



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 10 December 2019

TIME: 5.30pm

VENUE: Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

J Bath
Chief Executive Officer

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

4 December 2019

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ORDINARY COUNCIL MEETING 10 December 2019
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CONTENTS

Item	Business	Page
	APOLOGIES/LEAVE OF ABSENCE	
	ORDERS OF THE DAY	
	DECLARATIONS OF PECUNIARY / NON PECUNIARY INTEREST	
	CONFIRMATION OF PREVIOUS MINUTES	5
	MINUTES - PUBLIC VOICE COMMITTEE 19 NOVEMBER 2019	5
	MINUTES - ORDINARY COUNCIL MEETING 26 NOVEMBER 2019	8
	LORD MAYORAL MINUTE	
	REPORTS BY COUNCIL OFFICERS	25
ITEM-93	CCL 10/12/19 - CODE OF CONDUCT STATISTICS REPORT	25
ITEM-94	CCL 10/12/19 - EMERGENCY MANAGEMENT CENTRE <i>(TO BE DISTRIBUTED UNDER SEPARATE COVER)</i>	
ITEM-95	CCL 10/12/19 - ADOPTION OF PROCUREMENT POLICY	32
ITEM-96	CCL 10/12/19 - AFFIXING COUNCIL SEAL TO DEEDS OF INDEMNITY FOR NEWCASTLE AIRPORT COMPANIES	36
ITEM-97	CCL 10/12/19 - ENDORSEMENT OF DRAFT LOCAL STRATEGIC PLANNING STATEMENT FOR EXHIBITION	39
ITEM-98	CCL 10/12/19 - EXHIBITION OF DRAFT SECTION 7.11 WESTERN CORRIDOR LOCAL CONTRIBUTIONS PLAN 2013	44
ITEM-99	CCL 10/12/19 - DRAFT AMENDMENT TO NEWCASTLE DCP 2012 - 233 WHARF ROAD AND 250 SCOTT STREET, NEWCASTLE	49
ITEM-100	CCL 10/12/19 - CLASSIFICATION OF COUNCIL LAND - HONEYSUCKLE DOMAIN PLAN	54
ITEM-101	CCL 10/12/19 - CLASSIFICATION OF COUNCIL LAND - 452 KING STREET, NEWCASTLE WEST	61
ITEM-102	CCL 10/12/19 - REVIEW OF S.355 COMMITTEES	64

CITY OF NEWCASTLE

Ordinary Council Meeting 10 December 2019

Page 4

NOTICES OF MOTION	69
ITEM-46 NOM 10/12/19 - LIVE MUSIC STRATEGY	69
ITEM-47 NOM 10/12/19 - SUBMISSION TO NATIONAL ENVIRONMENT LAW REVIEW	76
ITEM-48 NOM 10/12/19 - DEVELOPING A HEATWAVE AND HOMELESSNESS PROGRAM	82
REPORT ON NOTICE OF MOTION - NOM 10/12/19 - DEVELOPING A HEATWAVE AND HOMELESSNESS PROGRAM	84
ITEM-49 NOM 10/12/19 - BROADMEADOW LOCOMOTIVE DEPOT	87
REPORT ON NOTICE OF MOTION - NOM 10/12/19 - BROADMEADOW LOCOMOTIVE DEPOT	89
CONFIDENTIAL REPORTS	90
ITEM-12 CON 10/12/19 - CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW <i>(TO BE TABLED AT THE MEETING DUE TO THE LIMITED DISTRIBUTION OF THE REPORT)</i>	90

**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 - PUBLIC VOICE COMMITTEE 19 NOVEMBER 2019

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 191119 Public Voice Committee

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 Public Voice Committee Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street, Newcastle on Tuesday 19 November 2019 at 5.34pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen (arrived 5.36pm), C Duncan, K Elliott, B Luke, J Mackenzie, A Robinson, A Rufo and P Winney-Baartz.

IN ATTENDANCE

J Bath (Chief Executive Officer), K Liddell (Director Infrastructure and Property), D Clarke (Director Governance), B Smith (Director Strategy and Engagement), F Leatham (Director People and Culture), A Jones (Interim Director City Wide Services), E Kolatchew (Manager Legal), M Bisson (Manager Regulatory, Planning and Assessment), Joe Vescio (Executive Officer, Chief Executive Office), M Murray (Chief of Staff, Lord Mayor's Office), A Knowles (Council Services/Minutes) and K Sullivan (Council Services/Webcasting).

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.

APOLOGIES

MOTION

Moved by Cr Byrne, seconded by Cr Luke

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

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Nil.

PUBLIC VOICE SESSIONS

ITEM-1

PV 19/11/19 - DA2018/01301 - 59 DARBY STREET, COOKS HILL - DEMOLITION OF STRUCTURE, ERECTION OF SIX-STOREY MIXED USE DEVELOPMENT, INCLUDING COMMERCIAL, SERVICED APARTMENTS AND RESIDENTIAL APARTMENTS

CITY OF NEWCASTLE

Ordinary Council Meeting 10 December 2019

Page 7

Mr Allan McKinnon addressed Council and outlined concerns and objections to the development application.

Mr Patrick Quinlan, KDC Pty Ltd on behalf of the DA applicant and Mr John Markovic, JGM Investments addressed Council in support of the development application.

**ITEM-2 PV 19/11/19 - DA2003/2991.01 - 89 PARK AVENUE KOTARA
- MODIFY OUTSIDE CORE TRADING HOURS AND ACCESS**

Ms Kellie Shoesmith and Mr Craig Freedman addressed Council and outlined concerns and objections to the development application.

Ms Nicky Foster, Scentre Group and Mr Layne O'Neill, Scentre Group on behalf of the DA applicant addressed Council in support of the development application.

**ITEM-3 PV 19/11/19 - DA2019/00339 - 48-56 HUNTER STREET,
NEWCASTLE - ALTERATIONS AND ADDITIONS TO
COMMERCIAL BUILDING INCLUDING A FOUR BEDROOM
DWELLING (SHOP TOP HOUSING)**

Mr Eric Butler and Mrs Helen Butler addressed Council and outlined concerns and objections to the development application.

Mr Andrew Glen, Aviator Capital Pty Ltd and Mr Matthew Travis, SHAC on behalf of the DA applicant addressed Council in support of the development application.

The meeting concluded at 7.40pm.

MINUTES - ORDINARY COUNCIL MEETING 26 NOVEMBER 2019

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 191126 Ordinary Council Meeting 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

Ordinary Council Meeting 10 December 2019

Page 9

CITY OF NEWCASTLE

Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street, Newcastle on Tuesday 26 November 2019 at 5.30pm.

PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan, J Dunn, K Elliott (*arrived 5.32pm*), B Luke, J Mackenzie, A Robinson (*retired 9.08pm*), A Rufo (*retired 9.05pm*) and P Winney-Baartz.

IN ATTENDANCE

J Bath (Chief Executive Officer), D Clarke (Director Governance), K Liddell (Director Infrastructure and Property), F Leatham (Director People and Culture), A Jones (Interim Director City Wide Services), E Kolatchew (Manager Legal), S Moore (Acting Chief Financial Officer), M Bisson (Manager Regulatory, Planning and Assessment), L Duffy (Manager Parks and Recreation), S Gately (Manager Libraries and Learning), S Grierson (Manager Transport and Compliance), A Abbott (Manager Corporate and Community Planning), D Manderson (Manager Civil Construction and Maintenance), J Rigby (Manager Assets and Projects), D Moldrich (Manager Customer Experience), A Vine (Manager Property and Facilities), N Kaiser (Media and Stakeholder Relations Manager), E Dowswell (Media and Communications Advisor), K Arnott (Corporate Strategist), M Murray (Chief of Staff, Lord Mayor's Office), J Vescio (Executive Officer, Chief Executive Office), A Knowles (Council Services/Minutes) and K Sullivan (Council Services/Webcasting).

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.

MESSAGE OF ACKNOWLEDGEMENT

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

APOLOGIES

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Duncan

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

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke

Councillor Luke declared a less than significant non-pecuniary conflict of interest in Item 92 – Executive Monthly Performance Report – October as the item included the re-investment of Surplus Funds Report which mentions multiple financial institutions that he had dealings with in his business. The declaration is less than significant as he noted he was not involved in determining where funds are invested and was just receiving a report.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - PUBLIC VOICE COMMITTEE MEETING 8 OCTOBER 2019

MINUTES - ORDINARY COUNCIL MEETING 22 OCTOBER 2019

MOTION

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

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

Carried

LORD MAYORAL MINUTE

ITEM-24 LMM 26/11/19 - 2019 SUPERCARS NEWCASTLE 500

MOTION

Moved by Cr Nelmes, Lord Mayor

That City of Newcastle:

- 1 Declares Supercars Newcastle 500 2019 event another outright success, with over 154,000 people attending the event, and many local businesses reporting positive trading results, both in the lead up to the event, and right across the weekend;
- 2 Supports the Supercars Newcastle 500 event, noting the significant benefits the event brings to the City of Newcastle, and surrounding Local Government Areas, including positive business trade results and strong exposure of the City as a tourist destination to national and world-wide audiences;
- 3 Notes that businesses including Paymasters Café, East End Bar & Grill, Rosina's Pizza, 23Hundred Café, The Falcon Restaurant, Edmonds & Co, The Grand Hotel, the Great Northern Hotel and Bar Petite, all reported favourable business trading results throughout the event;
- 4 Thanks our City of Newcastle staff who worked or volunteered to ensure the success of the event, particularly those who worked with local businesses across the entire City Centre on the *Enjoy Newcastle* program, aimed at activating the Hunter Street Mall and Civic Park and surrounding precincts;

- 5 Thanks Ka-fey Café owner, Lucy Glover in particular, for collaborating with City of Newcastle staff to develop the *Enjoy Newcastle* program, which activated the Hunter Street Mall, and further supported trade throughout the weekend with activations including a pushcart challenge, live entertainment, pop-up shops, and local food and beverage offerings;
- 6 Notes that Newcastle Transport estimates that over 57,000 people utilised public transport services across the weekend choosing bus, ferry and light rail to travel to and from the Newcastle 500 event, with Newcastle Light Rail particularly popular with public transport users with over 28,800 people catching light rail to get to and from the event;
- 7 Notes that our City of Newcastle Community and Business Leaders fundraising event held at Fort Scratchley successfully raised more than \$27,000 for local domestic and family violence charities *Got Your Back Sista* and *Nova for Women and Children*;
- 8 Notes that the City's annual Community and Business Leaders fundraising events have now contributed over \$61,000 towards domestic and family violence research, advocacy and support since the inaugural Newcastle 500;
- 9 Congratulates Newcastle based artist Mitch Revs, for raising \$35,000 for those affected by the devastating bushfires across NSW, through the auction of a one-off artwork commissioned by Fox Sports, depicting the Newcastle 500 and promoted throughout the event.

AMENDMENT

Moved by Cr Church, seconded by Cr Mackenzie

- 10 Notes that the Supercars Newcastle 500 event comes with a significant cost to the East End residents who carry an unfair burden on behalf of the City and also a significant cost to the City of Newcastle.

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

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

Defeated

The Chair used the casting vote and declared the motion defeated.

AMENDMENT

Moved by Cr Clausen, seconded by Cr Winney-Baartz

- 10 City of Newcastle notes that the Supercars Newcastle 500 comes with an impost to the City of Newcastle and East End residents, and we reiterate our preference that local suppliers be used where possible.

The Lord Mayor, as mover of the motion, accepted the amendment from Councillors Clausen and Winney-Baartz.

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

For the Motion: Lord Mayor, Cr Nelmes and Councillors Byrne, Church, Clausen, Duncan, Dunn, Luke, Robinson, Rufo and Winney-Baartz.

Against the Motion: Councillors Elliott and Mackenzie.

Carried

ITEM-25 LMM 26/11/19 - AUSTRALIA'S GATEWAY CITIES REPORT LAUNCH

MOTION

Moved by Cr Nelmes, Lord Mayor

That City of Newcastle:

- 1 Notes that on Monday, 25 November 2019, City of Newcastle joined with City of Wollongong, City of Geelong, the Committee for Geelong, and the Minister for Population, Cities and Urban Infrastructure, the Hon. Alan Tudge MP to launch the *Australia's Gateway Cities: Gateways to Growth* report at Parliament House in Canberra;
- 2 Thanks our City of Newcastle staff for their collaborative approach to producing this report with our partners, including, City of Wollongong, the Committee for Geelong, City of Geelong, Deakin University, the University of Newcastle and the University of Wollongong;
- 3 Notes the significant recommendations of the report, including;
 - a. The further development of the shared interests between City of Newcastle, City of Wollongong and City of Geelong, as Australia's Gateway Cities;
 - b. Infrastructure development with Federal Government support to develop more accessible and sustainable transport connections for both passengers and freight;
 - c. Fostering Innovation and economic growth and diversification through fiscal rebalancing to unlock the latent potential of Australia's Gateway Cities;
 - d. Supporting strong and skilled workforces through integrated planning to identify future and emerging workforce skills, particularly for transitioning economies.

- 4 Commends these recommendations to the NSW Government, and the Commonwealth Government, and sends a copy of the report the Prime Minister, the Hon. Scott Morrison MP, Premier of NSW, the Hon. Gladys Berejiklian MP, Deputy Premier and Minister for Regional NSW, Industry and Trade, the Hon. John Barilaro MP, and Minister for Planning and Public Spaces, the Hon. Rob Stokes MP.

**Carried
unanimously**

REPORTS BY COUNCIL OFFICERS

ITEM-84 CCL 26/11/19 - TABLING OF DISCLOSURES BY DESIGNATED PERSONS - 1 AUGUST 2019 TO 31 OCTOBER 2019

MOTION

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

That Council:

- 1 Note the tabling of the pecuniary interest returns (for the period 1 August 2019 to 31 October 2019) by the CEO.

**Carried
unanimously**

ITEM-90 CCL 26/11/19 - SEPTEMBER QUARTERLY BUDGET REVIEW

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

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

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Luke, Mackenzie, Robinson, Rufo and Winney-Baartz.

Against the Motion:

Councillors Church and Elliott.

Carried

ITEM-91 CCL 26/11/19 - ENDORSEMENT OF SEPTEMBER QUARTERLY PERFORMANCE ON THE 2018-22 DELIVERY PROGRAM (OUR BUDGET 2019/20)

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Receives the September Quarterly Performance on the 2018-2022 Delivery Program, as per **Attachment A**.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Mackenzie, Robinson, Rufo and Winney-Baartz.

Against the Motion:

Councillors Church, Elliott and Luke.

Carried

ITEM-92 CCL 26/11/19 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Receives the Executive Monthly Performance Report for October 2019.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Luke, Mackenzie, Robinson, Rufo and Winney-Baartz.

Against the Motion:

Councillors Church and Elliott.

Carried

ITEM-83 CCL 26/11/19 - ADOPTION OF WARD BOUNDARY PLAN AMENDMENTS FOLLOWING PUBLIC EXHIBITION

MOTION

Moved by Cr Clausen, seconded by Cr Dunn

That Council:

- 1 Notes the submissions received during the public exhibition period (Attachment B);
- 2 Notes the Ward Boundary Plan as exhibited (Attachment A) has been amended in response to public submissions with the boundaries between Wards 1 and 2 and Wards 2 and 3 being amended as per the plan (Attachment C);

3 Adopts the amended Ward Boundary Plan as per the plan (Attachment C).

AMENDMENT

Moved by Cr Church, seconded by Cr Elliott

The boundary between Ward 1 and Ward 2 be amended to include all of Cooks Hill.

Councillor Church withdrew the amendment.

The motion moved by Councillor Clausen and seconded by Councillor Dunn was put to the meeting.

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

Against the Motion: Councillor Church.

