



City of  
Newcastle



## CITY OF NEWCASTLE

# Ordinary Council Meeting

Councillors,

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

**DATE:** Tuesday 16 April 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  
282 King Street  
NEWCASTLE NSW 2300**

10 April 2019

**Please note:**

*Meetings of City of Newcastle (CN) are webcast. CN accepts no liability for any defamatory, discriminatory or offensive remarks or gestures made during the meeting. Opinions expressed or statements made by participants are the opinions or statements of those individuals and do not imply any form of endorsement by the CN. Confidential meetings will not be webcast.*

*The electronic transmission is protected by copyright and owned by CN. No part may be copied or recorded or made available to others without the prior written consent of CN. Council may be required to disclose recordings where we are compelled to do so by court order, warrant or subpoena or under any legislation. Only the official minutes constitute an official record of the meeting.*

*Authorised media representatives are permitted to record meetings provided written notice has been lodged. A person may be expelled from a meeting for recording without notice. Recordings may only be used for the purpose of accuracy of reporting and are not for broadcast, or to be shared publicly. No recordings of any private third party conversations or comments of anyone within the Chamber are permitted.*



**ORDINARY COUNCIL MEETING  
16 April 2019**

**CONTENTS**

<b>Item</b>	<b>Business</b>	<b>Page</b>
	<b>APOLOGIES/LEAVE OF ABSENCE</b>	
	<b>ORDERS OF THE DAY</b>	
	<b>DECLARATIONS OF PECUNIARY / NON PECUNIARY INTEREST</b>	
	<b>CONFIRMATION OF PREVIOUS MINUTES</b>	5
	MINUTES - ORDINARY COUNCIL MEETING 26 MARCH 2019	5
	<b>LORD MAYORAL MINUTE</b>	
	<b>REPORTS BY COUNCIL OFFICERS</b>	18
ITEM-26	CCL 16/04/19 - EXECUTIVE MONTHLY PERFORMANCE REPORT	18
ITEM-27	CCL 16/04/19 - EXHIBITION OF CODE OF MEETING PRACTICE	21
ITEM-28	CCL 16/04/19 - 41 AND 47 THROSBY STREET, WICKHAM - ENDORSEMENT OF AMENDMENT TO NEWCASTLE LEP 2012 AND PROPOSED PLANNING AGREEMENT	67
ITEM-29	CCL 16/04/19 - EXHIBITION OF AMENDMENTS TO DRAFT S7.12 NEWCASTLE LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN 2019	105
ITEM-30	CCL 16/04/19 - ADOPTION OF THE LIVE MUSIC STRATEGY 2019-2023	110
ITEM-31	CCL 16/04/19 - PUBLIC EXHIBITION OF THE 2019/20 OUR BUDGET (OPERATIONAL PLAN AND DELIVERY PROGRAM)	114
ITEM-32	CCL 16/04/19 - ROBESY STREET, MEREWETHER - PROPOSED ONE WAY AND PARKING RESTRICTIONS	119
ITEM-33	CCL 16/04/19 - ADOPTION OF THE LIBRARY STRATEGY 2019- 2029	124
ITEM-34	CCL 16/04/19 - NEWCASTLE BIA REVIEW - STAGE 2 - PUBLIC EXHIBITION	129

**NOTICES OF MOTION**

170

## ITEM-15 NOM 16/04/19 - EXCLUDED

This item is excluded in accordance with clause 19.5 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 Chief Executive Officer, the business is (or the implementation of the business would be) unlawful”*.

This item is excluded as, in the opinion of the Chief Executive Officer, the implementation would be unlawful because it would disclose information that would breach commercial in confidence and confidentiality obligations to third parties. Third party consultation would be necessary under the *Government Information (Public Access) Act 2009*.

ITEM-16 NOM 16/04/19 - LOCAL PLANNING MATTERS 170

ITEM-17 NOM 16/04/19 - SHIFTING THE CITY OF NEWCASTLE TO 100% RENEWABLE ENERGY 173

ITEM-18 NOM 16/04/19 - GREEN ROOFS, GREEN WALLS AND LIVING BUILDINGS 175

ITEM-19 NOM 16/04/19 - CLEAN SEAS SEABIN INITIATIVE 178

**CONFIDENTIAL REPORTS** 183ITEM-1 CON 16/04/19 - TENDER REPORT - 12 STEWART AVENUE OFFICE FIT-OUT - CONTRACT 2019/280T **(TO BE DISTRIBUTED UNDER SEPARATE COVER AND TABLED AT ORDINARY COUNCIL MEETING 16 APRIL 2019)** 183

**FOR DOCUMENTS MARKED 'DISTRIBUTED UNDER SEPARATE COVER' REFER TO COUNCIL'S WEBSITE AT [www.newcastle.nsw.gov.au](http://www.newcastle.nsw.gov.au)**

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

**CONFIRMATION OF PREVIOUS MINUTES**

**MINUTES - ORDINARY COUNCIL MEETING 26 MARCH 2019**

**RECOMMENDATION**

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

**ATTACHMENTS**

**Attachment A:** 190326 Ordinary Council Meeting

*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](http://www.newcastle.nsw.gov.au)*

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 March 2019 at 5.30pm.**

---

**PRESENT**

The Lord Mayor (Councillor N Nelmes), Councillors, J Church, D Clausen, C Duncan, J Dunn (*arrived 5.41pm*), K Elliott, B Luke, J Mackenzie, A Robinson (*arrived 5.32pm*), A Rufo, E White and P Winney-Baartz.

**IN ATTENDANCE**

J Bath (Chief Executive Officer), D Clarke (Director Governance), K Liddell (Director Infrastructure and Property and Interim Director Strategy and Engagement), F Leatham (Interim Director People and Culture), A Murphy (Director City Wide Services), J Vescio (Executive Officer, Chief Executive Office), E Kolatchew (Manager Legal), M Murray (Policy Officer, Lord Mayor's Office), C Field (Executive Officer, Lord Mayor's Office), M Bisson (Manager Regulatory, Planning and Assessment), K Hyland (Manager Major Events and Corporate Affairs), B Johnson (Communications), D Mills (Communications), L Duffy (Manager Parks and Recreation), P McCarthy (Interim Manager Corporate and Community Planning), K Arnott (Corporate Strategist), A Knowles (Council Services/Minutes) and K Sullivan (Council Services/Webcast).

**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 White, seconded by Cr Duncan

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

**Carried**

**DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS**

**Councillor Luke**

Councillor Luke declared a non-pecuniary less than significant conflict of interest in Item 16 - Executive Monthly Performance Report as it included the re-investment 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.

**Councillor Church**

Councillor Church declared a less than significant and non-pecuniary interest in Notice of Motion Item 12 - Affordable Housing Scheme for Newcastle due to his employment within the property sector and would leave the Chamber for discussion on the item.

**Councillor Winney-Baartz**

Councillor Winney-Baartz declared a non-significant non pecuniary interest in Notice of Motion Item 12 - Affordable Housing Scheme for Newcastle as she sits on the board of Hunter Homeless Chamber which deals with affordable housing and remained in the chamber for discussion on the item.

**CONFIRMATION OF PREVIOUS MINUTES**

**MINUTES - PUBLIC VOICE COMMITTEE 19 FEBRUARY 2019**

**MINUTES - ORDINARY COUNCIL MEETING 26 FEBRUARY 2019**

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Clausen

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

**Carried**

**LORD MAYORAL MINUTE**

**ITEM-5 LMM 26/03/19 - CHRISTCHURCH MOSQUE TERRORIST ATTACKS  
CONDOLENCE MOTION**

**MOTION**

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Stands in solidarity with the people of the City of Christchurch, and New Zealand, following the cowardly and hate-filled Christchurch terrorist attacks, which tragically killed 50, and injured dozens of innocent worshippers of the Muslim faith on Friday, 15 March 2019.
2. Condemns these acts of violence and terror that have brought such death and devastation to the City of Christchurch and to the people of New Zealand;
3. Proudly acknowledges the overwhelming support that Novocastrians have shown for our local Muslim community, with over one thousand people attending vigils across the City of Newcastle as a mark of respect and solidarity for our grieving community.

4. Joins the Newcastle Muslim community in calling for peace, unity and respect following these evil, hate-filled and cowardly attacks on innocent worshippers;
5. Writes to Mayor Lianne Dalziel, Christchurch City Council, and New Zealand Prime Minister, the Rt Hon. Jacinda Ardern, on behalf of all Novocastrians, offering the City of Newcastle's sincerest sympathies and our admiration for the strength and resilience shown by the people of Christchurch and New Zealand;
6. Holds a Two Minute's Silence to pay respect to those who have been killed and injured, their families and friends, the City of Christchurch and New Zealand communities.

**Carried  
unanimously**

The Lord Mayor welcomed the Imam of Newcastle Mosque, Mohamed Khames and invited him to address Council and offer a prayer which was followed by two minutes silence in respect to those who were killed and injured in the Christchurch terrorist attacks.

## REPORTS BY COUNCIL OFFICERS

### **ITEM-18 CCL 26/03/19 - APPOINTMENT OF VOTING DELEGATE TO THE 2019 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT**

#### **MOTION**

Moved by Cr White, seconded by Cr Mackenzie

That Council:

Appoint the Lord Mayor to exercise Council's voting rights at the 2019 Australian Local Government Association's National General Assembly or appoint a voting delegate from among the Councillor attendees.

**Carried  
unanimously**

### **ITEM-21 CCL 26/03/19 - 233 WHARF ROAD AND 150 & 150A SCOTT STREET NEWCASTLE - ENDORSEMENT OF AMENDMENT TO NEWCASTLE LEP 2012**

#### **MOTION**

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

That Council:

- 1 Endorse the attached Planning Proposal (**Attachment A**) prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).
- 2 Forward the Planning Proposal to the Minister for Planning and Environment for Gateway Determination pursuant to Section 3.34 of the EP&A Act.



- 3 Receive a report back on the Planning Proposal following public exhibition and public hearing.

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

**Against the Motion:** Nil.

**Carried**

**ITEM-22 CCL 26/03/19 - FORT WALLACE, STOCKTON - ADOPTION OF AMENDMENT TO NEWCASTLE LEP 2012 AND NEWCASTLE DCP 2012 SECTION 6.15**

**MOTION**

Moved by Cr White, seconded by Cr Winney-Baartz

That Council:

- 1 Adopts the Planning Proposal for Fort Wallace Stockton (**Attachment A**) prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), to amend NLEP 2012.
- 2 Forwards the Planning Proposal to the Department of Planning and Environment (DPE) requesting that a draft plan be prepared and made.
- 3 Adopts the new draft Section 6.15 - Fort Wallace, Stockton of NDCP 2012 (**Attachment B**).

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

**Against the Motion:** Nil.

**Carried  
unanimously**

**ITEM-25 CCL 26/03/19 - MOBILE FOOD VENDING VEHICLES - LOCAL APPROVALS POLICY**

**MOTION**

Moved by Cr Mackenzie, seconded by Cr White

That Council:

Adopts the Local Approvals - Mobile Food Vending Vehicles Policy at **Attachment A**.

**Carried  
unanimously**

**ITEM-14 CCL 26/03/19 - SIX MONTH PERFORMANCE REPORT ON THE 2018-2022 DELIVERY PROGRAM**

**MOTION**

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

That Council receives the Six Month Performance Report on the 2018-2022 Delivery Program, as per **Attachment A**.

**Carried**

**ITEM-15 CCL 26/03/19 - SUMMERHILL WASTE MANAGEMENT CENTRE PROPOSED COMMERCIAL FEES AND CHARGES 2019/20**

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Clausen

That Council:

- 1 Approve the draft amended 2019/20 Schedule of Commercial Fees and Charges for Waste Services collection, disposal and associated services at **Attachment A** being placed on public exhibition for 28 days.
- 2 Approve the adoption of the 2019/20 Schedule of Commercial Fees and Charges for Waste Services collection, disposal and associated services at **Attachment A**, if no significant adverse submissions are received during the public exhibition period. If significant adverse comments are received, then a further report to Council seeking approval will be required at the end of the public exhibition period.

**Carried  
unanimously**

**ITEM-16 CCL 26/03/19 - EXECUTIVE MONTHLY PERFORMANCE REPORT**

**MOTION**

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

Receives the executive monthly performance report for February 2019.

**PROCEDURAL MOTION**

Moved by Cr Elliott, seconded by Cr Rufo

Councillor Church be granted an extension of one minute to address Council.

**Defeated**

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

**Carried**

**ITEM-17 CCL 26/03/19 - ADOPTION OF REVISED INSTRUMENTS OF DELEGATIONS TO THE LORD MAYOR AND CHIEF EXECUTIVE OFFICER**

**MOTION**

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

- 1 Adopts the revised Instrument of Delegations to the Lord Mayor at **Attachment A**; and
- 2 Adopts the revised Instrument of Delegations to the Chief Executive Officer at **Attachment B**.

**AMENDMENT**

Moved by Cr Elliott, seconded by Cr Church

- 3 The Chief Executive Officer and the Lord Mayor donate their respective directors' fees associated with the appointments to Council's nominated charity, Got Your Back Sista.

The amendment moved by Councillor Elliott and seconded by Councillor Church was put to the meeting.

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

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

**Defeated**

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

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

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

As there were equal votes for and against the motion, the Lord Mayor exercised the Chairperson's casting vote and declared the motion carried.

**Carried**

**ITEM-19 CCL 26/03/19 - APPOINTMENT OF REPLACEMENT COUNCILLOR REPRESENTATIVE TO THE AUDIT AND RISK COMMITTEE**

**MOTION**

Moved by Cr Clausen, seconded by Cr Dunn

That Council:

- 1 through a process of nomination and simple majority vote, appoints one Councillor member to the Audit and Risk Committee for the remaining term of Council; and
- 2 appoints Councillor Byrne to the Audit and Risk Committee.

Councillor Church nominated Councillor Elliott as Councils representative on the Audit and Risk Committee.

The Lord Mayor accepted Councillor Elliott's nomination as a foreshadowed motion.

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

**Carried**

**ITEM-20 CCL 26/03/19 - ADOPTION OF AMENDMENT TO NEWCASTLE DCP 2012 SECTION 6.02 HERITAGE CONSERVATION AREAS**

**MOTION**

Moved by Cr Duncan, seconded by Cr Dunn

That Council:

- 1 Adopts the draft Section 6.02 Heritage Conservation Areas (**Attachment A**) of the NDCP 2012 and associated amendments to Section 9.0 Glossary of the NDCP 2012 and provide public notice advising that this development control plan takes effect on the business day following the date upon which the amendment to the Newcastle Local Environmental Plan 2012 (NLEP 2012) is made to create a Heritage Conservation Area for the Hamilton Residential Precinct pursuant to Section 3.36(1) of the Environmental Planning and Assessment Act (EP&A Act).

- 2 Exhibit further amendments to Section 6.02 Heritage Conservation Areas of the NDCP 2012 and associated amendments to Section 9.0 Glossary of the NDCP 2012 (**Attachment B**).

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

**Against the Motion:** Councillor Luke.

**Carried**

**ITEM-23 CCL 26/03/19 - CHINCHEN STREET ISLINGTON - PROPOSED TRAFFIC SIGNALS AT CLYDE STREET AND RELATED TRAFFIC, PEDESTRIAN AND CYCLEWAYS IMPROVEMENTS**

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

That Council:

Approve the installation of traffic control signals at the intersection of Chinchén and Clyde Streets, Islington; kerb extensions at Nelson Street and realignment of the intersection of Clyde Street and Chatham Road as shown in the exhibited concept plan at **Attachment A**.

**Carried  
unanimously**

**ITEM-24 CCL 26/03/19 - DOGS IN OPEN SPACE PLAN**

**MOTION**

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That Council:

Adopt the Dogs in Open Space Plan (**Attachment A**).

**AMENDMENT**

Moved by Cr Rufo, seconded by Cr Church

Adopt the Dogs in Open Space Plan (**Attachment A**) with the removal of the southwest corner of Lambton Park as a fenced off-leash area, until further engagement with all stake holders/park user's has taken place and alternative locations within the Park are considered.

Following discussion the amendment was amended as follows:

1. *Further engagement on Fenced Off-Leash areas at Lambton Park with all stake holders / park users to occur and alternative locations within the area are considered.*
2. *That a report come back to Council before implementation.*

The mover and seconder of the motion accepted the amendment into the motion.

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

**Carried  
unanimously**

**NOTICES OF MOTION**

**ITEM-10 NOM 26/03/19 - LIGHT RAIL EXPANSION - JOHN HUNTER HOSPITAL  
AND THE NEWCASTLE INNER CITY BYPASS**

**MOTION**

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That Council:

1. Reiterates its support for an expanded light rail network, as previously articulated in Council's Connecting Newcastle vision.
2. Notes commitments from both sides of Government for a \$780 million upgrade to the John Hunter Hospital, and \$280 million for the final stage of the Newcastle Inner City Bypass (Rankin Park to Jesmond).
3. Advocates with the incoming NSW Government for appropriate allowance to be made within these projects for the future expansion of light rail to connect the City centre with John Hunter Hospital and the University of Newcastle.

**Carried  
unanimously**

**ITEM-11 NOM 26/03/19 - MOBILE BLACK SPOT FUNDING FOR NEWCASTLE TO SYDNEY TRAIN**

**MOTION**

Moved by Cr Clausen, seconded by Cr Duncan

That Council:

Works with the Hunter Joint Organisation (JO), the Commonwealth, Transport for NSW and Sydney Trains to advocate for mobile black spot funding to address gaps in reception between Newcastle and Sydney along the inter-city rail line.

**Carried  
unanimously**

**ITEM-12 NOM 26/03/19 - AFFORDABLE HOUSING SCHEME FOR NEWCASTLE**

Councillor Church left the Chamber for discussion on the item.

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

That the City of Newcastle:

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

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

**Against the Motion:** Councillor Luke.

**Carried**

Councillor Church returned to the Chamber at the conclusion on the item.

**ITEM-13 NOM 26/03/19 - BEAUMONT STREET CARNIVALE**

**MOTION**

Moved by Cr Elliott, seconded by Cr Robinson

That Council acknowledges the diligent work undertaken by a range of groups and individuals to conduct Carnivale in Beaumont Street, Hamilton on Sunday, 10 March 2019.

More than 30,000 people attended Carnivale and the event was an outstanding success.

This is testament to the partnership between City of Newcastle and the Hamilton Business Chamber and its member businesses.

This team also included a number of Council support staff who worked hard to make the event possible.

Council thanks all of those people and organisations concerned.

**Carried  
unanimously**

**ITEM-14 NOM 26/03/19 - COWPER STREET BRIDGE LIGHTING**

**MOTION**

Moved by Cr Mackenzie, seconded by Cr Church

That the City of Newcastle:

1. Notes the proposal from the Throsby Villages Alliance regarding the installation of LED strip lighting under the Cowper St Bridge as the first step in providing a strong visual connection between Honeysuckle, Wickham and Carrington.
2. Notes the support of this proposal from the Committees and Volunteers working for Throsby Basin Villages, Newcastle MP Tim Crackanthorp, Thales, HCCDC, Port of Newcastle, Hunter Business Chamber and the Throsby Basin Business Chamber.



## CITY OF NEWCASTLE

Ordinary Council Meeting 16 April 2019

Page 17

3. Investigates this proposal, including detailed lighting design and associated costs.
4. Prepare a costed, detailed report for the installation of underbridge LED for the consideration of Council as part of the preparation of the 2019/20 Budget.

**Carried  
unanimously**

**The meeting concluded at 7.50pm.**

**REPORTS BY COUNCIL OFFICERS**

**ITEM-26                      CCL 16/04/19 - EXECUTIVE MONTHLY PERFORMANCE REPORT**

**REPORT BY:                GOVERNANCE**  
**CONTACT:                 DIRECTOR GOVERNANCE / CHIEF FINANCIAL OFFICER**

---

**PURPOSE**

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

- a) Monthly financial position and year to date (YTD) performance against the 2018/19 Operational Plan as at the end of March 2019.
- b) Investment of temporary surplus funds under section 625 of the Local Government Act 1993 (Act), submission of report in accordance with the Act and clause 212 of the Local Government (General) Regulation 2005 (Regulation).

**RECOMMENDATION**

That Council:

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

**KEY ISSUES**

- 2 At the end of March 2019 the consolidated YTD actual operating position is a surplus of \$26.1m which represents a positive variance of \$20.5m against the budgeted YTD surplus of \$5.6m. This budget variance is due to a combination of income and expenditure variances which are detailed in **Attachment A**. The full year revised budget for 2018/19 is a surplus of \$6.5m.
- 3 The net funds generated as at the end of March 2019 is a surplus of \$43m (after capital revenues, expenditure and loan principal repayments). This is a positive variance to the YTD budgeted deficit of \$1.2m. This is primarily due to a timing variance in the delivery of CN's works program with a higher amount of project expenditure (both capital and operational expenditures) expected to be incurred during the final quarter of the financial year.
- 4 CN's temporary surplus funds are invested consistent with CN's Investment Policy, Investment Strategy, the Act and Regulations. Details of all CN funds invested under s.625 of the Act are provided in the Investment Policy and Strategy Compliance Report (section 4 of **Attachment A**).

## **FINANCIAL IMPACT**

- 5 The variance between YTD budget and YTD actual results at the end of March 2019 is provided in the Executive Monthly Performance Report.

## **COMMUNITY STRATEGIC PLAN ALIGNMENT**

- 6 This report aligns to the Community Strategic Plan under the strategic direction of 'Open and Collaborative Leadership' action:

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

## **IMPLEMENTATION PLAN/IMPLICATIONS**

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

## **RISK ASSESSMENT AND MITIGATION**

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

## **RELATED PREVIOUS DECISIONS**

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

## **CONSULTATION**

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

## **BACKGROUND**

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

**OPTIONS**

**Option 1**

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

**Option 2**

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

**REFERENCES**

**ATTACHMENTS**

**Attachment A:** Executive Monthly Performance Report - March 2019

**Distributed under separate cover**

**ITEM-27                      CCL 16/04/19 - EXHIBITION OF CODE OF MEETING PRACTICE**

**REPORT BY:                GOVERNANCE**  
**CONTACT:                 DIRECTOR GOVERNANCE / MANAGER LEGAL**

---

**PURPOSE**

To place the draft Code of Meeting Practice on public exhibition.

**RECOMMENDATION**

That Council:

- 1 Places the draft Code of Meeting Practice (**Attachment A**) on public exhibition for the period 20 April 2019 to 1 June 2019.

**KEY ISSUES**

- 2 On 14 December 2018, a Model Code of Meeting Practice (Model Meeting Code) (**Attachment B**) was prescribed under the Local Government (General) Regulation 2005 (the Regulation) containing mandatory and non-mandatory provisions.
- 3 Council is required to adopt a Code of Meeting Practice (COMP) that incorporates the mandatory provisions of the Model Meeting Code. It may also include non-mandatory provisions from the Model Meeting Code or supplementary provisions that are not inconsistent with the Model Meeting Code.
- 4 Section 361 of the *Local Government Act 1993* (the Act) provides that the COMP must be placed on public exhibition for a period not less than 28 days with a period of 42 days during which submissions may be made to the City of Newcastle (CN). Following the exhibition period, a report detailing submissions received will be provided to Council along with a final COMP for adoption. It is proposed that the draft COMP be placed on exhibition for the full 42 days. The revised COMP once adopted by Council will replace Council's current COMP (**Attachment C**).
- 5 CN's existing COMP is broadly consistent with the Model Meeting Code and as such amendments are relatively minimal. The draft COMP incorporates all mandatory provisions in the Model Meeting Code. The structure and format of the existing COMP is retained. All proposed changes are marked by track changes.
- 6 Proposed changes include update to Principles, provision for notice to Councillors of Council meetings in electronic form, increase to the duration of speeches, new requirements for public representations when closing meetings, and minor clarification to various meeting procedures.

- 7 The Model Meeting Code provides for pre-meeting briefing sessions as a non-mandatory provision. The closed sessions are similar to Councillor workshops where Councillors are briefed on upcoming items of business in closed session. It is proposed to retain CN's existing workshop model.
- 8 The Model Meeting Code provides for non-mandatory provisions relating to Public Forums. CN has a Public Voice Committee and Briefing Committee where members of the public can address Councillors in open session on matters within its charter. The current Public Voice and Public Briefings Policy was revised and adopted by Council at the Ordinary Council Meeting held on 28 August 2018 and represents longstanding and successful practice. It is proposed to retain CN's existing Public Voice Committee and Briefing Committee sessions.
- 9 All Councils in NSW will now be required to webcast meetings by December 2019. Minimal changes are required as Council was an early implementer of webcasting and has webcast meetings since February 2013.

#### **FINANCIAL IMPACT**

- 10 All expenses associated with public exhibition are included in the adopted budget for 2018/19.

#### **COMMUNITY STRATEGIC PLAN ALIGNMENT**

##### **11 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.
- 7.3a Provide opportunities for genuine engagement with the community to inform Council's decision-making.

##### **12 Open and Transparent Governance Strategy**

- 8a Clear line of communications between members of the public and Councillors.
- 8b Established system for the efficient, effective and orderly conduct of meetings.

#### **IMPLEMENTATION PLAN/IMPLICATIONS**

- 13 Staff will make arrangements to place the draft COMP on public exhibition.
- 14 Staff will present a final COMP to Council for adoption, taking into account any submissions received during the public exhibition period.

## RISK ASSESSMENT AND MITIGATION

- 15 If the COMP is placed on public exhibition and subsequently adopted, Council will comply with the Act, the Regulation and the Model Code.

## RELATED PREVIOUS DECISIONS

- 16 At the Ordinary Council Meeting held on 26 June 2018, Council adopted the current COMP.

## CONSULTATION

- 17 The public exhibition process provides for a period of consultation with the public. The draft COMP must be placed on exhibition for a period of not less than 28 days. Submissions may be made to CN for a period of 42 days.

## BACKGROUND

- 18 On 6 December 2017, the OLG released new draft Model Code of Meeting Practice for the purposes of consultation.
- 19 On 14 December 2018, the Model Meeting Code was prescribed.

## OPTIONS

### Option 1

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

### Option 2

- 21 Council does not proceed with placing the draft COMP on public exhibition. This is not the recommended option.

## REFERENCES

## ATTACHMENTS

**Attachment A:** Draft Code of Meeting Practice

**Attachment B:** Model Code of Meeting Practice for Local Councils in NSW  
<https://www.olg.nsw.gov.au/sites/default/files/Model%20Code%20of%20Meeting%20Practice%20for%20Local%20Councils%20in%20NSW%202018.pdf>

**Attachment C:** Current Code of Meeting Practice  
<http://www.newcastle.nsw.gov.au/getmedia/ce37bd4e-2d35-483f-b231-d1ef693f424e/Code-of-Meeting-Practice-Policy-adopted-26-Jun-2018-corrected-11-Jul-2018.aspx>

**Attachment A**

**Code of Meeting Practice  
Policy**  
April 2019

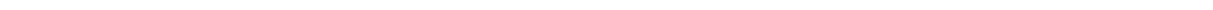




Table of Contents

<b>Part A Preliminary</b> .....	<b>1</b>
1 Introduction .....	1
2 Objectives .....	1
3 Scope .....	1
4 Principles.....	1
<b>Part B Meetings</b> .....	<b>3</b>
5 Timing of Meetings.....	3
6 Extraordinary Council Meetings.....	3
7 Meeting duration and unresolved business.....	3
8 Councillor participation.....	4
9 Quorum .....	4
10 Apology and Leave of absence .....	5
11 Order of business .....	5
12 Decisions.....	6
13 Circumstances that do not invalidate decisions .....	6
14 Resolving into a Committee of the whole .....	6
<b>Part C Addressing the Meeting</b> .....	<b>7</b>
15 Mode of address .....	7
16 Questions .....	7
<b>Part D Notices, Agendas and Business Papers</b> .....	<b>8</b>
17 Notice to Councillors of Meetings.....	8
18 Notice to the public of Meetings.....	8
19 Agenda and Business Papers .....	8
20 Availability of Agenda and Business Papers to the public .....	9
21 Late items of business .....	9
22 Reports of the Office of Local Government.....	10
23 Petitions .....	10
24 Lord Mayoral actions.....	10
<b>Part E Chairperson</b> .....	<b>11</b>
25 Chairperson of Meetings .....	11
26 Election of Chairperson .....	11
27 Precedence of Chairperson .....	11
<b>Part F Meeting Attendance</b> .....	<b>12</b>
28 Public .....	12
29 Councillors, CEO and CN staff.....	12
30 Exclusion of the CEO or CN staff.....	12
<b>Part G Closing Meetings</b> .....	<b>13</b>
31 Bases for closing Meetings .....	13
32 Motion to close a Meeting .....	14
33 Public representations.....	14
34 Matters not identified as confidential .....	15
35 Access to Business Papers relating to closed Meetings .....	15
36 Resolutions passed at closed Meetings .....	15
<b>Part H Minutes</b> .....	<b>16</b>
37 Recording Minutes .....	16
38 Confirmation of Minutes .....	16
39 Signature.....	16
40 Correction of errors.....	16

<b>Part I – Recording, webcasting and photography .....</b>	<b>17</b>
41 Use of mobile phones and recording of Meetings.....	17
42 Webcasting .....	17
43 Photography.....	18
<b>Part J Motions .....</b>	<b>19</b>
44 Chairperson’s duty with respect to motions .....	19
45 Lord Mayoral Minute .....	19
46 Notices of motion .....	19
47 Unacceptable motions.....	20
48 Repeat motions.....	20
49 Motions to be seconded .....	21
50 Motions put without debate or discussion .....	21
51 Limitations of speeches.....	21
52 Time for speeches.....	21
53 Absence of mover of notice of motion .....	22
54 Amendments .....	22
55 Foreshadowed Motions.....	22
<b>Part K Procedural Motions .....</b>	<b>24</b>
56 General .....	24
57 Motion to recommit a matter .....	24
58 Motion to alter order of business.....	24
59 Motion that a motion be now put .....	24
60 Motion of dissent .....	24
61 Motion to adjourn a matter.....	25
62 Motion to adjourn a Meeting.....	25
63 Motion to refer the matter.....	25
64 Motion that the matter be left on the table.....	25
65 Motion that a motion be voted on in seriatim .....	25
<b>Part L Rescission .....</b>	<b>26</b>
66 Rescinding or altering resolutions .....	26
<b>Part M Voting .....</b>	<b>27</b>
67 Voting entitlements.....	27
68 Casting vote .....	27
69 Counting of votes .....	27
70 Voting by division .....	27
71 Recording of voting .....	27
72 Recording of voting on Planning Decisions.....	27
<b>Part N Disclosure Obligations .....</b>	<b>29</b>
73 Conflicts of interest – Councillors.....	29
74 No knowledge .....	29
75 Allegations of breaches of the Code of Conduct.....	29
<b>Part O Order .....</b>	<b>30</b>
76 Point of order.....	30
77 Question of order .....	30
78 Act of disorder .....	30
79 Expulsion from a Meeting.....	31
80 Removal of persons after expulsion.....	31
<b>Part P Committees of the Council .....</b>	<b>33</b>
81 Establishment.....	33
82 Membership .....	33
83 Attendance .....	33
84 Quorum .....	33
85 Voting .....	33

86 Recommendations ..... 34

**Part Q Advisory Committees ..... 35**

87 Council May Establish Advisory Committees ..... 35

88 Recommendations of Advisory Committees ..... 35

**Part R Briefings and Workshops ..... 35**

89 Briefings ..... 35

90 Workshops ..... 35

**Appendix A - Definitions ..... 37**

**Document Control..... 39**



## Part A Preliminary

### 1 Introduction

- 1.1 The Code of Meeting Practice (Code) is made under section 360 of the Local Government Act 1993 (Act) ~~and the Local Government (General) Regulation 2005 (Regulation)~~ and incorporates the mandatory provisions of the prescribed Model Code of Meeting Practice for Local Councils in NSW (Model Meeting Code).
- 1.2 The Code must be interpreted in a manner that is consistent with the Act, ~~and the Regulation~~ and the Model Meeting Code. In the event of any inconsistency, the Act, ~~or Regulation, or Model Meeting Code~~ (as the case may be) prevails to the extent of the inconsistency.
- 1.3 ~~If a specific matter is not addressed in the Act, the Regulation, the Model Meeting Code, or the Code, the matter must be administered in accordance with a ruling from the Chairperson having regard to advice provided by the Office of Local Government and/or relevant Council-City of Newcastle (CN) Officers staff.~~
- 1.4 ~~Meetings should address matters of policy, strategic direction, resource allocation, statutory decisions and other appropriate Council issues. Meetings should not address the day to day management of CN, which is the responsibility of the Chief Executive Officer (CEO) under the Act.~~

Commented [A1]: This has been moved from 4.5.3.

### 2 Objectives

- 2.1 The object of the Code is to provide for the convening and conduct of Meetings.

### 3 Scope

- 3.1 The Code applies to Council Meetings, Extraordinary Council Meetings and Committee of Council Meetings.

### 4 Principles

- 4.1 City of Newcastle (CN) commits itself to the following:
- 4.1.1 Transparent – Decisions are made in a way that is open and accountable.
- 4.1.2 Informed – Decisions are made based on relevant, quality information.
- 4.1.3 Inclusive – Decisions respect the diverse needs and interests of the local community.
- 4.1.4 Principled – Decisions are informed by the principles prescribed under Chapter 3 of the Act.
- 4.1.5 Trusted – The community has confidence that Councillors and CN staff act ethically and make decisions in the interests of the whole community.
- 4.1.6 Respectful – Councillors, CN staff and meeting attendees treat each other with respect. Councillors and CN staff are obliged to conduct themselves in accordance with the Code of Conduct.
- 4.1.7 Effective – Meetings are well organised, effectively run and skillfully chaired.
- 4.1.8 Orderly – Councillors, CN staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.
- ~~4.1.9 Meetings are to be conducted with efficiency and respect to all:~~

Commented [A2]: This section is replaced with Principles from Model Meeting Code.

- ~~4.2 Meetings should be orderly, efficient and earn the respect of the City's ratepayers, residents and visitors.~~
- ~~4.3 Meetings should be held in an environment that facilitates respect for the views of others and having regard to process, reasonableness and fairness.~~
- ~~4.4 Councillors and Council Officers should not publicly reflect adversely on each other.~~
- ~~4.5 Meetings are to be conducted in compliance with policy and legislation:~~
  - ~~4.5.1 Councillors and Council Officers have an obligation to conduct themselves at Meetings in accordance with the Code of Conduct and accepted standards of behaviour.~~
  - ~~4.5.2 Councillors have an obligation to act and make decisions in accordance with Council's principles as set out in section 8 of the Act.~~
  - ~~4.5.3 Meetings should address matters of policy, strategic direction, resource allocation, statutory decisions and other appropriate Council issues. Meetings should not address the day to day management of Council, which is the responsibility of the Chief Executive Officer (CEO) under the Act.~~
- ~~4.5.4.1.9 Councillors have an obligation to attend, remain at and participate in Meetings wherever possible.~~

**Commented [A3]:** These clauses are incorporated elsewhere in the Code.

## Part B Meetings

### 5 ~~Ordinary Council Timing of Meetings~~

- 5.1 Council must meet on at least 10 occasions each calendar year with each Council Meeting being held in a different month. Council may schedule additional Council Meetings, known as Extraordinary Council Meetings.
- 5.2 Council must by resolution adopt a Meeting cycle by the first Council Meeting of each calendar year. ~~The resolution must set out the frequency, time, date and place of Meetings. The Meeting schedule is flexible and Council may amend its adopted Meeting cycle by resolution. The Meeting schedule is flexible. Council will give public notice of the time and place of Meetings by advertising in a local newspaper as well as on Council's website.~~
- ~~5.3 Meetings (excluding Inspection Committee Meetings) will be held in the Council Chambers, King Street, Newcastle or such places as may be resolved by Council or nominated by the Lord Mayor.~~
- ~~5.4 Where, prior to the commencement of a Meeting, it becomes apparent that a quorum may not be present at the Meeting, or that the safety and welfare of Councillors, Council staff and members of the public may be put at risk by attending the Meeting because of a natural disaster (such as, but not limited to flood or bushfire), the Lord Mayor may, in consultation with the CEO and, as far as is practicable, with each Councillor, cancel the Meeting. Where a Meeting is cancelled, notice of the cancellation must be published on the Council's website and using such other means as will bring notice of the cancellation to the attention of as many people as possible.~~

**Commented [A4]:** Notice of Meetings is moved to be addressed in section 17.

**Commented [A5]:** This will now be included in the resolution adopted each calendar year by Council in accordance with clause 5.2 above.

