavoidable it must be specified by the project arborist in accordance with AS 4373.
  - i) The area within the TPZ is to be mulched to a depth of 50–100 mm using material that complies with AS 4454.
  - j) Should the consulting Arborist (AQF level 5) at any time prior to occupation certificate, determine that any tree proposed for retainment by this consent is no longer safe for retainment, or is not likely to survive as a result of the proposed works, Council's Natural Systems Team is to be notified and the appropriate approvals for tree removal obtained from Council.
- (12) **Tree removal** - The trees identified for removal on Page L-08 D of the Landscape DA 5 Donald Street Nelson Bay prepared by SiteDesign+Studios, dated 30/10/23 are approved for removal/pruning.
- (13) **Replacement Tree Planting** - The following replacement trees must be planted in the locations identified as "Native tree replacements" in the Pages L-02D and L-03 D of the Landscape DA 5 Donald Street Nelson Bay prepared by SiteDesign+Studios, dated 30/10/23.
- 6 x Magenta Lilly Pilly (*Syzygium paniculatum*).

The planting must be installed prior to the issue of the Occupation Certificate.

- (14) **Protect Existing Vegetation and Natural Landscape Features** - Approval to remove existing vegetation is not to occur until the issue of the Construction Certificate.

No vegetation or natural landscape features other than that authorised for removal, pruning by this Consent must be disturbed, damaged or removed. No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval.

The trees identified for retirement on Page L-08 D of the Landscape DA 5 Donald Street Nelson Bay prepared by SiteDesign+Studios, dated 30/10/23 must be retained.

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

- (15) **Habitat Tree Removal** - Removal of approved trees/vegetation must be supervised by a suitably qualified and experienced fauna ecologist. If the ecologist identifies any threatened species inhabiting a tree flagged for removal, all clearing works shall cease and the animal given 24 hours to vacate. If the animal has not vacated within this time, a plan for the relocation of the animal shall be developed by the ecologist.

Clearing of habitat trees shall involve soft-felling techniques, which are to be implemented under the guidance of the ecologist. The ecologist shall be responsible for any fauna handling and relocations where required

Documentary evidence of the clearance supervision works shall be provided to Council's Natural Systems Section prior to issuing of the Occupation Certificate.

## **2.0 – Prior to Issue of a Construction Certificate**

- (1) **Driveway Gradients and Design** – For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design must comply with AS 2890.1 'Off street Car Parking' and:
- a) the driveway must be at least 1m from any street tree, stormwater pit or service infrastructure; and
  - b) a Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of any works.

Details demonstrating compliance must be provided to the Certifying Authority.

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

Details demonstrating compliance must be provided to the Certifying Authority.

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

- (3) **Stormwater/drainage plans** – Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council). The following information must be provided to the Certifying Authority with the Construction Certificate application:
- a) The stormwater management system is to be resized using a final, safety factored, infiltration rate of 110mm/hr and with reference to the most current Australian Rainfall and Runoff datahub rainfall intensity.
  - b) The driveway profile from Donald Street is to be revised to ensure overflow from the infiltration system does not enter the carpark.

Details demonstrating compliance must be provided to the Certifying Authority.

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

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

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

- (5) **Retaining walls** – All retaining walls within 1m of a boundary and exceeding 600mm in height must be designed and certified by a suitably qualified Structural Engineer.

Details demonstrating compliance must be provided to the Certifying Authority.

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

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

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

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

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

- (8) **Roads Act Approval** – For construction/reconstruction of Council infrastructure, including vehicular crossings. Footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138B of the Roads Act 1993. The following information must be provided to Council as Roads Authority with the Roads Act application:

- a) Footpath for full width of development and joining to adjacent footpath required

- (9) **Design verification – SEPP 65** – A design verification statement from a qualified NSW Registered Architect must be submitted to the Certifying Authority confirming



the Construction Certificate plans and specifications are consistent with the Development Application approval.

- (10) **Garbage room** – Rooms used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, must be constructed in accordance with the approved plans and the following:
- a) The room must be constructed of solid material, cement rendered and trowelled to a smooth even surface;
  - b) The floor must be impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room; and
  - c) Garbage rooms must be vented to the external air by natural or mechanical ventilation.

Details demonstrating compliance must be provided to the Certifying Authority.

- (11) **Car parking details** – Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans, which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 Parking Facilities- Off- Street Carparking and Council's development control plan.

- (12) **Construction site management plan** - Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

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

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

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

- (13) **Section 7.11 Development contributions** – A monetary contribution is to be paid to Council for the provision of four additional 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	\$655	\$2,620
Civic Administration – Works Depot	\$1,266	\$5,064
Town Centre Upgrades	\$3,412	\$13,648
Public Open Space, Parks and Reserves	\$2,085	\$8,340
Sports & Leisure Facilities	\$1,961	\$7,844
Cultural & Community Facilities	\$1,332	\$5,328
Road Works	\$3,570	\$14,280
Shared Paths	\$3,286	\$13,144
Bus Facilities	\$9	\$36
Fire & Emergency Services	\$245	\$980
Flood & Drainage	\$1,877	\$7,508
Kings Hill Urban Release Area	\$302	\$1,208
<b>TOTAL</b>	<b>\$20,000</b>	<b>\$80,000</b>

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

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

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

- (14) **Long service levy** – In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.
- (15) **Street Trees** - The following tree species must be planted at no cost to Council and in the location(s) specified as “2 x Native Street Tree” on Page L-02 D of the Landscape DA 5 Donald Street Nelson Bay prepared by SiteDesign+Studios, dated 30/10/23:

- a) Christmas Bush, *Seratpellum gummiferum*, 20L pot size.

Details demonstrating compliance must be provided to the Certifying Authority.

- (16) **Nest boxes**- Prior to the removal of vegetation, the following nest boxes must be installed on retained trees within LOT: 49 DP: 15998. The nest boxes shall be constructed to a standard consistent with Councils 'Technical Specification - Nest Boxes' and positioned at a suitable height off the ground as per the individual species habitat preferences. The nest boxes are to be installed by a suitably qualified and experienced consultant and maintained for a period of 5 years.

Nest box type / size	Species suitability	Number required	Installation height above ground (minimum)
Small (approx. 5-10 cm opening)	Small parrot	4	4 meters

Prior to the issue of a Construction Certificate documentary evidence of nest box installation must be provided to the certifier.

### 3.0 - Prior to Commencement of Works

The following conditions of consent shall be complied with prior to any works commencing on the development site.

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (2) **Home Building Act – Insurance** - In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (3) **Notice of Principal Certifying Authority appointment** – The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:
  - b) a description of the work to be carried out;

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

The notice must be lodged on the NSW planning portal.

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

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

The notice must be lodged on the NSW planning portal.

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

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

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

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

- (6) **Construction Certificate Required** – In accordance with the provisions of Section 6.7 of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a Consent Authority;
  - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the EP&A Act 1979; and
  - c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
- (7) **Site is to be secured** – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.
- An awning is to be erected that would sufficiently prevent any substance from the construction work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.
- (8) **Demolition work** – All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility.
- Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility.
- Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.
- (9) **Erosion and sediment controls in place** – Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- (10) **All weather access** – A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people.
- No materials, waste or the like are to be stored on the all-weather access at any time.
- (11) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.
- No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.
- (12) **Public liability insurance** – The owner or contractor must take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of,

and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc.) for the full duration of the proposed works.

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

- (13) **Notice regarding dilapidation report (if applicable)** - 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) (including the retaining wall) no less than 2 days before the commencement of any site or building works and provide a copy of the report to Council at the same time.
- (14) **Protection of existing trees** - Protection of trees to be retained must be in accordance with AS 4970-2009 'Protection of Trees on Development Sites' and the following:
  - a) No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) must be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.
- (15) **Weeds** - Weed removal and suppression must be undertaken using approved bush regeneration techniques under the supervision of a suitably qualified and approved bush regenerator and in accordance with the requirements for the *NSW Biosecurity Act 2015*, associated Regulations and NSW Weed Control Handbook.
- (16) **Tree Protection Measures** - Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in this consent are in place.

#### **4.0 - During Works**

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

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

This condition does not apply if the person having the benefit of the development

consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

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

7.00am to 5.00pm on Monday to Saturday

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

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

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

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

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

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

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

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

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

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

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

- (7) **Location of stockpiles** – Stockpiles of soil must not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect

these water bodies. All stockpiles of contaminated materials must be suitably covered to prevent dust and odour nuisance.

- (8) **Surveys by a registered surveyor** – While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —
  - a) All footings/ foundations
  - b) At other stages of construction – any marks that are required by the principal certifier.
- (9) **Construction Management Plan implementation** - All construction management procedures and systems identified in the approved Construction Management Plan must be introduced during construction of the development.
- (10) **Traffic Management Plan implementation** - All construction traffic management procedures and systems identified in the approved Construction Traffic Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.
- (11) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:
  - a) Connected to an approved stormwater management system.
- (12) **Disposal of stormwater** - Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant Environmental Protection Agency and Australian and New Zealand Environment and Conservation Council standards for water quality discharge.
- (13) **Unexpected finds contingency (general)** – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.  
  
 In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.  
  
 Where remediation work is required, the applicant will be required to obtain consent for the remediation works.
- (14) **Soil, erosion, sediment and water management** – All requirements of the Erosion and Sediment Control Plan or Soil and Water Management Plan must be maintained at all times during the works and any measures required by the plan must not be removed until the site has been stabilised.
- (15) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.



- (16) **Construction noise** – While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.
- (17) **Uncovering relics or Aboriginal objects** - While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.
- In this condition:
- “relic” means any deposit, artefact, object or material evidence that:
    - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
    - (b) is of State or local heritage significance; and
  - “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.
- (18) **Building height** – A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.
- (19) **Delivery register** - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered.
- This register must be made available to Council officers on request and be provided to the Council at the completion of the development.
- (20) **Cut and fill (if applicable)** – While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:
- (a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.

All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a

material identified as being subject to a resource recovery exemption by the NSW EPA.

- (21) **Acid Sulfate Soils (ASS)** - Should ASS be encountered within the zone of works, an ASS Management Plan is to be prepared by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority. The recommendations and/or mitigation measures contained within the ASS Management Plan must be complied with during works.
- (22) **Tree removal/pruning** - All approved tree removal/pruning is subject to all 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'.
- (23) **Weed management** – All machinery that has operated in affected areas shall be cleaned thoroughly prior to leaving the site. A wash down area shall be established, and monitored for priority weeds as defined by the NSW Biosecurity Act 2015. Cleaning must include the removal of all mud and plant matter, followed by washing with high pressure water.

An area for storage of contaminated soil that is separate from clean material shall be provided during construction.

#### 5.0 - Prior to Issue of a Subdivision Certificate

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

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

The applicant will be required to submit documentary evidence that the property has been developed in accordance with the plans approved by this development consent 16-2023-379-1 and of compliance with the relevant conditions of consent, prior to the issuing of a Strata Plan of Subdivision.

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

- (2) **Restriction on issue of Strata Plan of Subdivision** – An Occupation Certificate for the building must be issued by the PCA prior to the issue of any Strata Plan of subdivision associated with this development consent 16-2023-379-1.

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

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

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

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

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

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

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

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

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

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

- a) easement for services;
- b) easement to drain water and drainage easement/s over overland flow paths;
- c) easement for on-site detention;
- d) positive covenant over the on-site detention / water quality facility for the maintenance, repair and insurance of such a facility;
- e) retaining wall, positive covenant, and restriction to user;
- f) restriction as to user over sub-surface drainage pipes contained within the building area of allotments;
- g) restriction as to user preventing the alteration of the final overland flow path shape, and the erection of any structures (other than open form fencing) in the overland flow path without the written permission of Council;
- h) restriction as to user creating an easement for support and maintenance 900mm wide adjacent to the "zero" lot line wall;

#### **6.0 - Prior to Issue of an Occupation Certificate**

The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.

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

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

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

- (3) **Footpath crossing construction** – A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.

**Note:** A Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of such works.

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

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

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

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

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

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

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

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

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

- (a) All stormwater drainage systems and storage systems

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

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

This certificate must accompany the Works as Executed plans.

- (10) **Post-construction dilapidation report (if relevant)** - Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:

- (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 building work approved under this development consent.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s).

- (11) **Street Trees** – All street trees must be planted in accordance with the approved Street Tree Planting plan (as required under condition 2.0(14) of this consent).
- (12) **Landscape plan** - The 2 x Cabbage Tree Palms currently located on site must be transplanted at no cost to Council in the location(s) as specified in the Landscape Plan on Pages L-02 D of the Landscape DA 5 Donald Street Nelson Bay prepared by SiteDesign+Studios, dated 30/10/23.
- Details demonstrating compliance must be provided to the Certifying Authority.
- (13) **Completion of landscape and tree works** – Before the issue of any occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with *AS 4373-2007 Pruning of amenity trees* and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.
- (14) **Car parking requirements** – A minimum of 12 car parking spaces including 2 disabled car parking spaces are to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked on the pavement surface.
- The parking spaces marked 11 and 12, required for visitors, must be signposted as "visitor parking".
- (15) **Hunter Water Corporation approval** - A Section 50 Application under the Hunter Water Act 1991 must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.

- (16) **Noise Impact Assessment Implementation** - The use and occupation of the premises including all plant and equipment must not give rise to any offensive noise within the meaning of the Protection of the Environment Operation Act 1997 and must comply with the NSW Noise Policy for Industry 2017 (as amended). This determination is subject to Noise Impact Assessment, 5 Donald Street Nelson Bay; Broadcrest Consulting Pty Ltd dated 16/10/2023 and recommendations made under Section 7 of the Assessment. Evidence demonstrating compliance with the recommendations is to be provided to the Principal Certifying Authority.

### 7.0 – Ongoing Use

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

- (1) **Maneuvering of vehicles** – All vehicles must enter and exit the site in a forward direction.
- (2) **Removal of graffiti** – The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.
- (3) **Parking areas to be kept clear** – At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.
- (4) **Privacy screen** – Any privacy screen/s must be permanently maintained in accordance with the approved plans for the life of the development.
- (5) **Residential air conditioning units** – During occupation and ongoing use of the building, the applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plant and equipment that generates noise are in an appropriate location on the site (including a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBa at the boundary adjacent to any habitable room of an adjoining residential premises.
- (6) **Fire Safety Schedule** – At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of Fire and Rescue NSW in accordance with the *Environmental Planning & Assessment Regulations*.
- (7) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.  
  
If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.
- (8) **Landscaping establishment** - Commencing from the date of practical completion, a 12-month maintenance establishment period applies. This includes the establishment, care and repair of all landscaping elements including all street tree installations, plantings, lawn and hardscape elements including paths, walls, bins, seats, BBQs, shelters, playground equipment and soft fall

treatments.

The date of Practical Completion is taken to mean completion of all civil works, soil preparation and treatment and initial weed control, and completion of all planting.

- (9) **Maintenance of replacement plantings** – “Street trees” and “native tree replacements” (including relocated Cabbage Tree Palms) as per Page L-02 D and L-03 D of the Landscape DA 5 Donald Street Nelson Bay prepared by SiteDesign+Studios, dated 30/10/23 are to be maintained (e.g. through the use of mulch and watering) until maturity, or for a period of 5 years from planting.

If any trees die or are removed, it is to be replaced with a tree of the same species and similar maturity as the tree which has died or was removed.

- (10) **Waste management and collection** – The building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on public land (e.g. footpaths, roadways, plazas, reserves) at any time.
- (11) **Communal Area Access** – All residents of the development are to have access to all communal areas, including the open communal area on ground floor level.

#### **Advice Note(s):**

- (1) **Aboriginal archaeological deposit** – In the event of any Aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Heritage NSW shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by HNSW to proceed.
- (2) **'Dial Before you Dig'** – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables.
- (3) **Works near/adjoining electricity network assets** – There are overhead electricity network assets adjacent to the proposed development in Donald Street. Any works undertaken adjacent to Ausgrid assets must be undertaken with care in accordance with Ausgrid Network Standard Document NS 156 – Work Near or Around Underground Cables
- (4) **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.
- (5) **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the

provision of access to premises, accommodation, or services. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act.

- (6) **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.

- (7) **Responsibility for damage for tree removal/pruning** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.
- (8) **Council must be nominated as PCA for subdivision works** – Under Section 6.5 of the *Environmental Planning & Assessment Act 1979*, Council shall be nominated as the Principal Certifying Authority for subdivision work and has the option of undertaking inspection of physical construction works.
- (9) **Street Addressing** - Prior to release of subdivision certificate, Council's Spatial Services Team should be contacted via email at: [addressing@portstephens.nsw.gov.au](mailto: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 lot numbering.
- (10) **Signage** – You are advised that any proposed advertising signs that are not shown on the approved plans, or classified as exempt development, are subject to a separate Development Application to Council.
- (11) **Damage to adjoining properties** - Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property, this also extends to any damage to any retained trees on neighbouring properties.



Locality Plan  
5 Donald Street, NELSON BAY  
Lot 49 DP 15998



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



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## 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.

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.*

##### 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, unless the development standard is expressly excluded under Clause 4.6 (8). Clause 7.23 is not excluded from the operation of Clause 4.6, and therefore the proposed variation has been considered below.

#### 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.

The relevant development standard(s) and the extent of the proposed variation(s) is:

Development Standard	Proposed Variation	Extent of Variation (%)
Clause 7.23 'Minimum building street frontages for development in Zones R3 and E1' of the PSLEP 2013	2.7m	18%



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REPORT

As the proposed variation is greater than 10%, in accordance with Planning Circular PS 20-002, the concurrence of the Secretary cannot be assumed and the development application must be determined by the elected Council.

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 reason 1 as identified in *Wehbe v Pittwater Council*. The key reasons provided by the applicant have been summarised below:

Wehbe Test 1

- The variation to the street frontage standard is a result of the inability to acquire the adjoining property to the south at 7 Donald Street to form part of the development site. In accordance with the site isolation planning principle established in *Karavellas v Sutherland Shire Council* [2004], a formal offer has been made to purchase the adjoining property that is supported by an independent property valuation, with this offer subsequently refused by the adjoining landowner. To address potential sterilisation of development on the adjoining site, concept development plans for the adjoining site have been submitted to Council which demonstrate that the land is capable of achieving

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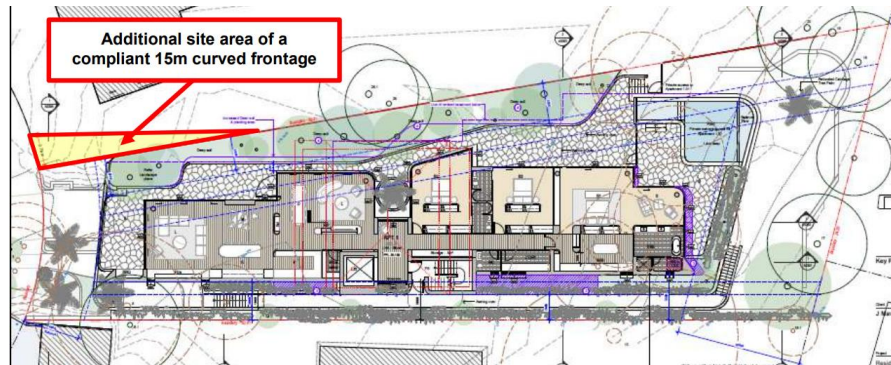
an appropriate built form that is consistent with the zoning of the land – R3 Medium Density Residential zone, and that provides a similar development yield and density as that proposed by the subject application. As such the applicant has satisfied the two limbs of the Karavellas principle. In this instance, the variation still allows for the orderly and economic development of the subject site underpinned by a built form in terms of appropriate height and density that complies with the principle development standards for the site contained within Clauses 4.3 and 4.4 of the PSLEP.

- It is unreasonable to require compliance with the street frontage standard within the site context as the variation results from the irregular shape of the site which has a narrow frontage of 12.3m and width at the rear of the site of 22.5m resulting in an average lot width of 17.4m. The subject site is located on the eastern portion of Donald Street which has a bend of approximately 80°, and as such the site has a narrow, curved frontage to the street noting otherwise the site has a lot width of 15m-22.5m which contains the majority of the proposed development. It is considered that a compliant frontage width of 15m at the street frontage would not result in a more horizontally proportioned building on the site compared to that proposed as a result of the irregular frontage of the site. Any additional length across the frontage along the bend of Donald Street is unlikely to contribute additional site area that would allow for more building width at the street elevation as depicted in Figure 1.
- It is unnecessary to require compliance with the street frontage standard within the site context as the proposed built form on the site will have an acceptable amenity impact on the surrounding properties with respect to overshadowing, bulk and scale, and visual privacy. The proposal is of a scale and density envisioned for the site pursuant to the principle development standards contained within Clauses 4.3 and 4.4 of the PSLEP with a compliant building height of 17.5m and FSR of 1.49:1. The proposal, notwithstanding the proposed variation to the site frontage standard is consistent with the scale of development anticipated by the planning controls.



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## Clause 4.6 ASSESSMENT REPORT



**Figure 1:** Additional site area required for a compliant 15m curved frontage

### 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 provided Clause 4.6 request notes that there is sufficient environmental planning grounds to contravene the development standard as:

- The variation is a result of the inability to acquire the adjoining property to the south at 7 Donald Street to form part of the development site. In accordance with the site isolation planning principle established in *Karavellas v Sutherland Shire Council* [2004], a formal offer has been made to purchase the adjoining property that is supported by an independent property valuation, with this offer subsequently refused. Concept development plans for the adjoining site have been submitted to Council which demonstrate that the land is capable of achieving an appropriate built form that is consistent with the zoning of the land – R3 Medium Density Residential zone, and that provides a similar development yield and density as that proposed by the subject application.
- The variation is a result of the irregular lot shape and curved street frontage of the site. The intent of the standard is to ensure lots are of a suitable width (15m) to accommodate a residential flat building development of horizontal proportions. In this circumstance, the site has an average lot width of 17.4m and the majority of the built form is proposed to be located within the portion of the site with a width greater than 15m. It is also noted that an additional length of 2.7m along the curved frontage of the site would not provide significant additional usable site area that would allow for a more horizontally proportioned

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## Clause 4.6 ASSESSMENT REPORT

building on the site, and as such the proposed building is consistent with the appearance of a development on the site that complies with the standard.

- The overall height and scale of the development is consistent with that anticipated within the R3 Medium Density Residential zone as the proposal complies with the PSLEP 17.5m height and 2.5:1 FSR principle development standards which apply to the site. The development is therefore consistent with the character envisaged by the planning standards for the site when viewed from Donald Street. As a compliant site frontage would be unlikely to contribute significant additional area that would accommodate a more horizontally proportioned building, the variation does not result in a building appearance that is incompatible with the standard and is suitable for the subject site.
- The development is for a residential flat building development containing 5 x 3 bedroom dwellings within the Town Living and Commercial Precinct of the Nelson Bay Centre, and will contribute to the provision of housing within the locality consistent with the desired future character for the locality in accordance with Part D5.5 of the Port Stephens DCP 2014.

The applicant contends 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's Clause 4.6 Variation request asserts that compliance with Clause 7.23 'Minimum building street frontages for development in Zones R3 and E1' 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.

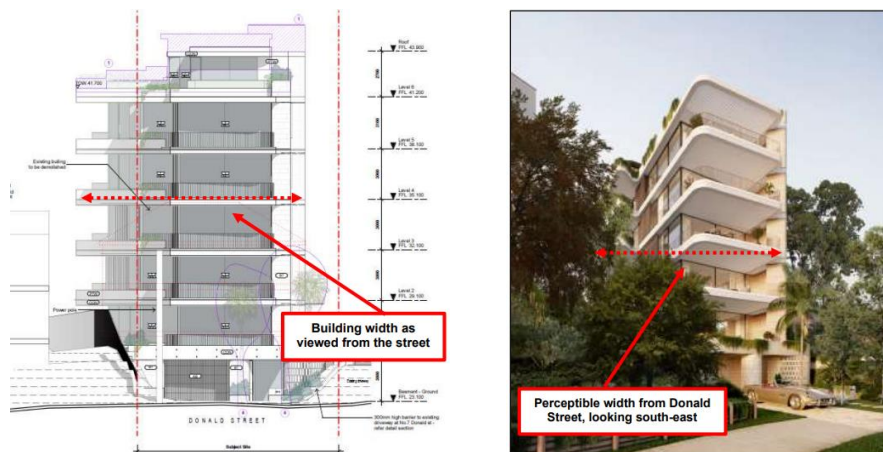


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Having regard to the first test set down in *Wehbe*, it is noted that the objectives of Clause 7.23 is to ensure that visually, buildings have appropriate overall horizontal proportions compared to their vertical proportions.

In considering the appropriateness of the building's proportions, the visual prominence of the building from significant vistas within the immediate and broader locality must be examined. The applicant's Clause 4.6 Variation report states the building has been designed to sit atop a basement/ground level podium which serves as a wider base for the development contributing to horizontal proportionality at the pedestrian interface with the development. Further, the development incorporates wrap-around balcony elements at Level 1 and curved balconies at the levels above, with larger symmetrical glazing elements which further contribute to the horizontal proportions of the tower form. This statement is supported by elevations and photomontages of the proposed building within the local streetscape. As depicted in Figure 2, the building footprint has been designed to widen at portions of the site with a lot width >15m, which ensures that the perceptible building width when viewed from the public domain is increased.



**Figure 2.** Elevation and photomontage of building from Donald Street, Nelson Bay

Notwithstanding the appropriateness of the building's proportions when viewed from the streetscape, the visual prominence of the building from significant vistas within the broader Nelson Bay Centre must also be considered. Due to the topography of the locality, it was acknowledged the building will be visible from many of the significant vistas identified in Council's DCP, and photomontages of the building from these vistas were included in a supporting Visual Impact Assessment (VIA). The vertical bulk of the building was observed from viewpoints obtained from the north





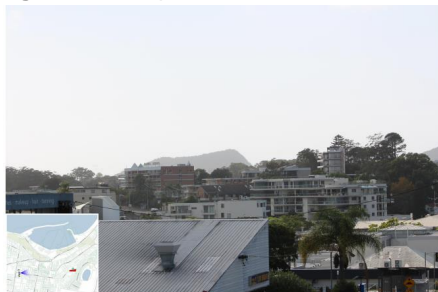
PORT STEPHENS  
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## Clause 4.6 ASSESSMENT REPORT

and north-east portion of Nelson Bay Marina looking south, Laman Street looking south-east and from across the Nelson Bay Town Centre looking east. As depicted in Viewpoints 1 and 2 below, the northern elevation of the building presents to the waterway as a contemporary built form with a mix of glazing and light painted render, with an articulated façade that includes a central recess that breaks-up the density of the built form when viewed from the waterway. Furthermore, at Viewpoints 3 and 4 the proposal presents an acceptable scale being of a narrow silhouette that does not dominate the skyline or restrict views of Tomaree Mountain. Across all viewpoints, these photomontages demonstrate that the building will be appropriately screened by the urban form and tree canopy of the Nelson Bay Centre locality, whilst presenting a well-articulated and horizontally proportioned built form.



