MINUTES - 28 MAY 2024



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 28 May 2024, commencing at 5:36pm.

PRESENT:

Cr Leah Anderson (Chairperson)

Cr Giacomo Arnott

Cr Chris Doohan

Cr Glen Dunkley arrived at 5:45pm

Cr Peter Kafer

Cr Steve Tucker

Cr Jason Wells

General Manager

Director Community Futures

Acting Director Corporate Strategy and Support

Director Facilities and Infrastructure

Governance Section Manager

Cr Peter Kafer acknowledged National Reconciliation Week.

097	Councillor Peter Kafer Councillor Chris Doohan
	It was resolved that leave of absence be granted for Mayor Ryan Palmer, Cr Matthew Bailey and Cr Peter Francis for the Council meeting of 28 May 2024.

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

Those against the Motion: Nil.

The motion was carried.

There were no declaration of interest received.

098	Councillor Chris Doohan Councillor Giacomo Arnott
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 14 May 2024 be confirmed.

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

Those against the Motion: Nil.

The motion was carried.

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MOTIONS TO CLOSE

ITEM NO. 1 FILE NO: 24/111174 EDRMS NO: PSC2009-02366

MOTION TO CLOSE

REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER

DIRECTORATE: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

1) That pursuant to section 10A(2) (d)i of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **Proposed Sale or Lease of 528 Hunter Street, Newcastle**.

- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
- commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

099 Councillor Peter Kafer Councillor Giacomo Arnott

It was resolved that Council:

- 1) That pursuant to section 10A(2) (d)i of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **Proposed Sale or Lease of 528 Hunter Street**, **Newcastle**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
- commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Chris Doohan, Peter Kafer, Steve Tucker and Jason Wells

Those against the Motion: Nil.

The motion was carried.

ITEM NO. 2 FILE NO: 24/111295 EDRMS NO: PSC2017-00104

MOTION TO CLOSE

REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER

DIRECTORATE: GENERAL MANAGER'S OFFICE

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 2 on the Ordinary agenda namely **Port Stephens Koala Sanctuary - Land Manager Appointment**.

- 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.

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

100 Councillor Peter Kafer Councillor Giacomo Arnott

It was resolved that Council:

- 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 2 on the Ordinary agenda namely Port Stephens Koala Sanctuary - Land Manager Appointment.
- 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.

Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Chris Doohan, Peter Kafer, Steve Tucker and Jason Wells

Those against the Motion: Nil.

The motion was carried.

URGENCY MOTION

Cr Jason Wells moved to introduce a matter of great urgency under clause 9.3 of the Code of Meeting Practice. The matter of urgency was accepted by the Chairperson.

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

Councillor Jason Wells Councillor Giacomo Arnott It was resolved that Council: 1) Notes that it was National Volunteer Week last week, and that Port Stephens has thousands of people who volunteer their time through Council, emergency services, service clubs and domestic or carer duties, among many other volunteer activities. 2) Notes that Council hosted a National Volunteers' Week Morning Tea at Salt Ash last week, to thank all the volunteers who help their community through Council. 3) Thanks all volunteers who give up their time to help others and requests that all those in attendance take a moment to give a round of applause to every volunteer who enriches and supports our community.

Cr Glen Dunkley entered the meeting at 5:45pm.

The meeting was disrupted at 5:45pm until 5:51pm due to a webcast technical issue.

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

Those against the Motion: Nil.

The motion was carried.

COUNCIL REPORTS

ITEM NO. 1 FILE NO: 24/76010

EDRMS NO: 16-2023-658-1

DEVELOPMENT APPLICATION 16-2023-658-1 FOR A 3 STOREY DWELLING AT 3 TAREEBIN ROAD, NELSON BAY

REPORT OF: EVERT GROBBELAAR - DEVELOPMENT AND COMPLIANCE

SECTION MANAGER

DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

1) Approve Development Application DA No. 16-2023-658-1 for a 3 storey dwelling and associated land clearing, driveway, retaining walls, and earthworks at 3 Tareebin Road, Nelson Bay, Lot 615 DP 9165, subject to the conditions contained in (ATTACHMENT 1).

2) Support the Clause 4.6 variation to the building height for the reasons outline within this report.

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

Councillor Peter Kafer Councillor Chris Doohan It was resolved that Council: 1) Approve Development Application DA No. 16-2023-658-1 for a 3 storey dwelling and associated land clearing, driveway, retaining walls, and earthworks at 3 Tareebin Road, Nelson Bay, Lot 615 DP 9165, subject to the conditions contained in (ATTACHMENT 1). 2) Support the Clause 4.6 variation to the building height for the reasons outline within this report.

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

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present Development Application (DA) 16-2023-658-1 for a 3 storey dwelling and associated land clearing, driveway, retaining walls, and earthworks to Council for determination.

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

Subject Land:	3 Tareebin Road, Nelson Bay (Lot: 615 DP: 1061399)
Total Area:	1,427m ²
Zoning:	R2 Low Density Residential
Submissions:	0
Key Issues:	The key issues identified throughout the assessment of the development relate to building height. The extent of the building height variation is 2.37m (or 26.39%). The slope of the site is 26 degrees.

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 subject development standard is Clause 4.3 – Height of Buildings and the extent of the variation is 26.39% (2.37m).

A locality plan is provided at (ATTACHMENT 2).

Proposal

The DA seeks consent for the removal of existing vegetation on the site, the construction of a 3 storey (split-level) dwelling and driveway, with associated earthworks and retaining walls. The dwelling is accessed by stairs and an internal lift, and will contain 3 bedrooms, 2 bathrooms (including 1 ensuite), and open plan living and dining spaces. A new driveway will be constructed to provide vehicular access from Tareebin Road, which will include hardstand areas for uncovered parking.

Site Description and History

The subject site is legally identified as Lot 615 DP9165 and is generally known as 3 Tareebin Road, Nelson Bay. The site has a significant fall from the north-west to the south-east, and is currently vacant of any structures. The site is largely surrounded by low density residential development, and is a short distance from Nelson Bay town centre.

Key Issues

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

Building Height

The proposed dwelling exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the Port Stephens Local Environmental Plan 2013 (LEP). The dwelling proposes a maximum building height of 11.37m, which exceeds the 9m height limit by 2.37m, representing a 26.39% variation to the development standard.

A request to vary the building height development standard has been submitted by the applicant in accordance with the provisions of Clause 4.6 of the PSLEP. The proposed height variation is considered acceptable on the following grounds:

- (a) The proposed development is considered to be appropriate of the context of the area in that many dwellings located on similarly steep sites in the surrounding area have been designed in a similar manner that responds to the slope of the land (Cl.4.6(3)(b)).
- (b) The height variation is restricted to the corner roof components of the proposed dwelling and will not result in adverse amenity, privacy, or overshadowing impacts to neighboring properties (Cl.4.6(3)(b)).
- (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 developments in the locality and is therefore consistent with the objective of the zone (Cl.4.6(3)(a)).
- (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 (cl.4.6(3)(a)).

The proposed dwelling will appear consistent with the low-density residential built form in the locality, which typically have 2 or 3 storeys. The building height variation is considered appropriate, noting that a number of new dwellings along Tareebin Road are constructed or approved over the 9m LEP height limit, which informs the existing and establishing built form character in this locality. This includes an approved dwelling at 21 Tareebin Road (north of the site) that has an approved height of 11.23m, and 2 semi-detached dwellings at 23 Tareebin Road (north of the site) that has an approved height of 11.03m. The height variations on these approved dwellings were also attributed to the steep topography of the immediate locality.

The proposed development 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.

Overall, it is considered that the applicant's Clause 4.6 variation request adequately demonstrates that there are sufficient environmental planning grounds to justify varying the height of buildings standard and the objectives of the zone and height

standard are still achieved. A detailed assessment against Clause 4.6 is contained within the Clause 4.6 Assessment Report (ATTACHMENT 4).

Vegetation Removal

Approximately 0.1ha of vegetation clearing will be required for the construction of the proposed dwelling and driveway. No koala habitat or activity was identified on the site through field surveys. No other environmentally sensitive areas or threatened species have been identified on the site.

A Flora and Fauna Assessment was submitted with the DA. As part of the Flora and Fauna Assessment, detailed site surveys were undertaken, which found no significant impact to threatened species, Endangered Ecological Communities, or koala habitat was likely to occur as a result of the proposed development.

Council's Environmental Planner surveyed the site and endorsed the findings of the Flora and Fauna Assessment.

Conclusion

The proposed development 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 are no expected adverse impacts to the natural or built environment as detailed in the Planner's Assessment Report (ATTACHMENT 3).

The proposed development is consistent with Council's Local Housing Strategy in that it provides infill housing within the Tomaree area and increases diversity of housing choice. The provision of infill housing is also consistent with the Greater Newcastle Metropolitan Plan (GNMP), which has a target for 60% of new dwellings within Greater Newcastle to be infill housing by 2036.

It is considered that the development has been suitably designed to address the site constraints and will not result in significant privacy or amenity issues.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development 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 variation of the Port Stephens LEP 2013 and the Port Stephens Development Control Plan (DCP 2014) are considered acceptable and consistent with the relevant control objectives. A detailed assessment against the environmental planning instruments is contained within the Planner's Assessment Report contained at **(ATTACHMENT 3)**.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if 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 may be challenged by the applicant in the Land an 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 dwelling and will provide additional housing to service the needs of the community. The dwelling will allow for the use of existing services and facilities in the locality without requiring upgrades. The construction of the proposed dwelling 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 will reinforce the residential nature of the locality and is characteristic of other developments in both the local and wider community. The dwelling includes relevant construction methods and services such as an on-site stormwater management system that will prevent adverse impacts on adjoining properties. The proposal addresses the street and provides logical and convenient connections to the road network and pedestrian facilities in the locality. There are no anticipated adverse impacts on the built environment from the proposed development.

Impacts on the Natural Environment

The proposed development will not adversely impact the natural environment of the area. Appropriate service management, water quality requirements, and nest boxes have been conditioned for to ensure potential impacts are mitigated. In addition, a condition of consent is recommended that requires the installation and maintenance of erosion and sedimentation controls and tree protection measures for the duration of construction and tree removal works. It is noted that no extensive vegetation that is environmentally sensitive is proposed to be removed and that the development incorporates a landscaping scheme that utilises native species.

CONSULTATION

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

<u>Internal</u>

Consultation was undertaken with Council's Development Engineering and Natural Systems teams. The referral comments from these Officers have been considered as part of the Planner's Assessment Report (ATTACHMENT 3). The internal referral officers supported the DA, subject to the recommended conditions of consent (ATTACHMENT 1).

External

Consultation was undertaken with Ausgrid. Ausgrid supported the development, and has provided recommendations which are discussed within the Planner's Assessment Report (ATTACHMENT 3).

Public exhibition

The DA was notified in accordance with the requirements of the Port Stephens Council Community Engagement Strategy. The application was exhibited for a period of 14 days from 4 December 2023 to 18 December 2023. No submissions were received during the exhibition period.

OPTIONS

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

ATTACHMENTS

- 1) Conditions of Consent.
- 2) Locality Plan.
- 3) Planner's Assessment Report.
- 4) Clause 4.6 Report.

COUNCILLORS' ROOM/DASHBOARD

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

TABLED DOCUMENTS

Nil.

General Conditions

Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
38057 TS		Topographical Survey	North Point Survey	17.01.2024
23E163-05C, Drawing 1 of 4		Tree Location Plan	Port Stephens Design	01.03.2024
23E163-05A, Drawing 2 of 4		Landscape Concept Plan	Port Stephens Design	31.01.2024
23E163-05A, Drawing 3 of 4		Stormwater Concept Plan	Port Stephens Design	31.01.2024
23E048, Drawing 1 of 3		Site Plan & Perspective	Port Stephens Design	06.11.2023
23E048, Drawing 2 of 3		Driveway Plan	Port Stephens Design	06.11.2023
23E048, Drawing 3 of 3		Driveway Profiles	Port Stephens Design	06.11.2023
23E163-02, Drawing 1 of 5		Subfloor Access Plan	Port Stephens Design	28.09.2023
23E163-02, Drawing 2 of 5		Lower Floor Plan	Port Stephens Design	28.09.2023
23E163-02, Drawing 3 of 5		Upper Floor Plan 1	Port Stephens Design	28.09.2023
23E163-02, Drawing 4 of 5		Upper Floor Plan 2	Port Stephens Design	28.09.2023
23E163-02, Drawing 5 of 5		Part Site / Roof Plan	Port Stephens	28.09.2023
400	K	Rear & Right Elevation	Imagine by Design	09.10.2023
500	К	Front & Left Elevation	Imagine by Design	09.10.2023
600	К	Sections	Imagine by Design	09.10.2023

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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.

Condition reason: To ensure that all building works are completed in accordance with the Building Code of Australia.

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.

Condition reason: To require signage that details the relevant contacts of a development during construction.

4 Habitat Tree Removal

Approved trees and vegetation for removal must be inspected by a suitably qualified and experienced fauna ecologist immediately prior to clearing. All habitat trees and feature must be marked by the ecologist. Removal of all habitat trees must be supervised by the 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 hollow bearing 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 required.

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

Condition reason: To ensure that a development is providing supervisions of habitat tree removal.

5 Temporary Site Structures

The installation of temporary site structures must comply with the following requirements:

- a) Temporary site structures area to be installed in accordance with the Work Health Safety Act 2011, Work Health and Safety Regulation 2017, relevant Australian Standard, requirements of SafeWork NSW, and any other applicable Legislation;
- No third party advertising is permitted to be displayed on temporary site structures at any time;

- Temporary site structures must be maintained in a clean, tidy, and safe conditions at all times:
- d) Removal of all graffiti from temporary site structures must occur within 2 business days of its application;
- e) The person having the benefit of this consent must submit a 'Works on Public Infrastructure (Roads, Drainage, Driveways') application to Council and obtain approval prior to the installation of any temporary site structures over Council footways or road reserves, and
- f) Temporary site structures must be removed as soon as practicable after they are no longer required for public safety and/or work purposes.

Condition reason: To enable a temporary site structure in accordance with the *Work Health* and Safety Act 2011; Work Health and Safety Regulation 2017; and any other applicable legislation.

6 Tree Removal/Pruning

Trees 1-3, 5, 6, 12, 15, 22-25, 27-33, 39, 40, and 'xx' identified on Drawing 1 of 4 'Tree Location Plan', prepared by Port Stephens Design, dated 01.03.2024 are approved for removal.

Condition reason: To ensure that the development retains/prunes and replaces specific tree plantings.

7 Protect Existing Vegetation and Natural Landscape Features

Removal of existing vegetation approved for removal by this consent is not to occur until the issue of the Construction Certificate.

Trees 7-9, 17-21, 34-38, and 41-43 identified on Drawing 1 of 4 'Tree Location Plan', prepared by Port Stephens Design, dated 01.03.2024 must be retained.

Trees 4, 10, 11, 13, 14, and 16 identified on Drawing 1 of 4 'Tree Location Plan', prepared by Port Stephens Design, dated 01.03.2024 must be retained where possible, subject to the following:

- Any works within the Tree Protection Zone (TPZ) of these trees must be carried out under the supervisions of an appropriately qualified (AQF 5) Arborist.
- All trees must be retained if, in the opinion of the supervising Arborist, it is feasible to
 do so.

If at any point during works the supervising (AQF 5) Arborist determines that retention of any of these trees is unfeasible, the tree is approved for removal.

Condition reason: To ensure that vegetation is protected during works.

8 Koala friendly fencing

Fencing must not compromise the potential for safe movement of koalas across the site. Where fencing is required, fencing must be:

a) Open post and rail or post and wire (no barbed wire on the bottom strand); or

b) A suitable alternative as approved by Council's Natural Systems Team

Condition reason: To facilitate safe movement of koalas in accordance with Council's Comprehensive Koala Plan of Management (CKPoM).

9 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.

Condition reason: To ensure that while building work is being carried out, the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent.

Building Work

Before issue of a construction certificate

10 Erosion and sediment controls plan

Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the certifier:

- 1. Council's relevant development control plan,
- the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and
- 3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

11 Waste Management Plan requirements

Before the issue of a Construction Certificate, a waste management plan for the development must be prepared and provided to the certifier. The plan must be prepared:

- a. in accordance with
 - the Environment Protection Authority's Waste Classification Guidelines as in force from time to time; and
 - a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out; and
- b. include the following information
 - i. the contact details of the person removing waste;

- ii. an estimate of the type and quantity of waste;
- iii. whether waste is expected to be reused, recycled or sent to landfill;
- iv. the address of the disposal location for waste.

A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.

Condition reason: To ensure resource recovery is promoted and local amenity protected during construction.

12 Long Service Levy

Before the issue of a Construction Certificate, the long service levy of \$2,050 as calculated at the date of this consent, must be paid to the Long Service Corporation under the *Building and Construction industry Long Service Payments Act 1986*, section 34, and evidence of the payment is to be provided to the principal certifier

Condition reason: To ensure the Long Service Levy is paid.

13 Civil engineering plans

Civil engineering plans prepared by a qualified Engineer, indicating drainage, accessways, earthworks, pavement design, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans, Council's Infrastructure Specifications, and the provided geotechnical report, prepared by 5QS Consulting Engineers, reference number 231024, and dated 1 February 2024.

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.

Condition reason: To ensure that civil engineering plans have been prepared by a qualified engineers prior to the issue of the Construction Certificate.

14 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.

Condition reason: To ensure that works within the road reserve are approved by a Section 138B Approval of the *Roads Act 1993*.

15 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 stormwater drainage plan is to ensure overland flows from upstream lots are appropriately managed, and are collected and piped to the public networks system so as to avoid any erosion of the site.

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.

Condition reason: To ensure that the development is carried out in accordance with the Port Stephens Development Control Plan 2014.

16 Construction Site Management Plan

Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the principal certifier. The plan must include the following matters:

- a. The location and materials for protective fencing and hoardings on the perimeter of the site:
- b. Provisions for public safety;
- c. Pedestrian and vehicular site access points and construction activity zones;
- d. Details of construction traffic management including:
 - i. Proposed truck movements to and from the site;
 - ii. Estimated frequency of truck movements; and
 - iii. Measures to ensure pedestrian safety near the site;
- e. Details of bulk earthworks to be carried out;
- f. The location of site storage areas and sheds;
- g. The equipment used to carry out works;
- h. The location of a garbage container with a tight-fitting lid;
- i. Dust, noise and vibration control measures;
- j. The location of temporary toilets;
- k. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
 - i. AS 4970 Protection of trees on development sites;
 - ii. An applicable Development Control Plan;
 - iii. An arborist's report approved as part of this consent

A copy of the construction site management plan must be kept on site at all times while work is being carried out.

Condition reason: To require details of measures to be undertaken that will protect the public, and the surrounding environment, during site works and construction.

17 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.

Condition reason: To ensure works proposed within the zone of influence of a Council asset are designed and certified by a qualified Geotechnical or Structural Engineer.

18 Nest Boxes

Prior to the removal of vegetation, the following nest boxes must be installed on retained trees within Lot 615, DP 9165. 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	1	Installation height above ground (minimum)
45cm H x 30cm W x 25cm D (approx. 10cm opening)	Brushtail Possum	1	4m
55cm H x 20cm W x 20cm D (approx. 7cm opening)	Medium Parrots	2	4m
100cm H x 40cm W x 30cm D (approx. 18cm opening, vertical orientation)	Cockatoos	1	10m

Prior to the issue of a Construction Certificate, documentary evidence of nest box installation must be provided to and approved by Council's Natural Systems Section.

Condition reason: To ensure that nest boxes are suitably positioned as per the individual species habitat preferences and are installed by a suitably qualified and experienced consultant and maintained for a period of at least 5 years.

19 Retaining walls

All retaining walls within 1m of a boundary and/or exceeding 600mm in height must be designed and certified by a suitably qualified Structural Engineer, and are to be of masonry construction.

Details demonstrating compliance must be provided to the Certifying Authority

Condition reason: To ensure that retaining walls in proximity to the boundary and over a height are designed and certified by a suitably qualified engineer.

20 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

Condition reason: To ensure that works within the road reserve are approved by a Section 138B Approval of the Roads Act 1993.

21 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:

- The driveway must be at least 1m from any street tree, stormwater pit or service infrastructure; and
- 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.

Condition reason: To ensure that all driveways that relate to a development for the purposes of a dwelling house comply with AS2890.1 'Off Street Car Parking' and the relevant Council specifications

22 | 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 Car Parking and Council's development control plan.

Condition reason: To ensure that all proposed parking spaces are compliant with AS 2890.

Before building work commences

23 Erosion and sediment controls in place

Before any site work commences, the certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been re-stabilized in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).

Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

24 All Weather Access

A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people.

No materials, waste or the like are to be stored on the all-weather access at any time.

Condition reason: To ensure that adequate vehicular access is provided to and from the site, prior to the commencement of works.

25 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;
- A Principal Certifying Authority (PCA) has been appointed by the person having benefit
 of the development consent in accordance with Section 6.5 of the EP&A Act 1979;
 and
- c) The PCA is notified in writing of the name and contractor license number of the owner/building intending to carry out the approved work.

Condition reason: To ensure that a Construction Certificate has been issued for the building works prior to the commencement of work.

26 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;
- A statement signed by or on behalf of the principal certifier that all conditions of the consent that must be satisfied before work commences have been satisfied; and
- f) The date on which the work is intended to commence.

The notice must be lodged on the NSW Planning Portal.

Condition reason: To ensure that the Principal Certifier has given notice to the Consent Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certificate and Fire Safety) Regulation 2021.

27 Notice of Principal Certifying Authority Appointment

The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the

Environmental Planning and Assessment Act 1979 and Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:

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

The notice must be lodged on the NSW Planning Portal.

Condition reason: To ensure that the Principal Certifier has given notice that they will be the Principal Certifier to the Consent Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the Environmental Planning and Assessment Act 1979.

28 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

Condition reason: Small-scale development - Where the development is in close proximity to Council infrastructure.

29 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 related (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 license 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
 - i) The name of the owner-builder, and
 - ii) 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 certifier) has given the Council written notice of the updated information.

Condition reason: To ensure compliance with the *Home Building Act 1989* and to verify that the certifying principal authority for the development has given appropriate written notice to council.

30 Compliance with Home Building Act (if applicable)

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, and that such a contract of insurance is in force before any building work authorised to be carried out by this consent commences.

Condition reason: To ensure that a contract of insurance is in force in accordance with Part 6 of the *Home Building Act 1989* before any building work authorised to be carried out by the consent commences.

31 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.

Condition reason: To ensure that construction waste is appropriately stockpiled and removed from the site.

32 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.

Condition reason: To restrict access to the site by the public and ensure that the site is adequately secured prior to the commencement of works.

33 Bushfire asset protection zones

Before any site work commences, the boundaries of asset protection zone must be surveyed and marked on the ground by a registered surveyor.

Condition reason: To provide a buffer to protect life and property from bush fire attack.

34 Nest Box Certification

Prior to the removal of vegetation, documentary evidence of nest box installation, as required under condition 18 of this consent, must be provided to and approved by Council's Natural Systems Section.

Condition reason: To ensure that documentary evidence of nest box installation is provided to Council's Natural Systems Team.

35 Tree protection measures

Before any site work commences, the principal certifier, or council where a principal certifier is not required, must be satisfied the measures for tree protection detailed in the construction site management plan are in place.

Condition reason: To protect and retain trees.

36 Protection of trees / existing street trees

Protection of trees to be retained must be in accordance with AS490 'Protection of Trees on Development Sites' and the following:

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

Condition reason: To protect and retain trees.

37 Weed Management

Weed removal and suppression must be undertaken in accordance with the requirements of the NSW Biosecurity Act 2015, associated Regulations and NSW Weed Control Handbook.

Condition reason: To ensure weed removal and management is carried out in accordance with the relevant regulations.

During building work

38 Discovery of relics and Aboriginal objects

While site works is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:

- a. The work in the area of the discovery must cease immediately;
- b. The following must be notified
 - i. For a relic the Heritage Council; or
 - For an Aboriginal object the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, Section 85.

Site works may recommence at a time conformed in writing by:

a. For a relic - the Heritage Council; or

b. For an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85

Condition reason: To ensure the protection of objects of potential significance during works.

39 Responsibility for changes to public infrastructure

While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.

Condition reason: To ensure payment of approved changes to public infrastructure.

40 Waste management

While site work is being carried out:

- all waste management must be undertaken in accordance with the waste management plan; and
- upon disposal of waste, records of the disposal must be compiled and provided to the certifying authority, detailing the following:
 - a. The contact details of the person(s) who removed the waste;
 - b. The waste carrier vehicle registration;
 - c. The date and time of waste collection;
 - d. A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill;
 - e. The address of the disposal location(s) where the waste was taken;
 - f. The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and Council.

Condition reason: To require records to be provided, during site work, documenting the lawful disposal of waste.

41 Hours of work

Site work must only be carried out between the following times –

7:00am to 5:00pm on Monday to Saturday

Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.

Condition reason: To protect the amenity of the surrounding area.

42 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 be 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.

Condition reason: To ensure that works relating to a development are to cease if any suspect materials and remediated in accordance with Council requirements.

43 Potential Acid Sulfate Soils

Should Acid Sulfate Soils (ASS) be encountered within the zone of works, an ASS Management Plan is to be prepared by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority.

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

Condition reason: To ensure that any Acid Sulfate Soils encountered during works are suitably managed.

44 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
- give at least seven days' notice to the adjoining owners before excavating, or 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.

Condition reason: To ensure that any Acid Sulfate Soils encountered during works are suitably managed. Compliance with the Building Code of Australia Building work must be carried out in accordance with the requirements of the Building Code of Australia. Condition reason: To ensure that the development is undertaken in accordance with the Building Code of Australia. Offensive noise, dust, odour, and vibration No work must not give rise to offensive noise, odour, or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary. Condition reason: To ensure that developments do not give rise to offensive noise, dust, odour, or vibration. **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. Condition reason: To ensure that the maximum building height of the structures on site are compliant with the consent and in accordance with the approved plans. Bush Fire Safety – Dwellings The site is located within a bushfire prone area and must comply with the NSW Rural Fire Service document "Planning for Bushfire Protection 2019" (PBP2019). In this regard, the following is required: a) The proposed dwelling must comply with the construction requirements of Planning for Bushfire Protection of each elevation for a Bushfire Attack Level (BAL) of: BAL-40

and dated 01.03.2024 is to be consistent with the requirements within the PBP2019.

b) The APZ as identified on the Tree Location Plan, prepared by Port Stephens Design,

c) Compliance with Appendix 3 of PBP2019.d) Compliance with the specific requirements of Chapter 7 of PBP2019.

Details demonstrating compliance must be provided to the Certifying Authority.

Condition reason: To ensure that dwellings within bushfire prone areas are adequately constructed to the relevant standard and vegetation is managed to the required level in accordance with the Planning for Bushfire Protection 2019.

49 | Clearing for asset protection zones (APZ)

While site work is being carried out, clearing or modifying vegetation to establish the APZ must be confined within the marked APZ boundary in accordance with the supporting documentation approved under this consent, to the satisfaction of the principal certifier.

Condition reason: To ensure vegetation clearance or modification during construction is confined within the APZ

50 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.

Condition reason: To ensure that all imported and/or exported fill is Virgin Excavated Natural Material.

51 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.

Condition reason: To ensure that all deliveries of fill are appropriately recorded.

52 Disposal of Stormwater

Following the installation of any roof of structure, collected stormwater runoff from the structure must be conveyed to an on-site detention system before discharging to an existing street as follows:

 a) Stormwater/drainage plans prepared and certified by a suitably qualified professional are to be submitted which provides for an on-site detention system.

OF

- Detention / storage tanks in accordance with BASIX requirements are to be provided, and
- c) For every 100m² of roof or impervious area collected an additional 2,000 litres detention / storage is to be provided.

OR

d) A 6,000 litre detention tank (in addition to any BASIX requirements) provided for each dwelling.

Condition reason: To ensure that stormwater is adequately managed in accordance with Council's requirements.

53 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.

Condition reason: To ensure that fill required for a development is managed in accordance with Council requirements.

54 Stormwater Disposal

Following the installation of any roof, collected stormwater runoff from the structure must be:

 a) Diverted through a first flush system or leaf/debris prevention system before being connected to an existing stormwater easement/system/street.

Condition reason: To ensure that stormwater is adequately managed in accordance with Council's requirements.

55 Surveys by a registered surveyor

While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the principal certifier:

- a) All footings / foundations in relation to the site boundaries and any registered and proposed easements
- b) At other stages of construction any marks that are required by the principal certifier.

Condition reason: To ensure buildings are sited and positioned in the approved location.

56 Tree protection during work

While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:

- a) The construction site management plan required under this consent,
- b) The relevant requirements of AS 4970 Protection of trees on developments sites,
- c) Any arborist's report approved under this consent.

This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

Condition reason: To protect trees during the carrying out of site work.

57 Tree Removal/Pruning

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

Condition reason: To ensure that vegetation removal/pruning is undertaken by a qualified arborist and in accordance with the Australian Standard.

58 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 weeks 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 contaminated spoil that is separate from clean material shall be provided during construction.

Condition reason: To prevent the spread of priority weeds.

59 Construction Management Plan

All construction traffic management procedures and systems identified in the approved Construction Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.

Condition reason: To ensure all construction traffic management procedures and systems identified in the CMP are followed throughout construction.

Before issue of an occupation certificate

60 Occupation Certificate Required

An Occupation Certificate must be obtained prior to any use or occupation of the development.

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

Condition reason: To ensure that an Occupation Certificate relating to the development is obtained from the Principal Certifying Authority prior to occupation or use

61 Repair of infrastructure

Before the issue of an Occupation Certificate:

- any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council; or
- if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.

Condition reason: To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.

62 Completion of landscape and tree works

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

Condition reason: To ensure that landscape and tree works have been completed in accordance with the approved plans prior to the issue of an Occupation Certificate.

63 Completion of Roads Act Approval works

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

Condition reason: To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.

64 Removal of waste upon completion

Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.

Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.

Condition reason: To ensure that all waste is appropriately removed from the subject site prior to the issue of an Occupation Certificate.

65 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.

Condition reason: To ensure stormwater and drainage works have been undertaken in accordance with the approved plans.

66 Water authority certification

A Section 50 Application under the Hunter Water Act 1991 must be lodged with the Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.

Condition reason: To ensure compliance with the water supply authority's requirements.

67 Smoke Alarms

In accordance with Part 13 of the *Environmental Planning and Assessment (Development Certification and Fire Safety Regulation) 2021*. Details demonstrating compliance must be provided to the Certifying Authority.

Condition reason: To ensure compliance and with the *Environmental Planning and Assessment* (Development Certification and Fire Safety Regulation) 2021.

68 Services

Evidence is to be provided to Council demonstrating that the following reticulated services are available to the dwelling:

- a. Electricity;
- b. Water;
- c. Sewer.

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.

Condition reason: To verify that reticulated services are provided to the dwelling.

69 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.

Condition reason: To ensure that the building is located in accordance with the approved plans and evidence from a Registered Surveyor is provided to the Principal Certifying Authority.

70 Waste Disposal

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

Condition reason: To ensure that all waste is appropriately removed from the site.

Occupation and ongoing use

71 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.

Condition reason: To ensure that landscaping is maintained in accordance with the approved landscape plan and the relevant development consent.

72 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.

Condition reason: To ensure that air conditioning units and/or ventilation units do not cause adverse impacts to adjoining properties.

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the <u>Conditions of development consent: advisory notes</u>: https://www.planning.nsw.gov.au/sites/default/files/2023-07/condition-of-consent-advisory-note.pdf. The consent should be read together with the <u>Conditions of development consent: advisory notes</u> to ensure the development is carried out lawfully.

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

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

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

Council advisory notes

- 'Dial Before you Dig Australia' Before any excavation work starts, contractors and others should phone the "Dial Before You Dig Australia" service to access plans/information for underground pipes and cables.
- 2. Responsibility for damage for tree removal/pruning The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or applicant's agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.
- Approved Plans to be on-site A copy of the approved and certified plans, specifications
 and documents incorporating conditions of approval and certification shall be kept on the
 Site at all times and shall be readily available for perusal by any officer of Council or the
 Principal Certifying Authority.
- 4. Council as PCA, PCA sign It is the responsibility of the applicant to erect a PCA sign. Where Council is the PCA, the sign is available free of charge, from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay. The applicant is to ensure the PCA sign remains in position for the duration of works.
- 5. Weed Management The site has been identified as being affected by Biosecurity matters Crofton Weed and Asparagus Fern. Any soil or waste being transported offsite must be disposed of at an appropriately licensed waste facility. Failure to do so may constitute an offence under Section 23 of the NSW Biosecurity Act 2015. A Biosecurity Permit issued by Council in accordance with Section 333 of the NSW Biosecurity Act 2015 is required prior to removal from the site.

- 6. 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 fence/s under this consent or the exempt provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
 - 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 require, you may contact the Chamber Magistrate.
- 7. Requirements of PCA Issuing of OC Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate. Note: The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.
- Ausgrid requirements This application was referred to Ausgrid for comment under section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. The response from Ausgrid, reference number 1900125622, and dated 4/12/2023, can be found on the NSW Planning Portal, and all recommendations and requirements should be complied with.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Council means Port Stephens Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2021.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means Hunter Central Coast Regional Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

the collection of stormwater,

the reuse of stormwater,

the detention of stormwater,

the controlled release of stormwater, and

connections to easements and public stormwater systems.

MINUTES ORDINARY COUNCIL - 28 MAY 2024

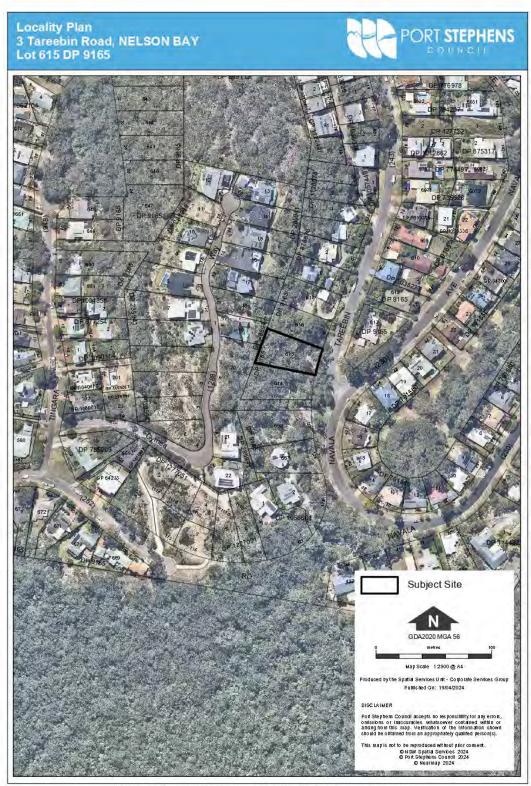
ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

ITEM 1 - ATTACHMENT 2 LOCALITY PLAN.



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



APPLICATION REFERENCES					
Application Number 16-2023-658-1					
Development Description Dwelling with associated driveways, hard earthworks, retaining walls, and structural					
Applicant MR D BROWN					
Land owner	MR R W Bluff & MS W A LEWIS				
Date of Lodgement	23/11/2023				
Value of Works	\$820,000.00				
Submissions	0				

	PROPERTY DETAILS		
Property Address	3 Tareebin Road NELSON BAY		
Lot and DP	LOT: 615 DP: 9165		
88B Restrictions on Title	N/A		
Current Use	Vacant		
Zoning	R2 LOW DENSITY RESIDENTIAL		
Site Constraints	Bushfire Prone Land – Vegetation Buffer, category 1; Acid Sulfate Soils – Class 5; Consolidated Koala Habitat Map – Preferred Koala Habitat, Preferred Koala Habitat Buffer over Marginal; Land Slip Areas; Combined Corridor Map;		
State Environmental Planning Policies	State Environmental Planning Policy (Sustainable Buildings, 2022 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021		

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

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PROPOSAL

The proposed development seeks approval for a three-storey dwelling and associated land clearing, driveway, retaining walls, and earthworks. Due to the slope of the subject site, the house has been raised using stilts to limit the extent of cut and fill, although it is noted that earthworks and the construction of retaining walls will be required for the proposed driveway (see figure 1). The proposal includes the removal of 0.1ha of vegetation, which comprises a mix of native vegetation, exotic and weed species. No koala habitat trees are proposed to be removed.