Carried

ITEM-85 CCL 26/11/19 - ADOPTION OF THE 2020 COUNCIL MEETING CYCLE

MOTION

Moved by Cr Clausen, seconded by Cr Duncan

That Council adopts the following meeting schedule for 2020:

- 1 i) For the period February 2020 to May 2020 with meetings commencing at 6.00pm:

Week 1 – Tuesday	Advisory Committee (Quarterly as scheduled)
Week 2 – Tuesday	Councillor Workshops
Week 3 – Tuesday	Committee Meetings (as required): <ul style="list-style-type: none"> • Public Voice Committee • Briefings Committee • Development Applications Committee
Week 4 – Tuesday	Ordinary Council Meeting
Week 5 – Tuesday	No scheduled meetings

ii) For June 2020 with meetings commencing at 6.00pm:

Week 1 – Tuesday	Advisory Committee (Quarterly as scheduled)
Week 2 – Tuesday	Councillor Workshops Committee Meetings (as required): <ul style="list-style-type: none"> • Public Voice Committee • Briefings Committee • Development Applications Committee
Week 3 – Tuesday	No scheduled meeting due to National General Assembly Conference
Week 4 – Tuesday	Ordinary Council Meeting
Week 5 – Tuesday	No scheduled meetings

iii) For the period July 2020 to August 2020 with meetings commencing at 6.00pm:

Week 1 – Tuesday	Advisory Committee (Quarterly as scheduled)
Week 2 – Tuesday	Councillor Workshops
Week 3 – Tuesday	Committee Meetings (as required): <ul style="list-style-type: none"> • Public Voice Committee • Briefings Committee • Development Applications Committee
Week 4 – Tuesday	Ordinary Council Meeting
Week 5 – Tuesday	No scheduled meetings

iv) For September 2020 with the meeting commencing at 6.00pm:

Weeks 1 to 4 - Tuesday	No scheduled meetings due to Council Election
Week 5 – Tuesday (29 September 2020)	Ordinary Council Meeting

v) For the period October 2020 to November 2020 with meetings commencing at 6.00pm:

Week 1 – Tuesday	Advisory Committee (Quarterly as scheduled)
Week 2 – Tuesday	Councillor Workshops
Week 3 – Tuesday	Committee Meetings (as required): <ul style="list-style-type: none"> • Public Voice Committee • Briefings Committee • Development Applications Committee
Week 4 – Tuesday	Ordinary Council Meeting
Week 5 – Tuesday	No scheduled meetings

vi) For December 2020 with meetings commencing at 6.00pm:

Week 1 – Tuesday (1 December 2020)	Committee Meetings (as required): <ul style="list-style-type: none"> • Public Voice Committee • Briefings Committee • Development Applications Committee
Week 2 – Tuesday (8 December 2020)	Ordinary Council Meeting
Weeks 3 to 5 - Tuesday	No scheduled meetings

- 2 The location of all meetings will be City Hall until the completion of works at the City Administration Centre, 12 Stewart Avenue Newcastle West.
- 3 For the purposes of the Instruments of Delegation to the Lord Mayor and Chief Executive Officer, Council's 'Recess Period' commences at midnight on Tuesday 10 December 2019 and ceases at midnight Monday 10 February 2020.
4. Clarification that Advisory Committee meetings be held on 1st Tuesday as per original resolution
5. Extend the term of the four Strategic Advisory Committees beyond September 2020, without overriding their charters (ie Committees to continue into the next term of Council, with Councillor appointees from September 2020 only to be appointed following the 2020 election).

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

**Carried
unanimously**

ITEM-86 CCL 26/11/19 - MOREHEAD STREET, LAMBTON - UPGRADE OF PEDESTRIAN CROSSING SOUTH OF ELDER STREET

MOTION

Moved by Cr Clausen, seconded by Cr Rufo

That Council:

- 1 Approve the proposed upgrade of the existing pedestrian crossing on Morehead Street Lambton near Elder Street to a raised crossing with kerb extensions, as shown at **Attachment A**.

**Carried
unanimously**

ITEM-87 CCL 26/11/19 - ENDORSEMENT OF AMENDMENT TO NEWCASTLE LEP 2012 - CREATE NEW HERITAGE ITEM FOR PARKWAY AVENUE, NEWCASTLE

MOTION

Moved by Cr Duncan, seconded by Cr Elliott

1 That Council:

- i) Endorses the attached Planning Proposal (**Attachment A**), prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), to amend the NLEP 2012 to create a new heritage item for Parkway Avenue, Newcastle.
- ii) Forwards the Planning Proposal to the Minister for Planning for Gateway determination pursuant to Section 3.34 of the EP&A Act.
- iii) Consults with the community and relevant government agencies as instructed by the Gateway Determination.
- iv) Receives a report on the Planning Proposal following the close of the exhibition period.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Church, Clausen, Duncan, Dunn, Elliott, Luke, Mackenzie, Robinson, Rufo and Winney-Baartz.

Against the Motion:

Nil.

**Carried
unanimously**

ITEM-88 CCL 26/11/19 - ENDORSEMENT OF 2018/19 ANNUAL REPORT

MOTION

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

That Council:

- 1 Endorses CN's 2018/19 Annual Report, in respect of the year ended 30 June 2019 and notes the submission of the Report to the NSW Minister for Local Government by 30 November 2019.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Luke, Mackenzie and Winney-Baartz.

Against the Motion:

Councillors Church, Elliott and Rufo.

Carried

Councillor Robinson was absent from the chamber when the vote was taken on this item.

ITEM-89 CCL 26/11/19 - DIGITAL LIBRARY, NEWCASTLE

MOTION

Moved by Cr Duncan, seconded by Cr Clausen

That Council:

- 1 Resolves to build the Digital Library as shown in the Level 1 plan and renders as at **Attachment A**.

PROCEDURAL MOTION

Moved by Cr Church, seconded by Cr Rufo

Lay this matter on the table pending the outcome of the Library Infrastructure Plan.

Defeated

The motion moved by Councillor Duncan and seconded by Councillor Clausen was put to the meeting.

For the Motion:

Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Elliott, Luke, Mackenzie, Robinson, Rufo and Winney-Baartz.

Against the Motion:

Councillor Church.

Carried

NOTICES OF MOTION

ITEM-41 NOM 26/11/19 - CITY OCEAN BATHS REDEVELOPMENT COMMUNITY CONSULTATION

MOTION

Moved by Cr Clausen, seconded by Cr Duncan

That City of Newcastle:

- 1 Receives community petitions regarding the Expressions of Interest (EOI) process regarding the redevelopment of Newcastle and Merewether Ocean Baths, noting that some petitions contain inaccurate information;
- 2 Notes City of Newcastle's commitment and significant capital investment into coastal revitalisation which to date has delivered more than \$40 million in public improvements and infrastructure renewal¹;
- 3 Notes that Newcastle Ocean Baths and Merewether Ocean Baths pavilions requires significant investment to provide an upgrade befitting these iconic public facilities, despite ongoing investment into capital works and maintenance by City of Newcastle;

- 4 Reiterates that the City of Newcastle has no plans to privatise Newcastle or Merewether Ocean Baths, noting that City of Newcastle is Crown Land Manager of both sites for the Crown Lands Division of the NSW Government, and that under legislation, leases may only be entered into for a maximum period of 21 years;
- 5 Notes that EOI investigations are being undertaken in accordance with the City of Newcastle's adopted Newcastle Coastal Plan of Management 2015;
- 6 Commits to retaining the iconic art-deco façade of Newcastle Ocean Baths, as well as the famous bleacher seating, while improving public amenity by providing improved shade, car parking, disability access, seating, and paving as well as new public change rooms with hot water showers;
- 7 Notes that previous community consultation in 2014 received 550 responses regarding visitation and usage, recommended improvements and preferred commercial or development opportunities at the site; and
- 8 Conducts on-going community consultation with Ocean Baths users and the broader community to help guide future upgrades at Newcastle and Merewether Ocean Baths.

Councillor Clausen tabled a petition "Protect Newcastle Ocean Baths' beautiful Heritage façade and improve our public facilities" on this item.

Councillor Church tabled a link to a petition. The Lord Mayor advised Councillor Church that a hard copy of the petition was required under the Code of Meeting Practice and would need to be provided to Council on Wednesday 27 November 2019.

AMENDMENT

Moved by Cr Mackenzie, seconded by Cr Elliott

- 9 Suspends the call for Expressions of Interest to allow Council to conduct a community consultation with Ocean Baths users and the broader community to help guide future upgrades at Newcastle and Merewether Ocean Baths.

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

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

Defeated

The motion moved by Councillor Clausen and seconded by Councillor Duncan was put to the meeting.

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

Against the Motion: Councillors Church, Elliott, Mackenzie, Robinson and Rufo.

Carried

ITEM-42 NOM 26/11/19 - FASTER RAIL

MOTION

Moved by Cr Clausen, seconded by Cr Byrne

- 1 Reiterates its support for Faster Rail (that is, improving connectivity on the existing Newcastle/Central Coast rail line to reduce rail travel times between the Sydney and Newcastle CBD from 3hrs to at least 2hrs (travel speed of < 200km/hr), as an intermediate option to High Speed Rail (travel speeds of >250 km/hr));
- 2 Notes that the Commonwealth Government provided Transport for NSW with \$5.25m to deliver a business case to explore the Faster Rail option more fully, with a commitment that the business case would be available by mid-2019 **(Attachment A)**;
- 3 Notes its previous unanimous resolution of 24/07/2018 requesting that in addition to considering a 2-hour option, this business case should have also considered the viability of a Faster Train option of 70 minutes or less, based on the recommendations of the Committee for Sydney's Sandstone Megaregion report;
- 4 Writes to Infrastructure Australia and Transport for NSW seeking an update on this project, requesting that a copy of the business case be released publicly, and offering CN's continued advocacy to support the delivery of a Faster Rail connection between Sydney and Newcastle;
- 5 Notes the recent invitation from the Parliament of Australia's House of Representatives Standing Committee on Infrastructure, Transport and Cities to make a submission to the 'Inquiry Into Options for Financing Faster Rail' **(Attachment B)**;
- 6 Makes a submission, prior to the 6 December 2019 closing date, that
 - a notes the difficulty in providing requested feedback without a public business case;

- b requests consideration of financing options that ensure equity of access, minimise existing and future inequalities, and manage property speculation including general taxation and government borrowing (noting record low bond rates and existing calls from the Reserve Bank of Australia for increased Commonwealth investment in productive infrastructure) and value capture; and;
 - c notes the lessons from HS2 in the United Kingdom and the need for any Faster Rail or High Speed rail option to be coupled with an inter-regional economic development strategy to ensure that Newcastle does not become a dormitory outer suburb of Sydney; and
- 7 Separately, reiterates its advocacy for improved mobile and WiFi connectivity along the rail journey, and writes to Transport for NSW and the Minister for Transport seeking assurances that the new Inter City Fleet, which arrive in 2019 and 2020, will have its WiFi features enabled, noting discomfort at responses provided to recent Parliamentary Questions on Notice from Minister Constance stating that *“The New Intercity Trains will be WiFi enabled so that we’re in a position to make this feature operational should that decision be taken in the future.”*¹

**Carried
unanimously**

ITEM-43 NOM 26/11/19 - EVERY BUILDING COUNTS - A PRACTICAL PLAN FOR EMISSIONS REDUCTION IN THE BUILT ENVIRONMENT

MOTION

Moved by Cr Clausen, seconded by Cr Byrne

That the City of Newcastle:

1. Notes the release of the *‘Every Building Counts – A practical plan for emissions reduction in the built environment’* reports by the Property Council of Australia and Green Buildings Council Australia, launched by The Hon Angus Taylor MP, Federal Minister for Energy and Emissions Reduction, on 29 October 2019 (local government version of report at **Attachment A**).
2. Notes that CN is already implementing a number of the report’s key recommendations, including through the smart management of its own assets and infrastructure, through its endorsement of the Paris Agreement, Sustainable Development Goals and New Urban Agenda, its decision to source 100% of its electricity requirements from renewable sources from 1 January 2020, and its commitment to net zero emissions by at least 2050 (consistent with the target set by the adopted Greater Newcastle Metropolitan Plan).
3. Considers the report’s recommendations to expedite the delivery of Net Zero Emission Buildings as part of its the Local Planning Statement and review of the 2020 Carbon and Water Management Action Plan, currently underway.

4. Invites the Hunter Regional Director of the Property Council, Ms Anita Hugo and a representative of the Green Building Council of Australia to present to Council on the report and its recommendations at a briefing in early 2020.

As the time was nearing 9.30pm, the Lord Mayor called for an extension of meeting time.

PROCEDURAL MOTION

Moved by Cr Mackenzie, seconded by Cr Duncan

Extend the meeting to 9.40pm.

Carried

AMENDMENT

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

5. Writes to the NSW Minister for Planning and Public Spaces, The Honourable Rob Stokes, recommending the Report, and advocating for a review of BASIX and for amendments to the BASIX legislation to allow Local Governments and other consent authorities to apply development standards to residential buildings that may exceed the minimum required by BASIX.

Carried

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

Carried

ITEM-44 NOM 26/11/19 - DEFERRAL OF EXPRESSION OF INTEREST PROCESS FOR NEWCASTLE AND MEREWETHER BATHS

MOTION

Moved by Cr Elliott, seconded by Cr Church

That City of Newcastle:

- 1 Defer the EOI Process for the Newcastle and Merewether Ocean baths;
- 2 Undertake a comprehensive engagement process with the local community, in particular, those most impacted; and
- 3 Utilise the outcomes of the engagement process to better inform a future EOI process.

Councillor Dunn raised a point of order that the motion was out of order as it was a repeat motion.

The Lord Mayor ruled the motion out of order.

ITEM-45 NOM 26/11/19 - EXCLUDED - CITY CHANGE

This item was excluded in accordance with clause 21.5 of the Code of Meeting Practice which provides "The CEO must not include in the Agenda for any Meeting any business of which due notice has been given if, in the opinion of the CEO, the business is (or the implementation of the business would be) unlawful. The CEO must report any such exclusion to the Meeting. This item is excluded as, in the opinion of the Chief Executive Officer, the implementation of the resolution would be unlawful because it would disclose information that would breach commercial in confidence and confidentiality obligations to third parties.

The meeting concluded at 9.29pm.

REPORTS BY COUNCIL OFFICERS

ITEM-93 CCL 10/12/19 - CODE OF CONDUCT STATISTICS REPORT

REPORT BY: EXECUTIVE MANAGEMENT
CONTACT: CHIEF EXECUTIVE OFFICER / MANAGER LEGAL

PURPOSE

To report City of Newcastle's annual Code of Conduct Complaints statistics for the period 1 September 2018 to 31 August 2019 (the reporting period).

RECOMMENDATION

That Council:

- 1 Notes City of Newcastle's Code of Conduct Statistics Complaints Report for the period 1 September 2018 to 31 August 2019 at **Attachment A**.

KEY ISSUES

- 2 Clauses 11.1 and 11.2 of CN's Procedures for the Administration of the Code of Conduct (Procedures) requires the Complaints Coordinator (Manager Legal) to report the following to Council and the Office of Local Government for the period 1 September to 31 August each year:
 - (a) the total number of Code of Conduct complaints made about Councillors and the CEO under the Code of Conduct in the year to September;
 - (b) the number of Code of Conduct complaints referred to a Conduct Reviewer;
 - (c) the number of Code of Conduct complaints finalised by a Conduct Reviewer at the preliminary assessment stage and the outcome of those complaints;
 - (d) the number of Code of Conduct complaints investigated by a Conduct Reviewer;
 - (e) without identifying particular matters, the outcome of investigations completed under the Procedures;
 - (f) the number of matters reviewed by the OLG and, without identifying particular matters, the outcome of those reviews; and
 - (g) the total cost of dealing with Code of Conduct complaints made about Councillors and the CEO in the year to September, including staff costs.

FINANCIAL IMPACT

- 3 The total cost of dealing with Code of Conduct complaints, including staff costs, for the period 1 September 2018 to 31 August 2019, was \$10,530.

COMMUNITY STRATEGIC PLAN ALIGNMENT

4 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
- 7.4d Maintain a high-quality workforce that is committed to delivering on our communities' and Council's vision and goals

5 Open and Transparent Governance Strategy

- 2.1 Maintain a strong ethical culture and a high standard of conduct.

