



City of
Newcastle



CITY OF NEWCASTLE

Ordinary Council Meeting

Councillors,

In accordance with section 367 of the Local Government Act, 1993 notice is hereby given that an Ordinary Council Meeting will be held on:

DATE: Tuesday 26 October 2021

TIME: 6.00pm

VENUE: Audio visual platform Zoom

J Bath
Chief Executive Officer

**City Administration Centre
12 Stewart Avenue
NEWCASTLE WEST NSW 2302**

20 October 2021

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**ORDINARY COUNCIL MEETING
26 October 2021**

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FOR DOCUMENTS MARKED 'DISTRIBUTED UNDER SEPARATE COVER' REFER TO COUNCIL'S WEBSITE AT www.newcastle.nsw.gov.au

NOTE: ITEMS MAY NOT NECESSARILY BE DEALT WITH IN NUMERICAL ORDER

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - EXTRAORDINARY PUBLIC VOICE COMMITTEE 21 SEPTEMBER 2021

RECOMMENDATION

The draft minutes as circulated be taken as read and confirmed.

ATTACHMENTS

Attachment A: 210921 Extraordinary Public Voice Committee Minutes

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au

CITY OF NEWCASTLE

Minutes of the Extraordinary Public Voice Committee Meeting held via audio visual platform Zoom on Tuesday 21 September 2021 at 6.00pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors J Church, D Clausen, C Duncan, J Dunn, K Elliott, B Luke, J Mackenzie, A Robinson, E White and P Winney-Baartz.

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance), F Leatham (Director People and Culture), J Rigby (Acting Director Infrastructure and Property), A Jones (Director City Wide Services), M Bisson (Manager Regulatory, Planning and Assessment), H Sexton (Acting Manager Legal), S Moore (Manager Finance), K Sullivan (Councillor Services/Minutes), A Knowles (Councillor Services/Meeting Support), L Stanhope (Councillor Services/Meetings Support) and G Axelsson (Information Technology Support).

MESSAGE OF ACKNOWLEDGEMENT

The Lord Mayor read the message of acknowledgement to the Awabakal and Worimi peoples.

PRAYER

The Lord Mayor read a prayer and a period of silence was observed in memory of those who served and died so that Council might meet in peace.

ATTENDANCE VIA AUDIO VISUAL MEANS

PROCEDURAL MOTION

Moved by Cr Luke, seconded by Cr Mackenzie

That Council:

- 1 Notes the current Public Health Orders applicable to all of NSW;
- 2 Notes tonight's Extraordinary Public Voice Committee meeting is livestreamed on Council's website providing for access to members of the public;
- 3 Notes the unprecedented public health risks facing the community and in the interests of public health and safety, permits all Councillors to attend the Extraordinary Public Voice meeting of 21 September 2021 by audio visual means.

**Carried
unanimously**

APOLOGIES

MOTION

Moved by Cr Elliott, seconded by Cr Mackenzie

The apology submitted on behalf of Councillor Rufo be received and leave of absence granted.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Nil.

PUBLIC VOICE SESSIONS

ITEM-1 PV 21/09/21 - 292 WHARF ROAD NEWCASTLE - MA2021/00090 - SECTION 4.55(1A) MODIFICATION TO DA2016/00201 - COMMERCIAL PREMISES - CHANGES TO FLOOR PLANS, ELEVATIONS AND CONDITIONS OF CONSENT

Mr Alistair Christie, Honeysuckle Residents Association Inc, addressed Council and outlined concerns and objections to proposed modifications to conditions of consent. Messrs Blake Forrester and Wes Wilson on behalf of the DA applicant addressed Council in support of the modifications to the conditions of consent.

The meeting concluded at 6.41pm.

MINUTES - ORDINARY COUNCIL MEETING 28 SEPTEMBER 2021

RECOMMENDATION

The draft minutes as circulated be taken as read and confirmed.

ATTACHMENTS

Attachment A: 210928 September 2021

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held via Audio visual platform Zoom on Tuesday 28 September 2021 at 6.03pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors J Church, D Clausen, C Duncan, J Dunn, K Elliott, B Luke, J Mackenzie, A Robinson, E White and P Winney-Baartz.

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance), K Hyland (Acting Director Strategy and Engagement), F Leatham (Director People and Culture), J Rigby (Acting Director Infrastructure and Property), A Jones (Director City Wide Services), H Sexton (Manager Legal), M Bisson (Manager Regulatory, Planning and Assessment), S Moore (Manager Finance), L Morton (Art Gallery Director), A Knowles (Councillor Services/Minutes), K Sullivan (Councillor Services/Meeting Support), L Stanhope (Councillor Services/Meeting Support) and G Axelsson (Information Technology Support).

MESSAGE OF ACKNOWLEDGEMENT

The Lord Mayor read the message of acknowledgement to the Awabakal and Worimi peoples.

PRAYER

The Lord Mayor read a prayer and a period of silence was observed in memory of those who served and died so that Council might meet in peace.

ATTENDANCE VIA AUDIO VISUAL MEANS

PROCEDURAL MOTION

Moved by Cr Luke, seconded by Cr Mackenzie

That Council:

1. Notes the current Public Health Orders applicable to all of NSW;
2. Notes tonight's Ordinary Council meeting is livestreamed on Council's website providing for access to members of the public;
3. Notes the unprecedented public health risks facing the community and in the interests of public health and safety, permits all Councillors to attend the Ordinary Council meeting of 28 September 2021 by audio visual means.

**Carried
unanimously**

APOLOGIES

MOTION

Moved by Cr Clausen, seconded by Cr Duncan

The apology submitted on behalf of Councillor Rufo be received and leave of absence granted.

**Carried
unanimously**

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Clausen

Councillor Clausen declared a non-significant, non-pecuniary interest in Item 91 – Newcastle Art Gallery Foundation – Memorandum of Understanding as he was the Councillor appointed Director on the Newcastle Art Gallery Foundation Board and remained in the meeting for discussion on the item.

Councillor Clausen

Councillor Clausen declared a non-significant, non-pecuniary interest in Item 92 - Adoption of Wickham Masterplan 2021 Update as he had a friend who lived in the Wickham area and remained in the meeting for discussion on the item.

Councillor Dunn

Councillor Dunn declared a non-pecuniary interest in Item 92 - Adoption of Wickham Masterplan 2021 Update as he had clients with land holdings in the vicinity of the Wickham area and left the meeting for discussion on the item.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - ORDINARY COUNCIL MEETING 24 AUGUST 2021

MOTION

Moved by Cr Duncan, seconded by Cr Mackenzie

The draft minutes as circulated be taken as read and confirmed.

**Carried
unanimously**

LORD MAYORAL MINUTE

**ITEM-22 LMM 28/09/21 - BYPASSING FREIGHT FROM RESIDENTIAL
NEWCASTLE**

MOTION

Moved by Lord Mayor, Cr Nelmes

PART A

That City of Newcastle:

- 1 Notes that Transport for NSW has been consulting on a recommended corridor option for the much anticipated and long-awaited Lower Hunter Freight Corridor, aimed at establishing a future dedicated freight rail line between Fassifern and Hexham, bypassing residential Newcastle;
- 2 Reiterates that the Lower Hunter Freight Corridor would dramatically alleviate traffic congestion experienced at locations such as the Adamstown and Clyde Street level crossing gates;
- 3 Notes that City of Newcastle has made a detailed submission (**Attachment A**) to Transport for NSW, requesting that:
 - a) The future alignment of the corridor responds to the Hunter Region's needs over the long term, particularly in servicing the Port of Newcastle, which is identified in the Greater Newcastle Metropolitan Plan (GNMP) as a catalyst area and "global gateway, providing international freight connections" and our emerging Black Hill industrial precinct, also identified as a catalyst area in the GNMP;
 - b) The NSW Government assures that implementation of our key infrastructure projects, such as the Richmond Vale Rail Trail, will not be more onerous or costly as a result of the long-term reservation of the corridor;
 - c) There is project integration between the Lower Hunter Freight Corridor, the proposed M1 Motorway extension to Raymond Terrace and our emerging Black Hill industrial precinct; and
 - d) The preferred option at Hexham ensures that the corridor crosses over Maitland Road and the Hunter River to Ash Island and continues south on the northern side of the river, maintaining a reasonable distance from the suburb of Mayfield to a point where it can cross the river again on Kooragang Island, delivering on the concept of 'Port Side Rail'.
- 4 Emphasises the strong benefits of delivering the rail corridor alongside the port as both future proofing the freight rail corridor and significantly minimising community impacts and supporting future economic growth.

AMENDMENT

Moved by Cr Mackenzie

PART B

That the City of Newcastle:

- 1 Includes the port side freight rail proposal in the City of Newcastle's infrastructure priorities for state and federal budget submissions and seeks future inclusion on the Infrastructure Australia Priority List.
- 2 Writes to the Prime Minister, the Hon. Scott Morrison MP; Treasurer, the Hon. Josh Frydenberg MP; Senator Hollie Hughes, Senator for NSW; NSW Premier, the Hon. Gladys Berejiklian MP; NSW Treasurer, the Hon. Dominic Perrottet MP, Parliamentary Secretary for the Hunter, the Hon Taylor Martin MLC, seeking support and endorsement for the port side freight rail proposal as essential priority infrastructure.

The Lord Mayor as mover of the motion accepted Councillor Mackenzie's amendment to the motion.

The motion moved by the Lord Mayor, as amended, was put to the meeting.

**Carried
unanimously**

**ITEM-23 LMM 28/09/21 - THE CITIES RACE TO ZERO AND CITIES
RACE TO RESILIENCE CAMPAIGNS**

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Notes that we continue to be recognised as a leading local government authority in Australia when it comes to implementing our strong and decisive initiatives to address climate change, including the adoption of our Climate Action Plan 2021-2025 and becoming the first NSW Council to be powered by 100 per cent renewable electricity in January 2020;
- 2 Reinforces our strong view that there is a global climate emergency and an urgent need for real action on climate change and that we have formally committed to the principles and targets of the Paris Climate Agreement;
- 3 Notes that we have received correspondence from Steve Gawler, Director, ICLEI Oceania inviting us to join the Cities Race to Zero and Cities Race to Resilience campaigns in the lead up to the International Climate Conference (COP26) in Glasgow in 2026;

- 4 Takes the Cities Race to Zero Pledge, which asks Council to do the following:
 - a Publicly endorse the following principles:
 - i We recognise the global climate emergency.
 - ii We are committed to keeping global heating below the 1.5°Celsius goal of the Paris Agreement.
 - iii We are committed to putting inclusive climate action at the centre of all urban decision-making, to create thriving and equitable communities for everyone.
 - iv We invite our partners – political leaders, CEOs, trade unions, investors, and civil society – to join us in recognising the global climate emergency and help us deliver on science-based action to overcome it.
 - b Pledge to reach (net)-zero in the 2040s or sooner, or by mid-century at the latest, in line with global efforts to limit warming to 1.5°Celsius.
 - c In advance of COP26, explain what steps will be taken toward achieving net zero, especially in the short- to medium-term. Set an interim target to achieve in the next decade, which reflects a fair share of the 50% global reduction in CO2 by 2030 identified in the IPCC Special Report on Global Warming of 1.5°Celsius.
 - d Immediately proceed to planning at least one inclusive and equitable climate action as listed on www.citiesracetozero.org that will help to place your city on a resilient pathway consistent with the 1.5°Celsius objective of the Paris Agreement and begin implementation no later than 2022.
 - e Report progress annually, beginning no later than 2022 to your usual reporting platform.
- 5 Takes the Cities Race to Resilience Pledge, which asks Council to do the following:
 - a Integrate climate change adaptation and resilience in all aspects of urban planning and undertake a community-wide climate risk and vulnerability assessment that also includes all vulnerable communities.
 - b Plan to use available knowledge and scientific evidence, including data and spatial analysis, for decision-making and action, and outline interim targets and milestones as part of a long-term commitment for citywide action.
 - c Immediately proceed to taking action by committing to at least one of the resilience actions as listed on www.citiesracetoresilience.org by COP26.
 - d Report commitments by COP26 - and progress annually thereafter, to an existing or recommended reporting platform. If you have not reported before, you will be contacted by partners for support.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Church, Clausen, Duncan, Dunn, Elliott, Mackenzie, Robinson, White and Winney-Baartz.

Against the Motion: Councillor Luke.

Carried

ITEM-24 LMM 28/09/21 - PROGRESS PRIDE FLAG

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- 1 Notes our long held and consistent advocacy for Newcastle as a diverse and inclusive City, and our proud activism in support of our LGBTQI+ community, including raising the Pride Flag in support of Marriage Equality and sponsorship of Newcastle's Pride Festival;
- 2 Notes with pride that City of Newcastle received the highest 'Yes' vote in Regional Australia in support of Marriage Equality;
- 3 Notes that on 20 September, City of Sydney resolved to fly the Progress Pride Flag in Sydney during Mardi Gras Festival and Pride Week annually, and at other times significant to the gay, lesbian, bisexual and transgender community as required or requested, noting that the Progress Pride Flag was designed by non-binary artist and graphic designer Daniel Quasar in 2018 and incorporates the existing six-colored Rainbow Flag, widely recognised as the symbol of lesbian, gay, bisexual and transgender (LGBT) communities, designed by Gilbert Baker for the 1978 San Francisco Freedom Day Parade by adding a chevron (a V shaped element) comprising black and brown for Indigenous people and people of colour and white, pink and blue, the colours of the Trans Pride Flag designed by American trans woman Monica Helms in 1999 - to represent trans, nonbinary and gender diverse people.
- 4 Joins City of Sydney in celebrating our gay, lesbian, transgender, bisexual, queer, intersex and sexually and gender diverse communities, by flying the Progress Pride Flag at City Hall, Civic Park, the City Administration Centre, and other appropriate locations, during Mardi Gras, Pride Week and other times significant to Newcastle's LGBTQI+ community.

**Carried
unanimously**

REPORTS BY COUNCIL OFFICERS

ITEM-93 CCL 28/09/21 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Clausen, seconded by Cr White

That Council:

- 1 Receives the Executive Monthly Performance Report for August 2021.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Clausen, Duncan, Dunn, Mackenzie, White and Winney-Baartz.

Against the Motion: Councillors Church, Elliott, Luke and Robinson.

Carried

ITEM-90 CCL 28/09/21 - COMMUNITY AND ECONOMIC RESILIENCE PACKAGE EXTENSION

MOTION

Moved by Lord Mayor, Cr Nelmes, seconded by Cr Clausen

That Council:

- 1 Notes that City of Newcastle (CN) has developed a second phase of the Community and Economic Resilience Package (CERP) in response to the impact caused by the continuing lockdown of the Newcastle local government area (LGA) since 5 August 2021.
- 2 Notes that this response includes an increase in the 2021/22 works program of at least \$10 million, to be brought to the October Ordinary Council Meeting as part of the September Quarterly Review.

**Carried
unanimously**

ITEM-91 CCL 28/09/21 - NEWCASTLE ART GALLERY FOUNDATION - MEMORANDUM OF UNDERSTANDING

MOTION

Moved by Cr Clausen, seconded by Cr Dunn

That Council:

- 1 Endorses the Memorandum of Understanding with the Newcastle Art Gallery Foundation as provided in **Attachment A** and delegates authority to the Lord Mayor to sign the document on its behalf.

**Carried
unanimously**

ITEM-92 CCL 28/09/21 - ADOPTION OF WICKHAM MASTERPLAN 2021 UPDATE

Councillor Dunn left the meeting for discussion on the item.

MOTION

Moved by Cr Clausen, seconded by Cr White

That Council:

- 1 Adopts the Wickham Masterplan 2021 Update.

AMENDMENT

Moved by Cr Mackenzie, seconded by Cr Luke

Remove action item nine from Key Priorities '*Ensure built environment is functional, responsive and resilient*' - Attachment A - Wickham Masterplan 2021 Update (page 23).

For the Amendment: Councillors Church, Elliott, Luke, Mackenzie and Robinson.

Against the Amendment: Lord Mayor, Cr Nelmes and Councillors Clausen, Duncan, White and Winney-Baartz.

The Lord Mayor exercised the Chair's casting vote and declared the amendment defeated.

**Defeated
casting vote**

The Lord Mayor proposed that only the words "as town housing" (from Action 9, page 23) be removed from action nine and the remainder of the paragraph be included in the motion.

The mover and seconder of the motion accepted the Lord Mayor's amendment to the motion.

The motion moved by Councillor Clausen, seconded by Councillor White, as amended was put to the meeting (as follows).

MOTION

Moved by Cr Clausen, seconded by Cr White

That Council:

- 1 Adopts the Wickham Masterplan 2021 Update, and that only the words "as town housing" be removed from action item nine from Key Priorities '*Ensure build environment is function, responsive and resilient*' – Attachment A – Wickham Masterplan 2021 Update (page 23).

For the Motion: Lord Mayor, Cr Nelmes and Councillors Church, Clausen, Duncan, Elliott, Mackenzie, Robinson, White and Winney-Baartz.

Against the Motion: Councillor Luke.

Carried

Councillor Dunn returned to the meeting at the conclusion of the item.

NOTICES OF MOTION

ITEM-29 NOM 28/09/21 - INNER CITY BYPASS - PEATTIE'S ROAD DEPOT

In moving the motion, Councillor Winney-Baartz stated she was moving an additional Part B.

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Duncan

PART A

That Council:

- 1 Notes advocacy from residents regarding Transport for NSW's proposed Peattie's Road Depot. Notes that Council has made a submission to the Department of Planning, Industry and Environment;
- 2 Notes that this matter crosses Council boundaries and that Lake Macquarie City Council has considered a complimentary Notice of Motion;
- 3 Writes to the Minister for Transport and Roads seeking his intervention to ensure the proposed Peattie's Road depot does not proceed. Further that to facilitate this, we request that the Minister enter into discussions with the Minister for Health to ensure that a complementary timetable for the construction of the Inner City Bypass and the John Hunter Hospital (JHH) expansion can be developed to ensure that the original proposal for a construction depot for the Bypass on site behind JHH can be implemented; and

- 4 Writes to local MPs whose electorates are affected by this proposal, and to the Parliamentary Secretary for the Hunter, seeking their support to ensure the Peattie's Road proposal does not proceed.

PART B

That Council:

- 1 Notes recent correspondence from TfNSW and DPIE provided to affected residents that the location of the proposed depot off Peatties Road is a matter for City of Newcastle as the landowner.
- 2 Confirms that City of Newcastle will not enter into a lease or licence with TfNSW to occupy its land off Peatties Road for the depot associated with the construction of the Inner City Bypass Rankin Park to Jesmond.

**Carried
unanimously**

ITEM-30 NOM 28/09/21 - PRINCIPAL PEDESTRIAN NETWORK

In moving the motion, Councillor Elliot stated she was moving the officer's recommendation as printed in the business papers.

