

NOTICE OF ORDINARY MEETING

25 FEBRUARY 2025



The Mayor and Councillors attendance is respectfully requested:

Mayor: L Anderson (Chair).

Councillors: R Armstrong, G Arnott, C Doohan, N Errington, P Francis, P Le Mottee, B Niland, M Watson, J Wells.

SCHEDULE OF MEETINGS

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

Please Note:

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

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

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

Food and beverages are not permitted in the Council Chamber.

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INFORMATION PAPERS 209

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RAYMOND TERRACE

BUSINESS

- 1) Opening meeting.
- 2) Acknowledgement of Country
We acknowledge the Worimi people as the original Custodians and inhabitants of Port Stephens. We acknowledge and pay respects to Worimi elders past and present. May we walk the road to tomorrow with mutual respect and admiration as we care for the beautiful land and waterways together.
- 3) Prayer
Almighty God, we ask for your blessing as we meet together on behalf of our community. So that today and into the future, you would direct and favour our deliberations to advance the welfare, safety and prosperity of our region. Amen
- 4) Apologies and applications for a leave of absence from Mayor and Councillors.
- 5) Disclosures of interests.
- 6) Confirmation of minutes.
- 7) Mayoral minute(s).*
- 8) Motions to close meeting to the public.*
- 9) Reports to Council.
- 10) General Manager reports.*
- 11) Questions with Notice.*
- 12) Questions on Notice.
- 13) Notices of motions.*
- 14) Rescission Motions.*
- 15) Confidential matters.*
- 16) Conclusion of the meeting.

**if submitted*

Statement of Ethical Obligations

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

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

PRINCIPLES FOR LOCAL GOVERNMENT

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

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

Guiding principles for Council

1) Exercise of functions generally

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

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

2) Decision-making

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

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

3) Community participation

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

Principles of sound financial management

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

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

Integrated planning and reporting principles that apply to Council

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

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

PORT STEPHENS COMMUNITY STRATEGIC PLAN

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

The Community Strategic Plan is organised into 4 focus areas:

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

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

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

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

BUSINESS EXCELLENCE

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

These outcomes align with the following Business Excellence principles:

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

MEETING PROCEDURES SUMMARY

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

Quorum – A quorum at Port Stephens Council is 6.

Declarations of Interest

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

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

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

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

Motions and Amendments

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

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

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

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

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

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

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

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

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

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

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

A Point of Order can be raised where:

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

Declarations of Conflict of Interest – Definitions

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

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

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

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



Form of Special Disclosure of Pecuniary Interest

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

Important information

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

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

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

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

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

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

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

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

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

to be held on the _____ day of _____ 20__

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

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

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

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

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

Mayor/Councillor's signature _____

Date _____

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



Declaration of Interest form

Agenda item No. _____

Report title _____

Mayor/Councillor _____ declared a

Tick the relevant response:

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

in this item. The nature of the interest is _____

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

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

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

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

Mayor/Councillor left the Council meeting at _____ pm.

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

MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: 25/30551
EDRMS NO: PSC2014-03977

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **Proposed Sale of St Philip's Christian College Car Park**.
 - 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
 - 3) That the report remain confidential and the minute be released in accordance with Council's resolution.
-

ITEM NO. 2

FILE NO: 25/30554
EDRMS NO: PSC2022-01787

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) and (d)ii of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary agenda namely **Purchase of Property**.
 - 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,
 - and
 - information that would, if disclosed, confer a commercial advantage on a competitor of the council.
 - 3) That the report remain confidential and the minute be released in accordance with Council's resolution.
-

ITEM NO. 3

FILE NO: 25/30572
EDRMS NO: PSC2022-02801

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (d)i of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 3 on the Ordinary agenda namely **Sale of Closed Road at Coonanbarra Street, 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.
-

COUNCIL REPORTS

ITEM NO. 1

FILE NO: 24/342275
EDRMS NO: PSC2014-01768

REVISED COMMUNICATION AND ENGAGEMENT STRATEGY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Communication and Engagement Strategy 2024-2028 **(ATTACHMENT 1)**.
- 2) Place the revised Communication and Engagement Strategy, as amended on public exhibition for a period of 28 days and should no submissions be received, the strategy be adopted, without a further report to Council.
- 3) Revoke the Communication and Engagement Strategy 2022-2027 **(ATTACHMENT 2)** should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council endorsement to place the revised Communication and Engagement Strategy 2024-2028 (the strategy) on public exhibition for a period of 28 days **(ATTACHMENT 1)**.

Under the Integrated Planning & Reporting (IP&R) requirements, Council is required to commence a review of the current Community Engagement Strategy within 3 months of the Local Government election. This ensures the strategy aligns with the 4 year term of Council and the IP&R cycle.

The current Communication and Engagement Strategy 2022-2027 **(ATTACHMENT 2)** was adopted on 13 December 2022. The development of this strategy included detailed engagement with over 2,300 community members over a three phase period between 2021 and 2022:

- Phase 1: Communication and engagement data gathering
- Phase 2: Communication and engagement deep-dive including community focus group
- Phase 3: Public Exhibition with the broader community and refinement of the strategy following feedback received.

For full details of the previous engagement conducted refer to the Community Engagement Report 2022 **(ATTACHMENT 3)**.

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A review of the strategy was completed via Councils Communication and Engagement Advisory Group (CEAG). The CEAG includes 9 community members along with the Mayor and 5 Councillors.

Recommendations from the CEAG include:

- Increased focus on reaching and engaging with a diverse range of demographics to target communication more effectively
- The use of digital marketing to enhance awareness of Council projects and services
- Update targets to better reflect current social media trends.

This feedback has been included in the draft document (**ATTACHMENT 1**).

Included in the Strategy is the Community Participation Plan (CPP). The CPP is a requirement under the Environmental Planning and Assessment Act 1979 (EP&A Act). The CPP outlines the minimum requirements for public exhibition periods for plan making and development applications and acts as a guide to how residents can participate in local planning decisions. There were minimal changes recommended for the CPP.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Communication and engagement	Deliver the 4-year program for the Communication and Engagement Strategy

FINANCIAL/RESOURCE IMPLICATIONS

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

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

LEGAL, POLICY AND RISK IMPLICATIONS

A Community Engagement Strategy is required under the Integration Planning & Reporting (IP&R) requirements. Council is required to commence a review its current Community Engagement Strategy within 3 months of the local government elections.

Adopting the recommendations will help ensure compliance with the Local Government Act 1993 relating to community engagement strategies and the Environment and Planning Assessment Act 1979 - Division 2.6 relating to the Community Participation Plan.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council does not meet legislative requirements under the IP&R requirements relating to community engagement strategies.	Low	Adopt the recommendations.	Yes
There is a risk that Council may be in breach of the Environment and Planning Assessment Act 1979 if it does not have an endorsed Community Participation Plan.	Low	Adopt the recommendations.	Yes
There is a risk that Council may be exposed to reputation damage if Council does not have a clear and comprehensive approach to communications and community engagement that aligns with Local Government Act 1993 requirements.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendations demonstrates Council's greater understanding that engagement and communications are directly linked to the liveability and wellbeing of our community. By enabling our community to participate in the decision making process, and be informed about the services, projects and initiatives Council delivers, Council can improve the way people feel about living and working in Port Stephens. Adopting the recommendations ensures that Council will continue to follow best practice when engaging and communicating with the community about the services and activities of Council.

There are no significant economic or environmental implications resulting from the adoption of the recommendations.

COMMUNICATION AND ENGAGEMENT

Council's Communication and Engagement Strategy uses the IAP2 Framework to identify the level of engagement undertaken. An explanation for each level is shown below.

INFORM	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives, opportunities and/or solutions.
CONSULT	To obtain public feedback on analysis, alternatives and/or decisions.
INVOLVE	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.
COLLABORATE	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.
EMPOWER	To place final decision-making and/or developed budgets in the hands of the public.

The following communication and engagement applies to this report.

External communications and engagement

INVOLVE	<ul style="list-style-type: none">• Since the CEAG commenced in August 2023, ongoing feedback around communications and engagement programs has been provided by panel members. These recommendations have been incorporated into the revised strategy.• In December 2024, the CEAG met to review the current strategy. The recommendations from this meeting have been included in the revised strategy.
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Internal communications and engagement

Internal feedback has been gathered from across the organisation over the past year. This included improving key objectives to focus on reaching and engaging with a diverse range of demographics to target communication more effectively, using digital marketing to enhance awareness of Council projects and services and updating targets to better reflect current social media trends.

Internal feedback was also sought from the Development and Compliance Section to inform the proposed changes to the Community Participation Plan (CPP).

OPTIONS

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

ATTACHMENTS

- 1) Draft Port Stephens Communication and Engagement Strategy 2024 to 2028.
(Provided under separate cover)
- 2) Port Stephens Communication and Engagement Strategy 2022 to 2027.
(Provided under separate cover)
- 3) Port Stephens Communications and Engagement Strategy Engagement Report.
(Provided under separate cover)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 2

FILE NO: 24/314135
EDRMS NO: PSC2017-00180

QUARTERLY BUDGET REVIEW TO 31 DECEMBER 2024

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the amended budget (**ATTACHMENT 1**) presented as the Quarterly Budget Review to 31 December 2024.

BACKGROUND

The purpose of this report is to provide an update to Council on the 2024 – 2025 budget. The Quarterly Budget Review to 31 December 2024 (**ATTACHMENT 1**) sets out the details of any variations between Council's current budget and the proposed budget.

Operating Budget

The Quarterly Budget Review to 31 December 2024 has shown an increase in revenue by \$6.362 million, which is largely due to new grant funding secured.

Operating expenditure increased by \$746,000 which is largely due to increased activity for Children Services.

Further information of the changes to the budget are outlined in the Operating Statement Variations as shown in (**ATTACHMENT 1**).

Capital Budget

The capital budget increased by \$6.728 million largely due to grant funded transport infrastructure.

Further information of the changes to the budget are outlined in the Capital Statement Variations as shown in (**ATTACHMENT 1**).

Performance Indicators

All performance indicators are above the benchmark with the exception of cash restrictions. There is inadequate cash to cover all internal cash reserves due to insufficient unrestricted revenue. All external cash restrictions are adequately covered. Council continues to monitor the situation.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Manage implementation of the Long Term Financial Plan 2024 to 2034.

FINANCIAL/RESOURCE IMPLICATIONS

Council's anticipated underlying result increased by \$14,000 to \$1.093 million. The movement from the original underlying result will be shown each quarter.

	Surplus (\$) 000	Deficit (\$) 000
Budget 2024 - 2025	844	
September 2024 review	1,079	
December 2024 review	1,093	
March 2025 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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that income and expenditure deviate from the budget which could impact on Council's ability to deliver its Operational Plan in a financially sustainable manner.	High	Periodic review and forecasting of the actual performance against the budget is undertaken regularly to ensure that approved expenditure levels and projected revenue streams remain sustainable.	

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council's budget is fundamental for operational sustainability and the provision of facilities and services to the community.

COMMUNICATION AND ENGAGEMENT

Council's Communication and Engagement Strategy uses the IAP2 Framework to identify the level of engagement undertaken. An explanation for each level is shown below.

INFORM	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives, opportunities and/or solutions.
CONSULT	To obtain public feedback on analysis, alternatives and/or decisions.
INVOLVE	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.
COLLABORATE	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.
EMPOWER	To place final decision-making and/or developed budgets in the hands of the public.

The following communication and engagement applies to this report.

External communications and engagement

INFORM	The revised budget changes do not necessitate external communication or engagement.
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Internal communications and engagement

Consultation with key stakeholders has been undertaken by the Financial Services Section to discuss the overall financial result for the quarter.

- Executive Team.

OPTIONS

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

ATTACHMENTS

1) Quarterly Budget Review Statement. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.



ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW STATEMENT.

**Report by Responsible Accounting Officer for the Quarter ending
31 December 2024**

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2021.

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter ended 31 December 2024 indicates that Council's projected financial position at 30 June 2025 will be satisfactory at year-end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Signed:



Glen Peterkin
Financial Services Section Manager
Port Stephens Council

Date: 10/01/2025

ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW STATEMENT.

Operating Statement

Result for the financial quarter ending 31 December 2024

	Original Budget 2024-2025 \$'000	Revotes and Rollovers \$'000	September Review \$'000	December Review \$'000	March Review \$'000	Revised Budget \$'000	Actuals YTD \$'000
Income from Continuing Operations							
Rates and annual charges	82,377	-	-	-	-	82,377	40,734
User charges and fees	62,594	-	169	615	-	63,378	27,776
Interest & Investment Revenue	2,649	-	360	-	-	3,009	1,821
Other Income	2,904	-	(239)	18	-	2,683	1,729
Grants & contributions for operating purposes	13,407	-	2,452	127	-	15,986	6,582
Capital Grants and Contributions	44,058	11,220	3,611	5,602	-	64,491	27,728
Other revenues	5,196	-	169	-	-	5,365	2,853
Fair value gains	903	-	-	-	-	903	-
Net gains from the disposal of assets	250	-	-	-	-	250	-
Total Income from continuing operations	214,337	11,220	6,521	6,362	-	238,441	109,224
Expenses from continuing operations							
Employee benefits and on-costs	59,332	-	94	763	-	60,189	30,796
Borrowing Costs	3,421	-	47	-	-	3,468	1,710
Materials & services	70,777	-	2,985	(16)	-	73,746	34,160
Other Expenses	8,209	31	(12)	-	-	8,228	3,941
Depreciation and amortisation	21,792	-	-	-	-	21,792	8,514
Total expense from continuing operations	163,532	31	3,114	746	-	167,423	79,121
Operating Surplus/(Deficit) after capital grants	50,805	11,189	3,408	5,616	-	71,018	30,103
Operating Surplus/(Deficit) before capital grants	6,747	(31)	(203)	14	-	6,527	2,374
Less: Non-Cash Items	(3,653)	-	-	-	-	(3,653)	(1,409)
Less: Local Election Allocation	500	-	-	-	-	500	418
Less: Enhanced Services	(1,400)	-	-	-	-	(1,400)	(700)
Add: Digital Transformation	-	-	469	-	-	469	-
Less: Newcastle Airport	(1,350)	-	-	-	-	(1,350)	(675)
Add: NAP Dividend	-	-	-	-	-	-	-
Underlying Operating Surplus/(Deficit)*	844	(31)	266	14	-	1,093	8

*Underlying result refers to performance measures that do not include abnormal, non-recurring events or transactions that are restricted for a capital purpose, providing a better representation of underlying financial performance without the impact of any unusual or extraordinary items.

ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW STATEMENT.

Operating Statement Variations

Result for the financial quarter ending 31 December 2024

Income from Continuing Operations		Recommended Change \$'000	Explanation
Rates and annual charges	-		
User charges and fees	615		Forecasted revenue from commercial operators and children services has increase
Interest & Investment Revenue	-		
Other Income	18		Additional rental income
Grants & contributions for operating purposes	127		Increase in grant funding for childcare services
Capital Grants and Contributions	5,602		Council has been successful in receiving grant funds for a number of roads projects including Clarendetown Road, School Zone Infrastructure projects, Italia Road, and Port Stephens Drive.
Other revenues	-		
Fair value gains	-		
Net gains/(loss) from the disposal of assets	-		
Total recommended income change	6,362		
Expenses from continuing operations			
Employee benefits and on-costs	763		Majority of the change relates to increase patronage in children services resulting in increased labour expenses
Borrowing Costs	-		
Materials & services	(16)		Reclassification of contractor costs to employee costs
Other Expenses	-		
Depreciation and amortisation	-		
Total recommended expense change	746		

ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW STATEMENT.

Capital Statement

Result for the financial quarter ending 31 December 2024

	Original Budget 2024-2025 \$'000	Revotes and Rollovers \$'000	September Review \$'000	December Review \$'000	March Review \$'000	Revised Budget \$'000	Actuals YTD \$'000
Capital Funding (2)							
Grants and Contributions - Operating	1,081	-	250	-	-	1,331	158
Grants and Contributions - Capital	14,779	11,220	3,611	5,602	-	35,212	5,694
External Reserves	5,130	6,443	7,880	87	-	19,541	39,944
Internal Reserves	11,326	8,365	145	1,040	-	20,876	31,509
General fund contribution to capital	-	-	-	-	-	-	-
Funding available for capital expenditure	32,315	26,028	11,887	6,728	-	76,959	77,305
Capital Expenditure (2)							
New Assets							
Aquatic Structures	-	-	-	-	-	-	-
Buildings	-	-	-	-	-	-	-
Commercial Assets	-	-	-	-	-	-	-
Corporate Assets	-	-	-	-	-	-	-
Drainage	-	-	-	-	-	-	-
Open Space	-	-	-	-	-	-	-
Transport Infrastructure	-	6,051	3,820	150	-	10,021	2,485
Waste Assets	-	-	-	-	-	-	-
Asset Renewals (Replacement) and Upgrades (1)							
Aquatic Structures	50	447	466	42	-	1,005	34
Buildings	833	2,806	218	-	-	3,857	946
Commercial Assets	4,000	1,798	-	100	-	5,898	81
Corporate Assets	3,449	2,124	-	540	-	6,114	4,402
Drainage	1,370	1,507	89	-	-	2,966	214
Open Space	1,765	1,693	5,561	(12)	-	9,006	549
Transport Infrastructure	11,979	9,319	4,442	5,879	-	31,619	6,991
Waste Assets	-	285	270	30	-	585	(0)
Total Capital Expenditure	23,446	26,028	14,867	6,728	-	71,070	15,704
Transfer to/(from) reserves (3)	8,869	-	(2,980)	-	-	5,889	61,601

(1) Renewals are defined as the replacement of existing assets (as opposed to the acquisition of new assets)

(2) Excludes Newcastle Airport and related entities

(3) Transfer to reserves are funds set aside for future use

ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW STATEMENT.

Capital Statement Variations

Result for the financial quarter ending 31 December 2024

Capital Expenditure New Assets	Recommended Change \$'000	Explanation
Aquatic Structures	-	
Buildings	-	
Commercial Assets	-	
Corporate Assets	-	
Drainage	-	
Open Space	-	
Transport Infrastructure	150	New signage for Smart Parking infrastructure
Waste Assets	-	

Asset Renewals (Replacement) and Upgrades

Aquatic Structures	42	Additional allocation of recovery funding to Longworth Seawall
Buildings	-	
Commercial Assets	100	Upgrades to Commercial Investment Properties
Corporate Assets	540	Replacement of fleet items
Drainage	-	
Open Space	(12)	Adjustment to the allocation of recovery funding
Transport Infrastructure	5,879	Blackspot funding for Clarencetown Road and Port Stephens Drive, Towards Zero funding for Italia Rd, Duns Creek and Fingal Bay High pedestrian activity area
Waste Assets	30	Replacement of fleet items

ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW STATEMENT.

Cash Reserve Balances

This statement sets out the budgeted reserve balances and funding source changes.

Reserve	Opening Balance \$'000	Transfers In \$'000	Original Budget \$'000	Revotes and Rollovers \$'000	September Review \$'000	December Review \$'000	March Review \$'000	Closing Balance \$'000	Actuals YTD \$'000
External Restriction (1)									
Bonds and Retentions	1,204	-	-	-	-	-	-	1,204	1,455
Domestic Waste	6,450	1,166	(200)	(285)	(320)	(30)	-	6,781	6,346
Crown Reserves	5,127	2,997	(3,000)	(2,299)	(168)	(27)	-	2,630	24,578
Developer Contributions	22,610	8,718	(1,757)	(2,231)	(7,680)	-	-	19,659	10,489
Unexpended Grants Reserve	8,858	23,507	(10,144)	(12,849)	(3,741)	(5,631)	-	0	3,368
Total External Restriction	44,249	36,388	(15,101)	(17,664)	(11,909)	(5,688)	-	30,275	46,236
Internal Restriction (2)									
Administration Building Reserve	172	457	(250)	(237)	-	-	-	142	349
Asset Rehabilitation Reserve	1,624	4,969	(3,600)	(2,420)	(111)	-	-	462	3,405
Commercial Properties Reserve	3,305	2,545	(1,000)	(1,480)	(34)	(100)	-	3,236	4,472
Community Loans	200	-	-	-	-	-	-	200	200
Community Halls	79	26	-	-	-	(76)	-	29	121
Drainage Reserve	1,072	2,051	(1,350)	(1,112)	-	-	-	661	1,832
Election Reserve	500	(500)	-	-	-	-	-	-	572
Employee Leave Entitlements (ELE)	1,000	-	-	-	-	-	-	1,000	1,000
Enhanced Services Reserve	-	1,421	(1,421)	-	-	-	-	(0)	455
Federal Assistance Grant Reserve	4,026	(4,026)	-	-	-	-	-	0	4,131
Fleet Reserve	1,168	2,868	(2,199)	(873)	-	(540)	-	424	1,560
IT Reserve	1,715	1,447	(1,000)	(1,262)	-	-	-	900	2,087
Other Waste Services Reserve	-	157	-	-	-	-	-	157	438
Parking Meters Reserve	621	1,284	(80)	(21)	-	(400)	-	1,404	1,046
Repealed Funds Reserve	1,783	-	-	(764)	-	-	-	1,020	1,390
Roads / Environmental Reserve	221	679	(425)	(196)	-	-	-	280	613
Sustainable Energy & Water Reserve	26	-	-	-	-	-	-	26	39
Unexpended Loan Funds Reserve	-	-	-	-	-	-	-	-	-
Ward Funds Reserve	25	60	(60)	-	-	-	-	25	27
Emergency & Natural Disaster	4,868	2,132	-	-	-	-	-	7,000	4,868
Grant Co-Contribution Reserve	1,432	1,568	-	-	-	-	-	3,000	2,343
Resilience Fund	3,000	-	-	-	-	-	-	3,000	3,000
Total Internal Restriction	26,838	17,138	(11,386)	(8,365)	(145)	(1,116)	-	22,964	33,948
Total External and Internal Restrictions	71,087	53,526	(26,487)	(26,029)	(12,055)	(6,804)	-	53,238	80,184
Variance Cash Reserves to Bank Account									(493)
Timing Difference									800
Adjusted Unrestricted Cash/(Shortfall)									307

(1) Funds that must be spent for a specific purpose

(2) Funds that Council has designated for a specific purpose

(3) Excludes Newcastle Airport and related entities and 355c Committees Bank Accounts

ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW STATEMENT.

Performance Indicators ⁽¹⁾

Result for the financial quarter ending 31 December 2024

	\$'000	Indicator	Benchmark	
1. Operating performance ratio				
Total continuing operating revenue excluding capital grants and contributions less operating expenses	1,699			
Total continuing operating revenue excluding capital grants and contributions	68,871	2.47%	>0.00%	✓
This ratio measures Council's achievement of containing operating expenditure within operating revenue.				
2. Debt service cover ratio				
Operating result before capital excluding interest and depreciation/impairment/amortisation	12,598			
Principal repayments (Statement of Cash Flows) plus borrowing costs (Income Statement)	896	14.06	>2.00x	✓
This ratio measures the availability of operating cash to service debt including interest, principal and lease payments.				
3. Unrestricted Working Capital ratio				
Total Current Assets less external restrictions	128,353			
Total Current Liabilities less external restrictions	80,956	1.59	>1.5x	✓
This ratio measures Council's ability to meet its short term obligations as they fall due.				
4. Cash expense ratio				
Current year's cash and cash equivalents plus all term deposits	79,691			
Operating expenses less depreciation + YTD days	10,126	7.87	>3.00 mths	✓
This liquidity ratio indicates the number of months Council can continue paying for its immediate expenses without additional cash inflow.				
5. Rates and annual charges outstanding percentage				
Rates and annual charges outstanding YTD	3,492			
Rates and annual charges collectable	84,701	4.1%	<10.00%	✓
To assess the impact of uncollected rates and annual charges on Council's liquidity and the adequacy of recovery efforts.				
6. Restricted Cash				
External Restrictions	46,236			
Internal Restrictions	33,948			
Unrestricted / (Shortfall)	(493)			
	79,691			x

⁽¹⁾ Excludes Newcastle Airport and related entities

ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW STATEMENT.

Contracts and Other Expenses

Result for the financial quarter ending 31 December 2024

Councillors are currently made aware of tenders of \$250,000 or more in accordance with legislation. However, Councillors should be made aware of other material contracts entered into by Council and details of other expenses that are of particular interest.

Part A: Contracts

Contracts (other than employment contracts and contracts entered into from Council's preferred suppliers list) that:

- Were entered into during the quarter ending 31 December 2024 and;
- Have a value equal to or more than \$50,000.

Contractor	Contract Details and Purpose	Contract Value (inc GST)	Start Date	End Date	Budget (Y/N)
THE TRUSTEE FOR THE SALMON FAMILY TRUST	Public Carpark Rent	94,961.40	8/10/2024	30/06/2025	Y
FENWORX PTY LTD	Reseal Preparation Heavy Patching (LGP Contract)	324,361.86	9/10/2024	30/06/2025	Y
ANA ASPHALT	Brandy Hill Shared Path Asphalt (LGP Contract)	384,832.80	9/10/2024	30/06/2025	Y
AREA SAFE PRODUCTS PTY LTD	Fingal Bay Foreshore Shelters and Benches	68,756.60	11/10/2024	30/06/2025	Y
BRIAN HILTON MOTOR GROUP	Supply and Delivery of Small Fleet	53,653.84	15/10/2024	30/06/2025	Y
BORAL ROAD SERVICES	State Roads Reseals (LGP Contract)	866,548.92	21/10/2024	30/06/2025	Y
DAIMLER TRUCK MILPERRA	Supply and Delivery of Heavy Fleet (LGP Contract)	318,813.00	4/11/2024	30/06/2025	Y
VVG SERVICES NSW PTY LTD	Supply and Delivery of Heavy Fleet (LGP Contract)	464,241.65	7/11/2024	30/06/2025	Y
ENGEMY AUSTRALIA PTY LTD	APZ Maintenance & Establishment	56,796.98	7/11/2024	30/06/2025	Y
D & P FENCING CONTRACTORS	Guardrail for Clarence Town Rd	89,996.50	7/11/2024	30/06/2025	Y
LIFELIKE GROUP PTY LTD	ICT equipment	74,606.02	1/10/2024	30/06/2025	Y
REES ELECTRICAL	Mallabula Soccer Field - LED lighting upgrades	123,200.00	11/11/2024	30/06/2025	Y
SQUIZ AUSTRALIA PTY LTD	Subscription Agreement	64,548.00	23/11/2024	22/11/2025	Y
ACCURATE ASPHALT & ROAD REPAIRS PTY LTD	Medowie Road Asphalt (LGP Contract)	323,622.20	15/11/2024	30/06/2025	Y
FINGAL BEACH SURF LIFE SAVING CLUB INCORPORATED	Council Contributions to FBSLSC - April - March	51,500.00	18/11/2024	30/06/2025	Y
MANNING VALLEY MOTOR HOLDINGS PTY LTD	Supply and Delivery of Heavy Fleet	72,636.16	18/11/2024	30/06/2025	Y

ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW STATEMENT.

RDO EQUIPMENT PTY LTD	Supply and Delivery of Heavy Fleet (LGP Contract)	3,088,800.00	26/11/2024	30/06/2025	Y
THE TRUSTEE FOR CENTRAL INDUSTRIES TRUST	Fingal Bay Foreshore Shade Sails	54,725.00	29/11/2024	30/06/2025	Y
HUNTER FAUNA & FLORA CONTROLS PTY LTD	Hunter Aquatic Weed Eradication Strategy	56,100.00	2/12/2024	30/06/2025	Y
FENWORX PTY LTD	State Roads Reactive Heavy Patch (LGP Contract)	111,898.50	5/12/2024	30/06/2025	Y
ANA ASPHALT	Maintenance Granular Patching (LGP Contract)	233,353.45	5/12/2024	30/06/2025	Y
PROTECHT.ERM PTY LTD	System Renewal	100,045.29	12/01/2025	11/01/2026	Y
KILLALEA CONSTRUCTION PTY LTD	Halifax Holiday Parks Amenities Waterproofing	119,982.50	17/12/2024	30/06/2025	Y
CIVICA PTY LIMITED	Authority Altitude Annual License	533,390.00	1/07/2026	30/06/2027	Y
CIVICA PTY LIMITED	Authority Altitude Implementation Project Cost	133,067.00	18/12/2024	30/06/2025	Y
ANDREW MIEDECKE MOTORS PTY LTD	Supply and Delivery of Small Fleet	60,178.59	20/12/2024	30/06/2025	Y

ITEM 2 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW STATEMENT.

Part B: Consultancy and Legal Expenses

Report shows expenditure as at 31 December 2024 for:

- Consultancies
- Legal fees

For the purposes of this report, a consultancy is defined as a person or organisation engaged under contract on a temporary basis to provide recommendation or high level specialist or professional advice to assist decision making by management. Generally it is the advisory nature of the work that differentiates a consultant from other contractors.

Expense	December Review	
	YTD \$	Budget (Y/N)
	\$'000	
Consultants		
Holiday Parks	-	
Property Development	-	
Engineering	167	Y
Development Planning	-	
IT	29	Y
Environment	82	Y
Other	83	Y
Construction	734	Y
Total Consultancies	1,095	
Legal Fees		
Advice	21	Y
Litigation	86	Y
Total Legal Fees	107	
	YTD \$	
Expense - Litigation	\$'000	
Local Government Law	10	
Environmental Law	8	
Planning & Development Law	68	
Total Litigation Expense	86	

ITEM NO. 3

**FILE NO: 25/1675
EDRMS NO: PSC2024-03148**

FERN BAY SHARED PATHWAYS

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Accept existing completed works as suitable at 1018 Nelson Bay Road, Fern Bay.

BACKGROUND

The purpose of this report is to provide information following the adopted Notice of Motion resolution dated 26 November 2024 (**ATTACHMENT 1**). The Notice of Motion raised the concern that the current resident had lost the ability to easily access their second informal access into their property as a result of Council's footpath upgrade works.

The recently installed shared path at Fern Bay was constructed in 2024 as part of the pathway improvement works that included path re-alignment and widening.

The section of pathway in question was upgraded in width but placed at the same level as the previous path. The level was fixed by the height of 2 Telstra pits and a Hunter Water Corporation (HWC) hydrant. As the new path is now wider, the distance between the road and the path edge is smaller and consequently now steeper by 58mm at the highest point. This change, however, remains suitable for informal vehicular access.

Noting that this is a second driveway to this property and an internal review has shown that this second driveway has never been approved.

Whilst Council is the regulatory approver of driveways, Nelson Bay Road is a state road, Transport for NSW (TfNSW) is required to provide their consent for any new applications. Formalisation of a formal driveway would require consent from TfNSW. Council and TfNSW have no current objections to the existing informal access, and Council's pathway improvements have not impeded its use in this informal manner.

Should the shared path require lowering, the indicative cost to undertake these works are approximately \$31,000 plus a potential additional \$12,000 if the HWC watermain also requires lowering. The majority of this price relates to the lowering of the Hunter Water and Telstra utility services. Noting that this price does not include any

ORDINARY COUNCIL - 25 FEBRUARY 2025

Telecommunication NBN cable modifications or any environmental heritage assessments that may be required outside of the original scope of works.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Infrastructure and facilities	Provide, manage and maintain community assets in accordance with the SAMP 2024-2034

FINANCIAL/RESOURCE IMPLICATIONS

There are currently no allocated funds to undertake further works on this section of the pathway.

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

There are currently no legal or policy implications with undertaking or not undertaking these works.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that modifying the path to decrease the informal access steepness by 58mm will be an expense that could be better spent on another asset or service.	Low	Adopt the Recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Any asset or engineering works will modify the surrounding area just by the nature of change or capital upgrade. It should be noted that while any works or capital upgrade will change physical characteristics to infrastructure, in this particular case the functionality of the informal access has not changed and the access is still suitably usable.

COMMUNICATION AND ENGAGEMENT

Council's Communication and Engagement Strategy uses the IAP2 Framework to identify the level of engagement undertaken. An explanation for each level is shown below.

INFORM	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives, opportunities and/or solutions.
CONSULT	To obtain public feedback on analysis, alternatives and/or decisions.
INVOLVE	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.
COLLABORATE	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.
EMPOWER	To place final decision-making and/or developed budgets in the hands of the public.

The following communication and engagement applies to this report.

External communications and engagement

CONSULT	Engagement has occurred with TfNSW and utilities agencies to gain technical advice and information. Consultation was also undertaken with the previous owner of this property at the planning stages of this project.
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Internal communications and engagement

Engagement has been undertaken with Council's Asset and Capital Works Sections.

OPTIONS

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

ATTACHMENTS

- 1) Council Resolution - Fern Bay Shared Pathway - Min. No.240, 26 November 2024. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - FERN BAY SHARED PATHWAY - MIN. NO.240, 26 NOVEMBER 2024.**MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2024****NOTICE OF MOTION****ITEM NO. 2****FILE NO: 24/308533
EDRMS NO: PSC2024-03148****FERN BAY SHARED PATHWAY****COUNCILLOR: GIACOMO ARNOTT****THAT COUNCIL:**

- 1) Notes the recently completed Fern Bay Shared Pathway is a great asset for the local community that was delivered professionally by Council staff thanks to funding delivered by the elected Council.
- 2) Notes that a second driveway at 1018 Nelson Bay Rd which was built into the existing verge was not factored into the design, leading to the resident losing the ability to easily access their second driveway.
- 3) Agrees that Council works that improve amenity generally for a community should not disadvantage existing land uses of residents.
- 4) Requests the General Manager to prepare a report outlining the costs for a capital works crew to attend to this address and cut in access to the shared pathway so that the second driveway is useable in line with the existing use prior to Council works in the area.

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

240	Councillor Giacomo Arnott Councillor Jason Wells It was resolved that Council: <ol style="list-style-type: none">1) Notes the recently completed Fern Bay Shared Pathway is a great asset for the local community that was delivered professionally by Council staff thanks to funding delivered by the elected Council.2) Notes that a second driveway at 1018 Nelson Bay Rd which was built into the existing verge was not factored into the design, leading to the resident losing the ability to easily access their second driveway.3) Agrees that Council works that improve amenity generally for a community should not disadvantage existing land uses of residents.4) Requests the General Manager to prepare a report outlining the costs for a capital works crew to attend to this address and cut in access to the shared pathway so that the second driveway is useable in line with the existing use prior to Council works in the area.
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ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - FERN BAY SHARED PATHWAY - MIN. NO.240, 26 NOVEMBER 2024.**MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2024**

Councillor Chris Doohan left the meeting at 6:43pm.

Those for the Motion: Mayor Leah Anderson, Crs Rosalyn Armstrong, Giacomo Arnott, Nathan Errington, Paul Le Mottee, Ben Niland, Mark Watson and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND REPORT OF: JOHN MARETICH – ASSETS SECTION MANAGER**BACKGROUND**

The recently installed shared path was built at the same level as the previous path. This level was fixed by two Telstra pits and Hunter Water Corporation (HWC) hydrant levels.

Though the new path is now wider, hence the distance from the road to the path edge is now narrowed and consequently this has steepened the rise from the road. This steepness has increased by 58mm. This change however remains suitable for informal vehicular access. It is noted that this is a second driveway to this property and our review has shown that this second driveway does not have an approval.

Whilst Council is the regulatory approver of driveways, as Nelson Bay Road is a state road, Transport for NSW is required to provide their consent for any new applications such as this second driveway.

Should the shared path require lowering, and relevant approvals can be obtained, the works would likely include the lowering of the Hunter Water and Telstra utility services and other potential services (Telstra or NBN) modifications may also be required.

These matters would be reported back to Council in response to this NOM.

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		

**ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - FERN BAY SHARED
PATHWAY - MIN. NO.240, 26 NOVEMBER 2024.**

MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2024

ATTACHMENTS

Nil.

ITEM NO. 4

**FILE NO: 25/23921
EDRMS NO: PSC2017-02839**

AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION NATIONAL GENERAL ASSEMBLY 2025

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominate Council delegates to attend the 2025 Australian Local Government Association National General Assembly to be held in Canberra from 24-27 June 2025.

BACKGROUND

The purpose of this report is to inform Council and call for nominations for the upcoming Australian Local Government Association National General Assembly (ALGA) Conference for 2025.

This event provides a unique opportunity for Local Government to engage directly with the Federal Government, to develop national policy and to influence the future direction of councils and communities.

The theme for the 2025 conference is 'National Priorities Need Local Solutions'.

ALGA is calling for motions to be considered at the conference. Motions must clearly relate to local government nationally and call on an action and outcome, they also should not focus on a local jurisdiction. Further criteria can be found in **(ATTACHMENT 1)**. The 12 priority areas for this year's conference are:

- Intergovernmental relations
- Financial sustainability
- Roads and infrastructure
- Emergency management
- Housing and homelessness
- Jobs and skills
- Community services
- Closing the Gap and Aboriginal and Torres Strait Islander Reconciliation
- Data, digital technology and cyber security
- Climate change and renewable energy
- Environment
- Circular economy.

ORDINARY COUNCIL - 25 FEBRUARY 2025

Motions must be lodged by 31 March 2025. All motions would need to be considered by Council prior to lodgement, therefore, a deadline for the business paper would be 28 February 2025.

The 2025 Discussion Paper is attached for information (**ATTACHMENT 1**).

The conference is open to all Elected Members.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with registration are covered within existing budget – subject to an Elected Member not exceeding budget limits set out in the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy. Council will also meet the reasonable cost of meals when they are not included in the conference fees.

The registration cost for the conference is \$975.

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

LEGAL, POLICY AND RISK IMPLICATIONS

As per the Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy, approval to participate in a conference or seminar is subject to approval of a full Council.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may have its reputation damaged by not participating in the national debate on key Local Government matters in NSW.	Low	Adopt the recommendation.	Yes
There is a risk that Port Stephens Council will not be represented on matters at the conferences.	Low	That the recommendation be adopted.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Elected Members participating in conferences to ensure the local government area has a voice in the national development of policy and initiatives.

COMMUNICATION AND ENGAGEMENT

Council's Communication and Engagement Strategy uses the IAP2 Framework to identify the level of engagement undertaken. An explanation for each level is shown below.

INFORM	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives, opportunities and/or solutions.
CONSULT	To obtain public feedback on analysis, alternatives and/or decisions.
INVOLVE	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.
COLLABORATE	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.
EMPOWER	To place final decision-making and/or developed budgets in the hands of the public.

The following communication and engagement applies to this report.

External communications and engagement

Not required.

Internal communications and engagement

Communication was undertaken with Councillors.

OPTIONS

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

ATTACHMENTS

- 1) 2025 ALGA National General Assembly - Discussion Paper. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

*National Priorities
Need Local Solutions*

24 - 27 June 2025 | National
Convention Centre Canberra

National General Assembly Discussion Paper



ALGA
Australian Local
Government Association

KEY DATES

18 December 2024 | Opening of Call for Motions

31 March 2025 | Acceptance of Motions closes

24 June 2025 | Regional Cooperation & Development Forum

25 - 27 June 2025 | National General Assembly

TO SUBMIT YOUR MOTION

VISIT: [ALGA.COM.AU](https://alga.com.au)

The Australian Local Government Association (ALGA) is pleased to convene the 31st National General Assembly of Local Government (NGA), to be held in Canberra from 24-27 June 2025.

As convenor of the NGA, the ALGA Board cordially invites all councils to send representatives to this important national event.

The NGA is the premier national gathering of local governments, and provides councils with the opportunity to come together, share ideas, debate motions, and most importantly unite and further build on the relationship between local government and the Australian Government.

This discussion paper contains essential information for Australian councils considering submitting motions for debate at the 2025 National General Assembly of Local Government (NGA).

It is recommended that all councils and delegates intending to attend the 2025 NGA familiarise themselves with the guidelines for motions contained in this paper on page 6.

BACKGROUND TO ALGA AND THE NGA

ALGA was established 1947. In structure, ALGA is a federation of member state and territory associations. Its mission is to achieve outcomes for local government through advocacy with impact, and maximise the economic, environmental and social wellbeing of councils and our communities.

Since 1994, the NGA has built the profile of local government on the national stage, showcased the value of councils, and most importantly demonstrated – particularly to the Australian Government – the strength and value of working with local government to help deliver on national priorities.

