Ordinary Council Meeting

Councillors,

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

DATE: Tuesday 27 September 2016
TIME: 5.30pm
VENUE: Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

F Cordingley
Interim Chief Executive Officer

City Administration Centre
282 King Street
NEWCASTLE NSW 2300

16 September 2016

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

MINUTES - ORDINARY COUNCIL MEETING 23 AUGUST 2016

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 160823 Ordinary Council Meeting Minutes

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
PRESENT
The Lord Mayor (Councillor N Nelmes), Councillors D Clausen, D Compton (arrived 5.38pm), T Doyle, J Dunn, B Luke, M Osborne, S Posniak, A Robinson, A Rufo and L Tierney.

IN ATTENDANCE
F Cordingley (Interim Chief Executive Officer), G Cousins (Director Corporate Services), K Liddell (Acting Director Infrastructure), P Chrystal (Director Planning and Regulatory), F Giordano (Manager Legal and Governance), A Baxter (Manager Regulatory Services), J Gaynor (Manager Strategic Planning), F Leatham (Acting Director Infrastructure), A Glauser (Manager Finance), I Challis (Acting Manager Projects and Contracts), N Baker (Chief of Staff), K Baartz (Communications Manager), B Johnson (Media Officer), K Sullivan (Council Services/Webcasting) and A Leach (Council Services/Minutes).

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

PRAYER
The Lord Mayor read a prayer and a period of silence was observed in memory of those who served and died so that Council might meet in peace. Especially remembered was the late former University of Newcastle Chancellor Conjoint Professor Trevor Waring AM.

APOLOGIES

MOTION
Moved by Cr Luke, seconded by Cr Osborne

The apologies submitted on behalf of Councillors Crakanthorp and Waterhouse be received and leaves of absence granted.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor B Luke
Councillor Luke declared a non-pecuniary less than significant conflict of interest in Item 75 Executive Monthly Performance Report as Council may invest with businesses he is associated with. Councillor Luke said the interest was less than significant as the report to Council was to be received and he was not involved in any decision making processes.
Councillor Luke also declared a non-pecuniary less than significant conflict of interest in Item 74 Adoption of Revised Investment Policy as Council may invest with businesses he is associated with. Councillor Luke said the interest was less than significant as the report to Council was to be received and he was not involved in any decision making processes.

Councillor Luke further declared a non-pecuniary less than significant conflict of interest in Item 76 Financial Statements for the Year Ended 30 June 2016 to be referred to Council's Auditors and said that his son has a contract to commence work with PriceWaterhouseCoopers (PWC) and his daughter currently worked with a competitor of PWC. Councillor Luke said the conflict was less than significant as the report to Council was not to appoint an auditor and was only to receive the report.

Councillor Clausen
Councillor Clausen declared a less than significant non-pecuniary conflict of interest in Item 73 Endorsement of 2030 End of Term Report and said that the report mentioned his employer throughout. However, as the report was for statistical purposes and no decision making was required the conflict was considered less than significant.

CONFIRMATION OF PREVIOUS MINUTES

PROCEDURAL MOTION
Moved by Cr Clausen, seconded by Cr Dunn

Council defer consideration of the minutes until after Confidential Item 34. Carried

LORD MAYORAL MINUTE

LMM 23/08/16 - INNOVATIVE PROPOSALS POLICY

MOTION
Moved by Cr Nelmes, seconded by Cr Osborne

That Newcastle City Council

1. Develop a draft Innovative Proposals Policy for public exhibition; and
2. Develop a strategy to support local Small and Medium Enterprises (SMEs), startups, incubators, accelerators and attracting large international companies to base their headquarters in Newcastle by targeted approaches to the NSW Government Jobs of the Future Fund.

Carried Unanimously

Following a question from Councillor Compton regarding where the Innovative Proposals Policy fitted into requirements of the Local Government Act, the Interim Chief Executive Officer said he would take the question on notice.
ITEM-73  CCL 23/08/16 - ENDORSEMENT OF 2030 END OF TERM REPORT 2016

MOTION
Moved by Cr Nelmes, seconded by Cr Osborne

Council endorses the Newcastle 2030 End of Term Report 2016.

ITEM-74  CCL 23/08/16 - ADOPTION OF REVISED INVESTMENT POLICY

MOTION
Moved by Cr Clausen, seconded by Cr Osborne

Council adopts the draft Investment Policy (Policy) in the form as at Attachment A.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Clausen, Doyle, Dunn, Osborne and Posniak

Against the Motion: Councillors Compton, Luke, Robinson, Rufo and Tierney.

ITEM-75  CCL 23/08/16 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION
Moved by Cr Osborne, seconded by Cr Tierney

The report be received.

Following a question from Councillor Tierney regarding why the debt from the April storms had not yet been reimbursed to Council, the Director Corporate Services said he would take the question on notice.
ITEM-76  CCL 23/08/16 - FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2016 TO BE REFERRED TO COUNCIL’S AUDITORS

MOTION
Moved by Cr Doyle, seconded by Cr Clausen

1 That Council notes the preparation of its Financial Statements for the year ended 30 June 2016 are underway and upon completion they will be referred for audit in accordance with the requirements of s. 413 (1) of the Act.

2 Council authorises the Lord Mayor, a Councillor, the Interim Chief Executive Officer and the Responsible Accounting Officer to sign the relevant statements in accordance with s. 413 (2) of the Act at the conclusion of the external audit (Attachments A and B).

Carried

ITEM-77  CCL 23/08/16 - CITY EAST PARKING - TRIAL CHANGES TO ON AND OFF STREET PARKING OPERATIONS

MOTION
Moved by Cr Osborne, seconded by Cr Doyle

Council does not support the request from NewcastleNOW and invite NewcastleNOW and the City East Precinct Advisory Group to brief Council on the reasons for the request.

For the Motion: Lord Mayor, Cr Nelmes and Councillors Clausen, Doyle, Dunn, Luke, Osborne, Posniak, Robinson, Rufo and Tierney

Against the Motion: Councillor Compton.

Carried

Councillor Luke left the Chamber at 6.37pm and returned at 6.39pm.

ITEM-78  CCL 23/08/16 - FOOD TRUCK TRIAL / POLICY ADOPTION

MOTION
Moved by Cr Osborne, seconded by Cr Posniak

It is recommended that Council adopt the draft Local Approvals Policy - Mobile Food Vending Vehicles (MFVV) in the form as attached at Attachment A.

Carried
ITEM-79 CCL 23/08/16 - CLIFF STREET, THE HILL - PERMANENT HALF CLOSURE, ONE WAY RESTRICTION AND PEDESTRIAN CROSSING AT HIGH STREET

MOTION
Moved by Cr Doyle, seconded by Cr Luke

Council approves the installation of a permanent half closure and westbound one way restrictions in Cliff Street The Hill, between The Terrace and High Street and the installation of a raised pedestrian crossing in High Street, south of Cliff Street.

Carried

NOTICES OF MOTION

NOM 23/08/16 - PORT PRIDE

MOTION
Moved by Cr Clausen, seconded by Cr Dunn

1. Council note the winning entry of the Smart Seeds young professionals innovation challenge was 'Port Plus' a proposal for three innovative flagships to build the status of Newcastle's working harbour. One component of this winning entry was a proposal to 'Tag the Tugs,' to have tug boats operating on the harbour painted by local artists and be given distinct personalities.

2. Council's Public Art Advisory Committee investigate opportunities to work with the Port of Newcastle, Port Authority of New South Wales, Svitzer and Transport for Newcastle for public art to be embedded in the working harbour, including consideration of artwork on tugs and ferries.