MOTION

Moved by Cr Elliott, seconded by Cr Church

That Council:

- 1 Notes work underway towards development of the Principal Pedestrian Network and draft Walking Plan, and that a Councillor workshop will be held in early 2022.

**Carried
unanimously**

**ITEM-31 NOM 28/09/21 - CHANGES TO 2022 NEWCASTLE 500
SUPERCARS**

MOTION

Moved by Cr Mackenzie, seconded by Cr Duncan

That the City of Newcastle

- 1 Notes the cancellation of the Gold Coast 500 Supercars event in December "due to ongoing safety and logistic concerns brought about by the COVID-19 pandemic", as reported by the Newcastle Herald on September 14th, 2021.
- 2 Notes the comments in the same article by the Supercars chief executive officer Sean Seamer that "given the evolving and unpredictable COVID situation, it has become increasingly challenging to stage a complex multi-faceted event", and that Supercars would likely publish its 2022 calendar in the next two months.
- 3 Recognises the public health arrangements for large-scale public events such as a Supercars street race have yet to be determined by the NSW Government under its 'reopening NSW road map'.
- 4 Notes that a City of Newcastle spokesperson was quoted in the Newcastle Herald on 25 March 2021 stating that the Newcastle 500 would be held in March 2022.
- 5 Require any changes to the current agreement with Supercars in relation to the timing, staging, access or other aspects of the 2022 Newcastle 500 event be reviewed and approved by the elected Council prior to approval.

**Carried
unanimously**

ITEM-32 NOM 28/09/21 - NEWCASTLE PORTSIDE FREIGHT RAIL-LINE

Councillor Mackenzie withdrew Notice of Motion Item 32 – Newcastle Portside Freight Rail-Line as it was dealt with in conjunction with Lord Mayoral Minute Item 22.

**ITEM-33 NOM 28/09/21 - WOODCHIP EXPORTS FROM THE PORT OF
NEWCASTLE**

In moving the motion, Councillor Mackenzie stated that he was moving an amendment to paragraph three.

MOTION

Moved by Cr Mackenzie, seconded by Cr Clausen

That the City of Newcastle

- 1 Opposes the export of woodchips from the Port of Newcastle.
- 2 Opposes the proposal to export 60,000 tonnes of native forest woodchips per annum to Japan over 20 years through the Port of Newcastle.
- 3 Notes the correspondence to all Councillors from the Port of Newcastle on 28 September 2021 which confirms:
 - a The Port of Newcastle has not had any discussions with the group raising this idea.
 - b The Port of Newcastle would not lease facilities for this purpose.
 - c Existing lease arrangements exist with stevedores and logistics companies that the Port of Newcastle does not own or control.
 - d Use of the port for this proposal as the Port of Newcastle understands it from media reports does not fit within their values or aspirations for the future of the Port.

AMENDMENT

Moved by Cr Clausen

- 4 Opposes the accompanying proposal for a woodchip-fed hydrogen plant in the Greater Newcastle region, noting the significant potential for our region in generating Green Hydrogen, manufactured by electrolysis with renewable energy.
- 5 Notes correspondence received from the Port of Newcastle, confirming that they do not support the export of woodchips from the Port, noting that they have separately declined interest in using Port land and facilities for the export of live cattle, radioactive waste and woodchips.
- 6 Writes to the NSW Minister for the Environment and the Minister for Primary Industries expressing Council's concerns with the proposed use of woodchip from native forests, and requesting their support to prohibit the export of woodchips from native forests

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Councillor Mackenzie accepted Councillor Clausen's additional paragraphs four to six to the motion.

The motion moved by Councillor Mackenzie and seconded by Councillor Clausen, as amended, was put to the meeting.

**Carried
unanimously**

The meeting concluded at 8.59pm.

REPORTS BY COUNCIL OFFICERS

ITEM-94 **CCL 26/10/21 - SUSPENSION OF COUNCILLOR KATH ELLIOTT**

REPORT BY: **GOVERNANCE**
CONTACT: **DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / ACTING MANAGER LEGAL**

PURPOSE

To note the suspension of Councillor Kath Elliott from civic office for six weeks commencing 18 October 2021 and ending 29 November 2021.

RECOMMENDATION

That Council:

- 1 note the Office of Local Government has reprimanded Councillor Kath Elliott and suspended her from civic office for a period of six weeks, commencing 18 October 2021 and ending 29 November 2021.

KEY ISSUES

- 2 On 8 October 2021, the Deputy Secretary of the Office of Local Government (OLG) made a determination under the misconduct provisions of the *Local Government Act 1993* (the Act) related to the conduct of Councillor Kath Elliott. The Deputy Secretary issued a determination reprimanding Councillor Elliott under section 440I(2)(b) of the Act and issued an order and statement of reasons (refer to **Attachments A and B**) suspending Councillor Elliott from civic office for six weeks from 18 October 2021 to 29 November 2021 under 440I(2)(g) of the Act. The OLG can suspend councillors for up to three months however not beyond the current election term of 3 December 2021.
- 3 On 12 October 2021, City of Newcastle (CN) wrote to Councillor Elliott confirming that:
 - (i) the payment of councillor fees will cease, and any claims for expenses incurred by Councillor Elliott in her capacity as a councillor will not be accepted, during the suspension period, in accordance with the order;
 - (ii) services and facilities supporting the performance of civic functions would be unavailable during the suspension period; and
 - (iii) while Councillor Elliott is suspended from civic office, Councillor Elliott is still a councillor, and as such is expected to comply with the Code of Conduct for Councillors.

- 4 The Code of Meeting Practice (Clause 10.6) states that a councillor's civic office will become vacant if the councillor is absent from three consecutive Ordinary Meetings without prior leave of the Council, or a leave of absence is granted by the Council at any meetings concerned. Clause 10.6 confirms that the vacancy does not apply when a councillor's absence can be explained by suspension under the Act.

FINANCIAL IMPACT

- 5 The consequences of an order made under s440I(2)(g) of the Act to suspend a councillor are set out in s440K of the Act. This includes that a councillor, while suspended from office, is not entitled to any fee or other remuneration. Accordingly, the payment of Councillor Elliott's councillor fees will cease for the suspension period and any claims for expenses incurred by Cr Elliott in her capacity as a councillor, will not be accepted during the suspension period.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 6 The noting of Councillor Elliott's suspension is consistent with the strategic directions of the Newcastle 2030 Community Strategic Plan including:

Open and Collaborative Leadership

7.2a Conduct Council business in an open, transparent and accountable manner.

7.3b Provide clear, consistent, accessible and relevant information to the community.

Open and Transparent Governance Strategy

3.5 Open and transparent disclosures.

IMPLEMENTATION PLAN/IMPLICATIONS

- 7 CN will undertake all administrative requirements to comply with the Act. This includes the suspension of councillor fees, suspension of access to CN systems and cancellation of attendance at events on behalf of Council during the period of suspension. Councillor Elliott has been requested not to contact CN staff in her capacity as a Councillor during the period of suspension.

RISK ASSESSMENT AND MITIGATION

- 8 CN is required to undertake all necessary steps to ensure compliance with s440K of the Act.

RELATED PREVIOUS DECISIONS

- 9 Nil.

CONSULTATION

- 10 The suspension of Councillor Elliott is an order of the OLG and therefore no consultation was required to be undertaken.

BACKGROUND

- 11 Councillor Elliott has been the subject of censure by the elected Council on three occasions in this Council term. However, this suspension does not relate to a Code of Conduct matter considered by the Council, or any previous censure. Rather the suspension relates to an investigation by the OLG.

OPTIONS

Option 1

- 12 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

- 13 Council does not adopt the recommendation. This is not the recommended option.

REFERENCES

Office of Local Government

<https://www.olg.nsw.gov.au/councils/misconduct-and-intervention/councillor-misconduct/deputy-secretary-decisions-orders-and-statements-of-reasons/>

ATTACHMENTS

Item 94 Attachment A: Local Government Act 1993 Section 4401(2)(g) Order Suspending Councillor Elliott of Newcastle City Council from Civic Office for a period of six weeks

Item 94 Attachment B: Local Government Act 1993 Section 4401 Statement of Reasons for taking disciplinary action under Section 4401(2)(B) and (G) Councillor Kath Elliott – Newcastle City Council

Item 94 Attachments A - B distributed under separate cover

**ITEM-95 CCL 26/10/21 - NSW LAND AND HOUSING CORPORATION -
MEMORANDUM OF UNDERSTANDING**

REPORT BY: GOVERNANCE
**CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL
OFFICER / MANAGER REGULATORY PLANNING AND
ASSESSMENT**

PURPOSE

To endorse a Memorandum of Understanding (MoU) with NSW Land and Housing Corporation (LAHC).

RECOMMENDATION

That Council:

- 1 Endorses the Memorandum of Understanding with the NSW Land and Housing Corporation as provided in **Attachment A**
- 2 Delegates authority to the Lord Mayor to sign the document on its behalf.
- 3 Notes that a separate and binding funding agreement will be developed by the parties, which will be submitted for Council endorsement.

KEY ISSUES

- 4 Stable and affordable housing plays a critical role in the health and wellbeing of families and individuals. In particular, social housing provides an important safety net for our community.
- 5 Housing affordability in the Newcastle local government area (LGA) is at an acknowledged crisis point, with the most recent data confirming 10,700 housing stressed households.
- 6 The LAHC owns 4,317 dwellings across the Newcastle LGA. Properties are overwhelming of an aged condition with an average age of 56 years for houses and 44 years for apartments (as at June 20, 2021). Further there are 1,179 households on the published waitlist for social housing in the Newcastle LGA, and of these 98 have been identified as priority with an urgent need for housing.
- 7 Rents in regional Australia grew by 6.6% in the year to June 2021 (CoreLogic July 2021). In Newcastle and Lake Macquarie, the median rent rose by 9.9% (2.3% quarterly). The median rent value is \$532.

- 8 The median price of houses and units across Newcastle and Lake Macquarie (CoreLogic September 2021) is \$771,000 and the value of a typical stand-alone house in Newcastle has increased by 30% during the past twelve months to \$802,000.
- 9 The median apartment price for Newcastle has increased by 17.8% during the past twelve months to \$614,000.
- 10 In the Newcastle local government area (LGA) the number of short-term rental listings has reduced from 768 to 605 (a reduction of 21.2%) during the past 2 years (AirDNA Jan 2019-Jan 2021).
- 11 City of Newcastle (CN) and the NSW Land and Housing Corporation (LAHC) are committed to working together to deliver improved outcomes for the residents of the Newcastle LGA, particularly in relation to the provision of social and affordable housing.
- 12 Melinda Pavey MP, NSW Minister for Water, Property and Housing has endorsed the MoU to demonstrate the commitment between the NSW Government and CN to partnering to deliver better outcomes for the Newcastle community.
- 13 The MoU is a non-binding statement of intent by each party to work together on housing issues; and specifically, to expedite the delivery of new social and affordable housing, including the exploration of a 'Make Room Project' in Newcastle, while supporting urban renewal in the LGA by renewing older social housing.
- 14 The MoU seeks to support LAHC's redevelopment program through the provision of an annual payment from CN equivalent to the rates paid by LAHC for its portfolio of properties in the Newcastle LGA for a period of three years commencing in 2022. In turn LAHC will invest the funds in new social housing over the same period in the Newcastle LGA, while also working with CN on the redevelopment of new social housing in the Newcastle LGA.
- 15 Project specifics will be determined by a committee comprising senior representatives of both organisations and will be captured under a separate and binding funding agreement which will outline the purpose, amount, timing, reporting, and other responsibilities each party will be responsible for in relation to funding between the two parties. Project details will be communicated as part of the annual CN 'Our Budget'. It is intended that the Chair of CN's Liveable Cities Advisory Committee will be one of CN's nominated representatives.
- 16 The shared principles that underpin the MoU include:
 - i. Commitment to provide a net increase in social housing across the Newcastle LGA, as well as more, high quality, and accessible social housing.

- ii. Expedite the delivery of new and renewed social and affordable housing, including the exploration of a *'Make Room Project'* in the Newcastle LGA; and
- iii. Redevelopment opportunities place community outcomes at the centre of project design – considering and balancing issues such as environmental and social sustainability, public and private amenity, development of social capital, safety, walkability, and efficiency.

FINANCIAL IMPACT

- 17 A separate funding agreement will outline the purpose, amount, timing, reporting, and other responsibilities each party will be responsible for in relation to funding between the two parties.
- 18 Funding contributions from CN and LAHC will be confirmed as part of the funding agreement which is proposed commence 1 July 2022 with project details to be communicated as part of the annual CN 'Our Budget'.
- 19 LAHC will pay \$2.2 million in rates to CN during 2021/22 for its properties in the Newcastle LGA. It is anticipated that CN's contribution to the funding agreement will be no more than this amount which would equate to a total of approximately \$6 million over a three year period. Matching funds will also be contributed by LAHC.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 20 The Memorandum of Understanding is consistent with the strategic directions of the Newcastle Community Strategic Plan 2030:

Inclusive Community

- 4.1b Support initiatives and facilities that encourage social inclusion and community connections

Liveable Built Environment

- 5.2a Plan for concentrated growth around transport and activity nodes.
- 5.3a Ensure sufficient housing diversity to meet community needs, including affordable living and adaptable housing options
- 5.4b Plan, provide and manage infrastructure that continues to meet community needs.

IMPLEMENTATION PLAN/IMPLICATIONS

- 21 This MOU will assist in the implementation of CN's Newcastle Local Housing Strategy and Local Strategic Planning Statement to grow housing by some 19,500 homes to 2041.

RISK ASSESSMENT AND MITIGATION

- 22 CN has statutory responsibilities for planning processes (planning proposals, development control plans, development applications), and these processes are guided by relevant legislation and policies.
- 23 LAHC operates within its own legislation and NSW Treasury requirements for the sale or lease of Government assets.
- 24 Nothing in this MoU will influence the execution of statutory functions and processes – including those of the elected Council.
- 25 The MoU is non-binding, unless and until such time that the Parties execute a legally binding funding agreement.

RELATED PREVIOUS DECISIONS

- 26 At the Ordinary Council Meeting held on 24 November 2020, Council unanimously adopted the Newcastle Local Housing Strategy.
- 27 At the Ordinary Council meeting held on 27 July 2021, Council unanimously endorsed the Lord Mayoral Minute Strategies to ameliorate the conditions of those in homelessness in Newcastle.

CONSULTATION

- 28 The MoU has been prepared in consultation with LAHC with a legal review undertaken by both organisations.
- 29 Community engagement undertaken as part of the 2040 Community Strategic Plan in February 2021 identified the lack of affordable housing as a significant challenge facing the city. More than 200 responses identified concerns regarding housing for young people and the need for diverse housing options and a concern that a lack of affordable housing options was driving young people out of the LGA.

BACKGROUND

- 30 A list of current LAHC Newcastle LGA projects is available at **Attachment B**.
- 31 CN has a lead role in the implementing the community's vision for Newcastle, however responsibility for achieving long-term goals rests with all levels of government, businesses, industry groups, community organisations and individuals.

OPTIONS

Option 1

- 32 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

- 33 Council resolves not to endorse the MoU between CN and LAHC. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 95 Attachment A: Memorandum of Understanding between City of Newcastle and NSW Land and Housing Corporation

Item 95 Attachment B: NSW Land and Housing Corporation current Newcastle projects

Item 95 Attachments A - B distributed under separate cover

ITEM-96 CCL 26/10/21 - QUARTERLY BUDGET REVIEW - SEPTEMBER 2021

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER FINANCE

PURPOSE

To provide Council with the Quarterly Budget Review Statement as at 30 September 2021, in accordance with clause 203 of the Local Government (General) Regulation 2005.

RECOMMENDATION

That Council:

- 1 Receives the September Quarterly Budget Review Statement (**Attachment A**) and adopts the revised budget as detailed therein.

KEY ISSUES

- 2 The September Quarterly Budget Review Statement includes the implementation of the unanimous Council resolution from the August Ordinary meeting to increase the 2021/22 works program by at least \$10m to help offset the adverse economic impact of the on-going COVID-19 pandemic and specifically the lockdown placed upon the Newcastle local government area on 5 August 2021. This additional works program is fully funded by City of Newcastle's (CN) existing cash reserves.
- 3 CN is experiencing lower than anticipated revenues while supporting the Council approved Community and Economic Resilience Package 2.0 and boosting the works program to a record \$104.7m.
- 4 COVID-19 is forecast to reduce CN's revenue for 2021/22 by an estimated at \$8.466m.
- 5 The September Quarterly Budget Review Statement includes adjustments to the Adopted Budget to reflect trends identified in the actual operating performance to date for the 2021/22 financial year. -The operational budget variations have a net unfavorable impact of \$12.8m on CN's operating position and therefore the forecast is for the operating result from continuing operations to reduce to a modest surplus of \$2.153m. If forecast grants and contributions provided for capital purposes are excluded then it is a deficit of \$11.6m for the year ended 30 June 2022.

- 6 The 2021/22 works program was reviewed as part of the September Quarterly Budget Review Statement and scheduling changes were made to projects to ensure CN was best placed to respond to priorities. Overall, the scheduling changes and adjustments result in an increase in the total cost of the works program of \$14.3m. The works program for the full financial year is forecast at \$104.7m.
- 7 Additional budget is allocated to a number of projects that have continued from the 2020/21 financial year. -These include the Mall Carpark demolition, stormwater and leachate management projects at Summerhill, the Merewether to The Junction cycleway, and the completion of upgrades at No. 1 Sportsfield. The increased budget allocation also enables the prioritisation of projects such as works to upgrade the interior of the City Hall and also for the Materials Recovery Facility at Summerhill. Priority road reconstruction projects at Yangan Drive and Enterprise Drive Beresfield, Boundary Street Kotara, and Rosemont Street Adamstown have also been included in the September Quarterly Budget Review.
- 8 The profit and loss impact from the \$14.3m increase in the works program is a \$9m adverse impact on the forecast operational position for the 2021/22 Budget. These adverse impacts have been softened through reduced expenditure and identified saving programs.
- 9 The adjustments recommended through the September Quarterly Budget Review Statement require CN to use \$19.8m more funds than previously predicted. CN is now forecasting to use \$17.9m in cash reserves for the full financial year 2021/22 but is forecast to maintain \$23.3m in unrestricted cash reserves at 30 June 2022, which is in line with requirements.

FINANCIAL IMPACT

- 10 The budget variations recommended through the September Quarterly Budget Review Statement are presented in detail in **Attachment A**.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 11 This report aligns to the Community Strategic Plan under the strategic direction:

Open and collaborative Leadership

- 7.4b Ensure the management of Council's budget allocations and funding alternatives are compliant with Council policy and relevant legislation to ensure the long-term financial sustainability of the organisation.

IMPLEMENTATION PLAN/IMPLICATIONS

- 12 The adoption of the September Quarterly Budget Review Statement will enable ongoing implementation of CN's adopted 2018 - 2022 Delivery Program and 2021/22 Operational Plan in a cost effective and efficient manner.

