



THE CITY OF NEWCASTLE



Councillors

Pursuant to Local Government (General) Regulation 2005 and Clause 5 of the Code of Meeting Practice notice is hereby given that an **EXTRAORDINARY MEETING** of the Council will be held as follows:

DATE: Tuesday 9 February 2016
TIME: 6.00pm
VENUE: Council Chambers
2nd Floor
City Hall

F Cordingley
Interim Chief Executive Officer

**City Administration Centre
282 King Street
NEWCASTLE NSW 2300**

4 February 2016

BUSINESS

1 **CONFIDENTIAL REPORT**

ITEM 1 - CON 09/02/16 - SOUTH NEWCASTLE SEAWALL
REMEDICATION CONTRACT NO. 2016/250T

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**EXTRAORDINARY COUNCIL MEETING
09 February 2016**

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CONFIDENTIAL REPORTS

**ITEM-1 CON 09/02/16 - SOUTH NEWCASTLE SEAWALL
REMEDIAION CONTRACT NO. 2016/250T**

PURPOSE

For Council to accept a tender for construction of the South Newcastle Sea Wall Remediation project. The project scope of work includes stabilisation of the sea wall between South Newcastle Beach and King Edward Park to enable construction of the Bathers Way shared path. Construction of the Bathers Way, including landscaping and lighting, is also included within the project scope.

As the value of the works exceeds \$150,000, the *Local Government (General) Regulation 2005* requires Council's acceptance of the tender.

REASON FOR CONFIDENTIALITY

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

- Section 10A(2)(d) of the Act provides that Council can close a meeting to consider commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.

- Section 10B(1)(a) and (b) of the Act provides that the discussion of the item in a closed meeting must only:
 - (a) include as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security; and
 - (b) occur if the Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

GROUNDNS FOR CLOSING PART OF THE MEETING

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

MOTION TO PROCEED

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

- A The matter relates to tenders for South Newcastle Seawall Remediation Contract No. 2016/250T.

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