**Commented [A6]:** This clause has been moved to section 9 Quorum.

### 6 Extraordinary Council Meetings

- 6.1 Extraordinary Council Meetings ~~are not only~~ may be held in 'extraordinary' circumstances and can deal with special business or where there is so much business to be dealt with that an additional Meeting is required.
- 6.2 Extraordinary Council Meetings may be held on a scheduled Ordinary Meeting or Committee of Council Meeting night and Meeting may be called by:
- 6.2.1 by the Lord Mayor; or
- 6.2.2 ~~by~~ CEO; or
- 6.2.3 by the Lord Mayor if the Lord Mayor receives a request in writing signed by at least two Councillors, which includes the reason for the request.
- 6.3 If the Lord Mayor receives a request to call an Extraordinary Council Meeting ~~under this section in accordance with clause 6.2.3~~, the Lord Mayor must call the Meeting as soon as practical and no later than 14 days after receiving the request.
- 6.4 The CEO must give each Councillor notice of an Extraordinary Council Meeting in accordance with as set out in section 4817. The notice must contain the reason for calling the Extraordinary Council Meeting.
- 6.5 Extraordinary Council Meetings may only deal with:
- 6.5.1 matters stated in the notice of the Extraordinary Council Meeting;
- 6.5.2 Lord Mayoral Minutes if notice of the Lord Mayoral Minute is included in the notice of the Extraordinary Council Meeting; and
- 6.5.3 late items of business as provided in section 2021.

### 7 Meeting duration and unresolved business

- ~~7.1 The Chairperson must close a Meeting:~~
- ~~7.1.1 at 10:00pm; or~~

~~7.1.2~~ after four hours of Meetings on any one day  
 except where the Meeting resolves to extend the duration of the Meeting.

~~7.1~~ Meetings are to conclude no later than 9.30pm except where a Meeting resolves to extend the duration of the Meeting.

7.2 Any item of business not resolved at the close of the Meeting must be listed as an item of business at the next Meeting of the same type unless the Meeting resolves to adjourn the item of business to another day.

**Commented [A7]:** This simplifies that Council and Committee Meeting (or series of meetings in one evening) must conclude by 9.30pm unless Council resolves to extend the time.

## 8 Councillor participation

8.1 Councillors can only participate in a Meeting if the Councillor is personally present in the Meeting room. A Councillor is present in the Meeting room if that Councillor is in the Meeting room or otherwise in sight of the Meeting (whether or not the Councillor is at the Councillors' table).

8.2 When participating in a Meeting, Councillors must:

8.2.1 seek the leave of the Chairperson before exiting the Meeting room and indicate to the Chairperson if their absence will be temporary or if they are retiring early from the Meeting;

8.2.2 apologise to the Chairperson if they arrive late; and

~~8.2.3~~ sit at the Councillors' table and not move around the Meeting room or sit in the gallery.

~~8.3~~ Every person present must remain silent while a Councillor is speaking to enable Councillors to be heard without interruption, unless otherwise permitted under this Code.

**Commented [A8]:** New clause has been included in accordance with the Model Meeting Code.

## 9 Quorum

~~9.1~~ The quorum of a Meeting is the majority of Councillors who hold office at the time of the Meeting. Councillors who are suspended from office are not counted for the purpose of quorum.

~~9.1.2~~ Clause 9.1 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a Performance Improvement Order issued in respect of Council.

~~9.2.3~~ A Meeting must be adjourned if there is no quorum:

~~9.3.1~~ at the commencement of the Meeting where the number of apologies received indicates that there will not be a quorum for the Meeting;

~~9.2.2.3.2~~ within 30 minutes of the designated starting time of the Meeting;

~~9.2.2.3.3~~ at any time during the Meeting; or

~~9.2.3.4~~ because Councillors leave the Meeting room due to conflicts of interest.

~~9.3.4~~ If a Meeting is adjourned because there is no quorum:

~~9.3.4.1~~ the Chairperson (or in the absence of the Chairperson, the majority of Councillors present or the CEO) must adjourn the Meeting by fixing a time, date and place for the adjourned Meeting to take place; the CEO must ensure the minutes of the Meeting record the circumstances relating to the absence of a quorum and the names of the Councillors present; and

~~9.3.2.4.2~~ the public will be notified of the adjourned Meeting (at minimum on Council's CN's website).

~~9.5~~ A Meeting with out quorum can be opened but resolutions cannot be passed at a Meeting without quorum.

**Commented [A9]:** New clause has been included in accordance with the Model Meeting Code.

~~9.6~~ Where, prior to the commencement of a Meeting, it becomes apparent that a quorum may not be present at the Meeting, or that the safety and welfare of Councillors, CN staff and members of the public may be put at risk by attending the Meeting because of a natural disaster (such as, but not limited to flood or bushfire), the Lord Mayor may, in consultation with the CEO and, as far as is practicable, with each Councillor, cancel the Meeting. Where a Meeting is cancelled, notice of the cancellation must be published on CN's website and using such other means as will bring notice of the cancellation to the attention of as many people as possible.

**Commented [A10]:** This clause has been moved from 5.4.

## 10 **Apology and Leave of absence**

~~10.1~~ All Councillors must make reasonable efforts to attend Meetings of which they are members.

~~10.2~~ A Councillor may make an apology if they are unable to attend a Meeting. An apology does not constitute a leave of absence.

~~10.3~~ A Councillor may request a leave of absence from a Meeting. If possible, the Councillor should indicate the date of the Meeting from which the Councillor intends to be absent and the grounds upon which the leave of absence is being sought.

~~10.4~~ A Meeting must reasonably consider granting a request and may resolve to grant a Councillor a leave of absence from a Meeting. A motion to grant a Councillor a leave of absence is a Procedural Motion.

~~10.5~~ If a Councillor intends to attend a Meeting despite having been granted a leave of absence, the Councillor should (if practical) give the Lord Mayor/Chairperson and CEO at least two days' notice.

~~10.6~~ A Councillor's civic office will become vacant if the Councillor is absent from three consecutive Ordinary Council Meetings without prior leave of the Council, or a leave of absence granted by the Council at any of the Meetings concerned, unless the Councillor is absent because they have been suspended from office under the Act, or because the Council has been suspended under the Act, or as a consequence of a compliance order under section 438HA of the Act.

**Commented [A11]:** New clauses have been included in accordance with the Model Meeting Code.

## 11 **Order of business**

11.1 The general order of business of Council Meetings and Committee Meetings should be:

11.1.1 Opening of the Meeting

11.1.2 ~~Indigenous~~ Acknowledgement of Country (Chairperson and all present to stand)

11.1.3 Prayer (Chairperson and all present to stand)

11.1.4 Apologies / Leaves of Absence

~~11.1.5 Declaration of conflicts of interest~~

11.1.5 Confirmation of minutes of previous Meeting

11.1.6 Disclosures of interests

~~11.1.7~~ 11.1.7 Lord Mayoral Minutes (Council Meeting only)

~~11.1.8~~ 11.1.8 Reports from Committees of the Council (Council Meeting only)

~~11.1.9~~ 11.1.9 Reports from Advisory Committees

~~11.1.10~~ 11.1.10 Reports from Council CN Officers/staff

~~11.1.11~~ 11.1.11 Councillor Reports

~~11.1.12~~ 11.1.12 Notices of Motion / Questions with Notice



~~11.1.12~~11.1.13 Petitions

~~11.1.13~~11.1.14 Confidential matters (public excluded)

~~11.1.14~~11.1.15 Close of business

11.2 ~~A motion to bring a late item of business in accordance with section 21 may only be considered as the last item on the Agenda, immediately prior to the close of business.~~

11.3 ~~The order of business at a Meeting may be altered by resolution. A motion to alter the order of business is a Procedural Motion to which only the mover can speak.~~

11.4 The Chairperson may examine the Agenda with Councillors at any time during the Meeting and deal with items of business that Councillors do not wish to debate in accordance with section ~~49~~50.

**Commented [A12]:** New clauses have been included in accordance with the Model Meeting Code.

## 12 Decisions

12.1 ~~A decision on an item of business is made by way of Councillors voting on a motion which has been appropriately moved and seconded as required, or as provided for under this Code supported by a majority of votes at a Meeting at which a quorum is present is a decision of Council or the Committee of Council. A motion is successful if it is supported by a majority of votes at the Meeting, subject to a quorum as provided for in section 9 of the Code.~~

12.2 ~~Notwithstanding clause 12.1, a decision in relation to the election of Chairperson must follow the procedures set out in section 25 of the Code.~~

12.3 ~~A recommendation made in a CN staff report is, so far as it is adopted by the Meeting, a resolution of a Meeting.~~

12.4 ~~A recommendation of a Committee of Council is, so far as it is adopted by a Council Meeting, a resolution of Council.~~

12.5 ~~All decisions will be accurately recorded in the minutes of a Meeting at which the decision is made.~~

12.6 ~~The CEO is to implement without undue delay the lawful decision of a Meeting.~~

**Commented [A13]:** The changes clarify that a decision can only be made by way of voting on a motion except the election of a Chairperson.

New clauses have been included in accordance with the Model Meeting Code.

## 13 Circumstances that do not invalidate decisions

13.1 Proceedings at a Meeting are not invalidated because of:

13.1.1 a vacancy in a civic office;

13.1.2 failure to give notice of the Meeting to any Councillor;

13.1.3 any defect in the election or appointment of a Councillor;

13.1.4 failure of a Councillor to disclose or properly manage a conflict of interest; or

13.1.5 failure to comply with the Code.

## 14 Resolving into a Committee of ~~Council~~the whole

14.1 Council may resolve itself into a Committee of the whole at any time during a Meeting. ~~and will do so for the Public Voice Committee.~~

14.2 No decisions may be made while the Council is sitting as a Committee of ~~Council~~the whole except where there is an Instrument of Delegation in place.

14.3 ~~A summary of proceedings and any recommendations of a Committee of the whole must be reported by the CEO, or CN staff member designated by the CEO, to a Council Meeting where a motion to adopt the report of the Committee of the whole is required, and the outcome recorded in the minutes of the Meeting.~~

**Commented [A14]:** The Public Voice Committee, Briefing Committee, and Development Applications Committee are Committees of the Whole therefore there is no requirement to resolve into Committee of the whole

**Commented [A15]:** New clause has been included in accordance with the Model Meeting Code.

## Part C Addressing the Meeting

### 15 Mode of address

- 15.1 Any person addressing a Council Meeting or Extraordinary Council Meeting must stand. Any person addressing a Committee of Council Meeting may remain seated.
- 15.2 Any person addressing a Meeting must:
- 15.2.1 address Councillors by their official designation (such as Lord Mayor, Deputy Lord Mayor, Chairperson or Councillor);
  - 15.2.2 address the Councillors not the gallery; and
  - 15.2.3 address and speak to a member of the public or CN staff member by their designation (that is, Mr, Ms or honorary title).

### 16 Questions

- ~~16.1~~ A Councillor may, by way of notice of motion submitted in accordance with section 465, ask a question for response by the CEO about the performance or operations of Council.
- ~~16.2~~ A Councillor is not permitted to ask a question with notice submitted in accordance with clause 16.1 that comprises a complaint against, or implies wrongdoing by, the CEO or a CN staff member.
- ~~16.3~~ The CEO, or CN staff member designated by the CEO, may respond to a question with notice submitted in accordance with clause 16.1 by way of a report included in the Business Papers for the Meeting or orally at the Meeting.
- ~~16.4~~ During a Meeting, a Councillor may put a question in relation to the relevant item of business:
- ~~16.4.1~~ 16.4.1 through the Chairperson, ~~put a question to another Councillor;~~
  - ~~16.4.2~~ 16.4.2 through the Chairperson, ~~put a question to the CEO; or~~
  - ~~16.4.3~~ 16.4.3 with the permission of the Chairperson and the CEO, ~~put a question to a Council Officer~~ CN staff present at the Meeting. Councillor interactions with ~~Council Officers~~ CN staff must comply with Council's CN policies.
- ~~16.5~~ If practical, reasonable notice should be given to a person to whom a question is put by providing the question in writing to the Chairperson and CEO prior to the Meeting. If a question is put to a person without reasonable notice in accordance with clause 16.1, that person may choose to take the question on notice to enable reference to be made to other persons or to documents and provide a response at a later time to the next Meeting.
- ~~16.6~~ During Meetings, Councillors must put questions directly, succinctly and without argument or discussion on the question.
- ~~16.7~~ If, in the view of the Chairperson, a question is not correctly put, the Chairperson may rule the question out of order.
- ~~16.8~~ The Chairperson may limit discussion on any reply or refusal to reply to a question put to a Councillor or CN staff.
- ~~16.9~~ Routine or non-urgent requests for information should be referred as a Councillor Service Request in accordance with CN policies to the CEO's Office and not considered at Meetings.

**Commented [A16]:** Changes to this section clarify Questions and includes clauses in accordance with the Model Meeting Code.

**Commented [A17]:** This change ensures consistency with the Effective Communication Between Councillors and Staff policy.

## Part D Notices, Agendas and Business Papers

### 17 ~~Notice of Council Meetings and Committee of Councilors~~ **Notice of Council Meetings and Committee of Councilors of Meetings**

- 17.1 The CEO must send to each Councillor ~~at least seven days before each Council Meeting and Committee of Council Meeting~~ a notice of Meeting specifying the following:
- 17.1.1 location of the Meeting;
  - 17.1.2 time of the Meeting;
  - 17.1.3 date on which the Meeting is to be held; and
  - 17.1.4 business proposed to be transacted at the Meeting (Agenda).
- 17.2 ~~A notice of Meeting in accordance with clause 17.1 must be sent to Councilors:~~
- 17.2.1 in the case of a Council Meeting or Committee of Council Meeting, at least seven days before the Meeting; or
  - 17.2.2 in the case of an Extraordinary Meeting, at least three days before the Meeting, except where an Extraordinary Council Meeting is called because of an emergency (as determined by the Lord Mayor or CEO), three days' notice is not required.
- 17.3 ~~The notice, Agenda and the Business Papers relating to the Meeting may be given to Councilors in electronic form, if all Councilors have facilities to access the notice, Agenda and Business Papers in that form.~~

### ~~18~~ **Notice of Extraordinary Council Meetings**

- ~~18.1 The CEO must send to each Councillor at least three days before an Extraordinary Council Meeting a notice of Meeting specifying the following:~~
- ~~18.1.1 location of the Meeting;~~
  - ~~18.1.2 time of the Meeting;~~
  - ~~18.1.3 date on which the Meeting is to be held; and~~
  - ~~18.1.4 business proposed to be transacted at the Meeting (agenda);~~
- ~~18.4 If an Extraordinary Council Meeting is called because of an emergency (as determined by the Lord Mayor or CEO), three days' notice is not required.~~

### ~~18~~ **Notice to the public of Meetings**

- ~~18.1 Council must give notice to the public of the time, date and place of each Meeting, including Extraordinary Meetings. Notice of more than one Meeting may be given in the same notice.~~
- ~~18.2 Prior to a Meeting taking place, the notice must be published on CN's website, and in such other manner that Council is satisfied is likely to bring notice of Meetings to the attention of as many people as possible.~~

### 19 **Agenda and Business Papers**

- 19.1 The CEO must ensure the Agenda for a Meeting is prepared as soon as practicable before the Meeting and states:
- 19.1.1 all matters to be dealt with arising out of the proceedings of the ~~former~~ previous Meeting including all unresolved business;
  - 19.1.2 if the Lord Mayor is the Chairperson, any matter that the Chairperson proposes, at the time when the Business Paper is prepared, to put to the Meeting as a Lord Mayoral Minute; and

**Commented [A18]:** This change streamlines all meetings in one section and includes electronic form notification in accordance with the Model Meeting Code.

**Commented [A19]:** This new section has been included in accordance with the Model Meeting Code.

~~19.1.2~~19.1.3 all matters including matters that are the subject of CN staff reports and reports of Committee Meetings to be considered at the Meeting; and

~~19.1.3~~19.1.4 any business of which due notice has been given under section 465.

19.2 Nothing in clause 19.1 limits the power of the Lord Mayor to put a Lord Mayoral Minute to a Meeting under section 45.

~~19.2~~19.3 If in the opinion of the CEO an item of business is a matter that is likely to be considered in a closed part of a Meeting in accordance with Part G:

~~19.2.1~~19.3.1 the confidential nature of the item of business and the grounds on which the meeting will be closed is to be indicated on the Agenda;

~~19.2.2~~19.3.2 the confidential business may be set out in confidential Business Papers; and

~~19.2.3~~19.3.3 the confidential business must be referred to in the general Business Papers prepared for the same Meeting.

19.4 The CEO must make the Agenda and Business Papers for a Meeting available to Councillors before making the Business Papers available to members of the public.

Commented [A20]: This new clause has been included in accordance with the Model Meeting Code.

## 20 Availability of Agenda and Business Papers to the public

20.1 The CEO must make the Business Papers available on CN's website as close as possible to the time they are available to Councillors.

20.2 The CEO must make the Agenda and general Business Papers for a Meeting available to members of the public for inspection as soon as practicable at no cost before and during the Meeting.

20.3 The CEO will make the Agenda and general Business Papers for a Meeting available to members of the public for taking away at no cost if a request is lodged with CN at least 24 hours prior to the Meeting. Copies may be given or made available in electronic form.

20.4 Confidential Business Papers will not be made available to the public.

20.5 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.

20.6 During, at the close of a Meeting, or the day after a Meeting, reasonable access must be provided to any person to inspect correspondence or reports laid on the table at, or submitted to, a Meeting that were not available prior to the Meeting, except if in relation to a matter considered in a closed part of a Meeting in accordance with Part G.

20.7 Clause 19.14/20.6 does not apply if the Meeting resolves, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act. Such correspondence or reports are to be marked with the applicable relevant provision of section 10A(2) of the Act.

Commented [A21]: This new section has been included in accordance with the Model Meeting Code.

## 20.1 Late items of business

20.1.1 For a Meeting (including an Extraordinary Council Meeting) to consider an item not listed for consideration on the Business Papers:

~~20.1.1~~20.1.1 the Meeting must pass a motion to have the business transacted at the Meeting; and

20.4.221.1.2 the Chairperson must rule the business proposed to be brought to be of great urgency on the grounds that it requires a decision by Council before the next scheduled Council meeting.

20.221.2A motion to consider a late item of business at an Extraordinary Council Meeting may only be considered after all other items of the Agenda have been considered.

20.321.3A motion to consider a late item of business is a Procedural Motion in accordance with section 65 Part K.

20.421.4 Nothing in this section limits the discretion of the Chairperson in respect of Lord Mayoral Minutes provided for in section 45454544.

## 2422 Reports of the Office of Local Government

24.422.1 When a report of the Office of Local Government is presented to a Meeting in accordance with section 433 of the Act, Council must ensure that the report is:

24.1.422.1.1 tabled at that Meeting; and

24.1.422.1.2 available for the information of Councillors and members of the public at all reasonable times.

## 2223 Petitions

22.423.1 If a person would like a petition to be tabled at a Meeting, that person should provide the petition to the CEO by 5pm on the day 12 days before the Meeting or to a Councillor sufficiently in advance of the Meeting.

22.223.2 A petition should contain the following information:

22.2.423.2.1 a clear and concise statement identifying the subject of the petition;

22.2.223.2.2 a statement specifying the number of pages of the petition and the number of signatures; and

22.2.323.2.3 the full printed name, address, phone number and signature of the person lodging the petition, together with the name of the organisation/group they represent (if the petition is submitted on behalf of an organisation or group).

A copy of the petition, other than information as at 232.2.1 and 232.2.2, will not be included in Council's Business Papers, and therefore will not be made publicly available. A copy of the petition will however, be circulated to the Councillors for their information and/or to assist in performing their civic duty.

## 2324 Lord Mayoral actions

23.424.1 If in cases of necessity the Lord Mayor has exercised a policy making function of Council between Meetings, the Lord Mayor must report his or her actions to the next Meeting.

## Part E Chairperson

### ~~24.25~~ Chairperson of ~~Extraordinary Council Meetings and Council Meetings~~

~~24.1.25.1~~ The Chairperson of a ~~Council Meeting or an Extraordinary Council Meeting~~ must be:

~~24.1.25.1.1~~ the Lord Mayor;

~~24.1.25.1.2~~ the Deputy Lord Mayor; or

~~24.1.25.1.3~~ if the Lord Mayor and the Deputy Lord Mayor are absent from the Council Meeting or an Extraordinary Council Meeting, a Councillor elected to chair the Meeting by the Councillors present in accordance with section ~~26.26.27~~.

### ~~25~~ Chairperson of Committee of Council Meetings

~~25.1~~ The Chairperson of a Committee of Council Meeting must be:

~~25.1.1~~ the Lord Mayor;

~~25.1.2~~ the Deputy Lord Mayor;

~~25.1.3~~ if the Lord Mayor and Deputy Lord Mayor do not wish to be Chairperson, a member of the Committee of Council elected by Council; or

~~25.1.4~~ if Council does not elect such a member, a Councillor member of the Committee of Council elected to chair the Meeting by the Councillors present in accordance with clause ~~26~~.

Commented [A22]: This section is removed as it duplicates the section above.

## 26 Election of Chairperson

26.1 If required, the election of a Chairperson must be:

26.1.1 the first item of business of the Meeting; and

26.1.2 conducted:

(a) by show of hands;

(b) by the CEO or ~~a Council Officer-CN staff member~~ designated by the CEO; or

(c) if neither the CEO nor a ~~Council Officer-CN staff member~~ designated by the CEO are present, by the person who called the Meeting or a person acting on their behalf.

26.2 If two or more Councillors receive the same number of votes and no other candidate receives a greater number of votes:

26.2.1 the person conducting the election must arrange for the names of the Councillors who have equal numbers of votes to be written on similar slips and then fold the slips to prevent the names from being seen, mix the slips and draw one of the slips at random; and

26.2.2 the Councillor whose name is on the drawn slip is the Chairperson.

## 27 Precedence of Chairperson

27.1 When the Chairperson rises during any Meeting:

27.1.1 any person speaking or seeking to speak must, if standing, immediately resume his or her seat; and

27.1.2 every person present must be silent to enable the Chairperson to be heard without interruption

## Part F Meeting Attendance

### 28 Public

28.1 All Meetings are open to the public except those Meetings (or parts of Meetings) which are by resolution closed to the public as provided in Part G.

28.2 The public must act in a respectful manner and in accordance with any directions of the Chairperson.

~~28.3~~ A member of the public is not entitled to be present at a Meeting if that person has been expelled from that Meeting as provided in section ~~79797977~~.

~~28.4~~ If a Meeting (or part of a Meeting) is closed to the public in accordance with Part G any person who is not a Councillor who fails to leave the Meeting when requested may be expelled from the Meeting.

**Commented [A23]:** This new clause has been included in accordance with the Model Meeting Code.

### 29 Councillors, CEO and ~~Council Officers~~CN staff

29.1 All Councillors and the CEO are entitled to attend Meetings.

29.2 ~~Council Officers~~CN staff may attend Meetings for the purpose of providing information and advice to the Meeting with the approval of the CEO.

29.3 A Councillor, or any other person, is not entitled to be present at a Meeting if that person has been expelled from that Meeting as provided in section ~~79797977~~.

### 30 Exclusion of the CEO or ~~Council Officer~~CN staff

30.1 A Meeting may, by resolution, exclude the CEO from part of a Meeting if the matter under consideration relates to:

30.1.1 the terms and conditions of the CEO's employment; and/or

30.1.2 any issue related to the CEO's performance of contract.

30.2 A Meeting may, by resolution, exclude ~~a Council Officer~~CN staff from part of a Meeting if the matter under consideration at that part of the Meeting relates to ~~the Council Officer's~~CN staff employment matters or a related issue.

## Part G Closing Meetings

### 31 Bases for closing Meetings

- 31.1 A Meeting may resolve to close all, or part, of any Meeting which is to consider:
- 31.1.1 personnel matters concerning particular individuals (other than Councillors);
  - 31.1.2 the personal hardship of any resident or ratepayer;
  - 31.1.3 information that would, if disclosed, confer a commercial advantage on a person with whom ~~the Council~~CN is conducting (or proposes to conduct) business;
  - 31.1.4 commercial information of a confidential nature that would, if disclosed:
    - (a) prejudice the commercial position of the person who supplied it;
    - (b) confer a commercial advantage on a competitor of ~~the Council~~CN; or
    - (c) reveal a trade secret.
  - 31.1.5 information that would, if disclosed, prejudice the maintenance of law;
  - 31.1.6 matters affecting the security of the Council, Councillors, ~~Council Officers~~ CN staff or ~~Council~~CN property;
  - 31.1.7 advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege provided that the advice concerns legal matters that:
    - (a) are substantial issues relating to a matter in which the Meeting;
    - (b) are clearly identified in the advice; and
    - (c) are fully discussed in that advice; and
  - ~~31.1.8~~ 31.1.9 information concerning the nature and location of a place or an item of Aboriginal significance on community land, and alleged contraventions of CN's Code of Conduct.
- 31.2 A Meeting may close to the public so much of the Meeting as it comprises a motion to close another part of the Meeting to the public.
- 31.3 A Meeting must only remain closed during the discussion of matters referred to in this section if:
- 31.3.1 closing the Meeting is necessary to preserve confidentiality, privilege or security; and
  - 31.3.2 if the matter concerned is a matter (other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) that on balance is contrary to the public interest.
- 31.4 For the purpose of determining whether the discussion of a matter in an open Meeting would be contrary to the public interest, it is irrelevant that:
- 31.4.1 a person may misinterpret or misunderstand the discussion; or
  - 31.4.2 the discussion of the matter may:
    - (a) cause embarrassment to ~~CN~~ Council, a Committee of Council, Councillors, the CEO or any ~~Council Officer~~CN staff; or
    - (b) cause a loss of confidence in ~~CN~~ Council or a Committee of Council.
- 31.5 For the purpose of determining whether part of a Meeting is to be closed to the public, the Meeting must consider any relevant guidelines issued by the Chief Executive of the Office of Local Government.

Commented [A24]: This new clause has been included in accordance with the Model Meeting Code.



31.6 Part of a Meeting may be closed to the public without prior identification in the Agenda in accordance with section 19, if:

31.6.1 it becomes apparent during the course of the Meeting that discussion of a particular matter, the item is a matter referred to in clause 31.1; and

31.6.2 after consideration of any public representations made under section 33, the Meeting resolves that further discussion of the matter:

(a) should not be deferred (because of the urgency of the matter), and

(b) should take place in a part of the Meeting that is closed to the public.

**Commented [A25]:** These new clauses has been included in accordance with the Model Meeting Code.

## 32 Motion to close a Meeting

32.1 A motion to close a Meeting (or part of a Meeting) must indicate:

32.1.1 the bases for closing the Meeting as provided in section ~~31.3~~34; and

32.1.2 a brief explanation of why discussion of the matter in an open Meeting would be, on balance, contrary to the public interest except if the matter is:

- (a) a personnel matter concerning particular individuals;
- (b) about the personal hardship of a resident or ratepayer; or
- (c) a trade secret.

32.2 Only business stated in the motion to close the Meeting may be transacted during the closed Meeting (or part of a Meeting).

32.3 The motion to close the Meeting and the bases for the closure must be recorded in the minutes of the Meeting.

## 33 Public representations

33.1 Before a Meeting (or part of a Meeting) is closed, members of the public are permitted to make representations to the Meeting about whether the Meeting should be closed to the public.

33.2 Where the matter has been identified in the Agenda of the Meeting under section 33 as a matter that is likely to be considered when the Meeting is closed to the public

33.2.1 in order to make public representations, an application must first be made to Council in the approved form. Applications must be received by 5 two business days before the Meeting at which the matter is to be considered; and

33.2.2 the CEO or designated CN staff member will determine the order of speakers to a maximum of two. If more than two speakers apply to make representations under section 33.1, the CEO or designated CN staff member may request the speakers to nominate from among themselves the persons who are to make representations to the Meeting. If the speakers are not able to agree on whom to nominate to make representations the CEO or designated CN staff member is to determine who will make representations to the Meeting; and

33.2.3 the CEO or designated CN staff member may refuse an application and must give written reasons for a decision to refuse an application.

33.3 Where the Meeting proposes to close a Meeting (or part of a Meeting) to the public in circumstances where the matter has not been identified in the Agenda for the Meeting in accordance with section 19 as a matter that is likely to be considered when the Meeting is closed to the public the Chairperson is to invite public representations under clause 33.1 after the motion to close the Meeting (or part of

~~a Meeting) is moved and seconded. The Chairperson is to permit no more than two speakers and determine the order of speakers.~~

~~33.4 Public representations must be limited to two minutes per person unless Council resolves to extend this time and this time limit is to be strictly enforced by the Chairperson. Speakers must confine their representations to whether the Meeting (or part of a Meeting) should be closed to the public. If a speaker digresses to irrelevant matters, the Chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the Chairperson, the speaker will not be further heard.~~

Commented [A26]: Amendments to this section include new clauses in accordance with the Model Meeting Code.

### 34 Matters not identified as confidential

34.1 If a matter has not been identified in the Agenda as being heard in a closed Meeting but it becomes apparent during discussion that the matter is a matter referred to in clause ~~31.134-134.4~~, the Meeting must:

- 34.1.1 consider any public representations;
- 34.1.2 determine (by resolution) whether the matter is a matter that can be deferred to the next Meeting; and
- 34.1.3 if the matter cannot be deferred, determine (by resolution) to close the Meeting as provided in this Part.

### 35 Access to Business Papers relating to closed Meetings

35.1 Where a Meeting closes any part of a Meeting, the Meeting may determine (by way of resolution) to provide public access to the Business Papers and minutes on a specified date.

35.2 The public must not be provided with access to Business Papers and minutes of a closed Meeting (or part of a Meeting) if the Meeting considered:

- 35.2.1 personnel matters concerning particular individuals;
- 35.2.2 the personal hardship of any resident or ratepayer;
- 35.2.3 a trade secret;
- 35.2.4 a matter, which if disclosed, could give rise to an action for a breach of confidence;
- 35.2.5 a matter, which if disclosed, would constitute an offence against an Act; or
- 35.2.6 part of a draft or adopted plan of management that is the subject of a resolution of confidentiality under section 36DA of the Act.

### 36 Resolutions passed at closed Meetings

~~36.1 If a Meeting passes a resolution during a Meeting (or part of a Meeting) that is closed to the public, the Chairperson must make the resolution publicly available as soon as practical after the Meeting (or part of the Meeting) has ended during a part of the Meeting that is webcast in accordance with section 42.~~

## Part H Minutes

### 37 Recording Minutes

- 37.1 The CEO, or a ~~Council Officer~~ CN staff member designated by the CEO, must ensure that full and accurate minutes of the proceedings of Meetings are kept including recording all motions, amendments and resolutions are recorded in the minutes of a Meeting.
- 37.2 The following matters should generally be included in the minutes of a Meeting:
- 37.2.1 details of each motion moved and any amendments;
  - 37.2.2 the names of the mover and seconder of each motion and amendment;
  - 37.2.3 whether each motion and amendment is passed or lost;
  - 37.2.4 the circumstances and reasons relating to the absence of a quorum together with the names of the Councillors present;
  - 37.2.5 the dissenting vote of a Councillor, if requested;
  - 37.2.6 if a division is called, the names of the Councillors who voted for the motion and against the motion;
  - 37.2.7 the grounds for closing part of a Meeting to the public; ~~and~~ 37.2.8 the disclosure of a conflict of interest; and  
37.2.9 the conduct of an election and outcome of a vote held under section 26.
- 37.3 The CEO, or a Council Officer designated by the CEO, may record a Meeting by way of an electronic recording device as provided in Part I.

### 38 Confirmation of Minutes

- 38.1 A motion proposing the adoption of the minutes as an full and accurate statement of the business transacted at the previous Meeting must be dealt with before proceeding to consider other items of business.
- 38.2 A motion to adopt the minutes of the previous Meeting should be proposed and seconded by Councillors who were present at the Meeting to which the minutes relate.
- 38.3 Debate relating to a motion to adopt the minutes of the previous Meeting is restricted to the accuracy of the minutes as a true record of the Meeting.
- 38.4 Minutes of a Council Meeting may be confirmed at an Extraordinary Council Meeting. Minutes of an Extraordinary Council Meeting may be confirmed at a Council Meeting. Minutes of a Committee of Council Meeting should ordinarily be confirmed at the next Meeting of that Committee of Council.
- ~~38.5~~ Confirmed minutes must be published on CN's website.

### 39 Signature

- 39.1 The minutes of the previous Meeting must be signed and dated by the Chairperson at the subsequent Meeting after they have been confirmed as being an accurate record.

### 40 Correction of errors

- 40.1 The confirmed minutes of a Meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the Meeting.

**Commented [A27]:** This new section has been included in accordance with the Model Meeting Code.

## Part I – Recording, webcasting and photography

### 4041 ~~Recording~~ Use of mobile phones and recording of Meetings

~~41.1~~ 41.1 ~~Record~~, for the purpose of this section, refers to recording by any electronic device capable of recording speech including a video camera.

~~40.441.2~~ Recording a Meeting is recording the Meeting as Webcast and in Minutes and should not be a Recording of any private third party conversations or comments within the Council Chamber Meeting room of Councillors, CN staff, guests or members of the gallery.

~~40.241.3~~ 41.3 The CEO, or a ~~Council Officer~~ CN staff member designated by the CEO, may Record a Meeting. Recordings will only be used to ensure the accuracy of the minutes of the Meeting and as required by law.

~~40.341.4~~ 41.4 Journalists or members of a recognised media organisation may Record the Meeting provided written notice has been lodged with Lord Mayor/Chairperson and CEO by 5pm on the day of the Meeting. A person may be expelled from a Meeting for Recording a Meeting without notice. Recordings may only be used for the purpose of accuracy of reporting as notes for accuracy of minutes or quotes, and are not for broadcast on any channel or device, or to be shared publicly. ~~Recording a Meeting is recording the Meeting as Webcast and in Minutes and should not be a Recording of any private third party conversations or comments within the Council Chamber of Councillors, staff, guests or members of the gallery.~~

~~40.441.5~~ 41.5 Any other person (including members of the public) may only Record a Meeting with the authority of the Meeting. A person may be expelled from a Meeting for Recording a Meeting without authority.

~~40.541.6~~ 41.6 Only Councillors, the CEO, ~~Council Officers~~ CN staff designated by the CEO or persons permitted by law are entitled to access Recordings of Meetings.

~~40.641.7~~ 41.7 Councillors are entitled to listen to or make a copy of the Recording of a Meeting for the purpose of ensuring the accuracy of the minutes of the Meeting or a purpose directly related to that purpose.

~~41.8~~ 41.8 The Recording of a Meeting must be kept in a safe place for a minimum of 12 months from the date of the Meeting and only be destroyed in accordance with ~~applicable records management legislation~~ the State Records Act 1998.

~~41.9~~ 41.9 ~~Councillors, CN staff and members of the public must ensure that mobile phones are turned to silent during Meetings.~~

**Commented [A28]:** This new clause has been included in accordance with the Model Meeting Code.

### 4142 ~~Webcasting~~

~~41.1~~ 41.1 ~~Webcast~~, for the purpose of this section, ~~refers to the live web transmission of Meetings over the internet.~~

~~41.242.1~~ 41.242.1 ~~All Meetings will be Webcast on CN's website. The CEO, or a Council Officer designated by the CEO, may Webcast a Meeting. Webcasts will only be used for Webcasting and as required by law. No other person may live stream the proceedings of a Meeting.~~

~~41.342.2~~ 41.342.2 ~~At the start of each Meeting that will be Webcast, the Chairperson must advise the Meeting room that the Meeting will be Webcast and that those in attendance should refrain from making any defamatory statements.~~

~~41.442.3~~ 41.442.3 ~~The CEO must will ensure:~~

~~41.4.442.3.1~~ 41.4.442.3.1 ~~persons in the Meeting room are advised that the Meeting may will be Webcast by providing notification on signs in the Meeting room and such other notices as required; and~~

41.4.242.3.2 Webcasting is terminated if:

- (a) the Meeting is closed as provided in section in Part G; or
- (b) the CEO or the Meeting are of the opinion that continued Webcasting may prejudice the Meeting or infringe the rights or safety of an individual.

41.4 A copy of the Webcast of each Meeting will be retained on CN's website for two months and may be destroyed in accordance with the State Records Act 1998.