RISK ASSESSMENT AND MITIGATION

- 13 Adoption by Council at the Ordinary Council Meeting to be held on 26 October 2021 will ensure CN meets the legislative obligations to submit a Quarterly Budget Review Statement to Council within two months of the end of each quarter.

RELATED PREVIOUS DECISIONS

- 14 At the Ordinary Council meeting held on 25 May 2021, Council adopted the 'Our Budget' (2018 - 2022 Delivery Program and 2020/21 Operational Plan).

CONSULTATION

- 15 A workshop was conducted with Councillors on 19 October 2021 to provide detailed information and a forum to ask questions.

OPTIONS

Option 1

- 16 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

- 17 Council resolves to vary the recommendations in the adoption of the report. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 96 Attachment A: September Quarterly Budget Review Statement

Item 96 Attachment A distributed under separate cover

ITEM-97 CCL 26/10/21 - ADOPTION OF THE HOUSING POLICY

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER REGULATORY, PLANNING AND ASSESSMENT

PURPOSE

To adopt the Housing Policy.

RECOMMENDATION

That Council:

- 1 Adopts the Housing Policy at **Attachment A**.

KEY ISSUES

- 2 City of Newcastle (CN) adopted the Local Strategic Planning Statement (LSPS), and Local Housing Strategy (LHS) in 2020. Actions in both documents state CN's intent and direction for housing in the city, including preparation of a Housing Policy
- 3 The Housing Policy outlines CN's commitments and priorities for housing, and in particular affordable housing.
- 4 The Policy will enable CN to introduce measures to facilitate more affordable housing within the strategic growth areas identified in the LSPS and the Greater Newcastle Metropolitan Plan. It will enable CN to increase the range and supply of housing to better meet the needs of the city, including affordable housing. By facilitating a mix of dwelling types, tenures, and sizes CN can better support the diverse needs of the community as it grows and changes. This is important to the successful implementation of the LHS.
- 5 Adoption of the Housing Policy will provide direction on Council's expectations for the provision of affordable housing to assist in planning new development in the short term.

FINANCIAL IMPACT

- 6 There is no financial impact in adopting the Housing Policy.
- 7 The Housing Policy will not affect development contributions imposed as a condition of consent under Section 7.11 or 7.12 of the Act.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 8 The Housing Policy is consistent with the strategic directions of the Newcastle Community Strategic Plan 2030:

Inclusive Community

- 4.1b Support initiatives and facilities that encourage social inclusion and community connections

Liveable Built Environment

- 5.2a Plan for concentrated growth around transport and activity nodes.
- 5.3a Ensure sufficient housing diversity to meet community needs, including affordable living and adaptable housing options
- 5.4b Plan, provide and manage infrastructure that continues to meet community needs.

Smart and Innovative

- 6.3d Foster a collaborative approach to continue city centre renewal.

Open and Collaborative Leadership

- 7.2a Conduct Council business in an open, transparent, and accountable manner.
- 7.2c Establish collaborative relationships and advocate for local needs with all stakeholders.
- 7.3b Provide clear, consistent, accessible, and relevant information to the community.

IMPLEMENTATION PLAN/IMPLICATIONS

- 9 The Housing Policy confirms Council's support, where appropriate, for the use of Planning Agreements for the provision of affordable housing in new development or rezoning's.
- 10 An amendment to Newcastle Local Environmental Plan 2012 (NLEP 2012) will be necessary to implement the commitment in the Housing Policy to require affordable housing contributions. A draft Planning Proposal to amend the NLEP 2012 will be reported to Council in 2022 and is separate to the draft Housing Policy.

RISK ASSESSMENT AND MITIGATION

- 11 There are no identified risks in adopting the Housing Policy.

- 12 The Policy clearly states CN's commitments relating to housing, including affordable housing are in line with community expectations.

RELATED PREVIOUS DECISIONS

- 13 Council resolved at the Ordinary Council Meeting held on 26 March 2019:

"That the City of Newcastle:

1. *Notes the decision of the NSW Government to extend the operation of State Environmental Planning Policy No. 70 – Affordable Housing (Revised Schemes) (SEPP 70) to all LGAs in NSW in February 2019.*
2. *Notes the direction issued by the planning minister, Environmental Planning and Assessment (Planning Agreements) Direction 2019 specifying matters for consideration when negotiating a planning agreement with a developer for the purposes of affordable housing in connection with a development application.*
3. *Advises the Department of Planning and Environment that it is preparing an affordable housing contribution scheme.*
4. *Develops an affordable housing contribution scheme consistent with the requirements of s7.32 of the Environmental Planning and Assessment Act 1979.*
5. *Develops a policy regarding the arrangements for negotiating planning agreements for provision affordable housing in areas of the LGA not covered by the affordable housing contribution scheme, consistent with requirements of the Ministerial Direction."*

- 14 Council adopted the LHS at the Ordinary Council meeting on 24 November 2020.

- 15 Council resolved at the Ordinary Council meeting held on 27 April 2021 (among other actions) the following:

'7. Supports the Governance Directorate, through Regulatory, Planning and Assessment, to expedite the development of the City of Newcastle Affordable Housing Contributions Scheme and endorses the provision of adequate resourcing to do so.'

- 16 A Lord Mayoral Minute was endorsed on 27 July 2021 - Strategies to ameliorate the conditions of those in homelessness in Newcastle. Amongst other actions:

'PART 1

Part C: Implementation of the Affordable Housing Contributions Scheme:

3. *Once again reiterates the urgency of the finalisation and implementation of the Affordable Housing Contributions Scheme and commits to this being implemented as soon as practicable.*

PART 2

Part C: Implementation of the Affordable Housing Contributions Scheme:

1. *Recognises that City of Newcastle has within its control the development of an Affordable Housing Contributions Scheme which Council has described as the concept of a 15% Affordable Housing Mandate on privately developed land, whereby 15% of new dwellings or floor space on privately developed land is mandated as Affordable Housing in new housing developments and considers this rate as a part of the development of the Affordable Housing Contributions Scheme.'*

CONSULTATION

- 17 The Affordable Living Working Group, chaired by Councillor Winney-Baartz and established under the Liveable Cities Advisory Committee included members from Community Housing Providers, development industry and University of Newcastle and, informed the preparation of the LHS.
- 18 The LHS was adopted by Council at the Ordinary Council meeting on 24 November 2020 following public exhibition.
- 19 CN wrote to the Department of Planning, Industry and Environment (DPIE) advising of Council's 2019 resolution and intention to prepare an affordable housing contribution scheme.
- 20 The Housing Policy was discussed at a workshop with Councillors on 19 October 2021.

BACKGROUND

- 21 Council adopted the LHS on 24 November 2020. It provides a vision and strategic approach to direct CN's planning priorities for housing. It is supported by the Housing Evidence Report completed in October 2019.
- 22 The actions in the draft LHS state CN's commitments and priorities for housing. Some of these are underway as separate projects, such as the Tighes Hill Character Statement and the Wickham Masterplan. Further commitments include the preparation of a Housing Policy and an Affordable Housing Contributions Scheme. The evidence base required in applying an Affordable Housing Contributions Scheme is part of a statutory process that is underway.

OPTIONS

Option 1

23 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

24 Not support the recommendation as at Paragraph 1. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 97 Attachment A: Housing Policy

Item 97 Attachment A distributed under separate cover

**ITEM-98 CCL 26/10/21 - PUBLIC EXHIBITION OF THE DRAFT
DISABILITY INCLUSION ACTION PLAN**

REPORT BY: STRATEGY AND ENGAGEMENT
**CONTACT: INTERIM DIRECTOR STRATEGY AND ENGAGEMENT /
MANAGER COMMUNITY, STRATEGY AND ENGAGEMENT**

PURPOSE

To publicly exhibit the draft Disability Inclusion Action Plan 2021-2025.

RECOMMENDATION

That Council:

- 1 Place the draft Disability Inclusion Action Plan 2021-2025 (DIAP) provided at Attachment A on public exhibition for 28 days.

KEY ISSUES

- 2 The draft DIAP has been prepared pursuant to Section 12 (3) of the *Disability Inclusion Act 2014 (NSW)* which mandates that all public authorities prepare a plan which sets out the measures it intends to put in place so that people with disability can access general supports and services available in the community and can participate fully in the community.
- 3 The draft DIAP is a four-year plan which outlines City of Newcastle's (CN) priority areas and partnership opportunities.
- 4 Focus areas within the draft DIAP align directly with the NSW Government's Disability Inclusion Plan 2015 focus areas which are:
 - i) Developing positive community attitudes and behaviours
 - ii) Creating livable communities
 - iii) Supporting access to meaningful employment
 - iv) Improving access to mainstream services through better systems and processes.
- 5 The draft DIAP is reported to Council as a Text Only version (MS Word) which is accessible to the widest audience. Following a resolution to exhibit the draft, the document will be produced in multiple formats to increase accessibility and ensure that all community members can engage in the public exhibition process. Accessible formats include Text Only (allowing screen reader), desktop published accessible PDF and supporting accompanying easy read information for increased comprehension.

- 6 The initial DIAP (2016–2019) had 18 strategies with 57 actions and achieved significant progress in multiple areas across the organisation. In total, 55 of the 57 actions have been completed or progressed towards completion, while two have been reconsidered and will be achieved by means other than the DIAP.

FINANCIAL IMPACT

- 7 Costs associated with the development and public exhibition of the draft DIAP are funded within existing operational budget.
- 8 The draft DIAP will be delivered over multiple financial years commencing in 2021/22. Actions requiring funding will be identified in CN's Delivery Program and Operational Plans, with CN undertaking actions as funding and resources are confirmed.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 9 The draft DIAP is consistent with the following strategic directions of the Newcastle 2030 Community Strategic Plan:

Integrated and Accessible Transport

- 1.1c Plan and deliver accessible local infrastructure improvements for public transport.
- 1.2a Continue to upgrade, extend and promote cycle and pedestrian networks.
- 1.3b Ensure community and business needs for adequate and accessible parking are prioritised.
- 1.3c Implement technology solutions to improve transport infrastructure and experiences and encourage mobility innovation.

Vibrant, Safe and Active Public Places

- 3.1a Provide quality parkland and recreation facilities that are diverse, accessible and responsive to changing needs.
- 3.1a Enhance our beaches and coastal areas through upgraded facilities.

Inclusive Community

- 4.1b Support initiatives and facilities that encourage social inclusion and community connections.
- 4.1c Improve, promote and facilitate equitable access to services and facilities.
- 4.2a Ensure people of all abilities can enjoy our public places and spaces.

Liveable Built Environment

- 5.3a Ensure sufficient housing diversity to meet community needs, including affordable living and adaptable housing options.

- 5.4b Plan, provide and manage infrastructure that continues to meet community needs.

Smart and Innovative

- 6.2a Support and advocate for innovation in business research activities, education and creative industries.

IMPLEMENTATION PLAN/IMPLICATIONS

- 10 The draft DIAP, once adopted, will supersede the existing DIAP 2016-2019.
- 11 Following public exhibition, a full design and accessibility process will be undertaken to ensure the document is accessible (text only, accessible PDF, easy read).

RISK ASSESSMENT AND MITIGATION

- 12 Under the *Disability Inclusion Act 2014 (NSW)*, DIAP's are required to be reviewed by 30 June 2022. This review ensures CN meets its statutory obligations.

RELATED PREVIOUS DECISIONS

- 13 At the Ordinary Council Meeting held on 22 March 2016, Council resolved to adopt the DIAP 2016-2019.

CONSULTATION

- 14 Extensive community and stakeholder engagement activities were undertaken to develop the draft DIAP as detailed in Attachment B. This has included co design of community engagement and the draft plan with the CN Access and Inclusion Advisory Committee. Committee members also participated in consultation sessions as facilitators in face to face workshops in 2019 and 2020.

BACKGROUND

- 15 The development of this DIAP is to meet the requirements of the NSW Disability Inclusion Act (2014) and adequately inform CN's Integrated Planning and Reporting including development of the Delivery Program and Operational Plans.

OPTIONS

Option 1

- 16 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

- 17 Council resolves to not place the draft DIAP on public exhibition. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 98 Attachment A: Draft DIAP 2021-2025

Item 98 Attachment B: DIAP Engagement Report

Item 98 Attachments A - B distributed under separate cover

**ITEM-99 CCL 26/10/21 - SPECIAL FLOOD CONSIDERATIONS CLAUSE
- NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012**

REPORT BY: GOVERNANCE
**CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL
OFFICER / MANAGER REGULATORY, PLANNING AND
ASSESSMENT**

PURPOSE

To include the 'special flood considerations' clause within the Newcastle Local Environmental Plan 2012 (NLEP 2012).

RECOMMENDATION

That Council:

- 1 Confirms to the NSW Department of Planning, Industry and Environment (DPIE) that it wishes to have the 'special flood considerations' clause (**Attachment A**) inserted into the NLEP 2012.

KEY ISSUES

- 2 The NSW Government has commenced implementing flood planning reforms through a package of changes, known as the flood-prone land package, regarding how land use planning considers flooding and flood-related constraints.
- 3 To reflect the changes for flood related development, two Local Environmental Plan (LEP) clauses have been developed to apply to Local Government Areas (LGA) with flood-prone land. The two LEP clauses are:
 - a) flood planning [compulsory]; and
 - b) special flood considerations [optional] (**Attachment A**).
- 4 The 'flood planning' [compulsory] LEP clause came into effect on 14 July 2021 and therefore has already been inserted into the NLEP 2012. The flood planning clause applies to development within the flood planning area (FPA), being the area of land at or below the flood planning level (FPL). The FPL is a combination of the flood level from the defined flood event (DFE) and freeboard selected for flood risk management purposes. The typical freeboard and adopted approach by City of Newcastle (CN), for residential development due to flooding from waterways, such as rivers or creeks, is 0.5m.

- 5 The 'special flood considerations [optional]' LEP clause (**Attachment A**) is optional for councils to adopt. It applies to land located between the FPA and up to the level of the probable maximum flood (PMF). However, it must be adopted without variation and subject to any relevant direction in the standard instrument (clause 4(2) of the *Standard Instrument (Local Environmental Plans) Order 2006*).
- 6 Special flood considerations are particular flood risk considerations that a consent authority must be satisfied with before granting consent to sensitive and hazardous development. The development is identified by council and the State Government as having a higher risk to life and warrants consideration of the impacts of rarer flood events on land located outside the FPA. These types of development require special flood considerations relating to the management of risk to life and the risk of hazardous industry/hazardous storage establishments to the community and the environment in the event of a flood. Sensitive and hazardous development may include boarding houses, caravan parks, correctional centres, educational establishments, emergency services facilities, group homes, hazardous industries and storage establishments, hospitals and seniors housing.
- 7 Special flood considerations also apply to land that, in the event of a flood, may cause a particular risk to life and require the evacuation of people or other safety considerations.
- 8 These special flood considerations include that the development:
 - a) will not affect the safe occupation of and efficient evacuation of people in the event of a flood, and
 - b) incorporates appropriate measures to manage risk to life from flood, and
 - c) will not adversely affect the environment in the event of a flood.
- 9 CN currently applies its flood prone land and PMF requirements to all development types, while the optional 'special flood considerations' LEP clause applies to sensitive and hazardous development up to the PMF. However, the clause may also apply to land the consent authority considers may cause a particular risk to life and require the evacuation of people or other safety considerations in the event of a flood. This inclusion allows CN to capture other development types that present a risk in the event of a flood, which are not sensitive and hazardous, thus ensuring a level of certainty and security in its ongoing application of flood planning controls.
- 10 CN currently has a robust set of flood planning controls in place to manage development on flood prone land, being land susceptible to flooding by the PMF event.
- 11 Adopting the 'special flood considerations' LEP clause in the NLEP 2012 would retain a similar level of strength of flooding requirements across the LGA.

- 12 Opting out of inserting the 'special flood considerations' LEP clause would limit CN's ability to apply flood planning controls to development beyond the FPA. This would severely constrain CN's capacity to adequately manage development on flood prone land, being land susceptible to flooding by the PMF event and decrease the Newcastle community's overall resilience to flooding.

FINANCIAL IMPACT

- 13 The insertion of the 'special flood considerations' clause into the NLEP 2012 does not by itself create any financial impacts to CN.
- 14 Implementation of all the elements contained within the flood-prone land package, including the 'special flood considerations clause', will require CN to undertake further analysis and work to align with the changes, such as background studies, updating flood mapping and geographical information systems (GIS) data. These implementation actions will be funded within existing operational budgets.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 15 The insertion of the 'special flood considerations' clause into the NLEP 2012 is consistent with the following strategic directions of the Newcastle 2030 Community Strategic Plan:

Protected Environment

- 2.3a Ensure decisions and policy response to climate change remains current and reflects community needs
- 2.3b Support individuals and communities to prepare respond and recover from emergency events

Liveable Built Environment

- 5.1a Protect and promote our unique built and cultural heritage

Open and Collaborative Leadership

- 7.1a Encourage and support long term planning for Newcastle, including implementation, resourcing, monitoring, and reporting
- 7.2a Conduct Council business in an open, transparent, and accountable manner
- 7.2b Provide timely and effective advocacy and leadership on key community issues

IMPLEMENTATION PLAN/IMPLICATIONS

- 16 DPIE asked councils to submit their interest to have the optional standard instrument 'special flood considerations' clause apply to their LEP. CN submitted a request to have the clause inserted into the NLEP 2012.
- 17 A State Environmental Planning Policy amendment, to update relevant LEPs, will be undertaken by DPIE for those councils that choose to opt into the special flood considerations clause. After this period, councils wishing to adopt the special flood considerations clause would need to prepare formal Planning Proposals.
- 18 Adopting the 'special flood considerations' LEP clause would retain a similar level of strength as CN's current flooding requirements. Opting out of implementing the 'special flood considerations' LEP clause would limit CN's ability to apply flood planning controls to development beyond the FPA. This would severely constrain CN's capacity to adequately manage development on flood prone land (PMF) and decrease the Newcastle community's overall resilience to flooding.

RISK ASSESSMENT AND MITIGATION

- 19 Section 733 of the *Local Government Act 1993* protects councils from liability if they have followed the principles of the Floodplain Development Manual: the management of flood liable land, April 2005 (the Manual).

RELATED PREVIOUS DECISIONS

- 20 Nil.

CONSULTATION

- 21 Nil.

BACKGROUND

- 22 Significant flood events, like those in Brisbane in 2011 and those more recently in NSW show the importance of managing flood risk up to and beyond the 1% annual exceedance probability flood and considering flood risks up to the PMF. This builds resilience in communities located on floodplains and reduces the extent of property damage and potential loss of life from severe to extreme flooding throughout NSW.
- 23 The NSW Government's Flood Prone Land Policy (the Policy) is set out the Manual. The Policy provides that councils are primarily responsible for managing flood risk to reduce the risk to life, property damage and other impacts in their local government areas. It also recognises that flood-prone land may be able to support some types of development.

