

## **MINUTES – 26 MARCH 2024**



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 26 March 2024, commencing at 5:41pm.

### **PRESENT:**

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  
General Manager  
Director Community Futures  
Director Corporate Strategy and Support  
Director Facilities and Infrastructure  
Governance Section Manager

	There were no apologies or applications for leave of absence received.
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## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

	<p>Mayor Ryan Palmer declared a pecuniary conflict of interest in Item 1. The nature of the interest is Mayor Palmer owns property within the identified strategy areas.</p> <p>Cr Peter Francis declared a pecuniary conflict of interest in Item 1. The nature of the interest is Cr Francis' wife is a 100% owner of property that may have its value affected by the changes.</p> <p>Cr Peter Kafer declared a pecuniary conflict of interest in Item 1. The nature of the interest is Cr Kafer owns a property in the area.</p> <p>Cr Giacomo Arnott declared a pecuniary conflict of interest in Item 1. The nature of the interest is houses owned by Cr Arnott's mother and father are within the mapping in the draft Housing Supply Plan. Cr Arnott is very frustrated at the detail in the mapping, as he would have loved to speak to the benefits of increased housing density all across Port Stephens.</p> <p>Cr Peter Francis declared a pecuniary conflict of interest in Item 7. The nature of the interest is Cr Francis is a member and is on the executive committee of the Raymond Terrace Senior Citizens.</p>
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<b>041</b>	<p><b>Councillor Peter Francis</b> <b>Councillor Jason Wells</b></p> <p>It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 12 March 2024 be confirmed.</p>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

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## DECLARATION OF INTEREST

ORDINARY COUNCIL - 26 MARCH 2024



### Declaration of Interest form

Agenda item No. 1  
Report title Revised Local Housing Strategy.  
Mayor/Councillor Ryan Palmer declared a

Tick the relevant response:

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

in this item. The nature of the interest is I own property  
within the identified strategy areas.

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 5.14 pm.

<sup>Mayor</sup> Mayor/Councillor returned to the Council meeting at 5.50 pm.





*Cr Francis*

## Declaration of Interest form

Agenda item No. 1

Report title

**REVISED LOCAL HOUSING STRATEGY**

\_declared a Tick the relevant response:

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

in this item. The nature of the interest is \_ My wife is a 100% owner of a property that may have its value affected by the changes.

**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 5:44 pm.

~~Mayor~~/Councillor returned to the Council meeting at 5:50 pm.

ORDINARY COUNCIL - 26 MARCH 2024



# Declaration of Interest form

Agenda item No. 1

Report title

Revised Local History Strategy

Mayor/Councillor

KAFER

declared a

Tick the relevant response:

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

in this item. The nature of the interest is

Owner of Home

in area.

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

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

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

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

Mayor/Councillor left the Council meeting at 5:44 pm.

Mayor/Councillor returned to the Council meeting at 5:50 pm.

ORDINARY COUNCIL - 26 MARCH 2024



## Declaration of Interest form

Agenda item No. 1

Report title Local Housing Strategy

Mayor/Councillor Arnold declared a

Tick the relevant response:

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

in this item. The nature of the interest is Houses owned by my mother and father are within the mapping in the Draft Housing Supply Plan. I am very frustrated at the detail in the mapping as I would have loved to speak to the benefits of increased housing density all across Port Stephens.

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 5.44 pm.

Mayor/Councillor returned to the Council meeting at 5.50 pm.

ORDINARY COUNCIL - 26 MARCH 2024



# Declaration of Interest form

Agenda item No. 7

Report title Financial Assistance

Mayor/Councillor Francis declared a

Tick the relevant response:

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

in this item. The nature of the interest is Membership and  
Executive Committee of RSC

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

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

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

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

Mayor/Councillor left the Council meeting at 6.05 pm.

Mayor/Councillor returned to the Council meeting at 6.06 pm.

# MOTIONS TO CLOSE

**ITEM NO. 1**

**FILE NO: 24/56292  
EDRMS NO: PSC2019-05959**

**MOTION TO CLOSE**

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

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**RECOMMENDATION:**

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

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**ORDINARY COUNCIL MEETING - 26 MARCH 2024  
MOTION**

<b>042</b>	<p><b>Councillor Chris Doohan Councillor Glen Dunkley</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) That pursuant to section 10A(2) (d)i of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely <b>Acquisition from Hunter Water Corporation - Newline Road, Raymond Terrace</b>.</li><li>2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none"><li>• commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.</li></ul></li><li>3) That the report remain confidential and the minute be released in accordance with Council's resolution.</li></ol>
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<b>MINUTES ORDINARY COUNCIL - 26 MARCH 2024</b>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.





# COUNCIL REPORTS

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

Mayor Ryan Palmer vacated the chair and left the meeting at 5:44pm. Deputy Mayor, Cr Leah Anderson chaired the meeting in the absence of the Mayor.  
Councillor Giacomo Arnott left the meeting at 5:44pm.  
Councillor Peter Francis left the meeting at 5:44pm.  
Councillor Peter Kafer left the meeting at 5:44pm.

### ITEM NO. 1

FILE NO: 24/30764  
EDRMS NO: PSC2023-03961

### REVISED LOCAL HOUSING STRATEGY

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

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#### RECOMMENDATION IS THAT COUNCIL:

- 1) Endorses the revised Port Stephens Local Housing Strategy (**ATTACHMENT 1**) for public exhibition for a period of 28 days.
  - 2) Requests a further report to be provided to Council upon completion of the public exhibition period seeking endorsement of the revised Port Stephens Local Housing Strategy.
- 

### ORDINARY COUNCIL MEETING - 26 MARCH 2024 MOTION

043	<p><b>Councillor Chris Doohan</b> <b>Councillor Jason Wells</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Endorses the revised Port Stephens Local Housing Strategy (<b>ATTACHMENT 1</b>) for public exhibition for a period of 28 days.</li><li>2) Requests a further report to be provided to Council upon completion of the public exhibition period seeking endorsement of the revised Port Stephens Local Housing Strategy.</li></ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Leah Anderson, Matthew Bailey, Chris Doohan, Glen Dunkley, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

## **BACKGROUND**

The purpose of this report is to seek Council endorsement to place the revised Port Stephens Local Housing Strategy (LHS) (**ATTACHMENT 1**) on public exhibition for a period of 28 days.

The State Government required all Greater Newcastle councils to adopt a local housing strategy prepared in accordance with the Greater Newcastle Metropolitan Plan 2036 (GNMP). This created the original version of the LHS which was adopted by Council in July 2020.

At its meeting of 10 May 2022, Minute No. 120 (**ATTACHMENT 2**), Council resolved to review its Local Housing Strategy and how Council deals with larger lot residential development that is proposed for rural land.

In addition to the above resolution of Council, a number of key societal factors have occurred which require a revision of the Local Housing Strategy including:

- The immediate and lasting impacts of the COVID-19 pandemic
- The changes to settlement patterns across the State and Nation with flexible working arrangements
- The National Housing Crisis and significant policy change being implemented by The State and Federal Governments
- The revision and endorsement of the Hunter Regional Plan 2041 (HRP).

Port Stephens has grown significantly over the past several years. This has been driven by sustained economic growth across the Hunter in addition to significant changes in population growth and migration patterns as a result of the COVID 19 pandemic.

Port Stephens is forecast to grow by approximately 20,000 people over the next 20 years. To respond to the projected population growth, the State Government's HRP 2041 specifies a projected housing demand for Port Stephens of 11,100 dwellings.

Port Stephens has also seen rapid increases in the demand for emergency housing, the overcrowding of existing community housing stock and the prevalence of rough sleeping and homelessness. In response to this, Council has formed the Homelessness Stakeholder Advocacy Group (HSAG) to bring together the 3 levels of government, community housing providers and support service providers so that a combined effort can be made to address this current and growing issue.

The revised LHS responds to these changing circumstances, seeking to provide a consolidated vision and action plan to cater for a growing Port Stephens population over the next 20 years.

Beyond this, the revised LHS also looks at opportunities to improve housing affordability, encourage diverse housing to cater for all stages of life and to continue to enhance and create liveable communities.

The revised LHS also includes the Housing Supply Plan (HSP) (**ATTACHMENT 3**). The HSP provides specifics around where the projected housing is forecast to be delivered, what type of housing is forecast to be delivered and when this housing is forecast to be delivered to the market. This differs from the original version of the LHS which used a set of criteria for sites considered suitable for housing, rather than a map based approach.

By clearly identifying areas, Council is also seeking to provide clarity to the community, to local and international business and the housing industry on the locations that have potential to deliver additional greenfield and infill housing stock. The criteria within the LHS remains so that sites that are not specifically mapped are still able to demonstrate suitability for investigation.

To address the resolution from the Council meeting of 10 May 2022, sites within the Hinterland area of Port Stephens have not been specifically mapped. The assessment of applications made for the rezoning and development of rural areas will be retained as originally adopted, with assessment against the rural residential criteria of the LHS. As part of the review, amendments have been made to the rural residential criteria to ensure that considerations are made with respect to rural character and visual amenity. This will provide greater clarity of Council's expectations when assessing applications of this nature.

Using this primarily map based approach, Council will be able to plan and monitor the delivery of the proposed growth. This ensures a focus on accountability and development viability to ensure that the strategic intent of the plan becomes realised.

The revised LHS has widespread updates throughout, with key amendments relating to:

- Updated and improved actions within the implementation plan
- Clarity of Council's role in the delivery of actions
- Clarity of advocacy actions to the responsible areas of the State and Federal Government
- Current data on housing needs and preferences
- Inclusion of the Housing Supply Plan (HSP)
- Updated rural residential and rezoning criteria
- Consistency with other State and Federal strategic planning and housing related policies and documents.

Following public exhibition, if endorsed by Council, the revised LHS will be submitted to the NSW Department of Planning Housing and Infrastructure (DPHI) seeking endorsement. An endorsed local housing strategy provides a mechanism to work

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

with NSW Government agencies to seek funding and support for the delivery of more infrastructure and services to the local community.

### COMMUNITY STRATEGIC PLAN

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

### FINANCIAL/RESOURCE IMPLICATIONS

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

### LEGAL, POLICY AND RISK IMPLICATIONS

#### State Planning Policy Reform

At the time of writing, the State Government are considering a range of planning policy reforms to respond to the Federal Government's National Housing Accord. These policy changes are still under consideration but are largely aligned to the strategic directions of the Hunter Regional Plan 2041. As such, the risk associated with the reforms currently under consideration is reduced and would not be incompatible with the revised Local Housing Strategy.

#### Hunter Regional Plan 2041

The revised LHS is consistent with the HRP 2041, including directions to promote higher housing densities, providing nimble neighbourhoods, and balancing housing with the local environment.

#### Greater Newcastle Metropolitan Plan 2036

Local housing strategies are required to be in accordance with the directions of the GNMP, which include, prioritising infill housing, delivering housing close to jobs, and promoting diverse housing types such as small lot housing and multi-dwelling housing. The revised LHS is consistent with the GNMP 2036.

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

### Port Stephens Local Strategic Planning Statement

The Local Strategic Planning Statement (LSPS) is required to set out how Council will achieve the land use planning directions in the HRP, GNMP and Council's Community Strategic Plan. The revised LHS is consistent with the priorities for housing identified in the LSPS.

### Port Stephens Local Environmental Plan 2013

Amendments to the Port Stephens Local Environmental Plan (LEP) 2013 may result from some of the actions identified in the revised LHS. This may include changes to land zoning, lot sizes or building heights. This would be subject to separate planning processes and is not required as part of this report.

### Port Stephens Development Control Plan 2014

Amendments to the Port Stephens Development Control Plan (DCP) 2014 may result from some of the actions identified in the revised LHS, including amendments to development controls for small lot housing, sustainable design or local character. This would be subject to separate planning processes and is not required as part of this report.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that if the revised LHS is not exhibited that the future housing needs of the community will not be met.	Medium	Accept the recommendation.	Yes
There is a risk that if the revised LHS is not exhibited, that the current LHS does not meet community, business or industry expectations.	Medium	Accept the recommendation.	Yes
There is a risk that the policy reforms currently being considered by the State Government do not align with the revised Local Housing Strategy.	Low	Accept the recommendation.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The revised LHS contains actions that will overall have positive social, economic and environmental implications. The outcomes aim to prioritise new housing around existing urban areas and to support strong local communities. The actions seek to facilitate sustainable development that can provide more housing whilst retaining and enhancing local character.

The revised LHS seeks to establish a robust framework for the identification and assessment of future areas for housing growth across the local government area. In addition, the revised LHS aims to improve housing affordability and to provide homes in locations close to employment centres.

Actions in the strategy will support vibrant local centres and promote social well-being for residents.

## **CONSULTATION**

Targeted consultation with key stakeholders has been undertaken by the Strategy and Environment Section. Further consultation will be undertaken as part of the public exhibition process set out below.

### Internal

The revised LHS has been prepared in consultation with the relevant sections across the organisation including:

- Development and Compliance Section
- Strategy and Environment Section
- Assets Section
- Strategic Property unit
- Communications and Engagement Section.

The Project Control Group for the revision of the LHS incorporated representatives from all Directorates of Council.

A series of workshops were held with the elected Council throughout the revision of the LHS.

### External

A range of external stakeholders were involved in the LHS review including State Government agencies, community housing providers, social support services, Local Aboriginal Land Councils, industry reference groups and the Homelessness Stakeholder Advocacy Group (HSAG).

A key part of the engagement was the Port Stephens Housing Forum hosted on 10 November 2023. The forum was attended by local community groups, community housing providers, real estate agents, local businesses, development and housing industry bodies, major landowners in the LGA and State Government agencies, departments and community representatives.

The Housing Forum provided the opportunity to investigate and identify issues the community and stakeholders are experiencing in relation to housing, and to gain insight on potential actions Council can implement to support the needs and priorities of the community.

As part of the exhibition period, Council will be meeting with the attendees of the Housing Forum to discuss the strategy as prepared and cover how the insights and data collected during the event has influenced the strategy review.

The revised LHS will be placed on public exhibition for a period of 28 days.

Council has planned an active engagement period in consultation with the Community Engagement Advisory Group. This will include a newspaper advertising, face-to face engagement, Facebook live event and drop in information sessions. Council will also preparing a pre-recorded video covering key themes of the revised Strategy for use on Council's website and media platforms.

Submissions can be made to Council during the public exhibition period. The exhibition will allow Council to inform the community and seek feedback on the revised LHS.

Following the exhibition, a report will be prepared to summarise submissions, detail any changes to the revised LHS as a result of the exhibition process and seeking Council endorsement.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Revised Port Stephens Local Housing Strategy. (Provided under separate cover)
- 2) Minute No. 120, 10 May 2022.
- 3) Draft Housing Supply Plan. (Provided under separate cover)

## **COUNCILLORS' ROOM/DASHBOARD**

Nil.



**TABLED DOCUMENTS**

Nil.

**MINUTES ORDINARY COUNCIL - 10 MAY 2022****NOTICE OF RESCISSION****ITEM NO. 1****FILE NO: 22/114017****EDRMS NO: PSC2021-04197****PLANNING PROPOSAL FOR 792 SEAHAM ROAD, SEAHAM****COUNCILLOR:** RYAN PALMER  
CHRIS DOOHAN  
GLEN DUNKLEY**THAT COUNCIL:**

That Council rescind its decision of 26 April 2022 on Item No. 1 Planning Proposal for 792 Seaham Road, Seaham.

**ORDINARY COUNCIL MEETING - 10 MAY 2022  
MOTION**

	<b>Mayor Ryan Palmer Councillor Glen Dunkley</b>  That Council rescind its decision of 26 April 2022 on Item No. 1 Planning Proposal for 792 Seaham Road, Seaham.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Matthew Bailey, Chris Doohan and Glen Dunkley.

Those against the Motion: Crs Leah Anderson, Giacomo Arnott, Peter Francis, Steve Tucker and Jason Wells.

The motion was lost.

**MINUTES ORDINARY COUNCIL - 10 MAY 2022****ORDINARY COUNCIL MEETING - 10 MAY 2022  
MATTER ARISING**

<b>120</b>	<b>Mayor Ryan Palmer Councillor Chris Doohan</b>  It was resolved that Council review its Housing Strategy and how Council deals with larger lot residential that is proposed for rural land.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

**ATTACHMENTS**

- 1) Planning Proposal for 792 Seaham Road, Seaham - Minute No. 106 - 26 April 2022.

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

Councillor Peter Kafer returned to the meeting at 5:50pm.  
Mayor Ryan Palmer returned to the meeting at 5:50pm and resumed the chair.  
Councillor Giacomo Arnott returned to the meeting at 5:50pm.  
Councillor Peter Francis returned to the meeting at 5:50pm.

### ITEM NO. 2

FILE NO: 24/34203  
EDRMS NO: PSC2023-01018

### DRAFT PORT STEPHENS DEVELOPMENT CONTROL PLAN - CHAPTER B1 TREE MANAGEMENT AND B2 FLORA AND FAUNA

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

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#### RECOMMENDATION IS THAT COUNCIL:

- 1) Place the draft Port Stephens Development Control Plan 2014 Chapter B1 Tree Management and B2 Flora and Fauna (**ATTACHMENT 1**) on public exhibition for a period of 28 days, and should no submissions be received, the Development Control Plan be adopted, without a further report to Council.

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### ORDINARY COUNCIL MEETING - 26 MARCH 2024 MOTION

044	<p><b>Councillor Peter Kafer</b> <b>Councillor Leah Anderson</b></p> <p>It was resolved that Council place the draft Port Stephens Development Control Plan 2014 Chapter B1 Tree Management and B2 Flora and Fauna (<b>ATTACHMENT 1</b>) on public exhibition for a period of 28 days, and should no submissions be received, the Development Control Plan be adopted, without a further report to Council.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to seek Council endorsement to place the draft amendments to the Port Stephens Development Control Plan 2014 (DCP) Chapters B1 Tree Management and B2 Flora and Fauna (**ATTACHMENT 1**) on public exhibition for a period of 28 days.

Following a review of Chapters B1 Tree Management and B2 Flora and Fauna, a number of amendments have been proposed to align requirements with other documentation, provide greater clarity for community members in relation to tree management, as well as improved guidance to address ecological impacts in development applications. A detailed explanation of the amendments as proposed is provided within (**ATTACHMENT 2**).

The proposed amendments will improve the functionality of the DCP by updating references and streamlining the location of development requirements. The amendments will incorporate information from technical specifications and plans delivering a clear and comprehensive guide to Tree Management and Flora and Fauna matters. This report recommends the DCP be amended to:

- Reflect current legislative controls
- Provide greater detail on tree pruning and removal approval requirements
- Rename Chapter B2 Natural Resources to Flora and Fauna to more accurately reflect its contents
- Provide greater detail on technical information required to support an application to remove trees and vegetation
- Provide greater detail of the assessment requirements from the Port Stephens Comprehensive Koala Plan of Management (CKPoM)
- Provided greater detail of the compensatory requirements to replace trees and vegetation which was previously specified in the Tree Technical Specification
- Insert definitions for 'Biodiversity Development Assessment Report', 'High value ecological features' and 'Koala-friendly fencing'.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no known financial or resource implications for Council as a consequence of the proposed recommendations. The exhibition will be managed within the existing budget.

**MINUTES ORDINARY COUNCIL - 26 MARCH 2024**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no known legal, policy or risk implications resulting from the proposed recommendations.

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

Division 3.6 of the EP&A Act relates to development control plans. Should Council resolve to proceed with the amendment, all necessary matters in preparing the plan will be carried out in accordance with the EP&A Act.

Environmental Planning & Assessment Regulations 2000 (EP&A Regulations)

Division 2 of Part 3 of the EP&A Regulations specifies the requirements for public participation. The recommendation is in accordance with the provisions of the EP&A Regulations.

Port Stephens Development Control Plan 2014 (DCP)

The proposed amendments to the DCP would provide clearer guidance for community members in preparing development applications. They would also provide stronger development controls for staff to rely on when requesting further information from applicants. Together these changes would streamline the assessment of future development applications where ecological impacts are proposed.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that the DCP will contain outdated and incorrect information if the amendment is not made.	Medium	Adopt the recommendation.	Yes

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

There is a risk that ecological impacts are not adequately addressed through the development assessment process if the amendment is not made.	Medium	Adopt the recommendation.	Yes
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### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed amendments are considered to have positive social, environmental and economic implications. The amendment will improve access to information for the community and provide clearer approval and assessment requirements.

The proposed amendments can improve the consideration of ecological constraints during the preparation of development applications. This can lead to improved assessment of ecological constraints and ultimately deliver enhanced environmental outcomes.

The proposed amendments can also streamline the assessment process by reducing the time taken to prepare and respond to requests for further information. The changes would result in clearer expectations of requirements prior to lodgement and shorter assessment timeframes once received.

### CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section to identify and consider any issues prior to exhibition.

#### Internal

- Strategy and Environment Section
- Development and Compliance Section
- Public Domain and Services Section.

#### External

The Environmental Advisory Group was engaged through a presentation on the proposed amendments to the DCP Chapter B1 Tree Management and B2 Flora and Fauna.

If supported, the proposed amendments to DCP Chapter B1 Tree Management and B2 Flora and Fauna will be placed on public exhibition for a period of 28 days together with an Explanation of Amendments (**ATTACHMENT 2**).

## **MINUTES ORDINARY COUNCIL - 26 MARCH 2024**

The amendments will be made available on Council's website in accordance with the EP&A Regulation and the Port Stephens Community Participation Plan.

Submissions on the proposed draft amendments to the DCP will be invited during the public exhibition period and, if submissions are received, they will be considered in a return report to Council including any recommended post-exhibition changes. A submission summary table will be included with the post-exhibition report to Council.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Draft Development Control Plan 2014 - Chapter B1 Tree Management and Chapter B2 Flora and Fauna.
- 2) Explanation of Amendments.

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

Nil.

### **TABLED DOCUMENTS**

Nil.



## ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 - CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.

# B1

## B1 Tree Management

### Application

This Part applies to the removal or pruning of trees or other vegetation within **non-rural areas**

Note: Clearing of native vegetation in **rural areas** is regulated by the *Local Land Services Amendment Act 2016*

### B1.A Non-rural areas

#### Objective

To give effect to *State Environmental Planning Policy (SEPP) (Biodiversity and Conservation) 2021* by listing those trees or other vegetation that require approval **for removal or pruning**.

#### Development controls

B1.1	Where any activity specified in Column 2 is proposed, an applicant must attain the corresponding approval type specified in Column 1
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Note: The tree pruning and removal assessment form available on Council's website can be used to determine what type of Council issued approval (if any) is required prior to tree removal or pruning.

**Figure BA: Approval requirements thresholds**

Column 1 – Approval type required	Column 2 – Tree management activity
Council approval not required	<p>No approvals are required for the removal of a tree(s) or other vegetation that is:</p> <ul style="list-style-type: none"> <li>authorised under other legislation, such as vegetation clearing authorised under the <i>Rural Fires Act 1997</i>; or,</li> <li>clearing <b>approved</b> as part of an <b>approved</b> construction certificate or approved subdivision certificate; or</li> <li>trees and shrubs under 3m in height and diameter is less than 300mm (measured 1.3m from the ground); or,</li> <li>where height exceeds 3m or diameter exceeds 300mm (measured 1.3m from the ground), that is: <ul style="list-style-type: none"> <li>within 5m of the wall of an approved structure measured from the wall to the trunk of the tree (excluding driveways); <b>unless it is identified for protection within conditions of a development consent or tree permit, or it is located on land that is Biodiversity Values mapped or is used as habitat for native animals</b> or,</li> <li>a tree <b>species</b> grown for fruit or nut production; or,</li> <li>a species listed in <b>NSW Weedwise</b> that is not otherwise listed as requiring Council approval.</li> </ul> </li> </ul> <p>Note: No approvals are required when pruning less than 10% foliage of a tree or other vegetation within a 12 month period when completed in accordance with Australian Standard (AS) 4373– Pruning of amenity trees.</p> <p>Note: An approved structure is development such as a dwelling, garage, pool or retaining wall that required development consent (that is not exempt or complying development).</p>

# ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 - CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.

## B1

Column 1 – Approval type required	Column 2 – Tree management activity
Notification to Council	<p>Removal or pruning of a tree, not otherwise listed as requiring Council approval, can occur in instances where Council is satisfied that:</p> <ul style="list-style-type: none"> <li>there is a risk to human life or property not related to leaf/flower/fruit drop, or</li> <li>the tree(s) are dead or dying and it is not required as the habitat of native animals.</li> </ul> <p>Note: where urgent removal or pruning over 10% of a tree is required due to risk of immediate failure, Council requires a tree removal notification within 10 days of the removal.</p> <p>Note: notification must be provided by completing the tree pruning and removal assessment form available on Council's website.</p>
Council issued permit	<p>A tree permit is required for the removal or pruning over 10% of a tree or other vegetation where height exceeds 3m or diameter exceeds 300mm (measured 1.3m from the ground) and poses no risk to life or property.</p> <p>A tree permit is required for the removal or pruning of a tree or other vegetation, irrespective of the location or risk that is:</p> <ul style="list-style-type: none"> <li>a preferred Koala Feed Tree species identified in Council's Comprehensive Koala Plan of Management (CKPoM), being: Forest Red Gum (<i>Eucalyptus tereticomis</i>), Swamp Mahogany (<i>Eucalyptus robusta</i>) or Parramatta Red Gum (<i>Eucalyptus parramattensis</i>); or</li> <li>a NSW Christmas Bush (<i>Ceratopetalum gummiferum</i>); or</li> <li>a Cabbage Tree Palm (<i>Livistona australis</i>); or</li> <li>situated on land that is Biodiversity Values Mapped or is used as habitat for native animals; or</li> <li>identified for retention under a previous development consent or Tree Permit; or</li> <li>listed under the <b>register of significant trees</b><sup>3</sup>; or</li> <li>part of a <b>heritage item</b>, <b>heritage conservation area</b>, Aboriginal object or Aboriginal place of significance, which Council is satisfied: <ul style="list-style-type: none"> <li>is of a minor nature or is for the maintenance of that item, area, object or place; and</li> <li>will not adversely affect the significance of that item, area, object or place</li> </ul> </li> </ul> <p>Note: A tree permit can be requested by completing the tree pruning and removal assessment form available on Council's website.</p> <p>Note: A tree removal permit is not separately required if the tree removal forms part of works requiring development consent.</p>
Council issued development consent	<p><b>Development consent</b> from Council is required for the removal or pruning of a tree or other vegetation that forms part of a <b>heritage item</b>, <b>heritage conservation area</b>, Aboriginal object or Aboriginal place of significance, which Council is not satisfied:</p> <ul style="list-style-type: none"> <li>is of a minor nature or is for the maintenance of that item, area, object or place; and</li> <li>will not adversely affect the significance of that item, area, object or place</li> </ul> <p>Note: A <b>development application</b> will need to be lodged.</p>
Native vegetation panel approval	<p>Clearing of <b>native vegetation</b> that is subject to the biodiversity offset scheme as specified in the <i>Biodiversity Conservation Act 2016</i></p>

ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 -  
CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.

B1

Column 1 – Approval type required	Column 2 – Tree management activity
Threatened Species Licence	Removal or pruning of vegetation that poses no risk to life or property and is likely to result in: <ul style="list-style-type: none"> <li>• harm to an animal that is a threatened species or part of a threatened ecological community; or</li> <li>• picking a plant that is a threatened species or part of a threatened ecological community; or</li> <li>• damage to the habitat of a threatened species or threatened ecological community; or</li> <li>• damage to a declared area of outstanding biodiversity value.</li> </ul>
Fisheries and Marine Park Permits	Removal or pruning of any Mangrove and marine vegetation (such as saltmarsh, mangroves, seagrasses, and macroalgae (seaweeds), as specified in Part 7 of the Fisheries Management Act 1994, irrespective of the size, location or risk.

Note: Applicants for tree clearing and removals will also need to consider the provisions of other legislation including but not limited to the following:

- *Biodiversity Conservation Act 2016 (NSW)* - A licence may be required if tree removal would also harm the animals listed in this Act. Contact NSW Environment, Energy and Science.
- *Biosecurity Act 2015 (NSW)* - clearing of weeds. Contact Port Stephens Council's Invasive Species Team.
- *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* - protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places. Contact the Commonwealth Department of the Environment.
- *Fisheries Management Act 1994 (NSW)* - prohibits harm to any marine vegetation and issues permits for harm cutting of mangroves. Contact the NSW Department of Primary Industries (DPI).
- *Heritage Act 1977 (NSW)* - sites under conservation orders, relics, etc. Contact NSW Environment, Energy and Science.
- *Local Land Services Act 2013 (NSW)* - clearing of native vegetation, regional vegetation management plans, property agreements. Contact NSW Local Land Services (LLS) - Hunter.
- *National Parks and Wildlife Act 1974 (NSW)* - Regulates works in Aboriginal places or impacting Aboriginal objects. Contact the National Parks and Wildlife Service at NSW Environment, Energy and Science.
- *Rural Fires Act 1997 (NSW)* - '10/50 Vegetation Clearing Code of Practice for NSW', and authorised removal of fire hazards. Contact the NSW Rural Fire Service.

## ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 - CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.

# B1

### B1.B Assessment requirements

#### Objective

To ensure adequate consideration is provided to the relevant matters for the removal or pruning of trees or other vegetation

#### Development controls

B1.2	<p>Council assessment of tree notifications to remove or prune trees or other vegetation has regard for:</p> <ul style="list-style-type: none"> <li>the level and likelihood of risk posed by the vegetation based on current arboricultural practices</li> <li>whether the tree is dead and provides habitat</li> </ul>
B1.3	<p>Council assessment of permits and development applications to remove or prune trees or other vegetation has regard for:</p> <ul style="list-style-type: none"> <li>the level and likelihood of risk posed by the vegetation based on current arboricultural practices</li> <li>damage to an existing structure or utility service substantiated by a qualified person</li> <li>impacts resulting from the approval of the development</li> <li>impact on threatened species, populations or ecological communities and their habitats</li> <li>retention value under the <b>biodiversity tree technical specification*</b></li> <li>other relevant circumstances, as per the <b>biodiversity tree technical specification*</b></li> </ul>
B1.4	<p>Council assessment of applications to remove or prune trees or other vegetation has no regard for the removal or pruning of trees:</p> <ul style="list-style-type: none"> <li>due to leaf/flower/fruit drop</li> <li>to enhance view</li> <li>interfering with a solar photovoltaic/hot water system</li> </ul> <p>Note: the <b>biodiversity tree technical specification*</b> details circumstances where the removal or pruning of trees for the installation of solar photovoltaic/hot water systems may be considered</p> <ul style="list-style-type: none"> <li>interfering with the amenity of a dwelling</li> <li>located further than 3m from a driveway. Any trees located closer to driveways must be shown to be interfering, or likely to interfere with the integrity of a driveway <b>by a suitably qualified person</b></li> </ul>

ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 -  
CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.

# B1

## B1.C Supporting information

### Objective

To ensure adequate information is provided to determine the application for the removal of trees or vegetation

### Development controls

B1.5	<p>An <b>arborist report</b> consistent with <b>biodiversity tree technical specification*</b> is required:</p> <ul style="list-style-type: none"> <li>for a tree or other vegetation listed under <b>Council's register of significant trees<sup>3</sup></b></li> <li>to assess the impact on existing trees as part of a <b>development application</b> as per AS 4970 – Protection of trees on development sites, where they are within 5m of the development footprint, (including any ancillary development or associated excavation), or are likely to be impacted by the development (10% or greater encroachment within the Tree Protection Zone) or otherwise proposed to be removed</li> <li>to support reassessment of applications for tree removal on a technical basis</li> <li>to support the release of a tree bond</li> </ul>
B1.6	<p>A request to remove 10 or more trees requires a <b>clearing method statement to be vegetation management plan</b> prepared by a suitably qualified professional in accordance with the <b>biodiversity technical specification*</b>.</p> <p>Note: An application to remove 10 or more trees, where tree height exceeds 3m or diameter exceeds 300mm (measured 1.3m from the ground), may require a referral to be provided to Hunter Water by the assessing officer in accordance with the 'Guidelines for developments in the drinking water catchments'</p>
B1.7	<p><b>Compensatory planting</b> consistent with <b>B2.C the tree technical specification*</b> may be required when council approval to remove trees is provided</p>
B1.8	<p>Where hollow bearing trees occur on site and are proposed for removal, a Hollow Bearing Tree Schedule is to be provided identifying the species, number, size and location of hollows and hollow bearing trees for removal and retention on the site.</p> <p>Replacement hollows consistent with B2.C may be required when Council approval to remove hollow bearing trees is provided.</p> <p>A <b>hollow tree assessment</b> is required to remove hollow bearing trees:</p> <ul style="list-style-type: none"> <li>Two replacement hollows are provided for each hollow tree identified by the <b>tree technical specification<sup>1</sup></b></li> <li>Salvaged hollows are preferred over nest boxes, which are consistent with the <b>tree technical specification<sup>1</sup></b></li> </ul> <p>Note: B2.1 requires a <b>hollow tree assessment</b> and replacement or salvaged hollows if a <b>flora and fauna survey</b> report proposes their removal</p>



## ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 - CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.

# B2

## B2 Natural Resources Flora and Fauna

### Application

This Part applies to **development** that:

- Has the potential to impact upon native flora and/or fauna; or
- Is located on land or is within 500m of land that contains items of **environmental significance**, such as threatened species or communities, listed migratory species, wildlife corridors, any LEP or State mapped **wetlands** or **watercourses**, **riparian corridors** and has the potential to impact these areas biodiversity; or
- Is seeking to use **biodiversity offsets**; or
- Is located on land containing **biosecurity risks**; or
- Is located on or is in proximity to land that contains mapped as **koala habitat** identified by Council's Comprehensive Koala Plan of Management (CKPoM)

Note: where the biodiversity impacts exceed the Biodiversity Offset Scheme Thresholds defined in accordance with the *Biodiversity Conversation Act 2016*, a **Biodiversity Development Assessment Report** (BDAR) will be required. *The Biodiversity Conversation Act 2016* was enacted on the 25 August 2017 which repealed the provisions of *Threatened Species Conservation Act 1995 (TSC Act)*. Transitional arrangements for developments have been put in place to ensure a smooth transition to the new legislation. These are set out in the *Biodiversity Conversation (Savings and Transitional) Regulation 2017*.

### B2.A Environmental significance-Ecological Impact

#### Objectives

- To avoid and minimise impacts on native flora and fauna.
- To protect and enhance native flora and fauna, vegetation communities, and significant habitat on the site.

To ensure adequate consideration is provided to the protection and conservation of items of **environmental significance**

#### Development controls

- B2.1 Where existing trees on site are proposed to be removed and retained, a tree removal and retention plan is required.
- Note: Where hollow bearing trees are located on the site they are to be identified in the tree removal and retention plan with a Hollow Bearing Tree Schedule which identifies the species, number, size and location of hollows and hollow bearing trees for removal and retention on the site.

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CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.

## B2

## Development controls

**Development** located on land or is within 500m of land that contains items of **environmental significance**, such as threatened species or communities, listed migratory species, wildlife corridors, **wetlands** or **riparian corridors** and has the potential to impact biodiversity provides:-

- a **flora and fauna survey** to inform the **assessment of significance**,
  - The **flora and fauna survey** is in accordance with:
    - NSW Department of Environment and Conservation. 2004, 'Threatened Species Survey and Assessment: Guidelines for development and activities'<sup>8</sup>
    - Hunter and Central Coast Regional Environmental Management Systems. 2002, 'Lower Hunter and Central Coast Regional Fauna and Flora Guidelines'<sup>9</sup>
    - If **development** poses a **significant effect** under 5A of the **EP&A Act** or if development is on land which is, or is part of, critical habitat then a **species impact statement (SIS)** is required
    - If **development** does not pose a **significant effect** under 5A of the **EP&A Act**, but proposes unavoidable vegetation impacts then a **vegetation management plan (VMP)** that is consistent with the **tree technical specification**<sup>1</sup> is required

Note: Under section 5.5 of the **EP&A Act** the determining authority has a duty to consider the environmental impact of proposed activities

- If the **flora and fauna survey** proposes the removal of hollow bearing trees then a **hollow tree assessment** is required:
  - Two replacement hollows are provided for each hollow tree identified by the **hollow tree assessment**
  - Salvaged hollows are preferred over nest boxes that are consistent with the **tree technical specification**<sup>1</sup>

Note: This is consistent with B1.8 that requires a **hollow tree assessment** to remove hollow bearing trees on land to which B1 applies.