Carried

Unanimously

ITEM-15 NOM 23/08/16 - BRIEFING ON REVIEW OF ENVIRONMENTAL FACTORS FROM TRANSPORT NSW RE NEWCASTLE LIGHT RAIL

MOTION
Moved by Cr Posniak, seconded by Cr Dunn

a) Council again request that Transport for NSW provide a briefing on the Review of Environmental Factors final report from Transport NSW regarding the Newcastle light rail proposal and the assertions it makes about the Council's proposal for mixed running and the effect on same; and

b) That the Council prepare a report on how to mitigate the impacts of light rail down Hunter Street while ensuring our urban renewal goals (Hunter St and NURS) masterplans are realised.
c) Council publish prominently on its website, with relevant explanatory notes, the comparative analysis of the three route alignment options that appeared as Appendix B to Council’s submission to Transport for NSW’s Review of Environmental Factors.

Carried

CONFIDENTIAL REPORTS

ITEM-33 CON 23/08/16 - CONTRACTUAL CONDITIONS OF SENIOR STAFF

PROCEDURAL MOTION
Moved by Cr Osborne, seconded by Cr Doyle

Item CON 23/08/16 - Contractual Conditions of Senior Staff be discussed in open session.

Councillor Dunn left the Chamber at 7.22pm and returned at 7.23pm.

Following advice from the Manager Legal and Governance regarding discussing personnel matters in open Council, Councillor Osborne withdrew his procedural motion.

PROCEDURAL MOTION
Moved by Cr Clausen, seconded by Cr Rufo

Council enter into Confidential Session for discussion on Confidential Items 33 and 34 for the reasons outlined in the business papers.

Carried

PROCEDURAL MOTION
Moved by Cr Osborne, seconded by Cr Posniak

Council discuss Item 34 CON 23/08/16 - Heavy patching (flexible pavement) - Contract no. 2016/495T prior to Item 33 CON 23/08/16 - Contractual conditions of senior staff.

Carried

Council moved into confidential session at 7.21pm and reconvened at 7.50pm.

ITEM-34 CON 23/08/16 - HEAVY PATCHING (FLEXIBLE PAVEMENT) - CONTRACT NO. 2016/495T

MOTION
Moved by Cr Osborne, seconded by Cr Clausen

1  Council accept the tenders of Ian Rich Asphalt Pty Ltd, Accurate Asphalt & Road Repairs Pty Ltd and ANA Industries Pty Ltd for Heavy Patching (Flexible Pavement) for Contract No. 2016/495T with payments to be made in accordance with the tendered rates.
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-33  CON 23/08/16 - CONTRACTUAL CONDITIONS OF SENIOR STAFF

The Lord Mayor requested that all staff retire except for the Interim Chief Executive Officer and the Meetings Secretaries.

Council staff retired from the Chamber.

The Director Corporate Services, Director Planning and Regulatory and Acting Director Infrastructure returned at its conclusion at 7.51pm.

MOTION
Moved by Cr Clausen, seconded by Cr Dunn

1. Council notes the contractual conditions of senior staff of Newcastle City Council;

2. Council notes that the recruitment of a permanent Chief Executive Officer has been temporarily suspended by the Interim Chief Executive Officer due to the NSW Government's City of Hunter Coast merger proposal;

3. Councillors be provided with Local Government NSW's benchmarking remuneration report as was provided to the interim Chief Executive Officer in March 2016 at a workshop in September including KPIs review dates and resource plans; and

4. This confidential report relating to the matters specified in s. 10A(2)(a) of the Act be treated as confidential and remain confidential until Council determines otherwise.

Carried
CONFIRMATION OF PREVIOUS MINUTES

RECORD OF PROCEEDINGS HELD IN LIEU OF EXTRAORDINARY COUNCIL MEETING DUE TO LACK OF A QUORUM
MINUTES OF PUBLIC VOICE COMMITTEE HELD 19 JULY 2016
MINUTES BRIEFING COMMITTEE 19 JULY 2016
MINUTES OF ORDINARY COUNCIL MEETING 26 JULY 2016

MOTION
Moved by Cr Nelmes, seconded by Cr Clausen

The record of proceedings for 4, 5, 7 and 14 July 2016 and the draft minutes of the Adjourned Extraordinary Council meeting of 19 July 2016, Public Voice Committee held 19 July 2016, Briefing Committee 19 July 2016, Ordinary Council meeting 26 July 2016 as circulated, be taken as read and confirmed.

Carried
Unanimously

Following a comment from Councillor Clausen regarding the recording of confidential items within the minutes the Interim Chief Executive Officer said the motions of confidential items would, from this point on, include the mover and seconder.

The meeting concluded at 7.57pm.
ITEM-80 CCL 27/09/16 - EXECUTIVE MONTHLY PERFORMANCE REPORT - AUGUST 2016

REPORT BY: CORPORATE SERVICES
CONTACT: DIRECTOR CORPORATE SERVICES / MANAGER FINANCE

PURPOSE

To report on Council’s monthly performance. This includes:

i) Monthly financial position and year to date (YTD) performance against the 2016/17 Operational Plan as at the end of August 2016.

ii) 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 report be received.

KEY ISSUES

2 At the end of August 2016 the consolidated YTD actual operating position is a surplus of $3.2m which represents a positive variance of $0.5m against the budgeted YTD surplus of $2.7m. 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 2016/17 is an operating surplus of $5.4m.

3 The August YTD position includes $2m of revenue items which are either one-off or cannot be applied to meet operational expenditure ($0.9m SRV revenue, $0.5m consolidation of Newcastle Airport result, $0.3m stormwater management service charge, $0.3m local road grants which fund capital works). When these items are removed Council’s sustainable underlying operating position at the end of August is a surplus of $1.2m.

4 The net funds generated as at the end of August 2016 is a surplus of $3m (after capital revenues, expenditure and loan principal repayments). This is a positive variance to the YTD adopted budget of $0.8m. This variance is largely related to the timing of the project expenditure (both capital and operational expenditures) and it is anticipated that the levels of both capital and operational expenditure will increase during the remainder of the year. These surplus funds will be placed in restricted reserves and used to fund the increased expenditure as the year progresses.
### FINANCIAL IMPACT

5 The variance between YTD adopted budget and YTD actual results at the end of August 2016 is provided in the Executive Monthly Performance Report (Attachment A). Key elements are:

<table>
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<th>YTD Adopted Budget $'000</th>
<th>YTD Adopted Budget $'000</th>
<th>Variance $'000</th>
<th>Variance %</th>
<th>Financial Impact</th>
<th>Commitments $'000</th>
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<tr>
<td>Total Operating Revenue</td>
<td>246,494</td>
<td>39,858</td>
<td>39,953</td>
<td>95</td>
<td>0%</td>
<td>+</td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>241,076</td>
<td>37,140</td>
<td>36,745</td>
<td>(394)</td>
<td>-1%</td>
<td>+ 11,203</td>
</tr>
<tr>
<td>Total Operating Revenue Less Operating Expenditure</td>
<td>5,418</td>
<td>2,718</td>
<td>3,208</td>
<td>489</td>
<td>18%</td>
<td>+</td>
</tr>
<tr>
<td>Total Capital Raising revenue</td>
<td>14,321</td>
<td>2,387</td>
<td>1,424</td>
<td>(963)</td>
<td>-40%</td>
<td>-</td>
</tr>
<tr>
<td>Add Back Non Cash items</td>
<td>39,248</td>
<td>5,716</td>
<td>5,716</td>
<td>0%</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

| Financial Impact Commitments |
|-------------------------------|-------------------|
| Total Operating Revenue Less Operating Expenditure | 5,418 | 2,718 | 3,208 | 489 | 18% | + |

Note 1 - Actual and Budget results include an estimate for the Newcastle Airport.
6 Factors favourably impacting Financial Position
   i Materials and contracts – decrease of $0.4m
      Some changes to project scheduling have resulted in lower than forecast operational costs. This is largely a timing difference which will reverse as the year progresses.

7 Factors adversely impacting Financial Position
   i Employee costs – increase of $0.1m
      The main driver of variance in Employee costs is Council’s building and road maintenance program which has generated higher than average operational costs. This is only a timing variation while staff complete operational work such as ‘City Serve’ and will be reversed as Council staff move on the capital portion of the works program. Other components of the variation include the seasonality of staff taking leave and vacant positions.