The proposed dwelling will have three storeys, and is accessible by external stairs along the southern side of the dwelling and a lift at the front of the dwelling. The lower floor will contain two bedrooms, lounge room, bathroom, and front deck. The middle floor will contain the open plan kitchen/living area, walk in pantry, laundry, and rear and front decks and the upper floor will contain the main bedroom, ensuite, and rear deck.

The site has a significant fall from the north-west to the south-east, which is a fall of approximately 32m (or approximately 26° slope). To respond to the topography, the proposed dwelling has a stepped design to be compatible with the fall of the site. The proposal will require earthworks and the construction of a retaining walls given the topography of the land.

It is noted that under the Port Stephens Local Environmental Plan 2013 (PSLEP), the maximum height of buildings is 9m. The proposed dwelling will have a maximum height of 11.375m, which is a 2.375m or 26.39% variation to the height limit (see figure 1). The development is required to be reported to Council for determination in accordance with the 'Planning Matters reported to Council' Policy given a variation to the height limit greater than 10% is proposed.

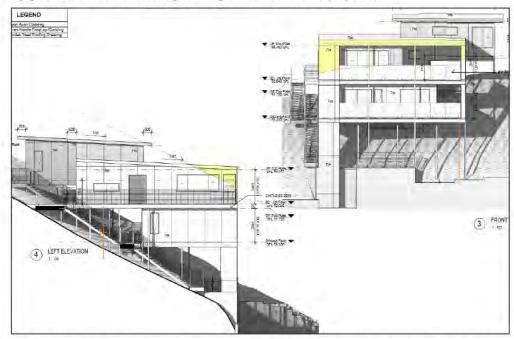


Figure 1: Elevation plan of the proposed dwelling, with the yellow area indicating the area above the 9m height limit

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Figure 2: Site plan showing the proposed dwelling, driveway, and landscape planting

SITE DESCRIPTION

The subject site is legally identified as Lot 615 DP 9165, and generally known as 3 Tareebin Road, Nelson Bay. The site has a significant slope, which has a fall of approximately 32m (or 26°) from the north-west to the south-east. There is an informal driveway on the site that connects to Tareebin

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Road, but is too steep in its current form to be used and will need to be reconstructed. The site is vegetated, and does not contain any structures.

The site is largely surrounded by low density residential development, and is a short distance from the Nelson Bay town centre.



Figure 3: Aerial image of the subject site (outlined in red) and the surrounding area.

SITE HISTORY

There are no records of historical applications lodged over the subject site, and no records of contamination.

SITE INSPECTION

A site inspection was carried out on 25 March 2024.

The subject site can be seen in Figure 4 & 5 below:

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Figure 4: View of the subject site from across the road



Figure 5: View of the subject site

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PLANNING ASSESSMENT

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

Internal

Development Engineering

The proposal was referred to Council's Development Engineers to review the proposed access arrangement and stormwater design. Their comments are summarized as follows:

Stormwater

- The site is identified as a drainage requirement area requiring onsite infiltration up to and including the 1% AEP. Site coverage is approximately 35%.
- The stormwater strategy for the site will detail all roof water is to be detained via a 3kl rainwater tanks and alternative 5kl rainwater tank to be connected as per BASIX requirements. Tank overflows are proposed to be piped into an approved infiltration / detention system with discharge directed to the Tareebin Road kerb and gutter.

Comment:

- The provided stormwater plan also provides an appropriate strategy for managing stormwater flows from upstream catchments.
- A Geotech Report has been provided due to the risk of the landslip which demonstrates that the site and stormwater design is appropriate for this design.
- Conditions of consent were recommended requiring detailed stormwater designs prior to issue of a Construction Certificate and for overland flows from upstream catchments to be controlled and piped to the public network to avoid erosion will be included in the determination.

Access

- The proposed driveway has been designed to respond appropriately to the slope of the site.
- A condition requiring compliance with Australian Standards (AS) 2890 for offstreet parking facilities has been recommended.

Natural Resources

Comment:

Council's Environmental Planner conducted a site inspection on 30/11/2023 and noted that there were no signs of koala activity or threatened flora species. It was observed however that 3 trees (4, 5, and 11 on the plans), which are all located on adjoining properties, may be adversely impacted by the driveway construction. On this basis, owner's consent for their removal was provided by the adjoining properties. A tree retention plan was also provided by the applicant.

Council's Environmental Planner ultimately supported the proposed development, with recommended conditions of consent provided relating to the installation of nest boxes, tree removal, tree protection measures, and weed management strategies.

External

Ausgrid

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Cammant

The proposed development was referred to Ausgrid for comment under section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021.

Comment:

No objections or to the development, and recommendations provided regarding the location of, and connection to, the existing electricity network.

Environmental Planning and Assessment Act 1979

Section 4.46 - Integrated development

Section 4.46 EP&A Act provides that development is integrated development if in order to be carried out, the development requires development consent and one or more other approvals. The proposed development is not considered to be integrated development as no external approvals are required.

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

The proposed development is mapped as bushfire prone land, Vegetation category 1 and Category 3 (buffer), and as such triggers assessment under the NSW Planning for Bushfire Protection 2019.

A Bushfire Threat Assessment Report (BTAR) prepared by a Bushfire Planning and Design (BPAD) Level 3 accredited practitioner has been provided with the application to support the proposal. The BTAR has identified a BAL rating of BAL-40 for the proposed dwelling, and also recommending the establishment of an Asset Protection (APZ) within the site as identified in Figure 6 below. The BTAR outlines that the proposal is capable of complying with the relevant requirements of the Planning for Bushfire Protection 2019 (PBP2019) and Australian Standards, noting access, water, and utilities are available to the subject site.

A condition of consent requiring the construction of the dwelling and associated access, utilities, and landscaping to be in compliance with the BAL-40 requirements of the PBP2019 has been recommended.



Figure 6: Plan of the site, showing the area of bushfire threat in green and the proposed dwelling and driveway in yellow, with the proposed APZ being identified by the black hatched area

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Section 4.15 - Matters for consideration

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

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

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

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

State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy (Sustainability Buildings) 2022 was enacted to ensure that dwellings are designed to utilise less potable water and to minimise greenhouse gas emissions by setting energy and water reduction targets for residential houses and units.

Chapter 2 - Residential Development

Chapter 2 requires that a development application for BASIX development be accompanied by a BASIX certificate and comply with energy design criteria outlined in Schedule 1. A valid BASIX certificate has been submitted with the development application which demonstrates that the water, thermal comfort and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP Sustainable Buildings 2022.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in Non-Rural Areas

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

Part 2.3 of the chapter contains provisions similar to those contained in the former (now repealed) clause 5.9 of Port Stephens Local Environmental Plan 2013 and provides that Council's

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Development Control Plan can make declarations with regards to certain matters. The chapter further provides that Council may issue a permit for tree removal.

The development application seeks consent for the removal of 0.1ha of vegetation to facilitate the development and the required APZs. This has been supported by a Flora and Fauna Assessment which has identified that there are no endangered ecological communities or preferred koala habitat identified on the subject site, and provided a number of recommendations regarding tree protection measures, tree removal techniques, weed managed, and sediment controls to be implemented so as to mitigate any potential adverse impacts. The findings of this report has been supported by Council's Natural Systems team, and recommended conditions of consent regarding tree protection measures, tree removal techniques to be utilised, and nest boxes required will be included in the determination.

It is noted that there are three trees located on adjoining properties which are expected to be adversely impacted due to proposed driveway and retaining works being located within the structural root zone, and therefore will likely need to be removed. These trees are identified on the provided Tree Location Plan as tree 4 and 5 on Lot 614 DP 9165 (south of the subject site) and tree 11 on Lot 616 DP 9165 (north of the subject site). Owner's consent from both landowners for the tree removal has been provided. Council's Natural Systems team have provided recommended conditions approving the removal of tree 5, and requiring tree 4 and 11 to be retained where possible unless a suitably qualified arborist determines that the retention of these trees in unfeasible, at which point they may be removed.

Chapter 4 - Koala Habitat Protection 2021

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

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

The southern half of the site is mapped as preferred koala habitat, while the northern half is preferred habitat link over marginal koala habitat. The provided Flora and Fauna Assessment Report prepared by Peak Land Management did not identify any koala habitat on the site during field surveys, and has noted that the proposal does not require the removal of any preferred koala species or habitat. Council's Environmental Planner conducted a site inspection which confirmed the adequacy of the surveys and supported the findings from the Flora and Fauna Assessment Report, and provided conditions of consent regarding the use of koala friendly fencing. As such, the proposed development is considered to be consistent with the CKPoM as no habitat will be removed or adverse impact to the long-term survival of the local koala population.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

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

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

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Port Stephens Local Environmental Plan 2013 (PSLEP 2013)

Clause 2.3 - Zone Objectives and Land Use Table

The proposed development is defined as a dwelling, which is permissible with consent in the R2 Low Density Residential zone. The development addresses the objectives of the zone by providing additional housing opportunities for the local community and is of a design and scale appropriate for the surrounding residential character and amenity of the area.

Clause 4.3 - Height of Buildings

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

The proposed development has a maximum height of 11.375 metres, which is above the maximum permissible building height of 9 metres specified on the Height of Buildings Map. This represents a 26.39% variation to the height limit. A request to vary the standard has been supported by a Clause 4.6 Assessment Report, which is discussed in further detail below.

Clause 4.6 - Exceptions to development standards

The proposal exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the LEP. The dwelling proposes a maximum building height of 11.375m, which exceeds the 9m height limit and represents a 2.375m (26.39%) variation to the development standard.

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP. The grounds for varying the standard are outlined below:

- The proposal is compliant with the objectives of the R2 Low Density Residential zone as it
 provides additional low density housing and is consistent with the residential character and
 amenity of the area;
- The proposed design is appropriate for the context of the site and the residential character of the area and reflects the hierarchy of centres, and is therefore consistent with the objectives of Clause 4.3 Height of Buildings;
- The height non-compliance is attributed to the steep topography of the site.

Based on the above, the zone objectives and objectives of Clause 4.3 are achieved despite the non-compliance. There are sufficient environmental planning grounds to justify contravening the height of buildings standard and compliance with the standard is unnecessary in the circumstances of this application.

On this basis, the building height variation is supported. A detailed assessment against Section 4.6 is contained within **Attachment 1 - Clause 4.6 Assessment Report**.

Clause 5.10 - Heritage conservation

The objectives of this clause are as follows-

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

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

The proposed development is not located within or in proximity to any local or state listed heritage items or conservation areas. A search of the Aboriginal Heritage Management Systems did not reveal any previously recorded Aboriginal sites in proximity to the proposed development. The site is not located within 200m of any Aboriginal sensitive landscape features.

Clause 7.1 - Acid Sulfate Soils

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

The subject land is mapped as containing potential Class 5 acid sulfate soils. The proposed development is not anticipated to entail excavations below 3.13m metres and is not within 500m of Class 1, 2, 3, or 4 ASS, and therefore it is not expected that acid sulfate soils would be encountered during works. No ASS were identified during test excavations on the site as part of the Geotechnical Report.

Clause 7.2 – Earthworks

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

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

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

The development proposes earthworks on the site to achieve a level building platform for the dwelling and to provide suitable access and parking areas. It is noted that the proposed dwelling is largely situated on stilts due to the slope of the site and to reduce the amount of earthworks required. However, the construction of the driveway will require a cut of up to 3.2m and fill of up to 2.8m, with associated retaining walls, to ensure that the driveway grades comply with the Australian Standards.

The proposal has been supported by a Geotechnical Report, which has included recommendations for footings, excavations, retaining walls, and site drainage to reduce the potential risk of landslip. The findings of the Geotechnical Report has been supported by Council's Development Engineer, who recommended that the recommended detailed guidelines and

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designs be conditioned for prior to issue of the Construction Certificate to ensure risk is suitably mitigated throughout construction.

Earthworks are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place in terms of drainage, erosion or amenity. As outlined in the assessment against Clause 5.10 above, the likelihood of disturbing relics is low.

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

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

Clause 7.6 - Essential Services

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

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

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

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

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

Section 4.15(a)(iii) - any development control plan

Port Stephens Development Control Plan 2014 (PSDCP 2014)

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

CHAPTER B - GENERAL PROVISIONS

B1 - TREE MANAGEMENT

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

Council approval is required for the proposed removal of 21 trees, and is therefore considered under this chapter. The applicant has provided a tree retention and removal plan and Flora and Fauna Assessment to support the proposed tree removal. As discussed above, the proposed development does not require the removal of any preferred koala habitat and is not expected to have an adverse impact on any endangered ecological communities or threatened species. No replacement planting is required in accordance with Council's Biodiversity Technical Specification,

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however, due to the removal of two hollow bearing trees (containing at least three hollows) supplementary nest boxes are required to be installed. A condition of consent requiring the installation of four nest boxes has been recommended in the determination to ensure compliance with Council's Technical Specifications.

As such, the proposed development is consistent with this Chapter subject to conditions.

B2 - NATURAL RESOURCES

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

The subject site is mapped as containing core koala habitat, however no koala habitat has been identified on the site through field surveys. No other environmentally sensitive areas or threatened species have been identified on the site.

The provided Flora and Fauna Assessment Report has identified Crofton weed and Asparagus Fern on the subject site. As such, conditions of consent relating to weed suppression and management will be included in the determination.

On this basis, the proposal is consistent with this Chapter subject to conditions.

B3 - ENVIRONMENTAL MANAGEMENT

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

Acid Sulfate Soils

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

Noise

The separation distances incorporated into the development will limit any adverse impacts on the adjoining properties. The impacts of the development during construction will be managed through conditions of consent which limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. Subject to the aforementioned conditions, the development is satisfactory in regards to noise management.

Air Quality

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

Earthworks

As discussed at Clause 7.2 above, the proposed development involves a cut of up to 3.2m, and fill of up to 2.8m. It is noted that the majority of the earthworks required are to facilitate the construction of the driveway and parking areas. A smaller quantum of cut is required for the construction of the dwelling due to the incorporation of stilts which raise the dwelling up above the

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ground level. The proposed earthworks have been supported by a detailed cut and fill plan and Geotechnical Report.

The impacts of the proposed earthworks can be suitably mitigated through conditions of consent regarding erosion and sediment controls, stockpiling of fill, use of clean fill, and detailed engineering plans for the retaining wall and driveway. The proposal is therefore consistent with requirements outlined in the DCP relating to earthworks.

B4 - DRAINAGE AND WATER QUALITY

This section applies to development that:

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

A stormwater management plan was submitted with the application and includes adequate quality and quantity controls in accordance with the requirements of this section. The stormwater drainage plan has been assessed as being consistent with Council's Infrastructure Specification.

B5 - FLOODING

This section applies to all development on flood prone land. The subject land is not mapped as being within the Flood Planning Area.

B7 - HERITAGE

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

The site is not located on land that contains any local or state listed heritage items and therefore the provisions of this section do not apply. In addition, the proposed development is not located within, or in proximity to, any local or state listed heritage items or conservation areas. A search of the Aboriginal Heritage Management Systems did not reveal any previously recorded Aboriginal sites in proximity to the proposed development. The site is not located within 200m of any Aboriginal sensitive landscape features.

B8 – ROAD NETWORK AND PARKING

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

Traffic Impacts

The proposed development is not expected to have an adverse impact on the road network, as Tareebin Road has been designed to cater for residential development such as the proposed dwelling.

On-site Parking Provisions

The dwelling includes two parking spaces, both of which are uncovered. This complies with the requirement for a minimum of two parking spaces for a dwelling with three or more bedrooms. A condition of consent requiring detailed engineering drawings for the driveway and parking areas to demonstrate compliance with the relevant Australian Standards to be provided prior to issue of the Construction Certificate.

On-site Parking Access

The driveway plan demonstrates that there is sufficient parking space on the driveway which will not interfere with vehicles entering and exiting the site. The driveway is of an appropriate width and gradient, and provides clear access to the dwelling via the proposed stairway or lift. The proposal is therefore compliant with the requirements of this Chapter.

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CHAPTER C - DEVELOPMENT TYPES

The proposed development includes construction of a dwelling and therefore Section C4 is applicable.

		Objectives			
		ppropriate for the context an hierarchy of centres and lar			
	C4.1 – Building height				
Control	Maximum height limit of 8m or a merit-based approach is taken where no height limit is specified under the Local Environmental Plan Clause 4.3 Note: C2.4 requires a minimum first floor and above ceiling height for residential accommodation in a commercial zone of 2.7m				
Assessment	As there is a height limit specified under the PSELP, this requirement is not applicable to this proposal.				
C4.B - Setba	cks	And to the			
of the area	C4.2 – Setback requiren				
	C4.2 – Setback requirer Development is to be sett with the provisions outline	back from the subject prope			
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	C4.2 – Setback requirer Development is to be sett with the provisions outline The dwelling complies with The proposed development	back from the subject propered in Figure CI. th the requirements of C4.2. ent has the following setback Figure CI Residential or RU5	KS:		
Control	C4.2 – Setback requirer Development is to be sett with the provisions outline The dwelling complies wit The proposed developme	th the requirements of C4.2. The that the following setback requirements of C4.2. The that the following setback requirement requirement for RU5	Proposed		
Control	C4.2 – Setback requirer Development is to be sett with the provisions outline The dwelling complies with the proposed development Setback Front Side setback (ground	th the requirements of C4.2. The three requirements of C4.2. The	Proposed 25.7m 7m (south side)		
Control	C4.2 – Setback requirer Development is to be sett with the provisions outline The dwelling complies wit The proposed developme Setback Front Side setback (ground floor) Side setback (upper floor) Rear setback (ground floor)	th the requirements of C4.2. In that the following setback Figure CI Residential or RU5 zone requirement 4.5m or average building line (whichever is greater 0.9m	Proposed 25.7m 7m (south side) 7.9m (north side) 7m (south side) 7m (south side) 10.016m		
Control	C4.2 – Setback requirent Development is to be sett with the provisions outlined. The dwelling complies with The proposed development. Setback Front Side setback (ground floor) Side setback (upper floor) Rear setback (ground	th the requirements of C4.2. In that the following setback Figure CI Residential or RU5 zone requirement 4.5m or average building line (whichever is greater 0.9m	Proposed 25.7m 7m (south side) 7.9m (north side) 7m (south side) 7.9m (north side)		

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	C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy				
Assessment	N/A				
	C4.4 – Secondary dwelling setback				
Control	Development for a secondary dwelling must be located behind the building line of the principal dwelling it is in conjunction with.				
Assessment	N/A				
	C4.5 – Secondary setback encroachment				
Control	Maximum 1m encroachment to secondary setback for architectural features, such as an entry porch or deck.				
Assessment	N/A				
4	C4.6 – Garage setback				
Control	Garage setback minimum 1m behind the building line or setback.				
Assessment	Garage is screened and imperceptible from the streetscape.				
	C4.7 – Public reserve and waterfront setback				
Control	Minimum 3m setback from a public reserve boundary.				
Assessment	N/A				
	C4.8 – Public reserve and waterfront setback				
Control	Minimum 4.5m setback from a waterfront reserve boundary.				
Assessment	N/A				
, recognition :	C4.9 – Public reserve and waterfront setback				
Control	Minimum 1m setback from waterfront land from the access boundary.				
Assessment	N/A				
	C4.10 – Battle-axe lot handle				
Control	Minimum 1m setback from a battle-axe lot handle, access corridor or easementhat is required for access Note: C1.3 details when battle-axe lots are provided				
Assessment	N/A				
	C4.11 – Adjoining agricultural buffers				
Control	An agricultural buffer of 150m or greater should be provided between a rural dwelling house, secondary dwelling or an ancillary structure for habitable purposes to adjoining land in separate ownership that is used or capable of being used for agricultural purposes				
	 Where the 150m buffer or greater cannot be achieved the planting of a 30m wide native vegetation strip is to be provided between the proposed development building envelope and the adjacent agricultural land 				

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	C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy			
	Note: B2.1 requires a suitable buffer on the land which is the subject of development to items of environmental significance			
Assessment	N/A – not located in proximity to rural activities.			
C4.C - Street	scape and privacy			
To ensure privacy.	Objective development activates the streetscape to provide passive surveillance and			
	C4.12 – Passive surveillance			
Control	Development is to address the street by having at least one habitable room from the street and/or adjoining public spaces.			
Assessment	The proposal includes habitable rooms, such as bedrooms and living rooms, facing towards the street, which provides suitable passive surveillance and complies with this requirement.			
	C4.13 – Passive surveillance			
Control	Development on corner lots is to address both street frontages by having habitable rooms face both streets.			
Assessment	N/A – not located on a comer lot.			
	C4.14 – Streetscape character			
Control	To be sympathetic to the existing landscape character and built-form with regard to design, bulk, scale, form, materials and roof configuration.			
Assessment	The dwelling has been designed to remain consistent with the existing residential character of the area by utilising the split level design and the stilts to respond to the slope of the land. Additionally, the materials and the bulk of the dwelling are consistent with other existing residential development in the area, and will maintain the low-density residential character of the area.			
	C4.15 – Privacy and two-storey development			
Control	Two storey development is to include a balcony or deck facing the street on the upper floor at least 1.5m deep across 25% of the dwelling frontage.			
Assessment	The proposed dwelling includes a deck facing towards the street on each level except for the second storey.			
	C4.16 – Privacy and two-storey development			
Control	Balconies are to be located to minimise overlooking of adjoining properties.			
Assessment	Both proposed front decks extend along the front elevation, then wrap around the side (northern) elevation, which would face towards the northern adjacent property. While this lot is currently vacant with no active (or proposed) consent for residential development, it is noted that this lot could be developed in the future and the location of the front decks could create a privacy impact.			

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	C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy
	The proposed decks are located 10.061m from the lot boundary, which provides a significant buffer that reduces potential privacy impacts. Additionally, the applicant has provided a privacy plan which identifies the direction of the main views of the decks (confirming that these are not located over the adjoining property), and identified existing vegetation which provides privacy screening. It is also noted that the retained vegetation along this boundary is predominantly comprised of 10-15m tall Eucalyptus trees, with the landscape plan showing Callistemons (max height of approx. 3-4m), Gymea Lillies & Bush Peas (max height of approx. 2m), and native shrubs (max height approx. 0.3-1m) to be planted in this area. Given that the proposed decks will have a finished floor level between 0.5m and 9.3m above ground level, these trees and shrubs are considered to be of an appropriate height to provide some privacy screening. As such, despite sections of the proposed decks facing adjoining properties, the proposed setback and vegetation screening is considered to be sufficient to address potential privacy concerns and suitably minimise overlooking of adjoining properties. To ensure this landscaping is maintained for the life of the development, a condition of consent requiring ongoing maintenance and the replacement of any vegetation which dies will be included in the determination.
	It is noted that no deck above ground level faces towards the adjoining lots to the south or west, so there are no expected privacy impacts to these properties.
	C4.17 – Privacy and two-storey development
Control	Privacy screens are required for balconies and patios, which result in unreasonable privacy impacts to properties.
Assessment	Privacy screens have not been provided for the proposed balconies, however, as discussed above, the proposed setback of the deck and proposed landscaping is considered sufficient to mitigate potential privacy impacts and the proposal is therefore considered to be consistent with the objectives of this Chapter.
	C4.18 – Privacy and two-storey development
Control	Privacy screens, high-light windows or opaque glass is to be used for windows of habitable rooms (other than bedrooms) which overlook adjoining properties.
	It is noted that the windows of the second floor (which includes bedroom 1, walk in-robe, and ensuite), face towards the northern adjoining property, with no privacy screens, high-light windows, or opaque glass to address included in the design to address potential privacy impacts.
Assessment	The second floor is setback 7.981m from the adjoining property, which reduces potential privacy impacts through seperation. Due to the slope of the land, the second floor is at ground level to the north, while the front of this floor will have a finished floor level of 4.8m above ground level, meaning that there are limited privacy impacts expected from windows placement. In addition to this, the applicant has provided a privacy plan and a Landscape Plan which details a number of existing trees and proposed trees and shrubs along this lot boundary to provide vegetation screening. This vegetation screening will include eucalyptus (current height 10-15m), Callistemons (max height approx. 3-4m)

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Dwelling House, Secondary Dwelling, or Dual Occupancy and Gymea Lillies (max height 3m), which is of an appropriate height to provide privacy screening for these windows. It is noted that there are limited windows along the first floor and lower floor which face the southern adjoining lot, and the proposal is setback a minimum of 7m from this lot boundary, so there are no privacy impacts at this elevation. Additionally, the proposed landscaping will include the same species within this side setback as for the northern side setback, and will therefore also provide privacy screening along this elevation. The proposed development is considered to be consistent with the objectives of this Chapter, and the specific requirements for privacy screens, high-light windows, or opaque glazing are not considered to be necessary in this instance. To ensure landscaping is maintained for the life of the development, a condition of consent requiring ongoing maintenance and the replacement of any vegetation which dies will be included in the determination. C4.D - Private open space Objective To ensure private open space with solar access is provided to allow opportunity for passive and active outdoor recreation C4.19 - Private open space dimensions Minimum of 50m2 of ground floor private open space comprising a minimum of 35m2 that is usable. Private open space is considered usable if it: has minimum dimensions of 4m x 4m; Control has direct access from internal living areas: is not located within a front setback; and has a northerly aspect. There is sufficient private open space provided for the dwelling. Assessment C4.20 - Private open space dimensions Where development cannot provide private open space on the ground floor, Control provisions shall be made for a balcony of not less than 20m2 with a minimum width of 3m for the use as private open space. Sufficient private open space can be provided on the ground floor, noting there is also ample private open space on the proposed balconies. Assessment C4.21 - Solar access Minimum of 2 hours sunlight to the principal private open space area between Control the hours of 9am-3pm midwinter. PoS is provided 2 hours of sunlight mid-winter in accordance with this control. Assessment C4.22 - Solar access Minimum of 30% of private open space of adjoining dwellings must remain Control unaffected by any shadow for a minimum of 3 hours between 9am-3pm midwinter.

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	C4 - Dwelling House, Secondary Dwelling, or Dual Occupancy				
Assessment	No adverse overshadowing on adjoining properties. The adjoining properties wiretain 30% solar access to their respective private open space areas.				
C4.E - Car pa	rking and garages				
	Objective car parking caters for anticipated vehicle movements to and from the nt and does not adversely impact on building articulation				
	C4.23 – Driveway width				
Control	A driveway should have a minimum width of 3m Note: B8.12 requires ingress/egress widths to provide the listed dimensions				
Assessment	Complies – min. 3.6m provided.				
	C4.24 – Garage dimensions				
Control Maximum garage door width of 6m for residential lots or 50% of the frontage, whichever is less.					
Assessment	N/A				
	C2.25 – Garage dimensions				
Control	Maximum garage width of 9m for lots exceeding 1,500m ² .				
Assessment	N/A				
C4.F - Lands					
Control Control	Objectives				
planting of	e the appearance and amenity of developments through the retention and/or large and medium sized trees				
 To ensure 	age landscaping between buildings for screening landscaped areas are consolidated and maintainable spaces that contribute to pace structure of the area				
 To add vali 	ue and quality of life for residents and occupants within a development in terms of tlook, views and recreational opportunities				
	and enhance vegetation links between natural areas and reduce weed potential to ntally sensitive areas				
	energy consumption through microclimate regulation				
	air borne pollution by reducing the heat island effect				
 To intercept 	ot stormwater to reduce stormwater runoff				
	C4.26 – Dwelling house				
Control	Development located on land that slopes at more than 18 degrees to the horizontal or that is within 50m of land that contains: • a Coastal Wetland identified in SEPP (Biodiversity and Conservation) 2021; or • koala habitat; or • species or communities listed within the Biodiversity Conservation Act				
	2016 Must provide landscaping that:				

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	C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy
	 will enhance the environmental constraints of the site; retains trees within the outer protection area of the APZ identified by a bushfire report; and constrains turf areas within the inner protection area of the APZ identified by a bushfire report.
Assessment	N/A – No identified coastal wetlands, koala habitat, or species listed within the BC Act 2016 on the subject site. The applicant has provided a Landscape Plan which includes the retained trees, proposed planting species, and planting location. This Landscape Plan uses predominantly native species and is considered to be appropriate for the proposed development. To ensure compliance with the Planning of Bushfire Protection 2019 (PBP) requirements, a condition of consent will be imposed requiring the landscape plan to be consistent with the APZ requirements, with evidence to be provided to the certifier prior to issue of the Construction Certificate.
	cilities and services Objective
 I o ensure site locatio 	development provides appropriate facilities and services in the most appropriate n
	n .
site locatio	C4.31 – Waste storage An adequately screened waste storage and recycling area is to be provided
site locatio	C4.31 – Waste storage An adequately screened waste storage and recycling area is to be provided behind the building line. While this has not been specifically identified on the provided plans, it is noted that there is sufficient space to provide appropriate waste storage facilities, which leaves a number of options for future residents. As such, the proposal is supported despite no specific waste storage area having been identified on the provided plans.
site locatio	C4.31 – Waste storage An adequately screened waste storage and recycling area is to be provided behind the building line. While this has not been specifically identified on the provided plans, it is noted that there is sufficient space to provide appropriate waste storage facilities, which leaves a number of options for future residents. As such, the proposal is supported despite no specific waste storage area having been identified on the

C8 – ANCILLARY STRUCTURES

C8.A - Ancillary Structures

Objectives

 To provide further guidance for ancillary structures to ensure consistent and desired amenity is attained

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	C8.22 – Retaining walls			
Control	Maximum height of 1m.			
Assessment	There are a number of retaining walls proposed to facilitate the dwelling and driveway construction. Most of these will be between 0.1m and 1m, however in a few sections the height will increase to 2.3-3m (top of driveway at northern end) or 1.8m (first comer of driveway from road connection point). While these do not comply with this requirement, given the extreme slope of the land and the driveway gradient requirements within the Australian Standards, there is no alternative to reduce the retaining wall height whilst still providing a suitable grade access to the dwelling. Given the seperation distances to neighbouring properties and retained vegetation, the retaining walls are not considered to adversely impact on neighbouring amenity or the surrounding area. As such, the variation to the retaining wall height is supported in this instance, and a condition of consent requiring structural engineering certification for retaining walls has been recommended.			
	C8.23 – Retaining walls			
Control	Masonry construction is required for retaining walls within 0.9m of the property boundary when greater than 0.6m in height.			
Assessment	Masonry construction has been proposed for all retaining walls.			
S. C. Salar	C8.24 – Retaining walls			
Control	Retaining walls are wholly contained within the site.			
Assessment	All proposed retaining walls are wholly within the subject site.			

C8 - ANCILLARY STRUCTURES

CHAPTER D - SPECIFIC AREAS

The proposed development is located within the Hill Tops precinct within the D6 Nelson Bay West area, and therefore this chapter applies.

	D6 – NELSON BAY WEST		
D6.A - Setba	cks		
	Objectives		
 To ensure 	development provides continuity and consistency to the public domain		
	D6.1 – Front setback		
Control	Minimum front setback of 6m		
Assessment	Complies – 25.7m		
September 1	D6.2 – Secondary setback		
Control	Minimum secondary setback of 3m		

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		D6 - NELSON BAY	WEST	
Assessment	N/A			
	D6.4 - Side setback			
	Minimum side se	tback of 3m for Upper	Slopes and Hill Tops	
Control	Note: Figure CI	requires a minimum gro	ound level (finished)	side setback of 0.9n
Assessment	Complies – 7m			
D6.B - On-sit	e detention			
 To regulate 	e the impacts on the	Objectives ne capacity of the public	drainage system	
	D6.5 - Impervio	us surfaces		
		n is required where imp	ervious surfaces exc	eed the listed
	percentage of sit			
Control	 Upper Slopes 	and Hill Tops – 50%		
Johnson				
	Note: B4.2 requires on-site detention where impervious surfaces exceed the total percentage of site area as listed under Figure BC.			
Assessment	The proposal does not exceed the 50% impervious surface requirement, therefore on-site detention is not required.			
D6.C - Lands	caping			
		Objective		
To ensure coverage	landscaping is wit	hin context through the	appropriate selection	n of species and site
	D6.6 - Landsca	pe coverage	V	
	A landscape plan within Nelson bay West achieves site area percentage coverage targets in accordance with the below:			
Control	Location	Landscape area	Endemic Species	Native vegetation
	Hill Tops	50%	35%	90%
			A	
Assessment		ndscaped area is 67%, I proposed species are		the minimum of

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

Nil

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

Nil

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

Social and Economic Impacts

The proposed development represents a modern dwelling and will provide additional housing to service the needs of the community. The dwelling will allow for the use of existing services and facilities in the locality without requiring upgrades. The construction of the proposed dwelling 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 will reinforce the residential nature of the locality and is characteristic of other developments in both the local and wider community. The dwelling includes relevant construction methods and services such as an on-site stormwater management system that will prevent adverse impacts on adjoining properties. The proposal addresses the street and provides logical and convenient connections to the road network and pedestrian facilities in the locality. There are no anticipated adverse impacts on the built environment as a result of the proposed development.

Impacts on the Natural Environment

The proposed development does not adversely impact the natural environment of the area. Appropriate service management, water quality requirements, and nest boxes have been conditioned for to ensure potential impacts are mitigated. In addition, a condition of consent is recommended that requires the installation and maintenance of erosion and sedimentation controls and tree protection measures for the duration of construction and tree removal works. It is noted that no significant vegetation is proposed to be removed and that the proposal adopts a landscaping scheme that utilises native species and retained vegetation.

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

The subject site is located within an existing residential area and has access to all relevant services. The proposed development makes good use of the available land while responding appropriately to the topography and site constraints. The dwelling design addresses all elements required under the relevant planning instruments and policies and there are no anticipated negative impacts on the locality as a result of the development.

Section 4.15(1)(d) any submissions made in accordance with this Act or the Regulations

Public Submissions

The application was exhibited from 4 December 2023 to 18 December 2023 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. No submissions were received with relation to the subject development proposal.

Section 4.15(1)(e) the public interest

The proposed development is considered to be in the public interest as it involves the construction of a new dwelling within a residential area, which provides additional accommodation in the locality to service the needs of the community. Further, the development is not anticipated to have any significant adverse impacts on surrounding properties or the amenity of the locality. On these grounds, the development is in the public interest.

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

No development contributions are applicable to this proposal.

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MINUTES ORDINARY COUNCIL - 28 MAY 2024

ITEM 1 - ATTACHMENT 3 PLANNER'S ASSESSMENT REPORT.

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DETERMINATION

The application is recommended to be approved, subject to conditions of consent. SAMANTHA KROSSMAN

Development Planner (Community Futures Directorate)

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CLAUSE OBJECTIVES AND EXCLUSIONS

Clause 4.6 - Exceptions to Development Standards

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:

- To provide an appropriate degree of flexibility applying certain development standards to particular development.
- 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 2013, unless the standard is expressly excluded under Clause 4.6(8). Clause 4.3 Height of Buildings is not excluded from the operation of Clause 4.6, and therefore the proposed variation can be varied through Clause 4.6 provisions.

PROPOSED VARIATION REQUEST

The development application includes a written request to vary a development standard(s) in the PSLEP 2013. The written request is made in accordance with Section 35B of the Environmental Planning and Assessment regulation 2021.

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

Development Standard	Proposed Variation	Extent of Variation (%)
Cl.4.3 Height of Buildings – 9m height limit	11.375m (2.375m variation)	26.39%

As the proposed variation is greater than 10%, the development application must be determined by the elected Council in accordance with the 'Planning Matters to be reported to Council' Policy.

ASSESSMENT

Clause 4.6(3) - Request to vary development standards

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

Clause 4.6(3)(a) provides that development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances.

PORT STEPHENS REPORT REPORT

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:

- The objectives of the development standard are achieved notwithstanding noncompliance with the standard,
- 2 The underlying objective or purpose of the development standard is not relevant to the development,
- The objective or purpose of the development standard would be defeated or thwarted if compliance was required,
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard, and
- 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 applicant's Clause 4.6 request makes reference to reasons 1, 3, and 4 from the Wehbe v Pittwater Council judgement, which are discussed in more detail below.

The applicant's Clause 4.6 Variation request asserts that compliance with Clause 4.3 (Height of Buildings) 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 for the following reasons:

- The proposed dwelling will not be out of scale or character with surrounding residential development, noting height variations of a similar scale have been approved by Council.
- The proposed development is unlikely to have any adverse impact on views from northwestern neighbours as the western elevation is compliant with the prescribed height control.
- The setback from Tareebin Road and from neighbouring properties provides separation from the neighbouring dwellings and streetscape, which reduces the bulk and presentation of the development to the streetscape.
- The dwelling exceeds the height limit due to the steep topography of the site. It has been
 designed with different levels that step down with the land so as to reduce the scale of the
 dwelling and to remain consistent with surrounding residential development.
- Only a small portion of the proposed dwelling exceeds the height limit, being limited to the eastern corner of the dwelling.
- The design, including the height variation, provides articulation in addition to shade and weather protection.
- The retention of large mature trees and installation of landscaping will mitigate the visual bulk and scale of the development.
- The proposed height exceedance will have negligible amenity impacts, so strict compliance is unreasonable and unnecessary.



