Ordinary Council Meeting

Councillors

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

DATE: Tuesday 24 November 2015
TIME: 5.30pm
VENUE: Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

F Cordingley
Interim Chief Executive Officer

City Administration Centre
282 King Street
NEWCASTLE NSW 2300

13 November 2015

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**ITEM-115** CCL 24/11/15 FUTURE CITIES PROGRAM 2015 US STUDY TOUR

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**ITEM-118** CCL 24/11/15 - HEIGHT OF BUILDINGS - ENDORSEMENT OF PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2012

**ITEM-119** CCL 24/11/15 - ENDORSEMENT OF PLANNING AGREEMENT - HEXHAM TRAIN SUPPORT FACILITY

**ITEM-120** CCL 24/11/15 - GURAKI COMMITTEE REVIEW

**ITEM-121** CCL 24/11/15 - REVIEW OF THE INSTRUMENTS OF DELEGATION *(TO BE DISTRIBUTED UNDER SEPARATE COVER)*

**NOTICES OF MOTION**

**ITEM-23** NOM 24/11/15 - NOTICE OF MOTION TO RESCIND A COUNCIL RESOLUTION - ITEM 103 LATE ITEM OF BUSINESS - CCL 27/10/15 - GENERAL MANAGER’S PERFORMANCE REVIEW PANEL REPORT (PART A)

**ITEM-24** NOM 24/11/15 - ZONING OF RAIL CORRIDOR FOR PUBLIC USE

**ITEM-25** REPORT ON NOTICE OF MOTION - NOM 24/11/15 - ZONING OF RAIL CORRIDOR FOR PUBLIC USE

**CONFIDENTIAL REPORTS**

**ITEM-37** CON 24/11/15 - CITY HALL SOUTHERN & EASTERN FACADE CONSERVATION CONTRACT 2016/056T

**ITEM-38** CON 24/11/15 - LEGAL MATTER *(TO BE DISTRIBUTED UNDER SEPARATE COVER)*

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

CCL 24/11/15 - MINUTES OF BRIEFING COMMITTEE 20 OCTOBER 2015

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 151020 Briefing Committee

Note: The attached extract of the minutes are the decisions made by Council at the meeting. The full minutes incorporate the business paper reports previously provided and subsequent decisions. They may be viewed at www.newcastle.nsw.gov.au
Minutes of the Briefing Committee Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 20 October 2015 at 5.35pm.

PRESENT

IN ATTENDANCE
K Gouldthorp (General Manager), G Cousins (Director Corporate Services), F Cordingley (Director Infrastructure), F Giordano (Manager Council and Legal Services), M Blackburn-Smith (Manager Development and Building) and K Sullivan (Council Services/Minutes/Webcasting).

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 Luke, seconded by Cr Posniak

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

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS
Nil

BRIEFING COMMITTEE REPORTS

ITEM-13  BR 20/10/15 - 505 MINMI ROAD FLETCHER - AMENDMENT TO NEWCASTLE LEP 2012

Council resolved at its meeting held on 18 December 2012, to endorse a planning proposal for land at 505 Minmi Road, Fletcher to enable low density residential development and appropriate environmental conservation areas.
The resolution also included a request for a briefing at the completion of the public exhibition period and prior to any report to Council to address a series of questions included in the resolution.

The planning proposal was publicly exhibited for 28 days from 7 September 2015 to 6 October 2015 and one submission was received. The planning proposal is listed for consideration by Council on the Ordinary Council Meeting agenda of 24 November 2015.

Councillors received a briefing from Patty McCarthy, Team Co-ordinator Strategic Planning Services. Brett Stein, consultant ADW Johnson and Adam Blundell, Ecobiological, were available to respond on matters raised in relation to the proposed rezoning of land at 505 Minmi Road, Fletcher.

Matters addressed were:
- Gateway determination
- Residential suitability
- Environmental offsets
- Consultation
- Results of investigations into reported illegal tree clearing and filling of gullies, farming of livestock and landfill
- Correlation to Coal and Allied development plan
- Projected increase in number of dwellings
- Shortfall in bio-banking credits

Several questions from Councillors related to bio-banking, selection of E2 site, impact on the green corridor, vegetation management and off-site conservation and long term management of the site.

The meeting concluded at 6.10pm.
CCL 24/11/15 - MINUTES OF ORDINARY COUNCIL MEETING 27 OCTOBER 2015

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 151027 Ordinary Council meeting

Note: The attached extract of the minutes are the decisions made by Council at the meeting. The full minutes incorporate the business paper reports previously provided and subsequent decisions. 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 27 October 2015 at 5.37pm.

PRESENT
The Lord Mayor (Councillor N Nelmes), Councillors D Clausen D Compton (retired 9.50pm), T Crakanthorp (arrived 6.07pm), T Doyle, J Dunn, B Luke (retired approx. 9.48pm), M Osborne, S Posniak, A Robinson (retired 9.29pm) and A Rufo (retired 9.50pm).

IN ATTENDANCE
K Gouldthorp (General Manager), G Cousins (Director Corporate Services), F Cordingley (Director Infrastructure), P Chrystal (Director Planning and Regulatory), L Burcham (Cultural Director), F Giordano (Manager Council and Legal Services), A Baxter (Manager Regulatory Services), R Bales (Customer Service Manager), J Gaynor (Manager Strategic Planning), G Sainsbury (Contracts and Projects Manager), D Fischetti (Communications), K Sullivan (Council Services/Minutes) and A Leach (Council Services/Webcasting).

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 Osborne, seconded by Cr Doyle

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

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke
Councillor Luke declared a less than significant non-pecuniary interest in Items 89-Executive Monthly Performance Report, as Council may invest with businesses he is associated with. Councillor Luke said the interest was less than significant as the report to Council was to be received and he was not involved in any decision making processes.
Councillor Luke

Councillor Luke declared a non-pecuniary less than significant interest in Item 90 - Adoption of 2014/15 Annual Financial Statements which included a report from Council's auditors PWC. Councillor Luke advised that his son had received a job offer from PWC to commence in the new year and regarded the interest less than significant.

Councillor Clausen

Councillor Clausen declared a less than significant non-pecuniary interest in Item 92 - Options for a Rainbow Crossing in a Public Space, relating the declaration to Clause 14 of the Code of Conduct and advised that he had received in kind support from the Newcastle Trades Hall during his election campaign and the Trades Hall Council had written a letter to all councillors in respect of that item.

Lord Mayor Councillor Nelmes

The Lord Mayor declared a less than significant non-pecuniary interest in Item 92 - Options for a Rainbow Crossing in a Public Space advising that she had received electoral funding from the Trades Hall Council in previous elections.

CONFIRMATION OF PREVIOUS MINUTES

Minutes - Extraordinary Council Meeting 8 September 2015
Minutes - Public Voice Committee Held 15 September 2015
Minutes - Briefing Committee 15 September 2015
Minutes - Ordinary Council Meeting 22 September 2015

Councillor Clausen sought to lift confidentially on Item 34 - CCL 22/09/15 - Newcastle City Council and Newcastle University Partnership to Promote International Training Opportunities, as contained in the minutes of 22 September 2015.

The General Manager advised that the minutes were a true and correct record of the decisions made at the meeting and suggested Councillor Clausen move the matter as a late item of business to lift confidentiality on the report.

Councillor Clausen indicated gave notice of a late item of business in this regard.

MOTION

Moved by Cr Clausen, seconded by Cr Osborne

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

Carried
ITEM-87  CCL 27/10/15 - Tabling of Pecuniary Interest Returns 2014-2015

MOTION
Moved by Cr Posniak, seconded by Cr Osborne

In accordance with the requirement of section 450A of the Local Government Act, the completed pecuniary interest returns that have been lodged with the General Manager by designated persons in respect of the period 1 July 2014 to 30 June 2015 and which are required to be kept on a register be:

(a) formally tabled by the General Manager at the Council meeting to be held on 27 October 2015; and

(b) noted by Council.

Carried

ITEM-88  CCL 27/10/15 - FEDERAL COURT PROCEEDINGS - AWABAKAL AND GURINGAI PEOPLE

MOTION
Moved by Cr Posniak, seconded by Cr Rufo

That Council resolves to:

(a) receive this report; and

(b) approve Council seeking the leave of the Federal Court to be joined as a respondent party in the Federal Court legal proceedings NSD780 of 2013.

Carried

ITEM-89  CCL 27/010/15 - EXECUTIVE MONTHLY PERFORMANCE REPORT

MOTION
Moved by Cr Posniak, seconded by Cr Rufo

The report be received.

Carried
ITEM-95  CCL 27/10/15 - NEWCASTLE EYE HOSPITAL - ADOPTION OF AMENDMENT TO NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012

MOTION
Moved by Cr Rufo, seconded by Cr Posniak

Council resolves to:

a) Endorse Planning Proposal PP_2015_NEWCA_002_00 for land at Lots 2, 3 & 4 DP 21366; Lot 7 DP 660745; Lot 8 DP 660746; Lots 1 & 2 DP 1114442 and Lots 100 and 101 DP 569322, with a street address of 174 - 182 Christo Road, Waratah and 114 - 116 Griffiths Road, Lambton to:

i) include ‘health services facility’ as an additional Schedule 1 permitted use.

ii) amend the height of buildings map to include a maximum permissible height of 10 metres over part of the land.

as outlined in the Planning Proposal at Attachment A.

b) Forward Planning Proposal PP_2015_NEWCA_002_00 to the Department of Planning and Environment requesting that a draft Local Environmental Plan be prepared and made pursuant to Section 59(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

c) Advise the Secretary of the Department of Planning and Environment that Council does not seek to exercise delegations for undertaking Section 59(1) of the EP&A Act.

For the Motion: The Lord Mayor, Councillors Clausen, Compton, Doyle, Dunn, Luke, Osborne, Posniak, Robinson and Rufo.

Against the Motion: Nil.

Carried

ITEM-98  CCL 27/10/15 - Streetsafe Nightime Outreach Pilot Program

MOTION
Moved by Cr Osborne, seconded by Cr Posniak

That Council resolves to:

a) Note the Streetsafe Pilot Project and executed MOU with the Salvation Army.

b) Council’s intention to enter into a funding agreement with the Salvation Army for this project.

c) Request a report back at the end of the trial period.

Carried
ITEM-100 CCL 27/10/15 - TEMPORARY SUSPENSION OF ALCOHOL FREE ZONES LAMAN STREET NEWCASTLE BETWEEN DARBY STREET AND DAWSON STREET

MOTION
Moved by Cr Rufo, seconded by Cr Osborne

Council approve the temporary suspension of the AFZ for Laman Street Newcastle between Darby Street and Dawson Street on Friday 27 November 2015 from 5.30pm to 10.30pm for the purpose of an Art Gallery exhibition opening event. This suspension is subject to the event organiser, Council's Newcastle Art Gallery, meeting all requirements of the NSW Police - Newcastle Local Area Command (LAC) and Council.  

Carried

At this stage of the meeting Councillor Osborne gave notice of a late item of business relating to the IPART report on "Fit for the Future" NSW Government response.

The General Manager stated that he had tabled a late item of business in respect of the abovenamed report.

ITEM-90 CCL 27/10/15 - ADOPTION OF 2014/15 ANNUAL FINANCIAL STATEMENTS

MOTION
Moved by Cr Luke, seconded by Cr Compton


Carried

Councillor Crakanthorp arrived at the meeting at 6.07pm.

Councillor Osborne gave notice of a late item of business that being the General Manager's Performance Review.

ITEM-91 CCL 27/10/15 - COUNCILLOR REPRESENTATION ENVIRONMENTAL ADVISORY COMMITTEE

MOTION
Moved by Cr Osborne, seconded by Cr Doyle

Councillor Clausen be appointed as a Council's representative on the EAC.  

Carried
ITEM-92  CCL 27/10/2015 - OPTIONS FOR A RAINBOW CROSSING IN A PUBLIC SPACE

Councillor Crakanthorp
Councillor Crakanthorp declared a less than significant non-pecuniary interest in Item 92 - Options for a Rainbow Crossing in a Public Space advising that he had received electoral funding from the Trades Hall Council in previous elections.

An alternate motion to the Officer's recommendation was tabled at the meeting by Councillor Posniak.

MOTION
Moved by Cr Posniak, seconded by Cr Osborne

1 The Officer’s report be received.

2 Council reiterates its commitment to equality and to the provision of a rainbow crossing as a symbol of this commitment.

3 Council considers opportunities for delivery of a rainbow crossing as part of current renewal projects that would allow for it to be delivered at minimal additional expense to ratepayers.

4 Officer's discuss and report back to Council on the implementation of the proposal distributed to Councillors from Hunter Workers (attached).

Carried

ITEM-93  CCL 27/10/15 - ENDORSEMENT OF EXHIBITION OF DRAFT NEWCASTLE YOUTH COUNCIL COMMITTEE CHARTER

An alternate motion to the Officer's recommendation was tabled at the meeting by Councillor Clausen.

MOTION
Moved by Cr Clausen, seconded by Cr Osborne

1 Council places the Newcastle Youth Council Committee Charter on public exhibition for 28 days with the following modifications:

a Insertion of new clause 10.2: "The Chairperson may use the title "Youth Mayor"

b Amendment to clause 13.2.4: "Invitees approved by the General Manager or Facilitator including new members and applicants and individuals on the eligibility list (as defined in 8.4"

C Council's General Manager"


d Amendment to clause 22.1: "The Lord Mayor and General Manager are the official spokespeople for the Council, in accordance with Council's Media Policy. No member of Youth Council should speak to the media on behalf of Council.

e Insertion of clause 22.2: "The Chairperson is the official spokesperson of the Committee and may make media comment in consultation with the Facilitator and Council's Manager Communication and Engagement"

2 Council receives a report back on the outcomes of the public exhibition.

3 Council congratulates Youth Mayor Ella Reed on her appointment to the Commonwealth Youth Council, and wishes her success on behalf of the City in relation to her standing for election as Vice-Chair - Inclusion and Engagement of the Commonwealth Youth Council.

Carried

ITEM-94 CCL 27/10/15 - PUBLIC ART ADVISORY COMMITTEE

An alternate motion to the Officer's recommendation was tabled at the meeting by Councillor Posniak.

MOTION
Moved by Cr Posniak, seconded by Cr Doyle

1 Council appoints Councillors Dunn, Doyle, Posniak and Rufo to the Public Art Advisory Committee.

2 That officers alongside appointed Councillors meet to discuss and revise the Public Art Advisory Committee Charter to ensure it is updated to reflect current Committee practices.

3 That officers report back to Council on the proposed update Charter at the December 2015 meeting.

4 The Public Art Advisory Committee constitution be amended to provide for four Councillors to be appointed to the Committee.

Carried

The Lord Mayor requested the motion be recorded as unanimous
ITEM-96  CCL 27/10/15 - EXHIBITION OF DRAFT MULTICULTURAL PLAN 2016-2019

MOTION
Moved by Cr Doyle, seconded by Cr Rufo
Council resolves to:

a) Place the draft Multicultural Plan 2016-2019 as provided in Attachment A on public exhibition for 4 weeks; and

b) Receive a report back on the outcomes of the public exhibition.  

Carried

ITEM-97  CCL 27/10/15 - FIRE KOORAGANG ISLAND AUGUST 2015

MOTION
Moved by Cr Crakanthorp, seconded by Cr Osborne

Council notes this report. 

Carried

ITEM-99  CCL 27/10/15 - HUNTER REGIONAL PLAN 2016 - 2020

An alternate motion to the Officer's recommendation was tabled at the meeting by the Lord Mayor.

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

Council endorse the following six priorities for Newcastle to be submitted to the RDA-H Regional Plan are:

- Revitalising Newcastle City Centre
- Revitalising the Newcastle Coast including surf lifesaving facilities
- Providing new cycle ways
- Improving swimming pools and parks including upgrade works on No. 1 Sportsground, No. 2 and rebuild the athletics track in order to support/encourage regional sporting events
- Expanding the Art Gallery
- Expansion of the proposed light rail project for Newcastle arising from the Lord Mayoral Minute adopted at the Council meeting of 22 September 2015. 

Carried
NOTICES OF MOTION

ITEM-22 NOM 27/10/15 - RAIL RETENTION

Councillor Doyle moved an alternate motion to the motion printed in Council’s business paper.

MOTION
Moved by Cr Doyle, seconded by Cr Osborne

1 Council reaffirms its support for the retention of intercity rail service to Newcastle station.

2 That we call on the State Government to reaffirm its commitment to Newcastle City Council having the final planning consent for land use on the rail corridor.

Carried

CONFIDENTIAL REPORTS

PROCEDURAL MOTION
Moved by Lord Mayor Cr Luke, seconded Cr Posniak

Council proceed into confidential session for discussion on Confidential Item 36 for the reasons outlined in the business papers:

• Con 27/10/15 - Provision of Security Services - Contract No. 2015/374T

Council resolved to move into confidential session at 7.15pm and reconvened into Open Council at 7.18pm and the General Manager announced the detail of the resolution approved in confidential session.

ITEM-36 CON 27/10/2015 - PROVISION OF SECURITY SERVICES - CONTRACT NO. 2015/374T

1 Council accept the tender of Sydney Night Patrol & Inquiry Co Pty Ltd for the provision of security services for Contract No. 2015/374T with payments to be made at the tendered unit rates.

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

Resolved in confidential session
LATE ITEMS OF BUSINESS

ITEM-101 CCL 27/10/15 - IPART REPORT ON "FIT FOR THE FUTURE" NSW GOVERNMENT RESPONSE

The General Manager tabled a late item of business to provide Council with a brief on IPART’s findings in respect to Newcastle City Council's Fit for the Future submission and related announcements from the Premier and Minister for Local Government.

PROCEDURAL MOTION
Moved by Cr Osborne, seconded by Cr Posniak

That the matter of IPART Report on "Fit For The Future" NSW Government Response be considered a late item of business because the Sydney-centric State Government only released their assessments of local government Fit for the Future proposals last Tuesday 20 October 2015 and Newcastle Council needs to respond.

Council adjourned at 7.23pm to consider the report tabled by the General Manager.

Council reconvened at 7.34pm.

MOTION
Moved by Cr Doyle, seconded by Cr Osborne

A An Extraordinary meeting of Council be held prior to 18 November 2015. That meeting will consider:

1 The ramifications and the implications of the IPART report on Newcastle.
2 The issues to be addressed in any further submission as invited by the Minister
3 Alternative proposals to address the issues raised in the report

B That Council:

1 Notes that Newcastle meets all the financial criteria for future sustainability set by the State Government.
2 Writes to IPART requesting a clear outline of the methodology used to ascertain the extent to which Newcastle Council satisfied the criterion of “Scale and Capacity”.
3 The Lord Mayor, Deputy Lord Mayor and General Manager liaise with neighbouring Councils to discuss boundary adjustments that would provide benefit to the community.
4  Consider a complete poll of electors, in accordance with Part 3 of the Local Government Act 1993, asking the question: "Should Newcastle City Council and Lake Macquarie City Council merge?"

Carried

ITEM-102 CCL 27/10/15 - NEWCASTLE CITY COUNCIL AND NEWCASTLE UNIVERSITY PARTNERSHIP TO PROMOTE INTERNATIONAL TRAINING OPPORTUNITIES

Councillor Clausen indicated that the matter of Newcastle City Council and Newcastle University partnership to promote international training opportunities was now in the public domain and sought to lift confidentiality on the confidential report, as referenced in part 3 of the resolution passed by Council on 22 September 2015.

PROCEDURAL MOTION

Moved by Cr Clausen, seconded by Cr Osborne

The matter of Newcastle City Council and Newcastle University Partnership to Promote International Training Opportunities be received as a late item of business due to matter being currently in the public domain and Council seek to lift confidentiality on the report.

Carried

MOTION

Moved by Cr Clausen, seconded by Cr Osborne

Confidential report Item 34 - CCL 22/09/15 - Newcastle City Council and Newcastle University Partnership to Promote International Training Opportunities become public and confidentiality be removed.

Carried

The Lord Mayor requested the motion be recorded as unanimous
ITEM-103 CCL 27/10/15 - GENERAL MANAGER PERFORMANCE REVIEW PANEL REPORT

Councillor Osborne indicated that at its meeting on 22 September 2015 Council resolved in regard to Review of General Manager's and Lord Mayor's delegations, that the General Manager's Performance Review Panel be given until 27 October 2015 to further review the Lord Mayor's and General Manager's delegations and submit recommended changes to Council at the Ordinary Council meeting 27 October 2015.

Councillor Osborne advised that the item was not on Council's agenda and tabled a report from the General Manager's Performance Review Committee as a late item of business.

PROCEDURAL MOTION
Moved by Cr Osborne, seconded by Cr Posniak

1 That the report of the General Manager's performance review be received as a late item of business in accordance with Council's resolution of 22 September 2015.

2 That the item be discussed in seriatim.

Carried

Councillor Osborne tabled a motion that formed four parts, Parts A, B C and D.

PART A

MOTION
Moved by Cr Osborne, seconded by Cr Posniak

That Council

1 Rename the role 'General Manager' as the 'Chief Executive Officer'. The role of the Chief Executive Officer will have the same meaning as that of a 'general manager' appointed under the Local Government Act 1993.

2 Adopt the Draft Instrument of Delegations to the Chief Executive Officer (Attachment A). These delegations supersede those adopted on 24 September 2013.

3 Adopt the Draft Instrument of Delegation to the Lord Mayor (Attachment B). These delegations supersede those adopted 24 September 2013.

4 Adopts the updated Organisational Structure (Attachment C).
The General Manager noted the reason why the General Manager Performance Review Panel Report was not included on the Agenda was because the report was not supplied to Council staff in accordance with the timeframe specified in the memorandum to Councillors dated 30 September 2015 from the Manager Council and Legal Services which had been issued to all Councillors on that date. The General Manager tabled the subject memorandum at the meeting.

The General Manager advised the Lord Mayor that amendments to delegations were not considered urgent and that it was not good governance to deal with the matter as a late item of business. He further expressed concern that Councillors had not had been given sufficient notice to review the draft amendments.

**PROCEDURAL MOTION**  
Moved by Cr Luke, seconded by Cr Rufo

The matter lay on the table pending legal advice from the Manager Council and Legal Services as to the impact of the proposed delegations.

*For the Motion:* Councillors Compton, Luke, Robinson and Rufo.  

*Against the Motion:* The Lord Mayor, Councillors Clausen, Crakanthorp, Doyle, Dunn, Osborne and Posniak.  

Defeated

**PROCEDURAL MOTION**  
Moved by Cr Doyle, seconded by Cr Luke

Consideration of the delegations as outlined in paragraphs 2 and 3 in Part A lay on the table until the next Council meeting to allow public review of the delegations.

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

*Against the Motion:* The Lord Mayor, Councillors Clausen, Crakanthorp, Dunn, Osborne and Posniak.  

Defeated

During discussion Councillor Clausen proposed that Council exhibit the delegations for a period of 28 days.

The Lord Mayor indicated that an extensive process had already been undertaken by the Panel and suggested that if there were any issues in implementing the delegations, a report be brought back to the November Council meeting.
The mover and seconder, in concurrence with Councillor Clausen, agreed to incorporate the Lord Mayor's suggestion as point 5 to Part A of the motion.

**PROCEDURAL MOTION**  
Moved by Cr Luke, seconded by Cr Compton

Council adjourn for ten minutes to consider the late report from the General Manager's Performance Review Committee.

**For the Motion:** The Lord Mayor, Councillors Clausen, Compton, Crakanthorp, Doyle, Luke, Osborne, Robinson and Rufo.

**Against the Motion:** Councillors Dunn and Posniak.  

Carried

Council adjourned at 8.52pm and reconvened at 9.03pm.

