

NOTICE OF ORDINARY MEETING

13 FEBRUARY 2024



The Mayor and Councillors attendance is respectfully requested:

Mayor: R Palmer (Chair).

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

SCHEDULE OF MEETINGS

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

Please Note:

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

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

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

Food and beverages are not permitted in the Council Chamber.

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BUSINESS

1) Opening meeting.

2) Acknowledgement of Country

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

3) Prayer

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

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

5) Disclosures of interests.

6) Confirmation of minutes Ordinary Meeting of 12 December 2023.

7) Mayoral minute(s) – if submitted.

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

9) Reports to Council.

10) General Manager's reports – if submitted.

11) Questions with Notice – if submitted.

12) Questions on Notice.

13) Notices of motions – if submitted.

14) Rescission motions – if submitted.

15) Confidential matters – if submitted.

16) Conclusion of the meeting.

Statement of Ethical Obligations

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

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

PRINCIPLES FOR LOCAL GOVERNMENT

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

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

Guiding principles for Council

1) Exercise of functions generally

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

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

2) Decision-making

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

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

3) Community participation

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

Principles of sound financial management

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

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

Integrated planning and reporting principles that apply to Council

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

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

PORT STEPHENS COMMUNITY STRATEGIC PLAN

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

The Community Strategic Plan is organised into 4 focus areas:

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

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

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

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

BUSINESS EXCELLENCE

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

These outcomes align with the following Business Excellence principles:

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

MEETING PROCEDURES SUMMARY

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

Quorum – A quorum at Port Stephens Council is 6.

Declarations of Interest

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

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

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

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

Motions and Amendments

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

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

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

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

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

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

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

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

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

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

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

A Point of Order can be raised where:

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

Declarations of Conflict of Interest – Definitions

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

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

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

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



Form of Special Disclosure of Pecuniary Interest

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

Important information

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

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

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

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

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

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

ORDINARY COUNCIL - 13 FEBRUARY 2024

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

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

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

to be held on the _____ day of _____ 20__

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

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

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

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

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

Mayor/Councillor's signature _____

Date _____

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



Declaration of Interest form

Agenda item No. _____

Report title _____

Mayor/Councillor _____ declared a

Tick the relevant response:

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

in this item. The nature of the interest is _____

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

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

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

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

Mayor/Councillor left the Council meeting at _____ pm.

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

COUNCIL REPORTS

ITEM NO. 1**FILE NO: 23/306781
EDRMS NO: 16-2023-541-1****DEVELOPMENT APPLICATION 16-2023-541-1 FOR ALTERATIONS AND ADDITIONS TO THE KOALA SANCTUARY VETERINARIAN FACILITY (KOALA HOSPITAL) AT 562 GAN GAN ROAD, ONE MILE**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves Development Application DA No. 16-2023-541-1 for alterations and additions to the Koala Sanctuary Veterinarian facility (Koala Hospital) at 562 Gan Gan Road, One Mile (LOT: 2 DP: 1109948) subject to the conditions contained in **(ATTACHMENT 1)**.

BACKGROUND

The purpose of this report is to present a Development Application (DA) 16-2023-541-1 for alterations and additions to the Koala Sanctuary Veterinarian facility (Koala Hospital) to Council for determination.

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

Subject Land:	562 Gan Gan Road, One Mile (LOT: 2 DP: 1109948)
Total Area:	8.15ha
Zoning:	RE1 Public Recreation
Submissions:	0
Key Issues:	The key issues identified throughout the assessment of the development relate to ecological impacts.

The DA has been reported to Council in accordance with Council's 'Council Related Planning Matters Policy' as the DA is Council-related development with a cost of works exceeding \$250,000. As per this policy, the DA has been reviewed by a third party consultant.

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

Proposal

The proposal seeks consent for alterations and additions to the existing building utilised for the veterinary hospital (koala hospital) that exists within the Port Stephens Koala Sanctuary. The alterations and additions involve the following:

- Demolition of part of the existing western external wall, internal rooms and walls, access ramp and footpath
- Extension of the facility to provide a new treatment, x-ray and surgery room as well as office spaces, a storage facility and consulting room
- Construction of a new footpath and access ramp
- New landscaping.

The alterations and additions are single storey and have been integrated into the existing building design. No tree removal is proposed.

Site Description

The subject site is legally defined as Lot 2 DP1109948 and generally known as 562 Gan Gan Road, One Mile. The site is an irregular shaped lot with an area of approximately 8.15 hectares. The site currently operates as the Port Stephens Koala Sanctuary which contains a tourist facility including short term tourist accommodation, the Port Stephens Koala Hospital and associated buildings and infrastructure.

The site is surrounded by a mixture of land uses including the Middle Rock Holiday Park to the direct south, residential development to the west across Gan Gan Road and Tomaree National Park to the north and east.

Site History

There have been a number of applications lodged over the site relating to historic uses for tourist and visitor accommodation. The most recent application was DA 16-2018-534-1 and the subsequent s4.55(1A) modification DA16-2018-534-2. DA 16-2018-534-1 was approved for alterations and additions to the existing tourist resort which included the installation of 20 glamping tents, the koala sanctuary and clinic, tourism centre, vegetation removal and car parking. The s4.55(1A) modification involved the reconfiguration of the layout of the access road, parking areas, glamping tent locations and minor changes to both the tourism centre and koala clinic buildings.

The existing veterinary hospital (koala clinic) located on the site subject to this application, was approved under the above mentioned applications.

Key Issues

The key issues identified throughout the assessment of the proposed development relate to potential ecology impacts. A detailed assessment of these matters is contained within the Planner's Assessment Report (**ATTACHMENT 3**).

Ecology

The majority of the site is mapped on the NSW Biodiversity Values Map based on the presence of Core Koala Habitat across the site. No removal of koala feed trees or vegetation with any ecological significance is proposed as part of the development. All works are proposed within the developed areas of the existing koala clinic.

Given the proposed works are in proximity to existing large trees, an Arborist Report was prepared by Abacus Tree Services, dated 18 October 2023. The Arborist Report assessed the potential impacts to nearby trees from the proposed building additions. The Arborist Report demonstrated that the trees will not be impacted by the proposed works, provided that the recommendations of the report are adopted as part of works. The recommendations of the Arborist Report have been included in a recommended condition. The mitigation measures include the installation of tree protection measures during works, educating contractors and designated storage areas for machinery away from the retained trees.

A small area of landscaped gardens are proposed to be removed and replanted around the site. The landscaped area was installed as part of the existing Koala Sanctuary. Council's Natural Systems Officer considered that the landscaping proposed for removal would be unlikely to contain threatened species and supports minimal ecological value that would warrant retention.

Overall, Council's Natural Systems Officer supported the application subject to the recommended conditions **(ATTACHMENT 1)**.

Conclusion

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

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (\$7.11)	Yes (\$7.12)		Should Council determine to approve the DA, s7.12 development contributions would be applicable and would be levied in accordance with the recommended conditions of consent.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The proposed development is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act) and associated State Environmental Planning Policies. A detailed assessment of the development against the environmental planning instruments and Council planning policies is contained within the Planner's Assessment Report contained at **(ATTACHMENT 3)**.

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposal will result in positive social and economic impacts through generating temporary jobs during the construction phase of the development. During operation, the proposal will allow for a wider range of veterinarian services to be provided to the local koala population without impacting upon the existing tourist operations on the site.

Impacts on the Built Environment

The proposed alterations and additions are low scale and have been designed to integrate into the existing building. Therefore, the development will not adversely impact the surround built or natural environment.

Impacts on the Natural Environment

The proposal does not seek to remove trees but rather only a small amount of landscaped area. The removal of this vegetation was assessed by Council's Natural Systems Officer and considered to be acceptable noting the small area proposed to be removed, the disturbed nature of the area and the limited ecological value to threatened species. The proposal also involves replacement landscaping which includes species consistent with Council's Landscape Technical Specification.

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

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

External

The application was not required to be referred to any external agencies.

Public Exhibition

The application was exhibited from 31 October 2023 to 28 November 2023 in accordance with the Port Stephens Council Community Engagement Strategy. No submissions were received with relation to the subject development proposal.

Council-related Development

Section 2.22 and Schedule 1 of the EP&A Act specifies that the minimum public exhibition period for a Council-related DA is 28 days. A Council-related DA must be accompanied by a management strategy, being a statement specifying how the Council will manage conflicts of interest that may arise in connection with the application as the Council is the consent authority.

The application was notified for a period of 28 days given Council is the lessee of the subject land. Moreover, a conflict of interest management strategy was prepared for the application and published on Council's website. The management strategy was prepared in accordance with Council's 'Council Related Planning Matters Policy'. As per this policy, the DA has been reviewed by a third party consultant. The third party review supported the findings of the Planner's Assessment Report (**ATTACHMENT 3**) and recommended conditions of consent (**ATTACHMENT 1**).

OPTIONS

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

ATTACHMENTS

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

COUNCILLORS' ROOM

- 1) Development Plans (available via the Councillors' Dashboard).
- 2) Unredacted submissions (available via the Councillors' Dashboard).

Note: Any third party reports referenced in this report, as well as documents related to the assessment of the development application, have been uploaded to the Councillors' Dashboard.

TABLED DOCUMENTS

Nil.



RECOMMENDED CONDITIONS OF CONSENT

General Conditions

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

Approved Plans

Plan No.	Rev No.	Plan Title.	Drawn By.	Dated.
22050-DA-000	02	Cover Sheet	BKA Architecture	1/8/2023
22050-DA-010	02	Demolition Plan	BKA Architecture	1/8/2023
22050-DA-020	02	Site Plan	BKA Architecture	1/8/2023
22050-DA-021	01	Sediment Control Plan	BKA Architecture	1/8/2023
22050-DA-100	02	Ground Floor Plan	BKA Architecture	1/8/2023
22050-DA-110	02	Roof Plan	BKA Architecture	1/8/2023
22050-DA-200	02	North Elevation	BKA Architecture	1/8/2023
22050-DA-201	02	South and West Elevations	BKA Architecture	1/8/2023
22050-DA-300	02	Section A	BKA Architecture	1/8/2023
22050-DA-500	01	Waste Management Plan	BKA Architecture	1/8/2023
2332-LDD003	A	Landscape Plan	Moir Landscape Architecture	18/7/2023
2332-LDD004	A	Theming Plan	Moir Landscape Architecture	18/7/2023

Approved documents

Document title	Version number	Prepared by	Date of document
Bushfire Assessment Report	1	Newcastle Bushfire Consulting Pty Ltd	20/07/2023
Arborist Repot	-	Abacus Services Tree	18/10/2023

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

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

PORT STEPHENS COUNCIL

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

- (2) **Approved Report Recommendations** - Construction Construction of the development must comply with the recommendations of the 'Arborist Report', prepared by Abacus Tree Services dated 18 October 2023, detailed as follows:

- No change in the soil profile or organic layer occur from the trunk to the proposed path (Trees 1 – 3) and the proposed development
- Tree protection measures shall be put in place that aid in the preservation of Trees 1 - 3 (3 in total). It is recommended that 1.8 metre inter locking chain wire fencing be installed before commencement of all civil and building works on site as indicated in Figure 7. Protection fencing is to be installed at the edge of the proposed path and extend back to the edge of the existing road to the southern quadrant as outlined in Figure 8. Trees 4 & 5 do not require protection fencing as the trees are well protected with no canopy or trunk protruding into the subject property. Protection fencing (Trees 1 – 3) is to be installed before commencement of all civil & building works and remain in place until the release of the occupation certificate. No parking of machinery or use of machinery is allowed in the retained sections of TPZ.
- All civil contractors that enter the site shall be made aware of the importance of preserving Trees 1 - 5 and understand the tree protection measures that are put in place to preserve Trees 1 - 5.
- All stockpile sites to be maintained a minimum 10 metres away from the trunk of Trees 1 - 5 and all other trees that come under the requirements of PSC DCP.
- All parking and use of machinery is to be kept outside of the designated fenced area at all times. This also includes no machinery inside the retained sections of TPZ associated with Trees 4 & 5.

Condition Reason: To ensure that development is carried out in accordance with specific recommendations of a report are required to be complied with, but not the full report.

- (3) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

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

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

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

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



- (5) **Demolition Plan** – All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility. Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility. Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.

Condition Reason: To ensure a development is carried out in accordance with the Australian Standard AS 2601 'The demolition of Structures', and all waste materials are appropriately removed.

- (6) **Bush Fire Safety** – The site is located within a bushfire prone area and must comply with the NSW Rural Fire Service document "Planning for Bushfire Protection 2019" (PBP2019). In this regard the following is required:

1. Compliance with Appendix 3 of PBP2019.
2. Compliance with the specific requirement of Chapter 8 of PBP2019.
3. Compliance with the approved recommendations of the Bushfire Assessment Report prepared by Newcastle Bushfire Consulting, dated 20/07/2023.

Details demonstrating compliance must be prepared by a qualified Bushfire Consultant and provided to the Certifying Authority.

Condition Reason: To ensure compliance with bushfire requirements.

Building Work

Before Issue of a Construction Certificate

- (7) **Clear public access ways** – Before issue of a construction certificate, construction plans must demonstrate that access doors to enclosures for building services and facilities, such as hydrant and sprinkler booster assemblies or the like, except fire stair doors, will not open over the footway or roadway.

Condition Reason: To ensure doors used to house building services and facilities do not obstruct pedestrians and vehicles.

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

- a) The location and materials for protective fencing and hoardings on the perimeter of the site;
- b) Provisions for public safety;
- c) Pedestrian and vehicular site access points and construction activity zones;
- d) Details of construction traffic management including:
 - i) Proposed truck movements to and from the site;
 - ii) Estimated frequency of truck movements; and
- e) Details of bulk earthworks to be carried out;



- f) The location of site storage areas and sheds;
- g) The equipment used to carry out works;
- h) The location of a garbage container with a tight-fitting lid;
- i) Dust, noise and vibration control measures;
- j) The location of temporary toilets;
- k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
 - i) S 4970 – Protection of trees on development sites;
 - ii) An applicable Development Control Plan;
 - iii) An arborist's report approved as part of this consent

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

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

- (9) **Erosion and sediment control plan** – Before the issue of a construction certificate an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the certifying authority.

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

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

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

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

Condition Reason: To ensure that the removal of existing vegetation is not to occur until the issue of the Construction Certificate.

- (11) **Section 7.12 development contributions** - A monetary contribution is to be paid to Council, pursuant to Section 7.12 of the Environmental Planning & Assessment Act 1979 and the Port Stephens Local Infrastructure Contribution Plan 2020. The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of that Plan.

Section 7.12 contributions will be calculated with reference to the capital investment value (CIV) of the development, determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2021, and the levies specified in the Port Stephens Local Infrastructure Contributions Plan 2020 as outlined below:



Capital Investment Value	Capital Investment Value
Up to and including \$100,000	Up to and including \$100,000
More than \$100,000 and up to and including \$200,000	More than \$100,000 and up to and including \$200,000
More than \$200,000	More than \$200,000

The payment of the Fixed Local Infrastructure Contribution levy, is to be accompanied by a Cost Summary Report Form setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Local Infrastructure Contributions Plan. A copy of the Plan and Cost Summary Report Forms are available on Council's website at <https://www.portstephens.nsw.gov.au/>, alternatively contact Council on 02 9228 055.

Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a Registered Associate member or above, of the Australian Institute of Quantity Surveyors.

This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition.

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

- a) Building work only - prior to issue of the Construction Certificate.

Condition Reason: To ensure that a monetary contribution as specified is paid to Council in accordance with Section 7.12 of the EP&A Act 1979, and the Port Stephens Council Local Infrastructure Contributions Plan 2020.

- (12) **Stormwater/drainage plans** – Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).

Details demonstrating compliance must be provided to the Certifying Authority. The plans are to include the following:

1. Connection of the new additions of the building to the existing water quality control devices or where the existing system is at capacity, the development is to be connected to a new stormwater quality improvement device such as an infiltrating raingarden in accordance with Council's Standard Drawing S161 (or latest revision of this drawing). Where an infiltration garden is installed, it is to be located in the landscaped area(s) with an overflow pipe connected to the existing drainage easement/system.

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

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

- (13) **Payment of building and construction industry long service levy** - Before the issue of a construction certificate, the applicant is to ensure that the person liable



pays the long service levy of \$3,000.00 as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* and provides proof of this payment to the certifier.

Note. Condition only applies to developments with a cost of works over \$250,000.

Condition Reason: To ensure the long service levy is paid

Before building work commences

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

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

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

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

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

The notice must be lodged on the NSW planning portal.

Condition Reason: To ensure that the Principal Certifier has given notice to the 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



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

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

The notice must be lodged on the NSW planning portal.

Condition Reason: To ensure that the Principal Certifier has given notice that they will be the Principal 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.

- (17) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.

No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.

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

- (18) **Site is to be secured** – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.

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

- (19) **Tree protection measures** - Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.

Condition Reason: To protect and retain trees.



- (20) **Erosion and sediment controls in place** – Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).

Condition Reason: To ensure erosion and sediment control measures are in place

During building work

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

Condition Reason: Where a CMP is deemed required.

- (22) **Discovery of relics and Aboriginal objects** – While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered:

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

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

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

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

- (23) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.

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

- (24) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:

1. Connected to an approved stormwater quality improvement device such as an infiltrating raingarden in accordance with Council's Standard Drawing S161 (or latest revision of this drawing). Where an infiltration garden is installed, it is to be located in the landscaped area(s) with an overflow pipe connected to the existing drainage easement/system.



Condition Reason: To ensure stormwater is appropriately collected and treated.

- (25) **Surveys by a registered surveyor** – While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —

- a) All footings/ foundations
- b) At other stages of construction – any marks that are required by the principal certifier.

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

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

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

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

- (27) **Tree protection** – While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of AS 4970-2009 *Protection of trees on development sites* and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

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

- (28) **Unexpected finds contingency (general)** – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.

Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

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

- (29) **Hours of work** – Site work must only be carried out between the following times –



For demolition and building work from 7:00am to 5:00pm on Monday to Saturday
Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority

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

Before Issue of an Occupation Certificate

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

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

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

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

- (32) **Upgrade with the BCA** – Pursuant to Section 64 of the Environmental Planning and Assessment Regulation 2021 Port Stephens Council as the consent authority for this development application has determined that the existing building subject of the proposed works shall be upgraded so as to bring the building into partial conformity with the Building Code of Australia. The following works shall be completed prior to the issue of an occupation certificate for the works proposed by this application:

1. Install a directional illuminated exit sign to direct occupant leaving the new treatment room to the alternative exits located in the new admin/staff area.
2. Install a hold open device to the current exit door on the southern side of the building adjacent to ICU room No. 1 to ensure compliance with D3D25 (1)(b)(i) of the National Construction Code 2022.
3. Relocate the existing twin pillar attack hydrant away from the proposed building addition by at least ten metres so as to achieve compliance with Cl. 3.5.3.1 of AS 2419.1-2021.
4. The existing hydrant system shall be subject of a commissioning test after the existing attack hydrant is relocated to ensure that it meets the performance standards set by AS 2419.1. A copy of the relevant hydrant commissioning report shall be provided to council for future baseline data record keeping purposes.
5. The fire detection control and indicating equipment (FDCIE/fire indicator panel) shall be relocated to a location consistent with Cl.3.9.1 of AS 1670.1-2018.
6. The addressable FDCIE shall be updated to include the detection locations/details as part of the new building work and any associated works to the existing building.
7. The visual alarm device (red strobe light) shall be relocated to ensure consistency with AS 1670.1-2018.
8. The zone block plan that accompanies the FDCIE shall be updated to clarify the updated arrangement of the automatic fire detection and alarm system.
9. Following amendments to the automatic fire direction and alarm system, the system shall be subject of a commissioning test. A copy of the commissioning



documentation shall be provided to council for future baseline data record keeping purposes.

Condition Reason: To ensure the building is upgraded as to bring the building into partial conformity with the Building Code of Australia.

Occupation and Ongoing Use

- (33) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.

If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

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

- (34) **Maintenance of stormwater management system** - During occupation and ongoing use of the building, the applicant must ensure the stormwater management system is regularly maintained to remain effective.

Condition Reason: To ensure the stormwater system is maintained.