8 At the end of August commitments raised against operating expenses totalled $11.2m. The commitments represent both the work currently being undertaken and awaiting invoice as well as the work planned for the future.

9 The month of August returned an operating surplus of $2m which is in line with the adopted budget. The first quarter of the financial year has historically returned a surplus as Council’s main revenue source (rates) is steady while Council’s capital works program typically accelerates as the year progresses. There are also seasonal factors which will result in both revenue and expense timing variations by month.
10 Council’s total capital revenue at the end of August is below the YTD adopted budget by $1m. The variance is driven by the unpredictable nature of the timing of receipt of capital revenue. The full year budget is still expected to be met.

11 Council’s total capital spend at the end of August is $7m. This result is $1.3m below the YTD adopted budget. The total works spend inclusive of operational and capital expenditure is $8.9m at the end of August compared with an adopted budget of $11.1m.

12 At the end of August commitments raised against capital work totaled $29.5m. The commitments represent both the work currently being undertaken and awaiting invoice as well as the work planned for the future. Major commitments include:

i **Building renewal – $6.2m**

  Commitments include $3.7m in relation to works on the southern façade of City Hall and $0.7m for the War Memorial Cultural Centre.
ii **Environmental asset renewal – $5.6m**
Commitments include $3.4m for completion of a sea wall at South Newcastle, $0.9m for the Merewether sea wall and $0.6m of work planned on Council’s stormwater management systems.

iii **Waste Projects – $12m**
Commitments include the contract to design and construct another waste cell at Summerhill Waste Management Centre ($11.2m).

iv **Other works**
Other major works currently underway include Fleet replacement ($1.2m).

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

COMMUNITY STRATEGIC PLAN ALIGNMENT

14 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

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

i) Council’s resolution to receive monthly financial position and performance result on a monthly basis,

ii) Council’s Investment Policy and Strategy, and

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

RISK ASSESSMENT AND MITIGATION

16 No additional risk mitigation has been identified this month.

RELATED PREVIOUS DECISIONS

17 Council resolved to receive a report containing Council’s financial performance on a monthly basis.
18 At the Ordinary Council Meeting held on 26 April 2016, Council resolved the following:

*The report be received with the addition of a compliance report on Council’s adopted clauses on ethical and social responsibility set out in Council’s Investment Policy to be included under the section “Investment Policy Compliance Report”.*

19 The Investment Policy Compliance Report included in the Executive Monthly Performance Report has been amended to include a specific confirmation in regard to compliance with Part E of the Investment Policy.

**CONSULTATION**

20 A monthly workshop is conducted with the Councillors to provide detailed information and a forum to ask questions. In circumstances where a workshop cannot be scheduled the information is distributed under separate cover.

**OPTIONS**

**Option 1**

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

**Option 2**

22 Council resolves to vary the recommendation to receive the report. This is not the recommended option.

**BACKGROUND**

23 Previous resolutions of Council and the Audit Committee identified the need for careful monitoring of Council’s financial strategy and operational budget result. The presentation of a monthly Executive Performance Report to Council and a workshop addresses this need and exceeds the requirements of the Act.

**REFERENCES**

**ATTACHMENTS**

**Attachment A:** Executive Monthly Performance Report - August 2016

*Distributed under separate cover*
ITEM-81 CCL 27/09/16 - DEED OF INDEMNITY FOR NEW DIRECTOR OF NEWCASTLE AIRPORT PTY LTD

REPORT BY: CORPORATE SERVICES
CONTACT: DIRECTOR CORPORATE SERVICES / MANAGER LEGAL AND GOVERNANCE

PURPOSE

To approve and authorise the affixation of Council’s seal to four copies of a tripartite Deed of Indemnity (Deed) between Newcastle City Council, Port Stephens Council and Mr Cameron Macphee in accordance with the requirements of Clause 400(4) of the Local Government (General) Regulation 2005 (Regulation).

RECOMMENDATION

1 In accordance with Clause 400(4) of the Local Government (General) Regulation 2005, Council approves and authorises:

(i) the affixation of Council’s seal to the Deed of Indemnity to be entered into between Newcastle City Council, Port Stephens Council and Mr Cameron Macphee; and

(ii) each of the Lord Mayor and any one other Councillor, or any two Councillors (other than the Lord Mayor), witnessing the affixation of Council’s seal to the Deed of Indemnity;

on the grounds that the Deed of Indemnity relates to the business of Council.

KEY ISSUES

2 Mr Cameron Macphee was appointed as a non-executive director of NAPL on 19 August 2016. Upon execution by all parties the Deed provides that both NCC and PSC shall indemnify Mr Macphee in respect of any claims arising from carrying out of his duties as a director of NAPL, subject to the claim not arising as a result of his failure to comply with the duties and obligations imposed on him by NAPL’s corporate governance charter, its constitution or any laws.

3 The provision of such a Deed is a necessary requirement in order to ensure that Mr Macphee appropriately acts as a director of NAPL and continues to remain as a director of NAPL. This is a common practice in relation to companies that seek to appoint directors onto their boards of directors and is permissible under the Corporations Act, 2001 (Commonwealth). The terms of the Deed are consistent with those entered into with respect to the other directors of NAPL.
4 The Deed was prepared by Herbert Smith Freehills (NAPL’s solicitors) and has already been executed by all other parties. It is in NCC’s interests for the Deed to be executed by it and to approve and authorise its seal being affixed to the Deed in accordance with the requirements of Clause 400(4) of the Regulation.

FINANCIAL IMPACT

5 There is no financial cost associated with NCC’s execution of the Deed. In the event that a legal claim was ever made against Mr Macphee in respect of any alleged failure by him to comply with the duties and obligations imposed on him in his capacity as a Director of NAPL and the Deed of Indemnity being called upon, it is expected that, as an indemnified individual, NAPL’s Directors and Officers Indemnity Insurance Policy would fully cover the financial costs of the claim, thereby protecting NCC and PSC from any financial costs associated with any particular claim. The Deed specifically provides that the indemnity does not apply to the extent:

   (i) the claim arises in connection with a failure by Mr Macphee to comply with the duties and obligations imposed on him by NAPL’s corporate governance charter, NAPL’s constitution or any laws; or

   (ii) that proceeds are payable to Mr Macphee for the relevant claim “under a policy of insurance”.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 N/A.

IMPLEMENTATION PLAN/IMPLICATIONS

7 No further action is required in order to enable the Deed coming into legal effect.

RISK ASSESSMENT AND MITIGATION

8 Refer to paragraph 8. NAPL has a comprehensive corporate governance charter by which its directors are expected to comply with, in addition to having a formally constituted Board Audit, Risk and Compliance Committee which has oversight of NAPL’s audit, legal compliance and risk management strategies.

RELATED PREVIOUS DECISIONS

9 At the Ordinary Council Meeting held on 23 February 2016 Council approved the affixation of Council seal to four Deeds of Indemnity in respect of Mr Frank Cordingley as a Director of NAPL.
10 At the Ordinary Council Meeting held on 28 July 2015 Council approved the affixation of Council Seal to three Deeds of Indemnity in respect of Mr Kirby Clark and Ms June Munro as Directors of NAPL and Mr Peter Cock as CEO of NAPL.

11 At the Ordinary Council Meeting held on 31 March 2015 Council approved the execution of Deed of Indemnity in respect of Mr Wayne Wallis as a Director of NAPL.

12 At the Extraordinary Council Meeting held on 8 October 2013, Council approved and authorised the execution of the relevant legal documents that implemented the corporate restructure of Newcastle Airport Pty Ltd (NAPL). The corporate restructure legal documents were executed on, and became effective on, 9 October 2013.

13 At the Ordinary Council Meeting held on 24 September 2013 Council adopted the Instrument of Delegation to Newcastle Airport Ltd.