**Commented [A29]:** These amendments are consistent with the Model Meeting Code.

### 42.4.3 Photography

42.4.3.1 Photography in the Council Chamber is generally allowed except as restricted by the relevant legislation. The Chairperson may direct any person in the Council Chamber who is in breach of legislation to refrain from taking photographs.

## Part J Motions

### 4344 Chairperson's duty with respect to motions

43-44.1 The Chairperson must:

43-44.1.1 receive and put to a Meeting any ~~valid-lawful~~ motion that is brought before that Meeting; and

43-44.1.2 rule out of order any motion ~~or amendment~~ that is unlawful or the implementation of which would be invalid.

44.2 Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to be rejected.

44.3 ~~Before ruling a motion or amendment out of order, the Chairperson must give the mover an opportunity to clarify or amend the motion or amendment.~~

43-244.4 When a motion contrary to a recommendation of a report of a Committee or ~~Council-Officer~~CN staff is put to a Meeting, the Chairperson must ask the CEO (before the motion is debated) whether there is any legal, technical, operational or procedural reason why the motion should not be carried.

Commented [A30]: These amendments are in accordance with the Model Meeting Code.

### 4445 Lord Mayoral Minute

45.1 The Lord Mayor is entitled to put to a Council or Committee of Council Meeting, without notice, in the form of a written, signed minute (**Lord Mayoral Minute**), any matter ~~that is within the jurisdiction of Council or of which Council has official knowledge and~~ that the Lord Mayor wishes to bring to the attention of the Meeting. The Lord Mayor is entitled to put a Lord Mayoral Minute to an Extraordinary Council Meeting if notice of the Lord Mayoral Minute is included in the notice of the Extraordinary Council Meeting.

44-445.2 A ~~Lord Mayoral Minute must not be used to put without notice matters that are routine and not urgent (where it requires a decision by Council before the next scheduled Ordinary Council Meeting), or matters for which proper notice should be given because of their complexity.~~

44-245.3 The Lord Mayor may move the adoption of a Lord Mayoral Minute without the motion being seconded.

44-345.4 A recommendation made in a Lord Mayoral Minute is, so far as adopted by the Meeting, a resolution of the Meeting.

44-445.5 A Chairperson who is not the Lord Mayor is not entitled to put a Lord Mayoral Minute to a Meeting.

Commented [A31]: These new clauses has been included in accordance with the Model Meeting Code.

### 4546 Notices of motion

45-146.1 A motion must only be considered at a Meeting if:

45-1-446.1.1 notice of the motion in writing is received by the CEO by 5pm on the day 12 days before the scheduled Meeting; and

45-1-246.1.2 notice of the motion has been sent to Councillors in accordance with Part D.

45-246.2 Where the notice of motion requires expenditure of funds on works and/or services other than those already provided for in Council's current adopted operational plan, the CEO ~~will~~may:

45-2-446.2.1 arrange for the preparation of a report on the availability of funds for implementing the motion if adopted; or

45-2-246.2.2 defer consideration of the matter by Council pending the preparation of such a report. Councillors will be notified in writing where a matter is to be deferred.

~~45.3.46.3~~ This section does not apply to the consideration of business at a Meeting if the business:

~~45.3.46.3.1~~ is already before or directly relates to a matter that is already before the Meeting;

~~45.3.46.3.2~~ is the election of a Chairperson to preside at the Meeting;

~~45.3.46.3.3~~ is put to the Meeting as a Lord Mayoral Minute; or

~~46.3.4~~ is a motion for the adoption of the recommendations of a Committee of Council.

~~46.4~~ A Councillor may, in writing to the CEO, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the Agenda and Business Paper for the Meeting at which it is to be considered.

~~46.5~~ A Councillor who has submitted a notice of motion under this section may request the Meeting to withdraw the motion when it is before the Meeting. A notice of motion submitted in relation to rescission or altering of motions in accordance with clause 65.1 may only be withdrawn with the consent of all signatories to the notice of motion.

~~46.6~~ A Councillor who has submitted a notice of motion under this section is to move the motion that is the subject of the notice of motion at the Meeting at which it is being considered. Where the Councillor is absent, the provisions of section 52 Absence of mover of notice of motion will apply.

Commented [A32]: These new clauses has been included in accordance with the Model Meeting Code.

#### 4647 Unacceptable motions

~~46.1.447.1~~ The Chairperson may rule that a motion or an amendment is out of order if, in the view of the Chairperson, the proposed motion or amendment:

~~46.1.447.1.1~~ is vague and equivocal in its language;

~~46.1.447.1.2~~ is the direct negative of, or is inconsistent with, a resolution passed by the Meeting;

~~46.1.447.1.3~~ is an amendment which is a direct negative of the motion which it proposes to amend;

~~46.1.447.1.4~~ proposes an action that is unlawful;

~~46.1.447.1.5~~ is outside the authority of the Meeting;

~~46.1.447.1.6~~ contains defamatory statements;

~~46.1.447.1.7~~ is unnecessary in that it proposes a course of action or policy already resolved by the Meeting;

~~46.1.447.1.8~~ is vexatious; or

~~46.1.447.1.9~~ is proposed solely as a way to impede the orderly transaction of business.

~~46.247.2~~ A Councillor may move a motion of dissent to a ruling under this section in accordance with section ~~60606059~~.

#### 4748 Repeat motions

~~47.448.1~~ A notice of motion having the same effect as a motion rejected by a Meeting may be lodged if less than three months has elapsed since the resolution was rejected and if signed by three councillors.

~~47.248.2~~ If a motion previously rejected by a Meeting is again rejected by a Meeting, no motion to the same effect may be brought to any Meeting within three months of that rejection.

~~47.348.3~~ The provisions of this section may not be evaded by substituting a motion differently worded, but in principle the same.

**4849 Motions to be seconded**

~~48.149.1~~ Unless a seconder is not required in accordance with the Code:

~~48.1.149.1.1~~ a motion or amendment cannot be spoken to until it has been seconded; and

~~48.1.249.1.2~~ a motion or amendment that is not seconded lapses.

**4950 Motions put without debate or discussion**

~~49.450.1~~ Provided there is no objection from any Councillor present, any motion before a Meeting may be put to the vote without discussion or debate.

**5051 Limitations of speeches**

~~50.451.1~~ A Councillor who moves a motion has:

~~50.4.451.1.1~~ the right of first address to the Meeting;

~~50.4.251.1.2~~ the right of reply to the motion, which must not address any material or argument that has not already been put to the Meeting; and

~~50.4.351.1.3~~ the right to speak to any amendment.

~~50.251.2~~ A Councillor who seconds a motion has a right to address the Meeting before the motion is put.

~~50.351.3~~ A Councillor (other than the mover of a motion) has the right to speak once to the motion and once on each amendment. A Councillor may not, without the consent of the Meeting, speak more than once to a motion or an amendment. This does not apply if Council resolves itself into a Committee of the whole pursuant to section 14.

~~50.451.4~~ Ordinarily, Councillors will be permitted to speak to a motion in the order in which they indicate an intention to speak to a motion. However, once the mover of a motion and (unless they choose to hold over their speaking rights) the seconder of a motion have spoken to the motion:

~~50.4.451.4.1~~ the Chairperson may enquire of those Councillors wishing to speak whether they are speaking for or against a motion;

~~50.4.251.4.2~~ the Chairperson may alternate the speaking order of Councillors, against and for the motion having regard to the order in which Councillors have indicated an intention to speak to a motion; and

~~51.4.3~~ once two Councillors have spoken for the motion and two Councillors have spoken against the motion, or no Councillor expresses an intention to speak against the motion, a Procedural Motion that the motion be now put may be moved by any Councillor pursuant to section ~~59595958~~.

~~50.5~~ Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

**Commented [A33]:** This new clause has been included in accordance with the Model Meeting Code.

**5152 Time for speeches**

~~51.452.1~~ A Councillor may not, without the consent of the Meeting, speak for longer than ~~three-five~~ minutes at any one time.

~~51.252.2~~ If a Councillor asks a question, the time taken for the question to be answered is not included in the ~~three-five~~ minutes allowed for the Councillor's address.

~~52.3~~ The Chairperson may permit a Councillor, who claims to have been misrepresented or misjudged, to make an additional statement explaining only the misrepresentation or misunderstanding for no longer than an additional ~~three-five~~ minutes.



~~52.4~~ ~~The Meeting may resolve to reduce the duration of speeches to expediate the consideration of business at a Meeting.~~

~~51-352.5~~ ~~This section does not apply if Council resolves itself into a Committee of the whole pursuant to section 14.~~

**Commented [A34]:** These amendments are in accordance with the Model Meeting Code.

**5253 Absence of mover of notice of motion**

~~52-153.1~~ If a Councillor who has placed a notice of motion on the Business Papers is absent from a Meeting:

~~52-1-153.1.1~~ the Chairperson may defer the motion until the next Meeting at which the motion can be considered; or

~~52-1-253.1.2~~ any other Councillor may move the motion at the Meeting.

**5354 Amendments**

~~54.1~~ Any Councillor may propose an Amendment to any motion put to a Meeting. ~~An Amendment to a motion must relate to the matter being dealt with in the original motion before the Meeting and must not be a direct negative of the original motion. An Amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the Chairperson.~~

~~54.2~~ An Amendment to a motion requires a mover and a seconder. The Amendment must be dealt with before voting on the original motion. Debate is allowed only in relation to the amendment and not the original motion (the original motion is suspended while the Amendment is considered). ~~The mover of an Amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.~~

~~54.3~~ ~~An Amendment may become the motion without debate or a vote where it is accepted by mover of the original motion.~~

**Commented [A35]:** These new clauses has been included in accordance with the Model Meeting Code.

~~53-154.4~~ If the Amendment is passed, the motion is changed to include the Amendment and this new motion is debated. If the Amendment is not supported, the original motion stays in its original form and debate resumes.

~~53-254.5~~ Only one Amendment should be before the Meeting at any time. If several Amendments are proposed, each should be moved, seconded, debated and voted on before the next. Where possible, the Amendments should be put forward and debated in the order in which they affect the original motion.

~~54.6~~ ~~The Chairperson may rule an amendment to be new business and therefore out of order.~~

**Commented [A36]:** This clause is now included in 53.1 above.

**5455 Foreshadowed Motions**

~~55.1~~ A Councillor may advise a Meeting of an intention to put forward a Foreshadowed Motion in relation to the matter the subject of the original motion before the Meeting, without a seconder during debate on the original motion. ~~The Foreshadowed Motion is only to be considered if the original motion is lost or withdrawn and the Foreshadowed Motion is then moved and seconded. If the original motion is carried, the Foreshadowed Motion lapses.~~

~~55.2~~ ~~Where an Amendment has been moved and seconded, a Councillor may, without a seconder, foreshadow a further Amendment that they propose to move after the first Amendment has been dealt with. There is no limit to the number of foreshadowed Amendments that may be put before the Meeting at any time. However, no discussion can take place on foreshadowed Amendments until the previous Amendment has been dealt with and the foreshadowed Amendment has been moved and seconded.~~

54.155.3 The Chairperson cannot accept a Foreshadowed Motion until the original motion is decided.

54.255.4 Foreshadowed Motions and foreshadowed Amendments must be dealt with in the order in which they have been brought to the attention of the Meeting. However, Foreshadowed Motions cannot be considered until all foreshadowed Amendments have been dealt with.

54.355.5 The Chairperson may rule any Foreshadowed Motion to be new business and therefore out of order.

**Commented [A37]:** These new clauses has been included in accordance with the Model Meeting Code.

## Part K Procedural Motions

### 5556 General

~~55-456.1~~ All motions provided in this Part are Procedural Motions.

~~55-256.2~~ Procedural Motions:

~~55-2-456.2.1~~ must be accepted by the Chairperson;

~~55-2-256.2.2~~ must be seconded unless otherwise provided in this Part; and

~~55-2-356.2.3~~ can not be amended except to provide clarification.

~~55-356.3~~ Notice requirements in the Code do not apply to Procedural Motions.

### 5657 Motion to recommit a matter

~~56-457.1~~ If during the Meeting a Councillor becomes aware that they have misunderstood a matter on which a vote has already been taken, the Councillor may request that the matter be recommitted.

~~56-257.2~~ The mover of a motion to recommit a matter may speak only to their misunderstanding of the matter and may not speak to the substantive motion, the vote or the resolution.

### 5758 Motion to alter order of business

~~57-458.1~~ The order of business at any Meeting (except an Extraordinary Council Meeting) may be altered if a resolution to that effect is carried.

~~57-258.2~~ Only the mover of a motion to alter the order of business may speak to the motion before it is put. The seconder has no right to address the Meeting and there is no right of reply.

### 5859 Motion that a motion be now put

~~58-459.1~~ A Councillor may move that a motion or amendment be now put:

~~58-1-459.1.1~~ if the mover of the motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it; or

~~58-1-259.1.2~~ if at least two Councillors have spoken in favour of the motion or amendment and at least two Councillors have spoken against it.

~~58-259.2~~ Only the mover of a motion that a motion be now put may speak to the motion before it is put. A seconder is not required.

~~58-359.3~~ If the motion that a motion be now put is passed, the Chairperson must not allow further debate or comment by any person except for the right of reply by the mover of the motion or amendment.

~~58-459.4~~ If a motion that the original motion or amendment be now put is rejected, the Chairperson must allow the debate on the motion or amendment to be resumed.

### 5960 Motion of dissent

~~59-460.1~~ A Councillor may, without notice, move a motion of dissent from a ruling of the Chairperson on a point of order or a question of order except on whether a matter is of great urgency in relation a late item of business in accordance with clause 21.1.2.

~~59-260.2~~ The Chairperson must suspend the business of the Meeting until a decision is made on the motion of dissent.

~~59-360.3~~ Only the mover of a motion of dissent and the Chairperson may speak to the motion before it is put. The mover of a motion of dissent does not have a right of

**Commented [A38]:** This amended clause is in accordance with the Model Meeting Code.

reply and the Chairperson must put the motion of dissent to the Meeting immediately after the Chairperson has spoken to it.

~~59-460.4~~ If a motion of dissent is carried, the Chairperson must recommence the suspended business as though the ~~Chairperson's ruling on the point of order had not been made~~ ~~ruling dissented from had not been given.~~

~~60.5~~ If, as a result of the ruling overturned by the motion of dissent, any motion or business had been discharged as out of order, the Chairperson must restore the motion or business to the Agenda and proceed in accordance with the Code.

#### **6061 Motion to adjourn a matter**

~~60-461.1~~ A Councillor may move a motion to adjourn a matter under consideration if the Councillor has not exercised their right to speak to the substantive motion before the Meeting.

#### **6162 Motion to adjourn a Meeting**

~~61-462.1~~ A Councillor may move a motion to adjourn a Meeting.

~~61-262.2~~ If a Meeting resolves to adjourn the Meeting for 24 hours or less, notice is not required to reconvene the Meeting.

~~61-362.3~~ If a Meeting resolves to adjourn the Meeting for longer than 24 hours, notice for the reconvening of the Meeting must be given as provided in the Act and Regulation.

#### **6263 Motion to refer the matter**

~~62-463.1~~ A Councillor may move a motion to refer a matter to a Committee of Council or an Advisory Committee.

#### **6364 Motion that the matter be left on the table**

~~63-464.1~~ A Councillor may move a motion that the matter be left on the table if the Councillor has not exercised their right to speak to the substantive motion before the Meeting.

#### **6465 Motion that a motion be voted on in seriatim**

~~64-465.1~~ Where a motion comprises multiple parts, a Councillor may move a motion that the matter be voted on in seriatim.

## Part L Rescission

### 65-1-266 Rescinding or altering resolutions

~~65-1-466~~ 1 A resolution (or part of a resolution) passed by a Meeting may not be rescinded or altered except by a motion to that effect of which notice has been given. The notice of motion must be:

~~65-1-466~~ 1.1 signed by three Councillors if less than three months has elapsed since the resolution was passed;

~~65-1-266~~ 1.2 provided to the CEO by 5pm on the day ~~three~~ 12 days before the scheduled Meeting; and

~~65-1-366~~ 1.3 sent to Councillors in accordance with Part D.

~~65-266~~ 2 If notice of a motion to rescind a resolution is given at the Meeting at which the resolution was carried, the resolution must not be carried into effect until the rescission motion has been dealt with.

~~65-366~~ 3 A notice of motion to rescind a resolution which involves the granting of development consent under the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**) should not be given after that development consent is effective in accordance with the EP&A Act.

~~65-466~~ 4 If a motion to rescind or alter a resolution is rejected by a Meeting, no motion to the same effect may be brought forward to any Meeting within three months of that rejection.

~~65-566~~ 5 The provisions of this Part may not be evaded by substituting a motion differently worded but in principle the same.

~~65-666~~ 6 A motion to which this section applies may be moved on the report of a Committee of Council and any such report must be recorded in the minutes.

~~65-766~~ 7 The provisions of this Part do not apply to Procedural Motions.

**Commented [A39]:** A rescission motion is a Notice of Motion and should be lodged in the same time frame.

**Part M Voting**

**6667 Voting entitlements**

~~67.1~~ 67.1 A decision of a Meeting in accordance with section 12, is made by way of voting on a motion which has been appropriately moved and seconded, or as provided for under this Code.

**Commented [A40]:** This clarifies that decisions are only made by voting on a motion.

~~66-467.2~~ 67.2 Each Councillor is entitled to one vote on each motion put to a Meeting while that Councillor is present in the Meeting room.

~~66-267.3~~ 67.3 A Councillor who is present in the Meeting room but who fails to vote on a motion put to the Meeting is taken to have voted against the motion.

~~66-367.4~~ 67.4 A Councillor who is absent from the Meeting room when a vote on a motion is put to the Meeting is not counted as having cast a vote.

~~67.5~~ 67.5 Voting at a Meeting must be by open means (such as on the voices or by a show of hands or by visible electronic voting system) except in relation to the election of a Deputy Lord Mayor which Council may resolve to be by secret ballot shall be conducted in accordance with the Regulation.

~~67.6~~ 67.6 The CEO is not entitled to vote at Meetings.

**Commented [A41]:** This new clause has been included in accordance with the Model Meeting Code.

**6768 Casting vote**

~~67-468.1~~ 68.1 The Chairperson of a Meeting has in the event of an equality of votes a second or casting vote.

~~68.2~~ 68.2 Before a Chairperson exercises their second or casting vote, they must have exercised their vote in their own right.

~~68.3~~ 68.3 Where the Chairperson declines or fails to exercise their second or casting vote, in the event of an equality of votes, the motion being voted on is rejected.

**Commented [A42]:** This new clause has been included in accordance with the Model Meeting Code.

**6869 Counting of votes**

~~68-469.1~~ 69.1 The decision of the Chairperson about the result of a vote is final unless a Councillor immediately requests a show of hands or two Councillors immediately request a division.

**6970 Voting by division**

~~69-470.1~~ 70.1 If two Councillors request voting by division, the Chairperson must ensure that:

~~69-4-70.1.1~~ 70.1.1 the division takes place immediately; and

~~69-4-270.1.2~~ 70.1.2 each Councillor stands to vote, is identified by name to the Meeting and whether they are for or against the motion.

~~69-270.2~~ 70.2 The CEO must ensure the names of Councillors who voted for and against the motion are recorded in the Meeting's minutes.

~~70.3~~ 70.3 Councillors abstaining from voting in a division are taken to have voted against the motion.

**71 Recording of voting**

~~71.1~~ 71.1 A Councillor who has voted against a motion put at a Meeting (including any Meeting that is closed to the public) can request the CEO ensure that the Councillor's dissenting vote is recorded in the minutes.

**Commented [A43]:** This new section has been included in accordance with the Model Meeting Code.

**7072 Recording of voting on Planning Decisions**

~~72.1~~ 72.1 A division must be called whenever a motion for a Planning Decision is put at a Meeting (including any Meeting that is closed to the public). This is to assist the

CEO to keep a register containing the names of the Councillors who voted for and against the motion and described or identified in the register in a manner that enables the description to be obtained from another publicly available document.

**Commented [A44]:** This amendment is consistent with the Model Meeting Code and CN's current practice.



## Part N Disclosure Obligations

### 74.173 Conflicts of interest – Councillors

~~74.173.1~~ A Councillor must declare ~~and manage~~ a conflict of interest in accordance with legislation and the Code of Conduct before the matter to which the conflict relates is considered by the Meeting.

~~74.273.2~~ When a Councillor declares a conflict of interest the following must be recorded in the minutes of the Meeting:

~~74.2.473.2.1~~ the details of the declaration (this must also be recorded in the register of disclosures); and

~~73.2.2~~ the ~~manner in which the conflict~~ conflict was managed (including the Councillor's times of departing and returning to the Meeting room (unless the Councillor is not required to leave the Meeting room).

### ~~72~~ Conflicts of interest – other persons

~~72.1~~ If a Council Officer has a pecuniary or significant non-pecuniary interest in a matter before a Meeting and the Council Officer may reasonably be expected to make recommendations on that matter, the Council Officer must declare the interest in writing to the CEO in accordance with the Code of Conduct.

~~72.2~~ If a person addressing a Meeting in a matter has a pecuniary or significant non-pecuniary interest in relation to that matter, that person must disclose that interest to the Meeting.

~~72.373.3~~ The payment of remuneration or fees by Council, a statutory body or the Crown is not a conflict of interest under this section.

Commented [A45]: This section is not required as there are processes under the Code of Conduct that govern conflicts of interest.

### 73.74 No knowledge

~~73.174.1~~ A person (including a Councillor and ~~Council Officer~~ CN staff member) does not breach this Part if the person did not know and could not reasonably be expected to have known that the matter under consideration at the Meeting was a matter in which they had a conflict of interest.

### 74.75 Allegations of breaches of the Code of Conduct

~~74.175.1~~ A Councillor must not make allegations of suspected breaches of the Code of Conduct at Meetings.

~~74.275.2~~ An allegation of a breach of the Code of Conduct raised at a Meeting must be referred to the CEO (or Lord Mayor if the allegation is against the CEO) and not debated at the Meeting.



## Part O Order

### 75-1-476 Point of order

~~75-1-476.1~~ A point of order may be raised about any procedural matter relating to the orderly conduct of the Meeting and without limitation may include:

~~75-1-476.1.1~~ Councillors speaking or whispering while another Councillor is addressing the Meeting;

~~75-1-476.1.2~~ verbal interjections;

~~75-1-476.1.3~~ failure to abide by the provisions of the Code;

~~75-1-476.1.4~~ discourtesy to fellow Councillors during a Meeting;

~~75-1-576.1.5~~ exceeding time limits without the agreement of the Meeting;

~~75-1-676.1.6~~ addressing the Meeting without the permission of the Chairperson; or

~~76.1.7~~ any actions or comments that could be considered to be a breach of the Code of Conduct.

~~75-276.2~~ A point of order may not be raised about adherence to the Principles set out in section 4.

~~76.3~~ A Councillor who claims that another person is out of order may call the attention of the Chairperson to the matter and state the provision of the Code they believe has been breached. A point of order does not require a seconder!

**Commented [A46]:** These amendments has been included in accordance with the Model Meeting Code.

### 77 Question of order

~~77.1~~ The Chairperson may, without the intervention of any Councillor, call a person to order if, in the opinion of the Chairperson, it is necessary to do so.

~~75-377.2~~ The Chairperson must rule on a point of order immediately after it is raised but, before doing so, may invite the opinion of the Meeting by without limitation:

~~75-3-477.2.1~~ providing Councillors with an opportunity to express their view on the point of order; or

~~75-3-277.2.2~~ providing Councillors with an opportunity to indicate, by open means (such as by voices or show of hands), whether they believe the behaviour or matter raised is out of order.

~~75-477.3~~ The Chairperson's ruling on a point of order must be obeyed unless a motion dissenting from the ruling is passed.

### 76-1-478 Act of disorder

~~76-1-478.1~~ A Councillor commits an act of disorder if the Councillor at a Meeting:

~~76-1-478.1.1~~ contravenes the Act or Regulation;

~~76-1-278.1.2~~ assaults or threatens to assault another Councillor or person present at the Meeting;

~~76-1-378.1.3~~ moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Meeting or addresses or attempts to address the Meeting on such a motion, amendment or matter;

~~76-1-478.1.4~~ insults or abuses any other Councillor or person;

~~76-1-578.1.5~~ makes personal reflections on or implies improper motives to any other Councillor or person;

~~76.1.6~~ ~~78.1.6~~ says or does anything that is inconsistent with maintaining order at the Meeting or is likely to bring the Council or Committee of Council into contempt; or

~~76.1.7~~ ~~78.1.7~~ disturbs the orderly conduct of a Meeting.

~~76.2~~ ~~78.2~~ The Chairperson must rule on an act of disorder immediately after it is raised but, before doing so, may invite the opinion of the Meeting by without limitation:

~~76.2.1~~ ~~78.2.1~~ providing Councillors with an opportunity to express their view on the act of disorder; or

~~76.2.2~~ ~~78.2.2~~ providing Councillors with an opportunity to indicate, by open means (such as by voices or show of hands), whether they believe the behaviour or matter raised is an act of disorder.

~~76.3~~ ~~78.3~~ If a Councillor has committed an act of disorder, the Chairperson must request the Councillor to:

~~76.3.1~~ ~~78.3.1~~ apologise without reservation for the act of disorder;

~~76.3.2~~ ~~78.3.2~~ withdraw a motion or an amendment which is an act of disorder; and/or

~~76.3.3~~ ~~78.3.3~~ retract the act of disorder.

~~76.4~~ ~~78.4~~ If an act of disorder occurs at a Meeting, the Chairperson may adjourn the Meeting for a period of not more than 15 minutes. When the Meeting is reconvened after the adjournment, the Meeting must, on a question put by the Chairperson, decide whether to proceed with the Meeting. The motion to proceed with the Meeting is a Procedural Motion.

~~76.5~~ ~~78.5~~ The Chairperson's ruling on an act of disorder must be obeyed unless a motion dissenting the ruling is passed.

### ~~77~~ ~~79~~ **Expulsion from a Meeting**

~~77.1~~ ~~79.1~~ A Councillor may be expelled from a Meeting by resolution of the Meeting (any Councillor may move a motion) for:

~~77.1.1~~ ~~79.1.1~~ committing an act of disorder under section ~~78.78~~ ~~79.76~~; and

~~77.1.2~~ ~~79.1.2~~ failing to comply with a direction of the Chairperson pursuant to section ~~78.378~~ ~~79.376~~.

~~77.2~~ ~~79.2~~ Any other person may be expelled from a meeting by resolution (a Councillor may move a motion) of the Meeting or by the Chairperson if Council has resolved to authorise the Chairperson to exercise the power of expulsion.

~~77.3~~ ~~79.3~~ A Meeting may by resolution readmit a Councillor or any other person who was expelled at an earlier part of the Meeting. Such motion may be moved by a Councillor.

~~77.4~~ ~~79.4~~ The expulsion of a Councillor from the Meeting does not prevent any other action from being taken against the Councillor for the act of disorder.

~~77.5~~ ~~79.5~~ A motion to expel or readmit a Councillor is a Procedural Motion.

### ~~78~~ ~~80~~ **Removal of persons after expulsion**

~~78.1~~ ~~80.1~~ The Chairperson may order the removal of a Councillor or any other person if they fail to leave the place where a Meeting is being held after being expelled from the Meeting.

~~80.2~~ If a Councillor or any other person fails to leave the place where the Meeting is being held after being expelled from a Meeting, the police may, be called to remove the person from the Meeting place.

**Commented [A47]:** This amendment has been included in accordance with the Model Meeting Code.

**79 Censure**

- 79.1 Council may by resolution formally censure a Councillor for misbehaviour. Such a formal censure resolution may only be passed if Council is satisfied that the Councillor has misbehaved on one or more occasions;
- 79.2 A formal censure resolution may not be passed except by a motion to that effect of which notice has been given in accordance section 17;
- 79.3 Council must specify in the formal censure resolution the grounds on which it is satisfied that the Councillor should be censured;
- 79.4 A motion for a formal censure resolution may, without limitation, be moved on the report of a Committee of Council or Advisory Committee, and any such report must be recorded in the minutes of the Meeting;

**80 Suspension**

- 80.1 Where a Councillor's behaviour has:
    - 80.1.1 been disruptive over a period, and involved more than one incident of misbehaviour during that period, and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the Councillor's suspension; or
    - 80.1.2 involved one incident of misbehaviour that is of such a sufficiently serious nature as to warrant the Councillor's suspension;
- Council may by resolution initiate the process for suspension of the Councillor under the Act.

**Commented [A48]:** These provisions are not included in the Model Meeting Code. Where a matter relates to a Code of Conduct issue, it must be considered under the Procedures for Administration of the Code of Conduct.

## Part P Committees of the Council

### 81 Establishment

- 81.1 Council may, by resolution, establish such Committees of the Council as it considers necessary.
- 81.2 Council may delegate any of its functions to a Committee of Council other than those functions identified in section 377 of the Act.
- 81.3 Council must specify the functions of each Committee of Council on establishing that Committee. Council may from time to time amend those functions.
- 81.4 The Meeting cycle for any Committee of Council will be determined from time to time by resolution of Council or the Committee of Council.

### 82 Membership

- 82.1 A Committee of Council is to consist of the Lord Mayor and such other Councillors as are elected or appointed by Council.
- 82.2 A Councillor ceases to be a member of a Committee of Council if the Councillor (other than the Lord Mayor):
- 82.2.1 has been absent from three consecutive Meetings of the Committee of Council without providing reasons acceptable to the Committee of Council for the member's absences; or
- 82.2.2 has been absent from at least half of the Meetings of the Committee of Council during the immediately preceding calendar year without providing to the Committee of Council acceptable reasons for the member's absences.
- 82.3 This section does not apply if all Councillors are members of the Committee of Council.

### 83 Attendance

- 83.1 A Councillor who is not a member of a Committee of Council is entitled to attend and speak at a Meeting of the Committee of Council.
- 83.2 A Committee of Council may by resolution permit a Councillor who is not a member of the Committee to give notice of business for inclusion in the Business Papers of the next Meeting of the Committee.

### 84 Quorum

- 84.1 ~~The quorum for a Meeting of the Committee of Council is to be determined by resolution of Council and if not decided, is a majority of the members of the Committee of Council.~~
- 84.2 ~~This section does not apply if all Councillors are members of the Committee of Council.~~

**Commented [A49]:** This section has been included in accordance with the Model Meeting Code.

### 84.1.1 Voting

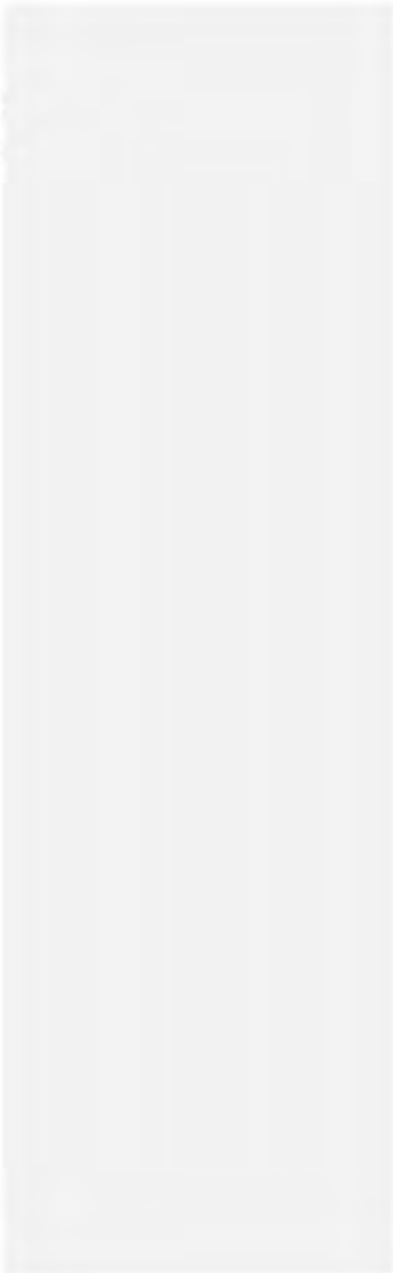
- ~~84.1.1~~ A Councillor who is not a member of the Committee of Council is not entitled to:
- ~~84.1.1.1~~ move or second a motion at Committee of Council Meeting; or
- ~~84.1.1.2~~ vote at the Committee of Council Meeting.

**8586 Recommendations**

85-186.1 Council may consider the recommendations contained in a report of a Committee of Council either separately or concurrently.

85-286.2 The recommendations of a Committee of Council are, so far as adopted by the Council, resolutions of Council.

|



## Part Q Advisory Committees

### 8687 Council May Establish Advisory Committees

86-487.1 Council may by resolution establish such Advisory Committees as it considers necessary. The resolution must include the adoption of a constituting document (such as a Charter) and Meeting schedule.

86-287.2 The provisions of the Code do not apply to the operation or Meeting procedure of Advisory Committees.

86-387.3 Council may by resolution request that an Advisory Committee create a working party to consider a particular issue or undertake a particular activity.

### 8788 Recommendations of Advisory Committees

87-488.1 An Advisory Committee must submit reports to Council or a Committee of Council in accordance with the Advisory Committee's constituting document but not less than annually.

87-288.2 Council or a Committee of Council may consider the recommendations contained in a report of an Advisory Committee either separately or all concurrently.

87-388.3 The recommendations of an Advisory Committee are, so far as adopted by the Council (or a Committee of Council), resolutions of the Council (or a Committee of Council).

## Part R Briefings and Workshops

### 8889 Briefings

88-489.1 The CEO may schedule Briefings for any Meeting.

88-289.2 Council or any Committee of Council (insofar as it is delegated the authority to do so) may by resolution request that the CEO schedule a Briefing on an issue. Such resolution must include a clear statement about the subject of the requested Briefing.

88-389.3 As they constitute part of a Meeting, all Briefings are open to the public except those Briefings which are by resolution closed to the public in accordance with Part G.

### 8990 Workshops

89-490.1 The CEO may schedule Workshops and invite all Councillors to attend.

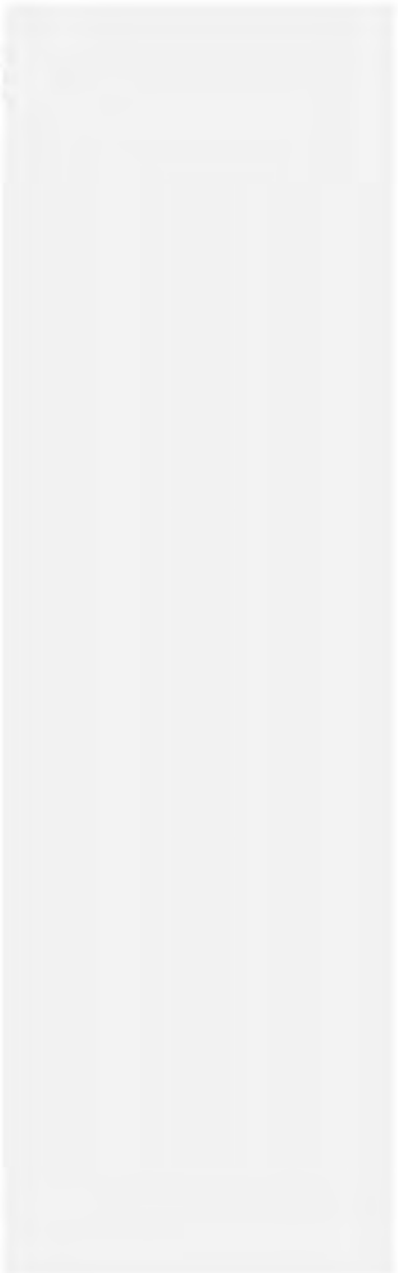
89-290.2 Council or any Committee of Council (insofar as it is delegated the authority to do so) may by resolution request that the CEO schedule a Workshop. The resolution must include a clear statement about the subject of the requested Workshop.

89-390.3 Workshops must not be used for detailed or advanced discussions where agreement is reached and/or a decision is made. No agreement will be sought from Councillors at Workshops.

89-490.4 Workshop briefing papers will contain information but no recommendations. Workshop briefing papers will be made available to all Councillors irrespective of whether they are in attendance at the Workshop.

89-590.5 All Workshops are closed to the public except those Workshops (or parts of the Workshop) which are opened to the public by resolution of Council or a Committee of Council (insofar as it is delegated the authority to do so) or the CEO.

~~99-690.6~~ The provisions of the Code (except this Part) do not apply to the operation or Meeting procedure of Workshops. Meeting procedures at Workshops will be agreed between the Workshop convenor and the participants.