IMPLEMENTATION PLAN/IMPLICATIONS

- 6 Nil.

RISK ASSESSMENT AND MITIGATION

- 7 There is a risk to CN's reputation and public confidence in local government associated with Code of Conduct complaints and breaches of our Code of Conduct for Councillors and Code of Conduct for staff. Managing complaints in accordance with the Procedures for Administrative of the Code of Conduct mitigates risk.

RELATED PREVIOUS DECISIONS

- 8 On 11 December 2018, Council noted the annual report on Code of Conduct complaints for the period 1 September 2017 to 31 August 2018.

CONSULTATION

- 9 Nil.

BACKGROUND

- 10 CN's Code of Conduct for Councillors and Code of Conduct for staff and associated Procedures are consistent with the Model Code of Conduct for Local Councils in NSW produced by the Office of Local Government.

OPTIONS

Option 1

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

Option 2

12 Council does not receive and does not note the report. CN has a legislative obligation to lodge the report with the OLG. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 93 Attachment A: Annual report on Code of Conduct Complaints Statistics for the period 1 September 2018 to 31 August 2019.

Item 93 Attachment A: Annual report on Code of Conduct Statistics for the period 1 September 2018 to 31 August 2019

Office of Local Government

**Model Code of Conduct
Complaints Statistics**

Reporting Period: 1 September 2018 - 31 August 2019

Date Due: 31 December 2019

To assist with the compilation of the Time Series Data Publication it would be appreciated if councils could return this survey by 30 November 2019.

Survey return email address: codeofconduct@olg.nsw.gov.au

Council Name:	Newcastle City Council
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Contact Name:	Emily Kolatchew
Contact Phone:	(02) 4974 2143
Contact Position	Manager Lega
Contact Email	governance@ncc.nsw.gov.au

All responses to be numeric.

Where there is a zero value, please enter 0.

Enquiries: Performance Team
Office of Local Government
Phone: (02) 4428 4100
Enquiry email: olg@olg.nsw.gov.au

Model Code of Conduct Complaints Statistics Newcastle City Council			
Number of Complaints			
1	a	The total number of complaints received in the period about councillors and the General Manager (GM) under the code of conduct	5
	b	The total number of complaints finalised in the period about councillors and the GM under the code of conduct	1
Overview of Complaints and Cost			
2	a	The number of complaints finalised at the outset by alternative means by the GM or Mayor	1
	b	The number of complaints referred to the Office of Local Government under a special complaints management arrangement	0
	c	The number of code of conduct complaints referred to a conduct reviewer	4
	d	The number of code of conduct complaints finalised at preliminary assessment by conduct reviewer	1
	e	The number of code of conduct complaints referred back to GM or Mayor for resolution after preliminary assessment by conduct reviewer	0
	f	The number of finalised code of conduct complaints investigated by a conduct reviewer	0
	g	The number of finalised code of conduct complaints investigated by a conduct review committee	0
	h	The number of finalised complaints investigated where there was found to be no breach	0
	i	The number of finalised complaints investigated where there was found to be a breach	0
	j	The number of complaints referred by the GM or Mayor to another agency or body such as the ICAC, the NSW Ombudsman, the Office or the Police	0
	k	The number of complaints being investigated that are not yet finalised	3
	l	The total cost of dealing with code of conduct complaints within the period made about councillors and the GM including staff costs	10,530

Preliminary Assessment Statistics	
3	The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:
a	To take no action <input type="text" value="1"/>
b	To resolve the complaint by alternative and appropriate strategies <input type="text" value="0"/>
c	To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies <input type="text" value="0"/>
d	To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, the Office or the Police <input type="text" value="0"/>
e	To investigate the matter <input type="text" value="0"/>
f	To recommend that the complaints coordinator convene a conduct review committee to investigate the matter <input type="text" value="0"/>
Investigation Statistics	
4	The number of investigated complaints resulting in a determination that there was no breach , in which the following recommendations were made:
a	That the council revise its policies or procedures <input type="text" value="0"/>
b	That a person or persons undertake training or other education <input type="text" value="0"/>
5	The number of investigated complaints resulting in a determination that there was a breach in which the following recommendations were made:
a	That the council revise any of its policies or procedures <input type="text" value="0"/>
b	That the subject person undertake any training or other education relevant to the conduct giving rise to the breach <input type="text" value="0"/>
c	That the subject person be counselled for their conduct <input type="text" value="0"/>
d	That the subject person apologise to any person or organisation affected by the breach <input type="text" value="0"/>
e	That findings of inappropriate conduct be made public <input type="text" value="0"/>
f	In the case of a breach by the GM, that action be taken under the GM's contract for the breach <input type="text" value="0"/>
g	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 <input type="text" value="0"/>
h	In the case of a breach by a councillor, that the matter be referred to the Office for further action <input type="text" value="0"/>
6	Matter referred or resolved after commencement of an investigation under clause 8.20 of the Procedures and clause 7.20 of the new Procedures <input type="text" value="0"/>

Categories of misconduct	
7	The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:
a	General conduct (Part 3) <input type="text" value="0"/>
b	Conflict of interest (FMCC Part 4) and Non-pecuniary conflict of interest (NMCC Part 5) <input type="text" value="0"/>
c	Personal benefit (FMCC Part 5 / NMCC Part 6) <input type="text" value="0"/>
d	Relationship between council officials (FMCC Part 6 / NMCC Part 7) <input type="text" value="0"/>
e	Access to information and resources (FMCC Part 7 / NMCC Part 8) <input type="text" value="0"/>
Outcome of determinations	
8	The number of investigated complaints resulting in a determination that there was a breach in which the council failed to adopt the conduct reviewers recommendation <input type="text" value="0"/>
9	The number of investigated complaints resulting in a determination that there was a breach in which the council's decision was overturned following a review by the Office <input type="text" value="0"/>

ITEM-95 CCL 10/12/19 - ADOPTION OF PROCUREMENT POLICY

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER LEGAL

PURPOSE

To adopt the Procurement Policy.

RECOMMENDATION

That Council:

- 1 Adopts the Procurement Policy at **Attachment A**.
- 2 Authorises the Chief Executive Officer to make any administrative changes to the Policy, where necessary, to reflect changes in legislation or maintain business continuity for City of Newcastle (CN).

KEY ISSUES

- 3 CN's existing Procurement Policy has been updated to reflect changes in legislation, Council resolutions and recommendations from an internal audit review into procurement.
- 4 The updated Procurement Policy has the following key changes:
 - i) Adjustments to procurement thresholds to reflect recent changes in the Local Government Act 1993 (the Act), which now requires tenders to be called for contracts over \$250,000 in value (previously \$150,000).
 - ii) Supporting sustainable procurement, including in support of the UN Sustainable Development Goals.
 - iii) Ensuring CN meets its compliance obligations with the introduction of the new Commonwealth Modern Slavery Act 2018.
 - iv) Incorporating Council resolutions that require CN to give preference to purchasing from local businesses and Aboriginal-owned businesses.
 - v) Giving preference to purchasing from disability employment organisations, as required under the Act.
 - vi) Specifying mandatory assessment criteria for supplier diversity and work health and safety.
 - viii) Setting out clear roles and responsibilities and ensuring probity throughout the procurement process.

- 5 In accordance with section 55(1) of the Act, the Procurement Policy requires that the Elected Council consider tenders called by CN with a value of \$1M or greater.
- 6 Other than the requirement outlined at paragraph 5, all other CN procurement activities are undertaken at the organisational level. To reflect changes in legislation or ensure business continuity is maintained, the Chief Executive Officer will be authorised to make any administrative changes to the Policy. In such circumstances, the change in Policy should be communicated to Council via internal memo.
- 7 A worked example of how the new supplier diversity requirements in the Policy will be implemented in the tender assessment process is shown at **Attachment B**.

FINANCIAL IMPACT

- 8 There is no direct financial impact of the implementation of this Policy. The Policy will ensure CN obtains value-for-money in its procurement of goods, works and services whilst complying with legislative, governance and probity requirements.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 9 The Procurement Policy aligns with the Newcastle 2030 Community Strategic Plan.

Open and Collaborative Leadership

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

7.4a Continuous improvement in services delivery based on accountability, transparency and good governance.

IMPLEMENTATION PLAN/IMPLICATIONS

- 10 The Procurement Policy will be supported by purchasing procedures, as well as revised tendering and contracts procedures.

RISK ASSESSMENT AND MITIGATION

- 11 Adoption of the Procurement Policy will enable CN to comply with legislative changes, as well as allow CN to implement recent Council resolutions relating to procurement. In addition, the Policy will address risks identified in an internal audit review.

RELATED PREVIOUS DECISIONS

- 12 At the Ordinary Council Meeting held on 11 December 2018, Council resolved that CN give preference to purchasing from local businesses.
- 13 At the Ordinary Council Meeting held on 28 November 2017, Council resolved that CN give preference to purchasing from Aboriginal-owned businesses.

CONSULTATION

- 14 Internal consultation has been undertaken with all CN Service Units.
- 15 The Procurement Policy reflects recommendations from an internal audit review which were endorsed by CN's Audit and Risk Committee on 23 May 2019.

BACKGROUND

- 16 There has been a number of recent changes to the Local Government Act 1993, which impact of how CN procures goods, works and services. These changes include increasing the contract value threshold for calling tenders and a requirement to preference purchasing from disability employment organisations.
- 17 The Commonwealth Modern Slavery Act 2018 came into effect in 2019. This new legislation imposes obligations on organisations (like CN) to ensure that they do not purchase from companies that engage in the practice of modern slavery.

OPTIONS

Option 1

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

Option 2

- 19 Council does not adopt the Procurement Policy. This would result in CN operating with an outdated Policy that would not comply with legislation requirements and not address Council's own resolutions relating to procurement. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 95 Attachment A: Draft Procurement Policy – Under separate cover

Item 95 Attachment B: Worked Example of Tender Assessment – Under separate cover

Item 95 Attachments A and-B distributed under separate cover

ITEM-96 CCL 10/12/19 - AFFIXING COUNCIL SEAL TO DEEDS OF INDEMNITY FOR NEWCASTLE AIRPORT COMPANIES

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER LEGAL

PURPOSE

To enter into, and affix Council's seal to, Deeds of Indemnity for a newly appointed Director of Newcastle Airport Pty Limited (NAPL) and Greater Newcastle Aerotropolis Pty Ltd (GNAPL).

RECOMMENDATION

That Council:

- 1 Enter into, and affix Council's seal to the following:
 - i) Deed of Indemnity between Newcastle City Council and Port Stephens Council indemnifying Samantha Martin-Williams, Director of Greater Newcastle Aerotropolis Pty Ltd; and
 - ii) Deed of Indemnity between Newcastle City Council and Port Stephens Council indemnifying Samantha Martin-Williams, a Director of Newcastle Airport Pty Ltd;

on the grounds that the Deeds of Indemnity relate to the business of Council.

KEY ISSUES

- 2 City of Newcastle (CN) and Port Stephens Council (PSC) have jointly owned the Newcastle Airport since its establishment.
- 3 A new Director has recently been appointed to NAPL and GNAPL. By entering into the Deeds of Indemnity (Deeds), CN is protecting its interests in the event of a claim arising from liabilities and associated legal costs.
- 4 The affixing of Council's seal to the Deeds is a function that cannot be delegated to the Chief Executive Officer (CEO) and is exercised in accordance with Clause 400(4) of the Local Government (General) Regulation 2005 (NSW).

FINANCIAL IMPACT

- 5 There is no financial cost associated with Council's execution of the Deeds. In the event that a legal claim was ever made against a Director or Officer in their capacity as a Director of NAPL or GNAPL, it is expected that NAPL or GNAPL's (as the case may be) Directors and Officers Indemnity Insurance Policy would fully cover the financial costs of the claim as per its terms and conditions.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 Open and collaborative leadership:

7.1a Encourage and support long term planning for Newcastle, including implementation, resourcing, monitoring and reporting; and

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

IMPLEMENTATION PLAN/IMPLICATIONS

7 The Deeds will be executed subsequently by the other parties.

RISK ASSESSMENT AND MITIGATION

8 A deed is a common practice as it limits any potential risk that CN may be exposed to. Delays in executing the Deeds, including affixing the Council seal, exposes CN to potential litigation and financial costs.

RELATED PREVIOUS DECISIONS

9 At the Ordinary Council Meeting held on 23 July 2019, Council voted to enter into, and affix Council's seal to Deeds of Indemnity for newly appointed Directors of NAPL and GNAPL.

CONSULTATION

10 Not required.

BACKGROUND

11 Samantha Jane Martin-Williams was appointed a Director of NAPL and GNAPL on 18 October 2019.

OPTIONS

Option 1

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

Option 2

13 Council does not adopt the recommendation as at Paragraph 1. This is not the recommended option because it exposes CN to litigation and associated costs.

REFERENCES

ATTACHMENTS

Nil.

ITEM-97 CCL 10/12/19 - ENDORSEMENT OF DRAFT LOCAL STRATEGIC PLANNING STATEMENT FOR EXHIBITION

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER REGULATORY, PLANNING AND ASSESSMEN

PURPOSE

To endorse the draft Local Strategic Planning Statement (LSPS) and supporting reports for public exhibition.

RECOMMENDATION

That Council:

- 1 Place the draft Local Strategic Planning Statement (**Attachment A**), Housing Needs and Character Study Evidence Report (**Attachment B**) and Employment Lands Strategy (**Attachment C**) on public exhibition for 28 days.
- 2 Authorise the Chief Executive Officer to make minor amendments to the attached draft LSPS prior to public exhibition to reflect comments from Councillors and the Liveable Cities Advisory Committee.
- 3 Receive a report back to Council following public exhibition on the outcomes.

KEY ISSUES

- 4 The LSPS will guide our land use decisions over the next 20 years. It builds on the strategic directions of our Community Strategic Plan and brings together land use planning actions in other adopted City of Newcastle (CN) strategies. Once adopted, the LSPS will replace our Local Planning Strategy. The LSPS also gives effect to the State Government strategic directions for the Hunter region, outlined in the Hunter Regional Plan 2036 and the Greater Newcastle Metropolitan Plan 2036.
- 5 The LSPS establishes a land use planning vision and identifies 16 Planning Priorities. The LSPS will be implemented through the Newcastle Local Environmental Plan 2012 (NLEP 2012) and Newcastle Development Control Plan 2012 (NDCP 2012).
- 6 The Greater Newcastle Metropolitan Plan requires Councils to prepare a Local Housing Strategy (LHS) to set a clear plan for housing over the next 20 years. A detailed investigation has been undertaken into the local housing market and future needs. The Housing Needs and Character Evidence Report includes an examination of housing supply and demand, including demand for special needs housing; land opportunities and constraints, an overview of local character and capacity to provide new housing under existing planning controls.

- 7 The report found that CN has a sufficient supply of residential zoned land available to accommodate the forecast housing requirements in sheer numbers, but that additional strategic planning efforts and policy development are required to address 'supply gaps', particularly with respect to housing products for cohorts with specific needs including limited income households and people living with a disability or high care needs. There is also a need to enhance the 'lived experience' of Newcastle residents, with considerations for enhancing the quality and liveability of housing as this relates to overall cost of living, and local character. The evidence presented in this report will inform the LHS. An action of the draft LSPS is to prepare the LHS in the short term.
- 8 An updated Employment Lands Strategy has also been prepared as part of the draft LSPS. The Employment Lands Strategy contains several principles and actions. Key principles include:
 - i) Current projections show sufficient industrial land supply until after 2036, however, light industrial precincts and strategic industrial precincts (such as around the Port of Newcastle and in Beresfield) should be retained and protected.
 - ii) Remnant industrial sites should be considered for creative and artisanal employment uses.
 - iii) There is sufficient land zoned to accommodate retail demand, however, small increases could be considered in local centres to cater for increased population and demand. There should be flexibility in planning controls to allow centres to respond to a changing retail landscape.
 - iv) Commercial development should be concentrated in the Newcastle City Centre, particularly the West End.
- 9 The principles and actions of the updated Employment Lands Strategy will be included in the LSPS.