14 At the Ordinary Council Meeting held on 7 August 2012, Newcastle City Council (NCC) resolved (in conjunction with shareholder council Port Stephens Council (PSC)) to implement the restructure of Newcastle Airport Limited.

CONSULTATION

15 Council staff have consulted with NAPL staff.

OPTIONS

Option 1

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

Option 2

17 Council does not adopt the recommendation as at Paragraph 1. This is not the recommended option.
BACKGROUND

18 NCC is a 50% shareholder of NAPL, the other 50% shareholder being PSC. NCC is the 100% shareholder of Newcastle Airport Partnership Company 1 Pty Ltd (NAPC 1) and Newcastle Airport Partnership Company 2 Pty Ltd (NAPC 2) which respectively act as the corporate trustees of the Newcastle Airport Partnership Trust 1 and Newcastle Airport Partnership Trust 2. NCC is the sole unit holder in each of the two unit trusts. The two companies are two of the four partners that constitute the Newcastle Airport Partnership (NAP). The other two partners are Newcastle Airport Partnership Company 3 Pty Ltd (NAPC 3) and Newcastle Airport Partnership Company 4 Pty Ltd (NAPC 4) which similarly act as the corporate trustees of the Newcastle Airport Partnership Trust 3 and Newcastle Airport Partnership Trust 4. These latter two companies are wholly-owned by PSC. The four companies comprise all of the four partners of NAP.

19 LOCAL GOVERNMENT (GENERAL) REGULATION 2005 - Clause 400

Clause 400 Council seal

(1) The seal of a council must be kept by the mayor or the general manager, as the council determines.

(2) The seal of a council may be affixed to a document only in the presence of:
   (a) the mayor and the general manager, or
   (b) at least one councillor (other than the mayor) and the general manager, or
   (c) the mayor and at least one other councillor, or
   (d) at least 2 councillors other than the mayor.

(3) The affixing of a council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.

(4) The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

(5) For the purposes of subclause (4), a document in the nature of a reference or certificate of service for an employee of the council does not relate to the business of the council.

REFERENCES

ATTACHMENTS

Nil.
ITEM-82 CCL 27/09/16 - DRAFT AMENDMENT TO THE GENERAL COMMUNITY USE PLAN OF MANAGEMENT

REPORT BY: INFRASTRUCTURE
CONTACT: ACTING DIRECTOR INFRASTRUCTURE / MANAGER FACILITIES AND RECREATION

PURPOSE

The purpose of this report is to seek Council’s approval to place the draft amended General Community Use Plan of Management (GCU PoM) on public exhibition to include a parcel of Lindsay Memorial Park.

RECOMMENDATION

1 Council approves that:
   i) The draft GCU PoM (Attachment A) be placed on public exhibition in accordance with the Local Government Act 1993 for 28 days;
   ii) A public hearing be held during the public exhibition period as per the Local Government Act 1993; and
   iii) Council receive a report on the outcome of the public exhibition when considering the adoption of the draft GCU PoM.

KEY ISSUES

2 As required by the Local Government Act 1993, all community land is required to be categorised and included within a PoM prior to use. The community land of 2 Allendale Street, Beresfield, Lot 90 DP 29481 (C22) is not currently contained within a PoM. Due to the current use of this site by scouts, girl guides, men's shed and potential for future bowling club use, it is imperative that the parcel be within a PoM. Given the diverse use of the site this parcel of Lindsay Memorial Park meets the core objectives for the general community use categorisation. This report is therefore seeking for this parcel of land to be categorised as general community use as per Attachment B and to be placed in the GCU PoM.

FINANCIAL IMPACT

3 As this site is currently being utilised, it is not expected that the recommendation will have any additional financial impact.
4 The inclusion of this parcel of Lindsay Memorial Park within the GCU PoM will require a public exhibition period, advertising and a public hearing in relation to the categorisation of the land. This will be met within the approved operational budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

5 The proposed amended draft GCU PoM is in alignment with two strategic objectives including public places that provide for diverse activity and strengthen our social connections; and considered decision making based on collaborative, transparent and accountable leadership.

IMPLEMENTATION PLAN/IMPLICATIONS

6 Dependent upon submissions received, the adoption of the GCU PoM will occur either in the last quarter of 2016 or the first quarter of 2017.

RISK ASSESSMENT AND MITIGATION

7 There is no foreseen risk in including this parcel of land within the GCU PoM.

RELATED PREVIOUS DECISIONS

8 There are no related previous Council decisions.

CONSULTATION

9 If Council endorses the public exhibition of the draft amended GCU PoM, the following consultation process is proposed:

i) Draft amended GCU PoM to be placed on public exhibition for a period of 28 days and with submissions received for 42 days.

ii) As the draft amended GCU PoM is proposing to apply categories on the community land, a Public Hearing in accordance with Section 40A of the Local Government Act 1993 is required. This will be undertaken during the exhibition period.

iii) Advertising of the draft amended GCU PoM in a local newspaper, plus on Council’s website.

iv) Copies of the draft amended GCU PoM will be available at Newcastle Regional Library, Wallsend Library, Beresfield Local Library and Council’s Administration Centre.

OPTIONS

Option 1

10 The recommendation as at Paragraph 1. This is the recommended option.
Option 2

11 The draft amended GCU PoM is not placed on exhibition. This is not the recommended option as this does not comply with the Local Government Act that requires all community land to be placed within a plan of management and categorised.

BACKGROUND

12 Lindsay Memorial Park was originally included within the Sportslands Plan of Management in December 2000. However it appears that only C21, Anderson Drive, Beresfield (current Lots 1601 and 1602, DP 1157426) was included in this initial Land Schedule and not C22. Due to this omission, C22, 2 Allendale Street, Beresfield (Lot 90 DP 29481) that makes up the remainder of Lindsay Memorial Park, needs to be included in a PoM. Due to the nature of the use it is proposed to apply the categorisation of general community use. This requires an amendment to the GCU PoM.

REFERENCES

ATTACHMENTS

Attachment A: Draft General Community Use Plan of Management
Attachment B: Categorisation Map
General Community Use
Plan of Management

www.newcastle.nsw.gov.au
## Amendment History

<table>
<thead>
<tr>
<th>Version</th>
<th>Adoption Date</th>
<th>Details</th>
<th>Finalised</th>
</tr>
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<tr>
<td>1</td>
<td>5 December 2000</td>
<td>Adoption of new General Community Use PoM</td>
<td>December 2000</td>
</tr>
<tr>
<td>2</td>
<td>28 July 2014</td>
<td>Amendment to include the community land parcels for Wallsend, Beresfield and Stockton Swimming Centres and the sites in the leasing schedule</td>
<td>15 August 2014</td>
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<tr>
<td>3</td>
<td>20 October 2014</td>
<td>Amendment to include the community land at Fletcher, Silver Ridge Estate, and Warabrook Community Centres, and Elermore Vale and Wallsend Pioneer Community Halls</td>
<td>24 October 2014</td>
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</tbody>
</table>
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1. INTRODUCTION

1.1 BACKGROUND

This Plan of Management is an important document providing clear guidelines for the future management of land in the care and control of Council. The rationale for this plan lies jointly in the statutory requirements of the Local Government Act 1993 and the Newcastle City Council’s desire to produce a consistent and effective set of guidelines governing the management of community land. This rationale was established as a key component of the Linking Plan (1996).

Benefits of this Management Plan

The benefits of this Management Plan are that it:

1. enables a planned approach to resource allocation across general community use land
2. identifies key actions for which identified areas of Council will be accountable
3. helps to inform the preparation of agreed development major maintenance plans for each parcel of land, and
4. provides the basis for assigning priorities in the programming of works and budgeting.

This Plan of Management will be reviewed quarterly and annually during the budget process to assess implementation and performance and will be fully reviewed after five years to allow policy and planning issues to be updated.

Land classified as General Community Use is managed and maintained by the Manager Parks & Recreation, City Services & Presentation.

