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 26 July 2016

**TIME:** 5.30pm

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

Frank Cordingley  
Interim Chief Executive Officer

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

15 July 2016

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ITEM-32  CON 26/07/16 - MAJOR EVENT REPORT

(to be distributed under separate cover)

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

MINUTES OF PUBLIC VOICE COMMITTEE HELD 21 JUNE 2016

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 160621 Public Voice Committee

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
CITY OF NEWCASTLE

Record of the Public Voice presentation held in the Council Chambers, 2nd Floor City Hall on Tuesday 21 June 2016 at 5.30pm.

PRESENT
The Lord Mayor (Councillor N Nelmes), Councillors T Doyle, M Osborne, S Posniak, L Tierney and S Waterhouse.

ABSENT

IN ATTENDANCE
F Cordingley (Interim Chief Executive Officer), G Cousins (Director Corporate Services), K Liddell (Acting Director Infrastructure), P Chrystal (Director Planning and Regulatory), M Blackburn-Smith (Manager Development and Building), F Giordano (Manager Legal and Governance), K Sullivan (Council Services/Webcasting) and A Leach (Council Services/Minutes).

APOLOGIES
The Lord Mayor indicated the meeting was inquorate and advised the meeting could proceed as public voice was not a decision making committee.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS
Nil.

PUBLIC VOICE SESSIONS

ITEM-1 PVC - DA 2015/0876 - 77 MAITLAND ROAD, MAYFIELD - DEMOLITION OF DWELLINGS AND OUTBUILDINGS, SUBDIVISION OF LAND (29 INTO 5 LOTS) ERECTION OF TWO STOREY RETAIL COMPLEX, ASSOCIATED CAR PARKING, SITE WORKS AND SIGNAGE

Mr Howard Hawthorn, Development Manager, NSW Coles Group Property Development Ltd (Coles Group) representing the DA applicant gave a verbal update which covered the following points:

- Coles Group Property Development Ltd. held community consultations in 2015 with directly impacted residents and businesses;
- Submissions received identified the loss of 10 on-street parking spaces on Maitland Road and Havelock Street as a key issue and properties 45 to 55 Maitland Road were the most adversely affected;
Following submissions Coles Group made the following revision to the proposed development:
  o Reduced the scale and bulk of the development;
  o Reduced the floor space ratio (FSR) to 1/3 of the allowable floor space;
  o Allocated on site staff parking;
  o Conducted an acoustic engineering report; and
  o Restricted the compactor and loading dock operating hours to between 7am and 7pm.

The positive impacts of the development would be:
  o A minimum of 100 new Coles staff would be employed part time, and casual - and would be recruited from the local and broader community;
  o Increased local employment and economic development during the construction phase;
  o Increase in trading for surrounding businesses; and
  o an improved retail offering and choices to grocery shoppers.

The Lord Mayor said that the applicant of the Public Voice, Mr George Webb had submitted apologies for not attending the meeting. The Lord Mayor indicated Mr Webb's main concern was increased traffic flow on Havelock Street.

Following a question from Councillor Posniak regarding what Coles Group's next steps would be should the Newcastle City Traffic Committee (NCTC) not support the revised parking arrangements, Mr Hawthorn said that Coles Group would sell the land.

The Lord Mayor asked Council staff to comment on Councillor Posniak's comment. The Acting Director Infrastructure said the NCTC had had initial discussions regarding the development plans however, no decision had yet been made in respect of the proposed development.

Following a question from Councillor Osborne regarding customer car parking and cycling racks, Mr Hawthorn said there would be adequate car parking spaces and cycling racks provided.

The presentation concluded at 6.02pm.
MINUTES ORDINARY COUNCIL MEETING HELD 24 MAY 2016

Council resolved on 28 June 2016 that the Ordinary Council Meeting Minutes from 24 May lay on the table to enable Council staff to check the audio recording of the meeting.

A check of the audio recording has been carried out in respect of Item 50 - Council Submission on Newcastle Light Rail Review of Environmental Factors. The minutes as circulated in respect of that debate reflect proceedings as a true and correct record.

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 160524 Minutes of 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
Minutes of the Ordinary Council Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 24 May 2016 at 5.36pm.

PRESENT
The Lord Mayor (Councillor N Nelmes), Councillors D Clausen D Compton, T Crakanthorp (arrived 5.37pm), T Doyle, J Dunn, B Luke, S Posniak, A Robinson, A Rufo, L Tierney (arrived at 5.41pm) and S Waterhouse.

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), P Moore (Manager Facilities and Recreation), A Glauser (Manager Finance), R Bales (Customer Service Manager), A Baxter (Manager Regulatory Services), P Nelson (Manager Commercial Property), K Hyland (Manager Communications and Engagement), N Baker (Chief of Staff to the Lord Mayor), G Sainsbury (Manager Projects and Contracts), I Challis (Contracts Management Specialist), K Baartz and B Johnson (Communications), A Leach (Council Services/Minutes) and K Sullivan (Council Services/Meetings Management).

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

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

APOLOGIES

MOTION
Moved by Cr Posniak, seconded by Cr Doyle

The apologies submitted on behalf of Councillor Osborne be received and leave of absence granted.

Carried
MOTION
Moved by Cr Luke, seconded by Cr Waterhouse

The apologies submitted on behalf of Councillor Tierney be received and leave of absence granted.

For the Motion: Councillors Compton, Doyle, Luke, Robinson, Rufo and Waterhouse

Against the Motion: Lord Mayor Councillor Nelmes and Councillors Clausen Crakanthorp, Dunn and Posniak

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Compton
Councillor Compton declared a significant non-pecuniary interest in Item-1 LMM 24/05/16 Novocastrian Pride and said as he was still employed by Port Stephens Council he would exit the Chamber when the item was discussed.

Councillor Luke
Councillor Luke declared a less than significant non-pecuniary interest in Item 48 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.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - PUBLIC VOICE COMMITTEE MEETING 19 APRIL 2016

MOTION
Moved by Cr Dunn, seconded by Cr Clausen

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

MINUTES - ORDINARY COUNCIL MEETING 26 APRIL 2016

MOTION
Moved by Cr Dunn, seconded by Cr Clausen

The draft minutes as circulated be taken as read and confirmed. Carried
LORD MAYORAL MINUTE

LMM 24/05/16 - NOVOCASTRIAN PRIDE

Due to his conflict of interest on this item Councillor Compton excused himself from the Chamber at 5.45pm.

MOTION
Moved by Cr Nelmes

That Council:

1. Rejects the recommendation of the NSW Government’s Delegate Report on the forced amalgamation of the Newcastle and Port Stephens Local Government Areas to rename an amalgamated Council Area the “City of Hunter Coast”.

2. Notes the Premier’s commitment to give an elected council the final say on planning decisions involving the rail corridor land (Attachment A).

3. Rejects the recommendation of the NSW Government’s Delegate Report on the forced amalgamation of the Newcastle and Port Stephens Local Government Areas to remove elected representatives from office and appoint an Administrator.

4. Writes to the Premier and Minister for Local Government (with copies to the State Members for Newcastle, Wallsend and Charlestown) requesting that a merged council be named The City of Newcastle or The City of Greater Newcastle should an amalgamation be forced as per our previous resolution and submission to the inquiry.

5. Seeks legal advice on options available to the City of Newcastle on both retaining the City’s name as ‘Newcastle’ and the retention of an elected decision making body through the amalgamation process including consideration of the application of interim governance arrangements like those applied in other states where elected bodies remain in place.

Councillor Tierney moved a procedural motion that the motion be moved in seriatim and parts 1, 2, 3 and 5 be moved as part A and part 4 be moved as part B.

PROCEDURAL MOTION
Moved by Cr Tierney, seconded by Cr Crakanthorp

The motion be moved in seriatim with parts 1, 2, 3 and 5 moved as part A and part 4 moved as part B.

Carried
MOTION
Moved by Cr Nelmes

PART A

That Council:

1. Rejects the recommendation of the NSW Government’s Delegate Report on the forced amalgamation of the Newcastle and Port Stephens Local Government Areas to rename an amalgamated Council Area the “City of Hunter Coast”.

2. Notes the Premier’s commitment to give an elected council the final say on planning decisions involving the rail corridor land (Attachment A).

3. Rejects the recommendation of the NSW Government’s Delegate Report on the forced amalgamation of the Newcastle and Port Stephens Local Government Areas to remove elected representatives from office and appoint an Administrator.

4. Seeks legal advice on options available to the City of Newcastle on both retaining the City’s name as ‘Newcastle’ and the retention of an elected decision making body through the amalgamation process including consideration of the application of interim governance arrangements like those applied in other states where elected bodies remain in place.

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

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

Carried
MOTION
Moved by Cr Nelmes

PART B

That Council:

Writes to the Premier and Minister for Local Government (with copies to the State Members for Newcastle, Wallsend and Charlestown) requesting that a merged council be named The City of Newcastle or The City of Greater Newcastle should an amalgamation be forced as per our previous resolution and submission to the inquiry.

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

Against the Motion: Councillors Luke, and Waterhouse.

Carried

Councillor Compton returned to the Chamber at 6.14pm.
REPORTS BY COUNCIL OFFICERS

ITEM-47 CCL 24/05/16 - QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2016

MOTION
Moved by Cr Compton, seconded by Cr Waterhouse

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

Carried

ITEM-48 CCL 24/05/16 - EXECUTIVE MONTHLY PERFORMANCE REPORT - APRIL 2016

MOTION
Moved by Cr Luke, seconded by Cr Waterhouse

The report be received.

Carried

ITEM-49 CCL 24/05/16 - THIRD PARTY DELEGATIONS

MOTION
Moved by Cr Clausen, seconded by Cr Dunn

1 Council confirms acceptance of the third party delegation from Roads and Maritime Services (RMS) at Attachment A.

2 Council confirms delegation of the functions to the person who holds the position of Chief Executive Officer from time to time.

Carried
ITEM-50  CCL 24/05/16 - COUNCIL SUBMISSION ON NEWCASTLE LIGHT RAIL REVIEW OF ENVIRONMENTAL FACTORS

MOTION
Moved by Cr Crakanthorp, seconded by Cr Posniak

That Council endorses the Newcastle Light Rail REF submission, Attachment A.

AMENDMENT
Moved by Cr Doyle

1. A fourth option be included in Appendix B that has the light rail travelling along the length of the corridor as specified in Council's resolution of 26 April in the case of the State Government rejecting the mixed running option.

2. Change all text referring to Council's "Secondary Option" to "corridor Hybrid Option" throughout the submission, to ensure consistency with the relevant identifier for this option in the Option Comparison Summary Table in Appendix B of the submission.

3. Clarify the currently confusing (and apparently contradictory) references to "NCC option" and "Council proposal" in the Comment column ("Light Rail System" row) in the Table in Appendix B.

4. Remove all items identified in the submission under the heading "7. Other Measures for Urban Renewal" that have not been formally endorsed by Council and include relevant references for all items consequently retained in this section.

5. Include relevant support documentation with the submission including a copy of the Council's assessment of trip times and the impact of signal priority referred to in the Multi-Criteria Analysis in Table 1 of the submission.

Through the lack of a seconder, Councillor Doyle's amendment lapsed.

AMENDMENT
Moved by Cr Tierney, seconded by Cr Luke

Council form a delegation group made up of three Councillors to accompany the Interim Chief Executive Officer to meet with the Premier and the Parliamentary Secretary of the Hunter within the fortnight and present Council's light rail submission and discuss options that involve mixed running that vary from the Government proposal.

In the Lord Mayor's address she referred to the amendment as a political stunt.

Councillor Luke raised a point of order against the Lord Mayor's comment.
The Lord Mayor did not uphold Councillor Luke's point of order.

Councillor Luke moved dissent against the Lord Mayor's ruling and called for a vote by division.

**For the Motion of dissent:** Councillors Compton, Luke, Tierney and Waterhouse

**Against the Motion of dissent:** Lord Mayor, Cr Nelmes and Councillors Clausen, Crakanthorp, Doyle, Posniak, Robinson and Rufo.

Defeated

Councillor Tierney's amendment was put to the meeting and a vote by division was called.

**For the amendment:** Councillors Compton, Luke, Tierney and Waterhouse

**Against the amendment:** Lord Mayor Cr Nelmes and Councillors Clausen, Crakanthorp, Doyle, Dunn, Posniak, Robinson and Rufo.

Defeated

The Lord Mayor thanked Council staff for delivering the thorough written submission and requested it be recorded in the minutes.

The motion was put to the meeting and a vote by division was called.

**For the Motion:** Lord Mayor, Cr Nelmes and Councillors Clausen, Crakanthorp, Posniak, Robinson and Rufo

**Against the Motion:** Councillors Compton, Doyle, Luke, Tierney and Waterhouse.

Carried
NOTICES OF MOTION

ITEM-5 NOM 24/05/16 - SOCCEROOS WORLD CUP QUALIFIER MATCH FOR NEWCASTLE IN 2017

MOTION
Moved by Cr Crakanthorp, seconded by Cr Posniak

That Newcastle City Council support the call to grant Newcastle the rights to host an upcoming Socceroo's World Cup qualifier match in 2017.

That Council write to both the Premier and Football Federation Australia citing our support for Newcastle in the negotiations for the qualifier match.

Carried Unanimously

ITEM-6 NOM 24/05/16 - TIME RESTRICTED OFF LEASH AREA FOR NOVOCASTRIAN PARK, NEW LAMBTON

MOTION
Moved by Cr Clausen, seconded by Cr Crakanthorp

That Council:

1 Notes that Officers are presently undertaking a review of the Sportsland Plan of Management which is intended to be publicly exhibited in the third quarter of 2016 as part of a new Community Land Plan of Management.

2 Requests that public consultation on the new Community Land Plan of Management consider the implementation of a time restricted off-leash area at Novocastrian Park, New Lambton. Consultation should include dog owners, park neighbours and other park users such as sports users.

Carried

CONFIDENTIAL REPORTS

PROCEDURAL MOTION
Moved by Cr Posniak, seconded by Cr Doyle

Council move into confidential session to discuss items 17, 18, 19 and 20.

Councillor Luke stated that he did not agree that Council should move into confidential session for Item 17 Supplementary report on Item 33 26 April 2016 Correction to Council minutes 8 December 2015 and gave notice of a foreshadowed motion.
Following discussion, the Interim Chief Executive Officer advised Councillors that he understood it to be good practice and was past practice for legal advice to be kept confidential.

**For the procedural Motion:** Lord Mayor, Cr Nelmes and Councillors Clausen, Crankanthorp, Dunn, Posniak and Robinson

**Against the procedural Motion:** Councillors Compton, Doyle, Luke, Tierney, Rufo and Waterhouse.

The Lord Mayor used her casting vote and declared the procedural motion carried.

**Procedural motion carried**

Council moved into confidential session at 7.23pm.

**ITEM-17 CON 24/05/16 - SUPPLEMENTARY REPORT ON ITEM-33 26 APRIL 2016 - CORRECTION TO COUNCIL MINUTES 8 DECEMBER 2015**

**MOTION**

1. Council correct the minutes of the Ordinary Council Meeting of 8 December 2015 - *Item 138 Supplementary Report - Review of Instrument of Delegations* by removing the words "as advised by the Acting Interim Chief Executive Officer."

2. This confidential report relating to the matters specified in s.10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until Council determines otherwise.

**Carried**

**ITEM-18 CON 24/05/16 - TABLING OF FIRE AND RESCUE NSW REQUEST FOR INSPECTION AND REPORT FOR THE PREMISES DATED 23 FEBRUARY 2016 IN ACCORDANCE WITH SECTION 119T OF THE ACT**

**MOTION**

1. Council note the FRNSW Request for Inspection and Report for the Premises dated 23 February 2016 in accordance with Section 119T of the Environmental Planning and Assessment Act, 1979 (The Act).

2. Council to determine and ratify the exercise its powers to give order No 6 in the Table to Section 121B of the Act.

**Carried**
MOTION

1 Council rejects all tenders received for the Redevelopment of Newcastle Ocean Baths Pavilion, Contract No. 2015/411T and enters into negotiations with Stronach Property Pty Limited (Stronach Property) with a view to entering into a contract. The Stronach Property tender was the only conforming tender, but cannot be accepted as submitted as some aspects of its proposal, relating to financial, design, planning and legal conditions do not meet the requirements of Council and Crown Lands. Therefore, further negotiations with Stronach Property are required prior to entering into a contract.

2 This confidential report relating to the matters specified in s. 10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until Council determines otherwise.

Carried

MOTION

1 Council resolves not to accept any tender and not proceed with the contract. Both tenders received were non-conforming as their submissions for redevelopment of the Merewether Pavilion did not comply with the requirements set out in the tender documents.

2 This confidential report relating to the matters specified in s. 10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until Council determines otherwise.

Carried

Unanimous
ITEM-21 CON 24/05/16 - PROVISION OF ELECTRICAL AND COMMUNICATION SERVICES FOR CONTRACT NO. 2016/395T

MOTION

1 Council accept the tender of three companies for the provision of electrical and communication services for contract No. 2016/395T:
   i) Laser Electrical Lake Macquarie Pty Ltd;
   ii) JAG Power & Data Solutions Pty Ltd; and
   iii) LumaLED Pty Ltd.

2 Council accept the tenders of the two companies for the provision of building control installation and maintenance services for Contract No. 2016/395T:
   i) Hunter Electrical Services Pty Ltd; and
   ii) JAG Power & Data Solutions Pty Ltd.

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 8.03pm
MINUTES OF ORDINARY COUNCIL MEETING HELD 28 JUNE 2016

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 160628 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](http://www.newcastle.nsw.gov.au)
Present
The Lord Mayor (Councillor N Nelmes), Councillors D Clausen D Compton, T Crakanthorp, T Doyle, J Dunn, B Luke (retired 8.45pm), M Osborne, S Posniak, A Rufo (retired 8.17pm), L Tierney and S Waterhouse.

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), J Gaynor (Manager Strategic Planning), A Glauser (Manager Finance), P Moore (Manager Facilities and Recreation), L Burcham (Cultural Director), R Bales (Customer Services Manager), G Essex (Manager Civil Works), F Leatham (Acting Manager Infrastructure Planning), M Cherry (Manager Rates - Debt Management), P Waghorn (Property Management Co-ordinator), P McCarthy (Team Co-ordinator), K Hyland (Manager Communications and Engagement), K Baartz (Communications Manager), B Johnson (Media Officer), K Sullivan (Council Services/Minutes) and A Leach (Council Services/Meetings Management).

Presentation
The Lord Mayor presented Council employee Lifeguards, Paul Bernard, Beach Inspector Nobbys Beach and Scott Hammerton, Beach Inspector Newcastle Beach with bravery awards in recognition of highly performed distinguished rescues in dangerous seas during the recent June East Coast Low.

Congratulations were extended by all Councillors and staff.

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

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

Apologies
The Lord Mayor called for apologies and leave of absence.

Councillor Robinson was not present at the meeting and an apology was not submitted on his behalf.
DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke
Councillor Luke declared a less than significant non-pecuniary interest in Item 51 - 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 Compton
Councillor Compton declared a less than significant non pecuniary interest in Notice of Motion Item 9 - Legal Action Council Amalgamation. He stated as he was an employee of Port Stephens Council he would absent himself from the Chamber for discussion on the item.

Councillor Clausen
Councillor Clausen declared a less than significant non pecuniary interest in Item 52- Adoption of 2013/17 Delivery Program, 2016/17 Operational Plan and 2016/17 Fees and Charges. He stated that a number of submissions were received relating to libraries and those submissions were received from individuals who were members of community groups in which he was involved.

Councillor Osborne
Councillor Osborne declared a less than significant non pecuniary interest in Notice of Motion Item 9 - Legal Action Council Amalgamation. He stated as he was an employee of Port Stephens Council he would absent himself from the Chamber for discussion on the item.

Councillor Tierney
Councillor Tierney declared a significant non pecuniary interest in Item 62- Building Better Cities - Proposed Expenditure of Residual Funds. She stated that her employer was a Tier One community housing provider and potentially could tender for that Expression of Interest. Councillor Tierney stated that she would absent herself from the Chamber for discussion on the item.

