COUNCILLORS,

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

DATE: Tuesday 27 November 2018

TIME: 5.30pm

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

J Bath
Chief Executive Officer

City Administration Centre
282 King Street
NEWCASTLE NSW 2300

20 November 2018

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

NOTE: ITEMS MAY NOT NECESSARILY BE DEALT WITH IN NUMERICAL ORDER
CONFIRMATION OF PREVIOUS MINUTES

MINUTES - PUBLIC VOICE COMMITTEE 16 OCTOBER 2018

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 181016 Public Voice Committee Minutes

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
PRESENT
The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan, J Dunn, K Elliott, B Luke, J Mackenzie, A Robinson, A Rufo, E White and P Winney-Baartz.

IN ATTENDANCE
J Bath (Chief Executive Officer), D Clarke (Director Governance), K Liddell (Director Infrastructure and Property and Interim Director Strategy and Engagement), F Leatham (Interim Director People and Culture), S Gately (Interim Director City Wide Services), E Kolatchew (Manager Legal), M Bisson (Manager Regulatory and Assessment), P McCarthy (Interim Manager Regulatory and Assessment), J Vescio (Executive Officer, Chief Executive Office), C Field (Executive Officer, Lord Mayor's Office) and A Knowles (Council Services/Minutes/Webcasting).

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

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

APOLOGIES
Nil.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS
Nil.

PUBLIC VOICE SESSIONS

ITEM-1 PV 16/10/18 - DA2017/01459 - ERECTION OF TWO STOREY DWELLING ATTACHED SECONDARY DWELLING AND ASSOCIATED SITE WORKS - LOT 1 DP 232961 - 57 LOOKOUT ROAD NEW LAMBITON HEIGHTS

Mr Anthony Ventura on behalf of the DA applicant addressed Council in support of the development application.

Councillor Winney-Baartz arrived during the presentation to Council.

The meeting concluded at 5.49pm
MINUTES - ORDINARY COUNCIL MEETING 23 OCTOBER 2018

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 181023 Ordinary Council Meeting

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
PRESENT
The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan, J Dunn, K Elliott, B Luke, J Mackenzie, A Robinson, E White and P Winney-Baartz (retired 7.50pm).

IN ATTENDANCE
J Bath (Chief Executive Officer), D Clarke (Director Governance), K Liddell (Director Infrastructure and Property and Interim Director Strategy and Engagement), F Leatham (Interim Director People and Culture), A Murphy (Director City Wide Services), J Vescio (Executive Officer, Chief Executive Office and Acting Manager Corporate and Community Planning), M Murray (Policy Officer, Lord Mayor's Office), C Field (Executive Officer, Lord Mayor's Office), M Bisson (Manager Regulatory, Planning and Assessment), J Rigby (Manager Assets and Projects), K Hyland (Manager Major Events and Corporate Affairs), A Jones (Chief Financial Officer), E Kolatchew (Manager Legal), D Fischetti (Communications), A Leach (Council Services/Minutes) and K Sullivan (Council Services/Webcasting).

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

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

APOLOGIES

MOTION
Moved by Cr Luke, seconded by Cr Byrne

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

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke
Councillor Luke declared a non-pecuniary less than significant conflict of interest in Item 98 - Executive Monthly Performance Report as it included the re-investment Surplus Funds Report which mentions multiple financial institutions that he had dealings with in his business. The declaration is less than significant as he noted he was not involved in determining where funds are invested and was just receiving a report.
Councillor Luke
Councillor Luke declared a non-pecuniary less than significant conflict of interest in Item-99 - Adoption of 2017/18 Annual Financial Statements stating that until recently his son was an employee of Council's Auditor PriceWaterhouseCoopers and his daughter was an employee of another accounting firm which undertook audits for local government bodies and stated that the interest was less than significant as Council was not involved in deciding Council's Auditor.

Councillor Church
Councillor Church declared a significant and pecuniary interest in Item 102 Adoption of Draft Section 6.03 Wickham of Newcastle Development Control Plan 2012 and stated his employer was involved in the sales and marketing for the division of the suburb and would leave the Chamber for the discussion on the item.

Councillor Clausen
Councillor Clausen declared a significant non-pecuniary interest in Item 105 - 5 Hall Street Maryville, and stated that his employer, Hunter Water Corporation, was heavily involved in the development and would leave the Chamber for the discussion on the item.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - PUBLIC VOICE COMMITTEE 18 SEPTEMBER 2018
MINUTES - ORDINARY COUNCIL MEETING 25 SEPTEMBER 2018

MOTION
Moved by Cr Clausen, seconded by Cr Mackenzie

The draft minutes as circulated be taken as read and confirmed. Carried
ITEM-19 - LMM 23/10/18 - RECOGNITION OF JILL EMBERSON AND HER CONTRIBUTION TO RAISING AWARENESS OF OVARIAN CANCER

MOTION
Moved by Lord Mayor, Cr Nelmes

That Newcastle City Council:

1. Recognises and thanks Jill Emberson, ABC Newcastle broadcaster for her contribution to raising awareness of ovarian cancer; and
2. Notes that Jill is raising awareness through her recent podcasts “Still Jill”, which documents her deeply personal cancer journey.

Carried unanimously

ITEM-20 - LMM 23/10/18 - SMART PARKING APP SUCCESS AND EXPANSION

MOTION
Moved by Lord Mayor, Cr Nelmes

That City of Newcastle:

1. Acknowledges the success of the Easy Park Pay by Phone Application (Easy Park) which has seen over 45,000 parkings and over 5,000 unique user downloads since City of Newcastle (CN) began trialling the technology in March 2018;
2. Explores options to further incentivise the uptake of Easy Park, to increase parking simplicity and convenience for ratepayers and visitors across the City of Newcastle; and
3. Adds the Parking Area Code to parking zone signage, to make it more convenient for Easy Park users to identify their current Parking Area.

Carried unanimously
ITEM-100 CCL 23/10/18 - TABLING OF PECUNIARY INTEREST RETURNS - ANNUAL REPORT

MOTION
Moved by Cr Mackenzie, seconded by Cr White

Council note the tabling of the annual register of pecuniary interest returns (for the financial year 2017/2018) by the Chief Executive Officer in accordance with s450A of the Local Government Act 1993 (NSW).

Carried

ITEM-101 CCL 23/10/18 - ADOPTION OF INTERNAL REPORTING - PUBLIC INTEREST DISCLOSURES POLICY

MOTION
Moved by Cr Mackenzie, seconded by Cr White

Council adopts the Internal Reporting - Public Interest Disclosures Policy as set out at Attachment A.

Carried

ITEM-104 CCL 23/10/18 - ADOPTION OF CITY MARKETING AND ENGAGEMENT STRATEGY

MOTION
Moved by Cr Elliott, seconded by Cr Byrne

Council adopts the 2018 - 2021 City Marketing and Engagement Strategy as at Attachment A.

Carried

ITEM-98 CCL 23/10/18 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION
Moved by Cr Clausen, seconded by Cr Mackenzie

The executive monthly performance report for September 2018 be received.

Carried
ITEM-99 CCL 23/10/18 - ADOPTION OF 2017/18 ANNUAL FINANCIAL STATEMENTS

MOTION
Moved by Cr Duncan, seconded by Cr Dunn

Council receives and adopts City of Newcastle’s (CN) Financial Statements and accompanying notes, in respect of the year ended 30 June 2018, together with the Auditor's Report (Attachment A).

Carried unanimously

ITEM-102 CCL 23/10/18 - ADOPTION OF DRAFT SECTION 6.03 WICKHAM OF NEWCASTLE DEVELOPMENT CONTROL PLAN 2012

Councillor Church left the Chamber for the determination of the item.

MOTION
Moved by Cr Mackenzie, seconded by Cr White

Council resolves to:

i) Adopt draft Section 6.03 Wickham (Attachment A) for inclusion into DCP.

ii) Amend the area to which Section 6.01 Newcastle City Centre of DCP applies (Attachment B) by excluding the land to which draft Section 6.03 Wickham applies.

AMENDMENT
Moved by Cr Elliott, seconded by Cr Robinson

"Savings Provisions" section on page 1 of the Draft Section 6.03 Wickham changed to read:

If a Development Application has been made before the commencement of this plan in relation to land to which this plan applies and the application has not been finally determined before that commencement, the application must be determined as if the plan had not been commenced.

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

For the amendment: Councillors Elliott and Robinson.

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

Defeated
The motion moved by Councillor MacKenzie and seconded by Councillor White was put to the meeting.

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

**Against the Motion:** Councillor Robinson.  

**Carried**

Councillor Robinson did not vote for the item and as such his vote was recorded in the negative.

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

**ITEM-103 CCL 23/10/18 - ENDORSEMENT OF THE SUPERCARS 2017 IMPACT ASSESSMENT REPORT**

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

Council receives the report as at Attachment A.

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

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

**Carried unanimously**
ITEM-105 CCL 23/10/18 - ENDORSEMENT OF PLANNING AGREEMENT - 5 HALL STREET MARYVILLE

Councillor Clausen left the Chamber for the determination of the item.

MOTION
Moved by Cr White, seconded by Cr Mackenzie

Council resolves to:

i) Endorse the Planning Agreement - 5 Hall Street Maryville (Attachment A).

ii) Authorise the Chief Executive Officer to execute the Planning Agreement.

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

Against the Motion: Nil.

Carried

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

ITEM-106 CCL 23/10/18 - STEVENSON PARK CONCEPT LANDSCAPE MASTERPLAN

MOTION
Moved by Cr White, seconded by Cr Winney-Baartz

1 Council resolve that the Stevenson Park Masterplan (Masterplan) Attachment A be placed on public exhibition for a period of 21 days.

2 Following the exhibition period there will be a workshop for Councillors and a further report back to Council.

Carried unanimously
NOTICES OF MOTION

ITEM-27 NOM 23/10/18 - VERGE GARDENS

MOTION
Moved by Cr Clausen, seconded by Cr Byrne

That Council:

1. Reiterate its commitment to urban greening, including its targets to increase the urban forest and promote community sustainability.
2. Notes the approach adopted by a number of major Australian local authorities that allow residents to establish verge gardens, with policies/guidelines that limit and remove adverse impacts on neighbors and the broader community.
3. Review best practice, and develop a draft Verge Garden Policy and any required guidelines for Council’s consideration.

Carried unanimously

ITEM-28 NOM 23/10/18 - SKATE BOWL ON SOUTH NEWCASTLE BEACH

MOTION
Moved by Cr Church, seconded by Cr Elliott

That City of Newcastle

1. Investigates changes to the design of the Newcastle Beach infrastructure Project which would remove the inclusion of a skate bowl planned for construction on South Newcastle Beach
2. Reconvenes the Skate Park CRG and invites members of the local surfing community and local residents to attend and consult.
3. Seeks a second opinion from suitably qualified engineers about the environmental impacts of the proposed skate bowl on the beach and coastline and the ability of the proposed Skate Bowl to withstand storm events.
4. Provides councillors and the community with an estimate of the annual operating and maintenance costs for the Skate bowl.
5. Agrees to submit the project to a formal DA process to allow written submissions from the community and a public voice hearing should that be requested.

Councillor Clausen moved the Officer's recommendation in the Report on Notice of Motion - NOM 23/10/18 - Skate Bowl on South Newcastle Beach as a foreshadowed motion.
AMENDMENT
Moved by Cr Luke, seconded by Cr MacKenzie

The words "formal DA" be removed from part 5 of the motion. 

Defeated

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

For the Motion: Councillors Church, Elliott, Luke, MacKenzie and Robinson.

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

Defeated

Councillor Clausen moved the Forewshadowed Motion with the addition of a part 5 to conduct a broad community engagement plan.

MOTION
Moved by Cr Clausen, seconded by Cr White

Council

1. Notes that the Newcastle Beach Infrastructure Project’s Skate facility has been developed in consultation with Newcastle’s skateboarding community, and that the facility is designed to cater for a broad range of skaters. The focus group was specific to skating only and inclusion of board riders, or the wider community would not value add to this design process;

2. Notes that the structure is designed in accordance with Australian Standards for coastal requirement, and that the costs for maintenance activities at this location are within the City’s operational budgets; and

3. Commits to a review and finalisation of the coastal engineering report to ensure that the proposed skate bowl does not negatively impact on the beach and coastline, and can adequately withstand storm events; and

4. Commits to the review of the required planning pathways for the proposed development noting the commencement of the Coastal Management Act 2016.

5. Conducts a broad community engagement plan.

Carried
COUNCILLOR WINNEY-BAARTZ RETIRED FROM THE MEETING AT 7.50PM.

COUNCILLOR DUNN LEFT THE CHAMBER AT 7.51PM AND RETURNED AT 7.55PM.

MOTION
Moved by Cr Elliott, seconded by Cr Church

That City of Newcastle:

1 Reinforce its commitment to be open and transparent, in all its operations, especially in sharing with ratepayers how their rates are being spent.

2 In line with Part A, return to publishing a greater level of detail in Capital Works and Operational budgets. The level of detail to be similar to that shown in the 2015/16 Operational Plan. (See pages 91 to 102 in the document accessed through this link)

COUNCILLOR CLAUSEN MOVED THE OFFICER'S RECOMMENDATION IN THE REPORT ON NOTICE OF MOTION - NOM 23/10/18 - WORKS PROGRAM FINANCIAL DETAILS AS A FORESHADOWED MOTION.

For the Motion: Councillors Church, Elliott and Luke.

Against the Motion: Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, MacKenzie and White.

Defeated

COUNCILLOR ROBINSON WAS ABSENT FROM THE CHAMBER FOR THE VOTE ON THIS MOTION AND RETURNED TO THE CHAMBER FOLLOWING THE VOTE.

COUNCILLOR CLAUSEN MOVED THE FORESHADOWED MOTION.
MOTION
Moved by Cr Clausen, seconded by Cr Mackenzie

1 Council and the community will continue to receive YTD Budget to Actual results for all service units as part of the executive monthly performance report in accordance with the Financial Reporting Framework.

2 CN will continue to provide online monthly city works updates for the 2018/19 works program to inform Council and the community of works scheduled to commence and upcoming in that month.

3 A list of community facing projects in the 2019/20 works program will be included as an appendix to the 2019/20 budget document which will identify projects proposed to receive funding during the financial year.

4 CN will provide a quarterly update of the 2019/20 works program to Council and the community via its website.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Byrne, Clausen, Duncan, Dunn, Luke, MacKenzie and White.

Against the Motion: Councillors Church, Elliott and Robinson.

Carried

ITEM-30 NOM 23/10/18 - AIRBNB

MOTION
Moved by Cr Elliott, seconded by Cr Robinson

That City of Newcastle:

A Write to the NSW Minister for Planning and Minister for Better Regulation, acknowledging the changes to planning rules regarding short term rental accommodation and stating the important and appropriate role that Councils will play in managing the impacts in their local communities.

B Write a submission to the NSW Government during the public exhibition period outlining our concerns at the impact on neighbourhoods and supporting a reduction in the number of nights for premises where no host is present.

C Decreases the 365-day threshold for exempt development to 180 days per year where the host is not present and advise the NSW Department of Planning of this decision within eight weeks of the exhibition period which commenced on October 5, 2018. In order protect the quiet amenity of residential neighbourhoods.

Defeated
CONFIDENTIAL REPORTS

PROCEDURAL MOTION
Moved by Cr Clausen, seconded by Cr White

Council move in Confidential Session for the reasons outlined in the business papers

Carried

Council moved into Confidential Session at 8.14pm.

During confidential session:
- for Item 21 CON 23/10/18 - Organisational Design and Structure Implementation Update all Council staff left the Chamber at 8.14pm with the exception of the Chief Executive Officer, Interim Director People and Culture, Manager Legal and Council Executive Support Officers.
- the report on Item 21 CON 23/10/18 - Organisational Design and Structure Implementation Update was tabled and Councillors given the opportunity to read the report.

Council reconvened at 8.40pm and the Chief Executive Officer reported the resolutions of confidential session.

ITEM-19 CON 23/10/18 - SALE OF LAND FOR UNPAID RATES AND CHARGES

MOTION
Moved by Cr Mackenzie, seconded by Cr Luke

1 City of Newcastle (CN) conduct a Public Auction to sell the properties to recover unpaid rates and charges in accordance with Section 713 of the Local Government Act 1993 (Act).

2 Any properties identified as for CN infrastructure or other purposes be subject to a CN bid at auction or otherwise dealt with in accordance with the provisions of the Act.

3 Authority be granted to the Chief Executive Officer or his delegate to negotiate the terms of any sale (even if reserve price is not reached) and to execute all relevant documentation to affect the resulting transactions.

4 Authority be granted to the Chief Executive Officer to, at his discretion, write off any rates or charges which are not recovered by the sale or acquisition of the properties.

5 This confidential report relating to the matters specified in Section10A(2)(d) of the Act be treated as confidential and remain confidential until Council determines otherwise.

Carried unanimously
ITEM-20   CON 23/10/18 - SOUTH STOCKTON ACTIVE HUB SKATE PARK AND PLAYGROUND - CONTRACT NO. 2019/001T

MOTION
Moved by Cr White, seconded by Cr Mackenzie

1 Council accept the tender of Convic Pty Ltd in the amount of $1,697,687 (excluding GST) for South Stockton Active Hub Skate Park and Playground for Contract No. 2019/001T.

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 Council determines otherwise.

Carried unanimously

ITEM-21   CON 23/10/18 - ORGANISATIONAL REDESIGN AND STRUCTURE IMPLEMENTATION UPDATE

MOTION
Moved by Cr Mackenzie, seconded by Cr Robinson

1. The report on the Implementation of the Organisational Redesign and Structure Implementation Update in accordance with the decision of Council on 27 March 2018 be noted.

2. Council endorse the change in title of the current Regulatory and Assessment Service Unit to be retitled Regulatory, Planning and Assessment to better represent planning as a core component of the Service Unit.

3. 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 Council determines otherwise.

Carried

The meeting concluded at 8.41pm.
REPORTS BY COUNCIL OFFICERS

ITEM-107  CCL 27/11/18 - QUARTERLY BUDGET REVIEW STATEMENT

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

PURPOSE

To provide Council with the Quarterly Budget Review Statement as at 30 September 2018, in accordance with clause 203 of the Local Government (General) Regulation 2005.

RECOMMENDATION

1 Council receives the September Quarterly Budget Review Statement (Attachment A) and adopts the revised budget as detailed therein.

KEY ISSUES

2 The September Quarterly Budget Review Statement includes adjustments to the adopted budget to reflect trends identified in the actual operating performance to date for the 2018/19 financial year. The operational budget variations identified within the September Quarterly Budget Review Statement had no net effect and City of Newcastle’s (CN) budgeted annual operating surplus remains in-line with the adopted budget of $6.5m for the year ended 30 June 2019.

3 The operational position forecast in the September Quarterly Budget Review Statement is lower than the actual operating surplus position reported at the end of September. This reflects that in some cases the below average level of expenditure generated by CN's work program over the first quarter will balance out as the year progresses.

4 The net funds budgeted to be used in the 2018/19 financial year has been improved by $9m. This results in budgeted net funds used of $2.9m for the full financial year, which represents a draw down on funds previously restricted for this purpose.

5 The 2018/19 works program was reviewed as part of the September Quarterly Budget Review Statement and scheduling changes were made to projects to ensure CN was best placed to respond to community priorities. Overall the scheduling changes had no effect on the total program which remained at $100m.
FINANCIAL IMPACT

6 The budget variations recommended through the September Quarterly Budget Review Statement are presented in more detail in the attached report.

COMMUNITY STRATEGIC PLAN ALIGNMENT

7 This report aligns to the Community Strategic Plan under the strategic direction of ‘Open and collaborative leadership’ action:

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

IMPLEMENTATION PLAN/IMPLICATIONS

8 The adoption of the recommendation will enable ongoing implementation of CN’s adopted 2018-2022 Delivery Program and 2018/19 Operational Plan in a cost effective and efficient manner. If the recommended budget adjustments are not approved it will significantly impact on CN's ability to undertake the projects outlined in the 2018/19 project program (as adjusted in the September Quarterly Budget Review Statement) and will ultimately impact on the organisation's ability to meet the current and future years' operational plans. In order to ensure that CN remains financially fit for the future and continues on its path to financial sustainability it is essential that it continues on its path of financial sustainability.

RISK ASSESSMENT AND MITIGATION

9 Adoption by 27 November 2018 will meet legislative obligations to submit a Quarterly Budget Review Statement to Council within two months of the end of each quarter.

RELATED PREVIOUS DECISIONS


CONSULTATION

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

Option 1

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

Option 2

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

REFERENCES

ATTACHMENTS

Attachment A: September 2018 Quarterly Budget Review Statement
Distributed under separate cover
ITEM-108 CCL 27/11/18 - EXECUTIVE MONTHLY PERFORMANCE REPORT

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

PURPOSE

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

a) Monthly financial position and year to date (YTD) performance against the 2018/19 Operational Plan as at the end of October 2018.

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

1 The Executive Monthly Performance Report for October 2018 be received.

KEY ISSUES

2 At the end of October 2018 the consolidated YTD actual operating position is a surplus of $11.4m which represents a positive variance of $5.7m against the budgeted YTD surplus of $5.7m. This budget variance is due to a combination of income and expenditure variances which are detailed in Attachment A. The full year adopted budget for 2018/19 is a surplus of $6.5m.

3 The net funds generated as at the end of October 2018 is a surplus of $17m (after capital revenues, expenditure and loan principal repayments). This is a positive variance to the YTD budgeted surplus of $4.9m. This is primarily due to a timing variance in the delivery of CN’s works program with a higher amount of project expenditure (both capital and operational expenditures) expected to be incurred during the final quarter of the financial year.