Councillor Luke foreshadowed a rescission motion in respect of Part A.

The motion moved by Councillors Osborne and Posniak incorporating Part A, points 1 to 5 was put to the meeting.

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

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

Carried

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

That the meeting be closed under Section 10A(2)(a) and Section 10A(2)(a) of the Local Government Act, and that the General Manager and staff (except for the Minutes Secretary) be excluded from the meeting for the duration of this item, as the discussion relates directly to both the General Manager's Performance and Terms of Employment under Section 376(3) of the Local Government Act.

That Council receives a report from the General Manager's Performance Review Committee.  
(Note: The latter was referenced as Part B of the tabled motion from Councillor Osborne).

At this stage of the meeting, the General Manager advised the Lord Mayor that there were limitations on when the CEO could be excluded from the meeting and the business to be discussed was not about the performance review of the General Manager.
The Lord Mayor requested the General Manager to be seated and proceeded to put the vote on the procedural motion.

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

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

Carried

The General Manager requested that the Lord Mayor allow one senior staff member to remain in the meeting for the purpose of overseeing proceedings.

The Lord Mayor stated that she had legal advice providing that all staff except the Council meeting secretaries were to leave the meeting.

Council entered into confidential session at 9.15pm.

The General Manager, senior staff, other Council officers (except the meeting secretaries) and members of the public left the Council Chambers at the request of the Lord Mayor.

In accordance with Council's Code of Meeting Practice, at 9.25pm, Council resolved to extend the meeting to 10.00pm.

PROCEDURAL MOTION
Moved by Cr Crakanthorp, seconded by Cr Doyle

The meeting be extended to 10.00pm if required.

Resolved in confidential session

Councillors Robinson and Luke left the meeting at 9.29pm.

Councillor Robinson did not return to the Council Chamber prior to the meeting's close. Councillor Luke returned when confidential session reconvened at 9.43pm.

Confidential Council adjourned at 9.32pm.

Councillor Rufo left the Chamber at 9.33pm.

Confidential Council reconvened at 9.43pm and the elected members present were the Lord Mayor Councillor Nelmes, Councillors Clausen, Compton, Doyle, Dunn, Luke, Osborne and Posniak.
PROCEDURAL MOTION
Moved by Cr Doyle, seconded by Cr Osborne

Council move out of confidential session.  Resolved in confidential session

Open Council reconvened at 9.46pm.

Members of the public were invited back into the meeting and the Directors and Councillor Rufo joined the meeting.

In the General Manager's absence the Lord Mayor reported back on the items resolved by Council during confidential session.

ITEM-103 - CCL 27/10/15 - GENERAL MANAGER PERFORMANCE REVIEW PANEL REPORT

PART C

1 That the General Manager's contract of employment be terminated forthwith.

2 That pending the appointment of a new Chief Executive Officer (General Manager) the Lord Mayor be delegated authority to appoint an Interim Chief Executive Officer.

3 That the Interim Chief Executive Officer undertakes all steps:
   a Secure the General Manager's Office allowing the General Manager to remove personal items only
   b Recover all Council property (including intellectual property) in the possession of the General Manager, including property located at the General Manager's residence
   c Remove the General Manager's access to Council's servers and electronic equipment

4 That the Lord Mayor be delegated the authority to negotiate a settlement with the General Manager under the General Manager's Contract of Employment dated 17 September 2013 and execute on behalf of Council any agreement as to the termination of the General Manager.

5 That the quantum of any settlement be paid out of the staff redundancy reserve or equivalent.

6 That the Lord Mayor communicate this decision to the General Manager and staff.
PART D

1. That Council appoint a Chief Executive Officer Recruitment Panel consisting of the Lord Mayor, Councillor Michael Osborne and Councillor Stephanie Posniak.

2. That the Chief Executive Officer Recruitment Panel be delegated authority to:
   a. Ensure the Chief Executive Officer’s position description is current and evaluated in terms of salary to reflect the responsibilities of the position
   b. Advertise the position according to the requirements of the Act and guidelines
   c. Shortlist and undertake preliminary interviews of shortlisted candidates
   d. Present two final shortlisted candidates to Council for final decision

   At its discretion, the Chief Executive Officer Recruitment Panel (in consultation with the Interim Chief Executive Officer) may engage a recruitment agency to undertake this task.

   Resolved in confidential session

The Lord Mayor also reported that in confidential session a matter of great urgency was received and a rescission motion was submitted by three Councillors to rescind CCL 27/10/15 - General Manager Performance Review Panel Report, Parts A, B, C and D.

The matter was held in closed session as it was considered to be in accordance with Section 10A(2)(a) and Section 10A(2)(a) of the Local Government Act, as the discussion related directly to both the General Manager’s Performance and Terms of Employment under Section 376(3) of the Local Government Act.

The Lord Mayor advised that the rescission motion was defeated and Council’s decision in respect to Parts A to D upheld.

In the interests of open governance and transparency, the Lord Mayor, requested Councillor Clausen recommit the rescission motion given that Parts A and B were earlier dealt with in open Council.
NOTICE OF MOTION 27/10/15 - NOTICE OF MOTION TO RESCIND A COUNCIL RESOLUTION - CCL 27/10/15 - GENERAL MANAGER PERFORMANCE REVIEW PANEL REPORT

PROCEDURAL MOTION
Moved by Cr Clausen, seconded by Cr Osborne

The item of late business which was a rescission motion in respect to CCL 27/10/15 - General Manager Performance Review Panel Report, Parts A, B, C and D be recommitted on the following basis:

"A late item of business is allowed under Clause 241.3 of the Local Government Regulation 2005 and page 40 of the Office of Local Government Meeting Practice notes issued as Number 16. Both allow rescission motions to be held as late items of business when they are of great urgency.

In relation to the Code of Meeting Practice, Clause 3.3, I believe, of Newcastle City Council's Code of Meeting Practice, states that where there is an inconsistency between the Guidelines and the Regulation and Council's Code of Meeting Practice then the Regulations and the Guidelines prevail therefore the putting of a rescission motion to the Council as a late item of business of great urgency is in line with both the Act, the Regulation and the Guidelines and therefore should be upheld this evening".

Councillor Luke retired from the meeting following the recommittal of Councillor Clausen's rescission motion.

Councillor's Compton and Rufo then retired from the meeting at 9.50pm.

The Lord Mayor advised that she was of the understanding Council was voting on the motion as read verbatim by Councillor Clausen.

The Lord Mayor requested those Councillors to vote in favour of rescinding Parts A, B, C and D of the General Manager's Performance Review. She then called for those Councillors voting against.

For the Motion: Nil.

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

The Lord Mayor declared the rescission motion defeated and Parts A, B, C and D of the motion standing as a resolution of Council and as such to be enacted forthwith.

The meeting concluded at 9.53pm.
CITY OF NEWCASTLE
Ordinary Council Meeting 24 November 2015
Page 27

REPORTS BY COUNCIL OFFICERS

ITEM-104 CCL 24/112015 - ELECTION OF DEPUTY LORD MAYOR

REPORT BY: EXECUTIVE MANAGEMENT
CONTACT: INTERIM CHIEF EXECUTIVE OFFICER / MANAGER
COUNCIL & LEGAL SERVICES

PURPOSE

The purpose of this report is to initiate the election, by Councillors, of a replacement Deputy Lord Mayor for a term following the expiration of the current Deputy Lord Mayor’s term of office on 24 November 2015.

RECOMMENDATION

1. Council approves the term of the Deputy Lord Mayor to be for a period taking effect from 24 November 2015 and concluding on 9 September 2016.

2. Council approves the conduct of an election of a Deputy Lord Mayor by ordinary ballot voting in accordance with the election procedures set out in Parts 1 and 2 of Schedule 7 of the Local Government (General) Regulation 2005 (NSW) at an election to be conducted at the Ordinary Council Meeting to be held on 24 November 2015 (refer to Paragraphs 17 and 18).

KEY ISSUES

3. Section 231 of the Local Government Act (the Act) provides that Councillors may elect a person from among their number to be the deputy mayor. The person may be elected for the mayoral term or a shorter term. The deputy mayor may exercise any function of the mayor, inter alia, if requested by the mayor or if the mayor is prevented by illness, absence or otherwise from exercising a mayor's function.

4. Councillor Osborne was elected as Deputy Lord Mayor on 24 March 2015.

5. It is appropriate that Council holds an election to fill the vacancy that will exist on 24 November 2015 with the expiration of the term of the current Deputy Lord Mayor, Cr Osborne.

FINANCIAL IMPACT

6. Nil

COMMUNITY STRATEGIC PLAN ALIGNMENT

7. Nil.
IMPLEMENTATION PLAN/IMPLICATIONS

8 The election of a Deputy Lord Mayor is to be conducted in accordance with section 231 (1) – (3) of the Act and schedule 7 of the Local Government (General) Regulation (NSW) (Regulation) as outlined in the background section below.

9 Providing for a new term for the Deputy Lord Mayor commencing from the date of the next Ordinary Council Meeting to be held on 24 November 2015 will ensure that there is continuity in the Deputy Lord Mayor’s office.

RISK ASSESSMENT AND MITIGATION

10 Whilst it is not essential that a new Deputy Lord Mayor be elected by Council on 24 November 2015, it has been Council’s consistent practice during the term of the current Council to have a duly elected Deputy Lord Mayor in order to facilitate the Lord Mayor’s functions being able to be carried out in accordance with section 231 of the Act in the event that, for whatever reason, the elected Lord Mayor is prevented by illness, absence or otherwise from exercising any of the Lord Mayor’s functions. Having an incumbent Deputy Lord Mayor removes the risk that any of the Lord Mayor’s functions may not be able to be carried out should the Lord Mayor be unable or unavailable to carry out the Lord Mayor’s functions.

RELATED PREVIOUS DECISIONS

11 Councillor Posniak was elected as Deputy Lord Mayor on 28 October 2014 for a term that expired on 25 November 2014.

12 Councillor Rufo was elected as Deputy Lord Mayor on 25 November 2014 for a term that expired on 24 March 2015.

13 Councillor Osborne was elected as Deputy Lord Mayor on the 24 March 2015 for a term that expired on the 24 November 2015.

CONSULTATION

14 Nil
OPTIONS

Option 1

15 The recommendation as at Paragraphs 1 and 2. This is the recommended option.

Option 2

16 Council not proceed to approve the term of the Deputy Lord Mayor for the period specified in paragraph 1 until after the outcome of the NSW - State Government's decision concerning any prospective amalgamation becomes known. This is not the recommended option.

BACKGROUND

17 Section 231 (1)-(3) of the Act provides:

(1) The councillors may elect a person from among their number to be deputy mayor.
(2) The person may be elected for the mayoral term or a shorter term.
(3) The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.

18 Parts 1 and 2 of Schedule 7 of the Regulation provides the following procedure for the election of a deputy mayor.

Part 1 Preliminary

1 Returning officer

The general manager (or a person appointed by the general manager) is the returning officer.

2 Nomination

(1) A councillor may be nominated without notice for election as mayor or deputy mayor.
(2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
(3) The nomination is to be delivered or sent to the returning officer.
(4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.
3 Election

(1) If only one councillor is nominated, that councillor is elected.
(2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
(3) The election is to be held at the council meeting at which the council resolves on the method of voting.
(4) In this clause:

ballot has its normal meaning of secret ballot.

open voting means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting

4 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

5 Marking of ballot-papers

(1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.
(2) The formality of a ballot-paper under this Part must be determined in accordance with clause 345 (1) (b) and (c) and (6) of this Regulation as if it were a ballot-paper referred to in that clause.
(3) An informal ballot-paper must be rejected at the count.

6 Count-2 candidates

(1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
(2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

7 Count-3 or more candidates

(1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
(2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
(3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.
(4) A further vote is to be taken of the 2 remaining candidates.
(5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
(6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.
19 For the purposes of Clause 5 (2) of Schedule 7 of the Regulation, Clause 345(1)(b) and (c) and (6) of the Regulation provide as follows:

345 Informal ballot-papers

A ballot-paper of an elector at an election is informal if:

(b) it has not been initialled on the front by an election official, or
(c) it contains a mark or writing that, in the returning officer’s opinion, would enable the elector to be identified.

(6) Despite subclause (1), a ballot-paper of an elector at an election is not informal by virtue of the existence of an unnecessary mark on the ballot-paper if, in the opinion of the returning officer, the elector’s intention is clearly indicated on the ballot-paper.

REFERENCES
Nil

ATTACHMENTS
Nil
ITEM-105  
CCL 24/11/15 - ADOPTION OF PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS POLICY

REPORT BY: EXECUTIVE MANAGEMENT
CONTACT: INTERIM CHIEF EXECUTIVE OFFICER / MANAGER COUNCIL & LEGAL SERVICES

PURPOSE

To adopt the policy for the Payment of Expenses and Provision of Facilities to Councillors.

RECOMMENDATION

1 Council adopt the draft policy for the Payment of Expenses and Provision of Facilities to Councillors at Attachment A.

KEY ISSUES

2 Section 252 and 254 of the Local Government Act 1993 (NSW) require Council to adopt, in an open meeting, a policy for the payment of expenses and provision of facilities to Councillors by 30 November each year.

3 The draft policy for the Payment of Expenses and Provision of Facilities to Councillors (draft Expenses Policy) at Attachment A was publicly exhibited from 23 September 2015 to 24 October 2015 with one submission received at Attachment B. One amendment has been made in response to the submission (refer to Part B - Maximum Monetary Limit Table and clause 21, highlighted in yellow)

FINANCIAL IMPACT

4 Council’s Operational Plan for 2015/16 provides for the payment of expenses and provision of facilities to the Lord Mayor and Councillors. This budget is sufficient to cover anticipated expenses under the draft Expenses Policy. If Council determines to amend the draft Expenses Policy in accordance with the submission received, consideration would need to be given to budgetary implications and the budget amended accordingly.

COMMUNITY STRATEGIC PLAN ALIGNMENT

5 N/A

IMPLEMENTATION PLAN/IMPLICATIONS

6 If adopted, Councillors will be provided with a copy of the finalised policy document.
RISK ASSESSMENT AND MITIGATION

7 The expenses and facilities provided in the draft Expenses Policy are appropriate, transparent and accountable.

RELATED PREVIOUS DECISIONS

8 22 September 2015: resolution to place the draft Expenses Policy on public exhibition.

9 23 September 2014: resolution to adopt current Expenses Policy.

CONSULTATION

10 The draft Expenses Policy was publicly exhibited from 23 September 2015 to 24 October 2015 and one submission was received. This is dealt with in Attachment B.

OPTIONS

Option 1

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

Option 2

12 Council does not resolve to adopt the draft Expenses Policy. This is not the recommended option as Council is required to review, publicly exhibit and adopt an Expenses Policy by no later than 30 November each year.

BACKGROUND

13 Nil.

REFERENCES

*Local Government Act 1993 (NSW)*
Division of Local Government’s Guidelines for the Payment of Expenses and the Provision of Facilities to Lord Mayors and Councillors (October 2009)
ATTACHMENTS

Attachment A: Draft Policy for the Payment of Expenses and Provision of Facilities to Councillors.

Attachment B: Summary of submission received on the draft Policy for the Payment of Expenses and Provision of Facilities to Councillors.
The City of Newcastle
Policy

Payment of expenses and provision of facilities to Councillors
### Payment of expenses and provision of facilities to Councillors

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<td>Council and Legal Services</td>
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<tr>
<td>Approved by</td>
<td>Council</td>
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<tr>
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<td>23 September 2014TBC</td>
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<tr>
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<td>development, communication</td>
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<td>Revision date</td>
<td>Within five months of 30 June each year</td>
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<td>December 2010, Version three adopted 8 December 2011, Version</td>
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<td>Relevant strategic direction</td>
<td>Open and Collaborative Leadership</td>
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<td>Relevant legislation/codes</td>
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Part A  Preliminary

1  Introduction
   1.1  This policy is made in accordance with sections 252, 253 and 254 of the Local Government Act 1993 (NSW).

2  Purpose
   2.1  The purpose of this policy is to ensure that:
   2.1.1  the Lord Mayor and Councillors are provided with adequate and reasonable expenses and facilities to enable them to carry out their civic functions; and
   2.1.2  expenses and facilities provided to the Lord Mayor and Councillors are appropriate, transparent and accountable.

3  Principles
   3.1  Council commits itself to the following principles:
   3.1.1  Proper conduct: The Lord Mayor and Councillors acting lawfully and honestly, and exercising care and diligence in carrying out their functions in accordance with section 439 of the Act and Council's Code of Conduct.
   3.1.2  Participation, equity and access: Enabling people from diverse backgrounds, underrepresented groups, those in carer roles and/or those with special needs to serve as the Lord Mayor or a Councillor.
   3.1.3  Accountability and transparency: Clearly stating the expenses and facilities provided to Councillors to ensure transparency.
   3.1.4  Reasonable expenses: Providing for the Lord Mayor and Councillors to be reimbursed for expenses reasonably incurred as part of their role as Councillor and consistent with the Division of Local Government Guidelines.
   3.1.5  Sustainability: Having regard to the environmental impact of travel by the Lord Mayor and Councillors.
   3.1.6  Use of Council Resources: Councillors must be mindful at all times of the provisions in the Code of Conduct about the use of council resources to ensure that Councillor expenses and facilities are not used inappropriately.

4  Definitions
   4.1  Accompanying Person means a spouse, partner or de facto or other person who has a close personal relationship with or provides carer support to a Councillor.
   4.2  Act means the Local Government Act 1993 (NSW).
   4.3  Annual Conference means Local Government NSW Annual Conference.
   4.5  Councillor means a person elected or appointed to civic office as a member of the governing body of Council, including the Lord Mayor.
   4.6  Communication Device means the devices listed at clause 15.
4.7 **General Manager** means the General Manager of Council and includes their delegate or authorised representative.

4.8 **Maximum Limit** means the maximum limit for an expense or facility provided in the table at clause 6.6.

4.9 **Official Business** means:

4.9.1 meetings of Council and committees of the whole;

4.9.2 meetings of committees facilitated by Council (including Strategic Advisory Committees and section 355 Committees);

4.9.3 civic receptions hosted or sponsored by Council; and

4.9.4 meetings, functions, workshops and other events to which attendance by a Councillor has been requested or approved by Council.

4.10 **Official Business** means functions that the Lord Mayor or Councillors are required or invited to attend to fulfill their legislated role and responsibilities for Council, or result in a direct benefit for Council and/or the local government area.

4.4.4.11 **Professional Development** means a seminar, conference, training course or other development opportunity relevant to the role of the Lord Mayor or a Councillor. Professional Development may extend to Professional Association Membership when the Councillor actively participates in Professional Development relevant to the role of a Councillor through an Association and the cost of membership is fully offset by savings from attending as a member.

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

4.4.4.13 **Year** means the 12 month period commencing on 1 July each year.

4.4.4.14 Unless stated otherwise, a reference to a clause is a reference to a clause of this policy.

5 **Use of Council resources**

5.1 Councillors must only:

5.1.1 use Council resources in accordance with Council’s Code of Conduct, and

5.1.2 use the expenses and facilities provided to them for Official Business and Professional Development in accordance with this policy.

5.2 Council accepts that from time to time Councillors may use Council resources for reasonable incidental personal use. This means:

5.2.1 use that is infrequent and brief; and

5.2.2 use that does not breach this policy or the Code of Conduct.

5.3 If the General Manager determines that a Councillor’s private use of Council resources exceeds reasonable incidental personal use, Councillor must reimburse Council for the reasonable cost of the private use.

6 **Private or political benefit**

6.1 Councillors must not obtain private or political benefit from any expense or facility provided under this policy.
6.1

6.2 Private benefits include the collection of reward/loyalty points from expenses incurred by Council (such as frequent flyer points).

6.2 Campaigns for re-election are considered to be a private interest and the following in connection with a re-election campaign are considered to be private to Councillors:

6.2.1 Political benefits include:
- production of election material,
- the use of Council resources for campaigning
- the use of official Council letterhead, publications, websites or services for Councillor's own political benefit

6.2.4 Fundraising activities of political parties, including political fundraising events

6.3 Council acknowledges that incidental use of Council equipment and facilities may occur from time to time. Such incidental private use is not subject to a compensatory payment back to Council. For example, telephoning home to advise that a Council meeting will go until later than expected

6.4 Councillors should avoid obtaining any greater private benefit from Council than an incidental benefit. Where there are unavoidable circumstances and more substantial private use of Council equipment of facilities does occur, Councillors must reimburse Council in accordance with section 352(2) of the Act and clause 32 of this policy.
### Council Expense Limits

**6.38.5 Part B  Maximum monetary limits**  
Council will pay the expenses detailed in the following table to the Maximum Limit:

<table>
<thead>
<tr>
<th>Expense or facility</th>
<th>Clause(s)</th>
<th>Maximum Limit</th>
<th>Approval</th>
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</table>
| Official Business within Australia (including travel, accommodation and associated tickets) | 7.1.1, 10 and 11   | $2,000 per Councillor per Year  
$2,000 per Year for the Lord Mayor (in addition to Councillor limit) | In accordance with clause 31                       |
| Accompanying Person (Official Business)                                             | 7.1.1(c)           | $500 per Councillor per Year  
$500 per Year for the Lord Mayor (in addition to Councillor limits) | In accordance with clause 31                       |
| Official Business overseas (including travel, accommodation and associated tickets) | 7.3, 10 and 12     | In accordance with Council resolution  
Council resolution | In accordance with clause 6 and 31                                                  |
| Professional Development (including registration, travel, accommodation and materials) | 8, 10 and 11       | $5,000 per Councillor per Year  
In accordance with the annual Professional Development allowance in the year the course is undertaken | In accordance with clause 31                       |
| Australian Institute of Company Directors Course                                   | 8, 10 and 11       | $3,000 Per Term, in addition to the annual Professional Development allowance in the year the course is undertaken | In accordance with clause 31                       |
| Annual Conference (including registration, travel, Accompanying Person accommodation and materials) | 9, 10 and 11       | $3,000 per Councillor Per Year  
In accordance with clause 31 | In accordance with clause 31 |
| Incidental expenses in connection with Official Business (including meals and refreshments) | 14                 | $150 per day, up to $2,000 per Councillor per Year  
In accordance with clause 31 | In accordance with clause 31                       |
| Communication Devices                                                              | 15.1 and 15.2      | $4,000 per Term per Councillor  
In accordance with clause 31 | In accordance with clause 31                       |
| Communication Device expenses                                                      | 15.3               | $3,000 per Councillor per Year  
$1,000 per Year for the Lord Mayor (in addition to Councillor limit) | In accordance with clause 31                       |
| Operating expenses                                                                  | 16                 | $3,000 Per Year  
In accordance with clause 31 | In accordance with clause 31                       |
| Carer expenses                                                                      | 17                 | $6,000 per Councillor per Year  
In accordance with clause 31 | In accordance with clause 31                       |
### Part C  Expenses paid by Council

#### 7  Official Business

7.1 Within Australia

7.1.1 If a Councillor attends Official Business within Australia, Council will pay (to the Maximum Limit):

(a) cost of attending Official Business (for example, ticket to event);
(b) travel and accommodation expenses incurred in accordance with clauses 10 and 11; and
(c) cost of a ticket for an Accompanying Person where is it appropriate for an Accompanying Person to attend an event, for example, citizenship ceremonies, civic receptions and charitable functions formally supported by Council.