Councillor Compton
Councillor Compton declared a non pecuniary less than significant interest in Item 62 - Item 62- Building Better Cities - Proposed Expenditure of Residual Funds. He stated that his company was a previous recipient of Building Better Cities funding for a project he was previously involved in and would absent himself from the Chamber for discussion on the item.

Lord Mayor, Cr Nelmes
The Lord Mayor declared a non pecuniary significant interest in Notice of Motion Item 10 - Protecting Bushland / Zoning of Land at Fletcher. The Lord Mayor advised her interest was as previously stated when the matter was last before Council in that a member of her family was a past member of the Green Corridor Coalition and that family member had been advocating a position in respect to this matter. The
Lord Mayor stated that she would absent herself from the Chamber for discussion on the item and that she would request that the Deputy Lord Mayor, Councillor Dunn, to act as Chairperson.

PROCEEDINGS IN BRIEF

Subsequent to the declarations of pecuniary and non pecuniary interest, both Councillors Clausen and Crakanthorp gave notice of late items of business.

The Interim Chief Executive Officer, Frank Cordingley, also gave notice of a late item of business.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES EXTRAORDINARY COUNCIL MEETING 10 MAY 2016
MINUTES PUBLIC VOICE COMMITTEE 17 MAY 2016
MINUTES ORDINARY COUNCIL MEETING 24 MAY 2016

MOTION

Moved by Cr Clausen

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

As there no seconder was forthcoming, the motion lapsed.

The Lord Mayor indicated that she would return to the minutes later in the meeting.

LORD MAYORAL MINUTE

ITEM-2 LMM 28/06/16 - Stockton Foreshore

MOTION

Moved by Lord Mayor, Cr Nelmes

That Newcastle City Council -

A) Investigate the construction of a rock wall to protect the Stockton foreshore from the existing rock wall at north end to the break wall at the south end.

B) Investigate the Extension of the Bathers Way inside the protection of the wall along the Stockton foreshore. Including the revegetation of the dunes.

C) Council to consult with local beach user groups such as the surf club, land and dune care groups.

Carried unanimously
ITEM-3  LMM 28/06/16 - Smart City

MOTION
Moved by Lord Mayor, Cr Nelmes

A That Council:

1 Establishes a Smart and Innovative City Advisory Committee.

2 Adopts the interim Constitution and Terms of Reference, to be reviewed by the Committee within six months of establishment.

3 Appoints the Lord Mayor and three Councillors to the Committee.

4 Advertise the Committee and seek Expressions of Interest from both the public and targeted networks.

5 Work with the State and Commonwealth Government to further its vision as a Smart and Innovative City, including by investigating opportunities to legalise the testing of autonomous electric cars on designated public roads in the Newcastle region

B Councillors Clausen, Compton and Doyle be Council’s representatives on the Committee.

Carried unanimously

ITEM-4  LMM 28/06/16 - Sustainable Newcastle

MOTION
Moved by The Lord Mayor, Cr Nelmes

1 Notes the expanded role of the Clean Energy Finance Corporation (CEFC) incorporating local government financing, and the proposed Commonwealth Sustainable Cities Investment Fund program; and the Commonwealth’s Smart Cities Plan.

2 Notes that CEFC Financing is available to Local Government for projects including:
   a Electric and low emission vehicles (including fleet upgrades and EV charging stations)
   b Energy from waste projects
   c Rooftop solar PV
   d Street lighting upgrades
   e Building upgrades (including meter upgrades, voltage optimization, heating, ventilation and air-condition upgrades, chillers, shading, lighting upgrades and improved window glazing)
   f Leisure and aquatic centre upgrades
3 Notes and reiterates Council’s commitment to generating 30% of its operational electricity from low carbon sources, and reducing its overall electricity usage by 30% (on 2008-09 levels) by 2020.

4 Investigates opportunities to utilize the Clean Energy Finance Corporation’s Local Government Finance Program to deliver on Council’s commitment.

5 Investigates opportunities under the Commonwealth’s Smart Cities Plan to deliver Newcastle’s Smart and Innovative City vision.

Carried

REPORTS BY COUNCIL OFFICERS

ITEM-51 CCL 28/06/16 - EXECUTIVE MONTHLY PERFORMANCE REPORT - MAY 2016

MOTION
Moved by Cr Tierney, seconded by Cr Crakanthorp

The report be received.

Carried

ITEM-54 CCL 28/06/16 - INTEREST ON OVERDUE RATES AND CHARGES FOR 2016/17

MOTION
Moved by Cr Doyle, seconded by Cr Dunn

1 Council adopts the rate of 8% per annum on interest on overdue rates and charges for the 2016/17 rating year. This is the maximum allowable by the Minister for Local Government.

2 The rate of interest on overdue rates and charges that are deferred against an eligible ratepayer’s estate for the 2016/17 rating year be fixed at 3.45% per annum.

Carried

ITEM-55 CCL 28/06/16 - MAKING OF THE RATE - HUNTER CATCHMENT CONTRIBUTION AND COMMISSION FOR THE YEAR COMMENCING 1 JULY 2016

MOTION
Moved by Cr Crakanthorp, seconded by Cr Posniak

1 (a) Council notes that Hunter Local Land Services has established the Hunter Catchment Contribution rate for the 2016/17 rating year at 0.011800 of a cent in the dollar on all relevant properties within the Newcastle Local Government Area (LGA), with a land value in excess of $300.
(b) Council endorses the levying and collection of the Hunter Catchment Contribution on behalf of Hunter Local Land Services as the rate detailed in Paragraph 1(a) above.

2 Council endorses the rate of commission payable to Council for the collection of the 2016/17 Catchment Contribution at 5% of Hunter Catchment Contributions collected, as determined by Hunter Local Land Services.

ITEM-56 CCL 28/06/16 - ADOPTION OF ASSET MANAGEMENT POLICY 2016

MOTION
Moved by Cr Osborne, seconded by Cr Tierney

Council adopts the draft Asset Management Policy (2016) in the form as attached at Attachment A as Council's Asset Management Policy.

ITEM-58 CCL 28/06/16 - RAINBOW CROSSING

MOTION
Moved by Cr Clausen, seconded by Cr Posniak

Council approves Islington Park as the preferred location to install a rainbow crossing.

Carried
ITEM-59  CCL 28/06/16 - AMENDMENT TO DEVELOPMENT CONTROLS FOR THE NON-LEASED PARTS OF THE PORT OF NEWCASTLE - NEWCASTLE DEVELOPMENT CONTROL PLAN 2012

MOTION
Moved by Cr Tierney, seconded by Cr Waterhouse

Council resolves 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.

For the Motion: Lord Mayor, Cr Nelmes, Councillors Clausen, Compton, Crakanthorp, Doyle, Dunn, Luke, Osborne, Posniak, Rufo, Tierney and Waterhouse.

Against the Motion: Nil.

Carried

ITEM-60  CCL 28/06/16 - AMENDMENT TO SECTION 7.06 STORMWATER - NEWCASTLE DEVELOPMENT CONTROL PLAN 2012

MOTION
Moved by Cr Doyle, seconded by Cr Clausen

Council approves placing the draft amendments to Section 7.06 Stormwater and Section 9.00 Glossary of Newcastle Development Control Plan 2012, as provided in Attachments A & B, on public exhibition for a period of four weeks.

For the Motion: Lord Mayor, Cr Nelmes, Councillors Clausen, Compton, Crakanthorp, Doyle, Dunn, Luke, Osborne, Posniak, Rufo, Tierney and Waterhouse.

Against the Motion: Nil.

Carried
ITEM-61 CCL 28/06/16 - HERITAGE CONSERVATION AREA REVIEW PROJECT

MOTION
Moved by Cr Tierney, seconded by Cr Waterhouse

Council endorses the Review of Heritage Conservation Areas Final Report, provided in Attachment A.

Carried


MOTION
Moved by Lord Mayor Cr Nelmes, seconded by Cr Dunn

A Council adopts the revised 2013-17 Delivery Program in the form as attached at Attachment A, the 2016/17 Operational Plan in the form as attached at Attachment B and the 2016/17 Fees and Charges in the form as attached at Attachment C.

B That Council

1 Notes the memo from Director Planning and Regulatory dated 6 June 2016 regarding room hire, fees and charges at Council's libraries.

2 Develops a policy which ensures that community groups and non-for-profits are not charged for booking meeting space at Council's libraries when they do not expect exclusive use.

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

Against the Motion: Councillors Compton, Luke, Tierney and Waterhouse.

Carried
**Ordinary Council Meeting 26 July 2016**

**ITEM-53  CCL 28/06/16 - MAKING OF THE RATES AND CHARGES FOR 2016/17**

**MOTION**

Moved by Cr Clausen, seconded by Cr Posniak

1 Council makes the following rates and charges for the 2016/17 financial year:

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<tr>
<th>RATE</th>
<th>MINIMUM RATE</th>
<th>AD Valorem Amount Cents in $</th>
<th>BASE AMOUNT</th>
<th>ESTIMATED RATE YIELD P.A. $'s</th>
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<tr>
<td>Ordinary Rates</td>
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<tr>
<td>Residential</td>
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<td>Suburban Shopping Centres.</td>
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CITY OF NEWCASTLE

Ordinary Council Meeting 26 July 2016

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TOTAL                                      | 124,909,717

2 An Ordinary Rate of zero point two zero eight four three seven cents (0.208437c) in the dollar with a 50% base charge of six hundred and twenty one dollars and eighty four cents ($621.84) named RESIDENTIAL, apply to all rateable land in The City of Newcastle Local Government Area (LGA) categorised as Residential.

3 An Ordinary Rate of zero point three five zero one zero zero cents (0.350100c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named FARMLAND, apply to all rateable land in The City of Newcastle LGA categorised as Farmland.

4 An Ordinary Rate of one point seven three six four four two cents (1.736442c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS, apply to all rateable land in The City
of Newcastle LGA categorised as Business except that rateable land determined to be in the Business Sub-Categories - Major Commercial Shopping Centres - Kotara, Major Commercial Shopping Centres – Jesmond, Major Commercial Shopping Centres – Waratah, Major Commercial Shopping Centres - Wallsend, Major Commercial Shopping Centres – The Junction, Major Commercial Centres (Inner City), Suburban Shopping Centres, Suburban Shopping Centres (Inner City), Suburban Shopping Centre - Mayfield, Kotara, Homemaker’s Centre, Kooragang Industrial Coal Zone, Kooragang North Coal Zone, Kooragang Industrial Centre, Kooragang Industrial Centre - Walsh Point, Mayfield North Heavy Industrial Centre, Mayfield North Industrial Centre, Mayfield North Future Industrial Development Centre, Carrington Industrial Coal Zone, Carrington Industrial Centre, Carrington Industrial Port Operations Use, Carrington Industrial Coal and Port Zone, Broadmeadow Industrial Centre and Hexham Industrial Centre.

5 An Ordinary Rate of two point eight one zero one nine seven cents (2.810197c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS - MAJOR COMMERCIAL SHOPPING CENTRES - KOTARA, apply to all rateable land in The City of Newcastle LGA, being utilised as a Major Commercial Shopping Centre. "Major Commercial Shopping Centre" being defined as a centre of commercial activity within the suburb of Kotara providing at least six thousand square metres (6,000m²) of floor space and which incorporates a major anchor tenant trading as a supermarket outlet together with a minimum of thirty (30) specialty stores and service outlets. This land is categorised as Sub-Category Business - Major Commercial Shopping Centres - Kotara.

6 An Ordinary Rate of three point seven seven six five nine eight cents (3.776598c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS - MAJOR COMMERCIAL SHOPPING CENTRES - JESMOND, apply to all rateable land in The City of Newcastle LGA, being utilised as a Major Commercial Shopping Centre. "Major Commercial Shopping Centre" being defined as a centre of commercial activity within the suburb of Jesmond providing at least six thousand square metres (6,000m²) of floor space and which incorporates a major anchor tenant trading as a supermarket outlet together with a minimum of twenty (20) specialty stores and service outlets. This land is categorised as Sub-Category Business - Major Commercial Shopping Centres - Jesmond.
7 An Ordinary Rate of four point one nine one five five four cents (4.191554c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS - MAJOR COMMERCIAL SHOPPING CENTRES - WARATAH, apply to all rateable land in The City of Newcastle LGA, being utilised as a Major Commercial Shopping Centre. "Major Commercial Shopping Centre" being defined as a centre of commercial activity within the suburb of Waratah providing at least six thousand square metres (6,000m²) of floor space and which incorporates a major anchor tenant trading as a supermarket outlet together with a minimum of twenty (20) specialty stores and service outlets. This land is categorised as Sub-Category Business - Major Commercial Shopping Centres - Waratah.

8 An Ordinary Rate of four point six zero one seven zero six cents (4.601706c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS - MAJOR COMMERCIAL SHOPPING CENTRES - WALLSEND, apply to all rateable land in The City of Newcastle LGA, being utilised as a Major Commercial Shopping Centre. "Major Commercial Shopping Centre" being defined as a centre of commercial activity within the suburb of Wallsend providing at least six thousand square metres (6,000m²) of floor space and which incorporates a major anchor tenant trading as a supermarket outlet together with a minimum of twenty (20) specialty stores and service outlets. This land is categorised as Sub-Category Business - Major COMMERCIAL SHOPPING CENTRES - WALLSEND.

9 An Ordinary Rate of three point two five five one six six cents (3.255166c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS - MAJOR COMMERCIAL SHOPPING CENTRES – THE JUNCTION, apply to all rateable land in The City of Newcastle LGA, being utilised as a Major Commercial Shopping Centre. "Major Commercial Shopping Centre" being defined as a centre of commercial activity within the suburb of The Junction providing at least six thousand square metres (6,000m²) of floor space and which incorporates a major anchor tenant trading as a supermarket outlet together with a minimum of twenty (20) specialty stores and service outlets. This land is categorised as Sub-Category Business - Major Commercial Shopping Centres – The Junction.

10 An Ordinary Rate of two point zero four one nine two two cents (2.041922c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS - MAJOR COMMERCIAL SHOPPING CENTRES (INNER CITY), apply to all rateable land in The City of Newcastle LGA situated at Newcastle West within the centre of activity defined by Parry, National Park, King and Ravenshaw Streets, being utilised as a Major Commercial Centre (Inner City). "Major Commercial Centre – (Inner City)" being defined as a centre of commercial activity providing at least six thousand square metres (6,000m²) of floor space and which incorporates a major anchor tenant trading as a supermarket outlet together with a minimum of twenty (20) specialty stores and service outlets. This land is categorised as Sub-Category Business - Major Commercial Shopping Centres (Inner City).
11 An Ordinary Rate of two point six six four six seven nine cents (2.664679c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS – SUBURBAN SHOPPING CENTRES, apply to all rateable land in The City of Newcastle LGA, being utilised as a Suburban Shopping Centre. "Suburban Shopping Centre" being defined as a centre of commercial activity situated on a site of greater than 6000m² which operates as a Supermarket excepting the land categorised as Major Commercial Shopping Centres - Kotara, Major Commercial Shopping Centres – Jesmond, Major Commercial Shopping Centres – Waratah, Major Commercial Shopping Centres – Wallsend, Major Commercial Shopping Centres – The Junction, Major Commercial Centres (Inner City) or Suburban Shopping Centre - Mayfield. This land is categorised as Sub-category Business - Suburban Shopping Centres.

12 An Ordinary Rate of two point two zero three one zero eight cents (2.203108c) in the dollar with a minimum rate of eight hundred and ninety dollars and ninety cents ($829.90) named BUSINESS – SUBURBAN SHOPPING CENTRES – INNER CITY, apply to all rateable land in The City of Newcastle LGA, being utilised as an Inner City Suburban Shopping Centre. "Inner City Suburban Shopping Centre" being defined as a centre of commercial activity within the suburb of Newcastle West or Hamilton situated on a site of greater than four thousand and nine hundred square metres (4,900 m²) which operates as a Supermarket excepting the land categorised as Major Commercial Shopping Centres - Kotara, Major Commercial Shopping Centres – Jesmond, Major Commercial Shopping Centres – Waratah, Major Commercial Shopping Centres - Wallsend, Major Commercial Shopping Centres – The Junction, Major Commercial Centres (Inner City), Suburban Shopping Centre – Mayfield and Suburban Shopping Centres. This land is categorised as Sub-category Business - Suburban Shopping Centres – Inner City.

13 An Ordinary Rate of three point five one six six eight zero cents (3.516680c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS – SUBURBAN SHOPPING CENTRE - MAYFIELD apply to all rateable land in The City of Newcastle LGA within the suburb of at Mayfield, being utilised as a Suburban Shopping Centre. "Suburban Shopping Centre” being defined as a centre of commercial activity situated on a site of greater than six thousand and nine hundred square metres (6,000m²) which operates as a Supermarket. This land is categorised as sub-category Business – Suburban Shopping Centre - Mayfield.

14 An Ordinary Rate of one point three seven five three zero zero cents (1.375300c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS – KOTARA HOMEMAKER’S CENTRE apply to all rateable land in The City of Newcastle LGA situated at Kotara, used for commercial purposes, within the centre of activity defined by Northcott Drive, Bradford Close, the northern and western boundaries of Lot 501 DP 1174032, the northern and eastern boundaries of Lot 181 DP 850168 and the southern boundary of Lot 220 DP 1014716. This land is categorised as sub-category Business – Kotara Homemaker’s Centre.
15 An Ordinary Rate of one point four seven eight three four zero cents (1.478340c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS – KOORAGANG INDUSTRIAL COAL ZONE apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by the suburb of Kooragang being Lot 11 DP 841542, Lot 121 DP 874949, Lot 1 DP 1097327, Lot 5 DP 1097327, Lots 2, 5, 7, 9 DP 775774, Lot 1 DP 775775, Lot 1 DP 869622, Lot 18 DP 1119752. This sub categorisation applies to all land categorised as Business in terms of Section 518 of the Act within the defined area. This land is categorised as sub-category Business – Kooragang Industrial Coal Zone.

16 An Ordinary Rate of two point zero two six four seven five cents (2.026475c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS – KOORAGANG NORTH INDUSTRIAL COAL ZONE apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by the suburb of Kooragang being Lots 2, 3, 6, 16 DP1119752, Lot 61 DP 1184395, Lot 62 DP 1184943, Lot 16 DP 262783, Lots 8 DP 1119752, Lots 29, 30, 31, 32 and 33 DP 1184229, Lots 4, 5, 6, 10, 11, 12 DP 1207051, Lots 3, 7, 8, 9, 13, 14, 15 DP 1207051 and Lot 22 DP 1155723. This sub categorisation applies to all land categorised as Business in terms of Section 518 of the Act within the defined area. This land is categorised as sub-category Business – Kooragang North Industrial Coal Zone.