- 24 A draft updated flood-prone land package, which included the draft optional 'special flood considerations' clause, was exhibited by DPIE on the NSW Planning Portal from 30 April 2020 until 25 June 2020.
- 25 Understanding the constraints that flooding places on development of land can assist in identifying areas suitable for different types of development, as well as risk-appropriate controls that should apply to different types of development in LEPs.

OPTIONS

Option 1

- 26 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

- 27 Not support the inclusion of the clause in the NLEP 2012. This is not the recommended option.

REFERENCES

ATTACHMENTS

- Item 99 Attachment A:** Special flood considerations LEP clause [optional]

Item 99 Attachment A: Special flood considerations LEP clause [optional]

Special flood considerations [optional]

- (1) The objectives of this clause are as follows—
 - (a) to enable the safe occupation and evacuation of people subject to flooding,
 - (b) to ensure development on land is compatible with the land's flood behaviour in the event of a flood,
 - (c) to avoid adverse or cumulative impacts on flood behaviour,
 - (d) to protect the operational capacity of emergency response facilities and critical infrastructure during flood events,
 - (e) to avoid adverse effects of hazardous development on the environment during flood events.

- (2) This clause applies to—
 - (a) for sensitive and hazardous development—land between the flood planning area and the probable maximum flood, and
 - (b) for development that is not sensitive and hazardous development—land the consent authority considers to be land that, in the event of a flood, may—
 - (i) cause a particular risk to life, and
 - (ii) require the evacuation of people or other safety considerations.

- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—
 - (a) will not affect the safe occupation and efficient evacuation of people in the event of a flood, and
 - (b) incorporates appropriate measures to manage risk to life in the event of a flood, and
 - (c) will not adversely affect the environment in the event of a flood.

- (4) A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.

- (5) In this clause—

Considering Flooding in Land Use Planning Guideline means the *Considering Flooding in Land Use Planning Guideline* published on the Department's website on 14 July 2021.

flood planning area has the same meaning as it has in the Floodplain Development Manual.

Floodplain Development Manual means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

probable maximum flood has the same meaning as it has in the Floodplain Development Manual.

sensitive and hazardous development means development for the following purposes—

(a) [*list land uses*]

Direction—Only the following land uses are permitted to be included in the list—

- (a) boarding houses,
- (b) caravan parks,
- (c) correctional centres,
- (d) early education and care facilities,
- (e) eco-tourist facilities,
- (f) educational establishments,
- (g) emergency services facilities,
- (h) group homes,
- (i) hazardous industries,
- (j) hazardous storage establishments,
- (k) hospitals,
- (l) hostels,
- (m) information and education facilities,
- (n) respite day care centres,
- (o) seniors housing,
- (p) sewerage systems,
- (q) tourist and visitor accommodation,
- (r) water supply systems.

**ITEM-100 CCL 26/10/21 - ENDORSEMENT OF PLANNING PROPOSAL
AND DEVELOPMENT CONTROL PLAN FOR COMMUNITY
INFRASTRUCTURE INCENTIVES AT WICKHAM**

**REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL
OFFICER / MANAGER REGULATORY, PLANNING AND
ASSESSMENT**

PURPOSE

To commence the statutory process for amending the Newcastle Local Environmental Plan 2012 and endorse the public exhibition of a Development Control Plan to implement the actions of Wickham Masterplan 2021 Update on land in Wickham

RECOMMENDATION

That Council:

- 1 Endorse the Planning Proposal (PP) (**Attachment A**) to amend the Newcastle Local Environmental Plan 2012 (NLEP 2012) to implement actions of the Wickham Masterplan 2021 Update (WMP 2021).
- 2 Forwards the Planning Proposal to the Minister for Planning, Industry and Environment for 'Gateway Determination' pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).
- 3 Endorses draft Section 6.03.06 Community Infrastructure Incentives in Wickham, of the Newcastle Development Control Plan 2012 (NDCP 2012) for public exhibition (**Attachment B**).
- 4 Publicly exhibits the Planning Proposal, subject to Gateway Determination, for a minimum of 28 days together with the following:
 - i) Section 6.03.06 Community Infrastructure Incentives in Wickham of the draft NDCP 2012.
 - ii) The draft Incentive Gross Floor Area (GFA) Rate for Wickham, within the Schedule of Fees and Charges, of the Newcastle Operational Plan 2021/22 (**Attachment C**).
- 5 Receives a report on submissions following public exhibition and considers any amendments made in response to submissions and make a final determination on the Planning Proposal and draft Section 6.03.06 of the NDCP 2012.

KEY ISSUES

- 6 The proposed amendments to NLEP 2012 and NDCP 2012 seek to implement the Community Infrastructure Incentives Policy (CIIP) which was adopted by Council on 27 July 2021. The CIIP aims to facilitate the delivery of community infrastructure through the provision of appropriate development incentives that support urban renewal.
- 7 The development incentives will only apply to land at Wickham, consistent with the potential densities identified within the WMP 2021 which was adopted by Council on 28 September 2021 following public exhibition.
- 8 The maximum incentive GFA to be made available in Wickham is based on the capacity of the land to accommodate development at an increased density (Floor Space Ratio (FSR)) and/or scale (Height of Building (HOB)), which was determined on planning grounds having regard to:
 - i) urban design analysis of the area, consideration of traffic generation through independent modelling, feasibility assessment of development scenarios and market factors.
 - ii) Land being either not restricted by mine subsidence risk or where identified, the risk being able to be addressed by feasible remediation or additional design parameters as identified by Subsidence Advisory NSW (SA NSW) through their Mine Subsidence Risk Model for the Newcastle City Centre
 - iii) Land identified as having a current potential to redevelop, or be amalgamated as part of a future redevelopment site, being sites identified within WMP 2021 as:
 - a) key redevelopment sites
 - b) approved development proposals (which have not yet been developed)
 - c) land subject to a separate Planning Proposal (PP-2021-328) at 41 and 47 Throsby Street, Wickham (discussed further below).

Planning Proposal – NLEP 2012

- 9 The PP seeks to amend NLEP 2012 to enable variation to development standards (HOB and FSR), on identified land, as an incentive to development that provides community infrastructure that will be described in NDCP 2012.
- 10 The identified land is shown on the HOB map and the FSR map. The maximum applicable incentive available on land is based on site area as outlined in the proposed clauses (Clause 4.3A 'Exceptions to Height of Buildings on certain land' and Clause 4.4A 'Exceptions to Floor Space Ratio on certain land') within the PP.

11 The PP also seeks to make the following associated amendments to NLEP 2012:

- i) Introduce a new subclause of Clause 4.5 Calculation of floor space ratio and site area under the heading of 'Dedication of land' that enables the site area of any land or part of land proposed to be dedicated to CN for community infrastructure to be included as part of the overall site area for calculation of the GFA available to a proposal on the remaining part of the land.
- ii) Introduce a new Clause 4.3A Exceptions to HOBs on certain land under Part 4 Principal development standards. This will enable an incentive increase in HOB on certain land nominated on the HOB map. The incentive increase will be up to a maximum HOB, but only where the proposed development will enable the provision of community infrastructure, as identified within a development control plan applying to the land.
- iii) Remove Clause 7.9 from Part 7 'Additional local provisions - Newcastle City Centre'. This clause applies to an Area A on the HOB map; however, Area A was removed from the map by the Department of Planning Industry and Environment (DPIE) under the State Environmental Planning Policy Amendment (Newcastle City Centre) 2014. Given the PP introduces a new Area A in HOB map, this would cause confusion and it is intended to correct this anomaly in the current PP.
- iv) Introduce a new Clause 4.4A Exceptions to FSR on certain land under Part 4 Principal development standards, this will enable an incentive increase in FSR on certain land nominated on the FSR Map, up to a maximum incentive FSR, and only where the proposed development will enable the provision of community infrastructure, as identified within a development control plan applying to the land.
- v) Add the wording, 'development on land to which Clauses 4.3A and 4.4A applies' under subclause (8) of Clause 4.6 Exceptions to development standards. This amendment is intended to stop potential misuse of Clause 4.6 on land, as a means of achieving the variations identified in Clauses 4.3A and 4.4A but without the provision of community infrastructure.
- vi) Amend the Land Reservation Acquisition (LRA) map to incorporate additional land identified necessary to deliver community infrastructure projects.

Draft Newcastle Development Control Plan 2012 - Wickham

12 A new subsection 6.03.06 Community Infrastructure Incentives in Wickham is proposed within section 6.03 Wickham of NDCP 2012. This subsection seeks to bring into effect the proposed Clauses 4.3A and 4.4A of NLEP 2012 by:

- i) Identifying the proposed community infrastructure projects to be delivered, including the land, works, or improvements. The identified community infrastructure projects are consistent with those identified within WMP 2021.
- ii) Identifying the quantitative method for determining the level of incentive GFA made available to proposed development based on the value to CN for delivering community infrastructure and how this translates to an increase in FSR and/or HOB.

Incentive GFA rate

- 13 Consistent with the approach proposed in the CIIP, CN proposes to establish an 'Incentive GFA Rate' that determines the amount of additional GFA a development may achieve as an incentive based on the value of community infrastructure proposed to be delivered by the development.
- 14 The 'Incentive GFA Rate' for Wickham was calculated by dividing the total estimated cost of delivering the community infrastructure projects nominated within the DCP by the total incentive GFA to be made available through the PP.
- 15 The proposed 'Incentive GFA Rate' for Wickham is \$518.10/sqm (inclusive of GST).
- 16 If adopted, CN will amend its Schedule of Fees and Charges within the Newcastle Operational Plan 2021/22, to include the Incentive GFA Rate for Wickham, pursuant to Section 608 of the *Local Government Act 1993*.

Planning Proposal - 41 and 47 Throsby Street Wickham

- 17 The land at 41 and 47 Throsby Street, Wickham is subject to a separate Planning Proposal (PP-2021-328) which is currently on public exhibition until 1 November 2021 following Gateway Determination. This land will be removed from this PP to amend NLEP 2012 (for community infrastructure incentives in Wickham), subject to Council's final endorsement (of PP – 2021-328) post exhibition. However, should PP-2021-328 not be endorsed by Council to allow the associated amendments to NLEP 2012 to be made, then the provisions of this PP will prevail.

FINANCIAL IMPACT

- 18 The value of the incentive GFA accessed by development will be provided to CN in the form of land, works or a monetary contribution, or a combination of these.
- 19 Monetary contributions will be pooled and applied towards individual shortfalls resulting from the difference in value between the maximum attainable incentive GFA available on land (under NLEP 2012) and the cost required to deliver the identified part of land and/or works with the 'Schedule of proposed community infrastructure projects in Wickham' (under NDGP 2012).

- 20 Where there is a shortfall of pooled funds available at the time a project is proposed to be implemented, CN may draw upon other funding sources subject to assessment of likelihood of potential excess contributions being forthcoming on remaining identified development sites. Alternatively, CN may rescope the identified project (subject to community input), delay implementation, or identify other suitable resources to complete the project.
- 21 The application of Section 7.11 and Section 7.12 development contributions plans is not affected by the CIIP.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 22 The proposed amendments to NLEP 2012 and NDCP 2012 are consistent with the following strategic directions of the Newcastle Community Strategic Plan 2030:

Vibrant, Safe and Active Public Places

- 3.1a Provide quality parkland and recreation facilities that are diverse, accessible, and responsive to changing needs

Liveable Built Environment

- 5.2a Plan for concentrated growth around transport and activity nodes
- 5.4b Plan, provide and manage infrastructure that continues to meet community needs

Smart and Innovative

- 6.3d Foster a collaborative approach to continue city centre renewal

Open and Collaborative Leadership

- 7.2a Conduct Council business in an open, transparent, and accountable manner
- 7.2c Establish collaborative relationships and advocate for local needs with all stakeholders
- 7.3b Provide clear, consistent, accessible, and relevant information to the community

IMPLEMENTATION PLAN/IMPLICATIONS

- 23 The PP is consistent with Section 3.33 *Planning proposal authority to prepare explanation of and justification for proposed instrument—the planning proposal of the EP&A Act*. This report seeks to implement the required process under Section 3.34 Gateway determination.

- 24 The draft amendments to NDCP 2021 were prepared having regard for consistency with Division 3.6 Development control plans (DCPs) of the EP&A Act and Division 1 Preparation of development control plans by councils of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation). This report seeks to implement the requirements of Division 2 Public participation and Division 3 Approval of development control plans of the EP&A Regulation.
- 25 CN referred the draft amendments to NDCP 2012 to the Newcastle Urban Design Consultative Group, now known as Newcastle Urban Design Review Panel (UDRP) on 24 February 2021, as required under Clause 21A Approval of development control plans relating to residential apartment development of the EP&A Regulation, together with the draft CIIP and WMP 2021 for their input. The UDRP did not identify any specific measures or recommendations to the draft development controls noting that these do not introduce specific requirements for apartment development design, beyond what is reasonably expected already (e.g., setbacks, ground level activation, access etc.).
- 26 The proposed mechanisms will implement Planning Priority 8 of the Newcastle Local Strategic Planning Statement, which advocates for CN to “Plan for growth and change in Catalyst Areas, Strategic Centres, Urban Renewal Corridors and Housing Release Areas”, as this will “improve infrastructure and land use sequencing to capitalise on the opportunities for jobs and housing growth”.
- 27 This report implements actions of the WMP 2021, as adopted by Council on 28 September 2021, including:
- i) Actions under the heading 'Improve accessibility and connectivity within Wickham and to adjoining areas'
 - 1. Implement new pedestrian access routes through redevelopment sites within the NLEP 2012 LRA map.
 - ii) Actions under the heading 'Create safe, attractive, and inclusive public places'
 - 5. Implement the CIIP through NLEP 2012 and NDCP 2012 for Wickham.
 - 6. Ensure the required land acquisitions are identified within NLEP 2012, consistent with Map 6 – Location of proposed community infrastructure projects.
 - iii) Actions under the heading ' Ensure built environment is functional, responsive and resilient'

1. Amend NLEP 2012 to introduce development incentives on land identified within Map 9 – Areas proposed for development incentive (subject to approval from SA NSW, where required), consistent with Table 4 - Potential development incentives for provision of community infrastructure.
 2. Amend NDCP 2012 to include the community infrastructure projects sought to be delivered through development incentive, as identified on Map 6 – Location of proposed community infrastructure projects and described on Table 3 – Description of proposed community infrastructure projects.
 4. Determine and publish (within CN's Fees and Charges) an 'incentive GFA rate' for Wickham
- 28 The recommendations of this report, including the attached PP and draft DCP provisions identifying development incentives to deliver community infrastructure within Wickham, are consistent with the CIIP, as adopted by Council on 27 July 2021.
- 29 In reporting on the consultation carried out with DPIE during the exhibition of the CIIP, CN identified the matters it had addressed based on the initial feedback from DPIE Infrastructure Funding Policy team. These have been incorporated into the PP, to identify that the approach identified within the CIIP is not based on seeking infrastructure contributions but focused on development incentives based on strategic land use planning and urban design, identifying projects outside of the 'local contribution' framework that have been identified as a means of facilitating urban renewal.

RISK ASSESSMENT AND MITIGATION

- 30 The LEP provisions proposed to enable implementation of the CIIP have been prepared in accordance with relevant Practice Notes to ensure CN's adherence with the NSW statutory framework.
- 31 Separate accounting records will be maintained by CN where the proposed community infrastructure is provided by applicants in the form of a monetary payment to ensure transparency of the purpose for which the funding is collected, the amount collected and spent, and to ensure the funds are accounted for in the correct manner.

RELATED PREVIOUS DECISIONS

- 32 At the Ordinary Council Meeting held on 27 July 2021, Council adopted the CIIP.
- 33 At the Ordinary Council Meeting held on 28 September 2021, Council adopted the WMP 2021.

CONSULTATION

- 34 The CIIP and the WMP 2021 were publicly exhibited prior to adoption.
- 35 A concurrent 28-day public exhibition of the PP, NDCP 2012 and draft Incentive GFA Rate for Wickham is proposed to enable further consultation on the proposed incentives, the community infrastructure sought, and the apportionment of the two.
- 36 CN consulted with DPIE on the CIIP and the proposed approach and mechanisms proposed to implement this, as outlined in the PP. This PP addresses feedback from DPIE by only providing for those items and improvements not otherwise identified as local infrastructure within CN's infrastructure contributions framework and delivering a transparent and equitable approach to achieving urban renewal through development incentives within an LEP, thereby not associated to the contribution reforms.
- 37 CN consulted with the NSW Independent Commission Against Corruption (ICAC) on the CIIP. While the ICAC could not provide surety in relation to any potential for corrupt conduct, it did not flag any grounds for concern with the Policy.
- 38 The land at 41 and 47 Throsby Street, Wickham is subject to a separate Planning Proposal (PP-2021-328) which is currently on public exhibition until 1 November 2021 following Gateway Determination.

BACKGROUND

- 39 The WMP, originally adopted by Council in 2017, identified a vision, and outlined the strategies and actions required to guide CN's planning decisions and support urban renewal within this part of the Newcastle City Centre. The WMP identified the opportunity for increasing redevelopment densities based on land capacity and envisaged future character.
- 40 The WMP was reviewed in 2021 in response to restrictions identified to redevelopment advised by SA NSW as part of preparing the Newcastle City Centre Subsidence Risk Model. This resulted in the WMP 2021 and the opportunity to provide greater certainty on the strategic opportunities where redevelopment could accommodate increased densities and the community infrastructure to be delivered.
- 41 The purpose of the CIIP is to enhance the delivery of community infrastructure to support urban renewal in the Newcastle LGA through the provision of development incentives.

OPTIONS

Option 1

42 The recommendations as at Paragraphs 1 – 5. These are the recommended options.

Option 2

43 Not support the recommendations, this is not the recommended option.

REFERENCES

ATTACHMENTS

Item 100 Attachment A: Planning Proposal – Community Infrastructure Incentives for land at Wickham

Item 100 Attachment B: Draft Section 6.03.06 Community Infrastructure Incentives in Wickham - Newcastle Development Control Plan 2012

Item 100 Attachment C: Draft Incentive Gross Floor Area (GFA) Rate for Wickham

Item 100 Attachments A - C distributed under separate cover

ITEM-101 CCL 26/10/21 - REQUEST FOR INTERIM HERITAGE ORDER - ST COLUMBAN'S CHURCH MAYFIELD

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER REGULATORY, PLANNING AND ASSESSMENT

PURPOSE

To request an Interim Heritage Order (IHO) be placed over St Columban's Church, Mayfield by the Heritage Council of NSW.

RECOMMENDATION

That Council:

- 1 Requests the Heritage Council of NSW place an Interim Heritage Order over St Columban's Church, Mayfield (refer site map at **Attachment A**).