Locality Plan
562 Gan Gan Road, ONE MILE
Lot 495 DP 727814



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



DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2023-541-1
Development Description	Alterations and additions to koala sanctuary veterinarian facility (koala hospital)
Applicant	BJA ARCHITECTURE PTY LTD
Land owner	CROWN LANDS WITH PORT STEPHENS COUNCIL AS LESSEE
Date of Lodgement	24/10/2023
Value of Works	\$1,200,000.00
Submissions	0

PROPERTY DETAILS

Property Address	562 Gan Gan Road ONE MILE
Lot and DP	LOT: 2 DP: 1109948
88B Restrictions on Title	N/A
Current Use	Tourist facility, koala sanctuary and hospital
Zoning	RE1 PUBLIC RECREATION
Site Constraints	<p>Weed Infestations</p> <p>Bushfire Prone Land – Category 1 and 3 and vegetation buffer</p> <p>Coastal Wetlands Area Map</p> <p>Acid Sulfate Soils – Class 4 and 5</p> <p>Koala Habitat – Preferred Koala Habitat</p> <p>Endangered Ecological Communities – Swamp Sclerophyll Forest, Freshwater Wetlands</p> <p>Coastal Management – Coastal Wetlands</p> <p>20% Slope</p> <p>Hunter Water Special Area</p> <p>Combined Corridor Map – Landscape Link, Landscape Habitat Link, Core Habitat</p>

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	NSW Wildlife Atlas – Fauna BV Mapping – Core Koala Habitat and Wetlands LEP Mapped Wetlands Flood Prone Land
State Environmental Planning Policies	<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> <i>State Environmental Planning Policy (Planning Systems) 2021</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>

PROPOSAL

The proposal seeks consent for alterations and additions to the existing building utilised for the veterinary hospital (koala hospital) that exists within the Port Stephens Koala Sanctuary. The alterations and additions involve the following:

- Demolition of part of the existing western external wall, internal rooms and walls, access ramp and footpath.
- Extension of the facility to provide a new treatment, x-ray and surgery room as well as office spaces, a storage facility and consulting room.
- Construction of a new footpath and access ramp.
- New landscaping.

The alterations and additions are single storey and have been integrated into the existing building design. No tree removal is proposed.

Figure 1 below shows the site plan and the location of the veterinary hospital. The area in pink is the proposed extension. The demolition plan is shown in Figure 2 and the proposed floor plan is shown in Figure 3 below.

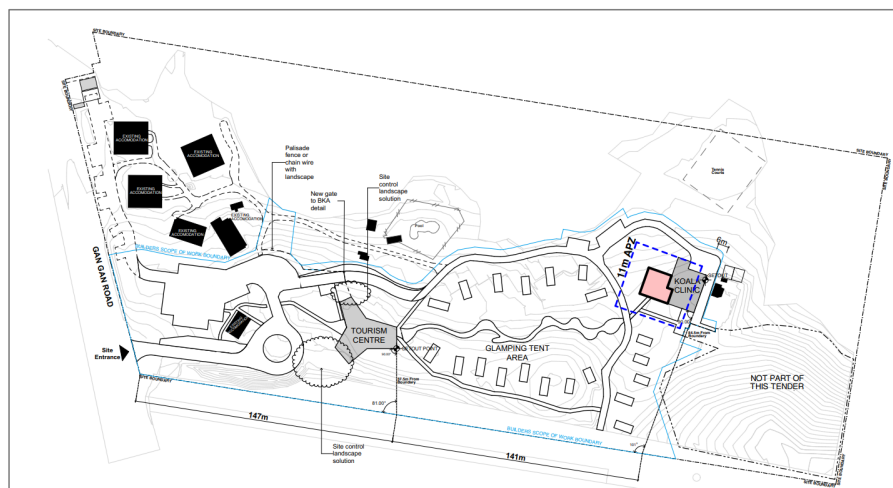


Figure 1. Proposed Site Plan

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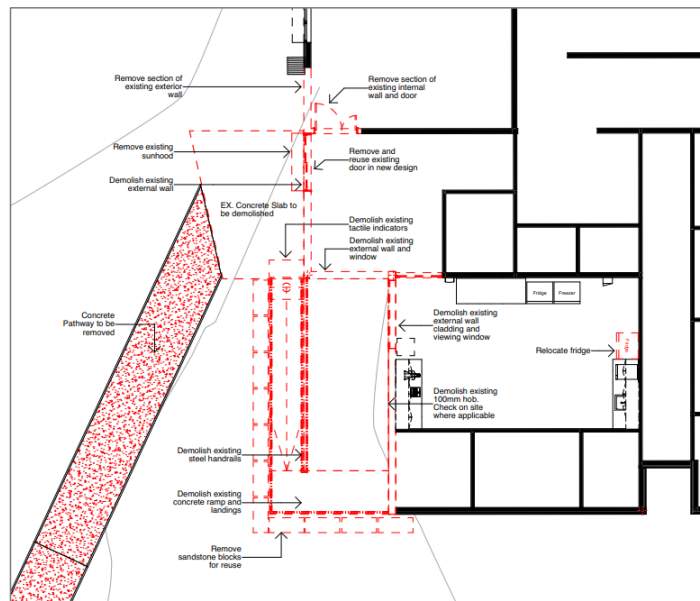


Figure 2. Proposed Demolition Plan

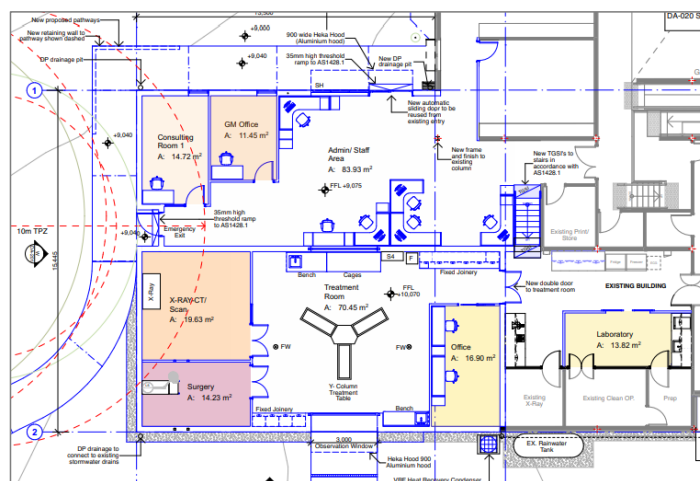


Figure 3. Proposed floor plan

SITE DESCRIPTION

The subject site is legally defined as Lot 2 DP1109948 and generally known as 562 Gan Gan Road, One Mile. The site is an irregular shaped lot with an area of approximately 8.15 hectares. The site currently operates as the Port Stephens Koala Sanctuary which contains a tourist facility including short term tourist accommodation, the Port Stephens Koala Hospital and associated buildings and infrastructure, refer to Figure 4.

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The site is surrounded by a mixture of land uses including the Middle Rock Holiday Park to the direct south, residential development to the west across Gan Gan Road and Tomaree National Park to the north and east.



Figure 4. Site Aerial

SITE HISTORY

There have been a number of applications lodged over the site relating to the historic use for tourist and visitor accommodation. The most recent application was DA16-2018-534-1 and the subsequent s4.55(1A) modification DA16-2018-534-2. DA16-2018-534-1 was approved for alterations and additions to the existing tourist resort which included the installation of 20 glamping tents, the koala sanctuary and clinic, tourism centre, vegetation removal and car parking. The s4.55(1A) modification involved the reconfiguration of the layout of the access road, parking areas, glamping tent locations and minor changes to both the tourism centre and koala clinic buildings.

The construction of the veterinary hospital (koala clinic) subject to this application, was approved under the above mentioned applications

SITE INSPECTION

A site inspection was carried out on 1 December 2023.

The subject site can be seen in Photographs 1 – 4 below:

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Photograph 1. Existing veterinary hospital (koala hospital) and the façade proposed to be demolished



Photograph 2. Existing footpath to be demolished



Photograph 3. Existing access ramp to be demolished

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Photograph 4. Approximate location of proposed additions

PLANNING ASSESSMENT

The proposed development was referred to the following internal specialists and external agencies. The comments provided by the special staff and external agencies have been used to carry out the assessment against the S4.15 Matters for Consideration below:

Internal

Development Engineering

Comment:

The application was referred to Council's Development Engineer. Council's Development Engineer requested that details be provided to demonstrate that water quality can be addressed given the sites location in a Hunter Water special area and is a mapped wetland. Water quality measures in accordance with Council's Development Control Plan were required to be installed as a part of the original construction of the building.

It is considered that the limited additional hardstand areas can be catered for onsite without impacting on the water quality of the adjoining wetlands. Noting this, a condition has been recommended stating that the new parts of the building must be connected to the existing water quality control devices on site or, where additional capacity is required, to a new infiltration system.

Natural Systems

Comment:

The application was referred to Council's Natural Systems officer. The application was supported subject to conditions. These have been included in the recommended conditions of consent.

Building Surveyor

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Comment:	The application was referred to Council's Building Surveyor. It was determined that upgrades will be required to bring the remaining part of the existing building into partial conformity with the Building Code of Australia in accordance with Section 64 of the Environmental Planning and Assessment Regulation 2021. This is discussed further under the assessment against the Regulations. A condition has been recommended detailing the upgrades needed which will be required to be satisfied prior to the issue of an occupation certificate.
Development Contributions	
Comment:	The application was referred to Council's Development Contributions officer for comment. It was determined that s7.12 contributions apply to the proposal. A condition has been recommended accordingly.

All internal referral officers have supported the application with conditions.

External

The application was not required to be referred to any external agencies.

Environmental Planning and Assessment Act 1979

Section 2.22 – Council-related development

Section 2.22 of the EP&A Act and Schedule 1 specifies that the minimum public exhibition period for a Council-related Development application is 28 days. A Council-related development application must be accompanied by a management strategy, being a statement specifying how the Council will manage conflicts of interest that may arise in connection with the application because the council is the consent authority.

The application was notified for a period of 28 days given Council is the lessee of the subject land. Moreover, a conflict of interest management strategy was prepared for the application and published on Council's website.

Section 4.46 - Integrated development

Section 4.46 EP&A Act provides that development is integrated development if in order to be carried out, the development requires development consent and one or more other approvals. The proposed development is not considered to be integrated development.

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

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

A Bushfire Assessment Report (BAR) was prepared for the proposal by Newcastle Bushfire Consulting dated 20/07/2023. The BAR found that a significant Asset Protection Zone (APZ) and defensible space is already provided around the building due to the koala enclosures, boardwalk and tourist accommodation. This APZ also provides defensible space. Overall, the proposal was considered to meet the aims and objectives of PBP 2019 subject to compliance with the BAR's recommendations. The recommendations relate to construction requirements, maintenance of the APZ, supply of services, provision of landscaping compliant with PBP 2019 and preparation of an Emergency Evacuation Plan. The BAR's recommendations have been included as a recommended condition of consent.

Section 4.15 - Matters for consideration

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

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

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

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in Non-Rural Areas

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

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

The development application does not seek to remove any trees. The applicant provided an Arborist Report (prepared by Abacus Tree Services, dated 18 October 2023) that included a condition report for all trees located within 10m of the proposed works. The report concluded that the five (5) trees located near the new building extensions can be retained without having a significant impact to tree health.

Some of the landscaped gardens that were planted with the original building are being removal by the proposal. These areas were considered by Council's Natural Systems officer who did not raise concern regarding their removal. None of the landscape proposed for removal contains environmental significance. It is noted that the proposal does seek to install replacement landscaping. The replacement landscaping is considered suitable and incorporates plants from Council's landscape technical specifications.

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Chapter 4 – Koala Habitat Protection 2021

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

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

The site is mapped as preferred koala habitat. As stated above, an Arborist Report was provided that assessed potential impacts to nearby trees and demonstrated that the nearby trees will not be impacted by the proposal, provided the recommendations of the report are adhered to. The recommendations of the Arborist Report have been included in a recommended condition.

State Environmental Planning Policy (Resilience and Hazards) 2021**Chapter 2 – Coastal Management**

The subject land is mapped as containing coastal wetlands and land within proximity to coastal wetlands as such the following general matters are required to be considered when determining an application.

2.7 Development on certain land within coastal wetlands and littoral rainforests area

Section 2.7 of the chapter notes that development on land mapped as a coastal wetland other than development for the purpose of environmental protection works, is declared to be designated development. The area mapped as coastal wetlands is located within the north of the site. No works are proposed within the area actually mapped as being a coastal wetland. The proposal is therefore not considered to be designated development as per this policy.

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

As per Section 2.8 of Chapter 2 of the SEPP, development consent must not be granted to development on land identified as 'proximity area for coastal wetlands' unless the consent authority (Council) is satisfied that the proposed development will not significantly impact the biophysical or ecological integrity of the adjacent coastal wetland or the quantity/quality of surface and ground water flows to and from the adjacent wetland.

The proposed development is not considered likely to impact the biophysical or ecological integrity of the adjacent wetland nor is it considered likely to impact the quality of the surface and ground water flows to and from said wetlands. A condition has been recommended stating that the new parts of the building must be connected to the existing water quality control devices constructed on site as part of the parent koala sanctuary approval.

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Section 2.12 of Chapter 2 of the SEPP requires consideration to whether the development would increase the risk of coastal hazards. The proposed development is suitably designed and located to not increase risk to coastal hazards.

Therefore the application would generally comply with the aims of the SEPP and the other matters for consideration stipulated under Section 2.7, 2.8 and 2.12, and can therefore be supported.

Chapter 4 – Remediation of Land

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

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

Port Stephens Local Environmental Plan 2013 (PSLEP 2013)

Clause 2.3 – Zone Objectives and Land Use Table

The site is zoned RE1 Public Recreation in accordance with the PSLEP 2013. The use of the koala hospital in its own right is defined as a 'veterinary hospital' which is not a permissible use within the zone. Notwithstanding, the use was approved as being ancillary to the wider tourism use under DA 16-2018-534-1. The proposed alterations and additions to the veterinary hospital (koala hospital) is still considered to be ancillary development to the existing tourism use on the site.

Clause 2.7 – Demolition requiring development consent

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

The proposed development requires the demolition of part of the existing western external wall, internal rooms and walls, access ramp and footpath. Accordingly, conditions have been recommended in order to mitigate potential impacts to adjoining properties and the locality during demolition works.

Clause 4.3 – Height of Buildings

The objectives of this clause are to ensure the height of buildings is appropriate for the context and character of the area and to ensure building heights reflect the hierarchy of centres and land use structure.

Clause 4.3(2) provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The site does not have a maximum height limit. Notwithstanding, the maximum building height proposed is 5.41 metres from the natural ground level. This is consistent with the existing building and therefore considered appropriate and compatible with the surrounding built form.

Clause 5.10 – Heritage conservation

The objectives of this clause are as follows—

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

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

The proposed development is not located within or in proximity to any local or state listed heritage items or conservation areas. A search of the Aboriginal Heritage Management Systems did not reveal any previously recorded Aboriginal sites in proximity to the proposed development. The area where the proposed building extension is to be constructed has previously been disturbed. Notwithstanding, an unexpected finds condition has been recommended.

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Clause 5.21 – Flood Planning

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

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

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

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

The site is partially flood prone. The location of the existing veterinary hospital and the proposed alterations and additions to it, are not located within the area identified as flood prone. As such, the proposal is not considered likely to impact upon risk to life and property.

Clause 7.1 – Acid Sulfate Soils

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

The subject land is mapped as containing potential Class 4 and 5 acid sulfate soils. The proposed development is located specifically on land that is Class 5. The proposed works are not anticipated to entail excavations below 5 metres and therefore it is not expected that acid sulfate soils would be encountered during works.

Clause 7.2 – Earthworks

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

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

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) the effect of the development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the development on the existing and likely amenity of adjoining properties,*

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- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The application proposes earthworks (minor fill) on the site to achieve a level building platform. The proposed earthworks are minor in nature and are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place. As outlined in the assessment against clause 5.10 above, the likelihood of disturbing relics is low.

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

Clause 7.6 – Essential Services

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

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

The subject site is serviced by reticulated water, electricity and sewer. The existing building will be required to connect to the existing stormwater system on the site. The site and new building retains access from Gan Gan Road, meeting the requirements of this clause.

Clause 7.8 – Drinking Water Catchments

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

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—

- (a) the development is designed, sited and will be managed to avoid any significant adverse impact on water quality and flows, or*
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The proposal is located on land identified as wetland. The proposal is located in an area of the site that is already disturbed and does not seek to remove any trees or impact any surface or groundwater flows. The proposal is therefore not considered likely to have a negative impact on the flora and fauna of the wetland, including either native and migratory species, or the characteristics of the ground or surface water.

Clause 7.9 – Wetlands

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The objective of this clause is to ensure that wetlands are preserved and protected from the impacts of development. Before determining a development application for development on land to which this clause applies, the consent authority must consider—

(a) whether or not the development is likely to have any significant adverse impact on the following—

(i) the condition and significance of the existing native fauna and flora on the land,

(ii) the provision and quality of habitats on the land for indigenous and migratory species,

(iii) the surface and groundwater characteristics of the land, including water quality, natural water flows and salinity, and

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

In addition, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

The proposal is located on land identified as wetland. The proposal is located in an area of the site that is already disturbed and does not seek to remove any trees. The proposal is therefore not considered likely to have a negative impact on the flora and fauna of the wetland, including either native and migratory species, or the characteristics of the ground or surface water.

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

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

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

Port Stephens Development Control Plan 2014 (PSDCP 2014)

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

CHAPTER B – GENERAL PROVISIONS

B1 – TREE MANAGEMENT

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

The application does not seek consent to remove any trees.

B2 – NATURAL RESOURCES

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

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Most of the site is mapped on the NSW Biodiversity Values Map. It was noted by Council's Natural Systems Officer that the key consideration for the proposal is whether any trees / native vegetation would be impacted and whether the requirement for a Biodiversity Development Assessment Report (BDAR) would be triggered. It was determined that a BDAR was not required for the reasons outlined below.

Given the proposed works are in proximity to trees, an Arborist Report was prepared for the proposal by Abacus Tree Services, dated 18 October 2023. The Arborist Report assessed potential impacts to nearby trees and demonstrated that the trees will not be impacted by the proposal, provided the recommendations of the report are adhered to. The recommendations of the Arborist Report have been included as a recommended condition.

It is noted that a small area of landscaped gardens are proposed to be removed and replanted around the site. The NSW Biodiversity Assessment Method (BAM) 2020 requires that native vegetation planted for aesthetic / horticultural purposes must be considered for habitat value, and potential impacts appropriately mitigated. Council's Natural Systems Officer considered that the landscaping proposed for removal would be unlikely to support threatened species given the small area proposed to be removed, the disturbed nature of the area and pattern of usage of the site.

Overall, Council's Natural Systems officer supported the application subject to conditions. These conditions have been included within the recommended conditions of consent.

B3 – ENVIRONMENTAL MANAGEMENT

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

Noise

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

Air Quality

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

Earthworks

As discussed at Clause 7.2 above the proposed development involves fill to create a level building platform. The impacts of the proposed earthworks can be mitigated through conditions of consent. The proposal is therefore consistent with requirements outlined in Council's DCP relating to earthworks.

B4 – DRAINAGE AND WATER QUALITY

This section applies to development that:

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

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The site already has a stormwater management system constructed as part of the existing Koala Sanctuary Development which the proposed building addition will be connected to. Noting this, the proposal is considered to be consistent with this Chapter of the DCP.

B5 – FLOODING

The site is partially flood prone. The location of the existing veterinary hospital and the proposed alterations and additions to it, are not located within the area identified as flood prone. As such, the proposal is not considered likely to impact upon risk to life and property.

B8 – ROAD NETWORK AND PARKING

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

Traffic Impacts

Given the scope of the development being for the purpose of an extension to the koala hospital, the proposal is not expected to result in adverse traffic impacts during operation.

A condition has been recommended requiring the preparation of a construction site management plan which is to include details relating construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site.

On-site Parking Provisions

The overall site was approved with 78 car parking spaces which included three enclosed parking spaces for the koala clinic. The existing car parking spaces are not impacted by the proposed alterations and additions. It is considered that the demand for parking will not be increased as a result of the proposal, neither from staff or tourist patrons. As such, the existing car parking on site is sufficient.

