

Ordinary Council Meeting



City of
Newcastle

DATE: Tuesday, 28 March 2023

TIME: 6:00 pm

VENUE: Council Chambers
Level 1, City Administration Centre
12 Stewart Avenue
Newcastle West NSW 2302

23 March 2023

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City of Newcastle
PO Box 489, Newcastle NSW 2300
Phone 4974 2000
newcastle.nsw.gov.au

Agenda

1. ATTENDANCE	
2. ACKNOWLEDGEMENT OF COUNTRY	
3. PRAYER	
4. APOLOGIES / LEAVE OF ABSENCE / ATTENDANCE BY AUDIO VISUAL LINK	
5. DISCLOSURES OF INTEREST	
6. CONFIRMATION OF MINUTES	3
6.1. MINUTES - ORDINARY COUNCIL MEETING 28 FEBRUARY 2023	3
7. LORD MAYORAL MINUTE	34
8. REPORTS	34
8.1. PUBLIC EXHIBITION OF DRAFT DELIVERING NEWCASTLE 2040	34
8.2. ADOPTION OF SPECIAL BUSINESS RATE EXPENDITURE POLICY	39
8.3. DARBY STREET STREETS AS SHARED SPACES – RETENTION OF INFRASTRUCTURE	43
8.4. BROADMEADOW PLACE STRATEGY	49
8.5. 37 LLEWELLYN STREET, MEREWETHER – RIGHT OF WAY REVIEW	55
8.6. HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL - CHANGES TO PLANNING PANELS	61
8.7. EXECUTIVE MONTHLY PERFORMANCE REPORT	64
8.8. TENDER REPORT - RECYCLABLE WASTE COLLECTION SERVICES AND BIN SUPPLY - CONTRACT 2022/145T	67
9. NOTICES OF MOTION	67
9.1. PUBLIC VOICE AND PUBLIC BRIEFING POLICY	67
9.1.1. REPORT ON NOTICE OF MOTION – PUBLIC VOICE AND PUBLIC BRIEFING POLICY	69
9.2. REQUESTING ATTENDANCE DATA FROM SUPERCARS	71
9.2.1. REPORT ON NOTICE OF MOTION - REQUESTING ATTENDANCE DATA FROM SUPERCARS	71
9.3. FUNDING FOR TROVE	72
9.4. INFRASTRUCTURE CONTRIBUTIONS REFORM CONCERNS	77
10. CONFIDENTIAL REPORTS	88

[For documents marked 'Distributed under Separate Cover' refer to Council's website at http://www.newcastle.nsw.gov.au/](http://www.newcastle.nsw.gov.au/)

Note: Items may not necessarily be dealt with in numerical order

6. CONFIRMATION OF MINUTES

6.1. MINUTES - ORDINARY COUNCIL MEETING 28 FEBRUARY 2023

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 230228 Ordinary Council Meeting Minutes

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

Minutes

Ordinary Council Meeting



Council Chamber, Level 1, City Administration Centre, 12 Stewart Avenue, Newcastle West, Tuesday, 28 February 2023 at 6:02 PM

1. ATTENDANCE

Lord Mayor (Councillor N Nelmes), Councillors E Adamczyk, J Barrie, D Clausen, C Duncan, J Mackenzie, C McCabe, C Pull (*arrived 6.03pm*), D Richardson, P Winney-Bartz and M Wood.

J Bath (Chief Executive Officer), D Clarke (Executive Director Corporate Services), L Duffy (Acting Director Community and Creative Services), D Manderson (Acting Executive Director City Infrastructure), M Bisson (Interim Executive Director Planning and Environment), E Kolatchew (Executive Manager Legal and Governance), R Dudgeon (Executive Manager Project Management Office), S Moore (Executive Manager Finance, Property and Performance), M Murray (Chief of Staff), L Zoneff (Media Advisor), L Barnao (Councillor Services/Meetings Support), K Sullivan (Councillor Services/Meetings Support), R Garcia (Information Technology Support) and C Urquhart (Information Technology Support).

2. ACKNOWLEDGEMENT OF COUNTRY

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

3. 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.

4. APOLOGIES / LEAVE OF ABSENCE / ATTENDANCE BY AUDIO VISUAL LINK

Nil.

5. DISCLOSURES OF INTEREST

Councillor Clausen

Councillor Clausen declared a significant pecuniary interest in Item 8.10 - Hunter Water Amenity Improvement Works - Litchfield Park Mayfield and Notice of Motion Item 9.4 - Calling for Funding for Wallsend Flood Mitigation as both items related to his employer and managed the conflict by removing himself from the Chamber for discussion on the items.

6. CONFIRMATION OF MINUTES

6.1. MINUTES - ORDINARY COUNCIL MEETING 13 DECEMBER 2022

MOTION

Moved by Cr Mackenzie, seconded by Cr Duncan

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

Carried unanimously

7. LORD MAYORAL MINUTE

7.1. SYMPATHIES FOR THE PEOPLE OF TÜRKIYE AND SYRIA

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Acknowledges the catastrophic devastation caused by the magnitude 7.8 earthquake which struck Türkiye and Syria on 6 February 2023 and has resulted in the deaths of more than 50,000 people and left more than 1.5 million people homeless.
2. Expresses our deepest sympathies to the people of both countries for the destruction and loss of life that has occurred.
3. Writes to the Turkish Ambassador in Australia and the Honorary Consul of Syria in Australia offering the condolences of the City.
4. Encourages Novocastrians who would like to make a financial contribution to assisting both nations to donate through the United Nations Crisis Relief fund, with donations going directly to relief organisations delivering life-saving aid to the frontlines of the crisis.

Carried unanimously

7.2. SUPPORTING THE GREATER NEWCASTLE (HUNTER) OFFSHORE WIND ZONE

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

- Welcomes the recent announcement by the Albanese Federal Government of its intent to establish Australia's second offshore wind zone off the coast of Newcastle.
- Notes that the Greater Newcastle (Hunter) offshore wind projects can help decarbonise the economy with year-round clean energy generation and drive regional jobs and growth, with a need for skills in engineering and construction,

as well as strong transferable skills from other sectors including high-voltage electrical, logistics and maritime offshore work.

- Acknowledges City of Newcastle's long history of supporting and implementing renewable energy projects, including becoming the first local government in NSW to move to 100 per cent renewable electricity and was once home to Australia's first large scale, land-based single wind turbine at Kooragang Island.
- Notes that a local offshore wind industry offers many potential benefits for Newcastle such as unlocking billions in new investment in renewable energy infrastructure and may pave the way for our city to become the renewable energy hub for the Asia-Pacific region.
- Provides a detailed, supportive submission, noting that consultation on this proposal is now open until 28 April 2023, while strongly reiterating that development of such a zone must be done with guarantees in place that would preference the employment of local workers and use of local materials for the benefit of our local communities.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Church, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Winney-Baartz and Wood.

Against the Motion: Councillors Barrie and Wark.

Carried

7.3. NSW GOVERNMENT TO CONFIRM ALLOCATION OF FUNDING AND RESPONSIBILITIES FOR THE DRAFT ACTIONS WITHIN THE EXTENDED STOCKTON COASTAL MANAGEMENT PROGRAM (CMP) RELATING TO THE ON-GROUND DELIVERY OF MASS SAND NOURISHMENT

MOTION

Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Commends the NSW Deputy Premier's announcement on 30 January 2023 that NSW Public Works would manage the delivery of the NSW Government's successful \$6.2 million grant through the Coastal and Estuarine Risk Mitigation Program, which includes the delivery of initial amenity nourishment for Stockton Beach, studies into possible sources of mass sand from the North Arm of the Hunter River and offshore sources, and the environmental approvals required for mass sand nourishment.
2. Commends the announcement by the Leader of the Opposition, Chris Minns MP, on 8 February 2023, that NSW Labor will commit the \$21 million needed from the State Government for mass sand nourishment at Stockton Beach if it wins the upcoming March election.
3. Writes to the NSW Premier, the Hon. Dominic Perrottet MP; Deputy Premier, the Hon. Paul Toole MP; Minister for Local Government, the Hon. Wendy

Tuckerman MP; the Leader of the Opposition. Chris Minn MP Shadow Minister for Local Government, Greg Warren MP and the State Member for Newcastle, Tim Crakanthorp MP, requesting that the allocation of funding and responsibilities within the NSW Government, for the actions in the Extended Stockton CMP relating to the on-ground delivery of mass sand nourishment, (Attachment 1) will be determined and assigned to a NSW Government agency, to offset the impact of the NSW Government owned infrastructure on Stockton Beach, by the end of April 2023.

AMENDMENT

Moved by Cr Mackenzie

To include an additional point:

1. Commends the announcement on January 10, 2023 Greens Upper House MP Sue Higinson that the NSW Greens will commit to \$25 million for the restoration and maintenance of Stockton Beach, including for mass sand nourishment, if the Greens hold the balance of power following the March state election. further commends the NSW Greens commitment to establishing a levy on coal exports to fund coastal management in line with previous City of Newcastle resolutions.

The Lord Mayor accepted the amendment into the Motion as Part B.

PROCEDURAL MOTION

Moved by Cr Pull, seconded by Cr Barrie

That Part A and Part B be dealt with in seriatim.

Carried

The motion as amended was put to the meeting.

MOTION

Moved by Lord Mayor, Cr Nelmes

PART A

That City of Newcastle

1. Commends the NSW Deputy Premier's announcement on 30 January 2023 that NSW Public Works would manage the delivery of the NSW Government's successful \$6.2 million grant through the Coastal and Estuarine Risk Mitigation Program, which includes the delivery of initial amenity nourishment for Stockton Beach, studies into possible sources of mass sand from the North Arm of the Hunter River and offshore sources, and the environmental approvals required for mass sand nourishment.
2. Commends the announcement by the Leader of the Opposition, Chris Minns MP, on 8 February 2023, that NSW Labor will commit the \$21 million needed

from the State Government for mass sand nourishment at Stockton Beach if it wins the upcoming March election.

3. Writes to the NSW Premier, the Hon. Dominic Perrottet MP; Deputy Premier, the Hon. Paul Toole MP; Minister for Local Government, the Hon. Wendy Tuckerman MP; the Leader of the Opposition. Chris Minn MP Shadow Minister for Local Government, Greg Warren MP and the State Member for Newcastle, Tim Crakanthorp MP, requesting that the allocation of funding and responsibilities within the NSW Government, for the actions in the Extended Stockton CMP relating to the on-ground delivery of mass sand nourishment, (Attachment 1) will be determined and assigned to a NSW Government agency, to offset the impact of the NSW Government owned infrastructure on Stockton Beach, by the end of April 2023.

Carried unanimously

MOTION

Moved by Lord Mayor, Cr Nelmes

PART B

That City of Newcastle:

1. Commends the announcement on January 10, 2023 Greens Upper House MP Sue Higinson that the NSW Greens will commit to \$25 million for the restoration and maintenance of Stockton Beach, including for mass sand nourishment, if the Greens hold the balance of power following the March state election. further commends the NSW Greens commitment to establishing a levy on coal exports to fund coastal management in line with previous City of Newcastle resolutions.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Clausen, Duncan, Mackenzie, McCabe, Richardson, Winney-Baartz and Wood.

Against the Motion: Councillors Barrie, Church, Pull and Wark.

Carried

8. REPORTS

8.1. TABLING OF REGISTER OF DISCLOSURES OF INTEREST 1 NOVEMBER 2022 - 31 JANUARY 2023

MOTION

Moved by Cr Mackenzie, seconded by Cr Barrie

That Council:

1. Notes the tabling of the Register of Disclosures of Interest (for the period 1 November 2022 to 31 January 2023) by the Chief Executive Officer (CEO).

Carried unanimously

8.5. VARIATIONS TO DEVELOPMENT STANDARDS (REPORTING FROM 1 OCTOBER TO 31 DECEMBER 2022)

MOTION

Moved by Cr Mackenzie, seconded by Cr Barrie

That Council:

1. Receives the report on approved development variations between 1 October 2022 and 31 December 2022 at **Attachment A** in accordance with the Department of Planning and Environment's (DPE) concurrence to vary development standards in the Newcastle Local Environmental Plan 2012 (NLEP 2012).

Carried unanimously

8.6. SIX MONTHLY PERFORMANCE REPORT ON THE DELIVERY PROGRAM

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That Council:

1. Receives the 2022-2026 Delivery Program – Six-Monthly Performance Report (Report) at **Attachment A**.

Carried unanimously

8.8. ADOPTION OF THE COMPLIANCE AND ENFORCEMENT POLICY

MOTION

Moved by Cr Mackenzie, seconded by Cr Winney-Baartz

That Council:

1. Adopts the Compliance and Enforcement Policy at **Attachment A**.

Carried unanimously

8.9. ADOPTION OF MOBILE FOOD VENDING (LOCAL APPROVALS) POLICY

MOTION

Moved by Cr Wark, seconded by Cr Clausen

That Council:

1. Adopts the Mobile Food Vending (Local Approvals) Policy at **Attachment A**.

Carried unanimously

8.12. AUDIT AND RISK COMMITTEE ANNUAL REPORT

MOTION

Moved by Cr Duncan, seconded by Cr Mackenzie

That Council:

1. Receives the Audit and Risk Committee's Annual Report for the 2021/2022 financial year at **Attachment A**; and
2. Notes the 2022/2023 Forward Internal Audit Plan at Appendix A of Attachment A.

Carried unanimously

8.2. FUTURE FUND POLICY

In moving the Future Fund report, the Lord Mayor nominated Councillors Barrie and Clausen as the two Councillor representatives in the Future Fund Governance Committee.

MOTION

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

That Council:

1. Adopts the Future Fund Policy (Policy) as at **Attachment A** and Future Fund Governance Committee Charter (Charter) as at **Attachment B**.
2. Councillors Barrie and Clausen be the two Councillor representatives on the Future Fund Committee.

Carried

8.3. ENDORSMENT OF MOTIONS TO THE 2023 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT

MOTION

Moved by Cr Adamczyk, seconded by Cr Winney-Baartz

That Council:

1. Endorse the motion/s for submission to the 2023 Australian Local Government Association's National General Assembly as set out at **Attachment A**.
2. Adopt a change in meeting date for the June Committee Meetings from Tuesday 13 June 2023 to Tuesday 20 June 2023.

PROCEDURAL MOTION

Moved by Cr Pull, seconded by Cr Barrie

That motions 1 and 7 as set out at Attachment A form Part B and both Part A and Part B be voted on in seriatim.

Carried

MOTION

Moved by Cr Adamczyk, seconded by Cr Winney-Baartz

PART A

That Council:

1. Endorse motions 2, 3, 4, 5, 6, 8 and 9 for submission to the 2023 Australian Local Government Association's National General Assembly as set out at **Attachment A**.
2. Adopt a change in meeting date for the June Committee Meetings from Tuesday 13 June 2023 to Tuesday 20 June 2023.

Carried unanimously

MOTION

Moved by Cr Adamczyk, seconded by Cr Winney-Baartz

PART B

That Council:

1. Endorse motions 1 and 7 for submission to the 2023 Australian Local Government Association's National General Assembly as set out at **Attachment A**.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Clausen, Duncan, Mackenzie, McCabe, Richardson, Winney-Baartz and Wood.

Against the Motion: Councillors Barrie, Church, Pull and Wark.

Carried

8.4. DECEMBER QUARTERLY BUDGET REVIEW

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

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

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Councillor Church.

Carried

8.7. PEARSON STREET LAMBTON - LAMBTON PARK TO CROUDACE STREET CYCLING CONNECTION

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Wood

That Council:

1. Approve cycling connection works in Pearson Street Lambton, between Lambton Park and Croudace Street, including pedestrian pathways, traffic calming devices, and pedestrian crossing infrastructure, and one-way restriction in Grainger Street Lambton from Elder Street to Howe Street.

Carried unanimously

8.10. HUNTER WATER AMENITY IMPROVEMENT WORKS - LITCHFIELD PARK MAYFIELD

Councillor Clausen left the Chamber for discussion on the item.

MOTION

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

PART A

That Council:

1. Approve the creation of an easement for Hunter Water on a total area of 79m² of City of Newcastle owned land in Litchfield Park, Mayfield (Lot 22 DP95384 27 Myola Street, Mayfield) as per **Attachment C**), for the construction and ongoing maintenance of Hunter Water amenity improvement works on the Throsby Creek Channel.

PART B

That Council:

1. Welcomes Hunter Water investment to improve amenity and liveability by naturalising concrete stormwater channels.
2. Writes to Hunter Water reiterating Council's multiple previous resolutions that its highest priority for stormwater channel widening and naturalisation in the Newcastle LGA is Ironbark Creek, Wallsend.