## Appendix A - Definitions

**Act** means the Local Government Act 1993.

**Act of disorder** means an action described in section 77 of this Code.

**Advisory Committee** means a committee established by resolution of Council, whose purpose is to provide guidance and make recommendations to the elected Council within a particular area of expertise. Its members can consist of community members, members of key stakeholder groups and/or Councillors.

**Agenda** means the business proposed to be transacted at a Meeting.

**Amendment** in relation to an original motion, means a proposed alteration or addition to that motion.

**Apology** means notification that a Councillor will not be attending a Meeting. An apology does not amount to a leave of absence.

**Business day** means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales.

**Business Papers** means any documents relating to the Agenda items of a Meeting.

**Briefing** means a presentation on a specified topic by the CEO, Council Officers, CN staff or invited persons followed by an opportunity for Councillors to ask questions regarding the topic.

**CEO** means the Chief Executive Officer/General Manager of Newcastle City Council.

**Chairperson** means the Chairperson identified in Part E.

**City of Newcastle (CN)** means Newcastle City Council.

**Code** means this Code of Meeting Practice.

**Code of Conduct** means the Code of Conduct adopted by Council.

**Committee of Council** means a committee of the whole of which all members are Councillors as provided by clause 259 of the Regulation.

**Council** means the governing body of Newcastle City Council/City of Newcastle.

**Councillor** means a person elected or appointed to civic office as a member of the governing body of Council and includes the Lord Mayor.

**Division** means a request by two Councillors under section 69 of this Code requiring the recording of the names of the Councillors who voted both for and against a motion.

**Foreshadowed Motion** in relation to an original motion, means a proposed motion that relates to the motion currently before the Meeting that is only to be considered if the original motion is rejected.

**Inspection Committee** means a Committee of Council constituted to perform site inspections.

**Meeting** means a Council Meeting, Extraordinary Council Meeting and/or a Committee of Council Meeting. A specific reference to a Council Meeting, Extraordinary Council Meeting or a Committee of Council Meeting means the clause, section or Part applies only to that specific type of Meeting.

**Minister** means the New South Wales Government Minister responsible for Local Government.

**Open voting** means voting on the voices or by a show of hands or by a visible electronic voting system or similar means.

**Performance Improvement Order** means an order issued under section 438A of the Act.

**Planning Decision** means a decision made in the exercise of a function of Council under the Environmental Planning and Assessment Act 1979 (NSW) including a decision relating to:



- a) a development application;
- b) an environmental planning instrument;
- c) a development control plan; or
- d) a development contribution plan

but not including the making of an order under Division 9.3 of Part 9 of that Act.

**Procedural Motion** means a motion that is not a substantive motion of business before the Meeting.

**Quorum** means the minimum number of councillors or committee members necessary to conduct a meeting.

**Regulation** means the *Local Government (General) Regulation 2005*.

**Webcast** means an audio visual broadcast of a Meeting transmitted across the internet concurrently with the Meeting.

**Workshop** means an informal gathering to provide information to Councillors on issues. Workshops may involve Councillors, the CEO, ~~Council Officers~~ CN staff and other invited persons. Only ~~Part R~~ Section 9Q of the Code applies to Workshops.

Unless stated otherwise, a reference to a clause, section or Part is a reference to a clause, section or Part of the Code.

**Commented [A50]:** These amendments have been included in accordance with the Model Meeting Code.

**Document Control**

Policy title	Code of Meeting Practice
Policy owner	Chief Executive Officer
Policy expert/writer	Legal and Governance Officer
Associated Procedure Title (if applicable)	N/A
Procedure owner (if applicable)	N/A
Prepared by	Legal and Governance
Approved by	Elected Council
Date approved	26/06/2018
Policy approval form reference	ECM# 5605282
Commencement Date	26/06/2018
Next revision date (date policy will be revised)	30/06/2021
Termination date	30/06/2022
Version	Version number 5
Category	Council
Keywords	code, Meeting, Council, committee, chair, Code of Meeting
Details of previous versions	Code of Meeting Practice ECM# 3678462
Legislative amendments	Supersedes Code of Meeting Practice dated 9/10/2013
Relevant strategic direction	Open and Collaborative Leadership
Relevant legislation/codes (reference specific sections)	<i>Local Government Act 1993 (NSW)</i> <i>Local Government (General) Regulation 2005 (NSW)</i> <i>Privacy and Personal Information Protection Act 1998 (NSW)</i>
Other related policies/ documents/ strategies	Code of Conduct Interaction between Councillors and Staff Policy Public Voice Policy
Related forms	N/A
Required on website	Yes
Authorisations	N/A

**ITEM-28 CCL 16/04/19 - 41 AND 47 THROSBY STREET, WICKHAM -  
ENDORSEMENT OF AMENDMENT TO NEWCASTLE LEP 2012  
AND PROPOSED PLANNING AGREEMENT**

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

---

**PURPOSE**

To seek Council's endorsement of a Planning Proposal to commence the process for amending Newcastle Local Environmental Plan 2012 (NLEP 2012), to allow an increase in the maximum height of building (HOB) and floor space ratio (FSR) on land at 41 and 47 Throsby Street, Wickham and to commence preparation of a Planning Agreement for the construction and dedication of a laneway and public domain works.

**RECOMMENDATION**

That Council:

- 1 Endorses the Planning Proposal (**Attachment A**) prepared in accordance with Section 3.33 of the Environmental Planning and Assessment Act 1979 (EP&A Act).
- 2 Forwards the Planning Proposal to the Department of Planning and Environment (DPE) seeking Gateway Determination pursuant to Section 3.34 of the EP&A Act.
- 3 Prepares a draft Planning Agreement, as per section 7.4 of the EP&A Act, consistent with the terms outlined in the attached Letter of Offer from Fidem Property Group (proponent) (**Attachment B**).
- 4 Exhibits the draft Planning Agreement for a period of 28 days, subject to Gateway approval of the aforementioned Planning Proposal.
- 5 Receives a report back on the outcomes of the public exhibition of both the Planning Proposal and draft Planning Agreement.

**KEY ISSUES**

**Summary of proposal**

- 6 City of Newcastle (CN) received a request to amend NLEP 2012 with a Letter of Offer from the proponent to enter into a Planning Agreement with CN with respect to land at 41 Throsby Street, Wickham (described as Lot 63 DP 579890, Lots 1 and 2 DP 112816, and Lot200 DP 534787) and 47 Throsby Street, Wickham (described as Lot 62 DP 579890) currently owned by FPG Wickham Pty Ltd.

- 7 The Letter of Offer seeks to include the following aspects within a Planning Agreement as per section 7.4 of the EP&A Act 1979:
- i) Proponent dedicates land to accommodate a laneway and pedestrian linkage between Furlong Lane and Throsby Street.
  - ii) Proponent designs and constructs the proposed laneway and associated public domain to CN specifications.
  - iii) Proponent adheres to maintenance period (for a minimum of 12 months) of assets transferred to CN.
- 8 The Letter of Offer also seeks to amend NLEP 2012 as follows:
- i) An increase in FSR from 1.5:1 to 3.5:1 (excluding the area to be dedicated as laneway); and
  - ii) An increase in HOB from 10m to 28m (with a maximum of eight storeys).
- 9 The Letter of Offer resulted after initial discussions with CN regarding the public interest with respect to:
- i) The suitability of the amendments to NLEP 2012 sought by proponent with respect to matters outlined in the Planning Proposal:
    - a) Consistency with the broader strategic framework of State and CN strategies and / or plans, including the Wickham Master Plan (WMP).
    - b) Ensuring resultant development is compliant with State Environmental Planning Policies and Ministerial Directions.
    - c) Addressing potential impacts on adjoining area and ensuring potential development is compliant with Newcastle Development Control Plan 2012 (NDCP 2012) and the NSW Residential Apartment Design Guidelines.
  - ii) The proposed community benefit from the proponent delivering a new laneway connection between Furlong Lane and Throsby Street in Wickham:
    - a) Cost saving to CN of the proponent delivering the identified laneway.
    - b) Further savings from bringing forward delivery of the laneway with respect to reducing inflation on land and construction cost.
    - c) Improved access enabling redevelopment of adjoining land.

**Letter of Offer / Proposed Planning Agreement**

- 10 The amendments to NLEP 2012 sought by the proponent's Letter of Offer are based on the principles of 'Value Capture Sharing' detailed in the Background of this report and as explored in relation to the WMP.
- 11 Essentially, with value capture, the increase in potential development is only applied to the land where part of the land value uplift is shared between the landowner / developer and the community / Council. To implement this, a developer enters into agreement with the Council to share in the value uplift by means of a cash contribution, land and / or works in kind.
- 12 The proponent proposes to share the land value uplift (resulting from the potential increase in Gross Floor Area (GFA) if the amendments to FSR and HOB in the NLEP 2012 are made) by:
  - i) Dedicating land (laneway) to CN.
  - ii) Constructing a new laneway and associated public domain works to CN's standards.
- 13 To calculate this the proponent has:
  - i) Identified the total cost of delivering the benefit.
  - ii) Determined the land value uplift needed (ie. twice the cost of delivering the benefit assuming a 50/50 share).
  - iii) Established the GFA required to increase the land value above the current (base) land value.
  - iv) Converted the GFA into FSR based on the reduction of land area due to area of the laneway.
- 14 The proponent is willing to offer a bond / guarantee on consent of a future DA to safeguard delivery of the constructed laneway and public domain works to CN. The timeframe for the delivery of the laneway will also be included in the Planning Agreement.

**Planning Proposal**

- 15 CN has reviewed the appropriateness of the amendments to NLEP 2012 for land at 41 and 47 Throsby Street, Wickham, requested by the proponent in their Letter of Offer.
- 16 In considering the appropriateness of the proposed amendments, CN considered the following:
  - i) Consistency with the strategic intent of WMP for the land.

- ii) The appropriateness of the proposed 'value capture sharing' arrangement.
  - iii) The ability of the land to accommodate the potential additional GFA.
  - iv) Potential impact on the character and amenity of the surrounding area based on compliance with NDCP 2012 and the NSW Residential Apartment Design Guidelines.
  - v) The public good.
- 17 The WMP envisaged 'value capture sharing' arrangements would be delivered through an amendment to the NLEP 2012 (see Background) to enable CN to consent to a variation of development standards (on certain land) where CN is satisfied that the variation is:
- i) Justifiable of planning grounds; and
  - ii) Necessary to achieve an identified and quantifiable public benefit.
- 18 A Planning Proposal has been prepared by CN that will result in the following:
- i) Amendment to the HOB map to reflect an increase from 10m to 28m on the land.
  - ii) Amendment to the FSR map to reflect an increase from 1.5:1 to 3.5:1 on the land. The increase in FSR will not apply to the proposed laneway.

**Variation from Wickham Master Plan**

- 19 The subject land spans across two character precincts outlined in the WMP. The Eastern portion (41 Throsby Street) is within the Village Hub and the Western portion (47 Throsby Street) being within the Emerging Industry Quarter. However, the potential redevelopment density identified by the WMP for both sites is of a lower scale (4 storeys) in comparison to adjoining land to the south (11 storeys) and to the west (8 Storeys).
- 20 47 Throsby Street was nominated at a lower scale than adjoining land within the Emerging Industry Quarter Precinct due to the lack of a nominated public benefit (which could be delivered through a development incentive), such as the proposed laneway at 55 Throsby Street. The WMP nominated the North-South connection at 55 Throsby Street due to its location at the end of the laneway and as a larger land parcel, the site could accommodate both a laneway and still achieve a large development floorplate.

- 21 However, discussion with the owners of 55 Throsby Street has confirmed that this site contains a viable business that is not seeking to relocate in the foreseeable future and therefore, the laneway is unlikely to be developed in that location.
- 22 In addition the proponent has demonstrated that a North-South connection linking the end of Furlong Lane through to Throsby Street is also achievable at 47 Throsby Street. The WMP nominated an FSR for 55 Throsby Street of 2.1:1. However, due to the smaller land area of 47 Throsby Street a greater FSR of 3.5:1 is required to achieve a similar uplift in GFA as nominated in the WMP.
- 23 Design analysis of 47 Throsby Street prepared by EJE Architects has demonstrated that despite a greater FSR, redevelopment of 47 Throsby Street could still produce a development that complies with CN's planning controls and the SEPP65 Residential Apartment design guidelines.

### FINANCIAL IMPACT

- 24 The Letter of Offer from the proponent, identifies that the cost of preparing a draft Planning Agreement will be funded by the proponent. CN will incur cost of staff negotiating with the proponent, exhibiting the Planning Agreement (together with the Planning Proposal) and reporting the outcomes to Council.
- 25 The cost saving to CN from the proponent delivering the identified laneway will enable CN to spend future section 7.12 contributions received from this development on the delivery of other infrastructure projects in the City Centre.
- 26 Without the proposed agreement the cost to CN for delivering a new laneway is estimated at \$1.87M at current rates.
- 27 This amount is based on the following:
  - i) The cost to acquire the land required for the laneway is equal to the land value rate of \$1,385/sqm (identified by AEC - Value Capture Land Economic Study, dated 20/11/2018) being applied to the area of land required for the laneway (260sqm), which equates to \$360,000. However, the AEC study identified that additional compensatory costs are likely to be applied under the Land Acquisitions (Just Terms Compensation) Act 1991 to address severance and disturbance, especially if applied to 55 Throsby Street as nominated within the Wickham Master Plan. The additional cost of compensation is difficult to approximate without a detailed assessment of the existing structures and business on the land, but AEC asserted that the total compensation for the land is more realistically in the order of \$500,000.
  - ii) The cost for designing and constructing the laneway and public domain works, based on Cost Plan prepared by Quantity Surveyors Napier and Blakely (dated 22/10/2018) would equate to \$1.37M.

## COMMUNITY STRATEGIC PLAN ALIGNMENT

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

### **Liveable Built Environment**

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

### **Open and Collaborative Leadership**

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

## IMPLEMENTATION PLAN/IMPLICATIONS

- 29 Implementation of the recommendations of this report is consistent with the intent of the WMP and will realise a new public laneway which would otherwise not likely be delivered.

## RISK ASSESSMENT AND MITIGATION

- 30 Implementation of the recommendations will be carried out in accordance with the requirements of the EP&A Act and CN's Voluntary Planning Agreements Policy, <http://intranet/Service-Units/Strategy-and-Engagement/Corporate-and-Community-Planning/Resources/Policies/Voluntary-Planning-Agreements-Policy>, hence mitigating any risk to CN supporting the amendment to NLEP 2012 or the proposed Planning Agreement.
- 31 The DPE's Gateway process will identify any requirements to consult with state agencies, hence providing further opportunity for any outstanding risks being identified and addressed.
- 32 Were the proposal not to proceed, CN may risk the timely provision of a new laneway connection. While this may be addressed by maintaining a reservation acquisition (in NLEP 2012) across 55 Throsby Street Wickham, until such time as the land is redeveloped, this is likely to be at a cost to CN considerably higher than under the current proposal.



**RELATED PREVIOUS DECISIONS**

- 33 At the Ordinary Council Meeting held on 28 November 2017, Council adopted the WMP which outlined the potential development opportunities within Wickham based on the future vision for change in the area over the next 25 years and beyond.
- 34 At the Ordinary Council Meeting held on 22 May 2018, Council endorsed a Planning Proposal to enable several amendments to the NLEP 2012, as identified within the WMP. The Planning Proposal included introduction of a land reservation acquisition on the map over land at 55 Throsby Street Wickham. This report does not seek to make any changes to the ongoing processing of that Planning Proposal.

**CONSULTATION**

- 35 The WMP was publicly exhibited prior to its adoption, which included CN's intention to provide a new laneway between Throsby Street and Furlong Laneway.
- 36 Subject to Gateway support and the preparation of a Planning Agreement, both the Planning Proposal and the draft Planning Agreement will be publicly exhibited simultaneously and subsequently reported to Council for consideration and appropriate action.

**BACKGROUND**

**Wickham Master Plan (WMP)**

- 37 The WMP adopted by Council at the Ordinary Council Meeting held in November 2017 identified:
- i) Vision and redevelopment opportunities for the next 25 years and beyond.
  - ii) Infrastructure and other public benefits that may be achieved through developer incentives (increased HOB and FSR).
  - iii) Identified indicative densities based on the above, which would be implemented by a formalised mechanism within the NLEP 2012.
- 38 The vision identified six interconnecting precincts that identify the envisaged character, built form, land use mix, and preferred public domain outcomes for redevelopment.

39 The WMP included a number of strategies and actions for achieving benefits to the community through provision of developer incentives. The approach put forward recommended that CN maintain the existing development standards (ie HOB and FSR) but introduce a mechanism to enable these to be increased where development results in a quantifiable public benefit. Public benefits would include provision of items either not able to be funded by developer contributions (due to statutory limitations) or as a means of bringing forward the delivery of items for which contributions are being collected. Items identified in the master plan include:

- i) 'Urban activation areas' including additional land and embellishment within the public domain.
- ii) Public car parking.
- iii) Affordable rental accommodation administered by a registered service provider.
- iv) Infrastructure and / or community facilities.
- v) Crucial vehicle and / or pedestrian connections.

#### **Value Capture Sharing Approach**

40 An economic assessment prepared by AEC group, in preparation of the WMP recommended the mechanism being based on 'value capture', as explained below:

- i) Land value is largely influenced by the redevelopment potential of the land.
- ii) Amending development standards can substantially increase land values, which only benefits the current landowner.
- iii) With value capture, the increase in potential development is only applied to the land where part of the land value uplift is shared between the landowner / developer and the community / Council.
- iv) To implement this, a developer enters into agreement with the Council to share in the value uplift (from an LEP amendment) by means of a cash contribution, land, and / or works in kind.
- v) The developer benefits in that (despite having a greater risk and construction cost) can achieve a greater GFA which equals greater return on investment (as the land cost was equal to the original value plus half of the uplift, within their feasibility calculations).

- vi) Council and the community benefit by:
  - a) Sharing in the uplift gained through a public policy decision.
  - b) Receiving additional funding and / or infrastructure delivered ahead of schedule compared to Council funding this through general revenue or standard s7.12 contributions (hence also saving Council the higher cost of inflation if delivered in the future).
  - c) Increased s7.12 Local Infrastructure Contributions from the redevelopment of 41- 47 Throsby Street to account for the increase in HOB and FSR.
  - d) Being in a position where the potential impact of development may be weighed up against the benefit to be delivered.
  
- 41 The mechanism envisaged within the WMP proposes an amendment to the NLEP 2012 which enables CN to consent to a variation of development standards (on certain land) where CN is satisfied that the variation is:
  - i) Justifiable on planning grounds; and
  - ii) Necessary to achieve an identified and quantifiable public benefit.
  
- 42 This will also require an amendment to the NDCP 2012 that identifies:
  - i) Nominated land.
  - ii) Potential public benefits.
  - iii) Means of determining variation to development standards including:
    - a) Standards that may be varied (eg. HOB, FSR).
    - b) Planning principals for determining maximum variation:
      - Strategic intent (eg. Wickham Master Plan)
      - Compliance with residential apartment design guidelines
      - Compliance with the NDCP 2012
      - Acceptable level of impact (overshadowing, traffic, capacity of infrastructure).
  - iv) Calculations required for justifying variations:
    - a) Increase in GFA.

- b) Land value uplift from increased development standard (documented by a suitably qualified professional ie. land valuer / property economist).
- c) Cost to developer of delivering public benefit to CN (documented and verified by a suitably qualified professional ie. land valuer, economist and / or QS report) or monetary contribution to CN to administer or deliver an identified public benefit in the vicinity of the development site.
- v) Implementation:
  - a) Planning Agreement.
  - b) Conditions of consent.
  - c) Bank guarantee / bond.

43 To identify and clarify how this approach may work in reality, and to expedite CN implementing such a mechanism, the proponent funded a further report also prepared by AEC group that demonstrates how this method applied to the proponent's land at 41 and 47 Throsby Street, Wickham.

## **OPTIONS**

### **Option 1**

44 The recommendation as at Paragraph 1 – 5. This is the recommended option.

### **Option 2**

45 Council does not support the Planning Proposal and / or the Letter of Offer. This is not the recommended option.

## **REFERENCES**

## **ATTACHMENTS**

**Attachment A:** Planning Proposal - 41 and 47 Throsby Street, Wickham

**Attachment B:** Letter of Offer from Fidem Property Group

**Attachment A**



# Planning Proposal

---

Proposed Amendments to Newcastle Local Environmental Plan 2012

Instrument | Schedule | Mapping

41 and 47 Throsby Street, Wickham



Version	Description	Date
1.	Council endorsement	16/04/2019
2.	DPE requested changes	
3.	Public exhibition	
4.	Final adoption	

---

**CONTENTS**

**Summary..... 1**

**Context..... 1**

**Part 1 - Objectives or intended outcomes..... 3**

**Part 2 - Explanation of provisions ..... 3**

**Part 3 - Justification ..... 6**

**Section A - Need for the planning proposal..... 6**

**Section B - Relationship to strategic planning framework..... 12**

**Section C - Environmental, social and economic impact ..... 20**

**Section D - State and Commonwealth interests ..... 20**

**Part 4 - Mapping ..... 21**

**Part 5 - Community consultation ..... 22**

**Part 6 - Project timeline ..... 22**

**Summary**

Proposed amendment to Newcastle LEP 2012	Amend mapping with respect to the land: <ul style="list-style-type: none"> <li>– Increase Height of building (HOB) from 10m to 28m</li> <li>– Increase Floor space ratio (FSR) from 1.5:1 to 3.5:1</li> </ul>
Land application	41 Throsby Street, Wickham (described as Lot 63 DP 579890, Lots 1 and 2 DP 112816, and Lot 200 DP 534787) and 47 Throsby Street, Wickham (described as Lot 62 DP 579890).
Initiated by	Fidem Property Group on behalf of the current landowner FPG Wickham Pty Ltd

**Context**

This Planning Proposal (PP) was prepared in response to a request received by City of Newcastle (CN) from Fidem Property Group (the proponent) to amend Newcastle Local Environmental Plan 2012 (NLEP2012) with respect to land owned by FPG Wickham Pty Ltd at 41 Throsby Street, Wickham (described as Lot 63 DP 579890, Lots 1 and 2 DP 112816, and Lot 200 DP 534787) and 47 Throsby Street, Wickham (described as Lot 62 DP 579890).

The site is identified in **Figure 1 Subject land at 41 and 47 Throsby Street Wickham** and **Figure 2 Local context for 41 and 47 Throsby Street Wickham**.



**Figure 1** Subject land at 41 and 47 Throsby Street Wickham





**Figure 2** Local context for 41 and 47 Throsby Street Wickham

The proponents request sought to amend NLEP 2012 to enable an increase in the potential gross floor area (GFA) realisable over part of the land (i.e. 41 and part 47 Throsby Street, Wickham). The request was also accompanied by a 'letter of offer' to enter into a planning agreement (with CN) as per section 7.4 of the Environmental Planning and Assessment Act 1979 (EP&A Act), in which the proponent proposes to dedicate land (i.e. part of 47 Throsby Street, Wickham) for 'public purpose' and construct a new laneway and associated public domain works.

Both the proposed LEP amendments and the letter of offer were assessed having regard for the following matters:

- Section 3.33 of the EP&A Act
- The Department of Planning and Environment's guidelines, '*A guide to preparing planning proposals*'.
- Council's current Planning Agreement Policy.
- The merit of the proposed amendments to NLEP 2012 on strategic planning grounds.
- Consistency with the intent of the adopted Wickham Master Plan (WMP).
- The community interest with respect to the delivering a new laneway connection between Furlong Lane and Throsby Street in Wickham.

Planning Proposals (PP) are not intended as a static document hence further changes and updates will be made at various stages of the amendment process.

**Part 1 - Objectives or intended outcomes**

The intent of this PP is to amend NLEP 2012 to:

1. Facilitate the provision of a new laneway and pedestrian linkage between Furlong Lane and Throsby Street.
2. Enable an increase in the potential gross floor area on land at 41 and part of 47 Throsby Street, Wickham.
3. Enable an increase in the potential height of building on land at 41 and 47 Throsby Street, Wickham.

**Part 2 - Explanation of provisions**

The intended outcome will be achieved by the following amendments to NLEP 2012:

**Floor space ratio**

Amend the Floor Space Ratio (FSR) map with respect to the land as follows:

1. Increase the maximum FSR on 41 and part 47 Throsby Street from S (1.5:1) to W (3.5:1)

Note: The FSR will remain unchanged on the residual part of 47 Throsby Street, Wickham. While this land will be dedicated as a laneway (through a planning agreement proposed by the proponent within a letter of offer) and will not generate any GFA, the FSR will remain on the map, consistent with mapping protocol within NLEP2012.

The proposed amendment to FSR are shown through **Figure 3 Existing FSR on the land** and **Figure 4 Proposed FSR on the land**, below.

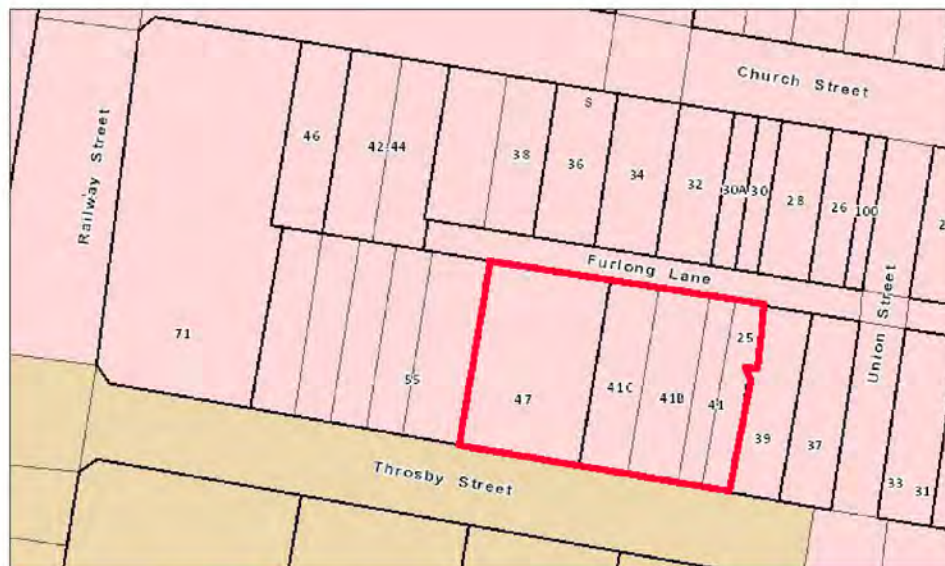


Figure 3 Existing FSR on the land – 1.5:1



Figure 4 Proposed FSR on the land – 3.5:1

**Height of buildings**

Amend the Height of Building (HOB) map respect to the land as follows:

1. Increase the maximum HOB on 41 and 47 Throsby Street, Wickham from K 10 (meters) to T 27 (metres)

The proposed amendment to HOB are shown through **Figure 5 Existing HOB on the land** and **Figure 6 Proposed HOB on the land**, below.



Figure 5 Existing HOB on the land – 10m



Figure 6 Proposed HOB on the land – 28m

**Part 3 - Justification**

**Section A - Need for the planning proposal**

**1. Is the planning proposal a result of any strategic study or report?**

**Wickham Master Plan (WMP)**

The WMP was adopted by Council in November 2017. While this plan is not an endorsed strategy of the Department of Planning and Environment (DPE), it was prepared in liaison with government agencies on response to the Newcastle Urban Renewal Strategy, which recommended CN to undertake further planning with respect to Wickham.

The WMP identifies Strategies and Actions to implement the key objectives:

1. Improve accessibility and connectivity within Wickham and to adjoining areas
2. Create safe, attractive and inclusive public places
3. Ensure built environment is functional, responsive and resilient

Consistency of the PP with WMP was considered by CN and is outlined below.

The WMP vision identified six interconnecting character precincts. The PP area spans across two of these precincts, as shown in red below on **Figure 7 Wickham Character Precincts**.



**Figure 7– Wickham Character Precincts**

The Eastern portion (41 Throsby Street) is within the Village Hub where re-development is envisaged to include a mix of terrace style housing, shop top housing and residential apartment buildings. Retail and commercial activity is located in clusters throughout the precinct particularly around community activity and gathering areas.

The Western portion (47 Throsby Street) being within the Emerging Industry Quarter, has availability of larger development sites hence allowing redevelopment to be of a larger scale development than within the 'village hub' precinct. Redevelopment is envisaged to include employment generating uses on ground floor with residential apartments above.

Further to the above, the WMP included several strategies and actions for achieving benefits to the community through provision of developer incentives (variation in development standards in NLEP2012). The method espoused by AEC Consulting Group in developing the WMP was for landowners (developers) to share the uplift in land value (resulting from a potential increase in GFA afforded by an LEP amendment) with the community by provision of a quantifiable public benefit to the cost of 50% of the land value uplift achieved.

Furthermore, the WMP took on the recommendation of AEC Group to maintain development standards at a rate where redevelopment was feasible but only allow a greater increase as an incentive where a quantifiable community benefit is being sought. Based on this principle the potential densities across Wickham were identified as depicted on **Figure 8 Potential Redevelopment Densities**, which 41 and 47 Throsby Street, Wickham in red being nominated at a lower scale (4 storey) in comparison to land adjoining to the West (8 Storeys) and land to the South (11 storeys).



Figure 8 - Potential Redevelopment Densities

The WMP demonstrated for the identified properties that an increase in density and scale was suitably justified on planning grounds having regard to potential impacts and envisaged future character.

Section 5.1.2 Traffic networks of the WMP nominated a new laneway connection linking the end of Furlong Lane through to Throsby Street. Furlong Lane is currently a cul-de-sac but too narrow to allow two-way traffic or for vehicles to undertake U-turns, resulting in vehicles reversing to Union Street. Hence the proposed link is crucial to allow rear access to redeveloped sites rather than requiring driveway access off primary frontages, which will negatively impact amenity of the public domain along Throsby and Church Streets.

WMP nominated 55 Throsby Street as the location of a laneway, given it is part of a larger land parcel that could accommodate both a laneway and a large development floorplate. The cost of providing the land and construction of a new laneway was proposed to be offset through an increase in HOB and FSR on the land.

However, the proponent has demonstrated that a connection linking the end of Furlong Lane through to Throsby Street is also achievable in an alternate location such as 47 Throsby Street.

This is illustrated in **Figure 9 Potential laneway across 47 Throsby Street**

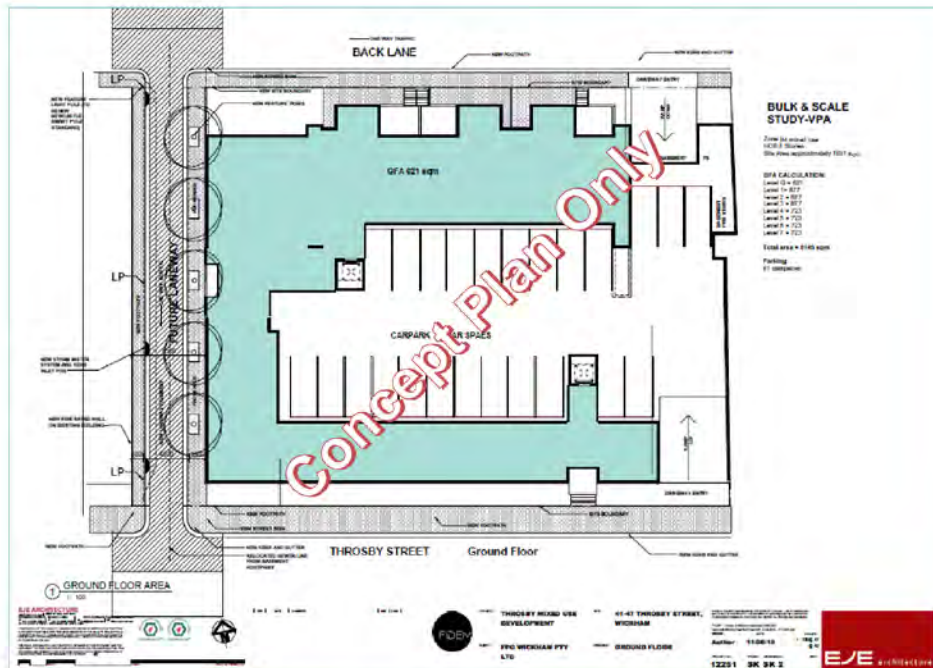


Figure 9 - Potential laneway across 47 Throsby Street

Furthermore, the proponent has provided to Council with a letter of offer and supporting information that demonstrates the uplift in GFA required as an incentive in order to implement construction of the laneway on 47 Throsby Street now, rather than in the future on 55 Throsby Street.

Given the smaller land area of the subject site, a greater FSR is required to achieve the same increase in GFA as 55 Throsby Street. A design analysis prepared for the proponent by EJE Architects has however demonstrated that despite a greater FSR, redevelopment of 41 and 47 Throsby Street could still produce a development compliant to:

- Council's DCP
- SEPP 65 Residential Apartment Design Guidelines
- WMP by achieving the transition in character and scale, as nominated, through provision of development setbacks and suitable design treatment along Throsby Street.

To illustrate how redevelopment on 41 to 47 Throsby Street may be realised, subject to this PP being supported, the proponent's Architect superimposed their concept within Council's 3D ESRI model. This is shown in **Figure 10 Potential scale and character of development on 41 and 47 Throsby Street within WMP envisaged building envelopes** and **Figure 11 Potential scale and character of redevelopment on 41 and 47 Throsby Street within envisaged context**.



**Figure 10 Potential scale and character of development on 41 and 47 Throsby Street within WMP envisaged building envelopes**





*Figure 11 Potential scale and character of redevelopment on 41 and 47 Throsby Street within envisaged context.*

Furthermore, CN has reviewed a 3D solar assessment provided by the proponent's Architect against the shadow analysis tool within the 3D model developed for WMP to ascertain that the envisaged built form enabled by this PP does not unduly impact on the amenity (solar access) of the streetscape and existing uses along the southern side of Throsby Street.

In conclusion the PP varies in detail from the WMP with respect to nominated location of the new laneway and increase in HOB and FSR. However, these variations are justified having regard to the intent of the WMP, the envisaged local character, and consideration of potential impacts.

**2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Yes, amending the NLEP 2012 is considered the best means of achieving the objectives of the PP in this case.

CN intends on preparing a separate PP in the near future in order to apply the intentions and actions of the WMP by applying the principle of sharing value uplift in exchange for delivery of public benefit/s identified within the WMP. This may be achieved through a provision in NLEP 2012 and supported by guidelines within Newcastle Development Control Plan 2012 (NDCP 2012) of how and when this provision may be applied. This will enable CN to consider and determine proposed development without the need for an individual PP each time.

However, the approach taken within this PP is considered appropriate in this case due to the following reasons:

- It enables Council to consider the appropriateness of the proposal in achieving the intentions of the WMP despite being a variation from the original location of the sought-after laneway.

- The variation in location of the laneway and land to which the development incentive will apply was initiated by the proponent, hence the PP provides an open and transparent process including a formal public exhibition period for Council's consideration.
- The implementation of this PP has enabled CN to test and refine the process recommended by the AEC Group for determining both value uplift and the value of providing a public benefit to the community, rather than applying this approach simultaneously to the entire WMP area.
- It will provide greater certainty to the proponent to proceed with their development proposal and the provision of the new laneway.

## Section B - Relationship to strategic planning framework

### 3. *Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?*

#### **Hunter Regional Plan 2036**

The Hunter Regional Plan 2036 is the NSW Government's plan to guide land use planning and infrastructure priorities and decisions over the next 20 years.

The plan identifies regionally important natural resources, transport networks and social infrastructure and provides a framework to guide more detailed land use plans, development proposals and infrastructure funding decisions. The plan includes overarching directions, goals and actions as well as specific priorities for each local government area in the Hunter region.

The PP is consistent with the Directions of this plan, in particularly Direction 3 - Revitalise Newcastle City Centre. This direction applies to the PP area which is identified as part of the Newcastle City Centre area.

#### **Greater Newcastle Metropolitan Plan 2036**

The Hunter Regional Plan 2036 set the vision for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart. The plan sets out four outcomes to be achieved and identifies catalyst areas, including Newcastle City Centre. The Plan also provides specific directions for the 'Wickham Precinct', which aligns with the PP area and sets out the following.

*"Newcastle City Council will align local plans to:*

- *facilitate the long-term expansion of the City Centre towards Wickham*
- *increase opportunities for transit-oriented development around Newcastle Interchange*
- *provide floor space for emerging new economy industries and businesses."*

The PP is consistent with this plan in that it:

- Seeks to facilitate redevelopment to support and compliment the emerging city centre.
- Increases density of mixed-use development around the Newcastle interchange.
- Ensuring sufficient FSR to ensure feasibility of mixed-use development.