**Figure 3.** Viewpoint 1 and 2 obtained from Nelson Bay Marina (left to right)



**Figure 4.** Viewpoint 3 and 4 obtained from Nelson Bay West precinct and Laman Street (left to right)

On this basis, the Clause 4.6 Variation report demonstrates the development will have appropriate horizontal proportions compared to its height with respect to the site constraints, and when viewed from the street elevation and broader locality will present a building width that is consistent with the intent of the standard.



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The minimum street frontage control was adopted in 2020 as part of the Nelson Bay Town Centre Planning Proposal which sought to increase building heights, floor space ratio controls and establish an urban design framework for the Nelson Bay Town Centre. As part of the Planning Proposal and subsequent PSLEP amendment in 2020, the PSLEP introduced a requirement for new development in the Town Centre precinct to have a minimum primary street frontage. The purpose of the street frontage PSLEP requirement is outlined below:

- to ensure that, visually, buildings have appropriate overall horizontal proportions compared to their vertical proportions;
- to provide appropriate dimensions and spacing to ensure adequate privacy between any residential component and the adjoining land use;
- to provide appropriate dimensions for the design of car park levels and ensure access is reasonably spaced along roads and lanes;
- to encourage consolidation of lots to facilitate development of commercial office, business, residential and mixed use buildings provided for under the PSLEP.

Providing a minimum primary street frontage was intended to align with other development standards to ensure appropriate vertical to horizontal proportions of new buildings in the Town Centre as set out in the Nelson Bay Delivery Program.

The built form on the site and concept plans for the adjoining property demonstrate an acceptable planning outcome for both properties that allow for a high level of residential amenity for both sites, adequate solar access to both sites in accordance with the Apartment Design Guidelines (ADG), and appropriate landscaping and building separation that is acceptable on planning merit. Noting the building footprint has been designed to widen at portions of the site with a lot width >15m; notwithstanding the proposed variation to Clause 7.23 the proposed building is consistent with the scale and density of development anticipated by the planning controls.

The Land and Environment Court decision in *CSA Architects v Randwick City Council [2004] NSWLEC 179 (CSA Architects)*, serves as a current planning principle for development on small or narrow sites and is relevant to this development proposal. As established in this case, the assessment of a proposal on a site that is below the preferred area or width should be considered both as a development on its own site, as well as in the context of possible developments on neighbouring sites. The case identifies the main criterion for assessing a proposal on its own site is whether it meets other planning controls including:

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1. Does the proposal meet density, setback and landscaping controls? The most critical control for small and narrow sites is that for setbacks; and
2. Is its impact on adjoining properties and the streetscape worse because the development is on a small or narrow site?

When applying the above principles to the proposal, it is noted the built form on the site and concept plans for the adjoining property demonstrate an acceptable planning outcome for both properties that allow for a high level of residential amenity for both sites, adequate solar access to both sites in accordance with the Apartment Design Guidelines (ADG), and appropriate landscaping and building separation that is acceptable on planning merit.

Council's Urban Design Panel noted the optimal means of achieving a high quality overall urban outcome would be for the site to be amalgamated with adjacent 7 Donald Street; however acknowledged offers have been made to purchase the adjoining property in accordance with the site isolation planning principle established in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251. Noting the limited extent that ADG guidelines and other planning controls are not fully complied with, the proposal clearly exhibits merit that addresses the relevant objectives, and can be considered excellent design.

On this basis, the objectives of Clause 7.23 are achieved, notwithstanding the non-compliance with the standard, and therefore compliance with the standard is unnecessary in this instance.

The second, third, fourth and fifth tests set down in *Wehbe* are also not considered relevant to the application, for the reasons set out below:

- With regard to the second test, it is not considered that compliance with the development standard is unreasonable or unnecessary.
- With regard to the third test, it is not considered the objective or purpose of the development standard would be defeated or thwarted if compliance was required.
- With regard to the fourth test, it is not considered that the development standard has been abandoned or destroyed, as the objectives of the standard are still relevant notwithstanding non-compliance with the numerical standard.
- With regard to the fifth test, the zoning of the subject site is suitable and the proposed development is permissible in the zone.

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## Clause 4.6 ASSESSMENT REPORT

Pain J held in *Four2Five vs Ashfield Council* [2015] that to satisfy Clause 4.6(3)(b), a Clause 4.6 variation must do more than demonstrate that the development meets the objectives of the development standard and the zone – it must also demonstrate that there are other environmental planning grounds that justify contravening the development standard, preferably being grounds that are specific to the site. Additional reasons stated in the applicants Clause 4.6 Variation Report include:

- The proposed development meets the relevant objects of the Environmental Planning and Assessment Act, 1979 as follows:
  - 1.3(c) - The proposal is an orderly and economic use and development of land noting the adjoining property to the south cannot be acquired for inclusion into the development site in accordance with the Karavellas planning principle. The proposal is a scale of development that is compatible with the principal development standards which apply to the site in terms of height and FSR, notwithstanding the proposed variation resulting from the inability to amalgamate and as such is an orderly and economic development of the land.
  - 1.3(g) - The scale of the development is consistent with that envisioned for the site with respect to height and density and does not present unreasonable impacts upon the amenity of the built environment beyond that anticipated by Council in establishing a 17.5m height standard and FSR of 2.5:1 for the site.
- The proposed development meets the relevant aims of the Port Stephens LEP 2013 as follows:
  - 1.2.2(b) – The development is a compatible land use within the R3 Medium Density Residential zone being a residential flat building, with the proposal being consistent with the desired future character for development within the Town Living and Commercial Precinct of the Nelson Bay Centre. The development is compatible for the locality noting that Part D5.5 of the Port Stephens DCP 2014 identifies that “the precinct is appropriate for larger scale developments, with larger footprints”.
  - 1.2.2(e) – The proposed development will contribute to a range of housing to meet the needs of the residents of the locality, with 5 x three bedroom units proposed within close proximity to the nearby E1 Local Centre zone. The proposed dwellings will contribute to housing stock within the vicinity of the Nelson Bay Centre and will serve to meet the varied housing needs of the locality. The proposed development is within walking distance of commercial and community facilities and promotes the efficient use of infrastructure through increased residential densities in suitable locations.

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The Clause 4.6 Variation report identifies sufficient environmental planning grounds to justify contravening Clause 7.23, with grounds that are specific to the site. The relevant items in Clause 4.6(3) of the LEP have been adequately addressed above in order for Council to form the requisite opinion of satisfaction.

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.

In relation to clause 4.6(4)(a)(ii), the proposed residential flat building is in the public interest because it achieves the objectives of the street frontage standard (addressed above) and the objectives for development in the R3 Medium Density Residential zone.

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

In accordance with the assumed concurrence, notified in [Planning Circular PS 08-003](#), the concurrence of the Secretary has been obtained (Clause 4.6(4)(b) of PSLEP).

**CONCLUSION**

The proposed development is considered to be consistent with the objectives of Clause 4.6 given it will achieve better outcomes for and from the development in these particular circumstances, as the objectives of the development standard are achieved notwithstanding non-compliance and the proposal is considered to be appropriate in the context of the site.

**ITEM NO. 3****FILE NO: 23/368191  
EDRMS NO: PSC2017-00180****SIX MONTH PROGRESS REPORT: JULY TO DECEMBER 2023 AGAINST THE  
PORT STEPHENS COUNCIL DELIVERY PROGRAM 2022-2026**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Six Month Progress Report for July to December 2023  
(**ATTACHMENT 1**) on the progress of Port Stephens Council's Delivery  
Program 2022-2026.

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**BACKGROUND**

The purpose of this report is to provide Council and the community with an update on the progress of Council's Delivery Program 2022-2026.

This is the third progress report of the Delivery Program 2022-2026, adopted by Council in June 2022.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Governance	Deliver the Integrated Planning and Excellence program.

**FINANCIAL/RESOURCE IMPLICATIONS**

The Six Month Progress Report (**ATTACHMENT 1**) is generated from a combination of information and data from across Council's operations. There are no financial or resource implications in providing this report.

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

**ORDINARY COUNCIL - 12 MARCH 2024**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Essential Element 4.9 of the Integrated Planning and Reporting Guidelines for Local Government in NSW, September 2021 stipulates that: 'The General Manager must ensure that progress reports are provided to the Council, with respect to the principal activities detailed in the Delivery Program, at least every 6 months'.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will not adopt the Six Month Progress Report July to December 2023, placing Council in breach of legislation leading to reputational loss.	Low	Adopt the recommendation.	Yes
There is a risk that as Council's audited financial statements have not been completed for the 2023-2024 financial year, the figures included in the report are not correct and may be incorrectly referenced by Council and other parties.	Low	Adopt the recommendation.  Provision included in the Six Month Progress Report that all financial figures are preliminary, unaudited and subject to review as part of the 2023-2024 Audited Financial Statements.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Community Strategic Plan, Delivery Program and Operational Plans are founded on a basis of social, economic, environmental and governance factors through 4 focus areas, Our Community, Our Place, Our Environment and Our Council. The report reflects these factors and provides a comprehensive progress report according to each focus area along with a scorecard of Council's key result measures.

To date, Council is achieving within the resources available what it has set out to do with service delivery on track to deliver 100% of Operational Plan actions against a target of 95%; employee wellbeing 84% against a target of 80%; risk management 86% against a target of 85%; financial sustainability currently at \$1,030,000

underlying surplus, against a target of achieving an underlying financial result better than budget; asset maintenance ratio of 106% against a target of 100%.

## **CONSULTATION**

The Six Month Progress Report July to December 2023 has been compiled from information and data provided across Council's operations and reviewed by the Executive Team of Council.

Following Council consideration the report will be made available on Council's website and distributed across a number of communication channels.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Six Month Progress Report for July to December 2023. (Provided under separate cover) [!\[\]\(e7a5b2ecc7ab80b32b565dd7dfa9a5a9\_img.jpg\)](#)

## **COUNCILLORS' ROOM/DASHBOARD**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ITEM NO. 4**

**FILE NO: 24/4570  
EDRMS NO: PSC2019-05143**

**SMART PARKING - NELSON BAY EXPANSION**

REPORT OF: JOHN MARETICH - ASSETS SECTION MANAGER  
DIRECTORATE: FACILITIES AND INFRASTRUCTURE

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Notes the Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach **(ATTACHMENT 1)**.
- 2) Endorses the installation of Smart Parking Infrastructure for Little Beach **(ATTACHMENT 3)**.
- 3) Continues to provide Park Free Permits in Port Stephens for residents, ratepayers and employees of local business. Time based restrictions apply.

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**BACKGROUND**

The purpose of this report is to present a package of information that responds to the Council resolution of 26 July 2022 **(ATTACHMENT 2)** relating to the Nelson Bay Smart Parking extension to Little Beach as shown on the extent mapping **(ATTACHMENT 3)**. Information relating to other proposed Smart Parking Precincts will be presented to Council in future reports.

Smart Parking is designed to improve the turn-over of parking spaces to create more equitable access to parking in the Little Beach area and also provide a revenue stream to fund local infrastructure projects across Nelson Bay.

This report has been arranged into the following Smart Parking milestones to provide evidence that clear steps have been undertaken in the implementation of the Smart Parking program.

- Council Resolution to Investigate
- Technical Investigations
- Financial Assessment
- Infrastructure Program
- Community Engagement
- Local Traffic Committee
- Community Engagement (Closing the Loop)
- Council Adoption
- Execution



Council resolution to investigate

The Council resolution to investigate Smart Parking at Little Beach was made on 26 July 2022 (**ATTACHMENT 2**).

Technical Investigations

The technical investigations sought to identify what traffic, parking or road safety issues may be present and their potential solutions. Council staff undertook site inspections, measurements and assessments, these investigations have been presented in the Parking Study for Birubi Headland and Little Beach. These technical investigations have been used to implement the recently completed upgrades to the High Pedestrian Activity Area program of works which included the provision of two pedestrian crossings and reorganisation of Beach Road on street parking. The Parking Study for Birubi Headland and Little Beach also concluded that during peak periods parking space utilisation is approaching capacity and further that additional supply is needed in combination with expansion of paid parking as a demand management tool.

Financial Modelling

Financial modelling was undertaken to assess whether the activation of Smart Parking was financially sustainable and to forecast projected funds available for contribution to the Nelson Bay Smart Parking Infrastructure Program (**ATTACHMENT 5**).

The financial assessment for Little Beach has confirmed that the capital and operational costs of delivering Smart parking infrastructure was sustainable and forecast \$71,000 per annum contribution to the Nelson Bay Precinct Smart Parking Reserve based on current adopted Fees and Charges rates (**ATTACHMENT 4**).

Infrastructure Program

The Nelson Bay Smart Parking Infrastructure Program (**ATTACHMENT 5**) was recently updated and endorsed by Council at the 26 September 2023 ordinary Council meeting. The updated program was compiled from outcomes of technical investigations, Nelson Bay Public Domain Plan, Council resolutions and community engagement. The previous update specifically considered infrastructure works within the Little Beach area consistent with infrastructure priorities identified with the recent community engagement.

No amendment to the Nelson Bay Smart Parking Infrastructure Program is proposed with this report.

### Community Engagement

Community engagement on Smart Parking sought community insights into the Smart Parking Infrastructure Program, Smart Parking settings and changes to parking regulation.

The results of the engagement are detailed in the Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach **(ATTACHMENT 1)**.

Key findings for Little Beach included:

- Request for longer time limits.
- Concern regarding impact of Smart Parking on neighbouring streets.
- That more information required for Smart Parking settings and other Council programs.

The parking regulations have been amended to address the key messages regarding impact on neighbouring streets and requesting longer time limits. Further information regarding Smart Parking settings and other Council programs has been included with the 'Closing the Loop' Community Engagement.

### Local Traffic Committee

All regulatory controls on roads must be approved by the Local Traffic Committee. At the February 2024 meeting, the Local Traffic Committee assessed the introduction of parking restrictions and paid parking to Little Beach, and endorsed the proposed parking regulation measures. The Local Traffic Committee meeting minutes **(ATTACHMENT 6)** confirm approval.

### Council Adoption

This report and attachment is seeking Council adoption for implementation of Smart Parking at Little Beach.

### Community Engagement (Closing the Loop)

The key messages heard and some additional information in response from the earlier community engagement approach has been released to survey respondents that provided contact information. Additionally, Council staff have released indirect communications through social media channels.

Summary of changes resulting from community consultation include:

- The parking regulations have been amended to address the key messages regarding impact on neighbouring streets and requesting longer time limits.
- Further information has been provided regarding Smart Parking settings and other Council programs.

Execution

Following Council resolution, the meters can be installed and operational within 6 weeks. Regulatory and environmental approvals have been obtained.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Infrastructure and facilities	Provide asset and engineering services to meet customer demand

**FINANCIAL/RESOURCE IMPLICATIONS**

Little Beach Smart Parking Program income and expenditure is included in the Long Term Financial Plan forecast for the current financial year.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	No		
Reserve Funds	Yes	\$40,000	Funding from the Nelson Bay Smart Parking reserve.
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

If Smart Parking does not commence in Little Beach before April this financial year, adjustments will need to be made to the existing budget.

**LEGAL, POLICY AND RISK IMPLICATIONS**

The proposed Little Beach Smart Parking system benefits from the existing Park Free Permits, fees and charges and management frameworks established with the existing Smart Parking installation.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the estimates of uptake of paid parking are too high leading to revenue forecasts/capital work	Medium	<ul style="list-style-type: none"> <li>Regular monitoring and reporting of financial performance.</li> <li>Update projections within quarterly budget review.</li> </ul>	Yes

projections not being met.		<ul style="list-style-type: none"> <li>Follow competitive procurement processes.</li> </ul>	
There is a risk that visitor willingness to pay for parking may lead to lower visitation.	Medium	<ul style="list-style-type: none"> <li>Reinvest proceeds from paid parking into projects that increase satisfaction with area and encourage return visits.</li> <li>Continue Place Activation Program of events, entertainment and beautification aimed at increasing visitation.</li> <li>Promotion of access to 15 minutes free parking throughout the day, plus free parking before 8.30am and after 5.30pm every day.</li> </ul>	Yes
There is risk that long term financial plan income budgets may not be met if the installation of parking infrastructure is delayed.		<ul style="list-style-type: none"> <li>Adopt the resolution.</li> </ul>	Yes

## **SUSTAINABILITY IMPLICATIONS**

Consideration has been given to the Social, Economic and Environmental Implications of the proposed Smart Parking Installation.

Continuation of the residents, rate payers and workers Park Free Permit scheme has been reconfirmed through Council's adopted Fees and Charges 2023-24 and achieved as a zero fee item. **(ATTACHMENT 4)**.

Financial modelling has been completed showing a sustainable return on investment that is forecast to provide an ongoing source of funds which will be contributed to infrastructure projects within the Nelson Bay Smart Parking precinct. These projects cater not only to our local residents but also aim to provide an enjoyable experience for our visitors, encouraging them to return.

The Smart Parking funded Place Activation Program for Nelson Bay is proposed to be continued with an aim of providing events, entertainment and beautification, increasing visitation and experience within Nelson Bay.

The parking meters will increase parking turnover and increase adherence to timed parking restrictions and are solar panel driven to reduce the reliance on electricity.

## CONSULTATION

Consultation with key stakeholders has been undertaken by the Assets Section and the Communications Section and is summarised below with their mitigation measures discussed earlier in this report.

### Internal

- Financial Services Section
- Assets Section
- Compliance Team
- Information Communication and Technology Team
- Digital Transformation Team
- Communications and Engagement Teams
- Customer Experience Team
- Mayor and Councillors

### External

Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach (**ATTACHMENT 1**).

## OPTIONS

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

## ATTACHMENTS

- 1) Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach. (Provided under separate cover) ➡
- 2) Council Resolution - Smart Parking - Min. No. 194, 26 July 2022. [↓](#)
- 3) Little Beach Smart Parking Extents. [↓](#)
- 4) Smart Parking 2023-24 Fees and Charges. [↓](#)
- 5) Nelson Bay Smart Parking Infrastructure Program. [↓](#)
- 6) Local Traffic Committee - 24 February 2024 Minutes - Nelson Bay. [↓](#)

## COUNCILLORS' ROOM/DASHBOARD

- 1) Transport for NSW "Pay Parking Guidelines" (November 2019).
- 2) Transport for NSW "Permit Parking Guidelines" (November 2021).
- 3) Parking Study for Birubi Headland and Little Beach.

## TABLED DOCUMENTS

Nil.

**MINUTES ORDINARY COUNCIL - 26 JULY 2022****ITEM NO. 2****FILE NO: 22/114478  
EDRMS NO: PSC2019-05143****SMART PARKING****REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER  
GROUP: FACILITIES & SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the continued rollout of SMART Parking at:
  - Shoal Bay
  - The expansion of the Nelson Bay area including:
    - Fly Point
    - Little Beach
    - Laman Street
- 2) Commence investigation and community consultation at Birubi Headland, Anna Bay, Fingal Bay and One Mile around the installation of SMART Parking.
- 3) Develop infrastructure program for investment of SMART Parking funds at Birubi Headland, Anna Bay, Fingal Bay and One Mile after community consultation and investigation.
- 4) Continue to provide free SMART Parking in Port Stephens for residents, rate payers and employees of local businesses. Time based restrictions to apply.
- 5) Manage funding by holding revenue generated from SMART Parking in an internally restricted reserve.
- 6) Invest the funds raised from SMART Parking back into SMART Parking precincts.

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**ORDINARY COUNCIL MEETING - 26 JULY 2022  
MOTION**

	<b>Councillor Leah Anderson Councillor Glen Dunkley</b>  That Council:  1) Note the continued rollout of SMART Parking at: <ul style="list-style-type: none"><li>• Shoal Bay</li><li>• The expansion of the Nelson Bay area including:<ul style="list-style-type: none"><li>○ Fly Point</li></ul></li></ul>
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**ITEM 4 - ATTACHMENT 2 COUNCIL RESOLUTION - SMART PARKING - MIN. NO. 194, 26 JULY 2022.****MINUTES ORDINARY COUNCIL - 26 JULY 2022**

	<ul style="list-style-type: none"><li>○ Little Beach</li><li>○ Laman Street</li></ul> <ul style="list-style-type: none"><li>2) Commence investigation and community consultation at Birubi Headland, Anna Bay, Fingal Bay and One Mile around the installation of SMART Parking.</li><li>3) Develop infrastructure program for investment of SMART Parking funds at Birubi Headland, Anna Bay, Fingal Bay and One Mile after community consultation and investigation.</li><li>4) Continue to provide free SMART Parking in Port Stephens for residents, rate payers and employees of local businesses. Time based restrictions to apply.</li><li>5) Manage funding by holding revenue generated from SMART Parking in an internally restricted reserve.</li><li>6) Invest the funds raised from SMART Parking back into SMART Parking precincts.</li></ul>
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**ORDINARY COUNCIL MEETING - 26 JULY 2022  
MOTION**

<b>193</b>	<b>Councillor Peter Kafer</b> <b>Councillor Matthew Bailey</b>  It was resolved that Cr Leah Anderson be granted a 2 minutes extension of time to address Council.
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Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Francis, Peter Kafer and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**ORDINARY COUNCIL MEETING - 26 JULY 2022  
AMENDMENT**

<b>194</b>	<b>Councillor Leah Anderson</b> <b>Councillor Peter Kafer</b>  It was resolved that Council: <ul style="list-style-type: none"><li>1) Note the continued rollout of SMART Parking at:<ul style="list-style-type: none"><li>• Shoal Bay</li><li>• The expansion of the Nelson Bay area including:<ul style="list-style-type: none"><li>○ Fly Point</li></ul></li></ul></li></ul>
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**MINUTES ORDINARY COUNCIL - 26 JULY 2022**

	<ul style="list-style-type: none"><li>○ Little Beach</li><li>○ Laman Street</li></ul>
2)	Commence investigation and community consultation at Birubi Headland, Anna Bay, Fingal Bay and One Mile around the installation of SMART Parking.
3)	Develop infrastructure program for investment of SMART Parking funds at Birubi Headland, Anna Bay, Fingal Bay and One Mile after community consultation and investigation.
4)	Continue to provide free SMART Parking in Port Stephens for residents, rate payers and employees of local businesses. Time based restrictions to apply.
5)	Manage funding by holding revenue generated from SMART Parking in an internally restricted reserve.
6)	Invest the funds raised from SMART Parking back into SMART Parking precincts.
7)	That Council complete consultation regarding Smart Parking at Fly Point, Little Beach, and Laman Street and bring this feedback back to Council before proceeding with Smart parking rollout in these locations.
8)	If Council proceeds to put parking meters at Fly Point, Little Beach, and Laman Street, to fund the Smart Parking, that residents and ratepayers will be exempt from paying for parking at these parking meters.
9)	That Council provide the names of the businesses in the Shoal Bay shopping precinct that they spoke to directly and what the feedback from those businesses was regarding smart parking before smart parking is introduced on the shopping strip.
10)	That the Shoal Bay Infrastructure Program be put forward for community consultation and for East Ward councillors review, prior to it being adopted.
11)	That further and more extensive community consultation be completed on the potential one way traffic arrangement in Shoal Bay and this be brought back to council for further consideration before it is implemented.
12)	That the Nelson Bay Infrastructure Program from 2022 onwards be put forward for community consultation and for East Ward councillors review, prior to it being adopted.
13)	That item 14 on the Nelson Bay Infrastructure Program in 2023 being the Design and Construction of at grade parking, be completely removed from the Nelson Bay infrastructure program.

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

Those against the Motion: Cr Glen Dunkley.



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DP 1175980

Little Beach Reserve

Little Beach Jetty

DP 1175980

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DP 1175980

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DP 1086708

Ngioka Reserve

Port Stephens Native Garden East Wing

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Portstephens - Fees &amp; Charges - Fees &amp; Charges

## Port Stephens Council



## Online Search Facility

smart parking

## 4 Fees &amp; Charges

Year 2022/2023	Year 2023/2024					
Name	Fee (incl. GST)	Fee (excl. GST)	GST	Fee (incl. GST)	Unit	Legislation
Pricing Policy						
<b>Port Stephens Council   Administration Services   Parking   Smart Parking Meters</b>						
Smart Parking Permit	\$0.00	\$0.00	\$0.00	\$0.00		Road Transport Act 2013
All ratepayers and residents of Port Stephens Local Government Area, and employees of business within the metered parking scheme zone are eligible.						
Smart Parking Permit - Non-LGA Business Permit	\$139.00	\$150.00	\$0.00	\$150.00	Per vehicle	Market pricing
For businesses located outside Port Stephens Council Local Government Area who regularly work in and around metered parking scheme zones						
15 Minutes Park Free	\$0.00	\$0.00	\$0.00	\$0.00		Road Transport Act 2013
Parking sessions 15 minutes or less are free						
Smart Parking Meter Fee	\$4.50	\$4.09	\$0.41	\$4.50	Per Hour	Road Transport Act 2013
No fee for holders of Smart Parking Permit.						

<https://portal.lgsolutions.net.au/Fees/Public/Portstephens>

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**ITEM 4 - ATTACHMENT 5      NELSON BAY SMART PARKING  
INFRASTRUCTURE PROGRAM.**

**Nelson Bay Precinct Smart Parking Infrastructure Program**

<b>Item</b>	<b>Financial Year</b>	<b>Source of Work</b>
Traffic and Parking Upgrades – Installation of Parking Meters – Nelson Bay Foreshore	23/24	Traffic/Parking
Streetscape Upgrades – Magnus, Yacaaba & Stockton Streets – Pavement Marking	23/24	PDP
Car Park Formalisation – Ngioka Car Park, Little Beach	23/24	Traffic/Parking
Traffic and Parking Upgrades - Installation of Wayfinding Signage and Controls – Nelson Bay Town Centre and Foreshore	24/25	Traffic/Parking
Car Park Rehabilitation – Main Car Park (Teramby Road, Nelson Bay)	25/26	Traffic/Parking
Path and Access Upgrade – Fly Point Dive Site Access	26/27	Community Consultation
Car Park Reconstruction – Stage 1 – Little Beach Boat Ramp Car Park	26/27	Traffic/Parking
Nelson Bay Town Centre Public Domain Upgrades	31/32	PDP
Revision Date		Feb 2024

**ITEM 4 - ATTACHMENT 6 LOCAL TRAFFIC COMMITTEE - 24 FEBRUARY 2024 MINUTES - NELSON BAY.**

**Item:** 06\_02/24

**Roads, Nelson Bay – Introduction of a Smart Parking scheme at Little Beach**

**Requested by:** Port Stephens Council

**File:** 365893-2023

**Background:**

As part of the investigations and continued roll out of paid parking across Port Stephens Council, endorsement is sought for the introduction of Smart Parking at Little Beach.