1.2 LOCAL GOVERNMENT ACT 1993

The Local Government Act 1993 provides Council with a specific approach to the classification and management of community land. The Act requires that all community land in the care and control of Councils in New South Wales is the subject of a plan of management.

Community Land is defined by the Act as land that should be kept for the use of the general community, must not be sold or leased for more than 21 years and may only be leased or licensed for more than five years following a public notification process.

This Plan of Management has been prepared in accordance with the requirements of the Act as amended 1998. The community land covered by this Plan is categorised as General Community Use in accordance with Section 36 (1) of the Act.
The core objectives of community land categorised as a general community use are:

- To promote, encourage and provide for the use of the land and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public:

(a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and

(b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities.)

It should be noted that in their interests of consistency, General Community Use Land that is Crown Land has been included in this Plan.

1.3 GENERAL COMMUNITY USE - LAND

The location of general community use is shown on Figure 1 (Location Plan) and the individual parcels are listed in APPENDIX 1. The community land in this category does not satisfy the guidelines for natural areas, sportsgrounds, parks or cultural significance. The land tends to be alongside roads or parts of larger road medians or is residual land previously associated with road development but now used as open space and cannot have the uses or facilities generally associated with parks. However, it is likely to be grassed and have tree planting and it often performs the function of a roadside buffer and/or walking area as well as providing visual amenity.

1.4 STRUCTURE OF THIS DOCUMENT

The plan reflects the needs of:

- Council as managers of the land
- local residents as users and neighbours of the land, and
- the community of Newcastle as custodians of the community assets.

Basis for Management

This section refers to the long-term policies of the Council in relation to the General Community Use land and has a currency of 5-10 years.

Implementation Plan

This section contains the actions that Council will implement in managing this land as well as methods to monitor the success of the plan and has a currency of up to 5 years. It is accompanied by a five year action plan that will be updated annually as part of the annual budget process.
1.5 COMMUNITY CONSULTATION

Community Consultation is integral to the production of a plan of management. It provides Council with a sound understanding of relevant local issues from those who are familiar with and use open space areas in question.

Public involvement and contribution generates an understanding of Council’s land management aims, combats possible misunderstanding and fosters support for Council’s programs and policies. The consent and co-operation of the users of open space facilities management lends weight to the status of the plan of management.

The Local Government Act 1993 stipulates that plans of management are to be exhibited for a minimum of 28 days and a further 14 days will be allowed for the receipt of submissions from the public. Council has considered all submissions relevant to the plan of management prior to finalisation and subsequent adoption of the plan.
2. BASIS FOR MANAGEMENT

2.1 CONTEXT AND ROLE OF GENERAL COMMUNITY USE LAND IN NEWCASTLE

There are close to forty parcels of land which have been marked in this category and while they may not have the same function or cannot function as a typical park, they provide a benefit to the community as relatively safe walking links alongside roads, as buffers between roads and buildings (residential or semi-industrial) and provide visual amenity. In the case of Railway Reserve, Hamilton, substantially mature trees provide a visual buffer between the railway and adjacent residences. They are also locations for “gateway” planning, city direction or tourist signage and have a potential role as small “urban forests”.

Strategies relating/guiding the use of this land include the objectives of Council’s Green Spaces Strategy.

2.2/issues that affect the values of general community use land

- Land not functioning as a “park” and neglected in budgets
- Role in the open space system developed by default
- High visibility but inadequate maintenance.

2.3 OBJECTIVES FOR GENERAL COMMUNITY USE LAND

To maximise the value of this urban open space through a variety of means including:

- Increased tree planting for both visual and habitat functions
- Improving access where appropriate
- Contributing to the City’s character and legibility
- Improving the visual presentation of this land using efficient and sustainable effective maintenance processes, and
- Establishing budget planning for General Community Use Land.
3. IMPLEMENTATION PLAN

This Implementation Plan details objective and proposed actions for General Community Use land in Newcastle.

The priorities in this Implementation Plan are subject to the availability of resources. They will be reviewed during the annual budget process. The plan of management will be implemented by a range of means, which includes, asset preservation programs, routine maintenance, staff training and capital works programs.

Responsibility for overall implementation of the plan rests with the Parks and Recreation Manager, however where specialist input is required this has been flagged as resources will be required from these areas.

Codes used in the Implementation Plan are as follows:

<table>
<thead>
<tr>
<th>Group Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>D&amp;E</td>
</tr>
<tr>
<td>CS</td>
</tr>
<tr>
<td>CD</td>
</tr>
<tr>
<td>CS&amp;P</td>
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<table>
<thead>
<tr>
<th>Program</th>
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<tbody>
<tr>
<td>AMP</td>
</tr>
<tr>
<td>CWP</td>
</tr>
<tr>
<td>RMP</td>
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</table>

NB: Others Specific programs identified in Plan

<table>
<thead>
<tr>
<th>Cost Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Code</td>
</tr>
<tr>
<td>NA</td>
</tr>
<tr>
<td>$?</td>
</tr>
<tr>
<td>ER</td>
</tr>
</tbody>
</table>

N.B. Where work areas have been amended due to Council restructure, they have also been updated in this Plan.
3. IMPLEMENTATION PLAN – GENERAL COMMUNITY USE – LAND PLAN OF MANAGEMENT

OBJECTIVE 1 – TO MAXIMISE THE VALUE OF THIS OPEN SPACE BY A VARIETY OF MEANS INCLUDING:

A. INCREASED TREE PLANNING FOR BOTH VISUAL AND HABITAT FUNCTIONS
B. IMPROVED ACCESSIBILITY WHERE APPROPRIATE
C. IMPROVED CONTRIBUTION TO THE CITY CHARACTER AND LEGIBILITY

Role in open space developed by default

<table>
<thead>
<tr>
<th>Strategy</th>
<th>Action</th>
<th>Program &amp; Responsibility</th>
<th>Cost Estimate</th>
<th>Priority</th>
<th>Performance Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initiate overview of opportunities/roles for each parcel of land</td>
<td>• Develop analysis map, using site data and consultation with internal/external stakeholders • Prepare concept proposals and link to budget submissions</td>
<td>CS</td>
<td>NA</td>
<td>High</td>
<td>Proposals for roles developed and adopted by December 2001</td>
</tr>
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</table>

OBJECTIVE 2 – TO IMPROVE THE PRESENTATION OF THE LAND BY USING EFFICIENT, EFFECTIVE AND ECOLOGICALLY SUSTAINABLE MAINTENANCE PRACTICES

High visibility but low or poor maintenance

<table>
<thead>
<tr>
<th>Strategy</th>
<th>Action</th>
<th>Program &amp; Responsibility</th>
<th>Cost Estimate</th>
<th>Priority</th>
<th>Performance Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design maintenance practices which respond to ecological sustainability needs</td>
<td>• Prepare criteria and audit maintenance practices • Establish first group of changes</td>
<td>CS &amp; CSMP</td>
<td>NA</td>
<td>High</td>
<td>Areas of change identified and costed by December 2002. Changes implemented by December 2003</td>
</tr>
</tbody>
</table>

General Community Use – Land Plan of Management 08/09/16
### 3. IMPLEMENTATION PLAN – GENERAL COMMUNITY USE – LAND PLAN OF MANAGEMENT

#### OBJECTIVE 3 – TO ESTABLISH BUDGET PLANNING FOR GENERAL COMMUNITY USE LAND

**Neglected land, not identified in budgets**

<table>
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<tr>
<th>Strategy</th>
<th>Action</th>
<th>Program &amp; Responsibility</th>
<th>Cost Estimate</th>
<th>Priority</th>
<th>Performance Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate within works program and asset preservation budgets</td>
<td>Develop program</td>
<td>CS/CSAP</td>
<td>N/A</td>
<td>Medium</td>
<td>Aggregate funds identified by 2022/2023</td>
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---

General Community Use – Land Plan of Management 08/09/16
### 3.1 GENERAL COMMUNITY USE LAND: FIVE-YEAR ACTION PLAN