4 CN’s temporary surplus funds are invested consistent with CN’s Investment Policy, Investment Strategy, the Act and Regulations. Details of all CN funds invested under s.625 of the Act are provided in the Investment Policy and Strategy Compliance Report (section 4 of Attachment A).

FINANCIAL IMPACT

5 The variance between YTD budget and YTD actual results at the end of October 2018 is provided in the Executive Monthly Performance Report.
COMMUNITY STRATEGIC PLAN ALIGNMENT

6 This report aligns to the Community Strategic Plan under the strategic direction of ‘Open and collaborative leadership’ action:

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

IMPLEMENTATION PLAN/IMPLICATIONS

7 The distribution of the report and the information contained therein is consistent with:

i) CN’s adopted annual financial reporting framework,

ii) CN’s Investment Policy and Strategy, and

iii) Clause 212 of the Regulation and s.625 of the Act.

RISK ASSESSMENT AND MITIGATION

8 No additional risk mitigation has been identified this month.

RELATED PREVIOUS DECISIONS

9 At the Ordinary Council Meeting held on 25 September 2018 Council adopted to receive an Executive Monthly Performance Report for July to May no later than one month after the month being reported as part of the annual financial reporting framework.

10 The Investment Policy Compliance Report included in the executive monthly performance report includes a specific confirmation in regard to compliance with part E of the Investment Policy.

CONSULTATION

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

BACKGROUND

12 The presentation of an Executive Monthly 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 - October 2018
Distributed under separate cover
ITEM-109 CCL 27/11/18 - ADOPTION OF THE 2019 COUNCIL MEETING CYCLE

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER LEGAL

PURPOSE

To adopt the Council Meeting cycle for 2019.

RECOMMENDATION

1 That Council adopts the following meeting cycle for 2019:
   i) For the period February 2019 to March 2019 and May 2019 to November 2019 with meetings commencing at 5:30pm:

   | Week 1 – Tuesday | No scheduled meetings |
   | Week 2 – Tuesday | Councillor Workshops |
   | Week 3 – Tuesday | Committee Meetings and Workshops (as required): |
   |                  | • Public Voice Committee |
   |                  | • Briefings Committee |
   |                  | • Development Applications Committee |
   |                  | • Councillor Workshops |
   | Week 4 – Tuesday | Ordinary Council Meeting |
   | Week 5 – Tuesday | No scheduled meetings |

   ii) For April 2019 with meetings commencing at 5:30pm:

   | Week 1 – Tuesday (2 April 2019) | Councillor Workshops |
   | Week 2 – Tuesday (9 April 2019) | Committee Meetings and Workshops (as required): |
   |                                  | • Public Voice Committee |
   |                                  | • Briefings Committee |
   |                                  | • Development Applications Committee |
   |                                  | • Councillor Workshops |
   | Week 3 – Tuesday (16 April 2019) | Ordinary Council Meeting |
   | Week 4 – Tuesday (23 April 2019) | No scheduled meetings |
   | Week 5 – Tuesday (30 April 2019) | No scheduled meetings |
iii) For December 2019 with meetings commencing at 5:30pm:

| Week 1 – Tuesday  
| (3 December 2019) | Committee Meetings and Workshops (as required):  
|                  | • Public Voice Committee  
|                  | • Briefings Committee  
|                  | • Development Applications Committee  
|                  | • Councillor Workshops  
| Week 2 – Tuesday  
| (10 December 2019) | Ordinary Council Meeting  
| Week 3 – Tuesday  
| (17 December 2019) | No scheduled meetings  
| Week 4 – Tuesday  
| (24 December 2019) | No scheduled meetings  

2. For the purposes of the Instruments of Delegation to the Lord Mayor and Chief Executive Officer, Council's 'Recess Period' commences at midnight on Tuesday 11 December 2018 and ceases at midnight Monday 11 February 2019.

KEY ISSUES

3. Section 365 of the Local Government Act 1993 (NSW) (Act) provides that Council must meet at least ten times per year, with each meeting being in a different month. The recommended meeting schedule at Paragraph 1 is consistent with section 365 of the Act.

4. The Code of Meeting Practice provides that Council must adopt a meeting cycle by the first Council meeting of each calendar year.

5. In 2019, Easter Monday and ANZAC day fall in the same week which is week 4 in April. It is proposed that the Ordinary Council Meeting be held in the preceding week (week 3) to avoid the Ordinary Council Meeting being held in between the public holidays.

FINANCIAL IMPACT

6. The 2018/19 budget for Council meetings was allocated on the basis of the recommended meeting schedule. The 2019/20 budget will similarly include an allocation for Council meetings in accordance with the recommended meeting schedule.
COMMUNITY STRATEGIC PLAN ALIGNMENT

7  Open and collaborative leadership

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

   7.2b Provide timely and effective advocacy and leadership on key community issues.

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

8   Open and Transparent Governance Strategy

   8a  Clear line of communications between members of the public and Councillors.

   8b  Established system for the efficient, effective and orderly conduct of meetings.

IMPLEMENTATION PLAN/IMPLICATIONS

9   This report ensures that members of the public are advised in advance of Council meetings and have an opportunity to apply to present to Councillors under Council’s Public Voice and Public Briefing Policy.

10  In accordance with the requirements in the Act and the Code of Meeting Practice, Council meeting dates and times are advertised in the Newcastle Herald and on City of Newcastle (CN) website on a regular, monthly basis.

RISK ASSESSMENT AND MITIGATION

11  Appropriately scheduled Council meetings are required by legislation and are a crucial component of the Code of Meeting Practice.

RELATED PREVIOUS DECISIONS

12  On 12 December 2017 Council endorsed the Council meeting schedule for 2018.

CONSULTATION

13  Not applicable.

BACKGROUND

14  Not applicable.
OPTIONS

Option 1

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

Option 2

16 Council does not adopt the recommendation. An alternative meeting schedule proposal for 2019 may be put forward by Councillors provided that it allows for ten Council meetings, with each meeting being in a different month. An increase in the number of meetings is not the recommended option and any significant change to the proposed meeting cycle would need to be considered in light of resourcing requirements.

REFERENCES

ATTACHMENTS

Nil.
ITEM-110 CCL 27/11/18 - ADOPTION OF THE REVISED INSTRUMENT OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER LEGAL

PURPOSE

To adopt a revised Instrument of Delegation to the Chief Executive Officer (CEO).

RECOMMENDATION

1 That Council adopts a revised Instrument of Delegation to the Chief Executive Officer at Attachment A.

KEY ISSUES

2 Council previously adopted an Instrument of Delegation to the CEO limiting the CEO’s delegation to approve tenders up to $1 million. The Local Government Act 1993 (Act) does not impose a financial limitation on the delegation of awarding tenders. Section 55A of the Act provides that an entity that Council has formed or participated in forming is required to comply with the tendering provisions under the Act and in turn the CEO’s delegation.

3 It is proposed that the Instrument of Delegation to the CEO be amended to make it clear that tenders relating to third party entities that Council has formed or participated in forming are not captured by the financial limitation placed on the CEO in respect of approving tenders.

4 At this time, the proposed amendment will only apply to Newcastle Airport Pty Ltd (NAPL). The CEO is a Director of NAPL, and the proposed clarification will mean that the CEO can approve tenders above $1 million on behalf of Council at NAPL Board meetings in accordance with NAPL’s governance processes.

FINANCIAL IMPACT

5 Not applicable.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 Open and collaborative leadership

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

7.2a Conduct Council business in an open, transparent and accountable manner
7.4a Continuous improvement in services delivery based on accountability, transparency and good governance

7 **Open and Transparent Governance Strategy**

2.4 Clear and considered decision-making processes to ensure decisions made by Council are in the best interests of the community and consistent with Council’s CSP.

**IMPLEMENTATION PLAN/IMPLICATIONS**

8 The revised Instrument of Delegation to the CEO will become effective immediately, if adopted.

**RISK ASSESSMENT AND MITIGATION**

9 The revised Instrument of Delegation to the CEO complies with relevant legislation and allow for the functions of Council to be carried out in an effective and timely manner.

**RELATED PREVIOUS DECISIONS**

10 At the Ordinary Council Meeting held on 12 December 2017 Council adopted the current Instrument of Delegation to the CEO.

**CONSULTATION**

11 Consultation has been undertaken with the NAPL Chairman and CEO who support the proposed changes.

**OPTIONS**

Option 1

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

Option 2

13 Council does not adopt the Instrument of Delegation to the CEO. This is not the recommended option.

**BACKGROUND**

14 The Act provides that Council can delegate any of the functions of Council except those detailed in section 377, which must be exercised by the elected Council.
15 In accordance with section 378 of the Act, the CEO sub-delegates functions to staff.

REFERENCES

ATTACHMENTS

Attachment A: Instrument of Delegation to the Chief Executive Officer dated 27 November 2018
Instrument of Delegation to the
Chief Executive Officer
Dated 27 November 2018

A. This Instrument of Delegation recognises that certain functions are conferred on the Chief Executive Officer under section 335 of the Local Government Act 1993 (Act), including the day-to-day management of Council.

B. Pursuant and subject to section 377 of the Act, Council delegates to the person holding the position of Chief Executive Officer from time to time Council’s Functions under the Act and all other acts and regulations in force and as amended from time to time conferring Functions on Council subject to any conditions or limitations in Schedule 1.

SCHEDULE 1: LIMITATION OF FUNCTIONS DELEGATED TO THE CHIEF EXECUTIVE OFFICER

GENERAL

1. the functions which are required by or under the Act or by or under any other act or instrument to be exercised by the governing body of the Council, this includes but is not limited to the functions listed in section 377 (1) of the Act;

2. functions and authorities delegated to the Lord Mayor;

POLICY AND PROCEDURE

3. the power to make or amend Council Policy;

4. the release for public exhibition and comment of any plan or policy, which is required by legislation to be exhibited;

5. the exercise of functions in a manner not consistent with the policies and decisions of Council, or reasonable and lawful direction of the Lord Mayor;

BUDGET AND RESOURCE ALLOCATION

6. approving Council’s budget;

7. the setting of priorities for Major Projects and Major Asset Preservation Programs;

8. variation to Major Projects (projects exceeding $5m) exceeding an amount of 10% above the approved project budget;

9. the approval of the final design in relation to any new capital works item and any other capital works item specified by Council in the budget approval process where the budget exceeds $5m;
10. the awarding of contracts for any tender called pursuant to section 55 (1) of the Act where the value is greater than $1m (this financial limitation only applies to tenders called by Newcastle City Council. It does not apply to the awarding of contracts by third party entities that Council has formed or participated in forming);

11. writing off bad debts or waiving fees and charges, for amounts above $10,000 (including GST);

ORGANISATIONAL STRUCTURE AND PERSONNEL MATTERS

12. the approval of the organisation structure at Director level, except for transitional or temporary arrangements;

13. the appointment of Senior Staff Contract positions unless prior consultation with Council has occurred, (the CEO may make transitional or temporary arrangements);

14. entering into a new enterprise agreement except after consultation with Council;

COUNCIL OPERATIONS AND SERVICES

15. carrying out new non-core services not already approved by Council;

16. variation of any existing Council service that would have overall negative implications for Council in terms of cost or service delivery;

17. setting or altering the Schedule of Fees and Charges, except in accordance with the relevant categories as determined within the Council's Operational Plan;

LEGAL PROCEEDINGS

18. the giving of instructions to Council’s legal representatives to commence legal proceedings in the NSW Supreme or Federal Courts, except in relation to an urgent injunction proceedings and after consultation with the Lord Mayor where practical and possible (provided that the status of all NSW Supreme and Federal Court proceedings will be reported to Council);

19. the giving of instructions in legal proceedings contrary to a resolution of Council except in planning or regulatory appeals where instructions can be given to resolve an appeal;

PROPERTY, LAND USE AND RELATED MATTERS

20. granting of approvals to occupy and use public land (as defined in the Act), crown land or any other land managed by Council except approvals:

   i. with a maximum rental or fee not exceeding $150,000 per annum and a term (all leases with a term exceeding 5 years entered into under delegated authority by the Chief Executive Office or delegate) will be reported to the elected Council on a quarterly basis;
ii. relating to a temporary use of public land (as defined in the Act) or crown land (including parks and open spaces) not exceeding forty consecutive days; or

iii. with such approvals being reported to Council in the Quarterly Report.

21. adoption of a plan of management for community land;

CULTURAL

22. the development or formation of relationships with other cities, including sister city agreements;

23. the approval of civic and ceremonial events;

24. the granting of civic honours;

PLANNING AND DEVELOPMENT

25. determination of applications for development consent under the Environmental Planning and Assessment Act 1979 (development application) that are to be referred to the Development Applications Committee.

Limitation 25 does not apply during a Recess Period where the Instrument of Delegation to the Development Applications Committee is placed on hold, in which case the determination of all development applications is delegated jointly to the Lord Mayor and Chief Executive Officer (except those limited by relevant legislation) provided:

i. such delegation is exercised following receipt by the Lord Mayor and Chief Executive Officer of reports or other business papers in a form similar to the form of reports or other business papers normally submitted to Council or a Council Committee;

ii. those reports or other business papers are to be circulated to Councillors at least three business days prior to the exercise of delegations;

iii. where written objections by three Councillors on any one item are received by the Lord Mayor or Chief Executive Officer, stating relevant reasons for objection, the item is to be deferred until the next relevant Development Applications Committee meeting of Council; and

iv. any such decisions made by the Lord Mayor and Chief Executive Officer pursuant to such delegation is to be reported to the next meeting of Council.
This Instrument of Delegation:

a) Recognises that the Chief Executive Officer may be delegated any function which is taken to be conferred or imposed on Council pursuant to section 381 of the Act.

b) Is subject to, and is to be exercised in accordance with, the requirements of the relevant legislation and any resolution of Council.

c) Is not intended to limit the Chief Executive Officer’s ability to carry out such other functions and exercise such other powers as the Council may determine from time to time or as may be functions of the Chief Executive Officer under the Act.

d) Should be construed as operating in a manner which is valid and within the powers conferred on the Council under the Act.

INTERPRETATION

a) **Recess Period** means a period of time where Council has by resolution of Council specifically determines a break in Council’s ordinary meeting schedule. A Recess Period does not include:

   (i) The time between meetings (an extraordinary meeting can be called where decisions are required to be made as a matter of urgency).

   (ii) The time between Council terms (that is the period between the day of the last ordinary Council meeting and the date of declaration of a new elected Council).

b) **Chief Executive Officer** means the General Manager appointed under the Act.

c) **Decisions of Council** means resolutions made by the elected Council from time to time.

d) **Policy/Policies of Council** means policies adopted by the elected Council from time to time.

*All previous delegations of functions the subject of this Instrument are revoked.*
ITEM-111 CCL 27/11/18 - APPOINTMENT OF REPLACEMENT COUNCILLOR REPRESENTATIVE TO THE FORT SCRATCHLEY HISTORICAL SOCIETY (EXTERNAL COMMITTEE)

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER LEGAL

PURPOSE

To appoint a replacement Councillor representative to the Fort Scratchley Historical Society Committee (external committee).

RECOMMENDATION

1 That Council appoints a representative as follows:

<table>
<thead>
<tr>
<th>Councillor Appointed</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Insert name of one Councillor]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>External Committee</th>
<th>Term of Membership</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fort Scratchley Historical Society Incorporated</td>
<td>28 November 2018 to 11 September 2020</td>
</tr>
</tbody>
</table>

2 City of Newcastle (CN) staff write to the Chairperson of the above committee advising of the new Councillor representative and the term of their membership.

KEY ISSUES

3 Councillor Duncan was appointed Councillor representative to the Fort Scratchley Historical Society Committee (Committee) at the Council meeting held on 24 October 2017.

4 Councillor Duncan gave notice on 15 October 2018 that due to work commitments she would be resigning from the Committee. To continue to be represented on the Committee, Council is required to appoint a new Councillor representative.

FINANCIAL IMPACT

5 Any expenses incurred for Councillor attendance at meetings (such as travel and accommodation) are covered by the Councillor Expenses and Facilities Policy and are provided for in the 2018/19 adopted budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 Open and Collaborative Leadership

7.2b Provide timely and effective advocacy and leadership on key community issues.
7.2c Establish collaborative relationships and advocate for local needs with all stakeholders

7.3a Provide opportunities for genuine engagement with the community to inform CN's decision-making

7 Open and Transparent Governance Strategy

8a Councillor participation on community issues.

IMPLEMENTATION PLAN/IMPLICATIONS

8 Councillor membership on most external committees will cease on 11 September 2020, being the day before the scheduled Local Government election of the current term (or any such later date as determined by the Minister for Local Government) or if a Councillor resigns or otherwise ceases to be a Councillor. Councillor membership is also subject to the terms of each external committee's constituting / governing document.

RISK ASSESSMENT AND MITIGATION

9 Not appointing a representative reduces the ability of Councillors to further engage with and understand community needs.

RELATED PREVIOUS DECISIONS

10 On 24 October 2017 Council appointed Councillor representatives to various external committees.

CONSULTATION

11 N/A.

BACKGROUND

12 Councillor Duncan was appointed Councillor representative to the Fort Scratchley Historical Society Committee at the Ordinary Council Meeting held on 24 October 2017.
OPTIONS

Option 1

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

Option 2

14 Council resolve to not appoint a Councillor representative to the Committee. This will mean Council will not be represented on the Committee. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: Summary of information relating to the Fort Scratchley Historical Society Incorporated
Attachment A

FORT SCRATCHLEY HISTORICAL SOCIETY INCORPORATED

Purpose:

To facilitate the management of a Museum and research library, and the site of Fort Scratchley.

Meeting Cycle:

The committee meets every third Monday of each month.

Next meeting: to be confirmed, generally at 1:00pm.

Councillor Representation:

One Councillor.

Relevant Council area:

City Wide Services
ITEM-112 CCL 27/11/18 - TABLING OF PECUNIARY INTEREST RETURNS - 1 AUGUST 2018 TO 31 OCTOBER 2018

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER LEGAL

PURPOSE

For the Chief Executive Officer to table the pecuniary interest returns received from designated persons between 1 August 2018 and 15 November 2018.

RECOMMENDATION

1 Council note the tabling of the pecuniary interest returns (for the period 1 August 2018 to 15 November 2018) by the Chief Executive Officer in accordance with the Local Government Act 1993 (NSW).

KEY ISSUES

2 Section 449(1) of the Local Government Act 1993 (NSW) (Act) requires Councillors and designated persons to lodge a pecuniary interest return in the form prescribed by the Local Government (General) Regulation 2005 (NSW) within three months after becoming a Councillor or a designated person.

3 Section 441 of the Act provides that designated persons are:

   (a) The Chief Executive Officer (CEO) (General Manager);

   (b) Senior staff;

   (c) Council officers designated because of the exercise of Council functions; and

   (d) Committee members because of the exercise of Council functions.

4 Section 450A of the Act requires the CEO to keep a register of pecuniary interest returns lodged and to table it at a meeting of Council.

5 In accordance with section 739 of the Act, Council has amended the register of pecuniary interest returns to omit information that discloses a designated person’s place of living where:

   (a) The designated person requested such information be deleted on the grounds that it would place their personal safety or their family’s safety at risk; and
(b) The CEO was satisfied that disclosing the information would place the designated person’s safety or their family’s safety at risk.

FINANCIAL IMPACT

6 Not applicable.

COMMUNITY STRATEGIC PLAN ALIGNMENT

7 Open and collaborative leadership

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

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

8 Open and Transparent Governance Strategy

3.5 Open and Transparent Disclosures.

IMPLEMENTATION PLAN/IMPLICATIONS

9 On the day following the meeting, the register of pecuniary interest returns may be accessed by members of the public (at City of Newcastle’s (CN) Newcastle City Administrative Centre) during business hours without an appointment.

10 At all other times, the register of pecuniary interest returns is available for inspection in accordance with the Government Information (Public Access) Act 2009 (NSW). CN’s procedure requires a person to make an appointment to view the register during business hours.

RISK ASSESSMENT AND MITIGATION

11 Compliance with legislative requirements for tabling pecuniary interest returns is a key process supporting the Open and Transparent Governance Strategy.

RELATED PREVIOUS DECISIONS

12 The annual pecuniary interest returns were last tabled at Council’s Ordinary Meeting held on 23 October 2018.

13 The pecuniary interest returns for newly commenced staff were tabled on 28 August 2018 for designated persons who commenced with CN between 1 May 2018 and 31 July 2018.

CONSULTATION

14 Not applicable.
OPTIONS

Option 1

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

Option 2

16 Council does not adopt the recommendation. The Act requires pecuniary interest returns to be tables at a Council meeting. Failure to do so would constitute a breach of s450A of the Act. This is not the recommended option.

BACKGROUND

17 Not Applicable.

REFERENCES

ATTACHMENTS

Tabled.
ITEM-113 CCL 27/11/18 - ENDORSEMENT OF PLANNING AGREEMENT - 464-470 KING STREET NEWCASTLE

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

PURPOSE

This report seeks Council's endorsement of the Planning Agreement for 464-470 King Street Newcastle.

RECOMMENDATION

1 Council resolves to:
   i) Endorse the Planning Agreement - 464-470 King Street Newcastle (Attachment A).
   ii) Authorise the Chief Executive Officer to execute the Planning Agreement.

KEY ISSUES

Public Exhibition

2 At the Ordinary Council Meeting held on 28 August 2018 Council resolved to place the draft Planning Agreement for DA2016/00346 – 464-470 King Street Newcastle (Verve development) on public exhibition for 28 days. The draft Agreement was exhibited from Monday 3 September 2018 to Tuesday 2 October 2018 and no submissions were received.