FINANCIAL IMPACT

- 10 The exhibition and finalisation of the draft LSPS will be undertaken by CN within current allocated work programs and budget. Implementation of the LSPS will require funding and this will be considered through the budget review process.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 11 The draft LSPS aligns with the strategies in the Community Strategic Plan. Each Planning Priority within the LSPS identifies how it aligns with the Community Strategic Plan.

IMPLEMENTATION PLAN/IMPLICATIONS

- 12 All regional Councils are required by the Environmental Planning and Assessment Regulation 2017 to have a LSPS in place by 1 July 2020.
- 13 The Environmental Planning and Assessment Act 1979 (EP&A Act) requires the LSPS to be reviewed at least every 7 years. However, as the LSPS and Community Strategic Plan are closely aligned, it is intended to review the LSPS concurrently with the Community Strategic Plan every four years.
- 14 Monitoring and reporting of the implementation of the LSPS will be through the Integrated Planning and Reporting Framework.

RISK ASSESSMENT AND MITIGATION

- 15 The draft LSPS has been prepared in accordance with the EP&A Act and the Department of Planning, Industry and Environment (DPIE) guidelines. Adherence to NSW legislation reduces risk in implementing the LSPS.

RELATED PREVIOUS DECISIONS

- 16 Nil.

CONSULTATION

- 17 The EP&A Act requires the draft LSPS to be exhibited for a minimum of 28 days. A comprehensive community engagement program will be developed to support the exhibition of the draft LSPS. It is intended public exhibition will commence in February 2020.
- 18 A comprehensive community consultation program was undertaken between the 11 August 2019 and 11 September 2019 to establish the vision for the LSPS and develop planning priorities. The program included:
 - i) Dedicated Have Your Say consultation webpage.
 - ii) Online vision, land-use and neighbourhood character survey.
 - iii) Social pinpoint map to identify great streets, places and neighbourhoods.
 - iv) Kids 'Big Picture' Drawing Activity with a map and template prepared by illustrator Liz Anelli.
 - v) Drop-in sessions at Wallsend Winter Fair, Tighes Hill TAFE, University of Newcastle NEWspace and the City Library.
- 19 Direct emails to key stakeholders, government agencies, community groups and local schools.

- 20 491 people participated in the vision, land-use and neighbourhood character survey. The largest age group to respond was the 16–19 age group with 73 participants. This part of the survey comprised four questions relating to transport, environment, housing and jobs.
- 21 Over 170 comments were pinned to the social pinpoint map to identify great streets, places and neighbourhoods. The key elements identified as contributing to great streets, places and neighbourhoods can be categorised as:
- i) Friendly people / sense of community
 - ii) Access to services and shops
 - iii) Lots of trees / green space
 - iv) The character of buildings
 - v) Low traffic.
- 22 Sixty one big picture drawings were completed, and these drawings generally align with the qualitative feedback received in the vision, land-use and neighbourhood character survey.
- 23 Eleven direct submissions were received during the engagement period. These submissions raised issues including the impacts of medium density development on local character and traffic in local streets and a request to reduce the minimum lot size of environmental zoned land at Black Hill.
- 24 In summary, the key issues identified through the engagement process are:
- i) Our community highly value:
 - a) the sense of community and opportunities for people to connect and engage in their streets and neighbourhoods
 - b) special places centred on our natural environment and open space areas such as Bathers Way and Blackbutt Reserve
 - c) our heritage and local character of different suburbs.
 - ii) Traffic in local streets and the loss of trees and gardens arising from medium and high density housing developments is a concern.
 - iii) People would choose to use active and public transport more often if there were more safe separated cycleways and better public transport.
 - iv) A greener urban environment with more trees and landscaping was consistently identified as a need in our neighbourhoods and City Centre.

- 25 Two staff workshops have been held with Council on the LSPS in March 2019 and October 2019 and by DPIE in September 2019.
- 26 The Liveable Cities Advisory Committee has had two briefings on the LSPS outcomes and provided feedback on the draft land use vision statement. Minor amendments may be made to the draft LSPS prior to public exhibition to address comments made by the Advisory Committee.
- 27 There has been regular contact with DPIE staff in the development of the draft LSPS. DPIE will assist in coordinating consultation with State agencies on the draft LSPS while it is on public exhibition.

BACKGROUND

- 28 In March 2018 amendments to the EP&A Act introduced new requirements for councils to develop an LSPS.
- 29 CN has had the equivalent of an LSPS since its first Urban Strategy was adopted in 1998. The current Local Planning Strategy was adopted by Council in 2015 and will be replaced by the LSPS. Newcastle Urbanism principles and strategic directions detailed in the Local Planning Strategy remain current and are consistent with the planning principles included in the LSPS.

OPTIONS

Option 1

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

Option 2

- 31 Council does not proceed with exhibition of the draft Local Strategic Planning Statement. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 97 Attachment A: Draft Local Strategic Planning Statement – Under separate cover

Item 97 Attachment B: Housing Needs and Local Character Study Evidence Report – Under separate cover

Item 97 Attachment C: Employment Lands Strategy – Under separate cover

Item 97 Attachments A to C distributed under separate cover

**ITEM-98 CCL 10/12/19 - EXHIBITION OF DRAFT SECTION 7.11
WESTERN CORRIDOR LOCAL CONTRIBUTIONS PLAN 2013**

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

PURPOSE

To exhibit the Draft Section 7.11 Western Corridor Local Infrastructure Contributions Plan 2013 (Draft Plan).

RECOMMENDATION

That Council:

- 1 Place the Draft Section 7.11 Western Corridor Local Infrastructure Contributions Plan 2013 (Draft Plan) (**Attachment A**) on exhibition for 28 days.
- 2 Receive a report back to Council to finalise the Draft Plan following exhibition.
- 3 Request the Minister for Planning and Public Spaces issue a revised Ministerial Direction to include the Planned Future Development Sites in Schedule 2 of the Ministerial Direction.

KEY ISSUES

- 4 Recent changes to the Environmental Planning and Assessment Act 1979 (EP&A Act) requires a review of the City of Newcastle's (CN) Development Contributions Plans. Development Contributions, previously known as Section 94 and 94A Development Contributions are now known as Section 7.11 and Section 7.12 Local Infrastructure Contributions.
- 5 CN's existing Section 94 Plan (Plan) that applies to residential development and lots in the Western Corridor (Minmi, Fletcher and Maryland) has been reviewed to:
 - i) Ensure consistency with changes to the EP&A Act. The name of the Plan has been changed to Draft Section 7.11 Western Corridor Local Infrastructure Contributions Plan 2013 (Update December 2019).
 - ii) Reflect short to medium term recommendations from the Western Corridor Traffic and Transport Study 2019, prepared by Bitzios Consulting (**Attachment B**) by updating traffic and transport infrastructure projects and associated costs identified in the current Plan. It is proposed that longer term projects are reviewed in five years. A new contribution amount was calculated and is reflected in the Draft Plan.

The figure is higher than the current amount due to the road network requiring significant upgrades to support growth and increased traffic movements.

- iii) Reflect recommendations from a review of social infrastructure projects and associated costs. A new contribution amount was calculated and is reflected in the Draft Plan. The main changes to the schedule include updated project costs and inclusion of a baseball facility, enclosed dog exercise area, a district level playground within the Western Corridor Plan Area as land is available and revised costs to deliver a co-located library within the proposed multipurpose community facility.
 - iv) Ensure mapping clearly identifies that Sanctuary Estate is covered under a Planning Agreement and is not included in the Draft Plan. No further contributions can be collected for this development site.
- 6 The contribution amount to deliver projects in the current Plan is \$13,646.75 per dwelling / lot (\$947.07 for traffic and transport and \$12,699.68 for social infrastructure) and \$6,572.81 for a senior's living development (\$222.97 for traffic and transport and \$6,349.84 for social infrastructure).
- 7 Delivery of the amended projects outlined in the revised Draft Plan requires a contribution of \$30,274.30 per dwelling / lot (\$11,707.40 for traffic and transport and \$19,566.90 for social infrastructure projects). The Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012 (Ministerial Direction) as amended (**Attachment C**) applies a threshold to monetary contributions levied under Section 7.11 for dwellings or residential lots. The threshold applying to CN is \$20,000. Schedule 2 of the Ministerial Direction sets a \$30,000 cap for greenfield areas.
- 8 Should the revised Plan be adopted, it is recommended that it notes that the total contribution figure of \$30,274.30 per lot / dwelling is the amount required to deliver the projects listed in the Plan, however, only \$20,000 will be collected as a contribution as this is the capped amount for residential lots / dwellings. It is recommended that upon finalising the Plan, CN writes to the Minister for Planning and Public Spaces requesting a revised Ministerial Direction, that includes the 'Future Planned Areas' identified in the revised Plan for inclusion in Schedule 2 so that \$30,000 per dwelling / lot can be collected towards delivering the projects required to support greenfield development. Part of this land, within Minmi is already shown as an Urban Release Area in the Newcastle Local Environmental Plan 2012 (NLEP 2012). The other sites, should they proceed into future planning proposals, would need to be mapped as Urban Release Areas in the NLEP 2012. The remainder of development, mostly infill, would remain at \$20,000 per lot / dwelling.
- 9 While the cap of \$20,000 remains in place, only \$20,000 can be collected within the Plan Area as a contribution toward the identified projects. Without a revised Ministerial Direction, all residential lots / dwellings will be capped at \$20,000, which will partly contribute towards delivery of the identified projects. All infill development will remain at \$20,000.

FINANCIAL IMPACT

- 10 The Draft Plan, if adopted, will collect additional infrastructure contribution levies over time, which will support the projects listed in the Plan.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 11 The Plan aligns with the following Community Strategic Plan Directions:

Integrated and Accessible Transport

- 1.1a Effective and integrated public transport
- 1.2 Linked networks of cycle and pedestrian paths
- 1.3 Safe, reliable and efficient road and parking networks

Inclusive Community

- 4.1 A welcoming community that cares and looks after each other
- 4.2 Active and healthy communities with physical, mental and spiritual wellbeing

Liveable Built Environment

- 5.1 A built environment that maintains and enhances our sense of identity
- 5.2 Mixed-use urban villages supported by integrated transport networks
- 5.4 Sustainable infrastructure to support a liveable environment

Open and Collaborative Leadership

- 6.1 Integrated, sustainable long-term planning for Newcastle and the Region
- 6.2 Considered decision-making based on collaborative, transparent and accountable Leadership
- 6.3 Active citizen engagement in local planning decision-making processes and a shared responsibility for achieving our goals
- 6.4 A local government organisation of excellence.

IMPLEMENTATION PLAN/IMPLICATIONS

- 12 The exhibition and implementation of the Draft Plan is in accordance with the EP&A Act and accompanying regulation and relevant Ministerial Direction (Local Infrastructure Contributions) 2012 as amended. The Act and Regulation identify the process and responsibilities for preparing, exhibiting and adopting an Infrastructure Contributions Plan. The revised contributions amount will assist in funding identified projects required to support the Plan. Should a higher contribution amount not be supported, there may be a shortfall in delivery of these projects or funding will need to be sourced from other mechanisms.

RISK ASSESSMENT AND MITIGATION

- 13 The Draft Plan has been prepared in accordance with relevant legislation, Ministerial Directions and Department of Planning and Environment (DPIE) Practice Notes and relevant Ministerial Direction. Adherence to the legislative framework reduces the risk to CN by ensuring local infrastructure funds are appropriately levied, collected, spent and accounted for in the correct manner.

RELATED PREVIOUS DECISIONS

- 14 The current version of the Plan (known as the Western Corridor Section 94 Contributions Plan 2013) was adopted by Council at the Ordinary Council Meeting held on 26 November 2013.

CONSULTATION

- 15 Consultation has occurred with relevant internal stakeholders. Public consultation will be undertaken during exhibition of the Draft Plan.
- 16 A Councillor workshop was held on 3 December 2019 to discuss the Draft Plan.

BACKGROUND

- 17 Since being adopted by Council in 2013, this is the first significant update to the Plan. Updated traffic modelling has been completed and a review of required social infrastructure has been undertaken.
- 18 The Draft Plan has been developed to ensure adequate local infrastructure can be provided to support the expected future residents. The current contributions amount is not sufficient to support existing and continued growth within the Western Corridor Plan Area.

OPTIONS

Option 1

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

Option 2

- 20 Council resolves not to exhibit the Draft Section 7.11 Western Corridor Local Infrastructure Contributions Plan 2013. This is not the recommended option.

REFERENCES

ATTACHMENTS

- Item 98 Attachment A:** Draft Section 7.11 Western Corridor Local Infrastructure Contributions Plan 2013 – Under separate cover
- Item 98 Attachment B:** Western Corridor Traffic and Transport Study, 2019 (prepared by Bitzios Consulting) – Under separate cover
- Item 98 Attachment C:** Relevant Ministerial - Direction Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012 as amended – Under separate cover

Item 98 Attachments A to C distributed under separate cover

ITEM-99 **CCL 10/12/19 - DRAFT AMENDMENT TO NEWCASTLE DCP 2012 - 233 WHARF ROAD AND 250 SCOTT STREET, NEWCASTLE**

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

PURPOSE

To place draft amendments to the Newcastle Development Control Plan 2012 (NDCP 2012) in relation to the former rail corridor (Parcel 12) and adjoining Council car park on public exhibition for a period of 28 days.

RECOMMENDATION

That Council:

- 1 Place the draft amendments to the NDCP 2012 (**Attachment A**) on public exhibition concurrently with the Planning Proposal for the subject land for 28 days.
- 2 Receive a report back to Council following public exhibition of the draft NDCP 2012 and Planning Proposal.

KEY ISSUES

- 3 Draft amendments to the NDCP 2012 have been prepared to guide future development on the deferred Parcel 12 in the former rail corridor and adjacent City of Newcastle (CN) car park and which is subject to a Planning Proposal. The land is proposed to be rezoned to SP3 Tourism. See site map and proposed zoning map at **Attachment B**.
- 4 The draft amendments are included as a new Key Precinct, "1. Multi-purpose Community Space", within section 6.01 Newcastle City Centre. The proposed Multi-purpose Community Space Precinct will sit between the Hunter Street Live-Work Units and Newcastle Station and Foreshore Park Key Precincts.
- 5 The Planning Proposal to rezone the site received Gateway Determination on 13 August 2019. Public Agency consultation has occurred with Hunter and Central Coast Development Corporation (HCCDC), Transport for NSW and Subsidence Advisory NSW as per the requirements of Gateway Determination.

- 6 Advice was received from Subsidence Advisory NSW that the site is within the Newcastle Mine Subsidence District and that there is a possibility that unmapped convict era mine workings may exist under site. Any future development of the site will require a geotechnical assessment and will be assessed on merit. This advice has been incorporated into the draft NDCP 2012 for the site.
- 7 The objectives of the draft NDCP 2012 are:
 - i) To provide a new community place and space for the Newcastle community.
 - ii) To promote views and connections to the harbour and Nobbys Headland from the City Centre.
 - iii) To promote active street frontages, provide pedestrian and visual links between city and harbour and encourage historical interpretation of the site.
- 8 City of Newcastle's (CN) Boat Harbour car park (included within the Planning Proposal and draft NDCP 2012) has potential archaeological significance and is identified as Item No. 1128 in the Newcastle Archaeological Management Plan 1997. In 1902 the Perkins Street small boat harbour was built to replace the 1857 Market Street Boat Harbour. In 1960 the Perkins Street Boat Harbour was closed and filled in to form the car park. The stone walls of the Perkins Street Boat Harbour (reused from Market Street Boat Harbour) might still survive beneath the bitumen car park or under the adjacent grass and footpaths.
- 9 In addition, Item No. 0193 in the Archaeological Management Plan 1997 refers to Private Coal Staithes, with any remaining evidence likely to be present in the area of Wharf Road.
- 10 The draft NDCP 2012 includes advice about the potential Archaeological sites and that excavation works will need to comply with relevant requirements under the Heritage Act 1997 and section 5.06 Archaeological Management of the NDCP 2012.