Debate on motions was introduced to the NGA as a vehicle for councils from across the nation to canvas ideas. Outcomes of debate on motions (NGA Resolutions) could be used by participating councils to inform their own policies and priorities, as well as their advocacy when dealing with federal politicians.

At the same time, they help ALGA and its member state and territory associations gain valuable insight into council priorities, emerging national issues, and the level of need and support for new policy and program initiatives.

Given the structure of ALGA, its Constitution, and level of resources, the NGA does not bind the ALGA Board. However, the Board carefully considers NGA resolutions as it determines ALGA's policies, priorities and strategies to advance local governments within the national agenda.

This is your NGA and ALGA is pleased to act as the convenor. ALGA's policies and priorities will continue to be determined by the ALGA Board in the interests of all councils.

The ALGA Board thanks all councils for attending the NGA and those that will take the time to reflect on the purpose of debate on motions outlined in this paper, and to submit motions for debate at the 2025 NGA.



SUBMITTING MOTIONS

The theme of the 2025 NGA is – *National Priorities Need Local Solutions*

In June 2025, Australia will either have a re-elected Labor Government, or a new Coalition or minority government.

The 31st National General Assembly of Local Government will focus on opportunities for councils to work with the next Federal Government to deliver local solutions that will help them deliver on their vision for the nation.

As the closest government to communities, councils understand local challenges and opportunities. They are a willing partner in government, and sustainably funded can provide place-based solutions to a range of national priorities including affordable housing, energy transition, road safety, increasing productivity, and improved health and wellbeing.

This discussion paper is a call for councils to submit motions for debate at the 2025 NGA to be held in Canberra from 24-27 June 2025.

Motions for this year's NGA should consider:

- Any new practical programs or policy changes that can strengthen the system of local government nationally to provide the services and infrastructure required to support and strengthen our communities; and/or
- New program ideas that that would help the local government sector to deliver place-based solutions to national priorities.

Motions should be concise, practical and implementable and meet the guidelines for motions set out in the paper.

You are encouraged to read all the sections of the paper but are not expected to respond to every issue or question. Your council's motion/s must address one or more of the issues identified in the discussion paper.

**ITEM 4 - ATTACHMENT 1
DISCUSSION PAPER.**

2025 ALGA NATIONAL GENERAL ASSEMBLY -



Motions must be lodged electronically using the online form available on the NGA website at: www.alga.asn.au and received no later than 11:59pm AEST on Monday 31 March 2025.

All notices of motions will be reviewed by the ALGA Board's NGA Sub-committee prior to publishing the NGA Business Paper to ensure that they meet these guidelines. This sub-committee reserves the right to select, edit or amend notices of motions to facilitate the efficient and effective management of debate on motions at the NGA. For example, the sub-committee may recommend an overarching strategic motion to encompass several motions on the same topic.

All NGA resolutions will be published on www.nationalgeneralassembly.com.au.

As the host of the NGA, ALGA will communicate resolutions to the relevant Australian Government Minister and publish Ministerial responses as they are received on this website.

Please note that if your council does submit a motion, there is an expectation that a council representative will be present at the NGA to move and speak to that motion if required.

We look forward to hearing from you and seeing you at the 2025 NGA.

CRITERIA FOR MOTIONS

To be eligible for inclusion in the NGA Business Papers, and subsequent debate on the floor of the NGA, motions must meet the following criteria:

1. Be relevant to the work of local government nationally.
2. Not be focused on a specific jurisdiction, location or region – unless the project or issue has national implications.
3. Be consistent with the themes of the NGA.
4. Complement or build on the policy objectives of ALGA and your state or territory local government association.
5. Be submitted by a council which is a financial member of their state or territory local government association.
6. Propose a clear action and outcome ie call on the Australian Government to act on something.
7. Not be advanced on behalf of external third parties that may seek to use the NGA to apply pressure to Board members, or to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, local government.
8. Address issues that will directly improve the capacity of local government to deliver services and infrastructure for the benefit of all Australian communities.
9. Not seek to advance an outcome that would result in a benefit to one group of councils to the detriment of another.
10. Be supported by sufficient evidence and demonstrate the relevance and significance of the matter to local government nationally.

Motions must commence with the following wording:

This National General Assembly calls on the Australian Government to

...

Please note: that resolutions of the NGA do not automatically become ALGA's national policy positions.

The ALGA Board carefully considers NGA resolutions as it determines ALGA's policies, priorities and strategies to advance local governments within the national agenda, but the resolutions are not binding.



OTHER THINGS TO CONSIDER

It is important to complete the background section of the submission form. Submitters of motions should not assume that NGA delegates will have background knowledge of the proposal. The background section helps all delegates, including those with no previous knowledge of the issue, in their consideration of the motion. Please note, motions should NOT be prescriptive in directing how the matter should be pursued.

Try to keep motions practical, focussed and capable of implementation to ensure that relevant Australian Government Ministers provide considered, thoughtful and timely responses.

Try to avoid motions that are complex, contain multi-dot points and require complex cross-portfolio implementation.

All motions submitted will be reviewed by the ALGA Board's NGA Sub-committee, in consultation with state and territory local government associations, to determine their eligibility for inclusion in the NGA Business Papers.

When reviewing motions, the Sub-committee considers the criteria, clarity of the motion and the importance and relevance of the issue to local government.

If there are any questions about the substance or intent of a motion, ALGA will raise these with the nominated contact officer. With the agreement of the submitting council, these motions may be edited before inclusion in the NGA Business Papers.

To ensure an efficient and effective debate, where there are numerous motions on a similar issue, the NGA Sub-committee will group these motions together under an overarching strategic motion. The strategic motions will have either been drafted by ALGA or will be based on a motion submitted by a council which best summarises the subject matter.

Debate will occur in accordance with the rules for debate published in the Business Papers and will focus on the strategic motions. Associated sub-motions will be debated by exception only or in accordance with the debating rules.

Any motion deemed to be primarily concerned with local or state issues will be referred to the relevant state or territory local government association and will not be included in the NGA Business Papers.

All motions require:

- a contact officer;
- a clear national objective;
- a summary of the key arguments in support of the motion; and
- endorsement of your council

Motions should be lodged electronically using the online form available at www.alga.com.au.

Motions should be received no later than 11:59pm AEST on Monday 31 March 2025.



SETTING THE SCENE

The theme for the 2025 NGA – **National Priorities Need Local Solutions** – highlights the unique role Australia's 537 councils can play delivering local, place-based solutions that meet the needs of their communities, while addressing broader national priorities.

The 2025 NGA provides you - the elected representatives of Australia's local councils and communities - with the opportunity to engage with the Federal Government and key Ministers.

Further, it is your opportunity to advocate for new or expanded programs and key policy initiatives that could strengthen local governments and its capacity to deliver services and infrastructure to local communities across the nation.

This year's call for motion focusses on twelve priority areas:

- Intergovernmental relations;
- Financial sustainability;
- Roads and infrastructure;
- Emergency management;
- Housing and homelessness;
- Jobs and skills;
- Community services;
- Closing the Gap and Aboriginal and Torres Strait Islander Reconciliation;
- Data, digital technology and cyber security;
- Climate change and renewable energy;
- Environment;
- Circular economy



1. INTERGOVERNMENTAL RELATIONS

For almost 30 years, local government was represented by ALGA on the Council of Australian Governments (COAG), providing local input into national decision making. However, when COAG was replaced by National Cabinet in March 2020, local government was not included.

National Cabinet is a forum for the Prime Minister, Premiers and Chief Ministers to meet and work collaboratively; and is a key mechanism in Australia's intergovernmental architecture. A representative of local government, the President of ALGA, is invited to meet with National Cabinet once each year, as well as one meeting of the Council on Federal Financial Relations comprising the Commonwealth Treasurer as Chair and all state and territory treasurers.

While National Cabinet was established to support a coordinated national response to the COVID-19 pandemic, the lack of local representation to this body has unfortunately impacted on decision making.

The Government's review into the COVID-19 response – published in October 2024 – found that Australia's 537 councils were critical for the implementation of National Cabinet decisions during the pandemic.

The inquiry also recommended National Cabinet would benefit from having more structured engagement and active consultation with local government to ensure future decision-making is informed at a local level.

In addition to attending one meeting per year of National Cabinet and CFFR, ALGA also represents local government on a range of Ministerial Councils and Forums, including the Infrastructure and Transport Ministers Meeting, National Emergency Management Ministers Meeting, Local Government Ministers Forum, Joint Council on Closing the Gap, Planning Ministers Meeting, Environment Ministers Meeting, Cultural Ministers Meeting, Energy and Climate Change Ministers Meeting, Road Safety Ministers Meeting, and Building Ministers Meeting.

Given the important role councils play delivering local solutions to national priorities, how can intergovernmental arrangements be further improved in Australia?

Are there new initiatives and programs that could be adopted to improve the level of cooperation and collaboration between the Australian Government and local government?

2. FINANCIAL SUSTAINABILITY

Sustainably funded, councils can play a key role delivering local solutions to national priorities. However, across the country many councils are facing significant financial challenges and are struggling to fund the delivery of core community services.

Every year councils are being asked to do more with less as a result of cost shifting, inadequate state and federal funding and, in some jurisdictions, rate pegging.

In 2024/25 councils will receive \$3.27 billion in federal Financial Assistance Grants. This is approximately 0.5% of Commonwealth taxation revenue, which is half the amount it was in 1996. The Australian Parliament is currently undertaking an Inquiry into local government sustainability, to which ALGA, State and Territory associations and many councils provided submissions

ALGA's submission to this inquiry highlighted that:

- If local government were provided annually with an additional \$350 million for the maintenance and delivery of quality open space, Australia's gross domestic product (GDP) would increase by \$858.9 million each year.
- If local government were able to effectively increase its capacity to perform regulatory services in planning and building, there would be an annual saving of \$859 million for development proponents and would generate an additional \$1.67 billion in GDP each year.
- Increased block transfers of Commonwealth funds to local governments can deliver greater efficiency and administrative cost savings of \$236 million and would generate increase GDP by \$330.8 million each year
- Reducing local government staff turnover can save \$425 million in avoided costs and lead to a \$619.9 million increase in GDP each year.
- Investing an additional \$1 billion each year into the maintenance of local government roads would increase GDP by \$354.6 million annually.

ALGA also stressed that the inquiry should not recommend any actions that will improve the financial sustainability of some councils to the detriment of others.

What are the opportunities to address financial sustainability across councils, and support their capacity to deliver local solutions to national priorities?

Are there improvements to be made to existing federal funding programs and arrangements that would support improved local government financial sustainability?

3. ROADS AND INFRASTRUCTURE

Local governments are responsible for around 75% of Australia's road network by length, and play an important role supporting productivity and improving road safety.

However, many councils are not resourced to effectively maintain their local roads, and independent research from the Grattan Institute in 2023 identified a \$1 billion annual local government road maintenance funding gap.

In November 2023 the Government announced that Roads to Funding would be progressively increased from \$500 million to \$1 billion per year over the forward estimates, effectively halving the current funding gap.

In addition to local roads, councils build and maintain community facilities and infrastructure worth more than \$100 billion nationally.

In 2020 the Australian Government introduced a new Local Roads and Community Infrastructure Program, which saw \$3.25 billion provided to all councils for local projects on a formula basis.

ALGA's 2024 National State of the Assets highlighted the success of this federal funding program, reporting a \$1 billion improvement in the condition of local government facilities since the 2021 report.

Are there new programs or initiatives that the Australian Government could adopt to improve the long-term sustainability of local government roads and community infrastructure?

Are there programs or initiatives that the Australian Government could provide to improve the sector's capacity to manage local government infrastructure and to integrate these plans into long-term financial plans?

Are there opportunities for the Australian Government to support councils to invest in local infrastructure that will help address national priorities?



4. EMERGENCY MANAGEMENT

Australia is experiencing weather events of greater intensity and frequency – which leads to increased impacts on communities and council resources. Over the past two years, more than 60 per cent of local government areas have been declared natural disaster areas, many of them multiple times.

In 2022 ALGA successfully advocated for a new \$200 million per year Disaster Ready Fund, and to date two rounds of funding have been provided through this program. This program has been legislated to run for five years.

Both rounds of the Disaster Ready Fund have been significantly oversubscribed, and ALGA is advocating for a significant increase in federal funding to improve the emergency management capability and capacity of local government.

The Royal Commission on National Natural Disaster Arrangements made two important recommendations for local government – calling for State and Territory Governments to take responsibility for the capacity and capability of local government for the functions which are delegated to them (recommendation 11.1), and recommending States and Territory Governments review arrangements for resource sharing between local governments (recommendation 11.2).

Released in November 2024, the Colvin Review (Independent Review of Commonwealth Disaster Funding) and Glasser Review (Independent Review of National Natural Disaster Governance Arrangements) both support a strategic shift towards disaster risk reduction and resilience. The Colvin Review also supports a major capacity uplift for local government and an enhanced national training and exercise regime which tests and builds local government capacity.

Councils are encouraged to draw on their practical experience of the improvements that could be made to managing emergencies.

Please note that many aspects of emergency management are state or territory responsibilities, and your motions should focus on how the Australian Government could assist.

What new programs, or improvements to existing programs, could the Australian Government develop to partner with local government to improve the current natural disaster management systems to further assist in recovery and build resilience?

How can the Government best support Australian councils to prepare for, respond to and recover from natural disasters?

5. HOUSING AND HOMELESSNESS

Australia is currently facing a housing crisis which is resulting in more people experiencing housing insecurity and homelessness, while also preventing required worker movement across the country.

Councils are not responsible for building housing. Many councils do, however, play a key role in facilitating housing supply by appropriately zoning land and approving development. Others are going above and beyond to address the housing crisis, albeit without adequate resourcing.

One of the biggest issues is a lack of funding for infrastructure such as roads, water and power connections that are necessary for new housing developments.

The National Housing Accord – which ALGA is a signatory to on behalf of local government - sets an ambitious target of 1.2 million new, well-located homes over the next five years.

Research commissioned by ALGA, and delivered by Equity Economics, showed that there is currently a \$5.7 billion funding shortfall for the enabling infrastructure required to bridge the gap between current constructions and Australia's housing targets.

Another significant issue is local government's lack of input into setting housing policy at both a state, territory and federal level. While ALGA represents councils on a wide range of ministerial councils, it is not currently a member of the Housing and Homelessness Ministerial Council or National Cabinet.

A key focus for councils is ensuring that any new housing developments are not just supported by enabling infrastructure, but also the local facilities and services that are vital for healthy, productive and resilient communities.

What new programs and policies could the Australian Government develop to partner with local government to support the provision of more affordable housing?

How can the Australian Government work with councils to address the causes and impacts of homelessness?



6. JOBS AND SKILLS

Local government is a major employer in Australia providing employment, career advancement and training opportunities for more than 200,000 Australians, across an estimated 400 occupations.

However, councils – like many employers across the nation – are experiencing skill shortages that hinder their ability to meet community needs.

The 2022 Local Government Workforce Skills and Capability Survey show nine out of every ten Australian councils are facing jobs and skills shortages.

65% of respondent local governments said that project delivery had been impacted or delayed by vacancies, skills shortages, skills gaps or training needs.

The top five most cited skill shortages that local governments experienced were engineers (as noted by 46% of 2022 survey respondents), urban and town planners (40%), building surveyors (36%), environmental health inspectors (30%) and human resources professionals (29%).

Drivers of skill shortages include difficulty attracting young people to local government jobs, lack of available training courses, wage competition, and lack of resources to upskill the current workforce such as access to training facilities for rural/remote councils, workplace supervisors, subject matter experts, and contextualised training resources.

National priorities, such as increasing housing supply, cannot be achieved without support from local government and the right people to do the work.

Are there programs or initiatives that the Australian Government could implement that would enhance local government's capacity to attract and retain appropriately skilled staff now and into the future?

Are there programs or changes to existing programs that would increase local government's ability to employ apprentices and trainees?

Are there other initiatives that the Australian Government could provide to improve the sector's ability to plan and develop skills fit for the future?

7. COMMUNITY SERVICES

Councils provide a wide range of services based on local characteristics, needs, priorities, and the resources of their community.

Some of these services are provided to address market failure, and many of them are provided by councils on behalf of other levels of government.

It is important to note that nationally local government is more than 83% self-sufficient ie funded at the local level either through rates, fees and charges, sale of goods and services, or interest. The Australian Bureau of Statistics data shows that total local government annual expenditure in 2022-23 was \$48 billion.

Only 17% comes from grants and subsidies from other levels of government. Unfortunately, many of these grants and subsidies are tied, or competitive funding programs, or require matching funding which restricts the ability to address local priorities in the way the council and community might need.

Local government community services are broadly defined, and may include but are not limited to:

- environmental health including food safety;
- childcare, early childhood education, municipal health;
- aged care, senior citizens;
- services to people living with disability;
- programs to address disadvantage, to reduce poverty and homelessness;
- sporting and recreational programs;
- arts and cultural activities, programs and festivals;
- tourism and economic development activities;
- library services

Noting the funding arrangements for the provision of local government community services are there programs and initiatives that the Australian Government could implement to improve the delivery of these services?

Are there reforms or improvements in national community services program that would help local governments support the Australian Government to deliver on its national objectives?



8. CLOSING THE GAP AND ABORIGINAL AND TORRES STRAIT ISLANDER RECONCILIATION

In 2021, ALGA co-signed a landmark national agreement to close the gap between Indigenous and non-Indigenous Australians. At the heart of the National Agreement on Closing the Gap Partnership are four agreed priority reform targets and 19 socio-economic targets in areas including education, employment, health and wellbeing, justice, safety, housing, land and waters, and Aboriginal and Torres Strait Islander languages.

Local governments are uniquely placed to support partnerships to address long term service gaps and support their delivery. Councils are elected by their communities and have the longitudinal scope to develop a community's economic, skills, and infrastructure needs.

Local governments already play a significant role in helping their communities and the Closing the Gap outcomes. However, councils need appropriate resourcing, be it through place-based initiatives, or broader programs, to better facilitate and meet program objectives in their communities.

Are there programs or initiatives that the Australian Government could adopt to assist local government to advance reconciliation and close the gap?

Are there practical programs or initiatives that local government and the Australian Government could introduce to maintain, build and strengthen partnerships between Aboriginal and Torres Strait Islanders and governments?

9. DATA, DIGITAL TECHNOLOGY AND CYBER SECURITY

Provision of information technology to all Australians is vital to innovation, economic growth, and social equity. However, it is potentially even more important to regional Australia where the tyranny of distance increases the inequity of services available – including education, health, economic and social. Innovative technology is becoming more broadly available and could boost productivity and economic growth.

Councils around Australia continue to embrace new technologies to improve their service delivery standards and broaden consultation and engagement with their local communities. However, implementation can be hindered without access to basic technological infrastructure and the necessary IT skills and resources.

In recent times, cyber-attacks on major corporations and other businesses have resulted in significant data breaches. It is a timely reminder as digital information, services and products become an increasing feature of modern business operation including in local government.

Like all risks, local government must manage the risk of cyber-attacks and address cyber security.

While this is primarily a responsibility of the sector itself, governments at all levels must work together to ensure that the public have confidence in government information management systems and its security.

Drawing upon your council's experience, and your knowledge of other councils within your state or territory, are there programs and initiatives that the Australian Government could implement to help local government develop its digital technology services and infrastructure?

Are there actions the Australian Government could take to improve cyber security within the local government sector?



10. CLIMATE CHANGE AND RENEWABLE ENERGY

Climate change is resulting in more frequent and severe disasters, coastal erosion, and rising heat, which are all impacting on the liveability of Australian communities.

Local governments play a role in emissions reduction through reducing their corporate emissions and supporting broader national processes of decarbonisation through community engagement, and provision of services and infrastructure.

The 2024 Local Government Climate Review found that 89% of councils have set or planned ambitious corporate emissions reduction targets.

Councils also play a critical role supporting their communities through change, helping them to adapt and build their resilience. The latest Local Government Climate Review found that two-thirds have done a climate risk assessment and 72% are implementing initiatives.

Barriers to adaptation include internal resourcing (70%), funding (67%), complexity and not knowing how to respond (53%), and limited technical expertise and capacity (48%).

Councils need support to adequately assess climate risk and vulnerabilities and adequately address them in plans, policies investment decisions and engagement with communities. Unfortunately, funding and support from other levels of government has failed to keep pace, placing an inequitable burden on the sector.

The rapid increase in renewable energy projects in regions across Australia is resulting in uneven and inconsistent community benefits being offered and delivered to communities. It is also placing significant pressure on local governments to plan, negotiate and secure an enduring constructive legacy associated with renewable energy projects.

Local governments are the only local democratic institution in a position to convene local interests and broker long term social and economic benefits from renewables projects, and should be recognised and supported for their role in maintaining social license for renewables projects.

Noting the Australian Government's approach to reducing emissions, are there partnerships, programs, and initiatives that local government and the Australian Government can form to achieve Australia's 2050 net zero emissions target?

What are the opportunities to support councils to increase community resilience to the impacts of climate change?

What support do councils need to ensure that renewable energy projects deliver lasting benefits to the communities that house them?

11. ENVIRONMENT

The Australian Government's Nature Positive Plan states "Almost half of Australia's gross domestic product (GDP) has a moderate to very high direct dependence on nature. The rate at which we are eroding the environment poses tangible risks to Australia's economic, financial and social stability."

Australia's 537 local governments undertake broad and diverse work to support environmental outcomes.

However, councils do not receive adequate support for this work, which includes managing pests, weeds, and biosecurity threats, contributing to water security and management, managing parklands and reserves, and community education.

In recent years the National General Assembly has considered a range of environmental issues, and passed resolutions on biodiversity, biosecurity, conservation, climate change and water security.

How could the Australian Government partner with local government to strengthen Australia's environmental services and infrastructure?

What new programs could the Australian Government partner with local government in to progress local regional and national objectives?



12. CIRCULAR ECONOMY

Australia's volume of waste continues to increase compared with population growth and GDP, even with rates of recycling improving over the past decades.

The 2022 National Waste Report showed that waste generation has increased by 20% over the last 15 years (8.3% from municipal waste). Since 2006-07, recycling and recovery of Australia's core waste has increased by 57% (+22% in municipal) however Australia continues to have one of the lowest rates of recycling among OCED countries.

Local governments are under pressure to respond to community demand for addressing pollution, while at-capacity landfills and emerging problematic materials pose serious operational challenges.

Collecting, treating, and disposing of waste costs local governments an estimated \$3.5 billion annually.

ALGA believes the onus for waste reduction should be borne by industry, not local governments. Mandatory product stewardship approaches, including payments to local governments for their resource recovery services, would ensure the principle of producer responsibility is operationalised and the cost and risk burden on local governments is rebalanced.

How could the Australian Government further strengthen product stewardship arrangements to support local governments in their endeavours to increase recycling and reduce the volume of waste?

How could the Australian Government partner with local government to advance the circular economy?





CONCLUSION

Thank you for taking the time to read this discussion paper and your support for the 2025 National General Assembly of Local Government.

A final reminder:

- Motions should be lodged electronically at www.alga.com.au and received no later than 11.59pm on Monday 31 March 2025.
- Motions must meet the criteria published in this paper.
- Motions should commence with the following wording: 'This National General Assembly calls on the Australian Government to...'
- Motions should not be prescriptive in directing how the matter should be pursued.
- Motions should be practical, focussed and relatively simple.
- It is important to complete the background section on the form.
- Motions must not seek to advance an outcome that would result in a benefit to one group of councils to the detriment of another.
- When your council submits a motion there is an expectation that a council representative will be present at the 2025 National General Assembly to move and speak to that motion if required.
- Resolutions of the National General Assembly do not automatically become ALGA's national policy positions. The resolutions are used by the ALGA Board to inform policies, priorities and strategies to advance local governments within the national agenda.

We look forward to hearing from you and seeing you at the 2025 National General Assembly in Canberra.





ITEM NO. 5

**FILE NO: 24/340768
EDRMS NO: PSC2024-03167**

**LGNSW DESTINATION AND VISITOR ECONOMY CONFERENCE - 26-28 MAY
2025 IN KINGSCLIFF**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominates Council delegates to attend the 2025 Local Government NSW Destination and Visitor Economy Conference from 26-28 May 2025 in Kingscliff.

BACKGROUND

The purpose of this report is to inform Council of the 2025 Local Government NSW Destination and Visitor Economy Conference in Kingscliff from 26-28 May 2025.

The conference program is attached for information (**ATTACHMENT 1**).

The conference will aim to embrace not just tourism, but also a wider aspect of economic development to regional and metropolitan councils.

As Councillors are aware, the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy (the 'Policy') requires that a resolution of Council be sought for all attendance at a conference or seminar.

The costs associated with registration, travel and accommodation will be covered from within the existing professional development budget, subject to the Mayor or any individual Councillor/s not exceeding the conference budget limits set in the Policy.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

Costs associated with registration, travel and accommodation will be covered from within the existing budget, subject to any individual elected member not exceeding the conference budget limits within the Policy.

The registration cost for the conference is \$1,100.

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 Payment of Expenses and Provision of Facilities to Councillors/Mayor Policy requires approval of a full Council meeting.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Port Stephens Council will not be represented on matters at the conference.	Low	That the recommendation be adopted.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Ensuring the Port Stephens local government area is well represented in all matters at the conference will benefit the Port Stephens community.

COMMUNICATION AND ENGAGEMENT

Council's Communication and Engagement Strategy uses the IAP2 Framework to identify the level of engagement undertaken. An explanation for each level is shown below.

ORDINARY COUNCIL - 25 FEBRUARY 2025

INFORM	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives, opportunities and/or solutions.
CONSULT	To obtain public feedback on analysis, alternatives and/or decisions.
INVOLVE	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.
COLLABORATE	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.
EMPOWER	To place final decision-making and/or developed budgets in the hands of the public.

The following communication and engagement applies to this report.

External communications and engagement

Not required.

Internal communications and engagement

Communication was undertaken with Councillors.

OPTIONS

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

ATTACHMENTS

- 1) Destination & Visitor Economy Conference Draft Program. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 DESTINATION & VISITOR ECONOMY CONFERENCE DRAFT PROGRAM.



DESTINATION & VISITOR ECONOMY CONFERENCE

Mantra at Salt Beach, Kingscliff | 26-28 May 2025



Strategic Partner





Destination Host




DRAFT - PROGRAM SUBJECT TO CHANGE

Document Date | 31 January 2025

DAY 1 MONDAY 26 MAY 2025			
Mantra on Salt Beach, Kingscliff			
1.00pm	Registration and Trade Area Open		
2.00pm	Conference Commences Day 1		
2.00pm	Welcome (10 mins)	Setting the Scene - Cr Phyllis Miller OAM, President LGNSW	
2.10pm	Keynote with Q&A Office of 24-Hour Economy Commissioner (40 mins including questions)	Michael Rodrigues, 24 Hour Economy Commissioner NSW	
3.00pm	Afternoon Tea Trade Area Sponsored by 		
3.30pm	WORKSHOPS - Delegates pre-booked concurrent workshop streams below		
3.30pm - 4.15pm	Stream 1 - Plantation Room 1	Stream 2 - Plantation Room 2	Stream 3 - Plantation Room 3
	Smart Destinations: AI Tools & Trends 70 pax Jess Quinlan, Trip Advisor Daniel Blicking, TRVLR.ai	Drive Tourism: Accelerating Local Destinations 70 pax Speaker, to be confirmed Speaker, to be confirmed Sponsored by 	Creative Destinations through Art, Culture and Museums 70 pax Speaker, to be confirmed Brett Adlington, CEO Museums & Galleries of NSW
4.15pm	Bus transfers to Welcome Reception venue - Botanica Plantation House (15-20 mins)		
4.45pm	Welcome Reception Botanica Plantation House 13 Duranbah Road, Duranbah <ul style="list-style-type: none">• Introduction by LGNSW David Reynolds, CE LGNSW• Welcome by Cr Phyllis Miller OAM, President LGNSW• Premier Partner Address• Entertainment		
6.45pm	Bus transfers from Botanica Plantation House to Mantra on Salt. Delegates are encouraged to pre-book at local restaurants for dinner		

**ONE VOICE
FOR COUNCILS**

1/4

ITEM 5 - ATTACHMENT 1 DESTINATION & VISITOR ECONOMY CONFERENCE DRAFT PROGRAM.



DESTINATION & VISITOR ECONOMY CONFERENCE

Mantra at Salt Beach, Kingscliff | 26-28 May 2025



Strategic Partner



Destination Host



Destination Host



DAY 2 TUESDAY 27 MAY 2025 Mantra on Salt Beach, Kingscliff		
8.00am	Registration/Information Desk and Trade Area open Arrival tea and coffee	
9.00am	Conference Day 2 - Plenary Sessions	
	9.05am Welcome & Introduction (5 mins)	Conference MC , to be confirmed
	9.10am Welcome to Country (5 mins)	Welcome to Country , to be confirmed
	9.15am LGNSW Welcome address (10 mins)	Cr Phyllis Miller OAM , President LGNSW
	9.25am Destination Host Council Welcome (10 mins)	Mayoral Welcome Speaker , to be confirmed
	9.35am Panel session with Q&A Focus: Rural & Regional Events Attracting Tourism (40 mins)	Troy Green PSM , General Manager, Tweed Shire Council Michael Thurston , General Manager, Destination North Coast Speaker , to be confirmed MC/Facilitator
10.15am	Morning Tea Trade Area Sponsored by 	
11.00am	Keynote with Q&A (50 mins including questions)	Gus Balbontin As the former Executive Director of Lonely Planet he led the company through significant cultural, structural and product transformation that put the company back in the black and ready to tackle a digital future. As a current investor founder and owner of a creative studio he is involved heavily in educating the next cohort of entrepreneurs and corporate innovators. Gus is globally recognised for his influence in developing cutting edge products and technologies for companies including Google X, Nokia, Apple, Amazon and the list is still growing.
11.50am	Ministerial address (10 mins)	Ministerial Speaker , to be confirmed
12.00pm	Award Presentation NSW Top Tourism Town Awards (30 mins)	NSW Tourism Association Presented by Speaker , to be confirmed
12.30pm	Lunch Trade Area	

ITEM 5 - ATTACHMENT 1 DESTINATION & VISITOR ECONOMY
CONFERENCE DRAFT PROGRAM.



DESTINATION & VISITOR ECONOMY CONFERENCE
Mantra at Salt Beach, Kingscliff | 26-28 May 2025



Strategic Partner



Destination Host




1.30pm	Delegates Site Visits & Bus Transfers Please assemble at main entrance of Mantra on Salt Beach for bus transfers (site visit departures at least 5mins apart)	
Site Visit 1	PEDALS, PASTURES AND PLATTERS: NRRT Better Bikes, Hosanna Farmstay, Tweed Valley Cheeses Farmhouse	
1.30pm – 5.30pm	Bus transfer, 30 mins each way Walking & Bike tour – easy to moderate Comfortable clothing and walking shoes. You will be cycling a distance of 8.3 km on an E-Bike Capacity: Max 50 pax (2 groups of 25)	Embark on a journey through the scenic countryside on the Northern Rivers Rail Trail with Better By Bikes, showcasing active transport innovation. Then, soak in the rustic charm of Hosanna Farmstay, where you'll find wide open spaces and old-fashioned fun. Finally, indulge in a delectable tasting at Tweed Valley Cheeses, featuring locally crafted delights.
Site Visit 2	COASTAL CHIC RETREATS: Visit a Local Holiday Park, The Blue Water Motel, Halcyon House	
1.40pm – 5.30pm	Bus transfers, easy to moderate walking required at each site location however some climbing & descending of stairs may be required Capacity: Max 25 pax	Discover the perfect blend of beachfront bliss and boutique luxury. Tour a family-friendly Holiday Park, explore the retro vibes of the refurbished Blue Water Motel, and experience the sophistication of Halcyon House, where modern elegance meets coastal tranquillity.
Site Visit 3	FRUITS, FERMENTS, AND FUN: Tropical Fruit World & Ventura Brewing	
1.45pm – 5.30pm	Bus transfer, 30 mins each way Easy walking Capacity: Max 50 pax	Dive into a tropical adventure starting at Tropical Fruit World, a sensory haven of exotic flavours and lush landscapes. Wrap up your day with a refreshing alcoholic kombucha experience at Ventura Brewing, where innovation meets the art of brewing.
Site Visit 4	SACRED SANDS AND STORIES: Fingal Head Walk on Country, Mim's Final Head SLSC & Minjungbal Museum	
1.50pm – 5.30pm	Bus transfer, 30 mins each way Easy walking Capacity: Max 50 pax	Immerse yourself in the natural beauty and cultural richness of Fingal Heads. This "Walk on Country" will connect you with the land through captivating stories, Indigenous heritage, and breathtaking coastal views.
5.30pm	Site visits return to Mantra on Salt Beach	
6.40pm	Bus Transfer from Mantra on Salt Beach to Husk Farm Distillery (20 – 25 mins)	
7.00pm – 10.00pm	Conference Dinner Husk Farm Distillery 1152 Dulguigan Road, North Tumbulgum Address by Cr Phyllis Miller OAM , President LGNSW Entertainment	
10.00pm – 10.30pm	Bus Transfers from Husk Farm Distillery to Mantra on Salt Beach	

ITEM 5 - ATTACHMENT 1 DESTINATION & VISITOR ECONOMY
CONFERENCE DRAFT PROGRAM.



**DESTINATION & VISITOR
ECONOMY
CONFERENCE**
Mantra at Salt Beach, Kingscliff | 26-28 May 2025



Strategic Partner




Destination Host



DAY 3 WEDNESDAY 28 MAY 2025		
Mantra on Salt Beach, Kingscliff		
8.15am	Registration/Information Desk and Trade Area open Arrival tea and coffee	
9.00am	Day 3 Plenary Sessions	
9.05am	Welcome and Housekeeping (5 mins)	
9.10am	Keynote Session and Q&A (30 mins + 15 mins questions) International Market Update - Tourism Australia	Speaker , to be confirmed
10.00am	Morning Tea Trade Area	
10.30am	Panel Session and Q&A Leveraging Tourism through Music and Culture (30 mins + 10 mins questions)	Richard Everson , GM, Destination Southern NSW – Value of Visitor Economy to Councils Speaker , to be confirmed Speaker , to be confirmed
11.10am	Keynote address and Q&A Destination NSW (45mins + 10 mins Questions)	Speaker , to be confirmed Destination NSW
12.05pm	Announcement Host Council 2026 (5 mins)	Conference MC , to be confirmed Cr Phyllis Miller OAM , President LGNSW
	Closing remarks (5 mins)	
12.15pm	Grab and Go Lunch served in Trade Area	
12.45pm	Conference concludes	

ITEM NO. 6**FILE NO: 25/28054
EDRMS NO: 7-1985-2683-7****MODIFICATION APPLICATION 7-1985-2683-7 FOR S4.55(2) MODIFICATION TO SEAHAM QUARRY - LOWER PIT FLOOR LEVEL BY 10M, AND DELETE CONDITIONS 29 AND 31, AT 139 & 139A ITALIA ROAD, BALICKERA**

REPORT OF: RYAN FALKENMIRE - DEVELOPMENT AND COMPLIANCE
SECTION MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse S4.55(2) Modification Application 7-1985-2683-7 for Modification to Seaham Quarry - Lower Pit Floor level by 10m and delete Conditions 29 and 31, for the reasons contained in **(ATTACHMENT 1)**.

BACKGROUND

The purpose of this report is to present a S4.55(2) modification to development consent 7-1985-2683-7 for an extractive industry (hard rock quarry), to Council for determination.

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

Subject Land	139 & 139A Italia Road, Balickera
Total Area	303.67ha
Zoning	RU2 Rural Landscape
Submissions	11
Key Issues	<p>The key issues identified throughout the assessment of the modification include:</p> <ol style="list-style-type: none">1) Road safety impacts associated with deletion of conditions restricting quarry trucks from turning right from Italia Road onto the Pacific Highway, and2) Environmental impacts associated with the proposed lowering of pit floor level. <p>The complete Planners Assessment Report is found within (ATTACHMENT 2).</p>
Reasons for Refusal	<ul style="list-style-type: none">• The proposed development increases road safety risk, resulting in adverse social and economic impacts.• The proposed development is inconsistent with Section 2.20 of State Environmental Planning Policy (Resources

	<p>and Energy) 2021, as the development has not demonstrated that ground water quality impacts have been avoided, or are minimised to the greatest extent practicable.</p> <ul style="list-style-type: none">• The proposed development is inconsistent with Clause 7.2 and 7.8 of the Port Stephens Local Environmental Plan 2013. Insufficient information has been provided to determine the proposed development would not have a detrimental effect on drainage patterns, soil stability, drinking water catchments and environmentally sensitive areas in the locality of the development.• The proposed development is not considered to be in the public interest as the development would result in unacceptable impacts to road safety.
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The development application has been reported in accordance with Council's 'Planning Matters to be Reported to Council Policy' as it has been called up by Councillor Arnott and Councillor Francis. A locality plan is provided at **(ATTACHMENT 3)**.

Proposal

The application proposes to modify a hard rock quarry, originally approved in 1985. The modification application comprises 2 components including lowering the permitted pit floor level from a Relative Level* (RL) 45m to RL 35m, and deletion of Conditions 29 and 31 of the consent, which relate to heavy vehicle movements.

*Reduced level (RL) is a term used in surveying to describe the elevation of a point in relation to a datum. It's a way to compare heights and is used to plan construction, design drainage systems, and more.

Lower Pit Floor Level

The proposed modification seeks to lower the approved pit floor of the quarry by 10m. The development consent currently limits extraction to a depth of RL 45m. The additional bench and pit lowering are proposed within the existing development footprint and would not involve any additional disturbance to land outside the pit floor or vegetation removal. By lowering the pit floor, the operation would have access to an additional 950,000 tonnes of resource.

The operation is currently limited to extracting between 0.5 million and 2 million tonnes per annum under the Environmental Protection Licence (EPL) 3956. No additional changes to any operational aspect of the development are proposed.

Deletion of Conditions 29 and 31

Conditions 29 and 31 of the consent were imposed by Council under a previous modification approved in August 2024. They specify:

- (29) All trucks travelling southbound from the quarry must first turn left (ie northbound) onto the Pacific Highway and utilise the Tarean Road Interchange to perform a U-turn. No trucks are permitted to conduct a right hand turn from Italia Road onto the Pacific Highway.
- (31) Prior to the commencement of quarrying within the north-east quarry pit to lower the pit floor from RL 75m to RL 45m, the following steps relating to regulatory signage are to be undertaken:
 - (a) A Roads Act Approval Application is to be made to Council in accordance with Section 138B of the Roads Act 1993 for the installation of regulatory signage at the approach of the intersection of Italia Road and Pacific Highway prohibiting the right hand turn of quarry trucks from Italia Road onto the Pacific Highway. The regulatory signage is to apply to quarry trucks only, through a means endorsed by the Local Traffic Committee. The sign is to specify any exceptions to which the signage does not apply, such as light vehicles, buses and the like.
 - (b) The Roads Act Approval Application, inclusive of regulatory signage is to be referred to the Local Traffic Committee for endorsement.
 - (c) The approval or recommendation of the Local Traffic Committee is to be implemented under the Roads Act Approval.

A Road Safety Review (RSR) was submitted with this modification application. The RSR assessed truck turning movements at the intersection of Italia Road and the Pacific Highway. It concluded that compliance with Condition 29 is likely to worsen vehicle crash risk at the intersection of Italia Road and Pacific Highway in comparison to transport route allowances that applied before Condition 29 was imposed by Council. The proposed deletion of Condition 29 would reverse that restriction and allow heavy quarry vehicles to turn right from Italia Road onto the Pacific Highway and travel southbound.

The proposed deletion of Condition 29 will render Condition 31 redundant.

Site Description

Seaham Quarry, is located at 139 & 139A Italia Road, Balickera, 10km north of the Raymond Terrace. The site is legally identified as LOT: 66 DP: 753200, LOT: C DP: 164505 and measures a combined area of 303.67ha. Access is provided via a private haul road, which connects the quarry to the Pacific Highway via Italia Road.