3 No changes have been made to the Planning Agreement as exhibited.

Details of Planning Agreement

4 DA2016/00346 includes a requirement for the developer to pay $1,472,537.00 in development contributions. In lieu of the payment of development contributions, City of Newcastle (CN) and the developer have negotiated for the developer to construct and dedicate to CN a shared pedestrian and cycle way link between King and Hunter Street. A copy of the location of the pedestrian and cycle way link is provided in Attachment B.

5 The Hunter Street Revitalisation Final Strategic Framework adopted by Council in 2010, shows the proposed pedestrian and cycle way link as an opportunity to provide connectivity and green space enhancement to the West End. CN has recently acquired 679A - 681 Hunter Street Newcastle West to assist in the delivery of this project.
6. The Planning Agreement is the statutory mechanism to allow works to be constructed in lieu of the payment of development contributions. The Planning Agreement has been prepared in accordance with CN’s Planning Agreements Policy.

7. In addition, section 6.01 (Newcastle City Centre) of CN’s Development Control Plan (DCP) includes a requirement for public and civic buildings, development on key sites and development over 45m in height to allocate 1% of the capital cost of development towards public art within their development.

8. To enforce the above requirement, DA2016/00346 includes a condition of consent requiring the developer to integrate $736,269 of public art / architectural design elements into the building design and public domain areas. The condition of consent requires the developer to consult with CN on the scale and type of features to be included in the buildings and public domain areas.

9. Formal approval of the public art components of the development was granted by CN’s then Cultural Director on 18 December 2017. These components are currently being constructed.

10. The public art comprises a series of associated sculptural elements located on the King Street development frontage, including the main entry portal to the development which is a grand five storey concrete sculpture, formed and poured on site. It also includes public art features integrated into the future pedestrian and cycle way connection between King and Hunter Streets along the Cottage Creek edge. The design concept draws on the history of mining in Newcastle and the city’s geological profile as experienced from the sculptural cliffs along Newcastle’s famous beaches. See Attachment C.

11. Generally, compliance with the DCP control relating to the integration of public art within private developments is negotiated and satisfied through the development assessment process and not included in a Planning Agreement.

12. As the DCP requirements are being satisfied in both the development and within the public domain (to be dedicated to CN); the monetary contribution relating to the public art component has also been included in the Planning Agreement.

13. The Planning Agreement includes a total value of works $2,208,806, rather than specifying an amount for each component of the development. This approach allows flexibility in the design and delivery of the pedestrian and cycle link and will ensure integration between the Verve development and the pedestrian and cycle way link to be dedicated to CN.

14. CN and the developer have been working on the detailed design of the pedestrian and cycle way link, with construction due for completion in July 2019.
FINANCIAL IMPACT

15 The Planning Agreement requires the works to be completed by the developer in lieu of the payment of development contributions. The developer is required to maintain the works for a 12-month period, and rectify any defects identified by CN.

16 The implementation and monitoring of the Planning Agreement by CN staff will be undertaken within the current allocated work program and budget. Ongoing costs associated with the long-term ownership and maintenance of the land and infrastructure proposed to be dedicated to CN will be accommodated in CN’s annual operational budgets.

COMMUNITY STRATEGIC PLAN ALIGNMENT

17 The Planning Agreement aligns with the following Community Strategic Plan Directions:

Liveable Built Environment

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

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

Open and Collaborative Leadership

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

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

7.3a Provide opportunities for genuine engagement with the community to inform CN’s decision-making.

IMPLEMENTATION PLAN/IMPLICATIONS

18 The Planning Agreement includes provisions relating to the carrying out of work and outlines the process for the approval and completion of works, as well as the rectification of defects and maintenance of works by the developer.

19 The Planning Agreement includes a process for resolving disputes and a requirement that CN will not issue the Final Occupation Certificate for the development unless the works have been completed to CN’s satisfaction.
RISK ASSESSMENT AND MITIGATION

20 The negotiation and drafting of the draft Planning Agreement is consistent with CN’s Planning Agreement Policy which can be found at www.newcastle.nsw.gov.au/Newcastle/media/Documents/Strategies,%20Plans,%20and%20Policies/Policies/Planning_Agreements_-_2014_Policy.pdf. This Policy was adopted to regulate the way in which CN will consider, accept and implement offers made by developers to enter into Planning Agreements.

21 Adherence to the legislative framework outlined in CN’s Policy and the Environmental Planning and Assessment Act 1979 reduces the risk to both the Developer and CN.

RELATED PREVIOUS DECISIONS

22 At the Ordinary Council Meeting held on 28 August 2018, Council resolved to exhibit the draft Planning Agreement for 28 days.

CONSULTATION

23 During the public exhibition period, no submissions were received.

24 To determine the scale and type of public art features to be included in the development, a number of meetings were held with CN’s previous Cultural Director and Manager Development and Building and the developer. An Artists Statement and plans were submitted to CN for review. Formal approval of the public art features was granted by CN’s then Cultural Director on 18 December 2017.

25 The Public Art Advisory Committee was not formally constituted during this term of Council and neither the Committee nor the Chief Executive Officer were consulted about the public art components provided for in the draft Planning Agreement.

BACKGROUND

26 Development Consent (DA2016/00346) was granted on 27 September 2016 for demolition of buildings, erection of 20 storey mixed use development including 197 residential apartments, 3 ground level retail units, 2 first floor commercial units, 4 floors of parking, associated site works and 202 lot strata subdivision. The development consent included a requirement for the developer to pay CN a development contribution of $1,472,537.00.

27 The development application was accompanied by a Letter of Offer by the developer to enter into a Planning Agreement in lieu of the payment of development contributions. A modification was approved by officers under delegation to DA2016/00346 (21 August 2017) to defer the timing of payment of the development contribution to allow a draft Planning Agreement to be negotiated and reported to Council.
Section 6.01 (Newcastle City Centre) of CN’s DCP includes a requirement for public and civic buildings, development on key sites and development over 45m in height to allocate 1% of the capital cost of development towards public artwork within their development.

DA2016/00346 includes a condition relating to the payment of development contributions, as well as a requirement for the developer to integrate $736,269 of public art into the design of their development.

The draft Planning Agreement including both the development contribution and public art components requires the developer to:

i) Construct a pedestrian and cycle way link between King Street and Hunter Street Newcastle West, adjacent to Cottage Creek.

ii) Dedication of pedestrian and cycle way link to CN.

iii) Provision of public art / architectural design elements integrated into the building and pedestrian / cycle way link to the satisfaction of CN.

OPTIONS

Option 1

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

Option 2

Council resolves not to endorse the Planning Agreement. This will not allow the developer to construct a new pedestrian and cycle way link and integrate public art into the development in lieu of the payment of the s7.12 levy. As construction is well advanced, this will also delay the development. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: Planning Agreement - 464-470 King Street, Newcastle
Attachment B: Location map of pedestrian and cycle link
Attachment C: Public Art Statement
Planning Agreement
THIS PLANNING AGREEMENT is made on the day of 2018

PARTIES

NEWCASTLE CITY COUNCIL ABN 25 242 068 129 of 282 King Street Newcastle in the State of New South Wales (Council)

AND

WINDHAM DEVELOPMENTS PTY. LIMITED ACN 604 854 300 As Trustees for THE PARK UNIT TRUST ABN 96 604 854 300 of Suite 6, 5-11 Hollywood Avenue Bondi Junction in the said State (Developer)

BACKGROUND

A. By Letter of Offer dated 14 October 2015 the Developer offered to construct a pedestrian and cycle link between King Street to the northern end of Lot 3 DP593753.

B. On or about 4 April 2016 the Developer made a Development Application to the Council for Development Consent to carry out the Development on the Land.

C. On 21 August 2017 the Council pursuant to the provisions of Section 96 (as it then was) of the Environmental Planning & Assessment Act modified the conditions of consent referred to in the Notice of Determination dated 27 September 2016, as set out in the copy of the letter dated 21 August 2017 which is annexed to this Agreement as Schedule 2A.

D. The Developer has agreed to make the Development Contributions, as hereinafter set out, towards the Public Facilities.

E. The Developer is the Landowner of the Lot 3 in DP593753 and Lot 2 in DP81601.

OPERATIVE PROVISIONS

1. Planning Agreement under the Act

2. The Parties agree that this Agreement is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act.

3. Application of this Agreement

This Agreement applies to the Land, being that part of Lot 3 in DP593753 and that part of Lot 2 in DP81601 shown on the Land Dedication Plan which is annexed to this Agreement at Schedule 3 and forms part of this Agreement and Development Application Number DA2016/00346 and any subsequent amendment approved by the Council.

3.1 Operation of this Agreement

This Agreement commences on the date on which it has been executed by all parties.

3.2 The party who executes this Agreement last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Agreement to any other person who is
a party.

4. Definitions and Interpretation
4.1 In this Agreement the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Agreement means this Agreement and includes any Schedules, annexures and appendices to this Agreement.

Claim includes a claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding or right of action but does not include proceedings to enforce this Agreement in the Land and Environment Court or any Court of Appeal from that Court.

Construction Certificate has the same meaning as in the Act.

Costs means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

Dealing in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

Dedication Land has the same meaning as Land.

Development means the development of the Land by way of creation of a pedestrian/cycle link between King and the northern end of Lot 3 DPS93753 or an Extended Work Zone as agreed by both parties in accordance with Conditions 3 (a) and 15 (a) of Development Application 2016/00346.02 including but not limited to a footpath made from concrete and other materials, hard and soft landscaping elements including planter boxes and tree pits and trees, plants and shrubs, street lights and fencing/railings along the creek edge in accordance with the Council’s requirements.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means the dedication of the Land free of cost or the provision of a material public benefit or carrying out of Work but does not include any security or other benefit provided by the Developer to the Council to secure the enforcement of that party’s obligations under this Agreement.

Extended Work Zone means any extension of the pedestrian/cycle link from the northern end of Lot 3 DPS93753 in the direction of or to Hunter Street.

GST has the same meaning as in the GST Law.

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Land means that part of Lot 3 in DPS93753 and that part of Lot 2 in DP81601 known as part 470 King Street Newcastle West shown in the Land Dedication Plan at Schedule 3 to this Agreement.

Land Dedication Plan means the plan and schedules to this Agreement, as amended from time to time, showing the location of the Land to be dedicated.

Party means a party to this agreement, including their successors and assigns.
Regulation means the *Environmental Planning and Assessment Regulation 2000*. 

Subdivision Certificate has the same meaning as in the Act.

Work means the physical result of any building, engineering or construction Work in, on, over or under the Land required to be carried out by the Developer under this Agreement.

Work Items means items which require Work to be carried out under this Agreement.

4.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

a) Headings are inserted for convenience only and do not affect the interpretation of this agreement.

b) A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.

c) If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.

d) A reference in this Agreement to dollars or $ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.

e) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

f) A reference in this Agreement to any agreement, Agreement or document is to that agreement, Agreement or document as amended, novated, supplemented or replaced.

g) A reference to a Clause, part, schedule or attachment is a reference to a Clause, part, schedule or attachment of or to this Agreement.

h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.

i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.

k) References to the word 'include' or 'including are to be construed without limitation.

l) A reference to this Agreement includes the agreement recorded in this Agreement.

m) A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.

n) Any schedules and attachments form part of this Agreement.

5. Development Contributions to be made under this Agreement

5.1 The Developer is to make Development Contributions to the Council being the dedication of the Land and the Works required to complete the construction of a pedestrian/cycle link.
between King Street and the northern end of Lot 3 DP593753, or an Extended Work Zone as agreed by both parties, in accordance with Conditions 3(a) and 15(a) of Development Application 2016/00346.02.

5.2 The Council is to apply the Development Contribution made by the Developer under this Agreement towards the public purpose for which it is made and otherwise in accordance with this Agreement.

6. Application of the Development Contributions

6.1 The Development Contributions made by the Developer under the terms of this Agreement consisting of Work or Work items must be completed not later than six (6) months after the later of:-

(a) the issue of the Final Occupation Certificate in respect of the Building Works and Subdivision the subject of Development Application 2016/00346.02 as varied for the time being and from time to time; and

(b) the registration of the plans of stratum subdivision of Lot 2 DP81601 and Lot 3 DP593753 situate 464-470 King Street Newcastle West.

6.2 For the purpose of this Clause 6 the parties hereby agree that time is of the essence with respect to performance of each of the parties' obligations under this Agreement and the Developer will ensure that the Development Contributions to be made by the Developer under the terms of this Agreement consisting of Work or Work items shall be completed on or before the occurrence of the later of the events referred to at Clause 6.1 (a) and 6.1 (b).

7. Application of Part 7 Division 3 of the Act to the Development/Public Art Works Condition

7.1 The provisions of Part 7 Division 3 of the Act do not apply to the development and by this Agreement are specifically excluded in their application to the Development.

7.2 Subject to the Developer completing the Work by the date set out in Clause 6.1 of this Agreement the Council agrees to and accepts Development Contributions in full satisfaction of the total monetary contribution of $1,472,537.00 (as indexed in accordance with the Development Consent) to be paid to the Council pursuant to Section 94A (as it then was) of the Environmental Planning & Assessment Act 1979 in accordance with condition 3 of the Notice of Determination of Development Application Number DA2016/00346 dated 27 September 2016 (Section 94 Contribution).

7.3.1 For the purpose of calculating the value of the Development Contributions as provided under the terms of this Agreement and the value of the Public Art Feature as referred to in Clause 29 of Notice of Determination of Development Application DA2016/00346 dated 27 September 2016 (Public Art Feature) the Developer will obtain, at its own cost, from a registered valuer a valuation of the Land and Quantity Surveyor's bill of quantities detailing the costs of the Work and any Work Items forming part of the Development Contributions and a Quantity Surveyor's Bill of Quantities in relation to the value of the Public Art Feature.

7.3.2 The value of the Development Contributions and the Public Art Feature shall be determined in accordance with the documents referred to in Clause 7.3.1 of the Agreement and the Developer will make available to the Council such documentation as soon as reasonably practicable after receipt of same.

7.3.3 In the event that the value of the Development Contributions exceeds the Section 94 Contribution ("Excess Contribution") the Excess Contribution will be allocated by the Council in or towards satisfaction, whether in whole or in part, of the value of the Public Art Feature.
provided that:-

(a) if the Excess Contribution and the value of the Public Art Feature, as determined in the manner hereinbefore set out, exceeds the amount of $736,269.00 the Council and the Developer will negotiate in good faith to amend the design of the Work and/or any Work Item forming part of the Development Contributions in such a manner so as to ensure that, in these circumstances, the value of the Development Contributions and the value of the Public Art Feature do not exceed $2,208,806.00 being the amount of the Section 94 Contribution and the prescribed value of the Public Art Feature.

8. Procedures Relating to Dedication

8.1 A Development Contribution comprising the dedication of the Land is made for the purposes of this Agreement when:-

8.1.1 a deposited plan is registered in the register of plans held with the Registrar General that:

- a) creates a public reserve under the Local Government Act 1993, or

8.1.2 the Council is given an instrument in registrable form under the Real Property Act 1990 duly executed by the Developer (as Landowner) as transferor that is effective to transfer the title to the Land to the Council when executed by the Council as transferee and registered.

8.2 For the purposes of Clause 8.1.2:

8.2.1 the Developer is to give the Council, for execution by the Council as transferee, an instrument of transfer under the Real Property Act 1990 relating to the Land to be dedicated, and

8.2.2 within 7 days of receiving it from Developer, the Council is to execute it and return it to Developer, and

8.2.3 within 7 days of receiving it from the Council (properly executed), the Developer is to lodge it for registration with the Registrar General, and

8.2.4 the Developer is to do all things reasonably necessary to enable it to be registered.

8.3 The Land required to be dedicated under this Agreement is to be dedicated free of all Registered and unregistered encumbrances and affectations, except as otherwise agreed in writing by the Council.

8.4 If, having used all reasonable endeavours, the Developer cannot comply with Clause 8.3, the Developer may request that Council agree to accept the Land subject to those encumbrances and affectations, and:-

8.4.1 Council cannot withhold its agreement unreasonably if the encumbrance or affectation does not prevent the future use of the Land for the purpose for which it is to be dedicated under this Agreement, unless the encumbrance or affectation is a charge arising as a result of unpaid taxes or charges, and

8.4.2 in all other cases, Council may withhold its agreement in its absolute discretion.

9. Design and Construction
9.1 Annexed to this Agreement at Schedule Three is the Developer’s Plan for the pedestrian/cycle link between King and the northern end of Lot 3 DP593753 which Developer’s Plan has been accepted and approved by the Council.

9.2 No amendment to this Agreement or any variation to the Work or any Work Items nor the creation of any Extended Work Zone or any Work or Work Items to be incorporated therein, will be effective unless there is agreement in writing made between the Developer and the Council and, if necessary, the lodgement by the Developer with the Council of an Application to amend a Development Approval relating to the Works and/or the lodgement of a Development Application in relation to the Extended Work Zone.

9.3 For the purpose of Clause 9.2 any variation to any Work or Work Item or the creation of an Extended Work Zone and Work or Work Items incorporated therein must comply with Council’s requirement and be consistent with the objectives of the Development Contribution as set out in this Agreement.

9.4 The Developer must not apply for any Construction Certificate or seek any other approvals for a Work item (other than lodging a Development Application) comprising Works unless it has first submitted the construction drawings for the Work Item to the Council and considered any comments in respect of Work item from Council.

10. Standard of Construction of Work

10.1 Any Work that the Developer is required to carry out under this Agreement is to be carried out in accordance with:-

10.1.1 the requirements of any relevant approval issued by a relevant authority;

10.1.2 any Australian standards and other laws applicable to the Work;

10.1.3 the Council Specification Documents; and

10.1.4 in a proper and workmanlike manner, complying with current industry practice and standards relating to the Work.

10.2 If there is any inconsistency between the requirements of any relevant approval, any Australian standards or laws, or the Council Specification Documents, then the requirements of any relevant Approval, Australian standards or other applicable laws prevail to the extent of the inconsistency.

10.3 The Developer must appoint Council as the certifier in respect of any Works comprising embellishment Works for the purpose of issuing a Construction Certificate in respect of those Works.

11. Variation to Work

11.1 The design or specification of any Work that is required to be carried out by the Developer under this Agreement may be varied in accordance with this Clause without the necessity for an amendment to this Agreement.

11.2 For the purposes of Clause 11.1 the Developer may make a written request to the Council to approve:-

a) a variation to the design or specifications of a Work; and/or
b) any variation to the Development Contribution to ensure that the value of the Work and Work Items and the Public Art Feature do not exceed the combined value of the Public Art Feature and the Section 94 Contributions heretofore referred to and for these purposes the Developer will obtain and provide to the Council a Quantity Surveyor’s Bill of Quantities to ensure that the Work and Work Items and Public Art Feature meet the agreed budget figure of $2,208,806.00.

11.3 The Council is not to unreasonably delay or withhold its approval to a request made by the Developer under Clause 11.2.

11.4 In the event of there being an agreement made between the Developer and the Council providing for an Extended Work Zone an amended plan of works as agreed to by the parties will be deemed to form part of this Planning Agreement and in those circumstances the Developer will obtain and provide to the Council a Quantity Surveyor’s Bill of Quantities relating to the value of the Works/Work Items to be carried out by the Developer in the Extended Work Zone based on the amended plan relating to the Extended Work Zone. The Bill of Quantities will be the basis of an account to be submitted by the Developer to the Council for Work or Work Items incorporated into the Extended Work Zone.

11.5 The Council will be responsible to meet the costs of any Work carried out or Work Items included in the Extended Work Zone.

12. Maintenance and Management of Works

12.1 The parties may, by agreement in writing, specify Work items to which the maintenance period applies and the standard and other particulars of maintenance required.

12.2 If the maintenance period applies to a Work, the Developer is to maintain the Work during that period, in accordance with the standard and other particulars of maintenance agreed between the parties.

12.3 The maintenance to be carried out by the Developer is limited to the watering of trees and plants and specifically excludes cleaning of the pedestrian/cycle link and removal of Council bins from the Land.

12.4 Despite any other provision of this Agreement, if the Developer has complied with its obligations under this Clause, the Council cannot make any claim, objection or demand about the state or condition of a Work referred to in Clause 12.1 after the end of the maintenance period for that Work.

12.5 In this Clause, maintenance period means the period of twelve (12) months commencing on and from the date that Council accepts responsibility for Work under Clause 13.

13. Acceptance of Risks in Works

13.1 Subject to anything to the contrary in this Agreement, the Council accepts responsibility for the Work and Work Items including but not limited to the loss or destruction of any of the Work or Work Items, on the later of:-

13.1.1 when the Work located on Land to be dedicated to Council is completed for the purposes of this Agreement in accordance with Clause 8; or

13.1.2 when the Land on which the Work is located is dedicated to the Council.

13.2 The Developer, at its own cost, is to repair and make good to the satisfaction of the Council (acting reasonably) any loss or damage to a Work Item(s) from any cause whatsoever which occurs before completion of the Work.
14. Access to Land by Council

14.1 The Developer and Developer are to permit the Council, its officers, employees, agents and contractors to enter the Land or any other Land owned or controlled by the Developer or Developer at any time, upon giving reasonable prior notice to:

14.1.1 inspect, examine or test any Work, Work Items; or

14.1.2 remedy any breach by the Developer in carrying out the Work.

15. Access to Land by Developer

15.1 The Council is to permit the Developer, its officers, employees, agents and contractors to enter and occupy any Land owned or controlled by the council, including any part of the Land dedicated to the Council, to:

15.1.1 enable the Developer to carry out any Work under this Agreement that is required to be carried out on that Land, or

15.1.2 perform any other obligation imposed on the Developer by this Agreement.

16. Council’s Obligations relating to Work

16.1 The Council is not to unreasonably delay, hinder or otherwise interfere with the performance by the Developer of its obligations under this Agreement in relation to Work.