3. Request that any public art elements included in Hunter Water's stormwater amenity project be reviewed by the Public Art Reference Group prior to installation.

Carried unanimously

Councillor Clausen returned to the Chamber at the conclusion of the item.

PROCEDURAL MOTION

Moved by Cr Duncan, seconded by Cr Winney-Baartz

That Council bring forward Notice of Motion 9.1 Llewellyn Street, Merewether - Loss of Right of Carriageway forward on the agenda due to public interest in the gallery.

Carried unanimously

9. NOTICES OF MOTION

9.1 NOM - LLEWELLYN STREET, MEREWETHER - LOSS OF RIGHT OF CARRIAGEWAY

MOTION

Moved by Cr Duncan, seconded by Cr Winney-Baartz

That Council:

1. Notes its previous unanimous resolution of 13 December 2022 calling for an investigation by City of Newcastle into the effective removal and loss of the right-of-carriageway as a result of development at 37 Llewellyn Street Merewether.
2. Notes that the loss of the right of carriageway is inconsistent with CN's development approval and has not been approved by the elected council.
3. Notes that the community is of the understanding that they have had free and unfettered use of the right-of-carriageway lane for at least the last 60 years.
4. Resolves that a Private Certifier should not issue an Occupation Certificate unless Council's Development Conditions of Consent have been complied with in full.
5. Receives the community petition and community motion generated from a community meeting held at the Merewether Bowling Club on 30 January 2023 at which more than 80 residents expressed their concerns with the loss of the right of carriageway.
6. Expedites the investigation and seeks action to remedy and restore the right-of-carriageway, consistent with the current development approval (Condition 69 DA2016/01411) and reports back to the March Council meeting.
7. Writes to the Minister for Emergency Services and Resilience Hon. Steph Cooke MP, and the State Member for Newcastle Tim Crakanthorp, seeking their

support for a public access to be created through the Merewether Fire and Rescue Station, known as 39 Llewellyn Street Merewether.

8. Writes to the Minister for Fair Trading asking that he investigate the circumstances surrounding the private certifier who provided an occupation certificate for the property located at 37 Llewellyn Street Merewether despite it not complying with CN's condition 69 that a right of carriageway be created over the property.
9. Receives the responses to the above letter.

Carried unanimously

8. REPORTS

8.11. ACCEPTANCE OF OFFER - UTILITY RELOCATION - UNIVERSITY DRIVE CATCHMENT REHABILITATION

MOTION

Moved by Cr Clausen, seconded by Cr Wood

PART A

That Council:

1. Not invite tenders for Contract 2023/084T – AAPT Fibre Network Relocation – University Drive Catchment Rehabilitation. A satisfactory result would not have been achieved through the calling of tenders as the fibre network assets are owned by AAPT (TPG) and they will undertake the required works.

PART B

That Council:

1. Advocates with LGNSW and City of Parramatta regarding the impact of poor regulation of utility and telecommunications implementation and service augmentation, including damage to streets and footpaths, and costly asset relocations funded by ratepayers. [Adopted position of LGNSW State Conference below].
2. Writes to The Hon Michelle Rowland MP, Federal Minister for Telecommunications, seeking support for councils to be provided with a greater voice in the location and management of telecommunications infrastructure to prevent poor decisions and cost shifting.

Carried unanimously

8.13. ENDORSEMENT OF PLANNING AGREEMENT FOR 30 AND 31 VISTA PARADE KOTARA

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Wark

That Council:

1. Endorses the Planning Agreement for 30 and 31 Vista Parade, Kotara (**Attachment A**) and authorises the Interim Executive Director Planning & Environment to execute the Planning Agreement.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Nil.

Carried unanimously

8.14. DETERMINATION OF INCOME TAXATION FOR COUNCILLORS

MOTION

Moved by Cr Barrie, seconded by Cr Pull

That Council:

1. Resolves that Lord Mayor and Councillor fees be subject to income tax withholding under Part 2-5 of the Taxation Administration Act 1953 - sections 446-5 of Schedule 1, with effect from 1 March 2023.

PROCEDURAL MOTION

Moved by Cr Pull, seconded by Cr Clausen

That the item lay on the table.

Carried unanimously

8.15. EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION

Moved by Cr Clausen, seconded by Cr Mackenzie

That Council:

1. Receives the Executive Monthly Performance Report for January 2023.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Clausen, Duncan, Mackenzie, McCabe, Pull, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Councillor Church.

Carried

PROCEDURAL MOTION

Moved by Cr Pull, seconded by Cr Barrie

That Council amend the order of business and discuss the following items in order:

8.17 – Tender Report – Replacement of Boscawen Street Bridge

8.16 – Administration of 2024 Council Elections

Carried

**8.17. TENDER REPORT REPLACEMENT OF BOSCAWEN STREET BRIDGE -
CONTRACT 2023/009T**

MOTION

Moved by Cr Richardson, seconded by Cr Adamczyk

The recommendation at Attachment A.

That Council:

1. Accept the tender of Quickway Constructions Pty Ltd in the amount of \$4,610,012 (excluding GST) for Boscawen Street, Wallsend Bridge Replacement for Contract No. 2023/009T.
2. This confidential report relating to the matters specified in s10A(2)(d) of the *Local Government Act 1993* be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

Carried

10. CONFIDENTIAL REPORTS

PROCEDURAL MOTION

Moved by Cr Pull, seconded by Cr Winney-Baartz

That Council move into confidential session as per the reasons outlined in the Business Papers.

Carried

Council resolved into confidential session at 8.21pm.

PROCEDURAL MOTION

Moved by Cr Pull, seconded by Cr Barrie

That Council remain in confidential session to deal with Confidential Item 10.1 Newcastle Airport.

Carried unanimously

PROCEDURAL MOTION

Moved by Cr Pull, seconded by Cr Richardson

That Council move out of confidential session.

Carried

During confidential session, Council moved into confidential Committee to receive a Briefing from Ms Allanna Ryan, Chief Financial Officer, Newcastle Airport.

Council reconvened at 9.24pm and the Chief Executive Officer reported the resolutions of confidential session.

8.16. ADMINISTRATION OF 2024 COUNCIL ELECTIONS

MOTION

Moved by Cr Mackenzie, seconded by Cr Clausen

That Council:

1. Resolves, pursuant to s. 296(2) and (3) of the *Local Government Act 1993* (NSW) ("the Act"), that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the City of Newcastle.
2. Resolves, pursuant to s. 296(2) and (3) of the Act, as applied and modified by s.18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the City of Newcastle.
3. Resolves, pursuant to s. 296(2) and (3) of the Act, as applied and modified by s.18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the City of Newcastle.

AMENDMENT

Moved by Cr Pull

To include two additional points:

That Council:

4. Endorse the CEO inviting feedback from Councillors, candidates and community members regarding the administration of the 2021 City of Newcastle Local Government Election with a focus on compliance and accessibility issues.

5. Request a response from the Electoral Commission regarding the issues raised and those responses be reported back to Council.

The mover and seconder of the motion agreed to include the amendment into the motion.

The motion as amended was put to the meeting.

Carried unanimously

10.1. NEWCASTLE AIRPORT

MOTION

Moved by Cr Barrie, seconded by Cr Winney-Baartz

1. Appoints the Chief Executive Officer as authorised delegate to undertake all actions necessary to approve the form and enter into the documents listed at Attachment A on behalf of City of Newcastle as required for the refinance of Newcastle Airport Pty Limited's debt facility.
2. Grant authority to affix City of Newcastle's Seal where necessary to any of the documents referred to at Attachment A.
3. This confidential report relating to the matters specified in section 10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until the Chief Executive Officer, in conjunction with Newcastle Airport Pty Limited, determines otherwise.

Carried unanimously

9. NOTICES OF MOTION

9.2. NOM - IMPROVING OPERATING HOURS AND RESOURCES FOR BERESFIELD POLICE STATION

MOTION

Moved by Cr Pull, seconded by Cr Barrie

That City of Newcastle

1. Notes that in December 2022, a fatal stabbing occurred at Beresfield Train Station.
2. Notes that local residents have reported an increase in crime and public nuisance since the Police Station saw its operating hours reduced when the former Carr government introduced the Local Area Command model.
3. Notes concerns from residents that police response times are often too long, with the nearest local area command for residents of Beresfield, Tarro and Woodberry being Maitland or Raymond Terrace – resulting in extended wait times for emergency police responses.

4. Notes that our local Police do excellent work, however need more resources to help reduce crime rates in areas such as Beresfield, Tarro and Woodberry.
5. Calls on the NSW Government and Opposition to:
 - a. Make Beresfield Police Station a full time Police Station, and;
 - b. Increase Police presence and patrols in Beresfield and surrounding areas, in consultation with the local community.
6. Writes to the Police Minister, the Hon. Paul Toole MP, the Premier the Hon. Dominic Perrottet MP and the Leader of the Opposition, Chris Minns MP and the Member for Wallsend, Sonia Hornery MP informing them of the passage of this motion.

AMENDMENT

Moved by Cr Adamczyk, seconded by Cr Richardson

1. Notes the neglect of Beresfield by the Liberal Government over the last twelve years. The lack of a full time police station in Beresfield is indicative of the Liberal's neglect of policing in Newcastle, and across the state of New South Wales.
2. Acknowledges the work of Sonia Hornery MP, the State Member for Wallsend, and her long campaign for a 24/7 police station at Beresfield, including a petition and multiple Notices of Motion to the New South Wales State Parliament.
3. Calls on Callum Pull, Liberal Candidate for Wallsend, to commit to making Beresfield Police Station a full time Police Station ahead of the March 2023 state election.
4. Writes to Callum Pull, Dominic Perrottet's Liberal Candidate for Wallsend, the Premier the Hon. Dominic Perrottet MP, the Police Minister the Hon. Paul Toole MP, the Leader of the Opposition Chris Minns MP, and the Member for Wallsend Sonia Hornery MP, informing them of the passage of this motion.

Councillor Pull raised a point of order that the amendment be a substantive foreshadowed motion.

The Lord Mayor upheld the point of order.

The motion moved by Councillor Pull, seconded by Councillor Barrie, was put to the meeting.

For the Motion: Councillors Barrie, Church, Mackenzie, McCabe, Pull and Wark.

Against the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Clausen, Duncan, Richardson, Winney-Baartz and Wood.

Defeated

As the time was nearing 10.00pm, Councillor Clausen moved the following procedural motion.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Pull

To extend the meeting until conclusion of business.

Carried

The foreshadowed motion moved by Councillor Adamczyk, seconded by Councillor Richardson became the motion and was put to the meeting.

MOTION

Moved by Cr Adamczyk, seconded by Cr Richardson

1. Notes the neglect of Beresfield by the Liberal Government over the last twelve years. The lack of a full time police station in Beresfield is indicative of the Liberal's neglect of policing in Newcastle, and across the state of New South Wales.
2. Acknowledges the work of Sonia Hornery MP, the State Member for Wallsend, and her long campaign for a 24/7 police station at Beresfield, including a petition and multiple Notices of Motion to the New South Wales State Parliament.
3. Calls on Callum Pull, Liberal Candidate for Wallsend, to commit to making Beresfield Police Station a full time Police Station ahead of the March 2023 state election.
4. Writes to Callum Pull, Dominic Perrottet's Liberal Candidate for Wallsend, the Premier the Hon. Dominic Perrotet MP, the Police Minister the Hon. Paul Toole MP, the Leader of the Opposition Chris Minns MP, and the Member for Wallsend Sonia Hornery MP, informing them of the passage of this motion.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Church, Clausen, Duncan, Mackenzie, McCabe, Richardson, Winney-Baartz and Wood.

Against the Motion: Councillors Pull, Barrie and Wark.

Carried

9.3. NOM - ADDRESSING PROBLEM GAMBLING AND MONEY LAUNDERING IN NEW SOUTH WALES

MOTION

Moved by Cr Pull, seconded by Cr Barrie

City of Newcastle

1. Notes that 3.8 per cent of all adults in NSW are either problem gamblers or at risk, and together they represent up to 75 per cent of electronic gaming machine spending.
2. Notes that with more than 86,000 gaming machines, NSW has more gaming machines than any other place in the world aside from the US State of Nevada.
3. Notes that around \$95 billion is gambled through gaming machines across NSW each year, including billions in proceeds of crime.
4. The CEO write to the Premier – the Hon. Dominic Perrottet MP and the Leader of the Opposition, Chris Minns MP, calling on them to:
 - a. Take immediate action to reduce the harm caused by the proliferation of gambling machines including by:
 - i. Introducing a mandatory cashless gaming card scheme.
 - ii. Establishing a state-wide exclusion register with management and oversight that is independent of the gambling industry.
 - iii. Restoring the right of councils to make submissions to, and appeal decisions by, the Independent Liquor and Gaming Authority about gaming machines in their local government area.

AMENDMENT

Moved by Cr McCabe, seconded by Cr Mackenzie

That the following policies are added to the measures in 4a:

- Phasing out poker machines from pubs over 5 years and clubs over 10 and introduce a “pokies super tax” to be reinvested in communities most impacted by gambling harm
- Refusing to sign any agreements between the gambling industry that prevent meaningful gambling reform
- A mandatory state-wide cashless gambling card
- A curfew on gambling machines operating between midnight and midday
- \$1 bet limits per spin on gambling machines
- Mandatory player-set time and spending limits for gambling machines and online gambling
- A prohibition on loyalty programs in gambling venues
- A ban on poker machine features designed to be addictive such as flashing lights and sounds, and losses disguised as wins

- Amendments to the Electoral Funding laws to prohibit political donations from clubs engaged in wagering, betting or other gambling
- A prohibition on political parties, elected representatives and candidates from owning, leasing or receiving any income from poker machines or receiving income from any other form of gambling

For the Amendment: Councillors Mackenzie and McCabe.

Against the Amendment: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Church, Clausen, Duncan, Pull, Richardson, Wark, Winney-Bartz and Wood.

Defeated

AMENDMENT

Moved by Cr Clausen, seconded by Cr Richardson

That Council:

1. Writes to both the NSW Premier and NSW Opposition Leader stating that any reforms relating to electronic gaming machines must be evidenced based.
2. Notes that the NSW Government is considering trials of cashless gaming at four venues, with one trial already underway in the Newcastle local government area.
3. Notes that the cashless gaming card trial occurring at Wests Newcastle allows poker machine users to set bet limits, set loss limits, set play limits, set frequency of play limits, as well as access real-time spending data, take a break or self-exclude from gambling and access other responsible gambling tools and services.
4. Notes that the findings of a study into cashless gaming cards by the Victorian Responsible Gambling Foundation in 2020 found no evidence to suggest that the use of cashless forms of gambling provides any consumer or harm-reduction benefits.
5. Notes that existing NSW legislation prevents electronic gaming machines from accepting credit cards, and further that cash withdrawals from credit cards using EFTPOS and ATM facilities is not possible at registered clubs and licenced hotels.
6. Notes that an inquiry by the Federal Government is currently reviewing online gambling and its impacts on those experiencing gambling harm.
7. Writes to the Chair of the House of Representatives Standing Committee on Social Policy and Legal Affairs asking that the inquiry specifically review the continued use of credit card funded online gambling.

8. Calls on both the NSW Premier and NSW Opposition Leaders to restore the right of councils to make submissions to, and appeal decisions by, the Independent Liquor and Gaming Authority about gaming machines in their local government area.

Councillor Pull raised a point of order that the amendment be a substantive foreshadowed motion.

The Lord Mayor did not uphold the point of order.

The amendment became the motion and was put to the meeting.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Barrie, Clausen, Duncan, McCabe, Richardson, Wark, Winney-Baartz and Wood.

Against the Motion: Councillors Church, Mackenzie and Pull.

Carried

9.4. NOM - CALLING FOR FUNDING FOR WALLSEND FLOOD MITIGATION

Councillor Clausen left the Chamber for discussion on the item.

MOTION

Moved by Cr Pull, seconded by Cr Barrie

That City of Newcastle

1. Notes than in June 2022 Council unanimously carried a resolution seeking funding for Hunter Water Corporation to widen the canal in Wallsend.
2. Notes that CN received no response to its correspondence from the NSW Treasurer, NSW Minister for Lands and Water or the Shadow Treasurer.
3. Urgently writes to the NSW Treasurer, the Hon. Matt Kean MP, the NSW Minister for Lands and Water the Hon. Kevin Anderson MP, the Leader of the Opposition Chris Minns MP, and the Member for Wallsend Sonia Hornery MP, once again seeking their commitment to fund future flood mitigation works in Wallsend.