KEY ISSUES

- 2 St Columban's Church is listed as a heritage item of local significance in Schedule 5 of the Newcastle Local Environmental Plan 2012 (NLEP 2012) as follows: Item 244 – St Columban's Church – Local significance.
- 3 A development application (DA2020/00959) was lodged on 7 September 2020 for the demolition of St Columban's Church. DA2020/00959 was refused under delegation on 30 April 2021.
- 4 During the assessment of DA2020/00959, the application was peer reviewed by an independent heritage consultant who found that St Columban's Church may be of potential State heritage significance. The consultant's report is attached as **Attachment B**.
- 5 In response to the DA refusal, the applicant commenced Class 1 proceedings in The Land and Environment Court of NSW, with the matter set for hearing on 6-8 December 2021.
- 6 The lodgment of the appeal constitutes a threat of harm, should the appeal be upheld. As the Church is under imminent threat of harm through proposed demolition, it is recommended that Council supports the request to the Heritage Council of NSW to place an Interim Heritage Order (IHO) over the property.
- 7 The IHO would apply to the following site: 39 Church Street, Mayfield (Lot 1, DP 165199) (**Attachment A**).

- 8 An IHO is a temporary heritage protection measure. IHOs protect items (places and objects) potentially of heritage significance that are under immediate threat. The IHO would provide up to a 12-month period where the item cannot be demolished or harmed.
- 9 During the first six months of the IHO period, an in-depth heritage assessment would be carried out for listing St Columban's Church on the NSW State Heritage Register (SHR). For the remaining six months of the IHO period, if St Columban's Church is found to be of State heritage significance, the statutory process for listing on the State Heritage Register (SHR) would begin. After 12 months, the IHO expires, and the listing process continues.
- 10 Standard exemptions apply to all SHR items, and these enable certain maintenance and management activities and works to be exempt from approval under the *Heritage Act 1977* (NSW). This set of standard exemptions is extensive and means that the owner of the SHR item will not need approval from Heritage NSW for most minor works and maintenance activities. The standard exemptions include matters such as maintenance and cleaning, alteration and repairs to non-significant fabric, and emergency situations and lifesaving.

FINANCIAL IMPACT

- 11 There is no financial impact to City of Newcastle (CN) in requesting the IHO. Any subsequent work will be undertaken by CN staff within the current allocated budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 12 The request for an IHO is consistent with the following strategic directions of the Newcastle 2030 Community Strategic Plan (CSP).

Vibrant, Safe and Activated Public Places

3.2a Celebrate Newcastle's cultural heritage and diversity.

Livable and Distinctive Built Environment

5.1a Protect and promote our unique built and cultural heritage.

5.1b Ensure our suburbs are preserved, enhanced, and promoted, while also creating opportunities for growth.

5.1c Facilitate well designed and appropriate scale development that complements Newcastle's unique character.

HERITAGE STRATEGY ALIGNMENT

- 13 The request for an IHO is consistent with the following objectives of the Newcastle Heritage Strategy 2020-2030.

Protecting our heritage

- 2.1 CN develops and implements policy and guidance based on the principles of the Burra Charter and best practice to ensure there is a strong future for heritage items, heritage conservation areas, archaeological relics and sites, Aboriginal objects and Aboriginal places.

Supporting our heritage

- 3.2 CN to lead by example by ensuring that heritage is given due consideration in CN projects and development assessment, with decision-making informed by community engagement and facilitated by CN staff training.

IMPLEMENTATION PLAN/IMPLICATIONS

- 14 Council's request for an IHO over St Columban's Church would be lodged with the Heritage Council of NSW for their consideration. Supporting documents, including the consultant report would be attached to the request.

RISK ASSESSMENT AND MITIGATION

- 15 No significant risks have been identified as a result of requesting the IHO.

RELATED PREVIOUS DECISIONS

- 16 At the Development Applications Committee Meeting held on 21 May 2019, Council refused a development application for demolition of St Columban's Church (DA2018/00105).
- 17 A development application (DA2020/00959) was lodged on 7 September 2020 for the demolition of St Columban's Church. DA2020/00959 was refused under delegation on 30 April 2021.

CONSULTATION

- 18 Should the Heritage Council resolve to consider listing St Columban's Church on the SHR, a public exhibition period inviting written submissions to the Heritage Council would be held.

BACKGROUND

- 19 St Columban's Church is listed as a heritage item of local significance in Schedule 5 of the Newcastle Local Environmental Plan 2012 (NLEP 2012) as follows: Item 244 – St Columban's Church – Local significance.
- 20 The Site is also located in the vicinity of several heritage items of local significance including the following:

- i) Item 245 – St Columban's Presbytery – Local significance
 - ii) Item 246 – Bella Vista (former residence) – Local significance
 - iii) Item 261 – San Clemente School – Local significance
 - iv) Item 243 – St Andrew's Church – Local significance
 - v) Item 253 – Former St Andrew's Rectory – Local significance
 - vi) Item 260 – Former Hunter Institute of Technology – Local significance
 - vii) Item 278 – Burgman House – Local significance
 - viii) Item 277 – Burrundulla (residence) – Local significance.
- 21 A development application (DA2018/00105) was lodged on 9 February 2018 for the demolition of St Columban's Church. The application identified that St Columban's Church has experienced a decline in physical condition. Key structural issues facing the building include the partial collapse of two of seven roof trusses: deterioration of masonry wall ties and exfoliation and cracking of the building's concrete frame within the subfloor, resulting from corrosion of reinforcing steel within the concrete. The application was refused by the Development Applications Committee on 21 May 2019.
- 22 A development application (DA2020/00959) was lodged on 7 September 2020 for the demolition of St Columban's Church. During the assessment, CN's expert heritage consultant provided a detailed heritage assessment of the Church. The consultant undertook a peer review of the applicant's Heritage Assessment Report, provided an updated assessment of significance and discussion of adaptive reuse options of similar buildings. The consultant's report found the following:
- i) St Columban's Church is an outstanding example of progressive Australian ecclesiastic architecture of the Inter-War period. The church is considered to be of potential State heritage significance for its aesthetic qualities and rarity.
 - ii) The built form, relation to its setting, interpretation of its original volumes, and the material finish and detail are identified as the key significant elements of the heritage item that could be retained in an adaptive reuse proposal.
 - iii) Cost estimates provided in the development application focus on complete rectification of fabric and do not discuss lesser cost implications of partial removal of fabric, or introduction of a supplementary structure to support the existing deteriorated fabric.

- iv) Adaptation of church buildings is an established and increasingly common aspect of Australian towns. Numerous church buildings throughout NSW have been successfully adapted to suit alternative new uses, with varying degrees of intervention.
- v) Demolition of St Columban's Church would represent both a loss of a highly significant heritage item and the loss of opportunity for adaptation of a key element in the evolving setting of Mayfield.

23 DA2020/00959 was refused under delegation on 30 April 2021. The determination is currently subject to the Land and Environment Court (LEC) appeal process, with the matter set for hearing on 6-8 December 2021.

OPTIONS

Option 1

24 The recommendation as at paragraph 1. This is the recommended option.

Option 2

25 Council resolves not to request the Heritage Council to place an Interim Heritage Order on St Columban's Church. This option will not achieve the strategic directions of the CSP, will be inconsistent with the Newcastle Heritage Strategy 2020–2030, and will leave the building in danger of material harm. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 101 Attachment A: St Columban's Church – Site Map

Item 101 Attachment B: Heritage Report – Colin Brady Architecture + Planning

Item 101 Attachment A - B distributed under separate cover

ITEM-102 CCL 26/10/21 - ADOPTION OF SECTION 7.11 AND SECTION 7.12 DEVELOPMENT CONTRIBUTION PLANS

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER REGULATORY, PLANNING AND ASSESSMENT

PURPOSE

To adopt the Section 7.11 Development Contributions Plan and Section 7.12 Development Contributions Plan.

RECOMMENDATION

That Council:

- 1 Adopts the Section 7.11 Development Contributions Plan (**Attachment A**) and Section 7.12 Development Contributions Plan (**Attachment B**).
- 2 Adopts a delayed commencement date of the Section 7.11 Development Contributions Plan and Section 7.12 Development Contributions Plan so they come into force on 1 January 2022.
- 3 Repeals the current Section 7.12 Local Infrastructure Contributions Plan 2019 (update 2020) with unspent funds to be spent for the purpose for which they were collected.

KEY ISSUES

- 4 City of Newcastle (CN) placed the draft Section 7.11 Development Contributions Plan and draft Section 7.12 Development Contributions Plan on public exhibition for 28 days, from 27 August 2021 to 24 September 2021. Information sessions were held online with key stakeholders, including industry groups and major landowners / developers.
- 5 Four submissions were received during the public exhibition period which are summarised in **Attachment C**, together with CN's response and recommendations.
- 6 The key matters for consideration are outlined below. Amendments made to the draft Plans to respond to submissions are highlighted in yellow within each Plan for reference.

Summary of submissions

- 7 Submissions offered in principle support for the proposed Plans. Submissions acknowledged that the proposed contributions will be in line with those levied across other LGAs, and the use of the development contribution system to provide for the infrastructure needs created by new development is supported. No objections were raised in regard to the introduction of a Section 7.11 development contribution on additional residential development/ residential lots across the city.

Savings and transitional arrangements

- 8 Submissions proposed that the Plans apply to development at the date of lodgement rather than at the date of determination of a Development Application (DA) or Complying Development Application. This has been considered, however there is no proposed change to the savings and transitional provisions which is consistent with CN's current approach, as per the current Section 7.11 Western Corridor Development Contributions Plan and current Section 7.12 Development Contributions Plan.
- 9 However, it is proposed that the Section 7.11 Development Contributions Plan and Section 7.12 Development Contributions Plan have a delayed commencement date of 1 January 2022, should Council adopt the plans. This will provide sufficient advance notice to applicants progressing a DA.
- 10 Submissions proposed that the Plans should make clear that in the case of a development consent granted prior to the commencement of the new plans, any modification to that consent will be determined based on the previous development contributions plan. This suggestion is supported, and the Section 7.11 Development Contributions Plan and Section 7.12 Development Contributions Plan now state that,

"if a modification application pursuant to Section 4.55 or s4.56 of the Environmental Planning and Assessment Act 1979 (EP&A Act) has been made before the commencement of the plan in relation to land to which this plan applies and the application has not been finally determined before that commencement, the application must be determined in accordance with the contributions plan that applied at the date that the original development consent was granted".

Material public benefits / 'works-in-kind' agreement

- 11 Submissions also proposed that the wording for works-in-kind agreements should be reviewed to state that CN supports and encourages such agreements. Further changes were not considered necessary as the plans allow for CN to accept, at its discretion, an offer by an applicant to provide an 'in-kind' contribution (i.e., the applicant completes part, or all of the work/s identified in the Section 7.11 Development Contributions Plan) or through provision of another material public benefit (other than the dedication of land) in lieu of the applicant satisfying its obligations under that Plan.

Section 7.12 levy - Maximum of 3% proposed for alterations and additions to residential development

- 12 Submissions raised concerns about the Plan applying a Section 7.12 levy on alterations and additions to residential development over \$200,000 for the City Centre, which applies a rate up to 3% of development costs. This suggestion is supported, and the draft Section 7.12 Development Contributions Plan now states that a maximum Section 7.12 levy of 1% will apply to alterations and additions to residential development more than \$200,000 across the Local Government Area (LGA).
- 13 One submission raised concern with the current rate of 3% being applied to non-residential development valued over \$250,000 in the City Centre, on the basis that the costs of developing land in the City Centre are higher than elsewhere in NSW. However, no documentary evidence was provided to support the claim. The draft Section 7.12 Development Contributions Plan does not propose to change the Section 7.12 levy in the City Centre for non-residential development. This rate applies under the current plan, which was adopted by Council on 15 December 2020.
- 14 It was further stated that the proposed levies/rates combined with the 1% public art contribution (contained within the Newcastle Development Control Plan 2012 (NDCP 2012) for certain developments greater than 45m) make development less attractive in the City Centre. To clarify, the requirement for a public art contribution is a NDCP 2012 control which only applies to certain development in the City Centre and is not a monetary contribution required under the current Section 7.12 Plan.

Section 7.12 levy – Cost of development calculation

- 15 Submissions indicated that the 'calculation sheet' does not include the cost of mines remediation or remediation of site contamination and is silent on these items. The exhibited draft Section 7.12 Development Contributions Plan states under clause 1.6 Exemptions and Reductions that there will be "*no contribution for the cost of remediation and grouting of land affected by mine subsidence*" (NB: *such costs will be excluded from the total cost of development where development involves works additional to remediation and grouting of land affected by mine subsidence*). Furthermore, the cost of calculating development for the purposes of calculating a Section 7.12 levy, is regulated under clause 25J of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) and requires that the calculation for cost of development include "*the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation*". Accordingly, no reduction relating to site remediation is to be made in relation to land contamination, but an exemption has been included for *remediation and grouting of land affected by mine subsidence*.

Section 7.12 levy – Student Accommodation

- 16 The appropriateness of including student accommodation as a housing/development type in the draft Section 7.12 Development Contributions Plan was questioned due to the life and activity it can bring to the city. There is no change proposed to the current approach where student housing is levied under the Section 7.12 Development Contributions Plan. The new plans introduce the term “student housing” to distinguish that this form of residential accommodation will continue to be levied under Section 7.12 as opposed to the rates under the new Section 7.11 Development Contributions Plan, which would trigger a higher rate. It is considered reasonable to continue imposing a Section 7.12 levy for student housing.

Section 7.12 levy – Delivering infrastructure

- 17 Submissions recommended that CN make clear how infrastructure to be funded from the existing Section 7.12 Development Contributions Plan will be delivered. In response, it should be noted that the works schedule in the current Section 7.12 Development Contributions Plan has informed the proposed works schedules and CN remains committed to delivering those projects.
- 18 The remaining unspent funds collected under the existing Section 7.12 Development Contributions Plan are proposed to be spent on those projects and will be carried forward to also align with the forward works program. It is also anticipated that the remaining unspent Section 7.12 levies (\$4.6 million) will be spent in 2021/2022.
- 19 The proposed Plans will better support delivery of the already agreed work schedule. Over the past three years, CN has collected an average of approximately \$3.5 million dollars per annum from Section 7.12 development contributions. This is not sufficient to meet the needs of future residents nor deliver the current schedule. The proposed Plans are anticipated to increase the contributions from future development to better support the infrastructure required and committed to in the current schedule in the Plans.
- 20 Furthermore, if changes occur to anticipated social or transport needs or significant planning controls change, the works schedule will be reviewed and updated accordingly.

Proposed contributions rate for Section 7.11

- 21 There were no submissions concerning the proposed Section 7.11 rates. The Section 7.11 Development Contributions Plan will apply to new residential development creating additional lots/dwelling, outside of the Western Corridor area (Minmi, Fletcher, and Maryland) which is expected to accommodate an additional 18,285 people within an additional 10,040 private residential dwellings/lots. The draft Section 7.11 Development Contributions Plan includes a specific monetary rate per additional dwelling or residential lot. Using this apportioned cost, the contribution rates range from \$10,105.11 for a one-

bedroom apartment or secondary dwelling to \$17,852.37 for a single dwelling/residential lot. The majority of dwelling types over the 15-year planning period are likely to be attached, dual occupancy, semi-detached, multi-dwellings and one-two bedroom units. These types are expected to contribute a Section 7.11 rate between \$10,105 to \$13,473 per additional dwelling type/residential lot.

- 22 One amendment is proposed to the Section 7.11 Development Contributions Plan due to feedback received during the industry workshops. To discourage a token residential component in a mixed-use development in order to avoid a potentially higher development contribution, an amendment has been made to reflect that the Section 7.11 Development Contributions Plan will apply where the residential Gross Floor Area (GFA) is more than 10% of the total GFA for that development. This is also made clear in the draft Section 7.12 Development Contributions Plan, which will apply to mixed use development with a residential GFA less than 10% of the total for the development.

Cross boundary development contributions

- 23 Port Stephens Council (PSC) has a long-standing agreement with CN in which they transfer a portion of Section 7.11 development contributions collected within Fern Bay to CN to be spent on open space and recreation projects in Stockton. PSC recently updated their Section 7.11 Development Contributions Plan to contribute towards projects identified in the jointly prepared Fern Bay and North Stockton Planning Strategy. The PSC Plan will allow a contribution toward Stockton sporting facilities such as upgrades to Corroba Oval, Ballast Ground, pool, netball, and tennis court and supporting infrastructure and the South Stockton Active Hub as the Fern Bay residents use these facilities and there is a demonstrated nexus i.e., link between future development and need for infrastructure. For clarity, these projects are included in the proposed program to deliver the works schedule with locations for items referenced in the maps. No change is required to the Section 7.11 Development Contributions Plan in this respect as the contribution is collected in the Port Stephens LGA.

NSW Government Reforms

- 24 The NSW Government's plan to "fix the uncertainty of infrastructure contributions" continues with changes to the relevant planning legislation expected. The Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 (the Bill) was drafted and CN's submission raised concerns regarding the lack of detail to fully understand how the proposed amendments will impact on local funding. The Bill was referred to Portfolio Committee No. 7 – Planning and Environment for inquiry and report. Minister for Planning and Public Spaces, Rob Stokes stated that he "accepts its recommendation that the Bill only progress after the release of draft regulations and other material containing the details of reform implementation."

- 25 CN met with Department of Planning, Industry and Environment (DPIE) in September 2021. It is understood that there will be savings and transitional provisions to support current and fit for purpose development contributions plans that have been exhibited prior to further progression of reform implementation.

Affordability

- 26 The Plans will not impact the affordability of existing dwelling stock as contributions are only imposed on new development. Existing dwellings will account for almost 90% of all dwellings in our LGA in 2036 and hence the market price of the majority of dwellings will be unaffected by development contributions.
- 27 In relation to new dwelling stock, the following is an extract from the 2021 Productivity Commission Report (p33):
"Contributions do not necessarily add to the final price of new housing. The maximum price achievable for a new apartment or dwelling will be determined to a large degree by the broader housing market, with consideration of the unique characteristics of the property and its location. When a contribution is levied, to the extent that the broader housing market and characteristics of the dwelling are no different, the maximum price achievable for the dwelling would remain unchanged."
- 28 CN has commenced work to develop a Housing Policy and an Affordable Housing Contributions Scheme in accordance with State Environmental Planning Policy 70 – Affordable Housing which permits Councils to prepare a scheme to collect contributions for affordable housing over and above those contributions CN collects under its development contributions plans.

FINANCIAL IMPACT

- 29 The total infrastructure requirements to meet the needs of future residents in the Newcastle LGA will be funded by a combination of developer contributions in accordance with the Section 7.11 Development Contributions Plan and Section 7.12 Development Contributions Plan and other sources consistent with normal practice.
- 30 Over the 15-year planning period, \$123.17 million of the Section 7.11 works schedule is considered attributable to new development, thus equating to expected Section 7.11 development contributions. It is also anticipated that Section 7.12 levies may be approximately \$32.25 million over the same period of time.
- 31 Subject to any prevailing Ministerial Direction, the Section 7.11 Development Contributions Plan and Section 7.12 Development Contributions Plan expressly authorise monetary contributions received to be pooled and applied (progressively or otherwise) for the purposes for which the contributions were made.