<table>
<thead>
<tr>
<th>MAJOR ACTIONS SUMMARY</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
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<tbody>
<tr>
<td>1. Develop analysis map, using site data and consultation with internal stakeholders</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>2. Prepare concept proposals and link to budget submissions</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Prepare criteria and audit maintenance practices</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Establish first group of changes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Develop Program &amp; Implement</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</table>
### Schedule of Land: General Community Use

<table>
<thead>
<tr>
<th>COUNT</th>
<th>PARK NAME</th>
<th>AREA</th>
<th>LAND REGISTER NO</th>
<th>DP NO</th>
<th>LOCATION</th>
<th>OWNERSHIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Batwood Park</td>
<td>0.462</td>
<td>C194</td>
<td>Lot 1 112118 DP 95185&lt;br&gt;Lot 2 120 DP 95185&lt;br&gt;Lot 1 DP 559112</td>
<td>502 King Street&lt;br&gt;NEWCASTLE WEST NSW 2302</td>
<td>NCC</td>
</tr>
<tr>
<td>2</td>
<td>Blue Gum Road Reserve</td>
<td>0.107</td>
<td>C102</td>
<td>Lot 163 DP 806413</td>
<td>63 Blue Gum Road&lt;br&gt;JESMOND NSW 2300</td>
<td>NCC</td>
</tr>
<tr>
<td>3</td>
<td>Bruce Street Plantation Reserve</td>
<td>0.018</td>
<td>C301</td>
<td>Lot 151 DP 100423</td>
<td>Plantation Reserve&lt;br&gt;149 Bruce St&lt;br&gt;COOKS HILL NSW 2300</td>
<td>NCC</td>
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<tr>
<td>4</td>
<td>Bull and Tootle Street Reserve</td>
<td>2.077</td>
<td>C126</td>
<td>Lot 17 DP 109250</td>
<td>81 Bull St&lt;br&gt;MAYFIELD WEST NSW 2304</td>
<td>NCC</td>
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<tr>
<td>5</td>
<td>Canara Place Reserve</td>
<td>0.85</td>
<td>C201</td>
<td>Lot 7 DP 864088</td>
<td>137 University Drive&lt;br.NORTH LAMBTON NSW 2300</td>
<td>NCC</td>
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<tr>
<td>6</td>
<td>Currumbung Road Reserve</td>
<td>0.1</td>
<td>C127</td>
<td>Lot 2 917 &amp; 2118&lt;br&gt;Lots 1&amp;2 DP 171829</td>
<td>43A Larnee Rd&lt;br&gt;COWAN NSW 2250</td>
<td>NCC</td>
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<tr>
<td>7</td>
<td>Cowper Street Reserve</td>
<td>0.573</td>
<td>C137</td>
<td>Ms 4442 M5</td>
<td>18A Cowper St North&lt;br&gt;CARRINGTON NSW 2291</td>
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General Community Use – Land Plan of Management 03/09/16
## SCHEDULE OF LAND: GENERAL COMMUNITY USE

<table>
<thead>
<tr>
<th>COUNT</th>
<th>PARK NAME</th>
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<th>LAND REGISTER NO</th>
<th>DP NO</th>
<th>LOCATION</th>
<th>OWNERSHIP</th>
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<tbody>
<tr>
<td>8</td>
<td>Croftace Road Reserve</td>
<td>0.094</td>
<td>C41</td>
<td>Lot 43 DP 243296</td>
<td>64A Croftace Road ELRIMORE VALE NSW 2287</td>
<td>NCC</td>
</tr>
<tr>
<td>9</td>
<td>Dent Street Reserve</td>
<td>0.019</td>
<td>C263</td>
<td>Land in DP 20308</td>
<td>31A Dent Street NORTH LAMBTON NSW 2299</td>
<td>NCC</td>
</tr>
<tr>
<td>10</td>
<td>Donald Street Reserve</td>
<td>0.117</td>
<td>C32</td>
<td>Lots 3 &amp; 4 DP 258936, Lot 1 DP 258020, Lot 233 DP 71 1825</td>
<td>7A Donald Street LAMBTON NSW 2293</td>
<td>NCC</td>
</tr>
<tr>
<td>12</td>
<td>Gordon Avenue Reserve</td>
<td>0.053</td>
<td>C70</td>
<td>Lot 1 DP 150351</td>
<td>121B Gordon Avenue LAMBTON NSW 2293</td>
<td>NCC</td>
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<tr>
<td>13</td>
<td>Gosford Road Reserve</td>
<td>0.021</td>
<td>C25</td>
<td>Lot 1806 DP 755247</td>
<td>81 Gosford Road BROADMEADOW NSW 2292</td>
<td>NCC</td>
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<tr>
<td>14</td>
<td>Griffiths Road Reserve</td>
<td>0.113</td>
<td>C162</td>
<td>Lot 15 DP 623025</td>
<td>139 Griffiths Road LAMBTON NSW 2299</td>
<td>NCC</td>
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<tr>
<td>15</td>
<td>Hobart Street Reserve</td>
<td>0.023</td>
<td>C170</td>
<td>DP 255247</td>
<td>29A Hobart Road NEW LAMBTON NSW 2265</td>
<td>NCC</td>
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<tr>
<td>16</td>
<td>King Street Reserve</td>
<td>0.129</td>
<td>C193</td>
<td>Pt Lot 14 DP 65177</td>
<td>478A King Street NEWCASTLE WEST NSW 2302</td>
<td>NCC</td>
</tr>
<tr>
<td>17</td>
<td>Kurzaka Reserve</td>
<td>0.321</td>
<td>C1612</td>
<td>Lot 224 DP 1176059</td>
<td>55 Kurzaka Drive FLETCHER NSW 2287</td>
<td>NCC</td>
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</table>
### SCHEDULE OF LAND: GENERAL COMMUNITY USE

<table>
<thead>
<tr>
<th>COUNT</th>
<th>PARK NAME</th>
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<th>LAND REGISTER NO</th>
<th>DP NO</th>
<th>LOCATION</th>
<th>OWNERSHIP</th>
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</thead>
<tbody>
<tr>
<td>18</td>
<td>Lambton Road Reserve</td>
<td>0.178</td>
<td>C172</td>
<td>Lt Lot 1 DP 14003 and Lots 2, 3 and 6 DP 14803</td>
<td>1/67A Lambton Rd NEW LAMBTON NSW 2305</td>
<td>NCC</td>
</tr>
<tr>
<td>19</td>
<td>Lindsey Memorial Park Swimming Centre and 2 Allendale St</td>
<td>1.41</td>
<td>C21, C22</td>
<td>Pt Lot 1602 DP 1152426 Lot 90 DP 20481</td>
<td>230 Anderson Dr, 2 Allendale St BERKELEYFIELD NSW 2302</td>
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<td>7.242</td>
<td>C220</td>
<td>5, 6, 11, 12, 13 DP 37258 PTA/157203</td>
<td>Malitland Road and Mangrove Road SANDGATE NSW 2304</td>
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<td>23</td>
<td>Pacific Highway Reserve</td>
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<td>Parry Street Reserve</td>
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<td>C196</td>
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<td>87 Parry St NEWCASTLE WEST NSW 2302</td>
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<td>26</td>
<td>Pitt St Reserve (Swimming Centre only)</td>
<td>0.041</td>
<td>C1539</td>
<td>Pt Lot 1 DP 879866</td>
<td>21 Pitt St STOCKTON NSW 2295</td>
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<td>27</td>
<td>Plantation Park</td>
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<td>C73</td>
<td>Lot 1 DP 37387</td>
<td>202A Lawson Street HAMILTON SOUTH NSW 2303</td>
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### SCHEDULE OF LAND: GENERAL COMMUNITY USE