17. Protection of People and Property

17.1 The Developer is to ensure to the fullest extent reasonably practicable in carrying out any Work that:

17.1.1 all necessary measures are taken to protect people and property, and

17.1.2 unnecessary interference with the passage of people and vehicles is avoided; and

17.1.3 nuisances and unreasonable noise and disturbances are prevented.

18. Completion of Work

18.1 The Developer is to give the Council written notice of the date on which it will complete Work required to be carried out under this Agreement.

18.2 The Council is to inspect the Work the subject of the notice referred to in Clause 18.1 within fourteen (14) days of the date specified in the notice for completion of the Work.

18.3 Work is completed for the purposes of this Agreement when the Council, acting reasonably, gives a certificate to the Developer to that effect, and Council can only withhold the certificate if the Work is not completed in accordance with this Agreement.

19. Rectification of Defects

19.1 During the defects liability period, the Council may give the Developer a rectification notice.

19.2 The Developer is to comply with a rectification notice at its own cost according to its terms and to the satisfaction of the Council.
19.3 The Council is to do such things as are reasonably necessary to enable the Developer to comply with a rectification notice that has been given to it under Clause 19.1.

19.4 In this Clause:-

19.4.1 Defect means anything that adversely affects, or is likely to adversely affect, the appearance, structural integrity, functionality or use or enjoyment of a Work or any part of a Work.

19.4.2 Defects liability period means the period of three (3) months commencing on the day immediately after the Council accepts responsibility for the Work under Clause 13.

19.4.3 Rectification notice means a notice in writing:-

a) identifying the nature and extent of a defect;

b) specifying the Works or actions that are required to rectify the defect;

a) specifying the date by which or the period within which the defect is to be rectified.

20. Works as Executed Plan

20.1 No later than sixty (60) days after the Work is completed for the purposes of this Agreement, the Developer is to submit to the Council a full Works as executed plan for the Work.

20.2 The Developer, being the copyright owner in the plan referred to in Clause 20.1, gives the Council a non-exclusive licence to use the copyright in the plans for the purposes of this Agreement.

21. Provision of Security

21.1 The Developer is to give the security to the Council when it executes this Agreement

22. Security for Dedication of Land

22.1 If the Developer does not dedicate the Land required to be dedicated under this Agreement, or any part thereof, at the time at which it is required to be dedicated, the Developer consents to the Council compulsorily acquiring that Land for compensation in the amount of $1 without having to follow the pre-acquisition procedures under the Just Terms Act.

22.2 The Council is to only acquire Land pursuant to Clause 22.1 if it considers it reasonable to do so having regard to the circumstances surrounding the failure by the Developer to dedicate the Land required to be dedicated under this Agreement.

22.3 Clause 22.1 constitutes an Agreement for the purposes of Section 30 of the Just Terms Act.

22.4 If, as a result of an acquisition referred to in Clause 22.1, the Council is required to pay compensation to any person other than the Developer, the Developer is to reimburse the Council for that amount upon a written request being made by the Council or the Council can call on any Security for that purpose.

22.5 The Developer indemnifies and keeps indemnified the Council against all claims made against the Council as a result of any acquisition by the Council of the whole or any part of the Land that is required to be dedicated under this Agreement.
22.6 The Developer and Developer are to promptly do all things necessary, and consent to the Council doing all things necessary, to give effect to this Clause 22, including without limitation:

22.6.1 signing any documents or forms,

22.6.2 giving Land owner’s consent for the lodgement of any Development Application,

22.6.3 producing certificates of title to the Registrar-General under the Real Property Act 1900, and

22.6.4 paying the Council’s costs arising from this Clause 22.

22.7 In this Clause, Just Terms Act means the Land Acquisition (Just Terms Compensation) Act 1991.

23. Breach of Obligations

23.1 If the Council considers that the Developer is in breach of any obligation under this Agreement it may give a notice to the Developer:

23.1.1 specifying the nature and extent of the breach,

23.1.2 requiring the Developer to Rectify the breach to the Council’s satisfaction, and

23.1.3 specifying the period within which the breach is to be rectified, being a period that is reasonable in the circumstances.

23.2 A notice given under Clause 23.1 is to allow the Developer not less than 28 days (or such further period as the Council considers reasonable in the circumstances) to Rectify the breach.

23.3 If the Developer does not comply with the notice given under Clause 23.1 relating to the carrying out of Work under this Agreement, the Council may step-in and remedy the breach.

23.4 Nothing in Clause 23.3 affects the Council’s other rights to enforce this Agreement.

23.5 Any costs incurred by the Council in remedying a breach in accordance with Clause 23.3 may be recovered by the Council under this Agreement or as a debt due in a court of competent jurisdiction.

23.6 For the purpose of Clause 23.3, the Council’s costs of remedying a breach the subject of a notice given under Clause 23.1 include, but are not limited to:

23.6.1 the costs of the Council’s servants, agents and contractors reasonably incurred for that purpose,

23.6.2 all fees and charges necessarily or reasonably incurred by the Council in remedying the breach, and

23.6.3 all legal costs and expenses reasonably incurred by the Council, by reason of the breach.

24. Council to Consult before Enforcing this Agreement

24.1 This Clause applies to any of the Developer’s obligations under this Agreement.
24.2 If the Council reasonably forms the opinion that the Developer has failed to comply with an obligation to which this Clause applies, it is not to enforce this Agreement against the Developer unless it has first notified the Developer in writing of its intention to do so and has consulted with the Developer as to:-

24.2.1 the reason for the non-compliance,

24.2.2 the likely effects of the non-compliance, and

24.2.3 the Developer's capacity in all of the circumstances to reasonably rectify the non-compliance.

24.3 The Council is not to enforce this Agreement against the Developer unless, after having Consulted with the Developer:

24.3.1 it has reasonably formed the opinion the Developer has no reasonable excuse for the non-compliance,

24.3.2 it has notified the Developer in writing that it intends to enforce the Agreement not earlier than 14 days from the date of the notice, and

24.3.3 the notice specifies the enforcement action it intends to take.

24.4 At any time between the date of the notice referred to in Clause 24.3 and the time when the Council takes action to enforce this Agreement, the Developer may notify the Council of a Dispute under Clauses 26 or 27.

24.5 If the Developer notifies the Council in accordance with Clause 24.4, the Council is not to enforce this Agreement against the Developer in relation to the relevant non-compliance unless and until the dispute resolution process under Clauses 26 or 27 has been exhausted without resolution between the parties.

25. Enforcement in Court

25.1 Without limiting any other provision of this Agreement (other than Clause 26), the Parties may enforce this Agreement in any court of competent jurisdiction.

25.2 For the avoidance of doubt, nothing in this Agreement (other than Clause 26) prevents:

25.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates;

25.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

26. Dispute Resolution – Expert Determination

26.1 This Clause applies to a Dispute between any of the Parties to this Agreement about a matter arising in connection with this Agreement that can be determined by an appropriately qualified expert (Expert Determination Dispute) if:

26.1.1 the Parties to the Dispute agree that it can be so determined, or

26.1.2 the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
26.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.

26.3 If a notice is given under Clause 26.2, the Parties are to meet within 14 days of the notice to try to resolve the Dispute.

26.4 If the Dispute is not resolved within a further 28 days, the Dispute must be referred to the President of the NSW Law Society to appoint an expert to determine the Dispute.

26.5 The expert determination binds the Parties, except in the case of the expert's fraud or misfeasance.

26.6 Each Party must bear its own costs arising from or in connection with the appointment of the expert and the expert determination.

26.7 The Parties are to share equally the costs of the President, the expert, and the expert determination.

27. **Dispute Resolution - Mediation**

27.1 This Clause applies to any Dispute under this Agreement other than a Dispute to which Clause 27 applies.

27.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.

27.3 If a notice is given under Clause 27.2, the Parties are to meet within 14 days of the notice to try to resolve the Dispute.

27.4 If the Dispute is not resolved within a further 28 days, the Parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time, and must request the President of the Law Society, or the President's nominee, to select a mediator.

27.5 If the Dispute is not resolved by mediation within a further 28 days, or any longer period that may be needed to complete any mediation process which has been started, then the Parties may exercise their legal rights in relation to the Dispute, including by taking legal proceedings in a court of competent jurisdiction in New South Wales.

27.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.

27.7 The Parties are to share equally the costs of the President, the mediator, and the mediation.

28. **Registration of this Agreement**

28.1 In this Clause 28, **Dedication Land** means any part of the Land which is to be dedicated to Council.

28.2 The Parties agree to register this Agreement for the purposes of Part 7 Clause 7.6 of the Act on the title to the Dedication Land, after Lot 3 in DP593753 and Lot 2 in DP81601 are subdivided to create the Dedication Land as a separate Lot as shown in the Land Dedication Plan at Schedule 3 to this Agreement.
28.3 Within 10 business days of the Developer being notified by LPI of the creation of the part of the Dedication Land as a separate lot, the Developer is to deliver to the Council in registrable form:

28.3.1 an instrument requesting registration of this Agreement on the title to each lot containing any Dedication Land, executed by the Developer and any other person required by the Registrar-General to execute such instrument, and

28.3.2 the written irrevocable consent of each person referred to in Part 7 Clause 7.6 of the Act to that registration.

28.4 The Developer and Developer at their cost are to:

28.4.1 do such other things as are reasonably necessary to enable registration of this Agreement to occur, and

28.4.2 provide the Council with evidence of registration within 5 days of being notified by the Land and Property Information of such registration.

28.5 If this Agreement is registered on the title to a Lot which contains Dedication Land and that lot is subsequently subdivided such that any of the newly formed lots do not contain any part of the Dedication Land then the Parties agree to do all things as are reasonably necessary to ensure that the Agreement is not registered on the title to those newly formed lots which do not contain the Dedication Land, including by instructing the Registrar-General not to register this Agreement on the title to those lots.

28.6 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Agreement from the title to the Land:-

28.6.1 in so far as the part of the Land concerned is not Dedication Land, and

28.6.2 in relation to any other part of the Dedication Land, once the Developer has completed its obligations under this Agreement to the reasonable satisfaction of the Council or this Agreement is terminated or otherwise comes to an end for any other reason.

29. Release

29.1 Each Party releases the other Party from any Claim it may have against the other Party arising in connection with the performance of their obligations under this Agreement except if, and to the extent that, the Claim arises because of the other Party’s negligence or default, or if Work is undertaken by one party at the request of another party which Work is not the subject of this Agreement.

30. Indemnity

30.1 Each Party indemnifies the other Party from and against all Claims that may be sustained, suffered, recovered or made against the other Party arising in connection with the performance of their obligations under this Agreement except if, and to the extent that, the claim arises because of the other party’s negligence or default or if Work is undertaken by one party at the request of another party which Work is not the subject of this Agreement.

31. Insurance

31.1 The Developer must, during the currency of this Agreement, effects and maintain with a reputable insurer public liability insurance for a minimum amount of Twenty Million Dollars.
31.2 The Developer must ensure that its builder effects and maintains, contractor's all risk insurance covering the Works and Work items to be carried out by the builder on behalf of the Developer in accordance with the terms of this Agreement, until the Work is completed in accordance with the terms of this Agreement.

32. Notices

32.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

a) Delivered or posted to that Party at its address set out below.

b) Faxed to that Party at its fax number set out below.

c) Emailed to that Party at its email address set out below.

Council
Attention: ##
Address: ##
Fax Number: ##
Email: ##

Developer
Attention: ##
Address: ##
Fax Number: ##
Email: ##

32.2 If a Party gives the other Party 3 business days notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.

32.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:

32.3.1 If it is delivered, when it is left at the relevant address.
32.3.2 If it is sent by post, 2 business days after it is posted.
32.3.3 If it is sent by fax, as soon as the sender receives from the sender’s fax machine a report of an error free transmission to the correct fax number.
32.3.4 If sent by email on the day of transmission provided that the sender does not receive notification of non-delivery of the email.

32.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

33. Approvals and Consent

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.
34. Assignment and Dealings

Neither party to this Agreement may transfer or assign its rights or obligations under this Agreement without the consent in writing of the other party.

35. Costs

Each party will pay their own costs of and incidental to the negotiation, preparation, execution and stamping of this Agreement and any document relating to this Agreement.

36. Entire Agreement

This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

37. Further Acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

38. Governing Law and Jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

39. Joint and Individual Liability and Benefits

Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

40. No Fetter

Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

41. Representations and Warranties

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

42. Severability

If a Clause or part of a Clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any Clause or part of a Clause is illegal, unenforceable or invalid, that Clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.
43. Modification

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

44. Waiver

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

45. GST

45.1 In this Clause:

Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice have the meaning given by the GST Law.

GST Amount means in relation to a Taxable Supply the amount of GST payable for the Taxable Supply.

GST Law has the same meaning as in A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a Party includes an Input Tax Credit for an acquisition made by that Party but to which another member of the same GST Group is entitled under the GST Law.

Taxable Supply has the meaning given by the GST Law, excluding (except where expressly agreed otherwise) a supply for which the supplier chooses to apply the Margin Scheme in Working out the amount of GST on that supply.

45.2 Subject to Clause 45.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.

45.3 Clause 45.4 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Agreement to be GST inclusive.

45.4 No additional amount is payable by the Council under Clause 45.4 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.

45.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Agreement by one Party to the other Party that are not subject to Division 82 of the A New Tax System (Goods and Services Tax) Act 1999, the Parties agree:

45.5.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies before issuing Tax Invoices for those Supplies;
45.5.2 that any amounts payable by the Parties in accordance with Clause 45.2 (as limited by Clause 45.4) to each other for those Supplies will be set off against each other to the extent that they are equivalent in amount.

45.6 No payment of any amount under this Clause 46, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided the recipient with a Tax Invoice or Adjustment Note as the case may be.

45.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a Party, must exclude the amount of any Input Tax Credit entitlement of that Party in relation to the relevant cost, expense or other liability.

45.8 This Clause continues to apply after expiration or termination of this Agreement.

46. Trustee Provisions

46.1 The Council acknowledges that:-

46.1.1 The Developer is entering into this Agreement as Trustee for The Park Unit Trust ("Trust") and not in any other capacity.

46.1.2 The Trustee is not liable to the Council or any other person in any capacity other than as Trustee of the Trust.

46.1.3 The liability of the Trustee arising under or in connection with this Agreement is limited to and can be enforced by the Council against the Trustees only to the extent to which it can be satisfied out of any property held by the Trustee out of which the Trustee is actually indemnified for the liability. This limitation applies despite any other provision of this Agreement and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Agreement.

46.1.4 The Council may not sue the Trustee in any capacity other than as Trustee of the Trust, including seeking the appointment of a receiver (except in relation to the property of the Trust), liquidator, an administrator or any other similar person to the Trustee or prove in and liquidation of or affecting the Trustee (except in relation to the property of the Trust).

46.1.5 The Council waives its rights and releases the Trustee from any personal liability in respect of any loss or damage which any of them may suffer as a consequence of a failure of the Trustee to perform its obligations under this Agreement, which cannot be paid or satisfied out of any property held by the Trustee. The provisions of this Clause will not apply to any obligation or liability of the Trustee to the extent arising as a result of the Trustee's fraud, negligence or willful default.

46.1.6 No attorney, agent or delegate appointed in accordance with this Agreement has authority to act on behalf of the Trustee in any way which exposes the Trustee to any personal liability and no act or omission of any such person will be considered fraud, negligence or willful default of the Trustee for the purposes of this Clause 46.

47. Explanatory Notes Relating to this Agreement

47.1 The Appendix contains the Explanatory Note relating to this Agreement required by Clause 25E of the Regulations.
47.2 Under Clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note in the Appendix is not to be used to assist in construing this Agreement.
SCHEDULE 1 – LAND

Means that part of Lot 3 in DP593753 and that part of Lot 2 in DP81601 shown on the Land Dedication Plan at Schedule 3 to this Agreement.
SCHEDULE 2 – PLAN OF WORKS
SCHEDULE 2A – NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION TO MODIFY DETAILS OF DEVELOPMENT CONSENT

See attached letter dated 21 August 2017 from Newcastle City Council to Windham Developments Pty, Ltd.
Executed as an Agreement.

Executed on behalf of the
COUNCIL OF THE CITY OF NEWCASTLE

Chief Executive Officer

Signature of Witness

Full Name:
Position:

Executed by WINDHAM DEVELOPMENTS PTY. LIMITED
ACN 604 854 300 pursuant to Section 127 of the
Corporations Act 2001 by:-

Warwick Miller
Director

Duncan John Miller
Director
Section 1.02  Appendix 2 – Explanatory Note Template

Environmental Planning and Assessment Regulation 2000
(Clauses 25E)

Explanatory Note
Draft Planning Agreement

Under Part 7 Clause 7.4 of the Environmental Planning and Assessment Act 1979

1. Parties

Council of the City of Newcastle (Planning Authority)
Windham Developments Pty. Limited ACN 604 854 300 (Developer)

2. Description of Subject Land

Lot 2 DP 81601 being that part of the said Lot shown in the Land Dedication Plan annexed at Schedule 3 to this Agreement.

3. Description of Proposed Change to Environmental Planning Instrument/Development Application:-

1) Provision of Development Contribution payable by the Developer under DA2016/00346 by way of Works referred to in this Agreement.

2) Satisfaction, wholly or in part, of public art Works requirement as set out in DA2016/00346 by way Works referred to in this Agreement.


a) Provision of public open/recreation space for the Newcastle community to provide pedestrian/cycle link between King Street and Hunter Street Newcastle West.

b) Provides for dedication of the Land in favour of the Council of the City of Newcastle.

c) Provides for maintenance by the Developer of the Land for a limited period of time.

d) Provides for rectification by the Developer of any defective Works the subject of the Planning Agreement.

e) Provides for dispute resolution whether by means of expert determination or mediation.

f) Provides that the agreement is governed by the Laws of New South Wales.

g) Provides that a New Tax System (Goods and Services Tax) (Act 1999) (Cth) applies to the Agreement.

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement:
Provision of public open/recreation space for the Newcastle Community to provide pedestrian/cycle link between King Street and Hunter Street Newcastle West.
How the Draft Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979:

Provision of public open/recreation space for the Newcastle Community to provide pedestrian/cycle link between King Street and Hunter Street Newcastle West.

How the Draft Planning Agreement Promotes the Public Interest:

For Planning Authorities:


b) Other Public Authorities - How the Draft Planning Agreement Promotes the Objects (if any) of the Act under Which it is Constituted – Not applicable.

c) Councils – How the Draft planning Agreement Promotes the Elements of the Council’s Charter

1. Improvement of connectivity between King and Hunter Streets as envisaged in the Hunter Street Revitalisation Final Strategic Framework.

2. Provide an overflow path across Hunter Street the need for which has been identified in the Newcastle City Wide Flood Plane Risk Management Study and Plan (June 2012).

d) All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority’s Capital Works Program

The Impact of the Draft Planning Agreement on the Public or Any Section of the Public

Other Matters

Signed and Dated by All Parties
Verve Residences Newcastle -
Public Art Statement

‘COLOUR IN THE SEAMS’

‘Colour in the Seams’ is a unique series of integrated architectural sculptures born of history, landscape and geology. The elements are integral to the architectural approach and through the layering of form and material achieve a melding of industry and nature. While there is a tendency to separate man-made and natural objects, this artwork reminds us that they can be one and the same thing – man and the objects created become part of nature. The work draws on the environmental conditions in Newcastle and their significance to its mining history, current evolution and prosperity of the city.

Newcastle’s geological profile is comprised of varying layers of sandstone, clay and seams of coal that are echoed in the colours, textures and horizontal lines in the tiles and concrete. These stratified layers of sedimentary rock are visible along Newcastle’s spectacular coastline. The grand scale and presence of these coastal cliffs will be experienced in the sculptures 5 storey high concrete entry portals. As the stratification in the portals rises in a manner reminiscent of a core sample extracted from the earth, the entry portals reveal the beauty of the horizontal banding of the geology below the site. The city’s raw geological products are transformed into the building materials.

The soffits of the portal windows in the main entry will be painted in the same colour palette as the tiles. The play of these colours and light through the windows will create a constantly changing interior and exterior experience across both day and night.

The work aims to remind us that across millennia natural geological process form the foundations upon which Newcastle is built. The artwork challenges the public to look beyond the economic prosperity and consider the natural environmental conditions that enabled it.

1. Abandoned mine workings of Australian Agricultural Company from Department of Mineral Resources
2. Cliffs at Newcastle Beach, NSW. Photo: S. McLoughlin 1994
3. Geological section through Newcastle
STRATEGY

The strategy behind the public art is focused on the engagement between the architectural project and the residents' experience of home coming in the public domain. The artwork is integral to the architectural, urban and landscape strategy. It is comprised of a series of associated sculptural elements located on the King Street frontage and the future pedestrian and cycleway connection between King and Hunter Streets along the Cottage Creek edge.

MINING AND GEOLOGY

The design concept draws on the history of mining in Newcastle and the city’s geological profile as experienced from the sculptural cliffs along Newcastle’s famous beaches (Image 1, 2, 3).

KING STREET MAIN ENTRY PORTALS

The main entry portal off King Street is a grand 5 storey concrete sculpture, formed and poured on site. Coloured tiles (Image 6) are then set into the horizontal board form concrete walls (Image 5) to reference the geological layers of coal seams, sandstone, clay and water. These seams are punctuated by portal windows that increase in density and dimension towards the top to provide greater amenity to the communal room on level 3. The windows are raked internally and the soffit is painted in the colours of the tiles (Image 7). This will reflect the coloured light into the internal spaces of the entry foyers 3 storey void and communal room above. The colour will also provide a night time experience from the street through strategically placed light sources within the window frame. The board formwork in the main entry is echoed in the concrete of the second entry off King Street.