### 4. *Is the planning proposal consistent with a council's local strategy or other local strategic plan?*

#### **Newcastle 2030 Community Strategic Plan**

The Newcastle Community Strategic Plan (CSP) was adopted by Council in June 2018. The plan identifies the community's vision for the city, outlines actions and strategies for CN to achieve, as well as indicators for monitoring implementation.

Compliance with the LEP amendment process, Section 3.34 Gateway determination of the *EP&A Act 1979* ensures consistency with the strategic direction, 'Open and Collaborative Leadership' and the strategic objective to, "Consider decision-making based on collaborative, transparent and accountable leadership"

Furthermore, the PP is consistent with the remaining strategic directions and objectives, or at a minimum does not result in any inconsistencies with the following:

- Integrated and Accessible Transport
- Vibrant, safe and active public places
- Protected environment
- Inclusive community
- Liveable built environment
- Smart and innovative.
- Open and Collaborative leadership

#### **Local Planning Strategy**

The Local Planning Strategy (LPS) was adopted by Council in 2015 and was prepared in accordance with the previous Community Strategic Plan.

The Strategy was not required to be endorsed by the Secretary of the Department of Planning and Environment but provides a comprehensive guide for the future growth and development of Newcastle to 2030 and beyond.

The PP is generally consistent with the principles of the strategy however the strategy focuses its detailed neighbourhood visions and/or objectives for areas outside of the Newcastle City Centre given the layers of planning otherwise undertaken.

#### **Wickham Master Plan**

The WMP was adopted by Council in November 2017.

This plan identified potential future development densities based on both envisaged character precincts and potential developer incentives to deliver critical infrastructure, land for improvement of the function of the public domain and critical connections for traffic management and ease of pedestrian movement.

This PP is consistent with the intent of the plan, in that it will enable the provision of a laneway being dedicated to CN between the end of Furlong Lane through to Throsby Street.

The proposed HOB and FSR is generally consistent with the envisaged density of the character precincts and will result in an increased gross floor area calculated to result in enabling a feasible development outcome.

#### ***5. Is the planning proposal consistent with applicable State Environmental Planning Policies?***

The table below provides an assessment of the proposed amendment against each State Environmental Planning Policy (SEPP) applying at the time of preparing this PP.

The assessment undertaken firstly identified which SEPP applies to the proposal, determined by the SEPP applying to both:

- a. the land; and
- b. the preparation of environmental planning Instruments.

Where applicable, the table identifies how the PP addresses the requirements of the SEPP.

**Table 1 - Relevant State Environmental Planning Policies**

State Environmental Planning Policies	Applicable	Consistency and Implications
SEPP No 1—Development Standards	No	
SEPP No 14—Coastal Wetlands	No	
SEPP No 19—Bushland in Urban Areas	No	
SEPP No 21—Caravan Parks	No	
SEPP No 26—Littoral Rainforests	No	
SEPP No 30—Intensive Agriculture	No	
SEPP No 33—Hazardous and Offensive Development	No	
SEPP No 36—Manufactured Home Estates	No	
SEPP No 44—Koala Habitat Protection	Yes	Whilst this policy applies to the land, there is no potential Koala habitat within the vicinity of the PP area hence the requirements of this SEPP are not applicable.
SEPP No 47—Moore Park Showground	No	
SEPP No 50—Canal Estate Development	No	
SEPP No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	
SEPP No 55—Remediation of Land	Yes	Clause 6 requires Council to consider potential land contamination when preparing an Environmental Planning Instrument (e.g. LEP amendment). Subclause (2), requires Council to obtain and consider a report on the findings of a preliminary investigation of the land (carried out in accordance with the contaminated land planning guidelines) where the amendment will permit certain land uses, as specified in subclause (4)(c), to be permitted. This PP does not result in a change of zoning from the current zone B4 Mixed Use, which already permits the uses specified by subclause (4)(c).
SEPP No 62—Sustainable Aquaculture	No	
SEPP No 64—Advertising and Signage	No	
SEPP No 65—Design Quality of Residential Apartment Development	Yes	The land is already zoned B4 Mixed Use which permits the land to developed for uses to which this policy applies (residential apartment development). Council is satisfied that the proposed amendments in HOB and FSR will enable development that is compliant with this policy and associated apartment design guidelines. Council has a design review panel under this SEPP but has not sought advice under clause 27 (c) at this stage. Any subsequent development proposal will be

State Environmental Planning Policies	Applicable	Consistency and Implications
		referred to this panel as a matter of due course.
SEPP No 70—Affordable Housing (Revised Schemes)	No	
SEPP No 71—Coastal Protection	Yes	The PP area is located wholly within the Coastal Zone. Hence in accordance with Clause 7(a) Council is required to take into account matters for consideration within Clause 8. The proposed LEP amendments are considered consistent with the aims of this policy as set out in Clause 2 and do not raise any conflicts with respect to the matters listed under clause 8.
SEPP (Affordable Rental Housing) 2009	No	
SEPP (Building Sustainability Index: BASIX) 2004	No	
SEPP (Educational Establishments and Child Care Facilities) 2017	No	
SEPP (Exempt and Complying Development Codes) 2008	No	
SEPP (Housing for Seniors or People with a Disability) 2004	No	
SEPP (Infrastructure) 2007	No	
SEPP (Integration and Repeals) 2016	No	
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	No	
SEPP (Kurnell Peninsula) 1989	No	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	
SEPP (Miscellaneous Consent Provisions) 2007	No	
SEPP (Penrith Lakes Scheme) 1989	No	
SEPP (Rural Lands) 2008	No	
SEPP (State and Regional Development) 2011	No	
SEPP (State Significant Precincts) 2005	No	
SEPP (Sydney Drinking Water Catchment) 2011	No	
SEPP (Sydney Region Growth Centres) 2006	No	
SEPP (Three Ports) 2013	No	
SEPP (Urban Renewal) 2010	Yes	The area subject to this PP is wholly within land to which Newcastle Potential Precinct Map applies. The requirements of Clause 9 <i>Proposals for potential precincts</i> were satisfied by the preparation of the Newcastle Urban Renewal Strategy (NURS). The NURS identified the need for further planning to be undertaken in relation to the renewal of the Wickham area; hence the WMP

State Environmental Planning Policies	Applicable	Consistency and Implications
		was prepared and adopted by Council. This PP is consistent with the WMP.
SEPP (Vegetation in Non-Rural Areas) 2017	No	
SEPP (Western Sydney Employment Area) 2009	No	
SEPP (Western Sydney Parklands) 2009	No	

**6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

The table below documents Council's assessment of the PP against the relevant Ministerial Directions made under Section 9.1 of the EP&A Act 1979 (formerly known as Section 117 Directions).

**Table 2 - Relevant Ministerial Directions**

Relevant Section 9.1 Directions	Applicable	Consistency and implications
<b>1. Employment and Resources</b>		
1.1 Business and Industrial Zones	Yes	The PP not only retains the existing opportunities for business uses within the B4 Mixed Use zone but seeks to expand this by an increase in FSR thereby allowing a greater potential GFA for permitted uses including business uses.
1.2 Rural Zones	No	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	No	
<b>2. Environment and Heritage</b>		
2.1 Environment Protection Zones	Yes	Whilst the Direction applies, the PP will have no effect on, or be affected by areas of environmental sensitivity. Hence the proposal is of minor significance.
2.2 Coastal Protection	Yes	The PP area is within the coastal zone however, the proposed amendments are considered to be of minor significance with respect to their potential impact or consequence on the NSW coast line.
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	No	
<b>3. Housing, Infrastructure and Urban Development</b>		

Relevant Section 9.1 Directions	Applicable	Consistency and implications
3.1 Residential Zones	Yes	This direction applies to the PP as the B4 Mixed Use zone permits significant residential development. The PP will not reduce the permissibility of residential uses but rather increase their feasibility due to an increase in FSR and HOB.
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	Yes	The B4 zone within Newcastle LEP 2012 already permits Home Occupation as a use permitted without consent, hence is consistent with this direction.
3.4 Integrating Land Use and Transport	Yes	The PP includes provision of additional land zoned for business and residential through the rezoning of land to B4 Mixed Use. The land subject to rezoning is within the Newcastle City Centre Area boundary and hence is consistent with the aims, objectives and principles of:  (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and  (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).
3.5 Development Near Licensed Aerodromes	No	
<b>4. Hazard and Risk</b>		
4.1 Acid Sulfate Soils	Yes	The land is located within categories 3 of the ASS map in NLEP2012. However, the PP does not include provisions or amendments that will increase the risk or hazard from the current potential, hence it is considered to be of minor significance and does not require any further study.
4.2 Mine Subsidence and Unstable Land	Yes	The Land is in a proclaimed Mine Subsidence District: Newcastle. Furthermore the land is subject to Subsidence Advisory NSW Guidelines 2. This guideline places general restrictions on development, which would suggest a much lesser scale of development than currently permitted under the LEP standards. Hence the scale of development that may result from the proposed amendment will exceed that of the guidelines. Hence Council proposes to consult further with Mines Advisory NSW on this PP to determine further investigation and/or remediation works required for the development standards proposed to be realised.



Relevant Section 9.1 Directions	Applicable	Consistency and implications
4.3 Flood Prone Land	Yes	The PP applies to land identified as being within a flood planning area according to the Newcastle City-wide Floodplain Risk Management Study and Plan 2012 maps. However the land does not consist a floodway but is in the flood fringe. Hence future development may require an elevated floor height at ground level but is otherwise considered to be of minor significance.
4.4 Planning for Bushfire Protection	No	
<b>5. Regional Planning</b>		
5.1 Implementation of Regional Strategies	No	
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	No	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.8 Second Sydney Airport: Badgerys Creek	No	
5.9 North West Rail Link Corridor Strategy	No	
5.10 Implementation of Regional Plans	Yes	The PP applies to land within the Hunter Regional Plan. The PP is consistent with the regional plan, as outlined in Section B 3 above.
<b>6. Local Plan Making</b>		
6.1 Approval and Referral Requirements	Yes	The PP does not include any provisions that will require development application to seek approval or referral from any other public authority. Council will consult with public authorities prior to public exhibition in accordance with any conditions imposed on the PP during Gateway determination.

Relevant Section 9.1 Directions	Applicable	Consistency and implications
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	No	
<b>7. Metropolitan Planning</b>		
7.1 Implementation of A Plan for Growing Sydney	No	Note: The land is located within an identified Catalyst area within the Greater Newcastle Metropolitan plan, as located within the Newcastle City Centre area. The PP is consistent with this plan.

### Section C - Environmental, social and economic impact

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The land subject to the proposal does not contain critical habitat or threatened species, populations or ecological community, or their habitats.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The PP will not result in any other environmental effects not already considered above.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The PP will enable the provision of a new laneway, which is identified as having a public benefit in that it will increase accessibility and deliver improved development outcomes in the vicinity as it will reduce the need for vehicle access across primary street frontages.

Furthermore, the proposal will facilitate an increase in residential density in vicinity to public transport and the emerging commercial centre of the city.

### Section D - State and Commonwealth interests

10. *Is there adequate public infrastructure for the planning proposal?*

Existing infrastructure within the City Centre is adequate to meet the needs of development potentially resulting from the proposal planning.

11. *What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?*

The following State and Commonwealth public authorities should be consulted with prior to public exhibition:

1. Mines Advisory NSW regarding the increase to the HOB on land within a proclaimed mine subsidence district.

**Part 4 - Mapping**

The PP seeks to amend the following map within Newcastle LEP 2012:

- ✓ Height of Buildings Map
- ✓ Floor Space Ratio Map

The Matrix below indicates which map sheets (of NLEP 2012) are to be amended as a result of this PP (eg. FSR\_001C)

	FSR	LAP	LZN	WRA	ASS	HOB	LSZ	LRA	CL1	HER	URA
001											
001A											
001B											
001C											
001D											
002											
002A											
002B											
002C											
002D											
002E											
002F											
002G											
002H											
003											
004											
004A											
004B											
004C											
004D											
004E											
004F											
004FA	✓					✓					
004G											
004H											
004I											
004J											
004K											

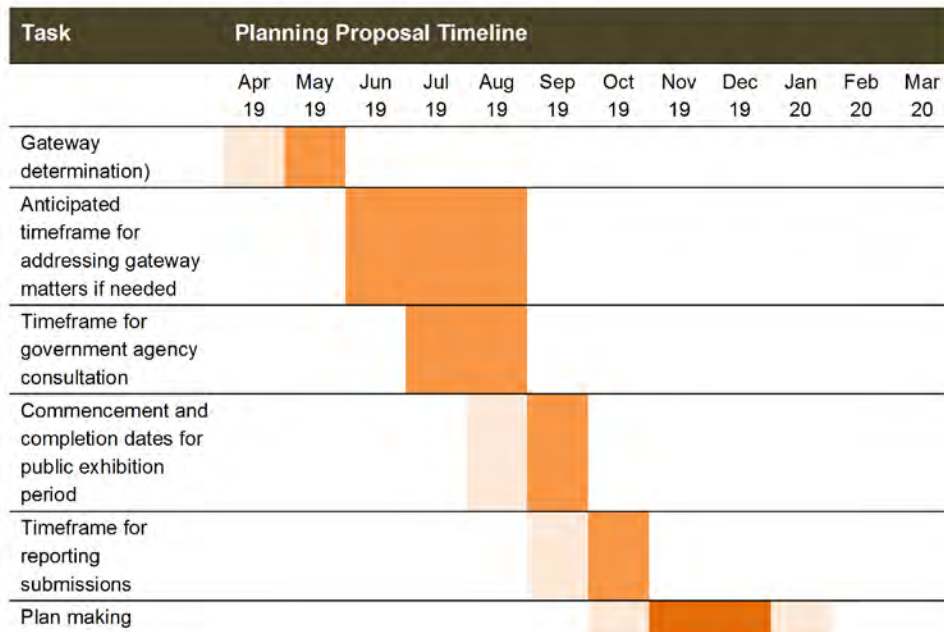
Map Codes:	FSR	=	Floor Space Ratio map
	LAP	=	Land Application Map
	LZN	=	Land Zoning Map
	WRA	=	Wickham Redevelopment Area Map
	ASS	=	Acid Sulfate Soils Map
	HOB	=	Height of Buildings Map
	LSZ	=	Lot Size Map
	LRA	=	Land Reservation Acquisition Map
	CL1	=	Key Sites Map & Newcastle City Centre Map
	HER	=	Heritage Map
	URA	=	Urban Release Area Map

**Part 5 - Community consultation**

The PP is considered as low impact in accordance with the DPE guidelines, *A guide to preparing local environmental plans*. However, it is envisaged that the PP will be publicly exhibited simultaneously to a Planning Agreement over the land for a minimum 28-day period.

**Part 6 - Project timeline**

The plan making process is anticipated to take 9 months as shown in the timeline below. It will be undertaken in accordance with the Gateway determination.



\*RPA Relevant Planning Authority

**Attachment B**



**Chief Executive Officer**

Jeremy Bath

**City of Newcastle**

**28 King Street**

**Newcastle NSW 2300**

26<sup>th</sup> March 2019

Dear Mr Johannes Honnef,

**PROPOSED PLANNING AGREEMENT - PROPOSED AMENDMENT TO  
NEWCASTLE LEP 2012 – 41 & 47 Throsby Street, Wickham NSW 2293**

We refer to your letter dated the 27<sup>th</sup> July 2018, to which you requested a formal offer for a Planning Agreement be submitted with supporting documentation for the City of Newcastle's consideration. We also confirm that we met with Council Officers on 24<sup>th</sup> May 2018 and 21<sup>st</sup> June 2018 to further discuss and clarify aspects relating to the Wickham Masterplan, the value capture scenario, a Planning Agreement and the Planning Proposal.

**1. Supporting Documentation**

Supporting documents have been prepared to accompany this letter of offer and to expedite the City of Newcastle's assessment, we provide the following documentation:

1. City Plan – Town Planning Assessment and Review of Proposal, Dated 20/11/2018
2. AEC – Value Capture Land Economic Study, Dated 20/11/2018
3. Napier and Blakely – Cost Plan, Dated 22/10/2018
4. EJE Architecture – Bulk and Scale analysis, Dated 8/11/2018
5. EJE Architecture – SEPP Report, Dated 8/11/2018

Subsequent to the above, Council raised a number of queries on the 24<sup>th</sup> January 2019. To address Council's concerns an additional supplementary report was prepared and issued by AEC dated the 13<sup>th</sup> February 2019.

**2. Introduction**

Fidem Property Group acting as development manager confirms FPG Wickham Pty Ltd is willing to enter into a Planning Agreement with an amendment to the Newcastle LEP 2012 effecting land at 41 and 47 Throsby Street, Wickham, pursuant to Section 7.7 (3)(b) of the Environmental Planning and Assessment Act 1979, post Gateway milestone.

In this regard, Fidem Property Group, as applicant, wishes to deal directly with Council in relation to any Planning Agreement over that part of the Land, which is currently owned by FPG Wickham Pty Ltd being:

41 Throsby Street, Wickham

- Lot 63 DP 579890
  - Lot 1 DP 112816
-

- Lot 2 DP 112816
- Lot 200 DP 534787

47 Throsby Street, Wickham

- Lot 62 DP 579890

### 3. Planning Agreement

Fidem Property Group is seeking to enter into a Planning Agreement with the City of Newcastle in connection with an amendment to the Newcastle LEP 2012 effecting land at 41 and 47 Throsby Street, Wickham, pursuant to Section 7.7 (3)(b) of the Environmental Planning and Assessment Act 1979.

We wish to enter into discussions, post Council's support of our value capture exercise, amendment to the planning proposal and Gateway determination.

Based on the Planning Proposal to be submitted, we believe that the proposed Planning Agreement will include, but not be limited to, the following aspects:

- Design and Construction of proposed laneway. Through the planning agreement, the quantum and value of this cost contribution should be recognised.
- Dedication of the land proposed for laneway and pedestrian linkage purposes to Council. Through the planning agreement, the quantum and value of this land should be recognised.
- As indicated by the supporting consultant documentation an FSR of 3.5:1 and Height of Building 28m (HOB) 8-storey building is recommended
- The maintenance period of assets being transferred to Council

Fidem Property Group is committed to working with Council on the planning and design of the laneway.

#### Application of s7.11 and s7.12

The Planning Agreement will not exclude s7.11 or s7.12 contributions to development of the land for any future development application. However, despite this, the Planning Agreement will include provisions to ensure that any Gross Floor Area (based on a FSR of 3.5:1), unable to be utilised due to imposed Planning restrictions (LEP, DCP, SEPP and the like), imposed Legislative restrictions and Council restrictions in determining a development application on the land, is offset from future s7.11 & s7.12 contributions at a rate agreed by both parties.

#### Timing of provision and development contributions

As is standard practice, the timing and provision of the development contributions and other public benefits are to be negotiated post Gateway.

**Resolution of disputes**

Any dispute under the Planning Agreement would be resolved by expert determination or mediation in accordance with the process specified in the Planning Agreement.

**Security**

The EP&A Act requires the Planning Agreement to provide provisions of a suitable security such as insurance bonds or bank guarantee. We acknowledge the requirements of the Legislation and understand a bond or bank guarantee will be required as security.

**Legal costs**

Fidem Property Group will pay Council's reasonable legal costs incurred relating to the Planning Agreement up to an agreed maximum amount, subject to the proposal proceeding to gateway.

**Time when the Planning Agreement would be entered into**

Fidem Property Group seeks to commence preparation and negotiating of a draft Planning Agreement, upon receipt of endorsement from Council to the terms of this letter and the affiliated Planning Proposal proceeding to gateway.

The draft planning agreement and planning proposal should then be exhibited concurrently. The final execution of the Planning Agreement will be required to be signed prior to gazettal of the LEP amendment. The Planning Agreement would operate from such time as the Council executes it.

**4. Conclusion**

We are committed to working with Council throughout the rezoning process. We confirm that we are willing to enter into a Planning Agreement with Council post gateway, when some certainty about Council's support and gateway study requirements are known. Fidem Property Group is willing to invest the resources and capital to achieve the right outcome, however it needs more certainty on the likely outcome of the planning proposal before we can progress negotiations. An endorsement by planning staff and Councillors to send the proposal to gateway would be sufficient.

We trust the above supports your assessment and recommendation to Council. We would be happy to discuss the information with you if need be.

Please do not hesitate to contact me if you have any additional queries or require further clarification.

Yours faithfully,



Michael Ghobrial  
Managing Director

W: [www.fidem.com.au](http://www.fidem.com.au)



**ITEM-29                    CCL 16/04/19 - EXHIBITION OF AMENDMENTS TO DRAFT  
S7.12                    NEWCASTLE                    LOCAL                    INFRASTRUCTURE  
CONTRIBUTIONS PLAN 2019**

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

---

**PURPOSE**

This report seeks Council's endorsement to exhibit the draft Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019.

**RECOMMENDATION**

That Council resolves to:

- 1     Place the draft Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019 (**Attachment A**) on exhibition for a minimum of 28 days.
- 2     Receive a report back to Council following exhibition.

**KEY ISSUES**

- 3     Recent changes to the *Environmental Planning and Assessment Act 1979* (EP&A Act) require a review of the City of Newcastle's (CN) Development Contributions Plans. Development Contributions, previously known as Section 94 and Section 94A Development Contributions are now known as Section 7.11 and Section 7.12 Local Infrastructure Contributions.
- 4     CN's existing s94A Plan has been reviewed to ensure consistency with the changes within the EP&A Act. The following amendments have been made to the Plan:
  - i)     Change to the name of the Plan to draft "Section 7.12 Local Infrastructure Contributions Plan 2019".
  - ii)    Update of Ministerial Directions to ensure consistency with information provided by the Department of Planning and Environment (DPE).
  - iii)   Update to provisions relating to the requirements for cost summary reports. This change requires cost summary reports for development less than \$750,000 be provided by a building industry professional and for development with a cost of \$750,000 or more, the cost summary report can only be provided by a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors. This requirement now applies to the entire draft Plan, rather than having different requirements for each catchment area.

- iv) The demographic information within the Plan has been updated using data from .id, the population experts, Hunter Regional Plan 2036 and the Greater Newcastle Metropolitan Plan.
- v) The City Centre levy currently applies to development with an estimated cost of over \$250,000. The City Centre levy will now apply to development with an estimated cost of more than \$100,000 and apply the 3% levy to both commercial and residential development to be consistent with Part A of the draft Plan and Section 25K(b) of the Environmental Planning and Assessment Regulation 2000.
- vi) The schedule of works within Part A and Part B have been updated to remove completed works and projects no longer requiring development contribution funding. A detailed review of the schedule of works is being undertaken separately and will be reported to Council as part of a future review of the Plan.
- vii) Inclusion of Part C Honeysuckle Development Area. Part C applies to the Honeysuckle Development area (as outlined in Figure 3 of the draft Plan) and replaces the previous Deed of Agreement (dated March 2004) between Hunter Central Coast Development Corporation (HCCDC) and CN.
- viii) Part C of the draft Plan requires CN to transfer 80% of contributions collected from development within the Honeysuckle Development area to HCCDC with CN to retain 20%. HCCDC will complete public domain works listed within Schedule 3 of the Plan and outlined within the Honeysuckle Public Domain Plan.

## **FINANCIAL IMPACT**

- 5 The draft Plan, if adopted, will collect additional developer contributions levies over time, which will be available to support projects listed in the Plan. The report back to Council following public exhibition will include further information on financial impacts.
- 6 The 20% apportionment of contributions for CN as part of Part C Honeysuckle Development Area will be pooled with Part B (City Centre) funds and be used to fund the projects listed in Schedule 2 of the draft Plan.
- 7 The draft Plan only requires CN to transfer funds to HCCDC as they are paid to CN and not before. There is no requirement for CN to fund the public domain works in Honeysuckle beyond the level of contributions received by CN, or to make up the shortfall of funds, if sufficient development contributions are not received by CN.

## COMMUNITY STRATEGIC PLAN ALIGNMENT

8 The draft Plan 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

9 The exhibition and implementation of the draft Plan will be in accordance with the EP&A Act and accompanying Regulation. The Act and Regulation identify the process and responsibilities for preparing, exhibiting and adopting a Development Contribution Plan.

10 The inclusion of the Honeysuckle chapter in the draft Plan rather than entering into a new Deed of Agreement provides greater transparency through allowing the opportunity for the community to review the draft Plan during the public exhibition period and provide feedback on projects to be delivered under the draft Plan.

11 In parallel, CN is working on an agreement with HCCDC relating to the process for design and approval of works within Honeysuckle, as well as the dedication of Honeysuckle land to CN. This will ensure CN is able to review the detailed design of public domain works to ensure they are designed and constructed to CN standards.

## RISK ASSESSMENT AND MITIGATION

12 The draft Plan has been prepared in accordance with relevant legislation and DPE Practice Notes. Adherence to the legislative framework reduces the risk to CN by ensuring local infrastructure funds are levied, collected, spent and accounted for in the correct manner.

**RELATED PREVIOUS DECISIONS**

- 13 The current version of the Plan (known as Newcastle Section 94A Development Contribution Plan 2009) was adopted by Council at the Ordinary Council Meeting held on 27 July 2017.

**CONSULTATION**

- 14 Consultation has occurred with relevant internal stakeholders and HCCDC. External consultation will be undertaken during the public consultation process.
- 15 A Councillor workshop was held on 9 April 2019 to discuss the draft Plan.

**BACKGROUND**

- 16 In August 1994 CN entered into a Deed of Agreement (Deed) with the Honeysuckle Development Corporation (HDC) for the purpose of providing open space and community facilities identified in s94 Contributions Plan No.2 (now repealed). CN agreed to reimburse the HDC for completion of works agreed under the Deed with s94 funds received from development across the Newcastle Local Government Area.
- 17 A revised Deed was entered into between CN and HDC in March 2004. That Deed committed CN to forward s94 contributions to the Corporation, for the provision of local parkland and foreshore promenade, as they are received by CN. In return the Corporation committed to provide the relevant works specified in the s94 Plan. The Deed ensured that CN was only required to forward s94 contributions as CN receives them and should the Corporation provide open space works prior to development or beyond the level of s94 contributions received from CN, the Corporation undertakes this risk.
- 18 In July 2018, CN and HCCDC agreed to terminate the Deed of Agreement and prepare an update to the CN Contribution Plan to include a Honeysuckle chapter.
- 19 The arrangement of contribution sharing between HCCDC and CN is similar to the cross boundary plan that CN has with Port Stephens Council, whereby development contributions collected from development in Fern Bay and Fullerton Cove are transferred to CN to assist in the delivery of infrastructure in Stockton.

**OPTIONS**

**Option 1**

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

**Option 2**

- 21 Council resolves not to exhibit the draft Section 7.12 Local Infrastructure Contribution Plan 2019. This is not the recommended option.

**REFERENCES**

**ATTACHMENTS**

**Attachment A:** Draft Section 7.12 Local Infrastructure Contribution Plan 2019

**Attachment A distributed under separate cover.**

**ITEM-30 CCL 16/04/19 - ADOPTION OF THE LIVE MUSIC STRATEGY 2019-2023**

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

---

**PURPOSE**

To advise the outcome of the public consultation and seek adoption of the Newcastle Live Music Strategy 2019-2023.

**RECOMMENDATION**

That Council:

- 1 Adopts the Live Music Strategy 2019-2023 (Strategy) as provided at **Attachment A**.

**KEY ISSUES**

- 2 The Strategy was prepared following extensive long-term engagement with key stakeholders including the wider community and was placed on formal public exhibition for a period of three months.
- 3 125 submissions were received during the exhibition period. Submissions are summarised at **Attachment B** Exhibition Summary Report, which details responses to issues raised, including changes to the Strategy as appropriate.
- 4 Overall there was strong support for the development and implementation of the Strategy. Key issues raised include:
  - i) Concern over land use conflict in relation to increased residential densities in proximity to existing live music venues.
  - ii) Concern over lack of flexible public transport options connecting suburban areas with the city centre.
  - iii) Concern over the increase of gaming-based entertainment and the negative impact on floor space available for live music in venues.
  - iv) Identified need to engage key stakeholders in Strategy implementation with reference to collaboration, workload resourcing and process improvements.

- 5 The Strategy was developed to ensure live music's future is responsibly developed as a key element of Newcastle's night time economy. The Strategy advocates for change in the area of live performance. It proposes an evidence-based planning and assessment model to assist decision making for live music venue development and management. The model also considers the quality of life for residents living in mixed use urban villages. Refer to **Attachment B** for further details on how the Strategy responds to issues raised.
- 6 To deliver on these stated aims and to address the issues raised in consultation, it is proposed to establish a multi-agency reference group led by City of Newcastle (CN) and comprising relevant State government agencies and music industry representatives. The collective knowledge of this group would ensure that the Strategy's actions are developed in an ordered and timely manner.

### **FINANCIAL IMPACT**

- 7 The Strategy was developed within existing resources. This document will inform future actions in the Delivery Program and Operational Plan. For new programs, projects and services, funding will be sought through CN budget processes or through grant funding where available.

### **COMMUNITY STRATEGIC PLAN ALIGNMENT**

- 8 The Strategy aligns with the following community objectives:

#### **Vibrant, Safe and Active Public Places**

- 3.1 Public places that provide for diverse activity and strengthen our social connections
- 3.2 Culture, heritage and place are valued, shared and celebrated
- 3.3 Safe and activated places that are used by people day and night.

### **IMPLEMENTATION PLAN/IMPLICATIONS**

- 9 The Strategy includes an Action Plan that will require multiple agencies and stakeholders to work together to deliver. The Newcastle Live Music Taskforce will monitor progress using a number of tools including:
  - i) quarterly community surveys to identify perceptions of safety in public places;
  - ii) number of special events and approved development applications for events including live music elements; and
  - iii) evaluation of projects / events.

### **RISK ASSESSMENT AND MITIGATION**

- 10 All appropriate risks have been considered and mitigated accordingly.

## RELATED PREVIOUS DECISIONS

- 11 At the Ordinary Meeting held on 27 November 2018, Council resolved to adopt the Newcastle After Dark Strategy 2018 - 2022.
- 12 At the Ordinary Meeting held on 27 November 2018, Council resolved to publicly exhibit the draft Live Music Strategy 2019-2023.
- 13 At the Ordinary Meeting held on 23 January 2018, Council unanimously resolved to endorse the CN submission to the NSW independent Liquor and Gaming Authority's 2017 Review of the Newcastle CBD Liquor Licence Conditions (provided at **Attachment C**).

## CONSULTATION

- 14 The Strategy was developed over 11 months through a detailed stakeholder and community engagement process, which included:
  - i) desktop review of research, consultation and reports conducted by other Australian, State and local government agencies active in the live music sector;
  - ii) formation of the Newcastle Live Music Taskforce in April 2018 under the auspices of the State Member for Newcastle, Shadow Parliamentary Secretary, Tim Crakanthorp MP;
  - iii) CN online community survey (June 2018) and social pin point mapping (1,130 responses);
  - iv) CN live music round table (August 2018) with 35 representatives from Newcastle live music sector including artists, venue providers, booking agents and relevant State Government agencies;
  - v) CN submission to the NSW Legislative Council - Music and Arts Inquiry Hearing (August 2018);
  - vi) The Newcastle Live Music Census (August 2018) which highlighted 471 gigs presented across 80 venues featuring 699 separate acts;
  - vii) CN submission to the Australian Government's Upper House Standing Committee on Communications and The Arts inquiry into "Factors contributing to the growth and sustainability of the Australian music industry" (September 2018); and
  - viii) CN online community survey (December 2018 to February 2019) with 125 written submissions received, 81 (73 per cent) expressed support for the Strategy.
  - ix) A late submission was received from the NSW Police Local Area Commander requesting that all decision making linked to implementation include the NSW Police.



**BACKGROUND**

- 15 CN has led and participated in a range of night time economy planning and strategic activities over the last decade culminating in the adoption in November 2018 of the Newcastle After Dark Strategy 2018-2022. One of the key actions in this document (12.4 Live Music and Performance) recognises the importance of live music as a cultural and economic cornerstone of community identity and destination management.
- 16 The Strategy is directly linked to the Action Plan in its parent document Newcastle After Dark 2018-2022. The latter document highlights the value of Newcastle's night time economy as the sixth largest in the country, accounting for 5.4% of the total Newcastle economy (\$1.358 billion in 2015).

**OPTIONS**

**Option 1**

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

**Option 2**

- 18 Council resolves not to adopt the Live Music Strategy 2019-2023. This is not the recommended option.

**REFERENCES**

**ATTACHMENTS**

- Attachment A:** Live Music Strategy 2019-2023  
**Attachment B:** Exhibition Summary Report  
**Attachment C:** City of Newcastle's submission to the NSW Independent Liquor and Gaming Authority's 2017 Newcastle Conditions Review

**Attachments distributed under separate cover**

**ITEM-31 CCL 16/04/19 - PUBLIC EXHIBITION OF THE 2019/20 OUR BUDGET (OPERATIONAL PLAN AND DELIVERY PROGRAM)**

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

---

**PURPOSE**

To seek a Council resolution to place the draft 2019/20 Our Budget (2018-2022 Delivery Program and 2019/20 Operational Plan) and the draft 2019/20 Fees and Charges Register on public exhibition as required under the Local Government Act 1993.

**RECOMMENDATION**

- 1 That Council resolves to place the draft 2019/20 Our Budget (2018-2022 Delivery Program and 2019/20 Operational Plan) as at **Attachment A** and the draft 2019/20 Fees and Charges Register as at **Attachment B** on public exhibition for at least 28 days prior to final consideration by Council.

**KEY ISSUES**

- 2 Under section 404 of the Local Government Act 1993 councils must have a Delivery Program detailing the principal activities it will undertake to achieve the objectives identified in the Community Strategic Plan. Councils are also required to have an annual Operational Plan adopted by the beginning of each financial year which outlines the planned activities for the year as part of the Delivery Program. The Delivery Program and Operational Plan are combined into one document, titled '2019/20 Our Budget' (**Attachment A**).
- 3 Under section 608 of the Local Government Act 1993, Council may charge and recover an approved fee for any services it provides. Council's draft 2019/20 Fees and Charges Register is provided at (**Attachment B**).
- 4 City of Newcastle (CN) has demonstrated its commitment to financial sustainability in the draft 2019/20 Our Budget by maintaining a net operating surplus, renewing and maintaining assets in a sustainable range and utilising evidence-based decision making to ensure sound budget management underpinned by its financial governance frameworks.
- 5 The draft 2019/20 Our Budget includes the final year of the approved Special Rate Variation (2015 SRV) 8% inclusive of the rate cap applicable for 2019/20.

- 6 A highlight of the draft 2019/20 Our Budget is the \$32m commitment to environmental sustainability through the delivery of key initiatives at the Summerhill Waste Management Facility, including expansion of Cell 9 for landfill, construction of the Organics Recycling Facility and operational commencement of the new Recycling Recovery Centre.

**FINANCIAL IMPACT**

- 7 The draft 2019/20 Our Budget is based on the financial objectives contained within the Long Term Financial Plan (LTFP) and delivers a net operating surplus, renewal and maintenance of assets within a sustainable range and maintaining strong cash reserves to safeguard the financial legacy of the Newcastle Local Government Area.
- 8 The operating result budgeted for in the 2019/20 financial year is a surplus of \$11.9m. The operating surplus ensures CN has sufficient financial capacity to maintain the city's assets at a safe, reliable and sustainable level while still responding to our commitments to the community.

	Adopted Budget 2018/19 \$,000	Draft Budget 2019/20 \$,000	Variance \$,000
Total Income	279,669	309,245	29,576
Total Expenditure	273,189	297,294	24,105
<b>Operating Surplus (Deficit) for the year</b>	<b>6,480</b>	<b>11,951</b>	<b>5,471</b>

- 9 The draft 2019/20 Our Budget includes increased revenues through the 2015 Special Rate Variation and other revenue categories identified in the LTFP. This is partially offset by the higher operational expenditure required to maintain CN's service levels to match community expectations whilst also increasing our service delivery, customer experiences and community engagement.
- 10 Operational materials and contracts expenditure is budgeted at the level required to provide a sustainable level of services and asset maintenance in addition to providing the resources to grow CN's capacity to deliver larger asset renewal programs in the future.

