

## MINUTES – 25 JUNE 2024



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 25 June 2024, commencing at 5:56pm.

### PRESENT:

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

### ORDINARY COUNCIL MEETING - 25 JUNE 2024 MOTION

135	<p><b>Councillor Peter Kafer</b> <b>Councillor Jason Wells</b></p> <p>It was resolved that the apologies from Cr Chris Doohan and Cr Peter Francis be received and noted.</p>
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## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

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

Those against the Motion: Nil.

The motion was carried.

<b>136</b>	<b>Councillor Leah Anderson</b> <b>Councillor Matthew Bailey</b>  It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 11 June 2024 be confirmed.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

	<p>Mayor Ryan Palmer declared a pecuniary conflict of interest in Items 4, 5, 6 and 7. The nature of the interest is Mayor Palmer owns property and is a Director of companies that owns land in the identified areas.</p> <p>Cr Peter Kafer declared a pecuniary conflict of interest in Item 6. The nature of the interest is Cr Kafer's residence is in the affected area.</p> <p>Cr Giacomo Arnott declared a pecuniary conflict of interest in Item 6. The nature of the interest is Cr Arnott's parents own properties within the Raymond Terrace maps in this item.</p> <p>Cr Glen Dunkley declared a pecuniary conflict of interest in Item 7. The nature of the interest is Cr Dunkley's family have property in the mapping area.</p>
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## ORDINARY COUNCIL MEETING - 25 JUNE 2024 MOTION

<b>137</b>	<b>Mayor Ryan Palmer</b> <b>Councillor Giacomo Arnott</b>  It was resolved that Council move Items 4 to 7 to the last items on the agenda and that item 6 be dealt with as the last item.
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<b>MINUTES ORDINARY COUNCIL - 25 JUNE 2024</b>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

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# DECLARATION OF INTEREST

ORDINARY COUNCIL - 25 JUNE 2024



## Declaration of Interest form

Agenda item No. 4, 5, 6, 7.

Report title Port Stephens Local Housing Strategy +

Mayor/Councillor Ryan Palmer declared at Supply Ais-  
1+2+3

Tick the relevant response:

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

in this item. The nature of the interest is. that I own property  
and am a Director of companies  
that own land in the identified  
area's.

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

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

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

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

Mayor/Councillor left the Council meeting at 6:18 pm. and did not return.

Mayor/Councillor returned to the Council meeting at \_\_\_\_\_ pm.

ORDINARY COUNCIL - 25 JUNE 2024



## Declaration of Interest form

Agenda item No. 6

Report title PS Local Housing Strategy

Mayor/Councillor KAFER declared a

Tick the relevant response:

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

in this item. The nature of the interest is my residence is in affected area.

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

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

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

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

Mayor/Councillor left the Council meeting at 7.05 pm. and did not return.

Mayor/Councillor returned to the Council meeting at \_\_\_\_\_ pm.

ORDINARY COUNCIL - 25 JUNE 2024



# Declaration of Interest form

Agenda item No. 6

Report title Housing Supply Plan - Map 2.

Mayor/Councillor Arnott declared a

Tick the relevant response:

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

in this item. The nature of the interest is A home owned by my mother and a home owned by my father are within the Raymond Terrace maps on this item.

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

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

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

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

Mayor/Councillor left the Council meeting at 7.05 pm. and did not return.

Mayor/Councillor returned to the Council meeting at \_\_\_\_\_ pm.

ORDINARY COUNCIL - 25 JUNE 2024



## Declaration of Interest form

Agenda item No. 7

Report title P5 LOCAL HOUSING STRATEGY - MAPPING PART 2

Mayor/Councillor DUNKLEY declared a

Tick the relevant response:

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

in this item. The nature of the interest is

FAMILY HAS PROPERTY IN THE MAPPING AREA

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

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

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

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

Mayor/Councillor left the Council meeting at 6.56 pm.

Mayor/Councillor returned to the Council meeting at 7.04 pm.

# COUNCIL REPORTS

**ITEM NO. 1**

**FILE NO: 24/112935  
EDRMS NO: 16-2023-731-1**

**DEVELOPMENT APPLICATION 16-2023-731-1 FOR A DWELLING AT 7 GYMEA WAY, NELSON BAY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application (DA) No. 16-2023-731-1 for a dwelling and associated works at 7 GyMEA Way, Nelson Bay (Lot: 5 DP: 285941) subject to the conditions contained in **(ATTACHMENT 1)**.
  - 2) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.
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**ORDINARY COUNCIL MEETING - 25 JUNE 2024  
MOTION**

<b>138</b>	<p><b>Councillor Glen Dunkley Councillor Peter Kafer</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Approve Development Application (DA) No. 16-2023-731-1 for a dwelling and associated works at 7 GyMEA Way, Nelson Bay (Lot: 5 DP: 285941) subject to the conditions contained in <b>(ATTACHMENT 1)</b>, and an additional condition requiring all north facing windows on the first floor to have a fully opaque finish to ensure neighbouring privacy impacts are managed.</li><li>2) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.</li></ol>
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Cr Giacomo Arnott requested an additional condition as follows: 'additional condition requiring all north facing windows on the first floor to have a fully opaque finish to ensure neighbouring privacy impacts are managed.' The mover and seconder accepted the additional condition.

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



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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, 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) 16-2023-731-1 for a 3 storey dwelling to Council for determination.

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

Subject Land:	7 Gynea Way, Nelson Bay (Lot: 5 DP: 285941)
Total Area:	1,848m <sup>2</sup>
Zoning:	R2 Low Density Residential Zone
Submissions:	1
Key Issues:	The key issues identified throughout the assessment of the DA relate to building height and building setbacks. The extent of the building height variation is 1.24m (or 13.7%). The slope of the site is 21 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 greater than 10%. The development standard is Clause 4.3 – Height of Buildings and the extent of the variation is 13.7% (1.24m).

A locality plan is provided at **(ATTACHMENT 2)**.

### Proposal

The development seeks consent for the erection of a 3 storey dwelling, removal of 1 tree, construction of retaining walls and site works. The dwelling will contain 4 bedrooms, all with an ensuite, open planned kitchen, dining and living areas, a double garage, swimming pool, office room, indoor entertainment area, outdoor alfresco and balcony areas, an outdoor gym, and 1 laundry and bathroom. The dwelling will present as a 2 storey dwelling to Gynea Way, transitioning to 3 storeys towards the rear in response to the topography of the site. Access to the dwelling will be obtained via a crossover from Gynea Way.

### Site Description and History

The subject site is legally identified as Lot 5 in DP 285941 and is generally known as 7 Gynea Way, Nelson Bay. The site features a significant cross-fall from the north-east to the south-west and is currently vacant of any structures. The site has a

primary frontage to Gymea Way and contains an access handle which extends to Tingara Road. The site comprises part of a community title subdivision and is largely surrounded by residential dwellings ranging from 2 to 3 storeys. Three lots immediately to the south are currently vacant and Nelsons Ridge Reserve is located immediately to the east across Gymea Way.

### Key Issues

The key issues identified throughout the assessment of the development relate to the proposed exceedance of the building height and setbacks. A detailed assessment of the DA is contained within the Planner's 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 (PSLEP 2013). The dwelling proposes a maximum building height of 10.24m, which exceeds the 9m height limit by 1.24m, representing a 13.7% 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 2013. Council staff are satisfied with the proposed height variation on the following grounds:

- (a) The proposed development is considered to be appropriate for the context of the area as it will present to Gymea Way as a 2 storey dwelling, with the ground level sited below the street level due to the steep topography of the site. As such, the dwelling will present in a manner which is consistent with surrounding developments and the emerging context of the locality (cl 4.6(3)(a)).
- (b) The variation to the height of building standards is contained to the rear (western) roof and wall components and therefore does not impact existing view corridors, result in additional overshadowing impacts to adjoining properties and is not perceptible from the public domain (cl 4.6(3)(a)).
- (c) The proposed development exceeds the maximum height of building limit due to the steep topography of the land. The dwellings step 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 consistent with the form envisaged by the height standard (cl 4.6(3)(a)).
- (d) The proposed development will contribute to the provision of new residential accommodation within the R2 Low Density Residential zone and is therefore consistent with the objectives of the zone and in the public interest (cl 4.6(3)(a)).
- (e) The proposed variation to the height standard applied to the development does not result in the building being out of scale in the context of surrounding development and is not likely to have an adverse impacts on the local amenity or

adjoining properties, noting predominant view lines and solar access are retained. Therefore, the development is consistent with the objectives of the zone and the height of building development standard (cl 4.6(3)(a)).

Moreover, the building height variation is considered appropriate as the building heights for several dwellings along GyMEA Way are constructed or approved over the 9m PSLEP 2013 height limit, which informs the impact of the proposed development on the existing and future character. This includes a constructed dwelling at 11 GyMEA Way (north of the site) that has a height of 9.7m; an approved dwelling at 5 GyMEA Way (immediately to the south) which has an approved height of 9.68m, an approved dwelling at 3 GyMEA Way (south of the site) which has an approved height of 9.8m, and an approved dwelling at 19 GyMEA Way (north of the site) which has an approved height of 9.528m. The height variations to these dwellings surrounding the site are attributed to the steep topography of the immediate locality and requirement to establish building footprints capable of supporting dwellings.

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 noncompliance. The proposed building is considered to be appropriate in the context of the site.

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. On this basis, the building height variation is supported. A detailed assessment against Clause 4.6 is contained within the Planner's Assessment Report (**ATTACHMENT 3**).

### Building Setbacks

The proposed development includes variations to the side building setbacks of Council's Development Control Plan (DCP). While the proposed development complies with the setbacks outlined under Chapter C4 of the DCP, the site is situated within land identified in Figure DL of the DCP and therefore, Chapter D6 is applicable. Specifically, the site is located within the Hill Tops Precinct. Under this Chapter, side setbacks of 3m are required for upper floors. The proposed development includes the following upper floor side setbacks:

- Middle Floor: 2.090m (northern) & 2.315m (southern)
- Upper Floor: 2.024m (northern) & 3m (southern)

As such, the development proposes variations ranging from 0.976m to 0.685m. The objective of the side setback control is to ensure development provides continuity and consistency to the public domain. The proposed development is considered to achieve this objective despite the non-compliance as several developments on GyMEA Way feature similar or even further reduced side setbacks. This includes 8 GyMEA Way (east of the site) which has upper floor side setbacks of 1.355 (southern) and 1.82m (northern), 14 GyMEA Way (north-east of the site) which has upper floor

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side setbacks of 1.5m (northern) and 2m (southern) and 13 Gynea Way (north of the site) which has upper floor side setbacks of 2.2m (northern) and 2m (southern). As such, the proposed setbacks are consistent with the established and emerging built form of Gynea Way.

Furthermore, the setback variation is considered to have minimal amenity impacts to adjoining properties. The development incorporates a stepped design and changes in building materials and articulation to reduce the perceived bulk and scale of the development. Highlight windows and opaque glazing have been incorporated along the side elevations to minimise any potential privacy impacts and shadow diagrams have been provided to demonstrate the proposed development does not result in unreasonable overshadowing to adjoining properties. As such, the proposed side setback variations are considered reasonable and have been supported on a merits basis.

### Conclusion

As detailed in the Planner's Assessment Report (**ATTACHMENT 3**), 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 impacts to the natural or built environment.

The proposed development is consistent with Council's Local Housing Strategy in that it provides additional residential accommodation within the Tomaree area. The development is considered to be consistent with the objectives of the R2 Low Density Residential zone.

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

### COMMUNITY STRATEGIC PLAN

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

### FINANCIAL/RESOURCE IMPLICATIONS

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

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

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

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

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed development represents a modern residential development and will provide additional housing to service the needs of the community. The dwelling will enable the development of a currently vacant lot which has been subdivided and established for residential purposes. 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. 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 site constraints whilst also reducing potential adverse impacts to neighbouring properties. Accordingly, 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 Gymea Way through development of a vacant residential block. While the proposed development exceeds the height of building development standard, the development has been designed in response to the significant slope of the land without requiring significant earthworks or creating adverse amenity impacts to neighbouring properties. The development incorporates several design elements including highlight windows, opaque glazing, material changes and building articulation to reduce the bulk and scale of the development, provide visual interest and minimise any potential adverse impacts to adjoining properties.

Overall, it is considered that the proposed development is consistent with the built environment along Gymea Way, makes appropriate use of a vacant residential site and will have no adverse impacts to the surrounding environment in terms of bulk and scale.

### Impacts on the Natural Environment

The proposed development is not expected to negatively impact the natural environment. The site is generally cleared of any substantial vegetation and is not located on land that contains any species of environmental significance. One tree is proposed to be removed, however, this tree does not exhibit any habit features such as hollows and its removal has been supported by an arborist report. As such, this tree removal has been supported and compensatory plantings have been conditioned and the development includes a landscape plan that predominately comprises native species.

## **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

The application was not referred to any internal specialist staff.

### External

Consultation was undertaken with the NSW Rural Fire Service (RFS). The RFS supported the DA with General Terms of Approval being issued. Consultation was also undertaken with Ausgrid who provided general advice regarding the supply of electricity. The comments provided by the external agencies are discussed within the Planner's Assessment Report (**ATTACHMENT 3**).

### Public Exhibition

The DA was advertised and notified in accordance with the requirements of the Port Stephens Council Community Engagement Strategy. The DA was exhibited for a period of 14 days from 30 January 2024 to 13 February 2024. One submission was received during the exhibition period and a response to the matters raised in the submission is provided within the Planner's Assessment Report (**ATTACHMENT 3**).

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Recommended Conditions of Consent.
- 2) Locality Plan.
- 3) Planner's Assessment Report. (Provided under separate cover)

### **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	<b>Approved plans and supporting documentation</b>				
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
	<b>Approved plans</b>				
	<b>Plan number</b>	<b>Revision number</b>	<b>Plan title</b>	<b>Drawn by</b>	<b>Date of plan</b>
	A200	C	Proposed Site Plan	Play Co Architects	25/03/2024
	A211	C	Proposed Lower Ground Floor Plan	Play Co Architects	25/03/2024
	A212	C	Proposed Ground Floor Plan	Play Co Architects	25/03/2024
	A213	C	Proposed First Floor Plan	Play Co Architects	25/03/2024
	A214	C	Proposed Roof Plan	Play Co Architects	25/03/2024
	A220	C	Proposed Cut and Fill Diagram	Play Co Architects	25/03/2024
	A301	C	Proposed North Elevations	Play Co Architects	25/03/2024
	A302	C	Proposed South Elevations	Play Co Architects	25/03/2024
	A303	C	Proposed East Elevations	Play Co Architects	25/03/2024
	A304	C	Proposed West Elevations	Play Co Architects	25/03/2024
	A401	C	Proposed Section A	Play Co Architects	25/03/2024
	A402	C	Proposed Section B	Play Co Architects	25/03/2024
	A403	C	Proposed Section C	Play Co Architects	25/03/2024
	A404	C	Proposed Section D	Play Co Architects	25/03/2024
	A405	C	Proposed Section E	Play Co Architects	25/03/2024
	ST01	C	Lower Ground Floor Stormwater Drainage Plan	Stronghold Engineers	11/12/2023
	ST02	C	Ground Floor Stormwater Drainage Plan	Stronghold Engineers	11/12/2023
	ST03	C	First Floor Stormwater Drainage Plan	Stronghold Engineers	11/12/2023



ST04	C	Roof Stormwater Drainage Plan	Stronghold Engineers	11/12/2023
L01/1 – K26720	-	Landscape Planting Plan	Michael Siu Landscape Architects	06/10/2023
<b>Approved Documents</b>				
<b>Document title</b>	<b>Version No.</b>	<b>Prepared by</b>	<b>Dated</b>	
Arboricultural Impact Assessment	-	Glenn Holden – Urban Tree Care	18/03/2024	
In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.				
<b>Condition reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development				
<b>General Terms of Approval</b>				
The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development.				
The General Terms of Approval are:				
1. NSW Rural Fire Service, referenced DA20240213000591-Original-1 and dated 23 February 2024				
A copy of the General Terms of Approval is attached to this determination notice.				
<b>Condition reason:</b> To ensure that the development is carried out in accordance with the General Terms of Approval issues by Integrated Development / Concurrence Agencies				
<b>Protection of existing vegetation and natural landscape features</b>				
No trees, other than that authorised for removal or within the approved building envelope by this Consent must be disturbed, damaged, or removed. No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval.				
<b>Condition reason:</b> To ensure that vegetation is protected during works				
<b>Building Code of Australia</b>				
All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.				

	<p><b>Condition reason:</b> To ensure that all building works are completed in accordance with the Building Code of Australia.</p>
	<p><b>Sign on Building</b></p> <p>Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.</p> <p>The sign must be maintained while the work is being carried out and is to be removed when the work is completed.</p> <p><b>Condition reason:</b> To require signage that details the relevant contacts of a development during construction</p>
	<p><b>Driveway Gradients and Design</b></p> <p>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:</p> <ul style="list-style-type: none"> <li>a) the driveway must be at least 1m from any street tree, stormwater pit or service infrastructure; and</li> <li>b) a Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of any works.</li> </ul> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p><b>Condition reason:</b> 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</p>
	<p><b>Excavation for Residential Building Works</b></p> <p>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:</p> <ul style="list-style-type: none"> <li>a) protect and support the adjoining premises from possible damage from the excavation;</li> <li>b) where necessary, underpin the adjoining premises to prevent any such damage.</li> </ul> <p>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.</p>

	<p><b>Condition reason:</b> 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.</p>
	<p><b>Swimming Pool and Spas</b></p> <p>The swimming pool/spa must comply with:</p> <ul style="list-style-type: none"> <li>a) the Swimming Pools Act 1992;</li> <li>b) the Swimming Pools Regulation 2018;</li> <li>c) AS 1926.1 'Swimming Pool Safety' Part 1: Safety barriers for swimming pools;</li> <li>d) AS 3500.2 'Plumbing and Drainage' – Sanitary plumbing and drainage';</li> <li>e) AS1926.3 'Water Recirculation Systems'; and</li> <li>f) the BCA</li> </ul> <p><b>Condition reason:</b> To ensure that a development including a swimming pool is compliant with the relevant legislation.</p>
	<p><b>Tree Removal</b></p> <p>The trees identified on <b>Plan A200 (proposed site plan)</b>, prepared by <b>Play Co Architects</b> and dated <b>25/03/2024</b> below are approved for removal.</p> <p>Two of the following replacement trees must be planted on the subject lot.</p> <ul style="list-style-type: none"> <li>• 1 x <i>Corymbia gummifera</i> (Red Bloodwood), minimum 20L pot size;</li> <li>• 1 x <i>Angophora costata</i> (Smooth Barked Apple), minimum 20L pot size;</li> <li>• 1 x <i>Elaeocarpus reticulatus</i> (Blueberry Ash), minimum 20 L pot size; or</li> <li>• a suitable alternative as approved by Council's Natural Systems Team.</li> </ul> <p>The planting must be installed prior to the issue of the Occupation Certificate.</p> <p>Details demonstrating compliance must be provided to the <b>Certifying Authority</b>.</p> <p><b>Condition reason:</b> To ensure that the development retains/prunes and replaces specific tree plantings.</p>

**Building Work**

**Before issue of a construction certificate**

	<p><b>Construction Certificate</b></p> <p>The following information must be provided to the Certifying Authority with the Construction Certificate application:</p>
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	<p>a) Amended architectural plans which removes fencing (excluding retaining walls) within the front setback area.</p>
	<p><b>Condition reason:</b> To ensure that specific information is provided to the Certifying Authority prior to the issue of the Construction Certificate and the amenity of the public domain is maintained.</p>
	<p><b>Erosion and sediment controls plan</b></p>
	<p>Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the certifier:</p> <ol style="list-style-type: none"> <li>1. Council's relevant development control plan,</li> <li>2. the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and</li> <li>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).</li> </ol>
	<p><b>Condition reason:</b> To ensure no substance other than rainwater enters the stormwater system and waterways.</p>
	<p><b>Waste Management Plan requirements</b></p>
	<p>Before the issue of a Construction Certificate, a waste management plan for the development must be prepared and provided to the certifier. The plan must be prepared:</p> <ol style="list-style-type: none"> <li>a. in accordance with <ol style="list-style-type: none"> <li>i. the Environment Protection Authority's Waste Classification Guidelines as in force from time to time; and</li> <li>ii. a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out; and</li> </ol> </li> <li>b. include the following information— <ol style="list-style-type: none"> <li>i. the contact details of the person removing waste;</li> <li>ii. an estimate of the type and quantity of waste;</li> <li>iii. whether waste is expected to be reused, recycled or sent to landfill;</li> <li>iv. the address of the disposal location for waste.</li> </ol> </li> </ol> <p>A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.</p>
	<p><b>Condition reason:</b> To ensure resource recovery is promoted and local amenity protected during construction.</p>
	<p><b>Long Service Levy</b></p>

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	<p>Before the issue of a Construction Certificate, the long service levy of \$2,482.00, as calculated at the date of this consent, must be paid to the Long Service Corporation under the <i>Building and Construction industry Long Service Payments Act 1986</i>, section 34, and evidence of the payment is to be provided to the principal certifier</p>
	<p><b>Condition reason:</b> To ensure the Long Service Levy is paid.</p>
	<p><b>Civil engineering plans</b></p> <p>Civil engineering plans prepared by a qualified Engineer, indicating any required drainage, roads, accessways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>Note: Under the <i>Roads Act 1993</i>, only the Roads Authority can approve commencement of works within an existing road reserve.</p> <p><b>Condition reason:</b> To ensure that civil engineering plans have been prepared by a qualified engineers prior to the issue of the Construction Certificate.</p>
	<p><b>Construction Site Management Plan</b></p> <p>Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the principal certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> <li>a. The location and materials for protective fencing and hoardings on the perimeter of the site;</li> <li>b. Provisions for public safety;</li> <li>c. Pedestrian and vehicular site access points and construction activity zones;</li> <li>d. Details of construction traffic management including: <ul style="list-style-type: none"> <li>i. Proposed truck movements to and from the site;</li> <li>ii. Estimated frequency of truck movements; and</li> <li>iii. Measures to ensure pedestrian safety near the site;</li> </ul> </li> <li>e. Details of bulk earthworks to be carried out;</li> <li>f. The location of site storage areas and sheds;</li> <li>g. The equipment used to carry out works;</li> <li>h. The location of a garbage container with a tight-fitting lid;</li> <li>i. Dust, noise and vibration control measures;</li> <li>j. The location of temporary toilets;</li> <li>k. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: <ul style="list-style-type: none"> <li>i. AS 4970 – Protection of trees on development sites;</li> <li>ii. An applicable Development Control Plan;</li> </ul> </li> </ul>

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	<p>iii. An arborist's report approved as part of this consent</p> <p>A copy of the construction site management plan must be kept on site at all times while work is being carried out.</p> <p><b>Condition reason:</b> To require details of measures to be undertaken that will protect the public, and the surrounding environment, during site works and construction.</p>
	<p><b>Dilapidation Report</b></p> <p>Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works, and public land to the satisfaction of the principal certifier.</p> <p>Where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the principal certifiers, that all reasonable steps were taken to obtain access to the adjoining properties.</p> <p><b>Condition reason:</b> To establish and document the structural condition of adjoining properties and existing structures on the subject site for comparison as site work progresses and is completed.</p>
	<p><b>Privacy Screening</b></p> <p>Permanently fixed 1.8m high privacy screen(s) must be provided to the <b>north and south elevation of the first floor balcony and ground floor alfresco decking</b> as follows:</p> <ul style="list-style-type: none"> <li>a) the screens must not have openings more than 30mm wide; and</li> <li>b) The total area of all openings must be less than 30% of the surface area of the screen when viewed in elevation.</li> </ul> <p>Details demonstrating compliance are to be provided to the Certifying Authority.</p> <p><b>Condition reason:</b> To mitigate privacy issues to adjoining properties</p>
	<p><b>Retaining Walls</b></p> <p>All retaining walls within 1m of a boundary and exceeding 600mm in height must be designed and certified by a suitably qualified Structural Engineer. No retaining walls are permitted to straddle lot boundaries.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority</p> <p><b>Condition reason:</b> To ensure that retaining walls in proximity to the boundary and over a height are designed and certified by a suitably qualified engineer.</p>

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**Before building work commences**

	<p><b>Erosion and sediment controls in place</b></p> <p>Before any site work commences, the certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been re-stabilized in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).</p> <p><b>Condition reason:</b> To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>
	<p><b>All Weather Access</b></p> <p>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.</p> <p>No materials, waste or the like are to be stored on the all-weather access at any time.</p> <p><b>Condition reason:</b> To ensure that adequate vehicular access is provided to and from the site, prior to the commencement of works.</p>
	<p><b>Construction Certificate Required</b></p> <p>In accordance with the provisions of Section 6.7 of the Environmental Planning &amp; Assessment Act 1979 (EP&amp;A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:</p> <ul style="list-style-type: none"> <li>a) A Construction Certificate has been issued by a Consent Authority;</li> <li>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&amp;A Act 1979; and</li> <li>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.</li> </ul> <p><b>Condition reason:</b> To ensure that a Construction Certificate has been issued for the building works prior to the commencement of work.</p>
	<p><b>Notice Commencement of Work</b></p> <p>Notice must be given to Council and the Principal Certifier, if not the Council, of the person's intention to commence the erection of the building or undertake subdivision work at least two days prior to subdivision and/or building works commencing in accordance with Sections 6.6 (2) and 6.12 (2) (c) of the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:</p>

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	<ul style="list-style-type: none"> <li>a) The name and address of the person;</li> <li>b) A description of the work to be carried out;</li> <li>c) The address of the land on which the work is to be carried out;</li> <li>d) The Registered numbers and date of issue of the development consent and construction certificate;</li> <li>e) A statement signed by or on behalf of the principal certifier that all conditions of the consent that must be satisfied before work commences have been satisfied; and</li> <li>f) The date on which the work is intended to commence.</li> </ul> <p>The notice must be lodged on the NSW Planning Portal.</p>
	<p><b>Condition reason:</b> To ensure that the Principal Certifier has given notice to the Consent Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certificate and Fire Safety) Regulation 2021.</p>
	<p><b>Notice of Principal Certifying Authority Appointment</b></p> <p>The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:</p> <ul style="list-style-type: none"> <li>a) A description of the work to be carried out;</li> <li>b) The address of the land on which the work is to be carried out;</li> <li>c) The Registered number and date of issue of the relevant development consent;</li> <li>d) The name and address of the Principal Certifier and the person who appointed the principal certifier;</li> <li>e) If the principal certifier is a registered certifier <ul style="list-style-type: none"> <li>i) The certifier's registration number, and</li> <li>ii) A statement signed by the registered certifier to the effect that the certifier consents to be appointed as principal certifier, and</li> <li>iii) A telephone number on which the certifier may be contacted for business purposes.</li> </ul> </li> </ul> <p>The notice must be lodged on the NSW Planning Portal.</p>
	<p><b>Condition reason:</b> To ensure that the Principal Certifier has given notice that they will be the Principal Certifier to the Consent Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the Environmental Planning and Assessment Act 1979</p>
	<p><b>Damage report – Public Infrastructure</b></p>



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	<p>The applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists</p>
	<p><b>Condition reason:</b> Small-scale development - Where the development is in close proximity to Council infrastructure.</p>
	<p><b>Home Building Act requirements</b></p>
	<p>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 –</p> <ul style="list-style-type: none"> <li>a) In the case of work for which a principal contractor is required to be appointed – <ul style="list-style-type: none"> <li>i) The name and license number of the principal contractor, and</li> <li>ii) The name of the insurer by which the work is insured under Part 6 of that Act,</li> </ul> </li> <li>b) In the case of work to be done by an owner-builder – <ul style="list-style-type: none"> <li>i) The name of the owner-builder, and</li> <li>ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.</li> </ul> </li> </ul> <p>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.</p>
	<p><b>Condition reason:</b> 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.</p>
	<p><b>Compliance with Home Building Act (if applicable)</b></p>
	<p>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.</p>
	<p><b>Condition reason:</b> 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.</p>
	<p><b>Notice regarding dilapidation report</b></p>
	<p>Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property(ies) no less than seven (7) days before the commencement of any site or building works and provide a copy of the report to the Council at the same time.</p>

	<p><b>Condition reason:</b> To ensure the structural safety of adjoining buildings as a result of the proposed development.</p>
	<p><b>Rubbish Generated from the Development</b></p> <p>Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.</p> <p>No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.</p> <p><b>Condition reason:</b> To ensure that construction waste is appropriately stockpiled and removed from the site.</p>
	<p><b>Site is to be secured</b></p> <p>The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing, or awnings (associated with securing the site during construction is to be removed upon the completion of works.</p> <p><b>Condition reason:</b> To restrict access to the site by the public and ensure that the site is adequately secured prior to the commencement of works.</p>
	<p><b>Bush Fire Asset Protection Zones</b></p> <p>Before any site work commences, the boundaries of the asset protection zone must be surveyed and marked on the ground by a registered surveyor.</p> <p><b>Condition reason:</b> To provide a buffer to protect life and property from bush fire attack</p>
	<p><b>Roads Act Approval</b></p> <p>For any 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</p> <p><b>Condition reason:</b> To ensure that works within the road reserve are approved by a Section 138B Approval of the Roads Act 1993.</p>
	<p><b>Surface Water Collected from Swimming Pools and Spas</b></p> <p>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.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p>

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

**During building work**

	<p><b>Discovery of relics and Aboriginal objects</b></p> <p>While site works is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:</p> <ul style="list-style-type: none"> <li>a. The work in the area of the discovery must cease immediately;</li> <li>b. The following must be notified – <ul style="list-style-type: none"> <li>i. For a relic – the Heritage Council; or</li> <li>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.</li> </ul> </li> </ul> <p>Site works may recommence at a time conformed in writing by:</p> <ul style="list-style-type: none"> <li>a. For a relic – the Heritage Council; or</li> <li>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</li> </ul> <p><b>Condition reason:</b> To ensure the protection of objects of potential significance during works.</p>
	<p><b>Waste management</b></p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> <li>1. all waste management must be undertaken in accordance with the waste management plan; and</li> <li>2. upon disposal of waste, records of the disposal must be compiled and provided to the certifying authority, detailing the following: <ul style="list-style-type: none"> <li>a. The contact details of the person(s) who removed the waste;</li> <li>b. The waste carrier vehicle registration;</li> <li>c. The date and time of waste collection;</li> <li>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;</li> <li>e. The address of the disposal location(s) where the waste was taken;</li> <li>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.</li> </ul> </li> </ul> <p>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.</p>

	<p><b>Condition reason:</b> To require records to be provided, during site work, documenting the lawful disposal of waste</p>
	<p><b>Hours of work</b></p> <p>Site work must only be carried out between the following times –</p> <p>7:00am to 5:00pm on Monday to Saturday</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p><b>Condition reason:</b> To protect the amenity of the surrounding area</p>
	<p><b>Unexpected Finds Contingency (General)</b></p> <p>Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.</p> <p>In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.</p> <p>Where remediation work is required, the applicant will be required to obtain consent for the remediation works.</p> <p><b>Condition reason:</b> To ensure that works relating to a development are to cease if any suspect materials are identified and remediated in accordance with Council requirements</p>
	<p><b>Excavations and Backfilling</b></p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> <li>a) preserve and protect the building from damage; and</li> <li>b) if necessary, underpin and support the building in an approved manner; and</li> <li>c) give at least seven days' notice to the adjoining owners before excavating, or of the intention to excavate.</li> </ul>

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	<p>The principal contractor, owner builder or any person who needs to excavate and undertake building work, must contact "Dial Before You Dig" prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.</p> <p>This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.</p> <p><b>Condition reason:</b> To ensure that any Acid Sulfate Soils encountered during works are suitably managed</p>
	<p><b>Compliance with the Building Code of Australia</b></p> <p>Building work must be carried out in accordance with the requirements of the Building Code of Australia.</p> <p><b>Condition reason:</b> To ensure that the development is undertaken in accordance with the Building Code of Australia.</p>
	<p><b>Offensive noise, dust, odour, and vibration</b></p> <p>No work must not give rise to offensive noise, odour, or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.</p> <p><b>Condition reason:</b> To ensure that developments do not give rise to offensive noise, dust, odour, or vibration.</p>
	<p><b>Building Height</b></p> <p>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.</p> <p><b>Condition reason:</b> To ensure that the maximum building height of the structures on site are compliant with the consent and in accordance with the approved plans.</p>
	<p><b>Cut and Fill (if applicable)</b></p> <p>While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <p>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.</p>

	<p>b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.</p> <p><b>Condition reason:</b> To ensure that all imported and/or exported fill is Virgin Excavated Natural Material.</p>
	<p><b>Disposal of Stormwater</b></p> <p>Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant Environmental Protection Agency and Australian and New Zealand Environment and Conservation Council standards for water quality discharge.</p> <p><b>Condition reason:</b> To ensure that stormwater disposal from a development is managed in accordance with Council requirements.</p>
	<p><b>Implementation of BASIX Commitments</b></p> <p>While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.</p> <p><b>Condition reason:</b> To ensure that while building work is being carried out, the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent.</p>
	<p><b>Implementation of Site Management Plans</b></p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> <li>a) the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times, and</li> <li>b) a copy of these plans must be kept on site at all times and made available to council officers upon request.</li> </ul> <p><b>Condition reason:</b> To ensure site management measures are implemented during the carrying out of site work</p>
	<p><b>Location of Stockpiles</b></p> <p>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.</p> <p><b>Condition reason:</b> To ensure that stock piles required for a development are managed in accordance with Council requirements.</p>

	<p><b>Placement of Fill</b></p> <p>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.</p> <p>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.</p> <p><b>Condition reason:</b> To ensure that fill required for a development is managed in accordance with Council requirements.</p>
	<p><b>Stormwater Disposal</b></p> <p>Following the installation of any roof, collected stormwater runoff from the structure must be:</p> <ul style="list-style-type: none"> <li>a) Diverted through a first flush system or leaf/debris prevention system before being connected to an approved stormwater easement/system/street</li> </ul> <p><b>Condition reason:</b> To ensure that stormwater runoff is managed as to not cause nuisance flows onto adjoining properties.</p>
	<p><b>Swimming Pool Fence Design</b></p> <p>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 &amp; gate must:</p> <ul style="list-style-type: none"> <li>a) Strictly adhere to the design and location approved with the development consent, and any conditions of the development consent.</li> <li>b) Strictly comply with AS1926 'Swimming Pool Safety' – Part 1: Safety barriers for swimming pools.</li> <li>c) Have a minimum effective height of 1.2m.</li> <li>d) Be self-closing and self- latching. All gates must open outwards from the swimming pool enclosure.</li> <li>e) 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).</li> <li>f) 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).</li> </ul> <p>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.</p> <p><b>Condition reason:</b> To ensure that the development for a swimming pool and/or spa satisfies the Australian Standard and Council requirements.</p>

	<p><b>Tree Removal</b></p> <p>All approved tree removal is subject to all pruning works being undertaken by a qualified arborist with minimum Australian Qualification Framework Level 3 qualifications or higher. All works are to be undertaken in accordance with the relevant provisions of AS 4373 'Pruning of Amenity trees'.</p> <p><b>Condition reason:</b> To ensure that vegetation removal/pruning is undertaken by a qualified arborist and in accordance with the Australian Standard.</p>
	<p><b>Waste Water from Swimming Pools and Spas</b></p> <p>All swimming pool waste water must be disposed of as follows:</p> <ul style="list-style-type: none"> <li>a) Where a Hunter Water sewer is available – waste water must be drained or pumped to the sewer.</li> <li>b) Where a Hunter Water sewer is not available (such as rural areas) – waste water must be disposed of as follows:</li> </ul> <p>Chlorinated pool waste water:</p> <ul style="list-style-type: none"> <li>i) Discharging to a rubble pit measured 600mm wide x 600mm deep x 3m long, located not less than 3m from any structure or property boundary; or</li> <li>ii) Discharging to a tail out drain to disperse the water over a large grassed area or paddock, provided that the land fall does not direct water to buildings on the subject or adjoining properties, or create a nuisance to an adjoining property owner.</li> </ul> <p>Saltwater pool waste water:</p> <ul style="list-style-type: none"> <li>iii) Discharging as per point ii) above.</li> </ul> <p>All pool types:</p> <ul style="list-style-type: none"> <li>iv) Must not be discharged to a septic tank or an on- site sewage management installation or disposal area;</li> <li>v) Must not be discharged into a reserve, watercourse, easement or storm water drainage system</li> </ul> <p><b>Condition reason:</b> To ensure that the development for a swimming pool and/or spa satisfies Council requirements.</p>
	<p><b>Toilet Facilities</b></p> <p>Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.</p>



**ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.**

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

**Before issue of an occupation certificate**

	<b>Occupation Certificate Required</b>
	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.
	<b>Condition reason:</b> To ensure that an Occupation Certificate relating to the development is obtained from the Principal Certifying Authority prior to occupation or use
	<b>Repair of infrastructure</b>
	Before the issue of an Occupation Certificate:
	<ol style="list-style-type: none"> <li>1. 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</li> <li>2. 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.</li> </ol>
	<b>Condition reason:</b> To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.
	<b>Completion of landscape and tree works</b>
	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.
	<b>Condition reason:</b> To ensure that landscape and tree works have been completed in accordance with the approved plans prior to the issue of an Occupation Certificate.

	<b>Completion of Roads Act Approval works</b>
	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.
	<b>Condition reason:</b> To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.
	<b>Removal of waste upon completion</b>
	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.
	<b>Condition reason:</b> To ensure that all waste is appropriately removed from the subject site prior to the issue of an Occupation Certificate.
	<b>Stormwater/drainage works</b>
	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.
	<b>Condition reason:</b> To ensure stormwater and drainage works have been undertaken in accordance with the approved plans.
	<b>Water authority certification</b>
	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.
	<b>Condition reason:</b> To ensure compliance with the water supply authority's requirements
	<b>Post-construction dilapidation report</b>

	<p>Prior to the issue of an occupation certificate, a post-construction dilapidation report must be prepared by a suitably qualified engineer, to the satisfaction of the principal certifier, detailing whether:</p> <ul style="list-style-type: none"> <li>a) After comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and</li> <li>b) Where there has been structural damage to any adjoining buildings, that it is a result of the work approved under this development consent, and</li> <li>c) A copy of the post-construction dilapidation report must be provided to Council (where council is not the principal certifiers or a principal certifier is not required) and to the relevant adjoining property owner(s).</li> </ul> <p><b>Condition reason:</b> To identify any damage to adjoining properties resulting from site work on the development site.</p>
	<p><b>Services</b></p> <p>Evidence is to be provided to Council demonstrating that the following reticulated services are available to the dwelling:</p> <ul style="list-style-type: none"> <li>a) Electricity;</li> <li>b) Water;</li> <li>c) Sewer; and</li> <li>d) Gas (if available)</li> </ul> <p>Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.</p> <p><b>Condition reason:</b> To verify that reticulated services are provided to the dwelling.</p>
	<p><b>Survey Certificate</b></p> <p>A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.</p> <p><b>Condition reason:</b> To ensure that the building is located in accordance with the approved plans and evidence from a Registered Surveyor is provided to the Principal Certifying Authority.</p>
	<p><b>Swimming Pool Register</b></p> <p>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.</p>

**ITEM 1 - ATTACHMENT 1      RECOMMENDED CONDITIONS OF CONSENT.**

	<p>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.</p>
	<p><b>Condition reason:</b> To ensure that the development for a swimming pool and/or spa satisfies Council requirements prior to the issue of the Occupation Certificate.</p>
	<p><b>Swimming Pool Warning Notice</b></p>
	<p>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.</p>
	<p>The Principal Certifying Authority must ensure that this warning notice is provided and displayed prior to the issue of the Occupation Certificate.</p>
	<p>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.</p>
	<p><b>Condition reason:</b> To ensure that the development for a swimming pool and/or spa satisfies legislative requirements prior to the issue of the Occupation Certificate.</p>

**Occupation and ongoing use**

	<p><b>Driveways to be maintained</b></p>
	<p>All access crossings and driveways must be maintained in good order for the life of the development</p>
	<p><b>Condition reason:</b> To ensure that access and driveways are maintained for the life of the development.</p>
	<p><b>Maintenance of Landscaping</b></p>
	<p>Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.</p>
	<p>If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.</p>
	<p><b>Condition reason:</b> To ensure that landscaping is maintained in accordance with the approved landscape plan and the relevant development consent.</p>
	<p><b>Maintenance of wastewater and stormwater treatment device/s</b></p>

	<p>During occupation and ongoing use of the development, the applicant must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained to remain effective and in accordance with any positive covenant (if applicable).</p> <p><b>Condition reason:</b> to ensure wastewater and stormwater systems are maintained</p>
	<p><b>Management of Asset Protection Zones</b></p> <p>During ongoing use of the site, the APZ must be managed in accordance with General Terms of Approval issued under this consent, Planning for Bushfire Protection 2019 and the NSW Rural Fire Service's Standards for Asset Protection Zones.</p> <p><b>Condition reason:</b> To ensure ongoing protection from bush fires.</p>
	<p><b>Location of Mechanical Ventilation (if applicable)</b></p> <p>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.</p> <p><b>Condition reason:</b> For all applications requiring air conditioning units.</p>
	<p><b>Privacy Screen</b></p> <p>Any privacy screen/s must be permanently maintained in accordance with the approved plans for the life of the development.</p> <p><b>Condition reason:</b> To mitigate and privacy impacts and ensure compliance with the approved plans.</p>
	<p><b>Prohibitions Within Swimming Pool Enclosure</b></p> <p>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.</p> <p><b>Condition reason:</b> To ensure that the area contained within a swimming pool safety fence enclosure must not be used for other non-related activities or equipment.</p>
	<p><b>Use Limitations</b></p> <p>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.</p>

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

	Note: Carports must not be enclosed in any manner, including solid gates or door, without the prior consent from Council.
	<b>Condition reason:</b> To restrict the use of structures for a purpose that has not been approved by the Council.
	<b>Noise Nuisance Prevention (Swimming Pools)</b>
	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.
	<b>Condition reason:</b> To ensure swimming pool equipment does not adversely impact the amenity of neighbouring 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 [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

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

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

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

**Council advisory notes**

1. **'Dial Before you Dig Australia'** – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig Australia” service to access plans/information for underground pipes and cables.
2. **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.

3. **Approved Plans to be on-site** – A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.
4. **Council as PCA, PCA sign** – It is the responsibility of the applicant to erect a PCA sign. Where Council is the PCA, the sign is available free of charge, from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay. The applicant is to ensure the PCA sign remains in position for the duration of works.
5. **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.





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



ITEM NO. 2

FILE NO: 24/66640  
EDRMS NO: 79-2023-4-1

## PORT STEPHENS COASTAL MANAGEMENT PROGRAM

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

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Endorses the Port Stephens Coastal Management Program and associated appendices (**ATTACHMENT 1**) to be submitted to the NSW Minister for Climate Change, Energy, the Environment and Water for certification.

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### ORDINARY COUNCIL MEETING - 25 JUNE 2024 MOTION

139	<p><b>Councillor Leah Anderson</b> <b>Councillor Glen Dunkley</b></p> <p>It was resolved that Council endorses the Port Stephens Coastal Management Program and associated appendices (<b>ATTACHMENT 1</b>) to be submitted to the NSW Minister for Climate Change, Energy, the Environment and Water for certification.</p>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

### BACKGROUND

The purpose of this report is to advise Council of the outcomes of the consultation undertaken on the draft Port Stephens Coastal Management Program (CMP) and associated appendices (**ATTACHMENT 1**) and to seek Council endorsement to submit to the NSW Minister for Climate Change, Energy, the Environment and Water for certification.

Port Stephens Council (Council) has prepared a draft CMP to provide strategic direction and actions for implementation in order to address current and future threats to the Port Stephens coastline. The CMP's aim is to maintain and enhance the

ecological, social and economic values of the Port Stephens coastal zone. The purpose of the Port Stephens CMP is to set the long-term strategy for the coordinated management of the Port Stephens coastal zone.

The State Government requires a 5-stage process for the preparation and implementation of a CMP:

- Stage 1: Identify the scope of the CMP through the preparation of a 'scoping study'
- Stage 2: Determine risks, vulnerabilities and opportunities through detailed studies
- Stage 3: Identify and evaluate management options
- Stage 4: Prepare, exhibit, finalise, certify and adopt the CMP
- Stage 5: Implement, monitor, evaluate and report.

Council have successfully completed Stages 1, 2 and 3 of the above process. This report represents a key milestone for Stage 4.

The CMP is a 10 year plan of action for Council, public authorities and land managers responsible for the management of the Port Stephens coastal zone. The CMP will:

- Address and reduce risks associated with coastal hazards
- Preserve sensitive habitats, cultural uses and social values associated with the coastline
- Encourage the sustainable social, agricultural, economic and developed use of the coastal zone
- Maintain and improve the recreational amenity and resilience of the coastal zone into the future
- Adapt to emerging issues associated with the coastal zone such as population growth, climate change and coastal hazards.

At its meeting on 27 February 2024, Minute No. 015 (**ATTACHMENT 2**), Council endorsed the draft CMP for exhibition.

The draft was publicly exhibited for 28 days from 28 February 2024 to 29 March 2024, in accordance with the NSW Coastal Management Act 2016 (CM Act) and the NSW Coastal Management Manual (CM Manual; OEH, 2018). During the exhibition period, a total of 19 submissions were received from the public and 2 submissions were received from external agencies. The submissions received have been summarised and addressed within (**ATTACHMENT 3**).

In response to submissions, amendments have been made to the CMP, with the post exhibition amendments outlined within the submissions table (**ATTACHMENT 3**).

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Environmental resilience	Develop and deliver a program for Council to mitigate environmental risks associated with climate change and natural hazards

**FINANCIAL/RESOURCE IMPLICATIONS**

The CMP includes a comprehensive business plan which outlines the implementation costs for all actions within the program and the responsible lead agency. Actions within certified CMPs are eligible for funding under the NSW Coastal and Estuary Grants Program at a 2:1 ratio, or subject to funding under other grant programs.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		Not all actions of the CMP are funded. Some actions will rely upon a mix of grants, Council reserves and enhanced service SRV funding.
Reserve Funds	Yes		
Developer Contributions (\$7.11)	No		
External Grants	Yes		NSW Coastal and Estuaries Grant; or other alternative external grants.
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS****Coastal Management Act 2016**

Under Part 3 of the Coastal Management Act 2016, local Councils are required to prepare CMPs in accordance with the coastal management framework and coastal management manual.

The CMP has been prepared in accordance with the requirements of the CM Act and associated manual.

State Environmental Planning Policy (Resilience and Hazards) 2021

The State Environmental Planning Policy (Resilience and Hazards) 2021 defines the coastal zone as the area of land comprised of the following coastal management areas:

- The coastal wetlands and littoral rainforest area
- The coastal vulnerability area
- The coastal environment area, and
- The coastal use area.

The Port Stephens CMP has been prepared to address the requirements of the CM Act and associated manual as they relate to the above coastal management areas.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that if the CMP is not endorsed the community will be exposed to the coastal hazards identified in the CMP.	High	Accept the recommendation.	Yes
There is a risk that if the CMP is not endorsed, Council operations will be impacted by the coastal hazards identified in the CMP.	High	Accept the recommendation.	Yes
There is a risk if the CMP is not endorsed to be certified by the Minister, that Council will be unable to access funding support from the State Government to implement the actions.	Medium	Accept the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The development and implementation of the Port Stephens CMP represents an important opportunity for Council, public authorities and other land managers to collaborate on a strategic approach to managing current and future threats in the Port Stephens coastal zone.

The vision statement for the Port Stephens CMP is to ensure that 'our community is resilient to environmental risks, coastal hazards and climate change'. Supporting this vision are a series of local coastal management objectives that have been developed to align with the objects of the CM Act:

- Collaboration:
  - Encourage collaboration and partnership with government, agencies and our community to manage and protect the coastal zone.
- Biodiversity and ecosystem integrity:
  - Protect biological diversity and ecosystem integrity by maintaining and improving water quality and estuary health.
- Climate change:
  - Mitigate and build resilience to current and future coastal hazards and risks.
- Land use planning:
  - Facilitate ecologically sustainable development in the coastal zone and prioritise sustainable land use planning in decision making to maintain and improve public access, amenity and use.
- Aboriginal custodianship:
  - Support and protect our Aboriginal community's spiritual, social, customary and economic use of the coastal zone.
- Coastal economies:
  - Support sustainable economic opportunities within the coastal zone.

The CMP allows Council and other land managers to implement a range of credible, evidence-based actions that address current and future coastal risks.

Certification of the CMP will allow Council to access State Government funding support to implement these priority coastal management actions over the next 10 years.

## **CONSULTATION**

Extensive consultation has been undertaken with key internal and external stakeholders by the Strategy and Environment Section during Stages 1 to 4 of the CMP process.

The CMP Communications and Engagement Plan and Summary Report available within Appendix B of **(ATTACHMENT 1)**, and provides a summary of, and documents the outcomes of, all engagement activities undertaken for the CMP to date.

### Internal stakeholders

- Assets Section
- Public Domain and Services Section
- Community Services Section
- Development and Compliance Section

- Strategy and Environment Section
- Communications Section
- Finance Section
- Governance Section
- Strategic Property.