AMENDMENT

Moved by Cr Adamczyk, seconded by Cr Richardson

1. Notes that in June 2022, Council unanimously carried an Amendment to Cr Pull's NOM '15 Years Since Wallsend Flooding', being a resolution moved by Cr Duncan and Cr Richardson, that City of Newcastle.
 - a. Notes that no funding was allocated in the NSW Government's recent budget for flood mitigation works in Wallsend, and

- b. Writes to the NSW Treasurer the Hon. Matt Kean MP, and the NSW Minister for Lands and Water the Hon. Kevin Anderson MP, once again seeking funding for Hunter Water to widen the canal in Wallsend.
 - c. Also correspond with the NSW Opposition, specifically the Shadow Treasurer, seeking its commitment to future funding for flood mitigation works.
2. Notes that CN received no response to its correspondence from the NSW Treasurer, NSW Minister for Lands and Water or the Shadow Treasurer.
3. Urgently calls on Callum Pull, Dominic Perrottet's Liberal Candidate for the State seat of Wallsend, to commit to funding for future flood mitigation works including the widening of the Wallsend stormwater channel.
4. Urgently writes to the NSW Treasurer the Hon. Matt Kean MP, and the NSW Minister for Lands and Water the Hon. Kevin Anderson MP, the Leader of the Opposition Chirs Minns MP, and the Member for Wallsend Sonia Hornery MP, advising them of this resolution.

The mover and seconder accepted the amendment.

The motion moved by Councillor Pull, seconded by Councillor Barrie, as amended was put to the meeting.

Carried unanimously

Councillor Clausen returned to the Chamber at the conclusion of the item.

9.5. NOM SHARK MANAGEMENT PROGRAM IN NEWCASTLE

MOTION

Moved by Cr McCabe, seconded by Cr Mackenzie

That the City of Newcastle:

1. Sends the letter at Attachment A to the NSW Minister for Agriculture requesting that shark nets be permanently removed from Newcastle's local government area (LGA) in 2023 and replaced with additional modern shark mitigation measures that effectively protect beach users without damaging marine wildlife.
2. Endorses the response to the NSW Department of Industries (DPI) survey regarding the NSW Shark Management Program attached to this motion as Attachment B.

AMENDMENT

Moved by Cr Duncan, seconded by Cr Barrie

That Council:

1. Notes its previous resolved positions that support a modernisation of shark bite risk mitigation including the removal of shark nets in favour of increased drone surveillance, Shark Management Alert in Real Time [SMART] drumlines, and trials of additional non-lethal measures.
2. Acknowledges that this is an effort to increase protection for beachgoers from shark interactions while minimising harm to sharks and other marine animals. That shark nets not be removed until other measures are in place.
3. Notes that shark mitigation is the responsibility of the NSW State Government, not Council. CN has not undertaken broad community consultation on this matter.
4. Notes that submissions on the DPI survey closed on 19 February. Delegates to the CEO to prepare and lodge appropriate submissions to future DPI consultation regarding shark management.

Carried

The amendment became the motion and was put to the meeting.

Carried

9.6. NOM - FUNDING FOR MINMI ROAD UPGRADES

MOTION

Moved by Cr Pull, seconded by Cr Barrie

That City of Newcastle

1. Notes the important long-standing issues along the Western Corridor roads of Minmi Road and Longworth Avenue, and upgrades required to alleviate traffic congestion for local residents in Wallsend, Maryland, Fletcher and Minmi;
2. Notes that Minmi Road and Longworth Avenue are vital regional road connections from the local suburban roads to the State roads as part of Newcastle's broader road network, particularly in the western suburbs where congestion causes much frustration for many local families every day;
3. Notes our ongoing commitment to and investment in upgrading Minmi Road and Longworth Avenue including \$26 million allocated to upgrade traffic pinch points and active transport connections along Minmi Road, including duplicating large sections of the road.
4. Notes that in February 2023, City of Newcastle (CN) received \$7.61million as part of Round 3 of the NSW Government's Accelerated Infrastructure Fund, for road widening and renewal of Longworth Avenue and Minmi Road from Maryland Drive (east) to Summerhill Rd which will help to deliver these first stages of essential upgrades and will help to alleviate traffic congestion;

5. Notes that CN's recent application to Transport for NSW for review of the road classification for Minmi Road and Longworth Avenue, from Local Road to Regional Road was unsuccessful, and that CN writes to the Minister for Regional Roads the Hon. Sam Faraway MLC seeking a review of this determination.
6. Writes to the Member for Wallsend, Sonia Hornery MP, the Minister for Regional Roads the Hon. Sam Faraway MLC, the Minister for Metropolitan Roads the Hon. Natalie Ward MLC, and the Leader of the Opposition Chris Minns MP, seeking a commitment from both parties to work constructively with CN to fund these much needed upgrades.
7. Further noting in our correspondence the long-standing issues around the Newcastle LGA's inconsistent classification, and resulting exclusion from grants programs, once again calling on both the Government and Opposition to resolve this issue so that residents in the Newcastle LGA are not unfairly missing out on critical infrastructure funding.

AMENDMENT

Moved by Cr Adamczyk, seconded by Cr Richardson

Amend point 2:

- a. Notes that Minmi Road and Longworth Avenue are vital road connections between local, regional, and State roads in Newcastle's road network, and to the western corridor suburbs of Wallsend, Minmi, Fletcher, and Maryland, and
- b. Notes the ongoing advocacy of the City of Newcastle across many years and including in this term of Council, in advocating to the NSW State Government to address the longstanding issues of inadequate road infrastructure along Minmi Road, including in:
 - i. The resolution passed unanimously at the Ordinary Council meeting of October 25 2022, moved by Councillor Adamczyk and Deputy Lord Mayor Councillor Clausen, to support the Transport for NSW Hunter Regional Transport Plan contingent on providing a commitment to fund and support the necessary upgrades required to alleviate traffic congestion on this regionally-significant road for current and future local residents living, working, and travelling in Wallsend, Maryland, Fletcher, and Minmi, and
 - ii. Advocacy to the Joint Regional Planning Panel on December 5 2022 by Councillor Adamczyk, CEO Jeremy Bath, Interim Executive Director Waste Alissa Jones, for development at Minmi to proceed only following the necessary road infrastructure upgrades required to support and to alleviate existing and projected traffic congestion for current and future workers, families, and travellers in Wallsend, Minmi, Fletcher, and Maryland.

Amend point 3:

- Notes Labor Lord Mayor Nuatali Nelmes' Lord Mayoral Minute from February 22 2022 to deliver the \$26 million funding needed to upgrade Minmi Road and Longworth Avenue between Newcastle Road to Summerhill Road to address the issues of traffic congestion for the benefit of families, workers, and travellers in Wallsend, Maryland, Fletcher, and Minmi.

Amend point 4:

- a. Notes with appreciation, that in February 2023, City of Newcastle received \$7.61 million in Round 3 of the NSW Government's Accelerated Infrastructure Fund to support CN's programme of road widening and renewal of Longworth Avenue and Maryland Drive (east) to Summerhill Road which will help to deliver the first stages of essential upgrades to help to alleviate traffic congestion, and
- b. Calls on Callum Pull, Dominic Perrottet's Liberal Candidate for Wallsend, to secure a commitment for funding for further necessary essential upgrades.

Amend point 6:

- a. Calls on Callum Pull, Dominic Perrottet's Liberal Candidate for Wallsend, to secure a commitment to re-classify Minmi Road to a Regional Road.

Amend point 7:

- a. Notes Labor Lord Mayor Nuatali Nelmes' Lord Mayor Minute from June 2022 - referring to the content of previous Lord Mayoral Minutes, subsequent submission to the Public Accountability Committee's Inquiry into the integrity, efficacy, and value for money of the NSW Government grant programs and commissioned Background Issues Paper by Hunter Research Foundation Centre regarding City of Newcastle's classification and eligibility for government funding to the estimated sum of \$170.9 million per year - regarding unfair grant program exclusion, and writing to the Minister for Local Government Wendy Tuckerman to address this issue, and
- b. Further noting our long-standing advocacy to address the inconsistent classification of the City of Newcastle, and resulting exclusion from grants programs, again calls on the Premier for NSW the Hon. Dominic Perrottet MP, and the leader of the Opposition Chris Minns MP, to make a commitment to resolve this issue so residents in Newcastle don't continue to unfairly miss out on critical infrastructure funding.

Add point 8:

- Writes to the Member for Wallsend Sonia Hornery MP, the Minister for Regional Roads the Hon. Sam Faraway MP, the Minister for Metropolitan Roads the Hon. Natalie Ward MP, the Leader of the Opposition Chris Minns MP, advising them of this resolution.

The mover and seconder of the motion accepted Councillor Adamczyk's amendment to the motion with an addition to point 8 to read as follows:

- Writes to the Member for Wallsend Sonia Hornery MP, the Minister for Regional Roads the Hon. Sam Faraway MP, the Minister for Metropolitan Roads the Hon. Natalie Ward MP, the Leader of the Opposition Chris Minns MP, advising them of this resolution and seeking a commitment for funding for future upgrades and to reclassify Minim Rd as a regional road.

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

Carried unanimously

9.7. NOM - BAR BEACH CAR PARK EARLIER CLOSURE OF GATES AT 9.00PM

MOTION

Moved by Cr Barrie, seconded by Cr Wark

That City of Newcastle:

1. Close the Bar Beach Car Park on Memorial Drive at 9.00pm to aim to reduce the anti-social behaviour that has been disrupting resident's lives since daylight savings time was introduced in 2022.

In moving the amendment, Councillor Clausen stated he was moving the officer's recommendation as outlined in the business papers with a new point 1.

AMENDMENT

Moved by Cr Clausen, seconded by Cr Richardson

That Council:

1. Supports Cooks Hill surf lifesaving club with their activities along with other businesses in the area.
2. Notes the concern of some residents regarding late-night anti-social behaviour at the Bar Beach car park.
3. Notes that City of Newcastle ensures reasonable security measures are undertaken, by locking the gates to the car park at Bar Beach at 10pm, and requesting cars to vacate prior to this. This timing is in alignment with NSW EPA and Council policies and ensures consistency in approach to noise across the Newcastle LGA.
4. Notes that the NSW Police are the responsible authority for traffic related offences and that a first offence for hooning behaviour can attract a maximum court-imposed fine of \$3,300 with a second or subsequent offence of \$3,300 and 9 months imprisonment. A 12-month disqualification period can also apply.
5. Requests that CN staff undertake a review of signage in the Bar Beach car park to ensure both size and messaging clearly communicates the car park closing times and reminds motorists that any hooning behaviour can attract a fine of up to \$3,300.

For the Amendment: Lord Mayor, Cr Nelmes and Councillors Adamczyk, Church, Clausen, Duncan, Pull, Richardson, Winney-Baartz and Wood.

Against the Amendment: Councillors Barrie and Wark.

Carried

The amendment became the motion and was put to the meeting.

Carried

9.8. NOM - PEP11 AND OFFSHORE COAL, OIL AND GAS EXPLORATION AND MINING

MOTION

Moved by Cr Mackenzie, seconded by Cr McCabe

That the City of Newcastle:

- Reaffirms its opposition to both offshore exploration and mining activity due to unacceptable environmental impacts, climate impacts, and negative economic impacts on the recreational and commercial fishing and tourism industries.
- Notes that this position has been reaffirmed by motions of this Council in February 2018, May 2019, November 2020 and February 2021.
- Notes that the Commonwealth-New South Wales Offshore Petroleum Joint Authority refused to extend the PEP-11 license on 26 March 2022.
- Notes that Federal Court of Australia quashed that decision and agreed on 14 February 2023 to the consent position of the Federal Government and the proponent, which returns the PEP-11 application to the Joint Authority for a new decision.
- Writes to the Minister for Resources, the Hon Madeleine King MP reiterating City of Newcastle's strong and decades-long opposition to offshore oil and gas mining off the coast of Newcastle, and to the future extension of the PEP11 gas exploration licence.

Carried unanimously

LATE ITEMS OF BUSINESS

8.18. TENDER REPORT - PASSMORE OVAL - CONSTRUCTION OF NEW GRANDSTAND - CONTRACT 2023/058T

The Lord Mayor advised that she had been informed of a late item of business and requested the Chief Executive Officer outline the reasons for Council to consider the late item of business.

The Chief Executive Officer (CEO) advised that the construction of a new grandstand at Passmore Oval contained significant funding with the NSW Office of Sport having provided \$1M of grant funding towards the project. The CEO stated that one of the conditions of the grant funding was that the project must be completed by 30 June 2023 and if Council did not award a contract for another month, Council would not be in a position to construct the grandstand by 30 June and would lose a significant portion of the million dollar grant funding.

PROCEDURAL MOTION

Moved by Cr Duncan, seconded by Cr Adamczyk

That the matter of Tender Report – Passmore Oval – Construction of new Grandstand – Contract 2023/058T be heard as a late item of business in accordance with the Code of Meeting Practice and as outlined by the Chief Executive Officer.

Carried unanimously

MOTION

Moved by Cr Winney-Baartz, seconded by Cr Mackenzie

The recommendation at Attachment A

That Council:

1. Accept the tender of Cerak Constructions Pty Ltd in the amount of \$2,159,919 (excluding GST) for the Passmore Oval – Construction of New Grandstand for Contract No. 2023/058T.
2. This confidential report relating to the matters specified in s10A(2)(d) of the *Local Government Act 1993* be treated as confidential and remain confidential until the Chief Executive Officer determines otherwise.

Carried

Councillor Clausen gave notice of an additional late item of business.

8.19. WICKHAM PDP AND BULLOCK ISLAND RAIL CORRIDOR

The Lord Mayor requested Councillor Clausen to outline the reasons for Council to consider the late item of business.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Duncan

That Council consider the item, Wickham PDP and Bullock Island Rail Corridor as a late item of business and is a matter of urgency because it relates to a matter that needs to be raised before the NSW State Election and this is the final opportunity for Council to do that.

Carried

MOTION

Moved by Cr Clausen, seconded by Cr Winney-Baartz

That Council:

1. Notes the leadership role that CN has played alongside the Wickham community in the development and adoption of the Wickham Masterplan in 2017, which has informed the development of the Wickham Public Domain Plan (PDP) which is currently on public exhibition until 22 March 2023.
2. Notes that the draft Wickham PDP reflects the long-term CN and community vision to open the former Bullock Island Rail Corridor (owned by the NSW Government's TAHE), providing the Wickham community with direct pedestrian access to Wickham Park and onto Hamilton, including unanimous resolutions from Crs Clausen and White and correspondence to the NSW Government in 2021.
3. Reiterates the importance of the Wickham PDP in providing a clear and consistent framework for both City of Newcastle and the development sector to implement as new development continues to occur in Wickham. Notes that the development of the Plan does not stop the continued delivery of improvements in Wickham by CN, including pedestrian improvements and pram ramps.
4. Welcomes the commitment from Shadow Minister for Transport, Jo Haylen MP, and Member for Newcastle, Tim Crakanthrop MP, to opening the Bullock Island Rail Corridor for community active transport use, funded by the NSW Government, as part of the NSW Opposition's proposed Active Transport Infrastructure Fund.
5. Welcomes the commitment of the NSW Greens to \$30 million over four years to fund the Newcastle Council to implement its "Safe Cycleways Network" to close the gap and make cycling more accessible including:
 - \$8.5 million commitment to the for the construction of the Richmond Vale Rail Trail sections from Shortland to Hexham, and from Hexham through to Pambalong Reserve, Minmi and Fletcher.
 - \$13 million for design and construction of a safe cycleway from Parkway Avenue to Honeysuckle, as part of the National Park Cycleway, providing crucial north-south linkages through the inner city.
 - A further \$800,000 is committed for the design and construction of a safe cycleway treatment on Station Street in Wickham, which would connect the Newcastle Interchange to Wickham Park and the Bullock Island Rail Corridor to provide first and last kilometer connection to and from the Newcastle Interchange.
6. Writes to the Premier and Minister for Active Transport, reiterating the importance of resolving this matter, and asking them to join with the NSW Labor Opposition in committing to funding the transfer and upgrade of this TAHE land as a vital active transport connection.

Carried unanimously

At the conclusion of the meeting the Chief Executive Officer reported the resolution of Late Item Tender Report – Passmore Oval – Construction of new Grandstand – Contract 2023/058T.

The meeting concluded at 11.53pm.