On-site Parking Access

Access to car parking spaces will remain unchanged by the proposal.

CHAPTER C – DEVELOPMENT TYPES

C8 – ANCILLARY STRUCTURES	
C8.A – Ancillary Structures	
Objectives	
<ul style="list-style-type: none"> To provide further guidance for ancillary structures to ensure consistent and desired amenity is attained To ensure ancillary structures do not adversely impact upon the amenity of the surrounding area To ensure ancillary structures are consistent in terms of height, bulk and scale with the surrounding area 	
Control	<u>C8.22 – Retaining walls</u> Maximum height of 1m.
Assessment	There is a retaining wall proposed associated with the new pedestrian footpath. The retaining wall is 0.83m in height and therefore compliant.
Control	<u>C8.23 – Retaining walls</u> Masonry construction within 0.9m of the property boundary when greater than 0.6m in height.

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C8 – ANCILLARY STRUCTURES	
Assessment	The retaining wall is not within 0.9m of the boundary.
Control	C8.24 – Retaining walls Retaining walls are wholly contained within the site.
Assessment	The proposed retaining wall is located wholly within the sites boundaries.

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

N/A

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

Demolition

In regard to Clause 61(1) Council has considered the Australian Standard AS 2601—2001: The Demolition of Structures in the assessment of this application with appropriate conditions being included on the consent.

Section 64 Requirements

The proposal involves alterations and additions to an existing building and therefore Clause 64 of the Regulations applies. Council's Building Surveyor reviewed the proposal and found that the fire safety measured contained in the existing building are currently inadequate and therefore s64 of the EP&A Regulations is triggered. Council's Building Surveyor determined that it is appropriate to require the existing building to be brought into partial conformity with the Building Code of Australia. As such, a condition was recommended to this effect and has been included in the recommended conditions of consent.

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

Social and Economic Impacts

The proposal will result in positive social and economic impacts through generating temporary jobs during the construction phase of the development. During operation, the proposal will allow for a wider range medical of services to be provided to injured koalas without impacting upon the existing tourist operations on the site including the provision of accommodation and viewings.

Impacts on the Built Environment

The proposed alterations and additions have been designed to integrate into the existing building. Therefore, the development will not adversely impact the built environment

Impacts on the Natural Environment

The proposal does not seek to remove trees but rather only a small amount of planted landscaping. This removal of the landscaped area was assessed by Council's Natural Systems officer and considered acceptable when noting the small area proposed to be removed, the disturbed nature of the area and pattern of usage of the site. The proposal also involves replacement landscaping which includes species consistent with Council's landscape technical specification.

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

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The subject site is suitable for the proposed development as it seeks to enlarge the existing veterinary hospital without resulting in adverse impacts to the built form or natural environment.

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

The application was exhibited from 31 October 2023 to 28 November 2023 in accordance with the provisions of the Port Stephens Council Community and Engagement Strategy. No submissions were received with relation to the subject development proposal.

Section 4.15(1)(e) the public interest

The development is considered to be in the public interest as it is consistent with relevant environmental planning instruments, Council policies, does not result in adverse amenity or environmental impacts and will assist in the improvement and expansion of services provided by the clinic.

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

N/A

Section 7.12 – Fixed Development Consent Levies

Fixed development contributions apply to the proposal in accordance with the Port Stephens Local Infrastructure Contributions Plan and a conditions has been recommended requiring the payment of contributions.

DETERMINATION

The application is recommended to be approved by Council, subject to the recommended conditions of consent.

ITEM NO. 2**FILE NO: 23/358081
EDRMS NO: 16-2023-573-1****DEVELOPMENT APPLICATION 16-2023-573-1 FOR A 3 STOREY DWELLING AT
15A TAREEBIN ROAD, NELSON BAY**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves Development Application DA No. 16-2023-573-1 for a 3 storey dwelling and retaining walls at 15A Tareebin Road, Nelson Bay (Lot: 2 DP: 1036034) subject to the conditions contained in recommended conditions of consent **(ATTACHMENT 1)**.
- 2) Supports the Clause 4.6 variation request to the building height for the reasons outlined within this report.

BACKGROUND

The purpose of this report is to present Development Application (DA) 16-2023-573-1 for a 3 storey dwelling and retaining walls to Council for determination.

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

Subject Land:	15A Tareebin Road, Nelson Bay (Lot: 2 DP: 1036034)
Total Area:	600.68m ²
Zoning:	R2 Low Density Residential Zone
Submissions:	0
Key Issues:	The key issues identified throughout the assessment of the DA relate to building height. The development standard is Clause 4.3 – Height of Buildings and the extent of the variation is 22.19% (1.997m).

The DA has been reported to Council in accordance with Council's 'Council Related Planning Matters Policy' as the DA includes a request to vary a development standard by greater than 10%. The development standard is Clause 4.3 – Height of Buildings and the extent of the variation is 22.19% (1.997m).

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

Proposal

The DA seeks consent for the removal of existing vegetation on the site and the construction of a 3 storey dwelling and retaining walls. The proposed dwelling will be provided with a double garage, 5 bedrooms, and open plan living and dining spaces. Access to the proposed dwelling is to be via a shared crossover from the existing private access road along the sites western boundary.

Site Description and History

The subject site is legally identified as Lot 2 DP 1036034 and is generally known as 15A Tareebin Road, Nelson Bay. The site has a significant fall from the west to the east and is currently vacant of any structures. The site has 2 road frontages, 1 to the east (Tareebin Road) and 1 to the west (private road). The site is largely surrounded by low density residential development with Caruparinga Park situated further to the west.

Key Issues

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

Building Height

The DA exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the Port Stephens Local Environmental Plan 2013 (LEP). The DA proposes a maximum building height of 10.997m, which exceeds the 9m height limit by 1.997m, representing a 22.19% 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 LEP. 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 in that many dwellings located on the ridge have been designed in such a way that responds to the slope of the land (cl 4.6(4)(a)(ii))
- b) The height variation is restricted to the roof components of the proposed dwelling and does not result in impacts to existing view corridors nor result in adverse amenity or overshadowing impacts to neighbouring properties (cl 4.6(4)(a)(ii))
- c) The proposed development exceeds the maximum height of building limit due to the steep topography of the land. The dwelling steps down with the topography of the land to reduce the scale and overall height of the development which is consistent with other development in the locality and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii))

- d) The height non-compliance does not result in the building being out of scale in the context of surrounding development and is not likely to have an adverse impact on local amenity and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii)). Moreover, the building height variation is considered appropriate as the building heights for dwellings along Tareebin Road are constructed or approved over the 9m LEP height limit, which informs the impact of the proposed development on the existing and future character. This includes an approved dwelling at 21 Tareebin Road that has an approved height of 11.23m; 17 Tareebin Road that has an approved height of 9.8m, semi-detached dwellings at 23 Tareebin Road that have an approved height of 11.03m, and a dual occupancy at 21C Tareebin Road which has an approved height of 11.32m. The height variations to these dwellings surrounding the site are attributed to the challenging topography of the immediate locality and requirement to establish building footprints capable of supporting a dwelling.

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

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

Vegetation Removal

The subject site is not located on land that contains items of environmental significance, nor does the application require biodiversity offsets. The site is, however, currently mapped as containing 'preferred koala habitat'.

Council's Environmental Planner inspected the site and confirmed that there was no preferred Koala habitat prevalent. Therefore, it was found that the proposal is unlikely to result in a significant impact to koalas.

Accordingly, the vegetation proposed for removal is not identified as being of high environmental value is supported for removal.

Conclusion

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

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

It is considered that the DA has been suitably designed to address the site constraints and 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

The application could be potentially challenged in the Land and Environment Court. Defending Council's determination could have financial 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 DA is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act) and associated State Environmental Planning Policies.

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed development represents a modern residential development and will provide additional housing to service the needs of the community. The dwelling will allow for the development of currently vacant land in an already established residential area. The construction of the proposed development will provide employment opportunities in the locality during the short term and support the local building and development industries. This will have direct monetary input to the local economy, and the increased number of residents in the locality will provide ongoing economic input through daily living activities.

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

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

Impacts on the Built Environment

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

Impacts on the Natural Environment

The proposed development is not expected to negatively impact the natural environment. As noted throughout this assessment, the site is not located on land that contains any species of environmental significance. The site does contain vegetation, which has not been identified as being of high environmental value and therefore, is supported for removal.

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

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

External

The DA was advertised and notified in accordance with the requirements of the Port Stephens Council Community Engagement Strategy. The application was exhibited for a period of 14 days from 11 October 2023 to 25 October 2023. No submissions were received during the exhibition period.

OPTIONS

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

ATTACHMENTS

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

COUNCILLORS' ROOM

- 1) Development Plans (available via the Councillors' Dashboard).

Note: Any third party reports referenced in this report, as well as documents related to the assessment of the development application, have been uploaded to the Councillors' Dashboard.

TABLED DOCUMENTS

Nil.



RECOMMENDED CONDITIONS OF CONSENT

General Conditions of Consent

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

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

Plan No.	Revision	Plan Title.	Drawn By.	Dated.
22E211 All sheets	A	Architectural Plans	Port Stephens Design	12/12/2023

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

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

- (2) **Excavation for residential building works** – If the approved development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the consent must, at the person's own expense:
- protect and support the adjoining premises from possible damage from the excavation; and
 - where necessary, underpin the adjoining premises to prevent any such damage.

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

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

PORT STEPHENS COUNCIL

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

- (4) **Completion of Roads Act Approval works** - All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the Roads Act Approval to the satisfaction of the Council as the Roads Authority.
- (5) **Approved Report Recommendations** - Construction of the development must comply with the recommendations of the following:
 - a) Section 7 Development Guidelines for Site Development of Limited Geotechnical Investigation prepared by Agility Engineering dated 14 February 2022 (report ref: 2021862)
- (6) **Tree Removal** - The trees shaded orange/red on the stamped 'Site/Roof Plan' (22E211 - DWG 1 of 7), prepared by 'Port Stephens Design', dated 12/12/2023, are approved for removal.
- (7) **Habitat Tree Removal** - Removal of approved trees/vegetation must be supervised by a suitably qualified and experienced fauna ecologist.

If the ecologist identifies any threatened species inhabiting a tree flagged for removal all clearing works shall cease, and the animal shall be given 24 hours to vacate. If the animal has not vacated within this time a plan for the relocation of the animal shall be developed by the ecologist. Clearing of habitat trees shall involve soft-felling techniques which are to be implemented under the guidance of the ecologist. The ecologist shall be responsible for any fauna handling and relocations where required.

Documentary evidence of the clearance supervision works shall be provided to Council's Natural Systems Unit prior to issuing of the Occupation Certificate.
- (8) **Protect existing vegetation and natural landscape features** - Approval to remove existing vegetation is not to occur until the issue of the Construction Certificate. The trees shaded green on the stamped 'Site/Roof Plan' (22E211 - DWG 1 of 7), prepared by 'Port Stephens Design', dated 12/12/2023, must be retained.
- (9) **Footpath crossing construction** - A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.

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



Prior to Issue of a Construction Certificate

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

- (10) **Stormwater Disposal** - Prior to the issue of a Construction Certificate, a detailed stormwater drainage plan is to be submitted to the certifying authority for a system capable of catering for a range of rainfall scenarios up to and including the 1% AEP Rainfall Event. The detailed plans are to be in accordance with Councils Infrastructure Specification as well as the current Australian Rainfall and Runoff guidelines using the current Hydrologic Soil Mapping data for Port Stephens available from Council, and include the following information:

- All detained stormwater runoff must be directed to the onsite stormwater management infiltration system with calculations provided to demonstrate the proposed system is capable restricting post developed flows to pre developed flows for all storm events up to and including the 1% AEP
- Identification of an emergency overland flow path for major storm events, that is directed to the public drainage system;

Details demonstrating compliance must be provided to the Certifying Authority.

- (11) **Retaining walls** – All retaining walls must be designed and certified by a suitably qualified Structural Engineer. The retaining wall plans must also demonstrate that they do not constrain the functionality any stormwater infrastructure, including rain gardens.

Details demonstrating compliance must be provided to the Certifying Authority

- (12) **Driveway Gradients and Design** - For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design must comply with AS 2890.1 'Off street Car Parking'

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

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

- Council's development control plan,
- the guidelines set out in the NSW Department of Housing manual 'Managing



Urban Stormwater: Soils and Construction Certificate' (the BlueBook), and

- the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

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

- (15) **Geotechnical Compliance Certificate** - Prior to issue of a Construction Certificate, A geotechnical assessment of the site is to be prepared by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority.

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

Details demonstrating compliance must be provided to the Certifying Authority.

Prior to Commencement of Works

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

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

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

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

- (17) **Compliance with Home Building Act (if applicable)**- In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of



insurance is in force before any building work authorised to be carried out by the consent commences.

- (18) **Notice of Principal Certifying Authority appointment** – The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:
- a) a description of the work to be carried out;
 - b) the address of the land on which the work is to be carried out;
 - c) the Registered number and date of issue of the relevant development consent;
 - d) the name and address of the Principal Certifier and the person who appointed the principal certifier;
 - e) if the principal certifier is a registered certifier
 - i) the certifier's registration number, and
 - ii) a statement signed by the registered certifier to the effect that the certifier consents to being appointed as principal certifier, and
 - iii) a telephone number on which the certifier may be contacted for business purposes.

The notice must be lodged on the NSW planning portal.

- (19) **Notice commencement of work** – Notice must be given to Council and the Principal Certifier, if not the Council, of the person's intention to commence the erection of the building or undertake subdivision work at least two days prior to subdivision and/or building works commencing in accordance with Sections 6.6 (2) and 6.12 (2) (c) of the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:
- a) the name and address of the person;
 - b) a description of the work to be carried out;
 - c) the address of the land on which the work is to be carried out;
 - d) the Registered numbers and date of issue of the development consent and construction certificate;
 - e) a statement signed by or on behalf of the principal certifier that all conditions of the consent that must be satisfied before the work commences have been satisfied; and
 - f) the date on which the work is intended to commence.

The notice must be lodged on the NSW planning portal.



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

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

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

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

- (21) **Erosion and sediment controls in place** – Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).

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

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

- (23) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.

No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.

- (24) **Damage report – Public Infrastructure** – The applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.

- (25) **Roads Act Approval** – For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roads Act Approval Certificate under Section 138B of the Roads Act 1993. – Left on as stormwater connection will be required at the bottom of the lot.

- (26) **Tree protection measures** - Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the



construction site management plan are in place.

- (27) **Protection of trees /existing street trees** – Protection of trees to be retained must be in accordance with AS4970 'Protection of Trees on Development Sites' and the following:
- a) No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) must be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.
- (28) **Construction Certificate Required** – In accordance with the provisions of Section 6.7 of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a Consent Authority;
 - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the EP&A Act 1979; and
 - c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

During Works

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

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

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

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



7.00am to 5.00pm on Monday to Saturday

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

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

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

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

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

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

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

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

- (35) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.

- (36) **Building height** – A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.

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

- (38) **Tree protection** – While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant



requirements of AS 4970-2009 *Protection of trees on development sites* and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

(39) **Bush fire safety** – The site is located within a bushfire prone area and must comply with NSW Rural Fire Service document "Planning for Bushfire Protection 2019." In this regard the following is required:

- a) Proposed dwelling must comply with the construction requirements of Planning for Bushfire Protection on each elevation for a Bushfire Attack Level (BAL) of:
 - i) Northern elevation – BAL 40;
 - ii) Western elevation – BAL 40;
 - iii) Southern elevation – BAL 40; and
 - iv) Eastern elevation – BAL 29.
- b) The entire property must be managed as an 'Inner Protection Area' as outlined within PBP2019.
- c) Compliance with Appendix 3 of PBP2019.
- d) Compliance with the specific requirements of Chapter 7 of PBP2019.
- e) Verandahs, Deck, Steps and Landings shall comply with Clause 7.5.2 of PBP2019 for additional BAL construction requirements.

Details demonstrating compliance must be provided to the Certifying Authority.

Where a bush fire report has not been carried out, the building must comply with Planning for Bushfire Protection 2019 and AS 3959 2018. 'Construction of Buildings in Bushfire Prone Areas' Level 40 construction on the Northern, Western, and Southern elevations and BAL 29 on the Eastern elevation. The entire property must be managed as an 'Inner Protection Area' as outlined within Appendix 4 of Planning for Bushfire Protection 2019.

(40) **Discovery of relics and Aboriginal objects** – While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered:

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

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

- a) for a relic – the Heritage Council; or
- 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.



Prior to Issue of an Occupation Certificate

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

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

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

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

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

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

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

- (44) **Landscape Planting** - Before the issue of an occupation certificate, the applicant must complete all landscaping in accordance with the criteria listed in *Figure DK – Hill Tops* of Section D.6C of the Port Stephens Development Control Plan 2014.

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

- (a) after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
- (b) where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

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

Ongoing Use

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

- (46) **Residential air conditioning units** – During occupation and ongoing use of the building, the applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plant and equipment that generates noise



are in an appropriate location on the site (including a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBa at the boundary adjacent to any habitable room of an adjoining residential premises.

(47) **Privacy screen** – Any privacy screen/s must be permanently maintained in accordance with the approved plans for the life of the development.

(48) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.

If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

Locality Plan
15A Tareebin Rd, NELSON BAY
Lot 2 DP 1036034



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



DEVELOPMENT ASSESSMENT REPORT


APPLICATION DETAILS

Application Number	16-2023-573-1
Development Description Is the development description correct <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Three storey dwelling and retaining walls
Applicant	MR M J McAlpin
Land owner	MRS S J & MR M J McAlpin
Date of Lodgement	29/09/2023
Value of Works Is the estimated cost of works suitable? <input type="checkbox"/> Yes <input type="checkbox"/> No	\$818,000.00
Building Classification <i>If Applicable</i>	1a – Three Storey Dwelling 10b – Retaining Walls
Application Type	<input checked="" type="checkbox"/> DA <input type="checkbox"/> CC
Is Notification Required	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

PROPERTY DETAILS

Property Address	15A Tareebin Road NELSON BAY
Lot and DP	LOT: 2 DP: 1036034
88B Restrictions on Title Council imposed that aren't suspended under cl 1.9A LEP?	<p>The following restrictions are shown on the Deposited Plan;</p> <ul style="list-style-type: none"> i) Easement for Services variable width – (A) ii) Right of Way variable width – (B) iii) Easement for Services 1.0 Wide <p>With reference to the restrictions above, the subsequent 88B instrument indicates the following restrictions as being applicable to the subject lot; Restriction 1 – Easement for Services 1.0 metre wide (c) Restriction 2 – Restriction on the use of land.</p> <p>With reference to the above, restriction 2 is the only restriction whereby Council is the beneficiary and is noted to be as follows;</p>

ITEM 2 - ATTACHMENT 3 ASSESSMENT REPORT.

	<p>2. <u>Terms of Restriction secondly referred to in abovementioned plan:</u></p> <p>Future development of the lots is to be carried out in accordance with Slope Stability Assessment Report No.N5701/1AC dated November 1994 prepared by Coffey Partners International Pty Ltd.</p> <p><u>Name of person or authority empowered to release, vary or modify Restriction secondly referred to in abovementioned plan:</u></p> <p>Port Stephens Council</p> 
	<p>It is recommended that this restriction be modified or varied as a more recent and updated limited geotechnical investigation report has been provided as part of the submitted application. The recommendations made within this geotechnical report are adopted as part of the recommended conditions found within the draft conditions document.</p>
Current Use	The site is currently a vacant lot
Zoning	R2 LOW DENSITY RESIDENTIAL
Site Constraints	<p>The Development Constraints layer on Councils GIS mapping system lists the following as constraints impacting the subject site;</p> <ol style="list-style-type: none"> 1. Bushfire Prone Land – Vegetation Buffer 2. Acid Sulfate Soils (Planning Categories Map) – Class 5 3. Consolidated Comprehensive Koala Plan of Management (CKPoM) Map – Preferred Koala Habitat 4. High Environmental Value Mapping – OEH May 2015 5. Port Stephens Rural Residential Strategy – Exclusionary Criteria – City Plan (Draft) 6. Housing Investigation Area Exclusionary Criteria 7. State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 2 Vegetation in Non-Rural areas. 8. State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 4 Koala Habitat Protection. 9. Slope 20% - PS Rural Lands Strategy (2011) – City Plan 10. Land Slip Areas - slip 11. Stormwater Drainage Requirement Areas – Land locked catchment. 12. Combined Corridor Map – Local Link and Landscape Habitat Link

PROPOSAL

This development application seeks consent for the removal of existing vegetation on the site, the construction of a three storey dwelling and associated landscaping (including retaining walls) per Figure 1 below.