7.2 Expenses of the Deputy Lord Mayor attending to Official Business related to the role of Lord Mayor are in accordance with the Maximum Limit for the Lord Mayor.

7.3 Overseas

7.3.1 Councillors must seek a resolution of Council approving each instance of attendance to Official Business overseas. The Notice of Motion seeking approval of attendance at Official Business overseas should include:

(a) details about how the proposed trip has direct and tangible benefits to Council and the City of Newcastle; and
(b) full details of all aspects of the trip (including evidence that the proposed travel is by the most appropriate and direct method having regard to availability, time, cost effectiveness and related carbon emissions.

7.3.2 If a Councillor is approved by Council resolution to attend Official Business overseas, Council will pay (to the Maximum Limit):

(a) cost of attending Official Business (for example, ticket to event); and

20.3 and 20.4 Council may, by resolution, increase a Maximum Limit for a particular event or in exceptional circumstances.

Note: In accordance with clause 8.2, postage costs should not be incurred in connection with campaigns for re-election.
8 Professional Development

8.1 Council will pay Professional Development expenses, (including travel and accommodation expenses as provided in clauses 10 or 11) incurred by Councillors to the Maximum Limit provided approval is granted in accordance with section 31 having regard to:

8.1.1 the suitability and relevance of the Professional Development to the role of Lord Mayor or Councillor;

8.1.2 the benefit of the Professional Development to Council and the Councillor; and

8.1.3 whether the Professional Development should be offered to all Councillors.

8.2 Council will pay for each Councillor to complete the Australian Institute of Company Directors Course (AICD) to the maximum limit provided.

8.2.3 Councillors must seek upfront approval in accordance with clause 31 prior to enrolling in the course (including all associated assessments). Councillors are required to provide Council with evidence of successful completion of the course. Council will seek reimbursement from a Councillor in accordance with clause 30 if the Councillor does not successfully complete the course.

9 Annual Conference

9.1 Council will pay the following expenses for each Councillor nominated to attend the Annual Conference:

9.1.1 travel and accommodation expenses in accordance with clauses 10 or 11;

9.1.2 registration for the delegate and the delegate’s Accompanying Person; and

9.1.3 tickets to the official dinner for the delegate and the delegate’s Accompanying Person.

9.2 Travel expenses, any additional accommodation expenses (in addition to the expenses incurred for the Councillor) and the cost of tours/activities for Accompanying Persons must be paid for personally by the Councillor.

10 Accommodation

10.1 Council will pay the actual accommodation expenses incurred by Councillors to attend to Official Business and/or Professional Development to the Maximum Limit provided that the accommodation is reasonably necessary.

10.2 The accommodation venue standard is to be determined on best value where possible. Generally the standard is to be equivalent of 4 stars.

11 Travel within NSW Australia

11.1 If a Councillor is required to travel for Official Business and/or Professional Development within NSW Australia the Councillor will undertake travel by the
most appropriate and direct method having regard to availability, time and
cost effectiveness, and the related carbon emissions.

11.2 Council will pay reasonable travel expenses for travel within NSW Australia to
the Maximum Limit including:

11.2.1 cost of bus, rail fare or economy class air travel and associated
transfers;

11.2.2 any actual expenses incurred where travel is undertaken in a Council
owned vehicle (where a Council vehicle is available); or

11.2.3 cost of travel in the Councillor’s own vehicle:

(a) calculated at the rate prescribed by the current City of Newcastle
Employee Enterprise Agreement less a carbon offset levy of
30.05 per kilometre. The vehicle allowance compensates for all
costs associated with the supply and use of the vehicle, including
depreciation; and

(b) reasonable costs for parking and tolls.

12 Travel interstate or overseas

12.1 Council will pay reasonable travel expenses for travel interstate or overseas to
the Maximum Limit and approved in accordance with a Council resolution,
including:

12.2.1 cost of a premium economy class air travel and associated transfers,
and

12.2.2 actual expenses incurred where travel is undertaken in a Council
owned vehicle; or

12.2.3 cost of travel in the Councillor’s own vehicle:

(a) calculated at the rate prescribed by the current City of Newcastle
Employee Enterprise Agreement less a carbon offset levy of
30.05 per kilometre. The vehicle allowance compensates for all
costs associated with the supply and use of the vehicle, including
depreciation; and

(b) reasonable costs for parking and tolls.

13 Travel not paid by Council

13.1 Council will not pay any traffic or parking fines or administrative charges in
respect of toll road usage.

13.2 The General Manager has discretion as to mode of travel provided for
in clauses 11 and 12 where it is not practical to apply those clauses in
particular circumstances.

14 Incidental expenses

14.1 Council will pay reasonable incidental expenses incurred by a Councillor
when attending Official Business and/or Professional Development-off-site
where such incidental costs are not included in the cost of a ticket (to the
Maximum Limit).

15 Communication devices

15.1 Council will provide Councillors (to the Maximum Limit) with:

15.1.1 a mobile telephone; and
15.1.2 a mobile computing device (such as tablet or iPad) and printer.

15.2 In addition to the above, Council will provide the Lord Mayor (to the Maximum Limit): with a landline telephone at the Lord Mayor’s office.

15.3 Council will pay all expenses incurred in relation to the use of the Communication Devices (including internet access) in accordance with this policy to the Maximum Limit.

16 Operating expenses

16.1 Council will pay the following expenses associated with the provision of Communication Devices and other technology facilities provided in this policy:

16.1.1 installation;
16.1.2 routine maintenance;
16.1.3 information technology technical support;
16.1.4 training; and
16.1.5 replacement.

17 Carer expenses

17.1 If a Councillor engages professional care for any immediate family member to allow the Councillor to attend to Official Business and/or Professional Development, Council will pay reasonable carer expenses to the Maximum Limit.

18 Special requirements

18.1 If a Councillor has special requirements (such as disability or access requirements) to allow the Councillor to attend to Official Business and/or Professional Development, Council will pay reasonable expenses associated with those special requirements to the Maximum Limit.

19 General

19.1 Expenses of a general nature not provided for in this policy will not be paid to Councillors.

Part D Provision of facilities

20 Facilities and provisions at City Hall and City Administration Centre

20.1 Council will provide a furnished Councillors’ Room including:

20.1.1 a telephone and meeting facilities; and
20.1.2 access to technical resources including Council policies and relevant legislation.

20.2 Council will make available three car parking spaces at Council’s City Administration Centre to be shared between Councillors.

20.3 Council will provide meals and refreshments for Councillors when attending ordinary and other scheduled Council meetings.

20.4 Light refreshments will be made available in the Councillor facilities.
21 Office supplies and facilities

21.1 Council will provide, to the Maximum Limit, or make available to Councillors:

21.1.1 reasonable printing and copying facilities and associated consumables;

21.1.2 letterhead stationery;

21.1.3 minor items of stationery (such as pens, pencils, paper clips and staples);

21.1.4 500 business cards per Year;

21.1.5 50 Christmas cards per Year;

21.1.6 reasonable assistance to prepare, receive, post and record correspondence, including postage fees;

21.1.7 photocopies of Council records (accessing records should be in accordance with Council’s Interaction between Councillor and Staff Policy); and

21.1.8 safety apparel for onsite inspections.

22 Insurance and legal cover

22.1 Council’s insurers will provide the following insurance cover for each Councillor while attending to Official Business and/or Professional Development:

22.1.1 Councillors and officers insurance;

22.1.2 public liability insurance;

22.1.3 professional indemnity insurance, which includes cover in relation to:

   (a) defending an action arising from the performance in good faith of a function under the Act;

   (b) defending a defamation action if the statements complained of were made in the performance in good faith of a function under the Act; and

   (c) defending proceedings before or by the:

     (1) Local Government Pecuniary Interest and Disciplinary Tribunal;

     (2) Independent Commission Against Corruption;

     (3) Office of the NSW Ombudsman;

     (4) Office of Local Government;

     (5) New South Wales Police Force; or

     (6) Director of Public Prosecutions,

     provided that the subject of the proceedings arises from the performance in good faith of a function under the Act and the investigative body makes a finding that is not substantially unfavourable to the Councillor.

22.1.4 personal accident insurance;

22.1.5 travel insurance; and

22.1.6 insurance of equipment and facilities provided under this policy.

22.2 If a claim made by or against a Councillor is accepted by Council’s insurers, Council will pay any insurance policy excess for the claim.
22.3 Council will not pay the Councillor’s legal expenses if:
   22.3.1 the associated claim is declined by Council’s insurer;
   22.3.2 the associated claim is not within the scope of Council’s insurance cover;
   22.3.3 the expenses relate to any legal proceedings, enquiry, investigation or hearing initiated by Council;
   22.3.4 the expenses relate to a Code of Conduct allegation, investigation, enquiry or censure;
   22.3.5 the expenses relate to any action (including defamation) taken by a Councillor as plaintiff; or
   22.3.6 the expenses relate to a Councillor independently seeking legal advice (including in relation to defamation).

23 Additional facilities for the Lord Mayor

23.1 Council will provide to the Lord Mayor:
   23.1.1 furnished office, with computer, printing and copying facilities, internet access, telephone and reasonable office refreshments such as tea, coffee, biscuits and daily newspapers;
   23.1.2 maintained motor vehicle of an appropriate standard and type with a fuel card and a car parking space at Council’s City Administration Centre for use in attending Official Business or Professional Development and daily attendance at the Lord Mayor’s Office;
   23.1.3 Lord Mayor’s Chains of Office and robes for official, civic and ceremonial use;
   23.1.4 Lord Mayor’s letterhead; and
   23.1.5 corporate credit card for the payment of expenses incurred in accordance with this policy.

23.2 The General Manager will make Council Officers available to assist the Lord Mayor to attend to Official Business in accordance with Council’s organisational structure, budget allocation and the Lord Mayor’s delegations.

23.3 When deputising for the Lord Mayor, the Deputy Lord Mayor will be provided with reasonable access to and use of the facilities provided to the Lord Mayor under this policy.

24 Return of facilities

If a Councillor ceases to hold office, the Councillor will return all facilities provided to them under this policy to Council unless purchased by the Councillor for fair market value as determined by the General Manager.

25 Council programs

25.1 Council will provide Councillors with access to:
   25.1.1 Council’s Employee Assistance Program in accordance with Council’s policy;
   25.1.2 Council’s Corporate Fitness Program in accordance with Council’s policy; and
   25.1.3 two tickets to a production or event:
       (a) presented by Civic Theatre Newcastle;
(b) presented by an organisation at the Civic Theatre if the Councillor is invited by the presenting organisation;
(c) sponsored by Council if the Councillor is invited by the event organiser; and
(d) held at the Newcastle Art Gallery, Newcastle Museum or Library.

26 Gifts

26.1 In circumstances where it is appropriate for a Councillor to give a gift (such as when representing Council on an Official Business), appropriate civic gifts of token value will be provided by Council.

Part E Payment and reimbursement

27 Payment

27.1 Expenses provided for in this policy can be paid by:

27.1.1 Council directly;
27.1.2 advance payments;
27.1.3 the Councillor and reimbursement by Council in accordance with this policy; or
27.1.4 the Lord Mayor on their corporate card (this is applicable to expenses incurred by the Lord Mayor only).

27.2 Assessment and approval for all types of payments must be in accordance with section 31.

28 Process for payments made by Council directly

28.1 If requested by a Councillor, Council will pay expenses directly to the Maximum Limit for each event relating to Official Business and/or Professional Development.

28.2 Requests for direct payment must:

28.2.1 on the Request for approval - Councillor expenses form be in writing and emailed to Councillor_Services@ncc.nsw.gov.au; and
28.2.2 provide sufficient information to allow assessment of the claim.

28.3 All claims for direct payment will be assessed in accordance with section 31.

29 Process for advance payments

29.1 If requested by a Councillor, Council will pay a cash advance to the Maximum Limit for each event relating to Official Business and/or Professional Development.

29.2 Requests for advance payment must:

29.2.1 be made using the Request for approval - Councillor expenses form; and
29.2.2 provide sufficient information to allow assessment of the claim

29.3 If a Councillor receives an advance payment from Council, the Councillor must, within 10 days of the event, provide to Council:
29.3.1 a full reconciliation of all expenses including receipts; and
29.3.2 a reimbursement of any amount of the cash advance that was not spent in attending to Official Business and/or Professional Development.

29.4 All claims for advance payment will be assessed in accordance with section 31.

30 Process for reimbursement

30.1 Reimbursement claims must be lodged with Council Services Team by the end of the month following the month in which the claim is for expenses incurred. For example, claims for expenses incurred in January must be lodged by the end of February. The claim should:

30.1.1 be made using the Request for approval - Councillor expenses form;
30.1.2 provide sufficient information to allow assessment of the claim; and
30.1.3 attach relevant tax invoices and receipts; or
30.1.4 if it is not possible to attach tax invoices and receipts, provide a statutory declaration explaining the calculation of the claim and why it should be paid.

30.2 All claims for reimbursement will be assessed in accordance with section 31. If a claim is not approved, Council should be sought prior to incurring the expenses to guarantee reimbursement. If a claim is lodged after the time period provided in clause 30.1, it may be refused.

31 Assessment and approval of payments and reimbursements

31.1 Claims for payment of an expense incurred by a Councillor as provided in section 27 of this policy will be assessed in accordance with the relevant sections of this policy, by at least two of the following:
31.1.1 General Manager;
31.1.2 Director Corporate Services;
31.1.3 Manager Council and Legal Services, or
31.1.4 Manager Finance.

31.2 If a claim is approved, Council will make payment directly or reimburse the Councillor through accounts payable.

31.3 If a claim is refused, Council will inform the Councillor in writing that the claim has been refused and the reasoning.

32 Claims Reimbursement to by-Council

32.1 If Council has incurred an expense on behalf of a Councillor that exceeds a Maximum Limit, exceeds reasonable incidental private use or is not provided for in this policy:
32.1.1 Council will invoice Councillors for the expense; and
32.1.2 the Councillor will reimburse Council for that expense within 14 days of the invoice date.
32.2 Invoices for actual costs incurred by a Councillor for private benefits will be issued where actual costs can be ascertained (for example costs of private use of a mobile phone will be calculated based on the mobile phone account).

32.3 Invoices for private use of a Council motor vehicle will be calculated using the rate set out in clause 11.2.3(a).

33 Dispute

33.1 If the Councillor disputes a determination under this policy, the Councillor should discuss the matter with the General Manager.

33.2 If the Councillor and the General Manager cannot resolve the dispute, the Councillor may submit a notice of motion to Council seeking to have the dispute resolved.

Part F Reporting

34 To Council

34.1 The General Manager must provide a quarterly report to Council detailing the monthly and cumulative yearly expenses incurred by each Councillor under this policy.

35.1 Annual report

35.1.1 The General Manager will include information on expenses and facilities provided under this policy in Council's Annual Report in accordance with the Act and Regulations.
<table>
<thead>
<tr>
<th>Submission</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 12:</strong></td>
<td>Further changes would result in additional costs to Council and the suggested change is not recommended.</td>
</tr>
<tr>
<td>Rephrase: “12.1 cost of a premium economy class air travel and associated transfers for all trips of 4 hours in duration or less; business class air travel for all trips greater than 4 hours in duration. The Lord Mayor, and other Councillors accompanying the Lord Mayor, may travel Business Class at the Lord Mayor’s discretion”</td>
<td></td>
</tr>
</tbody>
</table>

| **Section 13:** | Further changes would result in additional costs to Council and the suggested change is not recommended. |
| Rephrase: “13.2 By resolution Council has discretion as to mode of travel provided for in clauses 11 and 12 where it is not practical to apply those clauses in particular circumstances.” | |

| **Section 14:** | Clause 15 already allows for the provision of a mobile phone and payment of telephone calls and internet access. |
| Addition of 14.2: “Incidental expenses include reasonable out of pocket expenses incurred including telephone and facsimile calls, food and non-alcoholic beverages, internet charges laundry and dry cleaning, newspapers, taxi fares, toll roads and parking fees. | Clauses 20.3 and 20.4 already allows for the provision of meals and refreshments. |
| | Clause 11.2 and 11.3 already allows for payment or reimbursement of travel expenses, parking and tolls. |
| | Councillors do not wear a corporate uniform and attend meetings in their personal business attire. As such this change is inappropriate. |
| | The suggested change is not recommended. |

| **Section 21:** | Changes have been made to the Maximum Limit table in Part B and to clause 21 to reflect this suggestion. |
| Rephrase: “21.1.6 Reasonable assistance to prepare, receive, post and record correspondence, including postage fees. Councillors are entitled to post up to 50 standard mail items or equivalent per month cumulative within each financial year, up to a value of $500 | It is noted that the Lord Mayor's Office has a separate Office Budget for expenses in running the office which are in addition to the expenses incurred as a Councillor. This falls outside this policy and as such does not need to be included in the policy. |
per year.  
The limitation on mail items does not apply to the Lord Mayor."

| Section 23: |
| New clause: “The Lord Mayor is entitled to any equipment deemed essential to discharge the functions of their civic office as approved by the Deputy Lord Mayor and General Manager, including the establishment of a home office and a personal laptop computer”. |
| The OLG’s Guidelines for the Payment of expenses and the provision of facilities for Mayors and Councillors in NSW (October 2009), clause 1.6.3 provides:  
Councillor expenses and facilities policies must include all of the specific expenses for which councillors are entitled to receive reimbursement and all of the specific facilities councillors are entitled to use. Councillors can only receive reimbursement for expenses and the use of facilities when these are clearly identified in the policy.  
The overriding principle to be addressed in the development of a council expenses policy is that the details and range of expenses paid and facilities provided to councillors by the council must be clearly and specifically stated and be fully transparent and acceptable to the local community. Policies must include clear limits and processes for approval, reconciliation and reimbursement for all expenses and facilities to maximise accountability and transparency.  
"Deemed equipment" does not seem to meet the criteria of specific as set out in the OLG Guidelines.  
The suggested change is not recommended. |

| Rephrasing of 23.1.2: “maintained motor vehicle of an equivalent standard to that provided to the General Manager, with a fuel card and car parking space at the Council’s City Administration Centre. The Lord Mayor’s vehicle is maintained and replaced in accordance with Council fleet policy” |
| The General Manager/Interim CEO, as a Council employee, has a standard office of Local Government contract of employment which allows for him/her to salary sacrifice a car as part of their remuneration arrangement. The current interim CEO uses his own private motor vehicle.  
This option is not available to the Lord Mayor as the Lord Mayor is not a Council employee and instead is paid a Councillor allowance as an elected representative and provided with the use of a Council vehicle for official business only. Due to the nature of the Councillor's allowance it is not possible for the Lord Mayor to forgo part of the allowance to put towards a vehicle of a different standard to that issued by Council.  
The suggested change is not recommended. |
**New Clause:** "The Lord Mayor's Office operates to provide support to the Lord Mayor in carrying out their civic responsibilities, at the Lord Mayor's direction. It is allocated a budget by Council on an annual basis, and within that budget staff and other resources may be employed as considered appropriate by the Lord Mayor in consultation with the General Manager."

| Clause 23.2 provides for the allocation of council staff and a budget to the Lord Mayor's Office.  
Staff working in the Lord Mayor's office are employed by the General Manager/Interim CEO and not by the Lord Mayor. Staff working in the Lord Mayor's office are not subject to direction by the Lord Mayor but by the General Manager/Interim CEO.  
The suggested change is not recommended. |
---|---|

**Section 31:**

The proposed approval process is not in keeping with the OLG's Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW.

- **Rephrase:** "31.1 Claims for payment of an expense incurred by a Councillor as provided in this policy will be assessed in accordance with the relevant sections of this policy jointly by the Lord Mayor and General Manager (or General Manager's delegate). If the Lord Mayor requires approval, it should be given jointly by the Deputy Lord Mayor or another Councillor and the General Manager (or General Manager's delegate)."

| Clause 31 provides that Councillor expenses be approved by at least two of the following: General Manager, Director Corporate Services, Manager Council and Legal Services and Manager Finance. This is consistent with 1.6.7 of the OLG Guideline which provides:  
The policy must set out approval arrangements for all expenses and facilities provided. It should ensure that, where possible, approval is sought and gained prior to expenses being incurred. In particular, it should avoid any one person from being the sole decision maker. |
---|---|

1. The availability of the Lord Mayor, Deputy Lord Mayor or other Councillor (in the case of approvals for the Lord Mayor) at short notice to ensure claims for expenses for upcoming events are approved quickly. Currently, where a Councillor lodges a request to be approved for and booked into an upcoming event, the request is given priority by staff and the approval and booking occurs within a day or so. It is also noted that the Lord Mayor will need to be personally available to approve the expenses and it is not a matter of the Lord Mayor's staff seeking verbal approval on her behalf.  
2. When approving expenses, the approver must review the expenses previously incurred by the Councillor to ensure sufficient budget exists as provided for under the policy. The Lord Mayor and Deputy Lord Mayor would be required to contact the Director Corporate Services and request the required information from the Finance Team. This will again slow down the approval process and will mean Councillors requests to attend and be
booked into events would need to be submitted much earlier than at present. At present, it is understood, that a councillor may wish to book into events close to the date of the event for a variety of reasons.

3. The Councillor expense budget currently sits with Council and Legal Services. The budget would be required to move to the Lord Mayor’s Office and the Lord Mayor and staff in that Lord Mayor’s Office would be responsible for the budget and all administrative processes to ensure Council meets the required legislative obligations for payment of expenses to Councillors. As the Lord Mayor is entitled to claim expenses under the budget, there is less risk and it is more open and transparent for the budget to sit independent of a person who is entitled to make significant claims for expenses under that budget. Further, it is unusual practice that a Councillor could approve upwards, that is approve expenses of the Lord Mayor or Deputy Lord Mayor.

4. Council is required, in accordance with clause 217(1) (a1) of the Local Government General Regulation 2005 to report in its annual report a summary of expenses incurred. Currently, the staff in Council and Legal Services and Finance teams have an administrative process in place to ensure all expenses are appropriately captured and can be reported on in the annual report.

There appears to be no reason why Councillors would be dissatisfied with the current approval arrangements. It is noted that:

- During this term of Council, no claim for expenses specifically provided for under the policy have been disallowed (Councillors were asked to pay their own professional memberships as this was not allowed under the policy and most Councillors did not make a claim for this in the first instance).
- If expenses were disallowed by the General Manager, the draft Expenses Policy provides that the Councillor may seek a decision of the elected Council. As such, the General Manager is not the final decision maker in the current circumstances.
### Addition of new Sections:

- **Room Use:** “Councillors are entitled to make use of the Councillors Room in Town Hall and will be provided with access 24/7. Additionally, rooms within Town Hall may be booked at no cost for meetings conducted by a Councillor in the exercise of their Councillor duties, subject to availability and the approval of the Lord Mayor”

- **Meals at Council meetings - not included?**

  City Hall is not open 24/7 and this amendment would require change to the operation of City Hall prior to making this amendment. This is not feasible nor practical, nor necessary.

  Council may use the Councillors Room and the Lord Mayor’s Reception Room with the approval of the Lord Mayor. Council has a sophisticated booking system in City Hall hosting many events and as such any changes would require the Lord Mayor to liaise with council staff to book a room on behalf of a Councillor. The process for internal room bookings is subject to an internal re-charge and this policy would require amendment prior to the rooms being made available at no cost.

  Clause 20.3 provides for meals in the Lord Mayor’s Reception Room for Councillors at the conclusion of Council meetings.