- 32 Any unspent Section 7.12 Development contributions received under the current Section 7.12 Development Contributions Plan will be rolled over and spent for the purpose for which they were collected, as those works have been transferred to the proposed Section 7.12 works schedule.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 33 The Section 7.11 Development Contributions Plan and Section 7.12 Development Contributions Plan are consistent with the following strategic directions of the Newcastle 2030 Community Strategic Plan:

Liveable Built Environment

- 5.4b Plan, provide and manage infrastructure that continues to meet community needs.

Open and Collaborative Leadership

- 7.1a Encourage and support long term planning for Newcastle, including implementation, resourcing, monitoring, and reporting.
- 7.2a Conduct CN business in an open, transparent, and accountable manner.
- 7.3a Provide opportunities for genuine engagement with the community to inform CN's decision-making.

IMPLEMENTATION PLAN/IMPLICATIONS

- 34 The 7.11 Development Contributions Plan and Section 7.12 Development Contributions Plan will be implemented in accordance with the EP&A Act and EP&A Regulation, including relevant practice notes issued by the DPIE.
- 35 CN is investigating online tools to improve usability of the system and transparency of information, particularly regarding identification of the purpose for which development contributions have been collected and the projects contributions will be spent on and when. This approach aligns with the NSW Government's objective for an easy-to-use and accountable framework through improved reporting, which is documented outside of the contributions plans themselves.
- 36 In accordance with the EP&A Regulation, CN will review the Section 7.11 Development Contributions Plan and Section 7.12 Development Contributions Plan as required to account for infrastructure delivered, changes in estimated costs or timing and/or significant changes in the underlying assumptions (eg a significant variance from the underlying population forecasts or a major shift in CN's infrastructure priorities).

RISK ASSESSMENT AND MITIGATION

- 37 Risk has been mitigated by adhering to relevant statutory requirements with respect to the preparation and approval of development contributions plans.
- 38 Separate accounting records are required under the EP&A Regulation. These include requirements to hold development contributions in restricted funds account/s, maintain contributions register and to disclose relevant information in annual financial statements.

RELATED PREVIOUS DECISIONS

- 39 At the Ordinary Council meeting on 24 August 2021, Council unanimously resolved to place the draft Section 7.11 Development Contributions Plan and draft Section 7.12 Development Contributions Plan on public exhibition for 28 days and receive a report on submissions received following the exhibition period.

CONSULTATION

- 40 Draft Development Contributions Plans are required, under the EP&A Act, to be public exhibited for a minimum of 28 days. The draft Section 7.11 Development Contributions Plan and draft Section 7.12 Development Contributions Plan were exhibited on CN's website and the NSW Planning Portal for 28 days between 27 August 2021 to 24 September 2021. A Fact Sheet including frequently asked questions was also included in the exhibition material. The Draft Contribution Plans were also reported in the Newcastle Herald following the issuing of a CN media release.
- 41 Formal notification and invitations were sent to key stakeholders to attend information sessions with CN staff. Information sessions were held with The Property Council of Australia, Urban Development Institute of Australia, University of Newcastle, Housing Industry Australia and Hunter and Central Coast Development Corporation. A meeting was also held with PSC's planning team and the draft Plans were shared with the Liveable Cities Advisory Committee.

BACKGROUND

- 42 CN's Section 7.12 Development Contributions Plan has been reviewed to ensure that contributions from future residential and non-residential development in the city (outside of the Western Corridor being Minmi, Fletcher, and Maryland) makes a reasonable contribution toward the cost of public amenities and services required to cater for those future populations. The review aimed to ensure that CN's Contributions Plans are guided by best practice principles and are simple, transparent, and easy to use. This approach aligns with the NSW Government's plan to improve the infrastructure contributions system.

- 43 By 2036, it is forecast that there will be an additional 23,740 residents with 11,520 new dwellings and other non-private residential accommodation in the Newcastle Local Government Area (LGA). Additionally, it is forecast there will be an additional 78,500m² retail floor space, 212,500m² commercial floor space and 121,000m² industrial floor area requiring new, augmented, or embellished transport and social infrastructure.
- 44 Development Contributions Plan are for the 2021 to 2036 planning period and align with relevant State Government planning strategies (Hunter Regional Plan and Greater Newcastle Metropolitan Plan) and CN strategies (Local Strategic Planning Statement and Employment Lands Strategy) guided by residential and employment forecasts prepared by .id (Informed Decisions) for CN.
- 45 There are two types of contributions under the Environmental Planning & Assessment Act 1979 (EP&A Act):
- i) Section 7.11 contributions - where there is a demonstrated link between the development and the infrastructure that the contribution is funding. The contribution rate is charged for residential accommodation (per dwelling / lot).
 - a) CN has an existing Section 7.11 Contributions Plan for the Western Corridor (Minmi, Fletcher, and Maryland). No changes are proposed to the existing Section 7.11 Plan for the Western Corridor.
 - ii) Section 7.12 contributions - where there does not need to be a demonstrated link between the development and the infrastructure funded from the contribution. The contribution rate is charged as a percentage of the estimated cost of the development.
 - a) CN has an existing Section 7.12 Contributions Plan for the entire LGA, including specific rates for the City Centre and Honeysuckle. This Plan will be repealed with unspent funds to be spent for the purpose for which they were collected.

OPTIONS

Option 1

- 46 The recommendations as at Paragraphs 1 – 3. These are the recommended options.

Option 2

- 47 Council resolves not to adopt the Section 7.11 Development Contributions Plan and Section 7.12 Development Contributions Plan. Due to the anticipated growth in the City of Newcastle and demand for essential infrastructure, this is not the recommended option.

REFERENCES

ATTACHMENTS

Item 102 Attachment A: Section 7.11 Development Contributions Plan

Item 102 Attachment B: Section 7.12 Development Contributions Plan

Item 102 Attachment C: Submissions Table

Item 102 Attachments A - C distributed under separate cover

ITEM-104 CCL 26/10/21 - ADOPTION OF THE 2020/21 ANNUAL FINANCIAL STATEMENTS

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER FINANCE

PURPOSE

To adopt City of Newcastle's (CN) 2020/2021 audited annual Financial Statements.

RECOMMENDATION

That Council

- 1 Receives and adopts CN's Financial Statements and accompanying notes, in respect of the year ended 30 June 2021, together with the Auditor's Report (**Attachment A**).

KEY ISSUES

- 2 CN's external Audit Report for the year ended 30 June 2021 was completed by the NSW Audit Office, who has issued an Unqualified Audit opinion for the 2020/21 financial year.
- 3 CN's financial position as at 30 June 2021 shows sound liquidity with net assets of \$1.758b.
- 4 CN's operating result from continuing operations for 2021/22 was a cash reserves funded deficit of \$4.350m compared with a forecast surplus of \$1.580m.
- 5 In 2020/21, CN delivered \$102.4m on works across the Newcastle LGA, compared with a spend of \$92.5m in 2019/20. The actual value delivered is inclusive of capital and operational expenditure. The highlights of the program were \$20.5m on Roads, including \$6.2m on Road Resurfacing, \$5.8m on Street Lighting, and \$4.8m on Road Rehabilitation; \$9.9m on parks, facilities and open space including \$5.3m on the No.1 Sportsground Redevelopment; \$7.7m on Stormwater including \$2.1m on Council St, Cooks Hill; \$7.1m on Urban Centre Revitalisation including \$2.2m on Joslin St, Kotara; \$5.5m on Coastal, Estuary and Wetlands including \$2.9m on protection structures at Barrie Crescent, Stockton; \$5.4m on Bathers Way; \$5.4m on Waste Management; \$4.5m on Fleet Replacement; \$4.4m on Smart City initiatives; \$3.5m on Core IT Systems; \$2.7m related to the Building Better Cities program; \$2.6m on the Art Gallery; \$2.5m on Pedestrian Access & Mobility initiatives; \$2.4m on the Merewether to Newcastle Cycleway; and \$2.1m on Libraries.

- 6 The 2021 financial result reflects significant economic factors from the on-going COVID-19 pandemic that caused the Australian economy to enter a recession for the first time in nearly 30 years. CN experienced lower than anticipated revenues as a result of restrictions affecting CN services and assets due to NSW Public Health Orders. In addition, Council approved additional expenditure for Phase II of the Community and Economic Resilience Package, including a boosted works program estimated to create up to 700 local jobs.
- 7 CN's operating result (before received grants and contributions for capital purposes) for 2020/21 was a cash reserves funded deficit of \$32.5m as compared to a budgeted deficit of \$22.7m.
- 8 CN received \$28.1m in grants and contributions for capital purposes in 2020/21.
- 9 Total revenue was \$340.5m or \$3.2m higher than budget.
- 10 Total operating expenditure was \$344.9m or \$9.1m higher than budget and \$39.9m higher than the 2019/20 actual expense. The increase in expenditure was mainly due to an increase in site remediation expenses for CN's former Astra Street landfill site of \$13.7m.
- 11 Prior to the pandemic, CN delivered net operating surpluses for six consecutive financial years. This reflects a positive pattern of financial performance, the commitment of CN to long term financial sustainability and the ability to generate annual funding to facilitate key objectives identified in Our Budget.
- 12 In 2020/21, CN outperformed the majority of benchmarks in the financial performance measures set by the Office of Local Government (OLG), including the own source operating revenue ratio, unrestricted current ratio, debt service cover ratio, rates and annual charges outstanding percentage and cash expense cover ratio. As a result of the operating deficit, CN was below the benchmark measure for the operating performance ratio.

FINANCIAL IMPACT

Operating Result

- 13 The operating result is calculated on a full accruals basis which means that all costs / income which relate to the current financial year are included irrespective of whether a cash inflow / outflow has been made or not.

14 To facilitate comparison, the Income Statement from the Financial Statements is reformatted and summarised below:

Line No		2020/21 (\$'000) Actual	2019/20 (\$'000) Actual
i)	Income from continuing operations	340,517	326,321
ii)	Expenses from continuing operations	(344,867)	(304,923)
iii)	Operating result from continuing operations	(4,350)	21,398
iv)	Net operating results for the year before grants and contributions for capital purposes	(32,462)	(3,619)

Analysis of the movement of individual line items from the table above are:

15 Line (i): Income from continuing operations

Represents an increase of \$14.2m on the 2019/20 revenue. Rates and annual charges income increased by \$8.5m arising from the Independent Pricing and Regulatory Tribunal approved rate peg of 2.6%, and increased subdivision activity in the LGA. Other increases were also evidenced in capital grants and contributions \$3.1m, other revenue \$1.7m, interest income \$1.6m, and operating grants and contributions \$1.0m. This was offset by a decrease in user charges and fees of \$1.5m and other revenues of \$173k.

16 Line (ii): Expenses from continuing operations

The 2020/21 expenditure represents an increase of \$39.9m on the 2019/20 result. This was largely due to increases in materials and services of \$21.9m, employee benefits and oncosts of \$10.3m, depreciation and amortisation of \$6.2m and net loss on disposal of assets of \$2.4m. All offset by a reduction in other expenses of \$787k and borrowing costs \$116k.

17 Line (iii): Operating result from continuing operations

This line reflects the operating result for the year and shows a decrease of \$25.7m on the equivalent 2019/20 result. This was due to an increase in income of \$11.1m as outlined in paragraph 14 offset by an increase in expenditure of \$39.9m as outlined in paragraph 15.

18 Line (iv): Net operating results for the year before grants and contributions for capital purposes

CN's operating result (before capital amounts) shows an operating deficit of (\$32.5m) for 2020/21, this is a decrease of \$28.8m from 2019/20.

19 Budget to actual comparison (Page 4 of the financial statements)

The budget displayed in the income statement on page 4 of the financial statements is the original budget as detailed in the 2020/21 'Our Budget' (2020/21 Delivery Program and Operational Plan) adopted at the Ordinary Council meeting held on 23 June 2020 and does not include the budgets for capital works in progress carried forward from 2019/20 or any other budget adjustments approved by Council at the quarterly budget reviews during 2020/21. The actual result shows a net deficit of (\$32.5m) against an original budget deficit of (\$22.7m).

20 The explanation of the key variances between actual and budget results is as follows:

- i) User charges and fees achieved lower than budgeted revenue through user charges of \$10.7m. The major drivers of the variance are Tipping fees at CN's waste management facility are \$8.2m unfavourable. In addition, the Newcastle Airport income was below budget due to significantly lower demand for domestic travel as a result of COVID-19 pandemic.
- ii) Capital grants and contributions favourably over budget by \$3.8m from contributions received by Newcastle Airport related to Hunter Defence Aerospace Zone.
- iii) Other income achieved a favourable result exceeding budget by \$3.9m, primarily due to a revaluation performed which resulted in a \$2.9m increment in the fair value of Council's investment properties.
- iv) Interest and investment revenue achieved higher than budgeted revenue by \$2.5m as Council's Long Term Growth Fund exceeded expectations with higher returns than expected from its "growth" assets.
- v) Materials and services exceeded budget by \$5.1m; the variance is due to the increased provision recognised for rehabilitation of Council's Waste Management sites of \$13.7m which was offset by lower-than-expected operational expenditure for Council's works program and reduced costs at Newcastle Airport.
- vi) Depreciation was \$4.9m over budget due to an increased cost base for assets as part of the 2020 revaluation and the increased scope of capital works program that has seen increased investment in assets with shorter than average useful lives.

- vii) Other expenses achieved a favourable outcome of \$4.8m under budget from lower NSW Government Waste Levy costs as a direct result of reduced commercial tipping volumes.
- viii) Net loss from disposal of assets of \$4.4m over budget was a result of write-off of existing assets due to renewal work completed on large long-life buildings within the city.

21 A high level analysis of material budget variations (above 10%) is shown in Note B5-1 of the Financial Statements.

Audited Key Performance Ratios

22 Note G4-1 on Page 86 of the Financial Statements details CN's key financial performance measures. Key variances are discussed below.

23 Operating Performance Ratio (8.16)%

This ratio measures a Council's achievement of containing operating expenditure within operating revenue. It is important to distinguish that this ratio focuses on operating performance and includes capital grants and contributions, fair value adjustments, net gains or losses on sale of assets, net shares of interests in joint venture and associates. The reversal of revaluation decrements are excluded. The benchmark is greater than 0%. **CN's performance in 2020/21 is below the benchmark ratio.** This is the result of Council's strategic decision to use cash reserves to stimulate the local economy via an increase in the works program of approximately \$30 million in response to the adverse impacts of COVID-19 on the Newcastle economy. It is estimated that more than 250 local jobs were created as a result of this decision.

24 Own source operating revenue ratio 86.31%

This ratio measures fiscal flexibility and the degree of reliance on external funding sources such as operating grants and contributions. CN's financial flexibility improves the higher the level of its own source revenue. **The benchmark is greater than 60% and CN has exceeded this benchmark.**

25 Unrestricted current ratio 2.23x

The unrestricted current ratio measures CN's ability to meet its obligations (current liabilities) using current assets. **The benchmark is greater than 1.5x and CN has exceeded this benchmark.**

26 Debt service cover ratio 3.15x

This ratio measures the availability of operating cash to service debt including interest, principal, and lease payments. **The benchmark is greater than 2x and CN has exceeded this benchmark.**

27 **Rates and annual charges outstanding ratio 3.91%**

This ratio assesses the impact of uncollected rates and annual charges on liquidity and the adequacy of recovery efforts. **The benchmark is less than 10% (for Councils classified as regional and rural) and CN has achieved this benchmark.**

28 **Cash expense cover ratio 6.62 months**

This liquidity ratio indicates the number of months a Council can continue paying for its immediate expenses without additional cash inflow. **The benchmark is greater than three months and CN has exceeded this benchmark.**

Financial Performance Measures

29 The Audit and Risk Committee has been proactive throughout the year in reviewing CN's financial position and commitment to continuing financial sustainability.

30 CN will continue to prudently manage its long-term financial sustainability in the midst of the COVID-19 pandemic, of which the economic impacts are forecast to continue throughout 2021/22.

COMMUNITY STRATEGIC PLAN ALIGNMENT

31 This report aligns to the Community Strategic Plan under the strategic direction of 'Open and collaborative leadership'. In particular 7.1b *Ensure long-term financial sustainability through short, medium and long-term financial planning.*

IMPLEMENTATION PLAN/IMPLICATIONS

32 The Financial Statements reflect the outcomes of actions, activities and projects contained in the 2020/21 Operational Plan and subsequent Quarterly Reviews which have been approved by Council.

RISK ASSESSMENT AND MITIGATION

33 Risk mitigation is achieved through:

- i) The *Local Government Act 1993* requires the Financial Statements to be externally audited. This audit has been completed by the NSW Audit Office, who has issued an Unqualified Audit opinion for the 2020/21 financial year.
- ii) Director, Financial Audit, the Audit Office of New South Wales provided a Report on the conduct of the audit and an Engagement closing to CN's Audit and Risk Committee on 7 October 2021.

RELATED PREVIOUS DECISIONS

- 34 The actual revenue and expenditure classifications and movements in assets and liabilities detailed in the Financial Statements are the outcomes of the strategic actions, activities and projects contained in CN's 2020/21 Operational Plan. These actions, activities and projects contributed to the delivery of Council's social, environmental, and economic objectives.
- 35 Council resolved the following at the Ordinary Council Meeting held on 27 July 2021:
- 1 *That Council notes the preparation of CN's Financial Statements for the year ended 30 June 2021 is underway and upon completion they will be referred to the CN's Auditors, NSW Audit Office, in accordance with Section 413 (1) of the Act.*
 - 2 *That Council authorises the Lord Mayor, a Councillor, the Chief Executive Officer, and the Responsible Accounting Officer to sign the Statements by Councillors and Management (Attachments A and B) in accordance with Section 413 (1) of the Act at the conclusion of the external audit.*

CONSULTATION

- 36 The Director Financial Audit, from The Audit Office of New South Wales provided a Report on the conduct of the audit and an Engagement closing report to CN's Audit and Risk Committee on 7 October 2021.
- 37 A presentation on the financial statements was held during a workshop to Council on 12 October 2021 and presented by CN management with Director Financial Audit of The Audit Office of New South Wales in attendance.
- 38 In accordance with the provisions of s.418, of the Local Government Act 1993 (as amended), public notice of the meeting date at which the CN's Financial Statements will be presented was on CN's website on 19 October 2021. Copies of CN's Financial Statements, together with the Auditor's Report, were available for inspection by members of the public from 19 October 2021 to 5 pm on 25 October 2021 at the Customer Enquiry Centre of the City Administration Centre. Written submissions can be lodged by 5pm close of business on 25 October 2021.
- 39 Following presentation of the Financial Statements to Council, copies will be available from the City Administration Centre or CN's website.