#### External stakeholders

- NSW DCCEEW - Coast and Estuaries
- NSW Department of Planning, Housing and Infrastructure
- Department of Primary Industries - Fisheries and Marine Parks
- NSW National Parks & Wildlife Service
- Department of Planning and Environment - NSW Crown Lands
- Hunter Local Land Services
- Transport for NSW
- NSW State Emergency Service
- MidCoast Council
- City of Newcastle
- Hunter Water Corporation
- Ausgrid
- NSW Aboriginal Land Council
- Worimi Local Aboriginal Land Council
- Karuah Local Aboriginal Land Council
- Worimi Conservation Lands Board
- Community groups
- Port Stephens residents
- Visitors.

The draft was publicly exhibited for 28 days from 28 February 2024 to 29 March 2024, in accordance with the NSW Coastal Management Act 2016 (CM Act) and the NSW Coastal Management Manual (CM Manual; OEH, 2018). During the exhibition period, a total of 19 submissions were received from the public and 2 submissions were received from external agencies. The submissions have been summarised and addressed within **(ATTACHMENT 3)**.

#### **OPTIONS**

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

#### **ATTACHMENTS**

- 1) Final Port Stephens Council Coastal Management Plan. (Provided under separate cover)
- 2) CMP - Minute No. 015 Council Meeting - 27 February 2024.
- 3) Response to submissions for Council Report - CMP - 25 June.

**COUNCILLORS' ROOM/DASHBOARD**

1) Unredacted Submissions.

**TABLED DOCUMENTS**

Nil.

**ITEM 2 - ATTACHMENT 2      CMP - MINUTE NO. 015 COUNCIL MEETING - 27 FEBRUARY 2024.****MINUTES ORDINARY COUNCIL - 27 FEBRUARY 2024****ITEM NO. 4****FILE NO: 24/29386  
EDRMS NO: 79-2023-4-1****EXHIBITION OF DRAFT PORT STEPHENS COASTAL MANAGEMENT PROGRAM**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorses the draft Coastal Management Program and associated appendices (**ATTACHMENT 1**) to be placed on public exhibition for a period of 28 days.
- 2) Be provided with a further report at the conclusion of the public exhibition period.

**ORDINARY COUNCIL MEETING - 27 FEBRUARY 2024  
MOTION**

<b>015</b>	<b>Councillor Jason Wells Councillor Leah Anderson</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Endorses the draft Coastal Management Program and associated appendices (<b>ATTACHMENT 1</b>) to be placed on public exhibition for a period of 28 days.</li><li>2) Be provided with a further report at the conclusion of the public exhibition period.</li></ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.



**MINUTES ORDINARY COUNCIL - 27 FEBRUARY 2024****BACKGROUND**

The purpose of this report is to seek endorsement for the draft Port Stephens Coastal Management Program (CMP) and associated appendices (**ATTACHMENT 1**) to be placed on public exhibition for a period of 28 days. A further report would be made to Council after the completion of the public exhibition period seeking adoption.

Port Stephens Council (Council) has, with the assistance of the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW), prepared a draft CMP to provide strategic direction and actions for implementation in order to address current and future threats to the Port Stephens coastline. This is in an effort to maintain and enhance the ecological, social and economic values of the Port Stephens coastal zone. The purpose of the Port Stephens CMP is to set the long-term strategy for the coordinated management of the Port Stephens coastal zone.

The State Government requires a 5-stage process for the preparation and implementation of a CMP:

- Stage 1: Identify the scope of the CMP through the preparation of a 'scoping study'
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Council have successfully completed Stages 1, 2 and 3 of the above process. This report represents a key milestone for Stage 4.

The CMP is a 10 year plan of action for Council, public authorities and land managers responsible for the management of the Port Stephens coastal zone. The CMP will:

- Address and reduce risks associated with coastal hazards
- Preserve sensitive habitats, cultural uses and social values associated with the coastline
- Encourage the sustainable social, agricultural, economic and developed use of the coastal zone
- Maintain and improve the recreational amenity and resilience of the coastal zone into the future
- Adapt to emerging issues associated with the coastal zone such as population growth, climate change and coastal hazards.

**ITEM 2 - ATTACHMENT 2 CMP - MINUTE NO. 015 COUNCIL MEETING - 27 FEBRUARY 2024.****MINUTES ORDINARY COUNCIL - 27 FEBRUARY 2024****COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Environmental resilience	Develop and deliver a program for Council to mitigate environmental risks associated with climate change and natural hazards

**FINANCIAL/RESOURCE IMPLICATIONS**

The public exhibition of the draft Port Stephens CMP and associated community engagement activities will be undertaken using existing budgets. The return report seeking Council adoption would include resourcing implications associated with the final actions proposed for implementation.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**Coastal Management Act 2016

The Coastal Management Act 2016 (CM Act) sets the aims and objectives of Government to manage the coastal environment of NSW. The objectives set out within the CM Act are required to be addressed within the draft CMP. Part 3 of the CM Act sets the expected requirements of CMPs and the associated manual, including the responsibility of local Councils to prepare the document in accordance with the coastal management manual. The draft CMP has been prepared in accordance with the requirements of the CM Act and associated manual.

State Environmental Planning Policy (Resilience and Hazards) 2021

The State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) defines the coastal zone as the area of land comprised of the following coastal management areas:

- The coastal wetlands and littoral rainforest area
- The coastal vulnerability area
- The coastal environment area

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- The coastal use area.

The draft CMP has been prepared to address the requirements of the CM Act and associated manual as they relate to the above coastal management areas.

During the 28 day exhibition period, Council staff would actively engage with the Port Stephens community and key stakeholder groups for their feedback. A series of information sessions would be held where the community can ask questions, be provided with CMP information and seek assistance related to making a formal submission.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the draft CMP does not meet community expectations.	Medium	Accept the recommendation.  Extensive community engagement has been undertaken during Stage 3 to capture the community's expectations. Further active engagement would be undertaken during the public exhibition period to assist Council to further understand and satisfy community expectations.	Yes
There is a risk if the draft CMP is not endorsed for public exhibition, that the draft CMP will not meet the requirements of the CMP manual and therefore unable to be certified by the Minister.	Medium	Accept the recommendation.	Yes
There is a risk if the draft CMP is not endorsed for public exhibition, that Council will be unable to access funding support from the State Government to implement the actions.	Medium	Accept the recommendation.	Yes

**MINUTES ORDINARY COUNCIL - 27 FEBRUARY 2024****SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The development and implementation of the Port Stephens CMP represents an important opportunity for Council, public authorities and other land managers to work together on a strategic approach to managing current and future impacts on the coastal zone.

The vision statement for the Port Stephens CMP is to ensure that 'our community is resilient to environmental risks, coastal hazards and climate change'. Supporting this vision are a series of local coastal management objectives that have been developed to align with the objects of the CM Act:

- Collaboration:
  - Encourage collaboration and partnership with government, agencies and our community to manage and protect the coastal zone.
- Biodiversity and ecosystem integrity:
  - Protect biological diversity and ecosystem integrity by maintaining and improving water quality and estuary health.
- Climate change:
  - Mitigate and build resilience to current and future coastal hazards and risks.
- Land use planning:
  - Facilitate ecologically sustainable development in the coastal zone and prioritise sustainable land use planning in decision making to maintain and improve public access, amenity and use.
- Aboriginal custodianship:
  - Support and protect our Aboriginal community's spiritual, social, customary and economic use of the coastal zone.
- Coastal economies:
  - Support sustainable economic opportunities within the coastal zone.

The CMP allows Council and other land managers to implement a range of credible, evidence-based actions that address current and future coastal risks.

Certification of the CMP will allow Council to access State Government funding support to implement these priority coastal management actions over the next 10 years.

**CONSULTATION**

Extensive consultation has been undertaken with key stakeholders by the Strategy and Environment Section during Stages 1 to 4 of the CMP process.

The CMP Engagement Report is available within Appendix B of **(ATTACHMENT 1)**, and provides detailed information about the outcomes of engagement to date.

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- Assets Section
- Public Domain and Services Section
- Community Services Section
- Development and Compliance Section
- Strategy and Environment Section
- Communications Section
- Finance Section
- Governance Section
- Strategic Property.

External

- NSW DCCEEW Coast and Estuaries
- Department of Primary Industries (DPI) - Fisheries and Marine Parks
- NSW National Parks & Wildlife Service
- NSW Crown Lands
- Hunter Local Land Services
- Transport for NSW
- NSW State Emergency Service
- MidCoast Council
- City of Newcastle
- Hunter Water Corporation
- Ausgrid
- Worimi Local Aboriginal Land Council
- Karuah Local Aboriginal Land Council
- Worimi Conservation Lands Board
- Community groups
- Port Stephens residents
- Visitors.

In accordance with local government legislation, the draft CMP would be placed on public exhibition for a period of 28 days. A further report would be made to Council after the completion of the public exhibition period seeking adoption.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Draft Coastal Management Program. (Provided under separate cover)

**MINUTES ORDINARY COUNCIL - 27 FEBRUARY 2024**

**COUNCILLORS' ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM 2 - ATTACHMENT 3      RESPONSE TO SUBMISSIONS FOR COUNCIL  
REPORT - CMP - 25 JUNE.**
**SUBMISSIONS FROM THE PUBLIC**

No.	Author of Submission	Comment	Council's Response
1	Tilligerry Habitat Association	<p>Point 1 - The CMP does not provide sufficient detail on the biodiversity attributes of the coastal zone and Tilligerry Peninsula in particular.</p> <p>Point 2 - The high rates of visitation to the Tilligerry Habitat Reserve and accessibility for users with limited mobility is noted as a key aspect of the Reserve.</p> <p>Point 3 - The submission expresses concern about the impact of foreshore erosion on public open space, the boardwalk and trees along the shoreline adjacent to Tilligerry Habitat Reserve. The subject land is Crown land for which Council is the Crown land manager. It is requested an extension of the existing seawall at Mallabula and/or replacement of the boardwalk be considered in the CMP as a high priority.</p> <p>Point 4 - Action RA020 is supported but it is requested the footprint of the works be increased to capture a greater extent of foreshore.</p>	<p>Point 1 - The biodiversity values of the Tilligerry Peninsula are acknowledged as important in the management context for this locality. The 'biodiversity and ecosystem integrity' management objective of the CMP (refer Section 1.4) is to 'Protect biological diversity and ecosystem integrity by maintaining and improving water quality and estuary health.' This objective has been adopted as a criteria in the evaluation of management options in Stage 3 of the CMP.</p> <p>Point 2 - The importance of maintaining access to the Tilligerry foreshore for a variety of uses is noted.</p> <p>Point 3 - While an extension of the existing seawall at Mallabula (option CH033) and other options to protect the boardwalk (e.g. options CH036 to CH038) were considered in Stage 3 of the CMP, these options did not progress to the final CMP due to a lack of erosion hazard mapping for this location to enable quantification of the risk to built assets and timeframe within which they would be impacted in the future (noting also an adaptation strategy is proposed for the Tilligerry Peninsula, Action CH005).</p>

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REPORT - CMP - 25 JUNE.**
**RESPONSE TO SUBMISSIONS FOR COUNCIL**

No.	Author of Submission	Comment	Council's Response
			<p>Given these works would have a longer design life and the risk profile over time is unknown, they were not recommended for the CMP at this time.</p> <p>Point 4 - Regarding Action RA020, the footprint of the proposed shoreline stabilisation works has not been modified at this time, but the action has been modified to identify the need to consider the scope of works at the time of implementation and to consider the need to extend the works footprint.</p>
2	Resident	<p>Point 1 - The submission includes a draft Aboriginal Conservation Management Plan for Port Stephens which details the history and significance of Port Stephens to First Nations people and culture. It proposes policies and actions specific to traditional management objectives including establishment of an agreement with Council on how they will engage with the Worimi.</p> <p>The following key issues were raised by the respondent: The desire of the Traditional Owners to be an active partner in decision making by Council.</p>	<p>Points 1 – 3 - Council has established an Aboriginal Strategic Committee which consists of representatives from both the Karuah Local Aboriginal Land Council (LALC) and the Worimi (LALC). The Committee meets on a quarterly basis. The role of the Committee is to, amongst other things:</p> <ul style="list-style-type: none"> <li>- provide advice in relation to issues of concern between Council and the Aboriginal community;</li> <li>- provide a consultative mechanism with respect to development issues;</li> <li>- improve relations between the Aboriginal and non-Aboriginal community of Port Stephens; and</li> <li>- exchange information between the Aboriginal community and Council on</li> </ul>



**ITEM 2 - ATTACHMENT 3      RESPONSE TO SUBMISSIONS FOR COUNCIL  
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No.	Author of Submission	Comment	Council's Response
		<p>Point 2 - It was noted that there is opportunity to strengthen the relationship between Council and the Traditional Owners, and potentially formalise this relationship.</p> <p>Point 3 - The respondent seeks to have the draft Conservation Management Plan acknowledged and adopted by Council, and submitted to the Heritage Council of NSW for endorsement.</p>	<p>issues affecting Aboriginal people;</p> <p>The Aboriginal Strategic Committee helps to direct Council's focus including the delivery of the Yabang Gumba-Gu or the Road to Tomorrow agreement. The agreement was established in 2018 between Port Stephens Council and the Worimi and Karuah LALCs. The agreement is a roadmap to how PSC and the LALC's will work together to improve the lives of Aboriginal people living in our region both now and into the future. Council commits to working within the framework of this agreement in relation to the CMP.</p> <p>While acknowledging the comprehensive resource, the draft Aboriginal Conservation Management Plan, which was attached to the submission, Council advises that they do not intend to endorse the Plan at this time.</p>
3	Resident	<p>Point 1 - The disruption to natural sediment transport processes along Corlette Beach from Sandy Point (littoral drift) arising from the construction of The Anchorage Marina is identified as an issue in the Submission.</p> <p>Point 2 - The respondent objects to the use of ratepayer and State</p>	<p>Point 1 &amp; 2 - The Development Approval for The Anchorage Marina development included a Condition of Consent requiring that the applicant fund a beach nourishment (i.e. sand carting) program "whenever the high water mark against the eastern wall progrades 60 metres seaward of its present location or significant</p>

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		Government funds to address the resultant shoreline erosion in this context.	subaerial bypassing of the eastern breakwater under waves and current action occurs". The high water mark referred to in the consent is from 1978, the date at which the consent was granted. Council have in recent years investigated the potential to enforce this condition of consent and have found that the high water mark is located much further seaward (around 50 m) of the 1987 high water mark against the eastern wall. As such, the trigger for enforcing this consent condition has not been met, and is considered unlikely to be met in the near future. In addition, The Anchorage Marina has changed ownership since the consent was granted, further complicating matters. For these reasons, Council considered it was not feasible to attempt to enforce this Condition of Consent, particularly given the need to address the current erosion issues at Conroy Park. As a result of these circumstances, and with a view to managing the impact of the shoreline erosion on beach amenity and public safety at Conroy Park, Council has determined to proceed with Action RA016 - to undertake sand carting / beach nourishment at Sandy Point / Conroy Park.

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4	Resident	The submissions requests the CMP include more action to address the long-term erosion and coastal inundation along the Mallabula / Tanilba foreshore, which is adversely impacting public assets.	Reference is made to Action CH005, to prepare an adaptation strategy for the Tilligerry Peninsula, for which further detail is provided in Section 3.2.4 of the CMP. Given the high risk arising from tidal inundation (i.e. permanent inundation under sea level rise conditions) in future, it was recognised that there was a need for more time to work with the community and key stakeholders to develop a sustainable, long-term strategic approach to managing coastal hazards on the Peninsula. It is noted also that the risk to life and property from coastal hazards in Tanilba is lower and there is a need for further information on erosion hazards prior to progressing major shoreline protection works. Hence, the CMP does not propose to implement potentially costly management actions at this time, pending completion of the adaptation strategy.
5	Resident	Point 1 - The submission expresses concern about the proposed Offshore Renewables Zone located offshore of the CMP study area and potential terrestrial and marine impacts of offshore wind infrastructure, as well as impacts to the public use and enjoyment of the coastal zone and coastal economy.	Point 1 - The Offshore Renewables Zone is located outside the CMP study area, in addition the location at which any associated infrastructure would come ashore is not at this time known. Irrespective, PSC has committed to working with key stakeholders to monitor and share information on major projects that may

**ITEM 2 - ATTACHMENT 3      RESPONSE TO SUBMISSIONS FOR COUNCIL  
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No.	Author of Submission	Comment	Council's Response
		<p>Point 2 - The maintenance of good water quality in Port Stephens is considered to be a high priority for the CMP with respect to both catchment practices (compliance) and boating impacts.</p> <p>Point 3 - The submission seeks clarification as to whether beach nourishment is proposed under the CMP, and if so, asks whether this is a sustainable option.</p> <p>Point 4 - The need to dredge for navigational access, in particular at Tea Gardens, is identified.</p> <p>Point 5 - Management of waste, contamination risk and adverse impacts to biodiversity are also identified as high priorities for the CMP in the submission, particularly in the context of ongoing climate change.</p> <p>Point 6 - Planning and development controls that regulate potential impacts to the coastal zone are supported by the respondent.</p>	<p>impact the CMP study area (e.g. refer Action DI001).</p> <p>Point 2 - In recognition of the importance of water quality for Port Stephens, Council has proposed to revise the CMP to include management option WQ001, to develop a new water quality monitoring program for Port Stephens, as an Action in the CMP. Further, Action WQ003 has been modified to permit a broader scope for ongoing monitoring. This will provide Council with greater flexibility to adopt a more comprehensive water quality monitoring program, if supported by the outcome of Action WQ001.</p> <p>Point 3 - Beach nourishment in the form of sand carting has been proposed in Actions RA016 and RA011 at Conroy Park and Shoal Bay respectively. Some additional minor nourishment is proposed at various locations as part of Action E012. The costs for these options incorporate the cost of re-nourishment when the beach volume triggers the need for the works. Therefore, the options are sustainable.</p> <p>Point 4 - It is assumed the reference to navigational dredging is to Corrie Channel. MidCoast Council has received \$2M funding</p>

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			<p>from the State Government to implement a program of navigational dredging works over 2024/2025. This will include Corrie Channel.</p> <p>Points 5 &amp; 6 - One of the key outcomes of the CMP will be Action CH011, to develop and implement planning controls in Council's LEP and DCP to manage the risk to development from coastal hazards and climate change. Reference is also made to Action WQ004 that seeks to maintain vegetated riparian corridors in the catchment through the planning proposal process.</p>
6	Resident	The submission expresses concern about the proposed Offshore Renewables Zone located offshore of the CMP study area and potential terrestrial and marine impacts of offshore wind infrastructure, as well as impacts to the coastal economy (specifically game fisheries). These potential impacts are considered inequitable.	The Offshore Renewables Zone is located outside the CMP study area, in addition the location at which any associated infrastructure would come ashore is not at this time known. Irrespective, PSC has committed to working with key stakeholders to monitor and share information on major projects that may impact the CMP study area (e.g. refer Action DI001).
7	Resident	<p>Point 1 - The submission expresses concern about the lack of management actions comprising works to mitigate coastal inundation hazard for Little Beach and Shoal Bay.</p> <p>Point 2 - The inclusion of a number of management actions that comprise further</p>	Point 1 & 2 - While a number of coastal protection works options were considered in Stage 3 of the CMP, including at Shoal Bay (e.g. CH013-CH018), these options did not progress to the final CMP due to a lack of erosion hazard mapping for this location to enable quantification of the

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No.	Author of Submission	Comment	Council's Response
		<p>studies or investigations, policy development or similar was noted as a short-coming of the plan, with a desire for more works expressed by the respondent, in relation to the coastal erosion risk to Shoal Bay Road in particular.</p> <p>Point 3 - The focus of the Coastal Zone Emergency Action Sub-plan on response and recovery is considered a short-coming of the CMP, with a desire for more on-ground works to mitigate risk from coastal hazards to be included in the CMP.</p>	<p>risk to built assets and timeframe within which they would be impacted in the future (noting also an adaptation strategy is proposed for Shoal Bay, Action CH073). Given coastal protection works would have a longer design life and the risk profile over time is unknown, they were not recommended for the CMP at this time.</p> <p>Point 3 - The intent of the CZEAS is to provide for short-term emergency coastal protection to be undertaken for those locations that may be affected by coastal erosion for which coastal protection works are not currently in place. In some locations, coastal protection works may be undertaken in future, however there is a need for an interim arrangement in the short-term. It is noted that such emergency protection works are only permitted as exempt development under Section 2.16(3) of the State Environmental Planning Policy (Resilience and Hazards) 2021 if described within a CZEAS as part of a certified CMP.</p>
8	Resident	The submission supports the first two options proposed for Precinct 5 under the Sandy Point / Conroy Park Foreshore Erosion and Drainage Management Plan	While a number of coastal protection works, including those recommended in the earlier Management Plan, were considered in Stage 3 of the CMP, these options did

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		(Whitehead & Assoc, 2016) and notes that Action CH023 - maintenance works to the existing seawall) is not proposing to implement these actions despite being supported by residents in the past. There is a strong desire to progress these works as a priority.	not progress to the final CMP due to a lack of erosion hazard mapping in a format that meets the current requirements. Hence, it is not currently possible to quantify the risk to built assets and the timeframe within which they would be impacted in the future, as per the current requirements of the NSW Coastal Management Manual. Given coastal protection works would have a longer design life and the risk profile over time is unknown, they were not recommended for the CMP at this time. However, in the interim, Council has determined to proceed with repairs to the existing seawall under Action CH023 due to its poor condition.
9	Resident	The submission seeks clarification on the actions proposed to address the failing coastal protection works (rock walls) along Corlette / Sandy Point. The risk to the public reserve is noted as being of concern.	While a number of coastal protection works, including those recommended in the earlier Management Plan, were considered in Stage 3 of the CMP these options did not progress to the final CMP due to a lack of erosion hazard mapping in a format that meets the current requirements. Hence, it is not possible to quantify the risk to built assets and the timeframe within which they would be impacted in the future, as per the current requirements of the NSW Coastal Management Manual. Given coastal protection works would have

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			a longer design life and the risk profile over time is unknown, they were not recommended for the CMP at this time. However, in the interim, Action RA016 is included in the CMP and provides for sand carting to improve the shoreline condition and improve beach amenity at Conroy Park.
10	Resident	<p>Point 1 - The submission requests a more condensed version of the CMP.</p> <p>Point 2 - Regarding Action CH072 to investigate options to protect Shoal Bay Road from coastal erosion, the submission requests works be progressed within the current CMP, not deferred to the next CMP.</p> <p>Point 3 - A more detailed explanation of the scope of the coastal hazard investigation under Action CH072 is requested.</p> <p>Point 4 - Regarding Action CH073, the submission requests an immediate plan for Shoal Bay, rather than preparation of an Adaptation Strategy.</p> <p>Point 5 - The lack of on-ground works to address the foreshore erosion issues documented in the CMP and earlier studies is considered insufficient in the context of previous work on potential</p>	<p>Point 1 – A summary document was produced and published on Council's webpage during the exhibition period.</p> <p>Points 2 – 5 - While a number of coastal protection works options were considered in Stage 3 of the CMP, including to protect Shoal Bay Road (e.g. CH017 and CH018), these options did not progress to the final CMP due to a lack of erosion hazard mapping for this location to enable quantification of the risk to built assets and timeframe within which they would be impacted in the future. Given coastal protection works would have a longer design life and the risk profile over time is unknown, they were not recommended for the CMP at this time. Furthermore, and noting the potential adverse impacts of a seawall on beach amenity, it was considered that there is benefit to developing a holistic long-term strategy</p>



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		<p>options to address erosion (e.g. refer SMEC, 2012).</p> <p>Point 6 - The submission suggests the trigger level for sandbagging of Shoal Bay Road in the CZEAS is not sufficiently conservative (at 6m) and suggests the feasibility of placing such a large number of sandbags at this location should be reviewed.</p> <p>Point 7 - The submission supports Action RA012 to manage public access and rehabilitate the dunes and requests that Council works with the two local Landcare groups on this action.</p> <p>Point 8 - Clarification is requested around Action CH005, the Adaptation Strategy for the Tilligerry Peninsula, with respect to its scope (need to include flood &amp; bushfire hazard) and timing. It is requested it be given a higher priority.</p> <p>Point 9 - Regarding Action CH072, the coastal erosion hazard investigation, clarification is requested as to the scope and outcomes of such an investigation.</p> <p>Point 10 - Regarding Action E001, ongoing pest and weed management on Council land, it is requested that Council's practices be</p>	<p>through the development of an adaptation strategy for the locality (refer Action CH073). In the interim Council has determined within the CMP to proceed with investigation and design of works protect the road in the event the risk to road increases while the adaptation strategy is in preparation or to enable prompt commencement of works upon completion of the erosion hazard mapping.</p> <p>Point 6 - Regarding the emergency coastal protection works for Shoal Bay Road in the CZEAS, the trigger level was set based on current conditions and it is noted that if the trigger distance were increased beyond 6m, would likely trigger the works much more frequently. The relevant legislation and guidelines provide for emergency coastal protection works to be temporary in nature, comprising sand or sand bags only and are to be removed after a period of 90 days. Given these constraints, it is considered that the trigger level is appropriate.</p> <p>Regarding the number of sandbags to be placed at this locality, it is noted that although the extent of permitted works indicated in Figure 6-1 is relatively long, the full extent of this</p>

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No.	Author of Submission	Comment	Council's Response
		<p>reviewed with respect to potential to increase foreshore erosion (e.g. in relation to mowing).</p> <p>Point 11 - A re-wording is proposed for Action E016 to extend the support for local volunteer groups to general foreshore rehabilitation activities (i.e. not just dune rehabilitation).</p> <p>Point 12 - Regarding Action E017 which relates to compliance monitoring of off-leash dog walking and 4WD activities, it is requested that signage is improved at Lemon Tree Passage, in particular Morton Avenue.</p>	<p>nominated area may not be triggered during a single storm event. In addition, safety issues and time constraints relating to preparatory sandbagging may also limit the number of bags that can feasibility be placed within a short timeframe. However, where feasible, the CZEAS permits the works to be undertaken within these constraints. A clarification has been provided in the CZEAS with respect to the line designating the potential sandbag placement area.</p> <p>Point 7 - The submissions support for Action RA012 is noted.</p> <p>Point 8 - Further detail on the scope of Action CH005 is provided in Section 3.2.4 of the CMP. It has been recommended the adaptation strategy also consider other hazards such as flooding and bushfire.</p> <p>Point 9 - Action CH072 - to undertake erosion hazard mapping - would result in development of probabilistic coastal erosion hazard lines to be prepared for the present day and several future planning horizons in accordance with the current best practice. They would be similar to those developed for the open coast. Additional</p>

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			<p>information has been provided in Section 3.2.4 of the CMP to explain this Action. This is a critical Action that would enable options for coastal protection works within Port Stephens to be re-evaluated and progressed.</p> <p>Points 10 – 12 - The requests made in the submission in relation to Actions E001, E016 and E017 have been referred to the relevant staff within Council for consideration in their operational practices.</p>
11	Resident	<p>Point 1 - The submission expressions concern about the impact of ongoing erosion of the foreshore in Lemon Tree Passage and Tanilba Bay as a result of coastal processes, vegetation management activities (e.g. mowing) and stormwater erosion, and suggests consideration of management actions in the CMP relating to development controls for stormwater discharges and foreshore maintenance guidelines.</p> <p>Point 2 - The submission notes the outcomes of the CMP Stage 2 condition assessment of coastal protection structures on the Tilligerry Peninsula and requests management actions in the CMP to address the identified issues.</p>	<p>Points 1 – 3 - While a number of coastal protection works options were considered in Stage 3 of the CMP, including for Lemon Tree Passage and Tanilba Bay (e.g. CH033-CH038 and CH050-CH052), these options did not progress to the final CMP due to a lack of erosion hazard mapping for this location to enable quantification of the risk to built assets and timeframe within which they would be impacted in the future. Given coastal protection works would have a longer design life and the risk profile over time is unknown, they were not recommended for the CMP at this time. Furthermore, it was considered that there is benefit to developing a holistic long-term strategy through the development of</p>

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		<p>Point 3 - The complexity of estuarine processes that contribute to foreshore erosion is noted by the respondent with reference to the Stage 2 CMP report and is considered a significant omission from the CMP.</p> <p>Point 4 - Further detail on the coastal hazard investigation proposed under Action CH072 are requested.</p> <p>Point 5 - The submission requests that Council re-consider the decision not to proceed with mapping of a CVA under the Resilience and Hazards SEPP.</p>	<p>an adaptation strategy for the locality (refer Action CH005).</p> <p>Point 4 - Action CH072 - to undertake erosion hazard mapping - would result in development of probabilistic coastal erosion hazard lines to be prepared for the present day and several future planning horizons in accordance with the current best practice. They would be similar to those developed for the open coast. Additional information has been provided in Section 3.2.4 of the CMP to explain this Action. This is a critical Action that would enable options for coastal protection works within Port Stephens to be re-evaluated and progressed.</p> <p>Point 5 - The request to re-consider CVA mapping is noted and has been progressed by Council following further discussion with DPHI - refer management action CH085.</p>
12	Resident	<p>Point 1 - The submission, which is from a long-term resident of Kangaroo Point, provides some observations on processes contributing to shoreline erosion at this location and notes the adverse impacts of some foreshore structures (e.g. groynes).</p> <p>Point 2 - It is requested that Action RA036, foreshore</p>	<p>Points 1 – 2 - The decision to implement Action RA036 at Kangaroo Point in Year 7 of the CMP was informed by a range of considerations including the level of risk, environmental approvals considerations and availability of funding. While the works at Kangaroo Point are required to address shoreline erosion, they are considered a lower priority</p>

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		<p>stabilisation works at Kangaroo Point, scheduled for Year 7, be allocated a higher priority due to recent acceleration of erosion at the site. Some considerations for the scope and timing of the proposed works under Action RA036 are also provided.</p> <p>Point 3 - The submission expresses concern regarding the need for ongoing maintenance of the access way from Soldiers Point Road to the foreshore by Council.</p>	<p>than works at other locations where the risk to property and the public is higher.</p> <p>Point 3 – Noted referred to the relevant staff within Council for consideration in their operational practices.</p>
13	Resident	The submission requests engineered coastal protection works along the western end of Kangaroo Point as a priority to address ongoing foreshore erosion.	The decision to implement Acton RA036 at Kangaroo Point in Year 7 of the CMP was informed by a range of considerations including the level of risk, environmental approvals considerations and availability of funding. While the works at Kangaroo Point are required to address shoreline erosion, they are considered a lower priority than works at other locations where the risk to property and the public is higher.
14	Resident	It is requested that Action RA036, foreshore stabilisation works at Kangaroo Point, scheduled for Year 7, be allocated a higher priority due to recent acceleration of erosion at the site.	The decision to implement Action RA036 at Kangaroo Point in Year 7 of the CMP was informed by a range of considerations including the level of risk, environmental approvals considerations and availability of funding. While the works at Kangaroo Point are required to address shoreline erosion, they are considered a lower priority than works at other locations

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REPORT - CMP - 25 JUNE.**

No.	Author of Submission	Comment	Council's Response
			where the risk to property and the public is higher.
15	Tomaree Ratepayers & Residents Association	<p>Point 1 - The submission notes the difficulties in engaging with residents living within the coastal zone or that otherwise may be affected by the CMP, and requests participation in the implementation phase Stakeholder Reference Group (or similar) for the CMP.</p> <p>Point 2 - Heritage, incl. significant Aboriginal heritage, is a key consideration. It is requested that the future of the Tomaree Lodge site be addressed in the CMP.</p> <p>Point 3 - The inclusion of Water Quality and Biodiversity as key issues in the CMP is supported, but it is considered there has been insufficient focus on the unique character and sustainable development of the coastal zone. Visual amenity and maintenance of local character are considered very significant issues to Tomaree communities under threat from increasing development pressures (in particular high rise development).</p> <p>Point 4 - The submission considers there is insufficient consideration of socio-</p>	<p>Point 1 – Noted</p> <p>Point 2 - The NSW Department of Communities and Justice is currently undertaking an engagement process on the future use of the Tomaree Lodge site. The use of this site is therefore not directly relevant to the CMP at this time, although it is anticipated that the information on coastal hazards developed during the CMP will assist in decision-making on appropriate future uses.</p> <p>Point 3 &amp; 4 - The importance of Port Stephens and the adjacent open coast for the regional economy is noted. The economic development of coastal dependent industries such as fishing and aquaculture is supported by the NSW Department of Primary Industries and other agencies. Irrespective, it is considered that the CMP does not materially impact these coastal dependent industries. With respect to tourism and visitation, which is also an important aspect of the local economy, the sustainable development and use of the coastal zone for the enjoyment of visitors is supported through a range of management actions in the</p>

**ITEM 2 - ATTACHMENT 3      RESPONSE TO SUBMISSIONS FOR COUNCIL  
REPORT - CMP - 25 JUNE.**

No.	Author of Submission	Comment	Council's Response
		<p>economic uses of the coastal zone, in particular fisheries and aquaculture infrastructure, including land and water-based aquaculture.</p> <p>Point 5 - The submission expresses concern about the potential impacts of the adjacent Offshore Renewables Zone (e.g. visual impacts) and supports Action D001, the sharing of information between the WCLB and Council on major projects in the coastal zone.</p> <p>Point 6 - The regulation and management of use of powered watercraft is considered a key issue which the submission assumes is to be dealt with via other mechanisms (e.g. TfNSW Boating Plans) and agree with this approach.</p> <p>Point 7 - The submission supports the options evaluation process and information on management actions provided in the CMP, and notes the following:</p> <ul style="list-style-type: none"> <li>- The CMP should give more explicit recognition of planned retreat as an option for consideration in Adaptation Strategies and notes it can be preferable to 'hold the line' options such as engineering works.</li> <li>- Given the substantial cost associated with beach scraping and sand</li> </ul>	<p>CMP. An example is the sand carting proposed for Shoal Bay Beach which is aimed at improving beach amenity for locals and visitors at this popular site.</p> <p>Point 5 - The respondents support for Action D001 is noted.</p> <p>Point 6 - The support for regulation and management of powered watercraft outside the CMP via existing management frameworks is noted.</p> <p>Point 7 - With respect to sand management actions under E012 and sand carting actions (RA011 and RA017), these actions have historically been undertaken as routine maintenance works by Council in the first instance and as capital works projects with respect to the latter. It is considered that there is sufficient information available to inform these management actions in the interim, noting longer term adaptation strategies (e.g. Actions CH005, CH073), further investigations (e.g. Action CH072), and monitoring (e.g. CH001) are proposed as part of the CMP to inform future decision-making. Citizen science can be considered as part of Action CH001.</p>

**ITEM 2 - ATTACHMENT 3 RESPONSE TO SUBMISSIONS FOR COUNCIL REPORT - CMP - 25 JUNE.**

No.	Author of Submission	Comment	Council's Response
		<p>management activities (incl. sand carting) it is requested that further assessment of these actions be undertaken to ensure an optimum response to the site specific risks at each location.</p> <p>- It is requested that Actions CH017 and CH073 be given a higher priority and undertaken sooner due to the critical nature of access via Shoal Bay Road.</p> <p>- It is recommended that Action CH001, coastal hazard monitoring, consider a role for citizen science.</p> <p>Point 8 - Clarification is required around the funding of Actions in the CMP to be provided by Council, and whether it represents already committed funding or whether it will need to be allocated in future budgets. This relates to both capital and annually recurrent costs of implementation.</p> <p>Point 9 - It is requested that copies of all maps included in the CMP be made available on Council's project webpage.</p> <p>Point 10 - The inclusion of the CZEAS as part of the CMP is supported.</p>	<p>Planned retreat, also referred to as planned relocation or managed retreat, is referenced in relation to all three adaptation strategies and is intended to be an option considered in developing location specific adaptation strategies.</p> <p>Point 8 - All actions are subject to the availability of funding. The portion of the budget for actions in the CMP for which Council is responsible are required to be incorporated into their IPR framework. There are some actions that in effect continue or support existing Council activities that would be within the existing budget(s) (e.g. sand management activities). The SRV will provide funding for a portion of the works as will the Crown Reserve. The adoption and certification of the CMP will support applications for grant funding, principally under the NSW Government's Coast and Estuary Grants Program, which specifically supports Council's in implementing their CMPs. Other grant programs are also available to support various management actions under the CMP.</p> <p>Point 9 – Noted. Maps have been made available of Council's website.</p>



**ITEM 2 - ATTACHMENT 3      RESPONSE TO SUBMISSIONS FOR COUNCIL  
REPORT - CMP - 25 JUNE.**

No.	Author of Submission	Comment	Council's Response
			Point 10 - Noted
16	Resident	<p>Point 1 - It is requested that Action RA036, foreshore stabilisation works at Kangaroo Point, scheduled for Year 7, be allocated a higher priority due to recent acceleration of erosion at the site.</p> <p>Point 2 - Further, the appropriateness of Action RA036 in lieu of coastal protection works is questioned in the submission.</p>	<p>Point 1 - The decision to implement Acton RA036 at Kangaroo Point in Year 7 of the CMP was informed by a range of considerations including the level of risk, environmental approvals considerations and availability of funding. While the works at Kangaroo Point are required to address shoreline erosion, they are considered a lower priority than works at other locations where the risk to property and the public is higher.</p> <p>Point 2 - While a number of coastal protection works options were considered for Kangaroo Point in Stage 3 of the CMP (e.g. CH053-CH057), these options did not progress to the final CMP due to a lack of erosion hazard mapping for this location to enable quantification of the risk to built assets and timeframe within which they would be impacted in the future. Given coastal protection works would have a longer design life and the risk profile over time is unknown, they were not recommended for the CMP at this time.</p>

**ITEM 2 - ATTACHMENT 3      RESPONSE TO SUBMISSIONS FOR COUNCIL  
REPORT - CMP - 25 JUNE.**

No.	Author of Submission	Comment	Council's Response
17	Resident	The submission requests inclusion in the CMP of a Management Action for a retaining wall to be located at Kangaroo Point, as per the concept plans provided with the submission.	While a number of coastal protection works options were considered for Kangaroo Point in Stage 3 of the CMP (e.g. CH053-CH057), these options did not progress to the final CMP due to a lack of erosion hazard mapping for this location to enable quantification of the risk to built assets and timeframe within which they would be impacted in the future. Given coastal protection works would have a longer design life and the risk profile over time is unknown, they were not recommended for the CMP at this time.
18	Tilligerry Community Organisation	<p>Point 1 - The submission requests the formation of a Tilligerry CMP reference group immediately, not in Year 7 of the CMP with the intent of focusing on foreshore condition, ongoing erosion and the loss of trees, and the options for addressing these issues, to be implemented as a priority.</p> <p>Point 2 - It is requested that maintenance be undertaken on Tanilba Bay boardwalk and other boardwalks on the Tilligerry Peninsula.</p> <p>Point 3 - The submission expresses concern about shoreline erosion caused by the stormwater running through a swale in Rudd Reserve at the northern end of Morton Avenue. It is</p>	<p>Point 1 - It is assumed the first point in the submission is referring to Action CH005, to develop and adaptation strategy for the Tilligerry Peninsula. The decision to program this Action in Year 7 of the CMP was based on a range of considerations including the level of risk, environmental approvals considerations and availability of funding. While the adaptation strategy is required to address the long-term risk from coastal hazards, it is considered a lower priority than activities at other locations within the CMP study area where the risk to property and the public is higher, and particularly where it is higher in the shorter-term.</p>

**ITEM 2 - ATTACHMENT 3 RESPONSE TO SUBMISSIONS FOR COUNCIL  
REPORT - CMP - 25 JUNE.**

No.	Author of Submission	Comment	Council's Response
		<p>requested that action be taken to manage the runoff.</p> <p>Point 4 - Foreshore plantings are requested for Kooindah Park to support bank stability.</p>	<p>Point 2 - The need for maintenance of the Tanilba Bay boardwalk and other boardwalks on the Peninsula has been directed to the appropriate staff at Council for consideration within their broader program of works.</p> <p>Point 3 - The issue of stormwater related stormwater erosion in Rudd Reserve has been referred to the relevant staff within Council.</p> <p>Point 4 - The request for foreshore plantings at Kooindah Park has been referred to the relevant staff within Council.</p>
19	Resident	<p>Point 1 - The Littoral Rainforest at Gibber Point Reserve, Lemon Tree Passage, has not been acknowledged in the CMP.</p> <p>Point 2 - Action E012, sand management at the swimming enclosure on Cooke Parade, Lemon Tree Passage, is not supported. Bank erosion and tidal inundation mitigation are required further north in Kooindah Park and Rudd Reserve and should be identified as a priority.</p>	<p>Point 1 - The source of the littoral rainforest mapping presented in the CMP is the DPHI's State Environmental Planning Policy (Resilience and Hazards) 2021 mapping Edition 1 from 2022. There is currently no mapped Littoral Rainforest in this map layer. A review of the DCCEEW's NSW State Vegetation Type Map (C2.0M2.0) indicates the subject vegetation comprises Plant Community Type (PCT) Coastal Sands Swamp Mahogany Rush Forest (PCT 3986). It is noted that ground-truthing would be required to confirm the vegetation type. It is noted that Council has adopted new management action CH084 that provides for updates to the coastal</p>

**ITEM 2 - ATTACHMENT 3  
REPORT - CMP - 25 JUNE.****RESPONSE TO SUBMISSIONS FOR COUNCIL**

No.	Author of Submission	Comment	Council's Response
			<p>management areas mapped under the SEPP as opportunity arises. A future review of CWLRAs under action CH084 could consider these areas.</p> <p>Point 2 - The sand management activity provided for under Action E012 is to relocate sand blown by the wind up onto the footpath and reserve back onto the beach.</p> <p>A number of management options were considered in Stage 3 of the CMP for the shoreline erosion and coastal inundation observed at these locations. However, it is proposed that such options be reconsidered as part of the adaptation strategy proposed for the Tilligerry Peninsula (Action CH005). Given these works would involve a larger cost of implementation, have a longer design life and the risk profile over time is unknown, they were not recommended for the CMP at this time.</p>

**SUBMISSION FROM AGENCIES**

No.	Author of Submission	Comment	Council's Response
Agency	NPWS	NPWS and the Worimi Conservation Lands (WCL) Board of Management acknowledged they have been consulted as part of	Management Action CH007 has been included in the CMP as per the request.

**ITEM 2 - ATTACHMENT 3  
REPORT - CMP - 25 JUNE.**
**RESPONSE TO SUBMISSIONS FOR COUNCIL**

No.	Author of Submission	Comment	Council's Response
		<p>the development of the draft CMP.</p> <p>Requests original Management Action CH007 be included with the following amendment to the wording 'to monitor and stabilise the frontal dune system in accordance with the WCL Coastal Resilience Project plan'.</p> <p>NPWS expressed concern with the proposed alternative road into Shoal Bay previously noted in the Shoal Bay Place Plan. Further consultation with NPWS requested should the concept proceed.</p>	<p>It is noted that there is currently no proposal to relocate Shoal Bay Road, although this is a potential option for consideration as part of the development of an adaptation strategy for Shoal Bay under Action CH073. As detailed in the further information on this Action in Section 3.2.4 of the CMP, it is noted that NPWS is a key stakeholder and Council would propose that they be involved in development of the adaptation strategy. Regarding Action CH017, the action does not propose relocating Shoal Bay Road, but protecting it from coastal erosion.</p>
Local Council	MidCoast Council (MCC)	<p>There are two dredging operations within the Port Stephens LGA and therefore within the Port Stephens CMP boundary, being Corrie Channel (designated navigation channel) which is wholly within the Port Stephens LGA and the Eastern Channel situated partially within the Port Stephens LGA and MidCoast Councils LGA.</p> <p>Point 1 - With respect to Corrie Channel, MCC recommended that an action be included in the PSC CMP for dredging of the designated navigation (Corrie Channel).</p>	<p>Point 1 - It is noted that navigational dredging options are not at this time funded under the NSW Coastal and Estuary Grant Program.</p> <p>It is our understanding that projects of this nature are funded by the Maritime Infrastructure Delivery Office (MIDO) in accordance with the NSW Coastal Dredging Strategy 2019-2024. We note that the strategy is now in the final year of its term and due for review by the State Government. We also acknowledge that the Corrie Channel is not included within the current strategy as a 'Key</p>

**ITEM 2 - ATTACHMENT 3  
REPORT - CMP - 25 JUNE.**
**RESPONSE TO SUBMISSIONS FOR COUNCIL**

No.	Author of Submission	Comment	Council's Response
			<p>Investment Location', a 'Priority Regional Location' and that ongoing funding to deliver the required works has not been committed to by the State Government. When considering MCC's request, the responsibility for navigational dredging of the Corrie Channel, as identified within the Port Stephens and Myall Lakes Estuary Management Plan (Umwelt, 2000), was allocated to Great Lakes Council as the lead agency with support from the State Government, commercial boat operators and Port Stephens Council (PSC). PSC does not propose to make change to this arrangement as part of the Port Stephens CMP. Following consultation between PSC and MCC it was agreed to include an action to advocate for ongoing State Government funding of maintenance dredging for Corrie Channel (new action RA046 in the CMP). PSC is supportive of including Action RA406 within the Port Stephens CMP to partner with MCC in advocating for, and securing ongoing funding for, the navigational dredging of Corrie Channel. The inclusion of this action is considered sufficient to mitigate any</p>

**ITEM 2 - ATTACHMENT 3  
REPORT - CMP - 25 JUNE.****RESPONSE TO SUBMISSIONS FOR COUNCIL**

No.	Author of Submission	Comment	Council's Response
			immediate risks associated with Corrie Channel (with MCC confirming the recent receipt of funding to deliver the required dredging works in the short term).
		Point 2 - With respect to the Eastern Channel, MCC noted that dredging operations in this location are commonly associated with the renourishment of Jimmys Beach, therefore MCC considers it appropriate to include actions within MCC's Southern Estuaries CMP. Accordingly, MCC recommended that the PSC CMP boundary of the North shore be amended to include a buffer into Port Stephens to allow for dredging operations in the Eastern Channel to be included in MCC's Southern Estuaries CMP.	Point 2 - PSC has agreed to amend the study area boundary adopting the buffer suggested by MCC. This will result in the eastern channel dredging and Jimmys Beach nourishment activities falling outside the Port Stephens CMP study area. It is understood that these activities will be addressed in a future Open Coast CMP being prepared by MCC.
		Point 3 - MCC also noted that Jimmys beach will be included in MCCs Open Coast CMP. As such, given the current MCC renourishment operations extend into Port Stephens LGA, MCC recommended that the PSC CMP boundary of the North Shore be amended to include a 150m wide buffer to allow future management actions for Jimmys Beach to be included in the MCC Open Coast CMP.	Point 3 - PSC has agreed to amend the study area boundary suggested by MCC.

**ITEM 2 - ATTACHMENT 3  
REPORT - CMP - 25 JUNE.**
**RESPONSE TO SUBMISSIONS FOR COUNCIL**

No.	Author of Submission	Comment	Council's Response
		Point 4 - MCC requests PSC work in close partnership with MCC in future versions of the PSC CMP and accommodate a catchment based approach.	Point 4 - PSC has taken this request under consideration and commits to ongoing engagement with MCC and NSW DCCEEW in relation to coastal management activities in Port Stephens.
		Point 5 - Requests inclusion of development controls for water quality targets for stormwater management and undertake audits of development erosion and sediment management targets.	Point 5 - PSC supports development controls that support estuarine water quality for aquatic ecosystem health, primary productivity and aquatic recreation. PSC currently undertakes audits of erosion and sediment management controls for development for which they are the consent authority and this is considered an ongoing 'business as usual' activity undertaken by Council. With respect to water quality targets, the Port Stephens DCP 2024 contains within Section B4.C Water Quality specific water quality targets for development that specify the required water quality targets for development located within a drinking water catchment (Neutral or Beneficial Effect or Council's water quality stripping targets, whichever is better) and outside a drinking water catchment (Council's water stripping targets). Given these activities and controls are currently in



**ITEM 2 - ATTACHMENT 3      RESPONSE TO SUBMISSIONS FOR COUNCIL  
REPORT - CMP - 25 JUNE.**

No.	Author of Submission	Comment	Council's Response
			place, Council does not propose to include any additional management actions in the CMP as per the recommendation. PSC welcomes further discussion with MCC on management of water quality in the Port Stephens estuary.

**ITEM NO. 3**

**FILE NO: 24/134677  
EDRMS NO: PSC2023-02759**

**PLANNING PROPOSAL - COASTAL RISK PLANNING CLAUSE**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the updated planning proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 to insert a new clause and map to address the risk of dune transgression.
- 2) Receive and note the submissions received (**ATTACHMENT 2**) during public exhibition of the planning proposal.
- 3) Forward the planning proposal to the NSW Department of Planning, Housing and Infrastructure to request the amendment to the Port Stephens Local Environmental Plan 2013 is finalised.
- 4) Request the NSW Department of Planning, Housing and Infrastructure make an amendment to State Environmental Planning Policy (Resilience and Hazards) 2021 to map coastal risk areas identified in the Port Stephens Coastal Management Program as the Coastal Vulnerability Area, in accordance with the correspondence received on 24 April 2024 (**ATTACHMENT 3**).