17 An Ordinary Rate of one point five nine four zero seven two cents (1.594072c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS – KOORAGANG INDUSTRIAL CENTRE WALSH POINT apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by the suburb of Kooragang being Lots 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22 DP 234887, Lots 6, 7 DP 262783, Lots 1, 2, 3 DP 557904, Lot 1 DP 575674, Lots 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 22, 23 DP 775773, Lots 2, 4, 5, 7, 8, 9, 10, 14 DP 775775, Lots 29, 31, 32, 33, 35, 37, 38, 39, 40, 41, 42 DP 775776, Lots 44, 45, 46, 47, 48, 49, 50, 51, 53 DP 775777, Lots 60, 61, 62, 63 DP 802700, Lot 3 DP 858206, Lots 2, 4, 5 DP 1015754, Lots 201, 202, 203, 204, 205, 206, 208, 210 DP 1017038, Lots 210, 211 DP 1018949, Lots 520, 521 DP 1018950, Lots 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112 DP 1018951, Lots 131, 132 DP 1018952, Lot 362 DP 1104196, Lot 15 DP 1119752, Lot 12, 13 DP 1144748, Lots 1, 2 DP 1184514, Lots 1, 2, 3, 4 DP 1191912, Lots 94, 95 DP 1191913, Lots 41, 42, 43, 44 DP 1193134, Lot 2 DP 1195449, Lots 151, 152, 153 DP 1202468, Lots 91, 92 DP 1202475 and Lot 3 in DP 234288. This sub categorisation applies to all land categorised as Business in terms of Section 518 of the Act located within this centre of activity which is not sub categorised as Business – Kooragang Industrial Coal Zone or not sub categorised as Business – Kooragang North Industrial Coal Zone or not sub categorized Business – Kooragang Industrial Centre. This land is categorised as sub-category Business – Kooragang Industrial Centre Walsh Point.
18 An Ordinary Rate of one point three three six nine eight zero cents (1.336980c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named **BUSINESS – KOORAGANG INDUSTRIAL CENTRE** apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by the suburb of Kooragang. This sub categorisation applies to all land categorised as Business in terms of Section 518 of the Act located in Kooragang which is not sub categorised as Business – Kooragang Industrial Coal Zone or not sub categorised as Business – Kooragang North Industrial Coal Zone or not sub categorised as Business – Kooragang Industrial Centre Walsh Point. This land is categorised as sub-category Business – Kooragang Industrial Centre.

19 An Ordinary Rate of zero point eight three seven eight two three cents (0.837823c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named **BUSINESS – MAYFIELD NORTH HEAVY INDUSTRIAL CENTRE** apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by all land contained within, Lot 225 DP 1013964, Lot 224 DP 1013964, Lot 2 DP 1204573 and Lot 2 DP 1184257 and zoned SP1 – Special Activities under the State Environmental Planning Policy (Three Ports) 2009. This land is categorised as sub-category Business - Mayfield North Heavy Industrial Centre.

20 An Ordinary Rate of one point three four six one six five cents (1.346165c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named **BUSINESS – MAYFIELD NORTH INDUSTRIAL CENTRE** apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by Lot 10 DP 625019, Lot 1 DP 403544, Lot 1 DP 528411, Lot 2 DP 207307, Lot 3 DP 259009, Lot 1 DP 880225, Lots 1, 2 DP 1177466, Lots 36, 37, 38, 39, 40 DP 1191723 and Lot Pt 1 DP 207307. This land is categorised as sub-category Business - Mayfield North Industrial Centre.

21 An Ordinary Rate of one point six nine nine one four five cents (1.699145c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named **BUSINESS – MAYFIELD NORTH INDUSTRIAL CENTRE FUTURE DEVELOPMENT** apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by Lots 41, 42, 43, 44, 45 in DP 1191982. This land is categorised as sub-category Business - Mayfield North Industrial Centre Future Development.

22 An Ordinary Rate of two point six two nine five eight zero cents (2.629580c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named **BUSINESS – CARRINGTON INDUSTRIAL COAL AND PORT ZONE** apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by all land within Lot 1 DP 1044636 Lots 1, 2 DP 1104199, the land contained within Railway Land Lease reference number 115/75/2261, Lots 3, 4 DP 1104199, Lots 1, 2, 3 DP1187068, Lot 30 DP 1190075, Lots 8 and 11 DP 1190231, Lots 12, 13, 14, 15, 16 DP 1190232, Lots 110, 111, 113 DP 1191911, Lots 91, 92, 93 DP 1193181, Lots 1, 2, 3 DP...
1195231, Lots 219, 220 DP 1195310. This land is categorised as sub-category Business - Carrington Industrial Coal and Port Zone.

23 An Ordinary Rate of two point one one zero two seven nine cents (2.110279c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS – CARRINGTON INDUSTRIAL PORT OPERATIONS USE apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by all land within Lot 11 DP 1023961, Lot 27 DP 842685 Lot 101 DP 1014244, Lot 1014 DP 1143277, Lot 33 DP 1078910 and Lot 1 DP 834572. This land is categorised as sub-category Business - Carrington Industrial Port Operations Use.

24 An Ordinary Rate of one point eight eight nine one one three cents (1.889113c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS – CARRINGTON INDUSTRIAL CENTRE apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by all land with an area of greater than than six hundred square metres (600m²) zoned SP1 – Special Activities under the State Environmental Planning Policy (Three Ports) 2009 and located within the suburb of Carrington and the land known as Lot 1 DP 1097368 excepting that land categorised as Business - Carrington Industrial Coal and Port Zone or the land categorised as Business - Carrington Industrial Port Operations Use. This sub categorisation applies to all land categorised as Business in terms of Section 518 of the Act within the defined area. This land is categorised as sub-category Business – Carrington Industrial Centre.

25 An Ordinary Rate of three point zero eight four one zero zero cents (3.084100c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS – BROADMEADOW INDUSTRIAL apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by all land within Lot 221 DP 1012345. This land is categorised as sub-category Business - Broadmeadow Industrial.

26 An Ordinary Rate of two point three nine zero two zero six  cents (2.390206c) in the dollar with a minimum rate of eight hundred and twenty nine dollars and ninety cents ($829.90) named BUSINESS – HEXHAM INDUSTRIAL CENTRE apply to all rateable land in The City of Newcastle LGA within the centre of activity defined by all land wholly or partly contained in a “parcel of land” as defined within the Valuation of Land Act NSW 1916, which is zoned IN3 Heavy Industrial under the Newcastle Local Environmental Plan 2012 and located within the suburb of Hexham excepting Lots 2 and 3 DP 874409 and Lot 1 DP 90824. This sub categorisation applies to all land categorised as Business in terms of Section 518 of the Act within the defined area. This land is categorised as sub-category Business - Hexham Industrial Centre.

27 A Special Rate of zero point two eight two four six cents (0.282446c) in the dollar named HUNTER MALL, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “Hunter Mall Town Improvement District” as defined in Attachment A for the purpose of defraying the cost of
continuing additional horticultural and cleansing services and street furnishings determined to be of special benefit to the said Hunter Mall Town Improvement District.

28 A Special Rate of zero point one zero six zero zero zero cents (0.106000c) in the dollar named **MAYFIELD BUSINESS DISTRICT**, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “Mayfield Business District” as defined in Attachment B for the purpose of defraying the additional cost of promotion, beautification and development of the Mayfield Business District determined to be of special benefit to the said Mayfield Business District.

29 A Special Rate of zero point two zero three six seven eight cents (0.203678c) in the dollar named **HAMILTON BUSINESS DISTRICT - ZONE A**, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “Hamilton Business District” as defined in Attachment C for the purpose of defraying the additional cost of promotion, beautification and development of the Hamilton Business District determined to be of special benefit to the said Hamilton Business District.

30 A Special Rate of zero point one zero one eight three nine cents (0.101839c) in the dollar named **HAMILTON BUSINESS DISTRICT - ZONE B**, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “Hamilton Business District” as defined in Attachment D for the purpose of defraying the additional cost promotion, beautification and development of the Hamilton Business District determined to be of special benefit to the said Hamilton Business District.

31 A Special Rate of zero point zero five zero nine one nine cents (0.050919c) in the dollar named **HAMILTON BUSINESS DISTRICT - ZONE C**, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “Hamilton Business District” as defined in Attachment E for the purpose of defraying the additional cost promotion, beautification and development of the Hamilton Business District determined to be of special benefit to the said Hamilton Business District.

32 A Special Rate of zero point three eight two two nine eight cents (0.382298c) in the dollar named **WALLSEND BUSINESS DISTRICT - ZONE A**, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “Wallsend Business District” as defined in Attachment F for the purpose of defraying the additional cost promotion, beautification and development of the Wallsend Business District determined to be of special benefit to the said Wallsend Business District.

33 A Special Rate of zero point one nine one one four nine cents (0.191149c) in the dollar named **WALLSEND BUSINESS DISTRICT - ZONE B**, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “Wallsend Business District” as defined in Attachment G for the purpose of defraying the additional cost promotion, beautification and development of the
Wallsend Business District determined to be of special benefit to the said Wallsend Business District.

34 A Special Rate of zero point two eight six seven two four cents (0.286724c) in the dollar named WALLSEND BUSINESS DISTRICT - ZONE C, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “Wallsend Business District” as defined in Attachment H for the purpose of defraying the additional cost of promotion, beautification and development of the Wallsend Business District determined to be of special benefit to the said Wallsend Business District.

35 A Special Rate of zero point one two three seven one five cents (0.123715c) in the dollar named NEW LAMBTON BUSINESS DISTRICT, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “New Lambton Business District” as defined in Attachment I for the purpose of defraying the additional cost of promotion, beautification and development of the New Lambton Business District determined to be of special benefit to the said New Lambton Business District.

36 A Special Rate of zero point three four three two five six cents (0.343256c) in the dollar named CITY CENTRE - CITY EAST, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “City Centre Benefit Area - City East” as defined in Attachment J for the purpose of defraying the additional cost of promotion, beautification and development of the City Centre Benefit Area - City East determined to be of special benefit to the said City Centre Benefit Area - City East.

37 A Special Rate of zero point seven five three seven eight cents (0.075378c) in the dollar named CITY CENTRE - DARBY STREET, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “City Centre Benefit Area -Darby Street” as defined in Attachment K for the purpose of defraying the additional cost of promotion, beautification and development of the City Centre Benefit Area - Darby Street determined to be of special benefit to the said City Centre Benefit Area - Darby Street.

38 A Special Rate of zero point one four eight eight seven zero cents (0.148870c) in the dollar named CITY CENTRE - CITY WEST (CLOSE ZONE), apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “City Centre Benefit Area - City West” as defined in Attachment L for the purpose of defraying the additional cost of promotion, beautification and development of the City Centre Benefit Area - City West (Close Zone) determined to be of special benefit to the said City Centre Benefit Area - City West (Close Zone).

39 A Special Rate of zero point zero seven four four three five cents (0.074435c) in the dollar named CITY CENTRE - CITY WEST (DISTANT ZONE), apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “City Centre Benefit Area -City West” as defined in Attachment M for the purpose of defraying the additional cost of promotion, beautification and
development of the City Centre Benefit Area - City West (Distant Zone) determined to be of special benefit to the said City Centre Benefit Area - City West (Distant Zone).

40 A Special Rate of zero point three four three two five six cents (0.343256c) in the dollar named CITY CENTRE - TOWER apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “City Centre Benefit Area - Tower” as defined in Attachment N for the purpose of defraying the additional cost of promotion, beautification and development of the City Centre Benefit Area - Tower determined to be of special benefit to the said City Centre Benefit Area - Tower.

41 A Special Rate of zero point three four three two five six cents (0.343256c) in the dollar named CITY CENTRE – MALL, apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “City Centre Benefit Area - Mall” as defined in Attachment O for the purpose of defraying the additional cost of promotion, beautification and development of the City Centre Benefit Area - Mall determined to be of special benefit to the said City Centre Benefit Area - Mall.

42 A Special Rate of zero point one nine two four six one cents (0.192461c) in the dollar named CITY CENTRE - CIVIC (CLOSE ZONE), apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “City Centre Benefit Area – Civic (Close Zone)” as defined in Attachment P for the purpose of defraying the additional cost of promotion, beautification and development of the City Centre Benefit Area – Civic (Close Zone) determined to be of special benefit to the said City Centre Benefit Area – Civic (Close Zone).

43 A Special Rate of zero point zero nine six two three one cents (0.096231c) in the dollar named CITY CENTRE - CIVIC (DISTANT ZONE), apply to part of the rateable land within The City of Newcastle LGA constituted and known as the “City Centre Benefit Area – Civic (Distant Zone)” as defined in Attachment Q for the purpose of defraying the additional cost of promotion, beautification and development of the City Centre Benefit Area – Civic (Distant Zone) determined to be of special benefit to the said City Centre Benefit Area – Civic (Distant Zone).

44 A STORMWATER MANAGEMENT SERVICE CHARGE of twenty five dollars ($25.00) per non-strata property and twelve dollars and fifty cents ($12.50) per Strata/Company Title unit for the provision of stormwater management services. This charge applies to all rateable land categorised as Residential not being an exclusion as outlined in Section 496A(2) of the Act as amended.

45 A STORMWATER MANAGEMENT SERVICE CHARGE of twenty five dollars ($25.00) per three hundred and fifty square meters (350m²) or part thereof, of land area capped at a maximum of $1,000 for each non-strata property. This charge applies to all non-strata or non-company title rateable land categorised as Business not being an exclusion as outlined in Section 496A(2) of the Act as amended.
A **STORMWATER MANAGEMENT SERVICE CHARGE** of twenty five dollars $25.00 per three hundred and fifty square meters $350m² or part thereof, of land area occupied by the strata scheme, capped at a maximum of $1,000, divided between each unit based on the unit entitlement of each business lot divided by the total unit entitlement of strata lots within the scheme. This charge applies to all strata or company title rateable land categorised as Business where the dominant use of the strata development is for business purposes, not being an exclusion as outlined in Section 496A(2) of the Act as amended.

A **DOMESTIC WASTE MANAGEMENT SERVICE CHARGE** of three hundred and forty dollars and nine cents ($340.09) for the provision of domestic waste management services for each parcel of rateable land for which the service is available in The City of Newcastle LGA.

A **BUSINESS WASTE MANAGEMENT SERVICE CHARGE** of two hundred and thirty one dollars and fifty one cents ($231.58) for the provision of waste management services (other than domestic waste management services), on each parcel of rateable land categorised as Business or sub-categorised as one of the Business sub-categories referred to in the table within paragraph 1 of this report, for which the service is provided or proposed to be provided in The City of Newcastle LGA.

**For the Motion:**
Lord Mayor Cr Nelmes, Councillors Clausen, Crakanthorp, Dunn, Osborne, Posniak and Rufo.

**Against the Motion:**

**Carried**

**ITEM-57 CCL 28/06/16 - YOUNG STREET CARRINGTON STREETSCAPE UPGRADE EXHIBITION**

**MOTION**
Moved by Cr Osborne, seconded by Cr Posniak

A 1 Council resolves to place the Young Street, Carrington Streetscape Upgrade Plans Option 1 and Option 2 (Attachment A and Attachment B) on public exhibition for a period of 28 days.

2 To endorse the consultation strategy as outlined in this report.

3 That a report be placed back before Council on the preferred plan following public exhibition.
CITY OF NEWCASTLE

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B Council Officers to investigate the following concerns raised by the Carrington Community Council and local residents and report back to Council:

- Traffic safety in Young Street
- Cycleways in Young Street
- Contamination
- Low lying land study (Stage 3)

Carried unanimously.

ITEM-62 CCL 28/06/16 - BUILDING BETTER CITIES COMMITTEE - PROPOSED EXPENDITURE OF RESIDUAL FUNDS

Councillors Compton and Tierney left the Chamber for discussion on this item.

MOTION
Moved by Cr Doyle, seconded by Cr Posniak

Council resolves to undertake a targeted Expressions of Interest process to seek affordable housing proposals from Tier One community housing providers registered under the National Regulatory System Community Housing using residual Building Better Cities funds valued at $3.01M.

Carried unanimously

Councillors Compton and Tierney returned to the Chamber at the conclusion of this item.

ITEM-63 CCL 28/06/16 - ANNUAL FEES FOR THE LORD MAYOR AND COUNCILLORS 2016/17

MOTION
Moved by Cr Clausen, seconded by Cr Doyle

Council approves:

(i) an increase of 2.5% to the annual fees payable to the Lord Mayor in accordance with s. 249(1) of the Local Government Act 1993 (Act);

(ii) an increase of 2.5% to the annual fees payable to Councillors in accordance with s. 248(1) of the Act;

(iii) the payment to the Lord Mayor of the increased annual fee payable to the mayor as provided for in accordance with s. 249(1) of the Act and the payment to the Lord Mayor of the increased annual fee payable to Councillors in accordance with 248(1) of the Act, as provided for in s. 249(2) of the Act; and

(iv) the payment in the increased annual fees to the Lord Mayor and the Councillors be effective from the first full pay period in the 2016/17 financial year.
Councillor Luke gave notice of a foreshadowed motion that being a nil increase to the annual fees payable to the Lord Mayor and Councillors.

The motion was put to the meeting.

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

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

**Carried**

**NOTICES OF MOTION**

**ITEM-7 NOM 28/06/16 - NEWCASTLE TO BECOME AN OFFICIAL RV FRIENDLY TOWN OR DESTINATION**

**MOTION**

Moved by Cr Osborne, seconded by Cr Doyle

1. That Council work with the Campervan and Motorhome Club of Australia to initiate the assessment process for official RV Friendly Town and/or RV Friendly Destination accreditation.

2. That Council receive a report on:

   a) the extent to which Newcastle currently does and does not comply with the relevant criteria outlined in the Campervan and Motorhome Club of Australia's “RV Friendly Town” and “RV Friendly Destination” assessment forms;
   b) the relevant accreditation process, and any actions that would probably be required to meet the relevant criteria;
   c) any estimated associated costs and probable cost/benefit, and how any costs could be funded; and
   d) any potential relevant issues arising from accreditation, and recommended strategies for managing such issues.

3. That the Campervan and Motorhome Club of Australia be invited to provide a briefing to Council on their program at a Briefings Committee meeting.

**Carried unanimously**
ITEM-8  NOM 28/06/16 - INCLUSIVE REPRESENTATION OF SPORTS

MOTION
Moved by Cr Doyle, seconded by Cr Osborne

That Newcastle City Council affirms its commitment to:

- Encouraging a healthy lifestyle for all residents;
- Ensuring that, where appropriate, council-commissioned artworks and publications serve the purpose of depicting and celebrating the diverse practices and achievements of local residents who engage in healthy and enjoyable sporting activities; and
- Representing that diverse range of sporting achievement in a manner that is gender, ability and ethnically inclusive.

To ensure that this commitment is consistently put into practice, Council request Council Officers to explore ways that funds may be raised to commission new murals or alternative artworks at an appropriate point or points along Newcastle’s Bathers Way. These artworks or murals would depict a greater diversity, especially gender diversity, of sporting achievement than is currently on display along Newcastle’s beaches and coastal parks.

Carried

ITEM-9  NOM 28/06/16 - LEGAL ACTION COUNCIL AMALGAMATION

Councillors Compton and Osborne left the Chamber for discussion on this item.

Councillor Doyle tabled an alternate motion at the meeting.

ORIGINAL MOTION

That Council:

1. Take all appropriate legal action to protect Council against forced amalgamation, whether by joining an action presently on foot or by commencing fresh proceedings and that any such action be commenced as soon as reasonably practicable;

2. Delegate to the Lord Mayor, Deputy Lord Mayor, Interim Chief Executive Officer, Frank Cordingley, to engage the services of an appropriate legal firm within two (2) business days;

3. Receive a confidential briefing from the Interim Chief Executive Officer and/or engaged legal counsel as to any such action as soon as practicable; and

4. Delegate the Lord Mayor the authority to act on behalf of Council in relation to any legal action pursued in consequence of this motion.
ALTERNATE MOTION

MOTION
Moved by Cr Doyle, seconded by Cr Posniak

That Council:

1 Obtain independent legal advice regarding the prospects of a successful challenge to the proposed forced amalgamation of Newcastle City and Port Stephens Councils, whether by joining an action presently on foot or by commencing fresh proceedings.

2 Delegate to the Lord Mayor, Deputy Lord Mayor, Interim Chief Executive Officer (CEO), Frank Cordingley, to engage the services on an appropriate legal firm within two (2) business days.

3 Receive a confidential briefing from the Interim CEO and/or engaged legal counsel as to any such action as soon as practicable.

4 Delegate the Lord Mayor, Deputy Lord Mayor and Interim CEO, the authority to act on behalf of Council in relation to any legal action pursued in consequence of this motion.

AMENDMENT
Moved by Cr Tierney, seconded by Cr Luke

That Council:

1 Obtain independent legal advice regarding the prospects of a successful challenge to the proposed forced amalgamation of Newcastle City and Port Stephens Councils, whether by joining an action presently on foot or by commencing fresh proceedings.