7. LORD MAYORAL MINUTE

8. REPORTS

8.1. PUBLIC EXHIBITION OF DRAFT DELIVERING NEWCASTLE 2040

REPORT BY: CORPORATE SERVICES

CONTACT: EXECUTIVE DIRECTOR CORPORATE SERVICES AND
CHIEF FINANCIAL OFFICER / EXECUTIVE MANAGER
FINANCE, PROPERTY AND PERFORMANCE AND DEPUTY
CFO

PURPOSE

To place the draft 2023-2024 *Delivering Newcastle 2040*, and draft 2023-2024 Fees and Charges, on public exhibition for a period of 28 days.

RECOMMENDATION

That Council:

- 1 Resolves to publicly exhibit the draft 2023-2024 *Delivering Newcastle 2040* as at **Attachment A** and draft 2023-2024 Fees and Charges as at **Attachment B** for 28 days prior to the final consideration by Council.

KEY ISSUES

- 2 Section 404 of the Local Government Act 1993 (Act) requires City of Newcastle (CN) to have a Delivery Program (DP) describing how it will achieve the objectives in its Council adopted Community Strategic Plan. An Operational Plan (OP) is adopted each financial year outlining the planned activities and services to be delivered. The DP and OP are combined into a document known as *Delivering Newcastle 2040*.
- 3 *Delivering Newcastle 2040* turns CN's shared vision for achieving a liveable, sustainable, inclusive global city as set out in *Newcastle 2040*, into action.
- 4 CN has continued its commitment to financial sustainability in *Delivering Newcastle 2040* by maintaining a net operating surplus, renewing and maintaining assets in a sustainable range and utilising evidence-based decision-making to underpin its financial governance framework.
- 5 *Delivering Newcastle 2040* proposes a draft budget for 2023-24 which will deliver an operating \$6.9m surplus, providing the financial capacity to maintain services and meet community commitments, as well as a small buffer to respond to unexpected circumstances (e.g. emergencies) during the year.

- 6 Highlights of *Delivering Newcastle 2040* include replacement of the Boscawen Street Bridge to reduce the risk of flooding in Wallsend as well as \$6.9 million towards urban and city centre revitalisation including Hunter Street Mall works and Local Centre upgrades at New Lambton, \$7.5 million towards citywide road resurfacing, \$5 million towards Foreshore Park playground and Gregson Park playground, \$22.5 million towards the expansion of Newcastle Art Gallery as well as continued work to increase our capabilities for recycling and reuse of waste products. 2023/24 will also see CN continue to deliver initiatives from the Cycling Plan, Parking Plan, Climate Action Plan and Economic Development Strategy.

FINANCIAL IMPACT

- 7 The draft 2023-2024 budget has been developed in accordance with CN's Long Term Financial Plan (LTFP) and our objective of delivering a net operating surplus whilst maintaining services for the community.
- 8 The draft operating result before capital grants and contributions is forecast to be \$6.9m in 2023-24, compared to a surplus before capital grants and contributions of \$1.3m in 2022-23.

	2022/23	2023/24
	\$ '000	\$ '000
Income from Continuing Operations		
Rates and annual charges	208,307	219,236
User charges and fees	102,132	117,640
Interest and investment income	3,359	9,315
Other revenues	10,356	9,341
Grants and contributions provided for operating purposes	16,687	21,220
Grants and contributions provided for capital purposes	33,762	38,626
Other income	6,039	7,089
Total Income from Continuing Operations	380,642	422,467
Expenses from Continuing Operations		
Employee benefits and on-costs	125,271	131,648
Borrowing costs	3,773	4,039
Materials and services	104,359	112,483
Depreciation and amortisation	63,407	69,601
Other expenses	44,650	52,147
Net losses from the disposal of assets	4,149	7,002
Total Expenses from Continuing Operations	345,609	376,920
Operating result from continuing operations	35,033	45,547
Net operating result for the year before grants and contributions provided for capital purposes	1,271	6,921

- 9 CN has budgeted to receive \$38.6m in grants and contributions for capital purposes in 2023/24, compared to \$33.8m this year. The sources of capital grants include \$15.1m to facilitate expansion of the Art Gallery, \$9.2m from Developer Contributions, \$6.5m in infrastructure dedications, \$4.2m in transport upgrades. \$2.2m is expected to be received for recreation and culture projects and \$1.5m

to support waste management projects. Before accounting for these capital grants and contributions, CN's draft operating result from continuing operations for 2023/24 is a surplus of \$45.5m compared to \$35m in 2022/23.

- 10 The draft 2023/24 works program is \$137.2m. This includes \$41.2m to be invested in four City Shaping projects, expansion of the Newcastle Art Gallery, remediation of the former landfill at Sandgate, and construction of waste diversion facilities at Summerhill Waste Management Centre. CN is also investing in new and renewal projects across its on-going programs of work. \$22.3m is budgeted to be spent on our Libraries, parks, aquatic centres and civic sites. \$9.2m will be invested revitalising our Coast, City and Urban centres. \$13.5m will be used to upgrade Blackbutt and support environment sustainability. \$6.4m will be spent improving our information technology and systems. \$26.5m will be invested in roads, bridges, footpaths and community buildings. \$4.4m will support our waste management. \$3.8m will be used to renew aging fleet items. \$5m will be invested in cycleways and transport options. \$5m will be used to improve our stormwater network. Key projects from these programs are outlined under the four Newcastle 2040 themes and a comprehensive list can be found within the Newcastle 2040 Appendix.
- 11 CN generates cash from operating activities to fund the works program and community initiatives. It is forecast that \$102m will be generated from CN's operations in 2023-2024.

NEWCASTLE 2040 ALIGNMENT

- 12 *Delivering Newcastle 2040* delivers against the four themes in *Newcastle 2040*.
- 13 This report aligns to all priorities in *Newcastle 2040*, but in particular:

Achieving Together

- 4.1 Inclusive and Integrated Planning
- 4.2 Trust and transparency.

IMPLEMENTATION PLAN/IMPLICATIONS

- 14 Council must adopt *Delivering Newcastle 2040* and Fees and Charges by 30 June 2023 following public exhibition. The draft *Delivering Newcastle 2040* and draft Fees and Charges will be exhibited from 30 March - 27 April 2023.

RISK ASSESSMENT AND MITIGATION

- 15 *Delivering Newcastle 2040* is built on a number of assumptions, including some outside of CN's control, which may impact outcomes, including:
 - i) Government grant funding;
 - ii) Investment returns;
 - iii) External contributions (i.e. local infrastructure contributions);

- iv) State Government cost shifting;
 - v) Monetary and fiscal policy (i.e. interest rates, taxation);
 - vi) Legislative changes;
 - vii) Crisis events or disasters (storms, floods, pandemics).
- 16 *Delivering Newcastle 2040* will be monitored against financial performance indicators with adjustments implemented through the quarterly budget review process.

RELATED PREVIOUS DECISIONS

- 17 Council adopted *Newcastle 2040* at the Ordinary Council Meeting on 25 January 2022.
- 18 Council adopted *Delivering Newcastle 2040 (2022-23)* at the Ordinary Council Meeting on 28 June 2022.

CONSULTATION

- 19 Consultation with the elected Council included workshops on 28 January 2023 and 14 March 2023.
- 20 Community feedback will be considered as part of the public exhibition process.

BACKGROUND

- 21 The Delivery Program is required to be prepared every four years following a local government general election. The Operational Plan is subsequently required to be reviewed annually and adopted by 30 June of the relevant year.

OPTIONS

Option 1

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

Option 2

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

REFERENCES

ATTACHMENTS

Attachment A: Draft 2023-2024 Delivering Newcastle 2040

Attachment B: Draft 2023-2024 Fees and Charges

Attachments A – B distributed under separate cover

8.2. ADOPTION OF SPECIAL BUSINESS RATE EXPENDITURE POLICY

REPORT BY: CREATIVE & COMMUNITY SERVICES
CONTACT: ACTING EXECUTIVE DIRECTOR CREATIVE & COMMUNITY SERVICES / ACTING EXECUTIVE MANAGER MEDIA ENGAGEMENT ECONOMY & CORPORATE AFFAIRS

PURPOSE

To adopt the updated Special Business Rate Expenditure Policy.

RECOMMENDATION

That Council:

- 1 Adopts the Special Business Rate Expenditure Policy at **Attachment A**.
- 2 Receives the Special Business Rate Expenditure - Public Exhibition Report at **Attachment B**.

KEY ISSUES

- 3 Policies are key control documents for City of Newcastle (CN) that mitigate risk. They are critical to supporting effective and evidence-based decision making and ensure CN complies with relevant legislation and guidelines. Policies are most effective when they are regularly reviewed and updated.
- 4 The Special Business Rate Expenditure Policy (Policy) provides a framework for CN to manage the Special Business Rate (SBR) program.
- 5 The updated Policy was presented to Council in October 2022 and subsequently placed on public exhibition for one month.
- 6 The majority (76%) of feedback received during the public exhibition period was positive of both the SBR program and the Policy, with 16% unsupportive, and 8% neutral.
- 7 The draft Policy was updated and clarified to reflect feedback received during public exhibition regarding business involvement in decision making around SBR funding recipients and more detailed reporting of SBR funding allocations.
- 8 Feedback identified a number of opportunities for improvement to the SBR Program:
 - i) regular and ongoing consultation with all stakeholders to enable input into decision making, measuring satisfaction with the program, and individual projects funded by the SBR
 - ii) opportunities for acknowledging businesses who contribute SBR funding via the levy
 - iii) support collaboration between businesses and creative industries.

FINANCIAL IMPACT

- 9 Special [business] rates are levied in accordance with section 495 of the Local Governance Act 1933 (the Act) and expended in accordance with section 409 of the Act. The Policy provides guidance for the allocation of the funds only. As such there is no financial impact in adopting the Policy.

NEWCASTLE 2040 ALIGNMENT

- 10 Adopting this Policy is consistent with the following Newcastle 2040 priorities and objectives:

Creative Newcastle

3.1 Vibrant and creative City

- 3.1.1 Vibrant events
- 3.1.2 Bold and challenging programs
- 3.1.3 Tourism and visitor economy
- 3.1.4 Vibrant night-time economy

3.2 Opportunities in jobs, learning and innovation

- 3.2.1 Inclusive opportunities
- 3.2.2 Skilled people and businesses
- 3.2.3 Innovative people and business

3.3 Celebrating culture

- 3.3.1 Nature cultural and creative practitioners
- 3.3.2 Promote Newcastle as a major arts and cultural destination
- 3.3.3 Culture in everyday life

3.4 City-shaping partnerships

- 3.4.1 Optimise city opportunities

Achieving Together

4.2 Trust and Transparency

- 4.2.3 Trusted customer experience

IMPLEMENTATION PLAN/IMPLICATIONS

- 11 The Policy will be published on CN's website.
- 12 The Policy will inform future SBR expenditure, including expression of interest rounds.

RISK ASSESSMENT AND MITIGATION

- 13 The Policy provides a framework to mitigate risk and ensure CN meets requirements of the Local Government Act 1993.

RELATED PREVIOUS DECISIONS

- 14 At the Ordinary Council Meeting held on 25 October 2022 Council resolved to place the SBR Expenditure Policy on public exhibition and receive a report on community submissions prior to adoption.

CONSULTATION

- 15 The revised draft Policy was placed on public exhibition from 4 November to 5 December 2022. The community was invited to provide feedback via an online form or by providing written submissions to CN (via mail or email).
- 16 CN undertook a campaign to encourage feedback on the draft SBR Expenditure Policy using traditional and digital media, and direct contact through the business community. Further details are available in **Attachment B**. Overall, 37 submissions were made.

BACKGROUND

- 17 CN's role is to collect the SBR funds and manage the operational framework for the local Business Improvement Association network, and to ensure all funds are expended in accordance with the requirements of the Local Government Act 1993.
- 18 The SBR is levied on annual basis on select commercial property owners, having been approved by the Department of Local Government and Co-operatives (now Office of Local Government NSW) on 11 December 1991, and first levied from 1 January 1992.

OPTIONS

Option 1

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

Option 2

- 20 Council resolves not to adopt the Policy. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: Special Business Rate Expenditure Policy (tracked changes)

Attachment B: Special Business Rate Expenditure Policy – Public Exhibition Report

Attachments A – B distributed under separate cover

8.3. DARBY STREET STREETS AS SHARED SPACES – RETENTION OF INFRASTRUCTURE

REPORT BY: CITY INFRASTRUCTURE
CONTACT: EXECUTIVE DIRECTOR CITY INFRASTRUCTURE /
EXECUTIVE MANAGER PROJECT MANAGEMENT OFFICE

PURPOSE

To approve the retention of infrastructure installed for the Darby Street – Streets as Shared Spaces Trial (Trial) between Bull and Queen Streets, Cooks Hill.

RECOMMENDATION

That Council:

- 1 Adopts the existing traffic calming infrastructure and outdoor dining deck on Darby Street between Bull and Queen Streets as shown at **Attachment A**, and exhibits concept plans for upgraded traffic calming infrastructure at the southern and northern entries to the 30km/h zone for public exhibition, as shown at **Attachments B and C**.

KEY ISSUES

- 2 The Trial ran from 29 September 2022 to 28 February 2023. As part of the Trial CN undertook extensive community consultation and data collection.
- 3 The Trial resulted in positive economic results, with businesses in the precinct (as a whole) experiencing their highest ever trading revenue levels, as shown at **Attachment D**.
- 4 Foot traffic in Darby Street has increased since commencement of the Trial, with visitation in October to December 2022 up 18% compared to July to September 2022. Compared to the same period in (COVID-affected) 2021, visitation numbers were up by over 67%.
- 5 Traffic count data was collected in July and August 2022 before the Trial commenced, and in November 2022 during the Trial period. Results indicated the following:
 - i) the average daily number of cyclists increased from 121 before the Trial to 137 during the Trial;
 - ii) North of Council Street the 85th percentile speed decreased from 43km/h before the Trial to 30km/h during the Trial;
 - iii) South of Bull Street the 85th percentile speed remained consistent (46km/h before the trial vs 47km/h during the Trial). Site specific amendments to the

infrastructure are proposed to address vehicle speed at the southern end of the Trial area;

- iv) average road vehicle volumes during weekday peak hour remained unchanged before and during the Trial period with 428 and 429 vehicles per hour respectively; and
 - v) average road vehicle volumes during weekend peak hour decreased from 414 vehicles per hour before the Trial to 387 vehicles per hour during the Trial period.
- 6 During the Trial, City of Newcastle (CN) received feedback from residents of Darby Street in relation to noise from adjacent speed cushions. This is attributed to vehicle speeds which remained high south of Bull Street. Should the Trial infrastructure be retained, this issue will be addressed with upgraded traffic calming infrastructure at the southern entry to the 30km/h zone to reduce vehicle speeds.
- 7 During the Trial community members provided cyclist safety feedback in relation to concrete islands at the northern entry to the 30km/h zone. This was addressed during the Trial period with temporary signage on the approach. If the 30km/h zone is to be retained, the northern entry to the 30km/h zone requires revision. These changes must consider the planned works within Darby Street related to the Newcastle Art Gallery expansion.
- 8 On Monday 20 February 2023, the Newcastle City Traffic Committee (NCTC) reviewed Trial outcomes. The summary results of consultation undertaken during the Trial is shown at **Attachment E**. NCTC gave in-principle support for:
- i) retaining the 30km/h zone on Darby Street, between 59 Darby Street (Queen Street intersection) to 188 Darby Street (Bull Street intersection);
 - ii) the proposed upgrade to the southern entry of the 30km/h zone; and
 - iii) CN to provide further review on the proposed infrastructure at the northern extent of the area and update the proposal to NCTC.
- 9 Following the NCTC meeting of 20 February 2023, NCTC members were provided with an alternate proposal to move the northern 30km/h zone entry south of the Queen Street intersection. NCTC has provided in-principle support for the proposed upgrade to address the safety issues experienced by cyclists, enable the retention of the 30 km/h speed limit, and separate the project from future works planned north of Queen Street related to the Newcastle Art Gallery expansion.
- 10 Changes to parking were a key focus for business owners throughout the engagement. CN addressed this through the conversion of existing 8P Ticket spaces in the Queen Street off-street car park (at the rear of the City Library), to 2P free parking, as well as providing regular and monitored enforcement within the area. CN conducted a marketing campaign and provided businesses with a

social media tile to help advertise the location of the parking spaces as set out at **Attachment F**. At this time, it is proposed to maintain the existing parking arrangements, incorporating 2P free parking, until the end of the current Art Gallery Work Zone occupation in Queen Street.

- 11 Following the return of parking in Queen Street, restrictions in the car park will be proposed to provide 4P Ticket parking. This will provide longer term parking for visitors to the Civic Precinct and Darby Street, with access managed through maintaining metered parking to encourage consistent turn over. In addition, parking sensors are proposed to be installed along Darby Street to monitor usage and assist with turnover. Businesses in the area will be engaged with the changes before any implementation on site.