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**ORDINARY COUNCIL MEETING - 25 JUNE 2024  
MOTION**

<b>140</b>	<p><b>Councillor Leah Anderson</b> <b>Councillor Glen Dunkley</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Endorse the updated planning proposal (<b>ATTACHMENT 1</b>) to amend the Port Stephens Local Environmental Plan 2013 to insert a new clause and map to address the risk of dune transgression.</li><li>2) Receive and note the submissions received (<b>ATTACHMENT 2</b>) during public exhibition of the planning proposal.</li><li>3) Forward the planning proposal to the NSW Department of Planning, Housing and Infrastructure to request the amendment to the Port Stephens Local Environmental Plan 2013 is finalised.</li><li>4) Request the NSW Department of Planning, Housing and Infrastructure make an amendment to State Environmental Planning Policy (Resilience and Hazards) 2021 to map coastal risk areas identified in</li></ol>
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## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

	the Port Stephens Coastal Management Program as the Coastal Vulnerability Area, in accordance with the correspondence received on 24 April 2024 ( <b>ATTACHMENT 3</b> ).
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

### BACKGROUND

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

The preparation of the planning proposal gives effect to a key aspect of the Port Stephens Coastal Management Program (CMP). The intent of the planning proposal is to incorporate provisions to manage the risk to life and properties from dune transgression and coastal risks in the LEP and State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP).

The planning proposal is informed by the technical investigations undertaken for the CMP, including hazard mapping identifying properties at risk of coastal inundation, tidal inundation, coastal erosion and dune transgression. Port Stephens Council is one of the first councils in NSW to give legislative effect to CMP mapping and data.

At its meeting on 14 November 2023, Minute No. 268 (**ATTACHMENT 4**), Council resolved to adopt the planning proposal and forward it to the NSW Department of Planning, Housing and Industry (DPHI) to seek a Gateway determination and request delegated authority to make the plan.

The Gateway determination (**ATTACHMENT 5**) was issued by DPHI on 23 February 2024, allowing the planning proposal to proceed to exhibition subject to conditions and consultation requirements. For the reasons outlined in this report, the Gateway determination does not include delegated authority for Council to make the plan.

The planning proposal was placed on exhibition from 28 February 2024 to 11 April 2024, 1 community submission was received. In accordance with the Gateway determination the planning proposal was also referred to relevant public authorities and 1 response was received. All submissions are addressed within (**ATTACHMENT 2**).

In response to the submission from the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) (**ATTACHMENT 3**) the planning proposal has been updated to request an amendment to the SEPP to identify coastal risks (coastal inundation, tidal inundation and coastal erosion) on the SEPP Coastal Vulnerability Area (CVA) Map. A request was made for Council to include dune transgression as a separate coastal process which has been addressed and mapped in the LEP.

Should Council accept the recommendations, the planning proposal will be forwarded to DPHI to be finalised. Council has until 18 February 2025 to finalise the planning proposal, consistent with the timeframe set by the Gateway determination.

Given the forthcoming finalisation and endorsement of the CMP, Council has brought forward the finalisation of the Coastal Planning Risk Clause to align with the CMP. This will empower Council to consider coastal risk in the most timely manner.

### **COMMUNITY STRATEGIC PLAN**

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

### **FINANCIAL/RESOURCE IMPLICATIONS**

There are no additional identified financial resource implications identified for the endorsement of the planning proposal.

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

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

There are some legal, policy and risk implications identified for the endorsement of the planning proposal.

## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that Council does not consider the impacts of coastal risk and dune transgression in the assessment of planning applications.	Medium	Accept the recommendation.	Yes

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

The planning proposal is being processed in accordance with Part 3 of the EP&A Act which provides the framework for amending a local environmental plan. DPHI issued a Gateway determination under section 3.34 of the EP&A Act specifying that the planning proposal should proceed to exhibition, subject to conditions and consultation requirements. These requirements included identifying dune transgression as a coastal process and undertaking consultation with DCCEEW.

The Gateway determination does not authorise Council to act as the plan making authority. The reasons provided in the Gateway determination are:

- The planning proposal will develop a new policy approach for how dune transgression is managed in local environmental plans.
- The planning proposal will need to be finalised following the certification of the CMP by the NSW Minister for Climate Change, Energy, the Environment and Water.

Should Council accept the recommendations, the planning proposal will be forwarded to DPHI to be finalised.

### State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP)

The planning proposal has been updated to request an amendment to the SEPP to identify coastal risks (coastal inundation, tidal inundation and coastal erosion) within a “coastal vulnerability area” on the SEPP CVA Map instead of addressing these coastal risks by inserting a clause and map in the LEP. This approach responds to the submission received from the DCCEEW and accompanying advice from DPHI (**ATTACHMENT 3**).

The SEPP includes suitable development assessment provisions to manage development on land within the coastal vulnerability area on the SEPP CVA Map, in place of local provisions in the LEP.

#### Ministerial Direction 4.2 Coastal Management (Direction)

Preparing the planning proposal is consistent with this Direction, which is issued under section 9.1 of the EP&A Act. The Direction applies when a planning proposal authority prepares a planning proposal that applies to land within the coastal zone. The Direction requires planning proposals to include provisions that give effect to and are consistent with, any relevant CMP that has been certified by the Minister.

#### Port Stephens Local Environmental Plan 2013 (LEP)

The planning proposal was updated prior to exhibition to identify dune transgression as a separate LEP map to satisfy the requirements of the Gateway determination. Dune transgression is a coastal process (as opposed to a coastal risk or hazard) as defined under the NSW Coastal Management Glossary. The planning proposal will amend the LEP by inserting a clause to address the risk from dune transgression by reference to a dune transgression map.

In accordance with the advice from DCCEEW, development on land subject to coastal risks (coastal inundation, tidal inundation and coastal erosion) will be managed by the assessment provisions of the SEPP, including the CVA Map.

#### Hunter Regional Plan 2041 (HRP)

The planning proposal is consistent with the HRP Objective 7 'Reach net zero and increase resilience and sustainable infrastructure'. The planning proposal achieves this by proposing amendments to the SEPP and LEP, to include provisions for the assessment of development on land identified as being subject to coastal risks.

#### Local Strategic Planning Statement 2020 (LSPS)

The LSPS identifies the 20 year vision for land use in Port Stephens and sets out social, economic and environmental priorities for the future. The planning proposal is considered to be consistent with and would give effect to, the following planning priority in the LSPS:

- Planning Priority 8: Improve resilience to hazards and climate change.
- Action 8.3: Council will prepare and implement a CMP to mitigate natural hazards and incorporate resilience measures that promote ecologically sustainable development.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The planning proposal will have positive social, economic and environmental risk implications for Council through the consideration of coastal risks in the assessment of development applications.

## **CONSULTATION**

### Internal

Consultation with key stakeholders has been undertaken by the Strategic Planning unit including;

- Coastal Management Program Project Control Group,
- Natural Systems unit,
- Development Assessment and Compliance Section, and
- Assets Section.

### External

DCCEEW was consulted on the planning proposal in accordance with the Gateway determination. The submission (**ATTACHMENT 3**) advises the best means of achieving the objectives of the planning proposal is to map coastal risk areas as “coastal vulnerability area” on a CVA Map in the SEPP. The submission includes supporting advice from DPHI that adoption of the mapping and development controls in the SEPP would provide a more robust and complete risk-based assessment framework.

In response to the submission, the planning proposal has been updated to request an amendment to the SEPP to introduce a CVA Map and to address the risk of dune transgression via a local clause in the LEP.

### Community

In accordance with the Gateway determination, the planning proposal was exhibited from 28 February 2024 to 11 April 2024. 1 submission was received from the Tomaree Residents and Ratepayers Association in support of the changes.

The submission summary and response table as at (**ATTACHMENT 2**).

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Coastal Risk Planning Clause Planning Proposal. (Provided under separate cover)
- 2) Submissions Table.
- 3) DCCEEW and DPHI Submission.
- 4) Minute No. 268 14 November 2023.
- 5) Gateway Determination.

**COUNCILLORS' ROOM/DASHBOARD**

1) Unredacted Submissions.

**TABLED DOCUMENTS**

Nil.



**ITEM 3 - ATTACHMENT 2 SUBMISSIONS TABLE.****Submission Table: Planning Proposal Coastal Risk Planning Clause**

<b>No.</b>	<b>Author of submission</b>	<b>Comment</b>	<b>Council response</b>
1	Tomaree Residents and Ratepayer Association (TRRA)	The submission welcomes the proposal, which will lead to important changes required by the State Government to support the CMP.	The support for the planning proposal is acknowledged.
		The submission supports Council on the proactive and consultative approach to strategic planning for coastal management noting there has been some difficulty to engage the community.	The support for the approach to community engagement undertaken by Council is acknowledged.
		The submission advises TRRA has commented separately on the draft CMP.	Noted. The CMP is the subject of a separate report to Council.
		The submission suggests a key to the colours used on each of the Coastal Risk Planning Maps to help explain how they will apply.	No change. The NSW State Environmental Planning Policy (Resilience and Hazard) 2021 Coastal Vulnerability Area Map adopts a standardised approach that does not show each coastal risk separately.  Further detail on each coastal risk will remain publicly available with the CMP. The ability to also make the mapping for each coastal risk publicly available on the Council online mapping portal is being reviewed.

**ITEM 3 - ATTACHMENT 2 SUBMISSIONS TABLE.**

<b>No.</b>	<b>Author of submission</b>	<b>Comment</b>	<b>Council response</b>
2	NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) Biodiversity and Conservation Division and NSW Department of Planning, Housing Industry and Infrastructure (DPHI) (combined submission)	DCCEEW considers that the justification for not mapping a CVA is inadequate.	The planning proposal has been updated to request amendment to the SEPP to identify coastal risks on the CVA Map consistent with the advice received by DCCEEW and DPHI.
		DCCEEW considers that the Coastal Risk Planning Map is unclear in portraying the specific coastal risks.	A map of each coastal risk will continue to be made available with the CMP.
		DCCEEW considers that the NSW coastal design guidelines checklist does not include detailed supporting evidence confirming compliance with the guidelines.	The NSW coastal design checklist has been updated to provide further detail.



Department of Climate Change, Energy, the Environment and Water

Your ref: PP-2023-2568  
Our ref: DOC24/166489-14

Matthew Borsato  
Senior Strategic Planner  
Port Stephens Council

By email: Matthew.Borsato@portstephens.nsw.gov.au

Dear Matthew,

**Request for advice – Planning Proposal PP-2023-2568 – Coastal Risk Planning Clause to the Port Stephens Local Environmental Plan 2013**

I refer to your email, dated 4<sup>th</sup> March 2024, requesting input from the Department of Climate Change, Energy, the Environment and Water (DCCEEW) into Planning Proposal (the Proposal) PP-2023-2568 for inserting a Coastal Risk Planning Clause and subsequent coastal risk mapping in the Port Stephens Local Environmental Plan 2013.

The DCCEEW Biodiversity and Conservation Division (BCD) has reviewed the planning proposal in relation to coastal management.

BCD's detailed comments are provided in **Attachment A**. BCD have no comments with respect to biodiversity or flooding. If you have any further questions about this issue, please contact Neil Kelleher, Senior Team Leader Water, Floodplains and Coast, at [huntercentralcoast@environment.nsw.gov.au](mailto:huntercentralcoast@environment.nsw.gov.au).

Yours sincerely



Joe Thompson  
**Director Hunter Central Coast Branch  
Biodiversity and Conservation Division**

24/4/24

Enclosure: Attachment A

**BCD's comments****Coastal Risk Planning Clause Port Stephens Council LEP**

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1. BCD considers that the justification for not mapping a Coastal Vulnerability Area (CVA) is inadequate.

As per the Coastal Management (CM) Act 2016, the best means of achieving the objects of this planning proposal amendment is to map the coastal risk areas identified in a Coastal Management Program (CMP) as the Coastal Vulnerability Area (CVA). This has not been stated in the response to Question 2: *"Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?"*

Recommendation 1

Amend response to Q2 to explain why the CVA mapping methodology was not adopted.

2. BCD considers that the Coastal Risk Planning Map is unclear in portraying the specific coastal risks.

The coastal risk planning maps currently combine coastal inundation, coastal erosion and tidal inundation into one mapped area (dune transgression is mapped separately). While the coastal risk planning clause will apply to all these risks, the practical response from a developer will be different for each coastal risk. Therefore, it is recommended to additionally include separate mapping of coastal inundation, coastal erosion, and tidal inundation to ensure clarity regarding the extent of risk exposure for any proposed development.

Recommendation 2

Provide separate mapping of coastal inundation, tidal inundation, and coastal erosion in addition to the overarching Coastal Risk Planning Map.

3. BCD considers that the NSW coastal design guidelines checklist does not include detailed supporting evidence confirming compliance with the guidelines.

The NSW Coastal Design guidelines are designed to improve decision-making, built outcomes and environmental performance in coastal places through strategic planning and urban design. The checklist is a new tool that can be used to support compliance with the guidelines. The completed checklist in this planning proposal (Attachment 2) does not provide any supporting evidence confirming compliance with the NSW coastal design guidelines.

Recommendation 3

Apply more rigour and provide more detail in the NSW Coastal Design guidelines checklist to demonstrate compliance with the guidance material.

**Draft Port Stephens Planning Proposal Exhibition Version V.1****Department of Planning, Housing and Infrastructure****Environment Policy (EP) team review of management actions - 17 April 2024**

We note that on 14 November 2023 Port Stephens Council resolved to adopt a planning proposal to amend the Port Stephens Local Environmental Plan 2013 to insert a coastal risk planning clause and accompanying coastal risk planning map. The Department subsequently issued a conditional Gateway Determination on 23 February 2024, and an amended Planning Proposal was placed on public exhibition with the Draft CMP on 28 February 2024.

The Planning Proposal states that it is consistent with State and regional strategies, including Chapter 2 Coastal Management of the Resilience and Hazards SEPP 2021 and relevant Local Planning Directions - *'The introduction of a clause into the LEP is the best means to implement the objectives for coastal risk planning in land use planning decisions. The clause will require the consideration of coastal risk in the assessment of development applications on land mapped as being at risk of coastal processes. The inclusion of an accompanying Coastal Risk Planning Map and Dune Transgression Map is the best means to identify land subject to the proposed LEP clause.'*

The comments provided below are intended to assist with finalising the Planning Proposal and are provided in support of Port Stephens Council establishing a clear, consistent, and robust planning assessment framework for the coastal hazards and coastal processes identified within the Draft PS CMP.

**General Comments**

1. The CMP includes extensive areas outside the existing coastal zone that are affected by current and future coastal hazards, particularly 'CH Threat 4 – Coastal Inundation' and 'CH Threat 5 – Tidal Inundation'. These areas have not been identified for mapping within the CVA of RH SEPP 2021 which would facilitate expansion of the coastal zone and appropriate consideration of the identified coastal hazards and risks, and vulnerability of the affected lands.

It is our recommendation that adoption of mapping and development controls for the Coastal Vulnerability Area within the RH SEPP, in conjunction with local provisions in the Port Stephens LEP and DCP would provide a more robust and complete risk-based assessment framework for the assessment of development applications within the extensive areas affected by current and future coastal hazards and coastal processes.

2. To support Council's CMP, IP&R and Strategic Planning obligations we have therefore, suggested to Port Stephens Council that the CMP (as exhibited) be updated to include a CMP Action to prepare a planning proposal for coastal hazards and coastal processes, to amend:
  - a. the RH SEPP to identify the future extent of coastal erosion, coastal inundation, and tidal inundation (2120 projections) in a Coastal Vulnerability Area and extend the existing coastal zone, to allow all actions within the CMP to be undertaken. The extent of the Coastal Risk Planning Map (2120 coastal hazard projections) within *Planning Proposal Exhibition Version V.1* would be suitable for identification as a Coastal Vulnerability Area in the RH SEPP.
  - b. the Port Stephens LEP 2013 to include a coastal risk area to identify the future extent of coastal erosion, coastal inundation, and tidal inundation (2070 projections).

**ITEM 3 - ATTACHMENT 3 DCCEEW AND DPHI SUBMISSION.**

- c. the Port Stephens LEP 2013 to identify the *coastal dune field* (as defined by the *EP&A Regulation 2021*) at 'Stockton Bight' and associated area of dune transgression (2070 projection).
  - d. the RH SEPP Coastal Environment Area, if the full extent of the 'Stockton Bight' *coastal dune field* is not currently identified.
  - e. the RH SEPP Coastal Wetland and Littoral Rainforest Area if the full extent of the Mambo Wetlands is not accurately identified, once the additional acquired land is included, and the ecological survey has been completed.
3. Maps in Appendix A provide a clear distinction between the different coastal hazards and coastal process of dune transgression, and the projected risk and vulnerability of their land now and in the future. These distinctions are not provided in the *Planning Proposal Exhibition Version V.1* maps exhibited concurrently with the Draft CMP.
- Planning controls in the RH SEPP, LEP and DCP should enable landowners to clearly identify:
- a. the vulnerability of their property to each coastal hazard or coastal process now and in the future, and
  - b. assessment requirements and design requirements that will assist them in avoiding, adapting, or mitigating the risk of these hazards and processes.
4. The planning proposal refers to "dune transgression" throughout. For consistency with existing legislation, any local clause drafted to address the coastal process of dune transgression, should acknowledge that this affects an existing *coastal dune field* as defined by the *EP&A Regulation 2021*.
5. While the CMP document referred to as a supporting document to the Planning Proposal, may be generally consistent with the NSW Coastal Management Framework process requirements, it does not adequately consider or implement the following objects of the *Coastal Management Act 2016* as they relate to the timely and effective implementation of land use planning provisions and controls:
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and
  - (f) to mitigate current and future risks from coastal hazards, considering the effects of climate change, and
  - (h) to promote integrated and co-ordinated coastal planning, management, and reporting, and
  - (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and
  - (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities,
6. Table 1 – three RH SEPP coastal management areas apply to the Port Stephens LGA: *Coastal Wetlands and Littoral Rainforest Area*, *Coastal Environment Area*, and *Coastal Use Area*. The document should be amended to correct this. This section should also be amended to recognise dune transgression as a coastal process.
7. The information provided within the Coastal Design Guideline 2023 Checklist is considered insufficient and does not adequately reflect the detailed actions and proposed staged implementation of the CMP.

**MINUTES ORDINARY COUNCIL - 14 NOVEMBER 2023****ITEM NO. 3****FILE NO: 23/253338  
EDRMS NO: PSC2023-02759****PLANNING PROPOSAL FOR COASTAL RISK PLANNING CLAUSE**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the planning proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 to insert a coastal risk planning clause and accompanying coastal risk planning map.
- 2) Forward the planning proposal to the NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan.

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

<b>268</b>	<b>Councillor Jason Wells Councillor Leah Anderson</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Adopt the planning proposal (<b>ATTACHMENT 1</b>) to amend the Port Stephens Local Environmental Plan 2013 to insert a coastal risk planning clause and accompanying coastal risk planning map.</li><li>2) Forward the planning proposal to the NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan.</li></ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

**MINUTES ORDINARY COUNCIL - 14 NOVEMBER 2023****BACKGROUND**

The purpose of this report is to seek Council's endorsement to adopt a planning proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 (LEP) to insert a coastal risk planning clause and coastal risk planning map. The endorsement would allow for the forwarding of the planning proposal to the NSW Department of Planning and Environment (DPE) for a Gateway determination and request authority to make the plan.

The preparation of the planning proposal responds to a key aspect of the forthcoming Port Stephens Coastal Management Program (CMP). The intent of the proposal is to incorporate provisions to manage the risk to life and properties from coastal hazards in the LEP and Development Control Plan (DCP).

The planning proposal is based upon the technical investigations undertaken for the CMP, including hazard mapping identifying properties at risk of coastal inundation, tidal inundation, coastal erosion and dune transgression. The hazard mapping is publicly available and was subject to community consultation in April and May 2023.

The purpose of reporting the planning proposal prior to the CMP is to seek a Gateway determination from DPE. This would facilitate the intended concurrent public exhibition of the planning proposal with the CMP in 2024. It is noted that CMPs are not subject to the Gateway determination process.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no additional identified financial/resource implications identified for the preparation of the planning proposal.

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



**MINUTES ORDINARY COUNCIL - 14 NOVEMBER 2023****LEGAL, POLICY AND RISK IMPLICATIONS**

The preparation of the planning proposal has some legal, policy and risk implications for Council.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council does not consider the impacts of coastal risk in the assessment of planning applications.	Medium	Accept the recommendation.	Yes
There is a risk that landowners and applicants do not support the insertion of the coastal risk planning clause and coastal risk planning map in the LEP.	Medium	Accept the recommendation.	Yes

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

The planning proposal is being processed in accordance with Part 3 of the EP&A Act. Should Council resolve to endorse the planning proposal, it will be forwarded to DPE for a Gateway determination, including a request for Council to be made the plan making authority.

**NSW Ministerial Direction 4.2 Coastal Management**

Preparing the planning proposal is consistent with NSW Ministerial Direction 4.2 Coastal Management issued under section 9.1 of the EP&A Act. The Direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone. The Direction requires planning proposals to include provisions that give effect to and are consistent with, any relevant Coastal Management Program that has been certified by the Minister.

**Port Stephens Local Environmental Plan 2013**

The planning proposal is to amend the LEP by inserting a coastal risk planning clause and accompanying coastal risk planning map.

The objectives of the intended LEP clause are:

- To avoid significant adverse impacts from coastal hazards

**MINUTES ORDINARY COUNCIL - 14 NOVEMBER 2023**

- To ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards
- To enable the evacuation of land identified as coastal risk in an emergency
- To avoid development that increases the severity of coastal hazards.

The clause would apply to development on land identified on a coastal risk planning map comprised of the following map layers:

- Coastal inundation
- Tidal inundation
- Coastal erosion
- Dune transgression.

The above risks are mapped to the year 2120, with the exception of dune transgression, which is mapped to the year 2070. The coastal risk planning map is included in the planning proposal (**ATTACHMENT 1**).

The coastal risk planning map layers have been made publicly available during preliminary public consultation on the CMP. These map layers are available on the Council website, along with other information on the CMP.

Amending the LEP to introduce a coastal risk planning clause and inclusion of a coastal risk planning map is consistent with the approach undertaken by other NSW coastal councils and the NSW planning framework for managing coastal risk.

Port Stephens Development Control Plan 2014 (DCP)

The preliminary management option in the CMP is to prepare a planning proposal including a recommendation to incorporate provisions to manage the risk to life and properties from coastal hazards for inclusion in the DCP. Should the planning proposal progress, Council staff would prepare a draft amendment to the DCP to incorporate a new DCP chapter addressing coastal risk.

Port Stephens Local Strategic Planning Statement (LSPS)

The planning proposal would give effect to the following planning priority in the LSPS:

- Planning Priority 8: Improve resilience to hazards and climate change
- Action 8.3: Council will prepare and implement a Coastal Management Program to mitigate natural hazards and incorporate resilience measures that promote ecologically sustainable development.

Hunter Regional Plan 2041 (HRP)

The planning proposal is consistent with the HRP Objective 7 'Reach net zero and increase resilience and sustainable infrastructure'. The planning proposal achieves this by introducing a coastal risk planning clause to the LEP. This would increase the

**MINUTES ORDINARY COUNCIL - 14 NOVEMBER 2023**

resilience of future development and facilitate the creation of more sustainable infrastructure.

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The planning proposal would have positive social, economic and environmental risk implications for Council through the consideration of coastal risks in the assessment of development applications, consistent with the approach taken by other NSW coastal councils and with the NSW planning framework for managing coastal risk.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section. The objective of the consultation is to align with the intended outcomes of the CMP and LSPS.

Internal

Consultation has been undertaken with the CMP Working Group comprised of the Natural Systems, Strategic Planning, Development Planning, Building and Certification, and Flooding and Drainage teams.

External

Initial community consultation on the CMP including the hazard mapping has been undertaken. This consultation included a mail out to all affected landowners, community drop-in sessions and information on the Council website including coastal hazard mapping.

Referral of the planning proposal to public authorities may be required after the Gateway determination, as set out under section 9.1 of the EP&A Act. A Gateway condition may be imposed where a public authority has an interest in the proposal.

The planning proposal is intended to be publicly exhibited in concurrence with the CMP and in accordance with a Gateway determination.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Planning Proposal - Coastal Risk Planning Clause.

**MINUTES ORDINARY COUNCIL - 14 NOVEMBER 2023**

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ITEM 3 - ATTACHMENT 5 GATEWAY DETERMINATION.



Department of Planning, Housing and Infrastructure

### Gateway Determination

**Planning proposal (Department Ref: PP-2023-2568):** insert coastal risk planning clause and maps

I, the Director, Central Coast and Hunter at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Port Stephens Local Environmental Plan 2013* to insert a coastal risk planning clause and maps should proceed subject to the following conditions:

1. The planning proposal is to be updated prior to public exhibition to:
  - (a) refer to the Coastal Design Guideline 2023 and include a completed assessment per Appendix 1 of the guide;
  - (b) amend the explanation of provisions to define dune transgression as a coastal process being a form of major sand drift as defined under the Coastal Management Glossary 2018;
  - (c) include separate coastal risk planning maps for coastal hazards and for dune transgression, noting land affected by either map would be subject to the coastal risk planning provisions;
  - (d) ensure the coastal risk planning map affected by dune transgression shows the current and future areas of projected impact to the year 2070;
  - (e) extend seaward the dune transgression map to ensure the central portion of the beach is incorporated;
  - (f) reduce the dune transgression landward extent to show the projected impact to the year 2070; and
  - (g) insert areas of coastal inundation predominantly located along the rocky shorelines region.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
  - (a) the planning proposal is categorised as complex as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2023) and must be made publicly available for a minimum of 30 working days;
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2023); and
  - (c) exhibition must commence within two months following the date of the Gateway determination.

**ITEM 3 - ATTACHMENT 5      GATEWAY DETERMINATION.**

3. Consultation is required with the Department of Climate Change, Energy, the Environment and Water under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act.

The department is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public.
5. The local environmental plan should be completed prior to 18 February 2025.

Dated 23 day of February 2024.



**Dan Simpkins  
Director, Central Coast and Hunter  
Planning, Land Use, Strategy and Housing  
Department of Planning, Housing and  
Infrastructure**

**Delegate of the Minister for Planning and  
Public Spaces**

PP-2023-2568 (IRF23/3113)

**ITEM NO. 8**

**FILE NO: 24/105809  
EDRMS NO: PSC2009-02488**

**DRAFT FINANCIAL RESERVES POLICY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the draft Financial Reserves Policy shown at **(ATTACHMENT 1)**.
- 2) Place the draft Financial Reserves 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.

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**ORDINARY COUNCIL MEETING - 25 JUNE 2024  
MOTION**

<b>141</b>	<b>Councillor Leah Anderson Councillor Matthew Bailey</b>  It was resolved that Council:  1) Endorse the draft Financial Reserves Policy shown at <b>(ATTACHMENT 1)</b> . 2) Place the draft Financial Reserves Policy on public exhibition for a period of 28 days and a further report to Council.
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Cr Wells requested that the policy be reported back to Council following public exhibition. The mover and seconder accepted the request.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, 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 draft Financial Reserves Policy (the policy) **(ATTACHMENT 1)**.

## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

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

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

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

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

### COMMUNITY STRATEGIC PLAN

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

### FINANCIAL/RESOURCE IMPLICATIONS

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

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

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

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



**MINUTES ORDINARY COUNCIL - 25 JUNE 2024**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no legal, policy or risk implications with the adoption of this policy.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that Council's financial reserves are not accurately documented.	Low	Adopt the recommendations.	Yes
There is a risk that there is a lack of community understanding regarding Council's cash holdings.	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 Financial Services Section.

Internal

The Executive Team have been consulted to seek management endorsement.

External

In accordance with local government legislation, the draft Financial Reserves Policy will go on public exhibition for 28 days.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Draft Financial Reserves Policy.

**COUNCILLORS' ROOM/DASHBOARD**

Nil.

**TABLED DOCUMENTS**

Nil.

## Policy



**FILE NO:** PSC2009-02488  
**TITLE:** FINANCIAL RESERVES POLICY  
**OWNER:** FINANCIAL SERVICES SECTION MANAGER

### 1. PURPOSE:

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

### 2. CONTEXT/BACKGROUND:

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

### 3. SCOPE:

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

### 4. DEFINITIONS:

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

## Policy

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## Policy



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

### 5. STATEMENT:

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

## Policy

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## Policy



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

### Policy

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## Policy



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

### Policy

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## Policy



### 5.11 Borrowing Risk Management

5.11.1 To manage the risk associated with borrowings:

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

### 6. **RESPONSIBILITIES:**

6.1 The Financial Services Section Manager shall:

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

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

### 7. **RELATED DOCUMENTS:**

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

## Policy

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## Policy



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<b>EDRMS container No.</b>	PSC2009-02488	<b>EDRMS record No.</b>	TBA
<b>Audience</b>	Elected Council and all Council staff		
<b>Process owner</b>	Financial Services Section Manager		
<b>Author</b>	Financial Services Section Manager		
<b>Review timeframe</b>	3 years	<b>Next review date</b>	TBA
<b>Adoption date</b>	TBA		

### VERSION HISTORY:

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

## Policy

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**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****APPENDIX 1: LIST OF COUNCIL'S CASH RESTRICTIONS/ RESERVES**

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

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

**1. DEPOSITS, BONDS AND RETENTIONS**

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

**2. SPECIFIC PURPOSE UNEXPENDED GRANTS**

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

**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****3. DEVELOPER CONTRIBUTIONS**

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

**4. DOMESTIC WASTE MANAGEMENT**

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

**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****5. CROWN RESERVE**

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

**6. EMPLOYEE LEAVE ENTITLEMENTS (ELE)**

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

**7. ADMINISTRATION BUILDING**

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

**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****8. ASSET REHABILITATION & ROAD RESEALING**

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

**9. COMMERCIAL PROPERTIES**

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

**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****10. COMMUNITY BUILDINGS**

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

**11. SURF CLUBS – CROWN LANDS**

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

**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****12. COMMUNITY LOANS**

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

**13. DRAINAGE**

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

**14. ELECTION RESERVE**

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

**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****15. ENHANCED SERVICES FOCUS AREAS**

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

**16. FLEET**

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

**17. RESILIENCE FUND**

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

**18. GRANTS RECEIVABLE**

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



**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****19. IT RESERVE – BUSINESS TECHNOLOGY**

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

**20. NATURAL DISASTER AND EMERGENCY**

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

**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****21. OTHER WASTE SERVICES**

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

**22. PARKING METERS**

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

**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****23. REPEALED FUNDS**

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

**24. SUSTAINABLE ENERGY AND WATER**

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

**25. TRANSPORT AND ENVIRONMENT**

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

**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****26. UNEXPENDED LOAN FUNDS**

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

**27. MAYORAL & WARD FUNDS**

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

**28. FEDERAL ASSISTANCE GRANT IN ADVANCE**

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

**ITEM 8 - ATTACHMENT 1 DRAFT FINANCIAL RESERVES POLICY.****29. NEWCASTLE AIRPORT PARTNERSHIP**

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

**30. SECTION 355C COMMITTEES**

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

**ITEM NO. 9**

**FILE NO: 24/122135  
EDRMS NO: A2004-0135**

**PRIVACY MANAGEMENT PLAN**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Notes no submissions were received.
  - 2) Revoke the Privacy Management Plan dated 25 August 2020, Minute No.164.
  - 3) Endorse the revised Privacy Management Plan shown at **(ATTACHMENT 1)**.
- 

**ORDINARY COUNCIL MEETING - 25 JUNE 2024  
MOTION**

<b>142</b>	<p><b>Councillor Peter Kafer Councillor Jason Wells</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Notes no submissions were received.</li><li>2) Revoke the Privacy Management Plan dated 25 August 2020, Minute No.164.</li><li>3) Endorse the revised Privacy Management Plan shown at <b>(ATTACHMENT 1)</b>.</li></ol>
------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, 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 adoption of the revised Privacy Management Plan (the 'PMP') following public exhibition from 12 April 2024 to 10 May 2024.

The Privacy and Personal Information Protection Act 1998 (the 'PPIPA') requires all councils to prepare a Privacy Management Plan outlining their policies and practices

## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

to ensure compliance with the requirements of that Act and the Health Records and Information Privacy Act 2002 (the 'HRIPA').

In particular, the object of this plan is to inform:

- The community about how their personal information will be used, stored and accessed after it is collected by the Council; and
- Council staff of their obligations in relation to handling personal information and when they can and cannot disclose, use or collect it.

The Privacy and Personal Information Protection Act 1998 ('PPIPA') provides for the protection of personal information and for the protection of the privacy of individuals.

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
Governance	Deliver governance services and internal audit program

### FINANCIAL/RESOURCE IMPLICATIONS

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

### LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to prepare a Privacy Management Plan under Section 33 of the Privacy and Personal Information Act 1998.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council would be in breach of the Privacy and Personal Information Act 1998, if the Privacy Management Plan is not adopted.	Low	Adopt the recommendations.	Yes
There is a risk that Council may face compliance action without the Privacy Management Plan in place.	Low	Adopt the recommendations.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Governance Section, through the Information and Privacy Commission's on line resources.

The PMP was placed on public exhibition from 12 April 2024 until 10 May 2024. No submissions were received.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Privacy Management Plan 2024.

**COUNCILLORS' ROOM/DASHBOARD**

Nil.

**TABLED DOCUMENTS**

Nil.





# Privacy Management Plan



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**PORTSTEPHENS.NSW.GOV.AU**    

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## **PART 1 – INTRODUCTION**

The Privacy and Personal Information Protection Act 1998 (the “PPIPA”) requires all councils to prepare a Privacy Management Plan outlining their policies and practices to ensure compliance with the requirements of that Act and the Health Records and Information Privacy Act 2002 (the HRIPA).

In particular, the object of this plan is to inform:

- The community about how their personal information will be used, stored and accessed after it is collected by the Council; and
- Council staff of their obligations in relation to handling personal information and when they can and cannot disclose, use or collect it.

The Privacy and Personal Information Protection Act 1998 (“PPIPA”) provides for the protection of personal information and for the protection of the privacy of individuals.

Section 33 of the PPIPA requires all councils to prepare a Privacy Management Plan (the “Plan”) to deal with:

- the devising of policies and practices to ensure compliance by the Council with the requirements of the PPIPA and the Health Records and Information Privacy Act 2002 (“HRIPA”);
- the dissemination of those policies and practices to persons within the Council;
- the procedures that the Council proposes for internal review of privacy complaints;
- such other matters as are considered relevant by the Council in relation to privacy and the protection of personal information held by it.

This Plan has been prepared for the purpose of section 33 of the PPIPA.

PPIPA provides for the protection of personal information by means of 12 Information Protection Principles. Those principles are listed below:

- Principle 1 - Collection of personal information for lawful purposes
- Principle 2 - Collection of personal information directly from individual
- Principle 3 - Requirements when collecting personal information
- Principle 4 - Other requirements relating to collection of personal information
- Principle 5 - Retention and security of personal information
- Principle 6 - Information about personal information held by agencies
- Principle 7 - Access to personal information held by agencies
- Principle 8 - Alteration of personal information
- Principle 9 - Agency must check accuracy of personal information before use
- Principle 10 - Limits on use of personal information
- Principle 11 - Limits on disclosure of personal information
- Principle 12 - Special restrictions on disclosure of personal information

Those principles are *modified* by the Privacy Code of Practice for Local Government (“the Code”) made by the Attorney General. To date there has been no Health Records and Information Privacy Code of Practice made for Local Government.

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The Privacy Code has been developed to enable Local Government to fulfil its statutory duties and functions under the Local Government Act 1993 (the "LGA") in a manner that seeks to comply with the PPIPA.

This Plan outlines how the Council will incorporate the 12 Information Protection Principles into its everyday functions.

This Plan should be read in conjunction with the Privacy Code of Practice for Local Government.

This plan should also be read in conjunction with Council's endorsed policies and implemented procedures, all of which can be accessed by clicking [here](#).

Nothing in this Plan is to:

- affect any matter of interpretation of the Codes or the Information Protection Principles and the Health Privacy Principles as they apply to the Council;
- affect any obligation at law cast upon the Council by way of representation or holding out in any manner whatsoever;
- create, extend or lessen any obligation at law which the Council may have.

This Plan is designed to introduce policies and procedures to maximise compliance with the PPIPA and the HRIPA.

Where the Council has the benefit of an exemption, it will nevertheless describe procedures for compliance in this Plan. By doing so, it is not to be bound in a manner other than that prescribed by the Codes.

Council collects, stores and uses a broad range of information. A significant part of that information is personal information. This Plan applies to that part of the Council's information that is personal information.

It may mean in practice that any information that is not personal information will receive treatment of a higher standard; namely treatment accorded to personal information where the information cannot be meaningfully or practicably separated.

### **1.1 What is "personal information"?**

"Personal information" is defined in section 4 of the PPIPA as follows:

Personal information is defined to mean information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. This information can be on a database and does not necessarily have to be recorded in a material form.

### **1.2 What is not "personal information"**

"Personal information" does not include "information about an individual that is contained in a publicly available publication". Personal information, once it is contained in a publicly available publication, ceases to be covered by the PPIPA.



Section 4A of the PPIPA also specifically excludes "health information", as defined by section 6 of the HRIPA, from the definition of "personal information", but includes "health information" in the PPIPA's consideration of public registers (discussed below). "Health information" is considered in Part 4 of this Plan.

Where the Council is requested to provide access or make a disclosure and that information has already been published, then the Council will rely on the provisions of the relevant Act that authorises Council to hold that information and not the PPIPA (for example, section 8 of the Government Information (Public Access) Act 2009 (GIPA Act)).

Council considers the following to be publicly available publications:

- An advertisement containing personal information in a local, city or national newspaper;
- Personal information on the Internet;
- Books or magazines that are printed and distributed broadly to the general public;
- Council Business papers or that part that is available to the general public;
- Personal information that may be a part of a public display on view to the general public.

Information published in this way ceases to be covered by the PPIPA.

Council's decision to publish in this way must be in accordance with PPIPA.

### **1.3 Application of this Plan**

The PPIPA, the HRIPA and this Plan apply, wherever practicable, to:

- Councillors;
- Council employees;
- Consultants and contractors of the Council;
- Council owned businesses; and
- Council committees (including community members of those committees which may be established under section 355 of the LGA).

Council will ensure that all such parties are made aware that they must comply with the PPIPA, the HRIPA, any other applicable Privacy Code of Practice and this Plan.

### **1.4 Personal Information held by Council**

The Council holds personal information concerning Councillors, such as:

- personal contact information;
- complaints and disciplinary matters;
- pecuniary interest returns; and
- entitlements to fees, expenses and facilities.

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The Council holds personal information concerning its customers, ratepayers and residents, such as:

- rates records; and
- DA applications and objections; and
- various types of health information (see page 37 for detailed examples).

The Council holds personal information concerning its employees, such as recruitment material, leave and payroll data, personal contact information, performance management plans, disciplinary matters, pecuniary interest returns, wage and salary entitlements and health information (such medical certificates and workers compensation claims).

### **1.5 Applications for suppression in relation to general information (not public registers).**

Under section 739 of the *Local Government Act 1993* ("LGA") a person can make an application to suppress certain material that is available for public inspection in circumstances where the material discloses or would disclose the person's place of living if the person considers that the disclosure would place the personal safety of the person or their family at risk.

Section 739 of the LGA relates to publicly available material other than public registers. As such, it limits disclosure in those circumstances where an application for suppression is successful. An application for suppression must be verified by statutory declaration and otherwise meet the requirements of section 739. When in doubt, Council will err in favour of suppression.

For more information regarding disclosure of information (other than public registers) see the discussion of IPPs 11 and 12 in Part 3 of this Plan. For information regarding suppression of information on *public registers*, see Part 2 of this Plan.

### **1.6 Caution as to unsolicited information**

Where an individual, a group or committee, not established by Council, gives Council unsolicited personal or health information, then that information should be still treated in accordance with this Plan, the Codes, the HRIPA and the PPIPA for the purposes of IPPs 5-12 and HPPs 5-15 which relate to storage, access, use and disclosure of information.

Note that for the purposes of section 10 of the HRIPA, the Council is not considered to have "collected" health information if the receipt of the information by the Council is unsolicited.

Section 4(5) of the PPIPA also provides that personal information is not "collected" by Council if it is unsolicited.

## **PART 2 – PUBLIC REGISTERS**

A public register is defined in section 3 of the PPIPA:

“...public register means a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee).”

A distinction needs to be drawn between “public registers” within the meaning of Part 6 of the PPIPA and “non-public registers”. A “non-public register” is a register but it is not a “public register” for the purposes of the PPIPA. For example, the register might not be publicly available or it may not contain personal information.

Disclosure in relation to public registers must comply with Part 6 of the PPIPA and the Privacy Code of Practice. Personal information cannot be accessed by a person about another person unless the personal information is contained in a public register. Where personal information is contained in a public register, then Part 6 of the PPIPA applies to determine whether access to that information will be given to another person.

Disclosure in relation to all other personal information must comply with the Information Protection Principles as outlined in Part 2 of this Plan and the Privacy Code where it includes personal information that is not published.

The following list identifies public registers held by Council.

<b>Act / Regulation</b>	<b>Section</b>		<b>Purpose</b>	<b>Contact</b>
*Local Government Act	53	Land Register	Identify land vested in Council or under Council's control	Register can be accessed from Council's <a href="#">website</a> .
	113	Record of Approvals	Identify approvals granted under the Act	Development Services.
	449-450A	Register of Pecuniary Interests	Identify pecuniary interest of Councillors and designated persons	Councillor returns are available on Council's <a href="#">website</a> . For other designated persons returns please contact Council.
Environmental Planning and Assessment Act	100	Register of Consents and Approvals	Identify approvals, consents and related appeals under the Act	Some information is available from Council's <a href="#">website</a> or alternately from Development Services.
	149G	Record of Building Certificates	Identify building certificates	Development Services

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Act / Regulation	Section		Purpose	Contact
Protection of the Environment Operations Act	308	Public register of licences	Identify licences granted under the Act	Development Services/Governance.
Impounding Act	30 & 31	Record of Impounding	Identify impounding action by Council	Development Services/Governance.
Government Information (Public Access) Act	25	Disclosure Log of Access Applications	Identify access applications where there is a public interest and Council has determined to provide access to the information	Register can be accessed from Council's <a href="#">website</a> .
	27	Register of Government Contracts	Identify Council contracts that have (or are likely to have) a value of \$150,000 or more	Register can be accessed from Council's <a href="#">website</a> .
Government Information (Public Access) Regulation 2009	Sch1. 1(3)(d)	Register of graffiti removal	Identify graffiti removal work	Facilities and Services
	Sch1. 1(3)(e)	Register of current political donations	Identify current political donations	Register can be accessed from a link on Council's <a href="#">website</a> .
	Sch1. 1(3)(e)	Register of planning decisions	Identify voting on planning matters of the elected council	Register can be accessed from Council's <a href="#">website</a> .
Local Government Act	377-378	Register of Delegations	Identify functions delegated by the General Manager to Council Officers	Register can be accessed from Council's <a href="#">website</a> .
	602	**Rates Record	In relation to a parcel of land, identify: <ul style="list-style-type: none"> <li>the value</li> <li>rate liability</li> </ul> the owner or lessee	Register can be sought by informal request under the GIPA Act.

\*Note – this is purely indicative. Council may, by virtue of its own practice, hold other Public Registers, to which the PPIPA applies.

\*\*Note – owner contact information will not be provided.



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Members of the public may enquire only in accordance with the primary purpose of any of these registers. The primary purpose for each of these public registers is set out in the sections that follow.

A list of other registers held by Council is available from Council's website. It should be noted that a number of these registers are not public registers. The Information Protection Principles, this Plan, any applicable Codes and the PPIPA apply to those registers or databases.

**2.1    Public registers, the PPIPA and the HRIPA**

A public register generally confers specific rights or privileges, a benefit, or status, which would not otherwise exist. It may be required by law to be made publicly available or open to public inspection, or it is simply made publicly available or open to public inspection (whether or not payment is required).

Despite the exclusion of "health information" from the definition of "personal information" under section 4A of the PPIPA, section 56A of the PPIPA *includes* as "personal information", "health information" on public registers.

Section 57 of the PPIPA requires very stringent controls over the disclosure of personal information contained in a public register. It provides broadly that where Council is responsible for keeping a public register, it will not disclose any personal information kept in that register unless it is satisfied that the information is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept.

Section 57 (2) provides that in order to ensure compliance with section 57(1), a Council may require any person who applies to inspect personal information contained in the public register to give particulars in the form of a statutory declaration as to the proposed use of that information. (Form at Appendix 1 may be used as a guide)

Council also needs to consider the Privacy Code of Practice for Local Government which has the effect of modifying the application of Part 6 of the PPIPA (the "public register" provisions).

If the stated purpose of the applicant does not conform with the purpose for which the public register is kept, access to the information sought will not be given.

Where personal information is contained in a publicly available publication, that information will not be regarded as personal information covered by the PPIPA or as health information for the purposes of part 6 of the PPIPA.

**2.2    Effect on section 6 of the GIPA Act**

Section 57 of the PPIPA prevails over clause 1(3) of Schedule 1 of the Government Information (Public Access) Regulation 2009 (GIPA Regulation) to the extent of any inconsistency. Therefore:

1. If a register is listed in Schedule 1 of the GIPA Regulation, access must not be given except in accordance with section 57(1) of the PPIPA.

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2. If a register is not listed in Schedule 1 of the GIPA Regulation, access must not be given except:
  - (i) if it is allowed under section 57(1) of the PPIPA; **and**
  - (ii) there is no overriding public interest against disclosure of the information under section 6 of the GIPA Act.

*Note:* Both 1 and 2 are amended with regard to specific public registers in the Privacy Code of Practice for Local Government.

### **2.3 Where some information in the public register has been published**

That part of a public register that is not published in a publicly available publication will be treated as a "public register" and the following procedure for disclosure will apply.

For example, the Register of Consents and Approvals held by Council under section 100 of the Environmental Planning and Assessment Act requires Council to advertise or publish applications for development consent.

When Council publishes the address of the property, it may identify the owner. The personal information that has not been published and any applications not advertised or that have been rejected or withdrawn (and hence also not published) will be treated as a public register under PPIPA.

Council may hold a register under the Contaminated Land Management Act on behalf of the Environment Protection Authority. This is not to be considered a public register of the Council as the statute does not place any obligations on the Council to make this register publicly available as a register of contaminated land. Furthermore, the legislation foreshadows that the Environment Protection Authority may indeed post this list or register on the internet. This may constitute a publication of the information and therefore the PPIPA will not apply.

Registers should not be published on the internet.

### **2.4 Disclosure of personal information contained in the public registers**

A person seeking a disclosure concerning someone else's personal information from a public register must satisfy Council that the intended use of the information is for a purpose relating to the purpose of the register or the Act under which the register is kept.

In the following section, by way of guidance only, what might be called the "primary" purpose (or "the purpose of the register") has been specified for each identified register. In some cases a "secondary purpose" has also been specified, by way of guidance as to what might constitute "a purpose *relating to* the purpose of the register".

**Secondary purpose of all Public Registers**

Due to the general emphasis (to be found in the LGA and elsewhere) on local government processes and information being open and accountable, it is considered that a secondary purpose for which all public registers are held by Council includes the provision of access to members of the public. Therefore disclosure of specific records from public registers would normally be considered to be allowable under section 57 of the PPIPA.

However, requests for access, copying or the sale of the whole or a substantial part of a Public Register held by Council will not necessarily fit within this purpose. Council is guided by the Privacy Code of Practice for Local Government in this respect. Where Council officers have doubt as to the intended use of the information, an applicant may be requested to provide a statutory declaration so that Council may satisfy itself as to the intended use of the information.

Council will make its assessment as to the **minimum** amount of personal information that is required to be disclosed with regard to any request.

**Other Purposes**

Persons or organisations who apply to Council to have access to the information contained in any public register for a purpose not related to the purpose of the register, may be given access at the discretion of Council but only in accordance with the Privacy Code of Practice for Local Government concerning Public Registers.

**2.5 Applications for access to own records on a public register**

A person wishing to have access to a public register to confirm their own details needs only to prove their identity to Council before having access to their own personal information.

**2.6 Applications for suppression in relation to a public register**

An application for suppression in relation to a public register will be dealt with under PPIPA, rather than section 739 of the LGA.

A person about whom personal information is contained (or proposed to be contained) in a public register, may request Council under section 58 of the PPIPA to have the information removed from, or not placed on the register.

If Council is satisfied that the safety or well-being of any person would be affected by not suppressing the personal information as requested, Council will suppress the information in accordance with the request unless Council is of the opinion that the public interest in maintaining public access to the information outweighs any individual interest in suppressing the information, in accordance with section 58(2) of the PPIPA. ("Well-being" is defined in the Macquarie Dictionary as "the good or satisfactory condition of existence; welfare".)

When in doubt, Council will err in favour of suppression.

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Any information that is removed from, or not placed on, that aspect of a public register to be made public may be kept on the register for other purposes. That is, the information may still be used for council functions, but it cannot be disclosed to other parties.

An application for suppression should be made in writing addressed to the General Manager and must outline the reasons for the request. The Council may require supporting documentation where appropriate.