PORTAL LINK BETWEEN TOWERS + CARPARK SCREEN

The layered texture of the board formwork is also expressed in the concrete of the portal frames that link the two towers. These concrete portals are seen from the pedestrian accessway along Cottage Creek and frame the art screen that shrouds the carpark behind. The design of the perforated metal screen references the form of the precast panels in the north and south elevations of the towers. To enhance the night time experience and public usability along Cottage Creek, lights are positioned within the side of the panels to cast light across the face of the screen, transforming it into a luminous art wall at night.

FUTURE CONTRIBUTION

The elements are linked by their character, detail and materiality communicating a cohesive message of history and site. They are equally experienced by residents in their daily lives as for citizens passing by, either along King Street or the new Cottage Creek public way. This collection of artwork will contribute to the evolving identity and character of Newcastle city and the project’s future placemaking.
ITEM-114  CCL 27/11/18 - ENDORSEMENT OF 2017/18 ANNUAL REPORT

REPORT BY:  STRATEGY AND ENGAGEMENT
CONTACT:  INTERIM DIRECTOR STRATEGY AND ENGAGEMENT / INTERIM MANAGER CORPORATE AND COMMUNITY PLANNING

PURPOSE

In accordance with the provisions of section 428 of the Local Government Act 1993 (as amended) and clause 217 of the Local Government (General) Regulation 2005, the City of Newcastle's 2017/18 Annual report is tabled for presentation to Council.

RECOMMENDATION

1 Council receives City of Newcastle's 2017/2018 Annual Report, in respect of the year ended 30 June 2018 and notes the submission to the NSW Minister for Local Government by 30 November 2018.

KEY ISSUES

2 To comply with section 428 of the Local Government Act 1993 and clause 217 of the Local Government (General) Regulation 2005 (Regulations). City of Newcastle (CN) is required to complete its Annual Report by 30 November 2018, provide a copy to the Minister for Local Government and place a copy on CN's website. In addition, the Annual Report is required to report the CN's achievements in implementing its delivery program.

FINANCIAL IMPACT

3 Production of the Annual Report document is within budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

4 CN's 2017/18 Annual Report documents CN's against the seven strategic directions documented within the Newcastle 2030 Community Strategic Plan.

IMPLEMENTATION PLAN/IMPLICATIONS

5 The development of this report meets CN's statutory obligations to produce an Annual Report within five months of the end of the financial year.

RISK ASSESSMENT AND MITIGATION

6 To ensure we meet all statutory reporting requirements under section 428 of the Local Government Act 1993 and clause 217 of the Local Government

(General) Regulation 2005 a compliance matrix listing all relevant reporting areas has been developed as part of CN's procedures to mitigate any risks.

RELATED PREVIOUS DECISIONS

7 At the Ordinary Council Meeting held on 26 June 2018, Council resolved to adopt the 2018/19 Our Budget (2018-2022 Delivery Program and 2018/19 Operational Plan).

8 At the Ordinary Council Meeting held on 23 October 2018, Council resolved to adopt the audited 2017/18 Annual Financial Statements.

CONSULTATION

9 Relevant staff from across CN have provided input into the Annual Report as required.

10 The Office of Local Government's checklist was distributed to key staff to ensure that all required statutory reporting has been included.

11 Best practice reports from other councils have been used as a reference source to help guide the structure of the Annual Report.

OPTIONS

Option 1

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

Option 2

13 Council resolves not to receive the 2017/18 Annual Report. This is not the recommended option.

BACKGROUND

14 CN's 2017/18 Annual Report has been prepared to report our achievements against the strategic objectives and performance measures outlined in the 2013-2018 Delivery Program and 2017/18 Operational Plan, as required by the Local Government Act 1993.

15 The Annual Report addresses the seven key focus areas identified in the Community Strategic Plan: Integrated and Accessible Transport, Protected Environment, Vibrant, Safe and Active Public Places, Inclusive Community, Liveable Built Environment, Smart and Innovative and Open and Collaborative Leadership.

16 The Annual Report addresses all other statutory requirements as outlined in the Local Government Act and Regulations.
17 The Statutory Financial Statements for 2017/18 will be submitted as an attachment with the Annual Report 2017/18 to the Minister for Local Government.

ATTACHMENTS

Attachment A: City of Newcastle's 2017/18 Annual Report
Distributed under separate cover
ITEM-115  CCL 27/11/18 - SOLAR UPTAKE ON RESIDENTIAL BUILDINGS

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

PURPOSE

To provide a report in response to the resolution at the Ordinary Council Meeting held on 22 May 2018 to outline opportunities to boost solar, electric vehicle and battery storage uptake in residential buildings.

RECOMMENDATION

1 That the report be received and considered as part of the update and review of the 2020 Carbon and Water Management Action Plan in 2019-2020.

KEY ISSUES

2 Based on network data, Newcastle currently ranks eleventh out of 32 Local Government Areas (LGA) in the Ausgrid network for daily average electricity consumption per residential customer, at 14.3 kWh average per customer per day.

3 In terms of residential solar installs and generation capacity, the City of Newcastle (CN) is ranked fifth out of the same 32 LGAs within the Ausgrid network. This indicates both opportunity for increased energy efficiency, reduction in daily consumption, and the opportunity to increase rooftop solar installations.

4 Additional work will be undertaken as part of the review and update of the 2020 Carbon and Water Management Action Plan in 2019-20. An overview is provided below of different opportunities that could be considered to support clean energy technologies.

5 An action identified in the Smart Environment section of the Smart City Strategy is to investigate opportunities with State and Federal Government to facilitate loan finance, accelerating the uptake of community solar Photovoltaics (PV), battery storage and electric vehicles. An example could be through a co-investment model with neighbouring Councils and approaching an organisation such as the Clean Energy Finance Corporation to create a regional clean energy fund to provide capped, flexible, low-interest finance for clean-technology purchases. Any CN investment in such a funding vehicle could be structured to meet CN’s investment return requirements and policies.

6 In the United States property assessed clean energy (PACE) allows rate payers to access loans for solar, battery storage, Electonvolts (EV) and EV charging
units and repay these via their rate system. CN could investigate a similar system. By tying the finance to the land, this could provide secured finance with longer loan terms, so that savings can be structured to meet repayments and the debt transferred to new owners or discharged on settlement if the land is sold. Further work would need to be undertaken to determine the feasibility and any necessary legislative approval requirements. The City of Darebin in Victoria has similar programs in place which provide a working model that could be assessed for suitability.

7 CN or a group of Councils could manage and facilitate a tender process to develop a pre-approved list of contractors and technology. This could leverage CN's experience to provide vetting and due diligence so that the community can access quality products and installation and receive the benefit of pricing associated with larger procurement amounts rather than small individual installations. CN previously supported bulk-buying initiatives in 2008 and 2016.

8 The Victorian Solar savers program provides assistance from Councils to help pensioners install solar, take control of their bills and protect themselves from future price rises. Interest could be gauged from neighbouring Councils and the NSW Office of Environment and Heritage to provide a regional scheme in the Hunter.

9 Legislation for building upgrade finance in NSW, under the Local Government Amendment (Environmental Upgrade Agreements) Act 2010 includes provisions for buildings that are part of a strata scheme that are the subject of a multi-residence scheme. Although work undertaken to date has excluded strata buildings, further work could be undertaken in collaboration with the NSW Office of Environment and Heritage to further investigate the feasibility of extending the current scheme to strata buildings. This could help to facilitate financing for the uptake of solar, battery storage and EV charge points in apartment buildings, connected to the main building electricity account. Repayment obligations would sit against the owner’s corporation rather than individual lot owners and could be passed through as increased strata levies, offset against the benefit provided by a reduction in base building electricity expenses.

10 There is limited scope for CN to facilitate the uptake of renewable energy through the Development Control Plan given that energy and water efficiency of new development is governed by the NSW State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. Council cannot impose measures above BASIX.

11 Solar gardens are another initiative, that while in the early stages of investigation in Australia, are popular in the United States and Europe. The City of Boulder in Colorado enacted the Community Solar Gardens Act in 2010, which provides a model followed by several states and could be adopted here. Solar gardens are a form of distributed generation where multiple subscribers can purchase solar panels or portions of the power produced from a centrally located solar system and receive credits on their electricity bills. Similar to an
offsite solar farm for community energy, solar gardens can be located on buildings with large rooftop space and allow people without suitable roof space such as those in apartment buildings or with shaded roofs, or others locked out from solar such as renters or low-income energy users, to participate in solar and benefit from reduced ongoing electricity bills. The Australian Renewable Energy Agency (ARENA) has recently provided funding for research and piloting of social access solar gardens which have a number of Councils across Victoria, NSW and Queensland participating.

12 Similar to solar gardens, opportunities could exist in supporting and facilitating the development of community owned renewable energy such as solar farms. There has been significant research undertaken and many examples both in Australia and internationally of such initiatives. The potential role for CN could be in providing knowledge and expertise in coordinating stakeholders, identifying suitable sites (which could potentially include under-utilised CN land) and assisting with project development. This opportunity could also be undertaken as a collaboration with a number of Hunter Councils which may identify potential sites. A number of equity crowdfunding platforms received Australian Financial Services licences earlier this year after Federal Parliament passed legislation. This opens up further opportunities to create community owned renewable energy systems by reducing the complexity and lowering the barrier to entry.

13 An opportunity that focuses on encouraging the uptake of electric vehicle ownership in Newcastle is through the installation of public EV charge points across the city. Recently CN provided support to the NRMA for installation of two fast chargers at Wallsend. As part of the Smart Moves Newcastle grant funding program, CN is currently working on the installation of several CN-owned charge points in the city centre. While there are a number of EV options currently available, from 2019 it is expected more models will become available in Australia and the options will continue to rapidly increase. Making available public charging infrastructure and assessing the requirements as uptake increases, will help to support the transition to electric vehicles. An opportunity also exists to work on a wider charging network plan with neighbouring Councils to ensure that there is an efficient and well-located network of charge points.

14 A final way in which CN could facilitate uptake is through advocacy and support for research and demonstration projects or partnering with project proponents such as the CSIRO Energy Centre. This could include support for companies to trial and test initiatives such as virtual power plants in Newcastle and approaching the State Government to fund similar programs to that provided by the South Australian Government.

FINANCIAL IMPACT

15 This report does not produce the requirement for CN funding. Future investigation or implementation of any identified opportunities would require an assessment of financial impact and prioritisation through the budget process.
COMMUNITY STRATEGIC PLAN ALIGNMENT

16 Integrated and Accessible Transport

1.3c Implement technology solutions to improve transport infrastructure and experiences and encourage mobility innovation.

Protected Environment

2.1b Investigate and implement renewable energy technologies.

2.1c Encourage energy and resource efficiency initiatives.

2.2b Encourage and support active community participation in local environmental projects.

2.3a Ensure decisions and policy response to climate change remains current and reflects community needs.

Smart and Innovative

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

6.1b Attract new business and employment opportunities.

IMPLEMENTATION PLAN/IMPLICATIONS

17 Increased uptake will align with numerous CN strategies including the 2020 Carbon and Water Management Action Plan and Newcastle Smart City Strategy.

RISK ASSESSMENT AND MITIGATION

18 Nil.

RELATED PREVIOUS DECISIONS

19 At the Ordinary Council Meeting held on 18 October 2011 Council resolved to adopt the revised draft Newcastle 2020 Carbon and Water Management Action Plan.

20 At the Ordinary Council Meeting held on 13 June 2017 Council resolved to become a partner with the Climate Council’s City Power Partnership and receive a report back on how CN can most effectively participate.

21 At the Ordinary Council Meeting held on 22 August 2017 Council adopted the Smart City Strategy which includes an action to investigate opportunities with
State and Federal Government to facilitate loan finance, accelerating the uptake of community solar PV, battery storage and electric vehicles.

22 At the Ordinary Council Meeting held on 27 February 2018 Council resolved to become a member of the International Council for Local Environmental Initiatives and commit to the requirements of the Global Covenant of Mayors for Climate and Energy.

23 At the Ordinary Council Meeting held on 22 May 2018, Council resolved to receive a report outlining opportunities to help boost solar and battery storage uptake on residential buildings particularly on high rise apartment complexes and dwellings owned by pensioners, and consider opportunities to support residents in realising the benefits of solar, including schemes similar to the Victorian Solar Savers program being delivered in partnership with local Councils.

CONSULTATION

24 Extensive consultation with the community and key stakeholders was undertaken in development of the 2020 Carbon and Water Management Action Plan and the Newcastle Smart City Strategy.

BACKGROUND

25 Nil.

OPTIONS

Option 1

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

Option 2

27 Council not receive the report. This is not the recommended option.

REFERENCES

ATTACHMENTS

Nil
ITEM-116  CCL 27/11/18 - ADOPTION OF COMMUNITY ENGAGEMENT POLICY

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

PURPOSE

To adopt the 2018 - 2021 Community Engagement Policy following public exhibition.

RECOMMENDATION

1 Council adopts the 2018 - 2021 Community Engagement Policy as at Attachment A.

KEY ISSUES

2 The Community Engagement Policy (Policy) supports the development and implementation of the City of Newcastle's (CN) internal and external engagement processes. CN is committed to community engagement and recognises the value to be gained, by seeking to engage with the community beyond the statutory requirements in a meaningful and sustainable way.

3 At the Ordinary Council Meeting held on 25 September 2018 Council resolved to place the revised draft 2018 - 2021 Community Engagement Policy on public exhibition for 28 days. An extension was granted resulting in the exhibition period covering 32 days.

4 During the exhibition period CN received two electronic submissions. There were a total of 226 visits to the dedicated Community Engagement Policy public exhibition web page. There was also an online poll with the majority of participants indicating that they supported the Policy principles. Several editorial updates to the Policy have been made following consideration of the two electronic submissions. One minor editorial change has been made as a result of internal feedback. They are provided as tracked changes in Attachment A.

FINANCIAL IMPACT

5 There is no cost to adopt the Policy.
COMMUNITY STRATEGIC PLAN ALIGNMENT

6 Open and Collaborative Leadership

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

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

IMPLEMENTATION PLAN/IMPLICATIONS

7 The Policy provides a structure that articulates CN's commitment to actively seeking feedback from the community on decisions that affect them. The tenets of the Policy will be clearly articulated with CN officers through an awareness and communication program. The Policy will be supported by a communication plan.

RISK ASSESSMENT AND MITIGATION

8 The Policy provides the impetus for City officers, within the context of the Local Government Act 1993 (Act), regulation and the IP&R framework to engage with residents in an inclusive and meaningful way. This reduces reputational risk associated with inadequate community engagement.

RELATED PREVIOUS DECISIONS

9 At the Ordinary Council Meeting held on 25 September 2018 Council resolved:

Council places the draft Community Engagement Policy as at Attachment A on public exhibition for the period Friday 28 September 2018 to Friday 26 October 2018.

CONSULTATION

10 The public exhibition period from 28 September to 26 October 2018 provided an opportunity for feedback and submissions regarding the Policy to be made electronically and by post. An extension was requested and the exhibition closing date was extended until 30 October 2018.

11 The Policy consultation was promoted in our social media channels, website, posters, internal e-newsletters and in paid statutory advertising.

BACKGROUND

12 Approximately 2,700 residents participated in the Newcastle 2030 Community Strategic Plan community engagement program. Outcomes from this program indicate that community engagement is seen as a vital function and an integral part of CN demonstrating open and transparent governance.
CN's community surveys (2014 and 2016), completed by more than 1,000 residents, identified involvement in decision making and information about CN activities as high priority areas.

A community engagement policy is not a requirement of the Act. However, Section 8A3 of the Act states that 'Councils should actively engage with their local communities'. A community engagement policy will assist CN to achieve this.

OPTIONS

Option 1

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

Option 2

Council resolves not to adopt the 2018 - 2021 Community Engagement Policy. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: 2018 - 2021 Community Engagement Policy
Attachment B: Summary table of submissions
Attachment A

Policy

Community Engagement Policy

City of Newcastle  September 2018
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   1  Introduction .................................................................................................................. 1  
   2  Purpose ......................................................................................................................... 1  
   3  Scope ............................................................................................................................ 1  
   4  Principles ...................................................................................................................... 2  

Part B  Elements of Community Engagement ................................................................. 2  
   5  International Association for Public Participation .................................................. 2  

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Part A Preliminary

1 Introduction

1.1 The Newcastle 2030 Community Strategic Plan (CSP) 2018-2028 identifies Open and Collaborative Leadership; a strong local democracy with an actively engaged community and effective partnerships as one of its strategic directions. Within this strategic direction are the community objectives strategies to:

1.1.1 7.3a Provide opportunities for genuine engagement with the community to inform the elected Council's decision-making; and

1.1.2 7.3b Provide clear, consistent, accessible and relevant information to the community.

1.2 City of Newcastle (CN) is required by the Local Government Act 1993 to engage with residents in an inclusive and meaningful way. City of Newcastle (CN) within the context of the Local Government Act 1993, regulation and the IP&R framework engages with residents in an inclusive and meaningful way.

2 Purpose

2.1 The Community Engagement Policy (Policy) provides a rationale for the development and implementation of City of Newcastle's (CN) internal and external engagement processes, in order to achieve:

2.1.1 Alignment with CN's priorities for service delivery;

2.1.2 Input into the elected Council's decision-making by providing mechanisms for understanding and responding to community opinions and perspectives;

2.1.3 Consistent and clear engagement practices; and

2.1.4 Enhancement of CN's reputation as an organisation that listens, responds to and engages with residents and stakeholders while making evidence-based decisions.

2.2 The Major Events and Corporate Affairs Unit provides advice and oversight of CNs formal community engagement activities.

2.3 This Policy in accordance with Section 8A of the Local Government Act 1993 aims to facilitate the provision of community input and feedback to enable the elected Council to make decisions and actively engage with their local communities.

2.4 Specific CN community engagement strategic directions and associated actions are provided in the City Marketing and Engagement Strategy 2018-2021.
3 Scope

3.1 This Policy applies to:

3.1.1 Mandated/legislated processes involving public participation; and

3.1.2 Engagement in specific planning, policy and project initiatives that directly or indirectly impact the community.

4 Principles

4.1 CN commits itself to the following:

4.1.1 Accountability - Within CN’s ability to finance and resource, CN commits to conduct transparent and inclusive engagement processes that are responsive and accountable.

4.1.2 Inclusiveness - CN makes its best efforts to reach, involve and hear from those who are impacted directly or indirectly by CN decisions. CN encourages the community to provide meaningful input and feedback.

4.1.3 Transparency - CN provides clear, timely, concise and complete information, and endeavours to ensure decision processes and procedures are followed and constraints are understood. CN widely shares information about CN services, activities and decisions, and regularly promotes, communicates and celebrates the achievements of CN and the local community participation.

4.1.4 Commitment - CN, within its ability and work plans, allocates sufficient resources for effective engagement. CN uses innovative communication technologies and best practice consultation tools and techniques to engage, plan and encourage information sharing with our community to enable genuine community participation and collaboration.

4.1.5 Responsiveness - CN endeavours to understand community concerns. Timely information is provided to the community about opportunities for input via channels that best suit the audience monitors and seeks to understand and evaluate current community sentiments through active engagement and collaboration. Timely information is provided about ways to participate through appropriate channels.
Part B  Elements of Community Engagement

5  International Association for Public Participation

5.1 CN recognises and abides by best practice principles developed by the International Association for Public Participation (IAP2). IAP2 was founded in 1990 to promote the values and best practices associated with involving the public in the government and industry decision making process.

5.2 CN has adopted in full the IAP2 Public Participation Spectrum (set out at Table 1) as a useful tool to help identify and select the appropriate level of public participation, select methods of engagement, and identify a range of tools.

5.3 The model is values-based, decision-oriented and goal-driven. Given the broad range of CN initiatives, services and activities, this Policy does not prescribe exactly how the community should be engaged for every project or issue. Rather, qualified CN Officers determine the most appropriate engagement approach, deciding on the level of community participation based on the nature of the issue, project, plan or decision in question.

5.4 CN assigns a high priority to appropriately involving residents and other stakeholders early on and throughout the decision-making process, especially when the decision(s) impact their lives.
Table 1 - Public Participation Spectrum, IAP2

<table>
<thead>
<tr>
<th>PUBLIC PARTICIPATION GOAL</th>
<th>INFORM</th>
<th>CONSULT</th>
<th>INVOLVE</th>
<th>COLLABORATE</th>
<th>EMPOWER</th>
</tr>
</thead>
<tbody>
<tr>
<td>We will keep you informed.</td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.</td>
<td>We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.</td>
<td>We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.</td>
<td>We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.</td>
<td>We will place final decision making in the hands of the public.</td>
<td></td>
</tr>
</tbody>
</table>

INCREASING IMPACT ON THE DECISION

- **Inform**: To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities, and solutions.
- **Consult**: To obtain public feedback on analysis, alternatives, and/or decisions.
- **Involve**: To work directly with the public throughout the process to ensure their public concerns and aspirations are considered and understood.
- **Collaborate**: To partner with the public in each aspect of the decision, including the development of alternatives and the identification of the preferred solution.
- **Empower**: To place final decision-making in the hands of the public.
Annexure A - Definitions

**Act** means Local Government Act 1993 (NSW)

**CEO** means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the Local Government Act 1993 (NSW).

**Community Engagement** means purposeful dialogue between CN and stakeholders in the development and implementation of decisions that affect them. In this Policy, Community Engagement is a broad term that incorporates aspects of stakeholder or public relations, consultation and information campaigns, and includes public participation.

**City or CN** means the City of Newcastle.

**Spectrum** means the IAP2 Public Participation Spectrum.

**Stakeholders** means anyone (person or group of people) who can be impacted by the results of a decision made by CN, and may include: the community generally, residents, ratepayers, businesses, community organisations, other government agencies and any other body interacting with CN.