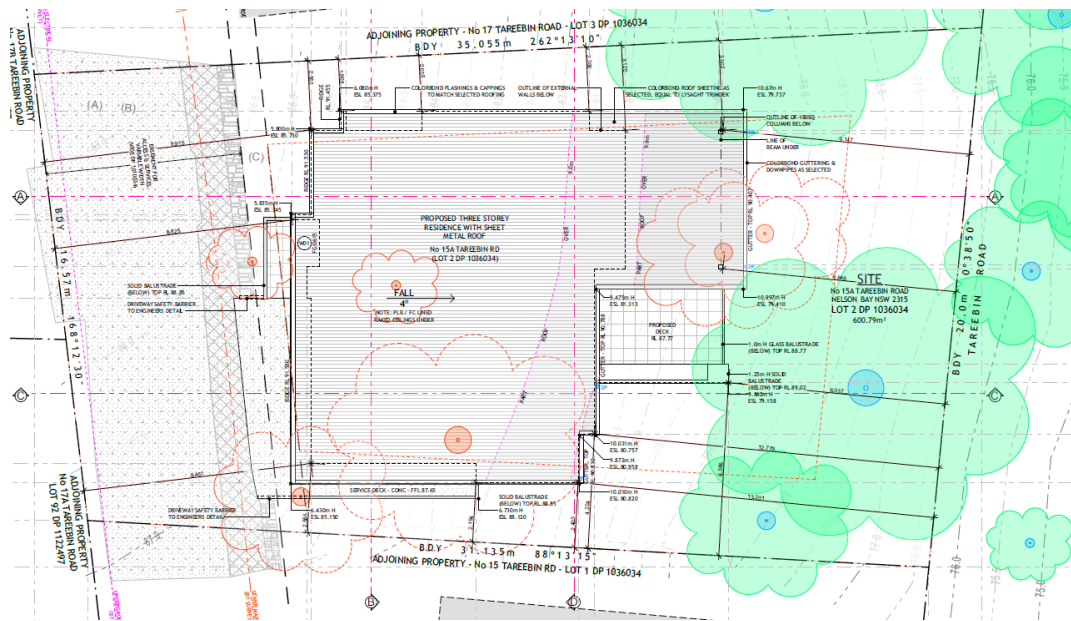


Figure 1 - Proposed Site Plan

The proposed dwelling will be provided with a double garage, five bedrooms, open plan living and dining spaces. Access to the proposed dwelling is to be via a shared crossover from the existing private access road along the sites western boundary.

The site has a significant cross fall of 10.5m from the west to the east (starts at approximately 87m AHD and falls to approximately 76.5m AHD). The site also falls from the northern boundary to the southern boundary. To respond to the topography, the dwelling is proposed to be a stepped design to compliment the fall of the site. To facilitate the development and create suitable building footprints, the proposal requires the construction of retaining walls and earthworks with a maximum retaining wall height of 2m proposed.

In accordance with the Port Stephens Local Environmental Plan 2013 (PSLEP), the maximum height of buildings for the site is 9m. The maximum height of the proposed dwelling is 10.997m which is 1.997m or 22.19% above the PSLEP height limit. Therefore, given this variation, the proposal is required to be reported to Council for determination in accordance with the 'Planning Matters reported to Council' policy.

SITE DESCRIPTION

The subject site is legally identified as Lot 2 DP 1036034 and generally known as 15A Tareebin Road, Nelson Bay. The site has a significant fall from the west to the east and is currently vacant of any structures, refer to Figure 2 below. The site has two road frontages, one to the east (Tareebin Road) and one to the west (private road).

The site is largely surrounded by low density residential development with Caruparinga Park situated further to the west.



Figure 2

SITE HISTORY

The subject site has no other approvals shown on Councils database.

SITE PHOTOS



Photo 1 - Showing the subject site as viewed from Tareebin Road



Photo 2 - Showing the accessway to the south of the subject site



Photo 3 - Showing the subject site from the private accessway

ASSESSMENT NOTES

The proposed development has been assessed against the Port Stephens Local Environment Plan 2013 (PS LEP), Port Stephens Development Control Plan 2014 (PS DCP) and all relevant statutory instruments as outlined within the body of this report. The assessment has revealed that the proposed development meets the objectives of these items and can be approved subject to consent conditions.

REFERRALS

The proposed development was referred to the following internal specialists and external agencies. The comments provided by the special staff and external agencies have been used to carry out the assessment against the S4.15 Matters for Consideration below.

Internal

Development Engineer – The proposal was referred to Council's Development Engineer to review the proposed access arrangement and stormwater design. Their comments are summarised as follows;

Stormwater

- The lot is zoned R2 and identified as drainage requirement area requiring to achieve onsite infiltration up to and including the 1% AEP. Site coverage is approximately 52%.
- SOEE notes that the stormwater strategy for the site will detail all roof water is to be detained via 4kl rainwater tanks and reticulated to Basix requirements. Tank overflows are proposed to be piped into an approved infiltration / detention system with discharge directed to the Tareebin Road kerb & gutter.
- Prior to CC a detailed stormwater management plan will need to be submitted demonstrating the location and sizing of the on-site Infiltration system as well as a location of the legal point of discharge onto Tareebin Road. (E302 below).

Access

- The site is accessible via existing right of carriageway. This land is not classed as road reserve however conditioning for a S138 application should be added to the consent to ensure compliance with AS2890.01 and a formalised access approval is sought prior to OC. (C210 below)

Natural Systems - Given the presence of vegetation on the site that is proposed to be removed, the proposal was referred to Council's Natural Systems team for review. Council's Environmental Planner conducted a site inspection and found that although the site is mapped as preferred koala habitat under the Comprehensive Koala Plan of Management (CKPoM), the vegetation on site does not align with the parameters of preferred koala habitat, but aligns with marginal koala habitat. This was due to the fact that no preferred koala feed trees were identified on site, nor were threatened flora habitat/individuals observed during the site inspection. It was, however, identified that 2 large trees proposed for removal on the site plan are not likely to be impacted by the proposed development and should therefore be retained. This has been adopted and the plans were requested to be amended to reflect this. See Figure 3 below.

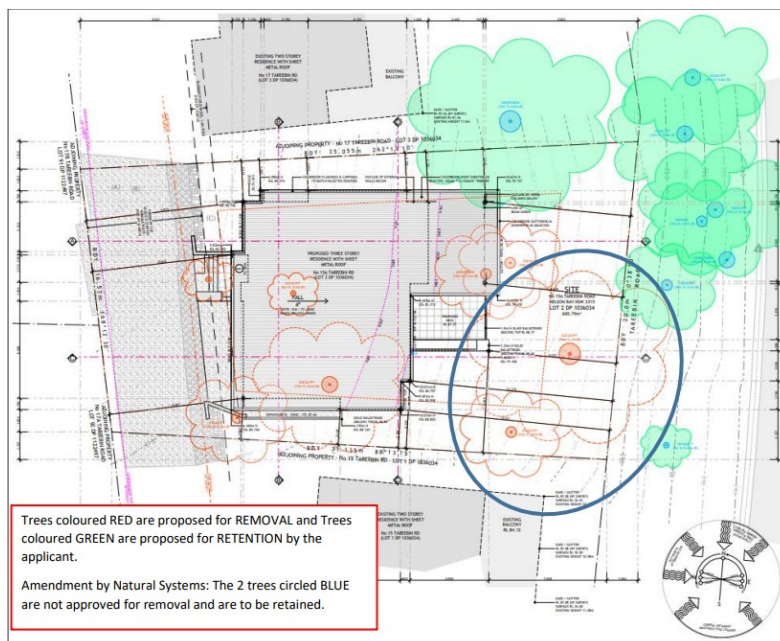


Figure 3

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

S4.12 - APPROVALS (SEC 68 LGA)

Sub-Clause	Compliant	Notes – Application type
3	<input type="checkbox"/> A application has been made under Section 68 of the Local Government Act 1990 for the following: <input type="checkbox"/> An application is required under the Local Government Act 1990 for the following: ie. Manufactures Home or OSMS approval	<input checked="" type="checkbox"/> N/A The Hunter Water Corporation Stamped site plan submitted with the application indicates that Water and Sewer are available for connection. Therefore, a Section 68 Application is not required.

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

Sub-Clause	Compliant	Notes (where needed or if not compliant)
1	<input checked="" type="checkbox"/> Development is within bushfire prone land and conforms to the specifications and requirements of the PBP, or; <input checked="" type="checkbox"/> A certificate has been provided by a suitability qualified bushfire consultant of which confirms the bushfire risk assessment rating and identifies relevant specifications and requirements for compliance with PBP.	<p>The subject site is mapped as being within Bushfire prone land. More specifically, Councils mapping layer shows the site as being within the NSW Rural Fire Service 'Vegetation Buffer' category.</p> <p>As such, a Bushfire Assessment report has been completed by a Bushfire Planning and Design (BPAD) Level 3 accredited practitioner and submitted by the applicant to support the proposal.</p> <p>The BPAD practitioner has utilised modelling within their assessment report to demonstrate that the proposed dwelling can meet BAL 40/29/19 and therefore referral to the New South Wales Rural Fire Service was not required.</p> <p>The practitioner has also stated that the proposed dwelling is almost completely shielded by surrounding two storey dwellings with the exception of a narrow pathway which has been the subject of the modelling.</p> <p>The recommendations within this report have been included in the recommended conditions document.</p>
1A	<input type="checkbox"/> The proposal does not conform to the relevant specifications and requirements and has been referred to the NSW RFS for assessment concerning measures to be taken with respect to protection of persons, property and the environment as a result of bushfire impacts.	<input checked="" type="checkbox"/> N/A <p>The submitted information indicates the proposal conforms to the relevant specifications found within AS3959:2018 and the NSW Rural RFS Planning for Bushfire Protection 2019. A condition of consent will be added to the draft conditions of consent document.</p>

S4.15 – Matters for Consideration**s4.15(1)(a)(i) – The provisions of any EPI**

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE and HARZARDS 2021) (COASTAL MANAGEMENT)		
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
2.1- 2.15	<input type="checkbox"/> Development is within the Coastal Management Areas and the SEPP applies including (coastal wetlands, coastal vulnerability area, coastal environment area, coastal use area) <input checked="" type="checkbox"/> The development will not significantly impact the biophysical, hydrological or ecological integrity of the adjacent (coastal wetlands, littoral rainforest, coastal vulnerability area, coastal environment area, coastal use area)	<input checked="" type="checkbox"/> N/A The proposal is not mapped as being within the Coastal management area and therefore this section does not apply. Given this, the proposed development is not deemed to impact the coastal wetlands.
4.6	<input checked="" type="checkbox"/> The land has not been identified Contaminated Lands	A review of Councils records has revealed that the land has not been identified as contaminated lands.

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX BASIX) 2004		
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
6	<input checked="" type="checkbox"/> The proposed BASIX affected development, or buildings that become BASIX affected development (conversion of garage for example) is accompanied by a BASIX certificate	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) was enacted to ensure that dwellings are designed to utilise less potable water and to minimise greenhouse gas emissions by setting energy and water reduction targets for residential houses and units. A valid BASIX certificate (certificate no. 1403369S) has been submitted with the development application which demonstrates that the water, thermal comfort and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP BASIX.

STATE ENVIRONMENTAL PLANNING POLICY (Biodiversity and Conservation) Koala Habitat Protection		
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
Non-rural lands		
Section 4.8	<input checked="" type="checkbox"/> The subject site contains koala habitat, however, the proposed development is consistent with Council's Comprehensive Koala Plan of Management.	<p>The subject site is mapped as being subject to the relevant requirements of Chapter 2, Vegetation in Non-Rural Areas of the Biodiversity and Conservation Sepp.</p> <p>This chapter aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. The chapter works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.</p> <p>Part 2.3 of the chapter contains provisions similar to those contained in the former (now repealed) clause 5.9 of Port Stephens Local Environmental Plan 2013 and provides that Council's Development Control Plan can make declarations with regards to certain matters. The chapter further provides that Council may issue a permit for tree removal.</p> <p>On the basis of the site inspection and advice from Councils Natural Resources Team, the removal of the existing trees and vegetation is supported for the following reasons;</p> <ol style="list-style-type: none"> 1. No threatened flora habitat/individuals were observed during the site inspection. 2. The vegetation on site does not align with parameters of preferred koala habitat as per Lumney et al, and better aligns with marginal koala habitat. 3. No preferred koala feed trees were identified on site. <p>Despite the above, Natural Systems have advised that two of the trees proposed for removal are not likely to be impacted by the proposed development and should be</p>

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		retained. This has been accepted by the applicant and the plans have been updated. In addition to this, a condition has been included in the proposed conditions document.
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PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013		
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
	<input checked="" type="checkbox"/> The relevant clauses and objectives of the PSC LEP 2013 have been considered as part of the assessment.	As this report has detailed, the relevant clauses and objectives of the PS LEP have been considered as part of this assessment.
1.9A	<input checked="" type="checkbox"/> DP & 88B Instrument - There an 88B in place, where PSC is beneficiary, which impacts on the proposed development?	As mentioned at the beginning of this report, there is a restriction where PSC is the beneficiary that impacts the proposed development. The restriction requires the development to be carried out in accordance with a slope stability assessment document dated November 1994. As outlined at the beginning of this assessment report, it is recommended that this restriction be varied/modified/released as a more current geotechnical report has been provided as part of this application. It is recommended that this report be the basis for the construction and this has been added as part of the recommended conditions document.
2.1	<input checked="" type="checkbox"/> Permissible in zone and meets zone objectives.	The site is zoned R2 Low Density Residential in accordance with the PSLEP 2013. The proposed development is defined as 'Dwelling Houses', which is a permissible land use with consent in the R2 zone. The proposal is considered to be consistent with the objectives of the zone in that it will provide additional housing within an established residential area and is compatible with surrounding development.
2.7	<input type="checkbox"/> Demolition proposed and is not included as exempt under the SEPP. <input type="checkbox"/> Potential asbestos contained with condition of consent added.	<input checked="" type="checkbox"/> N/A No demolition is required or proposed as part of this application. There are no structures currently on the subject site.
4.1	<input type="checkbox"/> The proposal is consistent with the Lot Size Map;	<input checked="" type="checkbox"/> N/A

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		This proposal does not involve subdivision and therefore this clause is not applicable.
4.3	<input type="checkbox"/> Proposed development is under maximum building height; OR, <input type="checkbox"/> There is no maximum building height and the development satisfies the objectives of the clause.	<p>In accordance with the Port Stephens Local Environmental Plan 2013 (PSLEP), the maximum height of buildings for the site is 9m. The maximum height of the proposed dwelling is 10.997m which is 1.997m or 22.19% above the PSLEP height limit. Therefore, given this variation, the proposal is required to be reported to Council for determination in accordance with the 'Planning Matters reported to Council' policy.</p> <p>A Clause 4.6 written request to vary the height development standard has been prepared for the proposal and is provided at Attachment 1 to this report.</p>
4.6	<input type="checkbox"/> Proposed development proposed to vary the development standards of the LEP	<p>A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP. Council staff are satisfied with the proposed height variation on the following grounds:</p> <p>(a) the proposed development is considered to be appropriate for the context of the area in that many dwellings located on the ridge have been designed in such a way that responds to the slope of the land (cl 4.6(4)(a)(ii));</p> <p>(b) the height variation is restricted to the roof components of the proposed dwellings and does not result in impacts to existing view corridors nor result in adverse amenity or overshadowing impacts to neighbouring properties (cl 4.6(4)(a)(ii));</p> <p>(c) the proposed development exceeds the maximum height of building limit due to the steep topography of the land. The dwelling steps down with the topography of the land to reduce the scale and overall height of the development which is consistent with other development in the locality and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii));</p>

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		<p>(d) the height non-compliance does not result in the building being out of scale in the context of surrounding development and is not likely to have an adverse impact on local amenity and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii)).</p> <p>The proposed development is considered satisfy the objectives of Clause 4.6, as the design will achieve a better design outcome in these particular circumstances, noting the objectives of the development standard are achieved notwithstanding the non-compliance. The proposed building is considered to be appropriate in the context of the site.</p> <p>It is considered that the applicant's written Clause 4.6 variation request adequately demonstrates that there are sufficient environmental planning grounds to justify contravening the maximum building height standard and compliance with the standard is unnecessary in the circumstances of this application. On this basis, the height variation is supported.</p> <p>A detailed assessment against clause 4.6 can be found at Attachment 1 of this report.</p>
5.10	<input checked="" type="checkbox"/> There are no heritage items / archaeological sites / Aboriginal objects or places / conservation areas located on the subject site; OR <input type="checkbox"/> The proposal includes impact on a heritage item / Archaeological site / Aboriginal object or place / conservation area;	<p>Councils mapping system has identified that there are no heritage items / archaeological sites / Aboriginal objects or places / conservation areas located on the subject site at the time of the assessment.</p>
5.21	<input type="checkbox"/> Development within flood planning area but no anticipated flood risk to life and property, or change in flood characteristics.	<input checked="" type="checkbox"/> N/A <p>The subject site has not been identified as flood prone land.</p>
7.1	<input checked="" type="checkbox"/> Potential Class 5 Acid Sulfate Soils (ASS); OR, <input type="checkbox"/> Potential Class 4 ASS with no works more than 2m below ground level; OR,	<p>The subject site is mapped as containing potential Class 5 acid sulfate soils. The proposed development is not anticipated to entail excavations below 5 metres and therefore it is not expected that acid sulfate soils would be encountered during works.</p>

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	<input type="checkbox"/> Potential Class 3 ASS with no works more than 1m below ground level; OR, <input type="checkbox"/> Potential Class 2 ASS with no works below ground level; OR, <input type="checkbox"/> Potential Class 1 ASS and an acceptable management plan has been submitted.	
7.2	<input type="checkbox"/> Earthworks required, but do not have negative impacts on surrounding properties.	<p>Given the slope of the site earthworks are required to facilitate the proposed development. Given the development is proposed as a stepped design, the earthworks required have been minimised. Conditions have been recommended requiring that any fill used is to be Virgin Excavated Natural Material (VENM).</p> <p>A Geotechnical Assessment was prepared for the proposal by Agility Engineering. A number of recommendations were provided to ensure the development is constructed to an appropriate standard and to minimise impacts on slope hazard, drainage, soil stability and adjoining properties. The recommendations include the requirement for engineering designed retaining walls, excavations and filling. A condition has been recommended that the development be constructed in accordance with the recommendations of the Geotechnical Assessment. Subject to compliance with these conditions, the development is not likely to have a detrimental impact on environmental functions or processes, neighbouring uses or features of the surrounding land.</p>
7.4	<input type="checkbox"/> Airspace Operation – The proposed development does not penetrate the Limitation or Operations Surface height identified on GIS mapping	<input checked="" type="checkbox"/> N/A Not mapped as being within an 'airspace operation' area and therefore no limitation requirements.
7.5	<input type="checkbox"/> Within ANEF 20 contour or higher but does not result in an increased number of people affected by aircraft noise.	<input checked="" type="checkbox"/> N/A Not mapped as being within the ANEF 20 contour and therefore no additional consideration is required.
7.6	<input checked="" type="checkbox"/> Essential services are available to the site where required.	The Hunter water stamped plan submitted with the application indicates that reticulated water and sewer is available. No OSMS system is required.