  The suggested change is not recommended.
ITEM-106 CCL 24/11/15 - 2016 COUNCIL MEETING CYCLE AND DATES

REPORT BY: EXECUTIVE MANAGEMENT
CONTACT: INTERIM CHIEF EXECUTIVE OFFICER / MANAGER COUNCIL AND LEGAL SERVICES

PURPOSE

To adopt a Council meeting schedule for 2016.

RECOMMENDATION

1 Council adopts the following meeting schedule for 2016 with meetings to commence from 5.30pm:

(a) For the period February to November:

<table>
<thead>
<tr>
<th>Week</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Week 1 – Tuesday</td>
<td>No scheduled meetings</td>
</tr>
<tr>
<td>Week 2 – Tuesday</td>
<td>Workshops and community consultation events (as required)</td>
</tr>
<tr>
<td>Week 3 – Tuesday</td>
<td>Committee Meetings (as required):</td>
</tr>
<tr>
<td></td>
<td>• Inspection Committee</td>
</tr>
<tr>
<td></td>
<td>• Public Voice Committee</td>
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<tr>
<td></td>
<td>• Briefings Committee</td>
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<tr>
<td></td>
<td>• Development Applications Committee</td>
</tr>
<tr>
<td>Week 4 – Tuesday</td>
<td>Ordinary Council Meeting</td>
</tr>
<tr>
<td>Week 5 – Tuesday</td>
<td>No scheduled meetings</td>
</tr>
</tbody>
</table>

(b) For December:

<table>
<thead>
<tr>
<th>Week 1 – Tuesday (6 December 2016)</th>
<th>Committee Meetings (as required):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Inspection Committee</td>
</tr>
<tr>
<td></td>
<td>• Public Voice Committee</td>
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<tr>
<td></td>
<td>• Briefings Committee</td>
</tr>
<tr>
<td></td>
<td>• Development Applications Committee</td>
</tr>
<tr>
<td>Week 2 – Tuesday (13 December 2016)</td>
<td>Ordinary Council Meeting</td>
</tr>
<tr>
<td>Week 3 – Tuesday (20 December 2016)</td>
<td>No scheduled meetings</td>
</tr>
<tr>
<td>Week 4 – Tuesday (27 December 2016)</td>
<td>Christmas recess</td>
</tr>
</tbody>
</table>
KEY ISSUES

2 Council must determine its meeting schedule for 2016.

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

4 The recommended meeting schedule is consistent with Council's 2015 meeting schedule of two Council meeting nights and one workshop night per month which has worked well in practice. The recommendation complies the requirements of s. 365 of the Act.

5 It should be noted that local government elections will be held on 10 September 2016. It is expected that the Council will be required to assume a caretaker arrangement in August 2016. In accordance with cl.393B Local Government (General) Regulation 2005, during a caretaker period Council cannot perform the following functions:
   (a) entering a contract or undertaking involving the expenditure or receipt by the council of an amount equal to or greater than $150,000 or 1% of the council’s revenue from rates in the preceding financial year (whichever is the larger),
   (b) determining a controversial development application, except where:
        (i) a failure to make such a determination would give rise to a deemed refusal under section 82 of the Environmental Planning and Assessment Act 1979, or
        (ii) such a deemed refusal arose before the commencement of the caretaker period,
   (c) the appointment or reappointment of a person as the council’s general manager (or the removal of a person from that position), other than:
        (i) an appointment of a person to act as general manager under section 336 (1) of the Act, or
        (ii) a temporary appointment of a person as general manager under section 351 (1) of the Act.

6 A copy of the DLG Circular 12-19 dated 25 June 2012 is provided at Attachment A to demonstrate the arrangements put in place at the time of the previous election.

FINANCIAL IMPACT

7 The recommended 2016 meeting schedule is consistent with Council's 2015 meeting schedule and requires a similar budget allocation.

COMMUNITY STRATEGIC PLAN ALIGNMENT

8 Open and collaborative leadership.
IMPLEMENTATION PLAN/IMPLICATIONS

9 The recommended meeting schedule provided Council with a balanced, consistent workload during 2015.

10 In accordance with the requirements in the Act, Council advertises Council’s meeting dates and times in the Newcastle Herald on a regular, monthly, basis.

RISK ASSESSMENT AND MITIGATION

11 The recommended meeting schedule is consistent with the Act and Council’s Code of Meeting Practice.

RELATED PREVIOUS DECISIONS

12 25 November 2014 – Adoption of Council meeting schedule for 2015.

CONSULTATION

13 N/A

OPTIONS

Option 1

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

Option 2

15 Any alternative meeting schedule proposal for 2016 put forward by Councillors provided that it allows for 10 Council meetings, with each meeting being in a different month.

BACKGROUND

16 Nil.

REFERENCES

ATTACHMENTS

SEPTMBER 2012 LOCAL GOVERNMENT ELECTIONS – 
CARETAKER PROVISIONS

Purpose

With the upcoming local government elections in September 2012 this circular provides a summary of the new caretaker provisions pursuant to the Local Government Act 1993 and the Local Government (General) Regulation 2005.

Issue

- Like Commonwealth and State Government, local councils are expected to assume a caretaker role during the election period to ensure that major decisions are not made which would limit the actions of an incoming council.
- On 22 June 2012 amendments were made to the Local Government (General) Regulation to mandate what were formally caretaker conventions.
- Clause 383B requires that the council, the General Manager or any other delegate of the council (other than a Joint Regional Planning Panel or the Central Sydney Planning Committee) must not exercise the following functions during the four weeks preceding an ordinary election (caretaker period):
  - Entering into any contract or undertaking involving an expenditure or receipt by the council of an amount equal to or greater than $150,000 or 1% of the council’s revenue from rates in the preceding financial year (whichever is the larger).
  - Determining a controversial development application, except where a failure to make such a determination would give rise to a deemed refusal, or such a deemed refusal arose before the commencement of the caretaker period. The term “controversial development application” is defined as one for which at least 25 persons have made submissions by way of objection.
  - Appointing or renewing the appointment of the General Manager or terminating their employment. (This does not include the appointment of an acting or temporary General Manager).
- In particular cases these functions may be exercised with the approval of the Minister.
2

- The caretaker period for the September 2012 ordinary local government elections commences on Friday 10 August 2012 and ends on Saturday 8 September 2012.

**Action**

- General Managers are asked to bring this circular to the attention of all councillors and senior staff.

Ross Woodward
Chief Executive, Local Government
A Division of the Department of Premier and Cabinet
ITEM-107 CCL 24/11/15 - AUDIT REPORT COMMITTEE AND INTERNAL AUDIT ANNUAL REPORT

REPORT BY: COUNCIL & LEGAL SERVICES
CONTACT: GENERAL MANAGER / MANAGER COUNCIL & LEGAL SERVICES

PURPOSE

To provide an annual report to Council on the Audit Committee's oversight of the internal audit function, the management of risk and effectiveness of internal controls.

The report is being submitted in accordance with the Audit Committee Charter and Office of Local Government Internal Audit Guidelines. It is for information purposes only.

RECOMMENDATION

1  Council receives the Audit Committee and internal audit annual report for the 2014/2015 financial year.

2  Council note the Audit Committee's comments about the positive results and success in delivering the strategy to return Newcastle City Council to financial sustainability. The Audit Committee commended the work of management and the elected Council over the past three years to achieve this goal. The Audit Committee acknowledged that this has required a sustained effort and that discipline has been maintained around some challenging areas.

3  Council revert to the organisational structure adopted at the Ordinary Council meeting on 24 September 2013, as it ensures good governance and best practice by having the Internal Audit function reporting directly to the CEO.

KEY ISSUES

4  The Audit Committee "plays a pivotal role in the governance framework to provide Council with independent oversight and monitoring of Council’s audit processes, including Council’s internal control activities. This oversight includes internal and external reporting, risk management activities, internal and external audit and compliance." (The Division of Local Government, Internal Audit Guidelines, September 2010).

5  Reporting to Council is required by the Audit Committee Charter.

6  The Audit Committee Charter has been reviewed according to the approved schedule. No Audit Committee Charter amendments are currently proposed.
FINANCIAL IMPACT

7 The payment of external Audit Committee members has a moderate financial impact on Council. The total annual payment to Audit Committee external members was $18,590 for the 2014/2015 financial year. This was $6,613 less than the $25,203 provided in the operational budget. This reduction is the result of Audit Committee meetings running more efficiently and being shorter in duration.

8 The amount of $25,203 was approved in the 2015/2016 budget for the Audit Committee. Councillor members of the Audit Committee are not paid.

COMMUNITY STRATEGIC PLAN ALIGNMENT

9 Maintaining an Audit Committee supports the strategic direction of Open and Collaborative Leadership.

IMPLEMENTATION PLAN/IMPLICATIONS

10 Internal Audit and the Audit Committee support the General Manager to oversee Council's risk management and controls. Both functions are referenced in Council’s enterprise risk management framework.

RISK ASSESSMENT AND MITIGATION

11 Maintaining an Audit Committee and internal audit function reduces risks to Council. When internal audit functions are maintained, instances of fraud, corruption, misappropriation, reputational and financial damage are more likely to be identified. Internal audit also identifies opportunities to improve the efficiency and effectiveness of Council operations.

12 The implementation of audit actions must be balanced against the urgency of other projects and available resources. Risk levels are considered in determining audit priorities and how audit recommendations are addressed.

RELATED PREVIOUS DECISIONS

13 On 19 May 2009, Council established the Audit Committee.

14 On 15 November 2011, Council received the first annual Audit Committee report.

15 On 9 October 2012, Council adopted the Audit Committee Charter to replace the previous Audit Committee Constitution. Cr Dunn and Tierney were appointed as Councillor Members to the Audit Committee.

16 On 12 February 2013, Council received the second annual Audit Committee report.
17 On 23 September 2014, Council approved the appointment of Cr Waterhouse to replace Cr Tierney as the second Councillor member of Council’s Audit Committee, such appointment to be effective immediately.

18 On 25 November 2014, Council received the third annual Audit Committee report and adopted the current Audit Committee Charter.

CONSULTATION

19 This report was approved by the Audit Committee on 5 November 2015.

OPTIONS

Option 1

20 The recommendation as at paragraphs 1, 2 and 3. This is the recommended option.

Option 2

21 Council resolves not to adopt the recommendation at paragraphs 1 and 2. This is not the recommended option.

BACKGROUND

22 The Audit Committee is made up of three external, independent members and two Councillor Members. This membership is in accordance with the Office of Local Government Internal Audit Guidelines, (September 2010) and the Audit Committee Charter.

23 The Audit Committee Charter contains Audit Committee responsibilities. Broadly, these include oversight of Council's risk management, control framework, legislative compliance and internal audit. The Audit Committee also reviews the external audit opinion and recommendations and other aspects of financial governance and reporting.

24 The Committee has no power of direction over the external audit or the manner in which the external audit is planned or undertaken.

25 The Committee has no executive powers. It cannot make decisions on behalf of Council or direct Council officers in the performance of their duties.

REFERENCES

Nil
CITY OF NEWCASTLE

Ordinary Council Meeting 24 November 2015

ATTACHMENTS

ATTACHMENT A  Additional information - Audit Committee
ATTACHMENT A

ADDITIONAL INFORMATION

The Audit Committee

1 The current status of external members is:
   • Dr Col Gellatly (Chair), was appointed on 3 September 2013 for an initial 12 month term and his contract extended until 3 September 2017
   • Micah Jenkins, was initially appointed until 30 June 2015 and had his contract extended for a period of 12 months to 30 June 2016
   • Martin Matthews, was initially appointed until 30 June 2015 and had his contract extended for a period of 24 months to 30 June 2017

2 Contract extensions were decided by the Audit Committee Selection Panel in May 2015, after an expression of interest process. Existing members were considered to be a better fit with the existing Audit Committee in terms of skill set and experience.

3 Audit Committee activity since November 2014 has included:
   • Conducting five ordinary meetings
   • Approval of the 2015-2018 three-year Forward Internal Audit Plan
   • Endorsement of completed internal audits and implementation actions
   • Receipt of briefings from PricewaterhouseCoopers on Council’s annual external financial audit plan and draft audit report
   • Receipt of reporting on the investigation and court proceedings relating to a fraud matter
   • Receipt at each meeting of the most recent Monthly Financial Performance Report
   • Receipt of progress reporting at each meeting on the implementation of Enterprise Resource Planning (OneCouncil)
   • Reviewing Internal Audit performance results against adopted indicators
   • Participating in a performance self-assessment

4 A number of standing items are included in the Audit Committee business cycle. These are:
   • Annual insurance report
   • Bi-annual review of Work Health & Safety statistics
• Risk management report at each meeting
• Annual report on large write-offs
• Review of the annual external audit plan and briefing on the draft external audit report
• Bi-annual report on the performance and financial statements for Business Improvement Associations

5 Statistics are provided to the Audit Committee which report:

• the total number of audit actions
• the number of overdue audit actions from management
• the number of audit actions not completed by management within approved timeframes
• the number of audit actions which are dependent on the implementation of functions to be delivered by the OneCouncil suite of core programs

Risk Management

6 Risk management key activities are reported at each meeting of the Audit Committee. The Committee maintains interest in the implementation status of Council's enterprise risk management framework and clarification of risk data to inform business planning and decision-making, including the internal audit plan.

Satisfaction Survey Results

7 Internal Audit surveys stakeholder satisfaction after each audit has been completed. On a scale of 1-5, with 1 indicating Strong disagreement and 5 indicating Strong agreement, average results for overall satisfaction with audit scored 3.9.

8 The statements, 'The audit report was balanced and constructive', and 'I was given the opportunity to provide input on the findings and conclusions, and on the recommendations made to address them' both scored highly.

9 Lower average scores were achieved against statements related to audit timing and the statement 'The auditors demonstrated a good knowledge of the subject matter' scored an average of 3.5 for performance.

10 Internal Audit will continue to implement initiatives to improve audit performance and the satisfaction of stakeholders.

Performance Self-assessment

11 The Audit Committee performance self-assessment was conducted during July 2015. A questionnaire was used, with the objectives to:
a) determine the extent to which the Audit Committee is achieving its overall objective to provide independent assurance and assistance to Council on risk management, control, governance, and legal and regulatory obligations; and

b) assess the performance of Council's internal audit.

12 Four out of five members responded to the questionnaire. This represents an 80% response rate.

13 Members were asked to provide a rating in response to a total of 37 statements. 25 of the statements related to the function of the Audit Committee and 12 related to the function of Internal Audit.

14 Performance rating options were either 'strongly disagree', 'disagree', 'agree' or 'strongly agree'.

15 According to survey results, the areas reviewed by the Audit Committee which continue to require improvement are Council's risk management framework and the timeliness of implementing agreed audit actions. Survey comments reiterated these responses.

16 All responses strongly agreed that, overall, internal audit has made a valuable contribution to the achievement of Council's objectives.

17 To address the Audit Committee responses regarding risk, Council will continue to focus on implementing the risk management framework, collating risk data and prioritising risk strategies to support the achievement of Council business objectives.

Internal Audit

18 Council outsources most of the internal audit function. Outsourcing ensures a high level of independence and autonomy from Council's management and that specialised knowledge and skills can be procured to conduct audits of those high risk areas which could impact the achievement of Council’s objectives.

19 Reliance on internal resources is increasing. Internal resources are allocated to complete four audit engagements in the 2015/16 internal audit program. During 2014/15, Internal Audit resources either conducted, or supported the conduct of four extra reviews, additional to the approved forward internal audit plan.

20 On 16 June 2015, Council accepted the schedule of hourly rates tender of O'Connor Marsden & Associates Pty Limited to perform internal audit services from July 2015 for a period of three years with an option for Council to extend the period of the agreement for one year by written agreement.

21 This is a non-exclusive agreement that allows Council to appoint other, specialist audit providers as necessary.
22 One other specialist service provider was engaged during 2014/15. This was to conduct a specialist IT security review.

23 The Audit Committee and internal audit provider are supported by an Internal Audit Coordinator.

24 A total of 10 internal audits were approved for the 2014/15 period. The seven internal audits completed by 30 June 2015 were:

- RMS DRIVES audit
- Business continuity planning
- Business improvement associations (BIAs)
- Volunteer management
- National Heavy Vehicle Accreditation Scheme
- IT access and security
- Management of community halls

25 The two remaining internal audits from the 2014/15 approved program are nearing completion; contract variations and fraud and corruption management.

26 An audit of Council's management of utility costs was deferred for two years, due to the implementation of a new, web-based resource and utility tracking program.

**Forward Internal Audit Plan**

27 Management takes a risk-based approach to formulate a three year, rolling forward internal audit plan. The 2015-2018 forward internal audit plan was approved by the Audit Committee on 4 June 2015.

28 The audit planning process requires management to periodically consider risk levels, strategic objectives, audit history and other factors to determine audit priorities. These criteria are weighted to provide a scoring method so audit priorities can be ranked.

29 On the basis of these rankings, the Audit Committee has approved eleven internal audits to be completed during 2015/2016. These are:

- RMS DRIVES (mandatory annual requirement)
- Sponsorship management
- Plant hire and allocation
- Grant management and administration process
- Summerhill Waste Management Centre compliance with regulatory requirements
- Application of fees and charges
- Fire safety compliance management
- National Heavy Vehicle Accreditation Scheme (mandatory annual requirement)
- Payroll processing
30 Completion of this audit program will be subject to the management of audit costs within the budget allocated for internal audit services. The allocated operational budget for internal audit for 2015/16 is $125,829, being the same amount as allocated for 2014/15.

31 Management and the Audit Committee will review the forward internal audit plan periodically, to ensure that it continues to align with Council's risk priorities.

External Audit

32 The Audit Committee have continued to be proactive in reviewing Council's financial position and commitment towards achieving financial sustainability.

33 At a meeting on 20 August 2015, the Audit Committee was provided with a briefing on the External Auditor's plan for the annual external audit, along with comments on interim findings.

34 The Audit Committee met on 15 October 2015 to receive briefings on the draft audit opinion and Council's financial statements in respect of the year ended 30 June 2015. A management report of significant financial matters for year ended 30 June 2015 was reviewed. The report provided summary comparative information on key financial indicators and provided an update on Council's implementation of the Audit Committee recommendations made in March 2013.

35 The Audit Committee noted the positive results and success in delivering the strategy to return Newcastle City Council to financial sustainability and commended the work of management and Councillors to improve the Council's financial position over the past three years. The Audit Committee acknowledged that this has required a sustained effort and that discipline has been maintained around some challenging areas.
ITEM-109 CCL 24/11/15 - EXECUTIVE MONTHLY PERFORMANCE REPORT - OCTOBER 2015

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

PURPOSE

To report on Council’s Monthly Performance. This includes:

a) Monthly financial position and year to date (YTD) performance against the 2015/16 Operational Plan as at the end of October 2015.

b) Investment of temporary surplus funds under section 625 of the Local Government Act 1993 (Act), submission of report in accordance with the Act and clause 212 of the Local Government (General) Regulation 2005 (Regulation).

RECOMMENDATION

1 The report be received.

KEY ISSUES

2 At the end of October 2015 the consolidated YTD actual operating position is a surplus of $4.5m which represents a positive variance of $2.1m against the budgeted surplus of $2.4m. This budget variance is due to a combination of income and expenditure variances which are detailed in Attachment A. The full year Adopted Budget for 2015/16 is an operating deficit of $9.5m.

3 The October YTD position includes $5m of revenue items which are one-off or cannot be applied to meet operational expenditure ($1.8m 2012 SRV revenue, $1m consolidation of Newcastle Airport result, $0.7m stormwater management service charge, $0.5m local roads financial assistance grant and $1m dividend from Lehman Bros). When these items are removed Council’s sustainable underlying operating position at the end of October is a deficit of $0.5m.

4 The net funds generated at the end of October 2015 is a surplus of $12.3m (after capital revenues, expenditure and loan principal repayments). This is a positive variance to budget of $6.2m.
### Financial Impact

5 The variance between budget and actual YTD results at the end of October 2015 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>YTD Adopted Budget $’000</th>
<th>YTD Actual Result $’000</th>
<th>Variance $’000</th>
<th>Variance %</th>
<th>Financial Impact</th>
<th>Commitments $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Operating Revenue</td>
<td>233,044</td>
<td>77,281</td>
<td>77,524</td>
<td>243</td>
<td>0%</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>242,585</td>
<td>74,872</td>
<td>72,978</td>
<td>1,894</td>
<td>-3%</td>
<td>+</td>
<td>14,240</td>
</tr>
<tr>
<td>Total Operating Revenue Less Operating Expenditure</td>
<td>(9,541)</td>
<td>2,409</td>
<td>4,546</td>
<td>2,137</td>
<td>89%</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Total Capital Raising revenue</td>
<td>36,707</td>
<td>12,500</td>
<td>12,567</td>
<td>67</td>
<td>1%</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Add Back Non Cash Items</td>
<td>40,161</td>
<td>9,345</td>
<td>9,345</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Funding available for capital expenditure</td>
<td>67,327</td>
<td>24,253</td>
<td>26,457</td>
<td>2,204</td>
<td>9%</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Total capital spend</td>
<td>68,321</td>
<td>17,272</td>
<td>13,251</td>
<td>(4,021)</td>
<td>-23%</td>
<td>+</td>
<td>7,790</td>
</tr>
<tr>
<td>Loan Principal Repayment</td>
<td>2,600</td>
<td>867</td>
<td>867</td>
<td></td>
<td>0%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Funds Generated / (Used)</td>
<td>(3,594)</td>
<td>6,115</td>
<td>12,340</td>
<td>6,225</td>
<td>102%</td>
<td>+</td>
<td></td>
</tr>
</tbody>
</table>

Note 1 - Actual and Budget results include an estimate for the Newcastle Airport.
6 Factors favourably impacting Financial Position

   i  **Interest – increase of $0.5m**
   Council’s Investment Portfolio continues to return a higher than forecast investment return, primarily due to a higher investment portfolio balance than budgeted.

   ii  **Other operating revenues – increase of $0.6m**
   $1m dividend paid by Lehman Brothers Australia liquidation. Full details reported in Investment Report in Attachment A.

   iii  **Employee Costs – decrease of $0.5m**
   General employee costs are below budget due to a number of vacant positions.

   iv  **Materials and Contracts – decrease of $1.5m**
   There is lower spending on general maintenance than forecast mainly split between Building Trades ($0.4m) and Parks ($0.3m). In addition operational projects within Waste Management are under the YTD budget ($0.5m). At this stage of the year it is expected that material budgets will be required full term.
Factors adversely impacting Financial Position

i  **User charges & fees – decrease of $0.5m**

Commercial waste tonnages at Summerhill Waste Management Centre are below budgeted levels which has had a negative impact on revenue.

8  At the end of October commitments raised against operating expenses totaled $14.2m. The commitments represent both the work currently being undertaken and awaiting invoice as well as the work planned for the future. Major commitments include:

   i  **State Waste Levy – $2.2m**
   ii  **Parking projects – $0.8m**
   iii  **General audit services – $0.4m**
   iv  **Street lighting – $0.3m**
   v  **Road and building maintenance – $1m**.

9  The month of October returned an operating result of $0.8m. There was an increase in the expenditure generated through road maintenance however this was offset by a reduction in the monthly depreciation charge resulting from the recalculation of Council’s depreciation after the road revaluation performed as part of the completion of the 2014/15 financial statements. The full financial impact of this revaluation for the 2015/16 financial year will be reported as part of the September Quarterly Performance Report. Typically the capital works expenditure accelerates as the year progresses. There are also seasonal factors which will result in both revenue and expense timing variations by month.