Smart Parking is designed to improve the turn-over of parking spaces to create more equitable access to parking in Little Beach. Smart Parking also provides a revenue stream to support local infrastructure projects. The existing resident and business Park Free Permit Scheme currently used in Nelson Bay will be extended to include paid parking at Little Beach. Similarly, parking guidance and payment apps will be extended to the Little Beach area.

Technical investigations were undertaken to identify what traffic, parking or road safety issues may be present and their potential solutions. For the subject locations, Council engineering staff undertook site inspections and assessments.

The investigations also included community engagement regarding the Smart Parking settings, changes to parking regulation and desired projects for revenue to be spent on. The results of the engagement confirmed that the local community is generally supportive for the installation of Smart Parking at Little Beach to assist with a range of parking and movement issues. Additionally, there was strong support for the Smart Parking scheme including the permits to allow free parking for residents and rate payers of the Port Stephens Local Government Area.

**Comment:**

Little Beach Smart Parking will operate in a similar manner as the existing Nelson Bay Smart Parking scheme, with the same permit scheme exemptions for residents, ratepayers and business owners.

The proposed parking restrictions, as indicated on the attached plans are:

**Dark Blue** – 9P Meter Registration, Permit Holders Excepted, 8:30am - 5:30pm, Monday - Sunday, Public Holidays Included

**Light Blue** – 4P Meter Registration, Permit Holders Excepted, 8:30am - 5:30pm, Monday - Sunday, Public Holidays Included

**Orange areas** - Indicates 'No Parking Area – Resident permit holders excepted'

**Legislation, Standards, Guidelines and Delegation:**

NSW Road Rules: 204 - Meaning of certain information on or with permissive parking signs, 205 - Parking for longer than indicated, 207 - Parking where fees are payable, 317 - Information on or with traffic control devices, 318 - Limited effect of certain traffic control devices

Transport for NSW "Pay Parking Guidelines" (November 2019).

**ITEM 4 - ATTACHMENT 6 LOCAL TRAFFIC COMMITTEE - 24 FEBRUARY 2024 MINUTES - NELSON BAY.**

Transport for NSW "Permit Parking Guidelines". (November 2021)  
Traffic control devices installed under Part 5.3 Div. 2 Road Transport Act 2013

**Discussion:**

Committee members noted the consultation undertaken for this item and the need to restrict parking in the connecting streets, to reduce the impacts of people seeking to avoid paying for parking.

**Committee's recommendation:**

Approve the introduction of Smart Parking at Little Beach, as shown on the attached plans.

**Engagement level****Level 1 – Inform**

Action: Provide stakeholders with information to assist understanding of the changes and the Local Traffic Committee recommendation once endorsed

**Support for the recommendation:**

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

**ITEM NO. 5**

**FILE NO: 24/1720  
EDRMS NO: PSC2019-05143**

**SMART PARKING - FINGAL BAY**

REPORT OF: JOHN MARETICH - ASSETS SECTION MANAGER  
DIRECTORATE: FACILITIES AND INFRASTRUCTURE

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Notes the Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach **(ATTACHMENT 1)**.
- 2) Endorses the installation of Smart Parking Infrastructure for Fingal Bay. **(ATTACHMENT 3)**.
- 3) Endorses the Fingal Bay Smart Parking Infrastructure Program **(ATTACHMENT 5)**.
- 4) Continues to provide free Smart Parking in Port Stephens for residents, ratepayers and employees of local business. Time based restrictions to apply.

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**BACKGROUND**

The purpose of this report is to present a package of information that responds to the Council resolution of 26 July 2022 **(ATTACHMENT 2)** endorsing the investigation of Fingal Bay Smart Parking implementation. The areas included in the study were the parking areas of Marine Drive, Pacific Drive, Darramba Drive, Rocky Point Road, Market Street and Boulder Bay Road as shown in the Fingal Bay Smart Parking Extents map **(ATTACHMENT 3)**. Information relating to other proposed Smart Parking Precincts will be presented to Council in future reports.

The primary function of the Smart Parking Network is to improve the turn-over of parking spaces, to create more equitable access to parking in the Fingal Bay foreshore and town centre. Smart Parking also provides a revenue stream to support local infrastructure projects. The existing resident and business Park Free Permit Scheme currently used in Nelson Bay and Shoal Bay will be extended to include Smart Parking in Fingal Bay.

This report has been arranged into the following Smart Parking milestones to provide evidence that clear steps have been undertaken in the implementation of the Smart Parking program.

- Council Resolution to Investigate
- Technical Investigations
- Financial Assessment

- Infrastructure Program
- Community Engagement
  
- Local Traffic Committee
- Council Adoption
- Community Engagement (Closing the Loop)
- Execution

#### Council resolution to investigate

The Council resolution to investigate Smart Parking at Fingal Bay was made on 26 July 2022 (**ATTACHMENT 2**).

#### Technical Investigations

The technical investigations sought to identify what traffic, parking or road safety issues may be present and their potential solutions. For the subject locations, Council engineering staff undertook site inspections, measurements and assessments in addition to traffic management studies, being the Parking Study for Fingal Bay and One Mile Beach. The report identifies that during peak periods parking space utilisation is approaching capacity and further that, additional supply is needed in combination with the introduction of paid parking as a demand management tool.

#### Financial Modelling

Financial modelling was undertaken to assess whether the activation of Smart Parking was financially sustainable and to forecast projected funds available for contribution to the draft Infrastructure Programs.

The financial assessment for Fingal Bay has confirmed that the capital and operational costs of delivering Smart parking infrastructure was sustainable and forecast \$263,000 per annum contribution to the Fingal Bay Precinct Smart Parking Reserve based on current adopted Fees and Charges rates (**ATTACHMENT 4**).

#### Infrastructure Program

The Fingal Bay Smart Parking Infrastructure Program (**ATTACHMENT 5**) was recently updated and circulated as a discussion piece with the local community. The updated program was compiled from outcomes of the technical investigations, Council resolutions and community engagement. This recent update was the result of infrastructure priorities identified with the recent community engagement.

As part of the public engagement of the draft Fingal Bay Infrastructure program, an active community engagement approach was undertaken to help focus responses and submissions on both the actions within the draft infrastructure program. The findings of this engagement will be reported to Council.



### Community Engagement

Community engagement on Smart Parking sought community input into the Infrastructure Program, smart parking settings and changes to parking regulation.

The key messages heard and some additional information in response from the earlier community engagement approach has been released. Council staff have released indirect communications through social media and direct communication to survey respondents that nominated to be contacted.

The results of the engagement are detailed in the Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach **(ATTACHMENT 1)**.

Key findings included:

- Request for longer time limits.
- Concern regarding impact of Smart Parking on neighbouring streets.
- That more information required for Smart Parking settings and other Council programs.

The parking regulations and proposed signage have been amended to address the key messages regarding impact on neighbouring streets and requesting longer time limits. Further information regarding Smart Parking settings and other Council programs has been included with the 'Closing the Loop' Community Engagement.

### Local Traffic Committee

All regulatory controls on roads must be approved by the Local Traffic Committee. At the recent meeting in February, the Local Traffic Committee assessed the proposal. The Local Traffic Committee meeting minutes **(ATTACHMENT 6)** confirm approval.

### Council Adoption

This report is the milestone in achieving endorsement for implementation of Smart Parking in Fingal Bay.

### Community Engagement (close the loop)

The key messages heard and some additional information in response from the earlier community engagement approach has been released to survey respondents that provided contact information. Additionally, Council staff have released indirect communications through social media channels.

Summary of changes resulting from community consultation include:



- The parking regulations and proposed parking directional signage have been amended to address the key messages regarding impact on neighbouring streets and requesting longer time limits. Additionally the Smart Parking Extents have been reduced to some adjoining residential properties.
- Further information has been provided regarding Smart Parking settings and other Council programs.

### Execution

Following Council resolution, the meters can be installed and operational within 6 weeks. Regulatory and environmental approvals have been obtained.

## **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Infrastructure and facilities	Provide asset and engineering services to meet customer demand

## **FINANCIAL/RESOURCE IMPLICATIONS**

Fingal Bay Smart Parking Program income and expenditure is included in the Long Term Financial Plan forecast for the current financial year.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	No		
Reserve Funds	Yes	\$120,000	Funding from the Fingal Bay Smart Parking reserve
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

If Smart Parking does not commence in Fingal Bay during May this financial year, adjustments will need to be made to the existing budget.

## **LEGAL, POLICY AND RISK IMPLICATIONS**

The proposed Fingal Bay Smart Parking system benefits from the existing Park Free Permits, fees and charges and management frameworks established with the existing Nelson Bay and Shoal Bay Smart Parking Schemes.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that the estimates of uptake of paid parking are too high leading to revenue forecasts/capital work projections not being met.	Medium	<ul style="list-style-type: none"> <li>Regular monitoring and reporting of financial performance.</li> <li>Update projections within quarterly budget review.</li> <li>Follow competitive procurement processes.</li> </ul>	Yes
There is a risk that visitor willingness to pay for parking may lead to lower visitation.	Medium	<ul style="list-style-type: none"> <li>Reinvest proceeds from paid parking into projects that increase satisfaction with area and encourage return visits.</li> <li>Continue Place Activation Program of events, entertainment and beautification aimed at increasing visitation.</li> <li>Promotion of access to 15 minutes free parking throughout the day, plus free parking before 8.30am and after 5.30pm every day.</li> </ul>	Yes
There is risk that long term financial plan income budgets may not be met if the installation of parking infrastructure is delayed.		<ul style="list-style-type: none"> <li>Adopt the resolution.</li> </ul>	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Consideration has been given to the Social, Economic and Environmental Implications of the proposed Smart Parking Installation.

Continuation of the residents, rate payers and workers Park Free Permit scheme has been reconfirmed through Council's adopted Fees and Charges 2023-24 and achieved as a zero fee item (**ATTACHMENT 4**).

Financial modelling has been completed showing a sustainable return on investment that is forecast to provide an ongoing source of funds which will be contributed to infrastructure projects within the Fingal Bay Smart Parking precinct. These projects cater not only to our local residents but also aim to provide an enjoyable experience for our visitors, encouraging them to return.

The Smart Parking funded Place Activation Program for Fingal Bay is proposed to be established with an aim of providing events, entertainment and beautification, increasing visitation and experience within Fingal Bay.

The parking meters will increase parking turnover and increase adherence to timed parking restrictions and are solar panel driven to reduce the reliance on electricity.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Assets Section and the Communications Section and is summarised below with their mitigation measures discussed earlier in this report.

### Internal

- Financial Services Section
- Assets Section
- Compliance Tea
- Information Communication and Technology Team
- Digital Transformation Team
- Communications and Engagement Teams
- Customer Experience Team
- Mayor and Councillors

### External

The results of the community engagement program are detailed in the Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach (**ATTACHMENT 1**).

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach. (Provided under separate cover) [↓](#)

## ORDINARY COUNCIL - 12 MARCH 2024

- 2) Council Resolution - Smart Parking - Min. No. 194, 26 July 2022. [↓](#)
- 3) Fingal Bay Smart Parking Extents. [↓](#)
- 4) Smart Parking 2023-24 Fees and Charges. [↓](#)
- 5) Fingal Bay Smart Parking Infrastructure Program. [↓](#)
- 6) Local Traffic Committee - 24 February 2024 Minutes - Fingal Bay. [↓](#)

### COUNCILLORS' ROOM/DASHBOARD

- 1) Transport for NSW "Pay Parking Guidelines" (November 2019).
- 2) Transport for NSW "Permit Parking Guidelines" (November 2021)
- 3) Parking Study for Fingal Bay and One Mile Beach.

### TABLED DOCUMENTS

Nil.

**MINUTES ORDINARY COUNCIL - 26 JULY 2022****ITEM NO. 2****FILE NO: 22/114478  
EDRMS NO: PSC2019-05143****SMART PARKING****REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER  
GROUP: FACILITIES & SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the continued rollout of SMART Parking at:
  - Shoal Bay
  - The expansion of the Nelson Bay area including:
    - Fly Point
    - Little Beach
    - Laman Street
- 2) Commence investigation and community consultation at Birubi Headland, Anna Bay, Fingal Bay and One Mile around the installation of SMART Parking.
- 3) Develop infrastructure program for investment of SMART Parking funds at Birubi Headland, Anna Bay, Fingal Bay and One Mile after community consultation and investigation.
- 4) Continue to provide free SMART Parking in Port Stephens for residents, rate payers and employees of local businesses. Time based restrictions to apply.
- 5) Manage funding by holding revenue generated from SMART Parking in an internally restricted reserve.
- 6) Invest the funds raised from SMART Parking back into SMART Parking precincts.

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**ORDINARY COUNCIL MEETING - 26 JULY 2022  
MOTION**

	<b>Councillor Leah Anderson Councillor Glen Dunkley</b>  That Council:  1) Note the continued rollout of SMART Parking at: <ul style="list-style-type: none"><li>• Shoal Bay</li><li>• The expansion of the Nelson Bay area including:<ul style="list-style-type: none"><li>○ Fly Point</li></ul></li></ul>
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**ITEM 5 - ATTACHMENT 2 COUNCIL RESOLUTION - SMART PARKING - MIN. NO. 194, 26 JULY 2022.****MINUTES ORDINARY COUNCIL - 26 JULY 2022**

	<ul style="list-style-type: none"> <li>○ Little Beach</li> <li>○ Laman Street</li> </ul>
2)	Commence investigation and community consultation at Birubi Headland, Anna Bay, Fingal Bay and One Mile around the installation of SMART Parking.
3)	Develop infrastructure program for investment of SMART Parking funds at Birubi Headland, Anna Bay, Fingal Bay and One Mile after community consultation and investigation.
4)	Continue to provide free SMART Parking in Port Stephens for residents, rate payers and employees of local businesses. Time based restrictions to apply.
5)	Manage funding by holding revenue generated from SMART Parking in an internally restricted reserve.
6)	Invest the funds raised from SMART Parking back into SMART Parking precincts.

**ORDINARY COUNCIL MEETING - 26 JULY 2022  
MOTION**

<b>193</b>	<b>Councillor Peter Kafer</b> <b>Councillor Matthew Bailey</b>
	It was resolved that Cr Leah Anderson be granted a 2 minutes extension of time to address Council.

Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Francis, Peter Kafer and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**ORDINARY COUNCIL MEETING - 26 JULY 2022  
AMENDMENT**

<b>194</b>	<b>Councillor Leah Anderson</b> <b>Councillor Peter Kafer</b>
	It was resolved that Council: 1) Note the continued rollout of SMART Parking at: <ul style="list-style-type: none"> <li>• Shoal Bay</li> <li>• The expansion of the Nelson Bay area including: <ul style="list-style-type: none"> <li>○ Fly Point</li> </ul> </li> </ul>

**MINUTES ORDINARY COUNCIL - 26 JULY 2022**

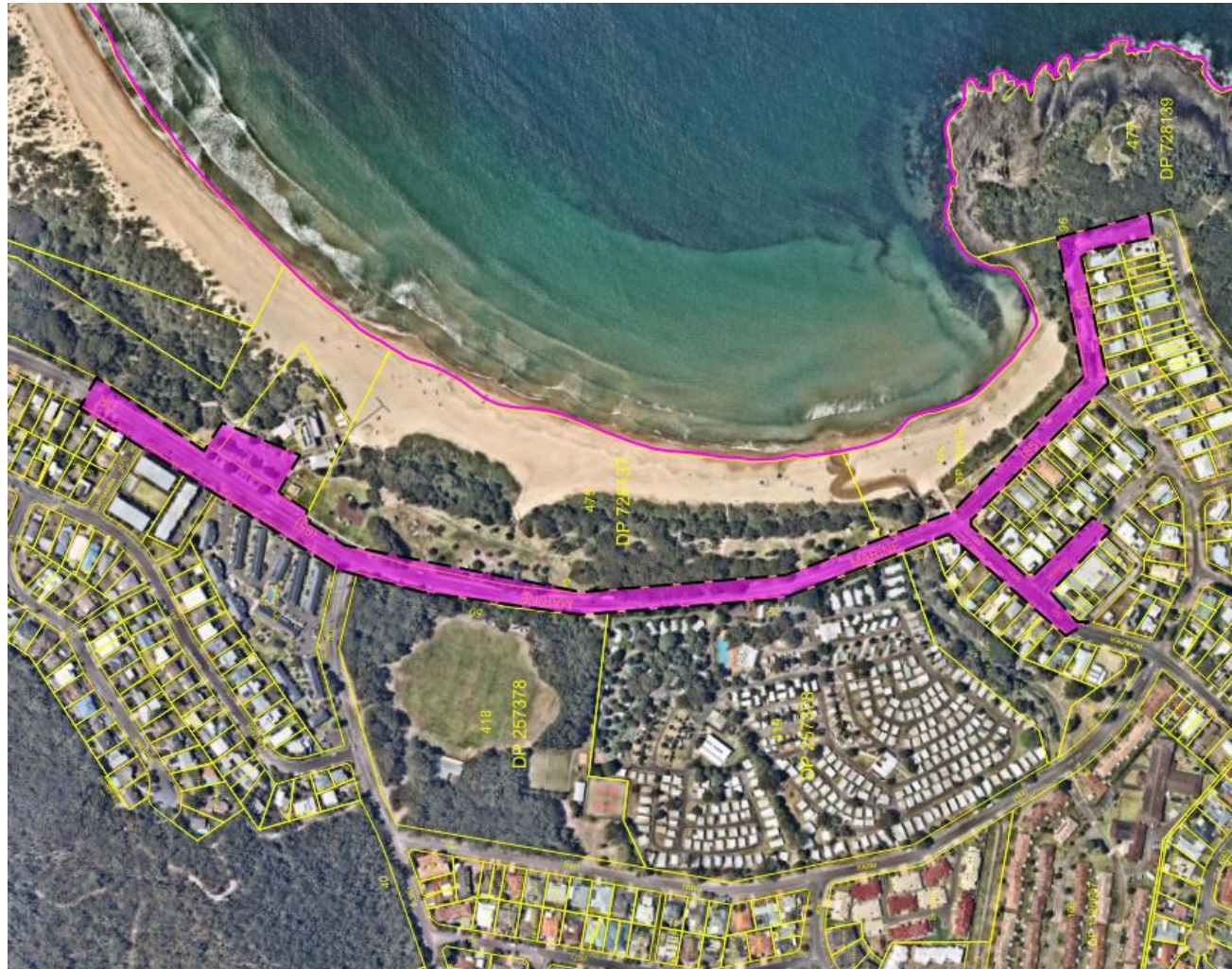
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3)	Develop infrastructure program for investment of SMART Parking funds at Birubi Headland, Anna Bay, Fingal Bay and One Mile after community consultation and investigation.
4)	Continue to provide free SMART Parking in Port Stephens for residents, rate payers and employees of local businesses. Time based restrictions to apply.
5)	Manage funding by holding revenue generated from SMART Parking in an internally restricted reserve.
6)	Invest the funds raised from SMART Parking back into SMART Parking precincts.
7)	That Council complete consultation regarding Smart Parking at Fly Point, Little Beach, and Laman Street and bring this feedback back to Council before proceeding with Smart parking rollout in these locations.
8)	If Council proceeds to put parking meters at Fly Point, Little Beach, and Laman Street, to fund the Smart Parking, that residents and ratepayers will be exempt from paying for parking at these parking meters.
9)	That Council provide the names of the businesses in the Shoal Bay shopping precinct that they spoke to directly and what the feedback from those businesses was regarding smart parking before smart parking is introduced on the shopping strip.
10)	That the Shoal Bay Infrastructure Program be put forward for community consultation and for East Ward councillors review, prior to it being adopted.
11)	That further and more extensive community consultation be completed on the potential one way traffic arrangement in Shoal Bay and this be brought back to council for further consideration before it is implemented.
12)	That the Nelson Bay Infrastructure Program from 2022 onwards be put forward for community consultation and for East Ward councillors review, prior to it being adopted.
13)	That item 14 on the Nelson Bay Infrastructure Program in 2023 being the Design and Construction of at grade parking, be completely removed from the Nelson Bay infrastructure program.

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

Those against the Motion: Cr Glen Dunkley.



Fingal Bay Smart Parking Extents





8/11/23, 11:47 AM

Portstephens - Fees &amp; Charges - Fees &amp; Charges

## Port Stephens Council



## Online Search Facility

smart parking

## 4 Fees &amp; Charges

Year 2022/2023	Year 2023/2024					
Name	Fee (incl. GST)	Fee (excl. GST)	GST	Fee (incl. GST)	Unit	Legislation
Pricing Policy						
<b>Port Stephens Council   Administration Services   Parking   Smart Parking Meters</b>						
Smart Parking Permit	\$0.00	\$0.00	\$0.00	\$0.00		Road Transport Act 2013
All ratepayers and residents of Port Stephens Local Government Area, and employees of business within the metered parking scheme zone are eligible.						
Smart Parking Permit - Non-LGA Business Permit	\$139.00	\$150.00	\$0.00	\$150.00	Per vehicle	Market pricing
For businesses located outside Port Stephens Council Local Government Area who regularly work in and around metered parking scheme zones						
15 Minutes Park Free	\$0.00	\$0.00	\$0.00	\$0.00		Road Transport Act 2013
Parking sessions 15 minutes or less are free						
Smart Parking Meter Fee	\$4.50	\$4.09	\$0.41	\$4.50	Per Hour	Road Transport Act 2013
No fee for holders of Smart Parking Permit.						

<https://portal.lgsolutions.net.au/Fees/Public/Portstephens>

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**ITEM 5 - ATTACHMENT 5 FINGAL BAY SMART PARKING  
INFRASTRUCTURE PROGRAM.**

**Fingal Bay Precinct Smart Parking Infrastructure Program**

Item	Financial Year	Source of Work
Annual Place Activation Allocation - program of activities and events across the smart parking precincts to increase visitor numbers and experience	Ongoing	Place Activation
Traffic and Parking Upgrades - Installation of Parking Meters - Fingal Bay	23/24	Traffic/Parking
Pathway Shared Path - Missing Link from Fingal Vehicle Ramp to Barry Park	23/24	Community Consultation
Traffic and Parking Upgrades - Fingal Bay Tennis Court Car Park	28/29	Traffic/Parking
Community Infrastructure - Fingal Bay Playground Shade Sail	31/32	Community Consultation
Traffic and Parking Upgrades - Barry Park Car Park (incl. drainage infrastructure, kerb and gutter works and resurfacing)	33/34	Traffic/Parking
Pathway Access Points - On Marine Drive north of SLSC connecting to Fingal-Shoal Bay Shared Path	34/35	Community Consultation
Revision Date		Feb 2024

**ITEM 5 - ATTACHMENT 6 LOCAL TRAFFIC COMMITTEE - 24 FEBRUARY 2024 MINUTES - FINGAL BAY.**

**Item:** 08\_02/24

**Roads, Fingal Bay – Introduction of a Smart Parking scheme at Fingal Bay**

**Requested by:** Port Stephens Council

**File:** 365893-2023

**Background:**

As part of the investigations and continued roll out of paid parking across Port Stephens Council, endorsement is sought for the introduction of Smart Parking at Fingal Bay

Smart Parking is designed to improve the turn-over of parking spaces to create more equitable access to parking in Fingal Bay. Smart Parking also provides a revenue stream to support local infrastructure projects. The existing resident and business Park Free Permit Scheme currently used in Nelson Bay will be extended to include paid parking in Fingal Bay. Similarly, parking guidance and payment apps will be extended to the Fingal Bay area.

Technical investigations were undertaken to identify what traffic, parking or road safety issues may be present and their potential solutions. For the subject locations, Council engineering staff undertook site inspections, measurements and assessments.

The investigations also included community engagement regarding the Smart Parking settings, changes to parking regulation and desired projects for revenue to be spent on. The results of the engagement from confirmed that the local community is generally supportive for the installation of Smart Parking in Fingal Bay, to assist with a range of parking and movement issues. Additionally, there was strong support for the Smart Parking scheme including the permits to allow free parking for residents and rate payers of the Port Stephens Local Government Area.

**Comment:**

Fingal Bay Smart Parking will operate in a similar manner as the existing Nelson Bay Smart Parking scheme, with the same permit scheme exemptions for residents, ratepayers and business owners.

The proposed parking restrictions, as indicated on the attached plans are:

**Dark Blue** – 9P Meter Registration, Permit Holders Excepted, 8:30am - 5:30pm, Monday - Sunday, Public Holidays Included

**Light Blue** – 4P Meter Registration, Permit Holders Excepted, 8:30am - 5:30pm, Monday - Sunday, Public Holidays Included

**Yellow** – 2P Meter Registration, Permit Holders Excepted, 8:30am - 5:30pm, Monday - Sunday, Public Holidays Included

**Green** – Bus zone

**Red** – No Stopping

**ITEM 5 - ATTACHMENT 6 LOCAL TRAFFIC COMMITTEE - 24 FEBRUARY 2024 MINUTES - FINGAL BAY.****Legislation, Standards, Guidelines and Delegation:**

NSW Road Rules: 204 - Meaning of certain information on or with permissive parking signs, 205 - Parking for longer than indicated, 207 - Parking where fees are payable, 317 - Information on or with traffic control devices, 318 - Limited effect of certain traffic control devices

Transport for NSW "Pay Parking Guidelines" (November 2019).

Transport for NSW "Permit Parking Guidelines". (November 2021)

Traffic control devices installed under Part 5.3 Div. 2 Road Transport Act 2013

**Committee's recommendation:**

Approve the introduction of Smart Parking at Fingal Bay, as shown on the attached plans.

**Engagement level****Level 1 – Inform**

Action: Provide stakeholders with information to assist understanding of the changes and the Local Traffic Committee recommendation once endorsed

**Support for the recommendation:**

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

**ITEM NO. 6**

**FILE NO: 24/1730  
EDRMS NO: PSC2019-05143**

**SMART PARKING - BIRUBI HEADLAND**

REPORT OF: JOHN MARETICH - ASSETS SECTION MANAGER  
DIRECTORATE: FACILITIES AND INFRASTRUCTURE

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Notes the Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach **(ATTACHMENT 1)**.
- 2) Endorses the installation of Smart Parking Infrastructure for Birubi Headland **(ATTACHMENT 3)**.
- 3) Endorses the Anna Bay Smart Parking Infrastructure Program **(ATTACHMENT 5)**.
- 4) Continues to provide free Smart Parking in Port Stephens for residents, ratepayers and employees of local business. Time based restrictions to apply.

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**BACKGROUND**

The purpose of this report is to present a package of information that responds to the Council resolution of 26 July 2022 **(ATTACHMENT 2)** relating to the Smart Parking extension as shown in the Birubi Headland Smart Parking Extents map **(ATTACHMENT 3)**. Birubi Headland is located within the Anna Bay Smart Parking Precinct. Information relating to other proposed Smart Parking Precincts will be presented to Council in future reports.