FINANCIAL IMPACT

- 11 Work will be undertaken by CN within the current allocated work program and budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 12 The Planning Proposal aligns with the following Community Strategic Plan Directions:

Liveable Built Environment

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

- 13 The implementation of the recommendation of this report will ensure that NLEP 2012 reflects the strategies and actions within Newcastle Urban Renewal Strategy.

RISK ASSESSMENT AND MITIGATION

- 14 Subsidence Advisory NSW advised that its records indicate historical mine workings in the Borehole Seam and that there is a possibility that unmapped convict era mine workings exist under the site. A geotechnical investigation will likely be required for any future development of the site. Should convict workings be encountered, it is likely that they will require remediation through grouting or similar to fill in voids left by mining.
- 15 There is a stormwater pipe running east-west under the CN car park. The draft NDCP 2012 contains provisions to ensure new buildings are not constructed over the stormwater pipe.

RELATED PREVIOUS DECISIONS

- 16 At the Ordinary Council meeting held on 26 March 2019, Council resolved to endorse a Planning Proposal for the site as follows:
 - i) Endorse the Planning Proposal to amend the NLEP 2012 to rezone and reclassify 233 Wharf Road Newcastle and rezone part 150A and part 150 Scott Street Newcastle (parcel 12).
 - ii) Forward the Planning Proposal to the Minister for Planning and Environment for Gateway Determination.

- iii) Receive a report back on the Planning Proposal following public exhibition and public hearing.
- 17 In the report to Council it was advised that a review of the NDCP 2012 was required and would be reported to Council separately for consideration.

CONSULTATION

- 18 Consultation with relevant State agencies has occurred in accordance with the Gateway Determination as part of the Planning Proposal. Subsidence Advisory NSW provided feedback within the 21 day consultation period. Public consultation may now occur on the Planning Proposal and CN will again contact the State agencies who did not respond during this period.
- 19 Should Council resolve to exhibit the draft NDCP 2012, it is intended that the Planning Proposal and amended NDCP 2012 be exhibited together to ensure the community understands the potential built form that will be permitted on the site.
- 20 Following public exhibition, a public hearing will be held regarding the proposal in the Planning Proposal to reclassify 233 Wharf Road Newcastle from Community to Operational Land. Persons who make submissions during the public exhibition period will be invited to attend the public hearing.
- 21 The Liveable Cities Advisory Committee was briefed on the Planning Proposal and draft NDCP 2012 on 2 December 2019.

BACKGROUND

- 22 At the Ordinary Council Meeting held on 27 September 2016, Council resolved to endorse a Planning Proposal for surplus rail corridor land between Worth Place and Watt Street Newcastle and to forward the Planning Proposal to the Minister for Planning and Environment for Gateway determination.
- 23 On 13 December 2016, Gateway determination was issued by the NSW Department of Planning and Environment (DPE).
- 24 The Gateway determination included several conditions, including the removal of Parcel 12 (Part 150 Scott Street Newcastle) from the Planning Proposal. DPE decided this parcel of land should be deferred until further investigations had been undertaken of the future use of CN's adjacent car park.
- 25 A DCP was also prepared by DPE for the City Centre which included guidelines for development of the former rail corridor. No specific guidelines were included for the deferred Parcel 12.

OPTIONS

Option 1

26 The recommendation as at Paragraph 1 – 2. This is the recommended option.

Option 2

27 Council resolves not to proceed with the exhibition of the Draft amendments to the NDCP 2012. This option would not provide the opportunity for the community to provide feedback on the proposal. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 99 Attachment A: Draft Newcastle Development Control Plan 2012 Section 6.01 Newcastle City Centre – Under separate cover

Item 99 Attachment B: Site map and proposed zoning map – Under separate cover

Item 99 Attachments A and B distributed under separate cover

ITEM-100 CCL 10/12/19 - CLASSIFICATION OF COUNCIL LAND - HONEYSUCKLE DOMAIN PLAN

REPORT BY: INFRASTRUCTURE AND PROPERTY
CONTACT: DIRECTOR INFRASTRUCTURE AND PROPERTY /
MANAGER PROPERTY AND FACILITIES

PURPOSE

To classify the properties (together called 'the Property') as listed at **Attachment A** as operational land pursuant to section 31 of the *Local Government Act 1993* (Act).

RECOMMENDATION

That Council:

- 1 Resolve to classify the following properties as operational land for the purposes of *the Local Government Act 1993*:
 - i) Lot 11 DP 1113925;
 - ii) Lot 109 DP 1015391;
 - iii) Lot 110 DP 1015391;
 - iv) Lot 2 DP 1167364;
 - v) Lot 32 DP 1136586; and
 - vi) Lot 7 DP 1137661.

KEY ISSUES

- 2 By Planning Agreement dated 10 March 2004, City of Newcastle (CN) agreed to accept the transfer of the Property from Hunter and Central Coast Development Corporation (HCCDC), being lands that HCCDC was required to provide as public access and/or as foreshore promenade by virtue of that agreement. The Property will transfer to CN during December 2019. Location maps are shown at **Attachment B**.
- 3 There are historic interests and rights granted by HCCDC encumbering the Property which will run with the title when transferred to CN. Further, some of the adjoining land has access agreements over the Property.
- 4 Despite HCCDC transferring the Property to CN, HCCDC has retained some obligations in the Property, in particular maintenance of certain sea walls.

- 5 In order to give effect to those interests and obligations, once the Property is transferred into the ownership of CN, our ability to deal with the land and maintain the current uses must be unfettered. By classifying the land as operational land, CN will have more flexibility with the Property.
- 6 HCCDC will require an easement to access parts of the Property. Without an easement, the Property will become land locked and HCCDC will be unable to comply with its maintenance obligations.
- 7 Part of the Property is a cycleway/footpath. Consistent with CN policy, cycleways/footpaths of this nature are classified as operational land.
- 8 If CN does not resolve to classify the Property as operational land either prior to acquisition or within three months of acquisition, it will be deemed to have been classified, under the Local Environmental Plan, as community land. This is not an appropriate classification for the Property for the reasons set out above.

FINANCIAL IMPACT

- 9 There will be no cost to CN as a result of the resolution.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 10 The decision to classify the Property as operational land aligns with the following Newcastle 2030 Community Strategic Plan directions:

Liveable Built Environment

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

IMPLEMENTATION PLAN/IMPLICATIONS

- 11 The Property will be classified as operational land in Council's land register. No Plan of Management will be required for the Property.

RISK ASSESSMENT AND MITIGATION

- 12 The main risk is failure to classify the Property as operational. This would result in an inappropriate classification of land that will be used in part for operational purposes.
- 13 There are no foreseeable risks associated with classifying the Property as operational.

RELATED PREVIOUS DECISIONS

- 14 At the Ordinary Council meeting held on 16 December 2003 Council considered a report regarding the Section 94 Deed of Agreement – Honeysuckle Development Corporation. Council resolved to authorise the General Manager to execute the draft Deed of Agreement and the Deed was made on 10 March 2004.

CONSULTATION

- 15 On 12 October 2019, public notification of the proposed resolution to classify the Property as operational land was given and 28 days was allowed for public submissions as required under Section 34 of the Act. No submissions have been received from the public.

BACKGROUND

- 16 See Key Issues.

OPTIONS

Option 1

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

Option 2

- 18 Council resolve not to classify the Property as operational land for the purposes of the Local Government Act 1993. This is not the recommended option.

REFERENCES

ATTACHMENTS

Item 100 Attachment A: Schedule of Properties

Item 100 Attachment B: Location Maps

CITY OF NEWCASTLE

Ordinary Council Meeting 10 December 2019

Page 57

Item 100 Attachment A – Schedule of properties

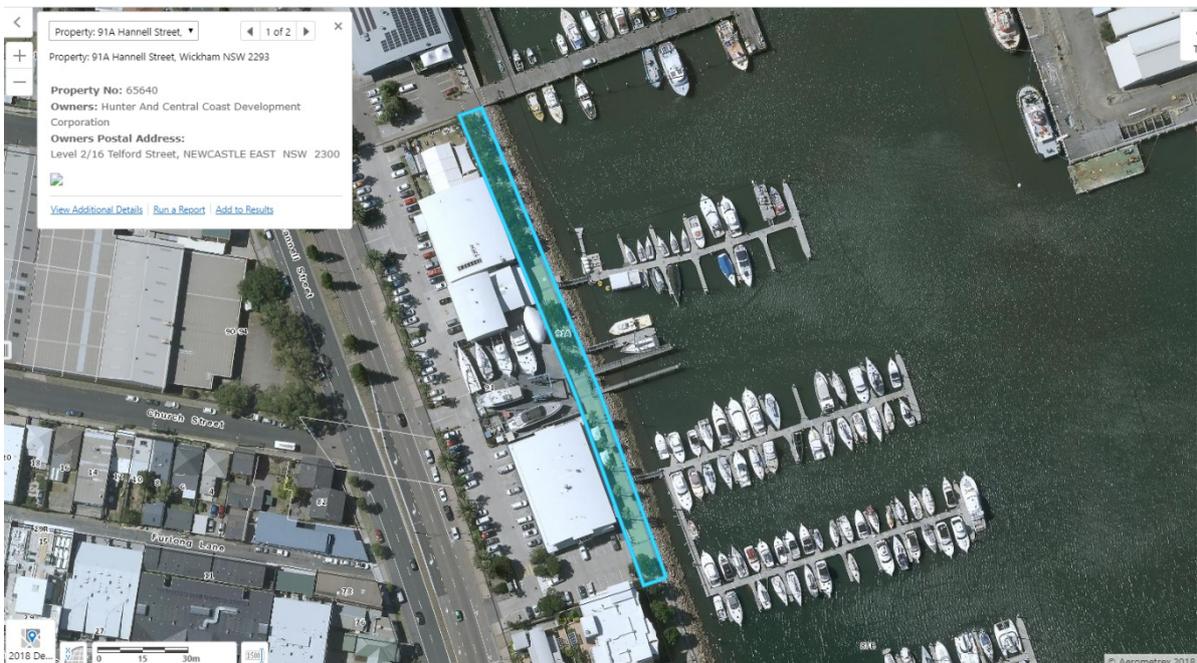
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103 Hannell Street, Wickham	Lot 11 DP 1113925	Wickham Waterfront Park
91A Hannell Street, Wickham	Lot 109 DP 1015391	Marina Promenade Lot 109
87A Hannell Street, Wickham	Lot 110 DP 1015391	Marina Promenade Lot 110
16 Worth Place, Newcastle	Lot 2 DP 1167364	Worth Place Park
13A Honeysuckle Drive, Newcastle	Lot 32 DP 1136586	Lee Wharf C Promenade
9 Honeysuckle Drive, Newcastle	Lot 7 DP 1137661	Honeysuckle Promenade