![Trend in monthly operating position](image)
10 Council’s total capital spend at the end of October is $13.3m. This result is $4m below the YTD budget (which is phased in line with the anticipated work schedule). If the full year capital expenditure budget ($68m) was split evenly over the year the October YTD budget would be $22.7m which is $9m in excess of the October YTD actual expenditure of $13.3m.

11 Council’s program of project work tends to accelerate as the year progresses and it is expected that the full program will be delivered in 2015/16. As the capital work program intensifies Council can expect a flow on effect into the expenditure line of Materials & Contract for operational project expenses.

12 At the end of October commitments raised against capital work totaled $7.8m. The commitments represent both the work currently being undertaken and awaiting invoice as well as the work planned for the future. Major commitments include:

i  **Building renewal – $2m**
Commitments relate to the repairs on City Hall as well as the erection of a new roof in the Newcastle Museum.

ii  **Road renewal – $0.8m**

Commitments include $0.5m for the contractors rebuilding Shortland Esplanade.

iii Coastal Revitalisation – $0.6m
Projects undertaken to deliver coastline revitalisation between Nobbys and Newcastle.

iv Other works
Other major works currently underway include Fleet replacement ($3m).

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

COMMUNITY STRATEGIC PLAN ALIGNMENT

14 This report aligns to the Community Strategic Plan under the strategic direction of ‘Open and collaborative leadership’ action 7.4b ‘ensure the management of Council’s budget allocations and funding alternatives are compliant with Council policy and relevant legislation to ensure the long term financial sustainability of the organisation.’

IMPLEMENTATION PLAN/IMPLICATIONS

15 The recommendation for the report to be received is consistent with:

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

b) Council’s Investment Policy and Strategy, and

c) the Regulation and s 625 of the Act.

RISK ASSESSMENT AND MITIGATION

16 No additional risk mitigation has been identified this month.

RELATED PREVIOUS DECISIONS

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

CONSULTATION

18 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

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

Option 2

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

BACKGROUND

21 Previous resolutions of Council and the Internal 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.

22 The Executive Monthly Performance Report now incorporates a Customer Service section. This will be refined as Council develops a more detailed and comprehensive customer service solution with integrated tracking of customer requests through to completion.

23 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.

24 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 & Charges which have been waived or reduced.

REFERENCES

ATTACHMENTS

Attachment A: Executive Monthly Performance Report for October 2015
Distributed under separate cover
ITEM-110  CCL 24/11/15 - ENDORSEMENT OF 2014/15 ANNUAL REPORT

REPORT BY:  DIRECTOR CORPORATE SERVICES
CONTACT:  DIRECTOR CORPORATE SERVICES

PURPOSE

In accordance with the provisions of Sections 428 of the Local Government Act 1993 (as amended) and clause 217 of the Local Government (General) Regulation 2005, Council's 2014/15 Annual Report is tabled for presentation to Council.

RECOMMENDATION

1  Council receives Newcastle City Council's 2014/2015 Annual Report, in respect of the year ended 30 June 2015 and notes the submission to the NSW Minister for Local Government by 30 November 2015.

KEY ISSUES

2  To comply with s 428 of the Local Government Act 1993 and clause 217 of the Local Government (General) Regulation 2005. Council is required to complete its Annual Report by 30 November 2015, provide a copy to the Minister for Local Government and place a copy on Council's website. In addition, the Annual Report is required to report Council's achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objective at which those principal activities were directed.

FINANCIAL IMPACT

3  A budget of $2,000 was identified in the 2014/15 Operational Plan for the production of the document and it is expected that the actual costs will remain within this budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

4  Newcastle City Council's 2014/15 Annual Report documents Council's performance against the seven strategic directions documented within the Newcastle 2030 Community Strategic Plan.

IMPLEMENTATION PLAN/IMPLICATIONS

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

6 To ensure Council meets all statutory reporting requirements under s 428 of the Local Government Act 1993 and clause 217 of the Local Government (General) Regulation 2005 a compliance matrix listing all relevant reporting areas was developed.

RELATED PREVIOUS DECISIONS


8 Adoption of the audited 2014/15 Annual Financial Statements at the Council meeting on 27 October 2015.

CONSULTATION

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

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

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

OPTIONS

Option 1

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

Option 2

13 Council resolves not to receive the 2014/15 Annual Report. This is not the recommended option.

BACKGROUND

14 Newcastle City Council's 2014/15 Annual Report has been prepared to report Council's achievements against the strategic objectives and performance measures outlined in the 2013-2017 Delivery Program and 2014/15 Operational Plan, as required by the Local Government Act 1993.

15 The Annual Report addresses the seven key focus areas identified in the Community Strategic Plan: Connected City, Protected and Enhanced Environment, Vibrant and Activated Public Places, Caring and Inclusive Community, Liveable and Distinctive Built Environment, Smart and Innovative City and Open and Collaborative Leadership.
16 The Annual Report addresses all other statutory requirements as outlined in the Local Government Act and Regulations.

17 The Statutory Financial Statements for 2014/15 will be submitted as an attachment with the Annual Report 2014/15 to the Minister for Local Government.

REFERENCES

ATTACHMENTS

Attachment A: Newcastle City Council's 2014/15 Annual Report
Distributed under separate cover
ITEM-111 CCL 24/11/2015 - WALLSEND LOCAL CENTRE PUBLIC DOMAIN PLAN

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

PURPOSE

To outline the scope of work and cost estimate of undertaking a Wallsend Local Centre Public Domain Plan in relation to the resolution of Council dated 26 May 2015.

RECOMMENDATION

1 Council resolves to proceed with the preparation of a Wallsend Local Centre Public Domain Plan to guide future public works; and

2 Council allocates $15,000 to undertake this work.

KEY ISSUES

3 Council resolved, amongst other matters, on 26 May 2015 the following:

"B - A report be prepared for presentation to Council to reallocate the 3% budgeted for allowances to develop a Wallsend Town Centre Masterplan. Including but not limited to:

- Pedestrian and Footpath upgrades
- Façade improvement scheme
- Road and bridge works."

4 This report is in relation to resolution B above.

5 Priority is now being given to preparation of a Wallsend Local Centre Public Domain Plan (PDP). The terminology 'Public Domain Plan' rather than 'Masterplan' is used because it will apply to public land only (not private land). The Wallsend Local Centre PDP will guide the future design of Wallsend's streets and public spaces, whether undertaken by Council or as part of a development proposal. Wallsend Local Centre is zoned B2 Local Centre under the Newcastle LEP 2012.

6 Council officers are in the process of preparing a brief to undertake the Wallsend Local Centre PDP. The study area is shown in Attachment A.
7 The scope of works will include a site analysis, audit of the existing conditions and review of previous plans for current relevance. This will inform the development of objectives and design principles which will seek to maximise opportunities and mitigate risks to the public and businesses.

8 The PDP will be limited to address the location and preferred treatment for the following:

- Footpath/Street treatment
- Street and Pedestrian lighting
- Street Trees
- Street Furniture

9 Façade Improvements
It is understood that the Wallsend Business Improvements Association (BIA) already has a Signage Grants Renew and Refresh Your Business/Shopfront grant process whereby grants include a 50% rebate on signage costs up to $1000 and a $500 rebate of those over $1000. The Wallsend Local Centre PDP will not address façade improvements.

10 Road and Bridge Works
Works on roads and bridges within Wallsend Local Centre will be prioritised by Council under its Major Asset Preservation Program (MAPP).

Council is also preparing a Local Centres Technical Manual which will prescribe a consistent suite of materials and furniture for use in local centres across Newcastle. This will provide efficiencies in the documentation, procurement and construction of public domain works.

12 Consultation with the community will form part of the project and will include liaison with the Business Improvement Association, and a community information session at draft concept stage.

13 It is anticipated work on the PDP could commence in mid January 2016, with a completion date for the PDP by April 2016.

FINANCIAL IMPACT

14 The cost of a Wallsend Local Centre PDP is estimated to be $15,000. $12,127 will be provided from diverted budget for Councillor allowances with the total allocation requested in a quarterly review.

COMMUNITY STRATEGIC PLAN ALIGNMENT

15 The strategic directions, as outlined in Newcastle 2030 that are most relevant to the Wallsend Local Centre are:

- Connected City
Transport networks and services will be well connected and convenient. Walking, cycling and public transport will be viable options for the majority of our trips.

- **Vibrant and Activated Public Places**
  A city of great public places and neighbourhoods promoting people’s health, happiness and wellbeing.

- **Protected and Enhanced Environment**
  Our unique environment will be understood, maintained and protected.

- **Liveable and Distinctive Built Environment**
  An attractive city that is built around people and reflects our sense of identity.

**IMPLEMENTATION PLAN/IMPLICATIONS**

16 Implementation of works recommended from this plan will be subject to funding availability in future budgets.

**RISK ASSESSMENT AND MITIGATION**

17 There is minimal risk in the preparation of a Public Domain Plan.

**RELATED PREVIOUS DECISIONS**

18 See Background.

**CONSULTATION**

19 Consultation with the community and the Wallsend BIA will occur during the preparation of the Wallsend Local Centre PDP.

**OPTIONS**

**Option 1**

20 The recommendation as at Paragraphs 1-2. This is the recommended option.

**Option 2**

21 Do not undertake PDP. This is not the recommended option.

**BACKGROUND**

22 Council resolved on 26 May 2015 the following:

"A Council approve:"
1. An increase of 0% to the annual fees payable to the Lord Mayor in accordance with s. 249(1) of the Local Government Act, 1993 (the Act);

2. An increase of 0% to the annual fees payable to Councillors in accordance with s. 248(1) of the Act;

B A report be prepared for presentation to Council to reallocate the 3% budgeted for allowances to develop a Wallsend Town Centre Masterplan. Including but not limited to:

- Pedestrian and footpath upgrades
- Façade Improvement Scheme
- Road and bridge works"

ATTACHMENTS

Attachment A: Map of Study Area

Attachment distributed under separate cover.
ITEM-112 CCL 24/11/2015 - CULTURAL STRATEGY 2016-2019

REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / CULTURAL DIRECTOR

PURPOSE

The purpose of this report is to advise Council on the outcomes of the public exhibition of the draft Cultural Strategy 2016-2019 and seek a Council resolution to adopt the strategy as provided in Attachment A.

RECOMMENDATION

1 Adopt the Cultural Strategy 2016-2019 in the form as provided in Attachment A.

KEY ISSUES

2 On 25 August 2015 Council considered a report on the Cultural Strategy 2016-2019 and resolved to:

   a) Place the Cultural Strategy 2016-2019 on public exhibition for a period of four weeks.

3 The Cultural Strategy 2016-2019 was publicly exhibited for four weeks between 31 August and 28 September 2015. Council received 63 written submissions (summarised in Attachment B).

FINANCIAL IMPACT

4 Adoption of the Cultural Strategy 2016-2019 will be undertaken within the existing operational budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

5 The Cultural Strategy 2016-2019 expands on the cultural components of the Newcastle 2030 Community Strategic Plan and outlines Council's cultural actions that will contribute to achieving the vision for Newcastle in 2030.

6 The actions within the strategy fall primarily within the strategic objectives of:

   • Vibrant and Activated Public Places
   • Caring and Inclusive Community
   • Liveable and Distinctive Built Environment
   • Smart and Innovative City
7 The strategy comprises strategies and actions across directorates of Council that will deliver the identified cultural outcomes.

IMPLEMENTATION PLAN/IMPLICATIONS

8 The Cultural Strategy 2016-2019 has been developed largely to be delivered within existing resources. Actions identifying new programs or projects not within current budgets have been timed for future budget periods, and funding will be sought through the usual budget processes or through grant funding, sponsorship or donations where appropriate and available.

RISK ASSESSMENT AND MITIGATION

9 There is no risk to Council in adopting the Cultural Strategy 2016-2019.

RELATED PREVIOUS DECISIONS

10 On 25 August 2015, Council resolved to place the Cultural Strategy 2016-2019 on public exhibition for a period of four weeks.

CONSULTATION

11 The development of the Cultural Strategy 2016-2019 was informed by a series of 11 formal interviews and 6 public workshops held during April - May 2015. Participants included a diverse range of voices including audience members, artists and creative practitioners, historians, academics and key stakeholders. In addition, three staff workshops were held with representatives from Strategic Planning, Cultural Facilities and Library Services. Overall, just over 250 people actively participated in the development of this strategy of which 80% were drawn from our community. In addition, existing research from the field was drawn on including progress reports of the University of Newcastle's Research Project Mapping the Creative Industries in Newcastle.

12 The Cultural Strategy 2016-2019 was publicly exhibited for four weeks between 31 August and 28 September 2015. Participants in the public consultation process, key stakeholders and the general public were invited to make submissions and Council received 63 responses in total, many of which were very detailed and demonstrated people had given the strategy close consideration.

13 41 (65%) of the submissions received include comments with respect to the reinstatement of the position of Art Gallery Director. Thirty five (35) respondents (55%) comment on the need for a redevelopment of the Art Gallery. In total, 41% of all the responses only address one or both of these issues and make no other comment on the strategy. It should be noted that while support for the redevelopment of the Art Gallery and reinstatement of the position of Art Gallery Director was prominent in one of the public consultations, the dominance of this discussion was limited to this forum.
14 While the call for a designated Art Gallery Director is noted, more relevantly the Strategy captures this call from the community by clearly stating the desire for increased Cultural leadership by Council. As an organisational staffing matter, the appointment of an Art Gallery Director is beyond the scope of the Cultural Strategy.

OPTIONS

Option 1

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

Option 2

16 Council not adopt the Cultural Strategy 2016-2019. This is not the recommended option.

BACKGROUND

17 Council does not have a current Cultural Plan or Strategy. The most recent strategic document was the *Cultural Framework 2005-2010: Our Wonderful Life*.

REFERENCES

ATTACHMENTS

Attachment A: Cultural Strategy 2016-2019
Distributed under separate cover

Attachment B: Summary of Written Submissions
Distributed under separate cover
ITEM-113 CCL 24/11/15 - REGIONAL COLLABORATION - CENTRAL EAST ZONE PUBLIC LIBRARIES

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

PURPOSE

To provide a report for the Council to approve the proposed Memorandum of Understanding for Regional Collaboration between the public libraries of the Central East Zone and to renew Councillor representation to the Central East Zone meetings.

RECOMMENDATION

1 The Council endorses the Memorandum of Understanding for Regional Collaboration.

2 The Council renews representation to the Central East Zone through nomination; and

3 The Council notes the application seeking project seed funding from the Public Library Infrastructure Grants to investigate a regional Library management system (OneLMS).

KEY ISSUES

4 The Memorandum of Understanding for Regional Collaboration (MOU) aims to develop a range of collaborative projects for the benefit of the communities of the member Councils.

5 The Central East Zone members developed a Strategic and Marketing plan at a workshop in May 2015.

6 One of the key pillars of the strategic plan was to maximise the benefits of regional collaboration through a formal MOU. In addition, a key objective was to redefine the purpose of the meetings and to re-engage with Councillor representatives.

7 The benefits of regional collaboration through projects such as the OneLMS can achieve operational efficiencies through shared staff support, pooled resources to support IT systems. The aim in collaborating on strategic projects is to achieve a better range of services or the ability to deliver higher quality services by sharing knowledge, skills and resources. Collaboration between the Central East Zone member Council and libraries will highlight local initiatives and raise
awareness of the breadth of services offered by public libraries in the locality through common messaging and communication.

8 The attached MOU aims to maximize the efficiencies of regional collaboration through a framework of joint projects and funding submissions.

FINANCIAL IMPACT

9 The MOU is a non-binding agreement that facilitates partnerships and funding applications such as the One Library Management System Project. The OneLMS project involves the market testing of the member Council library management systems as needed. Newcastle LMS is at the end of contract.

10 The OneLMS project grant application will provide seed funding to undertake a regional cost benefit analyses and develop the project to implementation stage.

11 There is no financial commitment to the project at this stage. If the Council opts to join the project, the existing adopted budget allocated to licenses and software support for the current library management system will be used.

COMMUNITY STRATEGIC PLAN ALIGNMENT

12 The establishment of a MOU aligns with the following strategic directions of Newcastle:

- Caring and inclusive community
- Smart and innovative City

IMPLEMENTATION PLAN/IMPLICATIONS

13 Regional Collaborations and partnerships are important in delivering benefits and efficiencies in library services to the community.

RISK ASSESSMENT AND MITIGATION

14 Nil

RELATED PREVIOUS DECISIONS

15 Nil

CONSULTATION

16 Nil
OPTIONS

Option 1
17 The recommendation as at Paragraph 1 – 3. This is the recommended option.

Option 2
18 Not adopt the recommendations as at Paragraph 1 – 3. This is not the recommended option.

BACKGROUND
19 NSW public libraries are divided into regional zones. Central East Zone comprises the Council libraries from the municipalities of Gosford, Wyong, Cessnock, Lake Macquarie, Maitland, Singleton, Muswellbrook to Port Stephens. Upper Hunter Libraries and Newcastle Region Library which includes Port Stephens, Dungog and Gloucester Libraries under the Joint Library Agreement.

20 Central East Zone is a formal regional body of the State Library of NSW under the Library Act. It meets four times per year with membership comprising Councillor representatives and Library managers or their delegates.

21 The OneLMS project is the first collaboration for the Central East Zone. Several Central East Zone member Councils are at "end of life" for their library management systems. Newcastle Region Library is out of contract.

REFERENCES

ATTACHMENTS

Attachment A: MOU for Regional Collaboration Central East Zone
Attachment B: Central East Zone Strategic Plan
Attachment C: One LMS funding application
Memorandum of Understanding
In relation to Regional Collaboration.

Between the member Councils of the NSW Public Libraries Association Central East Zone

Cessnock City Council of 62-78 Vincent Street, Cessnock NSW 2325;
Gosford City Council of 49 Mann Street, Gosford NSW 2250;
Lake Macquarie City Council of 126 – 138 Main Road, Speers Point NSW 2284;
Maitland City Council of 265-287 High Street, Maitland NSW 2320;
Muswellbrook Shire Council of 157 New England Highway, Muswellbrook NSW 2333;
Newcastle City Council of 282 King Street, Newcastle NSW 2300;
Port Stephens City Council of 116 Adelaide Street, Raymond Terrace NSW 2324;
Singleton Council of 8-10 Queen Street Singleton NSW 2330;
Upper Hunter Shire Council of 135 Liverpool Street, Scone NSW 2337;
Wyong City Council of 2 Holy Street, Wyong NSW 2259.

Value Position

Our shared vision
Supporting the delivery of high quality library services to the people of Hunter and Central Coast

Our shared mission
To advance the interests of public libraries in New South Wales

Our shared values
Equity: We provide excellent library services to all within our diverse and changing communities’ right across New South Wales
Integrity: We are committed to ethics of the library profession and always act with integrity.
Quality of Representation: We value to role our councillor representatives play in championing the interest of public libraries and our manager representatives for their passion and professionalism.
Community Engagement: We continually engage with our communities to ensure that our services remain responsive to their needs and aspirations.

Aim of Regional Collaboration

Pursuing regional efficiencies to enhance the delivery of innovative, cost effective regional library services.

Principle in agreement

1. All parties must act in good faith;
   a. And not carry out any work that competes or contravenes the principles of this agreement;
   b. And engage in and support the philosophy of regional collaboration.

2. Each partner Council has the option of providing in-kind contribution to regional projects by way of:
   a. Providing professional library staff time to engage with and develop the project/s
   b. Providing professional capacity to undertake delegated project leadership roles
Attachment B

NSWPLA
CENTRAL EAST ZONE

STRATEGIC PLAN

2015/16 - 2017/18

Attachment C
Overview

Public Library Infrastructure Grants are an instrument to support and encourage public libraries to deliver transformative outcomes, including by building and improving technology systems. The funds will be used to support projects and projects that increase public access and technology, are priority areas under the program.

Public Library Infrastructure Grants are available to NSW local authorities and councils that have adopted the Library Act and provide public library services in accordance with that Act.

Library Council has identified the following strategic priority areas for funding:

- Library buildings and spaces
- Mobile libraries
- Major information and communication technology projects
- Cooperative library environment activities

Applications close 5pm, Friday 30 October 2015

Applying for a grant

To apply for a grant, applicants must:

1. Be a NSW public authority and have identified a library or IT capital

2. Meet requirements outlined in the Public Library Infrastructure Grant Guidelines

3. Submit completed online application by 5pm Friday 30 October 2015

Please read the Guidelines carefully before completing your application.

Applicants are directed in the People Places & Things In Public Library Buildings in NSW: Starting Points and Starter Kits for Implementing Building Related Initiatives.

Applicants are advised to reference appropriate standards and guidelines from Library Council of New South Wales and NSW Public Libraries Library Policies and Procedures.

Applicants may contact the State Library of New South Wales for advice before submitting an application.

Applicants must address each question.

Applications are assessed against the following criteria:

- Impact and demonstrated community benefit
- Relevance to needs of diverse communities
- Value of cultural commitment
- Evidence to support ongoing sustainability of the project
ITEM-114 CCL 24/11/15 - 4 MAYO STREET, JESMOND - ENDORSEMENT OF PROPOSED AMENDMENT TO NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012

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

PURPOSE

This report seeks Council’s endorsement of a planning proposal to commence the statutory process to prepare amendments to Newcastle Local Environmental Plan (LEP) 2012. The planning proposal is in relation to land that Council owns at 4 Mayo Street, Jesmond and involves the reclassification and rezoning of the land.

RECOMMENDATION

1 Council resolves to:

   a) Endorse the attached planning proposal (Attachment A), pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, in order to amend Newcastle Local Environmental Plan 2012 for land at Part 4 Mayo Street Jesmond, as follows:

      i. Amend the Land Zoning Map to rezone part of the site from RE1 Public Recreation to R2 Low Density Residential.

      ii. Amend the Height of Buildings Map to include a maximum permissible height of 8.5 metres over the land proposed to be zoned R2 Low Density Residential.

      iii. Amend the Floor Space Ratio (FSR) Map to include a maximum permissible FSR of 0.75 over the land proposed to be zoned R2 Low Density Residential.

      iv. Amend the Minimum Lot Size Map to reduce the minimum lot size of 40 hectares to 450m2 over the land proposed to be zoned R2 Low Density Residential.

      v. Amend the Minimum Lot Size Map to reduce the minimum lot size of 40 hectares to 4000m2 over the land to remain RE1 Public Recreation.

      vi. Include the subject land within Part 2 – Land classified or reclassified, as operational land – interests changed within Schedule 4 Classification and reclassification of public land, as follows:

         • Column 1 to read “Jesmond”
b) Forward the planning proposal to the Minister for Planning and Environment for Gateway Determination pursuant to Section 56 of the EP&A Act 1979.

c) Advise the Secretary of Planning and Environment that Council does not seek to exercise delegations for undertaking Section 59(1) of the EP&A Act 1979.

d) Consult with the community and relevant government agencies as instructed by the Gateway Determination, noting that section 29 of the Local Government Act 1993 requires a public hearing to be held in respect of the reclassification of the land.

e) Receive a report back on the planning proposal following completion of the required consultation.

KEY ISSUES

2 The planning proposal (Attachment A) was prepared in accordance with Department of Planning guidelines and Council’s Local Environmental Plan – Request for Amendment Policy.

3 Council resolved on 9 December 2014 to endorse the preparation of a planning proposal to enable the appropriate rezoning and reclassification of the site. Council’s Commercial Property section engaged City Plan Services to investigate the site and prepare a planning proposal on Council’s behalf.