2 Delegate to the Lord Mayor, Deputy Lord Mayor, Interim Chief Executive Officer (CEO), Frank Cordingley, to engage the services on an appropriate legal firm within two (2) business days; and

3 Receive a confidential briefing from the Interim CEO and/or engaged legal counsel as to any such action as soon as practicable.

The amendment was put to the meeting.

For the Amendment: Councillors Luke, Rufo, Tierney and Waterhouse.

Against the Amendment: Lord Mayor Cr Nelmes, Councillors Clausen, Crakanthorp, Doyle, Dunn and Posniak. Defeated
The alternate motion was put to the meeting.

**For the Motion:**
Lord Mayor Cr Nelmes, Councillors Clausen, Crakanthorp, Doyle, Dunn and Posniak.

**Against the Motion:**

Carried

Councillors Compton and Osborne returned to the meeting at the conclusion of this item.

**ITEM-10 NOM 28/06/16 - PROTECTING BUSHLAND / ZONING OF LAND AT FLETCHER**

The Lord Mayor left the Chamber for the discussion on this item and requested the Deputy Lord Mayor to take the Chair.

The Deputy Lord Mayor assumed the Chair.

Councillor Osborne tabled an alternate motion at the meeting.

**ORIGINAL MOTION**

That Council

1) Reaffirm its decision of 8 December 2015 in relation to Item-128 CCL 08/12/15 - 505 Minmi Road Fletcher - Adoption of Amendment to Newcastle Local Environmental Plan 2012, to not proceed with the Planning Proposal for 505 Minmi Rd, Fletcher; and

2) Directs the Interim CEO to write to the Minister for Planning and the Secretary to the Department of Planning and Environment to reaffirm Council's decision regarding the zoning of 505 Minmi Rd, Fletcher.

**ALTERNATE MOTION**

**MOTION**
Moved by Cr Osborne, seconded by Cr Doyle

1 That Council note Council’s resolution of 8 December 2015 in relation to Item-128 CCL 08/12/15 - 505 Minmi Road Fletcher - Adoption of Amendment to Newcastle Local Environmental Plan 2012 to:

   a) not proceed with the Planning Proposal for 505 Minmi Rd, Fletcher, and
   b) request the Minister for Planning and Environment to allow Council to discontinue the proposed amendments.
2 That Council also note recent correspondence from the Department of Planning and Environment verifying that Council has the legal authority to accept or reject the proposed amendment without the need for any further reference to the Minister.

3 That for the purpose of removing any possible legal doubt, Council hereby acknowledge:

a) the instrument of delegation to councils by the NSW Minister for Planning on 14 October 2012 in relation to the Minister's plan making powers under s.56(a) and 59 of the Environmental Planning and Assessment Act,

b) the written authorisation (dated 22 February 2013) of the Director General of the NSW Department of Planning and Infrastructure confirming Council’s delegated authority in relation to the planning proposal for 505 Minmi Rd, and

c) Council’s acceptance of the delegated authority to determine this planning proposal.

4 That Council confirm that, in accordance with the intention of Part 1 of its 8 December 2015 resolution, Council formally rejects the proposed amendment, and seeks no further decision by the Minister on this matter unless this is legally necessary.

5 That the above decisions be urgently conveyed to the Department of Planning and Environment.

The alternate motion was put to the meeting.

For the Motion: Deputy Lord, Mayor Cr Dunn, Councillors Clausen, Crakanthorp, Doyle, Osborne, Rufo and Posniak.

Against the Motion: Councillors Compton, Luke, Tierney and Waterhouse. Carried

The Lord Mayor returned to the Chamber at the conclusion of this item and the Deputy Lord Mayor stepped down from the Chair.

The Lord Mayor resumed the Chair.
ITEM-11 NOM 28/06/16 - LISTING OF NEWCASTLE RECREATION RESERVE, ORDNANCE STREET NEWCASTLE ON THE STATE HERITAGE REGISTER UNDER THE HERITAGE ACT 1977

MOTION
Moved by Cr Doyle, seconded by Cr Osborne

That Council supports the listing of those parts of Newcastle Recreation Reserve described below in the NSW State Heritage Register

The listing includes the following sites:

- King Edward Park incorporating Arcadia Park (Crown Reserve 570075, Lots 7003 and 7004, DP 1077043 with Council as Trust Manager for Newcastle Coastal and Estuary Reserve Trust);
- Obelisk Park (Lot 1238, DP 1096744, Community Land vested in Council);
- Shepherds Hill Defence Reserve (Crown Reserve 170100, Lot 3116, DP 755247, with Council as Trust Manager for Newcastle Coastal and Estuary Reserve Trust);
- Portion of South Newcastle Beach Cliffs (portion of Crown Reserve 570019, portion of Lot 7061, DP 1118737, adjoining King Edward Park, vested in Newcastle Coastal and Estuary Reserve Trust with Newcastle City Council as Reserve Manager); and
- King Edward Headland Reserve (Crown Reserve 1011189, Lot 3109, DP 755247, vested in King Edward Park Headland Reserve Trust and administered by NSW Lands Administration Ministerial Corporation).

To ensure that the heritage listing nomination is advanced as quickly as possible, Council Officers will expedite the resolution of all outstanding matters regarding the management of each of these sites.

Carried
ITEM-12 NOM 28/06/16 - OPEN AND COLLABORATIVE LEADERSHIP

MOTION
Moved by Cr Clausen, seconded by Cr Crakanthorp

That Council:

1 Notes the adopted Newcastle 2030 vision to create a smart, livable and sustainable city, within a framework of open and transparent leadership.

2 Notes that there is presently no core strategic document for the Open and Transparent Leadership CSP objective.

3 Draft an Open and Transparent Governance Strategy as a core strategic document. The Strategy is to consider best practice for open councils, including current and planned actions of council to improve transparency.

The Strategy is to outline implementation opportunities for:

a) Delivering procedures which ensure the highest level of transparency, accountability and probity in Civic governance (including implementable solutions to allow open diaries for the Lord Mayor and Chief Executive Officer, improvements to the model Code of Conduct and Code of Meeting Practice, an independent Internal Ombudsman to investigate and respond to complaints about council’s administration)

b) Achieving community confidence and improved consultation in Council’s practices (including improvements to the accessibility of Public Voice; improved community consultation and notification practices; improved consultation with community including community committees and BIAs)

c) Delivering procedural reform to better include the community in decision making (including expanding involvement of Committees of Council in decision making; inclusion of Strategic Advisory Committee meetings in Council’s meeting cycle; continue improvements to accessibility of Council’s website)

4 A draft Open and Transparent Governance Strategy is to be produced for Council’s consideration by September 2016.

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

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

Carried
CONFIDENTIAL REPORTS

PROCEDURAL MOTION
Moved by Cr Clausen, seconded by Cr Posniak

Council proceed into confidential session for discussion on Confidential Items 22 - 27 for the reasons outlined in the business papers.

Carried

Councillor Rufo retired from the meeting at 8.17pm.

Council moved into confidential session at 8.17pm and reconvened into an open session at 8.44pm.

ITEM-22 CON 28/06/16 - SUPPLEMENTARY REPORT TO ITEM-12 CON 26/4/16 - CONSIDERATION OF SALE OF AA COMPANY HOUSE THROUGH PUBLIC TENDER

MOTION

1 Council resolves:

i) To authorise the sale of 195 Denison Street Hamilton, known as AA Company House, via a public Expressions of Interest (EOI) process provided that EOI's are within minus 10% of the valuation.

ii) That the EOI is to be assessed in accordance with selection criteria designed to identify a suitable proponent with an intention to use, restore and stabilise the property in accordance with the recommendations outlined in the Conservation Management Plan 2016.

iii) To direct the reinvestment of net proceeds of sale in Council heritage projects as follows:

a) $20,000 to be allocated to an interpretation and building plaquing program for Hamilton which highlights the history of the Australian Agricultural Company; and
b) All remaining funds are to be allocated to the Cathedral Park revitalisation project.

iv) To delegate authority to the Interim Chief Executive Officer to execute all relevant documentation to effect the transaction.

v) Confidentiality is to remain on the item until contracts have been settled.

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

Councillors Crakanthorp, Doyle and Osborne requested their names be recorded in the minutes as having voted against the motion.

ITEM-23 CON 28/06/16 - CONFIDENTIAL PROPERTY MATTER - LOT 383 DP 548603

MOTION

1 (a) The Interim Chief Executive Officer be delegated authority to enter into an Option Agreement with the UON, in return for the payment of an option fee equivalent to approximately $40,000 or five percent of the agreed purchase price. The Option Agreement will grant UON the right to purchase 6 University Drive Callaghan (Lot 383 DP 548603) at a price to be determined by an independent certified valuation. The option will have a term of 12 months.

(b) Upon exercise of the above Option Agreement by the UON, the Interim Chief Executive Officer be delegated authority to execute all relevant documentation to effect the sale transaction.

2 This confidential report relating to the matters specified in s10A(2)(d) of the Local Government Act 1993 (Act) be treated as confidential and remain confidential until Council determines otherwise.

Carried unanimously
ITEM-24 CON 28/06/16 - TENDER CONTRACT 2016/348T MUSEUM CATERING AND CAFE SERVICES

MOTION

1 Council rejects all tenders received for the Newcastle Museum Catering and Café Services (Contract 2016/348T) and Council officers enter into negotiations with the D’Vine Group Pty Limited (D’Vine Group) with the view to achieving a better financial outcome from the D’Vine Group through negotiation prior to the Interim Chief Executive Officer entering into a contract.

2 Council delegates authority to the Interim Chief Executive Officer to execute the negotiated contract to effect the transaction.

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

ITEM-25 CON 28/06/16 - TENDER FOR THE SUPPLY OF READY MIXED CONCRETE FOR CONTRACT NO 2016/414T

MOTION

1 Council resolves to accept the tenders of Boral Resources Country Pty Ltd, Hanson Constructions Materials Pty Ltd, Holcim Australia Pty Ltd, Hunter Readymixed Concrete Pty Ltd and Premier Concrete Pty Ltd at the tendered rates for the supply of ready mixed concrete for Contract No 2016/414T.

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

ITEM-26 CON 28/06/16 - TREE MAINTENANCE SERVICES CONTRACT NO 2016/449T

MOTION

1 Council resolves to accept the tenders of Waratah Professional Tree Care Pty Ltd, Active Tree Services Pty Ltd, Agility Professional Tree Services Pty Ltd and Treeserve Pty Ltd with payments to be made in accordance with the tendered daily rates for tree maintenance services for Contract No 2016/449T.

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
ITEM-27 CON 28/06/16 - IN-VEHICLE TRACKING AND ROUTING SOFTWARE CONTRACT NO. 2016/309T

MOTION

1 Council accepts the tender of Navman Wireless Australia Pty Ltd (Navman) in the amount of $297,471 (excluding GST) for In-Vehicle Tracking and Routing Solution for Contract No.2016/390T.

2 This confidential report relating to the matters specified in s. 10A(2)(d) of the Local Government Act 1993 be treated as confidential and remain confidential until Council determines otherwise.

Carried

LATE ITEMS OF BUSINESS

Councillor Luke retired from the meeting at 8.45pm.

ITEM-64 CCL 28/06/16 - NEWCASTLE INNER CITY BYPASS

Councillor Clausen requested the matter of the Newcastle Inner City Bypass be heard as a late item of business in accordance with Clause 20 of Council's Code of Meeting Practice. He stated that the matter was of great urgency as submissions closed on 16 June 2016 which prevented the matter being included in the final business paper.

PROCEDURAL MOTION

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

The matter of the Newcastle Inner City Bypass be heard as a late item of business.

MOTION

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

That Council:

1 Endorses the submission from Officers dated 16 June to RMS regarding the Revised Strategic Design of the Newcastle Inner City Bypass Rankin Park to Jesmond.

2 Supports the public statement from Hunter New England Health and calls on RMS to deliver a full interchange to the John Hunter Hospital.

3 Supports residents' concerns and calls on RMS to deliver a full interchange at McCaffrey Drive to prevent a 'rat run' through local streets and John Hunter's internal road network.
4 Supports cyclists concerns and calls on RMS to implement design changes to mitigate the need for cyclists to traverse three additional sets of traffic lights when travelling east / west to / from Wallsend on the off road cycle path. **Carried**

**ITEM-65  CCL 28/06/16 - BUILD THEM HERE**

Councillor Crakanthorp requested the matter of Build Them Here be heard as a late item of business in accordance with Clause 20 of Council's Code of Meeting Practice. He indicated that the matter was of great urgency because the State Government was considering the manufacture of light rail rolling stock overseas.

**PROCEDURAL MOTION**
Moved by Cr Crakanthorp, seconded by Lord Mayor, Cr Nelmes

The matter of Build Them Here be heard as a late item of business.

**MOTION**
Moved by Cr Crakanthorp, seconded by Cr Dunn

That Council:

1 Notes the Adzuna report released 21 June 2016 indicating that Newcastle is the hardest place in Australia to find work, as indicated by a job seeker to job ratio with an average of 15.2 job seekers vying for each vacant position.

2 Notes that local Hunter manufacturers are desperate for work.

3 Notes the Hunter's expertise in manufacturing rail rolling stock.

4 Notes that the State Government gave a commitment in the NSW Parliament that it "will use its best endeavours" to source local content for the Newcastle Light Rail rolling stock.

5 Expresses its concern that the State Government has revealed as part of the State Budget that the Newcastle Light Rail rolling stock will be built in Spain, not the Hunter, sending jobs and millions of dollars off shore.

6 Calls on the State Government to commit to building the Newcastle Light Rail rolling stock in the Hunter. **Carried unanimously**
ITEM-66  CCL 28/06/16 - WORLD CITIES SUMMIT 2016 - SINGAPORE / 10 - 14 JULY 2016

The Interim Chief Executive Officer stated that the purpose of this report was to seek Council’s endorsement to accept the invitation to have the Lord Mayor and the Interim Chief Executive Officer, or his nominee, attend the World Cities Summit in Singapore from 10 to 14 July 2016.

He requested the matter be heard in accordance with Clause 20 of Council’s Code of Meeting Practice on the grounds of great urgency as the direct request from the CISCO to participate in this Summit was received after the finalisation of the business papers and required a response to be provided as soon as practicable.

PROCEDURAL MOTION
Moved by Cr Doyle, seconded by Cr Clausen

The matter of World Cities Summit 2016 - Singapore 10/14 July 2016 be heard as a late item of business.

MOTION
Moved by Cr Doyle, seconded by Cr Clausen

1 That Council supports participation and attendance at the World Cities Summit 2016 and makes available appropriate funding to enable this participation on the proviso that Council pays all expenses and does not accept Cisco’s offer for sponsorship.

2 That the Lord Mayor and Interim Chief Executive Officer, or his nominee, present a report to Council following the Summit that outlines the learnings and opportunities presented and details the participation costs to Council.

For the Motion: Lord Mayor, Cr Nelmes, Councillors Clausen, Compton, Crakanthorp, Doyle, Dunn and Posniak.

Against the Motion: Councillors Osborne, Tierney and Waterhouse.  

Carried

CONFIRMATION OF PREVIOUS MINUTES

MINUTES EXTRAORDINARY COUNCIL MEETING 10 MAY 2016
MINUTES PUBLIC VOICE COMMITTEE 17 MAY 2016

MOTION
Moved by Cr Clausen, seconded by Cr Dunn

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

Carried
MINUTES ORDINARY COUNCIL MEETING 24 MAY 2016

MOTION
Moved by Cr Clausen, seconded by Cr Dunn

The draft minutes as circulated be taken and read and confirmed subject to the following statement being removed from page 19 of the agenda.

"In the Lord Mayor's address she referred to the amendment as a political stunt'.

Councillor Tierney indicated that the statement should remain as it was relevant to a subsequent point of order raised by Councillor Luke which lead to a motion of dissent and vote by division.

PROCEDURAL MOTION
Moved by Cr Osborne, seconded by Cr Posniak

The minutes lay on the table to enable Council staff to check the audio recording of the meeting. 

Carried

The meeting concluded at 9.22pm.
PURPOSE

For the Interim Chief Executive Officer to table the pecuniary interest returns of 'designated persons' who commenced employment with Council between 1 April 2016 and 1 July 2016.

RECOMMENDATION

1 Council to note the pecuniary interest returns as tabled by the Interim Chief Executive Officer.

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 designated person.

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

   (a) the general manager;
   (b) other senior staff of the council; and
   (c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest.

4 Section 450A of the Act requires the General Manager to keep a register of returns lodged and to table the returns 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 that such information be deleted on the grounds that it would place their personal safety or their family’s safety at risk; and

(b) the Interim Chief Executive Officer 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.

IMPLEMENTATION PLAN/IMPLICATIONS

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

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

RISK ASSESSMENT AND MITIGATION

10 Not applicable.

RELATED PREVIOUS DECISIONS

11 Pecuniary interest returns were last tabled at Council’s meeting on 26 April 2016.

CONSULTATION

12 Not applicable.
OPTIONS

Option 1

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

Option 2

14 The Interim Chief Executive Officer does not table the pecuniary interest returns. This is not the recommended option as this does not comply with Section 449(1) of the Act.

BACKGROUND

15 Not applicable.

REFERENCES

ATTACHMENTS

Nil.
ITEM-68  CCL 26/08/16 - EXECUTIVE MONTHLY PERFORMANCE REPORT
REPORT BY: CORPORATE SERVICES
CONTACT: DIRECTOR CORPORATE SERVICES / MANAGER FINANCE

PURPOSE

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

i) Council’s unaudited preliminary financial position and full year results for the 2015/16 financial year compared to the 2015/16 Operational Plan.

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 June 2016 the preliminary unaudited consolidated full year actual operating position is a surplus of $18.1m (this result is subject to change as further detailed in Paragraph 3 below) which represents a positive variance of $12.5m against the revised operating budget surplus of $5.6m. This budget variance is due to a combination of income and expenditure variances which are detailed in Attachment A.

3 The surplus includes $7.5m relating to the recovery of Collateralised Debt Obligation (CDO) and Lehman Brothers investments which had been written-off in prior years. This revenue was not included in the budget as it remained subject to two separate complex methods of recoupment. The first being a class action entered into by a number of councils including Newcastle City Council, now been resolved in favour of the claimants and the other being substantial recovery from the liquidation of Lehman Brothers. Both events had a high degree of uncertainty surrounding both the quantum and timing of recoveries.

4 The Global Financial Crisis and subsequent collapse of Lehman Brothers resulted in Council impairing $17.21m of investments through its Audited Financial Statements from June 2008 through to June 2012. As at the time of this report Investment Recoupments, made in both prior periods and 2015/16, stand at an amount equal to full recovery of these previously expensed impairments.
5 An additional amount is expected to be included in the final audited statements for 2015/16 as proceeds from the Class Action, this will finalise recoveries from that matter. The majority of liquidation recoveries have now been received, further distributions are still anticipated in future periods as outstanding legal issues are resolved and the estate is wound down.

6 At this time the reporting of Council’s financial position is preliminary and subject to the following:

   i) The final calculation and reconciliation of the annual depreciation charge.

   ii) The reconciliation of gain or loss on the disposal of Council’s property assets.

   iii) Finalisation of end of year accruals for goods and services received during the financial year 2015/16 but not yet invoiced.

   iv) The identification of expenditure associated with capital projects that has been found to be of an operational nature and is required to be reclassified as operational expenditure under the relevant accounting standards.

   v) Finalisation of rehabilitation provisions for Council's waste management sites.

   vi) Reconciliation of land and infrastructure donations received during the financial year.

   vii) Any adjustments that may arise as a result of the completion of the annual external financial audit.

7 The preliminary unaudited consolidated full year position includes $20.1m of revenue items which are either one-off or cannot be applied to meet operational expenditure ($5.4m 2012 SRV revenue, $2.3m consolidation of Newcastle Airport result, $1.9m stormwater management service charge, $1.5m local road grants which fund capital works, $9m recoupment of investment losses). When these items are removed Council’s sustainable underlying operating position at the end of June is a deficit of $2m.