**PART 3 – THE INFORMATION PROTECTION PRINCIPLES**

**3.1 Information Protection Principle 1 – Section 8**

**Section 8 Collection of personal information for lawful purposes**

- (1) A public sector agency must not collect personal information unless:
  - (a) the information is collected for a lawful purpose that is directly related to a function or activity of the agency, and
  - (b) the collection of the information is reasonably necessary for that purpose.
- (2) A public sector agency must not collect personal information by any unlawful means.

<b>The Privacy Code of Practice for Local Government</b>	<b>Council Policy</b>
<p>The Code makes no provision to depart from the requirements of this principle.</p>	<p>Council will only collect personal information for a lawful purpose as part of its proper functions. The LGA governs Council's major obligations and functions.</p> <p>Section 22 of the LGA provides other functions under other Acts. Some of those Acts are as follows:</p> <ul style="list-style-type: none"> <li>• Community Land Development Act 1989</li> <li>• Companion Animals Act 1998**</li> <li>• Conveyancing Act 1919</li> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Fire Brigades Act 1989</li> <li>• Fluoridation of Public Water Supplies Act 1957</li> <li>• Food Act 2003</li> <li>• Impounding Act 1993</li> <li>• Library Act 1939</li> <li>• Protection of the Environment Operations Act 1997</li> <li>• Public Health Act 2010</li> <li>• Recreation Vehicles Act 1983</li> <li>• Roads Act 1993</li> <li>• Rural Fires Act 1997</li> <li>• State Emergency Service Act 1989</li> <li>• Strata Schemes Development Act 2015</li> <li>• Strata Schemes Management Act 2015</li> <li>• Swimming Pools Act 1992</li> </ul> <p>This list is not exhaustive.</p>

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Additionally, the exercise by Council of its functions under the LGA may also be modified by the provisions of other Acts. Some of those Acts follow:

- Coastal Management Act 2016;
- Environmental Offences and Penalties Act 1989;
- Government Information (Public Access) Act 2009;
- Heritage Act 1977;
- State Emergency and Rescue Management Act 1989;
- Unclaimed Money Act 1995;
- Unhealthy Building Land Act 1990.

The circumstances under which Council may collect information, including personal information, are varied and numerous. Examples of circumstances in which Council may collect personal information include:

- Making, receiving or investigating a complaint
- For recruitment purposes
- Responding to or conducting surveys
- Rating information
- Processing general enquiries
- Issuing approvals or orders
- CCTV Footage

Council will not collect any more personal information than is reasonably necessary for it to fulfil its proper functions.

Anyone engaged by Council as a private contractor or consultant that involves the collection of personal information must agree to be bound not to collect personal information by any unlawful means. This will include debt recovery actions by or undertaken on behalf of Council by commercial agents.

#### Companion Animals Act

Collection of information under the Companion Animals Act and Council's use of the Companion Animals Register should be guided by the Deputy Secretary of Local Government, Planning and Policy guidelines, which have been developed with the PPIPA in mind.

#### Role of the Privacy Contact Officer

In order to ensure compliance with Information Protection Principle 1, internet contact forms, rates notices, application forms of whatsoever nature, or written requests by which personal information is collected by Council; will be referred to the Privacy Contact Officer prior to adoption or use. The Privacy Disclaimer at Appendix 2 is to be included on all forms and other documents where information is being solicited from individuals.

The Privacy Contact Officer will also provide advice as to:

1. Whether the personal information is collected for a lawful purpose;

2. If that lawful purpose is directly related to a function of Council; and
3. Whether or not the collection of that personal information is reasonably necessary for the specified purpose.

Any further concerns of a legal nature will be referred to Council's solicitor.

### 3.2 Information Protection Principle 2 – Direct Collection

#### Section 9 Collection of personal information directly from individual

A public sector agency must, in collecting personal information, collect the information directly from the individual to whom the information relates unless:

- (a) the individual has authorised collection of the information from someone else, or
- (b) in the case of information relating to a person who is under the age of 16 years—the information has been provided by a parent or guardian of the person.

The Privacy Code of Practice for Local Government	Council Policy
<p>The Code makes provision for Council to depart from this principle where indirect collection of personal information is reasonably necessary when an award, prize, benefit or similar form of personal recognition is intended to be conferred upon the person to whom the information relates.</p>	<p>The compilation or referral of registers and rolls are the major means by which the Council collects personal information. For example, the information the Council receives from NSW Land Registry Services would fit within section 9(a) above.</p> <p>Other means include forms that customers may complete and lodge with Council for development consent, companion animal registration, applications for specific inspections or certifications or applications in respect of tree preservation orders.</p> <p>In relation to petitions, the Council will treat the personal information contained in petitions in accordance with PPIPA.</p> <p>Where Council or a Councillor requests or requires information from individuals or groups, that information will be treated in accordance with PPIPA.</p> <p>Council regards all information concerning its customers as information protected by PPIPA. Council will therefore collect all personal information directly from its customers except as provided in section 9 or under other statutory exemptions or Codes of Practice. Council may collect personal information from other public sector agencies in respect of specific statutory obligations where it is authorised by law to do so.</p> <p>Where Council anticipates that it may otherwise need to collect personal information indirectly it will first obtain the authorisation of each individual under section 9 (a) of the PPIPA.</p>



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Each of the following will be required to comply with this Plan, any applicable Privacy Code of Practice, and the PPIPA:

- Council owned businesses
- Council consultants
- Private contractors
- Council committees

Council will seek to contractually bind each of these bodies or persons to comply with the PPIPA.

Where any of the above collect personal information on behalf of Council or in relation to the performance of their activities, that body or person will be required to:

- obtain a written authorisation and consent to that collection; and
- notify those persons in accordance with Information Protection Principle 3 as to the intended recipients and other matters required by that principle.

Council owned businesses, committees and private contractors or consultants must abide by this Plan, the Code and the PPIPA under the terms of their incorporation by Council or by contract.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 2.

Existing statutory exemptions under the Act

Compliance with Information Protection Principle 2 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in very obvious and limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

Section 23(2) of the PPIPA permits non-compliance with Information Protection Principle 2 if the information concerned is collected in connection with proceedings (whether or not actually commenced) before any court or tribunal.

Section 24(4) of the PPIPA extends the operation of section 24(1) to councils and permits non-compliance with Information Protection Principle 2 if a council is:

- (i) investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by, an investigative agency; and

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- (ii) if compliance might detrimentally affect (or prevent the exercise of) the Council's complaint handling or investigative functions.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 2 where the agency is lawfully authorised or required not to comply with the principle.

- (iii) Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 2 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(1) of the PPIPA permits non-compliance with Information Protection Principle 2 if compliance would prejudice the interests of the individual concerned.

Further Explanation regarding IPP 2

Where Council cannot collect personal information directly from the person, it will ensure one of the following:

1. Council has obtained authority from the person under section 9(a) of the PPIPA.
2. The collection of personal information from a third party is permitted under an Act or law. (For example, the indirect collection from the NSW Land Registry Services)
3. The collection of personal information from a parent or guardian is permitted provided the person is less than 16 years of age.
4. The collection of personal information indirectly where one of the above exemptions applies.
5. The collection of personal information indirectly is permitted under the Privacy Code of Practice for Local Government or the Investigative Code of Practice.

The only other exception to the above is in the case where Council is given unsolicited information.

### **3.3 Information Protection Principle 3 - Requirements when collecting personal information**

#### **Section 10 Requirements when collecting personal information**

If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware of the following:

- (a) the fact that the information is being collected,
- (b) the purposes for which the information is being collected,
- (c) the intended recipients of the information,
- (d) whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided,
- (e) the existence of any right of access to, and correction of, the information,
- (f) the name and address of the agency that is collecting the information and the agency that is to hold the information.

<b>The Privacy Code of Practice for Local Government</b>	<b>Council Policy</b>
The Code makes provision for Council to depart from this principle where indirect collection of personal information is reasonably necessary when an award, prize, benefit or similar form of personal recognition is intended to be, or may be, conferred upon the person to whom the information relates.	<p>Where Council proposes to collect personal information directly from the person, it will inform that person that the personal information is being collected, what is done with that information and who the intended recipients will be.</p> <p>Council apply the Privacy disclaimer (see Appendix 2) to all applications to inform individuals and to meet the requirements of Information Protection Principle 3 (IPP 3).</p> <p>The following are examples of application procedures that will require aa Privacy disclaimer in accordance with IPP 3:</p> <ul style="list-style-type: none"> <li>• Lodging Development Applications;</li> <li>• Lodging objections to Development Applications;</li> <li>• Lodging applications for approval under the LGA; and</li> <li>• When collecting an impounded item.</li> </ul> <p>In relation to the Privacy Disclaimer that may be attached to a Development Application provided to objectors, it could be stated that objectors have a right to remain anonymous if they so choose. However, should they need to substantiate their objections, anonymous objections may be given less weight (or no weight) in the overall consideration of the Application.</p>

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Where Council collects personal information indirectly from another public sector agency in respect of any one of its statutory functions, it will advise those individuals that it has collected their personal information by letter. The letter should ensure the requirements of IPP 3 are met.

A common example of the collection of information from another public sector agency is the NSW Land Registry Services. Council receives information as to new ownership changes when property is transferred from one owner to the next.

External and related bodies

Each of the following will be required to comply with Information Protection Principle 3:

- Council owned businesses
- Council consultants
- Private contractors
- Council committees

Council will seek to contractually bind each of these bodies or persons to comply with the Information Protection Principle 3.

Where any of the above collect personal information on behalf of Council or in relation to the performance of their activities, that body or person will be required to notify those persons in accordance with Information Protection Principle 3 as to the intended recipients and other matters required by that principle.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 3.

Existing statutory exemptions under the Act

Compliance with Information Protection Principle 3 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

Section 23(3) permits non-compliance with Information Protection Principle 3 where information is collected for law enforcement purposes. Law enforcement means a breach of the criminal law and criminal law enforcement. This section does not remove the rights of an accused person.

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Section 24(4) of the PPIPA extends the operation of section 24(1) to councils and permits non-compliance with Information Protection Principle 3 if a council is:

- (i) investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by, an investigative agency; and
- (ii) if compliance might detrimentally affect (or prevent the exercise of) the Council's complaint handling or investigative functions.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 3 where the agency is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 3 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(1) of the PPIPA permits non-compliance with Information Protection Principle 3 if compliance would prejudice the interests of the individual concerned.

Section 26(2) of the PPIPA permits non-compliance where the person expressly consents to such non-compliance.

Disclosure of information of research purposes

The disclosure of personal information for research purposes will be allowed only in accordance with any applicable Direction made by the Privacy Commissioner under section 41 of PPIPA or any Research Code of Practice made by the Attorney General as may be in force for the time being.

### 3.4 Information Protection Principle 4 - Other requirements relating to collection of personal information

#### Section 11 Other requirements relating to collection of personal information

If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:

- (a) the information collected is relevant to that purpose, is not excessive, and is accurate, up to date and complete, and
- (b) the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.

The Privacy Code of Practice for Local Government	Council Policy
The Code makes no provision to depart from this principle.	<p>Council will seek to ensure that no personal information is collected which is not directly relevant to its proper functions.</p> <p>Council collects personal information through the various forms that customers may complete and lodge with Council. Before adoption of a new form, a draft form will be reviewed for compliance with Information Protection Principle 4 by the EEO Officer, Council's solicitor, Public Officer or other suitable person. Should Council have any residual doubts, the opinion of the Office of the Privacy Commissioner NSW will be sought.</p>

### 3.5 Information Protection Principle 5 - Retention and security of personal information

#### Section 12 Retention and security of personal information

A public sector agency that holds personal information must ensure:

- (a) that the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and
- (b) that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and
- (c) that the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and
- (d) that, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.

The Privacy Code of Practice for Local Government	Council Policy
The Code makes no provision to depart from this principle.	<p>Council may comply with this principle by using any or all of the following or similar documents:</p> <ul style="list-style-type: none"> <li>• Council's ICT Systems Access and Cyber Security and Information Access Management Directive. This document defines the minimum requirements for controlling access to Council's systems and information to ensure appropriate access to systems can be provided whilst adequate protection from exposure to cyber threats is provided.</li> <li>• Council's Records Management – Management Directive</li> <li>• General Records Disposal Schedule for Local Government.</li> </ul>

#### Disclosure of information of research purposes

The disclosure of personal information for research purposes will be allowed only in accordance with any applicable Direction made by the Privacy Commissioner under section 41 of PPIPA or any Research Code of Practice made by the Attorney General as may be in force for the time being.

### 3.6 Information Protection Principle 6 - Information held by agencies

#### Section 13 Information about personal information held by agencies

A public sector agency that holds personal information must take such steps as are, in the circumstances, reasonable to enable any person to ascertain:

- (a) whether the agency holds personal information, and
- (b) whether the agency holds personal information relating to that person, and
- (c) if the agency holds personal information relating to that person:
  - (i) the nature of that information, and
  - (ii) the main purposes for which the information is used, and
  - (iii) that person's entitlement to gain access to the information.

The Privacy Code of Practice for Local Government	Council Policy
<p>The Code makes no provision to depart from this principle.</p>	<p>Section 13 of the PPIPA requires a council to take reasonable steps to enable a person to determine whether the council holds personal information about them. If Council holds any information about a person, upon request it will advise them the nature of that information, the main purposes for which it is held, and that person's entitlement to access. As a matter of practicality, not every item of personal information, however insignificant, will be capable of ascertainment.</p> <p>Under section 20(5) of the PPIPA, Information Protection Principle 6 is subject to any applicable conditions or limitations contained in the Government Information (Public Access) Act 2009 ("GIPA Act"). Council must consider the relevant provisions of the GIPA Act.</p> <p>Where Council receives an application or request by a person as to whether council holds information about them, Council will undertake a search of its records to answer the enquiry. Council may ask the applicant to describe what dealings the applicant has had with council in order to assist Council to conduct the search.</p> <p>Council will ordinarily provide a response to applications of this kind within 20 working days of the application being made. The fee structure is commensurate to that of the Council's GIPA Act rates structure.</p>



#### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 6.

#### Existing exemptions under the Act

Compliance with Information Protection Principle 6 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 6 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 6 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

#### Reporting matters

Council's Agency Information Guide (AIG) provides details on the type of information that is collected by Council. The AIG is available from Council's [website](#).

#### Further information

Further details concerning how to apply to Council for this information can be addressed in writing to:

The Privacy Officer  
PO BOX 42  
Raymond Terrace NSW 2324

Or by email: [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)

### 3.7 Information Protection Principle 7 - Access to personal information held by agencies

#### Section 14 Access to personal information held by agencies

A public sector agency that holds personal information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.

The Privacy Code of Practice for Local Government	Council Policy
<p>The Code makes no provision to depart from this principle.</p>	<p>Section 14 of the PPIPA requires a council, at the request of any person, to give access to that person to personal information held about them.</p> <p>Compliance with Information Protection Principle 7 does not allow disclosure of information about other people. If access to information that relates to someone else is sought, the application must be made under the GIPA Act, unless Information Protection Principles 11 and 12 or the Public Register provisions apply.</p> <p>Where a person makes an application for access under the PPIPA and it is involved or complex, it may be referred, with the written consent of the applicant, as an application under the GIPA Act. However, use of the GIPA Act is to be a last resort. The applicant has the right to insist on being dealt with under PPIPA.</p> <p>Under section 20(5) of the PPIPA, Information Protection Principle 7 is subject to any applicable conditions or limitations contained in the Government Information (Public Access) Act 2009 ("GIPA Act"). Council must consider the relevant provisions of the GIPA Act.</p> <p>Customers wishing to exercise their right of access to their own personal information should apply in writing or direct their enquiries to the General Manager, who will make a determination. This can also be undertaken under the GIPA Act through an informal request.</p> <p>Members of staff wishing to exercise their right of access to their personal information should apply in writing on the attached form or direct their inquiries to the HR Manager, who will deal with the application.</p> <p>In order to comply with the requirement to provide the requested information "without excessive delay or expense", Council will ordinarily provide a response to applications of this kind within 20 working days of the application being made.</p>

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 7.

Existing exemptions under the Act

Compliance with Information Protection Principle 7 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 7 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA non-compliance with Information Protection Principle 7 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

### 3.8 Information Protection Principle 8 - Alteration of personal information

#### Section 15 Alteration of personal information

- (1) A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:
  - (a) is accurate, and
  - (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.
- (2) If a public sector agency is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the agency must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.
- (3) If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the public sector agency.
- (4) This section, and any provision of privacy code of practice that relates to the requirements set out in this section, apply to public sector agencies despite section 25 of this Act and section 21 of the State Records Act 1998.
- (5) The Privacy Commissioner's guidelines under section 36 may make provision for or with respect to requests under this section, including the way in which such a request should be made and the time within which such a request should be dealt with.
- (6) In this section (and in any other provision of this Act in connection with the operation of this section), **public sector agency** includes a Minister and a Minister's personal staff.

The Privacy Code of Practice for Local Government	Council Policy
The Code makes no provision to depart from this principle.	<p>Section 15 of the PPIPA allows a person to make an application to council to amend (this includes by way of corrections, deletions or additions) personal information held about them so as to ensure the information is accurate, and, having regard to the purpose for which the information is collected, relevant to that purpose, up to date and not misleading.</p> <p>Council wishes to have its information current, accurate and complete. Proposed amendments or changes to the personal information held by the Council are welcomed.</p> <p>If Council declines to amend personal information as</p>

	<p>requested, it will on request of the individual concerned, place an addendum on the information in accordance with section 15(2) of the PPIPA.</p> <p>Where there are complaints that are or could be the subject of a staff complaint or grievance, they will be referred to the HR Manager in the first instance and treated in accordance with the "Grievance and Complaint Handling Procedures".</p> <p>Any alterations that are or could be the subject of a customer complaint or grievance will be referred to the General Manager, who will make a determination in relation to the matter.</p>
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#### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 8.

#### Existing exemptions under the Act

Compliance with Information Protection Principle 8 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 8 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with section Information Protection Principle 8 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

#### Procedure

Where information is requested to be amended (either by way of correction, deletion or addition), the individual to whom the information relates, must make a request, in writing to Council's Privacy Officer. That request should be accompanied by appropriate evidence as to the cogency of the making of the amendment, sufficient to satisfy the Council that the proposed amendment is factually correct and appropriate. The Council may require further documentary evidence to support certain amendments. Council will not charge to process an application to amend a record under s.15.

#### Where Council is not prepared to amend

If the Council is not prepared to amend the personal information in accordance with a request by the individual the Council may attach to the information in such a manner

as is capable of being read with the information, any statement provided by that individual.

Where an amendment is made

If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have the recipients of that information notified of the amendments made by the Council. The Council will seek to notify recipients of information as soon as possible, of the making of any amendment, where it is reasonably practicable.

State Records Act

The State Records Act does not allow for the deletion of records. However, as a result of section 20(4) of the PPIPA, some deletions may be allowed in accordance with Information Protection Principle 8.

How to apply

If an alteration is requested, Council would require this request to be made in writing and addressed to:

The Privacy Officer  
PO BOX 42  
Raymond Terrace NSW 2324

Or by email: [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)

### 3.9 Information Protection Principle 9 - Agency must check accuracy of personal information before use

#### Section 16 Agency must check accuracy of personal information before use

A public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.

The Privacy Code of Practice for Local Government	Council Policy
The Code makes no provision to depart from this principle.	<p>The steps taken to comply with section 16 will depend on the age of the information, its likelihood of change and the particular function for which the information was collected.</p> <p>The more significant the information, the greater the necessity that checks to ensure its accuracy and currency be undertaken prior to its use. This however does not detract from the obligation on Council to take such steps as are reasonable to ensure that any personal information being used is accurate before using it.</p> <p>For example, each employee's record should be updated when there is any change of circumstances or when the employee's contact details change.</p>

### **3.10 Information Protection Principle 10 - Limits on use of personal information**

#### **Section 17 Limits on use of personal information**

A public sector agency that holds personal information must not use the information for a purpose other than that for which it was collected unless:

- (a) the individual to whom the information relates has consented to the use of the information for that other purpose, or
- (b) the other purpose for which the information is used is directly related to the purpose for which the information was collected, or
- (c) the use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom the information relates or of another person.

<b>The Privacy Code of Practice for Local Government</b>	<b>Council Policy</b>
<p>The Code makes provision that Council may use personal information for a purpose other than the purpose for which it was created in the following circumstances:</p> <ul style="list-style-type: none"> <li>(i) where the use is in pursuance of Council's lawful and proper function/s and Council is satisfied that the personal information is reasonably necessary for the exercise of such function/s; or</li> <li>(ii) where personal information is to be used for the purpose of conferring upon a particular person, an award, prize, benefit or similar form of personal recognition.</li> </ul>	<p>Council will seek to ensure that information collected for one purpose will be used for that same purpose. Where Council may need to use personal information collected for one purpose for another purpose, it will first gain the consent of the individual concerned, unless an exemption applies.</p>



Explanatory Note

Council may use personal information obtained for one purpose for another purpose in pursuance of its lawful and proper functions. For example, the Rates Record that Council holds under section 602 of the LGA may also be used to:

- notify neighbours of a proposed development;
- evaluate a road opening; or
- evaluate a tree preservation order.

External and related bodies

Each of the following will be required to comply with the Information Protection Principle 10:

- Council employees
- Council owned businesses
- Council consultants;
- Private contractors; and
- Council committees.

Council will seek to contractually bind each of these bodies or persons to comply.

Where any of the above seek to use personal information collected for one purpose, that body or person will be required to obtain the written consent of those persons in accordance with section 17(a) to the use of the information for another purpose.

The form of consent should include the following elements:

<p>I, <sup>(1)</sup> _____</p> <p>of <sup>(2)</sup> _____</p> <p>hereby consent under section 17(a) of the Privacy and Personal Information Protection Act 1998 to <sup>(3)</sup> _____</p> <p>using the information collected from me by <sup>(4)</sup> _____</p> <p>for the purpose of <sup>(5)</sup> _____</p> <p>Signature _____</p> <p>Name to be printed _____</p> <p>Date signed _____ / ____ / ____</p>	<p>(1) insert full name</p> <p>(2) insert address</p> <p>(3) insert Council name</p> <p>(4) insert name of collecting body/person</p> <p>(5) insert purpose/s info was collected for</p>
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Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 10.

Existing exemptions under the Act

Compliance with Information Protection Principle 10 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(4) of the PPIPA permits Council not to comply with Information Protection Principle 10 where the use of the information for another purpose is reasonably necessary for law enforcement purposes or for the protection of the public revenue. Law enforcement purposes means a breach of the criminal law and criminal law enforcement. This section does not remove the rights of an accused person. Protection of the public revenue means a fraud with respect to taxes or other revenue earning processes such as avoidance of stamp duty.

Section 24(4) of the PPIPA extends the operation of section 24(2) to councils and permits non-compliance with Information Protection Principle 10 if a council is:

- (i) investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by, an investigative agency; and
- (ii) the use of the information concerned for a purpose other than the purpose for which it was collected is reasonably necessary in order to enable the council to exercise its complaint handling functions or any of its investigative functions.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 10 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 10 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 28(3) of the PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g., the Office of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister's (or Premier's) administration.

### **3.11 Information Protection Principle 11 - Limits on disclosure of personal information**

#### **Section 18 Limits on disclosure of personal information**

- (1) A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:
  - (a) the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or
  - (b) the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or
  - (c) the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.
- (2) If personal information is disclosed in accordance with subsection (1) to a person or body that is a public sector agency, that agency must not use or disclose the information for a purpose other than the purpose for which the information was given to it.

<b>The Privacy Code of Practice for Local Government</b>	<b>Council Policy</b>
<p>The Code makes provision for council to depart from this principle in the circumstances described below:</p> <ol style="list-style-type: none"> <li>1. Council may disclose personal information to public sector agencies or public utilities on condition that:                             <ol style="list-style-type: none"> <li>(i) the agency or utility provider has approached Council in writing;</li> <li>(ii) Council is satisfied that the information is to be used by that agency for the proper and lawful function/s of that agency or utility provider, and</li> </ol> </li> </ol>	<p>Council will not disclose the information to another person or other body, unless the disclosure is directly related to the purpose for which the information was collected or where the Council has no reason to believe that the individual concerned would object to the disclosure.</p> <p>Council may disclose personal information to another person or other body where this disclosure is directly related to the purpose for which the personal information was collected and the individual concerned is reasonably likely to have been aware, (or has been made aware in accordance with section 10), of the intended recipients of that information. "Directly related" can mean the disclosure to another person or agency to deliver a service which supplements that of Council or disclosure to a consultant for the purpose of assessing or reviewing the delivery of a program to which the original collection relates.</p> <p>The Council may disclose personal information to another person or other body where this disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or</p>

<p>(iii) Council is satisfied that the personal information is reasonably necessary for the exercise of that agency or utility provider's function/s.</p> <p>2. Where personal information which has been collected about an individual is to be disclosed for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition.</p> <p>3. Where Council is requested by a potential employer, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.</p>	<p>another person.</p>
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Public Registers

Sections 18 and 57 of the PPIPA should be read in conjunction in regard to Public Registers. Public Registers are discussed further in Part 2 of this Plan.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 11.

Existing exemptions under the Act

Compliance with Information Protection Principle 11 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(5)(a) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is made to a law enforcement agency in connection with proceedings for an offence or for law enforcement purposes. *Law enforcement purposes* means a breach of the criminal law and criminal law enforcement. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(b) of the PPIPA permits non-compliance with Information Protection Principle 11 where the disclosure is made to a law enforcement agency for the purpose of ascertaining the whereabouts of a person reported to be missing. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(c) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is authorised by subpoena, search warrant or other statutory instrument. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(d)(i) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is reasonably necessary for the protection of the public revenue. *Protection of the public revenue* could mean a fraud with respect to taxes or other revenue earning processes such as avoidance of stamp duty. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(d)(ii) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is reasonably necessary to investigate an offence where there are reasonable grounds to believe an offence has been committed.

Section 24(4) of the PPIPA permits non-compliance with Information Protection Principle 11 if:

- (i) investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency, and
- (ii) if the disclosure is to an investigative agency.

(Note: "investigative agency" is defined at s.3 of PPIPA.)

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 11 where Council is lawfully authorised or required not to comply with the principle. Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 11 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(2) of the PPIPA permits non-compliance where the person expressly consents to such non-compliance.

Section 28(3) of the PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Division of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister's (or Premier's) administration.

It is anticipated that a disclosure of personal information for research purposes will be allowed under a s.41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

#### Suppression

Information held by Council may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See Part 1 of this Plan for more details about suppression of personal information.

### 3.12 Information Protection Principle 12 - Special restrictions on disclosure of personal information

#### Section 19 Special restrictions on disclosure of personal information

- (1) A public sector agency must not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.
- (2) A public sector agency that holds personal information must not disclose the information to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:
  - (a) a relevant privacy law that applies to the personal information concerned is in force in the that jurisdiction or applies to that Commonwealth agency, or
  - (b) the disclosure is permitted under a privacy code of practice.
- (3) For the purposes of subsection (2), a **relevant privacy law** means a law that is determined by the Privacy Commissioner, by notice published in the Gazette, to be a privacy law for the jurisdiction concerned.
- (4) The Privacy Commissioner is to prepare a code relating to the disclosure of personal information by public sector agencies to persons or bodies outside New South Wales and to Commonwealth agencies.
- (5) Subsection (2) does not apply:
  - (a) until after the first anniversary of the commencement of this section, or
  - (b) until a code referred to in subsection (4) is made, whichever is the later.

The Privacy Code of Practice for Local Government	Council Policy
<p>The Code makes provision for Council to depart from this principle in the circumstances described below:</p> <ol style="list-style-type: none"> <li>1. For the purposes of s.19(2) only, where Council is requested by a potential employer outside New South Wales, it may verify that a current or former employee works or has worked for Council, the duration of that</li> </ol>	<p>Council will not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.</p>

<p>work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.</p>	
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#### Public Registers

Sections 19 and 57 of the PPIPA should be read in conjunction in regard to Public Registers. Public Registers are discussed further in Part 2 of this Plan.

#### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 12.

#### Existing exemptions under the Act

Compliance with Information Protection Principle 12 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(7) of the PPIPA permits non-compliance with Information Protection Principle 12 where the disclosure is necessary to investigate an offence or where there are reasonable grounds to believe an offence has been or may be committed.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 12 where Council is lawfully authorised or required not to comply with the principle.



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Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 12 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

Section 26(2) of the PPIPA permits non-compliance where the person expressly consents to such non-compliance.

Section 28(2) permits non-compliance with Information Protection Principle 12 where, in the case of health information, the consent of the person cannot reasonably be obtained and the disclosure is made by an authorised person to another authorised person. “Authorised person” means a medical practitioner, health worker, or other official or employee providing health or community services who is employed or engaged by a public sector agency.

Section 28(3) of the PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Division of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

It is anticipated that a disclosure of personal information for research purposes will be allowed under a s.41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

Suppression

Information held by Council may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See Part 1 of this Plan for more details about suppression of personal information.

#### **PART 4 – HEALTH PRIVACY PRINCIPLES**

In 2002, most references to 'health information' were taken out of the PPIPA and separate legislation was enacted. The HRIPA was enacted to deal with this specific type of personal information. On and from September 2004, various agencies and organisations, including local councils were expected to comply with the HRIPA in their collection and management of health information.

Health information includes personal information that is information or an opinion about the physical or mental health or a disability of an individual. Health information *also* includes personal information that is information or an opinion about:

- a health service provided, or to be provided, to an individual;
- an individual's express wishes about the future provision of health services to him or her;
- other personal information collected in connection with the donation of human tissue; or
- genetic information that is or could be predictive of the health of an individual or their relatives or descendants.

Health information is defined in section 6 of the HRIPA. Local councils will often hold health information by reason of their role in elder care, child care and various types of community health support services. It is therefore very important for councils to be familiar with the 15 Health Protection Principles ("HPP") set down in Schedule 1 to the HRIPA. Each of these HPPs are considered below.

The following is a non-exhaustive list of examples of the types of health information and circumstances in which councils may collect health information in exercising their functions:

- Tree pruning/removal application where residents approach council for a reconsideration or reassessment of a tree pruning/removal application on medical grounds;
- Issuing of clean up orders which may include recording information about a residents health, GP professional contact details or involvement with mental health services;
- Volunteer programs where volunteers are asked to disclose health conditions which may preclude them from some types of volunteer work;
- Meals on wheels programs where residents may be asked for medical or dietary requirements, e.g. allergies for catering purposes;
- Seniors bus outings where information may be collected on special medical needs;
- Councils may provide respite and social support services collecting information that is consistent with the client intake and referral record system;
- Information on families for the purposes of children's services. e.g. history of illness, allergies, asthma, diabetes, epilepsy etc;
- Physical exercise classes;

- Some councils run Podiatry services;
- Information may be collected through a healthy community program;
- Children's immunization records; and
- Family counsellor/youth support workers records.

HPPs 1-4 concern the collection of health information, HPP 5 concerns the storage of health information, HPPs 6-9 concern the access and accuracy of health information, HPP 10 concerns the use of health information, HPP 11 concerns the disclosure of health information, HPPs 12-13 concern the identifiers and anonymity of the persons to which health information relate, HPPs 14-15 concern the transferral of health information and the linkage to health records across more than one organisation.

### **Health Privacy Principle 1**

#### **Purposes of collection of health information**

- (1) An organisation must not collect health information unless:
  - (a) the information is collected for a lawful purpose that is directly related to a function or activity of the organisation, and
  - (b) the collection of the information is reasonably necessary for that purpose.
- (2) An organisation must not collect health information by any unlawful means.

### **Health Privacy Principle 2**

#### **Information must be relevant, not excessive, accurate and not intrusive**

An organisation that collects health information from an individual must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:

- (a) the information is collected is relevant to that purpose, is not excessive and is accurate, up to date and complete, and
- (b) the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.

Council complies with this Health Privacy Principle by collecting only the information that is deemed to be necessary to carry out the function to which the collection relates. This is implemented by control measures such as directed questions on forms to ensure the required extent of disclosure is obtained.

Prior to using personal information, Council may take reasonable steps to check its accuracy by taking the following into consideration:

- What was the purpose for which the information was collected?
- When was it collected?
- What was the contact in which the information was collected?
- What purpose is the information going to be used for?
- Who has access to this information? In addition to this, who has access to edit it?

- How important is the accuracy of this information?
- What is the possible impact on the individual if the information is inaccurate, out of date or irrelevant?
- Is it possible to correct inaccuracies prior to use?
- What are the barriers to checking the information? I.e. cost or resources

**Health Privacy Principle 3****Collection to be from the individual concerned**

- (1) An organisation must collect health information about an individual only from that individual, unless it is unreasonable or impracticable to do so.
- (2) Health information is to be collected in accordance with any guidelines issued by the Privacy Commissioner for the purposes of this clause.

Some examples of when health information is collected may include:

- When an incident concerning public liability has occurred and an injury has been alleged or sustained. In order to advise Council's insurers of the incident and potential or impending claim, Council may require the provision of health information to demonstrate the extent of injury.
- Workers compensation claims
- Accessing leave entitlements including sick leave
- Mandatory testing including for recruitment purposes

**Health Privacy Principle 4****Individual to be made aware of certain matters**

- (1) An organisation that collects health information about an individual from the individual must, at or before the time it collects the information (or if that is not practicable, as soon as practicable after that time), take steps that are reasonable in the circumstances to ensure that the individual is aware of the following:
  - (a) the identity of the organisation and how to contact it,
  - (b) the fact that the individual is able to request access to the information,
  - (c) the purposes for which the information is collected,
  - (d) the persons to whom (or the type of persons to whom) the organisation usually discloses information of that kind,
  - (e) any law that requires the particular information to be collected,
  - (f) the main consequences (if any) for the individual if all or part of the information is not provided.
- (2) If the organisation collects health information about an individual from someone else, it must take any steps that are reasonable in the circumstances to ensure that the individual is generally aware of the matters listed in subclause (1) except to the extent that:
  - (a) making the individual aware of the matters would impose a serious threat to the life or health of any individual, or
  - (b) the collection is made in accordance with guidelines issued under subclause (3).
- (3) The Privacy Commissioner may issue guidelines setting out circumstances in which an organisation is not required to comply with subclause (2).
- (4) An organisation is not required to comply with a requirement of this clause if:
  - (a) the individual to whom the information relates has expressly consented to the organisation not complying with it or,
  - (b) the organisation is lawfully authorised or required not to comply with it, or
  - (c) non-compliance is otherwise permitted (or necessarily implied or reasonably contemplated) under any Act or any other law including the State Records Act 1998), or
  - (d) compliance by the organisation would, in the circumstances, prejudice the interests of the individual to whom the information relates, or
  - (e) the information concerned is collected for law enforcement purposes or,
  - (f) the organisation is an investigative agency and compliance might detrimentally affect (or prevent the proper exercise of) its complaint handling functions or any of its investigative functions.
- (5) If the organisation reasonably believes that the individual is incapable of understanding the general nature of the matters listed in subclause (1), the organisation must take steps that are reasonable in the circumstances, to ensure that any authorised representative of the individual is aware of those matters.

- (6) Subclause (4) (e) does not remove any protection provided by any other law in relation to the rights of accused persons or persons suspected of having committed an offence.
- (7) The exemption provided by subclause (4) (f) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a compliant or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.

**Council Policy**

Council will only collect health information for a lawful purpose that is directly related to Council's activities and is necessary for that purpose (HPP 1)

Council will ensure that the health information is relevant, accurate, up to date and not excessive and that the collection is not unnecessarily intrusive into the personal affairs of the individual (HPP 2).

Council will only collect health information directly from the individual that the information concerns, unless it is unreasonable or impractical for Council to do so. (HPP 3).

Council will tell the person why the health information is being collected, what will be done with it, who else might see it and what the consequences are if the person decides not to provide it. Council will also tell the person how he or she can see and correct the health information.

If Council collects health information about a person from someone else, Council will take reasonable steps to ensure that the subject of the information is aware of the above points (HPP 4).

Council complies with this HPP by collecting only the information that is deemed to be necessary to carry out the function to which the collection relates. This is implemented by control measures such as directed questions on forms to ensure the required extent of disclosure is obtained.

When health information is collected, notification of the collection can be found on the relevant form requesting the information. When health information is not provided via written mechanisms the third party is advised of this collection verbally.

**Health Privacy Principle 5****Retention and Security**

- (1) An organisation that holds health information must ensure that:
  - (a) the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and
  - (b) the information is disposed of securely and in accordance with any requirements for the retention and disposal of health information, and

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- (c) the information is protected, by taking such security safeguards as are reasonable in the circumstances against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and
- (d) if it is necessary for the information to be given to a person in connection with the provision of a service to the organisation, everything reasonably within the power of an organisation is done to prevent the unauthorised use or disclosure of the information.

**Note.** Division 2 (Retention of health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.

- (2) An organisation is not required to comply with a requirement of this clause if:
  - (a) the organisation is lawfully authorised or required not to comply with it, or
  - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).
- (3) An investigative agency is not required to comply with subclause (1)(a).

**Council Policy**

Council will store health information securely and protect health information from unauthorised access, use or disclosure. Health information will not be kept for any longer than is necessary and will be disposed of appropriately (HPP 5). Council may comply with this principle (HPP 5) by using any or all of the following or similar documents:

- Council's ICT Systems Access and Cyber Security and Information Access Management Directive. This document defines the minimum requirements for controlling access to Council's systems and information to ensure appropriate access to systems can be provided whilst adequate protection from exposure to cyber threats is provided.
- Council's Records Management—Management Directive
- General Records Disposal Schedule for Local Government.

**Health Privacy Principle 6**

***Information about health information held by organisations***

- (1) An organisation that holds health information must take such steps as are, in the circumstances, reasonable, to enable any individual to ascertain:
  - (a) whether the organisation holds health information, and
  - (b) whether the organisation holds health information relating to that individual, and
  - (c) if the organisation holds health information relating to that individual:
    - (i) the nature of that information
    - (ii) the main purposes for which the information is used, and
    - (iii) that person's entitlement to request access to the information.
- (2) An organisation is not required to comply with a provision of this clause if:

- (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
- (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under any Act or any other law (including the State Records Act 1998).



**Health Privacy Principle 7****Access to health information**

- (1) An organisation that holds health information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.
- (2) Such requests can be made in writing and forwarded to:  
The Privacy Officer  
PO BOX 42  
Raymond Terrace NSW 2324  
Or by email: [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)

**Note.** Division 3 (Access to health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause. Access to health information held by public sector agencies may also be available under the Government Information (Public Access) Act 2009 or the State Records Act 1998.

- (3) An organisation is not required to comply with a provision of this clause if:
  - (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
  - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).

**Health Privacy Principle 8****Amendment of health information**

- (1) An organisation that holds health information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the health information:
  - (a) is accurate, and
  - (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to day, complete and not misleading.
- (2) Such requests can be made in writing and forwarded to:  
The Privacy Officer  
PO BOX 42  
Raymond Terrace NSW 2324  
Or by email: [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)
- (3) If an organisation is not prepared to amend health information under subclause (1) in accordance with a request by the individual to whom the information relates, the organisation must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that

individual of the amendment sought.

- (4) If health information is amended in accordance with this clause, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the organisation.

**Note.** Division 4 (Amendment of health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.

Amendment of health information held by public sector agencies may also be able to be sought under the Privacy and Personal Information Protection Act 1998.

- (5) An organisation is not required to comply with a provision of this clause if:
- (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
  - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).

### **Health Privacy Principle 9**

#### **Accuracy**

An organisation that holds health information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate and up to date, complete and not misleading.

#### **Council Policy**

Council will provide details about what health information Council is holding about an individual and with information about why Council is storing that information and what rights of access the individual has (HPP 6).

Council will allow the individual to access his or her health information without reasonable delay or expense. A request to access information can be made in writing to Council (HPP 7).

Council will allow the individual to update, correct or amend his or her health information where necessary. A request to amend information can be made in writing to Council (HPP 8).

Council will make sure that the health information is relevant and accurate before using it, from the information available to Council to assess the accuracy (HPP 9).

Prior to using personal information, Council may take reasonable steps to check its accuracy by taking the following into consideration:

- What as the purpose for which the information was collected?

- When was it collected?
- What was the context in which this information was collected?
- What purpose is the information going to be used for?
- Who has access to this information? And who has access to edit this information?
- How important is the accuracy of this information?
- What is the impact on the individual if the information is inaccurate, out of date or irrelevant?
- Is it possible to correct inaccuracies prior to use?
- What are the barriers to checking the information?

**Health Privacy Principle 10**

- (1) An organisation that holds health information must not use the information for a purpose (a **secondary purpose**) other than the purpose (the **primary purpose**) for which it was collected unless:
- (a) **Consent**  
the individual to whom the information relates has consented to the use of the information for that secondary purpose, or
- (b) **Direct relation**  
the secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to use the information for the secondary purpose or,  
**Note:** For example, if information is collected in order to provide a health service to the individual, the use of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.
- (c) **Serious threat to health or welfare**  
the use of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:  
(i) a serious and imminent threat to the life, health or safety of the individual or another person, or  
(ii) a serious threat to public health and safety, or
- (d) **Management of health services**  
the use of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:  
(i) either:  
(A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or  
(B) reasonable steps are taken to de-identify the information, and  
(ii) if the information is in a form that could reasonably be expected to identify individuals, the information is not published in a generally available publication, and  
(iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

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- (e) **Training**  
the use of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:
  - (i) either:
    - (A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or
    - (B) reasonable steps are taken to de-identify the information, and
  - (ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and
  - (iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or
- (f) **Research**  
the use of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:
  - (i) either:
    - (A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or
    - (B) reasonable steps are taken to de-identify the information, and
  - (ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and
  - (iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purpose of this paragraph, or
- (g) **Find missing person**  
the use of the information for the secondary purpose is by a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or
- (h) **Suspected unlawful activity, unsatisfactory professional conduct or breach of discipline**  
the organisation:
  - (i) has reasonable grounds to suspect that:
    - (A) unlawful activity has been or may be engaged in, or
    - (B) a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under a the Health Practitioner Regulation National Law (NSW), or
  - (C) an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and
  - (ii) uses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or
- (i) **Law enforcement**  
the use of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or

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- (j) **Investigative agencies**  
the use of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or
  - (k) **Prescribed circumstances**  
the use of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.
- (2) An organisation is not required to comply with a provision of this clause if:
- (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
  - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).
- (3) The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.
- (4) Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:
- (a) to another public sector agency under the administration of the same Minister if the disclosure is for the purposes of informing that Minister about any matter within that administration, or
  - (b) to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.
- (5) The exemption provided by subclause (1) (j) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.

**Council Policy**

Council will only use the health information for the purpose for which it was collected or for a directly related purpose that the individual to whom the information relates would expect. Otherwise, Council will obtain the individual's consent (HPP 10).

Council takes reasonable steps to ensure that personal and health information is only accessible by the staff who require access to it in order to carry out their functions. Information collected by Council may be used by departments and units of Council that did not undertake the initial collection of the information only if the use of it is for the same purpose in which it was originally collected.

For example, if Council held information concerning a health condition relating to a member of staff and an incident occurred which caused threat to the health of the employee, the information may be relayed to an emergency services officer attending the scene. This would be only be permissible as the secondary purpose is directly

related to the primary purpose the information was collected.

**Health Privacy Principle 11**

- (1) An organisation that holds health information must not disclose the information for a purpose (a **secondary purpose**) other than the purpose (the **primary purpose**) for which it was collected unless:
  - (a) **Consent**  
the individual to whom the information relates has consented to the disclosure of the information for that secondary purpose, or
  - (b) **Direct relation**  
the secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to disclose the information for the secondary purpose, or  
  
Note: For example, if information is collected in order to provide a health service to the individual, the disclosure of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.
  - (c) **Serious threat to health or welfare**  
the disclosure of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:
    - (i) a serious and imminent threat to the life, health or safety of the individual or another person, or
    - (ii) a serious threat to public health or public safety, or
  - (d) **Management of health services**  
  
the disclosure of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:
    - (i) either:
      - (A) that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or
      - (B) reasonable steps are taken to de-identify the information, and
    - (ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and
    - (iii) the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or
  - (e) **Training**

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the disclosure of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:

- (i) either:
  - (A) that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or
  - (B) reasonable steps are taken to de-identify the information, and
- (ii) if the information could reasonably be expected to identify the individual, the information is not made publicly available, and
- (iii) the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

(f) **Research**

the disclosure of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:

- (i) either:
  - (A) that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or
  - (B) reasonable steps are taken to de-identify the information, and
- (ii) the disclosure will not be published in a form that identifies particular individuals or from which an individual's identity can reasonably be ascertained, and
- (iii) the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

(g) **Compassionate reasons**

the disclosure of the information for the secondary purpose is to provide the information to an immediate family member of the individual for compassionate reasons and:

- (i) the disclosure is limited to the extent reasonable for those compassionate reasons, and
- (ii) the individual is incapable of giving consent to the disclosure of the information, and
- (iii) the disclosure is not contrary to any wish expressed by the individual (and not withdrawn) of which the organisation was aware or could make itself aware by taking reasonable steps, and

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- (iv) if the immediate family member is under the age of 18 years, the organisation reasonably believes that the family member has sufficient maturity in the circumstances to receive the information, or

- (h) **Finding missing person**

the disclosure of the information for the secondary purpose is to a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or

- (i) **Suspected unlawful activity, unsatisfactory professional conduct or breach of discipline**

the organisation:

- (i) has reasonable grounds to suspect that:
    - (A) unlawful activity has been or may be engaged in, or
    - (B) a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under a the Health Practitioner Regulation National Law (NSW), or
    - (C) an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and
  - (ii) discloses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or
- (j) **Law enforcement**

the disclosure of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or

- (k) **Investigative agencies**

the disclosure of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or

- (l) **Prescribed circumstances**

the disclosure of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.

- (2) An organisation is not required to comply with a provision of this clause if:
  - (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
  - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998 ), or
  - (c) the organisation is an investigative agency disclosing information to another investigative agency.



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- (3) The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.
- (4) Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:
  - (a) to another public sector agency under the administration of the same Minister if the disclosure is for the purposes of informing that Minister about any matter within that administration, or
  - (b) to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.
- (5) If health information is disclosed in accordance with subclause (1), the person, body or organisation to whom it was disclosed must not use or disclose the information for a purpose other than the purpose for which the information was given to it.
- (6) The exemptions provided by subclauses (1) (k) and (2) extend to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.

**Council Policy**

Council will only disclose health information under the following circumstances:

- With the consent of the individual to whom the information relates; or
- For the purpose for which the health information was collected or a directly related purpose that the individual to whom it relates would expect; or
- If an exemption applies (HPP 11).

**Health Privacy Principle 12****Identifiers**

- (1) An organisation may only assign identifiers to individuals if the assignment of identifiers is reasonably necessary to enable the organisation to carry out any of its functions efficiently.
- (2) Subject to subclause (4), a private sector person may only adopt as its own identifier of an individual an identifier of an individual that has been assigned by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:
  - (a) the individual has consented to the adoption of the same identifier, or
  - (b) the use or disclosure of the identifier is required or authorised by or under law.
- (3) Subject to subclause (4), a private sector person may only use or disclose an identifier assigned to an individual by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:

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- (a) the use or disclosure is required for the purpose for which it was assigned or for a secondary purpose referred to in one or more paragraphs of HPP 10 (1) (c)-(k) or 11 (1) (c)-(l), or
- (b) the individual has consented to the use or disclosure, or
- (c) the disclosure is to the public sector agency that assigned the identifier to enable the public sector agency to identify the individual for its own purposes.
- (4) If the use or disclosure of an identifier assigned to an individual by a public sector agency is necessary for a private sector person to fulfil its obligations to, or the requirements of, the public sector agency, a private sector person may either:
  - (a) adopt as its own identifier of an individual an identifier of the individual that has been assigned by the public sector agency, or
  - (b) use or disclose an identifier of the individual that has been assigned by the public sector agency.

**Council Policy**

Council will only give an identification number to health information if it is reasonably necessary for Council to carry out its functions effectively (HPP 12).

**Health Privacy Principle 13**

**Anonymity**

Wherever it is lawful and practicable, individuals must be given the opportunity to not identify themselves when entering into transactions with or receiving health services from an organisation.

**Council Policy**

Council will provide health services anonymously where it is lawful and practical (HPP 13).

An example of when an individual may request to remain anonymous may be when they are lodging a complaint about a companion animal, submissions on a development application or notification to Council of a pothole requiring repair.

An individual can request to remain anonymous verbally or in writing, depending upon how the communication is received (via email or over the phone). If an individual does elect to remain anonymous, future contact regarding the matter may not be possible or they may not be able to be updated on the outcome of the matter.

**Health Privacy Principle 14**

**Transborder data flows and data flow to Commonwealth agencies.**

An organisation must not transfer health information about an individual to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:

- (a) the organisation reasonably believes that the recipient of the information is subject to a law, binding scheme or contract that effectively upholds principles

**ITEM 9 - ATTACHMENT 1      PRIVACY MANAGEMENT PLAN 2024.**

for fair handling of the information that are substantially similar to the Health Privacy Principles, or

- (b) the individual consents to the transfer, or
- (c) the transfer is necessary for the performance of a contract between the individual and the organisation, or for the implementation of pre-contractual measures taken in response to the individual's request, or
- (d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the organisation and a third party, or
- (e) all of the following apply:
  - (i) the transfer is for the benefit of the individual,
  - (ii) it is impracticable to obtain the consent of the individual to that transfer,
  - (iii) if it were practicable to obtain such consent, the individual would be likely to give it, or
- (f) the transfer is reasonably believed by the organisation to be necessary to lessen or prevent:
  - (i) a serious and imminent threat to the life, health or safety of the individual or another person, or
  - (ii) a serious threat to public health or public safety, or
- (g) the organisation has taken reasonable steps to ensure that the information that it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the Health Privacy Principles, or
- (h) the transfer is permitted or required by an Act (including an Act of the Commonwealth) or any other law.