- A proposed **buffer** on the land subject to the **development** is provided to items of **environmental significance**. The width of the **buffer** is recommended by the **flora and fauna survey** report based and is based on taking into account the following parameters:
  - The condition of the item of **environmental significance**
  - Proposed methods of mitigating adverse impact
  - Possible external effects, such as weed encroachment or domestic animals and their potential to cause impact
  - Where the vegetation of **buffers** are proposed, the vegetation is established along the relevant boundaries prior to the issuing of the relevant **subdivision** or **occupation certificate**

Note: C4.11 nominates a suitable buffer for residential accommodation adjoining land used for agricultural purposes

**ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 -  
CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.**

## B2

### Development controls

B2.2	<p>Where the proposed development is likely to impact upon threatened species habitat, threatened ecological communities or important habitat features such as hollow bearing trees, an Ecological Impact Assessment is required to be submitted with the development application.</p> <p>The Ecological Impact Assessment is to adequately identify and assess the impacts of the proposed development in accordance with Council's <b>Ecological Assessment Guideline</b> including cumulative, direct and indirect impacts and any other clearing required to facilitate the development.</p> <p>Note: If the Ecological Impact Assessment identifies potential threatened species habitat, additional targeted surveys may be required, which must be undertaken in accordance with the relevant approved State or Federal guidelines.</p>
B2.3	<p>Development should be designed to avoid impacts on high value ecological features, minimise any unavoidable impacts, and where applicable implement compensatory measures in accordance with (B2.C)</p> <ul style="list-style-type: none"> <li>Where possible, native vegetation buffers are to be provided between development and environmentally zoned land or areas containing threatened flora and fauna species or their habitat and threatened vegetation communities. The width of the buffer should be determined with reference to the function of the habitat and the type of development proposed.</li> <li>Buildings and structures, roads, driveways, fences, dams, infrastructure, drainage and asset protection zones should be located outside of areas with significant flora and fauna or ecological communities, native vegetation buffers, biodiversity corridors or environmentally zoned lands.</li> <li>The width of any retained or proposed biodiversity corridors should be determined with reference having regard to the function of the habitat and the type of development proposed.</li> </ul>
B2.4	<p>Where retention or rehabilitation of native vegetation and/or habitat is required, a Vegetation Management Plan must be prepared in accordance with the <b>Biodiversity Technical Specification*</b> and must detail how vegetation is to be protected, rehabilitated and managed before, during and after construction, and include progress reporting/monitoring.</p>
B2.5	<p>An Arborist Report may be required in accordance with B1.5.</p>
B2.6	<p>A subdivision development application must consider the total clearing that is required or likely to be required for the purpose for which the land is to be subdivided. This includes but is not limited to building envelopes, bushfire asset protection zones, access roads, driveways, services, effluent disposal areas, ancillary buildings and new boundary fence lines.</p>
B2.7	<p>Where a proposed commercial, industrial, subdivision or seniors housing development is located adjacent to an area of threatened fauna habitat, a fauna-friendly lighting design plan is to be provided in accordance with the objectives and design principles detailed in the <b>DCCEEW 2023 National Light Pollution Guidelines for Wildlife*</b></p>



## ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 - CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.

# B2

### B2.DB Koalas Habitat

#### Objective

To encourage the proper identification, conservation and management and conservation of areas of natural vegetation that provide Koala habitat in accordance with Council's Comprehensive Koala Plan of Management (CKPoM) to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline

#### Development control

- B2.84 **Development** located on or in proximity to land identified as **Koala habitat** or requires an ecological assessment or **BDAR** must prepare a Koala Habitat Assessment, complies with the *Port Stephens Comprehensive Koala Plan of Management*<sup>10</sup> through consideration to the performance criteria, being:
- The Koala Habitat Assessment must be prepared in accordance with Appendix 6 of the CKPoM as summarised in the Port Stephens Koala Habitat Assessment Process on Council's website and include a Koala Performance Criteria Assessment.
- The Koala Performance Criteria Assessment must be prepared in accordance with Appendix 4 of the CKPoM and is to demonstrate that the development:
- Minimises the removal or degradation of **native vegetation** within **preferred Koala habitat** or **habitat buffers**; **supplementary Koala habitat**
  - Maximises the retention and minimising degradation of **native vegetation** within **supplementary Koala habitat**, **habitat buffers** and **habitat linking areas**;
  - Minimising removal of any individual **Koala feed tree** individuals on a development site. **Koala feed tree species** include Swamp Mahogany (*Eucalyptus robusta*), **Parramatta Red Gum** (*Eucalyptus parramattensis*), and **Forest Red Gum** (*Eucalyptus tereticornis*), and hybrids of any of these species. An additional list of tree species that may be important to Koalas is included in Appendix 8 of the CKPoM;
  - Includes restoration or rehabilitation of areas identified as **Koala Habitat** (including buffers and habitat linking areas), with the target of resulting in a net gain of **koala habitat**. Where appropriate, restore and rehabilitate **koala habitat**/ buffers and linking areas
    - Removal of **koala habitat** is off-set by a net gain of **koala habitat** on-site or adjacent
  - Make provision for **Includes the long-term management and protection of both existing and restored Koala habitat that:**
    - Not compromise **Ensures the safe movement of koalas across by minimising barriers site by minimising barriers to koala movement, such as retaining native vegetation and using suitable Koala-friendly fencing**;
    - Maximisation of tree retention
    - Minimising barriers for movement, such as fences
  - Fences which are intended to preclude koalas should be located away from any trees which could allow koalas to cross the fence
    - Restrict **development** to defined building envelopes

## ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 - CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.

## B2

## Development control

B2.84	<p>g. Minimising the threats posed to Koalas from dogs, motor vehicles and swimming pools</p> <ul style="list-style-type: none"> <li>- <b>Development</b> demonstrates consideration to the performance criteria within the <b>statement of environmental effects (SEE)</b> by providing the following: <ul style="list-style-type: none"> <li>- Assessment of <b>koala habitat</b> in accordance with Appendix 6 – Guidelines for Koala Habitat Assessment of the <i>Port Stephens Comprehensive Koala Plan of Management</i><sup>10</sup></li> <li>- <b>Site analysis plan</b> indicates vegetation to be disturbed, cleared or retained</li> <li>- Illustration of the <b>Asset Protection Zone (APZ)</b></li> <li>- Proposed measures for the safe movement of koalas, such as fencing or traffic control measures</li> <li>- Details of any programs to monitor koala populations</li> </ul> </li> </ul> <p>Note: The <i>Port Stephens Comprehensive Koala Plan of Management</i><sup>11</sup> applies through the application of the <b>SEPP (Biodiversity and Conservation) 2021</b></p>
B2.9	Where preferred Koala Feed Trees are proposed to be removed, compensatory planting may be required in accordance with B2.C.

## B2.BC Compensatory Requirements Biodiversity offsets

## Objective

To facilitate the compensatory replacement of important biodiversity features which cannot be avoided and are proposed to be removed under a tree permit or development consent provide further guidance for the use of **biodiversity offsets** within the Port Stephens local government area

## Development control

B2.10 B2:2	<p>Any Preferred Koala Feed Tree species listed in Council's CKPoM that is to be removed as a result of a development consent or the issue of a Tree Permit, must be replaced in accordance with the compensatory planting ratios detailed in Figure BB, unless Council imposes an amended requirement in consideration of specific and unique site factors.</p> <p>Note: Preferred Koala Feed Tree species listed in Council's CKPoM include Forest Red Gum (<i>Eucalyptus tereticornis</i>), Swamp Mahogany (<i>Eucalyptus robusta</i>), and Parramatta Red Gum (<i>Eucalyptus parramattensis</i>)</p> <p>If <b>biodiversity offsets</b> are employed as a suitable compensatory measure under the <b>TSC Act</b> then they are:</p> <ul style="list-style-type: none"> <li>• calculated in accordance with the <b>bio-metric terrestrial biodiversity assessment tool</b></li> <li>• consistent with the <b>tree technical specification</b><sup>1</sup>.</li> <li>• in a secure tenure ownership</li> <li>• located on land to which this Plan applies</li> </ul>
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## ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 - CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.

### B2

**Figure BB: Compensatory Koala Feed Tree planting ratios for preferred Koala feed**

Preferred Koala Food Tree species size class (Diameter at Breast Height)	Replacement Ratio (Loss:Gain)
<100mm	1:6
100-300mm	1:8
>300mm	1:10

#### Development controls

- B2.11** Any native tree (other than a Koala Feed Tree species) with a height of greater than 3m and a diameter greater than 300mm (measured 1.3m from the ground) that is to be removed as a result of development or the issue of a Tree Permit is to be replaced at a ratio of 1:2 unless Council imposes an amended requirement in consideration of specific and unique site factors.
- B2.12** Any street tree to be removed as a result of a development or the issue of a Tree Permit is to be replaced at a ratio of 1:1 along the same street frontage unless Council imposes an amended requirement in consideration of specific and unique site factors.
- B2.13** Where the removal of a hollow or a hollow-bearing tree is required, compensatory hollows are to be provided. The compensatory arboreal hollow size and type must be appropriate for the species being managed on the site or the hollow being removed. The number of compensatory arboreal hollows must meet the relevant ratios identifies in Figure BC unless Council imposes an amended requirement in consideration of specific and unique site factors.

**Figure BC: Compensatory hollow type**

Preference of use	Compensatory hollow type	Replacement ratio (loss : gain)
1st	Natural hollow salvaged from felled hollow-bearing tree and installed within retained trees on site	1:1 hollow replacement
2nd	Artificial hollows including hollow hog hollows	1:2 hollow replacement
3rd	Nest boxes	1:2 hollow replacement

#### Development controls

- B2.14** Compensatory trees are to be native species and are to be planted in accordance with the Biodiversity Technical Specification.

**ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 - CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.**

## B2

### B2.6D Biosecurity risks (weeds)

#### Objective

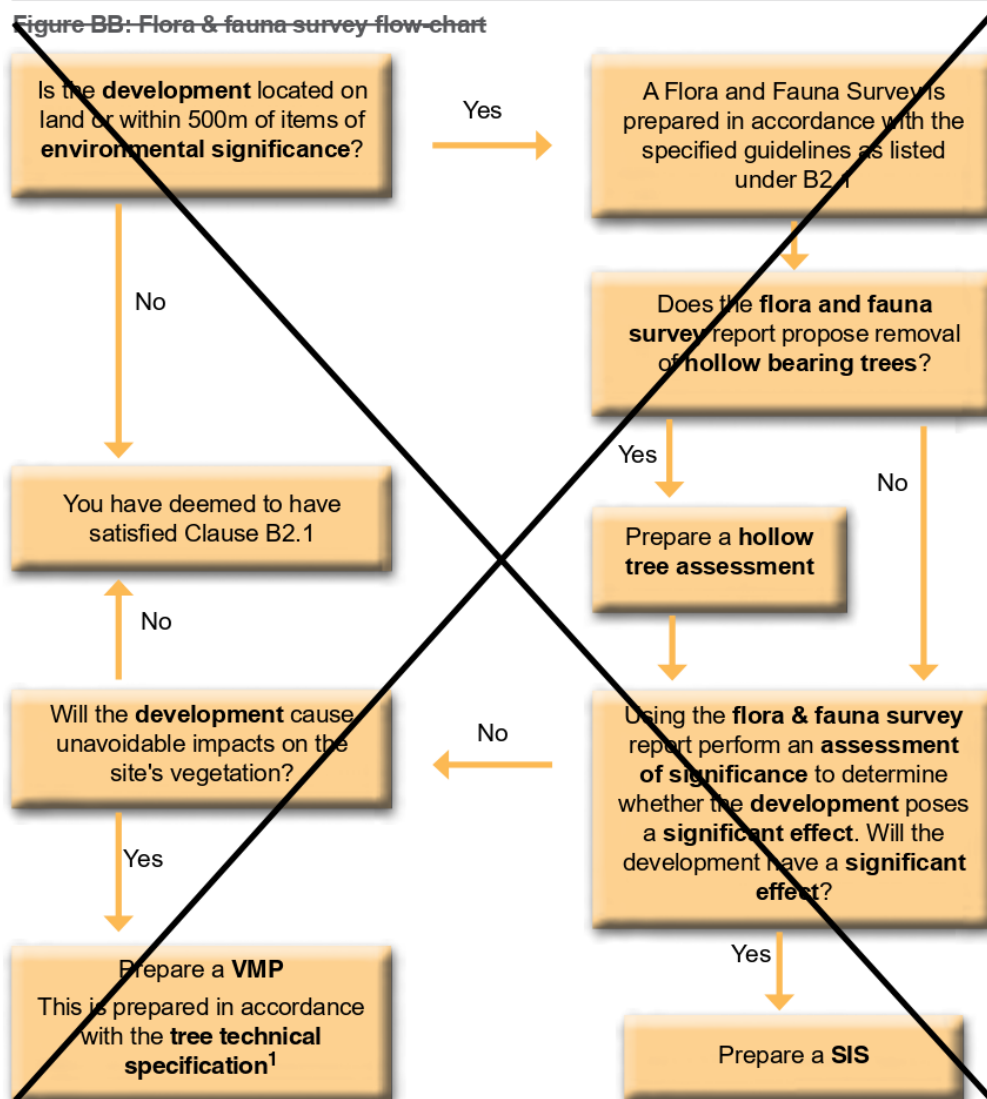
To reduce the negative impact of **biosecurity risks (weeds)** on the economy, community and environment by eliminating or restricting their geographical spread

#### Development control

B2.3 **Development** situated on land that contains **weeds**, will seek to prevent, eliminate or restrict the spread of **weeds** in accordance with the **biosecurity technical specification<sup>2</sup>**

Note: NSW Weedwise is an online tool to identify weeds available on the Department of Primary Industries website

**Figure BB: Flora & fauna survey flow chart**



ITEM 2 - ATTACHMENT 1 DRAFT DEVELOPMENT CONTROL PLAN 2014 -  
CHAPTER B1 TREE MANAGEMENT AND CHAPTER B2 FLORA AND FAUNA.

E1

## E1 Glossary

This **DCP** adopts the terms and definitions of the Standard Instrument - Principal **Local Environmental Plan**, unless otherwise defined in the Glossary.

**Biodiversity Development Assessment Report (BDAR)** means a report required under the *Biodiversity Conservation Act*. It identifies the highest value ecological features on a site including threatened species habitat, and applies the hierarchy of avoid, minimise and then offset.

**high value ecological features** means the natural features in the landscape which provide habitat for native flora or fauna species; such as Biodiversity Values Mapped areas, hollow bearing trees, nest trees, large old growth trees, large fallen timber, caves, rocky outcrops/ bush-rock, waterbodies, drainage lines and wetlands.

**Koala-friendly fencing** means:

- fences where the bottom of the fence is a minimum of 200 mm above ground level that would allow koalas to move underneath;
- fences that facilitate easy climbing by koalas; for example, sturdy chain mesh fences, or solid style fences with timber posts on both sides at regular intervals of approximately 20m; or
- open post and rail or post and wire (not barbed wire on the bottom strand).

## Explanation of Amendments

### Draft Development Control Plan 2014 – B1 Tree Management and B2 Flora and Fauna

NO.	EXPLANATION OF AMENDMENTS
1	<p><b>B1 Tree Management</b></p> <ol style="list-style-type: none"> <li>1. Amend Figure BA Approval requirements thresholds</li> <li>2. Update Section B1.C Supporting information</li> </ol> <p><b>Explanation:</b></p> <p>Figure BA, which identifies the approval requirement thresholds for the removal of trees, has been updated to provide greater detail on approval requirements.</p> <p>Section B1.C Supporting information was updated to provide additional requirements that were previously located in the Tree Technical Specification. These requirements have been moved into the Development Control Plan (DCP) to streamline information for community members.</p> <p>The Tree Technical Specification has been renamed the Biodiversity Technical Specification and referenced accordingly throughout the chapter.</p>
2	<p><b>B2 Flora and Fauna - Application</b></p> <ol style="list-style-type: none"> <li>1. Amend title and application of the Part</li> </ol> <p><b>Explanation:</b></p> <p>Title of this chapter has been amended from Natural Resources to Flora and Fauna to more accurately reflect its contents. The application of the Part has been updated to reflect changes in legislation.</p>
3	<p><b>B2.A Ecological impact</b></p> <ol style="list-style-type: none"> <li>1. Amend title and objectives</li> <li>2. Update ecological assessment requirements</li> <li>3. Add requirement for a tree removal and retention plan</li> <li>4. Add environmental design considerations.</li> <li>5. Add requirement for a vegetation management plan</li> <li>6. Add subdivision environmental considerations.</li> </ol> <p><b>Explanation:</b></p> <p>This Part has been renamed to Ecological Impact from Environmental Significance to more accurately reflect its contents. The objectives have been amended to align with the intent of existing environmental legislation, that being to minimise ecological impacts.</p>



## ITEM 2 - ATTACHMENT 2 EXPLANATION OF AMENDMENTS.

The controls have been updated to be consistent with Council practices and to provide more guidance on the requirements to address ecological impacts in development applications.

Design considerations for development to address ecological impacts have been consolidated and updated to improve clarity and accuracy.

Any references to old legislation have been updated.

#### 4 B2.B Koala habitat

1. Amend title and objectives
2. Insert Port Stephens Comprehensive Koala Plan of Management (CKPoM) Koala Performance Criteria Assessment Requirements
3. Insert reference to compensatory planting requirements

##### Explanation:

Section B2.B has been renamed to Koala Habitat from Koalas to more accurately reflect its contents. The objectives have been amended to align with the CKPoM.

Control B2.8 has been updated to incorporate a summary of the assessment requirements detailed in Appendix 4 of the CKPoM to provide greater upfront clarity on Koala assessment considerations.

Control B2.9 has been inserted to indicate compensatory planting may be required where Koala feed trees are proposed to be removed.

#### 5 B2.C Compensatory requirements

1. Amend title and objectives
2. Insert compensatory planting requirements and Figure BB: Compensatory Koala Feed Tree planting ratios for preferred Koala feed

Preferred Koala Food Tree species size class (Diameter at Breast Height)	Replacement Ratio (Loss:Gain)
<100mm	1:6
100-300mm	1:8
>300mm	1:10

3. Insert compensatory hollow requirements and Figure BC: Compensatory arboreal hollow type

Preference of use	Compensatory hollow type	Replacement ratio (loss : gain)
1st	Natural hollow salvaged from felled hollow-bearing tree and installed within retained trees on site	1:1 hollow replacement
2nd	Artificial hollows including hollow hog hollows	1:2 hollow replacement
3rd	Nest boxes	1:2 hollow replacement

## ITEM 2 - ATTACHMENT 2 EXPLANATION OF AMENDMENTS.

**Explanation:**

Section B2.C has been renamed to Compensatory requirements from Biodiversity offsets to avoid confusion with the *Biodiversity Conservation Act* offsetting requirements. The objective has been updated to reflect this.

Section B2.C Compensatory requirements has been updated to include compensatory planting and hollow requirements to provide clearer guidance and easier access to information for community members. These were previously located in the Tree Technical Specification.

Replacement ratios, previously located in the Tree Technical Specification have been provided in Figure BB and Figure BC for Koala Feed Trees, native trees, street trees and hollows. The planting ratios for native trees (1:2) and street trees (1:1) have been simplified for a more practical application.

**6 E1 Glossary**

1. Insert a definition for BDAR as follows:

- **Biodiversity Development Assessment Report (BDAR)** means a report required under the *Biodiversity Conservation Act 2016*. It identifies the highest value ecological features on a site including threatened species habitat, and applies the hierarchy of avoid, minimise and then offset.

2. Insert a definition for high value ecological features as follows:

- **High value ecological features** means the natural Features in the landscape which provide habitat for native flora or fauna species; such as Biodiversity Values Mapped areas, hollow bearing trees, nest trees, large old growth trees, large fallen timber, caves, rocky outcrops/bush-rock, waterbodies, drainage lines and wetlands.

3. Insert a definition for Koala-friendly fencing

- **Koala-friendly fencing** means:
  - fences where the bottom of the fence is a minimum of 200 mm above ground level that would allow koalas to move underneath;
  - fences that facilitate easy climbing by koalas; for example, sturdy chain mesh fences, or solid style fences with timber posts on both sides at regular intervals of approximately 20m; or
  - open post and rail or post and wire (definitely not barbed wire on the bottom strand).

**Explanation:**

The definitions of Biodiversity Development Assessment Report, high value ecological features and Koala-friendly fencing are proposed to be inserted into the glossary to provide guidance and clarity for developers.



**ITEM NO. 3**

**FILE NO: 23/250599  
EDRMS NO: PSC2021-04028**

**DRAFT VOLUNTARY PLANNING AGREEMENT - HANSON CONSTRUCTION MATERIALS PTY LTD**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the draft Voluntary Planning Agreement (**ATTACHMENT 1**) between Council and Hanson Constructions Materials Pty Ltd, together with the accompanying explanatory note (**ATTACHMENT 2**) for public exhibition for a period of 28 days in accordance with the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2021, and should no submissions be received, approve the Voluntary Planning Agreement and explanatory notes as exhibited for execution.
- 

**ORDINARY COUNCIL MEETING - 26 MARCH 2024  
MOTION**

<b>045</b>	<p><b>Councillor Giacomo Arnott</b> <b>Councillor Peter Kafer</b></p> <p>It was resolved that Council endorse the draft Voluntary Planning Agreement (<b>ATTACHMENT 1</b>) between Council and Hanson Constructions Materials Pty Ltd, together with the accompanying explanatory note (<b>ATTACHMENT 2</b>) for public exhibition for a period of 28 days in accordance with the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2021, and should no submissions be received, approve the Voluntary Planning Agreement and explanatory notes as exhibited for execution.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to seek endorsement to publicly exhibit a draft Voluntary Planning Agreement (VPA) (**ATTACHMENT 1**) between Council and Hanson Constructions Materials Pty Ltd (the Developer), together with the accompanying explanatory note (**ATTACHMENT 2**).

The draft VPA relates to State Significant Development (SSD) Consent 5899, granted on 16 July 2020 by the Independent Planning Commission (IPC) for the expansion of the Brandy Hill Quarry.

The IPC determined that the increase in heavy vehicle traffic associated with the Quarry expansion poses a safety risk on Brandy Hill Drive. In order to mitigate this impact, the Commission has imposed a condition that requires 6 bus bays and a shared pathway to be constructed on Brandy Hill Drive prior to any increase in production from the Quarry.

Under the draft VPA, the Developer will:

- Provide Council with a \$2.5 million payment toward costs of the pathway
- Provide Council with \$1.5 million to be credited against future haulage levies payable to Council over the next 10 years. This amount will account for Council's contribution towards the pathway as well as the works.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

The contributions to be made by the Developer, as detailed within Schedule 1 of the draft planning agreement, allow for the funding and delivery of the works without requiring additional funds from other Council sources.

The agreement includes provisions that ensure the Developer is responsible for the legal costs and disbursements associated with preparing the agreement.

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

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

Source of Funds	Yes/No	Funding (\$)	Comment
Developer Contributions (S7.11 Haulage)	Yes	\$1,500,000	A payment considered to be an advanced payment of haulage levies.
External Grants	No		
Other	Yes	\$2,500,000	Monetary contribution proposed under the draft VPA.

### LEGAL, POLICY AND RISK IMPLICATIONS

The agreement includes provisions to manage any risks associated with entering into the agreement.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that timing of acquisition will delay the delivery of the pathway.	Low	Adopt the recommendation.  The draft planning agreement contains provisions that ensure construction can commence immediately on the portions of the path that do not require acquisition.	Yes
There is a risk that if the construction of the pathway is delayed significantly, the cost of the pathway will increase and the monetary contributions will be insufficient to fund the construction of the pathway and bus bays.	Low	Adopt the recommendation.  The agreement includes provisions so that should the cost of the pathway exceed \$3.5 million, the parties will negotiate further contributions by the Developer.	Yes
There is a risk that the construction phase of the pathway and bus bays will take longer than expected.	Low	Adopt the recommendation.  There are provisions included in the agreement that protect Council should there be a delay in the construction phase of the project.	Yes

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

The VPA has been prepared in accordance with section 7.4 of the EP&A Act. The VPA will be publicly exhibited in accordance with section 7.5 of that Act.

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

Public notice will be undertaken in accordance with Clause 204 of the EP&A Regulations. An explanatory note has been prepared in accordance with clause 205 of the EP&A Regulations and will be exhibited with the VPA.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The draft VPA will ensure necessary public infrastructure is delivered to support the development and will improve outcomes in relation to pedestrian safety in the area.

## **CONSULTATION**

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

### Internal

- Financial Services Section
- Assets Section
- Capital Works Section
- Governance Section
- Strategic Property unit.

### External

The VPA and explanatory note will be notified and exhibited in accordance with the EP&A Act and EP&A Regulations for 28 days. In accordance with the planning legislation, the documents will be made available online and if submissions are received they will be considered in a report back to Council, together with details of any post-exhibition changes.

Following public exhibition, any submissions will be considered in a report back to Council, with details of any post-exhibition changes. Council officers presented to the Brandy Hill Quarry Community Consultative Committee and sent letters to relevant land owners.

## **OPTIONS**

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

**ATTACHMENTS**

- 1) Draft Voluntary Planning Agreement.
- 2) Accompanying Explanatory Note.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

Draft No 6  
29 February 2024

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Port Stephens Council

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Hanson Construction Materials Pty Ltd

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## Planning Agreement

Section 7.4 of the Environmental Planning  
and Assessment Act, 1979 (NSW)

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**ITEM 3 - ATTACHMENT 1 DRAFT VOLUNTARY PLANNING AGREEMENT.**

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Date

## Parties

**Port Stephens Council** ABN 16 744 377 876 of 116 Adelaide Street, Raymond Terrace NSW 2324 (**Council**)

**Hanson Construction Materials Pty Ltd** ACN 009 679 734 of Level 10 35 Clarence Street, Sydney NSW 2000 (**Developer**)

## Background

- A The Developer owns the Land.
- B On 3 March 2020, the Developer made an offer to enter into a Voluntary Planning Agreement under section 7.4 of the Act on terms acceptable to the Council.
- C On 16 July 2020, the NSW Independent Planning Commission Development granted Development Consent subject to conditions.
- D Condition A20 of the Development Consent provided that:

*A20 Within six months of the date of commencement or other timeframe agreed by the Planning Secretary, the Applicant must enter into a Voluntary Planning Agreement with Council in accordance with:*

- (a) *Division 7.1 of Part 7 of the EP&A Act; and*
- (b) *the terms of the offer in Appendix 7.*

- E Appendix 7 of the Development Consent provided the following:

### APPENDIX 7: GENERAL TERMS OF PLANNING AGREEMENT

Applicant's Contribution	Intended Use	Payment Details
\$120,000	Funding toward the construction of six bus bays on Brandy Hill Drive and Seaham Road. This item will be a forward payment of haulage levels required under Council's contributions plan. Bus bays to be designed and constructed by Council.	Within 12 months of the date of the commencement of the development, or as otherwise agreed under the executed document.
\$1,500,000	Funding toward the construction of a shared pathway on Brandy Hill Drive. Shared pathway to be designed and constructed by Council.	First payment of \$375,000 to be made immediately following the execution of the planning agreement. The remaining amount to be paid in 3 equal instalments within 12 months of the execution of the planning agreement

- F The Developer has agreed to provide Council with further additional contributions to cover the increase in construction costs associated with the Bus Bays and Pathway since the grant of the Development Consent.
- G This Agreement satisfies condition A20 and Appendix 7 of the Development Consent.

## Operative provisions

### 1 Planning agreement under the Act

The Parties agree that this Agreement is a planning agreement governed by subdivision 2 of Division 7.1 of Part 7 of the Act.

### 2 Application of this Agreement

This Agreement applies to the Land and the Development.

### 3 Operation of this Agreement

This Agreement operates only if it is entered into as required by Section 203 of the Regulation.

### 4 Interpretation

#### 4.1 Definitions

In this Agreement these terms have the following meanings:

<b>Act</b>	The <i>Environmental Planning and Assessment Act 1979</i> (NSW).
<b>Applicant</b>	has the same meaning as in the Development Consent, being the Developer, or any person carrying out any development under the Development Consent.
<b>Agreement</b>	means this agreement
<b>Bus Bays</b>	Six (6) bus bays to be constructed on Brandy Hill Drive and Seaham Road.
<b>Business Day</b>	A day which is not a Saturday, Sunday or bank or public holiday in Sydney.
<b>Claim</b>	includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

ITEM 3 - ATTACHMENT 1 DRAFT VOLUNTARY PLANNING AGREEMENT.

<b>Cost</b>	means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.
<b>Date of commencement</b>	has the same meaning as in the Development Consent, being the date notified to the Department by the Applicant under condition A15 for the commencement of Stage 1 of the Development.
<b>Developer</b>	means Hanson Construction Materials Pty Ltd.
<b>Development</b>	has the same meaning as in the Development Consent, being the development described in the document/s listed in condition A2(c), as modified by the conditions of the Development Consent, being the expansion and intensification of operations of the Brandy Hill Quarry on the Land.
<b>Development Application</b>	means the State Significant Development application made by the Applicant with reference SSD-5899 Brandy Hill Quarry Expansion.
<b>Development Consent</b>	The grant of development consent for the Development Application by the NSW Independent Planning Commission dated 16 July 2020.
<b>Development Contributions</b>	means the Local Roads Advance Payment and the Pathway and Bus Bays Contribution.
<b>Explanatory Note</b>	The Explanatory Note means the document prepared in accordance with clause 205 of the Regulation.
<b>GST</b>	Has the same meaning as in the GST Law.
<b>GST Law</b>	Has the meaning given to that term in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and any other Act or regulation relating to the imposition or administration of the GST.
<b>Land</b>	means the land identified in Appendix 1 (Schedule of Land) of the Development Consent, being:  Lot 3 of DP 1006516;  Lot 1 of DP 823760;  Lot 19, 20 and 21 of DP 752487;  Lot 1 of DP of 737844;  Lot 2 of DP 823760;  Lot 36, 56 and 236 of DP 752487;  Lot 1 of DP 47313;  Lot 101 of DP 712886;  Lot 12 of DP 264033;  Lot 100 of DP 712886;

**ITEM 3 - ATTACHMENT 1 DRAFT VOLUNTARY PLANNING AGREEMENT.**

	Lot 1 and 2 of DP 264033;
	Lot 58 and 59 of DP 752487;
	Lot 1 and 2 of DP 1006516;
	Lot 2 of DP 737844 [REFERRED TO IN ERROR AS LOT2 DP737847 IN THE CONSENT];
	Lot 57 of DP 752487 (known as 1111 Clarence Town Road, Seaham); and
	Lot 25 of DP 1101305 (known as 888 Clarence Town Road, Seaham 2324).
<b>Local Roads Advance Payment</b>	A monetary contribution of \$1,500,000 (not subject to indexation) to be paid as an advance payment of the monetary contributions required to be paid under section 7.11 of the Act and condition A19(a) of the Development Consent.
<b>Party</b>	A party to this Agreement, including their successors and assigns.
<b>Pathway</b>	A shared pathway to be constructed on Brandy Hill Drive and in accordance with the indicative Site Plan attached at Schedule 3 to this Agreement.
<b>Pathway and Bus Bays Contribution</b>	<p>A monetary contribution of \$2,500,000 (not subject to indexation) towards the construction of the Pathway and the Bus Bays which includes:</p> <ul style="list-style-type: none"> <li>• \$120,000 towards the construction of the Bus Bays as required by Appendix 7 of the Development Consent;</li> <li>• \$1,500,000 towards the construction of the Pathway as required by Appendix 7 of the Development Consent; and</li> <li>• an additional amount of \$880,000 to cover the increased cost of construction of the Pathway and Bus Bays since the original offer to enter into this Agreement was made by the Developer.</li> </ul>
<b>Public Purpose</b>	Any purpose that benefits the public or a section of the public, specified in section 7.4(2) of the Act.
<b>Regulation</b>	The <i>Environmental Planning and Assessment Regulation 2021</i> (NSW).

**4.2 Construction**

Unless expressed to the contrary, in this Agreement:

- (a) headings do not affect the interpretation of this Agreement;
- (b) words in the singular include the plural and vice versa;

- (c) any gender includes the other genders;
- (d) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (e) 'includes' means includes without limitation;
- (f) if the day on or by which any act, must be done under this Agreement is not a Business Day, the act must be done on or by the next Business Day;
- (g) '\$' or 'dollars' is a reference to Australian currency all amounts payable under this Agreement are payable in Australian dollars;
- (h) a reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- (i) a reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced;
- (j) a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement;
- (k) an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency; and
- (l) any schedules and attachments form part of this Agreement, and the Parties are to comply with any terms contained in schedules to this Agreement as if those terms were included in the operative part of this Agreement.

## **5 Development Contributions to be made under this Agreement**

### **5.1 Developer to provide Development Contributions**

- (a) The Developer must notify the Council, in writing, of the Date of Commencement within three (3) Business Days of the Date of Commencement.
- (b) The Developer must pay the Council the Development Contributions in accordance with the provisions of Schedule 1.
- (c) The parties acknowledge and agree that the payment of Development Contributions in accordance with this Agreement satisfies the requirements of condition A20 of the Development Consent.
- (d) If, acting reasonably, the Council incurs costs exceeding \$3,500,000 for the construction of the Pathway, then the parties agree that the parties will negotiate a variation to this Agreement in good faith which provides for the Developer to make further contributions, on condition that the further contributions will be taken to be further advance payments of haulage

levies under section 7.11 of the Act and condition A19(a) of the Development Consent. Should agreement not be achieved between the parties, either party may commence the dispute resolution process within clause 9 of this Agreement.

**5.2 Application of the Development Contributions**

- (a) Council acknowledges that it has designed the Pathway.
- (b) Subject to the Development Contributions being paid in accordance with this Agreement,
  - (i) Within three months of the execution of the Agreement, Council must commence construction on the portions of the Pathway that are not marked in red on the Pathway Plan in Schedule 4.
  - (ii) Council must complete the construction of the portions of the Pathway that are not marked in red on the Pathway Plan in Schedule 4 and the Bus Bays as soon as practicable and by no later than 15 months after the execution of the Agreement, unless an extension of time is otherwise agreed in writing between the Parties acting reasonably.
  - (iii) Without limiting Council's obligations under clause 5.2(b)(ii) of this Agreement, the Council must fully complete the construction of the whole of the Pathway as soon as practicable and by no later than 12 months after all land required for the Pathway has been acquired by Council, unless an extension of time is otherwise agreed in writing between the Parties acting reasonably.
- (c) It is further agreed between the Parties that the Council will not be liable for any of the Developer's loss arising from any delay in the delivery of the construction of the pathway or bus bays.

**5.3 Delivery of Development Contributions**

- (a) A Development Contribution is made for the purpose of this Agreement when cleared funds are deposited by means of electronic funds transfer into a bank account nominated by the Council.
- (b) The Developer is to give the Council not less than 5 Business Days written notice of its intention to pay a Development Contribution.
- (c) The Developer is not required to pay the Development Contribution under this Agreement until the Council, having received the Developer's notice under clause 5.3(b), has given to the Developer a written notice in respect of the Development Contribution.
- (d) The Developer is not in breach of this Agreement if it fails to pay the Development Contribution at the time required by this Agreement by reason only of the Council's failure to give to the Developer a written notice in respect of the Development Contribution.

## **6 Application of sections 7.11, 7.12 and 7.24 of the Act to the Development**

- (a) For the purposes of section 7.4(3)(d) of the Act, the Parties expressly agree that the application of:
  - (i) section 7.11 of the Act to the Development is not excluded to the extent provided by this clause 6 of this Agreement;
  - (ii) sections 7.12 and 7.24 of the Act to the Development are excluded.
- (b) The parties acknowledge and agree that the Local Roads Advance Payment and any payment made by the Developer under clause 5.1(d) will be taken to be a forward payment of the monetary contributions required to be paid by the Developer under section 7.11 of the Act and condition A19 of the Development Consent, such that the amount of the Local Roads Advance Payment paid to Council under this Agreement will be treated as a credit which will be offset against amounts owing by the Developer under section 7.11 of the Act and condition A19(a) of the Development Consent until the earlier of:
  - (i) the date by which the respective credit is exhausted; and
  - (ii) the date that is 10 years after the date that the Local Roads Advance Payment is paid in full.
- (c) For the avoidance of doubt, the payment of the Pathway and Bus Bays Contribution cannot be claimed as an offset against the contributions payable to Council under Condition A19 of the Development Consent.

## **7 Registration**

- (a) Within 30 Business Days of the operation of this Agreement under clause 3, the Developer will, at its cost, register this Agreement in accordance with section 7.6 of the Act in the relevant folios of the Register of the Land.
- (b) The Council must do all things reasonably required for the Developer to release and discharge this Agreement from the title to the Land upon the Council providing its written satisfaction that the Developer has paid the Development Contributions in accordance with this Agreement and the Developer is not in breach of this Agreement.
- (c) The Developer will pay the Council's reasonable costs and expenses incurred under this clause 7.

## **8 Risk, Indemnity and Release**

### **8.1 Risk**

The Developer performs this Agreement at its own risk and its own cost.

**8.2 Release**

The Developer releases the Council from any Claim it may have against the Council arising in connection with the performance of the Developer's obligations under this Agreement except if, and to the extent that, the Claim arises because of the Council's negligence or default.

**8.3 Indemnity**

The Developer indemnifies the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the Developer's obligations under this Agreement except if, and to the extent that, the Claim arises because of the Council's negligence or default.

**9 Dispute Resolution****9.1 Reference to dispute**

If a dispute arises between the Parties in relation to this Agreement, then either Party must resolve that dispute in accordance with this clause.

**9.2 Notice of dispute**

The Party wishing to commence the dispute resolution processes must notify the other in writing of:

- (a) the intent to invoke this clause;
- (b) the nature or subject matter of the dispute, including a summary of any efforts made to resolve the dispute other than by way of this clause; and
- (c) the outcomes which the notifying Party wishes to achieve (if practicable).

**9.3 Representatives of Parties to meet**

On receipt of notice under **clause 9.2**, the Parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert determination or other techniques agreed between them to be appropriate for resolution of the relevant dispute.

**9.4 Neither Party may constrain**

If:

- (a) at least one meeting has been held in accordance with **clause 9.3**; and
- (b) the Parties have been unable to reach an outcome; and
- (c) either of the Parties, acting in good faith, forms the view that the dispute is reasonably unlikely to be resolved in accordance with a process agreed under **clause 9.3**,

then, that party may, by 10 Business Days written notice to the other Party, terminate the dispute resolution process in respect of that dispute. The termination of the process set out in this clause does not of itself amount to a breach of this Agreement.



## 10 Enforcement

Without limiting any other remedies available to the Parties, this Agreement may be enforced by any party in any court of competent jurisdiction. Nothing in this Agreement prevents a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates.

## 11 Notices

### 11.1 Delivery

Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and:

- (a) delivered or posted to that Party at its address set out below;
- (b) emailed to that Party at its email address set out below.

#### **Port Stephens Council**

Attention: Legal Services Manager  
Address: PO Box 42, Raymond Terrace NSW 2324  
Email: council@portstephens.nsw.gov.au

#### **Hanson Construction Materials Pty Ltd**

Attention: Ian Petrovski, Commercial Manager  
Address: Level 10 35 Clarence Street Sydney NSW 2000  
Email: ian.petrovski@hanson.com.au

### 11.2 Change of details

If a Party gives the other Party 3 Business Days' notice of a change of its address or email address, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, or posted to the latest address, or email address.

### 11.3 Giving of notice

Any notice, consent, information, application or request is to be treated as given or made at the following time:

- (a) If it is delivered, when it is left at the relevant address.
- (b) If it is sent by post, two business days after it is posted.
- (c) If it is emailed, at the time the email was sent, provided it was received by the recipient.

### 11.4 Delivery outside of business hours

If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a Business Day, or if on a Business Day, after 5.00 pm on that day in the place of the Party to whom it is

sent, it is to be treated as having been given or made at the beginning of the next Business Day.

## **12 GST**

### **12.1 Construction**

In this **clause 12**:

- (a) unless there is a contrary indication, words and expressions which are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law;
- (b) **GST Law** has the same meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or, if that Act does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act; and
- (c) references to GST payable and input tax credit entitlements include:
  - (i) notional GST payable by, and notional input tax credit entitlements of the Commonwealth, a State or a Territory (including a government, government body, authority, agency or instrumentality of the Commonwealth, a State or a Territory); and
  - (ii) GST payable by, and the input tax credit entitlements of, the representative member of a GST group of which the entity is a member.

### **12.2 Consideration GST exclusive**

Unless otherwise expressly stated, all consideration, whether monetary or non-monetary, payable or to be provided under or in connection with this Agreement is exclusive of GST (**GST-exclusive consideration**).

### **12.3 Payment of GST**

If GST is payable on any supply made by:

- (a) a Party; or
- (b) an entity that is taken under the GST Law to make the supply by reason of the capacity in which a Party acts,

(**Supplier**) under or in connection with this Agreement, the recipient of the supply, or the Party providing the consideration for the supply, must pay to the Supplier an amount equal to the GST payable on the supply.

### **12.4 Timing of GST payment**

The amount referred to in **clause 12.3** must be paid in addition to and at the same time and in the same manner (without any set-off or deduction) that the GST-exclusive consideration for the supply is payable or to be provided.

**12.5 Tax invoice**

The Supplier must deliver a tax invoice or an adjustment note to the recipient of a taxable supply before the Supplier is entitled to payment of an amount under **clause 12.3**.

**12.6 Adjustment event**

If an adjustment event arises in respect of a supply made by a Supplier under or in connection with this Agreement, any amount that is payable under **clause 12.3** will be calculated or recalculated to reflect the adjustment event and a payment will be made by the recipient to the Supplier or by the Supplier to the recipient as the case requires.

**12.7 Reimbursements**

- (a) Where a Party is required under or in connection with this Agreement to pay for, reimburse or contribute to any expense, loss, liability or outgoing suffered or incurred by another Party or indemnify another Party in relation to such an expense, loss, liability or outgoing (**Reimbursable Expense**), the amount required to be paid, reimbursed or contributed by the first Party will be reduced by the amount of any input tax credits to which the other Party is entitled in respect of the Reimbursable Expense.
- (b) This **clause 12.7** does not limit the application of **clause 12.3**, if appropriate, to the Reimbursable Expense as reduced in accordance with **clause 12.7(a)**.