8 The net funds generated in the preliminary unaudited consolidated full year position is a surplus of $31.8m (after capital revenues, expenditure and loan principal repayments). This is a positive variance to the full year revised budget of $7.3m. This is primarily due to lower project expenditure (both capital and operational expenditures). These surplus funds will be placed in restricted reserves to fund the infrastructure backlog and other future capital works and associated operational expenditure consistent with the Long Term Financial Plan.
### Financial Impact

9 The actual year to date financial position at the end of June 2016, compared to budget, is provided in the Executive Monthly Performance Report (Attachment A). Key elements are:

<table>
<thead>
<tr>
<th></th>
<th>Full Year Adopted Budget $'000</th>
<th>Full Year Revised Budget $'000</th>
<th>Preliminary June Result $'000</th>
<th>Variance $'000</th>
<th>Variance %</th>
<th>Financial Impact +ve/-ve</th>
<th>Commitments $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Operating Revenue</td>
<td>233,044</td>
<td>237,293</td>
<td>243,584</td>
<td>6,291</td>
<td>3%</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>242,585</td>
<td>231,645</td>
<td>225,470</td>
<td>(6,175)</td>
<td>-3%</td>
<td>+</td>
<td>3,080</td>
</tr>
<tr>
<td>Total Operating Revenue Less</td>
<td>(9,541)</td>
<td>5,648</td>
<td>18,114</td>
<td>12,466</td>
<td>221%</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Total Capital Raising revenue</td>
<td>54,085</td>
<td>48,210</td>
<td>(5,875)</td>
<td>-11%</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Add Back Non Cash Items</td>
<td>40,161</td>
<td>15,336</td>
<td>15,336</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Funding available for capital expenditure</td>
<td>67,327</td>
<td>75,069</td>
<td>81,660</td>
<td>6,591</td>
<td>9%</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Total capital spend</td>
<td>68,321</td>
<td>65,164</td>
<td>47,231</td>
<td>(17,933)</td>
<td>-28%</td>
<td>+</td>
<td>28,741</td>
</tr>
<tr>
<td>Loan Principal Repayment</td>
<td>2,600</td>
<td>2,600</td>
<td>2,600</td>
<td>0%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Funds Generated / (Used)</td>
<td>(3,594)</td>
<td>7,305</td>
<td>31,829</td>
<td>24,524</td>
<td>336%</td>
<td>+</td>
<td>31,821</td>
</tr>
</tbody>
</table>

Note 1 - Actual and Budget results include an estimate for the Newcastle Airport
Note 2 - Adopted Budget revised at the March Quarterly Budget Review
Factors favourably impacting Financial Position

i) **Interest – increase of $0.6m**

Interest Income exceeded budget due to total portfolio holdings being greater than anticipated and interest rate higher than forecast.

ii) **Other operating revenues – increase of $7.9m**

Recoupment of investment losses made in previous financial years as detailed in Paragraph 3 above.

iii) **Employee costs – decrease of $2.6m**

Lower staff costs due to unfilled vacant positions throughout the year. In addition to this there has also been lower than budgeted spend on training costs ($0.2m) and costs associated with Council's workers compensation commitments ($0.4m). The latter is largely due to a 41% reduction in the number of workplace injuries sustained by Council staff, compared with 2014/15.
iv) Materials and contracts – decrease of $1.7m

Lower than budgeted levels of work has been requested under the Transport for NSW state roads contract ($1m). The budget variance has been offset by reduced income ($2.6m) which is also associated with the contract work.

v) Other operating expenses – decrease of $1.0m

While overall waste volumes at Summerhill Waste Management Centre have been in line with forecast, variations in the different waste categories (which attract differential levies) have resulted in a lower than forecast total State Waste Levy ($0.9m).

vi) Net loss from disposal of assets – decrease of $0.8m

It is forecast that Council's loss on disposal of assets (ie the write-off of the residual value of renewed assets) will be below the revised budget. This variance is driven by the below budget expenditure on the asset renewal program.

11 Factors adversely impacting Financial Position

i) User charges and fees – decrease of $0.9m

Lower than budgeted levels of work has been requested under the Transport for NSW state roads contract ($2.6m). This income is slightly offset by $1m of materials expenditure which has also been delayed.

ii) Operating grants and contributions – decrease of $1.2m

While Council exceeded the $55.1m budget for grants and contributions by $1.7m the split between operating and capital was slightly different to forecast. Several infrastructure grants were budgeted as operational but upon receipt were re-classified as capital in accordance with the relevant accounting standards.

12 At the time of preparing the preliminary full year position commitments raised against operating expenses totalled $3.1m. The commitments represent both the work currently being undertaken and awaiting invoice as well as the work planned for the future.

13 The month of June returned an operating surplus of $6.2m which is $6m above the balanced budget forecast for the month. The main driver of the financial performance was the $7.9m recoupment of investment losses from prior years (refer Paragraph 3 above). This additional revenue was slightly offset by above budget operational costs for the month generated through the works program in the final month of the year.
Council’s total capital spend at the time of preparing the preliminary full year position is $47.2m. This result is $17.9m below the revised budget. The total operational expenditure incurred in relation to the corporate projects at the end
of June is $15m, $5.6m above the revised budget as Council invests in designing a program of works to be delivered over a multi-year time frame in addition to the works to be delivered within the financial year. This ‘pipe-line’ of works will increase the efficiency of Council's operations and allow a higher level of project delivery in future years.

15 The actual value of the works program completed during the year, inclusive of capital and operational expenditure, is $62.2m compared to a revised budget of $74.5m. While the value of work completed for the year fell short of budget it represents an increase of $4m or 6% on the value of the works program completed during the 2014/15 financial year.

16 At the time of preparing the preliminary full year position commitments raised against capital work totalled $28.7m. The commitments represent the work currently being undertaken and awaiting invoice as well as the value of future planned work for which current contractual obligations exist. Major commitments include:

i) **Building renewal – $7.5m**

   Commitments include $4.4m in relation to works on the southern façade of City Hall.

ii) **Environmental asset renewal – $0.7m**

   Commitments represent $0.5m of work planned on Council's stormwater management systems.

iii) **Waste Projects – $14.4m**

   Commitments include $14.0m in relation to the contract to design and construct another waste cell at Summerhill Waste Management Centre.

iv) **Other works**

   Other major works currently underway include fleet replacement ($1m).

17 Council’s temporary surplus funds are invested consistent with Council’s Investment Policy, Investment Strategy, the Act and Regulations. Details of all 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**

18 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

19 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

20 No additional risk mitigation has been identified this month.

RELATED PREVIOUS DECISIONS

21 Council resolved to receive a report containing Council’s financial performance on a monthly basis.

22 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".

23 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

24 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

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

Option 2

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

BACKGROUND

27 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.

28 In response to the internal audit on project management an additional table has been added to the Executive Monthly Performance Report (Attachment A) outlining significant contract variations.

29 In response to a memo from the office of the General Manager an additional table has been added to the Executive Monthly Performance Report (Attachment A) outlining Fees and Charges which have been waived or reduced.

REFERENCES

Nil

ATTACHMENTS

Attachment A: Executive Monthly Performance Report - Preliminary June 2016 (distributed under separate cover)
ITEM-69  
CCL 26/07/16 - EXHIBITION OF DRAFT COUNCIL STREET COOKS HILL INFRASTRUCTURE REHABILITATION DESIGN RESULTS

REPORT BY:  
INFRASTRUCTURE

CONTACT:  
ACTING DIRECTOR INFRASTRUCTURE / MANAGER PROJECTS AND CONTRACTS

PURPOSE

For endorsement of the preferred design option for rehabilitation works for Council Street (Darby to Dawson Streets) Cooks Hill. The works include the rehabilitation of all road, footpath, drainage and tree assets.

RECOMMENDATION

1 Council endorses Option 1, the preferred design option, for Council Street Cooks Hill being Council Street one way (westbound from Darby Street to Bruce Street).

KEY ISSUES

2 Council Street in its current condition has a number of major infrastructure issues including:

i) failed drainage lines between Dawson and Bruce Streets due to fig tree root interaction;

ii) current inundation issues within a number of properties along Council Street and at the Glovers Lane intersection;

iii) footway and kerb and gutter failure due to fig tree root interactions;

iv) sections of the parking lane in Council Street, Darby to Bruce Street, is not fit for purpose due to the fig trees and fig tree root interaction;

v) existing road block in Council Street restricts traffic flow and causes congestion. The current road layout does not comply with current road design standards; and

vi) limited stormwater capacity from upstream Nesca Park and the Darby Street catchment to the Civic Park harbor drainage line.
FINANCIAL IMPACT

3 The estimated cost of construction for the rehabilitation works is approximately $2,000,000 based on preliminary designs. The works will be funded from the adopted 2016/2017 Budget.

4 This project is an integrated project delivery, with new infrastructure including stormwater, road, footpaths and trees. This is considered to be the most cost effective method to undertake the required infrastructure renewal works.

5 The preparation of the design development and construction documentation will be undertaken by Newcastle City Council. Construction will be tendered to an external contractor to minimise delays and disruption to residents and retail traders.

COMMUNITY STRATEGIC PLAN ALIGNMENT

6 The project aligns with Council's 2030 Strategic objectives and utilises strategic directions provided by Council policy and infrastructure standards.

IMPLEMENTATION PLAN/IMPLICATIONS

7 Following community consultation in March 2015, street talks and a Council Street workshop held on 27 June 2015, (Community Workshop 1), two design options were presented to the residents at a further Council Street workshop held on 28 November 2015 (Community Workshop 2):

i) Option 1 - Council Street one way (westbound from Darby Street to Bruce Street). This option has 45 degree angle parking on the north side and parallel parking on the southern side of the street; and

ii) Option 2 - Council Street one way (westbound from Darby Street to Dawson Street) + two way (Dawson to Bruce Street). This option has 45 degree angle parking on the north side and parallel parking on the southern side of the street from Darby to Dawson Street. From Dawson Street to Bruce Street there is parallel parking on both sides of the street.

8 In an informal vote by the residents at the Community Workshop 2, Option 1 was the preferred option by the majority for the following reasons:

i) This design addressed the majority of the issues identified at the first Council Street workshop held on 27 June 2015;

ii) The planting of nineteen medium size trees could be achieved compared to fifteen medium and four small trees in option 2;

iii) An increase of fourteen car spaces compared to seven additional car spaces in option 2;
iv) A contraflow bicycle lane on the northern side of the street from Darby Street to Bruce Street, which also allows street sweeper access, was also considered a positive feature by some residents; and

v) All other key features of the design options were similar.

RISK ASSESSMENT AND MITIGATION

9 The major risks associated with this project and mitigation measures are as follows:

Traffic impacts of Option 1

10 A number of residents at the community workshop expressed concern in regard to the removal of the existing road block in Council Street and its impact on the traffic in the area.

11 The proposal for one way traffic (westbound) and angle parking in Council Street (Option 1) was discussed and supported in principle at a Traffic Committee Meeting held on 19 October 2015 (prior to the community consultation).

12 Further traffic investigations were undertaken by a consultant and Council believes that undertaking the proposed traffic changes to Council Street will have an acceptable impact upon the operation of the local road network.

Existing mature trees in Council Street

13 On 23 September 2015 the City Arborist, in conjunction with asset engineers, conducted a feasibility assessment of options regarding retaining the existing trees in Council Street. The review of options to carry out the works identified that there was no feasible option to retain the trees. This was due to the required works within the trees structural root zone creating an increased and unacceptable risk to persons and property.

Managing community expectation

14 To manage community expectation on this project Council has undertaken a number of community consultations including street "gutter talks", community workshops with Council Street residents and a public exhibition of two design options.

Flood Study

15 A Cooks Hill Drainage catchment analysis was undertaken in 2015 and identified a number of issues in the catchment and provided recommendation for improvement. Option 1 design has been modelled and will have a positive
impact reducing overland flows from Darby Street. Further modelling will be undertaken as the detailed design work progresses.

16 Drainage improvements recommended in the above study are needed to be implemented to achieve greater benefits for the Cooks Hill stormwater catchment.

RELATED PREVIOUS DECISIONS

17 A Councillor Workshop was held on 21 July 2015 to discuss Cooks Hill Infrastructure works. The briefing presented the issues of tree roots damaging pipes, insurance claims, subsequent costs and drainage issues.

CONSULTATION

18 Council has undertaken a number of "gutter talk" discussions in the Cooks Hill catchment area in March 2015. These discussions identified resident concerns including storm water, traffic and tree issues in the area.

19 To fulfill Council's commitment for consultation as identified at the "gutter talk" discussions, two community workshops were conducted with the residents at Council Street.

20 Community Workshop 1 was held on 27 June 2015 to inform the residents of the need to undertake the work and to obtain community input to inform the concept design.

21 Community Workshop 2 was held on 28 November 2015 to present 2 design options to the residents of Council Street. In an informal vote by the residents Option 1 is the preferred option.

22 Council resolved on the 26 April 2016 to place Option 1 and Option 2 designs for Council Street on Public Exhibition for 4 weeks (30 April 2016 to the 27 May 2016).

23 Thirteen submissions were received by Council from the public exhibition as follows:

i) Six submissions preferred Design Option 1;

ii) Three submissions did not nominate a preferred Design Option; and

iii) Four submissions did not support Design Option 1 or 2. (The issues raised in the submissions relate to traffic impacts and the fig trees. These issues have been adequately considered in the traffic investigations and Tree Assessment and Infrastructure Works Test).
OPTIONS

Option 1

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

Option 2

25 Option 2 - Council Street one way (westbound from Darby Street to Dawson Street) + two way (Dawson to Bruce Street). This option is not preferred by the Council Street residents primarily as this option has less car parks and less tree canopy than Option 1. This is not the recommended option.

BACKGROUND

26 Due to the size and multidisciplinary elements involved, the project has been undertaken in a staged process.

27 Stage 1 (2013) delivered a concept plan which involved preliminary investigations and consultation for each of the major project elements to identify key issues, constraints and opportunities.

28 Stage 2 (2014-2015) involved further investigations and consultation to test the feasibility of the concept plan and development of the detailed design.

29 Stage 3 (2016-2017) will see the completion of the detail design, tender documentation and the construction of the works in Council Street, Bruce to Dawson Streets followed by Dawson to Darby Street.

30 This project has been included for delivery to address the following identified issues:

i) Flooding and stormwater management issues in the Cooks Hill catchment that discharge through the Glovers Lane drainage line;

ii) Programmed road and footpath rehabilitation works for the retail precinct of Darby Street and the residential interface at Council Street;

iii) Road safety issues and a high volume of pedestrian activity;

iv) Traffic circulation to meet competing demands; and

v) Tree management for both private and public infrastructure interaction.
ATTACHMENTS

Attachment A: Option 1: One-way/45 both ends (plan and section)
Attachment B: Option 2: Combined one way + two way option (plan and section)
Attachment C: Summary of Public Exhibition Submissions
Attachment A

Council Street, Cooks Hill Concept Designs - Option 1: One way / 45 both ends.

Council Street, Cooks Hill Concept Design - One way with parallel + 45 degree angle parking

Typical Section: Change 8ft (2.42m) to 6ft (1.82m) Width 3.1m (11.5ft)
Attachment B

Council Street, Cooks Hill Concept Designs - Option 2: Combined one way + two way

Council Street, Cooks Hill Concept design - Two way with parallel parking both sides

Typical Section (Charrama TM, Wollombi Street) - Ver 2 (08/11/15)
### Attachment C

#### Council Street Cooks Hill - Submissions from Public Exhibition

<table>
<thead>
<tr>
<th>Submission No.</th>
<th>Preferred Option 1</th>
<th>Preferred Option 2</th>
<th>Comments Summary</th>
<th>Council's Considered response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No preferred option nominated indicated</td>
<td>1. Proposed parking spaces will obstruct the driveway. Note: no formed driveway exists at present. 2. Concerned about the placement of new tree in relation to their window. Note: Current fig trees obscure solar access.</td>
<td>Can investigate issues raised during documentation phase and adjust design as required.</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Option 1</td>
<td>None</td>
<td>Proceed with Option 1.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Option 1</td>
<td>1. Concerned about traffic flow from carpark behind the Delany Hotel that enters and leaves the carpark. 2. Increased traffic flow. 3. Difficult to find a parking close to home. 4. Increased noise. 5. Possible developing of property.</td>
<td>Proceed with Option 1. Traffic investigations were undertaken by a consultant who advised that the proposed traffic changes will have an acceptable impact on the local road network.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Option 1</td>
<td>A great proposal</td>
<td>Proceed with Option 1.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Option 1</td>
<td>Requested modifications to Option 1. 1. Car parking for residents and time limits on parking. 2. Physical separation of bicycle lane and carparking. 3. Selection of suitable tree for the street scape.</td>
<td>Proceed with Option 1. Can investigate issues during documentation phase and adjust design as required.</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>No preference but not opposed to re-connection of Council and Tertiary Streets</td>
<td>Concerned about removal of existing fig trees and associated habitat.</td>
<td>A tree assessment and infrastructure test on the existing trees has been undertaken and advised that it was not feasible to retain the trees and construct the new infrastructure works.</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Neither Option, to remain as existing</td>
<td>Does not want traffic from Council carpark behind the Delany Hotel to be funnelled into residential streets</td>
<td>Traffic investigations were undertaken by a consultant who advised that the proposed traffic changes will have an acceptable impact on the local road network.</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Option 1</td>
<td>Very positive</td>
<td>Proceed with Option 1.</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Option 1</td>
<td>Cycle lane</td>
<td>Proceed with Option 1.</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Neither option</td>
<td>Opposed to the proposed changes to the traffic.</td>
<td>Traffic investigations were undertaken by a consultant who advised that the proposed traffic changes will have an acceptable impact on the local road network.</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>No preference of option.</td>
<td>1. Concerned about the removal of the fig trees. 2. Concerned about the increased number of car spaces in a small stretch of street. 3. Concerned about replacement of large trees with smaller trees.</td>
<td>A tree assessment and infrastructure test on the existing trees has been undertaken and advised that it was not feasible to retain the trees and construct the new infrastructure works.</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Neither option</td>
<td>1. Increase in traffic flow and impact on safety of children and families. 2. Increase in car spaces means increase in people.</td>
<td>Traffic investigations were undertaken by a consultant who advised that the proposed traffic changes will have an acceptable impact on the local road network.</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Neither option</td>
<td>Removal of fig trees, increased traffic flow through residential street.</td>
<td>1. A tree assessment and infrastructure test on the existing trees has been undertaken and advised that it was not feasible to retain the trees and construct the new infrastructure works. 2. Traffic investigations were undertaken by a consultant who advised that the proposed traffic changes will have an acceptable impact on the local road network.</td>
<td></td>
</tr>
</tbody>
</table>
ITEM-70  
CCL 26/07/16 - WARRINGAH COUNCIL REQUEST FOR SUPPORT REGARDING MOTION RELATED TO ILLEGAL BUILDING WORKS

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

PURPOSE

To provide Council with an overview of the current status of regulatory options for unauthorised development following a request from Warringah Council\(^1\) for support for their resolution related to illegal building works.

RECOMMENDATION

1 It is recommended that Council supports Warringah Council's resolution and write to the Minister for Planning seeking support for a review of legislation regarding unauthorised building works.

KEY ISSUES

2 Warringah Council passed a resolution on 22 March 2016 as follows:

A. That Council write to the Minister for Planning, Rob Stokes, and cc the Minister for Local Government, Hon. Paul Toole, seeking their support and assistance in:

   a) Changing legislation to deter illegal developments that are built without appropriate approvals; and

   b) Increasing sanctions for illegal works and commencement of building works without appropriate consent.

B. That Council write to all Councils in NSW asking them to pass similar resolutions to highlight the growing problem of illegal developments in NSW.

FINANCIAL IMPACT

3 Nil

COMMUNITY STRATEGIC PLAN ALIGNMENT

4 Nil

IMPLEMENTATION PLAN/IMPLICATIONS

\(^1\) Warringah Council is now referred to as Northern Beaches Council
RISK ASSESSMENT AND MITIGATION

RELATED PREVIOUS DECISIONS

CONSULTATION

OPTIONS

Option 1

Endorse the recommendation as at paragraph 1. This is the recommended option.