History and Background

The existing quarry has been in operation since 1991. The quarry produces an array of hard rock products for Newcastle and Hunter Region markets. There is a proposal to expand the existing quarry as part of a State Significant Development (SSD-59254474) Application currently being assessed by the Department of Planning, Housing and Industry (DPHI). The SSD application seeks to expand the existing quarry footprint, by 30.6ha, enabling access to produce 2 million tonnes per annum (Mtpa) over a period of 30 years.

A previous modification (DA7-1985-2683-5) was refused by the elected Council in 2020 on traffic safety grounds.

A number of existing, approved and proposed hard rock quarries are also located within the locality near the site. These quarries include the approved Australian Resource Development Group (ARDG) Stone Ridge Quarry at 150 Italia Road Balickera, and the Eagleton Hard Rock Quarry at 13 Barleigh Ranch Way, Eagleton. Both have recently been approved by the Independent Planning Commission via the State Significant Development pathway.

Key Issues

The key issues identified throughout the assessment of the development relate to impacts to road safety associated with deletion of conditions restricting quarry trucks from turning right from Italia Road onto the Pacific Highway, and environmental impacts associated with the proposed lowering of pit floor level. A detailed assessment of the application is contained within the Planners Assessment Report **(ATTACHMENT 2)**.

Deletion of Condition 29 Restricting Southbound Quarry Trucks from turning Right from Italia Road onto the Pacific Highway

Following Council's previous decision to restrict right hand turn truck movements from Italia Road onto the Pacific Highway, Boral commissioned a Road Safety Review (RSR). The RSR concluded that a heavy vehicle left turn from Italia Road to Pacific Highway northbound is riskier than a right turn to Pacific Highway southbound, and a ban on heavy vehicle right-turn traffic movements is likely to worsen crash risk at the intersection.

In response to the RSR submitted by the applicant, Council commissioned an independent Traffic Review of the RSR. A 'Heavy Vehicle Turn Safety Review' was undertaken on behalf of Council to assess the findings of the RSR.

The 'Heavy Vehicle Turn Safety Review' disputed the findings of the RSR, noting fundamental issues regarding the collection and assessment of modelling data, along with exaggeration of crash severity and other key assumptions. Based on these findings, the 'Heavy vehicle turn Safety Review' formed the following conclusions:

- That the heavy vehicle left turn from Italia Road to Pacific Highway northbound is a safer option than the proposed right turn to Pacific Highway southbound.
- Restricting right turns for heavy vehicles out of Italia Road on to Pacific Highway would improve the safety situation at this intersection. The overall intersection operation would also be improved to a satisfactory level which is currently operating at an unsatisfactory level.

The findings of the 'Heavy Vehicle Turn Safety Review' were provided to the applicant prior to them lodging their modification application. The modification application subsequently lodged with Council, neither revised the RSR or provided responses to address the contentions raised in the 'Heavy Vehicle Turn Safety Review'. Council's Traffic Engineer reviewed the findings of both the RSR and Heavy Vehicle Turn Safety Review, with concurrence provided for the findings of the Council commissioned Traffic Study.

Council Planning and Engineering Officers maintain heavy vehicles should continue to be restricted from making right hand turns from Italia Road onto the Pacific Highway as enforced through Conditions 29 and 31.

Taking the above into consideration, the proposed deletion of Conditions 29 and 31 is not recommended for support, noting the safety related issues associated with deletion of these conditions. Further detail on traffic safety matters is contained within the Planners Assessment Report in **(ATTACHMENT 2)**.

Environmental Impacts – Pit Floor Lowering

Insufficient technical information was lodged with the application to assess whether the proposal will have a detrimental effect on drainage patterns, water quality, air quality and noise levels.

NSW Environment Protection Authority (EPA) referral comments concluded that insufficient information was provided with the application to assess quantitative air and noise impacts; noting the existing consent dates from the 1980's and predates modern environmental impact assessment techniques, guidance and policies.

Furthermore, the EPA raised concerns in relation to stormwater runoff quality and discharges from the quarry. These comments were reiterated by Hunter Water Corporation (HWC) and Council's Environmental Planner who noted an overall decline in water quality near the subject site, with the proposal likely to generate water quality impacts in both the surface water and groundwater environments.

As identified by the EPA, HWC and Council, insufficient technical information was lodged with the application to assess environmental impacts associated with the proposal and this forms a reason for refusal. Further detail on environmental impacts is provided in the Planners Assessment Report **(ATTACHMENT 2)**.

Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 2**), the proposed development is not consistent with the aims and objectives of the applicable environmental planning instruments and Council policies. The proposed development would cause unacceptable impacts to road safety and is not considered to be in the interest of the public. Furthermore, insufficient information was provided to determine the proposed development would not result in adverse air quality, acoustic, drainage, water quality and traffic impacts during operation of the development.

Based on a detailed assessment of the application, and with consideration to the inconsistencies identified against the relevant State Environmental Planning Policies, Port Stephens LEP 2013 and Port Stephens DCP 2014, the modification application is recommended for refusal for the reasons contained in (**ATTACHMENT 1**).

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live, 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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	Yes		Should Council determine to approve the application, haulage levy contributions would be applicable.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is approved, a third party may appeal the determination.	High	Accept the recommendations.	Yes

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is refused, the applicant may appeal the determination.	High	Accept the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Social and Economic Impacts

The proposal would enable extraction of a known resource on an existing quarry site. The extraction of additional resources enables distribution for use in construction and development related industry, whilst improving economic viability of the operation, thereby maintaining employment opportunities for the surrounding community.

Notwithstanding, the proposal would result in unacceptable social impacts as a result of the traffic and road safety matters, through deletion of conditions that restrict right hand turn quarry truck movements from Italia Road onto the Pacific Highway southbound. Further, there is insufficient information in terms of water quality that the proposal will not have an adverse impact on neighbouring land uses, which may have negative social or economic consequences.

Built Environment

The proposal includes the lowering of a pit floor within an existing quarry which is screened from view from any public road or surrounding properties. Accordingly, there would be no impact to the built environment as a result of the proposal.

Natural Environment

The proposed modification does not include any vegetation clearing, as it proposed to lower the pit floor of an already disturbed area, within the current extraction boundary. However, insufficient technical information was lodged with the application to conclude the proposal will not generate indirect impacts to ground water dependent ecosystems.

Additionally, the proposal is likely to generate water quality impacts in both the surface water and groundwater environments.

Furthermore, insufficient technical information was lodged with the application to demonstrate the manner in which additional environmental impacts by way of noise, vibration and air quality will be managed.

COMMUNICATION AND ENGAGEMENT

Council's Communication and Engagement Strategy uses the IAP2 Framework to identify the level of engagement undertaken. An explanation for each level is shown below.

INFORM	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives, opportunities and/or solutions.
CONSULT	To obtain public feedback on analysis, alternatives and/or decisions.
INVOLVE	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.
COLLABORATE	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.
EMPOWER	To place final decision-making and/or developed budgets in the hands of the public.

The following communication and engagement applies to this report.

External communications and engagement

External consultation was undertaken with the Environment Protection Authority, (EPA), Transport for NSW (TfNSW), Hunter Water Corporation (HWC) and Water NSW. The Environment Protection Authority and Hunter Water Corporation were not supportive of the proposed development for reasons outlined in the Planner's Assessment Report (**ATTACHMENT 2**).

Public Submissions

The application was publically exhibited from 30 October 2024 to 13 November 2024 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. During this time, 9 submissions opposing the development were received and 2 submissions provided support for the proposal. A detailed response to these submissions is provided in the Planners Assessment Report in (**ATTACHMENT 2**).

CONSULT	The application was publically exhibited from 30 October 2024 to 13 November 2024 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. During this time, 9 submissions opposing the development were received and 2 submissions provided support for the proposal. A detailed response to these submissions is provided in the Planner's Assessment Report in (ATTACHMENT 2).
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Internal communications and engagement

Internal consultation was undertaken with Council's Strategy and Environment and Assets sections. The referral comments from these sections have been considered as part of the Planner's Assessment Report (**ATTACHMENT 2**). Council's Strategy and Environment and Assets sections were not supportive of the proposed development for reasons outlined in the Planner's Assessment Report (**ATTACHMENT 2**).

OPTIONS

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

ATTACHMENTS

- 1) Recommended Reasons for Refusal. [↓](#)
- 2) Planner's Assessment Report. [↓](#)
- 3) Locality Plan. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

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

TABLED DOCUMENTS

Nil.

RECOMMENDED REASONS FOR REFUSAL

1. The proposed development is inconsistent with Section 2.20 of State Environmental Planning Policy (Resources and Energy) 2021, as the development has not demonstrated that ground water quality impacts have been avoided, or are minimised to the greatest extent practicable (s4.15(1)(a)(i) *Environmental Planning and Assessment Act 1979* (EP&A Act));
2. The proposed development is inconsistent with Clause 7.2 of the Port Stephens Local Environmental Plan 2013, as insufficient information has been provided to determine the proposed development would not have a detrimental effect on drainage patterns, soil stability, waterways and environmentally sensitive areas in the locality of the development (s4.15(1)(a)(i) *Environmental Planning and Assessment Act 1979* (EP&A Act));
3. The proposed development is inconsistent with Clause 7.8 of the Port Stephens Local Environmental Plan 2013, as insufficient information has been provided to determine the proposed development would not have a detrimental effect on the quality and quantity of water entering drinking water storages in the locality of the development (s4.15(1)(a)(i) *Environmental Planning and Assessment Act 1979* (EP&A Act));
4. Insufficient information has been provided to determine the proposed development would not result in adverse air quality, acoustic, drainage, water quality and traffic impacts during operation of the development (s4.15(1)(a)(iii) EP&A Act);
5. The proposed development would cause unacceptable impacts to road safety, resulting in adverse social and economic impacts (s.4.15(1)(b) of the Environmental Planning & Assessment Act 1979 (EP&A Act)).
6. The proposed development is not considered to be in the public interest as the development would result in unacceptable impacts to road safety (s.4.15(1)(e) of the EP&A Act).



PORT STEPHENS
COUNCIL

S4.55(2) MODIFICATION APPLICATION ASSESSMENT REPORT

APPLICATION REFERENCES

Modification Application Number	7-1985-2683-7
Development Description	Extractive Industry (hard rock quarry)
Modification Description	S4.55(2) Modification to Quarry - Lower pit floor level from (RL) 45m to RL35m, and delete Conditions 29 and 31
Applicant	BORAL RESOURCES (NSW) PTY LTD
Date Of Lodgement	11/10/2024

PROPERTY DETAILS

Property Address	139 Italia Road BALICKERA, 139A Italia Road BALICKERA
Lot and DP	LOT: 66 DP: 753200, LOT: C DP: 164505
Zoning	RU2 RURAL LANDSCAPE
Site Constraints That Affect The Modification	HWC Special Area Grahamstown Dam Bushfire Prone Land Acid Sulfate Soils – Class 5 Koala Habitat Endangered Ecological Communities (Hunter Valley Dry Rainforest) Wildlife Atlas – Fauna Biodiversity Values Map

ASSESSMENT SUMMARY

Designated Development	The original development was designated development. Despite this, a modification pursuant to section 4.55 of the EP&A Act is not considered 'development' but rather a modification of a development consent. Notwithstanding, the development is not considered to be designated development in accordance with Clause 36 of the EP&A Regulations, as discussed in this report.
Integrated Development	The original application was integrated development in accordance with s4.46 of the EP&A Act as the Water Management Act 1912. However, modifications pursuant to Section 4.55 are not integrated development.
Concurrence	The application does not require the concurrence of another body.

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PLANNERS PRE-ASSESSMENT CHECKLIST

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

MODIFICATION PROPOSAL

The application proposes to modify a hard rock quarry, originally approved in 1985. The modification application comprises two components: lowering the permitted pit floor level from RL 45m to RL35m, and deletion of conditions 29 and 31 of the consent. Details of each component is provided below:

Lower pit floor level

The proposed modification seeks to lower the ignimbrite pit floor from RL 45m AHD to a finished level of RL 35m AHD, through establishment of an additional bench within the existing pit (see **Figure 1**). The development consent currently limits extraction to a depth of RL 45m AHD. The additional bench and pit lowering is proposed within the existing development footprint and would not involve any additional disturbance to land outside the pit floor or vegetation removal. By lowering the pit floor, the operation would have access to an additional 950kt of resource.

The applicant has advised the primary quarry pit area is nearing the end of its extractive life, with the final quarry floor depth and extractive boundaries approaching consented limits imposed under the approval (as modified). In April 2024, the applicant submitted State Significant Development application SSD-59254474 seeking consent to expand the quarry and extend its operation by 30 years. Given the complexity of this SSD application and while it is assessed by the Department of Planning, Housing and Infrastructure (DPHI), the applicant is seeking access to additional hard rock resource to ensure the quarry can continue to deliver construction materials to the Hunter, Central Coast and Lower North Coast regions. Without undertaking the proposed pit deepening, the quarry is expected to exhausted by the end of 2026, based on current extraction rates.

The operation is currently limited to extracting between 0.5 million and 2 million tonnes per annum under the Environmental Protection Licence (EPL) 3956 managed by the Environment Protection Authority (EPA). The Statement of Environmental Effects lodged with the application asserts that no changes to any operational aspect of the development is proposed, including:

- Permitted quarry life
- Hours of operation
- Numbers employed
- Extraction footprint
- Production or transportation rate
- Type of product being extracted
- Extraction methodology.

Deletion of conditions 29 and 31

Conditions 29 and 31 of the consent were imposed by modification in August 2024. They specify:

- (29) *All trucks travelling southbound from the quarry must first turn left (i.e. northbound) onto the Pacific Highway and utilise the Tarean Road Interchange to perform a U-turn. No trucks are permitted to conduct a right hand turn from Italia Road onto the Pacific Highway.*
- (31) *Prior to the commencement of quarrying within the north-east quarry pit to lower the pit floor from RL 75m to RL 45m, the following steps relating to regulatory signage are to be undertaken:*

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- (a) A Roads Act Approval Application is to be made to Council in accordance with Section 138B of the Roads Act 1993 for the installation of regulatory signage at the approach of the intersection of Italia Road and Pacific Highway prohibiting the right hand turn of quarry trucks from Italia Road onto the Pacific Highway. The regulatory signage is to apply to quarry trucks only, through a means endorsed by the Local Traffic Committee. The sign is to specify any exceptions to which the signage does not apply, such as light vehicles, buses and the like.
- (b) The Roads Act Approval Application, inclusive of regulatory signage is to be referred to the Local Traffic Committee for endorsement.
- (c) The approval or recommendation of the Local Traffic Committee is to be implemented under the Roads Act Approval.

A Road Safety Review (RSR) of truck turning movements at the intersection of Italia Road and the Pacific Highway provided with the application, concludes that compliance with condition 29 is likely to worsen vehicle crash risk at the intersection of Italia Road and Pacific Highway in comparison to transport route allowances that applied before condition 29 was imposed. The proposed deletion of condition 29 will reverse that exacerbation.

The proposed deletion of condition 29 will render condition 31 redundant, warranting its deletion also.

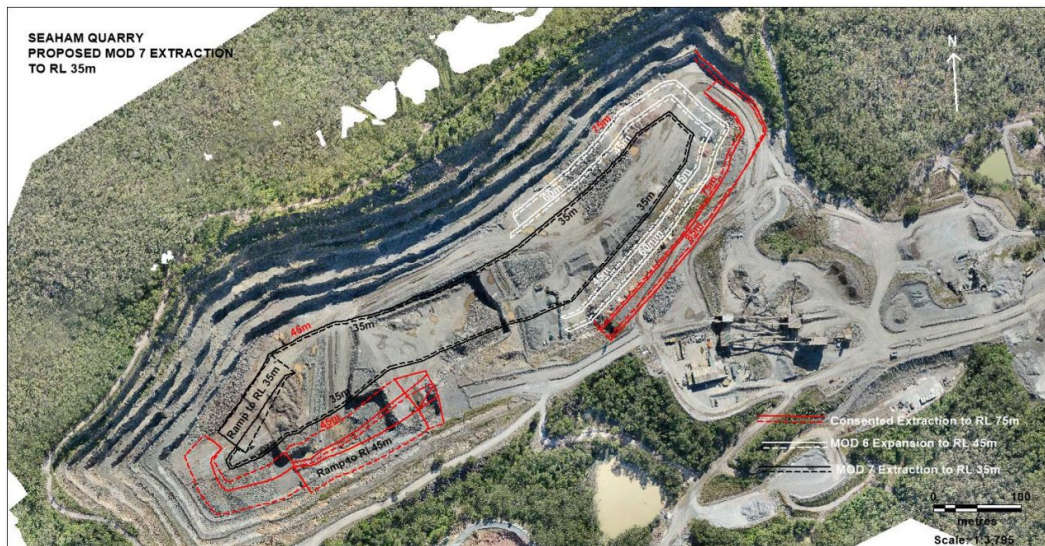


Figure 1: Proposed Pit Lowering Plan (Source: Applicants documentation)

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Figure 2: Current Quarry Layout (Source: Applicants documentation)

SITE DESCRIPTION

The subject site, known as Seaham Quarry, is located 139 & 139A Italia Road, Balickera, 10km north of the Raymond Terrace town centre. The site is legally identified as LOT: 66 DP: 753200, LOT: C DP: 164505 and measures a combined area of 303.67ha (see **Figure 3** below). Access is provided via a private haul road, which connects the quarry to the Pacific Highway via Italia Road. An area of approximately 28.1ha area has previously been cleared of vegetation to accommodate the quarry extraction footprint. The residual site area is densely vegetated and covers an area of approximately 275ha.

Surrounding land uses include an approved motor racing track to the south east, rural residences and an approved rock quarry (known as Eagleton Rock quarry) to the south, rural residential and agriculture to the north, and an approved rock quarry (known as Stone Ridge Quarry) to the north east.

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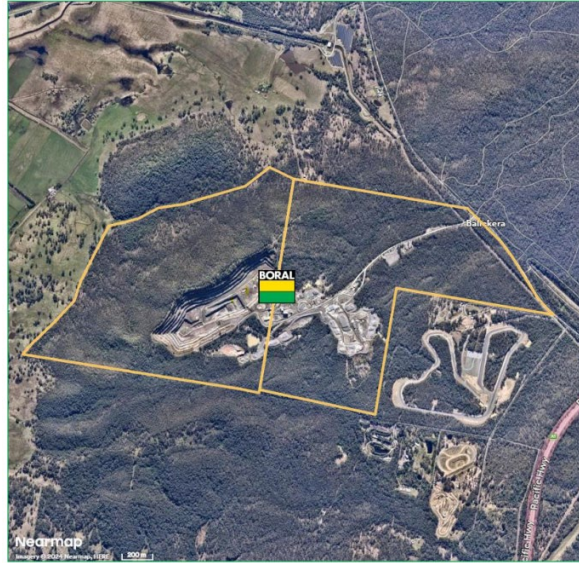


Figure 3: Satellite Image Overview of Site (Source: Applicants documentation)

SITE HISTORY & BACKGROUND

The quarry has been in operation since 1991. The quarry extracts ignimbrite and rhyolite to produce an array of hard rock products for Newcastle and Hunter region markets. The existing ignimbrite pit proposed to be modified is located immediately west of the crushing plant and stockpile areas and extends for a distance of 450 metres along NE – SW axis. Rock is currently extracted through drill and blast methods, at the south-western portion of the pit to a depth of RL 45m AHD from two benches. Dislodged rock is loaded from the blast heap into dump trucks (35 tonne) using a front end loader or excavator and transported to the primary crusher for processing.

The quarry currently extracts approximately 1.3 million tonnes of resource per year. The development consent issued for the site does not include a limit on the amount of material that can be extracted from the quarry annually, however access to resource is limited by the consented quarry depth and the Environmental Protection Licence (EPL), administered by the Environmental Protection Authority (EPA). Seaham Quarry operates under EPL 3956, used under the *Protection of the Environment Operations Act 1997* (POEO Act) for crushing, grinding or separating of between 500,000 tonnes per annum (tpa) – 2,000,000 tpa. The EPL identifies the site as a “land based extractive activity” of a scale of “>500,000 – 2,000,000 tonnes”.

A series of sediment control dams across nine sub-catchments divert clean water and capture and treat sediment laden water. Captured stormwater runoff is used to provide a source of water for operational activities. Stormwater collected in the dams is pumped to water tanks across the site for use in quarry operations. During high rainfall conditions stormwater is discharged at designated licenced locations subject to the quarry EPL licence.

All extracted resource is hauled via public roads using a B-Double and truck and dog fleet. Extracted resources are typically directed to southern markets via an existing seagull type intersection for southbound travel from Italia Road onto the Pacific Highway, with TfNSW advising the existing

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seagull intersection was constructed in the 1990's and early 2000's as part of wider upgrades to the highway (see **Figure 4**).

With consideration to factors including: (the substantial impact of traffic growth along the Pacific Highway; additional truck movements generated through lowering of the quarry pit floor; and traffic impacts associated with additional SSD quarries within the locality); Council established that road safety risks associated with heavy vehicle right-turn traffic movements from Italia Road onto the Pacific Highway was unacceptable.

To address the safety risks associated with the continued use of the Italia Road and Pacific Highway intersection by quarry trucks; under modification application (DA 7-1985-2683-6) quarry trucks were banned from making right hand turns from Italia Road onto the Pacific Highway, with south bound quarry truck movements required to turn left onto the Pacific highway, travelling for 11km before performing a U-turn at the Tarean Road grade separated interchange and heading south. This restriction was similarly imposed under (DA 16-2023-477-1) for road infrastructure upgrades to support the expansion of three (3) quarries which would all direct haulage through the Italia Road and Pacific Highway intersection. These turning restrictions reduce conflict points associated with the current seagull type design from three (3) points when turning right, to one (1) under a left turn (see **Figures 5 and 6**).



Figure 4: Existing Intersection Layout (Source: Applicants documentation)

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Figure 5: Left turn conflict points (Source: Applicants documentation)



Figure 6: Right turn conflict points (Source: Applicants documentation)

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The following modification applications have been sought since the original application:

Date of consent	Application reference	Proposal	Changes to Conditions
17 July 1985	7-1985-2683-1	Extractive Industry (Hard Rock Quarry).	Conditions 1-17 first imposed.
7 February 1989	P9/1/12/2683	Delete conditions.	Conditions 11 and 12 deleted and remaining conditions renumbered 11 to 15.
4 April 1997	D6283/85	Additional extraction area.	Condition 16-24 added. Advice note 1 and 2 added. No other changes.
23 December 1997	D6283/85	Temporary change to operating hours.	Condition 25 and 26 added. No other changes.
16 May 2000	7-1985-2683-2	Temporary change to operating hours.	Conditions 27, 28 and 29 (referred to as 1, 2 & 3 in consent letter) added. No other changes.
5 June 2001	7-1985-2683-3	Change hours of operations for additional extraction area.	Condition 16 modified to 16A. No other changes.
8 November 2011	7-1985-2683-4	South western Pit floor lowering to RL45m AHD	Condition 3 modified to 3A. Condition 17, 25, 26, 27, 28 and 29 deleted and remaining conditions renumbered 17-23. Following renumbering, new conditions 24 to 27 were added. Advice note 3 added.
N/A application refused	7-1985-2683-5	North eastern pit floor lowering to RL45m AHD.	No changes.
2 August 2024	7-1985-2683-6	North eastern pit floor lowering to RL45m AHD.	Condition 27 modified to 27A. New conditions 28-39 were added.

Pre-lodgement written advice was provided to the applicant on 24 September 2024, which reviewed a proposal to lower the pit floor of the quarry and delete conditions prohibiting quarry trucks from making right hand turns from Italia Road onto the Pacific Highway.

The following key issues were raised in the pre-lodgement written advice:

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- Approval pathway
- Designated Development
- Legislation and Policy
- Notification and advertising
- Review of the Road Safety Review (RSR) of truck turning movements at the intersection of Italia Road and the Pacific Highway
- Inconsistency of proposal with DA 16-2023-477-1 for road infrastructure upgrades to Italia Road and Pacific Highway intersection
- Limitations restricting issue of a partial consent for a modification application.

A number of existing, approved and proposed hard rock quarries are located within the locality. The quarries include the approved Australian Resource Development Group (ARDG) Stone Ridge Quarry at 150 Italia Road Balickera, and the Eagleton Hard Rock Quarry at 13 Barleigh Ranch Way, Eagleton.

Stone Ridge Quarry

The Stone Ridge Quarry is a State Significant Development (SSD-10432) for the purpose of extracting hard rock resource from land within the Wallaroo State Forest. The Project Area occupies 139 ha of land; including extraction, processing, stockpiling area and buffers, with a disturbance area of approximately 68 ha. The Project would produce up to 1.5 Mtpa of saleable quarry product with approval sought for an initial 30-year quarrying period.

The application was approved by the Independent Planning Commission of NSW on 8 July 2024. Condition B36 (a) of this Development Consent states *'prior to transporting any quarry products from the site on public roads, the Applicant must: ensure that the intersection at the junction of The Pacific Highway and Italia Road is upgraded to the satisfaction of TfNSW'*.

It is estimated the Stone Ridge Quarry would generate 334 truck movements (in/out) per day, all of which would occur through the Italia Road Pacific Highway intersection.

Eagleton Quarry Project

The Eagleton Quarry Project is a State Significant Development (SSD-7332) for purpose of extracting 600,000 tonnes of hard rock resource per annum. The proposed quarry is expected to have a lifespan of 30 years. The proposed disturbance area is 33ha, including extraction, processing, stockpiling area and buffers.

The application was approved by the Independent Planning Commission of NSW on 8 July 2024. Condition B34 (a) of this Development Consent states *'prior to transporting any quarry products from the site on public roads, the Applicant must: ensure that the intersection at the junction of The Pacific Highway and Italia Road is upgraded to the satisfaction of TfNSW'*.

It is estimated the Eagleton Quarry would generate 170 truck movements (in/out) per day, all of which would occur through the Italia Road Pacific Highway intersection.

Seaham Quarry Project

The proposed Seaham Quarry Project is a State Significant Development (SSD-59254474) to expand the existing quarry footprint, by 30.6ha, enabling access to produce 2 million tonnes per

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annum (Mtpa) over a period of 30 years. Without the expansion, the quarry is expected to exhaust its approved hard rock resource within a few years.

It is estimated the expanded Boral Seaham Quarry would generate 224 truck movements (in/out) per day, and up to 325 movements during peak operation, all of which would occur through the Italia Road and Pacific Highway intersection.

PLANNING ASSESSMENT

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

Internal

Development Engineering

Comment:	<p>The application was assessed by Council's Development Engineer in relation to traffic and road network impacts.</p> <p>No objection was made to the application relating to lowering of the quarry pit floor given that no changes to any operational aspect of the development is proposed.</p> <p>Deletion of conditions 29 and 31 was not supported based on Council's Traffic Engineer's concurrence with findings of the 'Heavy vehicle turn Safety Review' of the Road Safety Review prepared by GHD. Findings of this 'Heavy vehicle turn Safety Review' stated:</p> <ul style="list-style-type: none"> <i>The GHD Safety Review conclusion that heavy vehicle right turns out movement out of Italia Road at the intersection of Pacific Highway is safer than left turns out movement is not supported.</i> <i>It is concluded that banning right turns for heavy vehicles out of Italia Road on to Pacific Highway would improve the safety situation at this intersection. The overall intersection operation would also be improved to a satisfactory level which is currently operating at an unsatisfactory level.</i>
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Natural Systems

Comment:	<p>The application was assessed by Council's Environmental Planner in relation to water quality and hydrological impacts associated with the proposal. Council's Environmental Planner concluded that insufficient information was lodged with the application to assess these impacts, with the following information required:</p> <ul style="list-style-type: none"> Biodiversity Development Assessment Report (prescribed impacts (water sustainability) on Seven Mile Creek biodiverse riparian lands as mapped on the NSW Biodiversity Values Map). Quantification of potential water contaminant levels associated with the proposed works. Detailed water quality management plan. Details associated water discharge (quantity, frequency, etc.). Analysis of past water quality monitoring data (i.e. prior to commencement of blasting and extraction activities) compared to current observed levels and trends over time.
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	Given the considerable increase in groundwater interception, the substantial level of uncertainty associated with water quality impacts and the sensitivity of the receiving environment, the application is not supported.
Environmental Health	
Comment:	The application was assessed by Council's Environmental Health Officer in relation to noise, vibration and air quality. Council's Environmental Health Officer made no objection and supported the application unconditionally.
Infrastructure Contributions	
Comment:	Council's Infrastructure Contributions Officer advised that the existing consent contains a condition relating to Section 94 contributions and haulage fees, which should remain unchanged as a result of the proposed modification.
External	
Transport for NSW	
Comment:	<p>The application was referred to TfNSW for comment in accordance with Section 2.22 of the Transport of the State Environmental Planning Policy (Resources and Energy) 2021.</p> <p>In response TfNSW made no objection to the proposal and noted the following:</p> <p><i>The proposed modification does not change the quarry life, hours of operations, numbers employed, extraction footprint, production or transportation rate, type of product being extracted, or the extraction methodology.</i></p> <p><i>TfNSW has no comments regarding the proposed modification on the basis that this proposal is considered to have no significant impact on the State road network.</i></p>
Hunter Water Corporation	
Comment:	<p>The application was referred to Hunter Water Corporation (HWC) in accordance with Section 51 of the <i>Hunter Water Act 1991</i>. HWC referral comments received on 15/01/2025 concluded that insufficient information was provided with the application to assess surface and ground water quality impacts.</p> <p>HWC noted the existing quarry operations are of substantial interest to Hunter Water as they are known to have a long history of adverse and unacceptable impacts on the Grahamstown Dam drinking water catchment as a result of degraded water quality, particularly elevated sediment loads and nitrogen concentrations, being discharged from the site during high rainfall events.</p> <p>Not only does water quality discharged from the site not meet current standards (NorBE) but monitoring results published on the quarry operator's website indicates that substantial breaches of the quarry's total suspended solids limit imposed by Environment Protection Licence (EPL) 3956 are frequently recorded during high rainfall events. The quarry is not required under the EPL conditions to monitor the load of sediment discharged from the site, however, the monitoring results indicate that a significant sediment load is discharged to Grahamstown Dam.</p> <p>It is also known from recent water quality monitoring work undertaken by the quarry operator and monitoring at other hard rock quarrying operations that significant concentrations of nitrogen are present in water discharged from the site.</p>

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	<p>Degraded water quality discharged from the quarry presents various risks to the drinking water supply system. Recent revisions to the quarry's EPL 3956 by the NSW Environment Protection Authority have sought to address some of the causes of these adverse impacts on the drinking water catchment and are greatly appreciated, however, the ability to enforce the implementation of improved management controls at the quarry is limited by the age of the planning consent. The quarry operator is not required to implement such improvements to management practices under the existing consent and, as a result, current best practice management has not been implemented at the quarry operations.</p> <p>Given the factors described above, Hunter Water holds the view that the proposed Modification 7 is not in the best interest of drinking water catchment management or, therefore, the public interest and those interests would be best served by allowing the current quarry expansion project assessment process to be determined and enabling the prerequisite conditions to be satisfied in order to provide continuity of operations as desired by the proponent.</p>
	Environment Protection Authority
Comment:	<p>The application was referred to the NSW Environment Protection Authority (EPA) as the quarry is a scheduled activity under Section 48 of the <i>Protection of the Environment Operations Act 1997</i>. The EPA highlighted that the quarry is currently subject to an Environment Protection Licence (EPL) 3956.</p> <p>EPA referral comments received on 28/10/2024 concluded that insufficient information was provided with the application to assess quantitative air and noise impacts; noting the existing consent dates from the 1980's and predates modern environmental impact assessment techniques, guidance and policies.</p> <p>Additional comments were received on 17/12/2024, documenting the EPA's concerns in relation to total suspended solids (TSS) and nitrogen levels in stormwater runoff and discharges from the Premises. The Proposal does not currently include any proposed upgrades to stormwater management and the EPA is concerned that if the Proposal is approved, the proposed surface water management upgrades as part of SSD-59254474 (Seaham Quarry Project) may not occur for some time. Additional information was requested from the EPA demonstrating how the proposal will incorporate the following surface water upgrades:</p> <ul style="list-style-type: none"> • Sediment basins are upgraded to be sized to minimise the risk of uncontrolled discharges in storm events not exceeding the 24-hour duration, 0.2% AEP storm event; • Water captured in sediment ponds is treated prior to discharge with water treatment systems for the removal of solids and nutrients; and • A Trigger Action Response Plan (TARP) is implemented to guide when water should be discharged to manage water quality impacts on the downstream receiving environment. <p>As identified by the EPA, insufficient technical information was lodged with the application to assess and manage the environmental impacts associated with the proposal.</p>
	Water NSW

Comment:	<p>The application was referred to Water NSW under Section 89 of the Water Management Act 2000 for a water use approval. In response Water NSW made no objection to the proposal and noted the following:</p> <p><i>WaterNSW has reviewed the information submitted with the application regarding the Extractive Industry - Hard Rock Quarry, at 139 & 139A Italia Road, Balickera NSW 2324, and considers that for the purposes of the Water Management Act 2000, no further investigation is required by this agency.</i></p>
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Environmental Planning and Assessment Act 1979

Section 4.55(2) – Other Modifications

S4.55(2)(a) – Substantially The Same Development

The development as modified is deemed to be substantially the same as the approved development for the following reasons:

- The proposal will not change the extraction area footprint;
- The annual rate of production would not change as a result of the modification;
- The type of product being extracted would not change as a result of the modification;
- The operational and extraction processes (drilling and blasting practices) would not change as a result of the modification;
- The proposed transport routes (as permitted by the original consent) would not change as a result of the modification;
- The hours of operation would not change as a result of the modification; and
- The number of employees on the site would not change as a result of the modification.

It is noted that quantitatively, the proposal would enable access to an additional 950kt of resource, and thereby additional truck movements that would not have otherwise occurred. Despite this, the materials to be extracted are located in an existing quarry pit, which would be extracted and lowered at substantially the same rate currently approved.

On this basis, it is considered that the essence of the development is not substantially altered and the application is substantially the same.

S4.55(2)(b) – Concurrence and Integrated Development

The proposed modification does not constitute integrated development and does not require the concurrence of any external agency. However, referrals were sent to agencies that previously provided comment on the original application, as outlined in the external referrals section, elsewhere in this report.

S4.55(2)(c) – Notification

In accordance with Councils Development Control Plan and Councils Community Participation Plan, the application has been notified and advertised. The application was notified from 30 October 2024 – 13 November 2024.

S4.55(2)(d) – Submissions

There were 11 submissions received relating to the proposed modification. 9 submissions objected to the proposal, while two (2) submissions provided support for the proposal.

The matters raised in the submissions objecting to the development are discussed in the table below:

Matter raised	Response
<p>The subject intersection is no longer fit for purpose to accommodate right hand turn movement of quarry trucks from Italia Road onto the Pacific Highway.</p>	<p>Independent traffic engineering advice commissioned by Council, undertook SIDRA modelling of the existing and the heavy vehicle right turn ban scenarios for the intersection of Italia Road and Pacific Highway, using turning volumes documented in the Road Safety Review (RSR) prepared by GHD dated 16 August 2024. The SIDRA results indicate that currently the right turn movement out of Italia Road is experiencing significant delay due to the mix of heavy and light vehicles for this movement, and the intersection is failing with a Level of Service (LoS) rating of F. Once, right turn for heavy vehicle is banned and only allowed to make left hand turns out of Italia Road the delay and LoS improved to a satisfactory level. This SIDRA modelling reinforces the subject intersection is no longer fit for purpose to accommodate right hand turn movement of quarry trucks from Italia Road onto the Pacific Highway.</p>
<p>The proposed deletion of conditions 29 and 31 is inconsistent with the applicant's development consent (DA 16-2023-477-1) for 'road infrastructure – upgrades to Italia Road and Pacific Highway Intersection', to support the expansion of three (3) quarries which would all direct haulage through the Italia Road and Pacific Highway intersection.</p>	<p>On 20 June 2022 TfNSW provided in-principle acceptance (subject to conditions being met) to a strategic design for northbound access to the Pacific Highway, to service the proposed Eagleton & Stone Ridge quarries and support further intensification of the existing Seaham quarry at Balickera. This position was substantiated through TfNSW support of the approved intersection upgrade under DA 16-2023-477-1, subject to detailed design through the WAD approval process.</p> <p>Whilst TfNSW made no objection to the proposal under assessment, the proposed deletion of conditions restricting right hand turn movement of quarry vehicles southbound remains entirely inconsistent with the resolutions to improve intersection performance and traffic safety implemented under DA 16-2023-477-1.</p>

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The Road Safety Review (RSR) relies on an inadequate survey period for traffic data collection; and has not sought community consultation in preparation of the document.	These traffic data collection matters are not identified as contentions with the independent traffic engineering advice or engineering referral.
The proposal will generate significant noise, pollution and congestion impacts to the local community.	As identified in the referrals section above, insufficient technical information was lodged with the application to assess and manage the environmental impacts associated with the proposal.
Request that the Council reassess the right-turn ban and instead consider the installation of an acceleration lane or other measures to enhance safety for all road users. This would ensure that safety concerns are fully addressed without restricting the operational efficiency of the site.	DA16-2023-477-1 was approved on 5/12/2024 for 'road infrastructure – upgrades to Italia Road and Pacific Highway Intersection' to support the expansion of three (3) quarries whilst enhancing road safety and intersection performance for road users. The proposal includes upgrade of the existing left out treatment from Italia Road to the Pacific Highway to include a channelised left out treatment (CHL) and dedicated acceleration lane for north-bound vehicles. The approximate length of the acceleration lane required is 435 m (including 110 m merge). This proposed intersection upgrade is an interim upgrade as agreed with TfNSW whilst it undertakes its long-term strategic planning as part of its highway post-duplication strategy.
Request for the consent authority to consider the Council Resolution made on 23/07/2024 that; <i>'The elected body of Port Stephens Council will not support any future traffic solution associated with new quarry development applications or modifications at the Italia Road/M1 intersection unless it is a grade separated, fly over interchange'</i> . The Council Resolution should be a reason for refusing the application to remove Conditions 29 & 31, which would have the effect of allowing a continuation of dangerous right turn movements out of Italia Road by an ever-increasing volume of heavy vehicle traffic.	The subject resolution made by the elected body of Port Stephens Council on the 23/07/2024 has been considered during assessment of the application. Following review of the application, Council maintains heavy vehicles should be banned from making right hand turns from Italia Road onto the Pacific Highway as enforced through conditions 29 and 31.