**13 General****13.1 Approvals and consents**

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

**13.2 Assignment and dealings**

The Developer may not transfer, assign or dispose of its obligations under this Agreement to a transferee (**Transferee**) unless:

- (a) the Developer procures execution by the Transferee and delivery to the Council of a deed signed by the Transferee in a form and of such substance as is acceptable to the Council, acting reasonably, containing provisions under which the Transferee agrees to comply with all the obligations of the Developer under the Agreement; and
- (b) any default by the Developer under any provisions of this Agreement has been remedied by the Developer or waived by the Council on such conditions as the Council may determine, acting reasonably.

**13.3 Costs**

The Developer must pay its own and the Council's reasonable legal costs and disbursements associated with preparing, negotiating, the giving of public notice including public exhibition phase, executing and stamping this Agreement and any document related to this Agreement.

**13.4 Entire agreement**

- (a) This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.
- (b) Pursuant to section 205(5) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Agreement.

**13.5 Further acts**

Each party must promptly do whatever any other party reasonably requires of it to give effect to this Agreement and to perform its obligations under it.

**13.6 Governing law and jurisdiction**

This Agreement and the transactions contemplated by this Agreement are governed by and are to be construed in accordance with the laws applicable in New South Wales. The Parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

**13.7 Joint and individual liability and benefits**

Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by two or more persons binds them jointly and each of them individually, and any benefit in favour of two or more persons is for the benefit of them jointly and each of them individually.

**13.8 No fetter**

Nothing in this Agreement will be construed as requiring the Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing will be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

**13.9 Representations and warranties**

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under this Agreement and that entry into this Agreement will not result in the breach of any law.

**13.10 Severability**

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause

is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

**13.11 Waiver**

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

**13.12 Relationship of parties**

This Agreement is not intended to create a partnership, joint venture or agency relationship between the parties.

**13.13 Counterparts**

This Agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

**13.14 Rights cumulative**

Except as expressly stated otherwise in this Agreement, the rights of a Party under this Agreement are cumulative and are in addition to any other rights of that Party.

## Schedule 1

### Development Contributions

- (a) The Developer must pay the Development Contributions in the manner set out in the table below.

Column 1 Development Contribution	Column 2 Monetary amount (\$)	Column 3 Timing	Column 4 Public Purpose
Local Roads Advance Payment	\$1,500,000 (not subject to indexation)	In three (3) instalments: (1) \$120,000 immediately following execution of the Agreement (2) \$690,000 within 20 Business Days of Council providing the Developer with written notice that it has completed construction of 25% of the length of the Pathway. (2) \$690,000 within 20 Business Days of Council providing the Developer with written notice that it has completed construction of 75% of the length of the Pathway.	The design and construction of the bus-bays and the maintenance of local roads used for haulage of quarry products in accordance with the provisions relating to section 7.11 Haulage levies in the Port Stephens Local Infrastructure Contributions Plan.
Pathway Contribution	\$2,500,000 (not subject to indexation)	In instalments as follows: (1) \$1,250,000 immediately following execution of the Agreement. (2) \$416,667 within 120 days following the execution of the agreement. (3) \$416,667 within 210 days following the execution of the agreement. (4) \$416,667 within 300 days following the execution of the agreement	The design and construction of the Pathway.

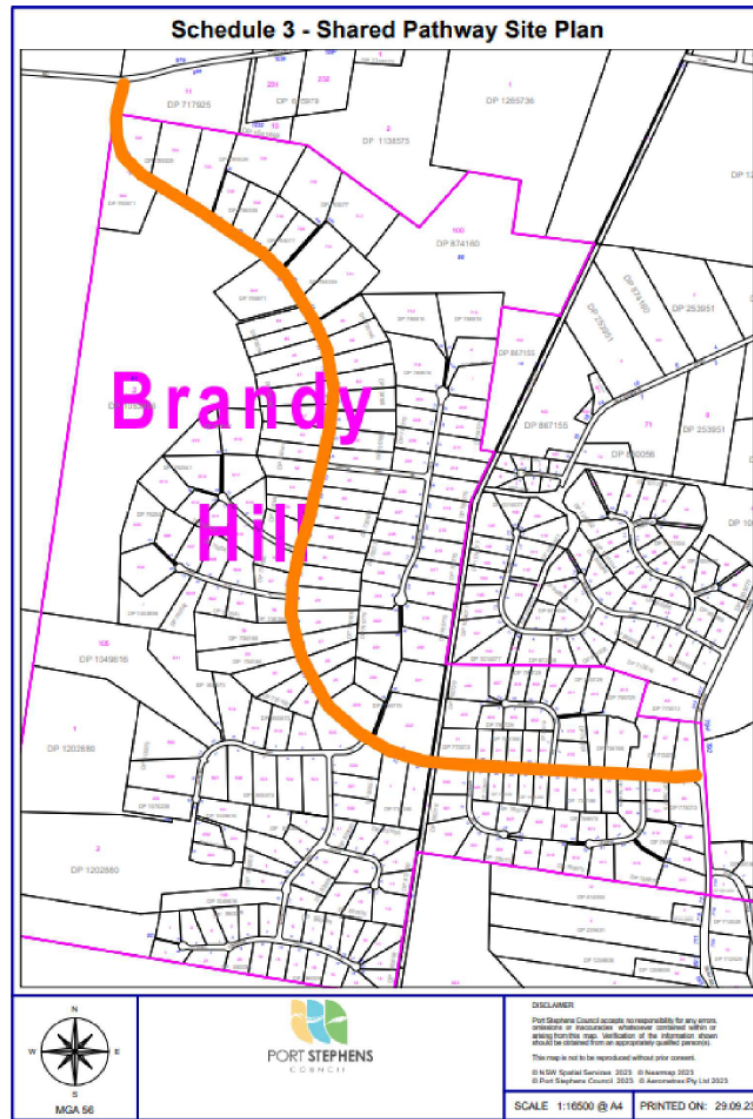
## Schedule 2

### Section 7.4 Requirements

Provision of the Act	This Agreement
Under section 7.4(1), the Developer has:	
(a) sought a change to an environmental planning instrument.	No
(b) made, or proposes to make, a development application.	Yes
(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.	No
<b>Description of the land to which this Agreement applies-</b> (Section 7.1(3)(a))	clause 4.1 (Definition of "Land")
<b>Description of the development to which this Agreement applies-</b> (Section 7.4(3)(b)(ii))	clause 4.1 (Definition of "Development")
<b>The scope, timing and manner of delivery of Development Contributions required by this Agreement -</b> (Section 7.4(3)(c))	clause 5 and Schedule 1
<b>Applicability of Section 7.11 of the Act -</b> (Section 7.4(3)(d))	clause 6
<b>Applicability of Section 7.12 of the Act -</b> (Section 7.4(3)(d))	clause 6
<b>Applicability of Section 7.24 of the Act -</b> (Section 7.4(3)(d))	clause 6
<b>Applicability of Section 7.4(3)(e) of the Act</b>	clause 6
<b>Mechanism for Dispute resolution -</b> (Section 7.4(3)(f))	clause 9
<b>Enforcement of this Agreement -</b> (Section 7.4(3)(g))	clause 8
<b>Registration of this Agreement</b> (Section 7.6)	clause 7
<b>No obligation to grant consent or exercise functions -</b> (Section 7.4(9))	clause 13.8

Schedule 3

Shared Pathway Site Plan





Schedule 4

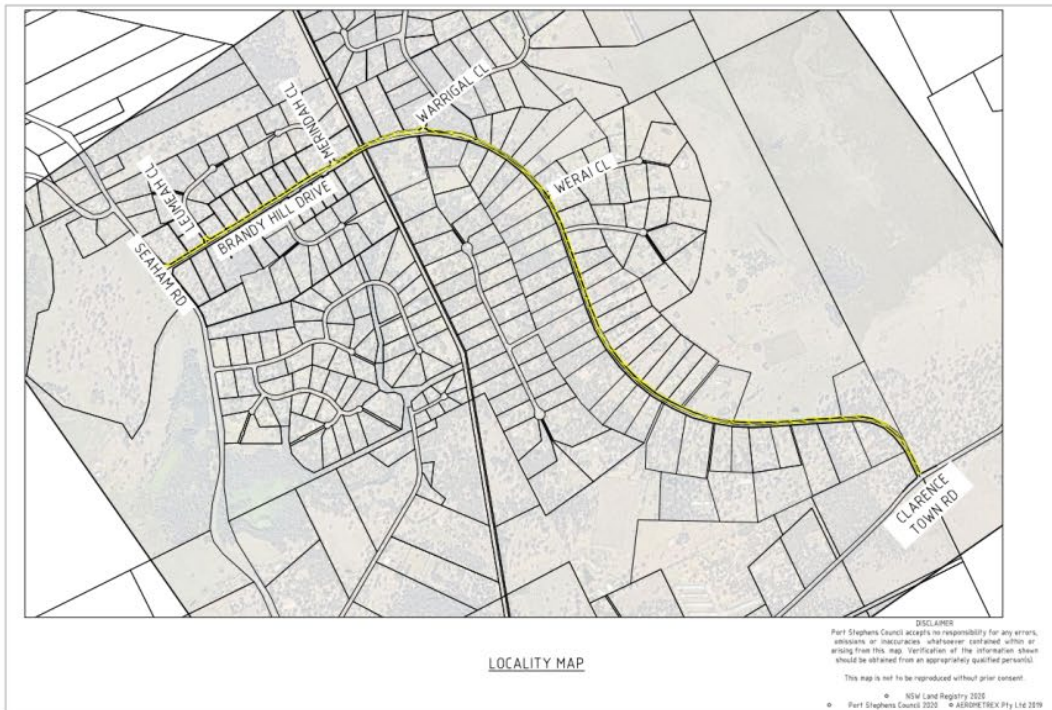
Initial Construction Portions of the Shared Pathway



The Essential First Step.



## SEAHAM RD TO CLARENCE TOWN RD - BRANDY HILL DR SHARED PATH - W11550



DRAWING INDEX	
SHEET No.	DRAWING TITLE
01	COVER PAGE
02	SPECIFICATIONS AND LEGEND
100	GENERAL ARRANGEMENT PLAN
101	STAGE 1 PLAN
102	STAGE 2 PLAN
103	STAGE 3 PLAN
104	STAGE 4 PLAN

AZIMUTH : MGA DATUM : AHD  SURVEY : WD DESIGNED : AS CHECKED : GS	Scales @ A1 PLANS 1:1000 0 100 200 300 400 500m <small>DIMENSIONS AND SETTING OUT, REDUCED LEVELS AND CHANGES ARE IN METRES, ALL OTHER DIMENSIONS ARE IN MILLIMETRES. SETOUT DIMENSIONS ON THE DRAWINGS SHALL BE VERIFIED ON SITE. DIMENSIONS SHALL NOT BE OBTAINED BY SCALING THE DRAWINGS.</small>	<table border="1"> <tr> <th>Date</th> <th>Amendment</th> <th>Rev</th> <th>Officer</th> </tr> <tr> <td>17.02.2024</td> <td>DRAFT</td> <td>G</td> <td>AS</td> </tr> </table>	Date	Amendment	Rev	Officer	17.02.2024	DRAFT	G	AS		Project: SEAHAM RD TO CLARENCE TOWN RD - BRANDY HILL DR Drawing Title: SHARED PATH - W11550 COVER PAGE	EDMS No:  Revision: G Sheet No: 01 Date: 07.02.24 Sheet Size: A1
Date	Amendment	Rev	Officer										
17.02.2024	DRAFT	G	AS										

C:\Users\brandy\OneDrive - Port Stephens Council\Documents\Brandy Hill Dr - Seaham Rd to Clarence Town Rd\09 Design\02 Combined overall plan\W11550\_Combined overall plan.dwg PLOT DATE: 07.02.2024

## GENERAL ENGINEERING NOTES

1. DOCUMENTS: THESE DRAWINGS SHALL BE READ IN CONJUNCTION WITH ALL OTHER WORKING DRAWINGS AND SPECIFICATIONS AND WITH OTHER SUCH WRITTEN INSTRUCTIONS AS MAY BE ISSUED DURING THE COURSE OF CONSTRUCTION. ALL DISCREPANCIES SHALL BE REFERRED TO THE PROJECT MANAGER FOR RESOLUTION BEFORE PROCEEDING WITH THE WORK, EXCEPT WHERE OTHERWISE NOTED. AND WHERE RELEVANT, WORKS TO BE CONSTRUCTED IN ACCORDANCE WITH PORT STEPHENS COUNCIL'S STANDARD DRAWINGS.
2. DIMENSIONS AND SETTING OUT: ALL DIMENSIONS AND LEVELS ARE SHOWN IN METRES UNLESS NOTED OTHERWISE. SET OUT DIMENSIONS ON THE DRAWING SHALL BE VERIFIED ON SITE.
3. DIMENSIONS SHALL NOT BE OBTAINED BY SCALING THE DRAWINGS.
4. WORKMANSHIP AND MATERIALS: THESE SHALL CONFORM WITH THE REQUIREMENTS OF THE RELEVANT AUSTRALIAN STANDARDS, CODES AND THE SPECIFICATIONS, BYLAWS AND ORDINANCES OF PORT STEPHENS COUNCIL. ALL WORKS TO BE EXECUTED IN A TRADESMAN LIKE MANNER.
5. SERVICES: CONTACT 'DIAL BEFORE YOU DIG' ON TEL: 1800 FOR PLAN INFORMATION ON UNDERGROUND PIPES & CABLES, AT LEAST TWO DAYS PRIOR TO THE COMMENCEMENT OF WORK. USING THE PLANS & ON-SITE MARKINGS AS AN INDICATION OF LOCATION, HAND DIG TO EXPOSE ALL SERVICES WITHIN THE SAFE APPROACH DISTANCES.
6. SERVICE LOCATIONS ARE INDICATIVE ONLY. SERVICES MUST BE POTHOLED TO ESTABLISH THE EXACT LOCATION OF ALL UNDERGROUND ASSETS USING A HAND CHISEL, BEFORE USING HEAVY MACHINERY. A CURRENT DIAL BEFORE YOU DIG ENDUITY MUST BE OBTAINED PRIOR TO CONSTRUCTION COMMENCING.
7. SERVICE ADJUSTMENTS: ALL SERVICES AFFECTED BY NEW WORK TO BE ADJUSTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE RELEVANT SERVICE AUTHORITY.
8. ALL WORKS TO BE CONSTRUCTED IN ACCORDANCE WITH COUNCIL'S SPECIFICATIONS AND THESE DRAWINGS.
9. THE LOCATION AND LEVEL OF ALL EXISTING SERVICES, UTILITIES, PIPES, PITS, CONNECTION POINTS ETC. INSTALLED AS PART OF PREVIOUS STAGES SHALL BE CONFIRMED PRIOR TO THE COMMENCEMENT OF WORK.

## SURVEY

1. ALL LEVELS ARE A.H.D. ALL CO-ORDINATES ARE MGA 2020
2. ALL CHANGES AND LEVELS ARE IN METRES UNLESS OTHERWISE NOTED.

## LEGEND

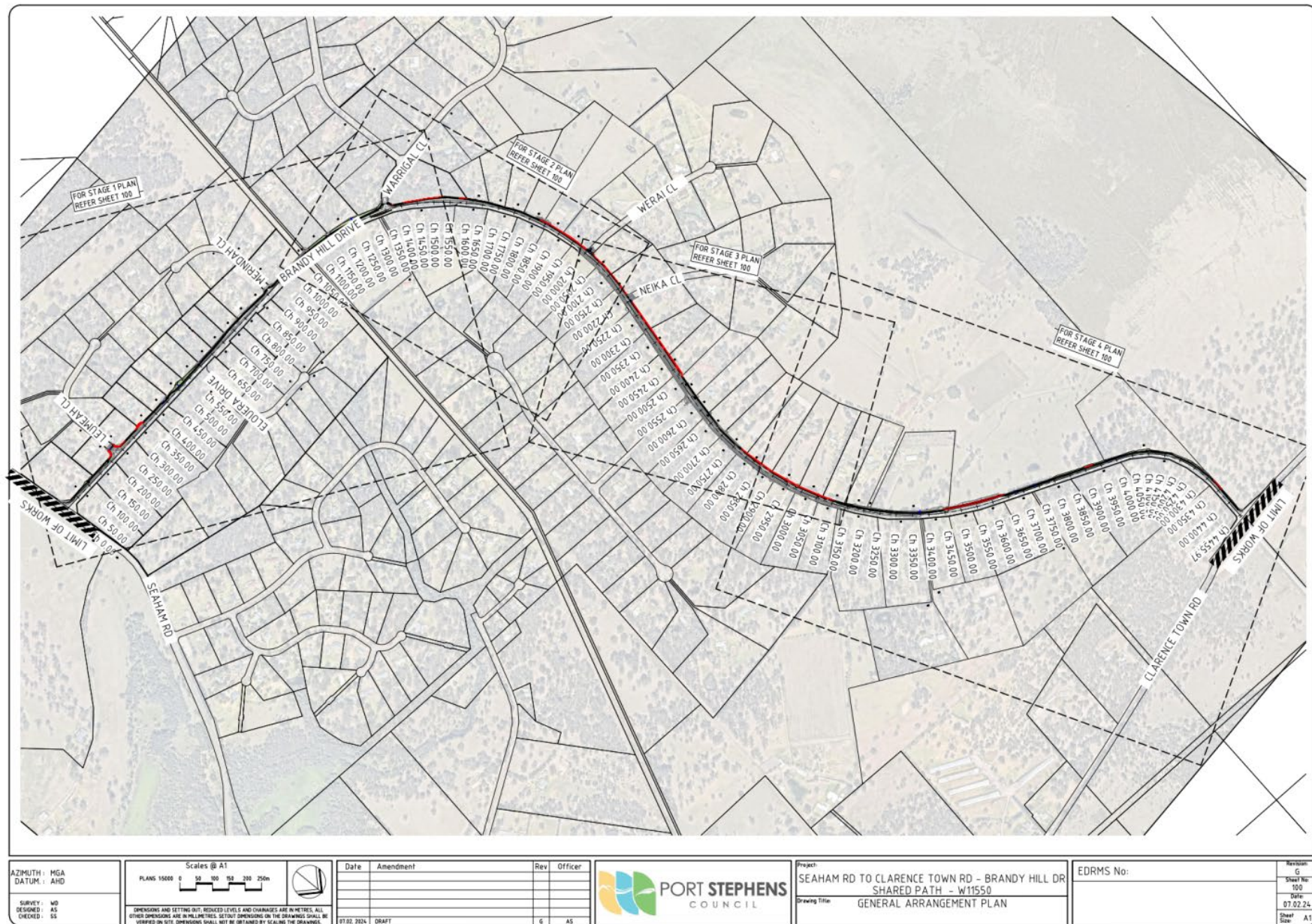
	DENOTES PROPOSED GRASS BATTER. SPRAY SEED WITH HYDROSEAL OR EQUIVALENT		DENOTES DEFINED BOUNDARY LINE
	DENOTES PROPOSED MULCHED BATTER		DENOTES NON-DEFINED BOUNDARY LINE FROM CADASTRE
	DENOTES PROPOSED GRAVEL FILL FOR ROAD PAVEMENT.		DENOTES EXISTING TREE
	DENOTES PROPOSED GRAVEL DRIVEWAY.		DENOTES EXISTING TOP OF BANK
	DENOTES PROPOSED PAVEMENT TO BE REMOVED.		DENOTES EXISTING BOTTOM OF BANK
	DENOTES PROPOSED STABILISED ROAD PAVEMENT.		DENOTES EXISTING FENCE
	DENOTES PROPOSED PAVEMENT MILLING AND RESHEET.		DENOTES EXISTING EDGE OF BITUMEN
	DENOTES PROPOSED MASS CONCRETE PAVEMENT.		DENOTES EXISTING CENTRELINE
	DENOTES PROPOSED REINFORCED CONCRETE PAVEMENT.		DENOTES EXISTING BOX CULVERT
	DENOTES PROPOSED EXPOSED AGGREGATE CONCRETE PAVEMENT.		DENOTES EXISTING PIPE
	DENOTES PROPOSED AREA OF PAVERS.		DENOTES EXISTING TELECOMMUNICATION CABLE
	DENOTES PROPOSED AREA OF TWO COAT SEAL.		DENOTES EXISTING OPTICAL FIBRE CABLE
	DENOTES PROPOSED AREA OF ASPHALTIC CONCRETE SEAL.		DENOTES EXISTING OVERHEAD ELECTRICITY
	DENOTES PROPOSED ASPHALTIC CONCRETE RAISED THRESHOLD.		DENOTES EXISTING UNDERGROUND ELECTRICITY
	DENOTES PROPOSED CONCRETE SO DRAIN		DENOTES EXISTING WATER MAIN
	DENOTES PROPOSED AREA OF TREES/SHRUBS TO BE REMOVED. REFER TO SPECIFICATIONS FOR STANDARD PROCEDURES AND REQUIREMENTS		DENOTES EXISTING GAS MAIN
	DENOTES PROPOSED TREE REMOVED		DENOTES EXISTING HIGH PRESSURE GAS MAIN
	DENOTES PROPOSED HABITAT TREE REMOVED		DENOTES EXISTING SEWER MAIN
	DENOTES PROPOSED HABITAT TREE RETAINED		DENOTES EXISTING SEWER RISING MAIN
	DENOTES PROPOSED DRAINAGE PIPE		
	DENOTES PROPOSED STORMWATER DRAINAGE PIT. REFER TO STORMWATER PIT SCHEDULE FOR PIT SIZE, GRATE CLASS AND REQUIRED INSERTS.		
	DENOTES PROPOSED HEADWALL.		
	DENOTES PROPOSED KERB INLET PIT.		
	DENOTES PROPOSED SAG PIT.		
	DENOTES PROPOSED EDGE OF BITUMEN		
	DENOTES PROPOSED EXTENT OF BATTER		
	DENOTES PROPOSED CENTRELINE		
	DENOTES PROPOSED KERB AND GUTTER.		
	DENOTES PROPOSED KERB ONLY.		
	DENOTES PROPOSED FLUSH KERB.		
	DENOTES PROPOSED KERB RAMP.		
	DENOTES PROPOSED WIRE ROPE SAFETY BARRIER INSTALLED IN ACCORDANCE WITH MANUFACTURER'S WRITTEN SPECIFICATIONS		
	DENOTES PROPOSED GUARD RAIL INSTALLED IN ACCORDANCE WITH MANUFACTURER'S WRITTEN SPECIFICATIONS		
	DENOTES PROPOSED ET-SS END TERMINAL INSTALLED IN ACCORDANCE WITH MANUFACTURER'S WRITTEN SPECIFICATIONS		
	DENOTES PROPOSED SIGN		
	DENOTES PROPOSED EXTENT OF FILL		
	DENOTES PROPOSED EXTENT OF CUT		
	DENOTES PROPOSED DEPTH OF FILL IN METRES		
	DENOTES PROPOSED DEPTH OF CUT IN METRES		
	DENOTES SURVEY MARK		

- DENOTES SCOUR PROTECTION INSTALLED IN ACCORDANCE WITH STANDARD DETAIL SD5-4 OF THE 'BLUE BOOK'
- DENOTES SEDIMENT FENCE INSTALLED IN ACCORDANCE WITH STANDARD DETAIL SD4-4 OF THE 'BLUE BOOK'
- DENOTES HAY BALES INSTALLED IN ACCORDANCE WITH STANDARD DETAIL SD4-7 OF THE 'BLUE BOOK'
- DENOTES TEMPORARY BUND INSTALLED IN ACCORDANCE WITH STANDARD DETAIL SD5-5 (LOW FLOW) OR SD 5-6 (HIGH FLOW) OF THE 'BLUE BOOK'
- DENOTES KERB SEDIMENT TRAP INSTALLED AT INVERT OF KERB AT MAX 20 CTS. ENSURE THAT SEDIMENT TRAP IS LOCATED MINIMUM 2m UPSTREAM OF PIT INLET.
- DENOTES KERB INLET SEDIMENT TRAP INSTALLED IN ACCORDANCE WITH STANDARD DETAIL SD5-4 OF THE 'BLUE BOOK'

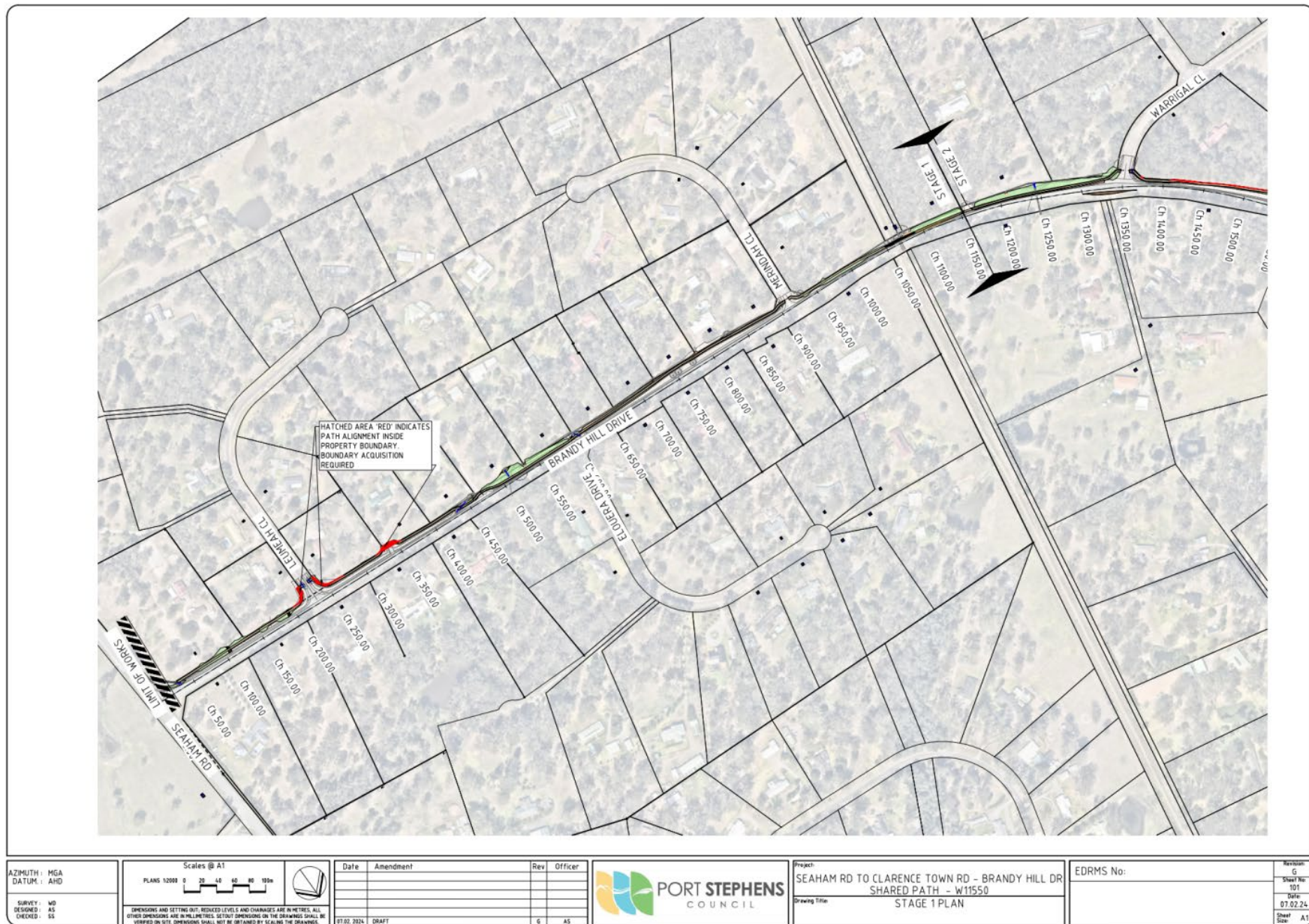
AZIMUTH : MGA DATUM : AHD  SURVEY : WD DESIGNED : AS CHECKED : SS	Scales @ A1  DIMENSIONS AND SETTING OUT: REDUCED LEVELS AND CHANGES ARE IN METRES. ALL OTHER DIMENSIONS ARE IN MILLIMETRES. SET OUT DIMENSIONS ON THE DRAWINGS SHALL BE VERIFIED ON SITE. DIMENSIONS SHALL NOT BE OBTAINED BY SCALING THE DRAWINGS.	Date 07.02.2024	Amendment DRAFT	Rev G	Officer AS		Project SEAHAM RD TO CLARENCE TOWN RD - BRANDY HILL DR SHARED PATH - W11550	ED RMS No:	Revision G
		Drawing Title SPECIFICATIONS AND LEGEND	Date 07.02.24	Sheet 02	Sheet Size A1				

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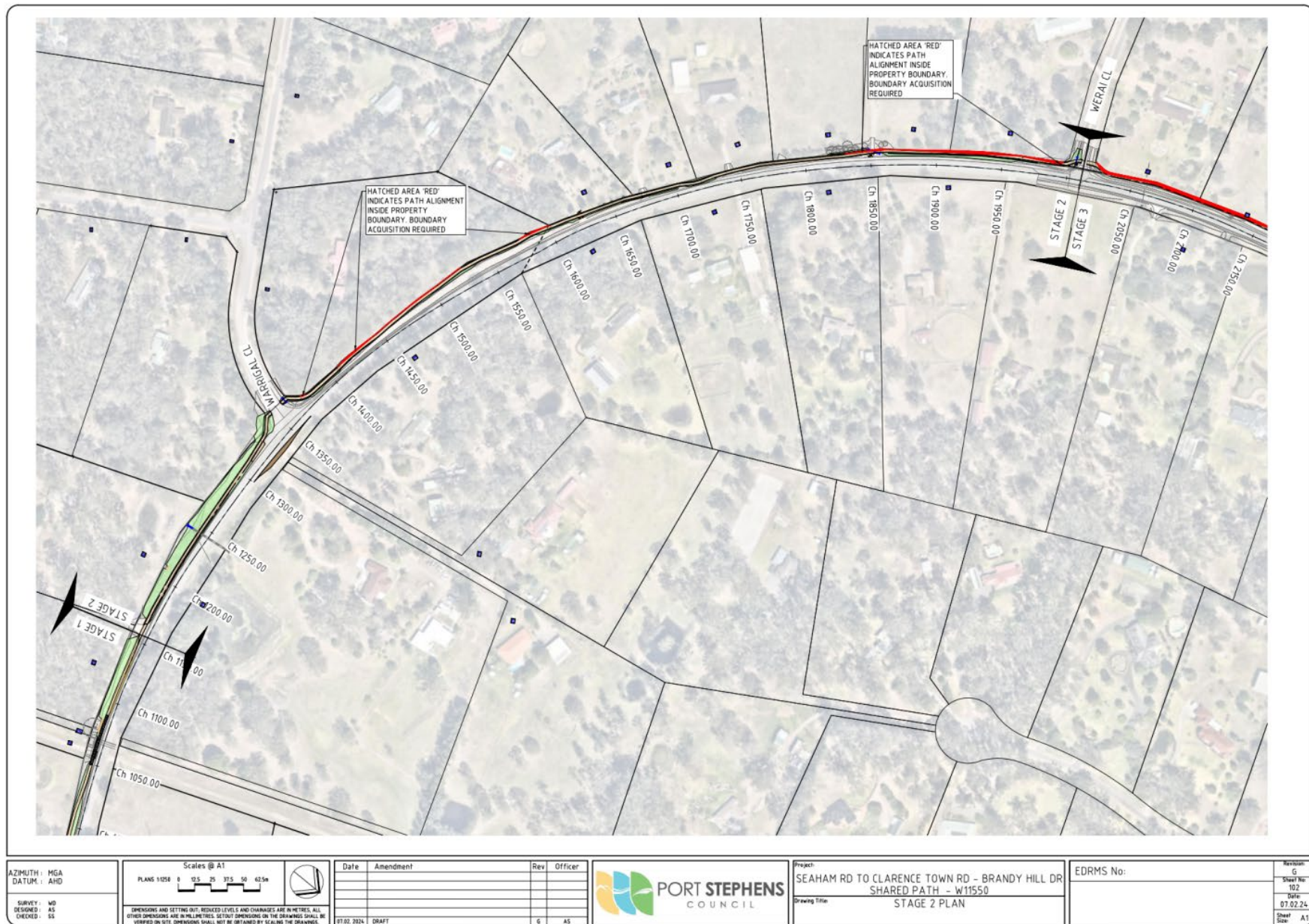




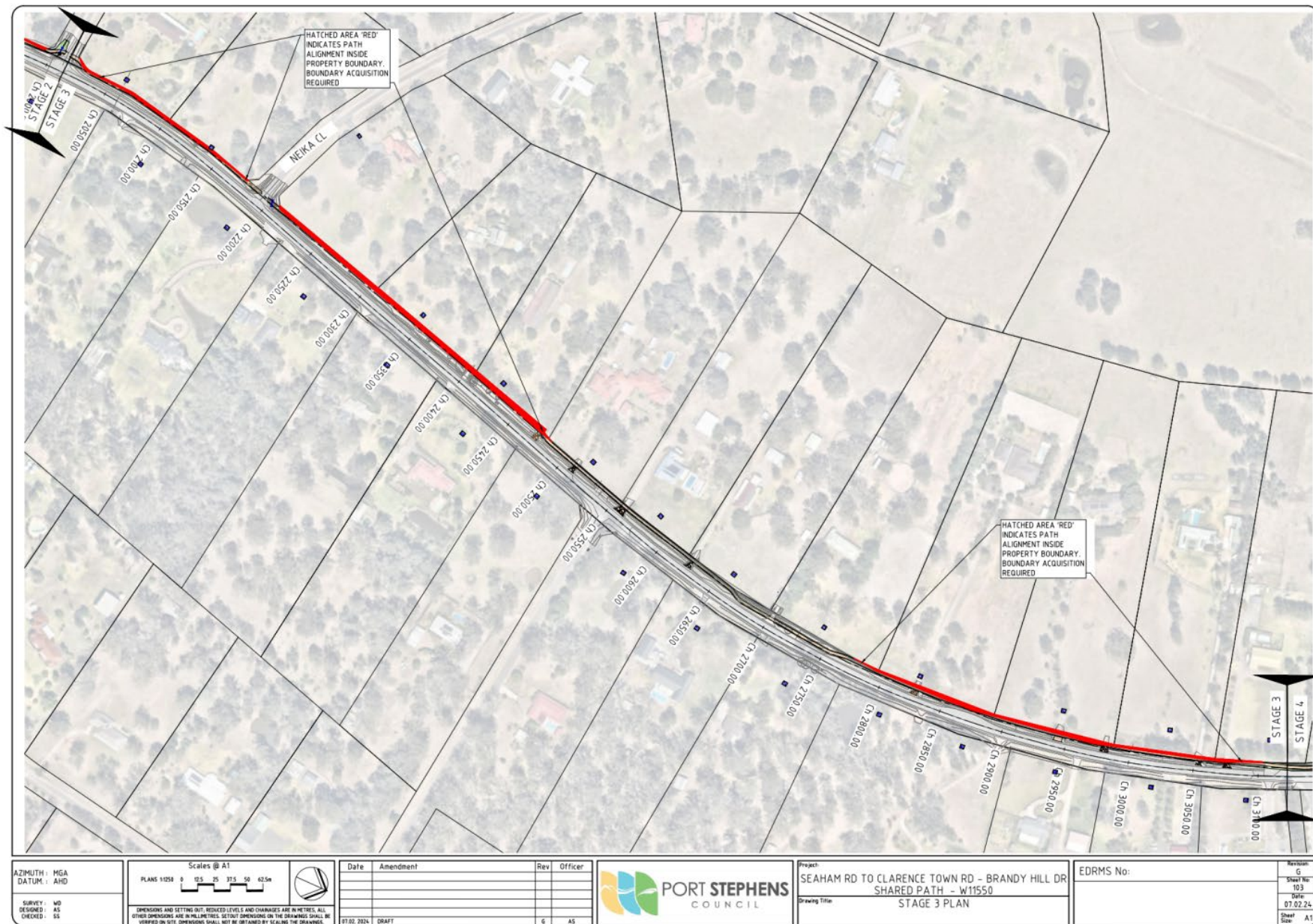




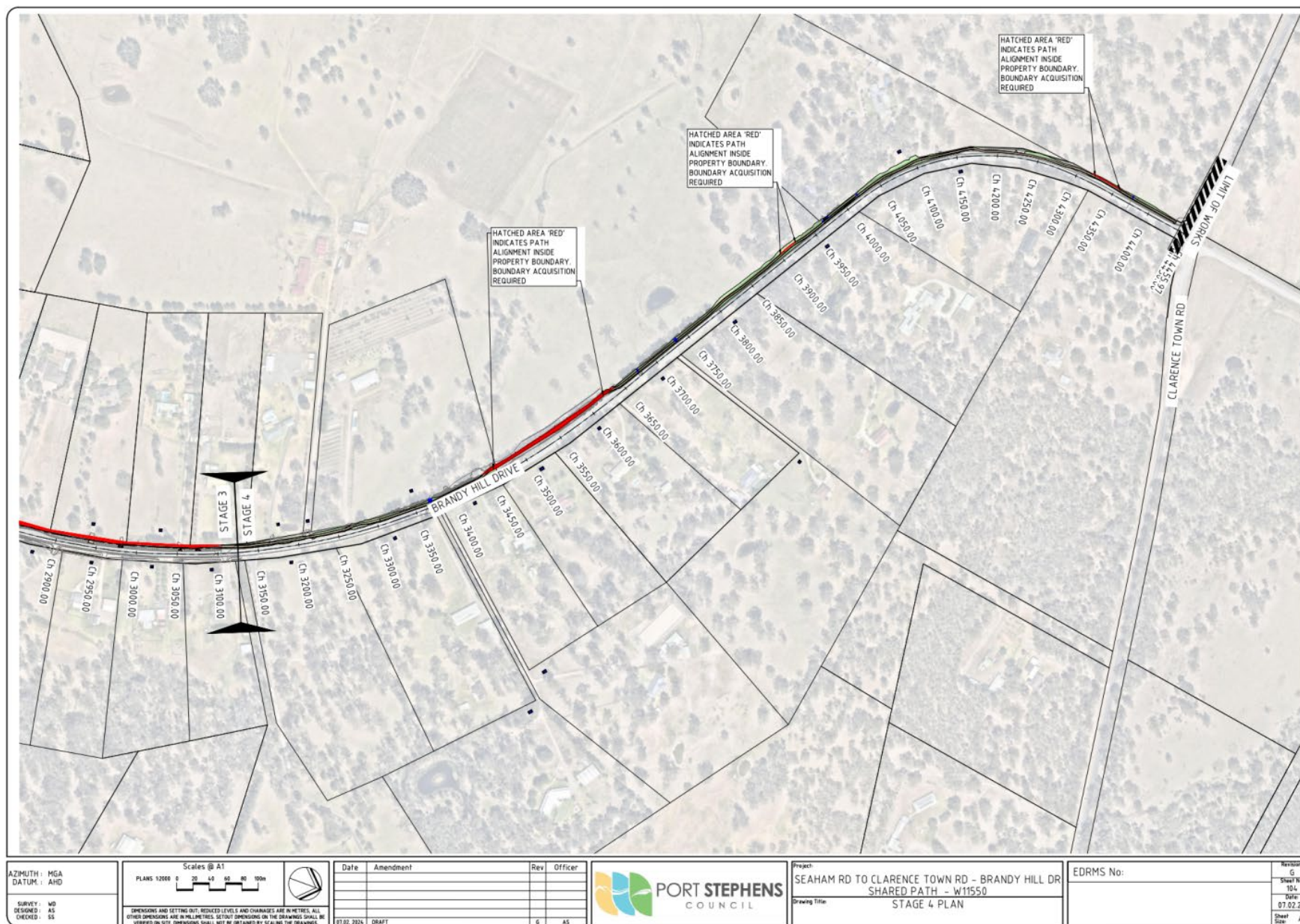
ITEM 3 - ATTACHMENT 1 DRAFT VOLUNTARY PLANNING AGREEMENT.