FINANCIAL IMPACT

- 12 The Trial was delivered in 2022/23 at an overall cost to CN of \$100,000, with a \$500,000 grant from the NSW Government.
- 13 The retention of the 30km/h zone requires upgrades to the northern and southern gateway entries to address the noted issues raised through the Trial. These works have been estimated to cost \$100,000.
- 14 If the Trial infrastructure is not retained, Darby Street will be returned to its previous condition at an approximate cost of \$11,000 (excluding removal of the pedestrian crossing and any ongoing storage fees).

NEWCASTLE 2040 ALIGNMENT

- 15 The retention of infrastructure installed for the Trial is consistent with the strategic directions of the Newcastle 2040 Community Strategic Plan as follows:

Liveable

- 1.1 Enriched neighbourhoods and places
 - 1.1.1 Great Spaces
 - 1.1.2 Well-designed spaces
- 1.2 Connected and Fair Communities
 - 1.2.1 Connected communities
 - 1.2.2 Inclusive communities
 - 1.2.3 Equitable communities
 - 1.2.4 Healthy communities
- 1.3 Safe, active and linked movement across the City of Newcastle
 - 1.3.1 Connected cycleways and pedestrian networks

Creative

- 3.1 Vibrant and creative City
 - 3.1.4 Vibrant night-time economy

Achieving together

- 4.3 Collaborative and innovative approach
 - 4.3.2 Innovation and continuous improvement
 - 4.3.3 Data-driven decision-making and insights

IMPLEMENTATION PLAN/IMPLICATIONS

- 16 Darby Street is a high priority for infrastructure renewal under CN's Local Centres Program. The Trial provided a valuable opportunity to generate lived experience of streetscape upgrades, and to research and investigate ways to improve aligning movement and place for better, safer, and healthier outcomes for the community. Data collected throughout the Trial will inform a potential future renewal of the Darby Street precinct.
- 17 The retention of the 30km/h zone requires upgrades to the northern and southern zone entries in the short term. Longer term upgrades to comply with pending Transport for New South Wales (TfNSW) guidelines for 30km/h zones will be integrated into a potential future renewal of the Darby Street precinct.

RISK ASSESSMENT AND MITIGATION

- 18 The Trial infrastructure was installed in accordance with relevant Australian Standards, Austroads, and TfNSW guidelines. The retention of the traffic calming infrastructure (including a raised pedestrian crossing) will continue to mitigate risk to pedestrian and cyclist safety, and provide protection to the outdoor dining extension in the parking lane. It would be unsafe to retain the outdoor dining extension if supporting traffic calming infrastructure is not also retained as they are an integrated scheme.
- 19 The Trial resulted in increased visitation and positive economic results (for businesses as a whole). If the infrastructure is removed there is a risk of damage to Darby Street's economy.

RELATED PREVIOUS DECISIONS

- 20 On 23 August 2022 Council adopted the Darby Street Trial Traffic Calming Infrastructure Concept Plan.

CONSULTATION

- 21 CN undertook extensive community engagement as part of the Trial. The timeline of consultation activities is set out at **Attachment G**.
- 22 Stage 1 consultation was undertaken from 16 May to 13 June 2022 before the Trial commenced. For a summary of pre-trial consultation results refer to **Attachment H**.
- 23 CN undertook Stage 2 consultation from 5 December 2022 to 31 January 2023 during the Trial period. An online survey was advertised through distribution of

Have Your Say flyers placed in local businesses, posters in the Darby Street precinct and via social media. Advertising materials are shown at **Attachment I**.

- 24 275 community members filled out the online survey during the Trial. Overall, the Trial was well received with 69% of respondents in agreement that the changes made for the Trial were positive.
- 25 Respondents were asked whether they would like to see the dining deck and associated traffic calming remain in place, noting that the infrastructure is an integrated scheme, and the following conditions are required for it to exist:
- i) to be safe the outdoor dining deck in the parking lane requires a 30km/hr speed zone to be in place;
 - ii) to meet NSW State Government safety guidelines the 30km/hr speed zone requires speed cushions, concrete entry islands and signage; and
 - iii) On-street parking spaces used by the dining deck and 30km/hr speed zone devices, are compensated for through the conversion of paid all day commuter parking spaces behind the Newcastle Library into free 2-hour parking spaces.

69% of respondents to this question said they would like to see the infrastructure remain in place until a future renewal of Darby Street.

- 26 On 6 and 7 February 2023 CN held drop-in sessions for businesses in Darby Street's Headphones Courtyard. The sessions were advertised through hand delivered flyers and emails to businesses, advertising materials are shown at **Attachment J**. Six businesses attended with feedback as follows:
- i) representatives of two cafes benefitting from the dining deck reported "spectacular" turnover during the Trial period and a strong desire to retain the Trial infrastructure;
 - ii) three non café businesses said they had seen no economic benefit from the Trial and stated a preference for on-street parking to be reinstated; and
 - iii) a further non cafe business said that although their business had not seen an economic boost, they would like the infrastructure to remain because it is positive for the overall precinct (providing CN continues to compensate for lost on-street parking).

BACKGROUND

- 27 The NSW Government awarded CN \$500,000 in Streets as Shared Spaces grant funding, to Trial a 30km/h zone and activations in Darby Street. The program is designed to enable the creation of safe and enjoyable public spaces in the wake of the pandemic to make a positive difference to NSW cities and suburbs.

OPTIONS

Option 1

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

Option 2

29 Remove the infrastructure installed for the Darby Street – Streets as Shared Spaces Trial. This is not the recommended option.

REFERENCES

Nil

ATTACHMENTS

- Attachment A:** Plan - Existing Infrastructure to be Retained
- Attachment B:** Southern Entry Concept Plan
- Attachment C:** Northern Entry Concept Plan
- Attachment D:** Expenditure Data
- Attachment E:** During Trial Engagement Summary
- Attachment F:** Parking Social Media Informational Tile
- Attachment G:** Timeline of Events
- Attachment H:** Pre-trial Engagement Summary
- Attachment I:** Advertising Material During Trial
- Attachment J:** Advertising Material Business Drop-ins

Attachments A – J distributed under separate cover.

8.4. BROADMEADOW PLACE STRATEGY

REPORT BY: PLANNING AND ENVIRONMENT
CONTACT: INTERIM EXECUTIVE DIRECTOR PLANNING AND ENVIRONMENT / ACTING EXECUTIVE MANAGER, PLANNING, TRANSPORT & REGULATION

PURPOSE

To endorse the preparation of a draft Place Strategy for the Broadmeadow Regionally Significant Growth Area as identified in the Hunter Regional Plan 2041.

RECOMMENDATION

That Council:

- 1 Endorses the preparation of a Broadmeadow Place Strategy.
- 2 Endorses the agreed matters for inclusion in the Department of Planning and Environment and City of Newcastle Council Memorandum of Understanding – Broadmeadow regionally significant growth area as provided in **Attachment A**.
- 3 Authorise the Chief Executive Officer to sign the Memorandum of Understanding – Broadmeadow regionally significant growth area on behalf of the City of Newcastle.
- 4 Notes a report to publicly exhibit the draft Broadmeadow Place Strategy will be presented to Council in late 2023.

KEY ISSUES

- 5 The Hunter Regional Plan 2041 (the Regional Plan) identifies regionally significant growth areas including Broadmeadow, to coordinate growth using a place strategy.
- 6 The Department of Planning and Environment (DPE) Rezoning Pathways Program will provide City of Newcastle (CN) with funding for a place strategy and the associated background studies.
- 7 CN is the only Council in NSW to be invited to partner with DPE under the Rezoning Pathways Program to deliver the project by 30 June 2024, including to finalise and endorse the Broadmeadow Place Strategy.

Broadmeadow as a Growth Area

- 8 The Hunter Regional Plan commenced in December 2022, identifying the Broadmeadow Regionally Significant Growth Area (the precinct) as shown in **Attachment B**.
- 9 The precinct identified in the Regional Plan includes:
 - i) Key landmarks such as Hunter Park, Broadmeadow Train Station, Broadmeadow Locomotive Depot and Hunter School of Performing Arts;
 - ii) Broadmeadow and Hamilton Urban Renewal Corridors (identified in the Newcastle Development Control Plan 2012), and
 - iii) The suburb of Hamilton North including the UGL Goninans site, former Newcastle Gasworks site, former Caltex depot site and former Electric Light Manufacturing Australia site.
- 10 The Newcastle Local Strategic Planning Statement (LSPS) identifies Broadmeadow as an 'area of change'. The Greater Newcastle Metropolitan Plan 2036 (GNMP) identifies Broadmeadow as a Catalyst Area. CN's Regional Plan submission to DPE supported a regionally significant growth area in Broadmeadow.

Broadmeadow Place Strategy

- 11 The Regional Plan requires a place strategy to coordinate growth in Broadmeadow before considering planning proposals within the precinct.
- 12 Place strategies are high level strategic documents planning for place outcomes to help give certainty to the community and industry in areas of significant change. Place strategies are developed with community consultation and consider relevant issues across an entire precinct (rather than individual sites), infrastructure requirements, planning controls and desired place-outcomes.

Memorandum of Understanding

- 13 The Broadmeadow regionally significant growth area is the only precinct under the Rezoning Pathways Program where a local council is leading the preparation of the place strategy, and is recognition of the capability of CN in the strategic planning space. Matters to be included in a Memorandum of Understanding (MOU), drafted by the DPE and CN, outlines commitments and responsibilities for the project.
- 14 A copy of the matters to be included in the MOU is provided as **Attachment A**.

FINANCIAL IMPACT

- 15 DPE will fund the technical investigations and studies for CN to prepare a place strategy for Broadmeadow.
- 16 Preparation of the Broadmeadow Place Strategy will require two additional temporary CN staff resources, funded via CN's operational budget.

- 17 CN is responsible for funding community engagement, communications and public exhibition for the place strategy. CN operational budgets for 2022/23 and 2023/24 include funding for this work.

NEWCASTLE 2040 ALIGNMENT

- 18 Preparing the Broadmeadow Place Strategy aligns with the following themes and priorities of the Newcastle 2040 Community Strategic Plan.

Liveable Newcastle

- 1.1 Enriched neighbourhoods and places
 - 1.1.1 Great spaces
 - 1.1.2 Well-designed places
 - 1.1.3 Protected heritage places
- 1.2 Connected and fair communities
 - 1.2.1 Connected communities
 - 1.2.2 Inclusive communities
 - 1.2.3 Equitable communities
 - 1.2.4 Healthy communities
- 1.3 Safe, active and linked movement across the city
 - 1.3.1 Connected cycleways and pedestrian networks
 - 1.3.4 Effective public transport

Sustainable Newcastle

- 2.1 Action on climate change
 - 2.1.3 Resilient urban and natural areas
- 2.2 Nature-based solutions
 - 2.2.3 Achieve a water-sensitive city

Creative Newcastle

- 3.1 Vibrant and creative city
 - 3.1.4 Vibrant night-time economy
- 3.2 Opportunities in jobs, learning and innovation
 - 3.2.2 Skilled people and businesses

Achieving Together

- 4.2 Trust and transparency
 - 4.2.1 Genuine engagement

IMPLEMENTATION PLAN/IMPLICATIONS

- 19 The Place Strategy will support the urban renewal of the Broadmeadow precinct, to coordinate growth in Broadmeadow and will guide future rezoning in the precinct.
- 20 The partnership with CN and DPE will be guided by the MOU.

RISK ASSESSMENT AND MITIGATION

- 21 CN has statutory responsibilities for planning processes which are guided by relevant legislation and policies.
- 22 The project must be delivered by 30 June 2024 and CN must meet this timeframe and responsibilities agreed under the MOU.

RELATED PREVIOUS DECISIONS

- 23 At the Ordinary Council Meeting held on 26 May 2020, Council unanimously adopted the Newcastle LSPS.
- 24 At the Ordinary Council Meeting held on 24 November 2020, Council unanimously adopted the Newcastle Local Housing Strategy.

CONSULTATION

- 25 Liveable Cities Advisory Committee (LCAC) were consulted in 2022/2023 and have established a working party comprising all LCAC members to provide ongoing input and advice during preparation of the place strategy.
- 26 Guraki Aboriginal Advisory Committee (GAAC) were consulted in 2022, and has established a sub-committee to provide ongoing input and advice during preparation of the place strategy.
- 27 CN will release a brochure in April 2023 titled 'Planning for the future of Broadmeadow' to introduce and communicate the place strategy to the community. The brochure will target the wider community, to inform people of the precinct location, timing for further engagement activities and the process for the Broadmeadow Place Strategy.
- 28 A pre-graphic design copy of 'Planning for the future of Broadmeadow' is included as **Attached Correspondence** for reference.

BACKGROUND

NSW Rezoning Pathways Program

- 29 On 5 December 2022, the NSW Premier, Hon. Dominic Perrottet, and Minister for Planning, The Hon. Anthony Roberts announced the Rezoning Pathways Program to unlock 70,000 homes across NSW. This identified Broadmeadow as a contributing site for this target of 70,000 new homes and included funding to support a place

strategy, a planning proposal to rezone land for housing, and a strategic infrastructure and services assessment.

- 30 To deliver this project, CN will partner with DPE to prepare a place strategy for the Broadmeadow regionally significant growth area. CN will lead the preparation of the Broadmeadow Place Strategy and be responsible for community engagement, public exhibition and finalisation.
- 31 At the same time, DPE will lead a first-move planning proposal to rezone land within the precinct for housing supply for more than 2,000 homes. This land will be confirmed by DPE through detailed technical investigations as part of the project. DPE will carry out community engagement, public exhibition and finalisation of the planning proposal to rezone land. DPE will also prepare a strategic infrastructure and services assessment for infrastructure delivery to support the place strategy and rezoning.

Strategic Planning Framework

- 32 Hunter Regional Plan 2036, adopted in 2016 identified the Broadmeadow Sport and Recreation Precinct (Emerging) as a strategic centre to accommodate growth in jobs and housing. The GNMP 2036, adopted in 2018 identified Broadmeadow as a Catalyst Area with its desired role to be a '*nationally significant sport and entertainment precinct*' and '*providing a mix of uses that facilitate growth and change in surrounding centres and residential areas*'.
- 33 The Newcastle LSPS identifies Broadmeadow as an 'area of change'. Both the Newcastle LSPS and Newcastle Local Housing Strategy include priorities and actions to focus planning for housing and jobs in catalyst areas.
- 34 The Regional Plan adopted a precinct planning approach for the Hunter. It requires place strategies for all regionally significant growth areas.

Hunter Park Strategic Business Case

- 35 The precinct's Hunter Park contains Crown Land and Venues NSW owned land. In 2017 Venues NSW developed a vision to redevelop Hunter Park. In 2021, the NSW Government allocated \$6.7 million to prepare a business case for Hunter Park's regeneration. The Venues NSW business case of 2022 has had no decision to date from the NSW Government. Preparation of the Broadmeadow Place Strategy will need to consider the plans and business case for Hunter Park.

OPTIONS

Option 1

- 36 The recommendation as at Paragraph 1 – 4. This is the recommended option.

Option 2

- 37 Council does not endorse the preparation of the Broadmeadow Place Strategy in partnership with the DPE by June 2024 under the NSW Rezoning Pathways Program. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: CN and DPE Matters for Inclusion in Broadmeadow Memorandum of Understanding

Attachment B: Broadmeadow Regionally Significant Growth Area Map (Hunter Regional Plan 2041)

Attached Correspondence: Brochure - Planning for the future of Broadmeadow - pre-graphic design draft

Attachments A – B and attached correspondence distributed under separate cover

8.5. 37 LLEWELLYN STREET, MEREWETHER – RIGHT OF WAY REVIEW

REPORT BY: PLANNING AND ENVIRONMENT
CONTACT: INTERIM EXECUTIVE DIRECTOR PLANNING AND ENVIRONMENT / ACTING EXECUTIVE MANAGER, PLANNING, TRANSPORT & REGULATION

PURPOSE

To provide an investigation report regarding the right of carriageway (the **ROW**) located at 37 Llewellyn Street Merewether.