4 A request to amend the Newcastle Local Environmental Plan (LEP) 2012 was lodged with Council’s Strategic Planning section. The original request proposed to rezone part of Maclure Reserve from RE1 Public Recreation to R2 Low Density Residential and reclassify Maclure Reserve in its entirety from Community to Operational removing the 40 hectare minimum lot size from the part of the land to remain zoned RE1 Public Recreation.

5 Following assessment of the LEP amendment request, Council officers concluded that the reclassification of Maclure Reserve in its entirety and the removal of the 40 hectare minimum lot size from the RE1 zoned land should not proceed.

6 Following further consultation with the applicant, the request was amended and the attached planning proposal has been prepared to reclassify to operational only the portion of Maclure Reserve that is to be rezoned to R2 Low Density Residential and leave the part of the reserve that is to remain zoned RE1 Public Recreation classified as community land. The planning proposal documents
the issues considered in assessing the appropriateness of the proposed amendments.

7 The minimum lot size map will also be amended to provide a minimum lot size of 450m² on the part of the land to be zoned R2 Low Density Residential and 4,000m² on the part of the land to remain zoned RE1 Public Recreation.

8 Maclure Reserve currently is approximately 10,400m². The proposed amendments will result in a Maclure Reserve being reduced to 6,100m² and the proposed R2 Low Density Residential area being approximately 4300m². As the minimum lot size is proposed to be 450m², the residential lot could yield approximately 7-9 lots.

9 If endorsed by Council, the planning proposal will be forwarded to the Minister for Planning and Environment for Gateway Determination. Gateway Determination will confirm initial support for the draft planning proposal, and identify what further technical studies and community consultation are required prior to the proposed amendments being determined.

10 Strategic Planning staff recommend that Council do not seek delegations under Section 59(1) of the EP&A Act 1979 given the added impost on Council resources without any additional influence on the outcomes. These delegations obligate Council to prepare the final reporting, drafting and mapping in order for the Minister of Planning and Infrastructure to ‘make’ the proposed amendments to Newcastle LEP 2012. Where Council does not exercise these delegations, Planning and Infrastructure undertakes these requirements.

FINANCIAL IMPACT

11 Council is able to recoup costs associated with the preparation of a draft planning proposal, undertaking consultation, and preparation of technical studies, pursuant to Clause 11 of the Environmental Planning and Assessment (EP&A) Regulation 2000.

12 Fees (as outlined within Council’s Fees and Charges Register) will be applied in accordance with Council’s LEP Request for Amendment Policy (2012). That is, prescribed fees apply to all formal requests, except where required for the provision of public infrastructure or as a result of correcting a minor anomaly.

13 Where costs are unable to be recouped partly or in full, work will be undertaken by Council’s Strategic Planning staff within their current allocated work program and budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

14 The preparation and processing of the attached draft planning proposal aligns to the strategic direction ‘Open and Collaborative Leadership’ identified within the Newcastle 2030 Community Strategic Plan.
15 Compliance with the LEP amendment process, in particular, Section 57 of the 
EP&A Act 1979, will assist in achieving the strategic objective; “Consider 
decision-making based on collaborative, transparent and accountable 
leadership” and the identified strategy 7.2b, which states: “Provide opportunities 
for genuine and representative community engagement in local decision 
making” as identified within the Newcastle 2030 Community Strategic Plan.

IMPLEMENTATION PLAN/IMPLICATIONS

16 The preparation of the attached planning proposal was undertaken in 
accordance with Council’s Local Environmental Plan – Request for Amendment 
Policy (2012). This policy identifies Council’s processes and responsibilities in 
applying the requirements of Part 3 of the EP&A Act 1979 for amending an 
LEP.

RISK ASSESSMENT AND MITIGATION

17 The process of amending an LEP is prescribed by Part 3 of the EP&A Act 
1979. Adherence to the legislative framework reduces the risk to both applicant 
and Council by ensuring that a planning proposal is considered with regard to 
relevant strategic planning documents and is determined in an appropriate 
timeframe.

RELATED PREVIOUS DECISIONS

18 Newcastle LEP 2012 was adopted by Council on 21 June 2011.

19 Council resolved at its meeting held on 9 December 2014 to endorse all 
required property actions to enable appropriate land zoning and reclassification 
of the property.

CONSULTATION

20 The planning proposal outlines the level of consultation required as per the 
Planning NSW guidelines ‘Preparing Local Environmental Plans’. The planning 
proposal will be exhibited in accordance with the requirements of section 57 of 
proposal will be placed on public exhibition for a minimum of 28 days.

21 A public hearing will be required to be held because the proposal is 
reclassifying land from Community to Operational. In accordance with the 
Department of Planning Circular (PN09-003) the public hearing will be held 
after the close of the exhibition period. Public notice of the public hearing will 
be sent and published at least 21 days before the start of the public hearing.

22 The Gateway Determination will confirm which State agencies the planning 
proposal is to be referred to, which is likely to include but not be limited to 
Roads and Maritime Services (RMS).
OPTIONS

Option 1

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

Option 2

24 Council resolves not to proceed with the planning proposal. This is not the recommended option as it would not allow the opportunity for the community to provide feedback on this proposal or enable Council to efficiently manage land that has been identified as surplus to Council and community needs.

BACKGROUND

25 Council received a request to amend Newcastle LEP 2012 to enable land at 4 Mayo Street, Jesmond to be developed for low density residential uses.

26 The request was considered by Council’s internal LEP Advisory Panel, as per Council’s ‘Local Environmental Plan – Request for Amendment Policy’. The panel consists of a range of experts in various fields who advise on potential issues to be addressed and identify studies required to support the proposal. All issues raised by the Panel have been resolved.

27 The planning proposal (Attachment A) provides the necessary justification to satisfy Council that the proposed amendment to Newcastle LEP 2012 may be endorsed and forwarded to NSW Planning and Environment to seek Gateway Determination.

REFERENCES

ATTACHMENTS

Attachment A: Planning Proposal – 4 Mayo Street Jesmond

Attachment A distributed under separate cover.
ITEM-115 CCL 24/11/15 FUTURE CITIES PROGRAM 2015 US STUDY TOUR

REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY

PURPOSE

To provide a report to Council following the United States Studies Centre - Future Cities US Tour held in June / July 2015.

RECOMMENDATION

1 Council resolves to receive the report on the Future Cities - US Study Tour 2015 at Attachment A.

2 Council thanks the US Studies Centre and in particular Professor Ed Blakely and his support team for a successful Study Tour and for sharing their expertise and knowledge.

3 Council endorse Newcastle City Council's application for membership of the Future Cities Collaborative at the US Studies Centre, University of Sydney.

KEY ISSUES


4 The primary goal of the Future Cities Program is to promote sustainable urban development by supporting elected leaders, together with local government staff and community leaders, with an evidence based approach to strategic urban planning. In addition, the Future Cities Program aims to provide on-going knowledge sharing and capacity building between Australian and American partners.

5 This year's City Exchange, presented by the Future Cities Collaborative, an initiative of the United States Studies Centre at the University of Sydney, with the support of NSW Trade and Investment, examines local and state-level funding and financing tools being used to support economic development programs and projects, including infrastructure, transport, and civic facilities.

6 Specific topics to be examined included:

- Local value capture tools
• Tax increment financing
• Business Improvement Districts
• The role of foundations and corporations in development

7 The study tour was attended by the Lord Mayor, Director of Planning and Regulatory and UrbanGrowth NSW's Newcastle Project Director.

8 Those attending the City Exchange included fellow 2015 Future Cities Program participant Penrith City Council together with representatives from previous Future Cities Programs: Blacktown, Liverpool, Woollahra and Canada Bay City Councils; and representatives from the Western Sydney Business Chamber and UrbanGrowth NSW. A full list of attendees is at Attachment B.

Recurrent Themes

9 Through-out the tour, while noting the differing contextual and legal landscape between Australia and the United States, a number of recurrent themes were more apparent. More detailed commentary on each of the cities visited during the tour, from where these themes are drawn, is provided at Attachment A.

Community Engagement

10 From LA to Phoenix and through to Dallas the issue about the response to urban sprawl and car dependence was not framed as a transport issue. It was apparent that the cities and their communities framed the issue as a need to improve their quality of life. Then it was about gathering the tools to help do that.

11 In this context the priority in the community engagement and commitment was about:

• Quality of Life
• Economic Growth
• Amenity
• Transport

12 Perhaps reflecting some of the cultural differences between our countries it was clear that the government and developer / finance industry do not see community engagement and involvement as difficult or frightening, similarly the community and developers / finance industry do not see government as an impediment, nor is the development industry seen as untrustworthy.

13 Each of these sectors of a community recognise and demonstrated that to deliver quality of life, economic growth, improved amenity and transit strong leaders are needed. Strong leaders working collaboratively with strong community engagement, involvement and commitment, delivering clear, 30 year + future funded plans, is a strong indicator for success.
14 While not directly explored in the land-use planning field (where US City Governments, like NSW Councils, do not have a direct role in regional planning) it was evident that US local governments form a voluntary collective organisation to pursue regional planning. This is most apparent in Transit Planning with LA Metro, Valley Metro in Phoenix and DART in Texas being regional, all transit, planning and delivery agencies.

15 All the cities visited have, or are implementing, major programs to upgrade and promote mass transit and public transport. The experience was that these cities continue to invest $billions in light rail facilities. With LA outlining that less than 20 years previously their budget was 90% toward roads and 10% toward transit and that number is now 30% roads and 70% transit across the LA Metro network.

16 Where regional cooperation is achieved a range of powerful implementation tools have been used at the state, regional and local level to drive infrastructure investment and leverage private sector development investment.

17 With the Transport Infrastructure Finance and Innovation Act (TIFIA) funds and other funding within the US being available to leverage large private sector investment infrastructure investment was readily demonstrated. These funding mechanisms are outlined in Attachment A. The use of these mechanisms is strongly reflected in Arizona and Texas, and to a lesser degree in LA and Chicago, where intensification of land use through transit oriented development is occurring along public transport corridors. The fixed investment of light rail lines encourages confidence in long term development investment more so than, for example, bus corridors, which are seen by investors to be subject to ready shifting or removal.

Revitalisation and Transit Oriented Development (TOD)

18 TOD projects are delivering considerable economic growth and revitalisation of city centres across the cities visited in the Tour. Based on the investment in regional transit systems and supported by state and federal funding opportunities, TOD is delivering improved quality of life, economic growth and city revitalisation. In some cases these developments also delivered improved social outcomes for those less fortunate in the area.

19 TOD also provides direct evidence of the success of mixed use development - both horizontally (different uses in adjacent buildings), and vertically (different uses on different floors). This was most evident in LA, Phoenix, Texas and Chicago.

20 The mixing of land uses recognises the communities’ objective to reduce automobile dependence by locating compatible uses together, and of the revitalisation / economic growth benefits of co-locating complementary land uses. The provision of higher density housing reduces pressure on other
housing stock by increasing market choice and the diversity of offerings and provides an opportunity to provide for increased affordable housing outcomes.

21 The US has already recognised the critical need for affordable housing and requires all new higher density developments to provide 20% affordable housing. Additional affordable housing is then leveraged through tax incentives, federal and state land opportunities and through partnerships with public agencies as the land-owner.

22 Of note was the evidence that it was not only city councils engaging with the private sector to fuel development and revitalisation, community not-for-profit associations are actively seeking and providing funding for TOD within their local council area to help achieve the revitalisation and quality of life objectives being demanded by their members.

23 To encourage the revitalisation of their cities, a number of city councils are actively providing incentives through rate adjustments, fee waivers and land acquisitions among other tools to encourage the development of mixed use at and adjacent to transit stops.

Economic Development Incentives

24 As outlined at the beginning of this report there a range of powerful implementation tools that have been used at the state, regional and local level to drive infrastructure investment. This investment is being actively leveraged to provide and encourage private sector investment for the economic growth and development of local communities.

25 Value capture was the most readily used tool that could translate to the current Australian context. These US cities recognise that public investments, such as transportation systems, can and do increase adjacent land values - often considerably, generating an unearned profit for private landowners. The unearned value (increases in land value which otherwise profit private landowners cost-free) may be "captured" directly by converting them into public revenue.

26 Urban planners and finance officials are often interested in value capture mechanisms, for at least two reasons: 1) because they offer a targeted method to finance infrastructure benefiting specific land, and 2) because some such investments can generate private investment in the area, which will more widely benefit the city (eg. by providing employment opportunities, shopping and other amenities, and a more robust and diverse tax base.) It can be politically useful to capture for the city treasury a share of the positive externalities of city-financed investment. This can help address public concern about the fact or perception of unfair windfalls when specific owners’ land values increase after urban infrastructure investment is paid from general city revenues.
27 City Councils are active in this economic development space and provide evidence of considerable success. A direct example "CityScape" from Phoenix Arizona, is provided at Attachment C. This shows the City of Phoenix in a private-public partnership providing city owned sites for redevelopment, in return for private sector investment in open space, cultural facilities and public infrastructure.

28 A recent Australian Government paper on Land Value Uplift Capture and leveraging private sector financial investment from infrastructure investment is attached at Attachment D. A further paper on Value Capture prepared by AECOM is attached at Attachment D.

Cultural Precincts/Public Space Management

29 Each of the cities visited had a network of Business Improvement Districts (BIDs). BIDs have been valuable and proven partners in ongoing initiatives of neighbourhood revitalisation and economic development in LA, Phoenix, Dallas, Chicago and New York.

30 While the BIDs share some similarity to the Business Improvement Associations (BIA) in Newcastle they take a much greater role and responsibility in delivering additional services within their designated area. These additional services form part of a clear annual performance expectation and demonstrate strong business and resident support (including support for additional financial levies / taxes) to deliver the added services.

31 In terms of public open space the key was the active management of these spaces. While the design of the space is important the management and programming within the space is much more critical. The open space needs to be a place where everyone wants to be - restful spaces, off-leash areas, interactive public art, active playgrounds, food truck spaces. That is, make the space a place for a mix of all users not attractive to just one group of users.

32 While the extraordinarily successful public open spaces visited where managed by private sector not-for-profits, different from the publicly managed model in Australia, a number of concepts and management approaches were evident:

- Design it well
- Manage it well
- Program it creatively and consistently
- Use public, private and non-profit sectors
- Know what's authentic and distinctive
- Be Consistent
- Be Coherent
- Be Concentrated
- Be Creative

Summary
As a member of the tour, along with delegates from the City of Penrith, City of Canada Bay, Blacktown City Council, City of Liverpool and the Western Sydney Business Chamber, we met with over 70 civic and industry leaders and examined over a dozen projects across Los Angeles, Phoenix, Dallas, Chicago and New York.

The Future Cities 2015 program tour demonstrated that the establishment of a policy and regulatory framework which supports and enables sustainable funding and finance mechanisms for local communities will aid the quality of life, economic growth and amenity of the city. Such a framework to achieve this includes:

1. Creating positive and strong community support via formal and informal voter referenda.
2. Developing appropriate institutional and governance structures at state wide and regional level to oversee major infrastructure and development.
3. Encouraging urban renewal through stable funding sources, commercially attractive incentives, and supportive legislative programs at all tiers of government.
4. Developing long term institutional and funding support for major transport infrastructure.
5. Adopting legislation which empowers local government to develop and adopt commercial revitalisation strategies.
6. Encouraging local government to foster economic development by examining ways to leverage existing assets and new anchors, such as universities, to stimulate economic development within communities.

At the conclusion of the tour the participants met and agreed on a broad range of observations and recommendations that presented during the 2015 Futures City US Study Tour. These are attached at Attachment E.

Conclusion

While many of the financial tools available within the US are not legislated within Australia, or available directly to local governments, there is no doubt that infrastructure projects can and are the catalyst for significant community benefit, economic growth, confidence and quality of life.

The Future Cities Program has provided a wide range of learning experiences about planning, project delivery and sustainability. It has demonstrated that if cities have a vision, leadership and the will, it is possible to achieve substantial changes to the way our city can function and be a great place to live, work and play. It is evident from the study tour that a clear vision for the city and
neighbourhoods, an engaged and consulted community and a long term strategic plan that is funded can and will deliver quality of life and economic growth outcomes.

FINANCIAL IMPACT

38 Council resolved to provide budget for participation in the Future Cities Collaborative 2015 US Tour at the 24 February 2015 Ordinary Council meeting.

39 The cost of membership to the Future Cities Collaborative is $20,000 per annum for three years and is available within the existing approved budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

40 Participation in the program contributes to achieving a liveable and distinctive built environment and fostering a smart and innovative city.

IMPLEMENTATION PLAN/IMPLICATIONS

41 The Future Cities Collaborative 2015 program offers significant benefits to Council and the Newcastle community in sharing and investigating the revitalisation experience of other New South Wales local governments as well as cities in the United States and Canada. Participants shared experiences and expertise in matters ranging from urban design to local infrastructure financing schemes. The program is supported by the NSW State Government.

42 Membership of the Future Cities Collaborative entitles Council to the following:

<table>
<thead>
<tr>
<th>Service</th>
<th>Description</th>
<th>Cost</th>
<th>Audience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collaborative exchanges with cities</td>
<td>Quarterly forums hosted at a Collaborative City premise or by the USSC as agreed.</td>
<td>Included in Service Charge</td>
<td>Councillors and / or senior staff of NCC (up to 10 people per forum).</td>
</tr>
<tr>
<td>Collaborative exchanges with visiting experts</td>
<td>Quarterly exchange with visiting experts in Sustainable urban design and planning as arranged by the USSC. *</td>
<td>Included in the Service Charge.</td>
<td>Councillors and / or senior staff of NCC (up to 10 people per forum).</td>
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<td></td>
<td>VIP Invitation to forums and seminars with visiting and local experts.</td>
<td>Included in Service Charge</td>
<td>Mayor or Councillor delegate and accompanying officer.</td>
</tr>
<tr>
<td>Online resources and publications from US</td>
<td>Open web access to resources and publication from collaborating partners. Member web access to selected resources from</td>
<td>Included in Service Charge</td>
<td>All NCC staff and Councillors.</td>
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<tr>
<td><strong>collaborative partners</strong></td>
<td>collaborating partners.</td>
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<tr>
<td><strong>City leader workshops</strong></td>
<td>Eligibility to attend future Mayor Forum workshops as a part of the “y. Participation fees may be charged in addition to the Service Charge.**</td>
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<tr>
<td><strong>Study Tours</strong></td>
<td>Eligibility to attend future the international Study Tours. The costs of study tour/s not included in Service Charge.</td>
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<td><strong>City exchanges/ internships</strong></td>
<td>Eligibility for staff exchange with international cities. The costs of exchange not included in Service Charge.</td>
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<tr>
<td><strong>Strategic Guidance and Advisory Services</strong></td>
<td>Access to the expert panel, including the services of Professor Edward Blakely, Honorary Professor in Urban Planning at the USSC, for adhoc guidance and advice or the development of specific capacity building workshops. 6 hours per annum included in the Service Charge. Additional workshops / sessions may be arranged at additional cost.</td>
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<tr>
<td><strong>Branding and City Promotion</strong></td>
<td>Use of the Future Cities Collaborative logo to promote membership ability to promote city progress and key activities in the Future Cities Collaborative Newsletter. Included in Service Charge.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Branding</strong></td>
<td>NCC will receive logo acknowledgement on the Future Cities Collaborative Website and on other Future Cities Collaborative publications as agreed between the parties. Included in the Service Charge.</td>
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</tbody>
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**RISK ASSESSMENT AND MITIGATION**

43 N/A.

**RELATED PREVIOUS DECISIONS**

44 Council resolved on 24 February 2015 that "Council supports participation in the Future Cities Program 2015."
CONSULTATION

45 The report to Council at the 24 February 2015 meeting noted that a formal report and presentation to the full Council would be provided.

46 By way of recognition and acknowledgment, thanks are offered to the following organisations for their contributions to our tour:

- Los Angeles County Metropolitan Transit Agency
- The McGregor Company in LA
- Old Pasadena Management District
- Sustainable Communities Collaborative, Phoenix
- Downtown Phoenix Partnership
- Arizona Sports and Tourism Authority
- City of Phoenix
- Dallas Area Rapid Transit
- City of Plano, Texas
- City of Chicago Department of Planning and Development
- City of Chicago Department of Innovation and Technology
- The Trust for Public Land in Chicago
- The Old Town Chicago, SSA Commission
- The Friends of the Highline, New York
- Union Square Alliance, New York
- New York City Planning Department
- Parsons School of Design, New York
- Project for Public Spaces, New York

OPTIONS

Option 1

47 The recommendation as at Paragraphs 1 and 2. This is the recommended option.

Option 2

48 Council resolves not to receive the report. This is not the recommended option.

BACKGROUND

49 A copy of the Council report to the 24 February 2015 meeting is attached.
REFERENCES

ATTACHMENTS

Attachment A: Detailed Council Officer Report on US Study Tour
Attachment B: US Study Tour Delegates List
Attachment C: CityScape Fact Sheet - Downtown Phoenix, Phoenix Arizona
Attachment D: Value Capture Roadmap - AECOM and Australian Government and Land Value Uplift Information Sheet (Australian Government)
Attachment E: US Studies Centre - 2015 US Study Tour Group Observations and Recommendations
Attachment F: Future Cities Program 2015 Report to Ordinary Council meeting of 24 February 2015

Attachments distributed under separate cover.
ITEM-116 CCL 24/11/15 - ALCOHOL FREE ZONES RENEWAL

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

PURPOSE

The purpose of the report is to advise Council of the renewal process for Alcohol Free Zones (AFZ) across the LGA, to seek endorsement for the re-establishment of existing AFZ, and establishment of new locations for AFZs for a further four-year period.

RECOMMENDATION

1 That Council resolves to:

   (a) Adopt the proposal to re-establish from 18 November 2015 to 31 October 2019 existing Alcohol Free Zones across the LGA for a new 4 year period; and

   (b) Adopt the proposal to establish new Alcohol Free Zones in Mayfield, Merewether and New Lambton for a four year period until 2019.

KEY ISSUES

2 Alcohol Free Zones (AFZ) currently exist across the City of Newcastle, however, they are due to expire on 18 November 2015. AFZ are an important tool in assisting Council and stakeholders in managing alcohol in public spaces. The re-establishment of existing and establishment of new AFZ are supported by NSW Police.

3 Provision for the establishment of Alcohol Free Zones have been made under s.644B of the Local Government Act 1993 in accordance with the Ministerial Guidelines on Alcohol Free Zones 2009. Council endorsement of the AFZ renewal process supports the aim of assisting local governments and local police in managing alcohol related anti-social behavior and promoting feelings of safety in public spaces. Once adopted, these AFZ will remain active for a period of four years.

4 The AFZ renewal process includes the identification of three new AFZ proposed for establishment; the locations for these AFZ are based on feedback from NSW Police and relevant Business Improvement Associations.

5 The proposed AFZ for establishment and renewal include the footpaths (with the exception of all approved outdoor dining areas), nature strips, and car parks adjacent to the carriageway and will be effective 24 hours a day, 7 days a week.
6 No objections have been received regarding either the establishment of new, or re-establishment of existing AFZ. One submission of support was received from local police.

7 The Local Government Act, section 632A, also provides for alcohol prohibited areas (APA). APA can be declared in any Council managed park or reserve and are for an unlimited time period. Council has declared a number of APA’s across the city with these locations available on the Council website. An APA, like a APZ, provides Police and authorized Council officers with the power to address issues of public intoxication and antisocial behaviour.