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<p>The operating conditions for this quarry are far more permissive than those for other quarries in the area. There may be an opportunity for Council to address the inconsistency in quarrying consents and bring the operating times for the Boral Seaham Quarry into line with more modern conditions.</p>	<p>The operating conditions for the quarry are regulated by the development consent and EPL issued over the site. As the application does not seek to modify any operational aspect, it is not reasonable to impose a condition of consent reducing the operating times for the quarry.</p>
<p>Traffic counts made in 2022 are not a true indication of the use of the intersection as since that time the Clarence Town Bridge has been closed to articulated vehicles and Six Mile Road has had a heavy vehicle limit put on it.</p>	<p>Temporary closures elsewhere in the broader network are not a consideration in a Traffic Impact Assessment. Council Engineers and TfNSW have considered these existing conditions during assessment of RSR and raise no concerns.</p>
<p>Until safety concerns regarding the Italia Road/Pacific Highway intersection are addressed by a major upgrade, this application for further deepening of the Seaham Quarry and for removal of Conditions 29 & 31 should be refused.</p>	<p>As no changes to quarry operations are proposed, Council's Development Engineer did not object to the lowering of the quarry pit floor, subject to the retention of conditions banning the right turn movement of quarry trucks from Italia Road onto the Pacific Highway.</p> <p>Conditions of consent have been imposed on IPC determined quarry projects at Eagleton & Stone Ridge restricting operation until upgrade of the Italia Road and Pacific Highway intersection to the satisfaction of TfNSW.</p>

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<p>The Road Safety Review's claim that the operation of the intersection would be less safe as a result of Condition 29, justifying its deletion, is considered to be disingenuous. The Road Safety Review is based a series of assumptions including, that truck drivers are competent and would not engage in risky behaviours, and that current turning demand is the basis of this safety assessment and that there will be no material change to traffic volumes from existing conditions.</p> <p>The justification for the removal of Conditions 29 and 31 in the Modification Application therefore appears to be that the right turn movements by Boral Quarry extension trucks is slightly less unsafe than forcing all trucks to turn left. Not that right turn movements are safe – just that it is slightly less unsafe.</p>	<p>Council acknowledges assumptions used in preparation of the RSR. Independent traffic engineering advice commissioned by Council - 'Heavy vehicle turn Safety Review' prepared by Barker Ryan Stewart and dated 5/09/2024, further disputes findings of the RSR, noting fundamental issues within the collection and assessment of data used within the Safe System process. Council's Traffic Engineer has reviewed all available documentation, and concurred with the findings of the Heavy vehicle turn Safety Review that:</p> <ul style="list-style-type: none"> • <i>The GHD Safety Review conclusion that heavy vehicle right turns out movement out of Italia Road at the intersection of Pacific Highway is safer than left turns out movement is not supported.</i> • <i>It is concluded that banning right turns for heavy vehicles out of Italia Road on to Pacific Highway would improve the safety situation at this intersection. The overall intersection operation would also be improved to a satisfactory level which is currently operating at an unsatisfactory level.</i>
<p>Limiting access could lead to potentially hazardous situations and increased safety risks for drivers, public road users and the broader community, as drivers may be forced to make unsafe manoeuvres or seek alternative routes that are less suitable, and that create higher safety risks for heavy vehicles, and other road users.</p> <p>Limiting access may also worsen congestion on surrounding roads, leading to longer delays for all road users.</p>	<p>SIDRA modelling data indicates that currently the right turn movement out of Italia Road is experiencing significant delay due to the mix of heavy and light vehicles for this movement, and the intersection is failing with a Level of Service (LoS) rating of F. Once, right turn for heavy vehicle is banned and only allowed to make left hand turns out of Italia Road the delay and LoS improved to a satisfactory level. This SIDRA modelling reinforces the subject intersection is no longer fit for purpose to accommodate right hand turn movement of quarry trucks from Italia Road onto the Pacific Highway.</p>

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There is no merge lane for northbound access, which prevents vehicles from accelerating to a safe speed before merging into highway traffic. Additionally, there are no immediate plans by Transport for NSW to construct a merge lane due to the limited distance between the Italia Road intersection and the Balickera Bridge. Which if created would only partially address the safety concerns created by the proposed changes.	DA16-2023-477-1 was approved on 5/12/2024 for 'road infrastructure – upgrades to Italia Road and Pacific Highway Intersection' to support the expansion of three (3) quarries whilst enhancing road safety and intersection performance for road users. The proposal includes upgrade of the existing left out treatment from Italia Road to the Pacific Highway to include a channelised left out treatment (CHL) and dedicated acceleration lane for north-bound vehicles. The approximate length of the acceleration lane required is 435 m (including 110 m merge). This proposed intersection upgrade is an interim upgrade as agreed with TfNSW whilst it undertakes its long-term strategic planning as part of its highway post-duplication strategy. Furthermore, conditions of consent imposed on IPC determined quarry projects at Eagleton & Stone Ridge restrict operation of quarries until upgrade of the Italia Road and Pacific Highway intersection to the satisfaction of TfNSW.
Clarity on which route the anticipated alternative turnaround point will be or what evaluations have been conducted to date to assess potential safety impacts for drivers as well and community members.	Trucks travelling from Italia Road onto the Pacific Highway southbound would be required to turn left at the Italia Road / Pacific Highway seagull intersection and travel north on the Pacific Highway to perform a U-turn at the grade separated interchange approximately 11 km north of Italia Road, before travelling south. The safety impacts of this route were assessed under DA 16-2023-477-1, which demonstrated an acceptable southbound truck merge speed capacity at the Tarean Road interchange.
Increased heavy vehicle traffic through Medowie is likely to negatively affect local residents, by contributing to increased road noise. For example, If traffic is rerouted through Medowie, it is likely to force drivers to navigate through school zones, particularly at the Williamstown end.	Quarry trucks must adhere to approved B-Double gazette routes, which does not include Medowie Road. Existing behavioural controls including GPS tracking, signposting and driver training programs are implemented as conditions of consent.
It is clear that the proposed change is also likely to have an impact on pricing due to rising fuel and travel time expenses of the operators given that the closest available overpass is 10 kms away from the intersection.	Council must foremost assess the environmental impacts of the proposal including traffic safety, with a priority of reducing heavy vehicle conflict at the intersection. Additional fuel and material pricing considerations are not relevant to assessment of the application.

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The environmental impacts associated with the proposal would render Balickera homestead unlivable and the property unsaleable.	As identified in the referrals section above, insufficient technical information was lodged with the application to assess and manage the environmental impacts associated with the proposal.
Council is in receipt of a legal opinion from 2019 advising that this application to deepen the quarry does not constitute 'substantially the same development' as that for which approval was originally granted in 1985 (attached).	As outlined under section 4.55(2)(a) of this report, the development as modified is deemed to be substantially the same as the approved development.
Council should reconsider the propriety of approving Boral's application to deepen the quarry when it clearly constitutes a component of a more major project currently under consideration by the NSW Department of Planning as a State Significant Development, as well as the Commonwealth Department of Climate Change, Energy, the Environment and Water. It is quite clear that the issues raised by this application exceed the limits of Council's authority.	The application has been made in accordance with Section 4.55 of the EP&A Act 1979. State Significant Development thresholds listed under Chapter 2 of State Environmental Planning Policy (Planning Systems) 2021 do not apply to a modification pursuant to section 4.55 of the EP&A Act 1979.
Seaham Quarry does "pose a significant risk in relation to the locality a) to human health, life or property, or (b) to the biophysical environment", and that the quarry's operational noise is a "polluting discharge" that Boral must recognise, with the utmost attention applied to reduce that risk. The fact that the quarry was approved in 1985 with minimal conditions does not make this appropriate now. We query whether blasting lower down in the pit will not cause any different impacts to what has been inflicted on neighbours for the last 40 years, but we do not have the expertise to investigate.	As identified in the referrals section above, insufficient technical information was lodged with the application to conclude the proposal will not generate adverse environmental impacts. This is further assessed in section 4.15(b) of this assessment report.

S4.55(3) – S4.15(1) Assessment

S.4.55(3) provides that in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The relevant matters within S.4.15 are assessed in the following section.

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

The application is not consistent with the provision of the PSLEP 2013 and relevant SEPPs applicable to the proposal as detailed below.

State Environmental Planning Policy (Resources and Energy) 2021

State Environmental Planning Policy (Resources and Energy) 2021 seeks to standardise the approach throughout NSW to the assessment and approval of mining and petroleum activities under Part 4 of the EP&A Act 1979.

Chapter 2 provides matters that are to be considered in development applications for mining, petroleum production and extractive industries. The relevant sections for consideration are Clause 2.20, 2.21, 2.22 and 2.23.

Section 2.20 of the SEPP requires the consent authority to consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner. Whilst existing conditions of the development consent and EPL licence manage current environmental impacts of the quarry; insufficient information was lodged with the application to assess the additional water quality and hydrological impacts associated with the proposal. Given the considerable increase in groundwater interception, the substantial level of uncertainty associated with water quality impacts and the sensitivity of the receiving environment, the project has not demonstrated that impacts have been avoided, or are minimised to the greatest extent practicable in accordance with the requirements of the SEPP.

Clause 2.21 requires the consent authority consider the efficiency or otherwise of the development in terms of resource recovery. In this regard, the application does not propose any amendment to existing resource extraction methods and therefore has no implication relating to efficiency.

Clause 2.22 of the SEPP requires the consideration of consent conditions relating to transport. Due to the proposal requiring transport of materials on a public road, the consent authority is required to refer the application to TfNSW for comment and take into consideration any response received.

In response, TfNSW made no objection to the application on the basis that:

- *The proposed modification does not change the quarry life, hours of operations, numbers employed, extraction footprint, production or transportation rate, type of product being extracted, or the extraction methodology.*

Clause 2.23 of the SEPP requires the consent authority to consider whether or not the consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development. It is noted that there are existing conditions of consent for rehabilitation which satisfies the requirements of Clause 2.23.

State Environmental Planning Policy (Resilience and Hazards) 2021**Chapter 4 – Remediation of Land**

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

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The proposal involves extraction of virgin quarry material within the confines of the existing quarry. Quarries are a known source of potential pollution and accordingly, existing controls are in place to manage contamination of the environment, including the conditions of the quarry EPL licence. Noting the proposal is to continue quarry operations and does not involve a change of use, the site is considered to be suitable in its current state and satisfies the requirements of Chapter 4 of this SEPP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposed modification does not include any vegetation clearing, as it proposed to lower the pit floor of an already disturbed area; within the current extraction boundary. As a result, the proposal is consistent with the requirements of this SEPP.

State Environmental Planning Policy (Planning Systems) 2021**Chapter 2 – State and Regional Development**

This chapter aims to identify development that is state significant development, critical state significant infrastructure and regionally significant development.

Schedule 1 includes thresholds for state significant development for the purposes of extractive industry at Clause 7 - Extractive industries:

- (1) *Development for the purpose of extractive industry that:*
 - (a) *extracts more than 500,000 tonnes of extractive materials per year, or*
 - (b) *extracts from a total resource (the subject of the development application) of more than 5 million tonnes, or*
 - (c) *Extracts from an environmentally sensitive area of State significance.*

Schedule 6 includes thresholds for regionally significant development for extractive industry that is designated development.

Despite these provisions, a modification pursuant to Section 4.55 of the EP&A Act is not considered 'development' but rather a modification of a development consent. Therefore, the thresholds for regional and state significant development only apply to new development applications and not the proposed modifications.

State Environmental Planning Policy (Transport and Infrastructure) 2021**Chapter 2 – Infrastructure**

There are no applicable provisions within this SEPP that would apply to the proposed modification. The proposal is not identified as traffic generating development.

Section 2.118 (Development on proposed classified road) of SEPP (Transport and Infrastructure) 2021 provides that development proposed on a classified road may only be granted only with the concurrence of TfNSW. No development is proposed on a classified road, however, the proposed haulage route includes the Pacific Highway, which is a classified road and so a non-statutory referral was made to TfNSW. In response, TfNSW made no objection to the application.

Transport and infrastructure related provisions that specifically apply to extractive industries have been assessed against State Environmental Planning Policy (Resources and Energy) 2021 above.

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Clause 2.3 – Zone Objectives and Land Use Table

The approved development is defined as an extractive industry - quarry which is permissible with consent in the RU2 Rural Landscape zone. The proposed modification is not compatible with the objectives of the zone as follows:

- The proposal does not demonstrate how additional impacts to any nearby primary production activities by way of noise, vibration and air quality impacts will be managed.
- The proposal does not demonstrate how existing environmental controls will manage additional impacts generated by the proposal, to ensure quarry operations will remain compatible with both surrounding land uses and existing or future visitor oriented land uses within the locality.

Clause 5.10 – Heritage conservation

The objectives of this clause are as follows—

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

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

The proposed development is located within proximity to the Local Heritage listed item – 'Balickera House'. The proposal is not located near any state heritage listed items. The proposed pit floor lowering is located 576m from the heritage items curtilage and 1.1km from the house. Due to the topography between the quarry and the heritage item, the quarry is not visible from Balickera House. Due to the substantial distance and lack of a direct site line between the quarry and Balickera House, the proposal would not result in any adverse impacts to the heritage item.

A search of the Aboriginal Heritage Management Systems did not reveal any previously recorded Aboriginal sites in proximity to the proposed development. The existing quarry is cut into the side of a ridgeline which is a sensitive Aboriginal Landscape feature as per the 'Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales'. Despite this, the pit floor deepening is proposed in an area that has already been quarried to a significant depth and therefore it is unlikely there would be any unrecorded Aboriginal artefacts uncovered as a result of the proposed pit floor lowering.

Clause 7.1 – Acid Sulfate Soils

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

The subject land is mapped as containing potential Class 5 acid sulfate soils. The proposed extractive industry is not within 500m of Class 1, 2, 3 or 4 mapped areas and therefore it is unlikely ASS would be encountered during extraction and an ASS management plan is not required.

Clause 7.2 – Earthworks

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

ITEM 6 - ATTACHMENT 2 PLANNER'S ASSESSMENT REPORT.

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

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

Insufficient technical information was lodged with the application to assess whether the proposal will have a detrimental effect on drainage patterns and soil stability in the locality of the development.

The existing EPL conditions set limits for the discharge of pollutants which are monitored for compliance. The application was referred to the NSW EPA to determine whether the proposed modification would require modification to the EPL. In response, the EPA raised concerns in relation to total suspended solids (TSS) and nitrogen levels in stormwater runoff and discharges from the Premises.

The Proposal does not currently include any proposed upgrades to stormwater management and the EPA is concerned that if the Proposal is approved, the proposed surface water management upgrades as part of SSD-59254474 (Seaham Quarry Project) may not occur for some time. Additional information was requested from the EPA demonstrating how the proposal will incorporate the following surface water upgrades:

- Sediment basins are upgraded to be sized to minimise the risk of uncontrolled discharges in storm events not exceeding the 24-hour duration, 0.2% AEP storm event;
- Water captured in sediment ponds is treated prior to discharge with water treatment systems for the removal of solids and nutrients; and
- A Trigger Action Response Plan (TARP) is implemented to guide when water should be discharged to manage water quality impacts on the downstream receiving environment.

As identified by the EPA, insufficient technical information was lodged with the application to assess and manage the environmental impacts associated with the proposal. These comments were reiterated by Hunter Water Corporation (HWC) who noted the existing quarry operations are known to have a long history of adverse and unacceptable impacts on the Grahamstown Dam drinking water catchment as a result of degraded water quality, particularly elevated sediment loads and nitrogen concentrations, being discharged from the site during high rainfall events.

(b) the effect of the development on the likely future use or redevelopment of the land,

The approved development includes a rehabilitation plan which includes rehabilitation strategies for the land once the quarry resource is exhausted. The proposed pit floor lowering would require additional backfilling to rehabilitate the land but would otherwise not impact the existing rehabilitation plan or its intended goals. The existing consent includes a condition requiring a final end use plan is to be submitted to Council twenty four (24) months prior to cessation of quarry operations. The final end use plan is to provide information relating to the land use of the site following the cessation of quarry operations and provide details of rehabilitation works to be undertaken. Information is also to be provided which is pertinent to the final land use, including access arrangements.

(c) the quality of the fill or the soil to be excavated, or both,

The proposed location of the pit floor lowering has been subject to geological testing from the applicant which has found the presence of rhyolite and ignimbrite rock resource. The resource to be

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extracted is a virgin material that is not expected to be contaminated. By-products unearthed during excavation would be screened and separated from the rock resource prior to export offsite.

(d) the effect of the development on the existing and likely amenity of adjoining properties,

The existing development incorporates adequate noise, air quality and traffic controls to minimise amenity impacts to neighbouring properties to an acceptable level. Notwithstanding, insufficient technical information was lodged with the application to assess whether the proposal will have a detrimental effect on the existing and likely amenity of adjoining properties. Further detailed assessment of noise, air quality and traffic related impacts is provided as part of the assessment against Section B3 of the Port Stephens Development Control Plan 2014.

(e) the source of any fill material and the destination of any excavated material,

Excavated materials include rhyolite and ignimbrite rock resource which is intended to be sold on a commercial basis for use in infrastructure projects such as road construction. No import of fill material is proposed.

(f) the likelihood of disturbing relics,

As discussed against clause 5.10 above, it is unlikely that relics would be uncovered during the proposed operations as the pit floor deepening is proposed in an area that has already been significantly disturbed due to previous quarrying.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

Insufficient technical information was lodged with the application to assess whether the proposal will have a detrimental effect on waterways, drinking water catchments or environmentally sensitive area.

The existing EPL conditions set limits for the discharge of pollutants which are monitored for compliance. The application was referred to the NSW EPA to determine whether the proposed modification would require modification to the EPL. In response the EPA raised concerns in relation to total suspended solids (TSS) and nitrogen levels in stormwater runoff and discharges from the Premises. These comments were reiterated by Council's Environmental Planner who noted an overall decline of water quality near the subject site, with the proposal is likely to generate water quality impacts in both the surface water and groundwater environments. The site currently discharges water to Seven Mile Creek, which feeds into Grahamstown Dam (drinking water source) and groundwater flows are towards Balickera Canal (which also feeds into Grahamstown Dam).

The proposal further leads to a high risk of impact to stygofauna communities over an area of approximately 541 Ha. Stygofauna are a diverse subsurface community of fauna that inhabit the pore spaces and voids of groundwater environments, and are a type of groundwater dependent ecosystem. They have many values, including water quality benefits, biodiversity value and add to the ecological diversity in a region.

Hunter Water Corporation (HWC) noted that not only does water quality discharged from the site not meet current standards (NorBE) but monitoring results published on the quarry operator's website indicates that substantial breaches of the quarry's total suspended solids limit imposed by Environment Protection Licence (EPL) 3956 are frequently recorded during high rainfall events. The

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quarry is not required under the EPL conditions to monitor the load of sediment discharged from the site, however, the monitoring results indicate that a significant sediment load is discharged to Grahamstown Dam. It is also known from recent water quality monitoring work undertaken by the quarry operator and monitoring at other hard rock quarrying operations that significant concentrations of nitrogen are present in water discharged from the site.

Degraded water quality discharged from the quarry presents various risks to the drinking water supply system. Recent revisions to the quarry's EPL 3956 by the NSW Environment Protection Authority have sought to address some of the causes of these adverse impacts on the drinking water catchment, however, the ability to enforce the implementation of improved management controls at the quarry is limited by the age of the planning consent. The quarry operator is not required to implement such improvements to management practices under the existing consent and, as a result, current best practice management has not been implemented at the quarry operations.

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

Insufficient technical information was lodged with the application to assess whether the proposed pit floor lowering will have a detrimental effect on the local environment. Further detailed assessment of noise, air quality and traffic related impacts is provided as part of the assessment against Section B3 of the Port Stephens Development Control Plan 2014.

Clause 7.8 – Drinking Water Catchments

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

Insufficient technical information was lodged with the application to assess whether the proposal will have a detrimental effect on drainage patterns and water quality. The application was referred to Hunter Water Corporation (HWC) in accordance with Section 51 of the *Hunter Water Act 1991*.

Hunter Water Corporation (HWC) noted that not only does water quality discharged from the site not meet current standards (NorBE) but monitoring results published on the quarry operator's website indicates that substantial breaches of the quarry's total suspended solids limit imposed by Environment Protection Licence (EPL) 3956 are frequently recorded during high rainfall events. The quarry is not required under the EPL conditions to monitor the load of sediment discharged from the site, however, the monitoring results indicate that a significant sediment load is discharged to Grahamstown Dam. It is also known from recent water quality monitoring work undertaken by the quarry operator and monitoring at other hard rock quarrying operations that significant concentrations of nitrogen are present in water discharged from the site.

Degraded water quality discharged from the quarry presents various risks to the drinking water supply system. Recent revisions to the quarry's EPL 3956 by the NSW Environment Protection Authority have sought to address some of the causes of these adverse impacts on the drinking water catchment, however, the ability to enforce the implementation of improved management controls at the quarry is limited by the age of the planning consent. The quarry operator is not required to implement such improvements to management practices under the existing consent and, as a result, current best practice management has not been implemented at the quarry operations.

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The proposal does not accurately identify the potential risks to water quality, or propose a solution that will manage these risks to the maximum degree practicable, in accordance with the Australian Drinking Water Guidelines (ADWG).

s4.15(1)(a)(ii) – Any Draft EPI

Assessment	
There are no draft EPI's that are relevant to the proposed development	<input checked="" type="checkbox"/>
Comment:	

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

DCP Chapter		Compliant
B – General Controls		<input checked="" type="checkbox"/>
Comment:	<p>B2 – Natural Resources</p> <p>The site is located in proximity to environmentally sensitive areas and therefore this section applies.</p> <p>The proposed modification does not include any vegetation clearing, as it proposed to lower the pit floor of an already disturbed area; within the current extraction boundary.</p> <p>Consideration has been given to potential impacts to stygofauna communities as a result of groundwater draw down. The proposal further leads to a high risk of impact to stygofauna communities over an area of approximately 541 Ha. Stygofauna are a diverse subsurface community of fauna that inhabit the pore spaces and voids of groundwater environments, and are a type of groundwater dependent ecosystem (GDE). They have many values, including water quality benefits, biodiversity value and add to the ecological diversity in a region.</p> <p>Additionally, the proposal is likely to generate water quality impacts in both the surface water and groundwater environments. The site currently discharges water to Seven Mile Creek, which feeds into Grahamstown Dam (drinking water source) and groundwater flows are towards Balickera Canal (which also feeds into Grahamstown Dam).</p> <p>Insufficient technical information was lodged with the application to conclude the proposal is consistent with Section B2 of the DCP.</p>	
	<p>B3 – Environmental Management</p> <p><u>Air Quality & Noise</u></p> <p>EPA referral comments received on 28/10/2024 concluded that insufficient information was provided with the application to assess quantitative air and noise</p>	

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impacts; noting the existing consent dates from the 1980's and predates modern environmental impact assessment techniques, guidance and policies.

B4 – Drainage and Water Quality

Insufficient technical information was lodged with the application to assess whether the proposal will have a detrimental effect on drainage patterns and water quality.

The existing EPL conditions set limits for the discharge of pollutants which are monitored for compliance. The application was referred to the NSW EPA to determine whether the proposed modification would require modification to the EPL. In response, the EPA raised concerns in relation to total suspended solids (TSS) and nitrogen levels in stormwater runoff and discharges from the Premises. These comments were reiterated by Council's Environmental Planner who noted an overall decline of water quality near the subject site, with the proposal is likely to generate water quality impacts in both the surface water and groundwater environments. The site currently discharges water to Seven Mile Creek, which feeds into Grahamstown Dam (drinking water source) and groundwater flows are towards Balickera Canal (which also feeds into Grahamstown Dam).

The Proposal does not currently include any proposed upgrades to stormwater management and the EPA is concerned that if the Proposal is approved, the proposed surface water management upgrades as part of SSD-59254474 (Seaham Quarry Project) may not occur for some time. Additional information was requested from the EPA demonstrating how the proposal will incorporate the following surface water upgrades:

- Sediment basins are upgraded to be sized to minimise the risk of uncontrolled discharges in storm events not exceeding the 24-hour duration, 0.2% AEP storm event;
- Water captured in sediment ponds is treated prior to discharge with water treatment systems for the removal of solids and nutrients; and
- A Trigger Action Response Plan (TARP) is implemented to guide when water should be discharged to manage water quality impacts on the downstream receiving environment.

These comments were reiterated by Hunter Water Corporation (HWC) who noted the existing quarry operations are known to have a long history of adverse and unacceptable impacts on the Grahamstown Dam drinking water catchment as a result of degraded water quality, particularly elevated sediment loads and nitrogen concentrations, being discharged from the site during high rainfall events.

As identified by the EPA and HWC, insufficient technical information was lodged with the application to assess drainage and water quality impacts associated with the proposal.

B8 – Traffic and car parking

The proposal results in additional truck movements through extension of the life of the development, via pit deepening and access to an additional 950 kilo tonnes of rock resource. The proposal also includes the proposed deletion of conditions that restrict the right hand turn truck movements from Italia Road onto the Pacific

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	<p>Highway southbound, and deletion of conditions relating to regulatory signage control for this prohibited turning movement. An assessment of these two components has been undertaken below:</p> <p><u>Lowering of pit floor level:</u></p> <p>The Statement of Environmental Effects (SEE) prepared by Boral dated 4 October 2024 asserts the 'the proposed modification does not involve or necessitate any change to the nature, number or frequency of material transport traffic movements'. This assertion has presumably been formed through available traffic volumes modelled for the development in the Transport Impact Assessment (TIA) prepared by GHD dated 7 November 2023 submitted with the previous modification application (DA 7-1985-2683-6).</p> <p>Under this previous application which sought to lower the pit floor by 30m AHD, the TIA outlined that traffic volumes would remain consistent with those currently occurring under the existing consent at approximately 1,000-5,000 tonnes of material per day, equivalent of up to 263 truck movement movements per day based on an extraction rate of 5,000 tonnes per day. Council's Development Engineer concurred with the overall findings of the TIA, being the proposed pit floor lowering would not generate adverse traffic impacts. Consistent with the findings of the previous TIA, Council's Development Engineer has concluded the proposed pit floor lowering would not generate additional traffic impacts outside of those previously assessed by Council.</p> <p><u>Deletion of conditions 29 and 31:</u></p> <p>In support of the proposal's request to delete conditions that restrict right hand turn truck movements from Italia Road onto the Pacific Highway southbound, Boral commissioned a Road Safety Review (RSR) prepared by GHD dated 16 August 2024, of truck turning movements at the intersection of Italia Road and the Pacific Highway. The RSR determined that a heavy vehicle left turn from Italia Road to Pacific Highway northbound is riskier than a right turn to Pacific Highway southbound, and a ban on heavy vehicle right-turn traffic movements is in fact likely to worsen crash risk at the intersection. This assertion primarily relies on data (as detailed in Section 3 of the RSR) to conclude the greater time needed for a left turning heavy vehicle to reach a safe traffic speed on the Pacific Highway northbound (to avoid rear-end collision or near-miss) is significantly greater than the time taken for a right turning heavy vehicle to clear the intersection.</p> <p>The applicant requested Council review the RSR and proposed deletion of condition 29 and 31 through a Pre-Lodgement Meeting Request (18-2024-44-1) lodged with Council on 13/09/2024. Noting the findings of the RSR were contrary to Council's established position that it is safer for heavy vehicles to undertake the left turn movement at the Pacific Highway intersection rather than the right-turn movement, independent traffic engineering advice was commissioned by Council. The 'Heavy vehicle turn Safety Review' undertaken by Barker Ryan Stewart and dated 5/09/2024, reviewed the Road Safety Assessment prepared by GHD.</p> <p>The 'Heavy vehicle turn Safety Review' disputed the findings of the RSR, noting fundamental issues regarding the collection and assessment of data used within</p>
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	<p>the Safe System process. Based on these issues the 'Heavy vehicle turn Safety Review' formed the following conclusions:</p> <ul style="list-style-type: none"> • <i>The GHD Safety Review conclusion that heavy vehicle right turns out movement out of Italia Road at the intersection of Pacific Highway is safer than left turns out movement is not supported.</i> • <i>It is concluded that banning right turns for heavy vehicles out of Italia Road on to Pacific Highway would improve the safety situation at this intersection. The overall intersection operation would also be improved to a satisfactory level which is currently operating at an unsatisfactory level.</i> <p>All contentions raised within the 'Heavy vehicle turn Safety Review' were provided to the applicant on 24/09/2024 as Pre-Lodgement Written Advice. The modification application subsequently lodged with Council on 11/10/2024, neither revised the RSR or provided technical documentation to address contentions of the 'Heavy vehicle turn Safety Review'. Council's Traffic Engineer proceeded to review the findings of both the RSR and Heavy vehicle turn Safety, with concurrence provided for the findings of the 'Heavy vehicle turn Safety Review'.</p> <p>The RSR ultimately fails to demonstrate that a ban on heavy vehicle right-turn traffic movements is in fact likely to worsen crash risk at the intersection. Council maintains heavy vehicles should be banned from making right hand turns from Italia Road onto the Pacific Highway as enforced through conditions 29 and 31.</p> <p>Taking the above into consideration, the proposed deletion of conditions 29 and 31 is not supported, noting the safety related issues associated with deletion of these conditions.</p>
C Development Type <input checked="" type="checkbox"/>	
Comment:	There are no development types specified within the DCP that relate to the proposal.
D Specific Areas <input checked="" type="checkbox"/>	
Comment:	There are no specific areas within the DCP that relate to the proposal.

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

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

s4.15(1)(a)(iv) – The regulations

Assessment

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There are no matters within the regulations that are relevant to the determination of the application.	<input type="checkbox"/>
Comment:	<p>Schedule 3 Designated Development</p> <p><u>Part 2 – Are alterations or additions designated development?</u></p> <p>The original development was designated development. Despite this, a modification pursuant to section 4.55 of the EP&A Act is not considered 'development' or 'alterations and additions' but rather a modification of a development consent. Notwithstanding, development that involves alterations or additions to (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development. Clause 36 of the Regulations provides factors to be considered by the consent authority when forming the opinion as to whether or not development is designated development.</p> <p>The environmental impacts of the proposed modification are generally limited by the nature of the operations being located within the existing extraction footprint, with no changes to any operational aspect of the development is proposed, including:</p> <ul style="list-style-type: none"> • Permitted quarry life • Hours of operation • Numbers employed • Extraction footprint • Production or transportation rate • Type of product being extracted • Extraction methodology. <p>On this basis, it is considered the proposed modification does not significantly increase the environmental impacts of the development and the proposal is not considered to be designated development.</p>

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

Assessment	
Social and Economic Environment	
Comment:	<p>The proposal would enable extraction of a known resource on an existing quarry site. The proposal makes good use of the existing development footprint thereby minimising economic and social costs of extracting materials in an undisturbed area.</p> <p>The extraction of additional resources enables distribution for use in construction and development related industry, whilst improving economic viability of the operation, thereby maintaining employment opportunities for the surrounding community.</p> <p>Notwithstanding, the proposal would result in unacceptable social impacts as a result of the traffic and road safety issues, through deletion of conditions that restrict right hand turn quarry truck movements from Italia Road onto the Pacific Highway southbound.</p>

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Built Environment	
Comment:	The proposal includes the lowering of a pit floor within an existing quarry which is screened from view from any public road or surrounding properties. Accordingly, there would be no impact to the built environment as a result of the proposal.
Natural Environment	
Comment:	<p>The proposed modification does not include any vegetation clearing, as it proposed to lower the pit floor of an already disturbed area, within the current extraction boundary.</p> <p>Insufficient technical information was lodged with the application to conclude the proposal will not generate indirect impacts to ground water dependent ecosystems. Additionally, the proposal is likely to generate water quality impacts in both the surface water and groundwater environments. The site currently discharges water to Seven Mile Creek, which feeds into Grahamstown Dam (drinking water source) and groundwater flows are towards Balickera Canal (which also feeds into Grahamstown Dam).</p> <p>Furthermore, insufficient technical information was lodged with the application to demonstrate how additional environmental impacts by way of noise, vibration and air quality will be managed.</p>

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

The proposal occupies the existing disturbed development footprint already subject to quarrying activities. The proposal makes good use of the existing development footprint thereby minimising environmental, economic and social costs of extracting materials in an undisturbed area.

The site and surrounding locality is zoned RU2 Rural landscape zone and as a result the residential density of the locality is very low. The low residential density minimises the number of sensitive receivers subject to noise, air quality, traffic and amenity related impacts of the development.

The site benefits from ridgelines that act as a natural sound barrier minimising noise impacts to nearby rural residences. The sites topography and dense vegetation also screen the development from view from any public place or residential premises.

The site contains existing asset protection zones for bushfire protection/defence and an all-weather surface for vehicle egress during a bushfire event. The site is not flood affected.

For this reason, the subject site is suitable for the proposed modifications.

s4.15(1)(d) – Any submissions

Submissions have been considered against S.4.55(2)(d) above.

s4.15(1)(e) – The public interest

The proposal is not considered to be in the public interest, as deletion of conditions that restrict right hand turn quarry truck movements from Italia Road onto the Pacific Highway southbound, will result in unacceptable safety impacts to road users. Furthermore, insufficient technical information was lodged with the application to demonstrate how additional environmental impacts by way of noise, vibration, air and water quality will be managed.

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On these grounds, the proposed development is not considered to be in the public interest.

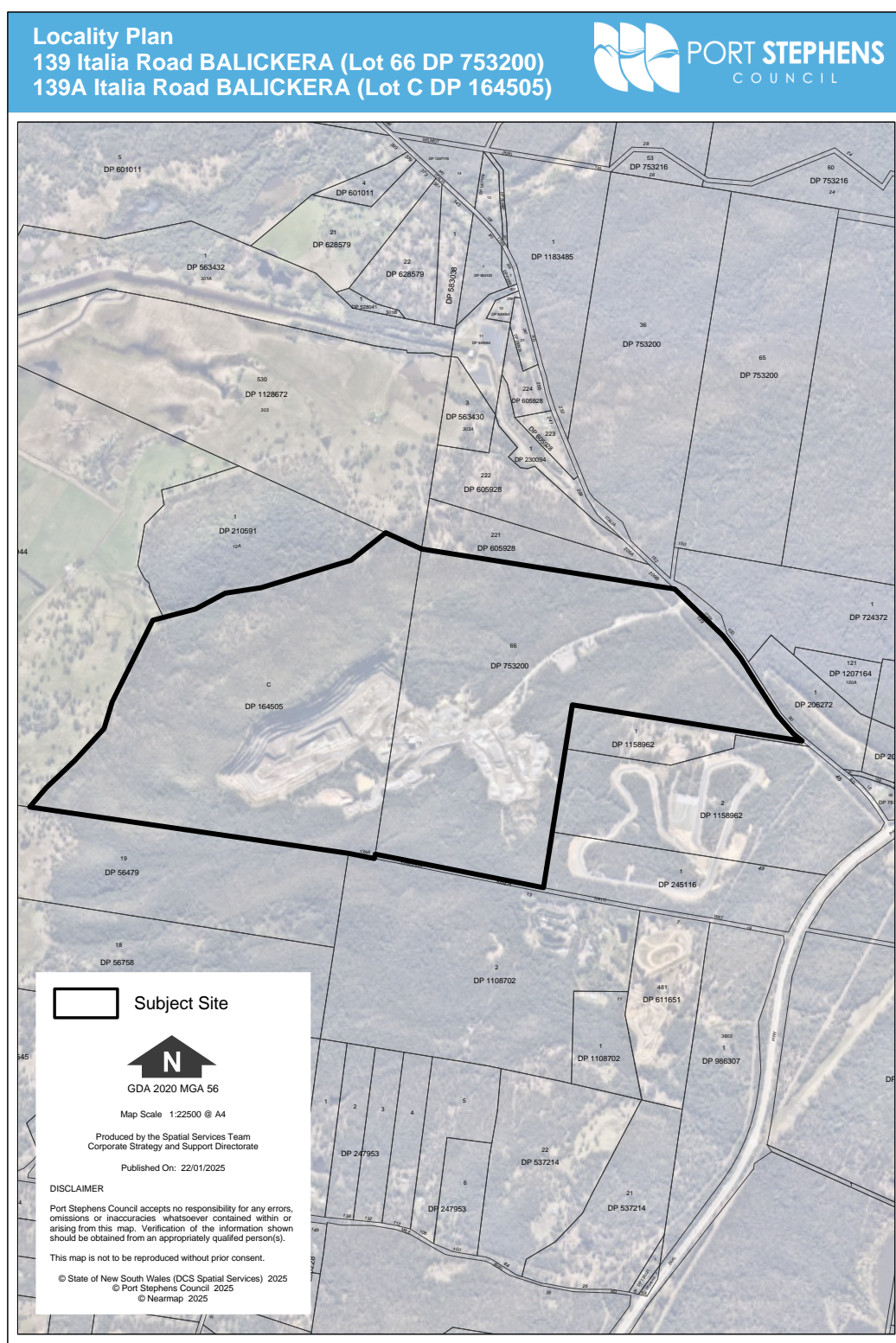
DETERMINATION

The modification application is recommended to be refused by Council, subject to the recommended reasons for refusal.

Isaac Lancaster
Senior Development Planner

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ITEM 6 - ATTACHMENT 3 LOCALITY PLAN.



ITEM NO. 7

FILE NO: 25/28056
EDRMS NO: 16-2024-99-1

DEVELOPMENT APPLICATION 16-2024-99-1 FOR A MULTI-LEVEL DWELLING HOUSE, SWIMMING POOL, AND RETAINING WALLS AT 35 VICTORIA PARADE, NELSON BAY

REPORT OF: RYAN FALKENMIRE - DEVELOPMENT AND COMPLIANCE
SECTION MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2024-99-1 for the construction of a multi-level dwelling house, swimming pool and retaining walls at 35 Victoria Parade, Nelson Bay (Lot: 2 DP: 330329) subject to the conditions contained in **(ATTACHMENT 1)**.
- 2) Support the Clause 4.6 variation request to vary the height of buildings development standard, for reasons outlined in the Planner's Assessment Report **(ATTACHMENT 2)**.

BACKGROUND

The purpose of this report is to present a development application to Council for determination.

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

Subject Land:	35 Victoria Parade, Nelson Bay (Lot:2 DP:330329)
Total Area:	505.9 sqm
Zoning:	R2 Low Density Residential
Submissions:	1 (support)
Housing:	0 additional dwelling
Key Issues:	Key issues relate to stormwater design and building height

The DA is being reported to Council in accordance with the 'Council Related Planning Matters Policy'. Under this Policy, DA's for single dwellings and dual occupancies on land with a slope of less than 10 degrees within the building footprint, which seek to vary the development standard 4.3 Height of Buildings of the Port Stephens Local Environmental Plan 2013, by greater than 10%, will be reported to Council for determination.

DA's for single dwellings and dual occupancies on land with a slope of 10 degrees or more, and seek to vary development standard 4.3 Height of Buildings of the Port Stephens Local Environmental Plan 2013, by greater than 10%, will be determined

by staff under delegation. Given the slope within the building envelope related to the height variation is less than 10 degrees, the DA is required to be reported to Council for determination.

A locality plan is contained at **(ATTACHMENT 3)**.

Proposal

The proposed development involves:

- Demolition of existing structures onsite, including a single dwelling house and ancillary garage/secondary dwelling
- Construction of a new 3-storey split designed dwelling house, which will include a master bedroom with an ensuite bathroom and walk-in wardrobe, along with 3 additional bedrooms, living areas, a study, kitchen, dining area, associated bathrooms, 2 car garage and a gym. The design also includes outdoor living space on the first-floor balcony with an ancillary swimming pool
- Retaining is required due to the steep slope at the rear of the site, and landscaping is proposed.

Site Description and History

The subject site is located at 35 Victoria Parade, Nelson Bay, NSW 2315. The site is zone R2 Low Density Residential, rectangular in shape, and has a site area of 505.9sqm. The topography for the site falls significantly at the rear from the southeast to northwest and then flattens out toward the primary frontage.

The site currently contains a single storey residential dwelling and a 2-storey ancillary garage/secondary dwelling with concrete landscaped area and vegetation at the rear of the site. The site maintains a primary frontage to Victoria Parade, however, there is no existing vehicular crossover to the site.

The immediate surrounding area consists of a mix of residential accommodation typologies, including single and multi-storey dwelling houses, and larger residential flat buildings, orientated toward the waterfront of Nelson Bay Beach.

Key Matters for Consideration

Council issued a series of requests for further information (RFI) for the DA, with a primary focus on stormwater design and building height. In response to the RFIs issued, the applicant revised the design plans to address the key issues raised by the Council, including revised engineering documentation and reduction in the building height to 10.475m.

The proposed development has a maximum height of 10.475 metres, which exceeds the maximum building height of 9m specified on the Height of Buildings Map in the Port Stephens Local Environmental Plan 2013 (LEP). This results in a variation of 1.475 metres, or 16.38% above the development standard. The applicant submitted a

Clause 4.6 variation request. A detailed assessment of the DA is contained within the Planner's Assessment Report (**ATTACHMENT 2**).

Clause 4.6 Height of Buildings

The objectives of this clause are to provide an appropriate degree of flexibility in applying certain development standards to particular development, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The portion of the proposed second floor exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the PSLEP. The final proposed height of the building is 10.475m above the natural ground level, which exceeds the 9m height limit by 1.475m, representing a 16.38% variation to the development standard.