In addition to the first test from Wehbe judgement, the applicant's Clause 4.6 Variation request also argues that the third test applies, being that compliance with the development standard is unreasonable or unnecessary as the objective or purpose of the development standard would be defeated or thwarted if compliance was required for the following reasons:

- The objective is not achievable if compliance with the development standard is adhered to.
- Compliance with the height requirement would require the roof level to be lowered to the
 extent that indoor and outdoor living spaces of the upper floor would be unusable and noncompliant with the BCA. Alternatively, the ceiling height of each level would need to be
 lowered, which would reduce internal amenity and accessibility via the lift.
- Given there are dwellings with comparable designs and height variations in the locality, compliance with the standard would establish in inconsistencies with the existing built form context and establishing character.

The provided Clause 4.6 Variation request also relies on the fourth test, being that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard for the following reasons:

- A number of properties in the surrounding area have had height variations approved. A sample of four properties were provided (though no details on the approved heights were given):
 - 23 Tareebin Road, Nelson Bay
 - 37 Canomii Close, Nelson Bay
 - 10 Tingara Road, Nelson Bay
 - 3 Gymea Way, Nelson Bay
- The number of approved height variations shows that there is precedence in the local area for building heights greater than the prescribed standard, generally due to the topography of the site.

Council Assessment

Regarding the first test, it is agreed that the objectives of the development standard are achieved notwithstanding the non-compliance with the standard. The proposed development is a single dwelling, which contains three split-levels that responds to the steep slope of the site (see figure 1). This design results in only a small section of the roof area being above the height limit (see figure 1 & 2). It is also noted that most of the residential developments in the area are single dwellings or dual occupancies, and include a similar split-level design due to the slope of the area. The proposed dwelling will appear largely consistent with other low-density residential built form in the area, which typically have two or three storeys. As such, the proposed height of the building is considered to be consistent with the context and character of the area, and reflects the hierarchy of centres and land use structures.



The applicant also noted in their variation request that the third and fourth tests set down in Wehbe also apply to the proposal. This is not agreed upon for the following reasons:

- In regards to the third test, it is considered that the objective or purpose of the development standard would not be defeated or thwarted if compliance was required.
- In regards to the fourth test, it is considered that the development standard has not been abandoned or destroyed as the objectives of the standard are still relevant notwithstanding non-compliance with the numerical standard. The applicant's variation request also made reference to nearby developments that have exceeded the height limit to justify that the fourth test is relevant. It is noted that the height of buildings on each development and any variations where proposed are assessed on merit on a site by site basis. Accordingly, there is not sufficient evidence to demonstrate an overwhelming pattern of abandonment. The objectives of the standard are still relevant even when numerical non-compliance is proposed. Additionally, the 9m height control is standardised across the LGA for all R2 Low Density Residential zoned land.

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

- The underlying purpose and objective of the maximum building height standard are still relevant to the development.
- The zoning of the subject site is suitable and the proposed development is permissible in the zone.

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

Clause 4.6(3)(b) provides that development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of the development standard.

The applicant's Clause 4.6 request notes that there is sufficient environmental planning grounds to contravene the development standard as:

- The proposal is consistent with the zone and height objectives despite the height exceedance.
- The proposal appropriately responds to the topography and site constraints of the subject site.
- The height exceedance does not result in unreasonable overshadowing to neighbouring properties, and the proposal remains compliant with the solar access requirements of the DCP
- There are no unreasonable or adverse privacy impacts expected as a result of this proposal.

ITEM 1 - ATTACHMENT 4 CLAUSE 4.6 REPORT.



The applicant has expanded on these points in more detail within the Wehbe test framework as summarized in the section above, and that there are sufficient environmental planning benefits to justify the contravention of the development standard.

It is agreed that the proposal is consistent with the objectives of the R2 Low Density Residential zone, as it provides additional housing for the community that is consistent the low density character and enhances the residential amenity of the area. Additionally, it is agreed that the proposal is consistent with the objectives of clause 4.3 Height of buildings despite the non-compliance due to its multi-storey design responding appropriately to the steep topography of the site, and the overall design being consistent with the residential character of the surrounding area.

The applicant has also provided detailed plans to demonstrate that the proposal is compliant with the relevant requirements of the DCP, particularly in regards to solar access and privacy. It is also noted that the proposed dwelling exceeds the minimum setback requirements, and has been situated within the central portion of the site and towards the rear. As such, the proposal is not expected to dominate the streetscape or visually overwhelm neighbouring lots. Shadow diagrams have been provided which demonstrate that adjoining lots, including the southern adjoining lot, will maintain sufficient solar access to private open space and dwelling between 9am and 3pm in midwinter as required by the DCP (see figure 3). Moreover, it is not expected that the proposal will result in an adverse privacy impact as a result of the height. The dwelling has been situated a minimum of 7m from the side boundaries, with the landscape plan and privacy plan provided showing a range of trees and shrubs planted within this setback to provide vegetation screening.

ITEM 1 - ATTACHMENT 4 CLAUSE 4.6 REPORT.



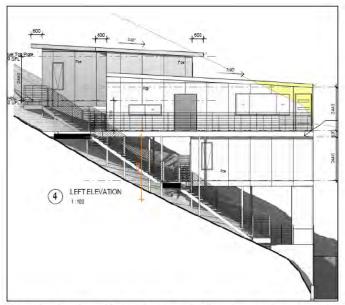


Figure 1: Southern elevation plan, with the yellow area identifying the area above the 9m height limit

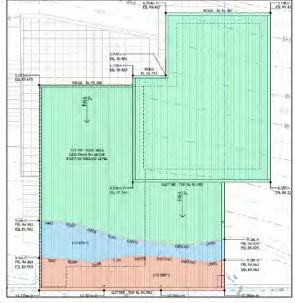


Figure 2: Roof plan identified the area above the 9m height limit. The green area is below the 9m height limit, the blue area is between 9m and 9.9m in height, and the orange area is above 9.9m.

ITEM 1 - ATTACHMENT 4 CLAUSE 4.6 REPORT.



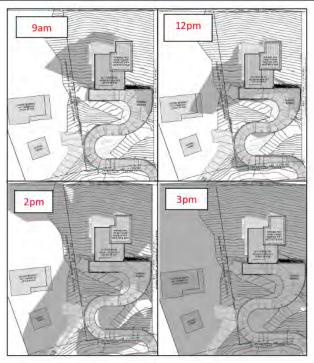


Figure 3: Snap shot of the shadow diagrams provided.

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, noting that the proposed design is consistent with the objectives of the R2 Low Density Residential zone and Clause 4.3 Height of Buildings despite the proposed non-compliance.

MS S KROSSMAN

Development Planner
(Community Futures Directorate)

ITEM NO. 2 FILE NO: 24/76121

EDRMS NO: 16-2023-514-3

DEVELOPMENT APPLICATION 16-2023-514-3 FOR A DWELLING AT 111E WALLAWA ROAD, NELSON BAY

REPORT OF: EVERT GROBBELAAR - DEVELOPMENT AND COMPLIANCE

SECTION MANAGER

DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

1) Approve Modification Application DA No. 16-2023-514-3 for a dwelling at 111E Wallawa Road, Nelson Bay subject to the conditions contained in **(ATTACHMENT 1)**.

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

103	Councillor Peter Kafer Councillor Chris Doohan
	It was resolved that Council approve Modification Application DA No. 16-2023-514-3 for a dwelling at 111E Wallawa Road, Nelson Bay subject to the conditions contained in (ATTACHMENT 1) .

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

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present a Modification Application DA No. 16-2023-514-3, for internal and external configuration and layout changes to the original approved dwelling to Council for determination.

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

Subject Land:	111E Wallawa Road, Nelson Bay (Lot: 6 DP: 1277051)		
Total Area:	1,147m ²		
Zoning:	R2 Low Density Residential Zone		
Submissions:	Nil		
Key Issues:	The key issue identified throughout the assessment of the development relate to building height		
	The dwelling proposes a maximum building height of 10.96m, which exceeds the 9m height limit by 1.96m, representing a 21.81% variation to the development standard		
	The current approved building height is 9.9m (16-2023-514-2). Therefore, the increase to the current approved building height is 1.06m (10.74%)		
	Land slope is 14 degrees.		

The modification has been reported to Council in accordance with Council's 'Council Related Planning Matters Policy' as the application includes a request to vary a development standard by greater than 10%. The subject development standard is Clause 4.3 – Height of Buildings and the extent of the variation is 21.81% (1.96m).

A locality plan is provided as (ATTACHMENT 2).

Original Proposal

The original development application sought approval for a 2 storey dwelling house and associated site works. The dwelling included a master bedroom with ensuite, 2 bedrooms with built in robes, sitting room, study, bathrooms, laundry, open plan living/dining spaces, double garage, and decking.

Modification Proposal

This modification application seeks approval to include a roof over the approved upper floor deck, along with minor internal and external configuration changes, including:

- Internal configuration/layout changes
- External window and door opening configuration changes, including sizing and selection
- Minor changes to finished floor levels
- Increase to overall all building height.

Site Description and History

The subject site is legally identified as Lot: 6, Deposited Plan: 1277051, and generally known as 111E Wallawa Road, Nelson Bay. The subject site is accessed via a Right of Accessway (from Wallawa Road). The site features a steep fall in

topography down to the southern side of the site. The site is mapped as bushfire prone land and the proposed development will require BAL-FZ construction requirements. The site is cleared of any significant native vegetation that would be impacted by the proposed development. The site is located within an R2 Low Density Residential Zone, and is adjoined by dwelling houses and vacant residential sites.

Key Issues

Building Height

Whilst the dwelling exceeds the maximum building height limit, the development is considered to be appropriate for the context of the area which is characterised by dwellings of a similar bulk and scale. The height exceedance is generally located in the middle of the proposed dwelling with increased setbacks from the allotment boundaries.

It is considered the design provides adequate separation between the proposed and adjoining dwellings. The design includes significant articulation including areas of increased side setbacks that exceed the minimum requirement as stipulated in the Port Stephens Development Control Plan (PSDCP). The provided articulation minimises the presentation of bulk as viewed from the public domain and neighbouring properties.

- The dwelling proposes a maximum building height of 10.96m, which exceeds the 9m height limit by 1.96m, representing a 21.81% variation to the development standard
- The current approved building height is 9.9m (16-2023-514-2). Therefore, the increase to the current approved building height is 1.06m (10.74%)
- The proposed development is considered to be appropriate of the context of the area in that many dwellings located on similarly steep sites in the surrounding area have been designed in a similar manner, that respond to the slope of the land
- The height exceedance is generally located in the middle of the proposed dwelling with increased setbacks from the allotment boundaries
- The proposed development does not contravene the objectives of the zone and is considered a good use of the site
- The upper level has been strategically set back and concealed to the centre of the proposed building. Subsequently limiting the visibility from the public domain, and reducing potential impacts on neighbouring properties
- The portion of the building above the height limit is roof area only, not habitable space
- The proposed development is considered to be appropriate for the context of the area which is characterised by dwellings of a similar bulk and scale.

Clause 4.6 Consideration

The original application and assessment gave consideration to the Clause 4.6 Variation, and as per established planning principles, a section 4.55 modification

application can be approved even though it would contravene a development standard, and no clause 4.6 variation is required to be submitted with the modification application.

Conclusion

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

Council staff are satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted, and that the proposed modification is of minimal environmental impact.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026	
•	Program to develop and implement Council's key planning documents	

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent/inconsistent with Council's Policy.

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

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.

The proposed development has been designed to reduce potential adverse impacts to neighbouring properties from an amenity perspective.

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

Impacts on the Built Environment

The development is considered to be appropriate for the context of the area which is characterised by dwellings of a similar bulk and scale.

It is considered the design provides adequate separation between the proposed and adjoining dwellings. The design includes significant articulation including areas of increased side setbacks that exceed the minimum requirement as stipulated in the PSDCP. The setbacks are consistent with the locality and neighbouring properties (where existing). The provided articulation minimises the presentation of bulk as viewed from the public domain and neighbouring properties.

Overall, the proposed development is considered suitable for the surrounding built environment.

Impacts on the Natural Environment

The proposed development is not expected to negatively impact the natural environment.

CONSULTATION

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

Internal

Nil

Public Notification

The modification application was notified in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. The notification period was from 18 March 2024 to 1 April 2024. No submissions were received.

OPTIONS

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

ATTACHMENTS

- 1) Recommended Conditions of Consent.
- 2) Locality Plan.
- 3) Planner's 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

General Conditions

Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989

- It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.
- 2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.
- 3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia.
- In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.
- In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.
- This section does not apply—
 - a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or
 - to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.

Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.

Fulfilment of BASIX commitments

It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled—

- 1. BASIX development,
- BASIX optional development, if the development application was accompanied by a BASIX certificate.

Condition reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.

Notification of Home Building Act 1989 requirements

- This section applies to a development consent for development involving residential building work if the principal certifier is not the council.
- It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following
 - a. for work that requires a principal contractor to be appointed
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,
 - b. for work to be carried out by an owner-builder
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989—the number of the ownerbuilder permit.
- If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.
- This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.

4 Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans					
Plan	Revision	Plan title		Drawn by	Date of plan
number	number				
2303456F	Rev F	Architectural Sheets			09/11/2023
				Planning	

In the event of any inconsistency between the approved plans and documents, the approved Plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

(PAN-414842 (approval date) Condition was amended)

Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development

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.

Condition reason: To ensure that all works within the road reserve are completed in accordance with S149 of the Roads Act.

6 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;
 - b) where necessary, underpin the adjoining premises to prevent any such damage.

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

Condition reason: To ensure development that involves excavation that extends below the base of the footings of a building on adjoining land will not result in adverse impacts to adjoining lots.

7 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.

Condition reason: To ensure that the developer constructs a footpath crossing with the relevant S149 Approval.

8 Sign on Building

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

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

Condition reason: To require signance that details the relevant contacts of a development

Building Work

Before issue of a construction certificate

9 Slope Stability

A Slope Stability Analysis Assessment, prepared by a suitably qualified geotechnical engineer/ engineering geologist, shall be submitted to the Principal Certifying authority prior to the issue of the Construction Certificate.

Condition reason: To address slope stability.

Before building work commences

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.

Condition reason: To ensure that adequate vehicular access is provided to and from the site, prior to the commencement of works.

11 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

Condition reason: Small-scale development - Where the development is in close proximity to Council infrastructure.

12 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.

Condition reason: To ensure that the Principal Certifier has given notice to the Conser Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the Environmental Planning and Assessment Act 1979 and Sec

13 Notice of Principal Certifying Authority Appointment

The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:

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

The notice must be lodged on the NSW planning portal.

Condition reason: To ensure that the Principal Certifier has given notice that they will be the Principal Centifier to the Consent Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with \$6,6(2)(a) of the Environmenta

14 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

Condition reason: To ensure that works within the road reserve are approved by a Section 138B Approval of the Roads Act 1993.

15 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.

Condition reason: To ensure that construction waste is appropriately stockpiled and removed from site.

During building work

16 Compliance with the Building Code of Australia

Building work must be carried out in accordance with the requirements of the Building Code of Australia.

Condition reason: To ensure that the development is undertaken in accordance with the Building Code of Australia.

17 Discovery of relics and Aboriginal objects

While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered:

- a) the work in the area of the discovery must cease immediately;
- b) the following must be notified
 - i) for a relic the Heritage Council; or
- ii) for an Aboriginal object the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.

Site work may recommence at a time confirmed in writing by:

- a) for a relic the Heritage Council; or
- for an Aboriginal object the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.

Condition reason: To ensure the protection of objects of potential significance during works

18 Hours of work

Site work must only be carried out between the following times -

7:00am to 5:00pm on Monday to Saturday

Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.

Condition reason: To protect the amenity of the surrounding area

19 Noise and vibration – an approved document of this consent

While site work is being carried out, noise generated from the site must be controlled in accordance with the requirements of the approved noise and vibration management plan.

Condition reason: To protect the amenity of the neighbourhood during construction

20 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.

Condition reason: To ensure that developments do not give rise to offensive noise, dust, odour, or vibration.

21 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.

Condition reason: To ensure that fill required for a development is managed in accordance with Council requirements.

22 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.

Condition reason: All applications.

23 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.

Condition reason: To ensure adequate amenity facilities are provided to the site during construction.

24 Bushfire Construction Requirements

Asset Protection Zones

The intent of measure is to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.

- 1. At the commencement of building works and in perpetuity, the entire site must be maintained as an inner protection area in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an inner protection area, the following requirements apply:
 - · tree canopy cover should be less than 15% at maturity;
 - · trees at maturity should not touch or overhang the building;
 - · lower limbs should be removed up to a height of 2 m above the ground;
 - tree canopies should be separated by 2 to 5 m;
 - preference should be given to smooth-barked and evergreen trees;
 - large discontinuities or gaps in the shrubs layer should be provided to slow down or break the progress of fire towards buildings;
 - · shrubs should not be located under trees;
 - · shrubs should not form more than 10% ground cover;
 - clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
 - grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and
 - · leaves and vegetation debris should be removed regularly.

Construction Standards

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

2(a). New construction of southern and eastern elevations must comply with Section 3 (excluding section 3.5) and Section 9 (BAL FZ) of Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of Planning for Bush Fire Protection 2019.

2(b). New construction of the north and western elevation, carport deck and the windows facing south on the second story facing the roof garden must comply with section 3 and section 8 (BAL 40) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or NASH Standard National Standard Steel Framed Construction in Bushfire Areas – 2021 as appropriate and section 7.5 of Planning for Bush Fire Protection 2019.

Note: It is recommended that specific details within the construction and site layout plans is dedicated to Bushfire Construction standards together with the landscaping plan to ensure bushfire requirements are clearly understood and applied throughout the project and beyond.

Water and Utility Services

The intent of measure is to to provide adequate services of water for the protection of building during and after the passage of bush fire, and to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

- 4. The provision of water must comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:
 - a 10,000 litre static water supply, tank, pool, dam or the like, must be provided on-site for the new dwelling,
 - an outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure,
 - 65mm Storz connection with a ball valve is fitted to the outlet,
 - the ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material,
 - underground tanks have an access hole of 200mm to allow tankers to refill, direct from the tank,
 - a hardened ground surface for truck access is supplied within 4m of the water outlet or access hole,
 - new above-ground tanks are manufactured from concrete or metal,
 - raised tanks have their stands constructed from non combustible material
 or bush fire resisting timber. - The bush fire-resisting timbers are
 Silvertop Ash, Blackbutt, Red or River Gum, Spotted Gum, Red Ironbark,
 Kwila (Merbau) or Turpentine,
 - · unobstructed access can be provided at all times,
 - · underground tanks are clearly marked,
 - tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters,

- all exposed water pipes external to the building are metal, including any fittings,
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack,
- any hose and reel for firefighting connected to the pump must be 19mm internal diameter.
- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005,
- A Static Water Supply (SWS) sign must be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - Markers must be fixed in a suitable location to be highly visible, and
 - Markers should be positioned adjacent to the most appropriate access for the water supply.

The intent of measure is to locate gas and electricity so as not to contribute to the risk of fire to a building and to provide protection for emergency services personnel, residents and others assisting firefighting activities.

5.The provision of electricity and gas must comply with the following in accordance with Table 5.3c of Planning for Bush Fire Protection 2019:

- · where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used:
- all fixed gas cylinders are kept clear of all flammable materials to a distance
 of 10m and shielded on the hazard side; connections to and from gas
 cylinders are metal;
- polymer sheathed flexible gas supply lines are not used; and -
- above-ground gas service pipes are metal, including and up to any outlets.

Landscaping Assessment

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

6. Landscaping within the required asset protection zone must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:

· Compliance with APZ standards within Appendix 4 of PBP 2019,

- If fencing, retaining wall, garden/path edging is within 6m of a building or in areas of BAL-29 or greater shall illustrate constructed of non-combustible materials.
- A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do no touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- · Avoid climbing species to walls and pergolas:
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

Condition reason: To conform with the provisions of s4.14 of the EP&A Act 1979

Before issue of an occupation certificate

25 Occupation Certificate Required

An Occupation Certificate must be obtained prior to any use or occupation of the development.

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

Condition reason: To ensure that an Occupation Certificate relating to the development has been provided to the Principal Certifying Authority.

26 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, subcontractors, 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.

Condition reason: To ensure that any damage resulting to public infrastructure is appropriately rectified at no cost to the Council.

27 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.

Condition reason: To ensure stormwater and drainage works have been undertaken in accordance with the approved plans.

Occupation and ongoing use

No additional conditions have been applied to this stage of development.

ITEM 2 - ATTACHMENT 2 LOCALITY PLAN.



PPLICATION DETAILS			
Application Number	16-2023-514-3		
Modification Description Is the development description correct ☑ Yes □ No	S4.55 (1A) Two storey dwelling - internal and external configuration and layout changes to the original approved dwelling		
Applicant	SORENSEN DESIGN & PLANNING		
Land owner	MR J G Marshall & MS M J Sorensen		
Date of Lodgement	26/02/2024		
Value of Works Is the estimated cost of works suitable?⊠ Yes □ No	\$500,000.00		
Building Classification If Applicable	Class 1a		
Application Type	☑ DA □ CC		
Is Notification Required	⊠ Yes □ No		
ROPERTY DETAILS			
Property Address	111E Wallawa Road NELSON BAY		
Lot and DP	LOT: 6 DP: 1277051		
88B Restrictions on Title Council imposed that aren't suspended under cl 1.9A LEP?	Easement for batter (A). The proposed development is considered to align with the requirements as outlined in Schedule 8 (Part 6) of the Conveyancing Act 1919.		
Current Use	Vacant site. Dwelling house approved.		
Zoning	R2 LOW DENSITY RESIDENTIAL		
Site Constraints	Bushfire Prone Land, Acid Sulfate Soils (Class 5), SEPP Biodiversity (Chapter 2 and Chapter 4), Koala Habitat, Land Slip (Slope >20%).		

MODIFICATION DETAILS

This modification application seeks approval to include a roof over the approved upper floor deck, along with minor internal and external configuration changes, including:

- Internal configuration/layout changes.
- External window and door opening configuration changes, including sizing and selection.
- · Minor changes to finished floor levels.
- Increase to overall all building height.

The amendments will result in an exceedance of the maximum height limit by greater than 10%, subsequently this triggers Council's Council Related Planning Matters Policy. Clause 5.1 (j) of that policy requires any DA which seeks to vary a development standard by greater than 10%, to be reported to Council for determination.

Whilst the dwelling exceeds the maximum building height limit, the development is considered to be appropriate for the context of the area which is characterised by dwellings of a similar bulk and scale. The height exceedance is generally located in the middle of proposed dwelling with increased setbacks from the allotment boundaries.

It is considered the design provides adequate separation between the proposed and adjoining dwellings. The design includes significant articulation including areas of increased side setbacks that exceed the minimum requirement as stipulated in the PSDCP. The provided articulation minimises the presentation of bulk as viewed from the public domain and neighbouring properties.

- The proposed overall building height is 10.963m, which results in a 21.81% variation to Clause 4.3.
- Further to the above, the current approved building height is 9.9m (16-2023-514-2).
 Therefore, the increase to the current approved building height is 1.063m or a 10.74% increase.
- The localised topography upon the land results in a height limit that constrains a reasonable
 architectural outcome upon the premise. The proposal will have a superior design outcome
 rather than including variation to the roof form for the sake of compliance.
- The height exceedance is generally located in the middle of proposed dwelling with increased setbacks from the allotment boundaries.
- The proposed development does not contravene the objectives of the zone and is considered a good use of the site.
- The upper level has been strategically set back and concealed to the centre of the proposed building. Subsequently limiting the visibility from the public domain, and reducing potential impacts on neighbouring properties.
- The portion of the building above the height limit is roof area, not habitable space.
- The proposed development is considered to be appropriate for the context of the area which is characterised by dwellings of a similar bulk and scale

Clause 4.6 Consideration

The original application and assessment gave consideration to the Clause 4.6 Variation, and as per established planning principles, a section 4.55 modification application can be approved even though it would contravene a development standard, and no clause 4.6 variation is required to be submitted with the modification application. The relevant judgements (originating with North Sydney Council v Michael Standley & Associates Pty Ltd [1998] NSWSC 163) say that section 96

(now s4.55) is a 'free-standing provision', meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application". What this means is that it is section 96 (now s4.55) itself which authorises the development to be approved notwithstanding any breach of development standards. Section 96 (now s4.55) is a broad power to approve, subject to its own stand-alone tests (such as the "substantially the same" test, and a requirement to consider all relevant s.79C matters (now s4.15). Section 96 (now s4.55) does not rely upon having clause 4.6 variation on order to enliven that power to approve.

Council staff are satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted, and that the proposed modification is of minimal environmental impact.

SITE DESCRIPTION

The subject site is legally identified as Lot: 6, Deposited Plan: 1277051 (6/-/DP1277051), and generally known as 111E Wallawa Road NELSON BAY. The subject site is accessed via a Right of Accessway (from Wallawa Road). The site features a steep fall in topography down to the southern side of the site. The site is mapped as bushfire prone land and the proposed development will require BAL-FZ construction requirements. The site is cleared of any significant native vegetation that would be impacted by the proposed development. The site is located within an R2 Low Density Residential Zone, and is adjoined by dwelling houses and vacant residential sites.



Figure 1 - Site Aerial

SITE PHOTOS



Figure 2 – Site Photograph



Figure 3 – Site Photograph



Figure 4 - Site Photograph

ASSESSMENT NOTES

Council staff are satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted, and that the proposed modification is of minimal environmental impact. The post consent provisions as outlined under s4.55 of the Environmental Planning and Assessment Act 1979 have been reviewed, and it is considered the development is remains suitable for the subject land.

REQUESTS FOR FURTHER INFORMATION (RFIs)

Nil

PEER REVIEWS

Officer: Ryan Bridges

Date: 10/4/2024

REFERRALS

Nil required for modification.

Advice/concurrence was received from the NSW Rural Fire Service regarding bush fire protection for the original development application in accordance with section 4.14 of the Environmental

Planning and Assessment Act 1979. No further consultation is required for this subject modification application, and the original recommend conditions provided the NSW Rural Fire Service will remain imposed on the modified consent.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

S4.12 - APPROVALS (SEC 68 LGA)

Sub- Clause	Compliant	Notes – Application type
3	 □ A application has been made under Section 68 of the Local Government Act 1990 for the following: □ An application is required under the Local Government Act 1990 for the following: 	⊠ N/A
	ie. Manufactures Home or OSMS approval	

S4.14 - Consultation and development consent (certain bushfire prone land)

Sub- Clause	Compliant	Notes (where needed or if not compliant)
1	 ☑ Development is within bushfire prone land and conforms to the specifications and requirements of the PBP, or; ☑ A certificate has been provided by a suitability qualified bushfire consultant of which confirms the bushfire risk assessment rating and identifies relevant specifications and requirements for compliance with PBP. 	The proposed development was referred to the NSW Rural Fire Service for consideration in accordance with s4.14 of the Environmental Planning and Assessment Act (Consultation and development consent). The NSW Rural Fire Service, were supportive of the proposed development, subject to recommend conditions of consent. Advice/concurrence was received from the NSW Rural Fire Service regarding bush fire protection for the original development application in accordance with section 4.14 of the Environmental Planning and Assessment Act 1979. No further consultation is required for this subject modification application, and the original recommend conditions provided the NSW

		Rural Fire Service will remain imposed on the modified consent.
1A	☐ The proposal does not conform to the relevant specifications and requirements and has been referred to the NSW RFS for assessment concerning measures to be taken with respect to protection of persons, property and the environment as a result of bushfire impacts.	⊠ N/A

S4.15 - Matters for Consideration

s4.15(1)(a)(i) - The provisions of any EPI

Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
2.1- 2.15	☐ Development is within the Coastal Management Areas and the SEPP applies including (coastal wetlands, coastal vulnerability area, coastal environment area, coastal use area)	⊠ N/A
	☐ The development will not significantly impact the biophysical, hydrological or ecological integrity of the adjacent (coastal wetlands, littoral rainforest, coastal vulnerability area, coastal environment area, coastal use area)	
4.6	☐ The land has not been identified Contaminated Lands	⊠ N/A

	STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX BASIX) 2004			
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)		
6		A BASIX Certificate has been provided for the development, and the relevant		

become BASIX affected development (conversion of garage for example) is accompanied by a BASIX certificate	commitments have been identified on the architectural plans.
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Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
Non-rur	al lands	
Section 4.8	☑ The subject site contains koala habitat, however, the proposed development is consistent with Council's Comprehensive Koala Plan of Management.	This policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. The Policy requires that council's determination of the development application be consistent with Council's approved koala plan of management that applies to the land. Council has an approved Comprehensive Koala Plan of Management (CKPoM), which applies to this development. Council's CKPoM requires that proposed development "minimise the removal of any individuals of preferred koala food trees, where ever they occur". The proposed development is considered to align with Council's CKPoM, and there is no foreseen negative impact on koala habitat.

PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013		
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
	□ The relevant clauses and objectives of the PSC LEP 2013 have been considered as part of the assessment.	The proposed development aligns the clauses and objectives of the PSC LEP 2013, as detailed below.
1.9A	☐ DP & 88B Instrument - There an 88B in place, where PSC is beneficiary,	Easement for batter (A). The proposed development is considered to align with the

	which impacts on the proposed development?	requirements as outlined in Schedule 8 (Part 6) of the Conveyancing Act 1919.
2.1	□ Permissible in zone and meets zone objectives.	The proposed development is defined as a dwelling house which is permissible with consent in the R2 – Low Density Residential Zone. The proposal is considered to be consistent with the objectives of the zone in that it will provide additional housing in an established and emerging residential area, and is compatible with surrounding development.
2.7	 □ Demolition proposed and is not included as exempt under the SEPP. □ Potential asbestos contained with condition of consent added. 	⊠ N/A
4.1	☑ The proposal is consistent with the Lot Size Map;	Clause 4.1 outlines the minimum lot size applicable to the subject site, as identified on the minimum lot size map, to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls. The subject site includes a minimum lot size of 500m². The existing site area is 1,147m² which exceeds the minimum lot size, further there is no proposed subdivision within this development application.
4.3	 □ Proposed development is under maximum building height; OR, □ There is no maximum building height and the development satisfies the objectives of the clause. 	The proposed development exceeds the maximum allowable building height, please refer to Clause 4.6 below.
4.6	☑ Proposed development proposed to vary the development standards of the LEP	 Standard to be varied: Clause 4.3 Extent of variation: 21.81% Overall building height: 10.963m Has reasonable justification been provided to support the variation: Yes The original application and assessment gave consideration to the Clause 4.6 Variation, and as per established planning principles, a section 4.55 modification application can be approved even though it would contravene a development standard. Please refer to Modification Details, for further information above.

5.10	☑ There are no heritage items /	□ N/A
3.10	archaeological sites / Aboriginal objects or places / conservation areas located on the subject site; OR	LI N/A
	☐ The proposal includes impact on a heritage item / Archaeological site / Aboriginal object or place / conservation area;	
5.21	☐ Development within flood planning area but no anticipated flood risk to life and property, or change in flood characteristics.	⊠ N/A
7.1	 ☑ Potential Class 5 Acid Sulfate Soils (ASS); OR, ☐ Potential Class 4 ASS with no works more than 2m below ground level; OR, ☐ Potential Class 3 ASS with no works more than 1m below ground level; OR, ☐ Potential Class 2 ASS with no works below ground level; OR, ☐ Potential Class 1 ASS and an acceptable management plan has been submitted. 	The proposal does not trigger the requirement for an Acid Sulfate Soils Management Plan or further preliminary investigation.
7.2	⊠ Earthworks required, but do not have negative impacts on surrounding properties.	Earthworks are required to facilitate the construction of the dwelling. The proposed development has been appropriately designed to respond to the existing site topography, and minimising land shaping outside of the building footprint.
7.4	☐ Airspace Operation – The proposed development does not penetrate the Limitation or Operations Surface height identified on GIS mapping	⊠ N/A
7.5	☐ Within ANEF 20 contour or higher but does not result in an increased number of people affected by aircraft noise.	⊠ N/A
7.6	 ☑ Essential services are available to the site where required. ☐ The development requires an Onsite Waste management System (OSMS) 	The subject site is serviced by reticulated water, electricity and sewer. In addition the application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Council's requirements –

ITEM 2 - ATTACHMENT 3 PLANNER'S ASSESSMENT REPORT.

		by way of a condition being imposed on any development consent.
7.8	☐ Development is within the drinking water catchment but will not result in a significant adverse impact on water quality or flows.	⊠ N/A
7.9	☐ Subject land contains mapped wetlands, but development does not result in adverse impacts on ecology or water flows.	⊠ N/A

s4.15(1)(a)(ii) - Any Draft EPI

NIL

s4.15(1)(a)(iii) - Any DCP

Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
Part A	☑ The relevant clauses and objectives of the PSC DCP have been considered as part of the assessment.	□ N/A
B1	☐ Trees to be removed do not require approval as outlined in B1.1.	This part applies to development to remove or prune trees or other vegetation within non-rural areas and therefore applies to the site. No significant trees or vegetation will be adversely impacted by the proposed development, or result in significant impacts on threatened species.
B2	 ☒ Not in proximity of items of environmental significance. ☒ Land does not contain koala habitat or development is consistent with the CKPoM. 	The proposed development is considered to align with Council's CKPoM, and there is no foreseen negative impact on koala habitat.
	☐ Biodiversity Value Map (BDAR)- The development is not within or	The site is no located within Biodiversity Values Mapped area.

		vegetation clearing in as Biodiversity	
	☐ The development is not clearing native vegetation over the Biodiversity Offsets Scheme Threshold:		⊠ N/A
	Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	
	Less than 1 ha	0.25 ha or more	
	1 ha to less than 40 ha	0.5 ha or more	
	40 ha to less than 1000 ha	1 ha or more	
	1000 ha or more	2 ha or more	
В3	☐ Earthworks wo environmental conditions on \ and sediment o	impacts with /ENM fill and erosion	Earthworks are required to facilitate the construction of the dwelling. The proposed development has been appropriately designed to respond to the existing site topography, and minimising land shaping outside of the building footprint.
B4 Water Quality & Drainage	Maximum imperior Lots less than 900 Lots 900 - 2000m Lots 200 - 5000² Lots greater than ☐ The developments of the control of	of Figure FD for ervious surface area. Om² = 60% max ² = 40% max = 30% max 5000m² = 7.5% max ent meets the of Figure FB for no neasure required. s with the GIS em area. s with the GIS	Site Coverage 28.2%. Stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Council's requirements – by way of a condition being imposed on any development consent.

B5	☐ Proposed development is on flood prone land; AND,	⊠ N/A
	☐ A flood certificate has been submitted with the application and the finished levels are consistent with Table 2: Development Suitability Table; AND,	
	☐ The submitted documents are consistent with Figure BI: Development Suitability Table.	
B6	 □ Development within noise planning area is consistent with Clause 7.5 of the LEP – Aircraft Noise; AND □ An Acoustic report has been provided supporting the proposed development 	⊠ N/A
В7	 Development relates to a heritage item or conservation area, however is of minor nature or would not impact on the significance of the item; No expected impact to Aboriginal heritage. 	⊠ N/A
C4	 ☑ Proposal ensures development provides continuity to the street and setbacks comply with C4.B ☑ Development appropriately activates the street with habitable rooms 	It is considered that the design is sympathetic to the existing landscape character and built form, and that the dwelling provides an appropriate level of passive surveillance.
	where applicable. In proposed development would be sympathetic to the streetscape as it is consistent with the existing development in its form, height, bulk, design and materials and does not adversely affect the amenity of neighbouring properties or the public domain.	Whilst the dwelling exceeds the maximum building height limit, the development is considered to be appropriate for the context of the area which is characterised by dwellings of a similar bulk and scale. The height exceedance is generally located in the middle of proposed dwelling with increased setbacks from the allotment boundaries.
	 ☑ The development satisfy the C4.D for private open space ☑ The development satisfy the C4.E for off-street parking 	It is considered the design provides adequate separation between the proposed and adjoining dwellings. The design includes significant articulation including areas of increased side setbacks that exceed the minimum requirement as stipulated in the PSDCP. The provided articulation minimises the presentation of bulk as viewed from the public domain and neighbouring properties.