The primary function of the Smart Parking Network is to improve the turn-over of parking spaces, to create more equitable access to parking within Birubi Headland. Smart Parking also provides a revenue stream to support local infrastructure projects. The existing resident and business Park Free Permit Scheme currently used in Nelson Bay and Shoal Bay Precincts will be extended to include Smart Parking in the Anna Bay Precinct.

This report has been arranged into the following Smart Parking milestones to provide evidence that clear steps have been undertaken in the implementation of the Smart Parking program.

- Council Resolution to Investigate
- Technical Investigations
- Financial Assessment
- Infrastructure Program
- Community Engagement

- Local Traffic Committee-
- Community Engagement (Closing the Loop)
- Council Adoption
- Execution

Council resolution to investigate

The Council resolution to investigate Smart Parking at Birubi Headland was made on 26 July 2022 **(ATTACHMENT 2)**.

Technical Investigations

The technical investigations sought to identify what traffic, parking or road safety issues may be present and their potential solutions. For the subject locations, Council engineering staff undertook site inspections, measurements and assessments in addition to traffic management studies, being the Parking Study for Birubi Headland and Little Beach

The reports identify that during peak periods parking space utilisation is exceeding capacity and further that, additional supply is needed in combination with expansion of paid parking as a demand management tool, parking guidance signage/apps, public parking information system, parking regulation review, shuttle style service in peak times and upgrades to the surrounding pathway network.

The results of the Report have been used to inform the Traffic Committee report and progressive implementation through the Anna Bay Smart Parking Infrastructure Program.

Financial Modelling

Financial modelling was undertaken to assess whether the activation of Smart Parking was financially sustainable and to forecast projected funds available for contribution to the Anna Bay Smart Parking Infrastructure Program **(ATTACHMENT 5)**.

The financial assessment for Birubi Headland has confirmed that the capital and operational costs of delivering Smart parking infrastructure was sustainable and forecast \$211,000 per annum contribution to the Anna Bay Precinct Smart Parking Reserve based on current adopted Fees and Charges rates **(ATTACHMENT 4)**.

Infrastructure Program

The Anna Bay Smart Parking Infrastructure Program **(ATTACHMENT 5)** was compiled from outcomes of the technical investigations, Council resolutions and community engagement.

### Community Engagement

Community engagement on Smart Parking sought community insights into the Smart Parking Infrastructure Program, Smart Parking settings and changes to parking regulation.

The results of the engagement are detailed in the Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach **(ATTACHMENT 1)**.

Key findings included:

- Request for longer time limits.
- Request to address traffic congestion in peak times.
- Concern regarding impact of Smart Parking on neighbouring streets.
- That more information required for Smart Parking settings and other Council programs.

The parking regulations and proposed signage have been amended to address the key messages regarding impact on neighbouring streets and requesting longer time limits. Additionally, provision to run a shuttle bus during peak time has been included to address concerns relating to lack of parking and congestion. Further information regarding Smart Parking settings and other Council programs has been included with the 'Closing the Loop' Community Engagement.

### Local Traffic Committee

All regulatory controls on roads must be approved by the Local Traffic Committee. At the February 2024 meeting, the Local Traffic Committee assessed the introduction of parking restrictions and paid parking to Robinson Reserve carpark and Birubi Headland upper and lower carparks. The Local Traffic Committee meeting minutes **(ATTACHMENT 6)** confirm approval.

### Council Adoption

This report is the milestone to in achieving endorsement for implementation of Smart Parking in Birubi Headland.

### Community Engagement (Closing the loop)

The key messages heard and some additional information in response from the earlier community engagement approach has been released. Council staff have released indirect communications through social media and direct communication to survey respondents that nominated to be contacted.

Summary of changes resulting from community consultation include:

## ORDINARY COUNCIL - 12 MARCH 2024

- The parking regulations and proposed parking have been amended to address the key messages regarding impact on neighbouring streets and requesting longer time limits. Additionally the Smart Parking Extents have been reduced to some adjoining residential properties.
- Provision to run a shuttle bus during peak time has been included to address concerns relating to lack of parking and congestion.
- Provision of digital parking guidance signage to advise motorists of parking availability to reduce congestion.
- Further information has been provided regarding Smart Parking settings and other Council programs.

### Execution

Following Council resolution, the meters can be installed and operational within 6 weeks. Regulatory and environmental approvals have been obtained.

## COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Infrastructure and facilities	Provide asset and engineering services to meet customer demand

## FINANCIAL/RESOURCE IMPLICATIONS

Birubi Headland Smart Parking Program income and expenditure is included in the Long Term Financial Plan forecast for the current financial year. Smart Parking is designed to drive revenue from visitors to enable additional investment in local infrastructure works.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	\$80,000	Funding from the Anna Bay Smart Parking reserve.
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

If Smart Parking does not commence in Birubi Headland before April this financial year, adjustments will need to be made to the existing budget.



**LEGAL, POLICY AND RISK IMPLICATIONS**

The proposed Birubi Headland Smart Parking system benefits from the existing Park Free Permits, fees and charges and management frameworks established with the existing Nelson Bay and Shoal Bay Smart Parking Schemes.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the estimates of uptake of paid parking are too high leading to revenue forecasts/capital work projections not being met.	Medium	<ul style="list-style-type: none"> <li>Regular monitoring and reporting of financial performance.</li> <li>Update projections within quarterly budget review.</li> <li>Follow competitive procurement processes.</li> </ul>	Yes
There is a risk that visitor willingness to pay for parking may lead to lower visitation.	Medium	<ul style="list-style-type: none"> <li>Reinvest proceeds from paid parking into projects that increase satisfaction with area and encourage return visits.</li> <li>Continue Place Activation Program of events, entertainment and beautification aimed at increasing visitation.</li> <li>Promotion of access to 15 minutes free parking throughout the day, plus free parking before 8.30am and after 5.30pm every day.</li> </ul>	Yes
There is risk that long term financial plan income budgets may not be met if the installation of parking infrastructure is delayed.		<ul style="list-style-type: none"> <li>Adopt the resolution.</li> </ul>	Yes

## **SUSTAINABILITY IMPLICATIONS**

Consideration has been given to the Social, Economic and Environmental Implications of the proposed Smart Parking Installation.

Continuation of the residents, rate payers and workers Park Free Permit scheme has been reconfirmed through Council's adopted Fees and Charges 2023-24 and achieved as a zero fee item. **(ATTACHMENT 4)**.

Financial modelling has been completed showing a sustainable return on investment that is forecast to provide an ongoing source of funds which will be contributed to infrastructure projects within the Anna Bay Smart Parking precinct. These projects cater not only to our local residents but also aim to provide an enjoyable experience for our visitors, encouraging them to return.

The Smart Parking funded Place Activation Program for Anna Bay is proposed to be established with an aim of shuttle service with the Anna Bay Town centre, events, entertainment and beautification aimed at increasing visitation and experience within Anna Bay.

The parking meters will increase parking turnover, increase adherence to timed parking restrictions and are solar panel driven to reduce the reliance on electricity.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Assets Section and the Communications Section and is summarised below with their mitigation measures discussed earlier in this report.

### Internal

- Financial Services Section
- Assets Section
- Compliance Team
- Information Communication and Technology Team
- Digital Transformation Team
- Communications and Engagement Teams
- Customer Experience Team
- Mayor and Councillors

### External

Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach **(ATTACHMENT 1)**.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Community and Engagement Report - Smart Parking in your place: Little Beach, Fingal Bay, Birubi Beach and One Mile Beach. (Provided under separate cover) [↓](#)
- 2) Council Resolution - Smart Parking - Min. No. 194, 26 July 2022. [↓](#)
- 3) Birubi Headland Smart Parking Extents. [↓](#)
- 4) Smart Parking 2023-24 Fees and Charges. [↓](#)
- 5) Anna Bay Smart Parking Infrastructure Program. [↓](#)
- 6) Local Traffic Committee - 24 February 2024 Minutes - Anna Bay. [↓](#)

## **COUNCILLORS' ROOM/DASHBOARD**

- 1) Transport for NSW "Pay Parking Guidelines" (November 2019).
- 2) Transport for NSW "Permit Parking Guidelines" (November 2021).
- 3) Parking Study for Birubi Headland and Little Beach.
- 4) Birubi Point – Assessment Report (January 2022).

## **TABLED DOCUMENTS**

Nil.

**MINUTES ORDINARY COUNCIL - 26 JULY 2022****ITEM NO. 2****FILE NO: 22/114478  
EDRMS NO: PSC2019-05143****SMART PARKING****REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER  
GROUP: FACILITIES & SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the continued rollout of SMART Parking at:
  - Shoal Bay
  - The expansion of the Nelson Bay area including:
    - Fly Point
    - Little Beach
    - Laman Street
- 2) Commence investigation and community consultation at Birubi Headland, Anna Bay, Fingal Bay and One Mile around the installation of SMART Parking.
- 3) Develop infrastructure program for investment of SMART Parking funds at Birubi Headland, Anna Bay, Fingal Bay and One Mile after community consultation and investigation.
- 4) Continue to provide free SMART Parking in Port Stephens for residents, rate payers and employees of local businesses. Time based restrictions to apply.
- 5) Manage funding by holding revenue generated from SMART Parking in an internally restricted reserve.
- 6) Invest the funds raised from SMART Parking back into SMART Parking precincts.

**ORDINARY COUNCIL MEETING - 26 JULY 2022  
MOTION****Councillor Leah Anderson  
Councillor Glen Dunkley**

That Council:

- 1) Note the continued rollout of SMART Parking at:
  - Shoal Bay
  - The expansion of the Nelson Bay area including:
    - Fly Point

**MINUTES ORDINARY COUNCIL - 26 JULY 2022**

	<ul style="list-style-type: none"><li>○ Little Beach</li><li>○ Laman Street</li></ul> <ul style="list-style-type: none"><li>2) Commence investigation and community consultation at Birubi Headland, Anna Bay, Fingal Bay and One Mile around the installation of SMART Parking.</li><li>3) Develop infrastructure program for investment of SMART Parking funds at Birubi Headland, Anna Bay, Fingal Bay and One Mile after community consultation and investigation.</li><li>4) Continue to provide free SMART Parking in Port Stephens for residents, rate payers and employees of local businesses. Time based restrictions to apply.</li><li>5) Manage funding by holding revenue generated from SMART Parking in an internally restricted reserve.</li><li>6) Invest the funds raised from SMART Parking back into SMART Parking precincts.</li></ul>
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**ORDINARY COUNCIL MEETING - 26 JULY 2022  
MOTION**

<b>193</b>	<b>Councillor Peter Kafer</b> <b>Councillor Matthew Bailey</b>  It was resolved that Cr Leah Anderson be granted a 2 minutes extension of time to address Council.
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Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Francis, Peter Kafer and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**ORDINARY COUNCIL MEETING - 26 JULY 2022  
AMENDMENT**

<b>194</b>	<b>Councillor Leah Anderson</b> <b>Councillor Peter Kafer</b>  It was resolved that Council: <ul style="list-style-type: none"><li>1) Note the continued rollout of SMART Parking at:<ul style="list-style-type: none"><li>• Shoal Bay</li><li>• The expansion of the Nelson Bay area including:<ul style="list-style-type: none"><li>○ Fly Point</li></ul></li></ul></li></ul>
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**MINUTES ORDINARY COUNCIL - 26 JULY 2022**

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6)	Invest the funds raised from SMART Parking back into SMART Parking precincts.
7)	That Council complete consultation regarding Smart Parking at Fly Point, Little Beach, and Laman Street and bring this feedback back to Council before proceeding with Smart parking rollout in these locations.
8)	If Council proceeds to put parking meters at Fly Point, Little Beach, and Laman Street, to fund the Smart Parking, that residents and ratepayers will be exempt from paying for parking at these parking meters.
9)	That Council provide the names of the businesses in the Shoal Bay shopping precinct that they spoke to directly and what the feedback from those businesses was regarding smart parking before smart parking is introduced on the shopping strip.
10)	That the Shoal Bay Infrastructure Program be put forward for community consultation and for East Ward councillors review, prior to it being adopted.
11)	That further and more extensive community consultation be completed on the potential one way traffic arrangement in Shoal Bay and this be brought back to council for further consideration before it is implemented.
12)	That the Nelson Bay Infrastructure Program from 2022 onwards be put forward for community consultation and for East Ward councillors review, prior to it being adopted.
13)	That item 14 on the Nelson Bay Infrastructure Program in 2023 being the Design and Construction of at grade parking, be completely removed from the Nelson Bay infrastructure program.

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

Those against the Motion: Cr Glen Dunkley.

Blue = 4 Hour Parking, Green = 15 Min Bus Zone, Orange = Loading Zone, Pink = Accessible, Yellow = Motorbike, Areas left unmarked indicate no change to existing.

An aerial photograph of a coastal region. A red line with arrows indicates a route starting from a blue rectangular area on the left, passing through a wooded area, and then following a road that curves along a residential neighborhood on the right. Several red location pins are placed along the route. Two green location pins are also present. A blue line highlights a section of the route near the residential area. A label '61.65m' is positioned near the start of the route.

8/11/23, 11:47 AM

Portstephens - Fees &amp; Charges - Fees &amp; Charges

## Port Stephens Council



## Online Search Facility

smart parking

## 4 Fees &amp; Charges

Year 2022/2023	Year 2023/2024					
Name	Fee (incl. GST)	Fee (excl. GST)	GST	Fee (incl. GST)	Unit	Legislation
Pricing Policy						
<b>Port Stephens Council   Administration Services   Parking   Smart Parking Meters</b>						
Smart Parking Permit	\$0.00	\$0.00	\$0.00	\$0.00		Road Transport Act 2013
All ratepayers and residents of Port Stephens Local Government Area, and employees of business within the metered parking scheme zone are eligible.						
Smart Parking Permit - Non-LGA Business Permit	\$139.00	\$150.00	\$0.00	\$150.00	Per vehicle	Market pricing
For businesses located outside Port Stephens Council Local Government Area who regularly work in and around metered parking scheme zones						
15 Minutes Park Free	\$0.00	\$0.00	\$0.00	\$0.00		Road Transport Act 2013
Parking sessions 15 minutes or less are free						
Smart Parking Meter Fee	\$4.50	\$4.09	\$0.41	\$4.50	Per Hour	Road Transport Act 2013
No fee for holders of Smart Parking Permit.						

<https://portal.lgsolutions.net.au/Fees/Public/Portstephens>

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**ITEM 6 - ATTACHMENT 5      ANNA BAY SMART PARKING INFRASTRUCTURE PROGRAM.**
**Anna Bay Precinct Smart Parking Infrastructure Program**

Item	Financial Year	Source of Work
Annual Place Activation Allocation - program of activities and events across the smart parking precincts to increase visitor numbers and experience	Ongoing	Place Activation
Shuttle Bus Operation. Shuttle bus option for peak times aimed at reducing congestion and providing additional parking options.	Ongoing	Place Activation
Traffic and Parking Upgrades - Installation of Parking Meters - Birubi	23/24	Traffic/Parking
Traffic and Parking Upgrades - Installation of Guidance Signage and Controls - Birubi	24/25	Traffic/Parking
Car Park Redesign/Formalisation - Surf Club Car Park	30/31	Traffic/Parking
Traffic and Parking Upgrades - Surf Club Car Park - Review and relocation of bus and loading zones	30/31	Traffic/Parking
Car Park Formalisation - Birubi Lower Car Park - Stage 1	33/34	Traffic/Parking
Revision Date		Feb 2024

**ITEM 6 - ATTACHMENT 6 LOCAL TRAFFIC COMMITTEE - 24 FEBRUARY 2024 MINUTES - ANNA BAY.**

**Item:** 07\_02/24

**Roads, Anna Bay – Introduction of a Smart Parking scheme at Birubi Headland**

**Requested by:** Port Stephens Council

**File:** 365893-2023

**Background:**

As part of the investigations and continued roll out of paid parking across Port Stephens Council, endorsement is sought for the introduction of Smart Parking at Birubi Headland.

Smart Parking is designed to improve the turn-over of parking spaces to create more equitable access to parking at Birubi. Smart Parking also provides a revenue stream to support local infrastructure projects. The existing resident and business Park Free Permit Scheme currently used in Nelson Bay will be extended to include paid parking at Birubi. Similarly, parking guidance and payment apps will be extended to the Birubi area.

Technical investigations were undertaken to identify what traffic, parking or road safety issues may be present and their potential solutions. For the subject locations, Council engineering staff undertook site inspections, measurements and assessments in addition to traffic management studies, being the Birubi Point parking assessment report (September 2021). This report identifies that during peak periods parking space utilisation is approaching capacity, and supports the expansion of Smart Parking as a demand management tool.

The investigations also included community engagement regarding the Smart Parking settings, changes to parking regulation and desired projects for revenue to be spent on. The results of the engagement from confirmed that the local community is generally supportive for the installation of Smart Parking at Birubi to assist with a range of parking and movement issues. Additionally, there was strong support for the Smart Parking scheme including the permits to allow free parking for residents and rate payers of the Port Stephens Local Government Area.

**Comment:**

Birubi Smart Parking will operate in a similar manner as the existing Nelson Bay Smart Parking scheme, with the same permit scheme exemptions for residents, ratepayers and business owners.

The proposed parking restrictions, as indicated on the attached plans are:

**Dark Blue** – Zone 1 - 4P Meter Registration, Permit Holders Excepted, 8:30am - 5:30pm, Monday - Sunday, Public Holidays Included

**Light Blue** – 4P Meter Registration, Permit Holders Excepted, 8:30am - 5:30pm, Monday - Sunday, Public Holidays Included

**Yellow** – Motorbike parking

**Pink** – Accessible parking

**Orange** – Loading zone

**Red** – No Stopping

**ITEM 6 - ATTACHMENT 6 LOCAL TRAFFIC COMMITTEE - 24 FEBRUARY 2024 MINUTES - ANNA BAY.****Legislation, Standards, Guidelines and Delegation:**

NSW Road Rules: 204 - Meaning of certain information on or with permissive parking signs, 205 - Parking for longer than indicated, 207 - Parking where fees are payable, 317 - Information on or with traffic control devices, 318 - Limited effect of certain traffic control devices

Transport for NSW "Pay Parking Guidelines" (November 2019).

Transport for NSW "Permit Parking Guidelines". (November 2021)

Traffic control devices installed under Part 5.3 Div. 2 Road Transport Act 2013

**Committee's recommendation:**

Approve the introduction of Smart Parking at Birubi, as shown on the attached plans.

**Engagement level****Level 1 – Inform**

Action: Provide stakeholders with information to assist understanding of the changes and the Local Traffic Committee recommendation once endorsed

**Support for the recommendation:**

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

**ITEM NO. 7****FILE NO: 24/32976  
EDRMS NO: PSC2005-3231****ADDITIONAL ITEMS TO CAPITAL WORKS PLUS PLAN**

REPORT OF: JOHN MARETICH - ASSETS SECTION MANAGER  
DIRECTORATE: FACILITIES AND INFRASTRUCTURE

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Receive and notes the submission **(ATTACHMENT 1)**.
- 2) Endorses additional projects to be placed in the Capital Works Plus Plan from the Matter Arising (Minute 278), 28 November 2023 **(ATTACHMENT 2)**.

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**BACKGROUND**

The purpose of this report is to seek Council's endorsement for proposed projects to be included in Council's Capital Works Plus Plan. Council resolved to add proposed projects and place them on public exhibition during Item No.2 Draft Local Infrastructure Contributions Plan – Amendment 3, 28 November 2023 **(ATTACHMENT 2)**.

One submission was received that did not object to the proposed projects, though made comments regarding the desire to allocate funds to ensure that projects are undertaken **(ATTACHMENT 1)**.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Infrastructure and facilities	Provide, manage and maintain community assets in accordance with the SAMP 2023-2033

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no financial or resource implications with endorsing the inclusion of the proposed projects in the Capital Works Plus Plan **(ATTACHMENT 2)**. The Capital Works Plus Plan is unfunded and projects may be completed if funding becomes available.

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 endorsing the inclusion of the proposed projects in the Capital Works Plus Plan (**ATTACHMENT 2**).

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There are no material risk with including the projects in Council's Capital Works Plus Plan.	N/A	Place the proposed projects in Council's Capital Works Plus Plan.	Yes

### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no social, economic and environmental implications endorsing the inclusion of the proposed projects in the Capital Works Plus Plan (**ATTACHMENT 2**).

### CONSULTATION

The proposed projects listed in the Matter Arising were placed on public exhibition from 4 December 2023 and 29 January 2024.

### OPTIONS

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

### ATTACHMENTS

- 1) Submission - Additional Items to the Capital Works Plus Plan. [↓](#)
- 2) Draft Local Infrastructure Contributions Plan – Amendment 3, (Minute No, 278) - 28 November 2023, [↓](#)

**COUNCILLORS' ROOM/DASHBOARD**

1) Copy of full submission.

**TABLED DOCUMENTS**

Nil.

# ITEM 7 - ATTACHMENT 1 SUBMISSION - ADDITIONAL ITEMS TO THE CAPITAL WORKS PLUS PLAN.

## ADDITIONAL ITEMS TO THE CAPITAL WORKS PLUS PLAN

No.	Author of submission	Comment	Council response
1	Tomaree Ratepayers & Residents Association (TRRA)	<p>Raised concern that the additional items to the Capital Works Plus Plan have been placed on public exhibition without any explanation.</p> <p>Further concern raised against items,</p> <p>3) – Koala Fence extension for the remainder of Port Stephens Drive, and</p> <p>4) Implement Tree Strategy and Tree Map. The fear the Capital Works Plus Plan is in effect a 'wish list' that items 3 &amp; 4 do not become an excuse for not pursuing earlier implementation of these projects. A proposed solution is required.</p> <p>A suggestion for Council to implement an 'interim' Street Strategy on an ongoing basis. Stating in the case of Nelson Bay, a proportion of revenue from Smart Parking should be spent on progressive planting of appropriate street trees in selected locations in accordance with the adopted Public Domain Plan. This should not be held up pending the completion of an overall Street Tree Strategy for the whole LGA, at some undetermined date in the future.</p> <p>Submission states the need for increased tree canopy in urban areas is urgent and will bring a range of benefits including shade, cooling, visual amenity and carbon storage.</p>	<p>As noted in Council's Strategic Asset Management Plan, the Capital Works Plus Plan lists the projects that are desired to be undertaken though do not yet have availability of funding. When funds are released and prioritised under the asset funding strategy, funds are allocated to the projects documented in the Plus Plan or to existing projects in future years that may be brought forward.</p> <p>The Works Plus Plan is adopted by Council and provides evidence to the community and to funding sources that the project should proceed. Once suitable funding sources are available they are allocated to the relevant project.</p>

**ITEM 7 - ATTACHMENT 2 DRAFT LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN – AMENDMENT 3, (MINUTE NO, 278) - 28 NOVEMBER 2023,****MINUTES ORDINARY COUNCIL - 28 NOVEMBER 2023****ITEM NO. 2****FILE NO: 23/251708  
EDRMS NO: PSC2023-03567****DRAFT LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN - AMENDMENT 3**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Notes that there were no submissions received during the exhibition period
- 2) Approves the Port Stephens Local Infrastructure Contributions Plan – Amendment 3 as amended (**ATTACHMENT 1**).
- 3) Provides public notice that the Port Stephens Local Infrastructure Contribution Plan – Amendment No. 3 has been approved, in accordance with the Environmental Planning and Assessment Regulations 2021 (NSW).

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

<b>277</b>	<p><b>Councillor Giacomo Arnott</b> <b>Councillor Leah Anderson</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Notes that there were no submissions received during the exhibition period</li><li>2) Approves the Port Stephens Local Infrastructure Contributions Plan – Amendment 3 as amended (<b>ATTACHMENT 1</b>), with all references to "Raymond Terrace Rural" changed to "Raymond Terrace &amp; Hinterland", all references to "Raymond Terrace and the West" changed to "Raymond Terrace and the Hinterland", and the removal of RW1 in the Raymond Terrace and the Hinterland roadworks section, with Council to review the need for roadworks extending north of the existing roundabout, considering a lack of land ownership, the resultant fragmentation of land being used for farming purposes, and a reluctance from those in West Richardson Rd to have residential development in their area. The \$200,000 cost of this item will be reapportioned without the report needing to return to Council.</li><li>3) Provides public notice that the Port Stephens Local Infrastructure Contribution Plan – Amendment No. 3 has been approved, in accordance with the Environmental Planning and Assessment Regulations 2021 (NSW).</li></ol>
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**ITEM 7 - ATTACHMENT 2 DRAFT LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN – AMENDMENT 3, (MINUTE NO, 278) - 28 NOVEMBER 2023,****MINUTES ORDINARY COUNCIL - 28 NOVEMBER 2023**

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

Those against the Motion: Nil.

The motion was carried.

**ORDINARY COUNCIL MEETING - 28 NOVEMBER 2023  
MATTER ARISING**

<b>278</b>	<b>Councillor Steve Tucker Councillor Leah Anderson</b>  It was resolved that the following items be added to the Works Plan Plus and placed on exhibition: 1) Shared Pathways a) Shared pathway Strathmore Road, Mallabula to Skate Park b) Shared pathway Avenue of the Allies, Tanilba Bay – Diggers Drive to Peace Parade 2) Sports and Recreation Facilities a) Mallabula Sports Complex, Mallabula – Croquet Court b) Mallabula Sports Complex, Mallabula – Additional Tennis Court c) Tanilba Bay Golf Club – Provision of Cart Shed 3) Koala Fence extension for the remainder of Port Stephens Drive. 4) Implement a Street Tree Strategy and Tree Map.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to advise Council of the outcomes of the consultation undertaken on the draft Port Stephens Local Infrastructure Contribution Plan (LIC) – Amendment No. 3 (the Amendment) and to seek Council endorsement to make the Amendment (**ATTACHMENT 1**).

Council collects local infrastructure contributions to support growth from new developments by funding community infrastructure such as local roads, pathways, parks and sporting facilities. Local infrastructure contributions are levied in accordance with Part 7 of the Environmental Planning and Assessment Act 1979

**ITEM 7 - ATTACHMENT 2 DRAFT LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN – AMENDMENT 3, (MINUTE NO, 278) - 28 NOVEMBER 2023,****MINUTES ORDINARY COUNCIL - 28 NOVEMBER 2023**

(EP&A Act) and the endorsed LIC plan. The funds collected must be allocated to the projects identified within the LIC plan.

The LIC plan is amended on an annual basis to make administrative changes and to update projects identified to support growth and development.

At its meeting on 12 September 2023, Minute No. 200 (**ATTACHMENT 2**), Council endorsed the draft Amendment for public exhibition. The draft was publicly exhibited for 28 days from Thursday 14 September 2023 to Thursday 12 October 2023 in accordance with the Environmental Planning and Assessment Regulations 2021 (NSW) (EP&A Regulation).

The exhibited draft amendment included the removal of infrastructure items, the amendment of the amounts required to deliver infrastructure items and the introduction of additional infrastructure items.