RECOMMENDATION

That Council:

- 1 Receive this report presenting the investigation into the ROW at 37 Llewellyn Street, Merewether.
- 2 Notes the investigation is continuing and possible regulatory action against the Developer and Certifier may be considered.
- 3 Notes that the Interim Executive Director of Planning & Environment has issued written correspondence to the Minister for Emergency Services and Resilience Hon. Steph Cooke MP, the State Member for Newcastle, Tim Crakanthorp MP, and Crown Lands, Department of Planning and Environment, seeking support for a public access to be created through the Merewether Fire and Rescue Station, known as 39 Llewellyn Street Merewether.
- 4 Notes that a formal complaint has been lodged with NSW Fair Trading about the professional conduct of the Private Certifier and that the Interim Executive Director of Planning & Environment has issued written correspondence to the Minister for Fair Trading, Hon. Victor Dominello MP, asking that he investigate the circumstances surrounding the private certifier who provided an occupation certificate contrary to the Development Consent (DA2016/01411 as modified) for the property located at 37 Llewellyn Street Merewether despite it not complying with CN's condition that a right of carriageway be created over the property.

KEY ISSUES

- 5 In 1982 a 3.66m wide right of carriageway (the **ROW**) was established over 37 Llewellyn Street, Merewether (the **subject site**), located along the full length of the northern boundary. The ROW also extended over part of an adjoining site, known as No.41 Llewellyn Street Merewether.
- 6 The ROW was established as an easement in gross favouring CN as a public authority. In accordance with schedule 4A of the *Conveyancing Act 1919*, a right of carriage way has the effect of *a full and free right for Council and every person authorised by it, to go, pass, and repass at all times, and for all purposes, with or without animals or vehicles or both* over the land burdened.

- 7 The ROW was established when the subject site was registered as Old System title. In or around 1995, the NSW Land Registry Service (the **LRS**), as it is known now, commenced conversion of the Old System title land to the Torrens title system. During this conversion the LRS negligently failed to carry over the ROW to the Torrens title register.
- 8 In March 2018 a development consent (DA2016/01411) (the Consent) was issued for the 'erection of mixed-use development including 12 residential apartments, ground floor commercial premises, associated car parking, site works and 12 lot strata subdivision' at the subject site. No submissions were received.
- 9 Relevant to the ROW the Consent included conditions 69 & 86, as follows:
Condition 69 provided:
"The proposed driveway to a height of 3.5m for the full length of the property is to be the subject of an appropriate reciprocal right-of-carriageway for access to lot 25 Caldwell Street, Merewether and the necessary survey plan and accompanying instrument under Section 88B of the Conveyancing Act 1919 (NSW) being registered with NSW Government Land & Property Information prior to the issuing of any Occupation Certificate for the proposed development, it being noted that the instrument is to provide that the right-of-way is unable to be relinquished, varied or modified without the concurrence of The City of Newcastle."
- 10 In effect, Condition 69 required the creation of a new ROW, being a ROW that achieves a standardised clearance height, suitable for the type of vehicles likely to be used to gain access to the rear of the land at 25 Caldwell Street Merewether.
- 11 Condition 86 states:
"A minimum clear opening height of 3.5m being maintained over the proposed 'right of carriageway' within 37 Llewellyn Street and servicing 25 Caldwell Street, Merewether."
- 12 In December 2021, a modification application was received (MA2021/00495) which sought to delete Condition 69 of the Consent. Whilst the application was not formally notified to the local community, a total of 84 submissions were received objecting to the modification and raising concerns with the impact of the development upon public access through the ROW. The application was not supported and was ultimately withdrawn by the Applicant in March 2022 following a meeting with CN where it was communicated that the request would not be supported. A site inspection conducted at the time, in association with the application, determined that the development as constructed significantly restricted safe and unimpeded access through the ROW for both CN vehicles and the public.
- 13 In February 2022, CN requested that NSW LRS investigate the lack of formal recognition of the existing ROW, and on 21 July 2022, the existing ROW was formally registered by LRS on the title of the land.
- 14 Throughout 2022, CN continued to investigate the ROW and satisfaction of Condition 69, including on-going discussions with the Applicant and Developer to seek to resolve the matter. It was stipulated to the Applicant and Developer that an Occupation Certificate could not be issued until such time as Condition 69 was

- addressed to the satisfaction of CN. CN staff also advised the Private Certifier of the obligations imposed by Condition 69.
- 15 CN approached NSW Fire and Rescue, to seek to obtain an alternative pedestrian ROW over the land located at 39 Llewellyn Street, Merewether, however this request was formally refused.
- 16 A strata subdivision of the property was registered on 15 December 2022. CN obtained a copy of the strata plan by-laws, which include:
- "The Owners Corporation is aware that it and all lot owners are bound by a registered easement to enable Newcastle City Council and its employees and representatives' access through the garage area from time to time."
- 17 CN obtained a copy of the Occupation Certificate (the **OC**) for the building on the site, on 30 January 2023. The OC was issued by a Private Certifier and is dated 9 December 2022.
- 18 A certifier is required to use the Portal to give the determination of an Occupation Certificate to the applicant and to CN within two days of making the determination. This did not occur, and to date CN has not received a copy of the OC formally through the portal, and thus has been unable to make the Private Certifier's OC available to the public.
- 19 While there is a penalty prescribed for non-compliance, an OC, which has not been delivered through the Portal, would not be invalidated by a failure to enter the required information in the Portal.
- 20 The Private Certifier issued the OC without Condition 69 being satisfied and contrary to advice provided by CN.
- 21 It is noted that the NSW Fair Trading 'Certifier Disciplinary Register' shows that eight disciplinary decisions have previously been made in respect of the conduct of the Private Certifier that issued the Occupation Certificate. The decisions involved cautions, reprimands, an order to complete training and a total of \$55,000 in fines. CN has no role in the NSW Government's decision to allow the certifier to continue certifying properties.
- 22 In terms of the potential for challenging the validity of the OC for the development, Section 6.32 of the Environmental Planning and Assessment Act 1979 (the **EP&A Act**) excludes occupation certificates from the scope of Land and Environment Court orders that can be made to declare a building or subdivision certificate invalid.
- 23 During a further site inspection on 30 January 2023 (the **Inspection**), it was established that the constructed minimum floor to ceiling clearance height over the ROW, is less than the 3.5m clearance height required by Condition 69 and 86 of the Consent. Height clearances were measured to be as low as 3.11m between structural elements of the building and 2.85m to the lowest service pipe extending below the first-floor structure.
- 24 The required 3.5m clearance height relates to the standard clearance for a small rigid vehicle, as specified in Australian Standard 2890.2. When imposing the

- relevant conditions, it was considered that this type of vehicle was required for CN to complete maintenance of Caldwell Street Park.
- 25 During the Inspection, the required turning circle of a vehicle, to make the turn from the subject site through an opening in the building structure, towards the Caldwell Street Park, is a further limiting factor on the size of vehicle that can be used. In addition, as a result of the ground level being constructed below the approved finished floor level, a substantial level change exists between the site and adjoining property, creating a step which was unable to traverse.
- 26 The Inspection confirmed that the development as constructed has resulted in that safe and unimpeded use of the ROW by CN vehicles and the public cannot be achieved. To satisfy access for CN vehicles a smaller vehicle would need to be utilised by CN and works such as installation of ramping between the site and adjoining property would be necessary.
- 27 Whilst we understand there is a legal basis for Council to authorise public access through the site established by the ROW, it is considered that safe public access would be difficult to achieve as a matter of practicality without demolition of part of the constructed building. Achieving safe access could also adversely impact the new residents of the development, who are not responsible for the actions of the Developer or the Private Certifier.
- 28 Further, whilst we understand CN and the public have a clear legal basis to utilise the ROW, the prospects of enforcing this right through litigation is unknown due to the variable nature of court matters and the likely requirement that part of the building be demolished. There is a substantial cost and time associated with such action and the end result may not be desirable from a public safety perspective or community expectation.
- 29 The preferred practical option is for public access to be facilitated through the adjoining Fire and Rescue Station property at 39 Llewellyn Street. This would require obtaining an easement over the existing pathway located on 39 Llewellyn Street, and amendments to the existing easement over 41-43 Llewellyn Street. However, as noted above, the initial approach to Fire and Rescue was unsuccessful.

FINANCIAL IMPACT

- 30 Costs associated with the investigation and preparation of this report is within operational budget.
- 31 Costs associated with litigation, should action be taken against either the Developer or Private Certifier, would be substantial and are unbudgeted. Independent legal advice confirms CN's position from a property law perspective is strong relative to the ROW, however the prospects of success are unknown due to the uncertainty associated with court proceedings.

NEWCASTLE 2040 ALIGNMENT

- 32 The issues discussed in this report relate to the following strategic direction of the Newcastle 2040 Community Strategic Plan:

Liveable Newcastle

- 1.3 Safe, active and linked movement across the city.
1.3.1 Connected cycleways and pedestrian networks.

RISK ASSESSMENT AND MITIGATION

- 33 There is risk that should litigation be commenced that CN's action may be unsuccessful in achieving adequate access and/or does not meet community expectations.
- 34 There is a significant financial risk associated with any litigation proceedings.

RELATED PREVIOUS DECISIONS

- 35 At the Ordinary Meeting on 13 December 2022, Council adopted the Notion of Motion Item 41.
- 36 At the Ordinary Meeting on 28 February 2023, Council adopted the Notion of Motion Item 9.1.

CONSULTATION

- 37 Extensive consultation and communication with the affected local community has been managed predominantly via Ward Two Councillor Carol Duncan.

BACKGROUND

- 38 In May 2019, an application to modify the consent (DA2016/01411.01) was approved. The modification included changes to the floor plan layout, boundary setbacks and parking.
- 39 In August 2020, a further application to modify the consent (DA2016/01411.02) was approved. The modification sought to amend condition 7(a) of the Consent which related to on-site parking requirements.
- 40 On 9 March 2021, a further application to modify the consent (MA2021/00047) was approved. The modification approved amendments to the commercial tenancy, including a basement storage area and other minor works.
- 41 In December 2021, modification application MA2021/00495, was submitted to CN seeking the deletion of Condition 69 of the Consent (the requirement for a ROW), however this was not supported by CN and was ultimately withdrawn.

- 42 From January 2022, CN staff commenced investigation into the ROW and satisfaction of Condition 69. In February 2022, CN requested that NSW LRS investigate the lack of formal recognition of the existing ROW.
- 43 On 21 July 2022, the existing ROW was formally registered on the title of the land.
- 44 On 9 December 2022, the Private Certifier issued an Occupation Certificate (the **OC**) for the development. A copy of the OC was uploaded to the Planning Portal however at that time, this was not made available to CN.
- 45 On 15 December 2022, the strata plan for the site, which was registered, was issued and identifies the existing ROW.
- 46 On 30 January 2023, a copy of the OC was provided to CN.

OPTIONS

Option 1

- 47 The recommendations at Paragraphs 1-4. This is the recommended option.

Option 2

- 48 Certificates issued by the Private Certifier in respect of the approved development. It is noted that the EP&A Act places a time limit on legal challenges to the validity of a construction certificate, being within three months after the issue of the certificate. Further, the EP&A Act restricts action being made against the validity of an Occupation Certificate. This is not the recommended option.

Option 3

- 49 Attempts to negotiate an access outcome directly with the owners of the property. The strata subdivision has been registered and units have been sold into private ownership. Further the development has been constructed in a manner which prevents safe and unimpeded access. Discussions with the Developer to date have been unsuccessful. Therefore, this is not the recommended option.

REFERENCES

ATTACHMENTS

Nil.

8.6. HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL - CHANGES TO PLANNING PANELS

REPORT BY: CORPORATE SERVICES
CONTACT: EXECUTIVE DIRECTOR CORPORATE SERVICES AND CHIEF FINANCIAL OFFICER / EXECUTIVE MANAGER LEGAL & GOVERNANCE

PURPOSE

To appoint an additional alternate member to the Hunter and Central Coast Regional Planning Panel (HCCRPP).

RECOMMENDATION

That Council:

- 1 Appoints [*Insert name of Councillor*] as an additional alternate member of the HCCRPP.

KEY ISSUES

- 2 On 12 December 2022, the NSW Government announced changes to the Sydney District and Regional Planning Panels Operational Procedures (Operational Procedures) to reduce corruption risks and improve the decision-making of NSW's 45 independent planning panels.
- 3 The updated Operational Procedures encourage councils to appoint a minimum of four alternate council members that can sit on their relevant Regional Planning Panel to enable regular rotation.
- 4 To ensure there is a level of randomisation involved in which panel members and alternates hear a matter, all members are required to regularly rotate with alternate members. The chair of the HCCRPP will determine the frequency of rotation in consultation with the Planning Panel secretariat.
- 5 Current Council representation on the HCCRPP consists of two members and three alternate members:
 - i) Cr Dr John MacKenzie (member)
 - ii) Cr Peta Winney-Baartz (member)
 - iii) Cr Carol Duncan (alternate member)
 - iv) Cr Dr Elizabeth Adamczyk (alternate member)
 - v) Cr Callum Pull (alternate member)
- 6 Councils have until 24 April 2023 to appoint additional alternate members.

FINANCIAL IMPACT

- 7 Sitting fees are payable to Councillors who attend HCCRPP meetings and this is included in the 2022/23 budget. There is no budget impact by appointing an additional alternate member.

NEWCASTLE 2040 ALIGNMENT

- 8 The appointment of an additional alternate member to the HCCRPP is consistent with the following strategic directions of the Newcastle 2040 Community Strategic Plan:

Liveable

- 1.1 Enriched neighbourhoods and places
 - 1.1.1 Great spaces
 - 1.1.2 Well-designed places

Achieving Together

- 4.2 Trust and Transparency
 - 4.2.1 Genuine engagement
 - 4.2.3 Trusted customer experience

IMPLEMENTATION PLAN/IMPLICATIONS

- 9 CN will write to the HCCRPP advising of CN's additional Councillor alternate member.
- 10 The Operating Procedures also provide: *'When appointing its nominees to a panel, council should require a statutory declaration to be signed by proposed nominees stating that they are not property developers or real estate agents, as required by section 2.13 of the Act. Council should also arrange probity checks'*.

RISK ASSESSMENT AND MITIGATION

- 11 Nil.

RELATED PREVIOUS DECISIONS

- 12 At the Ordinary Council Meeting held on 18 January 2022, Council appointed Councillor members to the HCCRPP.

CONSULTATION

- 13 Nil.

BACKGROUND

14 Nil.

OPTIONS

Option 1

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

Option 2

16 Council resolves to not appoint an additional Councillor representative to the HCCRPP. This is not the recommended option.

REFERENCES

Changes to Planning Panels

<https://pp.planningportal.nsw.gov.au/development-and-assessment/planning-panels/changes-planning-panels>

Amended RPP Operational Procedures

https://shared-drupal-s3fs.s3.ap-southeast-2.amazonaws.com/master-test/fapub_pdf/NSW+Planning+Portal+Exhibitions/Sydney+District+and+Regional+Planning+Panels+Operational+Procedures+-+November+2022.pdf

8.7. EXECUTIVE MONTHLY PERFORMANCE REPORT

REPORT BY: CORPORATE SERVICES
CONTACT: EXECUTIVE DIRECTOR CORPORATE SERVICES & CHIEF FINANCIAL OFFICER / EXECUTIVE MANAGER FINANCE, PROPERTY & PERFORMANCE & DEPUTY CFO

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 2022/23 Operational Plan as at the end of February 2023.
- 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 February 2023.

KEY ISSUES

- 2 At the end of February 2023 the consolidated YTD actual operating position is a surplus of \$16.9m which represents a positive variance of \$12.8m against the budgeted YTD surplus of \$4.1m. This budget variance is due to a combination of income and expenditure variances which are detailed in **Attachment A**. The full budget for 2022/23 is a forecast surplus of \$7.7m.
- 3 The net funds generated as at the end of February 2023 is a surplus of \$37m (after capital revenues, expenditure and loan principal repayments). This is a positive variance to the YTD budgeted position of \$14.3m. This is primarily due to a timing variance in the delivery of CN's works program with a delay in the spend of project expenditure (both capital and operational expenditures).
- 4 CN's temporary surplus funds are invested consistent with CN's Investment Policy, Investment Strategy, the Act and Regulations. Details of all CN funds invested under section 625 of the Act are provided in the Investment Policy and Strategy Compliance Report (section 4 of **Attachment A**).

FINANCIAL IMPACT

- 5 The variance between YTD budget and YTD actual results at the end of February 2023 is provided in the Executive Monthly Performance Report.

NEWCASTLE 2040 ALIGNMENT

- 6 This report aligns to the Newcastle 2040 Community Strategic Plan under the strategic direction:

Achieving Together

- 4.1.1 Financial sustainability

IMPLEMENTATION PLAN/IMPLICATIONS

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

RISK ASSESSMENT AND MITIGATION

- 8 No additional risk mitigation has been identified.