		Council staff are satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted, and that the proposed modification is of minimal environmental impact. The post consent provisions as outlined under s4.55 of the Environmental Planning and Assessment Act 1979 have been reviewed, and it is considered the development is remains suitable for the subject land.
C8	 □ Residential Shed in a residential zone (except R5 Large Lot Residential adhered to: □ Maximum gross floor area of 72m²; □ Maximum height of 3.6m; □ Minimum side and read setback of 0.9m; and □ Minimum 1m behind the building line or setback; or □ The proposed shed exceeds the requirements of C8.1 however demonstrates consistency with the exceptions for residential sheds on Land zoned R5 Large Lot Residential. □ Sheds on R5 Large Lot residential achieves the requirements under Figure CO or the exceptions listened under C8.4. □ Rural Shed in a rural zone adheres to: □ minimum 10m side and rear boundary setback; □ minimum 5m setback from another building; and □ Colour scheme consistent with the existing character of the area. □ Swimming pools achieve the appropriate boundary setback and decking height requirements. 	N/A N/A

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 Fencing and/or retaining walls achieves the location and height requirements. 	
☐ Shipping containers complies with C8.18 to C8.20.	
Additional Considerations	
☐ Noxious Weeds - The site identified as being affected by Noxious Weeds	⊠ N/A
□ Land Slip - The site located with a Land Slip zone	A limited geotechnical investigation has been undertaken and supports the proposed development subject to recommendations.
☐ Driveways - The proposed driveway located clear of kerb inlet pits, street trees, signage, etc?	⊠ N/A
☐ Contaminated land - The land is identified as contaminated lands on the PSC register	⊠ N/A

s4.15(1)(a)(iiia) – Any planning agreement or draft planning agreement entered into under section 7.4

NIL

s4.15(1)(a)(iv) - The regulations

NIL

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

	Notes (where needed)	
Social and Economic Environment: There would be beneficial impacts as a result of the development.		

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

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

The suitability of the site is detailed above in the assessment report notes.

The matters for consideration under s4.15 of the Environmental Planning and Assessment Act 1979 have been reviewed, and it is considered the development is suitable for the subject land.

s4.15(1)(d) - Any submissions

☑ The modification application was exhibited in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. No submissions were received with relation to the subject development proposal

s4.15(1)(e) - The public interest

- The proposed development, subject to the recommended conditions, is consistent with the
 objectives of the applicable environmental planning instruments, being; Port Stephens Local
 Environmental Plan 2013 (PSLEP).
- The proposed development is, subject to the recommended conditions, consistent with the
 objectives of the Port Stephens Council Development Control Plan 2014 (PSDCP).
- Subject to the recommended conditions the proposed development will be provided with adequate essential services required under the PSLEP.
- The proposed development is considered to be of an appropriate scale and form for the site
 and the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- Any submission issues raised have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination. Council has

ITEM 2 - ATTACHMENT 3 PLANNER'S ASSESSMENT REPORT.

given due consideration to community views when making the decision to determine the application.

<u>Section 7.11 – Contribution towards provision or improvement of amenities or services</u> (developer contributions)

Not applicable

DETERMINATION

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

MICHAEL JACOBSON

Principal Building Surveyor

ITEM NO. 3 FILE NO: 24/90326

EDRMS NO: 16-2024-45-1

DEVELOPMENT APPLICATION 16-2024-45-1 AT 226 SANDY POINT ROAD, SALAMANDER BAY

REPORT OF: EVERT GROBBELAAR - DEVELOPMENT AND COMPLIANCE

SECTION MANAGER

DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

1) Approves Development Application DA No. 16-2024-45-1, for a 1 into 2 lot Torrens title subdivision and construction of a dwelling and swimming pool, subject to conditions contained in **(ATTACHMENT 1)**.

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

104	Councillor Peter Kafer Councillor Chris Doohan
	It was resolved that Council approves Development Application DA No. 16-2024-45-1, for a 1 into 2 lot Torrens title subdivision and construction of a dwelling and swimming pool, subject to conditions contained in (ATTACHMENT 1) .

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

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present Development Application (DA) 16-2024-45-1 for a 1 into 2 lot Torrens title subdivision and additional dwelling at 226 Sandy Point Road, Salamander Bay to Council for determination.

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

Subject Land:	226 Sandy Point Road, Salamander Bay (Lot 256 DP 730353)
Total Area:	797.8m ²
Zoning:	R2 Low Density Residential
Submissions:	3 - Objections
Key Issues	The key issues relating to the proposed development include bushfire risk, site suitability and public interest.

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

A locality plan is provided at (ATTACHMENT 3).

Proposal

The proposed development seeks consent for a staged development involving the removal of existing vegetation on the site, a 1 into 2 lot Torrens title subdivision, the construction of a detached 2 storey dwelling (1 existing), and construction of a swimming pool. The proposed staging of the development is as follows:

- Stage 1: 1 into 2 lot Torrens title subdivision creating the following lots:
 - Lot 1: 297.7m² containing the existing dwelling on site.
 - Lot 2: 500.1m² to be vacant for the construction of the proposed detached dwelling.
- Stage 2: Construction of the detached dwelling and swimming pool on Lot 2.

The detached dwelling proposed consists of 4 bedrooms, 1 with an ensuite, 1 bathroom and water closet, open plan living, kitchen and dining area, a rumpus room, office, outdoor alfresco and attached double car garage. Access to the proposed dwelling will be via a battle-axe handle from Sandy Point Road while the dwelling retained on Lot 1 will utilise the existing driveway from Sandy Point Road.

Site Description and History

The subject site (the site) is located at 226 Sandy Point Road, Salamander Bay, legally identified as Lot 256 DP 730353. The site is a regular shaped rectangular lot 19m wide and 34m deep with an area totalling 797.8m². The site features a generally flat topography, with a slight fall from east to west within the front portion of the site.

The site is located within an established residential area and has direct street frontage to Sandy Point Road. Mambo Wetlands Reserve (Council managed community land) is located immediately to the west of the site and similar low density residential developments are located to the north, east and south. The site has

historically been used for residential purposes and currently contains an existing residential dwelling and minor landscaped vegetation.

A previous development application (DA16-2023-29-1) which proposed the same development was refused by Council on 26 September 2023 as a Bushfire Safety Authority had not been issued by the Rural Fire Service (RFS) and for matters relating to registering an 88B restriction on the Mambo Wetlands. In response to the refusal, an amended Bushfire Threat Assessment (BTA) was prepared and submitted to the RFS on behalf of the applicant. On 11 March 2024, a Bush Fire Safety Authority was issued by the RFS and the key reasons for refusal outlined in the previous DA have been satisfactorily addressed.

Key Issues

The key issues identified throughout the assessment of the development relate to bushfire risk, site suitability and public interest.

A detailed assessment of the proposed development and there matters is contained within the Planner's Assessment Report (ATTACHMENT 4).

Bushfire Risk

The proposed development required integrated referral under s100B of the Rural Fires Act 1997 as the development includes the subdivision of bushfire-prone land that could lawfully be used for residential purposes.

The proposed development had previously been refused on 26 September 2023 as the DA had not satisfactorily demonstrated that the development could comply with the specifications and requirements of the Planning for Bushfire Protection 2019 (PBP 2019). Subsequently, the NSW Rural Fire Service (RFS) did not issue a Bushfire Safety Authority.

The main point of contention raised under the previous DA was the reliance on the establishment of an Asset Protection Zone (APZ) on Council owned community land. This presented a variation to the PBP 2019, which specifies under Section 3.2 that APZs are contained within the development site and not on adjoining land.

While it was acknowledged that Council manages the adjoining land within the Mambo Wetlands for bushfire protection purposes, the previous Bushfire Threat Assessment (BTA) and RFS referral advice required Council to enter a legally binding agreement under Section 88B of the Conveyancing Act 1919 to formalise this APZ to the benefit of the subject site. The creation of this easement was rejected by Council on various grounds, including on the basis that the land was not suitable for the creation of easements, in that it is classified as community land under the Local Government Act 1993.

In response the refusal, an amended Bushfire Threat Assessment (BTA) was prepared by the applicant and submitted with the new DA. The revised BTA included

radiant heat shielding measures and the completion of additional vegetation surveys to better inform the fire danger index.

Also of importance for the subject DA is a recent Land and Environment Court decision. Easters Development Pty Ltd v Shoalhaven City Council (2023) NSWLEC considered whether it was appropriate to rely upon land within a Council reserve for bushfire protection and whether this land can be considered managed for the life of the development. The Court found that the land in this instance had evidence of a clear history of management and there was no documentation or evidence to suggest that the respective Council would not continue to manage the land for bushfire protection purposes. Furthermore, a Plan of Management (PoM) or easement was not required as there was already a PoM for the community land. On this basis, the Court determined that the existing APZ on Council land will remain for the life of the development. Therefore, the land in this case could be considered managed land and it was not necessary to apply for an easement or other legal mechanism for ongoing maintenance. The decision in the Easter Developments LEC matter was issued on 5 December 2023, after the refusal of the previous DA by Council.

The BTA prepared for this application was provided to the RFS as part of the integrated referral. The RFS undertook an independent review of the BTA which found the conclusions and findings were accurate and the development was subsequently supported with GTAs and a Bush Fire Safety Authority was issued. The RFS also attended the site to specifically review the bushfire risk associated with the development associated with Mambo Wetlands.

On the above grounds, the legislative requirements under Section 4.47 of the Environmental Planning and Assessment Act 1979 have been satisfied. The development is considered to be compatible with the bushfire risk of the site and consistent with the specifications and requirements of the PBP 2019. On this basis, the grounds for refusal under the previous DA are now deemed to have been satisfied.

Site Suitability

As detailed under the former DA (DA16-2023-29-1), the site had previously been considered unsuitable for the proposed development due to the bushfire hazard presented from the Mambo Wetlands and requirement for an 88B restriction to be registered on community land. This decision was based upon the information available at the time, which required an easement or other legal mechanism over a buffer of Council land for bushfire protection purposes.

The adjoining Council owned land is now taken to be managed and fuel reduced for bushfire protection purposes as outlined in this report. Based upon the amended BTA and advice from RFS, the bushfire hazard is now considered to be acceptable for the proposed development. As such, the site suitability concerns raised under the previous DA are considered to have been satisfactorily addressed.

Furthermore, the development has been designed to be compatible with other site constraints such as flooding and stormwater management. As such, the site is now considered suitable for the proposed development.

Public Interest

Under the previous DA (DA16-2023-29-1), the development was not considered to be in the public interest due to inconsistencies with the strategic principles and objectives of PBP 2019 and Local Government Act. In particular, it relied upon the establishment of an APZ on adjoining Council owned to obtain support from the RFS.

As detailed above, the creation of an easement over Council owned community land is no longer required, therefore there is no contravention of the Local Government Act. Therefore, the concerns from the previous DA relating to public interest have been resolved.

By virtue of addressing the previous bushfire matters, the merits of the proposed development are considered to be in the public interest. The development will provide infill housing to service the needs of the community and increasing the diversity of housing stock in the locality.

Conclusion

As detailed in the Planner's Assessment Report (ATTACHMENT 4), the development 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.

The application has provided sufficient information to demonstrate the proposal can be constructed in a manner which is compatible with the constraints of the site, namely bushfire and flooding. The development is consistent with the aims and objectives of PBP 2019 and the development has been supported by the RFS.

Moreover, the proposed development is consistent with Council's Local Housing Strategy in that it provides infill housing within the Tomaree area and increases diversity of housing choice. The provision of infill housing is also consistent with the Greater Newcastle Metropolitan Plan (GNMP), which has a target for 60% of new dwellings within Greater Newcastle to be infill housing by 2036.

It is considered that the development has been suitably designed to address the site constraints and will not result in significant privacy, overshadowing or amenity issues.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
•	Program to develop and implement Council's key planning documents.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	Yes		Should Council determine to approve the 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 PSLEP 2013, PSDCP 2014 and associated State Environmental Planning Policies. A detailed assessment against these environmental planning instruments is contained within the Planners Assessment Report contained at (ATTACHMENT 4).

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed development represents a modern residential development which will provide additional housing to service the needs of the community. The dwelling and subdivision will enable infill housing within an established residential area. The construction of the dwelling will provide employment opportunities in the locality during the short term, helping to support the local building and development industries. This will have direct and indirect monetary inputs into the local economy. Furthermore, the increase in residents will provide ongoing direct and indirect monetary inputs.

As assessed throughout this report, the proposed development has been designed to respond to the constraints of the site. Design elements have been incorporated in the design to minimise any adverse impacts to adjoining properties and the public domain. Overall, there are no anticipated adverse social or economic impacts as a result of the proposed development.

Impacts on the Built Environment

The proposed development would reinforce the residential nature of the locality and is characteristic of other developments both in the local and wider community. The development includes relevant construction methods and built form design measures such as opaque glazing and an on-site stormwater management system to minimise any potential adverse impacts to adjoining properties.

Impacts on the Natural Environment

The proposed development will involve the removal of minor vegetation which has limited ecological value, noting the vegetation does not contain any hollows, koala feed trees, and does not provide any habitat for threatened species. As such, removal of the tree is not expected to adversely impact the biodiversity of the locality. Furthermore, compensatory planting will be provided in the form of street tree plantings.

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 and Development Contributions Officer. The referral comments for these officers have been considered as part of the Planners Assessment Report (ATTACHMENT 4). The

internal officers supported the DA subject to the recommended conditions of consent (ATTACHMENT 1).

External

Consultation was undertaken with the RFS under S.100B of the Rural Fires Act 1997 as the development involves the subdivision of bushfire prone land that can lawfully be used for residential purposes. In response, the development was supported with General Terms of Approval and a Bush Fire Safety Authority issued in accordance with S.4.47 of the Environmental Planning and Assessment Act 1979. The comments provide by the RFS were considered during the detailed assessment and are discussed within the Planners Assessment Report (ATTACHMENT 4).

Public Submissions

The application was publicly exhibited from 20 February 2024 to 5 March 2024, in accordance with the Port Stephens Council Community Engagement Strategy. During the exhibition period 3 submissions, 2 of which were unique, were received opposing the development were received. A detailed report to these submissions is provided in the Planner's Assessment Report in (ATTACHMENT 4).

OPTIONS

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

ATTACHMENTS

- 1) Recommended Conditions of Consent.
- 2) Call to Council Form.
- 3) Locality Plan.
- 4) Planner's Assessment Report.

COUNCILLORS' ROOM/DASHBOARD

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

TABLED DOCUMENTS

Nil.

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1 Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Plan number	Revision number	Plan title	Drawn by	Date of plan
150334	-	Concept Subdivision Plan	Earth Surveying Consulting Surveyors	09/05/2022
A100	F	Site Analysis Plan	RIZ Design Office	April 2023
A100.1	F	Site Plan - Demolition	RIZ Design Office	April 2023
A101	F	Ground Floor Plan	RIZ Design Office	April 2023
A102	F	Upper Floor Plan	RIZ Design Office	April 2023
A103	F	Elevations	RIZ Design Office	April 2023
A104	F	Elevations	RIZ Design Office	April 2023
A116	F	Section/BASIX	RIZ Design Office	April 2023
CIV-11	E	Civil Works Plan	DRB Consulting Engineers	18/04/2023
CIV-21	E	Civil Details	DRB Consulting Engineers	18/04/2023

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development

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.

Condition reason: To ensure that all building works are completed in accordance with the Building Code of Australia

3 Driveway Gradients and Design

For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design must comply with AS 2890.1 'Off street Car Parking', with the exception of the driveway width and:

- the driveway must be at least 1m from any street tree, stormwater pit or service infrastructure:
- a Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of any works;
- 3. 100mm kerb to extend the full length of the driveway; and
- Access from the building envelope to the public road is to have a minimum finished access level of the current 1% AEP (4.5m AHD) flood event level for the site

Details demonstrating compliance must be provided to the Certifying Authority.

Condition reason: To ensure that all driveways that relate to a development for the purposes of a dwelling house comply with AS2890.1 'Off Street Car Parking' and the relevant Council specification

4 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:
- 2. where necessary, underpin the adjoining premises to prevent any such damage.

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

Condition reason: To ensure development that involves excavation that extends below the base of the footings of a building on adjoining land will not result in adverse impacts to adjoining lots.

5 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:

 NSW Rural Fire Service, referenced DA20240213000582-CL55-1 and dated 11 March 2024.

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

Condition reason: To ensure that the development is carried out in accordance with the General Terms of Approval issued by Integrated Development / Concurrence Agencies

6 Sign on Building

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

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

Condition reason: To require signage that details the relevant contacts of a development

7 Tree Removal/Pruning

The trees/vegetation identified on Plan A100.1 (Site Plan – Demolition Plan), prepared by RIZ Design Office, dated April 2023 below are approved for removal.

The following replacement trees must be planted along Sandy Point Road:

1. 2x Cupaniopsis anacardioides 'Tuckeroo', pot size ≥ 45L

The planting must be installed prior to the issue of the Occupation Certificate and in accordance with Council's Biodiversity Technical Specification.

Details demonstrating compliance must be provided to the Certifying Authority.

Condition reason: To ensure that the development retains/prunes and replaces specific tree plantings.

8 Swimming Pools and Spas

The swimming pool/spa must comply with:

- 1. the Swimming Pools Act 1992;
- 2. the Swimming Pools Regulation 2018;
- 3. AS 1926.1 'Swimming Pool Safety' Part 1: Safety barriers for swimming pools;
- 4. AS 3500.2 'Plumbing and Drainage' Sanitary plumbing and drainage';
- 5. AS1926.3 'Water Recirculation Systems'; and
- 6. the BCA.

Condition reason: To require signage that details the relevant contacts of a development

9 Demolition Work

Any 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.

Condition reason: To ensure demolition work is undertaken in accordance with the relevant Australian Standards and waste is appropriately managed.

SUBDIVISION WORK BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

10 Construction Site Management Plan

Before the issue of the subdivision works certificate, a construction site management plan must be prepared, and provided the principal certifier.

If applicable, the plan must include the following matters:

- The location and materials for protective fencing and hoardings on the perimeter of the site;
- 2. Provisions for public safety;
- 3. Pedestrian and vehicular site access points and construction activity zones;
- 4. Details of construction traffic management including:
 - a. Proposed truck movements to and from the site;
 - b. Estimated frequency of truck movements; and
- 5. Details of bulk earthworks to be carried out;
- 6. The location of site storage areas and sheds;7. The equipment used to carry out works;
- 8. The location of a garbage container with a tight-fitting lid;
- 9. Dust, noise and vibration control measures;
- 10. The location of temporary toilets;
- 11. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
 - a. AS 4970 Protection of trees on development sites;
 - b. An applicable Development Control Plan;
 - c. An arborist's report approved as part of this consent

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction

11 Erosion and sediment control plan

Before the issue of the subdivision works certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to **the certifier**:

- 1. Council's relevant development control plan,
- the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), 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) (as amended from time to time).

Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways

12 Waste Management Plan requirements

Before the issue of the subdivision works certificate, a waste management plan for the development must be prepared and provided to **the principal certifier**. The plan must be prepared in accordance with

- the Environment Protection Authority's Waste Classification Guidelines as in force from time to time, and
- 2. a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out, and
- 3. include the following information
 - a. the contact details of the person removing waste,
 - b. an estimate of the type and quantity of waste,
 - c. whether waste is expected to be reused, recycled or sent to landfill,
 - d. the address of the disposal location for waste.

A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.

Condition reason: To ensure resource recovery is promoted and local amenity protected during construction

BEFORE SUBDIVISION WORK COMMENCES

13 All Weather Access

A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people.

No materials, waste or the like are to be stored on the all-weather access at any time.

Condition reason: To ensure that adequate vehicular access is provided to and from the site, prior to the commencement of works.

14 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

Condition reason: Small-scale development - Where the development is in close proximity to Council infrastructure.

15 Erosion and sediment controls in place

Before any site work commences, **the principal certifier**, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).

Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways

16 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

Condition reason: To ensure that works within the road reserve are approved by a Section 138B Approval of the Roads Act 1993.

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.

Condition reason: To ensure that construction waste is appropriately stockpiled and removed from site.

18 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.

Condition reason: To restrict access to the site by the public and ensure that the site is adequately secured prior to the commencement of works.

19 Subdivision Works Certificate Required

In accordance with the provisions of Section 6.13 of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:

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

Condition reason: To clarify that a Subdivision Works Certificate is required.

DURING SUBDIVISION WORK

20 Construction Management Plan

All construction traffic management procedures and systems identified in the approved Construction Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.

Condition reason: Where a CMP is deemed required.

21 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:

- 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; and
- 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.

Condition reason: To ensure that all imported and/or exported fill is Virgin Excavated Natural Material.

22 Discovery of relics and Aboriginal objects

While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered:

- a) the work in the area of the discovery must cease immediately;
- b) the following must be notified
 - a. for a relic the Heritage Council; or

 for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.

Site work may recommence at a time confirmed in writing by:

- 1. for a relic the Heritage Council; or
- for an Aboriginal object the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.

Condition reason: To ensure the protection of objects of potential significance during works

23 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.

Condition reason: To ensure that stormwater disposal from a development is managed in accordance with Council requirements.

24 Hours of work

Site work must only be carried out between the following times -

For subdivision work from 7:00am to 5:00pm on Monday to Saturday

Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.

Condition reason: To protect the amenity of the surrounding area

25 Implementation of the site management plans

While site work is being carried out:

- the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times, and
- a copy of these plans must be kept on site at all times and made available to council officers upon request.

Condition reason: To ensure site management measures are implemented during the carrying out of site work

26 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.

Condition reason: To ensure that developments do not give rise to offensive noise, dust, odour, or vibration.

27 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.

Condition reason: To ensure adequate amenity facilities are provided to the site during construction.

28 Tree Removal/Pruning

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

Condition reason: To ensure that vegetation removal/pruning is undertaken by a qualified arborist and in accordance with the Australian Standard.

29 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 be 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.

Condition reason: To ensure that works relating to a development are to cease if any suspect materials and remediated in accordance with Council requirements.

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

30 Section 7.11 Development contributions

A monetary contribution is to be paid to Council for the provision of **one additional lot**, pursuant to Section 7.11 of the Environmental Planning & Assessment Act 1979 and the

Port Stephens Council Local Infrastructure Contributions Plan 2020 towards the provision of the following public facilities:

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$655	\$655
Civic Administration - Works Dep	ot \$1,266	\$1,266
Town Centre Upgrades	\$3,412	\$3,412
Public Open Space, parks and Reserves	\$2,085	\$2,085
Sports and Leisure facilities	\$1,961	\$1,961
Cultural and Community Facilities	\$1,332	\$1,332
Road Works	\$3,570	\$3,570
Shared Paths	\$3,286	\$3,286
Bus Facilities	\$9	\$9
Fire and Emergency Services	\$245	\$245
Flood & Drainage	\$1,877	\$1,877
Kings Hill Urban Release Area	\$302	\$302
Total		\$20,000
Total		φ20,000

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

 Prior to the issue of the Subdivision Certificate or Construction Certificate, whichever occurs first.

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

Condition reason: To ensure that a monetary contribution as specified is paid to Council in accordance with Section 7.11 of the EP&A Act 1979, and the Port Stephens Council Local Infrastructure Contributions Plan 2020.

31 Housing and Productivity Contribution

A housing and productivity contribution is to be made, subject to:

- a) Any exclusion of the application of Subdivision 4 of Division 7.1 of the Act to the development by a planning agreement; and
- Any exemption or reduction provided by the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 (the Order).

In this respect -

a) The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with this condition, is required to be made:

Housing and Productivity	Amount	
Contribution		

Housing and Productivity	8,214.65
Contribution – Lower Hunter Region	

- b) The time by which the housing and productivity contribution must be made is before the issue of the subdivision certificate or construction certificate, whichever occurs first.
- c) The payment of the contributions must be made using the NSW Planning Portal.
- d) If an agreement is entered into as referred to in Clause 19 of the Order, the housing and productivity contribution may be made wholly or partly as a nonmonetary contribution.

The amount payable at the time of payment is the amount shown in the table above as the total housing and productivity contribution, adjusted by multiplying it by the following fraction:

<u>highest PPI number</u> consent PPI number

Where -

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made; and

Consent PPI is the PPI number last used to adjust the base component amount, SBC amount or TPC amount when consent was granted.

June quarter 2023 is the quarter commencing on and including 1 April 2023 and ending on and including 30 June 2023; and

PPI is the Producer Price Index (Road and Bridge Construction (NSW)) published by the Australian Bureau of Statistics).

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

Condition reason: To achieve compliance with the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023, as made by the NSW Minister for Planning and Public Spaces.

32 Requirement for a Subdivision Certificate

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

The applicant will be required to submit documentary evidence that the property has been developed in accordance with the plans approved by this development consent [DA 16-2024-45-1], and of compliance with the applicable conditions of consent, prior to the issuing of a Torrens Plan of Subdivision.

In addition, one signed original copy of the original plans and/or documents, and final plan of survey/title, must be submitted to Council.

Condition reason: To enable the subdivision, boundary adjustment, or lot consolidation of land and ensure compliance with the relevant development consent.

33 Show Easements/Restrictions in 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.

Condition reason: To ensure that all existing easements and/or restrictions on the use of land are shown on the final plan of subdivision.

34 Burdened Lots to be Identified

Any lots subsequently identified during construction of the subdivision as requiring restrictions must also be suitably burdened.

Condition reason: To ensure that all lots which have been identified as requiring restrictions or easements are suitably burdened.

35 Subdivision Certificate

The issue of a Subdivision Certificate is not to occur until all applicable conditions of this development consent have been satisfactorily addressed and all applicable engineering works are complete including construction of the battle-axe handle for Lot 2, installation of services and stormwater works required for the access handle.

Condition reason: To ensure the development has satisfied the required conditions of consent in the relevant development consent to release the subdivision certificate.

36 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.

Condition reason: To confirm location of drainage lines and ensure that no services or access ways encroach the lot boundaries, unless suitably provided for by easements.

37 Dwellings and Subdivision

Prior to the issue of the subdivision certificate the following is to occur:

- 1. The dwellings shall have a satisfactory frame inspection undertaken; and
- 2. A report/plan shall be provided from a Registered Surveyor showing that:
 - The setback of the buildings from the adjacent and proposed boundaries meets the requirements of the BCA; and

 All service lines are wholly contained within their respective lots, or an appropriate Easement or Easements have been shown on the plan of survey and suitably described in the 88B instrument

OR

 A restriction on the title of Lot 2, under Section 88B of the Conveyancing Act, shall be created which restricts the development of land to that which is approved within this consent (DA 16-2024-45-1).

Condition reason: To ensure that the development is completed in accordance with clause 4.1C of the Port Stephens Local Environmental Plan 2013.

38 Services

Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:

- · Electricity.
- Water.
- Sewer.
- · 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.

Condition reason: To ensure that evidence of connection of services in provided to Council.

39 Water Authority Certification

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.

Condition reason: To ensure compliance with the water supply authority's requirements

40 Completion of Tree Works and Demolition

Prior to the issue of the subdivision certificate, all vegetation/tree removal approved under this consent are to be complete and all existing structures, including any ancillary sheds, carports, or garages, are to be removed from Lot 2.

Condition reason: To ensure that the new lot is clear of any trees approved for removal and any ancillary structures to the existing dwelling are removed.

ONGOING USE

41 Driveways to be Maintained

All access crossings and driveways must be maintained in good order for the life of the development

Condition reason: To ensure that access and driveways are maintained for the life of the development.

BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

42 Construction Site Management Plan

Before the issue of a construction certificate, a construction site management plan must be prepared, and provided to **the principal certifier**.

The plan must include the following matters:

- The location and materials for protective fencing and hoardings on the perimeter of the site;
- 2. Provisions for public safety;
- 3. Pedestrian and vehicular site access points and construction activity zones;
- 4. Details of construction traffic management including:
 - a. Proposed truck movements to and from the site;
 - b. Estimated frequency of truck movements; and
- 5. Details of bulk earthworks to be carried out;
- 6. The location of site storage areas and sheds;
- 7. The equipment used to carry out works;
- 8. The location of a garbage container with a tight-fitting lid;
- 9. Dust, noise and vibration control measures;
- 10. The location of temporary toilets;
- 11. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
 - a. AS 4970 Protection of trees on development sites;
 - b. An applicable Development Control Plan;
 - c. An arborist's report approved as part of this consent

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction

43 Erosion and sediment control plan

Before the issue of a construction certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to **the certifier**:

- 1. Council's relevant development control plan,
- the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), 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) (as amended from time to time).

Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways

44 Long Service Levy

Before the issue of the relevant construction certificate the long service levy of \$1,750, as calculated at the date of this consent, must be paid to the Long Service Corporation or Council under the Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to **the certifier**.

Condition reason: To ensure the long service levy is paid

45 Stormwater/Drainage Plans

Prior to the issue of the subdivision works certificate, a detailed stormwater drainage plan is to be submitted to the certifying authority for a system capable of catering for a range of rainfall scenarios, up to and including the 1% AEP Rainfall Event. The detailed stormwater drainage plans are to be in accordance with Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council) and include the following information:

- On-Site Stormwater Detention / storage tanks in accordance with BASIX requirements are to be provided, and
 - a. For every 100m2 of roof or impervious area collected an additional 2,000 litres detention / storage is to be provided.

OR

- A 6000 litre detention tank (in addition to any BASIX requirements) provided for each dwelling.
- Demonstration that post developed flows are less than or equal to pre developed flows:
- Detailed pavement finished surface levels, to ensure stormwater runoff catchment and its direction into the detention system; and
- 4. Connected to an approved stormwater quality improvement device such as an infiltrating raingarden in accordance with Council's Standard Drawing S161 (or latest revision of this drawing). Where an infiltration garden is installed, it is to be located in the landscaped area(s) with an overflow pipe connected to the existing drainage easement/system. Supporting MUSIC and Drains modelling is to be provided.

Following the installation of any roof, collected stormwater runoff from the structure must

 Directed to the onsite stormwater management system with overflow dispersed at ground level, so as to not be concentrated or create nuisance flows onto any buildings, or neighbouring properties; and

All roof plumbing must be sized to ensure 100% capture and direction to a rainwater tank, with overflow from the rainwater tank directed to the onsite infiltration/detention system that caters for rainfall events up to and including the 1% AEP rainfall event.

Details demonstrating compliance must be provided to the Certifying Authority.

Note 1: Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.

Note 2: Pre developed refers to prior to any development occurring on the land.

Condition reason: To ensure that the development is carried out in accordance with the DCP.

46 Stormwater System Operation and Maintenance Procedure Plan

An Operation and Maintenance Plan for the stormwater system must be prepared by a qualified engineer detailing a regular maintenance programme for pollution control devices, covering inspection, cleaning and waste disposal.

Details demonstrating compliance must be provided to the Certifying Authority.

Condition reason: To ensure that large stormwater systems have an appropriate operation and maintenance plan prepared by a qualified Engineer.

47 Waste Management Plan requirements

Before the issue of a construction certificate, a waste management plan for the development must be prepared and provided to **the principal certifier**. The plan must be prepared in accordance with:

- the Environment Protection Authority's Waste Classification Guidelines as in force from time to time, and
- 2. a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out, and
- 3. include the following information
 - a. the contact details of the person removing waste,
 - b. an estimate of the type and quantity of waste,
 - c. whether waste is expected to be reused, recycled or sent to landfill,
 - d. the address of the disposal location for waste.

A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.

Condition reason: To ensure resource recovery is promoted and local amenity protected during construction

48 Privacy Screening

Permanently fixed, minimum 1.8m high privacy screen(s) must be provided to the northern elevation of the external alfresco/pool area/BBQ as follows:

1. the screens must not have openings more than 30mm wide;

- The total area of all openings must be less than 30% of the surface area of the screen when viewed in elevation; and
- 3. The screen must have a total length of at least 3.5m

Details demonstrating compliance must be provided to the Certifying Authority.

Condition reason: To ensure that the development does not result in substantial privacy impacts to adjoining properties.

BEFORE BUILDING WORK COMMENCES

49 All Weather Access

A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people.

No materials, waste or the like are to be stored on the all-weather access at any time.

Condition reason: To ensure that adequate vehicular access is provided to and from the site, prior to the commencement of works.

50 Compliance with Home Building Act (if applicable)

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.

Condition reason: To ensure that a contract of insurance is in force in accordance with Part 6 of that Act, before any building work authorised to be carried out by the consent commences.

51 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:

- 1. a Construction Certificate has been issued by a Consent Authority;
- 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
- the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

Condition reason: To ensure that a Construction Certificate has been issued for the building works prior to the commencement of work.

52 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

Condition reason: Small-scale development - Where the development is in close proximity to Council infrastructure.

53 Erosion and sediment controls in place

Before any site work commences, the principal certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).

Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways

54 Flood Design Measures

Evidence of certification demonstrating that the following flood related design precautions have been adhered to in the design must be submitted to the Principal Certifying Authority:

- In sewered areas some plumbing fixtures may be located below the Flood Planning Level (FPL). Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge;
- All materials stored at the site and capable of causing harm to the environment must be stored at a level not less than the FPL or suitable bunding must be placed around such materials to a minimum of the FPL;
- All building materials, equipment, ducting, etc., below the FPL must be flood compatible and ducting must be provided with openings for drainage and cleaning;
- 4. All main power supply, heating and air conditioning service installations, including meters must be located above the FPL. All electrical equipment installed below the FPL must be capable of disconnection by a single plug from the power supply;
- All electrical wiring below the FPL must be suitable for continuous submergence in water. All conduits below the FPL must be self-draining. Earth core leakage systems or safety switches are to be installed;
- 6. Wherever possible, the premises must be designed to ensure that plant, equipment, storage tanks or other fixtures or fittings liable to damage by floods are located above the FPL or be moveable to levels above the FPL. Should this not have the ability to occur, they shall be suitable for submergence in water and securely anchored to overcome buoyancy and movement. All storage tanks must be vented to an elevation above the FPL.

Condition reason: To mitigate the impacts of development within flood prone land and ensure the minimisation of risk to life and property.

55 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 —

- In the case of work for which a principal contractor is required to be appointed
 - a. the name and licence number of the principal contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
- 2. In the case of work to be done by an owner-builder
 - a. the name of the owner-builder, and
 - 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.

Condition reason: To ensure compliance with the Home Building Act 1989 and to verify that the certifying principal authority for the development has given appropriate written notice to council.

56 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:

- 1. the name and address of the person;
- 2. a description of the work to be carried out;
- 3. the address of the land on which the work is to be carried out;
- 4. the Registered numbers and date of issue of the development consent and construction certificate;
- 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
- 6. the date on which the work is intended to commence.

The notice must be lodged on the NSW planning portal.

Condition reason: To ensure that the Principal Certifier has given notice to the Consent Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the Environmental Planning and Assessment Act 1979.

7 Notice of Principal Certifying Authority Appointment

The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:

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

The notice must be lodged on the NSW planning portal.

Condition reason: To ensure that the Principal Certifier has given notice that they will be the Principal Certifier to the Consent Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the Environmental Planning and Assessment Act 1979.

58 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

Condition reason: To ensure that works within the road reserve are approved by a Section 138B Approval of the Roads Act 1993.

59 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.

Condition reason: To ensure that construction waste is appropriately stockpiled and removed from site.

60 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.

Condition reason: To restrict access to the site by the public and ensure that the site is adequately secured prior to the commencement of works.

61 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 neighbouring properties.

Details demonstrating compliance must be provided to the Certifying Authority.

Condition reason: To ensure the development has met council standards.

DURING BUILDING WORK

62 Compliance with the Building Code of Australia

Building work must be carried out in accordance with the requirements of the Building Code of Australia.

Condition reason: To ensure that the development is undertaken in accordance with the Building Code of Australia.

63 Construction Management Plan

All construction traffic management procedures and systems identified in the approved Construction Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.

Condition reason: Where a CMP is deemed required.

64 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:

- 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.

Condition reason: To ensure that all imported and/or exported fill is Virgin Excavated Natural Material.

65 Discovery of relics and Aboriginal objects

While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered:

- 1. the work in the area of the discovery must cease immediately;
- 2. the following must be notified
 - a. for a relic the Heritage Council; or
 - for an Aboriginal object the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.

Site work may recommence at a time confirmed in writing by:

- 1. for a relic the Heritage Council; or
- for an Aboriginal object the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.

Condition reason: To ensure the protection of objects of potential significance during works

66 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.

Condition reason: To ensure that stormwater disposal from a development is managed in accordance with Council requirements.

67 Finished Floor Level

The finished floor level of the site must be a minimum level of Reduced Level **5.7** metres Australian Height Datum (AHD) in accordance with the approved plans.