<table>
<thead>
<tr>
<th>COUNT</th>
<th>PARK NAME</th>
<th>AREA</th>
<th>LAND REGISTER NO</th>
<th>DP NO</th>
<th>LOCATION</th>
<th>OWNERSHIP</th>
</tr>
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<td>28</td>
<td>Railway Reserve</td>
<td>0.546</td>
<td>C63</td>
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<td>1/6 Donald Street</td>
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<td>Rankin Drive Reserve N.</td>
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<td>Lot 35 DP 216171</td>
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<td>30</td>
<td>Rankin Drive Reserve S.</td>
<td>3.025</td>
<td>C210, G231</td>
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<td>31</td>
<td>Robinson Reserve</td>
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<td>32</td>
<td>Rotary Park</td>
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<td>Lot 17 DP 95326</td>
<td>9A Bedford Street</td>
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<td>33</td>
<td>Rowland Park</td>
<td>0.35</td>
<td>C244</td>
<td>Lot 165 DP 85298</td>
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<td>THE JUNCTION NSW 2291</td>
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<td>Silver Ridge Estate C.</td>
<td>0.137</td>
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<td>13 Francis Grove</td>
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<td>35</td>
<td>South Westend Park</td>
<td>0.214</td>
<td>C53</td>
<td>Lot 21A DP 17877</td>
<td>129 Cardiff Road</td>
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<td>36</td>
<td>St James Rd Reserve</td>
<td>0.233</td>
<td>C315</td>
<td>Lot 2003 DP 822762</td>
<td>23A St James Road</td>
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<td>37</td>
<td>Tauranga Road Reserve</td>
<td>0.193</td>
<td>C181</td>
<td>PEP: 755247</td>
<td>246 Lamberon Road</td>
<td>NEW LAMBTON NSW 2365</td>
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## SCHEDULE OF LAND: GENERAL COMMUNITY USE

**APPENDIX 1**

<table>
<thead>
<tr>
<th>COUNT</th>
<th>PARK NAME</th>
<th>AREA</th>
<th>LAND REGISTER NO</th>
<th>DP NO</th>
<th>LOCATION</th>
<th>OWNERSHIP</th>
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<tbody>
<tr>
<td>38</td>
<td>Tramway Reserve</td>
<td>0.325</td>
<td>C192</td>
<td>Ms 3520 Md</td>
<td>The Esplanade</td>
<td>NCC</td>
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<td></td>
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<td></td>
<td>NEWCASTLE EAST NSW 2300</td>
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<tr>
<td>39</td>
<td>Turriff Street Reserve</td>
<td>0.04</td>
<td>C74</td>
<td>Lot 9 DP 150362</td>
<td>109A Gordon Ave</td>
<td>NCC</td>
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<td>40</td>
<td>Turriff Road Reserve</td>
<td>0.379</td>
<td>C292</td>
<td>Pl Lots 722, 723, 724, 725 &amp; 726 DP 755247</td>
<td>Turriff &amp; Crescent Roads</td>
<td>NCC</td>
</tr>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>WARKWAILA NSW 2338</td>
<td></td>
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<tr>
<td>41</td>
<td>Wallabad Community Hall (Former Hall)</td>
<td>0.15</td>
<td>C273</td>
<td>Lot 2 DP 228526</td>
<td>54 Cooper St</td>
<td>NCC</td>
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<td>42</td>
<td>Wallabad Road Reserve</td>
<td>0.808</td>
<td>C203</td>
<td>Lotts 2915 &amp; 2916 DP 755247</td>
<td>Wallabad &amp; Pacific Highway</td>
<td>NCC</td>
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<td>SANDGATE NSW 2304</td>
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<tr>
<td>43</td>
<td>Wallabad Swimming Pool</td>
<td>1.974</td>
<td>C299</td>
<td>Part Lot 2 DP 1181202</td>
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<td>NCC</td>
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<td></td>
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<td>Part Lot 14 DP 585292</td>
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<td>44</td>
<td>Warabrook Community Centre</td>
<td>0.281</td>
<td>C311</td>
<td>Lot 1 DP 855002</td>
<td>6 Victoria Street</td>
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<tr>
<td>46</td>
<td>Young Street Reserve</td>
<td>0.177</td>
<td>C06</td>
<td>Lot 2 Sec 51 DP 755247</td>
<td>1A Young Street</td>
<td>NCC</td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td>CARRINGTON NSW 2264</td>
<td></td>
</tr>
</tbody>
</table>

---

**General Community Use – Land Plan of Management**

03/09/16
APPENDIX 2

APPROPRIATE PURPOSES FOR GRANTING OF LEASES AND LICENCES IN GENERAL COMMUNITY USE LAND

This plan expressly authorises leases for the parcels of land listed in the table below.

<table>
<thead>
<tr>
<th>Count</th>
<th>Park Name</th>
<th>Land Register Number</th>
<th>Purpose of Lease</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Lindsay Memorial Park, Beresfield</td>
<td>Part of C21 C22</td>
<td>For swimming centre management and associated activities.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>For bowling and associated activities.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>For community based organisations for the purpose of public recreation, physical,</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>social, cultural and intellectual activities.</td>
</tr>
<tr>
<td>2</td>
<td>Pitt St Reserve, Stockton</td>
<td>Part of C1539</td>
<td>For swimming centre management and associated activities.</td>
</tr>
<tr>
<td>3</td>
<td>Wallsend Swimming Pool</td>
<td>Part C299</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Fletcher Community Centre</td>
<td>C1612</td>
<td>For community based organisations for the purpose of public recreation, physical,</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>social, cultural and intellectual welfare activities.</td>
</tr>
<tr>
<td>5</td>
<td>Silver Ridge Estate Community Hall</td>
<td>C310</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>South Wallsend Park</td>
<td>C53</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Wallsend Community Hall</td>
<td>C273</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Warabrook Community Centre</td>
<td>C311</td>
<td></td>
</tr>
</tbody>
</table>

Leases and licences can be authorised in accordance with Section 46 and 47 of the Act provided they are consistent with the core objectives of General Community Use Land and are consistent with the specific objectives identified in this Plan.

Under the Local Government Act 1993:

The core objectives for management of community land categorised as general community use are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet current and future needs of the local community and of the wider public:

(a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and

(b) in relation to the purposes for which a lease can be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

General Community Use – Land Plan of Management 08/09/16
APPENDIX 3

GUIDELINES FOR THE CATEGORISATION OF GENERAL COMMUNITY USE LAND

Guidelines for Categorisation of land as General Community Use Land should be categorised as General Community Use under Section 36(4) of the Act if the land:

(a) may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public, and

(b) is not required to be categorised as a natural area under section 36A, 36B or 36C of the Act and does not satisfy the guidelines under clauses 10-13 for categorisation as a natural area, a sportsground, a park or an area of cultural significance.

General Community Use – Land Plan of Management
ITEM-83
CCL 27/09/16 - ADOPTION OF AMENDMENTS TO NEWCASTLE DEVELOPMENT CONTROL PLAN 2012 TO INCORPORATE CONTROLS FOR NON-LEASED PARTS OF THE PORT OF NEWCASTLE

REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER STRATEGIC PLANNING

PURPOSE

The purpose of this report is to advise Council of the outcomes of the public exhibition of the proposed amendments to the Newcastle Development Control Plan (DCP) 2012 to incorporate guidelines for the development of land that is zoned SP1 Special Activities under State Environmental Planning Policy (Three Ports) 2013 (Three Ports SEPP) but is located outside of the Port of Newcastle Lease Area. This report seeks a resolution of Council to adopt the draft amended DCP as provided in Attachment A.

RECOMMENDATION

1 Council adopts the amended Newcastle DCP 2012 as set out in Attachment A.

KEY ISSUES

2 The recently exhibited amendments to the DCP include:
   i) Administrative changes to the introduction section and the introduction of each relevant section of the DCP, to allow it to be applied to land zoned SP1 under the Three Ports SEPP which is outside of the Lease Area.
   ii) Amendments to Section 3.13 Industrial Development to incorporate some site specific controls in relation to access via roads and stormwater systems managed by the operator of the Port of Newcastle, otherwise section 3.13 will apply to the land unaltered.
   iii) Amendments to Section 7.09 Outdoor Advertising and Signage so that the controls for signage in industrial zones (instead of special purpose zones) will apply to the sites within the boundaries of the Three Ports SEPP but located outside of the Lease Area.