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	<input type="checkbox"/> The development requires an Onsite Waste management System (OSMS)	A network area check with has indicated that the subject site will have electricity available for connection.
7.8	<input type="checkbox"/> Development is within the drinking water catchment but will not result in a significant adverse impact on water quality or flows.	<input checked="" type="checkbox"/> N/A The subject site is not mapped as being within a drinking water catchment area.
7.9	<input type="checkbox"/> Subject land contains mapped wetlands, but development does not result in adverse impacts on ecology or water flows.	<input checked="" type="checkbox"/> N/A The subject site is not mapped as wetlands and therefore the development is unlikely to have adverse impacts on ecology or water flows.

s4.15(1)(a)(ii) – Any Draft EPI**NIL****s4.15(1)(a)(iii) – Any DCP**

PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014		
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
Part A	<input checked="" type="checkbox"/> The relevant clauses and objectives of the PSC DCP have been considered as part of the assessment.	The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.
B1	<input checked="" type="checkbox"/> Trees to be removed do not require approval as outlined in B1.1.	This part applies to development that proposes to remove or prune trees or other vegetation within non-rural areas and therefore applies to the site. The proposal seeks to remove the existing vegetation on the site. The application was therefore referred to Council's Environmental Planner for review. It was found that the vegetation proposed for removal has low amenity or ecological value and would be unlikely to result in significant impacts on threatened species. The proposed tree removal was therefore supported.

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		Two trees are to be retained as they are unlikely to be impacted by the proposed development.										
B2	<div><input checked="" type="checkbox"/> Not in proximity of items of environmental significance.</div> <div><input checked="" type="checkbox"/> Land does not contain koala habitat or development is consistent with the CKPoM.</div>	The subject site is not located on land that contains items of environmental significance, nor does the application require biodiversity offsets.										
	<div><input checked="" type="checkbox"/> Biodiversity Value Map (BDAR)- The development is not within or proposing any vegetation clearing in areas mapped as Biodiversity Value.</div>	<div><input checked="" type="checkbox"/> N/A</div> <div>The subject site is not mapped as having biodiversity value (BDAR). Therefore no further consideration is required for this part.</div>										
	<div><input checked="" type="checkbox"/> The development is not clearing native vegetation over the Biodiversity Offsets Scheme Threshold:</div> <table><tr><th>Minimum lot size associated with the property</th><th>Threshold for clearing, above which the BAM and offsets scheme apply</th></tr><tr><td>Less than 1 ha</td><td>0.25 ha or more</td></tr><tr><td>1 ha to less than 40 ha</td><td>0.5 ha or more</td></tr><tr><td>40 ha to less than 1000 ha</td><td>1 ha or more</td></tr><tr><td>1000 ha or more</td><td>2 ha or more</td></tr></table>	Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more	<div><input checked="" type="checkbox"/> N/A</div> <div>The subject site is not mapped as having biodiversity value (BDAR). Therefore no further consideration is required for this part. Therefore no offsets are required.</div>
Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply											
Less than 1 ha	0.25 ha or more											
1 ha to less than 40 ha	0.5 ha or more											
40 ha to less than 1000 ha	1 ha or more											
1000 ha or more	2 ha or more											
B3	<div><input type="checkbox"/> Earthworks would have minimal environmental impacts with conditions on VENM fill and erosion and sediment controls.</div>	As discussed in clause 7.2 above, the proposed development involves earthworks. The impacts of the proposed earthworks can be mitigated through appropriate construction methods as outlined in the Geotechnical Assessment prepared for the site. The proposal is therefore consistent with requirements outlined in the DCP relating to earthworks.										
B4	<div><input type="checkbox"/> The development meets the requirements of Figure FD for Maximum impervious surface area.</div>	As the subject site is located within the 'Hill Tops' area D6.5 of the DCP applies.										

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Water Quality & Drainage	<p>Lots less than 900m² = 60% max Lots 900 - 2000m² = 40% max Lots 200 – 5000² = 30% max Lots greater than 5000m² = 7.5% max</p> <p><input type="checkbox"/> The development meets the requirements of Figure FB for no water quality measure required.</p> <p><input type="checkbox"/> Development is with the GIS drainage problem area.</p> <p><input type="checkbox"/> Development is with the GIS drainage requirements area.</p>	<p>Therefore this section of the DCP is noted only.</p> <p>Requirement D6.5 of the DCP notes that sites with an impervious area exceeding 50% in the Hill Tops area are required to provide onsite detention.</p> <p>The proposed development has an impervious area of greater than 50% and therefore onsite detention is required.</p> <p>The Statement of Environmental Effects and plans note that the stormwater strategy for the site will detail all roof water is to be detained via 4kl rainwater tanks and reticulated to Basix requirements. Tank overflows are proposed to be piped into an approved infiltration / detention system with discharge directed to the Tareebin Road kerb & gutter.</p> <p>Councils Engineering team have reviewed this information and advised that a condition can be placed on the consent that requires a detailed stormwater management plan is submitted demonstrating the location and sizing of the on-site Infiltration system as well as a location of the legal point of discharge onto Tareebin Road prior to the issue of a Construction Certificate.</p> <p>This condition is included in the recommended conditions of consent.</p>
B5	<p><input type="checkbox"/> Proposed development is on flood prone land; AND,</p> <p><input type="checkbox"/> A flood certificate has been submitted with the application and the finished levels are consistent with Table 2: Development Suitability Table; AND,</p> <p><input type="checkbox"/> The submitted documents are consistent with Figure BI: Development Suitability Table.</p>	<p><input checked="" type="checkbox"/> N/A</p> <p>Council records indicate that the proposed development is not on flood prone land.</p>
B6	<p><input type="checkbox"/> Development within noise planning area is consistent with Clause 7.5 of the LEP – Aircraft Noise; AND</p>	<p><input checked="" type="checkbox"/> N/A</p> <p>Council records indicate that the proposed development is not within a noise planning</p>

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	<input type="checkbox"/> An Acoustic report has been provided supporting the proposed development	area and therefore clause 7.5 of the LEP does not apply.
B7	<input type="checkbox"/> Development relates to a heritage item or conservation area, however is of minor nature or would not impact on the significance of the item; <input checked="" type="checkbox"/> No expected impact to Aboriginal heritage.	<input checked="" type="checkbox"/> N/A Council records indicate that the proposed development does not relate to a heritage item and is not within a heritage conservation area. Council records indicate that there will be no expected impact to Aboriginal heritage.
C4	<input type="checkbox"/> Proposal ensures development provides continuity to the street and setbacks comply with C4.B <input type="checkbox"/> Development appropriately activates the street with habitable rooms where applicable. <input type="checkbox"/> The proposed development would be sympathetic to the streetscape as it is consistent with the existing development in its form, height, bulk, design and materials and does not adversely affect the amenity of neighbouring properties or the public domain. <input type="checkbox"/> The development satisfy the C4.D for private open space <input type="checkbox"/> The development satisfy the C4.E for off-street parking	C4.B Setbacks The subject site is located within the Nelson Bay West precinct, specifically the area identified as the Hill Tops precinct. Therefore, the proposal is subject to differing front and side setback requirements to those listed within Chapter C4. The front and side setbacks proposed are noted below and discussed in further detail in the assessment against Chapter D6. The proposed dwelling provides the following setbacks: <ul style="list-style-type: none"> • The minimum front setback provided is 8.21m. This is compliant with the Chapter D6 front setback requirement of 6m. • The minimum side setback for the ground floor is 1.351m which exceeds the 0.9m ground floor setback requirement. • The minimum side setbacks for the upper floors is 1.908m. These setbacks are non-compliant with the Chapter D6 requirement of 3m. This is discussed further below Chapter D6 does not provide specific rear setback requirements for the Hill Tops precinct of Nelson Bay West and therefore the rear setbacks noted within Chapter C4 apply. The minimum rear setback proposed is 8.037m which exceeds the 6m requirement found within Chapter C4. <u>C4.6 – Garage Setback</u>

		<p>The garages are not setback 1m behind the building line as per the DCP, but rather from the front building line. Given the significant slope of the site and need for a suspended slab driveway, it is considered that the location of the garages is suitable. Furthermore, the private road streetscape that the garages front is characterised by garages of a similar form located within the front setbacks due to the topography of the land.</p> <p>C4.C Streetscape and Privacy</p> <p><u>C4.12 Passive Surveillance</u></p> <p>The proposal does not provide habitable rooms to the private street frontage given the garages are located along this frontage. However, habitable rooms front the Tareebin Road frontage providing appropriate passive surveillance to the public street.</p> <p><u>C4.14 Streetscape Character</u></p> <p>The proposal is considered to be consistent with surrounding development, particularly those located on the east of Tareebin Road, in that they have also been designed to respond to the slope of the sites. Surrounding dwellings are modern in nature and a similar form to the proposed development. Therefore, the proposal is considered to be sympathetic and compatible with the surrounding development.</p> <p><u>C4.15, C4.16, C4.17 and C4.18 Privacy and Two Storey Developments</u></p> <p>The dwellings balconies face east towards Tareebin Road and are therefore orientated toward the front of dwellings along elevation. As such, there is limited opportunity for overlooking to the adjacent properties along Tareebin Road. The proposed window placements also do not create opportunity for overlooking. The proposal as currently presented, is generally consistent with other dwellings within the vicinity.</p>
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		<p>C4.D Private Open Space</p> <p><u>C4.20 Private Open Space Dimensions</u></p> <p>Due to the topography of the site, it is difficult for the proposed dwelling to provide private open space in accordance with C4.19. As such, this provision allows the development to achieve compliance via meeting the criteria referenced in C4.20. This is as follows;</p> <p><i>Where development cannot provide private open space on the ground floor, provisions shall be made for a balcony of not less than 20m² with a minimum width of 3m for the use as private open space.</i></p> <p>With this noted, the plans show the decks on both the lower level, mid-level and upper levels exceed the requirements of this part.</p> <p><u>C4.21 and C4.22 Solar Access</u></p> <p>As shown in the shadow diagrams, the private open space of the proposed dwelling receives a minimum of 2 hours of sunlight between 9am – 3pm mid-winter.</p> <p>The solar access for the private open space of the dwelling to the north of the site is not impacted by the proposed development.</p> <p>The site to the south is largely clear of overshadowing from the proposed development between 9am – 12pm in mid-winter, as shown in the submitted shadow diagrams which is compliant with the DCP.</p> <p>C4.E Carparking and garages</p> <p>The driveway exceeds the minimum width of 3m. The garage door is shown to be 5m in width which is below the 6m maximum.</p> <p>C4.F Landscaping</p> <p>N/A - the site is within the Hill Tops precinct of Nelson Bay West, therefore the landscape controls contained in Chapter D6 apply.</p> <p>C4.G – Site Facilities and Services</p>
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		The dwelling has adequate space for a drying deck and sufficient space for waste storage in the garage.
C8	<p><input type="checkbox"/> Residential Shed in a residential zone (except R5 Large Lot Residential adhered to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Maximum gross floor area of 72m²; <input type="checkbox"/> Maximum height of 3.6m; <input type="checkbox"/> Minimum side and rear setback of 0.9m; and <input type="checkbox"/> Minimum 1m behind the building line or setback; or <p><input type="checkbox"/> The proposed shed exceeds the requirements of C8.1 however demonstrates consistency with the exceptions for residential sheds on Land zoned R5 Large Lot Residential.</p> <p><input type="checkbox"/> Sheds on R5 Large Lot residential achieves the requirements under Figure CO or the exceptions listed under C8.4.</p> <p><input type="checkbox"/> Rural Shed in a rural zone adheres to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> minimum 10m side and rear boundary setback; <input type="checkbox"/> minimum 5m setback from another building; and <input type="checkbox"/> Colour scheme consistent with the existing character of the area. <p><input type="checkbox"/> Swimming pools achieve the appropriate boundary setback and decking height requirements.</p> <p><input checked="" type="checkbox"/> Fencing and/or retaining walls achieves the location and height requirements.</p> <p><input type="checkbox"/> Shipping containers complies with C8.18 to C8.20.</p>	<p>C8.22, C8.23 and C8.24 - Retaining Walls</p> <p>The maximum retaining wall height of 1m has been noted, however, the height of the retaining walls will exceed this limit due to the topography of the land and construction methods.</p> <p>A condition will be recommended for the consent to require all walls to be of masonry construction.</p> <p>The plans indicate that all required retaining walls are located within the subject site.</p>
	Additional Considerations	
	<input checked="" type="checkbox"/> Noxious Weeds - The site identified as being affected by Noxious Weeds	The subject site is not mapped as having noxious weeds therefore no additional consideration or conditions are needed.

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	<input checked="" type="checkbox"/> Land Slip - The site located with a Land Slip zone	The subject site is mapped as being landslip. As referenced above, a prior to the issue of a construction certificate condition is recommended to obtain a geotechnical report. It is noted that a limited geotechnical report has already been provided.
	<input checked="" type="checkbox"/> Driveways - The proposed driveway located clear of kerb inlet pits, street trees, signage, etc?	The proposed driveway meets this criteria.
	<input checked="" type="checkbox"/> Contaminated land - The land is identified as contaminated lands on the PSC register	Council records do not indicate this land as being contaminated.

Chapter D6 – Nelson Bay West

The subject site is located within the Nelson Bay West area and therefore Chapter D6 applies. The site is specifically within the 'Hill Tops' area and therefore controls specific for this area is applicable to the proposed development. An assessment against the relevant controls of Chapter D6 is provided below.

Reference	Control	Assessment
Objective D6.A Requirement D6.1	Setbacks <ul style="list-style-type: none"> To ensure development provides continuity and consistency to the public domain 	<p>The proposed dwelling provides the following setbacks:</p> <p>The minimum front setback provided is 8.21m. This is compliant with the Chapter D6 front setback requirement of 6m.</p> <p>The minimum side setback for the ground floor is 1.35m which exceeds the 0.9m ground floor setback requirement.</p> <p>The minimum side setbacks for the upper floors is 1.908m. These setbacks are non-compliant with the Chapter D6</p>

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		<p>requirement of 3m. This is discussed further below</p> <p>Chapter D6 does not provide specific rear setback requirements for the Hill Tops precinct of Nelson Bay West and therefore the rear setbacks noted within Chapter C4 apply. The minimum rear setback proposed is 8.037m which exceeds the 6m requirement found within Chapter C4.</p> <p>The side setback variations are considered to be acceptable for the following reasons:</p> <ul style="list-style-type: none"> • Given the stepped design and articulation of each dwelling, the encroachments on each level are minor in nature and not a result of excessive dwelling bulk. The cumulative total of elements within the northern side boundary on all levels equates to 15.38m² representing only 14.8% of the total side setback area. • The cumulative total elements within the southern side boundary on all levels equates only to 12.12m² representing 12.8% of the total setback area. These areas are highlighted in yellow on the plans for ease of view. • The side setback encroachments do not exacerbate overlooking or overshadowing impacts as a result of the development. Further, limited windows have been provided along the side elevations of each dwelling to further reduce potential overlooking. • The reduced side setbacks are not out of character with the existing built environment and do not represent excessive bulk or scale. • The reduced setbacks are also in part due to the irregular shape of the block. <p>On the above grounds, the proposed dwelling design is supported and consistent with the objectives of the DCP control.</p>
Objective D6.B	On-site detention	<p>Requirement D6.5 of the DCP notes that sites with an impervious area exceeding 50% in the Hill Tops area are required to provide onsite detention. As previously</p>

ITEM 2 - ATTACHMENT 3 ASSESSMENT REPORT.

Requirement D6.5	<ul style="list-style-type: none"> To regulate the impacts on the capacity of the public drainage system 	referenced, on the advice of Councils Development Engineers, appropriate on-site detention is capable of being provided at the site. The application has been supported by Councils Engineers with recommended conditions requiring the applicant demonstrate compliance with this part prior to the issue of a construction certificate.
Objective D6.C Requirement D6.6	Landscaping <ul style="list-style-type: none"> To ensure landscaping is within context through the appropriate selection of species and site coverage 	Requirement D6.6 notes that development within the Hill tops area is to provide 50% of the site for landscaping. This will be a condition of consent whereby the applicant must demonstrate compliance with this part prior to the issue of an occupation certificate.

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

NIL

s4.15(1)(a)(iv) – The regulations

NIL

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

	Notes (where needed)
<input checked="" type="checkbox"/> Social and Economic Environment: There would be beneficial impacts as a result of the development.	<p>The proposed development represents a modern residential development and will provide additional infill housing to service the needs of the community which is consistent with the Port Stephens Local Housing Strategy and the Greater Newcastle Metropolitan Plan. The dwelling will allow for the development of currently vacant land in an already established residential area. The construction of the proposed development will provide employment opportunities in the locality during the short term and support the</p>

ITEM 2 - ATTACHMENT 3 ASSESSMENT REPORT.

	<p>local building and development industries. This will have direct monetary input to the local economy, and the increased number of residents in the locality will provide ongoing economic input through daily living activities.</p> <p>As assessed throughout the report, the proposed development has been designed to respond to the site constraints whilst also reducing potential adverse impacts to neighbouring properties.</p> <p>Overall, there are no anticipated adverse social or economic impacts as a result of the proposed development.</p>
<p><input checked="" type="checkbox"/> Built Environment: The proposed development would not cause harm to the existing character.</p>	<p>Whilst the height of the dwellings exceeds the maximum height limit, the development has been designed to correspond with the significant slope of the land without requiring significant earthworks or creating in adverse amenity impacts to neighbouring properties. Overall, it is considered that the proposed development will make appropriate use of an existing vacant site with no adverse impacts to the surrounding built environment in terms of bulk or scale.</p>
<p><input checked="" type="checkbox"/> Natural Environment: There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added.</p>	<p>The proposed development is not expected to negatively impact the natural environment. As noted throughout this assessment, the site is not located on land that contains any species of environmental significance. The site does contain vegetation, which has not been identified as being of high environmental value and therefore, is supported for removal.</p>

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

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

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

The subject site is located within an established residential area with the site currently vacant of any development. Whilst the site does have constraints including a significant cross fall, the site is capable of supporting the proposed residential development through an appropriate design response. As assessed throughout the report, there are no anticipated impacts on adjoining properties or the wider locality as a result of the development. The proposal is compliant with the applicable planning framework and policies, and on these grounds, the site is suitable for the development.

ITEM 2 - ATTACHMENT 3 ASSESSMENT REPORT.

s4.15(1)(d) – Any submissions

The application was exhibited in accordance with the provisions of the Port Stephens Council Community Engagement Strategy between 11 October 2023 and 25 October 2023. No submissions were received with relation to the subject development proposal during this period.

s4.15(1)(e) – The public interest

The proposal is considered to be in the public interest as it involves the construction of a dwelling within an established residential area, which will provide for additional residential accommodation in the locality to service the needs of the community. In addition, the development is not anticipated to have any significant adverse impacts on surrounding properties or the natural environment

CONSENT / CONDITIONS SELECTION

Code	Condition Group Description	BASIX Required?
<input checked="" type="checkbox"/> 13	Single Dwelling	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A 1403369S
<input type="checkbox"/> 14	Ancillary Structures/sheds/retaining walls	N/A
<input type="checkbox"/> 15	Swimming Pool	<input type="checkbox"/> Yes <input type="checkbox"/> N/A BASIX No.
<input type="checkbox"/> 18	Residential Alterations & Additions	<input type="checkbox"/> Yes <input type="checkbox"/> N/A BASIX No.
<input type="checkbox"/> 20	Demolition	N/A

APPROVED DOCUMENTS TO BE INCLUDED IN THE CONSENT

Plan No.	Revision	Plan Title.	Drawn By.	Dated.	STAMP WITH	
					DA	CC
22E211	A	Architectural Plans	Port Stephens Design	12/12/2023	<input checked="" type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>

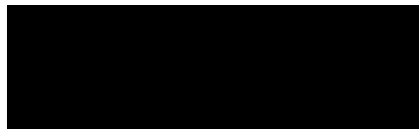
DETERMINATION

It is recommended that the development application be:

☒ Approved ☐ Deferred ☐ Intent to Refuse ☐ Refused

Officer Name: **Tristan Sullivan**

Officer Signature:



Date: **12 December 2023**

ITEM NO. 3**FILE NO: 23/354124
EDRMS NO: PSC2013-00406-0067****POLICY REVIEW: HERITAGE POLICY**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorses the revised Heritage Policy as shown at **(ATTACHMENT 1)** to be placed on public exhibition for a period of 28 days, and should no submissions be received, the policy be adopted, without a further report to Council.
- 2) Revokes the Heritage policy dated 13 July 2021, Minute No. 247 should no submissions be received.

BACKGROUND

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

The policy provides an overarching commitment to recognise, protect, and promote Aboriginal and non-Aboriginal heritage in Port Stephens.