A survey report prepared by a Registered Surveyor confirming that the finished floor level complies with the approved plans or floor levels specified by the development consent, must be provided to Principal Certifying Authority prior to the development proceeding beyond floor level stage.

Condition reason: To ensure that the finished floor level of the development is compliant with the relevant level and in accordance with the approved plans.

68 Hours of work

Site work must only be carried out between the following times -

7:00am to 5:00pm on Monday to Saturday

Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.

Condition reason: To protect the amenity of the surrounding area

69 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.

Condition reason: To ensure that while building work is being carried out, the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent.

70 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.

Condition reason: To ensure that stock piles required for a development are managed in accordance with Council requirements.

71 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.

Condition reason: To ensure that developments do not give rise to offensive noise, dust, odour, or vibration.

72 Responsibility for changes to public infrastructure

While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.

Condition reason: To ensure payment of approved changes to public infrastructure

73 Stormwater Disposal

Following the installation of any roof, collected stormwater runoff from the structure must be:

1. Diverted through a first flush system or leaf/debris prevention system before being connected to an approved on-site stormwater system. Any stormwater collected must be connected to an approved stormwater quality improvement device to treat the water in accordance with Council's Development Control Plan. Any overflow from the stormwater system is to be connected to the

existing drainage easement/system to ensure no nuisance flows onto adjoining properties.

Condition reason: All applications.

74 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 neighbouring properties. Details demonstrating compliance must be provided to the Certifying Authority.

Condition reason: To ensure that the development for a swimming pool and/or spa satisfies Council requirements.

75 Swimming Pool Fence Design

The swimming pool or spa must be fenced so that the pool is effectively isolated from the dwelling and adjoining lands. The swimming pool fence & gate must:

- Strictly adhere to the design and location approved with the development consent, and any conditions of the development consent.
- Strictly comply with AS1926 'Swimming Pool Safety' Part 1: Safety barriers for swimming pools.
- 3. Have a minimum effective height of 1.2m.
- 4. Be self-closing and self- latching. All gates must open outwards from the swimming pool enclosure.
- The filtration equipment including any cover, housing or pipe work, must not be located within a distance of 900mm from the outside face of the swimming pool safety fencing enclosure, nor within 300mm from the inside of the swimming pool safety fencing enclosure (where footholds are possible).
- Boundary fencing forming part of the swimming pool safety fencing must maintain a minimum effective height of 1.8m and a 0.9m non climbable zone (measured from the top of the inside of the barrier).

The swimming pool safety fencing must be installed prior to the swimming pool being filled with water. The Principal Certifying Authority, or an accredited certifier must inspect the swimming pool safety fencing.

Condition reason: To ensure that the development for a swimming pool and/or spa satisfies the Australian Standard and Council requirements.

76 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.

Condition reason: To ensure adequate amenity facilities are provided to the site during construction.

77 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 be 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.

Condition reason: To ensure that works relating to a development are to cease if any suspect materials and remediated in accordance with Council requirements.

78 Waste Water from Swimming Pools and Spas

All swimming pool waste water must be disposed of as follows:

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

Chlorinated pool waste water:

- 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
- b. 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:

c. Discharging as per point b) above.

All pool types:

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

Condition reason: To ensure that the development for a swimming pool and/or spa satisfies Council requirements.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

79 Completion of public utility services

Before the issue of the relevant occupation certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier.

Condition reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation

80 Completion of Roads Act Approval works

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

Condition reason: To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.

81 Occupation Certificate Required

An Occupation Certificate must be obtained prior to any use or occupation of the development.

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

Condition reason: To ensure that an Occupation Certificate relating to the development has been provided to the Principal Certifying Authority.

82 Protection and Certification of Electrical Services

All power points, fittings, electrical connections and the incoming meter box are to be located above the Flood Planning Level (FPL) which is RL **5.2 metres AHD**.

Switches, light fittings and power points may be located below the FPL provided they are capable of being isolated by a single Residual Current Device (RCD) protected switch that is located above the FPL. Certification of these works are to be provided to the Principal Certifying Authority.

Condition reason: To ensure that flood affected development adequately mitigates risks to life and property.

83 Removal of waste upon completion

Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written

evidence of the removal must be supplied to the satisfaction of the principal certifier.

Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.

Condition reason: To ensure that all waste is appropriately removed from the subject site prior to the issue of an Occupation Certificate.

84 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.

Condition reason: To ensure that any damage resulting to public infrastructure is appropriately rectified at no cost to the Council.

85 Services

Evidence is to be provided to Council demonstrating that the following reticulated services are available to the dwelling:

- 1. Electricity;
- 2. Water;
- 3. Sewer; and
- 4. 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.

Condition reason: To verify that reticulated services are provided to the lot/s.

86 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.

Condition reason: To ensure stormwater and drainage works have been undertaken in accordance with the approved plans.

87 Street Tree Planting

All street trees must be planted in accordance with condition 7 of this consent [DA 16-2024-45-1].

Condition reason: To ensure the planting of street trees relevant to a Development application in accordance with the approved plans prior to the issue of an Occupation Certificate.

88 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.

Condition reason: To ensure that the building is located in accordance with the approved plans and evidence from a Registered Surveyor is provided to the Principal Certifying Authority.

89 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.

Condition reason: To ensure that the development for a swimming pool and/or spa satisfies Council requirements prior to the issue of the Occupation Certificate.

90 Water authority certification

Before the issue of an occupation certificate, a certificate of compliance must be obtained in relation to the proposed use(s) from Hunter Water.

Condition reason: To ensure compliance with the water supply authority's requirements

91 Swimming Pool 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.

Condition reason: To ensure that the development for a swimming pool and/or spa satisfies Council requirements, the Swimming Pools Act and the Swimming Pools Regulation prior to the issue of the Occupation Certificate.

92 Privacy Screen

Any privacy screen(s) must be permanently maintained in accordance with the approved plans and conditions of consent for the life of the development.

Condition reason: To ensure that required privacy screening is not removed.

OCCUPATION AND ONGOING USE

93 Location of mechanical ventilation (if applicable)

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

Condition reason: For all applications requiring air conditioning units.

94 Maintenance of Replacement Plantings / Revegetation

Street trees required under this consent are to be maintained (e.g. through the use of mulch and watering) until maturity, or for a period of 5 years from planting. If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

Condition reason: To ensure that replacement trees and revegetation areas are maintained until maturity, or for a period of 5 years from planting.

95 Maneuvering of Vehicles

All vehicles must enter and exit the site in a forward direction.

Condition reason: To ensure that vehicles enter and leave the site in a forward direction.

96 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.

Condition reason: To ensure that the area contained within a swimming pool safety fence enclosure must not be used for other non-related activities or equipment.

97 Use Limitations

Garden sheds, carports, garages, outbuildings, rural sheds and the like must not be adapted, converted or used for commercial, industrial or residential purposes without the prior approval of Council.

Note: Carports must not be enclosed in any manner, including solid gates or door, without the prior consent from Council.

Condition reason: To restrict the use of structures for a purpose that has not been approved by the Council.

98 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.

Condition reason: To ensure that swimming pools filtrations system are located and/or designed to not adversely impact the amenity of adjoining properties.

General advisory notes

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

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

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

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

Council advisory notes

- (1) 'Dial Before you Dig Australia' Before any excavation work starts, contractors and others should phone the "Dial Before You Dig Australia" service to access plans/information for underground pipes and cables.
- (2) 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.
- (3) Flood information is subject to change You are advised that flood information is subject to change if more accurate data becomes available to Council. It is the responsibility of the applicant to use the most up-to-date flood information. Prior to applying for a construction certificate, Council should be contacted to verify the currency of the flood information.
- (4) 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.
- (5) 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

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ITEM 3 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

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.

- (6) Building materials not permitted on Council's footpath/road reserve No building materials, plant, equipment, refuse or spoil is to be deposited on or be allowed to remain on Council's footpath or outside the boundaries of the development site unless approved by Council in writing. Where building activity cannot avoid occupation of the public road reserve, (such as, for the erection of hoarding, scaffolding, partial closure) separate approval from Council for the use of the road reserve is required.
- (7) Street Numbering- Prior to occupying the development or Release of Subdivision Certificate, (whichever occurs first) the approved dwellings are to be identified as follows:
 - a) Lot 1 226 Sandy Point Road, Salamander Bay
 - b) Lot 2 226A Sandy Point Road, Salamander Bay

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

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Council means Port Stephens Council

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2021.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

the collection of stormwater,

the reuse of stormwater,

the detention of stormwater,

the controlled release of stormwater, and

connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

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ITEM 3 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

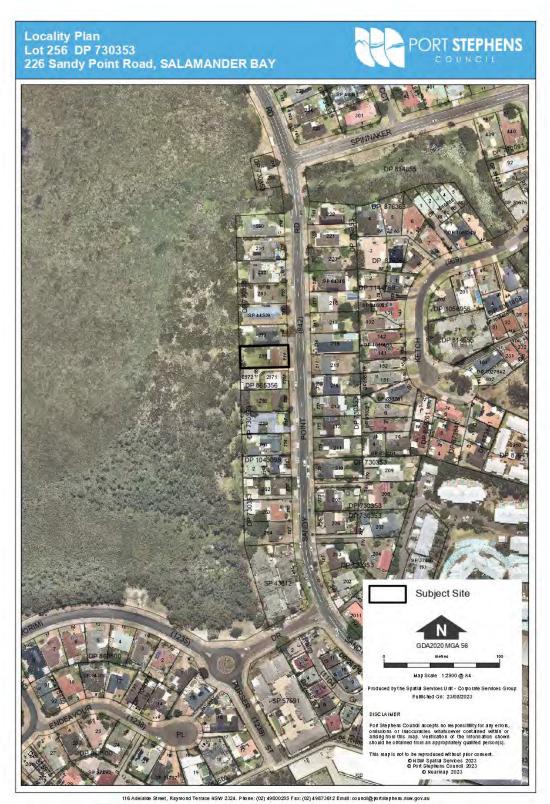
Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

ITEM 3 - ATTACHMENT 2 CALL TO COUNCIL FORM.



Development application (DA) call to Co	uncil request:	
I/We (Mayor/Councillor/s) Arnott and An that DA number 16-2024-45-1 description 1 into 2 lot Torrens title su	bdivision and construction of a	request for DA _ located at
dwelling and swimming pool - 226 S be reported to Council for determination.	andy Point Rd, Salamander Bay	
Reason:		
Public interest		
Declaration of Interest:		
I/We have considered any pecuniary or no donations) associated with this DA on my I/We (Mayor/Councillor/s)conflict of interest:		g political have a
■ No □ Yes		
If yes , please provide the nature of the inte to bring this DA to Council:	erest and reasons why further action sho	ould be taken
Signed: Please signor Please signor Cr Arnott - by Email attached to an email.	Date: 10 April 2024	
Signed: Pleasesignor Pleasesignor Anderson - by Email Attachedto	Date: 10 April 2024	

ITEM 3 - ATTACHMENT 3 LOCALITY PLAN.





APPLICATION REFERENCES		
Application Number	16-2024-45-1	
Development Description	One into Two lot Torrens title Subdivision and Construction of a Dwelling and Pool	
Applicant	NOVI PROJECTS PTY LTD	
Land owner	NOVI PROJECTS PTY LTD	
Date of Lodgement	12/02/2024	
Value of Works	\$700,000.00	
Submissions	3 (2 Unique)	

	PROPERTY DETAILS
Property Address	226 Sandy Point Road SALAMANDER BAY
Lot and DP	LOT: 256 DP: 730353
88B Restrictions on Title	Easement to drain water 2 wide Restriction as to user The proposed development does not impact the easement to drain water and will not contravene the restriction
Current Use Residential Dwelling	
Zoning	R2 LOW DENSITY RESIDENTIAL
	Bush Fire Prone Land – Vegetation Buffer & Vegetation Category 2; SEPP (Resilience and Hazards) – Coastal Wetlands Proximity Area;
	Acid Sulfate Soils - Class 4;
Site Constraints	Koala Habitat Planning Map – Preferred Koala Habitat Buffer Over Cleared Land;
	Stormwater Drainage Requirement Area – 1% AEP Infiltration;
	Property Vegetation Plan; and
	Flood Planning Area

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	State Environmental Planning Policy (Sustainable Buildings) 2022	
State Environmental Planning Policies	State Environmental Planning Policy (Biodiversity and Conservation) 2021	
	State Environmental Planning Policy (Resilience and Hazards) 2021	
PLANNERS PRE-ASSESSMENT CHECKLIST		

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

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PROPOSAL

The proposed development is for the retention of an existing dwelling, construction of a new two storey dwelling, swimming pool and one into two lot Torrens title subdivision, as seen in **Figure 1**. The development is proposed to be undertaken in two stages as follows:

- Stage 1: One into two lot Torrens title subdivision and associated works creating the following lots:
 - o Lot 1: 297.7m2
 - o Lot 2: 500.1m2
- Stage 2: Construction of the new dwelling on proposed Lot 2.

The new two storey dwelling located on proposed Lot 2 will comprise of the following:

- four bedrooms;
- two bathrooms;
- · open plan living/kitchen and dining area;
- rumpus room;
- office; and
- · an attached double garage

The proposed floor plans can be seen in **Figures 2 & 3**. The removal of five trees and demolition of ancillary structures is proposed to accommodate the dwelling.



Figure 1: Proposed site plan

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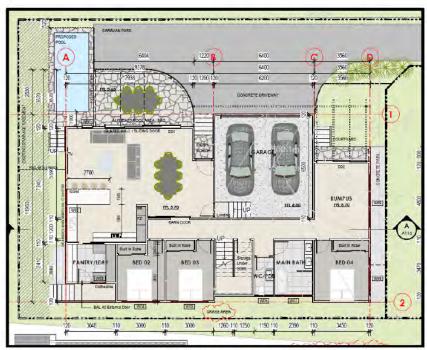


Figure 2: Proposed ground floor plan

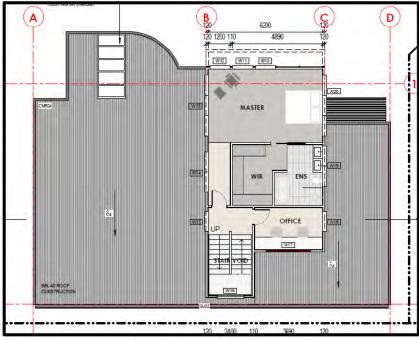


Figure 3: Proposed upper floor plan

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SITE DESCRIPTION

The subject site is a rectangular lot legally identified as Lot 256 DP 730353 with a total area of 797.8m². The site contains an existing single storey dwelling, landscaped areas, and ancillary structures as seen in **Figure 4.** Developments to the north, east, and south comprise of similar low density residential developments with Mambo Wetlands located immediately to the west. Vehicular access to the site is available via Sandy Point Road.



Figure 4: Aerial GIS imagery of the subject site

SITE HISTORY

There have been a number of applications lodged over the site which are summarised in the following table.

Application #	Proposal Description	Determination	Date Determined
7-1987-60539-1	N/A	Approved	17/06/1987
16-2022-563-1	Alterations and Additions to Dwelling	Approved	01/08/2022
16-2023-29-1	One into two lot subdivision and construction of dwelling	Refused by Council	26/09/2023

DA16-2023-29-1 proposed the same development outlined in this application and was refused by Council on 26 September 2023 as a Bushfire Safety Authority had not been issued by the Rural Fire Service (RFS). The referral from the RFS at the time required Council to enter a legally binding agreement under Section 88B of the Conveyancing Act 1979 to formalise an Asset Protection Zone (APZ) on the adjoining land owned by Council, known as the Mambo Wetlands. The creation of this easement was rejected by Council on the basis that the land is not suitable for the creation of easements, in that it is classified as community land under the Local Government Act 1993. Therefore, as the easement could not be agreed to, the RFS did not issue a Bushfire Safety Authority Page 5 of 35

and the DA was subsequently refused by Council. The RFS provided further correspondence to the applicant following the refusal, offering the potential pathways to be explored:

- Review identified effective slope, vegetation type and fuel loads to re-model radiant heat flux;
- Re-site the dwelling footprint to provide for BAL on dwelling to no greater than BAL-29.

In response to the refusal, an amended Bushfire Threat Assessment (BTA) was prepared and submitted to the RFS. This report was completed by a bushfire consultant suitably qualified to develop alternate solutions and included further investigations regarding the overall bushfire hazard of the site in relation to the proposed dwelling. On 11 March 2024 a Bush Fire Safety Authority was issued by the RFS and the key reasons for refusal outlined in 16-2023-29-1 have been satisfactorily addressed.

SITE INSPECTION DETAILS

A site inspection was carried out on 10 April 2024. The subject site can be seen in the images below:



Figure 5: Access handle location

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Figure 6: Proposed dwelling and rear lot location



Figure 7: Proposed dwelling and rear lot location

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Figure 8: Vegetation to be removed and shed to be demolished



Figure 9: Vegetation to be removed

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PLANNING ASSESSMENT

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

Internal

Development Engineering

Comment:

The proposed development was referred to Development Engineering to consider the proposed stormwater management plan and flood risk of the site. A request was made to consider an interallotment drainage system for the existing dwelling in place of the proposed charged system. However, it was noted that a 1.5m drainage easement would not be feasible, as it would require a significant redesign of the proposed dwelling and impact vehicle movements to and from the rear lot. As such, the charged system was supported on merit through increasing the size of on-site detention for the existing dwelling from 3,000L to 6,000L. This would reduce any risk of the charged system failing to an acceptable level. As such, the application was ultimately supported with conditions.

Development Contributions

Comment:

Section 7.11 Development Contributions apply for the creation of one additional lot

External (non-integrated)

There are no non-integrated external referrals as part of this application. The application was referral externally to the Rural Fire Service (RFS) as an integrated development, under Section 100B of the Rural Fires Act 1997 and is discussed below.

Environmental Planning and Assessment Act 1979

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

The development proposes residential subdivision on bushfire prone land. Therefore, under Section 4.14(1), this Section is not applicable. The development is instead assessed under Section 4.46 as integrated development, with the RFS as the relevant approval body.

Section 4.46 - Integrated development

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

Rural Fire Service

The proposed development triggered an integrated referral under s100B of the Rural Fires Act 1997 due to the development including the subdivision of bush fire prone land that could lawfully be used for residential purposes. Accordingly, the application was referred to RFS.

Comment:

As discussed above, a previous application was refused by Council as a Bush Fire Safety Authority was not issued by the RFS. In response, an amended Bushfire Threat Assessment (BTA) has been provided with this application to support the referral to the RFS. This BTA includes a revised Method 2 assessment to determine the radiant heat exposure presented by the bushfire risk, rather than relying on calculations presented in Table A1.12.4 in PBP 2019. This process involves a suitably qualified professional undertaking vegetation surveys to determine the maximum fuel load and subsequent bushfire risk presented by the vegetation.

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Additionally, the revised BTA drew reference to a recent decision within the Land and Environment Court.

Easters Development Pty Ltd v Shoalhaven Council [2023] NSWLEC 1671 considered whether it was appropriate to rely upon land within a Council reserve, which was being managed to protect existing assets, for bushfire protection and whether this land can be considered managed for the life of the development. The Court decision found that it was improbable that any risk review would result in a change of treatment which would increase the bushfire risk to existing residential assets. Therefore, this land could be considered managed land and it was not necessary to apply for an easement or other legal mechanism for maintenance. The decision in the Easter Developments LEC matter was issued on 5 December 2023, after the refusal of DA16-2023-29-1 by Council.

The basis of this decision was used in the BTA to rely upon the adjoining 10m of land within the Mambo Wetlands as 'managed' and 'fuel reduced' although not managed to same APZ standards. Therefore, this land was assessed as grasslands being a reduced fire fuel source. Furthermore, the RFS draft grassland radiant heat shield policy was employed, which permits an 1800mm high radiant heat shield along the rear boundary of the property to manage the bushfire risk presented by the grassland assessed area. Therefore, the BTA concluded that the dominant bushfire hazard presented to the development is the coastal wetland forest which is >10m from the rear boundary of the site.

The BTA, as discussed above, included a Method 2 assessment for the dominant bushfire hazard to determine the vegetation classification and potential maximum fuel load. Based upon these calculations, it was determined that the radiant heat exposure to the development would require a BAL-29 construction, which is consistent with the requirements of the PBP 2019, specifically Table 5.3a. Notwithstanding, as the BTA relied upon performance based solutions, a BAL-40 construction along the western elevation and roof was recommended as a redundancy measure. The revised BTA was provided to the RFS as part of the integrated referral to allow for an independent review of the proposed alternate solutions.

The referral to the RFS found that the conclusions and findings within the BTA were accurate and subsequently supported with conditions under Division 4.8 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).

General Terms of Approval (GTA) were issued by the RFS, dated 11 March 2024, which included conditions related to the following:

- Asset Protection Zones;
- · Construction Standards; and
- Water and Utility Services.

The Bushfire Safety Authority and GTAs have been attached to the determination.

Section 4.15 - Matters for consideration

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

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

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

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

State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 encourages the design and construction of more sustainable buildings to meet NSW climate change targets and adapt to more extreme weather, including hotter and drier summers.

Chapter 2 - Standards for Residential Development - BASIX

Section 2.1(1) - Development standards

Section 2.1(1) requires that BASIX affected residential development be accompanied by a BASIX certificate. A valid BASIX certificate has been submitted with the development application which demonstrates that the water, thermal performance and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP BASIX.

Section 2.1(5) - Development consent requirements

Section 2.1(5) requires that development consent must not be granted to BASIX affected residential development unless the embodied emissions attributable to the development have been quantified. The BASIX Certificate includes an Embodied Emissions Materials Assessment which complies with Section 2.1(5).

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in Non-Rural Areas

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

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

The development seeks consent for the removal of five (5) existing trees located within the proposed building envelope. The removal is supported as replacement plantings will be provided within the road reserve, which will provide additional street trees to benefit the public domain and assist in reducing the urban heat effect. Furthermore, the trees to be removed generally comprise of non-native species planted for landscape purposes and contain minimal ecological value. No koala feed trees or hollow bearing trees are proposed to be removed. As such, the removal of these trees has been supported.

Chapter 4 - Koala Habitat Protection 2021

This policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. Chapter 4 applies to all zones other than RU1 (Primary Production), RU2 (Rural Landscape) and RU3 (Forestry) in the Port Stephens Local Government Area.

Section 4.8 - Development assessment process

Section 4.8 requires that the application must be consistent with the approved koala plan of management that applies to the site. In Port Stephens, the relevant plan is the Comprehensive Koala Plan of Management (CKPoM).

The subject site is mapped as a preferred habitat buffer over cleared land on Council's Koala Habitat Planning Map. The vegetation proposed to be removed on site does not comprise of koala habitat and will therefore not adversely impact koala habitat. As such, the development is considered to be consistent with the CKPoM and this SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 - Coastal Management

The subject site is land within proximity to mapped coastal wetlands. As such, the following general matters within section 2.8 and 2.12 are required to be considered when determining an application.

Section 2.8 - Development within the proximity area for coastal wetlands

As per Section 2.8 of Chapter 2 of the SEPP, development consent must not be granted to development on land identified as 'proximity area for coastal wetlands' unless the consent authority (Council) is satisfied that the proposed development will not significantly impact the biophysical or ecological integrity of the adjacent coastal wetland of the quantity/quality of surface and ground water flows to and from the adjacent wetland.

The proposed development is not considered to impact the biophysical or ecological integrity of the adjacent wetland nor is it considered to impact the quality/quality of the surface and ground water flows to and from said wetlands. The proposed dwelling and subdivision will not result in adverse impacts to water quality. Furthermore, vegetation proposed to be removed is located entirely within the subject site and comprises of planted landscape species. As such, removal of these trees will not have significant adverse impacts on the health of the wetlands. There is no requirement for additional clearing of vegetation within the Mambo Wetlands located to the west of the site. As such, the proposed development is considered to be consistent with this clause.

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Section 2.12 - Development within the coastal zone generally

Section 2.12 of Chapter 2 of the SEPP requires consideration as to whether the development would increase the risk of coastal hazards. The proposed development is suitably designed and located to not increase risk to coastal hazards as the development has been designed to be compatible with the constraints of the site, including the management of stormwater drainage.

Therefore the application would generally comply with the aims of the SEPP and the other matters for consideration stipulated under sections 2.8 and 2.12, and can therefore be supported.

Chapter 4 - Remediation of Land

Section 4.6 - Contamination and remediation to be considered

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

A review of Council's records and historical aerial imagery has been undertaken to determine if any potentially contaminating activities have occurred on-site. The aerial imagery and Council's records indicate the land was historically vegetated bushland before being developed for residential purposes in the 1980s. There is no indication that potentially contaminating activities have occurred on-site. Additionally, the site is not listed on the NSW list of contaminated and notified sites published by the EPA. As such, the site is considered suitable for the proposed residential use in its current state. The proposal is for a dwelling and subdivision which is not listed as a potentially contaminating land use. The development therefore accords with the provisions of Chapter 4 of SEPP Resilience and Hazards.

Port Stephens Local Environmental Plan 2013 (PSLEP 2013)

Clause 2.3 - Zone Objectives and Land Use Table

The proposed development is defined as a dwelling house and subdivision which is permissible with consent in the R2 Low Density Residential zone. The development addresses the objectives of the zone as it provides housing to service the needs of the community, supports the residential amenity of the area, and has been designed to be compatible with the natural hazards associated with the site.

Clause 2.6 - Subdivision-consent requirements

Land to which this Plan applies may be subdivided, but only with development consent. The proposed development involves Torrens title subdivision which is permitted by this clause.

Clause 2.7 - Demolition requiring development consent

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

The proposed development requires the demolition of an existing garden shed. Accordingly, conditions of consent have been included in order to mitigate potential impacts to adjoining properties and the locality during demolition works.

Clause 4.1 - Minimum Subdivision Lot Size

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

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The subject site includes a minimum lot size of 500m², and proposes a one into two lot subdivision. The proposed allotments as a result of the subdivision are as follows:

- Proposed Lot 1 297.7m²
- Proposed Lot 2 500.1m²

In accordance with the above, the proposed subdivision seeks to create allotments of which do not comply the minimum lot size specified under the Minimum Lot Size Map. Nonetheless, the proposed small lot subdivision is still permitted under Clause 4.1C which is discussed below.

Clause 4.1C - Exceptions to minimum lot sizes for certain residential developments

Clause 4.1C allow for exceptions to the minimum lot size despite Clause 4.1 for certain residential development and certain zones.

Clause 4.1C applies to the R2 Low Density Residential zones and therefore to this development. The Clause notes that development must include:

- (a) the subdivision of land into 2 lots for the purpose of an attached dwelling, a dwelling house or a semi-detached dwelling,
- (b) the erection of a dwelling on each lot resulting from the subdivision, if the size of each lot is equal to or greater than—
 - (i) for the erection of an attached dwelling-200 square metres, or
 - (ii) for the erection of a dwelling house-250 square metres, or
 - (iii) for the erection of a semi-detached dwelling-250 square metres.

The proposed development seeks to subdivide the land into 2 lots for the purposes of detached dwellings. The proposed lots exceed the minimum 250m² requirement specified in (b)(iii) above, with the proposed lots being 297.7m² (Lot 1) and 500.1m² (Lot 2). Therefore, the proposal is considered to be compliant with Clause 4.1C. Furthermore, as the vacant lot exceeds the minimum lot size stipulated under Clause 4.1, subdivision prior to the erection of the proposed dwelling will be permitted, subject to an 88B Instrument being registered with the subdivision for any future development to be in accordance with this approval.

Clause 4.3 - Height of Buildings

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

The proposed development has a maximum height of 7.6 metres, which is below the maximum permissible building height of 9 metres specified on the Height of Buildings Map.

Clause 5.10 - Heritage conservation

The objectives of this clause are as follows-

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

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

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The proposed development is not located within or in proximity to any local or state listed heritage items or conservation areas. A search of the Aboriginal Heritage Management Systems did not reveal any previously recorded Aboriginal sites in proximity to the proposed development. The site is not identified as being located within 200m of any Aboriginal sensitive landscape features.

Clause 5.21 - Flood Planning

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

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

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

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

The proposed development is located on land identified as being within the Flood Planning Area (FPA). The Flood Planning Level (FPL) relevant to the land is RL 5.7 metres AHD. The development plans submitted show the finished floor level (FFL) of the development at RL 5.7 meters AHD which is consistent with the FPL of the site. Furthermore, flood free access above the 1% AEP level is also available to the site. This will ensure safe egress from the site in flood events up to the current day 1% AEP. Based on these two characteristics, the proposal is considered to appropriately mitigate risk to life and property. The flood hazard category identified for the site is a low hazard flood fringe area which presents low risk hazard to life and property. As such, it is considered that there would be no adverse offsite impacts to local flooding characteristics.

Clause 7.1 - Acid Sulfate Soils

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

The proposed development involves only minor earthworks, noting the majority of the development will be located on a drop edge beam slab due to the flood prone nature of the site. Minor excavation to a depth of approximately 1m is required for the installation of stormwater infrastructure, however, this is considered unlikely to expose ASS or lower the water table.

Clause 7.2 - Earthworks

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

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

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

The development proposes earthworks on the site to achieve a level building platform through the establishment of a drop edge beam slab due to the flood prone nature of the site. As these earthworks are minor in nature, they are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place. As outlined in the assessment against Clause 5.10 above, the likelihood of disturbing subsurface relics is low.

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

Clause 7.6 - Essential Services

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

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

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

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

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

Section 4.15(a)(iii) - any development control plan

Port Stephens Development Control Plan 2014 (PSDCP 2014)

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

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CHAPTER B - GENERAL PROVISIONS

B1 - TREE MANAGEMENT

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

The proposal involves the removal of five (5) trees currently on-site. The trees are used for landscaping purposes and represent minimal ecological value, noting they contain no hollows and are not identified as koala feed trees. As such, the removal of these trees is supported subject to conditions

No compensatory plantings are required noting the site is constrained by a bushfire hazard to the west and the trees proposed for removal support minimal ecological value. However, a condition has been recommended requiring the planting of 2 x street trees to serve as compensatory plantings, noting plantings in this location will also improve the amenity of Sandy Point Road and broader public domain. As such, the objectives of this Chapter are considered to have been satisfied.

B2 - NATURAL RESOURCES

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

The site is within 500m of environmental significance, being mapped as core koala habitat and coastal wetlands (Mambo Wetlands). Nonetheless, the proposed development is unlikely to result in adverse biodiversity impacts as vegetation removal is limited to landscaped plantings contained within the site and stormwater runoff is to be treated prior to discharging from the site. There is no requirement for vegetation removal or works within the Mambo Wetlands area to the west of the site. As such, the development is considered to be consistent with this section.

B3 - ENVIRONMENTAL MANAGEMENT

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

Noise

The separation distances incorporated into the development will limit any adverse impacts on the adjoining development. The impacts of the development during construction could be limited through conditions of consent which limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. Subject to conditions, the development is satisfactory in regards to noise management.

Air Quality

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

Earthworks

As discussed at Clause 7.2 above, the proposed development involves minor earthworks, associated with the slab construction and installation of services. The impacts of the proposed earthworks can be mitigated through conditions of consent. The proposal is therefore consistent with requirements outlined in Councils DCP relating to earthworks.

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B4 - DRAINAGE AND WATER QUALITY

This Chapter applies to development that:

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

The proposed development exceeds 60% impervious area and is located within a stormwater requirement area. The application has been supported with a stormwater management plan and calculations to demonstrate water can be detained on-site up to and including a 1% AEP storm event. The calculations provided demonstrate post development flows from the site are less than pre development flows. As such, the development is consistent with the requirements of this Chapter and the proposed stormwater management plan has been supported by development engineering. Council's Development Engineer supported the proposal and stormwater management design subject to conditions.

B5 - FLOODING

This Chapter applies to all development on flood prone land. The subject land is mapped as being within the Flood Planning Area. Following from the discussion against Clause 5.21 of the PSLEP above, the proposed development is acceptable in terms of flood risk.

The proposed development is for a dwelling house, which is nominated as a suitable land use in accordance with Figure BI of the DCP.

The Flood Planning Level (FPL) relevant to the land is RL 5.7 metres AHD. The development plans submitted with the proposal show the finished floor level of the development at RL 5.7 meters AHD which is consistent with the noted flood planning level. Flood free access above the 1% AEP level is also available to the site. Based on these two characteristics, the proposal appropriately mitigates risk to life and property. The flood hazard category identified for the site is a low hazard flood fringe area and the development comprises a minor residential development which is deemed suitable in this flood category. Therefore, it is considered there would be no adverse offsite impacts to local flooding characteristics or risk to life and property. Therefore, the proposal is consistent with requirements outlined in Council's DCP relating to flooding.

B7 - HERITAGE

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

The site is not located on land that contains any local or state listed heritage items and therefore the provisions of this section do not apply. In addition, the proposed development is not located within or in proximity to any local or state listed heritage items or conservation areas. A search of the Aboriginal Heritage Management Systems did not reveal any previously recorded Aboriginal sites in proximity to the proposed development. The site is not mapped as being located within 200m of any Aboriginal sensitive landscape features.

B8 - ROAD NETWORK AND PARKING

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

Traffic Impacts

The potential impacts of the development to the local road network have been assessed as being acceptable. The development of a single dwelling on the site in a residential area will not significantly increase traffic generation for the locality or reduce the Level of Service (LoS) for major intersections.

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On-site Parking Provisions

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

Development type	DCP requirement	Parking requirement	Proposed
Detached dwellings	1 car space for one and two bedroom dwellings 2 car spaces for three > bedroom dwellings	The dwelling has four bedrooms and therefore two (2) car spaces are required in accordance with the DCP.	The dwelling is provided with a double garage and is therefore compliant.

The proposal is compliant with the DCP car parking requirements.

On-site Parking Access

The proposal includes on-site access via Sandy Point Road with circulation areas available on-site to ensure vehicles can enter and exit in a forward direction.

CHAPTER C - DEVELOPMENT TYPES

The proposed development includes subdivision, a dwelling house, swimming pool and fencing and therefore Sections C1, C4 and C8 are applicable.

100 may 100	C1 – SUBDIVISION
C1.A - All Su	bdivision – Lot Size and Dimensions
	Objective all new lots have a size and shape appropriate to their proposed use, and to allow visions of necessary services and other requirements
	C1.1 – Lot size
Control	Subdivision adheres with Local Environmental Plan Part 4.
Assessment	The proposed subdivision layout is consistent with the requirements of Clause 4.1C of the PSLEP 2013.
	C1.2 – Rectangular footprint
Control	A residential lot is capable of supporting a rectangular building footprint of 15m x 8m or 10m x 12m as illustrated by Figure CA.
Assessment	The plans demonstrate that the lots are able to support a rectangular building footprint as required by Figure CA.
	C1.3 – Battle-axe lots
Control	 All lots provide direct street frontage. Battle-axe lots are only considered when there is no practical way to provide direct street frontage. Right of carriageway is constructed prior to the issuing of subdivision certificate and is provided in accordance with Figure CB. Alternative solutions are to be considered to lots created prior to the Local Environmental Plan, but only where safety is not impeded.
Assessment	The development proposes a battle-axe entry width of 2.959m, below the 3.6m required for a battle-axe lot. Nonetheless, this is supported being of a minor

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	C1 - SUBDIVISION
	variation and consistent with the access arrangements of surrounding battle-axe developments. Moreover, the exit has suitable sight lines, entry and exit to the site is possible in a forward direction, and the width is considered suitable for the proposed residential use.
	C1.4 – Splay corners
Control	Splay comers are provided for corner lots and must be a minimum of: • 4m x 4m for residential zones; • 8m x 8m for commercial and industrial zones; • 6m x 6m or merit-based approach for other zones.
Assessment	The development is not located on a corner lot and therefore splay corners are not required.
C1.B - All Su	bdivision – Street Trees
	Objective street tree planting is of an appropriate species and undertaken in accordance cil's guidelines
	C1.5 – Street tree requirements
Control	Street trees are required as a component of the road reserve for the following: Residential subdivisions; Commercial subdivisions; Industrial subdivisions creating 10 or more lots. Street trees are provided in accordance with the tree technical specification. Tree Planting Guidelines of the tree technical specification provides guidance to the application of the tree technical specification to determine the total number of trees to be provided.
Assessment	The application did not propose any street trees, however a condition of consent requiring the planting of 2 street trees, <i>Cupaniopsis anacardioides</i> 'Tuckeroo', along Sandy Point Road has been recommended in the determination.
	C1.6 – Street tree replacement
Control	Where street trees are required to be removed to facilitate development, they must be replaced in a practical location, in accordance with Section 4.6 of the tree technical specification.
Assessment	No street trees are proposed to be removed and therefore this control does not apply.
C1.C - All Su	bdivision – Solar Access
	Objective se solar access for residential dwellings
	C1.7 – Solar access
Control	Residential subdivision addresses the following guidelines for solar access. Any inconsistency clearly justifies how alternative energy efficiency is achieved.