FINANCIAL IMPACT

8 The financial impact of approving new and existing AFZ relates to production of additional signage, replacement signage plates where necessary and stickers to extend the date of existing signs in good condition. The estimated cost for this will be $7,000. This cost will be covered under the current Community Safety budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

9 The establishment of AFZ is part of a broader strategy to manage alcohol related crime and anti-social behavior and is directly aligned with the following objective of the Community Strategic Plan (Newcastle 2030):

Vibrant and Activated Public Spaces
3.3c create streetscapes and public places that are clean and attractive, where people feel safe,

IMPLEMENTATION PLAN/IMPLICATIONS

10 As part of Council's Community Assets and Open Space Policy, a key objective is to provide multi-purpose, functional, safe and innovative places and spaces that are equitably distributed across the local government area with the key principle that these areas should be safe and secure. AFZ can assist in promoting the legitimate use of public spaces by prohibiting the consumption of alcohol which can often lead to users of the space feeling unsafe.

11 The establishment and renewal of AFZ falls under the Alcohol Management Strategy 2010-13, and remains a key aspect of Council's approach to delivering safe and attractive public places.

RISK ASSESSMENT AND MITIGATION

12 The appropriate consultation has taken place as outlined by the Ministerial Guidelines on Alcohol Free Zones 2009 and the Local Government Act 1993. The proposal was also placed on public exhibition for a period of 30 days. No objections were received. AFZ are generally supported by the community as
they provide the police with the powers to address issues of public consumption of alcohol and associated anti-social behaviours.

13 There is an anticipated delay of approximately 3 weeks exists between the expiry of current AFZ and the proposed adoption of new and existing AFZ. A further delay of approximately 3 weeks is expected in the production and installation of stickers and signage for AFZ. This delay may impact on the Police’s ability to enforce AFZ. Council will liaise with the Police to manage this risk.

RELATED PREVIOUS DECISIONS

14 Council has approved the establishment of AFZ across the LGA on numerous previous occasions. A previous objection to a proposed AFZ was accepted based on a lack of reported alcohol related issues in that area.

CONSULTATION

15 As part of the consultation process as per the Ministerial Guidelines on Alcohol Free Zones, letters were distributed to the relevant local area business associations, liquor accords, Local Aboriginal Land Council's, the NSW Anti-Discrimination Board, the Newcastle Local Area Command and all relevant community groups. Council received a submission of support from the Newcastle Local Area Command.

OPTIONS

Option 1

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

Option 2

17 That Council may elect not to renew the existing or establish new AFZ. This is not the recommended option.

BACKGROUND

18 Community consultations indicate that community safety is considered an important issue of concern for Newcastle residents. AFZ are a useful tool when used as part of a broader strategy to manage alcohol related crime and antisocial behaviour. AFZ can promote feelings of safety in public places thereby encouraging the legitimate use of areas such as parks and reserves.

19 Sections 644B and 632A of the Local Government Act 1993 provides Council with the power to declare AFZ for a period of up to four years. AFZ can be declared in any public road or car park and include the adjoining footpaths and nature strips. Approved outdoor dining areas are exempt from AFZ restrictions.
AFZ can only be established in locations where antisocial behaviour or crime has been linked to the public consumption of alcohol.

20 AFZ provide Police and Council officers with the power to address issues of public intoxication and antisocial behaviour. Anyone consuming alcohol in an AFZ can be given a warning and the confiscation or tipping out of alcohol can take place at the discretion of enforcement officers.

21 Once adopted, AFZ must be advertised in a newspaper circulating in the area that includes the AFZ and will become effective 7 days from the date of advertisement. Adequate signage with appropriate dates must also be present for the AFZ to become effective. The restrictions placed on the public consumption of alcohol through AFZ can be lifted through consideration of a report to Council and a resolution to suspend the restrictions for the requested period of time.

22 Currently, AFZ fall under Council’s Alcohol Management Strategy (2010-2013) which is in the process of being renewed as the Newcastle After Dark Strategy.

23 Locations of Existing Alcohol Free Zones

Cooks Hill and The Hill

- Darby Street from Queen Street to Bull Street
- Bull Street from Darby Street to Union Street
- Union Street from King Street to Railway Street
- Laman Street from Union Street to Darby Street
- Union Street between Bull Street and Railway
- Bruce Street from Bull Street to Laman Street
- Council Street
- Dawson Street from Bull Street to Laman Street
- Queen Street
- Darby Street from Bull Street to Parkway Avenue
- Anzac Parade
- Lemnos Parade
- High Street
- Bingle Street
- Kitchener Parade
- Swan Street
- Nesca Parade

The Junction

- Kenrick Street between Glebe Road and Union Street
- Glebe Road between Darby Street and City Road
- Railway Street
- Lingard Street

Hamilton
• Beaumont Street from Darling Street to Maitland Road
• Lindsay Street from Gordon Avenue to Swan Street
• James Street Council Car Park (behind the Northern Star Hotel)
• Cleary Street Council Car Park (behind the Kent Hotel)
• Hamilton Railway Station Car Park
• Lindsay Street between Swan Street and Samdon Street
• Samdon Street between Lindsay Street and Tudor Street
• Tudor Street between Samdon Street and Steel Street
• Steel Street between Tudor Street and Lindsay Street
• Belford Street

Hamilton South

• Hassell Street from Glebe Road to Darling Street
• Fowler Street from Darling Street to Beaumont Street
• Ogden Street
• Cobbett Place from Neill Terrace to Fowler Street
• Neill Terrace from Glebe Road to Beaumont Street
• Darling Street from Chatham Street to Beaumont Street
• Lowe Street
• Hibbard Street
• Chatham Street from Glebe Road to Dumaresq Street
• Glebe Road between Beaumont Street and Chatham Street
• Coady Street
• Douglas Way
• Rudge Way
• Chatea-Lea Way
• Triumph Way
• Norton Way

Broadmeadow

• Chatham Road between Dumaresq Street and Belford Street
• Broadmeadow Road between Brown Road and Lambton Road
• Young Road between Graham Road and Lambton Road
• Graham Road between Young Road and Broadmeadow Road
• Brown Road between Young Road and Broadmeadow Road
• Denny Street
• Curley Road between Young Road and Denny Street

Newcastle

• King Street from Stewart Avenue to Pacific Street
• Hunter Street from Pacific Street to Selma Street (including Worth Place and adjacent unnamed lanes)
• Merewether Street from Hunter Street to Wharf Road
• National Park Street between Parry Street and King Street
• Parry Street between Union Street and National Park Street
• Union Street from Hunter St to King Street
• Pacific Street from Scott Street to King Street
• Watt Street from Church Street to Wharf Road
• Bolton Street from Church Street to Scott Street
• Scott Street from Hunter Street to Pacific Street
• Darby Street from Hunter Street to Queen Street
• Steel Street from the railway line to Parry Street
• Perkins Street from King Street to Hunter Street
• Crown Street from Hunter Street to King Street
• Wharf Road from Merewether Street to Nobbys Road
• Centenary Road from Argyle Street to Merewether Street
• Argyle Street
• Bolton Street from Church Street to Scott Street
• Newcomen Street from King Street to Scott Street
• Wolfe Street from King Street to Hunter Street
• Brown Street from King Street to Hunter Street
• Burwood Street from King Street to Hunter Street
• Auckland Street from King Street to Hunter Street
• National Park Street from King St to Hunter Street
• All unnamed laneways adjacent to Hunter Street
• Keightley Street
• Thorn Street
• Market Street
• Workshop Way from Merewether Street to Honeysuckle Drive
• Wright Lane
• Honeysuckle Drive from Workshop Way to Lee Wharf Road
• Lee Wharf Road from Honeysuckle Drive to Hannell Street
• Workshop Way Honeysuckle Car Park
• Theatre Lane (off Perkins Street)
• Congregational Lane (off Brown Street)
• Boat Harbour Car Park adjacent Western Promenade on Wharf Road (opposite Scratchleys)
• Central Promenade (eastern side of Queens Wharf Brewery)
• Western Promenade (western side of Queens Wharf Brewery)
• Newcastle Bus Interchange (corner of Watt Street and Wharf Road)
• Car Park adjacent to Central Promenade (eastern side of Queens Wharf Brewery)
• Car Park adjacent to Western Promenade (western side of Queens Wharf Brewery)

Newcastle East

• Nobbys Road from Parnell Place to the access road off Nobbys Lighthouse
• Shortland Esplanade from Nobbys Road to York Drive
• Telford Street from Shortland Esplanade to Scott Street
• Zaara Street from Scott Street to Shortland Esplanade
• Brown Street Laneway (western side behind Public Trust Office between Hunter and King Streets)
• Fort Drive
• York Drive
• Stevenson Place from Telford Street to Parnell Street
• Alfred Street from Telford Street to Parnell Street
• Parnell Street from Moroney Avenue to Stevenson Place
• Telford Street from Scott Street to Stevenson Place
• Beach Street (off Nobbys Road)
• Bond Street (off Telford Street)
• Moroney Avenue from Shortland Esplanade to Scott Street
• Ocean Street from Pacific Street to Shortland Esplanade
• Shepherds Place (off Stevenson Place), Colliers Close (off Stevenson Place)
• Murray Avenue (off Scott Street)
• Pasha Way
• Wharf Road Car Park adjacent Eastern Promenade (between Watt Street and Nobbys Road)
• Nobbys Beach Car Park
• Horseshoe Beach Car Park
• Newcastle Baths Car Park

Bar Beach / Merewether

• Darby Street between Parkway Avenue and Bar Beach Avenue
• Kilgour Avenue
• Memorial Avenue between Kilgour Avenue and Bar Beach Avenue
• Bar Beach Car Park (off Memorial Drive)
• The Cliff Car Park (Kilgour Avenue)
• Dixon Park Car Park (off Ocean Street and John Parade)
• Merewether Beach Car Park (off Watkins Street)
• Berner Street from Morgan Street to Mitchell Street
• Winsor Street from Caldwell Street to Lingard Street
• Ocean Street
• John Parade
• Frederick Street between Scenic Drive and John Parade
• Henderson Parade

Islington / Tighes Hill / Wickham

• Maitland Road from Selma Street, Wickham to Ferndale Street, Tighes Hill
• Albert Street from Maitland Road to John Street, Wickham
• Sheddon Street from Maitland Road to Fleming Street, Wickham

Carrington

• Young Street from Cowper Street to Victoria Street
Kooragang

- Heron Road
- Greenleaf Road

Stockton

- Mitchell Street from Ferry Wharf to Hereford Street
- Hunter Street from Newcastle Street to Fullerton Street
- King Street from Newcastle Street to Fullerton Street
- Maitland Street from Church Street to Fullerton Street
- Little Maitland Street
- Queen Street from Church Street to closure
- Crown Street from Dunbar Street to Church Street
- Pitt Street
- Stockton Pool Car Park
- Stockton Beach Car Park

University of Newcastle

- Accommodation precinct

Wallsend

- Boscawen Street
- John Street

24 Locations of Proposed New Alcohol Free Zones

Mayfield

- Maitland Road (Pacific Highway) - From Maud Street to Silsoe Street
- Hanbury Street - From Regent Street to Waratah Train Station

Merewether

- Morgan Street - From Lingard Street to Llewellyn Street

New Lambton

- Regent Street - From Alma Road - Portland Place and;
- Portland Place - Evescourt Road to Cromwell Street

ATTACHMENTS

Nil.
ITEM-117  CCL 24/11/15 - HERITAGE CONSERVATION AREA REVIEW PROJECT

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

PURPOSE

The purpose of this report is to seek a resolution of Council to place the draft report on the review of heritage conservation areas on public exhibition for a period of six weeks.

RECOMMENDATION

1  Council place the draft Review of Heritage Conservation Areas Report provided in Attachment A on public exhibition for a period of six weeks'

2  Council commence an extensive community consultation process to notify residents in the various heritage conservation areas about the content and recommendations of the draft report; and

3  Council to receive a report on the outcomes of the public exhibition process and the final report.

KEY ISSUES

4  The draft Review of Heritage Conservation Areas Report is arranged into individual chapters that address each heritage conservation area. There is a separate chapter that discusses two proposed heritage conservation areas. Each chapter includes a revised statement of heritage significance, history, statement of desired future character, boundary and zoning analysis, review of development controls, and the recommendations for each area. The heritage conservation areas covered in the draft report are:

   ●  Cooks Hill
   ●  Hamilton South 'Garden Suburb'
   ●  Hamilton Business Area
   ●  The Hill
   ●  Newcastle East

5  The City Centre Heritage Conservation Area was not in the scope of this review as it was subject to LEP and DCP amendments by the Department of Planning in 2014.

6  Heritage conservation areas are determined using an objective, evidence based process that follows the guidelines and statutory requirements of the
NSW Heritage Council. The assessment methodology is scientifically rigorous and involves defining and assessing an area's heritage values, typically through a heritage study or community based heritage study process. The process must use the NSW Heritage criteria, which is defined under the NSW Heritage Act 1977.

7 The process of reviewing the heritage conservation areas has included a community survey in each location to identify the community values of these areas. This process was undertaken by Newcastle Voice and the results are contained in Attachment B. The results have confirmed that heritage conservation areas are a valuable aspect of Newcastle's heritage and cultural life, and reinforce a strong sense of civic pride. Each area contains attributes that are locality unique. The community feedback confirmed that Council's role in regulating development in these areas is valued by the community and is considered important in helping to preserve the character in each area.

8 The study process also included field surveys to identify and map the contributory, neutral and non-contributory buildings in each area. The draft review recommends that these maps are included in the Heritage Technical Manual, which accompanies the Newcastle DCP. The draft report proposes a management policy for each category of contribution.

9 The draft review report recommends minor boundary adjustments to the following heritage conservation areas:

- Cooks Hill - expansion and removal of parts of the heritage conservation area;
- Hamilton South 'Garden Suburb' - expansion and removal of parts of the heritage conservation area; and
- The Hill - expansion of the heritage conservation area.

10 Maps showing the proposed boundary changes are included within the relevant chapter for each area in the draft review report. See Attachment A.

11 The draft review report recommends removing the Hamilton Business Area Heritage Conservation Area from Schedule 5 of the Newcastle LEP. The draft review has found a high degree of unsympathetic change to buildings in Beaumont Street and questions the justification for the continuation of the heritage conservation area listing.

12 The draft review report recommends investigation of two proposed heritage conservation areas at Glebe Road The Junction, and Hamilton, east of Beaumont Street. Consultation will commence with affected communities should Council resolve to endorse public exhibition of the draft report.
FINANCIAL IMPACT

13 The exhibition of the draft report will not have financial impacts on the operations of Council. The exhibition costs will be drawn from the existing operational budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

14 The project aligns with three of the strategic directions contained in the 2030 Community Strategic Plan including a Liveable and Distinctive Built Environment, Vibrant and Activated Public Spaces, and Open and Collaborative Leadership.

15 Council adopted the City of Newcastle Heritage Strategy on 25 March 2014. The review of heritage conservation areas implements actions of this Strategy in relation to reviewing the boundaries of the HCAs which are listed in Schedule 5 of the LEP and heritage sections of the DCP.

IMPLEMENTATION PLAN/IMPLICATIONS

16 This is an information report only and should Council endorse the report a detailed action / implementation plan will be produced to implement the findings such as boundary changes, changes to Schedule 5 of the LEP and DCP changes.

17 Should suggestions for future investigations of items or areas of heritage significance be suggested in submissions, these can be referred to a future assessment process as part of Council's ongoing review of heritage items and areas.

RISK ASSESSMENT AND MITIGATION

18 There are minimal risks to Council in placing the draft report on public exhibition.

RELATED PREVIOUS DECISIONS

19 25 March 2014 – Council received a report to advise of this review.

CONSULTATION

20 A core aspect of the review project was to canvass the views of residents living within existing heritage conservation areas. Newcastle Voice were engaged to conduct a series of on-line surveys specific to the Cooks Hill, Hamilton South 'Garden Suburb', The Hill, and Newcastle East heritage conservation areas. The primary purpose was to understand what the community values about each area, including community perceptions of the heritage development controls, what the future character of these areas should be, and what characteristics residents value. The surveys provide useful insights into community attitudes
about heritage conservation areas including confirming the high degree of community support for heritage conservation areas. Residents were also given opportunities to engage in the project at various public information sessions held during the review period.

21 An industry liaison group was established in the early phases of the project. The industry liaison group provided an open forum to discuss key heritage issues and consider ways of improving the management of heritage conservation areas. The group comprised key stakeholders including representatives of the Building Designers Association, Master Builders Association, National Trust (Australia) Hunter Region Committee, Housing Industry Association, and the Institute of Architects Newcastle chapter. A workshop was held on 13 May 2014 in which a series of concept designs for infill development and alterations to existing buildings in heritage conservation areas was presented and feedback sought. The feedback resulted in the inclusion of new development guidelines in the Heritage Technical Manual in September 2014.

22 Public exhibition of the draft report will include an extensive community consultation process. This consultation process will include direct notification of affected property owners, meetings where required, newspaper notices and publications on Council's website such as downloadable fact sheets. A Communication Strategy will be produced to guide this important consultation process. Residents of the areas identified for consideration as new HCAs will also be directly notified and surveyed to obtain feedback about the options.

OPTIONS

Option 1

23 The recommendation as at Paragraphs 1-3. This is the recommended option.

Option 2

24 Council not proceed with the public exhibition. This is not the recommended option.

BACKGROUND

25 This review was identified as a high priority action in the Newcastle Heritage Strategy (actions 2.4 and 3.3).

26 The scope of the project was as follows:

   i Revise and document the heritage significance of the Heritage Conservation Areas in accordance with the guidelines issued by the NSW Heritage Council.
ii Identify and define the architectural styles and principle heritage aspects of each Heritage Conservation Area.

iii Undertake fieldwork to identify contributory buildings and map these according to their contributory, neutral or non-contributory status and determine an appropriate set of policies to manage the contribution of buildings within each area.

iv Review the boundaries and planning framework for each Heritage Conservation Area.

v Undertake community surveys to understand what residents value within each area and what development controls residents see as useful and relevant.

vi Consult with the architectural and building design industry on design options and incorporate feedback into the DCP and/or Heritage Technical Manual.

ATTACHMENTS

Attachment A: Draft Review of Heritage Conservation Areas

Attachment B: Newcastle Voice Heritage Conservation Areas Community Surveys - Report

Attachments A and B distributed under separate cover.
ITEM-118 CCL 24/11/15 - HEIGHT OF BUILDINGS - ENDORSEMENT OF PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2012

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

PURPOSE

This report seeks Council's endorsement of a Planning Proposal to commence the statutory process to prepare an amendment to Newcastle Local Environmental Plan (LEP) 2012 to amend building heights on land bounded by Hunter, Newcomen, King and Perkins Streets, Newcastle.

RECOMMENDATION

1 Council resolves to:
   a) Endorse the attached Planning Proposal (Attachment A), prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act), to amend Newcastle LEP 2012 for land in Newcastle City Centre, as follows:
      i. amend the height of building map for land bounded by Hunter, Newcomen, King and Perkins Streets as identified on the site map in the Planning Proposal at Attachment A, to have a maximum building height of 24m; and
      ii. insert clause 7.9(4) to allow the building height to be exceeded in certain circumstances to a maximum height of 40m AHD.
   b) Forward the Planning Proposal to the Minister for Planning and Environment for Gateway Determination pursuant to Section 56 of the EP&A Act.
   c) Receive a report back on the Planning Proposal after the public consultation period has concluded.

KEY ISSUES

2 The Planning Proposal intends to reinstate the maximum building height for the site bounded by Hunter, Newcomen, King and Perkins Streets to be as it was prior to the 29 July 2014 city centre amendments.

3 This Planning Proposal was initiated by Council to implement its resolution of 9 December 2014. This resolution stated in part that Council should:
4 "… write to the Minister for Planning and request that the Newcastle LEP 2012 be amended with respect to building heights for the lands and buildings to the southern side of Hunter Street Newcastle, between Perkins and Newcomen Streets extending south to King Street, together with two sites to the northern side of Hunter Street at the intersection with Market Street, by returning those building heights to those previously endorsed by the community and amend the Height of Building Map to include a maximum permissible height of 40 AHD over the land.

5 Should the Minister decline this request, Council prepare a planning proposal to the Newcastle LEP 2012 to reflect amendments to the Height of Building Map to include a maximum permissible height of 40 AHD to reflect these amendments."

6 A letter was sent to the Planning Minister on 13 January 2015 requesting the Minister make the LEP amendments in accordance with the Council resolution. The Minister's reply, dated 5 March 2015, advised that the Minister was unwilling to make the amendments requested by Council.

7 Following a change to the Ministerial portfolios within the NSW Government a further letter dated 30 July 2015 was forwarded to the new Minister for Planning requesting they make the LEP amendments in accordance with the Council resolution. No reply has been received to date.

8 The Planning Proposal intends to re-impose a 24m height limit across the site. This was the height limit on the site prior to the city centre LEP amendments made by the Planning Minister in July 2014. The Planning Proposal also intends to reinstate clause 7.9(4) as per the Council resolution. Clause 7.9(4) allowed a height exceedance to 40m Australian Height Datum (AHD) in certain circumstances. This Subclause was removed from Newcastle LEP 2012 as part of the city centre LEP amendments made by the Planning Minister.

9 The Planning Proposal does not include the two sites on the northern side of Hunter Street at the intersection of Market Street as referred to in the Council resolution. The height limits on these two sites were not changed as part of the July 2014 LEP amendments and Clause 7.9(4) did not previously apply to these two sites.

10 The building height on the two Market Street sites is currently 20m and this has been the case since the gazettal of the Newcastle City Centre LEP 2008.

11 If endorsed by Council, the Planning Proposal will be forwarded to the Minister for Planning and Environment for Gateway Determination. Gateway Determination will confirm whether the State government provides in principle support for the Planning Proposal and identify what further technical studies and community consultation are required prior to the proposed amendments being made.
View corridors

DCP 2005 - Element 6.2 City East

12 Element 6.2 City East identified important views and vistas for the city centre. These included views to and from Christ Church Cathedral, Customs House, the harbour, the ocean and Heads, Nobby's and Fort Scratchley. The most important views were identified and used to regulate height limits and building form, subsequently ensuring any development would maintain and reinforce their existence. In other words, each view corridor was considered in setting the overall height limits so that, provided the height limits were maintained, the view corridor would be maintained.

13 Height limits were set on a block by block basis and over the subject site (bounded by Hunter, Newcomen, King and Perkins Streets) ranged from 13 and 16m (corner of King and Newcomen Streets) to 25m (between Perkins and Wolfe Streets), with sites between Wolfe and Newcomen Streets having either 22m or 19m height limits.

Newcastle City Centre LEP 2008 and Newcastle LEP 2012

14 Newcastle City Centre LEP 2008 adopted a height of buildings map, which replaced the height limits set in DCP 2005. There was a blanket 24m height limit set over the site by Newcastle City Centre LEP 2008.

15 The Newcastle City Centre LEP 2008 also included the new clause that allowed building heights to 40m AHD on the land bounded by Hunter Street, King Street, Newcomen Street and Perkins Street provided the site area was greater than 10,000m$^2$ and the consent authority was satisfied that the impact of the building height on view corridors to and from Christ Church Cathedral and the Hunter River foreshores was not unreasonable.

16 The building heights and the clause in relation to the 40m AHD building heights were transferred to Newcastle LEP 2012. The clause became clause 7.9(4) in the LEP.

17 Clause 7.9(4) is intended to allow taller buildings on a consolidated, masterplanned site if they can be located on sites that did not impact on the view corridor to Christ Church Cathedral and Hunter River foreshore. The height limit of 40m AHD was determined to be the ground level at the base of the Cathedral. The clause is not intended to be read as allowing a blanket height of 40m AHD across the site but rather for specific buildings.