Capital Funding	Adopted Budget 2018/19 \$,000	Draft Budget 2019/20 \$,000	Variance \$,000
<b>Capital Funding Sources</b>			
General fund contribution to capital	40,336	48,422	8,086
2012 Special Rate Variation	6,255	7,326	1,071
Stormwater Management Charge	1,972	1,990	18
Grants & contributions - Capital	9,084	12,830	3,746
Proceeds from the sale of Assets	1,620	1,700	80
<b>Funding available for capital expenditure</b>	<b>59,267</b>	<b>72,268</b>	<b>13,001</b>
<b>Capital Expenses</b>			
Asset renewals	32,168	18,102	(14,066)
New / upgrade	32,691	38,998	6,307
2012 SRV Priority Projects	2,694	1,825	(869)
<b>Total capital spend</b>	<b>67,553</b>	<b>58,925</b>	<b>(8,628)</b>
Principal loan repayments / (borrowings)	3,580	3,868	288
(Draw down on) or transfer to restricted reserves	(11,866)	9,475	21,341

- 11 The capital expenditure budgeted for the 2019/20 financial year is \$58.9m. The total spend on works inclusive of operational and capital expenditure is budgeted at \$81m in the 2019/20 financial year. A list of community projects to be delivered through the 2019/20 works program is included as an appendix to the 'Our Budget' document.
- 12 During the year CN generates cash from its operating activities which is used as a funding source to deliver the works program. It is forecast that \$72.3m will be generated from CN's operations in 2019/20 to fund the budgeted 2019/20 works program. This is the first time in over seven years that CN budgeted to deliver an operational plan without drawing down on restricted reserves.

**COMMUNITY STRATEGIC PLAN ALIGNMENT**

- 13 The draft 2019/20 Our Budget delivers key objectives and actions of the Community Strategic Plan against all seven strategic directions.
- 14 This report aligns to the Community Strategic Plan under the strategic direction of 'Open and collaborative leadership' action:
  - 7.1a 'Encourage and support long term planning for Newcastle, including implementation, resourcing, monitoring and reporting'.

**IMPLEMENTATION PLAN/IMPLICATIONS**

- 15 The draft 2019/20 Our Budget (2018-2022 Delivery Program and 2019/20 Operational Plan) and draft 2019/20 Fees and Charges Register are required to be adopted by Council by 30 June 2019 following public exhibition. The Public Exhibition period is proposed from 17 April to 24 May 2019 which exceeds the minimum 28 day requirement.

## RISK ASSESSMENT AND MITIGATION

- 16 The development of the financial budget is based on a number of assumptions, including assumptions that are outside of CN's control. This may potentially affect the financial results. The risks associated with these assumptions include:
- i) Grant funding from State and Federal Governments is lower/higher than anticipated.
  - ii) Investment returns are lower/higher than assumed.
  - iii) Contributions, for example local infrastructure contributions (formerly section 94), alter from the level predicted.
  - iv) Further cost shifting from other Government agencies without offsetting revenue.
  - v) Inflation increase against costs higher than anticipated.
  - vi) Legislative changes that may lower income streams or increase expenditure.
  - vii) Natural disasters.
- 17 Implementation of the financial budget will be carefully monitored, and necessary adjustments implemented through the quarterly budget review statement.

## RELATED PREVIOUS DECISIONS

- 18 At the Ordinary Council Meeting held on 26 June 2018, Council adopted the 2018-2022 Delivery Program and 2018/19 Operation Plan and the 2018/19 Fees and Charges Register.
- 19 At the Ordinary Council Meeting held on 26 March 2019, Council resolved:
- 1 *Council endorses the draft amended 2018/2019 commercial Schedule of Fees and Charges for Waste Management collection, disposal and associated services at **Attachment A** being placed on public exhibition for 28 days.*
  - 2 *Council approve the adoption of the 2018/2019 commercial Schedule of Fees and Charges for Waste Management collection, disposal and associated services at **Attachment A**, if no significant adverse submissions are received during the public exhibition period. If significant adverse comments are received, then a further report to Council seeking approval will be required at the end of the public exhibition period.*
- 20 At the Ordinary Council Meeting held on 25 September 2018 Council adopted the annual financial reporting framework and resolved that a list of community projects would be added as an appendix to the 'Our Budget'.

**CONSULTATION**

- 21 A Councillor Workshop was held on 2 April 2019.
- 22 Subject to endorsement of the recommendation detailed at Paragraph 1, the draft 2019/20 Our Budget (2018-2022 Delivery Program and the 2019/20 Operational Plan) and draft 2019/20 Fees and Charges Register will be placed on public exhibition and the community feedback received will be considered prior to finalising the documents.

**OPTIONS**

**Option 1**

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

**Option 2**

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

**BACKGROUND**

- 25 The Delivery Program is required to be prepared every four years following a local government general election. The Delivery Program and Operational Plan are subsequently required to be reviewed annually and adopted by 30 June of the relevant year.

**REFERENCES**

**ATTACHMENTS**

- Attachment A:** Draft 2019/20 Our Budget (2018-2022 Delivery Program and 2019/20 Operational Plan)
- Attachment B:** Draft 2019/20 Fees and Charges Register

**Attachments distributed under separate cover**

**ITEM-32 CCL 16/04/19 - ROBESY STREET, MEREWETHER - PROPOSED ONE WAY AND PARKING RESTRICTIONS**

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

---

**PURPOSE**

To approve the proposed one-way traffic flow on Robey Street, Merewether from Patrick Street to Bar Beach Avenue with parking restrictions on the eastern side.

**RECOMMENDATION**

That Council:

- 1 Approves the proposed parking restrictions and one-way traffic signage on Robey Street, Merewether as shown at **Attachment A**.

**KEY ISSUES**

- 2 Robey Street is a narrow local road connecting Patrick Street and Bar Beach Avenue. It is primarily utilised by residents, with additional minor traffic volumes utilising Robey Street to service commercial buildings located on Patrick Street.
- 3 Residents have raised concerns with the safety of pedestrians through Robey Street. The narrowness of the road results in vehicles parking on the footpath to increase the road carriageway width. By doing so they reduce the likelihood of sideswipe crashes. However, this impedes the footpath and results in pedestrians walking down the road carriageway adjacent to traffic.
- 4 The proposed one-way traffic flow is expected to slightly increase the traffic volumes of Patrick Street and Bar Beach Avenue due to the increased circulation distance of vehicles. The traffic volume increases are not likely to have a significant impact on the operational efficiency or safety of either Patrick Street or Bar Beach Avenue.

**FINANCIAL IMPACT**

- 5 Funding for the implementation will be from the Traffic Facilities Funds granted by the Roads and Maritime Services (RMS) each year to carry out traffic facility related works. The work will cost approximately \$1,500.

**COMMUNITY STRATEGIC PLAN ALIGNMENT**

- 6 The project aligns with the following Newcastle 2030 Community Strategic Plan directions:

### **Integrated and Accessible Transport**

1.2a Continue to upgrade, extend and promote cycle and pedestrian networks.

1.3a Ensure safe road networks through effective planning and maintenance.

### **IMPLEMENTATION PLAN/IMPLICATIONS**

- 7 Approval of a one-way traffic flow restriction is not delegated to CN officers and must be referred to Council for final determination. Approval of the proposed restriction does not have any implication for existing or future planning policies, or CN projects. The proposal will support CN's mission to enhance the quality of life by improving the safety of road users, particularly pedestrians, and improve access for residents in Robey Street.

### **RISK ASSESSMENT AND MITIGATION**

- 8 The proposed one-way traffic flow restriction is intended to increase access for residents and pedestrian safety. Robey Street traffic volume is low, and the road is narrow, which encourages a low speed environment.
- 9 The proposed southbound one-way traffic flow and no parking restrictions on the eastern side of the street, would result in garbage bins for all residents being collected from the eastern side. This arrangement will allow for safer waste collection from the current condition.

### **RELATED PREVIOUS DECISIONS**

- 10 The Newcastle City Traffic Committee at its meeting of 18 March 2019, provided in-principal support for the proposal to implement one-way traffic flow with parking restrictions on Robey Street, and supported the proposal for referral for Council's final determination.

### **CONSULTATION**

- 11 Consultation has been conducted with the residents of the street. The proposed plan was put on public exhibition from 30 January 2019 to 20 February 2019. Leaflets were distributed to residents and other stakeholders that may be affected by the proposal. The summary of consultation responses is shown at **Attachment B**.
- 12 Community consultation regarding the proposed changes determined that the residents of Robey Street supported the change to one-way traffic flow and the restriction of parking on the eastern side. Originally parking was proposed to be restricted on the western side to maximize on street parking. Residents noted that the restriction of parking on the eastern side would improve entry and egress from most properties' driveways.



**BACKGROUND**

13 Background information is presented in the Key Issues section of this report.

**OPTIONS**

**Option 1**

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

**Option 2**

15 Do not approve the proposed changes. This is not the recommended option.

**REFERENCES**

**ATTACHMENTS**

**Attachment A:** Proposed Plan  
**Attachment B:** Summary of Submissions

Attachment A: Proposed Plan



**LEGEND**

- - Proposed No Parking Restriction
- - New Post
- - Existing Post
- - Existing Power/utility pole

**NEW SIGN INVENTORY**

- 1 x R5-40(R) - No parking
- 1 x R5-40(LR) - No parking
- 1 x R5-40(R) - No parking
- 1 x R2-4 - No entry

# CITY OF NEWCASTLE

Ordinary Council Meeting 16 April 2019

Page 123

## Attachment B: Summary of Submissions

### SUMMARY OF RESULTS

Project	Robey Street One Way
Number of surveys sent	12

Reference	Street	One Way - No parking on West	No Parking on West	No Changes to parking	Comments
TR2019/00356	Robey Street	x			Would like it on the east for turning movements
TR2019/00263 and 00344	Robey Street	x			Option 1 is the best solution please also install traffic pacifiers Remove parking on the eastern side retaining bi directional traffic. Needs regular council checks of no stopping as it is frequently ignored.
TR2019/00293	Patrick Street		x		Robey Street would be safer for traffic if the parking was on the eastern side of the street (because of the bend)
TR2019/00294	Robey Street	x			Retain bi directional traffic flows.
TR2019/00345	Robey Street		x		Please make no parking instead of stopping.
TR2019/00393	Bar Beach Ave	x			
TR2019/00408	Robey Street	x			My preference is to retain parking on the western side and block parking on the eastern side with the western side being so narrow it makes it very difficult to get in and out of my driveway when a car is parked across from my driveway

Number of owners/occupiers consulted	12
Number of owners/occupiers responded	7
Response to the consultation (%)	58.33333333
Owners/occupiers in favour of Option 1	5
Owners/occupiers in favour of Option 2	2
Owners/occupiers in favour of Option 2	0

**ITEM-33 CCL 16/04/19 - ADOPTION OF THE LIBRARY STRATEGY 2019-2029**

**REPORT BY: CITY WIDE SERVICES**  
**CONTACT: DIRECTOR CITY WIDE SERVICES / MANAGER LIBRARIES AND LEARNING**

---

**PURPOSE**

To seek Council's adoption of The Library Strategy 2019-2029.

**RECOMMENDATION**

That Council:

- 1 Adopt The Library Strategy 2019-2029 (**Attachment A**).

**KEY ISSUES**

- 2 The Library Strategy 2019-2029 (the Strategy) has been on public exhibition for 28 days from 4 March to 31 March 2019. Overall there was strong support for the development and implementation of the Strategy.
- 3 The Strategy outlines a vision for a world class library service in Newcastle – anywhere, anytime, open and accessible 24/7.
- 4 The Strategy has been informed by international and national research on library infrastructure and service trends. The Strategy aligns to the Community Strategic Plan, Newcastle 2030 and our vision to be a smart, liveable and sustainable global city. It takes into consideration community input from a range of engagement processes, including a survey of more than 1300 people.
- 5 The Strategy provides the framework to:
  - i) Increase the reach of libraries into the community and increase participation and membership through diverse engagement and partnerships.
  - ii) Integrate a range of City of Newcastle (CN) services alongside library services.
  - iii) Provide engaging programs to enrich and encourage lifelong learning.
  - iv) Provide easy access to our heritage collections.
  - v) Provide relevant information services and bridge the digital divide through technology.
- 6 Adoption of the Strategy enables the development of the Library Infrastructure Plan (the Plan). The Plan will guide Council in making evidence-based decisions for future library service delivery that are based on agreed criteria for successful libraries. The core principles that will underpin the Plan include co-location and multi-use facilities that are flexible in design with improved digital experiences.

- 7 The Strategy identifies four strategic priorities. These are:
- i) Digital Inclusion – creating a smart city.
  - ii) Contemporary Libraries – creating contemporary, connected library facilities and services.
  - iii) Living Learning Communities - developing resilient communities with every person ready to learn.
  - iv) Newcastle Stories – creating a sense of place and celebrating Newcastle’s identity.
- 8 If Council adopts the Strategy, a phased approach to implementation will be developed in consultation with Council and the community.

**FINANCIAL IMPACT**

- 9 Funds are allocated in the 2018/2019 Operational Plan to develop the Library Infrastructure Plan.
- 10 There are no immediate financial costs associated with adopting the Strategy. Future infrastructure planning will require budget allocation through the forward capital works program.

**COMMUNITY STRATEGIC PLAN ALIGNMENT**

- 11 The Strategy is in alignment with the following strategic directions:

**Vibrant, Safe and Active Public Places**

- 3.2a Celebrate Newcastle’s cultural heritage and diversity.
- 3.2b Celebrate Newcastle’s identity by sharing local stories, both historical and contemporary through arts and culture programs.

**Inclusive Community**

- 4.1b Support initiatives and facilities that encourage social inclusion and community connections.
- 4.1c Improve, promote and facilitate equitable access to services and facilities.
- 4.2b Improve access to formal and informal lifelong learning opportunities, facilities and services.

**Smart and Innovative**

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

- 12 The Strategy achieves objectives of key strategies including the Newcastle Smart City Strategy 2017-2021, the Cultural Strategy 2016-2019, the Social Strategy 2016-2019, the Reconciliation Action Plan 2016-2018 and the Disability Inclusion Action Plan 2016-2019.

- 13 The library service, through the national and international industry associations, actively supports the Sustainable Development Goals (SDG) adopted by Council in September 2015.

#### **IMPLEMENTATION PLAN/IMPLICATIONS**

- 14 The Strategy's activities will have an Implementation Plan and an annual Action Plan funded through the operational budget.

#### **RISK ASSESSMENT AND MITIGATION**

- 15 The development of the Strategy has involved extensive community and stakeholder engagement to mitigate risk to Council.

#### **RELATED PREVIOUS DECISIONS**

- 16 The Library Service Delivery Model (LSDM) was adopted by Council in 2002 which resulted in the construction of Wallsend Library in 2006.
- 17 Council resolved on 26 February 2019 to place the draft Library Strategy on public exhibition for 28 days.

#### **CONSULTATION**

- 18 The process of developing the strategy included consultation with community organisations, library partners, the wider public, members/users and non-members/non-users and staff.
- 19 Over 1300 people provided feedback regarding the value of library services to individuals and the community.
- 20 Consultation included four Councillor Workshops during late 2018 and early 2019.
- 21 Two community drop-in sessions were held at Newcastle Library and Wallsend Library as part of the exhibition period. A number of residents attended with issues raised including the speed of Wi-Fi and the layout of collections. The participants were generally happy with the range of services reflecting similar comments provided in the community survey.
- 22 Feedback was open from 4 March to 31 March 2019. There were 38 submissions plus 14 comment "pins" on the diagram through the "Have Your Say" link on the CN website which was viewed over 480 times. The Strategy was the top CN tweet during March and the accompanying video obtained more than 17,000 views.

23 The table below summarises the feedback from the exhibition period. Some individual responses covered multiple themes.

Topic	Key Points	Comment	No of submissions
Positive support for the Strategy and services	There was overall positive support for the direction of the Strategy and congratulations on a valued service. There were comments supporting the direction of multiuse facilities and the expansion and diversity of library resources, programs and services as outlined in the four strategic priorities.	Noted.	20
Collection selection	Comments and suggestions about the variety and diversity of collections.	Noted. The library will prioritise purchasing of new materials with greater input as per the Strategy.	14
Contemporary facilities	General support for diversity in size and flexibility of use and to include cafes in any design brief.	Noted. Inclusion of cafes will be added to the criteria in the Infrastructure Plan.	10
Technology, digital inclusion and innovation	General comments are mostly in support of digital initiatives. Support for online "anywhere" access to resources.	Comments noted and included in the Implementation Plan.	10
Operating hours – length and spread	Requests to change opening hours highlighted the lack of awareness of the online resources.	Strategy to be amended to prioritise the review of operating hours. Stronger emphasis given to prioritise awareness of online services and resources in the Library Engagement and Marketing Plan.	6

Collections layout	Comments about the layout of the fiction and non-fiction collections.	Noted. The layouts to remain with improved signage and retailing of collections to be undertaken.	5
--------------------	---	---	---

**BACKGROUND**

- 24 The research underpinning the development of the Strategy identified that service delivery options are diversifying and that customers want to have multiple choices for interaction with library services – anywhere and anytime. This is addressed via the development of online “virtual” library service points that are supported by professional staff.
- 25 Community expectations have changed for library services and facilities. New criteria for successful libraries will include spaces located in service population clusters, have good access to transport corridors and embed technology access and connectivity to enable smart city optimisation.
- 26 Library facilities should be open with flexible spaces that are able to be adapted for multiple uses and include collaborative and co-working spaces, shared community spaces and open 24/7. The physical library service points should be co-located with other City of Newcastle services or community partners.
- 27 The majority of CN library buildings are aging with most built in the 1960s and 70s. They do not meet the criteria of open and flexible facilities nor are they located in areas that generate significant pedestrian traffic.

**OPTIONS**

**Option 1**

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

**Option 2**

- 29 The Strategy not be adopted. This is not the recommended option.

**REFERENCES**

**ATTACHMENTS**

**Attachment A:** The Library Strategy 2019-2029

**Distributed under separate cover**



**ITEM-34                      CCL 16/04/19 - NEWCASTLE BIA REVIEW - STAGE 2 - PUBLIC EXHIBITION**

**REPORT BY:                CEO OFFICE**  
**CONTACT:                 CHIEF EXECUTIVE OFFICER / EXECUTIVE OFFICER**

---

**PURPOSE**

Consider placing City of Newcastle's (CN) Business Improvement Associations (BIAs) in Newcastle Implementation Report on public exhibition.

**RECOMMENDATION**

That Council:

- 1 Place Business Improvement Associations (BIAs) in Newcastle Implementation Report on public exhibition for a period of 28 days.
- 2 Invite presentations from members of the community to the Public Voice Committee meeting on 21 May 2019.

**KEY ISSUES**

- 3 There has been community concern regarding whether sufficient value for money is being extracted from funds collected by CN on behalf of select commercial property owners and spent by BIAs in the defined precinct areas.
- 4 In late 2017, the Hamilton Chamber of Commerce voiced concerns regarding the funding accountability of BIAs in a submission to the City of Newcastle's (CN) Open and Transparent Governance Strategy. This submission by its President Nathan Errington stated that "more ... can be done to ensure that the 6 (sic) BIAs that receive recurrent funding from Newcastle City Council are more accountable to the elected council, and ultimately to the ratepayers of Newcastle".
- 5 Separately, a number of significant breaches of the funding deed between CN and Newcastle Business Improvement Association (Newcastle Now) were confirmed via an independent investigation by the Centium Group in late 2018.
- 6 In December 2018 Council considered a report by AECOM and adopted a number of recommendations (detailed below). Subsequently AECOM was engaged to undertake a further review to progress opportunities identified in the 2018 report. These include a more detailed understanding of the expenditure of the Levy by BIAs since the 2015/16 Financial Year, mechanisms for creating competition for Levy funding, restoring the Mayfield BIA and differentiating the role of BIAs and stakeholders such as Chambers of Commerce. The attached report presents the findings of the work undertaken by AECOM during this engagement.

- 7 A number of governance issues remain outstanding for both Newcastle Now and Hamilton BIA/ Chamber of Commerce. These issues will need to be resolved prior to new service agreements being finalised for the period July 2019 to June 2022 but do not affect the ability to place the report on public exhibition.
- 8 It should also be noted that Mayfield BIA has not met as a Board for several years and so any engagement CN and AECOM has undertaken has been limited to the BIA's former President Ivor Davies.
- 9 In March 2019 the President of the New Lambton Village Chamber of Commerce confirmed her intention to resign from the role on the basis of a perceived loss of support among the Executive Committee and General Members. CN is yet to be informed of a replacement President.

### **FINANCIAL IMPACT**

- 10 The 2019/20 Our Budget identifies \$1,345,989 (exc GST) in special benefit rates to be levied on behalf of the four below areas (including New Lambton's \$15,018).
  - i) Newcastle City Centre – Newcastle Now;
  - ii) Hamilton – Hamilton Chamber of Commerce
  - iii) Mayfield – Mayfield Business Association
  - iv) Wallsend – Wallsend Town Business Association.
- 11 The 2018/19 budget makes provision for the costs associated with this review and the implementation costs associated with the implementation of any revised model that may be adopted.

### **COMMUNITY STRATEGIC PLAN ALIGNMENT**

#### **12 6 Smart and Innovative**

- 6.1a Recognise and strengthen Newcastle's role as a metropolitan capital and hub for education, health, tourism, creative, port and logistics industries
- 6.1b Attract new business and employment opportunities
- 6.2b Support and advocate for the small business sector
- 6.3a Facilitate events that attract visitors and support the local economy and the vibrancy of Newcastle
- 6.3b Work with the tourism sector to further develop Newcastle as a visitor and event destination
- 6.3c Work with businesses, planners and government at all levels to facilitate key infrastructure to support business growth
- 6.3d Foster a collaborative approach to continue city centre renewal

#### **7 Open and Collaborative Leadership**

- 7.1a Encourage and support long term planning for Newcastle, including implementation, resourcing, monitoring and reporting
- 7.2c Establish collaborative relationships and advocate for local needs with all stakeholders

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

### **IMPLEMENTATION PLAN/IMPLICATIONS**

- 13 If the recommendation as at paragraphs 1-2 is approved, the AECOM report will be placed on public exhibition from 17 April until 22 May 2019. This will enable members of the community including the respective BIAs the opportunity to address Council's Public Voice on 21 May 2019. Once Council considers any submissions received and makes a final determination on the report, development will proceed on new Service Agreements for the BIAs to commence from 1 July 2019 – 20 June 2022. Such a course of action will ensure Council complies with its Open and Transparent Governance Strategy.

### **RISK ASSESSMENT AND MITIGATION**

- 14 The adoption of the recommendations will ensure CN minimises its reputational risk through undertaking a community consultation process regarding the AECOM report and its proposed method for implementation of the revised BIA model prior to making a final decision.

### **RELATED PREVIOUS DECISIONS**

- 15 At the Ordinary meeting of Council held 12 December 2017 City of Newcastle (CN) resolved to adopt a new Open and Transparent Governance Strategy. As part of the resolution, Council also resolved:

*"That Council notes the submission from the President of the Hamilton Chamber of Commerce (Hamilton NOW BIA) regarding the need for improved transparency in the operation of BIA's and that the Chief Executive Officer conducts a review of best practice for BIA's and reports back to Council in March 2018 outlining recommended improvements for the delivery of Economic Development and the use of Special Rate Variations for commercial centres throughout the Local Government Area (LGA)."*

- 16 As a result of matters identified by Newcastle City Council (Council), a resolution was passed at the Council meeting on 24 July 2018 (inter alia) to suspend Council funding to Newcastle Business Improvement Association (NBIA) pending the outcome of an independent investigation.

- 17 At the Ordinary Meeting of Council held on 11 December 2018 CN resolved That Council:

- i) Receives the AECOM report 'Review of Business Improvement Associations (BIA) in Newcastle' at Attachment A.*
- ii) Notes that the AECOM report was released publicly in full on 10 December 2018.*
- iii) Receives the confidential (redacted) investigation report of Centium at Attachment B.*

- iv) *the Funding and Service Deed between Newcastle City Council and Newcastle Business Improvement Association dated 23 August 2011 with effect from 31 December 2018;*
  - v) *the Funding and Service Deed between Newcastle City Council and Hamilton Business Improvement Association dated 1 September 2011 with effect from 30 June 2019;*
  - vi) *the Funding and Service Deed between Newcastle City Council and Mayfield Business Improvement Association 1 September 2011 with effect from 30 June 2019; and*
  - vii) *the Funding and Service Deed between Newcastle City Council and Wallsend Business Improvement Association dated 1 September 2011 with effect from 30 June 2019.*
- *Enters into new legal agreements with each of the BIAs and New Lambton Village by no later than 1 July 2019 with the new agreements to provide for a percentage of the special rates levied to be payable to the BIAs in return for specific services to promote, beautify and develop the relevant benefit areas (or for another purpose as resolved by Council from time to time).*
  - *Calls for tenders for additional specific services to promote, beautify and develop the relevant benefit areas (or for another purpose as resolved by Council from time to time) or directly expends the balance of the special rates levied not otherwise provided to the BIAs.*
  - *Receives a report by no later than 30 June 2019 proposing a new model for BIAs in accordance with option 3 detailed within the AECOM at Attachment A including a determination on the percentage of the special rates to be provided to the BIAs and/or the subject of a tender/direct expenditure by City of Newcastle.*
  - *This confidential report relating to the matters specified in s. 10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential (except for the AECOM Report at Attachment A which has been made publicly available) until the Chief Executive Officer (CEO) determines otherwise.*

## **CONSULTATION**

18 The consultation/engagement activities undertaken as part of this review are detailed in Section 3 Stakeholder Engagement of the attached report.

## **BACKGROUND**

19 Newcastle's Mainstreet Program was established in the early 1990s.

- 20 In August 1994, the Minister for Office of Local Government approved a request from CN to collect a Special Benefit Rate from property owners within defined areas in several commercial centres. Under this model, Mainstreet Committees comprising local business people, community members and Councillors were established under s. 355 of the Local Government Act. CN collected, and subsequently distributed to the committees, funds for projects with an economic development focus such as public infrastructure and facility improvements, street beautification, marketing and community events.
- 21 The Minister's approval did not specify that special benefit rate monies should be invested into the community via the Mainstreet Committees or BIAs, only that the funds must be spent within the precincts from which they are paid and that the monies must be spent defraying the costs of promotion, development and beautification.
- 22 In 2010, an internal audit and review program identified a number of process related concerns. Subsequently in 2011, CN and the participating commercial centres agreed to an alternative model that changed organisations from a committee of Council to an independent business improvement association (BIA), governed by a constitution, supported by a Funding and Service Deed of Agreement.
- 23 CN's role is to collect the Special Benefit Rate, manage the operational framework for the local BIA network and ensure the Special Benefit Rate is expended in accordance with the requirements of the Local Government Act. The current Special Benefit Rate on property owners was approved for an unlimited time, so exists in perpetuity, based on defined areas.

## **OPTIONS**

### **Option 1**

- 24 The recommendation as at Paragraph 1 – 3. This is the recommended option.

### **Option 2**

- 25 Consider the report and proceed to adopt the recommendations without community consultation. This is not the recommended option.

## **REFERENCES**

## **ATTACHMENTS**

- Attachment A:** AECOM Review of Business Improvement Associations (BIAs) in Newcastle – Implementation Report

Attachment A

REVIEW OF BUSINESS IMPROVEMENT  
ASSOCIATIONS (BIAS) IN NEWCASTLE

IMPLEMENTATION REPORT



Quality information

Prepared by	Checked by	Verified by	Approved by
Matthew Endacott	Peter Jensen	Ainsley Nigro	Ainsley Nigro

Revision History

Revision	Revision date	Details	Authorized	Name	Position
1	5 April 2019	Draft Report		Ainsley Nigro	Principal Economic Analyst
2	8 April 2019	Draft Report		Ainsley Nigro	Principal Economic Analyst

Distribution List

# Hard Copies	PDF Required	Association / Company Name

**Prepared for:**  
 City of Newcastle  
 282 King Street  
 Newcastle, NSW 2300

**Prepared by:**  
 AECOM Australia Pty Ltd  
 17 Warabrook Boulevard  
 Warabrook NSW 2304  
 PO Box 73  
 Hunter Regional MC, NSW 2310

T: +61 2 4911 4900  
 F: +61 2 4911 4999  
 aecom.com

ABN 20 093 846 925

AECOM in Australia and New Zealand is certified to ISO9001, ISO14001, AS/NZS4801 and OHSAS18001.  
 Printed on environmentally responsible paper. Made from 100% recycled post-consumer waste.

© 2019 AECOM Australia Pty Ltd. All Rights Reserved.  
 AECOM has prepared this document for the sole use of the Client and for a specific purpose, each as expressly stated in the document. No other party should rely on this document without the prior written consent of AECOM. AECOM undertakes no duty, nor accepts any responsibility, to any third party who may rely upon or use this document. This document has been prepared based on the Client's description of its requirements and AECOM's experience, having regard to assumptions that AECOM can reasonably be expected to make in accordance with sound professional principles. AECOM may also have relied upon information provided by the Client and other third parties to prepare this document, some of which may not have been verified. Subject to the above conditions, this document may be transmitted, reproduced or disseminated only in its entirety.

## CONTENTS

---

1	EXECUTIVE SUMMARY	4
2	INTRODUCTION	5
3	STAKEHOLDER ENGAGEMENT	7
4	EXPENDITURE OF THE SPECIAL BENEFIT RATE LEVY (LEVY)	9
	4.1 Methodology	9
	4.2 Findings	12
5	CONTESTABLE FUNDING	21
6	RESTORATION OF MAYFIELD	23
	6.1 Re-establishing Mayfield BIA	23
	6.2 How the City can support Mayfield BIA	24
	6.3 Mayfield BIA Executive Committee	25
	6.4 Process for electing a new Executive Committee	26
	6.5 Key recommendation	27
7	FORMATION OF NEW BIAS	28
8	ROLE OF LOCAL BUSINESS CHAMBERS	30
9	SUMMARY OF RECOMMENDATIONS	31
	9.1 Expenditure of the Levy & contestable funding	31
	9.2 Mayfield BIA Board of Directors	32
	9.3 Formation of new BIAs in the LGA	33
	9.4 Chambers of Commerce receiving Levy funds	34
10	APPENDICES	35



## 1 EXECUTIVE SUMMARY

This report has been prepared with information provided by Business Improvement Associations (BIAs), City of Newcastle (the City), and material sourced during the first phase of this engagement in 2018. Where necessary, AECOM has indicated that information received and analysed may be incomplete or in conflict with publicly available documents. To this end, AECOM has not been able to verify the accuracy of the financial analysis provided for the City's consideration. Recommendations in this report have therefore been determined with a view to prioritising the intent of the Special Benefit Rate Levy (the Levy), ensuring a greater percentage of project-related expenditure and reducing BIA reliance on the Levy.

To achieve these outcomes, this report recommends that the City consider providing up to \$100,000 to each BIA with remaining Levy funds to be made contestable within their respective precincts. AECOM reached this figure by analysing BIA outputs to determine the average cost of initiatives that BIA stakeholders identified as major achievements of the framework. These include festivals such as the Wallsend Winter Fair and Hamilton Carnivale, both of which could be delivered under the proposed funding scheme. The main objective of this recommendation is the more direct delivery of the benefits for which the Levy has been collected. It is also anticipated that through a competitive, contestable funding scheme that trading areas will benefit from a greater number of comparable initiatives.

This report recommends that BIAs be allowed to apply for contestable funds within their precinct and that these funds be allocated and distributed through existing City processes. This recommendation has also sought to reduce expenditure on administration, including employee expenses, as available information indicates that this is not the primary purpose for which the funds continue to be raised.

In line with initial recommendations, this report also recommends that the City ensure all BIAs have funding certainty by assisting them where appropriate to meet their obligations. In the case of the Mayfield BIA, this could include supporting the restoration of a Board of Directors by notifying eligible property owners and traders of the existing opportunity as well as the tools and funds that may be available to a future Board.

This report also recommends that the City support the formation of new BIAs in the Local Government Area, notably in The Junction where a group of traders

have already taken the initiative to advance this idea. This report does not recommend that the City actively create BIAs in other precincts such as Adamstown or Honeysuckle but should provide a similar level of support in the case traders in these areas inform the City of a desire to formalise activities within the BIA framework.

AECOM was also asked to clarify the role of a BIA in relation to other stakeholders, specifically Chambers of Commerce. This has been achieved through engagement with relevant BIAs in the LGA. AECOM concluded that although BIAs and Chambers of Commerce share common objectives, they differ in terms of their membership structures, boundaries and priorities. To this end, the report recommends that the City consider asking any Chamber of Commerce receiving Levy funding to separate these funds from other sources of incomes during the acquittal process and to account for its expenditure accordingly.

## 2 INTRODUCTION

AECOM was engaged by the City in October 2018 to review the BIA framework in the Newcastle LGA. This review was initiated by the City after a submission from Hamilton BIA to the City's Open and Transparent Governance Strategy stated that "more ... can be done to ensure that the 6 (sic) BIAs that receive recurrent funding from Newcastle City Council are more accountable to the elected council, and ultimately to the ratepayers of Newcastle". This submission has been attached as Appendix 3. As part of this review, AECOM made recommendations to enhance the current 'non-government provider' model and to increase the City's role in managing and collaborating with BIAs. These recommendations included amending governing documents (such as BIA constitutions), reducing BIA reliance on the Levy (also referred to as the SBRL), removing duplication of overhead costs, allocating most of the Levy funding towards projects or events, bringing about a sense of competition, and improving governance practices.

These initial recommendations were presented to the City in December 2018 and endorsed at that month's Ordinary Council Meeting. AECOM was subsequently reengaged to develop and clarify issues and opportunities identified in the 2018 report. These include expenditure of the Levy by BIAs since the 2015/16 Financial Year, mechanisms for creating competition for Levy funding, restoring the Mayfield BIA and differentiating the role of BIAs and stakeholders such as Chambers of Commerce. This report presents the findings of the work undertaken during this engagement.

The 2018 report recommended a framework that prioritises good governance, more direct delivery of Levy benefits and improved collaboration between the City and BIAs.

By enhancing the current 'non-government provider' model, the City can empower its BIAs to play a more significant role in the city's economic development by becoming less reliant on the ratepayer-funded Levy, and by involving their members in more decision-making that is informed by improved access to business plans, strategic plans, Executive Committee minutes and acquittal reports and financial records.

Enhancing the current model will allow BIAs to better involve their members, align operations with emerging opportunities and make structural changes that can ensure funding certainty and improved governance.

To achieve this, BIAs should:

- Amend governing documents to reflect the priorities of the Greater Newcastle Metropolitan Plan (endorsed by the City) as well as the City's Community Strategic Plan.
- Remain independent of the City by raising additional revenue and reducing their reliance on the ratepayer-funded Levy.
- Share resources, including employees or contractors, to remove duplication of overhead costs and to improve administration and record keeping. This could involve BIAs pooling an allocated percentage of their Levy funding to employ administrative support.
- Partner with the City to implement the Destination Marketing Plan.
- Engage more regularly with their members to evaluate their goals, objectives and membership structure against the City's strategic plans.
- Engage in more genuine consultation with their respective Ward councillors and the Lord Mayor on draft business plans to better ensure a collegiate approach to the spending of special rate levies.
- Commit to more open and transparent governance practices. This could include regular financial disclosure as well as having minutes from Executive Committee meetings, business plans, acquittal reports and all strategic plans available online.

---

To support these changes, the City should:

- Streamline all in-house processes relating to BIAs to ensure consistency and to better communicate expectations. This could include 'fast-tracking' approvals for regular events or creating an online portal for common resources and submissions.
- Include Key Performance Indicators (KPIs) in future Funding and Service Agreements. These KPIs should be tied to common priorities such as Destination Marketing, thereby clarifying roles and expectations in more contested areas of the city's economic development. BIAs should be incentivised to meet these indicators of success.
- Ensure all BIAs have funding certainty by assisting them where appropriate to meet their obligations. This may involve providing templates, recommendations or feedback on applications in a timely manner.
- Support BIAs to improve their marketing collateral by sharing image libraries or collaborating to undertake photoshoots or image acquisitions.
- Communicate early and often with BIAs regarding proposed projects and strategies that could impact on their precinct.

This report has been prepared to assist the City in forming an opinion on the recommended funding split for each BIA for an anticipated three-year service agreement (to commence from 1 July 2019), with remaining funding to be available within the collection precinct as contestable funding. AECOM has undertaken stakeholder engagement activities and financial evaluation of current and past BIA expenditure, sourced from relevant paper work such as business plans, acquittal reports, financial statements and funding applications, and annual reports. This report presents the findings of these activities for the City's consideration.

### 3 STAKEHOLDER ENGAGEMENT

Activities and engagements in this chapter should be read as supplementary to AECOM's initial BIA stakeholder engagement process (22 October 2018 to 15 November 2018). This process has been detailed on pages 7, 8 and 9 of the 2018 report (Appendix 1).