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	C1 - SUBDIVISION
	 Where possible, lots should be oriented to provide one axis within 30 degrees east and 20 west of true solar north; Where a northern orientation of the long axis is not possible, lots should be wider to allow private open space on the northern side of the dwelling; Topography and landform should inform the subdivision layout in order to maximise solar access opportunities.
Assessment	Appropriate solar access is provided to each lot, noting private open space will be orientated generally to the north.
C1.D - All Sul	bdivision – Public Scale Drainage
	Objective further guidance is provided for subdivision that is consistent with B4 Drainage Quality and the Infrastructure Specification (where relevant)
	C1.8 – Inter-allotment drainage
Control	Each lot must be able to be gravity drained through the drainage system to public drainage.
Assessment	Both lots have provided sufficient stormwater drainage and were supported by Council's Development Engineer. The existing dwelling on proposed Lot 1 will connect to a 6,000L rainwater tank with overflow directed to Sandy Point Road. Water from Lot 2 will be detained on-site up to and including a 1% AEP storm event with overflow discharged via a level spreader to the existing drainage easement at the rear of the site.
	C1.9 – Inter-allotment drainage
Control	Inter-allotment drainage may be required for subdivision where a lot does not drain directly to the road kerb.
Assessment	No inter-allotment drainage is proposed.
	C1.10 – Drainage reserves
Control	An overland flow path is provided for the 1% Annual Exceedance Probability (AEP) storm event and is a drainage reserve dedicated to Council as operational and.
Assessment	Not applicable.
C1.E - Major	Subdivision – Block and Street Layout
	Objectives
cycle links	local streets are well-connected to the street network with obvious pedestrian and to higher order streets priority is provided to residents needs when designing local streets to encourage
 To ensure 	pathways follow desire lines
Assessment	Not applicable as the proposed development does not comprise a major subdivision.

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C1 - SUBDIVISION C1.F - Major Subdivision - Public Open Space **Objectives** . To provide a hierarchy of public open space in accordance with public open space hierarchy To provide parks that are multi-functional To ensure parks achieve centrality by being located near transport nodes, public building, waterfronts, libraries or places of public worship To ensure public open space meets the demands of the local community to encourage usability and critical mass Not applicable as the proposed development does not comprise a major Assessment subdivision. C1.G Major Subdivision - Infrastructure Objective To ensure detailed consideration is provided to the provision of integrated and quality public infrastructure Not applicable as the proposed development does not comprise a major Assessment subdivision.

	C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy
C4.A - Height	
	Objectives the height of buildings is appropriate for the context and character of the area building height reflects the hierarchy of centres and land use structure
	C4.1 – Building height
Control	Maximum height limit of 8m or a merit-based approach is taken where no height limit is specified under the Local Environmental Plan clause 4.3
	Note: C2.4 requires a minimum first floor and above ceiling height for residential accommodation in a commercial zone of 2.7m
Assessment	The proposed development has a total height of 7.6m, which is below the maximum building height permitted of 9m under Clause 4.3.
C4.B - Setba	cks
	Objectives development provides continuity and consistency to the public domain development contributes to the streetscape and does not detract from the amenity
	C4.2 – Setback requirements
Control	Development is to be setback from the subject property boundary, in accordance with the provisions outlined in Figure CI.
	The proposed dwelling provides the following minimum setbacks:
Assessment	 Front: N/A – the proposal is located on a rear battle-axe lot and therefore does not have direct frontage to the street

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	C4 - Dwelling House, Secondary Dwelling, or Dual Occupancy
	 Side (Ground): 1.002m Side (Upper): 1.34m Rear (Ground): 3m Rear (Upper): 12.37m
	The development is compliant with front, rear, and ground floor side setbacks.
	The development includes a minor variation to the upper side setback of 2m required under Figure CI. The majority of the upper floor is setback approximately 3.7m from the side boundary and compliant with the C4.2 of the DCP. A minor encroachment occurs due to the inclusion of a stairway required to access the upper floor, which is setback 1.34m from the side boundary. Noting that this variation relates to a non-habitable and low use area of the house and occurs only over a small portion of the dwelling at the side boundary, the variation is acceptable on a merits basis as it would not result in adverse privacy or overshadowing impacts and is consistent with the controls objectives.
	C4.3 – Front setback encroachment
Control	Development for a secondary dwelling must be located behind the building line of the principal dwelling it is in conjunction with.
Assessment	N/A - not proposed.
	C4.4 – Secondary dwelling setback
Control	Development for a secondary dwelling must be located behind the building line of the principal dwelling it is in conjunction with.
Assessment	Not applicable as the development does not include a secondary dwelling.
	C4.5 – Secondary setback encroachment
Control	Maximum 1m encroachment to secondary setback for architectural features, such as an entry porch or deck.
Assessment	Not applicable.
	C4.6 – Garage setback
Control	Garage setback minimum 1m behind the building line or setback.
Assessment	The proposed garage is setback more than 1m behind the building line.
V-1-0-0-1	C4.7 – Public reserve and waterfront setback
Control	Minimum 3m setback from a public reserve boundary.
Assessment	Not applicable.
L. Carrier	C4.8 – Public reserve and waterfront setback
Control	Minimum 4.5m setback from a waterfront reserve boundary.
Assessment	Not applicable.
Control	C4.9 – Public reserve and waterfront setback

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	C4 - Dwelling House, Secondary Dwelling, or Dual Occupancy
	Minimum 1m setback from waterfront land from the access boundary.
Assessment	Not applicable.
	C4.10 – Battle-axe lot handle
Control	Minimum 1m setback from a battle-axe lot handle, access corridor or easement that is required for access Note: C1.3 details when battle-axe lots are provided
Assessment	The existing dwelling on Lot 1 is not setback at least 1m from the battle-axe lot handle. Nonetheless, this is supported on a merits basis as it is consistent with the form and design of surrounding developments, will not result in adverse amenity impacts to the existing dwelling and there are no eaves overhanging the proposed access handle. The driveway will remain functional for residential use.
	C4.11 – Adjoining agricultural buffers
Control	An agricultural buffer of 150m or greater should be provided between a rural dwelling house, secondary dwelling or an ancillary structure for habitable purposes to adjoining land in separate ownership that is used or capable of being used for agricultural purposes • Where the 150m buffer or greater cannot be achieved the planting of a 30m wide native vegetation strip is to be provided between the proposed development building envelope and the adjacent agricultural land Note: B2.1 requires a suitable buffer on the land which is the subject of development to items of environmental significance
Assessment	Not applicable.
	scape and privacy
C4.C - 00 CC	Objective Objective
 To ensure privacy. 	development activates the streetscape to provide passive surveillance and
	C4.12 – Passive surveillance
Control	Development is to address the street by having at least one habitable room from the street and/or adjoining public spaces.
	The proposed dwelling is located at the rear of the site and therefore provides minimal passive surveillance. Nonetheless, passive surveillance is achieved by
Assessment	the existing dwelling located on Lot 1.
Assessment	C4.13 – Passive surveillance
Assessment Control	
	C4.13 – Passive surveillance Development on corner lots is to address both street frontages by having

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	C4 - Dwelling House, Secondary Dwelling, or Dual Occupancy
	To be sympathetic to the existing landscape character and built-form with regard to design, bulk, scale, form, materials and roof configuration.
Assessment	The proposed dwelling presents as a similar bulk, scale and design as other residential developments in the locality. The battle-axe arrangement is similar to the development located on the adjoining lot to the south and mitigation measures have been incorporated into the design to minimise any privacy impacts, as discussed below. Furthermore, developments featuring a similar two storey design can be seen along Sandy Point Road. Moreover, as the development is a battle-axe arrangement, the existing dwelling will continue to present to the street as the dominant built form on the site. As such, the proposed development will not adversely impact the streetscape character.
	C4.15 – Privacy and two-storey development
Control	Two storey development is to include a balcony or deck facing the street on the upper floor at least 1.5m deep across 25% of the dwelling frontage.
Assessment	The proposed development does not include a balcony despite being a two storey development. Nonetheless, a balcony fronting the street is not feasible, noting the dwelling is located at the rear of the existing dwelling on a battle-axe lot.
	C4.16 – Privacy and two-storey development
Control	Balconies are to be located to minimise overlooking of adjoining properties.
Assessment	No balconies are proposed and therefore there will be no substantial overlooking of adjoining properties.
	C4.17 – Privacy and two-storey development
Control	Privacy screens are required for balconies and patios, which result in unreasonable privacy impacts to properties.
Assessment	It is noted that the external alfresco area is raised due to the flood prone nature of the site. As such, privacy screening has been conditioned within this area to minimise any potential overlooking.
	C4.18 – Privacy and two-storey development
Control	Privacy screens, high-light windows or opaque glass is to be used for windows of habitable rooms (other than bedrooms) which overlook adjoining properties.
Assessment	Highlight windows and obscure glazing has been implemented on windows located on the upper floor to minimise privacy impacts to adjoining properties.
	o open change
C4.D - Private	o upon space
C4.D - Private	Objective
To ensure	

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	C4 - Dwelling House, Secondary Dwelling, or Dual Occupancy
	Minimum of 50m2 of ground floor private open space comprising a minimum of 35m2 that is usable. Private open space is considered usable if it: • has minimum dimensions of 4m x 4m; • has direct access from internal living areas; • is not located within a front setback; and • has a northerly aspect.
Assessment	The development includes sufficient private open space that is consistent with the controls in this DCP section. A portion of private open space has been located within the front setback of the proposed dwelling. Nonetheless, this is supported on a merits basis as the proposal is located behind an existing dwelling, not visible from the street, and has sufficient screening as to allow it to be used as private open space.
	C4.20 – Private Open Space Dimensions
Control	Where development cannot provide private open space on the ground floor, provisions shall be made for a balcony of not less than 20m2 with a minimum width of 3m for the use as private open space.
Assessment	Not applicable.
	C4.21 – Solar access
Control	Minimum of 2 hours sunlight to the principal private open space area between the hours of 9am-3pm midwinter.
Assessment	The principal private open space for the dwelling receives sunlight between 9:00am – 3:00pm (6 hours) between mid-winter which exceeds to the minimum 2 hour requirement
	C4.22 – Solar access
Control	Minimum of 30% of private open space of adjoining dwellings must remain unaffected by any shadow for a minimum of 3 hours between 9am-3pm midwinter.
Assessment	Solar access diagrams were provided that demonstrates adjoining dwellings retain solar access to their private open space areas in accordance with the DCP.
CAE Car na	arking and garages
C-I.L - Cai pa	Objective
	car parking caters for anticipated vehicle movements to and from the ent and does not adversely impact on building articulation
	C4.23 – Driveway width
	A driveway should have a minimum width of 3m
Control	Note: B8.12 requires ingress/egress widths to provide the listed dimensions
Assessment	The proposed driveway width is 2.919m, which does not comply with the 3m required by the DCP. This variation is supported on a merits basis as:

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	C4 - Dwelling House, Secondary Dwelling, or Dual Occupancy				
	Due to existing structures on site, it is not possible to increase the				
	driveway width;				
	The variation is a minor non-compliance;				
	 The driveway will be suitable for the proposed use, as there are no eaves overhanging it that would present a potential risk to the vehicles entering the site; and Vehicles will still be able to enter and leave in a forward direction. 				
	C4.24 – Garage dimensions				
Control	Maximum garage door width of 6m for residential lots or 50% of the building frontage, whichever is less.				
Assessment	The garage has a total width of 5.41m, which is less than 50% of the building frontage.				
C4.F - Lands	caping				
	Objectives				
planting of To encoura To ensure the open s To add val privacy, ou To create a environme To reduce To reduce	the appearance and amenity of developments through the retention and/or large and medium sized trees age landscaping between buildings for screening landscaped areas are consolidated and maintainable spaces that contribute to pace structure of the area ue and quality of life for residents and occupants within a development in terms of althook, views and recreational opportunities and enhance vegetation links between natural areas and reduce weed potential to intally sensitive areas energy consumption through microclimate regulation air borne pollution by reducing the heat island effect of stormwater to reduce stormwater runoff				
	C4.26 – Dwelling house				
	Development located on land that slopes at more than 18 degrees to the horizontal or that is within 50m of land that contains: • a Coastal Wetland identified in SEPP (Biodiversity and Conservation) 2021;				
	or • koala habitat; or				
Control	species or communities listed within the Biodiversity Conservation Act 2016 must provide landscaping that:				
	 will enhance the environmental constraints of the site; retains trees within the outer protection area of the APZ identified by a 				
	 bushfire report; and constrains turf areas within the inner protection area of the APZ identified by a bushfire report. 				
	The application does not include landscaping that is wholly compliant with the DCP. Nonetheless this can been accepted on a merits basis as:				
Assessment	The site is heavily constrained by the risk of bush fire which limits the viability of landscaping; and				
	 Developments in the surrounding area have similar levels of landscaping; and 				

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	C4 — Dwelling House, Secondary Dwelling, or Dual Occupancy The development will still enhance the overall amenity and character of the site and a condition of consent will be included requiring 2x street trees, Cupaniopsis anacardioides 'Tuckeroo', to be planted along Sandy Point Road.				
Control	C4.27 – Dual occupancy landscaping coverage Landscaping is provided as follows: 20% of the site area; or 40% of the site area where development is located within 50m of: a Coastal Wetland identified in SEPP (Biodiversity and Conservation) 2021; or koala habitat; or species or communities listed within the Biodiversity Conservation Act 2016; or a public reserve; and 30% shading over uncovered car park areas				
Assessment	Suitable areas for soft and deep soil planting have been provided, particularly along the front and rear site boundaries.				
Control	C4.28 – Dual occupancy landscaping dimensions To be counted as part of the total landscaping coverage, the landscaped area must be at least 1.5m wide and 3m long.				
Assessment	Noted.				
Control	C4.29 – Dual occupancy landscaping qualities Landscaping is in accordance with the following: Landscape works incorporate adequate screening from the street and adjacent neighbours. Corner lots provide landscaping to both street frontages. Front boundary structures (e.g. fencing and retaining walls) provide visual relief with the use of landscape planting. Street trees are to be within the footpath, verge or in the parking lane and be consistent with the Port Stephens Council tree technical specification1 Landscape planting must provide adequate shading to the eastern and western aspects of private open space Structural soil and/or structural cells should be used to reduce competition between specimen trees and infrastructure Note: The canopy coverage of specimen trees can be used to calculate deep soil landscaping				
Assessment	Landscaping has been provided using endemic species and incorporates soft and deep soil landscaping along the front, side and rear boundaries respectively				
Control	C4.30 – Species selection Landscape species are to be selected in accordance with the landscape technical specification.				

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	C4 - Dwelling House, Secondary Dwelling, or Dual Occupancy				
Assessment	Noted – landscape species will need to comply with Council's Landscape				
C4.G - Site fa	cilities and services				
	Objective				
To ensure site location	development provides appropriate facilities and services in the most appropriate n				
	C4.31 – Waste storage				
Control	An adequately screened waste storage and recycling area is to be provided behind the building line.				
Assessment	Appropriate space has been provided for a screened waste storage area.				
	C4.32 – Clothes drying				
Control	A suitable open-air area for clothes drying is to be provided for each dwelling behind the building line with a northerly aspect.				
Assessment	There is sufficient space to provide an open-air area for clothes drying behind the building line with a northerly aspect.				

	C8 – ANCILLARY STRUCTURES
C8.A - Ancilla	ary Structures
	Objectives
is attained To ensure area	further guidance for ancillary structures to ensure consistent and desired amenity ancillary structures do not adversely impact upon the amenity of the surrounding ancillary structures are consistent in terms of height, bulk and scale with the g area
	C8.13 – Swimming pools
Control	The water edge must be setback at least 1m from the side and rear boundaries.
	The proposed pool is setback approximately 0.82m from the northern lot boundary, which is non-compliant with this DCP control. All other setbacks are compliant.
Assessment	The proposed variation is supported, noting the non-compliance is minor in nature, will not adversely impact the amenity of adjoining properties, and as the pool is located above ground, will not involve excavation that may impact adjoining properties. The pool's location is screened from neighbouring properties and the public domain. The pool design is consistent with the objectives of C8.A.
	C8.14 – Swimming pools
Control	Maximum decking height of 1.4m in height if the pool is located more than 600mm above the ground level (finished).

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	The proposed swimming pool has a maximum decking height of 0.9m which is					
Assessment	compliant with this control.					
L-1994 B.	C8.15 – Front fences (including forward of the building line)					
Control	Maximum height of 1.2m and is not of solid infill construction.					
Assessment	No front fencing is proposed.					
1-1-60	C8.16 – Front fences (including forward of the building line)					
Control	Maximum height of 1.5m along main roads and secondary street frontages.					
Assessment	No front fencing is proposed.					
	C8.17 – Front fences (including forward of the building line)					
Control	Compatible with street facilities, such as mailboxes, and allow easy access to public utilities.					
Assessment	No front fencing is proposed.					
	C8.18 – Side and rear fences					
Control	Maximum height of 1.8m.					
Assessment	Colourbond fencing with a height of 1.8m has been proposed along the side at rear boundary.					
	C8.19 – Side and rear fences					
Control	Side fences must not encroach on the front setback area of any dwelling.					
Assessment	The fences noted on the plans do not encroach on the front setback area of any dwelling.					
	C8.20 – Side and rear fences					
Control	Fencing materials should reflect context and character of the area.					
Assessment	The colorbond fencing is consistent with fencing in the immediate locality.					
	C8.21 – Side and rear fences					
Control	Fences within the root zone of an existing tree must be constructed of light weight suspended panels supported by posts with pier footings.					
Assessment	Side and rear fences are not within the root zone of any existing trees.					

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

There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.

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

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Demolition

In regard to Clause 61(1) Council has considered the Australian Standard AS 2601—2001: The Demolition of Structures in the assessment of this application with appropriate conditions being included on the consent.

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

Social and Economic Impacts

The proposed development represents a modern residential development which will provide additional housing to service the needs of the community. The dwelling and subdivision will enable infill housing within an established residential area. The construction of the dwelling will provide employment opportunities in the locality during the short term, helping to support the local building and development industries. This will have direct and indirect monetary inputs into the local economy. Furthermore, the increase in residents will provide ongoing direct and indirect monetary inputs through their daily living activities.

As assessed throughout this report, the proposed development has been designed to respond to the constraints of the site. Design elements have been introduced throughout the design to minimise any adverse impacts to adjoining properties and the public domain.

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

Impacts on the Built Environment

The proposed development would reinforce the residential nature of the locality and is characteristic of other developments both in the local and wider community. The development includes relevant construction methods and built form design such as opaque glazing and an on-site stormwater management system to minimise any potential adverse impacts to adjoining properties.

Impacts on the Natural Environment

The proposed development will involve the removal of minor vegetation which has limited ecological value, noting the vegetation does not contain any hollows, koala feed trees, and does not provide any habitat for threatened species. As such, removal of the tree is not expected to adversely impact the biodiversity of the locality. Furthermore, compensatory planting will be provided in the form of street tree plantings.

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

The subject site is located within a residential area and is relatively clear of vegetation. The site has access to all essential services and the proposed development makes good use of the available land. While the site features constraints, namely bushfire and flooding, the development has been designed to be compatible with these risks and will not substantially impact on, or be impacted by these constraints. Extensive investigation has been undertaken by a suitably qualified bushfire consultant to determine the overall bushfire risk of the site, and the recommendations made by the bushfire consultant have been supported by the RFS, in terms of dwelling design and mitigation measures. These investigations include a detailed Method 2 assessment to determine the vegetation characteristics of the dominant bushfire hazard and management of the area maintained by Council through an 1800mm high radiant heat shield consistent with the RFS draft grassland radiant heatshield policy. Through these measures, a BAL-29 building envelope is achievable in accordance with PBP 2019 and the site is considered suitable from a bushfire risk perspective. The development addresses all elements required under the relevant planning instruments and policies and there are no anticipated adverse impacts on the locality as a result of the development.

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

Public Submissions

The application was exhibited from 20 February 2024 to 5 March 2024 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. Three submission, two of which were unique, were received during this time. The matters raised during the exhibition period have been detailed in the table below.

Matter raised Response 1. Bushfire

- 1.1 All submissions received raised concerns regarding the bushfire hazard presented by the Mambo Wetlands located to the west of the development site. In particular, the submissions raised the following matter:
 - Frequency of bushfires in the Mambo Wetlands;
 - Ongoing management of the 10m APZ located on Council owned land;
 - Overall increased risk of an additional dwelling on Sandy Point Road, including emergency response costs, insurance premiums, infrastructure damage, decreased property values, environmental remediation, and liability.

1.1 The proposed development is identified as an integrated development, as it involves the subdivision of bushfire prone land for residential purposes. Under Section 4.47 of the Environmental Planning and Assessment 1979, Council must obtain approval from the relevant approval body, known as General Terms of Approval (GTAs). In this instance, the approval body is the Rural Fire Service (RFS).

As part of the referral to the RFS, the applicant is required to provide a Bushfire Threat Assessment prepared by a suitably qualified consultant which identifies how the development complies with the Planning for Bushfire Protection 2019 (PBP 2019). A development may comply with the PBP 2019 either through acceptable solutions or performance based solutions.

In this instance, a BTA prepared by **Bushfire Environmental Management** Consultancy was provided with the application. The BTA outlined performance based solutions in regards to Asset Protection Zone (APZ) and construction standards. As part of the performance based solutions, a Method 2 assessment was undertaken, which determines that radiant heat exposure presented by the bushfire risk, rather than relying upon the calculations presented in Table A1.12.4 in PBP 2019. To do so, a suitably qualified professional undertakes vegetation surveys to determine the maximum fuel load and subsequent bushfire risk presented by the vegetation. Based upon these calculations, it was determined the managed land along Mambo Wetlands can be considered fuel

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reduced, rather than as an APZ, and assessed as grassland. Therefore, the primary bushfire hazard is located 14m from the proposed development. The Method 2 calculations demonstrated the radiant heat exposure would require a BAL-29 construction. Noting that performance based solutions are relied upon, this has been increased to BAL-40 as a redundancy measure. The BTA was included with the referral to the RFS who undertook a thorough independent assessment, including a site inspection of the Mambo Wetlands. It was determined that the conclusions and findings found within the BTA were accurate and the application was supported and GTAs and a Bush Fire Safety Authority were issued for the development. As such, the legislative requirements under Section 4.47 of the Environmental Planning and Assessment Act 1979 have been met and the development is considered to be compatible with the bushfire risk of the site. Applicable conditions of consent will be included in the determination to ensure compliance with all requirements are maintained for the life of the development.

2. Stormwater and Flooding

- 1.2 All submissions received raised concerns regarding adverse impacts on adjoining properties from additional stormwater discharge and localised flooding.
- 1.2 The proposal includes a stormwater management plan and modelling that demonstrates stormwater runoff can be detained on-site up to and including a 1% AEP storm event and post developed flows are less than pre developed flows. Additionally, a 6,000L rainwater tank is proposed to detain stormwater runoff from the existing dwelling. As such, the proposed development will not result in additional stormwater or flooding impacts on adjoining properties.

3. Privacy

- 1.3 One submission raised concerns regarding privacy impacts to adjoining properties, noting the second storey design of the dwelling.
- 1.3 The proposal has implemented highlight windows and opaque glazing on all upper level windows to ensure privacy impacts are kept to a minimum. Furthermore, a condition of consent has been recommended requiring privacy screening

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along the northern elevation of the outdoor alfresco, noting its raised floor. As such, privacy impacts are considered to be suitably mitigated and the development will not result in substantial privacy impacts to adjoining properties.

4. Driveway Width

- 1.4 One submission raised concerns regarding the driveway width and proximity to an existing street kerb inlet pit.
- 1.4 It is acknowledged that the proposed driveway represents a variation to the DCP and AS2890.1:2004 Parking facilities - Offstreet car parking, both of which require a minimum width of 3m. The proposed development has a minimum width of 2.95m which represents a 50mm variation to these standards. Noting the infill nature of the development, a wider driveway is not feasible without costly minor changes to the existing dwelling. Furthermore, there are no eaves overhanging the proposed driveway and the proposed width is considered suitable for residential use from a risk perspective, noting vehicles will be able to enter and exit the site in a forward direction. Kerbs at a height of 100mm will be required for the length of the driveway to provide further protection to the existing dwelling and adjoining fence. The width was supported by Council's Development Engineer and has been supported on a merits basis.

Section 4.15(1)(e) the public interest

The proposed development represents a modern dwelling to supply additional housing stock within an established residential area. This will help supply additional housing to meet the needs of the community. Furthermore, the development has been designed to be suitably compatible with the flooding and bushfire risks of the site. Through design elements and construction methods, the proposed development is not anticipated to have any significant adverse impacts on surrounding properties or the natural environment. For these reasons, the proposed development is considered to be in the public interest.

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

Section 7.11 development contributions apply for the provision of an additional lot.

DETERMINATION

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

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ITEM 3 - ATTACHMENT 4 PLANNER'S ASSESSMENT REPORT.

CHRISTOPHER PRIMROSE

Development Planner

(Community Futures Directorate)

Page **35** of **35**

ITEM NO. 4 FILE NO: 23/277912 EDRMS NO: PSC2017-00180

QUARTERLY BUDGET REVIEW TO 31 MARCH 2024

REPORT OF: GLEN PETERKIN – ACTING DIRECTOR CORPORATE

STRATEGY AND SUPPORT

DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

RECOMMENDATION IS THAT COUNCIL:

1) Approve the discretionary changes to the adopted budget (ATTACHMENT 1) presented as the Quarterly Budget Review to 31 March 2024.

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

105	Councillor Giacomo Arnott Councillor Peter Kafer				
	It was resolved that Council approve the discretionary changes to the adopted budget (ATTACHMENT 1) presented as the Quarterly Budget Review to 31 March 2024.				

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to provide an update to Council on the 2023-2024 financial year budget. The Quarterly Budget Review to 31 March 2024 **(ATTACHMENT 1)** sets out the details of any variations between Council's current budget and the proposed budget.

Operating Budget

The Quarterly Budget Review to 31 March 2024 has shown an increase in total revenue by \$5.058 million which is largely due to \$5.033 million worth of new capital

grants from the State Government. Other adjustments include revenue from the investment portfolio performance and adjustments to Smart Parking forecasts.

Further information of the changes to the budget are outlined in the Operating Statement Variations as shown in (ATTACHMENT 1).

Capital Budget

The capital expenditure budget increased by \$6.734 million largely due to the addition of the new multi-year Special Purpose Roads Grant from the State Government. The first year of funding includes Tomaree Road, Rookes Road, Swan Bay Road and Beach Road. Other projects being brought into the budget include an elevator upgrade to the Raymond Terrace Community Care Centre, field lighting for King Park and Mallabula Sports Complex and new drainage at Tomaree Sports Complex.

Further information on the changes to the budget are outlined in the Capital Statement Variations as shown in **(ATTACHMENT 1)**.

Performance Indicators

All performance indicators are above the benchmark except for unrestricted cash levels. Council will continue to monitor and manage cash levels to ensure there is sufficient unrestricted revenue to cover internal and external reserves.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

Council's anticipated underlying result decreased by \$17,000 to \$1.013 million. This is above the original target budget of \$769,000. The movement from the original underlying result will be shown each quarter.

	Surplus (\$)	Deficit (\$)
Budget 2023 - 2024	\$769,000	
September 2023 review	\$948,000	
December 2023 review	\$1,030,000	
March 2024 review	\$1,013,000	

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

Source of Funds	Yes/No	Funding (\$)	Comment
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Despite an improvement seen in the underlying result for the financial year 2023 – 2024, it is prudent that Council continues to monitor the budget carefully to ensure minimal risk to the organisation and community.

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council's budget is fundamental for operational sustainability and the provision of facilities and services to the community. The budget will continue to be carefully monitored while there is a high level of inflation and economic uncertainty.

CONSULTATION

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

Internal

Executive Team.

External

Nil.

OPTIONS

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

3) Reject the recommendation.

ATTACHMENTS

1) Quarterly Budget Review to 31 March 2024.

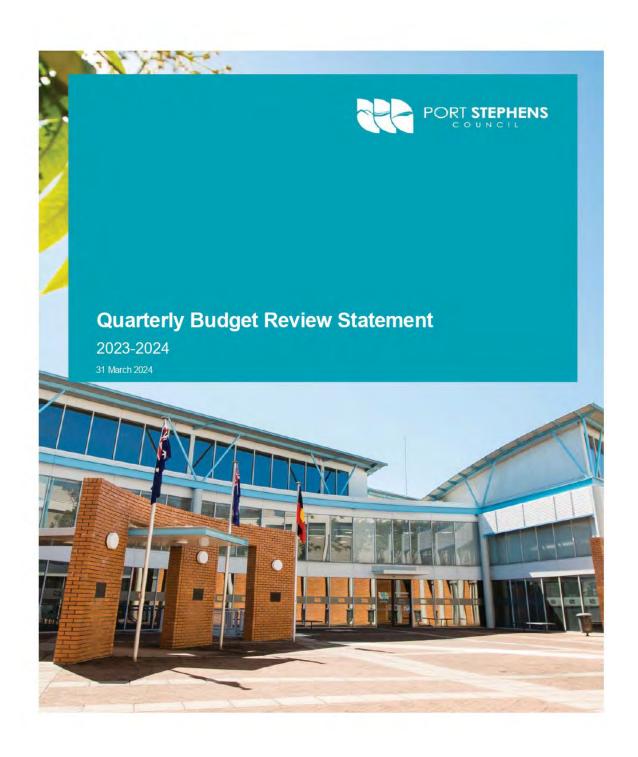
COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM 4 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2024.



ITEM 4 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2024.

Report by Responsbile Accounting Officer for the Quarter ending 31 March 2024

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

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter ended 31 March 2024 indicates that Council's projected financial position at 30 June 2024 will be satisfactory at year-end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Glen Peterkin Financial Services Section Manager Port Stephens Council

ITEM 4 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2024.

Operating Statement
Result for the financial quarter ending 31 March 2024

	Original	Revotes and	September	December	March	Revised	
	Budget	Rollovers	Review	Review	Review	Budget	Actuals YTD
	2023-2024						
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Income from Continuing Operations							
Rates and annual charges	75,284	-	-	-		75,284	56,322
User charges and fees	60,216	-	(312)	-	(400)	59,504	45,085
Interest & Investment Revenue	2,263	-	800	679	425	4,167	3,309
Other Income	4,171	-	(721)	(450)	-	2,999	1,958
Grants & contributions for operating purposes	13,458	9	1,846	1,944	-	17,256	8,574
Capital Grants and Contributions	30,294	8,913	544	2,671	5,033	47,454	25,569
Other revenues	3,471	-	577	250	-	4,299	3,628
Fair value gains	872	-	-	-	1,628	2,500	-
Net gains from the disposal of assets	250	-	-	-	-	250	-
Total Income from continuing operations	190,279	8,922	2,733	5,094	6,686	213,714	144,444
Expenses from continuing operations							
Employee benefits and on-costs	58,713	-	(135)	-	301	58,879	43,812
Borrowing Costs	3,574	-	-	-	-	3,574	2,637
Materials & services	60,866	-	1,458	4,723	(260)	66,788	46,355
Other Expenses	10,953	9	430	(4,500)	-	6,892	5,095
Depreciation and amortisation	20,529	-	(270)		-	20,259	14,096
Total expense from continuing operations	154,635	9	1,483	223	41	156,392	111,995
Operating Surplus/(Deficit) after capital grants	35,644	8,913	1,250	4,871	6,645	57,323	32,449
Operating Surplus/(Deficit) before capital grants	5,351	-	706	2,200	1,611	9,868	6,880
Less: Net Gain on sale	(250)	-	-	-	-	(250)	-
Less: Fair value increases	(872)	-	-	-	(1,628)	(2,500)	-
Less: Royalties	(1.873)	_	(527)	(250)		(2.650)	(1.816)
Less: Local Election Allocation	(250)	-	` - '		-	(250)	(188)
Less: Unspent Regional Emergency Road Repair Fund	` - '	-	-	(1,868)	-	(1,868)	(1,868)
Less: Newcastle Airport	(1,336)	-	-	-	-	(1,336)	(1,002)
Add: NAP Dividend	-	-	-	-	-	-	-
Underlying Operating Surplus/(Deficit)*	769	-	179	82	(16)	1.013	2.006
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^{*}Underlying result refers to performance measures that do not include abnormal, non-recurring events or transactions that are restricted for a capital purpose, providing a better representation of underlying financial performance without the impact of any unusual or extraordinary items.

ITEM 4 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2024.

Operating Statement Variations Result for the financial quarter ending 31 March 2024

Income from Continuing Operations	Recommended Ch \$'000	Explanation
Rates and annual charges	1	
Jser charges and fees	(400)	The delay in the implementation of smart parking has reduced the forcasted income from parking fees
nterest & Investment Revenue	425	increase in forecasted investment income due to cash holdings from investment properly sales and porfolio management
Diher Income	1	
Grants & contributions for operating purposes	11 11 9	
Capital Grants and Contributions	5,033	Council has been successful in receiving grant funds for RTCC elevator replacement, Tomaree Sports Complex Drainage and the State Government special purpose roads grant
Other revenues		
Fair value gains	1,628	Recognise movement of investment property fair value as a result of the revaluation
Net gains/(loss) from the disposal of assets		
Total recommended income change	6,686	
Expenses from continuing operations		
Employee benefits and on-costs	301	A reclassification of expenditure budgets from materials and services to employee benefits
Borrowing Costs		
Materials & services	(260)	A reclassification of expenditure budgets from materials and services to employee benefits. This is offset by an increase for planning in relation to the 7 day make over for Raymond Terrace
Other Expenses		
Depreciation and amortisation		
Total recommended expense change	41	

ITEM 4 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2024.

Capital Statement

Result for the financial quarter ending 31 March 2024

	Original Budget 2023-2024	Revotes and Rollovers	September Review	December Review	March Review	Revised Budget	Actuals YTD
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Capital Funding (2)							
Grants and Contributions - Operating	2,226	9	450	1,868	-	4,554	3,229
Grants and Contributions - Capital	19,294	8,924	544	2,671	5,033	36,465	14,457
External Reserves	5,113	6,963	3,779	(109)	1,422	17,167	39,046
Internal Reserves	9,277	24,202	1,342	1,547	279	36,647	38,046
General fund contribution to capital	-	-		121		121	121
Funding available for capital expenditure	35,910	40,097	6,114	6,098	6,734	94,954	94,899
Capital Expenditure (2)							
New Assets							
Aquatic Structures	-	-	-	-	-	-	-
Buildings	-	584	-	-	-	584	311
Commercial Assets	775	137	(45)	-	-	867	78
Corporate Assets	250	734	80	16	-	1,080	690
Drainage	-	18	310	-	-	328	-
Open Space	-	-	-	-	-	-	-
Transport Infrastructure	8,003	5,652	805	993	642	16,095	4,425
Waste Assets	285	780	-	-	-	1,065	768
Asset Renewals (Replacement) and Upgrades (1)							
Aquatic Structures	200	114	(16)	318	-	617	150
Buildings	2,855	2,531	1,540	-	1,120	8,046	4,395
Commercial Assets	3,885	15,491	-	307	40	19,723	954
Corporate Assets	2,400	2,280	(19)	320	-	4,981	3,268
Drainage	1,420	347	60	-	-	1,827	245
Open Space	1,291	1,396	493	-	1,121	4,302	1,563
Transport Infrastructure Waste Assets	8,828	10,034	2,905	4,144	3,811	29,723	17,134
Total Capital Expenditure	30,193	40.097	6,114	6,098	6,734	89,237	33,982
Transfer to reserves (3)	5,718	,		-	-	5,718	60,918

⁽¹⁾ Renewals are defined as the replacement of existing assets (as opposed to the acquisition of new assets)
(2) Excludes Newcastle Airport and related entities
(3) Transfer to reserves are funds set aside for future use

ITEM 4 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2024.