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 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 –
February 2023

Attachment A distributed under separate cover

8.8. TENDER REPORT - RECYCLABLE WASTE COLLECTION SERVICES AND BIN SUPPLY - CONTRACT 2022/145T

Report to be distributed under separate cover.

9. NOTICES OF MOTION

9.1. PUBLIC VOICE AND PUBLIC BRIEFING POLICY

COUNCILLOR: C MCCABE

PURPOSE

The following Notice of Motion was received on Thursday 16 March 2023 from the abovementioned Councillor.

MOTION

That the City of Newcastle:

- 1 Notes that councillors received a briefing from CN staff in a 'Briefing Committee' about the East End Public Domain Plan, Fig Trees on the 20th September 2022. This presentation included the rationale that the size of the combined canopy of the Western figs was evidence of their decline, as it was less than the canopy of the most Easterly fig tree.
- 2 Notes that a member of the public then applied for a Public Briefing to inform councillors about his specific knowledge about these same fig trees on the 12th of October 2022. He received notification on the 31st of October 2022 that the application was refused on the grounds that;
 - i) the application related to a subject matter that had previously been presented to councillors in a Public Briefing in the last two years
 - ii) that the final decision is within staff authority, i.e. the issue will not go back to the elected council for a decision.
- 3 Notes that the existing Public Voice and Public Briefing policy includes the following definitions;
 - 1.1 The purpose of this Policy is to provide a framework to allow members of the public to address the Council on issues relevant to City of Newcastle's (CN's) functions.
 - 2.4 Public Briefings sessions (refer Section 5) provide an opportunity for members of the public to make presentations to the Council relating to significant issues of a general, strategic or policy nature relevant to CN's functions, facilities or services.

3.1 a) **Accountability and transparency** – This Policy enables members of the public to bring before the Council issues of a general, strategic or policy nature relevant to CN's functions, facilities or services. This Policy ensures decisions are made in a way that is open and accountable.

c) **Openness** – This Policy enables members of the public to communicate opinions or concerns directly to councillors by way of an address to the Council in an open forum.

8.1 Public Briefings sessions provide an opportunity for members of the public to make short presentations relating to significant issues of a general, strategic or policy nature relevant to CN's functions, facilities or services.

(Sections of the policy text have been underlined in order to highlight the existing definition.)

4 Updates the Public Voice and Public Briefing Policy to explicitly define that a Public Briefing shall not be made by a member of staff through inserting the statement:

8.3 For the purposes of this policy, a Public Briefing cannot be made by a member of CN staff.

And to change the wording in 8.1 as below:

8.1 Public Briefings sessions (insert 'are explicitly') to provide an opportunity (remove underlined) for members of the public to make short presentations relating to significant issues of a general, strategic or policy nature relevant to CN's functions, facilities or services.

BACKGROUND

Nil.

ATTACHMENTS

Attachment A: [CN Public Briefing and Public Voice Policy November 2022](#)

9.1.1. REPORT ON NOTICE OF MOTION – PUBLIC VOICE AND PUBLIC BRIEFING POLICY

SUBJECT: REPORT ON NOTICE OF MOTION – NOM 28/03/23 – PUBLIC VOICE AND PUBLIC BRIEFING POLICY

REPORT BY: CORPORATE SERVICES

CONTACT: EXECUTIVE DIRECTOR CORPORATE SERVICES AND CHIEF FINANCIAL OFFICER / EXECUTIVE MANAGER LEGAL & GOVERNANCE

EXECUTIVE DIRECTOR COMMENT

Background

CN has been a leader in providing opportunities for members of the public to address the elected Council with our first public access provisions in 1992 and our first Public Voice Policy (Policy) adopted in 1999. The sessions are an opportunity for the elected Council to engage in an exchange of information in an orderly and open way that enables people to bring before the Council important information that is relevant to and supports the decisions of the elected Council. Staff have historically presented at Public Voice and Public Briefing sessions from time to time on subject matters within their area of expertise, adding an additional layer of publicly available information.

The Public Voice and Public Briefing Policy has undergone periodic review over time but with limited amendments due to its effective operation.

All policies which need to be adopted by the elected Council are reviewed and publicly exhibited (as appropriate) in the first 12 months of each Council term.

At the Ordinary Council meeting held on 26 July 2022, Council resolved to place the current Policy on public exhibition for a period of 28 days. The inclusion of CN staff presenting in Public Briefing sessions (section 10.4 (a)) was raised by a single submission during the exhibition period, and this submission was addressed in the accompanying Council report. At the Ordinary Council meeting held on 22 November 2022, Council ultimately voted not to change the section of the Policy relating to CN staff being permitted to present in a Public Briefing session.

Considering the recent public exhibition period and adoption of the Policy, it is appropriate for the Policy to be next reviewed in the first 12 months of the next Council term to allow a further exhibition period.

RECOMMENDATION

That Council:

- 1 Notes that elected Council adopted policies are reviewed and publicly exhibited, where required, within the first 12 months of each Council term.
- 2 The proposed amendments to the Public Voice and Public Briefing Policy be considered in the report accompanying the next review and public exhibition period.

9.2. REQUESTING ATTENDANCE DATA FROM SUPERCARS

Notice of Motion to be distributed under separate cover.

9.2.1. REPORT ON NOTICE OF MOTION - REQUESTING ATTENDANCE DATA FROM SUPERCARS

Report on Notice of Motion to be distributed under separate cover.

9.3. FUNDING FOR TROVE

COUNCILLORS: D CLAUSEN, C DUNCAN, P WINNEY-BAARTZ, M WOOD, E ADAMCZYK, D RICHARDSON AND N NELMES

PURPOSE

The following Notice of Motion was received on Thursday 16 March 2023 from the abovementioned Councillors.

MOTION

That City of Newcastle

- 1 Acknowledges the importance of Trove as a national digital archive service, maintained and managed by the National Library of Australia as a significant national platform to record and access Australia's history and culture.
- 2 Notes that since its launch in 2009, public libraries run by local Councils across Australia, have been able to access and contribute to Trove without significant costs until 2022 when a new subscription-based pricing model was introduced, resulting in already 13% of libraries across NSW withdrawing their contributions due to the significant fee increases, resulting in implications for the integrity of Trove in both the short and longer term.
- 3 Write to the Federal Minister for the Arts, the Hon Tony Burke MP, Shadow Minister for the Arts, the Hon Paul Fletcher MP and Sharon Claydon MP, Federal Member for Newcastle calling for sustainable funding to ensure the continuation of free access to the Trove national database and upgrade of the digital archive systems of Trove.
- 4 Endorses the actions of the NSW Public Libraries Association in lobbying for additional sustainable funds for the continuation of free access to the Trove national database and upgrade of the digital archive systems of Trove.

BACKGROUND

Trove, the National Library of Australia's expansive public digital archive is used by local historians, family historians and researchers. Trove provides access to the National Library of Australia (NLA) collections and the collections of other cultural institutions, ensuring they are available to all Australians free of charge, regardless of where they live and who they are, receiving over 20 million visits per year. In 2022, Trove Collaborative Services (TCS) introduced a new pricing model which raised serious concerns regarding the affordability and ongoing viability of participation in resource sharing for New South Wales public libraries.

Hundreds of organisations, including libraries across NSW, contribute to Trove, to ensure it remains the single national database within Australia. The change in subscription model has seen approximately 13% of libraries across NSW withdraw their contributions due to the significant fee increases, resulting in implications for the integrity of Trove. Further funding cuts, due in July 2023, will magnify this situation.

In addition, TCS has indicated that they will no longer support the national Document Delivery system (LADD) for resourcing sharing, raising concerns for library staff about the longer-term impact on inter-library loans (ILLs). ILLs are a vital and core service of public libraries, allowing open, democratic access to quality information for all community members, resulting in an inclusive, informed and connected communities.

Without additional funding the NLA be unable to maintain Trove and therefore the people of NSW (and Australia) will no longer have access to Trove and the ability to search the 6 billion records on the national treasure trove of artefacts, curiosities, and stories from Australia's cultural, community and research institutions.

In July 2022 NSWPLA wrote to the Minister for the Arts, Hon. Tony Burke expressing concern regarding the national database being under threat due to the lack of funding with the last tranche of funding expiring in July 2023. NSWPLA also expressed the associations concern for affect this would have on the community and stated what a travesty it would be if the single national treasure trove of artefacts, curiosities, and stories from Australia's cultural, community and research institutions; a database of more than 6 billion digital items, is no longer be fully maintained or kept up to date or, worst case scenario unavailable. NSWPLA has not been successful in gaining a meeting with Minister Burke or his representative.

Trove is essential in providing equity of access to information across not only New South Wales, but the whole of Australia and further. It is a world-leading resource, free and available for anyone anywhere to use. Trove's impact on research at all levels is immeasurable and its value to all Australians cannot be underestimated.

Accordingly, it is recommended that City of Newcastle supports the NSW Public Libraries Association by formally endorsing the actions of the NSW Public Libraries Association in lobbying for additional sustainable funds for the continuation of free access to the Trove national database and upgrade of the digital archive systems of Trove.

<https://theconversation.com/troves-funding-runs-out-in-july-2023-and-the-national-library-is-threatening-to-pull-the-plug-its-time-for-a-radical-overhaul-197025>

TROVE'S FUNDING RUNS OUT IN JULY 2023 – AND THE NATIONAL LIBRARY IS THREATENING TO PULL THE PLUG. IT'S TIME FOR A RADICAL OVERHAUL

Published: December 23, 2022 11.16am AEDT

Authors

1. Mike Jones, Postdoctoral research fellow, Australian National University
2. Deb Verhoeven, Visiting Fellow, University of Technology Sydney

The National Library is threatening to pull the plug on Trove, its free online service that provides public access to collections from Australian libraries, universities, museums, galleries and archives.

In its recent Trove Strategy, the library has indicated that without additional government support, it will shut the service down by July next year:

The future of Trove beyond July 2023 will be dependent upon available funds [...] In a limited funding environment, Trove may reduce to a service focused on the National Library of Australia's collections.

Without any additional funds, the Library will need to cease offering the Trove service entirely.

It's been nearly seven years since the #fundTrove campaign, a response to budget cuts to the National Library of Australia in 2016. (These were part of the Turnbull government's "efficiency dividend", which cut \$20 million from the budgets of six Canberra-based cultural institutions over four years.)

That campaign resulted in a government funding package for Trove intended to rescue the popular service, which was topped up with more cash last year.

But in recent months it has become increasingly clear the National Library of Australia was never cured of its funding ills, and Trove was just on life support.

THREATS TO PUBLIC ACCESS

Launched more than a decade ago, Trove now contains more than 6 billion digital items. Users can find information about books, journals, maps and archives without incurring any charges. There are digitised newspapers and magazines,

photographs, web archives, parliamentary papers, reports, theses and more.

The content comes not just from the National Library's collections, but from almost 1,000 contributing organisations around the country. Many of these organisations also provide funding to Trove, subsidising more than 40% of its current operating costs.

For many people – and not just academic researchers – Trove is now part of their daily lives. The service boasts more than 22 million visits per year: around 63,000 a day on average. Trove is one of only two Australian government websites in Australia's top 15 global internet domains – the other is the ABC.

The repeated threats to the public's access to nationally significant collections are part of a broader malaise. Australia's national collecting institutions have been hobbled by funding cuts and debilitating efficiency dividends for decades, with the some of the deepest cuts occurring in the years since Trove was launched.

Reduced access to these publicly funded resources is more than an inconvenience: it is an attack on democratic accountability.

TROVE NEEDS A RADICAL OVERHAUL

We believe Trove and the National Library deserve better than ad hoc injections of cash – there's little value in a one-shot dose of vitamins if you are suffering from malnutrition. We'll just all be back in the emergency room again in another few years.

Trove itself needs a radical overhaul. What is currently a Frankenstein's monster of dead and mouldering technologies and systems needs more than just cosmetic surgery. It needs to be rebuilt from the ground up as an essential component of national library services.

On this note, we might ask why Trove is yet again the part of the library that ends up terminal. There is no suggestion that without additional funding the library's catalogue will be shut down, or the shelves sold and the books kept on the floor, or the oral history collection deleted to save on server space. Such things would be unthinkable.

The fact that the demise of Trove remains thinkable means it is still seen (by some at least) as an optional extra rather than a vital

organ. Public access should not be the first sacrificial offering every time there is a budget crisis.

ALL OUR CULTURAL INSTITUTIONS NEED SUSTAINABLE FUNDING

We also know the impact of chronic underfunding runs far deeper than Trove. After years of neglect, the roof of the National Library's heritage building is currently being repaired, restricting public access to significant collections material for months. It shouldn't be this way.

Other peak cultural institutions are faring no better. The National Archives of Australia was left begging for public donations to save parts of its collections before a one-off dose of funding. The National Gallery of Australia has a \$265 million budget shortfall that could lead to extensive job losses and reduced opening hours. The National Film and Sound Archive is losing the battle to preserve thousands of hours of film, television and audio stored on obsolete and deteriorating media. Only the Australian War Memorial seems in rude health. Yet here we are, sitting at Trove's bedside, begging the government for another injection – when far more sustained and holistic treatment is required.

We need a comprehensive health strategy for all our national cultural institutions. We need sustainable, recurrent funding, rather than just a series of booster shots. And we need government investment that recognises that access to our national and state collections – including via digital platforms like Trove – is essential for researchers and writers, family historians, school students, and the incurably curious.

ATTACHMENTS

Nil

9.4. INFRASTRUCTURE CONTRIBUTIONS REFORM CONCERNS

COUNCILLORS: D CLAUSEN, C DUNCAN, P WINNEY-BAARTZ, M WOOD, E ADAMCZYK, D RICHARDSON AND N NELMES

PURPOSE

The following Notice of Motion was received on Thursday 16 March 2023 from the abovementioned Councillors.

MOTION

That City of Newcastle:

- 1 Notes with concern the NSW Liberal Government election announcement made on 4 March 2023 regarding infrastructure contributions, including proposed legislation to pool together local government contributions between councils.
- 2 Notes comments made on 10 March 2023 by the NSW Property Council that it *“urges the NSW Coalition to proceed with caution on the proposed changes to local contributions. It is critical this policy does not disrupt the vital nexus between the collection of contributions and the delivery of vital growth infrastructure. Our infrastructure contributions framework still deserves the clarity, simplicity, certainty, transparency and efficiency that the NSW Coalition’s original reform package sought to deliver.”*
- 3 Notes our Development Contributions Plans were reviewed as recently as January 2022 and updated to ensure that contributions from future residential and non-residential development in the city makes a reasonable contribution toward the cost of public amenities and services required to cater for those future populations.
- 4 Notes our Contributions Plans already align with relevant State Government planning strategies, as well as the intent of the NSW Government’s principles of transparency, accountability, strategic leadership and evidence-based decision making.
- 5 Reaffirms our commitment to adhering to proper process and the requirements of the Integrated, Planning & Reporting Framework set by the NSW Government, including community engagement and consultation, with updates to the CN Community Engagement Strategy currently underway.
- 6 Notes this is another attempt by the NSW Government to manipulate the infrastructure contributions held by councils and spent in local communities (having failed previously in this respect in 2021), and divert them away from the purpose for which they were intended, again undermining local councils, as well

as the extensive expense, effort and time expended on maximizing community engagement and input into CN's strategic documents.

- 7 Calls on the NSW Liberal and Nationals Parties to join the NSW Greens, Shooters Fishers and Farmers Party and NSW Labor by agreeing to support the development of an Intergovernmental Agreement with Local Government NSW, which will include commitments to the following:
 - a. No forced amalgamations;
 - b. Respecting the status of local government as a sphere of government;
 - c. A commitment to reasonably consult with the local government sector prior to any reforms impacting councils; and
 - d. A very clear commitment to ensuring the financial sustainability of councils across NSW.

- 8 Write to the Minister for Planning and Minister for Local Government, of the next NSW Government, expressing opposition to the changes recently proposed.

BACKGROUND

Nil

ATTACHMENTS

Attachment A: Inquiry into Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021, submission by City of Newcastle dated 11 July 2021.

Attachment B: Media Release of Committee Chair, NSW Legislative Council Portfolio Committee No. 7 - Planning and Environment, dated 10 August 2021.