Option 2

Council not endorse the recommendation at paragraph 1. This is not the recommended option.

BACKGROUND

Warringah Council has identified issues surrounding unauthorised development within their Local Government Area.

The background to the resolution appears to focus on the lack of opportunity for surrounding residents to comment on unauthorised development during the building certificate process as would have been the case had the building works progressed through the proper development application process.

Warringah Council believes that an increase in unauthorised building works has resulted from inadequacies in current legislation and developers may be using the Building Certificate process to bypass the necessity for public consultation.

Current Legislative Provisions

Section 76A of the Environmental Planning and Assessment Act 1979 (the Act) identifies that if a development requires consent under an environmental planning instrument, then a development must not be carried out unless consent has been obtained and the development must comply with any conditions of that consent.
Section 125 of the Act identifies that a breach of a provision identified in the Act is an offence under the Act.

Undertaking development without consent (where consent is required) or development not in accordance with a consent is considered a breach of s76A and therefore an offence under s.125 of the Act.

Regulatory Options

Where it is considered appropriate, Council may commence action in either the Local Court or Land and Environment Court for a breach of s125. The maximum penalty applicable under the Act is $5 million.

The Act, through the Environmental Planning and Assessment Regulation 2000 (the Regulation) also allows for the issue of Penalty Infringement Notices for certain offences. The penalty for undertaking development without consent and development not in accordance with consent varies between $1,500 and $6,000 depending on the type of building and whether the development was undertaken by an individual or a corporation.

Notices and Orders - s.121B of the Act allows Council to issue an Order requiring certain things be done. These include:

i) To cease use of a building for a specified purpose.

ii) To demolish or remove a building.

iii) To do such things as are specified in the order to restore premises to the condition in which they were before the building was unlawfully erected or before the work was unlawfully carried out.

iv) To do such things as are necessary to bring into compliance with relevant development standards and whatever regulatory action may need to be taken on any building or part of a building that has been unlawfully erected.

The technical breach of undertaking a development without consent is not considered a legally justifiable reason for the issue of an order. Where it is proposed that an order will be issued, the onus of responsibility is on Council to provide reasons for the terms of order, usually through gathering evidence to identify the nature, actual or potential scope of environmental, amenity or public safety impacts.

The assessment of unauthorised building works requires the services of a qualified Building Surveyor / Development Officer to provide the expert advice to determine whether the building complies with the appropriate development standards, and what regulatory action may need to be taken.
The Building Certificate

22 Where unauthorised building works have been undertaken, the Act does not allow for development approval of an existing structure. However, an owner may apply for a Building Certificate.

23 The Building Certificate is issued under s.149A of the Act and has the effect of preventing Council issuing an Order requiring the building to be repaired, demolished, altered, added to or rebuilt, and from taking proceedings in relation to any encroachment by the building onto land vested in or under the control of the Council and in relation to matters existing or occurring before the date of issue of the certificate.

24 The Building Certificate does not prevent Council from taking action under s.125 of the Act for undertaking development without consent or development that is not in accordance with consent.

25 Section 149D of the Act identifies the circumstances under which Council must issue a Building Certificate. These include circumstances where there is no reason for Council to issue an order requiring the building be demolished or altered or such a reason exists, but Council has determined not to proceed with the issue of an order.

26 The Regulation identifies the fees payable for a Building Certificate and allows for additional fees in some circumstances, including where building work was undertaken without consent. Such fees include the equivalent maximum payable fee for a development and construction certificate approval.

Unauthorized Building Works in Newcastle

27 The majority of unauthorised building work requests in the City of Newcastle relate to alterations and additions to residential development and ancillary outbuildings.

28 In many instances, such works fail to meet a development standard found in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, (eg. the development is within a required setback from a property boundary) but would otherwise comply.

29 Council does not generally solicit Building Certificate applications for unauthorised works however, should property owners seek independent planning advice, it is likely the advice given will suggest lodging a Building Certificate application. This is unsurprising as a Building Certificate is currently the only option available under the legislation to regularise an unauthorised structure.
Summary

30 The Act provides for a number of regulatory options for Councils to deal with unauthorised building works.

31 The provision within the Act for orders requiring unauthorised buildings to be brought into compliance with development standards indicates that an Order for demolition should only be issued in extreme circumstances.

32 The Warringah Council report identifies that the Land and Environment Court seldom upholds demolition orders when challenged. This appears to indicate a view held by the court of the serious nature of an order requiring a building be demolished and / or a lack of evidence presented to justify demolition where the Act provides for many alternative regulatory options.

33 Where a Council determines action in relation to unauthorised building works should be undertaken, the burden of proof is on Council to provide the evidence to justify the proposed action which results in a drain on Council resources.

34 The Building Certificate should not be viewed as an alternative to the development application process. The Act provides for regulatory outcomes that make this process financially equivalent to development and construction certificate approvals and more expensive where penalties are added.

35 The Building Certificate assessment process does not currently involve consideration of public feedback.

36 There is merit to the argument for a review of the current legislation in relation to unauthorised building works, particularly if such a review results in a greater deterrent and an obligation on the developer to justify retention of any such unauthorised works rather than the onus being on Council to prove why such works should be altered or demolished.

37 Public consultation in the building certificate application process, as suggested by Warringah Council, would provide members of the public affected by unauthorised building works, an opportunity to formalise their concerns and raise objections. Furthermore, it would assist Council's in determining the impact of the unauthorised works, and potentially provide Council's with a basis to justify a Notice and Order, or alternatively approve the application where such impacts are absent.

ATTACHMENTS

Attachment A: Sections 121B, 149A, 149D and 149E Environmental Planning and Assessment Act 1979

Attachment B: Letter from Warringah Council dated 8 April 2016
ATTACHMENT A

Environmental Planning and Assessment Act 1979 No 203
Current version for 3 June 2016 to date (accessed 27 June 2016 at 10:25)
Part 6 Division 2A Section 121B

121B Orders that may be given by consent authority or by Minister etc

(1) An order may be given to a person by:
(a) the Minister or the Secretary (but only in connection with a project to which Part 3A applies, in connection with State significant infrastructure or in connection with development for which the Minister or Secretary is or has been the consent authority), or
(a) a council; or
(b) any other person who exercises functions as a consent authority, except in relation to complying development for which a complying development certificate has been issued, to do or to refrain from doing a thing specified in the following Table if the circumstances specified opposite it in Column 2 of the Table exist and the person comes within the description opposite it in Column 3 of the Table.

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>To do what?</td>
<td>In what circumstances?</td>
<td>To whom?</td>
</tr>
<tr>
<td>2</td>
<td>To demolish or remove a building</td>
<td>(a) Building is erected without prior development consent of consent authority in a case where prior development consent is required or is erected without prior development consent of a consent authority and a prior construction certificate in a case where both prior development consent and a prior construction certificate are required (b) Building is or is likely to become a danger to the public (c) Building is so dilapidated as to be prejudicial to its occupants or to persons or property in the neighbourhood (d) Building is erected</td>
</tr>
</tbody>
</table>
4 To repair or make structural alterations to a building

(a) Building is or is likely to become a danger to the public

(b) Building is so dilapidated as to be prejudicial to its occupants or to persons or property in the neighbourhood

Owner of building

12 To do such things as are specified in the order to restore premises to the condition in which they were before building was unlawfully erected or before work was unlawfully carried out

(a) Building has been unlawfully erected, and an order No 2 has been given requiring the building to be demolished or removed

(b) Work has been unlawfully carried out

The owner of the premises, any person entitled to act on a development consent or complying development certificate or any person acting otherwise than in compliance with a development consent or complying development certificate

13 To do such things as are necessary to bring into compliance with relevant development standards any building or part of a building that has been unlawfully erected

Building has been unlawfully erected and does not comply with relevant development standards

The owner of the premises

(2) The regulations may prescribe acts and circumstances that are taken to be included in or excluded from any of the acts or circumstances specified in Column 1 or 2 of the Table to subsection (1).

(3) An order under item 18 of the Table to subsection (1) may only be given by the Minister or the Secretary.
Environmental Planning and Assessment Act 1979 No 203
Current version for 3 June 2016 to date (accessed 27 June 2016 at 10:31)
Part 10 Section 149A

149A Building certificates

(1) A council may issue a building certificate in accordance with this section and sections 149B–149E.

(2) A building certificate may apply to the whole or to part only of a building.

(3) The regulations may provide for the form in which a building certificate is to be issued.

(4) (Repealed)

Note. A building certificate under this Part replaces the building certificate formerly issued under the Local Government Act 1993.

149D Obligations of council to issue building certificate

(1) The council must issue a building certificate if it appears that:
(a) there is no matter discernible by the exercise of reasonable care and skill that would entitle the council, under this Act or the Local Government Act 1993,
   (i) to order the building to be demolished, altered, added to or rebuilt, or
   (ii) to take proceedings for an order or injunction requiring the building to be demolished, altered, added to or rebuilt, or
   (iii) to take proceedings in relation to any encroachment by the building onto land vested in or under the control of the council, or
(b) there is such a matter but, in the circumstances, the council does not propose to make any such order or take any such proceedings.

(2) If the council refuses to issue a building certificate, it must inform the applicant, by notice, of its decision and of the reasons for it.

(3) The reasons must be sufficiently detailed to inform the applicant of the work that needs to be done to enable the council to issue a building certificate.

(4) The council must not refuse to issue or delay the issue of a building certificate by virtue of the existence of a matter that would not entitle the council to make any order or take any proceedings of the kind referred to in subsection (1) (a).

(5) Nothing in this section prevents the council from informing the applicant of the work that would need to be done before the council could issue a building certificate or from deferring its determination of the application until the applicant has had an opportunity to do that work.
149E  Effect of building certificate

(1)  A building certificate operates to prevent the council:
(a)  from making an order (or taking proceedings for the making of an order or injunction) under this Act or the Local Government Act 1993 requiring the building to be repaired, demolished, altered, added to or rebuilt, and
(b)  from taking proceedings in relation to any encroachment by the building onto land vested in or under the control of the council,
in relation to matters existing or occurring before the date of issue of the certificate.
(2)  A building certificate operates to prevent the council, for a period of 7 years from the date of issue of the certificate:
(a)  from making an order (or taking proceedings for the making of an order or injunction) under this Act or the Local Government Act 1993 requiring the building to be repaired, demolished, altered, added to or rebuilt, and
(b)  from taking proceedings in relation to any encroachment by the building onto land vested in or under the control of the council,
in relation to matters arising only from the deterioration of the building as a result solely of fair wear and tear.
(3)  However, a building certificate does not operate to prevent the council:
(a)  from making order No 6 in the Table to section 121B, or
(b)  from taking proceedings against any person under section 125 with respect to that person’s failure
(i)  to obtain a development consent with respect to the erection or use of the building, or
(ii)  to comply with the conditions of a development consent.
(4)  An order or proceeding that is made or taken in contravention of this section is of no effect.
Attachment B
8 April 2016

The Hon. Rob Stokes, MP
Minister for Planning
GPO Box 5341
SYDNEY NSW 2001

Dear Minister

Council Resolution relating to Illegal Works that are built without appropriate approvals

Warringah Council resolved unanimously on 22 March 2016:-

A. That Council write to the Minister for Planning, Rob Stokes, and cc the Minister for Local Government, Hon. Paul Toole, seeking their support and assistance in:
   a) Changing legislation to deter illegal developments that are built without appropriate approvals;
   b) Increasing sanctions for illegal works and commencement of building works without appropriate consent.

B. That Council write to all Councils in NSW asking them to pass similar resolutions to highlight the growing problem of illegal developments in NSW.

Please see below for the background to this resolution for your consideration:-

There are an increasing number of illegal works being reported across the Warringah LGA. Council staff issue Notices of Intention Orders but the developer can put in a Building Certificate, for retrospective approval.

Currently, when the development approval process is not followed, surrounding residents are not informed of the proposed plans and they have no opportunity to comment on the proposed plans before building works commence. Often when Council intervenes with a Notices of Intent the developer is then able to submit a Building Certificate. In doing this the developer has been able to avoid an important part of the DA process.

There is minimal recourse for residents affected by illegal development and history with Land and Environment Court shows that once a structure is up, it is rarely given an order to demolition.
This type of development is occurring due to the current planning legislation. There may be a need for some form of retrospective approval to prevent problems in future with insurance, conveyancing etc, or where development would have been compliant if they lodged their application. However, this should not be the easier path for gaining a development approval.

There needs to be stronger legislation which protects the rights of residents where works have been undertaken illegally, especially where they are non-compliant with planning controls and result in a negative impact on surrounding properties. It should also serve as a deterrent for people who may consider trying to go around the appropriate processes and approvals.

Thank you for consideration of the above and if you would like any clarification or discuss potential action on the issues please contact Peter Robinson on 02 9942 2414 or at council@warringah.nsw.gov.au.

Yours faithfully

Rik Hart
General Manager

cc: Hon Paul Toole, Minister for Local Government -
    office@toole.minister.nsw.gov.au
    All Councils in NSW
    Warringah Councillors
ITEM-71  CCL 26/07/16 - TEMPORARY SUSPENSION OF ALCOHOL FREE ZONE FOR UPCOMING EVENTS

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

PURPOSE

To seek Council's approval to temporarily suspend the associated Alcohol Free Zones (AFZ) for the following events:

i) Newcastle China Week Noodle Night market for Gregson Park, Hamilton, on Saturday 17 September 2016 from 5pm to 10pm.

ii) Newcastle China Week Festival for Beaumont, Cleary, James, Lindsay and Denison Streets, Hamilton, on Sunday 25 September 2016 from 10am to 6pm.

iii) John Olsen: The City's Son exhibition opening event at Newcastle Art Gallery for Laman Street between Darby and Dawson Streets, Cooks Hill, on Friday 4 November 2016 from 6pm to 11pm.

iv) 'This That' presented by Mothership Events at Camp Shortland, Newcastle Foreshore, on Saturday 5 November 2016 from 6am to midnight.

v) 'Live at The Foreshore' presented by Mothership Events at Camp Shortland, Newcastle Foreshore, on Sunday 6 November 2016 from 6am to midnight.

RECOMMENDATION

1 i) Council approve the temporary suspension of the AFZ for Gregson Park, Hamilton, on Saturday 17 September 2016 from 5pm to 10pm, for the purpose of Newcastle China Week Festival 'Noodle night market'. This suspension is subject to the event organiser, Hamilton Chamber of Commerce and The Confucius Institute, meeting all requirements of the NSW Police - Newcastle Local Area Command (LAC) and Council.

ii) Council approve the temporary suspension of the AFZ for Beaumont, Cleary, James, Lindsay and Denison Streets, Hamilton, on Sunday 25 September 2016 from 10am to 6pm, for the purpose of Newcastle China Week 'Pop up Chinatown' Festival. This suspension is subject to the event organiser, Hamilton Chamber of Commerce and The Confucius Institute, meeting all requirements of the LAC and Council.

iii) Council approve the temporary suspension of the AFZ for Laman Street between Darby and Dawson Streets, Cooks Hill, on Friday 4 November 2016 from 6pm to 11pm for the purpose of 'John Olsen: The City's Son' exhibition opening event. This suspension is subject to the event
organiser, Newcastle Art Gallery, meeting all requirements of the LAC and Council.

iv) Council approve the temporary suspension of the AFZ for Nobbys Beach car parks 1 and 2, Horseshoe Beach car park and Wharf Road between Nobbys Road roundabout and the Pilot Station on Saturday 5 November 2016 from 6am to midnight, for the purpose of staging This That music festival at Camp Shortland. This suspension is subject to the event organiser, Mothership Events, meeting all requirements of the LAC and Council.

v) Council approve the temporary suspension of the AFZ for Nobbys Beach car parks 1 and 2, Horseshoe Beach car park and Wharf Road between Nobbys Road roundabout and the Pilot Station on Sunday 6 November 2016 from 6am to midnight, for the purpose of staging Live at The Foreshore music festival at Camp Shortland. This suspension is subject to the event organiser, Mothership Events, meeting all requirements of the LAC and Council.

KEY ISSUES

2 A new Council policy adopted on 24 November 2015, re-established AFZs in locations across the City and required Council approval be sought for the lifting of AFZs when an approved festival or function is held.

3 Any lifting of an AFZ must be under the direction of the LAC. In this instance the proposal for the Noodle night market, Newcastle China Week Festival, John Olsen opening exhibition, ‘This That’ music festival and ‘Live at The Foreshore’ music festival have been considered by the LAC and Council officers. The LAC supports the lifting of the AFZs subject to the event organiser meeting the conditions placed on the event.

4 Section 645 of the Local Government Act 1993 (Act) provides for Council, by resolution, to allow the temporary suspension of AFZs. The Act and Ministerial Guidelines on Alcohol Free Zones (February 2009) provides a specific procedure which must be followed in relation to suspending AFZs, and this includes a requirement to seek Council’s endorsement. Following the adoption of these suspensions, Council must publish a notice in a local newspaper informing of the suspension that will be in place in:

i) Gregson Park, Hamilton on Saturday 17 September 2016 from 5pm to 10pm, for the purpose of Newcastle China Week Noodle Night market.

ii) Beaumont, Cleary, James, Lindsay and Denison Streets, Hamilton on Sunday 25 September 2016 from 10am to 6pm, for the purpose of Newcastle China Week Festival.
iii) Laman Street between Darby and Dawson Streets, Cooks Hill, on Friday 4 November 2016 from 6pm to 11pm for the purpose of John Olsen: The City's Son exhibition opening event at Newcastle Art Gallery.

iv) Nobbys Beach car parks 1 and 2, Horseshoe Beach car park and Wharf Road between Nobbys Road roundabout and the Pilot Station on Saturday 5 November 2016 from 6am to midnight, for the purpose of staging This That music festival at Camp Shortland.

v) Nobbys Beach car parks 1 and 2, Horseshoe Beach car park and Wharf Road between Nobbys Road roundabout and the Pilot Station on Sunday 6 November 2016 from 6am to midnight, for the purpose of staging Live at The Foreshore music festival at Camp Shortland.

5 Street signs must be covered immediately on commencement of the timeframe and the covers removed immediately following the suspended time. This is the responsibility of the organiser of the event but will be overseen by Council staff. Liaison with local police both before and after the Council resolution is an essential requirement. This consultation with the police has been undertaken by Council officers and will continue to be undertaken in the lead up to the events.

6 The LAC is satisfied with the management strategies that have been put in place by the event organisers and supports the suspension of the AFZs on these occasions.

FINANCIAL IMPACT

7 The costs associated with advertising of the suspension of AFZ’s are at full cost recovery from the event organisers.

COMMUNITY STRATEGIC PLAN ALIGNMENT

8 Lifting of the AFZ for an approved event aligns with the strategic direction Vibrant and Activated Public Places and more specifically the objective of Safe and Activated Places that are used by people day and night.

IMPLEMENTATION PLAN/IMPLICATIONS

9 The responsibility of implementing the suspension of the AFZ lies with the event organiser. Assistance will be provided by Council officers including notification of the suspension in a local newspaper and overseeing covering and uncovering of AFZ signs before and after the event.

RISK ASSESSMENT AND MITIGATION

10 Council officers and the LAC work closely with event organisers to ensure harm minimisation and risk mitigation strategies are in place to manage the serving and consumption of alcohol at events. The Event Authorisation issued by
Council to the event organiser for the use of the related road / park reserve sets out relevant conditions and consents for the event.

RELATED PREVIOUS DECISIONS

11 Council has previously agreed to suspend the AFZ for the purpose of Newcastle China Week Festival, similar events exhibition opening events hosted by Newcastle Art Gallery and music festivals held on The Foreshore. Council officers have worked with these event organisers on previous occasions.

CONSULTATION

12 These events and ones similar have been conducted in recent times and no negative feedback has been received as a result of temporary lifting the AFZs.