Capital Statement Variations

Result for the financial quarter ending 31 March 2024

Capital Expenditure New Assets	Recommended Ch \$'000	ange Explanation
Aquatic Structures	1 1 5	
Buildings	1 1 1	
Commercial Assets		
Corporate Assets	1.0	
Drainage		
Open Space		
Transport Infrastructure	642	Construction of Manne Drive Pathway extension, smart parking implementation and bus shelter works
Waste Assets		

Asset Renewals (Replacement) and Upgrades

Aquatic Structures	4	
Buildings	1,120	Replacement of Lakeside Leisure heat pump, building and information technology upgrades, including the EOC and shed installation at the depot
Commercial Assets	40	Upgrades to Raymond Terrace Community Care Elevator
Corporate Assets	-	~
Drainage		
Open Space	1,121	King Park Sports Complex and Maliabula Sports Complex field lighting upgrades and Tomarce Sports Complex Drainage Upgrades
Transport Intrastructure	3,811	Projects from the first year of the State Governments special purpose roads grant
Waste Assets		-

ITEM 4 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2024.

Cash Reserve Balances

This statement sets out the budgeted reserve balances and funding source changes.

Reserve	Opening Balance \$'000	Transfers in \$'000	Original Budget \$'000	Revotes and Rollovers \$'000	September Review \$'000	December Review \$1000	March Review \$'000	Closing Balance \$'000	Actuals YTD \$'000
External Restriction (1)									
Bonds and Retentions	1,429	1.0	-	- 1	-	-	-1	1,429	963
Domestic Waste	5,905	629	(365)	(806)	(98)		-	5,265	7,944
Crown Reserves	5,931	3,111	(3,898)	(1,827)	(495)	748	-	3,570	8,000
Developer Contributions	22,091	5,936	(850)	(2,477)	(3,315)	(639)	(1,422)	19,323	22,139
Unexpended Grants Reserve	10,698	26,325	(15,803)	(10,774)	(874)	(4,539)	(5,033)		7,473
Total External Restriction	46,053	36,001	(20,915)	(15,884)	(4,782)	(4,430)	(6,456)	29,588	46,519
Internal Restriction (2)									
Administration Building Reserve	550	365	(250)	1 51	(270)		(117)	278	611
Asset Rehabilitation Reserve	2,002	4,100	(3,600)	(1,465)	(283)	(187)	(199)	369	1,899
Commercial Properties Reserve	19,957	1,682	(1,000)	(17,821)	(204)	(1,055)	1	1,559	17,608
Community Loans	200	-			1.2	-	9.1	200	200
Community Halls	69	(50)				-	8.1	19	82
Orainage Reserve	491	1.629	(1,400)	(67)	(100)	1.0	4.7	553	1.576
Election Reserve	358	188			21	-	4	546	508
Employee Leave Entitlements (ELE)	1,000	44	-	-	-		÷)	1,000	1,000
Federal Assistance Grant Reserve	3,369	(3,369)			- 1-	-	-	- 1 1 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	-
leet Reserve	2,304	2,114	(2,000)	(834)	(962)	(310)	7	312	1,293
T Reserve	1,500	2,118	(400)	(2,118)	-		-	1,100	2,257
Other Waste Services Reserve	156	(134)	-	-	0.50	1.0		21	17
Parking Meters Reserve	398	1,243	(202)		(312)	(100)	(480)	547	784
Repealed Funds Reserve	2,455	-	18.	(1,381)	(52)	82.		1,021	1,802
Roads / Environmental Reserve	587	425	(425)	(516)	35	-	-	105	76
Sustainable Energy & Water Reserve	42		6/2		-	-	-	42	59
Unexpended Loan Funds Reserve	-	7	-	8.0	10.50	-	-		-
Ward Funds Reserve	29	60	(60)	(29)	+	-	-		58
Emergency & Natural Disaster	5,119	1,881	-	3.0	-	-	-	7,000	3,594
Grant Co-Contribution Reserve	586	2,414		8	121	-	= -	3,000	1,622
Resilience Fund	3,000	4		-	-		1	3,000	3,000
Total Internal Restriction	44,171	14,665	(9,337)	(24,231)	(2,149)	(1,652)	(796)	20,671	38,046
Total External and Internal Restrictions	90,225	50,666	(30,253)	(40,114)	(6,931)	(6,082)	(7,251)	50,259	84,565
Variance Cash Reserves to Bank Account Timing Difference Unrestricted Cash/(Shortfall)									(3,930) 2,998 (932)

⁽¹⁾ Funds that must be spent for a specific purpose (2) Funds that Council has designated for a specific purpose (3) Excludes Newcastle Airport and related entities and 355c Committees Bank Accounts

Performance Indicators (1)

ITEM 4 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2024.

1. Operating performance ratio	\$'000	Indicator	Benchmark	
Total continuing operating revenue excluding capital grants and contributions less operating expenses	5,781	4.86%	>0.00%	./
Total continuing operating revenue excluding capital grants and contributions	118,875	4.80%	>0.00%	v
This ratio measures Council's achievement of containing operating expenditure within operating	g revenue.			
2. Debt service cover ratio				
Operating result before capital excluding interest and depreciation/impairment/amortisation	23,613			,
Principal repayments (Statement of Cash Flows) plus borrowing costs (Income Statement)	1,982	11.91	>2.00x	V
This ratio measures the availability of operating cash to service debt including interest, principal	I and lease payments.			
3. Unrestricted Working Capital ratio				
Total Current Assets less external restrictions	44,142			,
Total Current Liabilities less external restrictions	28,847	1.53	>1.5x	✓
This ratio measures Council's ability to meet its short term obligations as they fall due.				
4. Cash expense ratio				
Cash expense ratio Current year's cash and cash equivalents plus all term deposits	80,635	0.74	0.00	
·	9,224	8.74	>3.00 mths	✓
Current year's cash and cash equivalents plus all term deposits Operating expenses less depreciation ÷ YTD days	9,224			✓
Current year's cash and cash equivalents plus all term deposits Operating expenses less depreciation + YTD days	9,224			✓
Current year's cash and cash equivalents plus all term deposits Operating expenses less depreciation + YTD days This liquidity ratio indicates the number of months Council can continue paying for its immediate	9,224			✓
Current year's cash and cash equivalents plus all term deposits Operating expenses less depreciation + YTD days This liquidity ratio indicates the number of months Council can continue paying for its immediate	9,224	itional cash infl	DW.	✓
Current year's cash and cash equivalents plus all term deposits Operating expenses less depreciation + YTD days This liquidity ratio indicates the number of months Council can continue paying for its immediate 5. Rates and annual charges outstanding percentage	9,224 e expenses without add			✓
Current year's cash and cash equivalents plus all term deposits Operating expenses less depreciation + YTD days This liquidity ratio indicates the number of months Council can continue paying for its immediate 5. Rates and annual charges outstanding percentage Rates and annual charges outstanding YTD Rates and annual charges collectable	9,224 e expenses without add 2,422 77,538	itional cash influ	DW.	✓
Current year's cash and cash equivalents plus all term deposits Operating expenses less depreciation + YTD days This liquidity ratio indicates the number of months Council can continue paying for its immediate 5. Rates and annual charges outstanding percentage Rates and annual charges outstanding YTD Rates and annual charges collectable To assess the impact of uncollected rates and annual charges on Council's liquidity and the additional charges and council's liquidity and the additional charges on the charges	9,224 e expenses without add 2,422 77,538	itional cash influ	DW.	
Current year's cash and cash equivalents plus all term deposits Operating expenses less depreciation + YTD days This liquidity ratio indicates the number of months Council can continue paying for its immediate 5. Rates and annual charges outstanding percentage Rates and annual charges outstanding YTD Rates and annual charges collectable To assess the impact of uncollected rates and annual charges on Council's liquidity and the add 6. Restricted Cash External Restrictions	9,224 e expenses without add 2,422 77,538 equacy of recovery efforms 46,519	itional cash influ	DW.	
Operating expenses less depreciation + YTD days This liquidity ratio indicates the number of months Council can continue paying for its immediate 5. Rates and annual charges outstanding percentage Rates and annual charges outstanding YTD Rates and annual charges collectable To assess the impact of uncollected rates and annual charges on Council's liquidity and the add 6. Restricted Cash	9,224 e expenses without add 2,422 77,538 equacy of recovery efforms	itional cash influ	DW.	*

(1) Excludes Newcastle Airport and related entities

ITEM 4 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2024.

Contracts and Other Expenses

Result for the financial quarter ending 31 March 2024

Councillors are currently made aware of lenders of \$250,000 or more in accordance with legislation. However, Councillors should be made aware of other material contracts entered into by Council and details of other expenses that are of particular interest.

Part A: Contracts
Contracts (other than employment contracts and contracts entered into from Council's preferred suppliers list) that:

Were entered into during the quarter ending 31 March 2024 and;

Have a value equal to or more than \$50,000.

Contractor	Contract Details and Purpose	Contract Value (inc GST)	Start Date	End Date	Budget (Y/N)
INTELLIFLEET PTY LTD	Supply 60 x 4g upgrade kits, technicians & associated costs	68,242.90	9/01/2024	30/06/2024	Υ
DATA#3 LIMITED	FT/002029 - Sophos Central Intercept & Central Firewall Integration Pack	61,557.54	9/01/2024	30/06/2024	Υ
ANNA BAY SAND & EARTHMOVING	15/01/2024 - Stockpile Removal - Sibelco Site, LTP Rd Salt Ash, Nelson Bay Rd, Anna Bay + Nelson Bay Rd, Salt Ash	81,950.00	10/01/2024	30/06/2024	Y
PKF (NS) AUDIT & ASSURANCE LIMITED PARTNERSHIP	2023/24 Internal audit services as per audit plan	60,520.00	11/01/2024	30/06/2024	Y
DELL AUSTRALIA PTY LIMITED	33x Dell Thunderbolt Dock - WD22TB4, 33x Dell Latitude 5440 XCTO Base	76,883.40	15/01/2024	30/06/2024	Υ
SHEDS N HOMES HUNTER VALLEY	RFQ120-2023 Raymond Terrace Depot Flocon Shed	77,890 00	22/01/2024	30/06/2024	Y
RAMAHCO PTY LTD	Lawson St Easement	53,556.18	23/01/2024	30/06/2024	Y
PORT STEPHENS TOURISM LTD	DPS - Council Contribution January 2024 - \$220,000	220,000.00	31/01/2024	30/06/2024	Y
DELL AUSTRALIA PTY LIMITED 33x Dell Thunderbolt Dock - WD22TB4, 33x Dell Latitude S Base		76,883.40	6/02/2024	30/06/2024	Y
PROTECHT.ERM PTY LTD	Protecht.ERM System Renewal - 12 Jan 2024 to 11 Jan 2025		12/01/2024	11/01/2025	Υ
GLN PLANNING	RFQ031-2022 Lower Hunter Floodplain - Strategic Plan		20/02/2024	30/06/2024	Y
KJ FITZ TRADING PTY LIMITED	Project Management - 12 months from 28 Feb 2024 to 28 Feb 2025	207,515.00	28/02/2024	28/02/2025	Υ
CREATIVE RECREATION SOLUTIONS PTY LIMITED	RFQ004-2024 Tomaree Sports Complex Playground	75,919.82	8/03/2024	30/06/2024	Y
ANA ASPHALT	RFQ007-2024 PSC Local Road Asphalt Patching	147,400.44	8/03/2024	30/06/2024	Y
CREATIVE RECREATION SOLUTIONS PTY LIMITED	RFQ004-2024-1 Centennial Park Playground	60,499.40	8/03/2024	30/06/2024	Y
MODUPLAY GROUP PTY LTD	RFQ009-2024 Taylors Beach Playground Replacement	110,000.00	11/03/2024	30/06/2024	Υ
STUART & DUNN OFFICE SUPPLIES	REQ008-2024 Modification of Facilities & Infrastructure section of PSC Administration Building	89,875.50	11/03/2024	30/06/2024	Υ
SCONE OUTDOORS	Supply and deliver Toro Groundsmaster 4010D, including optional LED work light kit fitted	142,520.00	14/03/2024	30/06/2024	Y
EDSTEIN CREATIVE STONE	RFQ003-2024 Clock Tower Raymond Terrace	50,817.00	14/03/2024	30/06/2024	Y
ACTIVE TREE SERVICES PTY LTD	Q134365 - 18/03/2024 - March/April Tree Works	71,500.00	19/03/2024	30/06/2024	Υ
FENWORX PTY LTD	RFQ011-2024 - Tomaree Rd, Shoal Bay - Asphalt Overlay	92,972 00	22/03/2024	30/06/2024	Y
AUDIT OFFICE OF NEW SOUTH WALES	2024 Audit Engagement	116,160.00	26/03/2024	30/06/2024	Υ

ITEM 4 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2024.

Part B: Consultancy and Legal Expenses Report shows expenditure as at 31 March 2024 for: • Consultancies

- Legal fees

For the purposes of this report, a consultancy is defined as a person or organisation engaged under contract on a temporary basis to provide recommendation or high level specialist or professional advice to assist decision making by management. Generally it is the advisory nature of the work that differentiates a consultant from other contractors.

	March Review	v
Expense	YTD \$ \$'000	Budget (Y/N)
Consultants		
Holiday Parks	1	Y
Property Development	_	
Engineering	44	Υ
Development Planning	_	
п	40	Υ
Environment	64	Y
Other	106	Y
Construction	207	Y
Total Consultancies	462	
Legal Fees		
Advice	59	Y
Litigation	88	Υ
Total Legal Fees	147	
	YTD \$	
Expense - Litigation	\$'000	
Local Government Law	8	
Environmental Law	6	
Planning & Development Law	74	
Total Litigation Expense	88	

ITEM NO. 5 FILE NO: 24/95441 EDRMS NO: PSC2017-00180

HOLIDAY PARK FURNITURE DONATION

REPORT OF: CAMERON DONALDSON - ACTING HOLIDAY PARKS SECTION

MANAGER

DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

RECOMMENDATION IS THAT COUNCIL:

 Undertake an Expression of Interest process to Not for Profit community organisations and Registered Charities to donate surplus Holiday Park furniture items to families and individuals in need across Port Stephens.

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

106	Councillor Chris Doohan Councillor Glen Dunkley
	It was resolved that Council undertake an Expression of Interest process to Not for Profit community organisations and Registered Charities to donate surplus Holiday Park furniture items to families and individuals in need across Port Stephens.

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The Port Stephens Beachside Holiday Parks are currently undertaking cabin refurbishments across the 4 Holiday Parks – Fingal Bay Holiday Park, Shoal Bay Holiday Park, Halifax Holiday Park and Thou Walla Sunset Retreat. These refurbishments and upgrades are part of an ongoing asset replacement program designed to ensure the quality of the Holiday Parks accommodation produce.

The refurbishment project will see the replacement of aging soft furnishings and cabin equipment including, lounges, dining room furniture, bedroom furniture and

various cabin appliances. Previously, attempts have been made to sell these items in line with Council's Asset Disposal Policy (ATTACHMENT 1) however, the various items have eventually been sent away as unwanted waste.

Over the past few months, the Holiday Parks team has been working across Council to find alternate solutions for the disposal of these items. The Port Stephens Homelessness Stakeholder Advocacy Group (HSAG) was established to support a coordinated approach to addressing the impacts of homelessness in Port Stephens. The HSAG have developed a 12 month action plan which includes a number of priorities including priority 1.2 - Identify low cost, immediate solutions to support those in need across Port Stephens.

The refurbishment project presents a unique opportunity for Council to provide direct support to those in need. The donation of furniture and whitegoods would provide immediate assistance to those setting up a home or moving into different housing types.

The process will occur over the coming weeks whilst the Capital Works Program is in operation during the low season.

It is proposed that this donation be managed through an Expression of Interest (EOI) process which targets community organisations and charities only. These organisations would then distribute the items to the local community.

The EOI process would set parameters around distribution and will only be open to Not for Profit community organisations and Registered Charities operating in Port Stephens.

It is proposed the EOI process aligns with the furniture disposal timelines.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Implement the 2022 to 2025 Delivery Plans for Beachside Holiday Parks and Koala Sanctuary.

FINANCIAL/RESOURCE IMPLICATIONS

Council have previously replaced furniture and whitegoods across the Holiday Parks. Attempts were made to have these items managed and sold through an auction house, however, this was not successful. Those items that could not be reused by the Holiday Parks were sent to general waste. This resulted in a disposal cost to Council.

It is proposed that Council would support the transport of these items to the various organisations, if required. The costs associated with this transport would be funded via the Holiday Parks budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$10,000	Estimated cost for storage and transportation of surplus Holiday Park furniture, whitegoods, furnishings and other items to Not for Profit organisations or Registered Charities operating in Port Stephens. These works are being funded from the Crown Reserve.
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the Expression of Interest process is not in line with the Asset Disposal Policy.	Low	An Expression of Interest process would ensure transparency and equity of distribution.	Yes
There is a risk that Council may incur additional costs if the Expression of Interest is not successful and items are required to be stored and/or disposed of.	Low	The Expression of Interest will be advertised through normal engagement methods and include consultation with relevant advisory groups.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The project supports Council's sustainability goals by reducing waste and extending the life of furniture items that may normally go to landfill.

By working with community organisations to distribute the furniture at no cost there is potential for positive social impacts, particularly for disadvantaged residents of Port

Stephens. Cost of living pressures mean that setting up a house with basic furniture items can be difficult and out of reach for many.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Holiday Parks Section.

<u>Internal</u>

- · Communications Section.
- Financial Services Section.

External

- Homelessness Stakeholder Advisory Group.
- · Community organisations in Port Stephens.

OPTIONS

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

ATTACHMENTS

1) Asset Disposal Policy.

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.





FILE NO: PSC2009-02488

TITLE: ASSET DISPOSAL (OTHER THAN PROPERTY) POLICY

POLICY OWNER: FINANCIAL SERVICES SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to provide a systematic and accountable method to Council officials (Councillors, staff and delegates of Council) for the disposal of surplus assets, excluding real property, and to ensure the process is transparent and complies with Council's Code of Conduct, Statement of Business Ethics and Financial Business Rules.
- 1.2 Environmentally sustainable asset disposal results in minimisation of unnecessary purchasing, waste minimisation, water and energy saving, pollution minimisation, avoidance of toxic chemicals, reduction in greenhouse gases and decision making that incorporates biodiversity and conservation objectives.

2. CONTEXT/BACKGROUND:

2.1 The Asset Disposal (other than property) Policy is required to ensure that the disposal of Council assets is ethical, transparent and accountable. The policy is supported by the Asset Disposal (other than property) Management Directive that prescribes the considerations and processes to be applied in the disposal of Council owned assets.

SCOPE:

- 3.1 This policy has been written considering the following principles:
- a) High standards of behaviour and ethics are required of all parties to asset disposal activities.
- b) Asset disposal activities aim to be efficient, effective and balance risk and total cost.
- c) Due economy shall be exercised in all asset disposal decisions.
- Asset disposal decisions shall consider relevant evaluation criteria including environmental sustainability, the support of registered disability employers and the support of local industry.

4. DEFINITIONS:

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

Asset A resource

A resource with economic value that an individual, corporation or country owns or controls with the exception that it will provide future benefit.



Page: 1 of 5





POLICY STATEMENT:

Surplus assets will be disposed of in a cost effective manner that complies with relevant regulations in a fair, transparent, environmentally sustainable manner to maximise financial return to Council. Prior to the disposal, assets will be reviewed in order to ascertain whether they have alternative uses within Council, contain hazardous materials or identifying marks. Council has adopted a Statement of Business Ethics that sets out the high ethical standards expected of Council officials and delegates, contractors and business associates.

6. **POLICY RESPONSIBILITIES:**

- Financial Services Section Manager, Finance Acquisitions Coordinator, and the Procurement and Contract Management Specialist are responsible for the implementation, compliance of, monitoring, evaluating, reviewing and providing advice on this policy.
- Section Managers, Civil Assets Manager and all relevant employees are responsible for complying with this policy.

RELATED DOCUMENTS: 7.

- 7.1. Local Government Act 1993 (NSW).
- 7.2. Local Government (General) Regulation 2021 (NSW).
- 7.3. Competition and Consumer Act 2010 (Cth).
- 7.4. Code of Conduct.
- 7.5. Statement of Business Ethics.7.6. Procurement Policy.
- 7.7. Fraud and Corruption Control Policy.
- 7.8. Procurement Management Directive.
- 7.9. Asset Disposal Management Directive.
- 7.10. Financial Business Rules.
- 7.11. Environment Policy.
- 7.12. Asset Management Policy.
- 7.13. NSW Government Sustainability Policy.
- 7.14. NSW Government Code of Practice.
- 7.15. NSW Government Procurement Policy framework.



Page: 2 of 5

Policy



CONTROLLED DOCUMENT INFORMATION:

	document, check it is the	of this document may not be latest version; refer to Counc	
EDRMS container No	PSC2009-02488	EDRMS record No	21/327656
Audience	Council staff		,
Process owner	Financial Services Section Manager		
Author	Financial Services Section Manager		
Review timeframe	3 years	Next review date	October 2024
Adoption date	25/03/2014	1	

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	25/03/14	Financial Services Section Manager	Policy adopted.	63
2.0	27/11/15	Financial Services Section Manager	This policy has been reviewed and formatted into the new template.	
3.0	09/02/2016	Financial Services Section Manager	Policy adopted.	019
4.0 12/12/2017 Financial Services Section Manager		[[] [] [] [] [] [] [] [] [] [Updated references from TRIM to RM8. Updated RM8 record number from PSC2009-02488/486 to 17/198654. Added Financial Business Rules to the Purpose. Added Procurement Management Directive, Asset Disposal Management Directive, and	317



Policy



5.0	12/11/2019	Financial Services Section Manager	Updated policy into the current format. 6.0 – Updated Policy	208
			Responsibilities as follows:	
			Removed – 6.1 Section Managers	
			Added - 6.1 Financial Services Section Manager, Financial Expenditure Coordinator and Procurement and Contract Management Specialist are responsible for the implementation, compliance of, monitoring, evaluating, reviewing and providing advice on this policy.	
			Removed - 6.2 Expenditure Coordinator	
		Added - 6.2 Section Managers, Civil Assets Planning Manager and all relevant employees are responsible for complying with this policy.		
			6.3 - Removed 'Contractor'	
			6.3 - Added 'Contract'	
			Removed - 6.3 Procurement and Contractor Contract Management Specialist.	
			6.4 Asset Section Manager.	
			6.5 Civil Assets Planning Manager.	
		Added '6.4 Asset Section Manager'		
			Added '6.5 Civil Assets Planning Manager'	
			Added '7.11 Environment Policy.'	
			Added '7.12 Asset Management Policy.'	
			Added '7.13 NSW Government Sustainability Policy.'	



Policy



			Added '7.14 NSW Government Code of Practice.' Added '7.15 NSW Government Procurement Policy framework.' Updated EDRMS record number in version history.	
6.0	26 October 2021	Financial Services Section Manager	Updated policy into the new template. 6.1 – Removed 'Expenditure' to reflect current naming convention of position title. 6.2 – Removed 'Planning' to reflect current naming convention of position title. 7.2 – updated Local Government (General) Regulation 2021 (NSW) to current. Controlled document information: Amended review timeframe to 3 years as per Council's policy review process.	286



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ITEM NO. 6 FILE NO: 24/107971 EDRMS NO: PSC2005-4245

POLICY REVIEW: BEACHSIDE HOLIDAY PARKS TERMS, RULES AND CONDITIONS POLICY

REPORT OF: CAMERON DONALDSON - ACTING HOLIDAY PARKS SECTION

MANAGER

DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

.....

RECOMMENDATION IS THAT COUNCIL:

1) Endorse the revised Beachside Holiday Parks Terms, Rules and Conditions Policy shown at **(ATTACHMENT 1)**.

- 2) Place the revised Beachside Holiday Parks Terms, Rules and Conditions Policy on public exhibition for a period of 28 days, and should no submissions be received, the policy be adopted without a further report to Council.
- 3) Revoke the Beachside Holiday Parks Terms, Rules and Conditions Policy dated 10 August 2021, Minute Number 211 should no submissions be received.

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

107 Councillor Chris Doohan Councillor Peter Kafer

It was resolved that Council:

- 1) Endorse the revised Beachside Holiday Parks Terms, Rules and Conditions Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Beachside Holiday Parks Terms, Rules and Conditions Policy on public exhibition for a period of 28 days, and should no submissions be received, the policy be adopted without a further report to Council.
- 3) Revoke the Beachside Holiday Parks Terms, Rules and Conditions Policy dated 10 August 2021, Minute Number 211 should no submissions be received.

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Beachside Holiday Parks Terms, Rules and Conditions Policy (the policy) (ATTACHMENT 1).

The policy provides consistency and clarity for the process of applying and managing the Beachside Holiday Parks terms and conditions relating to guest bookings, guests whilst onsite and holiday van owners (HVO) and is in keeping with relevant industry practice.

The nature of the Holiday Parks business requires a suite of documents that can be communicated clearly to guests and other stakeholders at the beginning of the business relationship and enforced when required to uphold our reputation and good business practice.

These documents include the Beachside Holiday Parks Terms and Conditions which outline a range of booking information including payments, arrival information and expected guest behaviour. The Beachside Holiday Parks - Park Rules provide more details about how guests ensure they stay safe and enjoy their holiday and the Beachside Holiday Parks Cancellation Conditions clearly outline monies that are non-refundable should guests need to cancel their booking.

The general principles of these documents are based on fairness, equity and safety and benchmarked against leading industry associations.

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
	Implement the 2022 to 2025 Delivery Plans for Beachside Holiday Parks and Koala Sanctuary.

FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	No		

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal implications associated with this recommendation as the practice followed is in keeping with industry standards.

These documents ensure that staff can confidently uphold best business practice and ensure guest safety at all times.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk to Council's reputation if Council is not consistent when enforcing the Beachside Holiday Parks Terms and Conditions, Park Rules and Cancellation Conditions.	Low	Adopt the recommendations.	Yes
There is a risk to guests and holiday van owners if park rules are not followed.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no sustainability implications.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Holiday Parks Section.

<u>Internal</u>

• The Executive Team have been consulted to seek management endorsement.

External

• Industry associations – CCIA (Caravan and Camping Industry Association).

In accordance with local government legislation the revised Beachside Holiday Parks Terms, Rules and Conditions Policy will go on public exhibition for a period of 28 days. A copy will be provided to holiday van owners.

OPTIONS

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

ATTACHMENTS

1) Revised Beachside Holiday Parks Terms, Rules and Conditions Policy.

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM 6 - ATTACHMENT 1 REVISED BEACHSIDE HOLIDAY PARKS TERMS, RULES AND CONDITIONS POLICY.





FILE NO: PSC2005-4245

TITLE: BEACHSIDE HOLIDAY PARKS TERMS, RULES &

CONDITIONS POLICY

OWNER: HOLIDAY PARKS SECTION MANAGER

PURPOSE:

1.1 The purpose of this policy is to outline Port Stephens Beachside Holiday Parks approach to the application of all terms and conditions relating to guest bookings, guest's onsite and holiday van owners (HVO). The policy relates to the management and upholding of the Beachside Holiday Parks (BSHP) Terms and Conditions, Cancellation Conditions and Park Rules in keeping with relevant industry practice.

2. CONTEXT/BACKGROUND:

- 2.1 The nature of our business requires a suite of documents that can be communicated clearly to guests and other stakeholders at the beginning of our business relationship and enforced, when required, to uphold our reputation and good business practice.
- 2.2 These documents include the Beachside Holiday Parks (BSHP) Terms and Conditions which outlines a range of booking information including payments, arrival information and expected guest behaviour. The BSHP Park Rules provides more details about how guests ensure they stay safe and enjoy their holiday and the BSHP Cancellation Conditions clearly outlines monies that are non-refundable should guests need to cancel their booking.
- 2.3 The general principles of these documents are based on fairness, equity and safety and benchmarked against leading industry associations.

3. SCOPE:

3.1 This policy provides guidance for all matters relating to guest bookings, booking cancellations and the expected behaviour of all guests and holiday van owners while staying at the Beachside Holiday Parks. The development of these documents has been guided by industry standards and the key principles of good business practice, fairness and the overall enjoyment of all guests.



ITEM 6 - ATTACHMENT 1 REVISED BEACHSIDE HOLIDAY PARKS TERMS, RULES AND CONDITIONS POLICY.





4. DEFINITIONS:

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

Beachside Holiday Parks Fingal Bay, Shoal Bay, Halifax, Thou Walla, Port

Stephens Koala Sanctuary.

Guest A person or persons who are staying onsite at one of

our the Beachside Holiday Parks.

Holiday Van Owner Short term resident of the Beachside Holiday Parks.

Leading Industry Associations Caravan and Camping Industry Association.

5. STATEMENT:

- 5.1 Beachside Holiday Parks will carry out its responsibilities to administer the Terms and Conditions, Park Rules and Cancellation Conditions and ensure:
- All relevant policies and conditions are communicated clearly to all guests, holiday van owners and other stakeholders.
- b) Staff are consistent in their approach and understanding of all documents.
- All staff are capable of escalating relevant matters to senior managers for resolution.
- 5.2 A review of the Terms and Conditions, Park Rules and Cancellation Conditions will be undertaken annually in keeping with industry practice.

6. RESPONSIBILITIES:

- 6.1 The overall responsibility for the policy is with the Holiday Parks Section Manager with implementation primarily via the Beachside Holiday Parks Operations Manager, Commercial Business Manager and the Koala Sanctuary Assistant Manager.
- 6.2 The key position/s responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy include Holiday Park Aassistant Mmanagers, all Guesteustomer Services Oefficers and Seales and Reservations Oefficers, grounds team leaders and grounds officers.

7. RELATED DOCUMENTS:

- 7.1 Holiday Van Owners Standard Operating Procedures (PSC).
- 7.2 Holiday Van Owners Annual Occupancy Agreement (PSC).
- 7.3 Crown Lands Management Act 2016.
- 7.4 Beachside Holiday Parks Plans of Management (PSC).



2

ITEM 6 - ATTACHMENT 1 REVISED BEACHSIDE HOLIDAY PARKS TERMS, RULES AND CONDITIONS POLICY.

Policy



- 7.5 Local Government Act 1993.
- 7.6 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 2005.
- 7.7 Holiday Parks (Long-term Casual Occupation) Act 2002 (NSW).

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website: www.portstephens.nsw.gov.au . EDRMS container PSC2005-4245 EDRMS record No. TBA No. Audience Council staff and the Community Process owner Holiday Parks Section Manager Author Holiday Parks Section Manager Review timeframe 3 years Next review date TBA Adoption date 10 August 2021

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	10 August 2021	Holiday Parks Section Manager.	New Policy.	211
2	ТВА	Holiday Parks Section Manager.	1.1, 2.2 and 4.1 – added 'the' when referencing Beachside Holiday Parks.	TBA
			6.1, 6.2 – position titles updated to reflect current.	
			7.6 – Updated year to current version.	
			7.7 – Added Holiday Parks (Long-term Casual Occupation) Act 2002 (NSW).	



ITEM NO. 7 FILE NO: 23/281854 EDRMS NO: PSC2021-04206

REQUESTS FOR FINANCIAL ASSISTANCE

REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER

DIRECTORATE: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Ward funds to the following:-

- a) Fight Motor Neurone Disease (Fight MND) Central Ward funds \$500 donation towards freight costs associated with equipment for the Fight MND Big Freeze fundraising event at Tanilba Bay.
- b) Hinton Wallalong District Pony Club Cr Giacomo Arnott Rapid response \$500 donation towards 2024-2025 annual licence fee.
- c) Raymond Terrace RSL Sub-Branch West Ward funds \$3,690 donation towards equipment hire for ANZAC Day commemoration service.

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ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

108 Councillor Peter Kafer Councillor Chris Doohan

It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Ward funds to the following:-

- a) Fight Motor Neurone Disease (Fight MND) Central Ward funds -\$500 donation towards freight costs associated with equipment for the Fight MND Big Freeze fundraising event at Tanilba Bay.
- b) Hinton Wallalong District Pony Club Cr Giacomo Arnott Rapid response \$500 donation towards 2024-2025 annual licence fee.
- c) Raymond Terrace RSL Sub-Branch West Ward funds \$3,690 donation towards equipment hire for ANZAC Day commemoration service.

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by the Mayor and or Councillors as deserving of public funding. The Grants and Donations Policy gives the Mayor and Councillors a wide discretion either to grant or to refuse any requests.

Council's Grants and Donations Policy provides the community, the Mayor and Councillors with a number of options when seeking financial assistance from Council. Those options being:

- 1) Mayoral Funds
- 2) Rapid Response
- 3) Community Financial Assistance Grants (bi-annually)
- 4) Community Capacity Building

Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the Local Government Act 1993. This would mean that the financial assistance would need to be included in the Operational Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

The requests for financial assistance are shown below:

WARD FUNDS

Fight Motor Neurone Disease (Fight MND)	An organisation dedicated to funding research and raising awareness for those in the community affected by motor neurone disease.	\$500	Donation towards freight costs associated with equipment for the Fight MND Big Freeze fundraising event at Tanilba Bay.
Hinton Wallalong District Pony Club	A small, family friendly pony club offering instruction and activities.	\$500	Donation towards 2024-2025 annual licence fee.
Raymond Terrace RSL Sub-Branch	An ex-service organisation tasked with the wellbeing, care and commemoration of ex-serving	\$3,690	Donation towards equipment hire for ANZAC Day commemoration service.

Defence Force	
personnel and	
their dependants.	

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
	Provide the Community Financial Assistance Program

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

To qualify for assistance under Section 356(1) of the Local Government Act 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function, which it, the Council, would otherwise undertake.
- b) the funding will directly benefit the community of Port Stephens.
- c) applicants do not act for private gain.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those funds will always be available.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Consultation with key stakeholders has been undertaken by the General Manager's Office.

Consultation has been undertaken with the key stakeholders to ensure budget requirements are met and approved.

OPTIONS

- 1) Accept the recommendations.
- 2) Vary the dollar amount before granting each or any request.
- 3) Decline to fund the request.

ATTACHMENTS

Nil.

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 8 FILE NO: 24/111034

EDRMS NO: PSC2022-02308

INFORMATION PAPERS

REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER

DIRECTORATE: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 28 May 2024.

No:	Report Title	Page:
1 2 3 4 5	Cash and Investment Portfolio - April 2024 Designated Persons' Return Annual Disclosure of Interest Returns for 2024 to 2025 Delegations Report Council Resolutions	227 237 238 241 243

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

109	Councillor Chris Doohan Councillor Jason Wells					
	It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 28 May 2024.					
	No:	Report Title				
	1	Cash and Investment Portfolio - April 2024				
	2	Designated Persons' Return				
	3	Annual Disclosure of Interest Returns for 2024 to 2025				
	4	Delegations Report				
	5	Council Resolutions				

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

Those against the Motion: Nil.

The motion was carried.

INFORMATION PAPERS

ITEM NO. 1 FILE NO: 23/342428

EDRMS NO: PSC2017-00180

CASH AND INVESTMENT PORTFOLIO - APRIL 2024

REPORT OF: GLEN PETERKIN – ACTING DIRECTOR CORPORATE

STRATEGY AND SUPPORT

DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 30 April 2024.

Council's total portfolio of investments was \$75.7 million with an additional \$1.5 million held in Council's operational account as at 30 April 2024.

The investment portfolio is currently yielding 4.92% p.a. on a rolling 1 year performance, which was 0.68% above the benchmark with investment income on target to meet or exceed budget.

The investment portfolio meets the benchmarks for institution exposure and maturity limits but is outside of the benchmark in relation to rating exposure. As at 30 April 2024 Council held 2% more cash with non-rated institutions than the benchmarks allow for, which is due to the overall portfolio holdings decreasing from the normal consumption of cash during the month. No further investments will be placed with non-rated institutions until the benchmark is reached.

ATTACHMENTS

1) Cash Investment Portfolio - 30 April 2024.

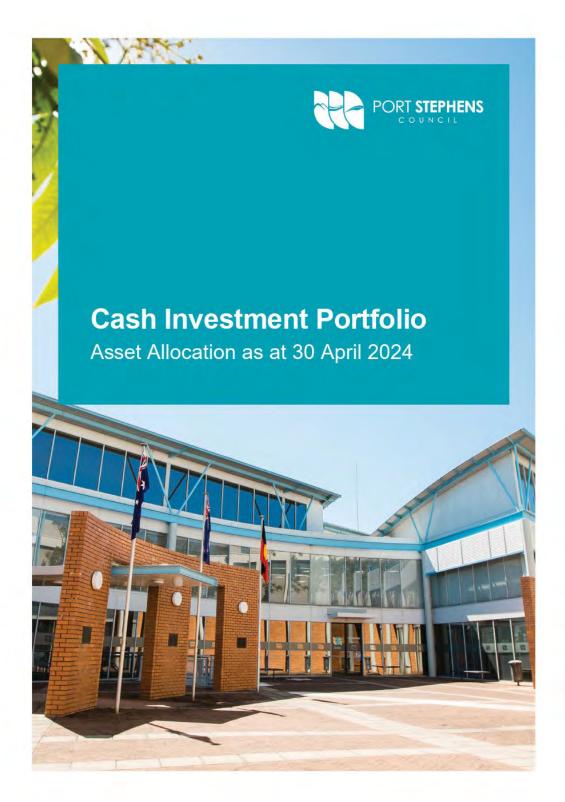
COUNCILLORS' ROOM

Nil.