Item 100 Attachment B – Location Maps

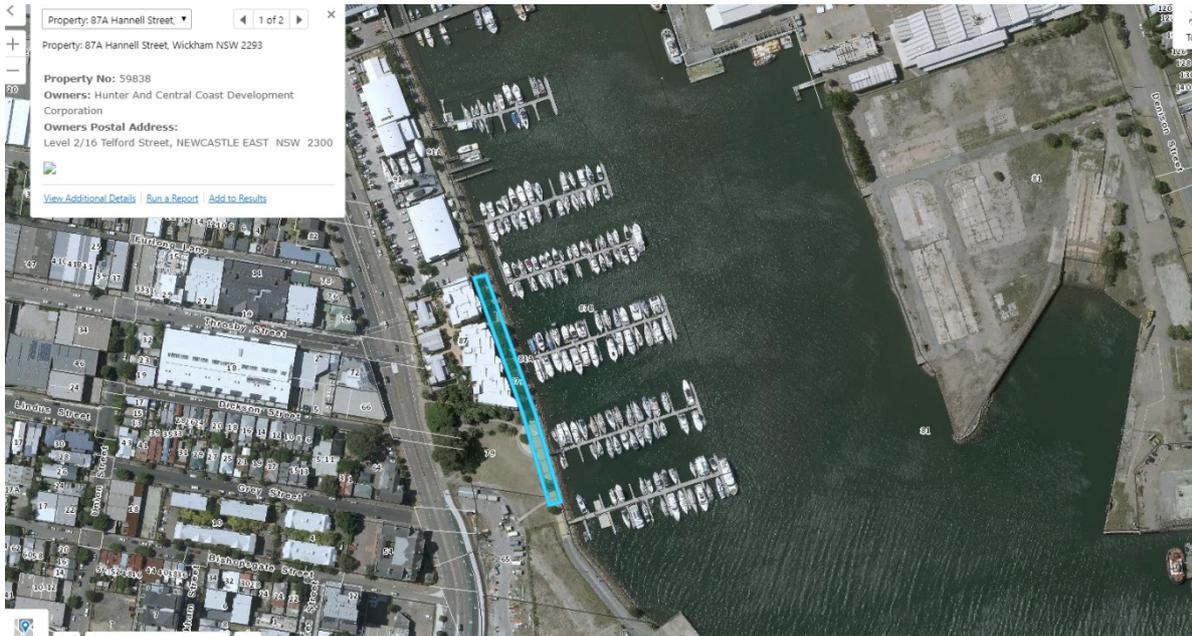
103 Hannell Street, Wickham



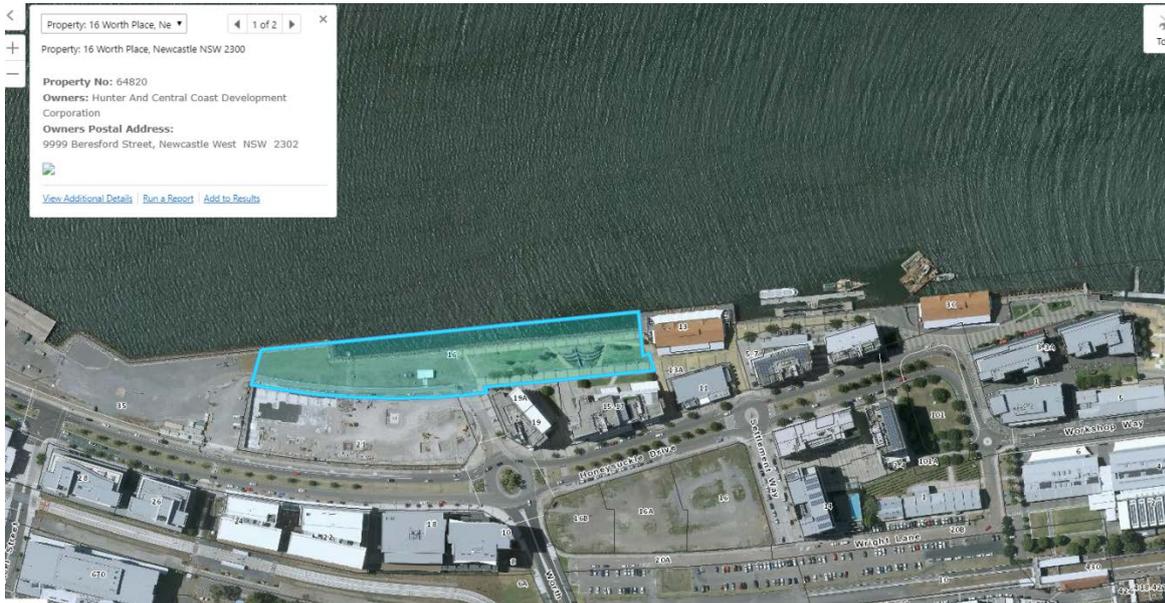
91A Hannell Street, Wickham



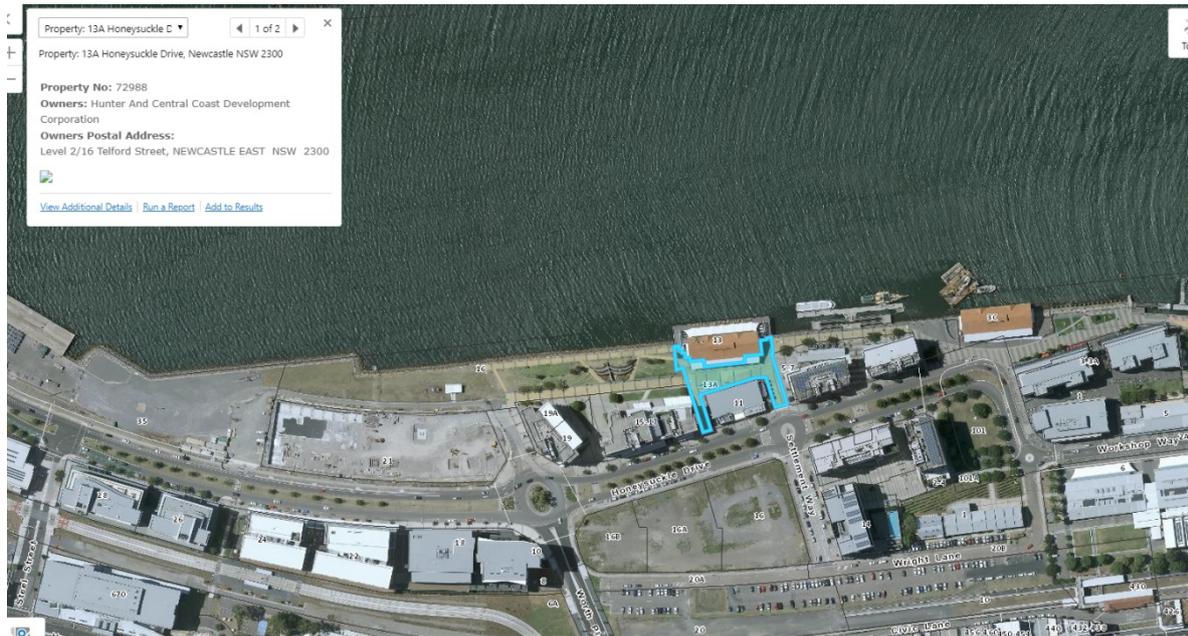
87A Hannell Street, Wickham



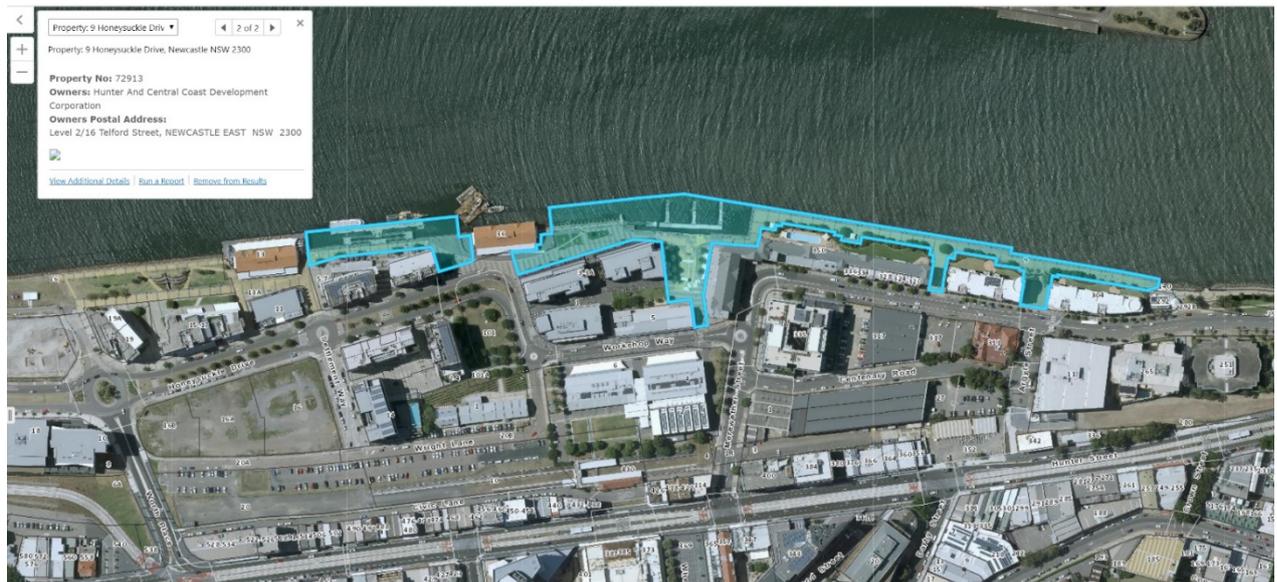
16 Worth Place, Newcastle



13A Honeysuckle Drive, Newcastle



9 Honeysuckle Drive, Newcastle



ITEM-101 CCL 10/12/19 - CLASSIFICATION OF COUNCIL LAND - 452 KING STREET, NEWCASTLE WEST

REPORT BY: INFRASTRUCTURE AND PROPERTY
CONTACT: DIRECTOR INFRASTRUCTURE AND PROPERTY /
MANAGER PROPERTY AND FACILITIES

PURPOSE

To classify 452 King Street, Newcastle (the Property) as operational land pursuant to section 31 of the *Local Government Act 1993* (Act).

RECOMMENDATION

That Council:

- 1 Resolve to classify 452 King Street, Newcastle (Lot 2 DP 1252378) as operational land for the purposes of the *Local Government Act 1993*.

KEY ISSUES

- 2 By Planning Agreement dated 7 May 2019, City of Newcastle (CN) agreed to accept the transfer of the Property from Wyndham Developments Pty Limited. A location map is shown at **Attachment A**.
- 3 The Property is planned to be a cycleway/footpath. Consistent with CN policy, cycleways/footpaths of this nature are classified as operational land.
- 4 If CN does not resolve to classify the Property as operational land either prior to acquisition or within three months of acquisition, the Property will be deemed to have been classified, under the Local Environmental Plan, as community land. This is not an appropriate classification for the Property.

FINANCIAL IMPACT

- 5 There will be no cost to CN as a result of the classification resolution.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 6 The proposed acquisition to classify the Property as operational land aligns with the following Newcastle 2030 Community Strategic Plan directions:

Liveable Built Environment

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

IMPLEMENTATION PLAN/IMPLICATIONS

- 7 The Property will be classified as operational land in Council's land register. No Plan of Management will be required for the Property.

RISK ASSESSMENT AND MITIGATION

- 8 The main risk is failure to classify the Property as operational. This would result in an inappropriate classification of land that will be used in part for operational purposes.
- 9 There are no foreseeable risks associated with classifying the Property as operational.

RELATED PREVIOUS DECISIONS

- 10 At the Ordinary Council Meeting held on 26 February 2019 Council considered a report to endorse the Planning Agreement for 464-470 King Street and resolved to authorise the CEO to execute the Agreement.

CONSULTATION

- 11 On 9 November 2019, public notification of the proposed resolution to classify the Property as operational land was given and 28 days was allowed for public submissions as required under Section 34 of the Act. No submissions have been received from the public.

BACKGROUND

- 12 See Key Issues.

OPTIONS

Option 1

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

Option 2

- 14 Council resolve not to classify the Property as operational land for the purposes of the Act. This is not the recommended option.

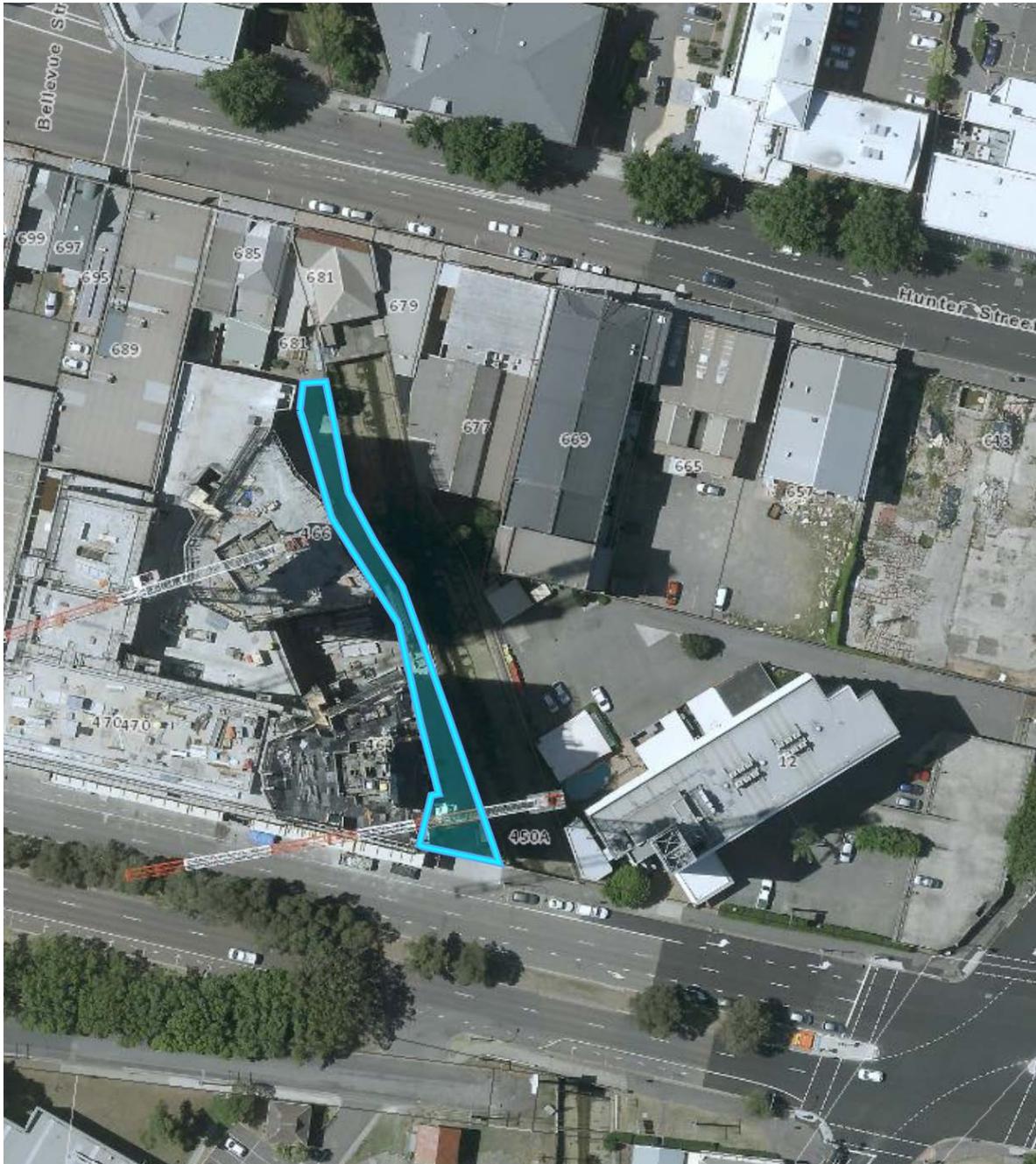
REFERENCES

ATTACHMENTS

- Item 101 Attachment A:** Location Map – 452 King Street, Newcastle (Lot 2 DP1252378)

CITY OF NEWCASTLE

Item 101 Attachment A: Location Map – 452 King Street, Newcastle (Lot 2 DP1252378)



ITEM-102 CCL 10/12/19 - REVIEW OF S.355 COMMITTEES

REPORT BY: CITY WIDE SERVICES
CONTACT: INTERIM DIRECTOR CITY WIDE SERVICES / MANAGER PARKS AND RECREATION

PURPOSE

To dissolve the operations of six Section 355 (s.355) Committees that manage sportsground assets on the grounds of non-compliance with the required standards of governance or that have expressed a desire to cease.

RECOMMENDATION

That Council:

- 1 Approves the dissolution of the following s.355 Committees based on a review of the required standards of governance:
 - i) Beresfield-Tarro Parks Committee
 - ii) Heaton-Birmingham Gardens Parks Committee
 - iii) Kotara Parks Committee
 - iv) New Lambton Ovals Board
 - v) Stevenson Parks Committee
 - vi) Stockton Parks Committee
- 2 Recognise the contribution that volunteers have made to the s.355 Committees over many years.
- 3 Notes that interested parties will continue to be engaged in the development of City of Newcastle's (CN's) Strategic Sports Plan during 2020.

KEY ISSUES

- 4 An Office of Local Government Circular (15 August 2016) 16/24 entitled "[Section 355 Committees](#)", encouraged Councils to review the operations of committees established under s.355 of the Local Government Act, stating that activities of these committees should "remain transparent and subject to critical oversight. Committees should be able to demonstrate clear links with the goals of CN's Delivery Program, while meeting required standards of governance".
- 5 To ensure the s.355 Committees were meeting the required standards of governance a review of all s.355 Committees in the Newcastle Local Government Area (LGA) was undertaken in 2017 to review current practices and procedures and make recommendations about the Committee's design, operation and effectiveness.

The findings were reported to and endorsed by CN's Audit and Risk Committee on 17 August 2017. The key findings included recommendations for governance, financial matters, legal status, strategic alignment and fit for purpose.

- 6 The report noted a high level of non-compliance or partial compliance to governance issues. In the report it was noted that s.355 Committees were operating at various levels of maturity, none were 100% compliant with the required standards of governance, financial matters, legal status, strategic alignment and fit for purpose. It was noted that the option of continuing to operate under the current arrangements exposed CN to varying levels of risk.
- 7 Based on this information a report was considered by Council on 25 September 2018 recommending that six s.355 Committees be dissolved, and that CN staff work with the remaining s.355 Committees to improve the level of governance.
- 8 From November 2018 to October 2019, CN staff have worked with the remaining s.355 Committees to improve the level of compliance and to strengthen the operational and governance practices required in the management of sporting facilities. This consultation and engagement included CN staff attendance at annual general meetings; one on one meetings with Committee executive; facilitation of a Compliance and Governance Workshop; Work, Health and Safety Inductions; and the development of a s.355 Committee Management Manual.
- 9 One on one sessions highlighted ongoing non-compliance in the application of CN adopted fees and charges, licensing irregularities, management of financial matters, and application of required governance and management structures.
- 10 In mid-2019 the Stockton Parks Committee advised of its intention to voluntarily dissolve and transfer the management of Stockton sporting facilities to CN.
- 11 A final assessment and governance review was completed in October 2019 of the remaining five s.355 Committees. On average, there was a 16% compliance rate, with the highest level of compliance being 36% and the lowest being 18%.
- 12 The overall rating of the five s.355 Committees is:

i)	Beresfield-Tarro Parks Committee	Non-compliant
ii)	Heaton-Birmingham Gardens Parks Committee	Non-compliant
iii)	Kotara Parks Committee	Non-compliant
iv)	New Lambton Ovals Board	Non-compliant
v)	Stevenson Parks Committee	Non-compliant

FINANCIAL IMPACT

- 13 Once the s.355 Committees are dissolved and delegations are removed, CN will receive all income generated from hire and usage fees. CN will also be responsible for public utilities costs. In addition, CN will be required to manage governance responsibilities. This will be conducted within existing resources.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 14 The Review of s.355 Committees is in alignment with the following Newcastle 2030 Community Strategic Plan directions:

Vibrant, Safe and Active Public Places

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

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.

Open and Collaborative Leadership

- 7.1a Encourage and support long term planning for Newcastle, including implementation, resourcing, monitoring and reporting.
- 7.2b Establish collaborative relationship and advocate for local needs with all stakeholders.
- 7.3b Provide clear, consistent, accessible and relevant information to the community.

IMPLEMENTATION PLAN/IMPLICATIONS

- 15 CN staff will continue to involve interested parties over the course of 2020 in the development of our Strategic Sports Plan.
- 16 CN staff will work with clubs/associations previously managed by s.355 Committees to ensure licensing and processes for allocation of sportsgrounds are managed in line with CN's Policies and Procedures to achieve optimal usage of sporting assets and reduce over-use of some sportsgrounds.

RISK ASSESSMENT AND MITIGATION

- 17 In October 2019 a final assessment and governance review was completed on the remaining five s.355 Committees with a consistent high level of non-compliance.
- 18 The continued operation of the s.355 Committee would expose CN to high levels of risk with governance, financial matters, legal status, strategic alignment and fit for purpose.