## Execution

**Executed** as a deed.

### Council

**Executed by Port Stephens Council** )  
by its authorised delegate in the )  
presence of: )

.....  
Signature of Witness

.....  
Signature of Officer

.....  
Name of Witness (print)

.....  
Name of Officer (print)

.....  
Position of Officer (print)

### Developer

**Executed by Hanson Construction** )  
**Materials Pty Ltd ACN 009 679 734 in** )  
**accordance with section 127(1)** )  
**Corporations Act 2001 (Cth):** )

.....  
Company Secretary/Director

.....  
Director

.....  
Name of Company Secretary/Director  
(print)

.....  
Name of Director (print)

# Explanatory Note

## Draft Planning Agreement Brandy Hill Quarry

*Environmental Planning & Assessment Act 1979, section 7.4  
Environmental Planning & Assessment Regulation 2021, clause 205*

### 1. Introduction

The purpose of this Explanatory Note is to provide a plain English summary to support the exhibition of a proposed draft planning agreement (the **Planning Agreement**) prepared under section 7.4 of the *Environmental Planning and Assessment Act 1979* (the **Act**).

### 2. Parties

The parties to the Planning Agreement are Port Stephens Council (**Council**) and Hanson Construction Materials Pty Ltd (**Developer**). This explanatory note has been prepared jointly by the parties.

### 3. Description of the Subject Land

The Agreement applies to the following land (**Land**) as identified in Appendix 1 of the development consent for the Project granted on 16 July 2020, reference SSD-5899 (**Development Consent**).

Lot	DP
3	1006516
1	823760
19	752487
220	752487
21	752487
1	737844
2	823760
56	752487

**ITEM 3 - ATTACHMENT 2      ACCOMPANYING EXPLANATORY NOTE.**

36	752487
236	752487
1	47313
101	712886
12	264033
25	1101305
100	712886
1	264033
2	264033
59	752487
58	752487
2	1006516
1	1006516
2	737844 [REFERRED TO IN ERROR AS LOT2 DP737847 IN THE CONSENT]
57	752487

**4. Description of the Development**

The Agreement relates to the Brandy Hill Quarry Expansion Project as described in the Development Consent.

**5. Summary of Objectives, Nature and Effect of the Planning Agreement Objectives**

The Planning Agreement provides that the Developer will contribute the following monetary development contributions:

**ITEM 3 - ATTACHMENT 2 ACCOMPANYING EXPLANATORY NOTE.**

<b>Column 1 Development Contribution</b>	<b>Column 2 Monetary amount (\$)</b>	<b>Column 3 Timing</b>	<b>Column 4 Public Purpose</b>
Local Roads Advance Payment	\$1,500,000 (not subject to indexation)	In three (3) instalments: (1) \$120,000 immediately following execution of the Agreement (2) \$690,000 within 20 Business Days of Council providing the Developer with written notice that it has completed construction of 25% of the length of the Pathway. (2) \$690,000 within 20 Business Days of Council providing the Developer with written notice that it has completed construction of 75% of the length of the Pathway.	The design and construction of the bus-bays and the maintenance of local roads used for haulage of quarry products in accordance with the provisions relating to section 7.11 Haulage levies in the Port Stephens Local Infrastructure Contributions Plan.
Pathway Contribution	\$2,500,000 (not subject to indexation)	In instalments as follows: (1) \$1,250,000 immediately following execution of the Agreement. (2) \$416,667 within 120 days following the execution of the agreement. (3) \$416,667 within 210 days following the execution of the agreement. (4) \$416,667 within 300 days following the execution of the agreement	The design and construction of the Pathway.

By requiring the Monetary Contributions, the Planning Agreement will help ensure that the costs incurred by Council in responding to road safety concerns created as a result of the Development are contributed to by the Developer.

The obligations of the Developer are secured by registration of the Planning Agreement.

The Agreement also:

- a) excludes the operation of section 7.12, former section 7.24 and Subdivision 4 of Division 7.1 of the Act, subject to Ministers approval;

**ITEM 3 - ATTACHMENT 2      ACCOMPANYING EXPLANATORY NOTE.**

- b) does not exclude the operation of section 7.11 of the Act but will allow the Developer to be given credits for the amounts paid to be offset against the obligation to pay contributions under the Development Consent;
- c) provides mechanisms for dispute resolution and enforcement in relation to the Agreement; and
- d) sets out how the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) applies to the Development Contributions.

**Assessment of the merits of the Planning Agreement****How the Planning Agreement promotes the public interest and the objects of the Act**

In accordance with Section 7.4 of the Act, the Planning Agreement has the following public purpose:

- the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land.

The Planning Agreement also promotes the public interest by promoting the objects of the Act, in particular:

- 1.3 (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- 1.3 (c) to promote the orderly and economic use and development of land,
- 1.3 (g) to promote good design and amenity of the built environment.

**How the Planning Agreement promotes the objects of the Local Government Act 1993**

The Monetary Contributions required by the Planning Agreement are consistent with and promote the objects in section 7 of the *Local Government Act 1993*. In particular:

- 7 (e) to provide for a system of local government that is accountable to the community and that is sustainable, flexible and effective.

**How the Planning Agreement promotes the elements of the Councils' charter (now the principles for local government)**

The Planning Agreement promotes the principles for local government under Chapter 3 of the *Local Government Act 1993*. In particular:

- 8A (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- 8A (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- 8A (g) Councils should work with others to secure appropriate services for local community needs.
- 8B (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- 8C (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- 8C (h) Councils should manage risks to the local community or area or to the council effectively and proactively.

**ITEM 3 - ATTACHMENT 2      ACCOMPANYING EXPLANATORY NOTE.**

**How the Planning Agreement serves planning purposes**

The Planning Agreement facilitates the safety of roads for the local community and is a reasonable means for achieving that planning purpose, as it provides for the payment of Monetary Contributions to the Council for ensuring the safety of Brandy Hill Drive.

The timing of the payment of Monetary Contributions allows the Council to construct the bus bays and shared pathway in association with an increase in production from the Quarry.

**Whether the Planning Agreement conforms with the Councils' capital works program**

The Council's capital works program as set out in the Port Stephens Local Contributions Plan 2020 lists Brandy Hill Pathway as an item to be delivered in 2027. The Planning Agreement will enable to the expedited funding and delivery of this infrastructure.

**Further information**

The Planning Agreement is available on the Council's website.

ITEM NO. 4

FILE NO: 24/12616  
EDRMS NO: PSC2014-00882

**TERMS OF REFERENCE FOR THE PORT STEPHENS BEACHSIDE HOLIDAY PARKS - HOLIDAY VAN CONSULTATIVE COMMITTEE**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorses the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee **(ATTACHMENT 1)**.
- 2) Revokes the Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee dated 13 July 2021.

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**ORDINARY COUNCIL MEETING - 26 MARCH 2024  
MOTION**

<b>046</b>	<p><b>Councillor Giacomo Arnott</b> <b>Councillor Peter Francis</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Endorses the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee <b>(ATTACHMENT 1)</b>.</li><li>2) Revokes the Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee dated 13 July 2021.</li></ol>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to seek endorsement of the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee following a review.

The Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee, comprises Council staff and elected representatives from the Council managed Crown Holiday Parks. The purpose of the committee is to represent and inform the holiday van owners who hold occupancy agreements with Council to reside in mobile dwellings within Shoal Bay Holiday Park, Halifax Holiday Park and Fingal Bay Holiday Park.

In accordance with the Crown Land Management Act 2016 which came into effect on 1 July 2018, Council are recognised as Land Managers for our Crown Holiday Parks under the terms of the Local Government Act 1993 and are responsible for the approval of any changes to the Terms of Reference.

The revised Terms of Reference (**ATTACHMENT 1**) had been presented to Council for consideration on 14 November 2023 having been reviewed by the current members of the Holiday Van Consultative Committee prior to reporting to Council.

The matter was deferred with a request to undertake further consultation with the wider holiday van owners. This consultation has now occurred with the outcome detailed within the consultation section of this report.

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

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Financial Management	Implement the 2022 to 2025 Delivery Plans for Beachside Holiday Parks and Koala Sanctuary.

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no known financial or resource implications and any activities will continue to be carried out in line with existing budgets.

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



## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

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

### LEGAL, POLICY AND RISK IMPLICATIONS

The revised Terms of Reference provides greater clarity around membership, roles and responsibilities, and limits policy and governance risks to Council.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that not adopting the recommendation will limit the effective and timely communication between Council and the Holiday Van Owners.	Low	Adopt the recommendation.	Yes

### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no known implications.

### CONSULTATION

Consultation with key stakeholders has been undertaken by the Holiday Parks Section.

Further to the Council meeting on 14 November 2023 (**ATTACHMENT 2**) additional consultation with the wider holiday van owners has since occurred.

#### Internal

- Holiday Park Managers.

#### External

- Holiday Van Consultative Committee representatives.
- Holiday Van Owners.

During the additional consultation period, 3 responses were received. A summary of submissions is provided at (**ATTACHMENT 3**).

The responses were in relation to clause 7.5.1 around the term of committee members. Currently, the Terms of Reference consent for committee members to be elected for a 2 year term.

The respondents suggested this be amended to a 3 year term and the revised Terms of Reference (**ATTACHMENT 1**) have been amended accordingly based on this feedback.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Revised Terms of Reference.
- 2) Council Minutes - 14 November 2023.
- 3) Summary of Submissions.

### **COUNCILLORS' ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.

## Terms of Reference



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### **PORT STEPHENS BEACHSIDE HOLIDAY VAN CONSULTATIVE COMMITTEE**

#### **1. PURPOSE**

- 1.1 The purpose of the Holiday Van Consultative Committee (the Committee) is to provide a forum for meaningful discussion, facilitating appropriate consultation and engagement with Holiday Van Owners toward the implementation stages of development and change occurring across the Fingal Bay, Shoal Bay and Halifax Holiday Parks.
- 1.2 To ensure that Holiday Van Owners' concerns and issues are understood and accurately presented to the Committee for discussion.
- 1.3 To improve communication and act as an information channel between Holiday Van Owners, the Council and Park Management.
- 1.4 To act in a way that improves communication channels between Holiday Van Owners and Park Management.
- 1.5 To provide a forum for open discussion. Issues are to be of a collective nature only.
- 1.6 To consider relevant information to be circulated in the Quarterly Holiday Van Newsletter.

#### **2. CONTEXT / BACKGROUND**

- 2.1 Port Stephens Beachside Holiday Parks Consultative Committee was established in April 2014 to ensure an appropriate channel of communication was formed between Council and Holiday Van Owners at Fingal Bay, Shoal Bay and Halifax.

Under the Crown Land Management Act (2016) Council is recognised as the Crown Land Manager and as such has a responsibility to manage Crown Lands for the purposes for which the land is reserved or dedicated.

- 2.2 The Holiday Parks Long Term Casual Occupancy Act (2002) makes provision for the Park Owner to establish a consultative committee for its Holiday Parks. The formation of any such committee is at the discretion of the Council. It is also the right of the Council to determine procedural issues including the extent of representation on the Committee.

## Terms of Reference



### **3. SCOPE**

- 3.1 The scope of operation of this Committee is to actively promote discussion on agenda matters with the view of improving the quality and financial viability of the Holiday Parks and amenity of Holiday Van Owners, in keeping with the objectives set out in the approved Plans of Management.

### **4. DEFINITIONS**

- 4.1 Park Owner means Council.
- 4.2 Council means Port Stephens Council and the officers of Council.
- 4.3 Crown Lands means NSW Government Department Industry, and the officers of Crown Lands.
- 4.4 Crown Land Manager means Council in its capacity as managers of Crown reserves.
- 4.5 Committee means the Port Stephens Holiday Van Consultative Committee.
- 4.6 Holiday Parks means Fingal Bay, Shoal Bay and Halifax Holiday Parks.
- 4.7 Park Management means the appointed Council personnel responsible for the strategic and operational management of Port Stephens Beachside Holiday Parks.
- 4.8 Holiday Van means a holiday van or caravan as defined in the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
- 4.9 Holiday Van Owner means a person or persons who own a holiday van and who has the right to occupy a site under a current occupation agreement.
- 4.10 Plans of Management means the plans approved by the Minister for the purpose of managing key objectives, strategies and performance targets established for the management of a Holiday Park on Council land or Crown reserve.
- 4.11 Port Stephens Caravan and Campers Association - "PSCCA" means the association representing Holiday Van Owners within the holiday parks.

### **5. AUTHORITY**

- 5.1 The Committee may formulate recommendations and submit same to Council for its consideration and determination. There is no decision making authority delegated by the Council to the Committee.

### **6. TERM**

- 6.1 The commencement date of the Holiday Van Consultative Committee was April 2014 and is ongoing.

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TERMS OF REFERENCE 2024

**ITEM 4 - ATTACHMENT 1 REVISED TERMS OF REFERENCE.**

## Terms of Reference



### **7. MEMBERSHIP**

7.1 Membership of the Committee will comprise of **up to** 10 members.

7.1.1 Park Management – 5 appointed representatives:

- a) Holiday Park Section **Commercial Business** Manager or delegate
- b) Administration Officer / **Secretariat** or delegate
- c) Holiday Park Business **Assistant** Manager – **Fingal Bay**
- d) Holiday Park **Assistant** Operations Manager – **Shoal Bay**
- e) Holiday Park Assistant Manager - **Halifax**

7.1.2 Holiday Van Owner – 5 elected representatives:

- a) Halifax (1)
- b) Shoal Bay (1)
- c) Fingal Bay (3) – North Precinct – includes Amaroo, Toowoan, Karloo Gooyah and Yatamah Streets, South Precinct – includes 7 vans in Pinaroo (23-35 on South boundary), Muraban, Kalyan, Rumaiy, Orana Streets (#17-42) and West Precinct – includes Pinaroo (2-75 excludes 7 vans in South precinct), Orana (#2-16), Quandong Extension & Nowrainie Streets.

7.2 Holiday Van Owner representatives will be elected through elections conducted across the 3 Holiday Parks. If a Holiday Van Owner representative resigns their position on the Committee, a new delegate will be sought through an expression of interest. If a Holiday Van Owner representative is unable to attend any one meeting of the Committee a nominated delegate, preferably from the same precinct, or a PSCCA member or a current Holiday Van Owner in the park as approved by the Chairperson may attend in their place.

7.3 The 5 Holiday Van Owner representatives will be elected from the 5 established electorates:

- a) Halifax - representing all occupants on Halifax Holiday Park
- b) Shoal Bay - representing all occupants on Shoal Bay Holiday Park
- c) Fingal Bay – a minimum of 2 and a maximum of 3 representatives to represent Fingal Bay Holiday Park as a whole.

### **7.4 Elections**

7.4.1 All Holiday Van Owners will be provided with the opportunity to nominate a van owner to represent their electorate to which they belong, as detailed in 7.1.2 above.

7.4.2 A Holiday Van Owner may nominate in one electorate only.

ITEM 4 - ATTACHMENT 1 REVISED TERMS OF REFERENCE.

## Terms of Reference



7.4.3 Nominators must supply, along with their nomination form:

- a) A short description of their background (half an A4 page maximum) and reasons for wanting to be elected to this Committee; and
- b) A current head and shoulders photograph which will be published with the ballot paper to enable holiday van owners to make a considered choice when voting for their representative.

7.4.4 Nominations will be called giving 28 days' notice of closure of nominations.

7.4.5 Within 7 working days of the closure of nominations, Holiday Van Owners will be provided with details of those who have nominated and receive a ballot paper for return to Port Stephens Beachside Holiday Park Management, PO Box 147, Nelson Bay 2315, within 28 days of the date of issue.

7.4.6 Should multiple nominations not be received in any one electorate, the individual who has nominated will be declared the representative for that electorate.

7.4.7 If the vote for any one position is tied, then the representative will be decided by a random draw of names.

7.4.8 Holiday Van Owners will be given one vote per site occupancy agreement to elect a representative for their electorate.

7.4.9 The ballot process will be supervised and conducted by the nominated Returning Officer (Council's Public Officer).

7.4.10 Within 2 working days of the close of the ballot, Park Management will advise Holiday Van Owners in that precinct of the successful elected Holiday Van representatives for the Committee.

7.4.11 If no nominations are received, the Committee Chairperson may approach an individual Holiday Van Owner and recommend appointment to the vacant position to Committee to fill the casual vacancy until the next election period.

7.4.12 The ballot process will occur each year prior to the September meeting. Two One of the Fingal Bay electorates will occur one each year with the third Fingal Bay electorate plus Halifax and Shoal Bay scheduled the following year to maintain in different years in the 2 3 year cycle.

### 7.5 Term of Committee Members

7.5.1 Committee members will be elected for a 2 3 year term.

7.5.2 During the first term of office (no earlier than 18 months from the Committee commencing) an election will be held for 2 of the members with an election for the remaining 3 to be held the following year (at the end of the 2 year term). This will ensure continuity of membership. Elections will be scheduled in accordance with 7.4.12 to ensure continuity of membership.

TERMS OF REFERENCE 2024

## Terms of Reference



- 7.5.3 The Committee will actively seek nominees for vacant positions as they become available.
- 7.5.4 A Committee member may resign at any time with notification in writing to the Chairperson.
- 7.5.5 Committee members may be re-elected for consecutive terms.
- 7.5.6 Election for any vacant committee member positions will occur annually, coinciding with timing of the election process described at 7.45.122 and in consideration of operational requirements.

### **8 ROLES AND RESPONSIBILITIES**

- 8.1 The Committee will be chaired by Council's Holiday Park Section **Commercial Business** Manager or nominated delegate.
  - 8.1.1 The Administration Officer or delegates role is to provide advice and general knowledge to the Committee members.
  - 8.1.2 The Holiday Park **Commercial Business** Manager and **Assistant Managers**, or delegates, roles are to provide advice and recommendations on the agenda items and to provide input and direction to ensure transparency and that all information is true and relevant.
  - 8.1.3 The Holiday Van Owners representative's roles are to ensure they provide appropriate consultation and engagement with Holiday Van Owners regarding development and change occurring across the Holiday Parks.
- 8.2 Members of the Committee are expected to:
  - a) Have a good understanding of the Committee's position within the Council's governance framework.
  - b) Understand the regulatory and legislative requirements appropriate to Council and Crown Lands.
  - c) Ensure effective communication exists between the Committee, Park Management and key stakeholders.
  - d) Provide professional competency to be able to meet the objectives of the Committee.
- 8.3 All Committee members are required to uphold the Council's values and behaviours, which are considered to be core requirements of Council. All Committee members are expected to demonstrate the following values and behaviours in their dealings with each other and with the Holiday Parks community:
  - a) Respect – the individual, the environment and our culturally diverse community. We will treat everyone fairly with equity of opportunity and access for all.
  - b) Integrity - The Committee members will be honest in all that we do.
  - c) Teamwork - Committee members will work within a network of people for the betterment of the community.

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TERMS OF REFERENCE **2024**



**ITEM 4 - ATTACHMENT 1      REVISED TERMS OF REFERENCE.**

## Terms of Reference



- d) Excellence - Committee members will strive to excel at everything we do. We will aim for the highest standard of quality to achieve best value for our community and customers.
- e) Safety - Committee members will strive for a safer community. We do not put ourselves, or others at risk of injury and we will report hazards and make them safe.

### 8.4 Code of Conduct

- 8.4.1 Committee members are bound by the terms and conditions of Council's Code of Conduct.
- 8.4.2 Committee members must declare any conflicts of interest at the start of each meeting. Details of any conflicts of interest must be appropriately minuted.
- 8.4.3 Where members or invitees at Committee meetings are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from Committee deliberations on the issue where the conflict of interest may exist.

### 8.5 Induction

- 8.5.1 Park Management will ensure that new Committee members receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.

### 8.6 Performance Assessment

- 8.6.1 The Chair of the Committee will initiate an annual review of the performance of the Committee. The review will be conducted on a self-assessment basis (unless otherwise determined by the Committee), with appropriate input from relevant stakeholders, as determined by the Committee members.

## **9 ADMINISTRATION ARRANGEMENTS**

### 9.1 Meeting practices and cycles

- 9.1.1 Unless otherwise specified in this Terms of Reference and in accordance with any Local Government or Crown Lands legislative requirements, the Committee will determine its meeting practice, processes and protocols.
- 9.1.2 The Committee will meet on the 3rd **third** week of February, ~~May, August and November~~ **March and September** of each year.
- 9.1.3 Extra-Ordinary meetings of the Committee may be convened only at the discretion of Council.
- 9.1.4 Meetings will be held at a time and date that is suitable for the majority of Committee members.

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TERMS OF REFERENCE **2024**



**ITEM 4 - ATTACHMENT 1      REVISED TERMS OF REFERENCE.**

## Terms of Reference



- 9.1.5 Meeting duration shall not exceed a maximum of 1½ hours unless determined otherwise by the Committee.
- 9.1.6 To reach a quorum for the Committee at least 3 of the elected Committee members must be present and at least 3 Park Management representatives. If for any reason a quorum is not reached the meeting will be rescheduled.
- 9.1.7 Meeting Attendance - Committee members are expected to attend all Committee meetings.
- 9.1.8 Each participating member of the Committee shall meet all costs of their individual participation and attendance at Committee meetings.
- 9.1.9 Where a Committee member fails to attend 3 successive meetings without submitting a satisfactory explanation, a casual vacancy will be declared.
- 9.1.10 Persons other than Committee members/alternates/Council or Crown Land Officers shall not be permitted to attend meetings unless by invitation of the Committee Chairperson.
- 9.1.11 A suitable meeting place and facilities will be made available by Council for the purpose of conducting the Committee meetings.
- 9.1.12 Where a Committee member is unable to attend a meeting, a nominated delegate preferably from the same precinct, or a PSCCA member or a current Holiday Van Owner in the park as approved by the Chairperson may attend in their place. The nominated representative may attend the meeting via Zoom online video link.
- 9.1.13 By agreement with the Committee the meeting may be held via Zoom online video link.
- 9.2 Secretariat
  - 9.2.1 Park Management will provide the Secretariat to the Committee.
- 9.3 Agenda and minutes
  - 9.3.1 Any Committee member may submit Agenda items.
  - 9.3.2 A reminder of the date of the next meeting and the closing date for receipt of Agenda items will be sent by the Secretariat to all Committee members in advance of the next meeting.
  - 9.3.3 Agenda items shall be forwarded to the Secretariat at least 7 days prior to the next meeting.
  - 9.3.4 Representatives submitting items should ensure the content is given in sufficient detail to assist members to understand the issues raised or by providing additional supporting information.

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TERMS OF REFERENCE 2024

**ITEM 4 - ATTACHMENT 1 REVISED TERMS OF REFERENCE.**

## Terms of Reference



- 9.3.5 The Secretariat will ensure the Agenda for each meeting and supporting papers are circulated to members in sufficient time (at least 3 working days) before the meeting.
- 9.3.6 Circulation of the Agenda will be by electronic means as determined by the Committee.
- 9.3.7 Park Management at its discretion will approve/disapprove items submitted for inclusion in any Agenda. There will be no general business permitted at the meeting.
- 9.3.8 Only Agenda items of a collective nature will form the basis for discussion at Committee meetings – items of an individual nature i.e. items that relate to an individual Holiday Van Owner will not form discussion at Committee meetings.
- 9.3.9 Any additional information, which comes to hand after the preparation of Agenda papers, may be tabled at the meeting. The Secretariat will distribute papers to the Committee representatives prior to the Committee meeting, where possible.
- 9.3.10 Minutes - A formal record of the Committee meetings, including action responsibilities, shall be prepared by the Secretariat and circulated to all Committee members within 2 weeks of the meeting.
- a) Any comments shall be submitted to the Secretariat within 24 weeks of circulation.
- b) The final record draft will be settled by the Chairperson, circulated to all the members and published within the Beachside Holiday Parks website and Council's central electronic records system (EDRMS).
- 9.4 Voting
- 9.4.1 Matters under consideration by the Committee will be determined by consensus whenever possible. In the event that consensus cannot be achieved, an item is adopted by the Committee where a majority of members vote for the subject. If the voting is tied the Chairperson has a second (casting) vote which is used to break the deadlock.
- 9.5 Recordkeeping
- 9.5.1 The Secretariat will be responsible for minute taking and appropriate record keeping in line with Council policy.

## **10 CONFIDENTIALITY**

- 10.1 Members listed in this Terms of Reference may become acquainted with or have access to confidential and/or sensitive information. Members should not disclose such information to any other party unless specifically authorised to do so and should not make improper use of any information.
- 10.2 Council has a common law and statutory obligation to protect the privacy and confidentiality of some information that may be shown to Committee Members. It is expected that Committee Members will accept and maintain the confidentiality of information so designated. Matters of a confidential nature will be identified during the meeting however if a member is unsure the confidentiality of the matter should be checked with the Chairperson.

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TERMS OF REFERENCE 2024

## Terms of Reference



- 10.3 Letters from individuals addressed to Council will not be provided to the Committee nor will Council representatives provide names and addresses of any correspondence directed to Council.

### **11. INTELLECTUAL PROPERTY**

- 11.1 The Committee acknowledges and agrees:
- a) It is important for Council to develop, maintain, protect and manage the organisation's intellectual property including copyrights, trademarks, registered designs, patents and databases.
  - b) The Committee has a duty to observe and help protect Council's intellectual property by not copying or supplying such property without the express permission of Council or the copyright owner.
  - c) Council retains ownership of all intellectual property created by Members in the course of their Committee work.
  - d) Council will acknowledge the Committee if publishing or reproducing a copy of Holiday Van Consultative Committee research, including images and historical data.
- 11.2 The Holiday Van Consultative Committee will refer to the Secretariat any questions relating to intellectual property rights or the use of another organisation's document.

### **12. MEDIA**

- 12.1 Any media liaison associated with the activities of the Committee shall be undertaken in accordance with Council's protocols and with the approval of the Committee.
- 12.2 Council authorises delegated staff to make public statements on its behalf, however other than designated Council staff, Committee members are not permitted to make public statements on behalf of the Committee or Council including any media interviews and written material for publications e.g. the local newspaper, social media or radio.

### **13. REVIEW**

- 13.1 The Terms of Reference will be reviewed ~~at the first meeting each calendar year~~ **in accordance with Council's nominated review timeframes** and recommendations made to Council of suggested changes, for its determination. Any changes to the Committee Terms of Reference must be approved by Council.

### **14. OTHER MATTERS**

- 14.1 Dispute Resolution - Should issues arise about a Committee member continuing their representation on the Committee, the member's views will be sought with the aim of resolving the issue. Initially this will be the responsibility of the Chairperson of the Committee.
- 14.1.1 If after a genuine attempt to resolve the issue the Chairperson considers that the Committee members appointment should be reviewed the matter will be referred to Council's Senior Management to assist in conciliating the matter.

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TERMS OF REFERENCE **2024**

## Terms of Reference



14.1.2 The Committee Member may wish to have a support person during this process.

14.1.3 If conciliation is unsuccessful and a decision is made to discontinue representation, the Committee Member will be verbally informed of the decision with subsequent written confirmation from Council provided.

14.2 In carrying out its functions the Committee will be guided by existing processes and policies of Council.

### **15. MEETING CODE OF COOPERATION**

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• We start on time and finish on time.</li> <li>• We focus on the strategic intent of the item.</li> <li>• We ensure that people attending meetings are provided with guidance and support.</li> <li>• We consider the risks and opportunities of each item.</li> <li>• We are prepared to have open and honest conversations about an issue even if it is uncomfortable.</li> <li>• We all participate fully and are prepared to challenge each other.</li> <li>• We use improvement tools that enhance meeting efficiency and effectiveness.</li> <li>• We actively listen to what others have to say, seeking first to understand then to be understood.</li> <li>• We consider the deployment of actions and programs through appropriate frameworks and</li> </ul> | <ul style="list-style-type: none"> <li>communicate the consensus view through appropriate channels.</li> <li>• We follow up on the actions we are assigned responsibility for and complete them on time.</li> <li>• We give and receive open and honest feedback in a constructive manner.</li> <li>• We use data to make decisions (whenever possible).</li> <li>• We determine issues arising by consensus or refer to the Chair for consideration.</li> <li>• We strive to continually improve our meeting process and build time into each agenda for reflection and learning.</li> <li>• We will promote best practice, keeping open minds, combining our experiences and shared learnings to inform our deliberations.</li> </ul> |
|--|---|

### **16. RELATED DOCUMENTS**

- 16.1 Local Government Act 1993
- 16.2 Crown Land Management Act (2016)
- 16.3 Holiday Parks Long Term Casual Occupancy Act (2002)
- 16.4 Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 **2021**
- 16.5 Port Stephens Council's Code of Conduct.

## Terms of Reference

**CONTROLLED DOCUMENT INFORMATION:**

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website <a href="http://www.portstephens.nsw.gov.au">www.portstephens.nsw.gov.au</a>			
EDRMS container No	PSC2014-00882	EDRMS record No	TBA
Audience	Council staff and community		
Process owner	Holiday Park Section Manager		
Author	Holiday Park Administration Officer		
Review timeframe	2 Years	Next review date	TBA
Adoption date	October 2019		

**VERSION HISTORY:**

Version	Date	Author	Details
1	October 2019	Holiday Park Administration Officer	Original document converted into new format.
2	13 July 2021	Holiday Park Administration Officer	Minor formatting changes.  7.1.1 – Updated Park Management members to reflect current position titles. 7.5.6 – Inserted new paragraph. 9.1.2 – Deleted Friday and inserted 'week'. 9.1.12 – added last sentence 'The nominated representative may attend the meeting via Zoom online video link'. 9.1.13 - Inserted new paragraph. Document control – Amended review timeframe to 2 years in accordance with Council's review process.

## Terms of Reference



3	TBA	Holiday Park Administration Officer	<p>Minor formatting changes throughout.</p> <p>1.3 - deleted 'the' when referencing Council.</p> <p>1.6 – removal of the word 'Quarterly'.</p> <p>2.2 – deleted 'the' when referencing Council.</p> <p>5.1 - deleted 'the' when referencing Council.</p> <p>7.1 – inserted 'up to'.</p> <p>7.1.1 – Updated Park Management titles for currency.</p> <p>7.4.3 (b) – deleted 'to enable holiday van owners to make a considered choice when voting for their representative'.</p> <p>7.4.12 – inserted new clause.</p> <p>7.5.1 – amended term from 2 years to 3 years.</p> <p>7.5.2 and 7.5.6 – updated paragraph to reference the inclusion of 7.4.12.</p> <p>8.1 – updated Park Management titles for currency.</p> <p>8.1.2 - updated Park Management titles for currency.</p> <p>8.3 - deleted 'the' when referencing Council.</p> <p>8.3 (b) - deleted 'the' when referencing Committee Members.</p> <p>9.1.2 – updated frequency of meetings.</p> <p>9.3.10 (a) – updated circulation of Minutes timeframe.</p> <p>13.1 – updated review timeframe to align with Council's review cycle.</p> <p>16.4 – Updated related document to current version '2021'.</p>
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**MINUTES ORDINARY COUNCIL - 14 NOVEMBER 2023****ITEM NO. 6****FILE NO: 23/237127  
EDRMS NO: PSC2014-00882****REVIEW OF THE TERMS OF REFERENCE FOR THE PORT STEPHENS  
BEACHSIDE HOLIDAY PARKS - HOLIDAY VAN CONSULTATIVE COMMITTEE****REPORT OF: KIM LATHAM - HOLIDAY PARKS SECTION MANAGER  
DIRECTORATE: CORPORATE STRATEGY AND SUPPORT****RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorses the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee (**ATTACHMENT 1**).
- 2) Revokes the Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee dated 13 July 2021.

Councillor Glen Dunkley returned to the meeting at 8:29pm.

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

	<b>Councillor Steve Tucker Councillor Jason Wells</b>  That Council:  <ol style="list-style-type: none"><li>1) Endorses the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee (<b>ATTACHMENT 1</b>), for consultation with the HV Owners seeking feedback and report submissions to Council.</li><li>2) Revokes the Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee dated 13 July 2021.</li></ol>
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**ORDINARY COUNCIL MEETING - 14 NOVEMBER 2023  
AMENDMENT**

<b>271</b>	<b>Councillor Giacomo Arnott Councillor Jason Wells</b>  It was resolved that Council endorses the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative
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**MINUTES ORDINARY COUNCIL - 14 NOVEMBER 2023**

	Committee ( <b>ATTACHMENT 1</b> ), for consultation with the Holiday Van Owners seeking feedback and report submissions to Council.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Amott, Matthew Bailey, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The amendment on being put became the Motion, which was put and carried.

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

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to seek endorsement of the revised Terms of Reference for the Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee following a review.

The Port Stephens Beachside Holiday Parks, Holiday Van Consultative Committee, comprises Council staff and elected representatives from the Council managed Crown Holiday Parks. The purpose of the committee is to represent and inform the holiday van owners who hold occupancy agreements with Council to reside in mobile dwellings within Shoal Bay Holiday Park, Halifax Holiday Park and Fingal Bay Holiday Park.

In accordance with the Crown Land Management Act 2016 which came into effect on 1 July 2018, Council are recognised as Land Managers for our Crown Holiday Parks under the terms of the Local Government Act 1993 and are responsible for the approval of any changes to the Terms of Reference.

The revised Terms of Reference (**ATTACHMENT 1**) have been reviewed by the current members of the Holiday Van Consultative Committee prior to being presented to Council.

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



## MINUTES ORDINARY COUNCIL - 14 NOVEMBER 2023

## COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Implement the 2022 to 2025 Delivery Plans for Beachside Holiday Parks and Koala Sanctuary

## FINANCIAL/RESOURCE IMPLICATIONS

There are no known financial or resource implications and any activities will continue to be carried out in line with existing budgets.

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 revised Terms of Reference provides greater clarity around membership, roles and responsibilities, and limits policy and governance risks to Council.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that not adopting the recommendation will limit the effective and timely communication between Council and the Holiday Van Owners.	Low	Adopt the recommendation.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no known implications.

**MINUTES ORDINARY COUNCIL - 14 NOVEMBER 2023**

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Holiday Parks Section.

Internal

- Holiday Park Managers.

External

- Holiday Van Consultative Committee representatives.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Revised Terms of Reference.

**COUNCILLORS ROOM**

- 1) Minutes – Holiday Van Consultative Committee – 21 July 2023.

**TABLED DOCUMENTS**

Nil.

**ITEM 4 - ATTACHMENT 3 SUMMARY OF SUBMISSIONS.****Revised Terms of Reference: Port Stephens Beachside Holiday Parks – Holiday Van Consultative Committee submissions**

<b>No.</b>	<b>Author of submission</b>	<b>Comment</b>	<b>Council response</b>
1	Holiday Van Owner	Suggest committee members be elected for a 3 year term (currently a 2 year term).	<p>The suggested 3 year term was discussed within the Holiday Parks Management team and supported.</p> <p>Changes were made as requested and included in the revised Terms of Reference <b>(ATTACHMENT 1)</b>.</p>
2	Holiday Van Owner	Suggest committee members be elected for a 3 year term (currently a 2 year term).	<p>The suggested 3 year term was discussed within the Holiday Parks Management team and supported.</p> <p>Changes were made as requested and included in the revised Terms of Reference <b>(ATTACHMENT 1)</b>.</p>
3	Holiday Van Owner	Suggest committee members be elected for a 3 year term (currently a 2 year term).	<p>The suggested 3 year term was discussed within the Holiday Parks Management team and supported.</p> <p>Changes were made as requested and included in the revised Terms of Reference <b>(ATTACHMENT 1)</b>.</p>

**ITEM NO. 5**

**FILE NO: 24/14454  
EDRMS NO: PSC2017- 02074**

**RESCISSION OF ACQUISITION - SHOAL BAY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Agree to rescind the acquisition of the easement for access over 6 Government Road, Shoal Bay.
  - 2) Authorise the Mayor and General Manager to sign all documents necessary to rescind the acquisition on behalf of Council as its authorised representatives.
- 

**ORDINARY COUNCIL MEETING - 26 MARCH 2024  
MOTION**

<b>047</b>	<b>Councillor Glen Dunkley Councillor Leah Anderson</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Agree to rescind the acquisition of the easement for access over 6 Government Road, Shoal Bay.</li><li>2) Authorise the Mayor and General Manager to sign all documents necessary to rescind the acquisition on behalf of Council as its authorised representatives.</li></ol>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to seek Council approval to rescind the acquisition of the easement for access over 6 Government Road, Shoal Bay.

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

Council resolved on 27 March 2018, Minute Number 066 (**ATTACHMENT 1**) to apply to the Minister for Local Government to acquire an easement for access over Crown land known as Lot 1 DP 1225747 and situated at 6 Government Road, Shoal Bay.

A locality plan is provided at (**ATTACHMENT 2**). The subject lot is shown by white outline and the easement is highlighted in yellow. The purpose of the easement was to provide a secondary point of vehicular access for the Shoal Bay Holiday Park which would assist in alleviating traffic and pedestrian pressures on Shoal Bay Road.

The Minister approved the acquisition in June 2021 and the acquisition was gazetted in October 2021. The Valuer General assessed compensation for the easement in accordance with Part 2 Division 4 of the Land Acquisition (Just Terms Compensation) Act 1991 (the Act) at \$190,000.

There are no provisions for objecting to a valuation under the Act if an acquiring authority does not agree with the Valuer General's assessment of compensation. Council requested the Valuer General review the valuation but it would not agree to do so. Payment of the assessed compensation is therefore an essential term of the acquisition.

Rescinding the acquisition will negate the requirement to pay compensation, and is the only mechanism available to Council to have the amount reviewed or dissolved.

Council has discussed the financial implications of the valuation with Crown Land and has also discussed alternate management arrangements. The parties have agreed that as Council is the appointed land manager of the land, the land could be managed in accordance with the Plan of Management which was adopted in June 2023.

Crown Land supports Council applying to the Office of Local Government for approval to rescind the acquisition as it is not able to reduce the compensation amount or offer any other financial assistance to Council.

A rescission request has been submitted to the Office of Local Government who advised a resolution of Council authorising the rescission is required to support the application.

Should Council endorse the request for the rescission, the Office of Local Government will act on behalf of Crown Land and Council by seeking consent of the Minister to rescind. If approved by the Minister, a notice of rescission will be published in the gazette.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Manage the property portfolio in accordance with the Property Investment Strategy.

**FINANCIAL/RESOURCE IMPLICATIONS**

The compensation was assessed by the Valuer General at \$190,000 and did not account for Council's existing financial liability for management and maintenance of the land under the Crown Land Management Act.

Rescission is the only mechanism available that results in the dissolution of the compensation. In all other circumstances, Council remains liable for payment of the full amount of compensation as assessed by the Valuer General.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Rescission of the easement is permitted under the Act and is the only mechanism available to Council to have the compensation reviewed or dissolved.