The review of the policy is consistent with Council's 3 yearly policy review cycle. The review of the Heritage Policy results in no fundamental changes to the existing policy as there have been no major legislative changes during the period. The amendments are administrative corrections and terminology updates to achieve consistency with other Council documentation.

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

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Recognised traditions and lifestyle	Support the preservation of Port Stephens heritage

FINANCIAL/RESOURCE IMPLICATIONS

There are no direct financial / resource implications, as the policy will continue to be implemented as part of ongoing operations.

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 positive legal, policy and risk implications in reviewing and updating existing policies to assist in facilitating more accurate and robust decision making.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council does not have an up-to-date policy approach to heritage matters.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy recognises the importance of heritage for Port Stephens and its communities. The policy seeks to recognise, protect and promote heritage in the Port Stephens local government area.

CONSULTATION

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

Internal

Internal consultation was undertaken with the Development Planning and Communications and Engagement units. Minor modifications have been incorporated into the revised policy.

The Executive Team has been consulted to seek management endorsement.

External

In accordance with local government legislation, the revised Heritage Policy would be placed on public exhibition for 28 days.

The revised policy is to be presented to the Heritage Advisory Group at the February meeting for awareness and discussion.

OPTIONS

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

ATTACHMENTS

- 1) Revised Heritage Policy. [↓](#)

COUNCILLORS' ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2016-02097

TITLE: HERITAGE POLICY

OWNER: STRATEGY AND ENVIRONMENT SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of the Heritage Policy (the policy) is to state Port Stephens Council's commitment to ensuring systems are in place to assist in the recognition, protection, and promotion of Aboriginal and non-Aboriginal heritage in the Port Stephens Local Government Area (LGA).

2. CONTEXT/BACKGROUND:

- 2.1 Heritage is a key element of Australia's identity. It reflects our Aboriginal and non- Aboriginal spirit and ingenuity through our cultural, built and unique, living landscapes. Heritage is a legacy from our past, informing present and future generations.
- 2.2 The Port Stephens LGA encompasses a rich Aboriginal and non-Aboriginal history. It is the land of the Worimi people with the area being first noted by Europeans in May 1770. Considerable Aboriginal and non-Aboriginal terrestrial and maritime history has been documented in the region, ranging from a vibrant fishing industry, trade, and establishment of towns, villages and agricultural activity.
- 2.3 Port Stephens Council supports opportunities to retain local history in a way that positively influences social connections and place making in communities and also recognises the positive economic benefit gained from cultural heritage tourism.

3. SCOPE:

- 3.1 The policy is a commitment to:
- a) assist in the conservation, **education**, protection and interpretation of local and State heritage
 - b) recognise and respect heritage, both Aboriginal and non-Aboriginal
 - c) celebrate places, buildings, landscapes and stories of our local communities that provide a link to our nation's heritage
 - d) develop partnerships and provide initiatives that enable practical actions to protect and manage heritage places
 - e) establish consistent methods of managing heritage matters between Council and the community that are in line with local, State and Federal legislation

Policy

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Policy



- f) ~~consult~~ **engage** with relevant Aboriginal and non-Aboriginal communities ~~Engage with the diverse communities~~ of Port Stephens to preserve and celebrate heritage.
- 3.2 This policy applies to land and infrastructure owned by Council or where Council has been appointed **trustee or** Crown land manager. It also recognises Council's role in supporting the preservation of significant heritage, including those privately owned, through Council's Local Environmental Plan.

4. DEFINITIONS:

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

Heritage: Places, buildings, landscapes and stories related to the history of our community.

5. STATEMENT:

- 5.1 Port Stephens Council supports heritage activities in the Port Stephens LGA. This includes the environmental heritage of Port Stephens, conserving heritage items and heritage conservation areas (including associated fabric, settings and views), archaeological sites and Aboriginal objects and places of heritage significance.

6. RESPONSIBILITIES:

- 6.1 Executive Team: Leadership and strategic direction.
- 6.2 Senior Leadership Team: Leadership through ensuring staff understanding of and compliance with provisions outlined in this policy and associated documentation.
- 6.3 Strategy and Environment Section Manager: policy implementation and process owner.
- 6.4 Development Assessment and Compliance Section Manager: Planning compliance.
- 6.5 Civil Assets Manager: Asset Custodian.
- 6.6 Heritage Advisor: Provide professional advice to Council.
- 6.7 ~~355c Heritage Advisory Committee:~~ **Heritage Advisory Group:** Provide community advice to Council.
- 6.8 355c Aboriginal Strategic Committee: Provide community advice to Council.

7. RELATED DOCUMENTS:

- 7.1 Port Stephens Signage Style Guide (2020) and Port Stephens Brand Identity Style Guide (2019).
- 7.2 Port Stephens Local Environmental Plan 2013.
- 7.3 Port Stephens Development Control Plan 2014.

Policy

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Policy



- 7.4 Our incredible place; a strategy for events, the arts and culture in Port Stephens.
- 7.5 Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth).
- 7.6 Environmental Planning and Assessment Act 1979 (NSW).
- 7.7 Environment Protection and Biodiversity Conservation Act 1999 (Cth).
- 7.8 Local Government Act 1993 (NSW).
- 7.9 National Parks and Wildlife Act 1974 (NSW).
- 7.10 Heritage Act 1977 (NSW).
- 7.11 Crown Land Management Act 2016 (NSW).
- 7.12 The Australia ICOMOS Charter for Places of Cultural Significance, The Burra Charter, 2013.
- 7.13 Design Guide for Heritage 2019 (Heritage Council of NSW and Government Architect NSW).
- 7.14 Yabang Gumba-Gu: Road to Tomorrow 2020-2023

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2016-02097	EDRMS record No.	21/12604
Audience	Council Staff and the Community		
Process owner	Strategy and Environment Section Manager		
Author	Strategy and Environment Section Manager		
Review timeframe	3 years	Next review date	28 September 2024
Adoption date	25 March 2015		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	24/03/2015	Strategy and Environment Section Manager	N/A	056
2.0	11/04/2017	Strategy and Environment	Transfer to new corporate policy template.	086

Policy

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Policy



Version	Date	Author	Details	Minute No.
		Section Manager	<p>The policy purpose is a transfer of the objectives from Version 1.0.</p> <p>The policy scope is a transfer of the principles and part of the policy statement from Version 1.0.</p> <p>The policy responsibilities is a transfer of the implementation responsibility from Version 1.0.</p> <p>The policy responsibilities has been amended to include ELT, SLT and Development Assessment & Compliance Section Manager.</p> <p>The related documents section is a transfer of the relevant legislative provisions from Version 1.0.</p> <p>The related documents has been amended to include the Port Stephens Heritage Signs and Trails Guidelines 2015, Local Environmental Plan 2013, Draft Port Stephens Council Heritage Strategy, Development Control Plan 2013, Port Stephens Cultural Plan 2015-2018 and Crown Lands Act 1989</p>	
3.0	23/07/2019	Strategy and Environment Section Manager	<p>Reformatted the policy into the new policy template.</p> <p>1.1, 2.1, 2.2, 3.1(b), 3.1(f) and 3.2 - Administrative amendments to update references to legislation, other relevant documents, grammar, and align the policy with other Council policies.</p>	165

Policy

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Policy



Version	Date	Author	Details	Minute No.
			<p>6.5 – Civil Assets Manager – listed as ‘Asset Custodian’.</p> <p>6.8 - Updated list of policy Responsibilities to include the function of Council’s Aboriginal Strategic Committee in providing advice to Council.</p> <p>7.3, 7.5, 7.1 and 7.12- Updated list of Related Documents to relevant year.</p> <p>7.13 - Included the Design Guide for Heritage 2019 (published by the Government Architect NSW).</p>	
4.0	28/09/2021	Strategy and Environment Section Manager	<p>Reformatted the policy into the new policy template.</p> <p>Minor corrections in spelling and grammar.</p> <p>Updated 7.1 by removing Port Stephens Heritage Signs and Trails Guidelines 2015. Included the Port Stephens Signage Style Guide (2020) and Port Stephens Brand Identity Style Guide (2019).</p> <p>Updated 7.4 with the current Our Incredible Place strategy.</p>	247
5.0		Strategy and Environment Section Manager	<p>3.1 (a) – Added ‘education’.</p> <p>3.1 (f) – Removed ‘consult’ and added ‘engage’. Removed ‘Engage with the diverse communities’.</p> <p>3.2 - Added ‘trustee or’.</p> <p>6.7 - Removed 355c Heritage Advisory Committee and reference the Heritage Advisory Group and its</p>	

Policy

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Policy



Version	Date	Author	Details	Minute No.
			role added	
			7.14 – Included 'Yabang Gumba-Gu: Road to Tomorrow 2020 – 2023'.	

Policy

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ITEM NO. 4**FILE NO: 24/8257
EDRMS NO: PSC2017-02841****HOMELESSNESS NSW CONFERENCE - 19 TO 21 MARCH 2024 IN NEWCASTLE****REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER
DIRECTORATE: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorses the attendance of Cr Leah Anderson at the Homelessness NSW Conference to be held in Newcastle from 19 to 21 March 2024.

BACKGROUND

The purpose of this report is to inform Council of the Homelessness NSW Conference to be held in Newcastle from 19 to 21 March 2024.

The conference is open to all Elected Members.

The conference program for the conference is not yet available but includes allies and guest speakers from the homelessness sector, academia, government and the community in a movement to make homelessness rare, brief and non-recurring.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with registration, travel and accommodation will be covered from within the existing budget, subject to any individual Elected Member not exceeding the conference budget limits in the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy.

The registration fee for the conference is \$1,150 per delegate for the 3 day conference.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		As per the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy requires Council to approve all conference attendances. Councillors' conference costs are limited to \$3000 per year under the policy.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There may be a risk that Council does not comply with the Continuing Professional Development opportunities for Councillors.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Ensuring the local government area is well represented in all matters at the conference will benefit the Port Stephens community. Information received will be distributed to the appropriate members of the community and relevant Council staff.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS' ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5**FILE NO: 24/12828
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 13 February 2024.

No:	Report Title	Page:
1	Cash and Investment Portfolio - November 2023	112
2	Petition - Request for Immediate Cessation of Concrete Pathway Works	122
3	Elected Members Professional Development and Expenses Reports - 1 July 2023 to 31 December 2023	125
4	Designated Persons' Return	128
5	Delegations Report	129
6	Council Resolutions	131

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 23/342201
EDRMS NO: PSC2017-00180**

CASH AND INVESTMENT PORTFOLIO - NOVEMBER 2023

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 30 November 2023.

Council's total portfolio of investments was \$85 million with an additional \$12 million held in Council's operational account as at 30 November 2023.

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 4.46% p.a. on a rolling 1 year performance, which was 0.70% 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 2nd quarter rates which will be consumed over the quarter and will continue to be monitored.

ATTACHMENTS

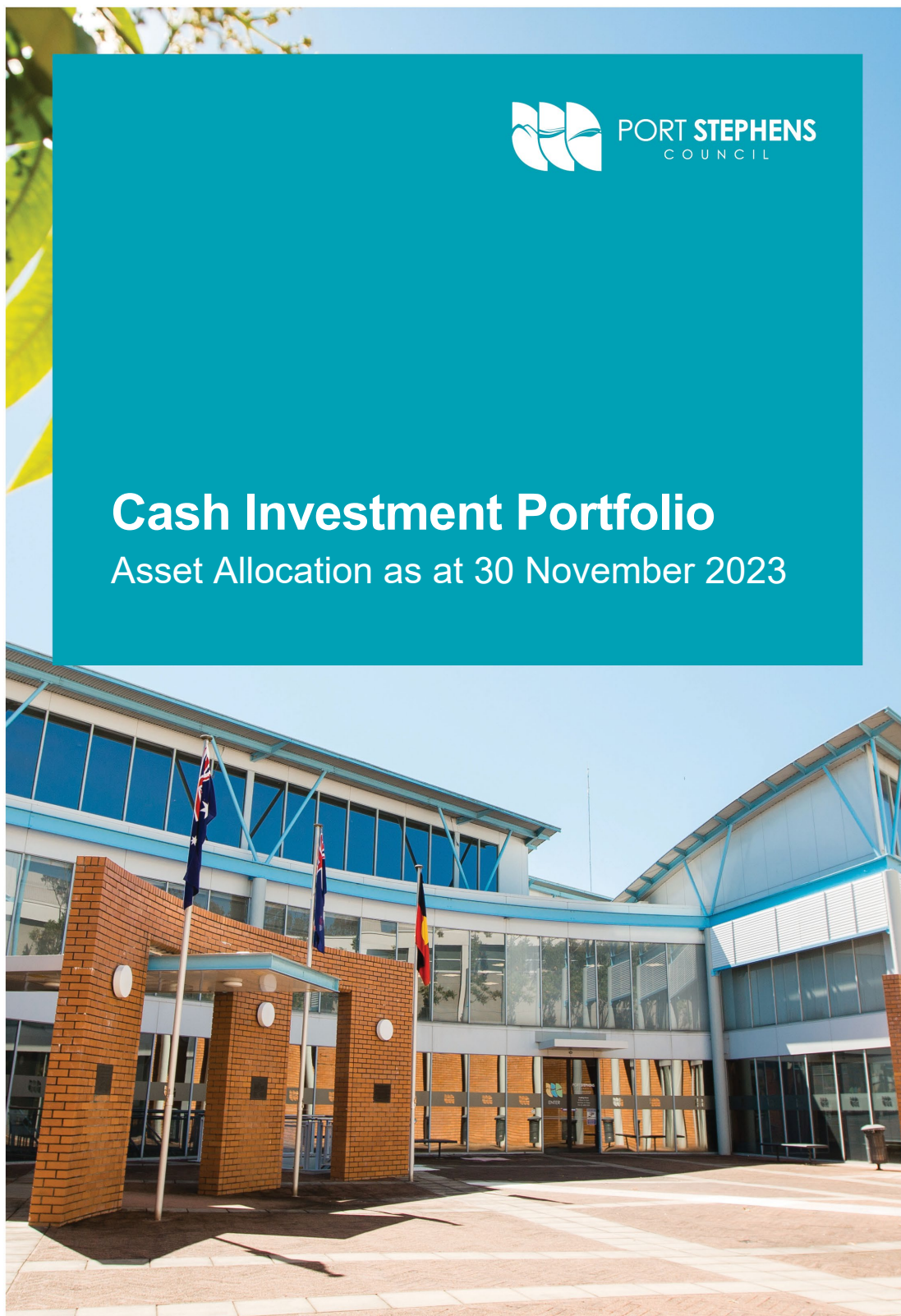
1) Cash Investment Portfolio - November 2023. [↓](#)

COUNCILLORS' ROOM

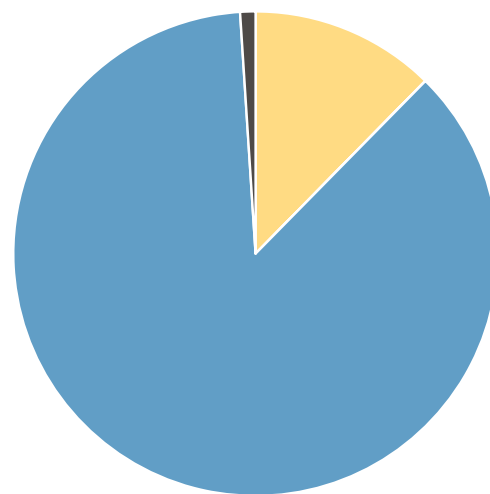
Nil.

TABLED DOCUMENTS

Nil.



Cash Investment Portfolio Holdings



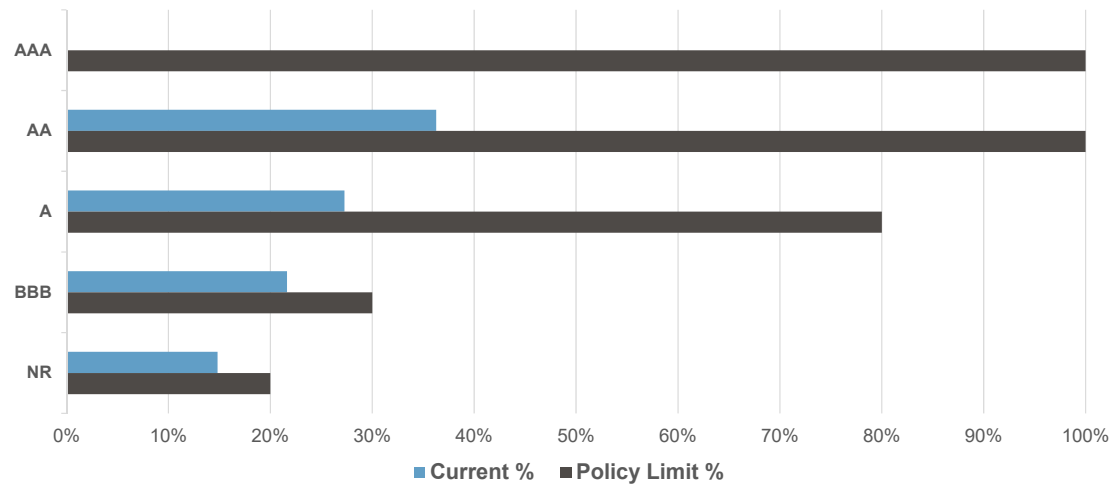
■ At Call ■ Cash ■ At Notice ■ TD ■ Managed Fund

Product Type	Market Value (\$)	Compliance
At Call	-	
Cash	12,003,260	✓
At Notice	-	
TD	84,075,632	✓
Managed Fund	994,274	✓
	97,073,166	

✓ = compliant
 ✗ = non-compliant

Rating Exposure

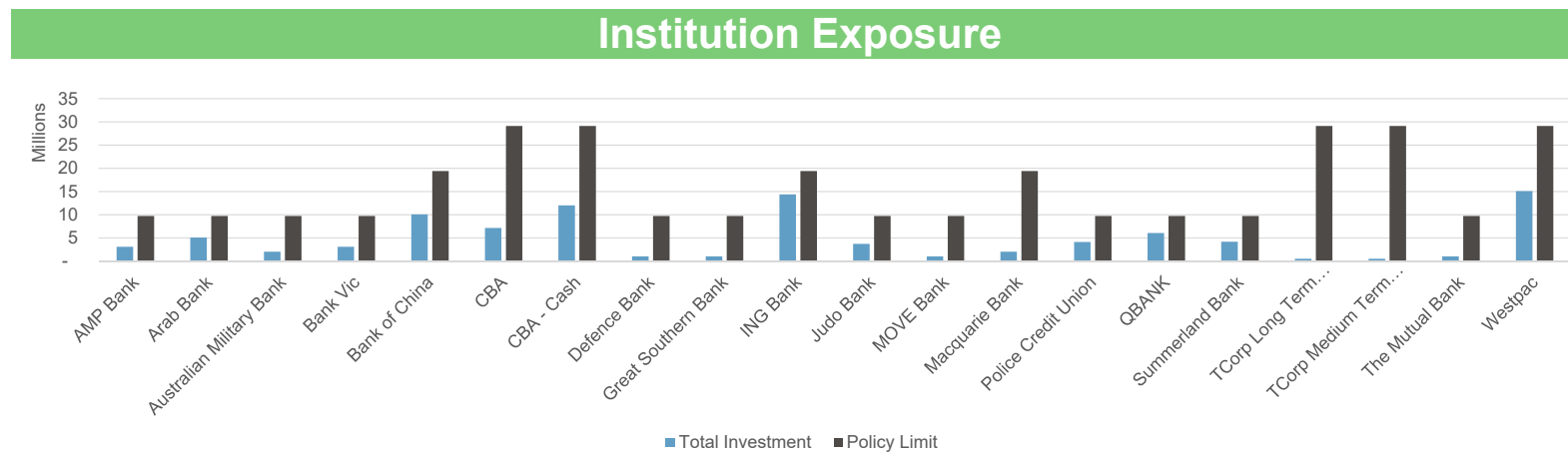
Total Credit Exposure



Credit Rating Group	Market Value (\$)	Current %	Policy Limit %	Compliance
AAA	-	0%	100%	✓
AA	35,213,582	36%	100%	✓
A	26,467,264	27%	80%	✓
BBB	20,999,614	22%	30%	✓
NR	14,392,706	15%	20%	✓
	97,073,166	100%		

✓ = compliant
 ✗ = non-compliant

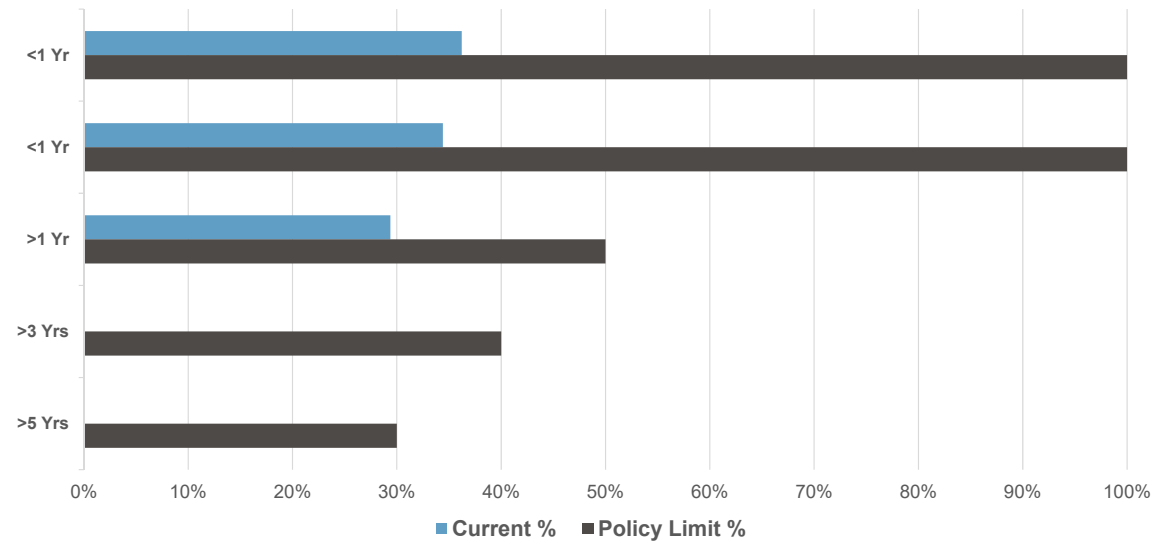
ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - NOVEMBER 2023.