3 During the exhibition period, two submissions were received from State government authorities - Hunter Development Corporation (HDC) and Roads and Maritime Services (RMS).
4 The HDC submission raises no issue with the DCP amendments and expresses support for Council's approach to the resolution of zoning issues associated with the Intertrade site (i.e., Council's request for the site to be returned to the Newcastle Local Environmental Plan 2012). The Intertrade site is an area of land at Mayfield that is identified as a 'deferred matter' under the Three Ports SEPP. Being identified as a 'deferred matter' on the zoning map means that the planning controls which applied to the Intertrade site before the introduction of the Three Ports SEPP remain in force.

5 Council has now written to the Department of Planning and Environment (DPE) requesting that the Intertrade site be removed from the Three Ports SEPP and returned to the Newcastle Local Environmental Plan 2012. This would allow appropriate zones and development controls under the Newcastle LEP 2012 to be developed in consultation with the community and key stakeholders.

6 The submission from the RMS seeks:

   i) A specific control within the DCP that encourages rationalisation of intersections linking the Port with classified roads by discouraging developers from increasing the number of new access points (including reactivating existing dormant access points).

   ii) A control which aims at promoting prioritisation of existing major access points and encouraging new development to utilise the existing / future internal road networks to direct traffic to major intersections.

7 Ideally, the RMS would prefer to see a conceptual road network layout included in the DCP to address the rationalisation of access, although they did not provide one for Council's consideration and inclusion in the DCP.

8 Council staff have no objection, in principle, to including a conceptual road network layout in the DCP in future as it is acknowledged that the development of a conceptual road layout plan would be of some benefit to the future subdivision and redevelopment of the sites bounded by Industrial Drive and Tourle Street at Mayfield (known as the 'One Steel' site). It would also be of benefit to the Intertrade site, if the DPE agree to return it to the Newcastle LEP.

9 However, many other sites within the boundaries of the Three Ports SEPP do not rely on direct access to a classified road and given the timeframe needed to develop and consult with the community on a conceptual road layout, it is not proposed to include one in this DCP amendment. A conceptual road layout could be investigated and developed in conjunction with the RMS in the future as a separate DCP amendment, particularly, as mentioned, if the Intertrade site is returned to Newcastle LEP for planning controls.
10 The draft DCP includes a control that new development is to use the existing access points to classified roads (Industrial Drive, Cormorant Road and Tourle Street). In addition, *State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)*, requires Council to carefully consider access to a classified road. Clause 101 of the ISEPP strictly limits the creation of new access points to a classified road and requires Council to consider the suitability of existing access points. Clause 101(2) states:

"The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

(i) the design of the vehicular access to the land, or
(ii) the emission of smoke or dust from the development, or
(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and…”

11 The DCP clause in relation to access from a classified road has been revised to improve clarity and consistency with the ISEPP and to remove a typographical error. As the ISEPP provides guidance to development of land that has frontage to a classified road and the amended DCP control is consistent with the ISEPP requirements, no further clauses are proposed to be included in this section of the DCP.

**FINANCIAL IMPACT**

12 The proposed amendments do not have a direct financial impact on the operations of Council. The provision of development guidelines has an indirect benefit through more efficient processing of development applications.

**COMMUNITY STRATEGIC PLAN ALIGNMENT**

13 The proposed amendments align with the Liveable and Distinctive Built Environment strategic direction of the Newcastle 2030 Community Strategic Plan.

14 The proposed DCP amendment is consistent with the action contained in Council's Local Planning Strategy to ‘Prepare a Development Control Plan for the SEPP (Three Ports) area that falls outside the Lease Area.”
IMPLEMENTATION PLAN/IMPLICATIONS

15 The process for preparing and amending DCPs and the matters that a DCP may deal with are specified in the Environmental Planning and Assessment Act, 1979 (the Act) and associated Regulation. The Act and Regulation require a relevant planning authority to prepare a DCP and that the DCP be placed on public exhibition for at least 28 days.

16 Following consideration of submissions, the Council may approve the DCP (with or without amendments) or decide not to proceed with the DCP. In this case, it is recommended that Council proceed with the DCP as amended.

RISK ASSESSMENT AND MITIGATION

17 There are no risks to Council in the proposed amendments to the DCP. The legal process is being followed. The recommended public exhibition period of 28 days is consistent with the plan making requirements under the Act.

RELATED PREVIOUS DECISIONS

18 At the Ordinary Council Meeting held on 28 June 2016, Council resolved to:

i) Place the draft amendments to Newcastle Development Control Plan 2012 as provided in Attachment A on public exhibition for 28 days; and

ii) Write to the Department of Planning and Environment to seek the return of the Intertrade site at Mayfield (shown as a ‘deferred matter’ under the Three Ports SEPP) to the Newcastle Local Environmental Plan 2012 to allow appropriate zones and development controls to be developed in consultation with the community.

CONSULTATION

19 The draft amendments to the DCP to incorporate guidelines for the development of land that is zoned SP1 Special Activities under the Three Ports SEPP but is located outside of the Port of Newcastle Lease Area were placed on public exhibition for 28 days from 18 July 2016 to 15 August 2016. During this time 2 external submissions were received.

20 Consultation was also undertaken during the development of the DCP, both internally with the Development Assessment Team and with external bodies including the Port of Newcastle, Roads and Maritime Services, DPE and Hunter Development Corporation.
OPTIONS

Option 1

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

Option 2

22 Council not proceed with the draft amendments to the DCP. This is not the recommended option.

BACKGROUND

23 The Major Development SEPP was amended in July 2009 to include Port Kembla, Port Botany and the Port of Newcastle as State significant sites and replaced all local planning controls with the provisions of the SEPP.

24 In April 2013, Port Kembla and Port Botany were removed from the Major Development SEPP and placed in a separate SEPP to accommodate the leasing of these Ports. On 31 May 2014 the amendment to include the Port of Newcastle in the Port Botany and Port Kembla SEPP became effective and the SEPP was renamed The Three Ports SEPP.

25 On 25 November 2014, Council resolved to accept the Minister’s delegation to prepare a DCP for the land outside the Lease Area of the Port of Newcastle. The preparation of a DCP was subsequently included as an action in the Local Planning Strategy.

ATTACHMENTS

Attachment A: Amendments to Newcastle DCP 2012

Attachment A distributed under separate cover.
CONFIDENTIAL REPORTS

ITEM-35  CON 27/09/16 - PROPERTY MATTER - LOT 374 DP 755247

REPORT BY: CORPORATE SERVICES
CONTACT: DIRECTOR CORPORATE SERVICES / MANAGER COMMERCIAL PROPERTY

REASON FOR CONFIDENTIALITY

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

Section 10A(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

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

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

and

b - the Council or Committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

GROUND FOR CLOSING PART OF THE MEETING

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

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

A The matter relates to

Section 10A(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

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

C It is contrary to the public interest to discuss the matter in an open meeting because the report includes information which would provide a commercial advantage to persons interested in purchasing the land should the proposed transaction not proceed. Public disclosure of this information may detrimentally affect the outcome of any future sale of the land.
ITEM-36  CON 27/09/16 - SUPPLY OF ELECTRICITY TO COUNCIL'S LARGE SITES CONTRACT 2017/071T

REPORT BY: INFRASTRUCTURE
CONTACT: DIRECTOR INFRASTRUCTURE

PURPOSE

To accept a tender for electricity supply for Council's Commercial and Industrial (C&I) sites and Unmetered Street lighting from 1 January 2017 for a contract period of up to three years.

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

REASON FOR CONFIDENTIALITY

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

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

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

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 Supply of Electricity to Council Large Sites (C&I) and Council Street lighting for Contract No.: 2017/071T

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.