BACKGROUND

- 40 CN's Financial Statements in respect of the year ended 30 June 2021 have been prepared in accordance with:
- i) The Local Government Act 1993 (as amended) and the Local Government (General) Regulations 2005.

- ii) Australian Accounting Standards and professional pronouncements.
- iii) The Local Government Code of Accounting Practice and Financial Reporting (Guidelines); and
- iv) The Local Government Asset Accounting Manual.

OPTIONS

Option 1

41 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

42 Council resolves not to receive and adopt the presentation of CN's Financial Statements and Accompanying Notes, in respect of the year ended 30 June 2021, together with the Auditor's Report. This would result in CN not complying with the requirements of the Local Government Act 1993 (as amended). This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 104 Attachment A: City of Newcastle's Financial Statements

Item 104 Attachment A distributed under separate cover

ITEM-105 CCL 26/10/21 - TABLING OF REGISTER OF DISCLOSURES OF INTEREST - ANNUAL REPORT

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / ACTING MANAGER LEGAL

PURPOSE

To table the Register of Disclosures of Interest (Register) for the financial year 2020/2021 in accordance with the Codes of Conduct for Councillors, Staff, and Committee Members, Delegates of Council and Council Advisors, respectively (Codes of Conduct).

RECOMMENDATION

That Council:

- 1 Note the tabling of the Register of Disclosures of Interest (Register) (for the financial year 2020/2021) by the Chief Executive Officer (CEO).

KEY ISSUES

- 2 Councillors, the CEO, Executive Leadership Team, Audit and Risk Committee members, and staff who exercise functions that may give rise to conflicts of interest (Designated Persons), are required to disclose their personal pecuniary interests in a publicly available Disclosure of Interest (Disclosure). The Disclosures operate as a key transparency mechanism for promoting community confidence in Council decision making.
- 3 The Codes of Conduct require:
 - i) Councillors and designated persons to lodge a Disclosure in the prescribed form by 30 September each year.
 - ii) The CEO to table all lodged Disclosures at the first Ordinary Council Meeting held after the lodgment date; and
 - iii) The CEO to keep a Register which is accessible in accordance with the *Government Information (Public Access) Act 2009* (GIPA Act).

FINANCIAL IMPACT

- 4 There is no budget implication in tabling the Register.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 5 The tabling of the Register is consistent with the strategic directions of the Newcastle 2030 Community Strategic Plan, including:

Open and Collaborative Leadership

- 7.2a Conduct Council business in an open, transparent, and accountable matter.
- 7.3b Provide clear, consistent, accessible, and relevant information to the community.

Open and Transparent Governance Strategy

- 3.5 Open and transparent disclosures.

IMPLEMENTATION PLAN/IMPLICATIONS

- 6 Disclosures received from Councillors, the CEO, Executive Leadership Team, and Audit and Risk Committee members are made publicly available on CN's website. Disclosures of other Designated Persons may be accessed by the public on request in accordance with the GIPA Act.

RISK ASSESSMENT AND MITIGATION

- 7 Tabling and publication of Disclosures supports CN's Open and Transparent Governance Strategy and ensures CN complies with legislative requirements.

RELATED PREVIOUS DECISIONS

- 8 At the Ordinary Council meeting held on 27 October 2020, Council noted the tabling of the Register (for the period 1 July 2019 to 30 June 2020) by the CEO.

CONSULTATION

- 9 No consultation is required as this is a statutory process required under the Codes of Conduct.

BACKGROUND

- 10 Nil

OPTIONS

Option 1

- 11 The recommendation as at Paragraphs 1 and 2. This is the recommended option.

Option 2

- 12 Council does not adopt the recommendation. The Codes of Conduct require the Register to be tabled at a Council meeting. Failure to do so would constitute a breach of the Codes. This is not the recommended option.

REFERENCES

Codes of Conduct for Councillors, Staff and Council Committee Members, Delegates of Council and Council Advisors

<https://www.newcastle.nsw.gov.au/Council/Our-Responsibilities/Code-of-Conduct>

Model Code of Conduct for Local Councils in NSW: A Guide to Completing Returns of Interest

<https://www.olg.nsw.gov.au/wp-content/uploads/Model-Code-of-Conduct-Completing-returns-of-interest.pdf>

OLG Circular 19-21 Release of IPC Guideline 1 Returns of Interests

<https://www.olg.nsw.gov.au/council-circulars/19-21-release-of-ipc-guideline-1-returns-of-interests/>

ATTACHMENTS

Item 105 Attachment A: Register of Disclosures of Interest to be tabled

ITEM-106 CCL 26/10/21 - PUBLIC EXHIBITION OF THE DRAFT ALCOHOL REGULATED AREAS

REPORT BY: STRATEGY & ENGAGEMENT
CONTACT: INTERIM DIRECTOR STRATEGY & ENGAGEMENT / MANAGER COMMUNITY, STRATEGY & ENGAGEMENT

PURPOSE

To place proposed amendments to Alcohol Regulated Areas on public exhibition.

RECOMMENDATION

That Council:

- 1 Place the proposed amendments to Alcohol Free Zones (AFZ) and Alcohol Prohibited Areas (APA), collectively termed Alcohol Regulated Areas (ARA) at **Attachment A**, on public exhibition for 30 days.

KEY ISSUES

- 2 The proposed amendments to the ARA include the following:
 - i) Re-establishment of City of Newcastle's (CN) ARA network for a four-year term (to 2025).
 - ii) Apply a precinct-based approach for the Newcastle local government area's (LGA) larger ARAs, with boundaries spanning several public streets/roads. For these areas, this would replace the current individual street/place-based allocation of zones and areas.
 - iii) Ensure precinct perimeters are aligned to licensed premises and reflect alcohol related crime hotspots as identified by NSW Bureau of Crime Statistics and Research (BOCSAR). This will ensure an evidence-based approach to the selection of ARAs.
 - iv) Map all CN beaches, ocean baths and skateparks as APAs.
 - v) The proposed ARA network will include CBD East, West and Central; Darby Street and Cooks Hill; Stockton (south, adjacent harbour); Beaumont Street Hamilton and Hamilton South; and Mayfield and Wallsend main streets.
 - vi) Facilitate opportunities for picnicking by adopting timed restrictions prohibiting the public consumption of alcohol from 8pm through to 8am for identified key picnic spots throughout the city.
 - vii) Improve clarity and consistency of ARA signage, and review signage locations. Ideally signs would include a map illustration of the zone and be installed at the entry to ARA precincts to reduce signage clutter.

FINANCIAL IMPACT

- 3 There is no financial impact from public exhibition of the proposed ARA network. Existing operational budget is available for ARA related costs, including signage.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 4 The proposed ARA amendment is consistent with the following strategic directions of the Newcastle 2030 Community Strategic Plan:

Vibrant, Safe and Active Public Places

- 3.3a Collaborate with local groups and services to address crime and safety issues.

Liveable Built Environment

- 5.2b Plan for an urban environment that promotes active and healthy communities.

Open and Collaborative Leadership

- 7.2c Establish collaborative relationships and advocate for local needs with all stakeholders.

IMPLEMENTATION PLAN/IMPLICATIONS

- 5 This review will be implemented and reported on in accordance with Newcastle After Dark Strategy (2018-2022): Action 1.6. Continue to coordinate collaborative approaches to managing alcohol related impacts in the city.

RISK ASSESSMENT AND MITIGATION

- 6 Under the Local Government Act 1993, AFZ are required to be reviewed within the four years of a Council term. This review ensures CN meets its statutory obligations.

RELATED PREVIOUS DECISIONS

- 7 At the Ordinary Council Meeting held on 24 November 2015, Council adopted the Alcohol Free Zones Renewal.

CONSULTATION

- 8 NSW Police Local Area Command (LAC) is a key stakeholder in development of the ARA network and have been involved in detailed consultation. LAC is supportive of the re-establishment of AFZs for a further four-year term, and more broadly, the ARA network proposed in this report.

BACKGROUND

- 9 Sections 642 and 632A of the *Local Government Act 1993* provide Local Councils with the power to establish an AFZ and APA, in locations where anti-social behaviour or crime has been linked to the public consumption of alcohol. An AFZ can be declared in any public road or car park and include the adjoining footpaths and nature strips. Approved outdoor dining areas are exempt from AFZ restrictions. APA can be declared in any CN managed park, reserve and/or beach. Once these zones and areas are established, the drinking of alcohol is prohibited at any or set times.
- 10 The object of an ARA is as an early intervention measure to prevent the escalation of irresponsible street drinking to incidents involving serious crime. They also aim to address alcohol related anti-social activity including disorderly behaviour in public places. They are tools best used as part of a broader strategy to manage alcohol related crime and anti-social behaviour.
- 11 An ARA also aids public perceptions of an area’s community safety and in turn contribute to local economic viability.
- 12 CN has approximately 170 existing AFZs and 37 existing APAs (outlined in **Attachment B**) which are enforced by the LAC.

OPTIONS

Option 1

- 13 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

- 14 Not endorse the recommendation as at Paragraph 1. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 106: Attachment A: Draft Alcohol Regulated Area Network

Item 106: Attachment B: Existing Alcohol Regulated Area Network

Item 106 Attachments A - B distributed under separate cover

ITEM-107 CCL 26/10/21 - TEMPORARY SUSPENSION OF ALCOHOL FREE ZONES

REPORT BY: STRATEGY AND ENGAGEMENT
CONTACT: INTERIM DIRECTOR STRATEGY AND ENGAGEMENT /
ACTING MANAGER MAJOR EVENTS AND CORPORATE
AFFAIRS

PURPOSE

To temporarily suspend the Alcohol Free Zones (AFZs) in the Newcastle Foreshore area for the purpose of two events in December 2021.

RECOMMENDATION

That Council:

- 1 Approves the temporary suspension of the AFZs in the eastern car park at Queens Wharf Hotel, Wharf Road Newcastle, from 6am to midnight on Saturday 11 and Sunday 12 December 2021 for the purpose of the event, QWH Presents Playback, subject to the organiser, Queens Wharf Hotel, meeting all necessary requirements of the Newcastle Police Local Area Command (LAC) and City of Newcastle (CN).
- 2 Approves the temporary suspension of the AFZs in Car Parks 1 & 2 Nobbys Beach, Wharf Road and Pasha Way Newcastle East , from 6am to midnight on Saturday 18 December 2021 for the purpose of the event, Lunar Electric 2021 subject to the organiser, Intensive Events Pty Ltd, meeting all necessary requirements of the LAC and CN.

KEY ISSUES

- 3 Section 645 of the *Local Government Act 1993* (Act) provides for Council, by resolution, to allow the temporary suspension of AFZs. The Act and Ministerial Guidelines on AFZs (February 2009) includes a requirement to seek Council's endorsement in liaison with the LAC. Consultation with the LAC has been undertaken by CN officers and will continue in the lead up to the events.

FINANCIAL IMPACT

- 4 Any CN costs associated with the suspension of AFZs are fully recovered from the event organiser.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 5 The temporary suspension of the AFZs for these events aligns with the following Community Strategic Plan direction:

Vibrant, Safe and Active Public Places

- (i) 3.1c Support and deliver cultural and community programs, events and live music.

IMPLEMENTATION PLAN/IMPLICATIONS

- 6 The responsibility of implementing the suspension of the AFZs lies with the event organiser, including the installation/removal of covers for all onsite regulatory signage. The sites will be inspected to ensure this requirement has been met under the standard operational management for these types of events.

RISK ASSESSMENT AND MITIGATION

- 7 The Event Authorisations issued by CN to the event organisers for the use of the related areas sets out relevant conditions and consents for the events.

RELATED PREVIOUS DECISIONS

- 8 Council has previously approved temporary suspensions of AFZs to allow music events to be held in the requested areas at the Ordinary Council Meetings of 28 November 2017 and 11 December 2018.

CONSULTATION

- 9 The Local Government (General) Regulation S117 and Foreshore Usage Policy determine consultation and notification requirements based on the duration, frequency and scale of events in the Newcastle Foreshore area.
- 10 Notification of the event at Queens Wharf Hotel will be delivered via a letterbox drop to residents and businesses in the local area which will include information about the AFZ.
- 11 Notification of Lunar Electric will be delivered via a letterbox drop to residents and businesses in local area. This notification will include information regarding the suspension of the AFZ and provide opportunity for feedback. A Public Lands Notice will also be posted on CN's website providing the opportunity for public comment.

BACKGROUND

- 12 The promoter of Lunar Electric 2021, Intensive Events Pty Ltd, is delivering the event in consultation with the Inter-agency Events Consultation Group (IECG) which includes LAC, Transport for NSW, NSW Health, Emergency Services and other stakeholder agencies.

OPTIONS

Option 1

13 The recommendation as at Paragraph 1-2. This is the recommended option.

Option 2

14 Council resolves not to support the temporary suspension of the AFZs for these two occasions. This is not the recommended option.

REFERENCES

ATTACHMENTS

Nil.

ITEM-108 CCL 26/10/21 - EXECUTIVE MONTHLY PERFORMANCE REPORT

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER FINANCE

PURPOSE

To report on City of Newcastle's (CN) monthly financial performance. This includes:

- a) Monthly financial position and year to date (YTD) performance against the 2021/22 Operational Plan as at the end of September 2021.
- b) Investment of temporary surplus funds under section 625 of the *Local Government Act 1993 (Act)*, submission of report in accordance with the Act and clause 212 of the Local Government (General) Regulation 2005 (Regulation).

RECOMMENDATION

That Council:

- 1 Receives the Executive Monthly Performance Report for September 2021 at **Attachment A**.

KEY ISSUES

- 2 At the end of September 2021 the consolidated YTD actual operating position is a surplus of \$3.5m which represents a positive variance of \$0.8m against the budgeted YTD surplus of \$2.7m. This budget variance is due to a combination of income and expenditure variances which are detailed in **Attachment A**. The total operating result from continuing operations for the full year is a surplus of \$14.955m (\$1.21m net operating result before capital items).
- 3 The net funds generated as at the end of September 2021 is a surplus of \$8.7m (after capital revenues, expenditure and loan principal repayments). This is a positive variance of \$2.5m to the YTD budgeted surplus position of \$6.2m. This is primarily due to a timing variance in the delivery of CN's works program with a delay in the spend of project expenditure (both capital and operational expenditures).
- 4 CN's temporary surplus funds are invested consistent with CN's Investment Policy, Investment Strategy, the Act and Regulations. Details of all CN funds invested under section 625 of the Act are provided in the Investment Policy and Strategy Compliance Report (section 4 of **Attachment A**).

FINANCIAL IMPACT

- 5 The variance between YTD budget and YTD actual results at the end of September 2021 is provided in the Executive Monthly Performance Report.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 6 This report aligns with the following strategic directions of the Newcastle 2030 Community Strategic Plan:

Open and collaborative Leadership

- 7.4b Ensure the management of Council's budget allocations and funding alternatives are compliant with Council policy and relevant legislation to ensure the long-term financial sustainability of the organisation.

IMPLEMENTATION PLAN/IMPLICATIONS

- 7 The distribution of the report and the information contained therein is consistent with:
- i) CN's adopted annual financial reporting framework,
 - ii) CN's Investment Policy and Strategy, and
 - iii) Clause 212 of the Regulation and section 625 of the Act.

RISK ASSESSMENT AND MITIGATION

- 8 No additional risk mitigation has been identified this month.

RELATED PREVIOUS DECISIONS

- 9 At the Ordinary Council Meeting held on 25 September 2018 Council adopted to receive an Executive Monthly Performance Report for July to May no later than one month after the month being reported as part of the annual financial reporting framework.
- 10 The Investment Policy Compliance Report included in the Executive Monthly Performance Report includes a specific confirmation in regard to compliance with Part E of the Investment Policy.

CONSULTATION

- 11 A monthly workshop is conducted with the Councillors to provide detailed information and a forum to ask questions.

BACKGROUND

- 12 The presentation of a monthly Executive Performance Report to Council and a workshop addresses the Council resolution for monthly reporting and exceeds the requirements of the Act.

OPTIONS

Option 1

- 13 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

- 14 Council resolves to vary the recommendations in the adoption of the report. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 108 Attachment A: Executive Monthly Performance Report –
September 2021

Item 108 Attachment A distributed under separate cover

ITEM-109 CCL 26/10/21 - TENDER REPORT - BIENNIAL CIVIL CONSTRUCTION AND MAINTENANCE HEAVY PATCHING - 2022/001T

**REPORT BY: INFRASTRUCTURE AND PROPERTY
CONTACT: ACTING DIRECTOR INFRASTRUCTURE AND PROPERTY /
MANAGER CIVIL CONSTRUCTION AND MAINTENANCE**

PURPOSE

To accept a tender for the provision of heavy patching to deliver road pavement repairs as required across the Newcastle Local Government Area (LGA).

Due to the estimated total value of the contract exceeding \$1 million, the Chief Executive Officer's delegation requires a resolution of Council to accept the tenders.

REASON FOR CONFIDENTIALITY

The confidential attachments have been classified confidential in accordance with the provisions of the *Local Government Act 1993* (Act) as follows:

- Section 10A(2)(d) of the Act provides that Council can close a meeting to consider commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.
- Section 10B(1)(a) and (b) of the Act provides that the discussion of the item in a closed meeting must only:
 - (a) include as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
 - (b) occur if the Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

GROUND FOR CLOSING PART OF THE MEETING

In respect to section 10D(2) of the Act, the grounds on which part of a meeting is to be closed for the discussion of the particular item must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. Accordingly, an appropriate resolution to proceed is required first.

MOTION TO PROCEED

The discussion of the confidential attachments take place in a closed session, with the press and public excluded, for the following reasons:

- A The matter relates to tenders for heavy patching (flexible pavement) for Contract No. 2022/001T.

- B It is contrary to the public interest to discuss tenders in an open meeting because the information provided to Council by tenderers is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the withholding of such information by tenderers. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in Council being the subject of litigation for breach of confidence.
- C The closed session involves only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.
-

RECOMMENDATION

- 1 At **Attachment A**.

KEY ISSUES

Tender

- 2 This tender provides for the delivery of contract pavement repair works required across City of Newcastle's (CN) local and regional road network, including works on state roads contracted to CN via the Road Maintenance Council Contract with Transport for NSW.
- 3 The tender provides for the following heavy patching options:
- i) deep lift asphalt patching,
 - ii) stabilised granular patching, and
 - iii) unbound granular patching.
- 4 The contract scope includes the removal of existing failed pavement, excavation, foundation treatment, and the placement of heavy patching materials to match surrounding road surface levels. Further, the provision of traffic control operations, and conformance testing is also included.

Contract Term

- 5 The contract period is two years with options in CN's favour for two further 12 month periods.