RELATED PREVIOUS DECISIONS

- 19 Council resolved at meeting of 25 September 2018 to dissolve the following s.355 Committees:
- i) Beresfield Community Children's Education Centre
 - ii) Elernmore Vale Committee Reserve Committee
 - iii) Federal Park Committee
 - iv) Myambalah Crescent Oval Committee and Local Parks Committee
 - v) Tuxford Park Local Committee
 - vi) New Lambton Community Centre Committee

CONSULTATION

- 20 CN staff have undertaken an extensive consultation process to implement the recommendations outlined in the 2017 Audit Report. In April 2018 a s.355 Committee workshop was conducted at No 2 Sportsground with each s.355 Committee attending to review non-complying audit findings.
- 21 A Council report was adopted on 25 September 2018 recommending that CN staff work with current s.355 Committees to ensure all obligations are fulfilled and a further report be brought back to Council regarding governance issues. CN staff forwarded this information to all Committee executives.
- 22 CN staff attended six s.355 Committee Annual General Meetings and provided an overview of the audit outcomes. Further support was provided to improve financial and governance issues. An operational manual was developed to assist with the operation of the committees in line with CN's policies and procedures.
- 23 Further consultation included one on one meetings with executive members from each s.355 Committee. The aim of the one on one meetings was to provide ongoing support and receive feedback related to governance processes and procedures. Executive members were requested to provide evidence of improved governance practices; improvement was reported as minimal.

BACKGROUND

- 24 Section 355 (s.355) of the Local Government Act (1993) allows Council to delegate some of its functions to a Committee of Council.
- 25 CN manages six s.355 Committees who manage functions relating to sportsgrounds across the area. These include:
- i) Beresfield-Tarro Parks Committee
 - ii) Heaton Birmingham Gardens Parks Committee
 - iii) Kotara Parks Committee
 - iv) New Lambton Ovals Board
 - v) Stevenson Park Committee
 - vi) Stockton Parks Committee

26 CN staff have conducted, over a period of two years, a comprehensive review of these s.355 Committees in line with the actions identified from the Parkland and Recreation Strategy; and the OLG recommendation to Councils to review the operations of s.355 Committees.

OPTIONS

Option 1

27 The recommendation as at Paragraphs 1, 2 and 3. This is the recommended option.

Option 2

28 Maintain the five remaining s.355 Committees. This is not the recommended option due to the identified risks.

REFERENCES

ATTACHMENTS

Nil

NOTICES OF MOTION

ITEM-46 NOM 10/12/19 - LIVE MUSIC STRATEGY

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

PURPOSE

The following Notice of Motion was received on 28/11/2019 from the abovementioned Councillors.

The purpose is to reinforce the intent of the CN endorsed Live Music Strategy and Night Time Economy Strategy and to progress the actions of the endorsed strategies in order to protect and grow the Newcastle live music industry and economic benefits of the industry and night time economy for the City.

MOTION

That the City of Newcastle:

- 1 Notes that the Live Music Taskforce is preparing recommendations for Council to be presented at the February Ordinary Council meeting.
- 2 Acknowledge the importance of growing the city's \$1.36 billion night time economy and note the importance of robust planning guidance and controls in relation to noise.
- 3 Prioritise Action 2 of the CN endorsed Live Music Strategy and develop a suite of planning controls to reduce the risk of land use conflict including notification in Section 10.7 (5) Planning Certificates.
- 4 Prioritise Action 4 of the CN endorsed Live Music Strategy and provide improved noise assessment regulation and guidelines.
- 5 Receives a report at the next Ordinary Council Meeting to provide a detailed update of the progress of implementation of each of the agreed action items in the adopted Live Music Strategy.

BACKGROUND

The Executive Summary of the CN endorsed Live Music and After Dark Strategies state we have clearly taken the position that CN aims to sustain and grow the live music element of Newcastle's night time economy and to manage the impacts of live music on residents and the community without compromising the viability of the city's live music precincts and venues.

There is deep concern among our live music community that rapid residential development in both the CBD and current recognised live music precincts including Darby Street and Wickham pose a very real threat to the viability of venues that have offered live music for decades.

This Notice of Motion aims to reinforce the City of Newcastle's previously endorsed Live Music and Night Time Economy Strategies, and to progress the actions resolved therein.

Live music has been making a positive contribution to the Newcastle community and night time economy for more than forty years. As a community we've continued to incubate and support new talent, venues and audiences against a backdrop of social and built environment changes.

To reinforce the contribution live music makes to our city, we've undertaken a body of research and community engagement to develop an action plan that will deliver on this.

The City of Newcastle's (CN) vision for our night time economy includes a vibrant live music scene based on safe and flexible public transport, good practice venue design, residential amenity and a clear set of guidelines for the development and management of live music sound.

The community and music sector stakeholders have also told us that they place a high value on the cultural and economic contribution that live music makes to the city's identity and wellbeing and that there is a need to manage residential amenity and encourage music sector growth.

Planning for a built environment that is reliant on mixed use urban village centres means that governments of all levels will need to collaborate to ensure that residential amenity is maintained, entertainment precincts are identified, venues are encouraged to develop and audiences have safe, flexible transport options to move from performances to home. This work needs to be done using a range of clear legislative controls so that noise levels can be quantified, managed and resolved as required.

Further, research will need to be undertaken around improved sound attenuation and advice provided to cultural entrepreneurs to assist in the understanding of planning and compliance legislation.

As the city changes, we will see adaptive re-use of existing buildings for the establishment of new live music venues as well as the upgrade of older venues as audience tastes continue to evolve and the night time economy grows. Venues themselves evolve too as they seek to add value to their place in the market and as city changes around them.

As a community we've continued to incubate new local talent, venues and audiences against a backdrop of social change and urban renewal. To reinforce the contribution live music makes to our city, we've undertaken a body of research and community engagement to develop an action plan that will achieve this commitment.

Following extensive research and engagement with both music industry stakeholders and the wider community, CN has captured data and feedback that can be summarised under 5 (five) key themes where actions can be delivered to improve to the live music sector: venue management and safety promotion, development and diversification of music sector conflict mitigation between live music venues and surrounding communities definition, awareness of and expectation management of music precincts transport mode diversity and service flexibility In response to these themes CN has developed an Action Plan that will contribute to sustainable growth of live music in Newcastle.

These actions are clustered against the themes above and will be monitored and reported annually using the Newcastle Live Music Task Force as a reference panel to ensure that tangible progress is being made and/or to consider new evidence and trends in live music development.

ATTACHMENTS

NOM Item 46 Attachment A:	<u>CN Live Music Strategy</u>
NOM Item 46 Attachment B:	<u>CN Night Time Economy Strategy</u>
NOM Item 46 Attachment C:	Newcastle Live Music Taskforce Draft Recommendations

NOM Item 46 Attachment C



Newcastle Live music Taskforce Recommendations to City of Newcastle

Background

Less than three decades ago, Newcastle boasted an international reputation for its thriving live music scene, one that launched acts such as The Screaming Jets and silverchair onto national and international stages. The city had a thriving night-time economy that offered a vast range of experiences.

It attracted business investment and in turn, thousands of people every week and was a favoured destination for people from its suburbs, neighbouring towns and many regional centres. Just as a city should.

Fast forward to 2019, the live music landscape and consequently the city's night-time economy is barren, decimated by a culture of compliance and regulation, the removal of supporting transport options, and a failure by planners and regulators to properly balance policy to suit competing needs and ensure that live performance can thrive.

As the NSW Inquiry into the Music and Arts Economy found, regulation of the industry is strangling grass roots music and making it prohibitively expensive to open and operate music venues. Poorly designed noise policies, untethered residential development and a combative approach to licensing have all had a hugely negative impact on Newcastle's status as a live music force. Our cultural output is being strangled.

There seems to be little understanding of the wider economic benefits of supporting and nurturing the city's live music venues, artists and related infrastructure and economy. The same can be said for the social and cultural benefits of supporting live performance.

As a result, Newcastle is less vibrant, our night-time economy is critically faltering, and the creative output of our artistic community is muted.



Put simply, poor decisions have been made and we are now paying the price, losing live performance venues and, in the process, losing our voice as a city.

Wollongong Council has recognised the importance of its city centre as a cultural hub and advise future residents that they need to be mindful that such activity may “generate noise, traffic and have longer hours of operation, which is part of living in/near a commercial centre”. We need our council to step up and do the same.

In Brisbane, the council has set up dedicated entertainment precincts to create vibrant and active sections of the city for the purposes of live performance and the activity that comes with it.

In Melbourne, they have introduced Agent of Change regulation to protect existing venues from the impact of new residential buildings, ensuring noise insulation is installed during the construction process.

Other councils have utilised the tools and frameworks available to them to ensure the survival of live music, while mitigating external impacts. We encourage the City of Newcastle to explore these options and expedite their implementation.

In 2018, the Newcastle Live Music Taskforce was established. Unfortunately, there has been little change and no material outcome to revitalise the industry or the city’s night-time economy.

In fact, since then, new residential buildings have been proposed adjacent to two venues that are regarded as critical to the ongoing live music culture in this city – The Wickham Park Hotel and The Lass O’Gowrie Hotel.

Unless the council has taken some proactive measures such as ensuring noise insulation, are we to expect that these vital venues will be subject to noise complaints from newly arrived residents and, yet again, our industry shrinks? The Taskforce urges Council to specifically address any potential issues with these two venues now and, more generally, to take action to not only protect but nurture live music in the city as a matter of priority.

The Newcastle Live Music Taskforce calls upon the City of Newcastle and the NSW Government to demonstrate leadership and to right the wrongs of past decisions and proactively put in place the policies and mechanisms so vitally needed to revive live music in Newcastle.

Key Objectives

To call for the immediate creation and implementation of a plan that recognises the arts, culture and live music are as important as transport, education and health infrastructure - and in doing so, create a liveable city that remains open after dark, and provides a robust and diverse night-time economy that enriches the lives of both its citizens and those from elsewhere who come to the CBD and surrounds for experiences only a truly vibrant city can provide.

Recommendations for the consideration of City of Newcastle include:

1. To put live performance at the centre of plans to revitalise the city centre and adjacent suburbs and to recognise the significant social and economic benefits this will bring.
 2. To acknowledge that Newcastle is more than just a place to live and work, it is also a place to experience entertainment, arts and culture of all genres.
 3. To provide incentives within the planning system to encourage new venue developments and retain old ones, for example providing additional floor height or space in new developments in exchange for new performance space. (see Sydney's Theatre Royal and the Recital Hall), or by selling the airspace above old theatres like The Victoria in Newcastle (refer Sydney's State and Capital Theatres).
 4. Consider dedicating part of the business rate levy currently in place specifically to invest in local performance infrastructure – a very sound use of the funds as many city businesses will gain flow-on benefits.
 5. Lobby the State Government for change to allow funds levied through S. 7.12 (formerly S.94) contributions to be used to develop new performance spaces and infrastructure (This was how our own Civic Theatre came to exist).
 6. Work with the University of Newcastle to provide/fund unique and vibrant performance spaces within that precinct, providing enhanced amenity for its students and economic flow-on benefits for other city businesses.
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7. Create dedicated Commercial Precincts that allow for heightened activity, later hours of operation and noise – with notifications to new residents about what to expect from the precinct they are choosing to live in.
8. Allow an extension of trading times to allow low-impact venues such as small bars, cafes and restaurants until 2am, aligning with State Legislation OR allow dedicated performance venues which host live entertainment an additional hour of operation at night – this has created very successful outcomes when adopted by Sydney City Council.
9. Establish a coordinated communications process for noise complaints that involves, police, council and other relevant agencies.
10. Ensure that those responsible for creating and enforcing council policy are aligned with the publicly stated aims and policies of the elected council, and monitor the decisions that City of Newcastle’s bureaucracy/staff are implementing, especially regarding conditions and regulations on venues which have the primary function of limiting the capacity of the venue to operate successfully and limit the social and cultural fabric of the city.

In its Live Music Strategy 2019-2023, CN made a commitment that “live music remains a key component of Newcastle’s night-time economy and cultural landscape”.

Nice words but, now, action is required. We look forward to working alongside Council and our policy makers to ensure that together we proactively create a city with a vibrant and strong night time economy, where the social, cultural and economic benefits flow to all . We look forward to the ten points above being addressed as an urgent matter of priority.

**ITEM-47 NOM 10/12/19 - SUBMISSION TO NATIONAL ENVIRONMENT
LAW REVIEW**

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

PURPOSE

The following Notice of Motion was received on Thursday 28 November 2019 from the abovenamed Councillors.

MOTION

That Council:

- 1 Notes that the Commonwealth Government have commenced its 20-year review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) (**Attachment A**), with the release of a Review Discussion Paper (**Attachment B**)
- 2 Receives the Chifley Research Centre's report, *Protecting the Future*, recommending amendment/replacement of the EPBC legislation to safeguard Australia's unique environment (**Attachment C**)
- 3 Reviews the EPBC Review's Discussion Paper and the *Protecting the Future* report, and makes a submission to the Review prior to the 14 February 2020 deadline.

BACKGROUND

Environmental degradation is accelerating in Australia. We have one of the highest rates of extinctions in the world; globally significant rates of deforestation; plastics clogging our waterways and in many regions diminishing air, water and soil quality threaten human wellbeing and productivity.

Environmental policy innovation in the past 20 years has failed to keep pace with environmental challenges. Climate change and population growth are putting unprecedented pressure on our environment. With the threats facing this country so much bigger than the site-by-site battles that first animated environmental concern, the need for better systems-based approaches is now critical.

The current federal environment regime and its key legal instrument, the *Environment Protection and Biodiversity Conservation Act (EPBC) 1999*, are not fit for purpose in the 21st century. A new approach must be delivered where the federal government takes a strategic leadership role, setting legally binding standards to be applied by other governments and industry, and backed by a reanimated commitment to protecting Australia's natural assets.

Critiques of the current federal environment laws (the EPBC) include:

- They are too focused on development approvals and not on proactive protection of the environment.
- They are toothless, delivering very little change in environmental outcomes – all major indicators of environmental health and sustainability are in decline.
- They fail to deliver business certainty, with long delays and lack of clarity in approval processes and little evidence of significantly improved environmental outcomes.
- They have no institutional backing to deliver innovation or lead visionary, system-wide policy solutions.
- They don't even mention climate change.

ATTACHMENTS

NOM Item 47 Attachment A: Review Media Release

NOM Item 47 Attachment B: EPBC Review Discussion Paper:

<https://epbcactreview.environment.gov.au/resources/discussion-paper>

NOM Item 47 Attachment C: Chifley Research Centre report:

<https://d3n8a8pro7vhm.cloudfront.net/lean/pages/147/attachments/original/1542349022/CRC - Protecting the Future FINAL.pdf?1542349022>

NOM Item 47 Attachment A



**THE HON SUSSAN LEY MP
MINISTER FOR THE ENVIRONMENT**

MEDIA RELEASE

Tuesday, 29 October 2019

GRAEME SAMUEL TO LEAD ENVIRONMENT REVIEW

The Federal Government has today commenced a once in a decade review of Australia's environmental law to tackle green tape and deliver greater certainty to business groups, farmers and environmental organisations.

Professor Graeme Samuel AC will conduct the independent review, leading an expert panel that includes Mr Bruce Martin, Dr Wendy Craik AM, Dr Erica Smyth AC and Professor Andrew Macintosh.

The statutory review will ensure that the *Environment Protection and Biodiversity Conservation Act (1999)* remains fit for purpose and fit for the future within the context of our changing environment.

This review is not about ideology. The one thing all sides of the environmental debate concede is that the complexities of the Act are leading to unnecessary delays in reaching decisions and to an increased focus on process rather than outcomes.

Delays in EPBC decisions are estimated to cost the economy around \$300 million a year and frustrate both business and environmental groups.

The Act has been a world benchmark in environmental protection but needs to be adapted to changes in the environment and economy.

I've asked Professor Samuel to look at how we can improve efficiency and make clear and simple decisions that deliver strong, clear and focussed environmental protection.

As a first step to the review, I understand Professor Samuel will be releasing a discussion paper in November, and begin initial stakeholder meetings shortly thereafter.