In addition to the normal disclosure rules, Council will not disclose (or transfer) personal or health information to any person or body outside NSW or to a Commonwealth agency (transborder disclosure) unless one of the following exemptions apply:

- the other party is subject to a law, scheme or contract that upholds principles substantially similar to the information privacy principles
- the individual concerned has consented
- the transfer is necessary for the performance of a contract between the individual and Council or a third party • the transfer will benefit the individual concerned, but it is impracticable to obtain their consent, and if notified would likely consent
- the disclosure is reasonably believed by Council to be necessary to lessen or prevent a serious and imminent threat to the life, health or safety of the individual or another person
- Council has taken reasonable steps to ensure the information won't be dealt with inconsistently with the information privacy principles (e.g. we have bound the recipient by contract to privacy obligations equivalent to the principles), or
- if it is permitted by any other exemption in the Privacy legislation, permitted or required by any Act or any other law Where information is disclosed transborder,

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Council will make an assessment to determine that the privacy protections operating in the destination jurisdiction are substantially similar to those in NSW and put in place contractual terms to ensure the protection of the information provided.

Where it is necessary for personal or health information to be disclosed to a third party provider, for the purposes of providing a service, Council ensures that appropriate contractual protections are included in the contract with the provider to prevent unauthorised use or disclosure of personal or health information. Contracts with third party providers include appropriate standards for data protection and require compliance with the relevant privacy principles. Where Council intends to disclose personal or health information to a third party service provider outside of NSW or to a Commonwealth agency, Council takes reasonable steps to ensure that the information it has disclosed will not be held, used or disclosed by the recipient inconsistently with the IPPs / HPPs. This is achieved by

- including contractual protections requiring the recipient to comply with the IPPs / HPPs and the Privacy Commissioner's guidance on transborder disclosures;
- making an assessment to determine that the privacy protections operating in the destination jurisdiction are substantially similar to those in NSW; and
- conducting audits over the service providers' IT systems before the contract is entered into and during the term of the contract.

<b>Council Policy</b>
Council will only transfer personal information out of New South Wales if the requirements of Health Privacy Principle 14 are met.

**Health Privacy Principle 15****Linkage of health records**

- (1) An organisation must not:
  - (a) include health information about an individual in a health records linkage system unless the individual has expressly consented to the information being so included, or
  - (b) disclose an identifier of an individual to any person if the purpose of the disclosure is to include health information about the individual in a health records linkage system, unless the individual has expressly consented to the identifier being disclosed for that purpose.
  
- (2) An organisation is not required to comply with a provision of this clause if:
  - (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
  - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998 ), or
  - (c) the inclusion of the health information about the individual in the health records information system (including an inclusion for which an identifier of the individual is to be disclosed) is a use of the information that complies with HPP 10 (1) (f) or a disclosure of the information that complies with HPP 11 (1) (f).
  
- (3) In this clause:

**health record** means an ongoing record of health care for an individual.  
**health records linkage system** means a computerised system that is designed to link health records for an individual held by different organisations for the purpose of facilitating access to health records, and includes a system or class of systems prescribed by the regulations as being a health records linkage system, but does not include a system or class of systems prescribed by the regulations as not being a health records linkage system.

As of the date of this Plans endorsement, Council does not maintain a health records linkage system.

**Council Policy**

Council will only include health information in a system to link health records across more than one organisation if the individual to whom the health information relates expressly consents to the link (HPP 15).

**PART 5 – IMPLEMENTATION OF THE PRIVACY MANAGEMENT PLAN****5.1 Training Seminars/Induction**

During induction, all employees are be made aware that the performance management system has the potential to include personal information on their individual work performance or competency.

Councillors, all staff of the Council including staff of council businesses, and members of council committees should be acquainted with the general provisions of the PPIPA, the HRIPA and in particular, the 12 Information Protection Principles (IPPs), the 15 Health Privacy Principles (HPPs), the Public Register provisions, the Privacy Code of Practice for Local Government, this Plan and any other applicable Code of Practice.

All new employees are required to complete on line privacy training as part of their probation period and also attend privacy training at the induction. Ongoing privacy training is provided to those employees who are responsible for handling personal information.

**5.2 Responsibilities of the Privacy Contact Officer**

The Public Officer within Council is responsible for the role of the Privacy Contact Officer.

In order to ensure compliance with PPIPA and the HRIPA, the Privacy Contact Officer or Council's legal services area will review all contracts and agreements with consultants and other contractors, rates notices, application forms of whatsoever nature, and other written requests by which personal information is collected by Council, to ensure that Council is in compliance with the PPIPA.

The Privacy Contact Officer will ensure Council in its public areas has special provisions for working with computer screens. Computer screens may require:

- fast screen savers;
- face the computers away from the public; or
- only allow the record system to show one record at a time.

Council's electronic databases should also be reviewed to ensure that they contain procedures and protocols to check the accuracy and currency of personal and health information.

The Privacy Contact Officer will also provide opinions within Council as to:

- (i) Whether the personal or health information is collected for a lawful purpose;
- (ii) If that lawful purpose is directly related to a function of Council; and
- (iii) Whether or not the collection of that personal or health information is reasonably necessary for the specified purpose.

Any further concerns of a legal nature will be referred to Council's solicitor.

Should the Council require, the Privacy Contact Officer may assign designated officers as "Privacy Resource Officers", within the larger departments of Council. In this manner the Council may ensure that the information protection principles are more broadly understood and that individual departments have a greater focus on the information protection principles and are directly applied to Council's day to day functions.

### **5.3    Distribution of information to the public**

Council may prepare its own literature such as pamphlets on the PPIPA, HRIPA or it may obtain and distribute copies of literature available from the Information and Privacy Commission NSW.

## **PART 6 – DATA BREACHES**

### **6.1 What is a data breach?**

The Mandatory Notification of Data Breach Scheme ('MNDB Scheme') is a mandatory notification requirement under the *Privacy and Personal Information Protection Act 1998* for NSW public sector agencies in the event of an 'eligible data breach'. An 'eligible data breach' occurs when there is:

- unauthorised access to, or unauthorised disclosure of, personal information held by an agency that would be likely to result in serious harm to an individual to whom the information relates
- the loss of personal information held by an agency in circumstances where unauthorised access or disclosure is likely to occur and which would be likely to result in serious harm to an individual to whom the information relates.

### **6.2 What is unauthorised access and unauthorised disclosure?**

Unauthorised access to personal information can occur when someone accesses information without permission. For example:

- a cyber attack on a database containing personal information, or
- an agency employee intentionally opens an electronic or paper file containing personal information when they do not have permission to access that information.

Unauthorised disclosure of personal information can occur if information is provided to or accessible by people outside the agency. This could be the result of:

- simple human or technical errors without malicious intent, for example where an agency accidentally publishes a data set containing personal information on its website
- a third party downloading data from an unsecured computer system or platform
- emails containing personal information being sent to the wrong person.

Personal information held by an agency can also be accidentally lost (including where it is stolen) in circumstances where it is likely to result in unauthorised access to or disclosure of that information. For example:

- a file containing personal information is accidentally left in a public place
- a laptop containing the personal information of an agency's clients is stolen from the agency's office.



**6.3 What are the potential impacts of a data breach?**

- Financial loss through fraud
- A likely risk of physical or psychological harm, such as by an abusive ex-partner
- Identity theft, which can affect your finances and/or credit record
- Serious harm to an individual's or Council's reputation.

**6.4 Who decides if you've suffered serious harm?**

Whether the unauthorised access, disclosure or loss of your personal information is likely to result in serious harm to you, will be assessed by the agency as part of its response to the data breach. This requires an objective assessment determined from the viewpoint of a reasonable person.

An agency will consider the circumstances of the breach, how likely it is that the breach will cause harm, and the consequences and severity of that harm. In making this determination, the agency may consider the following:

- the types of personal information involved, for example, an email address is likely to be considered less likely to result in serious harm than credit card details
- the sensitivity of the personal information, for example, if it relates to a person's finances, health, or sexual orientation
- whether the personal information is or was protected by security measures such as encryption and therefore unlikely to be accessed or misused
- who has access to the personal information
- whether the person/s who accessed the personal information may have a malicious intent and whether they may be able to circumvent security measures
- the nature of the likely harm
- any other matter specified in the Privacy Commissioner's guidelines.

**6.5 Your right to be notified of a breach of your personal information**

When a data breach occurs, Council must immediately make all reasonable efforts to contain the breach and try to reduce the likelihood that an individual will experience serious harm.

Council then has 30 days from the date they become aware of a possible data breach to assess whether that data breach is likely to result in serious harm. Whilst making this assessment, all reasonable attempts must be made to mitigate any harm already done.

If an agency decides there has been an eligible data breach in relation to your personal information, it must notify you as soon as practicable about that breach. This means that an agency must notify you in writing and provide you with information about the eligible data breach, including:

- actions the agency has taken or plans to take to control or mitigate the harm done to you
- steps you should consider taking following an eligible data breach
- information about how to seek an internal review of the agency's conduct or make a privacy complaint to the Privacy Commissioner.

If the agency is unable to notify you directly it must publish a notification on its website and take reasonable steps to publicise the notification. The notification must remain on the agency's public notification register for at least 12 months. There are certain exemptions to the requirement that agencies notify affected individuals of a data breach. For example, if an agency acts quickly to mitigate a data breach, and because of this action the data breach is not likely to result in serious harm, there is no requirement to notify any affected individuals.

#### **6.6 What do I do if I become aware of a suspected data breach?**

If you suspect a data breach has occurred, you must immediately submit an incident form via our website. You may alternatively call Council and ask to speak with a member from our Governance team.

#### **6.7 Where can I go to get more information about the scheme and how Port Stephens Council manage it?**

- The Information and Privacy Commission publishes helpful information which can be found here: <https://www.ipc.nsw.gov.au/privacy/MNDB-scheme>
- Council's Data Breach page on our website
- Council's Agency Information Guide
- Council's Data Breach [Policy](#).

## **PART 7 – INTERNAL REVIEW**

### **7.1    How does the process of Internal Review operate?**

Under section 53 of the PPIPA a person (the applicant) who is aggrieved by the conduct of a council is entitled to a review of that conduct. An application for internal review is to be made within **6 months** of when the person first became aware of the conduct.

The application is to be in writing and addressed to Council's Privacy Contact Officer. The Privacy Contact Officer will appoint a Reviewing Officer to conduct the internal review. The Reviewing Officer must not be substantially involved in any matter relating to the application. The Reviewing Officer must be an employee and suitability qualified.

The review must be completed as soon as is reasonably practicable in the circumstances. If the review is not completed within **60 days** of the lodgement, the applicant is entitled to seek external review.

Council must notify the Privacy Commissioner of an application as soon as practicable after its receipt, keep the Commissioner informed of the progress of the application and inform the Commissioner of the findings of the review and of the action it proposes to take in relation to the application.

The Privacy Commissioner is entitled to make submissions in relation to internal reviews and Council is required to consider any relevant material submitted by the Privacy Commissioner. Council must provide the Privacy Commissioner with a draft of the council's internal review report to enable the Privacy Commissioner to make a submission.

Council must notify the applicant of the outcome of the review within **14 days** of its determination. A copy of the final review should also be provided to the Privacy Commissioner where it departs from the draft review. Council will provide written notice as to the review rights of the applicant if the internal review is not completed within 60 days from lodgement.

An application form requesting an internal review and an internal review checklist has been prepared by the Office of the Privacy Commissioner NSW and can be accessed from its website <http://www.ipc.nsw.gov.au>.

The Privacy Commissioner must be notified of a complaint, briefed on progress and notified of the outcome of an internal review under the PPIPA or HRIPA.

### **7.2    What happens after an Internal Review?**

If the complainant remains unsatisfied, he/she may appeal to the NSW Civil and Administrative Tribunal (NCAT) which hears the matter afresh and may impose its own decision and can make a range of orders including an award of damages for a breach of an information protection principle or a health privacy principle.

NCAT can be contacted as follows:

**Website:** <http://www.ncat.nsw.gov.au/>

**Phone:** 1300 006 228

**Visit:** Level 10 John Maddison Tower, 86-90 Goulburn Street, Sydney NSW 2000

## **PART 8 – OTHER RELEVANT MATTERS**

### **8.1    Contracts with consultants and other private contractors**

It is necessary to have specific provisions to protect the Council in any dealings with private contractors.

### **8.2    Confidentiality**

The obligation of confidentiality is additional to and separate from that of privacy. Nevertheless, a duty to withhold information lies at the heart of both concepts. Confidentiality attaches to information per se, personal or health information to the person to whom that information relates.

An obligation of confidentiality exists for all employees whether express or implied as a matter of law.

Information which may be confidential is also likely to have a separate and independent obligation attaching to it in the form of privacy and in that regard, a release for the purposes of confidentiality will not suffice for privacy purposes. Two separate releases will be required and, in the case of privacy, the person to whom the information relates will be required to provide the release.

### **8.3    Misuse of personal or health information**

Section 664 of the LGA makes it an offence for anyone to disclose information except in accordance with that section. Whether or not a particular disclosure is made with lawful excuse is a matter that requires legal opinion from case to case.

### **8.4    Regular review of the collection, storage and use of personal or health information**

The information practices relating to the collection, storage and use of personal or health information is reviewed from time to time. Any new program initiatives will be incorporated into the review process with a view to ascertaining whether or not those programs comply with the PPIPA.

### **8.5    Regular review of Privacy Management Plan**

When information practices are reviewed from time to time, the Privacy Management Plan will also be reviewed to ensure that the Plan is up to date.

### **8.6    Alternative complaints process**

Should any person wish to have an issue resolved informally, the matter can be considered in accordance with Council's Complaints Handling policy. This policy is available from Council's website. A copy of all of Council's policies, including the complaint handling policy can be accessed on Council's website by clicking [here](#) should you require further information or clarification.

### 8.7 Memorandum of Understandings or Referral Arrangements

As of the date of this plan's endorsement, Council does not have any Memorandums of Understandings or referral arrangements with other agencies.

### 8.8 Offences

Part 8 of the PIPPA and HRIPA details offences for certain conduct. A table detailing the relevant penalties and associated provision has been provided below:

Offence	Maximum Penalty	Legislative Provision
It is a criminal offence for a public sector official to corruptly disclose and use personal or health information	• Fine of up to 100 penalty units (\$11,000), or • Imprisonment for two years, or both	• s 62 of PPIPA • s 68 of HRIPA
It is a criminal offence for a person to offer to supply personal or health information that has been disclosed unlawfully	• Fine of up to 100 penalty units (\$11,000), or • Imprisonment for two years, or both	• s63 of PPIPA • s69 of HRIPA
It is a criminal offence for a person – by threat, intimidation or misrepresentation – to persuade or attempt to persuade an individual: • to refrain from making or pursuing a request to access health information, a complaint to the Privacy Commissioner or the NSW Civil and Administrative Tribunal, or an application for an internal review; or • to withdraw such a request, complaint or application.	• Fine of up to 100 penalty units (\$11,000)	• s 70(1) of HRIPA
A person must not – by threat, intimidation or misrepresentation – require another person to give consent under HRIPA, or require a person to do, without consent, an act for which consent is required.	• Fine of up to 100 penalty units (\$11,000)	• s 70(2) of HRIPA
It is a criminal offence for a person to: • wilfully obstruct, hinder or resist the Privacy Commissioner or a member of the staff of the Privacy Commissioner • refuse or wilfully fail to comply with any lawful requirement of the Privacy Commissioner or a member of the staff of the Privacy Commissioner, or • wilfully make any false statement to or mislead, or attempt to mislead, the Privacy Commissioner or a member of	• Fine of up to 10 penalty units (\$1,100)	• s 68(1) of PPIPA

the staff of the Privacy Commissioner • in the exercise of their functions under PPIPA or any other Act		
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In addition to the above, under section 308H of the Crimes Act 1900, it is an offence to access or modify restricted data held in a computer where authorisation has not been provided. The maximum penalty for this offence being 2 years.

### 8.9 Accessibility

The Privacy Management Plan is available on Council's website, available for inspection at Council's Administration Building or upon request, can be mailed out to a nominated postal address.

### 8.10 Further information

A complaint can be made directly to the Privacy Commissioner through its [website](#) or in writing forwarded to the following contact:

The Information Commissioner  
By email – [ipcinfo@nsw.gov.au](mailto:ipcinfo@nsw.gov.au)  
In writing – GPO BOX 7100  
SYDNEY NSW 2000  
Or by phone – 1800 472 679

For assistance in understanding the processes under the PPIPA and HRIPA, please contact:

- 1) Privacy Contact Officer  
Port Stephens Council  
PO Box 42 (116 Adelaide Street)  
RAYMOND TERRACE NSW 2324  
Phone: (02) 4988 0255  
Facsimile: (02) 4988 0130  
Email: [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)  
Internet: [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)
- 2) Information and Privacy Commission  
Level 11  
1 Castlereagh Street  
SYDNEY NSW 2000  
  
Phone: 1800 472 679  
Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)  
Internet: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)

**PART 9 – APPENDICES**

**APPENDIX 1: STATUTORY DECLARATION FOR ACCESS UNDER SECTION 57 OF THE PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998 TO A PUBLIC REGISTER HELD BY COUNCIL**

**Statutory Declaration**  
**Oaths Act, 1900, Eighth Schedule**

I, the undersigned <sup>(1)</sup> \_\_\_\_\_ (1) insert full name

of <sup>(2)</sup> \_\_\_\_\_ (2) insert address

in the State of New South Wales, do solemnly and sincerely declare that:

I am <sup>(3)</sup> \_\_\_\_\_ (3) insert relationship, if any, to person inquired about

I seek to know whether <sup>(4)</sup> \_\_\_\_\_ (4) insert name

is on the public register of <sup>(5)</sup> \_\_\_\_\_ (5) Applicant to describe the relevant public register

The purpose for which I seek this information is <sup>(6)</sup> \_\_\_\_\_ (6) insert purpose for seeking information

\_\_\_\_\_

The purpose for which the information is required is to <sup>(7)</sup> \_\_\_\_\_ (7) insert purpose

\_\_\_\_\_

**And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1994.**

\_\_\_\_\_  
**Signature of Applicant**

Declared at: \_\_\_\_\_

in the said State this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

in the presence of \_\_\_\_\_

\_\_\_\_\_  
**Name of Justice of the Peace/Solicitor**

Who certifies that:

1. \*I saw the face of the declarant/deponent OR  
\*I did not see the face of the declarant/deponent because he/she was wearing a face covering, but I am satisfied that he/she had a special justification for not removing it, and
2. \*I have known the person for at least 12 months OR  
\*I confirmed the person's identity with \_\_\_\_\_  
[describe identification document relied on]

\_\_\_\_\_  
**Signature of Justice of the Peace/Solicitor to be printed**



**Appendix 2: Privacy Disclaimer template**

**YOUR PRIVACY**

Port Stephens Council is committed to protecting your privacy. We take reasonable steps to comply with relevant legislation and Council policy.

**Purpose:** *a statement about why you are collecting the information.*

**Intended recipients:** *who will be using the information.*

**Supply:** *legally required OR voluntary.*

**Consequence of Non Provision:** *what happens if the information is not provided.*

**Storage and security:** This document will be placed on the relevant file and/or saved in Council's records management system in accordance with Council policy and relevant legislation.

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

**CONTROLLED DOCUMENT INFORMATION:**

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website <a href="http://www.portstephens.nsw.gov.au">www.portstephens.nsw.gov.au</a>			
<b>RM8 container No</b>	A2004-0135	<b>EDRMS record No</b>	
<b>Audience</b>	Public, Council employees, elected Council, volunteers and contractors		
<b>Process owner</b>	Governance Section Manager		
<b>Author</b>	Governance Section Manager		
<b>Review timeframe</b>	Three years	<b>Next review date</b>	1 September 2026
<b>Adoption date</b>	June 2000		

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1.0	June 2000	Legal Officer	Adoption of Privacy Management Plan	
2.0	28 February 2006	Governance Coordinator	Reviewed Privacy Management Plan	432
3.0	10 March 2015	Governance Manager	Reviewed Privacy Management Plan to updated Model Plan from Office of Local Government	050

Version	Date	Author	Details	Minute No.
4.0	28 March 2017	Governance Manager	<ol style="list-style-type: none"> <li>1. A full compliance review of Plan including the Information &amp; Privacy Commission checklist</li> <li>2. Remove appendices 2 to 6.</li> <li>3. Insert new appendix 2 with a privacy disclaimer which replaces those listed in item 2 above.</li> <li>4. Update appendix 1 with the privacy disclaimer.</li> <li>5. Reformat public registers into a table for ease of reading page 8 &amp; 9.</li> <li>6. Delete section 2.5 purpose of public register – now includes within the table listed in item 5 above.</li> <li>7. Reformatted Privacy Code of Practice in Local Government and Council policy section in Part 3, into a table for ease of reading, from page 13 on.</li> <li>8. Reformatted Council policy section in Part 3, into a table for ease of reading, from page 38 on.</li> <li>9. Updated contact details on page 56.</li> </ol>	069

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<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Details</b>	<b>Minute No.</b>
5.0	25 August 2020	Governance Section Manager	<ol style="list-style-type: none"> <li>1. A full compliance review of Plan including the Information &amp; Privacy Commission checklist</li> <li>2. Section 7.6 updated contact information and the privacy disclosure statement</li> <li>3. Added 'Section' to reflect amended position title in version control</li> <li>4. Part 3.6 added 20 working and removed reference to 28 days.</li> <li>5. Section 3:10 external and related bodies added 'Council employees'</li> <li>6. Section 5.3 included 'Information and Privacy Commission' and removed 'Office of the Privacy Commission'</li> <li>7. In part 2 added 'Code of practice' and added hyperlinks to website in the legislative table</li> </ol>	164

Version	Date	Author	Details	Minute No.
			<p>8. In Part 3, removed reference to Coastal Protection Act and updated to Coastal Management Act 2016</p> <p>9. In Part 3, updated Director General's position title to Deputy Secretary of Local Government, Planning and Policy</p> <p>10. In part 3.2 and 3.3 updated Land Title's Office to Land Registry Services</p> <p>11. In part 3.11 added 'utility provider' to agency types.</p>	

6.0		Governance Section Manager	<p>Updated numbering, hyperlinks and formatting</p> <ol style="list-style-type: none"> <li>1.</li> <li>2. Added part 6 'Data Breaches' to reflect amendments to PPIPA Act.</li> <li>3. 6.7 – Added link to Data Breach Policy</li> <li>4. HPP 5 and IPP 5 – Update of Management Directive titles. Added how the management directive ensures compliance with IPP5.</li> <li>5. HPP 10 – Added how this can be seen within Council.</li> <li>6. HPP 13 – Added examples of when a person may elect to remain anonymous and how this request can be made to Council.</li> <li>7. IPP 9 – Added "This however does not detract from the obligation on Council to take such steps as are reasonable to ensure that any personal information being used is accurate before using it."</li> </ol>	
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			<p>8. Added part 8.7 'Memorandum of Understandings or Referral Arrangements' to outline any arrangements Council has with other bodies.</p> <p>9. Added part 8.8 'Offences' to outline the offences under the PPIPA Act</p> <p>10. Added part 8.9 'Accessibility' to detail how and where this plan can be accessed.</p>	
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PORT STEPHENS  
COUNCIL

## Privacy Management Plan

council@portstephens.nsw.gov.au | 02 4988 0255

**PORTSTEPHENS.NSW.GOV.AU**    



**ITEM NO. 10****FILE NO: 24/136730  
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 25 June 2024.

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	Cash and Investment Portfolio - May 2024	214
2	Delegations Report	224
3	Council Resolutions	226

**ORDINARY COUNCIL MEETING - 25 JUNE 2024  
MOTION**

<b>143</b>	<b>Councillor Steve Tucker Councillor Matthew Bailey</b>  It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 25 June 2024.  <table><tr><th><b>No:</b></th><th><b>Report Title</b></th></tr><tr><td>1</td><td>Cash and Investment Portfolio - May 2024</td></tr><tr><td>2</td><td>Delegations Report</td></tr><tr><td>3</td><td>Council Resolutions</td></tr></table>	<b>No:</b>	<b>Report Title</b>	1	Cash and Investment Portfolio - May 2024	2	Delegations Report	3	Council Resolutions
<b>No:</b>	<b>Report Title</b>								
1	Cash and Investment Portfolio - May 2024								
2	Delegations Report								
3	Council Resolutions								

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

Those against the Motion: Nil.

The motion was carried.

<b>MINUTES ORDINARY COUNCIL - 25 JUNE 2024</b>
------------------------------------------------

Mayor Ryan Palmer vacated the chair and left the meeting at 6:18pm.

Deputy Mayor, Cr Leah Anderson chaired the meeting in the absence of the Mayor.

# INFORMATION PAPERS

**ITEM NO. 1**

**FILE NO: 23/342433**  
**EDRMS NO: PSC2017-00180**

## **CASH AND INVESTMENT PORTFOLIO - MAY 2024**

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

### **BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 31 May 2024.

Council's total portfolio of investments was \$63.7 million with an additional \$16.9 million held in Council's operational account as at 31 May 2024. In preparation for the purchase of an investment property in Tomago, cash held was significantly higher than usual.

The investment portfolio was fully compliant with the Investment Policy regarding product type, institution exposure, rating exposure and maturity limits.

The investment portfolio is currently yielding 5.03% p.a. on a rolling 1 year performance, which is 0.69% above the benchmark with investment income on target to meet or exceed budget.

The restricted cash position of Council has improved on last month due to the receipt of third quarter rates, however due to there being no unrestricted cash still requires close monitoring.

### **ATTACHMENTS**

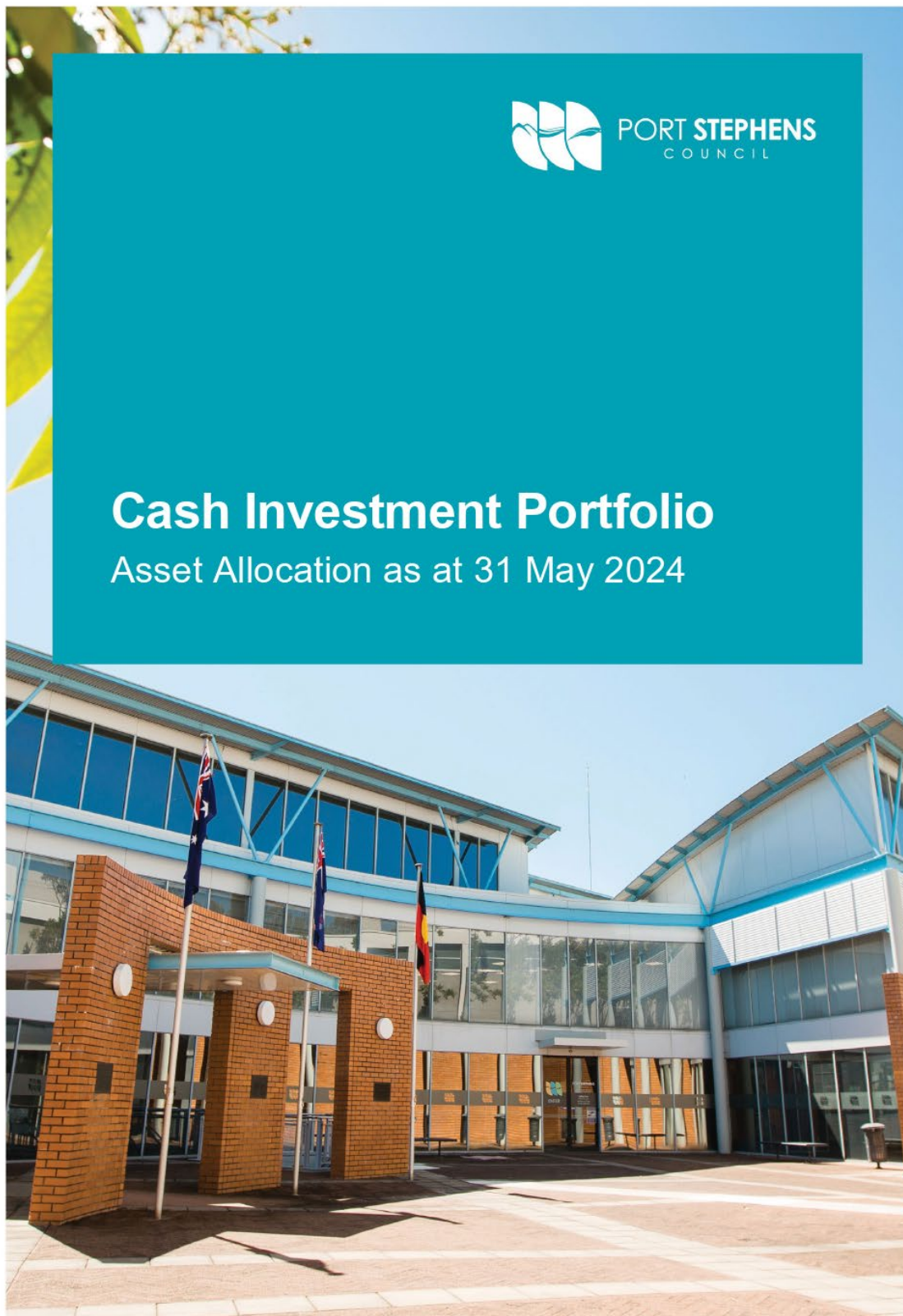
1) Cash Investment Portfolio - May 2024.

### **COUNCILLORS' ROOM**

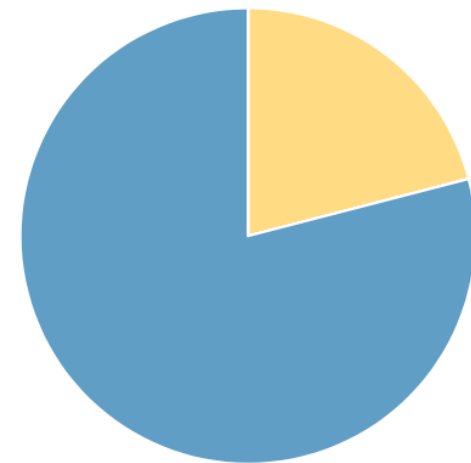
Nil.

### **TABLED DOCUMENTS**

Nil.



## Cash Investment Portfolio Holdings



■ At Call ■ Cash ■ At Notice ■ TD ■ Managed Fund

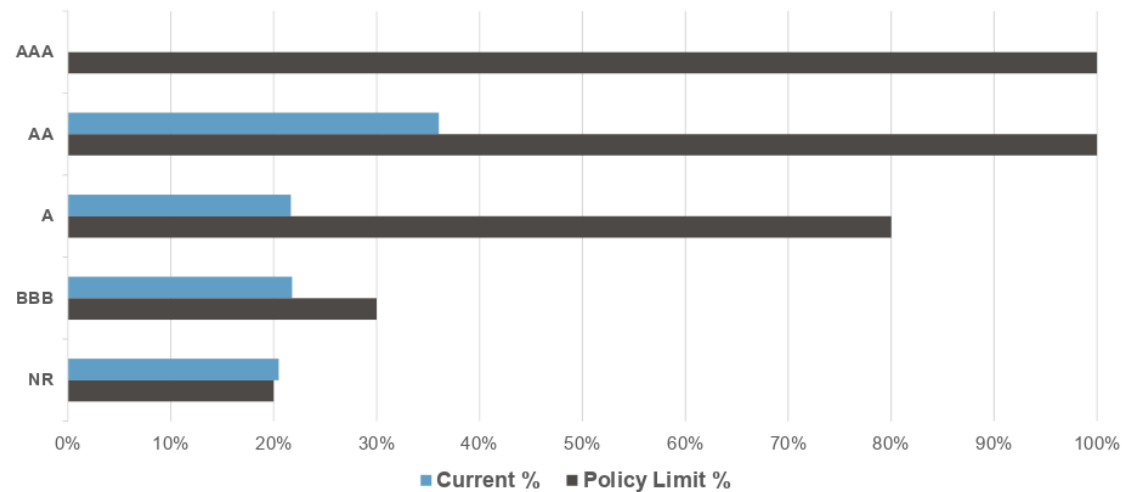
Product Type	Market Value (\$)	Within Policy
At Call	-	
Cash	16,905,807	✓
At Notice	-	
TD	63,721,609	✓
Managed Fund	-	
	<b>80,627,416</b>	

✓ = Yes

✗ = No

## Rating Exposure

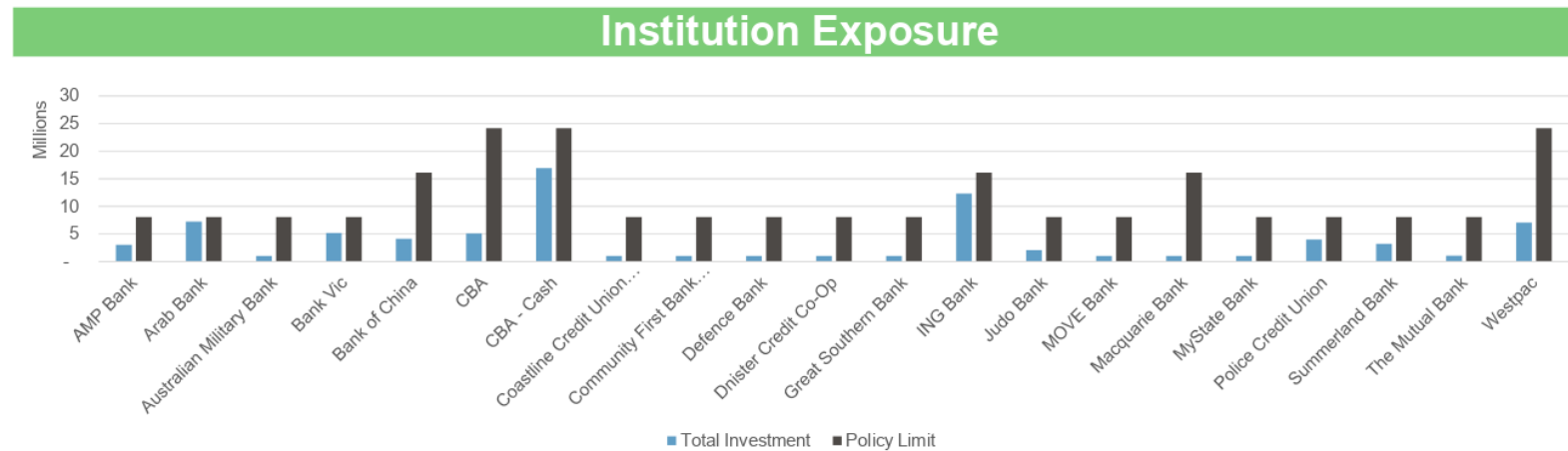
### Total Credit Exposure



Credit Rating Group	Market Value (\$)	Current %	Policy Limit %	Within Policy
AAA	-	0%	100%	✓
AA	29,069,962	36%	100%	✓
A	17,476,588	22%	80%	✓
BBB	17,563,585	22%	30%	✓
NR	16,517,282	20%	20%	✓
	<b>80,627,416</b>	<b>100%</b>		

✓ = Yes

✗ = No

**ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - MAY 2024.**


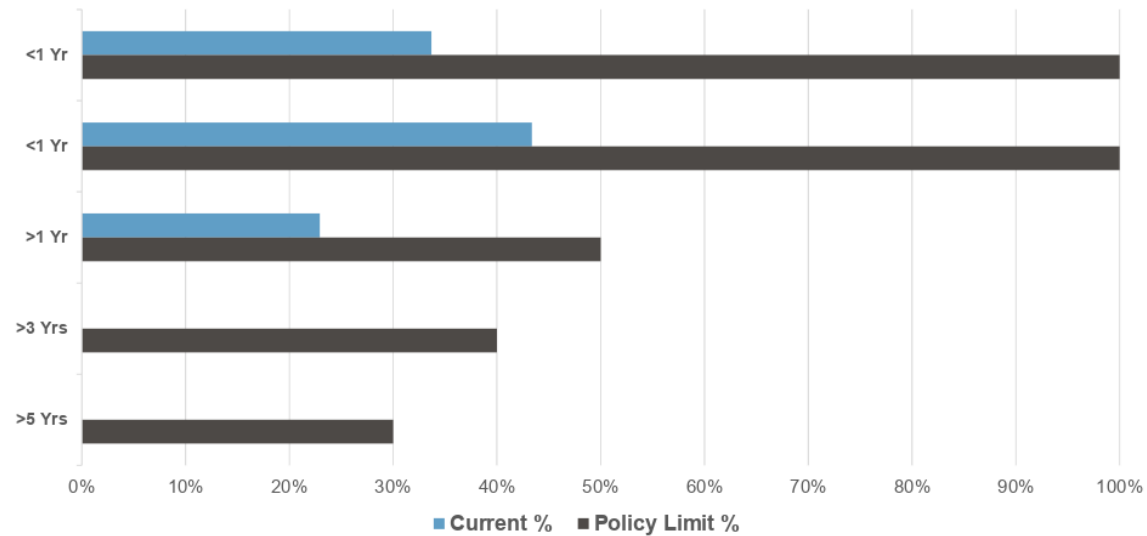
Institution	Rating	Total Investment	Exposure	Policy Limit	Remaining to Limit	Within Policy
AMP Bank	BBB	3,051,795	4%	10%	5,010,947	✓
Arab Bank	NR	7,260,343	9%	10%	802,399	✓
Australian Military Bank	BBB	1,042,738	1%	10%	7,020,004	✓
Bank Vic	BBB	5,180,275	6%	10%	2,882,467	✓
Bank of China	A	4,119,575	5%	20%	12,005,908	✓
CBA	AA	5,093,634	6%	30%	19,094,591	✓
CBA - Cash	AA	16,905,807	21%	30%	7,282,418	✓
Coastline Credit Union Limited	BBB	1,012,729	1%	10%	7,050,013	✓
Community First Bank Ltd	BBB	1,012,678	1%	10%	7,050,063	✓
Defence Bank	BBB	1,053,162	1%	10%	7,009,580	✓
Dnister Credit Co-Op	NR	1,027,674	1%	10%	7,035,068	✓
Great Southern Bank	BBB	1,039,267	1%	10%	7,023,475	✓
ING Bank	A	12,323,908	15%	20%	3,801,576	✓
Judo Bank	BBB	2,104,937	3%	10%	5,957,805	✓
MOVE Bank	NR	1,000,705	1%	10%	7,062,036	✓
Macquarie Bank	A	1,033,105	1%	20%	15,092,378	✓
MyState Bank	BBB	1,012,296	1%	10%	7,050,446	✓
Police Credit Union	NR	4,025,856	5%	10%	4,036,885	✓
Summerland Bank	NR	3,202,703	4%	10%	4,860,039	✓
The Mutual Bank	BBB	1,053,710	1%	10%	7,009,032	✓
Westpac	AA	7,070,521	9%	30%	17,117,704	✓
Total		80,627,416				

✓ = Yes

\* = No



### Term to Maturity Limits



Detailed Maturity Profile	Market Value (\$)	Current %	Policy Limit %	Within Policy
Less than or equal 90 Days	27,164,545	34%	100%	✓
Between 90 Days and 365 Days	34,966,498	43%	100%	✓
Between 366 Days and 3 Years	18,496,373	23%	50%	✓
Between 3 Years and 5 Years	-	0%	40%	✓
Greater than 5 Years	-	0%	30%	✓
	<b>80,627,416</b>	<b>100%</b>		

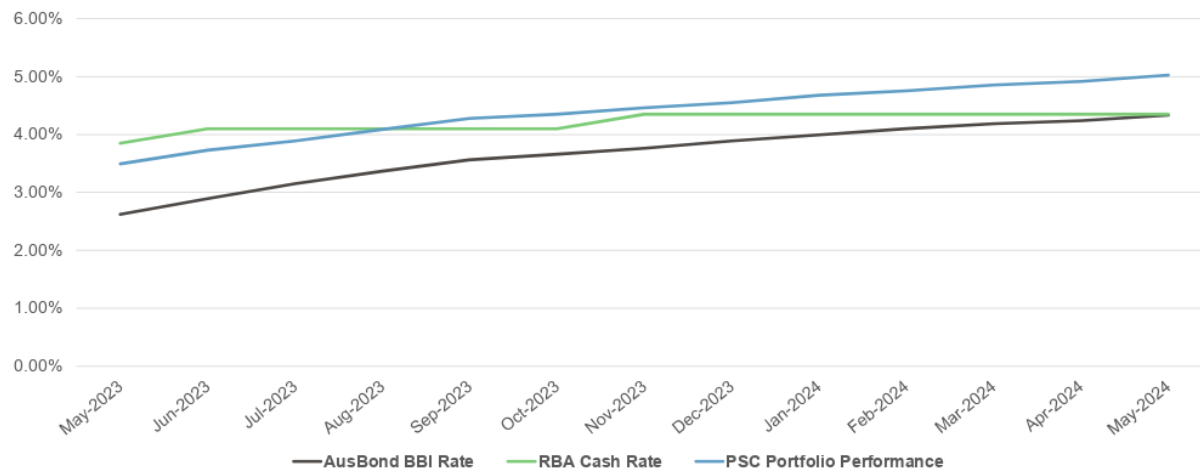
✓ = Yes

✗ = No

ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - MAY 2024.

Portfolio Performance

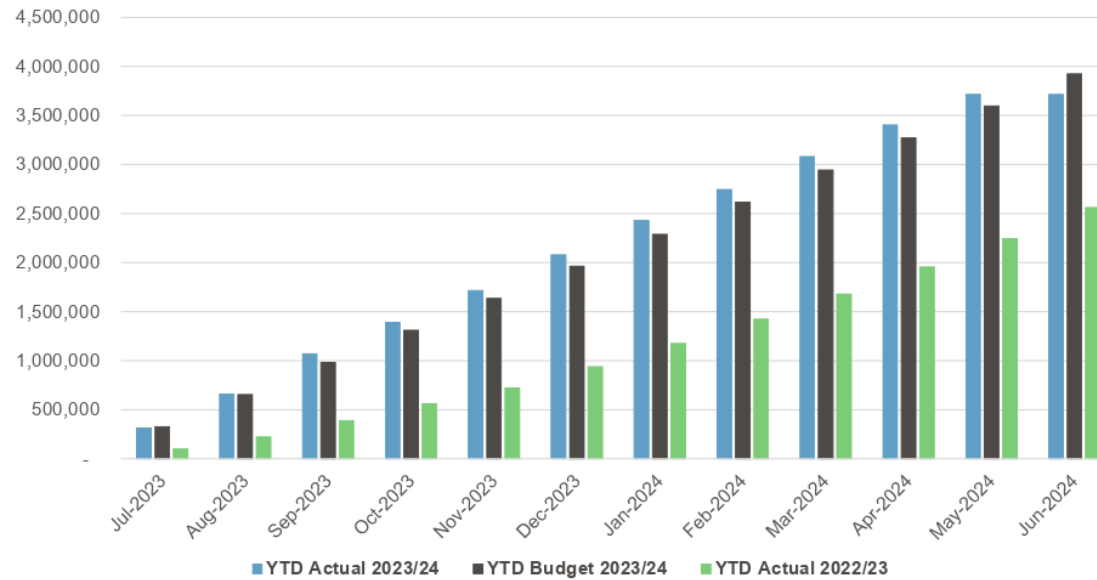
One Year Rolling Performance



Performance	1 month actual	3 months actual	6 months actual	FYTD actual	1 year % p.a. (Rolling)
Bloomberg AusBond BBI (Benchmark)	0.37%	1.10%	2.20%	4.01%	4.34%
PSC Investment Portfolio	0.46%	1.37%	2.62%	4.65%	5.03%
Outperformance/(underperformance)	0.08%	0.27%	0.42%	0.64%	0.69%

## Income Earned vs Budget

Monthly Investment Income - Actual to Budget



## Investment Register

Institution	Market Value	Days Held	Interest Rate	Date Invested	Maturity Date	Rating
CBA - Cash	16,905,807	1		31/05/2024	1/06/2024	AA
ING Bank	1,000,000	377	5.05%	31/05/2023	11/06/2024	A
Macquarie Bank	1,033,105	649	4.41%	1/09/2022	11/06/2024	A
ING Bank	1,000,000	383	5.05%	31/05/2023	17/06/2024	A
The Mutual Bank	1,053,710	362	5.80%	28/06/2023	24/06/2024	BBB
ING Bank	1,050,301	384	5.10%	6/06/2023	24/06/2024	A
ING Bank	1,051,418	376	5.67%	5/07/2023	15/07/2024	A
Westpac	1,000,953	692	4.35%	23/08/2022	15/07/2024	AA
Police Credit Union	1,014,716	538	5.02%	14/02/2023	5/08/2024	NR
Westpac	1,001,373	538	5.01%	21/02/2023	12/08/2024	AA
Defence Bank	1,053,162	479	4.95%	5/05/2023	26/08/2024	BBB
CBA	1,022,588	396	5.46%	3/08/2023	2/09/2024	AA
Bank Vic	1,060,928	544	5.02%	15/03/2023	9/09/2024	BBB
Police Credit Union	1,003,713	500	5.02%	5/05/2023	16/09/2024	NR
Police Credit Union	1,003,713	507	5.02%	5/05/2023	23/09/2024	NR
CBA	1,022,422	424	5.42%	3/08/2023	30/09/2024	AA
ING Bank	1,020,002	655	4.68%	23/12/2022	8/10/2024	A
Great Southern Bank	1,039,267	409	5.25%	1/09/2023	14/10/2024	BBB
ING Bank	1,020,290	661	4.70%	23/12/2022	14/10/2024	A
CBA	1,021,347	416	5.16%	1/09/2023	21/10/2024	AA
Westpac	1,003,759	732	4.90%	3/11/2022	4/11/2024	AA
Summerland Bank	1,070,705	719	4.65%	23/11/2022	11/11/2024	NR
Summerland Bank	1,070,705	726	4.65%	23/11/2022	18/11/2024	NR
ING Bank	1,022,068	724	4.50%	2/12/2022	25/11/2024	A
ING Bank	1,022,438	738	4.50%	2/12/2022	9/12/2024	A
CBA	1,019,485	731	4.71%	20/12/2022	20/12/2024	AA
Police Credit Union	1,003,713	612	5.02%	5/05/2023	6/01/2025	NR
ING Bank	1,049,118	587	4.98%	6/06/2023	13/01/2025	A
Westpac	1,011,734	594	4.98%	6/06/2023	20/01/2025	AA
Judo Bank	1,053,247	579	5.75%	28/06/2023	27/01/2025	BBB
Westpac	1,011,734	602	4.98%	6/06/2023	28/01/2025	AA
Arab Bank	1,053,987	593	5.83%	28/06/2023	10/02/2025	NR
CBA	1,007,792	733	4.74%	8/02/2023	10/02/2025	AA
Bank Vic	1,038,370	535	5.13%	1/09/2023	17/02/2025	BBB
Arab Bank	1,038,594	542	5.16%	1/09/2023	24/02/2025	NR
Arab Bank	1,053,987	607	5.83%	28/06/2023	24/02/2025	NR
Bank of China	1,038,295	556	5.12%	1/09/2023	10/03/2025	A
Summerland Bank	1,061,292	726	5.05%	15/03/2023	10/03/2025	NR
Arab Bank	1,038,594	563	5.16%	1/09/2023	17/03/2025	NR
Westpac	1,036,598	550	5.28%	21/09/2023	24/03/2025	AA
ING Bank	1,032,580	515	5.48%	27/10/2023	25/03/2025	A
Westpac	1,004,370	515	5.50%	2/11/2023	31/03/2025	AA
AMP Bank	1,005,342	732	5.00%	20/04/2023	21/04/2025	BBB
AMP Bank	1,003,014	727	5.00%	9/05/2023	5/05/2025	BBB
MOVE Bank	1,000,705	731	5.15%	26/05/2023	26/05/2025	NR
Arab Bank	1,027,827	559	5.52%	29/11/2023	10/06/2025	NR
ING Bank	1,012,565	479	5.04%	1/03/2024	23/06/2025	A
Judo Bank	1,051,690	733	5.70%	5/07/2023	7/07/2025	BBB
MyState Bank	1,012,296	497	5.10%	4/03/2024	14/07/2025	BBB
AMP Bank	1,043,438	725	5.25%	3/08/2023	28/07/2025	BBB
Australian Military Bank	1,042,738	726	5.27%	9/08/2023	4/08/2025	BBB
ING Bank	1,043,126	734	5.30%	8/08/2023	11/08/2025	A
Bank of China	1,038,295	717	5.12%	1/09/2023	18/08/2025	A
Bank of China	1,038,295	724	5.12%	1/09/2023	25/08/2025	A
Dniester Credit Co-Op	1,027,674	647	5.55%	1/12/2023	8/09/2025	NR
Arab Bank	1,027,824	661	5.58%	1/12/2023	22/09/2025	NR
Community First Bank Ltd	1,012,678	586	5.03%	29/02/2024	7/10/2025	BBB
Bank Vic	1,026,926	696	5.40%	1/12/2023	27/10/2025	BBB
Bank Vic	1,027,026	703	5.42%	1/12/2023	3/11/2025	BBB
Bank Vic	1,027,026	717	5.42%	1/12/2023	17/11/2025	BBB
Coastline Credit Union Limited	1,012,729	655	5.05%	29/02/2024	15/12/2025	BBB
Arab Bank	1,019,530	733	5.02%	10/01/2024	12/01/2026	NR
Bank of China	1,004,690	735	5.35%	29/04/2024	4/05/2026	A
Total	80,627,416					

## Restricted Cash

Reserve	As at May 2024 \$'000
<b>External</b>	
Deposits, retentions and bonds	1,108
Grants and Contributions	7,055
Developer contributions (inc Haulage)	22,034
Domestic Waste Management	9,057
Crown Reserve	6,862
<b>Internal</b>	
Asset Rehab/Reseals	2,357
Drainage	1,731
Commercial Property	17,386
Election Reserve	542
Employee Leave Entitlements (ELE)	1,000
Fleet	1,037
Resilience fund	3,000
Emergency & Natural Disaster	3,472
Other Waste	12
Council Parking	778
IT	2,010
Sustainable energy and water reserve	63
Repealed	1,818
Transport levy	146
Admin Building	610
Ward Funds	59
Community Halls	95
Community Loans	200
<b>Total</b>	<b>82,432</b>
<b>Cash and Investment Report</b>	<b>80,627</b>
<b>Variance Cash Reserves to Bank Account</b>	<b>(1,805)</b>
Variance Due to:	
Outstanding Debtors	74
Loans not funded through a reserve	251
Outstanding GST refund	502
<b>Total Variance</b>	<b>827</b>
<b>Unrestricted Cash/(Shortfall)</b>	<b>(978)</b>
(due to timing of income and expenditure)	

**ITEM NO. 2**

**FILE NO: 24/27784  
EDRMS NO: PSC2009-00965**

**DELEGATIONS REPORT**

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

**BACKGROUND**

The purpose of this report is to advise Council of each occasion the Mayor and/or General Manager have exercised their delegations, other than under section 226 and 335 of the Local Government Act 1993, which are conferred on each role.