Advertising of Tenders

- 6 The tender was advertised in the Newcastle Herald on Saturday 7 August 2021, the Sydney Morning Herald on Tuesday 10 August 2021, and nationally on the Tenderlink website.

Tenders Received

- 7 Tenders closed at 2pm on Tuesday 31 August 2021. Tender submissions were received from:

- i) Accurate Asphalt & Road Repairs Pty Ltd,
- ii) ANA Industries Pty Ltd,
- iii) Ian Rich Asphalt Pty Ltd,
- iv) Mr Diggitt Pty Ltd,
- v) Plant Civil Pty Ltd, and
- vi) QC Asphalts Pty Ltd.

Evaluation Process

8 The tenders were assessed against the following criteria:

- | | |
|-----------------------------------|-----|
| i) Cost Estimate | 50% |
| ii) Physical Resources | 10% |
| iii) Previous Experience | 10% |
| iv) Quality & Environment | 10% |
| v) Workplace Health & Safety | 15% |
| vi) Supplier Diversity (locality) | 5% |

9 The tenders were assessed by a tender assessment panel consisting of the following CN officers: Contract Coordination Manager and two Civil Works Contract Supervisors.

10 The Contracts Management Unit provided probity for the tender evaluation in accordance with CN's Procurement Policy.

Recommended Tenderer

11 The recommended tenderers have been assessed as satisfying CN requirements as outlined in the tender documentation. Selected tenderers have demonstrated a capability to undertake the work to a high standard and provide the best value for money as determined by assessing their rates against common scenarios.

FINANCIAL IMPACT

12 The categories of works under this contract cover a range of budget line items. Funding is from the approved 2021/22 Our Budget and will be included in the draft 2022/23 budget.

- 13 The current estimated total expenditure under this contract for the two year period is \$4 million, which will be adjusted as required to fall within adopted budgets. A further \$2 million is anticipated for each of the 12 month optional extension periods. Project costs will be closely monitored to ensure budgets are not exceeded.
- 14 The proposed contracts are a standing offer arrangement. That is, costs to CN are only incurred when CN requests works during the contract period.

IMPLICATIONS

Policy Implications

- 15 This tender aligns with the following Newcastle 2030 Community Strategic Plan direction:

- 1.3 Safe, reliable, and efficient road and parking networks.

Environmental Implications

- 16 Tenderers will be required to implement strict environmental controls whilst engaged by CN. This includes control measures for the management of noise, air quality, vibration, and waste management. Tenderers have submitted their Environmental Management Plans as part of the tender process, and ongoing management against those plans will be undertaken by Civil Construction and Maintenance officers during the delivery of works.

Ecological Sustainability

- 17 The recommended tenderers have Environmental Management Systems that have been reviewed by CN, and to the best of CN's knowledge, have not been prosecuted for environmental offences, nor involved in any of the prescribed activities such as uranium mining, wood chipping, nuclear energy or timber harvesting.

IMPLEMENTATION

- 18 The contract will allow CN to undertake pavement patching and reconstruction works as required throughout the LGA. CN does not have the resources (staff, plant, equipment, or materials) required to undertake this work internally.

CONSULTATION/COMMUNICATION

- 19 Nil.

BACKGROUND

- 20 The recommendation provides CN with the option of accepting more than one tender. This is considered necessary to ensure that CN can obtain the services of a suitable, cost-effective contractor to meet CN's timeframes.

- 21 The calling of tenders was in accordance with the requirements of Section 55 of the Act. The process followed was in accordance with Part 7 of the Regulation. Council is required to accept tenders in accordance with clause 178 of the Regulation (see Options).

OPTIONS

Option 1

- 22 The recommendation as at **Attachment A**. This is the recommended option.

Option 2

- 23 Council defers a decision at this time to allow further consideration of the tenders received. This is not the recommended option.

Option 3

- 24 Council resolves not to accept any tender and invite fresh tenders. This is not the recommended option.

Option 4

- 25 Council resolves not to accept any tender and enter into negotiations with any party with a view to entering into a contract. Council must state a reason for this in its resolution. This is not the recommended option.

Option 5

- 26 Council resolves not to accept any tender and not proceed with the contract. Council must state a reason for this in its resolution. This is not the recommended option.

ATTACHMENTS

Attachment A: Confidential Recommendation

Attachment B: Confidential Tender Evaluation Matrix - Summary

(refer Confidential Ordinary Council Meeting Agenda 26 October 2021 for Item 109 Attachments A and B)

ITEM-110 CCL 26/10/21 - TENDER REPORT - NEWCASTLE OCEAN BATHS UPGRADE STAGE 1 - 2021/877T

REPORT BY: INFRASTRUCTURE AND PROPERTY
CONTACT: ACTING DIRECTOR INFRASTRUCTURE AND PROPERTY /
ACTING MANAGER ASSETS AND PROJECTS

PURPOSE

To accept a tender for the construction of the Newcastle Ocean Baths Upgrade Stage 1 in accordance with Contract No. 2021/877T.

Due to the estimated total value of the contract exceeding \$1 million, the Chief Executive Officer's delegation requires a resolution of Council to accept the tender.

REASON FOR CONFIDENTIALITY

The confidential attachments have been classified confidential in accordance with the provisions of the *Local Government Act 1993* (Act) as follows:

- Section 10A(2)(d) of the Act provides that Council can close a meeting to consider commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.
- Section 10B(1)(a) and (b) of the Act provides that the discussion of the item in a closed meeting must only:
 - (a) include as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
 - (b) occur if the Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

GROUND FOR CLOSING PART OF THE MEETING

In respect to section 10D(2) of the Act, the grounds on which part of a meeting is to be closed for the discussion of the particular item must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. Accordingly, an appropriate resolution to proceed is required first.

MOTION TO PROCEED

The discussion of the confidential attachments take place in a closed session, with the press and public excluded, for the following reasons:

- A The matter relates to tenders for the construction of the Newcastle Ocean Baths Upgrade Stage 1 for Contract No. 2021/877T.

- B It is contrary to the public interest to discuss tenders in an open meeting because the information provided to Council by tenderers is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the withholding of such information by tenderers. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in Council being the subject of litigation for breach of confidence.
- C The closed session involves only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.
-

RECOMMENDATION

- 1 At **Attachment A**.

KEY ISSUES

Tender

- 2 The tender is for the construction of Newcastle Ocean Baths Upgrade – Stage 1 pools, pumps, and promenades.

Contract Term

- 3 The contract term is 65 weeks with a defect liability period of 15 months.

Advertising of Tenders

- 4 The tender was advertised in the Sydney Morning Herald on Tuesday 24 August 2021, Newcastle Herald on Saturday 28 August 2021 and nationally on the Tenderlink website.

Tenders Received

- 5 Tenders closed at 2pm on Tuesday 28 September 2021. Tender submissions were received from:
- i) Belmadar Pty Ltd,
 - ii) Dalski Pty Ltd,
 - iii) Daracon Contractors Pty Ltd,
 - iv) Gongues Constructions Pty Ltd,
 - v) Lloyd Group Pty Ltd, and
 - vi) North Constructions & Building Pty Ltd.

Evaluation Process

6 The tenders were assessed against the following criteria:

- i) Price 34%
- ii) Previous Experience and Referees 24%
- iii) Contract Program and Methodology 17%
- iv) Management, Staff Resources and Sub-Contractors, and non WHS Management Systems 10%
- v) WHS Management Systems 10%
- vi) Supplier Diversity 5%

7 The tenders were assessed by a Tender Assessment Panel (Panel) comprising of City of Newcastle (CN) officers including two Project Managers and a Senior Project Planner. Management oversight was provided by the Acting Manager Assets and Projects. The Panel was selected based on experience and knowledge of the project.

8 The tender process utilised the services of an independent external probity advisor who was present during all Panel meetings in accordance with CN's Procurement Policy.

Recommended Tenderer

9 The recommended tenderer demonstrated a thorough understanding of the construction requirements, is a long-established construction company with a local workforce located at an office within the Newcastle Local Government Area (LGA), and regularly constructs projects with budgets in the tens of millions of dollars.

FINANCIAL IMPACT

10 The total estimated cost of this project, including the proposed contract amount, allowances for project management, contingency and other associated project costs is within the multi-year budgeted amount allocated for this project.

11 CN has received a \$3 million grant specifically for Stage 1 works, from the Public Spaces Legacy Fund managed by Infrastructure NSW.

IMPLICATIONS

Policy Implications

12 This project aligns with the following Newcastle 2030 Community Strategic Plan directions:

- i) Vibrant, Safe and Active Public Places,

- ii) Inclusive Community, and
 - iii) Liveable Built Environment.
- 13 The project will enable the implementation of CN's objectives in relation to the Newcastle Coastal Revitalisation Masterplan and the Bathers Way Public Domain Plan.

Environmental Implications

- 14 The recommended tenderer has demonstrated an ability to construct the works in a manner utilising best environmental management practices. The recommended tenderer also has an appropriate environmental policy.
- 15 The tenderer will be required to implement strict environmental controls whilst engaged by CN. This includes control measures for the management of noise, dust, chemicals, air quality, risk and waste management.

Social Implications

- 16 The project will deliver improved access for pedestrians, swimmers and other users of the pool, vastly improved facilities sensitively designed to complement the natural and built heritage of the coast that additionally encourages active and healthy lifestyles and meets the expectations of both the local community and visitors.
- 17 The project will provide long term social benefits for the precinct as a public recreational and social facility by:
- i) addressing the desire for the community to have a link between an inland, controlled pool and enjoying the open ocean in Newcastle,
 - ii) providing improved accessible community facilities for all users, and
 - iii) improving community and tourist access in accordance with the Newcastle Destination Management Plan.

Ecological Sustainability

- 18 The recommended contractor does not have a specific Ecological Sustainable Development policy in place. The recommended tenderer has however not been prosecuted for environmental offences, nor is it involved in any of the prescribed activities such as uranium mining, wood chipping, nuclear energy, or timber harvesting.

IMPLEMENTATION

- 19 Implementation of the recommendation will require the closure of the baths and adjacent carpark. During this closure the community will be able to access Merewether Ocean Baths or the inland swimming centres. The proposed construction programme has scheduled the closure of the baths in early 2022, to enable the summer season, and is scheduled to reopen in Autumn of 2023. The period of November 2021 to March 2022 would be used by the contractor

to undertake non site works, such as communications, preparation of management and construction plans along with procurement of items with long lead times.

- 20 Delivery of this project will be managed by internal resources.

CONSULTATION/COMMUNICATION

- 21 A communications campaign was implemented to raise awareness of the project and community engagement opportunities from 22 November 2019 until 1 March 2020. The aim of the campaign was to encourage active participation of residents in the Newcastle LGA. The estimated reach was over 916,500.
- 22 From early 2020 a Community Reference Group (CRG) was established with key stakeholders and nine community members from an expression of interest process, which received over 100 submissions. The CRG was presented with the engagement results and worked with CN staff to develop a preliminary concept then a final concept design by May 2021.
- 23 The final design was further developed via key input from CRG members, with four meetings and two working groups being held to inform the final deliverable.
- 24 Consultation with the community for Stage 2 (refurbishment of the Art Deco Pavilion) is ongoing.

BACKGROUND

- 25 Improving coastal infrastructure, access, and connectivity is a high priority for CN.
It is crucial to showcasing local beaches as an important asset for the community and visitors to enjoy.
- 26 Through the delivery of critical elements of community infrastructure, the upgrade of the Newcastle Ocean Baths, will have dynamic economic effects and stimulate growth in the regional economy, helping to further develop Newcastle as a regional economic hub.
- 27 In 2019/20, detailed structural assessments of the site highlighted the severe degradation of the pool and lower promenades. Upgrade works were recommended to commence as soon as possible, or the pools may need to be closed for public safety in the medium term.
- 28 In accordance with the Newcastle Coastal Plan of Management 2015, an expression of interest was undertaken at the end of 2019 seeking potential local partnerships to assist in upgrading the buildings and amenities. This was not successful, thus, CN committed to upgrade the site without assistance.

- 29 The overall project was successful in gaining funding of \$9.5 million from the sale of the Fred Ash Building in 2020 and is also the recipient of a \$3 million grant specifically for Stage 1 works, from the Public Spaces Legacy Fund managed by Infrastructure NSW.
- 30 The Project's key objectives are to:
- i) Protect the long-term future of the precinct as a public recreational and social facility,
 - ii) Improve accessibility for all users,
 - iii) Address infrastructure maintenance backlog and reduce ongoing maintenance costs,
 - iv) Improve access to the coast,
 - v) Provide improved community facilities for a variety of users,
 - vi) Address safety issues relating to existing infrastructure,
 - vii) Improve the appearance of the coastline facilities, while maintaining the character unique to the location,
 - viii) Improve the economic sustainability of Newcastle's Coastal Buildings, and
 - ix) Contribute to delivering several local, state, and federal strategic and policy objectives.
- 31 The project is located in an area which is significantly impacted by coastal processes. The existing pool decking and retaining walls have deteriorated significantly and detailed structural investigations have determined that these elements have very limited remaining service life and are not structurally adequate in the short term. Additionally, the existing pump system and supporting infrastructure such as pipework are significantly outdated and in very poor condition, resulting in frequent poor water quality, especially during warmer months. The project is required to suitably remediate the existing structure to maintain the pools as a community asset.
- 32 The calling of tenders was in accordance with the requirements of Section 55 of the Act. The process followed was in accordance with Part 7 of the Regulation. Council is required to accept tenders in accordance with clause 178 of the Regulation (see Options).

OPTIONS

Option 1

- 33 The recommendation at **Attachment A**. This is the recommended option.

Option 2

34 Council defers a decision at this time to allow further consideration of the tenders received. This is not the recommended option.

Option 3

35 Council resolves not to accept any tender and invite fresh tenders. This is not the recommended option.

Option 4

36 Council resolves not to accept any tender and enter into negotiations with any party with a view to entering into a contract. Council must state a reason for this in its resolution. This is not the recommended option.

Option 5

37 Council resolves not to accept any tender and not proceed with the contract. Council must state a reason for this in its resolution. This is not the recommended option.

ATTACHMENTS

Item 110 Attachment A: Confidential Recommendation

Item 110 Attachment B: Confidential Tender Evaluation Matrix - Summary

(refer Confidential Ordinary Council Meeting Agenda 26 October 2021 for Item 110 Attachments A and B)

- d. Service stations - incorporates best practice for the location of new service stations in the DCP or future revisions to the LEP, to ensure they are located on main roads only, not to be located in local or neighbourhood centres or off local roads.

BACKGROUND

Nil.

ATTACHMENTS

Nil.

ITEM-35 NOM 26/10/21 - CHARTER OF COMMITMENT HONESTY

**COUNCILLORS: D CLAUSEN, C DUNCAN, J DUNN, N NELMES, E WHITE
 AND P WINNEY-BAARTZ**

PURPOSE

The following Notice of Motion was received on Thursday 14 October 2021 from the abovenamed Councillors.

MOTION

That Council

- 1 Notes that the Commonwealth and NSW Government offer a Parliamentary Budget Office to all members to ensure that election commitments are properly costed;
- 2 Notes that unlike Parliamentary systems, all councillors (regardless of party affiliation) have equal access to Council budget documents and access to Council's Chief Financial Officer, Manager Finance and senior staff;
- 3 Notes that in 2012 the City's finances were described by a previous General Manager as heading towards insolvency;
- 4 Notes that responsible decisions by the current Council have led to the City of Newcastle's finances has been designated by the Office of Local Government as 'Financially Fit for the Future';
- 5 Notes that the City's finances are audited annually by the NSW Auditor General. The most recent audit opinions have confirmed a clean bill of health;
- 6 Establishes a City of Newcastle Charter of Budget Honesty for all candidates contesting the 2021 Local Government Election; and
- 7 Calls on all candidates contesting the 2021 Local Government Election to ensure any election commitment are properly costed, budgeted, or any new expenditure is offset by savings or additional revenue.

BACKGROUND

Nil.

ATTACHMENTS

Nil.

ITEM-36 NOM 26/10/21 - SIEV-X MEMORIAL PLAQUE

COUNCILLOR: J MACKENZIE

PURPOSE

The following Notice of Motion was received on Sunday 17 October 2021 from the abovenamed Councillor.

MOTION

That the City of Newcastle

- 1 Note with the sadness the 20th anniversary of the SIEV-X tragedy, when the SIEV-X sank on its way to Australia, resulting in the drowning of 146 children, 142 women and 65 men, on 19th October 2001.
- 2 Note the historical leadership of Newcastle Council on refugee and multicultural issues, including as the second city in Australia to declare itself a “refugee welcome zone” in 2004. Further, that Council note the recommitment to that declaration on 28 May 2015.
- 3 Install a commemorative plaque in remembrance of the SIEV-X at an appropriate foreshore location.

BACKGROUND

SIEV-X was the name assigned by Australian authorities to an Indonesian fishing boat carrying over 400 asylum seekers en-route to Australia, which capsized in international waters with great loss of life on 19 October 2001. SIEV-X is in fact a naval acronym, standing for Suspected Illegal Entry Vessel X – or unknown. SIEVX was not numbered by the navy, but instead denoted with the letter X - as the real name of the vessel is not known it has become the commonly referred name.

The sinking of the SIEV-X resulted in the loss of 353 lives: 146 children, 142 women, and 65 men. It was the greatest loss of life at sea in our region since World War 2.

At the time of this incident, directives from the Federal Government cast Australia’s commitment to the Safety of Lives at Sea Convention (SOLAS), and our commitment to humanitarian intervention generally, in doubt. On 20 February 2002, the Australian Senate Select Committee inquiring into 'A Certain Maritime Incident' undertook investigations into the "operational procedures observed by the Royal Australian Navy and by relevant Commonwealth agencies to ensure the safety of asylum seekers on vessels entering or attempting to enter Australian waters".

In relation to the SIEV-X tragedy, and Select Committee concluded that it was "extraordinary that a major human disaster could occur in the vicinity of a theatre of intensive Australian operations and remain undetected until three days after the event, without any concern being raised within intelligence and decision-making circles."

There have since been a number of memorials installed around Australia dedicated to the SIEV-X tragedy. The Administration on Christmas Island created such a memorial in 2004, and a permanent memorial has been installed in Weston Park Canberra since 2007.

The City of Newcastle as a maritime city has a proud history of rescuing those whose lives are endangered at sea, and of giving shelter to those who have come across the sea seeking sanctuary.

Installing a plaque to commemorate the SIEV-X disaster demonstrates a proactive commitment to being both a Refugee Welcome Zone and one that unequivocally supports the SOLAS Convention. It raises awareness and compassion for fellow human beings seeking to find a place to live safely and without fear, and encourages us to express that compassion.

ATTACHMENTS

The photos below are by Rebecca Cole Creating Cultural Memories of Asylum Seekers in Australia. PhD thesis. 2017 [Link](#), Note how the 'name rocks' are moved and refreshed by visitors. There have been no reports of vandalism.