On **13 February 2019** the City emailed representatives from all BIAs to explain the purpose of this supplementary report and to invite BIAs to contact AECOM. The purpose of the 2019 report was explained as follows:

*"AECOM's work over the coming weeks is predominantly to form an opinion on the recommended funding split for each BIA for an anticipated three-year service agreement (to commence from 1 July 2019), with remaining funding to be available to the public as contestable funding. Note any successful application for contestable funding will require the funds be invested within the precinct from which it was paid.*

*City of Newcastle will shortly be advertising an 18-month contract for a third party to prepare on behalf of all BIAs; any relevant paper work such as business plans, acquittal reports, financial statements and funding applications. We will make you aware of this once the contract is live.*

*In the meantime, you are encouraged to commence discussions with your stakeholders and fellow Directors about the types of events and projects that you believe should be proposed for your area (recognising that funding will be provided for three years)."*

At the City's request, AECOM met with representatives from the Hunter Business Chamber (HBC) on 18 February 2019 to further discuss the scope of this report.

On **19 February 2019** AECOM extended an invitation to all BIAs in Newcastle to discuss or contribute to this report. The following stakeholders were emailed:

- Ms Rhonda Campbell, Wallsend BIA
- Ms Tiffanie Campbell, Wallsend BIA
- Mr Richard Christian, Newcastle BIA
- Mr Edward Duc, Newcastle BIA
- Mr Ivor Davies, Mayfield BIA
- Mr Bob Hawes, HBC
- Mr Nathan Errington, Hamilton BIA
- Mr Jim Garis, Hamilton BIA
- Ms Meg Purser, New Lambton BIA

- Mr Mike Strachan, New Lambton BIA
- Ms Sarah Thrift, New Lambton BIA

BIAs were informed that representatives from AECOM would be available to meet and/or accept relevant materials from 20 February 2019 to 6 March 2019. Similar invitations were extended on the same day to the potential future BIAs identified in the 2018 report. These include The Junction, Honeysuckle and Throsby Basin Business Chamber.

Wallsend Town Business Association (Wallsend BIA) was the only BIA to accept the invitation extended on 19 February 2019. AECOM met with the Board of Wallsend BIA on **21 February 2019** from 8am to 9:30am at Mulligan's Property Group, Nelson Street, Wallsend. Representatives from Wallsend BIA present at this engagement included:

- Ms Tiffanie Campbell (President)
- Mr Jesse Mulligan (Vice President)
- Mr Doug Beckwith (Senior Board)
- Ms Frances Beckwith (Acting Treasurer)
- Mr Craig Budden (Community Board Member)
- Ms Rhonda Campbell (Project Coordinator & Event Manager)

On **21 February 2019** AECOM wrote to all BIAs to inform their representatives of the meeting with Wallsend BIA. At the request of the Wallsend BIA, AECOM prepared a template that could be populated by BIAs to demonstrate expenditure of Levy funds since FY15/16. BIAs were also invited to submit any existing documents, such as acquittal reports, that captured similar information.

On **22 February 2019** AECOM engaged with Mr Damion O'Reilly (Managing Director, MI Group) on behalf of Honeysuckle traders, as per recommendations from both the City and Honeysuckle Community Group. Mr O'Reilly followed up this engagement on 23 February 2019 with an email that summarised his key concerns and ideas. These have informed AECOM's recommendations in relation to new BIAs.

On **26 February 2019** Newcastle BIA remained the only BIA to have not contacted AECOM. To ensure Newcastle BIA had an opportunity to inform this report, AECOM emailed Mr Edward Duc and included all known Directors of Newcastle BIA. AECOM could not contact the entire Executive Committee as an up to date list of Directors and contact details could not be located on either the Newcastle BIA website or in its most recent annual report. On this date AECOM emailed:

- Mr Edward Duc
- Ms Debera Mackenzie
- Mr Kevin Coffey
- Mr David Crofts
- Ms Catherine Henry, and
- Ms Anne Kempton.

On 28 February 2019 AECOM attempted to invite remaining BIAs to meet and/or provide necessary documentation identified as missing by our Melbourne-based economists. On this date AECOM wrote to:

- Mr Edward Duc, Newcastle BIA
- Mr Nathan Errington, Hamilton BIA
- Ms Sarah Thrift, New Lambton BIA.

Mr Ivor Davies, the only identified former representative of Mayfield BIA, was contacted by the City.

On **5 March 2019** AECOM was informed that Ms Sarah Thrift (New Lambton BIA) had resigned from her position as President.

On **26 March 2019** AECOM again met with Wallsend BIA to discuss evaluation to date and to outline next steps.

On **29 March 2019** AECOM met with Hamilton BIA to discuss the scope of the engagement and to assist in distinguishing BIAs from Chambers of Commerce. On this occasion AECOM met with:

- Mr Nathan Errington
- Mr Jim Garis
- Ms Meg Purser.

AECOM was unable to secure meetings with representatives from Newcastle BIA and New Lambton BIA. As detailed in the 2018 report, Mayfield BIA is not currently served by a Board of Directors.

The evaluation and recommendations provided in this report have been completed based on documentation received by AECOM up to and including 4 April 2019.

## 4 EXPENDITURE OF THE SPECIAL BENEFIT RATE LEVY (LEVY)

The purpose of the financial evaluation was to account for expenditure of the Levy since the Financial Year 2015/16.

As this evaluation demonstrates, large cost savings could be made by consolidating administrative processes not directly related to project delivery. As stated in the 2018 report:

"Throughout the engagement process [undertaken by AECOM], stakeholders ... voiced a range of concerns about administrative inefficiencies which appear to be present in the current BIA model. The need to 'streamline' the City's compliance requirements ... was cited as a common frustration for BIAs. The processes involved in applying for grants and City-funded schemes was also criticised by some stakeholders. Although it appears that some efficiencies could be made by the city, it is also apparent that BIAs do not have adequate resources to meet some of their obligations and requirements. To this end, the idea of BIAs sharing an employee or employees attracted support among stakeholders. The creation of a shared role could allow BIAs to be consistent in their dealings with the City and would reduce what appears to be a burden on multiple individuals within the model who are, with some exceptions, undertaking very similar roles. It is presumed that this role would be resourced by the BIAs, possibly through a Funding and Service Agreement between the organisations."

With this centralised function in place, a percentage of remaining funds could be managed as a contestable fund, to be maintained by the City and where appropriate provided to BIAs or other groups in accordance with the Local Government Act 1993. This is consistent with the recommendations in AECOM's 2018 report to reduce BIA reliance on the Levy and to create competition among stakeholders for collected funds.

### 4.1 METHODOLOGY

As requested by the City, a financial evaluation was undertaken to determine the proportion of expenditure that could be redirected to contestable funds for each BIA trading area. As outlined in Section 3, an information request was issued in February 2019 to the BIAs for acquittal reports and financial records. Expenses were categorised in accordance with classifications as identified by the BIAs in the summaries received. As shown in Table 3, the data was split into project and non-project expenses to clearly outline the expenditure.

Expenditure summaries were used in this evaluation as they allowed for expenses to be consolidated in a concise manner. The acquittal reports were difficult to consolidate as they generally had differing timelines. This made it difficult to put together an evaluation that was consistent.

Hamilton, Mayfield and Lambton BIAs did not provide annual report data for review.

#### INFORMATION REQUESTED

Under the current Approved Funding Agreement (the Deed), each BIA must provide audited financial data and acquittal reports annually to the City. To give BIAs an opportunity to inform this evaluation, an information request for recent financial expenditure was sent in February 2019. A summary of the data received and used in this evaluation is summarised in Table 1.

Table 1. Document Received from each BIA

BIA	Documents Received
Hamilton	<ul style="list-style-type: none"> <li>• Acquittal Report July 2018 (full year)</li> <li>• Expenditure Templates 2015 to 2019</li> <li>• Profit and Loss Statements June 2017 to December 2017</li> </ul>
Wallsend	<ul style="list-style-type: none"> <li>• Acquittal Report July to December 2018</li> <li>• Annual Reports 2016 to 2018</li> <li>• Expenditure Templates 2015 to 2019</li> <li>• Profit and Loss Statements June 2016 to December 2018</li> </ul>
New Lambton	<ul style="list-style-type: none"> <li>• Acquittal Report July 2018</li> <li>• Profit and loss statements June 2017 to June 2018</li> </ul>
Newcastle Now	<ul style="list-style-type: none"> <li>• Acquittal Reports 2014 to 2018</li> <li>• Annual Reports 2013 to 2018</li> <li>• Expenditure Templates 2015 to 2019</li> <li>• Profit and Loss Statements January 2016 to December 2018</li> </ul>
Mayfield	<ul style="list-style-type: none"> <li>• Bank Statements 2016 to 2018</li> <li>• Profit and Loss Statements January 2016 to December 2018</li> </ul>

**4.1.1. CONSOLIDATION AND ANALYSIS OF FINANCIAL DATA**

BIA expense items during each financial year have been categorised into the expenditure types in Table 2.

*Table 2. Summary of expense categories used in evaluation*

<i>Data Period</i>	<i>Category</i>	<i>Expenditure items</i>
Project Expenses	Beautification of precinct (including place making)	Expenses used for place making and amenity improvement activities, such as lighting programs, street cleaners
	Promotion of precinct (including marketing)	Marketing and advertising expenses, such as banner programs, social media, brand rollouts
	Events (including permits)	Direct costs associated with holding events and other activation works, and project management activities
Other Expenses	Administration	Accounting, insurance, legal, office expenses, printing and postage, website, database maintenance, report writing expenses, Utilities, bank fees
	Other expenses (including wages)	Wages, depreciation, other employment liabilities
	Membership benefits (including networking opportunities)	Member engagement activities, networking with sponsors

The annual reports used different categories and have been categorised into the expenditure types in Table 3. There is no breakdown of expenses in the annual report and so it is not known what is included in that category.

*Table 3. Summary of expenses categories used from annual report*

<i>Type</i>	<i>Expenditure items in annual report</i>
Project Expensed	Project expenses
Other Expenses	Administration expenses
	Employee expenses
	Depreciation expenses
	Consultancy



## 4.2 FINDINGS

### 4.2.1. HAMILTON

Based on the information submitted to AECOM and shown in Figure 1, a large proportion (80 percent) of the Levy funds received by Hamilton BIA from July 2015 to 2019 was spent on project expenses; of which 'holding events' comprises around 47 percent of total spend of income. As seen in Figure 2 other project expenses included beautification and promotion of the precincts and non-project expenses were spent on wages and administration. Figure 3 shows that over time (2015 to 2019), the share between project expenses and other expenses has broadly been consistent.

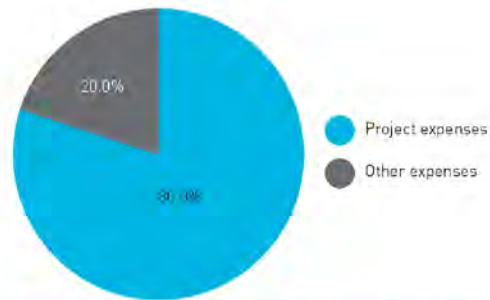


Figure 1. Hamilton BIA share of project and non-project expenses, FY15/16 - FY 18/19

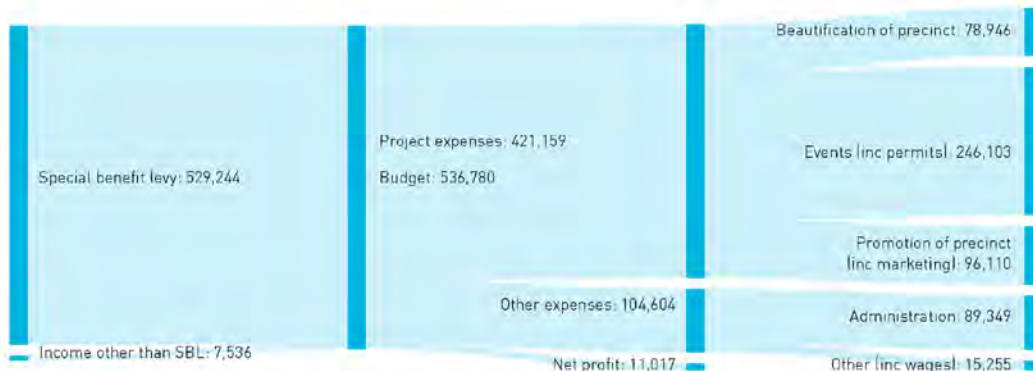


Figure 2. Breakdown of Hamilton BIA expenditure flows, FY 15/16 - 18/19



Figure 3. Hamilton BIA expense amounts by type, FY 15/16 - Year To Date (YTD)

It should be noted that Hamilton BIA identifies on its website as both a BIA and a Chamber of Commerce. For this reason, it was not possible to distinguish expenditure of Levy funds from the expenditure of other funds that may or may not have been obtained by the Hamilton Chamber of Commerce. As such, it was also not possible to determine whether or not Levy funding was used solely for BIA initiatives or was also used to support Chamber initiatives.

**HAMILTON ANNUAL REPORT**

An annual report for Hamilton BIA has not been provided.

4.2.2. WALLSEND

While the majority of Wallsend BIA's income from 2015 to 2019 was received as the Levy paid by commercial property owners, an additional amount (around \$36,800) was received from other sources, including grants and other previously withheld funding. Figure 5 shows that a large proportion (around 83 percent) of expenses was used for project related activities, of which around 66 percent was spent on precinct event promotion.

At the end of 2018 there was a significant amount of unspent funds (around \$251,000) which has been considered as net profit. These funds are retained by Wallsend BIA.

Over time the break down between project expenses and other expenses has been consistent with only slight fluctuations.

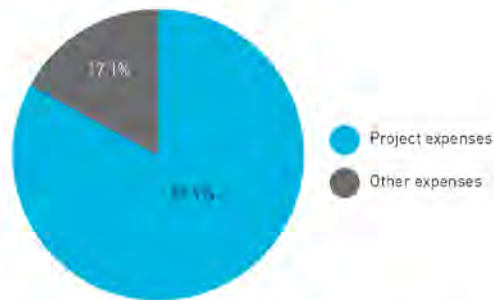


Figure 4. Breakdown of Hamilton BIA expenditure flows, FY 15/16 - 18/19



Figure 5. Wallsend BIA expense amounts by type, FY 15/16 - 18/19

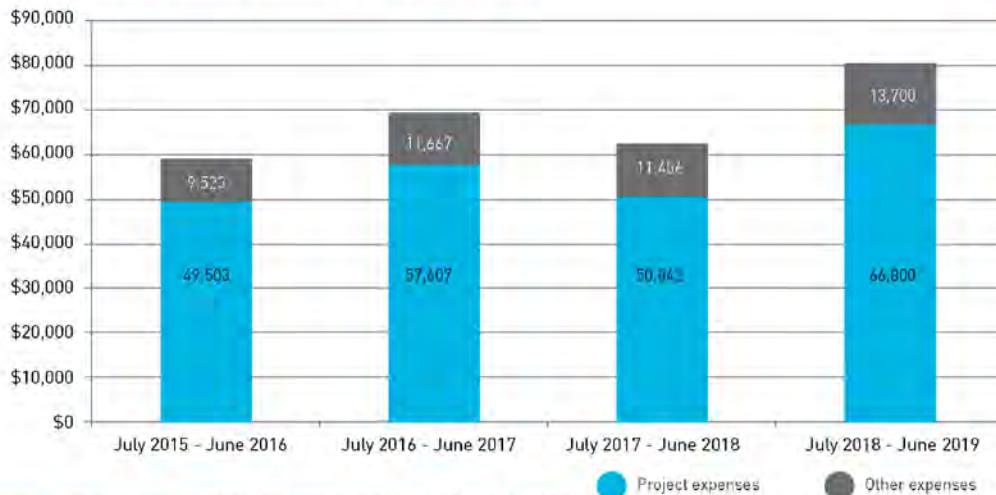


Figure 6. Breakdown of Wallsend BIA expenditure flows, FY 15/16 - YTD

**WALLSEND ANNUAL REPORT**

Annual reports from July 2016 to June 2018 for Wallsend were reviewed and showed a difference in categorisation of expenditure compared to other financial data and information. The key difference between the two sources of information was the categorisation of project expenses, with mini events being listed in annual reports but not in the expenditure summaries. There are minor differences between the two in the breakdown of project expenses to other expenses. As seen in Figure 4 and Figure 7 there is a shift of 6.2 percent from other to non-project expenses.

As seen in Figure 7, around 89 percent of Wallsend's expenses were project related, with around 11 percent being other expenses from 2015 to 2018. Figure 8 shows that there was an increase in project expenses from 2015 to 2016 and then a decrease from 2016 to 2018. This was mostly due to an increase in project spending and a slight increase in other expenses.

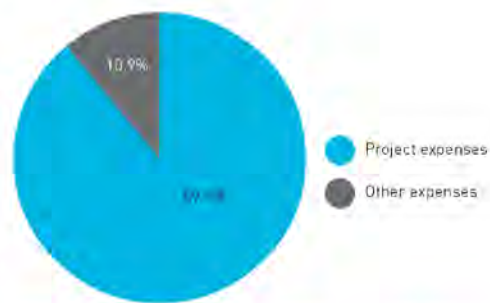


Figure 7. - Wallsend BIA share of project and non-project expenses, FY15/16 - FY 18/19, annual report

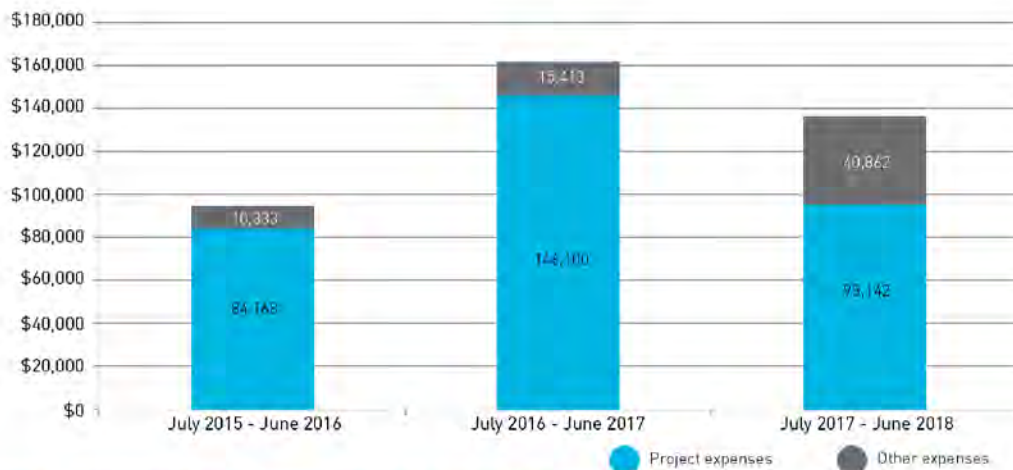


Figure 8. Wallsend BIA expense amounts by type, FY 15/16 - 18/19, annual report

4.2.3. NEW LAMBTON

Figure 9 shows that a large proportion of funds (around 85 percent) is spent on project related expenses, however of this most is spent on advertising and promotion activities. Figure 10 shows that the majority of New Lambton BIA's income is not received from the Levy. It is received from community grants and membership fees.

Between FY 16/17 and FY 17/18 the New Lambton BIA income fell significantly from around \$41,600 to around \$11,600. This is largely attributed to a reduction in the community grant received, as shown in Figure 11.

The annual report for New Lambton BIA has not been provided.

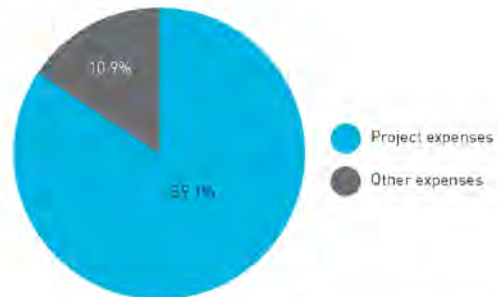


Figure 9. New Lambton Village BIA share of project and non-project expenses, FY16/17 - 17/18



Figure 10. Breakdown of New Lambton Village BIA expenditure flows, FY16/17-17/18

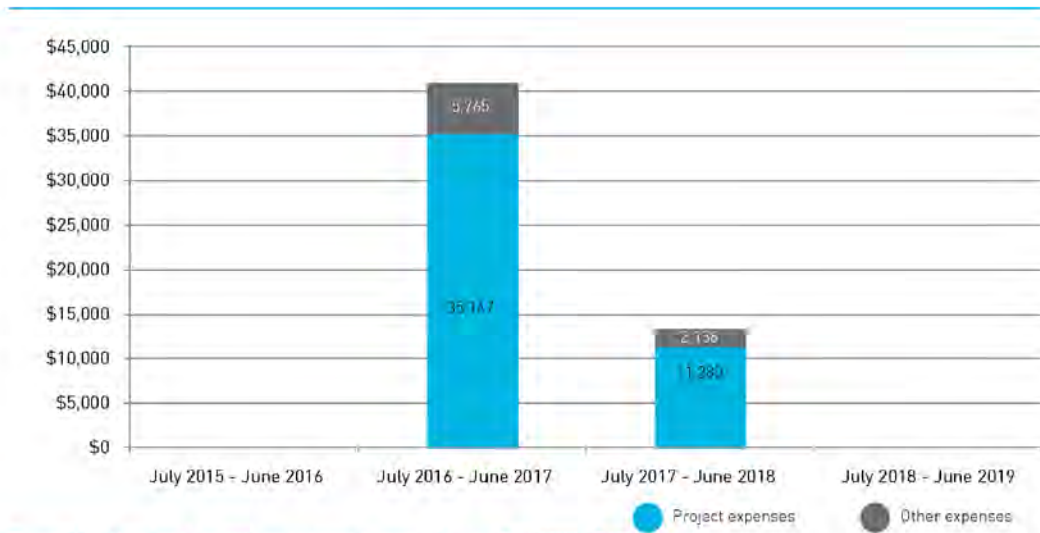


Figure 11. New Lambton Village expense amounts by type, FY16/17-17/18

**NEW LAMBTON ANNUAL REPORT**

The annual report for New Lambton BIA has not been provided and has not been analysed.

4.2.4. NEWCASTLE NOW

From FY 15/16 to FY 18/19, 68.5 percent of Newcastle Now's expenses were project related as shown in Figure 12. Figure 13 shows that the majority of Newcastle Now's income was received from the Levy. This was used for project related expenses such as beautification and promotion of the precinct, events and project related administration. Around 28 percent of spend was on membership benefits and wages, and around 24 percent on project related administration. Figure 14 shows that since FY15/16, income for Newcastle Now has fluctuated, though the proportion of project and other expenses remains roughly constant.

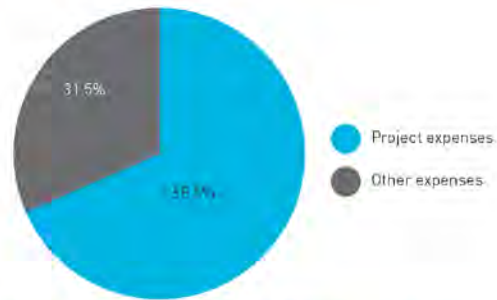


Figure 12. Newcastle Now BIA share of project and non-project expenses, FY15/16 - YTD

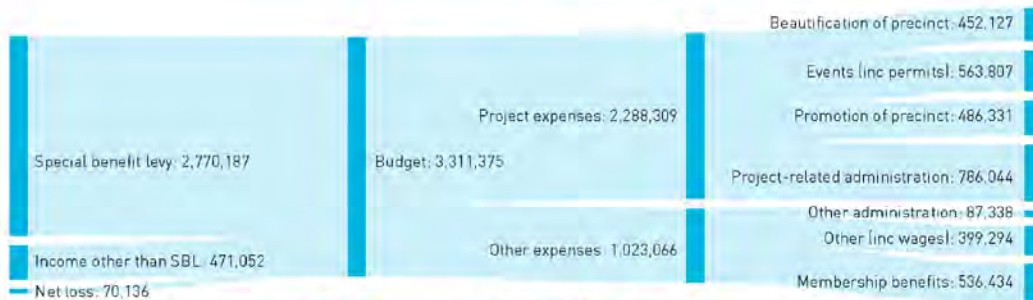


Figure 13. Breakdown of Newcastle Now BIA expenditure (flows, FY 15/16 - YTD)

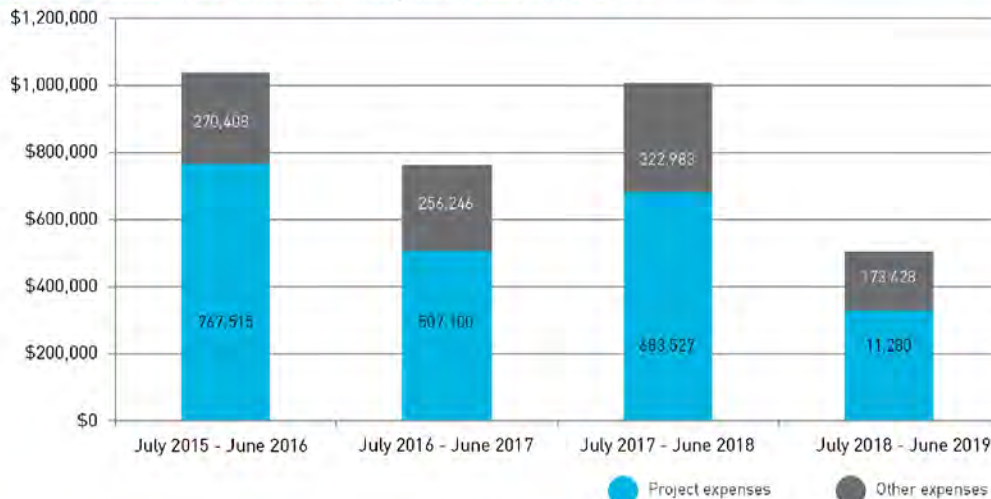


Figure 14. Newcastle Now BIA expense amounts by type, FY 15/16 - YTD

**NEWCASTLE NOW ANNUAL REPORT**

Annual reports for Newcastle Now from July 2015 to June 2018 were evaluated to display a difference in categorisation of expenditure compared to other financial data and information. The key difference between the two sources of information was that the annual report had five categories for expenditure, being administration, depreciation, employee expenses, project and consultancy. As there was no further break down of expenses, it is not known what specific expenses were categorised into these categories. AECOM was unable to secure a meeting with Newcastle BIA to clarify these differences. When comparing the financial expenditure information from the templates provided to the annual reports, there was a reduction in project related expenses from around 68 percent to around 42 percent, and an increase in non-project related expenses from around 32 percent to around 58 percent.

All annual reports for Newcastle Now showed consolidated revenues with no breakdown of income between Levy or non-Levy sources.

According to the annual report, from FY 15/16 to FY 17/18, around 42 percent of Newcastle Now's expenses were project related. Around 47 percent was spent on other expenses (including wages) and around 11 percent was spent on administration. Non-project related expenses have remained largely consistent with project related expenses falling between July 2016 and June 2017 by around \$141,000 before increasing again between July 2017 and June 2018.

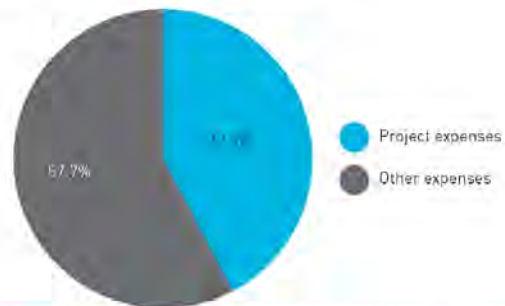


Figure 15. Newcastle Now share of project and non-project expenses, FY 15/16 - FY 17/18 annual report



Figure 16. Newcastle Now BIA expense amounts by type, FY 15/16 - 17/18. Annual Report



4.2.5. MAYFIELD

Insufficient financial data and information was received from Mayfield BIA to perform an in-depth evaluation on financial expenditure. A limited evaluation has been undertaken using the bank statements that were provided.

Mayfield has a small amount of income from non-Levy sources. Mayfield's bank balance has been slowly decreasing since 2017 with around 64 percent of expenditure being on administration expenses as seen in Figure 16. Most of this administration expenditure was on utilities

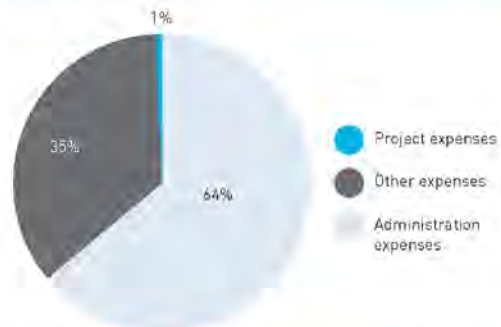


Figure 17. Mayfield BIA share of expenses, FY15/16 - FY 17/18 Annual Report

## 5 CONTESTABLE FUNDING

The intent of the Levy, as expressed in the goal(s) of each BIA, is to make defined trading areas within the City safe, clean, commercially vibrant and attractive business districts. Delivering benefits to traders and commercial property owners is therefore a priority in terms of Levy expenditure.

Within the current framework, the City collects the Levy on behalf of BIAs. This relationship between the City and each BIA is set out in the Deed.

Based on the information provided by BIAs in their acquittal documents, examination of non-project related expenditure suggests that the amount of funding received by BIAs since 2011 that could have been made contestable is about **\$1.4 million**, or **31 percent** of total income received by BIAs. A breakdown of these funds is shown in Figure 18.

Based on the information provided by some BIAs in their annual reports for financial years 2015/16, 2016/17 and 2017/18, potential contestable funding over this same period would be significantly higher than \$1.4 million.

A more contestable process for distributing Levy funds could enable transparency and fairness in the distribution of funds collected by the City. By making the majority of Levy funding contestable among the broader community, the City could incentivise events and activities that are complementary to the work of local BIAs and help BIAs to identify otherwise inactive stakeholders and/or potential volunteers and Directors. This is consistent with recommendations made in the 2018 report.

Incomplete and conflicting information prevented a reliable analysis of Levy expenditure and therefore a more precise percentage for contestable funds. For this reason, AECOM has deferred to the governing documents in the BIA framework (the Deed(s) and constitutions) to reach the following recommendations.

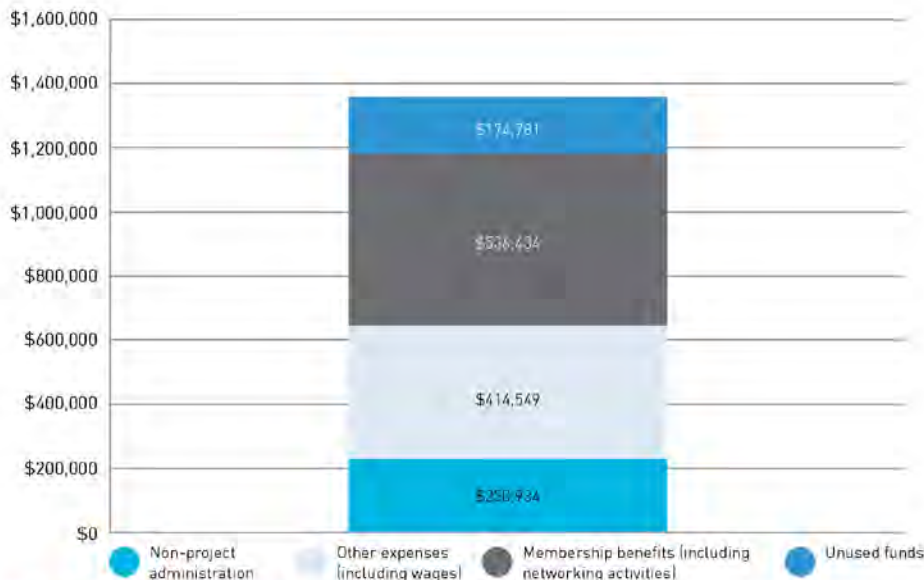


Figure 18. Sum of expenses which may be deemed contestable

---

## KEY RECOMMENDATIONS

- In line with the recommendations made in AECOM's 2018 report, the City should support the 'non-government provider' model but increase the City's role in managing and collaborating with BIAs. To do this, the City should consider providing an amount up to \$100,000 to each BIA from total Levy funds collected in each association's respective trading area.
- In line with recommendations made in AECOM's 2018 report, the City should consider making contestable all Levy funding above the \$100,000 provided to each BIA. To ensure direct and complimentary delivery of Levy benefits, contestable funds should only be allocated within the boundaries from which they were collected and for the purposes(s) for which they were collected.
- In line with recommendations made in AECOM's 2018 report, the City should consider administering any contestable funding program through existing procurement processes and streamlining all in-house processes relating to BIAs to ensure consistency and to better communicate expectations. BIAs should be entitled to apply for any contestable funds within their trading area.
- If a BIA is currently receiving less than \$100,000 in Levy funding each financial year, the City should consider making contestable all Levy funding received by that BIA. This will ensure more direct delivery of Levy benefits in the area from which it has been collected.
- If a BIA does not have a Board of Directors, the City should consider making contestable all Levy funding collected for that BIA until the first Annual General Meeting of any future Board. After this point, the City should consider entering into a Funding & Service Agreement with the BIA to ensuring consistency in funding within the overall framework.

## 6 RESTORATION OF MAYFIELD

---

### 6.1 RE-ESTABLISHING MAYFIELD BIA

Although a Levy continues to be collected within the boundaries of Mayfield BIA, the association is not currently governed by a Board of Directors.

The restoration of Mayfield BIA provides an opportunity for the City to incentivise mechanisms that may or may not be in place within other BIAs to ensure high performance and alignment with the City's guiding strategic plans.

As the City cannot appoint a new Board for Mayfield BIA, it should play an enabling role in the restoration of the incorporated association by incentivising new Directors to continue the association's work.

In a 2016 report titled Making Board Composition Part Of The Strategic Plan, Dennis Whalan concludes that the top three barriers to building a high-performing board are as follows:

1. Finding Directors with both general business experience and the specific expertise needed by the organisation
2. Identifying the Board's future talent needs, and
3. Resistance to change due to status quo thinking.

Whalan's research suggests that the most successful mechanisms for achieving the right Board composition are robust Board evaluations and formal succession planning. To do both effectively, Newcastle BIAs need to make Board composition an integral part of their strategic planning to ensure that they have an appropriate mix of skills, expertise and perspectives to remain aligned with their goals and objectives.

Whalan's research should inform the City's approach to encouraging members to nominate for the new Executive Committee.

## 6.2 HOW THE CITY CAN SUPPORT MAYFIELD BIA

The Mayfield BIA Executive Committee must be elected by members of the association at the Annual General Meeting.

The City can play an important role in restoring the Board by contacting all members and encouraging eligible stakeholders who are active in the trading area to stand for the Executive Committee.

Membership qualifications are outlined in Chapter III of the Rules of Mayfield Business Association Incorporated:

**5.1** There shall be Full Members of the Association. The nominee of a corporation and other natural persons shall be entitled to be a Full Member of the Association if the corporation or natural person:

- (a) owns one or more commercially rated properties within Mayfield and pays the Mayfield Improvement Special Rate Levy; or
- (b) occupies or is the tenant of one or more premises on a commercially rated property within the Special Rate area and who operates a business from these premises; and
- (c) has not previously been expelled from the Association.

**5.2** Any person entitled to be a Full Member and who wishes to become a member shall provide details of their name, address, occupation or business within the Mayfield Improvement Special Rate Levy area to the Secretary.

**5.3** A natural person is restricted to one vote.

**5.4** Any person who ceases to be entitled to be a Full Member of the Association shall immediately provide notice of that fact, and of the date their entitlement ceased, to the Secretary.

**5.5** There may be Associate Members of the Association. A person who does not qualify to be a Full Member may become an Associate Member by applying to the Secretary. The Secretary shall advise the Executive Committee of the application and the Executive Committee shall determine at its next scheduled meeting whether the applicant shall be admitted.

**5.6** An Associate Member shall, in each year, pay a Special Subscription of such amount as is determined by the Executive Committee from time to time. The Executive Committee may appoint an Associate Member onto a sub-committee.

**5.7** Each Member which is not an individual shall designate an individual representative to act on its behalf in all matters relating to the Association, and shall notify the Secretary of that representative's name and address.