The policy and administrative amendments to the LIC plan relate to:

- Revoking the discount for caravan parks and moveable dwellings, unless the development is for short term tourist and visitor accommodation or an applicant can demonstrate the development will contribute to the supply of affordable housing
- Changes to the expenditure of haulage funds
- Clarifications regarding works to be undertaken in addition to haulage
- Clarifications regarding mixed use development
- Clarifications regarding conditioning for works and contributions
- Replacement of any reference to the recently repealed Housing State Environmental Planning Policy (SEPP)
- Replacement of occupancy rates
- Clarification of pooling of funds.

The removal of infrastructure items from the LIC plan relates to:

- items that have been funded by the LIC plan and completed
- items that have been funded by sources other than infrastructure contributions (i.e. grant funding)
- items that are not considered feasible within the life of the plan due to population growth and contributions income within the catchment.

The amendment of the amounts dedicated to infrastructure items from the LIC plan relates to:

- increasing market values for the delivery of infrastructure and acquisition of land
- increased scope of the infrastructure projects to be delivered.

**ITEM 7 - ATTACHMENT 2 DRAFT LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN – AMENDMENT 3, (MINUTE NO, 278) - 28 NOVEMBER 2023,****MINUTES ORDINARY COUNCIL - 28 NOVEMBER 2023**

The introduction of new infrastructure items into the LIC plan relates to:

- the addition of infrastructure projects that have been identified as being required to support growth and development.

The exhibited draft included the proposed contribution rates for each catchment shown in the table below.

<b>Contributions catchments</b>	<b>Current contribution rate</b>	<b>Proposed contribution rate</b>	<b>Difference</b>
Raymond Terrace and the West	\$20,000	\$20,000	\$0
Central Growth Corridor	\$20,000	\$20,000	\$0
Tomaree	\$20,000	\$20,000	\$0
Fern Bay	\$20,000	\$20,000	\$0
Kings Hill Urban Release Area (URA)	\$26,713	\$28,958	\$2,245

No submissions were received during the exhibition period.

The following minor changes are proposed to the LIC Plan following exhibition:

- Replacement of the word 'clause' with the word 'section' in relation to the EP&A Regulation 2021.

This amendment is to reflect the changed naming convention within the EP&A Regulation 2021 and is administrative only.

- Replacement of OSF11 within the Works Schedule of the Plan with OSF76.

OSF11 was for 'Aliceton Reserve – landscaping, playground and recreation facilities'. The funds for OSF11 have now been allocated to the works as described in the Plan, and therefore the item is exhausted. There has been noted need for additional works at Aliceton Reserve. As such OSF76 is for 'Aliceton Reserve upgrades, (\$250,000 and 100% apportioned) has been added to the LIC Plan with a staging threshold of 2026. This will allow for future works in Aliceton Reserve to be funded by the LIC Plan.

**ITEM 7 - ATTACHMENT 2 DRAFT LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN – AMENDMENT 3, (MINUTE NO, 278) - 28 NOVEMBER 2023,**

**MINUTES ORDINARY COUNCIL - 28 NOVEMBER 2023**

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

The Amendment aims to secure contributions from development towards local infrastructure. Should the Amendment be adopted, it would enable funding and construction of essential public infrastructure to satisfy the demands of the future population.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (\$7.11)	Yes		The preparation of the Amendment has been funded by local infrastructure contributions.
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will not be able to provide the necessary infrastructure to support new development if the Amendment is not adopted.	Medium	Accept the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

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

Part 7 of the EP&A Act authorises Council to collect local infrastructure contributions from new development. Conditions imposed on new development would be in accordance with an approved local infrastructure contributions plan.

**ITEM 7 - ATTACHMENT 2 DRAFT LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN – AMENDMENT 3, (MINUTE NO, 278) - 28 NOVEMBER 2023,****MINUTES ORDINARY COUNCIL - 28 NOVEMBER 2023**

The Amendment has been prepared in accordance with Division 7.1 of the EP&A Act. It will enable contributions to be collected under sections 7.11 and 7.12.

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

Part 9 of the EP&A Regulation relates to development contributions. The Amendment will amend the current contributions plan, pursuant to section 215(1).

Section 212 sets out the particulars a local infrastructure contributions plan must contain. The Amendment is consistent with this clause.

Section 213 sets out the exhibition requirements for amendments and draft contributions plans. The public exhibition of the Amendment was carried out in accordance with the EP&A Regulation, as detailed below.

It is recommended that Council approve the Amendment as amended (**ATTACHMENT 1**). It is also recommended that a notice of the approval of the Amendment be published in accordance with section 215(3) of the EP&A Regulation.

Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012 (the Direction)

The Direction sets maximum contribution rates for new development and development in URAs, unless a contributions plan is reviewed by the Independent Pricing and Regulations Tribunal. In Port Stephens, the maximum rate per residential lot is \$20,000, and in the Kings Hill URA the maximum rate per residential lot is \$30,000. As the proposed rates do not exceed these figures, the Amendment satisfies the Direction.

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Amendment ensures an adequate standard of services and facilities can be provided in the Local Government Area without imposing a financial burden on the existing community. This has been balanced against the need to ensure unreasonable costs are not imposed upon new residential development, thereby reducing financial viability. Therefore, it is expected that the Amendment will have an overall positive economic impact.

**CONSULTATION**

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

**ITEM 7 - ATTACHMENT 2 DRAFT LOCAL INFRASTRUCTURE  
CONTRIBUTIONS PLAN – AMENDMENT 3, (MINUTE NO, 278) - 28 NOVEMBER  
2023,**

**MINUTES ORDINARY COUNCIL - 28 NOVEMBER 2023**

Internal

The Amendment has been prepared in consultation with the Development Contributions Analysis Team, Financial Services, Assets and Development Assessment and Compliance Sections.

The projects in the Amendment have been aligned with Council's Strategic Asset Management Plan and Capital Works Program, together with other strategic asset management documents including plans of management and adopted land use strategies.

On 18 July 2023, a Councillor two way conversation was held to discuss the proposed amendment.

External

The draft Amendment was publicly exhibited for 28 days from Thursday 14 September 2023 to Thursday 12 October 2023 in accordance with the EP&A Regulation 2021. There were no submissions received.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Port Stephens Local Infrastructure Contributions Plan. (Provided under separate cover)
- 2) Minute No. 200, 12 September 2023.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM 7 - ATTACHMENT 2 DRAFT LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN – AMENDMENT 3, (MINUTE NO, 278) - 28 NOVEMBER 2023,****MINUTES ORDINARY COUNCIL - 28 NOVEMBER 2023****ITEM 2 - ATTACHMENT 2 MINUTE NO. 200, 12 SEPTEMBER 2023.****MINUTES ORDINARY COUNCIL - 12 SEPTEMBER 2023**

ITEM NO. 2

FILE NO: 23/137003  
EDRMS NO: VF20/119**DRAFT LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN 2020 – AMENDMENT NO. 3**REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION  
MANAGER  
GROUP: DEVELOPMENT SERVICES**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorses the draft Port Stephens Local Infrastructure Contributions Plan - Amendment No. 3 (**ATTACHMENT 1**) for exhibition.
- 2) Exhibits the draft Port Stephens Local Infrastructure Contributions Plan - Amendment No. 3 (the Amendment) for 28 days in accordance with the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021.
- 3) If no submissions are received, approve the Amendment as exhibited, without a further report to Council.

**ORDINARY COUNCIL MEETING - 12 SEPTEMBER 2023  
MOTION**

<b>200</b>	<b>Councillor Giacomo Arnott Councillor Jason Wells</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Endorses the draft Port Stephens Local Infrastructure Contributions Plan -Amendment No. 3 (<b>ATTACHMENT 1</b>) for exhibition.</li><li>2) Exhibits the draft Port Stephens Local Infrastructure Contributions Plan - Amendment No. 3 (the Amendment) for 28 days in accordance with the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021.</li><li>3) A further report be provided to Council at the conclusion of the public exhibition period.</li></ol>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Peter Francis and Jason Wells.

Those against the Motion: Cr Steve Tucker.

The motion was carried.

**PORT STEPHENS COUNCIL****10****PORT STEPHENS COUNCIL****40**

**ITEM NO. 8**

**FILE NO: 24/32358  
EDRMS NO: PSC2014-02649**

**POLICY REVIEW: PUBLIC ART POLICY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the revised Public Art Policy shown at **(ATTACHMENT 1)**
- 2) Place the revised Public Art 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 Public Art Policy dated 8 December 2020, Minute Number 279, should no submissions be received.

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**BACKGROUND**

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

The purpose of the policy is to provide Council with a framework to approve or commission public art projects in, or in view of the public domain.

The policy details a best practice approach to manage public art procurement and management to maximise the social, cultural and economic benefits and create high quality public spaces.

A consistent approach to the management of public art provides clear processes to assist Council, business and the community to develop high quality and place appropriate public art projects for Port Stephens.

Changes to the policy specifically relate to:

- Streamlining and simplifying language.
- Broadening classification of types of public art initiatives in line with current delivery.
- Update to content in line with the Our Incredible Place Strategy 2021-2024
- Update to staff and Council Unit titles in line with current Council organisational structure.
- Update related documents including the Public Art Guidelines



## ORDINARY COUNCIL - 12 MARCH 2024

This policy is to be used in conjunction with the Public Art Guidelines which provides clear guidance for artists, developers, community groups and Council staff.

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
Recognised traditions and lifestyle	Implement Our Incredible Place Strategy

### FINANCIAL/RESOURCE IMPLICATIONS

There is currently no annual budget for delivery of public art programs, Funding is available through grant programs, Capital Works Projects, requirements contained within the Port Stephens Development Control Plan 2014 and external grant funding.

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

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

### LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that Council's reputation may be damaged as a result of decisions made in relation to the policy.	Low	Adopt the recommendations.	Yes

There is a risk that public art commissions are unsafe and have negative maintenance implications.	Low	The Public Art Guidelines provide guidance for best practice approach.  Adopt the recommendations.	Yes
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**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The policy details a best practice approach to manage public art procurement and management to maximise the social, cultural and economic benefits and create high quality public spaces.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Communications section.

Internal

- Assets section
- Strategy and Environment section
- Strategic Arts Committee

External

In accordance with local government legislation the draft Public Art 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 Public Art Policy. [↓](#)

**COUNCILLORS' ROOM/DASHBOARD**

- 1) Public Art Guidelines.

**TABLED DOCUMENTS**

Nil.

## Policy



**FILE NO:** PSC2014-02649  
**TITLE:** PUBLIC ART POLICY  
**OWNER:** COMMUNICATIONS SECTION MANAGER

### 1. PURPOSE:

- 1.1 Port Stephens Council is committed to increasing the wellbeing and liveability of the Port Stephens community. Creating better spaces and better places that celebrate creativity and culture is part of this commitment.
- 1.2 The Public Art Policy and related Public Art Guidelines provides Council with a framework to approve or commission public art projects in the public domain.
- 1.3 The policy details a best practice approach to manage public art procurement and management to maximise the social and economic benefits and create high quality public spaces.

### 2. CONTEXT/BACKGROUND:

- 2.1 Public art is an integral factor in enhancing the physical, social and economic environment of Port Stephens. Public art has the potential to transform our places, create new experiences and celebrate our community identity.
- 2.2 A consistent approach to the management of public art provides clear processes to assist Council and the community develop high quality and place appropriate public art projects for the region.

### 3. SCOPE:

- 3.1 This policy applies to all and any public art projects located, or proposed, in the public domain.
- 3.2 The policy refers to the placement, procurement, approval and management of art works (temporary or permanent) that and complementing urban design.
- 3.3 This policy relates to all Councillors and Council officers who are engaged in the process of approving public art, either through commission, direct purchase, or donation or grant or sponsorship funding.
- 3.4 The supporting Public Art Guidelines is to be used to guide a best practice approach to public art.

## Policy

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## Policy

3.5 The policy applies to:

- a) Council-initiated public art projects
- b) Public art purchases
- c) Public art projects initiated by other Government agencies, private property developers, artists or the community
- d) Public art received as gifts, donations and bequests
- e) Existing public art in the public domain
- f) Development of Council's plans and strategies that relate to the public realm, including developer contributions and master planning, that provide opportunities to incorporate public art principles.

3.6 Council's Development Control Plan also provides for inclusion of public art into commercial and mixed-use development as part of the development consent process, depending on the scale of works proposed.

3.7 This policy does not apply to works that are solely commemorative in nature such as memorials or plaques. Such projects and proposals are considered in line with Council's Parks and Roadside Memorials Policy.

## 4. DEFINITIONS:

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

Public Art	Artworks and one-off designs created for, or located in, a public space <b>or visible to the public</b> and readily accessible to members of the public. The work may be of a temporary or permanent nature.
Commission	A commission is a direct request to produce a piece of art specifically for Council's public art collection. A public art commission by Council is a contracted transaction.
Decommission	Decommissioning is the term used for permanent removal of a work of art from a public art installation or collection.
Public Domain	Public places and/or open spaces that are situated within, vested in or managed by Council. This includes parks, beaches, outdoor recreation facilities, streets, laneways, pathways and foreshore areas and public buildings, facilities or enclosed structures, owned and managed by Council that are physically accessible to the general public.

## Policy

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## Policy

### 5. STATEMENT:

5.1 The key objectives of this policy are to:

- a) Establish a consistent process for the commissioning, approval and decommissioning of public art.
- b) Enhance the natural and built assets of Port Stephens by enlivening and enriching public spaces.
- c) Create a sense of identity about Port Stephens heritage, culture and lifestyle.
- d) Facilitate the integration of public art into relevant facilities and infrastructure projects.
- e) Develop and enhance opportunities and promotion of local artists.
- f) Provide a policy foundation to Council's Development Control Plan for the inclusion of public art into commercial and mixed-use development.

5.2 It is expected that the implementation of this policy will lead to:

- a) The planning of public art in Council's urban designs to improve the quality of community spaces, the public domain and to enhance the pedestrian streetscape experience.
- b) Identification of sites/zones for future public art works, appropriate asset management, including safety and maintenance.
- c) Effective community engagement and consultation to ensure the art work will have meaning and relevance to the site in which it is located.

5.3 Council officers ~~are~~ responsible for the commissioning, procurement and placement ~~or approval~~ of public art should refer to the Public Art Guidelines. The guidelines provide a process through which Council can address public art procurement and planning, evaluation, appropriate asset management, decommissioning, safety and maintenance. The guidelines are intended to assist artists, community groups, Council staff, elected members and private developers in the provision of public art projects in Port Stephens that is consistent with the objectives of this policy.

### 6. RESPONSIBILITIES:

6.1 The ~~Vibrant Places Unit~~ Community Development and Engagement unit manages, and provides technical advice and reports on public art as part of the cultural development program. It is the responsibility of other units across Council to ensure they implement the policy and adhere to the Public Art Guidelines.

6.2 Approval of public art proposals are granted by internal staff, Strategic Arts Committee or Aboriginal Strategic Committee dependent on the nature and intent of the project. These are in accordance with the public art guidelines.

### 7. RELATED DOCUMENTS:

#### Policy

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## Policy



- 7.1 Our Incredible Place Strategy 2021-2024
- 7.2 Port Stephens Development Control Plan 2014
- 7.3 Asset Management Policy
- ~~7.4 Graffiti Management Policy~~
- 7.5 Public Art Guidelines

### CONTROLLED DOCUMENT INFORMATION:

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<b>EDRMS container No.</b>	PSC2014-02649	<b>EDRMS record No.</b>	21/15284
<b>Audience</b>	Councillors, Council staff, community		
<b>Process owner</b>	Communications Section Manager		
<b>Author</b>	Senior Community Development Officer and Engagement Coordinator		
<b>Review timeframe</b>	3 years	<b>Next review date</b>	February 2027 November 2023
<b>Adoption date</b>	10 November 2015		

### VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	10 November 2015	Communications Section Manager	Original policy and guidelines endorsed for public exhibition by Council at its 10 November 2015 meeting. No submissions received, therefore Policy and guidelines adopted by Council.	340
2	27 March 2018	Communications Section Manager	Public Art Guidelines section 6.0 updated to include mention of required approval relating to private developer public art contributions in the development assessment process. The value of capital investment for commercial development was changed from \$1 million to	061

### Policy

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## Policy

			<p>\$2 million in line with the Port Stephens Development Control Plan.</p> <p>Inclusion of Guidelines for the approval and installation of Public Art in Port Stephens in related documents section.</p>	
3	8 December 2020	Communications Section Manager	<p>- added 'This policy applies to all and any public art projects located, or proposed, in the public domain'.</p> <p>- deleted: 'Public Art' added: an 's' to refer added: 'approval'.</p> <p>- added 'This policy relates to all Councillors and Council officers who are engaged in the process of approving public art, either through commission, direct purchase or donation.'</p> <p>- added 'The supporting Public Art Guidelines is to be used to guide a best practice approach to public art.'</p> <p>- deleted 'Public art can be integrated into, but not limited to: deleted:</p> <p>a) New developments proposed by commercial developers.</p> <p>b) Existing areas as part of a master plan or upgrade being developed by Council.</p> <p>added:</p> <p>c) Council-initiated public art projects.</p> <p>d) Public art purchases.</p> <p>e) Public art projects initiated by other Government agencies, private property developers, artists or the community.</p> <p>f) Public art received as gifts, donations and bequests.</p>	

## Policy

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## Policy

			<p>g) Existing public art in the public domain.</p> <p>deleted: Proposals submitted by community groups and or individual artists, for both permanent works and temporary display as part of a festival.</p> <p>added: i) Development of Council's plans and strategies that relate to the public realm, including developer contributions and master planning, that provide opportunities to incorporate public art principles.</p> <p>3.7 - added 'This policy does not apply to works that are solely commemorative in nature such as memorials or plaques. Such projects and proposals are considered in line with Council's Parks and Roadside Memorials Policy.'</p> <p>4.1 - added in Public Art definition: The work may be of a temporary or permanent nature. Added 'or visible from' added 'Commission' definition. added 'Decommission' definition. added: 'Public Domain' definition.</p> <p>5.1 a) added 'Establish a consistent process for the commissioning, approval and decommissioning of public art'.</p> <p>5.1 b) added 'and enriching'.</p> <p>5.3 - added 'Council officers responsible for the commissioning, procurement and placement of public art should refer to the Public Art Guidelines'.</p>	
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### Policy

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## Policy



			<p>deleted 'accompanying' added 'evaluation'</p> <p>deleted: 'including identifying sites/zones for appropriate future public art works'. added 'decommissioning and' deleted 'including'</p> <p>6.1 - added 'provides technical advice' 'the' and 'program'.</p> <p>7.1 - deleted: ' Cultural Plan 2015-2018'.</p> <p>added 'Our Incredible Place: Events, Arts and Cultural Strategy 2020'.</p> <p>7.3 – deleted 'Port Stephens Section 94 Contributions Plan'.</p> <p>a) 7.6 - added: 'Public Art' deleted: 'for the approval and installation of public art in Port Stephens.'</p>	
4	12 March 2024	Communications Section Manager	<p>3.2 – added 'that' and 'liments' Deleted: 'and' and 'ementing'</p> <p>3.3 – added: 'or grant or sponsorship funding'</p> <p>5.3 – deleted 'are' and 'and' Added: 'or approval' and 'The guidelines are intended to assist artists, community groups, Council staff, Councillors and private developers in the provision of public art projects in Port Stephens that is consistent with the objectives of this policy'</p> <p>6.1 – deleted 'Community Development and Engagement unit' Added: 'Vibrant Places Unit'</p>	

## Policy

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## Policy



			<p>6.2 – added: ‘Approval of public art proposals are granted by relevant internal staff, Strategic Arts Committee or Aboriginal Strategic Committee dependant on the nature and intent of the project. These approvals are in accordance with the public art guidelines’</p> <p>7.1 – added ‘2021 – 2024’</p> <p>Author – deleted Community Development and Engagement Coordinator’ Added ‘Senior Community Development Officer’</p> <p>Next Review Date – deleted ‘November 2023’ Added ‘February 2027’</p>	
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## Policy

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## Policy



### Policy

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**ITEM NO. 9****FILE NO: 24/8220  
EDRMS NO: PSC2009-02488****POLICY REVIEW: RELATED PARTY DISCLOSURES POLICY**

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

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the revised Related Party Disclosures Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Related Party Disclosures 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 Related Party Disclosures Policy dated 23 March 2021, Minute No. 060 should no submissions be received.

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**BACKGROUND**

The purpose of this report is to seek Council's endorsement of the revised Related Party Disclosures Policy (the policy) **(ATTACHMENT 1)** and place the policy on public exhibition.

The purpose of this policy is to ensure compliance with disclosure requirements concerning key management personnel, their close family members and entities controlled or jointly controlled by any of them stipulated under the Australian Accounting Standard AASB 124 Related Party Disclosures and the Australian implementation guidance for not-for-profit public sector entities (AASB 124).

The policy was originally adopted in May 2017 and has been reviewed as part of Council's ongoing policy review program. Minor formatting and grammatical amendments have been applied, as well as updates to position titles reflecting the changes within Council. No other material changes have been made.

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**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Financial Management	Manage implementation of the Long Term Financial Plan 2023 to 2033.

**FINANCIAL/RESOURCE IMPLICATIONS**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that non-compliance with the Accounting Standard would lead to a qualified Annual Financial Report.	Medium	Adopt the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Council must ensure compliance with Australian Accounting Standards and transparency of related party transactions.

**CONSULTATION**

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

Internal

The Executive Team were consulted to seek management endorsement.

External

In accordance with local government legislation the revised Related Party Disclosures 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 Related Party Disclosures Policy. [↓](#)

**COUNCILLORS' ROOM/DASHBOARD**

Nil.

**TABLED DOCUMENTS**

Nil.

## ITEM 9 - ATTACHMENT 1 REVISED RELATED PARTY DISCLOSURES POLICY.

## Policy



**FILE NO:** PSC2009-02488

**TITLE:** RELATED PARTY DISCLOSURES

**OWNER:** FINANCIAL SERVICES SECTION MANAGER

**1. PURPOSE:**

- 1.1 The Related Party Disclosures Policy aims to ensure compliance with disclosure requirements concerning key management personnel, their close family members and entities controlled or jointly controlled by any of them stipulated under the Australian Accounting Standard AASB 124 Related Party Disclosures and the Australian implementation guidance for not-for-profit public sector entities (AASB 124).

**2. CONTEXT/BACKGROUND:**

- 2.1 The Local Government Act 1993, section 413, requires Council to prepare its general purpose financial report in compliance with the publications issued by the Australian Accounting Standards Board. AASB 124 comes into effect for annual reporting periods beginning on or after 1 July 2016. Council will disclose in its general purpose financial statements the information specified in AASB 124 regarding related party transactions during the period covered by the financial statements.
- 2.2 A related party relationship could influence the normal business operations of Council. In some instances, Council may enter into transactions with a related party that unrelated parties would not. For example, goods are supplied to Council on terms that might not be offered to other customers. Transactions between related parties may not be made on the same terms as between unrelated parties.
- 2.3 For these reasons, knowledge of Council's transactions and outstanding balances (including commitments and relationships with related parties) may affect assessments of Council's operations by users of financial statements, including assessments of the risks and opportunities facing Council, this is the background regarding the release of AASB 124.
- 3. SCOPE:**
- 3.1 This policy applies to related parties of Council including key management personnel and their related party transactions with Council (as detailed in the definitions section of this policy).

Policy

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## Policy



### 4. DEFINITIONS:

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

Related party	<p>A person or entity that is related to Council pursuant to the definition contained in the AASB 124, paragraph 9. Examples of related parties of Council are:</p> <ul style="list-style-type: none"> <li>a) key management personnel</li> <li>b) close family members of key management personnel</li> <li>c) entities that are controlled or jointly controlled by key management personnel or their close family members.</li> </ul>
Key management personnel	<p>Person(s) having authority and responsibility for planning, directing and controlling the activities of Council. Specifically, key management personnel of Council are:</p> <ul style="list-style-type: none"> <li>a) Mayor</li> <li>b) Councillors</li> <li>c) General Manager</li> <li>d) <del>Group Managers</del> <b>Directors</b></li> <li>e) Section Managers</li> </ul>
Close family members	<p>A close family member includes:</p> <ul style="list-style-type: none"> <li>a) that persons children and spouse or domestic partner.</li> <li>b) children of that persons spouse or domestic partner.</li> <li>c) dependants of that person or that persons spouse or domestic partner.</li> </ul> <p>Close family members could include extended members of a family such as (without limitation) parents, siblings, grandparents, uncles/aunts or cousins if they could be expected to influence, or be influenced by, the key management person in their dealings with Council.</p>
Related party transaction	<p>A transfer of resources, services or obligations between the Council and a related party, regardless of whether a price is charged. Examples of related party transactions are:</p> <ul style="list-style-type: none"> <li>a) purchases or sales of goods.</li> <li>b) purchases or sales of property and other assets.</li> <li>c) rendering or receiving of services.</li> <li>d) rendering or receiving of goods.</li> </ul>

### Policy

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## Policy



Ordinary citizen transactions	<p>Transactions that an ordinary citizen would undertake with Council, which is undertaken on arm's length terms and in the ordinary course of carrying out Council's functions and activities.</p> <p>Examples of ordinary citizen transactions assessed to be not material in nature are:</p> <ul style="list-style-type: none"> <li>a) paying rates and utility charges.</li> <li>b) using Council's public facilities after paying the corresponding fees.</li> </ul>
Materiality	<p>The assessment of whether the transaction, either individually or in aggregate with other transactions, by omitting it or misstating it could influence decisions that users make based on an entity's financial statements. For the purpose of this policy, it is not considered appropriate to set either a dollar value or a percentage value to determine materiality.</p>
Key management personnel remuneration	<p>Council shall in its annual financial statements disclose key management personnel remuneration (compensation) in total and for each of the following categories:</p> <ul style="list-style-type: none"> <li>a) short-term employee benefits.</li> <li>b) post-employment benefits.</li> <li>c) other long-term benefits.</li> <li>d) termination benefits.</li> </ul>

### 5. STATEMENT:

- 5.1 Key management personnel (as detailed in the definitions section of this policy) must provide a Related Party Transactions Notification ~~in the form set out in (ATTACHMENT 1)~~ notifying of any existing related party transactions (as detailed in the definitions section of this policy) between Council and either themselves, their close family members or entities controlled or jointly controlled by them or any of their close family members to the Financial Services Section Manager by no later than 15 July for each financial year ended 30 June.
- 5.2 Some examples of the types of transactions that may need to be captured for analysis to be included in the related party disclosure in Council's annual financial statements are as follows:
  - 5.2.1 From Council:
    - a) Grants paid by Council to related parties of Council.

#### Policy

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**ITEM 9 - ATTACHMENT 1 REVISED RELATED PARTY DISCLOSURES POLICY.**

## Policy



- b) Donations, contributions and assistance paid by Council to related parties of Council.
- c) Charges for goods or services paid to related parties of Council from Council.