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP. The Clause 4.6 request has been reviewed and the grounds relied upon to justify the height variation:

- The proposed height variation is primarily due to the site's steep topography. The additional height is necessary to ensure the functional use of the dwelling, particularly for non-habitable rooms at the ground level, such as the garage, and to provide adequate floor-to-ceiling heights
- The design is also influenced by flood planning requirements, which dictate that habitable spaces must be above a specific flood level. The proposed height variation allows for the necessary compliance with these flood requirements while still achieving a functional and aesthetically appropriate design
- Despite the height variation, the building design minimises its visual impact through strategic setbacks and articulation, ensuring the dwelling is in keeping with the existing character of the area and has minimal impact on the surrounding properties.

Conclusion

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

It is considered that the development has been suitably designed to address the site constraints and despite the proposed variation to the PSLEP relating to the height of buildings development standard, the objectives of this clause are achieved.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

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

SUSTAINABILITY IMPLICATIONS

Social and Economic Impacts

The proposal will result in positive social and economic impacts by providing a high-quality residential dwelling that contributes to the housing stock in the area. The development will enhance the locality by offering a modern, well-designed home that aligns with contemporary housing expectations, and will generate local employment opportunities during construction.

Impacts on the Built Environment

The proposed development will integrate well with the built environment, with appropriate setbacks, articulation, and design features ensuring consistency with the surrounding streetscape. The scale and form of the dwelling, including its height and façade treatment, have been designed to minimise visual bulk and overshadowing impacts on adjoining properties.

Impacts on the Natural Environment

The proposed development will involve minimal disturbance to the natural environment, with adequate measures in place to manage stormwater and ensure compliance with flood planning levels. Landscaping is proposed to soften the visual impact of the development and enhance the natural character of the area. No significant vegetation removal is required, ensuring minimal ecological impact.

COMMUNICATION AND ENGAGEMENT

Council's Communication and Engagement Strategy uses the IAP2 Framework to identify the level of engagement undertaken. An explanation for each level is shown below.

INFORM	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives, opportunities and/or solutions.
CONSULT	To obtain public feedback on analysis, alternatives and/or decisions.
INVOLVE	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.
COLLABORATE	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.
EMPOWER	To place final decision-making and/or developed budgets in the hands of the public.

The following communication and engagement applies to this report.

External communications and engagement

The DA was on public notification for 14 days from 20 March 2024 to 5 April 2024. During this period, 1 submission was received in support of the proposed development.

As the proposed development involves works within 5m of an overhead electricity network, the application was referred to Ausgrid in accordance with section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. Ausgrid has assessed the DA with no objection and provided recommendations in relation to

ORDINARY COUNCIL - 25 FEBRUARY 2025

the construction of the development. These recommendations have been included as conditions of consent.

CONSULT

The DA was on public notification for 14 days from 20 March 2024 to 5 April 2024. During this period, 1 submission was received in support of the proposed development.

Internal communications and engagement

Internal consultation was undertaken with Council's Assets and Strategy and Environment Sections. The referral comments from these sections have been considered as part of the Planner's Assessment Report (**ATTACHMENT 2**). All internal referral officers supported the DA subject to the recommended conditions of consent (**ATTACHMENT 1**).

OPTIONS

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

ATTACHMENTS

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

COUNCILLORS' ROOM/DASHBOARD

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

TABLED DOCUMENTS

Nil.

General Conditions

1.

Approved plans and supporting documentation

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

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
Dwg No. 2402-A1.02	G	PROPOSED SITE LAYOUT	Torrenbell Building Design	04/12/2024
Dwg No. 2402-A2.01	G	PROPOSED FLOOR LAYOUTS	Torrenbell Building Design	04/12/2024
Dwg No. 2402-A2.02	G	PROPOSED FLOOR LAYOUT AND ROOF PLAN	Torrenbell Building Design	04/12/2024
Dwg No. 2402-A3.01	G	ELEVATIONS (1 of 2)	Torrenbell Building Design	04/12/2024
Dwg No. 2402-A3.02	G	ELEVATIONS (2 of 2)	Torrenbell Building Design	04/12/2024
Dwg No. 2402-A4.05	G	SECTIONS	Torrenbell Building Design	04/12/2024
Project No. 243342	B	CIVIL WORKS PLAN	DRB Consulting Engineers	15/05/2024
Dwg No. CIV-010				

Approved Documents			
Document title	Version No.	Prepared by	Dated
BASIX Certificate	-	Stellar Thermal Assessments	14 December 2023

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

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

2.

Protection of existing vegetation and natural landscape features

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

Condition reason: To ensure that vegetation is protected during works

Building Code of Australia

3.	<p>All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.</p> <p>Condition reason: To ensure that all building works are completed in accordance with the Building Code of Australia.</p>
4.	<p>Sign on Building</p> <p>Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.</p> <p>The sign must be maintained while the work is being carried out and is to be removed when the work is completed.</p> <p>Condition reason: To require signage that details the relevant contacts of a development during construction</p>
5.	<p>Tree removal and protection of existing vegetation</p> <p>Removal of existing vegetation approved for removal by this consent is not to occur until the issue of the Construction Certificate.</p> <p>No vegetation or natural landscape features other than that authorised for removal by this consent is to be disturbed, damaged or removed. No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval.</p> <p>Condition reason: To ensure that vegetation is protected during works.</p>
6.	<p>Tree Removal/Pruning</p> <p>All trees/vegetation on the subject lot are approved for removal/pruning, subject to the conditions of this consent.</p> <p>Replacement tree planting – The following replacement trees must be planted at the rear of the subject lot:</p> <ul style="list-style-type: none"> • 4 x Blueberry Ash (<i>Elaeocarpus reticulatus</i>), minimum pot size 75L <p>The planting must be installed prior to the issue of the Occupation Certificate.</p> <p>Details demonstrating compliance must be provided to and approved by Council's Natural Systems Team and the certifying authority.</p> <p>Condition reason: To ensure that the development retains/prunes and replaces specific tree plantings.</p>
	Implementation of BASIX commitments

7.	While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.
	Condition reason: To ensure that the development is constructed in accordance with the commitments listed in the BASIX certificate(s) approved by this consent.
8.	Temporary Site Structures
	The installation of temporary site structures must comply with the following requirements: <ul style="list-style-type: none"> a) Temporary site structures are to be installed in accordance with the Work Health Safety Act 2011, Work Health and Safety Regulation 2017, relevant Australian Standard, requirements of SafeWork NSW, and any other applicable legislation; b) No third party advertising is permitted to be displayed on temporary site structures at any time; c) Temporary site structures must be maintained in a clean, tidy, and safe conditions at all times; d) Removal of all graffiti from temporary site structures must occur within 2 business days of its application; e) The person having the benefit of this consent must submit a 'Works on Public Infrastructure (Roads, Drainage, Driveways)' application to Council and obtain approval prior to the installation of any temporary site structures over Council footways or road reserves <p>Temporary site structures must be removed as soon as practicable after they are no longer required for public safety and/or work purposes.</p>
	Condition reason: To enable a temporary site structure in accordance with the <i>Work Health and Safety Act 2011</i> ; <i>Work Health and Safety Regulation 2017</i> ; and any other applicable legislation.

Building Work

Before issue of a construction certificate

9.	Erosion and sediment controls plan
	Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the certifier: <ul style="list-style-type: none"> 1. The guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and 2. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

	Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways.
10.	<p>Waste Management Plan requirements</p> <p>Before the issue of a Construction Certificate, a waste management plan for the development must be prepared and provided to the certifier. The plan must be prepared:</p> <ul style="list-style-type: none"> a. in accordance with <ul style="list-style-type: none"> i. the Environment Protection Authority's Waste Classification Guidelines as in force from time to time; and b. include the following information— <ul style="list-style-type: none"> i. the contact details of the person removing waste; ii. an estimate of the type and quantity of waste; iii. whether waste is expected to be reused, recycled or sent to landfill; iv. the address of the disposal location for waste. <p>A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.</p> <p>Condition reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>
11.	<p>Roads Act Approval</p> <p>For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138B of the <i>Roads Act 1993</i>.</p> <p>Condition reason: To ensure that works within the road reserve are approved by a Section 138B Approval of the <i>Roads Act 1993</i>.</p>
12.	<p>Stormwater/Drainage Plans</p> <p>Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>Note: Under the <i>Roads Act 1993</i>, only the Roads Authority can approve commencement of works within an existing road reserve.</p> <p>Condition reason: To ensure that the development is carried out in accordance with the Port Stephens Development Control Plan 2014.</p>
	Construction Site Management Plan

13.	<p>Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the principal certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> a. The location and materials for protective fencing and hoardings on the perimeter of the site; b. Provisions for public safety; c. Pedestrian and vehicular site access points and construction activity zones; d. Details of construction traffic management including: <ul style="list-style-type: none"> i. Proposed truck movements to and from the site; ii. Estimated frequency of truck movements; and iii. Measures to ensure pedestrian safety near the site; e. Details of bulk earthworks to be carried out; f. The location of site storage areas and sheds; g. The equipment used to carry out works; h. The location of a garbage container with a tight-fitting lid; i. Dust, noise and vibration control measures; j. The location of temporary toilets; k. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: <ul style="list-style-type: none"> i. AS 4970 – Protection of trees on development sites; ii. An arborist's report approved as part of this consent <p>A copy of the construction site management plan must be kept on site at all times while work is being carried out.</p> <p>Condition reason: To require details of measures to be undertaken that will protect the public, and the surrounding environment, during site works and construction.</p>
14.	<p>Dilapidation Report</p> <p>Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works, and public land to the satisfaction of the principal certifier.</p> <p>Where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the principal certifiers, that all reasonable steps were taken to obtain access to the adjoining properties.</p> <p>Condition reason: To establish and document the structural condition of adjoining properties and existing structures on the subject site for comparison as site work progresses and is completed.</p>
15.	<p>Retaining Walls</p> <p>All retaining walls within 1m of a boundary and exceeding 600mm in height must be designed and certified by a suitably qualified Structural Engineer.</p> <p>All in-ground walls for the building are to be designed and constructed with water proof materials to prevent groundwater seeping through the walls.</p>

	Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of a Construction Certificate.
	Condition reason: To ensure that retaining walls in proximity to the boundary and over a height are designed and certified by a suitably qualified engineer.
16.	Privacy – Screening and Fostered Glass
	Permanent privacy measures must be provided in accordance with the approved plans, which include: <ul style="list-style-type: none"> a) Privacy screening on southwest elevation of first-floor balcony b) W08 – Frosted window to sit at seat height c) W19 – Frosted Window Details demonstrating compliance must be provided to the Certifying Authority.
	Condition reason: To mitigate privacy issues to adjoining properties.
17.	Swimming pools and spas
	The swimming pool/spa must comply with: <ul style="list-style-type: none"> a) the Swimming Pools Act 1992; b) the Swimming Pools Regulation 2018; c) AS1926.1 ‘Swimming Pool Safety’ Part 1: Safety barriers for swimming pools; d) AS3500.2 ‘Plumbing and Drainage’ – Sanitary plumbing and drainage; e) AS1926.3 ‘Water Recirculation Systems’; and f) The BCA
	Condition reason: To ensure that a development including a swimming pool or spa is compliant with the relevant legislation.
18.	Coastal Vulnerability Management
	The site is subject to a Coastal Inundation Level of 3.8m AHD for the Coastal Vulnerability Area. Prior to the issue of a Construction Certificate the follow measures must be certified by a suitably qualified engineer: <ul style="list-style-type: none"> a) All structural elements below 3.8m AHD shall be of flood compatible materials; b) All electrical equipment, wiring, fuel lines or any other service pipes and connections for the development must be located either above 3.8m AHD or waterproofed to this level; c) The storage of toxic or potentially polluting goods, chemicals or material, which may be hazardous to the waterway, are not permitted below 3.8m AHD in the Coastal Vulnerability Area; d) All exterior power supplies (including electrical fittings, outlets, and switches) shall be located at or above 3.8m AHD.
	Condition reason: To ensure all components of the development are built at appropriate levels to reduce risks associated with coastal inundation hazards.

19.	<p>Flood Risk Management</p> <p>Before the issues of a Construction Certificate Flood Risk Management measures certified by a suitably qualified Engineer must be provided to the Certifying Authority demonstrating compliance with the following:</p> <ul style="list-style-type: none"> a) The design must show that the proposed development is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy and impact, and loading from debris up to and including the 1% Annual Exceedance Probability (AEP) event; b) Certification that the proposed development/building flood refuge is capable of withstanding the force of any flood waters experienced up to the Probable Maximum Flood Event (PMF). c) Certification demonstrating that any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property; d) Certification demonstrating that the rainwater tank, finishes, plant fittings and equipment and any other buoyant fixtures will be of materials and functional capacity to withstand the forces of floodwater in events up to and including the 1% AEP event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces. <p>Condition reason: To ensure that the required Flood Risk Management Plan adequately addresses risk to life and property.</p>
20.	<p>Flood Design Measures</p> <p>Evidence of certification demonstrating that the following flood related design precautions have been adhered to in the design must be submitted to the Principal Certifying Authority:</p> <ul style="list-style-type: none"> a) In sewered areas some plumbing fixtures may be located below the Flood Planning Level (FPL). Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge; b) All materials stored at the site and capable of causing harm to the environment must be stored at a level not less than the FPL or suitable bunding must be placed around such materials to a minimum of the FPL; c) All building materials, equipment, ducting, etc., below the FPL must be flood compatible and ducting must be provided with openings for drainage and cleaning; d) All main power supply, heating and air conditioning service installations, including meters must be located above the FPL. All electrical equipment installed below the FPL must be capable of disconnection by a single plug from the power supply; e) All electrical wiring below the FPL must be suitable for continuous submergence in water. All conduits below the FPL must be self-draining. Earth core leakage systems or safety switches are to be installed. f) Wherever possible, the premises must be designed to ensure that plant, equipment, storage tanks, or other fixtures or fittings liable to damage by floods are located above the FPL or be moveable to levels above the FPL. Should this not have the ability to occur, they shall be suitable for submergence in water and securely anchored to overcome buoyancy and movement. All storage tanks must be vented to an elevation above the FPL.

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

21.	Erosion and sediment controls in place
	Before any site work commences, the certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been re-stabilized in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).
	Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.
22.	All Weather Access
	A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people.
	No materials, waste or the like are to be stored on the all-weather access at any time.
	Condition reason: To ensure that adequate vehicular access is provided to and from the site, prior to the commencement of works.
23.	Construction Certificate Required
	In accordance with the provisions of Section 6.7 of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:
	<ul style="list-style-type: none"> a) A Construction Certificate has been issued by a Consent Authority; b) A Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the EP&A Act 1979; and c) The PCA is notified in writing of the name and contractor license number of the owner/building intending to carry out the approved work.
	Condition reason: To ensure that a Construction Certificate has been issued for the building works prior to the commencement of work.
24.	Notice Commencement of Work
	Notice must be given to Council and the Principal Certifier, if not the Council, of the person's intention to commence the erection of the building or undertake subdivision work at least two days prior to subdivision and/or building works commencing in accordance with Sections 6.6 (2) and 6.12 (2) (c) of the Environmental Planning and Assessment Act 1979 and Section 59 of

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

26.	The applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists
	Condition reason: Small-scale development - Where the development is in close proximity to Council infrastructure.
27.	Home Building Act requirements
	<p>Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifier for the development to which the work related (not being the council) has given the council written notice of the following information –</p> <ul style="list-style-type: none"> a) In the case of work for which a principal contractor is required to be appointed – <ul style="list-style-type: none"> i) The name and license number of the principal contractor, and ii) The name of the insurer by which the work is insured under Part 6 of that Act, b) In the case of work to be done by an owner-builder – <ul style="list-style-type: none"> i) The name of the owner-builder, and ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit. <p>If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the certifier) has given the Council written notice of the updated information.</p>
	Condition reason: To ensure compliance with the Home Building Act 1989 and to verify that the certifying principal authority for the development has given appropriate written notice to council.
28.	Compliance with Home Building Act (if applicable)
	In the case of residential building work for which the Home building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, and that such a contract of insurance is in force before any building work authorised to be carried out by this consent commences.
	Condition reason: To ensure that a contract of insurance is in force in accordance with Part 6 of that Act before any building work authorised to be carried out by the consent commences.
29.	Notice regarding dilapidation report
	Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property(ies) no less than seven (7) days before the commencement of any site or building works and provide a copy of the report to the Council at the same time.
	Condition reason: To ensure the structural safety of adjoining buildings as a result of the proposed development.

30.	Rubbish Generated from the Development
	Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.
	No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.
	Condition reason: To ensure that construction waste is appropriately stockpiled and removed from the site.
31.	Site is to be secured
	The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing, or awnings (associated with securing the site during construction is to be removed upon the completion of works.
	Condition reason: To restrict access to the site by the public and ensure that the site is adequately secured prior to the commencement of works.
32.	Damage report – Public Infrastructure
	The applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.
	Condition reason: Small-scale development – Where the development is in close proximity to Council infrastructure.
33.	Public Liability Insurance
	The owner or contractor must take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc.) for the full duration of the proposed works.
	Evidence of this Policy must be provided to Council and the Certifying Authority.
	Condition reason: To verify that the owner or contractor has a Public Liability Insurance Policy where there are works over public property.

During building work

34.	Discovery of relics and Aboriginal objects
	While site works is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:

	<ul style="list-style-type: none"> a. The work in the area of the discovery must cease immediately; b. The following must be notified – <ul style="list-style-type: none"> i. For a relic – the Heritage Council; or ii. For an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, Section 85. <p>Site works may recommence at a time conformed in writing by:</p> <ul style="list-style-type: none"> a. For a relic – the Heritage Council; or b. For an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85
	Condition reason: To ensure the protection of objects of potential significance during works.
35.	Responsibility for changes to public infrastructure
	While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.
	Condition reason: To ensure payment of approved changes to public infrastructure
36.	Tree Removal/Pruning
	All approved tree removal/pruning is subject to all pruning works being undertaken by a qualified arborist with minimum Australian Qualification Framework Level 3 qualifications or higher. All works are to be undertaken in accordance with the relevant provisions of AS 4373 'Pruning of Amenity trees'.
	Condition reason: To ensure that all tree removal/pruning works are carried out in accordance with AS 4373.
37.	Tree protection during work
	While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:
	<ul style="list-style-type: none"> a) The construction site management plan approved under this consent, b) the relevant requirements of AS 4970 Protection of trees on development sites; c) Section B1 of Council's relevant development control plan (in force as at the date of determination of this consent); and d) Any arborist's report approved under this consent. <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones</p>
	Condition reason: To protect trees during the carrying out of site work
	Hours of work

38.	<p>Site work must only be carried out between the following times –</p> <p>7:00am to 5:00pm on Monday to Saturday</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p>Condition reason: To protect the amenity of the surrounding area</p>
39.	<p>Toilet facilities</p> <p>Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.</p> <p>The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.</p> <p>Condition reason: To ensure adequate amenity facilities are provided to the site during construction.</p>
40.	<p>Unexpected Finds Contingency (General)</p> <p>Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.</p> <p>In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.</p> <p>Where remediation work is required, the applicant will be required to obtain consent for the remediation works.</p> <p>Condition reason: To ensure that works relating to a development are to cease if any suspect materials are identified and remediated in accordance with Council requirements</p>
41.	<p>Potential Acid Sulfate Soils</p> <p>Should Acid Sulfate Soils (ASS) be encountered within the zone of works, an ASS Management Plan is to be prepared by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority.</p> <p>The recommendations and/or mitigation measures contained within the ASS Management Plan must be complied with during works.</p> <p>Condition reason: To ensure that any Acid Sulfate Soils encountered during works are suitably managed</p>

42.	<p>Excavations and Backfilling</p> <p>All excavations and backfilling associated with this development consent must be executed safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.</p> <p>If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:</p> <ul style="list-style-type: none"> a) preserve and protect the building from damage; and b) if necessary, underpin and support the building in an approved manner; and c) give at least seven days' notice to the adjoining owners before excavating, or of the intention to excavate. <p>The principal contractor, owner builder or any person who needs to excavate and undertake building work, must contact "Dial Before You Dig" prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.</p> <p>This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.</p> <p>Condition reason: To ensure that any Acid Sulfate Soils encountered during works are suitably managed</p>
43.	<p>Compliance with the Building Code of Australia</p> <p>Building work must be carried out in accordance with the requirements of the Building Code of Australia.</p> <p>Condition reason: To ensure that the development is undertaken in accordance with the Building Code of Australia.</p>
44.	<p>Construction Noise</p> <p>While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.</p> <p>Condition reason: To ensure that developments do not give rise to offensive noise impacts during works.</p>
45.	<p>Offensive noise, dust, odour, and vibration</p> <p>No work must not give rise to offensive noise, odour, or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.</p>

	Condition reason: To ensure that developments do not give rise to offensive noise, dust, odour, or vibration.
46.	Building Height
	A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.
	Condition reason: To ensure that the maximum building height of the structures are compliant with the consent and in accordance with the approved plans.
47.	Disposal of Stormwater
	Following the installation of any roof, collected stormwater runoff from the structure must be conveyed to an on-site detention system before discharging to an existing system/street/easement as follows:
	<ul style="list-style-type: none"> a) Stormwater/drainage plans prepared and certified by a suitably qualified professional are to be submitted which provides for an on-site detention system.
	AND
	<ul style="list-style-type: none"> b) A 6,000 litre detention tank (in addition to any BASIX requirements) provided for each dwelling
	Condition reason: To ensure that stormwater disposal from a development is managed in accordance with Council requirements.
48.	Demolition work
	All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility.
	Any asbestos containing material encountered during demolition or works, it to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility.
	Evidence is to be provided to the Certifying Authority (or Council where there is no certifier) demonstrating that asbestos waste has been disposed of in accordance with this condition.
	Condition reason: To ensure a development is carried out in accordance with the Australian Standard AS 2601 'The demolition of Structures', and all waste materials are appropriately removed.
49.	Surface Water Collection from Swimming Pools and Spas
	Swimming pool surrounds and/or paving must be constructed so as to ensure water from the pool overflow or surge does not discharge onto neighbouring properties.

	Details demonstrating compliance must be provided to the Certifying Authority.
	Condition reason: To ensure that the development for a swimming pool and/or spa satisfies Council requirements.
50.	Swimming Pool Fence Design
	<p>The swimming pool or spa must be fenced so that the pool is effectively isolated from the dwelling and adjoining lands. The swimming pool fence & gate must:</p> <ul style="list-style-type: none"> a) Strictly adhere to the design and location approved with the development consent, and any conditions of the development consent. b) Strictly comply with AS1926 'Swimming Pool Safety' – Part 1: Safety barriers for swimming pools. c) Have a minimum effective height of 1.2m d) Be self-closing and self-latching. All gates must open outwards from the swimming pool enclosure. e) The filtration equipment including any cover, housing or pipe work, must not be located within a distance of 900mm from the outside face of the swimming pool safety fencing enclosure, nor within 300mm from the inside of the swimming pool safety fencing enclosure (where footholds are possible) f) Boundary fencing forming part of the swimming pool safety fencing must maintain a minimum effective height of 1.8m and a 0.9m non-climbable zone (measured from the top of the inside of the barrier). <p>The swimming pool safety fencing must be installed prior to the swimming pool being filled with water. The Principal Certifying Authority, or an accredited certifier must inspect the swimming pool safety fencing.</p> <p>Condition reason: To ensure that the development for a swimming pool and/or spa satisfies the Australian Standard and Council requirements.</p>
51.	Waste Water from Swimming Pools and Spas
	<p>All swimming pool waste water must be disposed of as follows:</p> <ul style="list-style-type: none"> a) Where a Hunter Water sewer is available – waste water must be drained or pumped to the sewer. b) Where a Hunter Water sewer is not available (such as rural areas) – waste water must be disposed of as follows: <p>Chlorinated pool waste water:</p> <ul style="list-style-type: none"> i) Discharging to a rubble pit measured 600mm wide x 600mm deep x 3m long, located not less than 3m from any structure or property boundary; or ii) Discharging to a tail out drain to disperse the water over a large grassed area or paddock, provided that the land fall does not direct water to buildings on the subject or adjoining properties, or create a nuisance to an adjoining property owner. <p>Saltwater pool waste water:</p>

	<p>iii) Discharging as per point ii) above.</p> <p>All pool types:</p> <ul style="list-style-type: none"> i) Must not be discharged to a septic tank or an on-site sewage management installation or disposal area; ii) Must not be discharged into a reserve, watercourse, easement or stormwater drainage system. <p>Condition reason: To ensure that the development for a swimming pool and/or spa satisfies Council requirements.</p>
52.	<p>Finished Floor Level</p> <p>The finished floor level of the site must be a minimum level of RL 2.575m Australian Height Datum in accordance with the approved plans.</p> <p>A survey report prepared by a Registered Surveyor confirming that the finished floor level complies with the approved plans or floor levels specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond floor level stage.</p> <p>Condition reason: To ensure that the finished floor level of the development is compliant with the relevant level and in accordance with the approved plans.</p>
53.	<p>Implementation of Site Management Plans</p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> a) The measures required by the waste management, construction management plan and the erosion and sediment controls plan (plans) must be implemented at all times, and b) A copy of these plans must be kept on site at all times and made available to Council officers upon request. <p>Condition reason: To ensure site management measures are implemented during the carrying out of site work</p>
54.	<p>Location of Stockpiles</p> <p>Stockpiles of soil must not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials must be suitably covered to prevent dust and odour nuisance.</p> <p>Condition reason: To ensure that stock piles required for a development are managed in accordance with Council requirements.</p>
55.	<p>Placement of Fill</p> <p>Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.</p>

	Further, any alterations to the natural surface contours must not impede or divert natural surface water runoff so as to cause a nuisance to adjoining property owners.
	Condition reason: To ensure that fill required for a development is managed in accordance with Council requirements.

Before issue of an occupation certificate

56.	Occupation Certificate Required
	An Occupation Certificate must be obtained prior to any use or occupation of the development.
	The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.
	Condition reason: To ensure that an Occupation Certificate relating to the development is obtained from the Principal Certifying Authority prior to occupation or use
57.	Repair of infrastructure
	Before the issue of an Occupation Certificate:
	<ol style="list-style-type: none"> any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council; or if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.
	Condition reason: To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.
58.	Completion of landscape and tree works
	Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.
	Condition reason: To ensure that landscape and tree works have been completed in accordance with the approved plans prior to the issue of an Occupation Certificate.
	Completion of Roads Act Approval works

59.	<p>All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the Roads Act Approval to the satisfaction of the Council as the Roads Authority.</p> <p>Condition reason: To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.</p>
60.	<p>Removal of waste upon completion</p> <p>Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.</p> <p>Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.</p> <p>Condition reason: To ensure that all waste is appropriately removed from the subject site prior to the issue of an Occupation Certificate.</p>
61.	<p>Stormwater/drainage works</p> <p>All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.</p> <p>The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.</p> <p>Condition reason: To ensure stormwater and drainage works have been undertaken in accordance with the approved plans.</p>
62.	<p>Post-construction dilapidation report</p> <p>Prior to the issue of an occupation certificate, a post-construction dilapidation report must be prepared by a suitably qualified engineer, to the satisfaction of the principal certifier, detailing whether:</p> <ul style="list-style-type: none"> a) After comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and b) Where there has been structural damage to any adjoining buildings, that it is a result of the work approved under this development consent, and c) A copy of the post-construction dilapidation report must be provided to Council (where council is not the principal certifiers or a principal certifier is not required) and to the relevant adjoining property owner(s). <p>Condition reason: To identify any damage to adjoining properties resulting from site work on the development site.</p>

63.	Smoke Alarms
	In accordance with Part 13 of the Environmental Planning and Assessment (Development Certification and Fire Safety Regulation) 2021. Details demonstrating compliance must be provided to the Certifying Authority.
	Condition reason: To ensure compliance and with the Environmental Planning and Assessment (Development Certification and Fire Safety Regulation) 2021.
64.	Repair of Infrastructure
	Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.
	Note: If the Council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.
	Condition reason: To ensure that any damage resulting to public infrastructure is appropriately rectified at no cost to the Council.
65.	Survey Certificate
	A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.
	Condition reason: To ensure that the building is located in accordance with the approved plans and evidence from a Registered Surveyor is provided to the Principal Certifying Authority.
66.	Flood Risk management Plan
	A Certificate of Compliance prepared by a suitably qualified Flood engineer must be provided to the Principal Certifying Authority stating that all aspects of the Flood Risk Management Plan and Flood Design Measures have been completed and/or implemented in accordance with the approved Plan.
	Condition reason: To ensure that flood impacted development adequately mitigates risks to life and property.
67.	Protection and Certification of Electrical Services
	All power points, fittings, electrical connections and the incoming meter box are to be located above the Flood Planning Level (FPL) which is RL 3.7m AHD.
	Switches, light fittings and power points may be located below the FPL provided they are

	capable of being isolated by a single Residual Current Device (RCD) protected switch that is located above the FPL. Certification of these works are to be provided to the Principal Certifying Authority.
	Condition reason: To ensure that flood affected development adequately mitigates risks to life and property.
68.	Swimming Pool Register
	In accordance with Part 3A of the Swimming Pools Act 1992, all swimming pools (including spas) are required to be Registered on the NSW Swimming Pools Register.
	Prior to the issue of any Occupation Certificate, you are required to provide evidence in the form of the Certificate of Registration to the Principal Certifying Authority.
	Condition reason: To ensure that the development for a swimming pool and/or spa satisfies Council requirements prior to the issue of the Occupation Certificate.
69.	Warning Notice
	A warning notice complying with the provisions of the Swimming Pools Regulation 2018, must be displayed and maintained in a prominent position in the immediate vicinity of the swimming pool, in accordance with Section 17 of the Swimming Pools Act 1992.
	The Principal Certifying Authority must ensure that this warning notice is provided and displayed prior to the issue of the Occupation Certificate.
	Council also recommends that all owners and/or users of swimming pools obtain a copy of the 'Cardiopulmonary Resuscitation Guideline' known as "Guideline 7: Cardiopulmonary Resuscitation" published by the Australian Resuscitation Council.
	Condition reason: To ensure that the development for a swimming pool and/or spa satisfies the Swimming Pools Act 1992, and Council requirements.
70.	Coastal Vulnerability Area
	A Certificate of Compliance prepared by a suitably qualified engineer must be provided to the Principal Certifying Authority stating that all aspects of Condition 18 of this consent have been complied with during the build.
	Condition reason: To ensure all components of the development are built at appropriate levels to reduce risks associated with coastal inundation hazards.

Occupation and ongoing use

71.	Driveways to be maintained
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	All access crossings and driveways must be maintained in good order for the life of the development
	Condition reason: To ensure that access and driveways are maintained for the life of the development.
72.	Impact to adjoining properties
	The development must not undertake activities which may restrict, obstruct or inconvenience the use of the land by other users, outside of the approved development location.
	Condition reason: To ensure that the development does not undertake activities which may restrict, obstruct or inconvenience the use of the land by other users, outside of the approved development location.
73.	Offensive Noise
	The use and occupation of the premises including all plant and equipment must not give rise to any offensive noise within the meaning of the <i>Protection of the Environment Operation Act 1997</i> and must comply with the <i>NSW Noise Policy for Industry 2017</i> (as amended).
	Condition reason: To control noise in order to ensure it is not offensive.
74.	Privacy Screen
	Any privacy screen/s must be permanently maintained in accordance with the approved plans for the life of the development.
	Condition reason: To mitigate and privacy impacts and ensure compliance with the approved plans.
75.	Prohibitions within Swimming Pool Enclosure
	The area contained within the swimming pool safety fencing enclosure must not be used for other non-related activities or equipment, such as the installation of children's play equipment or clothes drying lines.
	Condition reason: To ensure that the area contained within a swimming pool safety fence enclosure must not be used for other non-related activities or equipment.
76.	Noise Nuisance Prevention
	The motor, filter, pump, and all sound producing equipment associated with or forming part of the swimming pool filtration system must be located so as not to cause a nuisance to adjoining property owners.
	The location of equipment that causes offensive noise may require the equipment to be located within a suitable acoustic enclosure, or the relocation of such equipment.
	Condition reason: To ensure that all sound producing equipment associated with or forming part of a swimming pool filtration system are located appropriately.

General advisory notes

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

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

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

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

Council advisory notes

1. **'Dial Before you Dig Australia'** – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig Australia” service to access plans/information for underground pipes and cables.
2. **Responsibility for damage for tree removal/pruning** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant’s agents to prevent any damage to adjoining properties. The applicant or applicant’s agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.
3. **Approved Plans to be on-site** – A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.
4. **Council as PCA, PCA sign** – It is the responsibility of the applicant to erect a PCA sign. Where Council is the PCA, the sign is available free of charge, from Council’s Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay. The applicant is to ensure the PCA sign remains in position for the duration of works.
5. **Works near/adjoining electricity network assets** – Please note the following in relation to the construction of the development, as stated in the Ausgrid referral response (Ref No. 1900131926 – 24 September 2024):

- Supply of Electricity: Ausgrid recommends engaging an electrical professional who knows how to design your connection and the type of connection to apply for. To apply for a connection the developer will need to visit Ausgrid's website <https://www.ausgrid.com.au/Connections/Get-connected>. An assessment will be carried out based on the information provided which may include whether or not the existing network can support the expected electrical load of the development.
- Proximity to Existing Network Assets: There are existing overhead electricity network assets in the Victoria Pde footpath, adjacent to the development.
- Workcover Code of Practice 2006 – Work Near Overhead Powerlines outlines the minimum safety separation requirements between these mains / poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction.
- Clearance to 'As Constructed' Development assessed to be Compliant: Based on the design of the development provided, it was identified that the "as constructed" minimum clearances will not be encroached by the development. The existing overhead mains may require relocating should the minimum safety clearances be compromised during construction, this relocation work is generally at the developers cost.

6. **Dividing Fences** – The erection of dividing fences under the consent does not affect the provisions of the Dividing Fences Act 1991. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required you may contact the Chamber Magistrate.

7. **Flood Information is Subject to Change** – You are advised that flood information is subject to change if more accurate data becomes available to Council. It is the responsibility of the applicant to use the most up-to-date flood information. Prior to applying for a construction certificate, Council should be contacted to verify the currency of the flood information.
8. **Coastal Risk Planning Area** – The site is mapped in the Coastal Vulnerability Area, specifically on the Tidal Inundation Map (2020 and 2120) and Coastal Inundation Map (2020 and 2120) under the draft Port Stephens Coastal Management Program (CMP). The property may be subject to coastal hazards.

Dictionary

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

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

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

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

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

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

Council means Port Stephens Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

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

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

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

Local planning panel means Hunter Central Coast Regional Planning Panel.

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

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

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

Stormwater drainage system means all works and facilities relating to:
the collection of stormwater,

the reuse of stormwater,

the detention of stormwater,

the controlled release of stormwater, and

connections to easements and public stormwater systems.

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

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

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



DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2024-99-1
Development Description	Multi-level dwelling, swimming pool and retaining walls
Applicant	Perception Planning Pty Ltd
Land owner	Mr G N Gunton & Mrs M A Gunton
Date of Lodgement	12/03/2024
Value of Works	\$2,611,132.00
Submissions	1 – Supporting

PROPERTY DETAILS

Property Address	35 Victoria Parade NELSON BAY
Lot and DP	LOT: 2 DP: 330329
88B Restrictions on Title	None
Current Use	Single dwelling house and ancillary shed
Zoning	R2 Low Density Residential
Site Constraints	Acid sulfate soils, Class 4, 3 & 5 Koala Habitat Map – Mainly Cleared Land
State Environmental Planning Policies	State Environmental Planning Policy (Sustainable Buildings) 2022 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021

PROPOSAL

The proposed development is for the demolition of an existing single-storey dwelling house, and the construction of a new 3-storey, 4-bedroom split designed dwelling house. The proposed dwelling will include a master bedroom with an ensuite bathroom and walk-in wardrobe, along with 3 additional bedrooms, a living area, kitchen, dining area, and associated bathrooms. The dwelling also includes an integrated outdoor entertaining area, which provides access from the living and dining spaces.

In addition to the dwelling, the development includes the construction of an ancillary swimming pool located on the first-floor balcony.

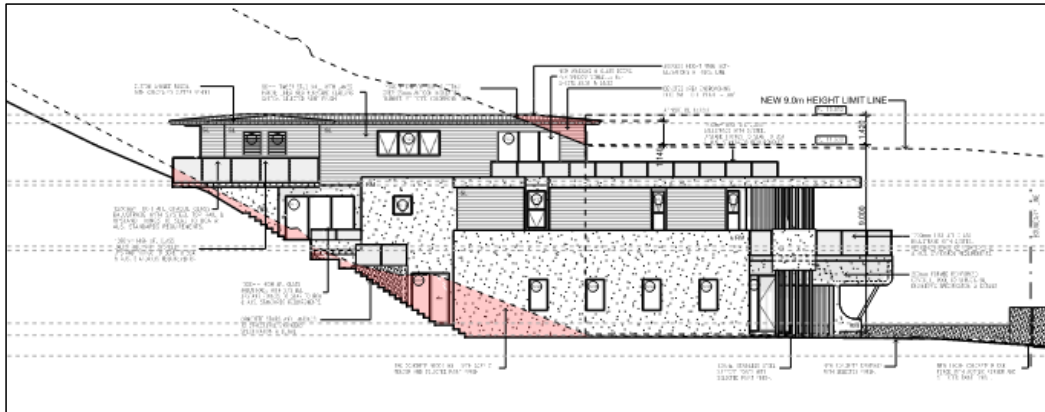


Figure 1: Proposed Development

SITE DESCRIPTION

The subject site (the 'site') is located at 35 Victoria Parade, Nelson Bay, NSW 2315 Lot 2 DP 330329). The site is zone R2 Low Density Residential, rectangular in shape, and has a site area of 505.9sqm. The topography for the site includes a significant cross fall at the rear from the southeast to northwest, and then flattens out toward the primary frontage.

The site currently contains a single storey residential dwelling and a 2-storey ancillary structure with concrete landscaped area and vegetation at the rear of the site. The site maintains a primary frontage to Victoria Parade.

The immediate surrounding area consists of a mix of residential accommodation typologies, including single and multi-storey dwelling houses, and larger residential flat buildings, orientated towards the waterfront of Nelson Bay.



Figure 2: Aerial GIS imagery of the subject site outlined in blue

SITE HISTORY

There have been a number of applications lodged over the site which are summarised in the following table.

Application #	Proposal Description	Determination	Date Determined
16-2015-456-1	Second Storey Addition to Existing Garage	Approved	24/08/2015
16-2013-749-1	Two Storey Dwelling (demolish existing)	Approved	15/07/2014
16-2006-1365-1	Dual Occupancy & Two (2) Lot Subdivision	Approved	17/07/2008

The subject site does not have records of contamination or historical applications that would impact the proposed development.

SITE INSPECTION DETAILS

A site inspection was carried out on 15 January 2025. The subject site can be seen in **Photographs 1 to 3** below:



Photograph 1: View of existing dwelling from Victoria Parade.



Photograph 2: View along north-east boundary.



Photograph 3: View along south-west boundary.

REFERRALS

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

Internal

Development Engineering

Outcome	Supported with conditions
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Development Engineering	
Comment	<p>The proposed development has been designed with the habitable floor level located above the Flood Planning Level (FPL). The garage level is located at RL3.025m (above 1% AEP) and the ground floor level is located at RL3.145m, which is above the prescribed adaptable minimum floor level.</p> <p>A request for information was issued on 03 May 2024 seeking additional information in relation to the proposed stormwater design for water quality, upstream design, and subsoils.</p> <p>Additional information was submitted by the applicant, addressing the engineering matters. The application was subsequently supported with conditions.</p>
Natural Systems	
Outcome	Supported with conditions
Comment	<p>The proposal has been assessed with consideration of the <i>Biodiversity Conservation Act 2016</i>, <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>, <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>, and <i>Port Stephens Local Environmental Plan 2013</i>.</p> <p>The proposal seeks to remove 1 large tree that has previously been damaged by approved tree removal works that occurred to an adjacent tree. Whilst this tree is visible from the foreshore, due to the damage that has occurred and the slope of the site, the tree has created a potential safety risk. Accordingly, this tree has been recommended for removal by Council's Environmental Planning Team. The tree maintains minimal biodiversity value.</p> <p>The site is mapped within a Coastal Use and Coastal Environment Area. The Environmental Planning Team assessed the proposed development against the key considerations of the Resilience and Hazards SEPP and have concluded that the proposal is unlikely to cause adverse impact on the Coastal Use and Coastal Environment Area, as mapped.</p> <p>The Environmental Planning Team have supported the proposal with standard conditions of consent.</p>

External (non-integrated)

Ausgrid	
Outcome	Supported with conditions
Comment	<p>As the proposed development involves works within 5m of an overhead electricity network, the application was referred to Ausgrid in accordance with Section 2.48 of the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>. Ausgrid has assessed the DA with no objection and provided recommendations in relation to</p>

	the construction of the development. These recommendations have been included as conditions of consent.
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PLANNING ASSESSMENT

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Section 1.7 – Application of Part 7 of Biodiversity Conservation Act 2016

The development does not trigger entry into the Biodiversity Offset Scheme, as the proposal does not involve native vegetation clearing within a Biodiversity Values Mapped area, exceed the area clearing threshold or propose significant ecological impact to threatened ecological communities.