TABLED DOCUMENTS

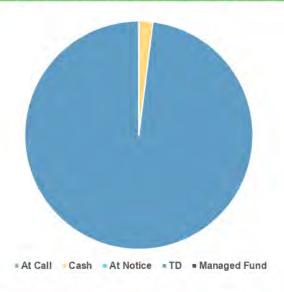
Nil.

ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - 30 APRIL 2024.



ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - 30 APRIL 2024.

Cash Investment Portfolio Holdings

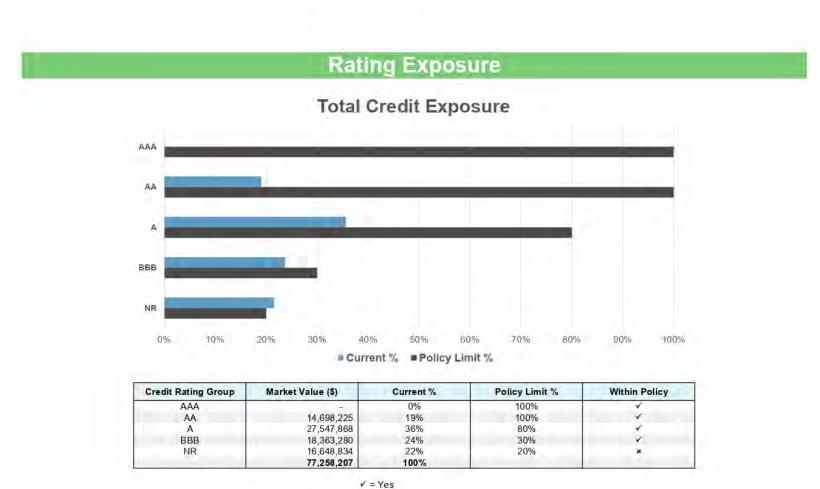


Product Type	Market Value (\$)	Within Policy
At Call		
Cash	1,533,296	✓
At Notice	(7.72.537)	
TD	75,724,911	1
Managed Fund		
	77,258,207	

✓ = Yes

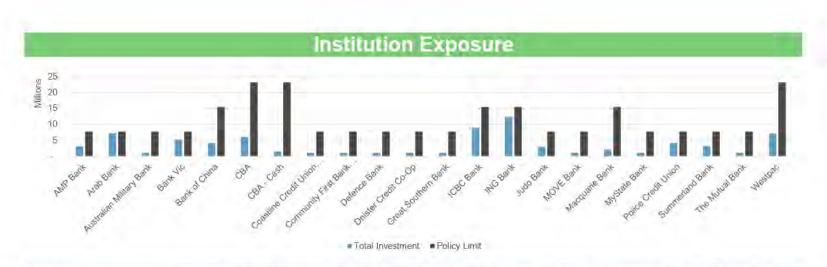
× = No

ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - 30 APRIL 2024.



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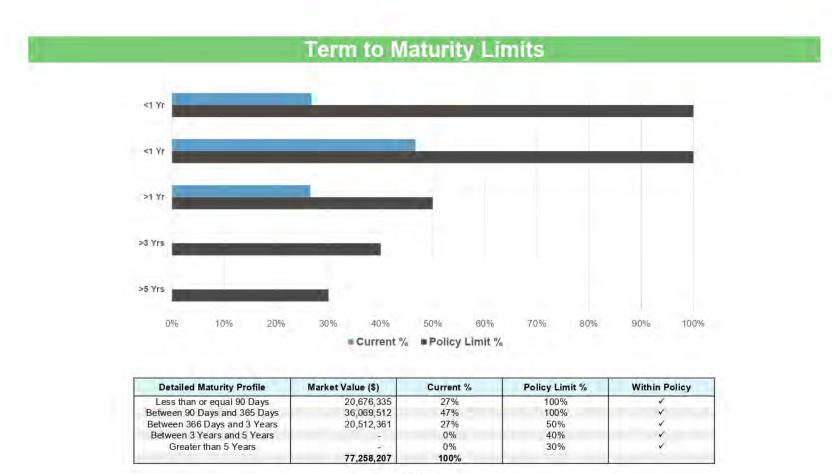
ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - 30 APRIL 2024.



Institution	Rating	Total Investment	Exposure	Policy Limit	Remaining to Limit	Within Policy
AMP Bank	BBB	3,088,979	4%	10%	4,636,841	1
Arab Bank	NR	7,227,984	9%	10%	497,837	V
Australian Military Bank	BBB	1,038,262	1%	10%	6,687,559	V
Bank Vic	BBB	5,157,861	7%	10%	2,567,959	1
Bank of China	Α	4,101,985	5%	20%	11,349,656	V
CBA	AA	6,075,680	8%	30%	17,101,782	V
CBA - Cash	AA	1,533,296	2%	30%	21,644,166	1
Coastline Credit Union Limited	BBB	1,008,440	1%	10%	6,717,381	V
Community First Bank Ltd	BBB	1,008,406	1%	10%	6,717,414	V
Defence Bank	BBB	1,048,958	1%	10%	6,676,863	1
Dnister Credit Co-Op	NR	1,022,960	1%	10%	6,702,860	1
Great Southern Bank	BBB	1,034,808	1%	10%	6,691,013	V
ICBC Bank	Α	9,013,463	12%	20%	6,438,178	V
ING Bank	Α	12,374,183	16%	20%	3,077,458	V
Judo Bank	BBB	2,920,818	4%	10%	4,805,003	V
MOVE Bank	NR	1,047,973	1%	10%	6,677,848	V
Macquarie Bank	A	2,058,236	3%	20%	13,393,405	V.
MyState Bank	BBB	1,007,964	1%	10%	6,717,856	1
Police Credit Union	NR	4,159,402	5%	10%	3,566,419	V
Summerland Bank	NR	3,190,515	4%	10%	4,535,306	1
The Mutual Bank	BBB	1,048,784	1%	10%	6,677,037	1
Westpac	AA	7,089,249	9%	30%	16,088,213	V
Total		77,258,207				

√ = Yes × = No

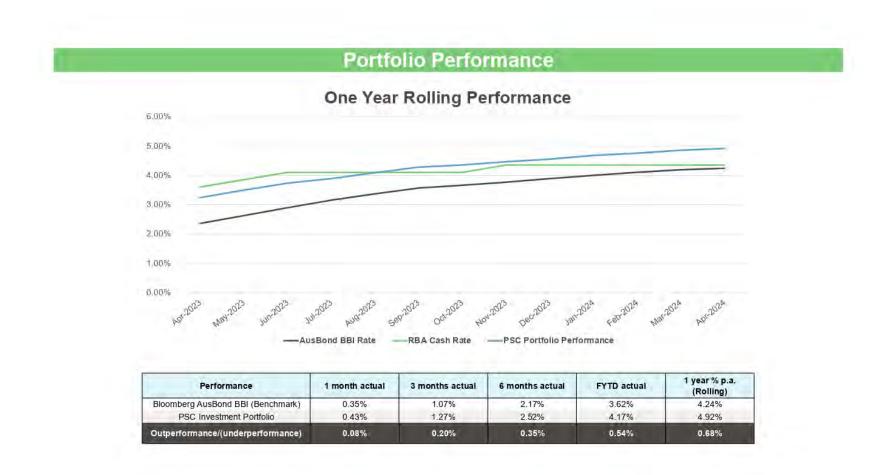
ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - 30 APRIL 2024.



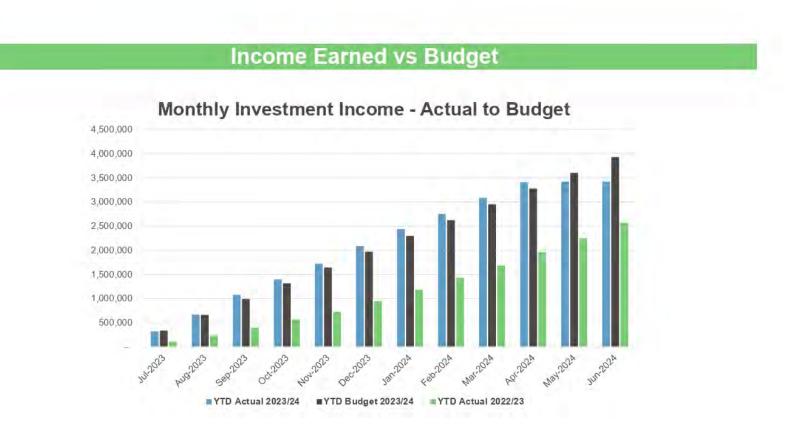
✓ = Yes

× = No

ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - 30 APRIL 2024.



ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - 30 APRIL 2024.



ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - 30 APRIL 2024.

Institution	Market Value	Days Held	Interest Rate	Date Invested	Maturity Date	Rating
CBA - Cash	1,533,296	- 1	Diame	30/04/2024	1/05/2024	AA
Judo Bank	825,606	746	3.35%	22/04/2022	7/05/2024	BBB
CBC Bank	9,013,463	-32	4.55%	18/04/2024	20/05/2024	A
Macquarie Bank	1,028,876	627	4.41%	1/09/2022	20/05/2024	A
CBA	1,003,695	475	4.65%	7/02/2023	27/05/2024	AA
ING Bank	1,046,349	377	5.05%	31/05/2023	11/06/2024	A
Macquarie Bank	1,029,360	649	4.41%	1/09/2022	11/06/2024	A
NG Bank	1,046,349	383	5.05%	31/05/2023	17/06/2024	A
The Mutual Bank	1,048,784	362	5.80%	28/06/2023	24/06/2024	BBB
ING Bank	1,045,970	384	5.10%	6/06/2023	24/06/2024	A
ING Bank	1,046,603	376	5.67%	5/07/2023	15/07/2024	A
Westpac	1,007,985	692	4.35%	23/08/2022	15/07/2024	AA
Police Credit Union	1,010,453	538	5.02%	14/02/2023	5/08/2024	NR
Westpac	1,010,455	538	5.01%	21/02/2023	12/08/2024	AA
Defence Bank	1,048,958	479	4.95%	5/05/2023	26/08/2024	BBB
CBA	1,017,951	396	5.46%	3/08/2023	2/09/2024	AA
Bank Vic	1,056,664	544	5.02%	15/03/2023	9/09/2024	BBB
Police Credit Union	1,049,650	500	5.02%	5/05/2023	16/09/2024	NR
Police Credit Union	1,049,650	507	5.02%	5/05/2023	23/09/2024	NR
CBA	1,017,819	424	5.42%	3/08/2023	30/09/2024	AA
NG Bank	1,016,027	655	4.68%	23/12/2022	8/10/2024	A
Great Southern Bank	1,034,808	409	5.25%	1/09/2023	14/10/2024	BBB
NG Bank	1,016,298	661	4.70%	23/12/2022	14/10/2024	A
CBA	1,016,964	416	5.16%	1/09/2023	21/10/2024	AA
Westpac	1,011,411	732	4.90%	3/11/2022	4/11/2024	AA
Summerland Bank	1,066,756	719	4.65%	23/11/2022	11/11/2024	NR
Summerland Bank	1,066,756	726	4.65%	23/11/2022	18/11/2024	NR
NG Bank	1,018,247	724	4.50%	2/12/2022	25/11/2024	A
NG Bank	1,018,616	738	4.50%	2/12/2022	9/12/2024	A
CBA	1.015.485	731	4.71%	20/12/2022	20/12/2024	AA
Police Credit Union	1,049,650	612	5.02%	5/05/2023	6/01/2025	NR
ING Bank	1.044.888	587	4.98%	6/06/2023	13/01/2025	A
Westpac	1.007.504	594	4.98%	6/06/2023	20/01/2025	AA
Judo Bank	1,048,363	579	5.75%	28/06/2023	27/01/2025	BBB
			4.98%			
Westpac	1,007,504	602		6/06/2023	28/01/2025	AA
Arab Bank	1,049,036	593	5.83%	28/06/2023	10/02/2025	NR
CBA	1,003,766	733	4.74%	8/02/2023	10/02/2025	AA
Bank Vic	1,034,013	535	5.13%	1/09/2023	17/02/2025	BBB
Arab Bank	1,034,212	.542	5.16%	1/09/2023	24/02/2025	NR
Arab Bank	1,049,036	607	5.83%	28/06/2023	24/02/2025	NR
Bank of China	1,033,946	556	5.12%	1/09/2023	10/03/2025	A
Summerland Bank	1,057,003	726	5.05%	15/03/2023	10/03/2025	NR
Arab Bank	1,034,212	563	5.16%	1/09/2023	17/03/2025	NR
Westpac	1,032,114	550	5.28%	21/09/2023	24/03/2025	AA
NG Bank	1,027,925	515	5.48%	27/10/2023	25/03/2025	A
Westpac	1,013,260	515	5.50%	2/11/2023	31/03/2025	ĀĀ
AMP Bank	1,001,096	732	5.00%	20/04/2023	21/04/2025	BBB
AMP Bank	1,048,904	727	5.00%	9/05/2023	5/05/2025	BBB
MOVE Bank	1,047,973	731	5.15%	26/05/2023	26/05/2025	NR
Arab Bank	1,023,139	559	5.52%	29/11/2023	10/06/2025	NR
NG Bank	1,008,285	479	5.04%	1/03/2024	23/06/2025	Α
Judo Bank	1,046,849	733	5.70%	5/07/2023	7/07/2025	BBB
MyState Bank	1,007,964	497	5.10%	4/03/2024	14/07/2025	BBB
AMP Bank	1,038,979	725	5.25%	3/08/2023	28/07/2025	BBB
Australian Military Bank	1,038,262	726	5.27%	9/08/2023	4/08/2025	BBB
NG Bank	1,038,625	734	5.30%	8/08/2023	11/08/2025	A
Bank of China	1,033,946	717	5.12%	1/09/2023	18/08/2025	A
Bank of China	1,033,946	724	5.12%	1/09/2023	25/08/2025	A
		647	5.55%		8/09/2025	NR
Onister Credit Co-Op	1,022,960			1/12/2023		
Arab Bank	1,023,084	661	5,58%	1/12/2023	22/09/2025	NR
Community First Bank Ltd	1,008,406	586	5.03%	29/02/2024	7/10/2025	BBB
Bank Vic	1,022,340	696	5.40%	1/12/2023	27/10/2025	BBB
Bank Vic	1,022,422	703	5.42%	1/12/2023	3/11/2025	BBB
Bank Vic	1,022,422	717	5.42%	1/12/2023	17/11/2025	BBB
Coastline Credit Union Limited	1,008,440	655	5.05%	29/02/2024	15/12/2025	BBB
Arab Bank	1,015,266	733	5.02%	10/01/2024	12/01/2026	NR
Bank of China	1,000,147	735	5.35%	29/04/2024	4/05/2026	A
Total	77.258,207	/ 33	0.3070	23/04/2024	4/03/2020	

Restricted Cash

Reserve	As at April 2024 \$'000
External	
Deposits, retentions and bonds	970
Grants and Contributions	6,691
Developer contributions (inc Haulage)	22,009
Domestic Waste Management	7,737
Crown Reserve	7,553
Internal	
Asset Rehab/Reseals	2,069
Drainage	1,708
Commercial Property	17,364
Election Reserve	525
Employee Leave Entitlements (ELE)	1,000
Fleet	1,077
Resilience fund	3,000
Grants Co-contribution	204
Emergency & Natural Disaster	3,473
Other Waste	35
Council Parking	846
IT.	2,062
Sustainable energy and water reserve	61
Repealed	1,947
Transport levy	111
Admin Building	601
Ward Funds	62
Community Halls	87
Community Loans	200
Total	81,392
Cash and Investment Report	77,258
Variance Cash Reserves to Bank Account	(4,134)
Variance Due to:	
Oustanding Debtors	417
Loans not funded through a reserve	251
Outstanding GST refund	364
Total Variance	1,032
Unrestricted Cash/(Shortfall)	(3,102)
(due to timing of income and expenditure)	

ITEM NO. 2 FILE NO: 24/77333

EDRMS NO: PSC2023-01217

DESIGNATED PERSONS' RETURN

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER

DIRECTORATE: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to table Councillor and Designated Persons' Return/s (return) submitted.

In accordance with Part 4 – Pecuniary Interest of the Code of Conduct, all designated persons are required to submit a return. Returns are to be tabled at the first Council meeting after the lodgement date.

The following is a list of position/s who have submitted return/s:

- Audit Risk and Improvement Committee independent member Frank Cordingley.
- Audit Risk and Improvement Committee independent member Paul Dunn.

ATTACHMENTS

Nil.

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

1) Designated Persons' Return.

ITEM NO. 3 FILE NO: 24/81271

EDRMS NO: PSC2024-01273

ANNUAL DISCLOSURE OF INTEREST RETURNS FOR 2024 TO 2025

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER

DIRECTORATE: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to advise Council of the Mayor, Councillors and persons designated for the submission of pecuniary interest returns for the period 1 July 2024 to 30 June 2025.

Elected Members*

Mayor Ryan Palmer

Cr Leah Anderson

Cr Giacomo Arnott

Cr Matthew Bailey

Cr Glen Dunkley

Cr Chris Doohan

Cr Peter Francis

Cr Peter Kafer

Cr Steve Tucker

Cr Jason Wells

Audit, Risk and Improvement Committee

Chairperson Independent members (2)

General Manager's Office

General Manager Governance Section Manager Legal Services Manager Lawyer

^{*}The period covering the Mayor and Councillors will be subject to the outcome of the 2024 local government election. Those elected at the election will be required to submit a disclosure of interest return for the remainder of the period.

Corporate Strategy and Support

Business Development & Marketing Manager

Director Corporate Strategy and Support

Financial Services Section Manager

Holiday Parks Section Manager

Organisation Support Section Manager

Principal Property Planner

Strategic Property Coordinator

Community Futures

Building & Certification Coordinator

Building Surveyor (5)

Building Surveyor (Fire Safety)

Cadet Environmental Health Officer

Communications and Customer Experience Section Manager

Compliance Coordinator

Development and Compliance Section Manager

Development Compliance Officer (3)

Development Planner (3)

Development Planning Coordinator

Director Community Futures

Environmental Health Officer (2)

Environmental Health Team Leader

Environmental Officer (2)

Environmental Planner (2)

Environmental Planning Team Leader

Environmental Strategy Team Leader

Environmental Management Team Leader

Natural Systems Coordinator

Principal Building Surveyor

Principal Strategic Planner

Ranger (4)

Ranger Team Leader

Senior Building Surveyor

Senior Building Surveyor – Certifications

Senor Building Surveyor (Fire Safety)

Senior Development Planner (2)

Senior Environmental Health Officer

Senior Ranger

Senior Strategic Planner (2)

Senior Strategic Planner – Growth and Infrastructure

Strategic Planner (3)

Strategic Planning Coordinator

Strategy and Environment Section Manager

Sustainability Officer

Vibrant Places Team Leader

Facilities and Infrastructure

Assets Section Manager
Capital Works Section Manager
Community Services Section Manager
Director Facilities and Infrastructure
Public Domain and Services Section Manager
Senior Development Engineer

ATTACHMENTS

Nil.

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 4 FILE NO: 24/27768

EDRMS NO: PSC2009-00965

DELEGATIONS REPORT

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER

DIRECTORATE: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to advise Council of each occasion the Mayor and/or General Manager have exercised their delegations, other than under section 226 and 335 of the Local Government Act 1993, which are conferred on each role.

The report at **(ATTACHMENT 1)** provides details of the delegation exercised, such as the delegated authority, the date and the reason for exercising the delegation.

ATTACHMENTS

1) Delegations report.

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM 4 - ATTACHMENT 1 DELEGATIONS REPORT.

MAYOR AND GENERAL MANAGER DELEGATION REPORT Role exercising delegation Date exercised Delegations exercised Reported to Council Purpose Acceptance of tender T012-2024 - Don Waring Field and General Manager 07/05/2024 Clause 178 of the Local Government (General) Regulation 2021 28/05/2024 Car Park Design. Approval of Public Access application - Community 08/05/2024 Code of Meeting Practice Mayor 28/05/2024 Wellbeing Strategy. Authorises the installation, display, removal or alteration of the traffic control devices for the listed items identified 14/05/2024 Roads and Maritime Services delegations General Manager 28/05/2024 in the minutes of the Port Stephens Local Traffic

Committee report dated 2 April 2024.

ITEM NO. 5 FILE NO: 24/106428 EDRMS NO: PSC2017-00106

EDINIIO NO. 1 302017-00100

COUNCIL RESOLUTIONS

REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER

DIRECTORATE: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to inform the Mayor and Councillors of the status of all matters to be dealt with arising out of the proceedings of previous meetings of the Council in accordance with the Code of Meeting Practice.

ATTACHMENTS

- 1) Community Futures resolutions.
- 2) Corporate Strategy and Support resolutions.
- 3) Facilities and Infrastructure resolutions.
- 4) General Manager's Office resolutions.

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 COMMUNITY FUTURES RESOLUTIONS.



Division: Community Futures Date From: 10/10/2023
Committee: Date To: 14/05/2024
Officer:

Action Sheets
Report

Printed: Wednesday, 15 May 2024

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 10/10/2023	Lamont, Brock	URGENCY MOTION: Wind Farm Industry	30/03/2025	8	
		Peart, Steven				
15 May	2024					

15 May 2024

The General Manager has written to the requested delegates as outlined within the motion. A Councillor briefing with DCCEEW was undertaken on 20 February 2024. Council's delegation met with the Minister on 19 March 2024. Council is 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	Administrative Amendment to the Port Stephens Local Environmental Plan 2013	13/08/2024	29/11/2023	
3		Peart, Steven				23/324875
	ninistrative Am	endment was exhibit t its meeting of 9 July	ted from 10 April 2024 to 10 v 2024.	May 2024. A rep	oort is scheduled	to be

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	RAMSAR Listing for Mambo Wanda Wetlands	30/12/2025	29/11/2023	
4		Peart, Steven				23/324875

Туре	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	1/12/2024	28/02/2024	
2		Peart, Steven				24/50158
15 May	2024					
Council	resolved to def	er Draft DCP - Chap	ter D12 Richardson Road fo	or a two way con	versation with th	e Mayor and
			nd subsequent amendment. Iy 2024 to facilitate further d		wing work plans	to integrate

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council	Lamont, Brock	Draft Port Stephens Development Control Plan - Road Network and	1/12/2024	28/02/2024	
	27/02/2024		Parking (Electric Vehicles)			
3 014		Peart, Steven				24/50158
Parking	resolved to end	es) and provide publ	ens Development Control Pl ic notice. Council is reviewin			

InfoCouncil Page 1 of 3

ITEM 5 - ATTACHMENT 1 COMMUNITY FUTURES RESOLUTIONS.



Division: Community Futures Date From: 10/10/2023
Committee: Date To: 14/05/2024
Officer:

Action Sheets
Report

Printed: Wednesday, 15 May 2024

amont, Brock	Exhibition of draft Port Stephens Coastal	13.50.501	
		25/06/2024	
	Management Program	25/00/2024	
eart, Steven	The second second		24/50158
	eart, Steven		

exhibition, commencing 28 February 2024 and concluding 28 March 2024. Council has commenced complementary community engagement. A further report is forecasted to be presented to Council for consideration at its meeting of 25 June 2024.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/03/2024	Grobbelaar, Evert	Notification from Developers Prior to Clearing of Major Vegetation	9/07/2024	13/03/2024	
1		Peart, Steven	0.000.000			24/63800
037						
The second second	outlining option		pers to notify Council prio Council 9 July 2024.	r to the commencer	nent of clearing	of major

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 1 043	Ordinary Council 26/03/2024	Lamont, Brock Peart, Steven	Revised Local Housing Strategy	25/06/2024	27/03/2024	24/75831
	resolved to pla		Stephens Local Housing St			eriod of 28

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 2 044	Ordinary Council 26/03/2024	Lamont, Brock Peart, Steven	Draft Port Stephens Development Control Plan - Chapter B1 Tree Management and B2 Flora and Fauna	12/07/2024	27/03/2024	24/75831
	ft Port Stepher		ntrol Plan 2014 Chapter B1 7 4. A report is scheduled to b			

InfoCouncil Page 2 of 3

ITEM 5 - ATTACHMENT 1 COMMUNITY FUTURES RESOLUTIONS.



Division: Community Futures Date From: 10/10/2023
Committee: Date To: 14/05/2024
Officer:

Action Sheets
Report

Printed: Wednesday, 15 May 2024

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/03/2024	Lamont, Brock	Draft Voluntary Planning Agreement - Hanson Construction Materials Pty Ltd	12/06/2024	27/03/2024	
3 045		Peart, Steven				24/75831
the acco	ft Voluntary Pla empanying exp		etween Council and Hanson hibited 28 March 2024 to 29			

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/04/2024	Grobbelaar, Evert	Policy Review: Asbestos Management	11/06/2024	24/04/2024	
5	ample areas	Peart, Steven				24/100180
from 26	Council's Resol		Meeting of 23 April 2024, the Should submissions be rece			

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/05/2024	Grobbelaar, Evert	Planning Policies	23/07/2024		
2	/ Modifical	Peart, Steven				24/115689
15 May	2024					
As per C	Council Resolut	ion of 14 May 2024,	policies will be placed of	on public exhibition fo	r a period of 28	3 days.
Followin	g exhibition, po	licies will be reporte	d back to Council shoul	d submissions be rec	ceived.	

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ITEM 5 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.



Division: Corporate Strategy and Date From: 27/08/2013
Support Date To: 14/05/2024
Committee:
Officer:
Action Sheets
Report Printed: Wednesday, 15 May 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
243	Ordinary Council 27/08/2013	Pattison, Zoe	Campvale Drain	31/12/2024		
		on of easement docu	ımentation for 2 properti	es. All other properties	s (with exception	on of these 2)

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary	A Section 1 decision	Policy Review: Property			
Report	Council	Pattison, Zoe	Investment and	31/12/2024	12/10/2022	
220.00	11/10/2022	a transfer of the second	Development Policy			
1		Pattison, Zoe	S121CH141000 G2 - 0141			22/273002

	inary					
3105	incil 10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	31/12/2024	12/10/2022	
2		Pattison, Zoe				22/273002

Туре	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	
5 088	210.101	Pattison, Zoe				23/92450
	is investigating		oning of 22 Homestead Str the best opportunity to enal			

pleted
14729

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ITEM 5 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.



Division: Corporate Strategy and Support Date From: 27/08/2013
Support Date To: 14/05/2024
Committee: Officer:
Action Sheets
Report Printed: Wednesday, 15 May 2024

O	rdinoru					
Report Co	ordinary ouncil 8/11/2023	Pattison, Zoe	Sale of closed roads in Raymond Terrace	31/12/2024	29/11/2023	
1		Pattison, Zoe				23/324875

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/04/2024	Pattison, Zoe	Proposed Sale of Land - Heatherbrae	23/07/2024	24/04/2024	
1		Pattison, Zoe				24/100180

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council	Pattison, Zoe	Medowie Social	11/07/2024		- Special Control
1	14/05/2024	Pattison, Zoe				24/115689
consulta	opment Applic	ndertaken with the	of use to a Registered C outcomes of the consulta			

InfoCouncil Page 2 of 2

ITEM 5 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE RESOLUTIONS.



Division: Facilities and Infrastructure Date From: 11/04/2023
Committee: Date To: 14/05/2024
Officer:

Action Sheets
Report

Printed: Wednesday, 15 May 2024

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 2 085	Ordinary Council 11/04/2023	Maretich, John Kable, Gregory	Naming Recreation Precinct at Medowie after Geoff Dingle	30/06/2025	12/04/2023	23/92450
	e reserve has		per the Medowie Place Plan recreation precinct after Geo		vill be submitted	to the

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 1 008	Ordinary Council 13/02/2024	Kable, Gregory Kable, Gregory	Council Chambers	31/05/2024	14/02/2024	24/37059
15 May Options		ents have been sup	pplied to the Councillors. 1	preliminary option v	vill be further inv	restigated.

Emailed	Est. Compl.	Subject	Officer/Director	Meeting	Type
	23/07/2024	Raymond Terrace 7 Day Makeover	Maretich, John	Ordinary Council 27/02/2024	Report
			Cable, Gregory		10 020
					020 15 May
	Emailed	23/07/2024	Raymond Terrace 7 Day 23/07/2024 Makeover	Maretich John Raymond Terrace 7 Day 23/07/2024	Ordinary Council Maretich, John Raymond Terrace 7 Day 27/02/2024 Kable, Gregory 2024

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/04/2024	Maretich, John	Lakeside Sports Complex Masterplan	26/07/2024	24/04/2024	
3		Kable, Gregory				24/100180

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/04/2024	Maretich, John	Mallabula Sports Complex Masterplan	26/07/2024	24/04/2024	
4	20/0 // 202 /	Kable, Gregory				24/100180

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ITEM 5 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE RESOLUTIONS.



	Division:	Facilities and Infrastructure	Date From:	11/04/2023
	Committee:		Date To:	14/05/2024
	Officer:			
Action Sheets			Printed: Wed	nesday, 15 May 2024
Report				

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/04/2024	Maretich, John	Policy Review - Community Sport Equitable Access and Usage	30/06/2024	24/04/2024	
6		Kable, Gregory				24/100180
		ion the Community	Sport Equitable Access and	d Usage Policy has	been placed on	public

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ITEM 5 - ATTACHMENT 4 GENERAL MANAGER'S OFFICE RESOLUTIONS.



Division: General Manager's Office Date From: 11/04/2023
Committee: Date To: 14/05/2024
Officer:

Action Sheets
Report

Printed: Wednesday, 15 May 2024

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Crosdale, Timothy	Request for Financial Assistance	31/05/2024	12/04/2023	
9	27/200-000	Crosdale, Timothy				23/92450
099						
14 May	2024					
Awaiting	paperwork to	process payments.				

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/04/2024	Wickham, Tony Crosdale,	Privacy Management Plan	12/06/2024	10/04/2024	24/85501
7 14 May Report t	2024 to be prepared	Timothy				

Туре	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/05/2024	Wickham, Tony	Policy Review: Councillor Induction and Professional Development	28/05/2024	15/05/2024	
3		Crosdale, Timothy				24/115689
15 May		ALL CARLES AND A	or 28 days			2,7110

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NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1 FILE NO: 24/118124

EDRMS NO: PSC2021-04195

BUS STOP INFRASTRUCTURE PLAN

COUNCILLOR: JASON WELLS

THAT COUNCIL:

 Requests that the General Manager undertakes a review of existing bus stop infrastructure, using data collected from bus companies and other sources, to create a bus stop infrastructure plan that would inform the Council's Asset Management Plan chapter Ancillary Assets.

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

110	Councillor Jason Wells Councillor Chris Doohan
	It was resolved that Council requests that the General Manager undertakes a review of existing bus stop infrastructure, using data collected from bus companies and other sources, to create a bus stop infrastructure plan that would inform the Council's Asset Management Plan chapter Ancillary Assets.

Councillor Glen Dunkley left the meeting at 6:22pm. Councillor Glen Dunkley returned to the meeting at 6:23pm.

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER

BACKGROUND

Bus stops in the Port Stephens Local Government Area have a mix of seating, shelters or empty spaces with simple bus poles. While the condition of our existing infrastructure is monitored and managed, the recent growth in population in some areas and the community request for additional shelters would warrant a review of our bus stop infrastructure plan.

As noted in the Notice of Motion, using data collected from bus companies, Transport for New South Wales (TfNSW), and other community sources, Council would be able to undertake a review of existing bus stop infrastructure to create a bus stop infrastructure plan. This information would feed into the Council's Asset Management Plan (SAMP) chapter in the Ancillary Assets section and assist in prioritising bus stop infrastructure upgrades.

Council has previously been successful in gaining funds for bus stop infrastructure, predominantly through grants such as the Country Passenger Transport Infrastructure Grant Scheme (CPTIGS). Having a revised plan that prioritises projects would assist in gaining funding opportunities.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		In kind staff costs to undertake the review and plan creation.
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 2 FILE NO: 24/118817

EDRMS NO: PSC2021-04195

PATHWAYS REVIEW

COUNCILLOR: LEAH ANDERSON

THAT COUNCIL:

 Requests the General Manager to undertake a review of the Council's Pathways Plan with updated mapping and a greater emphasis on providing pedestrian access surrounding schools, aged care facilities, shopping districts and where our community live.

2) Requests the General Manager to investigate a prioritisation methodology that would create priority areas to present to Council. These priority areas will be used to seek funding opportunities and help direct funding.

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

111 Councillor Leah Anderson Councillor Giacomo Arnott

It was resolved that Council:

- Requests the General Manager to undertake a review of the Council's Pathways Plan with updated mapping and a greater emphasis on providing pedestrian access surrounding schools, aged care facilities, shopping districts and where our community live.
- Requests the General Manager to investigate a prioritisation methodology that would create priority areas to present to Council. These priority areas will be used to seek funding opportunities and help direct funding.

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER

BACKGROUND

The Pathways Plan that was last adopted by Council in 2016 documented existing and proposed pathways in our Local Government Area and was used to:

- identify missing links
- identify connections for the community between destinations such as residential areas to shopping centres
- promote alternative transport modes
- provide a safer route than on-road travel
- enhance leisure activities and, hence, possible tourist attractions.

The 2016 Pathways Plan did identify 182 km in gaps in our pathway network and would allow Council to seek funding from several funding sources. As per the Notice of Motion, a new iteration of the Pathways Plan could introduce a prioritisation methodology that would create priority areas.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		In-kind costs.
Reserve Funds	No		
Developer Contributions (S7.11)	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.

ORDINARY COUNCIL MEETING – 28 MAY 2024 MOTION

112	Councillor Glen Dunkley Councillor Chris Doohan
	It was resolved that Council move into confidential session.

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

Those against the Motion: Nil.

The motion was carried.

The following Council officers were present for the Confidential Session:

Senior Executive Assistant.

Development and Compliance Section Manager.

CONFIDENTIAL

ITEM NO. 1 FILE NO: 24/96121

EDRMS NO: PSC2009-02366

PROPOSED SALE OR LEASE OF 528 HUNTER STREET, NEWCASTLE

REPORT OF: GLEN PETERKIN – ACTING DIRECTOR CORPORATE

STRATEGY AND SUPPORT

DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

113 Councillor Giacomo Arnott Councillor Peter Kafer

It was resolved that Council:

- 1) Authorises the sale or lease of Council owned operational land at 528 Hunter Street, Newcastle on the confidential terms and conditions set out in the body of this report.
- 2) Authorises the General Manager to negotiate Contract or Lease terms as required, excluding price.
- 3) The outcome of the negotiations be reported back to Council.
- 4) Agrees that the proceeds of any sale are to be reinvested to maintain recurrent operational income.

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

Those against the Motion: Crs Chris Doohan, Glen Dunkley and Steve Tucker.

The motion was carried.

CONFIDENTIAL

ITEM NO. 2 FILE NO: 24/67331

EDRMS NO: PSC2017-00104

PORT STEPHENS KOALA SANCTUARY - LAND MANAGER APPOINTMENT

REPORT OF: GLEN PETERKIN – ACTING DIRECTOR CORPORATE

STRATEGY AND SUPPORT

DIRECTORATE: CORPORATE STRATEGY AND SUPPORT

ORDINARY COUNCIL MEETING - 28 MAY 2024 MOTION

114 Councillor Peter Kafer Councillor Steve Tucker

It was resolved that Council:

- 1) Notes the impending change of management arrangements for the Port Stephens Koala Sanctuary from a Crown Special Lease to a Crown Land Manager.
- Authorises the General Manager to sign all documentation required to effect the change in management arrangements, including a Surrender of Lease and Deed of Agreement, under delegation if required.

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

Those against the Motion: Nil.

The motion was carried.

ORDINARY COUNCIL MEETING – 28 MAY 2024 MOTION

115	Councillor Peter Kafer Councillor Chris Doohan
	It was resolved that Council move out of confidential session.

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

Those against the Motion: Nil.

The motion was carried.

There being no further business the meeting closed at 6:39pm.