Institution	Rating	Total Investment	Exposure	Policy Limit	Remaining to Limit	Compliance
AMP Bank	BBB	3,075,884	3%	10%	6,631,433	✓
Arab Bank	NR	5,075,113	5%	10%	4,632,204	✓
Australian Military Bank	BBB	2,028,008	2%	10%	7,679,308	✓
Bank Vic	BBB	3,086,381	3%	10%	6,620,936	✓
Bank of China	A	10,068,716	10%	20%	9,345,917	✓
CBA	AA	7,132,419	7%	30%	21,989,531	✓
CBA - Cash	AA	12,003,260	12%	30%	17,118,690	✓
Defence Bank	BBB	1,028,344	1%	10%	8,678,973	✓
Great Southern Bank	BBB	1,012,945	1%	10%	8,694,371	✓
ING Bank	A	14,377,041	14%	20%	5,037,592	✓
Judo Bank	BBB	3,700,632	4%	10%	6,006,685	✓
MOVE Bank	NR	1,026,526	1%	10%	8,680,791	✓
Macquarie Bank	A	2,021,506	2%	20%	17,393,127	✓
Police Credit Union	NR	4,113,429	4%	10%	5,593,888	✓
QBANK	BBB	6,042,790	6%	10%	3,664,526	✓
Summerland Bank	NR	4,177,638	4%	10%	5,529,678	✓
TCorp Long Term Growth Fund	AA	494,878	0%	30%	28,627,072	✓
TCorp Medium Term Growth Fund	AA	499,397	0%	30%	28,622,553	✓
The Mutual Bank	BBB	1,024,630	1%	10%	8,682,686	✓
Westpac	AA	15,083,629	15%	30%	14,038,321	✓
Total		97,073,166				

✓ = compliant
 ✗ = non-compliant

Term to Maturity Limits

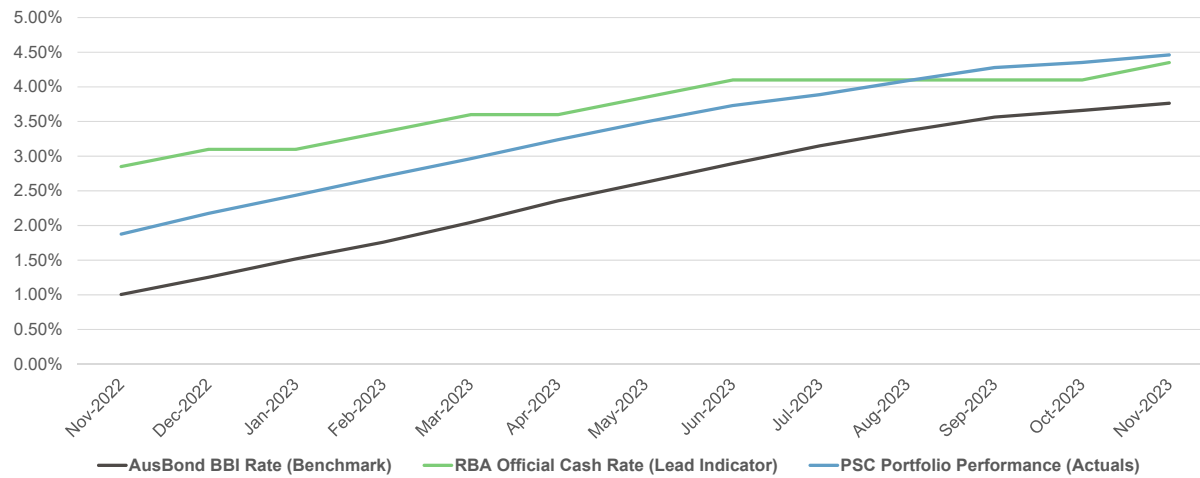


Detailed Maturity Profile	Market Value (\$)	Current %	Policy Limit %	Compliance
Less than or equal 90 Days	35,156,120	36%	100%	✓
Between 90 Days and 365 Days	33,404,930	34%	100%	✓
Between 366 Days and 3 Years	28,512,115	29%	50%	✓
Between 3 Years and 5 Years	-	0%	40%	✓
Greater than 5 Years	-	0%	30%	✓
	97,073,166	100%		

✓ = compliant
 ✗ = non-compliant

Portfolio Performance

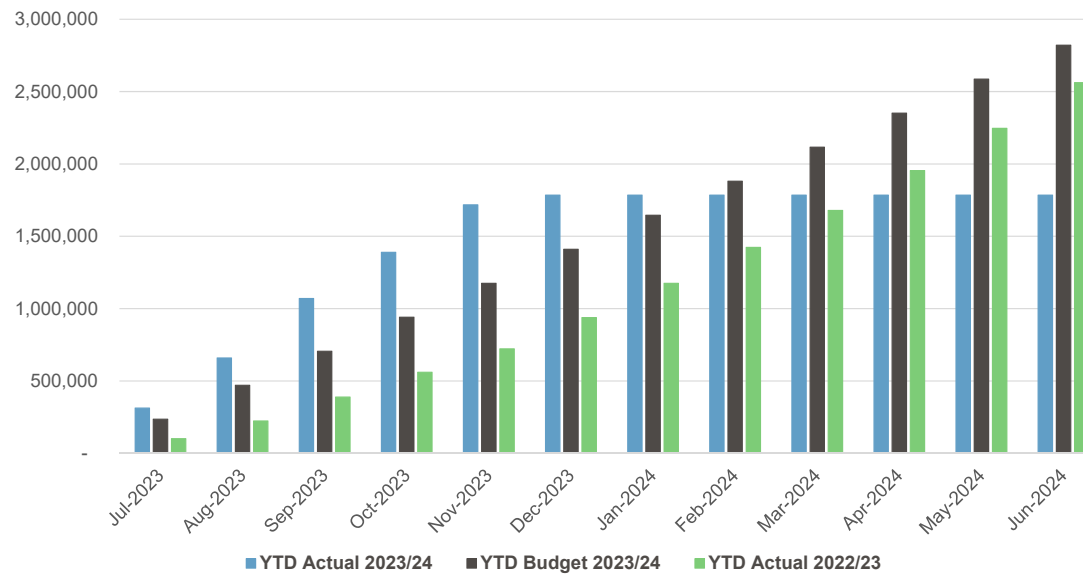
One Year Rolling Performance



Performance	1 month actual	3 months actual	6 months actual	FYTD actual	1 year % p.a. (Rolling)
Bloomberg AusBond BBI (Benchmark)	0.35%	1.03%	2.09%	1.77%	3.76%
PSC Investment Portfolio	0.39%	1.23%	2.42%	2.04%	4.46%
Outperformance/(underperformance)	0.04%	0.20%	0.32%	0.26%	0.70%

Income Earned vs Budget

Monthly Investment Income - Actual to Budget



ITEM 1 - ATTACHMENT 1

CASH INVESTMENT PORTFOLIO - NOVEMBER 2023.

Investment Register

Institution	Market Value	Days Held	Interest Rate	Date Invested	Maturity Date	Rating
CBA - Cash	12,003,260	1		30/11/2023	1/12/2023	AA
ING Bank	1,018,499	531	4.22%	24/06/2022	7/12/2023	A
QBank	1,020,574	374	4.70%	2/12/2022	11/12/2023	BBB
CBA	1,018,656	552	4.48%	17/06/2022	21/12/2023	AA
ING Bank	1,018,625	559	4.33%	24/06/2022	4/01/2024	A
Bank of China	7,030,842	73	4.73%	27/10/2023	8/01/2024	A
QBank	5,022,216	75	4.77%	27/10/2023	10/01/2024	BBB
ING Bank	1,018,353	566	4.35%	29/06/2022	16/01/2024	A
Westpac	1,004,164	532	4.00%	8/08/2022	22/01/2024	AA
Westpac	1,003,397	539	4.00%	8/08/2022	29/01/2024	AA
Westpac	1,001,299	732	1.53%	28/01/2022	30/01/2024	AA
Westpac	1,001,299	746	1.53%	28/01/2022	13/02/2024	AA
Westpac	1,000,660	741	1.72%	16/02/2022	27/02/2024	AA
Westpac	1,010,603	557	4.30%	1/09/2022	11/03/2024	AA
Bank Vic	1,037,973	409	4.62%	3/02/2023	18/03/2024	BBB
Westpac	1,005,585	542	4.53%	14/10/2022	8/04/2024	AA
Judo Bank	841,810	732	3.35%	22/04/2022	23/04/2024	BBB
Summerland Bank	1,046,882	523	4.60%	23/11/2022	29/04/2024	NR
Judo Bank	841,810	746	3.35%	22/04/2022	7/05/2024	BBB
Macquarie Bank	1,010,512	627	4.41%	1/09/2022	20/05/2024	A
CBA	1,007,644	475	4.65%	7/02/2023	27/05/2024	AA
ING Bank	1,025,319	377	5.05%	31/05/2023	11/06/2024	A
Macquarie Bank	1,010,995	649	4.41%	1/09/2022	11/06/2024	A
ING Bank	1,025,319	383	5.05%	31/05/2023	17/06/2024	A
The Mutual Bank	1,024,630	362	5.80%	28/06/2023	24/06/2024	BBB
ING Bank	1,024,732	384	5.10%	6/06/2023	24/06/2024	A
Westpac	1,000,834	685	4.35%	23/08/2022	8/07/2024	AA
ING Bank	1,022,991	376	5.67%	5/07/2023	15/07/2024	AA
Westpac	1,000,834	692	4.35%	23/08/2022	15/07/2024	A
Australian Military Bank	1,011,693	704	4.40%	25/08/2022	29/07/2024	BBB
Police Credit Union	1,039,747	538	5.02%	14/02/2023	5/08/2024	NR
Westpac	1,001,235	538	5.01%	21/02/2023	12/08/2024	AA
Defence Bank	1,028,344	479	4.95%	5/05/2023	26/08/2024	BBB
CBA	1,017,801	396	5.46%	3/08/2023	2/09/2024	AA
Bank Vic	1,035,759	544	5.02%	15/03/2023	9/09/2024	BBB
Police Credit Union	1,028,745	500	5.02%	5/05/2023	16/09/2024	NR
Police Credit Union	1,028,745	507	5.02%	5/05/2023	23/09/2024	NR
CBA	1,017,671	424	5.42%	3/08/2023	30/09/2024	AA
ING Bank	1,043,851	655	4.68%	23/12/2022	8/10/2024	A
Great Southern Bank	1,012,945	409	5.25%	1/09/2023	14/10/2024	BBB
ING Bank	1,044,038	661	4.70%	23/12/2022	14/10/2024	A
CBA	1,012,723	416	5.16%	1/09/2023	21/10/2024	AA
Westpac	1,003,625	732	4.90%	3/11/2022	4/11/2024	AA
Summerland Bank	1,047,392	719	4.65%	23/11/2022	11/11/2024	NR
Summerland Bank	1,047,392	726	4.65%	23/11/2022	18/11/2024	NR
ING Bank	1,044,753	724	4.50%	2/12/2022	25/11/2024	A
ING Bank	1,044,753	738	4.50%	2/12/2022	9/12/2024	A
CBA	1,019,614	731	4.71%	20/12/2022	20/12/2024	AA
TCorp Long Term Growth Fund	494,878	483		5/09/2023	31/12/2024	AA
TCorp Medium Term Growth Fund	499,397	483		5/09/2023	31/12/2024	AA
Police Credit Union	1,016,192	612	5.02%	5/05/2023	6/01/2025	NR
ING Bank	1,024,150	587	4.98%	6/06/2023	13/01/2025	A
Westpac	1,011,597	594	4.98%	6/06/2023	20/01/2025	AA
Judo Bank	993,900	579	5.75%	28/06/2023	27/01/2025	BBB
Westpac	1,024,150	602	4.98%	6/06/2023	28/01/2025	AA
Arab Bank	1,024,758	593	5.83%	28/06/2023	10/02/2025	NR
CBA	1,038,310	733	4.74%	8/02/2023	10/02/2025	AA
Bank Vic	1,012,649	535	5.13%	1/09/2023	17/02/2025	BBB
Arab Bank	1,012,723	542	5.16%	1/09/2023	24/02/2025	NR
Arab Bank	1,024,758	607	5.83%	28/06/2023	24/02/2025	NR
Bank of China	1,012,625	556	5.12%	1/09/2023	10/03/2025	A
Summerland Bank	1,035,973	726	5.05%	15/03/2023	10/03/2025	NR
Arab Bank	1,012,723	563	5.16%	1/09/2023	17/03/2025	NR
Westpac	1,010,126	550	5.28%	21/09/2023	24/03/2025	AA
ING Bank	1,005,105	515	5.48%	27/10/2023	25/03/2025	A
Westpac	1,004,219	515	5.50%	2/11/2023	31/03/2025	AA
AMP Bank	1,030,685	732	5.00%	20/04/2023	21/04/2025	BBB
AMP Bank	1,028,082	727	5.00%	9/05/2023	5/05/2025	BBB
MOVE Bank	1,026,526	731	5.15%	26/05/2023	26/05/2025	NR
Arab Bank	1,000,151	559	5.52%	29/11/2023	10/06/2025	NR
Judo Bank	1,023,112	733	5.70%	5/07/2023	7/07/2025	BBB
AMP Bank	1,017,116	725	5.25%	3/08/2023	28/07/2025	BBB
Australian Military Bank	1,016,315	726	5.27%	9/08/2023	4/08/2025	BBB
ING Bank	1,016,553	734	5.30%	8/08/2023	11/08/2025	A
Bank of China	1,012,625	717	5.12%	1/09/2023	18/08/2025	A
Bank of China	1,012,625	724	5.12%	1/09/2023	25/08/2025	A
Total	97,073,166					

Restricted Cash

Reserve	As at November 2023 \$'000
External	
Deposits, retentions and bonds	955
Grants and Contributions	9,771
Developer contributions (inc Haulage)	21,426
Domestic Waste Management	7,969
Crown Reserve	9,331
Internal	
Asset Rehab/Reseals	3,199
Drainage	1,053
Commercial Property	17,856
Election Reserve	442
Employee Leave Entitlements (ELE)	1,000
Federal Assistance Grant in Advance	-
Fleet	1,620
Resilience fund	3,000
Grants Co-contribution	1,460
Emergency & Natural Disaster	5,174
Other Waste	91
Council Parking	517
IT	2,099
Sustainable energy and water reserve	51
Repealed	2,444
Transport levy	24
Admin Building	613
Ward Funds	47
Community Halls	73
Community Loans	200
Total	90,415
Cash and Investment Report	97,073
Variance Cash Reserves to Bank Account	6,658
Variance Due to:	
Outstanding State Roads payments	-
Timing difference of creditors run processed 1st Dec	(5,421)
Loans not funded through a reserve	124
Outstanding GST refund	574
Total Variance	(4,723)
Unrestricted Cash/(Shortfall) (due to timing of income and expenditure)	1,935

ITEM NO. 2

**FILE NO: 23/363844
EDRMS NO: PSC2015-03017**

PETITION - REQUEST FOR IMMEDIATE CESSATION OF CONCRETE PATHWAY WORKS

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

BACKGROUND

The purpose of this report is to advise Council of the receipt of a petition containing 38 signatures requesting that Port Stephens Council cease all works relating to the proposed path connecting Beach Road from Shoal Bay Road to Little Beach at Gowrie Avenue.

A petition has also been received containing 56 signatures not agreeing with the construction of a concrete pathway along the grassed area adjoining the foreshore and preferring that it remain as is.

The requests from both petitions are shown at **(ATTACHMENT 1)**.

The Port Stephens Pathways Plan was adopted in 2016 and shows existing footpaths and shared paths throughout Port Stephens and identifies locations for future pathways construction. The aim of the Pathways Plan was to assist prioritising pathway delivery and to apply for external funding for pathway connections and missing links. The subject pathway connecting Beach Road from Shoal Bay Road to Little Beach at Gowrie Avenue was a missing link identified through the adopted Pathways Plan, with the broader strategy to connect Tomaree Headland to Nelson Bay with shared pathway.

The subject pathway link was successful in gaining external funding for detailed design under the NSW Government's Get Active Program, with the design works currently underway. Once the designs are further developed, Council staff are planning community engagement activities prior to finalising design works. Construction of the subject pathway is currently unfunded.

ATTACHMENTS

- 1) Petition requests. [↓](#)

COUNCILLORS' ROOM

- 1) Petition.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 PETITION REQUESTS.

PETITION	
Petition Host:	
We, the undersigned, hereby respectfully request that Port Stephens Council cease all works relating to the proposed path connecting Beach Road from Shoal Bay Road to Little Beach at Gowrie Avenue.	

I do not agree with the construction of a concrete pathway along the grassed area adjoining the foreshore. I would prefer for it to remain as is.

ITEM NO. 3

FILE NO: 23/275422
EDRMS NO: PSC2017-00739**ELECTED MEMBERS PROFESSIONAL DEVELOPMENT AND EXPENSES
REPORTS - 1 JULY 2023 TO 31 DECEMBER 2023**REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
DIRECTORATE: GENERAL MANAGER'S OFFICE**BACKGROUND**

The purpose of this report is to provide an account of the expenses incurred by the Elected Members in accordance with clause 5.14 of the Councillor Induction and Professional Development Policy for the period July to December 2023.

	Mayor Palmer	Cr Anderson	Cr Arnott	Cr Bailey	Cr Doohan	Cr Dunkley	Cr Francis	Cr Kafer	Cr Tucker	Cr Wells
AICD Membership ¹	\$495									
LGNSW – Annual Conference ²	\$1050	\$1259	\$1050						\$1259	
LGNSW – Mayoral Forum		\$900								
NSW Homelessness Forum		\$975								
Royal Australian Historical Conference										\$214
Total	\$1545	\$3134	\$1050	\$0	\$0	\$0	\$0	\$0	\$1259	\$214

Expenses

The purpose of this report is to provide an account of the expenses incurred by the Elected Members in accordance with Clause 3.127 of the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy for the period 1 July 2023 to 31 December 2023 (**ATTACHMENT 1**).