Unless stated otherwise, a reference to a clause is a reference to a clause of this Policy.
## Document Control

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<thead>
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<th>Community Engagement Policy</th>
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<td>Director Strategy and Engagement</td>
</tr>
<tr>
<td>Policy expert/writer</td>
<td>Manager Major Events and Corporate Affairs</td>
</tr>
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<td>Associated Procedure Title</td>
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</tr>
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<td>(if applicable)</td>
<td></td>
</tr>
<tr>
<td>Procedure owner (if</td>
<td>Manager Major Events and Corporate Affairs</td>
</tr>
<tr>
<td>applicable)</td>
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</tr>
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<td>Prepared by</td>
<td>Major Events and Corporate Affairs Unit</td>
</tr>
<tr>
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<td>Elected Council</td>
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<td>To be completed by Legal</td>
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<td>community, collaborate, empower,</td>
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<td>participation, community involvement,</td>
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<td>participation, involvement, consultation,</td>
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<td>research, community, collaboration</td>
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<td>Open and Collaborative Leadership</td>
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<td>Relevant strategy</td>
<td>City Marketing and Engagement Strategy</td>
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<td></td>
<td>(2018 - 2021)</td>
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<td>Relevant legislation/codes</td>
<td>Local Government Act 1993 (NSW) - S8,</td>
</tr>
<tr>
<td></td>
<td>S8A</td>
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<td>Environmental Planning and Assessment Act 1979 (NSW) - 2.6, 2.2.1</td>
<td></td>
</tr>
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<td>Government Information (Public Access) Act 2009 (NSW), IPC Charter for Public Participation June 2018</td>
<td></td>
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<tr>
<td>NSW Privacy and Personal Information Protection Act 1998 (NSW)</td>
<td></td>
</tr>
</tbody>
</table>

| Other related policies/documents/strategy |
| Newcastle 2030 Community Strategic Plan Community (2018 - 2028) |
| Development Policy (2005) |
| Media Policy (2018) |

| Related forms |
| Nil |

| Required on website |
| Yes |

| Authorisations |
| Nil |
### Attachment B

**Table of submissions**

<table>
<thead>
<tr>
<th>Submission 1 (Individual)</th>
<th>Current section and text</th>
<th>Noted</th>
<th>Change to Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Council will develop and nurture an organisational culture that understands and values community engagement”.</td>
<td></td>
<td>Noted</td>
<td>No change. Council has a City Marketing and Engagement Strategy with aligned actions.</td>
</tr>
<tr>
<td>“Provide opportunities...” implies a minimalist approach. Two such opportunities – however scant – would fulfil this policy commitment. I suggest wording such as: “Actively identify and facilitate opportunities...”</td>
<td>1.1.1 7.3a “Provide opportunities for genuine engagement with the community...”</td>
<td>Noted</td>
<td>No change. Newcastle 2030 emphasises active citizen engagement 7.3</td>
</tr>
<tr>
<td>I can’t locate any such language in the LGA 1993. If the text is correct, it would be helpful for the Policy document to provide the relevant reference. The Act does require councils to develop a Community Engagement Strategy based on “social justice principles” (s.402(4)), and s.8 of the Act makes a number of references to community engagement.</td>
<td>1.2 “City of Newcastle (CN) is required by the Local Government Act 1993 to engage with residents in an inclusive and meaningful way.”</td>
<td>Noted and language updated</td>
<td>City of Newcastle (CN) within the context of the Local Government Act 1993, regulation and the Integrated Planning &amp; Reporting Framework engages with residents in an inclusive and meaningful way.</td>
</tr>
<tr>
<td>As a former Chair of Newcastle Council’s Tourism Committee and one of the instigators of Council’s first Communications Unit, I believe that the structural combination of these two policy areas is ill- advised. Major Events and Community Engagement are both important but distinct areas, and should be structurally separated to ensure appropriate balance, focus and expertise is given to each.</td>
<td>2.2 “The Major Events and Corporate Affairs Unit provides advice and oversight of CN’s formal community engagement activities.”</td>
<td>Noted</td>
<td>No change.</td>
</tr>
<tr>
<td>Combining City Marketing with Community Engagement diminishes both. Marketing and tourism objectives and strategies are important council activities in themselves, as is Community Engagement. Community</td>
<td>2.4 “Specific CN community engagement strategic directions and associated actions are provided in the City”</td>
<td>Noted</td>
<td>No change.</td>
</tr>
<tr>
<td><strong>Marketing and Engagement Strategy 2016-2021</strong></td>
<td></td>
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<td>------------------------------------------------</td>
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<tr>
<td>It is self-evident that a Council can do only what is within its financial and resource ability to do, and this applies to everything a council does. This conditional phrase is not consistently used in other council policy documents related to areas that are also subject to such financial and resource constraints, so its inclusion here is problematic. If this phrase is to remain in the document, it should be included in all other relevant council policy documents. If not, its aberrant inclusion in this policy document is likely to be read as code for “we don’t intend to support this this policy area with much funding or resources.”</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>4.1.1 Within CN’s ability to finance and resource...</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Noted and language updated</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>4.1.3 CN widely shares information about CN services, activities and decisions, and regularly promotes and celebrates the achievements of CN and the local community.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Noted and language updated</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>4.1.5 Responsiveness - CN endeavours to understand community concerns. Timely information is provided to the community about opportunities for input via channels that best suit the audience.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Noted and language updated</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>4.1.5 Edited to: CN monitors and seeks to understand and evaluate current community sentiments through active engagement and collaboration.</strong></th>
</tr>
</thead>
</table>

The second part of this sentence has nothing to do with “transparency”, which is primarily to do with ease of access to information. Regularly promoting and celebrating the achievements of CN and the local community is about marketing, not transparency.

This reflects an insipid and minimalist approach to “responsiveness”. I suggest: “try to understand community concerns and needs, and be alert and receptive to opportunities for creative collaboration with groups and individuals in the community who can assist council in achieving its goals.”
As 5.2 states, the IAP2 PPS provides “a useful tool to help identify and select the appropriate level of public participation, select methods of engagement, and identify a range of tools”. However, it would be helpful to make the use of this tool more transparent to the public by explicitly stating the relevant PPS category that has been applied in particular cases, so that members of the public can understand the level of engagement sought. This will help build awareness of council’s use of the IAP2 PPS, and help clarify the expectations of council in particular engagement scenarios.

5.3 states, *inter alia*, that the PPS “is values based”, but the Policy document does not include these values. A high-level policy document such as this should do so, and the IAP2 Core Values (https://www.iap2.org.au/About-Us/About-IAP2-Australasia-/Core-Values) are sufficiently concise to be easily incorporated.

<table>
<thead>
<tr>
<th>Specific matter (appended 2013 previous submission)</th>
<th>Noted</th>
<th>5.2 updated word useful with core.</th>
</tr>
</thead>
</table>

Timely information is provided about ways to participate via appropriate channels.
<table>
<thead>
<tr>
<th>Submission 2- (Alliance)</th>
<th>Current section and text</th>
<th>Noted</th>
<th>Change to Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Replace “understanding” with: “responding to and taking into account”</td>
<td>2.1.2 Input into the elected Council's decision-making by providing mechanisms for understanding community opinions and perspectives;</td>
<td>Noted and language updated</td>
<td>Added: and responding to.</td>
</tr>
<tr>
<td>Community Consultation should not be subordinate to the interests of “major events”</td>
<td>2.2 The Major Events and Corporate Affairs Unit provides advice and oversight of CN’s formal community engagement activities.</td>
<td>Noted</td>
<td>No change.</td>
</tr>
<tr>
<td>The subordination of Community Engagement to Major Events and Corporate Affairs is concerning especially since CN has chosen to withhold significant information from a community</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>After “decisions” add “in good time so that there is ample opportunity for the community to respond adequately to proposed decisions and to engage with Council about those decisions”. This is particularly important when significant planning decisions are proposed.</td>
<td>4.1.2 Inclusiveness CN makes its best efforts to reach, involve and hear from those who are impacted directly or indirectly by CN decisions. CN encourages the community to provide meaningful input and feedback.</td>
<td>Noted</td>
<td>No change.</td>
</tr>
<tr>
<td>After “understand” add: evaluate and respond to</td>
<td>4.1.5 Responsiveness CN endeavours to understand community concerns. Timely information is provided to the community about opportunities for input via channels that best suit the audience.</td>
<td>Noted</td>
<td>Edited to: CN monitors and seeks to understand and evaluate current community sentiments through active engagement and collaboration. Timely information is provided about ways to participate via appropriate channels.</td>
</tr>
</tbody>
</table>

REPORT BY: STRATEGY AND ENGAGEMENT
CONTACT: INTERIM DIRECTOR STRATEGY AND ENGAGEMENT / INTERIM MANAGER CORPORATE AND COMMUNITY PLANNING

PURPOSE

This report is to adopt the Newcastle After Dark Strategy 2018-2022 following a six-week public exhibition period.

RECOMMENDATION

1 Council resolves to adopt the Newcastle After Dark Strategy 2018-2022 as provided at Attachment A.

KEY ISSUES

2 City of Newcastle (CN) has led and participated in many night-time economy planning and strategic activities over the last decade culminating in the Newcastle After Dark Strategy 2018-2022 (Strategy). The outcome of this extensive and long-term collaborative engagement with key stakeholders proposes a range of new approaches that aim to build on what has been achieved in the city over the last decade.

3 The draft Newcastle After Dark Strategy 2018-2022 was placed on public exhibition for a period of six weeks as per the Council Resolution at the Ordinary Council Meeting held on 27 March 2018. The exhibition period extended from Wednesday 2 April to Monday 14 May 2018.

4 Individual comments are listed in Attachment B, Exhibition Summary Report, which provides a summary of each submission and response including changes to the Strategy as appropriate.

5 Amendments to the Strategy were made based on feedback received through the exhibition period. These amendments took the form of either modification to an existing initiative, or the addition of a new initiative. Other amendments were minor and related to phrasing for clarity or to more effectively articulate strategic intentions and objectives. Attachment B summarises the changes made.

6 The key issues emerging from the exhibition feedback were:

   (i) Concern over land use conflicts particularly in relation to sound impacts resulting from increased live music and performance;
(ii) Potential harms resulting from any proposal to increase trading of licensed premise;
(iii) Support for increasing the diversity of entertainment venues including those not solely related to consumption of alcohol;
(iv) The proposal to utilise ‘Agent of Change’ as a mechanism for managing land use conflicts;
(v) A continued emphasis on safety and security as per the strategic priority for alcohol management; and
(vi) A lack of initiatives linked to all-ages venues and non-entertainment venues such as outdoor evening active recreation spaces.

7 A Notice of Motion was received on 25 September 2018 requesting a costed proposal for establishment of a Night Tsar in Newcastle to support sustainable growth of the night-time economy. A number of submissions received through the exhibition period also suggested this kind of advocacy model. International cities are implementing the Night Tsar model in different ways. Evaluation of the opportunity requires research into funding and organisational models and outcomes relative to varied legislative contexts in order to ascertain the best fit for Newcastle. An action supporting this line of enquiry has been added to the Strategy as an early priority to enable CN to make an evidence-based decision on the Night Tsar proposal.

FINANCIAL IMPACT

8 The Strategy was developed within existing resources. This document will inform future actions in the Delivery Program and Operational Plan. For new programs, projects and services, funding will be sought through CN's budget processes or through grant funding when available.

COMMUNITY STRATEGIC PLAN ALIGNMENT

9 The following Newcastle 2030 strategic directions are aligned with the Newcastle After Dark strategic priorities and programs of activity:

**Integrated and Accessible Transport**
1.1 Effective and integrated public transport.

**Vibrant, Safe and Activated Public Places**
3.1 Public places that provide for diverse activity and strengthen our social connections.
3.2 Culture, heritage and place are valued, shared and celebrated.
3.3 Safe and activated places that are used by people day and night.

**Inclusive Community**
4.1 A welcoming community that cares and looks after each other.

**Liveable Built Environment**
5.2 Mixed use urban villages supported by integrated transport networks.
Smart and Innovative
6.2 A culture that supports and encourages innovation and creativity at all levels.
6.3 A thriving city that attracts people to live, work, invest and visit.

Open and Collaborative Leadership
7.1 Integrated, sustainable long-term planning for Newcastle and the Region.

IMPLEMENTATION PLAN/IMPLICATIONS

10 The Strategy has been developed within existing resources. It outlines a suite of initiatives across 10 interlinked programs. Actions will be implemented by service units across CN and integrated into relevant work programs and operational plans. For new programs and projects, funding will be sought through the usual budget processes or through external grant funding when available.

RISK ASSESSMENT AND MITIGATION

11 There are no corporate risks associated with the Strategy.

RELATED PREVIOUS DECISIONS

12 A number of previous decisions have been made by Council that have supported development of the Strategy and influenced its strategic focus. These include the following resolutions:

(i) At the Ordinary Council Meeting held on 25 September 2018 Council resolved to receive a costed proposal on a position of Night Tsar for CN.

(ii) At the Ordinary Council Meeting held on 27 March 2018 Council resolved to place the Newcastle After Dark Strategy 2018-2022 on public exhibition for six weeks and receive back a report on outcomes.

(iii) At the Ordinary Council Meeting held on 27 February 2018 Council endorsed the recommendation to support the local live music industry including the creation of a Live Music Strategy in supplement to Newcastle After Dark.

13 At the Extraordinary Council Meeting held on 23 January 2018 Council endorsed the submission to the review of liquor licence conditions in Newcastle being undertaken by the NSW Independent Liquor and Gaming Authority.

CONSULTATION

14 The Strategy was exhibited for a six-week period to enable introduction of the vision and key ideas of the Strategy to key stakeholders and the general community and to provide an avenue for constructive feedback.
BACKGROUND

15 The Newcastle 2030 Community Strategic Plan vision for Newcastle is to be a smart, liveable and sustainable global city. The growth and effective management of the city at night is a central dimension of both CN’s objectives and the community's aspirations around vibrant and activated public places, and a smart and innovative city.

16 The Newcastle night-time economy is significant at a national and regional scale. It is the sixth largest night-time economy in the country, accounting for 5.4% of the total Newcastle economy ($1.358 billion in 2015).

17 The Strategy is Newcastle's strategy for guiding the development of the city's night-time economy. It broadens the kinds of night-time activities and city planning issues that fall within the scope of a strategy for the night-time economy.

18 The Newcastle night-time economy encapsulates all kinds of cultural and economic activity after dark. Activity occurs throughout the city evening and into the late night. The Strategy aims to steer and encourage all night-time activity in ways that position it as a positive element in the revitalisation of Newcastle.

OPTIONS

Option 1

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

Option 2

20 Council resolves not to adopt the Newcastle After Dark Strategy 2018-2022. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: Newcastle After Dark Strategy 2018-2022
Attachment B: Exhibition Summary Report

To be distributed under separate cover
ITEM-119  CCL 27/11/18 - ADOPTION OF AMENDMENT TO MAYFIELD ALCOHOL FREE ZONE

REPORT BY: STRATEGY AND ENGAGEMENT
CONTACT: INTERIM DIRECTOR STRATEGY AND ENGAGEMENT / INTERIM MANAGER CORPORATE AND COMMUNITY PLANNING

PURPOSE

To report on the outcome of the public exhibition of an amendment to the Mayfield Alcohol Free Zone and seek Council's support to adopt the amendment.

RECOMMENDATION

1 Council resolves to adopt the amendment to the Mayfield Alcohol Free Zone at Attachment A.

KEY ISSUES

2 An amendment to the existing Mayfield Alcohol Free Zone was placed on public exhibition for 30 days from Tuesday 5 June, closing on Tuesday 3 July 2018 as per the Council Resolution at the Ordinary Council Meeting held on 22 May 2018.

3 An Alcohol Free Zone (AFZ) currently applies to several key roads in Mayfield, including Maitland Road (from Carrington Street in the West to Werribi Street to the East), Hanbury Street and the streets boarding Webb Park. The proposal is to extend the existing zone to include Victoria Street and the nearby streets of Dora and Kerr (Attachment A).

4 The amendment was promoted across a range of mediums including newspaper, hard copy and social media. Sections 644, 644A, 644B, 644C, 646 of the Local Government Act 1993 require the stakeholder engagement to include a public notice, letters to the Anti-Discrimination Board of NSW, local Police, residents, sporting club, licensed premises and organisations representing or able to speak on behalf of an identifiable Aboriginal or culturally and linguistically diverse group within the local area. A copy of the amendment was placed in the City of Newcastle Customer Contact Centre and the Mayfield Library.

5 The exhibition period resulted in two written submissions. Feedback contained in these submissions was overwhelmingly positive. No changes to the amendment are required based on the exhibition period feedback. A summary of feedback and responses are documented in Attachment B.
FINANCIAL IMPACT

6 Amendment to the zone will be undertaken within the existing operational budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

7 The zone amendment aligns with the following objectives of the Community Strategic Plan:
   Vibrant, Safe and Active Public Places
   (i) 3.3 Safe and activated places that are used by people day and night.

   Inclusive Community
   (ii) 4.1 A welcoming community that cares and looks after each other.

IMPLEMENTATION PLAN / IMPLICATIONS

8 The zone amendment aligns with the following action in the Safe City Plan 2017-2020:

   Safety Though Public Domain Design and the Built Environment
   (i) 1.4 Continue to manage public spaces and assets for community safety.

RISK ASSESSMENT AND MITIGATION

9 There are no corporate risks associated with the adoption of the amendment to the Mayfield Alcohol Free Zone.

RELATED PREVIOUS DECISIONS

10 Council has previously agreed to amend Alcohol Free Zones, with some established in Newcastle for over 14 years. Documented requests for updated and/or additional zones from Police and/or residents date back to 2003.

CONSULTATION

11 The zone amendment was prepared using a staged stakeholder engagement process as required by sections 644, 644A, 644B, 644C, 646 of the Local Government Act 1993. This included:

   (i) Publish a public notice.

   (ii) Send a letter and copy of the proposed zone update to:
        a) the local Police;
        b) the Anti-Discrimination Board of NSW, including any objections raised during the public exhibition;
        c) local residents;
        d) local sporting clubs;
e) licensed premises and/or secretaries of registered clubs whose premises border, adjoin or are adjacent to the proposed zone update; and
f) any known organisation representing or able to speak on behalf of an identifiable Aboriginal or culturally and linguistically diverse group within the local area.

BACKGROUND

12 Requests via email and the telephone have been received from a business on Victoria Street, Mayfield to extend the area's existing AFZ. Requests relate to regular alcohol related anti-social behaviour occurring on the Victoria Street public seat. Police are routinely contacted about the matter however as the area is not part of the Mayfield AFZ, Police do not have power to take action (first, a warning given and the opportunity to cease the activity, then confiscation or tipping out of alcohol at the discretion of enforcement officers).

13 The updated Mayfield AFZ is supported through the Newcastle Licensed Premises Reference Group (LPRG) which includes representation from City of Newcastle Officers, Police, Office of Liquor Gaming and Hunter New England Health.

OPTIONS

Option 1

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

Option 2

15 Council resolves not to adopt the amended Mayfield Alcohol Free Zone. This is not the recommended option.

ATTACHMENTS

Attachment A: Map of Amendment to Alcohol Free Zone
Attachment B: Exhibition Summary Report
ATTACHMENT A: Amendment to Mayfield Alcohol Free Zone

Green line = Existing Alcohol Free Zone in Mayfield
Red line = Streets to be added to Mayfield Alcohol Free Zone

Summary of exhibition comments received:

<table>
<thead>
<tr>
<th>#</th>
<th>Overall Position</th>
<th>Summary of comment</th>
<th>Comment</th>
<th>Proposed change to amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Expresses support for the amendment</td>
<td>Strong support for the proposed change to the existing Alcohol Free Zone to now include the additional streets.</td>
<td>Noted</td>
<td>No change required</td>
</tr>
<tr>
<td>2</td>
<td>Expresses support for the amendment</td>
<td>Strong support for the proposed change to the existing Alcohol Free Zone to now include the additional streets. Business owner and operator in Mayfield.</td>
<td>Noted</td>
<td>No change required</td>
</tr>
</tbody>
</table>
ITEM-120 CCL 27/11/18 - COMMITMENT TO WELCOMING CITIES

REPORT BY: STRATEGY AND ENGAGEMENT
CONTACT: INTERIM DIRECTOR STRATEGY AND ENGAGEMENT / INTERIM MANAGER CORPORATE AND COMMUNITY PLANNING

PURPOSE

To endorse the Lord Mayor to sign the Commitment Form for the City of Newcastle to become a member of the Welcoming Cities Network.

RECOMMENDATION

1 That City of Newcastle:
   i) Agrees to commit to becoming a member of the Welcoming Cities Network;
   ii) Delegates the Lord Mayor, Councillor Nuatali Nelmes to sign the Commitment to Participate in the Welcoming Cities Network Form at Attachment A.

KEY ISSUES

2 Welcoming Cities is an independent initiative of Welcome Australia and the Scanlon Foundation which seeks to create more inclusive communities by connecting local government with frameworks, resources and diverse organisations to build welcoming and inclusive communities for greater social cohesion and economic success.

3 The network is built around the following key elements:
   i) Knowledge sharing - supporting local governments and communities to learn from each other and access resources, research, policies and case studies.
   ii) Partnership Development - brokering meaningful multi-sector partnerships that foster a sense of belonging and participation for all members of the community.
   iii) Standard and Accreditation - developing and accrediting the Australian Standard for Welcoming Cities to benchmark policy and practice in cultural diversity and inclusion.
   iv) Celebrating Success - showcasing leading practice through case studies and an award focused on response by local government and communities to welcoming efforts.
4 The joining of the Welcoming Cities Network by City of Newcastle (CN) demonstrates leadership and commitment to welcome and inclusion of our local communities of diversity.