The easement area can be managed under the Plan of Management for the reserve which was adopted in June 2023.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that if the easement is not rescinded that Council will remain liable for payment of the assessed compensation.	High	Adopt the recommendations.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no social or environmental implications associated with the recommendation. The access handle was formally constructed by Council in 2019 with Crown Land consent.

Rescinding the acquisition will have a positive economic impact as it will negate the need for payment of the compensation as assessed by the Valuer General.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Strategic Property team.

### Internal

- Financial Services.
- Holiday Parks.
- Assets.
- Strategic Property.

### External

- Valuer General.
- Crown Lands.
- Office of Local Government.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Council Minutes - 27 March 2018.
- 2) Locality Plan.

## **COUNCILLORS' ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**MINUTES ORDINARY COUNCIL - 27 MARCH 2018**

ITEM NO. 13

FILE NO: 18/17078  
EDRMS NO: PSC2017-02074**COMPULSORY ACQUISITION OF AN EASEMENT FOR ACCESS OVER PART OF  
6 GOVERNMENT ROAD, SHOAL BAY**REPORT OF: MARK STACE - PROPERTY SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES**RECOMMENDATION IS THAT COUNCIL:**

- 1) Proceed with the compulsory acquisition of an easement for access over part of Lot 508 DP729026 in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.
- 2) Make application to the Minister and the Governor for approval to acquire the easement over part of Lot 508 DP 729026 by compulsory process under Section 186(1) of the *Local Government Act 1993*.
- 3) Authorise the General Manager and the Mayor to sign and affix the Seal of Council to all documentation required for the compulsory acquisition.

**ORDINARY COUNCIL MEETING - 27 MARCH 2018  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor John Nell</b> <b>Councillor Steve Tucker</b>  That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 27 MARCH 2018  
MOTION**

<b>066</b>	<b>Councillor Chris Doohan</b> <b>Councillor Ken Jordan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Proceed with the compulsory acquisition of an easement for access over part of Lot 508 DP729026 in accordance with the requirements of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i>.</li><li>2) Make application to the Minister and the Governor for approval to acquire the easement over part of Lot 508 DP 729026 by compulsory process under Section 186(1) of the <i>Local Government Act 1993</i>.</li></ol>
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**MINUTES ORDINARY COUNCIL - 27 MARCH 2018**

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|--|--|
|  | 3) Authorise the General Manager and the Mayor to sign and affix the Seal of Council to all documentation required for the compulsory acquisition. |
|--|--|

**BACKGROUND**

The purpose of this report is to recommend Council compulsorily acquire an easement for access over part of Lot 508 DP 729026 at Shoal Bay to provide a new exit point from Shoal Bay Holiday Park (SBHP) and formalise the adjoining car park access (**Locality Map at ATTACHMENT 1**) to improve local traffic and car parking issues.

Council is currently Trust Manager of Crown Reserves R77932 (Shoal Bay Car Park and Bernie Thompson Park) and R1037609 (SBHP) at the intersection of Shoal Bay Road and Government Road, Shoal Bay. Council owns a section of SBHP (**blue edge on ATTACHMENT 2**) while the Crown owns Lot 508 DP 729026, the public purposes of which are Caravan Park and Public Recreation. The area of the easement to be acquired from Lot 508 is about 2,500sqm (**white colour on ATTACHMENT 2**).

To reduce congestion at the current combined entrance/exit to SBHP located on Shoal Bay Road and improve local car parking, a road design has been approved by Council's Traffic Engineers which requires an easement for access over the two Crown Reserves. This easement and the consequent road works will benefit both local residents and visitors through improved road safety for vehicles and pedestrians in Shoal Bay and will provide enhanced Holiday Park guest experiences through reduced check in and check out times at SBHP. The project will include the addition of an exit gate in the south east corner of SBHP and road construction across the southern end of the Park, intersecting with Government Road. In July 2017 Crown Land advised Council the proposed works may commence as a 'reserve improvement'. Works can therefore commence directly with the compulsory acquisition process following in due course.

Following this resolution, Council will make application to the Office of Local Government for the Minister and the Governor's approval to acquire the easement by compulsory process under Section 186 (1) of the *Local Government Act 1993* and in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*. Once the compulsory acquisition has been approved by the Minister and gazetted, the Valuer General will be instructed to prepare a valuation for compensation between Council and Crown Land as part of the Compulsory Acquisition process.

**MINUTES ORDINARY COUNCIL - 27 MARCH 2018**

Budget for this project has been allocated under the ministerially approved Plans of Management for SBHP and is available through the Reserve Trust Cluster Plan.

It is anticipated this project will only impact one holiday van owner currently located in SBHP. In line with the current terms and conditions of the Holiday Van Owners Agreement, and based on the most recent valuation conducted for that site, the Investment and Asset Manager has delegation to complete negotiations with four possible options to be considered:

- 1) Outright purchase of the holiday van by Council.
- 2) Assist the holiday van owner to sell and remove the van from the site.
- 3) Potential relocation of the holiday van within SBHP, subject to an alternate site being available.
- 4) In accordance with the provisions of the current lease and past lease termination practices, apply a 12 month notice period to vacate from 1 July 2018. This would delay construction commencement until after 1 July 2019.

**COMMUNITY STRATEGIC PLAN**

Strategic Direction	Delivery Program 2013-2017
Transport.	Promote sustainable and improved, accessible and flexible transport modes.

**FINANCIAL/RESOURCE IMPLICATIONS**

A budget has been allocated through the Reserve Trust funding in line with the current Plans of Management for SBHP.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Potential legal implications appear limited to dealing with a holiday van owner, however, this will be mitigated by following the guidelines in the Holiday Van Owners Agreement.

**MINUTES ORDINARY COUNCIL - 27 MARCH 2018**

There are no apparent policy implications from the recommendations.

There are risk implications if the recommendations are not adopted in the form of continued traffic and pedestrian safety issues.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that further traffic incidents will occur if the project does not go ahead.	High	Adopt the recommendations.	Yes
There is a risk that the Minister will not approve the compulsory acquisition.	Low	Comply with compulsory acquisition requirements providing the Minister with details to ensure approval.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Traffic and pedestrian safety will be improved. Traffic flow through the area will be reduced resulting in reduced incidents and insurance claims.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Property Services section to determine that acquisition of this Crown Land is essential to complete works and what the acquisition process should entail.

Internal

- Senior Survey and Land Information Manager.
- Asset Section Manager.
- Civil Projects Engineer.
- Land Acquisition and Development Manager
- Investment and Asset Manager.
- Traffic Engineer.
- Property Services Manager.
- Property Officer.
- Holiday Parks Operations Manager.

**MINUTES ORDINARY COUNCIL - 27 MARCH 2018**

External

- Crown Land Offices – Maitland and Newcastle.
- Holiday Van Owner(s).
- Office of Local Government.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Locality Map.
- 2) Proposed Easement for Access.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.





**ITEM NO. 6**

**FILE NO: 24/53049  
EDRMS NO: PSC2015-01492**

**AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN, TERMS OF REFERENCE AND INTERNAL AUDIT CHARTER**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves the Audit Risk and Improvement Committee's 4 year Strategic Work Plan (**ATTACHMENT 1**), Terms of Reference (**ATTACHMENT 2**) and the Internal Audit Charter (**ATTACHMENT 3**).
- 

**ORDINARY COUNCIL MEETING - 26 MARCH 2024  
MOTION**

<b>048</b>	<b>Councillor Leah Anderson Councillor Glen Dunkley</b>  It was resolved that Council approves the Audit Risk and Improvement Committee's 4 year Strategic Work Plan ( <b>ATTACHMENT 1</b> ), Terms of Reference ( <b>ATTACHMENT 2</b> ) and the Internal Audit Charter ( <b>ATTACHMENT 3</b> ).
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to provide the Audit, Risk and Improvement Committee's (ARIC) 4 year Strategic Work Plan (**ATTACHMENT 1**), Terms of Reference (**ATTACHMENT 2**) and the Internal Audit Charter (**ATTACHMENT 3**) for Council's consideration and endorsement.

The Office of Local Government released the Guidelines for Risk Management and Internal Audit for Local Government in NSW (the Guidelines) in November 2023. The Guidelines require Council to be compliant by 1 July 2024. As part of implementing

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

the Guidelines, the ARIC must develop a 4 year Strategic Work Plan, Terms of Reference and an Internal Audit Charter. The model Terms of Reference and Internal Audit Charter must be considered when drafting the documents. Any of the documents must not be inconsistent with the model Terms of reference and Internal Audit Charter.

The Chairperson of the ARIC is responsible for the development of the 4 year Strategic Work Plan, Terms of Reference and the Internal Audit Charter, in consultation with the General Manager and the Head of Internal Audit.

The 4 year Strategic Work Plan, Terms of Reference and the Internal Audit Charter were considered by the ARIC at its meeting on 22 February 2024 and endorsed to be reported to Council.

### COMMUNITY STRATEGIC PLAN

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

### FINANCIAL/RESOURCE IMPLICATIONS

The implementation of the Guidelines and support to the ARIC will be funded through current budget allocations and staff resources at this stage, however, there may be a need to increase the budget and resources over time. This will be kept under review.

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

Section 428A of the Local Government Act requires the ARIC to develop a 4 year Strategic Plan (including the annual work plan), and the Plan must be reviewed annually by the ARIC and by Council each term. To maintain independence of the ARIC, the Council must be careful when adopting the Strategic Work Plan not to direct the committee's work.

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

Section 216K of the Local Government Regulation requires the ARIC to develop a Terms of Reference based on the model Terms of Reference. The Terms of Reference will be reviewed annually by the ARIC and by the Council once each term.

Section 216O of the Local Government Regulation requires the development of an Internal Audit Charter based on the model Internal Audit Charter. The Internal Audit Charter will be reviewed annually by the ARIC and reported to Council if amended.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council may be in breach of the Local Government Act and the Guidelines should this report not be adopted.	Low	Adopt the recommendation.	Yes.

### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that the Audit Risk and Improvement Committee will add significant rigour to Council's governance framework, risk control, compliance and financial reporting and will enhance Council's reputation, operations and financial sustainability. This documentation will form part of the governance framework for the ARIC and the internal audit function.

### CONSULTATION

Consultation with key stakeholders has been undertaken by the Governance Section.

#### Internal

General Manager  
Governance Section  
Audit, Risk and Improvement Committee.

#### External

Nil.

### OPTIONS

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



**ATTACHMENTS**

- 1) DRAFT - Audit, Risk and Improvement Committee - 4 year Strategic Work Plan.
- 2) DRAFT - Audit, Risk and Improvement Committee - Terms of Reference.
- 3) DRAFT - Internal Audit Charter.

**COUNCILLORS' ROOM/DASHBOARD**

Nil.

**TABLED DOCUMENTS**

Nil.

ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT  
COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.



**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.****1. Introduction**

The Local Government Act 1993 (the Act), the Local Government (General) Regulation 2005 (the Regulation) and the Guidelines on Risk Management and Internal Audit require each council in NSW to have:

- an audit, risk and improvement committee that continuously reviews and provides independent advice to the council on how it is functioning and managing risk;
- a robust risk management framework that accurately identifies and mitigates the risks facing the council and its operations; and
- an effective internal audit function that provides independent advice as to whether the council is functioning effectively and the council's internal controls to manage risk are working.

The 3 mandatory governance mechanisms are vital to ensure that councils are doing the right things the best way they can for their communities and are on track to delivering their community's goals and objectives.

The Office of Local Government (OLG) has established the Risk Management and Internal Audit for local councils in NSW guidelines (the Guidelines), to assist councils to comply with statutory requirements under the Act and the Regulation. (Issued December 2023).

The Audit, Risk, and Improvement Committee (the Committee) is an advisory body only. It exercises no administrative functions, has no delegated financial responsibilities, and does not perform any management functions of council.

The Committee provides independent advice to the Council that is informed by Council's internal audit and risk management activities and information and advice provided by council staff, relevant external bodies, and other subject matter experts.

The strategic plan outlines the actions and activities that will be the focus of the Committee over its term - from 2024 - 2028.

**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.****2. Committee Membership**

Membership of the ARIC is currently comprised of the following members:

- Deborah Goodyer - Independent Chair
- Frank Cordingley – Independent member
- Paul Dunn – Independent member

AUDIT	RISK	IMPROVEMENT
<ul style="list-style-type: none"><li>• Internal audit charter</li><li>• Internal audit strategic (Annual) plan</li><li>• External audit of financial statements</li></ul>	<ul style="list-style-type: none"><li>• Risk management framework</li><li>• Risk register – strategic, operational, project.</li><li>• Fraud &amp; corruption control framework</li><li>• Governance framework</li><li>• Internal control framework</li><li>• Legislative compliance framework</li><li>• Policy and procedure framework</li></ul>	<ul style="list-style-type: none"><li>• IP&amp;R</li><li>• Performance management framework</li><li>• Service Review program</li></ul>

**Internal Audit Arrangements**

The IPPF refers to the Head of Internal Audit as the Chief Audit Executive, and the OLG Guidelines refer to this role as the Internal Audit Coordinator. At Port Stephens Council, the Head of Internal Audit is the Governance Section Manager and internal audits are undertaken by an external provider.

**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.**

OPERATIONAL AREA	OBJECTIVES	ACTIONS/REPORTS
<b>AUDIT</b>	<b>INTERNAL AUDIT</b> Section 428A(2)(i) - Council has an effective internal audit function and receives maximum value from its internal audit activities.	
	Provide overall strategic oversight of internal audit activities including:	
	Act as a forum for communication between the Council , General Manager , senior management, the internal audit function and external audit.	<ul style="list-style-type: none"> <li>• Regular attendance at ARIC meetings by each of the key participants.</li> <li>• ARIC meets (at least annually) with Internal audit and external audit.</li> <li>• ARIC agendas and minutes provided to council quarterly.</li> </ul>
	Coordinate, the work programs of internal audit and other assurance and review functions. Review and advise the Council of the strategic four-year plan and annual work plan of internal audits to be undertaken by the Council's internal audit function.	<ul style="list-style-type: none"> <li>• ARIC review and endorse strategic and annual internal audit plan. (annual)</li> <li>• ARIC review other work plans including service reviews, governance, risk and control assurance work to determine any overlap with proposed IA work. (annual per plan).</li> </ul>
	Review and advise the Council if it is complying with internal audit requirements, including: <ul style="list-style-type: none"> <li>• conformance with the International Professional Practices Framework (IPPF),</li> <li>• LG Regulations 2023, and Risk Management and Internal audit Guidelines (The Guidelines).</li> </ul>	<ul style="list-style-type: none"> <li>• Self-assessment against IPPF (IIA standards) (Annual)</li> <li>• Attestation per the OLG regulation and guidelines (Annual and each council term – 4 years)</li> <li>• Independent external quality assurance (EQA) (Each council term - 4 years).</li> </ul>
	Review and advise the Council: <ul style="list-style-type: none"> <li>• if the Council's Internal Audit Charter is appropriate</li> <li>• whether the internal audit policies and procedures and audit/risk methodologies used by the Council are suitable.</li> </ul>	<ul style="list-style-type: none"> <li>• Review and endorse any changes to the Internal audit charter (as required and as part of the annual review against the IPPF.</li> <li>• Review and advise on Internal audit procedures including the Quality Assurance and Improvement Program (QAIP).</li> </ul>
	Review and advise the Council on whether the Council is providing the resources necessary to successfully deliver the internal audit function. Review and advise the Council if Council's internal audit activities are	<ul style="list-style-type: none"> <li>• Internal Audit update report – Progress to plan. (quarterly)</li> <li>• Annual internal audit performance report (including assessments against IIA</li> </ul>

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	effective, including the performance of the head of the internal audit function and internal audit function. Report the outcome of the review to council once each term. (s216R of LG Regulation 2023).	standards, results of QAIP and conformance against LG Regulations and Guidelines.
	Review and advise the Council if the internal audit function is structured appropriately and has sufficient skills and expertise to meet its responsibilities.	<ul style="list-style-type: none"> <li>Communications between the General Manager, head of internal audit and Chair of the ARIC on annual performance appraisal of internal audit (in-house and external provider).</li> </ul>
	Review and advise the Council on the appointment of the head of the internal audit function and external providers.	<ul style="list-style-type: none"> <li>Consultation with ARIC independent chair in recruitment and/or EOI. (As required for end of term or vacancies).</li> </ul>
	Review and advise the Council of the findings and recommendations of internal audits conducted, and corrective actions needed to address issues raised.	<ul style="list-style-type: none"> <li>ARIC agendas and minutes provided to council quarterly.</li> </ul>
	Review and advise the Council of the implementation by Council of corrective actions.	<ul style="list-style-type: none"> <li>ARIC agendas and minutes provided to council quarterly.</li> </ul>
<b>AUDIT</b>	<b>EXTERNAL AUDIT</b> Section 428A(2)(d) - Council receives maximum value from its external audit activities.	
	Act as a forum for communication between the Council, General Manager, senior management, the internal audit function, and external audit.	<ul style="list-style-type: none"> <li>Regular attendance at ARIC meetings by each of the key participants.</li> </ul>
	Coordinate as far as is practicable, the work programs of internal audit and external audit.	<ul style="list-style-type: none"> <li>Review and provide advice on the engagement plan for the external audit of council's financial statements.</li> <li>Review and provide advice in relation to the Audit Office of NSW plan for performance audit coverage.</li> <li>Review reports on progress on the financial statement audit and any relevant performance audit coverage.</li> </ul>
	Provide input and feedback on the financial statement and performance audit coverage proposed by external audit and provide feedback on the audit services provided.	
	Review all external plans and reports in respect of planned or completed audits and monitor Council's implementation of audit recommendations.	<ul style="list-style-type: none"> <li>Review reports on implementation of recommendations for improvement arising from:                             <ul style="list-style-type: none"> <li>External audit management letters</li> </ul> </li> </ul>
	Provide advice to Council and/or the General Manager on action taken on	

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	significant issues raised in relevant external audit reports and better practice guides.	<ul style="list-style-type: none"> <li>- Performance audit reports relevant to council</li> <li>- Significant changes or issues raised in better practice guides/standards. (quarterly – annually as required).</li> </ul>
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OPERATIONAL AREA	OBJECTIVES	ACTIONS/REPORTS
<b>RISK</b>	<b>RISK MANAGEMENT</b> Section 428A(2)(b) - Council has an effective risk management framework and internal controls that successfully identify and manage the risks it faces.	
	Review and advise the Council: if the Council has in place a current and appropriate risk management framework that is consistent with the Australian risk management standard.	<ul style="list-style-type: none"> <li>• Report on review of the risk management framework against the Australian risk management framework and OLG guidelines. (Annual).</li> </ul>
	Whether the Council is providing the resources necessary to successfully implement its risk management framework.	<ul style="list-style-type: none"> <li>• Regular risk management update report. (Quarterly; as relevant).</li> </ul>
	Whether the Council risk management framework is adequate and effective for identifying and managing the risks the Council faces, including those associated individual projects, programs, WHS and other activities.	<ul style="list-style-type: none"> <li>• Regular risk register update on significant/emerging risks.</li> <li>• Project management update report.</li> <li>• WHS update report.</li> </ul>
	If risk management is integrated across all levels of the Council and across all processes, operations, services, decision-making, functions and reporting.	<ul style="list-style-type: none"> <li>• Risk management update report - periodic risk assessment process.</li> </ul>
	Of the adequacy of risk reports and documentation, for example, the Council risk register and risk profile	
	Whether a sound approach has been followed in developing risk management plans for major projects or undertakings.	<ul style="list-style-type: none"> <li>• Risk management update reports.</li> <li>• Project management update reports.</li> </ul>
	Whether appropriate policies and procedures are in place for the management and exercise of delegations.	<ul style="list-style-type: none"> <li>• Policy and procedure update report.</li> </ul>
	If Council has taken steps to embed a culture which is committed to ethical and lawful behaviour.	<ul style="list-style-type: none"> <li>• Reports on code of conduct, ethics and fraud &amp; corruption control.</li> <li>• Staff survey results.</li> </ul>

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OPERATIONAL AREA	OBJECTIVES	ACTIONS/REPORTS
	If there is a positive risk culture within the Council and strong leadership that supports effective risk management.	<ul style="list-style-type: none"> <li>Report on review of the risk management framework including any updates on: embedded culture, leadership, training and any concerns with operation of the framework.</li> </ul>
	If the adequacy of staff training and induction in risk management.	<ul style="list-style-type: none"> <li>As above.</li> </ul>
	How the Council risk management approach impacts on the Council insurance arrangements.	<ul style="list-style-type: none"> <li>Updates on insurable risk matters.</li> </ul>
	Of the effectiveness of Council management of its assets.	<ul style="list-style-type: none"> <li>Asset management updates as relevant in relation to identified risks, internal audit activities or financial statement preparation and audit.</li> </ul>
	Of the effectiveness of business continuity arrangements, including business continuity plans, disaster recovery plans and the periodic testing of these plans.	<ul style="list-style-type: none"> <li>Updates on BCP arrangements, DCPs and related matters.</li> </ul>
<b>RISK</b>	Review and advise the Council: whether Council approach to maintaining an effective internal audit framework, including over external parties such as contractors and advisors, is sound and effective.	<ul style="list-style-type: none"> <li>Report on Internal Audit performance – Quality Assurance and Improvement Program. (Annual Self-Assessment)</li> <li>Independent External Quality Assurance review of the Internal Audit function.</li> </ul>
	Whether Council has in place relevant policies and procedures and that these are periodically reviewed and updated.	<ul style="list-style-type: none"> <li>Update on policy and procedure management &amp; related matters</li> </ul>
	<input type="checkbox"/> whether staff are informed of their responsibilities and processes and procedures to implement controls are complied with.	<ul style="list-style-type: none"> <li>Risk management update report including; risk and control assessments.</li> </ul>
	<input type="checkbox"/> if the Council monitoring and review of controls is sufficient.	<ul style="list-style-type: none"> <li>As above.</li> </ul>
	<input type="checkbox"/> if internal and external audit recommendations to correct internal control weaknesses are implemented appropriately.	<ul style="list-style-type: none"> <li>Report on implementation of audit recommendations.</li> </ul>



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OPERATIONAL AREA	OBJECTIVES	ACTIONS/REPORTS
RISK	<b>COMPLIANCE FRAMEWORK</b> Section 428A(2)(a) - Council has an effective compliance framework that ensures it is complying with its legal obligations and other governance and contractual requirements when undertaking its functions.	
	Review and advise the Council of the adequacy and effectiveness of the Council compliance framework, including: <ul style="list-style-type: none"> <li>if the Council has appropriately considered legal and compliance risks as part of the Council risk management framework</li> <li>how the Council manages its compliance with applicable laws, regulations, policies, procedures, codes, and contractual arrangements, and</li> <li>whether appropriate processes are in place to assess compliance.</li> </ul>	<ul style="list-style-type: none"> <li>Report/update on legislative compliance framework including obligations register, risk assessment and significant breaches.</li> </ul>
	<b>FRAUD AND CORRUPTION CONTROL FRAMEWORK</b> Section 428A(2)(c) - Council has an effective fraud and corruption control framework in place that minimises the incidence of fraud and corruption.	
	Review and advise the Council of the adequacy and effectiveness of the Council fraud and corruption prevention framework and activities, including whether the Council has appropriate processes and systems in place to capture and effectively investigate fraud-related information.	<ul style="list-style-type: none"> <li>Receive and review update report on:               <ul style="list-style-type: none"> <li>fraud and corruption prevention framework,</li> <li>and activities, including risk assessment,</li> <li>PIDs/investigations and</li> <li>Other fraud and corruption related matters.</li> </ul> </li> </ul>
	<b>GOVERNANCE FRAMEWORK</b> Section 428A(2)(e) - Council has an effective governance framework to ensure it is appropriately directing and controlling the management of the council.	
	Review and advise the Council regarding its governance framework, including the Council: <ul style="list-style-type: none"> <li>decision-making processes.</li> </ul>	<ul style="list-style-type: none"> <li>Report/update on relevant governance matters including:               <ul style="list-style-type: none"> <li>Structural arrangements</li> <li>Delegations</li> <li>Council resolutions.</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>implementation of governance policies and procedures.</li> </ul>	<ul style="list-style-type: none"> <li>Various update reports outlined elsewhere in this plan.</li> <li>Specific internal audit review reports.</li> </ul>
	<ul style="list-style-type: none"> <li>reporting lines and accountability</li> <li>assignment of key role and responsibilities</li> <li>management oversight responsibilities.</li> </ul>	
	<ul style="list-style-type: none"> <li>committee structure.</li> </ul>	

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OPERATIONAL AREA	OBJECTIVES	ACTIONS/REPORTS
	<ul style="list-style-type: none"> <li>human resources and performance management activities.</li> </ul>	<ul style="list-style-type: none"> <li>Various reports and activities including as part of internal audit plan – project objectives and scope.</li> </ul>
	<ul style="list-style-type: none"> <li>reporting and communication activities.</li> </ul>	<ul style="list-style-type: none"> <li>Various reports and activities including as part of internal audit plan – project objectives and scope.</li> </ul>
	<ul style="list-style-type: none"> <li>information and communications technology (ICT) governance, and</li> <li>management and governance of the use of data, information and knowledge</li> </ul>	<ul style="list-style-type: none"> <li>Report/updates on ICT, cyber, data and information management.</li> <li>GIPA/privacy management and breaches.</li> </ul>
	<b>FINANCIAL MANAGEMENT FRAMEWORK</b> Section 428A(2)(d) - Council has an effective financial management framework, sustainable financial position and positive financial performance.	
	<ul style="list-style-type: none"> <li>Compliance with accounting standards and external accountability requirements.</li> </ul>	<ul style="list-style-type: none"> <li>Finance and External audit Report/update including progress on preparation of financial statements and external audit thereof.</li> </ul>
	<ul style="list-style-type: none"> <li>Appropriateness of Council accounting policies and disclosures.</li> </ul>	
<b>RISK</b>	<ul style="list-style-type: none"> <li>Implications for Council of the findings of external audits and performance audits and Council responses and implementation of recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>Finance and External audit Report/update including:               <ul style="list-style-type: none"> <li>- engagement plan,</li> <li>- review of financial statements</li> <li>- interim and final management letter,</li> <li>- closing report, and</li> <li>- advice of performance audit program and reports on outcomes.</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>Whether the Council financial statement preparation procedures and timelines are sound.</li> </ul>	
	<ul style="list-style-type: none"> <li>Accuracy of the Council annual financial statements prior to external audit, including:               <ul style="list-style-type: none"> <li>- management compliance/representations</li> <li>- significant accounting and reporting issues</li> <li>- methods used by the Council to account for significant or unusual transactions and areas of significant estimates or judgements.</li> <li>- appropriate management signoff on the statements.</li> </ul> </li> </ul>	
	<ul style="list-style-type: none"> <li>If effective processes are in place to ensure financial information included in the Council report is consistent with signed financial statements.</li> </ul>	

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OPERATIONAL AREA	OBJECTIVES	ACTIONS/REPORTS
<b>RISK</b>	<ul style="list-style-type: none"> <li>If the Council financial management processes are adequate.</li> </ul>	
	<ul style="list-style-type: none"> <li>The adequacy of cash management policies and procedures.</li> </ul>	<ul style="list-style-type: none"> <li>Finance and external audit report/update including:                             <ul style="list-style-type: none"> <li>review of notes to financial statements,</li> <li>investment policy, and</li> <li>Long term financial plan revisions.</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>If there are adequate controls over financial processes, for example:                             <ul style="list-style-type: none"> <li>appropriate authorisation and approval of payments and transactions</li> <li>adequate segregation of duties</li> <li>timely reconciliation of accounts and balances</li> <li>review of unusual and high value purchases</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Report/update on risk management,</li> <li>Reports by finance/external audit                             <ul style="list-style-type: none"> <li>external audit closing report and management letters.</li> <li>Reports on any relevant exception testing or transaction analysis.</li> </ul> </li> <li>Internal audit reports for annual audits undertaken as part of SIAP.</li> </ul>
	<ul style="list-style-type: none"> <li>If policies and procedures for management review and consideration of the financial position and performance of the Council are adequate.</li> </ul>	<ul style="list-style-type: none"> <li>Report by finance - review LTFF and process for developing it.</li> </ul>
	<ul style="list-style-type: none"> <li>If Council grants and tied funding policies and procedures are sound.</li> </ul>	<ul style="list-style-type: none"> <li>Review of grant governance policies and processes – consider as part of review of SIAP and risk register updates (annual).</li> </ul>

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OPERATIONAL AREA	OBJECTIVES	ACTIONS/REPORTS
IMPROVEMENT	<b>STRATEGIC PLANNING</b> Section 428A (2)(f) - Council has an effective framework that ensures it achieves its strategic plans and objectives under the integrated planning and reporting (IP&R framework).	
	Review and advise the Council: <ul style="list-style-type: none"> <li>of the adequacy and effectiveness of the Council IP&amp;R (Integrated Planning and Reporting) processes</li> <li>if appropriate reporting and monitoring mechanisms are in place to measure progress against objectives,</li> </ul>	<ul style="list-style-type: none"> <li>Report on IP&amp;R plans (major revisions or significant matters identified through quarterly/annual reviews)</li> <li>- Long term financial planning</li> <li>- Workforce planning</li> <li>- Information on performance indicators setting and measuring performance.</li> </ul>
	Whether the Council is successfully implementing and achieving its IP&R objectives and strategies.	
	<b>SERVICE REVIEWS AND BUSINESS IMPROVEMENT</b> Section 428A(2)(g), 428A(3) - Council has an effective framework to ensure it is delivering services and conducting its business and functions to an expected standard.	
	Act as a forum for communication and monitoring of any audits conducted by external bodies and the implementation of corrective actions (for example, NSW government agencies, Commonwealth government agencies, insurance bodies)	<ul style="list-style-type: none"> <li>Reports on new/relevant external audit or review for application to Council. (As they arise)</li> <li>Updates on implementation of any relevant recommended improvements applied to Council (consider including in external/internal audit schedules- quarterly)</li> </ul>
	Review and advise the Council: <ul style="list-style-type: none"> <li>if Council has robust systems to set objectives and goals to determine and deliver appropriate levels of service to the community and business performance</li> </ul>	<ul style="list-style-type: none"> <li>Report/update on service review framework and planned program of work. (Annual)</li> <li>Service review terms of reference (As relevant per program)</li> <li>Reports on outcomes of service reviews. (As relevant per completion of programmed work)</li> <li></li> </ul>
	If appropriate reporting and monitoring mechanisms are in place to measure service delivery to the community and overall performance, and How the Council can improve its service delivery and the Council performance of its business and functions generally.	<ul style="list-style-type: none"> <li>Per report on IP&amp;R framework and periodic revisions.</li> <li>Per Service Review reporting above.</li> </ul>

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OPERATIONAL AREA	OBJECTIVES	ACTIONS/REPORTS
	<b>PERFORMANCE DATA AND MANAGEMENT</b> Section 428A(2)(h) - Council's performance management framework ensures council can measure its performance and achievement of its strategic goals. Review and advise the Council:	
	If Council has a robust system to determine appropriate performance indicators to measure the achievement of its strategic objectives	<ul style="list-style-type: none"> <li>• Per report on IP&amp;R framework and periodic revisions.</li> <li>• Per Service Review reporting above.</li> <li>• Reports on Internal audits completed as part of the SIAP (Annual Plan) may include review and analysis of performance indicators, and associated data and reporting. (Quarterly on completion of IAs)</li> </ul>
	If the performance indicators Council uses are effective, and	
	Adequacy of performance data collection and reporting	

**Appendix A: Annual ARIC Work Plan – subject to variation as agreed between Council and the ARIC Chair**

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
<b>General Responsibilities of the ARIC</b>				
Members have maintained their independence and eligibility status.	<ul style="list-style-type: none"> <li>• Member declarations of independence and eligibility</li> <li>• Member annual declarations of interest</li> </ul>			
COIs declared.	<ul style="list-style-type: none"> <li>• COI declarations made as and when required.</li> </ul>	<ul style="list-style-type: none"> <li>• COI declarations made as and when required.</li> </ul>	<ul style="list-style-type: none"> <li>• COI declarations made as and when required.</li> </ul>	<ul style="list-style-type: none"> <li>• COI declarations made as and when required.</li> </ul>
Review and update ARIC terms of reference (TOR)				<ul style="list-style-type: none"> <li>• Report on revision of ARIC TOR</li> </ul>
Hold at least 4 meetings p.a., at least quarterly – (require a quorum – 2 of 3 independents.	<ul style="list-style-type: none"> <li>• Attendance noted in minutes.</li> </ul>	<ul style="list-style-type: none"> <li>• Attendance noted in minutes.</li> </ul>	<ul style="list-style-type: none"> <li>• Attendance noted in minutes.</li> </ul>	<ul style="list-style-type: none"> <li>• Attendance noted in minutes.</li> </ul>



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Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
Annual assessment, and a strategic assessment each council term of ARIC review of the matters listed in section 428A of the Local Government Act 1993 during that term (Core requirement 1 of the Office of Local Government's Guidelines for Risk Management and Internal Audit for Local Government in NSW).	<ul style="list-style-type: none"> <li>Draft ARIC &amp; IA annual performance report</li> </ul>		<ul style="list-style-type: none"> <li>Independent external quality assurance (EQA) (Each council term - 4 years).</li> </ul>	<ul style="list-style-type: none"> <li>Draft attestation on OLG core requirements</li> </ul>
<b>a. Internal Audit</b> Section 428A(2)(i) - Council has an effective internal audit function and receives maximum value from its internal audit activities. Provide overall strategic oversight of internal audit activities				
Coordinate, review and advise as far as is practicable, on the work programs of internal audit and other assurance and review functions.			<ul style="list-style-type: none"> <li>Review annual program of work for:                             <ul style="list-style-type: none"> <li>service review program</li> <li>risk management and</li> <li>planned governance work.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Review and endorse strategic and annual internal audit plan. (annual)</li> </ul>
Review progress against the annual internal audit plan, ensuring that the plan is on track and/or that any emerging risks or concerns are considered for variation of the plan.	<ul style="list-style-type: none"> <li>Internal audit progress report (to plan)</li> <li>Reports on completed IA reviews.</li> </ul>	<ul style="list-style-type: none"> <li>Internal audit progress report (to plan)</li> <li>Reports on completed IA reviews.</li> </ul>	<ul style="list-style-type: none"> <li>Internal audit progress report (to plan)</li> <li>Reports on completed IA reviews.</li> </ul>	<ul style="list-style-type: none"> <li>Internal audit progress report (to plan)</li> <li>Reports on completed IA reviews.</li> </ul>

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Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
Review and advise the Council if it is complying with internal audit requirements, including conformance with the International Professional Practices Framework (IPPF), LG Regulations 2023, and Risk management and Internal audit guidelines. (Internal Audit Performance Reporting)	<ul style="list-style-type: none"> <li>Baseline self-assessment Attestation per the OLG regulation and guidelines (Annual and each council term – 4 years) – due July 2025</li> </ul>	<ul style="list-style-type: none"> <li>Report on conformance with the new IIA standards.</li> </ul>	<ul style="list-style-type: none"> <li>Independent external quality assurance (EQA) (Each council term - 4 years)</li> </ul>	<ul style="list-style-type: none"> <li>Self-assessment against IPPF (IIA standards) (Annual)</li> </ul>
Review and advise the Council: <ul style="list-style-type: none"> <li>if the Council's Internal Audit Charter is appropriate</li> <li>whether the internal audit policies and procedures and audit/risk methodologies used by the Council are suitable.</li> </ul>	<ul style="list-style-type: none"> <li>Internal Audit report – revision of Internal Audit Charter including updates recommended as part of prior year assessment against IPPF.</li> </ul>			
Review and advise the Council on whether the Council is providing the resources necessary to successfully deliver the internal audit function.	<ul style="list-style-type: none"> <li>Internal Audit update</li> </ul>	<ul style="list-style-type: none"> <li>Internal Audit update</li> </ul>	<ul style="list-style-type: none"> <li>Internal Audit update</li> </ul>	<ul style="list-style-type: none"> <li>Internal Audit update report –</li> </ul>

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Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
Review and advise the Council if Council's internal audit activities are effective, including the performance of the head of the internal audit function and internal audit function. Report the outcome of the review to council once each term. (s216R of LG Regulation 2023)	report – Progress to plan. (quarterly)	report – Progress to plan. (quarterly)	report – Progress to plan. (quarterly)	Progress to plan. (quarterly) • Annual internal audit performance report. Includes General Manager , Chair of the ARIC, and head of internal audit annual performance appraisal of internal audit (inhouse and external providers). (draft for ARIC review & feedback)
Review and advise the Council if the internal audit function is structured appropriately and has sufficient skills and expertise to meet its responsibilities.				
Review and advise the Council on the appointment of the head of the internal audit function and external providers.	<ul style="list-style-type: none"> <li>• Consultation with ARIC independent chair in recruitment and/or EOI. (As required for end of term or vacancies).</li> </ul>			
Review and advise the Council of the findings and recommendations of internal audits conducted, and corrective actions needed to address issues raised.	<ul style="list-style-type: none"> <li>• ARIC agendas and minutes provided to council quarterly.</li> </ul>			

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Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
Review and advise the Council of the implementation by Council of corrective actions.	<ul style="list-style-type: none"> <li>Report on implementation of audit recommendations (Internal and external audit)</li> <li>ARIC agendas and minutes provided to council quarterly.</li> </ul>			
Provide advice, when requested, on the appointment of Internal Audit contractors.	<ul style="list-style-type: none"> <li>As arises – included in internal audit update report.</li> </ul>	<ul style="list-style-type: none"> <li>As arises – included in internal audit update report.</li> </ul>	<ul style="list-style-type: none"> <li>As arises – included in internal audit update report.</li> </ul>	<ul style="list-style-type: none"> <li>As arises – included in internal audit update report.</li> </ul>
Internal Audit meets at least annually, with the internal audit representative “in-camera” without the presence of management.				
<b>b. External Audit</b> Section 428A(2)(d) - Council receives maximum value from its external audit activities.				
Act as a forum for communication between the Council General Manager, senior management, the internal audit function, and external audit	<ul style="list-style-type: none"> <li>Attendance by external audit representative and presentation of external audit matters.</li> </ul>	<ul style="list-style-type: none"> <li>Attendance by external audit representative and presentation of external audit matters.</li> </ul>	<ul style="list-style-type: none"> <li>Attendance by external audit representative and presentation of external audit matters.</li> </ul>	<ul style="list-style-type: none"> <li>Attendance by external audit representative and presentation of external audit matters.</li> </ul>
Coordinate, the work programs of internal audit and external audit			<ul style="list-style-type: none"> <li>Compare external audit engagement plan and IA plan.</li> </ul>	

**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.**

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
Provide input and feedback on the financial statement and performance audit coverage proposed by external audit and provide feedback on the audit services provided.			<ul style="list-style-type: none"> <li>Finance and external audit update – review of engagement plan.</li> </ul>	
Review all external plans and reports in respect of planned or completed audits and monitor Council's implementation of audit recommendations.	<ul style="list-style-type: none"> <li>Review of draft/ audited financial statements, interim and final management letters, and closing report.</li> </ul>	<ul style="list-style-type: none"> <li>Review reports on implementation of recommendations for improvement arising from:                             <ul style="list-style-type: none"> <li>- External audit management letters</li> <li>- Performance audit reports relevant to council</li> <li>- Significant changes or issues raised in better practice guides/standards. (quarterly – annually as required)</li> </ul> </li> </ul>		
Provide advice to Council and/or General Manager on action taken on significant issues raised in relevant external audit reports and better practice guides				
Meet at least annually with the external audit representative, "in-camera", without the presence of management.				
<b>c. Risk Management</b> Section 428A(2)(b) - Council has an effective risk management framework and internal controls that successfully identify and manage the risks it faces.				
Review and advise the Council on risk management matters as follows.	<ul style="list-style-type: none"> <li>Risk management update report or specific reports covering:                             <ul style="list-style-type: none"> <li>- review of the risk management framework against the Australian risk management framework and OLG guidelines. (Annual)</li> <li>- periodic risk assessment process.</li> <li>- significant/emerging risks.</li> <li>- Project management update and associated risks.</li> </ul> </li> </ul>			

**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.**

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
	<i>Schedule report content quarterly or otherwise to meet each requirement</i>			
Whether a risk management framework is established and operating consistent with the Australian risk management standard.	<ul style="list-style-type: none"> <li>Report on review of the risk management framework including any updates on: embedded culture, leadership, training and any concerns with operation of the framework. (Once per Council term or in response to significant changes)</li> <li>Risk management update reports (including WHS as appropriate)</li> </ul>	<ul style="list-style-type: none"> <li>Risk management update reports (including WHS as appropriate).</li> <li>Major Project or undertakings report</li> </ul>	<ul style="list-style-type: none"> <li>Risk management update reports (including WHS as appropriate).</li> <li>Major Project or undertakings report</li> </ul>	<ul style="list-style-type: none"> <li>Risk management update reports (including WHS as appropriate).</li> <li>Major Project or undertakings report</li> <li>Reports on code of conduct, ethics, and fraud &amp; corruption control.</li> <li>Staff survey results.</li> </ul>
Whether the Council is providing the resources necessary to successfully implement its risk management framework.				
Whether the Council risk management framework is adequate and effective for identifying and managing the risks the Council faces, including those associated individual projects, programs, WHS and other activities.				
If risk management is integrated across all levels of the Council and across all processes, operations, services, decision-making, functions, and reporting.				
Adequacy of risk reports and documentation, for example, the Council risk register and risk profile				
Whether a sound approach has been followed in developing risk management plans for major projects or undertakings.				
Whether appropriate policies and procedures are in place for the management and exercise of delegations.				
If Council has taken steps to embed a culture which is committed to ethical and lawful behaviour				
If there is a positive risk culture within the Council and strong leadership that supports effective risk management.				
If the adequacy of staff training and induction in risk management.				