The Morrison Government is committed to delivering improved efficiency and supporting business, investment and jobs, while maintaining high environmental standards.

All Australians are invited to share their ideas as part of this review through a new dedicated website - www.epbcactreview.environment.gov.au

Further information:

GRAEME SAMUEL – INDEPENDENT REVIEWER

Professor Graeme Samuel AC is a Professorial Fellow in Monash University's Business School and School of Public Health and Preventative Medicine. He is also President of Dementia Australia, Chair of the National Health and Medical Research Council National Institute for Dementia Research, Chair of Lorica Health, Chair of South East Melbourne Primary Health Network and Chair of Airlines for Australia and New Zealand.

Professor Samuel's previous roles include Chair of the Australian Competition and Consumer Commission, Associate Member of the Australian Communications and Media Authority, and President of the National Competition Council. He was Chair of the Australian Government's Panel of the Review of Australia's Independent Medical Research Institutes and advisor to the Department of Health in its review of private health insurance.

Most recently, Professor Samuel was a member of the Australian Prudential Regulation Authority's Panel to conduct a prudential inquiry into the culture, governance and accountability of Commonwealth Bank of Australia and was Chair of the panel which conducted a capability review of the Australian Prudential Regulation Authority. He has also just completed a review of the Food and Grocery Code of Conduct.

In 2010, he was made a Companion of the Order of Australia for eminent service to public administration through contributions in economic reform and competition law, and to the community through leadership roles with sporting and cultural organisations.

EXPERT PANEL MEMBERS

Mr Bruce Martin is a Wik Ngathan man, from the community of Aurukun on the Western Cape York Peninsula. Mr Martin was an inaugural member of the Prime Minister's Indigenous Advisory Council, and is a member of the board of the Indigenous Land Corporation, and the council of James Cook University.

Dr Erica Smyth AC has 40 years' experience in the minerals and petroleum industry. She is currently chair of the National Offshore Petroleum Safety and Environmental Management Authority Advisory Board and has held senior roles with BHP and Woodside.

Dr Wendy Craik AM has a wealth of experience in natural resource management in Australia and overseas. She is currently chair of the Climate Change Authority, and her past roles include Chair of the Australian Fisheries Management Authority, CEO of the Murray-Darling Basin Commission, Executive officer of the Great Barrier Reef Marine Park Authority and Chief Executive of the National Farmers' Federation.

Professor Andrew Macintosh is an environmental law and policy expert at the ANU College of Law. He is a fellow at the Australian Centre for Environmental Law and member of the ANU Centre for Climate Economics & Policy, ANU Climate Change Institute and ANU Energy Change Institute. He is also the Chair of the Emissions Reduction Assurance Committee

TERMS OF REFERENCE

Independent review of the *Environment Protection and Biodiversity Conservation Act 1999*

The Australian Government is committed to delivering improved national environmental laws to ensure a healthy environment and a strong economy. The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is the Australian Government's central piece of national environmental law. The EPBC Act requires there be an independent review at least once every 10 years.

These are the terms of reference for the second independent review of the EPBC Act.

- 1) In accordance with section 522A of the EPBC Act, the review will examine:
 - a) the operation of the Act, and
 - b) the extent to which the objects of the Act have been achieved.

 - 2) The review will make recommendations to modernise the EPBC Act and its operation to address current and future environmental challenges, including consideration of:
 - a) the objects in section 3(1)(a)-(g) of the Act
 - b) Australia's international environmental responsibilities
 - c) Indigenous peoples' knowledge and role in the management of the environment and heritage
 - d) implementation of relevant agreements between the Commonwealth, States and Territories
 - e) other legislation that may relate to the operation of the Act
 - f) recommendations of previous reviews and inquiries and significant publications regarding the operation of the Act and potential reform
 - g) broad consultation, including with State, Territory and other levels of government, non-government organisations, Indigenous peoples, members of the community, industry and academia, and
 - h) costs and benefits of recommendations.

 - 3) The review will be guided by the principles of:
 - a) protecting Australia's unique environment through strong, clear and focused protections
 - b) making decisions simpler, including by reducing unnecessary regulatory burdens for Australians, businesses and governments
 - c) supporting partnerships to deliver for the environment, supporting investment and creating new jobs
 - d) improving transparency to ensure better use of information, accountability and trust in the system, and
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- e) streamlining and integrating planning to support ecologically sustainable development.
- 4) The Independent Reviewer will provide a report to the Minister for the Environment within 12 months of the commencement of the review.

ENDS

Environment Minister's office: *John Brady 0427 867 638*

ITEM-48 NOM 10/12/19 - DEVELOPING A HEATWAVE AND HOMELESSNESS PROGRAM

COUNCILLOR: J MACKENZIE

PURPOSE

The following Notice of Motion was received on Friday 29 November 2019 from the abovenamed Councillor.

MOTION

That City of Newcastle

- 1 Notes the ongoing work of the Council to address homelessness, including the resolution of the 27 February 2018 Ordinary Council Meeting in support of the Ending Homelessness Pledge, committing the City of Newcastle towards ending homelessness, advocating for change and enlisting the support of our partners to join this important effort.
- 2 Notes the City of Melbourne's homelessness specific plan for responding to extreme heat periods, including the Heatwave and Homelessness Program which was piloted in 2014-15 and is now in its fourth year. Among other innovations, this Program provides access to cool spaces and places of respite through heat waves (such as pool passes) for people who are experiencing (primary, secondary, tertiary) homelessness.
- 3 Notes further that this program aims to:
 - a. provide a coordinated process to guide the preparedness and activation of partner agency responses and flow of communication in relation to heatwave events;
 - b. minimise heat related illness and death by raising awareness of the hazards of heat and heat stress and the necessity for building community resilience; and
 - c. minimise the impact of extreme heat events on people experiencing homelessness.
- 4 Develops a Heatwave and Homelessness Program.

BACKGROUND

The public health impacts of extreme heat, climate change, and homelessness are an increasing concern and require the development of localised, on-ground responses. People who are experiencing homelessness, particularly rough sleepers, are very vulnerable to heat waves, alongside the health complications that extreme heat can cause. Many others, including low income earners and people living in their cars or substandard housing may not be able to afford, or be able to cool a home or

living space during extreme heat conditions. Heatwaves can be deadly, and vulnerable people may not have plans to cope with extreme heat.

Council assets and services have the capacity to provide innovative solutions to these complex problems. For example, libraries are well positioned as public spaces to offer respite from the immediate effects of heatwaves. Libraries act as a community's living room, and can provide a safe space for local people experiencing homelessness to take refuge from the heat and to rehydrate.

The City of Melbourne has developed a heatwave and homelessness programme that provides heat respite options (e.g. visiting cooler places including libraries, pools, cinemas and public spaces) alongside providing health safety information. The City of Melbourne's Director of City Communities Linda Weatherson said of the program that extreme heat is a silent killer that takes its highest toll on our most vulnerable, and "the simple act of inviting someone inside to escape the heat of the day to use one of our swimming pools, see a movie or just sit in an air-conditioned room could save a life."

There is an opportunity for the City of Newcastle to adopt a similar program.

ATTACHMENTS

Respite for homeless during extreme hot weather, City of Melbourne Media Release, January 2018: <https://www.melbourne.vic.gov.au/news-and-media/Pages/respite-for-homeless-during-extreme-hot-weather.aspx>

Heatwaves and Homelessness, City of Melbourne, 2014: <https://www.melbourne.vic.gov.au/SiteCollectionDocuments/heatwaves-homelessness.pdf>

REPORT ON NOTICE OF MOTION - NOM 10/12/19 - DEVELOPING A HEATWAVE AND HOMELESSNESS PROGRAM

REPORT BY: STRATEGY AND ENGAGEMENT

CONTACT: DIRECTOR STRATEGY AND ENGAGEMENT

DIRECTOR COMMENT

This report provides information on City of Newcastle's (CN) support for homelessness and initiatives to support homeless people during heatwaves.

Homelessness is a socio-economic issue spanning communities and local government jurisdictions. CN provides support to the NSW Government and its agencies, who have primary responsibility for homelessness across the state, and community agencies that provide on-ground support and assistance.

In February 2018, CN committed to *The Newcastle and Hunter Ending Homelessness Pledge*¹. The Pledge recognises that homelessness will always occur but commits organisations to work collectively with the community towards ensuring no person is forced to spend a night without adequate shelter, while longer term solutions are found. The Pledge is part of an initiative developed by the Big Ideas Homelessness Network² designed to raise awareness, link organisations and begin the process of further action.

As part of its commitment to the Pledge, CN has over the last year:

- Continued its support to the **NSW Protocol for Homeless People in Public Places**. Introduced by the NSW Government in 2013, the Protocol seeks to ensure that homeless people are treated respectfully and appropriately and are not discriminated against on the basis of their homeless status.
- Facilitated the **Homeless Working Group**, comprised of specialist homelessness service providers and key stakeholders including the Department of Family and Community Services, NSW Police, Transport NSW, health providers, and Business Chambers. The group meets regularly to address site specific homelessness matters and coordinate strategies to reduce homelessness across the Newcastle area.
- Liaised directly with **outreach services and local homelessness support activities** to provide support and ensure the safety of people currently in or facing homelessness and extend assistance to access housing and other services.

¹ <http://www.newcastle.nsw.gov.au/Community/Community-Services/Homelessness-Pledge>

² <https://bigideashomelessnessnetwork.org/>

- Provided support at the **Hunter Homeless Connect Day**, 7 August 2019, where people experiencing homelessness or are at risk of homelessness, gain free services (eg legal, health care, haircuts), food, entertainment, etc.
- Provided support to **Family and Community Services** and outreach services on a large-scale street count of people sleeping rough in regional and rural NSW. The street counts will assist with planning the expansion of outreach services in Newcastle and other regional areas.

In response to the NSW Premier's release of 14 new social priorities for the state, one of which has a focus on reducing homelessness, the Department of Community and Justice have established an Assertive Outreach Program in Newcastle funded for the next three years and resourced with a team of eight staff. CN works closely with the team to provide assistance.

Under the NSW Government's framework for managing and responding to heatwaves³, Local Government's role is to provide local communication. In response to the last catastrophic heatwave on 12 November 2019, CN liaised with the Assertive Outreach team and other Non-Government Organisations to ensure appropriate processes were in place to address the needs of homeless, aged or people with a disability.

In September 2016, the Hunter Joint Organisation of Councils invited Hunter Region libraries and pool operators to be part of a Regional Heatwave Resilience Project⁴. The program involves building awareness and resilience for communities given the increased frequency of heatwave events, especially for disadvantaged members of the community. As part of this project, residents are encouraged to take refuge in CN Newcastle libraries. Libraries promote that they are open, air conditioned and have public water coolers. Social media promotions have been run to coincide with pool opening hours.

RECOMMENDATION

That Council:

- 1 Notes the ongoing work of CN to address homelessness, including the resolution of the 27 February 2018 Ordinary Council Meeting in support of the Ending Homelessness Pledge, committing CN to ending homelessness, advocating for change and enlisting the support of partners to join this important effort.
- 2 Notes the City of Melbourne's homelessness specific plan for responding to extreme heat periods, including the Heatwave and Homelessness Program, which was piloted in 2014-15 and is now in its fourth year. Among other innovations, this Program provides access to cool spaces and places of respite through heat waves (such as pool passes) for people who are experiencing (primary, secondary, tertiary) homelessness.

³ <https://www.health.nsw.gov.au/environment/beattheheat/Pages/default.aspx>

⁴ <https://www.hccrems.com.au/climate/current-project-building-heatwave-resilience/>

- 3 Notes further that this program aims to:
 - a) provide a coordinated process to guide the preparedness and activation of partner agency responses and flow of communication in relation to heatwave events;
 - b) minimise heat related illness and death by raising awareness of the hazards of heat and heat stress and the necessity for building community resilience; and
 - c) minimise the impact of extreme heat events on people experiencing homelessness.
- 4 Notes the Hunter Joint Organisation of Councils' Regional Heatwave Resilience Project.
- 5 That the development of a Heatwave and Homelessness Program be referred to the Strategy and Innovation Advisory Committee for consideration and recommendation which includes an evaluation on resourcing and costing.

ITEM-49 NOM 10/12/19 - BROADMEADOW LOCOMOTIVE DEPOT

COUNCILLOR: J MACKENZIE

PURPOSE

The following Notice of Motion was received on Friday 29 November 2019 from the abovenamed Councillor.

MOTION

That City of Newcastle

- 1 Notes the state-level heritage significance of the Broadmeadow Locomotive Depot, including its importance as one of the largest remaining rail turntables in NSW, reflected in its listing on the New South Wales State Heritage Register on 2 April 1999.

- 2 Receive a report on the current status and any future plans of Transport for NSW or Transport Heritage NSW in relation to the Broadmeadow Locomotive Depot.

BACKGROUND

Broadmeadow Locomotive Depot was a large locomotive depot consisting of two roundhouse buildings and associated facilities constructed by the New South Wales Government Railways adjacent to the marshalling yard on the Main Northern line at Broadmeadow. The depot opened in March 1924 and continued operation until its closure on 24 December 1994.

The 18-hectare site, once the second-largest rail depot in NSW, remains home to a number of heritage-significant buildings, including one of the largest remaining rail turntables in NSW. It was added to the New South Wales State Heritage Register on 2 April 1999, in recognition of this heritage, including but not limited to its importance in demonstrating the course of cultural history, the aesthetic characteristics and degree of creative or technical achievement, and its presentation of rare and endangered aspects of the cultural history of New South Wales.

There have been numerous reports and studies relating to the potential reuse of the site, with the most strategic document being the All Aboard report in 2013, which reviewed all transport heritage sites in NSW. A key recommendation was that “a detailed Master Plan for Broadmeadow should be prepared, concentrating on the widest possible public benefit to be obtained”. The then Minister for Transport Ms Berejiklian accepted in the recommendations of that report in a May 2013 press statement, including the development of a master plan for the site.

An article published in the Newcastle Herald on 13 November 2016, revealed that the NSW Government had commenced plans to “to sell-off a large chunk of the old

Broadmeadow Locomotive Depot... with the Baird government admitting much of the land was considered 'surplus to operations'. The report article noted that at the time, the NSW Government had not revealed what it has planned for the former depot, and that "the exact size of the land up for grabs is yet to be decided".

ATTACHMENTS

Former Broadmeadow Locomotive Depot land 'surplus to operations', Newcastle Herald, 13 November, 2016:
<https://www.newcastleherald.com.au/story/4287840/rail-land-could-be-sold-off/>

Scott, A. et al. 2013. *All Aboard: A Fresh Start for Transport Heritage in NSW*.
<https://www.transport.nsw.gov.au/sites/default/files/media/documents/2017/0513-transport-heritage-report-web-final.pdf>

**REPORT ON NOTICE OF MOTION - NOM 10/12/19 - BROADMEADOW
LOCOMOTIVE DEPOT**

REPORT BY: GOVERNANCE

CONTACT: DIRECTOR GOVERNANCE

DIRECTOR COMMENT

This matter is best considered by the Liveable Cities Advisory Committee, which includes the Newcastle Heritage Working Party.

RECOMMENDATION

That Council:

- 1 Requests that a report be provided to the Liveable Cities Advisory Committee on the current status and any future plans of Transport for NSW or Transport Heritage NSW in relation to the Broadmeadow Locomotive Depot.

CONFIDENTIAL REPORTS

ITEM-12 CON 10/12/19 - CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW

**REPORT BY: PEOPLE AND CULTURE
CONTACT: DIRECTOR PEOPLE AND CULTURE**

REASON FOR CONFIDENTIALITY

This report has been classified confidential in accordance with the provisions of the Local Government Act 1993 as follows:

Section 10A(2)(a) personnel matters concerning particular individuals

Section 10B(1)(a) and (b) the discussion of the item in a closed meeting:

a - only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.

and

b - the Council or Committee concerned 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) 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 report take place in a closed session, with the press and public excluded, for the following reasons:

A The matter relates to Section 10A(2)(a) personnel matters concerning particular individuals

B The closed session involves - only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.