FINANCIAL IMPACT

5 The majority of the actions outlined in the Welcoming Cities Standard are already identified in the existing Multicultural Plan 2016-2019, as adopted by Council, and will not require additional budget. Actions currently not referred to or included in the Multicultural Plan could be delivered either within partnerships with community based organisation or through the existing programs.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 Inclusive Community

   4.1a Acknowledge and respect First Nations peoples.
   4.1b Support initiatives and facilities that encourage social inclusion and community connections.

IMPLEMENTATION PLAN/IMPLICATIONS

7 The CN Multicultural Plan 2016-2019 is due to be updated in 2019. The review of the Plan offers the opportunity to include those actions from the Australian Standard for Welcoming Cities that have not been delivered in the current version.

RISK ASSESSMENT AND MITIGATION

8 There are no statutory or political impacts, personal or reputational risks associated with adopting the report recommendations as stated.

RELATED PREVIOUS DECISIONS

9 At the Ordinary Council Meeting held on 22 May 2018 Council resolved to:

   • Note the dates for Refugee Week 2018, an initiative of the Refugee Council of Australia, as Sunday 17 June to Saturday 23 June 2018.
   • Note the historical leadership of Newcastle Council on refugee and multicultural issues, including as the second city in Australia to declare itself a “refugee welcome zone” in 2004. Further, that Council note the recommitment to that declaration on 28 May 2015.
   • Work with the Refugee Council of Australia to promote local community activities that celebrate Refugee Week, as per our commitment in the Newcastle Multicultural Plan (2016-2019).
   • Initiate the process of becoming accredited as a Welcoming City by providing a briefing to the Executive and Councillors on key considerations and opportunities of joining the Welcoming City network.
• Prepare a report for the consideration of Councillors, in consultation with local community groups and service providers, that identifies options, opportunities and gaps in Council programs and services that could enhance Council’s support for the settlement of refugees in Newcastle.

CONSULTATION

10 Councillors received a workshop on 9 October 2018 on the Welcoming Cities Framework from the Senior Community Planner and Lulu Tantos, CEO of Northern Settlement Services.

11 Consultation with the community and sector on the Welcoming Cities Framework will be undertaken during the review of the Multicultural Plan in 2019.

BACKGROUND

12 The Welcome Cities approach is built around their adopted Australian Standard for Welcome Cities (March 2018).

i) Welcoming Cities – is a national and global network of cities committed to communities where everyone can belong and participate in social, economic and civil life.

ii) Scanlon Foundation – supports a social cohesion approach to community (belonging, social justice and equity, participation, acceptance, worth).

13 CN would be the third NSW local government authority to join the network. Several Victorian local government authorities have also joined the network.

OPTIONS

Option 1

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

Option 2

15 Council not endorse the Lord Mayor to sign the Commitment Form for the City of Newcastle to become a member of the Welcoming Cities Network. This is not the recommended option.

ATTACHMENTS

Attachment A: Commitment to Participate in the Welcoming Cities Network
COMMITMENT TO PARTICIPATE IN THE WELCOMING CITIES NETWORK

Local Councils

“Welcoming is not just the right thing to do, it’s the smart thing to do.”

We recognise that cities and municipalities that proactively foster an environment of belonging and participation for receiving communities, as well as new and emerging communities, increase their social cohesion and economic capability and resilience.

We therefore resolve to participate as a member of the Welcoming Cities Network and commit to taking the following initial steps toward creating an environment that unlocks the full potential of all members of the community:

- Join, and participate in, a network of cities and communities that are committed to becoming more welcoming.
- Identify at least one key staff contact for the project that will liaise directly with the Welcoming Cities team.
- Communicate regularly with the Welcoming Cities team, through at least three conference calls each year and an annual in-person meeting, to progress planning and share and learn from practices of other welcoming cities and communities.

We understand that the Welcoming Cities network involves a number of key elements:

Knowledge Sharing. Supporting local councils and communities to learn from each other and access resources, research, policies, and case studies.

Partnership Development. Brokering meaningful multi-sector partnerships that foster a sense of belonging and participation for all members of the community.

Celebrating Success. Showcasing leading practice through case studies and a national award that acknowledges welcoming efforts.

Standard and Accreditation. Setting the National Standard for cultural diversity and inclusion policy and practice in Local Government.

Local councils participate as members of the Welcoming Cities network, while community organisations, businesses and other agencies are involved as supporters. Both members and supporters can access the key elements of the network.

The intent and commitment to participate as a member of the Welcoming Cities network is made by the following parties.

Council: ______________________________

Representative Name: ___________________ Signature: ___________________

Executive Name: _________________________ Signature: ___________________

Date: _____ / _____ / ______
ITEM-121 CCL 27/11/18 - INSTALLATION OF TRAFFIC CONTROL MEASURES - BYRON AND ADDISON STREETS, BERESFIELD

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

PURPOSE

To approve proposed traffic control measures, including a combination of raised thresholds and road cushions, in Byron and Addison Streets, Beresfield.

RECOMMENDATION

1 Council approves the traffic control measures (devices) in Byron and Addison Streets, Beresfield as shown at Attachment A.

KEY ISSUES

2 The residents of Byron and Addison Streets raised concerns regarding speeding issues in their streets. The matter was investigated and considered by the Newcastle City Traffic Committee (NCTC) in 2016. In early 2018 residents reported a crash at the bend and submitted photographs as evidence. City of Newcastle (CN) officers undertook further investigation.

3 CN officers propose to install two 75mm high flat-top road humps on Byron Street, and one 75mm high flat-top road hump and one set of road cushions on Addison Street. This will be an interim measure to reduce traffic speeds and address potential crashes at the bend until funding is available to install the remaining traffic calming devices on Addison Street in the future.

FINANCIAL IMPACT

4 The project is to be funded from the Pedestrian Access and Mobility Program - Local Area Traffic Management (PAMP - LATM) works operational project. The project is budgeted to cost $68,000.

COMMUNITY STRATEGIC PLAN ALIGNMENT

5 The project aligns with the following Newcastle 2030 Community Strategic Plan Directions:

Integrated and Accessible Transport

1.3a Ensure safe road networks through effective planning and maintenance.
IMPLEMENTATION PLAN/IMPLICATIONS

6 Approval of the traffic control measures is not delegated to CN officers and must be referred to Council for final determination. Approval of the raised thresholds and road cushions has no implications for existing planning policies. The proposal will support CN's mission to enhance quality of life by improving the safety of road users.

RISK ASSESSMENT AND MITIGATION

7 The proposed traffic control measures are intended to reduce risk and increase safety. The proposal will reduce vehicle speed in Byron and Addison Streets on the approach to the road bend which will improve safety for road users and residents.

RELATED PREVIOUS DECISIONS

8 Nil.

CONSULTATION

9 Consultation has been conducted with leaflets distributed to affected residents, non-resident owners and other stakeholders affected by the traffic control devices including bus operators, ambulance, police, fire brigade and utility providers. The consultation ran from 30 April 2018 to 1 June 2018. The consultation leaflet is shown at Attachment B, a location plan is shown at Attachment C.

10 The consultation leaflets were distributed to approximately 55 owners/tenants. CN received 11 responses to the consultation, out of which 10 responses were in favour and 1 response in objection. The summary of community consultation is shown at Attachment D.

BACKGROUND

11 As detailed at Paragraph 2.

OPTIONS

Option 1

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

Option 2

13 Do not approve the proposed traffic control measures. This is not the recommended option.
REFERENCES

ATTACHMENTS

Attachment A: Design Plan - Traffic Control Measures
Attachment B: Consultation Leaflet
Attachment C: Location Plan - Byron and Addison Streets, Beresfield
Attachment D: Summary of Consultation Responses
Attachment B: Consultation Leaflet

NEWCASTLE CITY TRAFFIC COMMITTEE
Item No. 106
Monday 18 June 2018
Street: Byron/Addison St, Beresfield

ANNEXURE A
Page 1 of 2

Community Consultation

To The Owner / Occupier

ADDISON AND BYRON STREETS, BERESFIELD
Proposed Traffic Calming Devices

30 April 2018

Council has received requests from residents to install traffic calming devices on Addison and Byron Streets to reduce traffic speed and improve safety. Residents have told Council that they are particularly concerned with safety at the bend where they have reported crashes in recent years.

Council proposes to install traffic calming devices on Addison Street and Byron Street between Beresford Avenue and Darwin Street. The proposal involves installing two 75mm high flat-top speed humps on Byron Street and one 75mm high flat-top speed hump and one set of speed cushions on Addison Street. A set of speed cushions has been recommended on Addison Street to act as a warning device on approach to the speed hump due to the long straight street and the potential that drivers may be travelling at higher speeds on Addison Street. A speed hump has been proposed as an entry treatment for Byron Street at Beresford Avenue to discourage drivers from picking up speed on approach to the second speed hump.

The proposal also includes installation of pedestrian fencing on both sides of the speed humps in accordance with Roads and Maritime Services (RMS) guidelines to prevent them from being perceived as pedestrian crossings. No Stopping restrictions will be implemented immediately adjacent to the pedestrian fencing to prevent parking beside them.

A concept plan of the proposal is shown overleaf. The proposed plan and consultation responses will be tabled to the next available Newcastle City Traffic Committee for consideration. Council welcomes your comments on this proposal and your feedback will shape the final decision. Council will assume that any resident / business choosing not to reply to this leaflet has no objection to the proposal.

Are you in favour of the proposal (please tick)?

[ ] YES  [ ] NO

Please forward written comments by 1 June 2018 to The Chief Executive Officer, Newcastle City Council, Attention: Transport & Traffic, PO Box 489, NEWCASTLE NSW 2300 or email: mail@ncc.new.nsw.gov.au, Phone: 4974 2000, Fax: 4974 2222. For further information about the proposal please contact Dinen Nathwani, Traffic Engineer, on 4974 2663.

Name: __________________________
Address (Mandatory): __________________________

Comments:

________________________________________________________________________
________________________________________________________________________
NEWCASTLE CITY TRAFFIC COMMITTEE
Monday 18 June 2018

Item No. 106
Street: Byron/Addison St, Beresfield
CONCEPT PROPOSAL

ADDISON STREET AND BYRON STREET, BERESFIELD – TRAFFIC CALMING DEVICES

Indicative locations of flat-top speed hump with pedestrian fencing and No Stopping restrictions on both sides

Indicative location of speed cushions (parking permitted on cushions)
Attachment C: Location Plan - Byron and Addison Streets, Beresfield
## SUMMARY OF THE CONSULTATION

**ADDISON AND BYRON STREETS, BERESFIELD - PROPOSED TRAFFIC CALMING DEVICES**

<table>
<thead>
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<th>Address of Respondent</th>
<th>Request No</th>
<th>Response</th>
<th>Summary of Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chaucer Street</td>
<td>TR2018/00965</td>
<td>Yes</td>
<td>We would welcome these speed humps, the speed of some cars we find hard to get out of our driveway in Addison Street.</td>
</tr>
<tr>
<td>Addison Street</td>
<td>TR2018/00979</td>
<td>Yes</td>
<td>We are STRONGLY in favour of this proposal. We live almost right on the corner of Byron and Addison Streets and as mentioned above this corner can be very dangerous. Sadly, it appears that this corner attracts a lot of &quot;poor&quot; behaviour by drivers and, especially in wet conditions, some drivers take great delight in &quot;hooning&quot; around the corner. I have personally witnessed multiple occasions where drivers have lost control and ended up on the wrong side of the road. Taking into account the volume of traffic, and the fact that children live in houses right here on the corner, this is very dangerous. Additionally we, and our neighbours, find it difficult to enter and exit our driveways and often have impolite people aggressively &quot;pushing&quot; us as we try to reverse in or out. It is our position that traffic calming devices will even reduce the amount of traffic as it appears most motorists use this street as a &quot;Bypass&quot; of Anderson Drive. We look forward (hopefully) to the installation as proposed.</td>
</tr>
<tr>
<td>Addison Street</td>
<td>TR2018/00993</td>
<td>Yes</td>
<td>Great news. Residents take a risk parking cars, etc. in front of our homes. Also you have to be very careful reversing out of driveways because the vehicles pick up speed so quickly as they come around the corner. This is a particularly dangerous corner when the road is wet. Maybe slippery when wet signs could be included.</td>
</tr>
<tr>
<td>Byron Street</td>
<td>TR2018/00985</td>
<td>Yes</td>
<td>I think there should be more speed humps. Is it going to stop them from speeding? We have all wanted this for years.</td>
</tr>
<tr>
<td>Byron Street</td>
<td>TR2018/00997</td>
<td>Yes</td>
<td>Main concern is fencing and No Stopping signs if it affects my frontage in No. 6. If it is only where the fence is we should be OK.</td>
</tr>
<tr>
<td>Byron Street</td>
<td>TR2018/01196</td>
<td>Yes</td>
<td>I would like the speed cushions put in a few different spots. Thank you. I have marked them on the map - 1 fronting 12 Byron, 1 fronting 4 Byron and 1 fronting 82 Addison Street.</td>
</tr>
<tr>
<td>Anderson Drive</td>
<td>TR2018/01281</td>
<td>Yes</td>
<td>No comments.</td>
</tr>
<tr>
<td>Moonsan Street, Maryland</td>
<td>TR2018/01257</td>
<td>No</td>
<td>I work in the area and drive there most days. Totally unwarranted.</td>
</tr>
<tr>
<td>Quarter Session Road, Tarro</td>
<td>TR2018/01259</td>
<td>Yes</td>
<td>Also we have major problems down in Tarro where cars come off the freeway/highway turn into Quarter Session Road to hit the little bridge at speeds of 80+kms per hour every day. What is the chance of speed reduction devices on the highway side of bridge only. It really is a matter of time before a serious accident.</td>
</tr>
<tr>
<td>Byron Street</td>
<td>TR2018/01207</td>
<td>Yes</td>
<td>I would prefer to see the humps closer to the corner as it would deter people doing burn-outs as they take the corner which happens very regularly, and also has resulted in many accidents that I have personally witnessed over the 18 years I have been a resident.</td>
</tr>
<tr>
<td>Byron Street</td>
<td>TR2018/01213 &amp; 01211</td>
<td>Yes</td>
<td>Could there be any chance of either putting extra speed humps closer to both corners of Byron/Addison Streets or put the proposed speed humps in closer to prevent people doing the usual &quot;burn outs&quot; on the corner of both streets.</td>
</tr>
<tr>
<td>Description</td>
<td>Number</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>---------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of owners/occupier consulted</td>
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</tr>
<tr>
<td>Number of owners/occupier responded</td>
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<td></td>
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<td>Response to the Consultation (%)</td>
<td>20%</td>
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<tr>
<td>Owners/occupier in favour of the proposal</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Owners/occupier against the proposal</td>
<td>1</td>
<td></td>
<td></td>
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</tbody>
</table>
ITEM-122  CCL 27/11/18 - LAND AQUISITION - ROAD PURPOSES

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

PURPOSE

To authorise the acquisition of a small portion of privately owned land at 23 Clyde Street, to facilitate an upgrade to the intersection of Chinchen and Clyde Streets, Islington.

RECOMMENDATION

1 That Council resolves to:

   i) Authorise the acquisition of part Lot 1 in DP 986614 for road purposes (Attachments A and B); and

   ii) Grant authority to the Chief Executive Officer or his delegate to execute all relevant documentation to effect the transaction.

KEY ISSUES

2 Acquisition of approximately ten square metres of land owned by Q1 Property Group (Aust) Pty Ltd is integral to plans to upgrade the intersection of Chinchen and Clyde Streets, Islington. The project is PRJ 200382 under the Local Area Traffic Management Program for the design and construction of traffic control signals.

FINANCIAL IMPACT

3 The current market value of the land has been independently assessed by a certified valuation consultant at $260 per square metre. The exact purchase price will be determined by survey but is anticipated in the order of $2,600. The approved project budget will meet any external costs related to survey and registration of the subdivision plan. All other costs will be met within existing staff budgets.

COMMUNITY STRATEGIC PLAN ALIGNMENT

4 The acquisition aligns with the following Community Strategic Plan Directions:

   Integrated and Accessible Transport

   1.2a Continue to upgrade, extend and promote cycle and pedestrian networks; and
1.3a Ensure safe road networks through effective planning and maintenance.

IMPLEMENTATION PLAN/IMPLICATIONS

5 City of Newcastle (CN) negotiated privately with the property owner and it has been agreed in-principle that CN will acquire the land at market value as determined by an independent certified valuation.

6 CN will engage a surveyor to prepare and lodge a subdivision plan. The survey contractor will attend to plan registration.

RISK ASSESSMENT AND MITIGATION

7 Nil.

RELATED PREVIOUS DECISIONS

8 The 2018/19 Operational Plan includes approximately $2 Million for the Local Area Traffic Management Program, a substantial component of which is allocated to construction of signals at the intersection of Clyde and Chinchen Streets.

CONSULTATION

9 The project for implementation of traffic signals at the intersection of Chinchen and Clyde Streets was tabled at the Newcastle City Traffic Committee (NCTC) meeting of 17 September 2018. NCTC approved public exhibition of the proposal for traffic control signals and associated upgrades. The exhibition recently closed.

BACKGROUND

10 Implementation of traffic signals at the intersection of Chinchen and Clyde Streets is a longstanding proposal to improve safety for traffic, pedestrians and cyclists at this location. The intersection has a history of traffic accidents and near misses and has been the subject of several applications for funding under the Australian Government Black Spot Program. The intersection is near the Clyde Street railway level crossing, which leads to queue build-up when the crossing is closed and drivers taking undue risks.

11 The intersection is the juncture of two key cycle routes – the R6 regional cycleway (University to Newcastle City) and a north-south connecting route between the Broadmeadow to Newcastle West cycleway at Griffiths Road and TAFE Newcastle. Significant work has been undertaken to improve the R6 cycleway, including the recent upgrade of the Scholey Street rail bridge in conjunction with Transport for NSW. Implementation of the signals is the next stage and is required prior to completion of shared paths on Chinchen and Clyde Streets and Chatham Road, to facilitate safe access.
OPTIONS

Option 1

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

Option 2

13 Council does not authorise acquisition of the privately owned land. This is not the recommended option.

REFERENCES

ATTACHMENTS

Attachment A: Acquisition Plan - 23 Clyde Street Islington
Attachment B: Context Map - 23 Clyde Street Islington
Attachment A: Acquisition Plan - 23 Clyde Street, Islington
ITEM-123 CCL 27/11/18 - ADOPTION OF ELECTRICITY MICROGRIDS IN NEWCASTLE

REPORT BY: STRATEGY AND ENGAGEMENT
CONTACT: INTERIM DIRECTOR STRATEGY AND ENGAGEMENT / INTERIM MANAGER CORPORATE AND COMMUNITY PLANNING

PURPOSE

To provide a report in response to the resolution at the Ordinary Council Meeting of 26 June 2018, to investigate electricity microgrids

RECOMMENDATION

1 Options for the uptake of electricity microgrids in Newcastle continue to be investigated with recommendations to be included as part of the review and update of the 2020 Carbon and Water Management Action Plan.

KEY ISSUES

2 With the advent of new technologies, the traditional concept of a microgrid as purely an embedded, physically connected network is rapidly changing. This is opening up new business models and opportunities to create virtual microgrids and virtual power plants through aggregating and remotely controlling sites with generation, storage, demand response and traditional loads across a defined region.

3 There are a number of ways in which the City of Newcastle (CN) could look to promote and facilitate the development of microgrids in the community, including through information sharing, partnering on research and demonstration projects, and advocacy. Work could be undertaken as part of the upcoming review and update of the 2020 Carbon and Water Management Action Plan to identify which options may be most suitable for Newcastle.

4 The Australian Renewable Energy Agency (ARENA) has recently announced funding for a study into the creation of a virtual microgrid in the Latrobe Valley involving 200 dairy farms, 100 households and 20 commercial and industrial customers and has also funded a study to investigate a virtual microgrid in residential suburbs in Melbourne. Other recent developments include the Ovida Community Energy Hub funded as part of the Victorian Government's Microgrid Demonstration Initiative and the Decentralised Energy Exchange (or deX) beginning operations last month.

5 There are also several projects underway in South Australia and Victoria by companies such as AGL, Origin and Tesla for the creation of Virtual Power Plants (VPPs) which have many similarities to virtual microgrids. VPPs use
cloud-based software systems to remotely aggregate distributed solar, battery storage and demand response capabilities into a single dispatchable power unit to optimise electricity supply and demand services and maximise value for both end-use customers and electricity retailers. The proliferation of these types of projects in Australia will provide valuable learning and experience, further developing the market and providing opportunities for CN and the community to take up. The NSW Government has also recently announced funding for its Emerging Energy Program and CN will continue to assess if any opportunities result from this.

6 As a large electricity user and operator of many facilities, which include demand response potential, solar PV and battery storage, these market developments create significant opportunities for CN, further supported by the change to a five-minute settlement market in 2021. The ability for CN facilities to operate as a unified fleet across the LGA by using real time metering and monitoring, remote operation of services and the latest internet of energy developments has the potential to reduce electricity expenditure, reduce the cost associated with network capacity charges, lower the exposure to market fluctuations and provide higher utilisation of distributed resources. A potential opportunity for this is the NSW Government’s recently announced $50 million smart energy home and business program which is looking to form a ‘distributed’ power plant with a demand response capability of up to 200MW to help manage peak demand on the grid.

7 There is also opportunity to provide further energy resilience and increase disaster management and emergency response capabilities particularly due to grid power failures and manage technological shifts in areas such as increasing electric vehicle use and charging infrastructure. As part of the Smart Cities and Suburbs grant funding awarded to CN, there are several projects underway in partnership with the CSIRO Energy Centre to investigate and pilot advanced smart building technologies, intelligent forecasting and research electricity supply and demand optimisation across CN sites. These projects directly support and deliver on strategies identified in the Smart City Strategy under Smart Environment and actions under the 2020 Carbon and Water Management Action Plan.