¹ AICD – Australian Institute of Company Directors

² LGNSW – Local Government NSW

ORDINARY COUNCIL - 13 FEBRUARY 2024

The costs in the report are those incurred by the Elected Members that have been reconciled during this period and does not include expenses incurred that have not been submitted for reimbursement. The report also shows the total costs incurred to Council by Elected Members (including the monthly allowance) for each costing category listed.

ATTACHMENTS

- 1) Elected Members Expense Report - 1 July 2023 to 31 December 2023. [↓](#)

COUNCILLORS' ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 1 ELECTED MEMBERS EXPENSE REPORT - 1 JULY 2023 TO 31 DECEMBER 2023.

Elected Members Expense Report 1 July 2023 to 31 December 2023

		Mayor Ryan Palmer	Cr Leah Anderson	Cr Giacomo Arnott	Cr Matthew Bailey	Cr Chris Doohan	Cr Glen Dunkley	Cr Peter Francis	Cr Peter Kafer	Cr Steve Tucker	Cr Jason Wells	TOTALS
Total Number of Council Meetings Attended (11 held)		9	11	11	8	4	9	9	9	11	10	
Total Number of Months Reimbursed during the period		5	5	0	3	2	4	0	0	6	0	
Description of Expense	Limits as per policy											
Councillor Mobile Rental	75% up to \$200 per month											\$0.00
Councillor Mobile Calls		\$422.00	\$200.00		\$362.00							\$984.00
Councillor Landline Phone Rental												\$0.00
Councillor Landline Phone Calls												\$0.00
Councillor Fax Rental												\$0.00
Councillor Fax Calls												\$0.00
Councillor Internet	75% up to \$60 per month	\$360.00	\$360.00		\$440.00							\$1,160.00
Councillor Intrastate Travel Expenses	\$7000 per year	\$291.00	\$1,918.00		\$781.00	\$214.00	\$431.00			\$2,831.00		\$6,466.00
Councillor Interstate Travel (out of NSW)	\$2000 per year											\$0.00
Councillor Interstate Accommodation (out of NSW)												\$0.00
Councillors Intrastate Accommodation		\$1,134.00	\$1,450.00	\$306.00						\$529.00	\$582.00	\$4,001.00
Councillor Conferences	\$3000 per year	\$1,050.00	\$2,577.00	\$1,050.00						\$1,432.00	\$214.00	\$6,323.00
Councillor Training												\$0.00
Councillor Partner Expenses	Mayor \$1000 per year Cr's \$500 per year (excluding LGNSW Annual Con.)	\$45.00										\$45.00
Councillor ICT Devices (incl. Mobile phones)	\$5000 per term						\$1,510.00			\$453.00		\$1,963.00
Councillor Stationery	\$300 per year									\$219.00		\$219.00
Councillor Awards/Ceremonies/Dinners	Mayor \$1000 per year Cr's \$500 per year	\$165.00		\$64.00		\$64.00				\$64.00	\$64.00	\$421.00
Councillor Child Care Costs	\$2000 per year				\$615.00							\$615.00
Councillor Communications Bundle	75% up to \$100 per month landline 75% up to \$100 per month mobile	\$75.00				\$549.00	\$265.00			\$972.00		\$1,861.00
Councillor Professional Development	\$15,000 per term	\$495.00	\$900.00									\$1,395.00
Councillors Superannuation Expenses		\$0.00	\$1,434.00	\$1,434.00	\$1,434.00	\$1,434.00	\$1,434.00	\$1,434.00	\$1,434.00	\$1,434.00	\$1,434.00	\$12,906.00
TOTALS		\$4,037.00	\$8,839.00	\$2,854.00	\$3,632.00	\$2,261.00	\$3,640.00	\$1,434.00	\$1,434.00	\$7,934.00	\$2,294.00	\$38,359.00
Councillor Allowances	Mayor \$84,400 pa Cr's - \$24,320 pa	\$45,230.00	\$13,035.00	\$13,035.00	\$13,035.00	\$13,035.00	\$13,035.00	\$13,035.00	\$13,035.00	\$13,035.00	\$13,035.00	\$162,545.00
TOTALS		\$49,267.00	\$21,874.00	\$15,889.00	\$16,667.00	\$15,296.00	\$16,675.00	\$14,469.00	\$14,469.00	\$20,969.00	\$15,329.00	\$200,904.00

ITEM NO. 4

**FILE NO: 24/15338
EDRMS NO: PSC2023-01217**

DESIGNATED PERSONS' RETURN

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

BACKGROUND

The purpose of this report is to table Councillor and Designated Persons' Return/s (return) submitted.

In accordance with Part 4 – Pecuniary Interest of the Code of Conduct, all designated persons are required to submit a return. Returns are to be tabled at the first Council meeting after the lodgement date.

The following is a list of position/s who have submitted return/s:

- Strategic Planner PSC638.
- Audit, Risk and Improvement Committee – Chairperson.

ATTACHMENTS

Nil.

COUNCILLORS' ROOM

Nil.

TABLED DOCUMENTS

- 1) Designated Persons' Return.

ITEM NO. 5

FILE NO: 23/281885
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

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 DELEGATIONS REPORT.**MAYOR AND GENERAL MANAGER DELEGATION REPORT**

Date exercised	Delegations exercised	Purpose	Role exercising delegation	Reported to Council
5/12/2023	Code of Meeting Practice	Approval of Public Access application - DA 16-2023-173-1 for function centre at 5 Koala Place, Boat Harbour.	Mayor	13/02/2024
5/12/2023	Roads and Maritime Services delegations	Authorises the installation, display, removal or alteration of the traffic control devices for the listed items identified in the Port Stephens Local Traffic Committee report dated 7 November 2023.	General Manager	13/02/2024
8/12/2023	Code of Meeting Practice	Approval of Public Access application - Display of DA information on DA Tracker.	Mayor	13/02/2024
11/12/2023	Code of Meeting Practice	Approval of Public Access application - DA 16-2023-173-1 for function centre at 5 Koala Place, Boat Harbour.	Mayor	13/02/2024
11/01/2024	Roads and Maritime Services delegations	Authorises the installation, display, removal or alteration of the traffic control devices for the listed items identified in the Port Stephens Local Traffic Committee report dated 5 December 2023.	Acting General Manager	13/02/2024

ITEM NO. 6

**FILE NO: 23/281949
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

Nil.

TABLED DOCUMENTS

Nil.



Action Sheets Report	Division:	Community Futures	Date From:	11/04/2023
	Committee:		Date To:	12/12/2023
	Officer:		Printed:	Tuesday, 23 January 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/12/2023	Lamont, Brock	Draft Shoal Bay Place Plan	26/12/2023	14/12/2023	
5		Pearl, Steven				23/359154
23 Jan 2024 Council endorses the draft Shoal Bay Place Plan to be placed on public exhibition from 29 January 2024 to 25 February 2024. Should no submission be received, the draft Shoal Bay Place Plan be adopted, without further report to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/12/2023	Gardner, Janelle	Community Wellbeing Strategy	26/12/2023	14/12/2023	
6		Pearl, Steven				23/359154
23 Jan 2024 The draft Port Stephens Community Wellbeing Strategy will be placed on public exhibition for a period of 28 days to Sunday 25 February 2024. Should no submission be received, the strategy be adopted, without further report to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/12/2023	Pearl, Steven	Advertising Signs - Nelson Bay Road	26/03/2024	14/12/2023	
2		Pearl, Steven				23/359154
23 Jan 2024 A report will be prepared for a Council meeting in March, detailing the current approach to compliance for unapproved signs and options for undertaking an 'unapproved road side signage campaign'.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	RAMSAR Listing for Mambo Wanda Wetlands	29/03/2024	29/11/2023	
4		Pearl, Steven				23/324875
23 Jan 2024 The General Manager has written to the Federal Minister for Environment and Water outlining the resolution of Council. A draft letter has been prepared for the State Minister for Environment. Council are working to find a suitable time to meet with Councillors for further discussions.						



Action Sheets Report	Division:	Community Futures	Date From:	11/04/2023
	Committee:		Date To:	12/12/2023
	Officer:		Printed:	Tuesday, 23 January 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	Administrative Amendment to the Port Stephens Local Environmental Plan 2013	29/03/2024	29/11/2023	
3		Pearl, Steven				23/324875
23 Jan 2024 Council resolved to adopt items 4, 6, 7 and 8 of the planning proposal to amend the Port Stephens Local Environmental Plan 2023. The planning proposal, exclusive of the items 1,2,3 and 5, was forwarded to the NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan. Council is working to complete the additional actions as endorsed within the resolution.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	Draft Amendment to Port Stephens Development Control Plan 2014 – Chapter B5 Flooding	16/02/2024	29/11/2023	
1		Pearl, Steven				23/324875
23 Jan 2024 Council resolved to place the draft Amendment to Port Stephens Development Control Plan 2014 - Chapter B5 on public exhibition. The public exhibition period commenced 9am 30 November 2023 and will conclude at 5pm 12 February 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/10/2023	Lamont, Brock	Draft Port Stephens Development Control Plan 2014 - Chapter D12 Richardson Road	16/02/2024	25/10/2023	
3		Pearl, Steven				23/278354
23 Jan 2024 Council resolved to place the draft Port Stephens Development Control Plan 2014 - Chapter D12 Richardson Road on public exhibition. The exhibition period has closed, 10 submissions were received. A return report will be presented to Council at the 27 February meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/10/2023	Lamont, Brock	Planning Proposal for 39, 39A and 41 Brocklesby Road, Medowie (Precinct F)	11/03/2024	11/10/2023	
1		Pearl, Steven				23/262411
23 Jan 2024 Target date changed by Mulvihill, Laura from 22 December 2023 to 11 March 2024 - Completion date changed to align with the conclusion of the Public Exhibition Period.						

ITEM 6 - ATTACHMENT 1 COMMUNITY FUTURES RESOLUTIONS.



Action Sheets Report	Division:	Community Futures	Date From:	11/04/2023
	Committee:		Date To:	12/12/2023
	Officer:		Printed:	Tuesday, 23 January 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/10/2023	Lamont, Brock	Draft Port Stephens Development Control Plan - Road Network and Parking (electric vehicles)	29/02/2024	11/10/2023	
2		Pearl, Steven				23/262411
23 Jan 2024 The public exhibition period closed 13 November 2023, 1 submission was received. A return report will be presented to Council at the 27 February Council Meeting.						

ITEM 6 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.



Action Sheets Report	Division: Corporate Strategy and Support	Date From: 27/08/2013
	Committee:	Date To: 12/12/2023
	Officer:	Printed: Tuesday, 23 January 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	31/03/2024	29/11/2023	
1		Pattison, Zoe				23/324875
23 Jan 2024						
Recommendation endorsed to close roads 1 and 2. Council staff to undertake an EOI for road 3 and provide a report back to Council for consideration of whether to continue with the road closure.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/11/2023	Pattison, Zoe	Review of the Terms of Reference for the Port Stephens Beachside Holiday Parks - Holiday Van Consultative Committee	31/03/2024	15/11/2023	
6		Pattison, Zoe				23/300006
23 Jan 2024						
Matter considered at the Council meeting on 14 November 2023 with a request to undertake further consultation with the wider Holiday Van Owners. Consultation is currently underway and a report will be provided back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/08/2023	Pattison, Zoe	Raymond Terrace Gateway Site Masterplan	30/07/2024		
1 193		Pattison, Zoe				23/214729
23 Jan 2024						
Recommendation endorsed. Council staff will undertake a Masterplan for part of the Gateway site in Raymond Terrace and provide a report back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Pattison, Zoe	22 Homestead Street, Salamander Bay	31/03/2024	12/04/2023	
5 088		Pattison, Zoe				23/92450
23 Jan 2024						
Council investigated options for the rezoning of 22 Homestead Street, Salamander Bay, and the development of a Vegetation Management Plan, to provide the best opportunity to enable a successful long-term rehabilitation of the site. A report is being prepared and will be presented to Council for consideration in due course.						

ITEM 6 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.



Action Sheets Report	Division: Corporate Strategy and Support	Date From: 27/08/2013
	Committee:	Date To: 12/12/2023
	Officer:	Printed: Tuesday, 23 January 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Property Investment and Development Policy	30/06/2024	12/10/2022	
1		Pattison, Zoe				22/273002
23 Jan 2024						
Public Exhibition deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	30/06/2024	12/10/2022	
2		Pattison, Zoe				22/273002
23 Jan 2024						
Report deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Pattison, Zoe	Newline Road, Raymond Terrace	30/06/2024		
2 199		Pattison, Zoe				20/288489
23 Jan 2024						
Survey plan has been completed, acquisition is currently underway.						

ITEM 6 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE
RESOLUTIONS.

Action Sheets Report	Division:	Facilities and Infrastructure	Date From:	11/04/2023
	Committee:		Date To:	12/12/2023
	Officer:		Printed:	Tuesday, 23 January 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/12/2023	Maretich, John	7 Day Makeover - Raymond Terrace	31/03/2024	14/12/2023	
3		Kable, Gregory				23/359154
23 Jan 2024						
A 2 Way conversation has been scheduled for 13 February to discuss the 7 Day Makeover project scoping.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Maretich, John	Policy Review - Information & Direction Signs in Road Reserves Policy	31/03/2024	29/11/2023	
10		Kable, Gregory				23/324875
23 Jan 2024						
Public exhibition period to conclude on 29 January 2024, a report to Council will be prepared if any submissions received.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Maretich, John	Naming Recreation Precinct at Medowie after Geoff Dingle	30/06/2024	12/04/2023	
2 085		Kable, Gregory				23/92450
23 Jan 2024						
Once the reserve has been subdivided as per the Medowie Place Plan, an application will be submitted to the Geographical Naming Board to name the recreation precinct after Geoff Dingle.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
User Defined		Maretich, John	Matter Arising: Add various items to the Works Plan Plus.	30/06/2024		
		Kable, Gregory				
23 Jan 2024						
Public exhibition period to conclude on 29 January 2024, a report to Council will be prepared if any submissions received.						



Action Sheets Report	Division:	General Manager's Office	Date From:	11/04/2023
	Committee:		Date To:	12/12/2023
	Officer:		Printed:	Tuesday, 23 January 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Walker, Ashley	Financial Assistance	31/12/2023	12/04/2023	
3		Crosdale, Timothy				23/92450
083						
13 Jan 2024						
Awaiting necessary paperwork to process payments.						

NOTICES OF MOTION

NOTICE OF MOTION**ITEM NO. 1****FILE NO: 24/8608****EDRMS NO: PSC2021-04195****COUNCIL CHAMBERS****COUNCILLOR:** LEAH ANDERSON

THAT COUNCIL:

- 1) Notes the importance of the elected Council facing and being directly accountable to the community.
 - 2) Notes that the Council's Administration Building is going to be refurbished in the near future, including a refurbishment of the Council Chambers.
 - 3) Requests the General Manager to seek design options and quotes as part of these works, with a view towards putting the elected Council on the side of the room facing the public, with the Mayor in the middle and the General Manager next to the Mayor for advisory purposes, noting that this may necessitate some minor works to extend the table to accommodate this number of people.
 - 4) Requests the General Manager present design options to Council in a Two Way meeting prior to seeking quotes.
-

BACKGROUND REPORT OF: GREG KABLE – DIRECTOR FACILITIES AND INFRASTRUCTURE**BACKGROUND**

The purpose of this background is to provide information in relation to this Notice of Motion (NOM).

Council is currently undertaking staged refurbishments across the organisation. Designs, in accordance with the NOM, will be prepared as part of the administration rebuild.

These designs will be brought back to Council via a Two Way Conversation prior to seeking quotes.

FINANCIAL/RESOURCE IMPLICATIONS

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

ORDINARY COUNCIL - 13 FEBRUARY 2024

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

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 24/13809

EDRMS NO: PSC2021-04195

WASTE

COUNCILLOR: LEAH ANDERSON

THAT COUNCIL:

- 1) Notes the importance of having street bins in CBDs and high traffic areas emptied regularly to reduce smell and visual amenity impacts.
- 2) Notes that during school holiday periods, public holidays and weekends, Port Stephens CBDs and high traffic areas see significantly more foot traffic and more usage of bins.
- 3) Notes that over the Christmas holiday period, some Councillors received complaints from residents in areas such as Raymond Terrace, Anna Bay, Corlette and Nelson Bay, of bins that were overflowing, leading to smell and visual amenity impacts for locals and visitors.
- 4) Notes that Council staff have been in discussions with Council's contractors who provided reasons such as staffing issues, heavy traffic and bin volumes as some of the reasons that caused bins to not be emptied.
- 5) Requests that the General Manager continues to work with the waste contractor regarding frequency of pick up during busy periods around school holidays, public holidays and weekends and provide an update to Councillors.

**BACKGROUND REPORT OF: TAMMY GUTSCHE – COMMUNITY SERVICES
SECTION MANAGER**

BACKGROUND

The purpose of this background is to provide information in relation to this Notice of Motion (NOM).

There have been some challenges with waste collection over the Christmas period. Council's contractors carried out the following waste services across the Council area:

- Weekly Residential Servicing of approximately 35,500 red bins.
- Weekly Residential Servicing of approximately 35,500 yellow/green (alternate) bins.
- Increased servicing of public litter bins (up to daily in heavy usage/beach areas) resulting in approximately 3000 bin lifts per week.

- Christmas/Holiday servicing of holiday units/multi-unit dwellings in Tomaree Peninsula of 450 bins up to 3 times per week resulting in approximately 1200 bin lifts.

These services amount to a total of over 75,000 bin lifts per week.

Unfortunately, the contractors have missed services over the holiday period resulting in complaints coming through to Council. These issues were due to a combination of reasons, including:

- **Staffing** – 5 drivers called in sick on New Year's Day resulting in a major disruption to servicing, falling behind on runs and missed services. Alternate staff were called upon to drive trucks (the Operations Manager being one of those staff) and, unfortunately, they were not familiar with set areas for each run.
- **Heavy traffic** – it has been reported that there was a significant increase in tourist numbers to the area in comparison to previous years. The location of where cars have been parking has impacted services which had a significant impact on the trucks' ability to manoeuvre certain streets to service bins, ultimately leading to falling behind, missed bins and mistakes.
- **Bins volume** – the volume of bins increased due to the significant increase in collection services requested by Air BNB properties. This required the contractor to undertake more trips to Summerhill and other processing facilities, which has a flow on effect to the time to return to the area to continue the collections.

Council's contractors have been trying to catch up on the backlog resulting from the issues above, as well as providing the ongoing daily services. The impact of the additional service from the Green Organics (GO) collection is also having an impact for our contractors across the board.

The Waste team is dealing directly with our contractors to rectify a number of issues and is looking to change processes both within the contracted services and our own staffing of Public Place Cleaning teams. This will encourage better teamwork and communication across both areas and ensure a more effective and efficient service, as well as creating a better outcome for the community.

Waste staff have been receiving approximately 20 calls per day in relation to waste issues. Whilst this number appears high, when compared to the number of services carried out to each property within the Council area, it equates to less than 1% of residents impacted on a weekly basis.

Across the local government area we are also experiencing a significant misuse of litter bins with businesses, house boats and tourists all using these bins as their own bins, which caused the overflow of public bins. Businesses in William Street, Raymond Terrace were issued with a letter in early December as they are continually using Council public bins to dispose of their business waste and have done so for some time.

In other waste areas, the Public Place Cleaning team has received very few complaints over the busy period which is a great achievement given the number of

tourists to the area and the regularity of use of our public amenities. We are fortunate to have dedicated staff who take pride in ensuring our facilities are cleaned to a high standard for the community.

With our first 6 months of the GO Kerbside Collection completed, below is a progress report on the service implementation.

Previous audits indicated that total collection of Red bin waste over the past 3 years averaged 28,000 tonnes, which was made up of approximately 25 to 30 percent of green waste. When putting the business case together to introduce the GO bin, staff allowed for extra tonnages due to residents having additional space in their bins, estimating that Council would be collecting approximately 22,000 tonnes of household waste and 8,000 tonnes of green waste in the kerbside once the GO collections commenced. The collection amounts are on track with regard to forecasts. What has also been noticed is that there has been a decrease in green waste drop off days by a one-third.

The Waste Team is continually reviewing our processes and working with our key stakeholders to provide a more effective service to the community.

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.