Newcastle Urban Renewal Strategy 2012 (as originally exhibited)

18 The Newcastle Urban Renewal Strategy 2012 (NURS), as originally exhibited in December 2012, proposed to retain the 24m height limit on the site between Newcomen and Wolfe Streets and increase the height limit on the block between Wolfe and Perkins Streets to 27m. The increase in height on this
block was justified in the Strategy on the basis of the block being a key redevelopment site that did not have the same topographical or view corridor constraints as the block to the east between Newcomen and Wolfe Streets.

19 The NURS shifted the emphasis of the view of Christ Church Cathedral from 'the Cathedral on the hill' to a view of the Cathedral tower as viewed along a street corridor. Oblique views of the Cathedral were considered to be a 'general view' rather than a specific 'view corridor'. The NURS states:

20 "The most important views in Newcastle tend to be street views terminated by views of the water, or prominent buildings such as the old Courthouse. Other significant views that need to be preserved are those where the tower of the Cathedral terminates a street vista, such as the ones across the block between King, Wolfe, Hunter and Newcomen Streets."

21 Similar to Council's earlier planning controls, the NURS set building heights, floor space ratios and built form controls (setting upper building levels back from the street) to maintain views along streets to important buildings, such as the Cathedral and Courthouse, and to maintain views across the subject site to the Cathedral tower.

Newcastle Urban Renewal Strategy 2012 (exhibition of amendments)

22 In March 2014, the Department of Planning publicly exhibited several amendments to the proposed planning framework for the city centre, including significant increases to building heights on three development sites within the site bounded by Hunter, Newcomen, King and Perkins Streets. The three 'tower' sites, as exhibited, were allocated heights of RL 54.5m, RL 58.5m and RL 69.5m.

Newcastle LEP 2012 City Centre Amendment 2014

23 The City Centre amendment in July 2014 gazetted various building heights across the site: 24m, 27m, 35m and the three 'tower' sites, one site at RL 54.5m and two sites at RL 58.9m. The identified view corridors considered as part of this amendment were limited to Market and Morgan Streets and distant views from Stockton and Fort Scratchley. The view to be maintained of the Cathedral was formally altered in the new City Centre DCP to be to the tower, roof-scape and pinnacles of the buttresses rather than to be of the 'Cathedral on the Hill'. The City Centre DCP has now been incorporated into the Newcastle DCP 2012 as Section 6.01 Newcastle City Centre.

FINANCIAL IMPACT

24 Work will be undertaken by Council’s Strategic Planning staff within their current allocated work program and budget.
COMMUNITY STRATEGIC PLAN ALIGNMENT

25 The preparation and processing of the attached draft Planning Proposal aligns to the strategic direction ‘Open and Collaborative Leadership’ identified within the Newcastle Community Strategic Plan 2030.

IMPLEMENTATION PLAN/IMPLICATIONS

26 The Planning Proposal intends to ensure development in Newcastle East is of an appropriate type, height and scale that protects the City's heritage and promotes revitalisation.

27 The Planning Proposal involves reverting to the situation that existed before the Newcastle LEP 2012 City Centre Amendment in July 2014. This is considered to be consistent with the principles and findings of the draft Newcastle Urban Renewal Strategy as it was originally exhibited, though not exactly consistent with its recommendations for the site. The original Strategy was based on Council's planning controls and had broad community support.

RISK ASSESSMENT AND MITIGATION

28 The process of amending an LEP is prescribed by Part 3 of the EP&A Act. Adherence to the legislative framework reduces the risk by ensuring that a Planning Proposal is considered with regard to relevant strategic planning documents and is determined in an appropriate timeframe.

29 Justification has been provided for the formal LEP amendment request within the Planning Proposal at Attachment A.

RELATED PREVIOUS DECISIONS

30 Newcastle LEP 2012 was adopted by Council on 21 June 2011. It was amended by the State government on 29 July 2014 by State Environmental Planning Policy (Newcastle City Centre) 2014.

31 On 9 December 2014 Council resolved to write to the Minister for Planning requesting that the building heights on the GPT / Urban Growth site be amended and if the Minister declined this request that Council should prepare the Planning Proposal.

32 On 5 March 2015 the Minister for Planning wrote to Council declining to make the requested LEP amendments.

CONSULTATION

33 Consultation with stakeholders (including the community) will occur in accordance with the Minister’s requirements following Gateway Determination.
34 The change in building height has significant planning implications for the Newcastle city centre. It is therefore proposed that the Planning Proposal be publically exhibited for 28 days, unless otherwise advised by the Gateway Determination.

35 The Gateway Determination will confirm the consultation requirements, however, it is envisaged that this will include a public notice in the Newcastle Herald and publication on the Newcastle City Council web page.

OPTIONS

Option 1

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

Option 2

37 Council resolves not to proceed with the Planning Proposal. This option is not consistent with Council’s resolution of 9 December 2014 and is not the recommended option.

BACKGROUND

38 In December 2012 the Department of Planning released the Newcastle Urban Renewal Strategy 2012 for public comment. The strategy was prepared in collaboration with Newcastle City Council.

39 Following consideration of submissions made during the public exhibition, the Department made several amendments to the proposed planning framework in the city centre, including significant increases to building heights on three development sites within the site bounded by Hunter, Newcomen, King and Perkins Streets.

40 In March 2014, the Department placed these amendments on public exhibition for a period of 16 days.

41 The Department of Planning’s Newcastle City Centre Finalisation Report states that 266 individual submissions, a petition signed by over 500 people and an online petition with 676 signatures were received in response to the second exhibition period.

42 The report reveals that the majority of submissions were concerned about the heights proposed for three tower sites within the Hunter Street Mall / East End Precinct. The submissions cited a number of reasons for their concern, including impacts of building heights on the city skyline, views to significant landmarks such as the Christ Church Cathedral, overshadowing, and the general heritage and character of the city centre.
43 The Department of Planning made further adjustments to height limits in response to the submissions and the amendments were made to the Newcastle LEP 2012 in July 2014. The building heights for the three tower sites are RL 58.9 for the sites at King and Perkins Streets and King and Newcomen Streets and RL 54.5 for the site in Wolfe Street.

44 Council received a briefing on 2 December 2014 from members of Council’s Urban Design Consultative Group (UDCG). The UDCG raised serious concerns in relation to the proposed height limits on the subject site. In particular, the UDCG were concerned about the proposed increase in permissible heights on the three tower sites that would permit tall residential towers above retail podiums, due to the impacts this would create upon the legibility of the landform and character of this important part of the heart of the city.

45 The UDCG is of the view that the original LEP represents the maximum heights that these sites can be developed to without serious negative visual impact on the overall area.

46 The Planning Proposal (Attachment A) is consistent with this view and with successive council planning strategies for Newcastle East that have been in place since the early 1990s.

ATTACHMENTS

Attachment A: Planning Proposal – Newcastle City Centre Urban Renewal - East End Building Heights (attachment distributed under separate cover)
ITEM-119 CCL 24/11/15 - ENDORSEMENT OF PLANNING AGREEMENT - HEXHAM TRAIN SUPPORT FACILITY

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

PURPOSE

The purpose of this report is to advise the outcome of the public exhibition period of the planning agreement for the Hexham Train Support Facility that will provide improvements to Tuxford Park, seek endorsement of the planning agreement and authorise the Interim Chief Executive Officer to execute the planning agreement.

RECOMMENDATION

1 Council resolves to:
   a) endorse the Planning Agreement for Hexham Train Support Facility as outlined in Attachment A.
   b) authorise the Interim Chief Executive Officer to execute the Planning Agreement.

KEY ISSUES

2 Council resolved on 25 August 2015 to exhibit the draft planning agreement for the Hexham Train Support Facility. The draft agreement was exhibited from Monday 7 September 2015 to Tuesday 6 October 2015 and one submission was received from the Shortland United Junior Football Club.

3 The Shortland United Junior Football Club expressed an interest in being involved (where appropriate) in the planning and design of works to be undertaken at Tuxford Park, a summary of its submission is provided as Attachment B.

4 Council officers have been working with Aurizon and a member of the Tuxford Park Committee to determine the scope of works for Tuxford Park. A project charter will be prepared by Council staff to formally authorise the project and document the works to be undertaken. The Shortland United Junior Football Club have input into the preparation of the project charter.

5 No changes were required to be made to the planning agreement as a result of the submission received during the public exhibition period.
FINANCIAL IMPACT

6 The works identified in the project charter will be completed with the monetary contribution provided by Aurizon and will not require any additional funding. Monetary contributions collected under a planning agreement are only to be used for the purpose stated in the agreement and therefore cannot be used to fund any other Council projects.

COMMUNITY STRATEGIC PLAN ALIGNMENT

7 Development contributions provided under planning agreements and Council's development contribution plans assist Council in the provision of community infrastructure that supports the establishment and functioning of business, industrial and urban housing development across the LGA. As such it supports all seven strategic directions of the Community Strategic Plan.

IMPLEMENTATION PLAN/IMPLICATIONS

8 The draft planning agreement has been prepared by Aurizon in accordance with Section 93F of the Environmental and Planning Assessment Act (*EPA Act*) and Department of Planning and Environment Practice Notes. Adherence to the legislative framework reduces the risk to Council by ensuring development contributions are levied, collected, spent and accounted for in the correct manner.

RISK ASSESSMENT AND MITIGATION

9 Risks will be identified as part of the project charter and a risk minimisation strategy prepared if required. The project will be managed using Council's Project Management Framework to ensure the project is delivered effectively and efficiently.

RELATED PREVIOUS DECISIONS

10 On 16 June 2015 Council considered a report to exhibit the draft planning agreement. Council resolved that the:

"Item lay on the table and Council delegate to the Lord Mayor and General Manager to negotiate the planning agreement to achieve a development contribution outcome closer to the $1.26 million (1% of capital value).

Council write to the Premier requesting that the State Government develop a clear policy on development contributions from projects of this nature."

11 On 25 August 2015, Council resolved the following through a Lord Mayoral Minute:
CITY OF NEWCASTLE

Ordinary Council Meeting 24 November 2015

"Council notes that Aurizon, having no legal obligation, have offered to make a voluntary contribution of $260,000 towards the upgrade of the sporting facilities at Tuxford Park, Shortland.

Council resolve to publicly notify for 28 days, the draft voluntary planning agreement (VPA) in respect of the Aurizon offer for upgrade works at Tuxford Park arising from Aurizon's Hexham Train Support Facility."

CONSULTATION

12 Consultation has occurred with relevant internal stakeholders including Council's Council and Legal Services and Facilities and Recreation business units. The draft planning agreement was publicly notified for 28 days pursuant to section 93G of the EPA Act and one submission was received.

OPTIONS

Option 1

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

Option 2

14 Council resolve not to endorse the planning agreement. This option is not recommended as it does not allow Council to enter into the planning agreement to facilitate the upgrade of Tuxford Park. This is not the recommended option.

BACKGROUND

15 Aurizon was granted approval for the Hexham Train Support Facility by the Minister for Planning and Infrastructure on 10 October 2013 pursuant to section 115ZB of the EPA Act.

16 There were no conditions on the approval requiring Aurizon to pay a development contribution to Council.

17 Aurizon offered to enter into a planning agreement pursuant to section 93F of the EPA Act to provide a voluntary monetary contribution towards the upgrades of sporting facilities at Tuxford Park, Shortland.

18 Council resolved on 25 August 2015 to exhibit the draft planning agreement.

ATTACHMENTS

Attachment A: Draft Planning Agreement - Hexham Train Support Facility

Attachment B: Summary of Submission

Attachments distributed under separate cover.
ITEM-120  CCL 24/11/15 - GURAKI COMMITTEE REVIEW

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

PURPOSE

The purpose of this report is to get Council approval to place a revised Constitution for the Guraki Aboriginal Advisory Committee on public comment.

RECOMMENDATION

1 Place the revised draft Guraki Aboriginal Advisory Committee Charter on public exhibition for community feedback.

2 Re-launch Council's 1998 Commitment to Aboriginal and Torres Strait Islander Peoples during Reconciliation Week in May 2016.

KEY ISSUES

3 During the term of the current Council the Guraki Committee has not been able to regularly achieve a quorum and this has reduced the ability to perform its functions and tasks outlined the Committee’s Charter. Representation at these meetings by Councillors and nominated community representatives has been inconsistent and this has led to investigations around the provision of a more effective engagement model.

4 During the investigations associated with the preparation of this report, face to face conversations were held with most of the current members of the Guraki Committee, as well as, a number of past members and indigenous leaders from other organisations.

5 It is clear from these discussions that the Aboriginal community strongly believes Council has a role to play in achieving reconciliation outcomes in the community. Strong feedback was also received that the Guraki Committee provides a highly valued mechanism for Aboriginal community advice to be considered by Council in its decision making. All of the past and present committee members interviewed reiterated the fact that Newcastle City Council is recognised as a leader in achieving reconciliation outcomes in the Australian local government sector, however, there needs to be stronger partnerships formed with local Aboriginal organisations and a recognition that Council must engage more meaningfully with community.

6 There are 12 other LGAs in NSW that facilitate Aboriginal advisory groups and / or committees using a model similar to the Guraki Committee. These councils were contacted during the investigations for this report and it is evident that the
key to their success is derived from regular interactions between committee members, Council staff and Councillors outside the formal committee forum and through cultural awareness training and mentoring for Councillors and staff. These approaches have contributed strongly to a shared understanding of indigenous themes and culture and the development of respectful partnerships. Further, advisory committee membership in these LGAs includes representation from Aboriginal organisations and Aboriginal community members. The Guraki Committee Charter currently permits membership only from Aboriginal organisations.

7 A revised Constitution for the Guraki Committee is attached (Attachment A). The revisions include:

- Membership of the group expanded from 6 to 9.
- Clause 2.1 expanded to include reference in Council's Reconciliation Action Plan.
- Deletion of reference to Secretary. This role will be filled by Strategic Planning staff.

FINANCIAL IMPACT

8 The recommended engagement model will not require the allocation of additional staff and / or financial resources over and above those already allocated to the Guraki Committee.

COMMUNITY STRATEGIC PLAN ALIGNMENT

9 The community has strongly supported the need to engage local Aboriginal and Torres Strait Islander people in local government and to raise local awareness of Aboriginal and Torres Strait Islander issues. Council's ongoing commitment to these matters is recognised in Newcastle 2030:

- Caring and Inclusive Community:
  - 4.3c Acknowledge and respect local Aboriginal history, cultural heritage and peoples.

IMPLEMENTATION PLAN/IMPLICATIONS

10 To achieve the desired changes to the Committee Charter it is recommended that the proposed changes are exhibited publicly to seek community feedback.

11 In order to build positive relationship leading to improved reconciliation outcomes the key priorities the over the next 2 years include:

- Develop relationships with and partnerships between relevant Council staff and staff from Aboriginal organisations and government agencies aligned with strategic directions in Newcastle 2030.
• Promote internal and community awareness of Council's 1998 Commitment to Aboriginal and Torres Strait Islander Peoples.

• Develop and deliver a program of cultural awareness training for Council staff.


12 Implementation of the revised Guraki Committee Charter will be predominately the responsibility of Council's Strategic Planning Services Unit. Other units that will have a key role include Council and Legal Services and Human Resources.

RISK ASSESSMENT AND MITIGATION

13 The revised Guraki Committee model focuses on providing a more inclusive engagement model that reduces the risk of the committee being inquorate. By providing an opportunity for 3 additional community members the risk of inquorate meetings will be reduced. The Committee will strive for simplicity and clarity to ensure this it delivers against identified strategic actions, monitoring and evaluation.

RELATED PREVIOUS DECISIONS

14 On 4 December 2012, Council resolved to:

Council establish the Guraki Aboriginal Advisory Committee and nominates Councillors Rufo, Robinson and Doyle as Councillor Representatives.

CONSULTATION

15 The consultation program developed to review the Guraki Committee was based on face to face interviews with most of the current and past Guraki committee Aboriginal Community Members, current Committee Councillors as well as a number of Aboriginal community leaders. Staff from other NSW Council's working with Aboriginal advisory committees were also interviewed and a literature review of committee models under current legislation.

OPTIONS

Option 1

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

Option 2

17 Council does not revise and exhibit the revised Guraki Committee Charter. This is not the recommended option.
BACKGROUND

18 In November 1992 Newcastle City Council first adopted a Commitment to local Aboriginal peoples. This Commitment was revised when a working group consisting of Councillors, members of local Aboriginal communities, and non-Aboriginal communities was facilitated. A draft statement was prepared and presented at a Reconciliation Convention in Melbourne in May 1997, Newcastle’s Bicentennial year. On 8 July 1997 Council adopted the wording of the new Commitment by Newcastle City Council to Aboriginal and Torres Strait Islander Peoples of the City of Newcastle. A civic function was held at City Hall on the 14 April 1998 to commemorate the signing of the new Commitment (Attachment A). Council further resolved on the 15 September 1998 to establish an Aboriginal Advisory Committee of Newcastle City Council with a mandate to give life to the Commitment by providing advice on how its principles can be translated into Council’s processes and practices. Advisory committees are established by Council resolution under section 355 of the Local Government Act 1993.

19 The Guraki Aboriginal Advisory Committee was officially launched on 1 June 1999, and in 2009 celebrated ten years of service as a Committee of Council. The Committee’s Constitution and Terms of Reference were reviewed in 2009 to align with the governance model established for a number of new strategic advisory committees. The Committee’s constitution defines the scope of its responsibilities including terms of reference, structure, process and membership requirements (Attachment A). The Committee’s constitution is also established by a resolution of Council and is reviewed and updated every two years. Councillors on the Committee are appointed by Council at the commencement of a new Council term, while Aboriginal stakeholders are appointed by the Chief Executive Officer.

20 The current Aboriginal stakeholder groups represented on the Committee are Awabakal Local Aboriginal Land Council, Worimi Local Aboriginal Land Council, Mindaribba Local Aboriginal Land Council, The Wollotuka Institute (University of Newcastle), and Yarnteen Limited.

21 During the term of the current Council the Guraki Committee has provided strategic advice on the following initiatives:

- Aboriginal Employment Strategy
- Reconciliation Action Plan
- Aboriginal Dual Naming of Landforms
- Guidelines for Acknowledgement of Traditional Custodians and Welcome to Country
22 Each year, the Guraki Committee delivers reconciliation outcomes as part of Reconciliation Week and NAIDOC Week events. It also undertakes and/or provides advice on reconciliation themed projects including public artwork, place naming and cultural heritage.

ATTACHMENTS

Attachment A: Revised Constitution

Distributed under separate cover.
NOTICES OF MOTION

ITEM-23 NOM 24/11/15 - NOTICE OF MOTION TO RESCIND A COUNCIL RESOLUTION - ITEM 103 LATE ITEM OF BUSINESS - CCL 27/10/15 - GENERAL MANAGER’S PERFORMANCE REVIEW PANEL REPORT (PART A)

COUNCILLORS: LUKE, COMPTON, ROBINSON

PURPOSE

Councillors Luke, Compton and Robinson have submitted the following rescission motion in respect of Item 103 - CCL 27/10/15 - General Manager Performance Review Panel (Part A) for consideration at the Ordinary meeting of the Council to be held 24 November 2015.

The following Notice of Motion was received on 27 October 2015 from the abovenamed Councillors.

MOTION

We the undersigned Councillors wish to rescind the motion Part A of Report of the General Manager’s Performance Review Committee that refers to the delegations to the Chief Executive Officer or General Manager and Lord Mayor.

BACKGROUND

Refer to the Council minutes of Ordinary Council meeting of 27 October 2015.

ATTACHMENTS

Attachment A: Signed Rescission Motion from Councillors Luke, Compton and Robinson dated 27 October 2015
Attachment B: Council resolution of 27 October 2015 - Item 103 - Late Item of Business - General Manager Performance Review Panel Report (Part A)
We the undersigned councillors wish to rescind the motion last 7 of report of the General Managers Performance Review Committee that refers to delegations to the chief executive officer. General Manager and Lord Mayor.

[Signatures]
ITEM 103 - CCL 27/10/15 - GENERAL MANAGER PERFORMANCE REVIEW

PANEL REPORT

RESOLVED: (Councillors Osborne/Posniak)

PART A

That Council

1. Rename the role 'General Manager' as the 'Chief Executive Officer'. The role of the Chief Executive Officer will have the same meaning as that of a 'general manager' appointed under the *Local Government Act 1993*.

2. Adopt the Draft Instrument of Delegations to the Chief Executive Officer (Attachment A). These delegations supersede those adopted on 24 September 2013.

3. Adopt the Draft Instrument of Delegation to the Lord Mayor (Attachment B). These delegations supersede those adopted 24 September 2013.

4. Adopts the updated Organisational Structure (Attachment C).

5. If there were any issues in implementing the delegations, a report be brought back to the November Council meeting.
ITEM-24 NOM 24/11/15 - ZONING OF RAIL CORRIDOR FOR PUBLIC USE

COUNCILLORS: COUNCILLORS DOYLE AND OSBORNE

PURPOSE

The following Notice of Motion was received on 2 November 2015 from the abovenamed Councillors:

MOTION

Council officers prepare a planning proposal for gateway determination on the railway corridor site that would zone the land for “Special Infrastructure Purposes”, including allowances for open space, active transport modes (pedestrian and cycleways), and developments, such as “pop-up” installations and cafes, that will not compromise the eventual return of rail, whether light rail or otherwise to the corridor.

BACKGROUND

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 9 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 consultation. A large proportion of residents used the opportunity in the UrbanGrowth consultation to express their opposition to the rail truncation.

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 Streets and the rail corridor are unavailable for cycleways. Light rail on Hunter Street and Scott Street will almost certainly exclude the possibility of establishing the safe separated cycleways on those streets without severely impacting car-parking and traffic. King Street 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

Nil
ITEM-25 REPORT ON NOTICE OF MOTION - NOM 24/11/15 - ZONING OF RAIL CORRIDOR FOR PUBLIC USE

REPORT BY: PLANNING AND REGULATORY

CONTACT: DIRECTOR PLANNING AND REGULATORY

DIRECTOR COMMENT

Through August and September 2015, UrbanGrowth NSW conducted an extensive six week community engagement program seeking input on city revitalisation. That work, under the Memorandum of Understanding between Council and UrbanGrowth NSW is to be presented to Councillors at workshops and briefings in early December 2015.

One of the outcomes expected is the discussion about future uses of the rail corridor. It is suggested that to put forward a planning proposal for the rail corridor, ahead of release of the results of the engagement and the concept plan (proposed to represent the results) would be premature and not in the spirit of the signed Memorandum of Understanding between Council and UrbanGrowth NSW.

It is anticipated UrbanGrowth NSW will release the results in early December 2015. The rail route will also be finalized early in 2016. Based on their current program, UrbanGrowth NSW will lodge a planning proposal for the existing rail corridor in the first quarter 2016.

RECOMMENDATION

The information be noted.
CONFIDENTIAL REPORTS

ITEM-37  CON 24/11/15 - CITY HALL SOUTHERN & EASTERN FACADE
CONSERVATION CONTRACT 2016/056T

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

PURPOSE

Tenders were invited for the conservation works required to the Southern and Eastern facades of Newcastle City Hall. The scope of works includes sandstone façade replacement and repairs, removal of asbestos containing joint material, concrete repairs, waterproofing and lead weathering, restoration of metal windows, electrical and lighting.

As the value of the works exceeds $150,000, the Local Government (General) Regulation 2005 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 (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 Newcastle City Hall Southern and Eastern Façade Conservation for Contract No. 2016/056T.

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.