**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.**

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
	<ul style="list-style-type: none"> <li>Major Project or undertakings report</li> <li>Reports on code of conduct, ethics and fraud &amp; corruption control.</li> <li>Staff survey results.</li> </ul>			
How the Council risk management approach impacts on the Council insurance arrangements.	<ul style="list-style-type: none"> <li>Updates on insurable risk matters.</li> </ul>			
Effectiveness of Council management of its assets.	<ul style="list-style-type: none"> <li>Asset management updates as relevant in relation to identified risks, internal audit activities or financial statement preparation and audit.</li> </ul>			

**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.**

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
Effectiveness of business continuity arrangements, including business continuity plans, disaster recovery plans and the periodic testing of these plans.	<ul style="list-style-type: none"> <li>• Updates on BCP arrangements, DCPs and related matters.</li> </ul>			
Review and advise the Council: whether Council approach to maintaining an effective internal control framework, including over external parties such as contractors and advisors, is sound and effective.	Covered in internal audit update reports, internal audit review reports, risk management, compliance, and finance/external audit reports.			
Whether Council has in place relevant policies and procedures and that these are periodically reviewed and updated.		<ul style="list-style-type: none"> <li>• Policy and procedure update report – management and compliance</li> <li>• Internal audit review reports</li> </ul>		<ul style="list-style-type: none"> <li>• Policy and procedure update report – management and compliance</li> <li>• Internal audit review reports</li> </ul>
Whether staff are informed of their responsibilities and processes and procedures to implement controls are complied with.				
Council monitoring and review of controls is sufficient.	<ul style="list-style-type: none"> <li>• Risk management update reports.</li> </ul>	<ul style="list-style-type: none"> <li>• Risk management update reports.</li> </ul>	<ul style="list-style-type: none"> <li>• Risk management update reports.</li> </ul>	<ul style="list-style-type: none"> <li>• Risk management update reports.</li> </ul>
Internal and external audit recommendations to correct internal control weaknesses are implemented appropriately.	<ul style="list-style-type: none"> <li>• Report on implementati</li> </ul>	<ul style="list-style-type: none"> <li>• Report on implementati</li> </ul>	<ul style="list-style-type: none"> <li>• Report on implementati</li> </ul>	<ul style="list-style-type: none"> <li>• Report on implementati</li> </ul>

Audit, Risk and Improvement Committee

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**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.**

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
	on of audit recommendations (Internal and external audit)	on of audit recommendations (Internal and external audit)	on of audit recommendations (Internal and external audit)	on of audit recommendations (Internal and external audit)
<b>d. Compliance</b> Section 428A(2)(a) - Council has an effective compliance framework that ensures it is complying with its legal obligations and other governance and contractual requirements when undertaking its functions. Review and advise on the adequacy and effectiveness of the Council’s compliance framework, including:				
if the Council has appropriately considered legal and compliance risks as part of the Council’s risk management framework (Content of compliance register, and risk management)	<ul style="list-style-type: none"><li>• Compliance update report:</li><li>• Internal audit review reports</li></ul>	<ul style="list-style-type: none"><li>• Compliance update report:</li><li>• Internal audit review reports</li></ul>	<ul style="list-style-type: none"><li>• Compliance update report:</li><li>• Internal audit review reports</li></ul>	<ul style="list-style-type: none"><li>• Compliance update report:</li><li>• Internal audit review reports</li></ul>
how the Council manages its compliance with applicable laws, regulations, policies, procedures, codes, and contractual arrangements, (Framework design & operation)				
whether appropriate processes are in place to assess compliance. (Framework policies, operation of register, any breaches and assurance over compliance)				
<b>e. Fraud and corruption</b> Section 428A(2)(c) - Council has an effective fraud and corruption control framework in place that minimises the incidence of fraud and corruption.				
Review and advise the Council of the adequacy and effectiveness of fraud and corruption prevention	<ul style="list-style-type: none"><li>• Receive and review update report on:</li></ul>			

**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.**

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
framework and activities, including whether the Council has appropriate processes and systems in place	<ul style="list-style-type: none"><li>- fraud and corruption prevention framework,</li><li>- progress on corruption prevention plan/strategies</li><li>- fraud and corruption risk assessment,</li><li>- PIDs/investigations and</li><li>- Other fraud and corruption related matters.</li></ul>			
Review and monitor the Fraud and corruption prevention plan/strategy – progress and appropriateness of.				
Fraud and corruption risk assessments				
Management of reports/investigations, risks, and emerging trends.				
<b>f. Governance</b> Section 428A(2)(e) - Council has an effective governance framework to ensure it is appropriately directing and controlling the management of the council.  Review and advise the Council regarding its governance framework, including:				
Decision-making processes				<ul style="list-style-type: none"><li>• Governance Report/update:<ul style="list-style-type: none"><li>- Structural arrangements</li><li>- Delegations</li><li>- Council resolutions</li></ul></li></ul>
Implementation of governance policies and procedures		<ul style="list-style-type: none"><li>• Report/update on policy management</li></ul>		
Reporting lines and accountability, assignment of key role and responsibilities and management oversight responsibilities	<ul style="list-style-type: none"><li>• Various – including internal audit reviews.</li></ul>			



**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.**

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
Committee structure	• Various – including internal audit reviews.			
Human resources and performance management activities	<ul style="list-style-type: none"> <li>• Performance appraisals, performance management</li> <li>• various internal audit reviews.</li> </ul>	• various internal audit reviews.	• various internal audit reviews.	• various internal audit reviews.
Reporting and communication activities	• Various – including internal audit reviews.			
Information and communications technology (ICT) governance	• Report on ICT, Cyber security and other ICT governance, control and review matters.	• Report on ICT, Cyber security and other ICT governance, control and review matters.	• Report on ICT, Cyber security and other ICT governance, control and review matters.	• Report on ICT, Cyber security and other ICT governance, control and review matters.
Management and governance of the use of data, information and knowledge	• Data and information management report, including; privacy, GIPA, breaches, etc. (at least annually and as arises)			

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
<b>g. Financial Management</b> Section 428A(2)(d) - Council has an effective financial management framework, sustainable financial position and positive financial performance.				
Regular quarterly report/update on finance and external audit matters or specific reports to consider coverage of the following financial management matters including; <ul style="list-style-type: none"> <li>- engagement plan,</li> <li>- review of financial statements</li> <li>- interim and final management letter,</li> <li>- closing report</li> <li>- advice of NSW AO performance audit program and reports on outcomes.</li> </ul>				
Compliance with accounting standards and external accountability requirements.	Finance and External audit Report/update including progress on preparation of financial statements and external audit thereof.			
Appropriateness of Council accounting policies and disclosures				
Implications for Council of the findings of external audits and performance audits and Council responses and implementation of recommendations	• Finance and External audit Report/update			
Whether the Council financial statement preparation procedures and timelines are sound				
Accuracy of the Council annual financial statements prior to external audit, including: <ul style="list-style-type: none"> <li>- management compliance/representations</li> <li>- significant accounting and reporting issues</li> <li>- methods used by the Council to account for significant or unusual transactions and areas of significant estimates or judgements.</li> </ul>		<b>Report of the annual statements post audit.</b>		

**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.**

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
<ul style="list-style-type: none"><li>- appropriate management signoff on the statements</li></ul>				
Effective processes are in place to ensure financial information included in the Council report is consistent with signed financial statements		<ul style="list-style-type: none"><li>• Finance/External audit report</li></ul>		
Financial management processes are adequate	<ul style="list-style-type: none"><li>• Finance/External audit report</li><li>• IP&amp;R report – budgets, LTFP as relevant</li></ul>	<ul style="list-style-type: none"><li>• Finance/External audit report – including review of financial statements.</li></ul>	<ul style="list-style-type: none"><li>• Finance/External audit report</li><li>• IP&amp;R report – budgets, LTFP as relevant</li></ul>	<ul style="list-style-type: none"><li>• Finance/External audit report</li><li>• IP&amp;R report – budgets, LTFP as relevant</li></ul>
Adequacy of cash management policies and procedures				
Controls over financial processes, for example: <ul style="list-style-type: none"><li>- appropriate authorisation and approval of payments and transactions</li><li>- adequate segregation of duties</li><li>- timely reconciliation of accounts and balances</li><li>- review of unusual and high value purchases</li></ul>	<ul style="list-style-type: none"><li>• Finance/External audit report – including exception reporting etc by finance, external audit findings, management letter/s.</li><li>• Various – including internal audit reviews.</li></ul>			
If policies and procedures for management review and consideration of the financial position and performance of the Council are adequate	<ul style="list-style-type: none"><li>• Report by finance - review LTFP and process for developing it.</li></ul>			

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
If Council grants and tied funding policies and procedures are sound.				<ul style="list-style-type: none"> <li>Review of grant governance policies and processes – consider as part of review of SIAP and risk register updates (annual)</li> </ul>
<b>h. Strategic Planning</b> Section 428A (2)(f) - Council has an effective framework that ensures it achieves its strategic plans and objectives under the integrated planning and reporting (IP&R framework). Review and advise the Council: Regular report on IP&R or specific reports with coverage of: <ul style="list-style-type: none"> <li>plans (major revisions or significant matters identified through quarterly/annual reviews)</li> <li>Long term financial planning</li> <li>Workforce planning</li> <li>Strategic Asset Management Plan (SAMP)</li> <li>Information on performance indicators setting and measuring performance.</li> </ul>				
Adequacy and effectiveness of the Council IP&R (Integrated Planning and Reporting) processes		<b>Annual Report</b>		
Appropriate reporting and monitoring mechanisms are in place to measure progress against objectives		<b>Annual Report</b>		

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
Whether Council is successfully implementing and achieving its IP&R objectives and strategies.		<b>Annual Report</b>		
<b>i. Service Reviews and Business Improvement</b> Section 428A(2)(g), 428A(3) - Council has an effective framework to ensure it is delivering services and conducting its business and functions to an expected standard.				
Act as a forum for communication and monitoring of any audits conducted by external bodies and the implementation of corrective actions (for example, NSW government agencies, Commonwealth government agencies, insurance bodies)	<ul style="list-style-type: none"> <li>• Reports on external performance audits or reviews, ICAC reports or other for relevance to Council. (As they arise)</li> <li>• Updates on implementation of any relevant recommended improvements applied to Council (consider including in external/internal audit</li> </ul>			

**ITEM 6 - ATTACHMENT 1 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.**

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
	schedules- quarterly)			
Review and advise if Council has robust systems to set objectives and goals to determine and deliver appropriate levels of service to the community and business performance	<ul style="list-style-type: none"> <li>• Report/update on service review framework and planned program of work. (Annual)</li> <li>• Service review terms of reference (As relevant per program)</li> <li>• Reports on outcomes of service reviews. (As relevant per completion of programmed work)</li> </ul>			
if appropriate reporting and monitoring mechanisms are in place to measure service delivery to the community and overall performance	<ul style="list-style-type: none"> <li>• Per report on IP&amp;R framework</li> </ul>			

Elements of ARIC responsibilities/Terms of Reference to be considered.	Q1 July 24	Q2 October 24	Q3 February 25	Q4 May 25
how the Council can improve its service delivery and the Council performance of its business and functions generally.	and periodic revisions. <ul style="list-style-type: none"><li>Per Service Review reporting above.</li></ul>			
<b>j. Performance Data and management</b> Section 428A(2)(h) - Council's performance management framework ensures council can measure its performance and achievement of its strategic goals.  Various quarterly update reports and specific reports providing coverage including: <ul style="list-style-type: none"> <li>Per report on IP&amp;R framework and periodic revisions.</li> <li>Per Service Review reporting above.</li> <li>Reports on Internal audits completed as part of the SIAP (Annual Plan) may include review and analysis of performance indicators, and associated data and reporting. (Quarterly on completion of IAs)</li> </ul>				
If Council has a robust system to determine appropriate performance indicators to measure the achievement of its strategic objectives				IP&R draft documents
If the performance indicators Council uses are effective		Annual Report		IP&R draft documents
Adequacy of performance data collection and reporting		Annual Report		IP&R draft documents

**ITEM 6 - ATTACHMENT 1      DRAFT - AUDIT, RISK AND IMPROVEMENT  
COMMITTEE - 4 YEAR STRATEGIC WORK PLAN.**



**PORT STEPHENS**  
COUNCIL

**Audit, Risk and Improvement Committee  
Strategic Plan**

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**ITEM 6 - ATTACHMENT 2 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - TERMS OF REFERENCE.**

## Terms of Reference



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### **AUDIT, RISK AND IMPROVEMENT COMMITTEE**

#### **1. INTRODUCTION**

- 1.1 Port Stephens Council (Council) has established an audit, risk and improvement committee (the Committee) in compliance with section 428A of the Local Government Act 1993, the Local Government (General) Regulation 2021 and the Office of Local Government's Guidelines for risk management and internal audit for local government in NSW. These terms of reference set out the committee's objectives, authority, composition and tenure, roles and responsibilities, reporting and administrative arrangements.

#### **2. OBJECTIVE**

- 2.1 The objective of the committee is to provide independent assurance by monitoring, reviewing, and providing advice about the Council's governance processes, compliance, risk management and control frameworks, external accountability obligations and overall performance.

#### **3. INDEPENDENCE**

- 3.1 The Committee is an independent body to ensure it has no real or perceived bias or conflicts of interest that may interfere with its ability to act independently and to provide robust, objective and unbiased advice and assurance.
- 3.2 The Committee is to have an advisory and assurance role only and is to exercise no administrative functions, delegated financial responsibilities or any management functions of the Council. The Committee will provide independent advice to Council that is informed by the internal audit and risk management activities and information and advice provided by staff, relevant external bodies and subject matter experts.
- 3.3 The Committee must always ensure it maintains a direct reporting line to and from the Council's internal audit function and act as a mechanism for internal audit to report to the Council and the General Manager on matters affecting the performance of the internal audit function.
- 3.4 The Head of Internal Audit is referred to as the Chief Audit Executive within the International Professional Practice Framework, including standards, and the Internal Audit Coordinator within the OLG Regulations and Guidelines. At Council, the Head of Internal Audit is the Governance Section Manager.

#### **4. AUTHORITY**

- 4.1 Council authorises the Committee, for the purposes of exercising its role and responsibilities, to:

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### **TERMS OF REFERENCE**

**1**

**ITEM 6 - ATTACHMENT 2 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - TERMS OF REFERENCE.**

## Terms of Reference



- a) access any information it needs from Council
- b) reasonable use of any Council resources it needs
- c) have direct and unrestricted access to the General Manager and senior management of Council
- d) seek the General Manager's permission to meet with any other Council staff member or contractor
- e) discuss any matters with the external auditor or other external parties
- f) request the attendance of any employee at committee meetings, and
- g) obtain external legal or other professional advice in line with Councils' procurement policies subject to prior approval from the General Manager.

- 4.2 Information and documents pertaining to the Committee are confidential and are not to be made publicly available. The committee may only release information to external parties that are assisting the committee to fulfil its responsibilities with the approval of the General Manager, except where it is being provided to an external investigative or oversight agency for the purpose of informing that agency of a matter that may warrant its attention.

### **5. COMPOSITION AND TENURE**

- 5.1 The committee consists of an independent chair and two independent members who have voting rights and one non-voting councillor, as required under the Local Government (General) Regulation 2021.
- 5.2 The Council is to appoint the chair and members of the Committee. Current Committee members are:

Deborah Goodyer	Independent chair (voting)
Frank Cordingley	Independent member (voting)
Paul Dunn	Independent member (voting)
Cr Leah Anderson	Councillor member (non-voting)

- 5.3 All Committee members must meet the independence and eligibility criteria prescribed under the Local Government (General) Regulation 2021.
- 5.4 Members will be appointed for up to a four-year term. Members can be reappointed for one further term, but the total period of continuous membership cannot exceed eight years. This includes any term as chair of the committee. Members who have served an eight-year term (either as a member or as chair) must have a two-year break from serving on the committee before being appointed again. To preserve the Committee's knowledge of the Council, ideally, no more than one member should retire from the committee because of rotation in any one year.

**ITEM 6 - ATTACHMENT 2 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - TERMS OF REFERENCE.**

## Terms of Reference



- 5.5 The terms and conditions of each member's appointment to the Committee are to be set out in a letter of appointment. New members will be thoroughly inducted to their role and receive relevant information and briefings on their appointment to assist them to meet their responsibilities.
- 5.6 Prior to approving the reappointment or extension of the chair's or an independent member's term, the Council is to undertake an assessment of the chair's or committee member's performance. Reappointment of the chair or a committee member is also to be subject to that person still meeting the independence and eligibility requirements prescribed under the Local Government (General) Regulation 2021.
- 5.7 Members of the committee collectively must possess and maintain a broad range of skills, knowledge, and experience relevant to the operations, governance and financial management of council, the environment in which council operates, and the contribution that the Committee makes to Council. At least one member of the committee must have accounting or related financial management experience with an understanding of accounting and auditing standards in a local government environment. All members should have sufficient understanding of Council's financial reporting responsibilities to be able to contribute to the Committee's consideration of the annual financial statements.
- 6. ROLE**
- 6.1 As required under section 428A of the *Local Government Act 1993* (the Act), the role of the committee is to review and provide independent advice to council regarding the following aspects of operations:
- a) internal audit
  - b) compliance
  - c) risk management
  - d) fraud control
  - e) financial management
  - f) governance
  - g) implementation of the strategic plan, delivery program and strategies
  - h) service reviews
  - i) collection of performance measurement data, and
  - j) other relevant matters which may arise.
- 6.2 The Committee must also provide information to Council for the purpose of improving the performance of its functions under the Local Government Act 1993.
- 6.3 The Committee's specific audit, risk and improvement responsibilities under section 428A of the Act are outlined in Schedule 1 to these terms of reference.
- 6.4 The Committee will act as a forum for oversight of the internal audit function including its planning, monitoring and reporting to ensure it operates effectively.
- 6.5 The Committee has no power to direct external audit or the way it is planned and undertaken but will act as a forum for the consideration of external audit findings.

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**TERMS OF REFERENCE****3**

**ITEM 6 - ATTACHMENT 2 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - TERMS OF REFERENCE.**

## Terms of Reference



- 6.6 The Committee is directly responsible and accountable to the Council for the exercise of its responsibilities. In carrying out its responsibilities, the Committee must at all times recognise that primary responsibility for management of the Council rests with Council and the General Manager.
- 6.7 The responsibilities of the Committee may be revised or expanded in consultation with, or as requested by, the Council from time to time.

### **7. RESPONSIBILITIES OF MEMBERS**

#### Independent members

- 7.1 The chair and members of the committee are expected to:
- a) understand and observe the requirements of the Office of Local Government's Guidelines for risk management and internal audit for local government in NSW.
  - b) make themselves available as required to attend and participate in meetings
  - c) contribute the time needed to review and understand information provided to it
  - d) apply good analytical skills, objectivity and judgement
  - e) act in the best interests of Council
  - f) have the personal courage to raise and deal with tough issues, express opinions frankly, ask questions that go to the fundamental core of the issue and pursue independent lines of inquiry
  - g) maintain effective working relationships with the Council
  - h) have strong leadership qualities (chair)
  - i) lead effective committee meetings (chair), and
  - j) oversee the Council's internal audit function (chair).

#### Councillor member

- 7.2 To preserve the independence of the Committee, the councillor member of the Committee is a non-voting member. Their role is to:
- a) relay to the Committee any concerns the Council may have regarding the Council and issues being considered by the Committee
  - b) provide insights into local issues and the strategic priorities of Council that would add value to the Committee's consideration of agenda items.
  - c) advise the Council (as necessary) of the work of the Committee and any issues arising from it, and
  - d) assist the Council to review the performance of the Committee.
- 7.3 Issues or information the councillor member raises with or provides to the Committee must relate to the matters listed in Schedule 1 and issues being considered by the Committee.

**ITEM 6 - ATTACHMENT 2 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - TERMS OF REFERENCE.**

## Terms of Reference



- 7.4 The councillor member of the committee must conduct themselves in a non-partisan and professional manner. The councillor member of the committee must not engage in any conduct that seeks to politicise the activities of the Committee or the internal audit function or that could be seen to do so.
- 7.5 If the councillor member of the Committee engages in such conduct or in any other conduct that may bring the Committee and its work into disrepute, the chair of the Committee may recommend to the Council, that the Council member be removed from membership of the Committee. Where the Council does not agree to the Committee chair's recommendation, the Council must give reasons for its decision in writing to the chair.

### Conduct

- 7.6 Independent Committee members are required to comply with the Council's code of conduct.
- 7.7 Complaints alleging breaches of the Council's code of conduct by an independent committee member are to be dealt with in accordance with the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW. The General Manager must consult with the Council before taking any disciplinary action against an independent committee member in response to a breach of the Council's code of conduct.

### Conflicts of interest

- 7.8 Once a year, committee members must provide written declarations to the Council stating that they do not have any conflicts of interest that would preclude them from being members of the Committee. Independent committee members are 'designated persons' for the purposes of the Council's code of conduct and must also complete and submit returns of their interests.
- 7.9 Committee members and observers must declare any pecuniary or non-pecuniary conflicts of interest they may have in a matter being considered at the meeting at the start of each meeting or as soon as they become aware of the conflict of interest. Where a committee member or observer declares a pecuniary or a significant non-pecuniary conflict of interest, they must remove themselves from committee deliberations on the issue. Details of conflicts of interest declared at meetings must be appropriately minuted.

### Standards

- 7.10 Committee members are to conduct their work in accordance with the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors and [current Australian risk management standard], where applicable.

## **8. WORK PLANS**

- 8.1 The work of the Committee is to be thoroughly planned and executed. The Committee must develop a strategic work plan every four years to ensure that the matters listed in Schedule 1 are reviewed by the Committee and considered by the internal audit function



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when developing their risk-based program of internal audits. The strategic work plan must be reviewed at least annually to ensure it remains appropriate.

- 8.2 The committee may, in consultation with the Council governing body, vary the strategic work plan at any time to address new or emerging risks. The Council may also, by resolution, request the committee to approve a variation to the strategic work plan. Any decision to vary the strategic work plan must be made by the Committee.
- 8.3 The Committee must also develop an annual work plan to guide its work over the forward year.
- 8.4 The Committee may, in consultation with the Council, vary the annual work plan to address new or emerging risks. The Council may also, by resolution, request the committee to approve a variation to the annual work plan. Any decision to vary the annual work plan must be made by the Committee.
- 8.5 When considering whether to vary the strategic or annual work plans, the committee must consider the impact of the variation on the internal audit function's existing workload and the completion of pre-existing priorities and activities identified under the work plan.

### **9. REPORTING TO COUNCIL**

- 9.1 The Committee must report to the Council to ensure that it is kept informed of matters considered by the Committee and any emerging issues that may influence the strategic direction of the Council or the achievement of the Council's goals and objectives.

#### Quarterly (routine) reporting via Minutes of meetings

- 9.2 The Committee will provide an update to the Council and the General Manager of its activities and advice after every committee meeting.

#### Annual report on Council performance relating to Schedule 1 matters

- 9.3 At the first Committee meeting after 30 June each year, Internal Audit will provide a performance report including:
  - a) completion of the approved Internal Audit Plan of work for the previous financial year showing the current status of each audit.
  - b) results of the Quality assurance and improvement program
  - c) conformance with the OLG Regulations and Guidelines to inform the Council attestation statement; and
  - d) the performance of Internal Audit for the financial year as measured against agreed key performance indicators for inhouse and external internal audit providers.
- 9.4 The Committee will provide an annual assessment to the Council and the General Manager on the Committee's work and its opinion on how the Council is performing.

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### Comprehensive assessment each Council term

- 9.5 The Committee will provide a comprehensive assessment every council term of the matters listed in Schedule 1 to the Council and the General Manager.
- 9.6 The Committee may at any time report to the Council or the General Manager on any other matter it deems of sufficient importance to warrant their attention. The Mayor and the chair of the Committee may also meet at any time to discuss issues relating to the work of the Committee.
- 9.7 Should the Council require additional information, a request for the information may be made to the chair by resolution. The chair is only required to provide the information requested by the Council where the chair is satisfied that it is reasonably necessary for the Council to receive the information for the purposes of performing its functions under the Local Government Act. Individual councillors are not entitled to request or receive information from the Committee.

## **10. ADMINISTRATIVE ARRANGEMENTS**

### Meetings

- 10.1 The committee will meet at least 4 times per year, including a meeting to review the financial statements.
- 10.2 The chair may hold additional meetings when significant unexpected issues arise, or if the chair is asked to hold an additional meeting by a committee member, the general manager or the Council.
- 10.3 Committee meetings can be held in person, by telephone or videoconference. Proxies are not permitted to attend meetings if a committee member cannot attend.
- 10.4 A quorum will consist of a majority of independent voting members.
- 10.5 Where the vote is tied, the chair has the casting vote.
- 10.6 The chair of the committee will decide the agenda for each committee meeting.
- 10.7 Each committee meeting is to be minuted to preserve a record of the issues considered, key discussions, and the actions and decisions taken by the committee. Where confidentiality of the matters discussed is considered relevant, the minutes may be provided to the Council in a confidential report.
- 10.8 The General Manager and the Head of Internal audit should attend committee meetings as non-voting observers.
- 10.9 The external auditor (or their representative) is to be invited to each committee meeting as an independent observer.
- 10.10 The chair can request the following Council officers and representatives to attend meetings for specific agenda items:

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- a) Council's chief finance officer or equivalent,
  - b) head of risk management function or equivalent,
  - c) senior managers or equivalent, i.e. Legal Services, Governance
  - d) any employee/contractor of the council and
  - e) any subject matter expert
- 10.11 Where requested to attend a meeting, persons must attend the meeting where possible and provide any information requested.
- 10.12 Councillors including the Mayor may attend committee meetings on request submitted to the Chair via the General Manager. If permitted to attend they will do so as an observer. Observers have no voting rights and can be excluded from a meeting by the chair at any time.
- 10.13 The Committee can hold closed meetings whenever it needs to discuss confidential or sensitive issues with only voting members of the committee present.
- 10.14 The Committee must meet separately with the Head of internal audit and the external auditor at least once each year.

### Dispute resolution

- 10.15 Members of the Committee and Council's management should maintain an effective working relationship and seek to resolve any differences they may have in an amicable and professional way by discussion and negotiation.
- 10.16 In the event of a disagreement between the Committee and the General Manager or other senior managers, the dispute is to be resolved by the Council
- 10.17 Unresolved disputes regarding compliance with statutory or other requirements are to be referred to the Departmental Chief Executive of the Office of Local Government in writing.

### Secretariat

- 10.18 The General Manager will nominate a staff member to provide secretariat support to the committee. The secretariat will ensure the agenda for each meeting and supporting papers are circulated after approval from the chair at least 5 working days before the meeting and ensure that minutes of meetings are prepared and maintained. Minutes must be approved by the chair and circulated within three weeks of the meeting to each member.

### Resignation and dismissal of members

- 10.19 Where the chair or a committee member is unable to complete their term or does not intend to seek reappointment after the expiry of their term, they should give [agreed timeframe] notice to the chair and the Council prior to their resignation to allow the Council to ensure a smooth transition to a new chair or committee member.

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**TERMS OF REFERENCE****8**



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- 10.20 The Council can, by resolution, terminate the appointment of the chair or an independent committee member before the expiry of their term where that person has:
- a) breached the council's code of conduct
  - b) performed unsatisfactorily or not to expectations
  - c) declared, or is found to be in, a position of a conflict of interest which is unresolvable
  - d) been declared bankrupt or found to be insolvent
  - e) experienced an adverse change in business status
  - f) been charged with a serious criminal offence
  - g) been proven to be in serious breach of their obligations under any legislation, or
  - h) experienced an adverse change in capacity or capability.
- 10.21 The position of a councillor member on the Committee can be terminated/replaced at any time by the Council by resolution.

### Review arrangements

- 10.22 The Chair of the Committee will initiate an annual review of the performance of the Committee. The review will be conducted on a self-assessment basis (unless otherwise determined by the Committee), with appropriate input from the General Manager and any other relevant stakeholders, as determined by the Committee.
- 10.23 At least once every Council term, the Council must review or arrange for an external review of the effectiveness of the Committee. (This may be included in the independent external quality assessment of the internal audit function).
- 10.24 These terms of reference must be reviewed annually by the Committee and once each Council term by the Council. Any substantive changes are to be approved by the Council.

## 11. FURTHER INFORMATION

- 11.1 For further information on Council's audit, risk and improvement committee, contact Tony Wickham, Council's Governance Section Manager on [tony.wickham@portstephens.nsw.gov.au](mailto:tony.wickham@portstephens.nsw.gov.au) or by phone 02 4988 0187.
- 11.2 Reviewed by chair of the Audit, Risk and Improvement Committee
- [signed] 22 February 2024
- 11.3 Reviewed by Council in accordance with a resolution of the Council.
- [signed] 26 March 2024

### Minute No. #

- 11.4 Next review date: [date] 4 years from the date of the resolution above.

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## Terms of Reference

**Schedule 1 – Audit, risk and improvement committee responsibilities (coverage of functions)**

*[Note: Further detailed in core requirement 1 and Appendix 2 of the Guidelines for Risk Management and Internal Audit for Local Government in NSW.]*

**1. Audit****1.1 Internal audit**

- a) Provide overall strategic oversight of internal audit activities including:
  - i. Act as a forum for communication between the Council , General Manager, senior management, the internal audit function and external audit
  - ii. Review and provide advice on coordination of the work programs of internal audit and other assurance and review functions (risk management, governance, compliance, service reviews)
  - iii. Review and advise the Council on:
    - iv. whether Council is providing the resources necessary to successfully deliver the internal audit function
    - v. whether Council is complying with internal audit requirements, including conformance with the International Professional Practices Framework
    - vi. whether Council's internal audit charter is appropriate and the internal audit policies and procedures and audit/risk methodologies used by the Council are suitable
    - vii. details and status of the strategic four-year work plan and annual work plan of internal audits to be undertaken by the Council's internal audit function
    - viii. whether Council's internal audit activities are effective, including the performance of the internal audit coordinator and the internal audit function
    - ix. of the findings and recommendations of internal audits conducted, and corrective actions required
    - x. implementation of these corrective actions
    - xi. on the appointment of the Head of internal audit (internal audit coordinator) and external providers, and
    - xii. if the internal audit function is structured appropriately and has sufficient skills and expertise to meet its responsibilities

**1.2 External audit**

- a) Act as a forum for communication between the Council , General Manager, senior management, the internal audit function and external audit
- b) Review and provide advice on coordination of the work programs of internal audit and external audit
- c) Provide input and feedback on the financial statement and performance audit coverage proposed by external audit and provide feedback on the audit services provided
- d) Review all external plans and reports in respect of planned or completed audits and monitor council's implementation of audit recommendations

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- e) Provide advice to the Council and/or General Manager on action taken on significant issues raised in relevant external audit reports and better practice guides.

### **2. Risk**

#### **2.1 Risk management**

##### **2.1.1 Review and advise the Council:**

- a) if the Council has in place a current and appropriate risk management framework that is consistent with the Australian risk management standard
- b) whether the Council is providing the resources necessary to successfully implement its risk management framework
- c) whether the Council's risk management framework is adequate and effective for identifying and managing the risks the Council faces, including those associated with individual projects, programs, WHS and other activities
- d) if risk management is integrated across all levels of the Council and across all processes, operations, services, decision-making, functions and reporting
- e) of the adequacy of risk reports and documentation, for example, the Council's risk register and risk profile
- f) whether a sound approach has been followed in developing risk management plans for major projects or undertakings
- g) whether appropriate policies and procedures are in place for the management and exercise of delegations
- h) if the Council has taken steps to embed a culture which is committed to ethical and lawful behaviour
- i) if there is a positive risk culture within the Council and strong leadership that supports effective risk management
- j) of the adequacy of staff training and induction in risk management
- k) how the Council's risk management approach impacts on the Council's insurance arrangements
- l) of the effectiveness of the Council's management of its assets, and
- m) of the effectiveness of business continuity arrangements, including business continuity plans, disaster recovery plans and the periodic testing of these plans.

#### **2.2 Internal controls**

##### **2.2.1 Review and advise the Council**

- a) whether the Council's approach to maintaining an effective internal control framework, including over external parties such as contractors and advisors, is sound and effective
- b) whether the Council has in place relevant policies and procedures and that these are periodically reviewed and updated
- c) whether appropriate policies and procedures are in place for the management and exercise of delegations
- d) whether staff are informed of their responsibilities and processes and procedures to implement controls are complied with
- e) if the Council's monitoring and review of controls is sufficient, and

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**TERMS OF REFERENCE****11**

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- f) if internal and external audit recommendations to correct internal control weaknesses are implemented appropriately.

### 2.3 Compliance

2.3.1 Review and advise the Council of the adequacy and effectiveness of the Council's compliance framework, including:

- a) if the Council has appropriately considered legal and compliance risks as part of the Council's risk management framework
- b) how the Council manages its compliance with applicable laws, regulations, policies, procedures, codes, and contractual arrangements, and
- c) whether appropriate processes are in place to assess compliance.

### 2.4 Fraud and corruption

2.4.1 Review and advise the Council of the adequacy and effectiveness of the Council's fraud and corruption prevention framework and activities, including whether the Council has appropriate processes and systems in place to capture and effectively investigate fraud-related information.

### 2.5 Governance

2.5.1 Review and advise the Council regarding its governance framework, including the:

- a) decision-making processes
- b) implementation of governance policies and procedures
- c) reporting lines and accountability
- d) assignment of key roles and responsibilities
- e) committee structure
- f) management oversight responsibilities
- g) human resources and performance management activities
- h) reporting and communication activities
- i) information and communications technology (ICT) governance, and
- j) management and governance of the use of data, information, and knowledge

### 2.6 Financial management

2.6.1 Review and advise the Council:

- a) if the Council is complying with accounting standards and external accountability requirements
- b) of the appropriateness of the Council's accounting policies and disclosures
- c) of the implications for the Council of the findings of external audits and performance audits and the Council's responses and implementation of recommendations

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- d) whether the Council's financial statement preparation procedures and timelines are sound
- e) the accuracy of the Council's annual financial statements prior to external audit, including:
  - i. management compliance/representations
  - ii. significant accounting and reporting issues
- iii. the methods used by the Council to account for significant or unusual transactions and areas of significant estimates or judgements.
- iv. appropriate management signoff on the statements
- f) if effective processes are in place to ensure financial information included in the Council's annual report is consistent with signed financial statements
- g) if the Council's financial management processes are adequate
- h) the adequacy of cash management policies and procedures
- i) if there are adequate controls over financial processes, for example:
  - i. appropriate authorisation and approval of payments and transactions
  - ii. adequate segregation of duties
- iii. timely reconciliation of accounts and balances
- iv. review of unusual and high value purchases
- j) if policies and procedures for management review and consideration of the financial position and performance of the Council are adequate
- k) if the Council's grants and tied funding policies and procedures are sound.

### **3. Improvement**

#### **3.1 Strategic planning**

##### **3.1.1 Review and advise the Council:**

- a) of the adequacy and effectiveness of the Council's integrated, planning and reporting (IP&R) processes
- b) if appropriate reporting and monitoring mechanisms are in place to measure progress against objectives, and
- c) whether the Council is successfully implementing and achieving its IP&R objectives and strategies.

#### **3.2 Service reviews and business improvement**

- a) Act as a forum for communication and monitoring of any audits conducted by external bodies and the implementation of corrective actions (for example, NSW government agencies, Commonwealth government agencies, insurance bodies)
- b) Review and advise the Council:
  - i. If the Council has robust systems to set objectives and goals to determine and deliver appropriate levels of service to the community and business performance
  - ii. if appropriate reporting and monitoring mechanisms are in place to measure service delivery to the community and overall performance, and

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**TERMS OF REFERENCE****13**



## ITEM 6 - ATTACHMENT 2 DRAFT - AUDIT, RISK AND IMPROVEMENT COMMITTEE - TERMS OF REFERENCE.

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- iii. how the Council can improve its service delivery and the Council's performance of its business and functions generally

#### 3.3 Performance data and measurement

##### 3.3.1 Review and advise the Council:

- a) if the Council has a robust system to determine appropriate performance indicators to measure the achievement of its strategic objectives
- b) if the performance indicators the Council uses are effective, and
- c) of the adequacy of performance data collection and reporting.

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#### CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No	PSC2015-01492	EDRMS record No	#
Audience	ARIC, Council		
Process owner	Governance Section Manager		
Author	ARIC Chairperson		
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Adoption date	By the ARIC 22 February 2024 and Council #		

#### VERSION HISTORY:

Version	Date	Author	Details
1.0	#	ARIC Chairperson	New ARIC Terms of Reference developed in accordance with the Risk Management and Internal Audit for Local Government in NSW Guidelines.

## Internal Audit Charter



### 1. INTRODUCTION:

- 1.1 Port Stephens Council (Council) has established the internal audit function as a key component of Council's governance and assurance framework, in compliance with the "Guidelines for risk management and internal audit for local government in NSW."
- 1.2 This charter provides the framework for the conduct of the internal audit function (internal audit) at Council and has been approved by the governing body (the Council) considering the advice of the Audit, Risk and Improvement Committee (ARIC).