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

The development does not trigger assessment Section 4.14 of the EP&A Act 1979 due to the subject site not being identified as bushfire prone land.

Section 4.46 - Integrated development

The proposed development does not require an integrated referral under s4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) as it does not meet any of the applicable triggers.

Section 4.15 – Matters for consideration

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

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

Section 4.15(a)(i) – Any environmental planning instrument

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

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State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 encourages the design and construction of more sustainable buildings to meet NSW climate change targets and adapt to more extreme weather, including hotter and drier summers.

Chapter 2 – Standards for residential development - BASIX**Section 2.1(1) – Development standards**

Section 2.1(1) requires that BASIX affected residential development be accompanied by a BASIX certificate.

A valid BASIX certificate (Cert No. 1730256S) has been submitted with the development application which demonstrates that the water, thermal performance and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of BASIX.

Section 2.1(5) – Development consent requirements

Section 2.1(5) requires that development consent must not be granted to BASIX affected residential development unless the embodied emissions attributable to the development have been quantified.

The BASIX Certificate includes an Embodied Emissions Materials Assessment which complies with Section 2.1(5). A NatHERS Energy Efficiency Compliance Summary Report and NatHERS Certificate (No. HR-OH9Y9T-01) has been prepared by Steller Thermal to support the application.

State Environmental Planning Policy (Biodiversity and Conservation) 2021**Chapter 2 – Vegetation in non-rural areas**

Chapter 2 Vegetation in Non-Rural Areas of the Biodiversity and Conservation SEPP aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State.

The Chapter works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

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

The development application seeks consent for the removal of 1 existing tree located at the rear of the site. The removal is supported by Council's Environmental Planner on safety grounds as the subject tree has been damaged and poses a potential risk to life and property (see figures below).



Figure 3: Image of tree for removal



Figure 4: Second image of tree for removal

Chapter 4 – Koala habitat protection 2021

This policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. Chapter 4 applies to all zones other than RU1 (Primary Production), RU2 (Rural Landscape) and RU3 (Forestry) in the Port Stephens Local Government Area.

Section 4.8 – Development assessment process

Section 4.8 requires that the application must be consistent with the approved koala plan of management that applies to the site. In Port Stephens, the relevant plan is the Comprehensive Koala Plan of Management (CKPoM).

The site is mapped as being 'Mainly Cleared Land' and is considered correctly mapped by Council's Environmental Planning Officer. One (1) tree is proposed for removal which has been damaged and poses a potential risk to safety. Other vegetation on the site consistent of ground cover and shrubs, which is not a vegetation category consistent with habitat or feed for Koalas. The proposal is therefore consistent with this policy as no koala habitat will be removed.

State Environmental Planning Policy (Resilience And Hazards) 2021**Chapter 2 – Coastal management**

The subject land is located within the Coastal Environment Area, Coastal Use Area as such the following general matters are required to be considered when determining an application.

Section 2.9 – Development on land within the coastal vulnerability area

The site is identified within a Coastal Vulnerability Area under the draft Port Stephens Coastal Management Program. In accordance with Clause 2.9 of the Coastal Vulnerability Area provisions, an assessment has been undertaken against the relevant criteria.

The application was referred to Council's Drainage and Flooding Engineer, who advised that the 1% AEP (year 2120) coastal inundation level for the site is 3.8m AHD, approximately 100mm higher than the flood planning level (FPL). The proposed dwelling has been designed with all habitable floor levels well above this level, with a finished floor level (FFL) of 6.8m AHD. While the garage level is below 3.8m AHD, relevant conditions of consent have been included to ensure that the structure is designed and constructed in accordance with coastal risk management measures. As such, the development is considered capable of withstanding projected coastal hazards in accordance with Clause 2.9(a).

The development is not expected to alter coastal processes and will not impact public access to any coastal areas, including beaches, foreshores, or headlands. The elevated floor level for habitable areas provides security against coastal hazards, mitigating risks to life and public safety. Additionally, conditions of consent will ensure that appropriate coastal hazard management measures are in place. Given these factors and the assessment by Council's Drainage and Flooding Engineer, the proposal is consistent with the requirements of Clause 2.9 and is considered suitable for approval.

Section 2.10 – Development within the coastal environment area

As per Section 2.10 of Chapter 2 of the SEPP, development consent must not be granted for development within the coastal environment area unless the consent authority has considered whether the development will cause impact to the integrity of the biophysical and ecological environment, the values and natural coastal processes, marine vegetation, native vegetation and fauna and existing public open space and access to and along the foreshore.

The proposed development is sufficiently setback and in line with existing development along Victoria Parade, over 50m from the waterbody. The proposed dwelling does not encroach upon any ecologically sensitive areas, such as coastal wetlands or riparian zones. Suitable stormwater management design measures are included as part of the development to manage water quality and runoff.

It is therefore considered that the proposed dwelling house it will not result in any adverse impacts to the integrity of the biophysical and ecological environment, the values and natural coastal processes, marine vegetation, native vegetation and fauna and existing open space. In addition, access to the foreshore remains unimpeded.

Section 2.11 – Development within the coastal use area

As per Section 2.11 of Chapter 2 of the SEPP, development consent must not be granted for a development unless the consent authority has considered existing and safe access to and along the foreshore, overshadowing and loss of views, visual amenity and scenic qualities and heritage values. The consent authority must also be satisfied that the development is designed and sited to

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avoid adverse impacts and to ensure the development has considered the surrounding built environment in its design.

The proposed dwelling is for private residential use, and there are no anticipated impacts on public recreational or tourism activities in the coastal area. The dwelling is located on private land and does not encroach on publicly accessible areas. In fact, the proposed dwelling increases the setback from the front boundary line from 0m to 10m, improving the visual separation from built form on the site to the foreshore area.

Whilst the proposed dwelling house exceeds the PSLEP height of buildings development standard, this is attributed to the natural topography of the site and the exceedance is limited to a small portion of the second floor as shown in red in the figure below.

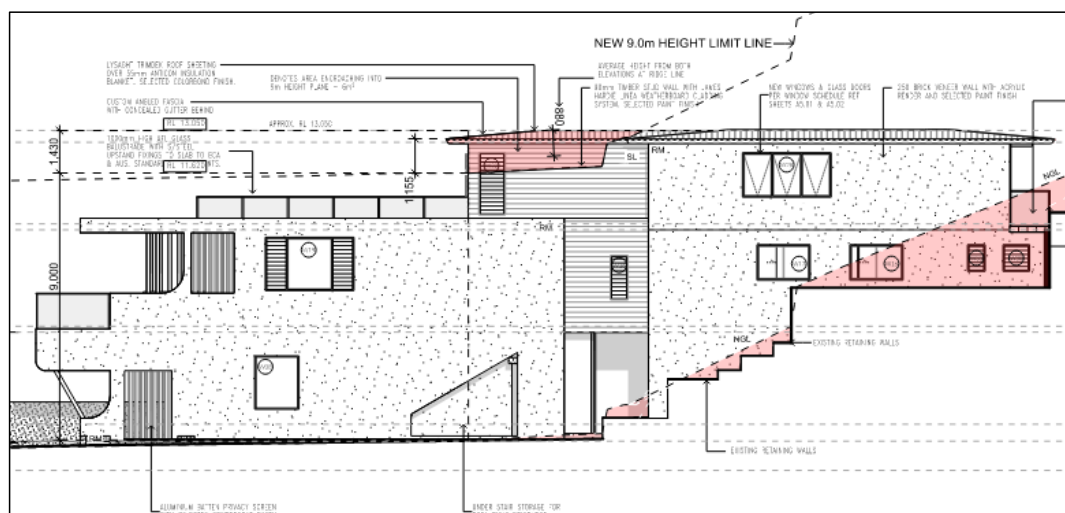


Figure 3: Extract of South West Elevation

As the new dwelling is proposed to be built into the steep topography at the rear of the site, the additional height does not cause unreasonable overshadowing or view loss for adjacent properties or nearby public spaces. Any visual impact is mitigated by the dwelling's architectural design which presents a high-quality form orientated towards the street and includes the use of materials and colours that complement the coastal environment and character of the area.

The proposed development is an appropriate type and design for the coastal location. The proposed use of the site for residential purposes in conjunction with a sustainable built form will ensure that the visual amenity and scenic qualities of the coast are protected. The building envelope and size of the development is also compatible with the natural setting and will not adversely impact views. No adverse impacts to heritage values are expected, as outlined elsewhere in this report.

Section 2.12 – Development within the coastal zone generally

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

Therefore, the application would generally comply with the aims of the SEPP and the other matters for consideration stipulated under 2.10, 2.11 and 2.12, and is supported.

Section 2.13 – Development within the coastal zone generally – coastal management programs

The site is located within the coastal zone and is subject to the draft Port Stephens Coastal Management Program. The application was referred to Council's Drainage and Flooding Engineer, who assessed the proposal against the relevant provisions of the draft program. They advised that the 1% AEP (year 2120) coastal inundation level for the site is 3.8m AHD, which is approximately 100mm higher than the FPL. The proposed dwelling has been designed with a FFL for habitable rooms of 6.8m AHD, ensuring compliance with the anticipated coastal hazards identified in the management program. While the garage level is below 3.8m AHD, appropriate conditions of consent have been included to ensure the structure is designed to withstand coastal risk factors.

The site is also not situated directly adjacent a foreshore area, with Victoria Parade providing a buffer to Nelson Bay Beach. Further, the new dwelling has been designed with a greater setback from potential coastal hazards than the existing dwelling. Given that the development has been assessed against and is consistent with the draft Port Stephens Coastal Management Program and designed to mitigate potential coast hazards, the consent authority has taken the relevant provisions into consideration in accordance with Clause 2.13. The proposal is therefore considered acceptable with respect to this control.

Chapter 4 – Remediation of land**Section 4.6 – Contamination and remediation to be considered**

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

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

State Environmental Planning Policy (Transport and Infrastructure) 2021**Chapter 2 – Infrastructure****Section 2.48(2) – Determination of development applications – other development**

Section 2.48(2) requires consultation with the local power authority – Ausgrid, where a development involves works in proximity to electrical utility infrastructure. The application was referred to Ausgrid, requesting comments about potential safety risks.

As the proposed development involves works within 5m of an overhead electricity network, the application was referred to Ausgrid in accordance with section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. Ausgrid has assessed the DA with no objection and provided recommendations in relation to the construction of the development. These recommendations have been included as conditions of consent.

Port Stephens Local Environmental Plan 2013 (PSLEP2013)**Clause 2.3 – Zone objectives and land use table**

Clause 2.3 identifies that each land use zone in the land use table specifies the following:

- The objectives for development, and
- Development that may be carried out without development consent, and

ITEM 7 - ATTACHMENT 2 PLANNER'S ASSESSMENT REPORT.

- Development that may be carried out only with development consent, and
- Development that is prohibited.

This Clause outlines that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The proposed development is defined as a dwelling house which is permissible with consent in the R2 Low Density Residential zone.

The development addresses the objectives of the zone by:

1. *To provide for the housing needs of the community within a low-density residential environment.*

The proposal seeks to construct a single dwelling house, consistent with the primary intent of the R2 zone. The dwelling provides modern housing that meets modern standards for sustainable building practices and facilitates 4-bedrooms which could cater to the needs of a large family, while respecting the established residential character of the zone.

2. *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development is solely for residential purposes, which aligns with the primary focus on the R2 zone. No non-residential uses are proposed, ensuring that the development supports the residential nature of the area without introducing incompatible uses.

3. *To protect and enhance the existing residential amenity and character of the area.*

While a portion of the second floor of the proposed dwelling exceeds the height of building development standard by 1.475m, the topography of the site mitigates any adverse impacts such as overshadowing or view loss for adjoining and nearby properties. The architectural design is high quality, presenting materials and colours that reflect the existing and desired character of the area. The design also provides a well-articulated façade, orientated towards the street and northern orientation, which enhances the visual character of the streetscape.

The proposed dwelling maintains the residential amenity by ensuring privacy is maintained to neighbouring residential development. The bulk and scale, while larger than the existing dwelling house on the site, is integrated into the natural land form.

4. *To accommodate development that is compatible with the scale and character of the surrounding residential development and that will not have an adverse impact on the amenity of the area.*

The high-quality architectural design contributes positively to the area's character, supporting the aesthetic value of the R2 zone.

Notwithstanding, the proposed variation the height of building development standard, the overall design is compatible with the scale and character of the surrounding locality. Examples of development in the immediate vicinity of the site that present 2-storeys or larger is provided in the figures below.



Figure 4: Locality Image 1

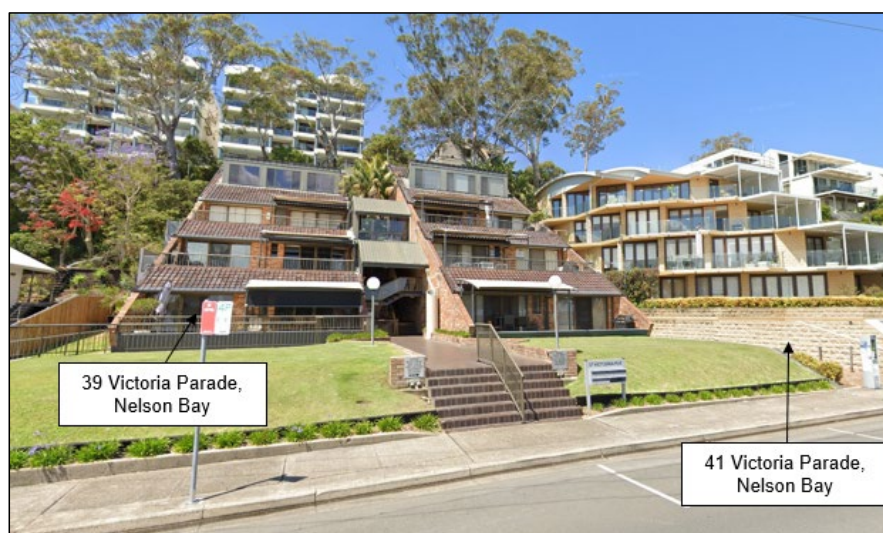


Figure 5: Locality Image 2



Figure 6: Locality Image 3

Clause 2.7 – Demolition requiring development consent

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

The proposed development requires the demolition of an existing dwelling house and ancillary shed. Accordingly, conditions of consent have been included in order to mitigate potential impacts to adjoining properties and the locality during demolition works.

Clause 4.3 – Height of buildings

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

In response to Council concerns on height, the applicant revised the design, reducing the height exceedance. The amended dwelling design included a reduction of the height, including changes to the rear patio area and realignment of the ensuite. The height exceedance is considered necessary to maintain the functionality of the dwelling and preserve space for the master suite, and emphasised that the minor roof height protrusion above the PSLEP height limit would not adversely affect the locality due to surrounding topography. Other height considerations for the assessment have been outlined below.

- **Measurement of Height:** Council noted discrepancies in the measurements of the proposed building height, indicating that it exceeded 11.26m rather than the 10.9m stated in the applicant's submission. The applicant amended the design to reduce the building height to 10.475m, a

reduction of 0.785m from the previous design. Revised height plane diagrams and an updated Clause 4.6 Variation Request were submitted to clarify the extent of the height variation and demonstrate compliance with the height limit.

- Justification for Exceedance of Height: Council raised concerns about the excessive floor-to-ceiling height of the garage (4.175m), which the applicant had justified by balancing Building Code of Australia (BCA) requirements and flood controls. Council found the justification insufficient, particularly for the garage and gym space, which could function adequately with lower ceiling heights. The applicant responded by proposing a reduction in the garage floor-to-ceiling height. These adjustments addressed Council's concerns about visual impact and streetscape obtrusiveness.

The proposed development has a maximum height of 10.475 metres, which exceeds the maximum permissible building height of 9m specified on the Height of Buildings Map. This results in a variation of 1.475 metres, or 16.38% above the development standard. The applicant submitted a Clause 4.6 variation request. This has been assessed in detail within the accompanying Clause 4.6 Assessment Report.

Clause 4.4 – Floor space ratio

The objectives of this clause are to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality, to provide a suitable balance between landscaping and built form, and to minimise the effects of bulk and scale of buildings.

No Floor Space Ratio (FSR) control applies to the site.

Clause 4.6 – Exceptions to development standards

The objectives of this clause are to provide an appropriate degree of flexibility in applying certain development standards to particular development, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The portion of the proposed second floor exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the LEP. The final proposed height of the building is 10.475m above the natural ground level, which exceeds the 9m height limit by 1.475m, representing a 16.38% variation to the development standard.

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP. That request has been reviewed and the following is noted:

- The proposed height variation is primarily due to the site's steep topography. The additional height is necessary to ensure the functional use of the dwelling, particularly for non-habitable rooms at the ground level, such as the garage, and to provide adequate floor-to-ceiling heights.
- The design is also influenced by flood planning requirements, which dictate that habitable spaces must be above a specific flood level. The proposed height variation allows for the necessary compliance with these flood requirements while still achieving a functional and aesthetically appropriate design.
- Despite the height variation, the building design minimises its visual impact through strategic setbacks and articulation, ensuring the dwelling is in keeping with the existing character of the area and has minimal impact on the surrounding properties.

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

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

Clause 5.10 – Heritage conservation

The objectives of this clause are to conserve the environmental heritage of Port Stephens, to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, to conserve archaeological sites, and to conserve Aboriginal objects and Aboriginal places of heritage significance.

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

The proposed development is not located within or in proximity to any local or state listed heritage items or conservation areas. An Aboriginal Heritage Management Systems (AHIMS) search/Aboriginal Heritage Due Diligence Assessment was provided with the application, which showed that there are no recorded Aboriginal heritage sites or items within the subject site, or in close proximity to the subject site. The site is not located within any Aboriginal sensitive landscape features.

As such, no adverse impact to Aboriginal heritage is expected, and a condition of consent relating to unexpected finds will be included to ensure that appropriate steps are taken should any be identified during works.

Clause 5.21 – Flood planning

The objectives of this clause are to minimise the flood risk to life and property associated with the use of land, to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change, to avoid adverse or cumulative impacts on flood behaviour and the environment, and to enable the safe occupation and efficient evacuation of people in the event of a flood.

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

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

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

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

Compatibility and flood affection

The proposed development is located on land mapped as being Flood Planning Area with the nominated flood risk level being High Hazard Flood Fringe area. In accordance with Figure BI of the DCP, the development would comprise a dwelling house which is considered to be suitable subject to development controls for the High Hazard Flood Fringe area flood risk category. The relevant finished floor levels to the development are:

- **Probable Maximum Flood Level (PMF)** = RL 3.3 metres AHD.
- **Flood Planning Level (FPL)** = RL 3.7 metres AHD.
- **Current 1% AEP Level** = RL 2.4 metres AHD.
- **Adaptable Minimum Floor Level (AMFL)** = RL 3.1 metres AHD.
- **On-Site Waste Water Level (OSWWL)** = RL 2.9 metres AHD.
- **Coastal Vulnerability Area:** Yes
- **Coastal Inundation Level (Future):** 3.8m AHD
- **Coastal Inundation Level (Present):** 2.5m AHD

Habitable spaces of the dwelling have been designed to the FPL.

Occupation and evacuation

The proposed development includes a 4-bedroom dwelling house which could be expected to have 5 residents on-site. The development is considered to be suitable subject to development controls and flood free access above the 1% AEP level is also available to the site. The proposed use is therefore generally compatible with the flood risk in regard to occupation and evacuation of the site. A condition of consent has been imposed for a Flood Emergency Response Plan to ensure that an appropriate evacuation method is prepared for the site.

Risk to life and property

In accordance with Figure BJ in the DCP, dwelling houses are required to have habitable rooms with an FFL equal to 3.7 metres AHD (FPL) and non-habitable rooms with an FFL equal to the current 1% AEP, 2.4 metres AHD.

The proposed development has been designed such that all habitable floor levels are located above 3.7 metres AHD. The garage level is located at 3.025 metres AHD (above the 1% AEP level) and the ground floor level, which contains a non-habitable gym, is located at 3.2 metres AHD, which is above the prescribed adaptable minimum floor level. The first-floor level, which is habitable, is located at 7.75 metres AHD, above the prescribed Flood Planning Level. Therefore, the proposed design adheres to Section B5, Figure BJ or the PSDCP.

Based on these characteristics, the proposal appropriately mitigates risk to life and property.

The environment and off-site flooding impacts

The proposed development was reviewed by Council's Development Engineer who found that the proposal would not cause any adverse offsite flooding impacts by way of increased velocity and flood inundation. Furthermore, the proposed development would not adversely affect the environment or cause avoidable erosion, siltation, and destruction of riparian vegetation or reduction in the stability of riverbanks or watercourses and would not result in any adverse changes to flood behaviour as a result of climate change.

Clause 7.1 – Acid sulfate soils

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

The subject land is mapped as containing potential Class 3, 4, and 5 acid sulfate soils. The proposed development does involve excavation to a depth of approximately 3.3m. However, excavation is limited on the portion of the site mapped to contain Class 5 ASS. Accordingly, the site has been assessed against the provisions that relate to Class 5 ASS pursuant to Clause 7.1 of the PSLEP.

The proposal does not include works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD. Therefore, it is not expected that acid sulfate soils would be encountered during works.

Due to the proximity of Class 3 and 4 ASS, a condition has been included regarding an unexpected finds protocol.

Clause 7.2 – Earthworks

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

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

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

The application proposes earthworks on the site to achieve a level building platform through the use of balanced cut and fill. Earthworks extend to a maximum depth of approx. 3.3m and are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place. As outlined in the assessment against clause 5.10 above, the likelihood of disturbing relics is low.

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

Due to the proximity of the proposed excavations to buildings on the adjoining allotment, a condition of consent has also been included requiring the persons undertaking the excavations:

- Preserve and protect the building from damage;
- If necessary, underpin and support the building in an approved manner; and
- Give at least 7 days' notice to the adjoining owner before excavating, of the intention to excavate.

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

Clause 7.6 – Essential services

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

- The supply of water.
- The supply of electricity.
- The disposal and management of sewage.
- Stormwater drainage or on-site conservation.
- Suitable vehicular access.

The subject site is serviced by reticulated water, electricity and sewer. In addition, the application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Council's requirements. The subject land also maintains direct access to Victoria Parade, meeting the requirements of this clause.

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

The site is mapped in the Coastal Vulnerability Area, specifically on the Tidal Inundation Map (2020 and 2120) and Coastal Inundation Map (2020 and 2120) under the draft Port Stephens Coastal Management Program (CMP). The draft CMP sets out actions to manage coastal hazards such as inundation, erosion, and dune movement over the next 10 years. It provides guidance for Council, public authorities, and land managers to reduce risks, protect the environment, support sustainable development, and respond to climate change.

The draft Planning Proposal for the Coastal Vulnerability Area (PP for CVA) introduces additional planning controls for at-risk coastal areas. As part of the assessment, the application was referred to Council's Drainage and Flooding Engineer, who confirmed that the 1% AEP (year 2120) Coastal Inundation Level is 3.8m AHD, slightly above the flood planning level. However, the proposed dwelling has habitable floor levels at 6.8m AHD, well above this level. The garage is below 3.8m AHD, however, conditions of consent will ensure it is designed to manage coastal hazard risks.

The draft CMP also highlights sediment transport patterns between Nelson Head and Nelson Bay Marina, with natural sand movement influenced by waves, wind, and tidal currents. While past development, including the marina and breakwaters, has altered these processes, the proposed

development will not impact sediment movement or worsen erosion. The design responds appropriately to coastal hazards and aligns with the objectives of the draft CMP and PP for CVA.

Based on this assessment, the proposal has considered relevant draft planning controls and is suitable for approval, subject to conditions ensuring compliance with coastal hazard mitigation requirements.

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

Port Stephens Development Control Plan 2014 (PSDCP 2014)

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

Chapter B – General Provisions

B1 – Tree Management

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

The objectives of this chapter are:

- To give effect to *State Environmental Planning Policy (Biodiversity and Conservation) 2021* by listing those trees or other vegetation that require approval;
- To ensure adequate consideration is provided to the relevant matters for the removal or pruning of trees or other vegetation; and
- To ensure adequate information is provided to determine the application for the removal of trees or vegetation.

One (1) tree (*Angophora costata*) is required to be removed to facilitate the proposed development. The removal of this tree has been assessed by Council's Environmental Planner, who determined that while the Angophora is visually prominent from the foreshore, the tree has been damaged and poses a potential risk to safety. As such, the tree is recommended for removal. Council's Environmental Planner recommended smaller more suitable replacement trees that have been included as a condition of consent.

B2 – Natural Resources

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

The objectives of this chapter are:

- To ensure adequate consideration is provided to the protection and conservation of items of environmental significance;
- To provide further guidance for the use of biodiversity offsets within the Port Stephens local government area;
- To reduce the negative impact of biosecurity risks (weeds) on the economy, community and environment by eliminating or restricting their geographical spread; and
- To encourage the proper conservation and management of areas of natural vegetation that provide koala habitat to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

This chapter requires assessment of the proposed development in accordance with the requirements of the NSW Biodiversity Conservation Act 2016 and Port Stephens Comprehensive Koala Plan of Management (CKPoM). See these sections for further details.

The site is mapped as being 'Mainly Cleared Land' and is considered correctly mapped by Council's Environmental Planning Team. One (1) tree is proposed for removal which has been damaged and poses a potential risk to safety. Other vegetation on the site consistent of ground cover and shrubs, which is not a vegetation category consistent with habitat or feed for Koalas. The proposal is therefore consistent with this policy and the provisions of Section B2 of the PSDCP.

B3 – Environmental Management

This chapter applies to development that has the potential to produce air pollution, has the potential to produce adverse offensive noise, or involves earthworks.

The objectives of this chapter are:

- To ensure air quality is not negatively impacted on by dust and odour in recognition of the associated human health impacts;
- To identify potentially offensive noise to ensure it is managed within the relevant legislative requirements; and
- To facilitate earthworks so as to minimise potential environmental impacts, such as erosion or the release of sulfuric acids as identified by the Local Environmental Plan.

Noise

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

Air Quality

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

Earthworks

As discussed at Clause 7.2 above, the proposed development involves earthworks to an approximately depth of 3.3m. The impacts of the proposed earthworks can be mitigated through conditions of consent. The proposal is therefore consistent with requirements outlined in Councils DCP relating to earthworks.

B4 – Drainage and Water Quality

This section applies to development that increases impervious surfaces, drains to the public drainage system, or involves a controlled activity within 40m of waterfront land.

The objectives of this chapter are:

- To ensure a stormwater drainage plan is submitted when development either increases impervious surfaces or drains to the public drainage system;
- To ensure the stormwater drainage plan details a legal and physical point of discharge to minimise impacts on water balance, surface water and groundwater flow and volume regimes and flooding;
- To implement sustainable mitigation systems that can be maintained using resources available to the maintainer;
- To regulate the impacts on the capacity of the public drainage system, to ensure development does not detrimentally impact on water quality through the use of water quality modelling, such as small scale stormwater water quality model (SSSQM) or model for urban stormwater improvement conceptualisation (MUSIC), and subsequent water sensitive urban design (WSUD) measures;
- To safeguard the environment by improving the quality of stormwater run-off, to ensure water quality is protected and maintained during the construction phase through the conditioning of appropriate measures; and
- To provide further guidance to clauses in the local environmental plan relating to water quality for development in drinking water catchments, and to protect and retain riparian corridors as localities of environmental importance.

A stormwater management plan was submitted with the application and includes adequate quality and quantity controls in accordance with the requirements of this section. The stormwater drainage plan has been assessed as being consistent with Council's Infrastructure Specification and a condition of consent has been included in the consent requiring the provision of detailed engineering plans, prior to the issue of a construction certificate.

B5 – Flooding

This section applies to all development on flood prone land.

The objectives of the Chapter are:

- To ensure development satisfies the provisions of the LEP;
- To provide detailed controls for the assessment of development proposed on flood prone land in accordance with the Environmental Planning and Assessment Act 1979;
- To ensure flood risk is considered as early as possible in the planning and development process, based on the best available flood information, to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone land;
- To treat floodplains as an asset, specialising in uses that are productive and minimise risk to life during major weather events;
- To ensure that the use and development of flood prone land includes risk consequences that are manageable, to implement the principles of the NSW Government 'Flood Risk Management Manual' (as updated from time to time), Construction of Buildings in Flood Hazard Areas (Australian Building Codes Board) and Council's Floodplain Risk Management Policy and flood hazard maps as identified within Figure BF;
- To ensure that appropriate controls are applied to development on land where more than a minimal risk is present;
- To ensure development on land identified as floodway is restricted to low risk development; and
- To ensure the capacity of the floodway to convey and contain floodwaters is not diminished.

Following from the discussion against clause 5.21 of the PSLEP above, the proposed development is acceptable in this regard. The principles of the NSW Government 'Flood Risk Management Manual' (as updated from time to time), Construction of Buildings in Flood Hazard Areas (Australian Building Codes Board) and Council's Floodplain Risk Management Policy and flood hazard maps as identified within Figure BF have been considered in the assessment below.

Flood compatibility

The proposed development is located on land mapped as being within a Flood Planning Area with the nominated flood risk level being High Hazard Flood Fringe area. In accordance with Figure BI of the DCP, the development comprises a dwelling house which is considered to be suitable subject to development controls for the High Hazard Flood Fringe area flood risk category. The proposed development includes 4-bedrooms and could anticipate 5 residents on-site.

Flood impact and risk

In accordance with Figure BJ in the DCP, dwelling houses are required to have habitable rooms with an FFL equal to 3.7 metres AHD and non-habitable rooms with an FFL equal to the 1% AEP, 2.4 metres AHD.

The proposed development has been designed such that all habitable floor levels are located above 3.7 metres AHD. The garage level is located at 3.025 metres AHD (above the 1% AEP level) and the ground floor level, which contains a non-habitable gym, is located at 3.2 metres AHD, which is above the prescribed adaptable minimum floor level. The first-floor level, which is habitable, is located at 7.75 metres AHD, above the prescribed Flood Planning Level. Therefore, the proposed design adheres to Section B5, Figure BJ or the PSDCP.

As the development is located on flood prone land not identified as minimal risk, appropriate flood controls have been imposed as conditions of consent.

Off-site impacts

The proposed development was reviewed by Council's Development Engineer who found that the proposal would not diminish the capacity of the floodway to convey and contain floodwaters or cause any adverse offsite flooding impacts by way of increased velocity and flood inundation.

Furthermore, the proposed development would not adversely affect the environment or cause avoidable erosion, siltation, and destruction of riparian vegetation or reduction in the stability of riverbanks or watercourses and would not result in any adverse changes to flood behaviour as a result of climate change.

B7 – Heritage

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

The objectives of this chapter are:

- To ensure satisfactory consideration of the objectives for LEP clause 5.10;
- To ensure that maintenance or repairs do not distract from the heritage significance of an existing item;
- To ensure evidence is provided for the demolition of a building of heritage significance; and
- To ensure due diligence is followed before carrying out development that may harm Aboriginal objects.

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

B8 – Road Network and Parking

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

The objectives of this chapter are:

- To ensure that the impacts of traffic generating development are considered and that the existing level of service of the road network is maintained;
- To ensure development provides adequate on-site parking, loading and servicing spaces;
- To ensure that vehicle access is in a safe location and has minimal impacts on existing transit movements;
- To ensure driveways have adequate sight distances for traffic and pedestrians on footpaths;
- To ensure that vehicle access is located in a safe location, where it least impacts on existing transit movements;
- To ensure driveway exits maximise intersection sight distances for traffic and pedestrians on footpaths;
- To ensure visitor parking is conveniently located and easily identifiable;
- To ensure loading facilities do not adversely impact on the road network and are visually concealed;
- To encourage more active lifestyles and ecologically sustainable development by providing convenient and accessible public transport options;
- To recognise the increasing use and demand for electric vehicles and ensure new development is designed to reflect this; and
- To ensure development includes adequate infrastructure to provide for the charging of electric vehicles.

Traffic impacts

In accordance with Section B8.A, the SEE and associated architectural plans detail that at least 2 car parking spaces could be facilitated within the proposed garage, which will be accessible via a proposed new vehicle crossover from Victoria Parade.

As the proposal results in demolition of an existing dwelling house and construction of a new dwelling house, the proposal is not expected to result in additional traffic movements to and from the site. As such, no impact is anticipated to the local road network and a Traffic Impact Assessment (TIA) is not required.

The requirement for a Construction Traffic Management Plan has been included as a condition of consent, prior to issue of a Construction Certificate.

On-site parking provisions

The proposal complies with Figure BU of Section B8.B of the PSDCP, as the proposed garage provides space for at least 2 car parking spaces. The new driveway is proposed to be of concrete pavement.

The proposed garage is setback approx. 4.3m from the building line.

On-site parking access

The relevant controls under B8.12 of the DCP for driveway separation widths for the subject site is maximum 3m for single entry and 4m for double entry. The proposed entry width is calculated at 3.29m, which is suitable for the proposed development.

Chapter C – Development Types

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

C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy	
C4.A – Height	
Objectives	
<ul style="list-style-type: none"> To ensure the height of buildings is appropriate for the context and character of the area To ensure building height reflects the hierarchy of centres and land use structure 	
Control	C4.1 – Building height
	<p>Maximum height limit of 8m or a merit-based approach is taken where no height limit is specified under the Local Environmental Plan clause 4.3</p> <p>Note: C2.4 requires a minimum first floor and above ceiling height for residential accommodation in a commercial zone of 2.7m</p>
Assessment	A height of buildings control is specified under the PSLEP 2014.
C4.B – Setbacks	
Objectives	
<ul style="list-style-type: none"> To ensure development provides continuity and consistency to the public domain To ensure development contributes to the streetscape and does not detract from the amenity of the area 	
Control	C4.2 – Setback requirements
	Development is to be setback from the subject property boundary, in accordance with the provisions outlined in Figure C1.
Assessment	<p>Front Setback</p> <p>The proposed dwelling is setback 10.1m from the front boundary line. While the DCP seeks a setback of 4.5m, the proposed setback is consistent with the front setbacks of the adjoining neighbours at 39 Victoria Parade and 33 Victoria Parade and achieves the objectives of this section by ensuring continuity and consistency to the public domain.</p>

C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy	
	<p>As the proposed dwelling house present a greater bulk and scale to that of the existing single storey dwelling house on the site, setting back the new dwelling further into the site alleviates the visual impact of the proposed new dwelling and allows neighbouring development to maintain direct site lines and view sharing to the waterfront.</p> <p>In the context of this site, the additional front setback is considered appropriated.</p> <p>Side Setback – Ground Level</p> <p>The proposed ground level setbacks are compliant with the DCP control with a minimum of 1m increasing to 2m – 2.8m along the rear portion of the dwelling.</p> <p>Side Setback – Upper Level</p> <p>The upper level side setbacks do not strictly comply with the DCP controls, the proposed setbacks are outlined below.</p> <p>First Storey:</p> <ul style="list-style-type: none"> • The northern boundary has a varied setback ranging between 1m and 4.2m. • The southern boundary has a setback of 1m with a portion at 1.58m. <p>Second Storey:</p> <ul style="list-style-type: none"> • The northern boundary has a varied setback ranging between 1m at the rear, 2.4m for the front patio and 3m. • The southern boundary has a varied setback with 1m for the rear of the dwelling with an increase to 2.28 from the proposed lift forward. <p>While the DCP seeks larger upper-level side setbacks, the proposed setbacks are considered reasonable in this case for the following reasons:</p> <ul style="list-style-type: none"> • Minimised visual impact – The upper-level setbacks have been varied to provide articulation and reduce the perceived bulk of the dwelling when viewed from the adjoining properties. • Privacy protection – The proposed setbacks, combined with screening and appropriate window placement, ensure that privacy for neighbouring properties is maintained. • Consistent with surrounding development – The proposed side setbacks are consistent with the established pattern of development in the locality, where upper levels often have varied setbacks. • Improved design outcome – The varied setbacks contribute to a well-articulated built form that improves visual interest and reduces the potential for overshadowing. <p>Given these considerations, the proposed upper-level side setbacks are considered acceptable and meet the objectives of the DCP by balancing design constraints with the amenity of neighbouring properties.</p>

C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy	
	Rear Setback The proposed rear boundary setback is 8.695m, compliant with the controls of this section.
Control	C4.3 – Front setback encroachment Maximum 1.5m encroachment of front setback for architectural features, such as an entry porch or deck.
	Assessment Not applicable. No structures encroach 4.5m from the front boundary.
Control	C4.4 – Secondary dwelling setback Development for a secondary dwelling must be located behind the building line of the principal dwelling it is in conjunction with.
	Assessment Not applicable. A secondary dwelling is not proposed.
Control	C4.5 – Secondary setback encroachment Maximum 1m encroachment to secondary setback for architectural features, such as an entry porch or deck.
	Assessment Not applicable.
Control	C4.6 – Garage setback Garage setback minimum 1m behind the building line or setback.
	Assessment Complies. The garage is setback approx. 4.3m from the building line.
Control	C4.7 – Public reserve and waterfront setback Minimum 3m setback from a public reserve boundary.
	Assessment Not applicable. The site fronts a local road, not a public reserve or waterfront reserve.
Control	C4.8 – Public reserve and waterfront setback Minimum 4.5m setback from a waterfront reserve boundary.
	Assessment Not applicable.
Control	C4.9 – Public reserve and waterfront setback Minimum 1m setback from waterfront land from the access boundary.
	Assessment Not applicable.