Attachment A

Submission
No 89

**INQUIRY INTO ENVIRONMENTAL PLANNING AND
ASSESSMENT AMENDMENT (INFRASTRUCTURE
CONTRIBUTIONS) BILL 2021**

Organisation: City of Newcastle
Date Received: 11 July 2021

Governance.MBisson/PMcCarthy
Reference No.: PB2021/06510
Phone: 02 4974 2000



11 July 2021

The Director
Portfolio Committee No. 7 – Planning and Environment
Parliament House
Macquarie Street
SYDNEY NSW 2000

Attention: Ms Cate Faehrmann, Committee Chair

Lodged via email: PortfolioCommittee7@parliament.nsw.gov.au

Dear Ms Faehrmann

**INQUIRY INTO THE ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT
(INFRASTRUCTURE CONTRIBUTIONS) BILL 2021**

Please find enclosed City of Newcastle's (CN) submission on the proposed amendments outlined in the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021* (the Bill).

CN understands that the Bill is intended to implement the recommendations of the NSW Productivity Commissioner's Final Report on infrastructure contributions. CN supported in principle many of the Productivity Commissioner's recommendations, however, there is a lack of detail on key aspects of the Bill to clearly demonstrate how these recommendations will be implemented.

Specifically, CN requests more information on the following matters prior to the amendments being made legislation:

- the circumstances in which the Minister will require a contributions plan to accompany a planning proposal
- how land value contributions will be calculated and how they will relate to any Ministerial thresholds on contributions
- financial incentives available, should it wish to borrow funds to bring forward delivery of public infrastructure and to cover associated recurring costs
- the proposed Regulation changes to implement amendments to section 7.12.

Our submission elaborates on these points and makes further recommendations to clarify the intent of the Bill.

Should you require any further information on this matter please contact me on .

Yours faithfully

Michelle Bisson
MANAGER REGULATORY, PLANNING AND ASSESSMENT

Enc

City of Newcastle Submission



Submission to the Upper House Committee (Portfolio Committee No. 7. Planning and Environment) on the Infrastructure Contributions Bill

This submission outlines City of Newcastle's (CN) response to key aspects of the Infrastructure Contributions Bill and provides recommendations where more information is required prior to the introduction of any new Regulation.

Introduction

The NSW State government has accepted all 29 recommendations of the Productivity Commission's Final Report on how infrastructure is funded in NSW. CN understands that the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021* was introduced to the NSW Parliament as part of the State government's implementation of the Productivity Commission's recommendations.

Our submission is structured to relate key aspects of the Bill to the relevant Final Report recommendations.

Recommendation 4.1 Develop infrastructure contribution plans upfront as part of the zoning process

The Bill proposes to amend section 7.17 of the Environmental Planning and Assessment Act 1979 (the Act) to enable the Minister for Planning and Public Spaces (the Minister) to issue a Ministerial Direction specifying when a contributions plan must accompany a planning proposal.

Discussion

The proposal is a positive step as it aims to ensure that land is not rezoned without the necessary infrastructure planning and funding mechanisms to deliver public infrastructure and facilities that will be required by any increase in demand arising from intensification of development.

However, it is unknown whether the Minister will direct that all planning proposals be accompanied by a draft contributions plan or whether this will only happen in certain areas or if certain thresholds are met. In addition, there is no requirement that the contribution plan be "in force" by the date of commencement of the planning instrument it relates to, merely that the draft contributions plan be exhibited alongside the planning proposal.

CN Recommendation

1. CN supports the introduction of direction-making powers for the Minister to specify the circumstances in which a draft contributions plan must accompany a planning proposal.
2. CN requests that the Minister ensure that any Ministerial Direction require a draft contributions plan accompany a planning proposal that seeks "a change to the planning controls that apply to the land will enable more intensive development of the land" (as per the wording in the proposed section 7.18(5)(a)). In addition, the contributions plan must be endorsed and come into force prior to, or on the date of commencement of the instrument to which the planning proposal relates.

Recommendation 4.2 Introduce a direct land contribution mechanism to improve both efficiency and certainty for funding land acquisition

The Bill proposes to insert new sections 7.16A-F into the Act (collectively under a new "Subdivision 3A, summarised as follows:

- the new provisions will permit a new land value contribution that may be imposed by council in addition to any applicable development contributions
- the land value contribution would be a monetary contribution paid to council or direct dedication of land to council to facilitate the acquisition of land for a public purpose (e.g., a public park) within a land value contributions area
- a land value contributions area would need to be identified within a contributions plan
- the land value contribution will be based on a percentage of land area or value and would be imposed when land is rezoned as a charge on the land
- landowners will be notified of the land value contribution being imposed as part of the public exhibition of draft contributions plans and planning proposal
- the land value contribution must be paid:
 - by the vendor, on or before completion of the sale of the land, at which time the charge on the land will be discharged; or
 - by a developer via a condition imposed by the granting of a development consent. An amended Regulation would specify the "the circumstances in which a consent authority may refuse to consider development applications for development on land for which a land value contribution has not been satisfied".
- A land value contribution certificate will be introduced which would be a certificate issued by a council specifying whether there is a land value contribution requirement applicable to the land and if so, whether it has or has not been satisfied.

Discussion

A local council can currently impose a condition of development consent requiring a monetary contribution toward the acquisition of land. However, the contribution need only be paid after a development consent is issued and typically prior to issue of a construction certificate (CC) or subdivision certificate (SC).

The new approach appears to be aimed at ensuring that existing landowners that benefit from an uplift in land value associated with a rezoning, take on the burden of the contributions value when they sell their land. However, unless the acquisition value (i.e. land value contribution) is tied to the actual sale price, a landowner could keep increasing the asking price to cover this additional cost, resulting in further increase in land value and requiring a council to fund the difference.

One of the difficulties in the traditional approach of requiring contributions toward land acquisition is trying to estimate the value of land that may need to be acquired and using an indexation mechanism that keeps pace with the often significant fluctuations in land value over time. This can leave a council in the position of having insufficient funds to acquire the most suitably located land or insufficient funds to acquire enough land to accommodate the public purpose in the manner originally intended.

It is not clear whether the new approach will resolve this issue as the way the land value contribution is to be calculated (and thereafter indexed) will be left to a future change to the Regulation, of which we have no information.

Furthermore, there is no information within the Bill or accompanying explanatory material to indicate how the land value contribution will relate to the existing Ministerial thresholds that limit the amount that a consent authority can impose for new dwellings / lots. Typically, the land acquisition component of a contributions plan can be significant and in CN's opinion, it should be excluded from any future thresholds.

CN Recommendation

1. CN supports a mechanism that seeks to capture part of the uplift in land value arising from a rezoning. However, there is insufficient detail regarding:
 - (a) How the land value contribution will be calculated i.e., will it be based on an estimated value or on the actual sale price?
 - (b) How a land value contribution will relate to any Ministerial thresholds on contributions for new dwellings / lots.
2. CN requests that this information be made available for comment prior to the introduction of any new Regulation.

Recommendation 4.9 - Encourage councils to forward fund infrastructure, through borrowing and pooling of funds

The Bill proposes to:

- (a) make it explicitly clear that a council may pool contributions received for different purposes even though those contributions may have been levied under more than one contribution plan applying to the "area concerned" and
- (b) require that any contributions required by a contribution plan be calculated in accordance with the regulations and relevant Ministerial Directions.

Discussion

The ability to pool contributions taken for different purposes is already possible under the Act.

There has been a lack of clarity as to whether contributions taken from different plans may be pooled. In 2020, the Minister issued a Direction requiring councils to "endeavour" to pool contributions for different purposes and across different plans that apply "in the local government area concerned". Including this flexibility within the Act itself, without relying on a Ministerial Direction is logical and positive.

None of the proposed amendments to the Act under this Bill require a council to "forward fund" infrastructure through borrowing. The Productivity Commission's recommendations did not infer any legislative amendments were required. The recommendations merely mooted that NSW Treasury review its lending criteria and investigate financial incentives for councils that borrow to build infrastructure.

Notwithstanding the necessity to have sufficient funds on hand to forward fund infrastructure, providing these infrastructure items represents a significant liability to council in recurring costs. An opportune incentive for councils to bring forward infrastructure delivery would be to provide funding for the recurring costs council will incur prior to the full associated rates base being in place.

CN Recommendation

1. CN supports moving pooling provisions into the Act although suggests that the mooted section 7.3(2) be amended to clarify that the "area concerned" means "the local government area in which the development is being carried out".
2. CN would welcome further information regarding the financial incentives available should it wish to borrow funds to bring forward delivery of public infrastructure and to cover associated recurring costs.

Recommendation 4.10 - Defer payment of contributions to the occupation certificate stage

In 2020, the Minister issued a Direction that enabled development contributions for certain types of development to be paid prior to issue of an Occupation Certificate (OC) even if the development consent in question stated an earlier time. The Direction was a temporary measure in response to the Covid 19 pandemic.

The Bill proposes that the Minister may extend the Direction and that the Direction would have the effect of modifying an existing development consent where the payment of the contribution has yet to be paid.

Discussion

The Productivity Commission made additional recommendations relating to the deferral of contributions as follows:

- (a) Design the NSW Planning Portal so that the release of occupation certificates is contingent upon payment of infrastructure contributions.
- (b) Increase oversight of private certifiers by requiring that the certifying authority must confirm payment of contributions before issuing an occupation certificate.
- (c) Amend legislation to create an offence should certifiers issue a certificate without an infrastructure contribution payment.

The Bill does not respond to these recommendations and should the Minister seek to extend the Direction indefinitely, there must be urgent action on these recommendations to ensure that councils are not burdened by a shortfall in contributions arising from any lax practices of private certifiers.

CN Recommendation

1. CN oppose the permanent deferral of payment of contributions to OC stage, however if the Minister extends Direction indefinitely CN urges the NSW Government to urgently act on the Productivity Commission's recommendation to:
 - (a) Design the NSW Planning Portal so that the release of occupation certificates is contingent upon payment of infrastructure contributions.
 - (b) Increase oversight of private certifiers by requiring that the certifying authority must confirm payment of contributions before issuing an occupation certificate.
 - (c) Amend legislation to create an offence should certifiers issue a certificate without an infrastructure contribution payment.

Recommendation 4.11 - Increase maximum section 7.12 fixed development consent levies

Section 7.12 of the Act enables a consent authority to impose a condition of consent requiring a monetary contribution toward public facilities and services calculated based on a percentage of the cost of carrying out the development.

The Bill proposes to refer to this type of condition as a local levy condition and proposes that the Regulation can specify:

- (c) the "types of development" to which a local levy condition can apply;
- (d) the LGAs or land to which a local levy condition can apply; and
- (e) the manner in which the contribution under a local levy condition is to be calculated.

Discussion

The Bill proposes to broaden the scope for the Regulation to set the calculation methodologies for contributions under section 7.12.

Currently, the type of development and the land to which a section 7.12 contributions plan might apply are unrestricted. Only the percentage levy is restricted by the Regulation.

CN is concerned that deferring the detail of section 7.12 calculation methodologies to the Regulation results in a risk that a highly valuable and simple contributions mechanism is diminished or taken away from councils.

CN Recommendation

1. CN requests further information regarding the Regulation changes be provided prior to the amendments to section 7.12 being implemented.

Recommendation 4.12 - Planning agreements consistent with principles-based approach

The Bill proposes to:

- (a) require planning authorities to "publicly exhibit" draft planning agreements for a mandated period of 28 days and thereafter to consider submissions, rather than merely to "notify" the draft planning agreement; and
- (b) remove the requirement for hard copies of planning agreements given that planning agreement information will now be available online.

Discussion

This is currently CN practice under its adopted Community Participation Plan.

CN Recommendation

1. CN supports the proposed measure to increase the transparency and accountability of planning agreements.

Recommendations 5.1 - Adopt regional infrastructure contributions, 5.3 - Adopt transport contributions for major projects and 5.4 - Create a new category of contributions specific to biodiversity

Sections 7.22-31 of the Act currently relate to "Special Infrastructure Contributions" (SIC) and enable the Minister to create a "special contributions area" and to determine contributions that might apply to development within that area. These contributions fund higher order infrastructure which are responsibilities of the State.

A Hunter Region Special Infrastructure Contributions has been consulted on several times, most recently in 2019.

The Bill proposes to:

- (a) rename SICs to Regional Infrastructure Contributions;
- (b) identify Regional Infrastructure Contributions in State Environmental Planning Policies (SEPPs);
- (c) quarantine the component/s of Regional Infrastructure Contributions that relate to "transport projects" and "strategic biodiversity" and only use those contributions for the specified transport projects /or nominated areas in the region that are bio-certified under the Biodiversity Conservation Act 2016.

Discussion

The proposed amendments consolidate a number of requirements for higher order infrastructure contributions which are currently spread across numerous regulations, determinations and directions. Simplifying and consolidating provisions is supported.

However, unlike s7.11 and s7.12 provisions of the Act, there is no legislative requirement for the NSW Government to "apply the payment towards the purpose within a reasonable time". In CN's opinion, the NSW Government should be held to the same standard as local councils with regard to the expectation to deliver infrastructure in a timely manner.

In addition, the current legislative requirement for the Minister to consult with relevant stakeholders (s7.23(4)) prior to introducing Special Infrastructure Contributions (to be known Regional Infrastructure Contributions) appears to have been excluded from the Bill.

This is a concern as the local council/s to which Regional Infrastructure Contributions might apply should be actively involved in formulating the strategies for the provision of infrastructure. This should not be left to a cursory Explanation of Intended Effect associated with a SEPP or included in a non-statutory document such as the draft Special Infrastructure Contribution Guidelines mooted in recent years.

CN Recommendation

1. There should be a legislative requirement for the NSW Government to apply payments towards Regional Infrastructure Contributions towards the purposes for which they have been made within a reasonable time.
2. The current legislative requirement for the Minister to consult with relevant stakeholders (s7.23(4)) prior to introducing Special Infrastructure Contributions (to be known Regional Infrastructure Contributions) should be included in the Bill.

Recommendation 6.1 - Use digital tools to make contributions simpler and more transparent

The Bill requires that a contributions plan must be prepared in accordance with the regulations and Ministerial directions.

Discussion

This is an existing requirement of the Act and Regulation, and the Bill does not address the recommendation of the Productivity Commission to “develop a contributions digital tool in the NSW Planning Portal, integrated with the spatial mapping and development application system” and to “Amend legislation to support the digital tools and require their use to be phased in”.

CN Recommendation

1. CN supports the Productivity Commission’s recommendations to use digital tools to make contributions easier to understand and use. The Bill should include detail on financing, timing and implementation of such systems.

Recommendation 6.5 - Better synchronise State and local strategic planning frameworks

The Bill proposes to amend section 3.9 of the Act to reduce the timeframe for councils to review their local strategic planning statements (LSPSs) from seven to five years to align with review requirements for State infrastructure strategies and regional plans.

Discussion

This change is derived from the recommendations of the Productivity Commission to ensure that a LSPS can inform and be informed by State and regional strategies and plans which are prepared on a five yearly basis.

This is a logical change which would also accord with the typical review period for contributions plans of five years.

Notwithstanding, undertaking a review of a LSPS could be a significant project and reducing the timeframe may have cost implications to council.

CN Recommendation

1. CN supports the alignment of LSPSs with State and regional strategies and plans although notes that there will be an additional financial burden on Councils to undertake the reviews more regularly.

Conclusion

CN requests that more detail is provided on the points raised in relation to the above recommendations prior to the introduction of any new Regulation.

Attachment B



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 7 – PLANNING AND ENVIRONMENT

MEDIA RELEASE

REPORT TABLED ON PROPOSED REFORMS TO THE INFRASTRUCTURE CONTRIBUTIONS SYSTEM

FOR IMMEDIATE RELEASE

10 August 2021

An Upper House committee has today tabled its report for the inquiry into the [Environmental Planning and Assessment Amendment \(Infrastructure Contributions\) Bill 2021](#).

Chair of Portfolio Committee No. 7 – Planning and Environment, Cate Faehrmann MLC, said "The committee has recommended that the Bill not proceed, until the draft regulations have been developed and released for consultation and the reviews into the rate pegging system, benchmarking and the essential works list have been published by the Independent Pricing and Regulatory Tribunal."

Ms Faehrmann continued "A key concern for stakeholders was the lack of detail in the Bill and the absence of the corresponding directions and draft regulations. The committee also received evidence regarding the number of outstanding reviews and consultation processes that impact significantly on the implementation of the Bill and reforms."

"Without these important details it was impossible for the committee to determine whether or not the Bill will make positive changes to the infrastructure contributions system. We could not see how it was going to be implemented or how stakeholders involved in the system will be affected. These are significant reforms to the infrastructure contributions system and we want to see that they are done right", said Ms Faehrmann.

The committee's report and other inquiry related documents can be found on the committee's website [here](#).

-ENDS-

For further information please contact Committee Chair, Ms Cate Faehrmann MLC, on 0428 837 292.

10. CONFIDENTIAL REPORTS

Nil