### 2. PURPOSE OF INTERNAL AUDIT:

- 2.1 Internal audit is an independent, objective assurance and consulting activity designed to add value and improve Council's operations. It helps Council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.
- 2.2 The mission of Internal audit is to enhance and protect organisational value by providing advice to the Council, General Manager and ARIC about Council's governance processes, risk management and control frameworks and its external accountability obligations. It also assists Council to improve its business performance.
- 2.3 Internal Audit services may include:
  - Assurance Services – objective examination of evidence for the purpose of providing an independent assessment of risk management, control and governance processes.
  - Advisory Services – advisory and related client activities, the nature and scope of which are agreed upon with the client and which are intended to add value and improve business operations.

### 3. ROLE:

- 3.1 The role of internal audit is to support Council's ARIC to review and provide independent advice to the Council in accordance with section 428A of the Local Government Act 1993. This includes conducting internal audits of Council and monitoring the implementation of corrective actions.
- 3.2 Internal audit also play an active role in:
  - developing and maintaining a culture of accountability and integrity
  - facilitating the integration of risk management into day-to-day business activities and processes, and
  - promoting a culture of high ethical standards.
- 3.3 Internal Audit has no direct authority or responsibility for the activities it reviews. Internal audit has no responsibility for developing or implementing procedures or systems and does not prepare records or engage in Council functions or activities (except in carrying out its own functions).

## Internal Audit Charter



### **4. DEFINITIONS:**

4.1 An outline of the key definitions included in the Charter.

ARIC	Audit, Risk and Improvement Committee.
Council	Port Stephens Council.
Head of Internal Audit	Council officer responsible for internal audit.

### **5. INTERNAL AUDIT ARRANGEMENTS:**

#### **5.1 Head of Internal Audit**

5.1.1 Day to day management of internal audit is the responsibility of the Governance Section Manager (Head of Internal Audit). The Head of Internal Audit must be independent, impartial, unbiased and objective when performing their work and free from any conflicts of interest. Responsibilities of the Head of Internal Audit include:

- contract management of external provider (refer below)
- managing the internal audit budget
- ensuring the external provider completes internal audits in line with the audit, risk and improvement committee's annual work plan and four-year strategic work plan
- forwarding audit reports by the external provider to the ARIC.
- acting as a liaison between the external provider and the ARIC.
- monitoring Council's implementation of corrective actions that arise from the findings of audits and reporting progress to the ARIC, and
- assisting the audit, risk and improvement committee to ensure Council's internal audit activities comply with the Guidelines for risk management and internal audit for local government in NSW.

5.1.2 Within Council's structure, the Head of Internal audit performs a range of other, non-audit duties. Independence safeguards in relation to these duties are outlined in the Independence section below.

#### **5.2 Service Provider**

5.2.1 Council has contracted an external third-party provider to undertake its internal audit activities. To ensure the independence of the external provider, the Head of Internal Audit will ensure that the external provider:

- does not conduct any audits on specific Council operations or areas that they have worked on within the last two years.
- is not the same provider conducting Council's external audit.
- is not the auditor of any contractors of Council that may be subject to the internal audit, and



## Internal Audit Charter



- can meet Council's obligations under the Guidelines for risk management and internal audit for local government in NSW.

5.2.2 The Head of Internal Audit must consult with the ARIC and General Manager regarding the appropriateness of the skills, knowledge and experience of any external provider before they are engaged by Council.

### **6 INDEPENDENCE:**

6.1 The Head of Internal Audit reports functionally to the Council's ARIC on the results of completed audits, and for strategic direction and accountability purposes, and reports administratively to the General Manager to facilitate day-to-day operations. Internal audit activities are not subject to direction by the Council and Council's management has no role in the exercise of Council's internal audit activities.

6.2 The Head of Internal Audit is responsible for a range of non-audit functions and in this regard the following safeguards apply:

- When performing those duties, they are not acting in their internal audit role and the reporting lines specified in this Charter do not apply.
- If an internal audit is required of one of the non-audit functions for which the Head of Internal Audit is responsible, the external service provider will report directly to the General Manager and the ARIC on the results of the audit.

6.3 The ARIC is responsible for communicating any internal audit issues or information to the Council. Should the Council require additional information, a request for the information may be made to the ARIC Chair by resolution. The ARIC Chair is only required to provide the information requested by the Council where the Chair is satisfied that it is reasonably necessary for the Council to receive the information for the purposes of performing its functions under the Local Government Act. Individual Councillors are not entitled to request or receive information from the Head of Internal Audit or the ARIC.

6.4 The General Manager must consult with the Chair of the ARIC before appointing or making decisions affecting the employment of the Head of Internal Audit. If the Head of Internal Audit is dismissed, the General Manager must report the reasons for their dismissal to the Council.

6.5 Where the Chair of the ARIC has any concerns about the treatment of the Head of Internal Audit, or any action taken that may compromise their ability to undertake their functions independently, they can report their concerns to the governing body. The ARIC, through the Chair, will contribute to the annual performance assessment of the Head of Internal Audit.

6.6 Where the Chair of the ARIC has any concerns about the treatment of the Head of Internal Audit, or any action taken that may compromise their ability to undertake their functions independently, they can report their concerns to the Council.

## Internal Audit Charter



- 6.7 Head of Internal Audit is to confirm at least annually to the ARIC the independence of internal audit activities from Council.

### **7 CONDUCT OF STANDARDS:**

- 7.1 Internal Audit (including service providers) must comply with Council's Code of Conduct. Complaints about breaches of Council's code of conduct by internal audit personnel are to be dealt with in accordance with the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW. The General Manager must consult with the ARIC before any disciplinary action is taken against the Head of Internal Audit in response to a breach of Council's Code of Conduct. Declaration and management of conflicts of interest will occur in line with the requirements of the Code of Conduct.
- 7.2 Internal Audit will govern itself by adherence to mandatory guidance contained in the 'International Professional Practices Framework' (IPPF) issued by the Institute of Internal Auditors (IIA):
- 'Core Principles for the Professional Practice of Internal Auditing'.
  - 'Definition of Internal Auditing'.
  - 'Code of Ethics'.
  - 'International Standards for the Professional Practice of Internal Auditing'.
- 7.3 This mandatory guidance constitutes the fundamental requirements for the professional practice of internal auditing and the principles against which to evaluate the effectiveness of Internal Audit performance.
- 7.4 Internal Audit, including service providers, will perform their work in accordance with the IPPF. While the IPPF applies to all internal audit work, technology audits may also apply the ISACA standards contained in the 'Information Technology Assurance Framework' (ITAF). Where relevant the current Australian risk management standard will be applied.

### **8 AUTHORITY AND CONFIDENTIALITY:**

- 8.1 Council authorises the internal audit to have full, free and unrestricted access to all functions, premises, assets, personnel, records and other documentation and information that the Head of Internal Audit considers necessary for internal audit to undertake its responsibilities.
- 8.2 All records, documentation and information accessed while undertaking internal audit activities are to be used solely for the conduct of those activities. The Head of Internal Audit and individual internal audit staff are responsible and accountable for maintaining the confidentiality of the information they receive when undertaking their work.
- 8.3 All internal audit documentation, including service provider working papers, will remain the property of Council.

## Internal Audit Charter



- 8.4 Information and documents pertaining to internal audit are not to be made publicly available. Internal audit may only release Council information to external parties that are assisting internal audit to undertake its responsibilities with the approval of the General Manager, except where it is being provided to an external investigative or oversight agency for the purpose of informing that agency of a matter that may warrant its attention.

### **9 PERFORMING INTERNAL AUDIT ACTIVITIES:**

- 9.1 The work of Internal Audit is to be thoroughly planned and executed.
- 9.2 Internal audit must develop a strategic internal audit plan every four years and consider the matters listed in Schedule One when developing their risk-based program of internal audits. The strategic work plan must be reviewed at least annually to ensure it remains appropriate. Internal audit must also develop an annual work plan to guide the work of internal audit over the forward year. Both the strategic and annual plans should be reviewed and approved by Council's ARIC.
- 9.3 The Head of Internal Audit will:
- Provide the findings and recommendations of internal audits to the ARIC at the end of each audit. Each report is to include a response from the relevant senior manager.
  - Establish an ongoing monitoring system to follow up Council's progress in implementing corrective actions.
  - Develop and maintain policies and procedures to guide the operation of internal audit.
  - Ensure that the ARIC is advised at each meeting of the internal audit activities completed during that quarter, progress in implementing the annual work plan and progress made implementing corrective actions.

### **10. ADMINISTRATIVE ARRANGEMENTS:**

#### **10.1 ARIC meetings**

##### **10.1.1 The Head of Internal Audit:**

- Will attend ARIC meetings as an independent non-voting observer. The Head of Internal Audit can be excluded from meetings by the ARIC at any time.
- Must meet separately with the ARIC at least once per year.
- Can meet with the Chair of the ARIC at any time, as necessary, between committee meetings.

#### **10.2 Relationship with external audit**

- 10.2.1 Internal and external audit activities will be coordinated to help ensure the adequacy of overall audit coverage and to minimise duplication of effort.
- 10.2.2 Periodic meetings and contact between internal and external audit shall be held to discuss matters of mutual interest and facilitate coordination.
- 10.2.3 External audit will have full and free access to all internal audit plans, working papers and reports.

## Internal Audit Charter



### 10.3 Dispute resolution

10.3.1 Internal audit should maintain an effective working relationship with Council and the ARIC and seek to resolve any differences they may have in an amicable and professional way by discussion and negotiation.

10.3.2 In the event of a disagreement between internal audit and management, the dispute is to be resolved by the General Manager and/or the ARIC. Disputes between internal audit and the ARIC are to be resolved by the Council.

10.3.3 Unresolved disputes regarding compliance with statutory or other requirements are to be referred to the Departmental Chief Executive in writing.

### 10.4 Review arrangements

10.4.1 Council's ARIC will review the performance of the internal audit function each year and report its findings to the Council. A strategic review of the performance of internal audit must be conducted each council term that considers the views of an external party with a strong knowledge of internal audit and reported to the Council.

10.4.2 This charter is to be reviewed annually by the ARIC and once each council term by the governing body. Any substantive changes are to be approved by the governing body.

## Internal Audit Charter



### **SCHEDULE 1 – INTERNAL AUDIT RESPONSIBILITIES (Function coverage)**

#### **1 Internal audit**

- Conduct internal audits as directed by Council's ARIC.
- Implement Council's annual and four-year strategic internal audit work plans.
- Monitor the implementation by Council of corrective actions.
- Assist Council to develop and maintain a culture of accountability and integrity.
- Facilitate the integration of risk management into day-to-day business activities and processes.
- Promote a culture of high ethical standards.

#### **2. External audit**

- Review all external plans and reports in respect of planned or completed audits and monitor Council's implementation of audit recommendations.
- Provide advice on action taken on significant issues raised in relevant external audit reports and better practice guides.

#### **3. Risk management**

Review and advise:

- if Council's has in place a current and appropriate risk management framework that is consistent with the Australian risk management standard
- whether Council's risk management framework is adequate and effective for identifying and managing the risks Council faces, including those associated with individual projects, programs, WHS and other activities
- if risk management is integrated across all levels of Council and across all processes, operations, services, decision-making, functions and reporting
- of the adequacy of risk reports and documentation, for example, Council's risk register and risk profile
- whether a sound approach has been followed in developing risk management plans for major projects or undertakings
- whether appropriate policies and procedures are in place for the management and exercise of delegations
- if Council has taken steps to embed a culture which is committed to ethical and lawful behaviour
- if there is a positive risk culture within Council and strong leadership that supports effective risk management
- of the adequacy of staff training and induction in risk management
- how Council's risk management approach impacts on Council's insurance arrangements.
- of the effectiveness of Council's management of its assets, and
- of the effectiveness of business continuity arrangements, including business continuity plans, disaster recovery plans and the periodic testing of these plans.



## Internal Audit Charter



### **4. Internal controls**

Review and advise:

- whether Council's approach to maintaining an effective internal audit framework, including over external parties such as contractors and advisors, is sound and effective
- whether Council has in place relevant policies and procedures and that these are periodically reviewed and updated
- whether appropriate policies and procedures are in place for the management and exercise of delegations
- whether staff are informed of their responsibilities and processes and procedures to implement controls are complied with
- if Council's monitoring and review of controls is sufficient, and
- if internal and external audit recommendations to correct internal control weaknesses are implemented appropriately.

### **5. Compliance**

Review and advise of the adequacy and effectiveness of Council's compliance framework, including:

- if Council has appropriately considered legal and compliance risks as part of Council's risk management framework
- how Council manages its compliance with applicable laws, regulations, policies, procedures, codes, and contractual arrangements, and
- whether appropriate processes are in place to assess compliance.

### **6. Fraud and corruption**

Review and advise of the adequacy and effectiveness of Council's fraud and corruption prevention framework and activities, including whether Council has appropriate processes and systems in place to capture and effectively investigate fraud-related information.

### **7. Financial management**

Review and advise:

- if Council's financial management processes are adequate
- the adequacy of cash management policies and procedures
- if there are adequate controls over financial processes, for example:
  - appropriate authorisation and approval of payments and transactions
  - adequate segregation of duties
  - timely reconciliation of accounts and balances
  - review of unusual and high value purchases
- if policies and procedures for management review and consideration of the financial position and performance of Council are adequate
- if Council's grants and tied funding policies and procedures are sound.

## Internal Audit Charter



### **8. Governance**

Review and advise of the adequacy of Council governance framework, including Council's:

- Decision-making processes
- Implementation of governance policies and procedures
- Reporting lines and accountability
- Assignment of key roles and responsibilities
- Committee structure
- Management oversight responsibilities
- Human resources and performance management activities
- Reporting and communication activities
- Information and communications technology (ICT) governance, and
- Management and governance of the use of data, information and knowledge.

### **9. Strategic planning**

Review and advise:

- of the adequacy and effectiveness of Council's integrated, planning and reporting (IP&R) processes
- If appropriate reporting and monitoring mechanisms are in place to measure progress against objectives, and
- Whether Council is successfully implementing and achieving its IP&R objectives and strategies.

### **10. Service reviews and business improvement**

Review and advise:

- If Council has robust systems to set objectives and goals to determine and deliver appropriate levels of service to the community and business performance
- If appropriate reporting and monitoring mechanisms are in place to measure service delivery to the community and overall performance, and
- How Council can improve its service delivery and Council's performance of its business and functions generally

### **11. Performance data and measurement**

Review and advise:

- If Council has a robust system to determine appropriate performance indicators to measure the achievement of its strategic objectives
- If the performance indicators Council uses are effective, and
- Of the adequacy of performance data collection and reporting.



## Internal Audit Charter

**CONTROLLED DOCUMENT INFORMATION:**

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website <a href="http://www.portstephens.nsw.gov.au">www.portstephens.nsw.gov.au</a>			
EDRMS container No	PSC2015-01492	EDRMS record No	#
Audience	ARIC, internal audit function and internal auditors		
Process owner	Governance Section Manager		
Author	ARIC Chairperson		
Review timeframe	Annually by the ARIC Every Council term	Next review date	#
Adoption date	By the ARIC 22 February 2024 and Council #		

**VERSION HISTORY:**

Version	Date	Author	Details
1.0	#	ARIC Chairperson	New internal audit charter developed in accordance with the Risk Management and Internal Audit for Local Government in NSW Guidelines.

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

Councillor Peter Francis left the meeting at 6:05pm.

### ITEM NO. 7

FILE NO: 23/281846  
EDRMS NO: PSC2021-04206

### REQUESTS FOR FINANCIAL ASSISTANCE

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

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#### RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral and Ward funds to the following:-
    - a) Raymond Terrace Senior Citizens Association – Cr Giacomo Arnott – Rapid response - \$500 donation towards Seniors Week Open Day activities.
- 

### ORDINARY COUNCIL MEETING - 26 MARCH 2024 MOTION

049	<p><b>Councillor Giacomo Arnott</b> <b>Councillor Jason Wells</b></p> <p>It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Ward funds to the Raymond Terrace Senior Citizens Association – Cr Giacomo Arnott – Rapid response - \$500 donation towards Seniors Week Open Day activities.</p>
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Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Kafer, Ryan Palmer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

### BACKGROUND

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by the Mayor and or Councillors as deserving of public funding. The Grants and Donations Policy gives the Mayor and Councillors a wide discretion either to grant or to refuse any requests.

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

Council's Grants and Donations Policy provides the community, the Mayor and Councillors with a number of options when seeking financial assistance from Council. Those options being:

- 1) Mayoral Funds
- 2) Rapid Response
- 3) Community Financial Assistance Grants – (bi-annually)
- 4) Community Capacity Building

Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the Local Government Act 1993. This would mean that the financial assistance would need to be included in the Operational Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

The requests for financial assistance are shown below:

### WARD FUNDS

Raymond Terrace Senior Citizens Association	The Raymond Terrace Senior Citizens Association is a group of seniors who meet regularly for a wide range of activities.	\$500	Donation towards Seniors Week Open Day activities.
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### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Provide the Community Financial Assistance Program

### FINANCIAL/RESOURCE IMPLICATIONS

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

To qualify for assistance under Section 356(1) of the Local Government Act 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function, which it, the Council, would otherwise undertake.
- b) the funding will directly benefit the community of Port Stephens.
- c) applicants do not act for private gain.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those funds will always be available.	Low	Adopt the recommendations.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the General Manager's Office.

Consultation has been undertaken with the key stakeholders to ensure budget requirements are met and approved.

**OPTIONS**

- 1) Accept the recommendations.
- 2) Vary the dollar amount before granting each or any request.
- 3) Decline to fund the request.

**ATTACHMENTS**

Nil.

**COUNCILLORS' ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

Councillor Peter Francis returned to the meeting at 6:06pm.

**ITEM NO. 8**

**FILE NO: 24/59188**  
**EDRMS NO: 89-2024-1-1**

### **TEMPORARY SUSPENSION OF PART OF THE NELSON BAY ALCOHOL FREE ZONE**

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

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#### **RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve the amended footprint for the temporary suspension of part of the Nelson Bay Alcohol Free Zone (AFZ) (**ATTACHMENT 1**) during the Sail Port Stephens Street Party event on 17 April 2024 from 5pm until 11pm in accordance with section 645 of the Local Government Act 1993 (NSW) (LG Act).
- 2) Should the event be unable to proceed on the 17 April 2024, approve the temporary suspension of part of the Nelson Bay Alcohol Free Zone (**ATTACHMENT 1**) during the Sail Port Stephens Street Party on Thursday 18 April and Friday 26 April 2024 from 5pm until 11pm, as alternative dates, in accordance with section 645 of the Local Government Act 1993.
- 3) Publicly notify the temporary suspension of the Nelson Bay Alcohol Free Zone by publishing a notice in the Port Stephens Examiner, the Port Stephens News of the Area, on Council website and via direct communications to local businesses prior to the event for the purposes of satisfying section 645(1) of the LG Act.
- 4) Implement the requirements for signage in accordance with the Ministerial Guidelines Alcohol Free Zones 2009.

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#### **ORDINARY COUNCIL MEETING - 26 MARCH 2024** **MOTION**

<b>050</b>	<b>Councillor Leah Anderson</b> <b>Councillor Matthew Bailey</b>  It was resolved that Council: <ol style="list-style-type: none"><li>1) Approve the amended footprint for the temporary suspension of part of the Nelson Bay Alcohol Free Zone (AFZ) (<b>ATTACHMENT 1</b>) during the Sail Port Stephens Street Party event on 17 April 2024 from 5pm until 11pm in accordance with section 645 of the Local Government Act 1993 (NSW) (LG Act).</li></ol>
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## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

	<p>2) Should the event be unable to proceed on the 17 April 2024, approve the temporary suspension of part of the Nelson Bay Alcohol Free Zone (<b>ATTACHMENT 1</b>) during the Sail Port Stephens Street Party on Thursday 18 April and Friday 26 April 2024 from 5pm until 11pm, as alternative dates, in accordance with section 645 of the Local Government Act 1993.</p> <p>3) Publicly notify the temporary suspension of the Nelson Bay Alcohol Free Zone by publishing a notice in the Port Stephens Examiner, the Port Stephens News of the Area, on Council website and via direct communications to local businesses prior to the event for the purposes of satisfying section 645(1) of the LG Act.</p> <p>4) Implement the requirements for signage in accordance with the Ministerial Guidelines Alcohol Free Zones 2009.</p>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

### BACKGROUND

The purpose of this report is to seek Council endorsement to further extend the suspension of the Alcohol Free Zone (AFZ) footprint beyond that previously endorsed by Council at the 27 February 2024 Council meeting (**ATTACHMENT 2**).

The temporary suspension of the AFZ is to facilitate the Sail Port Stephens Street Party to be held at Magnus Street between Yacaaba Street and Stockton Street and part of Stockton between Victoria Parade and Donald Street in Nelson Bay on Wednesday 17 April 2024 from 5pm until 11pm for the event. If wet weather prevents the event from proceeding on this date, it is proposed to suspend part of the Nelson Bay AFZ on Thursday 18 April from 5pm until 11pm or Friday 26 April 2024 from 5pm until 11pm. (**ATTACHMENT 1**).

At the time of the previous report to Council, officers had engaged with a number of local businesses in the area in relation to the event. Since this initial engagement, businesses have made further enquiries seeking to support the event as well as request an expansion of the event footprint.

This report seeks to support the requests of local businesses in order to provide positive benefits to the local economy and foster a collaborative approach to events hosted in Port Stephens.



## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

Under the Local Government Act 1993 (NSW) (LG Act), Council may resolve to temporarily suspend an AFZ to, among other purposes, accommodate short term community events.

The LG Act includes a requirement to give public notice in a manner that is likely to bring the notice to the attention of members of the public in the area as a whole or in a part of the area that includes the AFZ concerned.

Other process requirements for suspending an AFZ are outlined in the Ministerial Guidelines Alcohol Free Zones 2009 (the Guidelines), including specific requirements for signage as detailed below.

Note the proposed suspension will not impact the term of the current Nelson Bay AFZs (4 years).

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Deliver an annual program for Council to provide development services to enhance public safety, health and liveability

### FINANCIAL/RESOURCE IMPLICATIONS

As the event organiser, Port Stephens Council will be responsible for the costs associated with meeting the public notice requirements and the amendments required to signage during the event.

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 existing AFZ restricts alcohol in the declared area 24 hours, 7 days a week (**ATTACHMENT 1**). Council has the power to suspend the AFZ under section 645 of the LG Act for any reason, however, the Guidelines specify that a suspension would not usually be appropriate for any period longer than 1 month and, generally, would be of a much shorter duration (eg to accommodate a specific event). The suspension

## MINUTES ORDINARY COUNCIL - 26 MARCH 2024

is proposed between 5pm and 11pm on 17 April 2024 to facilitate an outdoor community event.

The LG Act includes a requirement to give public notice in a manner that is likely to bring the notice to the attention of members of the public in the area as a whole or in a part of the area that includes the AFZ concerned. Council will provide public notice for the suspension of the Nelson Bay AFZ's by publishing a notice in the Port Stephens Examiner, the Port Stephens News of the Area, on Council website and via direct communications to local businesses.

The Guidelines require the existing alcohol restriction signage within the affected Nelson Bay AFZ event areas to be amended for the temporary suspended period and reinstated following the event.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that visitors to Nelson Bay will drink within the existing AFZ area that has not been suspended.	Medium	This event will be assessed and managed in line with all relevant policies and processes. NSW Police have indicated their support for the temporary suspension of alcohol in the Nelson Bay AFZ for the event and will resource the area and surrounds as required. The event will also have security and RSA in place to stop alcohol leaving the event footprint.	Yes
There is a risk that broken glass and litter could accumulate and be left behind from the event.	Medium	This event will be assessed and managed in line with all relevant policies and processes. Relevant sections in Council have been notified of the event. Council will have event staff, cleaners and waste management in place. Alternative to glassware will be investigated to use on road.	Yes

## **SUSTAINABILITY IMPLICATIONS**

This event is part of 2024 Sail Port Stephens, one of the largest events on the annual Port Stephens event calendar.

The Sail Port Stephens Street Party has been designed to create an opportunity to expand the event from private venues to the CBD of Nelson Bay. This will help expand the economic benefits of this event, promote local business and attract more residents to participate in the event.

The Sail Port Stephens Street Party will be managed by Council staff in partnership with the Sail Port Stephens event organisers, Business Port Stephens and local businesses.

Appropriate waste management will address any potential environmental impacts that could result.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Vibrant Places Unit.

### Internal

Relevant sections within Council have been notified and discussed the requirements arising from a temporary suspension of the AFZ and the potential impacts, including impacts related to waste management.

### External

Consultation has been undertaken with the Port Stephens Hunter Police District to plan the proposed event and manage the various legal and social requirements including resourcing, alcohol licensing conditions and the proposed temporary suspension of the AFZ.

NSW Police support the temporary suspension of the AFZ. Additional security/RSA staff will be sourced to ensure the event is adequately resourced.

Council staff will also be working closely with Business Port Stephens and local business owners to deliver this event.

## **OPTIONS**

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

**ATTACHMENTS**

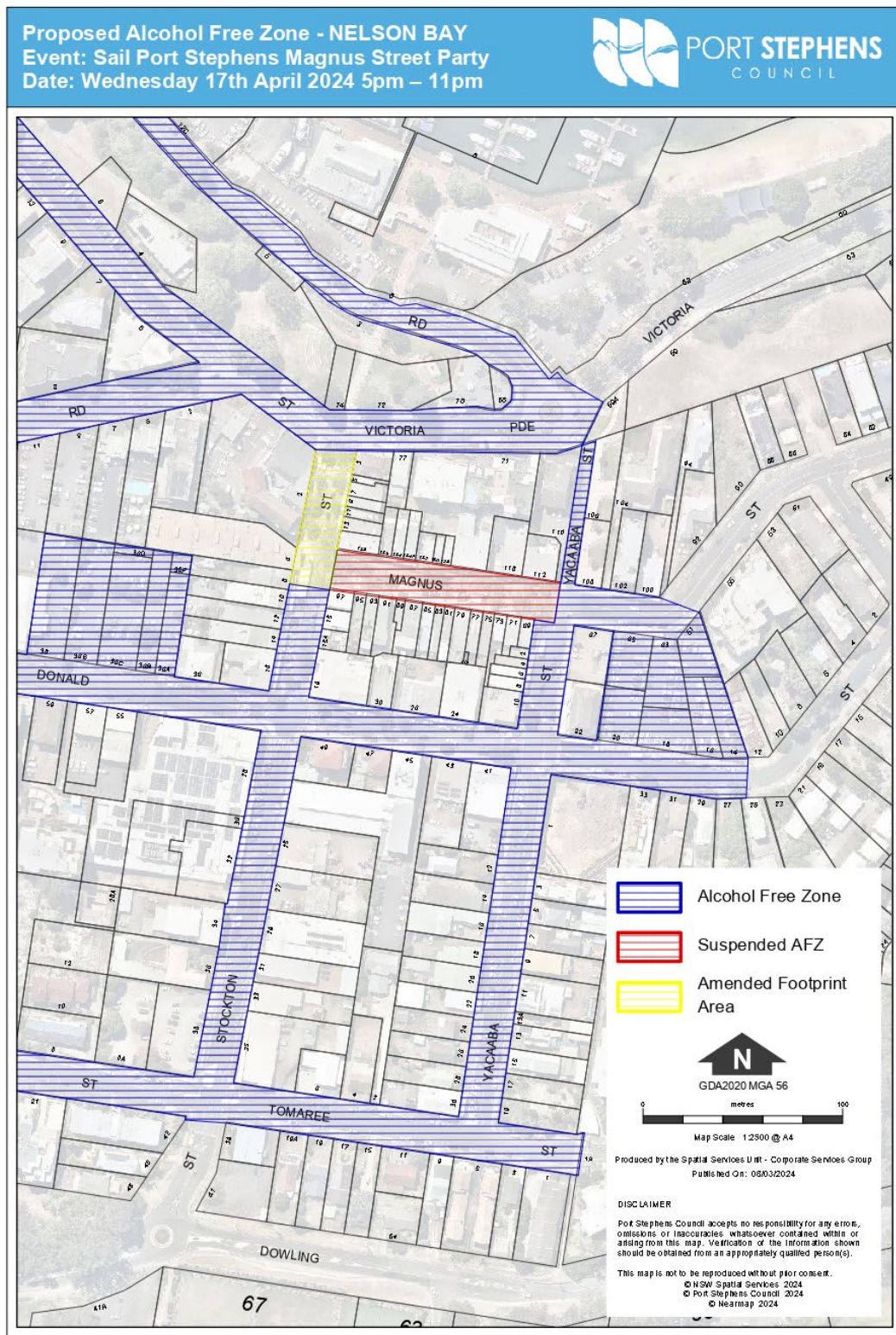
- 1) Nelson Bay Alcohol Free Zone.
- 2) Minute No. 16 - Ordinary Council Meeting - 27 February 2024.

**COUNCILLORS' ROOM/DASHBOARD**

Nil.

**TABLED DOCUMENTS**

Nil



**ITEM 8 - ATTACHMENT 2      MINUTE NO. 16 - ORDINARY COUNCIL MEETING - 27 FEBRUARY 2024.****MINUTES ORDINARY COUNCIL - 27 FEBRUARY 2024****ITEM NO. 5****FILE NO: 24/29477  
EDRMS NO: 89-2024-1-1****TEMPORARY SUSPENSION OF PART OF THE NELSON BAY ALCOHOL FREE ZONE**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve the temporary suspension of part of the Nelson Bay Alcohol Free Zone (AFZ) (**ATTACHMENT 1**) during the Sail Port Stephens Street Party event on 17 April 2024 from 5pm until 11pm in accordance with section 645 of the Local Government Act 1993 (NSW) (LG Act).
- 2) Should the event be unable to proceed on the 17 April 2024, approve the temporary suspension of part of the Nelson Bay Alcohol Free Zone (**ATTACHMENT 1**) during the Sail Port Stephens Street Party on Thursday 18 April and Friday 26 April 2024 from 5pm until 11pm, as alternative dates, in accordance with section 645 of the Local Government Act 1993.
- 3) Publicly notify the temporary suspension of the Nelson Bay Alcohol Free Zone by publishing a notice in the Port Stephens Examiner, the Port Stephens News of the Area, on Council website and via direct communications to local businesses prior to the event for the purposes of satisfying section 645(1) of the LG Act.
- 4) Implement the requirements for signage in accordance with the Ministerial Guidelines Alcohol Free Zones 2009.

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

<b>016</b>	<b>Councillor Leah Anderson Councillor Glen Dunkley</b>  It was resolved that Council: <ol style="list-style-type: none"><li>1) Approve the temporary suspension of part of the Nelson Bay Alcohol Free Zone (AFZ) (<b>ATTACHMENT 1</b>) during the Sail Port Stephens Street Party event on 17 April 2024 from 5pm until 11pm in accordance with section 645 of the Local Government Act 1993 (NSW) (LG Act).</li><li>2) Should the event be unable to proceed on the 17 April 2024, approve the temporary suspension of part of the Nelson Bay Alcohol Free Zone (<b>ATTACHMENT 1</b>) during the Sail Port Stephens Street Party on</li></ol>
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**ITEM 8 - ATTACHMENT 2      MINUTE NO. 16 - ORDINARY COUNCIL MEETING - 27 FEBRUARY 2024.****MINUTES ORDINARY COUNCIL - 27 FEBRUARY 2024**

	Thursday 18 April and Friday 26 April 2024 from 5pm until 11pm, as alternative dates, in accordance with section 645 of the Local Government Act 1993.
	3) Publicly notify the temporary suspension of the Nelson Bay Alcohol Free Zone by publishing a notice in the Port Stephens Examiner, the Port Stephens News of the Area, on Council website and via direct communications to local businesses prior to the event for the purposes of satisfying section 645(1) of the LG Act.
	4) Implement the requirements for signage in accordance with the Ministerial Guidelines Alcohol Free Zones 2009.

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

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to seek Council endorsement to temporarily suspend part of the Nelson Bay Alcohol Free Zone (AFZ) to facilitate the Sail Port Stephens Street Party.

It is proposed to temporarily suspend the AFZ at Magnus Street between Yacaaba Street and Stockton Street in Nelson Bay on Wednesday 17 April 2024 from 5pm until 11pm for the event. If wet weather prevents the event from proceeding on this date, it is proposed to suspend part of the Nelson Bay AFZ on Thursday 18 April from 5pm until 11pm or Friday 26 April 2024 from 5pm until 11pm. **(ATTACHMENT 1)**.

Under the Local Government Act 1993 (NSW) (LG Act), Council may resolve to temporarily suspend an AFZ to, among other purposes, accommodate short term community events.

The LG Act includes a requirement to give public notice in a manner that is likely to bring the notice to the attention of members of the public in the area as a whole or in a part of the area that includes the AFZ concerned.

Other process requirements for suspending an AFZ are outlined in the Ministerial Guidelines Alcohol Free Zones 2009 (the Guidelines), including specific requirements for signage as detailed below.

Note the proposed suspension will not impact the term of the current Nelson Bay AFZs (4 years).



**ITEM 8 - ATTACHMENT 2 MINUTE NO. 16 - ORDINARY COUNCIL MEETING - 27 FEBRUARY 2024.****MINUTES ORDINARY COUNCIL - 27 FEBRUARY 2024****COMMUNITY STRATEGIC PLAN**

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Deliver an annual program for Council to provide development services to enhance public safety, health and liveability

**FINANCIAL/RESOURCE IMPLICATIONS**

As the event organiser, Port Stephens Council will be responsible for the costs associated with meeting the public notice requirements and the amendments required to signage during the event.

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 existing AFZ restricts alcohol in the declared area 24 hours, 7 days a week (**ATTACHMENT 1**). Council has the power to suspend the AFZ under section 645 of the LG Act for any reason, however the Guidelines specify that a suspension would not usually be appropriate for any period longer than 1 month, and generally would be of a much shorter duration (e.g. to accommodate a specific event). The suspension is proposed between 5pm and 11pm on 17 April 2024 to facilitate an outdoor community event.

The LG Act includes a requirement to give public notice in a manner that is likely to bring the notice to the attention of members of the public in the area as a whole or in a part of the area that includes the AFZ concerned. Council will provide public notice for the suspension of the Nelson Bay AFZ's by publishing a notice in the Port Stephens Examiner, the Port Stephens News of the Area, on Council website and via direct communications to local businesses.

The Guidelines require the existing alcohol restriction signage within the affected Nelson Bay AFZ event areas to be amended for the temporary suspended period and reinstated following the event.

**ITEM 8 - ATTACHMENT 2      MINUTE NO. 16 - ORDINARY COUNCIL MEETING - 27 FEBRUARY 2024.****MINUTES ORDINARY COUNCIL - 27 FEBRUARY 2024**

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that visitors to Nelson Bay will drink within the existing AFZ area that has not been suspended.	Medium	This event will be assessed and managed in line with all relevant policies and processes. NSW Police have indicated their support for the temporary suspension of alcohol in the Nelson Bay AFZ for the event and will resource the area and surrounds as required. The event will also have security and RSA in place to stop alcohol leaving the event footprint.	Yes
There is a risk that broken glass and litter could accumulate and be left behind from the event.	Medium	This event will be assessed and managed in line with all relevant policies and processes. Relevant sections in Council have been notified of the event. Council will have event staff, cleaners and waste management in place. Alternative to glassware will be investigated to use on road.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

This event is part of 2024 Sail Port Stephens, one of the largest events on the annual Port Stephens event calendar.

The Sail Port Stephens Street Party has been designed to create an opportunity to expand the event from private venues to the CBD of Nelson Bay. This will help expand the economic benefits of this event, promote local business and attract more residents to participate in the event.

The Sail Port Stephens Street Party will be managed by Council staff in partnership with the Sail Port Stephens event organisers, Business Port Stephens and local businesses.

**ITEM 8 - ATTACHMENT 2      MINUTE NO. 16 - ORDINARY COUNCIL MEETING -  
27 FEBRUARY 2024.****MINUTES ORDINARY COUNCIL - 27 FEBRUARY 2024**

Appropriate waste management will address any potential environmental impacts that could result.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Vibrant Places Unit.

Internal

Relevant sections within Council have been notified and discussed the requirements arising from a temporary suspension of the AFZ and the potential impacts, including impacts related to waste management.

External

Consultation has been undertaken with the Port Stephens Hunter Police District to plan the proposed event and manage the various legal and social requirements including resourcing, alcohol licensing conditions and the proposed temporary suspension of the AFZ.

NSW Police support the temporary suspension of the AFZ. Additional security/RSA staff will be sourced to ensure the event is adequately resourced.

Council staff will also be working closely with Business Port Stephens and local business owners to deliver this event.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Proposed temporary suspension of AFZ for Sail Port Stephens - Magnus Street Party.

**COUNCILLORS' ROOM**

Nil.

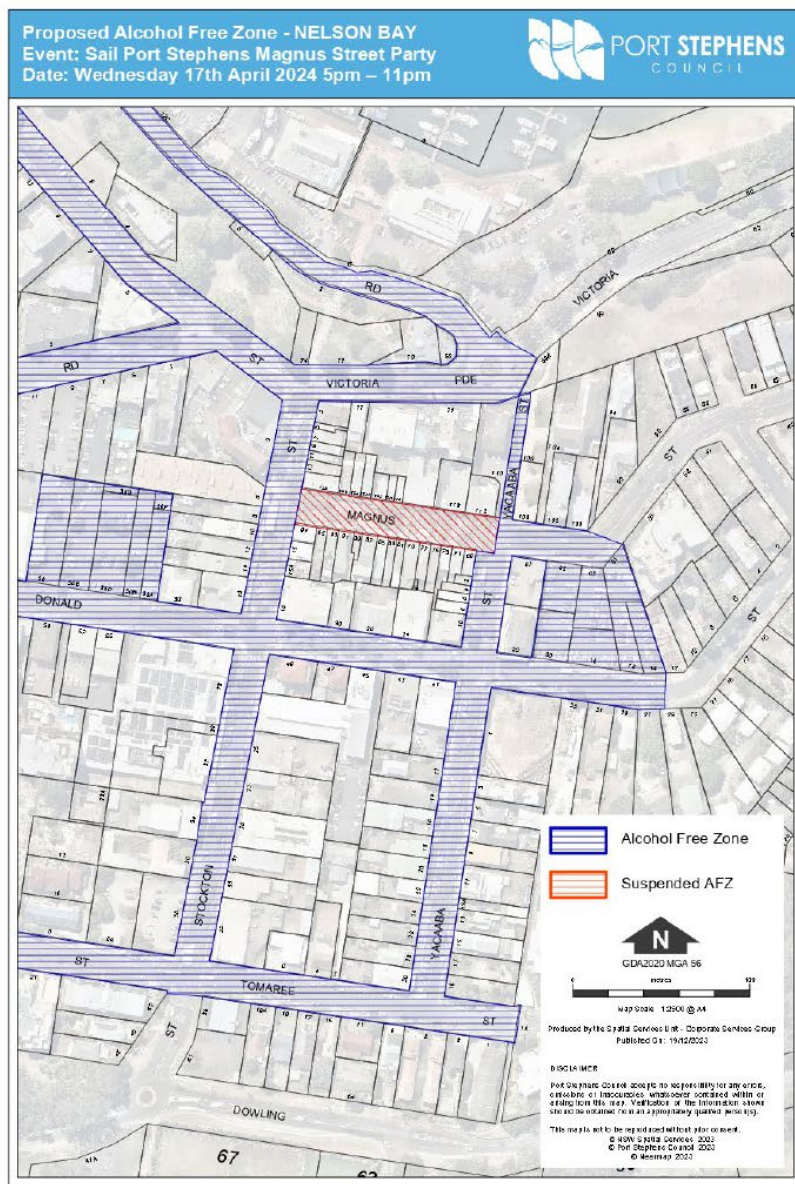
**TABLED DOCUMENTS**

Nil.