C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy	
Control	C4.10 – Battle-axe lot handle
	<p>Minimum 1m setback from a battle-axe lot handle, access corridor or easement that is required for access</p> <p>Note: C1.3 details when battle-axe lots are provided</p>
Assessment	Not applicable.
Control	C4.11 – Adjoining agricultural buffers
	<p>An agricultural buffer of 150m or greater should be provided between a rural dwelling house, secondary dwelling or an ancillary structure for habitable purposes to adjoining land in separate ownership that is used or capable of being used for agricultural purposes:</p> <ul style="list-style-type: none"> Where the 150m buffer or greater cannot be achieved the planting of a 30m wide native vegetation strip is to be provided between the proposed development building envelope and the adjacent agricultural land. <p>Note: B2.1 requires a suitable buffer on the land which is the subject of development to items of environmental significance</p>
Assessment	Not applicable.
C4.C – Streetscape and privacy	
<p>Objective</p> <ul style="list-style-type: none"> To ensure development activates the streetscape to provide passive surveillance and privacy. 	
Control	C4.12 – Passive surveillance
	Development is to address the street by having at least one habitable room front the street and/or adjoining public spaces.
Assessment	<p>The proposed dwelling house has been designed with habitable living rooms and bedrooms located to front Victoria Parade and Nelson Bay Beach. On the first floor the primary living room and principle area of private open space both face the street and on the second floor the master bedroom and patio also face the street.</p> <p>Accordingly, is it considered that the proposed development will result is adequate passive surveillance of the street.</p>
Control	C4.13 – Passive surveillance

C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy	
	Development on corner lots is to address both street frontages by having habitable rooms face both streets.
Assessment	Not applicable. The site is not a corner lot.
Control	C4.14 – Streetscape character
	To be sympathetic to the existing landscape character and built-form with regard to design, bulk, scale, form, materials and roof configuration.
Assessment	The proposed development is consistent with the existing character of Victoria Parade which consists of a variety of residential accommodation typologies. The proposed design as responded to the site's constraints and presents a bulk and scale that is considerate of existing neighbouring development and responds to the character of the area.
Control	C4.15 – Privacy and two-storey development
	Two storey development is to include a balcony or deck facing the street on the upper floor at least 1.5m deep across 25% of the dwelling frontage.
Assessment	Complies. The proposed dwelling provides a balcony on the first floor, off the living room and another balcony on the second floor, off the master bedroom. Both balconies exceed 1.5m in depth.
Control	C4.16 – Privacy and two-storey development
	Balconies are to be located to minimise overlooking of adjoining properties.
Assessment	<p>The first-floor balcony includes stainless steel support posts behind the BBQ/outdoor cooking area along the eastern side and aluminium batten privacy screening in the opening above the proposed swimming pool to reduce the opportunity for overlooking.</p> <p>The second-floor balcony located off the master bedroom is unlikely to overlook adjoining properties for the following reasons:</p> <ul style="list-style-type: none"> • The balcony is setback over 3m from the side boundary, providing a separation distance of over 6m to adjoining development. • The balcony is orientation toward the street and water view. • Balconies located off bedrooms are typically used less compared to living areas. • When sitting on the second floor balcony overlooking would be limited due to the height of the proposed form.
Control	C4.17 – Privacy and two-storey development

C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy	
	Privacy screens are required for balconies and patios, which result in unreasonable privacy impacts to properties.
Assessment	As mentioned above, the first-floor balcony provides privacy screening.
Control	C4.18 – Privacy and two-storey development
	Privacy screens, high-light windows or opaque glass is to be used for windows of habitable rooms (other than bedrooms) which overlook adjoining properties.
Assessment	The proposed dwelling includes frosted windows at the ground floor level and first floor level along the southern boundary.
C4.D – Private open space	
Objective	
<ul style="list-style-type: none"> To ensure private open space with solar access is provided to allow opportunity for passive and active outdoor recreation 	
Control	C4.19 – Private open space dimensions
	<p>Minimum of 50m² of ground floor private open space comprising a minimum of 35m² that is usable. Private open space is considered usable if it:</p> <ul style="list-style-type: none"> Has minimum dimensions of 4m x 4m, Has direct access from internal living areas, Is not located within a front setback, and Has a northerly aspect.
Assessment	<p>The proposed development provides an increased front setback from 0m to over 10m. This increase provides opportunity for private open space on the ground level, however, due to the Flood Planning Level that applies to the site, habitable room are not permitted on the natural ground level.</p> <p>In response to the flood nature of the site, the dwelling has been designed with living room located on the first floor, accordingly, the applicant has applied C4.20 in this case.</p>
Control	C4.20 – Inter-allotment drainage
	Where development cannot provide private open space on the ground floor, provisions shall be made for a balcony of not less than 20m ² with a minimum width of 3m for the use as private open space.
Assessment	A balcony has been provided which is located directly off living room and is approx. 40sqm, compliant with this control. The balcony includes an outdoor cooking area, living space, and swimming pool.

C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy	
Control	C4.21 – Solar access
	Minimum of 2 hours sunlight to the principal private open space area between the hours of 9am-3pm midwinter.
Assessment	The site is orientated in a north western direction. The dwelling proposes the living room towards this orientation which enables ample sunlight access to the area of principal private open space and primary living area on the 21 June (midwinter).
Control	C4.22 – Solar access
	Minimum of 30% of private open space of adjoining dwellings must remain unaffected by any shadow for a minimum of 3 hours between 9am-3pm midwinter.
Assessment	<p>According to the provided solar diagrams, the proposed development will increase shadowing on the neighbouring property at 37 Victoria Parade, Nelson Bay (Yachtsman's Rest). However, during the winter solstice (21 June), the shadow impact will still allow at least 30% of the private open space (POS) of the adjoining dwellings to receive a minimum of 3 hours of unobstructed solar access.</p> <p>By 12pm, shadowing on the adjoining property is minimal, affecting only part of the northern side of the site. The primary POS for these units is the undercover balcony directly accessible from the living areas. At 12pm, most of these balconies experience minimal shadowing, with only 1 unit having partial shadow over the canopy, which does not exceed 70%.</p> <p>This analysis confirms that the key POS areas of the adjoining dwellings maintain uninterrupted solar access from 12pm to 3pm, meeting the requirement of 3 hours of direct sunlight.</p>
C4.E – Car parking and garages	
Objective <ul style="list-style-type: none"> To ensure car parking caters for anticipated vehicle movements to and from the development and does not adversely impact on building articulation 	
Control	C4.23 – Driveway width
	<p>A driveway should have a minimum width of 3m</p> <p>Note: B8.12 requires ingress/egress widths to provide the listed dimensions</p>
Assessment	The proposed driveway meets the minimum width requirement of 3m.
Control	C4.24 – Garage dimensions

C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy	
	Maximum garage door width of 6m for residential lots or 50% of the building frontage, whichever is less.
Assessment	The proposed development seeks a variation to the control, with a proposed garage door width of 5m, more than 50% of the building frontage. Given the narrow site frontage, the variation is considered reasonable in this instance. Additionally, the garage has been substantially setback from the front building line, which minimises the visual prominence of the garage door from Victoria Parade. This design response mitigates any potential adverse visual impact, and as such, the variation is considered acceptable in the context of this site.
Control	C4.25 – Garage dimensions
	Maximum garage width of 9m for lots exceeding 1,500m ² .
Assessment	Not applicable, as the site area is less than 1,500sqm.
C4.F – Landscaping	
<p style="text-align: center;">Objectives</p> <ul style="list-style-type: none"> To enhance the appearance and amenity of developments through the retention and/or planting of large and medium sized trees To encourage landscaping between buildings for screening To ensure landscaped areas are consolidated and maintainable spaces that contribute to the open space structure of the area To add value and quality of life for residents and occupants within a development in terms of privacy, outlook, views and recreational opportunities To create and enhance vegetation links between natural areas and reduce weed potential to environmentally sensitive areas To reduce energy consumption through microclimate regulation To reduce air borne pollution by reducing the heat island effect To intercept stormwater to reduce stormwater runoff 	
Control	C4.26 – Dwelling house
	<p>Development located on land that slopes at more than 18 degrees to the horizontal or that is within 50m of land that contains:</p> <ul style="list-style-type: none"> A Coastal Wetland identified in SEPP (Biodiversity and Conservation) 2021; or Koala habitat; or Species or communities listed within the Biodiversity Conservation Act 2016 must provide landscaping that: <ul style="list-style-type: none"> - Will enhance the environmental constraints of the site; - Retains trees within the outer protection area of the APZ identified by a bushfire report; and

C4 – Dwelling House, Secondary Dwelling, or Dual Occupancy	
	- Constrains turf areas within the inner protection area of the APZ identified by a bushfire report.
Assessment	Not applicable.
C4.G – Site facilities and services	
Objective	
<ul style="list-style-type: none"> To ensure development provides appropriate facilities and services in the most appropriate site location 	
Control	C4.31 – Waste storage
	An adequately screened waste storage and recycling area is to be provided behind the building line.
Assessment	The proposed development complies with the control requiring waste storage and recycling areas to be adequately screened and located behind the building line. As indicated on the site plans, the waste storage area is positioned behind the building line.
Control	C4.32 – Clothes drying
	A suitable open-air area for clothes drying is to be provided for each dwelling behind the building line with a northerly aspect.
Assessment	The clothes drying area is appropriately located behind the building line, meeting the control's requirements for functionality and orientation.

C8 – Ancillary Structures	
C8.A – Ancillary Structures	
Objectives	
<ul style="list-style-type: none"> To provide further guidance for ancillary structures to ensure consistent and desired amenity is attained To ensure ancillary structures do not adversely impact upon the amenity of the surrounding area To ensure ancillary structures are consistent in terms of height, bulk and scale with the surrounding area 	
Control	C8.14 – Swimming pools
	The water edge must be setback at least 1m from the side and rear boundaries.

C8 – Ancillary Structures	
Assessment	Although the pool is located on the first-floor balcony, the setback has been measured from the edge of the pool to the side and rear boundaries and exceeds 1m, ensuring compliance with the control. The elevated position and setbacks also reduce potential privacy and amenity impacts on adjoining properties.
Control	C8.15 – Swimming pools
	Maximum decking height of 1.4m in height if the pool is located more than 600mm above the ground level (finished).
Assessment	Not applicable, as the pool is proposed to be built into the first-floor balcony.
Control	C8.16 – Front fences (including forward of the building line)
	Maximum height of 1.2m and is not of solid infill construction.
Assessment	The proposed front fence seeks a variation to C8.16, as it is 1.8m high and of solid construction. In this instance, the variation is considered reasonable given the unique context of the site. The opposite side of Victoria Parade features a pedestrian pathway, walkway, and bike path along the waterfront, resulting in higher levels of public activity. Therefore, the increased height and solid construction of the front fence provide additional privacy for the front yard without adversely impacting the streetscape or visual amenity. The proposal maintains a consistent built form with surrounding properties.
Control	C8.17 – Front fences (including forward of the building line)
	Maximum height of 1.5m along main roads and secondary street frontages.
Assessment	Not applicable, the site maintains 1 frontage to a local road.
Control	C8.18 – Front fences (including forward of the building line)
	Compatible with street facilities, such as mailboxes, and allow easy access to public utilities.
Assessment	The proposed front fence is compatible with existing street facilities, including mailboxes.
Control	C8.19 – Side and rear fences
	Maximum height of 1.8m.
Assessment	Details of the side fencing have not been provided. However, side fencing up to a height of 1.8m is permissible as exempt development under the <i>State Environmental Planning Policy (Exempt and Complying Development Codes)</i>

C8 – Ancillary Structures	
	2008 (Code SEPP). Therefore, any future side fencing that complies with this provision will be considered acceptable.
Control	C8.23 – Retaining walls
	Maximum height of 1m.
Assessment	A variation to this control is required as the site's steep slope necessitates additional retaining to achieve a functional design. Internally, the retaining walls will extend to a depth of approximately 4m, while external retaining walls will reach a height of around 1.9m. The retaining walls have been designed to minimise visual impact and maintain stability, ensuring an appropriate response to the topography of the site.
Control	C8.24 – Retaining walls
	Masonry construction within 0.9m of the property boundary when greater than 0.6m in height.
Assessment	This control will be enforced as a condition of consent to ensure compliance during construction.
Control	C8.25 – Retaining walls
	Retaining walls are wholly contained within the site.
Assessment	All proposed retaining walls are located entirely within the property boundary.

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

There are no planning agreements or draft planning agreements which have been entered into under section 7.4 of the EP&A Act which are relevant to the development.

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

The following sections within the EP&A Regulation 2021 apply to the development, and have been considered through the assessment of this application:

Section 61 – Additional matters that consent authority must consider

In regard to section 61(1) of the EP&A Regulations 2021, Council has considered the Australian Standard AS 2601—2001: The Demolition of Structures in the assessment of this application with appropriate conditions being imposed on the consent.

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

Social and Economic Impacts

The proposal will result in positive social and economic impacts by providing a high-quality residential dwelling that contributes to the housing stock in the area. The development will enhance the locality by offering a modern, well-designed home that aligns with contemporary housing expectations, and will generate local employment opportunities during construction.

Impacts on the Built Environment

The proposed development will integrate well with the built environment, with appropriate setbacks, articulation, and design features ensuring consistency with the surrounding streetscape. The scale and form of the dwelling, including its height and façade treatment, have been designed to minimise visual bulk and overshadowing impacts on adjoining properties.

Impacts on the Natural Environment

The proposed development will involve minimal disturbance to the natural environment, with adequate measures in place to manage stormwater and ensure compliance with flood planning levels. Landscaping is proposed to soften the visual impact of the development and enhance the natural character of the area. No significant vegetation removal is required, ensuring minimal ecological impact.

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

The subject site is considered suitable for the proposed development as it is zoned R2 Low Density Residential, which permits residential dwellings. The site's size and topography have been appropriately addressed through the design, ensuring compliance with key planning controls, including setbacks and floor space ratio. Additionally, the site is serviced by necessary infrastructure, including water, sewer, and electricity, making it highly suitable for residential development. The proposed design considers both the opportunities and constraints of the site, such as flood risk and slope, resulting in a balanced outcome that meets planning objectives.

Section 4.15(1)(d) Any submissions made in accordance with this act or the regulations

Public Submissions

The DA was on public notification between 20 March 2024 – 5 April 2024. During this period, 1 submission was received in support of the proposed development.

Section 4.15(1)(e) The public interest

The subject site is located within a well-established residential area and is zoned R2 Low Density Residential, where the proposed development is permissible with consent. The proposed dwelling aligns with the zone objectives by providing for the housing needs of the community while protecting the existing residential character and amenity of the area.

The development is considered to be in the public interest as it offers a high-quality architectural design that will enhance the streetscape and contribute positively to the local built environment. Privacy, solar access, and amenity impacts on adjoining properties have been minimised through appropriate setbacks, articulation, and design elements. The proposal also ensures compliance with relevant planning policies and standards, with any variations appropriately justified.

Furthermore, the development will support local economic growth by generating construction-related employment and fostering demand for local services and supplies. Given the minimal environmental impact and the provision of a modern, well-designed home, the proposal is consistent with the public interest.

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

Not applicable.

Section 7.12 – Fixed Development Consent Levies

Not applicable.

CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, and the key issues identified in this report, it is considered that the application can be supported.

RECOMMENDATION

The application is recommended to be approved under delegated authority pursuant to s4.15 of the *Environmental Planning and Assessment Act 1979*, subject to conditions of consent provided as contained in the notice of determination.

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CLAUSE 4.6 ASSESSMENT REPORT

CLAUSE OBJECTIVES AND EXCLUSIONS

Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) – Clause Objectives

Clause 4.6 provides a mechanism to vary development standards prescribed within Port Stephens Local Environmental Plan (PSLEP) 2013.

The objectives of the clause are as follows:

- a) *To provide an appropriate degree of flexibility applying certain development standards to particular development.*
- b) *To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(2) – Exclusions to the operation of clause 4.6

Development consent may be granted even though the development would contravene a development standard imposed by the PSLEP, unless the development standard is expressly excluded under Clause 4.6(8).

Clause 4.3 is not excluded from the operation of Clause 4.6, and therefore the proposed variation has been considered below.

PROPOSED VARIATION REQUEST

Development Application (DA) 16-2024-99-1, submitted for 35 Victoria Parade, Nelson Bay (the subject site), includes a written request to vary a development standard under the Port Stephens Local Environmental Plan 2013 (PSLEP 2013). This request has been prepared in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regs).

The site has a prescribed maximum building height of 9m. The original proposed development reached a height of 11m above the natural ground level at its highest point, specifically over Bedroom 1 on the second floor, resulting in a 2m or 22.22% variation to the development standard.

An initial Request for Information (RFI) was issued to the applicant, seeking an amended design that complied with the height of buildings development standard. In response, the applicant submitted a revised design, reducing the extent of the height non-compliance from 12.28m to 6.8m and lowering the overall height by 0.1m, which reduced the variation to 1.9m or 21.1%.

A second RFI was subsequently issued, requesting further reduction in height. The applicant responded with additional design changes, resulting in a final height of 10.475m above the natural ground level, representing a 1.475m variation or 16.38% above the 9m development standard.



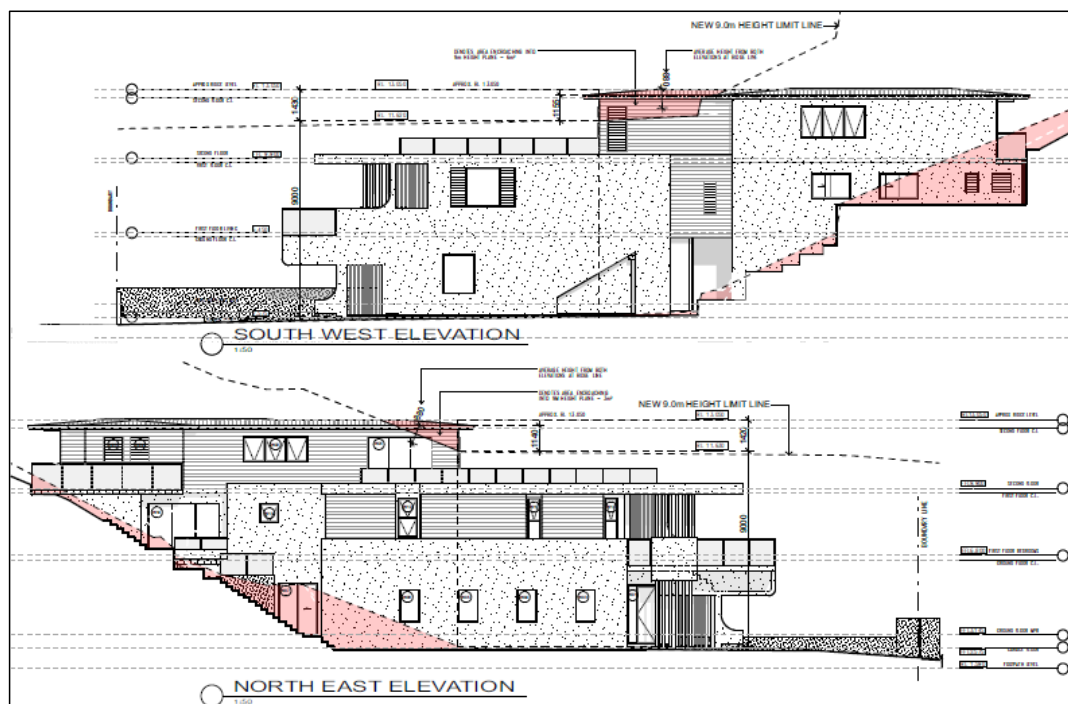
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The relevant development standard and details of the final proposed variation are as follows:

Development Standard	Proposed Variation	Extent of Variation (%)
Clause 4.3 Height of buildings	1.475m	16.38%

The proposed variation is now confined to a portion of the second-floor roof structure, largely due to the steep slope of the site, which has an average gradient of approximately 23 degrees. This is depicted in the figures below.



As the proposed variation is greater than 10%, in accordance with the Department of Planning and Environment's 'Guide to Varying Development Standards' (November 2023) the development application must be determined by the elected Council.

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CLAUSE 4.6 ASSESSMENT REPORT

ASSESSMENT

Clause 4.6(3) – Request to vary development standards

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

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

In *Wehbe v Pittwater Council* (2007) LEC 827 (*Wehbe*), Chief Justice Preston identified five ways in which a request to vary a development standard may be determined to be well founded. These reasons include:

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard,*
2. *The underlying objective or purpose of the development standard is not relevant to the development,*
3. *The objective or purpose of the development standard would be defeated or thwarted if compliance was required,*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard, and*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary as applied to the land.*

The applicant's Clause 4.6 Variation request asserts that compliance with Clause 4.3 (Height of Buildings) is unreasonable or unnecessary having regard to the first, second and third test set down in *Wehbe*, as outlined below.

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard

The objectives of Clause 4.3 are as follows:

(1) *The objectives of this clause are as follows—*

- (a) *to ensure the height of buildings is appropriate for the context and character of the area,*
- (b) *to ensure building heights reflect the hierarchy of centres and land use structure.*

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In response to objective (1)(a), the applicant has provided that the proposed design responds to the topographical and flood constraints of the subject site and has been setback into the site to reduce the visual impact of the proposed dwelling.

The site (rear portion) has a significant slope (approx. 23 degrees) and a Flood Planning Level (FPL) of 3.8m AHD. The dwelling has been designed to reduce the extent of excavation required and respond to the flood constraints of the site, which has been the catalyst for the large floor to ceiling height of the garage and subsequent height of the overall built form.

An analysis of the immediate context and character along Victoria Parade demonstrates a mix of residential development topologies, including large single dwelling houses and multi-storey residential flat buildings. Due to the mix of development within the immediate context, the proposed development is consistent with the height, scale and character of the area.

The setting of the development, away from the front boundary is supported given the existing dwelling house located on the site maintains a 0m front setback which is inconsistent with the existing and desired character of the area and limits privacy into the dwellings primary living room. The increased setback also provides improved view sharing opportunities for neighbouring development.

In response to objective (1)(b), the site is considered to reflect the land use structure as strategically established for the locality. The site is zoned R2 Low Density Residential and the proposed dwelling house is permitted with consent in the zone. The proposed height variation, limited to a small portion of the second storey, is a result of site constraints and has been designed to negate visual impact, overshadowing and privacy concerns.

The proposal is considered to achieve the objectives of Clause 4.3.

2. The underlying objective or purpose of the development standard is not relevant to the development

While the applicant has sought to rely on reason (2) as outlined in *Wehbe v Pittwater Council* (2007), which states that compliance with a development standard may be unnecessary if the underlying objective or purpose of the standard is not relevant to the development, this reasoning is not supported in this instance.

The objectives of Clause 4.3 – Height of Buildings are to ensure that building height is appropriate for the context and character of the area and to maintain a consistent built form that minimises visual impact. These objectives remain directly relevant to the proposed development, particularly given its location on a prominent street with mixed residential typologies, and its proximity to adjoining properties. While the topography and flood constraints of the site have necessitated a higher built form, the purpose of the height control is still critical in managing the bulk, scale, and visual impact of development in the area. Therefore, it is considered that strict compliance with the height limit is not irrelevant, and the proposal must be assessed under

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reason 1, which appropriately considers whether the objectives of the standard can still be achieved despite the variation.

3. The objective or purpose of the development standard would be defeated or thwarted if compliance was required

The applicant argues that strict compliance would prevent the proposed three-storey design from being achieved. This would impact the functionality of the dwelling, particularly regarding the placement of habitable rooms and the master suite on the second floor. If compliance were enforced, the applicant states that alternative design solutions, such as increasing the dwelling's footprint, could result in a less desirable planning outcome and result in excessive earthworks, creating adverse impacts to adjoining properties. A reduced height may also result in a design with limited habitable spaces above the Flood Planning Level.

While the applicant's arguments under reason 2 and 3 are acknowledged these grounds are unnecessary for supporting the variation. The first reason is sufficient to justify the variation in this instance. The proposal achieves the objectives of Clause 4.3 by ensuring that the building height is appropriate for the site's context and does not adversely impact the character of the area.

Grounds 4 and 5 are not relied upon by the applicant.

The applicant acknowledges that the development standard has not been abandoned or destroyed by previous Council decisions, and that the zoning of the site is appropriate. Therefore, these grounds are not applicable to the current proposal.

Accordingly, the variation request is considered justifiable based solely on reason 1 outlined in *Wehbe*, and further reliance on Grounds 2 and 3 is not necessary.

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

Clause 4.6(3)(b) states that development consent must not be granted for a development that contravenes a development standard unless the consent authority is satisfied that the applicant has demonstrated sufficient environmental planning grounds to justify the contravention. In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ clarified that such grounds must specifically relate to the aspect of the development that contravenes the standard, rather than the development as a whole.

The applicant's Clause 4.6 request and Council's assessment outlines the following environmental planning grounds to justify the contravention of the Height of Buildings (HOB) development standard:

- The subject site features a significant slope, with an RL of 2.04m at the front boundary and rising to approximately RL 14.12m at the rear boundary. In response to these topographical constraints, the proposed dwelling has been designed to minimise excavation. The portion of the dwelling exceeding the HOB standard is minor, limited to a small section of the master bedroom

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on the second floor, where the ground level flattens out. The remainder of the second floor complies with the height control.

- The proposed dwelling is setback 10m from the front boundary, a significant improvement over the existing dwelling's 0m setback. This increased setback is consistent with the prevailing setbacks of adjacent properties and is critical for maintaining key amenity principles, including solar access, privacy, and view sharing.
- The proposal results in some shadowing of the neighbouring property at 37 Victoria Parade (Yachtsman's Rest) during the winter solstice (21 June). However, the shadow analysis confirms that at least 30% of the private open space (POS) of the adjoining dwellings will receive a minimum of 3 hours of direct sunlight. By 12 pm, shadowing impacts are minimal, as the POS areas, primarily covered balconies directly accessed from living rooms, remain largely unaffected. Only one (1) unit experiences shadow on its canopy by midday, but it does not exceed the acceptable threshold of 70%. From 12pm to 3pm, full solar access to POS is achieved, meeting solar access requirements.
- The proposed dwelling's habitable living areas and bedrooms are oriented towards Victoria Parade and Nelson Bay Beach, ensuring an appropriate street presence and maximising amenity. The first-floor balcony includes privacy measures, such as stainless steel support posts behind the outdoor cooking area and aluminium batten screening above the pool area, to mitigate overlooking. The second-floor balcony, located off the master bedroom, is unlikely to cause privacy concerns due to:
 - A setback of over 3m from the side boundary, resulting in more than 6m of separation from adjacent properties.
 - Its orientation towards the street and water views.
 - Limited use, as balconies off bedrooms are typically used less frequently than those off living areas.
 - The design of the balcony and the overall height, which naturally limits overlooking when seated.
- The proposed design ensures adequate view sharing by incorporating setbacks, articulation, and privacy controls. A compliant height would not result in a significantly improved built form transition between the subject site and adjoining properties. The generous side setbacks for the portion of the master suite exceeding the height limit help to mitigate privacy impacts and maintain an appropriate relationship with neighbouring dwellings.

The applicant argues that the potential environmental planning benefits justify the contravention of the development standard. In assessing the environmental planning grounds put forward by the applicant for the Clause 4.6 variation, it is evident that the justification aligns with the principles set out in *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118. The applicant has effectively

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demonstrated that the height variation is not significant but is directly related to the site's unique topographical conditions, flood requirements, and the functional needs of the dwelling.

The focus on the specific part of the development that exceeds the height standard, namely the second floor and roofline, ensures compliance with the requirement to demonstrate sufficient grounds for the contravention. The design ensures minimal impact on neighbouring properties in terms of overshadowing, privacy, and view sharing, while contributing positively to the area's character. Therefore, the applicant's grounds for the height variation are considered appropriate under Clause 4.6 and meet the tests outlined in *Initial Action*.

CONCLUSION

The proposed development is considered to be consistent with the objectives of Clause 4.6, as it will achieve better outcomes for and from the development in these particular circumstances. The applicant has demonstrated that the height variation is necessary to accommodate the site's steep topography, which significantly influences the design of the dwelling. This variation enables the dwelling to be appropriately sited on the land, minimising excavation and ensuring that flood planning requirements are met. The design ensures that habitable rooms are located above the prescribed flood planning level, further reducing risk to life and property, in line with Council's flood management guidelines.

Is it considered that the proposed development achieves a high level of amenity, both for future occupants and the surrounding properties. The second-floor design, which exceeds the height control, is located towards the rear of the property and is setback adequately to reduce bulk and massing, while still providing functional living spaces. Shadowing analysis demonstrates that the impacts on neighbouring properties are minimal, with significant portions of private open space retaining solar access throughout the day.

Given these considerations, the height variation is justified in these specific circumstances, and it is concluded that the development is consistent with the objectives of Clause 4.6, allowing for a positive planning outcome.

MISS R PETHERBRIDGE

Senior Development Planner

(Community Futures Directorate)



ITEM NO. 8

**FILE NO: 25/33328
EDRMS NO: PSC2024-03158**

REQUEST FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayor Funds to the following:-
 - a) Nelson Bay Bandits Rugby League Football Club – Mayoral funds - \$1,000 donation towards club equipment.

BACKGROUND

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

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

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

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

The requests for financial assistance are shown below:

MAYORAL FUNDS – Leah Anderson

Nelson Bay Bandits Rugby League Football Club	The newly formed Nelson Bay Bandits Rugby League Football Club aims to enable women to engage in Rugby League across all levels, fostering a supportive, inclusive and understanding environment.	\$1,000	Donation towards club equipment.
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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 AND POLICY IMPLICATIONS

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

The Policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function, which it, the Council, would otherwise undertake.
- b) the funding will directly benefit the community of Port Stephens.

c) applicants do not act for private gain.

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

COMMUNICATION AND ENGAGEMENT

Council's Communication and Engagement Strategy uses the IAP2 Framework to identify the level of engagement undertaken. An explanation for each level is shown below.

INFORM	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives, opportunities and/or solutions.
CONSULT	To obtain public feedback on analysis, alternatives and/or decisions.
INVOLVE	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.
COLLABORATE	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.
EMPOWER	To place final decision-making and/or developed budgets in the hands of the public.

The following communication and engagement applies to this report.

External communications and engagement

INFORM	Community members are advised of the outcome of their application.
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Internal communications and engagement

- Consultation with key stakeholders has been undertaken by the General Manager's Office.
- Consultation has been undertaken with key stakeholders to ensure budget requirements are met and approved.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 9

**FILE NO: 25/33344
EDRMS NO: PS2024-03232**

INFORMATION PAPERS

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

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 25 February 2025.

No:	Report Title	Page:
1	Elected Members Professional Development and Expenses Reports - 1 July 2024 to 31 December 2024	210
2	Cash and Investment Portfolio - January 2025	214
3	Designated Persons' Return	224
4	Delegations Report	225
5	Council Resolutions	227

INFORMATION PAPERS

ITEM NO. 1

FILE NO: 24/304864
EDRMS NO: PSC2017-00739

ELECTED MEMBERS PROFESSIONAL DEVELOPMENT AND EXPENSES REPORTS - 1 JULY 2024 TO 31 DECEMBER 2024

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

BACKGROUND

Professional Development

The purpose of this report is to provide an account of the expenses incurred by the Elected Members in accordance with clause 5.14 of the Councillor Induction and Professional Development Policy for the period July to December 2024.

	Mayor Anderson	Cr Armstrong ³	Cr Arnott	Cr Doohan	Cr Errington ³	Cr Francis	Cr Le Mottee ³	Cr Niland ³	Cr Watson ³	Cr Wells
Code of Conduct	\$301	\$301	\$301	\$301	\$301	\$301	\$301	\$301	\$301	\$301
AICD Course ¹			\$7,000							
LGNSW – Conference ¹	\$1,447	\$1,430			\$1,602	\$1,430	\$1,350			
Executive Certificate for Elected Members		\$3,182								
Councillors' Strategic Workshop – venue deposit	\$159	\$159	\$159	\$159	\$159	\$159	\$159	\$159	\$159	\$159
Women in Leadership Summit	\$3,998									
Total	\$5,905	\$5,072	\$7,460	\$460	\$2,062	\$1,890	\$1,509	\$460	\$460	\$460

Expenses

The purpose of this report is to provide an account of the expenses incurred by the Elected Members in accordance with Clause 3.127 of the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy for the period 1 July 2024 to 31 December 2024. Expenses for the former Elected Members are shown at

¹ Australian Institute of Company Directors

² Local Government NSW

³ The reporting period is from 2 October to 31 December 2024 for new councillors

(ATTACHMENT 1). Expenses for the current Elected Members are shown at **(ATTACHMENT 2).**

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

ATTACHMENTS

- 1) Former Elected Members Professional Development and Expenses Report - 1 July 2024 to 31 December 2024. [↓](#)
- 2) Elected Members Professional Development and Expenses Report - 1 July 2024 to 31 December 2024. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ORDINARY COUNCIL - 25 FEBRUARY 2025

ITEM 1 - ATTACHMENT 1 FORMER ELECTED MEMBERS PROFESSIONAL DEVELOPMENT AND EXPENSES REPORT - 1 JULY 2024 TO 31 DECEMBER 2024.

Former Elected Members Expense Report 1 July 2024 to 31 December 2024

		Mayor Ryan Palmer	Cr Matthew Bailey	Cr Glen Dunkley	Cr Peter Kafer	Cr Steve Tucker	TOTALS
Total Number of Council Meetings Attended (2 held)		2	2	1	2	2	
Total Number of Months Reimbursed during the period		1	2	1	0	2	
Description of Expense	Limits as per policy						
Councillor Mobile Rental	75% up to \$200 per month						\$0.00
Councillor Mobile Calls		\$143.00	\$104.00				\$247.00
Councillor Landline Phone Rental							\$0.00
Councillor Landline Phone Calls							\$0.00
Councillor Fax Rental							\$0.00
Councillor Fax Calls							\$0.00
Councillor Internet	75% up to \$60 per month	\$120.00	\$134.00				\$254.00
Councillor Intrastate Travel Expenses	\$7000 per year	\$1,250.00	\$74.00	\$1,058.00		\$455.00	\$2,837.00
Councillor Interstate Travel (out of NSW)	\$2000 per year						\$0.00
Councillor Interstate Accommodation (out of NSW)							\$0.00
Councillors Intrastate Accommodation				\$116.00		\$885.00	\$1,001.00
Councillor Conferences	\$3000 per year	\$209.00		\$193.00		\$306.00	\$708.00
Councillor Training							\$0.00
Councillor Partner Expenses	Mayor \$1000 per year Cr's \$500 per year (excluding LGNSW Annual Con.)						\$0.00
Councillor ICT Devices (incl. Mobile phones)	\$5000 per term						\$0.00
Councillor Stationery	\$500 per year						\$0.00
Councillor Awards/Ceremonies/Dinners					\$109.00	\$300.00	\$409.00
Councillor Child Care Costs	\$6000 per year		\$420.00				\$420.00
Councillor Communications Bundle	75% up to \$100 per month landline 75% up to \$100 per month mobile			\$248.00		\$202.00	\$450.00
Councillor Professional Development	\$15,000 per term						\$0.00
Councillor Uniforms							
TOTALS		\$1,722.00	\$732.00	\$1,615.00	\$109.00	\$2,148.00	\$6,326.00
Councillor Superannuation			\$629.00	\$629.00	\$629.00	\$629.00	\$2,516.00
Councillor Allowances	Mayor \$62,960 pa Cr's - \$19,790 pa	\$23,720.00	\$5,472.00	\$5,472.00	\$5,472.00	\$5,472.00	\$45,608.00
TOTALS		\$25,442.00	\$6,833.00	\$7,716.00	\$6,210.00	\$8,249.00	\$54,450.00

ITEM 1 - ATTACHMENT 2 ELECTED MEMBERS PROFESSIONAL DEVELOPMENT AND EXPENSES REPORT - 1 JULY 2024 TO 31 DECEMBER 2024.

Elected Members Expense Report 1 July 2024 to 31 December 2024													
		Mayor Leah Anderson	Cr Leah Anderson	Cr Rosalyn Armstrong	Cr Giacomo Arnott	Cr Chris Doolan	Cr Nathan Errington	Cr Peter Francis	Cr Paul Le Mottee	Cr Ben Nisland	Cr Mark Watson	Cr Jason Wells	TOTALS
Total Number of Council Meetings Attended (6 held)		4	2	4	6	6	4	5	3	4	4	6	
Total Number of Months Reimbursed during the period		2	2	2	4	0	3	0	2	1	1	0	
Description of Expense	Limits as per policy												
Councillor Mobile Rental	75% up to \$200 per month												\$0.00
Councillor Mobile Calls		\$74.00	\$105.00	\$78.00			\$130.00		\$293.00	\$130.00			\$810.00
Councillor Landline Phone Rental													\$0.00
Councillor Landline Phone Calls													\$0.00
Councillor Fax Rental													\$0.00
Councillor Fax Calls													
Councillor Internet	75% up to \$60 per month	\$172.00	\$180.00	\$67.00									\$419.00
Councillor Intrastate Travel Expenses	\$7000 per year	\$2,973.00	\$1,046.00	\$1,007.00		\$227.00	\$623.00		\$646.00		\$471.00		\$6,993.00
Councillor Interstate Travel (out of NSW)	\$2000 per year												\$0.00
Councillor Interstate Accommodation (out of NSW)													\$0.00
Councillors Intrastate Accommodation		\$1,357.00	\$1,321.00	\$1,706.00			\$409.00	\$409.00	\$307.00			\$1,576.00	\$7,085.00
Councillor Conferences	\$3000 per year	\$1,447.00	\$329.00	\$1,430.00			\$1,602.00	\$1,430.00	\$1,350.00				\$7,588.00
Councillor Training													\$0.00
Councillor Partner Expenses	Mayor \$1000 per year Crs \$500 per year (excluding LGNSW Annual Con.)												\$0.00
Councillor ICT Devices (incl. Mobile phones)	\$5000 per term	\$5,000.00		\$4,516.00	\$5,000.00	\$2,978.00	\$3,298.00						\$20,792.00
Councillor Stationery	\$500 per year	\$500.00		\$269.00									\$769.00
Councillor Awards/Ceremonies/Dinners		\$280.00			\$68.00	\$177.00						\$68.00	\$593.00
Councillor Child Care Costs	\$6000 per year												\$0.00
Councillor Communications Bundle	75% up to \$100 per month landline 75% up to \$100 per month mobile					\$1,157.00							\$1,157.00
Councillor Professional Development	\$15,000 per term	\$4,458.00		\$3,642.00	\$7,460.00	\$460.00	\$460.00	\$460.00	\$460.00	\$460.00	\$460.00	\$460.00	\$18,780.00
Councillor Uniforms					-\$30.00						\$18.00		-\$12.00
TOTALS		\$16,261.00	\$2,981.00	\$12,715.00	\$12,498.00	\$4,999.00	\$6,522.00	\$2,299.00	\$3,056.00	\$590.00	\$949.00	\$2,104.00	\$64,974.00
Councillor Superannuation		\$2,698.00	\$629.00	\$778.00	\$1,407.00	\$1,407.00	\$778.00	\$1,407.00	\$778.00	\$778.00	\$778.00	\$1,407.00	\$12,845.00
Councillor Allowances	Mayor \$62,960 pa Crs - \$19,790 pa	\$23,463.00	\$5,472.00	\$6,732.00	\$12,203.00	\$12,203.00	\$6,732.00	\$12,203.00	\$6,732.00	\$6,732.00	\$6,732.00	\$12,203.00	\$111,407.00
TOTALS		\$42,422.00	\$9,082.00	\$20,225.00	\$26,108.00	\$18,609.00	\$14,032.00	\$15,909.00	\$10,566.00	\$8,100.00	\$8,459.00	\$15,714.00	\$189,226.00

ITEM NO. 2

**FILE NO: 24/314348
EDRMS NO: PSC2017-00180**

CASH AND INVESTMENT PORTFOLIO - JANUARY 2025

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

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 31 January 2025.

Council's total portfolio of investments was \$75.89 million with an additional \$2.84 million held in Council's operational account as at 31 January 2025.

The investment portfolio was fully compliant with the Investment Policy regarding product type, institution exposure, rating exposure and maturity limits.

The investment portfolio is currently yielding 5.39% per annum on a rolling 1 year performance, which was 0.90% above the benchmark with investment income on target to meet or exceed budget.

The total restricted cash position of Council is in deficit partly due to advance payments for goods and services which will be consumed over the financial year. The restricted cash position will continue to be monitored.