OPTIONS

Option 1

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

Option 2

14 Council resolves not to support the suspension of the AFZs on these occasions. The advantage of this option is that the AFZs and the restrictions associated would remain in place. The disadvantage of this option is that the events would not be able to proceed in their proposed formats. This is not the recommended option.

BACKGROUND

15 Hamilton Chamber of Commerce has successful managed festivals and other community events for their suburb over a number of years where Council has approved the temporary suspension of the AFZ.

16 To launch the exhibition 'John Olsen: The City's Son', Newcastle Art Gallery will host a community celebration in Laman Street, Cooks Hill.

17 Council has granted approval in the past for festivals which have been held on The Foreshore. The Promoter of This That and Live on The Foreshore, Mothership Events, is working collaboratively with city stakeholders through active engagement with the Inter-agency Events Consultation Group (IECG) planning process.

ATTACHMENTS

Nil
ITEM-72 CCL 26/07/16 - MAYFIELD EAST VILLAGE DEVELOPMENT - PROPOSED AMENDMENTS TO INTERSECTION AND PARKING RESTRICTION

REPORT BY: INFRASTRUCTURE
CONTACT: ACTING DIRECTOR INFRASTRUCTURE / ACTING MANAGER INFRASTRUCTURE PLANNING

PURPOSE

To approve traffic changes as a result of Development Application (DA 2015/10005) for the Mayfield East Village Development on Maitland Road from Coles Group Property Developments Ltd. The proposal involves Maitland Road/Havelock Street/Corona Street intersection upgrade and the associated parking restriction amendments to safely cater for future traffic (existing traffic plus development traffic).

RECOMMENDATION

1 Council in principle approve the proposed Maitland Road/Havelock Street/Corona Street intersection upgrade involving provision of right turning lanes on Maitland Road.

KEY ISSUES

2 The proposed upgrade and amendments will be implemented by Coles Group Property Developments Ltd at no cost to Council.

3 The proposed intersection upgrade involves provision of right turning lanes on Maitland Road and the associated amendments to traffic signal plans. The proposed intersection upgrade has been mandated by Roads and Maritime Services (RMS) which is responsible for the operation of traffic signals at the intersection. The proposal has led to inevitable amendments to the existing parking restrictions on Maitland Road and the side streets in the vicinity.

4 The proposed key amendments to the parking restrictions are detailed at Attachment A and summarised as follows:
   i) Net loss of 15 one hour (1P) parking spaces on Maitland Road;
   ii) Conversion of nine unrestricted parking spaces into one hour (1P) spaces on Havelock and Fawcett Streets;
   iii) Gain of three unrestricted parking spaces on Havelock Street;
   iv) Relocation of the three 5 minute parking spaces on Maitland Road further west;
   v) Relocation of the westbound bus stop on Maitland Road between the service station driveways; and
   vi) Relocation of the eastbound bus stop on Maitland Road fronting the proposed development.
5 The proposal also involves removal of nine trees; relocation of light poles and adjustments to some property awnings to improve safety for traffic.

6 A community consultation was undertaken from 1 June 2016 to 4 July 2016. Approximately 400 consultation leaflets were distributed to the affected owners and occupiers. Various stakeholders such as public utilities and bus operators were also sent consultation leaflets. The consultation leaflet is shown at Attachment B.

7 Council has received 46 responses from residents and businesses out of which 13 are in favour of the proposal and 32 against it. One response from a resident raised concern regarding parking availability on a side street however it did not clearly identify its support or objection for the proposal. The consultation leaflet included the following statement "Council will assume that any resident/business choosing not to reply to this letter has no objection to the proposal". The summary of consultation responses is shown at Attachment C.

8 The proposal was tabled with the Newcastle City Traffic Committee (NCTC) on 20 June 2016 (Item 83), along with the interim summary of consultation responses, for consideration and comments. The Committee advised that the proposal as presented requires further investigation for potential options that may increase the safety of pedestrians crossing Maitland Road to access the site. Midblock pedestrian signals should be investigated prior to DA consideration. The Committee also advised that an amended plan be tabled to the NCTC 18 July 2016 meeting with alternative options.

9 The installation of mid-block pedestrian signals in Maitland Road was previously investigated by the developer at the request of Council but not supported by the RMS due to the close proximity to existing signals at the intersections of Maitland Road/Havelock Street and Maitland Road/Church Street. The proposal as tabled has been supported by the RMS and Council's Senior Development Officer (Traffic).

10 A public voice session was held in the Council Chamber of City Hall on 21 June 2016 at 5.30pm. While the applicant of the Public Voice submitted his apologies for the meeting it was indicated that the main concerns related to the increase in traffic flows in Havelock Street.

11 As per the NCTC advice, the proposal was re-tabled at the 18 July 2016 meeting with the full summary of consultation responses. The advice from the NCTC meeting on 18 July 2016 has been provided as a memo.

FINANCIAL IMPACT

12 The proposal will be implemented by Coles Group Property Developments Ltd at no cost to Council.
COMMUNITY STRATEGIC PLAN ALIGNMENT

13 The development, including the intersection upgrade and parking amendment proposal, is aligned with the "Liveable and Distinctive Built Environment" strategic direction that has an objective of creating "Mixed-use urban villages supported by integrated transport networks". The project supports the targeted community outcome of providing "Multipurpose facilities".

IMPLEMENTATION PLAN/IMPLICATIONS

14 The intersection upgrade and parking amendment proposal, once approved in principle by Council, will enable Council's Development and Building section to progress with the assessment of the Development Application. This application is scheduled for consideration by Council at the Development Application Committee meeting on 16 August 2016.

RISK ASSESSMENT AND MITIGATION

15 The intersection upgrade involving right turning lanes on Maitland Road has been proposed to provide protection for right-turning vehicles. Traffic movements from the car park accessing Maitland Road will be limited to left-in and left-out to minimise conflict with through traffic and will be reinforced by the provision of flexible pavement markers/bollards.

RELATED PREVIOUS DECISIONS

16 Previous development applications for a supermarket DA 2009/1229 and DA2012/1002 were lodged for this site. DA 2009/1229 was approved by the Joint Regional Planning Panel (JRPP) as a deferred commencement consent in 2010 subject to the developer obtaining the separate approval from Council to regulate traffic in Maitland Road pursuant to Part 8 Div 2 Roads Act 1993. Similarly, DA 2012/1002 was approved by the elected Council as a deferred commencement consent in 2013 also requiring the separate approval of Council pursuant to Part 8 Division 2 Roads Act 1993. The developer on both occasions has elected not to proceed with these applications.

CONSULTATION

17 A community consultation was undertaken from 1 June 2016 to 4 July 2016. A public voice session was held on 21 June 2016. A summary of responses is provided at Attachment C.

OPTIONS

Option 1

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

19 Council resolves not to approve any changes to Maitland Road at this time. This is not the recommended option.

BACKGROUND

20 The following alternate options to provide access/egress from the development have been considered and negated following discussions with relevant stakeholders:

i) Retain existing intersection lane arrangements:
   The option to retain the existing lane arrangements at the Maitland Road/Havelock Street/Corona Street intersection by not providing dedicated right turning lanes has been considered and was not supported by RMS. This option was not supported as the anticipated high volume of right-turning traffic into Havelock Street is likely to cause excessive delays to through traffic on Maitland Road and compromise safety.

ii) Convert existing shared median lanes into right turning lanes:
   The option to convert the existing shared median lanes into dedicated right turning lanes on Maitland Road was also not supported by RMS as two lanes for through traffic are required to cater for the traffic volume on Maitland Road.

iii) Provide right turning lane into Havelock Street only:
   The option to provide a right turning lane into Havelock Street only, by removing parking on the northern side of Maitland Road east of the intersection, cannot be considered as right turning lanes have to be provided on both approaches to maintain alignment and safety.

iv) Provide right turn bay directly into the development:
   The option to provide direct entry into the development from Maitland Road by accommodating a right turn bay opposite to the site was not supported due to the anticipated high volume of right-turning traffic and the associated safety risks. This option would have also resulted in a similar amount of parking losses on both sides of Maitland Road.

v) Provide traffic signals directly into the development:
   The option to provide an additional set of traffic signals on Maitland Road for direct entry to the site was not supported by RMS due to its close proximity to the existing signals at the intersections of Maitland Road and Thomas Street and Maitland Road and Havelock Street.

The above alternate options are not the recommended options.
ATTACHMENTS

Attachment A: Proposed Parking Plan for Maitland Road, Mayfield East Village
Attachment B: Consultation leaflet
Attachment C: Summary of consultation responses
Attachment A

PROPOSED PARKING PLAN FOR MAITLAND ROAD
MAYFIELD EAST VILLAGE

SCHOOL No. NEWCASTLE N.S.W.

PROJECT No. 2016

MAY 2016
Community Consultation

To The Owner / Occupier

MAYFIELD EAST VILLAGE DEVELOPMENT
Proposed Amendments to Intersection and Parking Restriction

1 June 2016

Council has received a Development Application (DA 2015/10005) for the Mayfield East Village Development on Maitland Road from Coles Group Property Developments Ltd. The application contains the proposed plan for Maitland Road/Havelock Street/Corona Street intersection upgrade and parking restriction amendments.

The proposed intersection upgrade involves provision of right turning lanes on Maitland Road and the associated amendments to traffic signal plan. The proposed intersection upgrade has been mandated by Roads and Maritime Services (RMS) which is responsible for operation of traffic signals in the state. The proposal has led to inevitable amendments to the existing parking restrictions on Maitland Road.

The proposed key amendments to the parking restrictions are as follows:
- Net loss of 15 one hour (1P) parking spaces on Maitland Road;
- Conversion of nine unrestricted parking spaces into one hour (1P) spaces on Havelock & Fawcett Streets;
- Gain of three unrestricted parking spaces on Havelock Street;
- Relocation of the three 5 minute parking spaces on Maitland Road further west;
- Relocation of the westbound bus stop on Maitland Road between the service station driveways;
- Relocation of the eastbound bus stop on Maitland Road fronting the proposed development;

The proposal also involves removal of nine trees; relocation of light poles and adjustments to some property amenities to improve safety for traffic. The plan showing the proposed intersection upgrade and the associated parking restriction amendments is attached for reference.

The proposed plan and consultation responses would be tabled to the next available Newcastle City Traffic Committee following the consultation period. Council welcomes your comments on this proposal and your feedback will shape the final decision made by Council. Council will assume that any resident/business choosing not to reply to this letter has no objection to the proposal.

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

YES [ ]

NO [ ]

Please forward written comments by 4 July 2016 to The Interim Chief Executive Officer, Newcastle City Council, Attention: Transport & Traffic, PO Box 489, NEWCASTLE NSW 2300 or email: mail@ncc.nsw.gov.au, Phone: 4974 2000, Fax: 4974 2222. For further information about the proposal please contact Dipen Nathwani, Traffic Engineer, on 4974 2683.

Name (Optional): __________________________

Address (Mandatory): __________________________

Comments (attach additional page, if necessary):

________________________

________________________

Protecting your privacy: The City of Newcastle is committed to protecting your privacy. We take reasonable steps to comply with relevant legislation and Council policy. Purpose of collecting personal details: Council is collecting this information to determine the local community’s views and opinions on the proposal outlined. Intended recipients: Information provided as part of the consultation will be used as part of the investigation into the proposal, and may be included in future reports on the issue. Storage and security: Information provided will be stored on Council’s database and will be subject to Council’s information and privacy policies. Access: Individuals can access data to check accuracy by contacting Council.

PLEASE NOTE: When making written comments or submissions to Council, the following information should be considered — please note that the disclosure of the name and address would result in detriment to them the words “OBSERVATION IN CONFIDENCE” must be stated prominently at the top of the submission. Council may, however, be obliged to release full details of the submission including the name and address under the relevant access to information legislation, even if these words are in the submission.
### SUMMARY OF THE CONSULTATION

**MAYFIELD EAST VILLAGE DEVELOPMENT - PROPOSED AMENDMENTS TO INTERSECTION AND PARKING RESTRICTION**

<table>
<thead>
<tr>
<th>Address of Respondent</th>
<th>Request No</th>
<th>Are you in favour of the proposal?</th>
<th>Owner/Occupier Responses</th>
<th>Summary of Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Havelock Street</td>
<td>TR2016/00696, TR2016/00707, TR2016/00708</td>
<td>No</td>
<td>The resident has objected to the proposal by submitting a two page letter. The key concerns raised by the resident are as follows:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• The car park entrance/exit on Havelock Street would be directly opposite to the residential properties and too close to Maitland Road and the laneways on west and east of Havelock Street. It would lead to increase in traffic and would create a staggered four-way intersection with the laneway connecting Fawcett Street.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• The proposal would create a bottleneck for traffic entering and exiting the car park, due to its close proximity to Maitland Road, and would lead to queuing.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• The previously lodged DA application with access from Thomas Street was not approved due to insufficient turning space from Maitland Road to Thomas Street. The distance of the laneway, connecting Havelock and Fawcett Streets, from Maitland Road is lower than the previous proposal from Thomas Street and was not approved.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• The increased traffic movements would increase the risk for the residents reversing from their driveways and school children using Havelock Street.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• The removal of parking from Maitland Road would lead to increased parking demand on Havelock Street and the resident is concerned that they won't be able to park in front of their property. The resident also does not support Council investigating Resident Parking Scheme since they would have to pay annual fees for the permits.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• The resident is also concerned of the detrimental impact this development would have on the property's value due to increased traffic.</td>
<td></td>
</tr>
<tr>
<td>Maitland Road</td>
<td>TR2016/00698</td>
<td>Yes</td>
<td>No comments</td>
<td></td>
</tr>
<tr>
<td>John Street</td>
<td>TR2016/00710</td>
<td>Yes</td>
<td>This development will change the image of Mayfield in a positive way.</td>
<td></td>
</tr>
<tr>
<td>Thomas Street</td>
<td>TR2016/00714</td>
<td>Yes</td>
<td>The resident won't be in favour of the proposal if the acoustic fence doesn't drown out the noise from the car park of the development.</td>
<td></td>
</tr>
<tr>
<td>Fawcett Street</td>
<td>TR2016/00718</td>
<td>Yes</td>
<td>The resident is supportive of the changes proposed. Further, the resident uses the laneway</td>
<td></td>
</tr>
</tbody>
</table>
behind the hotel daily to navigate to the traffic lights on Havelock street and Maitland Road as she prefers to avoid turning right out of Fawcett onto Maitland Road. The resident thinks upgrading the laneway and the parking space behind the laneway would be beneficial, more convenient and importantly, safer than the current conditions. The resident would like to see an upgrade of this area as part of the development.

The business has objected to the proposal by submitting previous letters of objection that it had sent to Council and RMS in 2015. The business has highlighted that its initial objections are still relevant as the parking concerns raised by it in 2015 has not been addressed in this proposal. The business in 2015 raised that the proposal involves removal of parking on Maitland Road and the nearest parking on either side of its premises would be in excess of 100m. The business is concerned that the proposal would impact commercial viability of the business as it heavily relies on passing trade which conservatively accounts in excess of 80% of its patronage. Further, it is concerned that the proposal would force the business to close and would lead to job losses and financial hardship.

<table>
<thead>
<tr>
<th>Location</th>
<th>TR2016/00724</th>
<th>Response</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maitland Road</td>
<td>TR2016/00724</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Maitland Road</td>
<td>TR2016/00726</td>
<td>Yes</td>
<td>No comments</td>
</tr>
<tr>
<td>Fawcett Street</td>
<td>TR2016/00735</td>
<td>Yes</td>
<td>No comments</td>
</tr>
<tr>
<td>Maitland Road</td>
<td>TR2016/00744</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Fawcett Street</td>
<td>TR2016/00753</td>
<td>No</td>
<td>The removal of car parking in front of our shop and others along Maitland Road will have great impact on our business and incomes.</td>
</tr>
<tr>
<td>Myola Street</td>
<td>TR2016/00754</td>
<td>Yes</td>
<td>The resident is in favour of the development but would like to see the Corona Street road closure removed in addition to the proposed development. It is often ignored by drivers so it is a safety hazard rather than a safety feature; nor does it appear to reduce local traffic levels which the resident presumes was the original intent of the closure.</td>
</tr>
<tr>
<td>Thomas Street</td>
<td>TR2016/00755</td>
<td>No</td>
<td>The resident does not support another super store in Mayfield for many reasons and is concerned about the loss of parking in front of the existing shops.</td>
</tr>
<tr>
<td>Maitland Road</td>
<td>TR2016/00770</td>
<td>Yes</td>
<td>No comments</td>
</tr>
<tr>
<td>Fawcett Street</td>
<td>TR2016/00773</td>
<td>Yes</td>
<td>No comments</td>
</tr>
<tr>
<td>Maitland Road</td>
<td>TR2016/00775</td>
<td>Yes</td>
<td>No comments</td>
</tr>
<tr>
<td>Fawcett Street</td>
<td>TR2016/00776</td>
<td>No</td>
<td>The resident only opposes to the proposed one hour parking on Fawcett Street as it would encourage people to park outside residences, with majority of them not having off-street parking.</td>
</tr>
<tr>
<td>Fawcett Street</td>
<td>TR2016/00786</td>
<td>No</td>
<td>The resident disapproves of pushing the pub parking to one hour restriction on the corner of the</td>
</tr>
</tbody>
</table>
### Croydon Street

<table>
<thead>
<tr>
<th>TR2016/00793</th>
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</thead>
<tbody>
<tr>
<td><strong>Street:</strong></td>
<td>Croydon Street</td>
<td><strong>Proposal:</strong></td>
</tr>
<tr>
<td><strong>Concerns:</strong></td>
<td>The resident has concerns regarding the current proposal around parking availability in Croydon Street, and other surrounding streets. Many of the houses in Croydon Street do not have off-street parking, and already the street is often parked out on weekdays, primarily by staff who work in local businesses where there is insufficient staff parking. This often makes it difficult for residents to park near the houses. The resident would like to see additional staff parking provided in the development so this problem does not worsen with more staff needing to utilise local streets for their parking. In additional, the resident would like Council to consider restricting parking - 2P or 4P with residents' exemption, during weekday hours.</td>
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</table>

### Robert Street

<table>
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<tr>
<th>TR2016/00821</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Street:</strong></td>
<td>Robert Street</td>
</tr>
<tr>
<td><strong>Concerns:</strong></td>
<td>The resident is not in favour of the development since it is unnecessary to have another grocery store in this residential area. The side street (Thomas and Church Streets) are already congested. The extra cars, lighting and noise is not wanted or needed.</td>
</tr>
</tbody>
</table>

### Havelock Street

<table>
<thead>
<tr>
<th>TR2016/00822</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Street:</strong></td>
<td>Havelock Street</td>
</tr>
<tr>
<td><strong>Concerns:</strong></td>
<td>The resident is in favour of the development. It would seem to have minimal effect on traffic flow in Havelock Street. The resident has been informed that the proposed residential development is no more than 14 metres high.</td>
</tr>
</tbody>
</table>

### Maitland Road

<table>
<thead>
<tr>
<th>TR2016/00836</th>
<th>No</th>
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</thead>
<tbody>
<tr>
<td><strong>Street:</strong></td>
<td>Maitland Road</td>
</tr>
</tbody>
</table>
| **Concerns:** | The business has objected to the proposal by submitting a one page letter. The key concerns raised by the business are as follows:  
- Access to the bottle shop will be limited to eastbound traffic only.  
- The removal of parking fronting Beauford Hotel and provision of timed parking on Fawcett Street will push people to park within the hotel car park which will impact the business.  
- The exiting traffic from the development on Havelock Street will likely use the rear lane connecting Fawcett Street to avoid traffic signals on Havelock Street. Such instances occur now and will substantially increase due to the development. Such instances could be averted by installing bollards across the rear lane at Fawcett Street intersection.  
- The removal of parking to accommodate kerbside lane will potentially increase safety risk for pedestrians as parking currently acts as a buffer.  
- The parked cars act as a buffer for traffic turning into the bottle shop. The removal of these spaces will create a traffic hold-up and will be dangerous for bicycles. |