8 Scoping work and initial discussions have been held with Lake Macquarie City Council, the University of Newcastle, Hunter Water and CSIRO on developing a regional electricity procurement approach with neighbouring councils and other large electricity users to increase efficiencies and coordinate resources. By analysing electricity data across multiple organisations with the help of experts such as the CSIRO, and aligning targeted policy outcomes, the intent is to access cheaper electricity pricing by providing much larger aggregated loads to the market, identify synergies in supply and demand profiles to match down loads (eg trading excess solar generation from organisation A to organisation B during a particular time of day), and access cheaper power purchase agreements to increase renewable energy uptake.
9 Early discussions with CN’s electricity retailer investigated the opportunity to acquire economically efficient firming products to match CN’s intermittent generation but found the overall load size was not sufficient. Through detailed analysis and a multi-partner collaborative approach, aggregated information can be provided to electricity retailers to help enable them to reduce the risk premium applied for firming products in the contracts. This should result in overall cost savings for the involved parties and essentially creates opportunities for virtual microgrids to operate across Local Government Area (LGA) boundaries within the Hunter Region.

FINANCIAL IMPACT

10 Future implementation of any identified opportunities would require an assessment of financial impact.

COMMUNITY STRATEGIC PLAN ALIGNMENT

11 Protected Environment
   2.1c Encourage energy and resource efficiency initiatives.
   2.2b Encourage and support active community participation in local environmental projects.

IMPLEMENTATION PLAN/IMPLICATIONS

12 Nil.

RISK ASSESSMENT AND MITIGATION

13 Nil.

RELATED PREVIOUS DECISIONS

14 Nil.

CONSULTATION

15 Nil.

BACKGROUND

16 At the Ordinary Council Meeting held on 26 June 2018, Council resolved to receive a report on ways for CN to become part of an embedded electricity microgrid and ways to promote and to facilitate the development of microgrids in the community. The report was required to also consider opportunities for microgrids to cross the City of Newcastle Local Government Area (LGA) boundaries into neighbouring LGAs.

17 Microgrids are traditionally associated with embedded networks, where an owner of a site can supply services to multiple end-users within that site from
the one main supply point. An example would be where a building owner has a main meter connected to the electricity grid and 'onsells' electricity to tenants within the building utilising submetering. There are certain rules that must be followed but the benefit in such an example can be access to cheaper electricity rates by aggregating site loads and a potential reduction in the network access and supply charges by not having to connect each tenant individually to the network.

18 Other benefits of microgrids and embedded networks can be through the utilisation of a shared resource such as a large solar system which can mean that use of the generation onsite is maximised and shared by multiple users at the same time within the embedded network, rather than just applied to base building services with the rest exported to the grid. Shopping centres, specialised retail centres, university campuses and caravan parks are some other examples where an arrangement such as this can provide significant financial opportunities and City of Newcastle has provided information, advice and assistance to applications such as this in the past.

19 Microgrids can also be set up to run independently of the grid (eg in remote areas) or in 'island mode' when there is a grid failure and electricity supply needs to be maintained. CN currently has a project underway to create an islanded-capable microgrid at the Summerhill Waste Management Centre utilising rooftop solar on the Small Vehicle Receiveal Centre (SVRC) roof, battery storage and integrating with the existing diesel generator. During normal grid operation, the solar and battery storage meet onsite load requirements, but in the case of power outages from a grid failure, the solar and battery storage continue to supply the site and then engage the generator when further electricity is required. An integrated network or microgrid such as this means that the generator does not automatically need to come on in a power outage, reducing diesel usage and preserving the generator life by minimising run time. This opportunity exists at further CN sites that require backup generation and have solar Photovoltaics (PV) and generators onsite such as the Depot and Art Gallery. CN's No 1 and No 2 Sportsgrounds which currently have both solar and battery storage are not set up to operate in islanded mode but could be upgraded if there was a future need or requirement.

20 A microgrid could also be created through connecting multiple buildings within a precinct and a feasibility study undertaken by CSIRO looked at the potential for this between key CN buildings in the Civic precinct. There are however network restrictions and difficulties associated with physically connecting buildings across lot boundaries, particularly with existing rather than new builds. As an alternative, the development of 'virtual' microgrids to provide financial benefits, support network resilience through increased distributed energy resources (DER) and support the higher penetration of renewables into the grid is an emerging model both in Australia and overseas with considerable work currently being undertaken.
OPTIONS

Option 1

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

Option 2

22 The report not be received. This is not the recommended option.

REFERENCES

ATTACHMENTS

Nil.
NOTICES OF MOTION

ITEM-31 NOM 27/11/18 - SHORTLAND LOCAL CENTRE UPGRADE

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

PURPOSE

The following Notice of Motion was received on 15 November 2018 from the abovenamed Councillors.

MOTION

That City of Newcastle:

1. Congratulates our staff on the work to date on the Local Centres Public Domain Program which guides the infrastructure renewal works within the local and neighbourhood centres throughout the Newcastle Local Government Area (LGA);
2. Notes the progress made delivering the Beresfield and Carrington Local Centres, with both projects recently passing the half-way point;
3. Notes that local residents and businesses have been very supportive of these upgrades which include completely overhauling drainage, kerb and guttering, footpaths, roads, planting new street trees, installing new street furniture including bike racks, bins and seating as well as free public Wi-Fi;
4. Recognises that the Shortland Local Centre along Sandgate Road would greatly benefit from inclusion in the Local Centre Public Domain Program; and

BACKGROUND

The commercial strip along Sandgate Road, Shortland, is tired and in need of public domain upgrades, to improve the amenity for local residents.

The Local Centres Public Domain Program guides the infrastructure renewal works within the local and neighbourhood centres throughout the Newcastle LGA. The intention is to ensure quality outcomes as these centres throughout Newcastle play an important role in the community and local economy.

As stated in Newcastle's Local Planning Strategy (2015) 'commercial centres play an important role serving a more holistic function than just employment. They provide for the retail, entertainment, recreational, community and social needs of the community…'

Local centres are those centres zoned B2 and neighbourhood centres are those centres zoned B1 under the Newcastle LEP 2012. To avoid confusion, both local and
neighbourhood centres will be referred to as 'local centres' in Council's communications with the community.

The Public Domain Plan for each centre aims to resolve streetscape, access and traffic issues and inform infrastructure renewal, such as footpaths, tree planting and street furniture.

ATTACHMENTS

Nil.
ITEM-32 NOM 27/11/18 - INNER CITY CYCLEWAY ON HUNTER STREET

COUNCILLOR: J MACKENZIE

PURPOSE

The following Notice of Motion was received on 16 November 2018 from the abovenamed Councillor.

MOTION

That Council

1 Notes the current lack of safe, separated cycleways along Hunter Street from Wickham Park to Union Street in Newcastle West, including egress in and out of the Newcastle Interchange.

2 Notes that the Newcastle Cycling Strategy and Action Plan, and the Newcastle City Centre Cycleway Network Strategy both propose an east-west separated cycleway spine on Hunter Street as part of an inner-city cycleway network.

3 Notes the high level of community support for changes to Hunter Street in the proposed Hunter Street upgrade concept plans, exhibited in September 2013, as part of the Hunter St Masterplan Strategic Framework. These concept plans included reduced traffic lanes to accommodate a separated cycleway.

4 Acknowledge the public domain planning and development that has been undertaken since that exhibition of the Hunter St upgrade concept plan, and the significant changes that have occurred since original exhibition.

5 Commence community consultation on the Draft West End Streetscape - Stage 2 concept plan, including with key businesses, community organisations, the Cycleways Committee and the Traffic Committee, with a commitment to the public exhibition of a revised concept plan in February 2019.

BACKGROUND

In 2010 the Council endorsed the Hunter Street Masterplan Strategic Framework which proposed significant changes to Hunter Street. In September 2013 City of Newcastle exhibited concept plans to upgrade Hunter Street consistent with the Masterplan framework. Proposed changes to the street included: reduced traffic from four bi-directional lanes to two bi-directional lanes to accommodate improved street amenity, a separated cycleway, activity zones and parklets. This plan received a 77% approval rating for the proposed changes.

Significant changes have occurred to the area since the exhibition of that framework. There are few remaining opportunities in Newcastle’s city centre for a cycleway
network that could link key inner-city locations including Newcastle Interchange, University of Newcastle NeW Space, the Civic precinct, Market-town and the East End. The options are reduced further if we are to ensure connectivity with the city’s existing dedicated cycleways.

The inner-city cycleway network envisaged in the Newcastle 2030 Community Strategic Plan, the Newcastle Cycling Strategy and Action Plan, and the Newcastle City Centre Cycleway Network Strategy all include a major separated cycleway on the east-west route from Hunter Street in Newcastle West to at least Union Street, with north-south links to key locations.

The proposed east-west route forms the spine of the cycleway network and would be a key travel route for most cyclists. The east-west spine is proposed as a separated on-road cycleway that connects with the city’s existing cycleways at Donald Street and National Park.

Council has undertaken significant planning activity associated with the public domain requirements of establishing the east-west cycleway spine from Wickham Park/Donald St through to Union Street. This motion calls on the Council to commence community consultation, including with key business and community groups, including the Newcastle Cycling Advisory Committee and the Newcastle Traffic Committee, with a view to a public exhibition of the Draft West End Streetscape Stage 2 early in the 2019.

ATTACHMENTS

Nil
DIRECTOR COMMENT

City of Newcastle officers will commence preliminary consultation with key stakeholders in late 2018 with an aim to commence wider community consultation in early 2019.

An overview of the Draft West End Stage Two Streetscape Plan (Draft Plan) was presented to Councillors on the 16 October 2018. The Draft Plan extends from Wickham Park in the west to Union Street and Steel Street. The Draft Plan includes a proposed separated bidirectional cycleway on Hunter Street. This proposed cycleway connects to existing cycleways:

- via Selma Street Bridge to Maitland Road to Wickham Park;
- via Selma Street to the Broadmeadow to Newcastle off road cycleway;
- provides eastern cycleway links to Honeysuckle Drive and Newcastle Foreshore; and
- connects to King Street and Marketown via Steel Street.

At the workshop Councillors requested additional graphical renders of the proposed works and additional stakeholder consultation be undertaken before the Draft Plan could be considered for public consultation.

The additional graphical representations are currently being prepared. Preliminary consultation with the Cycling Advisory Committee and Newcastle Traffic Committee will be undertaken during December. Additional preliminary consultation with local business owners will occur in early 2019.

Following this consultation, a report will be prepared for Council approval to place the Draft Plan on public exhibition for 28 days.

The Draft Plan will be amended accordingly to encapsulate community feedback. The final West End Stage Two Streetscape Plan and associated report will be submitted to Council for adoption within the 2018/19 financial year.
ITEM-33 NOM 27/11/18 - SAVE OUR RECYCLING CAMPAIGN

COUNCILLOR: J MACKENZIE

PURPOSE

The following Notice of Motion was received on 16 November 2018 from the abovenamed Councillor.

MOTION

That Council

1 Reaffirms that City of Newcastle ratepayers will contribute at least $23.5 million in s88 Waste Levy contributions to the NSW Government this year, of which only 18% is reinvested by the NSW Government in recycling and waste management.

2 Notes the long-standing advocacy of City of Newcastle for the appropriate use of s88 Waste Levy for recycling, waste reduction, management and avoidance since 2013.

3 Endorse the Local Government NSW (LGNSW) Save Our Recycling Campaign, which calls on the State Government to re-invest 100% of the waste levy into waste management and recycling activities.

4 Communicate this endorsement to LGNSW in writing, and sends a copy of this correspondence to all member Councils of the Hunter Joint Organisation for consideration.

BACKGROUND

New South Wales’ local government sector has launched a campaign to solve a worsening recycling and waste crisis at no extra cost to ratepayers, led by Local Government NSW (LGNSW). LGNSW is the peak organisation that represents the interests of NSW general and special purpose councils.

The Save Our Recycling Campaign was launched at the local government annual conference in Albury in October 2018. It calls on the State Government to re-invest the entire $727 million it collects from the waste levy each year in waste management and recycling.

For 2018/19 the NSW Government charges a levy of $141.20 per tonne for all waste disposed of at any licensed landfill site, including Summerhill Waste Management Centre. Summerhill collects this levy within the fees and charges outlined above and passes the levy collection to the NSW EPA. Over the past 10 years we have seen the levy paid increase from $10.4 million in 2008/09 to $31.2 million in 2017/18. This
has been caused by higher tonnages but also by above CPI hikes in the levy itself which grew from $45 per tonne to $138 per tonne over the same period. That is a 300% increase in ten years. In total, the City of Newcastle has paid $178 million in waste levies over the past ten years.

As agreed in the LMM from 25 September 2018, City of Newcastle has written to the NSW Minister for the Environment, calling on the NSW Government to hypothecate 100 per cent of the waste levy funds contributed by local councils back to these organisations to provide waste management services, including waste reduction, avoidance and re-use programs, and environmental programs to encourage the development of innovative waste management technology. This was consistent with the recommendations of the NSW Legislative Council Portfolio Committee No. 6 – Planning and Environment report “Energy from Waste Technology”.

This motion commits Newcastle to the sector’s ongoing campaign for the appropriate and intended use of the waste levy. Given global changes to the recycling industry, it is critical that NSW develops its on-shore processing capacity for recycled material

**ATTACHMENTS**

**Attachment A:** See [https://saveourrecycling.com.au/](https://saveourrecycling.com.au/)
PETITIONS

ITEM-1  27/11/18 - NOTICE OF TABLING PETITION - LOSS OF PUBLIC AMENITIES NOBBYS BEACH

COUNCILLOR:  J MACKENZIE

PURPOSE

To table a petition from Nobby's Action Group on Loss of Public Amenities Nobby's Beach. Notice received on 29 October 2018 from the abovenamed Councillor.

BACKGROUND

This petition of the members of the public respectfully brings to the attention of the NCC Councillors their displeasure over the removal of internal shower and change rooms for members of the public who visit the iconic and internationally tourist recognised Nobby's Beach.

We note that the redevelopment will include a dual-purpose building with family change facilities and accessible toilets. However, there appear to be no plans to replace change rooms and internal showers. As a result of NCC’s planning and development, people of all ages are now forced to shower without privacy and change in a toilet. Only Surf Club members are extended the right of privacy and dignity. Nobby's Beach is visited by thousands of people during the year and we the undersigned believe that the refurbishment of the surf pavilion has not met the needs of visitors to the beach.

We urge NCC Councillors to work with concerned citizens to find a solution that does not remove the right of privacy and dignity of men and women of all ages, school aged children, teens, and adults with children.

Petitioner: Nobby's Action Group, c/o Peter Wickham, 50 McDonald St, Telarah, NSW, 2320.

Total number of signatories:  1088
Total number of pages:  110

ATTACHMENTS

Nil.
DIRECTOR COMMENT

The recent refurbishment of Nobby's Beach Pavilion was facilitated by a partnership between Nobby's Surf Life Saving Club (SLSC) and City of Newcastle (CN), with the assistance of a $500,000 NSW Government Grant through the Newcastle Port Community Contribution Fund.

An important part of the refurbishment was to improve the functionality of the building to enable Nobby's SLSC to continue providing an invaluable public service and create a better space for the many community organisations and charities that use the surf club.

The Nobby's Beach domain lies within the State Heritage listed Coal River Precinct. This listing is in place to ensure that the heritage significance is maintained and not diminished by unsympathetic changes to the area. Due to the heritage status of the Nobby's Beach Pavilion façade, the refurbishment was constrained to the existing footprint of the building and several compromises were required to ensure the upgrade catered to the broadest range of users within the limited available floor area.

Prior to the refurbishment the pavilion included two open-plan change rooms with open showers and a single toilet cubicle, and separate male and female toilets with two cubicles each accessed from the southern side of the building.

Given the increasing number of visitors to Nobby's Beach due to the City's on-going Coastal Revitalisation projects, increasing the number of toilet cubicles was considered a key objective of the project to address the deficiency in public amenities and long-running hygiene problems.

In addition, the open-plan change rooms did not meet current Crime Prevention Through Environmental Design (CPTED) principles, especially in relation to ensuring the safety of children. As such, addressing public safety was also considered a key objective of the refurbishment.

Adhering to these design principles is fundamental to ensure that the likelihood of antisocial and lewd behavior can be minimised, and the safety of the vulnerable sections of our community, such as children, is not compromised. Assaults on minors have occurred in City of Newcastle facilities as recently as January 2018, in the open plan public change rooms at Bar Beach.
The popularity and reduced size of mobile phones in recent years has significantly increased the risk to children of being photographed within a public change room. The NSW Office of Local Government acknowledges in Practice Note No. 15 – Water Safety (Updated July 2012) "The use of technology such as mobile phones, cameras and video recorders also raise issues of child protection and privacy for councils to consider", but ultimately leaves the matter at the discretion of the council.

This risk has been identified by the Royal Life Saving Society of Australia, who has a formal position of not supporting mobile phones in pool change rooms. Swimming Australia has a position statement which is largely focused on at what age it is considered inappropriate for children to enter the change room of the opposite sex. It does however in its conclusion recommend the use of "on deck individual change cubicles".

Consequently, in order for the new design to achieve the above noted key objectives, as well as address the growing needs of Nobby's SLSC within the existing footprint, the provision of an open changing space was not considered appropriate and dedicated change cubicles could not be accommodated.

The new design has replaced the previous change rooms with new breeze-through facilities which include seven female and five male cubicles, plus two urinals for men, as well as ambulant accessible toilets and external wash basins to help meet the demands of the increasing number of beach goers, tourists, Bathers Way users and general visitors.

The new toilet layout addresses several factors, most notably public safety concerns related to outmoded open change-room formats, through:

i) Provision of active viewing corridors in line with public safety guidelines and Council's adopted direction for safety in public recreation areas, Safer by Design - NSW Police using Crime Prevention Through Environmental Design;

ii) More cubicles to cater for the increase of patrons in the area which are oversized to enable each cubicle to be used as a change area;

iii) Breeze-through layout to increase ventilation and reduce moisture to generally improve the cleanliness of the amenities; and

iv) Inclusion of ambulant stalls for people with mobility difficulties.

It is important to note that Nobby's SLSC also accepted significant compromises in the upgrade of the club facilities, with the club occupying an area around 40 percent smaller than the benchmark for modern-day surf clubs. Maintaining an appropriate level of space for the surf club was important to allow the club to continue to serve the community, as it has since its inception in 1923. Suitable facilities enable the club to not only provide a valuable civic service, but also improve its ability to raise the required funds to support the club's future increasing community service requirements and surf life savings need.
During the design process, CN staff held a community drop-in session to provide information about the project and the plans were reviewed by the Coastal Revitalisation Consultative Committee (CRCC) made up of CN officers, Department of Primary Industries (Lands) and Hunter Surf Life Saving representatives. Information on the project was also available through on-site signage, flyers, media releases, CN's website, social media, and public notifications during March and April 2017.

A small number of submissions were received relating to the planned removal of the open change facilities. These submissions were tabled for discussion by the CRCC where the proposed layout of the pavilion was supported, based on the benefits to the majority of the community and the notable improvements to public safety.

An additional project is currently underway to provide an accessible toilet and baby change facility, an accessible change space, and increase in the number of external showers from 4 to 12, which is well above minimum requirements for the provision of showers at a public beach. The project also allows for the future installation of a hoist to provide adult lift-and-change facilities and includes an accessible ramp connecting Bathers Way to the lower promenade.

This project is due for completion before the end of the year, weather permitting.

**RECOMMENDATION**

1. The petition is tabled.

2. Council acknowledges that provision of private change cubicles within the existing building is not able to be accommodated due to the constraints of the existing building and overarching project objectives to provide facilities that are safe public spaces for our community.

3. Council notes that the provision of a separate building containing private change facilities is unlikely to be achievable due to the heritage listing of the precinct.

4. Further, that public change rooms are not considered best practice due to the abundant risk of harm to minors, either physical or the capture of their identity via mobile phone.
CONFIDENTIAL REPORTS

ITEM-22 CON 27/11/18 - TENDER FOR EASTERN APRON EXTENSION AT NEWCASTLE AIRPORT

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER LEGAL

REASON FOR CONFIDENTIALITY

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

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

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

GROUND FOR CLOSING PART OF THE MEETING

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

MOTION TO PROCEED

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

A The matter relates to tenders for Eastern Extension to the Aircraft Apron at Newcastle Airport.
B It is contrary to the public interest to discuss tenders in an open meeting because the information provided to Council by tenderers is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the withholding of such information by tenderers. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in Council being the subject of litigation for breach of confidence.

C The closed session involves only as much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security.
ITEM-23  CON 27/11/18 - SUMMERHILL WASTE MANAGEMENT CENTRE - CONSTRUCTION OF LANDFILL CELL 9 STAGE 2 - CONTRACT NO 2019/074T

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

REASON FOR CONFIDENTIALITY

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

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

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

GROUND FOR CLOSING PART OF THE MEETING

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

MOTION TO PROCEED

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

A The matter relates to tenders for Summerhill Waste Management Centre - Construction of Landfill Cell 9 Stage 2 for Contract No.: 2019/074T.
B It is contrary to the public interest to discuss tenders in an open meeting because the information provided to Council by tenderers is provided on the basis that it will be treated by Council as commercial-in-confidence. A practice of disclosing sensitive commercial information to the public, including competitors, could result in the withholding of such information by tenderers. This would lead to a reduction in the supply of information relevant to Council's decision. A disclosure of confidential information by Council could result in Council being the subject of litigation for breach of confidence.

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