The report at **(ATTACHMENT 1)** provides details of the delegation exercised, such as the delegated authority, the date and the reason for exercising the delegation.

**ATTACHMENTS**

1) Delegations Report.

**COUNCILLORS' ROOM/DASHBOARD**

Nil.

**TABLED DOCUMENTS**

Nil.

**MAYOR AND GENERAL MANAGER DELEGATION REPORT**

<b>Date exercised</b>	<b>Delegations exercised</b>	<b>Purpose</b>	<b>Role exercising delegation</b>	<b>Reported to Council</b>
05/06/2024	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of RFQ030-2024 - Asphalt Package of Works	General Manager	25/06/2024

**ITEM NO. 3**

**FILE NO: 24/134102  
EDRMS NO: PSC2017-00106**

**COUNCIL RESOLUTIONS**

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

**BACKGROUND**

The purpose of this report is to inform the Mayor and Councillors of the status of all matters to be dealt with arising out of the proceedings of previous meetings of the Council in accordance with the Code of Meeting Practice.

**ATTACHMENTS**

- 1) Community Futures resolutions.
- 2) Corporate Strategy and Support resolutions.
- 3) Facilities and Infrastructure resolutions.
- 4) General Manager's Office resolutions.

**COUNCILLORS' ROOM/DASHBOARD**

Nil.

**TABLED DOCUMENTS**

Nil.



## ITEM 3 - ATTACHMENT 1 COMMUNITY FUTURES RESOLUTIONS.



<b>Action Sheets Report</b>	<b>Division:</b>	Community Futures	<b>Date From:</b>	10/10/2023
	<b>Committee:</b>		<b>Date To:</b>	11/06/2024
	<b>Officer:</b>		<b>Printed:</b>	Wednesday, 12 June 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 10/10/2023	Lamont, Brock Peart, Steven	URGENCY MOTION: Wind Farm Industry	30/03/2025		
<b>12 June 2024</b>						
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 Peart, Steven	Administrative Amendment to the Port Stephens Local Environmental Plan 2013	13/08/2024	29/11/2023	
3						23/324875
<b>12 Jun 2024</b>						
The Administrative Amendment was exhibited from 10 April 2024 to 10 May 2024. A report is scheduled to be presented to Council at its meeting of 9 July 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock Peart, Steven	RAMSAR Listing for Mambo Wanda Wetlands	30/12/2025	29/11/2023	
4						23/324875
<b>12 Jun 2024</b>						
A briefing will be undertaken next term following receipt of responses from State and Federal Ministers.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/12/2023	Peart, Steven Peart, Steven	Advertising Signs - Nelson Bay Road	12/07/2024	14/12/2023	
2						23/359154
<b>29 May 2024</b>						
Council report has been prepared and will be reported to 9 July 2024 Council meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/02/2024	Lamont, Brock Peart, Steven	Draft Port Stephens Development Control Plan 2014 - Chapter D12 Richardson Road	1/12/2024	28/02/2024	
2						24/50158
<b>12 Jun 2024</b>						
Council resolved to defer Draft DCP - Chapter D12 Richardson Road for a Two-way conversation with the Mayor and Councillors to discuss the original motion and subsequent amendment. Council is reviewing work plans to integrate preparation and a two way to be held 16 July 2024 to facilitate further discussions.						



<b>Action Sheets Report</b>	<b>Division:</b>	Community Futures	<b>Date From:</b>	10/10/2023
	<b>Committee:</b>		<b>Date To:</b>	11/06/2024
	<b>Officer:</b>		<b>Printed:</b>	Wednesday, 12 June 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/02/2024	Lamont, Brock	Draft Port Stephens Development Control Plan - Road Network and Parking (Electric Vehicles)	1/12/2024	28/02/2024	
3 014		Pearl, Steven				24/50158
<b>12 Jun 2024</b> Council resolved to endorse the Port Stephens Development Control Plan 2014 Chapter B8 Road Network and Parking (electric vehicles) and provide public notice. Council is reviewing work plans to integrate outstanding actions and further report preparation.						

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	12/07/2024	13/03/2024	
1 037		Pearl, Steven				24/63800
<b>12 Jun 2024</b> A report has been prepared and will be presented to Council on 9 July 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/03/2024	Lamont, Brock	Draft Port Stephens Development Control Plan - Chapter B1 Tree Management and B2 Flora and Fauna	12/07/2024	27/03/2024	
2 044		Pearl, Steven				24/75831
<b>12 Jun 2024</b> The draft Port Stephens Development Control Plan 2014 Chapter B1 Tree Management and B2 Flora and Fauna was exhibited from 2 April 2024 to 30 April 2024. A report is scheduled to be presented to Council at its meeting of 9 July 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/05/2024	Grobbelaar, Evert	Planning Policies	23/07/2024		
2 4		Pearl, Steven				24/115689
<b>12 Jun 2024</b> As per Council Resolution of 14 May 2024, policies will be placed on public exhibition for a period of 28 days. Policies will be returned to the Council meeting of 23 July 2024.						

**ITEM 3 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.**


<b>Division:</b>	Corporate Strategy and Support	<b>Date From:</b>	27/08/2013
<b>Committee:</b>		<b>Date To:</b>	11/06/2024
<b>Officer:</b>			
<b>Action Sheets Report</b>		<b>Printed:</b>	Wednesday, 12 June 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
243	Ordinary Council 27/08/2013	Pattison, Zoe	Campvale Drain	31/12/2024		
		Pattison, Zoe				
<b>12 Jun 2024</b>						
Awaiting final execution of easement documentation for 2 properties. All other properties (with exception of these 2) have been finalised.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Property Investment and Development Policy	31/12/2024	12/10/2022	
1		Pattison, Zoe				22/273002
<b>12 Jun 2024</b>						
Public Exhibition deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	31/12/2024	12/10/2022	
2		Pattison, Zoe				22/273002
<b>12 Jun 2024</b>						
Report deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Pattison, Zoe	22 Homestead Street, Salamander Bay	31/12/2024	12/04/2023	
5088		Pattison, Zoe				23/92450
<b>12 Jun 2024</b>						
Council is investigating options for the rezoning of 22 Homestead Street, Salamander Bay, and the development of a Vegetation Management Plan, to provide the best opportunity to enable a successful long-term rehabilitation of the site.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/08/2023	Pattison, Zoe	Raymond Terrace Gateway Site Masterplan	31/12/2024		
1193		Pattison, Zoe				23/214729
<b>12 Jun 2024</b>						
Following a two way conversation with Councillors in November 2023, the options presented will be included in the context of the broader Raymond Terrace town centre improvements.						

**ITEM 3 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.**


<b>Division:</b>	Corporate Strategy and Support	<b>Date From:</b>	27/08/2013
<b>Committee:</b>		<b>Date To:</b>	11/06/2024
<b>Officer:</b>			
<b>Action Sheets Report</b>		<b>Printed:</b>	Wednesday, 12 June 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Pattison, Zoe	Sale of closed roads in Raymond Terrace	31/12/2024	29/11/2023	
1		Pattison, Zoe				23/324875
<b>12 Jun 2024</b>						

2 of the roads are being marketed. An Expression of Interest for the remaining road is underway.

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
<b>12 Jun 2024</b>						

Matter considered at the Council meeting on 23 April 2024. Deferred to 23 July 2024.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/05/2024	Pattison, Zoe	Medowie Social	31/12/2024		
1		Pattison, Zoe				24/115689
<b>12 Jun 2024</b>						

A Development Application for a change of use to a Registered Club is in preparation. In addition, a community survey for feedback on potential long term options was open from 3 June 2024 to 23 June 2024. Outcomes of the community survey will be provided to Councillors via a two way conversation in July 2024.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2024	Peterkin, Glen	Proposed Sale or Lease of 528 Hunter Street, Newcastle	30/11/2024	29/05/2024	
1		Pattison, Zoe				24/131056
<b>12 Jun 2024</b>						

Marketing underway for a sale or lease scenario. The outcome of the negotiations will be reported back to Council.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/06/2024	Dodds, Melissa	Policy Review: Public Access to State Records after 20 Years Policy	31/12/2024	12/06/2024	
4		Pattison, Zoe				24/145208
<b>12 Jun 2024</b>						

The policy will be on exhibition from 12 June 2024 to 9 July 2024. Noting that, regardless of any submissions being received, the policy will go back to a future Council meeting with requested amendments from Council.

## ITEM 3 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE RESOLUTIONS.



<b>Division:</b>	Facilities and Infrastructure	<b>Date From:</b>	11/04/2023
<b>Committee:</b>		<b>Date To:</b>	11/06/2024
<b>Officer:</b>		<b>Printed:</b>	Wednesday, 12 June 2024
<b>Action Sheets Report</b>			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Maretich, John	Naming Recreation Precinct at Medowie after Geoff Dingle	30/06/2025	12/04/2023	
2		Kable, Gregory				23/92450
085						
<b>12 Jun 2024</b>						
Once the reserve has been subdivided as per the Medowie Place Plan, an application will be submitted to the Geographical Naming Board to name the recreation precinct after Geoff Dingle.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/04/2024	Maretich, John	Lakeside Sports Complex Masterplan	26/07/2024	24/04/2024	
3		Kable, Gregory				24/100180
<b>12 Jun 2024</b>						
Public exhibition has been completed and a report is being prepared for Council.						

Type	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		Kable, Gregory				24/100180
<b>12 Jun 2024</b>						
Public exhibition has been completed and a report is being prepared for Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2024	Maretich, John	Bus Stop Infrastructure Plan	31/03/2025	29/05/2024	
1		Kable, Gregory				24/131056
<b>12 Jun 2024</b>						
As per Council resolution, a review of the Bus Stop Infrastructure will be undertaken.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2024	Maretich, John	Pathways Review	31/03/2025	29/05/2024	
2		Kable, Gregory				24/131056
<b>12 Jun 2024</b>						
As per Council resolution, staff will undertake a review of Council's pathways plans.						

# MINUTES ORDINARY COUNCIL - 25 JUNE 2024



<b>Action Sheets Report</b>	<b>Division:</b>	General Manager's Office	<b>Date From:</b>	11/04/2023
	<b>Committee:</b>		<b>Date To:</b>	11/06/2024
	<b>Officer:</b>		<b>Printed:</b>	Wednesday, 12 June 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Walker, Ashley	Financial Assistance	30/06/2024	12/04/2023	
3		Crosdale, Timothy				23/92450
083						
<b>12 Jun 2024</b>						
Awaiting necessary paperwork to process payments.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/05/2024	Wickham, Tony	Policy Review: Councillor Induction and Professional Development	20/06/2024	15/05/2024	
3		Crosdale, Timothy				24/115689
<b>12 Jun 2024</b>						
Public exhibition closed on 14 June 2024.						

**ITEM NO. 4**

**FILE NO: 24/65666  
EDRMS NO: PSC2023-03961-0004**

**PORT STEPHENS LOCAL HOUSING STRATEGY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Receives and note the submissions received during the exhibition of the revised Port Stephens Local Housing Strategy and the response to the public submissions **(ATTACHMENT 1)**.
- 2) Adopt the revised Port Stephens Local Housing Strategy, as amended **(ATTACHMENT 2)** and submit the Strategy to the NSW Department of Planning, Housing & Infrastructure for endorsement.

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**ORDINARY COUNCIL MEETING - 25 JUNE 2024  
MOTION**

<b>144</b>	<p><b>Councillor Leah Anderson</b> <b>Councillor Peter Kafer</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Receives and note the submissions received during the exhibition of the revised Port Stephens Local Housing Strategy and the response to the public submissions <b>(ATTACHMENT 1)</b>.</li><li>2) Adopt the revised Port Stephens Local Housing Strategy, as amended <b>(ATTACHMENT 2)</b> and submit the Strategy to the NSW Department of Planning, Housing &amp; Infrastructure for endorsement.</li></ol>
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Cr Giacomo Arnott foreshadowed a Matter Arising.

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, Matthew Bailey, Glen Dunkley, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**ORDINARY COUNCIL MEETING - 25 JUNE 2024  
MATTER ARISING**

<b>145</b>	<p><b>Councillor Giacomo Arnott</b> <b>Councillor Jason Wells</b></p> <p>It was resolved that Council requests the General Manager to write to the Ministers for Water, Housing and Planning, and the Member for Port Stephens, noting:</p> <ol style="list-style-type: none"><li>1) Its desire to increase housing in Port Stephens, alongside State and Federal targets.</li><li>2) The presence of several planning proposals over the past few years seeking to rezone mostly unconstrained land in Karuah.</li><li>3) The withdrawal of those planning proposals owing partly to the difficulties placed upon them by Hunter Water.</li><li>4) Its desire for the NSW Government to fund water infrastructure upgrades in Karuah, in order to unlock housing potential to assist Port Stephens in meeting its housing targets, and to give hope to local families that they may be able to one day own a local house.</li></ol>
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Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to advise Council of the outcome of the exhibition of the revised Port Stephens Local Housing Strategy (LHS) as well as noting the response to submissions **(ATTACHMENT 1)**. The report recommends that Council adopt the revised (LHS), **(ATTACHMENT 2)**.

At its meeting on 26 March 2024, Minute No. 043 **(ATTACHMENT 3)**, Council resolved to endorse the revised LHS for public exhibition for a period of 28 days.

An outline of the engagement actions undertaken is provided in **(ATTACHMENT 4)**. During this period, 50 submissions were received. In response to submissions, changes have been made to the LHS. Key amendments are outlined further in this report, with an Explanation of Post Exhibition Amendments also included in **(ATTACHMENT 5)** for further detailed explanation of the changes.



## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

During the course of the public exhibition, consultation has been undertaken with the NSW Department of Planning Housing and Infrastructure (DPHI) to seek preliminary feedback on the documents. This is with the intent of having the adopted LHS and Housing Supply Plan (HSP) endorsed by DPHI.

### COMMUNITY STRATEGIC PLAN

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

### FINANCIAL/RESOURCE IMPLICATIONS

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

### LEGAL, POLICY AND RISK IMPLICATIONS

#### State Planning Policy Reform

At the time of writing, the State Government are considering a range of planning policy reforms to respond to the Federal Government's National Housing Accord. These policy changes are still under consideration but largely align with the strategic directions of the Hunter Regional Plan 2041 (HRP). This includes reforms to increase building heights and density around town centres, building height bonuses for affordable housing and the revision of housing demand forecasts (housing targets).

Any risk associated with the reforms currently under consideration has been reduced as the revised LHS and the HSP align with the State priorities for increasing housing supply.

#### Hunter Regional Plan 2041 (HRP)

The revised LHS is consistent with the HRP, including directions to promote higher housing densities, providing nimble neighbourhoods and balancing housing with the local environment.

## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

### Greater Newcastle Metropolitan Plan 2036 (GNMP)

Local housing strategies are required to be prepared in accordance with the directions of the GNMP, which include, prioritising infill housing, delivering housing close to jobs, and promoting diverse housing types, such as small lot housing and multi-dwelling housing. The revised LHS is consistent with the GNMP 2036.

### Port Stephens Local Strategic Planning Statement

The Local Strategic Planning Statement (LSPS) is required to set out how Council will achieve the land use planning directions in the HRP, GNMP and Council's Community Strategic Plan. The revised LHS is consistent with the priorities for housing identified in the LSPS.

### Port Stephens Local Environmental Plan 2013

Amendments to the Port Stephens Local Environmental Plan (LEP) 2013 may result from some of the actions identified in the revised LHS. This may include changes to land zoning, lot sizes or building heights. This would be subject to separate planning processes and is not required as part of this report.

### Port Stephens Development Control Plan 2014

Amendments to the Port Stephens Development Control Plan (DCP) 2014 may result from some of the actions identified in the revised LHS, including amendments to development controls for small lot housing, promote sustainable design or local character. This would be subject to separate planning processes and is not required as part of this report.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that if the revised LHS is not adopted the future housing needs of the community will not be met.	High	Accept the recommendation.	Yes
There is a risk that if the revised LHS is not adopted, that the current LHS does not meet community, business or industry expectations.	Medium	Accept the recommendation.	Yes

There is a risk that the policy reforms currently being considered by the State government do not align with the revised LHS.	Low	Accept the recommendation.	Yes
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**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The revised LHS contains actions that will overall have positive social, economic and environmental implications. The outcomes aim to prioritise new housing around existing urban areas and to support the development of resilient, vibrant local communities. The actions seek to facilitate sustainable development that can provide more housing whilst retaining and enhancing local character and protecting the environment.

The revised LHS seeks to establish a robust framework for the identification and assessment of future areas for housing growth across the local government area. In addition, the revised LHS aims to improve housing affordability and to provide homes in locations close to employment centres.

Actions in the strategy will support vibrant local centres and promote social well-being for residents.

**CONSULTATION**

The Strategy and Environment Section has undertaken targeted consultation with key stakeholders and the community throughout the development and finalisation of the documents.

**Internal**

- Development and Compliance Section
- Strategy and Environment Section
- Communications and Customer Experience Section
- Assets Section

**External**

Council sought to engage with the community utilising a range of communication methods to ensure that the community had the best opportunity to be involved during the exhibition period. Through the use of various media (TV, radio and print), rates notices, e-newsletters, website and print advertising, it is estimated that the engagement associated with the exhibition of the LHS reached over 199,000 people.

During the exhibition period, several opportunities were also provided for the community to engage directly with Council staff. This included:

- Online consultation with Port Stephens Housing Forum participants.
- Facebook Live Event.
- Drop In Sessions (Raymond Terrace, Medowie and Tomaree Library).

The Local Housing Strategy – Communications and Engagement Report **(ATTACHMENT 4)** provides detailed information about the various engagement activities undertaken.

During the exhibition period, a total of 50 submissions were received. A summary of the submissions is included in **(ATTACHMENT 1)**. The submissions have been grouped by the key themes raised. For each key theme, a detailed response has been provided, including any proposed amendments to the LHS and HSP as a result of the submissions.

The five key themes that emerged across the submissions were:

- The need to plan for infrastructure to support housing.
- Impacts associated with short term rental accommodation (current number and the risk of more).
- Concerns about character change due to the proposed infill development.
- The need to protect the environment.
- The need for affordable housing.

In response to the submissions, changes have been made to the LHS and HSP. Key amendments to the documents are outlined below. An Explanation of Post Exhibition Amendments has also been included in **(ATTACHMENT 5)**.

## **LOCAL HOUSING STRATEGY AMENDMENTS**

### Infrastructure to support growth

One of the key issues that emerged was the need to ensure that infrastructure is provided to support the increase of housing. Particularly focus was on areas that may already be impacted by insufficient infrastructure at certain times of the year or after major weather events.

To address this, a new priority has been added (Priority 4.4 – Supported Communities) that speaks to the need to ensure that the community is supported with infrastructure to help create and maintain the liveable neighbourhoods envisaged for Port Stephens. In addition to this, 2 new actions (Action 4.3 and Action 4.4) have been added which focus on both Council and the NSW Government's role in planning for and delivering infrastructure and upgrades to existing infrastructure.

### Affordable Housing

The need for affordable and social housing was another key theme that emerged in submissions. A key action of the LHS is to work with Homes NSW to deliver adopted housing targets for social and affordable housing in Port Stephens (once announced) (Action 2.2).

Another key action of the LHS is to develop an Affordable Housing Action Plan (Action 2.3). The Action has been updated to provide further context to what the Affordable Housing Action Plan will consider. This includes:

- Testing the viability of developing an Affordable Housing Contribution Scheme.
- Opportunities to improve the feasibility of delivering affordable housing (E.g. Changes to planning controls and/or application fees).
- Mechanisms to track and monitor affordable housing.
- The potential for utilising inclusionary zoning to encourage social / affordable housing.

### Housing Supply Plan

Council received a number submissions that sought to nominate additional sites for inclusion within the HSP. In some cases, Council received multiple submissions suggesting the same site / precinct.

Each site that was nominated has been reviewed to understand the known environmental constraints, alignment with Council's strategic planning and the potential delivery timeframes to 2041. In addition to this, consideration was given to whether a site had recently been the subject of a Council resolution or determination.

Inclusion in the HSP is predicated on Council being sufficiently confident that the site will be developed and the potential realised within the timeframe of the HSP and LHS of 2041.

The potential exists for sites that are not currently identified in the HSP to demonstrate consistency with the relevant housing criteria and proceed outside of being nominated in the HSP through a Strategy addendum process. This process has been included in response to comments from DPHI to ensure that Council can support additional housing locations if required to meet housing demand.

### Department of Planning Housing and Infrastructure

Council consulted with DPHI to seek feedback on the draft LHS. Following discussions regarding the draft LHS and HSP, the LHS was updated adopt the measurements for housing density in the HRP and to include a process to allow for addendums to the LHS to ensure Council can identify additional housing sites to meet housing demand if required.

## **MINUTES ORDINARY COUNCIL - 25 JUNE 2024**

Should the LHS be endorsed by Council, it will be submitted to DPHI for State endorsement. This will ensure strategic alignment between Local and State Government on how Port Stephens intends to meet housing demand and will serve to streamline future planning proposals that are consistent with the LHS and HSP.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Local Housing Strategy - Submission Table.
- 2) Local Housing Strategy. (Provided under separate cover)
- 3) 26 March 2024 - Council Minute No. 043.
- 4) Local Housing Strategy - Communications and Engagement Report.
- 5) Local Housing Strategy - Explanation of Post Exhibition Amendments.

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

- 1) Unredacted Submissions.

### **TABLED DOCUMENTS**

Nil.

**ITEM 4 - ATTACHMENT 1 LOCAL HOUSING STRATEGY - SUBMISSION TABLE.**

Submission	Themes	Comment	Council's response
Tomaree Ratepayers and Residents Association Inc (TRRA), Hunter Water Corporation (HWC), Property Council of Australia and Submission No. 5, 21, 25, 32, 47 and 50.	Support for draft Local Housing Strategy (LHS).	These submissions were supportive of the revised LHS and Council's efforts to address the housing crisis.	Noted.
TRRA, EcoNetwork, Property Council of Australia and Submission No. 41, 43 and 50.	Support for Infill Housing.	These submissions support Council's efforts to plan for infill housing and the positive impacts this will have on the environment. It was also noted that there is a need/potential for infill housing in areas not nominated in the Housing Supply Plan (HSP).	The submissions of support are noted. The HSP identifies areas that Council has nominated as most suitable for infill housing, however, areas not identified are not excluded for potential infill housing.
Voices of Wallalong and Woodville (VOWW), TRRA, Koala Coalition Econetwork and Submission No. 47.	Suggested minor changes to the LHS.	These submissions made suggestions on wording within the document to ensure it is user friendly and easy to understand.	All feedback on the document itself have been considered and the LHS and HSP have been updated where relevant. All edits are summarised in the Explanation of Post-Exhibition Amendments.
TRRA and Submission No. 10.	Affordability of housing.	These submissions noted that delivering housing will not address housing affordability.	The HSP is Council's response to the identified housing need. Council is working to plan for, and deliver the required amount of housing that will, at a minimum meet the demand. This will put downward pressure on housing prices across Port Stephens.

**ITEM 4 - ATTACHMENT 1 LOCAL HOUSING STRATEGY - SUBMISSION TABLE.**

Submission	Themes	Comment	Council's response
Urban Development Industry Association (UDIA)	Housing Targets.	The submission notes that to deliver 11,110 homes, there is a need to plan for even more housing knowing that over time sites/capacity may not be realised.	The HSP represents Council's current forecast for housing in the Local Government Area (LGA). The forecasts recognise known constraints and the HSP makes assumptions about the likely outcomes of development opportunities based on a range of data. With an increasing focus on infill housing, the LHS/HSP provides a realistic forecast of expected development based on data gathered over the past 5 years. If monitoring housing delivery shows that the planned capacity is not being fully realised, there is the ability to amend the HSP to identify further opportunities.
TRRA and Submission No. 7 and 17.	Objection to housing targets and Precinct forecasts.	These submissions are not supportive of the State Government's housing targets and ask Council not to comply. In addition to this there are concerns raised as to the number of homes forecast for precincts, particularly on the Tomaree Peninsula.	The HSP is Council's response to the identified housing need. The housing need Council has identified aligns with the State Government's data. Council is working to plan for, and deliver the required amount of housing that will, at a minimum meet the projected demand. Council is planning to provide homes for an additional 20,000 people over the next 20 years. To meet this need, 11,100 new homes are required. The precinct forecasts are based on the identified capacity. In finalising the HSP all figures within the HSP have been reviewed and updated. These will continue to be monitored and reviewed.



**ITEM 4 - ATTACHMENT 1 LOCAL HOUSING STRATEGY - SUBMISSION TABLE.**

Submission	Themes	Comment	Council's response
Submission No. 2, 3 and 26.	Social Services.	These submissions noted the need to provide additional services to support those experiencing homelessness in the community.	A Homelessness Stakeholder Advisory Group (HSAG) has been established by Council. Members of the HSAG include members of Council, Council employees, government agencies and service providers. This Group has an action plan that includes working with NSW Government agencies and service providers to progress towards making homelessness rare, brief and non-recurring.
Shelter NSW, TRRA, Community Housing and Submission No. 2, 17 and 19.	Council's role in Affordable Housing.	These submissions suggest that Council should take a more active role in delivering affordable housing. Suggestions included: <ul style="list-style-type: none"> <li>• Council lead incentives to encourage the development of affordable housing.</li> <li>• The development of an Affordable Housing Contribution Scheme to levy developers for funding for affordable housing.</li> <li>• Using Council land that is underutilised to assist in delivering affordable housing.</li> </ul>	The development of Council's Affordable Housing Action Plan (AHAP) will take into consideration all possible actions that Council can take to encourage, facilitate and deliver affordable housing. The Action has been updated to include several of the suggestions made in the submissions. An additional action will also be added that will require Council to undertake a whole LGA review to identify Council owned/managed land or buildings that suitable for social and affordable housing.
Homes NSW	Social and Affordable Housing in the LHS.	The submission recommends including how Council will plan for and support the development of social and affordable housing in the LHS.	Action 2.1 in the LHS requires Council to work with the NSW Department of Communities and Justice, Local Aboriginal Land Councils, Landcom, and the NSW Department of Planning, Housing and Infrastructure (DPHI). Council is already working with social housing providers, including Homes NSW, on projects such as the Raymond Terrace

**ITEM 4 - ATTACHMENT 1 LOCAL HOUSING STRATEGY - SUBMISSION TABLE.**

Submission	Themes	Comment	Council's response
			Sub-precinct Masterplan to identify opportunities for additional social housing in Port Stephens. Additionally the HSAG seeks to improve access to social and affordable housing by advocating for policy reforms and incentives to encourage social and affordable Housing in regional NSW.
Shelter NSW, Community Housing, TRRA and Submission No. 14, 15, 17, 19, 26 40 and 50.	Need for more affordable and social housing.	These submissions noted that there is a need for social and affordable housing as part of the response to the current housing crisis.	Affordable housing is recognised in the LHS specifically under Action 3.6 - Develop an Affordable Housing Action Plan (AHAP). This is a short-term action (as per the Implementation Plan). Additionally, the HSAG seeks to improve access to social and affordable housing by advocating for policy reforms and incentives to encourage social and affordable Housing in regional NSW.
Shelter NSW and Community Housing.	Improvements to Affordable Housing.	<p>These submissions suggest that the framework in which affordable and social housing is delivered needs to be improved. Suggestions include:</p> <ul style="list-style-type: none"> <li>• Retaining affordable housing in perpetuity (rather than 15 years).</li> <li>• Setting housing targets for the delivery of affordable housing.</li> <li>• Including requirements for both social and affordable housing when redeveloping sites.</li> <li>• Improved feasibility through changes to local planning controls.</li> </ul>	Council is taking steps to encourage the development of affordable housing in Port Stephens. Local actions such as improving feasibility through better local planning controls will be considered as part of the AHAP. Broader changes such as retaining affordable housing in perpetuity can be the subject of future advocacy to the State Government as the State legislation deals with these issues.

**ITEM 4 - ATTACHMENT 1 LOCAL HOUSING STRATEGY - SUBMISSION TABLE.**

Submission	Themes	Comment	Council's response
UDIA, HWC and Submission No. 26 and 47.	The role of Government to provide housing.	These submissions noted that Council needs to continually monitor housing supply and work with other parts of government to facilitate housing.	Action 1.2 in the LHS requires an annual report on housing supply to be presented to Council. This report has the capacity to also incorporate other key indicators such as the number of social and affordable houses in the LGA and the number STRA in the LGA. Working collaboratively with the State Government and industry will be a focus of this report to ensure the accuracy of the data presented.
TRRA, VOWW, and Submission No. 5, 21, 47 and 48.	Short term rental accommodation (STRA).	<p>These submissions noted concerns in regard to SRTA, including:</p> <ul style="list-style-type: none"> <li>The existing number of STRA that currently exists within Port Stephens.</li> <li>That any additional housing that is built will be used for STRA.</li> </ul>	<p>Holiday homes and holiday rental accommodation does account for a proportion of homes in the LGA, particularly in areas such as the Tomaree Peninsula. As a holiday/tourist destination, Council is mindful that these forms of accommodation support the tourism industry and a significant number of jobs.</p> <p>The NSW Government is actively looking at options to limit holiday rentals, increase costs to operate, and to review the STRA approval criteria. Council is supportive of this review and will consider the options once the outcomes are released.</p>
Shelter NSW	STRA restrictions.	The submission suggested that Council should advocate to the State Government for a day cap on STRA.	Data available in regards to the average number of rental nights indicates that a day cap would be unlikely to have an impact on the number of STRA within Port Stephens. There are also a large number of holiday homes in Port Stephens that are not rented out as STRA, and

**ITEM 4 - ATTACHMENT 1 LOCAL HOUSING STRATEGY - SUBMISSION TABLE.**

Submission	Themes	Comment	Council's response
			remain vacant when not in use. Reforms to cap STRA would not address the impact of these homes on long term rental housing supply.
TRRA and Submission No. 1, 3, 7, 9, 10, 14, 15 18 and 49	Neighbourhood character.	These submissions noted that the impacts that infill housing, particularly higher density housing, may have on the character of neighbourhoods across Port Stephens. Shoal Bay and Raymond Terrace were examples of where increasing densities could lead to character change. More broadly, submissions referred to the changing character of the coastal villages and noted concerns in regard to overcrowding.	The inclusion of additional housing within existing neighbourhoods does have a risk of changing character. The LHS recognises the need to manage this change. Action 4.1 is to prepare character statements as part of future planning for areas identified for infill housing. Additionally, Action 3.5 is to plan for 'density done well'. Which includes preparing specific development controls for residential flat buildings, serviced apartments and shop top housing to be included in the Development Control Plan (DCP) and reflect the specific context of the area.
TRRA, Koala Coalition, EcoNetwork and Submission No. 1, 4, 10, 17, 19, 26 and 40.	Environmental impacts.	These submissions noted the importance of the cultural and natural environment within Port Stephens. Noting the need to ensure that cultural and environmental values are not compromised for housing.	Development that is planned for as part of the LHS and HSP has taken into account known environmental values. The areas proposed for greenfield housing have been considered as part of existing adopted/endorsed Council strategies.
TRRA and Submission No. 17.	Building heights.	These submissions were not supportive of broad scale height increases.	This is a longer term action that would be undertaken in consultation with the community and in response to an identified need.
EcoNetwork and Submission No. 34.	Infill Design.	These submissions noted concerns with the nomination of Nelson Bay for development in excess of 7 storeys. Noting the need for future planning to take	The HSP only nominates Nelson Bay Town Centre and Raymond Terrace Town Centre for potential development of 7 storeys or

**ITEM 4 - ATTACHMENT 1 LOCAL HOUSING STRATEGY - SUBMISSION TABLE.**

Submission	Themes	Comment	Council's response
		local values and character into account.	higher. Height controls in the Local Environmental Plan (LEP) already permit (with consent) development up to 28m in Nelson Bay Town Centre (8 storeys). The height limit in Raymond Terrace Town Centre is currently being reviewed. The importance of local context and character is recognised in action 4.1, with Council developing character statements as part of future planning for these areas.
TRRA, Koala Coalition, Econetwork, HWC, Property Council of Australia VOWW and Submission No. 1, 2, 3, 4, 10, 15, 17, 18, 26, 34, 41, 47, 48 and 49.	Infrastructure.	<p>These submissions noted that the existing infrastructure does not have the capacity to cater for the forecasted development. This included:</p> <ul style="list-style-type: none"> <li>• Road infrastructure</li> <li>• Drainage</li> <li>• Public transport</li> <li>• Schools</li> <li>• Hospital and medical services</li> <li>• Emergency services (Police)</li> </ul>	<p>Council acknowledges that there will be a need for new and upgraded infrastructure (roads, drainage, health services, schools or public spaces) to support the planned population growth. Once the forecasted growth is understood, Council can ensure that the required infrastructure is considered and planned. Planning at this level allows Council to apply for funding from both State and Federal Governments to deliver the required infrastructure. Outcome 4.4 and Actions 4.3 and 4.4, highlight Council's ongoing commitment to working with all levels of government to deliver the required infrastructure to support the community.</p>
HWC	Integrated Water Management.	The submission noted the need to consider Integrated Water Management (IWM) as part of future development proposals.	IWM can be considered at the rezoning/development application stage with the support of the DCP. Council will consider the need for IWM to be included as a part of the planned DCP amendment.

**ITEM 4 - ATTACHMENT 1 LOCAL HOUSING STRATEGY - SUBMISSION TABLE.**

Submission	Themes	Comment	Council's response
Submission No. 29, 29, 41 and 47.	Lifestyle villages.	These submissions noted that there is a need to create a clearer approval pathway for lifestyle villages within Port Stephens. The location criteria included in the LHS (pg 38) were also noted as being more stringent when compared to the standards in the Hunter Regional Plan 2041 (HRP).	Council has been working with DPHI to review the approval pathways for lifestyle villages along with caravan parks and manufactured home estates. Council will continue to do this. The LHS includes criteria that Council has historically used to consider these forms of development. The LHS references the ideal location for lifestyle communities which does set a higher standard than the HRP noting that the Greenfield Housing Criteria would also be considered where a site could not meet the locational criteria.
TRRA Submission No. 17.	Lifestyle Villages.	These submissions noted that lifestyle villages are not in short supply.	The LHS states that the number of lifestyle villages, along with other forms of multi-dwelling housing are in short supply, as a proportion of the overall mix of housing across the LGA.
Submission No. 14, 23, 24, 24, 27, 31, 35 and 37.	Rural Residential Development.	These submissions were supportive of the 'Rural Residential Criteria' (Appendix 2). Additionally, these submissions recommend that there should be an opportunity for rural residential development in the Hinterland to be included.	Currently, no sites have been identified that provide sufficient certainty to be included in the HSP. The Addendum criteria in the LHS provides an opportunity for the updating of the LHS. If an application was to be supported by Council, the HSP can be updated to reflect this. This is in addition to the 'Rural Residential Criteria'.
Submission No. 22, 24, 27, 31 and 37.	Rural Residential Development – Wallalong.	These submissions were not supportive of the exclusion of Wallalong from any further consideration for future development. The submissions suggested that the exclusion be removed and for the housing	The exclusionary criteria was included following a resolution of Council.

**ITEM 4 - ATTACHMENT 1 LOCAL HOUSING STRATEGY - SUBMISSION TABLE.**

Submission	Themes	Comment	Council's response
		criteria to apply as it does to any other land in Port Stephens.	
Homes NSW	Zoning changes.	<p>The submission made the following suggestions in regards to changes to land use zoning in the LEP:</p> <ul style="list-style-type: none"><li>• Permit with consent, Residential Flat Buildings (RFBs) in the R2 Low Density Residential zone (R2).</li><li>• Rezone land as R1 General Residential zone (R1).</li></ul>	Council is working with DPHI on the 'Diverse and well-located homes' reforms that will allow for 2 storey RFBs in R2 zones provided they are within 800m of key centres. Currently Kings Hill is the only land zoned R1 in the LGA. At this stage Council has no intention to rezone other land to R1.

Submissions that nominated sites for inclusion in the Housing Supply Plan have been summarised and addressed in the separate Council Reports on the Housing Supply Plan.

**MINUTES ORDINARY COUNCIL - 26 MARCH 2024**

Mayor Ryan Palmer vacated the chair and left the meeting at 5:44pm. Deputy Mayor, Cr Leah Anderson chaired the meeting in the absence of the Mayor.

Councillor Giacomo Arnott left the meeting at 5:44pm.

Councillor Peter Francis left the meeting at 5:44pm.

Councillor Peter Kafer left the meeting at 5:44pm.

**ITEM NO. 1**

**FILE NO: 24/30764**  
**EDRMS NO: PSC2023-03961**

**REVISED LOCAL HOUSING STRATEGY**

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION  
MANAGER

DIRECTORATE: COMMUNITY FUTURES

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorses the revised Port Stephens Local Housing Strategy (**ATTACHMENT 1**) for public exhibition for a period of 28 days.
- 2) Requests a further report to be provided to Council upon completion of the public exhibition period seeking endorsement of the revised Port Stephens Local Housing Strategy.

**ORDINARY COUNCIL MEETING - 26 MARCH 2024****MOTION**

<b>043</b>	<b>Councillor Chris Doohan</b> <b>Councillor Jason Wells</b>  It was resolved that Council:  1) Endorses the revised Port Stephens Local Housing Strategy ( <b>ATTACHMENT 1</b> ) for public exhibition for a period of 28 days. 2) Requests a further report to be provided to Council upon completion of the public exhibition period seeking endorsement of the revised Port Stephens Local Housing Strategy.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Leah Anderson, Matthew Bailey, Chris Doohan, Glen Dunkley, Steve Tucker and Jason Wells.



**MINUTES ORDINARY COUNCIL - 26 MARCH 2024**

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to seek Council endorsement to place the revised Port Stephens Local Housing Strategy (LHS) (**ATTACHMENT 1**) on public exhibition for a period of 28 days.

The State Government required all Greater Newcastle councils to adopt a local housing strategy prepared in accordance with the Greater Newcastle Metropolitan Plan 2036 (GNMP). This created the original version of the LHS which was adopted by Council in July 2020.

At its meeting of 10 May 2022, Minute No. 120 (**ATTACHMENT 2**), Council resolved to review its Local Housing Strategy and how Council deals with larger lot residential development that is proposed for rural land.

In addition to the above resolution of Council, a number of key societal factors have occurred which require a revision of the Local Housing Strategy including:

- The immediate and lasting impacts of the COVID-19 pandemic
- The changes to settlement patterns across the State and Nation with flexible working arrangements
- The National Housing Crisis and significant policy change being implemented by The State and Federal Governments
- The revision and endorsement of the Hunter Regional Plan 2041 (HRP).

Port Stephens has grown significantly over the past several years. This has been driven by sustained economic growth across the Hunter in addition to significant changes in population growth and migration patterns as a result of the COVID 19 pandemic.

Port Stephens is forecast to grow by approximately 20,000 people over the next 20 years. To respond to the projected population growth, the State Government's HRP 2041 specifies a projected housing demand for Port Stephens of 11,100 dwellings.

Port Stephens has also seen rapid increases in the demand for emergency housing, the overcrowding of existing community housing stock and the prevalence of rough sleeping and homelessness. In response to this, Council has formed the Homelessness Stakeholder Advocacy Group (HSAG) to bring together the 3 levels of government, community housing providers and support service providers so that a combined effort can be made to address this current and growing issue.

The revised LHS responds to these changing circumstances, seeking to provide a consolidated vision and action plan to cater for a growing Port Stephens population over the next 20 years.

**MINUTES ORDINARY COUNCIL - 26 MARCH 2024**

Beyond this, the revised LHS also looks at opportunities to improve housing affordability, encourage diverse housing to cater for all stages of life and to continue to enhance and create liveable communities.

The revised LHS also includes the Housing Supply Plan (HSP) (**ATTACHMENT 3**). The HSP provides specifics around where the projected housing is forecast to be delivered, what type of housing is forecast to be delivered and when this housing is forecast to be delivered to the market. This differs from the original version of the LHS which used a set of criteria for sites considered suitable for housing, rather than a map based approach.

By clearly identifying areas, Council is also seeking to provide clarity to the community, to local and international business and the housing industry on the locations that have potential to deliver additional greenfield and infill housing stock. The criteria within the LHS remains so that sites that are not specifically mapped are still able to demonstrate suitability for investigation.

To address the resolution from the Council meeting of 10 May 2022, sites within the Hinterland area of Port Stephens have not been specifically mapped. The assessment of applications made for the rezoning and development of rural areas will be retained as originally adopted, with assessment against the rural residential criteria of the LHS. As part of the review, amendments have been made to the rural residential criteria to ensure that considerations are made with respect to rural character and visual amenity. This will provide greater clarity of Council's expectations when assessing applications of this nature.

Using this primarily map based approach, Council will be able to plan and monitor the delivery of the proposed growth. This ensures a focus on accountability and development viability to ensure that the strategic intent of the plan becomes realised.

The revised LHS has widespread updates throughout, with key amendments relating to:

- Updated and improved actions within the implementation plan
- Clarity of Council's role in the delivery of actions
- Clarity of advocacy actions to the responsible areas of the State and Federal Government
- Current data on housing needs and preferences
- Inclusion of the Housing Supply Plan (HSP)
- Updated rural residential and rezoning criteria
- Consistency with other State and Federal strategic planning and housing related policies and documents.

Following public exhibition, if endorsed by Council, the revised LHS will be submitted to the NSW Department of Planning Housing and Infrastructure (DPHI) seeking endorsement. An endorsed local housing strategy provides a mechanism to work

**MINUTES ORDINARY COUNCIL - 26 MARCH 2024**

with NSW Government agencies to seek funding and support for the delivery of more infrastructure and services to the local community.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**State Planning Policy Reform

At the time of writing, the State Government are considering a range of planning policy reforms to respond to the Federal Government's National Housing Accord. These policy changes are still under consideration but are largely aligned to the strategic directions of the Hunter Regional Plan 2041. As such, the risk associated with the reforms currently under consideration is reduced and would not be incompatible with the revised Local Housing Strategy.

Hunter Regional Plan 2041

The revised LHS is consistent with the HRP 2041, including directions to promote higher housing densities, providing nimble neighbourhoods, and balancing housing with the local environment.

Greater Newcastle Metropolitan Plan 2036

Local housing strategies are required to be in accordance with the directions of the GNMP, which include, prioritising infill housing, delivering housing close to jobs, and promoting diverse housing types such as small lot housing and multi-dwelling housing. The revised LHS is consistent with the GNMP 2036.

**MINUTES ORDINARY COUNCIL - 26 MARCH 2024**Port Stephens Local Strategic Planning Statement

The Local Strategic Planning Statement (LSPS) is required to set out how Council will achieve the land use planning directions in the HRP, GNMP and Council's Community Strategic Plan. The revised LHS is consistent with the priorities for housing identified in the LSPS.

Port Stephens Local Environmental Plan 2013

Amendments to the Port Stephens Local Environmental Plan (LEP) 2013 may result from some of the actions identified in the revised LHS. This may include changes to land zoning, lot sizes or building heights. This would be subject to separate planning processes and is not required as part of this report.

Port Stephens Development Control Plan 2014

Amendments to the Port Stephens Development Control Plan (DCP) 2014 may result from some of the actions identified in the revised LHS, including amendments to development controls for small lot housing, sustainable design or local character. This would be subject to separate planning processes and is not required as part of this report.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that if the revised LHS is not exhibited that the future housing needs of the community will not be met.	Medium	Accept the recommendation.	Yes
There is a risk that if the revised LHS is not exhibited, that the current LHS does not meet community, business or industry expectations.	Medium	Accept the recommendation.	Yes
There is a risk that the policy reforms currently being considered by the State Government do not align with the revised Local Housing Strategy.	Low	Accept the recommendation.	Yes

**MINUTES ORDINARY COUNCIL - 26 MARCH 2024****SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The revised LHS contains actions that will overall have positive social, economic and environmental implications. The outcomes aim to prioritise new housing around existing urban areas and to support strong local communities. The actions seek to facilitate sustainable development that can provide more housing whilst retaining and enhancing local character.

The revised LHS seeks to establish a robust framework for the identification and assessment of future areas for housing growth across the local government area. In addition, the revised LHS aims to improve housing affordability and to provide homes in locations close to employment centres.

Actions in the strategy will support vibrant local centres and promote social well-being for residents.

**CONSULTATION**

Targeted consultation with key stakeholders has been undertaken by the Strategy and Environment Section. Further consultation will be undertaken as part of the public exhibition process set out below.

Internal

The revised LHS has been prepared in consultation with the relevant sections across the organisation including:

- Development and Compliance Section
- Strategy and Environment Section
- Assets Section
- Strategic Property unit
- Communications and Engagement Section.

The Project Control Group for the revision of the LHS incorporated representatives from all Directorates of Council.

A series of workshops were held with the elected Council throughout the revision of the LHS.

External

A range of external stakeholders were involved in the LHS review including State Government agencies, community housing providers, social support services, Local Aboriginal Land Councils, industry reference groups and the Homelessness Stakeholder Advocacy Group (HSAG).

**MINUTES ORDINARY COUNCIL - 26 MARCH 2024**

A key part of the engagement was the Port Stephens Housing Forum hosted on 10 November 2023. The forum was attended by local community groups, community housing providers, real estate agents, local businesses, development and housing industry bodies, major landowners in the LGA and State Government agencies, departments and community representatives.

The Housing Forum provided the opportunity to investigate and identify issues the community and stakeholders are experiencing in relation to housing, and to gain insight on potential actions Council can implement to support the needs and priorities of the community.

As part of the exhibition period, Council will be meeting with the attendees of the Housing Forum to discuss the strategy as prepared and cover how the insights and data collected during the event has influenced the strategy review.

The revised LHS will be placed on public exhibition for a period of 28 days.

Council has planned an active engagement period in consultation with the Community Engagement Advisory Group. This will include a newspaper advertising, face-to face engagement, Facebook live event and drop in information sessions. Council will also preparing a pre-recorded video covering key themes of the revised Strategy for use on Council's website and media platforms.

Submissions can be made to Council during the public exhibition period. The exhibition will allow Council to inform the community and seek feedback on the revised LHS.