### 5.2.2 To Council:

- a) Fees and charges paid to Council from related parties of Council that are out of the ordinary.
- b) Infrastructure contributions and development application fees paid to Council from related parties of Council.

5.3 Non-monetary transactions between Council and related parties of Council also need to be captured.

5.4 The notification requirements do not apply:

- a) To related party transactions that are ordinary citizen transactions (as detailed in the definitions section of this policy) not assessed as being material.
- b) For Councillors, expenses incurred and facilities provided to a Councillor during the financial year, under Council's Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy.

5.5 Council will disclose the following information in Council's general purpose financial statements:

- a) The nature of the related party relationship.
- b) The amount of the transactions.
- c) The amount of outstanding balances, including commitments.
- d) Their terms and conditions, including whether they are secured, and the nature of the consideration to be provided in settlement.
- e) Details of any guarantees given or received.
- f) Provisions for doubtful debts related to the amount of outstanding balances.
- g) The expense recognised during the period in respect of bad or doubtful debts due from related parties.

## 6. RESPONSIBILITIES:

- 6.1 Council's key management personnel are responsible for complying with the Related Party Disclosures Policy.
- 6.2 The Financial Services Section Manager is responsible for providing advice regarding the Related Party Disclosures Policy and will make the decision whether a related party transaction is disclosed in Council's financial statements.

### Policy

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## ITEM 9 - ATTACHMENT 1 REVISED RELATED PARTY DISCLOSURES POLICY.

## Policy



## 7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993, section 413.
- 7.2 Australian Accounting Standard AASB 124 Related Party Disclosures.
- 7.3 Australian implementation guidance for not-for-profit public sector entities for AASB 124.

## CONTROLLED DOCUMENT INFORMATION:

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<b>EDRMS container No.</b>	PSC2009-02488	<b>EDRMS record No.</b>	TBA
<b>Audience</b>	Key management personnel		
<b>Process owner</b>	Financial Services Section Manager		
<b>Author</b>	Financial Services Section Manager		
<b>Review timeframe</b>	3 years	<b>Next review date</b>	March 2024 TBA
<b>Adoption date</b>	9 May 2017		

## VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	09/05/2017	Financial Services Section Manager	Original document. Adopted by Council on 9 May 2017.	104
2.0	09/04/2019	Financial Services Section Manager	No changes to content of policy.  Updated into new template and updated EDRMS Record no. in Version History.  Attachment 1 - Change 2016-2017 to 'current'.	080
3.0	23/03/2021	Financial Services	Updated policy into the current format.	060

## Policy

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## Policy



		Section Manager	Minor grammatical amendments.  Amended review timeframe to 3 years as per Council's policy review process.	
4.0	TBA	Financial Services Section Manager	Updated policy into the current format.  4.1- Updated position title from "Group Manager" to "Director".  5.1 – Deleted reference to attachment.	TBA

## Policy

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ITEM NO. 10

FILE NO: 24/23185  
EDRMS NO: PSC2005-2795

**POLICY REVIEW: INFORMATION & DIRECTION SIGNS IN ROAD RESERVES  
POLICY**

REPORT OF: JOHN MARETICH - ASSETS SECTION MANAGER  
DIRECTORATE: FACILITIES AND INFRASTRUCTURE

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Receives and notes submissions **(ATTACHMENT 1)**.
- 2) Revokes the Information and Direction Signs in Road Reserve Policy dated 23 February 2021, Minute No. 030.
- 3) Adopts the revised Information and Direction Signs in Road Reserve Policy shown at **(ATTACHMENT 2)**.

---

**BACKGROUND**

The purpose of this report is to seek Council's endorsement for the revised Information & Direction Signs in Road Reserves Policy (the policy) following public exhibition **(ATTACHMENT 2)**.

The policy was placed on public exhibition from 28 November 2023 to 29 January 2024. During the public exhibition 2 submission were received which has been summarised in **(ATTACHMENT 1)**. The submissions have resulted in a number of changes to the policy following public exhibition.

Please note that yellow highlighting in the attached policy indicates an amendment has been made and strikethrough text is to be deleted. Text highlighted in blue shows amendments that have been made following public exhibition.

The Information and Direction Signage in Roads Reserve Code (the code) **(ATTACHMENT 3)** supports the policy by providing the technical and physical type and location of appropriate signage.

**COMMUNITY STRATEGIC PLAN**

Strategic Direction	Delivery Program 2022-2026
Infrastructure and facilities	Provide, manage and maintain community assets in accordance with the SAMP 2023-2033

**FINANCIAL/RESOURCE IMPLICATIONS**

This policy review will not require any additional budget or resources for the management of information and directional signs if the existing levels of service continue. The minimal income gained from introducing and installing new signs is placed into the local road recurrent road maintenance budget.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
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 implications in reviewing this policy.

It should be noted that there is sometimes conflict between the desired state of 'having minimal signs' the policy promotes and the actual enforcement when an illegal sign appears. The enforcement of illegal signage is guided by Council's Compliance Policy which seeks to ensure fair and balanced outcomes.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that signage will not meet requirements in terms of type and placement resulting in visual clutter and reduced effectiveness of required signs on the road reserve.	Low	Adopt the policy.	Yes
There is a risk that without a consistent hierarchy of signs this will lead to the community not having a sense of place or visitors not taking the most	Low	Adopt the policy.	Yes

direct route to the desired location.			
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## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications.

The continued regulation of the placement of information, advertising and directional signs within Council's road reserves will assist in reducing visual clutter while allowing business operators to display essential guidance for potential customers. Reasonable limitation on the size and number of advertising signs that can be displayed will ensure that the visual amenity of the Port Stephens environment is maintained. Council seeks to assist in the creation of a vibrant business community by implementation of a fair and equitable signs policy. Driver safety, awareness and focus will all be improved through proper management of sign clutter.

## **CONSULTATION**

The policy was placed on public exhibition from 28 November 2023 to 29 January 2024 (**ATTACHMENT 2**).

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Submissions for Council report - Information & Direction Signs in Road Reserve Policy. [↓](#)
- 2) Information & Direction Signs in Road Reserves Policy. [↓](#)
- 3) Information and Direction Sign in Road Reserve Code. [↓](#)

## **COUNCILLORS' ROOM/DASHBOARD**

- 1) Copy of full submission.

## **TABLED DOCUMENTS**

Nil.

# ITEM 10 - ATTACHMENT 1 SUBMISSIONS FOR COUNCIL REPORT - INFORMATION & DIRECTION SIGNS IN ROAD RESERVE POLICY.

## POLICY REVIEW – Information & Direction Sign in Road Reserve Policy

No.	Author of submission	Comment	Council response
1	Councillor	Requests the consideration of Tarean Road, Karuah in list of major roads.	The Information & Direction Signs in Road Reserve Code (the code) has been amended to add Tarean Road, Karuah into list of major roads.
2	Tomaree Ratepayers & Residents Association (TRRA)	<p>TRRA has previously commented on how unhelpful it is to have revised policies placed on exhibition without any explanation of the changes and justification, and without important linked documents – in this case the 34 page 'Information and Direction Signs in Roads Reserve(s) Code' which provides the detail relating to different types of signs. This supporting information is contained in staff reports and attachments to the Agenda papers for the Council meeting at which the decision was made to proceed to public exhibition (in this case the meeting on 28 November 2023).</p> <p>Inconsistency with control signs on private land. TRRA welcome the emphasis of the Policy on visual amenity though concerns of inconsistency between Council's strong controls on signage in its road reserves and the apparent lack of an effective policy on signage on private property visible from major public roads. Signage is expressly NOT subject to the '... Signs in Road Reserves Policy', but instead to other Council requirements and to State Environmental Planning Policy (SEPP) 64 – Advertising and Signage.</p>	<p>The comments concerning the public exhibition process are noted. The process of reviewing a policy includes updating the version control at the end of end document. This provides detail on what has been updated at the time of each review and ensures the document is presented in a professional manner. The draft policy is placed on public exhibition inviting comments on the document as a whole, not just the updates and removes any confusion about what the track changes mean to the broader community.</p> <p>The Information &amp; Direction Signs in Road Reserve Policy (the policy) relates to the signs within the road reserve. Signs within private property are managed through the Development Assessment process with a differing criteria.</p>



# ITEM 10 - ATTACHMENT 1 SUBMISSIONS FOR COUNCIL REPORT - INFORMATION & DIRECTION SIGNS IN ROAD RESERVE POLICY.

		<p>Raised the issue of the deplorable visual impact of the seemingly uncontrolled proliferation of commercial signs along Nelson Bay Road in particular. Despite multiple discussions, Council has not yet confirmed whether major commercial billboards even have DA approval. We welcome the resolution at the 12 December 2023 Council meeting to seek a detailed staff report on unapproved signs on private roadside land.</p> <p>Submission that the final '... Signs in Road Reserves Policy' needs to be consistent, where relevant, with the approach Council takes to signs on private roadside land and on Council recreational reserves, and also, as far as possible, with the Transport for NSW policy on signage in State road reserves. submit that the final '... Signs in Road Reserves Policy' needs to be consistent, where relevant, with the approach Council takes to signs on private roadside land and on Council recreational reserves, and also, as far as possible, with the Transport for NSW policy on signage in State road reserves.</p> <p>Commercial benefit- Council's policy on approval of direction signs in road reserves pointing to private commercial enterprises, such as accommodation and tourist attractions, and on relevant fees and charges, is fair, equitable, consistent and transparent, both to avoid undue favouritism to particular businesses and to remove any integrity risk. Noted that these principles are included in section 6 of the Policy, but it is how applications are handled</p>	<p>This policy relates to the signs within the road reserve. Support for the future detailed staff report on unapproved signs on private roadside land is noted.</p> <p>This policy is consistent with the applicable Australian Standards and the NSW Visitor Attraction Signposting program administered through Destination NSW and supported by Transport for NSW.</p> <p>There is a fundamental difference between recreational reserve and directional signage under this policy. The difference is that recreational reserve signage is designed to be viewed while stationary and directional signage is designed to be viewed from a moving vehicle.</p> <p>Support for the signage convention and fee structure is noted.</p> <p>The application and approval process aligns with the provisions of the Roads Act 1993.</p>
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# ITEM 10 - ATTACHMENT 1 SUBMISSIONS FOR COUNCIL REPORT - INFORMATION & DIRECTION SIGNS IN ROAD RESERVE POLICY.

		<p>in practice that matters. Neither the Policy nor the Code contain any detail of the application and approval process.</p> <p>Costs are addressed on p5 of the '.... Signs ... Code'. all costs over the entire life cycle of a sign should be borne by the applicant (= benefitting facility), the Code allows for discretion on the part of the assessing officer to have Council meet some or all of the costs. The criteria that guide the exercise of this discretion should be included in the Policy, and we also suggest that a public register be made available of all approvals of signs for private facilities, including the financial arrangements in each case.</p> <p>It is not clear if the item 'Signage application fees' in Council's Fees &amp; Charges Schedule (p66), which states the statutory fee of \$357, applies to all applications under the Policy and Code, and also unclear who bears the cost of the physical sign itself and its placement, which in some cases would require a new pole, and would in most cases significantly exceed that fee.</p> <p>Suggestion for Council to subsidise the overall cost of any commercial signage.</p> <p>The Code covers 'Gateway signs' which can include private tourist attractions although we assume most of these will be located in the reserves for State Roads, and subject to assessment by the multi-party Tourist Attraction Signposting Assessment Committee (p7). We question what process would be followed if an application was</p>	<p>The policy and code has been updated to confirm that Council will meet the costs for Emergency Service and Not for Profit Organisations.</p> <p>The quoted fee is under the heading of development applications and does not relate to signage associated with the policy.</p> <p>The assessment of Gateway Signs within the road reserve is the same irrespective if the road is owned by Council or State Government.</p>
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**ITEM 10 - ATTACHMENT 1 SUBMISSIONS FOR COUNCIL REPORT -  
INFORMATION & DIRECTION SIGNS IN ROAD RESERVE POLICY.**

		<p>received for a 'Gateway' sign on a Council road reserve?</p> <p>On most White &amp; Blue Facility (Service) signs, including to most types of accommodation, no business or commercial names are allowed (Code, section 1.5). Brown &amp; White Tourist direction signs, to significant attractions may include business or commercial names where applicable, but require approval from the TASAC (Code, section 2.3).</p> <p>Suggest a public register would address all of these issues, and give the community confidence in the integrity of the process. Suggest Council should take the opportunity of the revision to clarify a range of operational issues about the implementation of the Policy, in the interests of transparency and integrity, and should establish a public register of signs.</p>	<p>In deciding whether to grant approval, TASAC apply a number of tests of eligibility of quality and service at the destination. Approval for directional signage on Council managed roads are intended to supplement a visitors journey.</p> <p>Noted.</p>
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**ITEM 10 - ATTACHMENT 2 INFORMATION & DIRECTION SIGNS IN ROAD RESERVES POLICY.**

## Policy



**FILE NO:** PSC2005-2795

**TITLE:** INFORMATION & DIRECTION SIGNS IN ROAD RESERVES POLICY

**OWNER:** ASSETS SECTION MANAGER

### 1. PURPOSE:

- 1.1 To provide a safe, effective and efficient network of signs to guide motorists to tourist services, community facilities and natural features within Port Stephens.
- 1.2 To meet Council's statutory requirements under the Local Government Act, the Roads Act and other relevant legislation in relation to the use of Council's road reserve.
- 1.3 To control the type, size and position of advertising that may be displayed within Council's road reserves.
- 1.4 To provide a level of detail that is not covered in other forms of legislation and instruments such as State Environmental Planning Policy Infrastructure (SEPP) Infrastructure and State Environmental Planning Policy Infrastructure (SEPP) 64 – Advertising and Signage.

### 2. CONTEXT/BACKGROUND:

- 2.1 The types of signs covered by this policy are locality and facility, directional, advertising structures, regulatory/warning/advisory and **open space** ~~parks and reserves~~.
- 2.2 The regulation of signs is a function of Council. This policy contributes to the orderly display of signs in Council's road reserves. Control of signs is necessary to reduce visual clutter that could otherwise detract from the natural environment of Port Stephens and potentially reduce the effectiveness of essential traffic and road safety signs.
- 2.3 The Information and Direction Signs in Road Reserves Policy refers to signs within the road reserve only and does not relate to advertising on private property or in Council Recreation Reserves.

### 3. SCOPE:

- 3.1 Council is responsible for controlling or monitoring activities being undertaken in its road reserves.
- 3.2 Council will adopt clear and consistent procedures when dealing with applications for signs within the road reserve.
- 3.3 Signs situated on private property are controlled by the Port Stephens Council Development Control Plan.
- 3.4 Council will assess all applications for signs within the road reserve in accordance with the Information and Direction Signs in Road Reserve Code.

## Policy

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## ITEM 10 - ATTACHMENT 2 INFORMATION & DIRECTION SIGNS IN ROAD RESERVES POLICY.

### Policy



#### 4. DEFINITIONS:

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

Road Reserves	An area of land set aside for potential road construction on which building is not allowed.
SEPP	State Environmental Planning Policy.

#### 5. STATEMENT:

- 5.1 The policy is to provide a consistent approach to the approval of a safe, effective and efficient network of signs to guide motorists to Tourist Services, Community Facilities and natural features within Port Stephens. Motorists should be guided to the Suburb, then the Street and then Facility.
- 5.2 Reasonable limitation on the size and number of signs displayed within Council's road reserve will ensure that the visual amenity of the Port Stephens environment is maintained.
- 5.3 Information and directional signage must conform to relevant legislations and the requirements of the Information and Direction Signs in Road Reserve Code.
- 5.4 Advertising signs on buildings or awnings is controlled by the Port Stephens Council Development Control Plan.
- 5.5 All signage associated with any election must comply with local government, NSW State and Australian Commonwealth laws.

#### 6. RESPONSIBILITIES:

- 6.1 The continued regulation of the placement of signage advertising within Council's road reserves will assist in reducing visual clutter while allowing business operators to display essential information for potential customers.
- 6.2 Council seeks to assist in the creation of a vibrant business community by implementation of a fair and equitable advertising signs policy.
- 6.3 Council will charge any applicable fee for installation and management of signs as noted in Council's adopted Fees & Charges.
- 6.4 Installation and maintenance costs are to be met by the applicant. Council will meet the costs for Emergency Service and Not for Profit Organisations.
- 6.5 Enforcement of illegal signage within the road reserve will be carried out in accordance with Council's Compliance Policy.

### Policy

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## ITEM 10 - ATTACHMENT 2 INFORMATION & DIRECTION SIGNS IN ROAD RESERVES POLICY.

### Policy



#### 7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993.
- 7.2 Roads Act 1993.
- 7.3 State Environmental Planning Policy Infrastructure.
- 7.4 State Environmental Planning Policy 64 – Advertising and Signage.
- 7.5 Bus Shelter Policy.
- 7.6 Outdoor Trading Policy.
- 7.7 Information & Direction Signs in Road Reserve Code.
- 7.8 Port Stephens Council Development Control Plan.
- 7.9 Port Stephens Council Compliance Policy.

#### CONTROLLED DOCUMENT INFORMATION:

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<b>EDRMS container No.</b>	PSC2005-2795	<b>EDRMS record No.</b>	TBA
<b>Audience</b>	Community, Assets Section, Civil Assets, Staff and General Manager		
<b>Process owner</b>	Assets Section Manager		
<b>Author</b>	Civil Assets Planning Manager		
<b>Review timeframe</b>	3 years	<b>Next review date</b>	TBA
<b>Adoption date</b>	04/11/1995		

#### VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	04/11/1995	Civil Assets Manager	Adopted	147
2	25/11/2014	Civil Assets Manager	Amended	318

### Policy

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# ITEM 10 - ATTACHMENT 2 INFORMATION & DIRECTION SIGNS IN ROAD RESERVES POLICY.

## Policy



Version	Date	Author	Details	Minute No.
3	9 Oct 2018	Civil Assets Planning Manager	Reviewed and updated in to the new Policy Template. New Title and EDRMS File. 1.1, 1.2, 1.4, 2.1, 2.2, 3.3, 5.1, 5.2, 5.4, 5.5, 6.4 & 6.6 – New points added. 1.4, 2.3, 2.4, 3.2, 3.4, 5.1, 5.3, 6.3 – Reworded to improve purpose. 4 – Removal of definition. 7.3, 7.4, 7.7 & 7.9 – Added Related Documents.	123
4	23 Feb 2021	Civil Assets Manager	Reviewed and updated in to the new Policy Template. Removed - 2.1 This policy was previously named the Advertising Signs in Road Reserve Policy. The title of this policy has been changed to better reflect the content of the associated code.	030
5	TBA	Civil Assets Manager	Change Author title 2.1 Removed parks and reserves and add open space. 6.1 Removed advertising and add signage. 6.2 Removed advertising to improve content. 6.4 Added Council will meet the costs for Emergency Service and Not for Profit Organisations.	TBA

## Policy

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# PORT STEPHENS

## C O U N C I L

### Information & Direction Signs in Road Reserve Code



# ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.

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**ITEM 10 - ATTACHMENT 3      INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****Overview**

This code aligns with the Information and Direction Signs in Road Reserves Policy. This code addresses the issue of signposting within the road reserve, Council owned property and private property. Its purpose is to assist in assessments regarding signage, but is not to be used exclusively.

This code acknowledges that other forms of legislation and instruments such as SEPP Infrastructure and SEPP64 may take precedence over this policy. This code provides a level of detail that is not covered in these SEPPS.

**Purpose**

To provide a safe, effective and efficient network of signs to guide motorists to Tourist Services, Community Facilities and natural features within Port Stephens. Motorists should be guided to the **Suburb**, then the **Street** and finally the **Facility**.

It is the intention of this code to cover roads and reserves under Council's care and control, it does not include state roads. Signs on state roads will be determined by Transport for New South Wales (TfNSW).

**General Principles**

The following general principles need to be observed in the implementation of this Code:

- (a) Tourist and Services signing is primarily about traffic management through the efficient and safe direction of traffic to facilities. Except for gateway signage, signs are not to be used for advertising or promotion.
- (b) Sign of facilities is only one part of an effective visitor or traveller information system. The signposting system is supplementary to maps, other printed material and advice through various other media.
- (c) Signs need to be user friendly and meaningful to the traveller. Consistent application amongst road authorities of the sign design and content requirements of this code is essential to ensure that signs are recognised as authoritative providers of information. This code does not therefore generally permit design variations.
- (d) Use of fewer signs and more attention to their placement will result in less visual clutter and a more favorable travelling environment.
- (e) This code should be read in conjunction with other Port Stephen Council documents, not limited to Council's Technical Specification series that may define, for example, sign type details that are different than those contained within this code. Wherever inconsistencies are discovered between Council published documents and this code, clarity should be sought directly from Council in writing.

## ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.

### Method – Hierarchy of signs

#### Gateway, Locality, Suburb, Street then Facility

- Establish road network hierarchy to determine signposting locations

The following roads are classified as major roads in their localities:

Adelaide Street	Irrawang Street	Port Stephens Street
Bagnall Beach Road	Italia Road	Raymond Terrace Road (state road)
Benjamin Lee Drive	Lemon Tree Passage Road	Richardson Road (state road)
Blanch Street	Lisadell Road	Salamander Way
Brandy Hill Drive	Marine Drive	Sandy Point Road
Bucketts Way	Masonite Road	Seaham Road (state road)
Butterwick Road	Medowie Road	Shoal Bay Road
Cabbage Tree Road (state road)	Mount Hall Road	Soldiers Point Road
Church Street	Nelson Bay Road (state road)	Stockton Street
Clarence Town Road	Nelsons Plains Road	Swan Bay Road
East Seaham Road	Newline Road	Tomago Road (state road)
Ferodale Road	Old Punt Road	Victoria Parade
Gan Gan Road	Oyster Cove Road	Warren Street
Government Road	Pacific Highway (state road)	William Street
Grahamstown Road	Paterson Road	William Bailey Street
High Street	Paterson Street	Woodville Road
Hinton Road	Port Stephens Drive	

Signs on roads listed above will be assessed by Port Stephens Council with the exception of those marked 'state roads', these need the approval of TfNSW.

#### Signs off 'state roads'

All facilities located off a 'state road' will not be dealt with under the guidelines of this code but will be subject to an application and approval from TfNSW.

#### Signs on local roads off 'state roads'

Facilities that are located off the local road that joins the 'state road', shall be included on a reassurance sign located near the junction of the 'state road'. These facilities must conform to the Approval Criteria of this code for that facility and be signposted on the local road that joins the 'state road'. A maximum of eight (8) facilities will be signposted on the reassurance sign.

#### Signs on major roads through Suburbs

These facilities must conform to the Approval Criteria of this code for that facility. A maximum of three (3) facilities will be signposted at an intersection. All other roads within Port Stephens Council will be considered as minor roads and be assessed by Council. Facilities located on the listed major roads will not be signposted from that road unless otherwise specified in the relevant sections. Signs should guide motorists to the *Suburb*, then the *Street* and finally the *Facility*.

**ITEM 10 - ATTACHMENT 3      INFORMATION AND DIRECTION SIGN IN ROAD  
RESERVE CODE.**

**Cost**

A signage application costs will be met by the applicant or benefitting party, except for Emergency Service and Not for Profit Organisations. Costs for all aspects of the sign's lifecycle including but not limited to its design, purchase, installation, and 10 years of maintenance for the applicants consideration and payment prior to any installation. Where a sign has been made redundant or deteriorated to a level unacceptable to Council, whether naturally or otherwise, the sign must be removed at the benefitting party cost. Any desired replacement of the signage will be considered as new sign.

## **1.0 SIGNS HIERACHY**

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****1.0 SIGNS HIERARCHY****1.1 GATEWAY SIGNS****Definition**

Gateway signs are a form of tourist information signs which may be provided on the approach to tourist regions. They include a promotional content such as a welcome to arriving tourists, a regional theme, tourist attractions related to that theme and the availability of tourist information. They are designed to be read from a vehicle moving at the prevailing traffic speed.

**Approval Criteria**

Consultation on the site, sign legend and content is a matter for Council, the relevant regional tourism organisation, TfNSW and Tourism New South Wales. The Tourist Attraction Signposting Assessment Committee (TASAC) is the appropriate forum for these detailed considerations.

**Sign Type**

The sign shall be a sign as approved by the relevant body such as Council or TASAC.

**Location for sign**

Port Stephens Gateway signs should be located on the major roads entering or leading to the Port Stephens area. These signs would generally be located on major roads under the control of TfNSW and may be reviewed TASAC.

The following locations should be considered:

- Pacific Highway and New England Highway at Hexham
- Pacific Highway at Karuah
- Nelson Bay Road at Fern Bay
- Raymond Terrace Road at Nelsons Plains
- Paterson Street at Hinton
- Clarencetown Road at Woodville
- Paterson Road at Duns Creek
- Clarencetown Road at Glen Oak
- Bucketts Way at Limeburners Creek
- East Seaham Road, East Seaham

**1.2 LOCALITY SIGNS****Definition**

A Locality sign depicts the geographic name given to a locality within Port Stephens. The sign can also include a distinguishing feature or logo for the locality.

Eg Tilligerry Peninsula

The sign is used to advise motorists they are entering a defined locality.

**ITEM 10 - ATTACHMENT 3      INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****Approval Criteria**

Consultation on the site and sign legend and content is a matter for Council, the relevant regional tourism organisation, TfNSW and/or nominated locality committee representatives. The Tourist Attraction Signposting Assessment Committee (TASAC) can be the appropriate forum for these detailed considerations.

**Sign Type**

The sign shall include the locality name with a common emblem for that locality as agreed upon by the above committee. The legend and background colours should be conducive to legibility in style as well as size.

**Location for sign**

The locality should be signposted at the boundary of the locality on all roads entering the locality.

**1.3      SUBURB SIGNS****Definition**

A Suburb sign is a sign stating the name of the town or village you are about to enter. The sign can also incorporate a distinguishing feature or logo for that suburb.

**Approval Criteria**

Consultation on the site, sign legend and content is a matter for Council, the relevant regional tourism organisation, TfNSW and/or nominated locality committee representatives. The Tourist Attraction Signposting Assessment Committee (TASAC) can be the appropriate forum for these detailed considerations.

**Sign Type**

The sign shall include the suburb name with a common emblem for that town as agreed upon by the above committee. The legend and background colours should be conducive to legibility in style as well as size. The sign may also include service symbol signs that meet TfNSW's criteria for service signs.

**Location for sign**

The town should be signposted on the approaches on the major roads entering the locality.

**1.4      STREET NAME SIGNS****Definition**

Street name signs are used to indicate to all road users, the names of roads and streets under day and night time conditions. These signs should also indicate the locality they are within to assist with identification particularly on long roads that cross locality boundaries. Property numbers can also be shown on the sign

**Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing black legend on a class 1 white reflective background. The sign shall be no shorter than 500mm and no longer than 1200mm.