ATTACHMENTS

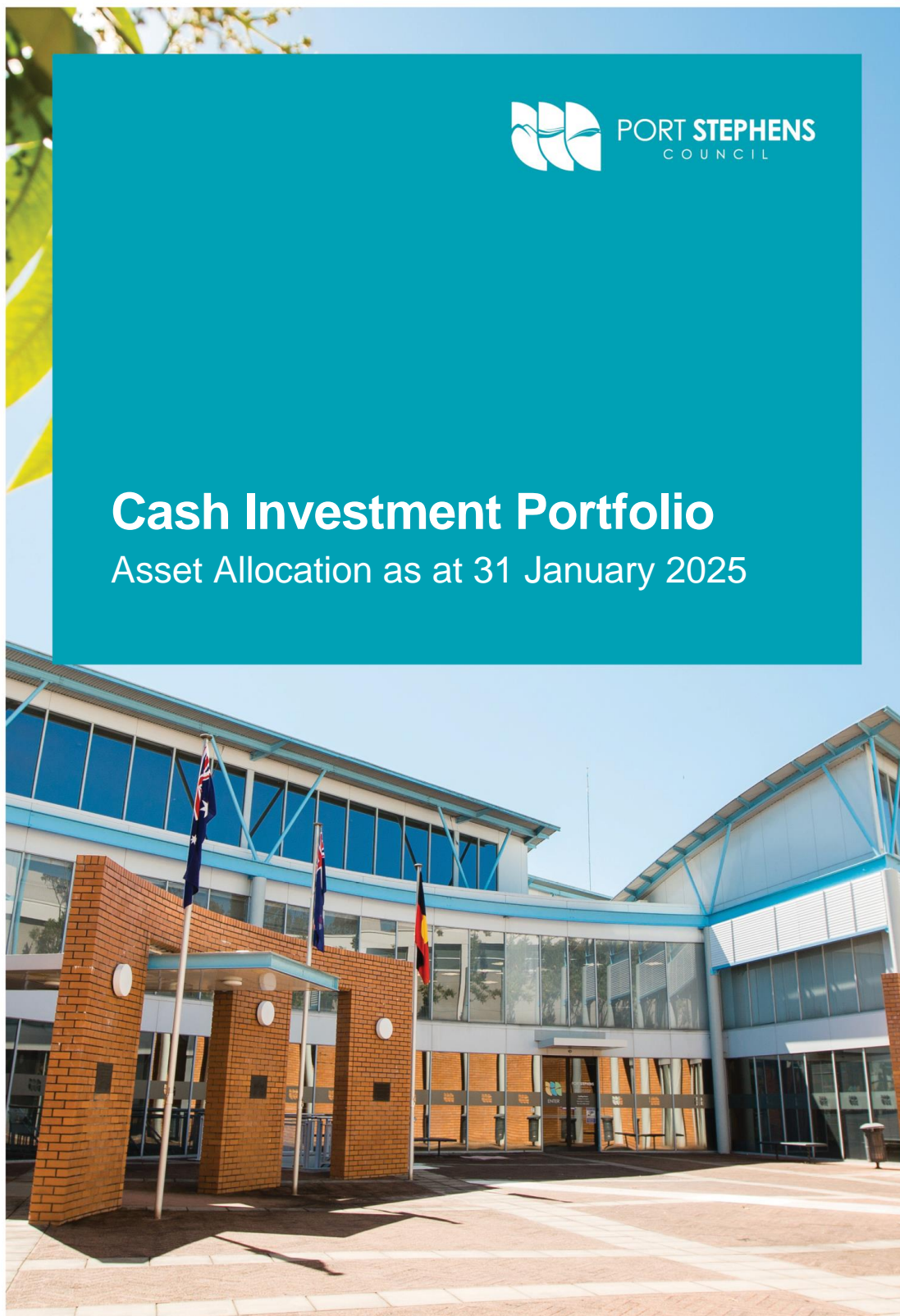
1) Cash and Investment Portfolio - January 2025. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

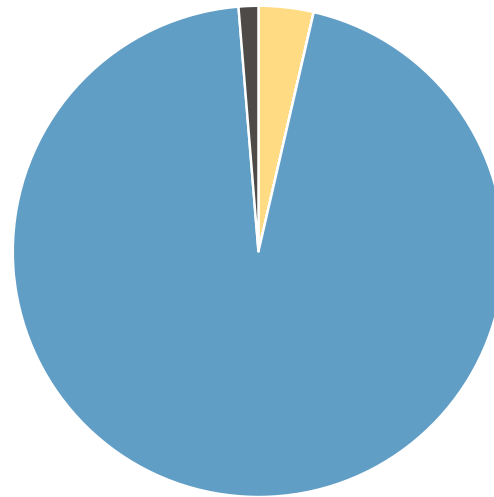
Nil.

TABLED DOCUMENTS

Nil.



Cash Investment Portfolio Holdings



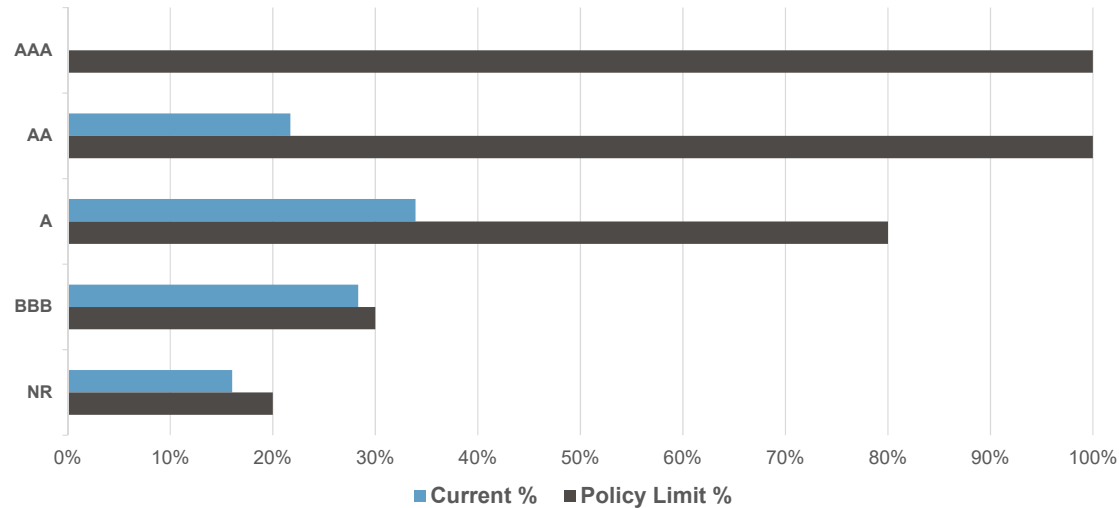
■ At Call ■ Cash ■ At Notice ■ TD ■ Managed Fund

Product Type	Market Value (\$)	Within Policy
At Call	-	
Cash	2,841,835	✓
At Notice	-	
TD	74,866,840	✓
Managed Fund	1,022,010	✓
	78,730,686	

✓ = Yes
x = No

Rating Exposure

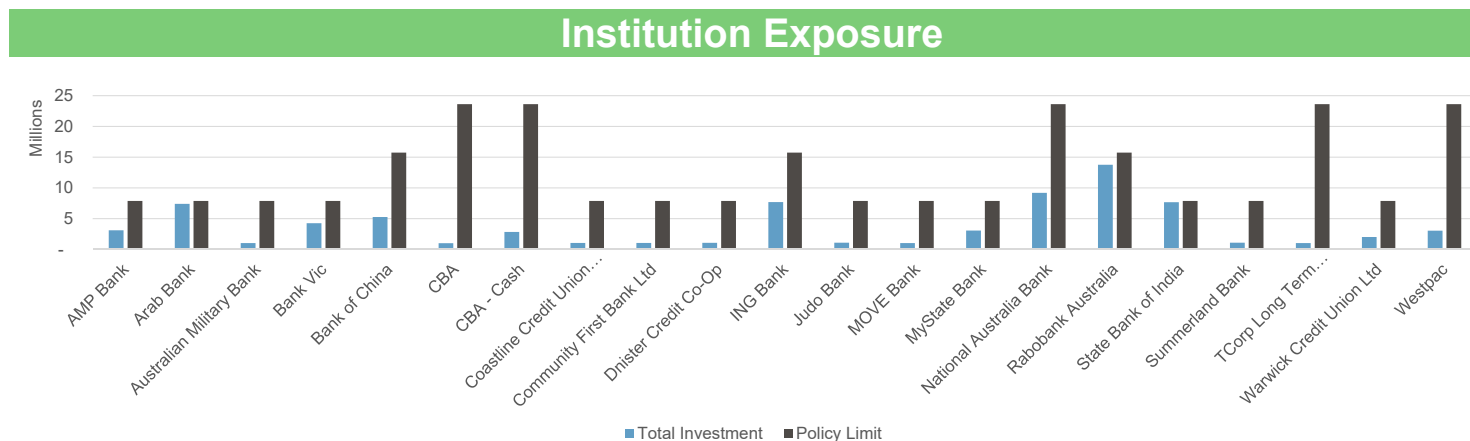
Total Credit Exposure



Credit Rating Group	Market Value (\$)	Current %	Policy Limit %	Within Policy
AAA	-	0%	100%	✓
AA	17,096,391	22%	100%	✓
A	26,707,057	34%	80%	✓
BBB	22,306,351	28%	30%	✓
NR	12,620,886	16%	20%	✓
	78,730,686	100%		

✓ = Yes

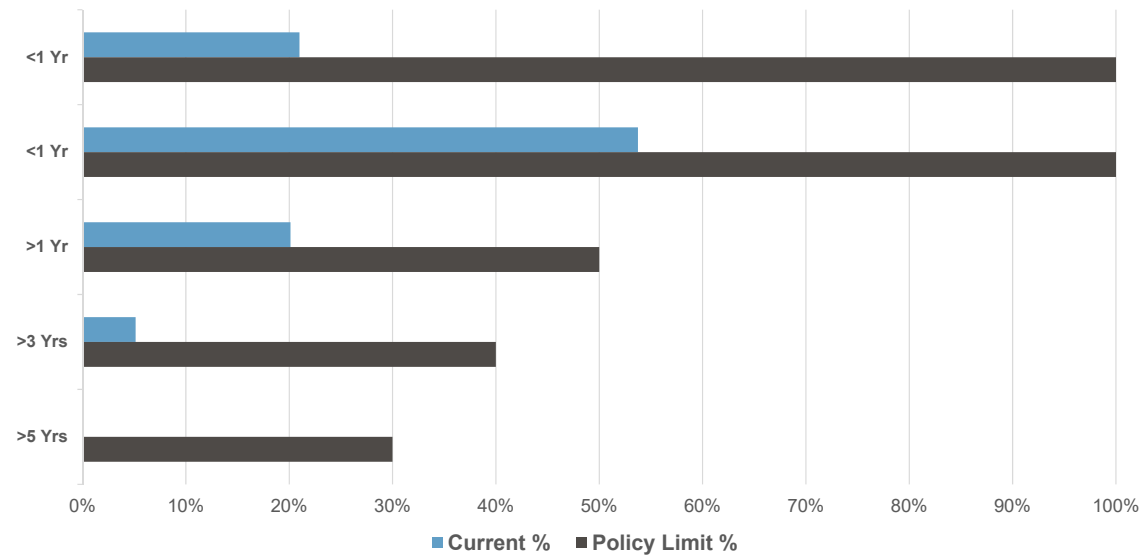
✗ = No



Institution	Rating	Total Investment	Exposure	Policy Limit	Remaining to Limit	Within Policy
AMP Bank	BBB	3,101,082	4%	10%	4,771,986	✓
Arab Bank	NR	7,410,394	9%	10%	462,675	✓
Australian Military Bank	BBB	1,025,267	1%	10%	6,847,801	✓
Bank Vic	BBB	4,262,790	5%	10%	3,610,279	✓
Bank of China	A	5,258,855	7%	20%	10,487,283	✓
CBA	AA	1,003,889	1%	30%	22,615,317	✓
CBA - Cash	AA	2,841,835	4%	30%	20,777,371	✓
Coastline Credit Union Limited	BBB	1,046,626	1%	10%	6,826,443	✓
Community First Bank Ltd	BBB	1,046,441	1%	10%	6,826,627	✓
Dnister Credit Co-Op	NR	1,064,927	1%	10%	6,808,141	✓
ING Bank	A	7,685,981	10%	20%	8,060,156	✓
Judo Bank	BBB	1,089,951	1%	10%	6,783,118	✓
MOVE Bank	NR	1,035,274	1%	10%	6,837,795	✓
MyState Bank	BBB	3,063,001	4%	10%	4,810,067	✓
National Australia Bank	AA	9,188,125	12%	30%	14,431,080	✓
Rabobank Australia	A	13,762,222	17%	20%	1,983,915	✓
State Bank of India	BBB	7,671,193	10%	10%	201,875	✓
Summerland Bank	NR	1,095,189	1%	10%	6,777,880	✓
TCorp Long Term Growth Fund	AA	1,022,010	1%	30%	22,597,196	✓
Warwick Credit Union Ltd	NR	2,015,101	3%	10%	5,857,967	✓
Westpac	AA	3,040,532	4%	30%	20,578,674	✓
Total		78,730,686				

✓ = Yes
x = No

Term to Maturity Limits



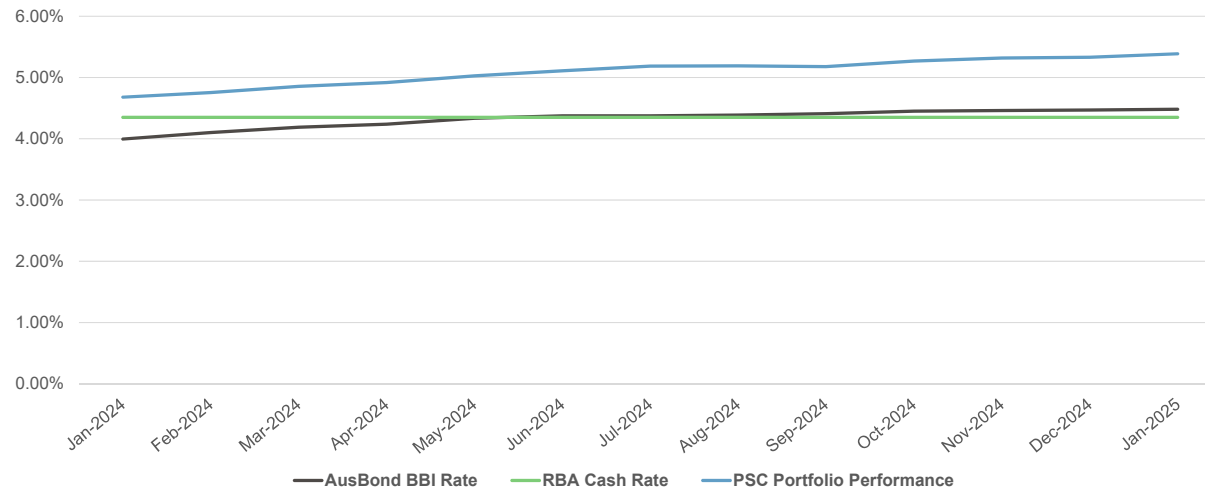
Detailed Maturity Profile	Market Value (\$)	Current %	Policy Limit %	Within Policy
Less than or equal 90 Days	16,526,322	21%	100%	✓
Between 90 Days and 365 Days	42,310,910	54%	100%	✓
Between 366 Days and 3 Years	15,847,622	20%	50%	✓
Between 3 Years and 5 Years	4,045,832	5%	40%	✓
Greater than 5 Years	-	0%	30%	✓
	78,730,686	100%		

✓ = Yes

x = No

Portfolio Performance

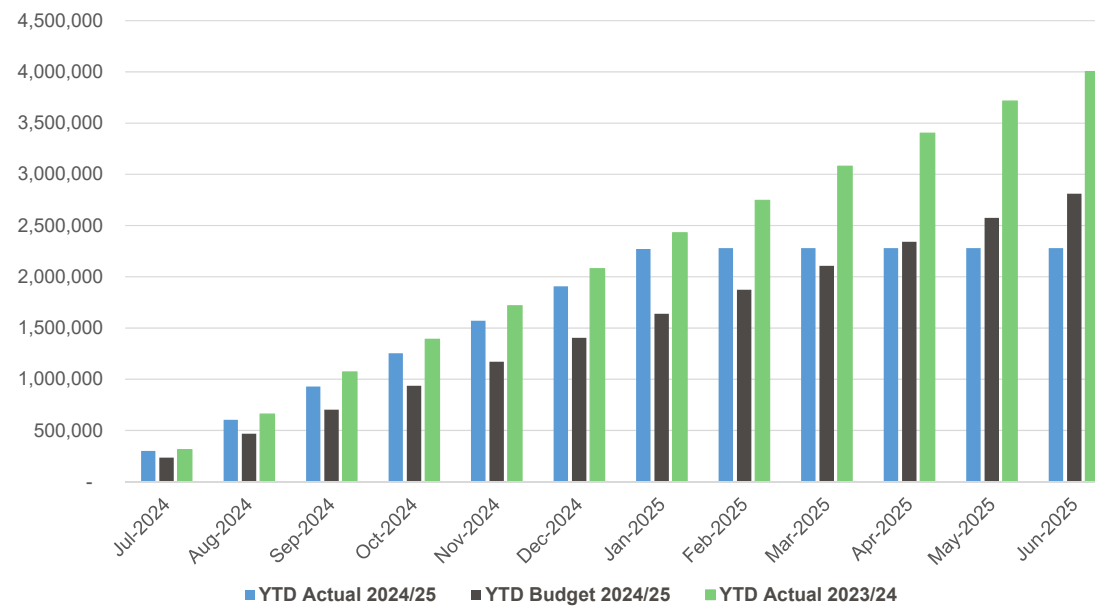
One Year Rolling Performance



Performance	1 month actual	3 months actual	6 months actual	FYTD actual	1 year % p.a. (Rolling)
Bloomberg AusBond BBI (Benchmark)	0.38%	1.12%	2.25%	2.63%	4.48%
PSC Investment Portfolio	0.48%	1.36%	2.70%	3.16%	5.39%
Outperformance/(underperformance)	0.10%	0.24%	0.45%	0.53%	0.90%

Income Earned vs Budget

Monthly Investment Income - Actual to Budget



ITEM 2 - ATTACHMENT 1
2025.

CASH AND INVESTMENT PORTFOLIO - JANUARY

Investment Register

Institution	Market Value	Days Held	Interest Rate	Date Invested	Maturity Date	Rating
CBA - Cash	2,841,835	1		31/01/2025	1/02/2025	AA
Arab Bank	1,093,120	593	5.83%	28/06/2023	10/02/2025	NR
CBA	1,003,889	733	4.74%	8/02/2023	10/02/2025	AA
Bank Vic	1,072,804	535	5.13%	1/09/2023	17/02/2025	BBB
Arab Bank	1,073,230	542	5.16%	1/09/2023	24/02/2025	NR
Arab Bank	1,093,120	607	5.83%	28/06/2023	24/02/2025	NR
Bank of China	1,072,662	556	5.12%	1/09/2023	10/03/2025	A
Summerland Bank	1,095,189	726	5.05%	15/03/2023	10/03/2025	NR
Arab Bank	1,073,230	563	5.16%	1/09/2023	17/03/2025	NR
Westpac	1,018,805	550	5.28%	21/09/2023	24/03/2025	AA
ING Bank	1,014,263	515	5.48%	27/10/2023	25/03/2025	A
Westpac	1,013,260	515	5.50%	2/11/2023	31/03/2025	AA
AMP Bank	1,038,904	732	5.00%	20/04/2023	21/04/2025	BBB
AMP Bank	1,036,575	727	5.00%	9/05/2023	5/05/2025	BBB
Rabobank Australia	1,023,846	272	5.09%	13/08/2024	12/05/2025	A
MyState Bank	1,008,132	171	5.30%	6/12/2024	26/05/2025	BBB
MOVE Bank	1,035,274	731	5.15%	26/05/2023	26/05/2025	NR
Arab Bank	1,009,528	559	5.52%	29/11/2023	10/06/2025	NR
ING Bank	1,046,396	479	5.04%	1/03/2024	23/06/2025	A
National Australia Bank	1,032,670	368	5.47%	27/06/2024	30/06/2025	AA
Judo Bank	1,089,951	733	5.70%	5/07/2023	7/07/2025	BBB
MyState Bank	1,046,529	497	5.10%	4/03/2024	14/07/2025	BBB
AMP Bank	1,025,603	725	5.25%	3/08/2023	28/07/2025	BBB
Australian Military Bank	1,025,267	726	5.27%	9/08/2023	4/08/2025	BBB
National Australia Bank	1,023,474	354	5.10%	16/08/2024	5/08/2025	AA
National Australia Bank	1,023,753	363	5.07%	13/08/2024	11/08/2025	AA
ING Bank	1,025,556	734	5.30%	8/08/2023	11/08/2025	A
Bank of China	1,072,662	717	5.12%	1/09/2023	18/08/2025	A
Bank of China	1,072,662	724	5.12%	1/09/2023	25/08/2025	A
National Australia Bank	2,041,939	367	4.97%	30/08/2024	1/09/2025	AA
State Bank of India	1,021,797	369	5.10%	28/08/2024	1/09/2025	BBB
Dnister Credit Co-Op	1,064,927	647	5.55%	1/12/2023	8/09/2025	NR
National Australia Bank	1,019,180	364	4.93%	11/09/2024	10/09/2025	AA
Rabobank Australia	3,061,644	377	5.00%	3/09/2024	15/09/2025	A
Arab Bank	1,065,278	661	5.58%	1/12/2023	22/09/2025	NR
National Australia Bank	1,019,180	377	4.93%	11/09/2024	23/09/2025	AA
National Australia Bank	1,019,180	384	4.93%	11/09/2024	30/09/2025	AA
Community First Bank Ltd	1,046,441	586	5.03%	29/02/2024	7/10/2025	BBB
ING Bank	1,014,745	369	5.03%	16/10/2024	20/10/2025	A
Bank Vic	1,063,173	696	5.40%	1/12/2023	27/10/2025	BBB
Bank Vic	1,063,407	703	5.42%	1/12/2023	3/11/2025	BBB
Bank Vic	1,063,407	717	5.42%	1/12/2023	17/11/2025	BBB
National Australia Bank	1,008,751	362	5.07%	29/11/2024	26/11/2025	AA
Westpac	1,008,466	538	5.15%	11/06/2024	1/12/2025	AA
MyState Bank	1,008,341	370	5.16%	3/12/2024	8/12/2025	BBB
Coastline Credit Union Limited	1,046,626	655	5.05%	29/02/2024	15/12/2025	BBB
Warwick Credit Union Ltd	1,007,123	375	5.20%	12/12/2024	22/12/2025	NR
Warwick Credit Union Ltd	1,007,978	381	5.20%	6/12/2024	22/12/2025	NR
Arab Bank	1,002,888	733	5.02%	10/01/2024	12/01/2026	NR
State Bank of India	1,023,845	530	5.15%	15/08/2024	27/01/2026	BBB
Rabobank Australia	1,034,718	601	5.28%	5/06/2024	27/01/2026	A
Bank of China	1,000,267	369	4.88%	29/01/2025	2/02/2026	A
Rabobank Australia	1,032,748	607	5.13%	12/06/2024	9/02/2026	A
ING Bank	1,031,543	602	5.38%	1/07/2024	23/02/2026	A
State Bank of India	1,021,370	545	5.00%	28/08/2024	24/02/2026	BBB
State Bank of India	503,558	444	5.30%	13/12/2024	2/03/2026	BBB
ING Bank	1,031,543	616	5.38%	1/07/2024	9/03/2026	A
Rabobank Australia	1,522,876	521	4.97%	11/10/2024	16/03/2026	A
State Bank of India	1,031,192	623	5.50%	8/07/2024	23/03/2026	BBB
Rabobank Australia	759,499	514	5.08%	1/11/2024	30/03/2026	A
State Bank of India	1,031,192	637	5.50%	8/07/2024	6/04/2026	BBB
Rabobank Australia	759,499	528	5.08%	1/11/2024	13/04/2026	A
State Bank of India	1,031,192	651	5.50%	8/07/2024	20/04/2026	BBB
Bank of China	1,040,601	735	5.35%	29/04/2024	4/05/2026	A
Rabobank Australia	1,026,667	661	5.15%	26/07/2024	18/05/2026	A
State Bank of India	1,007,048	535	5.25%	13/12/2024	1/06/2026	BBB
ING Bank	1,016,829	733	4.55%	18/09/2024	21/09/2026	A
Rabobank Australia	1,012,535	1664	5.32%	6/11/2024	28/05/2029	A
Rabobank Australia	505,135	1663	5.28%	21/11/2024	11/06/2029	A
Rabobank Australia	1,011,584	1687	5.22%	11/11/2024	25/06/2029	A
TCorp Long Term Growth Fund	1,022,010	1826		8/11/2024	8/11/2029	AA
Rabobank Australia	1,011,471	1825	5.30%	13/11/2024	12/11/2029	A
ING Bank	505,106	1831	5.25%	21/11/2024	26/11/2029	A
Total	78,730,686					

Restricted Cash

Reserve	As at January 2025 \$'000
External	
Deposits, retentions and bonds	1,437
Grants and Contributions	7,924
Developer contributions (inc Haulage)	25,120
Domestic Waste Management	8,139
Crown Reserve	4,185
Crown - Surf Life Saving Clubs	-
Internal	
Admin Building	340
Asset Rehab/Reseals	3,713
Commercial Property	5,439
Community Buildings	125
Community Loans	200
Council Parking	1,246
Drainage	1,937
Election Reserve	585
Emergency & Natural Disaster	4,379
Employee Leave Entitlements (ELE)	1,000
Enhanced Services Focus Area	563
Federal Assistance Grant in Advance	2,915
Fleet	1,262
Grants Receivable	2,331
IT	2,153
Mayoral and Ward Funds	30
Other Waste	359
Repealed	1,387
Resilience fund	3,000
Sustainable energy and water reserve	41
Transport and Environmental Levy	668
Unexpended loan funds	-
Total	80,478
Cash and Investment Report	78,731
Variance Cash Reserves to Bank Account	(1,747)
Variance Due to:	
Outstanding Debtors	(490)
Outstanding GST refund	(467)
Total Variance	(957)
Unrestricted Cash/(Shortfall)	(790)
(due to timing of income and expenditure)	

ITEM NO. 3

**FILE NO: 25/7182
EDRMS NO: PSC2024-01273**

DESIGNATED PERSONS' RETURN

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

BACKGROUND

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

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

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

- Compliance Coordinator PSC016.
- Development Planning Coordinator PSC761.
- Strategic Planner PSC072.

ATTACHMENTS

Nil.

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

- 1) Designated Persons' Return.

ITEM NO. 4

**FILE NO: 25/33326
EDRMS NO: PSC2009-00965**

DELEGATIONS REPORT

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

BACKGROUND

The purpose of this report is to advise Council of each occasion the Mayor and/or General Manager have exercised their delegations, other than under section 226 and 335 of the Local Government Act 1993, which are conferred on each role.

The report at **(ATTACHMENT 1)** provides details of the delegation exercised, such as the delegated authority, the date and the reason for exercising the delegation.

ATTACHMENTS

1) Delegations Report. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.

ITEM 4 - ATTACHMENT 1 DELEGATIONS REPORT.**MAYOR AND GENERAL MANAGER DELEGATION REPORT**

Date exercised	Delegations exercised	Purpose	Role exercising delegation	Reported to Council
29/01/2025	Code of Meeting Practice	Approval of Public Access application on Tall Trees Estate, Medowie	Mayor	25 February 2025
06/02/2025	Code of Meeting Practice	Approval of Public Access application on Limiting the Speed in the Port's waterways.	Mayor	25 February 2025
12/02/2025	Clause 178 of the Local Government (General) Regulation 2021	RFQ096-2024 - Multi Brand Fuel Card Service	General Manager	25 February 2025

ITEM NO. 5

**FILE NO: 25/23798
EDRMS NO: PSC2017-00106**

COUNCIL RESOLUTIONS

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

BACKGROUND

The purpose of this report is to inform the Mayor and Councillors of the status of all matters to be dealt with arising out of the proceedings of previous meetings of the Council in accordance with the Code of Meeting Practice.

ATTACHMENTS

- 1) Community Futures resolutions. [↓](#)
- 2) Corporate Strategy and Support resolutions. [↓](#)
- 3) Facilities and Infrastructure resolutions. [↓](#)
- 4) General Manager's Office resolutions. [↓](#)

COUNCILLORS' ROOM/DASHBOARD

Nil.

TABLED DOCUMENTS

Nil.



Action Sheets Report	Division:	Community Futures	Date From:	28/11/2023
	Committee:		Date To:	11/02/2025
	Officer:		Printed: Wednesday, 12 February 2025	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	RAMSAR Listing for Mambo Wanda Wetlands	20/02/2026	29/11/2023	
4		Peart, Steven				23/324875
12 Feb 2025						
A two way presentation occurred on Tuesday 18 February 2025.						

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)	28/03/2025	28/02/2024	
3 014		Peart, Steven				24/50158
12 Feb 2025						
Council resolved to endorse the Port Stephens Development Control Plan 2014 Chapter B8 Road Network and Parking (electric vehicles) and provide public notice. Outstanding actions have been integrated into forward work plans. A briefing will be presented to Councillors.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 2307/2024	Gardner, Janelle	URGENCY MOTION: Youth Interagency - see Minutes for actions.	25/04/2025		
		Peart, Steven				
12 Feb 2025						
Council held a Raymond Terrace youth mapping workshop on 26 November. The session was attended by 21 stakeholders including Police, Schools, Port Stephens Family and Neighbourhood Services, Wahroonga, Jupiter and Hunter New England Health.. The purpose of the workshop was to gain a better sense of who does what for young people in Raymond Terrace, make connections for improved use resources and develop working groups to strengthen relationships, outputs and outcomes for the community.. The session identified the purpose and priorities of a proposed Raymond Terrace Youth Interagency network. It also identified key issues that working groups would focus on in 2025. , Council will follow up with a workshop report to participants and schedule another interagency meeting in early 2025.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/11/2024	Gardner, Janelle	Disability Inclusion Advisory Panel	25/04/2025	27/11/2024	
1		Peart, Steven				24/318827
21 Jan 2025						
Council is working with Key Stakeholders to develop the Terms of Reference to establish the Disability and Inclusion Advisory Group.						



Action Sheets Report	Division:	Community Futures	Date From:	28/11/2023
	Committee:		Date To:	11/02/2025
	Officer:		Printed: Wednesday, 12 February 2025	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2024	Falkenmire, Ryan	Anna Bay Resort, Gan Gan Road, Anna Bay	15/07/2025	11/12/2024	
3 148		Peart, Steven				24/333356
12 Feb 2025						
In accordance with Council's Resolution of 10 December 2024, Compliance action will be investigated and a two way presentation will be provided to update Councillors. The two way has been scheduled for 15 July 2025.						

ITEM 5 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.



Division:	Corporate Strategy and Support	Date From:	11/10/2022
Committee:		Date To:	11/02/2025
Officer:			
Action Sheets Report		Printed:	Wednesday, 12 February 2025

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Property Investment and Development Policy	30/03/2025	12/10/2022	
1		Pattison, Zoe				22/273002
12 Feb 2025						
Further clarification on the distribution of funds has been completed. A report will be provided back to Council in March 2025.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	30/03/2025	12/10/2022	
2		Pattison, Zoe				22/273002
12 Feb 2025						
Report deferred to allow for further clarification on the distribution of funds. A report will be provided back to Council in March 2025.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Pattison, Zoe	22 Homestead Street, Salamander Bay	30/06/2025	12/04/2023	
5		Pattison, Zoe				23/92450
088						
12 Feb 2025						
Council is investigating options for the rezoning of 22 Homestead Street, Salamander Bay, and the development of a Vegetation Management Plan, to provide the best opportunity to enable a successful long-term rehabilitation of the site.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/08/2023	Pattison, Zoe	Raymond Terrace Gateway Site Masterplan	31/12/2025		
1		Pattison, Zoe				23/214729
193						
12 Feb 2025						
Following a two way conversation with Councillors in November 2023, the options presented will be included in the context of the broader Raymond Terrace town centre improvements.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/06/2024	Dodds, Melissa	Policy Review: Public Access to State Records after 20 Years Policy	30/03/2025	12/06/2024	
4		Pattison, Zoe				24/145208
12 Feb 2025						
The exhibition period has closed with no formal submissions being received during this time. The policy will go back to a future Council meeting.						

ITEM 5 - ATTACHMENT 2
RESOLUTIONS.

CORPORATE STRATEGY AND SUPPORT



Division:	Corporate Strategy and Support	Date From:	11/10/2022
Committee:		Date To:	11/02/2025
Officer:			
Action Sheets Report		Printed:	Wednesday, 12 February 2025

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/11/2024	Peterkin, Glen	Policy Review: Community Group Loans Policy	30/03/2025	13/11/2024	
3 121		Pattison, Zoe				24/307858
12 Feb 2025 The revised Community Group Loans Policy was deferred at the meeting held on 12 November 2024 with a request that the General Manager send a survey out to all known community groups asking if they have ever accessed the program, considered accessing it, or would ever see themselves accessing it. The outcomes of the survey will be provided at a two-way conversation.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2024	Pattison, Zoe	Williamstown Sand Syndicate - Proposed Variation of Lease	30/04/2025	11/12/2024	
1		Pattison, Zoe				24/333356
12 Feb 2025 This matter is still being addressed by staff.						

ITEM 5 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE RESOLUTIONS.



Division:	Facilities and Infrastructure	Date From:	27/08/2013
Committee:		Date To:	
Officer:		Printed:	Wednesday, 12 February 2025
Action Sheets Report			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
243	27/8/2023	Maretich, John Kable, Gregory	Campvale Drain	30/06/2025		
12 Feb 2025 Awaiting final execution of easement documentation for 2 properties. All other properties (with exception of these 2) have been finalised.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Maretich, John Kable, Gregory	Naming Recreation Precinct at Medowie after Geoff Dingle	30/06/2025	12/04/2023	
2 085						23/92450
12 Feb 2025 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 28/11/2023	Maretich, John Kable, Gregory	Sale of closed roads in Raymond Terrace	30/06/2025	29/11/2023	
1						23/324875
12 Feb 2025 Two of the roads are being marketed. An Expression of Interest (EOI) for the remaining road is underway.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2024	Maretich, John Kable, Gregory	Bus Stop Infrastructure Plan	31/03/2025	29/05/2024	
1						24/131056
12 Feb 2025 As per Council resolution a review of the Bus Stop Infrastructure will be undertaken.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2024	Maretich, John Kable, Gregory	Pathways Review	31/03/2025	29/05/2024	
2						24/131056
12 Feb 2025 As per Council resolution, staff will undertake a review of Council's pathways plans.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/07/2024	Maretich, John Kable, Gregory	Maintenance of Gravel Roads	31/03/2025	10/07/2024	
2						24/176219
12 Feb 2025 As per Council resolution, staff will undertake a review of the maintenance of gravel roads.						

ITEM 5 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE
RESOLUTIONS.

Action Sheets Report	Division:	Facilities and Infrastructure	Date From:	27/08/2013
	Committee:		Date To:	
	Officer:		Printed:	Wednesday, 12 February 2025

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/07/2024	Maretich, John	Raymond Terrace Boat Ramp	31/03/2025	24/07/2024	
6		Kable, Gregory				24/189773
12 Feb 2025						
Staff will investigate options to upgrade Raymond Terrace Boat Ramp and present in a two way conversation.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/11/2024	Donaldson, Cameron	Renewal of Lease - 49 William Street, Raymond Terrace	10/12/2024	13/11/2024	
1		Kable, Gregory				24/307858
128						
12 Feb 2025						
This matter is still being addressed by staff.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2024	Maretich, John	Bus Shelters in Port Stephens	31/03/2025	11/12/2024	
1		Kable, Gregory				24/333356
12 Feb 2025						
The Bus Shelter Policy has been revised to accommodate the request in this action. The revised Bus Shelter Policy has been placed on the agenda for the Council meeting scheduled 11 March 2025.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/02/2025	Maretich, John	Policy Review - Asset Management Policy	30/04/2025	12/02/2025	
4		Kable, Gregory				25/31598
007						
12 Feb 2025						
Policy has been placed on Public Exhibition for 28 days.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/02/2025	Donaldson, Cameron	Waste & Public Place Cleaning	30/04/2025	12/02/2025	
2		Kable, Gregory				25/31598
012						
12 Feb 2025						
As per Council resolution, a report will be prepared and placed on the Council meeting agenda for 28 March 2025.						

ITEM 5 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE
RESOLUTIONS.

Action Sheets Report	Division:	Facilities and Infrastructure	Date From:	27/08/2013
	Committee:		Date To:	
	Officer:		Printed: Wednesday, 12 February 2025	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/02/2025	Maretich, John	Team Hosting - Training for Women's Rugby League World Cup 2026	30/06/2025	12/02/2025	
3 013		Kable, Gregory				25/31598
12 Feb 2025						
As per Council resolution, staff will review and prepare letter.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/02/2025	Maretich, John	Ausgrid	30/06/2025	12/02/2025	
4 014		Kable, Gregory				25/31598
12 Feb 2025						
As per Council resolution, staff will review and prepare letter.						



Action Sheets Report	Division:	General Manager's Office	Date From:	09/07/2024
	Committee:		Date To:	11/02/2025
	Officer:		Printed:	Wednesday, 12 February 2025 5:52:27 PM

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/07/2024	Wickham, Tony	Initiation of a Proposal to Alter the Port Stephens Local Government Boundaries	25/03/2025	10/07/2024	
1		Crosdale, Timothy				24/176219
12 Feb 2025						
A report will be provided to the 25 March 2025 Council meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/10/2024	Wickham, Tony	Council Meetings	22/10/2025	24/10/2024	
2		Crosdale, Timothy				24/288938
12 Feb 2025						
Current schedule to remain in place for 12 months, with a report to be returned to Council seeking the Council's views on meeting schedules going forward.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/11/2024	Wickham, Tony	Local Government Week Council Meetings	12/08/2025	27/11/2024	
5		Crosdale, Timothy				24/318827
12 Feb 2025						
Karuah Community Hall has been booked for the 12 August 2025 Council meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/02/2025	Wickham, Tony	Council Prayer	25/02/2025	12/02/2025	
5		Crosdale, Timothy				25/31598
015						
12 Feb 2025						
Notice of Motion deferred to the 11 March 2025 Council meeting.						

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: 25/22868

EDRMS NO: PSC2024-03148

TREE VANDALISM POLICY

COUNCILLOR: ROSALYN ARMSTRONG

THAT COUNCIL:

- 1) Notes the increased prevalence of tree vandalism occurring across public land in Port Stephens.
- 2) Requests that the General Manager undertake a review of the Tree Vandalism Policy to investigate options for increased community awareness, education and compliance actions in response to tree vandalism incidents.
- 3) Engages with Council's Environmental Advisory Group as part of this review.

BACKGROUND REPORT OF: BROCK LAMONT – STRATEGY AND ENVIRONMENT SECTION MANAGER

BACKGROUND

The purpose of the Tree Vandalism Policy is to set out a consistent approach for Council when responding to tree vandalism incidents in Port Stephens. It includes a range of response measures which are collectively aimed at raising the public profile of the tree vandalism in the community in order to serve as effective deterrence measures.

Council has recently been investigating a number of tree vandalism incidents on public land in Port Stephens, including a significant incident at the Bridle Path in Nelson Bay.

The current Tree Vandalism Policy was last reviewed by Council in March 2023. The policy is due for review in March 2026.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 25/32285

EDRMS NO: PSC2024-03148

URGENT HEALTH CLINICS

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Notes the strong local community support for calls from the Member for Paterson, Meryl Swanson MP, for a Medicare Urgent Care Clinic to be located in the seat of Paterson.
- 2) Notes the need for increased bulk-billed health facilities in Port Stephens.
- 3) Supports efforts to secure a Medicare Urgent Care Clinic and notes its preference for such a clinic to be located in Port Stephens.
- 4) Requests the General Manager to write to Meryl Swanson MP, Member for Paterson, and Mark Butler MP, Federal Minister for Health, noting Council's position and the community's interest in improved health facilities via an Urgent Health Clinic in Port Stephens.

BACKGROUND REPORT OF: JANELLE GARDNER – COMMUNICATIONS SECTION MANAGER

BACKGROUND

Health services across Port Stephens are under growing strain. Residents have long expressed the need for expanded health care access. Council recognises that services are stretched thin and providers that once offered bulk billed services are no longer able to do so. This has far reaching consequences and urgent action is required.

With an ageing population and rising challenges related to housing affordability and the cost of living, many in our community are facing increasing disadvantage.

The Port Stephens Homelessness Stakeholder Advisory Group has identified a critical need for expanded bulk billed health care. Without access to affordable care, many people are delaying medical appointments leading to more severe health

issues and placing additional pressure on hospitals and the broader health care system.

Medicare Urgent Care Clinics provide extended hours, bulk billing to all Medicare cardholders and do not require appointments or referrals.

Establishing a Medicare Urgent Care Clinic in Port Stephens would ensure more accessible, cost effective, timely health care and, ultimately, improve broader health outcomes across our community.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

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.