### Havelock Street

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<tr>
<th>TR2016/00837</th>
<th>No</th>
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<tbody>
<tr>
<td><strong>Street:</strong></td>
<td>Havelock Street</td>
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</tbody>
</table>
| **Concerns:** | The resident in essence has no objection to the development however has raised the following concerns in a three page letter:  
- The removal of parking spaces fronting the newsagency and other local shops will have a direct impact on these businesses.  
- The removal of parking fronting Beauford Hotel and provision of timed parking on Fawcett Street will push people to park within the hotel car park which will impact the business. |

### Havelock Street

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<thead>
<tr>
<th>TR2016/00838</th>
<th>No</th>
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<tbody>
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| **Concerns:** | The resident in essence has no objection to the development however has raised the following concerns in a three page letter:  
- The removal of parking spaces fronting the newsagency and other local shops will have a direct impact on these businesses.  
- The removal of parking fronting Beauford Hotel and provision of timed parking on Fawcett Street will push people to park within the hotel car park which will impact the business. |

### Havelock Street

<table>
<thead>
<tr>
<th>TR2016/00839</th>
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<tr>
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<td>Havelock Street</td>
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| **Concerns:** | The resident in essence has no objection to the development however has raised the following concerns in a three page letter:  
- The removal of parking spaces fronting the newsagency and other local shops will have a direct impact on these businesses.  
- The removal of parking fronting Beauford Hotel and provision of timed parking on Fawcett Street will push people to park within the hotel car park which will impact the business. |

### Havelock Street

<table>
<thead>
<tr>
<th>TR2016/00840</th>
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<tbody>
<tr>
<td><strong>Street:</strong></td>
<td>Havelock Street</td>
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</table>
| **Concerns:** | The resident in essence has no objection to the development however has raised the following concerns in a three page letter:  
- The removal of parking spaces fronting the newsagency and other local shops will have a direct impact on these businesses.  
- The removal of parking fronting Beauford Hotel and provision of timed parking on Fawcett Street will push people to park within the hotel car park which will impact the business. |
Street will push people to park within the hotel car park which will impact the business.
- The residents opposite to the proposed car park access on Havelock Street will be impacted due to vehicle head lights beaming into their property.
- The exiting traffic from the development on Havelock Street will likely use the rear lane connecting Fawcett Street to avoid traffic signals on Havelock Street. Such instances occur now and will substantially increase due to the development.
- The removal of parking to accommodate kerbside lane will potentially increase safety risk for pedestrians as parking currently acts as a buffer.
- There is no additional parking provision on Havelock Street, as shown on the plan, since these spaces currently exists and are likely to be lost upon development of the future residential site.
- The plan also shows parking on either side of Thomas Street and Beauford Hotel rear lanes. These are not permitted as per the NCC rangers who have stated that parking within 15m of an intersection is not permitted.
- There is no right turning lane at Church Street intersection and westbound drivers turn left directly into Woolworths site. The similar solution could also be applied for eastbound traffic to enter the development directly from Maitland Road.
- Eastbound traffic to the development will be served by left-in/left-out access on Maitland Road and majority of the local residents on the northern side would access the site through Havelock Street or rear lanes. Provision of right-turning lanes on Havelock Street to accommodate majority of the development traffic is therefore flawed.

The resident would therefore like the wider impact of the proposal on businesses and residents to be carefully considered.

<table>
<thead>
<tr>
<th>Street</th>
<th>TR2016/00841</th>
<th>Yes</th>
<th>Myola Street exits half road closure is extremely unnecessary and inconvenient. The resident is opposed to it and wishes for this matter to be looked into.</th>
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<tbody>
<tr>
<td>Corona Street</td>
<td>TR2016/00845</td>
<td>Yes</td>
<td>The resident is in favour of the proposal however has raised the following concerns in a two page letter:</td>
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<td>- The car park access on Havelock Street will generate unacceptable traffic on the street which would then channel traffic into Corona and Myola Streets.</td>
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<td>- The proposed right turning lanes on Maitland Road will encourage traffic from the development to use Corona and Myola Streets as a shortcut to suburbs like Waratah. Myola Street does not have footpaths and the increase in traffic would increase safety risks.</td>
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</table>
The half closure on Corona Street does not fully serve its purpose as many drivers disobey No Entry sign and use the southbound lane to approach Maitland Road. The situation has worsened since opening of KFC. The only solution to improve safety is to close Corona Street fully by installing a boom gate which can be opened in emergency situations such as accidents to provide an alternate route for traffic.

The relocation of the bus stop on the southern side of Maitland Road will place people waiting for bus without a shelter unless the developer will install a bus shelter as part of its approval consent. The buses will also obstruct entry into the service station.

If the right turning lane into Corona Street is removed than there will be no need to remove parking in front of the newsagency as it will severely impacts the business.

The proposal to remove nine trees to accommodate right turning bays pays little regard to the greening of Mayfield area. These trees are considered assets by Council however are removed for such developments. Would Council take similar approach to remove a dangerous tree on request of an individual rate payer?

The business has objected to the proposal by submitting a two page letter along with objections from 10 shop owners that are based within the site. The key concerns raised by the business are as follows:

- The business accommodates 26 individual shop owners and trades seven days a week. It also has a café on its site and removal parking will make it unviable.
- The loss of 15 parking spaces on Maitland Road and conversion of nine unrestricted spaces into one hour parking spaces on Havelock and Fawcett Street would have detrimental impact on the other businesses too.
- The business is often visited by community groups in a small bus and by many disabled and elderly clients who would be unable to visit the business due to loss of parking.
- All levels of the government claim that small business is the driving force of the economy however the small businesses of Mayfield are not being valued or their needs considered by removal of parking.
- Access to the business was severely limited when Corona Street half closure was implemented when KFC was developed. KFC development led to loss of parking spaces and this development will lead to further loss.
- The business has opposed to the conversion of unrestricted parking spaces into one hour parking spaces on Havelock Street as its customers usually require two hours or more to visit the business. The business has also questioned gain of six parking spaces as some

| Maitland Road | TR2016/00846 | No |
or all of these may eventually be lost to provide driveways for the proposed future residential development.

- There is no loss of parking in front of the proposed development on Maitland Road however the existing local businesses have to lose parking to accommodate this development.
- There are other options available such as access from Thomas Street through Church Street and Havelock Street access without right turning lanes.

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<tr>
<th>Streets</th>
<th>TR2016/00847</th>
<th>No</th>
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<tr>
<td>Various Streets</td>
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<td>29 businesses and residents have signed a letter of objection as they are concerned with the loss of parking and the consequent effects this will impose on the existing businesses and residents. They have also raised concerns about the potential traffic flow and parking problems on the surrounding streets. They have highlighted that the developer has failed to address the issues in this proposal.</td>
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<tr>
<th>Streets</th>
<th>TR2016/00849</th>
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<td>Maitland Road</td>
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<td></td>
<td>The business is not against the development itself however has raised the following concerns in a one page letter:</td>
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<td>The relocated eastbound bus stop is proposed west of the development's access on Maitland Road and a concern has been raised regarding the restricted sight distance for traffic entering or exiting the development.</td>
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<td>Similarly, sight distance for traffic exiting the service station would be constrained due to the proposed relocation of the westbound bus stop. The bus stop relocation has also resulted into removal of the two one hour parking spaces near the business which could be retained by relocating the bus stop further west.</td>
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<td>The three 5 minute parking spaces is crucial to the business viability as clients stop to purchase hot beverages or to purchase newspapers. The relocation further west will not allow easy access for clients and would impact the business viability. The business has recommended retaining the spaces at its current location.</td>
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<td>The current filtered right-turn at the Hanbury Street and Maitland Road signalised intersection works exceptionally well allowing turning traffic freedom to turn without any possibility of accidents. It is highly effective and a cheaper option to the current proposal at the Havelock Street intersection. Traffic flow into Corona Street is minimal due to it being a dead end street and blocked of due to the concrete barrier. Additionally, the option of a filtered right-turn for traffic turning into Havelock Street will ensure a safer option and allow traffic to quickly turn and increase traffic flow heading west along Maitland Road. This would eliminate relocation of the three 5 minute parking spaces and the two one hour</td>
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<td><strong>Fawcett Street</strong></td>
<td>TR2016/00850</td>
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<td>spaces on the southern side.</td>
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<td>The resident has objected to the proposal by raising the following concerns:</td>
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<td>• Sufficient parking has not been provided within the development - only 109 spaces in comparison to Mayfield Woolworths which has approximately 300.</td>
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<td>• Conversion of unrestricted parking spaces into one hour parking spaces would affect residents as many properties do not have off-street parking.</td>
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<td>• The proposal to build islands on Maitland Road will restrict drivers from turning right from Fawcett Street onto Maitland Road. This will force all traffic onto Havelock Street creating a bottleneck and increasing the possibility of accidents.</td>
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<td>• Removal of parking spaces in front of the newsagent will affect residents who shop there and the business which relies on these spaces. This argument is also valid for the parking spaces that are being removed in front of the Vincent's café.</td>
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<td>• Removal of parking spaces from the front of the pub will result in taxis stopping on the road and placing hazard lights on to pick-up clients from the pub. This creates a safety hazard for traffic and pedestrians.</td>
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<td>• The proposed plan does not include a taxi zone and includes limited parking spaces for staff and for people with disabilities.</td>
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<td>• Overall, the plans will negatively affect all residents, shoppers and staff of the development.</td>
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<td><strong>Francis Street, Tighes Hill</strong></td>
<td>PB2016/06610</td>
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<td>The resident has concerns regarding the loss of parking due to the proposed right turning bays and consequently the impact on businesses. The resident has suggested that an alternate solution of installing right turn filter at the intersection could be explored and has cited Maitland Road/Hanbury Street intersection as an example. Further, the resident is concerned about converting unrestricted parking spaces on Havelock Street into one hour parking as it would impact residents in the immediate vicinity.</td>
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<td><strong>Ingall Street</strong></td>
<td>TR2016/00853</td>
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<td>The convenor of the group representing around 500 members and supporters has objected to this development and has raised the following concerns in a two page letter in a two page letter:</td>
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<td>• There is more than one traffic solution.</td>
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<td>• The proposed right turning lanes would result in loss of parking and would adversely impact the existing businesses and the residents who use them to access these businesses.</td>
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<td>• There is no need for the right-turning lane into Corona Street due to low traffic volume.</td>
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<td>TR2016/00858</td>
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<td>Unknown</td>
<td>TR2016/00858</td>
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<td>Robert Street</td>
<td>TR2016/00859</td>
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turning right into the street. Similar right turning lanes have not been provided at Church Street intersection.

- The conversion of unrestricted parking spaces into one hour parking spaces on Havelock Street disregards the parking needs of the residents who live above that building for no real advantage.
- Parking spaces are being removed in front of the existing businesses whereas are being gained in front of the development.

<table>
<thead>
<tr>
<th>Havelock Street</th>
<th>TR2016/00867</th>
<th>No</th>
<th>Loss of resident parking in Havelock Street. Please dedicate parking to residents.</th>
</tr>
</thead>
</table>

Fawcett Street TR2016/00876 - -

- The resident is not opposing the development however has raised the following concerns in a one page letter:
  - Insufficient staff and patron parking within the development which would increase parking demand on the surrounding streets.
  - The initial proposal of 249 parking spaces within the development in 2015 has been reduced to 109 spaces in the recent proposal.
  - Increase in parking demand would reduce safety and security for residents as they would have to walk longer distance due to unavailability of parking fronting their residence.
  - Increased traffic activity and congestion on Havelock Street would reduce safety for students and children.
  - Installation of right turning bays with median strips at the intersection would create congestion. Filter traffic lights are less expensive and interruptive.
  - No allowances have been made for loading zone or patron parking for the existing businesses. The relocated five minutes parking provides insufficient time for patrons.
  - There is no allowance of a taxi rank and a slip lane for vehicles turning right into the development's car park on Maitland. Further, only two disabled parking spaces have been provided.

**Stakeholder Responses**

<table>
<thead>
<tr>
<th>Address of Respondent</th>
<th>Request No</th>
<th>Are you in favour of the proposal?</th>
<th>Summary of Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ausgrid</td>
<td>TR2016/00757</td>
<td>- -</td>
<td>Ausgrid has responded to confirm that any alteration or relocation of its underground or overhead assets would be contestable works and would have to be funded by Council/Developer.</td>
</tr>
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**Number of owners/occupier consulted**

400 (approx.)

**Number of owners/occupier responded**

52
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<tr>
<th>Response to the Consultation (%)</th>
<th>13%</th>
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<tr>
<td>Owners/occupier in favour of the proposal</td>
<td>14</td>
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<tr>
<td>Owners/occupier against the proposal</td>
<td>36</td>
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NOTICES OF MOTION

ITEM-14: ZONING OF RAIL CORRIDOR FOR PUBLIC USE

COUNCILLORS: T DOYLE & M OSBORNE

PURPOSE

The following Notice of Motion was received on 14 July 2016 from the abovementioned Councillors:

MOTION

That:

(a) Council prepare a planning proposal for gateway determination to zone the entire railway corridor land as "Special Purposes Transport Infrastructure".

(b) The “Special Purposes Transport Infrastructure” zoning include allowances for open space, active transport modes (pedestrian and cycleways), and developments such as “pop-up” installations and cafes that will not compromise the future use of the entire length of the corridor for public transport services.

(c) Council convey to the state government its view that:

a. The “Special Purposes Transport Infrastructure” zoning must remain until such time as the NSW Government develops comprehensive, evidence-based plans for both public transport and active transport in the Lower Hunter based on achieving Council’s current transport targets, and these plans conclusively demonstrate that the corridor land is not needed for transport purposes.

b. Only a council comprising representatives elected by the citizens of Newcastle should have the right to determine any rezoning of Newcastle’s rail corridor land.

BACKGROUND

This motion is an amended version of a previous motion that is currently “laying on the table” until “UrbanGrowth makes its final submission to Council”. UrbanGrowth has now submitted its proposal for development along the existing rail corridor and beyond.

Given that the currently elected Council is under imminent threat of being dismissed as part of the forced merger process, it is urgent that the elected Council make a response to UrbanGrowth’s proposals before that opportunity is taken away.
A viable transport solution for active transport and rail

Newcastle City Council resolved to “support the retention of the current rail service into Newcastle” and requested “that the [State] Government halt its decision to cut the rail line into Newcastle” at its meeting of Tuesday 9th December 2014. This decision was taken after two successive by-election campaigns that significantly featured retention of the rail line as a central platform of two of the contending parties. Parties supporting retention of the Newcastle rail line won 60% of the vote in the State seat of Newcastle in the March 2015 State election, an election which the Liberal candidate, Karen Howard, described as a “referendum on the rail line”.

Apart from the 2014 October by-election, and the March 2015 State election, the people of Newcastle have never been consulted or asked their opinion on the rail closure. The most accurate picture Council has of Newcastle residents’ wishes regarding this crucial item of public transport infrastructure is that given by those election results, and from the significant number of submissions in favour of retaining the rail to both the 2013 NURS and the most recent UrbanGrowth and TfNSW REF consultation. A large proportion of residents used the opportunity in the UrbanGrowth consultation to express their opposition to the rail truncation. Indeed over 72% of submissions to UrbanGrowth expressed support for some form of rail to remain on the entire length of the corridor.

The Newcastle Transport Strategy 2014

Council adopted the Newcastle Transport Strategy in November 2014. The strategy commits Council to play its part in achieving a set of targets and objectives, particularly focused on improvements in the use of public and active (walking and cycling) transport. A key policy commitment in the strategy on public transport states: “Council supports the NSW Government’s target of 20% mode share to public transport for commuter trips to and from the Newcastle city centre in the peak periods by 2016”. That target cannot be reached without the transport corridor being used for transport uses.

Active Transport:

While the current truncation of the existing rail line and plans to remove rail infrastructure from the rail corridor will make this target virtually impossible to achieve, the retention of the rail corridor for transport uses will at least allow Council to fulfill its commitments in the strategy to Active Transport. A separated cycleway and pedestrian path within the existing rail corridor, combined with small-scale developments and crossings, have the potential to create an exciting new activated space in the corridor. Council’s adopted targets for cycling and walking include to:

- Lift the share of short trips by bike for all travel purposes to 5% (NSW BikePlan, Newcastle Cycling Strategy and Action Plan) and
- Double the use of cycling to get to work (NSW BikePlan, Newcastle Cycling Strategy and Action Plan)
- Increase the mode share of walking trips made in Newcastle, at a local and district level, to 25% by 2016

These targets will not be fulfilled if both Hunter/Scott Sts and the rail corridor are unavailable for cycleways. Light rail as proposed by TfNSW on Hunter St and Scott
St will almost certainly exclude the possibility of establishing the safe separated cycleways on those streets without severely impacting car-parking and traffic. King St is not a safe or viable option for separated cycleways because of its narrowness and topography.

The best short-term measure to optimise future city revitalisation and transport planning is to zone the rail corridor in such a way as to enable it to be easily returned to use as a fully integrated transport corridor.

In retaining the corridor in for future public transport use the Council will be helping to fulfil ex-Minister for Planning, Brad Hazzard’s promise, made in 2012 to the people of Newcastle to keep the corridor as “a guaranteed, no doubt about it, it stays in public ownership, and must remain as a potential corridor.”

ATTACHMENTS

Attachment A: Nil.
CONFIDENTIAL REPORTS

ITEM-28 CON 26/07/16 - MEREWETHER SEA WALL REHABILITATION - CONTRACT NO. 2016/519T

REPORT BY: INFRASTRUCTURE
CONTACT: ACTING DIRECTOR INFRASTRUCTURE / MANAGER PROJECTS AND CONTRACTS

PURPOSE

To accept a tender for the rehabilitation work required to the Merewether Seawall on the lower promenade between the Merewether Surf Club and Surf House. The scope of work includes the construction of approximately 100m of new concrete seawalls, retaining walls and repair of beach access ramps.

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.

GROUNDS 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 Merewether Seawall Rehabilitation Contract No. 2016/519T.
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-29  CON 26/07/16 - SUPPLY OF WASTE BIN ENCLOSURES - CONTRACT NO 2016/285T
REPORT BY: INFRASTRUCTURE
CONTACT: ACTING DIRECTOR INFRASTRUCTURE / MANAGER WASTE MANAGEMENT

PURPOSE

To accept a tender for the supply of waste and recycling bin enclosures to be placed along the Bathers Way coastal walk.

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 the provision of public place waste and recycling bin enclosures for Contract No. 2016/285T.

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-30  CON 26/07/16 - STORMWATER DRAINAGE CONSTRUCTION CARRINGTON - CONTRACT NO. 2016/284T

REPORT BY:  INFRASTRUCTURE
CONTACT:  ACTING DIRECTOR INFRASTRUCTURE / MANAGER PROJECTS AND CONTRACTS

PURPOSE

To accept a tender for the replacement of a Tidal Gate, 50 metres of storm water pipe and associated infrastructure at Carrington.

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.

GROUNDS 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 Stormwater Drainage Construction Carrington Contract No. 2016/284T.

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-31 CON 26/07/16 - COMPULSORY ACQUISITION OF CROWN LAND FOR ROAD PURPOSES (PART LOT DP 1029006)

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)(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

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)(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

B The closed session involves:

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

- 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.
C At the Council meeting held on 27 October 2015, Council approved the seeking of the leave of the Federal Court to be joined as a party resolved to be joined as a respondent party in the federal Court proceedings Karrie Brauer & Ors on behalf of the Awabakal and Guringal People v Attorney General of New South Wales and Ors. The litigation concerns a native title claim in respect of an approximate area of 3,951 square kilometres of the central coast of New South Wales stretching from Newcastle in the north to Broken Bay in the south, extending 60 kilometres inland. As litigation is currently on foot between Council and the Awabakal and Gurringal people, it is not in the public interest for legal advice attached to the Council report to be disclosed to the public on the grounds that it is confidential and subject to legal professional privilege. The disclosure of the legal advice would constitute a waiver by Council of the legal professional privilege in respect of the legal advice and could therefore prejudice Council's legal position.