Following the exhibition, a report will be prepared to summarise submissions, detail any changes to the revised LHS as a result of the exhibition process and seeking Council endorsement.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Revised Port Stephens Local Housing Strategy. (Provided under separate cover)
- 2) Minute No. 120, 10 May 2022.
- 3) Draft Housing Supply Plan. (Provided under separate cover)

**COUNCILLORS' ROOM/DASHBOARD**

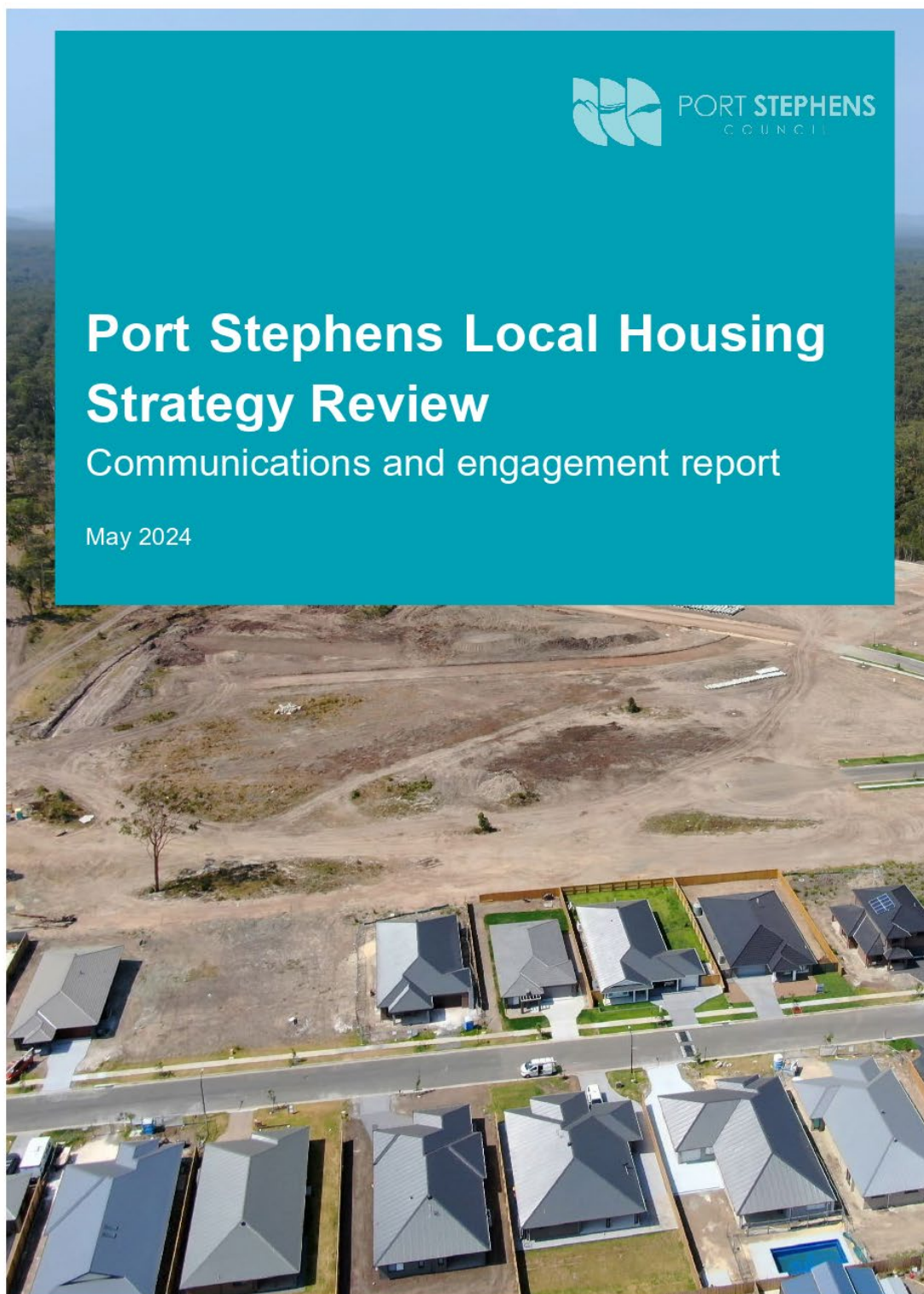
Nil.

**MINUTES ORDINARY COUNCIL - 26 MARCH 2024**

**TABLED DOCUMENTS**

Nil.

ITEM 4 - ATTACHMENT 4 LOCAL HOUSING STRATEGY -  
COMMUNICATIONS AND ENGAGEMENT REPORT.





ITEM 4 - ATTACHMENT 4 LOCAL HOUSING STRATEGY -  
COMMUNICATIONS AND ENGAGEMENT REPORT.



## Summary

Port Stephens is growing with the NSW Government predicting another 20,000 residents over the next 20 years.

This growth will place further pressure on housing in Port Stephens. With limited opportunity for new housing developments, housing prices and low rental vacancies have begun to push middle income families out of the market. This impacts local businesses that struggle to attract workers, particularly in the aged care, hospitality and health sectors.

The impacts of housing prices and low rental vacancies are also forcing more people to either relocate or choose housing options that are not ideal with more people sleeping on our streets, couch surfing, or seeking social housing.

It's a significant issue for Port Stephens and one that impacts all of us, driving the review of the Port Stephens Housing Strategy.

The communication and engagement program for the revised Port Stephens Local Housing Strategy consisted of 3 phases (see Figure 1). The first phase reviewed data available about housing in Port Stephens found in existing key documents and associated community engagement findings. There were no new engagement findings for this phase.

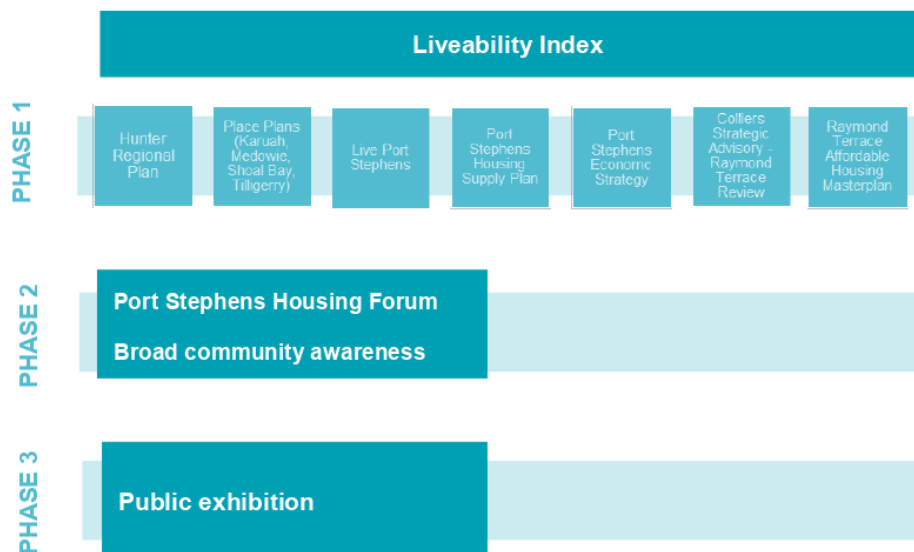
The second phase featured a targeted engagement approach through a housing forum to discuss the housing crisis as well as share ideas and perspectives on how we as a community can address the crisis. The Port Stephens Housing Forum was the primary community engagement method for this phase and was held on 10 November 2023 at Pacific Dunes, Medowie.

**ITEM 4 - ATTACHMENT 4 LOCAL HOUSING STRATEGY - COMMUNICATIONS AND ENGAGEMENT REPORT.**

The third phase included public exhibition held from 2 April to 29 April 2024.

This communication and engagement program has encouraged residents and businesses to share their thoughts on how we can encourage more diversity of housing, what we need to do to increase the density of housing in our town centres and how we can support more affordable housing close to shops, services and public transport.

**Figure1: Community engagement program**



The objectives of all phases of engagement were to:

- Use existing community engagement outcomes to inform the strategy review.
- Increase awareness of State Government housing targets, economic growth and the need to diversify housing types across Port Stephens.
- Provide an ongoing conversation with residents and business on the social and economic impacts of housing supply, diversity and affordability.
- Seek stakeholder and community feedback on the proposed direction for housing in Port Stephens.

## ITEM 4 - ATTACHMENT 4 LOCAL HOUSING STRATEGY - COMMUNICATIONS AND ENGAGEMENT REPORT.

### Communication and engagement methods

COMMUNICATIONS METHODS		
ACTIVITY	DESCRIPTION	REACH (people)
Media	<ul style="list-style-type: none"> <li>Media release 28 March 2024" New Blueprint for the future of housing in Port Stephens"</li> </ul>	Unknown
	<ul style="list-style-type: none"> <li>2HD Newcastle radio interview 18 April</li> </ul>	5,000
	<ul style="list-style-type: none"> <li>ABC Newcastle radio interview 2 April</li> </ul>	Unknown
	<ul style="list-style-type: none"> <li>2NURFM radio interview 3 April</li> </ul>	2,000
	<ul style="list-style-type: none"> <li>News of the Area article 11 April</li> </ul>	2,000
	<ul style="list-style-type: none"> <li>Newcastle Herald 8 April</li> </ul>	45,000
	<ul style="list-style-type: none"> <li>NBN News Newcastle 7 April</li> </ul>	65,000
	<ul style="list-style-type: none"> <li>Port Stephens Examiner 2 April and 7 April</li> </ul>	2,000
	<ul style="list-style-type: none"> <li>Intouch Magazine Newcastle</li> </ul>	Unknown
E-newsletters	<ul style="list-style-type: none"> <li>Your Port April 2024</li> </ul>	2,699
	<ul style="list-style-type: none"> <li>Your Business April 2024</li> </ul>	1,017
Print advertising	<ul style="list-style-type: none"> <li>News of the Area October 2023 and April 2024</li> </ul>	10,000
	<ul style="list-style-type: none"> <li>Port Stephens Examiner October 2023 and April 2024</li> </ul>	31,000
Rates notice	<ul style="list-style-type: none"> <li>April rates notice print and electronic</li> </ul>	26,264
Print editorial	<ul style="list-style-type: none"> <li>News of the Area Mayors column 28 June 2023</li> </ul>	10,000*
	<ul style="list-style-type: none"> <li>News of the Area Mayors column 15 November 2024</li> </ul>	
Website	<ul style="list-style-type: none"> <li>Local Housing Strategy webpage</li> </ul>	1,090
	<ul style="list-style-type: none"> <li>Have Your Say page</li> </ul>	2,296
Direct contact	<ul style="list-style-type: none"> <li>Special interest groups</li> </ul>	111
	<ul style="list-style-type: none"> <li>Community Organisations</li> </ul>	
	<ul style="list-style-type: none"> <li>Port Stephens Housing Forum participants</li> </ul>	
Social media	<ul style="list-style-type: none"> <li>Facebook post 23 October 2023</li> </ul>	2,300
	<ul style="list-style-type: none"> <li>Facebook post 4 April 2024 (including video)</li> </ul>	1,300
	<ul style="list-style-type: none"> <li>Instagram post 11 April 2024</li> </ul>	191
	<ul style="list-style-type: none"> <li>Instagram post 8 April 2024</li> </ul>	140

\*Not included in reach total as reach is duplicated through another method (for example print advertising).

ITEM 4 - ATTACHMENT 4 LOCAL HOUSING STRATEGY -  
COMMUNICATIONS AND ENGAGEMENT REPORT.



ENGAGEMENT METHODS		
ACTIVITY	METHOD	PARTICIPATION
Housing forum	<ul style="list-style-type: none"> <li>All day workshop with businesses, community organisations, state agencies, health, defence and community representatives</li> </ul>	54
Key stakeholder session	<ul style="list-style-type: none"> <li>Online zoom session for housing forum participants</li> </ul>	6*
Drop in sessions	<ul style="list-style-type: none"> <li>Raymond Terrace Library – 14 April 2024</li> </ul>	4
	<ul style="list-style-type: none"> <li>Medowie Community Hall – 18 April 2024</li> </ul>	0
	<ul style="list-style-type: none"> <li>Tomaree Library – 22 April 2024</li> </ul>	12
	<ul style="list-style-type: none"> <li>Facebook Live – 2 April 2024</li> </ul>	35
Submissions	<ul style="list-style-type: none"> <li>Submissions received via email and letter</li> </ul>	46

\*Not included in participation total as duplicated through another method.

**ITEM 4 - ATTACHMENT 4      LOCAL HOUSING STRATEGY -  
COMMUNICATIONS AND ENGAGEMENT REPORT.**

## Results and key findings

The communication methods used throughout phase 2 and 3 to inform the community of the Local Housing Strategy review and the engagement opportunities reached over 199,000 people. The engagement opportunities for both phases had 150 people directly participate.

### Phase 2: Targeted stakeholders – Port Stephens Housing Forum

This phase of the Port Stephens Local Housing Review included the Port Stephens Housing Forum. Key housing stakeholders were invited, including local community groups, businesses, industry groups, developers, real estates, health and aging sector representatives and individual community members. Over 60 invitations were issued, with over 50 acceptances received.

Following feedback from Council's Communications and Engagement Advisory Group in September 2023, community expressions of interest (EOIs) were called to confirm a cross-section of interested people had the opportunity to attend the forum that might be associated with an existing group, industry or business. This EOI was open from 18 October 2023 to 6 November 2023, with 31 submissions received. Following a selection process, 12 community members were invited to participate in the Port Stephens Housing Forum.

The forum began with a presentation from Gyde Consulting, providing an overview of the current and projected population, employment and housing trends for NSW, the Hunter Region, and Port Stephens. During the workshop component, attendees were presented with 4 questions to discuss on their assigned tables, and conversations were captured by table facilitators via an online ideas board and mapping tool. Questions included:

- How is the housing crisis impacting you, your business and your community?
- What are the opportunities and challenges of greenfield and infill housing development?
- What do you think people need to help embrace a more diverse housing mix?
- What can we do to encourage more housing types in Port Stephens?

The online mapping tool was circulated to participants for 1 week post the forum for additional comments to be added. Over 458 contributions and ideas were made from the forum day and examples are provided in Figure 2 and 3.

Key input from the Port Stephens Housing Forum is summarised below.

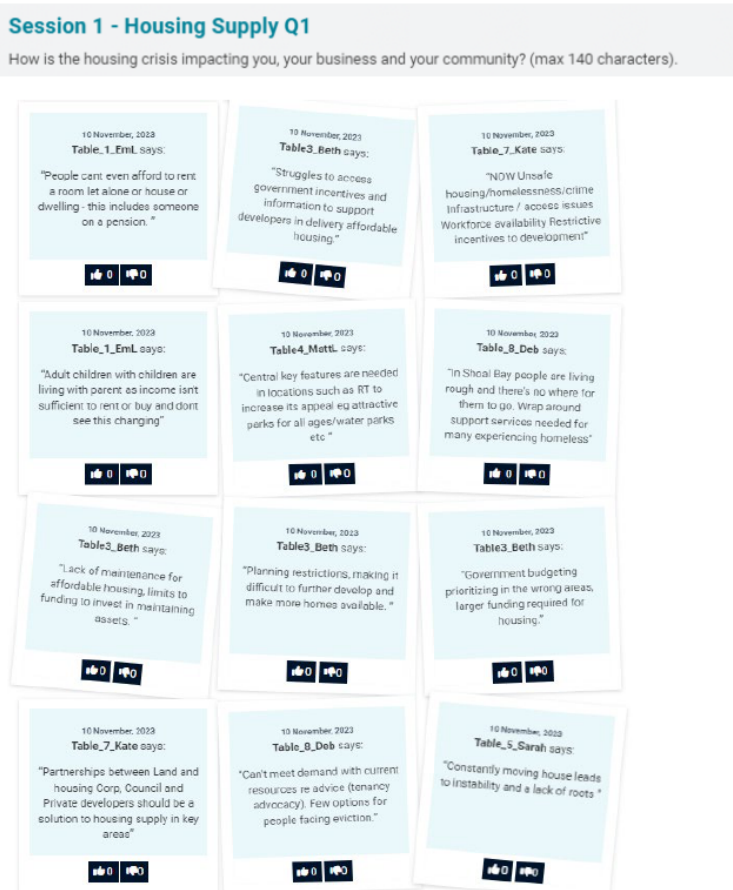
- A need to balance greenfield development in rural areas, particularly in response to known environmental constraints.



# ITEM 4 - ATTACHMENT 4 LOCAL HOUSING STRATEGY - COMMUNICATIONS AND ENGAGEMENT REPORT.

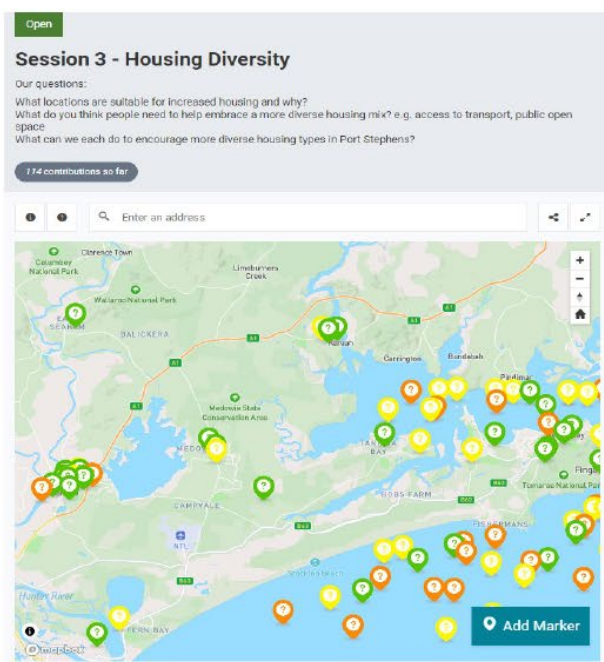
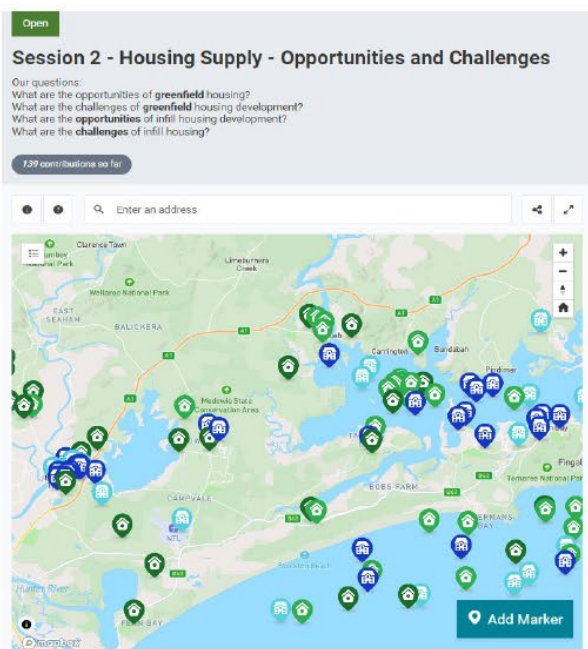
- There is a lack of diversity in housing choice. We need more units, townhouses, and smaller homes. People are drawn to the area because of the scenic quality and environment.
- There is a real homelessness crisis impacting the Local Government Area (LGA) that is putting a lot of pressure on community housing and support services.
- Businesses are struggling to attract and retain staff due to low rental availabilities and high rental prices.
- Key workers often cannot live near their workplace particularly on the Tomaree Peninsula due to the high house and rental prices.
- The frequency and reliability of public transport services needs to be improved.
- The community can see that Council has tried to encourage more housing.

Figure 2: Example of contributions and ideas on ideas board



# ITEM 4 - ATTACHMENT 4 LOCAL HOUSING STRATEGY - COMMUNICATIONS AND ENGAGEMENT REPORT.

Figure 3: Examples of contributions and ideas via online mapping tool.



**ITEM 4 - ATTACHMENT 4      LOCAL HOUSING STRATEGY -  
COMMUNICATIONS AND ENGAGEMENT REPORT.****Phase 3: Public exhibition**

The public exhibition period opened from 2 April to 29 April 2024.

**Port Stephens Housing Forum Participants**

Those that participated in the Port Stephens Housing Forum during Phase 2 were invited to the first engagement opportunity during the public exhibition via an online zoom session on 10 April 2024. Participants were notified by invitation email and 6 previous participants attended. The session presented proposals for the revised strategy and an opportunity for participants to ask questions and provide feedback.

Questions and comments expressed concerns about the lack of detail in the plan and whether what's proposed can be delivered with the lack of infrastructure to support future growth especially in Raymond Terrace. One participant identified that rural residential in the western areas of the LGA was clearly discouraged and that the rural residential criteria should be revisited. There was also a suggestion to shade the infill and greenfield proposals differently. A further participant expressed concern that something definitive would need to occur to enable the proposed change to happen such as the purchase of a block of properties in the east rather than the reliance on individual lot changes.

**Facebook Live event**

A Facebook Live event was held on 11 April 2024. This session was held after hours to attract residents and stakeholders that work during the day, have carer commitments or were unable to attend one of the three face to face drop in sessions. 34 people watched the Facebook Live with a constant 28 people across the whole session. Questions rolled in throughout the session ranging from affordable housing, Air BnBs and holiday letting, over 55's villages, building heights and supporting infrastructure. Positive feedback thanking the Council for their time and information was provided by participants at the end of the session.

**Drop in sessions**

Three further face to face drop-in sessions were held, one in each ward of the LGA. Sessions were held from 4:30pm-6pm to maximises possible attendance for those that work, carer for others or have retired. Only 16 people attended these sessions with no attendance at Medowie.

Feedback in the west ward session focused on making Raymond Terrace more attractive for investment with beautification projects, more events, improved open spaces and parks and recognition of the history of the area. Feedback in the east ward ranged from specific property impacts and discussions around why some areas were not included in the Plan, to parking impacts in Shoal Bay and ensuring that sufficient resources and infrastructure are provided to support the forecast population growth.



**ITEM 4 - ATTACHMENT 4      LOCAL HOUSING STRATEGY -  
COMMUNICATIONS AND ENGAGEMENT REPORT.****Submissions**

50 submissions were received during the public exhibition period. Submissions comments and responses have been provided in detail as part of the Council report for 25 June 2024 with key feedback including:

- The need for additional infrastructure to support the predicted population growth
- Concerns regarding short term accommodation and create incentives for owners to return these properties to the long term rental market
- Continued protection of the natural environment as development occurs
- Improve public transport to create better connections between residential, commercial and community infrastructure
- Fear of the impact multi story housing will have on a place's character
- Advocacy for and provision of additional financial support to residents who are struggling with increasing rental costs
- The need to properly address homelessness
- Over development concerns for of Raymond Terrace and Shoal Bay

Feedback from the Port Stephens Local Housing Strategy three phased communication and engagement program has been used to develop the revised draft Port Stephens Local Housing Strategy being presented to Council on 25 June 2024.



## ITEM 4 - ATTACHMENT 5 LOCAL HOUSING STRATEGY - EXPLANATION OF POST EXHIBITION AMENDMENTS.

### Explanation of post-exhibition amendments

#### Local Housing Strategy and Housing Supply Plan

PAGE	EXPLANATION OF AMENDMENTS
21, 25, 54	<p><b>Department of Planning Housing and Infrastructure (DPHI)</b></p> <p>The LHS will be submitted to DPHI for endorsement following its adoption by Council. This is to help facilitate and streamline the assessment of subsequent rezonings which are consistent with LHS and Housing Supply Plan (HSP). Council consulted with DPHI to seek feedback on the draft LHS and DPHI requested that Council update the LHS and HSP to better align with the Hunter Regional Plan 2041 (HRP) and justify the current forecast of approximately 9,800 new dwellings by 2041.</p> <p>In response, the LHS has been amended to include:</p> <ol style="list-style-type: none"> <li>1. Clarification that the figures used in the HSP take into account the forecasted growth using the latest 2021 Census figures as a starting point for all future projections. DPHI had been using the previous 2106 Census figures for forecasting.</li> <li>2. Additional justification regarding Council's efforts to meet the nominated 80% infill target.</li> <li>3. An additional action requiring the LHS/HSP be reviewed every 5 years.</li> <li>4. The inclusion of an Addendum Criteria that could be used to consider amendments to the LHS and inclusion of sites in the HSP outside of the 5 yearly review. This will be a mechanism Council can use to identify additional housing opportunities if housing supply is not meeting demand.</li> <li>5. Amendment of the HSP to adopt the precinct densities in the HRP rather than the higher place-specific densities that were in the exhibited HSP. This amendment has resulted in changes to the housing figures throughout the HSP, however, the overall housing forecast is generally consistent with exhibited figures. Further information on these changes is provided below.</li> </ol>
28, 31	<p><b>Social and affordable housing</b></p> <p>The Local Housing Strategy (LHS) has been updated to reinforce the desire to see the provision of additional social and affordable housing in Port Stephens. A number of submissions raised the importance of addressing the current social housing wait lists, the need to support local businesses by providing affordable housing options for staff, and to help reduce the levels of rental stress in Port Stephens.</p> <p>In response, the LHS has been amended to include:</p>



**PORT STEPHENS**  
COUNCIL

Explanation of Amendments

## ITEM 4 - ATTACHMENT 5 LOCAL HOUSING STRATEGY - EXPLANATION OF POST EXHIBITION AMENDMENTS.

PAGE	EXPLANATION OF AMENDMENTS
	<ol style="list-style-type: none"> <li>1. A definition of 'affordable housing', as set out in the NSW Affordable Housing Ministerial Guidelines 2023/24.</li> <li>2. Clarification that the development of the Affordable Housing Action Plan will also include actions to: <ol style="list-style-type: none"> <li>a. Test the viability of developing an Affordable Housing Contribution Scheme.</li> <li>b. Opportunities to improve the feasibility of delivering affordable housing (e.g. amendments to planning controls and/or application fees).</li> <li>c. Mechanisms to track and monitor affordable housing.</li> <li>d. The potential for utilising inclusionary zoning to encourage more social/affordable housing.</li> <li>e. A review of council-owned/managed land and buildings to identify opportunities for a range of social, affordable or temporary housing.</li> </ol> </li> </ol>
47	<p><b>Infrastructure Planning</b></p> <p>One of the key issues that emerged during exhibition was the need to ensure that infrastructure is provided to support the increase of housing, particularly in areas that may already be impacted by insufficient infrastructure at certain times of the year or after major weather events.</p> <p>To ensure that Council's intent in regard to infrastructure planning and delivery is evident in the LHS, the Strategy has been amended to include:</p> <ol style="list-style-type: none"> <li>1. A new priority has been added, Priority 4.4 – Supported Communities. It outlines the need to ensure that the community is supported with infrastructure to help create and maintain the liveable neighbourhoods envisaged for Port Stephens.</li> <li>2. 2 new actions have been added that focus on both Council and the NSW Government's role in planning for and delivering infrastructure and upgrades to existing infrastructure. <ol style="list-style-type: none"> <li>a. Action 4.3 references Council's intent to align the local infrastructure contributions plan with the HSP and seek grant funding to assist in delivering the required infrastructure.</li> <li>b. Action 4.4 references the need to advocate to NSW Government and relevant agencies to support Council in delivering this infrastructure.</li> </ol> </li> </ol>
9-51	<p><b>Housing Supply Plan (HSP)</b></p> <p>As noted previously the HSP has been updated to adopt the precinct densities in the HRP rather than the higher place-specific densities that were in the exhibited HSP. Adopting these descriptions of density has resulted in small changes to the number of dwellings forecasted overall. Submissions also noted that in some cases the forecasted dwelling forms</p>



**PORT STEPHENS**  
COUNCIL

Explanation of Amendments

# ITEM 4 - ATTACHMENT 5 LOCAL HOUSING STRATEGY - EXPLANATION OF POST EXHIBITION AMENDMENTS.

PAGE	EXPLANATION OF AMENDMENTS
	<p>did not align with existing approvals. As such, the figures have been updated to better reflect the range of dwellings associated with the revised densities.</p> <ol style="list-style-type: none"> <li>1. Tomaree Peninsula – Overall reduction in the number of dwellings forecasted. The forecast for Nelson Bay has remained the same, noting that the area of the Precinct has been increased to include all R3 Medium Density Zone. Additional homes have been included in the 7+ storey category given the existing approvals in the area. Shoal Bay and Nelson Bay East Precinct have decreased slightly while Salamander Way Precinct has increased by 20 homes.</li> </ol> <p>Overall there is a net decrease of 50 homes.</p> <ol style="list-style-type: none"> <li>2. Raymond Terrace – The overall forecast for Raymond Terrace has increased. The Town Centre Precinct has decreased slightly with the areas surrounding increasing to balance this. Within the Raymond Terrace Town Centre the forecast now includes additional 7+ storey buildings which is consistent with Council's intent for the CBD precinct to allow for increased densities in the future.</li> </ol> <p>Overall there is a net increase of 34 homes.</p> <ol style="list-style-type: none"> <li>3. Central Growth Corridor – An additional housing site is proposed to be included within the Central Growth Corridor. The forecast figures have been updated for two sites within this area that are the subject of current rezoning proposals.</li> </ol> <p>Overall there is a net increase of 9 homes.</p> <ol style="list-style-type: none"> <li>4. Anna Bay – There has been a slight decrease in the over number of houses forecast in Anna Bay. This relates to the town centre area only as the other precincts are known/planned lifestyle villages.</li> </ol> <p>Overall there is a net decrease of 23 homes</p> <ol style="list-style-type: none"> <li>5. Tilligerry Peninsula – The forecast for the Tilligerry Peninsula has decreased overall by 6 homes. The amended densities have seen the forecast for the Tanilba Bay Golf Course increase. Conversely, the forecast for the Town Centre has decreased resulting in a slight decrease overall.</li> </ol> <p>Overall there is a net decrease of 4 homes.</p> <ol style="list-style-type: none"> <li>6. Fern Bay Fullerton Cove – There is no change to the overall figures forecast for the Fern Bay Fullerton Cove area.</li> </ol>
Throughout	<p><b>Administrative amendments</b></p> <p>A number of submissions made suggestions for minor administrative amendments. These have been reviewed and the following amendments made to the LHS:</p>



**PORT STEPHENS**  
COUNCIL

Explanation of Amendments

ITEM 4 - ATTACHMENT 5 LOCAL HOUSING STRATEGY - EXPLANATION OF POST EXHIBITION AMENDMENTS.

PAGE	EXPLANATION OF AMENDMENTS
	<ol style="list-style-type: none"> <li>1. Inclusion of the word "play" in <i>"spaces for people to gather, play, celebrate and explore"</i>.</li> <li>2. Description of Table 1 updated to better reflect the intent and data included within it.</li> <li>3. Amendment to Action 1.4 to clarify that Council does not intend to update existing strategies to include additional density but will work with proponents to deliver this.</li> <li>4. The maps within the Housing Supply Plan have been updated to: <ol style="list-style-type: none"> <li>a. Include the additional site in the Central Growth Corridor, as supported by Council.</li> <li>b. Amend the boundary of the Nelson Bay Town Centre precinct to incorporate the previously excluded R3 zoned land west of Church Street.</li> <li>c. Amend the map to clarify what sites are considered to be greenfield and infill.</li> <li>d. Include a map key and north arrow, consistent with the above amendments.</li> </ol> </li> <li>5. Correction of minor typos and obsolete text identified in the document</li> </ol>

**ITEM NO. 5**

**FILE NO: 24/127864  
EDRMS NO: PSC2023-03961-0004**

**PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN –  
MAPPING PART 1**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Port Stephens Local Housing Strategy - Housing Supply Plan – Mapping Part 1 (**ATTACHMENT 1**).
- 

**ORDINARY COUNCIL MEETING - 25 JUNE 2024  
MOTION**

<b>146</b>	<b>Councillor Leah Anderson Councillor Jason Wells</b>  It was resolved that Council adopt the Port Stephens Local Housing Strategy - Housing Supply Plan – Mapping Part 1 ( <b>ATTACHMENT 1</b> ).
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Councillor Matthew Bailey left the meeting at 6:47pm.  
Councillor Matthew Bailey returned to the meeting at 6:49pm.

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, Matthew Bailey, Glen Dunkley, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to advise Council of the outcome of the exhibition of the Port Stephens Local Housing Strategy - Housing Supply Plan (HSP) as it relates to properties nominated within Part 1 as well as noting the response to sites that were nominated within this area.

## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

The report recommends that Council adopt the Port Stephens Local Housing Strategy - Housing Supply Plan – Mapping Part 1 (**ATTACHMENT 1**) which includes the following precincts;

- The Royal Precinct, Raymond Terrace
- Richardson Road (eastern precinct), Raymond Terrace
- Yarramundi Precinct, Raymond Terrace
- Kings Hill
- Raymond Terrace CBD
- Rifle Range, Fern Bay
- Newcastle Golf Course, Fern Bay
- Fullerton Cove

The Housing Supply Plan was exhibited with the Local Housing Strategy for a period of 28 days. Amendments have been made to the HSP in response to submissions received during the exhibition period. Proposed amendments are detailed in the Local Housing Strategy - Submission Table and Explanation of Post Exhibition Amendments attached to the Port Stephens Local Housing Strategy report.

### COMMUNITY STRATEGIC PLAN

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

### FINANCIAL/RESOURCE IMPLICATIONS

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

### LEGAL, POLICY AND RISK IMPLICATIONS

The HSP aligns with State, regional and local planning policies, strategies and plans.



<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that if the HSP is not adopted the future housing needs of the community will not be met.	High	Accept the recommendation.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The HSP seeks to provide homes in locations close to employment centres and prioritises new housing around existing urban areas. The HSP is considered to have a positive impact on housing affordability as it strives to deliver housing to meet project dwelling demand over the next 20 years.

## **CONSULTATION**

The Strategy and Environment Section has undertaken targeted consultation with key stakeholders and the community throughout the development and finalisation of the documents.

### Internal

- Development and Compliance Section
- Strategy and Environment Section
- Communications and Customer Experience Section
- Assets Section

### External

Council received a number submissions that sought to nominate additional sites for inclusion within the HSP. In some cases, Council received multiple submissions suggesting the same site / precinct.

Each site that was nominated has been reviewed to understand the known environmental constraints, alignment with Council's strategic planning and the potential delivery timeframes to 2041. In addition to this, consideration was given to whether a site had recently been the subject of a Council resolution or determination.

Inclusion in the HSP is predicated on Council being sufficiently confident that the site will be developed and the potential realised within the timeframe of the HSP and LHS of 2041.

The submissions / nominations received relating to areas within Part 1 are summarised below.



<b>Site Name/Description</b>	<b>Comment</b>	<b>Outcome</b>
Wallalong (multiple submissions)	<p>The site was requested to be identified and to have the exclusionary criteria amended in the housing criteria (Appendix 1 and 2) to allow the consideration of potential for development at Wallalong.</p> <p>Council previously resolved <b>(ATTACHMENT 2)</b> to exclude land at Wallalong that has previously been considered for urban development as part of the Wallalong Urban Release Area.</p>	Not supported.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Housing Supply Plan – Mapping Part 1.
- 2) Council Minute No. 212 - Tuesday, 9 August 2022.

**COUNCILLORS' ROOM/DASHBOARD**

Nil.

**TABLED DOCUMENTS**

Nil.

**ORDINARY COUNCIL – 25 MAY 2024**

## **HOUSING SUPPLY PLAN – PART 1**

**ORDINARY COUNCIL MEETING  
25 JUNE 2024**



**PORT STEPHENS**  
C O U N C I L

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**PORT STEPHENS COUNCIL**

# Housing Supply Plan

2023



The aim of this Plan is to take the strategic framework within the Local Strategic Planning Statement as well as the Local Housing Strategy and demonstrate how we would facilitate housing our growing communities.

# Guudji Yiigu

(Goo-jee ik-koo)

We welcome you  
to Port Stephens –  
part of the Worimi  
Aboriginal Nation.

We acknowledge the Worimi as the original Custodians  
and inhabitants of Port Stephens.

We acknowledge and pay respects to Worimi elders  
past and present.

May we walk the road to tomorrow with mutual respect  
and admiration as we care for the beautiful land and  
waterways together.



**ITEM 5 - ATTACHMENT 1 HOUSING SUPPLY PLAN – MAPPING PART 1.**

Housing supply	4	Brocklesby Road	32
Housing diversity	5	The Gardens/Tallowood	33
Housing density	6	Precinct G	34
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Tomaree Peninsula	11	Medowie Road	37
Nelson Bay Town Centre	13	Karuah West	38
Nelson Bay East	13	The Watermark Estate	39
Salamander Bay Centre	14	The Timber Mill	39
Salamander Way	14	Anna Bay	41
Shoal Bay	17	Anna Bay Town Centre	42
Raymond Terrace	19	Latitude One	43
The Royal Precinct	20	Sunrise	43
Mount Hall Road	21	Fern Bay - Fullerton Cove	45
Richardson Road	21	Rifle Range	46
Muree Precinct	22	Newcastle Golf Course	46
Yarramundi Precinct	23	Fullerton Cove	47
Kings Hill	24	Tilligerry Peninsula	49
Raymond Terrace CBD	25	Tanilba Bay Golf Course	50
Central Growth Area	27	Tanilba Bay Centre	51
The Bower	28		
Precinct B	29		
Ferodale Road	29		
Town Centre	31		





## Housing supply

The Housing Supply Plan (HSP) forms part of Council's response to the current housing crisis.

The aim of this plan is to take the strategic framework that has been established by the Local Strategic Planning Statement (LSPS) and the Local Housing Strategy (LIVE Port Stephens) to demonstrate how Council would facilitate the provision of housing to meet the needs of our growing community.

Councils play an important role in facilitating, shaping and managing housing growth across the state. Well planned and considered development must meet the needs of our community and be consistent with their vision for living a great lifestyle in a treasured environment. It is important to also be mindful that Port Stephens is a diverse community that has a range of needs and expectations with respect to housing. The response to the needs and demands for housing cannot be a one size fits all approach.

Port Stephens is forecast to grow by almost 20,000 people over the next 20 years. The Hunter Regional Plan has forecast that 11,100 new dwellings in Port Stephens would be needed in Port Stephens to accommodate

the growth in population. This equates to delivering in excess of 550 dwellings per year to meet the forecast demand.

The HSP demonstrates how and where the required housing can be developed over the next 20 years. The HSP takes a holistic approach to reviewing the need and forms of housing that could be developed across the LGA. This seeks to meet the needs of the community by considering the individual characteristics, capacity and character of a precinct in estimating its future capacity.

Over time there would be a need to continue to update and refine the HSP to ensure that it accurately reflects the external factors that would change such as migration patterns, employment opportunities or life expectancy.

Recent history has shown that underlying assumptions of growth cannot be relied on. The HSP needs to respond to this uncertainty by providing flexibility and capacity to respond to these changes. This includes reviewing the timeframes for the delivery of land/dwellings and updating the HSP accordingly.

## Housing diversity

In Port Stephens, single detached dwellings have been the most desired form of housing, making up over 75% of all new housing over the last five years.

Notwithstanding this, certain parts of the Port Stephens LGA do have a broad range of housing forms. In Nelson Bay for example, over 35% of dwellings are in the form of town houses, villas or residential flat buildings.



Detached housing

Detached Housing refers to a dwelling that does not share walls with another dwelling. This includes housing on smaller lots as well as housing in lifestyle communities.



3-6 storeys

3 to 6 storey (mid-rise housing) refers to apartment buildings that can be freestanding buildings or part of a mixed-use development.



1-2 storeys

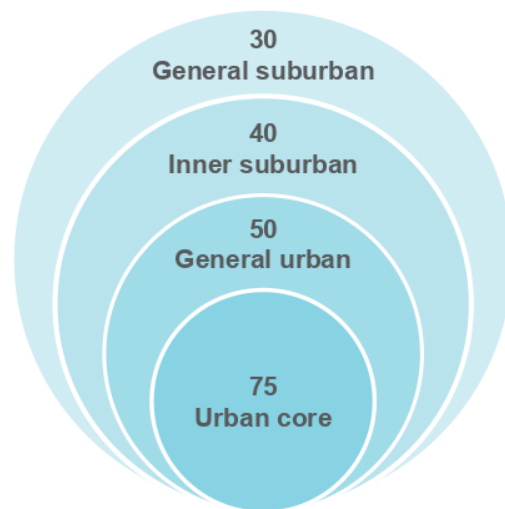
1 to 2 storey (low-rise housing) includes dual occupancy, multi-dwelling housing (such as terraces and townhouses) and manor houses (2 storey apartment buildings).



7+ storeys

7+ storey (high-rise housing) refers to apartment buildings that can be freestanding buildings or part of a mixed-use development.



**General suburban**

30 dwellings per ha, unless within 800m of strategic centres and public transport corridors, which should achieve minimum 50 dw/ha.

**Inner suburban**

40 dwellings per ha, unless within 800m of strategic centres and public transport corridors, which should achieve minimum 75 dw/ha.

**General urban**

50 dwellings per ha, unless within 800m of strategic centres and public transport corridors, which should achieve minimum 75 dw/ha.

## Housing density

There is an acknowledged need to increase densities to both maximise the potential of the available areas for housing and start to broaden the range of dwelling types that an precinct will provided. This is consistent with actions within the Hunter Regional Plan (HRP) which speak to densities based on certain location criteria.

The HRP seeks to ensure that new housing is delivered with a broader range of densities. This includes differing requirements for urban and suburban scenarios. The HRP does this by nominating proposed minimum desired dwelling densities for future housing. This is supported by locational criteria that ensure that the nominated density is consistent with the urban/suburban context that applies.

The Housing Supply Plan uses the nominated densities as a guide to assist in forecasting the potential of the nominated precincts. Each

precinct narrative includes a reference to the category as per the diagram taken from the HRP. The corresponding density nominates the intended density with the precinct.

The future development of these precincts would need to demonstrate how the proposal meets or exceeds this nominated density.

It is noted that for parts of Port Stephens the General Suburban density of 15dw/ha has been adopted. This is consistent with the nominated density for regional areas in the Hunter that are not within 800 m of strategic centres and public transport corridors.



# Understanding the Plan

To assist in understanding this Plan and to allow for key information to be easily accessed the following infographics have been included for each precinct.



## Dwelling forecasts

The number of dwellings that are forecast to be delivered within the nominated precinct.



## Population increase

An estimate of the potential increase in population is provided, based on occupancy ratio and the number of dwellings.



## Precinct Identification (Tier 5)

The precinct has been identified as having the potential to accommodate new housing. A preliminary assessment of the precinct has identified that there are minimal constraints to future development. Detailed planning is still required to confirm the future of the precinct and establish the planning framework for the precinct.



## Strategic Planning (Tier 4)

There is a need to undertake more detailed planning to create the framework for a subsequent rezoning/development for the identified precinct. This may involve detailed precinct assessments, masterplanning as well as community consultation.



## Rezoning (Tier 3)

To facilitate the envisaged outcomes there is a need to rezone the land. The rezoning process allows for very precinct specific assessments, consultation with all relevant Government Agencies as well as further consultation with the community.



## Development Application (Tier 2b and 1b)

A Development Application is being assessed. Approval is required before construction can commence.



## Dwelling Production (Tier 1a)

Construction has commenced and delivery of new lots/dwellings is underway. The delivery of dwellings is the key milestone in the supply process.



## Development Completed

The precinct has been completed and there is no further production forecast for the precinct.

NB: The Tier references included in the Housing Supply Plan correspond to those set out in the Urban Development Program established by the Department of Planning Housing and Infrastructure.



# Housing supply forecast

## PORT STEPHENS

The population of Port Stephens is forecast to grow by 20,000 people over the next 20 years. To accommodate the forecasted population growth, the Hunter Regional Plan has set a target of 11,100 dwellings that need to be delivered over the next 20 years.

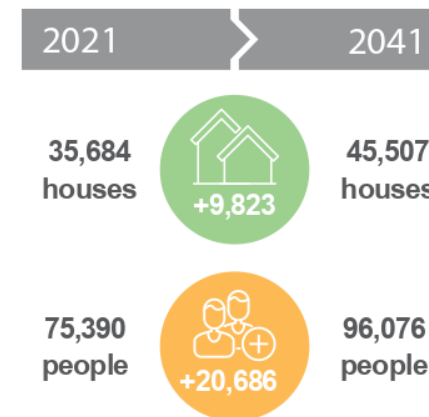
The HSP focuses on assessing the current capacity for new development within the known strategies and precincts with the potential to support infill development. Over time the broader target would become the focus as the LGA continues to grow.

Historically Port Stephens has only developed approximately 15% of its housing as infill. The constrained nature of the LGA (flooding, ecology, koalas) limits the opportunity for

the continuation of this historic development pattern. As the land that is suitable for greenfield development is taken up, the amount of infill housing would need to increase to meet the forecast demand for housing.

Precincts that are envisaged for additional infill housing may require Council to take a greater role in leading the planning through the place planning process.

Council would also need to be aware of the increasing demand on existing facilities and services that the forecast population growth would bring. The upgrading of infrastructure both local and state would need to occur to help facilitate this growth.



	2021	2026	2031	2036	2041
Dwellings	35,684	36,079	38,868	42,313	45,507
Population	75,390	76,335	82,526	89,752	96,076





## Raymond Terrace

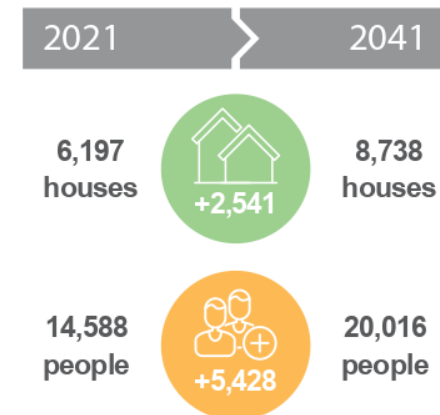
Raymond Terrace is a regionally significant strategic centre within the Port Stephens LGA. Raymond Terrace serves a critical role as a service and administrative hub for Port Stephens and parts of the lower Hunter region. It benefits from its proximity to the M1, Newcastle Airport, Astro Aero Lab and Newcastle city centre. As the population increases and the demographic profile changes, the forms of housing in Raymond Terrace would need to shift to broaden the types of housing that are available to meet the community's needs.

The current supply of housing within Raymond Terrace is however low due to the exhaustion of existing greenfield development opportunities and lack of infill development coming online.

The forecast data for Raymond Terrace indicates that, without intervention, the likely demand would be low over the next 20 years.

Council is working on a program to stimulate investment and increase supply in the CBD and surrounding residential precincts. Through investment in public open space, driving increased economic development and partnering with government agencies, Council would work to stimulate the housing sector and renewal of the broader area.

This commitment aligns with the desire to see improvements in the provision of social as well as affordable housing, increased housing supply within walking distance of the town centre and the creation of housing opportunities within the CBD.



	2021	2026	2031	2036	2041
Dwellings	6,197	6,230	6,860	7,827	8,738
Population	14,588	14,668	16,087	18,161	20,016



## The Royal Precinct

### RAYMOND TERRACE

#### Development Application

The precinct is located within walking distance of the Raymond Terrace Town Centre and adjoins Boomerang Park. The housing in the area is characterised by older houses on traditional blocks.

In the future, the residential character would become increasingly urban as the older houses on traditional blocks are redeveloped. New housing would be in the form of small lot detached housing and low-rise housing which can be developed under the existing development controls.

Desired Density Category - General Suburban (30dw/ha).



# Richardson Road

## RAYMOND TERRACE



### Dwelling Production

Richardson Road is a residential precinct comprised of existing detached and large lot housing.

In the future, the remaining large lot housing would be redeveloped and the character would be generally consistent with the existing detached housing form within the area surrounding the precinct. Given the location of the precinct, there is a desire to see some low-rise housing introduced to provide additional housing diversity.

Desired Density Category - General Suburban (15dw/ha\*).



Detached housing  
**+184**



1-2 Storeys  
**+61**



**+245**



3-6 Storeys  
**+0**



7+ Storeys  
**+0**



**+500**





## Yarramundi Precinct

### RAYMOND TERRACE

#### Development Application

The precinct is located within walking distance of the Raymond Terrace Town Centre. The housing in the area is characterised by older houses on traditional blocks.

In the future, the residential character would become increasingly urban as the older houses on traditional blocks are redeveloped. New housing would be in the form of small lot detached housing and low-rise housing which can be developed under the existing development controls.

Desired Density Category - General Suburban (30dw/ha).



Detached housing  
+34



1-2 Storeys  
+52



+86



3-6 Storeys  
+0



7+ Storeys  
+0



+175





# Kings Hill

## RAYMOND TERRACE



### Development Application

Kings Hill has been nominated as an urban growth area for several years. It is presently forecast that only part of the previously planned release area would be realised.

In the future, the residential character would be defined by detached and low-rise housing. This is consistent with the desire to include more compact urban housing in all future greenfield release areas.

Desired Density Category - General Suburban (15dw/ha\*).



Detached housing  
+525



1-2 Storeys  
+175



+700



3-6 Storeys  
+0



7+ Storeys  
+0



+1,425



## Raymond Terrace CBD

### RAYMOND TERRACE



Rezoning



Development Application

The Raymond Terrace CBD presently contains only limited amounts of residential development. The residential housing that does exist is found on the periphery of the CBD.

In the future, the character of the precinct would evolve into an urban centre supported by a range of low, mid and high-rise development. The opportunity for mixed use development would introduce more people to the precinct, creating a more vibrant and active urban centre.

Desired Density Category - Urban Core (75dw/ha).



Detached housing  
+0



1-2 Storeys  
+166



3-6 Storeys  
+692



7+ Storeys  
+88





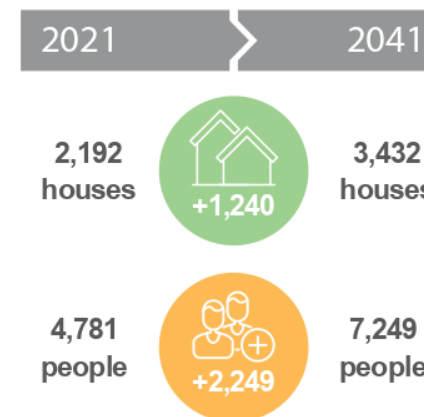
## Fern Bay - Fullerton Cove

Fern Bay - Fullerton Cove is the southern most area in the Port Stephens LGA. Over the past decade, this area has developed with a range of housing and over 55's developments on the northern edge of Stockton. The further potential of the area is linked to several identified greenfield precincts. The area is within 20 minutes of the Newcastle CBD as well as key employment areas such as Newcastle Airport, RAAF Base Woomera and Tomago industrial precinct.