ITEM 8 - ATTACHMENT 2 MINUTE NO. 16 - ORDINARY COUNCIL MEETING - 27 FEBRUARY 2024.

MINUTES ORDINARY COUNCIL - 27 FEBRUARY 2024

ITEM 5 - ATTACHMENT 1 PROPOSED TEMPORARY SUSPENSION OF AFZ FOR SAIL PORT STEPHENS - MAGNUS STREET PARTY.



**ITEM NO. 9****FILE NO: 24/66276  
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 26 March 2024.

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	Cash Investment Portfolio - February 2024	192
2	Designated Persons Return	202
3	Delegations Report	203
4	Council Resolutions	205

**ORDINARY COUNCIL MEETING - 26 MARCH 2024  
MOTION**

<b>051</b>	<b>Councillor Chris Doohan Councillor Glen Dunkley</b>  It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 26 March 2024.  <table><tr><th><b>No:</b></th><th><b>Report Title</b></th></tr><tr><td>1</td><td>Cash Investment Portfolio - February 2024</td></tr><tr><td>2</td><td>Designated Persons Return</td></tr><tr><td>3</td><td>Delegations Report</td></tr><tr><td>4</td><td>Council Resolutions</td></tr></table>	<b>No:</b>	<b>Report Title</b>	1	Cash Investment Portfolio - February 2024	2	Designated Persons Return	3	Delegations Report	4	Council Resolutions
<b>No:</b>	<b>Report Title</b>										
1	Cash Investment Portfolio - February 2024										
2	Designated Persons Return										
3	Delegations Report										
4	Council Resolutions										

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

Those against the Motion: Nil.

The motion was carried.

# INFORMATION PAPERS

**ITEM NO. 1**

**FILE NO: 23/342426**  
**EDRMS NO: PSC2017-00180**

## **CASH INVESTMENT PORTFOLIO - FEBRUARY 2024**

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

### **BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 29 February 2024.

Council's total portfolio of investments was \$81 million with an additional \$4 million held in Council's operational account as at 29 February 2024.

The investment portfolio is currently yielding 4.76% per annum on a rolling 1- year performance, which was 0.65% above the benchmark with investment income on target to meet or exceed budget.

The investment portfolio meets the benchmarks for institution exposure and maturity limits but is outside of the benchmark in relation to rating exposure. As at 29 February 2024, Council held 1% more cash with non-rated institutions than the benchmark allows for, which is due to the overall portfolio holdings decreasing from the normal consumption of cash during the month. No further investments will be placed with non-rated institutions until the benchmark is reached.

The restricted cash position of Council has improved on last month due to the receipt of third quarter rates which will be consumed over the quarter and will continue to be monitored.

### **ATTACHMENTS**

- 1) Cash Investment Portfolio - February 2024.

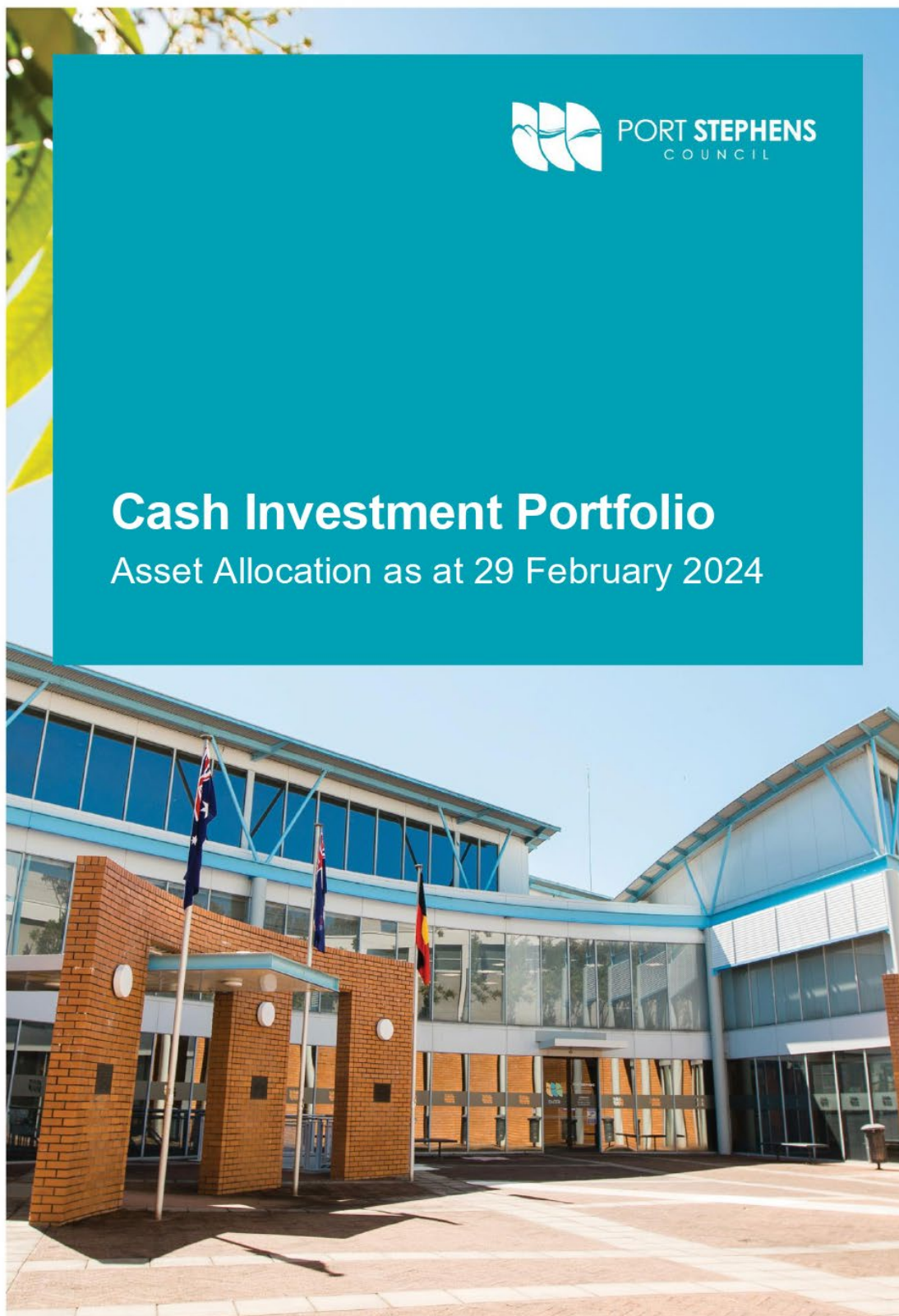
### **COUNCILLORS' ROOM**

Nil.

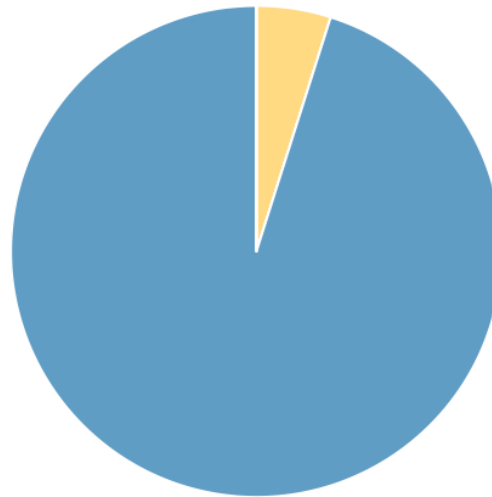
### **TABLED DOCUMENTS**

Nil.





## Cash Investment Portfolio Holdings



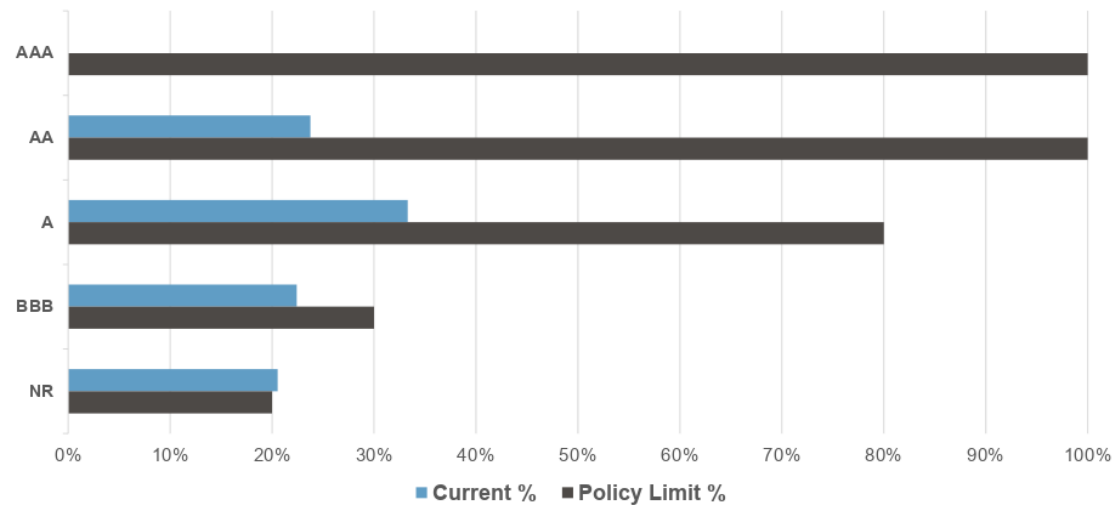
■ At Call ■ Cash ■ At Notice ■ TD ■ Managed Fund

Product Type	Market Value (\$)	Compliance
At Call	-	
Cash	4,182,573	✓
At Notice	-	
TD	81,319,088	✓
Managed Fund	-	
	<b>85,501,661</b>	

✓ = compliant  
 ✗ = non-compliant

## Rating Exposure

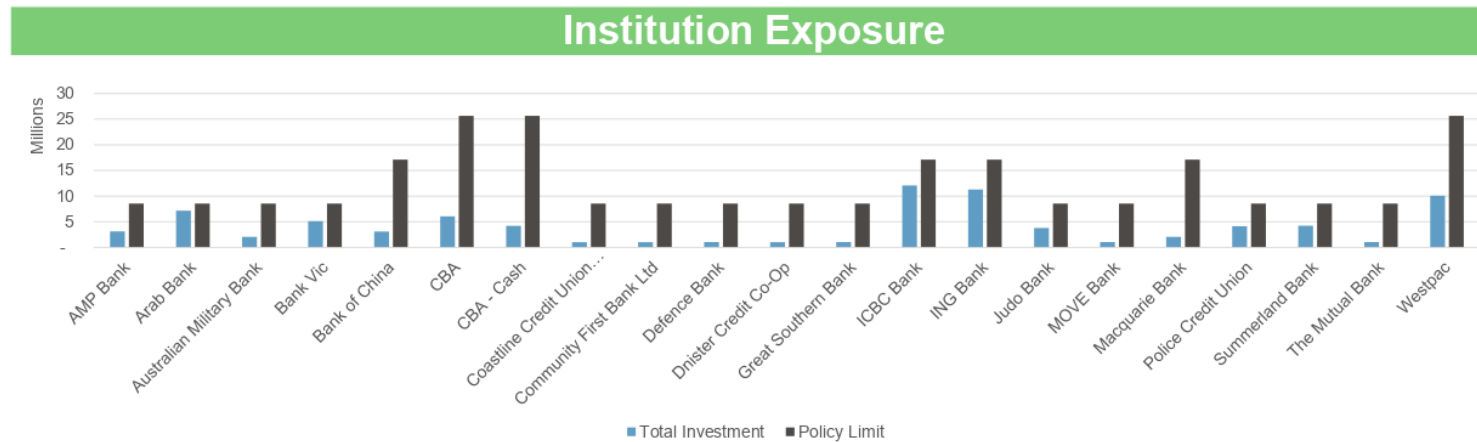
### Total Credit Exposure



Credit Rating Group	Market Value (\$)	Current %	Policy Limit %	Compliance
AAA	-	0%	100%	✓
AA	20,303,783	24%	100%	✓
A	28,470,724	33%	80%	✓
BBB	19,159,065	22%	30%	✓
NR	17,568,088	21%	20%	✗
	<b>85,501,661</b>	<b>100%</b>		

✓ = compliant

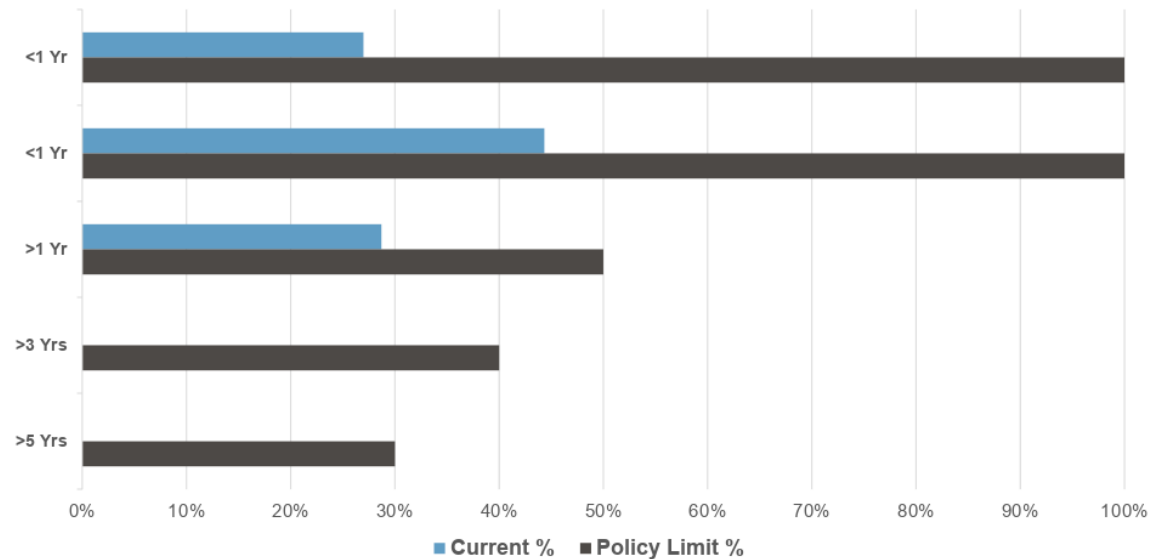
✗ = non-compliant

**ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - FEBRUARY 2024.**


Institution	Rating	Total Investment	Exposure	Policy Limit	Remaining to Limit	Compliance
AMP Bank	BBB	3,113,904	4%	10%	5,436,262	✓
Arab Bank	NR	7,164,310	8%	10%	1,385,856	✓
Australian Military Bank	BBB	2,052,117	2%	10%	6,498,049	✓
Bank Vic	BBB	5,113,758	6%	10%	3,436,409	✓
Bank of China	A	3,076,169	4%	20%	14,024,163	✓
CBA	AA	6,048,719	7%	30%	19,601,779	✓
CBA - Cash	AA	4,182,573	5%	30%	21,467,925	✓
Coastline Credit Union Limited	BBB	1,000,000	1%	10%	7,550,166	✓
Community First Bank Ltd	BBB	1,000,000	1%	10%	7,550,166	✓
Defence Bank	BBB	1,040,685	1%	10%	7,509,481	✓
Dnister Credit Co-Op	NR	1,013,685	1%	10%	7,536,481	✓
Great Southern Bank	BBB	1,026,034	1%	10%	7,524,132	✓
ICBC Bank	A	12,077,096	14%	20%	5,023,236	✓
ING Bank	A	11,273,964	13%	20%	5,826,369	✓
Judo Bank	BBB	3,773,477	4%	10%	4,776,689	✓
MOVE Bank	NR	1,039,366	1%	10%	7,510,800	✓
Macquarie Bank	A	2,043,496	2%	20%	15,056,836	✓
Police Credit Union	NR	4,125,844	5%	10%	4,424,322	✓
Summerland Bank	NR	4,224,884	5%	10%	4,325,283	✓
The Mutual Bank	BBB	1,039,090	1%	10%	7,511,076	✓
Westpac	AA	10,072,491	12%	30%	15,578,008	✓
Total		85,501,661				

✓ = compliant  
 ✗ = non-compliant

### Term to Maturity Limits



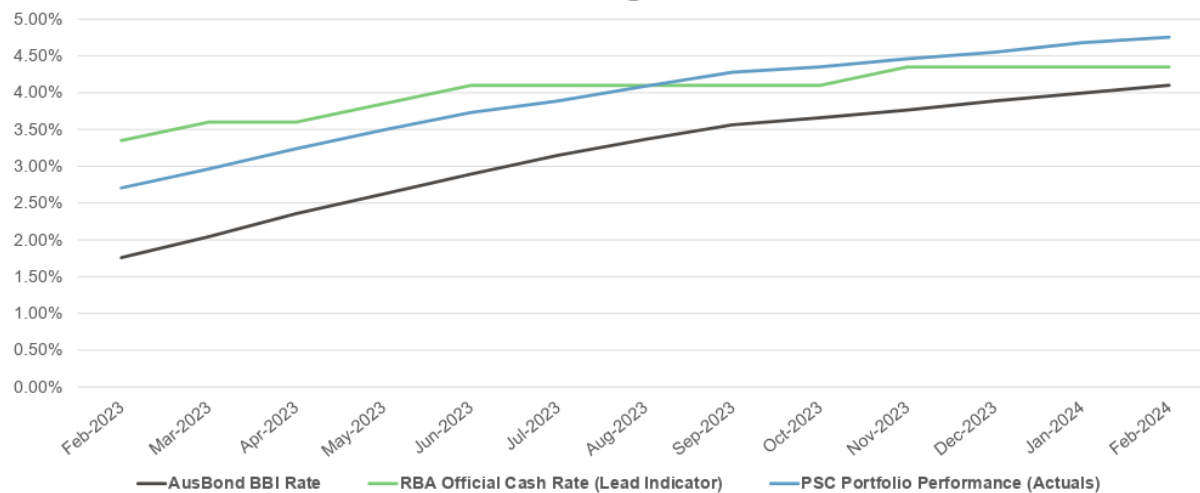
Detailed Maturity Profile	Market Value (\$)	Current %	Policy Limit %	Compliance
Less than or equal 90 Days	23,060,630	27%	100%	✓
Between 90 Days and 365 Days	37,906,493	44%	100%	✓
Between 366 Days and 3 Years	24,534,538	29%	50%	✓
Between 3 Years and 5 Years	-	0%	40%	✓
Greater than 5 Years	-	0%	30%	✓
	<b>85,501,661</b>	<b>100%</b>		

✓ = compliant

✗ = non-compliant

## Portfolio Performance

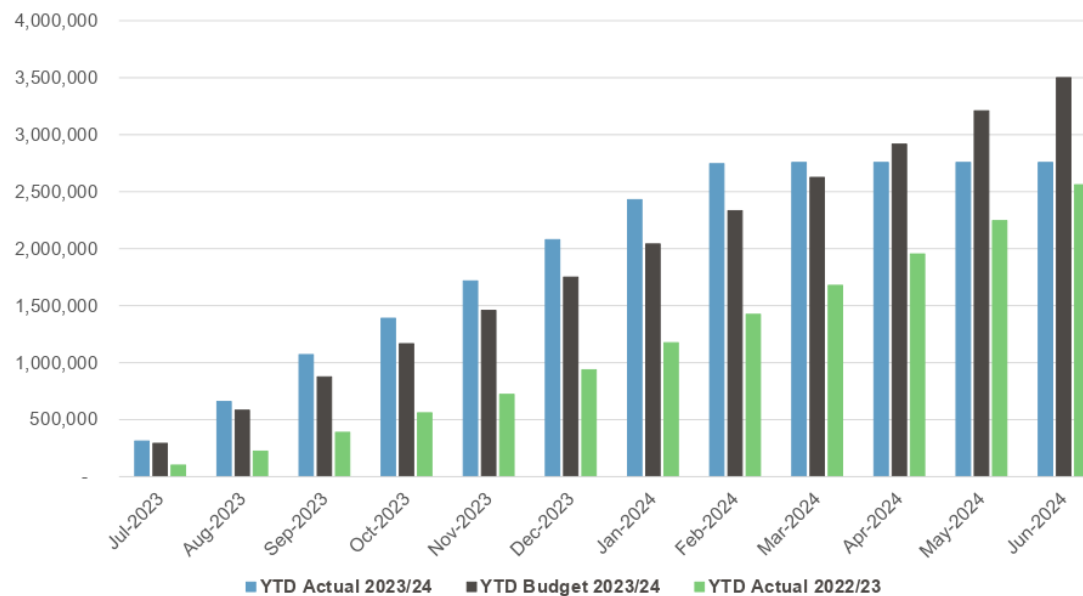
### One Year Rolling Performance



Performance	1 month actual	3 months actual	6 months actual	FYTD actual	1 year % p.a. (Rolling)
Bloomberg AusBond BBI (Benchmark)	0.34%	1.09%	2.12%	2.88%	4.10%
PSC Investment Portfolio	0.40%	1.26%	2.49%	3.30%	4.76%
Outperformance/(underperformance)	0.05%	0.17%	0.36%	0.42%	0.65%

## Income Earned vs Budget

Monthly Investment Income - Actual to Budget





## ITEM 1 - ATTACHMENT 1 CASH INVESTMENT PORTFOLIO - FEBRUARY 2024.

## Investment Register

Institution	Market Value	Days Held	Interest Rate	Date Invested	Maturity Date	Rating
CBA - Cash	4,182,573	1		29/02/2024	1/03/2024	AA
ICBC Bank	12,077,096	61	4.69%	10/01/2024	11/03/2024	A
Westpac	1,010,603	557	4.30%	1/09/2022	11/03/2024	AA
Westpac	1,005,585	542	4.53%	14/10/2022	8/04/2024	AA
Judo Bank	848,700	732	3.35%	22/04/2022	23/04/2024	BBB
Summerland Bank	1,058,351	523	4.60%	23/11/2022	29/04/2024	NR
Judo Bank	848,700	746	3.35%	22/04/2022	7/05/2024	BBB
Macquarie Bank	1,021,506	627	4.41%	1/09/2022	20/05/2024	A
CBA	1,007,516	475	4.65%	7/02/2023	27/05/2024	AA
ING Bank	1,037,910	377	5.05%	31/05/2023	11/06/2024	A
Macquarie Bank	1,021,990	649	4.41%	1/09/2022	11/06/2024	A
ING Bank	1,037,910	383	5.05%	31/05/2023	17/06/2024	A
The Mutual Bank	1,039,090	362	5.80%	28/06/2023	24/06/2024	BBB
ING Bank	1,037,447	384	5.10%	6/06/2023	24/06/2024	A
Westpac	1,000,715	685	4.35%	23/08/2022	8/07/2024	AA
ING Bank	1,037,127	376	5.67%	5/07/2023	15/07/2024	A
Westpac	1,000,715	692	4.35%	23/08/2022	15/07/2024	AA
Australian Military Bank	1,022,663	704	4.40%	25/08/2022	29/07/2024	BBB
Police Credit Union	1,002,063	538	5.02%	14/02/2023	5/08/2024	NR
Westpac	1,001,098	538	5.01%	21/02/2023	12/08/2024	AA
Defence Bank	1,040,685	479	4.95%	5/05/2023	26/08/2024	BBB
CBA	1,008,826	396	5.46%	3/08/2023	2/09/2024	AA
Bank Vic	1,048,275	544	5.02%	15/03/2023	9/09/2024	BBB
Police Credit Union	1,041,260	500	5.02%	5/05/2023	16/09/2024	NR
Police Credit Union	1,041,260	507	5.02%	5/05/2023	23/09/2024	NR
CBA	1,008,761	424	5.42%	3/08/2023	30/09/2024	AA
ING Bank	1,008,206	655	4.68%	23/12/2022	8/10/2024	A
Great Southern Bank	1,026,034	409	5.25%	1/09/2023	14/10/2024	BBB
ING Bank	1,008,443	661	4.70%	23/12/2022	14/10/2024	A
CBA	1,008,341	416	5.16%	1/09/2023	21/10/2024	AA
Westpac	1,003,222	732	4.90%	3/11/2022	4/11/2024	AA
Summerland Bank	1,058,985	719	4.65%	23/11/2022	11/11/2024	NR
Summerland Bank	1,058,985	726	4.65%	23/11/2022	18/11/2024	NR
ING Bank	1,010,726	724	4.50%	2/12/2022	25/11/2024	A
ING Bank	1,011,096	738	4.50%	2/12/2022	9/12/2024	A
CBA	1,007,613	731	4.71%	20/12/2022	20/12/2024	AA
Police Credit Union	1,041,260	612	5.02%	5/05/2023	6/01/2025	NR
ING Bank	1,036,565	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	1,038,753	579	5.75%	28/06/2023	27/01/2025	BBB
Westpac	1,011,597	602	4.98%	6/06/2023	28/01/2025	AA
Arab Bank	1,039,293	593	5.83%	28/06/2023	10/02/2025	NR
CBA	1,007,662	733	4.74%	8/02/2023	10/02/2025	AA
Bank Vic	1,025,439	535	5.13%	1/09/2023	17/02/2025	BBB
Arab Bank	1,025,588	542	5.16%	1/09/2023	24/02/2025	NR
Arab Bank	1,039,293	607	5.83%	28/06/2023	24/02/2025	NR
Bank of China	1,025,390	556	5.12%	1/09/2023	10/03/2025	A
Summerland Bank	1,048,563	726	5.05%	15/03/2023	10/03/2025	NR
Arab Bank	1,025,588	563	5.16%	1/09/2023	17/03/2025	NR
Westpac	1,023,290	550	5.28%	21/09/2023	24/03/2025	AA
ING Bank	1,018,767	515	5.48%	27/10/2023	25/03/2025	A
Westpac	1,004,068	515	5.50%	2/11/2023	31/03/2025	AA
AMP Bank	1,043,151	732	5.00%	20/04/2023	21/04/2025	BBB
AMP Bank	1,040,548	727	5.00%	9/05/2023	5/05/2025	BBB
MOVE Bank	1,039,366	731	5.15%	26/05/2023	26/05/2025	NR
Arab Bank	1,013,913	559	5.52%	29/11/2023	10/06/2025	NR
Judo Bank	1,037,323	733	5.70%	5/07/2023	7/07/2025	BBB
AMP Bank	1,030,205	725	5.25%	3/08/2023	28/07/2025	BBB
Australian Military Bank	1,029,454	726	5.27%	9/08/2023	4/08/2025	BBB
ING Bank	1,029,767	734	5.30%	8/08/2023	11/08/2025	A
Bank of China	1,025,390	717	5.12%	1/09/2023	18/08/2025	A
Bank of China	1,025,390	724	5.12%	1/09/2023	25/08/2025	A
Drister Credit Co-Op	1,013,685	647	5.55%	1/12/2023	8/09/2025	NR
Arab Bank	1,013,759	661	5.58%	1/12/2023	22/09/2025	NR
Community First Bank Ltd	1,000,000	586	5.03%	29/02/2024	7/10/2025	BBB
Bank Vic	1,013,315	696	5.40%	1/12/2023	27/10/2025	BBB
Bank Vic	1,013,364	703	5.42%	1/12/2023	3/11/2025	BBB
Bank Vic	1,013,364	717	5.42%	1/12/2023	17/11/2025	BBB
Coastline Credit Union Limited	1,000,000	655	5.05%	29/02/2024	15/12/2025	BBB
Arab Bank	1,006,877	733	5.02%	10/01/2024	12/01/2026	NR
Total	85,501,661					

## Restricted Cash

Reserve	As at February 2024 \$'000
<b>External</b>	
Deposits, retentions and bonds	964
Grants and Contributions	8,207
Developer contributions (inc Haulage)	21,768
Domestic Waste Management	9,025
Crown Reserve	8,226
<b>Internal</b>	
Asset Rehab/Reseals	2,003
Drainage	1,441
Commercial Property	17,385
Election Reserve	492
Employee Leave Entitlements (ELE)	1,000
Fleet	1,502
Resilience fund	3,000
Grants Co-contribution	545
Emergency & Natural Disaster	3,594
Other Waste	75
Council Parking	766
IT	2,199
Sustainable energy and water reserve	57
Repealed	1,974
Transport levy	40
Admin Building	599
Ward Funds	58
Community Halls	78
Community Loans	200
<b>Total</b>	<b>85,198</b>
<b>Cash and Investment Report</b>	<b>85,502</b>
<b>Variance Cash Reserves to Bank Account</b>	<b>304</b>
Variance Due to:	
Outstanding State Roads payments	451
Loans not funded through a reserve	187
Outstanding GST refund	555
<b>Total Variance</b>	<b>1,193</b>
<b>Unrestricted Cash/(Shortfall)</b>	<b>1,497</b>
(due to timing of income and expenditure)	

**ITEM NO. 2**

**FILE NO: 24/52859  
EDRMS NO: PSC2022-01241**

**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 the 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:

- Development and Compliance Section Manager PSC624.
- Cadet Building Surveyor PSC1170.
- Compliance Team Leader PSC1175.

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) Designated Persons' Return.

**ITEM NO. 3**

**FILE NO: 24/27689  
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.

**MAYOR AND GENERAL MANAGER DELEGATION REPORT**

<b>Date exercised</b>	<b>Delegations exercised</b>	<b>Purpose</b>	<b>Role exercising delegation</b>	<b>Reported to Council</b>
11/03/2024	Code of Meeting Practice	Approval of Public Access application - Youth activities.	Mayor	26/03/2024

**ITEM NO. 4**

**FILE NO: 24/56242  
EDRMS NO: PSC2017-00106**

**COUNCIL RESOLUTIONS**

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

**BACKGROUND**

The purpose of this report is to inform the Mayor and Councillors of the status of all matters to be dealt with arising out of the proceedings of previous meetings of the Council in accordance with the Code of Meeting Practice.

The General Manager's Office has no outstanding resolutions.

**ATTACHMENTS**

- 1) Community Futures resolutions.
- 2) Corporate Strategy and Support resolutions.
- 3) Facilities and Infrastructure resolutions.

**COUNCILLORS' ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



<b>Division:</b>	Community Futures	<b>Date From:</b>	10/10/2023
<b>Committee:</b>		<b>Date To:</b>	27/02/2024
<b>Officer:</b>		<b>Printed:</b>	Wednesday, 13 March 2024
<b>Action Sheets Report</b>			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/10/2023	Lamont, Brock	Planning Proposal for 39, 39A and 41 Brocklesby Road, Medowie (Precinct F)	31/05/2024	11/10/2023	
1		Peart, Steven				23/262411
<b>13 Mar 2024</b>						
Government agency consultation has been finalised and the public exhibition period commenced on Monday 11 March 2024 and will finish on Wednesday 10 April 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 10/10/2023	Lamont, Brock	URGENCY MOTION: Wind Farm Industry	30/06/2024		
		Peart, Steven				
<b>13 Mar 2024</b>						
The General Manager has written to the requested delegates as outlined within the motion. A Councillor briefing with DCCEEW was undertaken on 20 February 2024. Council's delegation met with the Minister on 19 March 2024. Council is working to complete all outstanding actions as endorsed.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	Administrative Amendment to the Port Stephens Local Environmental Plan 2013	31/05/2024	29/11/2023	
3		Peart, Steven				23/324875
<b>13 Mar 2024</b>						
Items 4, 6, 7 and 8 of the planning proposal to amend the Port Stephens Local Environmental Plan 2023 have been forwarded to the NSW DPHI for a Gateway determination and request authority to make the plan. Council is working to find a suitable time to meet with Councillors for further discussions in regard to items 1, 2, 3 and 5.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	RAMSAR Listing for Mambo Wanda Wetlands	28/06/2024	29/11/2023	
4		Peart, Steven				23/324875
<b>13 Mar 2024</b>						
The General Manager has written to the Federal and State Minister for Environment outlining the resolution of Council. A Councillor briefing will be scheduled once a response from both Ministers has been received.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/02/2024	Lamont, Brock	Draft Port Stephens Development Control Plan 2014 - Chapter D12 Richardson Road	1/12/2024	28/02/2024	
2		Peart, Steven				24/50158
<b>13 Mar 2024</b>						
Council resolved to defer Draft DCP - Chapter D12 Richardson Road for a Two Way conversation with the Mayor and Councillors to discuss the original motion and subsequent amendment. Council is reviewing work plans to integrate preparation and to sought a Two way to facilitate further discussions.						

## ITEM 4 - ATTACHMENT 1 COMMUNITY FUTURES RESOLUTIONS.



<b>Action Sheets Report</b>	<b>Division:</b>	Community Futures	<b>Date From:</b>	10/10/2023
	<b>Committee:</b>		<b>Date To:</b>	27/02/2024
	<b>Officer:</b>		<b>Printed:</b>	Wednesday, 13 March 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/02/2024	Lamont, Brock	Draft Port Stephens Development Control Plan - Road Network and Parking (Electric Vehicles)	1/12/2024	28/02/2024	
3 014		Pearl, Steven				24/50158
<b>13 Mar 2024</b>						
Council resolved to endorse the Port Stephens Development Control Plan 2014 Chapter B8 Road Network and Parking (electric vehicles) and provide public notice. Council is reviewing work plans to integrate outstanding actions and further report preparation.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/03/2024	Gardner, Janelle	Policy Review: Public Art Policy	26/03/2024	13/03/2024	
8 032		Pearl, Steven				24/63800
<b>13 Mar 2024</b>						
Council endorsed to place the Revised Public Art Policy on exhibition for a period of 28 days from Thursday 14 March 2024 to Wednesday 10 April 2024. Should no submissions be received, the policy will be adopted without a further report to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/03/2024	Grobbelaar, Evert	Notification from Developers Prior to Clearing of Major Vegetation	25/06/2024	13/03/2024	
1 037		Pearl, Steven				24/63800
<b>13 Mar 2024</b>						
A report for a future Council meeting will be prepared outlining options to require developers to notify Council prior to the commencement of clearing of major vegetation.						



**ITEM 4 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.**


<b>Division:</b>	Corporate Strategy and Support	<b>Date From:</b>	27/08/2013
<b>Committee:</b>		<b>Date To:</b>	12/03/2024
<b>Officer:</b>			
<b>Action Sheets Report</b>		<b>Printed:</b>	Wednesday, 13 March 2024

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 243	27/08/2013	Pattison, Zoe	Campvale Drain	30/06/2024		
		Pattison, Zoe				
<b>13 Mar 2024</b>						
Awaiting final execution of easement documentation for 2 properties. All other properties (with exception of these 2) have been finalised.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 1	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Property Investment and Development Policy	30/06/2024	12/10/2022	
		Pattison, Zoe				22/273002
<b>13 Mar 2024</b>						
Public Exhibition deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 2	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	30/06/2024	12/10/2022	
		Pattison, Zoe				22/273002
<b>13 Mar 2024</b>						
Report deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 5 088	Ordinary Council 11/04/2023	Pattison, Zoe	22 Homestead Street, Salamander Bay	31/12/2024	12/04/2023	
		Pattison, Zoe				23/92450
<b>13 Mar 2024</b>						
Council is investigating options for the rezoning of 22 Homestead Street, Salamander Bay, and the development of a Vegetation Management Plan, to provide the best opportunity to enable a successful long-term rehabilitation of the site.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 1 193	Ordinary Council 22/08/2023	Pattison, Zoe	Raymond Terrace Gateway Site Masterplan	30/07/2024		
		Pattison, Zoe				23/214729
<b>13 Mar 2024</b>						
Following a two way conversation with Councillors in November 2023, the options presented will be included in the context of the broader Raymond Terrace town centre improvements.						

**ITEM 4 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.**



<b>Action Sheets Report</b>	<b>Division:</b>	Corporate Strategy and Support	<b>Date From:</b>	27/08/2013
	<b>Committee:</b>		<b>Date To:</b>	12/03/2024
	<b>Officer:</b>		<b>Printed: Wednesday, 13 March 2024</b>	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Pattison, Zoe	Sale of closed roads in Raymond Terrace	30/06/2024	29/11/2023	
1		Pattison, Zoe				23/324875
<b>13 Mar 2024</b>						
Recommendation endorsed to close roads 1 and 2. Council staff to undertake an EOI for road 3 and provide a report back to Council for consideration of whether to continue with the road closure.						

## ITEM 4 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE RESOLUTIONS.



<b>Division:</b>	Facilities and Infrastructure	<b>Date From:</b>	11/04/2023
<b>Committee:</b>		<b>Date To:</b>	12/03/2024
<b>Officer:</b>		<b>Printed:</b>	Wednesday, 13 March 2024
<b>Action Sheets Report</b>			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Maretich, John	Naming Recreation Precinct at Medowie after Geoff Dingle	30/06/2024	12/04/2023	
2085		Kable, Gregory				23/92450
<b>13 Mar 2024</b>						
Once the reserve has been subdivided as per the Medowie Place Plan, an application will be submitted to the Geographical Naming Board to name the recreation precinct after Geoff Dingle.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/02/2024	Kable, Gregory	Council Chambers	31/05/2024	14/02/2024	
1008		Kable, Gregory				24/37059
<b>13 Mar 2024</b>						
Council staff have investigated design options to report back to Councillors in a Two Way meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/02/2024	Gutsche, Tammy	Waste	31/05/2024	14/02/2024	
2009		Kable, Gregory				24/37059
<b>13 Mar 2024</b>						
Council staff will continue to work with the Waste Contractor and will provide an update after the Easter Public Holiday period and April school holidays.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/02/2024	Maretich, John	Raymond Terrace 7 Day Makeover	23/07/2024		
10020		Kable, Gregory				24/50158
<b>13 Mar 2024</b>						
The scope of works is being developed with Council Staff and Councillors.						

# CONFIDENTIAL ITEMS

In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

## ORDINARY COUNCIL MEETING – 26 MARCH 2024 MOTION

<b>052</b>	<b>Councillor Chris Doohan</b> <b>Councillor Matthew Bailey</b>  It was resolved that Council move into confidential session.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**ITEM NO. 1****FILE NO: 24/15376  
EDRMS NO: PSC2019-05959****ACQUISITION FROM HUNTER WATER CORPORATION - NEWLINE ROAD,  
RAYMOND TERRACE****REPORT OF: ZOE PATTISON - DIRECTOR CORPORATE STRATEGY AND  
SUPPORT****DIRECTORATE: CORPORATE STRATEGY AND SUPPORT****ORDINARY COUNCIL MEETING - 26 MARCH 2024  
MOTION**

<b>053</b>	<b>Councillor Peter Kafer Councillor Peter Francis</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Authorise the compulsory acquisition of part of Lot 1 DP 850337 and part of Lot 1 DP 780626 for the purpose of road widening in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.</li><li>2) Authorise the making of an application to the Minister and the Governor for approval to acquire part of Lot 1 DP 850337 and part of Lot 1 DP 780626 by compulsory process under section 186(1) of the Local Government Act 1993.</li><li>3) Authorise the General Manager to sign all documents required to effect the acquisition on behalf of Council as its authorised representative.</li></ol>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

<b>014</b>	<b>Councillor Matthew Bailey</b> <b>Councillor Jason Wells</b>  It was resolved that Council move out of confidential session.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

There being no further business the meeting closed at 6:09pm.