**5.8** The rights of the Members of the Association shall be as follows:

- (a) each Full Member shall be entitled to one vote at General Meetings;
- (b) each Full or Associate member shall be entitled to attend all General Meetings, but an Associate Member shall not be entitled to vote;
- (c) each Member shall be entitled to stand for election to the Executive Committee

As is the case for all BIAs in the city, the Mayfield BIA needs to be governed by an Executive Committee which controls and manages the affairs of the association including the day to day management of the Business Improvement Area Programme and, among other responsibilities, accounting for expenditure of the Levy.

---

### 6.3 MAYFIELD BIA EXECUTIVE COMMITTEE

The Executive Committee shall, subject to Rule 14.2 in the BIA's constitution, have a maximum of 11 members, a minimum of 5, and shall consist of:

- (a) The Chairperson
- (b) the Vice Chairperson
- (c) the Public Officer, who shall be responsible for the fulfilment of the duties of Treasurer and Secretary; which tasks may be delegated to the manager of the Association
- (d) not more than an additional 8 persons who are Members of the Association, and who have been elected at the Annual General Meeting of the Association pursuant to Rule 15.

**14.2** The Executive Committee shall consist of property owners (or nominees), business owners or operators (or nominees), and at most one community representative and one business association representative, all of which operate in the Mayfield Business Improvement Association.

**14.3** Each member of the Executive Committee shall, subject to these Rules, hold office until the conclusion of the Annual General Meeting following the date of the member's election, but is eligible for re-election.

**14.4** In the event of a casual vacancy occurring in the membership of the Executive Committee, the Executive Committee may appoint a Member of the Association to fill the vacancy. Any member so appointed shall hold office, subject to these Rules, until the conclusion of the next Annual General Meeting following the date of the appointment.

**14.5** The Executive Committee shall, at its first meeting following an Annual General Meeting, elect from amongst the members of the Executive Committee, a Chairperson, Vice Chairperson, Treasurer, Secretary and Public Officer.

**14.6** The Executive Committee may invite attendance at its meetings by others for specific purposes, but they shall not be entitled to vote.

---

## 6.4 PROCESS FOR ELECTING A NEW EXECUTIVE COMMITTEE

Members of the Executive Committee shall be elected by members of the association at the Annual General Meeting.

**15.2** Nominations of candidates for election to the Executive Committee:

(a) shall be made in writing, signed by two Full Members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and

(b) shall be delivered to the Secretary of the Association not less than one day before the date fixed for the holding of the Annual General Meeting at which the election is to take place.

**15.3** If insufficient nominations are received to fill all positions, the candidates nominated shall be deemed to be elected and further nominations shall be received at the Annual General Meeting.

**15.4** If insufficient further nominations are received, any vacant positions remaining shall be deemed to be casual vacancies.

**15.5** If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.

**15.6** If the number of nominations received exceeds the number of vacancies to be filled a ballot shall be held.

**15.7** Any such ballot shall be conducted at the Annual General Meeting in such usual and proper manner as the Executive Committee may direct.

---

## 6.5 KEY RECOMMENDATION

The City should write to all commercial property owners and operators within the Mayfield BIA boundaries to make them aware of the BIA and to invite them to establish a new Board.

As stated in the Mayfield BIA's constitution, a register of members should be kept "at the principal place of administration of the Association". Given the Mayfield BIA has not met for an extended period, this register may be difficult to locate and/or may not contain accurate records of the Association's membership. In such case, the City may need to rely on its own records to identify corporations and natural persons who:

- (a) own one or more commercially rated properties within Mayfield and pays the Mayfield Improvement Special Rate Levy and/or
- (b) occupy or is the tenant of one or more premises on a commercially rated property within the Special Rate area and who operates a business from these premises.

The City should offer a designated contact within its administration to assist with the restoration of the Board, making clear that it is the responsibility of members to call an Annual General Meeting. This resource should assist existing or new members to locate records, locate or replace a register of members as well as meet Key Performance Indicators or other requirements that may be detailed in the new Funding and Service Agreement.

To ensure the new Board has an appropriate mix of skills, experience and perspectives, the City should consider making additional contact with active stakeholders and new business owners within the trading area encouraging them to stand for the Executive Committee.

The City should also make reasonable efforts to contact all former members of the Mayfield BIA Executive Committee to notify them of the restoration.



## 7 FORMATION OF NEW BIAS

In the 2018 report AECOM identified opportunities for new BIAs within the Newcastle LGA. Key commercial areas that are currently not served by BIAs include The Junction, Honeysuckle, Adamstown and Broadmeadow. Although the 2018 report considered alterations to existing BIA boundaries, some boundary changes may require IPART approval that could trigger more significant changes to the Levy. Alterations to include additional commercial centres should be considered within the context of the original determinations from IPART's predecessor, the Office of Local Government (OLG).

During engagements with potential BIA stakeholders, AECOM identified only one precinct with a suitable framework for a new BIA. This precinct, The Junction, is adjacent to Newcastle BIA but is differentiated by its retail mix, compact urban form and proximity to the city's southern beaches.

A major challenge for The Junction is its limited catchment area. Proximity to Newcastle BIA restricts expansion into neighbouring Cooks Hill while areas to the south, west and north are primarily residential.

Given the minimal funds that a Special Benefit Rate Levy could raise in The Junction, the City could support a future BIA by levying the special rate rather than applying for the same Levy that applies to Newcastle BIA, Hamilton BIA and Mayfield BIA. This could be enacted by reducing the ordinary rates to be raised in 2020/21 by the amount of the new special rate. This is the arrangement through which New Lambton BIA has been funded.

The map in Figure 19 highlights a potential boundary for the Levy in The Junction. Compact urban form, a realistic comparison in terms of potential funds would be New Lambton Village.



Figure 19. Proposed boundaries for a future BIA in The Junction Key Recommendations:

---

**KEY RECOMMENDATIONS**

- The City should support the formation of new BIAs in the LGA, notably in The Junction where a group of traders are already taking the initiative to advance this idea.
- The City could support a future BIA by levying the special rate itself, rather than applying for the same Levy that applies to Newcastle BIA, Hamilton BIA and Mayfield BIA. This could be enacted by reducing the ordinary rates to be raised in 2020/21 by the amount of the new special rate. This is the arrangement through which New Lambton BIA has to date been funded.
- As the decision to create a BIA is one for local traders and commercial property owners, the City should not actively create BIAs in other precincts. Instead, the City should continue to engage with stakeholders in Adamstown, Honeysuckle and Broadmeadow and support these stakeholders in the case they express a desire to formalise activities within the BIA framework.

## 8 ROLE OF LOCAL BUSINESS CHAMBERS

As part of this engagement, AECOM engaged with a range of BIA stakeholders including local Chambers of Commerce (Chambers) and the region's development corporation. As detailed in the 2018 report, when asked to identify impediments to achieving their common objectives, BIA stakeholders pointed to a range of issues including ambiguity and confusion in terms of roles, responsibilities, membership and boundaries.

Hamilton BIA, for instance, is also the Hamilton Chamber of Commerce. Under the arrangement between this organisation and the City, Hamilton Chamber of Commerce receives Levy funding collected by the City to undertake the same initiatives for which the Levy is collected in other trading areas on behalf of BIAs. It was not possible for this evaluation to distinguish Hamilton Chamber of Commerce's additional funding streams and expenditure from its expenditure of the Levy collected by the City.

Although Chambers share similar objectives to BIAs, their roles and membership structures can be different. As stated on their website, "Hamilton Chamber of Commerce is a membership-based organisation that promotes opportunities for people to live, work and play within the suburb ... The Chamber is also a Business Improvement Association (BIA) of Newcastle City Council and uses funding from a special rate levy to hold events and activities for the community."

AECOM was informed that the City attempted to engage with Hamilton BIA to seek clarification in terms of differentiating the roles and objectives of the Hamilton Chamber of Commerce and the Hamilton BIA. A response was received by the City on 28 March 2019 indicating that the matter is of interest to the Chamber and will be further discussed among the Chamber and stakeholders. No further update has been received from the City or Hamilton Chamber of Commerce.

Under any future Deed between the City and Hamilton Chamber of Commerce, provisions for separating the expenditure of Levy funding from that of Chamber funds should be clearly articulated. As the Chamber's role is less restricted than that of a BIA, both the City and Hamilton Chamber of Commerce should take appropriate measures to ensure that funds collected by the City are expended within the defined trading area on the benefits for which they continue to be collected. Like other Chambers of Commerce in the region, including the HBC, Hamilton Chamber of Commerce engages in public advocacy that is not captured within the role of a BIA. In the past this advocacy role has extended to state and political issues, including public transportation. To better distinguish the BIA from the Chamber, consideration could be given to differentiating these organisations by electing separate Boards that can be better focused on their respective priorities.

### KEY RECOMMENDATIONS

- The City ensures that the funds it collects for BIAs are expended within collection boundaries on the benefits for which they are collected. Consideration should be given to penalties for noncompliance with this requirement.
- Acquittal reports and/or annual reports prepared by organisations receiving Levy funds account for the expenditure of these funds separate to any other income.

## 9 SUMMARY OF RECOMMENDATIONS

---

### 9.1 EXPENDITURE OF THE LEVY & CONTESTABLE FUNDING

- In line with the recommendations made in AECOM's 2018 report, the City should support the 'non-government provider' model but increase the City's role in managing and collaborating with BIAs. To do this, the City should consider providing an amount up to \$100,000 to each BIA from total Levy funds collected in each association's respective trading area.
- In line with recommendations made in AECOM's 2018, the City should consider making contestable all Levy funding above the \$100,000 provided to each BIA. To ensure direct and complimentary delivery of Levy benefits, contestable funds should only be allocated within the boundaries from which they were collected and for the purpose(s) for which they were collected.
- In line with recommendations made in AECOM's 2018 report, the City should consider administering any contestable funding program through existing procurement processes and streamlining all in-house processes relating to BIAs to ensure consistency and to better communicate expectations. BIAs should be entitled to apply for any contestable funds within their trading area.
- If a BIA is currently receiving less than \$50,000 in Levy funding each financial year, the City should consider making contestable all Levy funding received by that BIA. This will ensure more direct delivery of Levy benefits in the area from which it has been collected.
- If a BIA does not have a Board of Directors, the City should consider making contestable all Levy funding collected for that BIA until the first Annual General Meeting of any future Board. After this point, the City should consider entering into a Funding & Service Agreement with the BIA to ensuring consistency in funding within the overall framework.

---

## 9.2 MAYFIELD BIA BOARD OF DIRECTORS

The City should write to all commercial property owners and operators within the Mayfield BIA boundaries to make them aware of the BIA and to invite them to establish a new Board.

As stated in the Mayfield BIA's constitution, a register of members should be kept "at the principal place of administration of the Association". Given the Mayfield BIA has not met for an extended period, this register may be difficult to locate and/or may not contain accurate records of the Association's membership. In such case, the City may need to rely on its own records to identify corporations and natural persons who:

- (a) own one or more commercially rated properties within Mayfield and pays the Mayfield Improvement Special Rate Levy and/or
- (b) occupy or is the tenant of one or more premises on a commercially rated property within the Special Rate area and who operates a business from these premises.

The City should offer a designated contact within its administration to assist with the restoration of the Board, making clear that it is the responsibility of members to call an Annual General Meeting. This special rate levy funded resource should assist existing or new members to locate records, locate or replace a register of members as well as meet Key Performance Indicators or other requirements that may be detailed in the new Funding and Service Agreement.

To ensure the new Board has an appropriate mix of skills, experience and perspectives, the City should consider making additional contact with active stakeholders and new business owners within the trading area encouraging them to stand for the Executive Committee.

The City should also make reasonable efforts to contact all former members of the Mayfield BIA Executive Committee to notify them of the restoration.

---

### 9.3 FORMATION OF NEW BIAs IN THE LGA

- The City should support the formation of new BIAs in the LGA, notably in The Junction where a group of traders are already taking the initiative to advance this idea.
- The City could support a future BIA by levying the special rate itself, rather than applying for the same Levy that applies to Newcastle BIA, Hamilton BIA and Mayfield BIA. This could be enacted by reducing the ordinary rates to be raised in 2019/20 by the amount of the new special rate. This is the arrangement through which New Lambton BIA has been funded.
- As the decision to create a BIA is one for local traders and commercial property owners, the City should not actively create BIAs in other precincts. Instead, the City should continue to engage with stakeholders in Adamstown, Honeysuckle and Broadmeadow and support these stakeholders in the case they express a desire to formalise activities within the BIA framework.

---

## 9.4 CHAMBERS OF COMMERCE RECEIVING LEVY FUNDS

- The City ensures that the funds it provides to other entities, including Chambers of Commerce, are expended within collection boundaries and on the benefits for which they are collected. Consideration should be given to penalties for noncompliance with this requirement.
- Acquittal reports and/or annual reports prepared by organisations receiving Levy funds should account for the expenditure of these funds separate to the expenditure of any other forms of income.

## 10 APPENDICES

---

For relevant financial records and materials provided by BIAs and the City for this report, please contact City of Newcastle



Prepared for:  
City of Newcastle  
282 King Street  
Newcastle, NSW 2300

Prepared by:  
AECOM Australia Pty Ltd  
17 Warabrook Boulevard  
Warabrook NSW 2304  
PO Box 73  
Hunter Regional MC, NSW 2310

T: +61 2 4911 4900  
F: +61 2 4911 4999  
aecom.com

ABN 20 093 846 925

---

AECOM in Australia and New Zealand is certified to ISO9001, ISO14001, AS/NZS4801 and OHSAS18001.  
Printed on environmentally responsible paper. Made from 100% recycled post-consumer waste.

© 2018 AECOM Australia Pty Ltd. All Rights Reserved.  
AECOM has prepared this document for the sole use of the Client and for a specific purpose, each as expressly stated in the document. No other party should rely on this document without the prior written consent of AECOM. AECOM undertakes no duty, nor accepts any responsibility, to any third party who may rely upon or use this document. This document has been prepared based on the Client's description of its requirements and AECOM's experience, having regard to assumptions that AECOM can reasonably be expected to make in accordance with sound professional principles. AECOM may also have relied upon information provided by the Client and other third parties to prepare this document, some of which may not have been verified. Subject to the above conditions, this document may be transmitted, reproduced or disseminated only in its entirety.

**NOTICES OF MOTION**

**ITEM-16                      NOM 16/04/19 - LOCAL PLANNING MATTERS**

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

---

**PURPOSE**

*The following Notice of Motion was received on 4 April 2019 from the abovenamed Councillors.*

**MOTION**

That City of Newcastle:

- 1      Notes that since 2013, the elected Council through the DAC has determined just 79 development applications. This represents just 1% of the total number of applications assessed by Council, and 7% (\$306m) of the total value of applications assessed by Council.
- 2      Confirms its position that Council, and its officers under delegation, should be the decision maker for planning matters that are not subject to determination by the Hunter and Central Coast Regional Planning Panel or the Minister for Planning
- 3      Formally opposes the forced introduction of a mandatory IHAP for Newcastle, especially without consideration of the impacts on neighbouring councils in Greater Newcastle and the broader Hunter
- 4      Writes to the incoming Minister for Planning, the Hon Dr Rob Stokes MP, and local State Members of Parliament requesting the Government reconsider its commitment to enacting Recommendation 3 of the Kaldas Review of Governance in the NSW Planning System, which would see a mandatory IHAPs installed in Newcastle
- 5      Endorses the use of other measures to ensure openness, transparency, community participation and probity in local decision making, including by restricting active property developers and real estate agents from holding civic office, and ensuring a well-resourced Independent Commission Against Corruption

**BACKGROUND**

The New South Wales Government has announced that it has accepted all 19 of the recommendations of a review of the NSW planning system, undertaken by former NSW Deputy Police Commissioner Nick Kaldas (**Attachment A and B**).

One of the recommendations is to extend Independent Hearing and Assessment Panels (IHAPs) to Newcastle and the Central Coast. An IHAP known as a Local Planning Panel under the *Environmental Planning and Assessment Act 1979*, is a panel of; a chair, two “independent” expert members (selected from a pool of candidates selected by the Department of Planning) and a community member who assess development applications (DAs) made to local councils. IHAPs were made mandatory for all Sydney Councils and Wollongong City Council from 1 March 2018. According to the NSW Department of Planning, Panels are put in place ‘so the process of assessment and determination of DAs with a high corruption risk, sensitivity or strategic importance are transparent and accountable.’

<https://www.planning.nsw.gov.au/Assess-and-Regulate/DevelopmentAssessment/Independent-Hearing-and-Assessment-Panels>)

Local Government NSW, the peak body for Councils in NSW, is opposed to the mandatory introduction of IHAPs. At the Local Government NSW Conference in 2017 the following motion was carried:

- i) *That Local Government NSW campaigns with NSW councils against the State Government takeover of planning powers through IHAP legislation.*
- ii) *That Local Government NSW calls on the NSW Parliament to revoke legislation that mandates Independent Hearing and Assessment Panels (IHAPs) for all councils in Sydney and Wollongong.*

The NSW Government, through former Planning Minister Anthony Roberts, has claimed IHAPs are all about probity, but Councils and Local Government NSW believe they actually erode the community’s democratic right to help determine what happens in their neighbourhood. Councillors are elected by and accountable to the community, while IHAPs have the potential to reduce the accountability and transparency of planning decisions.

Based on the experience in other Councils, ratepayers will be expected to pay for the cost of establishing and running the IHAP which has been estimated to be at least \$100,000 per annum. Council would also be required to cover court costs if IHAP decisions are challenged by applicants – even though Council will not have been the decision-making authority. This is another example of cost-shifting to Councils and would mean that the funding of the panels would reduce Council’s level of service delivery to our community.

According to Local Government NSW less than 3% of Development Applications (DAs) are currently referred to a council meeting for determination, with 97% being determined by Council planning staff under delegation.

Since 2013/14 the elected Council of the City of Newcastle has considered just 79 development applications through the Development Applications Committee (DAC). In the last financial year, this represented just 1% of all applications considered by Council. All other development application decisions under the JRPP \$30m threshold have been made under delegation by Council staff.

Of these 79 applications, 94.9% of decisions have been consistent with the Officers Recommendation, with a total of 5 applications appealed to the Land and Environment Court (with no L&E Court appeals of DAC decisions in 2017/18). Despite the small number of applications, the total estimated construction value of applications considered by the elected Council totals more than \$305 million.

Democratically-elected councils should be able to determine whether the panel option is the right choice for their area and whether there are real benefits to the community. The community should be able to have confidence that they have a voice in the planning rules that affect their neighbourhoods and also a voice at the decision-making table via their elected representatives.

The current planning system includes a clear objective “to provide increased opportunity for community participation in environmental planning and assessment.

Council is committed to progressing development that is in line with planning controls and community expectations. Community expectation is that elected Councillors will make decisions in the public interest and that includes in the planning sphere. Council must be able to represent the community and remain as the consent authority for development

## **ATTACHMENTS**

### **Attachment A:**

Report – Review of Governance in the NSW Planning System: Nick Kaldas APM:  
<https://www.planning.nsw.gov.au/-/media/Files/DPE/Reports/Assess-and-Regulate/About-compliance/review-of-governance-of-decision-making-in-the-nsw-planning-system-report-2018-12-18.pdf>

### **Attachment B:**

Media Release – Minister Roberts: Kaldas Review – Planning Dept Strives for Nation’s Best Practice  
<https://www.anthonyrobertsmp.com.au/media/media-releases/kaldas-review-%E2%80%93-planning-dept-strives-nation%E2%80%99s-best-practice>

**ITEM-17                    NOM 16/04/19 - SHIFTING THE CITY OF NEWCASTLE TO  
100% RENEWABLE ENERGY**

**COUNCILLOR:        J MACKENZIE**

---

**PURPOSE**

*The following Notice of Motion was received on 4 April 2019 from the abovenamed Councillor.*

**MOTION**

That the City of Newcastle

- 1     Notes the progress on the Summerhill 5MW Solar Farm, and the significant contribution this construction makes to Council's extensive renewable energy generation infrastructure, including our eight existing solar installations at our Waratah Works Depot (91kW), the Art Gallery (86kW), City (44kW), Wallsend (80kW) and New Lambton (9.9kw) libraries, No.1 and No.2 Sportsgrounds (10.2 kW including 14kWh battery storage and 20.16 kW including 22kWh battery storage respectively) and Newcastle Museum (100kW), alongside the 2.2MW landfill gas generator and the 2.5kW wind turbine located at Summerhill Waste Management Facility.
- 2     Notes the extensive energy efficiency gains made by the Council under our commitment under the Cities Power Partnership, including the progressive replacement of sodium and mercury vapour street lights in residential areas with LEDs, saving around 10 per cent of Council's entire annual electricity usage.
- 3     Notes that the combination of renewable energy generation and energy efficiency improvements means that approximately 50% of Council's annual 14.1 gigawatt-hours of electricity usage is supplied by renewable energy.
- 4     Prepare a report, including a business case, for the consideration of Councillors on the cost of expanding to 100% of the electricity used across Council's operations produced from renewable sources, through a combination of Council produced renewable electricity from our own facilities, and purchased renewable electricity sourced from generators and suppliers in the market. The business case should compare the case for achievement of 100% renewable energy under an immediate, a 2025 and a 2030 scenario.

## **BACKGROUND**

The City of Newcastle has a long history of action to reduce its electricity consumption and carbon emissions. During the delivery of Council's Greenhouse Action in Newcastle (2001-2008) plan, the Council reduced its emissions by 13.6% below 1995 levels despite adding a significant number of additional facilities and operations. This progress has continued through the Newcastle 2020 Carbon and Water Management Action Plan (adopted in 2011).

This Action Plan enabled the Smart Buildings Smart Workforce project which involved a range of energy efficiency upgrades and retrofits at high-use social, cultural and recreational facilities and key Council operational buildings. It has also enabled the rollout of Council's solar photovoltaic (PV) systems and renewable energy generation infrastructure across the city, detailed in the motion.

A key objective of the Newcastle 2020 Carbon and Water Management Action Plan is to lead the transition to a low carbon economy by positioning our city as a global testing ground for innovative technologies and behavioural change programs that have the capacity to be adopted into the mainstream. This includes the transition to 100% renewable energy adoption.

The energy targets outlined in the Newcastle 2020 Carbon and Water Management Action Plan were:

- a) to generate 30 per cent of our electricity needs from low-carbon sources;
- b) to cut overall electricity usage by 30 per cent by 2020.

Modelling conducted for the Summerhill Solar Farm confirmed that it initially produce more than 7.1 gigawatt-hours a year of electricity, mostly in peak or shoulder periods, which is around half of Council's annual 14.1 gigawatt-hours of electricity usage.

Globally, campaigns such as RE100 encourage companies and other significant energy consumers to set a public goal to source 100% of their global electricity consumption from renewable sources by a specified year. The RE100 is a collaborative, global initiative uniting more than 100 influential businesses committed to 100% renewable electricity, which in turn increases demand for and delivery of renewable energy.

This motion requests a business case to enable Council to make an evidence-based and cost-effective public commitment to the achievement of 100% Renewable Energy within the IPCC's time horizon to limit global warming to 1.5°C with no or limited overshoot. This commitment would be considered as part of the review and update of the 2020 Carbon and Water Management Action Plan.

## **ATTACHMENTS**

Nil

**ITEM-18                    NOM 16/04/19 - GREEN ROOFS, GREEN WALLS AND LIVING BUILDINGS**

**COUNCILLOR:        J MACKENZIE**

---

**PURPOSE**

*The following Notice of Motion was received on 4 April 2019 from the abovenamed Councillor.*

**MOTION**

That the City of Newcastle

- 1    Develop a policy to support an increase in the installation of green roofs, green walls and living building features in the City of Newcastle local government area.
  
- 2    Based on the policy, prepare a Living Buildings Implementation Plan which sets out the context for the policy as well as the specific actions Council will take to ensure the policy is effectively implemented, including a detailed list of actions and timeframes. The implementation plan should include actions to:
  - a)    Identify and address barriers to the adoption of green roof, green wall and living building technology;
  - b)    Collaborate with the design community, industry and other stakeholders in the promotion of living buildings, and develop appropriate information and educational materials for the community about green roofs and walls;
  - c)    Amend the s7.02.06 Green walls and roof space of the Newcastle DCP as required to meet current best-practice design
  - d)    Develop guidance and guideline resources that will fill gaps in technical and general information
  - e)    Identify opportunities to install green roofs and walls on Council properties;
  - f)    Monitor, evaluate and report on progress.
  
- 3    Amend Part 7 Clause 7.5 of the Newcastle Local Environment Plan to include the provision of green roofs, green walls and other living building features as matters for consideration for design excellence.

## BACKGROUND

The Newcastle 2030 Community Strategic Plan (CSP) reflects the community's vision for the city and is our guide for action. The vision articulated in the CSP includes our aspirations as a leading lifestyle city with vibrant public places and spaces, and unique urbanism. This motion recognises the opportunities to fulfil this vision through the active promotion of green roofs, walls and living building technologies. These contemporary design features provide a range of social, environmental and cultural benefits and contribute to the City of Newcastle's sustainability, climate change resilience, liveable and smart city strategic objectives.

Increasing green roof and wall numbers will provide multiple benefits including:

- improving building efficiency through heating, cooling and sound insulation;
- slowing and cleaning stormwater;
- reducing the impacts of the Urban Heat Island effect;
- creating additional space for urban greening, food production and private open space;
- improving air quality;
- improving amenity and liveability of the city;
- increasing the absorption of carbon dioxide;
- increasing habitat to support urban biodiversity; and
- extending roof life.

These benefits are confirmed in Section 7.02.06 (Green walls and roof space) of the Newcastle Development Control Plan. This section outlines the planning controls for planting on roof tops, over car park structures or green walls, particularly for landscaping required as a component of mixed-use residential development, and in non-residential developments where the landscaping proposed is not on natural ground.

It is noted that there are existing systems and processes that can be used more effectively to support the expansion of green roofs and walls in Newcastle.

The City of Newcastle controls are similar to those in, for example, the Hornsby, Willoughby and Parramatta Development Control Plans, which encourage, but do not mandate or actively promote, the uptake of green roofs and walls. In contrast, the Burwood Development Control Plan 2013 mandates at least 50% of the roof area to be vegetated with grasses, shrubs and trees for all developments in centres and corridors and developments, and residential flat buildings outside those areas.

This motion does not seek to make the provision of green features mandatory.

The changes proposed in this motion are similar to the approach adopted by the City of Sydney Development Control Plan 2012 and North Sydney Development Control Plan 2013, which actively promote the uptake of green roofs, green walls and living building technologies through supporting plans, policies and documents to facilitate, enable and incentivise delivery. These include City of Sydney's Greening Sydney Plan (2012), Sydney City Council Green Roof Resource Manual, Green Roofs and Walls Policy 2030 (2014), and North Sydney Council's Green Roof and Wall Resource Manual.



In addition, the City of Sydney has the Design Excellence mechanism to create an incentive for new developments to incorporate green roofs, walls and living building technologies. The Design Excellence provisions in Section 7.5 of the Newcastle LEP identify outcomes that would be considered to exhibit design excellence, such as the standard of architectural design, materials and detailing, and the contribution of the proposed development to the quality and amenity of the public domain. These outcomes are generally associated with a public benefit arising from the consideration, and given the extent of the public benefit derived from green buildings, this mechanism is considered suitable to establish a voluntary incentive

**ATTACHMENTS**

Nil

**ITEM-19                    NOM 16/04/19 - CLEAN SEAS SEABIN INITIATIVE**

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

---

**PURPOSE**

*The following Notice of Motion was received on 4 April 2019 from the abovenamed Councillors.*

**MOTION**

That City of Newcastle:

- 1    Notes our recent endorsement of the UN Environment Clean Seas campaign which will see the phase out of all single-use plastic from City-managed enterprises, activities and events by 2020;
- 2    Acknowledges recent successful technological advances in ocean plastic removal, such as the Seabin Foundation Initiative, whose Seabin prototype is removing tonnes of floating rubbish from our oceans;
- 3    Explores partnerships with Newcastle Cruising Yacht Club, the Port of Newcastle, the Port Authority of NSW, Transport – Roads and Maritime Services and Hunter Water as well as industry and the community, to establish a plastic and rubbish removal initiative in Newcastle Harbour and Throsby Creek.

**BACKGROUND**

**Clean seas - turn the tide on plastic**

City of Newcastle has endorsed the UN Environment Clean Seas campaign to phase out all single-use plastic from City-managed enterprises, activities and events on City land by 2020. This included plastic straws, balloons, promotional paraphernalia, plastic signage and single-use water bottles.

Australia joined the movement in October 2018, presenting ambitious targets: that 100 per cent of packaging will be reusable, compostable or recyclable by 2025; 70 per cent will be recycled or composted by 2025; and that problematic and unnecessary single-use packing will be phased out through design, innovation or introduction of alternatives.

The announcement made Australia the 56th country to sign up to the Clean Seas campaign. UN Environment launched Clean Seas (#CleanSeas on social media) in February 2017, with the aim of engaging governments, the general public and the private sector in the fight against marine plastic pollution. Over five years, the campaign seeks to address the root-cause of marine litter by targeting the production and consumption of non-recoverable and single-use plastic. To do this, the community needs to be aware, engaged and active in addressing the problem in their daily lives.

By connecting individuals, civil society groups, industry and governments, UN Environment is a catalyst for change, transforming habits, practices, standards and policies around the globe to dramatically reduce marine litter and the harm it causes. The campaign contributes to the goals of the Global Partnership on Marine Litter, a voluntary open-ended partnership for international agencies, governments, businesses, academia, local authorities and non-governmental organisations hosted by UN Environment.

**Source:** <http://www.newcastle.nsw.gov.au/Business/Regulations/Environmental-Health/Clean-seas-turn-the-tide-on-plastic>

### **Seabin Foundation initiative**

In 2014 two Australian surfers created the Seabin prototype, after becoming frustrated with the amount of rubbish floating in the ocean when they were trying to catch waves.

### **Seabin V5**

The V5 Seabin unit is a “trash skimmer” designed to be installed in the water of Marinas, Yacht Clubs, Ports and any water body with a calm environment and suitable services available.

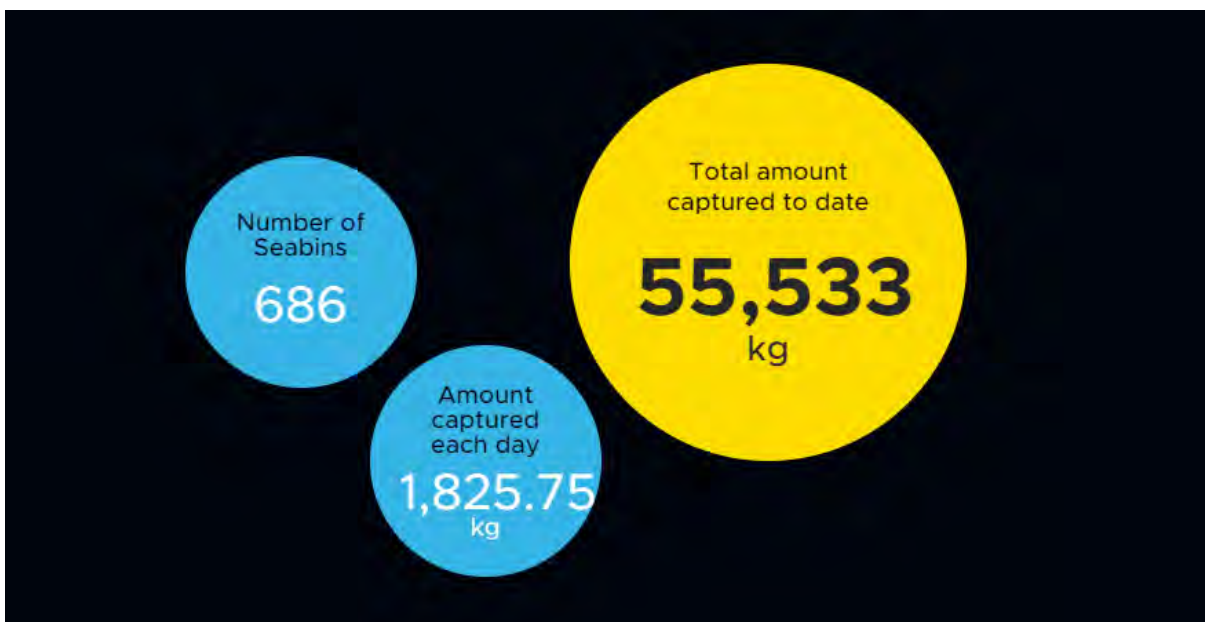
The unit acts as a floating garbage bin skimming the surface of the water by pumping water into the device. The Seabin V5 can intercept: floating debris, macro and micro plastics and even micro fibres with an additional filter. By acting as a trash skimmer, the Seabin V5 is also able to clean the water from contaminated organic material. The Seabin V5 is easily equipped with oil absorbent pads able to absorb petroleum-based surface oils and detergent predominant in most marinas around the world.



### How does the Seabin work?

The Seabin moves up and down with the range of tide collecting all floating rubbish. Water is sucked in from the surface and passes through a catch bag inside the Seabin, with a submersible water pump capable of displacing 25,000 Lph (liters per hour), plugged directly into either a 110V or 220V outlet. The water is then pumped back into the marina leaving litter and debris trapped in the catch bag.

The Seabin can catch an estimated 3.9 Kgs of floating debris per day or 1.4 tons per year (depending on weather and debris volumes) including micro plastics down to 2 mm small.



## **Perth's first ocean rubbish bin is sucking plenty of plastic out of the sea**

ABC Perth | Gian De Poloni

**A unique floating rubbish bin, which effectively acts as a vacuum cleaner for the ocean, is being put to good use in waters off Western Australia for the first time.**

Perth surfers Andrew Turton and Pete Ceglinski garnered international attention in 2015 for their Seabin prototype, which was created after they became frustrated at the amount of rubbish floating in the ocean.

A successful crowd-funding campaign allowed the device to be produced commercially and the City of Cockburn, in Perth's southern suburbs, has become the first WA council to buy one.

The city's waste education officer, Nicki Ledger, said the Seabin at the Port Coogee boat marina had captured more than a dozen types of plastics in just over a week.

"We're catching a lot of little plastics, lots of polystyrene beads, cigarette butts," Ms Ledger said.

"We're getting those out of the water so they can't do any harm to our local wildlife." The device is about the same size as a standard rubbish bin and is able to trap 20 kilograms of rubbish at a time.

"We realise the Seabin is not going to be the answer to all our marine debris problems, but it is a great local solution for this area," Ms Ledger said.

She said despite its mechanical movements, the device was safe for marine life.

"Because it's bobbing up and down and there is a motor and a little bit of sound associated with it, we see that when schools of bait fish go towards it, they get quite close and then they'll move off and seem to be staying away from it, thankfully."

### **Scrubbing the sea**

Port Coogee marina manager Samantha Standish said the area was frequently littered with debris from nearby fishing and industrial operations.

"It's quite harmful to the marine life here," she said.

"We have such a healthy marina — we have bait fish, seahorses, green sea turtles, we get seals and dolphins coming in as well — so it's just imperative that we keep a healthy environment for these animals so they keep coming in to visit."

The Seabin is emptied daily and the rubbish is analysed and recorded to identify the types of debris washing into the marina.

"We basically empty the contents out and sort all of the organic waste apart from the plastics," Ms Standish said.

"We have recording sheets that take into consideration the weather, the wind conditions and the temperature."

### **Plastic the biggest concern**

The device recently collected three kilograms of rubbish in just 24 hours.

"Today we picked up lots of organic leaf waste, a cable tie, two cigarette butts, the top of a fruit juice container, nearly a dozen poly balls, two small plastic wrappers, a dozen bits of micro-plastic, fishing line and plastic curls.

"We're actually just keeping it all in a jar for now and we're going to see what we collect over a month.

"I dare say quite a few of the bait fish would have ingested lots of those bits of micro-plastics, as well as the birds we get around the marina and possibly the crabs too.

"These fish are going into the food chain and obviously we'd eat them down the track, so it's fantastic that we can capture them in the Seabin."

The council, meanwhile, said a local artist had expressed interest in creating artwork with the debris collected.

**Source:** <https://www.abc.net.au/news/2019-02-17/perth-seabin-invention-sucking-cigarettes-and-plastic-from-ocean/10800792>

### **ATTACHMENTS**

Nil

**CONFIDENTIAL REPORTS**

**ITEM-1                      CON 16/04/19 - TENDER REPORT - 12 STEWART AVENUE  
OFFICE FIT-OUT - CONTRACT 2019/280T**

**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.

**GROUND FOR CLOSING PART OF THE MEETING**

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

**MOTION TO PROCEED**

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

- A The matter relates to tenders for Office Fit-out Construction Management - 12 Stewart Avenue for Contract No.: 2019/280T.
  - 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.
-