Each nominated precinct adopts a unique and different form of housing to meet the needs of the community.

These precincts demonstrate the support of higher density forms of housing in well located areas.

These densities and in turn the number of people coming into this precinct would create the demand for a range of services and facilities which have been planned for as part of the creation of the new liveable communities.

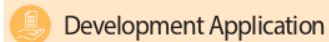


	2021	2026	2031	2036	2041
Dwellings	2,192	2,255	2,690	3,061	3,432
Population	4,781	4,920	5,822	6,554	7,249



## Rifle Range

### FERN BAY - FULLERTON COVE



This precinct was nominated in the Fern Bay and North Stockton Strategy for residential development. The precinct adjoins the preferred new town centre site formed a critical element of the Fern Bay and North Stockton Strategy.

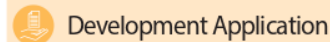
In the future, the residential character would be defined by detached and low-rise housing. This is consistent with the desire to include more compact urban housing in new release areas.

Desired Density Category - General Suburban (30dw/ha).



## Newcastle Golf Course

### FERN BAY - FULLERTON COVE



The subject site is located at the Newcastle Golf Course and involves the redevelopment of a portion of the existing course to facilitate the development of a seniors living development.

In the future, the residential character would be defined by detached and low-rise housing and mid-rise housing that has been proposed for the precinct.

Desired Density Category - General Suburban (30dw/ha).



# Fullerton Cove

## FERN BAY - FULLERTON COVE



The Fullerton Cove precinct has been nominated to be delivered under the Department of Planning, Housing and Infrastructure's Place Delivery Group initiative.

Given the size of the precinct, there is the capacity to develop the precinct in a form that is consistent with the notion of a 15 minute neighbourhood. As such precinct would provide a range of detached and low-rise housing supported by a neighbourhood centre.

Desired Density Category - General Suburban (50dw/ha).



Detached housing  
+252



1-2 Storeys  
+420



+840



3-6 Storeys  
+168



7+ Storeys  
+0



+1,574



**MINUTES ORDINARY COUNCIL - 9 AUGUST 2022****NOTICE OF MOTION****ITEM NO. 1****FILE NO: 22/198997****EDRMS NO: PSC2021-04195****HOUSING DENSITY - WALLALONG****COUNCILLOR: GIACOMO ARNOTT****THAT COUNCIL:**

- 1) Notes that the community is against increased housing density in Wallalong.
- 2) Agrees that the revision of the Port Stephens Local Housing Strategy (currently underway) should not include Wallalong as a potential housing location; and
- 3) Writes to the NSW Minister for Planning to inform the Department of Planning and Environment that Port Stephens Council no longer supports Wallalong as a suitable location for increased housing density and requests that all references are removed from the Hunter Regional Plan 2041 prior to adoption.

**ORDINARY COUNCIL MEETING - 9 AUGUST 2022  
MOTION**

<b>212</b>	<b>Councillor Giacomo Arnott</b> <b>Councillor Peter Kafer</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Notes that the community is against increased housing density in Wallalong.</li><li>2) Agrees that the revision of the Port Stephens Local Housing Strategy (currently underway) should not include Wallalong as a potential housing location; and</li><li>3) Writes to the NSW Minister for Planning to inform the Department of Planning and Environment that Port Stephens Council no longer supports Wallalong as a suitable location for increased housing density and requests that all references are removed from the Hunter Regional Plan 2041 prior to adoption.</li></ol>
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Councillor Chris Doohan left the meeting at 6:34pm.

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

**MINUTES ORDINARY COUNCIL - 9 AUGUST 2022**

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

Those against the Motion: Mayor Ryan Palmer, Crs Matthew Bailey and Glen Dunkley.

The motion was carried.

**BACKGROUND REPORT OF: BROCK LAMONT – STRATEGY & ENVIRONMENT SECTION MANAGER****BACKGROUND**

The NSW Department of Planning and Environment (DPE) released the Hunter Regional Plan 2036 (HRP 2036) in October 2016. The HRP 2036 does not identify Wallalong as a potential urban release area.

The draft Hunter Regional Plan 2041 (draft HRP 2041) was exhibited by DPE from 6 December 2021 until 4 March 2022. The draft HRP 2041 identifies Wallalong as a potential future growth area.

The draft HRP 2041 states that “the identification of potential future growth areas is not a development commitment, nor does it imply that all, or any, part of these areas will be made available for urban development in the future. To remove any doubt, the department will not support premature planning, investigation or promotion of these areas; we will investigate their future role in the next review of the Hunter Regional Plan”.

Ministerial sign off of the Hunter Regional Plan 2041 is expected imminently.

**FINANCIAL/RESOURCE IMPLICATIONS**

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

**ATTACHMENTS**

Nil.

There being no further business the meeting closed at 6:49pm.



## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

Councillor Glen Dunkley left the meeting at 6:56pm.

**ITEM NO. 7**

**FILE NO: 24/133102**  
**EDRMS NO: PSC2023-03961-0004**

### **PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3**

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

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#### **RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Port Stephens Local Housing Strategy - Housing Supply Plan – Mapping Part 3 (**ATTACHMENT 1**).

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#### **ORDINARY COUNCIL MEETING - 25 JUNE 2024** **MOTION**

<b>147</b>	<b>Councillor Leah Anderson</b> <b>Councillor Matthew Bailey</b>  It was resolved that Council adopt the Port Stephens Local Housing Strategy - Housing Supply Plan – Mapping Part 3 ( <b>ATTACHMENT 1</b> ).
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

#### **BACKGROUND**

The purpose of this report is to advise Council of the outcome of the exhibition of the Port Stephens Local Housing Strategy - Housing Supply Plan (HSP) as it relates to properties nominated within Part 3 as well as noting the response to sites that were nominated within this area.

## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

The report recommends that Council adopt the Port Stephens Local Housing Strategy - Housing Supply Plan – Mapping Part 3 (**ATTACHMENT 1**) which includes the following precincts;

- Nelson Bay Town Centre, Nelson Bay
- Nelson Bay East, Nelson Bay
- Salamander Bay Centre, Salamander Bay
- Salamander Way, Salamander Bay
- Shoal Bay
- Anna Bay Town Centre, Anna Bay
- Latitude One, Anna Bay
- Sunrise, Anna Bay
- Tanilba Bay Golf Course, Tanilba Bay
- Tanilba Bay Centre, Tanilba Bay

The Housing Supply Plan was exhibited with the Local Housing Strategy for a period of 28 days. Amendments have been made to the HSP in response to submissions received during the exhibition period. Proposed amendments are detailed in the Local Housing Strategy - Submission Table and Explanation of Post Exhibition Amendments attached to the Port Stephens Local Housing Strategy report.

### COMMUNITY STRATEGIC PLAN

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

### FINANCIAL/RESOURCE IMPLICATIONS

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

### LEGAL, POLICY AND RISK IMPLICATIONS

The HSP aligns with State, regional and local planning policies, strategies and plans.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that if the HSP is not adopted the future housing needs of the community will not be met.	High	Accept the recommendation.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The HSP seeks to provide homes in locations close to employment centres and prioritises new housing around existing urban areas. The HSP is considered to have a positive impact on housing affordability as it strives to deliver housing to meet project dwelling demand over the next 20 years.

## **CONSULTATION**

The Strategy and Environment Section has undertaken targeted consultation with key stakeholders and the community throughout the development and finalisation of the documents.

### Internal

- Development and Compliance Section
- Strategy and Environment Section
- Communications and Customer Experience Section
- Assets Section

### External

Council received a number submissions that sought to nominate additional sites for inclusion within the HSP. In some cases, Council received multiple submissions suggesting the same site / precinct.

Each site that was nominated has been reviewed to understand the known environmental constraints, alignment with Council's strategic planning and the potential delivery timeframes to 2041. In addition to this, consideration was given to whether a site had recently been the subject of a Council resolution or determination.

Inclusion in the HSP is predicated on Council being sufficiently confident that the site will be developed and the potential realised within the timeframe of the HSP and LHS of 2041.

The submissions / nominations received relating to areas with Part 3 are summarised below.

**MINUTES ORDINARY COUNCIL - 25 JUNE 2024**

<b>Site Name/Description</b>	<b>Comment</b>	<b>Outcome</b>
Gan Gan Army Camp (multiple submissions)	This site was previously subject to a rezoning request that was refused by Council 9 August 2022 Minute 206 <b>(ATTACHMENT 3)</b> .	Not supported.
Nelson Bay West Precinct (multiple submissions)	<p>The nominated area is considered to have potential, but has not yet been considered in detail. Detail to this effect was not received as part of the submission. Given the extent of opportunities in Shoal Bay, Nelson Bay East and Nelson Bay, at this time, it is considered appropriate to defer this area for future consideration.</p> <p>Part of the precinct which is zoned R3 adjacent to the Nelson Bay Town Centre Precinct is considered appropriate to include within the Nelson Bay Town Centre Precinct.</p>	Include R3 zoned land in Nelson Bay Town Centre Precinct.
Nelson Bay East (multiple submissions)	The sites identified fall within the already identified Nelson Bay East precinct. The narrative for the site has been amended to recognise that the Nelson Bay East Place Strategy will help inform any future consideration of the site.	Update the narrative for the Nelson Bay East precinct.
Anna Bay North Precinct	The site identified falls within the already identified Anna Bay Town Centre precinct. Following the review of this nomination, it was noted that a portion of the site would be impacted significantly by flooding. This portion is proposed to be removed.	Update mapping to remove identified flood prone land.
Anna Bay East Precinct	The site, previously subject to a briefing at public access is known to have significant environmental, cultural and infrastructure issues. The submission did not provide sufficient evidence to indicate that these could be overcome.	Not supported.

**MINUTES ORDINARY COUNCIL - 25 JUNE 2024**

<b>Site Name/Description</b>	<b>Comment</b>	<b>Outcome</b>
Bobs Farm Lifestyle Village (3631 Nelson Bay Road, Bobs Farm)	The site on Nelson Bay Road is not currently operating as a caravan park or manufactured home estate. The LHS is supportive of these forms of housing in appropriate locations, but also references the need to advocate to the State to facilitate planning changes to support identifying additional land for new lifestyle villages. The State planning framework has not been amended at this time.	Not supported.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Port Stephens Local Housing Strategy - Housing Supply Plan - Mapping Part 3.
- 2) Council Minute No. 206 - 9 August 2022.

**COUNCILLORS' ROOM/DASHBOARD**

Nil.

**TABLED DOCUMENTS**

Nil.

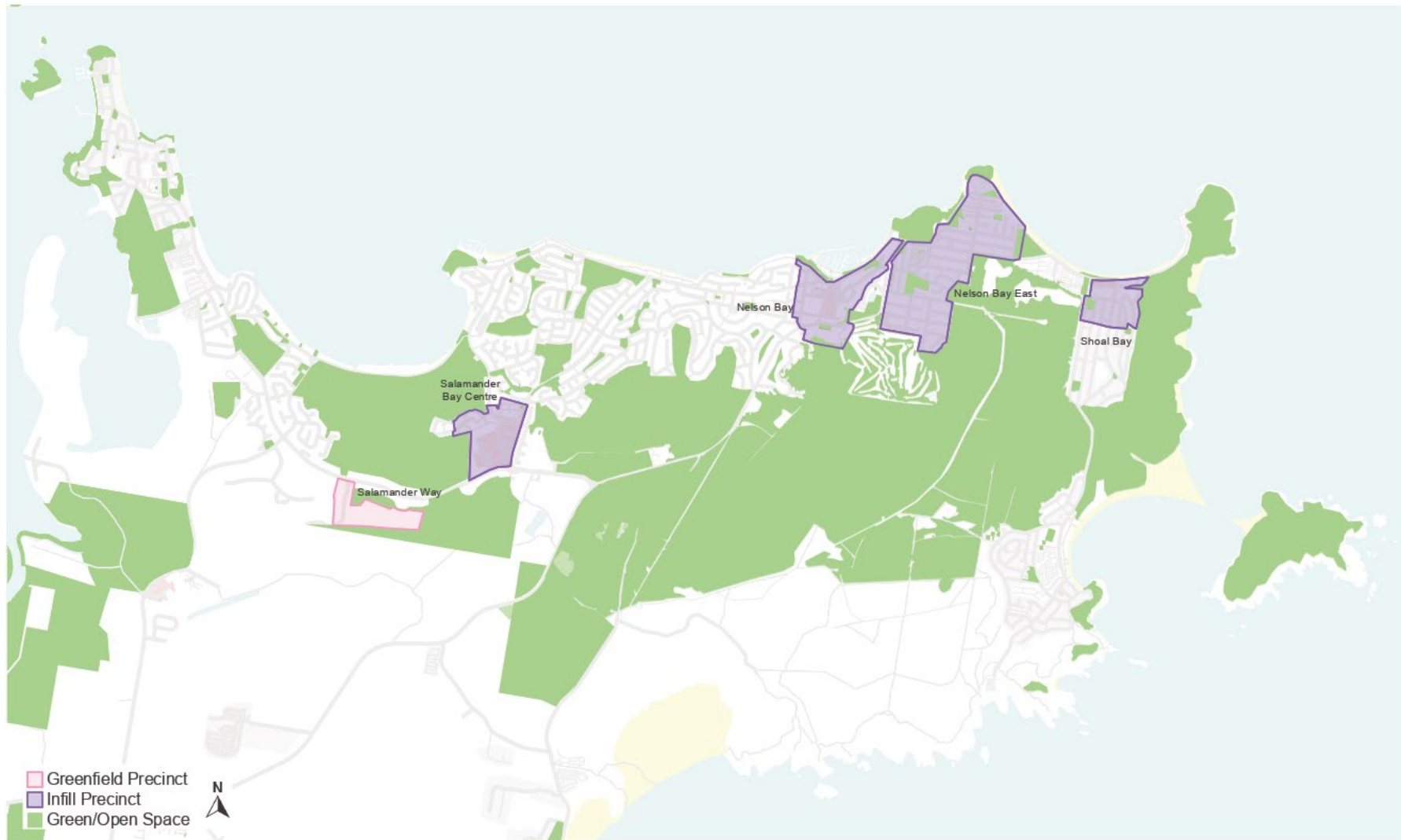
## HOUSING SUPPLY PLAN – PART 3

ORDINARY COUNCIL MEETING  
25 JUNE 2024



**PORT STEPHENS**  
C O U N C I L

ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.



## ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.

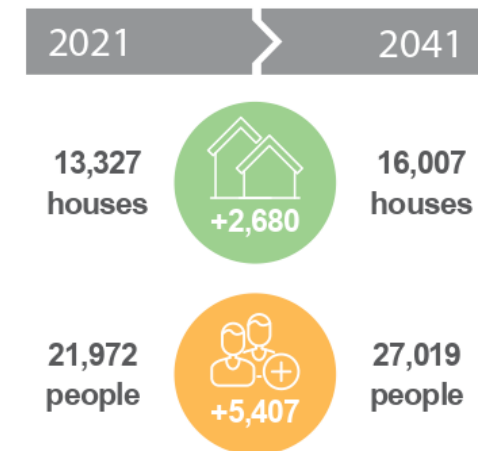
# Tomaree Peninsula

The Tomaree Peninsula encompasses several key suburbs of Port Stephens and collectively is the largest population centre in the LGA. This precinct is highly desirable for its enviable level of amenities and lifestyle opportunities. At the same time, the Peninsula still allows great access to services in Newcastle and its surrounds.

The existing housing forms vary from other parts of the LGA with over 35% of the dwellings being of a higher density form. This uptake of higher densities is also supported by the significant number of short term rentals provided in this area. Presently 28% of all dwellings are unoccupied on the Peninsula. This infers that large portions of the housing are either used for short term rental accommodation or second houses.

The Peninsula would continue to be the area of highest demand for new housing. Without large greenfield precincts, the continued growth of this area would require the redevelopment of existing precincts that benefit from proximity to shops, services, public transport and other amenities.

To enable this, plans would need to be developed to facilitate and shape this change over time. This allows for a balance of the existing character of the precinct with the need for new housing. Council's place based approach provides the opportunity to work with the community to develop plans that reflect both the need for new additional housing and consideration of a precinct's unique character.



	2021	2026	2031	2036	2041
Dwellings	13,327	13,387	14,109	15,028	16,007
Population	21,972	22,097	23,532	25,265	27,019



**ITEM 7 - ATTACHMENT 1      PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.**



## ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.

## Nelson Bay Town Centre

## TOMAREE PENINSULA



Development Application



Dwelling Production

Nelson Bay Town Centre represents the hub of the Peninsula. It is the focus of higher level services as well as tourism support businesses. Nelson Bay Town Centre allows for higher density than the surrounding areas with a number of apartment buildings already approved.

In the future, the character of the precinct would be consistent with the existing form and style of development within Nelson Bay. The focus would be on mid-rise and high-rise development.

Desired Density Category - Urban Core (75dw/ha).



## Nelson Bay East

## TOMAREE PENINSULA



Strategic Planning

The Nelson Bay East precinct extends from Nelson Bay Golf Course and to Fly Point including the Tomaree Community Hospital as well as a significant amount of short term rental accommodation.

In the future, the Nelson Bay East Place Strategy will help to define the character and scale of the precinct. This may include low and mid-rise development with the potential for key sites to be further considered, subject to detailed planning/design.

Desired Density Category - General Urban (50dw/ha).





## ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.

## Salamander Bay Centre

### TOMAREE PENINSULA



Strategic Planning



Development Application

Salamander Bay Centre continues to grow as a key strategic centre on the Tomaree Peninsula. Currently surrounding the Centre, the housing types are generally detached housing with some low-rise housing.

In the future, the character of the precinct would be an urban centre with shopping, services and housing. The inclusion of more low-rise and mid-rise housing would assist the evolution of the existing shopping centre precinct.

Desired Density Category - General Urban (50dw/ha).



## Salamander Way

### TOMAREE PENINSULA



Rezoning

The nominated precinct represents the only greenfield opportunity on the Peninsula. The area surrounding the precinct contains both low density residential development and higher density tourism accommodation.

In the future, the character of the precinct would be defined by detached and low-rise housing designed to respect the area and ensure sensitive environmental land is conserved.

Desired Density Category - General suburban (15dw/ha\*).



ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.





ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.





ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.



# Shoal Bay

## TOMAREE PENINSULA



Strategic Planning



Development Application

Shoal Bay provides for a range of small scale retail and tourist related activities/services. The existing housing is predominantly detached and low-rise.

In the future, the character of the precinct would be a mixture of low-rise and mid-rise development, intermixed with the existing detached and low-rise housing and supported by existing facilities and services.

Desired Density Category - General Urban (50dw/ha).



Detached housing  
+0



1-2 Storeys  
+108



3-6 Storeys  
+432



7+ Storeys  
+0



ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.



## ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.

## Anna Bay

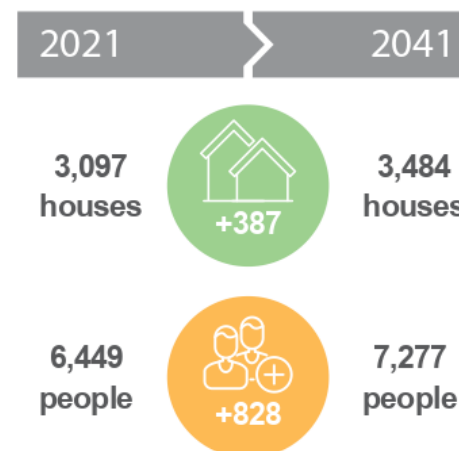
The gateway to the Tomaree Peninsula, Anna Bay is an idyllic but constrained landscape. Much of the recent development in this precinct has been through the expansion of existing lifestyle communities that have evolved over the past decade.

The constraints that have been identified affect both the existing urban precinct as well as precincts that have previously been considered for future development. Significant flooding and ecological constraints have, in large part, stopped growth in this area.

The available studies have highlighted some

potential on the edges of the existing urban precinct however this is limited. Further development beyond this would require extensive assessments of both the ecological and flood impacts on the whole of the precinct.

At this stage, there are other development precincts, nominated through the HSP which can be realised without the significant costs and uncertainty associated with development in this area. Therefore the priority in Anna Bay is to focus development in and around the town centre as well as the planned expansions of the existing lifestyle communities.



	2021	2026	2031	2036	2041
Dwellings	3,097	3,178	3,311	3,484	3,484
Population	6,449	6,635	6,922	7,277	7,277



## ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.



# Anna Bay Town Centre

## ANNA BAY



Rezoning



Development Application

Anna Bay has a compact town centre that provides for the local needs of the community. The area surrounding this contains predominately detached housing.

In the future, the character of the precinct would evolve into an urban centre supported by a small number of low and mid-rise housing. The opportunity for mixed use development would introduce more people to the precinct, creating a more vibrant and active urban centre.

Desired Density Category - Inner Suburban (40dw/ha).



Detached housing  
+0



1-2 Storeys  
+62



3-6 Storeys  
+94



7+ Storeys  
+0



## ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.

## Latitude One

### ANNA BAY



#### Dwelling Production

Latitude One is an existing lifestyle villages that contain detached housing (on small lots) along with associated community facilities such as tennis court, pools, community gardens and club house.

The expansion of the existing development would be consistent with the existing facility.

Desired Density Category - General Suburban (15dw/ha\*).



## Sunrise

### ANNA BAY



#### Rezoning

Sunrise is an existing lifestyle village that contains detached housing (on small lots) along with associated community facilities such as tennis courts, pools, community gardens and club house.

The expansion of the existing development would be consistent with the existing facility.

Desired Density Category - General Suburban (15dw/ha\*).



ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.



## ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.

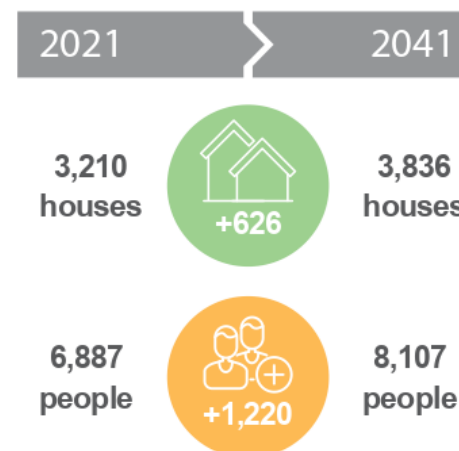
## Tilligerry Peninsula

The Tilligerry Peninsula is nestled on the south western shores of the Port Stephens Marine Park and surrounded by State Conservation sites, National Parks and Tilligerry Creek. The Tilligerry Peninsula encompasses the historic townships such as Tanilba Bay, Lemon Tree Passage and Mallabula.

These townships are all relaxed waterfront areas that are becoming increasingly desirable.

As such the demand for housing in this area is increasing resulting in a shifting demographic as more families move to the area.

The Tilligerry Peninsula has had only limited growth over the past several years. In the future, the intent is to create the opportunity for additional infill housing. These opportunities would be within close proximity to shops, services, public transport and other amenities that are already available.



	2021	2026	2031	2036	2041
Dwellings	3,210	3,210	3,327	3,569	3,836
Population	6,887	6,887	7,130	7,608	8,107



# Tanilba Bay Golf Course

## TILLIGERRY PENINSULA

### Precinct Identification

During the development of the Tilligerry Place Plan the Tanilba Bay Golf Course and surround were raised as an area for potential new housing.

The precinct would be subject to further discussions with key land owners and the community regarding the potential of this area. Should the precinct progress, it would be envisaged that development would be in the form of detached and low-rise housing consistent with the desire to include more compact urban housing in new release areas.

Desired Density Category - General Suburban (15dw/ha\*).







## Tanilba Bay Centre

### TILLIGERRY PENINSULA



Strategic Planning



Development Application

Tanilba Bay Centre provides for the local needs of the community. The area surrounding this is predominately low density in nature.

In the future, the character of the precinct would evolve into an urban centre supported by a range of low and mid-rise housing. The opportunity for mixed use development would introduce more people to the precinct, creating a more vibrant and active urban centre.

Desired Density Category - Inner Suburban (40dw/ha).



Detached housing  
+0



1-2 Storeys  
+164



3-6 Storeys  
+246



7+ Storeys  
+0



ITEM 7 - ATTACHMENT 1 PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 3.



**MINUTES ORDINARY COUNCIL - 9 AUGUST 2022****ITEM NO. 2****FILE NO: 22/161182  
EDRMS NO: 58-2015-3-1****PLANNING PROPOSAL FOR 4874 NELSON BAY ROAD, NELSON BAY**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Discontinue the planning proposal (**ATTACHMENT 2**) for 4874 Nelson Bay Road, Nelson Bay (Lot 11 DP 841401) to rezone part of the subject land from C2 Environmental Conservation to part SP2 Infrastructure (Hospital) and part R1 General Residential.

**ORDINARY COUNCIL MEETING - 9 AUGUST 2022  
MOTION**

<b>206</b>	<b>Councillor Glen Dunkley Councillor Leah Anderson</b>  It was resolved that Council discontinue the planning proposal ( <b>ATTACHMENT 2</b> ) for 4874 Nelson Bay Road, Nelson Bay (Lot 11 DP 841401) to rezone part of the subject land from C2 Environmental Conservation to part SP2 Infrastructure (Hospital) and part R1 General Residential.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.



**MINUTES ORDINARY COUNCIL - 9 AUGUST 2022****ORDINARY COUNCIL MEETING - 9 AUGUST 2022  
MATTER ARISING**

<b>207</b>	<p><b>Councillor Leah Anderson</b> <b>Councillor Giacomo Arnott</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Notes that Council has discontinued the planning proposal for 4874 Nelson Bay Road, Nelson Bay.</li><li>2) Notes that the Port Stephens Koala Hospital has just received \$3million in funding from the Federal Government for an Assisted Breeding Program, but lacks an identified location to release the koalas.</li><li>3) Notes that 4874 Nelson Bay Road, Nelson Bay consists of 98 hectares of mostly vegetated land, and is mapped in the 2000 Koala Habitat Planning as mostly supplementary, partly preferred koala habitat.</li><li>4) Agrees that Council purchasing the land from the owner and using it to protect the local environment, promote the survival of the koala, conversion into bio-banking credits and/or carbon offsets, would be a positive outcome for Council, ratepayers, and the environment.</li><li>5) Requests the General Manager to engage in discussions with the owner of the land, Port Stephens Koalas, the State Member for Port Stephens, relevant State Ministers, the Federal Member for Paterson and Federal Ministers, to prepare a report for Council.</li><li>6) Requests the General Manager prepare a report outlining:<ul style="list-style-type: none"><li>• Whether the owner of the land is willing to engage with Council or the NSW Government to sell the land for the purposes outlined.</li><li>• An independent valuation of the land and, if the owner is willing to engage, their expectations for any sale of the land.</li><li>• Whether the NSW Government is willing to assist in the costs and logistics of such an effort.</li><li>• Whether Port Stephens Koalas would be interested in utilising this land, and whether they have any capacity to assist in a purchase and/or the land being repurposed to suit the requirements of a breeding program.</li><li>• Any other options available to Council to utilise the land for carbon offsets and/or biobanking credits, to generate a profit to Council.</li><li>• Any other information relevant to Councillors considering whether to pursue this idea.</li></ul></li></ol>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

**MINUTES ORDINARY COUNCIL - 9 AUGUST 2022**

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to seek endorsement of Council to discontinue a planning proposal (**ATTACHMENT 2**) to rezone part of 4874 Nelson Bay Road, Nelson Bay (Lot 11 DP 841401) from C2 - Environmental Conservation to part SP2 Infrastructure (Hospital) and part R1 - General Residential. A Gateway determination has not been requested for this planning proposal. Accordingly, endorsement from the Minister for Planning is not required to discontinue this proposal.

The recommendation to discontinue the planning proposal follows a previous request on 11 December 2018 where Council resolved to defer consideration of the planning proposal and allow additional time for the proponent to submit the requested information. Additional information to adequately justify the planning proposal was not submitted following the Council resolution, with subsequent requests made by Council on 29 July 2020 and 23 February 2021. The information received in response to these requests did not adequately justify the impact of clearing vegetation on the land, nor did it provide certainty of development outcomes for the purposes of a hospital.

The site is a local heritage item known as Gan Gan Army Camp resulting from its use during World War 2. The current C2 - Environmental Conservation zone reflects the high ecological value of the property with vegetation covering the majority of the site. The site provides habitat to a variety of locally significant, threatened and endangered species. The sites bushfire prone status severely inhibits land development outcomes for the more open areas of the property.

A comprehensive review of the proposal and its compliance with State and Local requirements is provided within the Strategic Planning Assessment Report (**ATTACHMENT 3**).

There is considered to be insufficient site and strategic justification to support the planning proposal proceeding for Gateway determination seeking amendment to the Port Stephens Local Environmental Plan 2013 (LEP).

**COMMUNITY STRATEGIC PLAN**

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

**MINUTES ORDINARY COUNCIL - 9 AUGUST 2022****FINANCIAL/RESOURCE IMPLICATIONS**

There are no financial or resource implications for Council in adopting the recommendations of this report.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are some foreseen legal, policy and risk implications for Council as a consequence of this report.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that proceeding with the planning proposal will create unacceptable environmental impacts and land use planning impacts.	High	Determine that the planning proposal should not proceed.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The potential sustainability implications of proceeding with the planning proposal for the site are significant because of its high environmental value. To offset this, the planning proposal outlines potential social and economic benefits to the community through the provision of housing and a site for a future hospital.

The planning proposal and supporting information do not resolve site and strategic merit considerations to enable support for the amendment of the LEP provisions for the site. The planning proposal does not provide resolution of the requirements of the local, regional and State strategic and environmental planning framework, or certainty regarding the delivery of the intended outcomes (including a proposed hospital).

**MINUTES ORDINARY COUNCIL - 9 AUGUST 2022****CONSULTATION**

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

Internal

Whilst internal consultation resulted in a number of matters requiring further consideration, the key constraint for the proposal relates to the sites ecological value.

A range of ecological impacts were identified as a result of the proposed rezoning of the site, including loss of old-growth native forest (trees greater than 150 years old), the impact on biodiversity and faunal movement corridors, and impacts on the habitat of a number of threatened species including Powerful Owl, Koala and Varied Sittella.

The potential for impact on the Powerful Owl is a key matter of concern, given the quality and quantity of habitat that would be removed by the proposal. The subject site contains old-growth forest and a large number of habitat trees for Powerful Owl. The removal of vegetation that is suitable breeding habitat for the Powerful Owl is a key ecological consideration.

External

Should Council resolve to support the planning proposal it will be forwarded to the NSW Department of Planning and Environment for a Gateway determination. The Department has previously advised that there are significant strategic planning issues for the site that would need to be resolved to facilitate further consideration.

Assessment by the Strategy and Environment Section is that those issues remain unresolved with the revised planning proposal and additional supporting information.

**OPTIONS**

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

**ATTACHMENTS**

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

**COUNCILLORS ROOM**

- 1) Revised planning proposal and additional supporting studies.

**MINUTES ORDINARY COUNCIL - 9 AUGUST 2022**

**TABLED DOCUMENTS**

Nil.

## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

Councillor Glen Dunkley returned to the meeting at 7:04pm.

Councillor Giacomo Arnott left the meeting at 7:05pm.

Councillor Peter Kafer left the meeting at 7:05pm.

At 7:05pm the meeting was inquorate and no further business was transacted. Item 6 was the remaining item on the agenda. Item 6 will be included on the agenda for the next Ordinary Council meeting to be held at the Council Chamber, 116 Adelaide Street, Raymond Terrace on 9 July 2024 from 5:30pm.

Those in attendance at 7:05pm were Crs Leah Anderson, Matthew Bailey, Glen Dunkley, Steve Tucker and Jason Wells.

### ITEM NO. 6

FILE NO: 24/133096

EDRMS NO: PSC2023-03961-0004

### PORT STEPHENS LOCAL HOUSING STRATEGY - HOUSING SUPPLY PLAN - MAPPING PART 2

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION  
MANAGER

DIRECTORATE: COMMUNITY FUTURES

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#### RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Port Stephens Local Housing Strategy - Housing Supply Plan – Mapping Part 2 (**ATTACHMENT 1**).
- 

### ORDINARY COUNCIL MEETING - 25 JUNE 2024 MOTION

	<b>RECOMMENDATION IS THAT COUNCIL:</b>  1) Adopt the Port Stephens Local Housing Strategy - Housing Supply Plan – Mapping Part 2 ( <b>ATTACHMENT 1</b> ).
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### BACKGROUND

The purpose of this report is to advise Council of the outcome of the exhibition of the Port Stephens Local Housing Strategy - Housing Supply Plan (HSP) as it relates to properties nominated within Part 2 as well as noting the response to sites that were nominated within this area.

## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

The report recommends that Council adopt the Port Stephens Local Housing Strategy - Housing Supply Plan – Mapping Part 2 (**ATTACHMENT 1**) which includes the following precincts:

- Mount Hall Road, Raymond Terrace
- Muree Precinct, Raymond Terrace
- The Bower, Medowie
- Precinct B, Medowie
- Ferodale Road, Medowie
- Town Centre, Medowie
- Brocklesby Road, Medowie
- The Gardens / Tallowood, Medowie
- Precinct G, Medowie
- Precinct H, Medowie
- Precinct J, Medowie
- Precinct K, Medowie
- Medowie Road, Medowie
- Karuah West, Karuah
- The Watermark Estate, Karuah
- The Timber Mill, Karuah

The Housing Supply Plan was exhibited with the Local Housing Strategy for a period of 28 days. Amendments have been made to the HSP in response to submissions received during the exhibition period. Proposed amendments are detailed in the Local Housing Strategy - Submission Table and Explanation of Post Exhibition Amendments attached to the Port Stephens Local Housing Strategy report.

### COMMUNITY STRATEGIC PLAN

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

### FINANCIAL/RESOURCE IMPLICATIONS

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

## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

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

### LEGAL, POLICY AND RISK IMPLICATIONS

The HSP aligns with State, regional and local planning policies, strategies and plans.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that if the HSP is not adopted the future housing needs of the community will not be met.	High	Accept the recommendation.	Yes

### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The HSP seeks to provide homes in locations close to employment centres and prioritises new housing around existing urban areas. The HSP is considered to have a positive impact on housing affordability as it strives to deliver housing to meet project dwelling demand over the next 20 years.

### CONSULTATION

The Strategy and Environment Section has undertaken targeted consultation with key stakeholders and the community throughout the development and finalisation of the documents.

#### Internal

- Development and Compliance Section
- Strategy and Environment Section
- Communications and Customer Experience Section
- Assets Section

#### External

Council received a number submissions that sought to nominate additional sites for inclusion within the HSP. In some cases, Council received multiple submissions suggesting the same site / precinct.

Each site that was nominated has been reviewed to understand the known environmental constraints, alignment with Council's strategic planning and the potential



## MINUTES ORDINARY COUNCIL - 25 JUNE 2024

delivery timeframes to 2041. In addition to this, consideration was given to whether a site had recently been the subject of a Council resolution or determination.

Inclusion in the HSP is predicated on Council being sufficiently confident that the site will be developed and the potential realised within the timeframe of the HSP and LHS of 2041.

The submissions / nominations received relating to areas within Part 2 are summarised below.

Site Name/Description	Comment	Outcome
Medowie Macadamia Farm (Medowie Road, Medowie)	The site identified falls within the already identified Precinct H precinct. As such, there is no need to consider this site further.	No further action.
604-616 Medowie Road, Medowie	The site is relatively constraint free and located in proximity to other nominated precincts in Medowie. The site offers an opportunity for additional housing in a high growth/ high demand area and is supported.	Include Medowie Road Precinct in the HSP.
Fairlands Road, Medowie (Precinct O in the existing Medowie Strategy)	The site is nominated as a Precinct O in the Medowie Planning Strategy for large lot residential development, which is generally consistent with its current form. No further consideration.	No further action.

### OPTIONS

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

### ATTACHMENTS

- 1) Port Stephens Local Housing Strategy - Housing Supply Plan - Mapping Part 2.

### COUNCILLORS' ROOM/DASHBOARD

Nil.

### TABLED DOCUMENTS

Nil.

## HOUSING SUPPLY PLAN – PART 2

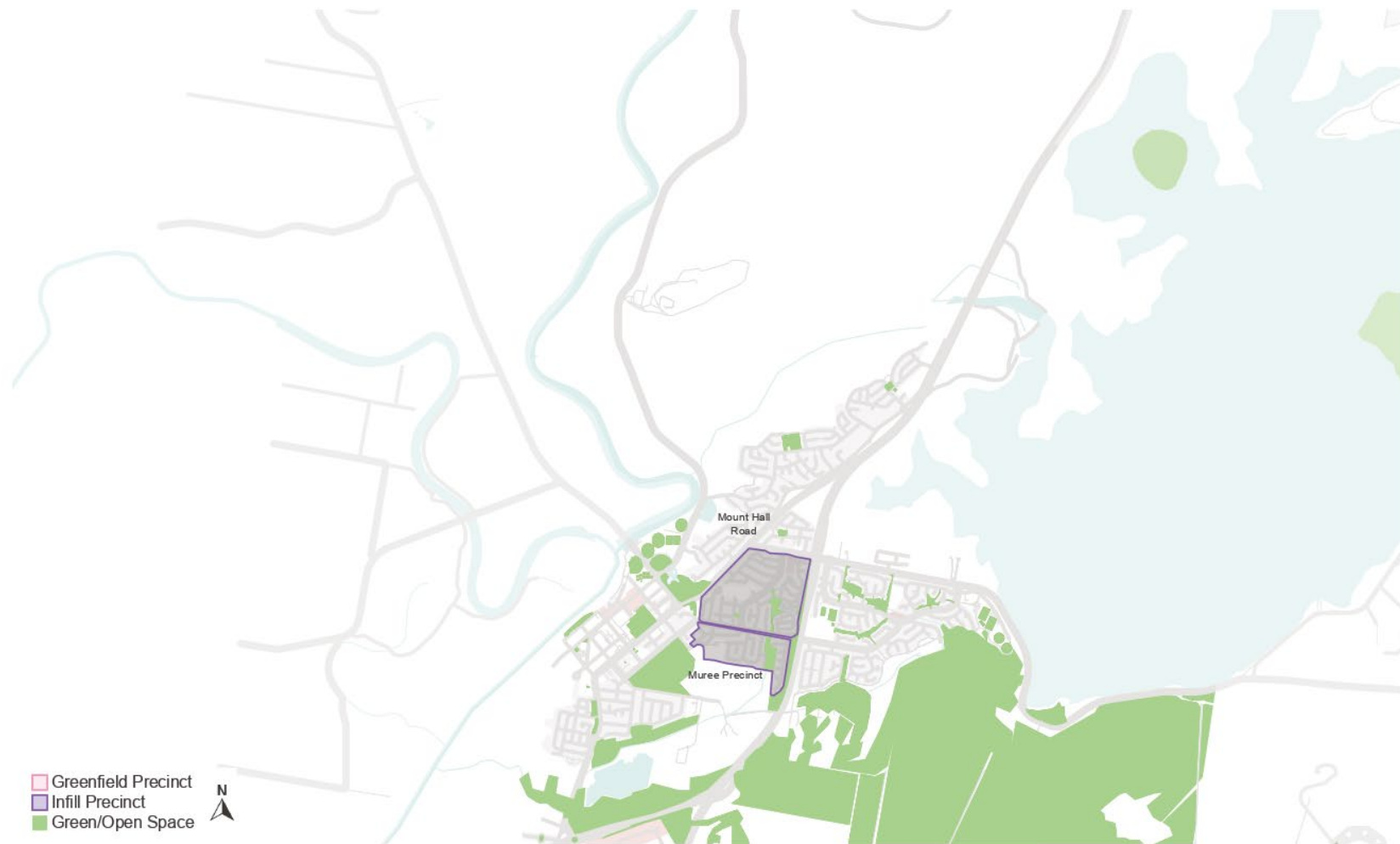
ORDINARY COUNCIL MEETING  
25 JUNE 2024



**PORT STEPHENS**  
C O U N C I L

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**PORT STEPHENS COUNCIL**



# Mount Hall Road

## RAYMOND TERRACE

### Development Application

The precinct is a residential precinct supported by several parks and local services. The housing in the area is characterised by older houses on traditional blocks.

In the future, the residential character would become increasingly urban as the older houses on traditional blocks are redeveloped. New housing would be in the form of small lot detached housing and low-rise housing which can be developed under the existing development controls.

Desired Density Category - General Suburban (30dw/ha).



## Muree Precinct

### RAYMOND TERRACE

#### Development Application

The precinct is located within walking distance of the Raymond Terrace Town Centre and adjoins Boomerang Park. The housing in the area is characterised by older houses on traditional blocks.

In the future, the residential character would become increasingly urban. New housing would be in the form of small lot detached housing and low-rise housing as well as a proposed seniors living development.

Desired Density Category - General Suburban (30dw/ha).

  
Detached housing  
+28

  
1-2 Storeys  
+140

  
+168

  
3-6 Storeys  
+0

  
7+ Storeys  
+0

  
+342







## Central Growth Area

The Central Growth Area includes both Medowie and Karuah. This area has historically been one of the fastest growing areas in the Hunter Valley.

The Medowie precinct has been shaped over the past 8 years through the implementation of the Medowie Planning Strategy and more recently the Medowie Place Plan. These documents provided a critical blue print to shape the development of the area. This includes highlighting the precincts planned for future rezoning and development. The benefit of this planned approach can be seen in the current growth. In the past five years over 20% of the new housing that has been provided in the LGA has been in Medowie.

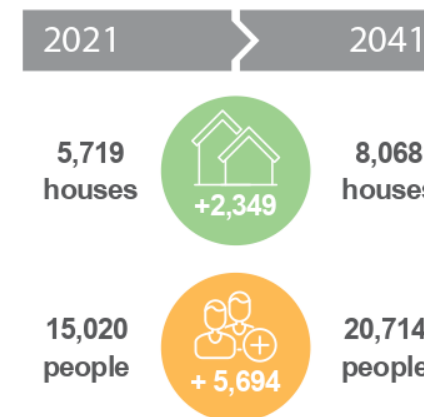
This structured approach to growth has also seen new investment in the town centre, the development of a second private school and

the planning for a new public high school to be delivered before the end of the decade.

Karuah is seeing a renewed focus of development with the finalisation of the Karuah Place Plan. The Plan nominated several greenfield precincts which are now at various stages of the development cycle.

To support forecast growth, Council is continuing to work with the community and business to implement the Place Plan to facilitate more investment and growth in this area.

The growth capacity of Karuah would continue to be linked to the ability of government to support new development with infrastructure. Council would need to work with key infrastructure providers to demonstrate the need and opportunity that Karuah provides for new housing.



	2021	2026	2031	2036	2041
Dwellings	5,719	5,876	6,629	7,401	8,068
Population	15,020	15,436	17,341	19,195	20,714



## The Bower

### CENTRAL GROWTH AREA

#### Dwelling Production

The character of the Bower is now well established.

The addition of further dwellings as forecast would not impact on this as they would correspond to the existing development in terms of both the size of lots and the forms of housing.

As such the Bower would continue to provide detached housing within the precinct with the inclusion of some seniors housing.

Desired Density Category - General Suburban (15dw/ha\*).



Detached housing  
+56



1-2 Storeys  
+18



+74



3-6 Storeys  
+0



7+ Storeys  
+0



+169



## Precinct B

### CENTRAL GROWTH AREA



#### Dwelling Production

The precinct is already zoned/serviced and is presently under development. An approval to subdivide the precinct into 36 lots over two stages has been approved. Bulk earth works are presently being undertaken.

The character of Precinct B would be suburban in nature. While there would be a number of smaller lots the proportionally larger number of traditional lots would give this precinct a suburban feel.

Desired Density Category - General Suburban (15dw/ha\*).



## Ferodale Road

### CENTRAL GROWTH AREA



#### Rezoning

Located adjacent to the Medowie Town Centre the precinct has the capacity to provide a range of housing densities within walking distance to the facilities and services that are located within the Town Centre.

In the future, the residential character would be defined by a focus on detached and low-rise housing. This is consistent with the desire to include more compact urban housing in all future greenfield release areas.

Desired Density Category - General Suburban (30dw/ha).









## Town Centre

### CENTRAL GROWTH AREA

#### Rezoning

The Town Centre currently provides for all the day to day needs of the community. This includes access to retail and commercial services.

The intent of the precinct is to provide for a broader range of uses including housing, commercial/retail and community recreation space. The would see a range of detached and low-rise housing developed as part of the implementation of the Town Centre Masterplan.

Desired Density Category - General Suburban (30dw/ha).



Detached housing  
+30



1-2 Storeys  
+46



+76



3-6 Storeys  
+0



7+ Storeys  
+0



+173

# Brocklesby Road

## CENTRAL GROWTH AREA

### Rezoning

Brocklesby Road is located to the east of the Gardens Estate. This provides a natural extension to the existing subdivision and a continuance of the existing character.

In the future, the residential character would be defined by detached and low-rise housing. This is consistent with the desire to include more compact urban housing in all future greenfield release areas.

Desired Density Category - General Suburban (15dw/ha\*).







## The Gardens/Tallowood

### CENTRAL GROWTH AREA

#### Development Application

The Precinct includes two separate developments that are at various stages of completion. Tallowood (Lifestyle Village) and the Gardens (residential development).

The character of the Gardens and Tallowood are now well established. The addition of further dwellings, as forecast, would not impact this as they would correspond to the existing development in terms of lot size and form of housing.

Desired Density Category - General Suburban (15dw/ha\*).



## Precinct G

### CENTRAL GROWTH AREA



The precinct is nominated for residential development within the Medowie Planning Strategy and Medowie Place Plan.

In the future, the residential character would be predominately be detached housing with some low-rise housing within the precinct. This is consistent with the desire to include more compact urban housing in all future greenfield release areas.

Desired Density Category - General Suburban (15dw/ha\*).



## Precinct H

### CENTRAL GROWTH AREA



The precinct is nominated for residential development within the Medowie Planning Strategy and Medowie Place Plan.

In the future, the residential character would be predominately be detached housing with some low-rise housing within the precinct. This is consistent with the desire to include more compact urban housing in all future greenfield release areas.

Desired Density Category - General Suburban (15dw/ha\*).



## Precinct J

### CENTRAL GROWTH AREA



Rezoning

The precinct is nominated for residential development within the Medowie Planning Strategy and Medowie Place Plan.

In the future, the residential character would be predominately be detached housing with some low-rise housing within the precinct. This is consistent with the desire to include more compact urban housing in all future greenfield release areas.

Desired Density Category - General Suburban (15dw/ha\*).



Detached housing  
**+281**



1-2 Storeys  
**+94**



**+375**



3-6 Storeys  
**+0**



7+ Storeys  
**+0**



**+855**







## Precinct K

### CENTRAL GROWTH AREA

#### Rezoning

The precinct is nominated for residential development within the Medowie Planning Strategy and Medowie Place Plan.

In the future, the residential character would be predominately be detached housing with some low-rise housing within the precinct. This is consistent with the desire to include more compact urban housing in all future greenfield release areas.

Desired Density Category - General Suburban (15dw/ha\*).



Detached housing  
+141



1-2 Storeys  
+47



3-6 Storeys  
+0



7+ Storeys  
+0





# Medowie Road

## CENTRAL GROWTH AREA



### Precinct Identification

The precinct is nominated following consideration of the known constraints and opportunities that the site provides.

In the future, the residential character would be predominately be detached housing with some low-rise housing within the precinct. This is consistent with the desire to include more compact urban housing in all future greenfield release areas.

Desired Density Category - General Suburban (15dw/ha\*).



Detached housing  
+38



1-2 Storeys  
+13



+51



3-6 Storeys  
+0



7+ Storeys  
+0



+117





## Karuah West

### CENTRAL GROWTH AREA



Rezoning

The precinct is identified in the Karuah Place Plan as “Stage 2 Residential Land Release”.

In the future, the residential character would be defined by detached housing. Alternatively, given the location of the precinct, the potential exists for the development of a lifestyle village. This would create a more compact housing form than the traditional detached housing.

Desired Density Category - General Suburban (15dw/ha\*).



Detached housing  
+120



1-2 Storeys  
+0



3-6 Storeys  
+0



7+ Storeys  
+0



## The Watermark Estate

### CENTRAL GROWTH AREA

#### Dwelling Production

The precinct is already zoned/serviced and is presently under development. Bulk earthworks are presently being undertaken.

The character of the Watermark Estate would be urban/suburban in nature. While there may be some low-rise housing the precinct would be predominately detached housing giving the precinct a suburban feel.

Desired Density Category - General Suburban (15dw/ha\*).



## The Timber Mill

### CENTRAL GROWTH AREA

#### Rezoning

A portion of the precinct is identified as “Stage 1 Residential Land Release” in the Karuah Place Plan.

Given the size of the precinct, there is the capacity to develop the precinct in a form that is consistent with the notion of a 15 minute neighbourhood. As such precinct would provide a range of detached and low-rise housing supported by a small neighbourhood centre.

Desired Density Category - General Suburban (15dw/ha\*).