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.**

In locations where the road reserve is wide, (eg dual carriageway, rural roads) or on high speed roads or when a street or road name is long, the sign size may be increased to a 200mm high street blade style sign with 150mm D series medium spacing black legend or 80mm D series medium spacing black legend in two lines.

**Location for sign**

These signs are for general use at all intersections. The sign should be positioned clear of pedestrian movements and point in the direction of the street or road. At intersections of major urban arterial roads, it may be necessary to provide additional street name information on advance to the intersection. In urban roundabouts, the sign may be located in the central island to replace the sight chevron.

**Rural Road Addressing**

Several roads within Council's boundary have rural road addressing schemes in place. This scheme allows for better signposting of property addresses in rural areas to assist emergency services primarily. The scheme consists of the provision of a progressive numbering system based on distance from an origin point. When a side street intersects the numbered street, numbers for each direction along the numbered street should be displayed to assist motorists locating property addresses.

**1.5 FACILITY SIGNS (WHITE AND BLUE)****Definition**

Service signs direct motorists to essential facilities and services available to the general public within that locality only.

The Australian Standard AS1742.6 currently contains the set of approved symbols to be used for service signs.

**1.5.1 SCHOOLS – PRE SCHOOL, PRIMARY SCHOOL, HIGH SCHOOL, TERTIARY EDUCATION AND SPECIAL EDUCATION****Approval Criteria**

The school must satisfy the criteria for a Pre School, Primary School, High School, Tertiary Education or Special Education facility. The school should be open and accessible to the public for the purposes of education.

**Sign Type**

The sign shall consist of 100mm D series medium spacing class 1 white reflective legend on a class 1 blue reflective background stating the school name. There is no standard symbol for schools.

**Location for sign**

The school should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.2 BOAT RAMPS AND PUBLIC WHARVES****Definition**

A formalised location under the care and control of Port Stephens Council for the launching/retrieval and loading/unloading of marine craft.



**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****Approval Criteria**

The boat ramp or wharf should be open and accessible to the public in all conditions. If the boat ramp is not accessible in all conditions, supplementary information should be included on the sign.

**Sign Type**

The boat ramp sign shall consist of a class 1 white reflective symbol (AS 1742.6 Appendix B Table B1 S21) on a class 1 blue reflective background. The size of the sign will be dependent on the speed limit on the approach road. The public wharf sign shall consist of 100mm D series medium spacing class 1 white reflective wording 'PUBLIC WHARF' on a class 1 blue reflective background.

**Location for sign**

The boat ramp or public wharf should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.3 PUBLIC AMENITIES****Approval Criteria**

The amenities should be open to the general public, as a minimum, during normal business hours (9.00am to 5.00pm).

**Sign Type**

The sign shall be 200mm high street blade style with class 1 white reflective symbol (AS 1742.6 Appendix B Table B1 S16 or S16a) and class 1 reflective white 150mm C series narrow space wording 'AMENITIES' on a class 1 blue reflective background. (appendix A)

**Location for sign**

The amenities should be signposted at the closest street to the amenities and at the position of the facility.

**1.5.4 MEDICAL SERVICES****1.5.4.1 HOSPITALS****Approval Criteria**

Hospitals shall only be signposted when a 24 hour casualty service or a connection to such a service is available.

**Sign Type**

The sign shall consist of a class 1 white reflective symbol (AS 1742.6 Appendix B Table B1 S1) on a class 1 blue reflective background. The name of the hospital may be included on the sign if a number of hospitals are in that locality or to avoid ambiguity. The legend will be class 1 white reflective legend. The size of the symbol and legend will be dependent on the speed limit on the roadway. (appendix A)

No business or commercial name will be permitted.

**ITEM 10 - ATTACHMENT 3      INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****Location for sign**

The feature should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.4.2      MEDICAL CENTRES****Approval Criteria**

Medical Centres shall only be signposted when a 24 hour casualty service or a connection to such a service is available.

**Sign Type**

The sign shall consist of 100mm D series medium spacing class 1 white reflective wording 'MEDICAL CENTRE' and symbol (AS 1742.6 Appendix B Table B1 S1) on a class 1 blue reflective background.

No business or commercial name will be permitted.

**Location for sign**

The feature should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.4.3      VETERINARY CLINICS****Approval Criteria**

Veterinary Clinics shall only be signposted when a 24 hour emergency service or 24 hour access to such a service is available.

**Sign Type**

The sign shall be 200mm high street blade style with class 1 reflective white 80mm D series medium space wording 'VETERINARY CLINIC' on a class 1 blue reflective background. (appendix A)

No business or commercial name will be permitted.

**Location for sign**

The feature should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.5      EMERGENCY SERVICES****Definition**

State Emergency Services  
Rural Fire Service  
New South Wales Fire Service  
New South Wales Police Service  
Ambulance

**Approval Criteria**

Emergency services are to be signposted when 24 hour service or a connection to such a service is available.

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing white reflective legend on a class 1 blue reflective background. The sign shall be no shorter than 500mm and no longer than 1200mm.

The wording should be included on the sign to identify the type of emergency service available (State Emergency Service, Police, Fire Service, Rural Fire Service etc)

In locations where the road reserve is wide, (eg dual carriageway, rural roads), high speed roads or when a service name is long, the sign size may be increased to a 200mm high street blade style sign with 150mm D series medium spacing white reflective legend or 80mm D series medium spacing white reflective legend in two lines (appendix A)

**Location for sign**

The sign should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.6 REST AREAS****Definition**

A Rest Area is a roadside stopping place which, as a minimum, shall provide at least one picnic table in shade in an area where vehicles can safely stop clear of the travelled road.

**Approval Criteria**

A Rest Area can be signposted if it meets the definition as above. Rest Area signs on major state roads will need the approval of TfNSW. Rest Area signs on local roads will need the approval of Port Stephens Council.

**Sign Type**

The sign shall consist of a class 1 white reflective symbol (AS 1742.6 Appendix B Table B1 S12) on a class 1 blue reflective background. The size of the sign will be dependent on the speed limit on the roadway.

**Location for sign**

The feature should be signposted on the approaches to the facility and at the position of the facility.

**1.5.7 AIRPORTS****Approval Criteria**

An airport that provides regular commercial air services shall be signposted on all major roads to a maximum distance of 50km from the airport along all major travel routes.

**Sign Type**

The sign shall consist of a class 1 white reflective symbol (AS 1742.6 Appendix B Table B1 S11) on a class 1 blue reflective background. The name of the airport may also be included on the sign to avoid ambiguity. The legend will be class 1 white reflective legend. The size of the symbol and legend will be dependent on the speed limit on the roadway.

E.g. Newcastle Airport is actually located in the suburb of Williamstown.

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****Location for sign**

The airport signs should be used to indicate the route and entry point to the airport. The importance of a major airport requires that it be included as a normal destination on advance and intersection direction signs on state roads as determined by TfNSW. When airport indicators are to be placed alongside major roads, they should be placed in a prominent location, with arrow symbols indicating direction of travel.

**1.5.8 VISITOR INFORMATION CENTRES****Approval Criteria**

Signs shall only be displayed at facilities such that they are a manned Visitor Information Centre or unmanned information bay or information boards that are accredited in accordance with the Australian Tourism Accreditation Standard administered by Tourism New South Wales.

**Sign Type**

The signs shall be in accordance with AS 1742.6 Section 2 Tourist Information Facilities.

**Location for sign**

The sign locations shall be in accordance with AS 1742.6 Section 2 Tourist Information Facilities.

**1.5.9 MARINAS****Approval Criteria**

Signs should be present at Marina's on the proviso that they are principally the place for the birthing of vessels for private or commercial use and may also include service and maintenance facilities including a dry dock. Individual activities within the marina area will not be signposted separately such as boat repairs, dry docks, restaurants, boat hire, fishing tackle supplies and charter tours. The marina is considered to be the principle destination.

**Sign Type**

The sign shall be 200mm high street blade style with class 1 reflective white 150mm D series medium space wording 'MARINA' on a class 1 blue reflective background. (appendix A)

No business or commercial name will be permitted.

**Location for sign**

The feature should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.10 INDUSTRIAL ESTATES**

Industrial estates or areas of heavy industry pose a unique problem to signpost. Many industrial areas such as Tomago have more than one area. Estate names would help to identify different estates within the one locality. To reduce confusion, the estate could be named after the main access road into the estate. Further discussion within Council would need to be undertaken to determine if naming of industrial estates is appropriate.

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****Definition**

An estate or area deemed industrial by Council where the principle activity is industrial/heavy industry.

**Approval Criteria**

The estate has more than 3 businesses established.

**Sign Type**

The sign shall be 200mm high street blade style with class 1 reflective white 80mm D series medium space wording 'INDUSTRIAL ESTATE' on a class 1 blue reflective background. No business or commercial name will be permitted, apart from an estate name if applicable. (appendix A)

In locations where the road reserve is wide, (eg dual carriageway, rural roads) or on high speed roads, the sign size may be increased to a 300mm high panel sign with 120mm Mod E series white reflective legend. (appendix A)

**Location for sign**

The sign locations shall be in accordance with AS 1742.6 Section 2 Tourist Information Facilities.

**1.5.11 CHILD CARE / LONG DAY CARE CENTRES****Definition**

A child care centre is a building or place used for child care as defined within the *Child Welfare Act*.

**Approval Criteria**

The centre must provide pre-school care, long day care, before/after school care or a combination of the above.

**Sign Type**

The sign shall be a 200mm high street blade style sign with 80mm D series medium spacing class 1 white reflective legend 'CHILD CARE CENTRE' in two lines on a class 1 blue reflective background (appendix A).

No business or commercial name will be permitted.

**Location for sign**

The Child Care Centre should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.12 ACCOMMODATION****1.5.12.1 ACCOMMODATION FOR THE AGED OR DISABLED****Definition**

Accommodation for the aged or disabled refers to residential accommodation which is used for or is intended to be used permanently as accommodation for aged persons or disabled persons. Accommodation of this kind may consist of hostels, a grouping of self-contained dwellings, a nursing home facility, respite care or a combination of the above.

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****Approval Criteria**

The facility needs to be established and approval given to operate by Port Stephens Council. This type of accommodation should include facilities for the use or benefit of aged or disabled persons.

**Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing white reflective legend on a class 1 blue reflective background. The sign shall be no shorter than 500mm and no longer than 1200mm. The wording should be included on the sign to identify the type of accommodation service available (Retirement Village, Nursing Home, Aged Care, Hospice etc)

In locations where the road reserve is wide, (eg dual carriageway, rural roads) or on high speed roads or when a facility name is long, the sign size may be increased to a 200mm high street blade style sign with 150mm D series medium spacing white reflective legend or 80mm D series medium spacing white reflective legend in two lines.

No business or commercial name will be permitted.

**Location for sign**

The accommodation facility should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.12.2 MOTELS****Definition**

A motel is a building or buildings used substantially for overnight accommodation of travellers and their vehicles.

**Approval Criteria**

The motel shall have a minimum of 20 beds and an on-site booking office.

**Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing white reflective legend on a class 1 blue reflective background including a class 1 white reflective symbol (AS 1742.6 Appendix B Table B1 S6). The sign shall be no shorter than 500mm and no longer than 1200mm. The wording should be included on the sign to identify the type of accommodation service available (e.g. Motel)

In locations where the road reserve is wide, (e.g. dual carriageway, rural roads) or on high speed roads or when a facility name is long, the sign size may be increased to a 200mm high street blade style sign with 150mm D series medium spacing white reflective legend or 80mm D series medium spacing white reflective legend in two lines.

No business or commercial name will be permitted.

**Location for sign**

The motel should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****1.5.12.3 HOTELS****Definition**

A hotel is any building or buildings used for the purposes as specified in an hotelier's licence. Overnight accommodation of travellers and their vehicles may also be a facility the hotel provides.

**Approval Criteria**

The hotel shall have a minimum of 20 beds and an on-site booking office.

**Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing white reflective legend on a class 1 blue reflective background including a class 1 white reflective symbol (AS 1742.6 Appendix B Table B1 S6 ). The sign shall be no shorter than 500mm and no longer than 1200mm. The wording should be included on the sign to identify the type of accommodation service available (eg Hotel)

In locations where the road reserve is wide, (eg dual carriageway, rural roads) or on high speed roads or when a facility name is long, the sign size may be increased to a 200mm high street blade style sign with 150mm D series medium spacing white reflective legend or 80mm D series medium spacing white reflective legend in two lines.

No business or commercial name will be permitted.

**Location for sign**

The hotel should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.12.4 CARAVAN PARKS****Approval Criteria**

The caravan park shall have a minimum of 20 sites for caravans/motor homes or a combination of sites for tents and overnight accommodation should be available to the public.

**Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing white reflective legend on a class 1 blue reflective background including a class 1 white reflective symbol (AS 1742.6 Appendix B Table B1 S9 or AS1742.6 Appendix B Table B1 S8). The sign shall be no shorter than 500mm and no longer than 1200mm. The wording should be included on the sign to identify the type of accommodation service available (e.g. Caravan Park)

In locations where the road reserve is wide, (eg dual carriageway, rural roads) or on high speed roads or when a facility name is long, the sign size may be increased to a 200mm high street blade style sign with 150mm D series medium spacing white reflective legend or 80mm D series medium spacing white reflective legend in two lines on a class 1 blue reflective background.

No business or commercial name will be permitted.

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****Location for sign**

The caravan park should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles. Advance signposting on the approaches to the caravan park are permitted if the road fronting the caravan park is a high speed road.

**1.5.12.5 HOLIDAY ACCOMMODATION**

Establishments that offer accommodation other than caravans, mobile homes, tent sites, motels, hotels, bed and breakfast type accommodation. Such establishments would include backpackers, cabins, bungalows, hostels etc.

**Approval Criteria**

The establishment shall have a minimum of 20 beds and an on-site booking office.

**Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing white reflective legend on a class 1 blue reflective background including a class 1 white reflective symbol (AS 1742.6 Appendix B Table B1 S6). The sign shall be no shorter than 500mm and no longer than 1200mm. The wording should be included on the sign to identify the type of accommodation service available (eg Cabins, Backpackers, Resort)

In locations where the road reserve is wide, (eg dual carriageway, rural roads) or on high speed roads or when a facility name is long, the sign size may be increased to a 200mm high street blade style sign with 150mm D series medium spacing white reflective legend or 80mm D series medium spacing white reflective legend in two lines.

No business or commercial name will be permitted.

**Location for sign**

The establishment should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.12.6 BED AND BREAKFASTS****Approval Criteria**

The bed and breakfast (B&B) establishment must be licensed and approval given to operate by Port Stephens Council.

**Sign Type**

The sign shall be 200mm high street blade style with 80mm D series medium spacing class 1 white legend on a class 1 blue reflective background including a class 1 white reflective symbol (AS 1742.6 Appendix B Table B1 S6). The wording should be included on the sign to identify the type of accommodation service available (e.g. Bed & Breakfast)

No business or commercial name will be permitted.



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The B&B establishment should be signposted only in the street that it is located in to avoid ambiguity. If signposting is provided on other streets leading to B&B, motorists expect to find a B&B on that street.

**1.5.13 COMMUNITY FACILITIES****1.5.13.1      COMMUNITY GROUPS****Definition**

Community groups that are 'not for profit' groups are activity based not retail based. Combination of the above examples is the Scouts and Guides.

**Approval Criteria**

Groups that have their own facilities that are a recognised 'not for profit' organisation and conduct activities the general public can participate in, meet the approval criteria.

Groups that use community facilities that are a recognised 'not for profit' organisation and conduct activities the general public can participate in, do not meet approval criteria. The community facility will be signposted as per SECTION 2 Community Buildings.

**Sign Type**

The sign shall be 200mm high street blade style with class 1 reflective white 150mm D series medium space wording on a class 1 blue reflective background. (appendix A)

**Location for sign**

The facility should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.13.2      COMMUNITY BUILDINGS****Definition**

A community building is any building or buildings used for the purposes of the general community.

**Approval Criteria**

The building is open and accessible to the general public or on site contact details are available.

**Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing white reflective legend on a class 1 blue reflective background. The sign shall be no shorter than 500mm and no longer than 1200mm. The wording should be included on the sign to identify the type of building available (Community Hall, Council Administration Offices, Library, etc)

In locations where the road reserve is wide, (eg dual carriageway, rural roads) or on high speed roads or when a facility name is long, the sign size may be increased to a 200mm high street blade style sign with 150mm D series medium spacing white reflective legend or 80mm D series medium spacing white reflective legend in two lines.

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****Location for sign**

The building should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.13.3 SHOPPING CENTRES****Approval Criteria**

A shopping centre shall have a gross leasable floor area of greater than 1000 m<sup>2</sup>. The shopping centre must also be of community significance and NOT located on a major road.

**Sign Type**

The sign shall be 200mm high street blade style with class 1 white 150mm B series narrow space wording 'SHOPPING CENTRE' on a class 1 blue reflective background. (appendix A)

No business or commercial name will be permitted.

**Location for sign**

The shopping centre should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.13.4 REGISTERED CLUBS****Definition**

An establishment used by persons associated with, or a body incorporated for social, literary, political, sporting, and athletic or other lawful purposes whether of the same or of a different kind and whether or not the whole or part of such a building is the premises of a club registered under the Registered Clubs Act. ~~1976~~

**Approval Criteria**

The Registered Club will not be signposted if it is located within an existing community building such as a hall or school facility. These community facilities will be signposted under section 1.5.13 Community Facilities. All other Registered Clubs located within dedicated buildings will be permitted signposting.

**Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing class 1 white reflective legend on a class 1 blue reflective background. The sign shall be no shorter than 500mm and no longer than 1200mm. The wording should be included on the sign to identify the type of club.

No business or commercial name will be permitted.

In locations where the road reserve is wide, (eg dual carriageway, rural roads) or on high speed roads or where a name is long, the sign size may be increased to a 200mm high street blade style sign with 150mm D series medium spacing black legend or 80mm D series medium spacing black legend in two lines.

**Location for sign**

The establishment should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****1.5.13.5 PLACES OF WORSHIP****Definition**

A place of worship is any building or buildings used for the purposes of religious worship.

**Approval Criteria**

The place of worship will not be signposted if it is located within an existing community building such as a hall or community building. These community facilities will be signposted under section 1.5.13 Community Facilities. All other places of worship located within dedicated buildings will be permitted signs.

**Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing class 1 white reflective legend on a class 1 blue reflective background. The sign shall be no shorter than 500mm and no longer than 1200mm. The wording should be included on the sign to identify the type of place of worship.

In locations where the road reserve is wide, (eg dual carriageway, rural roads) or on high speed roads or where a name is long, the sign size may be increased to a 200mm high street blade style sign with 150mm D series medium spacing black legend or 80mm D series medium spacing black legend in two lines.

No business or commercial name will be permitted.

**Location for sign**

The establishment should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.13.6 CEMETERIES AND CREMATORIUMS****Approval Criteria**

The establishment be licensed and approval given to operate as a cemetery/crematorium under the guidelines specified by Port Stephens Council.

**Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing class 1 white legend on a class 1 blue reflective background.

No business or commercial name will be permitted.

**Location for sign**

The cemetery/crematorium should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**1.5.13.7 SERVICE CLUBS****Definition**

Rotary Club, Lions Club, Probus Club, Country Women's Association, etc

**Approval Criteria**

The club is an approved club under the guidelines specified by Port Stephens Council.

**ITEM 10 - ATTACHMENT 3      INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.**

**Sign Type**

The sign shall include a logo or other information regarding meeting times, contact telephone number or venue. The sign material shall be aluminium and will measure no greater than 0.6m x 0.6m or have an area no greater than 0.36m<sup>2</sup>. The sign must not include any colours or design elements that are similar to road signs. For example, a sign depicting a 'STOP' sign, or similar.

**Location for sign**

The service clubs signs will be mounted to a common structure on the major road at the entrance to the locality the club is located in.

## **2.0 DIRECTIONAL SIGNS**

**ITEM 10 - ATTACHMENT 3      INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****2.0      DIRECTIONAL SIGNS****2.1      ADVANCE DIRECTION SIGNS****Definition**

Advance direction signs provide motorists with advance notice of directions to focal points (towns and cities) facilitating traffic movements in the safest and most direct manner.

**Approval Criteria**

These types of signs are generally approved of and provided by TfNSW.

**Sign Type**

The sign shall be class 1 white reflective legend on class 1 green reflective background.

**Location for sign**

The signs are located on the approaches to intersections or decision points.

**2.2      INTERSECTION DIRECTION SIGNS****Definition**

Intersection direction signs provide motorists with directions to focal points (towns and cities) facilitating traffic movements in the safest and most direct manner.

**Approval Criteria**

These types of signs are generally approved of and provided by TfNSW.

**Sign Type**

The sign shall be class 1 white reflective legend on a class 1 green reflective background.

**Location for sign**

The signs are located on the approaches to intersections or decision points.

**2.3 TOURIST DIRECTION SIGNS (WHITE AND BROWN)****Definition**

Tourist Direction signs (brown and white) are signs that guide motorists to features and tourist attractions of significant interest as determined by the Tourist Attraction Signposting Assessment Committee (TASAC).

Some of the typical features signposted are:-

- Major tourist attractions
- Tourist drives
- Tourist establishments
- Tourist features (scenic, geographic etc)
- Historical features
- Cultural
- Theme Parks
- Winery
- Museum
- Galleries
- Craft centres

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.**

- Zoo Parks

**Approval Criteria**

Consultation on the site and sign legend and content is a matter for the relevant regional tourism organisation, TfNSW and Tourism New South Wales. The Tourist Attraction Signposting Assessment Committee (TASAC) is the appropriate forum for these detailed considerations.

**Sign Type**

The sign shall be a sign as approved by the TASAC.

**Location for sign**

The facility or feature should be signposted as per the requirements of TfNSW manual, Tourist Signposting.

**2.3.1 INTERPRETIVE SIGN****Definition**

Signs which provide information about a feature, including the history or cultural significance.

**Approval Criteria**

These types of signs are approved of and provided by Port Stephens Council.

**Sign Type**

The sign shall be white legend on a brown background.

**Location for sign**

The signs are located at the feature.

eg The Marriage Trees located in King Street, Raymond Terrace

### **3.0 ADVERTISING STRUCTURES**



**ITEM 10 - ATTACHMENT 3      INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****3.0      ADVERTISING STRUCTURES**

All advertising signs and structures within the road reserve (with the exception of Sandwich Board signs and Bus Shelter Advertising) require the submission of a Development Application which will require Council approval before signs will be permitted within the road reserve. Council does not generally approve advertising within the road reserve. Advertising may cause driver distraction and increase the risk of a crash.

**3.1      BUS SHELTERS**

Advertising signs are not permitted within the road reserve but are permitted on bus shelters. Where advertising is to be installed on a Council owned bus shelter, a bus shelter advertising application form will need to be lodged with Council and this application approved by Council. This application form can be found on the Port Stephens Council website.

**3.2      SANDWICH BOARDS**

Advertising is permitted on sandwich boards within the road reserve for the purpose of advertising adjacent to the business use. An application form can be found on the Port Stephens Council website.

**3.3      BANNERS**

Banners within the road reserve used for advertising businesses will not be permitted. However, banners that advertise events within that locality will be considered and approval assessed by Port Stephens Council. Applications should be made in writing to Council requesting Banner advertising for events.

**3.4      VEHICLES**

Advertising may be permitted on some vehicles within the road reserve in accordance with SEPP64.

**3.5      AWNING/HOARDING**

Advertising is permitted on awnings and hoardings within the road reserve through an application to Council.

**3.6      IDENTILITES**

Street furniture incorporating illuminated street name signs and an advertising panel on a single post are permitted within the road reserve however require a development application to be lodged with Council for approval.

## **4.0 REGULATORY/WARNING/ADVISORY**

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****4.0 REGULATORY/WARNING/ADVISORY****4.1 REGULATORY****Sign Type**

Regulatory signs are enforceable by Police. A full listing of regulatory signs can be found on the Roads and Maritime website: <http://www.rms.nsw.gov.au>

Eg No Stopping, Stop sign, Give Way sign, Speed limit sign, etc.

**Approval**

All regulatory signs with the exception of speed limit signs are to be approved of by the Local Traffic Committee which comprises of technical representatives from N.S.W. Police, Council and TfNSW. TfNSW is the only authority for approving speed limits.

**Installation**

All regulatory signs with the exception of speed limit signs are to be installed by a Road Authority under the definition given within the Roads Act. Speed limits signs are the responsibility of TfNSW.

**4.2 WARNING****Sign Type**

Warning signs give advance notice to motorists about specific hazards or road conditions ahead as per Australian Standard AS 1742.2.

Eg Curve warning signs, Crest warning signs, etc.

**Approval**

All warning signs are to comply with the warrants or criteria set out in Australian Standard AS 1742.2.

**Installation**

All warning signs are installed by Council.

**4.3 ADVISORY SIGNS****Sign Type**

Advisory signs give advance notice to motorists about specific road conditions and geographic features ahead as per Australian Standard AS 1742.2.

Eg Road Subject to Flooding, Hunter River, Bridge height limits, etc.

**Approval**

All advisory signs are to comply with the warrants or criteria set out in Australian Standard AS 1742.

**Installation**

All advisory signs are installed by Council.

## **5.0 OPEN SPACE**

**ITEM 10 - ATTACHMENT 3      INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****5.0      OPEN SPACE****5.1      DIRECTIONAL**

- Open Space – with community facilities
- Recreation Facilities – tennis courts, football ovals
- Leisure Facilities

**Sign Type**

The sign shall be 150mm high street blade style with 100mm D series medium spacing white reflective legend on a class 1 blue reflective background. The sign shall be no shorter than 500mm and no longer than 1200mm.

The wording should be included on the sign to identify the type of facility available (tennis court, swimming pool, sporting complex or the name of the reserve, oval, field)

In locations where the road reserve is wide, (eg dual carriageway, rural roads) or on high speed roads or when a service name is long, the sign size may be increased to a 200mm high street blade style sign with 150mm D series medium spacing white reflective legend or 80mm D series medium spacing white reflective legend in two lines.

**Location for sign**

The feature should be signposted from the closest major road through the locality and signposted via the shortest most accessible route for all vehicles.

**5.2      ADVERTISING**

Advertising signs are not permitted within the road reserve but are permitted within Open Space. Applications should be made in writing to Council to allow for a determination to be made. A development application may be required to be lodged dependent on the nature of the signage. Typically, advertising is not supported in any Council Open Spaces and any application will be reviewed on a case by case basis without reference to any previous positive or negative determinations.

**5.3      INFORMATIONAL**

Informational signs are not permitted within the road reserve but are permitted within Open Space. Applications should be made in writing to Council to allow for a determination to be made. Applications for informational signage will be reviewed on a case by case basis without reference to any previous positive or negative determinations.

**ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.****REFERENCES AND FURTHER INFORMATION**

- Port Stephens Council is the local Council which governs the Local Government Area of Port Stephens. They are also the Road Authority for this area in combination with TfNSW. Port Stephens Council is responsible for managing approvals for number of different signage types in this area. For further information see:

<http://www.portstephens.nsw.gov.au/>

- TfNSW is a NSW Government agency delivering safe and efficient journeys throughout NSW, managing the operations and programs of some roads and waterways. TfNSW is responsible in providing concurrence to Council requests and acting as a Road's Authority and approval body under the Road Act. For further information see:

<http://www.rms.nsw.gov.au>

- Standards Australia is the nation's peak non-government, not-for-profit Standards organisation that produce the standard that most industries attempt to comply to, including those relating to signage. For further information see:

<http://www.standards.org.au>

- The Federal Register of Legislation lists out all the legislation residents, business owners, Councils or otherwise is required to follow in regards to signage installations and approvals. For further information see:

<https://www.legislation.gov.au>

- TASAC, The Tourist Attraction Signposting Assessment Committee is responsible for the assessment of applications for tourist signposting for the majority of tourist signposting needs in NSW. For further information see:

<https://www.destinationnsw.com.au/tourism/business-development-resources/tourist-attraction-signposting/about-tasac>

ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.

APPENDIX A



# ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.

## CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website <a href="http://www.portstephens.nsw.gov.au">www.portstephens.nsw.gov.au</a>			
<b>EDRMS container No</b>	PSC2005-2795	<b>EDRMS record No</b>	
<b>Audience</b>	Community, Assets Section, Civil Assets, Staff and General Manager		
<b>Process owner</b>	Assets Section Manager		
<b>Author</b>	Civil Assets Engineer		
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1	26 April 2005	Traffic Engineer & Project Engineer, Traffic & Road Safety	Policy Adopted By Council	101
2	25 Nov 2014	Civil Assets Engineer	Policy Amended and adopted by Council	318
3	9 Oct 2018	Civil Assets Engineer	Reviewed and revised content. Name Of Code Changed. EDRMS Container Changed. Roads and Traffic Authority replaced by Roads and Maritime Service throughout the code. Overview, 1.1, 1.5.7, 1.5.8, 1.5.9, 3.0 – 3.6, 4.1, 5.2, 5.3 - Reworded to improve purpose. General Purpose (5), Cost, 1.1, References – Addition of Information. Cost 1.1-1.5.13 – Removed	123
4	23 Feb 2020	Civil Assets Manager	Reviewed and revised content. Formatted to current style guide. Changed Roads and Maritime Service (RMS) to Transport for New South Wales (TfNSW) throughout the code. Page 4 – Method - Hierarchy of signs - Added Masonite Road, Port Stephens Street, William Street and removed Watefront	030



## ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.

Version	Date	Author	Details	Minute No.
			<p>Road.</p> <p>Page 8 – 1.1 – Added East Seaham Road, Seaham.</p> <p>Appendix B Table B1 – Added to AS 1742.6 throughout the code.</p> <p>Page 18 – 1.5.12.1 – Removed including a class 1 white reflective symbol (AS 1742.6 s6 bed).</p> <p>Page 23 – 1.5.13.4 – Removed 1976 from Registered Clubs Act.</p> <p>Page 28 – 2.3 – Removed Traffic Engineering Manual Part 12.</p>	
5		Civil Assets Manager	<p>Reviewed and revised content. Formatted to current style guide.</p> <p>Table of contents 5.0 remove Parks And Reserves and add Open Space.</p> <p>Page 15-17 - 1.5.12.1, 1.5.12.3, 1.5.12.4, 1.5.12.5, 1.5.12.6, 1.5.13.5, 1.5.13.6 – Added, No business or commercial name will be permitted.</p> <p>Page 17 - 1.5.12.6 – B&amp;B added and wording Bed and breakfast removed.</p> <p>Page 17 - 1.5.12.6 – Added, including a class 1 white reflective symbol (AS1742.6 Append B Table B1 S6). The wording should be included on the sign to identify the type of accommodation service available (e.g Bed &amp; Breakfast).</p> <p>Page 26 - 3.0 – Added, Council does not generally approve advertising within the road reserve. Advertising may cause driver distraction and increase the risk of a crash.</p> <p>Page 26 - 3.4 - reworded to improve content.</p> <p>Page 28 - 4.1 – Removed, with the exception of local traffic and shared zone &amp; who are the only authority for approving such</p>	

# ITEM 10 - ATTACHMENT 3 INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.

Version	Date	Author	Details	Minute No.
			<p>signage.</p> <p>5.0, 5.1, 5.2, 5.3 – Removed, Parks and Reserves. Added, Open Space.</p> <p>Page 5 - Cost</p> <p>Deletion of-</p> <p>Regardless of the nature of a, (for example if it is to be installed as part of development, benefits a private entity or otherwise),</p> <p>Signs should be designed to meet a minimum service life of ten (10) years, been in place for longer than 10 years and/or where it has,</p> <p>Where the sign relates to a facility, until such time that the facility exists and/or the facility ceases operations, the signage shall be managed under the above arrangement. On termination of a facility's operations all signage relating to the facility shall be removed at the facility managers cost.</p> <p>Where no direct benefitting party is identifiable or where the assessing officer makes a determination that costs will be met by Council, Council may met the lifecycle costs of the sign in full or partially with the remainder to be met by the applicant as determined by the assessing officer.</p> <p>Page 5 – Cost</p> <p>Added</p> <p>, except for Emergency Service and Not for Profit Organisations</p> <p>. Costs,</p> <p>and 10 years of,</p> <p>for the applicants consideration and payment prior to any installation,</p> <p>been made redundant or,</p> <p>Any desired replacement of the signage will be considered as new sign</p>	

**ITEM 10 - ATTACHMENT 3      INFORMATION AND DIRECTION SIGN IN ROAD RESERVE CODE.**

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Details</b>	<b>Minute No.</b>
			Deletion of replaced and adding removed.	

**ITEM NO. 11**

**FILE NO: 23/281842  
EDRMS NO: PSC2021-04206**

## **REQUESTS FOR FINANCIAL ASSISTANCE**

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

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### **RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral and Ward funds to the following:-
  - a) Hunter Medical Research Institute – Mayoral funds - \$2500 donation towards an ovarian cancer fundraising event at Nelson Bay Golf Club.
  - b) Tilligerry & Districts Little Athletics – Cr Jason Wells – Rapid response - \$500 donation towards the purchase of new athletics equipment.
  - c) 1<sup>st</sup> Tilligerry Scouts – Cr Steve Tucker – Rapid response - \$244 donation towards reimbursement of annual fire safety inspection fee.
  - d) Nelson Bay Junior Rugby League Club – East Ward funds - \$1940 donation towards 2 shade structures.
  - e) Endorse the provision of funds to John Clarke – East Ward funds - \$1000 donation towards publication of 2 local history books and place the proposal on public exhibition for a period of 28 days, in accordance with the Local Government Act 1993 to seek public comment.
- 2) Should no submissions be received as a result of the public exhibition stated in 1 e) above, the funds be approved.

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## **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

**ORDINARY COUNCIL - 12 MARCH 2024**

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**

Hunter Medical Research Institute (HMRI)	Funds are being raised for the Hunter Medical Research Institute by the Nice and Naughty – Funds for Ovarian Cancer Committee.	\$2500	Donation towards ovarian cancer fundraising event in Nelson Bay.
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**WARD FUNDS**

Tilligerry & Districts Little Athletics	Little Athletics Clubs encourage development of participants by providing opportunities for personal and athletic growth.	\$500	Donation towards the purchase of new athletics equipment.
1st Tilligerry Scout Group	Scouts prepare young people with skills for life by taking in part in various activities.	\$244	Donation towards reimbursement of annual fire safety inspection fee.
Nelson Bay Junior Rugby League Club	The Nelson Bay Junior Rugby League Club provides rugby league coaching and match fixtures for children.	\$1940	Donation towards new shade structures.
John Clarke (Individual)	A local Port Stephens writer.	\$1000	Donation towards publication of 2 local history books.

## COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Provide the Community Financial Assistance Program

## FINANCIAL/RESOURCE IMPLICATIONS

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

## LEGAL, POLICY AND RISK IMPLICATIONS

To qualify for assistance under Section 356(1) of the Local Government Act 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- applicants are carrying out a function, which it, the Council, would otherwise undertake.
- the funding will directly benefit the community of Port Stephens.
- applicants do not act for private gain.

Risk	<a href="#">Risk Ranking</a>	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. 12**

**FILE NO: 24/45873**  
**EDRMS NO: PSC2022-02308**

**INFORMATION PAPERS**

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

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**RECOMMENDATION IS THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 12 March 2024.

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<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	Carbon Neutrality 2025	214
2	Delegations Report	224
3	Council Resolutions	226

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# INFORMATION PAPERS

**ITEM NO. 1****FILE NO: 24/34238  
EDRMS NO: 79-2022-3-1****CARBON NEUTRALITY 2025**

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 development and implementation of a Port Stephens Carbon Neutral Action Plan. The plan seeks to reduce emissions from Council operations in accordance with the Council resolution from 11 April 2023, Minute No.014 (**ATTACHMENT 1**).

Council has been working with a consultant to create a Carbon Neutral Action Plan that would reduce emissions over time. The plan will allow Council to achieve Carbon Neutrality within the defined timeframe as well as prepare Council for the Net Zero future as legislated by the Australian Federal Government. A report containing full details of the Carbon Neutral Action Plan with short, medium and long-term actions will be presented to Council at an upcoming two way briefing prior to being reported to Council for adoption.

**REPORT STATUS**

The below table provides an update on the deliverables required to prepare and implement the Carbon Neutral Action Plan for Council operations.

<b>Deliverable</b>	<b>Status</b>
<b>Engage carbon specialist consultant.</b>	Complete
<b>Review and update emissions data.</b>	Complete
<b>Audit emission sources and establish potential emission reduction strategies.</b>	Complete
<b>Modelling and evaluation of emissions reduction strategies and pathways.</b>	Draft complete
<b>Preparation and adoption of the Action Plan –</b> An Action Plan outlining the actions and costs required to reduce emissions and achieve Carbon Neutral status by 2025 will be prepared.	First draft complete
<b>Implementation and monitoring of the Action Plan –</b> Implementation of the actions outlined in the Action Plan will begin with ongoing monitoring of each action's progress.	Upcoming

Due to the relatively small timescale between reporting intervals, there have been no updates from the data previously reported for Quarter 4 2023 to that being reported for Quarter 1 2024.

### **Emissions data reporting as at Quarter 1 2024:**

Council's carbon footprint calculation for the 2022/23 financial year has been completed and is set out within **Table 1**.

**Table 1:** Port Stephens Council Carbon Footprints for FY2021/22 and FY2022/23 including annual emissions reductions.

<b>Financial Year</b>	<b>Annual Emissions (t-CO<sub>2</sub>e.p.a)</b>	<b>Annual Emission Reduction (%)</b>
2021/22	12,547	Nil.
2022/23	7,586	39.6%

Two of the largest sources of Council's emissions are from electricity and fleet fuel usage. These have been detailed further below.

### Electricity Usage

Council's electricity usage in the 2021/22 financial year was responsible for 25.2% of the total carbon footprint. In January 2022, Council signed a renewable Power Purchase Agreement (PPA) which ensures 100% of Council's electricity is provided from renewable energy sources. This initiative has reduced Council's emissions from electricity to zero.

Notwithstanding the PPA, Council has also undertaken a number of projects which have further reduced Council's electricity consumption. These projects include:

- A \$900,000 investment in solar panels installed across Council's pools, depots and community buildings
- The conversion of 99% of Council managed streetlights to LEDs
- Upgrading of sports field lighting to LEDs at Yulong Oval, Nelson Bay Netball Courts, Brandon Park, Nelson Bay Tennis Courts and Soldiers Point Tennis Courts
- Council is currently undertaking further upgrades to field lighting at Tomaree Sports Complex, Salamander Bay and Bowthorne Oval, Wallalong.

Continued investment into renewable energy projects reduces Council's overall energy consumption and allows utilities savings to be reinvested into sustainability projects and initiatives.

A breakdown of Council's electricity usage in FY2022/23, which is now being used to target areas for future reduction projects, is available in **Table 2**.

**Table 2:** Breakdown of Port Stephens Council electricity usage for the 2022/23 financial year.

<b>Council asset</b>	<b>Percentage (%)</b>
Sports, parks, public lighting and amenities	33.1%
Street lighting	23.8%
Swimming pools	20.8%
Buildings	17.4%
Depots	2.6%
Other	1.5%
Emergency services	0.8%
<b>Total</b>	<b>100%</b>

### Fleet Fuel Usage

Council's fleet includes a wide range of vehicles ranging from light commercial to heavy vehicles and heavy plant (e.g. excavators, loaders and tractors). Investment in low or no emission vehicles and plant will make a significant impact on Council's carbon footprint over an extended period.

Progress in this area will be subject to market availability and comparison to meet the service delivery needs of Council. In the meantime, Council is currently trialling a number of low emission small plant equipment, including EV mowers and hand tools. Council will continue to investigate viable long-term solutions for its fleet vehicles and plant.

A breakdown of the fuel usage from Council's fleet vehicles in FY2022/23 is provided within **Table 3**.

**Table 3:** Port Stephens Council Fleet fuel consumption for the 2022/23 financial year.

<b>Fuel Type</b>	<b>Percentage (%)</b>
Diesel	96.5%
Petrol	3.5%
Ethanol	0.1%
<b>Total</b>	<b>100%</b>

### **ATTACHMENTS**

- 1) Minute No.014, 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

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**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**

<b>014</b>	<b>Councillor Leah Anderson Councillor Glen Dunkley</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Note the status update for the Carbon Neutrality project.</li><li>2) Endorse the allocation of funding for the preparation of the Port Stephens Carbon Neutral Action Plan.</li><li>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.</li></ol>
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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.

**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 CO<sub>2</sub>-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:

<b>Deliverables</b>	
Comprehensive Carbon Audits (10 to 15 sites)	<p>Audit of Council's highest emissions producers such as:</p> <ul style="list-style-type: none"><li>• Aquatic centres</li><li>• Waste facilities</li><li>• Administration buildings</li><li>• Holiday parks</li><li>• Libraries</li><li>• Depots</li></ul>
Comprehensive Cost Benefit Analysis	<p>Consideration and recommendation of emissions reduction options including:</p> <ul style="list-style-type: none"><li>• Operational process efficiencies, data collection, monitoring and reporting improvements.</li><li>• Projected emissions reductions and scenario modelling.</li><li>• Estimated costs to implement actions.</li><li>• Estimated costs to maintain operations.</li><li>• Payback period from operational savings.</li></ul>
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**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
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.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
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**

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
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: 24/27583  
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.

**MAYOR AND GENERAL MANAGER DELEGATION REPORT**

<b>Date exercised</b>	<b>Delegations exercised</b>	<b>Purpose</b>	<b>Role exercising delegation</b>	<b>Reported to Council</b>
22/02/2024	Roads and Maritime Services delegations	Local Traffic Committee Minutes - Authorises the installation, display, removal or alteration of the traffic control devices for the listed items identified in the Port Stephens Local Traffic Committee report dated 6 February 2024.	General Manager	12/03/2024

**ITEM NO. 3**

**FILE NO: 24/41949  
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.

The General Manager's Office has no outstanding resolutions.

## **ATTACHMENTS**

- 1) Community Futures resolutions. [↓](#)
- 2) Corporate Strategy and Support resolutions. [↓](#)
- 3) Facilities and Infrastructure resolutions. [↓](#)

## **COUNCILLORS' ROOM/DASHBOARD**

Nil.

## **TABLED DOCUMENTS**

Nil.

## ITEM 3 - ATTACHMENT 1 COMMUNITY FUTURES RESOLUTIONS.



<b>Action Sheets Report</b>	<b>Division:</b>	Community Futures	<b>Date From:</b>	10/10/2023
	<b>Committee:</b>		<b>Date To:</b>	27/02/2024
	<b>Officer:</b>		<b>Printed: Wednesday, 28 February 2024</b>	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/10/2023	Lamont, Brock	Planning Proposal for 39, 39A and 41 Brocklesby Road, Medowie (Precinct F)	31/05/2024	11/10/2023	
1		Pearl, Steven				23/262411
<b>28 Feb 2024</b> Council is undertaking further consultation with Government agencies in accordance with the Gateway requirements. The public exhibition period will commence following the completion of agency consultation.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 10/10/2023	Lamont, Brock	URGENCY MOTION: Wind Farm Industry	30/06/2024		
		Pearl, Steven				
<b>28 Feb 2024</b> The General Manager has written to the requested delegates as outlined within the motion. A Councillor briefing with DCCCEW was undertaken on 20 February 2024. A delegation has been planned for the 19 March 2024. Council are working to complete all outstanding actions as endorsed.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	Draft Amendment to Port Stephens Development Control Plan 2014 – Chapter B5 Flooding	12/04/2024	29/11/2023	
1		Pearl, Steven				23/324875
<b>28 Feb 2024</b> The public exhibition period closed on 12 February 2024, 2 submissions were received and are currently under review. A Business Paper is anticipated to be reported back to Council at the meeting of 9 April 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	Administrative Amendment to the Port Stephens Local Environmental Plan 2013	31/05/2024	29/11/2023	
3		Pearl, Steven				23/324875
<b>28 Feb 2024</b> Items 4, 6, 7 and 8 of the planning proposal to amend the Port Stephens Local Environmental Plan 2023 have been forwarded to the NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan. Council are working to find a suitable time to meet with Councillors for further discussions in regard to items 1, 2, 3 and 5.						



<b>Action Sheets Report</b>	<b>Division:</b>	Community Futures	<b>Date From:</b>	10/10/2023
	<b>Committee:</b>		<b>Date To:</b>	27/02/2024
	<b>Officer:</b>		<b>Printed: Wednesday, 28 February 2024</b>	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	RAMSAR Listing for Mambo Wanda Wetlands	28/06/2024	29/11/2023	
4		Peart, Steven				23/324875
<b>28 Feb 2024</b>						
The General Manager has written to the Federal and State Minister for Environment outlining the resolution of Council. A Councillor briefing will be scheduled once a response from both Ministers has been received.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/12/2023	Lamont, Brock	Draft Shoal Bay Place Plan	26/04/2024	14/12/2023	
5		Peart, Steven				23/359154
<b>28 Feb 2024</b>						
The draft Shoal Bay Place Plan finished public exhibition on 25 February 2024, submissions are being collated and considered. The final Place Plan is anticipated to be reported back to Council for consideration at the meeting of 23 April 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/12/2023	Peart, Steven	Advertising Signs - Nelson Bay Road	28/05/2024	14/12/2023	
2		Peart, Steven				23/359154
<b>28 Feb 2024</b>						
1) Acknowledges some members of the community are concerned about the number of advertising signs along Nelson Bay Road, their impact on amenity, and the risk they pose to motorists., 2) Requests the General Manager prepare a report detailing the current approach to compliance for unapproved signs and options for undertaking an 'unapproved road side signage campaign'.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/02/2024	Lamont, Brock	Policy Review: Heritage Policy	29/03/2024	14/02/2024	
3 005		Peart, Steven				24/37059
<b>28 Feb 2024</b>						
Council resolved to place the revised Heritage Policy on Public Exhibition. The Public Exhibition has commenced and will conclude on Friday 15 March 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/02/2024	Lamont, Brock	Draft Port Stephens Development Control Plan 2014 - Chapter D12 Richardson Road	31/05/2024	28/02/2024	
2		Peart, Steven				24/50158
<b>28 Feb 2024</b>						
Council resolved to defer Item 2 to allow for a Two-way conversation with the Mayor and Councillors to discuss the original motion and the subsequent amendment. Council are working to find a suitable two way time to meet with Councillors to facilitate further discussions.						





<b>Action Sheets Report</b>	<b>Division:</b>	Community Futures	<b>Date From:</b>	10/10/2023
	<b>Committee:</b>		<b>Date To:</b>	27/02/2024
	<b>Officer:</b>		<b>Printed:</b>	Wednesday, 28 February 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/02/2024	Grobbelaar, Evert	Development Application (Modification) 16-2016-638-3 - S4.55(1A) Modification to the approved Function Centre (Wedding Receptions) and Temporary Marquee Structure at 76 Wallalong Road, Wallalong	28/02/2025	28/02/2024	
1 012		Peart, Steven				24/50158
<b>28 Feb 2024</b> It was resolved that Council approve S4.55(1A) Modification Application to DA 16-2016-638-3 for a S4.55(1A) Modification to the approved Function Centre (Wedding Receptions) and Temporary Marquee Structure to increase the number of events and amendments to operational conditions at 76 Wallalong Road, Wallalong (LOT: 577 DP: 864399) subject to the conditions contained in (ATTACHMENT 1) and the following amendment to the conditions in (ATTACHMENT 1):, "and an additional condition to be titled 19 (f) which reads: Every month following the commencement of this consent, the proponent must provide to Council a full copy of the sound monitoring data for that month, a list of weddings held including dates and days of the week for that month, the number of patrons at each wedding for that month, and a copy of the complaints register for that month. This requirement will remain in place for an eight (8) months trial period.", and an amendment to item 19.						

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)	31/07/2024	28/02/2024	
3 014		Peart, Steven				24/50158
<b>28 Feb 2024</b> Council resolved to endorse the Port Stephens Development Control Plan 2014 Chapter B8 Road Network and Parking (electric vehicles) and provide public notice. Council are investigating opportunities to implement an amendment to the DCP at BB.20 to remove "excluding dwelling houses, dual occupancies and semi-detached dwellings".						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/02/2024	Lamont, Brock	Exhibition of draft Port Stephens Coastal Management Program	31/05/2024		
4 015		Peart, Steven				24/50158
<b>28 Feb 2024</b> Council endorsed the draft Coastal Management Program and associated appendices to be placed on public exhibition, commencing 28 February 2024 and concluding 27 March 2024. A further report is forecasted to be presented to Council for consideration at its meeting of 28 May 2024.						

## ITEM 3 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.



<b>Division:</b>	Corporate Strategy and Support	<b>Date From:</b>	27/08/2013
<b>Committee:</b>		<b>Date To:</b>	27/02/2024
<b>Officer:</b>			
<b>Action Sheets Report</b>		<b>Printed:</b>	Wednesday, 28 February 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Pattison, Zoe	Newline Road, Raymond Terrace	30/06/2024		
2199		Pattison, Zoe				20/288489
<b>28 Feb 2024</b> Survey plan has been completed, acquisition is currently underway.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	27/08/2013	Pattison, Zoe	Campvale Drain	30/06/2024		
243		Pattison, Zoe				
<b>28 Feb 2024</b> 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 11/10/2022	Pattison, Zoe	Policy Review: Property Investment and Development Policy	30/06/2024	12/10/2022	
1		Pattison, Zoe				22/273002
<b>28 Feb 2024</b> Public Exhibition deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	30/06/2024	12/10/2022	
2		Pattison, Zoe				22/273002
<b>28 Feb 2024</b> 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	31/12/2024	12/04/2023	
5088		Pattison, Zoe				23/92450
<b>28 Feb 2024</b> 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.						

ITEM 3 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.



<b>Division:</b>	Corporate Strategy and Support	<b>Date From:</b>	27/08/2013
<b>Committee:</b>		<b>Date To:</b>	27/02/2024
<b>Officer:</b>			
<b>Action Sheets Report</b>		<b>Printed:</b>	Wednesday, 28 February 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/08/2023	Pattison, Zoe	Raymond Terrace Gateway Site Masterplan	30/07/2024		
1		Pattison, Zoe				23/214729
193						
<b>28 Feb 2024</b>						
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 14/11/2023	Pattison, Zoe	Review of the Terms of Reference for the Port Stephens Beachside Holiday Parks - Holiday Van Consultative Committee	31/03/2024	15/11/2023	
6		Pattison, Zoe				23/300006
<b>28 Feb 2024</b>						
Matter considered at the Council meeting on 14 November 2023 with a request to undertake further consultation with the wider Holiday Van Owners. Consultation is currently underway and a report will be provided back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Pattison, Zoe	Sale of closed roads in Raymond Terrace	31/03/2024	29/11/2023	
1		Pattison, Zoe				23/324875
<b>28 Feb 2024</b>						
Recommendation endorsed to close roads 1 and 2. Council staff to undertake an EOI for road 3 and provide a report back to Council for consideration of whether to continue with the road closure.						

ITEM 3 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE  
RESOLUTIONS.



<b>Action Sheets Report</b>	<b>Division:</b>	Facilities and Infrastructure	<b>Date From:</b>	11/04/2023
	<b>Committee:</b>		<b>Date To:</b>	27/02/2024
	<b>Officer:</b>		<b>Printed:</b>	Wednesday, 28 February 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Maretich, John	Naming Recreation Precinct at Medowie after Geoff Dingle	30/06/2024	12/04/2023	
2085		Kable, Gregory				23/92450
<b>28 Feb 2024</b>						
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 13/02/2024	Kable, Gregory	Council Chambers	31/05/2024	14/02/2024	
1008		Kable, Gregory				24/37059
<b>28 Feb 2024</b>						
Council staff will investigate design options and report back to Councillors in a Two Way meeting which has been scheduled for 19 March 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/02/2024	Gutsche, Tammy	Waste	31/05/2024	14/02/2024	
2009		Kable, Gregory				24/37059
<b>28 Feb 2024</b>						
Council staff will continue to work with the Waste Contractor and will provide an update after the Easter Public Holiday period and April School Holidays.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/02/2024	Maretich, John	Raymond Terrace 7 Day Makeover	23/07/2024		
10020		Kable, Gregory				24/50158
<b>28 Feb 2024</b>						
The scope of works is being developed with Council staff and Councillors.						

# NOTICES OF MOTION

**NOTICE OF MOTION****ITEM NO. 1****FILE NO: 24/46677****EDRMS NO: PSC2021-04195****NOTIFICATION FROM DEVELOPERS PRIOR TO CLEARING OF MAJOR VEGETATION****COUNCILLOR: LEAH ANDERSON**

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**THAT COUNCIL:**

- 1) Requests the General Manager prepare a report outlining options to require developers to notify Council prior to the commencement of clearing of major vegetation.
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**BACKGROUND REPORT OF: EVERT GROBBELAAR – DEVELOPMENT AND COMPLIANCE SECTION MANAGER****BACKGROUND**

There is currently no clear and consistent mechanism by which Council Officers are notified of the commencement of vegetation clearing once a Development Application (DA) is approved. There could be a significant time delay from approval of a DA to the commencement of clearing.

Council Officers will need to develop a clear definition and criteria around the concept of “major vegetation”. This would include giving consideration to particular species, number of trees, an area of clearing and the locality.

**FINANCIAL/RESOURCE IMPLICATIONS**

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

**ATTACHMENTS**

Nil.

# 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.